

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., October 14, 2004, Display Notice having been published in the
4 Richmond Times-Dispatch on September 22, 2004 and September 29, 2004.

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

14 Others Present: Mr. Ralph J. Emerson, Assistant Director of Planning
15 Ms. Jean Moore, Principal Planner
16 Mr. Lee Tyson, County Planner
17 Mr. Thomas Coleman, County Planner
18 Mr. Paul Gidley, County Planner
19 Mr. Seth Humphreys, County Planner
20 Mr. Michael Cooper, County Planner
21 Ms. Debra Ripley, Recording Secretary
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23 **Unless otherwise indicated, Mr. Donati abstained from voting on all zoning cases.**

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25 Mrs. Ware - Good evening, and welcome to the Planning Commission meeting for
26 Rezoning, September 9. Welcome, Commission members and everyone else. Welcome to Mr.
27 Lappas from *The Henrico Citizen* and Mrs. Johnson from *The Times-Dispatch*. I will turn the
28 meeting over to our Secretary, Mr. Silber.
29

30 Mr. Silber - Thank you, Mrs. Ware. Good evening everyone. We do have all of the
31 Planning Commission members present this evening, so we can conduct business. The first item on
32 the agenda this evening would be consideration of withdrawals and deferrals. We do have a long
33 agenda this evening, but many of the items on the agenda are up for deferral. These are matters
34 that have been requested for deferral by the applicant in many cases. Staff will walk us through
35 those deferrals and tell us which one those might be. Ms. Moore.
36

37 Ms. Moore - Thank you, Mr. Secretary. The first item for deferral is on your 7:00
38 agenda, page 2. The deferral is requested to the November 10, 2004 meeting.
39

40 **Deferred from the August 10, 2004 Board of Supervisors Meeting:**

41 **C-20C-04 James Theobald for Eric L. Walker:** Request to conditionally rezone
42 from A-1 Agricultural District to O-2C Office District (Conditional), part of Parcel 807-733-6105,
43 containing 17.827 acres, located along the west line of N. Laburnum Avenue approximately 1,360
44 feet southeast of its intersection with Harvie Road. Office uses are proposed. The use will be
45 controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan
46 recommends Office. The site is in the Airport Safety Overlay District.
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48 Mrs. Ware - Is there any opposition to the deferral of C-20C-04, James Theobald for
49 Eric L. Walker, in the Fairfield District? There is no opposition.
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51 Mr. Archer - Madam Chair, I move deferral of Case C-20C-04, Eric L. Walker, to the
52 November 10, 2004 meeting at the request of the applicant.

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Mr. Vanarsdall - Second.

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

At the request of the applicant, the Planning Commission deferred Case C-20C-04, Eric L. Walker, to its meeting on November 10, 2004.

Deferred from the August 10, 2004 Meeting:

C-21C-04 James Theobald for Eric L. Walker: Request to conditionally rezone from A-1 Agricultural District to R-5AC General Residence District (Conditional), part of Parcel 807-733-6105, containing 18.563 acres, located at the southeast intersection of N. Laburnum Avenue and Harvie Road. No more than 78 units are proposed. The R-5A District allows a minimum lot size of 5,625 square feet. The Land Use Plan recommends Office. The site is in the Airport Safety Overlay District.

Ms. Moore - This is a companion case and a deferral is requested to the November 10, 2004 meeting.

Ms. Ware - Is there any opposition to the deferral of C-21C-04, James Theobald for Eric L. Walker, in the Fairfield District? No opposition.

Mr. Archer - Madam Chair, I move deferral of Case C-21C-04, Eric L. Walker, to the November 10, 2004 meeting at the request of the applicant.

Mr. Vanarsdall - Second.

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

At the request of the applicant, the Planning Commission deferred Case C-21C-04, Eric L. Walker, to its meeting on November 10, 2004.

Deferred from the September 9, 2004 Meeting:

C-51C-03 Larry D. Willis: Request to rezone from A-1 Agricultural District and M-1C Light Industrial District (Conditional) to B-2C Business District (Conditional), Parcels 742-762-9861, 743-762-1862 and 743-762-1538 and part of Parcel 742-762-9178, containing 4.089 acres, located at the northern terminus of Brookriver Drive and at the I64E/I295 southeast cloverleaf. Restaurants and other commercial uses are proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Semi Public. The site is also in the West Broad Street Overlay District.

Ms. Moore - The deferral is requested to the November 10, 2004 meeting.

Mrs. Ware - Is there any opposition to the deferral of Case C-51C-03, Larry D. Willis, in the Three Chopt District? There is no opposition. Mr. Marshall.

Mr. Marshall - Madam Chairman, I move that Case C-51C-03, Larry D. Willis, be deferred to the November 10, 2004 meeting at the request of the applicant.

Mr. Vanarsdall - Second.

105
106 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
107 say aye. All opposed say no. The motion passes.
108

109 At the request of the applicant, the Planning Commission deferred Case C-51C-03, Larry D. Willis,
110 to its meeting on November 10, 2004.

111
112 Ms. Moore - The next one is on page 4 of your agenda.
113

114 **Deferred from the September 9, 2004 Meeting:**

115 **C-22C-04 James W. Theobald for Reynolds Development, LLC:** Request to
116 conditionally rezone from O-3C Office District (Conditional), B-3 Business District and M-1 Light
117 Industrial District to B-2C Business District (Conditional), B-3C Business District (Conditional) and O-
118 3C Office District (Conditional), Parcels 767-744-9052, 767-744-6325, 765-744-6557, 766-745-
119 8230, and 767-745-5402, containing approximately 71.021 acres (54.317 ac. – B-2C; 2.997 ac. – B-
120 3C; 13.707 ac. – O-3C), located along the southeast intersection of I-64 and Glenside Drive and the
121 southwest intersection of I-64 and W. Broad Street (U.S. Route 250). A retail, hotel, and office
122 development is proposed. The use will be controlled by proffered conditions and zoning ordinance
123 regulations. The Land Use Plan recommends Planned Industry and Government. The site is in the
124 Henrico County Enterprise Zone.
125

126 Ms. Moore - The deferral is requested to the November 10, 2004 Planning Commission
127 meeting.
128

129 Mrs. Ware - Is there any opposition to Case C-22C-04, James W. Theobald for
130 Reynolds Development, LLC, in the Three Chopt District? There is no opposition.
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132 Mr. Marshall - Madam Chairman, I move that Case C-22C-04 be deferred to the
133 November 10, 2004 meeting at the request of the applicant.
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135 Mr. Vanarsdall - Second.
136

137 Mrs. Ware - Motion made by Mr. Marshall, seconded by Mr. Vanarsdall. All in favor say
138 aye. All opposed say no. The motion passes.
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140 At the request of the applicant, the Planning Commission deferred Case C-22C-04, James W.
141 Theobald for Reynolds Development, LLC, to its meeting on November 10, 2004.
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143 Ms. Moore - Going back, we have a deferral request for C-48C-04, on page 3 of your
144 agenda.
145

146 **Deferred from the September 9, 2004 Meeting:**

147 **C-48C-04 Henry L. Wilton:** Request to conditionally rezone from A-1 Agricultural
148 District to B-3C Business District (Conditional), Parcels 804-737-4084 and 804-737-1251, containing
149 4.8303 acres, located on the east line of Mechanicsville Turnpike (U. S. Route 360) opposite
150 Springdale Road. The applicant proposes business uses. The use will be controlled by zoning
151 ordinance regulations and proffered conditions. The Land Use Plan recommends Government and
152 Urban Residential. The site is in the Airport Safety Overlay District.
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154 Ms. Moore - The deferral is requested to the November 10, 2004 Planning Commission
155 meeting.
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157 Mrs. Ware - Is there any opposition to C-48C-04, Henry L. Wilton, in the Fairfield
158 District? No opposition. Mr. Archer.

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160 Mr. Archer - I move deferral of Case C-48C-04, Henry L. Wilton, to the November 10,
161 2004 meeting at the applicant's request.

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163 Mr. Vanarsdall - Second.

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165 Mrs. Ware - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All in favor say
166 aye. All opposed say no. The motion passes.

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168 At the request of the applicant, the Planning Commission deferred Case C-48C-04, Henry L. Wilton,
169 to its meeting on November 10, 2004.

170
171 ***Deferred from the September 9, 2004 Meeting:***

172 **PUBLIC HEARING: INNSBROOK URBAN MIXED USE AREA:** The Planning Commission will
173 consider an amendment to the 2010 Land Use Plan that would redesignate a portion of the
174 Innsbrook office park to Urban Mixed Use (UMU). The site is generally comprised of the area
175 bordered by Cox Road, Sadler Place, Highwoods Parkway, and Waterfront Lake. The Recommended
176 Plans may be examined in the Planning Office on the second floor of the County Administration
177 Building.

178
179 Ms. Moore - The request for deferral is to the November 10, 2004 Planning Commission
180 meeting.

181
182 Mrs. Ware - Is there any opposition to the deferral of the Public Hearing of Innsbrook
183 Urban Mixed Use Area, in the Three Chopt District? There is opposition. Should we pull this, or
184 should we just go ahead and hear it?

185
186 Mr. Silber - Is there opposition to the deferral or is it opposition to the case itself?

187
188 Person in the
189 Audience - It is opposition to the deferral.

190
191 Mrs. Ware - Would you please step to the podium and give us your name and address
192 and indicate your reason for the opposition to the deferral.

193
194 Mr. Dave Cummings - Sure, Madam Chairman and members of the Commission. My
195 name is Dave Cummings and I am the President of The Cedars Homeowners Association, which is
196 the neighborhood just to the left, on the map there (referring to rendering). The first time this issue
197 was brought to this Commission was July 15. It has been in the works for some time and at that
198 meeting the applicant was requesting deferral as well. And we pointed out at that time that this
199 proposal was contrary to the Land Use Plan that had been crafted for Henrico County, that it would
200 simply add to the congestion and noise in the area, that it would raise security and safety concerns,
201 and it would negatively impact the neighborhoods that surrounded the area. We are joined in this
202 concern, not only by the other neighborhoods in The Cedars area, but also the surrounding area,
203 and there are a number of neighborhoods that are affected. We simply have a united concern that
204 this project would not be welcome. Now, the zoning issue that is requested was explained to us that
205 it would help revitalize the area, that it would help Innsbrook benefit from a new type of zoning,
206 the mixed-use zoning, but frankly we were of the opinion then, and we are of the opinion now, that
207 Innsbrook is just not right for this kind of development. So, in July we requested the Commission
208 not to waste your time and not to waste our time considering this proposal. The focus on other

209 issues have helped alleviate the problems of traffic congestion that Innsbrook does experience.
210 Now, in spite of our appeal, the Commission did hear and the vote did defer the case until
211 September. We wanted to hear more from Highwoods. They wanted to hear more from other
212 sources. They wanted to gather more information, and, frankly, that effort has wound on in
213 September when the issue came, it was requested for deferral again, and we were told at that
214 meeting to rest assured that there would be a decision at the October meeting. Mr. Marshall, I
215 think, represented that specifically. So, in response to that question, here we are again facing
216 another deferral. Now, frankly, Highwoods' attorney is paid to be here. You all like to be here. The
217 homeowners of The Cedars and other neighborhoods do not want to be here. This has been an
218 ongoing issue. It is raising more concerns and has been addressed and it is causing neighbors to
219 have to come here month after month, spend time in the evenings to deal with this, and even
220 though Highwoods does stand to make a lot of money on this new proposal, and perhaps the
221 County is looking at this as a way to increase tax revenue, there are a number of issues that we
222 could talk about tonight if you want that simply do not make this the right project for this place at
223 this time. Frankly, it is the wrong project, at the wrong place, at the wrong time. We would simply
224 appeal to you tonight to vote to dispense with this project and to not defer it, to deal with it right
225 now, and vote it down.

226
227 Mr. Marshall - Mr. Cummings, were you not notified that the case was going to be
228 deferred tonight?

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230 Mr. Cummings - Just notified just recently. As a matter of fact, there are a number of our
231 neighbors tonight; there are a number of neighbors here tonight who didn't even know it was going
232 to be deferred until we got here this even.

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234 Mr. Marshall - Mr. Malenski had called me on Tuesday to let me know that he had
235 received a letter from Mr. Theobald that the case was going to be asked to be deferred, and, in fact,
236 I left him a voice mail letting him know that that was going to be the case.

237
238 Mrs. Ware - You will need to come to the podium, sir, and identify yourself.

239
240 Mr. Marshall - I am just pointing out I don't know why you didn't get notification.

241
242 Mr. Mike Malenski - I am Mike Malenski, President of the Saddlebrook Association, 4437 Cedar
243 Forest Road, Richmond, VA 23060. I did receive notification from Mr. Theobald from a letter dated
244 the 7th that he intended to defer the matter tonight until the next meeting. I did leave a message
245 with Mr. Marshall and heard today from him that the County, via a report from the County, would
246 elect to defer that, and last night actually gave notice to our neighborhood that it would be likely
247 deferred today. Actually, the intent was that it would be deferred from the County report that I read
248 via the public web site, but it was today that Mr. Marshall that I received word from you today that it
249 would officially be deferred, so I am sorry if there was confusion there. And that is why you see
250 fewer people here tonight.

251
252 Mr. Cummings - Just to follow up on what Mike has said, the fact whether or not we were
253 notified is not the issue at stake. I have been out of town, as a matter of fact, my train just got in
254 from Baltimore at 6:40 this evening, so I just came directly here. I understand there is a letter at
255 home, and others may have been notified, but the fact that we were notified whether it was Monday
256 or Tuesday or Wednesday is really not the issue. The issue is we...

257
258 Mr. Marshall - The reason why I raised the issue is I wanted to make sure that it was a
259 fact that the notification was sent out, because I don't want people coming here thinking that

260 something is going to be heard and they haven't been sent notification that there is going to be a
261 request for deferral.

262

263 Mr. Cummings - I understand that if I review the County's report it indicates that they wish
264 to defer based on traffic issues, but I must state publicly that I received notification from Mr.
265 Theobald from Highwoods Properties in writing that the issues related not only to traffic as well as
266 sewer were approved, were submitted and approved by the County, and tonight we are deferring
267 because of issues related to traffic or sewer is in direct contrast to written notification from Mr.
268 Theobald.

269

270 Mr. Marshall - Well, Mr. Theobald doesn't speak for me.

271

272 Mr. Malenski - That is good.

273

274 Mr. Marshall - There is an issue – it deals with traffic – and quite frankly it is an issue that
275 is beyond me to answer or solve, and it is something that I will have to discuss with the County
276 Manager when he returns from China. Had the County Manager not been in China, I would have
277 talked with the County Manager and gotten an answer to my question that dealt with the road
278 improvements and traffic, but since he was not available, much to my chagrin, because as stated
279 before, I spent a whole lot of time on this, to say the least, and so I wanted to get on with it and get
280 it over with today, too. So, I could not help the fact that I could not get my question answered until
281 some time next week, and the meeting just happened to fall now, so that is the reason it is being
282 deferred, because I could not get my question answered.

283

284 Mr. Malenski - The only request I have as President of The Saddlebrook Association and
285 not having the luxury of confirming this with the other neighborhoods around me is that if Mr.
286 Theobald is to represent in the future that the County of Henrico and the Department of
287 Transportation of the State of Virginia has approved traffic issues...

288

289 Mr. Marshall - Let me say something about that, Mr. Malenski, the traffic department had
290 never said anything about widening or adding a lane on Sadler Place, but from a practical standpoint
291 that is something that I thought should be done. OK? So, as far as the County is concerned, that is
292 not needed, not necessary, but if I think it is, I am in conflict with the County, but it may be
293 something that I think is necessary and I want. So, just because the County says that doesn't mean
294 all of the issues and everything is resolved.

295

296 Mr. Malenski - I don't need as far as the process or the communication, but it has taken
297 surely in a sterile environment and what Mr. Theobald represented versus what you are talking
298 about, he represented that all was well with the traffic concerns with the County and Department of
299 Transportation and if there are other issues based on your feedback, that is fine. In a
300 pure...(unintelligible)

301

302 Mr. Marshall - They are my issues and not the County's.

303

304 Mr. Malenski - And I definitely appreciate if you have issues beyond that in our interest, as
305 you state, that I applaud that and thank you for that, so I am willing to look past his representation
306 to what you are representing as well in the future as we go to the next meeting to discuss this, as
307 well.

308

309 Mr. Silber - Mr. Marshall, I think we are bordering on hearing this case at this point. I
310 think what is before us is a consideration for the applicant's request to defer this. If the applicant
311 simply makes the request, it is simply up to the Commission as to whether or not they are going to

312 grant that request. I think there are some that feel it should not be granted, that it should be acted
313 on tonight. I think at this point we've heard enough. I think it is up to the Commission to decide
314 whether they want to defer this or not, and what I suggest is that if it is going to be deferred, I think
315 whoever is here should provide names and phone numbers to the applicant or my staff so you can
316 be contacted in the future in case it is deferred again, or simply to stay informed in the process. But
317 I think we've heard enough on this case from my perspective.

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319 Mrs. Ware - All right. Mr. Marshall.

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321 Mr. Marshall - Madam Chairman, based on my needs to have my questions answered, I
322 am going to move that the Public Hearing for the Innsbrook Urban Mixed Use Area be deferred to
323 the November 10, 2004 meeting at the applicant's request.

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325 Mr. Vanarsdall - And I second it.

326
327 Mrs. Ware - Motion made by Mr. Marshall, seconded by Mr. Vanarsdall. All in favor say
328 aye. All opposed say no. The motion passes.

329
330 At the request of the applicant, the Planning Commission deferred the PUBLIC HEARING:
331 INNSBROOK URBAN MIXED USE AREA, to its meeting on November 10, 2004.

332
333 Mr. Silber - There are several components to this same request. The public hearing on
334 the urban mixed-use land use plan component has been deferred. There are other components we
335 need to take action on as well.

336
337 Mrs. Ware - We are still conducting our meeting, everyone, for those of you who need
338 to leave. Please do so quietly.

339
340 Ms. Moore - As Mr. Silber mentioned, the next three-deferral requests are a companion
341 case to the Innsbrook Urban Mixed District. The next is on page 4 of your agenda.

342
343 **Deferred from the September 9, 2004 Meeting:**

344 **C-27C-04 James W. Theobald for Highwoods Realty LP, etal:** Request to
345 conditionally rezone from O-3C Office District (Conditional) to UMU Urban Mixed Unit Development,
346 Parcels 750-766-3162, 750-765-4697, 749-765-7952 and 750-765-0494, containing approximately
347 36.13 acres, located along the southwest intersection of Cox Road and Sadler Place. A mixed-use
348 development is proposed. All uses will be controlled by proffered conditions and zoning ordinance
349 regulations. The applicant proffers any residential use will not exceed three hundred forty-four
350 (344) units. The Land Use Plan recommends Office and Environmental Protection Area.

351
352 Ms. Moore - The deferral is requested to the November 10, 2004 Planning Commission
353 meeting.

354
355 Mrs. Ware - Is there any opposition to the deferral of Case C-27C-04, James W.
356 Theobald for Highwoods Realty LP, etal, in the Three Chopt District? There is no opposition.

357
358 Mr. Marshall - Madam Chairman, I move that Case C-27C-04 be deferred to the
359 November 10, 2004 meeting at the request of the applicant.

360
361 Mr. Vanarsdall - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
362 say aye. All opposed say no. The motion passes.

363

364 At the request of the applicant, the Planning Commission deferred Case C-27C-04, James W.
365 Theobald for Highwoods Realty LP, etal, to its meeting on November 10, 2004.

366

367 **Deferred from the September 9, 2004 Meeting:**

368 **P-6-04 James W. Theobald for Highwoods Realty LP, etal:** Request for a
369 Provisional Use Permit under Sections 24-32.1(a) and 24-122.1 of Chapter 24 of the County Code in
370 order to permit the activities listed in Section 24-32.1(a) of the UMU ordinance, on Parcels 750-766-
371 3162, 750-765-4697, 749-765-7952 and 750-765-0494, containing approximately 36.13 acres,
372 located along the southwest intersection of Cox Road and Sadler Place. The existing zoning is O-3C
373 Office District. The Land Use Plan recommends Office and Environmental Protection Area.

