

1 Minutes of the work session held at 5:30 p.m., September 15, 2011, to review
2 and discuss an Urban Mixed-Use (UMU) Ordinance Amendment, and to discuss
3 a revision to the County's Zoning Ordinance to Permit Places of Worship in
4 Additional Zoning Districts; and the regular monthly meeting of the Planning
5 Commission of the County of Henrico held in the County Administration Building
6 in the Government Center at Parham and Hungary Spring Roads, beginning at
7 7:00 p.m. Thursday, September 15, 2011. Display Notice having been published
8 in the Richmond Times-Dispatch on August 29, 2011 and September 5, 2011.
9

Members Present: Mr. C. W. Archer, Chairman, C.P.C. (Fairfield)
Mr. Tommy Branin, Vice Chairman (Three Chopt)
Mr. E. Ray Jernigan, C.P.C. (Varina)
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)
Mr. R. Joseph Emerson, Jr., AICP,
Director of Planning, Secretary
Mrs. Patricia O'Bannon,
Board of Supervisors' Representative

Members Absent: Mrs. Bonnie-Leigh Jones, C.P.C. (Tuckahoe)

Also Present: Mr. Joseph Rapisarda, County Attorney
Mr. Tom Tokarz, Deputy County Attorney
Ms. Jean Moore, Assistant Director of Planning
Mr. David O'Kelly, Assistant Director of Planning
Mr. James P. Strauss, CLA, Principal Planner
Mr. Benjamin Blankinship, AICP, Principal Planner
Mr. Ben Sehl, County Planner
Ms. Rosemary Deemer, AICP, County Planner
Mr. Seth Humphreys, County Planner
Mr. Livingston Lewis, County Planner
Mr. Roy Props, County Planner
Mr. Paul Gidley, County Planner
Mr. R. Miguel Madrigal, County Planner
Mr. David Conmy, County Planner
Ms. Sylvia Ray, Recording Secretary

10
11 **Mrs. Patricia O'Bannon, the Board of Supervisors' representative, abstains**
12 **on all cases unless otherwise noted.**

13
14 Mr. Archer - Hello everybody. This is our scheduled 5:30 dinner
15 and work session. I will turn the introductions over to our secretary, Mr. Emerson.

16
17 Mr. Emerson - Thank you, Mr. Chairman. You have two items on
18 your work session agenda tonight, the first being review of the Urban Mixed-Use
19 Ordinance amendment. You did hold your public hearing on August the 11th. At
20 that time you took public input and we did have some changes we received from

21 the County Attorney's Office that we wanted to review, and then bring back and
22 go over in more detail with you before you made a final decision on this
23 ordinance. That's what we would like to present to you tonight. With that, Mr. Ben
24 Sehl will present the ordinance and the comments that we have regarding that.

25
26 Mr. Archer - Mr. Sehl, good afternoon, sir.

27
28 Mr. Sehl - Good evening, Mr. Chairman and members of the
29 Commission.

30
31 As Mr. Emerson stated, the Commission has held two work sessions on this
32 item—July 14th and July 27th—and then a public hearing was held on the 11th of
33 August. Just prior to that public hearing staff did receive a number of additional
34 comments from the County Attorney's Office, which we didn't have adequate
35 time to really review prior to the public hearing. So we have attempted to
36 incorporate those into a version of the ordinance that was sent to the
37 Commission with their packet approximately two weeks ago. There was a cover
38 letter and a couple versions of the ordinance. One of them had red lines showing
39 all of the changes that have been made since the public hearing. Those changes
40 are also meant to reflect input that the Commission received during the public
41 hearing on the eleventh specifically regarding some concerns regarding the civic
42 uses and parking. Those changes were briefly described in the letter that you
43 received a couple of weeks ago. As you'll see, most pages have little language
44 changes and those types of things that the County Attorney recommended to
45 give a little bit more guidance as to when deviations can be granted, those types
46 of things.

47
48 Mrs. O'Bannon - I have a question.

49
50 Mr. Sehl - Yes ma'am.

51
52 Mrs. O'Bannon - Removing the civic use requirement, what is the
53 definition of "civic use"?

54
55 Mr. Sehl - As you'll recall there were some concerns noted by
56 the public. Civic use is actually a proposed change to the ordinance. It is not
57 currently a requirement of the ordinance to include any form of civic use in an
58 Urban Mixed-Use District. Staff was proposing that two percent of the square
59 footage in a UMU would be required to be dedicated to some form of semi-public
60 or public use. It could have been churches, public facilities, libraries, those types
61 of things.

62
63 Mrs. O'Bannon - Even just a meeting room, that kind of thing?

64
65 Mr. Sehl - It could constitute a number of things, yes ma'am.
66

67 Mrs. O'Bannon - Is civic use defined somewhere?

68
69 Mr. Sehl - The previous version of the ordinance did have a
70 definition of civic use in there, but all that language has been removed based on
71 the comments we received at the public hearing.

72
73 Mrs. O'Bannon - When you say that language has been removed, one
74 of the things we've done in former cases with UMUs was to encourage—so was
75 it removed totally?

76
77 Mr. Sehl - The ordinance requirement for the civic use was
78 removed. That would not in any way eliminate our ability to negotiate those types
79 of things during the rezoning process. Obviously public facilities are a large
80 portion of any Urban Mixed-Use development. So that's going to be a focus from
81 staff, and from the Planning Commission, and the Board of Supervisors any time
82 a UMU development comes before you. So this was going to put that in place as
83 part of an ordinance requirement. I would still envision those being a large part of
84 the discussion as proffers are crafted and those types of things.

85
86 Mrs. O'Bannon - The reason I say that is because in other areas—like
87 in Arlington and all that—they generally include some sort of space so that the
88 business people can meet with the people who live there and work out problems
89 that they have. The idea of a civic location or civic use, a public location or a
90 public place, something like that, often the citizens will meet there and will meet
91 with the business community. That way they can work out any problems they
92 have.

93
94 Mr. Emerson - Right, Mrs. O'Bannon. I think most of these
95 developments will still have a certain level of amenity package that will include
96 clubhouses and things like that that will have rooms available for those types of
97 meetings to take place. And certainly this doesn't take out the open space
98 requirements and other things that exist within the ordinance. So while we
99 currently don't have this requirement, we placed it in there because we felt it was
100 a good idea. And the attorneys have told us that we can't legally require that.
101 Certainly, as Mr. Sehl said, we'll continue to have those discussions with
102 developers as they bring this form of development forward to assure that these
103 types of improvements are there.

104
105 Mrs. O'Bannon - Okay.

106
107 Mr. Sehl - In addition to the changes that you'll see kind of
108 through there with the County Attorney's recommendations and the civic use
109 requirement, the last two real large issues that we have addressed since the
110 public hearing are—auto filling stations located within a parking garage and car
111 washes within a parking garage—were reinstated as a permitted use. Staff had
112 previously deleted them as a permitted-by-right use. Therefore any form of auto

113 filling station would have required a provisional use permit. Upon further review
114 we felt that the things that we were trying to address were largely addressed by
115 shielding them from view and allowing access through a parking garage, and
116 eliminating the possible pedestrian conflicts that come with an auto filling station.
117 So we felt that it was appropriate to leave that in its current state.

118
119 The last real large item that I wanted to touch on is there was a very broad
120 prohibition on the parking of commercial vehicles in the UMU District. What staff
121 has attempted to do is craft the language similar to what we do with our R
122 Districts and prohibit commercial vehicle parking over 5,000 pounds gross
123 vehicle weight. We really wanted to bring that into line with what we do with the
124 one-family zoning districts. That was the last major change staff had proposed
125 from the public hearing to this point in time.

126

127 Yes sir.

128

129 Mr. Jemigan - Ben, that's one thing I wanted to talk to you about.
130 Five thousand pounds. Today there are a lot of pickup trucks out there that weigh
131 over 5,000 pounds. Actually, like a Suburban. Let's say you have a Suburban
132 and you have your name painted on the side. That's considered a commercial
133 vehicle. I think we need to look at that as an ordinance change for the whole
134 County, not just for here. I would recommend that you bring that up to 7,500
135 pounds.

136

137 Mr. Sehl - You're correct. We did use the existing language
138 found elsewhere in the ordinance as guidance for part of this. I don't know if it's
139 more appropriate to deal with that in a more holistic manner and look at it in each
140 zoning district all at once, and reconsider them all at one point in time. It was a
141 very broad prohibition on commercial vehicles previously, so we wanted to
142 provide some definition in there to make it a little less broad at this time. But I
143 certainly think that that's something that could be looked at in the future.

144

145 Mr. Branin - But if we're discussing the language change and
146 changes in this currently, why would we allow it go through based on what could
147 be a mistake in other zoning areas just because it's already there and we're just
148 going to let it go through? Why wouldn't we just change it now in this one, and
149 then address the others later?

