

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,
2 Virginia, held in the Board Room of the County Administration Building, Parham and Hungary
3 Spring Roads at 7:00 p.m., November 10, 2005, Display Notice having been published in the
4 Richmond Times-Dispatch on October 20, 2005 and October 27, 2005.

5
6 Members Present: Mr. Ernest B. Vanarsdall, C.P.C., Chairperson, Brookland
7 Mr. C. W. Archer, C.P.C., Vice Chairman, Fairfield
8 Mr. Tommy Branin, Three Chopt
9 Mrs. Bonnie-Leigh Jones, Tuckahoe
10 Mr. E. Ray Jernigan, C.P.C., Varina
11 Mr. David A. Kaechele, Board of Supervisors, Three Chopt
12 Mr. Randall R. Silber, Director of Planning, Secretary

13
14 Others Present: Mr. Tom T. Tokarz, Assistant County Attorney
15 Mr. Ralph J. Emerson, Assistant Director of Planning
16 Ms. Jean Moore, Principal Planner
17 Mr. Lee Tyson, County Planner
18 Ms. Rosemary Deemer, County Planner
19 Mr. Thomas Coleman, County Planner
20 Ms. Nathalie Neaves, County Planner
21 Ms. Ann B. Cleary, Recording Secretary

22
23 **Mr. Kaechele abstains from voting on all cases unless otherwise indicated.**

24
25 Mr. Vanarsdall - Good evening everybody. We just had a meeting upstairs and that is
26 the reason we are a little bit tardy, and so I can't bring the meeting to order because we did that
27 upstairs. Anyway, welcome and we have a lot of cases tonight, so we will get underway and I
28 will turn the meeting over to our Secretary and Director of Planning, Mr. Silber.

29
30 Mr. Silber - Yes, sir. Thank you, Mr. Chairman. Good evening. We do have a full
31 agenda tonight, but we do also have several deferrals on the agenda and one withdrawal that I
32 am aware of. Ms. Moore, can you walk us through those, please.

33
34 Ms. Moore - Yes, sir.

35
36 ***Deferred from the October 13, 2005 Meeting***

37 **C-62C-05 Mary Street Associates:** Request to conditionally rezone from R-4 One Family
38 Residence District, M-1C Light Industrial District (Conditional) and C-1 Conservation District to R-
39 5AC General Residence District (Conditional), Parcels 832-719-2212 and 832-718-1235,
40 containing approximately 23.6 acres, located on the east line of Broad Water Creek and the
41 south line of Meadow Road. The applicant proposes an age-restricted single family residential
42 subdivision. The R-5A District allows a minimum lot size of 5,625 square feet and a density of 6
43 units per acre. The use will be controlled by zoning ordinance regulations and proffered
44 conditions. The Land Use Plan recommends Planned Industry and Environmental Protection Area.
45 The site is in the Airport Safety Overlay District.

46
47 Ms. Moore - The applicant is requesting a deferral to the January 12, 2006 meeting.

48
49 Mr. Vanarsdall - Is there anyone in the audience that is in opposition to deferring this
50 case until next year? No opposition. Mr. Jernigan.

51
52 Mr. Jernigan - Mr. Chairman, I move for deferral of Case C-62C-05, Russell Jones for
53 Mary Street Associates, to the January 12, 2006 meeting by the request of the applicant.

54
55 Mr. Archer - Second.
56
57 Mr. Vanarsdall - Motion made by Mr. Jernigan and seconded by Mr. Archer. All in favor
58 say aye. All opposed say no. The ayes have it. The motion carries.
59
60 At the request of the applicant, the Planning Commission deferred Case C-62C-05, Mary Street
61 Associates, to its meeting on January 12, 2006.
62
63 Ms. Moore - The next request is in the Brookland District. It is located on page 2 of
64 your agenda.
65
66 ***Deferred from the October 13, 2005 Meeting***
67 **C-50C-05 Molland Spring/Atack Properties:** Request to conditionally rezone from A-1
68 Agricultural District to R-2C One Family Residence District (Conditional), Parcels 762-768-2433,
69 762-768-3508, and 762-767-5793 containing approximately 17.152 acres, located on the west
70 line of Staples Mill Road approximately 1,350 feet north of Meadow Pond Lane. The applicant
71 proposes a single family subdivision. The R-2 District allows a minimum lot size of 18,000 square
72 feet with a maximum gross density of 2.42 units per acre. The use will be controlled by zoning
73 ordinance regulations and proffered conditions. The Land Use Plan recommends Suburban
74 Residential 1, 1.0 to 2.4 units net density per acre.
75
76 Ms. Moore - The deferral is requested to the December 8, 2005 meeting.
77
78 Mr. Vanarsdall - Is anyone in the audience in opposition to deferring this case, C-50C-05,
79 in the Brookland District? No opposition. I move that Case C-50C-05 be deferred to December
80 8, 2005, at the applicant's request.
81
82 Mr. Archer - Second, Mr. Chair.
83
84 Mr. Vanarsdall - Motion made by Vanarsdall and seconded by Mr. Archer. All in favor say
85 aye. All opposed say no. The motion passes.
86
87 At the applicant's request, the Planning Commission deferred Case C-50C-05, Molland
88 Spring/Atack Properties, to its meeting on December 8, 2005.
89
90 Ms. Moore - Also, on page 2 of your agenda, is C-64C-05.
91
92 **C-64C-05 Kent and Mary Glass:** Request to conditionally rezone from A-1, Agricultural District
93 to R-2AC, One Family Residence District (Conditional), Parcel 765-769-5497, containing 5.7
94 acres, located on the west line of Mountain Road at its intersection with Good Oak Lane. The
95 applicant proposes a single-family residential subdivision. The R-2A District allows a minimum lot
96 size of 13,500 square feet and a density of 3.23 units per acre. The use will be controlled by
97 zoning ordinance regulations and proffered conditions. The Land Use Plan recommends SR-1,
98 Suburban Residential uses (1.0 - 2.4 units per acre).
99
100 Ms. Moore - The deferral is requested to the December 8, 2005 meeting.
101
102 Mr. Vanarsdall - Is anyone in the audience in opposition to the deferral of this case, Case
103 C-64-05, Robert Atack for Kent and Mary Glass, in the Brookland District? No opposition. I move
104 that Case C-64C-05 be deferred to the December 8, 2005 meeting, at the applicant's request.
105
106 Mr. Jernigan - Second.

107
108 Mr. Vanarsdall - Motion made by Mr. Vanarsdall and seconded by Mr. Jernigan. All in
109 favor say aye. All opposed say no. The motion passes.

110
111 At the request of the applicant, the Planning Commission deferred Case C-64C-05, Robert Attack
112 for Kent and Mary Glass, to its meeting on December 8, 2005.

113
114 Ms. Moore - Also, in the Brookland District, on page 2 of your agenda is C-69C-05,
115 LIM Properties, LLC.

116
117 **C-69C-05 LIM Properties, LLC:** Request to amend proffered conditions accepted with
118 Rezoning Case C-8C-82 on Parcel 755-759-3886, containing 1.35 acres, located at the southeast
119 intersection of Springfield and Meadowgreen Roads. The applicant proposes to amend the
120 proffers for access and maximum square footage for office space, and delete the proffer related
121 to the 35-foot buffer area. The existing zoning is O-1C Office District (Conditional). The Land Use
122 Plan recommends Office.

123
124 Ms. Moore - The deferral is requested to the December 8, 2005 meeting.

125
126 Mr. Vanarsdall - Again in the Brookland District, C-69C-05, LIM Properties, LLC. Is there
127 any opposition to deferring this case? No opposition.

128
129 I move that Case C-69C-05, LIM Properties, LLC, be deferred to December 8, 2005, at the
130 Commission's request.

131
132 Mr. Jernigan - Second.

133
134 Mr. Vanarsdall - Motion made by Vanarsdall and seconded by Mr. Jernigan. All in favor
135 say aye. All opposed say no. The motion passes.

136
137 The Planning Commission deferred Case C-69C-05, LIM Properties, LLC, to its meeting on
138 December 8, 2005.

139
140 Ms. Moore - For the record, sir, that was at the Commissioner's request.

141
142 Mr. Vanarsdall - Yes, it was. And that takes care of the cases I had, so I guess I will turn
143 this over to the Vice-Chairman and go home.

144
145 Ms. Moore - Moving on to page 3 of your agenda in the Fairfield District, Rezoning
146 Case C-70C-05.

147
148 **C-70C-05 Duke Management Services:** Request to conditionally rezone from R-4 One-Family
149 Residence District and B-3 Business District to M-1C Light Industrial District (Conditional), Parcel
150 783-759-6898 and part of Parcel 783-760-6649, containing approximately 4.86 acres, located on
151 the west line of Brook Road (U.S. Route 1) approximately 920 feet south of Georgia Avenue. A
152 parking area for portable mini storage units is proposed. The use will be controlled by zoning
153 ordinance regulations and proffered conditions. The Land Use Plan recommends Commercial
154 Concentration. The site is in the Enterprise Zone.

155
156 Ms. Moore - The deferral is requested to the December 8, 2005 meeting.

157
158 Mr. Vanarsdall - In the Fairfield District, Case C-70C-05, Duke Management Services. Is
159 there any opposition to deferring this case? No opposition. Mr. Archer. Yes, ma'am. Are you in

160 opposition to deferring it for 30 days? Would you mind coming to the mike? That way we can
161 get you on the tape. State your name, please, and tell us...

162
163 Jennie W. Trovinger - Hi, my name is Jennie W. Trovinger and I am one of the
164 property owners that Duke Management, their property and my property joins each other. I
165 guess from the letter that I received from the County this has already been deferred one time?
166 Is that correct?

167
168 Mr. Vanarsdall - No, ma'am. It is not. This is the first time it has appeared.

169
170 Ms. Trovinger - OK. Is there a reason why it should be deferred until December?

171
172 Mr. Vanarsdall - December 8, 2005, I believe.

173
174 Mr. Coleman - The case was filed for M-1 zoning district and due to discussions with the
175 applicant, we related to him that is an incorrect zoning district for this request and we are going
176 to defer this and re-advertise its correct zoning district.

177
178 Mr. Vanarsdall - Did you understand that? Is that all right?

179
180 Ms. Trovinger - Yes.

181
182 Mr. Vanarsdall - Thank you. All right, Mr. Archer.

183
184 Mr. Archer - All right, Mr. Chairman. With that I will move deferral of Case C-70C-05,
185 Duke Management Services, to the December 8, 2005 meeting at the request of the applicant.

186
187 Mr. Jernigan - Second.

188
189 Mr. Vanarsdall - Motion made by Mr. Archer and seconded by Mr. Jernigan. All in favor
190 say aye. All opposed say no. The motion passes.

191
192 At the request of the applicant, the Planning Commission deferred Case C-70C-05, Duke
193 Management Services, to its meeting on December 8, 2005.

194
195 Ms. Moore - On page 3 of your agenda is rezoning case C-71C-05.

196
197 **C-71C-05 Ridge Construction, LLC:** Request to conditionally rezone from O-2C Office District
198 (Conditional) to R-5AC General Residence District (Conditional), part of Parcel 807-733-6105,
199 containing 18.563 acres, located at the southeast intersection of N. Laburnum Avenue and Harvie
200 Road. The applicant proposes a single-family residential subdivision. The R-5A District allows a
201 minimum lot size of 5,625 square feet and a maximum gross density of six (6) units per acre.
202 The use will be controlled by zoning ordinance regulations and proffered conditions. The Land
203 Use Plan recommends Office. The site is in the Airport Safety Overlay District.

204
205 Ms. Moore - The deferral is requested to the December 8, 2005 meeting.

206
207 Mr. Vanarsdall - Is this C-71C-05?

208
209 Mr. Archer - Yes, it is.

210
211 Mr. Vanarsdall - Anyone in the audience in opposition to deferring this case, Case C-71C-
212 05? No opposition.

213
214 Mr. Archer - Mr. Chairman, I have informed Mr. Theobald that we would prefer to
215 hear this case tonight and remove it from the deferral list.
216
217 Mr. Vanarsdall - All right. That means that we will not honor the deferment and will hear
218 the case in the order in which it is on the agenda. Thank you.
219
220 Ms. Moore - The next one is in the Three Chopt District on page 4 of your agenda.
221
222 ***Deferred from the September 15, 2005 Meeting.***
223 **C-56C-05 J. F. Williams for Wms, LLC:** Request to rezone from A-1 Agricultural District to B-
224 2C Business District (Conditional), Parcels 746-760-6689, 746-760-3696, and part of parcel 746-
225 761-5525, containing approximately 5.16 acres, located at the northeast intersection of W. Broad
226 Street (U. S. Route 250) and Old Sadler Road. The applicant proposes a convenience store with
227 gas sales and automobile dealership. The uses will be controlled by zoning ordinance regulations
228 and proffered conditions. The Land Use Plan recommends Commercial Concentration.
229
230 Ms. Moore - The deferral is requested to the December 8, 2005 meeting.
231
232 Mr. Vanarsdall - Is anyone in the audience in opposition to deferment of C-56C-05, J. F.
233 Williams for Wms, LLC? No opposition.
234
235 Mr. Branin - Mr. Chairman, I'd like to move that Case C-56C-05 be deferred to the
236 December 8, 2005 meeting per the applicant's request.
237
238 Mrs. Jones - Second.
239
240 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mrs. Jones. All in favor say
241 aye. All opposed say no. The motion carries.
242
243 At the request of the applicant, the Planning Commission deferred Case C-56C-05, J. F. Williams
244 for Wms, LLC, to its meeting on December 8, 2005.
245
246 Ms. Moore - The next item is on page 4 of your agenda, a companion case to the
247 case just read.
248
249 ***Deferred from the September 15, 2005 Meeting.***
250 **P-8-05 J. F. Williams for Wms, LLC:** Request for a provisional use permit under Sections 24-
251 58.2(a), 24-120 and 24-122.1 of Chapter 24 of the County Code, in order to allow 24-hour
252 operation of a convenience store with gas sales as permitted in the B-2C Business District
253 (Conditional), on Parcel 746-760-3696, located at the northeast intersection of W. Broad Street
254 (U. S. Route 250) and Old Sadler Road. The existing zoning is A-1 Agricultural District. The Land
255 Use Plan recommends Commercial Concentration.
256
257 Ms. Moore - The deferral is requested also to the December 8, 2005 meeting.
258
259 Mr. Vanarsdall - Is there any opposition to the deferral of P-8-05 in the Three Chopt
260 District, J. F. Williams? No opposition. Mr. Branin.
261
262 Mr. Branin - Mr. Chairman, I would like to move that Case P-8-05 be deferred to the
263 December 8, 2005 meeting, per the applicant's request.
264
265 Mrs. Jones - Second.

266
267 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mrs. Jones. All in favor say
268 aye. All opposed say no. The motion passes.
269
270 At the request of the applicant, the Planning Commission deferred Case P-8-05, J. F. Williams for
271 Wms, LLC, to its meeting on December 8, 2005.
272
273 Ms. Moore - Mr. Secretary and Mr. Chairman, that concludes our requests from the
274 applicants that we received unless there are any other from the Commission.
275
276 Mr. Branin - Mr. Chairman, I have one.
277
278 Mr. Vanarsdall - All right. What page?
279
280 Mr. Branin - It is page 4.
281
282 Mr. Vanarsdall - What is the number?
283
284 **AMENDMENT TO THE MAJOR THOROUGHFARE PLAN: MTP-2-05** Proposed Addition of a
285 Thee Chopt Road Extension and West Broad Street Connector between Lauderdale Drive and
286 North Gayton Road.
287
288 Mr. Silber - It is not one of the zoning cases. It is the Major Thoroughfare Plan. It
289 is the public hearing for the Major Thoroughfare Plan MTP-2-05.
290
291 Mr. Branin - All right, Mr. Chairman, in order to allow more time for the community to
292 have a meeting in regards to this proposed road, I'd like to move the MTP-2-05 be deferred until
293 the December 8, 2005 meeting at my request.
294
295 Mr. Jernigan - Second.
296
297 Mr. Silber - For the benefit of those here this evening, this is a proposed road or a
298 road that is being proposed be added to the County's long-range road plan. It is not proposed to
299 be built at this time. It is just being considered for placement on this piece of property, so when
300 this property develops, the developer would be required to build this road. The public hearing
301 was scheduled for tonight to consider this addition to the Major Thoroughfare Plan and the
302 Commission is considering deferring this a month to bring it up at that time for consideration.
303 So, the public hearing simply is being deferred on this proposed road.
304
305 Mr. Kaechele - Mr. Secretary, was that at the request of the Wellesley Homeowners
306 Association?
307
308 Mr. Silber - Yes, sir. The Wellesley Homeowners Association wanted to have a
309 community meeting to learn more about this, so it is being deferred at their request.
310
311 Mr. Kaechele - Good reason.
312
313 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor
314 say aye. All opposed say no. The ayes have it. The motion passes.
315
316 Mr. Vanarsdall - Thank you.
317

318 The Planning Commission deferred **AMENDMENT TO THE MAJOR THOROUGHFARE PLAN:**
319 **MTP-2-05** Proposed Addition of a Three Chopt Road Extension and West Broad Street
320 Connector between Lauderdale Drive and North Gayton Road, to its meeting on December 8,
321 2005.

322

323 Mr. Silber - Do we have any requests for withdrawals?

324

325 Ms. Moore - Yes, Mr. Secretary, we do, and that is on page 4 of your agenda.

326

327 *Deferred from the September 15, 2005 Meeting:*

328 **P-2-05 Yimmer LLC:** Request for a Provisional Use Permit under Sections 24-58.2(a) and 24-
329 122.1 of Chapter 24 of the County Code in order to allow extended hours of operation until 2:00
330 a.m. for a restaurant on Parcel 735-763-5299, containing 1.922 acres, located on the north line
331 of W. Broad Street (U.S. Route 250), approximately 1,550 feet east of its intersection with N.
332 Gayton Road. The existing zoning is A-1 Agricultural District. The Land Use Plan recommends
333 Mixed Use Development. The site is in the West Broad Street Overlay District.

334

335 Ms. Moore - This has been withdrawn by the applicant, therefore, no action is
336 required by the Commission.

337

338 Mr. Silber - That is correct. It does not require any action by the Commission.

339

340 Mr. Vanarsdall - Thank you for that. Thank you, Ms. Moore.

341

342 Mr. Silber - The first rezoning request tonight is C-67C-05.

343

344 **C-67C-05 Dtown L.L.C.:** Request to conditionally rezone from R-4 One Family Residence
345 District and M-2 General Industrial District to R-5AC General Residence District (Conditional),
346 Parcels 806-710-8061 and 807-711-0058, containing 21.694 acres, located on the north line of
347 Darbytown Road approximately 765 feet southeast of Oregon Avenue. The applicant proposes a
348 single-family residential development with a maximum density of eighty-seven (87) lots. The R-
349 5A District allows a minimum lot size of 5,625 square feet and a maximum gross density of six
350 (6) units per acre. The use will be controlled by zoning ordinance regulations and proffered
351 conditions. The Land Use Plan recommends Heavy Industry and Suburban Residential 1, 1.0 to
352 2.4 units net density per acre.

353

354 Mr. Vanarsdall - Any opposition to Case C-67C-05. All right. Opposition.

355

356 Mr. Tyson - Mr. Chairman, Mr. Kaechele, members of the Commission, Mr. Secretary.
357 Good evening. This is a request to rezone approximately 21 acres to permit construction of a
358 single-family residential subdivision. The applicant has proffered this conceptual layout of the
359 development. The property is located on the north line of Darbytown Road, and is zoned R-4
360 and M-2. The Richland Heights subdivision, which is zoned R-4, is located to the north and
361 west. A concrete products plant is located immediately to the east.

362

363 The Land Use Plan recommends SR-1, Single Family Suburban Residential 1 and Heavy Industrial
364 uses for the site.

365

366 The applicant has submitted a proffer statement dated November 3, 2005, that has just been
367 distributed to you, that contains many assurances of quality development. Should the Planning
368 Commission wish to take action on this case tonight, the time limits would not have to be waived
369 on these proffers.

370

371 The applicant has proffered no more than 87 lots on the property. The property is intended to
372 be developed using traditional neighborhood design concepts. The lots would be 50 feet in
373 width, all would contain porches designed to encourage residents to be outside and in the
374 neighborhood, and all would be accessed via an alley that would run around the perimeter of the
375 property. No front loading garages would be permitted, and there would be no curbs cuts along
376 the street frontages. Additionally, foundations would be brick, 1700 square feet would be the
377 minimum finished floor area for any house. No ranch-style homes are to be permitted, and in
378 your packet the applicant has submitted a number of design concepts that have been proffered.
379 Standard six inch curb and gutter would be used throughout the development, a four-foot
380 sidewalk would be provided on one side of the public streets in the development, a community
381 clubhouse would be provided. It would be a minimum of 2,000 square feet in size and would be
382 constructed prior to the issuance of the 40th certificate of occupancy.

383

384 A six foot white vinyl fence, topped with lattice, would be installed around the complete
385 perimeter of the property. This will serve to mitigate some of the impacts from the traffic on the
386 alleys to the adjacent properties, and will also buffer the new homes from the existing concrete
387 plant.

388

389 Staff continues to have the following concerns regarding the application:

390

391 The amount of traffic and potential impacts from the concrete plant could be significant. While
392 staff was on site conducting its site visit, three concrete trucks pulled up within the five minutes
393 staff was present on the site visit. It was a fair amount of heavy truck traffic. The applicant may
394 wish to consider providing an additional vegetative buffer adjacent to the perimeter to not only
395 soften the edge of the development, but to further mitigate potential impacts. The buffer would
396 also pull the cul-de-sac termini off the property line.

397

398 The applicant has indicated, but not proffered, that the streets will be public and the alleys
399 private. This commitment is appropriate for a proffer. Should the street layouts or radii prove
400 unworkable for public streets, and the streets become private, this will have an impact on the
401 sidewalk proffer. Sidewalks are only proffered along public streets. Additionally, the applicant
402 should commit to public street standards (except as to width) for the alleys, since they will be
403 heavily traveled.

404

405 With respect to the housing type, the applicant is encouraged to commit to detached housing.
406 There renderings all show detached housing, but that has not been offered in a proffer.

407

408 The conceptual plan that is before you contains flag-lots that are not permitted under the Zoning
409 Ordinance. Additionally, eliminating the interior parcels and possibly converting that space to a
410 community green could enhance the project and add to the traditional neighborhood feel.
411 Should the applicant include the buffers as suggested, and make other changes as suggested by
412 the staff, the conceptual plan has the potential to change dramatically from what has been
413 presented.

414

415 The proposed use, while not in keeping with some of the adjacent uses, may be an appropriate
416 transition from the industrial development to the east and south and the residential uses to the
417 north and west. Staff supports the traditional neighborhood design concepts that the applicant is
418 attempting to incorporate; however, staff believes there are enough questions about the
419 conceptual plan that should be addressed that staff recommends deferral of this request pending
420 those issues.