374

375 Ms. Moore - The deferral is requested to the November 10, 2004 meeting.

376

377 Mrs. Ware - Is there any opposition to the deferral of P-6-04, James W. Theobald for
378 Highwoods Realty LP, etal, in the Three Chopt District? There is no opposition.

379

380 Mr. Marshall - Madam Chairman, I move that Case P-6-04 be deferred to the November
381 10, 2004 meeting at the request of the applicant.

382

383 Mr. Vanarsdall - Second.

384

385 Mrs. Ware - Motion made by Mr. Marshall, seconded by Mr. Vanarsdall. All in favor say
386 aye. All opposed say no. The motion passes.

387

388 At the request of the applicant, the Planning Commission deferred Case P-6-04, James W. Theobald
389 for Highwoods Realty LP, etal, to its meeting on November 10, 2004.

390

391 **Deferred from the September 9, 2004 Meeting:**

392 **P-7-04 James W. Theobald for Highwoods Realty LP, etal:** Request for a
393 Provisional Use Permit under Sections 24-32.1(u) and 24-122.1 of Chapter 24 of the County Code in
394 order to permit a thirteen (13) foot increase in the permitted height of office buildings in the UMU
395 District, on Parcels 750-766-3162, 750-765-4697, 749-765-7952 and 750-765-0494, containing
396 approximately 36.13 acres, located along the southwest intersection of Cox Road and Sadler Place.
397 The existing zoning is O-3C Office District. The Land Use Plan recommends Office and
398 Environmental Protection Area.

399

400 Mrs. Moore - The deferral is requested to the November 10, 2004 meeting.

401

402 Mrs. Ware - Is there any opposition to the deferral of P-7-04, James W. Theobald for
403 Highwoods Realty, LP, etal, in the Three Chopt District? There is no opposition.

404

405 Mr. Marshall - Madam Chairman, I move that Case P-7-04 be deferred to the November
406 10, 2004 meeting, at the request of the applicant.

407

408 Mr. Vanarsdall - Second.

409

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

412

413 At the request of the applicant, the Planning Commission deferred Case P-7-04, James W. Theobald
414 for Highwoods Realty, LP, etal, to its meeting on November 10, 2004.

415

416 Mrs. Moore - The last deferral request for your 7:00 p.m. agenda is on page 5 of your
417 agenda.
418

419 **Deferred from the September 9, 2004 Meeting:**

420 **C-44C-04 Andrew Condlin for David E. Cottrell:** Request to amend proffered
421 conditions accepted with Rezoning Case C-39C-95, on part of Parcel 740-765-2150, containing
422 1.4019 acres, located on the east line of Pouncey Tract Road, approximately 350 feet south of Twin
423 Hickory Lake Drive. The amendment is related to use restrictions and hours of operation and
424 would permit a car wash. The existing zoning is B-3C Business District (Conditional). The Land Use
425 Plan recommends Commercial Concentration, Office and Environmental Protection Area.
426

427 Mrs. Moore - The deferral is requested to the November 10, 2004 Planning Commission
428 meeting.
429

430 Mrs. Ware - Is there any opposition to the deferral of Case C-44C-04, Andrew Condlin
431 for David E. Cottrell? No opposition.
432

433 Mr. Marshall - Madam Chairman, I move that Case C-44C-04 be deferred to the
434 November 10, 2004 meeting at the request of the applicant.
435

436 Mr. Vanarsdall - Second.
437

438 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
439 say aye. All opposed say no. The motion passes.
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441 At the request of the applicant, the Planning Commission deferred C-44C-04, Andrew Condlin for
442 David E. Cottrell, to its meeting on November 10, 2004.
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444 Mr. Silber - Because of the length of the agenda this evening, the agenda is divided
445 into two parts. We have the 7:00 portion of the agenda and an 8:00 p.m. portion, so there are
446 other items up for deferral on the 8:00 portion of the agenda, but we will have to wait until 8:00 to
447 defer those.
448

449 Mr. Vanarsdall - Mr. Secretary, can't we just read them off and not take any action on
450 them until the people are waiting?
451

452 Mr. Silber - We could do that, Mr. Vanarsdall, but they have been notified they are on
453 the 8:00 portion of the agenda, so more than likely they are not here, but if you'd like me to read
454 them off, I'd be happy to do that.
455

456 Mr. Vanarsdall - OK.
457

458 Mr. Silber - Whatever your pleasure. Next on the agenda would be the items on the
459 Expedited Agenda. The Expedited Agenda is a consent agenda. These items have all of the issues
460 resolved to staff's satisfaction and the Planning Commission member from the district is satisfied
461 with the request. There is no known opposition to the request, so it is put on an Expedited
462 Agenda. An Expedited Agenda means it would not have a full hearing. If there is opposition to
463 these items on the Expedited Agenda, they would be pulled off and heard in the order they are
464 found on the agenda. I believe there are two items on the 7:00 portion that are considered to be
465 requested for Expedited consideration.
466

467 Ms. Moore - Thank you, Mr. Secretary. The first is on Page 4 of your agenda.

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Deferred from the August 12, 2004 Meeting:

C-16C-04 Garth Brandaw for Colson & Colson Construction Co.: Request to conditionally rezone from A-1 Agricultural District and R-6C General Residence District (Conditional) to R-6C General Residence District (Conditional), Parcels 749-755-4576, 749-755-9136 and 749-755-8188, containing approximately 10.80 acres, located on the north line of Three Chopt Road and the southwest corner of the I-64/Gaskins Road Interchange, approximately 500 feet west of Gaskins Road. The applicant proposes a retirement residence for seniors with associated uses. The R-6 District allows a density up to 19.80 units per acre. The Land Use Plan recommends Office and Environmental Protection Area.

Mrs. Ware - Is there any opposition to hearing Case C-16C-04, Garth Brandaw for Colson & Colson Construction Company, in the Three Chopt District, on the Expedited Agenda? There is no opposition.

Mr. Marshall - Madam Chairman, I move that we recommend approval to the Board of Supervisors Case C-16C-04.

Mr. Vanarsdall - Second.

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

REASON: Acting on a motion by Mr. Marshall, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because it would provide for appropriate development on a site with topographic and access constraints. The request is reasonable in light of the adjacent multi-family zoning and assisted living developments in the area and the proffered conditions would provide for a higher quality of development than would otherwise be possible.

C-51-04 Bonnie Beavers for HHHunt Corporation: Request to rezone from R-5AC General Residence District (Conditional) and RTHC Residential Townhouse District (Conditional) to C-1 Conservation District, part of Parcels 747-771-2430 and 745-768-7376 containing 13.31 acres, located on along the north and south lines of Hickory Bend Drive, approximately 1,000 feet east of Twin Hickory Lake Drive. A conservation area and associated uses are proposed. The Land Use Plan recommends Environmental Protection Area, Rural Residential, and Suburban Residential 2, 2.4 to 3.4 units net density per acre.

Mrs. Ware - Is there any opposition to hearing C-51C-04, Bonnie Beavers for HHHunt Corporation on the Expedited Agenda in the Three Chopt District? There is no opposition.

Mr. Marshall - Madam Chairman, I move that we recommend approval to the Board of Supervisors Case C-51-04.

Mr. Vanarsdall - Second.

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

REASON: Acting on a motion by Mr. Marshall, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because it conforms with the Environmental Protection Area recommendation of the Land

520 Use Plan and with the objectives and intent of the County's Comprehensive Plan to protect
521 environmentally sensitive land.

522
523 Ms. Moore - Thank you. That concludes our report for Expedited.

524
525 Mr. Silber - Thank you. Members of the Commission, it looks as though we have
526 some students with us this evening that may be visiting the Planning Commission meeting, and I
527 just wanted to let them know what is on tonight's agenda primarily are requests for rezoning of
528 property. When property is up for rezoning, it goes through a two-step public hearing process, one
529 before the Planning Commission who recommends or makes recommendation to the Board of
530 Supervisors, so the hearing tonight is on rezoning and a recommendation to the Board of
531 Supervisors, the Board would then act a month later on these requests and make the final decision.
532 So, I thought I would just share that for the benefit of those that may be learning about the local
533 government process.

534
535 Before we go on to the items on the agenda, I wanted to make one announcement if I could
536 please. If we could have Mr. Tyson stand up, please. Lee Tyson has been recently promoted to fill
537 Jean Moore's position as a County Planner III. Everyone, I believe knows, that Jean has been
538 promoted to the Principal Planner position in Comprehensive Planning. We are short-staffed and
539 we are glad to have Lee fill that position. Lee already works in the Planning Department, so he is
540 moving from the Code Administration Division, where he has been for about a year and a half, to
541 Comprehensive Planning. Lee came to the County with a fair amount of experience, 16 years of
542 local government experience. It is hard to believe. He looks so young. He has worked with the
543 Chesapeake Bay Local Assistance Board and he was a Planning Director in New Kent County. So,
544 he also has his Master's degree in Planning and Urban Studies from VCU. So, I just wanted to
545 inform the Commission that we have a new planner in Comp Planning.

546
547 All Commissioners - Congratulations!

548
549 Mr. Silber - Thanks. The first item on the agenda tonight is a Plan of Development.
550 This was deferred from the Planning Commission's September 22, 2004 hearing.

551
552 **PLAN OF DEVELOPMENT (Deferred from the September 22, 2004, Meeting)**

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POD-70-04 SunTrust Bank – Glen Lea Branch –Mechanicsville Turnpike	Resource International, Ltd. for SunTrust Real Estate Corporation: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a new entrance and revised parking for an existing bank. The 0.276-acre site is located at the southwest corner of the intersection of Rescue Avenue and Mechanicsville Turnpike (U.S. Route 360) on parcel 802-735-7608. The zoning is B-1, Business District. County water and sewer. (Fairfield)
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554
555 As the Commission may recall, this was heard in September for decision only this evening.

556
557 Mrs. Ware - Is there any opposition to POD-70-04, SunTrust Bank in the Fairfield
558 District? There is no opposition. Good evening, Mr. Cooper.

559
560 Mr. Cooper - Good evening, Madam Chairman and members of the Commission. This
561 plan, as Mr. Secretary informed you, is for a revised parking lot and a new entrance for an existing
562 SunTrust Bank location. The bank will remain vacant and will only offer drive-up ATM service. The

563 original entrance to the bank was eliminated due to the recent plan of development for the Dunn
564 Building located immediately to the south of this property. As you will recall, this plan was deferred
565 at the September 22 hearing to allow the applicant time to work with the Dunn family regarding
566 potential shared entrance. At this time, it has been agreed upon by both the Dunn family and
567 SunTrust Bank that maintaining separate entrances is in the best interest of both parties. So, while
568 staff maintains a shared entrance would provide the best layout, the plan as proposed with
569 separate entrances is acceptable for all reviewing agencies. Therefore, staff can recommend
570 approval and, again, as Mr. Secretary informed you, it is my recollection that this evening's plan is
571 for decision only. However, the applicant's representative is here to answer any questions you
572 might have, and I will be happy to answer any questions as well.

573
574 Mr. Marshall - No peace in the valley, huh?

575
576 Mrs. Ware - Are there any questions for Mr. Cooper from the Commission?

577
578 Mr. Archer - I have none, Madam Chairman.

579
580 Mrs. Ware - OK. Mr. Archer.

581
582 Mr. Archer - OK, well since the last meeting I have been privy to a copy of a letter sent
583 to Mr. Martin, who represented the Dunn Family Partnership for Mr. Daniel Simon and they
584 indicated that they have agreed to how the driveway should be cut, so since we are here for
585 decision only, I move that POD-70-04, SunTrust Bank, Glen Lea Branch, Mechanicsville Turnpike,
586 be approved, subject to the annotations on the plan, the standard conditions for developments of
587 this type, and the additional conditions Nos. 23 through 33.

588
589 Mr. Vanarsdall - Second.

590
591 Mrs. Ware - Motion made by Mr. Archer and seconded by Mr. Vanarsdall. All in favor
592 say aye. All opposed say no. The motion passes.

593
594 The Planning Commission approved POD-70-04, SunTrust Bank – Glen Lea Branch – Mechanicsville
595 Turnpike, subject to the annotations on the plans, the standard conditions for developments of this
596 type, and the additional conditions Nos. 23 through 33 shown below:

597

598 23. The easements for drainage and utilities as shown on approved plans shall be granted to
599 the County in a form acceptable to the County Attorney prior to any occupancy permits
600 being issued. The easement plats and any other required information shall be submitted to
601 the County Real Property Agent at least sixty (60) days prior to requesting occupancy
602 permits.

603 24. The entrances and drainage facilities on U. S. Route 360 shall be approved by the Virginia
604 Department of Transportation and the County.

605 25. A notice of completion form, certifying that the requirements of the Virginia Department of
606 Transportation entrances permit have been completed, shall be submitted to the
607 Department of Planning prior to any occupancy permits being issued.

608 26. The developer shall provide fire hydrants as required by the Department of Public Utilities
609 and Division of Fire.

610 27. Any necessary off-site drainage and/or water and sewer easements must be obtained in a
611 form acceptable to the County Attorney prior to final approval of the construction plans.

612 28. Deviations from County standards for pavement, curb or curb and gutter design shall be
613 approved by the County Engineer prior to final approval of the construction plans by the
614 Department of Public Works.

- 615 29. In the event of any traffic backup which blocks the public right-of-way as a result of
 616 congestion caused by the drive-up teller facilities, the owner/occupant shall close the drive-
 617 up teller facilities until a solution can be designed to prevent traffic backup.
- 618 30. Insurance Services Office (ISO) calculations must be included with the plans and contracts
 619 and must be approved by the Department of Public Utilities prior to the issuance of a
 620 building permit.
- 621 31. Approval of the construction plans by the Department of Public Works does not establish
 622 the curb and gutter elevations along the Henrico County maintained right-of-way. The
 623 elevations will be set by Henrico County.
- 624 32. Approval of the construction plans by the Department of Public Works does not establish
 625 the curb and gutter elevations along the Virginia Department of Transportation maintained
 626 right-of-way. The elevations will be set by the contractor and approved by the Virginia
 627 Department of Transportation.
- 628 33. The location of all existing and proposed utility and mechanical equipment (including HVAC
 629 units, electric meters, junction and accessory boxes, transformers, and generators) shall be
 630 identified on the landscape plans. All equipment shall be screened by such measures as
 631 determined appropriate by the Director of Planning or the Planning Commission at the time
 632 of plan approval.

633
 634 Mr. Vanarsdall - Mr. Silber, you never said what school that was.

635
 636 Mr. Silber - I don't know what school they are from. What school are you from?

637
 638 Students in the
 639 Audience - Freeman.

640
 641 Mr. Vanarsdall - I figured you all were from Freeman. You look like Freeman.

642
 643 **Deferred from the July 15, 2004 Meeting:**

644 **C-18C-03 Commonwealth Foundation For Cancer Research:** Request to conditionally
 645 rezone from A-1 Agricultural District, O-2C Office District (Conditional), B-2C Business District
 646 (Conditional), and B-3 Business District to B-2C Business District (Conditional), Parcels 741-761-
 647 2931, 741-761-3418, 741-761-8532, 741-761-8112, 741-761-4704, 741-760-5792, 741-761-4645
 648 and part of Parcels 741-760-6979, 742-760-1598, 741-759-0697 and 741-760-8628, containing
 649 approximately 14.23 acres, located south of West Broad Street at Three Chopt Lane. A retail use is
 650 proposed. The use will be controlled by zoning ordinance regulations and proffered conditions.
 651 The Land Use Plan recommends Office and Commercial Concentration. The site is in the West
 652 Broad Street Overlay District.

653
 654 Mrs. Ware - Is there any opposition to Case C-18C-03, Commonwealth Foundation for
 655 Cancer Research in the Three Chopt District? No opposition. Good evening, Mr. Gidley.

656
 657 Mr. Gidley - Thank you, Mr. Chairperson and members of the Planning Commission.
 658 This is a request to rezone 14.23 acres for retail development along the southern side of West
 659 Broad Street just east of John Rolfe Parkway. The Englewood rezoning case, C-70C-03, has been
 660 recently approved for 117 acres to the east of this property. Staff's primary concern with this case
 661 has been to ensure not only a quality development, but also one that blends well architecturally
 662 and functionally with the adjacent Englewood development. The applicant had submitted revised
 663 proffers dated October 14, 2004. Therefore, the time limits would need to be waived. The new
 664 proffers address all of staff's concerns. The aspects of these proffers include a provision that no
 665 single-user exceed 25,000 sq. ft. in size, a requirement that buildings on Parcel A along West Broad
 666 Street have an architectural style and design element similar to those proffered with the adjacent

667 Englewood case, a requirement that buildings on the main site contain at least 35% brick and the
668 requirement that the pedestrian and vehicle circulation be coordinated with the adjacent Englewood
669 development. With the submission of these proffers, the applicant has addressed the concerns
670 raised in the staff report. Therefore, staff is able to recommend approval of this request. This
671 concludes my presentation. I would be happy to answer any questions you may have.
672

673 Mrs. Ware - Thank you, Mr. Gidley. Are there any questions for Mr. Gidley from the
674 Commission? Thank you. Mr. Marshall.
675

676 Mr. Marshall - I first have to make a motion that we waive the time limits as to the
677 submission of the proffers, so I do so.
678

679 Mr. Archer - Second.
680

681 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Archer. All in favor say
682 aye. All opposed say no. The motion passes.
683

684 The Planning Commission approved waiving the time limits on the proffers for Case C-18C-03,
685 Commonwealth Foundation For Cancer Research.
686

687 Mr. Marshall - Madam Chairman and members of the Commission, I inherited this case.
688 As you can see, it is a year and a half old and it is probably the most complicated case that we will
689 ever see. It involves some 11 different land owners, the swapping of land with the school system,
690 the moving of ball fields, but in the end I think the neat thing about this case is that everything
691 generated out of this is going to go to the Cancer Foundation, the Massey Cancer Center, which I
692 think is a neat thing, especially in this day and time, with the values along Broad Street, that you
693 will see something like this happen, and it was due to some landowners being willing to do that.
694 Some donated property to help make this project happen. So, this case has extra reasons for being
695 a good case, so I am going to recommend to the Board of Supervisors for approval Case C-18C-03.
696

697 Mr. Vanarsdall - Second.
698

699 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
700 say aye. All opposed say no. The motion passes.
701

702 **REASON:** Acting on a motion by Mr. Marshall, seconded by Mr. Vanarsdall, the Planning
703 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the
704 request because the proposed commercial development conforms with the recommendations of the
705 Land Use Plan and West Broad Street Overlay District and will permit coordinated development
706 both on the subject site and with the adjoining commercial/office development to the east. The
707 proffers conditions will also provide appropriate quality assurance not otherwise available.
708

709 **C-50C-04 Neil P. Farmer:** Request to conditionally rezone from A-1 Agricultural
710 District to RTHC Residential Townhouse District (Conditional), Parcels 747-774-5839 and 747-774-
711 6515, containing 5.00 acres, located on the northwest line of Twin Hickory Road approximately 270
712 feet southwest of Lemoore Drive. The applicant proffers to develop no more than thirty (30) units.
713 The maximum density in the RTH District is nine (9) units per acre. The Land Use Plan
714 recommends Urban Residential, 3.4 to 6.8 units net density per acre.
715

716 Mrs. Ware - Is there any opposition to C-50C-04, Neil P. Farmer in the Three Chopt
717 District? No opposition. Mr. Gidley.
718

719 Mr. Gidley - Thank you, Madam Chairman. This request would rezone five acres from
720 A-1 to RTHC in order to build a townhouse community. The site is located off of Twin Hickory Road
721 between the recently approved Ukrop's development and the Wyndham Forest Subdivision. The
722 applicant has submitted revised proffers, dated October 14, 2004. Therefore, the time limits would
723 need to be waived. The new proffers include and are not limited to the following:

- 724
- 725 • A proffered site plan, which you see before you
- 726 • A limit of 29 homes, which results in a density of 5.8 units per acre, within the
727 recommended density, of 3.4 to 6.8 units per acre, albeit the high end
- 728 • Front and side building walls would be constructed of brick with at least one window on
729 each sidewall. This will help break up the monotony of a solid wall.
- 730 • A minimum of 2,100 sq. ft. of finished floor area
- 731 • A 25-foot buffer along the Wyndham Forest Subdivision
- 732 • Submittal of the landscape plan that includes landscaping of parking areas and in the front
733 of these buildings
- 734 • A 35-foot transitional buffer along Twin Hickory Road
- 735 • Sidewalks within the development and along Twin Hickory Road
- 736 • Sound suppression equivalent to a sound suppression factor of 54 between units
- 737 • And at least a one-car garage on each unit.

