

1 Minutes of the regular monthly meeting of the Planning Commission of the County of  
2 Henrico, Virginia, held in the Board Room of the County Administration Building,  
3 Parham and Hungary Spring Roads at 7:00 p.m., on April 12, 2001, Display Notice  
4 having been published in the Richmond Times-Dispatch on Thursday, March 22, 2001  
5 and Thursday, March 29, 2001.

6  
7 Members Present: C. W. Archer, C.P.C., Chairperson, Fairfield  
8 Elizabeth G. Dwyer, C.P.C., Vice-Chairperson, Tuckahoe  
9 Ernest B. Vanarsdall, C.P.C., Brookland  
10 Allen J. Taylor, C.P.C., Three Chopt  
11 Eugene Jernigan, Varina  
12 David A. Kaechele, Board of Supervisors, Three Chopt  
13

14 Members absent: John R. Marlles, AICP, Secretary, Director of Planning  
15

16 Others Present: Randall R. Silber, Assistant Director of Planning  
17 Jo Ann Hunter, AICP, Acting Principal Planner  
18 Mark Bittner, County Planner  
19 Thomas M. W. Coleman, County Planner  
20 Lee Householder, County Planner  
21 Judy Thomas, Recording Secretary  
22

23 Mr. Randall R. Silber, Acting Secretary - Good evening. It looks as though we have  
24 all Commission members here, so we do have a quorum, and we can conduct business.  
25 The first item on the agenda would be the consideration of requests for withdrawals and  
26 deferrals.  
27

28 Mrs. Jo Ann Hunter, Acting Principal Planner - Good evening.  
29

30 Mr. Archer - Good evening, Mrs. Hunter.  
31

32 Mrs. Hunter - The first case on the agenda has actually been withdrawn.  
33 It's in the Three Chopt District. It's C-41C-00.  
34

35 **Deferred from the October 12, 2000 Meeting:**

36 **C-41C-00 Rev. Rick McDaniels for Glen Allen Community**  
37 **Church:** Request to conditionally rezone from R-2C One Family Residence District  
38 (Conditional) to O-2C Office District (Conditional), Part of Parcel 9-A-20, containing  
39 approximately 1.571 acres, located on the south line of Nuckols Road at its intersection  
40 with Wyndham Park Drive. A bank branch is proposed. The use will be controlled by  
41 proffered conditions and zoning ordinance regulations. The Land Use Plan  
42 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre, and  
43 Environmental Protection Area.  
44

That case has been withdrawn. There's no action necessary by the Commission.

**April 12, 2001**

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Mr. Archer - No action required.

Mrs. Hunter - On to the deferrals this evening. On the bottom of Page 2 in the Varina District, we have P-1-01.

**Deferred from the February 15, 2001 Meeting:**

**P-1-01 John G. Chip Dicks for Telecom Consulting Group, Inc.:** Request for a provisional use permit under Sections 24-95(a), 24-120, and 24-122.1 of Chapter 24 of the County Code in order to construct a 250' lighted telecommunications tower and support facilities, on part of Parcel 205-A-44, containing 4,900 square feet, located at 6929 Monahan Road, on the east side of Monahan Road approximately 1,170 feet north of its intersection with Darbytown Road. The existing zoning is A-1 Agricultural District. The site is also in the Airport Safety Overlay District.

They have requested a deferral to June 14<sup>th</sup>. That's a 60-day deferral.

Mr. Archer - Okay. Is there any one here in opposition to the deferment of this case until June 14<sup>th</sup>. No opposition. Mr. Jernigan.

Mr. Jernigan - Mr. Chairman, I make a motion that we defer Provisional Use Permit P-1-01 to June 14<sup>th</sup> per the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele abstained. The motion carries.

Mrs. Hunter - There is one other deferral this evening. That's on the bottom of Page 3 of your agenda in the Brookland District. It's Case C-21C-01.

**C-21C-01 Henry L. Wilton for Wilhook, LLC:** Request to conditionally rezone from R-2 One Family Residence District and R-4 One Family Residence District to O-2C Office District (Conditional), Parcels 93-A-2 and 3A, containing approximately 2.58 acres, located at the northeast intersection of I-64 and Bethlehem Road. An office development is proposed. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Environmental Protection Area.

The applicant has also requested a 60-day deferral to June 14, 2001.

88 Mr. Archer - Is there any one here in opposition to this deferment;  
89 Henry L. Wilton for Wilhook, LLC?

90  
91 Mr. Vanarsdall - I move that C-21C-01 Henry L. Wilton for Wilhook,  
92 LLC, be deferred to June 14<sup>th</sup> at the applicant's request.

93  
94 Mrs. Dwyer seconded the motion.

95  
96 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mrs. Dwyer. All  
97 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele  
98 abstained. The motion carries.

99  
100 Mr. Silber - Is that all the deferrals, Mrs. Hunter?

101  
102 Mrs. Hunter - Yes. It is.

103  
104 Mr. Silber - We have one expedited item.

105  
106 Mrs. Hunter - We do have one case on the expedited agenda. It's on  
107 Page 1 of the agenda. It's the second case.

108  
109 **Deferred from the March 8, 2001 Meeting:**

110 **P-3-01 Eisenberg Architects for Panera Bread:** Request for a  
111 provisional use permit under Sections 24-58.2(d) and 24-122.1 of Chapter 24 of the  
112 County Code in order to provide outdoor dining for a bakery/cafe, on part of Parcel 48-  
113 A-38, containing 1,500 sq. ft., located at 10301 West Broad Street, on the south line of  
114 West Broad Street (U. S. Route 250) at its intersection with Gaelic Lane (The Gables  
115 Apt. complex). The existing zoning is B-2C Business District (Conditional).

116  
117 Mr. Archer - Is there any one here in opposition to this case? We have  
118 opposition.

119  
120 Mrs. Hunter - We can just pull it off. It's the first case.

121  
122 Mr. Silber - Yes. It needs to come off.

123  
124 Mr. Archer - All right, the case will come off the expedited agenda and  
125 will be heard in the order in which iT appears on the regular agenda.

126  
127 Mr. Silber - Which will be the next case.

128  
129 Mr. Vanarsdall - It didn't move any spaces.

130

131 Mr. Silber - Since it is not being considered as an expedited agenda  
132 ITEM, it will be considered on the regular agenda and it happens to be the next case on  
133 the agenda. So, we will go ahead and take that case. I don't know if its necessary that  
134 I call the case. I think Mrs. Hunter just called the case for me. So, I think we can go  
135 ahead and turn it over to Mr. Householder who will present the staff's position.

136  
137 Mr. Archer - Mr. Householder, how are you, sir?

138  
139 Mr. Lee Householder, County Planner - Thank you, Mr. Chairman, members of the  
140 Commission. The Panera Bread Restaurant has requested a Provisional Use Permit to  
141 allow the construction of an outdoor dining area adjacent to their restaurant. The site is  
142 located in the Summit Shopping Center which is 10301 W. Broad Street.

143  
144 A plan of development has been approved for the Summit Shopping Center and the  
145 shopping center is planned to be built in three phases. Phase 1 has been recently  
146 completed. The approved plans provide for 156 parking spaces, which is 21 more than  
147 what's required by the Ordinance.

148  
149 The proposed use would be placed upon an existing patio on the site, and it will be a  
150 1,000 square foot outdoor dining area. This would include 60 seats.

151  
152 The additional area would require 10 parking spaces, which would meet the  
153 requirements, since they are already 21 over.

154  
155 Other outdoor dining facilities in the area that have recently been approved, include  
156 Apollo's Pizza, Red Hot & Blue Restaurant, and the Franco's Restaurant in the past 2  
157 and one-half years.

158  
159 The applicant has submitted a proposed layout for this site that shows the seating  
160 arrangement. Also, which was not included in your staff report, they have a number of  
161 other diagrams, which I'll bring up now, to give you an idea of the appearance of this  
162 outdoor dining area with railings. And we also have this view (referring to slide) kind  
163 of a three quarter angle of the site.

164  
165 The proposal is consistent with the commercial concentration designation of the site.  
166 And the conditions that are listed in the staff report, we think will ensure compatibility  
167 with nearby offices and retail uses. Staff does recommend approval of this request. I'll  
168 take any questions that you may have.

169  
170 Mr. Archer - All right, thank you, Mr. Householder. Are there  
171 questions from the Commission?

172  
173 Mr. Silber - Mr. Householder, could you go back to that last slide. I  
174 was under the impression that a portion of this site was under roof.

175 Mr. Householder - No.  
176  
177 Mr. Silber - No. It's not?  
178  
179 Mr. Householder - It is not.  
180  
181 Mr. Silber - Okay.  
182  
183 Mr. Kaechele - What are the hours of operation for outdoor dining?  
184  
185 Mr. Householder - The hours of operation are, I know the latest is Midnight.  
186 I'm not positive...  
187  
188 Mr. Kaechele - During regular dining hours, whenever its open?  
189  
190 Mr. Householder - Yes. It's pretty much similar to, I would say, a coffee  
191 house atmosphere inside. I don't know if you've been there. There's pastries and that  
192 sort of thing.  
193  
194 Mr. Vanarsdall - They don't have breakfast, because I called up to find out  
195 what time they cut off breakfast last Saturday. And they said they didn't cut it off.  
196 They didn't cut it on. They had just bagels. I said, "Well, how did you know I didn't  
197 want a bagel?"  
198  
199 Mr. Taylor - Mr. Householder, which end is towards Broad Street?  
200 Are we looking from Broad Street there? Okay. That's Broad Street? So the other  
201 side faces the Westerre valley?  
202  
203 Mr. Householder - Correct.  
204  
205 Mr. Taylor - Which actually is quite a scenic overlook, frankly.  
206  
207 Mr. Householder - This pad is existing right now, this area here (referring to  
208 slide).  
209  
210 Mr. Taylor - And the briefing notes, there is entrance only directly  
211 from the dining area itself, not from the outside? Correct?  
212  
213 Mr. Householder - Correct. We discussed that. It's labeled as "emergency  
214 exit." So, there is a way to get out, but all entrants would come through the restaurant.  
215  
216 Mr. Taylor - That entrance, which would really be a fire exit, is right  
217 where you're indicating (referring to slide). That would normally be closed?  
218

219 Mr. Householder - Yes.  
220  
221 Mrs. Dwyer - Is metal fencing proposed?  
222  
223 Mr. Householder - They're proposing this would is an aluminum...  
224  
225 Mr. Taylor - I believe that's a 3-foot high aluminum sectioned black  
226 painted fence?  
227  
228 Mr. Householder - Correct.  
229  
230 Mr. Taylor - That type of fence was the same type of fence put in at  
231 Red, White and Blue, as I remember, fairly close.  
232  
233 Mr. Householder - I'm not positive it's the exactly same type, but it's similar.  
234  
235 Mr. Archer - Any further questions of Mr. Householder? Okay, Mr.  
236 Taylor, do you need to hear from the applicant?  
237  
238 Mr. Taylor - Would the applicant like to present his case, or is the  
239 applicant here?  
240  
241 Mr. Householder - I was told the district manager was going to be here this  
242 evening.  
243  
244 Mr. Taylor - There's the district manager right there. Would you like  
245 to make some remarks, sir?  
246  
247 Mr. Archer - While he's coming, I guess we should, Mr. Secretary, go  
248 over the rules concerning time.  
249  
250 Mr. Silber - Yes sir. Before you begin, let me remind those present  
251 tonight that the Planning Commission's Rules and Regulations stipulate that with public  
252 hearings for each case, the applicant is given 10 minutes to present his or her case.  
253 Some of that 10-minute period can be reserved for rebuttal. All the opposition is  
254 provided 10 minutes cumulatively to voice their opposition, and then the Commission  
255 will take action.  
256  
257 Mr. Adam Miller - I just wanted to make a comment on the time. He said  
258 Midnight. It closes at 7:00 o'clock on Sunday nights, and 9:00 p.m. the other nights.  
259  
260 Mr. Archer - Sir, would you identify yourself for the record?  
261

262 Mr. Miller - Sure. My name is Adam Miller. I work for Panera  
263 Bread.  
264  
265 Mr. Vanarsdall - What are your hours again?  
266  
267 Mr. Miller - 7:30 to 7:00 on Sundays, and 6:30 a.m. to 9:00 p.m. the  
268 rest of the week.  
269  
270 Mr. Vanarsdall - The latest you stay open...  
271  
272 Mr. Miller - ....is 9:00 o'clock. It will probably never go higher than  
273 that. That was the only comment that I had.  
274  
275 Mr. Taylor - Thank you, Mr. Miller.  
276  
277 Mr. Archer - Any other questions for Mr. Miller before he takes his  
278 seat? Thank you, sir. Okay, I guess its time to hear from the opposition.  
279  
280 Mrs. Emily Nuckols - Hi. I'm Emily Nuckols. I live at 4181 Innesbrook Road.  
281 Innesbrook Road enters Broad Street across from one of the entrances into this  
282 shopping center. It's the entrance that has to be used by anyone who is going west and  
283 wants to go into the shopping center or anyone in the shopping center who wants to  
284 come out and go west.  
285  
286 I can't say that I'm greatly opposed to this. I am very much concerned about traffic.  
287 Panera is immensely popular. And its not unusual when I'm going east on Broad Street  
288 and want to make a left turn into Innesbrook Road to have four or five cars waiting to  
289 make a left turn into that shopping center. And people get impatient because I wait.  
290 It's a playing game. Whose going to stick their neck out first and make a left turn? It's  
291 not me, but others do.  
292  
293 When this property was first rezoned, we were told that the County would work on the  
294 traffic situation at the time of the POD. There was considerable discussion on this  
295 issue at the POD hearing on October 9, 1997. We are waiting for some positive  
296 response to our concern.  
297  
298 Residents in our neighborhood are very concerned about the lack of safe entrance to  
299 and from Innesbrook Road and Broad Street for many hours of the day. I leave home  
300 at 6:30 in the morning to go teach, I have no problem. But come around 7:30, 8:00,  
301 9:00, 10:00, 11:00, 12:00, 1:00; the other day when I came home at 3:00, I waited. I  
302 didn't have to wait but a minute to make my left turn. In that time I saw three cars take  
303 action which I thought was dangerous. I wouldn't have thought of doing it.  
304

305 Mr. James Plotkin, who is with Seven Properties, who owns it, I guess, said he is  
306 willing to help pay for a light signal at this intersection. VDOT was counting the  
307 traffic at this intersection last week. I do not know the results of that.

308

309 My husband talked to Mr. Tim Foster, and he told him that he would ask Robert  
310 Prezioso, whose VDOT's resident engineer at the Sandston office to call us. We have  
311 not heard anything from him. I called him this morning, but we didn't make a  
312 connection.

313

314 I know that VDOT makes the decisions about signals on Broad Street, as it's a State  
315 highway. We also know that Henrico County Government makes decisions about  
316 development; both business and residential; thus, setting up a lot of traffic. Somebody  
317 told us many times that we wouldn't have to worry on Innesbrook Road about the  
318 traffic, they were all going out Cox Road. Well, that's a bunch of baloney. They  
319 didn't know we were going to be there, I guess.

320

321 Our County government should feel responsible for helping either by persuasion or  
322 with money to provide a safe intersection at Innesbrook and Broad Street. I know the  
323 Henrico County Traffic Engineers feel that this particular zoning would not add  
324 significantly to the already heavy traffic burden. A lot of small rocks makes a very  
325 heavy bucket. And, in addition to the through traffic on Broad Street, the shopping  
326 center traffic and new homes, school buses, and Innesbrook office workers, who use  
327 Innesbrook Road, we are hassled by U-turns, really hassled by U-turns from Universal  
328 Ford, Kinko's, and the Gable Apartments. None of them should have to make a U-turn  
329 there. Of course, they have other ways of getting out to Innesbrook to Broad Street  
330 with the light.

331

332 We hope something can be done without waiting for a tragic accident. I have friends  
333 who don't want to visit me because of this intersection. There are times when I do not  
334 go to activities at my Church because of the trauma of getting out of the area. Should  
335 we have to live this way? Thank you.

336

337 Mr. Archer - Thank you, Mrs. Nuckols.

338

339 Mr. Kaechele - Do you perceive the problem more difficult coming out of  
340 Innesbrook Drive and going east on Broad, or is it coming...

341

342 Mrs. Nuckols - Its both ways. Its very hard for us to cross over to get  
343 into the intersection. Occasionally, at 6:30, I can do it, but most of the time...To make  
344 a left turn into Broad Street from our street, we have to go into the middle and wait.  
345 You have to angle your car just so, so that you're not hanging over to be hit.

346

347 Mr. Kaechele - Okay.

348

349 Mrs. Nuckols - And with the traffic coming to make a left turn, a lot of  
350 times you just can't do it. You've either just got to wait, or you have to right turn. Its  
351 hard to make right turns a lot of the time because of the traffic. Sometimes I do go up  
352 to the light at Cox and U-turn and come back. But, there again, I have three lanes of  
353 traffic to cross and that's not always good.

354  
355 Mr. Kaechele - Right.

356  
357 Mrs. Nuckols - Norwood says, "Well, just go up and get on the interstate  
358 at Short Pump?" Well, I don't always want to get on the interstate.

359  
360 Mr. Kaechele - Well, Broad Street probably has 30,000 to 40,000 traffic  
361 per day in that area, I would think.

362  
363 Mr. Silber - Yes sir. At least that.

364  
365 Mr. Kaechele - 40,000 or 50,000 maybe.

366  
367 Mr. Taylor - I know that's under active study now by Todd Eure and  
368 VDOT. Thank you for the call last night. I'm sorry I didn't get back to you today. I  
369 was kind of rushed. But, I knew what the call was. I thought that Mr. Eure would be  
370 here tonight and we would get an idea of what the results are, because it is under active  
371 count at this moment. And I received another call today from Mr. Plotkin who wished  
372 you well and said that he would try to be here tonight.

373  
374 Mr. Kaechele - He's here.

375  
376 Mr. Taylor - Is he here? Oh, I'm sorry. I didn't see you come in, Mr.  
377 Plotkin. I won't speak for him. He will speak for himself. And besides it being under  
378 active study and VDOT counting, our hope is that something will be done. Right now,  
379 as you know, there are four traffic lights between Gaskins and Cox. And one more  
380 will just, perhaps, compound it unless they are adequately sequenced to move traffic as  
381 a group and then stop and allow the cross traffic to occur.

382  
383 But, I think that the County and VDOT, and certainly the staff, are aware of the  
384 problem. And our hope is that it will be resolved fairly quickly by either re-sequencing  
385 the lights or adding another light. But, it is under active study and we should see some  
386 results. I'll ask, Mr. Chairman, if I might,

387  
388 Mr. Archer - Sure.

389  
390 Mr. Taylor - I'd ask Mr. Plotkin if he'd like to come up here because  
391 he and I have had even separate discussions this afternoon on the traffic situation on  
392 that section of Broad. Mr. Plotkin.

393 Mr. James Plotkin - I'm James Plotkin, developer of The Summit, and I'm just  
394 here to answer any questions that you might have. I will add to what's already been  
395 said the fact that my traffic engineer has also studied very recently, in fact, this week,  
396 the traffic count coming in and going out of The Summit Shopping Center.

397

398 Mr. Vanarsdall - Let me ask, have you any results of the count?

399

400 Mr. Plotkin - The results are not very encouraging.

401

402 Mr. Vanarsdall - Not enough for VDOT to put a light?

403

404 Mr. Plotkin - About 20 percent at this point of the warrants that are  
405 required. So, it would take some time and, of course, the completion of the project  
406 with high traffic generators for the project to be able to qualify, making application to  
407 VDOT for a signal. So, as I explained earlier, I'm hopeful that we'll be able to have a  
408 continuing dialogue and explore ways in which we can accelerate the point in time  
409 when a signal can be established at this particular intersection.

