

1 Minutes of the regular monthly meeting of the Planning Commission of the County of
2 Henrico, held in the County Administration Building in the Government Center at Parham
3 and Hungary Springs Roads, Beginning at 7:00 p.m. Thursday, May 11, 2006, Display
4 Notice having been published in the Richmond Times-Dispatch on April 20, 2006 and
5 April 27, 2006.

6
7 Members Present: Mr. C. W. Archer, C.P.C., Chairperson (Fairfield)
8 Mr. Tommy Branin, Vice Chairperson (Three Chopt)
9 Mrs. Bonnie-Leigh Jones (Tuckahoe)
10 Mr. E. Ray Jernigan, C.P.C. (Varina)
11 Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)
12 Mrs. Patricia S. O'Bannon (Tuckahoe), Board of
13 Supervisors Representative
14 Mr. Randall R. Silber, Director of Planning, Secretary
15

16 Members Absent: None
17

18 Others Present: Mr. Ralph J. Emerson, Assistant Director of Planning
19 Ms. Jean Moore, Principal Planner
20 Mr. Lee Tyson, County Planner
21 Ms. Rosemary Deemer, County Planner
22 Mr. Thomas Coleman, County Planner
23 Mr. Livingston Lewis, County Planner
24 Ms. Jennifer C. Dean, Recording Secretary
25

26 **Mrs. O'Bannon abstains from voting on all cases unless it is necessary to break a**
27 **tie.**
28

29 Mr. Archer: The Planning Commission will come to order. Good evening
30 ladies and gentlemen. Before we start I would like to recognize Ms. Olympia Meola from
31 the Times-Dispatch. Is there anyone else sitting over there Ms. Meola? You're the only
32 one? This is the May 11, 2006 agenda for rezoning and I would also like to recognize
33 because I fail to do this sometime, Mrs. Patricia O'Bannon from the Tuckahoe District
34 who is the supervisor on the Planning Commission. Mrs. O'Bannon, I apologize for all
35 the times I hadn't done that.
36

37 Mrs. O'Bannon: That's ok. As it states in the minutes very clearly I generally
38 abstain from voting on any issue because I will be voting at the Board of Supervisors
39 level, however if there is a tie I would vote.
40

41 Mr. Archer: You deserve that right. Thank you, Mrs. O'Bannon. And with that
42 I will turn things over to the Director of Planning and our secretary, Mr. Randall Silber.
43

44 Mr. Silber: Yes, sir. Thank you Mr. Chairman, members of the Commission.
45 For those here we just finished with a work session upstairs regarding a briefing on the
46 update of our Comprehensive Plan, our 2026 Plan, so we're reconvening down here for
47 the 7:00 p.m. portion of the agenda to hear primarily requests for rezoning. We have a
48 number of deferrals on the agenda tonight that have been requested by the applicants.
49 We can hear those first and take action on those and then get into the agenda items that
50 would require hearing. Ms. Moore.
51

52 Ms. Moore: Thank you Mr. Secretary. We do not have any requests for
53 withdrawals. We do have six requests for deferrals. The first is on page one of your
54 agenda in the Varina District. It's the subdivision for Wilton on the James, Phase I for
55 Single Family Subdivision. The property is located on the south side of Pocahontas
56 Parkway east of the James River. The deferral is requested to the May 24, 2006
57 meeting.

58

59 **Wilton on The James, Phase 1 – Single-Family (March 2006 Plan) Youngblood,**
60 **Tyler & Associates, P.C. for WF Hunt, LLC and HHHunt Corporation:** The 84.11-
61 acre site proposed for a subdivision of 293 single-family homes is located on the south
62 side of Pocahontas Parkway (State Route 895), east of the James River on part of
63 parcel 798-683-5459. The zoning is UMUC (Urban Mixed Use) District (Conditional).
64 County water and sewer.

65

66 Mr. Archer: Thank you Ms. Moore. Is there anyone present who objects to
67 this deferral, Wilton on the James, Single Family, Phase I, Single Family? No
68 objections. Mr. Jernigan.

69

70 Mr. Jernigan: Mr. Chairman, with that I will move for deferral of Subdivision
71 Wilton on the James, Phase I, Single Family to May 24, 2006 by request of the
72 applicant.

73

74 Mr. Vanarsdall: Second.

75

76 Mr. Archer: Motion by Mr. Jernigan, seconded by Mr. Vanarsdall. All in favor
77 of the motion say aye. Those opposed say no. The ayes have it. The motion is
78 granted.

79

80 At the applicant's request, the Planning Commission deferred Subdivision, Wilton on the
81 James, Phase I, Single Family to its meeting on May 24, 2006.

82

83 **Wilton on The James, Phase 1 – Townhouses (March 2006 Plan) Youngblood,**
84 **Tyler & Associates, P.C. for WF Hunt, LLC and HHHunt Corporation:** The 12.77-
85 acre site proposed for a subdivision of 159 townhouses is located on the south side of
86 Pocahontas Parkway (State Route 895), east of the James River on parcel 798-683-
87 5459. The zoning is UMUC (Urban Mixed Use) District (Conditional). County water and
88 sewer.

89

90 Ms. Moore: The next request is from the same overall development on page
91 two of your agenda. Again Wilton on the James, Phase I, for the Townhomes. This
92 deferral is requested to the May 24, 2006 meeting.

93

94 Mr. Archer: Alright, is anyone present who is objecting to this deferral? No
95 objections. Mr. Jernigan.

96

97 Mr. Jernigan: Mr. Chairman, I move for deferral of Subdivision Wilton on the
98 James, Phase I, Townhouses to May 24, 2006 by request of the applicant.

99

100 Mr. Vanarsdall: Second.

101

102 Mr. Archer: Motion by Mr. Jernigan, seconded by Mr. Vanarsdall. Those in
103 favor say aye. Those opposed to the motion say no. The ayes have it. The motion is
104 granted.

105

106 At the applicant's request, the Planning Commission deferred Subdivision, Wilton on the
107 James, Phase I, Townhouses to its meeting on May 24, 2006.

108

109 **P-6-06 Ann Leonard Harris:** Request for a provisional use permit under Sections 24-
110 12.1(b) and 24-122.1 of Chapter 24 of the County Code in order to operate a bed and
111 breakfast inn on Parcel 802-699-4985, located at the terminus of Equestrian Way in The
112 Paddocks subdivision. The existing zoning is R-3 One Family Residence District. The
113 Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per
114 acre.

115

116 Ms. Moore: Keeping in the Varina District on page four of your agenda, it is a
117 request for P-6-06 Ann Leonard Harris. The property is located at the terminus of
118 Equestrian Way in the Paddocks subdivision with a request for a Provisional Use Permit
119 in order to operate a bed and breakfast inn. The deferral is requested to the June 15,
120 2006 meeting.

121

122 Mr. Archer: Ok, is there opposition to this deferral? P-6-06 Ann Leonard
123 Harris. No opposition. Mr. Jernigan.

124

125 Mr. Jernigan: Mr. Chairman, I move for the deferral of case P-6-06 Ann Leonard
126 Harris to June 15, 2006 by request of the applicant.

127

128 Mr. Vanarsdall: Second.

129

130 Mr. Archer: Motion by Mr. Jernigan, and seconded by Mr. Vanarsdall. Those
131 in favor say aye. Those opposed say no. The ayes have it. The motion is carried.

132

133 At the applicant's request, the Planning Commission deferred case P-6-06, Ann Leonard
134 Harris to its meeting on June 15, 2006.

135

136 **C-75C-05 John J. Hanky III, for Barrington Development, Inc:** Request to
137 conditionally rezone from R-3C One Family Residence District (Conditional) to O-2C
138 Office District (Conditional), Parcel 740-758-4797, containing 2.215 acres, located on the
139 east line of the proposed John Rolfe Parkway right-of-way approximately 310 feet south
140 of Three Chopt Road. The applicant proposes an office building. The use will be
141 controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan
142 recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre, and
143 Environmental Protection Area. The site is in the West Broad Street Overlay District.

144

145 Ms. Moore: Going back to the Three Chopt District on page three of your
146 agenda, case C-75C-05, John Hanky, III for Barrington Development. The property is
147 located on the east line of proposed John Rolfe Parkway approximately 310 feet south of
148 Three Chopt Road. The request is conditionally rezoned from R-3C to O-2C for an office
149 building. The deferral is requested to the June 15, 2006 meeting.

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151 Mr. Archer: Is there opposition to C-75C-05, John J. Hanky, III for Barrington
152 Development? No opposition. Mr. Branin.

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Mr. Branin: Mr. Chairman, I would like to move for deferral of case C-75C-05 John J. Hanky, III for Barrington Development to the June 15, 2006 Planning Commission meeting per the applicant's request.

Mr. Jernigan: Second.

Mr. Archer. Motion by Mr. Branin, seconded by Mr. Jernigan. All in favor of the motion say aye. Those opposed say no. The ayes have it. That motion is carried.

At the applicant's request, the Planning Commission deferred case C-75C-05, John J. Hanky III, for Barrington Development, Inc. to its meeting on June 15, 2006.

P-4-06 Bechtel Corp. for New Cingular Wireless: Request for a provisional use permit under Sections 24-95(a)(3) and 24-122.1 of Chapter 24 of the County Code in order to construct a 149' high telecommunication tower on part of Parcel 744-771-3182, located on the east line of Shady Grove Road north of Hames Lane. The existing zoning is A-1 Agricultural District. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

Ms. Moore: Also on page three of your agenda is a request for P-4-06 for New Cingular Wireless. This property is located on the east line of Shady Grove Road north of Hames Lane. The request is for a Provisional Use Permit in order to construct a 149' high telecommunication tower. The deferral is requested to the June 15, 2006 Meeting.

Mr. Archer: Is there anyone present who is opposed to the deferment of P-4-06 Bechtel Corporation for New Cingular Wireless? No opposition.

Mr. Branin: Mr. Chairman, I would like to move for deferral of Provisional Use Permit P-4-06 to the June 15th Planning Commission Meeting at the applicant's request.

Mr. Vanarsdall: Second.

Mr. Archer: Motion by Mr. Branin, seconded by Mr. Vanarsdall. Those in favor of the motion say aye. Opposed say no. The ayes have it. The motion passes.

At the applicant's request, the Planning Commission deferred case P-4-06, Bechtel Corp. for New Cingular Wireless to its meeting on June 15, 2006.

C-11C-06 R & R Development, LC.: Request to rezone from [R-5C] General Residence District (Conditional) to B-2C Business District (Conditional), Parcels 739-761-2693 and 739-762-0100, containing 2.441 acres, located on the south line of West Broad Street (U. S. Route 250) approximately 195 feet east of Spring Oak Drive. The applicant proposes a retail development. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Mixed Use. The site is in the West Broad Street Overlay District.

Ms. Moore: On page four of your agenda in the Three Chopt District is rezoning case C-11C-06, R&R Property Development, LC. The property is located on the south line of West Broad Street approximately 195 feet east of Spring Oak Drive.

203 The request is to rezone from R-5C to B-2 Business District where a retail development
204 is proposed. The deferral is requested to the June 15, 2006 Meeting.

205

206 Mr. Archer: Thank you. Is there opposition to the deferral of C-11C-06 R&R
207 Property Development, LC? Mr. Branin.

208

209 Mr. Branin: With that Mr. Chairman, I would like to move for deferral of case
210 C-11C-06 to the June 15th Planning Commission meeting per the applicant's request.

211

212 Mr. Vanarsdall: Second.

213

214 Mr. Archer: Motion by Mr. Branin, seconded by Mr. Vanarsdall. All in favor of
215 the motion say aye. Those opposed say no. The ayes have it. That motion is carried.

216

217 At the applicant's request, the Planning Commission deferred case C-11C-06, R & R
218 Development, LC to its meeting on June 15, 2006.

219

220 Ms. Moore: That concludes our request for deferrals.

221

222 Mr. Archer: All right.

223

224 Mr. Silber: Any other deferrals for members of the Planning Commission?
225 Next item on the agenda would be requests for expedited items. These are items on the
226 Planning Commission agenda that are somewhat minor in nature. There are no
227 outstanding issues. Staff is recommending approval of these requests and the Planning
228 Commissioner from the district has no outstanding issues associated with that request.
229 They are placed on the expedited agenda to avoid the need for extra time and hearing
230 and testimony so they can be heard more quickly. I believe we have one item on the
231 expedited agenda.

232

233 **P-5-06 Lori C. Ropelewski:** Request for a provisional use permit under Sections
234 24-58.2(d), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to permit a
235 530 square foot outdoor dining area for Wild Noodles Restaurant in the Shoppes @ Twin
236 Oaks Shopping Center, on part of Parcel 748-759-3503, located at the southeast
237 intersection of Cox Road and Westerre Parkway. The existing zoning is B-2C Business
238 District (Conditional). The Land Use Plan recommends Office.

239

240 Ms. Moore: Yes, sir. It's on page three of your agenda, actually on page four
241 of your agenda in the Three Chopt District. This is Provisional Use Permit P-5-06 for
242 Lori C. Ropelewski. The property is located at the southeast intersection of Cox Road
243 and Westerre Parkwear, Parkway. Request for a PUP in order to permit a 530 square
244 foot outdoor dining area for Wild Noodles Restaurant in the Shoppes @ Twin Oaks
245 Shopping Center.

246

247 Mr. Archer: All right, is there any opposition to this rezoning case, Provisional
248 Use Permit Lori C. Ropelewski? I see no opposition. Mr. Branin.

249

250 Mr. Branin: Mr. Chairman, I would like to move that case P-5-06 Wild Noodles
251 Restaurant be sent to the Board of Supervisors with the recommendation for approval on
252 the expedited agenda.

253

254 Mr. Vanarsdall: Second.
255
256 Mr. Archer: Motion by Mr. Branin, seconded by Mr. Vanarsdall. Those in favor
257 of the motion say aye. Those opposed to the motion say no. The ayes have it. The
258 case is approved.
259
260 The Planning Commission recommended approval of Case P-5-06, Lori C. Ropelewski,
261 and that it be sent to the Board of Supervisors for their approval.
262
263 The Planning Commission voted to recommend the Board of Supervisors **grant** the
264 request because it is reasonable in light of the surrounding uses and existing zoning on
265 the property, and it would not be expected to adversely affect public safety, health or
266 general welfare.
267
268 **C-21C-06 Gloria Freye for Liberty Property Trust:** Request to conditionally
269 rezone from M-1 Light Industrial District and M-2 General Industrial to M-2C General
270 Industrial District (Conditional), Parcels 797-741-6372, -9990, -0975, and 797-742-7054,
271 containing 31.29 acres, located on the west line of Carolina Avenue approximately 3,000
272 feet north of East Laburnum Avenue. The applicant proposes a distribution and
273 warehouse development with outside storage. The use will be controlled by zoning
274 ordinance regulations and proffered conditions. The Land Use Plan recommends Light
275 Industry. The site is in the Airport Safety Overlay District.
276
277 Mr. Silber: Ok, that moves us to the regular agenda. The first request for
278 rezoning is on page three of your agenda. This is in the Fairfield District. This matter
279 was deferred from the April 19, 2006 meeting. This is C-21C-06 Gloria Freye for Liberty
280 Property Trust request to conditionally rezone from M-1 Light Industrial District to M-2
281 General Industrial, to M-2C General Industrial District Conditional. The property
282 contains 31.3 acres located on the west line of Carolina Avenue. Again this is in the
283 Fairfield District.
284
285 Mr. Archer: Thank you, Mr. Secretary. Is there anyone present who is
286 opposed to 21C-06 Gloria Freye for Liberty Property Trust? We have opposition, all
287 right. Go ahead sir.
288
289 Mr. Tyson: Thank you Mr. Chairman, Members of the Commission, Mrs.
290 O'Bannon, Mr. Secretary. This case was deferred at the April Planning Commission
291 meeting to permit the applicant to continue working with staff and adjacent property
292 owners to address outstanding concerns. The site is located directly adjacent to the
293 Richmond International Raceway Complex and across Carolina Avenue from the
294 Fairgrounds Distribution Center. The western property line follows a branch of the Horse
295 Swamp Creek. The site's topography rises toward the western portion of the site then
296 falls toward the creek.
297
298 The applicant has submitted revised proffers which have been distributed to you related
299 to the following. The only M-2 use on the property would be exterior storage of industrial
300 materials and the applicant has further identified the types of materials that will be stored
301 on-site. Outside storage of materials and truck trailers would be screened such that they
302 are not visible from Carolina Avenue and the adjacent properties at ground level
303 according to the proffer. The screening would consist of a fence and/or vegetation and
304 trees and/or evergreen shrubbery. Outside storage would be permitted only in the

305 hatched areas as shown on Exhibit A. The storage of truck trailers would not be
306 permitted in the parking area that's currently existing.

307
308 Materials stored on the site would be restricted to the height of the fence or the
309 screening in that location, but no taller than 12 feet. A buffer consisting of the existing
310 vegetation at a minimum width of 50' in width would be maintained along the
311 northwestern and southwestern property lines. That portion of the buffer along the
312 southwest property line would be supplemented with two staggered rows of evergreen
313 trees at least 8 feet in height. Parking on Carolina Avenue would be prohibited.

314
315 The 2010 Land Use Plan recommends Light Industrial Uses for the site. The time limits do
316 not need to be waived for the proffers. The applicant has addressed the issues that were
317 originally raised in the staff report and at the last meeting. I will be happy to answer
318 questions that you might have. The applicant's representative is here to answer additional
319 questions.

320
321 Mr. Archer: All right, are there any questions for Mr. Tyson from members of the
322 Commission? Mr. Tyson, what was the staff recommendation for this case?

323
324 Mr. Tyson: The staff recommended approval of the case pending the resolution
325 of the outstanding issues from the previous discussion.

326
327 Mr. Archer: Ok and to your knowledge have they been addressed?

328
329 Mr. Tyson: To our knowledge, yes.

330
331 Mr. Archer: Ok, thank you so much.

332
333 Mrs. O'Bannon: I had a call this afternoon about deferring. I know at the last
334 Planning Commission meeting we had asked about, apparently there were some concerns
335 from RIR (Richmond International Raceway) and we had asked the applicant to talk to the
336 folks at RIR and I understand you haven't received a phone call.

337
338 Mr. Tyson: The applicant's representative is here and can address that with
339 you.

340
341 Mr. Archer: All right, thank you Mr. Tyson. Ms. Freye while you are coming
342 forward, we do have opposition and we want to inform the opposition that our usual
343 practice is that there are 10 minutes allotted for each side so if there is a spokesperson who
344 can convey your ideas.....then that person or persons should be the ones to come
345 forward and of course Mrs. Freye would have some reserve time for rebuttal if she chooses
346 to do so.

347
348 Ms. Freye: Yes sir, I would like to reserve about 2 minutes.

349
350 Mr. Archer: Ok, thank you ma'am.

351
352 Ms. Freye: Good evening Mr. Chairman, members of the Commission. My
353 name is Gloria Freye. I am an attorney here on behalf of the applicant Liberty Property
354 Trust. Also here with me this evening is the landowner and the applicant Mr. Alan
355 Lingerfelt. As you've heard, this case was heard at your last Planning Commission hearing

356 on April 19, and at that time there was no opposition at the hearing. The raceway folks
357 were in agreement with the proffers submitted at that time on April 19; however, the staff
358 expressed several concerns at the Planning Commission hearing and was not prepared to
359 unequivocally recommend approval at that time. So the case was deferred to this evening.
360 Since that time we have met with the staff, we have met with Hughes, the proposed tenant
361 on this property and we have been able to make several changes that are very significant
362 then when you last heard this case. Primarily on Exhibit A, (refer to rendering) which is
363 before you on the screen right now. It was revised to show clearly the three areas instead
364 of four that would be where storage would be permitted.

365
366 There is no storage of trucks or outside materials at all in the parking lot which seemed to
367 present the most concern about how that would be screened from Carolina Avenue and
368 adjacent properties. The exhibit was revised to clearly mark that the 50 foot buffers
369 provided all along the western property line both northwestern and southwestern. And to
370 clearly show that the storage areas outside that buffer and to clearly show where the buffer
371 on the southwestern property line is being supplemented by 8-foot tall, two staggered rows
372 of evergreen trees.