738

739 Since the proffers submitted with this case contains several positive features, along with protection
740 for the neighboring community, staff can recommend approval of this request. This concludes my
741 presentation and I would be happy to answer any questions you may have.

742

743 Mrs. Ware - Are there any questions for Mr. Gidley from the Commission? I have one,
744 which is the sidewalk. Does that also give access to the shopping center, Mr. Gidley?

745

746 Mr. Gidley - Yes, ma'am, the sidewalk on Twin Hickory would connect to the sidewalk
747 that was approved for the recent Ukrop's Shopping Center.

748

749 Mrs. Ware - Did the applicant address any of the multi-family guideline issues that
750 were outlined in the staff report?

751

752 Mr. Gidley - Yes, ma'am. Amongst those, you may note the landscaping plan that is
753 going to be submitted and includes landscaping in front of the units and also within the parking lot.
754 He indicted there would be no dumpster, so comments with regard to the material for screening a
755 dumpster is not relevant in this case.

756

757 Mrs. Ware - OK. The recreation proffer was deleted.

758

759 Mr. Gidley - He actually proffered that there would be no recreation area and,
760 obviously, if in the future somebody chose to have recreational facilities, of course, we would not
761 want them to come back and amend proffers just to have a recreation facility. But he has not
762 actually proactively offered a recreation area, no ma'am.

763

764 Mrs. Ware - All right. I am just going over this. OK, thank you. That is all of the
765 questions I have.

766

767 Mr. Archer - Mr. Gidley, the staff report indicated something that had to do with
768 directional lighting. Has that issue been resolved? It is on page 6 of the staff report, the type of
769 light speaks to what the Division of Police requires and is one that puts the light down on the
770 ground rather than horizontal up in the air. Is that the light fixture that puts the light everywhere

771 but where you want it, which is on the ground? Decorative fixtures are installed. They should have
772 the bulb and top casing of the lighting directed toward the ground. This is to avoid glare because
773 you don't have to see the bulb, and I notice that the proffers, at least this set of proffers, mentions
774 street lighting, but it does not indicate that particular discussion from the Police Department.
775

776 Mr. Gidley - The comments that you read as you stated did come from the Police
777 Planner and most of the comments that have been made recently by the Police Planner, which
778 have been rather in depth, are pretty much determined that they would be handled at the POD
779 phase.
780

781 Mr. Archer - OK.
782

783 Mr. Jernigan - Mr. Gidley, where it shows one window at the end of each unit, is this just
784 a standard window or is it going to be a bay window or just a regular double-hung window?
785

786 Mr. Gidley - That wasn't specified. We requested it so you don't have a situation
787 where you just have a solid wall with no break whatsoever in it, and so I believe the multi-family
788 guidelines actually encourage some sort of break there, either a design feature or a window to
789 break up the monotony, so the applicant did proffer a window at a minimum.
790

791 Mrs. Ware - There was a comment in the staff report concerning impervious cover, do
792 you know how that ended up?
793

794 Mr. Gidley - The applicant is not proffering impervious cover. He is fairly confident that
795 he can meet 40%. He may address that himself in a moment. There was some fear that it might
796 go up to say 41% or so, and he didn't really want to lock himself into it, but right now he appears
797 to be fairly confident he can meet that.
798

799 Mrs. Ware - OK. I will ask him. Thank you. Any more questions for Mr. Gidley? Thank
800 you. Can we hear from the applicant?
801

802 Mr. Neil Farmer - Members of the Planning Commission, my name is Neil Farmer. I
803 would like to reserve some time at the end for any questions or rebuttal. That is the impervious
804 area. I am not an engineer, but right now we are at 40 to 41% without all the actual detailed
805 calculations of getting an actual survey, so my engineer said we should be OK on that, but we
806 recently added the sidewalks up front and the sidewalks and everything, but we should be OK on
807 that.
808

809 I am here before you requesting to rezone the Parker's property from A-1 to RTHC, Residential
810 Townhouses. This site is adjacent to the recently rezoned Ukrop's site. The 2010 Land Use Plan
811 recommends this area for urban residential and the Planning staff report states this request is
812 consistent with this designation. I proffered to only have 29 town homes, which would be a density
813 of 5.8 units per acre. Additionally, I proffered all brick construction of the front and the sides of the
814 units, a minimum of 2100 square feet with at least a one-car garage, 35-foot transitional buffer
815 along Twin Hickory with sidewalks and a 25-foot landscape buffer adjacent to the Wyndham Forest
816 neighborhood. As a result, this will be a high-end quality townhouse project, which will serve as an
817 effective transitional use. Mr. Marshall and members of the Planning staff, I did want you to know I
818 met with some of the neighbors out in the hall that were not at the neighborhood meeting we had
819 Sunday night, and they had some concerns that they did not address and I told them these were in
820 my opinion mostly POD issues. They wanted to see basically what the elevation looks like of the
821 rear of the townhouses that were backing up to them, and that was something that I really had
822 never had anybody ask me for the rear elevations. I could show them what some of the proposed

823 front elevations looked like, and so I told them that I would get with them tomorrow or whenever
824 before the Board of Supervisors meeting and show them what the rear elevations look like.
825 Anyway, I told them they had a chance at the Board of Supervisors and then again at the POD
826 hearing, which was open to the public, also. Does anybody have any other questions?

827

828 Mrs. Ware - So you will have some elevations between now and the Board?

829

830 Mr. Farmer - Yes, I will.

831

832 Mrs. Ware - OK. Any more questions for Mr. Farmer? Thank you, sir. Mr. Marshall.

833

834 Mr. Marshall - Madam Chairman, this is adjacent to the Ukrop's Shopping Center that we
835 approved, so it is a buffer and a good transition for the neighbors in the Wyndham Forest
836 Subdivision who were most affected by this, and from the meeting that was held Sunday night, the
837 neighbors, as you see, with no opposition here. For the most part, they favored this type of
838 development to buffer them from the Ukrop's Shopping Center. So, with that I am going to
839 recommend approval of Case C-50C-04.

840

841 Mr. Vanarsdall - Second.

842

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

845

846 Mr. Waldenmaier - I am Eric Waldenmaier, one of the neighbors to the Parker property. As a
847 matter of fact, my address is 1149 Maple Hill Place Place. I have spoken to virtually all of the
848 neighbors along Maplewood Place and Lamoore Drive about this proposed townhouse unit.
849 Unfortunately, I think our homeowner's association is not as well equipped as they could be in
850 notifying neighbors as to what is happening and when things will happen. Unfortunately, my
851 neighbors and I - several of us were not able to attend the meeting, so we do not have a very
852 clear picture as to what this whole development is going to look like. I understand in talking to Mr.
853 Farmer that tonight we are here to decide what is the best use of this land, but I am also trying to
854 figure out the best use for who. (Unintelligible) have been wonderful neighbors and they have
855 been very gracious to myself and my family and my children and I am sure all of my neighbors. I
856 want the best for them. But I don't want it at the expense of my value of my property and my
857 neighbors. So, I think that although I don't want to stand here and say I don't want townhouses,
858 ideally, I think the best use, in my opinion, would be single-family homes. Certainly there are
859 greater minds out there than mine that have come up with some conclusion here, but it certainly is
860 not something that I believe is in the best interests of the immediate neighbors to the Wyndham
861 Forest community. I think that with a better understanding of exactly what is going on back there
862 and what is going to happen back there, I think that we may have some form of agreement. I
863 think we may be able to get together with Mr. Farmer and come up with something that may be
864 agreeable to all. I can't speak for everybody in the neighborhood, although again I do have
865 signatures that give me some authority to discuss this with you. Primarily, it is in the authority to
866 say, "We don't want it." I don't think that that is going to serve everybody here tonight most
867 efficiently, but certainly in the absence of knowing anything else, in the absence of moving forward
868 and understanding exactly what is going to happen here, I think we want to say we don't want it
869 now, and we are primarily looking at a single-family development compared to what we are looking
870 at currently.

871

872 Mr. Silber - Let me, maybe, voice some information for you. At this point, the
873 Planning Commission has just heard this case. Perhaps we didn't notice your hand go up when
874 there was a question as to whether there was opposition.

875
876 Mr. Waldenmaier - I didn't know the protocol and I didn't notice that anybody asked that. I
877 did not hear that question at all.
878
879 Mr. Silber - Let me explain where we are and what the process is. What is before the
880 Planning Commission tonight is a request to rezone this property? They will consider the request to
881 rezone this and a recommendation will be made to the Board of Supervisors. Another similar public
882 hearing will be held by the Board of Supervisors and they will make the final decision. If the
883 Planning Commission sends this on to the Board tonight, that meeting will be the second Tuesday
884 in November, and I would encourage you to participate in that process. If the property is rezoned
885 for townhouses, which, by the way, the County has an adopted Land Use Plan and the Land Use
886 Plan does recommend what is called urban residential, which allows densities of about 3.4 up to 6.8
887 units per acre, so this complies with the County's adopted Land Use Plan. If this rezoning is
888 approved, then they are authorized to develop this property in accordance with the zoning that is
889 approved, but they have to submit plans that then will come back to this Planning Commission. It
890 is called a plan of development, for which you all can participate in that process again but keep in
891 mind, once it is zoned, then they have the right to do townhouses. At that point, you are working
892 on the details of what the buildings look like and how the site lays out. At this point in time, the
893 Commission made a motion to act on this request. I believe it was seconded and it was approved,
894 I believe.
895
896 Mr. Waldenmaier - Before it was approved, I did make a motion. Excuse me and forgive me,
897 because I don't know the protocol and I apologize if anybody is offended in any way with my
898 processes. My concern is if you make the recommendation and this does become town homes, and
899 at that point the development can begin. And you have the POD or whatever it is, which Mr.
900 Farmer did explain to us outside, and again I appreciate Mr. Farmer taking the time tonight to even
901 discuss it before we came in here. I think that once it is already approved, it seems like the cart is
902 before the horse. And it seems like you are saying, yes, we are going to approve this, and you can
903 go ahead and develop it, and if the neighbors don't like what you are doing, we've got no recourse.
904
905 Mrs. Ware - At this point it is a recommendation to the Board of Supervisors. The
906 Board of Supervisors has the final approval on the rezoning case.
907
908 Mr. Waldenmaier - OK, but again, how often do you make the recommendation to the Board
909 of Supervisors and the Board of Supervisors decides not to do that?
910
911 Mrs. Ware - I don't know. Mr. Marshall, you said that there was a meeting concerning
912 this case.
913
914 Mr. Marshall - Mr. Farmer can speak to that.
915
916 Mr. Waldenmaier - That is right. There was a meeting. It wasn't this past Sunday, it was the
917 Sunday before. It was this past Sunday night. Again, the notification that came out to us was not
918 very clear and concise and although we were aware that there was a meeting, unfortunately, I
919 know for myself and another fellow neighbor, we thought the meeting was on Monday evening. So,
920 be that as it may, I don't want my voice not to be heard simply because we were absent at the
921 meeting. You know, as much as the people that were there, I had spoken to people who were at
922 the meeting and, as a matter of fact, I've got a signature of one of them who probably didn't have
923 opposition because he didn't know that he really could, or thought that anybody else thought like
924 he did. Unfortunately, we have not had the opportunity to have in our community the ability to sit
925 down together amongst ourselves and know what is really best for our community, and what is
926 best for us. Now, you are saying that the best use is some sort of urban development that allows

927 for this. I don't know really who made that decision and again, I wasn't asked about that, and
928 perhaps I don't have the right to know that.
929
930 Mr. Marshall - It is in the County Comprehensive Land Use Plan that was adopted some
931 time ago.
932
933 Mr. Waldenmaier - Again, I am not sure that I had any say in that matter either. Perhaps
934 there was. I don't know.
935
936 Mrs. Ware - Evidently there is some confusion out there as to this case, Mr. Marshall.
937 What can we do now?
938
939 Mr. Silber - I think the Commission has the ability to move forward. They could
940 reconsider the motion they made a few minutes ago if they want to hear this case, and reconsider.
941
942 Mr. Marshall - Mr. Farmer. You said you spoke to some individuals in the hall and he
943 was one of them. It sounds like they would be more comfortable with you addressing their
944 concerns before we make a recommendation, rather than waiting for the Board of Supervisors to
945 make a decision. So, are you comfortable with asking for a deferral if we reconsider the motion
946 that we just made, to allow you to meet with this gentleman and the other individuals that were
947 not present evidently at the meeting?
948
949 Mr. Farmer - Yes. That is fine. I don't want to put you all in any awkward situation. I
950 am agreeable to that and I have told them I would be glad to meet with them. We have just got a
951 few things to work out. I told them I am sorry they were not there. I was there at the invitation of
952 the Wyndham Forest Homeowners Association and it was a letter set up a long time in advance,
953 and obviously everybody didn't come, didn't get notice, and we never get 100% participation, but
954 the people that I met with were in support of the case and the few people that were not are here
955 tonight. So I will be glad to do it later.
956
957 Mrs. Ware - Thank you, Mr. Farmer. At this point we need a motion.
958
959 Mr. Marshall - I make a motion that we reconsider the previous motion to recommend
960 approval for C-50C-04.
961
962 Mr. Vanarsdall - Second.
963
964 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
965 say aye. All opposed say no. That motion passes.
966
967 The Planning Commission voted to reconsider their previous motion on Case C-50C-04.
968
969 Mr. Marshall - Madam Chairman, I move that we defer Case C-50C-04 to the November
970 10, 2004 meeting at the request of the applicant.
971
972 Mr. Vanarsdall - Second.
973
974 Mrs. Ware - Motion made by Mr. Marshall, seconded by Mr. Vanarsdall. All in favor say
975 aye. All opposed say no. The motion passes.
976
977 At the request of the applicant, the Planning Commission deferred Case C-50C-04, Neil P. Farmer,
978 to its meeting on November 10, 2004.

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Mr. Silber - So this matter has been deferred to November 10. The Planning Commission will hear the case at that time.

C-52C-04 Gloria Freye for D. O. Allen Homes: Request to conditionally rezone from A-1 Agricultural District to RTHC Residential Townhouse District (Conditional), Parcels 736-755-9422 and 736-755-5630, containing 7.034 acres, located on the north line of Church Road opposite Church Court. The applicant proffers not to exceed thirty (30) units on the property. The maximum density in the RTH District is nine (9) units per acre. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

Mrs. Ware - Is there any opposition to Case C-52C-04? There is opposition. We will get to you after we hear the case presented. Thank you.

Ms. Moore - Good evening commissioners. Thank you, Madam Chairman. The item before you tonight is a request to rezone approximately 7.034 acres to RTHC to allow for a condominium development. Although the request is for condominiums, the entire project would consist of detached single-family homes. The main difference between the proposed development and traditional single-family development is there would be no setbacks for individual yards and all yards and exterior of buildings would be maintained by common ownership.

The Land Use Plan designates the subject property for suburban residential 2, which recommends a density range of 2.4 to 3.4 units per acre.

The applicant has submitted revised proffers dated October 14, 2004, copies of which you just received. Therefore, the time limits would have to be waived to take any action on this project tonight. One of the major changes in the revised proffers is the reduction of the number of units from 38 to 30. This is an equivalent density of 4.3 units per acre, which is slightly greater than that recommended density by the Land Use Plan.

Other aspects of the submitted proffers include:

- Permitted uses would only allow detached single-family units and any recreational amenities. There is clarification that the narrow strip of land between Waterford and Chatham Woods subdivision would only be utilized for passive recreational uses.
- There would be one entrance from Church Road, which would be landscaped. No individual units would have direct access to Church Road.
- Minimum one-quarter acre centrally located developed as the village green.

The applicant has also proffered elevations, which are shown before you, and there is a total of four.

- All foundations will be finished with brick or stone and the exterior material for homes would consist of brick, stone, Hardiplank, or premium grade vinyl. 50% of the total homes would have brick or stone fronts.
- The minimum finished floor area would be 1,800 square feet; however, the overall average would be 2,100 square feet for finished floor area.
- A minimum 1-car garage would be provided for each home. All front loading garages would be recessed at least 6' from the front building line.
- Uniform streetlights would be installed along both sides of the interior streets adjacent to dwelling units and sidewalks would be provided on at least one side of the street.

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The proffers also include:

- A Fifty-foot (50') wide buffer along Church Road and a 10' wide natural buffer along the remaining perimeter.
- The revised proffers now include language for plantings equivalent to a Transitional 10 buffer along Church Road.
- One street tree would be planted for every 40' along the interior streets; and
- All yards would have sod and irrigation.

The revised proffers address most of the concerns expressed in the staff report. The applicant has clarified language regarding restrictive covenants in Proffer 3, included language for an increase in floor area, included 6' curb and gutter within the development, and included language to control construction hours and operation.

The project represents an opportunity for quality infill development in a well-established residential area. The RTHC request in conjunction with submitted proffers may be an appropriate use for the property. The RTHC classification allows for greater design flexibility, providing more sensitivity to the adjacent developments. The project would also be in keeping with the multi-family development located directly across Church Road.

There are still a few issues staff is asking for the applicant to address.

- While the remnant property to the north would remain as a passive natural area, efforts should be made to convey this property to the adjacent residents.
- In addition, we encourage the applicant to provide assurances of side and rear loading garages to enhance the quality of this development.

If the applicant could address these issues, staff could support this request.

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

Mrs. Ware - Are there any questions for Ms. Moore from the Commission? You said what about the side, the first issue that is not addressed.

Ms. Moore - The first piece of the remnant part between, yes. On your screen I am showing you the conceptual plan and there is a remnant piece that projects northward. Normally we like to have the property squared off. Sometimes there are issues regarding people using that for active recreation. They did proffer that there would only be passive recreation, but we feel that the adjacent owners should have the opportunity to acquire that piece if possible.

Mr. Jernigan - Jean, each house is proffered only one single-car garage.

Ms. Moore - A minimum of one.

Mrs. Ware - Is that it? Thank you. Can we hear from the applicant?

Mr. Silber - Since there is opposition, let me review the Planning Commission's policy on presenting cases. The applicant has 10 minutes to present their case. The 10 minutes includes anyone who may be speaking in support of the request. The applicant can reserve a portion of their time for rebuttal. The opposition also has 10 minutes total to speak in opposition to the

1081 request. Any time the Planning Commission is asking questions of the applicant or of the
1082 opposition, that does not count towards the time limitations.

1083

1084 Ms. Gloria Freye - Good evening, Madam Chairman, and members of the
1085 Commission. My name is Gloria Freye. I am an attorney with McGuireWoods here on behalf of D.
1086 O. Allen Homes. Mr. Silber, I would like to keep a couple of minutes for rebuttal, but I would also
1087 like to make sure that I leave time for some folks who may want to speak in support.