410

411 Mr. Archer - Well, Mr. Plotkin, and maybe you're not the one to  
412 answer this. But considering the capacity of the restaurant, and looking at the fact that  
413 the traffic is already heavy now, is it considered that this addition would generate  
414 additional traffic, or would the people who eat inside when the weather is not inclement  
415 simply move outside to eat? Has that been taken into consideration?

416

417 Mr. Plotkin - I really can't make a projection except to, I would defer to  
418 the restaurant, to Panera Bread personnel. I'm not sure which way that would play. In  
419 nice weather I think some people would opt to eat outdoors. Whether more people  
420 would come, I don't know for sure.

421

422 Mr. Silber - Mr. Archer, I can't speak to whether it would generate a  
423 substantial amount of traffic. But, from a parking calculation standpoint, we do require  
424 additional parking for this additional square footage. So, it would be considered to be  
425 additional square footage of restaurant space onsite, so that would presume that would  
426 be additional traffic coming from the site.

427

428 Mr. Plotkin - That would be the intention, we hope, that there would be  
429 additional customers coming in attracted by the outdoor dining.

430

431 Mr. Kaechele - Mr. Plotkin, are you hearing any traffic and safety  
432 concern from the general customers coming into the shopping center when they're  
433 going west on Broad, and want to crossover? Are you getting complaints?

434

435 Mr. Plotkin - I can't say that I've had anything reported to me,  
436 personally. You can see if you try to get out and make a left turn, it takes a longer  
437 time to get out.  
438  
439 Mr. Kaechele - You just have to time it right.  
440  
441 Mr. Vanarsdall - Did they take a traffic count by the counter on the street,  
442 or by sight?  
443  
444 Mr. Plotkin - By sight.  
445  
446 Mr. Vanarsdall - Did they do it in the peak traffic in the mornings and in  
447 the evening?  
448  
449 Mr. Plotkin - My understanding that it was done from, I believe, 6:30  
450 in the morning until about 9:00 at night.  
451  
452 Mr. Vanarsdall - Three days a week?  
453  
454 Mr. Plotkin - Over a two-day period?  
455  
456 Mr. Vanarsdall - Two-day period.  
457  
458 Mr. Taylor - Do you know, Mr. Plotkin, what those lights are now  
459 sequenced to, in harmony with one another to move traffic through there as a group?  
460  
461 Mr. Plotkin - As I understood, this was a verbal report from the traffic  
462 engineer. As I understood what he said, the sequencing is such that it would favor the  
463 introduction of a signal at this intersection without disrupting the normal flow that's  
464 presently experienced at the other signals. So, they would not have to be an  
465 interruption.  
466  
467 Mr. Taylor - Which is to say now four are sequenced? Then we could  
468 put another one in there and sequence it so it would work with the present sequencing.  
469  
470 Mr. Plotkin - That's correct. That's my understanding of what I was  
471 told to do.  
472  
473 Mr. Taylor - Well, certainly, that's a part of this study that we really  
474 need to talk to Traffic and find out what they're doing. And I would think that we  
475 would follow up with traffic to find out what we can do. The question in the short  
476 term, is, "Is it, in your judgment, that this is reasonably safe that it would not affect the  
477 operation of Panera Bread even in its wildest most successful moments?"  
478

479 Mr. Plotkin - I would address that by saying, I would hope that this  
480 would not be a case where casualties and, Heaven forbid, fatalities would have to be  
481 experienced before the light could be justified. I can only say if you're very, very  
482 careful and very lucky and not impatient, and wait until the traffic clears, you can  
483 probably proceed okay. It's just an inconvenience and somewhat of a deterrent over a  
484 period of time. I don't know how that would play out.

485  
486 Mr. Taylor - Well, I think it's certainly something that needs a great  
487 deal of study, and I'm convinced from what I hear that it is being studied. And I will  
488 work with the staff and with Traffic to try to encourage them to do additional studies.  
489 But, my thought at the moment with regard to this additional provisional use permit for  
490 Panera Bread, is that I think that we can go ahead and approve that without serious  
491 impact on the traffic along Broad.

492  
493 Mr. Plotkin - I leave that to your judgment. I think that would be okay.  
494 Only, we're counting on, hopefully, leasing the rest of the property. I would hate to  
495 think that it would be unsafe for anybody to open a store there. I don't think it's at that  
496 point, but I do feel we ought to continue...

497  
498 Mr. Taylor - And we wish you every success in your development.  
499 And we also wish all of the travelers happy trails if they go from Cox to Gaskins.

500  
501 Mr. Plotkin - Absolutely.

502  
503 Mr. Silber - Mr. Plotkin, could you tell me, on the ultimate  
504 development of your property, do you intend to have access back to Westerre Parkway?

505  
506 Mr. Plotkin - We have studied that pretty carefully, and you know the  
507 elevation of Westerre Parkway, and the elevation of the interior of the undeveloped  
508 portion of our site can probably support a connection to Westerre Parkway. But, I  
509 think, at such point in time as we find end users for Phase 2, where the undeveloped  
510 portion of our site, we ought to address that, you know, directly.

511  
512 Mr. Silber - Well, I think that has a large impact on the concern the  
513 Nuckols have expressed, because people coming out of your property trying to make a  
514 left onto Broad Street, many may opt to go out the back door onto Westerre and then  
515 left onto Cox Road. So, I think that will alleviate that intersection, if there's a  
516 backdoor connection to Westerre. In fact, when that connection is made, I think it  
517 would help quite a bit.

518  
519 Mr. Plotkin - Well, so far, we have not been able to develop the second  
520 phase of our project. And, I think, serving the public; the customers that are coming in  
521 the front door is a very high priority in making it easy and safe for them to come and  
522 go, and also to help the residential community across the street with their problems also

523 is a high priority for us. So, I think what you're talking about is probably off in the  
524 future. We don't really know when that will develop and when that connection would  
525 be made.

526

527 Mr. Archer - Well, Mr. Plotkin, considering the developable part that's  
528 not been developed yet, and what additional traffic, I guess we're assuming this outdoor  
529 dining is going to bring, then it would seem that, at some point, we would approach a  
530 time when the traffic studies would dictate that a signal is necessary. But, if we don't  
531 develop any further, then maybe we won't reach that point. So, it's kind of between  
532 the devil and deep blue sea. And, you know, Mrs. Nuckols did say she wasn't in  
533 opposition to what's happening here, but the traffic is what her concern is. So, we are  
534 kind of "Darn if we do and darn if we don't". I don't know the answer. I just thought  
535 I'd make that observation.

536

537 Mr. Plotkin - Right. You're exactly right. The more traffic that is  
538 generated by the project, the more likely it is that we would qualify for a traffic signal.  
539 But, at only 20 percent of the warrants at this moment, even if another restaurant were  
540 to be built at the project, that was just as active as Panera Bread, that would put the  
541 warrants at approximately 50 percent. Beyond that, it would just depend on the actual  
542 merchants or occupants of the rest of the property as to how large a volume of traffic  
543 was attracted.

544

545 Mr. Taylor - Mr. Chairman, I think the concern is that, right now,  
546 everything is working okay. But, we need to be cognizant of what to do in the future to  
547 allow for further growth, and I think that's what highways is doing. And when Mrs.  
548 Nuckols called me, and I think her statement was to the effect that, she is not  
549 necessarily concerned about this project with Panera Bread, but she wanted to look at a  
550 little bit longer term in terms of the study and do something with those lights to  
551 improve traffic. Am I correct in that regard in trying to make that constrains from the  
552 conversation? So, my thought would be, we would some how officially request that  
553 VDOT or Highways look at alternatives available in those four lights to take a look at  
554 present traffic, and forecast traffic and look at what we might achieve through a  
555 sequencing approach or some kind of other traffic expediting mode and just go ahead  
556 and move on this project, and let the two go parallel, but each on its separate track  
557 towards success.

558

559 Mrs. Dwyer - Mr. Taylor, I'd like to amplify Mr. Silber's observation,  
560 which is, rather than relying on VDOT's studies, and the point in the future which  
561 seems unlikely for the long term of getting a signal at this intersection, it looks like Mr.  
562 Plotkin has the ability to provide access to Westerre which could funnel traffic away  
563 from Broad onto Westerre where they could go to Broad or out to Cox. So, that seems  
564 to me that might be an option that is worth looking at sooner, rather than later, given  
565 the concern of the residents about entry onto Broad Street Road.

566

567 Mr. Vanarsdall - I agree. This is not a new subject, tonight. Mr. Nuckols  
568 and Mrs. Nuckols can tell you that they have been here as many times as anyone we've  
569 ever had on this one intersection. It has always been abused by Universal Ford. When  
570 the salesmen take people to test a car, they come down. They make a U-turn there.  
571 They do have a way to get on Cox Road. They will have to come down there. Mr.  
572 Nuckols asked one time that we try to get a "No U-turn sign" there. And, it seems like  
573 that every time he's ever asked anything, he always gets the same answer. "We're  
574 going to study it. We're gong to look at it" or something. And it's still a problem.  
575 It's has always been a problem.

576

577 Mr. Taylor I would suggest that between now and the Board time that you find out  
578 from traffic what the study is and how many more numbers we have to have to do  
579 something with it. Let me ask Mrs. Nuckols, "Do you think a stoplight would take  
580 care of the problem there?"

581

582 Mrs. Nuckols - Yes sir. I do. I would say, like you mentioned,  
583 Universal can go out a back way. People at the Gables can go back to Ft. McHenry.  
584 It's now Lexus and Drop Farm Drive, and have access to Broad Street with a light  
585 which is so much safer. I've even seen the new car carriers come down and make a U-  
586 turn there. I just don't think the people who come into this restaurant, unless they  
587 come often and really know the area, will bother to go out the back. So, I think the  
588 light would be a whole lot better, even though I think that would be a good, you know,  
589 not a replacement, but it would be a good supplement to that.

590

591 Mr. Vanarsdall - Well, I agree with Mrs. Dwyer and Mr. Silber. As I sit  
592 here thinking about it, I don't know why a back entrance wasn't suggested before that  
593 land was ever zoned and anything was ever put on it.

594

595 Mrs. Nuckols - I'd like to make one comment when you talk about  
596 synchronizing the lights. I have been from Lexington Farm Drive down to St. Mary's  
597 and only stop by a light when I got to Bremo and Monument. Done that several times.  
598 A lot of times I get stopped by one or two lights. But somebody has done a terrific job  
599 with synchronizing those lights. I don't know who it is. I wish I could be that smart.

600

601 Mr. Vanarsdall - We have lights now everywhere but an alley. So, one  
602 more won't make any difference.

603

604 Mr. Plotkin - May I make one other point?

605

606 Mr. Silber - Go ahead, Mr. Plotkin.

607

608 Mr. Plotkin - In response to the suggestion that we make a connection to  
609 Westerre Parkway, I think we all need to understand that, in the language of the traffic  
610 engineers and in the State's terminology, if there's a connection to Westerre Parkway, I

611 think we can kiss good bye any chance of getting a signal at that intersection. The  
612 reason being, when they count for the warrants, those who slip away through the back  
613 and so forth, you know, will be removed from the count. And the Traffic Engineer has  
614 told me that, "If you don't want a light there, the best way to get it is a back door to  
615 Westerre Parkway." On the other hand if the safety factor and the other considerations  
616 for traffic trying to move west from the Summit Shopping Center, and if you want to  
617 eliminate the hazard of U-turns being made by, you know, customers of Universal Ford  
618 and so forth, with a signal, or control it better with a signal, you know the light is  
619 probably the best way to go. But, if we do connect, I don't think there will be a signal.

620

621 Mr. Archer - Okay. Other questions of Mr. Plotkin? Thank you, sir.

622

623 Mr. Plotkin - Thank you.

624

625 Mr. Archer - All right, Mr. Taylor.

626

627 Mr. Taylor - Well, Mr. Chairman, suffice to say someway somehow  
628 we need to encourage VDOT and our transportation people to make a very careful  
629 study of this. And I wonder if a motion by me to have the staff, is in order, a motion  
630 to have the staff study this and report back to us within 90 days? Is that an appropriate  
631 motion?

632

633 Mr. Archer - I don't know that we need to make a motion to do that.

634

635 Mr. Silber - Mr. Taylor, I think that's under the realm of the  
636 Department of Public Works traffic engineers. I don't know if we should be  
637 committing them to a certain time period. What I can tell you, we will get with them  
638 and we will have them study this and we can formally get back with you as to what they  
639 have found. I'd rather you not, maybe without them being here, set a timeframe for  
640 which they need to study it.

641

642 Mr. Taylor - That's fine, sir. That will work. With regard to Panera  
643 Bread, I recognize all of the issues. But, this is a 1,000 square foot pad to allow  
644 outdoor dining, and I don't know that this will materially add to the traffic load. And I  
645 think this will probably, in fact, be several months in the development and the  
646 construction, and the use. So, I will move approval of Provisional Use Permit 3-01  
647 Panera Bread as to allow an outdoor dining area.

648

649 Mr. Archer - Is there a second?

650

651 Mr. Jernigan seconded the motion.

652

653 Mrs. Dwyer - Excuse me. Do we need to mention the conditions, Mr.  
654 Silber?

655 Mr. Silber - I just assumed that included all of the conditions. Yes  
656 ma'am.

657  
658 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Jernigan. All  
659 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele  
660 abstained. The motion carries.

661  
662 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Jernigan, the Planning  
663 Commission voted 5-0, (one abstention) to recommend that the Board of Supervisors  
664 **grant the requested revocable provisional use permit**, subject to the following  
665 conditions:

- 666
- 667 1. No outside, amplified live music performances shall be permitted.
  - 668 2. Any outside speakers or sound system shall comply with following standards:
    - 669 a. Sound systems must be equipped with controls permitting full volume  
670 adjustment.
    - 671 b. Sound from the system shall not be audible beyond 100 feet from the  
672 source.
    - 673 c. Sound systems may be used only when outside dining is permitted.
  - 674 3. The outdoor dining area shall be limited to 1000 square feet and constructed as  
675 shown on the "Proposed Outdoor Seating, Panera Bread" dated March 12,  
676 2001.
  - 677
  - 678 4. Trash receptacles shall be provided and properly serviced to control litter  
679 generated by this use.
  - 680 5. Access to the outdoor dining area shall be available only through the restaurant;  
681 patrons may not gain access directly from the adjacent parking area except that  
682 an emergency exit may be provided.
  - 683 6. Revision and administrative approval of POD 17-96 for this site shall be  
684 obtained to reflect the proposed outdoor dining area and related ordinance  
685 requirements, including revised parking calculations.
  - 686 7. The hours of operation for the outdoor dining area shall be limited to 10:00pm.
  - 687

688 The Planning Commission's recommendation was based on the fact that the conditions  
689 should minimize the potential impacts on surrounding land uses, and it would not be  
690 expected to adversely affect public safety, health or general welfare.

691  
692 Mr. Silber - That was our expedited case, right?

693  
694 Mr. Archer - Yes, it was.

695  
696 **Deferred from the March 8, 2001 Meeting:**  
697 **C-7C-01 Curtis D. Gordon for West End Developers, L.L.C.:**  
698 Request to conditionally rezone from A-1 Agricultural District to R-3C One Family

699 Residence District (Conditional), Parcels 56-1-A-1 (Winngate Subdivision) and 56-A-4,  
700 described as follows:

701

702 Beginning at a point on the N. line of Church Road, said point being 200' west of the  
703 W. line extended of Abbey Lane; thence continuing along the N. line of Church Road  
704 N. 64° 49' 06" W., 368.46' to a point; thence leaving the N. line of Church Road N.  
705 51° 35' 53" E., 998.47' to a point; thence N. 50° 14' 32" E., 167.43' to a point;  
706 thence S. 39° 07' 56" E., 202.98' to a point; thence S. 51° 35' 05" W., 855.36' to a  
707 point; thence S. 54° 48' 38" E., 50.80' to a point; thence S. 25° 11' 22" W., 191.76'  
708 to the point and place of beginning, containing 5.550 acres.

709

710 Mr. Archer - Is there opposition to C-7C-01? We do have opposition.

711 All right, Mr. Householder.

712

713 Mr. Householder - Thank you. At the Planning Commission on March 8,  
714 2001, concerns were raised with regard to proffered buffered areas along lots adjacent  
715 to the Glen Gary Subdivision, which would be here where I'm kind of waiving this  
716 hand around (referring to slide).

717

718 The Planning Commission deferred this case to April 12<sup>th</sup> to allow additional time to  
719 review and amend these proffers to address this area and other parts of the proffers.  
720 The applicant has revised Proffers 4 and 12 to try and address the Planning  
721 Commission's concerns. These proffers would require a 20-foot buffer area where  
722 trees with a 5-inch caliper or greater would be preserved. As written, the proffers  
723 would apply to a developer or initial homebuilder at the time of the development of the  
724 proposed subdivision. And they would not apply to lots sold after the subdivision or to  
725 an individual property owner.

726

727 Other changes made from the March 8<sup>th</sup> meeting was they deleted a proffer that  
728 required an attractive low maintenance fencing and signage at an entranceway and they  
729 deleted a proffer allowing maximum of 7 lots to have gravel driveways.

730

731 Staff did recommend additional changes to the proffers which were handed out to you  
732 tonight; Proffers 9 and 10, the black line version. These were reworded in order to  
733 clarify their intent.

734

735 Overall, staff feels this proposal is consistent with the recommendation of the 2010  
736 Land Use Plan. Staff feels the proposed single-family use is reasonable on this site.  
737 The revised proffers adequately address the remaining concerns with this case.  
738 However, we do feel the language, in some places, could be improved or clarified still.  
739 But we're prepared to recommend approval of this request. And I'll take any questions  
740 that you may have.