150

151 Mr. Sehl - That's certainly an option if that's the will of the
152 Commission.

153

154 Mr. Emerson - You certainly can. I wouldn't have a problem, I don't
155 think, with the 7,500.

156

157 Mr. Branin - I drive an Expedition now, which is pushing 5,000. My
158 previous vehicle was 8,400 pounds. When I would come back from a job site with
159 the yellow light on it, would it be considered a commercial vehicle?
160

161 Mr. Emerson - It's possible.
162

163 Mr. Branin - Even though I personally owned it, I could be
164 questioned because I had a yellow light on top of it that I just neglected to take
165 off that night.
166

167 Mr. Emerson - Sure you could.
168

169 Mr. Branin - Mr. Jernigan is absolutely right. Because the vehicle
170 weights have gone up, we shouldn't let this go through.
171

172 Mr. Vanarsdall - On some streets and neighborhoods they have the
173 old signs they're trying to update that say 5,000 and so forth.
174

175 Mr. Sehl - I can't say that I have personally researched and
176 know what the right number is with that. The County Attorney is coming.
177

178 Mr. Rapisarda - Mr. Chairman, just one point of information. I haven't
179 heard it mentioned, which is why I came up. The Board of Supervisors had an
180 extended discussion of this very issue. I can't tell you the date; Mrs. O'Bannon
181 may recall. It's been some months back. It kind of took under advisement—for
182 lack of a better term—the changes, including the very things that Mr. Jernigan
183 and Mr. Branin raised. So that is under study. I can't tell you the date that it's
184 coming back, but I may suggest that maybe the Chairman may want to talk to the
185 Chairman of the Board of Supervisors where there can be some dialogue along
186 the way. There are actually drafts that have been prepared.
187

188 Mrs. O'Bannon - We have pictures of trucks, panel trucks, what
189 constitutes a commercial vehicle, what size truck it is.
190

191 Mr. Rapisarda - My point is just that: I don't know why you'd do it
192 twice.
193

194 Mr. Emerson - I think at this point this is a recommendation that you'll
195 be making to the Board. The Board can make that final decision based on their
196 research. If the Commission is interested in 7,500 pounds, we can convey that to
197 the Board. And as the Board deliberates this ordinance, they can take into
198 consideration the other information that's given.
199

200 Mr. Archer - Might there be some other way to describe a
201 commercial vehicle other than weight?
202

201 Mr. Emerson - I think it's normally done by weight. I'm not sure; we'd
204 have to look into that.

205

206 Mr. Vanarsdall - You mean the size of it?

207

208 Mr. Archer - Some other descriptive feature that might make it a
209 commercial vehicle other than weight.

210

211 Mrs. O'Bannon - Any truck. You can get one of those magnetic signs
212 and put it on it. You can take it off and put it on again. Your personal truck with
213 the covered back end, does that make it commercial?

214

215 Mr. Archer - Until you put the sign on it.

216

217 Mrs. O'Bannon - So I think weight is a defining factor.

218

219 Mr. Tokarz - Mr. Chairman, we've had a number of cases in our
220 office where we've been involved with vehicle weights. The benefit of using
221 vehicle weights is that those things can be ascertained through DMV. It's
222 something that is objective and you don't have to make judgment calls as to
223 whether it's commercial in this situation. That's one of the reasons we use
224 vehicle weight.

225

226 Mr. Archer - And I wasn't suggesting that they do away with that. I
227 was just wondering if there might be something else we could add on that would
228 help to differentiate between what's a commercial vehicle and what's not, other
229 than just weight. Over the years they have been getting bigger, and bigger, and
230 bigger.

231

232 Mr. Branin - Even if you moved it up to 9,500 pounds and said
233 6,500 pounds being used as a commercial vehicle. All commercial vehicles will
234 be stated we're owned by a company. And once it's owned by a company, legally
235 DOT-wise it's a commercial vehicle.

236

237 Mrs. O'Bannon - But you also have the vehicle that's just kind of a
238 white van that may not be real heavy.

239

240 Mr. Archer - The insurance industry has several ways that they
241 use to differentiate between what's a commercial vehicle and what's not. One of
242 the interesting ones I found is the person bought a Grayhound bus. And he was
243 going to turn it into a recreational vehicle. We were trying to figure out how to
244 insure it so he could take it home. We called the Virginia Automobile Insurance
245 Plan and they instructed us well if he intends to use it as a private vehicle—So
246 we re-insured it as a private passenger automobile and charged him thirty-five
247 dollars, and he drove it off. I think it's still sitting in his backyard.

248

249 Mr. Jernigan - I have a caboose sitting a guy's front yard, so the
250 truck problem is minor for me.

251
252 Mr. Sehl - That's certainly okay. Again, the Commission can
253 craft their recommendation as they see fit. We were simply trying to eliminate a
254 very broad prohibition on outdoor storage of vehicles. That was the only limitation
255 in the current ordinance, which is a pretty big limit when you have cars in most of
256 these UMU districts.

257
258 So from my perspective that hits the large changes that were made to the
259 ordinance since the public hearing, the testimony we heard at the public hearing
260 from the general public, as well as any changes that were recommended by the
261 County Attorney's Office. Based on that, the ordinance that was provided to you
262 in the letter two weeks ago—pending any changes that you would recommend at
263 this time—staff does feel it's ready for a recommendation of approval to the
264 Board of Supervisors, if the Commission so sees fit.

265
266 Mr. Archer - All right. Commission members, what's your
267 pleasure?

268
269 Mr. Emerson - Mr. Chairman, I might recommend that we'll note to
270 the Board the concern regarding the weight of vehicles, but I don't know that I
271 would change the ordinance at this time. I think there may be some opportunities
272 in the future. And as Mr. Rapisarda noted, I'm aware of some of the discussion
273 that's gone on regarding the weight of the vehicles. I believe it's still under
274 consideration, I think Police may have some concerns regarding that issue as
275 well. So we will note that when we take this to the Board, that it is a concern of
276 the Commission for them to consider.

277
278 Mr. Archer - Not to prolong this, but isn't there some licensing
279 department for vehicles over a certain gross weight? And then, I believe, the
280 commercial vehicles have to have stated on the side their gross weight, or do
281 they not do that anymore.

282
283 Mr. Jernigan - No. Only if you're DOT.

284
285 Mr. Archer - Okay.

286
287 Mr. Jernigan - Empty weight and gross weight.

288
289 Mr. Archer - Okay.

290
291 Mrs. O'Bannon - At this point, you do know you have the "truck" tag on
292 personal vehicles and commercial vehicles. Again, the weight is an easy way to
293 follow up.

294

295 Mr. Archer - And I agree with that.
296
297 Mrs. O'Bannon - And the fact that one of the reasons that you might
298 obviously prohibit vehicles of a certain weight from going down a road is that the
299 road isn't built to take but so much weight. In a UMU, I am making an assumption
300 that they're putting in the depth needed for commercial vehicles to go through
301 there. I think in this case they have to keep commercial vehicles from impacting
302 the residential portion of the UMU?
303
304 Mr. Emerson - I would guess, Mrs. O'Bannon, that in an Urban
305 Mixed-Use they'll have a set of overall homeowners' association rules and
306 regulations, covenants that are going to restrict where these types of vehicles
307 can come and go just because of the nature of the development.
308
309 Mrs. O'Bannon - I'm wondering if you were planning a UMU with the
310 acreage that we generally think of, they might have some section that they put
311 the commercial vehicles in like a garage.
312
313 Mr. Emerson - Possibly. Or they put everything altogether in the
314 residential areas.
315
316 Mrs. O'Bannon - So they might just put that in on a UMU saying that—
317
318 Mr. Emerson - Yes ma'am.
319
320 Mrs. O'Bannon - —this is the requirements for UMUs.
321
322 Mr. Emerson - Right, yes ma'am. These are our rules and
323 regulations governing the application of an Urban Mixed-Use. They're the bare
324 minimums, not necessarily where we end up at the end of the consideration of an
325 application or project.
326
327 Mr. Archer - Okay.
328
329 Mr. Vanarsdall - I move that the Planning Commission recommend to
330 the Board of Supervisors to approve the proposed changes to the UMU
331 Ordinance.
332
333 Mr. Jernigan - Second.
334
335 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Jernigan.
336 All in favor say aye. All opposed say no. The ayes have it; the motion passes.
337
338 Mr. Archer - Thank you, Mr. Sehl.
339
340 Mr. Sehl - Thank you.

341

342 Mr. Emerson - Mr. Chairman, the next item on your agenda is a
343 zoning ordinance amendment to permit places of worship in additional zoning
344 districts. You received a letter from me in your package indicating that the Board
345 has adopted a resolution requesting that the Commission review the ordinance
346 and consider the inclusion of—places of worship is what we had decided to call it
347 now. We thought the ordinance should clean that up, as Mr. Blankinship will
348 touch on. But formerly, I believe, it was noted as churches through the ordinance.
349 Some zoning categories did not allow that use, and the Board asked us to take a
350 look at that.

351

352 Now while looking at those ordinances, we have found a couple of other areas
353 that give us concern in regards to area requirements and things of that nature,
354 which we don't have recommendations for you tonight. But we will have these for
355 you prior to the public hearing, which is scheduled on the twenty-eighth of this
356 month as your design meeting. That has been advertised, as I noted to you in my
357 letter.

358

359 Mr. Vanarsdall - Do you just want us to hear him tonight and come
360 back next time?

361

362 Mr. Emerson - Yes sir, that's what I'm looking for tonight. Also,
363 understand this is a working draft. We do have other items under consideration
364 that may come into this draft that we will be getting to you prior to your meeting.
365 We do have several County attorneys with us tonight to discuss this, along with
366 Mr. Ben Blankinship, who will be presenting the changes and summarizing them
367 to you.

368

369 Mr. Archer - Okay. Mr. Blankinship, how are you, sir?

370

371 Mr. Blankinship - Fine, Mr. Chairman; how are you?

372

373 Mr. Archer - Good.

374

375 Mr. Blankinship - Good evening everyone. As Mr. Emerson mentioned,
376 on the majority of the pages here the only thing you're going to see is the
377 terminology change from church to places of worship. The first substantial
378 change is on the second page where we allow places of worship in residential
379 districts. Right now we are looking at allowing tent revival, or revival tents,
380 whichever way you want to say it. Those in the past have required a conditional
381 use permit from the Board of Zoning Appeals. But that process has run into some
382 problems on several occasions usually due to short notice. People tell us three
383 weeks in advance, thinking they have plenty of time to get a building permit, but
384 they don't have near enough time to get a temporary use permit. So one change
385 that we're going to be looking at is allowing that form of religious expression
386 without the undue burden of a use permit. Yes ma'am.

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Mrs. O'Bannon - Is it a big thing that they go and inspect that tents so they don't fall down?

Mr. Blankinship - Yes ma'am. Yes. They will still be requiring a building permit, yes. We'll still get a building permit. We'll still be able to check the parking, and separation of pedestrian traffic from vehicular traffic, and those items.

Mrs. O'Bannon - Don't they have an eight-day thing?

Mr. Blankinship - For the building permit? There probably is, yes. Again, most of the pages are just changing the term from church to place of worship.