1088

1089 As Ms. Moore explained, D. O. Allen wants to build a maximum of 30 single-family detached houses
1090 where the land is owned under a condominium regime. This condominium arrangement will allow
1091 the developer to create a high quality neighborhood that offers a maintenance-free lifestyle that
1092 targets the 55 and older folks who want a quality home of nice size, but do not want the
1093 responsibility of maintaining the exterior of those homes and the lawns. The condominium
1094 association will be formed to take over that responsibility, freeing the residents to do other things
1095 as they look toward retirement and prepare for that. The neighborhood is being designed around a
1096 central green with tree-lined streets, sidewalks and street lights that will promote social gatherings
1097 and neighborly interactions. The goal is to create a neighborhood of homes with a traditional
1098 Richmond feel that will be marketed in the price range of \$325,000 to \$375,000. Many of these
1099 homes will feature first-floor master bedrooms that will also be attractive to folks who are looking
1100 toward retirement. As Ms. Moore explained, the homes will be a minimum of 1,800 square feet,
1101 but we added the proffer of the average of 2,100 square feet, so that we could be more in line with
1102 the homes in Waterford that are located to the north and the west of this site. We did have a
1103 citizen meeting. We sent letters out to all of the adjacent and to the two homeowners association
1104 representatives. That meeting was held in September. We have also had several discussions with
1105 residents and neighbors that are adjacent to this individually. We have been in discussion with the
1106 Chandlers and Saltzbergs who live to the east of the stem that extends into Hampton Woods and
1107 Waterford. We have talked with them about their interest in that property and that may be a
1108 possible transfer of that property sometime in the future, but that has not been decided at this
1109 point, but we have discussed that with them. So, in the meantime, what we have done is proffered
1110 that only a passive use of that property could occur, meaning that there could be, folks could walk
1111 on it, but you couldn't have skate boards or a bike path or anything like that. We have proffered a
1112 minimum of a one-car garage, but you notice that the elevations that we submitted do show you
1113 what homes would look like with two-car garages. The experience of this developer has been that
1114 folks do like to have two-car garages, so that is being accounted for in their planning. We did have
1115 a proffer that said if a garage would protrude that it would be surrounded by brick or stone, but in
1116 response to the staff's request about concerns about front-loading garages, we have proffered that
1117 the front loading garages would all be recessed. We really don't want side or rear loaded because
1118 of the extra pavement and extra impervious surface that that would create and because these are
1119 large homes and the land is going to be commonly owned, we don't really have a lot of space
1120 between the houses or to the rear, and in talking with several of the adjacent land owners, they
1121 prefer having the garages in the front, because it keeps the activity internal to the property and not
1122 backing up to their property.

1123

1124 We do feel that this is a very high quality proposal. The developer has submitted proffers that
1125 respond to the issues that have been raised by the staff and the neighbors. It does provide buffers
1126 for the neighbors of natural vegetation and to the equivalency of the transitional 25 on the three
1127 other sides of the property and along the front to a transitional 10. We have restricted the access
1128 so that there are no traffic problems for the adjacent subdivision. We have proffered quality design
1129 and materials. We have restricted the construction hours and we have provided a cash proffer to
1130 mitigate any impact that this development might have. We believe that this development as we
1131 propose it would be an asset to the neighborhood, that it would not have a negative impact, that it
1132 would provide synergy for reinvestment in this neighborhood and help to hold up property values.

1133 We ask that you waive the 48 hour rule and accept the most recent proffers, and we ask that you
1134 do recommend approval, and we will be glad to respond to any questions that you have.
1135
1136 Mrs. Ware - Are there any questions at this time for Ms. Freye? No questions.
1137
1138 Mr. Silber - I actually have a question if I could, Mr. Marshall. Ms. Freye, there is a
1139 proffer that speaks to recessing the garages back from the fronts of the houses that also indicates
1140 that it could be recessed back from the front porch. Many of the house designs you have shown
1141 indicate they will have front porches, so the recessing of the garage really is not back beyond the
1142 front of the house. It is just back beyond the front porch.
1143
1144 Ms. Freye - The whole point of that proffer, Mr. Silber, was not to have protruding
1145 garages because a lot of folks feel like that becomes the dominant feature of the house and
1146 detracts from the front elevations. By recessing it any amount at all, it brings the rest of the house
1147 forward, and that is the intent of that proffer, not to have protruding garages.
1148
1149 Mr. Silber - I would agree we don't want protruding garages, but I think we really
1150 want to have garages that are even recessed back further, so they don't become a dominant part
1151 of the house certainly as you drive through the neighborhood.
1152
1153 Ms. Freye - We agree, and we think that this proffer does accomplish that.
1154
1155 Mr. Silber - OK. I disagree.
1156
1157 Mr. Marshall - I see what he is saying. He is saying if you have a porch that is 6 foot
1158 deep and then you back up the garage six feet, it is going to be even with the front of the house.
1159
1160 Mr. Silber - In fact, the porch could be eight feet wide, and the garage could stick out
1161 in front of the house. I think a better design is to have the garage recessed beyond even behind
1162 the front of the house, regardless as to whether it has a porch or not.
1163
1164 Mr. Marshall - So, just leave it the way that it is and strike the or. Or the face of the front
1165 porch or the main body of the house. So then it would just be that "Garages are recessed six feet
1166 off the main body of the house regardless of how big the porch is."
1167
1168 Ms. Freye - And put the period at the end where it would read "Six feet from the face
1169 of the main body of the house." The developer has indicated that he is willing to make that proffer
1170 change.
1171
1172 Mr. Marshall - That is why you get the big bucks, Mr. Silber.
1173
1174 Mr. Silber - I will keep looking for those. I had one other question, there is Proffer 17
1175 that speaks to the street lighting that says that street lighting would be provided on both sides of
1176 interior streets and then goes on to say adjacent dwelling units. Is the street lighting out by the
1177 street or is it by the dwelling units? These streetlights I am assuming are out by the street, so I
1178 don't know why it would need to say adjacent to dwelling units.
1179
1180 Mr. Marshall - Unless they want to say there is one streetlight per dwelling unit.
1181
1182 Ms. Freye - Mr. Silber, if you look at the conceptual layout, there is a portion of the
1183 property where we have the street, but the dwellings would only be on the one side, so we
1184 wouldn't have streetlights on the other side, which is the southern part of that stem that we were

1185 talking about. Other than that, there will be houses facing the street, and there is a street light on
1186 both sides of the street.
1187
1188 Mr. Silber - I don't know why it needs to say adjacent to dwelling units. I think you
1189 have a period after streets.
1190
1191 Ms. Freye - But because there is a street where we don't have houses on both sides,
1192 that is why we worded it that way.
1193
1194 Mr. Silber - I understand. We can discuss this further at some point. OK.
1195
1196 Mr. Marshall - Do you want to hear from the other people in favor first?
1197
1198 Mr. George Thomas - I am George Thomas, 2620 Chatham Woods Drive. It is the
1199 mildest objection you will ever had. It is more a POD issue, but I did want to read it into the record
1200 here very quickly, unless you want me to go further.
1201
1202 Mrs. Ware - That is fine. Go ahead.
1203
1204 Mr. Thomas - And I apologize to Ms. Freye and any increased blood pressure on the part
1205 of the (unintelligible). I do like to look at the property and I think it will be an improvement.
1206 However, I live on Chatham Woods Drive. There are three addresses, one of which is mine. I
1207 would like the Environmental Engineer to pay special attention at the POD stage. There is a creek
1208 that runs directly pretty much right through the middle of the development that is the runoff
1209 drainage from Chatham Woods, and it runs all the way through to Waterford Way and currently
1210 there are three properties that experience a lot of standing water if it drizzles and not that I, I
1211 would love for them to solve that problem, but I certainly don't want them to make it worse, and
1212 that is my only complaint.
1213
1214 Mrs. Ware - Thank you and that is so noted in the public record. They can't make it
1215 worse and will certainly do what they can to make it better.
1216
1217 Mr. Silber - That would typically be handled with the Plan of Development when they
1218 see the property, but we appreciate you bringing it to our attention. Mr. Marshall.
1219
1220 Mr. Marshall - No more opposition? Madam Chairman, we did have a meeting, Mr.
1221 Kaechele and I, with the neighbors on this. I must say this is somewhat of a unique product in that
1222 you are going to have a single-family detached dwelling, but they actually are going to be called
1223 condos, and the advantage to that is you don't have to cut your grass, you don't have to paint your
1224 house, and you don't have to do anything, but what it did for the two surrounding neighborhoods is
1225 that allowed the houses to be brought more to the center, which brought them away from the
1226 neighborhood, and as you see, there is a 10 foot buffer planted to a 25-foot transitional along the
1227 entire perimeter of the surrounding neighborhoods, which wouldn't have been possible had we just
1228 done single-family dwellings or bigger units and pushed them back away from the center of the
1229 property. I think this is a good infill project. The price points as mentioned are \$325,000 to
1230 \$375,000 and I think it is going to bode well for the surrounding property owner's property values.
1231 I saw a similar project that this developer did over in the City and I did like it, even though it was in
1232 the City, and so for that reason I am going to recommend approval to the Board of Supervisors of
1233 Case C-52C-04.
1234
1235 Mr. Vanarsdall - Second.
1236

1237 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
1238 say aye. All opposed say no. The motion passes.
1239
1240 Mr. Marshall - Madam Chairman, I make a motion that we waive the time limits.
1241
1242 Mr. Vanarsdall - Second.
1243
1244 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
1245 say aye. All opposed say no. The motion passes.
1246
1247 **REASON:** Acting on a motion by Mr. Marshall, seconded by Mr. Vanarsdall, the Planning
1248 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant**
1249 the request because it would permit infill development with the proper connections for roads and other
1250 public facilities and the proffered conditions will provide appropriate quality assurances not
1251 otherwise possible.
1252
1253 **Deferred from the August 12, 2004 Meeting:**
1254 **C-36C-04 The Episcopal Diocese of Virginia:** Request to conditionally rezone from O-3C
1255 Office District (Conditional) and B-2C Business District (Conditional) to R-0C One Family Residence
1256 District (Conditional), Parcel 737-750-7485, containing 7.577 acres, located at the northwest
1257 intersection of Ridgefield Green Drive and Ridgefield Parkway. A church is proposed. The use will
1258 be controlled by zoning ordinance regulations and proffered conditions. The R-0 District requires
1259 three acres for a church. The Land Use Plan recommends Urban Residential, 3.4 to 6.8 units net
1260 density per acre, and Office.
1261
1262 Ms. Moore - The deferral is requested to the December 9, 2004 Planning Commission
1263 meeting.
1264
1265 Mrs. Ware - Is there any opposition to C-36C-04, The Episcopal Diocese of Virginia, in
1266 the Tuckahoe District? There is no opposition. I move that Case C-36C-04, The Episcopal Diocese
1267 of Virginia, be deferred to the December 9, 2004 meeting at the applicant's request.
1268
1269 Mr. Jernigan - Second.
1270
1271 Mrs. Ware - Motion made by Mrs. Ware and seconded by Mr. Jernigan. All in favor say
1272 aye. All opposed say no. The motion passes.
1273
1274 At the request of the applicant, the Planning Commission deferred Case C-36C-04, The Episcopal
1275 Diocese of Virginia, to its meeting on December 9, 2004.
1276
1277 **PUBLIC HEARING: AMENDMENT TO THE HENRICO 2010 LAND USE PLAN MAP:** The
1278 Planning Commission will consider an amendment to the Henrico County 2010 Land Use Plan Map
1279 to designate Wilton Farm – comprised of approximately 1,184.8 acres and bordered by the James
1280 River to the west and south and Osborne Turnpike to the east and straddling the Pocahontas
1281 Parkway (Route 895) – as an Urban Mixed Use Development Area (UMU).
1282
1283 Ms. Moore - The deferral is requested to the November 10, 2004 Planning Commission
1284 meeting.
1285
1286 Mrs. Ware - Is there any opposition to the deferral of a public hearing – Amendment
1287 To The Henrico 2010 Land Use Plan Map to the November 10, 2004 meeting? No opposition.
1288

1289 Mr. Jernigan - Madam Chairman, I move to defer the Public Hearing for the Amendment
1290 to the Land Use Plan for UMU for Wilton Farms to November 10, 2004, by request of the applicant.

1291
1292 Mr. Marshall - Second.

1293
1294 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Marshall. All in favor
1295 say aye. All opposed say no. The motion passes.

1296
1297 At the request of the applicant, the Planning Commission deferred Public Hearing – Amendment to
1298 the Land Use Plan to its November 10, 2004 meeting.

1299
1300 Ms. Moore - The next four are all companion cases to this Land Use Amendment for
1301 Wilton Farms. The first is on page 7 of your agenda.

1302
1303 **C-56C-04 James Theobald for HHHunt Corporation:** Request to conditionally
1304 rezone from A-1 Agricultural District and M-1 Light Industrial District to UMU Urban Mixed Use
1305 District, Parcel 798-683-5459, containing approximately 1,184.8 acres, located between the James
1306 River and Osborne Turnpike and along the north and south lines of the Pocahontas Parkway (State
1307 Route 895). The applicant proposes an Urban Mixed Use District with commercial uses and no
1308 more than three thousand two hundred nine (3,209) residential units developed on the property.
1309 The uses will be controlled by zoning ordinance regulations and proffered conditions. The Land Use
1310 Plan recommends Rural Residential, not exceeding 1.0 unit per acre, Suburban Residential 1, 1.0 to
1311 2.4 units net density per acre, and Environmental Protection Area.

1312
1313 Ms. Moore - The deferral is requested to the November 10, 2004 meeting.

1314
1315 Mrs. Ware - Is there any opposition to the deferral of Case C-56C-04, James Theobald
1316 for HHHunt Corporation?

1317
1318 Mr. Jernigan - Madam Chairman, I make a motion to defer Case C-56C-04 to November
1319 10, 2004, at the request of the applicant.

1320
1321 Mr. Vanarsdall - Second.

1322
1323 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Vanarsdall. All in favor
1324 say aye. All opposed say no. The motion passes.

1325
1326 At the request of the applicant, the Planning Commission deferred Case C-56C-04, James Theobald
1327 for HHHunt Corporation, to its meeting on November 10, 2004.

1328
1329 Mr. Silber - They are all related to the same piece of property. They are different
1330 Provisional Use Permits that relate to the same request. They will require a separate motion of
1331 each of these, but I am not so sure we need to go through all of this. We have P-15-04, P-16-04,
1332 P-17-04, and they are for various purposes and require separate motions.

1333
1334 **P-15-04 James Theobald for HHHunt Corporation:** Request for a Provisional Use
1335 Permit under Sections 24-32.1, 24-34.1 and 24-122.1 of the County Code in order to submit a
1336 Master Plan for the proposed Wilton Urban Mixed Use District, on Parcel 798-683-5459, containing
1337 approximately 1,184.8 acres, located between the James River and Osborne Turnpike and along
1338 the north and south lines of the Pocahontas Parkway (State Route 895). The existing zoning is A-1
1339 Agricultural District and M-1 Light Industrial District. The Land Use Plan recommends Rural

1340 Residential, not exceeding 1.0 unit per acre, Suburban Residential 1, 1.0 to 2.4 units net density
1341 per acre, and Environmental Protection Area.

1342
1343 **P-16-04 James Theobald for HHHunt Corporation:** Request for a Provisional
1344 Use Permit under Sections 24-32.1 and 24-122.1 of the County Code in order to include single
1345 family detached homes in the proposed Wilton Urban Mixed Use District, on Parcel 798-683-5459,
1346 containing approximately 1,184.8 acres, located between the James River and Osborne Turnpike
1347 and along the north and south lines of the Pocahontas Parkway (State Route 895). The existing
1348 zoning is A-1 Agricultural District and M-1 Light Industrial District. The Land Use Plan recommends
1349 Rural Residential, not exceeding 1.0 unit per acre, Suburban Residential 1, 1.0 to 2.4 units net
1350 density per acre, and Environmental Protection Area.

1351
1352 **P-17-04 James Theobald for HHHunt Corporation:** Request for a Provisional
1353 Use Permit under Sections 24-32.1 and 24-122.1 of the County Code as required for the Urban
1354 Mixed Use District in order to exceed the 10,000 square foot maximum floor area for principal uses
1355 in the proposed Wilton Urban Mixed Use District, on Parcel 798-683-5459, containing approximately
1356 1,184.8 acres, located between the James River and Osborne Turnpike and along the north and
1357 south lines of the Pocahontas Parkway (State Route 895). The existing zoning is A-1 Agricultural
1358 District and M-1 Light Industrial District. The Land Use Plan recommends Rural Residential, not
1359 exceeding 1.0 unit per acre, Suburban Residential 1, 1.0 to 2.4 units net density per acre, and
1360 Environmental Protection Area.

1361
1362 Mr. Silber - They all require a separate motion on each of these.

1363
1364 Mrs. Ware - Is there any opposition to these provisional use permits. No, there is
1365 none.

1366
1367 Mr. Jernigan - I make a motion to defer Provisional Use Permit P-15-04 to the November
1368 10, 2004 meeting by request of the applicant.

1369
1370 Mr. Vanarsdall - Second.

1371
1372 Mrs. Ware - Motion made by Mr. Jernigan, seconded by Mr. Vanarsdall. All in favor say
1373 aye. All opposed say no. The motion passes.

1374
1375 At the request of the applicant, the Planning Commission deferred Case P-15-04, James Theobald
1376 for HHHunt Corporation to it November 10, 2004 meeting.

1377
1378 Mr. Jernigan - Madam Chairman, I make a motion to defer Case P-16-04, James
1379 Theobald for HHHunt Corporation, to November 10, 2004 by request of the applicant.

1380
1381 Mr. Vanarsdall - Second.

1382
1383 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Vanarsdall. All in favor
1384 say aye. All opposed say no. The motion passes.

1385
1386 At the request of the applicant, the Planning Commission deferred Case P-16-04, James Theobald
1387 for HHHunt Corporation, to November 10, 2004 by request of the applicant.

1388
1389 Mr. Jernigan - Madam Chairman, I make a motion to defer Case P-17-04 to the
1390 November 10, 2004 meeting by request of the applicant.

1391

1392 Mr. Vanarsdall - Second.
1393
1394 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Vanarsdall. All in favor
1395 say aye. All opposed say no. The motion passes.
1396
1397 At the request of the applicant, the Planning Commission deferred Case P-17-04, James Theobald
1398 for HHHunt Corporation, to November 10, 2004 by request of the applicant.
1399
1400 Ms. Moore - That concludes our deferral requests. Thank you.
1401
1402 Mr. Silber - OK, moving back to our 7:00 p.m. portion of the agenda, we have the last
1403 case under this portion which is C-53C-04.
1404
1405 **C-53C-04 Alvin Mistr/Gordon Brooks for BMJ, LLC:** Request to conditionally
1406 rezone from A-1 Agricultural District to R-2AC One Family Residence District (Conditional), Parcels
1407 742-771-2730 and 742-771-5837, containing approximately 8.0 acres, located on the west line of
1408 Shady Grove Road approximately 500 feet south of Hames Lane. A single-family residential
1409 subdivision is proposed. The R-2AC district allows a minimum lot size of 13,500 square feet. The
1410 Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre and
1411 Environmental Protection Area.
1412
1413 Mrs. Ware - Is there any opposition to Case C-53C-04, BMJ, LLC, in the Three Chopt
1414 District. No opposition. Hello, Mr. Gidley.
1415
1416 Mr. Gidley - Hello, Madam Chairman. The applicant is requesting rezoning for a single-
1417 family subdivision off Shady Grove Road. Revised proffers dated October 12, 2004 were received
1418 today. As a result, the time limits would have to be waived. The 2010 Land Use Plan designates
1419 this area as SR-1, with a net density of 1 to 2.4 units per acre. The applicant has submitted, but
1420 not proffered a site plan showing fourteen (14) lots or a density of 1.75 units per acre.
1421
1422 Additional proffers the applicant has submitted include, but are not limited to:
1423
1424 • A minimum finished floor area of 2,800 square feet;
1425 • Two car garages with each home, all of which will be side or rear loaded;
1426 • Exterior building materials to be at least fifty (50%) brick or stone;
1427 • Provision of sidewalks;
1428 • Provision of standard six (6) inch curb and gutter;
1429 • Trees planted in front yards;
1430 • Sodded and irrigated front and side yards;
1431 • A thirty (30) foot planting strip landscaped to the standards of the thirty-five (35) foot
1432 transitional buffer along Shady Grove Road; and
1433 • Dedication of a fifty (50) foot strip of land at the end of the cul-de-sac to Henrico County. This
1434 allows access to future developments in the area.
1435
1436 The revised proffers address most of staff's concerns, including providing for a potential connection
1437 to future development in the area. However, there are still a few minor issues the applicant could
1438 address. These include:
1439
1440 • Prohibiting cantilevered bay windows.
1441 • Providing details of the proposed entrance feature. Boulevard entrances area encouraged;
1442 and finally

1443 • Tri-level and split-level homes may not be architecturally in keeping with the surrounding
1444 development. The applicant should clarify Proffer #7, which references these types of
1445 homes.
1446
1447 If the applicant could address these issues, staff could recommend approval of this request.
1448
1449 This concludes my presentation. I would be happy to answer any questions you may have.
1450
1451 Mrs. Ware - Are there any questions for Mr. Gidley from the Commission? No. Thank
1452 you, Mr. Gidley.
1453
1454 Mr. Gidley - Thank you, Madam Chairman.
1455
1456 Mr. Spud Mistr - Madam Chairman and members of the Commission, I am Spud Mistr,
1457 representing the applicant in this. We have met with the staff on two occasions and gone over
1458 what I thought were all their concerns on this case, and changed the proffers accordingly, and
1459 would be willing to change the others that Mr. Gidley had asked for.
1460
1461 Mrs. Ware - That is the bay window and no tri-levels.
1462
1463 Mr. Mistr - No bay window is to be cantilevered and no tri-levels or split levels on the
1464 property.
1465
1466 Mrs. Ware - You will address those.
1467
1468 Mr. Mistr - Yes.
1469
1470 Mrs. Ware - Can you do that tonight?
1471
1472 Mr. Mistr - If you would like it, yes.
1473
1474 Mrs. Ware - He is addressing the two concerns of staff, the cantilevered bay windows
1475 and tri and split levels. He said he would do that.
1476
1477 Mr. Mistr - We don't have room for a boulevard entrance, also.
1478
1479 Mr. Silber - OK. Mr. Marshall, I guess, just for observation, we are getting a lot of
1480 proffered conditions passed out. This has about six new proffered conditions. Mr. Mistr, is there
1481 any reason why you hadn't addressed these proffered conditions before this time?
1482
1483 Mr. Marshall - They were done on the 12th.
1484
1485 Mr. Silber - We received them on the 14th.
1486
1487 Mr. Mistr - We met on Monday, the 11th. We brought in all of the revised proffers on
1488 the 12th and last night I heard that we needed to change some, which we did today, and it was not
1489 changing the proffers, it was the semantics of how it was worded.
1490
1491 Mr. Marshall - We did meet on Monday. I met with him.
1492
1493 Mr. Silber - I just wanted to remind the Commission of their policy of 48 hours before
1494 the hearing.