741 Mr. Archer - Thank you, Mr. Householder. Are there questions from  
742 the Commission? Mr. Householder, what language, in particular, do you think we  
743 could tighten up a little bit?  
744  
745 Mr. Householder - There's about five or six. An example would be Proffer 2  
746 where it says, "Lots shall be offset." Our County Attorney feels its vague.  
747  
748 Mr. Archer - Okay.  
749  
750 Mr. Householder - What does that really mean? The reason for the proffer  
751 was a direct result to address community concerns that the lines would be offset from -  
752 and this master plan is proffered already. In these areas the lines don't line up. The  
753 community thought that was important. But that language is vague. Proffer 3,  
754 "attractively landscaped dry pond...", instead of "attractively landscaped." We  
755 typically like to have some particular...  
756  
757 Mr. Archer - Some specifics. Okay.  
758  
759 Mr. Householder - And I think that is kind of a consistency in some of the  
760 proffers where you have some of those vager statements. And I have mentioned those  
761 to the applicant.  
762  
763 Mr. Archer - All right.  
764  
765 Mrs. Dwyer - Mr. Householder, I had mentioned to you a couple of  
766 concerns I had too. Have those been mentioned to the applicant?  
767  
768 Mr. Householder - They have not been communicated to the applicant, yet.  
769 No.  
770  
771 Mrs. Dwyer - I'll just mention those, briefly, then. In Proffer 7, it  
772 requires a common area between the subdivision and Waterford. And, actually, the  
773 common area is not between the subdivisions. It's a part of the new subdivision. So,  
774 its kind of a technical point. But the language is awkward and makes it appear as  
775 though we have some stretch of land in between the two developments.  
776  
777 Mr. Householder - Okay.  
778  
779 Mrs. Dwyer - The other is in the same paragraph, mention of "landscape  
780 plan review," which we typically do with POD's but not subdivisions. So, my thought  
781 would be to repeat the language that we have in Proffer 12.  
782  
783 Mr. Householder - In the last sentence of Proffer 12.  
784

785 Mrs. Dwyer - ...which refers to final subdivision review.  
786  
787 Mr. Householder - Okay.  
788  
789 Mr. Archer - Okay. Any further questions or comments from the  
790 Commission? All right, thank you, Mr. Householder. Mr. Taylor, we'll hear from the  
791 applicant, I suppose?  
792  
793 Mr. Taylor - Yes, Mr. Chairman.  
794  
795 Mr. Curtis Gordon - Members of the Commission, my name is Curtis Gordon.  
796 I'm here on behalf of the applicant. The comments just made are well taken. And I  
797 will certainly be happy to work with staff between now and the Board of Supervisors  
798 meeting to make those changes to Paragraph 12, as pointed out by Mrs. Dwyer.  
799  
800 Further, in speaking to Mr. Shumate, who is here today representing the vast majority  
801 of the homeowners of the Glen Gary Subdivision, prior to this meeting, I had also  
802 agreed, prior to the Board of Supervisors meeting, to add into the proffered conditions  
803 that the mandatory homeowners association that will be formed for this subdivision  
804 must give approval for any cutting of trees 20 feet along the back line, if you will, of  
805 these lots as they border Glen Gary.  
806  
807 As the Commission may remember, there was some prolonged discussion last time of  
808 the advisability or practicality of making a prohibition against cutting trees. My  
809 understanding of the Commission's position was that, that was not acceptable.  
810  
811 A compromise, I believe, has been reached with the adjacent landowners is that, as  
812 written, neither the developer or the builder will cut any trees in that 20-foot area, nor  
813 will homeowners be allowed to cut trees without their subdivision's approval to remove  
814 trees in that area. And I believe that's an acceptable compromise to the Glen Gary  
815 Subdivision Homeowners, but I'll let Mr. Shumake address that point.  
816  
817 Also, I had agreed to proffer that we would have no rear loaded garages on the lots that  
818 border Glen Gary. And, with the staff's approval, reinsert the proffer concerning the  
819 driveways. I'll be happy to answer any questions.  
820  
821 Mr. Archer - Thank you, Mr. Gordon. Are there questions from the  
822 Commission?  
823  
824 Mr. Gordon - Thank you.  
825  
826 Mr. Archer - All right, I guess we'll hear from the opposition.  
827

828 Mr. William Shumake - May it please the Commission, my name is William  
829 Shumake. I represent a vast majority of the Glen Gary residents that adjoin this  
830 development. And I would just like to take a moment to discuss this case; the  
831 negotiations, and why we think that the previously agreed upon proffer, especially as it  
832 relates to the buffer, should be accepted.

833

834 This was a very, very difficult case, as you can imagine. It was infill. This is an  
835 extreme skinny piece of property. So, when my folks were buying there, it looked to  
836 them that you couldn't build another subdivision in there. And, as you can imagine, a  
837 lot of real estate agents who probably honestly believed that, too, assured them that,  
838 "Yes, " that was probably the case.

839

840 Now, that was not any representation made by the owner of this property, but, people  
841 bought based on this. Most of these houses along this piece of property are some of the  
842 better homes in Glen Gary, and have the largest setbacks. A number of them have a 50  
843 to 70 foot setback, and have larger lots than what's being proposed. So, obviously, this  
844 was a very difficult case when it first came forward.

845

846 But, I will say with Mr. Gordon and his partners, we sat down, the neighborhood, and  
847 the applicant and worked very hard together to come up with a compromise that would  
848 allow them to maximize the number of lots they could have. Make them premium lots  
849 that would attract a premium price, and have quality homes, and protect the  
850 neighborhood. And that was the atmosphere that we negotiated with. And that was the  
851 basis of the agreed upon proffers that were submitted last month.

852

853 And the single biggest thing that my clients wanted was the furthest setback they  
854 could, and the 20-foot buffer. And the way these negotiations, basically, went, and  
855 Mr. Taylor was involved in many of them, and helped to guide us, was that our clients  
856 steadfastly said that 20-foot buffer is so important that they gave on a lot of issues. So,  
857 for example, there are no ranchers in Glen Gary. And, as Mr. Taylor had indicated,  
858 they wanted to be comparable. So, initially, there were going to be no ranch homes.  
859 And the applicant said, "Well, I'd like the flexibility to have three or four." And my  
860 clients said, "Well, if we have a tree buffer that allows you to put fences or birdhouses,  
861 and underbrush, take that out, but we have a 20-foot tree buffer, that'd be okay.

862

863 They wanted at least 2,400 square feet on the houses, which would be consistent with  
864 the houses that are next to this subdivision. Indeed, some of them are in excess of  
865 3,000, 3,500 square feet. And we came down off that, provided we can get the buffer.  
866 I know, on the very end where the cul-de-sac is, technically, those are side yards. So,  
867 those houses could be within 15 feet without a proffered condition. And, as proffered,  
868 we agreed to 30 feet, which is much less than a rear yard, so you have a whole house  
869 right next to the line. But, Mr. Gordon, if he did a 40-foot setback on those side yards,  
870 he'd lose a lot. And the neighborhood worked with him and said, "Well, that's not our  
871 intent. We can go with 30, if we have a 20-foot buffer." And that was the consistent

872 theme of the negotiations, and that's how we've gotten it there. Because, initially, we  
873 had wanted the 20 feet in the back and we also went less than 60 feet on the setbacks.  
874 And we wanted the 20 feet to be common area to make sure they wouldn't be cut, just  
875 like it is on the other side of the road. Mr. Gordon said, "No. I want the appearance  
876 of as large a lot as I can. That'll be a premium for the lot." And, we said, "That's  
877 fine. That makes a lot of sense, because we want quality homes, provided we have a  
878 tree save area."

879

880 And this is a proffer that I know has been accepted in numerous jurisdictions. So, that  
881 was probably the most important proffer of my clients and I coming together with Mr.  
882 Gordon. And, to Mr. Gordon's credit, as he indicated before, he was willing to stand  
883 by that deal, because we both made compromises as part of that.

884

885 And I would simply say that, prospectively, if the Planning Commission doesn't like  
886 tree save buffers in residential neighborhoods, I know that's an acceptable protocol in  
887 commercial cases when you're buffering other properties. But, for some reason, that's  
888 a problem. I would ask that be applied prospectively. Because I think it can be a  
889 concerning precedent if the people come together as a neighborhood. And the owner of  
890 the property who could put an outdoor easement on it, if he wanted. And they'd  
891 voluntarily place restrictions on the property working together to resolve an issue so  
892 that the neighborhoods are happy, the applicant's happy, and its on the consent agenda.  
893 If, after everyone's in agreement, we come to the Planning Commission and certain  
894 proffers are taken out, which were very important and represented a lot of concessions.  
895 And, so the deal is materially altered, that will affect the ability to negotiate subsequent  
896 cases, I would respectfully submit. Because it would be very hard for developers, and I  
897 represent a number of them, and the neighborhood to feel confident that they can give  
898 these concessions, if they don't know the concessions will be upheld, even though  
899 everybody is in agreement.

900

901 So, I would respectfully submit that the old proffer, as it relates to the tree buffer,  
902 should be reinstated. But I will say that, Mr. Gordon and his partners, to their credit,  
903 when we came to this issue, I've tried to work with this to come as close to our deal as  
904 we could, with acceptance from the Planning Commission. And that's why he  
905 identified the language of the developer and the builders not cutting down the trees, and  
906 to have a restrictive covenant requiring that homeowners associations must give  
907 approval.

908

909 I'll tell you one particular lot I'm concerned of; that 30-foot lot which is a side yard. If  
910 those trees are cut down, you've got a house right on the property line. It's a material  
911 condition. But I will say that Mr. Gordon has worked hard with us to try to meet the  
912 spirit of our joint agreement and I commend them.

913

914 So, I would ask that the old deal be upheld. But, if not, that the proffers submitted by  
915 Mr. Gordon today be accepted. He's also indicated, between the Planning Commission

916 and the Board, he'll do restrictive covenants that are consistent with the Glen Gary  
917 Subdivision. And we thank him for that.

918  
919 So, those are my concerns on this case. And this was a very, very difficult case.  
920 Emotions were very, very high. But we were able to work them out. And I think that  
921 the County and its representatives got a great deal of credit for that. And this was a  
922 very material provision. And it wasn't done lightly.

923  
924 One question that I would have, and, as it relates to Proffer 9 with the changed  
925 language, when it says, "a 55-foot setback on any principal structure..." One of my  
926 clients has a concern of, "Well, does that mean, how close could you build a pool or  
927 something like that; major structure to the property line?" That isn't specifically  
928 addressed in this proffer currently worded. I would kindly ask for an opinion on that.

929  
930 But I thank the Commission for the time. I'd be glad to answer any questions that you  
931 might have.

932  
933 Mr. Archer - I was just going to ask can anybody answer that question  
934 concerning the proffer?

935  
936 Mr. Vanarsdall - What was the one thing that derailed this last time we met  
937 on this last month?

938  
939 Mr. Shumate - As I understand it...

940  
941 Mr. Vanarsdall - What proffer was it that derailed us?

942  
943 Mr. Shumate - The proffer was the 20-foot tree save area; Proffer No. 4.  
944 There was concern that subsequent homeowners who would take these properties, even  
945 though they'd be notified that this was a restriction.

946  
947 Mr. Vanarsdall - Is it worded any different tonight than it was last month?

948  
949 Mr. Shumate - Yes. It is. It allows someone else like the one on Lot  
950 No. 12. If he decides to cut down all his trees in the side yard, he can clear them.

951  
952 Mrs. Dwyer - The proffer last month prohibited any homeowner in  
953 perpetuity from being able to cut any trees down within that 20-feet of their backyard.  
954 But this month, the proffer has been changed to say that, the developer and the builder  
955 may not cut down trees within that 20-foot area? But it is not binding on subsequent  
956 purchasers?

957  
958 Mr. Shumate - That's right. They can cut down anything less than 5 inch  
959 caliper. They can remove any dead or dying or damaged trees. They can put

960 structures in; bird houses, or fences. We are simply trying to have a tree save area to  
961 try to maintain the character of this neighborhood, while not affecting the number of  
962 lots that they could have.

963

964 And, quite frankly, I think Mr. Gordon was able to agree to this because those trees, in  
965 effect, if they are maintained by all the owners, will add value to the subdivision itself.  
966 So, we were able to come together with him on that issue. But, if you have one owner  
967 decides, "I'm going to build a pool, and I'm going to put it right in the back, okay."  
968 And this seems to be a reasonable condition. A zoning restriction in and of itself, any  
969 zoning has restrictions. So, that, for example, if you have a 40-foot setback, you  
970 cannot, as a property owner, build an addition that invades the 40-foot setback from the  
971 house. I mean that's a restriction. I think the issue is, if the current landowner is  
972 willing to restrict their property this way, I don't think the County should stand in the  
973 way of the landowner doing what they want with the property, which is to give this  
974 proffer. And he's gotten many other things in exchange for that, and to their credit.  
975 They recognize that. And that's why they said they're willing to stand by what we had  
976 negotiated, because they realize that was so important to my clients. And they realize  
977 that they were able to get considerable concessions in exchange for that. And, to Mr.  
978 Gordon's credit, he asked for the deferral, when I couldn't be here. And he's willing  
979 to maintain to that connection. And that speaks very well of him and I praise him and  
980 his partners for that.

981

982 But we do tree saves on other contexts in other cases. And, since this was a negotiated  
983 condition, and materially changed our position in this case, I would ask that you  
984 reinstate that condition.

985

986 Mr. Kaechele - Mr. Shumate, do you or the homeowners feel that a  
987 restrictive covenant is strong enough?

988

989 Mr. Shumate - It's better than nothing at all, Mr. Kaechele. But, the  
990 problem is, with a restrictive covenant, it's twofold: One is, my clients will not have  
991 standing to enforce it. It will only be the other owners.

992

993 And the other thing is, I think you'll find the other landowners in this subdivision will  
994 want a zoning condition. Because if it's a restrictive covenant, they have no force other  
995 than to personally sue. They can't say it's a zoning violation. So, I think you would  
996 actually find that the other residents of this subdivision, once they come in, would be  
997 grateful for a zoning condition, the vast majority. The one person who wants to ripe all  
998 his trees down, obviously, will have disagreements with his neighbors, but he'd have  
999 disagreements anyway, if that's the kind of neighbor he was going to be.

1000

1001 Mrs. Dwyer - Mr. Shumate, you and I talked about this on the phone.  
1002 So, we have agreed to disagree on this point. But, I just, for the record, wanted to  
1003 respond. One is, I think trees are valued by homeowners and I doubt very seriously



1048 developed, given the topography, I would respectfully submit that, that could be a  
1049 consensus.

1050

1051 So, when we're in negotiations, and we're discussing this with the Planning  
1052 Commissioner whose district it lies and staff, then we know that those are the  
1053 parameters. And that will shape the settlement. I think this is a unique situation. You,  
1054 very forcefully, and I understand your arguments. I think there are powerful arguments  
1055 on both sides. And I recognize some of the merits of what you're saying. But, there's  
1056 also a principle of being able, when the parties come together, and they agree, they're  
1057 able to work it out, and they've made material concessions that that's something that  
1058 should be approved. Because, if its not, and while they're negotiating they aren't  
1059 advised this is going to be a problem. It will make subsequent cases and, perhaps,  
1060 much larger cases, difficult to come to resolution, because everybody will be afraid.  
1061 These are legal proffers. We've agreed, but if we go up, we may lose the proffer and  
1062 we will have given up many things that we wouldn't have had to give up in exchange  
1063 for that. I think that is a concern. And I think there will be a problem with goodwill,  
1064 no matter what happens if all those trees come down. I mean...

1065

1066 Mrs. Dwyer - Well, I think its wonderful that the developer and the  
1067 neighbors have reached an accord. And we always encourage that. You know, 99  
1068 percent of the time, its acceptable to the Commission. Sometimes in a rare case, it  
1069 isn't. And I guess one last point I'd like to make is that there was one group of people  
1070 who were not at the table during these negotiations. And those are the homeowners  
1071 who will live in these houses who will pay their mortgages and pay their taxes. I think  
1072 part of what the Commission is looking at is, all the parties that are in play, not just  
1073 the homeowners in Glen Gary and not the developer who will develop his homes and  
1074 then leave, but the people who will be owning these homes for many, many years. And  
1075 my comments address their interests.

1076

1077 Mr. Shumate - Well, in response to that, I think we are protecting the  
1078 interests. Because you have to admit, when this first came forward, what was going to  
1079 happen was, there was going to be a 40-foot setback with no trees. And that's what  
1080 they were going to have. And what we've effectively negotiated on their behalf is,  
1081 basically, a bigger lot, with trees, which will command a premium. So, I think the  
1082 choice is, one, given those are the two alternatives, I think most people would say,  
1083 "We are better served," on balance. I think the second thing is, if you buy property,  
1084 and I represent clients all the time who have bought property who the previous owner  
1085 has put all kinds of restrictions on. And restrictive covenants themselves. Every  
1086 subdivision has a bevy of restrictive covenants. And some homeowner associations are  
1087 very adept at enforcing those restrictive covenants. They're every bit has the force of  
1088 law as a proffered zoning case. The only issue is, who has standing to enforce them?  
1089 And people buy it. There's notice, and they're buying a lot that they know or should  
1090 know has restrictions. And, so, I think people should be able to voluntarily make that  
1091 decision. Thank you.

1092 Mr. Archer - Mr. Shumate, before you sit down, I think in, during the  
1093 time that I've served on this Commission, probably all of us have had cases where there  
1094 has been a request from an adjoining neighborhood to buffer itself from a new  
1095 neighborhood. And, my understanding it is not a rule as such, but it is policy that we  
1096 don't buffer one neighborhood from another. And I think one of the things that we fear  
1097 most about this is that, that's a precedent that would be set. We relied on that quite  
1098 heavily. I know I've had cases in my district where people have wanted us to put a  
1099 fence or a tree save area or something in between one neighborhood and another. And,  
1100 in order to be consistent with the way in which we've settled cases, we opt not to do  
1101 that. And I think that is really what is concerning us in this particular case is that this  
1102 would be precedent setting to some degree, if we allow that to happen. And, I fully  
1103 understand exactly what it is that the people in Glen Gary have come to think is  
1104 something that would not happen. And that has happened quite a few times. In fact, its  
1105 even happened in my neighborhood. Things that we thought would never happen, did  
1106 happen. And, even though, there were, to some degree, restrictive covenants, they  
1107 didn't quite cover the issue that was at hand. So, I just wanted to make that  
1108 clarification. That this is how I understand, and I'm sure you do now too, after your  
1109 discussion with Mrs. Dwyer. But this is how I understand what our concern is about  
1110 this.

1111  
1112 Mr. Shumate - I guess, Mr. Chairman, I would have two responses to  
1113 that. One is, I think every case, while you can have a general public policy, every case  
1114 is unique. And a lot of times you'll have a case where its obviously a lot of land any  
1115 reasonable person is going to assume at some point, that's going to be developed. My  
1116 folks feel so strongly about it, as Mr. Gordon can say. They've made offers to buy this  
1117 entire piece of property at fair market value. That's how strongly they feel about it.

1118  
1119 Mr. Archer - I'm not disagreeing with you. I do understand exactly  
1120 what you're saying.

1121  
1122 Mr. Shumate - And, so, this is such a unique case that, if you go out and  
1123 look at it, it's hard to believe you can fit a subdivision. Technically, you can, but at  
1124 first glance, it would not occur to you that you'd be able to get a subdivision down  
1125 there.

1126  
1127 The other is, that's one reason why we gave up on a lot of things that we thought that  
1128 we reasonably could achieve in the zoning case. Because I didn't necessarily think that  
1129 we could get this buffer unless we negotiated out and gave things to the developer that  
1130 he would want and he wouldn't be necessarily assured of getting. So, its kind of a  
1131 trade when you're negotiating. There's a chance, and I told my folks. There's a  
1132 chance you're not going to get this buffer. You might get the setback. You might not.  
1133 If that's so important, give up this, this, this, and this. I think there's a difference  
1134 when there's no agreement and you have to decide you rely on that public policy, as

1135 opposed to, as in this case, when both sides work so hard together to come up with a  
1136 common solution that I think that changes the equation just a little bit. Thank you, sir.  
1137  
1138 Mr. Archer - Thank you, sir. I think your time is about up. We've  
1139 kind of stretched this a little bit, but...  
1140  
1141 Mr. Vanarsdall - Well, Mr. Shumate, would you be satisfied if the  
1142 Commission did, recommend approval, and delete No. 4, and let the Board settle that?  
1143  
1144 Mr. Shumate - At this point, what I would ask that the Planning  
1145 Commission, if the Planning Commission is not inclined to have the previous proffer,  
1146 at the very least, I will say that what Mr. Gordon has submitted is better than no  
1147 proffer at all.  
1148  
1149 Mr. Silber - Mr. Chairman, if I can add, this debate has been healthy.  
1150 But I think its time to move on. What's before us is a set of proffered conditions that's  
1151 been offered by the applicant. I think the Commission needs to vote these proffered  
1152 conditions up or down. We are debating a proffer that's not even before the  
1153 Commission. I would suggest that we move on.  
1154  
1155 Mr. Archer - I agree with the Secretary. I think we're getting a little  
1156 repetitious here. So...  
1157  
1158 Mr. Shumate - I appreciate the Commission...  
1159  
1160 Mr. Taylor - We appreciate everything you've done.  
1161  
1162 Mr. Shumate - Thank you.  
1163  
1164 Mr. Archer - All right, Mr. Taylor. Did you want to have some  
1165 rebuttal, sir? You did have some time left.  
1166  
1167 Mr. Silber - He had about 7 minutes.  
1168  
1169 Mr. Gordon - I have no rebuttal, other than I would like to echo Mr.  
1170 Shumate's kudos to Mr. Taylor and the staff for all the hard work that they put into  
1171 reaching, what I hope will be, and trust will be, a satisfactory resolution to this  
1172 situation for all concerned. Thank you.  
1173  
1174 Mr. Archer - Okay. Now, Mr. Taylor.  
1175  
1176 Mr. Taylor - Thank you, Mr. Chairman. And I don't want to elongate  
1177 the proceedings whatsoever accept to say, that this has been a very difficult case. We  
1178 have come up with various and different approaches to the development. And I think

1179 both the Glen Gary people, the Waterford people and the people that will live in this  
1180 subdivision are well served by the efforts of Mr. Shumake and Mr. Gordon.