There are several zoning districts where up until now we have not allowed churches or places of worship. The most important purpose of this amendment was to include places of worship as a permitted use in each of those districts. The first one you'll see in the draft is on page three, the manufactured home park. We don't have any property in the County zoned for manufactured home parks, but if you zone property for that use in the future, this would allow places of worship within that district.

We're also working with Mr. Sehl on his draft. We're changing the UMU while he's changing the UMU, and we'll just make sure that we get that coordinated.

Significantly, all five office districts—O-1, O-2, O-3, O/S, and O/S-2—would allow places of worship. As you look through the draft you'll only see three of them addressed. The reason for that is the O-3 District begins by saying all the uses in O-2 are allowed by reference. And the O/S-2 District begins by saying that all the O/S uses are allowed by reference. So we only have to include it in three places to cover those five districts.

Mr. Vanarsdall - There are not many categories, if any, where you can't do this, are there?

Mr. Blankinship - The Office districts are the primary ones. You do have the manufactured home park and the—

Mr. Vanarsdall - No, I mean going forward.

Mr. Blankinship - Yes. We're trying to get them all now, including the C-1 District. A lot of C-1 property is floodplain, but not all of it is, as you know. There are other areas that are zoned C-1, and we allow certain other uses that would have no more impact on the community than a church would. So we've

432 been advised that if other uses that have less impact would be allowed, then a
433 place of worship ought to be allowed as well.

434
435 Mr. Emerson - Primary what we have to do is anywhere where you
436 have a place of assembly you should be allowing churches in the same manner,
437 or in a less restrictive manner, as you would a place of assembly. If you look
438 through the ordinance and take a close look at it, you'll notice that there are
439 some conflicts in the way we allow places of assembly and churches. That's not
440 necessarily anyone's fault; you're dealing with an ordinance that's fifty years old.
441 And certainly it has its challenges from time to time, as all of you are aware. So
442 that is essentially what is in front of us is to make sure that all these uses are
443 treated equally, and in the best case, churches less restrictive than those types
444 of uses.

445
446 Mrs. O'Bannon - [Inaudible; voice too low] [0:26:09]* been clear about I
447 think it's the conditional uses by special exception. When you say place of
448 worship, could that include their mausoleums located beside a church or
449 something?

450
451 Mr. Blankinship - Mausoleums are treated separately under the zoning
452 ordinance as an accessory use.

453
454 Mrs. O'Bannon - An accessory use.

455
456 Mr. Blankinship - To places of worship. There are specific guidelines for
457 setbacks and so forth

458
459 Mrs. O'Bannon - I just read that a grave should be at least fifty feet
460 from the property line?

461
462 Mr. Blankinship - Right. You're on page five? Yes.

463
464 Mrs. O'Bannon - —at the former Westbury Shopping Center—they're
465 right there and I advised them not to take it back to the property line, to be careful
466 because they might hit a buried casket.

467
468 Mr. Blankinship - Right. Well as you can see in the bold and strike-
469 through, the only thing we're changing there is from the word churches to the
470 term places of worship. We're not trying to reevaluate those, although if you
471 believe we need, to let us know and we'll certainly look into it.

472
473 Mrs. O'Bannon - Some churches I know of have built it into the sides—

474
475 Mr. Blankinship - Right.

476
477 Mrs. O'Bannon - —and enclosed it with a wall.

478
479 Mr. Blankinship - Memorial garden.
480
481 Mrs. O'Bannon - But this place [unintelligible due to someone laughing]
482 [0:27:28]*.
483
484 Mr. Blankinship - In a way, yes
485
486 Mrs. O'Bannon - —But some churches have established themselves—
487 asking to establish themselves right smack dab within a neighborhood.
488
489 Mr. Blankinship - We're not addressing that at this time. The only thing
490 we're doing in that section is changing it from churches to places of worship.
491
492 Mr. Vanarsdall - One of the places I would look at very closely—I
493 haven't read this—is off-street parking and any parking. We need to come up
494 with something good for parking.
495
496 Mr. Blankinship - That's one of the subjects we have been discussing
497 quite a bit. The change I'll call your attention to there is on page eleven under line
498 three where it says "theaters." There we're just changing the word churches to
499 places of worship. And that's for places with fixed seats. And the requirement
500 here is one parking space for each four fixed seats. Then if you skip down to line
501 fifteen in that same table—dance halls, skating rinks—right now it says "and
502 assembly halls without fixed seats." That's the regulation that we use. It's one
503 space for every 100 square feet of floor area used for assembly. That's what we
504 use now for churches that do not have any kind of fixed seating, those that use
505 just folding chairs or whatever.
506
507 Mrs. O'Bannon - To be consistent with places of worship right in the
508 middle of a residential neighborhood.
509
510 Mr. Blankinship - Right. Well if they have fixed seating they're under
511 line three; if they don't, they're under line fifteen. But that's not actually in the text.
512 It's something we've always done by interpretation. But we thought it advisable to
513 go ahead and make it explicit in the text so that nobody has to question that
514 interpretation in the future.
515
516 Mrs. O'Bannon - If it says "office," then it would have a parking lot. And
517 office zoning at least would probably have a sufficient number of parking places.
518 But when they actually go into a residential neighborhood, any place of worship,
519 and they just bought right in the middle of the neighborhood, parking is going to
520 be the main problem.
521
522 Mr. Blankinship - Yes ma'am, that is definitely a concern. There's also
523 an interesting point on page ten where the existing language allows an exception

524 from the height limitations for church spires. Again, not only the term church, but
525 the term spires is a little bit narrow here. So to make sure it was an inclusive
526 term we've added the words so that it will read, "Chimneys and flues, spires,
527 minarets, or similar architectural features of places of worship." So buildings for
528 other groups that don't call whatever tower or feature they have on their building
529 a spire, everyone would know that they're included. They're treated the same
530 way as churches that do call it a spire.

531
532 As Mr. Emerson mentioned, the key issue that we have not addressed yet in this
533 draft is—turning back another page to eight and nine, are amendments to the
534 Table of Regulations, Section 24-84. What we're showing you so far is that every
535 place churches is listed we're striking the word churches and replacing it with
536 places of worship. There are a couple of districts like the R-5A where the term
537 churches is not in the text today, and we would be inserting a new line for places
538 of worship so that we have a clear set of standards to apply. What we have not
539 determined is what standards we will be applying. We just finished a debate on
540 that at 4:00—and I say "finished." We did not conclude by any means. When we
541 bring this back to you for a public hearing, we will have more on that specific
542 issue at that time.

543
544 That is the end of my prepared remarks. I know that you haven't seen this before
545 just now. In fact, the toner is still a little wet on it, so be careful you don't smear it.

546
547 Mr. Emerson - We were making changes right up to the last minute
548 this evening.

549
550 Mr. Jernigan - If we change the ordinance and get rid of—take care
551 of it in O-2?

552
553 Mr. Blankinship - Yes.

554
555 Mr. Jernigan - Where would you not be able to put a church?

556
557 Mr. Blankinship - Our goal is nowhere.

558
559 Mr. Jernigan - If you make an ordinance you can put it anywhere you
560 want to and save all this paperwork.

561
562 Mr. Blankinship - There wouldn't be any zoning category that would
563 exclude it. Now there are some lots that would not be a compatible site for a
564 church. So there will still be some locations in the County where a place of
565 worship would not fit, you know, in the floodplains and so forth. The way the
566 Zoning Ordinance is structured, we list the use in each district. When you have
567 property of a certain zoning district, you can go and look and see what uses are
568 allowed.

569

570 Mrs. O'Bannon - I had a church that was told they couldn't use the
571 property because they didn't have 400 feet of road frontage.

572
573 Mr. Blankinship - Right.

574
575 Mrs. O'Bannon - Is that going to be a restriction?

576
577 Mr. Blankinship - We will be looking at that. That is in the code right
578 now, but we will be examining that between now and the public hearing.

579
580 Mr. Emerson - That's one of the items that we do have to examine,
581 Mrs. O'Bannon because again, we have to treat them the same as we do any
582 other assembly use, and go into the less restrictive where possible. Possibly Mr.
583 Rapisarda or Mr. Tokarz might want to comment on this topic.

584
585 Mr. Rapisarda - Mr. Emerson summarized it pretty well. I think, again,
586 under the RLUIPA statute that the Commission is now aware of—and will be
587 trained on between now and December 9th, by the way—will be easier for the
588 future. As Mr. Emerson said, we have to be careful that any assembly use is
589 similarly situated to a religious assembly. The law doesn't allow you to heavily
590 regulate less favorably the religious use. What Mr. Blankinship was indicating,
591 staff has been looking, but has not had enough time, candidly, to figure out what
592 is the most appropriate requirement. The expedient way would simply be to have
593 no requirement, but that's probably not a wise answer. So that's why we're
594 looking at this, and why the Planning staff in conjunction with us will come back
595 to you, Mr. Chairman, at your next meeting and give you at least a
596 recommendation that you can take into a public hearing process. Of course, keep
597 in mind again, ultimately, you'll be recommending to the Board of Supervisors,
598 which may itself have its own thoughts on the issue.

599
600 Mr. Vanarsdall - Joe, I want to ask you about that. Do you plan to
601 have a joint session with the Board and Commission?

602
603 Mr. Rapisarda - If I could answer that I would. It's a good question, Mr.
604 Vanarsdall. There are several ways to do it. One way is to have a session where
605 we would have essentially the Board of Supervisors and the Planning
606 Commission. Essentially. And then maybe the manager and his deputies. We
607 could train that group, but bearing in mind we also have to train all the planners,
608 and even some folks in my office. We could be talking forty, fifty people. So
609 logistically it's going to be difficult. What I've started to do—to answer your
610 question—is to get some dates from the secretarial folks that support the Board
611 members, and the manager. We'll also have to key in, obviously, your dates. And
612 then to make it worse, I have to bring in an outside expert with the Justice
613 Department to sign off on it. So that person's dates also have to be put in.
614 Practicing law is relatively easy. Scheduling a meeting?

615

616 Mr. Vanarsdall - The reason I ask is that I hope we can have it when
617 we have time to have it, not before a meeting at 7:00.