421

422 I will be happy to answer any questions you might have.

423

424 Mr. Vanarsdall - Any questions for Mr. Tyson by Commission members?
425
426 Mr. Jernigan - Mr. Tyson, I thought we had cleared up the flag lot situation last week.
427
428 Mr. Tyson - They are still shown on the conceptual plan that has been proffered, but
429 they have not come forward with anything else. I understand that they may be willing to do
430 away with those conceptualls and submit another conceptual plan, but one has not been
431 submitted to us.
432
433 Mr. Jernigan - And road width? I thought...
434
435 Mr. Tyson - The applicant has indicated verbally that these will be public roads and
436 the alleys will be private, We'd like to see a commitment made to that, especially with the
437 design standards for the alleys given that they are going to be pretty heavily traveled, as there is
438 no front access to these lots.
439
440 Mr. Jernigan - OK, thank you.
441
442 Mr. Vanarsdall - Any other questions for Mr. Tyson? Thank you, Mr. Tyson. Would you
443 want to hear from the applicant now?
444
445 Mr. Silber - Mr. Chairman, since there is opposition to this case, maybe I should just
446 remind those of the Planning Commission's policy. When hearing a rezoning request, the
447 Planning Commission has a policy on allowed speaking time. Of course, they can add to that or
448 allow additional time, but the applicant generally is provided 10 minutes to present his case. He
449 may wish to save some of that 10 minutes for rebuttal time. Those in opposition, those speaking
450 in opposition to the request, collectively have 10 minutes to express their concerns with the
451 request. Any time the Commission asks questions of those speaking, that obviously is not
452 counting toward the 10 minute allocation.
453
454 Mr. Condlin - Mr. Secretary, Mr. Chairman, members of the Commission, Mr. Kaechele,
455 my name is Andy Condlin, from Williams Mullin. I am here with Dave Jester and Gary Weiler. If
456 I could reserve save three minutes for rebuttal at this time.
457
458 The property, which is 21 acres, along Darbytown Road, I think it is significant that it sits with
459 the current zoning of unconditioned R-4, but also unconditioned M-2, which doesn't have the
460 most desirable uses. Also, the area I think could accurately be described as a challenged area in
461 need of, I think, some redevelopment. The request that we are proposing, the R-5AC, is for a
462 traditional neighborhood development design. The idea is to reduce the conflict between cars on
463 the road that served the property and pedestrian access, but also to encourage a walkable and
464 inviting community to get people out on the road, and get people to walk among their
465 community and become literally a neighborhood as people have traditionally viewed. How do we
466 do this? We propose through the proffers a number of ways to produce this by pulling houses
467 closer to the street and closer together, providing for sidewalks along the street, no driveways
468 crossing the sidewalks. All cars will be using the alley system to access the rear of the lot.
469 Obviously, then, not only do you have the alley system but you also have rear entry and side
470 entry garages and no front entry garages at that point, also providing for street lamps and rear-
471 alley lamps. I think more significantly, as well, that we are providing for a clubhouse and pool,
472 which I don't think this number of lots that would usually produce the need for and that would
473 help sustain the clubhouse and pool, but with this traditional neighborhood design, we are trying
474 to create more of a community feel, by providing for the clubhouse and pool, and, of course,
475 porches as well on every home, and providing the details of porches.
476

477 The alley itself, there have been some questions with respect to that. That will be approximately
478 22 feet wide and will also be private, and will not be a public alley. It will be a private alley and
479 it will be two-way, so it will fit two cars and cars can go both ways on that alley to be able to
480 serve that lot, so, quite frankly, the people that are going to their homes can come back the
481 same way in the alley that they are going as the best access point. I am not going to go over
482 the proffers unless you have real specific details with respect to, and we have provided the
483 details that I think you are looking for in a typical case, as well as additional details related to the
484 elevations, a large number of elevations that we provided, as well as the elevations on the
485 clubhouse and the pool, the details on the porch and the fencing that would be provided on the
486 property.

487

488 Mr. Tyson raised a number of issues. In defense of me and my client, if you read the staff
489 report, some of these issues came in after the staff report and after the time frame in which we
490 could submit the proffers and, quite frankly, just recently heard. Some of these issues, not that
491 they are not legitimate issues, but I hope we are not penalized. I know they asked for a
492 deferral, but I feel it is a little out of place in the situation, and I think we can respond certainly
493 after the Commission. I don't think these are any substantive issues. I identified five issues that
494 he raised. I will get the easy ones out of the way. We will commit that these will be public
495 roads and the alleys will be private. We can devise a proffer on that, and that is an easy proffer
496 to make. We also can provide that these will be detached housing and not attached. Again, that
497 is an easy proffer to make and we can provide for that.

498

499 The issue with the flag lots and the concept plan. Quite frankly, the only issue that was raised
500 prior to this about the concept plan was the two flag lots that are right in this area right here
501 (referring to rendering). Our response was this really becomes a subdivision issue. If they are
502 not allowed by the ordinance, the subdivision or zoning ordinance, we will combine these lots
503 and amend the property lines to be able to create one line in this area and, quite frankly,
504 probably lose a lot at that point by getting rid of that flag lot. We didn't see a need to change
505 the concept plan at this time just for that one little minor change. Again, it is more of a
506 subdivision issue. We will be responding to that and if we do need to change the concept plan
507 between now and the Board of Supervisors, that is easily done with respect to that.

508

509 The last two issues related to the buffer next to the M-2. I would say that when I have been out
510 there I think that is pretty atypical. It is unusual to have that amount of traffic. There is some
511 traffic and it is industrial. There is no way to get around that and that is a large plant that is
512 going to make some noise. We will provide for and work with the staff to come up with some
513 sort of detail with respect to landscaping. We already provide a fence, and the reason we
514 provided a fence was to help protect our existing homeowners against the concrete plant, but
515 also to protect the adjacent properties from the alleys that are serving the rear of the lots from
516 having traffic in behind the rear of the lots. We will work with staff as, and I think, if I
517 understand correctly, I think the stuff that they are looking for is along the M-2 property, the
518 concrete plant, that serves this area, so if that is agreeable, we will work with the staff as to the
519 width of the extent of the landscaping. I think we will make them happy and try to get that
520 taken care of immediately after this hearing.

521

522 The last item, I think, was with respect to the alley detail. Staff has asked for that these alleys
523 be defined. We can define them as 22 feet wide and we will make sure that the staff is OK with
524 that width in order to serve two-way traffic, but also as to the detail of the construction. As to
525 the construction, they have asked for public road standards. I wasn't able to advise them
526 specifically what that means, since we just got that information, that request today. They want
527 to meet with their engineer. They will provide the detail, whatever meets the public road
528 standards, but they will provide the details to the staff, make the staff happy that the details are
529 necessary and that the construction will be necessary for the amount of traffic they are looking

530 for. That may be public road standards, maybe something slightly different, but we'd abide by
531 the staff and get that straightened before the Board of Supervisor's meeting.

532

533 So, again, a lot of these issues, typically when I come forward and have issues, that is because
534 we decided to say no. These issues were just raised and we really haven't been able to final
535 those two issues regarding the buffer and the alley standard. Otherwise, I think we can abide
536 by the terms that the staff has asked of the other three issues, so, with that, I would ask that
537 you take a look at this proposal for the traditional neighborhood design. This really is providing
538 for a transition between unconditional M-2, what is sited on the Land Use Plan for heavy
539 industry, and for residential, in the R-4. Our own property is zoned a combination of M-2 and R-
540 4. We are trying to provide that transition, but also mixed, to provide for the variation of
541 designations in the Land Use Plan and the uses. I think we have met all jurisdictional
542 prerequisites. We have provided for the details in the proffers that the County expects in these
543 type of cases, and with that, I will be happy to answer any questions, and ask that you
544 recommend this case for approval.

545

546 Mr. Vanarsdall - Any questions for Mr. Condlin by Commission members?

547

548 Mr. Jernigan - When I spoke to you last week and we discussed the flag lots, I thought
549 you said you were going to get that straight before tonight.

550

551 Mr. Condlin - Well, I may have misunderstood. I thought the answer was that the
552 concept plan was just the only issue with these two lots, and that it wasn't necessary to change
553 the whole concept plan to just basically eliminate that lot line, and change the configuration of
554 these lots in here. That was the only issue that was raised by the staff at that point. I apologize
555 if I misunderstood.

556

557 Mr. Jernigan - And that is the only two flag lots that we have.

558

559 Mr. Condlin - Correct.

560

561 Mr. Jernigan - Are you willing to take that from three to two.

562

563 Mr. Condlin - Yes. We will abide by that and we will get that straight in that respect.
564 I mean, they may have to change some of these with the lot lines. Yes, we will get rid of those
565 flag lots before the Board of Supervisors meeting.

566

567 Mr. Jernigan - Public road is going to be 36 feet wide and 55 foot cross section. I
568 mean, the 55-foot right of way, 36 foot cross section. What are these drawn to here?

569

570 Mr. Condlin - I don't have the answer to that, quite frankly. They did take a look at
571 these for the public road standards and I know that is what they looked at. They had the option,
572 at one time they were considering making them private roads, but they will be public roads and
573 that is their intent right now and they will meet the public road standards for that.

574

575 Mr. Silber - Mr. Jernigan, one of the issues on the public road issue was we weren't
576 sure if these were going to be public or private roads and he has clarified that they are going to
577 be public roads, but that raises some issues because, as you know, Public Works has some
578 standards when it comes to turning radiuses and there is at least one in here that may not meet
579 that. Furthermore, they have some block length issues and some minimum blocks. There are
580 some blocks in here we are not so sure that they will be able to meet those, as well. When you
581 begin to look at some buffers and the size as well, the transitional buffer 10 required up against
582 a residential side, and I think there is some buffering needed on industrial side. You begin to

583 look at the impact this may have on this layout, and the concern we had was, yes, maybe that
584 can be worked out. It might be best to take a closer look at that at this stage and determine
585 exactly how that may all fit together.

586

587 Mr. Jernigan - Well, these issues weren't in the staff report, and as far as detached
588 housing, I mean, I thought it was an understood thing....the concept was that they were going to
589 be detached.

590

591 Mr. Condlin - That is what the intent is. We will commit to that. That is an easy
592 change. The same with the other issue regarding the public roads, making those public roads,
593 that would be the intent after a while.

594

595 Mr. Jernigan - You say, Mr. Silber, that some of the lots are questionable on size?

596

597 Mr. Silber - The lot sizes, I didn't necessarily say that. If they are going to be
598 detached and these are zero lot lines, they've got to be on one of the side lot lines, so as you
599 work through the subdivision and you get to the end, you may not have a lot line to place it on.
600 So, they haven't located houses on here, so we are not real sure how it would fit as you move
601 through the subdivision.

602

603 Mr. Condlin - To be quite honest, that is the first I've heard of that request, and the
604 only question we had on the concept plan up until, quite frankly, today was this are right here
605 (referring to rendering) regarding the flag lots, so we will be happy to look at those issues and
606 provide you the information. I just feel like we are being penalized for late comments. I mean,
607 we could have addressed these two weeks ago if we had gotten this in the staff report, and I'd
608 have been happy to.

609

610 Mr. Jernigan - When did you get the comments?

611

612 Mr. Condlin - I talked to Mr. Tyson today and this afternoon I got some additional
613 comments.

614

615 Mr. Jernigan - Mr. Tyson, will you come up? The road issue, I thought when we met
616 before, that, and I don't see it in the staff report about a question about it being public road.

617

618 Mr. Tyson - I think we have always, in my speaking with applicant's representatives,
619 he has always verbally said these are going to be public roads. The alleys are going to be
620 private. So, I asked him that question to make sure, but there is nothing in the proffers or on
621 the concept plan that shows you that they are going to be public roads. We are just trying to
622 nail that down that they sort of make a commitment on that respect.

623

624 Mr. Jernigan - Mr. Silber, how wide were the alleys in the Wilton track?

625

626 Mr. Silber - In the Wilton development, I don't recall. I don't know if they have even
627 established what those might be. Mr. Jernigan, I think some of the comments that you are
628 hearing now are comments, I guess, that maybe were reflected in the staff report in general
629 terms, but we thought that we'd be getting another conceptual layout. You know, those issues,
630 for example, the lots you see in the middle of these two parallel roads, the applicant knew he'd
631 applied for a zero lot line development, yet a zero lot line means you place your house on a side
632 lot line. When you have two lots like that, there's two lots and two lots running through the
633 center of the project. Where are those houses going to sit? He has indicated tonight they are
634 not going to be attached units. They are going to be detached, so where are those houses going
635 to sit? They can't sit on that common center property line. There are just a lot of questions as

636 you work through this layout and when I learned today that some of these had not been
637 addressed, then I said I think it is time to address some of these. So, I think they were
638 addressed in general terms in the staff report. To me, it is something that needs to be looked at
639 further. If he feels there is something that can be addressed between now and the Board
640 meeting, that is fine. I think it is something that needs to be considered and hammered out at
641 the Planning Commission level.

642
643 Mr. Jernigan - Well, you know, I thought this case was pretty straight, and just finding
644 out something at the last minute. He just found out today, so we haven't had a chance to get it
645 straight. He is proffering that it is going to be a public road. He is proffering that the units will
646 be detached. The question is the eight units in the center of the property. Andy, I hate to do it
647 to you, but...

648
649 Mr. Condlin - It is not good news. Right?

650
651 Mr. Jernigan - It is not good news. You know, I thought I was pretty comfortable and I
652 am pretty comfortable with the case, but lets, I will tell you what I will do. Can I move him to
653 the POD meeting on the 16th? Can you get this straight by the 16th?

654
655 Mr. Condlin - That is next week. I'd like to say yes, but...

656
657 Mr. Jernigan - That's fine. Let's defer it to next month.

658
659 Mr. Silber - Mr. Jernigan, that is a tall order to expect this to be worked out by next
660 week. We will have to get out notification letters and the law says you need five days.
661 Tomorrow is a holiday. We can't meet that requirement.

662
663 Mr. Jernigan - There are a couple of issues here that I wasn't aware of myself, but
664 basically I think the case is OK. We've just got to clear up a couple of issues.

665
666 Mr. Condlin - I think it is more informational, quite frankly, in giving some of the
667 details the staff is looking for.

668
669 Mr. Silber - I want to emphasize that as well. I think the concept, Mr. Jernigan, is a
670 good concept. I think the zoning for R-5A at this location is good. I don't want you to get the
671 impression that this is not appropriate from a land use standpoint. We believe it is. We believe
672 there are some details that need to be worked out, and keep in mind, I think there was some
673 opposition tonight. You might want to hear that tonight and see how that plays into the decision
674 as well.

675
676 Mr. Jernigan - OK.

677
678 Mr. Jester - I am Dave Jester, the President of Marlin and would be developer, but I
679 understand your concerns and we are OK with deferring.

680
681 Mr. Jernigan - Are you going to take the deferral?

682
683 Mr. Jester - We will take the deferral.

684
685 Mr. Condlin - We will defer or you defer. I'll take the technical and prefer that you
686 defer. You know, we can oppose it all you want, but you've got the right, so I'd rather you do it.

687
688 Mr. Jernigan - Would you rather me deny it or do you want to defer it?

689
690 Mr. Condlin - I didn't know that was a concern.
691
692 Mr. Jernigan - I will let you off the hot seat, being as we took some of the blame on
693 this. First of all, let me hear the opposition.
694
695 Mr. Vanarsdall - All right, come on down and state your name for the record, sir, and
696 your address. How are you doing this evening?
697
698 Mr. James Dodd - My name is James Dodd and I own property across the street from
699 where they planned on developing it, and I invested in that property because it is M-1 and I plan
700 on developing it, and I think the County needs more M-1 property and more businesses to create
701 more jobs for people in that area than they need housing developments, which we don't have
702 the school system to support it, and the traffic is already, with my development and with the
703 concrete products development right there, would be I figured large trucks and not compatible to
704 having housing development right across the street.
705
706 Mr. Jernigan - You didn't come to the neighborhood meeting?
707
708 Mr. Dodd - I didn't know about it.
709
710 Mr. Jernigan - They sent everybody, they sent flyers. We had quite a few people there,
711 Varina Automotive, Acres and Griffith, John Daniels, they were all there at Varina High School.
712 So, they did send out notices on it. Were you maybe out of town or...
713
714 Mr. Dodd - I have been out of town quite a bit lately, but I didn't, as far as I know,
715 receive the notice.
716
717 Mr. Jernigan - Jimmy Dodd. The Cookie Monster Café.
718
719 Mr. Dodd - Yes. I also own a business across the street.
720
721 Mr. Jernigan - OK. Now we are straight. All right. Well, I will defer this case and we
722 will hear it next month and you can come back then if you like.
723
724 Mr. Dodd - OK.
725
726 Mr. Jernigan - OK. Thank you.
727
728 Mr. Vanarsdall - All right, Mr. Jernigan.
729
730 Mr. Jernigan - Mr. Chairman, with that I will move to defer Case C-67C-05, Andrew M.
731 Condlin for Dtown, L.L.C. to December 8, 2005, by request of the Commission.
732
733 Mrs. Jones - Second.
734
735 Mr. Vanarsdall - Motion made by Mr. Jernigan and seconded by Mrs. Jones . All in favor
736 say aye. All opposed say no. The motion passes.
737
738 The Planning Commission deferred Case C-67C-05, Andrew M. Condlin for Dtown, L.L.C. to its
739 meeting on December 8, 2005.
740

741 **C-68C-05 WWLP Development, LLC:** Request to conditionally rezone from A-1 Agricultural
742 District to R-2AC One Family Residence District (Conditional), Parcels 829-725-8000, 829-725-
743 2031, 829-725-6657, 829-725-9496, 829-726-6419, 829-726-7956, 830-724-1497 and 829-725-
744 2590, containing 35.5 acres, located between N. Washington Street and N. Airport Drive
745 beginning on the south line of N. Washington Street approximately 600 feet west of Junior Drive.
746 The applicant proposes a single-family residential subdivision of no more than seventy-nine (79)
747 units. The R-2A District allows a minimum lot size of 13,500 square feet with a maximum gross
748 density of 3.23 units per acre. The use will be controlled by zoning ordinance regulations and
749 proffered conditions. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units
750 net density per acre. The site is in the Airport Safety Overlay District.

751

752 Mr. Vanarsdall - Any opposition to this case, C-68C-05? Thank you. Is anybody not in
753 opposition? Mr. Coleman, how are you?

754

755 Mr. Coleman - Very good, thank you. The applicant submitted revised proffers dated
756 November 8, which does not require waiving the time limits. This request is to rezone 35-1/2
757 acres from A-1 to R-2AC to develop a single-family subdivision which would permit development
758 of 79 dwellings for an overall density of 2.23 units per acre. The subject property is designated
759 Suburban Residential 1 on the 2010 Land Use Plan. The applicant hosted a community meeting
760 on November 2. Area residents expressed several concerns of this request, however, the
761 primary concerns are two that involve existing traffic and drainage problems in the area and the
762 impact this request would have on intensifying these problems. Revised proffers offer several
763 positive features. The major aspects include the dwellings would have a minimum 2,000 sq. ft.
764 of finished floor area, 90% of the houses would have a garage and 75% would have a two-car
765 garage. All garages would be side or rear loaded and at least 40% of the houses would contain
766 at least 30% brick or stain with front elevations and minimum lot width of 85 feet for cul-de-sac
767 lots and 90 feet for all other lots.

768

769 Additional proffers suggest restrictive covenants, chimneys, foundations, underground utilities,
770 tree attention, right of way dedication, landscape buffers, including an entrance feature, paved
771 driveways, BMPs and other items. In keeping with recent residential development in the County,
772 staff encourages the applicant to show the following changes to this request to assure an
773 appropriate level of quality. A stronger commitment to high quality building material, whether it
774 be brick, stone, or Hardiplank, providing stub roads for potential residential access for the
775 property to the south, constructing roadways with 6 inch standard curb and gutter, providing
776 solid walks along spine roads within the development where appropriate.

777

778 Single-family residential development, properly designed and regulated, would be an appropriate
779 use at this location. The applicant submitted proffers that include several assurances of quality
780 development. If the applicant could satisfactorily address the remaining items, staff could
781 recommend approval of this request. That concludes my presentation. I would be happy to
782 answer any questions.

783

784 Mr. Vanarsdall - Any questions for Mr. Coleman from Commission members?

785

786 Mr. Jernigan - Tom, you said the stub road to the south...

787

788 Mr. Coleman - If this site were developed for single-family residential in the future...

789

790 Mr. Jernigan - Yes. We met on that the other day and they said they were willing to
791 put a stub road in there. I don't know why you didn't get a message on that. And, on the curb
792 and gutter, we generally get six inch, but Mr. Donati and I discussed it before and we
793 are actually looking at the 36 inch rolled top, not the 30 inch roll face, so that is what we are looking

794 at right now. We may give that a shot, too. A proffer amendment is coming through on another
795 case to where they are going to get to try the roll face, and that was the only two things, the
796 stub road and the six-inch curb?
797

798 Mr. Coleman - The building materials, they revised the proffers and they did commit to
799 provide some brick on front accents to a portion of the homes, and I think that is moving in the
800 right direction. We do think they could make a stronger commitment.
801

802 Mr. Jernigan - Yes, 40% of them would have at least 30%, because of accents. We
803 want to style homes that some require accents, you don't brick the whole front, and he proffers
804 a vinyl siding of 44 thousandths - that is the quality. The good stuff is the 44 thousandths.
805

806 Mr. Coleman - Yes, in proffer No. 4.
807

808 Mr. Jernigan - At the neighborhood meeting there was a discussion of drainage, so I
809 see that Steve Bandura is in the audience. We might as well go on into that before somebody
810 brings that question up, so Steve, can you come up and tell us about drainage on this property.
811

812 Mr. Bandura - My name is Steve Bandura and I am a staff engineer with the
813 Department of Public Works. The drainage, there is substantial topography to the site, and the
814 drainage, and as far as problems out there, I have not been aware of any, and I will be happy to
815 meet with anybody who has concerns or can explain to me what their concerns are. As far as
816 the development of the site, there are no final plans yet, but as part of Public Works' review of
817 the plan, we will make sure that all outfalls are adequate, that they do not adversely impact
818 adjacent property owners, and storm sewers will be provided. Curb and gutter, the land or
819 runoff from the road will not be going into the rear yards. I am anticipating that is one of the
820 concerns of the property owners, and as I said, the developer will, or his engineering firm, will
821 have to prove adequacy of outfall, channels. If you have to pipe, you may have to make a
822 channel adequate. At this point, it is too soon to tell.
823

824 Mr. Jernigan - And this would flow to the Chickahominy Swamp?
825

826 Mr. Bandura - Yes.
827

828 Mr. Jernigan - There was some concern that three or four people would be flooded out
829 if that happens.
830

831 Mr. Bandura - If those people could get with me after the meeting, I will be happy to
832 meet with them and if they show me where they live, I will look into it for them.
833

834 Mr. Jernigan - OK. That is all I have.
835

836 Mr. Vanarsdall - Does anybody else have any questions?
837

838 Mr. Silber - We might need him to back up to the drawings.
839

840 Mr. Jernigan - Yes.
841

842 Mr. Vanarsdall - Thank you, Steve.
843

844 All right. Now we will take the opposition and...
845

846 Mr. Jernigan - I have one more question. Tom, did you get any, on the road traffic on
847 Washington Street, Tim Foster?
848
849 Mr. Coleman - Yes, he did give me some additional numbers.
850
851 Mr. Jernigan - I know that on North Washington, I believe the count was 460, but I am
852 mainly interested in East Washington. Traffic coming to the stop light.
853
854 Mr. Coleman - The traffic count, you actually requested East Washington and he didn't
855 have those. He gave me traffic counts for, in the staff report he'd given traffic counts for Airport
856 Drive.
857
858 Mr. Jernigan - That is 15,000.
859
860 Mr. Coleman - For North Washington 400 per day. The other one in here that we had
861 was, which is nearby, is Hanover Road.
862
863 Mr. Jernigan - He didn't give you the East Washington count?
864
865 Mr. Coleman- No, sir.
866
867 Mr. Jernigan - That is the one I was interested in, because I had heard a figure and it
868 just sounded high to me, and that is what I wanted.
869
870 Mr. Silber - Mr. Jernigan, you were looking for traffic counts on the other side of
871 Airport Drive?
872
873 Mr. Jernigan - I was looking for Washington Street where East Washington Street and
874 North Washington intersects East Washington, coming up to the stop light, because I know there
875 is some cut-through traffic.
876
877 Mr. Silber - I see.
878
879 Mr. Jernigan - I had heard a number given. I just wanted to confirm it.
880
881 Mr. Silber - We can provide that to you.
882
883 Mr. Jernigan - OK.
884
885 Mr. Coleman - We had requested East Washington at North Washington.
886
887 Mr. Jernigan - Wherever you put the counter is coming up to the stop light there,
888 because there is cut-through traffic from all the way down Washington Street. OK. Thank you.
889
890 Mr. Vanarsdall - Thank you. We will hear from Mr. Theobald. Good evening, Mr.
891 Theobald.
892
893 Mr. Theobald - Good evening.
894
895 Mr. Silber - Mr. Theobald, as you come forward, do you have any ideas as to how
896 many minutes you want to reserve for rebuttal.
897
898 Mr. Theobald - About three, Mr. Silber.