1181  
1182 In going along, it is certainly a difficult project for infill. We know that. It is always  
1183 difficult. The narrowness of this one doesn't make it any easier. But, basically, when  
1184 you look at it, it's nothing more to an extent as one row of houses adjacent another row  
1185 of houses. And that exists in many of our communities today when they're all built at  
1186 one time. And this is about an artful job of fitting a linear project into a very narrow  
1187 linear plot. And I want to commend the architects, the engineers, and the lawyers for  
1188 all of the work. I actually hope that all of the changes that have been made to date on  
1189 these proffers work to everybody's approval.

1190  
1191 With regard to the issue of the trees, it has been difficult and I think the way we have in  
1192 the proffers right now allows us the opportunity at the subdivision stage to include some  
1193 additional wording that works for both the Waterford people and the Glen Gary people  
1194 as well as the people in this subdivision with regard to the protection of the trees and  
1195 the buffers. And I'm convinced that working together in harmony, as we have in the  
1196 past, that the two neighborhoods will grow together and prosper. And, with that, I will  
1197 move to waive the time limits on the proffers.

1198  
1199 Mrs. Dwyer - Which proffers are we...  
1200

1201 Mr. Taylor - These are the proffers we just received tonight which are  
1202 dated April 6<sup>th</sup>.  
1203

1204 Mr. Vanarsdall - They're dated the 6<sup>th</sup>.  
1205

1206 Mr. Householder - The proffers you have handed out were received in time.  
1207 It's not necessary.  
1208

1209 Mr. Taylor - Okay. Then we do not waive the proffers. So, we refer  
1210 to these as the new proffers or the current proffers?  
1211

1212 Mr. Householder - Current proffers.  
1213

1214 Mr. Taylor - Just the current proffers.  
1215

1216 Mrs. Dwyer - May I just make an inquiry? There was mention of a  
1217 driveway proffer and some other factors that I believe the applicant stated they wanted  
1218 to put in the proffers. But, that's not in the set we're voting on right now?  
1219

1220 Mr. Householder - They would like to put those in between now and the  
1221 Board of Supervisors, what I have been told.  
1222

1223 Mr. Taylor - But, not tonight?  
1224  
1225 Mr. Householder - Not tonight.  
1226  
1227 Mr. Taylor - Okay. So, these proffers are correct and in time.  
1228  
1229 Mr. Householder - They are the current proffers.  
1230  
1231 Mr. Taylor - Okay.  
1232  
1233 Mr. Silber - So, we need a motion simply on the case, Mr. Taylor.  
1234  
1235 Mr. Taylor - Yes sir, I understand that. And my question is whether to  
1236 mention anything in my motion toward the subdivision stage, but I think that I will not.  
1237 So, with that, Mr. Chairman, I will move for approval of Case C-7C-01 West End  
1238 Developers, LLC as proffered.  
1239  
1240 Mrs. Dwyer seconded the motion.  
1241  
1242 Mr. Archer - Motion by Mr. Taylor, seconded by Mrs. Dwyer. All  
1243 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele  
1244 abstained.  
1245  
1246 Mr. Taylor - I wanted again to thank Mr. Shumate and Mr. Gordon for  
1247 all the hard work over the months.  
1248  
1249 REASON: Acting on a motion by Mr. Taylor, seconded by Mrs. Dwyer, the Planning  
1250 Commission voted 5-0, (one abstention) to recommend that the Board of Supervisors  
1251 **grant** the request because it conforms to the recommendations of the Land Use Plan; and  
1252 it reflects the type of residential growth in the area.  
1253  
1254 **Deferred from the March 8, 2001 Meeting:**  
1255 **C-18C-01 Richard Vass for Kevin B. Spector:** Request to  
1256 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence  
1257 District (Conditional), Parcel 57-A-33, described as follows:  
1258  
1259 Beginning at the intersection of the south line of Church Road and the east line of  
1260 Guyana Drive; thence along the south line of Church Road S 76°42'03" E a distance of  
1261 217.74 feet to a point; thence along a curve to the right having a radius of 1171.30 feet  
1262 and an arc length of 101.70 feet to a point; thence departing the south line of Church  
1263 Road S 11°27'45" W a distance of 646.30 feet to a point; thence S 83°37'16" W a  
1264 distance of 130.03 feet to a point; Thence N 76°29'58" W a distance of 220.00 feet to a  
1265 point on the east line of Guyana Drive; thence along the east line of Guyana Drive N  
1266 13°30'02" E a distance of 684.57 feet to the place and point of Beginning containing

1267 5.16 acres, (224,644 sq. Ft.)

1268

1269 Mr. Archer - Thank you, Mr. Secretary. Is there any one here opposed  
1270 to C-18C-01 Kevin B. Spector? We have opposition. All right.

1271

1272 Mr. Mark Bittner, County Planner - Thank you, Mr. Chairman. There are several other  
1273 R-3, as well as R-3A developments in the immediate area, including the Church Run,  
1274 Morgan Run, Church Grove, and Cedar Station Subdivisions.

1275

1276 The proffers submitted with this proposal are comparable with proffers of other  
1277 subdivisions in the vicinity. They include brick or stone foundations; a minimum house  
1278 size of 1,500 square feet for ranchers, and 2,000 square feet for two-story homes. No  
1279 driveway access to Church Road; 25-foot buffer along the Church Road frontage; and no  
1280 rear yards facing Guyana Drive.

1281

1282 Church Road is planned to be re-aligned in this area in conjunction with improvements to  
1283 Cox Road to the west. That can be seen here on this Land Use Plan map. Church is  
1284 going to be realigned to come into new Cox when it is extended through here (referring to  
1285 slide) at a right angle. And it will require some right of way on this property. And the  
1286 applicant is aware of that and he's incorporating it into his subdivision plan.

1287

1288 Construction is planned to begin in the spring of 2002. It is estimated that all planned  
1289 improvements will be completed in approximately one year, although traffic could be  
1290 using the new roadways prior to that time. When completed, it is anticipated that current  
1291 traffic levels on Guyana Drive would be significantly reduced.

1292

1293 In summary, the proposed zoning is consistent with the Land Use Plan designation for this  
1294 property, and is comparable to several subdivisions in the vicinity. The current proffers  
1295 provide for several positive items. Staff recommends approval of this application. I'd be  
1296 happy to answer any questions you may have.

1297

1298 Mr. Archer - Thank you, Mr. Bittner. Are there questions from the  
1299 Commission?

1300

1301 Mrs. Dwyer - Mr. Bittner, there were two schematic designs for the  
1302 subdivision. The proffers prohibit rear yards facing or adjacent to Guyana Drive. So, the  
1303 first one's that's in our package would be prohibited by the proffer. Is that correct?

1304

1305 Mr. Bittner - Correct. Yes. This was submitted originally with the case,  
1306 and then the proffer came in later.

1307

1308 Mrs. Dwyer - Okay.

1309

1310 Mr. Bittner - And, again, both of these are just conceptual. They're not  
1311 proffered at all. This would show side yards for homes facing Guyana Drive. And, I  
1312 believe this is the avenue the applicant is pursuing, but I'll let him speak to that.  
1313  
1314 Mr. Archer - Any further questions? Comments? Okay, Mr. Taylor, I  
1315 guess we need to hear from the applicant?  
1316  
1317 Mr. Taylor - Yes, Mr. Chairman, I believe we might want to hear from  
1318 the applicant.  
1319  
1320 Mr. Vanarsdall - Is there any opposition?  
1321  
1322 Mr. Taylor - Yes. There is opposition.  
1323  
1324 Mr. Silber - Let me remind you, you have 10 minutes total. Would you  
1325 like to reserve any of your time for rebuttal?  
1326  
1327 Mr. Kevin Spector - I'm okay. I'm all right. I'm Kevin Spector. I'm the  
1328 person, the applicant, trying to get the rezoning here. Basically, as you mentioned before,  
1329 this is the site that we'd like to go with right now, with the two exits actually entering onto  
1330 Guyana. There will be a stub road that actually enters the Tran property, so at some  
1331 future date that could actually be developed. We have 15 lots. We plan on doing single-  
1332 family homes of similar, if not better caliber of the neighboring neighborhoods. And, if  
1333 you have any questions, I'd be glad to answer them.  
1334  
1335 Mr. Archer - Thank you. Are there questions?  
1336  
1337 Mr. Taylor - Mr. Spector, would you state for the record what you think  
1338 the future Cox Road? Is that one year away?  
1339  
1340 Mr. Spector - I believe it is.  
1341  
1342 Mr. Taylor - Is that what we discerned from the Comp Plans?  
1343  
1344 Mr. Spector - Yes sir.  
1345  
1346 Mr. Silber - Mr. Taylor, are you talking about the re-aligned Cox Road?  
1347  
1348 Mr. Taylor - Yes sir.  
1349  
1350 Mr. Silber - Yes. That will be finished by spring of 2003.  
1351  
1352 Mr. Taylor - That is the present alignment? That is pretty much locked  
1353 now?

1354 Mr. Silber - Yes sir, it is.  
1355  
1356 Mr. Taylor - And the road that shows on here that is unnamed, Mrs.  
1357 Dwyer said would go through, that would go all the way through this developed and  
1358 through that dotted line over to Cox Road at some future date?  
1359  
1360 Mr. Silber - Well, I think the applicant, in this case, is proposing a stub  
1361 road to the edge of his property. There's no commitment at this time that road would go  
1362 through the adjacent property and tie into Cox road, as there's already a house on that  
1363 large piece of property. I think they're just showing a possible layout if that were to  
1364 connect through.  
1365  
1366 Mr. Taylor - That's all I have.  
1367  
1368 Mrs. Dwyer - I have a question, sir.  
1369  
1370 Mr. Archer - Mr. Spector, just a minute.  
1371  
1372 Mrs. Dwyer - Just one. I noticed in Proffer No. 4, there's a mention of a  
1373 25-foot buffer adjacent to Church Road. Recently, we've been concerned about  
1374 proliferation of tall, maybe six-foot board-on-board fences along major roadways. It  
1375 creates sort of a tunnel effect. So, what we've been looking for are commitments to  
1376 remove fences from the edge of the roadway. Sometimes its typically 15 feet. Sometimes  
1377 its more. Had you given any thought to having that...  
1378  
1379 Mr. Spector - Yes. We have. And we've actually spoke with Mr. Taylor  
1380 here twice already. We plan on getting together before we do the Plan of Development  
1381 and so forth...concerns that about what the County wants.  
1382  
1383 Mrs. Dwyer - Okay.  
1384  
1385 Mr. Archer - Any thing else before he takes his seat? Thank you, Mr.  
1386 Spector. Okay, will the opposition come forward, please, and state your name clearly for  
1387 the record?  
1388  
1389 Mr. Michael Compton - My name is Michael Compton. I live at 2815 Guyana  
1390 Drive. I've lived there just over three years just before the birth of my second child. And  
1391 I have a daughter in first grade at Jackson Davis Elementary. I'm one of many in the  
1392 area that's opposed to this development. I was noticing in the previous development it  
1393 was bigger, but had fewer lots. One of my issues, of course, is just the number of lots  
1394 there. But, related to this is the design issue. None of these lots are fronted onto Guyana  
1395 Drive. Every other house on either side of the street now is facing Guyana Drive. But,  
1396 under the two proffers I've seen, its either a rear yard or a side yard, no front yards. And

1397 I think this needs to be seriously considered so that this new development would match the  
1398 current houses already on Guyana Drive. That was the first of my concerns.

1399  
1400 The second of my concerns was already mentioned by the staff; the schools that would  
1401 service this development. The elementary and high schools are already overtaxed for the  
1402 students. Staff projects that the elementary school would receive a further six students  
1403 which doesn't sound like a lot, but when they already maxed out, six students can mean a  
1404 lot, and that's just a projection. The high school would also receive three, by projection,  
1405 three more students which would put them further overtaxed. The middle school, Byrd  
1406 Middle, is all right about that, but, of course, the projection is to create more students  
1407 there, as well.

1408  
1409 I've got a first-grader, and I've got a second child who will be in elementary school soon.  
1410 And, it is a concern of mine that the schools are already beyond capacity. And, by all  
1411 guesses, this would only add to that.

1412  
1413 My third concern is that the developments are accessing Guyana Drive, maybe, maybe not  
1414 they would access new Cox some day. But right now, they would dump out onto Guyana  
1415 Drive. And, quite frankly, we can't handle the traffic.

1416  
1417 I talked with Ancher Madison. I remember his figures. Guyana Drive is already carrying  
1418 10 times the rated capacity. This is one of the reasons why new Cox is needed, because  
1419 everyone is coming from Cox Road, from Ridgefield Parkway onto Guyana Drive, onto  
1420 Church Road and then onto Cox Road into Innesbrook.

1421  
1422 My front yard faces that, and I can tell you that, during from roughly 7:00 o'clock to  
1423 10:00 o'clock in the morning, and a similar three hours in the afternoon, it is grand  
1424 national parkway up there. People are just zipping by. And its not just the number of  
1425 cars, it's the speed of the cars. Guyana Drive is 25 mph. But, we have people going by  
1426 there 40 and 45 mph with children nearby. I don't have Police data, but I'm sure the  
1427 Police could tell you that they've been out there ticketing left and right. It's "shooting fish  
1428 down a barrel."

1429  
1430 Quite frankly, Guyana Drive can't handle the estimated, I believe its 180 trips a day that  
1431 would be added onto Guyana Drive. It's just not possible. This might sound crazy, but  
1432 fourth, if you're going to develop this property, and it probably will be developed after all  
1433 its good grass that doesn't have any houses on it. We can't stand that in Henrico County.  
1434 We've got to build houses on it.

1435  
1436 If its developed, let the developer wait until Cox Road is finished. The new Cox Road is  
1437 designed to alleviate traffic from Guyana Drive. If this new development is not going to  
1438 access Church Road directly or access new Cox Road directly, then, have them wait. If  
1439 it's going to dump out onto Guyana Drive, wait until we can handle it. When those  
1440 people live on Guyana Drive and they have a right to come out on Guyana Drive. They

1441 won't have to put up with the people cutting through that we have to put up with right  
1442 now.

1443

1444 I was listening, tonight, the discussion about Panera Bread. Everything seems to be okay  
1445 now. Let's wait and see what happens. Well, everything is not okay now on Guyana  
1446 Drive. It's not. I think I speak for just about everyone on Guyana Drive currently, on the  
1447 cul-de-sac across the street from me. We don't want another 15 houses. We don't even  
1448 want another 7 houses. We don't want any more houses coming off Guyana Drive at this  
1449 time. I propose the developer wait a year, or two years until Cox Road is completed.  
1450 And, at the very least, I ask this Commission to consider deferring this 60 or 90 days until  
1451 we have adequate reports, traffic counts, from the Police, that, you, the Commission, can  
1452 see the results that would already add to an overly congested Guyana Drive. Thank you  
1453 very much.

1454

1455 Mr. Archer - Thank you, Mr. Compton. Are there questions for Mr.  
1456 Compton?

1457

1458 Mr. Vanarsdall - Have to talked to Mr. Taylor about this?

1459

1460 Mr. Compton - I beg your pardon?

1461

1462 Mr. Vanarsdall - Have to talked to Mr. Taylor about what you were talking  
1463 about?

1464

1465 Mr. Compton - No sir.

1466

1467 Mr. Vanarsdall - You haven't contacted the Planning Commissioner?

1468

1469 Mr. Compton - I talked with Mr. Bittner.

1470

1471 Mr. Vanarsdall - Okay. Thank you.

1472

1473 Mr. Neal Riddick - Good evening. My name is Neal Riddick. I live at 2811  
1474 Guyana Drive. I'm Mike's neighbor. I've been there about three years. And we have a  
1475 one-year old daughter.

1476

1477 I'm not so opposed to the construction of the development, other than, as he had  
1478 mentioned earlier, the facing of the houses. I'm from Norfolk, and my wife's from  
1479 northern Virginia. And the majority of the houses there are row houses or townhouses. If  
1480 they can squeeze a house in somewhere, they'll do it. And that's what the backyards  
1481 going onto Guyana Road are like. I wanted to avoid that.

1482

1483 My biggest issues would be traffic, noise, and the completion of Cox Road. When we  
1484 moved in here, much as many of our neighbors have mentioned, they were promised, or it

1485 was mentioned that, "Oh yeah, Cox will go through in the next few years." Some  
1486 neighbors saying as long as 20 years ago, that Cox was going to go through, and now this  
1487 is coming.

1488

1489 I just wanted to give you a little bit of my day on Cox Road. Starting at 7:00, 7:30, it  
1490 becomes I-95 outside. I usually leave for work around 8:00 o'clock in the morning. And  
1491 I have to sit parked in my driveway for almost 10 minutes sometimes just to get out onto  
1492 Guyana Drive. I can't back out onto Guyana Drive, because I've had four close calls of  
1493 getting "T-boned" with people coming around a blind curve, or people coming the other  
1494 way.

1495

1496 There is daily road rage, towards me daily, getting the finger, turning into my driveway,  
1497 because I'm slowing down. I'm not going the 50, 60 miles an hour like the people behind  
1498 me. So, just trying to get in and out of my driveway is an issue.

1499

1500 I talked to Officer Maurice from Uniform Operations. And last year they ran radar at the,  
1501 I guess, it's Church Grove cul-de-sac. They ran it for 10 months. During that 10-month  
1502 time, there were 352 speeding citations issued. All of them were speeding. Of 352, three  
1503 of them were 15 miles an hour or faster. So that would put them 40, 45 mph fast.

1504

1505 Aside from, like I said, trying to get out of my driveway in the morning or the evening, I  
1506 would just ask and urge that Cox Road be allowed to be completed before any  
1507 construction be done on Guyana Drive. The lot is being proposed, there are no trees.  
1508 There's not a whole lot of trees on our side of Guyana Drive. It's a very wide open area.  
1509 Noise travels. As it is, I can hear my neighbor 300 feet away building a deck. It's just  
1510 like he's next door. So, the added noise of 15 houses being built is only going to add to  
1511 the noise of the already heavy traffic flow outside, as well as the ambient noise.

1512

1513 We ended up buying new windows for our house, because the traffic noise was so bad on  
1514 Guyana, it was waking up my daughter trying to sleep; as her bedroom fronts Guyana  
1515 Drive.

1516

1517 So, I don't feel safe checking my mail. I have to go out onto Guyana Drive to open my  
1518 mailbox. I don't feel safe having her play in the front yard. And watching Mike and  
1519 some of the other neighbors fetch their kids from across the street at the bus stop, it's like  
1520 he said, it's "fish in a barrel" trying to just take your life in your hands getting across the  
1521 street. So, I would ask that the development be postponed until Cox Road is finished,  
1522 because, as he said, we just can't handle the traffic. I don't enjoy coming home, because I  
1523 know what issue it is just turning onto Guyana. People trying to turn left onto Church  
1524 Road, backing traffic up for 10 or 15 cars. Thank you for your time.