1495
1496 Mrs. Ware - We have had quite a few.
1497
1498 Mr. Marshall - Well, that is something I have always said I am in support of setting the
1499 time. It is not meant to be a deferral, but I guess each individual Commissioner is going to have to
1500 do that, and I am in favor of setting like Friday before the meeting and not just 48 hours.
1501
1502 Mrs. Ware - We have the 12th right here.
1503
1504 Mr. Marshall - Because we met on the 11th.
1505
1506 Mrs. Ware - All right. What do you want to do about those proffer changes?
1507
1508 Mr. Marshall - I think he is working on them with Ms. Moore.
1509
1510 Mrs. Ware - Are there any more questions for Mr. Mistr on this case?
1511
1512 Mr. Silber - I have one question, maybe two. The sidewalk proffer says a four foot
1513 sidewalk. The County's standard sidewalk is five feet. Is there any reason why?
1514
1515 Mr. Mistr - Yes, the reason is you like the sidewalks two feet behind the curb and
1516 gutter. If you leave a two-foot grace strip and a four-foot sidewalk, that gives you a one-foot strip
1517 to put the water meter within the right of way, and we are probably going to have to put a utility
1518 easement behind it anyway, so if you put a five foot sidewalk in, your water meters are not on a
1519 public right of way.
1520
1521 Mr. Silber - I don't know how we are doing it around the rest of the County with the
1522 standard five-foot sidewalks.
1523
1524 Mr. Mistr - They are putting them outside of the right of way.
1525
1526 Mrs. Ware - Pardon.
1527
1528 Mr. Mistr - I said I think you have a lot of them outside of the right of way and not in
1529 the easement as they should be.
1530
1531 Mr. Marshall - Is Ms. Moore working on your proffers?
1532
1533 Mr. Mistr - Yes, we have already done that.
1534
1535 Mr. Marshall - First, we have to waive the time limits, and I will say that Mr. Mistr, when
1536 we met on Monday, he was pretty proud that he wasn't going to have to ask to waive the time
1537 limits, and as you can see, he did submit them on the 12th, but evidently his semantics didn't meet
1538 approval, but anyway he tried. Give him an A for Effort. But I make a motion that we waive the
1539 time limits.
1540
1541 Mr. Vanarsdall - Second.
1542
1543 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
1544 say aye. All opposed say no. The motion passes.
1545

1546 The Planning Commission voted to waive the time limits on Case C-53C-04, Alvin Mistr/Gordon
1547 Brooks for BMJ, LLC.

1548
1549 Mr. Marshall - Madam Chairman, I am going to move that we approve Case C-53C-04,
1550 Alvin Mistr/Gordon Brooks for BMJ, LLC.

1551
1552 Mr. Vanarsdall - Second.

1553
1554 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall. All in favor
1555 say aye. All opposed say no. That motion passes as well.

1556
1557 **REASON:** Acting on a motion by Mr. Marshall, seconded by Mr. Vanarsdall, the Planning
1558 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the
1559 request because the proposed single-family development reflects the Land Use Plan and future use
1560 and zoning in the area.

1561
1562 **Deferred from the August 12, 2004 Meeting:**

1563 **C-56C-03 Alvin Mistr, Jr. for WWLP Development, LLC:** Request to
1564 conditionally rezone from A-1 Agricultural District to R-5AC General Residence District (Conditional),
1565 Parcels 802-696-9269 and part of 803-696-6866, containing 41.76 acres, located on the east line of
1566 Osborne Turnpike approximately .41 mile north of Tree Ridge Road. A single-family subdivision is
1567 proposed. The maximum density in the R-5AC District is 7.7 units per acre. The Land Use Plan
1568 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

1569
1570 Mrs. Ware - Is there any opposition to Case C-56C-03, Alvin Mistr, Jr. for WWLP
1571 Development, LLC, in the Varina District? There is opposition here tonight. Thank you. We will
1572 get to you as we hear the case. Thank you.

1573
1574 **AT THIS TIME THE COMMISSION TOOK A 10 MINUTE BREAK.**

1575
1576 **THE COMMISSION RECONVENED THE MEETING.**

1577
1578 Mrs. Ware - And I believe we were with C-56C-03 and there was opposition.

1579
1580 Mr. Silber - I believe we had already called the case and the staff planner was getting
1581 ready to make the presentation.

1582
1583 Mrs. Ware - So, we are ready for Mr. Gidley. You are found.

1584
1585 Mr. Gidley - Thank you, Madam Chairwoman. This is a request to rezone from A-1 to
1586 R-5AC, in order to develop a cluster style subdivision along Osborne Turnpike. Since most of the
1587 residences along this scenic road sit on multi-acre lots, staff was concerned a typical suburban
1588 neighborhood may not be consistent with this corridor.

1589
1590 As an alternative, the applicant has proffered, a site plan for a cluster style development that you
1591 can now see before you on the screen. This includes smaller lots clustered at the center of the
1592 property, with open space along the perimeter. As you can see, some homes would back up to an
1593 alleyway. Even though the R-5AC District allows for smaller lots, the applicant has proffered a
1594 density of sixty-four (64) lots or 1.53 units per acre, within the 1.0 to 2.4 units per acre
1595 recommended by the Land Use Plan.

1596

1597 The applicant has submitted revised proffers dated October 12, 2004. We received the proffers
1598 yesterday; therefore the time limits would have to be waived. These additional proffers include,
1599 but are not limited to:

1600

- 1601 • A minimum finished floor area of 2,000 square feet.
- 1602 • At least fifty (50) percent of the houses to have front elevations that are at least thirty-
1603 three (33) percent brick.
- 1604 • At least two trees to be planted in the front of each lot.
- 1605 • A one-hundred fifty (150) foot wide buffer along Osborne Turnpike, landscaped to the
1606 standards of the thirty-five (35) foot transitional buffer.
- 1607 • Sodded and irrigated front yards; and
- 1608 • A provision for sidewalks.

1609

1610 Since this is the first clustered development in this area, it is important for it to set a standard for
1611 quality. Towards this end, there remain some issues the applicant should consider, including:

1612

- 1613 • Consider proffering elevations to help ensure quality cluster development.
- 1614 • The current proffers allow for half the homes to be all vinyl and the others to be roughly
1615 ninety (90) percent vinyl. The applicant should consider incorporating a more substantial
1616 amount of brick into the design. Staff recommends a minimum of thirty-three (33) percent
1617 brick on each home's total exterior. Use of Hardiplank should also be considered.
- 1618 • Present plans call for the open space on the northern and southern sides of this
1619 development to contain only grass. As an alternative, the applicant should consider
1620 providing trees in this area, along with a walking trail.
- 1621 • Consideration should be given to incorporating a village green at the center of this
1622 development. This would provide a public gathering area, along with increased
1623 recreational opportunities.
- 1624 • Finally, many quality cluster developments include provisions for landscaping around units.
1625 This includes the rear alleys. If you can, for a moment I will refer you to a slide from Port
1626 Warwick in Newport News. But, you see, here is the alley behind the units. They have
1627 fenced in the areas between the driveways and although this is a recently completed
1628 subdivision, they have planted trees along here and also provided smaller landscaping
1629 along the fence. This does tend to break up the concrete and the fence and the walls of
1630 the houses to provide for a much more quality appearance. The applicant should consider
1631 ways to incorporate such landscaping into this development.

1632

1633 There are several nice features included in this development, however, in order to provide for a
1634 better overall quality, the applicant should consider addressing the items mentioned above. Doing
1635 so would set a standard of quality for future development in this area and would enable staff to
1636 fully support this request.

1637

1638 This concludes my presentation. I would be happy to answer any questions you may have.

1639

1640 Mrs. Ware - Are there any questions for Mr. Gidley from the Commission?

1641

1642 Mr. Jernigan - Paul, on the elevations, the reason that we didn't have elevations is
1643 because the builder, Finer Homes, had to modify the product that they had to put it on the 60 foot
1644 lot. So, I have discussed with Mr. Donati before this goes to the Board, those elevations will be
1645 ready. On Hardiplank, I am not requesting Hardiplank. We haven't had, we haven't forced
1646 anybody. Hardiplank is a good product, but we have not forced anybody to use Hardiplank as yet,
1647 even though they are willing to proffer a high quality vinyl that will be used. On the brick, 50% of
1648 the homes would have 33% brick.

1649
1650 Mr. Gidley - On the front elevation only.
1651
1652 Mr. Jernigan - Yes, and the reason that we did it to 33% was because the design of the
1653 homes that Finer had, we saw this on Eagle's Nest I believe it was. They have access and not all of
1654 the homes are plush on the front. Those homes that have a flat front, they will be all brick. But if
1655 they have accents, the accents will have the stone or brick on them, and looking at this picture
1656 here, where we are talking about the alleyways, the lots that Mr. Mistr has here are 150 foot deep,
1657 so they will be set in more than what we see right here. You asked also about walking trails. I
1658 discussed that with Spud earlier, and they are willing to put some walking trails in around the green
1659 space, and this does have 52% green area.
1660
1661 Mr. Gidley - OK.
1662
1663 Mrs. Ware - Are there any more questions for Mr. Gidley?
1664
1665 Mr. Jernigan - I didn't really ask him too many questions. I kind of explained things. I
1666 met with Mr. Mistr Monday, too, along with Mr. Marshall, so he was busy. We went over
1667 everything Monday. I don't have any more questions for Paul.
1668
1669 Mrs. Ware - OK. That's it. Thank you, Mr. Gidley. Do you wish to hear from the
1670 applicant?
1671
1672 Mr. Jernigan - Yes, let's hear from the applicant.
1673
1674 Mrs. Ware - OK, the applicant, please.
1675
1676 Mr. Mistr - Madam Chairman and members of the Commission, I am Spud Mistr,
1677 representing WWLP Development, LLC, the developer of this. I am going to be very brief. I am
1678 going to reserve some time to answer questions, and we also have some people that would like to
1679 speak in favor of this project. We have had two public meetings with the surrounding neighbors
1680 and the Varina Beautification Committee, and at the first meeting they had a lot of concerns. We
1681 went back and addressed nearly all of those. We revised the proffers, met with the staff again and
1682 submitted the revised proffers. Some of these things, with boulevard entrances, there is
1683 approximately 50% green space around the perimeter and that doesn't include green space in front
1684 yards or back yards, so this is just around the outside of the property. We did proffer a minimum
1685 150 feet off of Osborne Turnpike, with a 35-foot transitional buffer, which we are going to work out
1686 with Leslie News. That is exactly what the County wants in there. So, we felt like we have
1687 addressed the concerns of the citizens and the neighbors and of the staff to try to make this the
1688 best project we can. So, with that, I will answer any questions and then if you want to let the
1689 proponents or opponents speak first, we will go from there.
1690
1691 Mrs. Ware - Are there any questions for Mr. Mistr from the Commission?
1692
1693 Mr. Jernigan - Spud, when we talked the other day, you said that you would be willing to
1694 put some walking trails in through there.
1695
1696 Mr. Mistr - That is correct.
1697
1698 Mr. Jernigan - I want you all to know, this is in Varina the first project that we have had
1699 that will have alleyways with rear-loaded garages, and what we didn't get into was talking about
1700 those that are not rear loaded. They have proffered 75% of all of the homes will have two-car

1701 garages. That number will probably increase, but the developer wanted some flexibility in case
1702 some people don't want a garage. Those garages will be detached and will be behind the house,
1703 and Spud also told me that in Parson's Walk in Twin Hickory that they were using space over the
1704 garage as a amenity that you can have as finished floor space now. So, I will let you all know that
1705 I wasn't aware of this until I checked, and now you can have finished floor space above a garage
1706 with a full bath, no cooking. But it doesn't count as finished floor space. It just counts as
1707 accessory, but it is legal. It still has to retain the 15-foot height restriction. It is not part of the
1708 finished floor space, but it is legal now, and I know at one time the County didn't want people living
1709 over garages, but now it seems to be that it is an acceptable amenity.

1710
1711 Mrs. Ware - Did you say that you will have elevations prior to the Board?
1712

1713 Mr. Mistr - That is correct. Yes.
1714

1715 Mrs. Ware - Any other questions for Mr. Mistr? Thank you. Do we want to hear from
1716 the opposition or is anyone else in favor?
1717

1718 Mr. Jernigan - There are some people in support, so let's let them speak and then we will
1719 have the opposition speak.
1720

1721 Mr. Silber - We have eight and a half minutes left in support.
1722

1723 Mrs. Ware - Good evening. Could you please give us your name and address.
1724

1725 Mr. Henry Nelson - Certainly. Madam Chairman, Mr. Jernigan, Mr. Donati and
1726 members of the Board (sic), my name is Henry Nelson and I live at 3600 New Market Road. I am
1727 here tonight to speak in behalf of the Varina Beautification Committee. I was drafted prior to the
1728 last proffers, which we were in support of. I'd like to, first of all, thank Mr. Jernigan for his work
1729 and Mr. Donati, in working with the developer, and try to iron out concerns of the Committee as
1730 well as the community, and to include those in what we are doing. The letter you have before you
1731 indicates our support. We support the layout, the total land site is preserving open space, which
1732 we have always advocated. We are very much in (unintelligible) the creativity this affords the area
1733 with the saving of the green space, and with the garages loading to the side or the rear, and in
1734 most cases, and also the alleyway, which we think is more attractive frontscape to the house. We
1735 are looking at the sidewalks for safety and also the idea, now that the entrance way, I didn't, there
1736 was a lot of discussion on how it should be. Our group indicated we liked the two entrance way
1737 type thing, but we certainly accept whatever comes out in that, and we are not going to quibble
1738 over it, but that is something that we did discuss. The developer and landowner does deserve
1739 recognition and praise for meeting with the residents and design from other subdivisions
1740 throughout the community, and allow for open space with amenities, and set a high standard for
1741 Varina residents with quality housing. I'd like to thank everyone for considering this. It is a
1742 difference for us in our community, and I hope it goes well and sets a good precedence. I would
1743 say that I do admire what the staff has said about this and their report, I think, was very thorough,
1744 and I would urge that those things that they have suggested be followed up on between now and
1745 the Board meeting so that they can be improved. And I thank you for the opportunity to speak, as
1746 we are in favor of it.
1747

1748 Mr. Jernigan - Thank you, Henry.
1749

1750 Ms. Anderson-Ellis - My name is Nicole Anderson-Ellis. I realize I only have a limited amount of
1751 time and I am going to do the best I can, but I am most passionate about this community, and it is
1752 hard to cram pack it into a brief space. I will assume that all of you are familiar with the Varina

1753 District and the Osborne Turnpike Corridor, so you know that this corner of the County, with its
1754 rolling farm land, its dense hardwood forest, its Colonial, Civil War and Native American history, its
1755 local wildlife and it is an increasingly rare rural community of families. It is unmatched anywhere in
1756 the County. I am a member of ROOT, which was originally entitled Residents of Rural Osborne
1757 Turnpike and thanks to the overwhelming response of the greater Varina area has been since
1758 renamed Respect Old Osborne Turnpike. We as a group are committed to seeing smart growth in
1759 our community. We welcome new neighbors. In addition, as property owners, we are staunch
1760 property right advocates. We support the right of land owners to sell their property and if
1761 favorable, make profit. However, we do not think the property rights include the right to cram as
1762 many buildings as possible onto a piece of land, permanently altering the community and robbing
1763 neighbors of the lifestyle they have cherished and nurtured. A year ago, a development of that sort
1764 was proposed for this property, and just by luck, we saw a picture of it accidentally earlier. It
1765 would have plopped about 70 houses in that 40-acre field. It was exactly the kind of unimaginative
1766 overcrowded cookie cutter development that the community feared. Within months of the
1767 appearance of rezoning signs, I had collected hundreds of signatures on a petition opposing that
1768 project. At that time, I would never have dreamed that I would stand here before you today
1769 voicing my support for development on that piece of land. But life is full of surprises. This morning
1770 as I drove past this cornfield, as I always do, it is a beautiful peaceful place. It is perfect some
1771 might say, exactly the way that it is. If I had the money in my pocket it would stay that way, but
1772 short of that, the development that Foster and Miller are presenting is the best case scenario. By
1773 actively listening to the desires of the community, both what we cherish and what we fear and by
1774 straying off the normal path, Foster and Miller has presented us with a design that if they do what
1775 they promised, and I am confident that they will, will prove profitable for the land owners and
1776 developers without sacrificing the surrounding community. They have clustered all of the dwellings
1777 in the center of the field, thereby maximizing green space, preserving the open view from Osborne,
1778 and maintaining a wildlife corridor through the wooded rear of the property. In addition, they have
1779 included proffers addressing the size of homes, with regard to other proffers, anything that would
1780 increase the value of the residences that are protected by the existing houses along the corridor. I
1781 applaud the cooperative effort of all members of this endeavor, especially including Commissioner
1782 Ray Jernigan, all of whom devoted long hours reaching a compromise, that, in my experience, is
1783 unique in its widespread acceptance, and I hope that this experience will set the bar for all future
1784 development in this unique and valuable riverfront corridor. Thank you so much.

1785
1786 Mrs. Ware - Thank you.

1787
1788 Mr. Jernigan - Thank you, Nicole.

1789
1790 Mrs. Ware - We have three minutes left. Is there someone else in support?