373
374 One thing that you'll notice on Exhibit A (refer to rendering), the two rows of staggered
375 evergreens that are on the southern property line; they are not proffered. Those trees are
376 actually on the raceway property. And those are shown because that was a commitment
377 that was made in writing to the raceway people that those trees would be planted on their
378 property. The reason for that is because of the terrain and the elevation. The property at
379 the southern property line at the raceway is actually higher than the parking lot. So even
380 though there's not going to be any storage in the parking lot now, that commitment had
381 already been made and Mr. Lingerfelt is going to stick to that.

382
383 The other thing that you will notice on the exhibit different from last time is that the storage
384 areas have been reduced in size. The exhibit also shows three line of site vantage points
385 and I think; do you have those on the screen? Ok, this line of site drawing is Cross Section
386 A (refer to rendering). This is taken from a person looking from Carolina Avenue up into the
387 property, the front of the property and it shows how any materials in this area would not be
388 visible from Carolina Avenue. This is the area in front of the loading dock in the front of the
389 building and you can see you wouldn't even see the loading docks let alone any materials
390 that are stored there.

391
392 The next one is Cross Section B. This is also taken from Carolina Avenue but it shows how
393 you would not be able to see materials that were stored on the north end of the building.
394 And then C, Cross Section C is taken from the southwestern property line. That is the area
395 the raceway folks were particularly concerned about because the vegetation on that hillside
396 is somewhat sparse. And that's where we're planting the two staggered rows of
397 evergreens. We've also restricted the height of that material to 12 feet in the back of the
398 building so that with those additions of those trees and that restriction and the location
399 using the terrain as well, that they would demonstrate that they would not be able to see
400 any materials stored behind the building.

401
402 The proffers have also been revised. Number one now lists the materials that can be
403 stored outside. All other materials will be stored inside the building. Number three clearly
404 states that materials and truck trailers can not be stored in the parking lot. That's a big
405 difference from last time. Number four proffer says the height of the materials stored
406 outside can not exceed 12 feet regardless of the amount of screening that you have to

407 block the visibility. Number five proffer became more restrictive by saying any new fence
408 that would be visible from Carolina Avenue and that would include the fence along that
409 southwestern property line if it's visible from Carolina Avenue. So that is more restrictive.
410 Proffer number six really did not change substantively, it was just reworded to clarify that
411 the western property line meant both the northwestern and the southwestern sections.
412 Proffer number seven was revised to clarify that any parking associated with this facility
413 would not be permitted to park on Carolina Avenue. And finally, proffer number eight was
414 amended to clarify that a POD would be submitted to the Planning Commission for review
415 and that it would include line site drawings, landscaping plan, fencing details and the
416 screening.

417
418 So recommendation for approval shows that we have addressed all the concerns that
419 were raised at the last hearing in April. The strict standards in the proffers that these
420 materials would not be visible from adjacent property lines and from Carolina Avenue
421 with the extra control that you would have at POD review to assure that the outside
422 storage would not be visible and could not become an eyesore on this property.

423
424 By not allowing storage in the parking lot and in that area the attractive campus
425 appearance and the Carolina Avenue streetscape of this property would not be
426 disturbed. The reason the case was deferred before was because of staff issues not
427 because of any citizen opposition. Since that time the proffers have become far more
428 restrictive than the ones that the raceway had already said that they were ok with. So
429 having addressed the raceway concerns at the last hearing and staff's concern at this
430 hearing, we ask that you follow the recommendation of staff and recommend approval of
431 this case. And we will be glad to respond to questions.

432
433 Mr. Archer: Thank you Mrs. Freye. Are there questions for Mrs. Freye from
434 the Commission?

435
436 Mrs. O'Bannon: Mrs. Freye, did you call Doug Fritz at RIR?

437
438 Ms. Freye: Well, we delivered to Mr. Fritz a package of the new exhibit and
439 the new proffers. He received those today.

440
441 Mrs. O'Bannon: Today? What time do you think?

442
443 Ms. Freye: He received them about noon. They were delivered at his office
444 and Mrs. O'Bannon what I'd like to point out was that he didn't have any problems with
445 the proffers. The proffer issues were brought up by staff and those are the only ones
446 that have changed.

447
448 Mrs. O'Bannon: Well, he had just thought that you would talk to him a little sooner I
449 think is all.

450
451 Ms. Freye: The commitment that we had made to Mr. Fritz was that we would
452 be working with him prior to the Board of Supervisors acting on this case to get him the
453 line of site drawing. They were delivered to him today.

454
455 Mrs. O'Bannon: Ok. Well.

456

457 Mr. Silber: Ms. Freye, I do have a question. On proffer number eight, the
458 way I'm reading this is, you are indicating a presentation that this would require site line
459 drawings from the time of Plan and Development approval.
460
461 Ms. Freye: Yes, sir.
462
463 Mr. Silber: So the site line drawings that you've shown here are not proffered
464 at this time.
465
466 Ms. Freye: No, sir. You will have exact line of site drawings at the time of
467 POD. These are to illustrate how we can meet the strict standard of the proffers.
468
469 Mr. Silber: So he provides site line drawings with your Plan of Development if
470 there are areas where there are gaps and it looks as though some outside storage is
471 visible then you are willing to provide landscaping to address that.
472
473 Ms. Freye: Exactly because that is what we will have to do to meet the
474 standard of the proffers.
475
476 Mr. Silber.: Ok.
477
478 Mr. Archer: Ok, any further questions? Thank you Ms. Freye. Alright, we'll
479 hear from the opposition. Mr. Condlin, good evening sir.
480
481 Mr. Condlin: Mr. Chairman, members of the Commission, Mr. Silber. I'm not
482 sure I'm technically in opposition. I'm here representing Doug Fritz and RIR on behalf of
483 Richmond International Raceway and International Speedway Corporation. Just a
484 couple of quick points of clarification. Unfortunately, I was just recently asked to appear
485 on behalf of Mr. Fritz's behalf because of a conflict and not being able to attend tonight.
486 That's the unfortunate part; I haven't had a lot of the history of the case in speaking.
487
488 Fortunately I've been able to hear what Mr. Fritz feels and in talking with Gloria and Mr.
489 Lingerfelt. I'm a little removed from the case in this situation. I think there has just been
490 truly a misunderstanding. Mr. Fritz doesn't oppose the case, nor does he support the
491 case. Quite frankly he's taking the position that he doesn't have enough information to
492 take a position at this time because he's been receiving none. He felt like after the
493 Planning Commission on April 19th, he should have been able to have been contacted.
494 He wasn't until today when he got the package to give any information on this. Again,
495 he's not in a position to oppose the case but he's not in a position to support this case or
496 feel like there is a, that it is appropriate zoning in this case. He did specifically tell me
497 that there was no agreement at this point, that there were still some things to work on.
498
499 I don't think it's, Gloria is not misleading you in this case, in this situation with respect to
500 talking about the Board of Supervisors and working on the proffers. I think there was an
501 intent on Mr. Fritz's part to have further discussions about, on his property planning that
502 would need to and more appropriately go on his property, which would not be
503 appropriate for the proffers, so the proffers in and of themselves didn't bother him per
504 say but there were still some outside side agreements that have yet to be completed in
505 his mind and so he is not in agreement.
506

507 So again I don't want to put words in anyone's mouth including Mr. Fritz's or Gloria's or
508 put anyone in a bad light here. Again it's an awkward position but Mr. Fritz and RIR are
509 at the position that they are not supporting the case. They do have long term concerns
510 about the area and what this will have an impact on in the area. Not that this can't be
511 resolved just that they haven't been resolved at this point and there is still some
512 discussion. They need to sit down. He is willing to, more than willing to. We haven't
513 had a chance to go over the new proffers, he and I together. We may have some
514 comments. This could happen between now and the Board of Supervisors if you choose
515 to go forward. It's going to happen in any case and he has some comments to make on
516 them. We just haven't had a chance to look at them and go over the changes. He
517 hasn't been contacted and that's what our position is officially on behalf of RIR.

518
519 Mr. Archer: Thank you Mr. Condlin. So you're not opposing and you're not
520 supporting. Is that what I understand?

521
522 Mr. Condlin: That's, I'm taking that middle ground. It's a fine line to walk but no
523 we are not in position to have reviewed anything in the changes since then with the
524 expectation that one, we were going to be contacted and number two, that with respect
525 to the side agreement that's what the agreement was that we wouldn't oppose the case
526 as long as we could keep working on the side agreement before it got to the Board of
527 Supervisors level. So, that could still happen, I mean there's nothing that says that can't
528 still happen. I just wanted to clarify that while Mr. Fritz was technically, did he agree to
529 the proffers, I don't know. He says he didn't necessarily but that he didn't oppose them
530 as long as we were able to work out the side agreements. Again, that's a fine line to
531 walk.

532
533 Mr. Archer: Mr. Condlin, well in view of the fact that he doesn't oppose at this
534 point and we've already deferred this one time and there is indication that he feels as
535 though this could be worked out in conversation; do you see anything that could be
536 gained by another deferral at this point? Since the Board has to meet on it and there's a
537 POD also?

538
539 Mr. Condlin: You're putting me in a more awkward situation. Um, but no I think
540 there is enough time that we could work on this and if you choose to move it forward,
541 we're going to sit down in either case whether it gets deferred or before Doug wants to
542 sit down with everyone and see what he can resolve on this and move forward and
543 make sure that if there's any, get rid of all those misunderstandings. I think that he can
544 resolve them and I think certainly Mr. Lingerfelt and Gloria are going to be able to work
545 with him and help to resolve any issues he has to the best of their abilities. We may end
546 up disagreeing as to what the best thing to do is and if that's the case then that's what
547 he will have to take, that position at the Board of Supervisors if it gets deferred here.

548
549 Mr. Archer: I would say that in the interest of time because in looking at the
550 things that were requested by staff, in terms of improving, they all have been done. The
551 off site plantings that would have to be agreed upon, the subject wouldn't be under our
552 control anyway.

553
554 Mr. Condlin: And all those things I think could be resolved quickly. I know and
555 I'm going to speak for you guys if don't mind. I'm sure they are going to jump right on
556 this and there is certainly enough time to meet with them and Mr. Fritz has told me that
557 the commitments made were available at any time to make this as a priority and always

558 has been and he's made my time available too, which was nice of him. So yes, I don't
559 think there is any, in the spirit of cooperation we're certainly going to be able to sit down
560 with them and resolve whatever issues and if that's the case we can't resolve them, then
561 we certainly can express those to the Board and that's fine as well.

562

563 Mr. Archer: Ok, any other questions for Mr. Condlin?

564

565 Mr. Condlin: Have I waffled enough for you? I think.

566

567 Mr. Archer: You waffle pretty well. There were other people who had
568 opposition. Is there someone who cares to come forward to speak? Please give us
569 your name if you would sir.

570

571 Mr. Long: Good evening Mr. Chairman, my name is George Long.

572

573 Mr. Archer: Good evening Mr. Long.

574

575 Mr. Long: I live in Meadowwood Subdivision and I am here representing the
576 Meadowwood Preservation and Improvement Association. And we oppose this rezoning
577 simply because what we see and what we have seen from another site or other two sites
578 of this company that want to move in, we just don't feel that it's conducive for our
579 neighborhood. And our concern hinges on the fact that we are working hard to maintain
580 the neighborhood that is caliber property that would be, that the value increase and it is
581 our desire that the beauty of our area would be such that those that move in will be just
582 business residents. They will be part owners so therefore, our main concern is that why
583 does it have to be rezoned. Now Mrs. attorney Frye had cleared up a lot of things that
584 wasn't clear to me when I walked in here this evening but why is it necessary that is has
585 to be rezoned. And then if you are rezoning from M-1 to M-2 or M-2C what makes that
586 mean that other industries won't come into our neighborhood and clutter up the
587 community in an undesirable way. Therefore we oppose to this and I have, what I mean,
588 I have several petitions that if you would want these I can pass these along to you.

589

590 Mr. Archer: Thank you sir.

591

592 Mr. Silber: Yes, if you could give those to staff.

593

594 Mr. Long: That came from the community. So therefore, we oppose that and
595 then there will probably be others because we have block captains walking the blocks
596 and we might be mailing some to you. But we simply oppose this because we feel that
597 the neighborhood is ok as it is and why does it have to be rezoned so maybe you can
598 answer that question for me.

599

600 Mr. Archer: Well, I'll try Mr. Long. The rezoning is due to the fact that under
601 the current zoning outside storage is not permitted. So if somebody else would have
602 wanted to do the same thing they would have to rezone also unless the zoning in that
603 particular area allow it, outside storage. The C on the case simply means conditions
604 apply and that's what proffers are. As for, you said you had seen some other sites.
605 Have you been to those sites?

606

607 Mr. Long: To my understanding, these companies were the one with the
608 storage here, have a location in Colonial Heights and also a location on Eubank Street in

609 Varina, down at Airport Drive and the site does not look too pleasant. So, I'm afraid that
610 this will happen in our neighborhood and we just don't want that. Although the condition
611 that you have stipulated might verify that that doesn't happen but who's to say that if
612 when you rezone it from this, that's it not going to happen.

613

614 Mr. Archer: Well, let me see if I can clarify that for you a little bit. The site that
615 you are talking about, we are aware of and the fact that those sites exist in the condition
616 they exist are the reasons why these proffers were made so that that condition can not
617 exist here. It can't exist. We have come to that in those proffers. Were you aware of
618 the first two hearings that we had on this?

619

620 Mr. Long: No.

621

622 Mr. Archer: Back in, ok this is the third time isn't it? It was heard once and
623 was deferred and then was deferred again to tonight and I notice no body came out in
624 opposition to those hearings and I'm not taking sides in this one way or the other. I just
625 need to be fair to both sides. Need to be fair to the applicant and need to be fair to the
626 folks who oppose of this for any reason. Mr. Fritz, as it has been indicated by his
627 attorney, is not really opposed to it. His thesis seems to be that he just does not have
628 information that he would like to see in order to make a decision. But I will say that yes,
629 we were somewhat appalled at what we saw that existed on the sites that you
630 mentioned just now.

631

632 Mr. Long: Yes.

633

634 Mr. Archer: And that was the reason for these two deferrals. We do not want
635 that condition to exist and because of that the applicant has agreed to do the screen that
636 you are talking about, I mean that we are talking about and has proffered that those
637 conditions will not exist and of course being the owner of the property, he has
638 enforcement power to whoever he leases it to, to make sure that doesn't happen. I had
639 requested from Ms. Freye that someone from the company who is the apparent lessee
640 of this property be here tonight and they were not able to. So she would have to
641 represent them as best she can and Mr. Lingerfelt I guess could also do that and I hope
642 that clarifies why the zoning change is necessary.

643

644 Mr. Long: It does. Thank you for your time.

645

646 Mr. Jernigan: Mr. Long, I would like to say, they are in my district now and that's
647 one reason they are moving because they have outgrown the spot that they are in.
648 When that industrial park came back there all they used was chain link fencing and it's
649 been some time ago and they are stacked higher there than they would be on this site.
650 This is actually the third site. They had looked at building another site and they had
651 looked at another building that was empty in the Varina District but they had settled in on
652 this one. Do you know who owns Hughes?

653

654 Mr. Long: No, I don't.

655

656 Mr. Jernigan: Home Depot, just bought them about two months ago so I think
657 they are going to want to keep their image up and they have the resources to do
658 whatever needs to be done.

659

660 Mr. Long: Well we certainly hope so then. We thank you very kindly.
661
662 Mr. Jernigan: Ok. Thank you.
663
664 Mr. Archer: Thank you sir. Is there anyone else who wanted to speak?
665
666 Mr. Jackson: Mr. Chairman and Board, my name is Ronald Jackson. I'll be very
667 brief.
668
669 Mr. Archer: Good evening Mr. Jackson.
670
671 Mr. Jackson: Thank you. I've heard everything said tonight and I'm hoping that
672 you all are also hearing the lateness of this particular company in last minute things as
673 presenting the information to Mr. Fritz at that last minute. The condition that they are
674 keeping their other two properties in is unacceptable even if it was chain link fence they
675 could have put some type of decorative strips in the strip or in the fence or something
676 else to keep that property looking decent. Also, 12 foot fences are pretty ugly. Twelve
677 foot trees, that's great but 12 foot fences, that's not really what you want on the front.
678
679 We have a hundred thousand people coming to the races. We want to keep the
680 appearance of Henrico as high as possible. It's not just our neighborhood and our
681 properties. I'm proud of Henrico. I really am. I have been in Henrico thirty years and I
682 am very, very pleased with what the Board has done and I hope will continue to do and
683 whether it's timely or not, whether we were here before, we didn't know the condition of
684 the other two properties. After seeing pictures of those properties, we don't think that
685 these people have put forth enough of an effort in Henrico or anywhere else to present
686 to me the illusion that they intend to continue. I think it's going to be a constant battle,
687 it's like having a slumlord that you know is a slumlord and letting him have three more
688 properties. It's not a good idea. That's it, thank you.
689
690 Mr. Archer: Thank you Mr. Jackson.
691
692 Mr. Silber: Thank you.
693
694 Ms. Jones: Mr. Chairman, could someone just?
695
696 Mr. Archer: I'm sorry, Mr. Jackson, just a moment.
697
698 Ms. Jones: Mr. Jackson, could you just clarify for me where your
699 neighborhood and Mr. Long's neighborhood is in relation to the property?
700
701 Mr. Jackson: We are on the opposite side of the race track right at Azalea and
702 Richmond Henrico Turnpike, across the street from Henrico High School.
703
704 Ms. Jones: Ok.
705
706 Mr. Jackson: So we don't see it every day except coming around that way but
707 we just want Henrico in general to be beautiful.
708
709 Ms. Jones: Thank you.
710

711 Mr. Archer: Thank you Mr. Jackson.
712
713 Mr. Jackson: Do you have other questions, I'm sorry?
714
715 Mr. Archer: I think that was it. Mr. Townsend, good evening sir.
716
717 Mr. Townsend: My name is Sidney Townsend. I'm a member of the Cloverland
718 and Confederate Heights Neighborhood Association. Members are back there. I think
719 that most of our concern was about revitalization in our area. I would like to commend
720 Carolina Avenue and Liberty Properties for the beautification of Carolina Avenue. We're
721 trying to follow suit in all the communities and from my understanding Henrico County
722 has grown just about as much as it can in the West End.
723
724 With the growth that is coming back to the East End now and so this is an effort on our
725 part that all new growth, all new buildings are going to comply and also help to maintain
726 the property values. So as far as most of our members are concerned, if you have
727 addressed the issues, I mean like it said there were pictures being shown up there.
728 When you say something about heavy industrial equipment coming to the area, you
729 think about safety.
730
731 The guests that are coming to the different events in that area, whether the kids are
732 going to be safe or whether you are going to have some type of tragic accident or what
733 not. It's just an effort on the communities' part to try and clean up. We have a lot of
734 neighborhood watch clean ups and what not and we're trying to. It's a fairly old
735 neighborhood and we're trying to revitalize the neighborhood and we're trying to live up
736 to the beautification process. So this is mostly our concern about it.
737
738 If you want to continue to do the job you are doing, a wonderful job, then I hope you are
739 going to look out for us and also remember there are going to be other applicants with
740 other businesses coming in the area and we just want you to be a watch dog for us and
741 if we find that there is some difficulty in accepting what's going on, we will be back down
742 again to talk with you. Thank you very much.
743
744 Mr. Archer: Thank you Mr. Townsend. Thank you for coming. We have about
745 close to four minutes left if someone else wants to speak.
746
747 Mr. Watson: My name is Jim Watson and I don't have a dog in this hunt as they
748 used to say. But I did want to point out something.
749
750 Mr. Archer: I didn't get your name, I'm sorry.
751
752 Mr. Watson: Jim Watson, I'm with Trace and was here for the other
753 (unintelligible)
754
755 Mr. Archer: Thank you Mr. Watson.
756
757 Mr. Watson: But I did want to chip in on one thing that I encountered in a prior
758 life. How do you define storage? If someone brings a truck in, drops the trailer, leaves it
759 overnight, takes it out the next evening, is that storage? As opposed to bringing it in and
760 leaving it there for a week. I would suggest that if that is not defined in your ordinance

761 you need to look at that in particularly as it relates to this particular property and what the
762 proffer means when it says as I understand it, no storage, no outside storage.