899

900 Mr. Silber - We will handle that. Thank you.

901

902 Mr. Theobald - Good evening, Mr. Chairman, ladies and gentlemen. My name is Jim
903 Theobald and I am here this evening on behalf of WWLP, the applicant. In this request to
904 rezone approximately 35-1/2 acres from A-1 to R-2A on the north line of Airport Drive, near its
905 intersection with Interstate 295. As you have heard, this request is consistent with the Land Use
906 Plan recommendation, this request being at 2.2 units per acre, the plan recommendation being
907 within the range of 1 to 2.4 units per acre, as well as being consistent with surrounding
908 development. This map is a little hard to see (referring to rendering). If you look on the right-
909 hand side you will see the site is labeled and outlined that literally is in close proximity to this
910 site, a large amount of R-4 zoning, R-3 zoning, and in fact, literally next door to this site
911 unrestricted R-2A zoning. This highly restricted case, which is to be developed on public water
912 and sewer, is actually next to that piece of unrestricted R-2A as you see on the map before you.
913 Since our meeting with area residents, we have revised our proffers to provide a number of
914 additional quality assurances. We have amended our case to provide that our lots will be a
915 minimum of 90 feet wide except where they are 85 feet in width at the building line in the cul-
916 de-sac bulb. Our density has been reduced from 85 homes on the property to 79 units, thus
917 resulting in a 2.2 unit per acre density. All homes must be a minimum of 2,000 sq. ft. of finished
918 floor area, 90% of the homes will have garages, 75% of the homes will have two car garages
919 and there will be no front-loaded garages. As you heard, 40% of the homes will have 30% brick
920 or stone fronts, and the proffers will also include street tree plantings, as well as a landscape
921 buffer along Airport Drive, along with an entrance feature. The County staff has found this
922 request to be consistent with the Land Use Plan, meeting or exceeding the standards of area
923 developments, also, with the impact on roads and schools being within acceptable limits. We do
924 have some individuals, I believe, here this evening who are prepared to speak in favor of this
925 case, Mr. Jernigan. With that, I would be happy to answer any questions.

926

927 Mr. Vanarsdall - Any questions for Mr. Theobald from Commission members? All right.
928 Thank you, Mr. Theobald.

929

930 Mr. Jernigan - First of all, you had some people that wanted to speak for it, so let's get
931 them up and then we will have the opposition.

932

933 Mr. Vanarsdall - Do you want to come on down if you are in favor of this. Good evening.
934 State your name for the record, please.

935

936 Ms. Sue Goode - Good evening. My name is Sue Goode and I live in the area, and I
937 appreciate the opportunity to speak, and I would like to speak in favor of the proposed
938 development.

939

940 This property is part of an estate liquidation and the family, to my personal knowledge, has
941 strived to provide a viable project that would be an asset to this community, and I am sure with
942 this Commission's oversight of the project, it will be an asset to the community. This project
943 should enhance property values, should give increased economics to the area, and is the best
944 use of the land.

945

946 Being it is a liquidation, and I don't know if these people know that or not, but there are four or
947 five possible other viable ways to go, but this family has chosen to look at the Henning property
948 with concern for its neighbors, and I would like to speak in favor of it. Thank you.

949

950 Mr. Vanarsdall - Thank you. Any one else want to speak in favor? Come down to the
951 mike so we can get you on the record.

952

953 Mr. Joe Sellers - My name is Joe Sellers. I have been a resident of Highland Springs and
954 Sandston, the two combined, for about 44 years now. Mr. Kaechele knows I have been around
955 for a while. I attended the meeting the other night down at the Legion Building and sat there
956 very quietly and just listened and some of the people who spoke I knew and some I didn't know.
957 I hope all of them are friends of mine and some of them are neighbors. But, I want to make
958 about three points. I don't know much about drainage and I don't know much about those
959 things and some of them I objected to, but I do know a little bit about the schools, and I know
960 that in the 30 years that I was with the Henrico County Schools we had full support of the
961 Henrico County School Board and the Supervisors, Mr. Kaechele and all of those people. Could
962 not ask for a more favorable group of people to work with, and they always provided the schools
963 that were necessary, and I know we heard comments that we had trailers, and I know about
964 that, because my daughter attended school one year in a trailer when we lived in Sandston for a
965 few years, and I am not in favor of trailers. I will tell that to Mr. Kaechele, the School Board or
966 anybody else. Trailers don't belong in Henrico County Schools, but there do have to come
967 sometimes when you get an influx of students, and rezoning is not very popular either. I have
968 had my share of that.

969

970 Mr. Kaechele - Trailers are only temporary.

971

972 Mr. Sellers - That is what I say, only temporary. My daughter went to school in one
973 for just one year and I do think that Henrico County is financially able to provide the schools, and
974 some schools are already planned down in that area. I guess I don't really see the schools as
975 being a problem. It may be for a little while, but not too long. The other point I want to make
976 was I was a very close friend of the Joe Henning family. They attended church with me and we
977 were together a lot, and I would like to see something come into this community that would be
978 an asset and would be pleasing to them if they were here to look at it. So, I don't know what
979 that would be, but whether it is a one acre lot or a half-acre lot, I don't even know what size my
980 own lot is. I know it takes me an hour and 45 minutes to mow it this afternoon, walking behind
981 a mower. Sort of wish it was a little bit smaller now that I am 77 years old. I don't know, I can't
982 argue with one acre, half an acre, or two acres or what it is, but as you get older you don't want
983 too large a lot, I don't think.

984

985 Now the other thing I wanted to mention was this. When I came to Henrico County about 44
986 years ago, Henrico County had 18,000 students. They now have what, 40 some thousand
987 students. Oh, it is 50 now? Well, I have been retired for 15 years, so I haven't been closely
988 associated with the schools. The only time they have called on me since I retired was to speak
989 in favor of bonds, and I did that, and the bond referendum passed, by the way.

990

991 This is the point I want to make. When I came to the County, and I now live in Confederate Hills,
992 which is about 1.2 miles from that stoplight at Airport Drive. I don't get up and go out at 6:00 or
993 7:30 in the mornings, so I don't guess the lights are going to be a problem to me. It might be
994 for some of these people and I sympathize with that. But, here is what I want to say to you.
995 When I came to the County, I had two or three neighbors and they worked at AT&T when they
996 had something going on Laburnum Avenue, and now you've got some other businesses in the
997 East End. I asked them, "Why did you settle here" because when I came the only place that a
998 realtor would talk to me about it was the West End. And Mr. Kaechele, I have nothing against
999 the West End. In fact, I lived there for about three months when I first came to Henrico. The
1000 School Board Office moved to the East End, so I moved with it. And I am happy I did. I have
1001 had a lot of good friends and church work, and I am happy to have been in the East End for the
1002 last 40 years. I did live in Sandston for a few years, but not very long, but they are sort of like
1003 twin sisters, you know. It bothered me when this man said to me that no real estate agent
1004 would show me a home in this area. All they would show me was the West End, so I took it

1005 upon myself. I didn't want to drive that far. I guess that is why I moved, because I didn't want
1006 to drive that far either. So, I am just wondering if this housing development materializes, and I
1007 am not strongly against it or strongly for it, but I would hope that no real estate agent would
1008 have to ever again tell that person he didn't have any houses to show him in the East End. I
1009 have enjoyed living in the East End and I have even gotten used to the airplanes, so I am sort of
1010 used to it in a way. On the other hand, and my respect for the Joe Hennings and the fact that I
1011 think the East End has been put down a little bit not having housing. It might be in some
1012 respects for you to settle on the size of the lot. That may be a good thing for Highland Springs.
1013 I am not going to continue to be a resident here for ever. I am getting up in years. I may move
1014 to a retirement home, so I can't argue for myself, because I am not going to be affected by it.
1015 The only way I'd be affected by it all would be at the stoplight. That is the main thing. So, I just
1016 make those three or four points for you to consider. Thank you very much.

1017
1018 Mr. Jernigan - Thank you, sir.

1019
1020 Mr. Vanarsdall - Thank you. Anyone else? All right, now we will take the opposition.
1021 Whoever wants to be first, maybe if you want to have two or three people speak for the whole
1022 group or one person. Ever how you want to do it.

1023
1024 Mr. Robert Gary - My name is Robert Gary, and I live at 1720 North Washington Street. I
1025 wish to allow Ms. Blackwell to speak in my behalf, with my written concerns, due to the fact that
1026 I had a doctor's visit today and I am not supposed to use my voice too much. So, if you'd allow
1027 her to speak for me, I'd appreciate it.

1028
1029 Mr. Vanarsdall - How many names are supposed to be on here? 122?

1030
1031 Ms. Phyllis Ladd Blackwell - Well, I have to say, to begin with, that is the first time I've ever been
1032 able to quiet Bob down, so I am glad to read this for him. I will read this as he wrote it.

1033
1034 Mr. Jernigan - Phyllis, state your name for the record, please.

1035
1036 Ms. Blackwell - Phyllis Ladd Blackwell. I am with North Airport Drive Civic Association.

1037
1038 Mr. Vanarsdall - You know that we knew you but the recorder didn't.

1039
1040 Ms. Blackwell - Bob says, Good evening, members of the Planning Commission. My
1041 name is Bob Gary and I live at 1720 North Washington Street. There are numerous reasons for
1042 our objecting to rezoning request of these parcels of land.

1043
1044 No. 1, safety. There are people who hunt with high powered rifles in the area. My neighbor's
1045 son next door was shot in the head about six years ago by a stray bullet. It is legal to hunt in
1046 Henrico County with a 243, a 30/30, a 3006, a 308 and black powder rifles during hunting
1047 season, and it does not stop when the season ends. I say we don't need 85 homes (and that
1048 has been amended to 79) within range of this kind of fire power.

1049
1050 No. 2, traffic. Entering East Washington Street from North Washington Street to your left you
1051 have Airport Drive, 167 feet with a right turn on red, and over a 10% downhill grade. Looking to
1052 your right the site distance is 330 feet, which is near the minimum of the site distance that is
1053 required through the traffic report for that. There is traffic coming over a hill top, out of the
1054 bottom, with a downhill grade, and the reason, and I am adding this, I believe the staff report
1055 said that this project would generate 896 additional trips per day, added to the 400 that are
1056 there already. And he says, can you imagine 896 cars a day trying to enter East Washington

1057 Street, which already has 3,416 cars a day at this very dangerous intersection, and believe me, it
1058 is dangerous.

1059

1060 No. 3, schools. This dense development would put an undue amount of expense and burden on
1061 our already crowded schools. I won't go into details on that situation.

1062

1063 No. 4, environmental impact. The first half mile of North Washington Street heading northeast
1064 has three streams of water flowing northeast. The second half mile heading east to Airport
1065 Drive, the natural flow of water is to the east and the amount of water is tremendous. When it
1066 rains, the ditches overflow onto the road. The land east of North Washington has so many
1067 springs that it cannot absorb the water. With less than 800 yards from the floodplain that always
1068 has water in it, and it is less than a quarter of a mile from the Chickahominy River, a scenic river.
1069 Can you folks imagine what all the lime and fertilizer from 85 homes would do to that river? Just
1070 water and trash from those storm drains that are going to be piped 800 yards to the floodplain,
1071 which the developer calls the creek. And the water from all of those paved drive ways. I already
1072 pick up enough trash from the floodplain.

1073

1074 No. 5, fitting in. This zoning is not in conformity with the area north of Airport Drive surrounded
1075 by Tucker's Branch and the Chickahominy River. All of the stewards of this property have an
1076 acre or more with the exception of 14 residents on Delbert Drive, and they have 140 feet road
1077 frontage, and nice brick homes. This is not a typical R-2A subdivision.

1078

1079 When I took the petitions you have before you to the homes of the people, I was very specific in
1080 telling them to read what they were signing. They read it carefully and signed it and thanked me
1081 for taking my time to do my civic duty.

1082

1083 No. 6, marketing. Can be very desirable two miles from the airport, one mile from 295, one mile
1084 from a golf course, if they are on a spacious one-acre lot. See Casey Meadows, Hanover and
1085 Meadow Road. I and 100 plus neighbors who signed the petitions strongly urge you to send to
1086 the Board of Supervisors a recommendation of R-A1, one house per acre.

1087

1088 (S/S) Bob Gary - Just passing through.

1089

1090 Ms. Blackwell - And may I speak? I don't know how much time we have left. I know
1091 some other of our folks want to speak, but speaking for myself, I want to say that this area that
1092 has been described as R-4 and dense subdivision, they are across a major highway from this
1093 area. This piece of land, which is 35 acres, backs up to houses that are primarily on one or more
1094 acres, a whole different thing. Altogether, on North Washington Street, rather, there are about
1095 40 houses. Now we are going to have 79 houses, twice as many as are there now. That will
1096 overpower what is already there. This is a lovely neighborhood. It is quiet. Everybody is on a
1097 big piece of land. There is - North Washington is a lovely country road. If you ride through it
1098 now, you will see that it is covered with leaves that have fallen from the trees that hang over it.
1099 We don't want to see 895 cars per day added to that. We also believe, somebody said it would
1100 make a great thing for the area and it would increase the property value. We don't believe that.
1101 People buy houses out there because they like the stability of the neighborhood. Very few
1102 people move from this area. A lot of people grew up here in the area, they like it there because
1103 it is one acre and because there is no real congestion behind them. Now, we know people have
1104 property rights. They can sell their property. We think one house per acre is the right thing for
1105 this area. In addition to this, they pointed out that adjacent and a stub road that is going to it.
1106 What is coming next? We all know a precedent would be set by whatever goes on this piece of
1107 land. It is not right for that neighborhood. Thank you.

1108

1109 Mr. Jernigan - Phyllis, let me ask you a couple of things before you go First of all, on
1110 the gun situation, regardless of who is there, that is a dangerous situation if it is only one house
1111 extra. So, that, I don't feel you can put that into the mix.
1112
1113 Ms. Blackwell - Well, I don't know about guns. Bob knows about guns.
1114
1115 Mr. Jernigan - Now, the site distance, I mean the County Traffic Engineer has said it is
1116 OK.
1117
1118 Ms. Blackwell - Why is that?
1119
1120 Mr. Jernigan - I know, but I mean that the engineer says it is all right.
1121
1122 Mr. Gary - Mr. Jernigan, I had the Traffic Engineer come out a week ago and he did
1123 the count on East Washington Street that your Planning staff could not find. You should be able
1124 to find it. I am sure it is in there somewhere.
1125
1126 Mr. Jernigan - That was 3,416?
1127
1128 Mr. Gary - Yes. That is correct. Three thousand, four hundred and sixteen.
1129
1130 Mr. Jernigan - Well, those trips were on these. And the trash, regardless if there are
1131 35 homes there or 79 homes there, you are going to have trash.
1132
1133 Ms. Blackwell - We will have double the trash. You have double the people, you will
1134 have double the trash, double everything.
1135
1136 Mr. Gary - Since I wrote that, we have cigarette butts and everything, and I pick up
1137 enough trash out of the floodplain, believe me. You wouldn't believe it and we do serve the
1138 County members lunch on my place. We do everything to be good neighbors and we are good
1139 stewards of our property.
1140
1141 Mr. Jernigan - Bob, I know you can't talk good, so I don't want you to have to say
1142 much, but after the meeting the other night, I had a personal discussion with you and I asked
1143 you about how would you feel commercial on this site as opposed to residential. And you told
1144 me, correct me if I am wrong, that you wouldn't mind good commercial.
1145
1146 Mr. Gary - I was speaking strictly for myself and I still feel that way, to have
1147 commercial along Airport Drive, good commercial would be fine.
1148
1149 Mr. Jernigan - Now, correct me if I am wrong. About seven or eight years ago, Buddy
1150 Ragsdale and Gene Drey tried to rezone the corner of Washington to B District, and you all
1151 opposed it.
1152
1153 Mr. Gary - Chief Stanley said he wanted all of the hotels to stay in the area where
1154 they are now. It was inappropriate. He spoke to our membership, so I was going strictly by
1155 what he said, plus it is not, you are wrong when you say a hotel. There was a hotel, a fast food
1156 place and a service station.
1157
1158 Mr. Jernigan - Well, I didn't know about the hotel. He told me it was a service station
1159 with a c-store.
1160

1161 Mr. Gary - Right. That is correct. Hotel, three-story with a swimming pool, and it is
1162 only 167 feet from North Airport Drive to North Washington, and another thing you have to get
1163 up out of that bottom onto Airport Drive before you get to a hotel or the gas station or the fast
1164 food place. We just didn't think that it would fit in.

1165
1166 Mr. Jernigan - OK. I think that is it for you, Phyllis.

1167
1168 Mr. Vanarsdall - Who wants to be next? Come on down. State your name for the
1169 record, please.

1170
1171 Mr. Irvin Dawes - My name is Irvin Dawes, 1791 North Washington Street, Highland
1172 Springs, VA. I wish I had the other little map up there and I could work this mouse, but I am not
1173 too good at stuff like that and I think you all are doing it for me, but anyway, let me go ahead
1174 and read what I am saying. My family and I have lived on North Washington Street for 46 years,
1175 and we have seen many changes in our neighborhood. And one thing I want to say, our
1176 property is right next to Bill, but I can't work this thing here, (referring to slide) but what I am
1177 talking about that the problems we have, we are right in the middle of this proposed subdivision.
1178 When we have a lot of rain, it is real dry now, so there is not going to be any problem, because
1179 it is like a desert everywhere. We need water, but when we have a lot of rain, water comes from
1180 the property they want to build to develop with 85 houses. I live right, we live right next to
1181 where the Delbert Subdivision is, and back up right to this property. The water stands in our
1182 back yard and sometimes go underneath our house. We have a shallow well and we get a lot of
1183 surface water. We have McLean Engineering Treatment System on our well. If we didn't, the
1184 water would be undrinkable. Water stands in the front yard of the house next door and floods
1185 the road in front of our house. This was the Joe Henning property. He was my wife's
1186 grandparents who owned 120 acres of land in our neighborhood. I told Mr. Mistr at our meeting
1187 that we had not too long ago, the other meeting, about this problem and he told me that if they
1188 built this subdivision, the water would run down to the corner and not on our property. I do not
1189 believe this. If Mr. Hamilton and Mr. Mistr could, I believe they would build 200 homes on this
1190 property. This is how they make their money and this is about money, as usual. I feel that if 85
1191 homes are built on 35 acres with streets, most of the trees and everything will be cut down. You
1192 have got your streets going through. That takes a lot of the 35 acres, so it makes it all narrow.
1193 And again, I can't see how people would want to be jammed up, 85 houses close together, and
1194 another thing, Mr. Jernigan, I am retired from the Power Company. I am a lineman. I don't
1195 know if you remember me or not, but I hooked your house up years ago, and you've got a nice
1196 house and nice property, and I know where you live, and I don't think you'd want 85 homes
1197 jammed up on your house. It just sounds like when we hear the Board (sic) talking that it is
1198 almost a done deal already. Excuse me, I am nervous, because I am not used to speaking to
1199 people.

1200
1201 There is another piece of property that is A-1 across my our property, and we feel like, we
1202 strongly believe that the same thing could happen there that is proposed for 35 acres behind us.
1203 In addition, there are water drainage problems there. There is also a traffic problem in our
1204 neighborhood, when trying to take a left on Airport Drive. This is our neighborhood, and after
1205 all is said and done, the developers will be gone. They develop their 85 homes and we will be
1206 left to deal with the problem. I respectfully request that this area be kept to one house per acre,
1207 and we can feel we are still living in the country. Thank you.

1208
1209 Mr. Jernigan - Thank you.

1210
1211 Mr. Vanarsdall - Thank you. How many more people want to speak?

1212
1213 Mr. Jernigan - Mr. Chairman, can we get five more minutes?