618
619 Mr. Rapisarda - I would agree with that, Mr. Vanarsdall. Again, to the
620 extent my opinion would prevail, it should not be connected with any work
621 session. I agree with you a hundred percent. Again, I'm not the only one making
622 that decision. I think it will probably be a two-hour session. Tom, is that probably
623 what you think? We have to have forty-five minutes from an outside expert. So
624 let's say we round that off to an hour from him or her, and then an hour from me.
625 Hopefully we come away with a little more knowledge.

626
627 Mr. Vanarsdall - Do we have to take a test and you rate it?

628
629 Mr. Rapisarda - You will not have to take test. However, you will have
630 to sign in. There will be sign-in sheets; there will be course materials. We have to
631 send all that up to the Justice department.

632
633 Mr. Blankinship - The test will come the next time you get an
634 application.

635
636 Mr. Vanarsdall - We'll know what to do with it, won't we, Ben?

637
638 Mrs. O'Bannon - I have a comment, though, for the Planning
639 Commission and the County Attorney. I sit on the State Building Code Technical
640 Review Board, and we often get cases where a church has come to us—but they
641 didn't get a building permit—to build a nice auditorium, and basketball courts,
642 and it has three or four rooms on the end of this building. They want the State
643 Building Code Technical Review Board to wave their magic wand to say this
644 building is great. The Technical Review Board looks very seriously at it and says
645 well you didn't put it four feet away from like an explosive propane tank. The pitch
646 of the roof is not the right thing, or the struts are too far apart. They're supposed
647 to be eighteen inches and they're twenty-four. I could go on and on. A big snow
648 will collapse the roof. They just want us to say no church should have to get a
649 building permit. Usually we tell them you just can't do that; you need to make
650 these adjustments or changes. But I always go with where is your insurance
651 company. Who insures your building? Well if it burns down, they won't pay the
652 insurance. So there are other ways.

653
654 The zoning part of it, though, when I talked about road frontage, what is the
655 reason for 400 feet, and is it punitive or is there a really good reason to have 400
656 feet for safety reasons, for instance. To me that's what the zoning classifications
657 are for. Building codes, you can just say okay, you're not going to be able to get
658 insurance if you don't get your building permits, or no fire extinguishers, no
659 emergency doors that push out. I mean I could on and on. No exit signs. So there
660 are ways that you can keep people safe.

661

662 What are we doing with the zoning ordinance that is—to me, a zoning ordinance
663 is done for the people who live around it. There is a lot of input from the public
664 like it's too tall, or too many cars, or you need to take care of this drainage, that's
665 not safe. So a zoning classification, as opposed to say a building code thing, or
666 why the 400 feet of road frontage. Those are the questions.

667
668 Mr. Blankinship - Those are exactly the issues we were discussing
669 today, and we will continue to discuss. I hope that we have some resolution of
670 those issues before the public hearing.

671
672 Mr. Emerson - I guess what I would add to that on your public
673 hearing is that what you probably will be inclined to do—and I may recommend to
674 you to do—would be to hold your public hearing, take public input, and review
675 what we bring to you on that day. And then defer any action possibly for two
676 weeks or to your next meeting where we can hold a work session with you and
677 discuss everything we've learned at that point, and what the reasons are for what
678 we're recommending. That will give you a little time to consider what's in front of
679 you, what any member of the public may have to say, and provide us with the
680 advice and input that you desire to go in this ordinance as well.

681
682 Mr. Jernigan - Getting past the zoning is one thing, but then it comes
683 to the POD. Now, am I to understand the ordinance will have to be followed for
684 places of worship also?

685
686 Mr. Blankinship - As far as we know. Individual circumstances could
687 come up where an applicant makes an RLUIPA claim that the ordinance as
688 applied to their situation creates a substantial burden on the exercise of religion.
689 And then we'll have to ask Mr. Rapisarda what to do.

690
691 Mrs. O'Bannon - Churches or religious institutions wouldn't have to
692 consider underground drainage. They will pave the whole lot and not put in
693 underground BMPs or refer to any drainage concerns that are everyday concerns
694 of their adjacent property owners.

695
696 Mr. Emerson - As I understand it, RLUIPA doesn't allow for that type
697 of impact. You would still have to meet all your developmental regulations. But
698 they have to be reasonable.

699
700 Mr. Blankinship - Our assumption going in would be that the POD
701 requirements would apply to a church development.

702
703 Mr. Jernigan - I know that's our assumption going in; I want that to
704 be the assumption coming out. That's what I'm talking about.

705
706 Mr. Rapisarda - If I may, Mr. Emerson, let me just clarify that very
707 point. I would agree with Mr. Blankinship, who stated it perfectly. But Mr.

708 Jernigan, to answer your question, we can't sit here and always say it will be the
709 answer going out. Each POD is different; each development is different. And the
710 law does allow an applicant, a religious user, to come in and try to get an
711 accommodation. Then the question becomes, is the requirement imposing a
712 substantial burden. It really comes down, in laymen's terms, to a rule of reason.
713 You may say, well wait a minute, you're giving a break to religion? And the
714 answer is yes. The United States has said that freedom of religion is important. I
715 think we'll all agree that freedom of speech is important. There are certain
716 Constitutional rights—what I call the pecking order—that are way up there. And
717 you're right at the zenith right now.

718
719 Mr. Emerson - I think, Joe, when we were talking this afternoon a
720 good term that was used was that the federal government has federalized this
721 section of the zoning code.

722
723 Mr. Rapisarda - Absolutely.

724
725 Mr. Emerson - While the state's rights and the state code governs
726 ninety-nine percent of the land use regulations, now you have this one percent
727 that essentially—the word we used this afternoon is that it's been federalized. So
728 therefore your jurisdiction has been limited extensively. Is that an appropriate
729 way to describe it?

730
731 Mr. Rapisarda - I think it is. And it is a federal intrusion, and some
732 think that's a good thing; others think it's bad; and then some don't care. But
733 that's the reality of it. It is another overlay that makes the process certainly harder
734 for planning commissions and governing bodies to make decisions because you
735 have that federal overlay. Just like you had in the cell tower industry. You saw
736 the same thing with the Telecommunications Act, although the Act has a
737 provision right in there that we're preserving your zoning authority. But by the
738 same token they put limits.

739
740 Mr. Vanarsdall - Do we have an ordinance against a church ringing a
741 bell?

742
743 Mr. Emerson - No sir we don't. It's exempted from the noise
744 ordinance.

745
746 Mrs. O'Bannon - Call to prayer also?

747
748 Mr. Blankinship - That would fit under the same exemption.

749
750 Mrs. O'Bannon - Getting back to the POD. This is exactly what I see.
751 I've had PODs with a couple of churches. One was they wanted to pave the
752 whole parking lot and the water would sheet off and literally destroy people's
753 backyards. One neighbor put in ten thousand dollars' worth of drain

754 [unintelligible; someone clears throat] [0:43:59]* to accommodate the church who
755 had made the water just sheet into their backyard. Another one was they wanted
756 to put all their HVAC, outside equipment, at the back edge of the property. There
757 were three houses that were fifty feet from this really loud equipment. So I talked
758 them into moving it to the middle of the parking lot and putting some kind of
759 material around it that buffered the sound. That was part of the POD. But my
760 point is, though, you can't really do that, right?

761
762 Mr. Blankinship - Well the sound one would be tricky. The drainage I
763 would feel more comfortable. And, of course, this is all hypothetical; we don't
764 have a plan in front of us right now.

765
766 Mrs. O'Bannon - You couldn't really enforce it.

767
768 Mr. Blankinship - If you're causing—what's the magic words? Not a
769 substantial detriment, but a—

770
771 Mr. Rapisarda - I think the more magic word is if they meet all the
772 requirements of the ordinance they're entitled to.

773
774 Mr. Blankinship - Right. But if they don't. If there is a drainage issue
775 that does not meet the terms of the ordinance—

776
777 Mr. Emerson - You can't place a substantial burden on them.

778
779 Mr. Blankinship - Right. If there is a substantial burden on the religious
780 exercise then we have to be able to show that there is a legitimate government
781 purpose and that we're using the least restrictive means to advance it.

782
783 Mrs. O'Bannon - [Inaudible; voice too low] [0:45:14]*

784
785 Mr. Jernigan - Well I have a question on the answer you just gave
786 her. She asked you about a call to prayer. You said that's the same as—

787
788 Mr. Blankinship - That would be exempt from the noise ordinance is
789 what I said. We could not say you're in violation of the noise ordinance because
790 of that call to prayer.

791
792 Mr. Jernigan - Okay. But it's not the same because you have to do
793 that across a loudspeaker and we don't allow loudspeakers.

794
795 Mr. Emerson - I don't recall it exactly, but it eliminates any type of
796 noise emanating from a religious facility such as bell ringing, call to prayer, things
797 like that. It would cover—the way I read it—if it was emanating from a loud
798 speaker.