763
764 Mr. Archer: Thank you sir.

765
766 Ms. Winston: Good afternoon.

767
768 Mr. Archer: Good evening ma'am.

769
770 Ms. Winston: My name is Gladys Winston. I also live in Colonial Heights,
771 Cloverland residential area. I've been there since 72. I've seen a lot of changes going
772 and coming. But one thing tonight no one has said anything about the lights in our area
773 for us as neighbors, older people getting in and out. Now we have a lot of congestion
774 right now and we have not had no increase in widening no area in there. Now these
775 trucks going in and out is going to make our living rough. And I would like to see that we
776 do not do this because we live there, we are older people that is going and coming. It's
777 in the area where the school is at and I'm thinking about the traffic that these trucks are
778 going to be going back and forth, what is it going to do to us for our living? Now how
779 would you like to be in an area that you know this was coming? If this was coming,
780 something else is probably going to come too.

781
782 We would like to keep our area as it is. So I would like to know why nothing has been
783 said about the traffic whatsoever tonight. If they are having these traffic (unintelligible)
784 going and coming, that's going to put pressure on us. And see if you are probably not
785 (unintelligible) on the map to realize over by Laburnum School and where the racetrack
786 comes around, ok we be going back and forth when you get up on top of the hill,
787 Meadowbridge Road and Azalea. Now they have got to go either that a way or either go
788 down and come down on (unintelligible) Avenue. So whatever way they come, that
789 traffic is going to be bad, it already is. Now I have stayed at my house and got up in the
790 morning around 5:30 or 6:00 and have counted the number of traffic that time of morning
791 going and coming. So you know it's going to be worse if they are going to have these
792 traffic signals and all going back and forth. Please, please, let us have our peace over
793 there. Thank you.

794
795 Mr. Jernigan: How about if those trucks were coming down Laburnum Avenue
796 from 295 or 64?
797

798 Ms. Winston: We still got to get out from where we live to get to Laburnum and
799 go where we got to go to and I do see over there, there should be another area that they
800 could put this that would notand I'm sure once ya'll started to let this come in, no
801 telling when somebody else is going to come and want to put something in, then where
802 are we? We have no leg to stand on. Let us have our peace. Living since there since
803 72 and we would love, it's a nice area, the racetrack now has been very nice to us and
804 we've gotten along beautiful and we would like to.

805
806 Mr. Jernigan: What kind of business would you like to see in there?
807

808 Ms. Winston: Not nothing with a whole lot of traffic like they are....and another
809 thing is, ok, they are going to have pallets, I'm sure, and you know they are going to
810 (unintelligible) they can bring all kinds of snakes and everything else, we are close to the
811 woods.

812

813 Mr. Jernigan: Thank you.

814

815 Mr. Archer: Thank you Ms. Winston. There is about a minute and a half left if
816 there is someone else who wants to speak in opposition. No other speakers. Ms. Freye
817 now is your chance to rebut.

818

819 Mr. Silber: Ms. Freye, you have about 3 minutes of rebuttal.

820

821 Ms. Freye: Thank you very much. One of the things that I think would be
822 important to point out is that this zoning case is not going to change the use, the
823 industrial use of this property. There is industrial zoning on both sides of Carolina
824 Avenue in this area. The type of truck traffic is not going to change. As to Mr. Watson's
825 comment, that's why, the concern about trailers, that's why the proffers are specifically
826 worded the storage of trailers, truck trailers, and materials, so that they are the same
827 restriction for screening and not being visible from adjacent property, as outside
828 materials and also they are also restricted from the parking lot area. So I think that has
829 been addressed in the proffers. The concern about the tenant and their current
830 locations, those photographs have been extremely instrumental in why we have the
831 eight proffers worded so strictly and the standards held so tightly is to prevent that
832 situation from occurring on this site.

833

834 The land owner in this situation owns all the property across Carolina Avenue as well as
835 this property. The campus appearance of that, the nice comment that was made about
836 improving Carolina Avenue and having a nice appearance, that's equally important to
837 the applicant as it is to the County staff and to the public.

838

839 I think the staff has done a very good job of putting itself in the shoes of the public,
840 people that would be driving by, as well as how closely we have worked with Mr. Fritz
841 about the adjacent property that he owns on the west and the south of this property. He
842 was very instrumental in the wording of all the proffers on April 19th and staff was very
843 instrumental in the wording of the proffers from the 19th till today.

844

845 So all those conditions have become stricter, we've demonstrated how we can meet that
846 standard and will have another opportunity to prove it to you at POD. So we would ask
847 that you follow the recommendation of the staff and recommend approval.

848

849 Mr. Archer: Ms. Freye, for the benefit of those who have come out tonight,
850 could you give some examples of some things that could be in there under the present
851 zoning? Can you think of something?

852

853 Ms. Freye: Well it has been used as a distribution center, it was used by the
854 post office, it was used by the IRS, same kind of truck traffic that goes in there that
855 would be coming in there is the same that goes in there now; the same kind of traffic that
856 would be going across the street to the M-2 zoning in the same general location. That's
857 not changing. That use, the M-1 use is not changing, the only M-2 is the ability to store
858 some materials outside in a neat orderly fashion and that that provision has also been
859 added into the tenant's lease so that not only is it governed in subject to the police
860 powers of the County to enforce, but the landlord will have direct remedies to step in if
861 there is ever any problem about that storage not being maintained in a neat and orderly
862 fashion because he has as vested an interest as anyone else around that property.

863
864 Mr. Archer: Does anyone else have any questions for Ms. Freye?
865
866 Mr. Jernigan: Hughes could move in there today if they didn't want outside
867 storage, the same people.
868
869 Ms. Freye: Yes, sir. And most of their materials are going to be stored inside
870 the building. It's only these limited miscellaneous pipes and things that I've listed in the
871 proffer that would be allowed outside and only under those conditions that it not be
872 visible from the adjacent property or from Carolina Avenue.
873
874 Mr. Silber: Ms. Freye, can you show the Commission the Exhibit B that
875 illustrates how the storage must be maintained?
876
877 Ms. Freye: Is it this one?
878
879 Mr. Silber: No. Exhibit B.
880
881 Ms. Freye: When I talked to Hughes about number one, not allowing storage
882 in the parking lot because of the concern of those other sites that they had bought into,
883 and asked him to send me the photograph of how they, another site, where they do store
884 these pipes outside. This came from their Atlanta facility. It's kind of a similar situation
885 because you see at the back of this property you have that hillside with natural
886 vegetation to help screen it but it does show that they are stacked and racked and in
887 bundles.
888
889 Mr. Silber: So the images that the neighbors have been shown and that staff
890 has seen when they visited Hughes is much different from this.
891
892 Ms. Freye: Absolutely, and the reason we proffer this exhibit is to show that it
893 would be like this, not like those other photographs.
894
895 Mr. Silber: So this would be the expectation that we would have for this site,
896 we can go out and enforce this storage to make sure that it stays this way because
897 these proffered conditions become law and will always run with the property. So this is
898 the expectation for what can take place and it needs to be stacked no taller than 12 feet.
899
900 Ms. Freye: Yes, sir. Or if the vegetation is lower, then they have to be
901 stacked lower. This is the standard that would be enforceable and this is the standard
902 that they would be held to and this would run with the land regardless of who the tenant
903 is.
904
905 Mr. Archer: Thank you ma'am. Mr. Jackson and Mr. Long, did you all have,
906 you have about a minute left in your time. I'll let you use it.
907
908 Mr. Jackson: In light of this great looking picture here and Home Depot is my
909 favorite store by the way, but how much trouble would we have or how many times
910 would we have to call the police or the, how many times would we have to call the police
911 and how long would we have to wait to get. I wish you all could see the pictures; well
912 you all have seen them.
913

914 Mr. Jernigan: We've seen them.
915
916 Mr. Jackson: Those are horrible and I mean with all of those open pipes, we're
917 right next to the swamp and the woods. You're going to have snakes, rats, raccoons,
918 whatever, I just don't believe in opening my door to trouble, that's just me and that's all I
919 have to say.
920
921 Mr. Archer: Thank you.
922
923 Ms. Freye: I'll quickly respond to that. That's one of the concerns even that
924 Mr. Fritz had on the raceway property is that it takes time when you process a zoning
925 violation through the County and that's somewhat frustrating. That's why we've
926 committed in writing to provide to, in the lease, that the landlord will have enforcement
927 remedies. So the call could be to the landlord and the County at the same time and the
928 landlord is going to be taking immediate action because of the proffers and his commitment
929 in writing to Mr. Fritz.
930
931 Mr. Vanarsdall: Ms. Freye, what are the hours going to be on this property?
932
933 Ms. Freye: The same hours on any industrial property. There is no restriction
934 on any hours.
935
936 Mr. Vanarsdall: You have conditions on the case but you don't have any hours on
937 them.
938
939 Ms. Freye: We're not conditioning the hours of operation, no sir. This case is
940 only about outside storage.
941
942 Mr. Branin: Ms. Freye, do you know which kind of Hughes this is, is this a
943 Hughes water works?
944
945 Ms. Freye: They actually do have fire hydrants as part of the supplies and
946 those will be stored inside the building.
947
948 Mr. Branin: They are going to store all the hydrants inside.
949
950 Ms. Freye: Yes, sir. The only outside materials are those that are listed in
951 proffer number one I believe. Yes, sir.
952
953 Mr. Vanarsdall: I didn't catch what you meant that only the outside storage, the
954 reason there is no hours. They have to come and go for that stuff to be there.
955
956 Ms. Freye: Maybe I'm missing your point Mr. Vanarsdall. There is nothing
957 being changed about the industrial use of this property. It is only allowing them to store
958 some of their materials outside.
959
960 Mr. Vanarsdall: I know it.
961
962 Ms. Freye: It's not changing the type of industrial use.
963

964 Mr. Vanarsdall: Well, what the people around us have said this would be a good
965 time too to consider hours.
966
967 Ms. Freye: Well that is not what this case is about. This is only asking for the
968 opportunity.
969
970 Mr. Vanarsdall: It could be. You answered my question, thank you.
971
972 Mr. Archer: All right, thank you. Mr. Long did you want to say something else?
973
974 Mr. Long: I just wanted to answer your question. You asked that if Hughes
975 could move in there tomorrow if there wasn't outside storage. Any other corporation, the
976 residents of our community would agree to them moving in there if it wasn't for outside
977 storage because we just feel that outside storage would get out of hand. That's our
978 feeling. We would rather for whoever the (unintelligible) Home Depot owns it, to rent it to
979 somebody like IRS or the post office, somebody that's going to use the building. That's
980 a beautiful site over there and keep it that way.
981
982 Mr. Jernigan: What I was referring to was Ms. Winston was talking about the
983 truck traffic. The truck traffic could be the same if, even if they didn't get the, have the
984 outside storage, if they moved in, it would still be the same amount or somebody else.
985
986 Mr. Long: That's a possibility. I think we're concerned mostly about the
987 outside storage.
988
989 Mr. Jernigan: We know there's going to be truck traffic there because a building
990 like this is just for industrial.
991
992 Mr. Long: Thank you.
993
994 Mr. Archer: Thank you Mr. Long. Anybody else got any questions. Ms. Freye,
995 do you have any further rebuttal?
996
997 Ms. Freye: No sir, but I would be glad to answer any questions you might
998 have.
999
1000 Mr. Archer: You did say that Mr. Lingerfelt owns both sides of Carolina
1001 Avenue, that entire property is his?
1002
1003 Ms. Freye: The end two properties across the street on the zoning map, yes
1004 sir, belongs to Liberty. They have done a very nice job with that streetscape even
1005 though those are industrial buildings M-2, that have loading docks, when you drive down
1006 Carolina Avenue you have a very nice streetscape.
1007
1008 Mr. Archer: It is, yes. That's one thing I think the neighbors agree to there.
1009
1010 Ms. Freye: These neighbors are very removed from this site. They have the
1011 same interest that the general public would have which is what I think the staff has done
1012 a tremendous job on building in every protection so that this standard is met. That, that
1013 is not going to be visible from anyone driving along Carolina Avenue.
1014

1015 Mrs. O'Bannon: Ms. Freye, do you anticipate it will take very long for the proffered
1016 plantings to screen everything or is this going to have immediate effect?
1017
1018 Ms. Freye: The intent of this proffer is, that when we come in at POD with our
1019 landscaping plan, with the fencing, with the screening, with the location of the materials
1020 and those line of site drawings, that at that time a planting of 8 foot tall two rows of
1021 staggered trees that we will be able to demonstrate that we have met the requirements
1022 of that proffer. So that will be at that time before you approve the POD.
1023
1024 Mrs. O'Bannon: Time of planting, this will be completely concealed and will only
1025 get better with time.
1026
1027 Ms. Freye: Yes, ma'am and it will be prior, and the POD has to be submitted
1028 prior to any outside storage. Yes ma'am.
1029
1030 Mrs. O'Bannon: Thank you.
1031
1032 Mr. Archer: Thank you, Ms. Freye.
1033
1034 Mr. Jernigan: Mr. Archer, how long has that building been vacant?
1035
1036 Mr. Archer: I don't know, Mr. Lingerfelt can you tell us?
1037
1038 Mr. Lingerfelt: A little over a year.
1039
1040 Mr. Archer: Well, I wish one of ya'll had this other than me but you don't. Let
1041 me just start by saying I'm grateful to the people from the residential neighborhoods that
1042 came out here tonight to express their concerns. This is the third hearing that we've had
1043 on this and this is what makes it somewhat difficult because no one showed up at the
1044 first two hearings to express any opposition and of course to this day we haven't gotten
1045 any real opposition from RIR.
1046
1047 At the first two hearings, our concerns, staff's concern was with how this property would
1048 be handled. Mr. Fritz made us privileged that the same photograph that you all saw and
1049 we were to be honest with you we were appalled at the condition of those sites. We
1050 didn't like them at all.
1051
1052 But there in lies the basis of this case because the proffers that were submitted with this
1053 case or they were revised after they were submitted were in answer to those terrible
1054 pictures that you saw. We can't allow that and as a result of that we have a case that is
1055 heavily proffered and even we have an agreement that is outside of this case because
1056 we can't control what agreement the property owner and Mr. Fritz would have for
1057 planting trees on RIR property. So that's in addition to what we have here.
1058
1059 They have cut back significantly on what would be stored in the parking lot to the extent
1060 that there would be no trailers or anything stored in the parking lot but I understand the
1061 screening is going to be put in place anyway. My difficulty lies and I know that some of
1062 you don't understand or either don't like what this looks like it could be. The strengths of
1063 those proffers is in the fact that the tenant and the County both, not the tenant but the
1064 landlord and the County, both would have some police powers over making sure that
1065 this, the existing stuff that you saw, does not occur here.

1066
1067 And in answer to Mr. Jackson's questions, how many times would you have to call; I'm
1068 hoping and thinking that you wouldn't ever have to call about this. We've had quite a bit
1069 of discussion before even accepting these proffers as to how this property would be
1070 screened and how it would look. It's all an industrial property and Mr. Lingerfelt owns
1071 what's on both sides of the street so nothing's going to stop this from being industrial
1072 property unless somebody else buys it and has it rezoned to do something else with it.
1073
1074 We are quite a ways away from the residences. I probably live almost as close, I guess
1075 just as close as do some of you all. I have as much of a concern about it as you do and
1076 I don't think either me or Mr. Thornton would want to allow this in the district. I don't
1077 think the County would either if we were going to end up with a product that looked like
1078 what you all saw in those pictures; in fact I know we wouldn't.
1079
1080 So, there are two things that have to be done now. One, you have to come back with a
1081 Plan of Development which will specify exactly how these plantings are going to look
1082 and that will be a public hearing and you all will have an opportunity to come out and
1083 view all of that information when it comes in too. Now regardless of what we do tonight,
1084 we do need to pass this along to the Board because we have held this up now for three
1085 meetings. The Board has the right to deny this case out right. We could deny it and
1086 they could approve it or we could defer it and they could defer it again. But staff has put
1087 a lot of work into this and so has the applicant to be honest with you. And if we defer it
1088 again tonight, we are not going to gain anything because they have already given us
1089 everything that staff has asked them to do. So if we defer it, we simply are weighting
1090 ourselves down with more things that we have to do to come back with the same result.
1091
1092 So I'm hoping that you all will stay diligent with this and follow it through until its
1093 conclusion and know that the Board will have to hear this and also make a decision on it.
1094 But based on the cooperation that we've gotten from the applicant and the hard work
1095 that staff and the applicant have put in to try and make this an agreeable case, my
1096 recommendation tonight is going to be to pass it along to the Board with a
1097 recommendation for approval and between now and that time, Mr. Fritz will have the
1098 time to meet with Mr. Lingerfelt and please meet with Mr. Fritz as many times as you all
1099 can agree to meet and leave it up to the Board to decide whether or not another decision
1100 needs to be made.
1101
1102 But I think they have done what we've asked them to do and they have been diligent in
1103 doing it so I don't think it would be fair for us to recommend denial but I do hope that you
1104 all will be diligent in keeping your eyes on this and Mr. Jackson, I hope that you never
1105 have to make that phone call but if you do, you know we are complaint driven, the
1106 County is complaint driven, and when things happen that you don't like, you need to
1107 complain about it.
1108
1109 It bothers me that no body has ever complained about these two sites that Hughes has
1110 been managing now because depending on where they are, I mean they could be back
1111 in the woods somewhere no body really cares but if they were someplace where you
1112 were near, I would hope that you would complain and we could take proper action to get
1113 it cleaned up. But with that I don't know what the Board will see to do on this, see fit to
1114 do but I'm going to recommend that we pass it along to the Board with the
1115 recommendation for approval.
1116

1117 Mr. Jernigan: Second.
1118
1119 Mr. Archer: Was that you Mr. Jernigan?
1120
1121 Mr. Jernigan: Second.
1122
1123 Mr. Archer: Ok, motion by Archer, seconded by Mr. Jernigan. All in favor of
1124 the motion say aye, those opposed say no. The ayes have it and the motion passes.
1125
1126 The Planning Commission voted to recommend the Board of Supervisors **grant** the
1127 request because it is reasonable, it conforms to the recommendations of the Land Use
1128 Plan, and the proffered conditions will provide appropriate quality assurances not
1129 otherwise available.
1130
1131 Mr. Silber: Let me just say, the Board meeting is on June 13th so this will
1132 come again before the Board of Supervisors on the 13th of June at 7 o'clock.
1133
1134 Mrs. O'Bannon: And Ms. Freye, you are making a promise right now to call Mr.
1135 Fritz as soon as possible?
1136
1137 Ms. Freye: Mrs. O'Bannon, I called him today and he did not return my phone
1138 call.
1139
1140 Mrs. O'Bannon: Well he, in between that, he did call me so I'm hoping you will
1141 promise you will be calling him soon?
1142
1143 Ms. Freye: Yes ma'am.
1144
1145 Mrs. O'Bannon: Ok, I'll tell him.
1146
1147 Mr. Archer: Thank you all again for coming, I appreciate it.
1148
1149 **C-20C-06 James Theobald for Steeple Lane Development, LLC:** Request to
1150 conditionally rezone from M-1C Light Industrial District (Conditional) to R-5AC General
1151 Residence District (Conditional), Parcel 809-724-5973, containing 18.252 acres, located
1152 at the western terminus of Steeple Lane and on the east line of East Richmond Road
1153 approximately 1,770 feet north of Nine Mile Road. The applicant proposes a zero-lot line
1154 development of no more than sixty-four (64) homes. The R-5A District allows a
1155 minimum lot size of 5,625 feet and a maximum gross density of 7.7 units per acre. The
1156 use will be controlled by zoning ordinance regulations and proffered conditions. The
1157 Land Use Plan recommends Office/Service. The site is in the Airport Safety Overlay
1158 District.
1159
1160 Mr. Silber: Ok, next on the agenda is on page four in the Varina District. This
1161 is a zoning case that was deferred from the April 13, 2006 meeting. This is C-20C-06,
1162 James Theobald for Steeple Lane Development, LLC. request to rezone from M-1C
1163 Light Industrial Conditional to R-5AC General Residence District Conditional. This is
1164 property containing 18.28 acres located at the western terminus of Steeple Lane on the
1165 east line of East Richmond Road.
1166

1167 Mr. Archer: Alright, thank you Mr. Secretary. Is there anyone here who is
1168 opposed to this case in the Varina District, C-20C-06, James Theobald for Steeple Lane
1169 Development. We have opposition. Go ahead sir.