1525

1526 Mr. Taylor - Before you go, may I ask a question? On this map which is  
1527 on the last page, where exactly do you live? Do you live right on Guyana Drive, or do  
1528 you live on Cox Road?

1529 Mr. Riddick - Let's see. That's neighbor one is Mike and I'm this house  
1530 right here (referring to slide). This blind curve is right here where I'm talking about  
1531 where I've almost gotten "T-boned (referring to slide)."  
1532

1533 Mr. Taylor - Have you noticed an appreciable increase in traffic on  
1534 Guyana lately?  
1535

1536 Mr. Riddick - Yes.  
1537

1538 Mr. Taylor - Is that due to the traffic that's ongoing on Ridgefield?  
1539

1540 Mr. Riddick - Guyana is considered a cut through for people living back  
1541 say Cross Keys, or some of the developments back there as far back as Deep Run Park,  
1542 Ridgefield, Church Road, etc. The traffic; its spring, the weather is warm, and now the  
1543 kids driving with their windows down, boom, boom with the radios going down Guyana  
1544 Drive. That's increased as the weather has gotten warmer.  
1545

1546 Mr. Taylor - Because I understand what you're saying. I use Guyana  
1547 two or three times a day. So, I do recognize the problem in the morning access from  
1548 Guyana onto Cox. In the evening access from Cox to Guyana.  
1549

1550 Mr. Riddick - Right.  
1551

1552 Mr. Taylor - But, you must realize that when Cox Road is extended to  
1553 presently Church, that will become the primary route and that will significantly reduce the  
1554 advantages that people now use Guyana. Guyana is the only, only access to Church for  
1555 that drainage system, if you will.  
1556

1557 Mr. Riddick - Right.  
1558

1559 Mr. Taylor - And that future Cox Road, according to the plan that I  
1560 understand, Mr. Silber you may know this better than I. They are now in the early phases  
1561 of construction. They are moving the utilities. They moved the public utilities. Then  
1562 they'll next move the County utilities and construction will start. And I think construction  
1563 on that is probably slated for the next year or so.  
1564

1565 Mr. Silber - Next spring.  
1566

1567 Mr. Taylor - For sure. That will greatly diminish the traffic that you see  
1568 along Guyana. I understand the problem, because the times that I go through there,  
1569 invariably, there is a patrol car issuing a ticket, somebody who has just failed to complete  
1570 the transit.  
1571

1572 Mr. Riddick - With the amount of people, as Innsbrook expands, and as  
1573 more homes and more people move in, yes, Cox Road will alleviate a lot of that problem.  
1574 But, I guarantee you, that the people who use Guyana are not going to be Guyana  
1575 residents. They're going to be people who, much like, if you've traveled down Gaskins  
1576 Road. In the past three years during rush hour, its just a parking lot. So, if the traffic  
1577 flow increases where it starts getting heavy on Church or new Cox Road, they're going to  
1578 say, "Hey, Guyana is still there. I can still cut through." So, yes, there may be a ebb and  
1579 flow at first. But, I guarantee you, people are going to, just like I said, I don't travel  
1580 down Gaskins Road anytime near a rush hour, especially with the construction they're  
1581 doing now. It will alleviate, but it won't be just resident traffic on Guyana, even when  
1582 Cox is finished.

1583  
1584 Mr. Taylor - Well, I think that's right. I think it will still be a cut  
1585 through for people going from Church over to Ridgefield. And I am guilty of that  
1586 because I go over that way frequently.

1587  
1588 Mr. Richard Vass - Well, Mr. Taylor, do I understand you're making my case  
1589 for me? But since, the new Cox Road is so short in the future, that the developers really  
1590 wouldn't mind waiting until its completed?

1591  
1592 Mr. Taylor - I'm trying to work a suitable compromise in determining in  
1593 my own mind whether we need to have adequate traffic studies. And we have no traffic  
1594 studies that I know of on Cox Road now or on Guyana and then what the future loading  
1595 will be when Cox Road is completed. In lacking that, the vignette, the stories that you  
1596 give, I have experienced. I do know there's a tremendous amount of traffic on Guyana,  
1597 especially around rush hour. And my first review of this with Mr. Spector was to move  
1598 the entrances from close to Church Road further down the property. Because my concern  
1599 was that the residents would not be able to get out on Guyana to get to Church to get to  
1600 Broad Street. And we went into this new arrangement that you have in the package. But,  
1601 no one has called me and I'm just going on very limited data.

1602  
1603 Mr. Vass - The response I've gotten from traffic engineering when this  
1604 first started about a year ago, I probably had 8 calls into the police officers who run radar.  
1605 I called traffic engineering and said, "Hey, can we get a speed sign? Can we put up some  
1606 speed bumps? Can I go out and make a pothole in the middle of the road?" And the  
1607 gentleman said, "No sir. We've done studies on that. There's enough traffic signs. We  
1608 don't do speed bumps in Henrico. If you have a problem with the speeders and the  
1609 amount of traffic, call the Police and they'll run radar. "I don't know if that lends any  
1610 credence, but traffic engineering says, "No. Everything's fine for the traffic flow."

1611  
1612 Mr. Taylor - Well, they have run radar and they do give out a large  
1613 number of summons. And there is one individual who may be one of you two, who  
1614 steadfastly parks his car right on the traffic lane going up the hill. And I marvel that car  
1615 has survived for two years without getting hit at least once. But, I understand what you're

1616 saying in terms of traffic. What I'm having difficulty with, is while I can see that traffic, I  
1617 am not sure to what degree Cox Road will relieve that entire problem.  
1618  
1619 And, in fact, the second development in here which goes from Guyana to the future Cox  
1620 Road, I pointed out to Mr. Spector, for a lot of people that's going to be a very handy  
1621 effort, to come up Guyana, and turn right through the new neighborhood.  
1622  
1623 Mr. Bittner - Are you referring to this drawing (referring to slide), Mr.  
1624 Taylor?  
1625  
1626 Mr. Taylor - Yes. I am. That's in the package...  
1627  
1628 Mr. Bittner - Again, I'd like to point out this is all conceptual. And,  
1629 while it does show a potential stub road connection from the rezoning site through the  
1630 neighboring property, I don't know that Public Works and probably Planning would not  
1631 support another entrance onto Cox in this area, because Cox and Church is going to be  
1632 a major intersection.  
1633  
1634 Mr. Taylor - I quite agree with you.  
1635  
1636 Mr. Bittner - I just wanted you to be aware. I think I heard you saying,  
1637 you thought there was going to be a connection all the way through to Cox. There's no  
1638 proposal at this point.  
1639  
1640 Mr. Taylor - At this point?  
1641  
1642 Mr. Bittner - Right.  
1643  
1644 Mr. Taylor - But, I mean, on here, it is and we would hope that...  
1645  
1646 Mr. Bittner - Again, this is just a sketch.  
1647  
1648 Mr. Taylor - I understand.  
1649  
1650 Mr. Kaechele - Mr. Bittner, does traffic have any counts at all on  
1651 Guyana?  
1652  
1653 Mr. Bittner - If they do, I don't have them with me. And I would like  
1654 to point out also, in terms of Cox, I don't know that there's any actual construction  
1655 taking place on that at this moment. There are public hearings scheduled for this  
1656 summer.  
1657  
1658 Mr. Taylor - There are some utilities I think that the utilities...I don't  
1659 think there is any County contracts.

1660 Mr. Bittner - Right...  
1661  
1662 Mr. Taylor - The utilities are being moved either because of this or  
1663 looking forward to it, and now deciding now is an opportune time to move them...  
1664  
1665 Mr. Kaechele - I believe we have an approved plan for Cox Road, do we  
1666 not, although there may have to be public hearings under the new State guidelines?  
1667  
1668 Mr. Bittner - There is an engineered plan for construction. I don't  
1669 know that its actually approved, because, as I said, there has to be some public hearings  
1670 before construction...  
1671  
1672 Mr. Kaechele - We've had public meetings, but under the new State  
1673 guidelines, we may have to have others.  
1674  
1675 Mr. Bittner - Right. But, yes, there is an engineered plan.  
1676  
1677 Mr. Taylor - I really think we need a significant amount of additional  
1678 study here. Okay, thank you, John. Mr. Chairman, in view of the fact of what we've  
1679 heard and I've experienced, I think the best thing to do here is for me to at my request,  
1680 the request of the Commissioner, a deferral of this project for two months to give  
1681 traffic an opportunity to look at the Police reports, look at the traffic patterns, and then  
1682 bring this back for developmental approval, because I am most concerned about the  
1683 traffic and what maybe a compounding of problems, even as we see this plan.  
1684  
1685 Mr. Silber - Excuse me, Mr. Taylor. I think the applicant may want to  
1686 say something.  
1687  
1688 Mr. Spector - Let me just say something real quick. I spoke with Mr.  
1689 Bittner about the traffic might be a problem and so forth. I called the Traffic  
1690 Department of the County. I tried to get a letter, or have one of those people meet with  
1691 us today. Unfortunately, they said that they cannot give that and can't meet here with  
1692 you until you actually request that. They did say that, when they looked at the site and  
1693 so forth like that, and the impact of the extra cars and so forth, it meets all the  
1694 guidelines of the County. It does not go in excess.  
1695  
1696 And, also, I own a property which is, basically, directly across the street on Guyana -  
1697 2832 Guyana. And my property actually faces this property. So, according to Traffic,  
1698 everything does meet the guidelines of what we have proposed.  
1699  
1700 Mr. Silber - Mr. Spector, do you have any timing of when you'd  
1701 propose to develop this, and who would be building houses and may they be  
1702 completed?  
1703

1704 Mr. Spector - Completion would probably be sometime, gosh, very far  
1705 and, basically, toward the end of this year, I would assume. You know, between fall  
1706 and the end of the year, before the first house could have occupancy.

1707  
1708 Mr. Silber - When would the development be fully developed out?

1709  
1710 Mr. Spector - Well, basically, on studies, it looks in the neighborhood of  
1711 about 18 months is what the studies show that we have done.

1712  
1713 Mr. Silber - Mr. Taylor, I understand where you're coming from, and  
1714 I think we can get some additional input from the traffic engineers. My guess would be  
1715 they probably do not have any traffic counts on Guyana, because of it being, basically,  
1716 a residential road. We, perhaps, can ask them to study this during the next month, and  
1717 have them provide us with counts and an assessment of the situation as they view it. I  
1718 guess my view of this is, we're only talking about approximately 15 lots. The traffic  
1719 volumes on this road are heavy, as has been indicated. And there is considerable  
1720 backup here in the mornings trying to make the right hand turn, even on Church Road  
1721 in the evenings trying to make a left onto Guyana from Church. It's often delayed and  
1722 backing up. So, I'm not trying to minimize the traffic concerns, but we're not talking  
1723 about a large volume of lots here. The applicant may even want to consider proffering  
1724 a phasing to that, if that's a concern to the Commission. He may want to build up to a  
1725 certain number of homes prior to the completion of the Cox Road realignment. If it's  
1726 the Commission's desire to defer this, you know, I certainly can get with the Traffic  
1727 Engineers and see if they can give us a further assessment of their view of the impact.  
1728 Obviously, single-family homes generate about 10 trips a day. So, there are 15 lots  
1729 here, you're talking about 150 trips a day. I think they will probably say this road can  
1730 handle that, especially, in light of the improvements that are expected in the near  
1731 future.

1732  
1733 Mr. Taylor - Well, it may be true, but the difficulty, though, is from  
1734 my observations, I think of myself and others, its something I'd rather study and review  
1735 than compound. And I understand what you're saying about the time. My thought  
1736 would be aswayed somewhat if I knew that the traffic wouldn't compound the problem  
1737 and result in, perhaps, an injury or some additional disaster here. So, I would feel  
1738 comfortable with just deferring it 30 days to have those studies in hand before we went  
1739 ahead with it.

1740  
1741 Mr. Archer - Okay.

1742  
1743 Mr. Taylor - If you think that's apace with the development, we could  
1744 do it. But, my thought is, hearing what we've heard, Transportation should be  
1745 requested to look at this and us have that information in hand in the next 30 days to  
1746 render a reasonable decision.

1747

1748 Mr. Kaechele - Right. Mr. Chairman, I think, in addition, that if we  
1749 don't have pinpointed the construction time and public hearings required for that new  
1750 intersection that we try to pinpoint that as well.

1751  
1752 Mr. Silber - Okay.

1753  
1754 Mr. Archer - All right, Mr. Taylor, we'll entertain a motion.

1755  
1756 Mr. Taylor - Well, I am in support of the project, but insofar as its safe  
1757 and its wholesome, and its good for the County. So, with that, I will move a 30-day  
1758 deferral, at the request of the Commissioner on project C-18C-01.

1759  
1760 Mr. Vanarsdall seconded the motion.

1761  
1762 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Vanarsdall. All  
1763 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele  
1764 abstained.

1765  
1766 Mr. Vanarsdall - So, May 10<sup>th</sup>?

1767  
1768 Mr. Silber - Yes. May 10.

1769  
1770 **C-19C-01 James W. Theobald for H. H. Hunt Corporation:**  
1771 Request to conditionally rezone from A-1 Agricultural District, O/S-2C Office Service  
1772 District (Conditional), R-6C General Residence District (Conditional), and R-5C  
1773 General Residence District (Conditional) to R-5AC General Residence District  
1774 (Conditional) and R-3C and R-2AC One Family Residence Districts (Conditional),  
1775 Parcels 27-A-10, 37-A-1, 37-A-2, part of Parcels 27-A-7, 27-A-8, 27-A-9A, and part  
1776 of Parcels 37-A-10, 11, 12, and 13, described as follows:

1777  
1778 Parcel 1  
1779 Beginning at a point in the centerline of proposed Twin Hickory Lake Drive, Phase 2,  
1780 said point being 2,367.37' along the centerline of proposed Twin Hickory Lake Drive,  
1781 Phase 2 from the centerline terminus of Twin Hickory Lake Drive Phase 1, thence from  
1782 said point of beginning S 8°40'5" E, 218.78' to a point; thence S 30°00'00" E, 110.67'  
1783 to a point; thence S 41°00'00" E, 243.95' to a point; thence S 14°36'39" E, 250.80' to  
1784 a point; thence S 5°15'00" W, 392.74' to a point; thence N 65°59'25" E, 474.68' to a  
1785 point; thence S 24°00'35" E, 110.00' to a point; thence S 65°59'25" W, 15.00' to a  
1786 point; thence S 24°00'35" E, 560.76' to a point on the northwest line of I-295 off-  
1787 ramp, thence along I-295 off-ramp on a curve to the right having a delta of 2°41'28", a  
1788 radius of 1,065.86' and a length of 50.06' to a point on the I-295 off-ramp north line,  
1789 thence continuing along the north line of the I-295 off-ramp S 71° 45'23" W, 549.76'  
1790 to a point; thence N 83°36'20" W, 634.48' to a point; Thence N 2°7'5" W, 699.94' to  
1791 a point; thence N 1°50'45" W, 867.39' to a point; thence N 1° 44'20" W, 60.87' to a

1792 point on the centerline of proposed Twin Hickory Lake Drive Phase 2, thence along the  
1793 centerline of proposed Twin Hickory Lake Drive Phase 2, N 80°45'40" E, 290.73' to  
1794 the true point and place of beginning, containing 27.488 acres.

1795

1796 Parcel 2

1797 Beginning at a point in the centerline of future Twin Hickory Lake Drive, Phase 2, said  
1798 point being 1,069.88'± southwest of the southwest terminus of Twin Hickory Lake  
1799 Drive, Phase 1, thence from said point of beginning S 32°00'00" E, 427.32' to a point;  
1800 thence N 51°45'00" E, 88.45' to a point; thence S 29°40'00" E, 385.44' to a point;  
1801 thence N 65°59'25" E, 125.93' to a point; thence N 37°40'00" E, 431.90' to a point;  
1802 thence S 52°20'00" E, 392.30' to a point on the northwest line of Interstate I-295,  
1803 thence along the northwest line of Interstate I-295 on a curve to the left with a delta of  
1804 3°4'21" on a radius of 11,608.59' for a length of 622.54' to a point; thence continuing  
1805 along the northwest line of I-295 S 38°44'00" W, 908.93' to a point; thence continuing  
1806 along I-295 northwest line S 39°12'54" W, 275.88' to a point of the I-295 off-ramp,  
1807 thence along the northwest line of the off-ramp on a curve to the right with a delta of  
1808 15°19'55" and a radius of 1,065.86' for a length of 285.22' to a point; thence N 24°  
1809 00'35" W, 560.76' to a point; thence N 65°59'25" E, 15.00' to a point; thence N 24°  
1810 00'35" W, 110.00' to a point; thence S 65°59'25" W, 474.68' to a point; thence N 5°  
1811 15'00" E, 392.74', thence N 14°36'39" W, 250.80' to a point; thence N 41°00'00" W,  
1812 243.95' to a point; thence N 30°00'00" W, 110.67' to a point; thence N 8°40'05" W,  
1813 218.78' to a point on the future centerline of Twin Hickory Lake Drive, Phase 2,  
1814 thence along the future centerline of Twin Hickory Lake Drive, Phase 2 N 80°45'40"  
1815 E, 293.37' to a point; thence continuing along the future centerline of Twin Hickory  
1816 Lake Drive, Phase 2 on a curve to the left in a northeasterly direction having a delta of  
1817 31°40'39", a radius of 1,816.17' for a length of 1004.12' to the true point and place of  
1818 beginning containing 53.764 acres.

1819

1820 Parcel 3

1821 Beginning at a point in the center line of Twin Hickory Lake Drive, Phase 1, said point  
1822 being at the southwestern terminus of Twin Hickory Lake Drive, Phase 1; thence from  
1823 said point of beginning S 40°00'35" E, 50' to a point; thence S 9°03'50" E, 8.88' to a  
1824 point, said point being the existing 100 year flood plain (C-1); thence southwesterly and  
1825 southeasterly along the 100 year flood plain 1873'+ - to a point on the northwest line of  
1826 Interstate I-295; thence along the northwest line of Interstate I-295 along a curve to the  
1827 left with a delta of 3°35'32", radius of 11,608.59' for a length of 727.83' to a point;  
1828 thence North 52°20'00" W, 392.30' to a point; thence S 37°40'00" W, 431.90' to a  
1829 point; thence S 65°59'25" W, 125.93' to a point; thence N 29°40'00" W, 385.44' to a  
1830 point; thence S 51°45'00' W, 88.45' to a point; thence N 32°00'00" W, 427.32' to a  
1831 point on the future centerline of Twin Hickory Lake Drive, Phase 2; thence along the  
1832 future centerline of Twin Hickory Lake Drive, Phase 2 along a curve to the left with a  
1833 delta of 10°28'36", a radius of 1,816.17' for a length of 332.09' to a point; thence  
1834 continuing along the proposed centerline of Twin Hickory Lake Drive, Phase 2 N  
1835 38°36'25" E, 156.28' to a point; thence continuing along the future centerline of Twin

1836 Hickory Lake Drive, Phase 2 along a curve to the right having a delta of 11°23'00'  
1837 radius of 2,508.25' for a length of 498.33' to a point; thence continuing along the  
1838 future centerline of Twin Hickory Lake Drive Phase 2, N. 49°59'25" E., 83.18' to the  
1839 true point and place of beginning, containing 20.208 + - acres.

1840  
1841 Mr. Archer - Is that any opposition to C-19C-01? No opposition. Mr.  
1842 Bittner.