1791
1792 Mr. Andy Edmonds - Good evening. I am Andy Edmonds and I agree with everything
1793 that Nicole said so passionately about our neighborhood. I live at 9510 Osborne Turnpike and
1794 indeed the Henrico Riverfront Corridor is indeed special because arguably the James River is the
1795 most historically significant body of water in the United States, and the Mistrs have certainly been
1796 very conscientious of the concerns of the community, and I want to applaud them for that. I think
1797 the mechanism by which they are requesting this clustering development in the R-5AC designation
1798 is the only mechanism available for them to do that, so I would ask for the Commission to consider
1799 a new type of designation for this type of clustering, so we can encourage that type of
1800 development to occur in this special part of the County. There are other zoning classifications that
1801 have occurred in other areas around the country that have addressed this issue, and especially, I
1802 think it is urgent to do this because of the new regulations that have come forward that will require
1803 larger lot sizes, moving forward many more requests for subdivisions that this type of clustering

1804 opportunity and the zoning classification therein would be important to developers to be able to
1805 utilize it to take advantage of this type of development in the area. Thank you.
1806
1807 Mr. Jernigan - Thank you, Andy.
1808
1809 Mrs. Ware - Thank you. That was in support and we can hear from the opposition at
1810 this time. I believe there were a couple of hands raised to speak in opposition. Good evening.
1811
1812 Mr. Bartoo - My name is Jim Bartoo. I am here representing my mother and my
1813 daughter who own property directly across from this development. Most of what I heard tonight
1814 has allayed most of our concerns. I just learned about this Tuesday, so I did not attend any of the
1815 meetings. I would only have two questions. With the buffer that is proffered, is it possible at a
1816 later date to come back and try to change that when he has built more houses on the property?
1817
1818 Mr. Silber - If these proffers are accepted with this rezoning case, then those
1819 proffered conditions become law that will run with the land even if the property is sold, so to
1820 answer your question, that would have to be provided. I think it is a 150-ft. buffer. It would have
1821 to stay. They could not put houses up there unless they came back through the process to amend
1822 the proffered conditions, and it is another public hearing before this body and the Board of
1823 Supervisors.
1824
1825 Mr. Bartoo - So it can be changed at a later time.
1826
1827 Mr. Jernigan - It won't be changed, Jim.
1828
1829 Mr. Marshall - It has to be a whole new rezoning case.
1830
1831 Mr. Bartoo - I understand that. This is the best answer we are going to get.
1832
1833 Mr. Jernigan - It would have to come through the Commission again,
1834
1835 Mrs. Ware - And then the Board of Supervisors as well.
1836
1837 Mr. Bartoo - OK. Thank you very much.
1838
1839 Mrs. Ware - Is there anyone else here to speak in opposition?
1840
1841 Ms. Quesinberry - Good evening Madam Chairman and Board (sic). I am Debra Quesinberry.
1842 I live at 8190 Osborne Turnpike, not far from this property and after what I have heard tonight,
1843 and I just did receive these new proffers tonight, I am for the most part very pleased and very
1844 appreciative of the hard work that went into getting this case where it is tonight. I do have a
1845 couple of things that I did want to mention briefly again, and that is the lack of elevations does
1846 make this just a little bit difficult, because it is a little bit hard to really visualize what the final
1847 product is going to look like, but I appreciate that there will be elevations before it goes to the
1848 Board and the other thing is that again with the 50% of the houses with the front elevations
1849 constructed with brick or stone, or the 33% of the 50%, I am just concerned because we do have
1850 a lot of rezoning and lot of potential development coming down this very historic and very
1851 picturesque corridor, and I don't want to set a precedent of a lot of frame and a lot of cheap vinyl.
1852 I heard what you said about the particular product that this developer is putting in and the front
1853 elevations with setbacks and that sort of thing, but I am still thinking that there is a way to
1854 enhance the quality here and just assure that, given that we are taking this sort of leap of faith
1855 with a cluster development in an area that has never had one before, and a little more assurance

1856 that we can get the best quality product moving forward, especially considering what we are going
1857 to be looking at in the very near future coming down this corridor. Thank you very much.
1858
1859 Mr. Jernigan - Debra, I wanted to say because I wanted define myself a little bit on the
1860 façade. The cases that we did and they are building Eagles Nest off of Darbytown Road. We had
1861 the same situation and I know the type of package that they have. Not all of the houses look good
1862 with solid brick across the front. Their homes have a lot of accents where they stick out, and the
1863 accents they put the brick on, it actually looks better than having it solid brick on the front. Now,
1864 some of the structures if the façade is flat, they will be all brick. But, knowing that, I guess it is
1865 because I have worked with these people before and I knew the type of house they built, I knew
1866 what looked good on it, and that is the reason I was OK with the way this was written up.
1867
1868 Mrs. Quesinberry - I understand that, but it seems like there is not a lot of brick, in any sense,
1869 in this development, because if you are only talking about front facades, and then you are only
1870 talking about accents of front facades on 33% of the building, that is an awful lot of frame and
1871 vinyl. That is all I am saying. That is an awful lot of frame and vinyl.
1872
1873 Mrs. Ware - What about the option of taking out the vinyl?
1874
1875 Mr. Jernigan - Taking out the vinyl?
1876
1877 Mrs. Ware - Taking out the vinyl and let it be Hardiplank. You would have to ask for
1878 that, but...
1879
1880 Mrs. Quesinberry - It is predominantly a frame vinyl very dense community. It is not in
1881 anyway, stretch or form any kind of a rich community. It is decorative and very little decorative
1882 brick at that. That is my only point. I understand the residents are predominantly pleased with it
1883 and I am, too, but we are setting a precedent here, both in the zoning and the actual product we
1884 are putting on this piece of property.
1885
1886 Mr. Jernigan - Let me explain this, when I got with Spud on this project, it was right after
1887 we came back from Daniel Island in Charleston, and when I discussed with him about the rear
1888 loaded and having the alleyways and the rear-loaded garages, the Wilton tract, which I discussed
1889 with you over the phone the other day, these houses will in some cases be like that community,
1890 and that is what we were looking for. It is the design of that neighborhood packed in there on a
1891 smaller amount of property, and right after I discussed this with Spud was right after the Daniel
1892 Island. I am OK with it. I am going to discuss with Mr. Donati before this comes to the Board and
1893 see if we are going to make any changes.
1894
1895 Mrs. Quesinberry - And I appreciate that very much. I respect your opinion on that. I would
1896 just like to go on the record of saying this is not an area that is appropriate for a neighborhood
1897 whether it is here or whether it is on the Wilton property, which we haven't gotten to yet, to be
1898 predominantly frame and vinyl. Thank you.
1899
1900 Mr. Jernigan - Thank you.
1901
1902 Mrs. Ware - The applicant has about five minutes to speak in rebuttal.
1903
1904 Mr. Mistr - I won't take five minutes. The only concern I had was the vinyl or the
1905 Hardiplank. I remember a few years ago when we'd come to this body and we'd have to proffer
1906 out Hardiplank, and now they have gotten a better product, so now we are using it and it is a good
1907 product. Vinyl is also a good product and we've got a lot of different levels of vinyl, and we will

1908 certainly look at that and maybe try to get some high-quality vinyl. With the builder, I would like
1909 not to be able to prohibit vinyl, but we will look at what we can do on that.
1910
1911 Mr. Jernigan - Spud, what I am going to do is – this case has been around for a while
1912 and I am ready to move forward, but before it goes to Mr. Donati, we will get together and discuss
1913 it again. We can do that with Finer Homes and see if we can change or alter some of the finished
1914 product.
1915
1916 Mr. Mistr - OK. That is fine. Thank you.
1917
1918 Mrs. Ware - Mr. Jernigan.
1919
1920 Mr. Jernigan - You know, when we had the two neighborhood meetings I felt real good
1921 because I felt everybody was smiling, and you know then that you have had a good meeting, and
1922 Nicole Ellis, and I respect the fact that she tried to guard her territory, and she was very happy.
1923 Well, she clapped on the first meeting and was very happy after the second meeting, so it shows
1924 that when you get the neighbors together, you can always work things out. Now, one thing that
1925 wasn't mentioned, the front setback on this, the first house will be 200 feet off Osborne Turnpike.
1926 I am correct on that, right Spud? And that is pretty good, and what everyone was looking for was
1927 that the community would be hidden and not seen from Osborne Pike. Now, there will have to be
1928 some landscaping that goes in front and it will take a few years for that to grow up, but four or five
1929 years down the road. I mean, it is a cornfield, so unless we want corn out there, we are just going
1930 to have to wait for the trees to grow. Spud is willing to put some intense landscaping in there, and
1931 in a few years that will be grown up.
1932
1933 So, with that, Madam Chairman, I will move for approval of Case C-56C-03, WWLP Development
1934 for approval by the Board of Supervisors.
1935
1936 Mr. Marshall - Second.
1937
1938 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Marshall. All in favor
1939 say aye. All opposed say no. The motion passes.
1940
1941 Ms. Moore - They need to waive the time limits. They are dated the 12th but we did
1942 not receive them until yesterday.
1943
1944 Mr. Jernigan - Madam Chair, I make a motion we waive the time limits on Case C-56C-
1945 03.
1946
1947 Mr. Marshall - Second.
1948
1949 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Marshall. All in favor
1950 say aye. All opposed say no. The motion passes.
1951
1952 The Planning Commission voted to waive the time limits on Case C-56C-03, Alvin Mistr for WWLP
1953 Development, LLC.
1954
1955 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr. Marshall, the Planning Commission
1956 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because
1957 the cluster arrangement of the homes would permit more open space in keeping with the
1958 surrounding area and would permit development of the land for residential use in an appropriate
1959 manner.

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Deferred from the September 22, 2004 Meeting:

P-8-04 Omnipoint Communications CAP Operations LLC: Request for a Provisional Use Permit under Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct a 140-foot wireless telecommunications tower, on part of Parcel 833-716-9203, containing 2,500 square feet, located between I-64 and Old Williamsburg Road, 2,000 feet west of Drybridge Road. The existing zoning is M-1C Light Industrial District (Conditional). The Land Use Plan recommends Planned Industry. The site is in the Airport Safety Overlay District.

Mrs. Ware - Is there any opposition to P-8-04, Omnipoint Communications CAP Operations, LLC, in the Varina District? No opposition. Good evening, Mr. Coleman.

Mr. Coleman - Good evening, Madam Chair and members of the Commission. The applicant is requesting to construct a 140' tall tower on the Richmond Auto Auction property on Old Williamsburg Road. The parcel is zoned M-1C and designated Planned Industry on the 2010 Land Use Plan. The site is also within the Airport Safety Overlay District, which restricts the height of towers and other structures in this area. At the proposed height of 140', this tower would not require obstruction marking or lighting.

The proposed tower meets required setbacks, however the tower's drop zone overlaps A-1 property to the east. Therefore, staff recommends the applicant should submit a *Communication Tower - Acknowledgement of Impact* form.

Overall, this site may not be objectionable for a tower. If the applicant were to submit the *Acknowledgement of Impact* form, staff could be more supportive of this application.

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

Mrs. Ware - Are there any questions of Mr. Coleman from the Commission?

Mr. Jernigan - No, and I am not going to have the applicant come up because this case was straight with the exception of the form. Now Mr. Charles Moss is the adjoining land owner and I had a long conversation with him on the phone the other day, and the reason he had not signed the form was because he really did not understand what he was signing, and when the staff report came out, it said it impacted his property. He was leery of signing off on it. We had a long conversation and I explained to him that he could still put houses, well, actually on the Land Use Map it shows light industrial, so if he were to improve that property, at the point the cell tower would be the non-conforming use. I explained to him that he still has the right to do anything with the property that he wants, and at that point he told me he supported this. He didn't want to sign the paper, but he said he had no problems with letting this project go on as stated. Now, I checked with staff last time and they said if I had a verbal commitment from him, that it would be OK, and I do have a verbal commitment from him that he is OK with this case.

Mr. Silber - Mr. Jernigan, I have one question of staff. Mr. Coleman, the staff report shows this as 143' tower and the elevation requested is 140'. Has that been modified by the applicant?

Mr. Coleman - Yes, the applicant came in today and amended the elevations to the 140' height.

Mr. Silber - So the very top of the antenna has been dropped to 140'?

2012 Mr. Jernigan - All right. I am ready to make a motion. Madam Chairman, I move for
2013 Provisional Use Permit P-8-04, Omnipoint Communications, be approved and sent to the Board of
2014 Supervisors.
2015
2016 Mr. Marshall - Second.
2017
2018 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Marshall. All in favor
2019 say aye. All opposed say no. The motion passes.
2020
2021 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr. Marshall, the Planning Commission
2022 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because
2023 the proposed tower at this location was of adequate distance from the closet residential area.
2024
2025 **C-55C-04 Burrell Saunders for Rocketts Landing, LLC:** Request to conditionally
2026 rezone from M-2 General Industrial District to UMU Urban Mixed Use District, Parcels 797-713-5542,
2027 797-713-4210, 797-712-3780, 797-711-6071 and 797-711-2587, containing 30.68 acres, located
2028 between the west line of Old Osborne Turnpike and the James River, extending from the
2029 city/county boundary to Bickerstaff Road (Rocketts Landing UMU). A mixed-use district including
2030 residential, office and commercial uses as permitted in the UMU District is proposed. The uses will
2031 be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan
2032 recommends Urban Mixed Use.
2033
2034 Mrs. Ware - Can we, since the presentation is probably going to be very similar for
2035 both of these cases with the P-14-04, can we just combine them and have separate motions?
2036
2037 Mr. Silber - Yes. I think that would be appropriate.
2038
2039 Mrs. Ware - Thank you. Is there any opposition to C-55C-04, Rocketts Landing, LLC, or
2040 P-14-04, Rocketts Landing LLC?
2041
2042 **P-14-04 Burrell Saunders for Rocketts Landing LLC:** Request for a Provisional
2043 Use Permit under Sections 24.32.1, 24-34.1 and 24-122.1 of the County Code in order to submit a
2044 Master Plan for the proposed Rocketts Landing Urban Mixed Use District, on Parcels 797-713-5542,
2045 797-713-4210, part of Parcel 797-712-3780, and part of Parcel 797-713-8451, containing
2046 approximately 11.77 acres, located between the west line of Old Osborne Turnpike and the James
2047 River, extending from the city/county boundary to Bickerstaff Road. The existing zoning is M-2
2048 General Industrial District. The Land Use Plan recommends Urban Mixed Use.
2049
2050 Mr. Jernigan - He is not actually in opposition. He just wants to make a statement. He
2051 will do it. Madam Chairman, I would like to make a request on this. This case is very complex and
2052 has a lot of detail, and I would like to see that the applicant could have five extra additional
2053 minutes onto our normal 10, because we don't want to miss anything on this, and it is going to
2054 take a while.
2055
2056 Mrs. Ware - All right. Sounds good.
2057
2058 Mr. Coleman - Thank you, Madame Chairman, Members of the Planning Commission.
2059
2060 This application would rezone 30.68 acres to Urban Mixed Use District for development of the
2061 proposed Village at Rocketts Landing. A companion case, P-14-04, for the first phase of this
2062 project is also before you this evening.
2063

2064 In October 2002, the Board of Supervisors amended the 2010 Land Use Plan Map to designate the
2065 subject property as an Urban Mixed Use Development Area (UMU).
2066

2067 The subject properties and the surrounding area are characterized by a variety of industrial uses -
2068 including vacant industrial property and buildings, and brownfield sites, and with its proximity to the
2069 James River, the site also includes floodplain and Chesapeake Bay Areas. The property is adjacent
2070 to the City of Richmond and Rocketts Landing would also include land in the City.
2071

2072 As proposed, Rocketts Landing would ultimately include a waterfront park along the James River;
2073 berths and boarding facilities for boats; offices; retail shops and restaurants; and mixed-use
2074 residential and commercial buildings.
2075

2076 Upon completion, the applicant projects Rockets Landing would also include:
2077

- 2078 • Up to 972 residential units
- 2079 • Approximately 182,000 square feet of office and retail space
- 2080 • A 176 slip marina
- 2081 • Multi-level parking decks.
2082

2083 The UMU ordinance includes extensive development standards to regulate urban mixed use
2084 development. UMU District provisions also permit the applicant to request relief from these
2085 standards, and the applicant is requesting the following:
2086

- 2087 • The ordinance requires a minimum of 25% of the building square footage contain
2088 office/commercial uses. Approval of Proffer #11 would lower the requirement of office and
2089 commercial space to a min. of 18%. The applicant has increased this amount from the
2090 original request of 12.5%.
2091
- 2092 • The ordinance also requires min. landscape widths of 8'. Approval of Proffer #5 would
2093 lower the landscape widths on selected streets to 5'6." Staff believes the reduction to 5'6"
2094 on selected streetscapes will still allow sufficient landscaping.
2095

2096 While staff supports the development standards, the Commission could take into consideration
2097 other elements of this proposal in deciding whether to approve the applicant's requests for relief,
2098 including the remediation of brownfield sites, the opportunity to increase access to the river,
2099 redevelopment of underutilized industrial land, and the assurances of high quality development.
2100

2101 The UMU District ordinance also requires the applicant submit additional design criteria, and the
2102 applicant proffered *The Village of Rocketts Landing Guidelines* which contain narrative and
2103 illustrative guidelines to further regulate and define the project. The document includes
2104 subsections on:
2105

- 2106 ♦ Architectural Design;
- 2107 ♦ Landscape Design;
- 2108 ♦ Street Type Key Plans and Cross-Sections;
- 2109 ♦ Examples of Urban Details;
- 2110 ♦ Riverfront Park Cross-Sections; and others.
2111

2112 The guidelines support the following design elements, which would help define the project:
2113

- 2114 • Streets in a traditional urban grid pattern;
- 2115 • Monument roundabouts;

- 2116 • Pocket parks, open plazas, and village greens;
2117 • Tree lined sidewalks and streetscapes;
2118 • Pedestrian accessibility to all amenities; and
2119 • Unified, high quality architecture.
2120

2121 Together, the development standards and the *Village of Rocketts Landing Guidelines* provide
2122 assurances that Rocketts Landing will incorporate high quality site design, architectural design,
2123 building materials, and amenities.
2124

2125 Overall, staff supports the concept of redeveloping this area as proposed, however staff has the
2126 following concerns:
2127

- 2128 • Proffer #9 entitled Dispute Resolution commits to a plan for settling disagreements about
2129 compliance with proffers #2-8. Staff recommends deleting this proffer.
2130 • In proffer #12, the method for calculating the number of apartments is overly complicated.
2131 Staff recommends committing to a limited number or percentage of apartment units.
2132 • Clarify the status of the boat slips.
2133 At this location, the James River is located in the City, and the slips, being in the river,
2134 would be located in the City. The boat slips are an important consideration in the Fiscal
2135 Impact Analysis, and the applicant should provide information that satisfies this matter with
2136 the County Attorney.
2137 • New information was submitted late this afternoon relating to the financial analysis. While
2138 it appears the development may have a negative impact on the County, we are unable to
2139 provide final determination on that at this time.
2140

2141 In summary, the property under consideration is:
2142

- 2143 • Designated UMU on the 2010 Land Use Plan and this request is consistent with this
2144 designation.
2145 • The project provides assurances of high quality.
2146 • Provides the opportunity to revitalize this industrial property and brownfield sites.
2147 • This proposal also provides opportunities to draw attention to and enhance the scenic
2148 beauty of the River and promote public access to the river.
2149

2150 The subject property is an appropriate location to encourage urban mixed-use development, and
2151 the Village at Rocketts Landing can only take place in the County, utilizing the provisions afforded
2152 by the UMU District. Staff encourages a higher percentage of commercial development, but also
2153 recognizes the opportunities afforded by this project. If the applicant could address the issues I
2154 have presented relating to clarification of the boat slips, removal of the dispute resolution
2155 language, issues related to the apartment units, the financial analysis, and increasing the amount
2156 of commercial floor space, staff could be more supportive of this application.
2157

2158 This concludes my presentation. I would be happy to answer any questions.
2159

2160 Mr. Jernigan - You received my fax this afternoon on the apartments, the luxury
2161 apartments that would be capped. Well, they had a number in there of 400 to 425.
2162

2163 Mr. Coleman - Correct.
2164

2165 Mr. Jernigan - And we will have Mr. Axselle put a cap on what it is going to be.
2166

2167 Mr. Coleman - Yes, they originally were proposing up to 600 apartment units, and they
2168 have lowered the number. From the information you provided this afternoon they were to commit
2169 to 400 to 425 apartment units.
2170