799

800 Mr. Jernigan - But we don't have loudspeakers.
801
802 Mr. Emerson - Some churches may have loudspeakers.
803
804 Mr. Vanersdall - We had a case with a loudspeaker and turned it
805 down. They changed it before it got to the Board; they didn't use it.
806
807 Mr. Emerson - I don't know that you could do that.
808
809 Mrs. O'Bannon - I know a church that has loudspeakers and that's
810 what—
811
812 Mr. Blankinship - That's why my church does, too. They have a speaker
813 on the roof, which I thought was easier myself.
814
815 Mr. Archer - Go ahead, Mr. Tokarz.
816
817 Mr. Tokarz - [Inaudible; off microphone] [0:46:49]* the County
818 code. An exemption from the requirements is for religious services, religious
819 events, or religious activities or expressions including, but not limited to, music,
820 singing, bells, chimes, and organs which are part of such service, event, activity,
821 or expression.
822
823 Mr. Blankinship - That's with the noise ordinance, not the zoning
824 ordinance. just to make sure that's clear to everybody.
825
826 Mr. Emerson - We visited that specifically on a complaint in Varina
827 not that long ago, which was a bell-ringing type of complaint.
828
829 Mr. Archer - It seems to me that sometime in the past we have
830 proffered out decibel levels at the edge of the property, but it was done in the
831 zoning case. It was proffered that the decibel level wouldn't reach above
832 whatever at the nearest edge of the property.
833
834 Mr. Emerson - Based on what we're doing here, you would not see
835 any more zoning cases regarding religious facilities. We'll learn more in our
836 training, but I don't believe that would be the type of restriction you would be able
837 to place on a religious facility.
838
839 Mrs. O'Bannon - So we have no [inaudible; voice too low] [0:48:25]*.
840
841 Male - PODs.
842
843 Mr. Emerson - But no legislative actions. It would all be by-right
844 regulation through the Planning Commission.
845

846 Mr. Jernigan - A loudspeaker comes through the zoning process.
847
848 Mr. Emerson - Correct.
849
850 Mr. Blankinship - Mr. Branin's had a word turned edgewise he's been
851 trying to shove in here.
852
853 Mr. Branin - My biggest and most concern with this ordinance, or
854 going forth in the future, is going to be parking. And however you all can restrict
855 and mandate the amount of parking necessary per square foot will be helpful to
856 us at POD. When you review all of it you should—we should get rid of the whole
857 seating thing and just make everything for worship, whether it's a Hindu temple
858 or a Buddhist temple, to a Baptist church. Seating should be based on square
859 footage, in my opinion.
860
861 Mr. Emerson - Of course you know there are two measurements.
862 There is the assembly measurement that we use for the rooms with no fixed
863 seating, and then we have the fixed seating.
864
865 Mr. Blankinship - It's one for three, isn't it?
866
867 Male - [Unidentified speaker.] [Inaudible; voice too low]
868 [0:50:10]* not to exceed one for every [inaudible; voice too low] [0:50:10]*.
869
870 Mr. Emerson - Right. For your community ordinance.
871
872 Mr. Blankinship - You're saying you'd like to get away from the fixed
873 seating altogether and just go with square footage.
874
875 Mr. Emerson - Just go with square footage.
876
877 Mr. Branin - I would. A hundred square feet is ten by ten. So one
878 parking spot for ten by ten. I heard you. And I think that's an exception. It should
879 be two parking spots for a hundred square foot, because in a ten by ten area you
880 can set what, five folding chairs? Eight folding chairs?
881
882 Mr. Blankinship - We will be examining that.
883
884 Mr. Branin - Do you understand what I'm saying?
885
886 Mr. Blankinship - Yes, absolutely.
887
888 Mr. Branin - I am a hundred percent about equality. If we're going
889 to be running equality across the board, then why have fixed seating where we're
890 going to limit one per four seats, and then in a ten by ten area where I could put
891 eight seats now we have one parking spot. Why don't they equal the same thing?

892 So why don't we do away with the seating and just go with just straight square
893 footage. Do you understand my point?

894
895 Mr. Blankinship - Yes sir. We had that same conversation this
896 afternoon. That was part of our conversation, a big part.

897
898 Mr. Branin - We should be fair and we can be fair in both
899 directions.

900
901 Mr. Blankinship - Right.

902
903 Mr. Vanarsdall - Who's going to police it. If you can't police it, don't
904 pass it.

905
906 Mr. Blankinship - Right, right. At the POD and the building permit they
907 show us what size building they have. And if they're going to do fixed seating it's
908 usually shown on the POD and on the building permit plans.

909
910 Mr. Branin - First Baptist Church of Gayton Road has one building
911 and they're going to come in and we're going to say with the seats you're going
912 to have, you need to have 200 parking spots. But Johnny's Assembly of God,
913 who is just going to have open floor space, for the same amount of space only
914 needs 100. It's not fair.

915
916 Mr. Blankinship - I'd have to go and look at some plans and see how the
917 fixed seating compares to the square footage.

918
919 Mr. Branin - When you look at, base it on what the size of a folding
920 chair is, which actually we found they did.

921
922 Mr. Blankinship - Right, right. We will be examining that in depth, as
923 well as the lot area, lot width, and setback.

924
925 Mr. Emerson - Parking may not be something we bring back to you
926 immediately with this particular ordinance. We may have to spend more time on
927 that because I, like you, Mr. Branin, think that is a huge issue that we struggle
928 with going back to the Third Presbyterian discussion, of course. So I don't know
929 that that is something we necessarily would combine with what we're doing with
930 this ordinance, and maybe would do a more thorough examination later. Mr.
931 Rapisarda, what do you think?

932
933 Mr. Rapisarda - Let me comment on that. I think Mr. Branin made
934 some good points, I really do. But it reminds me, candidly, of what Mrs.
935 O'Bannon also had brought up. When this whole Third Presbyterian issue came
936 up and the POD appeal, etcetera, the Board of Supervisors—I mentioned you,
937 Pat, because I remember you suggesting maybe we need to look at all our

938 parking requirements and revisit them. My personal opinion as County Attorney,
939 yes, they should be because I will tell you, Mr. Tokarz and I have labored—no
940 disrespect to my colleagues—to try to figure out what they are and how they're
941 applied. So I'm all for it. The question is when and how. I'll just speak my opinion.
942 I don't think the Board of Supervisors in referring this matter in the first place
943 really envisioned getting into that parking thing as a part of this effort. Now, does
944 that mean you have to be quiet? Again, I'm just giving you my opinion on how I
945 read it. It is a topic that I do think should be addressed. It's a question of when
946 you do it.

947
948 Mr. Branin - As we go forward, I am one hundred percent for
949 equality. And if we're going to reduce restrictions to make everybody equal in this
950 world, then we need to make sure it's darn equal. And the only way I can see that
951 is square footage.

952
953 Mr. Emerson - I guess one thing, too, we do have an opportunity
954 coming up. I know it's been a long time coming, but we are working on the
955 scope for the assessment of the zoning ordinance that we'd planned to do, that
956 comes right after the Comprehensive Plan. Hopefully as I work with staff to fine
957 tune that scope we'll be moving forward with that in the next few months. Then
958 we'll be doing a thorough review of the entire ordinance in determining where
959 things are. Part of that, of course, is interviewing individual users such as the
960 Planning Commission to determine just exactly areas where you have found that
961 need improvements. That also is probably a good time to begin to discuss these
962 matters as well.

963
964 Mrs. O'Bannon - I have one more quick thing to throw in there. At the
965 Chabad of Virginia Center they're required to walk to worship. They have a small
966 parking lot, but they are required on worship days to walk. I'm just telling you if
967 they required massive parking, they'd probably go crazy. Why would we need
968 parking? We are required by our religion to walk to worship. Maybe we should be
969 required to have sidewalks.

970
971 Mr. Rapisarda - Mr. Chairman, if I may, Mrs. O'Bannon is posing a
972 RLUIPA-type case because that would be one where an argument—again, I
973 don't know, depending on the court. But the argument would be we are entitled to
974 an accommodation or some type of modification—or waiver, what have you—of
975 the requirement because of our particular religious exercise. That's what these
976 courts get into in the case law.

977
978 Mr. Branin - But don't we have the ability at POD to review that
979 and make that decision?

980
981 Mr. Rapisarda - Well you do, but I'm just saying, Mr. Branin, that
982 again, in that review you may be hit with a request to either modify a requirement
983 that's in the code, or even waive it altogether. And then it becomes a legal issue

984 under the federal law. Let's say you deny that, are you then liable, and are they
985 entitled to that waiver.

986 Frankly, the federal government has modeled this and been doing this for years
987 in employment law, the Americans with Disabilities Act—go on down the line.
988 The whole theme is these individualized decisions where you have to look at the
989 individual and make accommodations. What's new that Mr. Emerson and Mr.
990 Tokarz alluded to earlier is you haven't had that in land use until this act was
991 passed in 2000. And now the federal government is imported into that review
992 process all these principles, which are foreign to a lot of land use planners that
993 don't know about it.

994
995 Mr. Archer - One more thing, if I can add to what Mr. Branin was
996 saying. With some of the modern churches, a lot of churches that are building
997 new buildings or building new spaces, and it's talking about fixed seating as
998 opposed to non-fixed seating. A lot of them will build a multipurpose building to
999 put a basketball court in, and then they will put chairs in there and that's the
1000 sanctuary. When the service is over they move the chairs out and it's a
1001 basketball court.

1002
1003 Mr. Branin - Mr. Tokarz is familiar with St. Bridget's when you
1004 have—St. Mary's, St. Bridget's at Christmas and Easter. The gym now becomes
1005 a place of worship running consecutively with the current sanctuary.

1006
1007 Mrs. O'Bannon - That was Third Presbyterian. The question I posed to
1008 them was—they would have a traditional service in the regular sanctuary, but
1009 they'd also have a contemporary service at exactly the same time in the big open
1010 room with no fixed seating. So, it's like wait a minute, can you have one an hour
1011 before the other or an hour and a half to give a half an hour for people to get in
1012 their cars and leave. You sit and try to negotiate these things. And I always sit
1013 there and cross my fingers and hold my breath because I'm afraid I'm going to
1014 say something like—I'll never forget this minister, he had this we're doing God's
1015 work here, I'm like okay, okay. His voice boomed across the room. It was like,
1016 you know, I'm trying to keep God from doing work.

1017
1018 But this is the whole point. Yes, I agree with you, but how much can you really
1019 restrict them, to tell them can you put your services an hour apart instead of
1020 having everybody there at the same time. I've gone through everything to try to
1021 accommodate them, or to try to help the people who were right next door to
1022 them. The first thing I always say is you're doing God's work, don't you want to
1023 be the first one to follow the rules or the law and get along with people?

1024
1025 Mr. Archer - Well let me close because we need to go downstairs.
1026 I want to thank everybody for participating. I will adjourn this meeting and
1027 continue downstairs.

1028
1029 Mr. Emerson - Recess and reconvene.

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Mr. Archer - Okay. Well then we'll recess and reconvene.
**WORK SESSION ADJOURNS IN ORDER TO RECONVENE FOR THE
REGULAR PUBLIC HEARING.**

PLANNING COMMISSION RECONVENED AT 7:03 P.M.