1214
1215 Mr. Vanarsdall - Can you make it short? OK, come on down.
1216
1217 Ms. Victoria Kopec - Good evening. My name is Victoria Kopec. I live with my husband on
1218 East Washington Street. My concern is my home on East Washington Street. Right now, East
1219 Washington Street is congested. I don't know what your numbers say. I live there. We
1220 widened our driveway. We bought the pipe. The County was good enough to where they
1221 widened it, so we could have access for a Police Officer to sit in our yard at least twice a week to
1222 hand out traffic tickets. Now, all of these people come out of North Washington are not all going
1223 to go left. They are going to go right. And it is going to create more of a problem on a road that
1224 cannot handle the speeding and the traffic violations that are occurring on that road now. We
1225 probably call on the police force at least twice a week because of the speeding, the reckless
1226 driving. We cannot control, you all cannot control this, the non-law abiding citizens. I
1227 understand that, but this property will add more in front of my home.
1228
1229 No. 2, I live in Highland Springs. It is in conjunction with what is there now, but that is why
1230 these people have fought so hard the last 10 years so that we don't have what we've got in
1231 Highland Springs now. We have better communities and we have things we can be proud of.
1232 Leave some of the land not to be three houses on one acre. That is all that we are asking for in
1233 my eyes. Thank you.
1234
1235 Mr. Jernigan - The traffic, the people that are speeding, first of all, these people are
1236 there now, so that is not going to change. Most of the traffic from this subdivision would come
1237 out on Airport Drive.
1238
1239 Ms. Kopec - With all due respect, sir, they don't now. They come down Airport Drive
1240 off of 295, cut through East Washington Street to go up to Nine Mile Road. They don't go
1241 around. They don't go straight down Airport and make a left onto Nine Mile Road. These
1242 people, not all of them are going to use Airport Drive. The majority of the time, a lot of the
1243 traffic not most, but I know a lot of it is coming from cutting through. I have commercial trucks
1244 cutting through East Washington Street to avoid the light at Nine Mile Road, that are coming
1245 down Airport Drive. So, you can't tell me the residents aren't going to avoid these lights and
1246 come through my, come past our houses, and increase the traffic on that road, and like I said,
1247 we have made a parking lot and there are police sitting in my driveway, thank you, and control
1248 the traffic now, at least one to two times a week. So, this is just going to add to that problem.
1249
1250 Mr. Jernigan - All right. Thank you.
1251
1252 Ms. Susan Dance - Good evening. My name is Susan Dance. Do you see that little hand
1253 right there (referring to rendering). That is where I live. I moved out of the West End to get
1254 away from subdivisions. I grew up in the West End, lived there my whole life. This little section
1255 right here, they are proposing four houses, four, in that piece that has my one house, on 1-3/4
1256 acres of land. There is a stream that runs from Blackie's house right back through here.
1257 Hurricane Isabel did a lot of damage. We have personally gone back and cleared all of that to
1258 get that stream back through. Four houses right there? No way. It is too much. All of the
1259 property, the property values are not going to get better by adding 85 or 79 homes in this 35
1260 acres. It is going to congest the roads. People already cut through, not just East Washington,
1261 North Washington as well. I just hope that you all will listen to us and understand that we'd like
1262 to keep this a community with larger acre lots. That's it.
1263
1264 Mr. Jernigan - Thank you.
1265
1266 Mr. Vanarsdall - Thank you. I will take two more people. Who wants to be next?

1267
1268 Ms. Hamilton - Hello. My name is Kristen Hamilton and I live at the very end of Delbert.
1269 So, I am going from having one neighbor to seven neighbors. We also moved to the area. We
1270 are new to the area. We've been there two years, and that is a rarity in a neighborhood. Most
1271 of the people have been there 20 plus years, and they are also there because it is quiet, it's
1272 friendly. It is not congested and the traffic situation coming off the thing that people are going
1273 to come out on onto Airport Drive, we can't get off Airport Drive now. That is adding more traffic
1274 trying to get out onto Airport. They are going to go through the back because they are going to
1275 find that sometimes it will be easier for them to get out. They are not going to be able to cross
1276 Airport Drive, in the mornings, the afternoons, even the evenings, whether it is 5:30, 6:30 or
1277 7:30 p.m. a lot of times you have to sit there up to 10 minutes to get across Airport Drive, and
1278 they are going to have the same exact problem.
1279
1280 Also, with the drainage, when we bought our house two years ago, we had to have an engineer
1281 replace almost every single beam underneath of our house, because of the water coming off of
1282 that field between ours. And we don't have the creeks on our property. It was just water
1283 drainage.
1284
1285 Mr. Jernigan - Coming off the Hamilton property?
1286
1287 Ms. Hamilton - Yes.
1288
1289 Mr. Jernigan - Well, you know if they put stormwater management in there, you won't
1290 be getting that water.
1291
1292 Ms. Hamilton- Well, we are also concerned about the roads. The water that covers the
1293 roads now, I don't think that is going to help us at all because that water is coming from the
1294 streets, and through these people's properties. When we had the heavy rain, we had roads
1295 covered in every direction. We would try to turn this way, and the road was covered, and it
1296 covers those first three houses from the rest of Delbert Drive. The full yards are covered under
1297 water before it even hits the road, and then the road goes under water as well.
1298
1299 Mr. Jernigan - Well, like I said, if that water is coming off of the Hamilton property, it
1300 will have to stop. The stormwater management will take care of that.
1301
1302 Ms. Hamilton - The creeks aren't all on their property. There is only one, I think there
1303 are two creeks that come off of that property, but you can't control the creek when it runs
1304 through other people's property as well, and our biggest thing is that, again, going with the area,
1305 and the people that live there. We all are not opposed to one house per acre. We are opposed
1306 to putting too many houses in an area that we moved to because of the space and because of
1307 the large lots.
1308
1309 Mr. Vanarsdall - Thank you. Is that it? All right, this will be the last one. We will extend
1310 it about five minutes. We want to hear what you have to say.
1311
1312 Mr. Elmer Hutchins - I will be quick. My name is Elmer Hutchins and I've lived in the area for
1313 about 20 years and I am one that works at AT&T and whatever, and was real pleased when I
1314 moved down here from Maryland to find such a nice neighborhood in such a close area to where
1315 I worked. But anyway, the main thing I wanted to say was, we were talking about the schools.
1316 I worked for Henrico County Public Schools as construction maintenance and they purchased
1317 trailers that are in deplorable condition. One of my jobs is to go in and fix the floors where
1318 people have fell through them, and the board that have fallen off and all of this kind of thing.
1319

1320 Mr. Vanarsdall - Do you work for Dwight?
1321
1322 Mr. Hutchins - Yes. And you talked about bringing up the property values. My property
1323 taxes doubled in the past three years. I am not looking for property values to go up as I plan on
1324 staying a while, and he mentioned about commercial business moving in the area. I am not
1325 much for that. I'd rather request that you stick to the A-1 designation and that is about all I
1326 have to say.
1327
1328 Mr. Vanarsdall - OK. Thank you. Mr. Theobald, are you ready for your rebuttal? You
1329 said you need two minutes.
1330
1331 Mr. Theobald - I think that will be plenty. I guess I have the sense that the case and
1332 the proffers per se are perhaps not as much in contention as is the basic philosophy for planned
1333 growth in Varina and development is obviously very much on Varina these days and I think that
1334 the choices are clear, even if the results of those choices are not necessarily embraced by all
1335 Varina residents. Most of the speakers have urged you to reject this request and the proffers
1336 that go with it. Just develop A-1 lots. Think just for a moment what that continued philosophy
1337 results in. One acre lots encourage more sprawl. No requirements for public water and sewer.
1338 Shrinking the pool of potentially users needed to support utilities and a comprehensive system in
1339 Varina. No quality assurances with no proffers. I would submit that A-1 development is not a
1340 strategy. It is, in fact, the absence of a strategy, and I think that you, Mr. Jernigan and Mr.
1341 Donati have recognized the pressures of development that are coming to Varina, and, in fact, are
1342 already there, and I believe you have adopted a strategy rather than standing by and allowing A-
1343 1 strip development to just multiply. That strategy is to require quality development consistent
1344 with the Land Use Plan that can be adequately monitored and enforced by the County for the
1345 benefit of all. With that I'd be happy to answer any additional questions, and I would
1346 respectfully ask that you recommend approval of this request to the Board of Supervisors.
1347
1348 Mr. Vanarsdall - Any questions for Mr. Theobald by Commission members? Thank you,
1349 Mr. Theobald. Mr. Jernigan, I guess the ball is in your court now.
1350
1351 Mr. Jernigan - Ms. Blackwell, would you come back up to the podium, please. Let me
1352 ask you something. Do you feel the proffers are good?
1353
1354 Ms. Blackwell - Some of the proffers are good, but we have no idea. He cannot tell us
1355 who the builders will be. They have no renderings as to what the buildings will look like. We
1356 don't know what we are going to get there except that it is going to be too many of whatever it
1357 is.
1358
1359 Mr. Jernigan - Well, let's say, as far as the Planning Commissioner, the proffers meet
1360 every thing that we want. It is R-2A, with 90 foot lots, side-loaded garages. We've got brick.
1361 We have got quality vinyl. We've got hard driveways. We have got curb and gutter. We have
1362 everything that it requires.
1363
1364 The situations that we discussed earlier about the guns and the site distance and all, it boils
1365 down to the only thing that holds this case up, the only thing that is bad about it is that you all
1366 don't want it. You don't want it because of the quality. You just don't want it. Period. Now,
1367 this is the third case in your area. The Clay Holt case came first. I denied that and Mr. Donati
1368 denied that, and all of that, everything in that area was one plus. Most of it was five, and some
1369 were seven acres. The second case that came around was the Casey Meadows case, which was
1370 also a good case. I passed that and Mr. Donati denied it. But, as a Planning Commissioner, I
1371 am supposed to get the best quality I can and follow the Comprehensive Plan. The
1372 Comprehensive Plan says that that area is one to 2.4.

1373
1374 Ms. Blackwell - May I interrupt you a minute? It does say one. It doesn't just say 2.4.
1375
1376 Mr. Jernigan - It says one to 2.4.
1377
1378 Ms. Blackwell - One to 2.4, so the Comprehensive Plan says one is fine, but we are
1379 focusing on the max of 2.4 and now it is down to 2.2. Let's focus on it says "One to 2.4" so one
1380 is just as acceptable to the Comprehensive Plan as 2.4.
1381
1382 Mr. Jernigan - But here is a subdivision that is sitting on a road that carries 15,000 cars
1383 a day, that the major access is on that road. You do have R-4 and everything across the street.
1384 You have won two of these and as a Commissioner I am supposed to do what I think is right as
1385 far as getting this case ready. Now, it is up to Mr. Donati, because it goes to him to decide what
1386 the final answer is going to be. But, there are also property rights, and that says a person has a
1387 right to develop their property, and I have to take that into the mix, too.
1388
1389 Ms. Blackwell - You are doing your job and we certainly appreciate that you are doing a
1390 good job, but we have a different perspective and as these people are saying, "Don't we have
1391 property rights. Is it just the undeveloped land that has property rights?" We are already
1392 established. What are we supposed to do, just decide that we are not going to have that place
1393 that we've been at, in my case 33 years.
1394
1395 Mr. Jernigan - Phyllis, you are no different than - most people don't want anything. I
1396 mean, this isn't a lone case. We do this every month. Most people don't want anything.
1397
1398 Ms. Blackwell - I know.
1399
1400 Mr. Jernigan - So, what I am trying to explain to you, I understand what you are
1401 saying, but it is my job as a Commissioner to get the case to what I feel is a good case and I feel
1402 it is. It will be up to Mr. Donati to deny it, if he wants to, because it is a legislative decision.
1403
1404 Ms. Blackwell - OK. Yes. We understand your position and we appreciate it, and you
1405 know, we, when you say "nobody wants this kind of thing in their neighborhood", we work very
1406 hard for our neighborhood. That is all we can do. That is all the time we have, and that is what
1407 our responsibility is, so we appreciate your perspective and I know that you appreciate ours.
1408
1409 Mr. Jernigan - I just want you to realize that I have to do what I have to do.
1410
1411 Ms. Blackwell - We are not going to say that you are mean.
1412
1413 Mr. Jernigan - You know, we met twice at Bob's house, and then we had the
1414 neighborhood meeting, which really didn't go too well, but, we didn't really get anywhere I guess
1415 is the word.
1416
1417 Ms. Blackwell - We didn't hurt each other.
1418
1419 Mr. Jernigan - We didn't get hurt. There was no flexibility on either side.
1420
1421 Ms. Blackwell - I appreciate your comments.
1422
1423 Mr. Jernigan - OK. Thank you, ma'am. As I stated, I think this case is about as good
1424 as it can be, and as a Planning Commissioner that is what we are all supposed to do. I don't feel
1425 that I can ask my constituents to turn down a case just because people don't want it. And we do

1426 this all the time. The Comprehensive Plan lays the County out as to what we are going to have,
1427 and unless that is adjusted, this falls into the proper parameters. So, Bob, I can't get it now. I
1428 am sorry. With that, I will move for approval of C-68C-05, WWLP Development, LLC, North
1429 Airport Drive to be sent to the Board of Supervisors for their decision.

1430

1431 Mr. Branin - Second.

1432

1433 Mr. Vanarsdall - Motion made by Mr. Jernigan and seconded by Mr. Branin. All in favor
1434 say aye. All opposed say no. The motion passes.

1435

1436 REASON: The Planning Commission voted to recommend the Board of Supervisors
1437 **grant** the request because it conforms to the Land Use Plan, and the proffered conditions will
1438 assure a level of development otherwise not possible.

1439

1440 **THE PLANNING COMMISSION TOOK A 10 MINUTE RECESS AT THIS TIME.**

1441

1442 **THE PLANNING COMMISSION RECONVENED.**

1443

1444 *Deferred from the September 15, 2005 Meeting:*

1445 **C-52-05 John G. Shurley:** Request to rezone from C-1 Conservation District to A-1 Agricultural
1446 District, part of Parcel 817-735-3028, containing 6.6 acres, located on the northwest line of
1447 Creighton Road approximately 1.25 miles northeast of Cedar Fork Road. The applicant proposes
1448 to replace one single-family residence. The A-1 District allows a minimum lot size of 43,560
1449 square feet with a maximum gross density of 1.00 unit per acre. The Land Use Plan recommends
1450 Environmental Protection Area. The site is in the Airport Safety Overlay District.

1451

1452 Mr. Vanarsdall - Is anyone here this evening in opposition to this case, C-52-05. No
1453 opposition. Good evening, again, Mr. Tyson.

1454

1455 Mr. Tyson - Mr. Chairman, Mr. Kaechele, members of the Commission, Mr. Secretary.
1456 This is a request to rezone approximately 6.6 acres of a 10-acre site on the Chickahominy River
1457 to permit demolition and reconstruction of a single-family house damaged during Tropical Storm
1458 Gaston.

1459

1460 All of the properties in the immediate vicinity, on both side of Creighton Road, are zoned C-1,
1461 Conservation. The Land Use Plan recommends EPA, Environmental Protection Area for the site.

1462

1463 The entire parcel and nearly all of the parcels immediately surrounding it are located within the
1464 100-year floodplain.

1465

1466 In 1960 the County conducted a County-wide rezoning and designated this property C-1,
1467 Conservation. The County Finance Department records show that the existing house was
1468 constructed in 1963, despite the C-1, Conservation zoning. It is unclear whether a building
1469 permit was issued for the construction. In 2003, a building permit was issued for a porch
1470 addition, again despite the C-1, Conservation zoning classification.

1471

1472 During tropical storm Gaston, the house was inundated with water and damaged. The applicant
1473 applied for a building permit to demolish the existing house, raise the elevation of the house-site,
1474 and rebuild. That permit was denied, as the C-1, Conservation zoning does not, and never has,
1475 permitted the existing single-family use. The applicant has now applied to rezone the property
1476 to permit the reconstruction activity.

1477

1478 Staff cannot support the requested rezoning. It is contrary to the 2010 Land Use Plan
1479 designation for the property. It also has the potential to set a precedent for the other homes in
1480 the vicinity, which are nonconforming by respect of them having been built prior to 1960.
1481 Floodplains serve important environmental functions - they permit the free flow of floodwaters
1482 and construction within floodplains has the potential to increase flood levels on adjacent
1483 properties.

1484
1485 It should be noted that even if the requested rezoning is approved, the applicant would still need
1486 a variance from the BZA. In the A-1 Agricultural District, a minimum of one acre must be raised
1487 out of the floodplain, and the applicant is only proposing to elevate the area covered by the
1488 residential structures.

1489
1490 This concludes my presentation, I would be happy to try to answer any questions you may have.

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

1493
1494 Mr. Jernigan - Mr. Tyson, is it abnormal for somebody to fill in a floodplain?

1495
1496 Mr. Tyson - It happens.

1497
1498 Mr. Jernigan - Newstead Landing. Are you familiar with that?

1499
1500 Mr. Tyson - No, but...

1501
1502 Mr. Jernigan - Newstead went through the Corps of Engineers and they are going to
1503 build a subdivision in there. They are going to fill that. They are pulling fill out of the James
1504 River Basin right there, and they are going to bring that up about three feet, I believe. Right,
1505 Mr. Silber?

1506
1507 Mr. Silber - Yes. Typically, though, when you fill a floodplain there has to be other
1508 compensating area provided. You can't just fill a floodplain because it has an impact down
1509 stream.

1510
1511 Mr. Jernigan - That is all I had.

1512
1513 Mr. Deal - Good evening, ladies and gentlemen. My name is John Deal. I am
1514 representing Mr. Shurley and Mrs. Shurley concerning this issue here tonight. Actually, what Mr.
1515 Shurley wants to do is exactly what they are doing at Newstead Landing, which is to build up his
1516 lot enough to put his house on it. That is all he wants to do. But the trouble is, C-1 won't permit
1517 that itself is what I understand, and I have given to you two sheets of paper. During the break I
1518 put them on the console up there, and you will notice one of them shows County of Henrico at
1519 the top of it and you will see, if you look in the bottom middle of this paper, you will see what it
1520 looks like, a building permit number was issued on 2/18/62, No. 36626, and Mr. Shurley was able
1521 to find this document in this area.

1522
1523 The second document that you have is a chronology that Mr. Shurley prepared showing what has
1524 happened on this property since 1955. Mr. and Mrs. Leonard bought it in 1955. There was a
1525 permit issued by the Henrico Office in 1963 to build a house, and in 1963 another permit for
1526 septic system, another one for an enclosed porch, another one for an open porch, another one
1527 for a detached garage. In 1980 the property was sold to Faison. In 1989 it was sold to Carter.
1528 In 1993 it was sold to Shurley.

1529

1530 Since the Shurley's bought the property, they have made two additions to the house, came to
1531 the Planning Office, filed for permits and were granted permits in 2003 to enclose a porch and
1532 build a new open porch and in 2005 they were issued a permit for a new septic system, and that
1533 was granted, and I have that with me tonight, also, if you would like to see that. Now we are
1534 here tonight the Shurleys find themselves in a bad, bad, bad situation of their life's savings
1535 sitting in that swamp down there and no redress, and all they did was buy based on what had
1536 been permitted before, a house. And I have searched titles and been in title work for almost 40
1537 years. It will be 40 years in three months, and I never, ever been asked by a title company to
1538 go search out the building permit for the house, especially when the house has been sitting there
1539 for 40 years. And that makes a great big difference, from 1963 to 2003 is 40 years, and we are
1540 now in 2005, it is 42 years that house has been sitting there. So they find themselves in a vise
1541 not of their own making. They were forced to leave their home on August 30 because of the
1542 flooding by Gaston, and have yet been unable to return to their home because the County will
1543 not issue them a building permit to build a home. It wasn't that the flood pushed the house
1544 down or anything, but rather the floodwaters rose, went into the home and so contaminated it
1545 with mold, there is no way the house can be "demolded" if you will. The only thing to do is to
1546 tear the house down and build a new house. This house represents their life savings, and so,
1547 here they are, down here at the bottom of a long list of permits issues by this County, and the
1548 irony of it is, even to the time this case started, every agency in this agency carried this property
1549 as A-1. You can go in any agency that you want to in Henrico County and it shows this as A-1
1550 property. He thought he was buying A-1 property. He had no idea he was buying C-1. Probably
1551 wouldn't have known the difference if he did. But I just wanted to point that out for you,
1552 because I think that is important to note, because it shows their innocence in the situation and
1553 somebody has got a problem. It is County's position that the property is zoned C-1 and will not
1554 permit residential construction, and yet all of these other agencies of the county say that it is A-
1555 1.

1556
1557 The Shurleys and I have exhausted all administrative alternatives to this dilemma. We have sat
1558 and talked with Ben Blankinship face to face. I have had a very long conversation with him. I
1559 have been on conference calls with Ben Blankinship and Joe Rapisarda to try to remedy this
1560 situation, and the only thing that we could come up with, this was after about three or four
1561 months, was to go ahead and file for a rezoning and see if that would work. And that was the
1562 collective wisdom of Joe Rapisarda and Ben Blankinship and myself, because we see no other
1563 alternatives at all.

1564
1565 The Shurleys have exhausted these remedies, so while the Shurleys own the 10-acre parcel,
1566 what they want to do is rezone 6 acres of it to A-1 and leave the remaining four acres as C-1.
1567 What they want to do on this six acres, not the whole six acres, but where the house foot print
1568 will sit, is build it up, exactly what they are going to do at Newstead Farms. That is exactly all
1569 we want to do is what Newstead Farm has been permitted by this County to do, they are going
1570 to do it for a whole subdivision. We only want to do it for one house. That is all. In the
1571 meantime, they have to live in an apartment while they are waiting for this. So, unfortunately,
1572 the C-1 classification was overlooked by the County for 42 years, and now the result of that
1573 oversight is to render my client's home uninhabitable. Everybody in their neighborhood is in
1574 favor of this rezoning. Everybody they have talked to. There are people here tonight that are in
1575 favor of this rezoning and have come down here and want their opportunity to say something.
1576 The Shurleys are good neighbors. See the Shurleys are caught in a vise, and it is a bad
1577 situation. A horrible situation. I know the County is concerned about precedence, but they are
1578 concerned about a place to live. Precedence is fine. Having a home to live in is fine. They don't
1579 have a home to live in, and if they can't move back in it, there goes their life's savings going
1580 down the drain. So what is the result? Either somebody has got to buy this place from them or
1581 it has got to be zoned from C-1 to A-1. That is the only two remedies there are. Preferably, this
1582 is where they chose for their home, they lived there now for 15 years. That is where the children

1583 were born and that is where they want to stay, but, unfortunately, because of these permits
1584 having been issued when they shouldn't have been issued, they find themselves in this bind.
1585 They find themselves paying rent, house expenses and everything go on. And I know you
1586 sympathize with them. I know you understand that, but we have got to have an answer. We
1587 have got to be able to do something. We can't wait any longer and run down rabbit trails
1588 endlessly. We just can't do it. So, what do I ask you to do is to vote in favor of this rezoning so
1589 that it can go to the Board of Supervisors with a recommendation for that. I mean, if for no
1590 other reason to give a recommendation, at least to show that this Commission has some regard
1591 for their property and for them as people, and that they have a right to live in that home, and if
1592 they don't live in the home, then the County ought to buy the home. But we need an answer. It
1593 is 14 months with a lady and two children living in an apartment when they've got a home sitting
1594 out there is no fun. And I know you all don't like that anymore than we do. I understand that,
1595 and I am not ragging on you guys for it. Not a bit in the world. That is the fact. That is where
1596 they find themselves.

1597

1598 I will be glad to answer any questions that you might have, as would Mr. Shurley.

1599

1600 Mr. Vanarsdall - Any questions for Mr. Deal?

1601

1602 Mr. Archer - Mr. Chairman, Mr. Deal and I had a talk about this extensively and the
1603 way you explained that tonight, but if you could get that put down in a book, I think Mr. Shurley
1604 could live anywhere he wants to live.

1605

1606 Mr. Deal - Will you be my publisher?

1607

1608 Mr. Archer - I think before we go any further, though, Mr. Tokarz is here and I think
1609 we probably need some more explanation of what the County's position is here, and then we will
1610 talk about it some more. Mr. Tokarz, are you here? Can you help us out?

1611

1612 Mr. Vanarsdall - Good evening, Tom.

1613

1614 Mr. Tokarz - Good evening, Mr. Vanarsdall, and members of the Commission. I am
1615 Tom Tokarz, County Attorney's office. I have been working with Mr. Rapisarda, Mr. Blankinship
1616 and Mr. Deal. I had not spoken to Mr. Shurley until tonight, but all of us have been looking for a
1617 way to deal with a difficult situation. We certainly understand the difficulty of the situation. Let
1618 me just tell you legally why we are in this bind.