2171 Mr. Jernigan - It was originally 600. Then they went to 550 and now it is at 400 to 425.
2172 And on staff's concern on the commercial, they did raise that to 18% and because of the way this
2173 is built, this is just not a County project, it is in the City, too, and the City, by virtue, I guess, got
2174 most of the commercial, but there are other land acquisitions that Mr. Axelle is looking at, and at
2175 that point I have already informed him that if they do come into the fold, they will be commercial,
2176 and that will pull that up from 2 to 25% that we need. Before I say anymore, I want to thank Tom
2177 for really doing an excellent job on this. Tom was the lead planner and had help from Joe Emerson
2178 and Jean Moore-Illig, but work on this project has been going on for close to three years. There
2179 has been a lot of time and I think it has come up to where we have three little problems at the end
2180 of a case that we have to work on. So, Tom, I thank you and I thank the rest of the staff that
2181 helped you.
2182

2183 Mr. Coleman - Thank you, Mr. Jernigan.
2184

2185 Mr. Jernigan - I don't have any more questions.
2186

2187 Mrs. Ware - Any questions from the Commission for Mr. Coleman at this time? Can we
2188 hear from the applicant.
2189

2190 Mr. Axelle - Madam Chairman and members of the Board (sic), I am Bill Axelle and I
2191 am heard on behalf of the property owner and the applicant. I want to introduce the people with
2192 me and they are not all going to speak. Most of you know Bill Ableoff, who represents and is the
2193 coordinator for the owner of the property behind me, the contract purchaser and the developer is
2194 represented by Jason Vicker-Smith and Larry Wilkes, and then Burrell Saunders, as many of you
2195 know, is the land planner/architect with CMSS, and, quite frankly, is responsible for designing a
2196 very, very quality project. I would second Mr. Jernigan's comments as far as appreciation. We
2197 actually have been working on this property for about three to four years. We had a lot of work
2198 with the administration, with the Planning Department. The County was able to get together
2199 representatives from each of their agencies as we went through this phase. Tom Coleman took the
2200 lead responsibility in drafting the UMU Ordinance and that ordinance really has a couple of features.
2201 It is set forth in its purpose clause that "it is to encourage redevelopment and reinvestment in
2202 commercial industrial areas." This is classic in that respect. It has a lot of specificity, a lot of
2203 details, but at the same time it provides flexibility, the perfect combination, if you will, where there
2204 is flexibility to the developer to be able to respond to the market within certain criteria established
2205 by the County. It also provides for a sequence of approvals that continues the County involvement.
2206 This property, as Tom mentioned, was actually placed into the Comprehensive Plan and the Map in
2207 October, 2002, as being appropriate for UMU. It is the only one in the County so designated at this
2208 time. Today we come before you asking to zone the entire 31 acres, and that is part of that
2209 process that we have extensive proffers and everything, and just for the sake of illustration, I am
2210 sure the staff has provided to you, but there are numerous proffers, there are a number of exhibits,
2211 and those exhibits have extensive guidelines on the topics on which Mr. Coleman made reference.
2212 Basically what has happened is that we are setting in place the zoning and the developer is
2213 voluntarily proffering and by the approval, he knows he must live within general conformance with
2214 those guidelines. We have also allowed certain flexibility, which is good. The next step in the
2215 process under the UMU ordinance is a master plan approval. For each segment of this project, we
2216 will have to come in for a master plan approval, and the screen that is before you, you will see
2217 Land Bay 4A. That is actually in the City, but as far as our development, it is one of our land bases
2218 and the PUP that is before you tonight is for Land Bay 4B. We originally filed for five and six, but

2219 upon discussions with the County, we thought and they thought appropriate that we receive the
2220 approval for Land Bay 4B, and that is for master plan approval. Then, as we go forward, and that
2221 is under P-14 case, we will still be required to come back for a normal plan of development, we will
2222 be required to come back for landscape plan approval, and, of course, ultimately the building
2223 permit approval, so you see, it is truly a classic combination of flexibility but within certain criteria
2224 and guidelines established by the County and in the zoning case. I think the County, quite frankly,
2225 is to be commended for recognizing that our County has changed. Some of you have been around
2226 long enough to know when this was a rural County. It is become a suburban County and now has
2227 become, in some instances, an urban County in many parts, and there are parts of our County, the
2228 urban parts, where some of them need revitalization, and this is the classic type of case. The
2229 County has recognized this by Enterprise Zones by the Department of Community Revitalization
2230 and by allowing the UMU zoning in appropriate places.

2231
2232 I am going to walk you through, only very briefly, the proffers and highlight them for you, and Mr.
2233 Saunders is going to talk to you about the concept and the spirit. And, again, without going into
2234 the details, Proffer #1 basically commits to the overall development, including the public street grid.
2235 Proffer #2 refers to the architectural design guidelines, which apply to all development on the
2236 property, including parking garages. Proffer #3 talks about the landscape design guidelines and
2237 what we must do. Proffer #4 talks about the streetscape design guidelines, and in each instance,
2238 we have to be in general conformance with them, but with latitude granted to this Planning
2239 Commission and the staff to provide certain deviations that are in generally keeping with the spirit
2240 of those exhibits. There is a street-type plan in Proffer #5 with exhibits. The land that is going to
2241 be used for the road has to be dedicated to the County. Proffer #6 deals with Route 5 and specific
2242 attention to the landscaping along there. Proffer #7 has a series of urban details that are set forth
2243 in extensive exhibits filed. Proffer #8 deals with the riverfront park section. As you know, we have
2244 always talked about the hope is to have a promenade, a walk, a bike path, whatever is appropriate,
2245 hopefully eventually from the canal walk extended into Henrico and on through the property. We
2246 have provided at the end of Proffer #8 that there is a minimum of 50 feet immediate adjacent to
2247 the river will be used for open space, parks, promenades, and water-dependant uses. As you can
2248 see from the plan, there are also monument roundabouts. There are plazas. There are village
2249 parks and small parks.

2250
2251 Proffer #9 is to dispute resolution to which Mr. Coleman made reference. We have indicated to the
2252 County that there are two or three issues we need to talk to the County Attorney. This is one of
2253 them and as originally introduced, it had a provision that if there was a dispute on all of these
2254 different items, there was a method of resolving it. We have indicated to the staff that we think
2255 this should be changed so that the dispute resolution should only apply to the architectural
2256 guidelines, not anything else, and the reason for that is that when you get that far along, you have
2257 the developer is in discussions with potential owners, potential tenants, and so forth, and so the
2258 concept is here, and it is new to Henrico, but it is that if there is a dispute between the developer
2259 and the County, there will be an architect employed by the County, independent of the County, at
2260 the expense of the developer, and one by the developer at his expense, and then they will try to
2261 resolve the differences and there's a method if they don't. We have committed that we will make
2262 the change to apply only to Proffer #2 and that we will continue and work this out with the staff
2263 and the County Attorney before we go to the Board.

2264
2265 Proffer #10 deals with road improvements. If you will note, there is a reference to a letter that I
2266 sent to Bob Thompson, which basically confirms the recommendations made by Mr. Foster and the
2267 Public Works Department, and we are obligated to make those improvements, and this is the
2268 method of putting that into the proffer they preferred. Proffer #11 provides restrictive covenants,
2269 an architectural review committee and an outline of that is also attached.

2270

2271 Proffer #12 deals with the mixture of uses. Let me address two issues here if I may. As was
2272 indicated by Mr. Coleman, the ordinance said that you should have 25%, a minimum of 25% of the
2273 square footage for commercial and office uses. We have suggested 12.5 and 18 is what is in there.
2274 If you think about this proffer, I don't know if you all have been down there, there is not a single
2275 resident anywhere in this area. There are no offices in this area, except for a couple of small
2276 offices associated with industrial uses. I think we all know that it is residents, roof tops and offices
2277 that drive the commercial, because we are talking with more than a clean slate, and we want it to
2278 be more than 18%. We want it to be 25%, because quite frankly, that is the greatest return on
2279 our investment, but I think that to be safe, we need to, in fact, make the commitment at a
2280 minimum of 18%, but Mr. Jernigan makes reference to this additional piece of property, to which
2281 we have been talking about, and on one of the exhibits you will see there is some property sort of
2282 in the middle of this property, along Route 5. It is, in fact, property owned by the owners of
2283 Virginia – see the area in the middle there (referring to rendering) that Tom is referencing, this is
2284 property that is owned by the owners of Virginia Rigging. They and the Rocketts Landing folks are
2285 in discussion. They have had good discussions. The owners have indicated the approach they
2286 want to be taken. We are making the proposal in that fashion. There is some good negotiations
2287 over price, but that is the property to which I believe Mr. Jernigan was making reference. Our plan
2288 is for that to be a commercial and office predominantly. It is on the going-home side on Route 5.
2289 It is in the middle of this project and so forth. We think that will also allow us to address the
2290 percentage of office and commercial.

2291
2292 Mr. Marshall - We just don't want the city to get all of the cream.
2293

2294 Mr. Axelle - Oh, no. We have some other discussions that are not as far along as that
2295 that we can reference to that will hopefully assure that. The second thing I would talk to on Proffer
2296 #12 is the 25% of the square footage of the property. Mr. Jernigan properly and Mr. Coleman
2297 properly stated that we originally had about 600 apartments, went to 550. Twenty-five percent of
2298 the square footage equates to about 425 units, and we have agreed at the Board level we will
2299 commit to no more than 425 units, but that was what we were intending to do here. The method
2300 chosen, however, causes a lot of calculations and difficulty for the staff, and I think the thought is
2301 we just go ahead and make it a maximum, and Mr. Saunders will talk to you about these. You all
2302 are going to laugh when I say this, but he refers to them as luxury rental units, and I think when
2303 you see them you will know that these are not the typical apartments we have in Henrico County
2304 because of where they are.

2305
2306 Proffer #13 talks about pedestrian access, which is the only proffer the County staff requested for
2307 just government uses. We are committed to providing a police substation and a marina slip for use
2308 by Henrico County if requested as part of the POD process. The last proffer is the fairly standard
2309 one. There, I think, basically are the issues Mr. Coleman highlighted. I can gladly respond to any
2310 other point, and that is it. I will be glad to respond to any questions. If you have none, I will ask
2311 Mr. Saunders to give you a big picture overview of Rocketts Landing.

2312
2313 Mrs. Ware - Are there any questions for Mr. Axelle at this time?
2314

2315 Mr. Donati - I have one. I think Mr. Coleman mentioned something about the water
2316 where the marina was going to be, considered City. How did that come about?
2317

2318 Mr. Axelle - Who knows? It is interesting, but the tentative research, and we have to
2319 do more, is that the property, the jurisdictional line between the County and the City at this
2320 particular site may be and probably is that the City owns the land under the water up to the mean
2321 water line here. Now, in other parts of the County, especially in the west, it is just not the same.
2322

2323 Mr. Donati - Yes, because I know further down the river, our line goes over to the
2324 Chesterfield side shore line.
2325
2326 Mr. Axelle - Yes, sir. It varies all up and down the James River. We think from a
2327 practical standpoint these marinas will have access from the County, all the activity will be in the
2328 County, but we need to clarify that with the County Attorney, but the young man in my office who
2329 did the research started telling me about a case, King's Court and everything, and I said just tell the
2330 answer, but it does vary, but that is an issue we need to clarify with the County Attorney.
2331
2332 Mr. Jernigan - Bill, the only thing I know is on the dispute resolution and Mr. Tokarz does
2333 not like that in there, but we are not going to clear that up tonight because it is too legal for us
2334 probably even for Mr. Marshall.
2335
2336 Mr. Marshall - You are right.
2337
2338 Mr. Jernigan - So, just knowing that when this case moves forward, if it moves forward
2339 that that will have to be settled before the Board will approve it.
2340
2341 Mr. Marshall - Mr. Silber is not going to like giving up any of his authority.
2342
2343 Mr. Silber - Yes, that is a concern. I am a reasonable person, too.
2344
2345 Mr. Axelle - Mr. Silber is correct on both points. So, that is finished and we've
2346 highlighted it for further attention.
2347
2348 Mr. Jernigan - Bill, I want to thank you, also. It has been good to work with you on this
2349 project. Like I said, it is a massive project and Bill Abeloff and the rest of the team at our meeting
2350 the other day, we had very few things. We worked them all out, except Ms. Busher still has to get
2351 straight on the fiscal impact, but the few problems we had worked right along.
2352
2353 Mr. Axelle - I might reference Ms. Busher. This quite frankly is the first UMU. The
2354 policy guidelines that she has do not apply, we believe, to new urbanization, this type of use, but
2355 she is bound by certain policies, and so this will help highlight perhaps looking at that as we go on
2356 further.
2357
2358 Mr. Marshall - Did the fact that Mr. Abeloff is on the Goochland Planning Commission
2359 hurt you or help you?
2360
2361 Mr. Axelle - Well, on the off chance that I may have a case up in Goochland, I think it
2362 helps us. I'd like to introduce Mr. Saunders to you.
2363
2364 Mr. Saunders - Thank you, Bill.
2365
2366 Mrs. Ware - Good evening, Mr. Saunders. I need to ask you at this point if you could
2367 estimate how long you think your presentation is.
2368
2369 Mr. Saunders - I am going to keep it relatively short, since the hour is late, about 5
2370 minutes.
2371
2372 Mrs. Ware - OK, that's fine.
2373

2374 Mr. Saunders - Madam Chairman and members of the Commission, it is a great day to be
2375 here today. We started this back in 1999. Bill Abeloff and his investors came to us and wanted to
2376 do something special out here in the County, and what I want to speak to you about, I think Bill
2377 and Tom have done a great job of talking to you about the details, but this is about vision. Great
2378 places don't just happen. It takes a vision and leadership to occur in a wonderful way. This
2379 property and the owners that assembled this property had a vision for the City of Richmond and for
2380 Henrico County, and it really goes back to the fact that they wanted to see not only a good
2381 investment occur here on the banks of the James, but they also wanted to see a place where the
2382 community could reconnect with the river and its history and its heritage. This particular piece of
2383 property dates back to the birth of this County. I sit here looking at your seal up here with the
2384 dates of 1611 and 1607. The English came to this point of land and this is where Henrico County
2385 started, right here, on this piece of property. Matter of fact, the underlying streets that you see on
2386 this plan, many of them, are some of the original streets laid out early in the 17th century. Bill
2387 mentioned the idea of the new urbanism. What is really kind of interesting is urbanism is the
2388 ancient art of building, and it is really not new. We are just rediscovering it. It is a rebirth of how
2389 you build places that people want to live in, that they can live, work, play and have a whole life
2390 style. What this property does is it offers the opportunity for a community to have a riverfront
2391 connected marina style lifestyle, where you can literally walk down the street to your boat, enjoy
2392 the river, fishing or with friends, go to work, walking down tree-lined streets and enjoy the
2393 environment of the neighborhood. The streets will be animated with shops as we talked about and
2394 urban porches, where you will see your neighbor and you will be able to interact in the village
2395 greens. It will be a place that is calm and soothing, but yet have people there all of the time, 24
2396 hours a day, so it is a safe environment and will offer the opportunities and the City and the
2397 community in an 800-foot long park area to reconnect with the river and have a place to recreate
2398 and enjoy the tree-lined banks of the James River.

2399
2400 Some exciting parts about this property is that as you look to the West you see the City's sky line
2401 rise up and it creates a wonderful backdrop for an evening out, and I think a lot of the neighboring
2402 communities will be attracted to this spot to enjoy each other and to recreate and to socialize. A
2403 couple of really important points that I think need to be mentioned here is that this is really about
2404 stewardship. This is a landmark decision with the DEQ to bring on line a brownfield, an area that
2405 has fallen fallow and has not been usable or wasn't even able to be used as for this type of
2406 community, and with this landmark decision, it has been negotiated by Bill with the DEQ. We now
2407 have the opportunity to create a great place and a great home for our citizens here. It is anti-
2408 sprawl because what it does is it takes an area that can be developed in an urban style and in a
2409 compacted but gentile type of development allows for the creation of quite a bit of square footage
2410 and mixed use of products. Once again, we said it allows access to the river and I think the biggest
2411 thing we are finding in these communities that we are doing throughout Virginia and the U.S. is
2412 that there are a lot of people that are looking for places that they can actually have an alternative
2413 type of life style. A place where they are not having to be dealing with a big lawn everyday or that
2414 they can have neighbors nearby that they can know and be involved with, or that they can just
2415 walk down the street and pick up their groceries or have a dinner without having to be burdened
2416 with some of the duties of a suburban life style. I think with that being said, I would recommend
2417 that this is a great project and it is going to start a whole new type of development and allow you
2418 to see a whole new gateway for the eastern part of Henrico County. Thank you.

2419
2420 Mr. Marshall - I have one question. I was curious in looking at all of the drawings and
2421 stuff, I didn't notice any restaurants that were built down near the marina on any of the plans and I
2422 was wondering why that was.

2423
2424 Mr. Saunders - The reference more likely will be on the banks, but as you step up this
2425 property, the lower part is subject to floods, and then there is a bench where right now there is a

2426 railroad line and eventually will be the walking paths, and then the next step up, which is about 40
2427 feet, is where the actual property can be developed so it is out of the floodplain. So, it is largely up
2428 there because of that.

2429
2430 Mrs. Ware - Anymore questions?

2431
2432 Mr. Saunders - You wanted me to talk about the luxury apartments. Well, actually this is
2433 true, and we actually, in downtown Norfolk, are finding this to be true, if you haven't had a chance
2434 to come back and see the rebirth of our sister city down at the other end of the James, you might
2435 want to. What is happening is that there is quite a market that is developed of people that have a
2436 choice and are choosing to rent. They may have homes elsewhere that they use during the
2437 weekends, and they want to have a place in town, or they just don't want to have the burden of
2438 home ownership, and so what we have experienced there and we have experienced this in other
2439 communities, like in Northern Virginia, is there has been a real rise in the need for luxury
2440 apartments. They generally have 9 to 10 foot ceilings. They are larger rooms, fireplaces, and they
2441 command quite a nice rent. We recently opened a couple of projects, like I said, right in downtown
2442 on our river front, and what we were surprise to find out that we have waiting lists, consistently. I
2443 think you are going to find, and actually you have this here in Tobacco Row, I think Bill's earlier
2444 project down the street shows that this is a project type or product type that is very desirable here
2445 in this part of the County.

2446
2447 Mr. Jernigan - What size apartments are those going to be?

2448
2449 Mr. Saunders - They vary. They vary from 900 sq. ft. up to 1800. They are various sizes.
2450 They are usually one, two and three bedrooms. The loft types are the smaller ones. The three
2451 bedrooms, obviously, are the larger ones with studies.

2452
2453 Mr. Jernigan - Thank you.

2454
2455 Mrs. Ware - Thank you.

2456
2457 Mr. Axelle - If I could just close with one comment, that is that we are really, quite
2458 frankly, excited to provide this upscale river front mixed-use development of office, commercial,
2459 residential and the marina and the slip. We estimate that this will be an investment in Henrico
2460 County of \$240 million dollars and will generate about 1,100 jobs and it will have a dramatic impact
2461 on the quality of life and especially enhancing improvement in this area, so we thank you for your
2462 attention. Thank you.

2463
2464 Mrs. Ware - At this time, would you like to hear from the gentleman concerning the
2465 case? Good evening. If you could just give us your name and address for the record, please.