1170
1171 Mr. Tyson: Mr. Chairman, members of the Commission, Mrs. O'Bannon, Mr.
1172 Secretary, the request is to permit development of 64 single family detached dwellings
1173 on zero lot lines. This case was deferred at the April Planning Commission meeting to
1174 permit the applicant to continue working with staff and adjacent property owners to
1175 address outstanding issues. This site is located east of East Richmond Road, south of
1176 Dabbs House Road at the terminus of Steeple Lane. To the east separates this parcel
1177 from Laburnum Avenue. The southern property line is shared with Beth-Elon; a Queen
1178 Anne-style residence that was constructed in the 1890's and is on the National Register
1179 of Historic Places. The site is bisected east/west by a drainage area that drains the
1180 Fairfield Woods subdivision to the west.

1181
1182 The 2010 Land Use Plan recommends O/S, Office/Service uses for the property;
1183 however the property use may be more appropriate given the existing development
1184 pattern and trends in the area.

1185
1186 The property was rezoned to M-1C by case C-85C-89. The main feature of that case
1187 was the prohibition on uses that restricted the use to office/warehouse facilities.
1188 Additionally, under the previous zoning case, no access to East Richmond Road was
1189 permitted.

1190
1191 The applicant has submitted a proffer statement that's been submitted to you committing
1192 to the following. The permitted uses would be limited to 64 zero-lot line dwellings. A
1193 planting strip 10 feet in width, planted to a Transitional Buffer 25 standard would be
1194 provided along East Richmond Road. While not proffered, the applicant has reported
1195 that a wetland buffer may be required adjacent to the Beth
1196 Elon property. The extent of that buffer would be determined based on field evaluation
1197 of the wetlands.

1198
1199 Houses would be a minimum of 2000 square feet in size and would vary in architecture.
1200 Each home would have a two-car side loaded garage. The proffers that have been
1201 distributed to you have a one-car garage. Mr. Theobald amended that this evening to a
1202 two-car side loaded garage.

1203
1204 Brick foundations would be provided however, where high-water table restricts the
1205 building to slab-on-grade, a faux crawl-space a minimum of 7-courses in brick would be
1206 used. Sidewalks would be provided on one side of all interior streets. Curb and gutter
1207 would be provided front yards, and street-side yards on corner lots would be sodded and
1208 irrigated and any BMP's would be aerated. Should the Commission wish to act on the
1209 case tonight, the time limits would need to be waived. Given the residential nature of the
1210 surrounding properties, the proposed use may be more appropriate than the
1211 office/warehouse uses that are currently permitted under the existing zoning. Staff has
1212 encouraged the applicant to incorporate the adjacent parcel to the east, fronting on
1213 Laburnum Avenue, into the project. This would add land area to the development
1214 allowing lots wider than the 50' lots that are currently proposed, would permit possible
1215 access points to a roadway that would be better able to accommodate the traffic
1216 generated by the development, and will incorporate a parcel of land that is otherwise
1217 going to be very difficult to develop into a use that will be compatible with the proposed

1218 residential neighborhood. It is my understanding that discussions concerning this issue
1219 are ongoing; but no final agreements have been reached.
1220
1221 This concludes my presentation and I'd be happy to try and answer any questions that
1222 you might have.
1223
1224 Mr. Archer: Thank you Mr. Tyson. Are there questions for Mr. Tyson from the
1225 Commission?
1226
1227 Mr. Jernigan: Mr. Tyson, the staff is in support of this request.
1228
1229 Mr. Tyson: We're generally, generally feel that the use is more appropriate
1230 than the existing use. The outstanding staff issue is acquisition and incorporation of that
1231 parcel.
1232
1233 Mr. Jernigan: Ok, thank you.
1234
1235 Mr. Archer: Anything further? Alright, we need the applicant because we have
1236 opposition. Good evening Mr. Theobald.
1237
1238 Mr. Theobald: Good evening, Mr. Chairman.
1239
1240 Mr. Archer: Mr. Theobald, you are aware that we have opposition.
1241
1242 Mr. Theobald: Yes, sir I would like to reserve two minutes if I might.
1243
1244 Mr. Archer: Alright, sir.
1245
1246 Mr. Vanarsdall: Did you say a few minutes?
1247
1248 Mr. Theobald: Two please.
1249
1250 Mr. Vanarsdall: Oh, two minutes.
1251
1252 Mr. Archer: Two is a few.
1253
1254 Mr. Theobald: Mr. Chairman, ladies and gentlemen, my name is Jim Theobald
1255 and I am here this evening on behalf of Community Development Partners, Lloyd Poe
1256 and Kevin McNulty are here with me along with Caroline Nadal who is an attorney for
1257 Hirschler Fleischer. This is a request to rezone 18.28 acres from an M-1 zoning
1258 classification to R-5A with significant proffered conditions in order to construct 64 owner-
1259 occupied single family detached homes. In today's dollars, these homes would range
1260 from \$220,000 to \$300,000 in purchase price.
1261
1262 This is obviously a picture of the zoning map (refer to rendering) and you see the
1263 industrial land in this area and I was here that evening in 1990 when the ever eloquent
1264 Ed Willie rezoned this case. I remember he used the phrase that's still reflected in the
1265 minutes where he thought he had narrowed the significant areas of non-agreeability.
1266 There were significant opposition to changing that zoning from A-1 to the M-1 albeit it is
1267 proffered closer to an office/service type case. But the zoning seemed odd at the time
1268 and it seems odd today. It's in a sea of otherwise residentially zoned property and the

1269 1990's staff report suggest that some 3900 industrial trips a day would be generated by
1270 that site albeit going out either to Laburnum or interestingly down a little dirt road Watson
1271 Lane in here because originally this historic home was part of this site. For some reason
1272 they thought going down that little dirt road was alternative access.

1273
1274 This site is surrounded by predominantly R-3A zoning which potentially permits a density
1275 of up to 4.6 units per acre and homes of 1050 square feet and any of those subdivisions
1276 are proffered to higher standards. This request would result in a density of about three
1277 and a half units per acre with minimum home sizes of some 2000 square feet. And as
1278 you saw from the other area which is a little smaller in scale; this is the site in here (refer
1279 to rendering) this is Steeple Lane, this is Laburnum Avenue along here, this is Fairfield
1280 Woods. There really is an opportunity for transition of uses between the single family
1281 detached homes and the apartments on the other side of Laburnum Avenue. Originally,
1282 we thought that transition might best be accomplished with townhouse rezoning but after
1283 discussions with Mr. Jernigan, Mr. Donati and staff, it was suggested that a single family
1284 detached product would be preferable but nonetheless this picture depicts the
1285 opportunity for significant change in the land use from the light industrial use which I
1286 would submit as inappropriate to the single family detached which I believe is.

1287
1288 This is the site plan that is proffered and you will note that this community is essentially
1289 bisected by the wetland area in between. It has two entrances both oriented to East
1290 Richmond Road and these locations there is no access to Steeple Lane and that this
1291 project was planned to be oriented to the residential areas rather than to Laburnum
1292 Avenue and the old Jarrett Road apartments across the way. The pedestrian footbridge
1293 connecting the two parts, passive park areas with gazebos have been proffered, any wet
1294 BMP's would be aerated. The BMP's in this area along the road frontage in an effort to
1295 try to help the drainage situation in that area and those folks have had some significant
1296 drainage issues. We've proffered a 10' landscaping. Easement along East Richmond
1297 Road will be planted to a Transitional Buffer 25 standard. Mr. Tyson has accurately
1298 summarized the proffers. We have proffered the site plan, the planting strip, included a
1299 tree planting plan within the neighborhood of minimum of 2 ½ inch caliper tree in each
1300 front yard, proffered a variety of design elements of homes, sidewalks on one side of
1301 interior roads, 2000 square foot minimums, a cap on a density of 64 homes, and all
1302 homes having side entry two car garage, front yards and side yards were at a corner
1303 would have to be sodded and irrigated, all driveways are to be hard surfaced, mailboxes
1304 and lamp posts are required for the covenants and a home owner's association is to be
1305 formed.

1306
1307 We've met with neighbors along with about half a dozen staff members. Staff was at
1308 the, out in force with the second meeting that we had with the neighborhood and we
1309 basically heard two concerns, traffic and drainage. John Klotz of the Public Works
1310 Department made folks aware of the significant drainage project behind Fairfield Woods
1311 Subdivision. In this area here (refer to rendering), in an effort to try and rectify some of
1312 the drainage issues in this area, there were also individual property owners along
1313 Laburnum and Nine Mile with individual situations with which Mr. Klotz attempted to deal
1314 for some time after the meeting. As you know, we can't put any more water at a faster
1315 rate off this property in a post-developed fashion than we can before it's developed and
1316 obviously single family detached homes with yards have far more open space and green
1317 areas than would the M-1 Light Industrial Use with the flat roofs and the paved parking
1318 areas.

1319

1320 Tim Foster was there to discuss traffic. There are a number of significant road projects
1321 being planned in this area. There is a project for Dabbs House Road to be improved.
1322 Also with the townhomes that Mr. Amason will be constructing, Dabbs House is
1323 designed to punch through to Laburnum Avenue, thus giving another outlet for folks
1324 coming out of this planned subdivision and also improvements to Creighton Road. Mr.
1325 Foster was fairly adamant about not providing a connection out to Laburnum Avenue for
1326 fear of cut through traffic in this area. He concluded that the roads could handle this
1327 development albeit East Richmond Road is a narrow road. It's a 30 foot right of way
1328 with 15 to 18 feet of pavement width in this area. He also indicated that in the a.m. peak
1329 morning, there would be 14 cars entering and 41 exiting. The p.m. 45 entering, 27
1330 exiting.

1331
1332 I believe this request is reasonable in light of all the foregoing factors. It's certainly
1333 better than the current zoning. It has quality guarantees above those binding on
1334 surrounding development and provides a logical transition with regard to use and I'd be
1335 happy to answer any questions.

1336
1337 Mr. Archer: Thank you Mr. Theobald. Are there questions from the
1338 Commission?

1339
1340 Mr. Jernigan: Mr. Theobald, did Mr. Poe go and meet Ms. McNeil and check the
1341 wetlands.

1342
1343 Mr. Theobald: They did meet last night and my understanding is that they did
1344 walk the area. I understand that Ms. McNeil tried walking through the poison oak on
1345 purpose. Maybe that's just a rumor but she told me that. But in any event, this area
1346 along this creek here is at a minimum an intermittent stream and will have a 50 foot
1347 buffer on either side of it and I believe they did walk and the property on her side of the
1348 creek can not be touched and those trees must be preserved as a matter of law.

1349
1350 Mr. Jernigan: Alright, thank you sir.

1351
1352 Ms. Jones: Mr. Theobald, was there any discussion about the other, acquiring
1353 the properties that could lead to adding?

1354
1355 Mr. Theobald: There have been some preliminary discussions, Ms. Jones. This
1356 site is zoned unrestricted R-5 for apartments. Apparently, Mr. Amason has decided to
1357 build townhomes here and you all have approved a POD I believe in order to permit that.
1358 Now his POD apparently did not include this strip along Laburnum Avenue which he
1359 owns and staff has I think appropriately suggested that we try to discuss with Mr.
1360 Amason the possible disposition of that property. We have started that process. Mr.
1361 Amason indicated he had a partner he needed to consult as to whether or not this
1362 property would be sold and what the price would be. But I don't want to mislead you
1363 because the challenges there are first of all, Mr. Amason has unrestricted R-5 zoning in
1364 which he could build apartments or townhomes, etc., and I believe there were also some
1365 comments that he may view this as a potential commercial site in the future albeit with a
1366 change of rezoning.

1367
1368 Were we to get hold of this piece of property, it wouldn't necessary result in wider lots,
1369 what it does is of course increase the development cost of the project and it would have
1370 one of two results. One would be either your front door would now be Laburnum Avenue

1371 across from Jared Apartments which is not what is desired in terms of significant
1372 development by my client; or it would continue to show its back to Laburnum Avenue
1373 and put additional cars on to East Richmond Road. So it's going to take a willing buyer
1374 and a willing seller and it may be that they can agree on price and if so then we would
1375 look to ways to incorporate this in here but it would, honestly, would still not be the
1376 desire for the Laburnum Avenue frontage to appear to be the front door for this
1377 development. Mr. Amason thought he could get back to us, he said either tomorrow or
1378 next week when he was able to catch up with his partner. I don't know who his partner
1379 is and I've certainly been tasked with trying to keep those discussions going, if they are
1380 not going any further. But that's where we are on that piece.

1381
1382 Mr. Silber: Ms. Jones, you have picked up on the aspect that is the one
1383 remaining serious issue for concern of staff. Obviously, through all the training that the
1384 Planning Commission has received and that the staff is aware of, you really try to avoid
1385 zoning and developing properties so as to leave small narrow strips of land that are
1386 undeveloped as a result of your approvals. In this case you would have two strips of
1387 land, one to the north and one to the east. What concerns me most, both of those
1388 concern me, but what concerns me the most is the one to the east adjacent to
1389 Laburnum. I understand what Mr. Theobald is saying. He is correct in that perhaps it
1390 does not add a tremendous amount to his land mass to be able to develop economically,
1391 but I would argue there are different ways of developing the property by joining those
1392 pieces together; the one on Laburnum frontage and on their subject property. So as to
1393 avoid a cut through situation on Laburnum, so to avoid totally turning the project towards
1394 Laburnum and having that solely as your front door. I think his concern about this project
1395 having proximity to Jared Apartments across the street, in fact, is a concern. But the
1396 issue of Mr. Amason's property being zoned straight R-5 is a real concern. There could
1397 be apartments stripped along Laburnum, backing up to this project which I think is not
1398 what the County would like to see as a preferred development option. So this is one of
1399 those difficult situations where you are encouraging, in fact I would argue strongly
1400 encouraging, that these two owners get together so as to develop this property as a
1401 whole, and I have great difficulty recommending approval of this request when you do
1402 have these strips of land that are going to be nothing, nothing but problems in the future.

1403
1404 Mr. Theobald: But understand that not solving the R-5 problem, which
1405 supervisor's zoned, doesn't solve your problem with M-1 zoning, it's already there so is it
1406 wise to suggest that while we won't solve this bigger problem because we can't also
1407 solve the little problem. I have confidence that if Mr. Amason came in here with a plan
1408 that between Mr. Poe, me and Mr. Jernigan, and Mr. Donati and staff that we would
1409 clearly get something, would get something in here better than what has occurred
1410 historically across the other side of Laburnum Avenue.

1411
1412 Mrs. O'Bannon: How big is that piece of property? How wide is it?

1413
1414 Mr. Jernigan: It's 150 feet.

1415
1416 Mrs. O'Bannon: What can you do with that?

1417
1418 Mr. Jernigan: Well, I've, me and Mr. Tyson were adding up figures the other day
1419 and I have taken the setback and what you have to have for driveways and setbacks
1420 from the main corridor. I really don't believe that they can put apartments in there.
1421 You've got a certain setback and we were sitting there figuring so I think at this time, I

1422 don't even think they can get them. Now I did the POD on the subdivision on that and
1423 that property was, all of it was R-5 and I got Roy to put townhouses for sale. I would
1424 have to look at that case again because it's been a couple of years to see if we made a
1425 deal that any property on there would be for sale to build apartments.
1426

1427 Mrs. O'Bannon: Did he calculate his density on that area?
1428

1429 Mr. Silber: That Mrs. O'Bannon is a good question. I believe he did not
1430 because I remember having, specifically remember having dialogue with Mr. Amason
1431 when he came in and did the townhouses on R-5 and we questioned him as to what he
1432 was going to do with this long strip of property and how he was going to develop those
1433 townhouses; and he said I don't want to do townhouses now. That's a problem to be
1434 dealt with in the future. I said well it is a problem and what do you intend to do with it.
1435 He said he really would either incorporate it in to some additional property or sell it to
1436 someone who was developing the property adjacent to it. So at that time, which I guess
1437 was about 3 or 4 years ago, that is what he represented.
1438

1439 Mr. Jernigan: It's been about 3 years. But I know that we made a deal that they
1440 would all be townhomes but I can't, this strip it seems to me that I had to put a sidewalk
1441 on it and I believe that he does have to do that just for interconnectivity for pedestrians.
1442 But just adding figures with Mr. Tyson, I don't think today he can do anything on it.
1443

1444 Mr. Silber: Well, I respectively would disagree. I think you could get
1445 apartments on there. I think they would not lay out in an attractive fashion, but I think you
1446 can meet the setback and get apartments on there. They would be configured in a
1447 strange way and in a linear configuration.
1448

1449 Mr. Jernigan: Well, I guess we will have to get with Roy and see. I've been
1450 trying in communication, Roy was out of the country for awhile.
1451

1452 Mr. Silber: I've had two communications with Mr. Amason in the last week or
1453 two concerning this and I think he's still interested in having dialogue in regards to this.
1454

1455 Mr. Theobald: Yes, so are we. I just don't want to be held hostage to a situation
1456 that we didn't create and that may create more problems than it solves.
1457

1458 Mr. Jernigan: That's all I have.
1459

1460 Mr. Theobald: Thank you.
1461

1462 Mr. Archer: All right, well we did have opposition so we'll hear from opposition
1463 now. Good evening ma'am. Where you hear when I explained the ten minute rule on
1464 the first case? Do I need to repeat that?
1465

1466 Ms. Oliver: I am representing petitions from four developments – residents of
1467 East Richmond Road and Dabbs House Road, a church and others on Creighton Road.
1468

1469 Mr. Archer: Yes ma'am. I need your name also please.
1470

1471 Ms. Oliver: Cynthia Oliver.
1472

1473 Mr. Archer: Thank you Ms. Oliver.
1474
1475 Ms. Oliver: How are you? And I have the petitions.
1476
1477 Mr. Jernigan: Hi, how are you, thank you.
1478
1479 Ms. Oliver: We oppose the rezoning from M-1C Conditional to R-5A, 64
1480 Single Family homes and wish it to remain as is, and for it to be developed in a way that
1481 will be suitable for all of us. Just listening to what you are saying about apartments in
1482 there and what you have going on around us has been a bit overwhelming. The zoning
1483 that are in place now that surrounds us and is developed not using the county's plan has
1484 created problems to the new developments and all of the old existing homes are having
1485 problems with high water levels when it rains, contaminated wells, poor septic drainage,
1486 heavy traffic creating accidents involving school buses, damage to personal property,
1487 garbage going in our ditches and roads which are in need repair. All of which has been
1488 addressed to the County and not addressed, not corrected. The M-C zoning for this
1489 area was accepted in September of 89. The development of Fairfield Woods and the
1490 occupancy in 94 and Walgreens on the corner of Nine Mile Road and Laburnum, was
1491 prior to 94. It is now May of 06 and the County is not looking at this plan or zoning which
1492 recommended the following.
1493
1494 The present area was zoned M-1C for the development like you said a little business
1495 park. They stated that the request would represent a major change of direction of
1496 zoning and land use and should be carefully weighed and evaluated as it set a major
1497 precedent. The developers and Board have changed the zoning factor. Have you heard
1498 of eminent domain? Whereby, the government gives the people a notice before they get
1499 their land. We are experiencing this with our notice. We are experiencing all of the
1500 things that the developing County have worked together to create a major change in
1501 zoning, a host of problems that's mentioned, all residents that were affected by this
1502 request were not notified. Three developments and residents on Dabbs House, Dabbs
1503 House between East Richmond and Creighton Road. This has been a constant with
1504 most of the developments. When I sat with you at the initial meeting Mr. Jernigan, you
1505 remember, why weren't everybody notified, you did give us another meeting. About the
1506 zonings that were already in place, you said you didn't know.
1507
1508 Mr. Jernigan: What was that again?
1509
1510 Ms. Oliver: Ok, when asked at the initial meeting about the notification of all
1511 involved and the zoning already in place for this area, all of this development that had
1512 been created, at least 10 around me. Ok, the planners present did not know. I think that
1513 was you and Mr. Tyson. I have been advised that for the developments with the Civic
1514 Association, that the County has a list of the presidents of that development and for
1515 those that don't have one, it is the responsibility of the County to notify them, all parties
1516 involved.
1517
1518 I became a resident in September of 75. Since then, there has been 10 developments
1519 on my side of Laburnum and Creighton Road and 3 completed ones on the other side of
1520 Laburnum and Creighton with 7 or 8 more to come. Some being developed and
1521 occupied, some to be developed with townhomes, like you were saying and like you
1522 want to put those apartments in there. Again, we were not notified. Most of the
1523 developments have occupancy to exceed 140 homes. With the apartments we now