1843  
1844 Mr. Bittner - Thank you, Mr. Chairman. This picture you're looking at  
1845 (referring to slide), is a picture of the overall TwinHickory development. The rezoning  
1846 site, in question, tonight, is in the lower left corner. I'd just like to quickly orient  
1847 everybody; to the bottom is Interstate 295. On the left side is Pouncey Tract Road  
1848 (referring to slide).

1849  
1850 This proposal would amend the Twin Hickory Planned Community by converting  
1851 approximately 72 acres of Office/Service property to single-family residential. This  
1852 could have a significant impact on the economic development opportunities in the area.  
1853 However, there are, perhaps, opportunities for this type of development on adjacent  
1854 property near the Nuckols Road/Interstate 295 interchange.

1855  
1856 The proffers submitted with this request provide some quality items, and are  
1857 comparable to the proffers in the rest of TwinHickory. And I'd like to point out, we  
1858 just got some new proffers in tonight, which we handed out to you. You would need to  
1859 waive the time limit to accept them.

1860  
1861 These proffers have been revised so that most of the issues in the staff report have been  
1862 addressed, including the following: a 35-foot buffer, in addition to required setbacks,  
1863 has been proffered along Interstate 295. A fence along the western edge of the site,  
1864 adjacent to the VDOT maintenance facility has been provided. That would be in this  
1865 area right here (referring to slide).

1866  
1867 Staff had recommended a 25-foot buffer in this area. However, the applicant is  
1868 considering acquiring the VDOT facility for future expansion of TwinHickory. If this  
1869 were to occur, a buffer may not be necessary.

1870  
1871 As long as this area were to develop residentially, staff feels that the fence would be an  
1872 acceptable compromise. If it were to develop non-residentially, however, staff would  
1873 recommend a buffer instead of a fence.

1874  
1875 The applicant has also proffered that no Certificates of Occupancy shall be obtained  
1876 until TwinHickory Lake Drive is extended to Pouncey Tract Road. That would be  
1877 from approximately here (referring to slide) to here onto Pouncey Tract Road. And,  
1878 we actually have a subdivision plan in for that extension right now.

1879

1880 Median landscaping on TwinHickory Lake Drive has been proffered. And standard  
1881 curb and gutter or 3-foot roll face curbing has been proffered instead of the 2.5-foot  
1882 roll face curbing.

1883  
1884 Staff had also recommended wider lot widths in the proposed R-3 and R-5A districts.  
1885 The applicant has proffered a minimum lot width of 80-feet for R-3, which is also the  
1886 minimum required by the Zoning Ordinance. The rest of TwinHickory has a proffered  
1887 85-foot minimum for R-3. The applicant should consider increasing the minimum R-3  
1888 lot width to 85 feet to match the rest of the planned community.

1889  
1890 Staff also strongly recommended increasing the minimum R-5A lot width to at least 65  
1891 feet. The applicant has revised the proffers. You probably saw in a version a couple  
1892 days ago. He's revised them further tonight to say that, "All R-5A lots will be at least  
1893 60-feet in width." This is an improvement, but staff still recommends 65-foot wide lots  
1894 in the R-5A District.

1895  
1896 Wider lots provide an improved house to lot relationship; greater separation between  
1897 houses; more opportunities for side and rear entry garages, and more opportunities for  
1898 variations and housing design.

1899  
1900 In summary, the proposed zoning is compatible with previous development in  
1901 TwinHickory. Although Office/Service type development would be removed, there are  
1902 other opportunities for this type of development on properties close to the I-  
1903 295/Nuckols Road interchange.

1904  
1905 Proffers are comparable to proffers for the rest of TwinHickory and do provide several  
1906 positive items. However, staff cannot recommend approval at this time because the R-3  
1907 and R-5A lot widths have not been increased as recommended. If the applicant were to  
1908 address this issue, staff could recommend approval. I'd be happy to answer any  
1909 questions you may have.

1910  
1911 Mr. Archer - Thank you, Mr. Bittner. Are there questions from the  
1912 Commission?

1913  
1914 Mr. Taylor - With regard to the lot widths, how does those compare to  
1915 the ones that currently exist for the same category on the average?

1916  
1917 Mr. Bittner - On the average of what?

1918  
1919 Mr. Taylor - On the ones that have already been built?

1920  
1921 Mr. Bittner - In TwinHickory?

1922  
1923 Mr. Taylor - Yes.

1924 Mr. Bittner - I don't know what the average lot width would be in  
1925 TwinHickory. There's various zoning districts throughout the development. I do know  
1926 the R-3A currently in TwinHickory has a proffered minimum lot width of 85 feet.  
1927 Staff is recommending that continue with this portion, although the applicant has  
1928 proffered to meet the zoning ordinance minimum which is 80 feet. Then, in the R-5A  
1929 zoning classification, the minimum required by the Ordinance is 50-feet. The applicant  
1930 has proffered 60 feet. Staff is recommending 65.

1931  
1932 Mr. Taylor - And the R-2A is 90?

1933  
1934 Mr. Bittner - He's proffered 90. We feel that is acceptable.

1935  
1936 Mr. Archer - Any further questions? Good evening, Mr. Theobald.

1937  
1938 Mr. James Theobald - Good evening, Mr. Chairman, ladies and gentlemen. My  
1939 name is Jim Theobald. I'm here this evening on behalf of H. H. Hunt. With me this  
1940 evening is Dan Schmidt, whose Vice-President for H. H. Hunt, and Webb Tyler, our  
1941 Engineer, with Youngblood, Tyler and Penny Koch, my legal assistant.

1942  
1943 This is a request to rezone about 107 acres of land in TwinHickory from A-1, O/S 2,  
1944 R-6 and R-5 to R-6 and R-5, two three residential categories; that being, R-5A, R-3  
1945 and R-2A.

1946  
1947 Why are we changing from our original plan? Well, we thought, given the location  
1948 along Interstate 295, and its proximity to Pouncey Tract Road, that this might be an  
1949 ideal place for some office/service quasi-light industrial uses. But, after putting it out  
1950 to the market and getting feedback from existing TwinHickory residents, who weren't  
1951 there when we started, it appears that really transportation issues for that type of traffic  
1952 are somewhat of a concern, and that you really can't conveniently get back up to the  
1953 Interstate, particularly going out to Pouncey Tract Road. We do have some other  
1954 opportunities that Mr. Bittner alluded to for moving some of this office component,  
1955 perhaps, not Office/Service and our retirement communities to another area that's under  
1956 acquisition. We've shared these plans, in some detail, with Mr. Kaechele and Mr.  
1957 Taylor, members of staff, but believe that this change is very appropriate.

1958  
1959 This will be, perhaps, the only case presented to you this evening where the traffic  
1960 actually is reduced from the existing proposal. Your staff report indicates that some  
1961 3,000 fewer trips will be generated by this proposal than under the current  
1962 Office/Service 2 zoning.

1963  
1964 And you might recall from the original TwinHickory zoning that we had a density cap  
1965 of some 1,400 residential units proffered under TwinHickory. But, even when we  
1966 convert this 107 acres to additional residential, based on already platted lots in  
1967 TwinHickory, and the already approved POD for the multi-family in TwinHickory, we

1968 will still be some 138 units under the original cap. So, we are well within all the  
1969 assumptions made by the County as to traffic, school capacity, utility availability, etc.

1970  
1971 You recall that TwinHickory is H. H. Hunt's newest planned community. It's been  
1972 enormously successful because of the quality of design and amenities. It has pedestrian  
1973 access ways throughout, recreational amenities set to open next month, in addition to  
1974 being within a half mile, or three-quarters of a mile to the YMCA, the new elementary  
1975 school, the proposed high school, which will be open in 2002, a County park; Striker  
1976 Park; and the middle school.

1977  
1978 There's three basic products to this case: the R-2A product is one that will have homes  
1979 for sale in the \$400,000 to \$500,000 range. Those lot widths have been proffered at 90  
1980 feet. The Code minimum is 80 feet. Original TwinHickory proffered the R-2A lots at  
1981 85 feet. So, we are 5 feet in excess of the original case in this regard. Proffered a  
1982 minimum 2,200 square feet of finished floor space. Maximum density of 2.2 units per  
1983 acre. And these homes will sit on a lake that will exist between the recreational area  
1984 and this R-2A. These are going to be some of the highest end homes in TwinHickory.

1985  
1986 Our R-3 product is a \$300,000 to \$400,000 product. It is on 80-foot lot widths. Two  
1987 thousand (2,000) square foot minimums; 2.75 units per acre maximum density. This  
1988 provides an alternate price point, and alternate residential product to the R-2A in order  
1989 to differentiate these two communities.

1990  
1991 The R-5A product, which is your zero lot line, but detached product, those will sell in  
1992 the \$200,000 to \$250,000 range. They've been proffered to all have a minimum of  
1993 one-car garage. We have increased our square footage of livable area from 1,400 to  
1994 1,600 in our proffers you received a few days ago. And, as Mr. Bittner indicated  
1995 today, we took all of our lot widths to 60 feet minimum width. We'd also previously  
1996 provided the 25 percent of the fronts of units would be brick. The difference between  
1997 the case, as filed, 50-foot minimum widths for the R-5A, and the current 60-foot,  
1998 resulted in a net reduction of 22 lots in the R-5A product from our original filing.

1999  
2000 The other proffers are consistent with the TwinHickory proffer, that being a greenbelt  
2001 along TwinHickory Lake Drive. Some three acres of this request before you is in that  
2002 greenbelt. Again, proffering pedestrian and bike access ways, recreational amenities.  
2003 This will be part of TwinHickory, and these people will access to the recreational  
2004 amenities at TwinHickory. Median landscaping has been provided. We did, at staff's  
2005 request, provide a 35-foot buffer along Interstate 295, which is in addition to yard  
2006 requirements. We have to complete TwinHickory Lake Drive before we can get any  
2007 CO's for homes in this development. And we have agreed to the curb and gutter  
2008 sections recommended to you by staff.

2009  
2010 Again, the Transportation Department has suggested that this will, basically, result in a  
2011 3,000 trip per day decrease in traffic over the current Office/Service 2 zoning, R-5, and

2012 R-6. And, as such, believe that it represents a lessening of intensity of use. And with  
2013 that, I would respectfully request your recommendation for approval to the Board of  
2014 Supervisors. And, I'd more than happy to answer any questions.  
2015

2016 Mr. Archer - Thank you, Mr. Theobald. Are there questions from the  
2017 Commission?  
2018

2019 Mr. Vanarsdall - I believe this is the first case this evening that decreased  
2020 the traffic.  
2021

2022 Mr. Theobald - Maybe I just should have said that and asked for a motion.  
2023

2024 Mrs. Dwyer - Maybe that's because you didn't have a 5-acre parcel.  
2025

2026 Mr. Taylor - Or 5-inch trees.  
2027

2028 Mr. Kaechele - Mr. Theobald, the products going up now in the other R-3  
2029 Districts of TwinHickory, what size are those homes running in terms of square  
2030 footage? Do you have an idea? It's more than 2,000, isn't it?  
2031

2032 Person from Audience - (Comments Unintelligible).  
2033

2034 Mr. Kaechele - They're in that same \$300,000 to \$400,000 price range?  
2035

2036 Mrs. Dwyer - Mr. Theobald, I guess I'm pondering why the R-3 lot  
2037 width for this parcel cannot equal the existing 85-foot lot width that has been proffered  
2038 in the earlier case, particularly when I look at the fact that when the whole  
2039 TwinHickory was proposed several years ago we had 107 acres that were not producing  
2040 single-family homes and lots of school children that would then put a burden on public  
2041 services and school systems? In taking that into consideration, it seems that we should,  
2042 at least, meet the existing standards set by your own development.  
2043

2044 Mr. Theobald - Well, two points, Mrs. Dwyer, the first, I guess, being,  
2045 the impact on schools, etc. What the Board of Supervisors approved with the original  
2046 TwinHickory rezoning was a development that could accommodate up to 1,400  
2047 residential units. It is not developed out to that density. And, even with this request  
2048 will only be at 1,232 or 1,240 units. So, in fact, the impact on County infrastructure is  
2049 less than originally approved by the Commission and by the Board of Supervisors. So,  
2050 we're actually providing a less of an intense impact than the County predicted, or that  
2051 we had a right to develop, frankly.  
2052

2053 With regard to your point about the R-3 lot width, what the developer does is try to  
2054 provide alternate product so that there are different priced products for sale at any given  
2055 time rather than a lot of the same product in terms of the demand for different price

2056 points to the public.

2057

2058 With our R-2A product being a 90-foot lot width, you end up with, basically, when you  
2059 apply your side yard setbacks, a 60-foot building envelop, if you will. With an R-3  
2060 proffered at an 80-foot width, you have a 50-foot building envelope, 10 feet less of  
2061 house width. And, therefore, a distinction in price points that suggests to the public  
2062 that "I can buy here, or I can move up, and buy over here." When we add another 5-  
2063 feet to the R-3 and go to an 85-foot lot width, you blow that distinction, and you blow  
2064 that product line, thereby, impacting absorption and having that different product out to  
2065 the public.

2066

2067 So, while we've increased the size of the lots above the original TwinHickory for R-  
2068 2A, we've stayed with the Code requirements for R-3, and we've increased the R-5A  
2069 by some 10 feet. So, we have three distinct products; the 60-foot lot width, the 80-  
2070 foot lot width, and the 90-foot lot width coming on line at the same time.

2071

2072 Mr. Vanarsdall - Is that it?

2073

2074 Mr. Taylor - With those three, please give me again the price range of  
2075 the R-5A, the R-3, and the R-2A?

2076

2077 Mr. Theobald - R-5A, looking at \$200,000 to \$250,000 house and lot; the  
2078 R-3 product, \$300,000 to \$400,000, and the R-2A, \$400,000 to \$500,000.

2079

2080 Mr. Taylor - How do those figures compare with the current mix of  
2081 housing in TwinHickory? Do you have any statistics as to...

2082

2083 Mr. Theobald - I don't honestly know the answer to that.

2084

2085 Mr. Taylor - Well, the R-2A would be 90 feet. Is that consistent with  
2086 what you have there?

2087

2088 Mr. Theobald - No. Earlier TwinHickory was only 85 feet.

2089

2090 Mr. Taylor - Was only 85? And the R-3 is consistent?

2091

2092 Mr. Theobald - The R-3 is five feet lower. The original TwinHickory  
2093 was 85. And the R-5A, I don't think we had any R-5A product in TwinHickory. We  
2094 had some R-5A product, originally, at Avery Green up near the YMCA which is now  
2095 part of TwinHickory, and those are 50-foot lots. Avery Green being up just off of  
2096 Nuckols Road, across from the YMCA.

2097

2098 Mr. Taylor - Tell me again the amenities that are going to be included  
2099 here?

2100 Mr. Theobald - Well, as you know, TwinHickory, overall, is a master  
2101 planned community with inter-connected pedestrian access ways. The idea being to  
2102 create a sense of community, a place where people can work, live, play, within a  
2103 relatively close area. You have a level of schools soon to be available within probably  
2104 a half mile. You have a YMCA, a planned County library, a planned County park,  
2105 central recreational amenities, active recreational amenities, with a pool and tennis  
2106 courts opening in May, open space, green space, greenbelts along the roads, median  
2107 landscaping, very, very strict architectural review covenants. What a developer or  
2108 builder has to go through to build a house in TwinHickory is very significant. And its  
2109 literally down to the number of plants and shrubs that are planted as a part of  
2110 landscaping. But, here we've proffered hard surfaced driveways in the R-5A product,  
2111 garages. We've proffered similar mailbox design. We've proffered brick stoops. If  
2112 you drive out to Wyndham or TwinHickory, you'll see the level of quality demanded  
2113 by the developer is really among the highest anywhere in the metropolitan area.

2114  
2115 Mr. Kaechele - Your pedestrian and bicycle access, and all that, would be  
2116 kind of consistent through whatever zoning you have. Is that right?

2117  
2118 Mr. Theobald - Yes sir. We connect neighborhoods. We've got  
2119 sidewalks on TwinHickory Lake Drive. As part of original TwinHickory, we have to  
2120 file a pedestrian access way master plan. I believe that will be amended with inclusion  
2121 of this.

2122  
2123 Mr. Kaechele - It would be in the R-5A as well as the...

2124  
2125 Mr. Theobald - You'll be able to connect from neighborhood to  
2126 neighborhood through cul-de-saced streets or when you hit a main road along a  
2127 sidewalk.

2128  
2129 Mr. Taylor - I think, at one stage, we had talked, too, about nature  
2130 trails within the different neighborhoods. This plan is rather small scale to see those.  
2131 But are those included within the amenities?

2132  
2133 Mr. Theobald - We have trails and bike paths all through TwinHickory  
2134 that have been part of each subdivision plan. What you see before you has not been  
2135 finally engineered, but, clearly, that was the Number 1 amenity that the Wyndham  
2136 residents voted when asked what amenities were most important to them. And, so that  
2137 is one that Hunt is a big believer in, and they will thread throughout.

2138  
2139 Mr. Archer - Okay, any further questions or comments?

2140  
2141 Mr. Taylor - Let me just ask one question. You may not have the  
2142 figure, but it would be interesting to see if you had any feel for this figure. And, with  
2143 the lot sizes and the widths, what percentage of lots would you attribute to amenities

2144 that are not adjacent to, but associated with, the lots? Do you have any feel for that  
2145 figure?

2146  
2147 Mr. Theobald - You know, I do, for TwinHickory proper prior to this.  
2148 And, so the numbers should, you only be...

2149  
2150 Mr. Taylor - Would be kind of a pro-rata share of additional  
2151 recreational space, over and above these lot sizes that you're paying taxes on.

2152  
2153 Mr. Theobald - We had in TwinHickory proper, under the original  
2154 zoning, we had some 125 acres of open space amenities, lakes, ponds. This does  
2155 include right of way, I should add, buffers, transitional buffers, school sites, slivers we  
2156 sold to the County, wetlands, cemeteries set aside, etc. I think the original  
2157 TwinHickory was some 400 acres? Does that sound right? So, we had, you know,  
2158 almost a fourth or more attributable to these non-lot related things. So, there's a  
2159 significant amount of land in TwinHickory, which will only get bigger devoted to  
2160 something other than just sticks and bricks.

2161  
2162 Mr. Taylor - That's sort of common used space.

2163  
2164 Mr. Theobald - Well, a lot of it certainly is. In a very lengthy set of  
2165 protective covenants and homeowner's association documents that control all of that and  
2166 provide, you know, absolute legal access to the residents to all of that. That's what  
2167 sells TwinHickory. TwinHickory is one of the most successful developments  
2168 anywhere. That's because of the amenities and the attention to detail and the quality.  
2169 Obviously, the ranges I gave you earlier, those are not inexpensive homes. Any other  
2170 questions? Thank you.

2171  
2172 Mr. Kaechele - The high school question of when these students or when  
2173 these homes would be built out versus the opening of the new high school. Is there  
2174 likely to be a conflict there?

2175  
2176 Mr. Theobald - 2002 is my understanding of the opening of the new high  
2177 school. I think these first homes will be on line about then? A little sooner? Okay, the  
2178 middle of 2002.

2179  
2180 Mr. Kaechele - There's not likely to be a conflict.

2181  
2182 Mr. Theobald - No sir. And remember, too, there is another elementary  
2183 school coming online on TwinHickory road on the Chappell property in 2003, as well.

2184  
2185 Mr. Kaechele - Right.