1619

1620 We have two provisions that are running at cross purposes here. One, of course, is the zoning
1621 on the property. It was rezoned to C-1 in 1960 and it was put into C-1 to provide environmental
1622 protection, to prevent the type of damage that we had occurring in Gaston, and the Board of
1623 Supervisors has said that residential dwellings are not permitted in C-1, and that is for the basic
1624 purpose of protecting health and public safety. In addition, we have provisions that are based
1625 on State law and a long tradition in this County, which basically is found in Section 24-8 which
1626 says that when you have damage to a dwelling you may not reconstruct it unless it is
1627 reconstructed in a use that is permitted in the district, and, of course, because they are in a C-1
1628 District, they have a problem in complying with that provision. And so what we have is a non-
1629 conforming structure, non-conforming as of the change in the Ordinance in 1960. We can't tell
1630 you what happened in 1963 with the building permit, because all of the County records for
1631 building permits were lost in the flood. It was Hurricane Camille in 1969 or 1970, so we don't
1632 know and can't give you the history on that. We wish that we could tell you exactly why it was
1633 permitted at that time. We have also looked at other provisions, Section 24-95. There are two
1634 provisions in there, one which says that no new dwellings may be put in a flood plain area. That
1635 is designed to protect the people from having the type of damage we have in this situation, and

1636 we also have 24-95U(2), which says that we will allow construction or reconstruction of buildings
1637 within the flood plain, but only if the building was legally constructed prior to 1989, and given the
1638 fact that we can't establish, because there are no records that this property was legally
1639 constructed prior to 1989, a building permit has not been able to be approved. All of that is a
1640 long way of saying we have struggled just as much as Mr. Deal has with this situation. It is Mr.
1641 Kaechele, a member of the Board, a situation that is created by the way that the zoning
1642 ordinance has been constructed. We are not sure what we are going to recommend to the
1643 Board. Whatever the recommendation of the Planning Commission is, I am not here to speak
1644 either for or against the rezoning application. I was here to just try and give you the legal
1645 dilemma and to tell you that we've worked really hard with Mr. Deal to try and figure out a way
1646 to deal with this, and, ultimately, I think it is something that is going to have to be ultimately
1647 addressed at the Board of Supervisors level when it comes to them, based on your
1648 recommendation from the Planning Commission. Having said all of that, I have either totally
1649 confused you, and I'll be glad to answer any additional question.

1650
1651 Mr. Branin - Mr. Tokarz, I have one question. You said in 1980 that a precedent was
1652 set that a building could be rebuilt if it was prior to...

1653
1654 Mr. Tokarz - What I was referring to is 24-95U(2) and that is a provision that says
1655 that if a building, notwithstanding the non-conforming use language in 24-8, if there is a
1656 dwelling in a flood plain and it was legally constructed prior to January 11, 1989, then it could be
1657 reconstructed if there is more than 50% damage. The January 11, 1989 date is significant
1658 because that is when the County adopted the flood plain ordinance, which is now found in 24-
1659 1106.1.

1660
1661 Mr. Branin - And a second question, Mr. Tokarz. Is there any reason for us to
1662 assume considering a permit was issued in 1963, is there any reason for us to assume that this,
1663 this structure was built illegally?

1664
1665 Mr. Tokarz- Well, that has probably been the \$64,000 question. There are two
1666 answers to that. One is, that the permit was issued in error in 1963, and there is a doctrine of
1667 State Law first established in a case called Thiegelhoff vs. The City of Norfolk. It says that even
1668 if a building permit is issued in error, that does not give the owner the right to continue the
1669 illegal use, and the reason is because a subordinate official cannot override the ordinance then
1670 passed by the Board of Supervisors. That is basically known as the "Thiegelhoff Doctrine." So,
1671 you've got that on the one hand. Then you've got a second presumption in the law which is that
1672 there is a presumption of procedural regularity, that when officials act it is in conformance with
1673 the law. The problem is we can't resolve that either way, definitively, because we don't have the
1674 building permit files to see what the basis of the decision was to issue the permit in 1963, and I
1675 guess that leads me to the final point here.

1676
1677 There is another State Law decision of The Supreme Court of Virginia, said in a case involving
1678 the City of Front Royal, that the duty is not on the locality, but it is on the owner to prove that
1679 they have legal non-conforming status, and the owner has not been able to do that in this
1680 particular case.

1681
1682 Mr. Branin - Due to the County losing the records?

1683
1684 Mr. Tokarz - Well, the presumption is that the owners have the greater opportunity to
1685 know what the status of the property is than the County does. That question was specifically
1686 raised in the Supreme Court Decision and they said that the burden is on the homeowners rather
1687 than the locality.

1688

1689 Mr. Branin - Thank you, sir.
1690
1691 Mr. Jernigan - Mr. Tokarz, I have a question. In C-1, can you build a summer home?
1692
1693 Mr. Tokarz - I will look and tell you. I have learned over the years, don't try and do it
1694 by memory. 24-88, and I only know that number because I looked at it a few minutes ago.
1695 Summer houses are permitted as a principal use. Summer houses, cabins or camps for seasonal
1696 occupancy only.
1697
1698 Mr. Jernigan - How about a golf course?
1699
1700 Mr. Tokarz - Yes, sir. You can have private non-commercial recreational areas, such
1701 as country clubs, swimming clubs, golf courses, boat clubs, fishing clubs and riding clubs,
1702 provided they have at least 50 acres or more.
1703
1704 Mr. Silber - A golf course is permitted also by Special Exception in C-1.
1705
1706 Mr. Jernigan - Tom, we have got a situation here just like New Orleans. We have got
1707 one guy rather than 10,000.
1708
1709 Mr. Tokarz - I understand it.
1710
1711 Mr. Jernigan - Let's give FEMA a break and handle this one ourselves so they don't
1712 have to come in here and try to do anything. They are overburdened, now.
1713
1714 Mr. Tokarz - I understand it. Like I say, I am not here to argue against the
1715 application, Mr. Jernigan or members of the Commission. I am not here to argue against it. I
1716 am here just to answer questions and leave it to the policy makers to make the decision and the
1717 recommendation.
1718
1719 Mr. Silber - Mr. Tokarz, in your discussions with the County Attorney and others,
1720 what have you concluded they can do with the existing structure?
1721
1722 Mr. Tokarz - They certainly could do repairs on it. Now the problem that we
1723 understand is, and we have talked with the Building Officials out there, that when you have
1724 water damage to the extent that they have had in this property, it is really not economically
1725 feasible to do repairs, but technically the Ordinance allows you to make repairs to the facility as
1726 long as you don't reconstruct it. In this case, though, because the water damage has been so
1727 extensive, you'd really have to tear down the whole structure in order to get the mold out from
1728 the structural members. That is our understanding.
1729
1730 Mr. Branin - Now, if they left the porch and built everything else, would that count as
1731 a rebuild or...
1732
1733 Mr. Tokarz - I think the standard under the Ordinance is reconstruction of 50% or
1734 more, so that would be more, under 24-A.
1735
1736 Mr. Jernigan - I think Mr. Deal, how much do they have to put in there to come out of
1737 the flood plain?
1738
1739 Mr. Deal - Three feet. And I can prove to you that had a building permit in 1963
1740 and you've got the piece of paper in your hand. Actually, look at the tax assessment sheet, you
1741 will see in 1963 it was pro-rata.

1742
1743 Mr. Tokarz - Yes, please let me clarify that. I am not contesting and I am not saying
1744 that it wasn't a building permit issued. What I was saying is because we don't have the files, we
1745 don't know the basis on which the building permit was issued. We don't know, for example,
1746 whether there was some variance or some other special exception that was used in conjunction
1747 with the building permit. That is all I am saying. I don't doubt...
1748
1749 Mr. Vanarsdall - It was issued in error.
1750
1751 Mr. Tokarz - Pardon me.
1752
1753 Mr. Vanarsdall - This one was issued in error.
1754
1755 Mr. Tokarz - I am saying that they, based solely on the fact that the zoning of the
1756 property was C-1 at the time, based only on the information we have, it appears to have been
1757 issued in error. Maybe there was something else in the building permit file that explains what led
1758 them to issue it. I don't know what the answer is to that.
1759
1760 Mr. Silber - Mr. Tokarz, in your discussion with Mr. Deal, have they indicated to what
1761 extent they want to expand this structure? Do they want to enlarge this structure?
1762
1763 Mr. Tokarz - I don't know the answer to that.
1764
1765 Mr. Deal - Let me correct something I said a minute ago. Mr. Shurley just
1766 corrected me. The Code only requires him to raise the area under the footprint of his house one
1767 foot. And everything is cool.
1768
1769 Mr. Silber - It needs to be one foot above the flood elevation.
1770
1771 Mr. Shurley - Then it would be two. I am one foot below now.
1772
1773 Mr. Deal - So that would be two feet, and they wanted to go three, just for safety
1774 sake, is what he wanted to do. And he is not talking about raising an acre. The footprint of the
1775 house itself is all he want to do, raise it two feet. That is all that has got to happen.
1776
1777 Mr. Archer - Mr. Tokarz, did you say there was a minimum amount of acreage that
1778 had to be raised though in order to do that, or did you not?
1779
1780 Mr. Tokarz - I think that was in the staff report. The staff report mentioned that they
1781 would need a variance because...
1782
1783 Mr. Silber - I can answer that. You need to have the minimum area requirements of
1784 the zoning outside of the flood plain, so A-1 requires you to have one acre of area, one acre has
1785 to be out of the flood plain, so if you can't raise everything for one acre, then he'd need a
1786 variance on that.
1787
1788 Mr. Deal - The Code requires one acre to be raised, whatever needs to be raised.
1789
1790 Mr. Silber - The Code requires that you have the minimum area requirements
1791 outside of the flood plain. Minimum area requirements for A-1 is one acre.
1792
1793 Mr. Shurley - Or get a variance, which I have also already applied for.
1794

1795 Mr. Silber - Or get a variance.
1796
1797 Mr. Shurley - I do have the application and I have paid for that already.
1798
1799 Mr. Kaechele - Excuse me, Mr. Tokarz, I was going to ask, Mr. Silber brought up the
1800 concept of providing compensatory channels equivalent to fill in the flood plain. Is that policy
1801 still in effect?
1802
1803 Mr. Tokarz - I think what you are referring to, if there is filling in a flood plain, there
1804 has to be mitigation factors to satisfy the Corps of Engineers.
1805
1806 Mr. Kaechele - I understand. That is compensating channels.
1807
1808 Mr. Silber - This is a policy requirement of Public Works, but the way it works, Mr.
1809 Kaechele, is, if you are going in to a flood plain and filling a flood plain, then you have to take
1810 area outside the flood plain and be able to cut enough area to compensate for that amount of
1811 area that would have been flooded. In this case he doesn't have anything that is outside of the
1812 floodplain, so he can't provide any compensating areas. The entire property, the entire six acres,
1813 is in the flood plain.
1814
1815 Mr. Kaechele - So that wouldn't apply here then.
1816
1817 Mr. Shurley - Again, it is on the inside of the perimeter of my house. I am not really
1818 affecting the flood plain any, because the house was already there, so what I raise on the
1819 interior of the house has no bearing whatsoever on the flood plain.
1820
1821 Mr. Silber - That is what I was asking Mr. Deal. I don't know to what extent you are
1822 expanding or not expanding the structure.
1823
1824 Mr. Deal - They are not expanding the structure. They are going to build on the
1825 same footprint they've got now. Is that right?
1826
1827 Mr. Shurley - Well, originally, before all of this came up and the plan probably does
1828 show we were having a small addition to the house. Of course, we assumed we were A-1 and
1829 we didn't have any of this problem. If it means I can rezone, I will take the addition off and just
1830 use the existing footprint. I certainly don't have a problem with that, but I believe the plan does
1831 show. I think you all have it over here where it actually shows the small addition on there.
1832
1833 Mr. Deal - You never introduced yourself.
1834
1835 Mr. Shurley - I am John Shurley. You can see that little dotted area where I was
1836 going to add on to the front. And I can't see the dimensions there. I believe it is 8 foot out near
1837 the middle and I think 20 feet across, and then it would match back in 16 feet, I believe, on the
1838 other side. I believe the way it works is it is going to be 8 this way and I think about 20 that
1839 way, and then it would be 16 that way. I think.
1840
1841 Mr. Deal - This is something that Mr. Shurley and I talked about and Mr. Jernigan
1842 and I have talked about, build a Nags Head kind of house. Leave the same foot print there and
1843 raise it up just like at Nags Head. You have got your telephone poles the house is built on, and
1844 then you, what Mr. Kaechele was talking about, it is a compensated area. There would be none.
1845 The only thing that would get hurt then in a flood is his car, and he could raise it up. He could
1846 even park his car under the house like they do at Nags Head, and so earth hasn't been disturbed.
1847 Yes, ma'am. Oh, I'm sorry. I thought you were saying something. Excuse me.

1848
1849 Mrs. Jones - I am trying to think of an answer and...
1850
1851 Mr. Deal - Think. Think.
1852
1853 Mrs. Jones - Well, I will tell you my concern. You could probably read it in my face. I
1854 have all the empathy in the world for this situation. I can't even imagine how disruptive your
1855 lives must be with this, and Gaston doesn't happen every year, and that is a good thing.
1856 However, I am looking a little beyond this, making sure that whatever decision we make has to
1857 be defensible, and we have to be very, very sure that we are not setting a precedent that lines
1858 folks up on the door to take a designation like this, C-1, and try to change it. I am very
1859 concerned that whatever we do, we have to be able to have a strong legal basis, and I am just
1860 not hearing that.
1861
1862 Mr. Tokarz - Mrs. Jones , I think that is one of the concerns that we've had, too. We
1863 have been concerned about the prospect of spot zoning. We have been concerned about the
1864 issue of the domino effect up and down that area and also in any other C-1, but we have also
1865 recognized the individual hardship that this particular situation has on this property, so that is
1866 what the struggle has been for us in trying to resolve this.
1867
1868 Mr. Deal - Can I address your point, one second?
1869
1870 Mrs. Jones - Please.
1871
1872 Mr. Deal - This gentleman and his wife are here before you folks because they lost
1873 their home. How many people in Henrico County are going to be in this kind of a situation that
1874 they could lose their home? And the way a Board votes, at Board level, or you folks recommend
1875 at this level is the great part based upon the factual situation. The factual situation is there have
1876 been five separate permits issued on this property. The factual situation is they have lost their
1877 home. Period. The factual situation is not their fault. And the factual situation is there was a
1878 building permit, because the taxes were prorated in 1963, and you just don't prorate taxes in the
1879 middle of the year unless you've got some improvements to prorate it for. Now, for somebody to
1880 come before this Commission with that factual basis is going to be very, very tough. And I know
1881 you are concerned that a developer will come in here that owns 500 acres of swamp land and
1882 say, hey, I want to build 500 Nags Head houses on this place because you'll gave Shurley a
1883 break. Well, did he lose his home? Were there 500 permits issued on his home before you folks
1884 made the decision you made and the Board may their decision? Certainly not. And so I don't
1885 see, and I know there is precedent, but precedent is based in great part on fact, and we have an
1886 entirely separate factual situation here, that what anybody else in this County I believe could
1887 bring there.
1888
1889 Mr. Archer - Mrs. Jones , I guess I need to say something. The reason I was not
1890 talking too much is because Mr. Deal, Mr. Shurley and I have probably been talking about this for
1891 the last year or so. The first thing I said to myself was, "Why me?" Having said all of that, I
1892 don't think there is anybody in here, I've come to know Mr. Shurley and he is a very nice man. I
1893 don't think there is anybody in here who doesn't sympathize and empathize with the position that
1894 he is in. If you are not, then you must be descendants of the Tin Man. But, the problem that I
1895 have with the case is that we can't find that provision that would allow us as a Commission to
1896 make a recommendation. And I know that ultimately somewhere along the line the Board is
1897 going to have to dispose of this one way or the other, and as Mr. Deal and I discussed the other
1898 day, there is no point to keep deferring this, because I don't think there is anything else we can
1899 find out about it that we don't already know, and the quicker we can move it to the Board, then
1900 we can get away from them having to live in an apartment or at least have a decision that they

1901 will know exactly what to do. And I am not talking specifically to you, I am just looking down
1902 there. But this is the hard thing that we have to come up with tonight, and I don't think, based
1903 on what I have heard here tonight, that staff is yet in a position to make a recommendation for
1904 approval. But I do want to move this, and Mr. Deal and I have discussed what all of the options
1905 are for moving this to the Board, because I mean, let's face it, at some point in time the Board in
1906 its wisdom is going to have to make a decision as to what to do, and I don't think at this point,
1907 at this level, we have the authority to change any provisions of the Ordinance. There is law and
1908 there is tradition. Tradition we can probably mess with a little bit, but law we can't, and Mr.
1909 Deal, that is where we are.

1910

1911 Mr. Jernigan - Can I ask you something, Mr. Archer?

1912

1913 Mr. Archer - You can ask me anything.

1914

1915 Mr. Jernigan - Can we send it to the Board with no decision?

1916

1917 Mr. Deal - I'd rather you do that.

1918

1919 Mr. Jernigan - I mean, rather than deny it. Can we send it to the Board with no
1920 decision?

1921

1922 Mr. Archer - Mr. Secretary?

1923

1924 Mr. Silber - I don't think that would be the wise thing to do.

1925

1926 Mr. Vanarsdall - I don't think that would be a good idea. We are not here to send
1927 anything without a decision.

1928

1929 Mr. Archer - Ray, the problem with that is, at least from my point of view, the Board
1930 can do anything that it wants to do, regardless of what recommendation we make. I don't want
1931 to set the precedent of making a recommendation based on an Ordinance that we can't back up.
1932 That is what Mrs. Jones was saying. Once it gets to their level, they can massage it and work
1933 with it and they will have to make a decision one way or the other.

1934

1935 Mr. Vanarsdall - Mr. Archer, I think this is one of those cases the needs to go to the
1936 Board and be moved out of here.

1937

1938 Mr. Archer - It does.

1939

1940 Mr. Vanarsdall - And let them take care of it.

1941

1942 Mr. Archer - Well, that is what Mr. Deal and I were discussing. There is no need to
1943 keep deferring this and keep paying more rent to stay in an apartment when we need to get it to
1944 a level where somebody can make a decision that will have some effect. And the decision that
1945 we make tonight doesn't really have much of an effect. If we were to make a recommendation
1946 of approval, which is based on nothing, the Board could still deny it if they wanted to.

1947

1948 Mr. Vanarsdall - And they don't have to deny it because we do.

1949

1950 Mr. Deal - Well, let me ask you this, sir.

1951

1952 Mr. Archer - You and I have been talking about it for two years.

1953

1954 Mr. Deal - I would like to move this thing along, because these people have got to
1955 have permanence in their life. Rather than a flat out up and down denial, that you don't want to
1956 decide it this way. Let the record show you don't want to decide it this case this way, but you
1957 don't see any other way under the law that you can do it, that you can pass it.
1958

1959 Mr. Archer - I think by virtue of our discussion here tonight, what we are entering
1960 into the record and just in the spoken word indicates that I don't think there is anybody here that
1961 does not approve of the situation that they are in, when I say not approve of, is happy of the
1962 fact that they are sitting there with a house that they can't use and can't do anything with. So I
1963 think the record speaks for itself in that regard, but I don't know anyway to craft the motion that
1964 says either yea or nay.
1965

1966 Mr. Deal - You know what really concerns me about this is that they didn't make
1967 the mistake. The County made it.
1968

1969 Mr. Archer - I know that.
1970

1971 Mr. Deal - They've got to pay the price. And there is something wrong in that.
1972 There is just something basically wrong there. Now whether you guys can fix it or not I don't
1973 know, but it is dead wrong.
1974

1975 Mr. Vanarsdall - We understand that and we sympathize with you and him, very much,
1976 but we didn't make it either, and this Commission did not make any of this and didn't cause any
1977 of this, and if you want it to move on to the Board, well you stand a better chance...
1978

1979 Mr. Deal - I think that would be the best thing to do.
1980

1981 Mr. Vanarsdall - ...that he should recommend whatever he wants to and if it goes with a
1982 denial from us doesn't mean the Board has to follow through with a denial. And he can talk to
1983 his Board member and tell him what happened, and we have got the backup records, all of the
1984 minutes will be out next week and it will all be very much understood.
1985

1986 Mr. Deal - I understand. You and I have known each other too long to know
1987 otherwise.
1988

1989 Mr. Jernigan - Mr. Chairman. Can I say something? Mr. Chairman, it seems to me, and
1990 Randy, somewhere along the line I heard of a case going to the Board with no decision from the
1991 Planning Commission. That happens.
1992

1993 Mr. Silber - I may have to ask Mr. Tokarz. I think the only time I remember that
1994 happening, Mr. Jernigan, was when there was a split vote and they could not make a decision,
1995 not a decision rendered. I don't remember a decision ever going from the Planning
1996 Commission...
1997

1998 Mr. Vanarsdall - That is not a good practice.
1999

2000 Mr. Jernigan - Look, it is not a good practice, Ernie, but this is a situation that I hate to
2001 send it to the Board with a denial, because it doesn't sound good when staff comes up and says
2002 "This was denied by the Planning Commission." Because that puts a little seed in everybody's
2003 head that is sitting in the audience right then. I would rather send it up with no decision
2004 because of legal ramifications than just do a denial.
2005

2006 Mr. Vanarsdall - Well, you don't have to vote on it.

2007
2008 Mrs. Jones - May I ask a question of Mr. Tokarz? Is there any basis whatsoever for
2009 that magic language called special exception for us to base an approval with some kind of a
2010 special situation? Is there anything that you have found that we could do, as a Planning
2011 Commission, to recommend to the Board?
2012
2013 Mr. Tokarz - I was sitting here trying to think of an alternative and I suppose the best
2014 alternative that I am thinking about, I mean I think under State law you are required to make a
2015 recommendation to the Board of Supervisors. One alternative, and I am just thinking for your
2016 consideration, would be to recommend either approval or denial. If you recommend the denial,
2017 you would say the Planning Commission recommends denial with the request that the Board of
2018 Supervisors explore an alternative that would allow relief to be granted to the applicant, or
2019 something to that effect. That would be the recommendation but which has language, which
2020 would not be binding on the Board, but would, at least, express the sentiment of the Planning
2021 Commission. That is the best I can come up with, standing here on short notice.
2022
2023 Mr. Vanarsdall - If Mr. Archer wants to do that, it is his case and his district, and that
2024 sounds good to me. Well, it certainly gives us an opportunity to express our sympathy toward
2025 Mr. Shurley.
2026
2027 Mr. Kaechele - Mr. Tokarz, what is the provision for a tie vote? Does it come up based
2028 on the motion for approval and it is a tie vote, then it goes forward as an approval, or vice versa?
2029
2030 Mr. Tokarz - I think it goes forward as a denial if it is a tie vote. I don't think it is
2031 approved at that point.
2032
2033 Mr. Vanarsdall - That is right. We have been through that, too.
2034
2035 Mr. Tokarz - It is not approved. If you do not have a majority, it would not be
2036 approved.
2037
2038 Mr. Kaechele - Well, it is not denied.
2039
2040 Mr. Branin - Because you don't have a majority vote for denial.
2041
2042 Mr. Tokarz - The motion has to pass in order to be approved.
2043
2044 Mr. Kaechele - Well, same way with a denial. It hasn't been denied. It hasn't been
2045 approved but it hasn't been denied.
2046
2047 Mr. Vanarsdall - We need to do what we do with every other case. We either
2048 recommend denial or we recommend approval, or we defer it. That is three options. He has
2049 already said he doesn't want to defer it. We can't - from what you tell us, we can't recommend
2050 it, so we send it to the Board with denial and with what you said at the end of it, and let them
2051 take it.
2052
2053 Mr. Tokarz - Well I haven't said you couldn't recommend it. I think that is what Mr.
2054 Archer has said he feels like his feeling is. I haven't said one way or the other what you can do
2055 or not do. I think it is a matter within the policy choices for this Commission as to what it
2056 recommends.
2057
2058 Mr. Vanarsdall - Well, let's do something. We have got other cases.
2059

2060 Mr. Deal - Let me ask you this. What if there was a proffer in this case...
2061
2062 Mr. Vanarsdall - Chris, you need to listen to this.
2063
2064 Mr. Deal - What if there was a proffer in this case that all of the rezoning was for
2065 was to replace a house on the existing footing? Then for somebody else to come along and say,
2066 well you did it for them, you've got to do it for me. Then we've got a proffer. We simply want to
2067 replace the house on the existing footing.
2068
2069 Mr. Vanarsdall - There is the man right there on your left that can tell you that, John.
2070
2071 Mr. Tokarz - Well, the answer is, if you want a decision tonight, you can't make a
2072 proffer now that the hearing has started.
2073
2074 Mr. Silber - You can at the Planning Commission level. You can't at the Board. This
2075 is not a conditional rezoning request. It is a regular rezoning. It has not been offered as a
2076 proffered case.
2077
2078 Mr. Vanarsdall - Let's do something and go on to the next case.
2079
2080 Mr. Jernigan - I mean, he can't put in a proffer even though it is not a conditional case.
2081 It has not been advertised as a conditional case. Mr. Tokarz, I suppose we could go forward
2082 tonight with some recommendation. They could make it a conditional case at the Board level
2083 and add one condition and we advertise it...
2084
2085 Mr. Deal - Do we have the authority to do that?
2086
2087 Mr. Silber - I don't think it would be significant enough to remand it back to the
2088 Planning Commission for one proffered condition.
2089
2090 Mr. Tokarz - Oh yes, they wouldn't send it back for that.
2091
2092 Mr. Deal - So that could be done between now and the Board meeting?
2093
2094 Mr. Silber - That is correct. You'd have to do it in time for us to advertise it as a
2095 conditional case. We will need to check the calendar, because we probably just have a day or
2096 two to do that. We can work with you.
2097
2098 Mr. Deal - Any new fees or anything?
2099
2100 Mr. Silber - Yes, sir. There are fees to make it a conditional case.
2101
2102 Mr. Deal - And start all over again fees or...
2103
2104 Mr. Silber - No, just add on fees, additional fees to make it a conditional case would
2105 be imposed.
2106
2107 Mr. Tokarz - Let me make this suggestion. Given the fact that it is now a regular
2108 case, any motion that you make can't be premised on the fact that he wants to make a proffer in
2109 the future. So, I think you have to make your recommendation based on the case before you,
2110 which is a regular zoning case.
2111
2112 Mr. Silber - That is correct.