1524 have in this location like you are saying, Jared, King's Point, Hunter's Mill, that's a
1525 townhouse, you got Dominion Townes which is going to come on around by the library,
1526 Prospect Homes on both sides of East Richmond Road, they are townhouses. And with
1527 all of these near us, those occupancies will exceed over 600 or more. All of this traffic
1528 gets directed on East Richmond Road and one road in Fairfield Woods and Dabbs
1529 House Road. We are the designated shortcut to Nine Mile and Laburnum. When we
1530 asked the planners, the County planners, the number of homes in the development, this
1531 side and the other side of Creighton Road, they didn't know that either. What is the
1532 purpose of a planner or a developer who wants to put 64 homes on 18.252 acres located
1533 on wetlands in an overpopulated area? I have been advised by a realtor that the price of
1534 a home with the value of \$200,000 or more does not mean that it can not be used for
1535 subsidized housing. If they meet the regulations, I don't know all of them but I know a
1536 couple, one regulation is that they do not sell or another reason when people lost their
1537 home for many reasons. The mortgage holder would be paid with the government
1538 subsidy, the developer has been paid and we're holding the bill.
1539

1540 The Steeple Lane project for (unintelligible) to open up the road from Nine Mile on to
1541 Dabbs House on to Laburnum, the County now seems to definitely know that this will
1542 occur in three years. What are we doing these homes for? Are they for the illegal
1543 workers who work for the developers and he nor the workers are paying social security
1544 taxes, federal, state taxes and using social securities that we pay for? It only takes one
1545 legal to qualify for a subsidy. Mr. Jernigan, you stated that he fought the (unintelligible)
1546 development bitterly and proudly say now that we are discriminating. I like to use the
1547 term diligently especially since you and the developers acknowledge this is not in the
1548 areas where you live. We wanted to be sure that the homes for the aged would be just
1549 that and that you wouldn't put it for younger people and it would become a project area.
1550 As far as for the illegal's, I have no problems. I'm a widow, I'm single and I'm a woman.
1551 And I don't, I can understand some of their problems but I can't help them. The
1552 government has to clear that decision. How would you say they are handling their
1553 problems, Mr. Jernigan?
1554

1555 The present zoning for this site calls for office concentration site just like you said. And
1556 the reason they said that they wanted the business park or office site is that it will
1557 provide restriction of uses as well as standards for the layout, design, buffering and
1558 screening of the site. Access on to East Richmond Road should be prohibited and that it
1559 should go to Nine Mile or Laburnum. This Steeple Lane project wants both entrances in
1560 the vicinity of 410 and 412. This is where I live. And the only thing they plan to do to the
1561 road is to eliminate the blind curb and recess their entrances. Under the M-1C, access
1562 to serve the development is a primary concern because of its traffic generation potential.
1563

1564 On to the concerns generated by the inadequate, it was 20 feet wide buffer along East
1565 Richmond Road. The 30 foot wide Watson Lane and an unnamed 30 foot street
1566 between Watson Lane and East Richmond Road bears access through Steeple Lane
1567 and the aforementioned roadways that would have to be improved. A traffic impact
1568 study appears to be a reasonable means of providing the information needed and
1569 evaluations in light of expected uses and traffic generations. Mr. Foster was at the
1570 meeting. He stated that at the present time, we have 1400 cars daily on a road that is 18
1571 feet wide in some places and 15 in others. And this is my road, East Richmond, where
1572 they want to put these new entrances. An additional 64 homes would bring an additional
1573 690 cars daily. Not to mention all of this other development that is going on around us.

1574 We're talking about these deteriorating roads where there have been no improvements
1575 and I have been living there since when, 75, and it has now deteriorated just like I said.

1576
1577 We do not know when this traffic study was done and school buses travel on East
1578 Richmond Road. We were advised at one of the meetings that Steeple Lane was a
1579 private road. We wish to know when does this occur. The only one we knew of was
1580 Watson Lane. In September of 89, the only public water supplied was adjacent to the
1581 south side of Nine Mile Road. Your development for Fairfield Woods changed this. And
1582 because of that, since all of us are on East Richmond and Dabbs House have septic and
1583 wells and A-1 zoning, more land, looks like you are trying to eliminate us. It seems to be
1584 a problem for the County and the developers. We need and want connection to the
1585 County's water and sewer to avoid future problems. We are requesting this now due to
1586 the problems we've had with contaminated wells and serious drainage problems for our
1587 septic tanks created by the developments that were done in 94. May I have some water
1588 please?

1589
1590 Mr. Jernigan: Sure, go ahead.

1591
1592 Ms. Oliver: The present zoning states exclusive of the areas adjacent to the
1593 two streams crossing the property where there may be flood plains or wetlands,
1594 research is needed. That's with drainage and adequate outfall necessary to meet the
1595 needs of a 10 year storm will have to be provided. The retention and slow release of the
1596 50-10 concept may be required to accomplish this goal. Any flood plain along the
1597 streams crossing the property will have to be protected. The developer is advised to
1598 contact the U.S. Army Corps of Engineer to arrange for an inspection and a
1599 determination of any protected non-titled wetlands exist on this site and if so, what
1600 protective measures are required.

1601
1602 Also, the potential impact on the property of the Chesapeake Bay regulations needs to
1603 be evaluated. Has the developer met these requirements and if so, we would like to see
1604 copies. It may not be suitable to have a home close to the wetlands and also it would
1605 completely encircle East Richmond Road because you have the storage behind me in
1606 Fairfield Woods and on the other corner you put Walgreens.

1607
1608 Mr. Archer: Pardon me Ms. Oliver, you have gone over your ten minutes but I
1609 will allow you a little bit more time to conclude.

1610
1611 Ms. Oliver: I'm speaking for all of those opposed.

1612
1613 Mr. Jernigan: It's ten minutes.

1614
1615 Mr. Archer: It's ten minutes total ma'am.

1616
1617 Mr. Jernigan: The applicant gets ten minutes, the opposition gets ten minutes.

1618
1619 Ms. Oliver: Well this has, based on the County's things that they had, I
1620 reached a proposal it would have a major affect on our schools. You can not get in there
1621 because of what you have now. It's over crowded, you are still having those. It also has
1622 the crashes.

1623
1624 Mr. Jernigan: The crashes?

1625
1626 Ms. Oliver: Yes, the school bus. I have a report of all the traffic reports that
1627 have happened for two years past. I think that we want to get this not passed. We want
1628 to see that some of our concerns are met now and that the zoning remains as is. You
1629 remember Katrina, Gaston and Isabel? We don't want to be another one of those and
1630 you did have people from the Department of Public Welfare, I guess or Works. They are
1631 not those from the U.S. Army Corps. and I hope that the next time, we will have. I fell
1632 that I have been shammed in that you are not giving me the additional minutes. That's
1633 really how I feel.
1634
1635 Mr. Jernigan: What do you have another page?
1636
1637 Ms. Oliver: I came prepared for you because you all have encircled me, you
1638 push me in a wall and you haven't been nice about it. You didn't give us notification or
1639 anything.
1640
1641 Mr. Jernigan: Ms. Oliver, the first meeting.....
1642
1643 Ms. Oliver: Will you give me 5 more minutes?
1644
1645 Mr. Archer: Mr. Jernigan.
1646
1647 Mr. Jernigan: Alright, alright well then.
1648
1649 Ms. Oliver: No, I don't want to but the County reports that this is unsafe. The
1650 one that you gave.
1651
1652 Mr. Jernigan: What is unsafe?
1653
1654 Ms. Oliver: For fire, for the Fire Department to get into those, into that place
1655 he plans, the Steeple Lane Project. It will overcrowd the schools. I pulled up the thing on
1656 the intercom, the internet. So I have what you said and they were negative and that is
1657 what I wanted to share with this Board today.
1658
1659 Mr. Silber: Ms. Oliver, maybe what we can do and I know that there are at
1660 least two other people that would like to speak, and perhaps more, and why don't you
1661 take a couple of more minutes to finish up and let these other people speak. We'd like
1662 to know your issues but we have many things to consider tonight so why don't you see if
1663 you can finish up what you have.
1664
1665 Ms. Oliver: You know they have some people using sump pumps on East
1666 Richmond Road. That's just due to the Walgreens development that was put on the
1667 other side. It affects people on Nine Mile Road. Your people talked with them and they
1668 affect people on East Richmond Road and some on Watson. This is what your report
1669 says about the school system. The report I obtained from the County says that the new
1670 development in this area will present a larger cohort of students, membership will
1671 exceed functional capacity and new schools will be needed to provide capacity relief.
1672 Adams Elementary is still using trailers. With all of the past development we are only
1673 going to have a school built and that's a middle school in 2007. The Division of Fire
1674 report states that the roadway widths are not wide enough to allow for two way travel
1675 and curb side parking, fire lane signs may be required on one or both sides of the

1676 roadway. This may include the cul-de-sacs and the roads within this place, Steeple
1677 Lane, is just 39 feet. We are less than that, ok? Do you want to have the traffic report?
1678
1679 Mr. Jernigan: I have got it right here. It says if the roadways, what you said, are
1680 not wide enough.
1681
1682 Ms. Oliver: No I mean the traffic report that shows the accidents that have
1683 occurred.
1684
1685 Mr. Jernigan: Ms. Oliver, we can't control people running up and down. They
1686 have accidents in the west and in Brookland and everything.
1687
1688 Ms. Oliver: Well we have a total of 2,090 cars just with, we don't know when
1689 the report was given with what we have. The report that you, the information that you
1690 gave these people that it would be negative for the schools, negative for the fire along
1691 with what you had, the wetlands and that we need development, not people just telling
1692 us we are going to put this in here and you walk away. Who has to pay for it Mr.
1693 Jernigan?
1694
1695 Mr. Silber: Ms. Oliver, I think at this point it's getting more into a dialogue,
1696 let's hear from the other people that are here.
1697
1698 Ms. Oliver: Thank you so much.
1699
1700 Mr. Silber: You're welcome.
1701
1702 Mr. Archer: Thank you Ms. Oliver.
1703
1704 Mr. Silber: Are there others who want to speak on this request?
1705
1706 Mr. Jernigan: I do want to respond to a couple of things. I mean I have a huge
1707 list here. I will say this, when you are speaking of eminent domain, there's nothing on
1708 this about eminent domain. The County has nothing to do, wait a minute, with coming in
1709 and taking somebody's property to build.
1710
1711 Ms. Oliver: But to make it so unbearable and force so much on them that you
1712 can't. There is more than one way to skin a cat.
1713
1714 Mr. Jernigan: No, that has nothing to do with eminent domain, period.
1715
1716 Ms. Oliver: I know what eminent domain is. (Unintelligible)
1717
1718 Mr. Archer: I think we better move to the next speaker. Come on sir. Give us
1719 your name please when you come up.
1720
1721 Mr. Demena: Hi, how are all of you doing?
1722
1723 Mr. Jernigan: Fine how are you sir? What is your name?
1724
1725 Mr. Demena: My name is Lawrence Demena. I live in the Fairfield Woods
1726 subdivision if you can follow the mouse here (refer to rendering). This is my house right

1727 here. This whole area here is under development by the County. They fought with
1728 Wilton. Wilton paid \$190,000. The County is going to spend \$300,000 because there is
1729 a creek back here called Gilley's Creek. It is uncontrollable. You know where it starts, if
1730 you follow this mouse, it starts over here (refer to rendering), no actually it starts over
1731 here. It comes this way. The County didn't want to address this issue when they
1732 approved permits for this housing. It was based on the federal permit that you would not
1733 disturb the federal wetland. It's been disturbed. This guy lost an air conditioner, this guy
1734 lost his dog, this lady lost her lawn mower and this guy's got mold under his house, both
1735 of these two homes got mold under their house because of this creek. Now the County is
1736 about to approve \$300,000 of the taxpayer's money to move the whole creek. They
1737 have to get environmental scientists to have, Wilton Development had to pay another
1738 permit fee to go back there and fix the situation. If you don't do it downstream you can't
1739 do it upstream. Now they replaced this culvert right here on this road right here because
1740 it was completely deteriorated. The road has caved in because of the situation. They will
1741 not, they replaced the culvert as the same size as it was because environmental
1742 scientists that said we designed this stream to capacitate to a certain amount of water
1743 and now you want to develop this to? There's arteries. This isn't a straight stream.
1744 There are major arteries that go just like this, like this (refers to rendering). You can look
1745 on any map I've found in the County of Henrico, County Library. There is a problem
1746 right here, there is a choke point. We've got some serious issues right here and by us, I
1747 live right here, and by this being developed, it is flooding all of this out, completely, and
1748 I'm not just talking about hurricanes. If you ask Mr. Pinkerton, ask him about Lawrence
1749 Demena, he knows me on a first name basis. You can ask Mr. Poe about me, you can
1750 ask all these people and ma'am, I have been here before when you were on the
1751 Board.....also. Listen, there is a serious problem here and you want to develop a
1752 (unintelligible) no. I'm opposed to the situation and you know what, buyer beware,
1753 developers beware. There's a serious problem right here, these are wetlands. I don't
1754 care how much money you can put on a permit, there is a problem there.

1755
1756 Mr. Jernigan: Let me ask you this. How much trouble did you have through
1757 there before Gaston?

1758
1759 Mr. Demena: Plenty, I'm talking about a hard rain. I can, ask Mr. Pinkerton, he
1760 has a DVD, an hour and a half of hard rain. In my backyard, three foot deep, eight foot
1761 wide, at 20 miles an hour. Hold on; let's get it down to a science at 20 miles an hour.
1762 You put a small animal; my neighbor has a dog pen, eight by sixteen, after it rains, hour
1763 and a half hard rain, it ended up four houses down. The dog was gone.

1764
1765 Mr. Jernigan: Before Gaston?

1766
1767 Mr. Demena: Oh, after Gaston, before Gaston.

1768
1769 Mr. Jernigan: I saw the reports on this and because when Mr. Wilton was in
1770 there, I know that he was holding up on one thing to finish that project out, to get the OK
1771 when Gaston came through. Since Gaston came through, he's had to put additional
1772 monies in there to take care of problems and the County now has a (unintelligible).

1773
1774 Mr. Demena: Right, but we're not talking about dealing with the problem after
1775 the situation. We are here to present and be proactive before they build it. Now they
1776 have proposed building little bridges and all these aesthetic looking things but if they
1777 don't function, they don't function, ok. You can put as many lights, bridges and build up

1778 to it, just make it look aesthetic. When they get flooded out and they coming in here
1779 doing what I'm doing, don't say that nobody told you, well according to the current report,
1780 I am the current report. I'm living in a flood zone, un-notified. Environmental Science is
1781 calling this, this is a flood zone, this is a flood zone. You send the County out there and
1782 Mr. Poe and he is gonna say what he's gotta tell you for the money. I'm going to tell
1783 what I got to because I live in it. I don't pass by it. This road right here, is dangerous.
1784 (Refers to rendering) There is kids riding bikes on this road and you've got cars coming
1785 through there 45 miles an hour, 15 foot wide. Have you seen SUV's nowadays? Fifteen
1786 foot don't take up much. Multiply it times two so you have 18 feet. There are people
1787 cleaning out the gutters when they drive down the street and there's two cars passing.
1788 They don't want to build this road out, they don't want to widen this road, you know why?
1789 Because they have to deal with that water.

1790
1791 Mr. Archer: Thank you sir. Ma'am?

1792
1793 Ms. McNeil: I'm Jeanne McNeil. I own the historic home.

1794
1795 Mr. Archer: I'm sorry I didn't get your name.

1796
1797 Ms. McNeil: Jeanne McNeil.

1798
1799 Mr. Archer: Thank you ma'am.

1800
1801 Ms. McNeil: It's so loud. We own the historic home that is on the end of that
1802 property. There you go right beyond that curve (refer to rendering). While our strong
1803 preference would be for this to remain a, be a County park, we realize that's not entirely
1804 realistic. This property belonged to my great grandparents, the property that I'm on now
1805 and also the property that is under consideration. We do really feel like there is some
1806 issues with the rezoning but we also very strongly would rather see it be a residential
1807 property than a light industrial property. We don't want to see this paved, we don't want
1808 to see big trucks driving in and out of there and the folks who are making this proposal, I
1809 know there are issues that need to be worked out but they have demonstrated that they
1810 are willing to work with us.

1811
1812 I think the traffic is a huge issue on East Richmond Road. We have talked about some
1813 possible options. I don't even know, we haven't had a chance to talk with you yet but
1814 there is some other possibilities. Widening East Richmond Road is not an option
1815 because the houses are too close. What our goal is, is to preserve our neighborhood.
1816 We are looking at putting together a historic district with the homes that are, the historic
1817 homes that are right along East Richmond Road and that area. So that is our concern
1818 and we feel like that the traffic would stand a chance. If the road were widened it would
1819 take away some of the houses and we would probably lose some of our neighbors
1820 because it would put the road right in their house. So we do want to work with the folks
1821 that are proposing this development. We do want to see these issues, particularly the
1822 traffic issue and the drainage issues addressed, but I feel like that the light industrial
1823 zoning is so absolutely wrong. There is not possibility, I'm not sure which part of Watson
1824 Lane was measured at 30 feet but Watson Lane is a gravel road that one car will barely
1825 fit down. So it's not a 30 foot road. That's not an option. Steeple Lane would be a very
1826 poor option for an exit point. But there does need to be a way to divert the traffic that will
1827 result from this off of East Richmond Road. So that is our feeling and we have sent in a

1828 list of our concerns to Mr. Jernigan and Mr. Donati and Mr. Tyson, so I think that we
1829 have outlined them pretty clearly. Thank you.

1830
1831 Mr. Archer: Thank you ma'am. Are there any other people to speak on this
1832 case? Realize we have gone over our time limit quite a bit and this is a public hearing
1833 and we understand some of you feel very passionately about what you've talked about
1834 tonight, so we do want to make an attempt to hear you but we also have to bare in mind
1835 that there are other cases that we haven't even opened yet. Those people have to wait,
1836 so if there is someone else who wants to speak, please be as brief as you can. Come
1837 on, sir. I think we will have to make you the last one.

1838
1839 Mr. McNeil: Hello, I'm Rick McNeil. I am a co-owner of Beth Elon, the historic
1840 home that is immediately adjacent to the property in question. I just wanted to be as
1841 brief as possible and as respectful as possible to everyone's time and I want to thank
1842 you for giving me the extra minute that it will take me to point out that one of the reasons
1843 that this property is so strange and there's that little strip of land in Laburnum, is that
1844 Laburnum was planned in the 50's and in the early 60's of the 20th century. This lot was
1845 actually laid out in the 60's and 70's of the 19th century and that's why that line is so
1846 strange. If this strip of land was a concern perhaps Laburnum would have moved over
1847 or out a little back when it was planned then because this land was here first. And I
1848 know that because it's the remaining 18 acres of the 25 acre farmstead that Jeanne's
1849 great, great grandfather bought in 1884. However, we are, the concerned neighbors, did
1850 not want to see an office park in there and I realize the valid concern of all the original
1851 land owners before all the neighborhoods of the 90's started building in the confluence of
1852 two original streams that are feeder streams to Stoney Run down at the bottom of the hill
1853 and then they go on to the creek into the James. The engineer is going to bail out the
1854 County on this one because whenever you intersect two streams, oh I didn't know I did
1855 that, whenever you intersect two streams here you are going to have a swimming pool
1856 and the engineers hopefully will be able to bail them out with the work that they are
1857 going to do that was described to me at the neighbor meeting that they had. Thank you
1858 for your consideration.