2186  
2187 Mr. Archer - Mr. Theobald, I have one slight observation. In Proffer

2188 17 it reads, “No certificates of occupancy shall be obtained...” Would you object to  
2189 changing that to, “issued or granted” instead of “obtained?”  
2190  
2191 Mr. Theobald - Sure. That’s not a problem.  
2192  
2193 Mr. Archer - Okay.  
2194  
2195 Mr. Theobald - “No certificates of occupancy shall be issued...rather than  
2196 the word ‘obtained,’ for homes?”  
2197  
2198 Mr. Archer - Okay. Anything further? We didn’t have any opposition  
2199 I don’t believe?  
2200  
2201 Mr. Taylor - No.  
2202  
2203 Mr. Theobald - Thank you.  
2204  
2205 Mr. Archer - Mr. Taylor.  
2206  
2207 Mr. Taylor - Mr. Chairman, looking over the case, I continue to be  
2208 impressed by the quality of the development going on in TwinHickory, in particular  
2209 with regard to the open space, or the space dedicated to community use. This is space  
2210 outside of a person’s yard, but its within the opportunity to use so that the entire public  
2211 benefits. But these come at some expense to the developer, significant expense, yet, it  
2212 adds to everybody’s enjoyment and effectively, in my mind, it adds area, as well as  
2213 character as the nature of the development. I know, over the years, the Hunt  
2214 development has endeavored to increase continually the quality of the work. And I’ve  
2215 been impressed with what I see. And I’ve been impressed with what I understand is  
2216 planned. And I think that Henrico County is very fortunate to have a development of  
2217 this character and nature within it. So, I am going to move for approval of Case C-  
2218 19C-01 as proffered. I need to waive the proffers. Let me do it again. I’m sorry, Mr.  
2219 Chairman. With that I will move to waive the time limit on the proffers.  
2220  
2221 Mr. Vanarsdall seconded the motion.  
2222  
2223 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Vanarsdall. All  
2224 in favor to waive the time limit, say aye—all those opposed by saying nay. The vote is  
2225 5-0, Mr. Kaechele abstained. The time limit is waived. All right.  
2226  
2227 Mr. Taylor - And, now, Mr. Chairman, I’ll move approval of C-19C-  
2228 01 H. H. Hunt- TwinHickory as proposed.  
2229  
2230 Mr. Archer - Is there a second?  
2231

2232 Mr. Jernigan seconded the motion.

2233

2234 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Jernigan. All in  
2235 favor of the motion, say aye—all those opposed by saying nay. The vote is 5-0, Mr.  
2236 Kaechele abstained.

2237

2238 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Jernigan, the Planning  
2239 Commission voted 5-0, (one abstention) to recommend that the Board of Supervisors  
2240 **grant** the request, because it is appropriate residential zoning at this location; and it  
2241 continues a similar level of single family residential zoning as currently exists in the  
2242 area.

2243

2244 **P-5-01 Steven Muscarella for Richmond 20MHz, LLC, t/a**  
2245 **nTELOS:** Request for a provisional use permit under Sections 24-95 (a), 24-120, and  
2246 24-122.1 of Chapter 24 of the County Code in order to construct a 199' wireless  
2247 telecommunications tower and support facilities, on part of Parcel 153-A-22ND,  
2248 containing approximately 2500 sq. ft. of leased area, located on the west side of  
2249 Masonic Lane at its intersection with I-64. The existing zoning is M-2 General  
2250 Industrial District. The site is also in the Airport Safety Overlay District.

2251

2252 Mr. Archer - Thank you, Mr. Secretary. Is there anyone in opposition  
2253 to P-5-01? No opposition.

2254

2255 Mr. Silber - I don't know if everyone remembers Mr. Coleman. I  
2256 think he was introduced at the last meeting. Tom Coleman is new to the  
2257 Comprehensive Planning Staff section. I think this is probably his first presentation  
2258 before the Planning Commission, or one of the first. So, welcome, Mr. Coleman.

2259

2260 Mr. Archer - Thank you. Mr. Coleman. We'll be gentle.

2261

2262 Mr. Thomas M. W. Coleman, County Planner - Thank you. Mr. Chairman, members  
2263 of the Commission, this Provisional Use Permit request is to construct and operate a  
2264 wireless telecommunications tower up to 199 feet in height along Masonic Lane. The  
2265 proposed tower will replace an existing 100-foot tower located nearby at 1003 Masonic  
2266 Lane.

2267

2268 This property is zoned M-2 General Industrial District. The Zoning Ordinance permits  
2269 communication towers up to 100 feet in height in the M-2 District. Towers can exceed  
2270 this limit with a Provisional Use Permit granted by the Board of Supervisors.

2271

2272 The Ordinance requires a minimum 50-foot setback from the base of the tower to all  
2273 property lines, and a setback equal to 110 percent of the tower's height to residentially-  
2274 zoned property and dwellings.

2275

2276 The proposed tower is a monopole style tower. Support equipment would be placed on  
2277 the ground within a 2,500 square foot leased area at the tower's base. The leased area  
2278 is located on a vacant 2.96 acre parcel immediately south of BMG Metals. There is no  
2279 existing access to this site, and the tower would be located approximately 412 feet west  
2280 of Masonic Lane, 50 feet north of Interstate 64, and 50 feet south of the BMG Metals  
2281 property.

2282

2283 The tower site property is adjacent to industrially-zoned property on all sides. The  
2284 nearest residentially zoned property is over 700 feet away to the northeast. The  
2285 proposed tower would be highly visible from Interstate 64, and visible to each of the  
2286 adjoining properties.

2287

2288 This exhibit (referring to slide) shows the network coverage of the existing tower. The  
2289 applicant has indicated that the proposed tower is necessary to replace the tower at 1003  
2290 Masonic Lane. Due to its height, ground elevation, and the surrounding terrain, the  
2291 existing tower is not able to provide contiguous coverage in the Intelos network.

2292

2293 Staff reviewed alternatives with the applicant to determine if the tower could be  
2294 constructed at a lower height. The applicant provided the following information:

2295

2296 The coverage gap, at 150 feet, closes a gap along Interstate 64, but leaves other  
2297 coverage gaps. The coverage area, at 187 feet, provides additional coverage, thereby  
2298 possibly reducing the number of future towers required to complete the Intelos network  
2299 coverage.

2300

2301 Intelos currently has communication facilities at the intersection of Crump Street and  
2302 Magnolia Street, and at Old Oakley's Lane and Interstate 64.

2303

2304 The applicant has indicated that the proposed tower is necessary to complete the  
2305 coverage network and provide contiguous coverage between these two existing  
2306 facilities.

2307

2308 The applicant evaluated two nearby communication facilities along Interstate 64 for  
2309 collocation potential. VDOT has a structure in the right of way at Interstate 64 and  
2310 Nine Mile Road. Sprint PCS has a structure at 4101 S. Laburnum Avenue. The  
2311 applicant indicated that collocating at either of these locations would not close all the  
2312 coverage gaps.

2313

2314 As with all requests for this type of facility, the FCC will regulate the system, and the  
2315 site will broadcast at a very low power. All operations are passive and pose no known  
2316 environmental or health risks to the public.

2317

2318 The unmanned site does not require water, or sewer and would generate almost no  
2319 traffic.

2320 As part of the Federal licensing procedure, proposed communication applicants are  
2321 required to submit locational information to the FAA for air traffic safety analysis.  
2322 This analysis, among other things, determines whether the tower will need obstruction  
2323 marking and lighting. If marking and lighting is required, recommended Condition No.  
2324 3 requires Planning Commission approval for either lighting or painting.

2325  
2326 Staff recommends that a determination by the FAA on these matters be available before  
2327 consideration for final approval by the Board of Supervisors.

2328  
2329 Overall, the site is not objectionable for a tower, and the applicant has demonstrated a  
2330 need for a tower up to 199 feet.

2331  
2332 The proposal is consistent with the County's policy to look for tower sites zoned or  
2333 planned for industrial or commercial uses. The site plan submitted by the applicant  
2334 meets zoning setback requirements.

2335  
2336 The applicant has submitted a letter of agreement to the County committing the  
2337 applicant to remove existing offsite tower at 1003 Masonic Lane within 180 days of  
2338 issuance of a building permit for the proposed tower.

2339  
2340 Should the Board of Supervisors decide to issue a Provisional Use Permit for this  
2341 proposed tower, it is recommended the request be granted, subject to the conditions for  
2342 wireless communication towers included in the staff report. However, the applicant has  
2343 indicated a desire for the Planning Commission to review and approval lighting for the  
2344 tower this evening. That may necessitate a change in those conditions. I would be  
2345 happy to answer any questions.

2346  
2347 Mr. Archer - Thank you, Mr. Coleman. Are there questions from the  
2348 Commission?

2349  
2350 Mr. Jernigan - Mr. Coleman, the reason for the lighting is for the  
2351 helicopter traffic coming down I-64, and staff is okay with that if we put that in?

2352  
2353 Mr. Coleman - If the lighting is required by the FAA, then we're okay  
2354 with it.

2355  
2356 Mr. Jernigan - What we want to do is put it in the approval. There will  
2357 not be a light put on it unless it is required by the FAA. In that way they won't have to  
2358 bring it back through again.

2359  
2360 Mr. Coleman - Correct. If the Planning Commission were to review the  
2361 lighting and were to approve that, then we would have to change Condition No. 3.  
2362 We'll go ahead and do that.

2363

2364 Mr. Silber - So, the applicant is requesting that the tower be lit at this  
2365 time and, if that's the case, if the Commission wishes to grant that as a part of this  
2366 request, we'd need to modify Condition 3. Is that what we're saying?  
2367

2368 Mr. Jernigan - They want permission to light it. They're not going to  
2369 light on construction, only if FAA requires it.  
2370

2371 Mr. Silber - Right. And the condition would have to be modified to  
2372 say that.  
2373

2374 Mr. Jernigan - Yes.  
2375

2376 Mr. Silber - Okay.  
2377

2378 Mrs. Dwyer - So, how would that be modified, Mr. Silber?  
2379

2380 Mr. Silber - I think what we'd need is a condition that would say,  
2381 "Lighting will be required on the tower if FAA requires such lighting,..." or something  
2382 along those lines. In other words, if its not required, its not going to go on. But the  
2383 Commission is considering, up front, the fact that this tower could be lit.  
2384

2385 Typically, the way it happens is, at this point, we don't know about FAA requirements.  
2386 And, typically, we prefer they not be lit. And the applicant would have to come back  
2387 later to the Planning Commission and seek that approval. So, Condition 3, the way its  
2388 worded is sort of a standard wording for that. So, we need to modify that so it is  
2389 addressed up front.  
2390

2391 Mrs. Dwyer - I guess if we know in advance that it would be okay to  
2392 have it lit if the FAA requires it and there's no problem with going ahead and  
2393 approving it now?  
2394

2395 Mr. Silber - That's correct.  
2396

2397 Mrs. Dwyer - Would they be required to submit something official from  
2398 the FAA to the County?  
2399

2400 Mr. Silber - I would think that would be preferable? Now, will we  
2401 know something, Mrs. Freye, before this goes to the Board of Supervisors?  
2402

2403 Mrs. Gloria Freye - No sir. Probably not. They are running about three to  
2404 six months from those filings to getting official answers back.  
2405

2406 Mr. Vanarsdall - They always are.  
2407

2408 Mrs. Freye - And that's why we will, typically, will hire a consultant to  
2409 give advice about whether its indicated for it to be lighted or not. And, typically,  
2410 anything 200 or less is not going to be required to be lighted. But, the agent for the  
2411 FAA in the northeast region, fairly often in situations where a tower is situated close to  
2412 an interstate or even a four-lane divided highway, where there's helicopter traffic has  
2413 been asking for people to put a light on. And we will not be a bit surprised if the FAA  
2414 says, "We'd like to have a light on this one." So, rather than come back, we just as  
2415 soon go ahead and have you consider that now as being an appropriate location for  
2416 lighting a tower, because it is an industrial area. It's not going to have an impact on a  
2417 residential neighborhood, and its right next to the interstate.

2418

2419 If they require us to do it, we will certainly abide by that. We just didn't want to have  
2420 to come back to the Planning Commission for that, and ask that you consider it an  
2421 appropriate location for a lighted tower now.

2422

2423 So, you know, one of the ideas we had was just to strike just the first sentence of  
2424 Condition No. 3. We certainly have no problem with the condition being reworded to  
2425 say that the tower would not be lighted unless required by FAA. And then we would  
2426 abide by notifying the County of that.

2427

2428 Mr. Silber - Mr. Coleman, have we worked on a condition that might  
2429 address this?

2430

2431 Mr. Coleman - "The applicant will not place standard obstruction  
2432 marking and lighting, i.e. red lighting and the orange and white striping on the tower  
2433 unless required by the FAA. The applicant shall notify the Director of Planning prior  
2434 to making any changes to the original galvanized finish of the tower."

2435

2436 Mrs. Dwyer - Could we add something? Prior to putting the lighting on  
2437 there, as well?

2438

2439 Mr. Silber - Right. I guess we need; I mean, did that speak to the  
2440 aspect that they would notify us, in writing, to provide us with documentation that the  
2441 FAA required it? I don't know if that was in that condition.

2442

2443 Mr. Jernigan - We can put it in there.

2444

2445 Mr. Silber - Okay.

2446

2447 Mrs. Freye - What we could do, Mr. Silber, is at the end of that  
2448 condition is to say, "...The applicant shall notify the Director of Planning prior to  
2449 making any changes in the original galvanized finish of the tower, and if the FAA  
2450 requires the tower to be lighted."

2451

2452 Mr. Silber - Okay.  
2453  
2454 Mr. Archer - Mrs. Freye, may I ask a question?  
2455  
2456 Mrs. Freye - Yes sir.  
2457  
2458 Mr. Archer - The staff report indicates that this would complete the  
2459 network that nTELOS would require. So, does that mean that you would not need to  
2460 construct any more towers to operate in that particular area?  
2461  
2462 Mrs. Freye - In that particular area, we can say that. Yes sir.  
2463  
2464 Mr. Archer - So, what is that particular area, is the question.  
2465  
2466 Mrs. Freye - You don't have a map that shows the whole area that  
2467 those towers serve. It doesn't give them coverage down to Route 5. That's still a  
2468 problem area. It gets them closer to that area, but it doesn't cover that.  
2469  
2470 Mr. Archer - Okay. So, you would say, then, that from the vicinity of  
2471 Route 5 back toward Richmond, that coverage would be complete, and we wouldn't  
2472 need any more towers, except in an easterly direction?  
2473  
2474 Mrs. Freye - I think that would be accurate.  
2475  
2476 Mr. Archer - Okay.  
2477  
2478 Mrs. Freye - Yes.  
2479  
2480 Mr. Archer - Any further questions?  
2481  
2482 Mrs. Freye - I'd be glad to answer any other questions.  
2483  
2484 Mr. Archer - I don't think we had any opposition. Mr. Jernigan.  
2485  
2486 Mr. Jernigan - All right, Mr. Chairman, at this time, I'd like to make a  
2487 motion to approve Provisional Use Permit P-5-01 for nTELOS with additional approval  
2488 on Condition 3 for a red beacon light, if required by FAA, and notification from  
2489 nTELOS to the County must be made in writing before installation.  
2490  
2491 Mr. Archer - Okay.  
2492  
2493 Mr. Vanarsdall seconded the motion.  
2494

2495 Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall. All  
2496 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele  
2497 abstained.

2498  
2499 REASON: Acting on a motion by Mr. Jernigan, seconded by Mr. Vanarsdall, the  
2500 Planning Commission voted 5-0, (one abstention) to recommend that the Board of  
2501 Supervisors **grant the requested revocable provisional use permit**, subject to the  
2502 following conditions:

- 2503
- 2504 1. If the use of the tower for communication purposes is discontinued for 180 days,  
2505 the tower and all related structures shall be removed from the site within ninety  
2506 (90) days. Within ten (10) business days after written request by the County, the  
2507 owner of the tower shall provide the County with written confirmation of the  
2508 status of the tower, the number of and identity of users on the tower, available  
2509 collocation space on the tower and such additional information as may be  
2510 reasonably requested.
  - 2511
  - 2512 2. Application for a building permit to install the tower must be made within one  
2513 year after the Provisional Use Permit is granted by the Board of Supervisors,  
2514 unless an extension of time is granted by the Director of Planning upon a written  
2515 request by the applicant.
  - 2516
  - 2517 3. The applicant will not place standard obstruction marking or lighting on this tower  
2518 unless required by the FAA. If the FAA requires lighting, the applicant will  
2519 request dual lighting consisting of red lights at night and flashing white lights  
2520 during the day. The applicant shall notify the Director of Planning if the FAA  
2521 requires the tower to be lighted and prior to making any changes to the galvanized  
2522 finish of the tower.
  - 2523
  - 2524 4. When site construction is initiated as a result of this Provisional Use Permit, the  
2525 applicant shall complete requirements prescribed by Chapter 10 of the Henrico  
2526 County Code. In particular, land disturbance of more than 2,500 square feet will  
2527 require that construction plans include a detailed drainage and erosion control plan  
2528 prepared by a professional engineer certified in the State of Virginia. Ten (10)  
2529 sets of the construction plans shall be submitted to the Department of Public  
2530 Works for approval.
  - 2531
  - 2532 5. The applicant shall allow the collocation of at least 3, and as many additional  
2533 users as technically possible at this site in accordance with the provisions of the  
2534 Letter of Intent to Permit Co-Location on Communications Tower, filed by the  
2535 applicant with this request.
  - 2536
  - 2537 6. A landscaping plan for the purpose of screening the base of the tower from view  
2538 shall be submitted to the Planning Office for approval prior to the issuance of a

2539 building permit for the tower. The Director of Planning may waive the  
2540 enforcement of this condition if it is deemed unnecessary.

2541 7. If ownership of the lease is transferred to another provider, the applicant will  
2542 need to submit a Transfer of Provisional Use Permit.

2543  
2544 The Planning Commission's recommendation was based on the fact that the proposed  
2545 tower is consistent with the policy to locate towers in industrial areas.

2546  
2547 **C-20C-01 Robert L. Stout for FDS Management:** Request to  
2548 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence  
2549 District (Conditional), Part of Parcel 192-A-5, described as follows:

2550  
2551 Beginning at a point marked by a rod in the southern line of Old Oakland Road, said  
2552 point also being the northwest corner of the 16.5 ± acre property acquired by the Clara  
2553 M. Ingram Trust, then south 3°49'42" west for a distance of 92.23' to a rod, then south  
2554 3° 51'59" west for a distance of 176.36' to a rod, then south 3°16'31" west for a  
2555 distance of 844.64' to a rod, then north 64°42'01" east for a distance of 621.42' to a  
2556 rod, then south 20°53'54" east for a distance of 18.00' to a rod, then northeast for a  
2557 distance of approximately 370' ± along the centerline of a creek to a rod, then north  
2558 83° 33'57" west for a distance of 166.41' to a rod, then north 6°17'54" east for a  
2559 distance of 147.92' to a rod, then north 83° 7'53" west for a distance of 64.41' to a  
2560 rod, then north 1°56'08" east for a distance of 80.41' to a rod, then north 85°17'52"  
2561 west for a distance of 55.24' to a rod, then north 4°6'11" west for a distance of 318.33'  
2562 to a rod, then along the south line of Old Oakland Road south 87°36'46 west for a  
2563 distance of 432.82' to a point marked by a rod and the place of beginning, containing  
2564 12.7± acres.

2565  
2566 Mr. Archer - Is there any one here in opposition to C-20C-01? We  
2567 have opposition. Is there someone else? Thank you, ma'am. We'll get to you. All  
2568 right, Mrs. Hunter.