2113
2114 Mr. Tokarz - Anything that he does after this meeting will be something to be
2115 considered by the Board of Supervisors, but all that is before you tonight is a regular zoning
2116 case.
2117
2118 Mr. Deal - But they can put in prejudicial language in their decision to give it to the
2119 Board?
2120
2121 Mr. Tokarz - Yes. There is nothing to prevent the Planning Commission from putting
2122 any prejudicial language they want to in it, as long as they make a recommendation of either
2123 approval or denial.
2124
2125 Mr. Vanarsdall - The Board will have those minutes right here before this is ever decided.
2126
2127 Mr. Deal - I am sorry. I didn't hear that.
2128
2129 Mr. Vanarsdall - The Board will have the minutes of this meeting which we just discussed
2130 in the last hour before they ever make a decision, 30 days from now, and we are not doing him
2131 an injustice at all. Getting rid of it is going to be a help to him.
2132
2133 Mr. Archer - Mr. Chairman, I know we need to move on this, so based on what we
2134 have been able to discuss here tonight, I think Mr. Deal and Mr. Shurley, I think there have been
2135 enough suggestions coming out of our conversation here tonight that you will have something to
2136 go forward to the Board with. I don't think that ultimately the decision that the Board makes is
2137 going to be based too much on what is in the staff report or what we say here tonight. Based on
2138 what Mr. Tokarz was saying, this is a very rare case that we don't have any precedence for nor
2139 do we want to set one, but I don't want to defer it again, and I do want you to be able to handle
2140 this as expeditiously as you can. And the best way to do that is to move it. I don't have any
2141 basis in law that I can move it on with a recommendation for approval, but I do want to move it,
2142 and we do sympathize with you, and just so it will be on the record, we do hope that the Board
2143 will explore some alternative method to come up with a solution for your problem and I have to
2144 believe they will, hope they will, anyway. But with that, my recommendation is to...
2145
2146 Mr. Jernigan - Can I ask you something? I am sorry. You say that you can't ask for
2147 approval. Why?
2148
2149 Mr. Archer - It has to be based on law that we can stand behind, and we don't have
2150 any law that we can stand on.
2151
2152 Mr. Jernigan - So, if we haven't had a case like this, how can we deny it?
2153
2154 Mr. Archer - We can deny it based on the fact, and again, understand we are not
2155 denying, we are recommending denial based on the fact that there is no basis and law to
2156 approve it. We almost have to deny it. If it didn't, I would approve it or recommend approval, I
2157 should say.
2158
2159 Mr. Vanarsdall - Go ahead, Chris.
2160
2161 Mr. Archer - Did I start my motion? I forget. I move that we send this along to the
2162 Board with the understanding and hope that they will explore some alternative methods to
2163 solving this, but my recommendation would have to be for denial.
2164
2165 Mr. Vanarsdall - I second it.

2166
2167 Mr. Jernigan - Let's have a show of hands rather than a verbal.
2168
2169 Mr. Vanarsdall - A motion has been made and seconded. All in favor say aye. All
2170 opposed.
2171
2172 Mr. Silber - I need to see the ayes again. In favor of the vote for denial, Mr.
2173 Vanarsdall, Mr. Archer and Mrs. Jones Mr. Kaechele is abstaining?
2174
2175 Mr. Kaechele - I vote to break the tie, but there isn't a tie.
2176
2177 Mr. Silber - Well, I have three affirmative votes for the motion to deny. How many
2178 votes do I have contrary to that? Two?
2179
2180 Mr. Kaechele - I normally don't vote. If I voted it would create a tie.
2181
2182 Mr. Silber - Yes, sir.
2183
2184 Mr. Kaechele - I vote no.
2185
2186 Mr. Silber - That is a three-three tie. Is there a motion to approve?
2187
2188 Mr. Branin - Do we have to make a motion for a vote?
2189
2190 Mr. Silber - Yes, sir, or defer.
2191
2192 Mr. Branin - OK. I would like to make a motion that case C-52-05 go to the Board
2193 with a recommendation for approval.
2194
2195 Mr. Jernigan - Second.
2196
2197 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor
2198 say aye. All opposed say no.
2199
2200 Mr. Silber - So we have a three-three tie. So, Mr. Tokarz, does this go forward as
2201 denial because of the tie or does it go forward as a no recommendation?
2202
2203 Mr. Tokarz - That is no recommendation.
2204
2205 Mr. Kaechele - No decision.
2206
2207 Mr. Tokarz - You have reached my quota of answers for the night. I honestly don't
2208 know.
2209
2210 Mr. Branin - But it will proceed to the Board?
2211
2212 Mr. Tokarz - I am not sure that it does. We haven't got a recommendation coming
2213 out of the Planning Commission which I think is what you are charged by law to do.
2214
2215 Mr. Jernigan - I thought you said a minute ago that if it was a tie vote, that it would go
2216 to the Board with a denial.
2217

2218 Mr. Tokarz - I thought what I said was or what I meant to say was that a tie vote on
2219 a motion would amount to a denial of that motion. You now have two tie votes on two contrary
2220 motions. But no action has been taken. You've got both a voting down of an approval and
2221 voting down of a denial. I honestly don't know what the answer is at this point, except that I
2222 would hope that somebody would change their vote so that the thing could forward, which I
2223 think is what the applicant wants. I think, ultimately, all of us recognize this is going to have to
2224 be resolved at the Board level. I just talked to Mr. Deal. I've got an idea of how to resolve that
2225 at the Board level. I would hope that the Commission would take some action to send it forward
2226 to the Board and we will try and work it out before we get there.
2227

2228 Mr. Archer - Well, that was my hope, Mr. Tokarz, that we didn't hold it up any longer.
2229

2230 Mr. Deal - You know I saw a war movie one time with Tony Curtis in it and he said
2231 a line I will never forget. He said there is profit in confusion.
2232

2233 Mr. Silber - According to our legal assistance here, it sounds like we don't have
2234 anything going forward. We need another motion to send something forward to the Board of
2235 Supervisors. We will need another motion.
2236

2237 Mr. Archer - Mr. Secretary, I move that we send the case along with a vote for
2238 denial.
2239

2240 Mr. Vanarsdall - I second that.
2241

2242 Mr. Silber - This is a motion to deny. It was moved by Archer and seconded by
2243 Vanarsdall.
2244

2245 Mr. Vanarsdall - All in favor say aye. All opposed say no.
2246

2247 Mr. Silber - Mr. Kaechele is abstaining.
2248

2249 Mr. Branin - He is abstaining.
2250

2251 Mr. Silber - This goes forward to the Board of Supervisors with a recommendation to
2252 deny with the provision that the Planning Commission has asked that the Board look at options
2253 for considering a remedy to this situation.
2254

2255 REASON: The Planning Commission voted to recommend the Board of Supervisors
2256 **deny** the request because the proposed use does not conform to the Land Use Plan's
2257 recommendation for Environmental Protection Area, the C-1, Conservation District zoning
2258 governing the site, and surrounding properties. Approval of the request may set an adverse
2259 zoning and land use precedent for the area.
2260

2261 Mr. Archer - Mr. Deal, good luck to you all in working this out, Mr. Shurley and Mrs.
2262 Shurley. I will be sure to talk to my supervisor so he will know where we sort of stand on this.
2263

2264 Mr. Vanarsdall - Thank you, John
2265

2266 **C-65C-05 Maggie Buchanan:** Request to conditionally rezone from A-1 Agricultural
2267 District to R-3C One Family Residence District (Conditional), Parcel 809-733-6061, containing 1.0
2268 acre, located on the north line of Meadowview Lane approximately 10 feet east of Harvie Road.
2269 The applicant proposes to construct an additional single-family residence. The R-3 District allows
2270 a minimum lot size of 11,000 square feet with a maximum gross density of 3.96 units per acre.

2271 The use will be controlled by zoning ordinance regulations and proffered conditions. The Land
2272 Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre. The site is in
2273 the Airport Safety Overlay District.
2274
2275

2276 Mr. Vanarsdall - Is anyone in the audience in opposition to Maggie Buchanan, Case C-
2277 65C-05? Good evening, Ms. Neaves.
2278

2279 Ms. Neaves - Good evening, Mr. Chairman. Thank you. Members of the Commission,
2280 Mr. Kaechele, Mr. Secretary. The applicant is requesting a rezoning to permit the construction of
2281 an additional single-family dwelling. The parcel contains one acre and is located on the north
2282 line of Meadowview Lane at Harvie Road.
2283

2284 The subject property is the site of a one-story frame dwelling that was constructed in 1966 and
2285 contains 1,050 square feet of finished floor area. A carport and a small accessory building are
2286 also present on the site. Under the applicant's proposal the property would be subdivided to
2287 permit the construction of an additional single-family dwelling fronting on Meadowview Lane.
2288 The subject property is bounded by Clarendon Woods single-family subdivision to the north and
2289 east and single-family dwellings to the south and west. The 2010 Land Use Plan designates the
2290 site Suburban Residential 2 with a recommended density range of 2.4 to 3.4 units per acre. The
2291 density of the proposed development is 2 units per acre. Although staff recognizes this relatively
2292 small development would be piecemeal and would leave a remnant A-1 zoned lot to the west,
2293 the size of the existing parcel and the lot pattern of the adjacent properties leaves really no other
2294 viable alternative in developing the property as envisioned by the Land Use Plan.
2295

2296 The applicant has submitted revised proffers dated November 4, 2005 which relate to brick or
2297 stone foundations, chimney and fireplace construction, exterior materials of brick, stone,
2298 Hardiplank or vinyl siding, driveways finished with asphalt, concrete or exposed aggregate, a
2299 minimum front yard setback and a minimum floor area of 1,900 square feet for any new
2300 dwelling.
2301

2302 It should also be note the applicant has provided staff with a survey plat indicating the location
2303 of the existing dwelling's drainfield as being directly behind the structure. This request is
2304 consistent with the 2010 Land Use Plan and is an appropriate use of the site. Furthermore, the
2305 proffers would insure quality development consistent with that of the adjacent neighborhood.
2306 For these reasons, staff supports this request and recommends that it be forwarded to the Board
2307 of Supervisors with a recommendation for approval. This concludes my presentation and I
2308 would be happy to try to answer any questions. The applicant is also here.
2309

2310 Mr. Vanarsdall - Any questions for Nathalie Neaves?
2311

2312 Mr. Archer - Ms. Neaves, these proffers are on time, are they not?
2313

2314 Ms. Neaves - They are on time. The time limits do not need to be waived.
2315

2316 Mr. Archer - I don't have any questions unless someone else does.
2317

2318 Mr. Vanarsdall - Do you want to hear from the applicant?
2319

2320 Mr. Archer - I don't think we need to, Mr. Vanarsdall. I have spoken with Ms.
2321 Buchanan and she is a very nice lady. If nobody else has any questions, I am ready for a
2322 motion.
2323

2324 Mr. Chairman, I move that Case C-65C-05, Maggie Buchanan, be referred to the Board with a
2325 recommendation for approval.

2326
2327 Mr. Branin - Second.

2328
2329 Mr. Vanarsdall - Motion made by Mr. Archer and seconded by Mr. Branin. All in favor say
2330 aye. All opposed say no. The ayes have it. The motion passes.

2331
2332 REASON: The Planning Commission voted to recommend the Board of Supervisors
2333 **grant** the request because the use and density are consistent with the Land Use Plan and the
2334 addition of one single-family dwelling represents a logical continuation of one-family residential
2335 development which exists in the area.

2336
2337 **C-71C-05 Ridge Construction, LLC:** Request to conditionally rezone from O-2C Office
2338 District (Conditional) to R-5AC General Residence District (Conditional), part of Parcel 807-733-
2339 6105, containing 18.563 acres, located at the southeast intersection of N. Laburnum Avenue and
2340 Harvie Road. The applicant proposes a single-family residential subdivision. The R-5A District
2341 allows a minimum lot size of 5,625 square feet and a maximum gross density of six (6) units per
2342 acre. The use will be controlled by zoning ordinance regulations and proffered conditions. The
2343 Land Use Plan recommends Office. The site is in the Airport Safety Overlay District.

2344
2345 Mr. Vanarsdall - Is there any opposition to Case C-71C-05, Ridge Construction, LLC? No
2346 opposition. All right. Good evening, Rosemary.

2347
2348 Ms. Deemer - Good evening, Mr. Chairman. Good evening members of the
2349 Commission. The applicant proposes to develop no more than 78 single-family zero lot line
2350 homes on the east side of Laburnum Avenue at the intersection of Harvie Road.

2351
2352 This site is part of a larger parcel, which extends to the southwest across Laburnum Avenue.
2353 The overall parcel is designated for Office in the Land Use Plan. As you may recall, a residential
2354 townhouse development was proposed on the subject property, including the portion to the
2355 south last year via C-21C-04 and C-20C-04. Due to the County's concerns regarding the increase
2356 of residential development within the surrounding area and the reduction of land designated for
2357 Office and prime economic development sites, the applicant amended their requests and a
2358 rezoning was approved for an O-2C District on the subject property before you tonight. The
2359 request for office development on the residual parcel, across Laburnum Avenue, was withdrawn.
2360 Recently, that portion of the parcel was purchased by the County as a potential site for an East
2361 End recreational facility. Due to the change in designated use for the overall property, a
2362 residential use may be acceptable for the subject site.

2363
2364 The applicant has submitted revised proffers, dated November 7, 2005, which you have just
2365 received. Major aspects of the proffers include a conceptual plan, 15-foot and 10-foot wide
2366 planting strip easements along Laburnum Avenue and Harvie Road, respectively, sidewalks
2367 installed adjacent to interior roadways and Laburnum Avenue, building design similar to the
2368 proffered elevations, front elevations of all homes in the aggregate will be comprised of 50%
2369 brick and minimum finished floor area of homes will be 1,500 square feet.

2370
2371 As stated in the staff report, there are unresolved issues with this request, which pertain to
2372 overall quality, and cumulative impacts on schools. The land may also still have viable use as a
2373 prime economic development site. If this request is deemed appropriate, staff recommends the
2374 applicant address the following: In keeping with recent residential development in the County,
2375 the quality of the project would be improved by providing foundation plantings, sod and irrigated
2376 side and rear yards, and specifying all materials to be used on the proposed homes. The

2377 applicant has recently removed language, which would have provided for consistent material to
2378 be used on the garages, and staff believes this information should be maintained. The site design
2379 could be improved by providing a wider setback along Laburnum Road, especially against the cul-
2380 de-sac proposed in close proximity to Laburnum Avenue. In addition, staff encourages the
2381 applicant to incorporate the property to the north within the design or application to provide a
2382 more cohesive development.

2383
2384 It should be noted Schools Administration states while the local schools could accommodate the
2385 additional students created by this project, with recent approved rezonings and new
2386 development in the area and larger cohorts of students, membership at each school will exceed
2387 functional capacity and new schools will be needed at all three levels for this area. Since late
2388 2002, up until this Tuesday evening, there have been at least 336 single-family units and 295
2389 multi-family units approved within the school boundaries of this site.

2390
2391 If the applicant could address these issues, staff could be more supportive of this request. This
2392 concludes my presentation, I would be happy to try to answer any questions you may have.

2393
2394 Mr. Vanarsdall - Any questions for Ms. Deemer by Commission members? No questions,
2395 Ms. Deemer. Thank you.

2396
2397 Mr. Archer - We need to hear from the applicant then.

2398
2399 Mr. Vanarsdall - All right. Will the applicant come forward? Good evening, again, Mr.
2400 Theobald.

2401
2402 Mr. Theobald - Mr. Chairman, ladies and gentlemen. My name is Jim Theobald and I
2403 am here this evening on behalf of Ridge Construction. Mr. Atack and Mr. Walker are here with
2404 me this evening. This is a request to rezone property from an O-2 classification to an R-5A
2405 single-family detached residential classification. Last year we rezoned this property to an O-2
2406 classification, but we think that there are some reasons why you should consider changing this
2407 designation to a residential category. First and foremost, there is little or no demand for office
2408 zoning in this area of Laburnum Avenue. I believe that to hold out for that is just that, a holding
2409 pattern, and not likely to occur. Secondly, there have been a number of rezonings along
2410 Laburnum Avenue all the way down to Creighton Road that have approved multi-family
2411 development, commercial development and additional residential development. You have heard
2412 and perhaps saw in the staff report that the companion parcel to this across Laburnum Avenue
2413 was last month approved by the Board of Supervisors to be purchased for a recreational facility
2414 in the east end. This just serves to take an additional 18 acres out of proposed office use along
2415 Laburnum Avenue. I hope you will agree that the rendered concept plan, along with the
2416 elevations, represent a very high quality of residential development designed to encourage
2417 single-family home ownership. We have proffered the conceptual plan. We have proffered
2418 landscape strips along both Harvie Road and Laburnum Avenue. We have included an obligation
2419 to plant street trees. We have made our elevations a part of the case and they are specifically
2420 designed for this site and are very nice, and I think a very nice addition to any part of Henrico
2421 County. This is the entrance exhibit (referring to rendering).

2422
2423 We have offered to do in the aggregate front elevations of all homes being comprised of 50%
2424 brick. We have proffered the entrance feature, minimum house size, no more than 78 homes to
2425 be developed on the property, all homes having a two-car garage, all foundations brick, sidewalk
2426 adjacent to both sides of interior roadways and also a sidewalk along Laburnum Avenue. We
2427 have provided the front yards would be sodded and irrigated, driveways hard surfaced. We have
2428 set forth mail box and lamp post standards, curb and gutter and brick or stone steps on the
2429 homes. These must be single-family detached structures and be marketed as for sale units by

2430 the developer and in total a quality development, not just for Laburnum and Harvie Road, but for
2431 any place in Henrico County. We think this is an appropriate use. We think there is a demand
2432 for this type of housing in this area. There is no opposition to this request. We believe we have
2433 addressed all of the staff's comments, but for those things that are typically addressed at the
2434 time of POD. Foundation plantings and things of that sort are just not typically addressed at the
2435 time of rezoning and, you know, schools said they could accommodate this request. It has now
2436 become a stock phrase "if additional development occurs in this area." They could suffer
2437 overcrowding in every single staff report that you have before you this evening. So, I don't even
2438 know what that means anymore, but the first part of the phrase says schools can accommodate
2439 this request, so I hope you will recognize the attention to planning and detail that has been
2440 brought to this case, and with that I would be happy to answer any questions that you might
2441 have. I think you do have the legal basis to approve this case.
2442

2443 Mr. Archer - Mr. Theobald, in view of the fact that we denied this similar request
2444 twice in 2004 and eventually did approve it as O-2C, what is the rationale for the change at this
2445 point in time?
2446

2447 Mr. Theobald - The rationale at the time was we were representing an estate who
2448 wanted to have some zoning on the property. We did not agree with having to switch from
2449 residential to office. The estate wanted to come out of the process with some zoning, so we
2450 zoned it office. We never really thought that was, perhaps, the best use for the property given
2451 development in the area, no secret there, and then when we take another 18 acres out of the
2452 mix across the street, there is even less justification for forcing office along Laburnum Avenue
2453 where offices are just not going to go.
2454

2455 Mr. Archer - Well, I don't know that we can say that office will never go. I guess you
2456 could probably at some point in time say that about any particular location. You and I talked
2457 about this, so we are not strangers to this conversation, but my colleagues up here might be.
2458 My position on this is that for the same reasons that we were opposed to residential
2459 development in this area twice in 2004 and actually three times, I have the same opposition.
2460 This area is included in the 2010 Land Use Plan as a prime economic development site, and we
2461 have so much residential construction in that particular corridor now that even though schools
2462 say they can support the number of students that might be there now, we have currently
2463 proposed 631 additional residences that would be effected in that same school district. One of
2464 our goals is to develop in a balanced manner, and I think additional residential in that corridor,
2465 which is full of residential right now, we are out of balance now and I think that would take us
2466 even further out of balance.
2467

2468 Mr. Theobald - Would you support zoning it commercial for retail uses?
2469

2470 Mr. Archer - No.
2471

2472 Mr. Theobald - But you said you wanted to increase the tax base, so wouldn't that be
2473 the logical...
2474

2475 Mr. Archer - Well, office is in essence commercial.
2476

2477 Mr. Theobald - No, office is just used as a holding pattern.
2478

2479 Mr. Archer - Well, perhaps so, but I think in terms of the Land Use Plan and that is
2480 what is designated for that area for the Land Use Plan, I think the office would hold in that area,
2481 much better than residential. I just don't see the need to have that much more residential in
2482 that area, and it has to create impact to do that, and the school would be impacted. I have been

2483 in two or three meetings of Mr. Thornton's in the last month or so and the one thing that the
2484 citizens, and they all live in this same area, they all cry about the fact that the schools are
2485 overcrowded. I've got people complaining that their kids that go to Highland Springs don't even
2486 have time to eat lunch. They just don't have enough allocated time. There are some classrooms
2487 that kids are sitting in folding chairs, and I know it is not your fault, but it has reached the point
2488 where we really do have to stop and think about it. One of the gentlemen that spoke to one of
2489 the earlier cases tonight, that was one of the first things that he spoke about was the fact that
2490 the schools are overcrowded. I really think we need to pay attention to it, and it is my belief that
2491 it would be better suited, particularly in this prime economic development site, to leave it as
2492 office. Does anybody else have any comments? And there have been some people who have
2493 called in, in opposition. They are not here tonight, but they have called staff saying they
2494 opposed it, and I have not spoken with them either, to be honest with you.