Mr. Archer - Good evening, everyone. We will reconvene our
September 15th session from a prior work session we had beginning at 5:30
upstairs. With that, let us all please stand and pledge allegiance to the flag.

Are there any members of the media here today? I would like to remind everyone
if you would please, in respect to your neighbors and the others in the audience,
turn off or mute your cell phones, or put them on vibrate so it won't be a
disturbance. And I'll try to remember to do the same thing.

With that, I will turn the meeting over to our secretary, Mr. Emerson, and he will
guide us through the agenda.

Mr. Emerson - Thank you.

[Blank section on recording for almost fifty seconds.] [0:01:06]*

Mr. Archer - Mr. Strauss, how are you, sir?

[Blank section on recording for about twenty seconds.] [0:01:55]*

Mr. Archer - What did you say?

[Blank section on recording for about five seconds.] [0:02:12]*

Mr. Jernigan - There you go.

Mr. Emerson - Are you all on?

Mr. Branin - I'm on now. Okay.

Mr. Strauss - The first request for deferral is in the Varina District on
page one of the agenda. That would be P-11-11, Michael Carroll. The applicant
is requesting a deferral to the October 13th meeting.

Deferred from the August 11, 2011 Meeting.

P-11-11 Andrew M. Condlin for Michael J. Carroll: Request
for a Provisional Use Permit required under proffered condition #9 accepted with
C-60C-00 to allow twenty-four (24) hour operation of a convenience store with
gas pumps (Wawa) on Parcel 816-712-7504 located at the northeast intersection

1076 of S. Laburnum Avenue and Eubank Road. The existing zoning is B-3C Business
1077 District (Conditional). The site is located in the Airport Safety Overlay District.
1078

1079 Mr. Archer - Thank you. Is there anyone present who is opposed
1080 to the deferral of P-11-11, Andrew M. Condlin for Michael J. Carroll? I don't see
1081 anyone. Mr. Jernigan.

1082
1083 Mr. Jernigan - Mr. Chairman, I move for deferral of case P-11-11,
1084 Andrew M. Condlin for Michael J. Carroll, to October 13, 2011, by request of the
1085 applicant.

1086
1087 Mr. Vanarsdall - Second.

1088
1089 Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.
1090 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1091
1092 At the request of the applicant, the Planning Commission deferred P-11-11,
1093 Andrew M. Condlin for Michael J. Carroll, to its meeting on October 13, 2011.
1094

1095 Mr. Strauss - The second request for deferral is in the Three Chopt
1096 District on page two of the agenda. This is case C-9C-11, Bacova, LLC. The
1097 applicant is requesting a deferral to the October 13th meeting.

1098
1099 **C-9C-11 Bacova, LLC: Request to conditionally rezone from**
1100 **A-1 Agricultural District to O-2C Office District (Conditional), parts of Parcels**
1101 **739-766-2504 and 739-765-0785 containing 6.439 acres (Tract A) located at the**
1102 **northwest intersection of Pouncey Tract Road (State Route 271) and Bacova**
1103 **Drive; from A-1 Agricultural District to R-3C One-Family Residence District**
1104 **(Conditional), Parcel 737-788-1902 and parts of Parcels 738-765-2372, 736-766-**
1105 **7163, 739-766-2504, and 739-765-0785 containing 79.234 acres (Tracts B and**
1106 **C) located along the west line of Bacova Drive approximately 675' west of its**
1107 **intersection with Pouncey Tract Road; from A-1 Agricultural District to R-6C**
1108 **General Residence District (Conditional), Parcels 736-765-2998, 736-766-0319,**
1109 **735-766-7333, 735-766-4550, 735-768-2261 and parts of Parcels 736-766-7163**
1110 **and 735-767-9459 containing 30.012 acres (Tracts D and E) located at the**
1111 **eastern corner of the N. Gayton Road Extension and Bacova Drive intersection;**
1112 **and from A-1 Agricultural District to R-5AC General Residence District**
1113 **(Conditional), parts of Parcels 735-767-9459 and 736-768-5323 containing**
1114 **19.481 acres (Tract F) located along the east line of the N. Gayton Road**
1115 **Extension approximately 530' southwest of its intersection with Kain Road. The**
1116 **applicant proposes office uses, and up to 135 single-family dwellings, 45 zero lot**
1117 **line dwellings, and 430 multi-family residential units. The uses will be controlled**
1118 **by zoning ordinance regulations and proffered conditions. The R-3 District allows**
1119 **a minimum lot size of 11,000 square feet and a maximum gross density of 3.96**
1120 **units per acre. The R-5A District allows a minimum lot size of 5,625 square feet**
1121 **and a maximum density of six (6) units per acre. The R-6 District allows a**

1122 maximum gross density of 18.8 units per acre. The 2026 Comprehensive Plan
1123 recommends Suburban Residential 1, density should not exceed 2.4 units per
1124 acre, Suburban Mixed-Use, density should not exceed 4.0 units per acre, Open
1125 Space/Recreation, and Environmental Protection Area. The site is partially in the
1126 West Broad Street Overlay District.

1127
1128 Mr. Archer - Is there anyone present who is in opposition to
1129 deferral of C-9C-11, Bacova, LLC? Mr. Branin.

1130
1131 Mr. Branin - Mr. Chairman, I'd like to move that C-9C-11, Bacova,
1132 LLC, be deferred to the October 13, 2011, meeting per the applicant's request.

1133
1134 Mr. Vanarsdall - Second.

1135
1136 Mr. Archer - Motion by Mr. Branin, seconded by Mr. Vanarsdall.

1137
1138 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1139
1140 At the request of the applicant, the Planning Commission deferred C-9C-11,
1141 Bacova, LLC, to it's meeting on October 13, 2011.

1142
1143 Mr. Strauss - Mr. Chairman, that completes the deferrals for this
1144 evening.

1145
1146 Mr. Archer - Thank you, Mr. Strauss.

1147
1148 Mr. Emerson - Mr. Chairman, we have no requests for expedited
1149 items this evening, so that takes us directly to your main agenda, leaving two
1150 cases to be heard.

1151
1152 **C-14C-11 Shurm Construction Inc.:** Request to amend
1153 proffered conditions accepted with Rezoning Cases C-78C-05 and C-36C-07 on
1154 Parcel 803-696-9576 located between the south line of Harmony Avenue
1155 approximately 90' west of its intersection with Woodside Street and the northern
1156 terminus of Woodside Street approximately 155' north of Woodside Court. The
1157 applicant proposes to amend Proffers 2, 6, 12 and 13 related to minimum house
1158 size, roads/curb and gutter, building materials, and garages, and add proffer 16
1159 related to elevations. The existing zoning is R-3C One-Family Residence District
1160 (Conditional). The 2026 Comprehensive Plan recommends Suburban Residential
1161 2, density should not exceed 3.4 units per acre.

1162
1163 Mr. Archer - Is there anyone here who is opposed to this case, C-
1164 14C-11, Shurm Construction Incorporated? No opposition. Go ahead, sir. How
1165 are you?
1166

1167 Mr. Madrigal - Very well. thank you. Good evening, Mr. Chairman,
1168 members of the Planning Commission.

1169
1170 This request is to amend proffered conditions accepted with rezoning cases C-
1171 78C-05 and C-36C-07. The site is located along the northern terminus of
1172 Woodside Street and is section C of the Village at Olde Colony subdivision.

1173
1174 The site was rezoned to R-3C in 2006 in order to allow a 7 lot residential
1175 development and was proffered for curb and gutter throughout; all homes were to
1176 have attached garages and an 1,800-square-foot minimum finished house size.
1177 In 2007, the Board of Supervisors approved a proffer amendment to increase the
1178 project's density by two additional lots.

1179
1180 On Monday of this week, the applicant submitted revised proffers addressing the
1181 reduction in finished house size. Specifically, he is proposing changes to the
1182 following:

1183
1184 Proffer 2 would allow a decrease in minimum finished house size from 1,800
1185 square feet to 1,650 square feet for the homes on Harmony Avenue. Staff is not
1186 supportive of this request because the proposed development is an extension of
1187 the Village at Olde Colony subdivision. Prior sections were proffered with a
1188 1,800-square-foot finished floor minimum and the average "as built" square
1189 footage is substantially larger. The applicant's proposed finished house size on
1190 Harmony Avenue would be roughly thirty-three percent, on average, smaller than
1191 what exists in the other two sections.

1192
1193 The remaining proffer amendments staff could support. These include the
1194 following proposed revisions:

1195
1196 Proffer 8 would allow the use of curbside ditch on Harmony Avenue in lieu of
1197 curb and gutter;

1198
1199 Proffer 12 would further define the type and quality of building materials for the
1200 homes by increasing the variety of exterior finish materials; and

1201
1202 Proffer 13 would allow the use of detached garages within the development but
1203 exempts the homes on Harmony Avenue from the garage requirement due to site
1204 constraints.

1205
1206 In addition, the applicant is proposing a new Proffer 16, which would proffer
1207 building elevations for the project as illustrated in Exhibit A.

1208
1209 The 2026 Comprehensive Plan's recommended future land use is Suburban
1210 Residential 2. The request to amend proffers would not change the residential
1211 use of the property.

1212

1213 In summary, the density of the project would not change and the proposed
1214 development would remain consistent with the future land use designation of the
1215 2026 Comprehensive Plan. Staff supports amending proffers six, twelve, and
1216 thirteen, and adding proffer sixteen. However, staff does not support the
1217 proposed amendment to proffer two. Proffer two was originally accepted in an
1218 effort to maintain consistent development standards throughout the subdivision.
1219 The proposed reduction in square footage would be inconsistent with the existing
1220 residences throughout the development and negates the expectation of
1221 consistency in minimum house size throughout the subdivision.

1222
1223 Staff has received two phone calls from neighborhood residents expressing their
1224 concern and/or opposition to the project.

1225
1226 This concludes my presentation. I stand ready to answer any questions you may
1227 have.