1859
1860 Mr. Archer: Thank you sir.

1861
1862 Mr. Jernigan: Thank you.

1863
1864 Mr. Archer: Ok, I think, that, Mr. Jernigan did you want to say something?

1865
1866 Mr. Jernigan: Yes and I want to say a couple of things to Ms. Oliver but she will
1867 have to come back because if you speak, they can't hear you back there so you will
1868 have to come to the podium. If you want to speak, you will have to answer into the
1869 microphone.

1870
1871 Ms. Oliver: I thought you meant you wanted me to come back afterwards.
1872 What do you want?

1873
1874 Mr. Jernigan: Well I've explained the eminent domain issue already.

1875
1876 Ms. Oliver: Oh yea.

1877

1878 Mr. Jernigan: Ok, when we were speaking of that R-5 strip. I don't want
1879 apartments down there. That's the reason I negotiated to deal with Mr. Amason to put
1880 townhouses up there. That could have all been apartments just like Seven Gables. But
1881 we went after that and talked him into townhomes and got a nice, you know, townhome
1882 where they will have to purchase. They are not for rent. Mr. Foster, and in section 8
1883 which you are talking about the subsidized housing, this is not subsidized housing.
1884

1885 Ms. Oliver: Any house can become a subsidized house, if they meet the
1886 regulations. You have houses in Chesterfield, that's in townhouses and some of those
1887 are subsidized. That's a known fact.
1888

1889 Mr. Jernigan: Subsidized housing, correct me if I am wrong.
1890

1891 Ms. Oliver: I'm just saying what exists.
1892

1893 Mr. Jernigan: That's a project that has to go through the County. This is free
1894 enterprise housing. There is no subsidy to it.
1895

1896 Ms. Oliver: But this report that I'm telling you about, the schools and
1897 everything. This is from the County's own information about the fire.
1898

1899 Mr. Jernigan: I've got the same report here.
1900

1901 Ms. Oliver: But you are saying that you still want to give us more. He wants
1902 to plan, he doesn't want to do anything but block out the blind curve on East Richmond.
1903 When you put Fairfield Woods, you increase the speed limit from 30 miles to 35 and put
1904 a stop sign on East Richmond and Dabbs House. When you know how the blind curve
1905 and you put more cars over here just like the gentleman say, then you are going to
1906 increase it to 45.
1907

1908 Mr. Jernigan: I wouldn't say the speed limit is going to increase.
1909

1910 Ms. Oliver: Yes it will. It's 40 miles on Nine Mile Road and 45 on Laburnum.
1911 Like it was said before, it should be directed away. You probably shouldn't like the man
1912 said, be trying to build anything on wetland. You haven't corrected the Fairfield problem
1913 yet. That was in 1994 when they were up there. This is the year 2006. What do you
1914 want to do to us?
1915

1916 Mr. Jernigan: Have we, now wait a minute. We're not going to build anything on
1917 wetlands because Public Works won't let you do that.
1918

1919 Ms. Oliver: Are you going to let the Army....
1920

1921 Mr. Jernigan: Where they are going to build this is not wet.
1922

1923 Ms. Oliver: Are you going to let the Army Corps of Engineer in to investigate
1924 and research?
1925

1926 Mr. Jernigan: If Public Works calls for it they will but it's not my responsibility to
1927 call.
1928

1929 Ms. Oliver: They said the developer in the zoning.
1930
1931 Mr. Jernigan: Public Works triggers that if it's needed but....
1932
1933 Ms. Oliver: The 1989 one said the developer should.
1934
1935 Mr. Jernigan: If there's not probable cause or calls from Public Works you don't
1936 have to but you can't build on wetlands, you have to have a setback from that.
1937
1938 Ms. Oliver: I feel like you are determined to pass this. You haven't addressed
1939 any of our concerns like the young man said back there, he's having problems now just
1940 based on putting a new development in.
1941
1942 Mr. Jernigan: Ms. Oliver, I've tried to address all of your concerns, that's why we
1943 had two meetings. That's the reason I thought....
1944
1945 Ms. Oliver: It was only because of the notification problem.
1946
1947 Mr. Jernigan: The notification problem, they went out the first time and when you
1948 told me some people....
1949
1950 Ms. Oliver: But they were not sent to all the people.
1951
1952 Mr. Jernigan: Let me finish. When they went out the first time and people said
1953 they didn't get it, what did I do? I rescheduled for another meeting.
1954
1955 Ms. Oliver: You did.
1956
1957 Mr. Jernigan: The mailings were sent out again to every person, you were
1958 shown the mailing list. Did you get a notice?
1959
1960 Ms. Oliver: Yes.
1961
1962 Mr. Jernigan: Ok, a lot of other people got notices too. That's the reason we
1963 had the second meeting to address the concerns that you had on drainage and traffic.
1964 We bought Mr. Klotz plots which explained to you about the drainage and Mr. Foster
1965 who explained about the traffic.
1966
1967 Ms. Oliver: But these are the problems we are talking about now that haven't
1968 been corrected. That they have been addressing since they have been in Fairfield
1969 Woods. They haven't been corrected.
1970
1971 Mr. Jernigan: Well, I don't know what happened in Fairfield Woods earlier. I just
1972 know from the reports that I've read that Gaston caused the problem through there.
1973
1974 Ms. Oliver: No, I live on East Richmond Road, right on the real end like where
1975 he is. The pictures that I just passed you just on May 8th, from that little rain, it creates
1976 flood.
1977
1978 Mr. Jernigan: Now, there being, that project is being corrected or in the process
1979 of being corrected by the County.

1980
1981 Ms. Oliver: Are they getting ready to? It has not been corrected in 2006. It
1982 hasn't been corrected at the Walgreen area corner either.
1983
1984 Mr. Jernigan: That is a problem.
1985
1986 Ms. Oliver: I'm between both the little drainage ditch that Fairfield Woods
1987 created on the left of me and the stream over to the right.
1988
1989 Mr. Jernigan: The Wal-mart, I mean the Walgreens, yes they do have water out
1990 front and I, we've told Mr. Donati that we need to look at that.
1991
1992 Ms. Oliver: I'm not talking about just Walgreens.
1993
1994 Mr. Jernigan: But you said that a minute ago.
1995
1996 Ms. Oliver: I said Walgreens but look how long Walgreens, it was up there
1997 before 94. The man on Nine Mile Road, can't even, he's having problems, he's been
1998 addressing this, that's the one the Department of Public Works was talking to at the first
1999 meeting.
2000
2001 Mr. Silber: Mr. Jernigan.
2002
2003 Mr. Jernigan: I'm going to call it in a minute. And another thing we discussed
2004 was you were talking about the amount of homes in there. When these people first
2005 came to me, they did have 90 units and I told them that was too much. We weren't
2006 going to do that.
2007
2008 Ms. Oliver: 64 is too much.
2009
2010 Mr. Jernigan: What I have to do too is balance things out. We reduced the
2011 number of units that were going to in there but I can't financially give them a figure that
2012 they can't work with. That's not being fair to them. I try to watch out for the citizens and
2013 the developer and both has to have a fair shake.
2014
2015 Ms. Oliver: Well I can't see how you have watched out for me Mr. Jernigan.
2016 Explain that to me.
2017
2018 Mr. Jernigan: How am I watching you? That's the reason I had two meetings to
2019 try and address the concerns.
2020
2021 Ms. Oliver: No, I'm talking about with what you have placed around me.
2022 Some of them, all those before, like Hallwood, one time we came up to the meeting, one
2023 of those was Hallwood or Stoney Creek, I can't remember, when we came up here the
2024 zoning had been passed.
2025
2026 Mr. Jernigan: Well that wasn't me.
2027
2028 Ms. Oliver: Well I'm saying this is just what's been going on. That's what I'm
2029 saying.
2030

2031 Mr. Jernigan: Well the County is not out to get you. This is normal, I mean the
2032 way of doing business.
2033
2034 Ms. Oliver: It appears to be normal and we've been up here before. We were
2035 only trying to get the same number of housing. Put one house on one acre or two
2036 houses on an acre, not 64 homes on 18.252 acres. Those 64 homes can have three
2037 cars, some may have four. What are we going to do when a fire happens? They aren't
2038 going to do anything, any development to the road, or re-pavement, nothing.
2039
2040 Mr. Jernigan: You all have R-3AC zoning around you and I explained to you at
2041 the meeting the reason we did this with R-5 zero lot line was so that the garages would
2042 be side loaded rather than front loaded to make it more...
2043
2044 Ms. Oliver: And your reports on the Fire Department said that this is going to
2045 create a serious problem.
2046
2047 Mr. Jernigan: I didn't read it that way. It said if. Did it say if? If the roads?
2048
2049 Ms. Oliver: It said you would probably have to put, let's see how they put it, I
2050 have it written down. You would have to put the little signs that say there is no parking
2051 because this is a fire zone. And they don't know how they are going to arrange that in a
2052 little cul-de-sac.
2053
2054 Mr. Jernigan: They do that everywhere. You can't park in a fire zone in the
2055 West End, anywhere.
2056
2057 Ms. Oliver: I don't live in the West End.
2058
2059 Mr. Jernigan: That's standard procedure Ms. Oliver. Let me ask you this.
2060
2061 Ms. Oliver: I know that you have in addition to this, you have about eight more
2062 developments going across Creighton Road. This is going to affect us traffic wise.
2063 We're talking about 2,090 cars now. You have done nothing to East Richmond Road so
2064 tell me how that helps me.
2065
2066 Mr. Silber: Ms. Oliver, Mr. Jernigan, can I maybe, I feel like this has sort of
2067 become like a two way dialogue.
2068
2069 Mr. Jernigan: I mean I'm just trying to.....
2070
2071 Ms. Oliver: The road is deteriorating and it's not.....
2072
2073 Mr. Silber: Ms. Oliver, let me say a couple of things and to explain how the
2074 process works. There are many Planning Commissioners up here that might really want
2075 to participate in this conversation as well. This is a decision that's made by this body as
2076 a whole. This body makes a recommendation to the Board of Supervisors who will then
2077 hear this and make a final decision. So what comes out of the Planning Commission is
2078 a recommendation to the Board of Supervisors. It's not Mr. Jernigan's decision; it's the
2079 decision of this entire Planning Commission.
2080
2081 Ms. Oliver: Oh, I know that.

2082
2083 Mr. Silber: Ok, so I think what's important is, there may be other Commission
2084 members that have questions and they want to be able to resolve issues too. A lot of
2085 the issues that you are bringing up tonight, are issues that relate to very technical
2086 aspects, very detailed issues that relate to state organizations, county agencies and
2087 many of these things can be addressed in the future and I think what's important to
2088 understand is there is something out here that will eventually develop. What we need to
2089 decide in this process is, is it best to have homes, is it best to have a light industrial zone
2090 as it's currently zoned. We collectively, you all and the Planning Commission and the
2091 Board need to decide how best to allow this are to develop and meet the technical
2092 requirements of drainage and schools and traffic and all those issues.
2093
2094 Ms. Oliver: And health and safety too.
2095
2096 Mr. Silber: Absolutely, and you raised some very good points. I think that Mr.
2097 Jernigan is not disagreeing with you. I think his point may be and the Commission's
2098 would normally be, we do care about your concerns and we want to make sure that
2099 these are addressed but I think what is before us on a Land Use decision, and that is
2100 should this property be zoned for residential purposes. If it's developed right now as it's
2101 currently zoned, you are going to have traffic, you are going to have drainage, and you
2102 are going to have issues which are still a concern to you. So when it's developed, a lot
2103 of those things will be addressed. I personally think we've discussed this at length. I
2104 think we know what the issues are, we appreciate you being here and expressing
2105 yourself and I think at this point maybe we can allow the Planning Commission to
2106 discuss this and decide what to do with this matter.
2107
2108 Ms. Oliver: Ok.
2109
2110 Mr. Archer: Are there questions from the Commission members, for anyone?
2111 We still have to allow Mr. Theobald some time for rebuttal. I think he has three minutes
2112 left.
2113
2114 Ms. Jones: Mr. Chairman, I'd just like to say something and I'm not even sure
2115 who I am asking. I'm simply raising a point. I don't have the historical perspective. I
2116 was not involved in the Commission, ten, fifteen years ago, but I think what I am hearing
2117 here are concerns most of which have answers. They just don't have answers right this
2118 minute. I'm hearing concerns about drainage which needs to be addressed in a timely
2119 way. I'm hearing concerns about emergency services and the ability to provide those on
2120 the roads that are currently there. I'm hearing concerns about the schools. I'm hearing
2121 concerns about automobile traffic. My concern as part of the Planning Commission is all
2122 of that in addition to our Land Use consideration and I think there may be some
2123 conversations that have to happen there before we really know enough to make a
2124 decision on this or at least comfortable on making a decision on this. I think all of these
2125 things have answers. Remnant parcels are not the way I'd like to approve zoning but we
2126 have to work with what we have here. Wetlands, drainage, I really sympathize with the
2127 concerns that people have. They are valid concerns and the concerns the County has to
2128 answer. I appreciate the time you've come, you've spent coming here to tell us. I think
2129 this project could be a very appropriate use. I'm just not sure I have all the answers at
2130 the moment that I need to make a good vote.
2131

2132 Mr. Archer: Thank you for your remark Ms. Jones. Are there further
2133 questions, comments from the other Commissioner members?
2134

2135 Mr. Jernigan: Well, I will just say from Ms. Jones that we tried to address all the
2136 issues and that's the reason we had Public Works, we had Traffic there, Schools are
2137 building another school and I explained everything. Once the other school is built in
2138 2007 that will take some of the pressure off of Fairfield and that will open some places.
2139 But anyway, I think that we have done the best we can do on this and Mr. Theobald, you
2140 have something you want to say.
2141

2142 Mr. Branin: I've got a couple of questions for Mr. Theobald. Mr. Theobald,
2143 when will, if this project is in fact approved at even Board level, when would you
2144 anticipate houses being built and occupied?
2145

2146 Mr. Theobald: I presume that we would immediately move forward on the
2147 subdivision plan and so we would go through the process and I imagine the earliest you
2148 could get into the ground would be next spring, in terms of moving dirt with the first
2149 homes delivered end of the year, best case if not into the following, so that would be
2150 early 08.
2151

2152 Mr. Branin: Early 08? So Mr. Jernigan in reference to the schools, by the time
2153 there is occupation of homes in this area, if indeed it is built, then the middle school
2154 would be..... There has also been questions about this being upstream from the, with
2155 creeks that have been a problem since Gaston. What factors have you guys looked
2156 into?
2157

2158 Mr. Theobald: Well understand that when we get down to the subdivision plan
2159 phase that we are required to provide to the County as a part of that process, with a
2160 detailed drainage analysis that would assure that our water does not leave the site at
2161 any faster rate post-development than it does pre-development and so that is the
2162 purpose of these retention areas. They all have to be designed, calculated, engineered
2163 and that's just the law so we don't have a choice in terms of blowing more water at a
2164 faster rate down that stream. Keep in mind that this looks a lot greener than an office
2165 warehouse project so much less impervious area in this plan than in the other. We don't
2166 have a choice but to comply with federal wetland regulations. We don't have a choice
2167 but to comply with Chesapeake Bay Preservation Act. What you are seeing here, this is I
2168 presume, a perennial stream or at least an intermittent stream so we're sitting back 50 or
2169 100 feet on this side and some of this area is probably technically wetlands as well. We
2170 will have to meet all the County's requirements with regard to drainage and we will be
2171 the beneficiary of the drainage project that's happening over here in the back of Fairfield
2172 Woods.
2173

2174 Mr. Branin: Now with that in mind, the drainage areas that you guys are doing,
2175 would you be reducing the velocity of the water, possibly going down this creek or
2176 reducing the amount of water that would go down Gilley's Creek.
2177

2178 Mr. Theobald: It's the same volume of water ultimately that drains from the entire
2179 water shed and so you end up with similar volume, which you are not allowed to do as a
2180 matter of law is channel it into the (unintelligible) at a faster rate post-development than
2181 the rate pre-development.
2182

2183 Mr. Branin: From what I saw in the topos, a lot of the water that would be
2184 coming from this site instead of it going into the creek, according to the topos, a lot of it
2185 could be picked up by storm water so in fact when you reduce the volume of water
2186 through the storm water system going into this.
2187

2188 Mr. Theobald: If all the storm water is picked up, it would slow it, it would retain it
2189 and to divert it another way in other directions what would be correct.
2190

2191 Mr. Branin: So, in essence for the people that are downstream, this could
2192 possibly benefit them by reducing the water.
2193

2194 Mr. Theobald: That's very possible. It absolutely can't make it worse as a matter
2195 of law and would likely help. And remember this is 18 acres out of probably I don't know
2196 how many thousands of acres in this water shed that drains in here so all of our water is
2197 coming through here too.
2198

2199 Mr. Branin: Then we willeverybody with velocity of waters and so forth and
2200 if you do reduce it slightly you can reduce velocity which would reduce ponding.
2201

2202 Mr. Archer: I had a comment that I wanted to make and I'm not trying to
2203 prolong the meeting. I think the Chairman's first duty is to keep the meeting moving
2204 along. But I'm concerned about the fact that these drainage issues that exist already
2205 have come to the forefront not necessarily as a part of this case. A lot of times when we
2206 have cases up here we tend to gain information about conditions that already exist that
2207 may not be your responsibility but it's a painful thing to listen to people have to describe
2208 some of the things that have happened because of past drainage issues and naturally
2209 they feel fearful that their situation is going to be exasperated by what we are doing
2210 here. You know it's nice to be able to pretend or offer some assurance that we won't do
2211 that, that we won't make what has been described as a bad situation, worse than it is.
2212 Hopefully, there is work being don't to alleviate what's going on out there now. Is that
2213 being worked on?
2214

2215 Mr. Theobald: That's absolutely correct. First of all we have given the
2216 assurances in terms of the BMP features but secondly, you don't really have a choice in
2217 that matter, I mean it is the County ordinance that requires you to handle the drainage
2218 and Mr. Klotz has spent a terrific amount of time at the meeting with neighbors, not only
2219 addressing the drainage on this site but took people aside one at a time after the
2220 meeting to discuss their particular properties and explain to the group in great detail the
2221 drainage project that was occurring behind Fairfield Woods. So the County, there are
2222 some drainage issues over here, they are not making it up. The County is well aware of
2223 it. The question is, this will make it no worse, it will likely make it better and whether this
2224 is, whether you approve the zoning or not, I mean you either have M-1 property or you
2225 have Single Family Residential.
2226

2227 Mr. Archer: Well, that's part of the point that I'm trying to make. I guess what I
2228 am trying to get someone to say is that I sense that these people need some sort of
2229 reassurance that their situation is not going to be worsened because of this. I don't think
2230 it's unreasonable to try to show them that because I can feel their nervousness.
2231

2232 Mr. Theobald: Sure, I understand.
2233

2234 Mr. Archer: I feel it also.
2235
2236 Mr. Theobald: Sure, I would think as the County that certainly the drainage
2237 engineer and the people from Public Works, were they here or you all with your
2238 experience, can provide those assurances because that's the law, it's not a choice.
2239
2240 Mr. Archer: Ok.
2241
2242 Mr. Vanarsdall: Well, let me ask a question now. What we heard tonight, did you
2243 hear that before?
2244
2245 Mr. Theobald: We did, we did. That's why Mr. Jernigan had about half a dozen
2246 staff members there with all the drainage maps and they addressed the group at large
2247 as to the drainage project and the existing condition. But then they also after the
2248 meeting took people aside. They stayed far longer than the rest of us.
2249
2250 Mr. Jernigan: We were there from 7 to 9:30 p.m.
2251
2252 Mr. Theobald: Yes, as the rest of the people had to go.
2253
2254 Mr. Vanarsdall: Well we are here for over an hour hearing the same thing and
2255 what have we accomplished?
2256
2257 Mr. Jernigan: Well, we have done all we can do.
2258
2259 Mr. Theobald: We have a drainage project on the books beginning very shortly
2260 that will help this area terrifically. Now the water that comes off apparently from Fairfield
2261 Commons and the Walgreens down in the corner is another matter that Mr. Klotz
2262 continues to try and work through.
2263
2264 Ms. Jones: Mr. Theobald, again what are you planning, what is your client
2265 planning to do about the two remnant pieces of property, Laburnum I think we
2266 discussed, what about the property to the north, is there any discussion going to
2267 incorporate that?
2268
2269 Mr. Theobald: No, there's not. I'm not sure that I know who owns that parcel. I
2270 don't believe it's Mr. Amason. I'd be happy to find out.
2271
2272 Ms. Jones: Thank you.
2273
2274 Mr. Archer: Ok, well I guess we need to make a decision on this. Ma'am, very
2275 briefly please. Can you come up to the microphone; we need to make this a part of the
2276 record.
2277
2278 Ms. Oliver: Mr. Jernigan, at the initial meeting, you didn't know about the M-
2279 1C zoning because one of the gentleman from East Richmond Road had to explain to
2280 you, the restrictions on it, so this wasn't even known at the initial meeting that we had
2281 with the developers.
2282
2283 Mr. Jernigan: I knew it was M-1 zoning but I did not know it had O/S proffers on
2284 it. You're right.