2495
2496 Mr. Vanarsdall - Are there any questions of Mr. Theobald?

2497
2498 Mr. Archer - Anybody else? There is no opposition.

2499
2500 Mr. Vanarsdall - No opposition.

2501
2502 Mr. Archer - OK. Mr. Chairman, based on the things that I just spoke about and the
2503 fact that we have been down this road before within the last year. In fact, this was just
2504 approved, I think, in February by the Board of Supervisors as office. I think it is an important
2505 site and one that we should try to maintain as prime economic development, so my motion
2506 would be to send it to the Board with a recommendation for denial.

2507
2508 Mr. Vanarsdall - Do I have a second?

2509
2510 Mrs. Jones - Second.

2511
2512 Mr. Vanarsdall - Motion made by Mr. Archer and seconded by Mrs. Jones. All in favor say
2513 aye. All opposed say no. The motion passes.

2514
2515 REASON: The Planning Commission voted to recommend the Board of
2516 Supervisors deny the request because it does not conform to the recommendations of the Land
2517 Use Plan or the Plan's goals, objectives and policies and would set an adverse zoning and land
2518 use precedent for the area.

2519
2520 **C-53C-05 D. L. Strange-Boston for Robert R. Bock, LLC:** Request to conditionally rezone
2521 from C-1C Conservation District (Conditional) and M-1C Light Industrial District (Conditional) to
2522 M-1C Light Industrial District (Conditional), Parcel 751-758-8362, containing 1.413 acres, located
2523 on the north line of Mayland Drive approximately 230 feet west of Gaskins Road. The applicant
2524 proposes a car wash. The use will be controlled by zoning ordinance regulations and proffered
2525 conditions. The Land Use Plan recommends Planned Industry and Environmental Protection Area.

2526
2527 Mr. Vanarsdall - Is anybody in the audience in opposition to this case, C-53C-05? Mr.
2528 Coleman, good evening, again.

2529
2530 Mr. Coleman - Good evening. Thank you. The applicant submitted revised proffers
2531 dated November 8, which require waiving the time limit.

2532
2533 This request would rezone 1.4 acres from M-1C and C-1C to all M-1C. The applicant proposes an
2534 unmanned car wash.

2535

2536 The subject property was originally rezoned in 1981 as a part of the zoning case that permitted
2537 development of the Deep Run Business Center. That case rezoned a 100-year floodplain area
2538 traversing the site to C-1C. The applicant has demonstrated this property now contains only a
2539 small amount of floodplain area, therefore a request to develop the site is reasonable.
2540

2541 Properly designed and regulated, a car wash could be an acceptable use at this location. The
2542 applicant proposes to largely carry forward the existing proffers approved in 1981 with
2543 appropriate revisions and also including a proffered conceptual site plan, elevations, and other
2544 positive features.
2545

2546 Staff has noted some minor revisions may be required to the proffers, which amount to
2547 housekeeping matters. If the applicant could address these items, staff could fully recommend
2548 approval of this request.
2549

2550 This concludes my presentation. I would be happy to answer any questions.
2551

2552 Mr. Vanarsdall - Any questions for Mr. Coleman by Commission members?
2553

2554 Mr. Jernigan - Did you say now it just contains a small amount of C-1?
2555

2556 Mr. Coleman - A small amount of flood plain area.
2557

2558 Mr. Jernigan - I am not even going to get into it.
2559

2560 Mr. Silber - Does the plat show the floodplain, Mr. Coleman?
2561

2562 Mr. Coleman - As you see the arrow showing the limits of the floodplain, it only shows
2563 along the property line right here. This is a C-1 District, as you can see, traverses a much
2564 greater area of the site. (Referring to rendering)
2565

2566 Mr. Jernigan - Why was it zoned C-1?
2567

2568 Mr. Coleman - Back in 1981 when that case was filed, that case would have indicated
2569 that this was floodplain area.
2570

2571 Mr. Silber - Mr. Jernigan, when this area was zoned much of this was the same
2572 situation as Innsbrook. They didn't know the exact limits of the floodplain and they zoned the
2573 property C-1, not knowing exactly where the floodplain was. Now with detailed engineering and
2574 surveying that has been done, they have a better idea as to where the floodplain is. There may
2575 have been some adjustments in the floodplain line as well.
2576

2577 Mr. Jernigan - So the floodplain didn't come out of the floodplain? It was just an error
2578 up front.
2579

2580 Mr. Silber - Well, I don't know if it was an error as much as there may have been
2581 some cutting and filling taking place and there may have been that they didn't know the exact
2582 limits of the flood plain. I can't believe the floodplain would be as straight as it is, as shown on
2583 here, without some form of cutting and forming of that floodplain line.
2584

2585 Mr. Coleman - There has also been construction activities. For example, the
2586 construction of Broad Street across this site may impact the floodplain area and impact the
2587 floodplain down stream.
2588

2589 Mr. Vanarsdall - All right. Any more questions for Mr. Coleman? Mr. Branin, do you want
2590 to hear from the applicant?
2591
2592 Mr. Branin - No, sir. I don't think that is necessary. I'd like to make a comment to
2593 the applicant.
2594
2595 Mr. Vanarsdall - Are we ready for a motion then?
2596
2597 Mr. Branin - OK. Mr. Chairman, I move that C-53C-05 time limits be waived.
2598
2599 Mr. Jernigan - Second.
2600
2601 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor
2602 say aye. All opposed say no. The motion passes.
2603
2604 Mr. Branin - And with that Mr. Chairman I move that C-53C-05 be approved per
2605 staff's recommendation with the understanding that the applicant take care of the typos in the
2606 proffers before it gets to the Board meeting.
2607
2608 Mr. Archer - Second.
2609
2610 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Archer. All in favor say
2611 aye. All opposed say no. The motion passes.
2612
2613 REASON: The Planning Commission voted to recommend the Board of Supervisors
2614 **grant** the request because it is appropriate commercial zoning at this location, it would permit
2615 infill development with property connection for roads and other public facilities, and it is
2616 reasonable in light of the changed delineation of floodplain area on the site.
2617
2618 **C-72C-05 HHHunt Corporation:** Request to conditionally rezone from O-3C
2619 Office District (Conditional) to RTHC Residential Townhouse District (Conditional), part of Parcel
2620 747-771-2430, containing 15.66 acres located at the southeast intersection of Hickory Park and
2621 Hickory Bend Drives. The applicant proposes an age-restricted single-family detached
2622 condominium development of no more than fifty-nine (59) units. The maximum density in the
2623 RTH District is nine (9) units per acre. The use will be controlled by zoning ordinance regulations
2624 and proffered conditions. The Land Use Plan recommends Rural Residential and Environmental
2625 Protection Area.
2626
2627 Mr. Vanarsdall - Good evening once more, Ms. Neaves.
2628
2629 Ms. Neaves - Thank you, Mr. Chairman, and members of the Commission, Mr.
2630 Kaechele and Mr. Secretary.
2631
2632 This request is to rezone 15.66 acres from O-3C Office to RTHC Residential Townhouse District
2633 (Conditional) to permit the construction of age-restricted single-family detached condominiums.
2634 The subject property is currently vacant. The property was rezoned from A-1 Agricultural to O-
2635 3C Office District (Conditional) in 2002, as part of a larger overall rezoning request, Case C-13C-
2636 02. A plan of development was approved on December 15, 2004, for use of the property as
2637 Hickory Park Office Condominiums.
2638
2639 The 2010 Land Use Plan designates the site Rural Residential with a recommended lot size of one
2640 acre or more. Based upon the proposed recommendation of the Nuckols Road/I-295 Small Area
2641 Land Use Study and recent development trends, the proposed age restricted condominium

2642 development with a density of 3.7 units per acre could be a more appropriate use for this area.
2643 The study recommends office area fronting on Nuckols Road and a transition from Urban
2644 Residential to Suburban Residential 2 between this office area and the Twin Hickory
2645 neighborhood. The subject site is located directly between the area fronting on Nuckols Road
2646 and SR-2 property in Twin Hickory, and based on the proposed density could create the desired
2647 transition.

2648
2649 The applicant has submitted proffers that include a 25-foot greenbelt, pedestrian and bicycle
2650 access, and no direct driveway access to Hickory Bend and Hickory Park Drives and no more than
2651 59 units, for a density of 3.7 units per acre. Also included in the proffers is an elevation drawing.
2652 Proffers related to individual dwelling units include brick or stone exteriors and foundations, brick
2653 or stone chimneys, a minimum of 2,000 square feet finished floor area, and a minimum two-car
2654 garage. Revised proffers dated November 10, 2005 were also received. The applicant is now
2655 proffering a landscape buffer between the adjacent property to the east on the south line of New
2656 Wade Lane. He will plant Leyland Cyprus trees, sized 6 feet in height, 10 feet on center on the
2657 property line. The proffers relating to greenbelt pedestrian and bicycle access and underground
2658 utilities would be carried over from the previous rezoning case. The proffers regarding
2659 elevations, architecture, foundations, chimneys, driveways either meet or exceed proffers from
2660 the original rezoning case for adjacent RTHC, R-5AC, and R-6 District. The applicant has also
2661 submitted a conceptual site plan but has not proffered it.

2662
2663 While staff recognizes the need to retain property for additional office development in the
2664 immediate area, the proposal is consistent with the quality and type of development of the
2665 adjacent property. The submitted proffers, including proffers relating to elevations and
2666 architecture, greenbelt, density and square footage of the units would insure quality
2667 development; however, staff encourages the applicant to consider rear or side-loaded garages,
2668 or setting the garages back at least five feet from the facade of the building. If the applicant
2669 could address this issue, staff could be more supportive of this request. The time limits would
2670 need to be waived on the proffers.

2671
2672 This concludes my presentation. I will be happy to answer any questions.

2673
2674 Mr. Vanarsdall - Any questions for Ms. Neaves? Would you like to hear from Mr.
2675 Theobald?

2676
2677 Mr. Branin - Yes, I would.

2678
2679 Mr. Vanarsdall - Good evening once more, Mr. Theobald.

2680
2681 Mr. Theobald - Good evening, Mr. Chairman, ladies and gentlemen. My name is Jim
2682 Theobald and I'm here this evening on behalf of HHHunt, and with me is Dan Schmidt. This is a
2683 request to permit age-restricted single-family detached condominiums on this 15.6 acre parcel of
2684 land. You have heard Ms. Neaves accurately describe the proffers. I hope you also heard her
2685 say they meet or exceed those that had been brought forward from the original case. Hunt
2686 believes that this is a logical extension of residential development along Hickory Bend Drive and
2687 will produce significantly less traffic than the office development that had been previously
2688 approved. It will have no impact on the school system. Mr. Schmidt has met with the Twin
2689 Hickory Community Affairs Committee and it is my understanding, and I am not sure that they
2690 formerly had a position, but I do not believe they were opposed to this addition to the Twin
2691 Hickory community. In fact, I think what it provides is an opportunity for some of the younger
2692 families in Twin Hickory to have a place where they might have their parents closer at hand to
2693 participate with them in them growing old in place in this type of facility.

2694

2695 We did add a proffer today after discussions between Mr. Schmidt and Mr. Seredni regarding
2696 screening between their respective properties. With that, I'd be more than happy to answer any
2697 questions that you might have.
2698
2699 Mr. Vanarsdall - Any questions for Mr. Theobald by Commission members?
2700
2701 Mr. Branin - Mr. Theobald, I have one question.
2702
2703 Mr. Theobald - Yes, sir.
2704
2705 Mr. Branin - There is some opposition to this development here this evening, and one
2706 of their questions and concerns that was voiced again this evening to me is they have a shallow
2707 well. You guys are in a position to put a stub line to the property line in case they do have
2708 problems in the future, aren't you?
2709
2710 Mr. Theobald - We would be in a position to do that, Mr. Branin. Absolutely. Our
2711 experience in developing Wyndham and Twin Hickory is we have not interfered with people's
2712 wells, but I think this is an opportunity where if Mr. Seredni experiences difficulty with his wells,
2713 we would be happy to stub a water line to the property line where he could use it.
2714
2715 Mr. Branin - And for the sake of the other Commission members, would you explain
2716 why the new proffer for the buffer?
2717
2718 Mr. Theobald - This property line along here (referring to rendering), I think Mr. Seredni
2719 was concerned about the orientation of his home with some of the homes over here, so basically
2720 we have filed the proffer that says that before we obtain any certificates of occupancy within 150
2721 feet of his property line that we would plant the Leyland Cypress 5 to 6 feet, approximately 10
2722 feet on center to provide that screen. The plan is not proffered but the conceptual plan has
2723 always shown a buffer strip in there, I think some 40 feet, and we have now committed in
2724 writing to also plant that.
2725
2726 Mr. Kaechele - Is that parcel that would be to the east of there, are you talking about
2727 the western property line?
2728
2729 Mr. Theobald - It is the western property line for Mr. Serendi, which is a tax parcel
2730 reference in the proffer. Until we said western property line, the GPIN number, this is his
2731 property right in here (referring to rendering), and the eastern property lies along here, and the
2732 western property line, the common boundary, is right through here.
2733
2734 Mr. Kaechele - The plantings would be on...
2735
2736 Mr. Theobald - Our side. Yes, sir. In our buffer.
2737
2738 Mr. Branin - That is all of the questions I had.
2739
2740 Mr. Kaechele - I have one other. Maybe clarify proffer #7. It is kind of confusing to me
2741 on your square footage. You are proffering 2,000 square footage on the first floor, but you don't
2742 have 2,000 on the first floor. You have 2,600 total and that raises a lot of options. You could
2743 have 1300 and 1300 on two floors, or 1500 and 1100. Those are not too consistent with your
2744 rendering. Can you show any? Some have a second floor or half a floor or something? I
2745 thought the base was consistent for all of those at 2,000.
2746

2747 Mr. Theobald - The base - the first floor are all 2,000 square feet, so that we may have
2748 in excess of that.
2749
2750 Mr. Schmidt - Mr. Chairman, members of the Board. My name is Dan Schmidt with
2751 HHHunt. Mr. Kaechele, the intent of that proffer, the reason why it is written like that, is
2752 because it is anticipated that some of the residents may not finish the second floor immediately,
2753 but so there will be 2,000 square feet of finished floor on the first floor.
2754
2755 Mr. Kaechele - Maybe we can correct that to make it more explicit.
2756
2757 Mr. Silber - Yes, I think that needs to be modified.
2758
2759 Mr. Schmidt - These are anticipated to be \$400,000 and up, so these are as large or
2760 larger units.
2761
2762 Mr. Kaechele - That is what I thought your intent was, but the proffer is a little
2763 confusing.
2764
2765 Mr. Theobald - We can clarify that.
2766
2767 Mr. Archer - Mr. Theobald, under age restriction in proffer #9, what is housing for
2768 older persons as defined in the Virginia Fair Housing law?
2769
2770 Mr. Theobald - Fifty-five years, at least. It is a definition that would basically be, I think
2771 one person would at least have to be 55 years of age and at least 80% of your homes have to
2772 meet that requirement under the State's Fair Housing Act, which meters the Federal Fair Housing
2773 Act, if I am not mistaken.
2774
2775 Mr. Archer - So it doesn't mean that everybody in the household has to be 55,
2776 because below it says 19 years of age.
2777
2778 Mr. Theobald - And that is why we put that in there, because otherwise the definition
2779 would allow you to have one person 55, one other person younger, and we've been asked to put
2780 this in, if we are telling you we are not going to have any impact on schools, we are trying to
2781 assure you that is the case.
2782
2783 Mr. Archer - OK. Thank you, sir.
2784
2785 Mr. Vanarsdall - Any more questions for Mr. Theobald? Thank you. You all come on
2786 down and state your name and tell us what is on your mind.
2787
2788 Mr. Roger Seredni - Good evening ladies and gentlemen. My name is Roger Seredni and I
2789 live on New Wade Lane. I will be as brief as I can, because I am fighting a cold and losing my
2790 voice. That might be fortunate for you guys.
2791
2792 I have lived in Henrico for 50 years, the last 18 years I have lived in Short Pump. I have seen
2793 growth and progress all over the County. Our children have been fortunate to go from one new
2794 school to another, Shady Grove, Twin Hickory, and now Deep Run. So we aren't against growth
2795 and progress. However, we don't believe this progress should be at the expense of our property
2796 being devalued. When the property near us was zoned Office, we had no problem with that.
2797 The office complex center we thought would be like the ones near the Innsbrook area. So, we
2798 can see that from my front porch. But, now with the offices, if they want to be built, we have
2799 problems with the well water. What is proposed now I can't support. I had to have 200 ft. road

2800 frontage when my house was built. If the condos go in, I am going to be looking at the back
2801 and sides of these beautiful condos, not the front of them. Now, how is this going to mesh with
2802 the housing on New Wade Lane? All of the homes on New Wade have acres or more, several
2803 acres. The condos will only, I believe, devalue my home price. I just wonder where the
2804 transition is from these condos to the land that is there now.

2805
2806 The second major concern you guys discussed is that I have a shallow well. And, of course, the
2807 well depends on water from the area. If everything is paved over and bricked and landscaped,
2808 the runoff will go downhill to me, and I am downhill of this situation. Personally, I don't think my
2809 well would survive this construction, but you mentioned the stub, and I certainly appreciate that
2810 going in. This is also my second well. The first well. I had great water quality and water
2811 pressure for about 15 years. About three years ago, about the time construction near my
2812 property began, I started losing, I lost the well. It became full of sediment so I was told. It was
2813 silted over. There is no way to know for sure what caused it. You have got to assume that the
2814 only thing that was going on was the construction in the area. So, now that I've got a shallow
2815 well, it is beginning to show some slight signs of discoloration. And we have been drinking
2816 bottled water for like three or four years. I guess that is one of the many reasons that I am
2817 against this thing. I am against Hunt's request to change the zoning because I believe this will
2818 worsen my well's condition and devalue my property. These are all of my comments.

2819
2820 Mr. Vanarsdall - Any questions?

2821
2822 Mrs. Jones - What I am hearing from you is that if your well situation is taken care of,
2823

2824 Mr. Seredni - Up to a point, but my view isn't taken care of, because like I said, I am
2825 in the back of all of these condos, not in the front, on the side. There are going to be I don't
2826 know how many on the side that I am going to see just the rear of them.

2827
2828 Mrs. Jones - Which is the buffer...

2829
2830 Mr. Seredni - Yes, they mentioned a buffer, and we discussed that this evening. That
2831 is correct. Now, I've got a question,

2832
2833 Mr. Vanarsdall - You say you are behind?

2834
2835 Mr. Seredni - I am behind them and beside of them. That is correct.

2836
2837 Mr. Vanarsdall - Thank you.

2838
2839 Mr. Seredni - Yes, there was a picture up there that showed exactly where I am. I am
2840 sorry. (referring to rendering) I am like there, and I face the front, which I face the road and I
2841 face the back of the ... and if you look over here, they have put some condos like they are doing
2842 over there, only they stopped right there. Now, I don't know why they couldn't continue that all
2843 of the way around like that, too? It seems to me that would mesh better than going in this way,
2844 down that away, and the back around this way, and back around that way. What they did over
2845 here was put them, intersecting the road, and then they are parallel on this line right here. But
2846 as you see, these are going to go all over, just sprawling all the way down here, all the way
2847 around here, and all the way around over there. And certainly I don't oppose homes for 55 year
2848 olds because I am getting there.

2849
2850 Mr. Jernigan - Have you seen the site plan?

2851
2852 Mr. Seredni - Yes. I took a peek at it, yes, sir.

2853
2854 Mr. Jernigan - Well, I think what they said was...
2855
2856 Mr. Seredni - There it is, a little further down (referring to rendering), a little further
2857 up, I guess. I am down at the bottom. I can't point with this thing. OK. I am right where his
2858 finger is, just about. You see, I will be facing the sides of a group of them and then to the left of
2859 them, to the left of my property line. (referring to rendering)
2860
2861 Mr. Jernigan - I believe they are going to put up an Evergreen...
2862
2863 Mr. Seredni - Yes, they mentioned that this afternoon, that we would get a buffer
2864 zone. They didn't say how many feet it was.
2865
2866 Mr. Jernigan - I think it said every 10 feet. Didn't it, Jim?
2867
2868 Mr. Seredni - Every 10 feet. I don't like the comments Mr. Archer made about that
2869 Ridge Construction. This was just as recently zoned office, what two years ago, and now they
2870 are changing it, and nothing has had a chance to go office in there yet. At least I got you guys
2871 thinking. I know it is getting late.
2872
2873 Mr. Kaechele - Well, you heard the comment on the sales prices of those condos. Is
2874 that in line with your home? I don't know exactly what they are asking for.
2875
2876 Mr. Seredni - No, I think they are in the \$400,000s. I have like 3,500 square feet. I
2877 have got seven bedrooms, five bathrooms, two driveways, enclosed garage. I don't know. I
2878 think it is worth more than that, mine is to me, but with all these homes around it, I just
2879 definitely think it is going to hurt the value of it. It is just not like my construction. It is totally
2880 dissimilar to what I have. You know, I was forced to have 200 foot frontage when I built the
2881 home, about 20 years ago, and it is just drastically changed, and I am not against change. It is
2882 coming. I can understand that. But it seems to me I would like to see office there better than I
2883 would condos, or at least cut these down a little bit. Make it equal to what they are doing at
2884 Twin Hickory and Twin Hickory Bend Road. They just put a buffer in there that bordered Twin
2885 Hickory Bend Road instead of the whole area, and it, it just sticks in further than what they are
2886 doing on the other road, the new road they are building, because if you look at the new road
2887 they are building, they are putting offices right behind the condos and they have a natural
2888 buffered zone in there, not planted. They just left it vacant. And I would like them to leave the
2889 area beside my house vacant, or just let it go natural, like it is now. It is practically treed up
2890 already. So, to tear them all down and put Hemlock, if I had 40 or 50 feet, I'd rather it be
2891 naturally treed than knocked down and replanted, if I had my druthers.
2892
2893 Mr. Silber - Do you feel the zoning, the O-3 zoning that is there right now is more
2894 appropriate and do you think it would have less impact on you?
2895
2896 Mr. Seredni - Yes, and I think in the future it would increase the value of my house.
2897
2898 Mr. Branin - Mr. Seredni, with offices, because of County regulations, there will be far
2899 more asphalt and more concrete, more buildings. So, you know, when you first originally spoke
2900 to me one of your largest concerns was your well.
2901
2902 Mr. Seredni - It still is.
2903
2904 Mr. Branin - With irrigated grassy areas, there is far less chance that your well will be
2905 affected as opposed to offices with parking lots and larger structures, with, and I hear you

2906 aesthetically-wise. But the one biggest concern you had with me was your view and your well,
2907 and you are sitting here telling us now that you'd rather have the offices.