1228
1229 Mr. Archer - Thank you, sir. Are there any questions for Mr.
1230 Madrigal from the Commission?

1231
1232 Mr. Jernigan - For the subject property they had originally wanted to
1233 reduce the square footage on all the homes. On Monday he called and changed
1234 the proffer regarding the extension from the existing subdivision next door, he
1235 brought those back to 1,800 square feet.

1236
1237 Mr. Madrigal - That is correct.

1238
1239 Mr. Jernigan - Okay. Now, Harmony—which wasn't shown in the
1240 drawing there—is the cul-de-sac, it has to come down there. There are three
1241 houses?

1242
1243 Mr. Madrigal - Yes sir.

1244
1245 Mr. Jernigan - But when we met with Public Works, they have to put
1246 a cul-de-sac in there. The reason they kept those three houses with the 1,650 is
1247 because on the cul-de-sac those three lots are going to be on well water, not
1248 sewer and water. The cul-de-sac took up a lot of the property.

1249
1250 Mr. Madrigal - That's correct. The temporary cul-de-sac would affect
1251 approximately two lots. The other conditions affecting those three lots is that
1252 there is a sewer easement between lots seven and eight, which is roughly thirty
1253 feet wide on that interior property line. And then also the placement of the
1254 wellheads is affecting the development of those three lots. All those issues
1255 combined cumulatively affect the placement of the homes.

1256
1257 Mr. Jernigan - Okay, thank you.

1258

1259 Mr. Archer - All right. Any further questions? Yes? Oh, I'm sorry.
1260 Were you in opposition, ma'am? Come on down. Please state your name and
1261 address for the record. Thank you.
1262

1263 Ms. Evans - Tanya Coffman Evans. I'm a resident of 1417
1264 Woodside Court, Henrico, 23231.
1265

1266 My question is about the Woodside extension. Is it necessary for that to be
1267 open?
1268

1269 Mr. Jernigan - Yes. Public Works says it has to be open.
1270

1271 Ms. Evans - Okay.
1272

1273 Mr. Jernigan - That would be for fire and rescue.
1274

1275 Ms. Evans - It just has to be a different, separate entry and exit
1276 way?
1277

1278 Mr. Jernigan - Yes, because it would be too difficult. See where it
1279 says, "Woodside Future Extension"? The only way to get in there right now would
1280 be from your existing subdivision.
1281

1282 Ms. Evans - It was just the flow of the traffic for that end of the cul-
1283 de-sac—, Woodside and Woodside Court.
1284

1285 Mr. Jernigan - Is there a lot of traffic?
1286

1287 Ms. Evans - It would become a lot of traffic.
1288

1289 Mr. Jernigan - There are six houses in there.
1290

1291 Ms. Evans - Correct. And it's because of the fire trucks gaining
1292 access in there?
1293

1294 Mr. Jernigan - Yes. Very seldom would they leave a road closed.
1295 That's standard procedure. That's an extension of that road.
1296

1297 Ms. Evans - Okay. And how soon will the construction be?
1298

1299 Mr. Jernigan - The developer is here and he'll be able to answer that
1300 question for you.
1301

1302 Ms. Evans - Okay, thank you.
1303

1304 Mr. Jernigan - Thank you so much, ma'am.

1305
1306 Mr. Archer - That's one of the requirements that we don't have the
1307 authority to change. Thank you for asking, ma'am; we appreciate it.
1308
1309 Mr. Jernigan - Mr. Chairman, could I hear from the applicant?
1310
1311 Mr. Archer - Would the applicant come forward, please? Good
1312 evening, sir.
1313
1314 Mr. Shurm - Hello everybody. My name is John Shurm. I'd be
1315 happy to answer any questions.
1316
1317 Mr. Jernigan - The young lady's question, what is your timetable.
1318
1319 Mr. Shurm - It should be within twelve months. One thing I did
1320 want to point out is I believe on that side of Harmony—Miguel, what is the zoning
1321 there? Do you know that? Is it R-3? It's not conditional, right?
1322
1323 Mr. Madrigal - To the west of Harmony would be The Village at
1324 Osborne, and that is R-5AC.
1325
1326 Mr. Jernigan - It's A-1, if you're talking about—
1327
1328 Mr. Madrigal - To the east?
1329
1330 Mr. Shurm - R-3. I think R-3 is a minimum of 1,200 square feet for
1331 a rancher. I'm actually at 1,650 for ranchers and two-stories. I think there are
1332 homes being built there now that are that size, 1,200 to 1,500 square feet. Are
1333 you guys following what I'm talking about there, above the A-1 triangle? That's
1334 where we'll be coming in off of New Market. That neighborhood. That's all R-3.
1335
1336 Mr. Jernigan - The difference is you're proffered at 1,800.
1337
1338 Mr. Shurm - Yes. The buildings are at 1,650. I'm at the higher
1339 square-foot range of that neighborhood.
1340
1341 Mr. Jernigan - You are. And our building code I think is 900 square
1342 feet. Nine hundred square feet is code. When the cul-de-sac came in, what size
1343 lot do you have there in buildable area?
1344
1345 Mr. Shurm - The buildable area is extremely small. You could
1346 barely fit a small rancher in there, so I'm going to have to do two-stories even at
1347 1,650 square feet. Attached garages won't work. It would be tight for detached
1348 garages as well because you have the cul-de-sac, and you also have wells, and
1349 you also have to stay off the wells and the sewer laterals. You put all that in there

1350 and there's not much area at all to build on. I thought we submitted something
1351 that showed the buildable area.

1352

1353 Mr. Jernigan - We saw it when we were in the meeting.

1354 Mr. Shurm - Yes, when we were in the meeting with Public Works.

1355 Essentially, you're struggling to get something that may be thirty feet wide by
1356 twenty-five feet in some cases. The houses are actually shifted towards the back
1357 of the building lot, the buildable area, so it's tight up there.

1358

1359 Mr. Archer - On the two-story houses you said some would be
1360 1,650 square feet?

1361

1362 Mr. Shurm - The way I'm asking to proffer now, the ranchers and
1363 the two-stories would have to be 1,650 square feet.

1364

1365 Mr. Archer - Okay. So on the two-stories would the footprint be
1366 half of the 1,650?

1367

1368 Mr. Shurm - Yes. On lot seven I may be able to get a rancher at
1369 1,650. The other two will have to be two-stories because of the temporary cul-de-
1370 sac, the well locations, and the sewer easement down the back of the lots.

1371

1372 Mr. Jernigan - Mr. Archer, we don't have the plans showing the cul-
1373 de-sac that Public Works wanted to put in. But when you come down Harmony,
1374 that eighty-foot cul-de-sac comes there and pushes the building area on lots five
1375 and six back.

1376

1377 Mr. Shurm - Mr. Jernigan, I have a diagram here.

1378

1379 Mr. Jernigan - Let him show it.

1380

1381 [Blank section on recording for approximately thirty seconds.] [0:16:20]*

1382

1383 Mr. Shurm - You can see the gray cul-de-sac, and then the dotted
1384 circles or the dash circles. Those are approximate well locations. You can see
1385 how the wells eat into the buildable area, so there's not really a whole lot of
1386 room. Lot seven is the one that's down at the bottom. That's the one I was
1387 suggesting we could probably do a rancher. Most of what I build now are
1388 ranchers; that's what I prefer to do. On a few of these I'm going to have to do
1389 two-stories.

1390

1391 Mr. Jernigan - Okay. Mr. Archer, like I said, originally he had
1392 requested 1,650 on all of them. But because the neighborhood right next door
1393 and coming off Woodside are proffered at 1,800, he went ahead and modified his
1394 request to only reduce the finished square footage for the homes on Harmony.

1395

1396 Mr. Archer - Okay. So they don't abut the neighborhood that has
1397 the larger houses.

1398

1399 Mr. Jernigan - No sir. Those are all the questions I have.

1400

1401 Mr. Archer - Anybody else? All right, thank you, sir.

1402

1403 Mr. Jernigan - Mr. Chairman, with that I'll move for approval of case
1404 C-14C-11, Shurm Construction, to send to the Board of Supervisors for their
1405 approval.

1406

1407 Mr. Branin - Second.

1408

1409 Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Branin. All
1410 in favor say aye. All opposed say no. The ayes have it; the motion passes.

1411

1412 **REASON:** Acting on a motion by Mr. Jernigan seconded by Mr.
1413 Branin, the Planning Commission voted 4-0 (one absent, one abstention) to
1414 recommend the Board of Supervisors grant the request because the changes do
1415 not greatly reduce the original intended purpose of the proffers and because the
1416 use continues to conform with the intent of the County's 2026 Comprehensive
1417 Plan.

1418

1419 Mr. Emerson - Mr. Chairman, that takes us to the next item on your
1420 agenda, which appears on page three.

1421

1422 **SIA-001-11 Nuckols Road Dominion Virginia Power Electric**
1423 **Substation Substantially in Accord with the 2026 Comprehensive Plan:** Per
1424 Virginia Code 15.2-2232, Dominion Virginia Power is requesting a substantially in
1425 accord finding for a proposed electric substation on part of Parcel 747-770-5210,
1426 consisting of 15.45 acres, located along the west line of Nuckols Road and the
1427 north line of the entrance ramp to Interstate-285. The proposed use would be
1428 located on approximately 4.83 acres of the site near the center of its southern
1429 boundary. The existing zoning is A-1, Agricultural District. The 2026
1430 Comprehensive Plan recommends Office and Environmental Protection Area.

1431

1432 Mr. Archer - Thank you, sir. Is there anyone here who would like to
1433 speak to this case, SIA-001-11, Nuckols Road Dominion Virginia Power Electric
1434 Substation Substantially in Accord with the 2026 Comprehensive Plan? Go
1435 ahead, Mr. Conmy.

1436

1437 Mr. Conmy - Thank you, Mr. Chairman, members of the
1438 Commission.

1439

1440 At the request of Dominion Virginia Power, the Planning Department conducted a
1441 Substantially In Accord Study to determine whether a proposed site for an

1442 electric substation along Nuckols Road is substantially in conformance with the
1443 County's adopted Comprehensive Plan.