2466
2467 Mr. Spence - My name is Mike Spence and I am the facility manager for IMTT
2468 Richmond. We are at the southern end of Rocketts Landing, the development here. We are right
2469 here (referring to rendering), and the one thing that we are concerned about, and we are excited
2470 about this project, and we do not oppose it. The only thing that we are concerned with is that our
2471 facility, we store petroleum and chemical products, and one of our major customers, they provide
2472 fuel resources for most of the power plants in the mid-Atlantic region, and due to this fact, we
2473 operate 24 hours a day, 365 days a year. We have trucks that come in and out, barges. We also
2474 have a dock which is right here (referring to rendering), and while it is not super noisy, there is
2475 some noise associated with our operation. We are concerned that by having that right up on our
2476 fence line that we may have some sort of complaints from the residents of the Rocketts Landing
2477 development and we are suggesting that we have some sort of buffer there that would kind of

2478 isolate us a little bit from the Rocketts Landing development, whether it be a parking lot or maybe
2479 have some of the new commercial development toward that end. These people are not there
2480 during the evenings and nights or weekends, but that is our only concern. Again, I have met with
2481 Bill and we are excited about the project. It is just that we understand, as Mr. Jernigan pointed
2482 out, that the way things are zoned right now, it is pretty much one of those things where the
2483 people understand what we do and that it is something they would live with, but we just want to
2484 start off on the right foot and not make any enemies in the neighborhood.
2485

2486 Mr. Jernigan - Mike, as I told you earlier, I had a call from a representative of Tarmac,
2487 with the same concerns as yours, but I will explain to the audience as I explained to him that
2488 actually they were there first, and they actually have unconditional zoning. The noise that is
2489 generated by the fuel trucks and all have been existing. The people that buy a project or buy a
2490 condo or a townhouse and move in, they realize that this is existing now and they are going to
2491 have some noise from that. Now, in the situation with Tarmac, they work just normal operation
2492 from probably 7:00 a.m. to 6:00 or 5:00 in the evening, but Mike's concern was that there may be
2493 people complaining, and that we would have to come in and make them alter the way that they do
2494 business, and that actually, like I said, the way I feel, the County would not be able to do that. You
2495 are in M-2 unconditional zoning with no restrictions on the time.
2496

2497 Mr. Spence - I understand that. Our biggest concern is we understand that they really
2498 can't do anything against it, but I am sure there would be complaints to the police and we don't
2499 want to become a bad neighbor in this area, whether it be legal or not.
2500

2501 Mr. Jernigan - I think that most of the people, this UMU, there are no single-family
2502 dwellings in here, and I think that most of the people who move into this project are use to the
2503 City, so they are use to a certain amount of noise now. But I don't know that they have any extra
2504 territory that they can put in a buffer, I really don't. This thing has been pretty well drawn out.
2505

2506 Mr. Spence - Maybe the parking lot or maybe just have one of the commercial
2507 developments down toward the end.
2508

2509 Mrs. Ware - Actually, a parking lot isn't going to buffer noise, and you might want to
2510 consider some plantings on your side of the property line that might buffer some of the noise that
2511 would move upstream or what have you, which is one way that it has been handled before with
2512 cases.
2513

2514 Mr. Jernigan - I don't know that he is going to want to consider planting on his side.
2515 Now, Rocketts may want to consider some plantings to buffer it out, but I don't think.
2516

2517 Mr. Silber - Are you suggesting, when you said a parking lot just to provide some
2518 space between where the residents would be and your property?
2519

2520 Mr. Spence - That is right. We also have, I think you can see from this picture here, our
2521 property goes all the way over to this yellow line here, so we actually do have potential for some
2522 expansion. We could actually put some (unintelligible) right on there, the fence line, so it is just
2523 that we want to express our concerns to you and everyone else.
2524

2525 Mrs. Ware - Thank you. Are there any questions? Thank you very much.
2526

2527 Mr. Jernigan - Well, I want to say that I first saw this case about three years ago, that is
2528 right after I had been on the Commission for a few months. I was exposed to this and right off the
2529 bat I was excited mostly because finally we were going to use one of our natural resources. There

2530 have been people everywhere who have put in man-made lakes and they put beautiful houses
2531 around them, and here we had a natural resource that we had never used. So, to see that
2532 Rocketts Landing was coming with the history that is Rocketts Landing and to revitalize the area,
2533 especially in a brownfield site, I felt good about it. Meeting Bill Abeloff and seeing and knowing
2534 that he was behind Tobacco Row, which was an extreme success, made me feel even better. I
2535 have worked on this project some, but Tom Coleman has done at least 90% of the work that has
2536 been done on this project and Bill and I met in the last few weeks to put the final touches on
2537 things, and I think it is a great project and I think our build out is about 15 years, Bill, total build
2538 out, but anyway. I am excited this project is coming and I think it is our first UMU and I believe it
2539 will be a good project. So, Madam Chairman, we have to do two motions on this. We have to
2540 approve this first before we can approve the PUP, so with that I will move for approval of Case C-
2541 55C-04, Rocketts Landing, knowing that we have some things to work out as far as legal issues,
2542 and that things could change going along with PODs. There will be some changes in this project,
2543 but I move for approval of that.

2544
2545 Mr. Marshall - Second.

2546
2547 Mrs. Ware - Do we have a time limit issue? No. Motion made by Mr. Jernigan and
2548 seconded by Mr. Marshall. All in favor say aye. All opposed say no. The motion passes.

2549
2550 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr. Marshall, the Planning Commission
2551 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because
2552 the mixed use development conforms with the Land Use Plan's recommendation; it would permit
2553 the revitalization of a brownfield site and infill development with the proper connection for roads
2554 and other public facilities; and the proffered conditions would provide for a higher quality
2555 development than would otherwise be possible.

2556
2557 Mr. Jernigan - With that, Madam Chairman, I will move for approval of P-14-04 for
2558 Rocketts Landing, Provisional Use Permit, and this is for Phase 1, Land Bay 4B.

2559
2560 Mr. Marshall - Second.

2561
2562 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Marshall. All in favor
2563 say aye. All opposed say no. That motion passes as well.

2564
2565 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr. Marshall, the Planning Commission
2566 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because
2567 the proposed master plan is reasonable in light of the recommendation of the Land Use Plan and is
2568 necessary to fulfill the requirements to develop an urban mixed-use community.

2569
2570 ***Deferred from the September 9, 2004 Meeting:***

2571 **C-40C-04 Glenn Moore for RER Properties, LLC:** Request to amend proffered
2572 conditions accepted with Rezoning Case C-73C-85, on part of Parcel 760-755-5474, containing
2573 1.644 acres, located on the north side of W. Broad Street (U. S. Route 250) approximately 220 feet
2574 west of N. Skipwith Road. The amendments would permit vehicle repair and service as a use, and
2575 also regulate building location from the northern property line. The existing zoning is B-3C Business
2576 District (Conditional). The Land Use Plan recommends Commercial Arterial.

2577
2578 Mrs. Ware - Is there any opposition to C-40C-04, Glenn Moore for RER Properties, in
2579 the Brookland District? OK. We will take this in order and we will get to you. All right. Good
2580 evening, Mr. Coleman.

2581

2582 Mr. Coleman - Thank you, Madame Chairperson, Members of the Commission.
2583
2584 The applicant has submitted revised proffers dated October 12 and a copy of a "Letter of Intent",
2585 which are being distributed to you now. The time limit does not need to be waived for the proffers.
2586 The purpose of the letter of intent is to ensure improvements that are not subject to this request,
2587 yet are part of the operation of the dealership.
2588
2589 The subject property is part of the Crown Acura-BMW automobile dealership on West Broad Street.
2590
2591 The property is zoned B-3C and the portion of land subject to this proffer amendment request
2592 consists of the parking lot and vehicle storage area behind the two main buildings. The applicant is
2593 requesting an amendment to the existing proffers accepted with rezoning case C-73C-85 to allow
2594 an addition to the westernmost, or BMW, building. The addition would be used for vehicle repair
2595 and service.
2596
2597 Vehicle repair or service uses are currently prohibited by the proffers approved in 1985. The
2598 applicant also wishes to amend language pertaining to buffers between the subject property and
2599 the former church site.
2600
2601 To mitigate potential adverse impacts, the proposed proffers include the following:
2602
2603 • All repair and service work must be performed indoors;
2604 A 100' building setback from the northern property line, which abuts the former Parham
2605 Hills Christian Church property;
2606 • Any building addition shall be architecturally compatible with the existing buildings on site;
2607 • Overhead garage doors will be closed at all times except to allow for vehicles entering or
2608 exiting for repairs;
2609 • Only one door will be located on the north end of the building;
2610 • Mechanical equipment will be screened from view and screening will include material
2611 designed to suppress noise from the equipment;
2612 • A minimum 30' buffer will be retained along the eastern property line;
2613 • A decorative pre-cast concrete wall 10' in height will be installed along the eastern property
2614 line;
2615 • Outside speakers are prohibited; and
2616 • Any BMP on site shall be aerated.
2617
2618 The proposed proffers are, in part, responsive to the concerns voiced at a community meeting held
2619 on Sept. 2, 2004. To address other concerns regarding the overall dealership, the applicant has
2620 submitted a letter of intent stating the applicant will commit to:
2621
2622 • Installing a finished, masonry wall along most of the eastern boundary of the dealership to
2623 reduce the noise and sight impacts from dealership operations.
2624 • Prohibiting the operation of outdoor speakers on the entire property; and
2625 • Removing or remodeling the steeple on the former church building.
2626
2627 The proposed use is consistent with the 2010 Land Use Plan's recommendation for Commercial
2628 Concentration. With the changes to the proffers and the commitments set forth in the letter of
2629 intent, staff is supportive of this request.
2630
2631 This concludes my presentation. I would be happy to answer any questions you may have.
2632
2633 Mrs. Ware - Are there any questions for Mr. Coleman from the Commission?

2634
2635 Mr. Vanarsdall - We talked about those panels. Now, Proffer #5 covers that.
2636
2637 Mr. Coleman - Yes, sir.
2638
2639 Mr. Vanarsdall - We have improved the sound. I don't have any questions. I want to ask
2640 you some questions, Mr. Moore. Explain to the Commission, Mr. Moore, that the BMW people,
2641 the reason for this letter is because this is off-site and they were good enough to do what.
2642
2643 Mr. Moore - I would like to reiterate what was set forth in that letter for the record
2644 before the Commission. I think that is important. The letter doesn't have quite the same effect
2645 legally, as the proffers do, however, the commitment that is being made and will be made to the
2646 Board, as well, is just as binding in my view as the conditions themselves.
2647
2648 Let me identify myself for the record. I am sorry. I am Glenn Moore and I am an attorney and I
2649 am here on behalf of the applicant this evening.
2650
2651 I want to say, and I think Mr. Coleman has covered the case very well, and I don't want to
2652 repeat what he has said. Earlier this evening I was talking to some of the residents of Mount
2653 Vernon Heights that are here, right behind me. While we have agreed in concept on the
2654 decorative precast fencing, the type fence that will be on the property, not just the property
2655 which is part of this case, which is a small part of the automobile dealership property, but which
2656 will start essentially at the northwest corner of the Dyke Tire Store and go all the way to where
2657 this property becomes C-1 zoning behind Mr. Hawkins' house. They are somewhat interested in
2658 the appearance of that, that particular structure, so I have committed to the neighbors that I will
2659 have the engineers show them what is being proposed. It needs to be approved, as I
2660 understand it, by an amendment to the landscaping plan, and I am going to ask Mr. Coleman or
2661 whoever the appropriate person is in Planning if these people were to give him their address that
2662 they be notified when that is filed. We are going to do it. We are going to undertake to do it
2663 ourselves, but I think it is important that in case we forget, somebody notifies them.
2664
2665 Mr. Vanarsdall - I think Jim Strauss handled the landscaping. I guess Tom or somebody
2666 will take their names.
2667
2668 Mr. Moore - The commitments again, for the fencing, which I think is intended to
2669 buffer sound as well as sight, a 10 ft. high barrier along that property, getting rid of the outdoor
2670 speakers, is also another important consideration that we have agreed to, and one of the
2671 residents mentioned that what has happened is the BMW Dealership now owns that church
2672 property and that is one of the reasons why you no longer need the buffer adjacent to the
2673 church property, at least in our view. While the church property hasn't been maintained as well
2674 as it could be, and we have undertaken to, we've committed to restore the building on that
2675 property to make it look more appropriate for the area. I will be happy to answer any questions
2676 the Planning Commission members have.
2677
2678 Mrs. Ware - Are there any questions?
2679
2680 Mr. Vanarsdall - I don't have any. I am just wondering what they have. I thought that
2681 everything was settled.
2682
2683 Mrs. Ware - Thank you, Mr. Moore. We can start our opposition now. Please give us
2684 your name and address for the public record.
2685

2686 Mr. Woodard - Good evening. I am Jerry Woodard. I live at 2803 Darnell Road, which
2687 is probably as far away from that property as you can get on Darnell Road, but I have to drive up
2688 there everyday in and out of the neighborhood. I just want to say that I as well as many of my
2689 neighbors, we are not really opposed to this. We were opposed when it first came about because
2690 they were going to remove some of the buffers, some of the trees and staff, and also add more
2691 to their building. Since the start of this case, we've had several occasions to discuss with Mr.
2692 Moore and we had a meeting on September 2 with representatives from Henrico County, and of
2693 they were just reiterating on what they said. They have a letter of commitment. They always
2694 discuss that legally they are not supposed to have to do anything, because it is not the same
2695 property. It is basically the same property, because it is owned by the same individual, but it is
2696 not the same parcel. Right. As far as we see it, of course, it is one property, because they own it
2697 all. Basically that is it. We just want to be notified before it is approved with the landscaping
2698 plan, if possible. That is about it. Other than that, we are not opposed to it. I just wanted to
2699 say that if they don't do the wall, we would be opposed to it.
2700

2701 Mr. Vanarsdall - They will do the wall. Don't worry about that.
2702

2703 Mr. Woodard - Thank you.
2704

2705 Mr. Vanarsdall - I appreciate the input.
2706

2707 Mrs. Ware - Thank you.
2708

2709 Mr. Vanarsdall - One thing we haven't addressed that they mentioned is we haven't
2710 addressed the color of the wall, and you all can do that between now and Board time. I
2711 appreciate you all stepping forward and telling us what you needed. We had a good community
2712 meeting and Mr. Glover and the BMW representative came to agreement to take care of the wall,
2713 which was not part of the zoning case. But there are so many dealerships and businesses, they
2714 kind of let their guard down through the years and don't live up to what they told them, sort of
2715 like the loud speakers were supposed to be turned off a long time ago, and things like that. I
2716 think you are in good shape now. Thank you, Tom, for helping, and Glenn, I know we put you to
2717 a disadvantage last month and I am sure you all didn't know when you came tonight you were
2718 going to have to listen to all of the cases we had to listen to, but we appreciate you being with
2719 us.
2720

2721 Mr. Marshall - You are getting your money's worth.
2722

2723 Mr. Vanarsdall - So, I recommend Case C-40C-04 to the Board of Supervisors for
2724 approval.
2725

2726 Mr. Marshall - Second.
2727

2728 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Marshall. All in
2729 favor say aye. All opposed say no. The motion passes.
2730

2731 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mr. Marshall, the Planning
2732 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the
2733 request because the change in business use is an ancillary use to the existing dealership and is
2734 consistent with the Land Use Plan's recommendation for Commercial Concentration. In addition,
2735 the proffers continue to assure a quality form of development with maximum protection afforded
2736 the adjacent residents.
2737

2738 Mr. Silber - We have two sets of minutes. We have the Work Session minutes from
2739 September 9, 2004.
2740
2741 Mr. Archer - I did discover a couple of errors in the Work Session minutes. On page 7,
2742 line 247, it says "and he was telling us it was New Kent, but there was" and it should be were
2743 instead of was. That was grammatically incorrect. And, on page 11, line 392 and 393, the end of
2744 that sentence on 392 should read, "retained title for a minimum of five years" instead of "obtain
2745 title to a minimum of five years." That is all I found.
2746
2747 Mrs. Ware - All right. So noted.
2748
2749 Mr. Silber - That is one set of minutes. How about Planning Commission September
2750 9, 2004 meeting?
2751
2752 Mrs. Ware - Can we have a motion for approval of the Work Session minutes?
2753
2754 Mr. Jernigan - I make a motion to approve minutes for the Work Session meeting.
2755
2756 Mr. Marshall - Second.
2757
2758 Mrs. Ware - Motion made by Mr. Jernigan and seconded by Mr. Marshall. All in favor
2759 say aye. All opposed say no. Those minutes passed and are approved.
2760
2761 Now, can I have a motion for the minutes of the September 9, 2004 meeting?
2762
2763 Mr. Archer - I make a motion we approve them.
2764
2765 Mr. Marshall - Second.
2766
2767 Mrs. Ware - Motion made by Mr. Archer and seconded by Mr. Marshall. All in favor say
2768 aye. All opposed say no. Those minutes are approved as well.
2769
2770 Mr. Archer - Madam Chair, before we close, I would like to mention something that is of
2771 historic interest I think, Rocketts Landing. If everybody is familiar with where the Annabelle Lee
2772 used to park, right up river, over on the south bank is Ancarrow's Landing, which in the early 1800's
2773 was the largest slave port in the United States, and at that point it was doing some \$4 million dollars
2774 worth of business in the slave trade, and the City has very well preserved what they call the "slave
2775 walk" and it is a very nice little park to visit, and you can actually walk the trail that they used to take
2776 the slaves across the river to 15th and Main to a place called Lumpkin's Jail, where they were
2777 auctioned off, and then those that were not auctioned off were brought back across the river and
2778 loaded back in the boats and taken down and sold in Charleston and Savannah, which gave rise to
2779 the term "Being sold down the river." It is an interesting place to visit and I hope the City preserves
2780 that as they go forth with Rocketts Landing, because it is a beautiful little park.
2781
2782 Mrs. Ware - There is a gentleman who offered, Mr. White. Is that who it is?
2783
2784 Mr. Archer - Yes, Ralph White is with the City Park's, and he knows very much about
2785 that and I hope that does not become obscured when they finally finish all of Rocketts Landing,
2786 because I think it is an important piece of history.
2787
2788 Mr. Silber - Thank you, Mr. Archer, for that piece of history, and we will see what we
2789 can do to preserve it. I do have one announcement, and that is just a reminder that the A-1

2790 Ordinance Amendment Public Hearing has been set for October 27, which is your POD day. As you
2791 recall, at 9:00 a.m. we have our POD Planning Commission hearing and after that meeting we will
2792 close that meeting and then reconvene later that evening at 7:00 p.m. for the Ordinance
2793 Amendment Public Hearing on A-1 District. So, that meeting is at 7:00 p.m., so we have a double
2794 hitter that day. We have two meetings.
2795
2796 Lee Tyson is the Project Manager on this and we sent out yesterday almost 8,000 notices on this, so
2797 we are manning the phones to answer questions, and I think we probably won't have half that many
2798 people show up, will we, Lee? Let's hope not. Will we, Lee?
2799
2800 Mr. Tyson - No. I've had one phone call.
2801
2802 Mr. Silber - Sent out Tuesday. Otherwise, we have no other announcements, so you
2803 may want to see if there is a motion to adjourn.
2804
2805 Mr. Vanarsdall - Wait a minute. I want to ask you, is the revitalization trip still on?
2806
2807 Mr. Silber - It is still on, but I understand the date has been changed. I think it is now
2808 November 4, 2004.
2809
2810 Mr. Vanarsdall - I talked to John on it the other day and he didn't say the date had
2811 changed. He said he was working on a letter.
2812
2813 Mr. Silber - I received an e-mail today and he indicated that Mr. Thornton had asked
2814 that the date be changed, so right now it is November 4, but I guess he will notify you of that new
2815 date.
2816
2817 Mr. Vanarsdall - I want to know. I told him that it is getting close, John, and I marked my
2818 calendar a long time ahead and he said, "Yes, I am working on a letter now."
2819
2820 He told everybody to mark the 25th on the calendar and that is why he didn't have to put out the
2821 letter, and now he is going to send the letter out with another date. It doesn't make sense, but it is
2822 not going to bother me if it is the 4th.
2823
2824 Mr. Silber - That is the latest date, Mr. Vanarsdall.
2825
2826 Mr. Jernigan - How many people have they got going on it?
2827
2828 Mr. Silber - I am not involved with it, but my understanding is there is one bus and it
2829 holds 55 people, so it is limited.
2830
2831 Mrs. Ware - Do we have a motion to adjourn?
2832
2833 Mr. Archer - So moved, Madam Chairman.
2834
2835 Mr. Jernigan - Second.
2836

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Mrs. Ware - We have a motion by Mr. Archer and a second by Mr. Jernigan. All in favor say aye. All opposed say no. The meeting is adjourned.

Lisa Ware, C.P.C., Chairman

Randall R. Silber, Secretary