2908

2909 Mr. Seredni - Well, it is the lesser of two evils.

2910

2911 Mr. Branin - Actually, for your well? No, it is not. Because the grass area will
2912 saturate the storm water a heck of a lot better, a vegetated area will a heck of a lot better than
2913 concrete and asphalt. And all of that runoff will go straight into a storm water pipe and away
2914 from the property, which would lessen the opportunity for water to get to your well. So, I just
2915 wanted you to - when you came to me about the well, I went straight to the developer and said
2916 look, this gentleman is concerned and we've got to take care of this problem. The developer
2917 said we'll stub a water line right to his property line, so if there is a problem he will be able to tap
2918 in at no expense to the homeowner. In my opinion, that that was fantastic. I said he's worried
2919 about no vegetation there and he wants to block some of that view. They said we'll create a
2920 thicker buffer zone for him. Again, I thank that developer, because we see lots of developers
2921 that come in here and say, well, it is my property. They have been willing to say if you want to
2922 go with the offices, aesthetically I understand it, environmentally I don't.

2923

2924 Mr. Seredni - Well, I would think with the offices there would be water and sewer in
2925 the area and it would take greater amounts of it, and it would be more likely to be spread around
2926 to all of the other homes then, not just myself. I understand your point.

2927

2928 Mr. Branin - The water shed in the office would be sent into storm water, which
2929 would then be piped away from your property, lessening the opportunity for your well to be
2930 saturated.

2931

2932 Mr. Seredni - OK.

2933

2934 Mr. Branin - I don't have any other questions, Mr. Seredni.

2935

2936 Mr. Vanarsdall - Mr. Seredni, thank you.

2937

2938 Ms. Seredni - I am Gail Seredni. I am going to talk to you about our road.

2939

2940 Mr. Vanarsdall - What did you say your name was?

2941

2942 Ms. Seredni - Gail Seredni. For the last two years we have endured constant
2943 construction noises, dust filled air, heavy vehicles pounding up and down New Wade Lane, which
2944 is only a small country road. Our road has been left extremely bumpy, covered with pot holes
2945 from these vehicles. Our numerous calls to the County to fix the road were met with comments
2946 such as, we think we are going to close the road or they'll fix it when the dump trucks have
2947 stopped coming in and out. Two years later we are still on New Wade Lane and we are still
2948 waiting for the road to be fixed. Instead of it being fixed, HHHunt and their construction have
2949 closed the other end of the road, which requires us to go through the bumpy aspect of the road
2950 and the pot holes out to one of the most dangerous intersections I know of, New Wade Lane and
2951 Nuckols Road. We risk our lives every morning to pull out on Nuckols Road from New Wade
2952 Lane and cross four lanes, soon to be six lanes, of fast moving traffic, construction workers,
2953 vehicles turning out of the landfill. We must do it all with very poor visibility of oncoming traffic,
2954 traffic most of which is coming out of Twin Hickory and Wyndham. We, therefore, oppose
2955 HHHunt's rezoning. We are also requesting HHHunt be required to fix New Wade Lane back to
2956 its original condition before they are allowed to continue with their expansion. If the road is
2957 indeed going to be closed, then the projected date of 2010 needs to be shortened. Five more
2958 years of entering and exiting New Wade Lane across six lanes of traffic is extremely too

2959 dangerous. I have a 16 year old daughter and a 18 year old daughter who are just learning to
2960 drive. I can barely make that turn myself. I have been driving 30 some years. They have left
2961 us no other exit other than New Wade and Nuckols Road. They have stashed a big pile of gravel
2962 at the other end of the road so that we cannot exit through Twin Hickory. Why they have done
2963 that I don't know. I have pictures here of our house. I have pictures of the road and the pot
2964 holes and everything else, if you would like to see it. My problem with the road is I felt like they
2965 destroyed it. Their dump trucks came in, a dozen to 15 a day, both ways, back and forth,
2966 several times a day destroying the road. I cannot believe that they will leave our view in any
2967 better position than they left the road. In other words, when we are looking at the back of these
2968 condos, and the sides of these condos, I have a hard time believing that they will care anymore
2969 about what we are looking at than they care about the road we are riding on. Thank you.

2970
2971 Mr. Branin - Mr. Schmidt, can I ask you a question please, sir.

2972
2973 Mr. Schmidt - Sure.

2974
2975 Mr. Branin - Is there a reason why you guys have blocked off the entrance to Twin
2976 Hickory Road or is that just a construction oversight?

2977
2978 Mr. Schmidt - I can't speak to the pile of gravel, itself, but I don't think that the traffic,
2979 I don't think that we are encouraging traffic to go from New Wade Lane through Hickory Bend
2980 Drive, and obviously, the way New Wade Lane is cul-de-saced, as shown in that exhibit, traffic,
2981 any current residences there would continue to use New Wade Lane to get back out to Nuckols
2982 Road and not go...

2983
2984 Mr. Branin - Is it possible to remove that gravel and put a sign up that says no
2985 through traffic?

2986
2987 Mr. Schmidt - I am trying to picture, they could probably explain. I think it is a gravel
2988 road, right?

2989
2990 Mr. Vanarsdall - Why don't we put these pictures up on the screen and you can see what
2991 they are.

2992
2993 Mr. Schmidt - An answer to your question, I think we can try to facilitate that traffic if
2994 it is feasible, if it is safe. I just don't know exactly why the gravel was there and if there was a
2995 reason.

2996
2997 Mr. Branin - According to these pictures, it is obviously an asphalt road.

2998
2999 Mr. Vanarsdall - And it has got big pot holes and everything. It is terrible looking.

3000
3001 Mr. Branin - Mr. Seredni, can you answer a question for me, sir?

3002
3003 Mr. Seredni - Sure.

3004
3005 Mr. Branin - Is this a County road?

3006
3007 Mr. Seredni - OK. There was a problem with that from day one. I called the County
3008 and they told me it belonged to the State. I called the State and they said, yes it does, but the
3009 County is getting paid to maintain it. Now you figure that out. I have got names and numbers
3010 of everybody that I talked to, and that is the way it was told to me. But the last person I talked
3011 to told me, well, they are eventually going to close the road. That was the far ranging plan.

3012
3013 Mr. Branin - Who told you they were going to redo it? State or County?
3014
3015 Mr. Silber - Is the difficulty getting out onto Nuckols Road a function of the
3016 construction that is taking place on Nuckols Road?
3017
3018 Mr. Seredni - Partly construction now, but mostly traffic, in my opinion.
3019
3020 Mr. Silber - Well, I am not so sure that what is proposed here with the rezoning has
3021 any bearing on your ability to get out of Nuckols Road because of excess traffic.
3022
3023 Mr. Seredni - All right.
3024
3025 Mr. Silber - If there is some construction taking place there and there are some
3026 visibility issues, then we can work with the contractor. I think some of that work being done
3027 might be County work.
3028
3029 Mr. Seredni - It is being done right now.
3030
3031 Mr. Silber - Then we can make contact with Public Works and see if we can have
3032 some better visibility at that point, but if it is traffic...
3033
3034 Ms. Seredni - I have gotten out...
3035
3036 Mr. Silber - There is not much we can do if the traffic is increased.
3037
3038 Ms. Seredni - I have gotten out of my car and talked to the construction workers
3039 because they park their big, whatever they are, land mover things right where we have to look to
3040 turn. OK. Yes, that part is temporary. That part of the problem is temporary because they will
3041 eventually be done with that. But we will be left with six lanes to cross and make a left turn to
3042 take our kids to school. Six lanes. The bus redid its routing because of that, because it didn't
3043 want to make that turn. The main thing that I am after with HHHunt is why have they closed
3044 the other end of the road that would allow us to make a safe journey out of New Wade Lane, out
3045 of our neighborhood? They have destroyed our road, they've increased the traffic with all of
3046 their construction, and yet they won't give us another escape out of our own street? I don't
3047 think that is right.
3048
3049 Mr. Silber - How did you used to have access from New Wade Lane south?
3050
3051 Mr. Jernigan - How did you get from New Wade Lane to Hickory Bend Drive?
3052
3053 Ms. Seredni - You would go in front of the house on the left, it is gone now. The one
3054 they just recently tore down. You would go make a left around there and there is a right of way,
3055 I think, from Mr. Parker. There is a right of way still there that goes to Mr. Ellis' home and
3056 another home, so we would go by the house, make a left. It was all paved and graveled and
3057 then continue on down the hill and we'd be on Hickory Bend Road.
3058
3059 Mrs. Jones - So on someone's driveway...
3060
3061 Mr. Seredni - Well, there is still an opening there that you guys have left up for two
3062 homes that still empty that away. One home empties onto Hickory Park Road or whatever, and
3063 the other end empties right next to my house.
3064

3065 Mr. Vanarsdall - Do you have the names of the people you talked to in the County?
3066
3067 Mr. Seredni - I don't have it with me. I am sorry. I will get that. I've got Tommy's
3068 number and I will call him and let him know. That is an old picture. You can see the road now
3069 makes a left turn, here is the road.
3070
3071 Mr. Silber - New Wade used to come down and make that hard left.
3072
3073 Mr. Seredni - Follow that along here then make that right, OK. Then the new road is
3074 right sort of like that, so we would go this way and make a left and be right here on the new
3075 road and the gravel has been dumped right about here. It has all been closed out.
3076
3077 Ms. Seredni - And it has been dumped several times, by the way. Someone moved it
3078 once. And they put it back.
3079
3080 Mr. Seredni - Somebody is going over here to this house, they have got a trailer
3081 parked there, and a mobile home or something, and they are getting around the gravel to go to
3082 that home that is right there.
3083
3084 Mr. Silber - Would you have concern though if this was opened up this way with
3085 people coming through from Twin Hickory going the opposite way?
3086
3087 Mr. Seredni - I am like, if you were to drive that road at 8:00 in the morning you
3088 wouldn't go that way anymore, because it is really tough to get on New Wade Lane in the
3089 morning. I would think that they would put sewer right about here, that the road would go from
3090 there to the new road they are building right there that will dump right here. That will be lighted
3091 and everything. I don't know what the plan is in the future. Someone told me that they were
3092 going to access New Wade from another area, maybe back here, or I don't exactly know where,
3093 but if there were a road here, this would dump on the new road you've got, that they are
3094 building now, where those condos are going to be. To me that would make easy access. I don't
3095 know what the other neighbors feel about it. There is a guy that still lives there, and these three
3096 homes here are still occupied.
3097
3098 Mr. Branin - Mr. Seredni, let me say this. I am going to look into, as well as
3099 hopefully the staff will, whose responsibility that road is. Mr. Schmidt, can you see that pile of
3100 stone is removed?
3101
3102 Mr. Schmidt - I will make one comment on the stone. It is there and you can't go this
3103 way anymore because they have taken this land right here and they have leveled it and, well, it
3104 is steep now. If you go from the new road up to this home that they just recently knocked
3105 down, that is all like a 30 degree fall right there. You can barely walk there, much less drive
3106 there now.
3107
3108 Mr. Branin - So the access is gone. OK. Well, that is not even relevant.
3109
3110 Mr. Schmidt - There is curb and gutter on that road. I think you'd have to go down
3111 the steep slope, over the curb and gutter, to get onto the road.
3112
3113 There is still a dirt road that I guess the construction guys use. They go this way and then they
3114 go that away, and they hit this area that they are working on right now.
3115
3116 Mr. Branin - OK, well then that is not relevant.
3117

3118 Mr. Schmidt - But it was used temporarily like that during construction.
3119
3120 Mr. Kaechele - Well, it kind of has responsibility for maintenance of New Wade Lane
3121 and we certainly ought to be in there repairing.
3122
3123 Mr. Seredni - Well, we did want to get that on the record.
3124
3125 Mr. Kaechele - Well, we can check on that.
3126
3127 Mr. Silber - Yes, sir.
3128
3129 Mr. Branin - And if you call me Monday, I should have an answer for you, sir.
3130
3131 Mr. Seredni - Thank you very much, ladies and gentlemen.
3132
3133 Mr. Branin - And I hope that we have addressed your, I know you are not as the
3134 people from Eastern Henrico weren't happy with the subdivision going in. I know it is changing
3135 the dynamics of your home, but I hope the things that Hunt is providing will be some means of...
3136
3137 Mr. Vanarsdall - Did you get his telephone number and address?
3138
3139 Mr. Branin - I have it, sir. Does Randy have it?
3140
3141 Ms. Seredni - You mentioned a stub that will allow us to hook up from?
3142
3143 Mr. Branin - Yes.
3144
3145 Ms. Seredni - OK. How soon, because when they break ground near us, all of that
3146 sediment is going to run right down the little creek that is right behind us, like it did before?
3147
3148 Mr. Branin - Well, they'd better have a silt fence up.
3149
3150 Ms. Seredni - I don't think that is going to stop the water from coming down the
3151 creek. I mean, we need it soon when they start construction or else our well is going to go.
3152
3153 Mr. Schmidt - There is a creek running down the property, but since they cleared that
3154 area up, it is basically dry there.
3155
3156 Mr. Branin - Mr. Schmidt, would it be safe to say as soon as you guys start running
3157 your water lines and utilities that you will run that. They can't run that first to your spot if they
3158 don't have anything to hook up to it. It is a progression and they start where the current water
3159 line is, and I will make sure by the time it gets before you, it will be processed so that the stub
3160 will be put in.
3161
3162 Ms. Seredni - I appreciate that. It is just when the well starts to fill with silt, it also
3163 fills all of our appliances, all of our faucets, our toilets, everything, and everything has to be
3164 cleaned out and replaced. We have gone through it before, three years ago when they started
3165 construction, and that is why we are concerned about it. Thank you.
3166
3167 Mr. Vanarsdall - Thank you all. Do you have to waive the time limits on it?
3168
3169 Mr. Branin - Yes, sir. I certainly do. Mr. Chairman, I move that the time limits be
3170 waived for Case C-72C-05 for proffers dated November 10, 2005.

3171
3172 Mr. Jernigan - Second.
3173
3174 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor
3175 say aye. All opposed say no. The motion passes.
3176
3177 Mr. Branin - Mr. Chairman, I move that Case C-72C-05 be forwarded to the Board of
3178 Supervisors with a recommendation for approval, with the understanding that proffer #7 be
3179 clarified and water line stub be added.
3180
3181 Mrs. Jones - Second.
3182
3183 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mrs. Jones . All in favor
3184 say aye. All opposed say no. The motion passes.
3185
3186 REASON: The Planning Commission voted to recommend the Board of Supervisors
3187 **grant** the request because it would not be expected to adversely affect the pattern of zoning
3188 and land use in the area, it is appropriate residential zoning at this location, and the proffered
3189 conditions will assure a level of development otherwise not possible.
3190
3191 **C-73C-05 RER/New Boston West Broad Street, LLC:** Request to conditionally
3192 rezone from O-3 Office District, A-1 Agricultural District and B-1 Business District to O-3C Office
3193 District (Conditional) and B-3C Business District (Conditional), part of Parcel 746-760-8608,
3194 containing 8.18 acres (O-3C – 4.244 ac. and B-3C – 3.936 ac.), located in the WestMark Office
3195 Park at the southeast intersection of Interstate 64 and West Broad Street (U. S. Route 250). The
3196 applicant proposes an office and commercial development. The use will be controlled by zoning
3197 ordinance regulations and proffered conditions. The Land Use Plan recommends Office.
3198
3199 Mr. Vanarsdall - Good evening, again.
3200
3201 Mr. Tyson - Mr. Chairman, Mr. Kaechele, members of the Commission, Mr.
3202 Secretary. This is a request to rezone approximately eight acres to permit two pad sites at an
3203 existing office building complex on West Broad Street. The applicant has not formerly identified
3204 any potential tenants; however, it is anticipated that the pad sites could be developed for high-
3205 end restaurants that would serve the existing corporate tenants. Additionally, a portion of the
3206 site would be rezoned to permit additional parking on-site.
3207
3208 The Land Use Plan recommends Office uses for the property.
3209
3210 The applicant has submitted a proffer statement dated November 8, 2005 that is being
3211 distributed to you, and should the Planning Commission wish to take action on the case tonight,
3212 the time limits will need to be waived on the proffers.
3213
3214 In the O-3C portion of the property, no uses have been proffered; however, the applicant has
3215 proffered that no funeral homes would be permitted to be on the property. For the B-3C portion
3216 of the property, uses are limited to offices/office buildings; restaurants; banks/savings and loans.
3217 Restaurants would not be permitted to have drive-thru aisles. Architectural treatments for all
3218 four sides of any buildings would be the same.
3219
3220 Hours of operation have been limited from 6:00 a.m. to 12:00 midnight, except for holidays and
3221 special events, when hours would be extended to 2:00 a.m.
3222
3223 Signs on West Broad Street could not exceed 15 feet in height.

3224
3225 No direct access would be permitted from the B-3C portion of the site directly to West Broad
3226 Street.
3227
3228 A buffer a minimum of 35' in width along the B-3C portion of West Broad Street would be
3229 provided. The existing buffer is approximately 100' in width and staff encourages the applicant
3230 to maintain that if possible.
3231
3232 The proposed uses could serve as an appropriate addition to the existing office park provided
3233 they are designed and developed according to the proffered conditions. Staff encourages the
3234 applicant to give consideration to maintaining the maximum natural buffer along West Broad
3235 Street.
3236
3237 Staff recommends the Planning Commission forward this case to the Board of Supervisors with a
3238 recommendation for approval.
3239
3240 Mr. Vanarsdall - Any questions for Mr. Tyson? Thank you, Mr. Tyson. Mr. Branin, do you
3241 want to hear from Ms. Freye?
3242
3243 Mr. Branin - Well, Mr. Chairman, I don't think it is necessary.
3244
3245 Mr. Vanarsdall - Ms. Freye, I bet you had no idea when you came tonight that you'd be
3246 here until 11:00 p.m. Go ahead, Mr. Branin. I didn't mean to interrupt you.
3247
3248 Mr. Branin - Thank you, sir.
3249
3250 Mr. Chairman, I move that the time limits be waived for Case C-73C-05 for proffers dated
3251 November 8, 2005.
3252
3253 Mr. Jernigan - Second.
3254
3255 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor
3256 say aye. All opposed say no. The ayes have it. The motion passes.
3257
3258 Mr. Branin - With that, Mr. Chairman, I move that Case C-73C-05 be approved per
3259 staff's recommendations.
3260
3261 Mr. Jernigan - Second.
3262
3263 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor
3264 say aye. All opposed say no. The motion passes.
3265
3266 REASON: The Planning Commission voted to recommend the Board of Supervisors
3267 **grant** the request because the proposed office use is consistent with the Land Use Plan and the
3268 proposed business use is reasonable in light of the business zoning in the area, and as proffered
3269 would be compatible with the surrounding development..
3270
3271 **APPROVAL OF MINUTES: Planning Commission October 13, 2005**
3272
3273 Mr. Silber - Next on the agenda would be the approval of minutes. This would be
3274 the minutes from October 13, 2005.
3275

3276 Mr. Archer - Mr. Secretary, I believe on page 26, line 1358, it shows that I carried
3277 that motion. I believe Mr. Vanarsdall did unless he got up and walked out, in which case I may
3278 have done it. But I don't remember.
3279

3280 Mrs. Jones - I have an additional correction, page 23, line 112, at the end of that
3281 sentence what I said was my initial reaction was that it is not a classic UMU.
3282

3283 Mr. Silber - Not a classic UMU?
3284

3285 Mrs. Jones - And I was missing page 2 in my minutes. Was everybody else?
3286

3287 Mr. Branin - No. I told them to pull page 2 out of yours.
3288

3289 Mrs. Jones - I just thought if that was everybody...
3290

3291 Mr. Silber - Would you like for me to send you a page 2?
3292

3293 Mrs. Jones - No. I trust everyone's judgment. I just wanted to let you know. That's
3294 all.
3295

3296 Mr. Jernigan - And everything I said was verbatim.
3297

3298 Mr. Vanarsdall - Do we have a motion for the minutes?
3299

3300 Mr. Branin - Mr. Chairman, I move that we approve the minutes.
3301

3302 Mr. Archer - I second.
3303

3304 Mr. Vanarsdall - Motion made and seconded for approval of the October 13, 2005
3305 minutes as corrected.
3306

3307 Now, I wish all of you a very Happy Veteran's Day.
3308

3309 Mr. Archer - Thank you, Mr. Vanarsdall. I move for adjournment.
3310

3311 Mr. Silber - I have one item to mention if you could stay back for 30 seconds. We
3312 are closed tomorrow. That is one announcement. We are closed so you won't be able to reach
3313 us.
3314

3315 Secondly, there is the National Conference this year, which is coming up in April. I don't have
3316 the exact date, but it is April, 2006. They have e-mailed us to inform us that the housing is
3317 going to be tight and the hotels will be tight, and they have indicated that if you want to begin to
3318 make reservations, you can. What we have done is, we have taken steps to reserve a block of
3319 rooms in the Conference Hotel for five Planning Commission members and three staff members.
3320 You can let us know later if you intend to go or not.
3321

3322 Mr. Branin - Where is it at?
3323

3324 Mr. Silber - San Antonio.
3325

3326 Mr. Vanarsdall - What hotel is that, and is that the main hotel? You can put me down for
3327 two.
3328

3329 Mr. Silber - Two rooms or two people?
3330
3331 Mr. Vanarsdall - Two people in one room.
3332
3333 Mr. Silber - We will have five rooms, so if you are interested, we will have a block of
3334 five rooms for Planning Commissioners in San Antonio, Texas. I don't have the dates yet.
3335
3336 Mr. Jernigan - April 22 to 26.
3337
3338 Mr. Vanarsdall - Well, we leave on Friday, so that should be the 21st.
3339
3340 Mr. Jernigan - I got that information from Jean the other day.
3341
3342 Mr. Vanarsdall - I have had it ever since last year. The Conference begins on the 22nd,
3343 which is a Saturday. We always go on the 21st, so it will be from the 21st to the 26th in San
3344 Antonio.
3345
3346 Mrs. Jones - May I move that we adjourn.
3347
3348 Mr. Archer - Yes, ma'am. I second your motion.
3349
3350 The meeting was adjourned at 10:59 p.m.
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3355

Ernest B. Vanarsdall, C.P.C., Chairman
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Randall R. Silber, Secretary
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