2285
2286 Ms. Oliver: See that's what I'm talking about proper planning. Ma'am, thank
2287 you for your concerns and in addition to those concerns we are over populated.
2288
2289 Mr. Archer: Thank you ma'am, alright. Ok, Mr. Jernigan, I think we need to
2290 move on with the decision.
2291
2292 Mr. Jernigan: Well, Mr. Chairman, as you all see this is an M-1 site. As Ms.
2293 Oliver said when it first came out, it was M-1. I did not know that the O/S restrictions
2294 were on there but they were so they can have O/S and M-1. We've met twice on this
2295 and the first time some people came, other people said they didn't get notifications,
2296 that's the reason why I deferred it to make sure that everybody could get in. With the
2297 issues they had the first time around with drainage and traffic, I brought staff members
2298 along to try to explain what was going on. We've everything that has been over tonight
2299 was discussed at our meeting and I still feel and I know Ms. Oliver won't like it, but this is
2300 better for residential than it is for M zoning. I actually pulled the minutes from the '89
2301 meeting in here and your concern then was having truck traffic coming into this site. I've
2302 got a copy of it right here. You didn't want trucks. Now, with going to the R zoning, you
2303 don't have the big truck problem. But anyway, Mr. Chairman, I am going to move for
2304 approval of case C-20C-06 Steeple Lane Development LLC and sent to the Board of
2305 Supervisors for their approval. Ma'am all of your concerns will be addressed.
2306 Everything that we talked about at the meeting and everything that we talked about here.
2307 That's the reason I had the meeting.
2308
2309 Mr. Archer: Before this motion is seconded, Ms. Oliver you do understand that
2310 the Board of Supervisors is who will make the final decision on this. That what we do
2311 here tonight will just be a recommendation whichever way Mr. Jernigan goes with this
2312 and this will be another public hearing that you'll have to come to.
2313
2314 Ms. Oliver: Thank you.
2315
2316 Mr. Archer: You're welcome.
2317
2318 Mr. Jernigan: Mr. Chairman, I need to waive the time limits on case C-20C-06.
2319
2320 Mr. Archer: Ok, do I have a second?
2321
2322 Mr. Branin: Second.
2323
2324 Mr. Archer: Motion by Mr. Jernigan, seconded by Mr. Branin to waive the time
2325 limits on this case. All in favor of the motion say aye. Those opposed say no. The ayes
2326 have it, the time limit is waived and is approved.
2327
2328 Mr. Jernigan: Mr. Chairman, with that I will move for approval for case C-20C-06
2329 Steeple Lane Development sent to the Board for their approval.
2330
2331 Mr. Branin: Second.
2332
2333 Mr. Archer: Motion by Mr. Jernigan, seconded by Mr. Branin. All in favor of the
2334 motion say aye. Those opposed say no. The ayes have it, the motion is granted. Let's
2335 take a brief recess and reconvene at 9:30, 12 minutes.

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The Planning Commission voted to recommend the Board of Supervisors **grant** the request because it is reasonable, and the proffered conditions will assure a level of development not otherwise possible.

Mr. Silber: Is the microphone on, I think so. Next request.

Mr. Archer: Is everybody here?

C-23C-06 Gene Davis: Request to conditionally rezone from R-4 and R-3 One Family Residence Districts to RTHC Residential Townhouse District (Conditional), Parcel 822-722-0609, containing 6.567 acres, located at the southeast intersection of South Kalmia Avenue and East Jerald Street. The applicant proposes residential town homes for sale. The maximum density in the RTH District is nine (9) units per acre. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre, Multi-Family Residential, 6.8 to 19.8 units net density per acre, and Environmental Protection Area. The use will be controlled by zoning ordinance regulations and proffered conditions. The site is in the Airport Safety Overlay District.

Mr. Silber: The next request is C-23C-06 Gene Davis, request to conditionally rezone from R-4 and R-3 to RTHC Residential Townhouse District Conditional. This property containing 6 ½ acres is located at the southeast intersection of South Kalmia and East Jerald Street in the Varina District.

Mr. Archer: Alright, thank you Mr. Secretary. Is there anyone here opposed to C-23C-06 Gene Davis? We do have opposition. Mr. Coleman.

Mr. Coleman: Mr. Chairman, members of the Commission. The applicant is requesting to conditionally the 6 ½ acre site to RTHC to develop townhouses. Although the site is designated SR-2 and Multi Family Residential, given the small amount of area within the SR-2, this request is largely consistent with the Land Use Plan. The applicant provided several proffers to regulate development and major aspects include; each unit would include a minimum 1400 square feet of finished floor area, with a minimum width of 20 feet. The applicant proffered a conceptual site plan showing 44 units. The applicant also proffered elevations and would require a minimum of 50% of the aggregate project façade to be brick or stone. Sound suppression measures for the interior walls would provide a minimum Sound Transmission Coefficient of 54 and the applicant would rezone floodplain areas to the C-1 Conservation District.

The applicant also submitted proffers regulating architectural design, roofing materials, a vinyl fence along the northern and eastern property lines, underground utilities, screening mechanical equipment, lighting, detached signage, internal sidewalks, and other items.

The proffers would improve the quality of development above what could be constructed with the existing, un-proffered R-4 zoning. However, staff recommends addressing the following remaining issues.

Staff recommends a commitment to additional landscaping, especially around the perimeter of the project. This could include providing a Transitional Buffer 10 where 10 foot buffer is indicated on the Conceptual Plan, a commitment to an attractive entrance

2387 feature, installing foundation plantings and requiring landscape buffers in addition to
2388 required yard set backs.

2389
2390 Also, the Conceptual Plan shows several rows of townhouses with more than 5 units
2391 attached. Staff recommends the applicant limit rows to no more than 5 attached units.
2392

2393 In conclusion, townhouse development would be consistent with the Land Use Plan
2394 recommendation. If the applicant could satisfactorily address remaining concerns with
2395 landscaping and limiting the number of attached units, this application would be more
2396 consistent with other townhouse proposals recently approved in the County.
2397

2398 That concludes my presentation. I would be happy to answer any questions.
2399

2400 Mr. Archer: Thank you Mr. Coleman. Are there questions from the
2401 Commission?
2402

2403 Mr. Jernigan: Did I hear you say the total number of units?
2404

2405 Mr. Coleman: Forty-four.
2406

2407 Mr. Jernigan: I don't have any questions, Mr. Chairman.
2408

2409 Mr. Archer: Ok, we have opposition Mr. Jernigan.
2410

2411 Mr. Jernigan: Well, let's hear from the applicant first.
2412

2413 Mr. Archer: Ok. Will the applicant come forward first and then we will hear
2414 from the opposition. Ma'am, are you aware of the 10 minute rule?
2415

2416 Ms. Fisher: Yes, sir.
2417

2418 Mr. Archer: And the opposition, you are aware of the 10 minute rule? That's
2419 not 10 minutes each, it's the total.
2420

2421 Ms. Fisher: Good evening Mr. Chairman, Commissioners. My name is
2422 Courtney Fisher. I am here on behalf of the owner Gene Davis. He is here along with his
2423 attorney John Montgomery. What we have before you is a request to rezone to
2424 townhomes for sale. What we have proffered are 1400 square foot townhomes. We
2425 have proffered the building materials as Tom stated. No two properties, no two like
2426 properties will be next to one another. That will break up the visual appeal. They will be
2427 brick and vinyl. We will also have dimensional, twenty-five year dimensional shingles on
2428 there. That was an added proffer. Initial proffers did not mention anything about
2429 dimensional shingles.
2430

2431 Our townhomes will be 85% owner-occupied at a minimum. They will be marketed as
2432 such and that will be in a restrictive covenant and restrictions. Within the restrictive
2433 covenants, we will have the provision for no boats, RV's, or campers and the light to be
2434 parked in the parking lot. There is a parking lot as obvious and as shown on the
2435 Conceptual Plan there are 2 ¼ spaces per unit that worked out to be 99 spaces. We
2436 actually have 105 which is 6 more than what is required by minimum County standards.
2437 A couple of the things that Tom mentioned could make this a slightly stronger application

2438 were landscaping. We did actually come back with landscaping and have proffered that
2439 along the front to the multi-family guidelines. Its not shown on our Conceptual Plan but
2440 that is one of our revised proffers. I believe the request is to do that in addition to the
2441 yard setback and unfortunately we don't have enough room on the property to have the
2442 streetscape buffer plus the setback. That streetscape buffer will be inclusive of the
2443 setback. During POD we have to comply with landscaping guidelines and part of that
2444 will be to allow for adequate landscaping. I believe it's a 20% tree canopy cover that is
2445 required for townhomes and we are hesitant to do a whole lot more with that in part
2446 because we want to maintain somewhat of an open area. The police review POD's as
2447 well for safety and look at lighting and trees and such as we don't want to have any
2448 heavily wooded areas where people might hide. The fence along the back of the
2449 property and the side, we think will help separate, maintain a sense of community for the
2450 townhomes. But it will maintain some visibility. We don't want to provide too many trees
2451 where it will block visibility.

2452
2453 As far as the units, 7 unit buildings, we do have a variety of unit buildings in there. We
2454 have some 3's, 4's, 5's and 6's. There is just one 7 unit building and we feel like that
2455 balances out the 3's, the 4's, the 5's, that one 7 unit building. Because of the layout of
2456 the property with so much being taken up by flood plain in order to maximize use of
2457 property, we really need to get as many units in there as possible. The layout
2458 demanded the 7 units. We did know of some opposition to this. We got a petition.
2459 There were 64 signatures on there and we had a community meeting last night and I
2460 want to thank Mr. Jernigan for his help in organizing that. Tom came along to that.
2461 Unfortunately, there were only 6 people who came. There were 4 ladies who came and
2462 2 gentlemen, the owners of the apartments to the north, Springer Manor. I've spoken
2463 with the 2 owners and they have expressed verbally their support of the project to me.
2464 They expressed they would continue to work with us along the rest of the, this process,
2465 when and if it goes to the Board of Supervisors and when it comes back to you all at
2466 POD time.

2467
2468 That's all I'm going to say for now. I would like to reserve a little bit of time, if I could at
2469 the end.

2470

2471 Mr. Archer: Ok, you have about 4 minutes and 45 seconds.

2472

2473 Ms. Fisher: Thank you.

2474

2475 Mr. Archer: Thank you.

2476

2477 Mr. Jernigan: Courtney, before you leave, one thing we discussed last night was
2478 the tot lot. So if this case is passed between now and the Board of Supervisors, we
2479 need to designate an area that will have the tot lot equipment on there for kids to play.

2480

2481 Ms. Fisher: Ok.

2482

2483 Mr. Jernigan: And also, there was the discussion of the fence and I think Mr.
2484 Davis is going to get with the apartment owner to discuss about taking the fence from 4
2485 ½ feet to 6 feet. Ok, thank you.

2486

2487 Mr. Archer: Thank you ma'am. Ok, we have opposition Mr. Jernigan. Please
2488 give your name when you come up please. Thank you.

2489
2490 Ms. Hurdle: Hello, Mr. Chairman, members of the Commission. My name is
2491 Tamika Hurdle.
2492
2493 Mr. Jernigan: Last name ma'am?
2494
2495 Ms. Hurdle: Hurdle. I'm a resident of Highland Village subdivision which is
2496 directly adjacent to the proposed property and I just wanted to bring to the attention of
2497 the Commission some of the concerns that I have and some of the residents have as
2498 evidenced by the petition which is attached to the letters sent by Carol Hurdle, my
2499 mother, to Mr. Donati and to you, Mr. Jernigan. One of the initial concerns that we have
2500 as residents, first of all I want to make clear that we support development of the area.
2501 Right now it's a vacant lot. We would love to have something in there but we are
2502 concerned about 44 townhome units. Number one, there is a loss of green space.
2503 Highland Village is pretty woody. We enjoy having the green space. We like the fresh
2504 air, a lot of us have pets and we want to maintain that. Something a little bit more
2505 substantial is the increased traffic. We have major concerns about that. East Jerald is a
2506 very small street. There is really no opportunities or any explanation in the proffer about
2507 widening that street to accommodate households of 44 units, so we are a bit concerned
2508 about the traffic there.
2509
2510 We are also concerned about some of the property values. Most of the, we have rental
2511 apartments which would be across the street from the proposed development and we
2512 also have Springer Manor which Ms. Fisher mentioned which is behind. We would like
2513 to see another single family unit. It's already zoned for single family units. It's our
2514 understanding that the Commission recommended that there be 2.4 units, 2, 2.4, 2.3.
2515 We would just like to maintain the single family environment. We are also concerned,
2516 which is a little bit more ancillary about owners, if you do have owners who purchase
2517 these townhomes, that they will not actually occupy, that they will rent out. We are
2518 concerned about who will be moving into the neighborhood. We just want to maintain
2519 the community and we are not trying to discourage any development. We want any
2520 development that goes in there to be in congruent with the community that we have. So,
2521 we just wanted to make that clear and bring those concerns to you. Just to let you know
2522 that we do support some development but we are concerned about 44 townhomes being
2523 brought into our community so with that I will say thank you for your time.
2524
2525 Mr. Jernigan: Don't run off Ms. Hurdle. Did you know about our meeting last
2526 night?
2527
2528 Ms. Hurdle: No.
2529
2530 Mr. Jernigan: Because all the mailings were sent out and some of your
2531 neighbors came.
2532
2533 Ms. Hurdle: Well I know my mom was in the hospital and so I mean dealing
2534 with her hospital stay it might have gotten lost in the shuffle.
2535
2536 Mr. Jernigan: Because we discussed these issues last night and your neighbors
2537 were OK when they left.
2538
2539 Ms. Hurdle: Ok.

2540
2541 Mr. Jernigan: Now the number of units, I mean we discussed the number of
2542 units and they didn't seem to have a problem. Let me explain one thing to you. This
2543 property is zoned R-4 unconditional which means that you could go in there and build
2544 houses 900 square feet with no restrictions. The County code says you have to be 900
2545 square feet. There would have been no landscaping, no fencing, a lot of the things that
2546 they are proffering in this case. Now on the land use map, which is a guide that we go
2547 by, it shows this property to be multi-family. That's the reason you have apartments on
2548 both sides of it. So in the land use map it calls for a density of 6.8 to 19.8 units per acre.
2549 The units that will be built here have brick on them, have brick on the ends, half of it all
2550 the way up, curb and gutter, fencing that will separate Springer Manor behind you and
2551 comes down the side. The traffic is always an issue and as I explained to the ladies last
2552 night that if you have a single family dwelling, they figure 10 trips per day for traffic.
2553 That's 5 in and 5 out. On multi-family, they go by, which is a trend that our traffic people
2554 go by, is 6 trips per day. So if you take the amount of houses that you can have at 10
2555 trips per day and the amount of townhouses you have at 6 trips per day, there is not that
2556 much difference in the traffic.
2557
2558 Ms. Hurdle: Is it 6 trips per day or per unit?
2559
2560 Mr. Jernigan: Per unit, yes ma'am. The way they figure single family dwellings
2561 is 10 trips; that's 5 in and 5 out. For multi-family, they figure 6, which is 3 in and 3 out
2562 because generally you don't have as many people living in a townhouse that you do a
2563 single family dwelling.
2564
2565 Ms. Hurdle: So even if you multiply that, see what I mean, if you have a single
2566 family unit, that's one unit, that would make sense that you have 5 in and out and maybe
2567 2 cars. But if you have 3 in, 3 out, and you're 44 units, that's 3 in, 3 out for each unit.
2568
2569 Mr. Jernigan: Right and then you still have to take the single family and figure
2570 that times 10.
2571
2572 Ms. Hurdle: But then you only have 1 single family. Maybe I'm not
2573 understanding.
2574
2575 Mr. Silber: On single family portion if it was developed fully, you might have
2576 about 24, 25 houses, something like that, so ten times 24.
2577
2578 Ms. Hurdle: Ok, I see.
2579
2580 Mr. Jernigan: Now when you were talking about who might move in there, that's
2581 the reason that Ms. Fisher quoted that we have an 85% factor in there. These have to
2582 be owner occupied and I discussed this with the County attorney because I wanted to
2583 guard against the fact that somebody would come in there and buy them all out and rent
2584 them as apartments. We don't want that and you don't want that. So, that's the reason
2585 that I worked with the County attorney hard to come up with a condition and he's
2586 satisfied with what we have. Now the reason it's not 100% is because you can't do that.
2587 Life comes at you fast as the commercials say. Sometimes people are in the position
2588 where they may have to sell a unit and they can't sell it right then, they may have to rent
2589 it for awhile. So it's only 15% of the units there that can be rented at one time.
2590

2591 Ms. Hurdle: And that would be in the covenant?
2592
2593 Mr. Jernigan: Yes, ma'am. That is in the proffers that it has to be put in the
2594 covenant and that has been agreed upon by the County, lead County Attorney. So this
2595 will be a better project with these townhomes and with the quality that they have than
2596 being able to go in on single family unrestricted. I wish you really could have made our
2597 meeting last night. I understand that you couldn't. We met for about an hour and a half,
2598 an hour and forty-five minutes and the ladies that came were comfortable, plus the
2599 people that owned the apartment behind there, they were actually happier that it was
2600 going to be this way than with the single family because of the same worries that you
2601 had; what's going to be in there. You could go in there and have 10 cars in the front
2602 yard in a single family. They only have two parking places at this townhome. I
2603 appreciate you coming out.
2604
2605 Ms. Hurdle: Sure, thank you.
2606
2607 Mr. Jernigan: Thank you, ma'am.
2608
2609 Mr. Archer: Any other Commission members have questions for Ms. Hurdle?
2610
2611 Ms. Jones: Excuse me, number 17 proffer? Is that where you are talking
2612 about the ownership there?
2613
2614 Mr. Jernigan: I believe it's number 19.
2615
2616 Ms. Jones: Am I looking at the wrong thing?
2617
2618 Mr. Jernigan: I tell you, we've got a.
2619
2620 Mr. Coleman: These are the current proffers. We've had some communication
2621 with the County Attorney.
2622
2623 Mr. Jernigan: Did Mr. Rapisarda get that on the use....?
2624
2625 Mr. Coleman: He's provided some language, correct. No these proffers don't
2626 reflect that requirement.
2627
2628 Mr. Archer: So this condition, it's to be proffered though is that correct?
2629
2630 Mr. Jernigan: It has been proffered.
2631
2632 Mr. Archer: Ok.
2633
2634 Mr. Silber: Tom, do we have copies of the proffers?
2635
2636 Mr. Coleman: Yes, what we've distributed is the latest copy.
2637
2638 Ms. O'Bannon: Well according to this one it doesn't, it was marked struck through
2639 or marked out, a minimum of 85% of the units shall be owner occupied. That was
2640 removed according to what we've got. In other words they are marketed to sell.
2641

2642 Ms. Fisher: If I could speak to that, I think that was actually my error in
2643 communicating back and forth between the County Attorney and staff. There was some
2644 concern about enforcement, as to what the proper language should be. My owner is
2645 more than willing and understood that to be part of this application and this was
2646 amended as of 2:15 p.m. on the 8th. At that point, I believe staff had instructed that the
2647 County Attorney was not comfortable with the language and that it should be struck. It
2648 wasn't until after 5 o'clock yesterday that we understood that that could be part of it. It
2649 was my negligence to be honest with you that did not catch, that that should be put back
2650 in, in another area. I can do that now or I can do that prior to the Board meeting but that
2651 is fully intended to be in there.
2652