1444
1445 Located in the Three Chopt Magisterial District, the proposed site consists of a
1446 single parcel generally bounded by New Wade Lane and single-family residential
1447 homes to the north, Nuckols Road to the east, Interstate 285 to the south, and
1448 vacant, wooded land to the west.

1449
1450 The site is zoned A-1 and the proposed electric substation is permitted subject to
1451 a Conditional Use Permit, which would follow this SIA process. The 15.45-acre
1452 parcel exceeds the minimum one-acre lot requirement for electric substations
1453 and would provide ample room to accommodate required yards and setbacks.

1454
1455 The existing vegetation and lower elevation of the proposed substation relative to
1456 some of the surrounding viewsheds reduces visual impact significantly; however
1457 some views of the substation could be possible from higher elevations along
1458 Nuckols Road and in other areas altered by future development. Dominion has
1459 committed to further reduce these and other potential visual impacts through
1460 additional landscaping as shown in the landscaping plan before you. Most of
1461 these improvements fall within the limits of the proposed property line, further
1462 ensuring their long-term preservation. Per the landscaping plan, two 20-foot
1463 landscaping easement strips will also be recorded along New Wade Lane and
1464 the I-285 on-ramp in order to preserve existing vegetative screening should these
1465 roadways be widened.

1466
1467 The subject property and surrounding area is recommended for Office and
1468 Environmental Protection Area in the 2026 Comprehensive Plan. The provision
1469 of infrastructure improvements, including electric power substations, is generally
1470 compatible and appropriate with this land use recommendation.

1471
1472 Through proper design, the proposed electric substation would be compatible
1473 with current and recommended land uses, meet the increasing electricity
1474 demands of this growing area of the County, and fulfill the goals, objectives and
1475 policies of the 2026 Comprehensive Plan. Staff recommends the Planning
1476 Commission find the proposed Nuckols Road Electric Substation to be
1477 "substantially in accord" with the Henrico County 2026 Comprehensive Plan.

1478
1479 This concludes my presentation. I'll be happy to answer any questions.

1480
1481 Mr. Archer - Thank you, Mr. Conroy. Are there questions from the
1482 Commission?

1483
1484 Mr. Branin - I don't have any.

1485
1486 Mr. Archer - Anyone else?

1487

1488 Mr. Branin - I would like to see the applicant, if I may.
1489
1490 Ms. Freye - My name is Gloria Freye. I'm an attorney for McGuire
1491 Woods here on behalf of Dominion Virginia Power. We have the Dominion team
1492 here, and I would like to let you know who is here. We have Dan Doody, who is
1493 the project manager; Ryan Boggs, who is a Dominion attorney; Courtney Fisher,
1494 who is a permitting specialist; Dean Obaugh, who is a real estate specialist; and
1495 Todd Boykin, our project engineer. We're all here to answer questions, and I also
1496 have a little presentation if you'd like to hear that.
1497
1498 Mr. Branin - I don't think the presentation is going to be necessary.
1499 Does anyone have any questions for Ms. Freye? Ms. Freye, and also Mr. Doody,
1500 I appreciate the work and the effort that you put into this. When we walked the
1501 project, I know that before I was even involved you all had been working with
1502 staff on this for—two years?
1503
1504 Mr. Emerson - Definitely over a year.
1505
1506 Ms. Freye - Over a year.
1507
1508 Mr. Branin - Yes, close to two years. I appreciate all that you've
1509 done in regards to the landscaping to protect the future development of the area,
1510 and also the current population in the Nuckols Road area. I appreciate all that
1511 you've done to bring this up to the standard of Henrico County.
1512
1513 Mr. Archer - Anyone else?
1514
1515 Mr. Emerson - Mr. Chairman, I would add to that that this is the first
1516 step in the process that Dominion Virginia Power will have to go through, the first
1517 step being the Substantially in Accord. The second step will be they will have to
1518 apply to the Board of Zoning Appeals after the Board finalizes this action, for a
1519 Conditional Use Permit to allow the construction of this substation. The BZA will
1520 apply, I would imagine, all the recommendations of the Substantially in Accord
1521 study, along with anything else that they may deem appropriate at the time.
1522
1523 With that, Mr. Chairman, you do have a recommendation of approval from staff to
1524 find this substantially in accord, and you do have a resolution in front of you, SIA-
1525 001-11, which does state—and I can read it into the record, if you'd like.
1526
1527 Mr. Archer - Should we do that before we make the motion? I
1528 guess we should.
1529
1530 Mr. Emerson - Yes sir, we can do that.
1531
1532 Mr. Branin - Mr. Secretary and Mr. Chairman, wouldn't my motion
1533 be for approval of the resolution, not of the SIA.

1534

1535 Mr. Emerson -

It's for the resolution, SIA-001-11.

1536 Mr. Branin -

Thank you.

1537

1538 Mr. Archer -

Mr. Secretary, if you choose to read this, you may, or

1539 I'll do it.

1540

1541 Mr. Emerson -

Yes, I will be more than happy to read it for you, Mr.

1542 Chairman.

1543

1544 This is resolution SIA-001-11, Nuckols Road Electric Substation, substantially in
1545 accord with the Comprehensive Plan. Whereas Section 15.2-2232 of the Code of
1546 Virginia requires the Planning Commission to review and to consider whether the
1547 general or approximate location, character and extent of major public facilities
1548 are substantially in accord with the County's Comprehensive Plan; and whereas
1549 the Planning Commission has reviewed the proposed Nuckols Road electric
1550 substation for conformance with the County's 2026 Comprehensive Plan; and
1551 whereas a report dated August 30, 2011, presented by Planning staff to the
1552 Planning Commission found the proposed use would not be in conflict with, or a
1553 significant departure from the adopted plan; and whereas the Planning
1554 Commission has reviewed staff recommendations and finds the proposed
1555 Nuckols Road electric substation will further the goals, objectives, and policies of
1556 the Comprehensive Plan that identified the need for new public services and
1557 facilities based on projected and planned growth in accordance with the 2026
1558 Future Land Use Map; and whereas the Planning Commission finds the
1559 proposed use of this site for the Nuckols Road electric substation would be
1560 compatible with the adjacent developments, and existing and future
1561 developments in the larger vicinity, now therefore be it resolved the Henrico
1562 County Planning Commission finds the proposed Nuckols Road electric
1563 substation substantially in accord with the County's Comprehensive Plan.

1564

1565 Mr. Archer -

Thank you, Mr. Emerson. Now we need a motion.

1566

1567 Mr. Branin -

Mr. Chairman, I'd like to move that resolution SIA-
1568 001-11, Nuckols Road Dominion Virginia Power Electric Substation Substantially
1569 in Accord with the 2026 Comprehensive Plan, be approved.

1570

1571 Mr. Vanarsdall -

Second.

1572

1573 Mr. Archer -

Moved by Mr. Branin, seconded by Mr. Vanarsdall. All
1574 in favor say aye. All opposed say no. The ayes have it; the motion passes.

1575

1576 The record will show that the action was approved.

1577

1578 Mr. Emerson -

With abstention on the part of Mrs. O'Bannon.

1579

1580 Mr. Chairman, that completes your agenda tonight except for the approval of
1581 minutes of the Planning Commission meeting of August 11, 2011.
1582 Mr. Archer - Are there any changes or corrections to the minutes?
1583
1584 Mrs. O'Bannon - I have a comment. There are a lot of places,
1585 unfortunately, where I'd asked a question and it says inaudible or unintelligible. I
1586 don't think my microphone was off. I'm wondering if there was a problem with the
1587 recording or something?
1588
1589 Mr. Emerson - We have had some problems recently, Mrs. O'Bannon,
1590 with our ability to hear the recording. Part of it, I believe, is that we need to
1591 concentrate a little more on speaking directly into the microphone. And part of it is
1592 possibly the recording system may have been having some difficulty that evening.
1593 Certainly we can go back and listen to the recording again and see if we can make
1594 out some of those notations within the minutes, if you'd like for us to. We also will
1595 check with Media Services and see what we can do to ensure the quality of the
1596 recording at our meetings.
1597
1598 Mrs. O'Bannon - It appears it was just my microphone. What I'd really
1599 like is one where it says "inaudible" and everyone said, "Yes, we agree." No, it
1600 wasn't exactly like that. There is one correction I did find, and it's on line 664. We
1601 were talking about traffic circles. "This is the one at A. P. Hill. That, of course, is the
1602 one at Laburnum and Hermitage Roads in the city. You realized I lived next to that
1603 one for twenty-one years. Every Saturday, every weekend there would be two or
1604 three—" accidents, not classes. They had "unintelligible." I don't know exactly what
1605 I said. That was about the accidents that happen at traffic circles.
1606
1607 I don't think I had my microphone off, but I saw that there were several of those.
1608
1609 Mr. Emerson - Yes ma'am, I do see that. We will go back and listen to
1610 the tape again and see what we can do with it.
1611
1612 Mr. Archer - All right. Mr. Secretary, do you have anything further to
1613 bring before the Commission? I guess we should approve the minutes first,
1614 though.
1615
1616 Mr. Emerson - Yes sir.
1617
1618 Mr. Branin - I move for approval of the minutes.
1619
1620 Mr. Jernigan - Second.
1621
1622 Mr. Archer - Motion by Mr. Branin, seconded by Mr. Jernigan to
1623 approve the minutes. All in favor say aye. All opposed say no. The ayes have it;
1624 the motion passes.
1625

1626 Mr. Emerson - Mr. Chairman, I have nothing else to bring in front of
1627 the Commission this evening.
1628 Mr. Archer - With that, I'll entertain a motion for adjournment.
1629
1630 Mr. Vanarsdall - I move we adjourn.
1631
1632 Mr. Branin - Second.
1633
1634 Mr. Archer - No vote necessary; meeting adjourned.
1635
1636 The meeting adjourned at 7:33 p.m.
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Mr. R. Joseph Emerson, Secretary



Mr. C. W. Archer, Chairperson