2653 Mr. Silber: I may be confused now. You are talking about putting the
2654 language back in that was struck in the proffers that you just gave us.
2655

2656 Mr. Jernigan: Well what happened, Joe, him and Tom Tokarz discussed
2657 yesterday the way of putting that in and he called me and told me that they had a
2658 wording that they were satisfied with for the intent.
2659

2660 Mr. Silber: Ok, so we don't have that, because our last discussions with the
2661 attorneys, they had indicated that it was not legally acceptable. So I'd like to see the
2662 language.
2663

2664 Mr. Jernigan: He was going to email it you yesterday afternoon.
2665

2666 Ms. Fisher: I guess that as of yesterday afternoon you did not have it.
2667

2668 Mr. Coleman: I've got a copy of the language here that Mr. Rapisarda sent.
2669

2670 Mr. Silber: Can you read it to us? Or do you have copies for everybody?
2671

2672 Mr. Coleman: No, just the one copy. In proffer #17 in place of the deleted
2673 sentence, the restrictive covenants required by proffer #20 shall prohibit rental of more
2674 than 15% of the units.
2675

2676 Ms. O'Bannon: And that's usually the way it's handled, the restrictive covenants.
2677 In all the other condominium complexes, that's what they do is the restrictive covenants.
2678 But the Board, you are putting it in the proffers but what I know about other condo
2679 boards is they can vote and it's like 90% of the vote that can remove that. They could
2680 remove it but by putting it in proffers, they won't able to do that. Is that what I'm
2681 understanding?
2682

2683 Mr. Jernigan: It's proffered that it has, that's the way I'm understanding that it is
2684 proffered, it has to be put in the restrictive covenants.
2685

2686 Mr. Silber: They would not be able to remove it from the covenants.
2687

2688 Ms. O'Bannon: And you can't remove a restrictive covenant?
2689

2690 Mr. Coleman: All I can say is that the County Attorney is comfortable with this
2691 language.
2692

2693 Ms. O'Bannon: Ok, but I mean the condo boards themselves, if 100% of people
2694 who live in that condominium complex want to change the restrictive covenants, they
2695 can't do that in the future?
2696
2697 Mr. Silber: That is correct, not when it's proffered.
2698
2699 Ms. O'Bannon: They can't, ok. Because I know of a condominium board right
2700 now that is changing that and voted and so on.
2701
2702 Mr. Silber: They would need to come back and change the proffered
2703 condition.
2704
2705 Ms. O'Bannon: It's not in their proffers, it just says it will be in a restricted
2706 covenant, the restrictive covenants were separate from proffers. So this is putting it in
2707 the proffers.
2708
2709 Mr. Jernigan: He called me yesterday afternoon and told me that after
2710 discussion with Mr. Tokarz that they were happy that this was legal.
2711
2712 Ms. O'Bannon: Ok, well alright, thank you.
2713
2714 Mr. Archer: I think that if it were not a proffered condition then the Board could
2715 decide to do that and change it but they would have to come back for rezoning in order
2716 to.
2717
2718 Mr. Silber: That is correct.
2719
2720 Ms. O'Bannon: And in other condominiums, I think that, condominium complexes,
2721 they just did the restrictive covenants separately, it wasn't a proffer.
2722
2723 Mr. Archer: Ok.
2724
2725 Ms. Fisher: I would like to commit to Mr. Jernigan and the Planning
2726 Commission that we will insert the proper language as approved by the County Attorney
2727 prior to the Board of Supervisors meeting.
2728
2729 Mr. Archer: Thank you ma'am. I think there was another person that wanted to
2730 speak. Was there not?
2731
2732 Mr. Silber: Ms. Fisher, your last comment, if you can make sure we have that
2733 proffered condition in right away so we can get it in to the staff report before it goes out
2734 to the Board of Supervisors. We'd appreciate it.
2735
2736 Mr. Archer: Hello, good evening ma'am.
2737
2738 Ms. Carol Hurdle: My name is Carol Hurdle. I'm the culprit.
2739
2740 Mr. Jernigan: Well I knew when she said Hurdle, I said gosh she didn't sound
2741 quite that young but you are still young but I didn't.
2742

2743 Ms. Carol Hurdle: Thank you that is very nice. My concern is my house is right on
2744 the hill end of this condo, it's right here. That's going to be a lot nice and a lot of light in
2745 the front of my house and it's just. I'm just not happy with the idea. I am all for improving
2746 our community. I'm all for that. But 44 townhomes and 15% may be for rental units?
2747
2748 Mr. Jernigan: Yes ma'am. Listen, I would have liked to have had that 100% but
2749 you can't do that and even the County Attorney said you can't do that. There has to.
2750
2751 Ms. Carol Hurdle: Why?
2752
2753 Mr. Jernigan: Why? Because you can't. If somebody has, in a situation let's say
2754 couples live in there, husband dies, wife dies and they want to move and go back with
2755 their kids and they have the unit sitting there; they may have to rent that unit for awhile
2756 until somebody comes in and buys it. It's just, we've discussed that but he agreed with
2757 me, you just can't make it 100%. But what I'm trying to do is protect the neighborhood
2758 that it won't turn into apartments, that's what I want. We want people to be single family,
2759 to people that own the apartments, own the townhomes, are going to take better care of
2760 them than people who go in there and rent.
2761
2762 Ms. Carol Hurdle: Yes, that's true.
2763
2764 Mr. Jernigan: They've got their investment there.
2765
2766 Ms. Carol Hurdle: So does this covenant promise that they won't turn them into
2767 rental units?
2768
2769 Mr. Jernigan: Yes, you can't rent but 15% at any one time.
2770
2771 Mr. Branin: Which in turn ma'am is also saying in your neighborhood, well in
2772 any neighborhood, you can own your house and you can rent it. They are putting such
2773 restrictions; they are saying only 15%, which would be how many out of? Seven are
2774 allowed at one time.
2775
2776 Ms. Carol Hurdle: Ok, what about property values? Is that going to cost them to
2777 decrease?
2778
2779 Mr. Jernigan: To decrease, no.
2780
2781 Ms. Carol Hurdle: I'm sorry to limit or level. I mean they aren't going to increase as
2782 much as they would if you were building single family homes but you are putting
2783 townhouses which are similar to apartments anyway. That's basically what we have on
2784 either side.
2785
2786 Mr. Jernigan: They are going to be nicer. The thing of it is somebody can come
2787 in there and the County Code calls for a 900 square foot house. R-4 unrestricted, is what
2788 it is, that was zoned years ago and we don't even have R-4 anymore in this County. You
2789 know it's a real small lot and you can put a bunch of those houses in there. The
2790 townhouses are joined together. You have brick. You have vinyl siding. The whole
2791 project, listen, I'm trying to watch out for ya'll.
2792
2793 Ms. Carol Hurdle: Are you?

2794
2795 Mr. Jernigan: Yes, ma'am I am. We want to see the best thing and that's the
2796 reason I fought to get this to work with the County Attorney to protect you all on that 85%
2797 owner occupied because as the ladies that were at the meeting last night discussed the
2798 houses at the end of Kalmia, that were built and all bought by one person, and rented
2799 out, I wanted to guard against that for you. That's the reason that we worked on this, to
2800 protect you. So believe me this is a better project, believe me, then just having a single
2801 family in there. Plus also, the Land Use map calls for it to be multi-family, you would
2802 have apartments here and apartments here and single family thru the middle, that's not
2803 going to look good either.
2804
2805 Ms. Carol Hurdle: Can you separate us?
2806
2807 Mr. Jernigan: You are going to have a fence next to you. You've got a fence
2808 coming right there on that line where you live.
2809
2810 Ms. Carol Hurdle: I'm right here. I thought it was going to be north.
2811
2812 Mr. Jernigan: That line right where that walkway, that easement is, that's going
2813 to be a fence right there.
2814
2815 Ms. Carol Hurdle: Ok and what about lights? You are not going to have lights shining
2816 in my house are you? Because the setback is still....
2817
2818 Mr. Jernigan: By code, there can only be a ½ a foot candle to go off somebody
2819 else's property.
2820
2821 Ms. Carol Hurdle: I'm not trying to be difficult.
2822
2823 Mr. Branin: No, no, it's your neighborhood.
2824
2825 Mr. Jernigan: There is going to be a fence running all the way from Jerald Street
2826 all the way down that side and where that easement is right there or did we find out Jean
2827 there was an easement? There's going to be a fence there, a white vinyl fence.
2828
2829 Mr. Archer: Mr. Jernigan, we can also do, we can deal with the lighting plan at
2830 the Planning Department.
2831
2832 Mr. Jernigan: The lighting plan comes back at the time. This is more or less the
2833 big thing, getting the zoning straight. They still have to come back again with a POD and
2834 show architectural pictures, where the mailboxes are, where everything, lighting and all
2835 goes. So we, this isn't their last time, this comes back again and you are welcome to
2836 come back to that meeting.
2837
2838 Ms. Carol Hurdle: Oh, definitely. Now do I get to see a plan, a site plan or something
2839 of the final layout? Including the tot lots and all that.
2840
2841 Mr. Silber: Yes.
2842
2843 Mr. Jernigan: Ms. Fisher has it right there. I think she wanted to see the
2844 architecture.

2845
2846 Ms. Fisher: Oh, the elevation?
2847
2848 Ms. Carol Hurdle: Yes, elevations and stuff.
2849
2850 Mr. Branin: Ms. Fisher, can you also make a point of getting Ms. Hurdle's
2851 name and number and as you guys move forward with your POD, with your lighting and
2852 your landscaping, we can also get in touch with her.
2853
2854 Ms. Fisher: Yes, sir, I was sorry to have missed her and I certainly understand
2855 the health issues. I was whispering to you just prior to this, that I will work with you to try
2856 to alleviate your concerns along the way.
2857
2858 Mr. Branin: So Ms. Hurdle, if you would please give your information to Ms.
2859 Fisher.
2860
2861 Ms. Fisher: I had your address on the petition. I just don't have a phone
2862 number on there.
2863
2864 Mr. Jernigan: Ms. Hurdle also too, there was a discussion where the timber is
2865 down on that property, there's a lot of holes, water running. Curb and gutter will be put
2866 in this which will retain, there's a retention pond on this property which will trap surface
2867 water and it contains it in that BMP and let is dissipate.
2868
2869 Ms. Carol Hurdle: Ok, are they going to do it, do any land design on the other side of
2870 the fence that is facing my house?
2871
2872 Mr. Jernigan: No, they will do landscaping along the front of Jerald Street.
2873
2874 Ms. Carol Hurdle: Ok, but nothing along the alley way.
2875
2876 Mr. Jernigan: No, because that's an easement right there and I don't actually
2877 believe that you can put anything in there.
2878
2879 Ms. Fisher: We couldn't have put anything in the easement no, but the POD
2880 requirements, since we have to have an overall 20% canopy cover on the entirety of the
2881 property, so those trees will be dispersed through out the development as well as their
2882 requirements for interior parking and I can work with you as much as you need to, to
2883 make you as comfortable as you need to be.
2884
2885 Mr. Jernigan: Ms. Hurdle, this has to come back if it's passed, it has to come
2886 back to the Board and Courtney, between now and then, get with her and show her the
2887 full size architectural and she will take care of you.
2888
2889 Ms. Carol Hurdle: Thank you so much for your time.
2890
2891 Mr. Jernigan: Yes, ma'am. I thank you.
2892
2893 Mr. Archer: We appreciate you coming, thank you.
2894

2895 Mr. Branin: Now don't let me down Ms. Fisher. Make sure you keep in touch
2896 with her.
2897
2898 Ms. Fisher: Yes sir.
2899
2900 Mr. Archer: Ok, well Mr. Jernigan, I don't know if a rebuttal is required.
2901
2902 Mr. Jernigan: No, do you want to say something?
2903
2904 Ms. Fisher: No, I wanted to thank you Mr. Jernigan. You have spoken so well
2905 to each of the concerns. I don't have....
2906
2907 Mr. Jernigan: At least in this case.
2908
2909 Ms. Fisher: I appreciate you doing it for this case. As you said, there is zoning
2910 on the property that allows the single family homes that could be unrestricted 900 square
2911 foot homes and I think what we are doing here is a higher quality development. As for
2912 the Land Use plan, we are just slightly under that. Our density comes in at 6.7. The
2913 recommendation is 6.8 to 19.8. It will be just at a max of 7 units that could be rental. I do
2914 again apologize and certainly will fix it tomorrow morning, so I can get the language and
2915 insert that 85% owner occupied as specified by the attorney because that is something
2916 we do want to follow through with.
2917
2918 Mr. Jernigan: Ok, thank you.
2919
2920 Ms. Fisher: Thank you everyone.
2921
2922 Mr. Archer: Thank you Ms. Fisher. Alright Mr. Jernigan, I think we are ready.
2923
2924 Mr. Jernigan: With that I will move for approval of case C-23C-06 Gene Davis
2925 on East Jerald Street, approval to send to the Board of Supervisors for their approval.
2926
2927 Mr. Branin: Second.
2928
2929 Mr. Archer: Motion by Mr. Jernigan. Seconded by Mr. Branin. All in favor of
2930 the motion say aye. Those opposed say nay. No nays, the ayes have it and the motion is
2931 carried.
2932
2933 The Planning Commission voted to recommend the Board of Supervisors grant the
2934 request because it is reasonable, it conforms to the recommendations of the Land Use
2935 Plan, and the proffered conditions will provide appropriate quality assurances not
2936 otherwise available.
2937
2938 **C-24C-06 C&N, L.L.C.:** Request to conditionally rezone from R-3 One Family
2939 Residence District to B-3C Business District (Conditional), part of Parcel 819-726-4641,
2940 containing 0.184 acres, located on the east line of Knight Drive approximately 300 feet
2941 north of Nine Mile Road. The applicant proposes an outside storage space for an
2942 existing auto body shop. The use will be controlled by zoning ordinance regulations and
2943 proffered conditions. The Land Use Plan recommends Commercial Arterial. The site is
2944 in the Airport Safety Overlay District and abuts the Enterprise Zone.
2945

2946 Mr. Silber: The last case this evening is C-24C-06 C&N LLC request to
2947 conditionally rezone from R-3 One Family Residence to B-3C Business District
2948 Conditional. This two-tenths of an acre site is located on the east line of Knight Drive
2949 approximately 300 feet north of Nine Mile Road in the Varina District.
2950

2951 Mr. Archer: Thank you Mr. Secretary. Is there anyone here opposed to C-
2952 24C-06 C&N LLC, Virginia Collision Center? I see no opposition. Go ahead.
2953

2954 Mr. Tyson: Mr. Chairman, this is a request to rezone to B-3C Business District
2955 Conditional to permit an automobile storage lot accessory to the Virginia Collision
2956 Center. The site is located at Nine Mile Road, along Knight Drive. The Land Use plan
2957 recommends Commercial Arterial uses for the property, and the proposed use is
2958 consistent with this recommendation. The site is also located in the Nine Mile Road
2959 Corridor Special Strategy Area. This corridor typified by older, non-residential uses,
2960 opportunities for in-fill development, and special consideration is to be given to improving
2961 the over all appearance of the corridor.
2962

2963 The property is zoned R-3 as are the properties to the north, west and the east. The
2964 Virginia Collision Center property is unproffered B-3. The applicant is requesting to
2965 rezone a portion of an unimproved lot immediately to the rear of the existing auto body
2966 shop and in response to staff concerns and in an effort to mitigate potential impacts, the
2967 applicant is proffering the following. The only use of the property would be for the
2968 storage yard for the automobile repair shop. The Transitional Buffer 35 would be
2969 provided adjacent to the rear properties. A 6' high white vinyl fence would be installed at
2970 the screen properties to the west, north and east and no direct access to the storage lot
2971 would be provided from Knight Drive. There is an existing gate that would be used to
2972 access the property form Nine Mile Road. Should the commission wish to act on this
2973 case tonight, the time limits would need to be waived on these proffers. The applicant
2974 has taken steps necessary to mitigate potential visual impacts. He is currently working
2975 through the POD process for improvement unrelated to the zoning and is working with
2976 design and review staff to prepare a landscaping plan that will further soften the impact
2977 of the use. The use is consistent with the 2010 Plan and meets the objectives for the
2978 Nine Mile Road Special Strategy Area. I'd be happy to answer any questions and the
2979 applicant and his representative are here tonight as well.
2980

2981 Mr. Archer: Alright, thank you Mr. Tyson. Are there questions from the
2982 Commission?
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2984 Mr. Branin: I don't have any Mr. Chairman.
2985

2986 Mr. Archer: Anyone else? We need to hear from the applicant.
2987

2988 Mr. Jernigan: Well, this is for a parking lot. I mean he's renovating his building,
2989 he's in the enterprise zone and he's doing work up front. He's adding another building in
2990 the back and he owns these lots behind there so he just has to extend his parking lot. I
2991 don't really have any questions unless ya'll do.
2992

2993 Mr. Archer: Any one else have any questions?
2994

2995 Ms. Jones: Have all the concerns been addressed to your satisfaction?
2996

2997 Mr. Jernigan: Yes. They have taken care of anything. Do you have any
2998 questions Mr. Silber?
2999
3000 Mr. Silber: No, sir.
3001
3002 Mr. Archer: Mr. Mizell, it looks like you might not have to say a word.
3003
3004 Mr. Jernigan: Unless you want to talk, I mean.
3005
3006 Mr. Archer: Alright, then I suppose we are ready for a motion.
3007
3008 Mr. Jernigan: Mr. Chairman, with that I will move for approval of C-24C-06 C&N
3009 LLC, the Virginia Collision Center and sent to the Board for their approval.
3010
3011 Mr. Branin: Second.
3012
3013 Mr. Silber: We need to waive the time limits.
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3015 Mr. Jernigan: First off I want to waive the time limits on case C-24C-06 C&N
3016 LLC, Virginia Collision Center.
3017
3018 Mr. Branin: Second.
3019
3020 Mr. Archer: Motion by Mr. Jernigan, seconded by Mr. Branin to waive the time
3021 limits. All in favor of the motion say aye. Those opposed say no. Motion is carried.
3022
3023 Mr. Jernigan: With that I will move for approval of case C-24C-06 C&N, LLC
3024 Virginia Collision Center for approval and sent to the Board for their approval.
3025
3026 Mr. Branin: Second.
3027
3028 Mr. Archer: Motion by Mr. Jernigan, seconded by Mr. Branin. All in favor of
3029 the motion say aye. All those opposed say no. The ayes have it, the case is approved.
3030 Alright Mr. Secretary I believe we have a discussion item.
3031
3032 Mr. Silber: Next on the agenda is a discussion item that no longer needs to
3033 be discussed. If you recall the Planning Commission's policy is that you would not
3034 accept more than 12 rezoning applications or combination rezoning and provisional use
3035 permit applications and the limit being 12, we had accepted 14 or 14 applications had
3036 come in but two have know been tabled or dropped temporarily so we are down to 12.
3037 We are right at the limit. I will inform you that we have a lot of deferrals coming up in
3038 June and with the limit of 12 you can plan on a fairly long agenda in June, on June 15th, I
3039 think it is. I think we have about 16 or 17 cases. So next we are on to the minutes of the
3040 Planning Commission's April 13th meeting.
3041
3042 Mr. Archer: You will notice that as Chairman I did such a good job of holding
3043 the meeting to a minimum so the minutes are very brief. Are there any corrections or
3044 additions to the brief minutes of the last meeting? Having none, is there a motion to
3045 approve?
3046
3047 Mr. Jernigan: So moved.

3048

3049 Ms. Jones: Second.

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3051 Mr. Archer: Motion by Mr. Jernigan, seconded by Ms. Jones to approve the
3052 minutes. Minutes stand approved. Is there further business to bring before this
3053 Commission tonight? We stand adjourned at 10:14 p.m.

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Randall R. Silber, Secretary

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C. W. Archer, CPC, Chairman

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