2569  
2570 Mrs. Hunter - Thank you, Mr. Chairman. This subject request would  
2571 rezone 12.7 acres from A-1 Agricultural District to R-3C One Family Residence for a  
2572 32-lot subdivision. The property is located on the south line of Old Oakland Road,  
2573 approximately 600 feet west of Oakvale Street.

2574  
2575 On the western boundary of the property is Foxboro Subdivision, which is an existing  
2576 subdivision, developed probably sometime in the seventies. To the south is Foxboro  
2577 Downs, which is a subdivision that is currently being constructed. The roads are being  
2578 cut in and some houses are under construction now.

2579  
2580 To the north is Old Oakland Road, which is characterized by predominately larger lots  
2581 than the R-3 typically allows with homes fronting Old Oakland Road. And then to the  
2582 east, you have some vacant R-5 zoning.

2583 The requested zoning classification of R-3 would allow lot sizes of 11,000 square feet,  
2584 and a minimum lot width of 80 feet.  
2585  
2586 The 2010 Land Use Plan designation is for Suburban Residential, which allows 1.0 to  
2587 2.4 units per acre. The applicant has not proffered this conceptual plan, but it does  
2588 show 32 lots.  
2589  
2590 The R-3 District could allow densities up to 3.96. The 32 lots would be a density of  
2591 2.52, which is slightly above the recommended density of the Land Use Plan.  
2592  
2593 The School Planner has indicated that Baker Elementary School is over capacity at this  
2594 time, and, therefore, staff recommends that the density should fall within the  
2595 recommended range of 1.0 to 2.4 units per acre.  
2596  
2597 Staff also believes that this would help blend the subdivisions between the R-3 on the  
2598 north and the south, and the larger lots along Old Oakland Road.  
2599  
2600 The applicant did submit revised proffers to which the standard language has been  
2601 included regarding cantilevered chimneys, and slab construction.  
2602  
2603 Most rezoning cases also include a proffer for brick foundations. A majority of the  
2604 homes in the area have brick foundations and this would help to ensure consistency of  
2605 quality with adjacent development.  
2606  
2607 Staff would also recommend deletion of Proffer No. 8, which states that there would be  
2608 uniform mailboxes. Staff believes this is best addressed in restrictive covenants, and  
2609 not as a proffer.  
2610  
2611 Overall, residential development of this site is appropriate. However, staff has  
2612 concerns with the density, the lack of brick foundations, and would recommend  
2613 deletion of Proffer 8. If the applicant can address these staff concerns, staff could  
2614 recommend approval of this request. I'd be happy to answer any questions.  
2615  
2616 Mr. Archer - Thank you, Mrs. Hunter. Are there questions?  
2617  
2618 Mr. Vanarsdall - What's the date of these revised proffers?  
2619  
2620 Mrs. Hunter - They came in on Monday, so we don't have to waive the  
2621 time limit.  
2622  
2623 Mr. Vanarsdall - Monday?  
2624  
2625 Mrs. Hunter - April 8<sup>th</sup>.  
2626

2627 Mr. Vanarsdall - Okay. Thank you.  
2628  
2629 Mr. Jernigan - All right, Mrs. Hunter, they have said that they would put  
2630 in brick foundations?  
2631  
2632 Mrs. Hunter - I have not seen that yet.  
2633  
2634 Mr. Jernigan - Well, we've got a verbal. Mr. Davis is here.  
2635  
2636 Mrs. Dwyer - What specific density changes are you recommending in  
2637 terms of the proffer language? Is there anything that you can specify the number of  
2638 lots?  
2639  
2640 Mrs. Hunter - I would encourage they proffer a number of lots. Right  
2641 now, they're showing 32. If they dropped it to 31 lots, that would get it to 2.44. My  
2642 recommendation would be for 30 lots, which would put it under the 2.4. And it also  
2643 would help improve the layout. Some of the lots have smaller building envelopes.  
2644  
2645 Mr. Jernigan - They told me you had trouble with three lots on there.  
2646 One, two, and 24, I believe is the other one you said?  
2647  
2648 Mrs. Hunter - You can see (referring to slide) the applicant was kind  
2649 enough to draw in building envelopes for us, since this issue has come up. You can see  
2650 this one, the way its on the corner. It has a very tight envelope. These lots, 1 and 2,  
2651 this is a RPA line here (referring to slide), so their entire backyard would be within  
2652 that. There's also some concerns with this here (referring to slide) being a blind curve  
2653 and having a driveway here (referring to slide). So, the reduction of two lots could do  
2654 a lot to improve the layout of this subdivision.  
2655  
2656 Mr. Jernigan - You're saying Lot 32 is blind? Being blind, those  
2657 driveways would have to be where they pull out, not backing out on Oakland Road.  
2658  
2659 Mrs. Hunter - I'm not sure if we could regulate how people back out. I  
2660 mean, ideally, I guess it would be a circular entrance or something like that.  
2661  
2662 Mr. Jernigan - Well, it doesn't have to be circular. You can just have an  
2663 area to where you can back up, you know, a little extra gravel or a hard surface  
2664 whichever is over there. You're not supposed to back out onto a County road anyway.  
2665  
2666 Mr. Silber - Really? I think it would be hard to regulate. I agree with  
2667 you, Mr. Jernigan. I think that would be the preferred way of doing it, especially with  
2668 that curve. I don't know, even at time of subdivision, if we should be trying to require  
2669 that. We certainly can talk to the applicant and there may be some ways of addressing  
2670 that.

2671 Mr. Jernigan - Mrs. Hunter, what is the density in the other two  
2672 subdivisions?  
2673  
2674 Mrs. Hunter - Both of these are R-3 subdivisions. The ones along Old  
2675 Oakland, as you can see, those are much larger lots and these are developed fronting on  
2676 Oakland. I have not gone and figured out the density of all these. I think the applicant  
2677 has figured out the density of Foxboro Downs, and Foxboro, and they're about 2.5 and  
2678 2.6. But, I think, if you looked at Old Oakland, that density would be much lower.  
2679  
2680 Back in the 70s, this was zoned back at that time, also. So we had no control at that  
2681 time over the density on those subdivisions.  
2682  
2683 Ms. Dwyer - Are you suggesting that this be a transition between those  
2684 two densities?  
2685  
2686 Ms. Hunter - Yes.  
2687  
2688 Mr. Silber - Mr. Jernigan, when the two existing subdivisions were  
2689 zoned and subdivided, or certainly zoned, we had a different Land Use Plan at that  
2690 time. The Land Use Plan for single family was just called low density residential and  
2691 allowed you to go to a density of about 4-1/2 units per acre. So, we now have a  
2692 different land use plan that recommends SR-1. There are two types of Suburban  
2693 Residential densities, and this is the lower of the two, so this allows a density of up to  
2694 2.4.  
2695  
2696 Ms. Hunter - There is some SR-2 designations in this area up here, but  
2697 this area is all now SR-1.  
2698  
2699 Mr. Silber - You might want to go to the Land Use Plan and show  
2700 that.  
2701  
2702  
2703 Mrs. Hunter - Yes, this is the SR-2 here (referring to slide).  
2704  
2705 Mr. Archer - Okay. Any further questions? All right, we need to hear  
2706 from the applicant. Mr. Silber, I guess we better remind everyone about the time rules  
2707 again.  
2708  
2709 Mr. Silber - Mr. Stout, maybe just to remind you, we are keeping a  
2710 clock, and you will have 10 minutes. Do you want to save some of that time for  
2711 rebuttal?  
2712  
2713 Mr. Stout - Yes sir.  
2714

2715 Mr. Silber - How much time would you like to save?  
2716  
2717 Mr. Stout - Just go along with me here for a second, and I will try to  
2718 be as quickly as possible. I just want to address the questions brought up, and move  
2719 right along and give the protestants an opportunity to speak.  
2720  
2721 Mr. Silber - Okay.  
2722  
2723 Mr. Stout - I am a little nervous because I haven't spoken before you  
2724 all before. I would like to first address the density issue. I would begin by reiterating  
2725 what JoAnn said that the property to the north is zoned R-3. The property to the west  
2726 is zoned R-3. The property to the south is zoned R-3. The property to the southeast is  
2727 zoned R-5, and then directly to the east, where the residue parcel is left is A-1. So the  
2728 property is surrounded by higher density properties, except for the A-1 that's directly to  
2729 the east of the property.  
2730  
2731 What we did was we took the subdivisions around there, and I have a copy (gives  
2732 copies to the Commission). The average density when all of the properties, the lowest  
2733 density around us is 2.5, and we are proposing 2.52. It really is 2.51, so we are very  
2734 compatible. The other densities are 2.66, 2.87, and 2.61. So the proposed density  
2735 being proposed is very compatible with the existing residential subdivision around the  
2736 proposed project. So, therefore, we have requested the 32 lots, which is compatible  
2737 with the existing, and I am stating existing subdivisions around us. And, of course, the  
2738 properties to the southeast, which is zoned R-5, would be even greater yet. So, it  
2739 would even bring the density up higher.  
2740  
2741 The offered lots and the reason that I put the concept up here, this is just up here as a  
2742 concept to show you all how houses could fit on the property. I have given you some  
2743 example houses. Up in through here (pointing to map), they are typically 40 x 30, 40 x  
2744 28, 40 x 26, just to show you. We had building envelopes shown on there. And, what  
2745 I have done is, I have placed houses in the general nature, and these houses are  
2746 compatible with the size of houses all around in the neighborhood. And I have placed  
2747 houses in everyone of the envelopes that has been proposed.  
2748  
2749 The minimum width permitted, and I thought that this lot here was tight (referring to  
2750 slide), and the lot here tight (referring to slide). I will give you that number. I am  
2751 sorry I can't see it from here. I thought I would be able to.  
2752  
2753 Anyway, the minimum envelope is 30 foot in depth, so Lot 1 has a depth of 30 feet.  
2754 Lot 24 that's a concern is 30 feet. And then the lot here, Lot 18, I believe it is,  
2755 because I have a different concept plan, is also 30 feet. So that typical houses in the  
2756 area can fit on the envelopes.  
2757

2758 And I would also point out that this is conceptual. This is before we've done actual  
2759 engineering on it. So, with that, and actual location of the boundary and the RPA line  
2760 and the curvatures of the road, we'll be able to possibly even increase the building  
2761 envelope. So, I would point all of this out. That is why we are asking for the 32 lots,  
2762 which would make it compatible with the existing neighborhood.

2763  
2764 With regard to the foundation, we have talked this evening. and we would proffer that  
2765 the foundations be brick.

2766  
2767 With regard to the mailboxes, we can put that as part of the covenants. I have no  
2768 problem with removing that from the proffers, as being proposed. And with that, I'd  
2769 answer any questions.

2770  
2771 Mr. Archer - Thank you, sir. Are there questions from the  
2772 Commission?

2773  
2774 Mr. Jernigan - All right. On Lots 1 and 2, the RPA line comes up close  
2775 to the back of the house.

2776  
2777 Mr. Stout - Yes, sir. And this is an approximate location of the  
2778 stream, so that I don't know the exact location. That is approximate based off of the  
2779 County topo map, which could have been changed by now.

2780  
2781 Mr. Jernigan - I don't have any more questions.

2782  
2783 Mr. Archer - Does anybody else have any questions?

2784  
2785 Mr. Stout - Just one last point. The density that I gave you, the  
2786 average density, the comp plan calls for 2.4. R-3 permits the 3.9. But we are closer to  
2787 both the general development plan and the existing density in the area. And that is all  
2788 that I have.

2789  
2790 Mr. Archer - Thank you, sir. You have about five and a half minutes  
2791 left for rebuttal if you need it. All right, we will hear from the opposition, and please  
2792 remember that the same rules apply, ten minutes for the opposition. If there is more  
2793 than one speaker, kind of reserve your time.

2794  
2795 Mr. Jeremy Rowan - Good evening. My name is Jeremy Rowan, and my wife,  
2796 Stephanie Rowan, is here. And also Mrs. Porter and her father graciously allowed me  
2797 to speak in opposition of this proposal. I have a petition here, as well, which I would  
2798 like to give you all copies of and the signatures.

2799  
2800 Of course, some of the data that we are arguing over has changed since I first drew up  
2801 this petition, and I would like to read it, if I can. "This petition hereby opposes the



2845 definitely productive. Just because you have to have a house there doesn't necessarily  
2846 mean that this is productive.

2847

2848 So, I have spoken about the environmental impact. I am also very concerned about the  
2849 schools that are already over capacity in this area. As the lady already stated, Baker  
2850 Elementary School is over capacity and by their count it is 388, and right now it is 394.  
2851 And the minimum we are talking about here is a yield of 14 that would increase. And I  
2852 think that number is on the low end.

2853

2854 I also think that the quality of the subdivision here that we are talking about, we have  
2855 used words here, tonight, like "areas of open space" and "character." And this area  
2856 has a lot of character, but no one is really speaking to that. And, what we are talking  
2857 about here are houses that are going to be built on the maximum side of the density that  
2858 is proposed, over 2.4 acres rather than any of the minimums.

2859

2860 This proposal doesn't even consider any of the acreage on Oakland Road where my  
2861 wife's house is and where the lady's house is, as well. We bought these homes,  
2862 maintained them, pay our taxes, pay our mortgage. And none of that is taken into  
2863 consideration; the fact that we bought properties intact with large acreage, and that is  
2864 not considered here. It is as if our homes don't even exist in the plan because it wasn't  
2865 considered it whatsoever.

2866

2867 The road, which is going to enter from Oakland Road, is directly in front of my home.  
2868 The lights that would shine in the evening coming out of that subdivision would go  
2869 directly into my bedroom window. So, it is as if that has not even been considered  
2870 whatsoever. Neither have the safety concerns of the 90 degree bend or the EPA impact  
2871 here.

2872

2873 Of course, there is going to be runoff coming from the subdivision. There is going to  
2874 be soil degradation and loss there. And my land is going to be directly downstream  
2875 from that, so I am affected by it. My way of life is affected by it. And I have the  
2876 signatures here of 27 other landowners on this road that are also affected by it that  
2877 could not be here tonight because some of them are 90 years old. My neighbor, for  
2878 instance, his wife can't even leave the home. So, they are not able to be here tonight.  
2879 I speak for them.

2880

2881 So, I plead with the County, tonight, to consider us in this plan, because nobody  
2882 contacted us to ask us what we thought of this proposed subdivision. We were not  
2883 contacted whatsoever.

2884

2885 I only got a letter from this two and a half weeks ago to try to form some opposition  
2886 against it. That is really not enough time. I noticed the actual proposal here. The date  
2887 on it is March 1st. So, within a month and a half time, we are here deciding the fate of  
2888 this land for good.

2889 And, I am worried that, what we are talking about here, this low income-type housing  
2890 that are going to be built now, in 30 years, are going to be slums that we are all going  
2891 to have to deal with, because they are houses of the lowest standard possible. Not like  
2892 these houses that we are talking about with TwinHickory, where they are \$300,000 to  
2893 \$400,000. Unfortunately, they don't build those kinds of houses in my neighborhood.  
2894 They build the bare minimum, and we have to deal with that.

2895  
2896 So, I hope we can take all of these things into account, tonight, in the decision that's  
2897 made. And, I hope that more time can be taken to consider it all. I don't think the  
2898 proffers really address what is needed here, or the impact on the environment in this  
2899 area. And I have no idea, really, what these houses truly are going to look like or the  
2900 end result. And there are no proffers considering landscaping, or trees, or how these  
2901 things are going to be laid out and how they relate to us. It is only considering  
2902 Foxboro; that Subdivision, and their high density.

2903  
2904 And I will tell you, if you drive through that neighborhood, those houses were built in  
2905 the 1970s. They are falling apart. They are a disgrace. There isn't one tree, one  
2906 bush, one shrub, one flower, planted on any of that land. It is scorched earth. And  
2907 that is what is going to become this land here that was once productive land.

2908  
2909 Unfortunately, Mr. Stout and the development here don't consider this productive land.  
2910 But I have to speak for it in terms of it and its character and the integrity that it has.  
2911 What we decide tonight, decides the fate of it all.

2912  
2913 Unfortunately, we don't see the whole development plan here in Varina. You don't see  
2914 I-895 that's being built through. You don't see the subdivisions surrounding us in  
2915 every direction. I feel like, you know, it is sort of like a cannon is forced at us; the  
2916 guns, you know. It is the retreat of Richmond all over again.

2917  
2918 Mr. Archer - Excuse me, Mr. Rowan, was there anyone else who  
2919 wanted to speak, because you only have about a minute left.

2920  
2921 Mr. Jernigan - A lady back here.

2922  
2923 Mr. Rowan - I'd like to ask questions of the developer when he comes  
2924 up.

2925  
2926 Mr. Archer - We can handle that part of it. But is there somebody else  
2927 who wanted to speak.

2928  
2929 Mr. Rowan - And I don't know if you have any questions for me.

2930  
2931 Mr. Archer - We very well may, but I didn't want you to use up all of  
2932 your time without being aware of it.

2933 Mr. Rowan - Okay.  
2934  
2935 Mr. Archer - You don't need to speak, ma'am? Okay. Thank you.  
2936  
2937 Mr. Jernigan - Mr. Rowan, what you would like to see happen to the  
2938 land?  
2939  
2940 Mr. Rowan - Well, I kind of feel like this has already been decided  
2941 tonight. This is just a formality of sorts. Obviously, the developer, they have money  
2942 and I don't. They have all the power and I don't. So, what we are talking about here  
2943 is the maximum development of this land that they can possibly squeeze into it. And  
2944 we are asking for consideration of our land on Oakland Road and larger acreage that we  
2945 have. So, I am asking that the homes that are fronting it be eliminated; that the  
2946 driveways that would be fronting it and creating that hazard not be a consideration at  
2947 all. I think, you know, we are not talking about paved driveways here. We are talking  
2948 about rock and gravel that is going to spew out onto the road and create a hazard as  
2949 well.  
2950  
2951 We talked about driveways a little bit, and I don't know anything in terms of the quality  
2952 of these homes; how they are going to relate to the qualities of our homes. They are all  
2953 brick. They are all masonry. They are all on large lots. They are well landscaped.  
2954 They have mature trees. Is any of that going to be considered in this plan, I wonder?  
2955  
2956 Mr. Jernigan - When I spoke to you earlier today, you had concerns that,  
2957 before we saw this last plan, you'd be looking at the backs of the houses.  
2958  
2959 Mr. Rowan - Right.  
2960  
2961 Mr. Jernigan - Now, with the new plan, you are looking at the front of  
2962 the houses.  
2963  
2964 Mr. Rowan - To be honest with you, what I was concerned about, I  
2965 wanted them to be on a cul-de-sac that didn't enter into Old Oakland at all. There are  
2966 already two entrances from Foxboro and the other subdivision here. I don't really  
2967 understand why they need a third entrance. I don't know too many subdivisions that  
2968 have that many entrances and exits.  
2969  
2970 Mr. Jernigan - I don't think fire and rescue and the police are going to go  
2971 with just that entrance coming in through the other subdivision.  
2972  
2973 Mr. Rowan - Well, if it has to be there, then I hope it can be relocated  
2974 in a center area, not directly fronting my property or my neighbor's property.  
2975

2976 Mr. Jernigan - I mean, do you have an objection for the subdivision  
2977 altogether?

2978  
2979 Mr. Rowan - Well, yes, I do. Essentially, I do, for that altogether. But  
2980 we are already talking where the subdivision is going to happen. Well, I have to have  
2981 concerns about how that subdivision is going to be placed; how it is going to be laid  
2982 out, and how it relates to my property.

2983  
2984 When my wife and I built this, there was corn growing over there that we are talking  
2985 about. It wasn't homes. If I had to consider it all over again, I am not sure whether I  
2986 would have bought a house and having lived in it 10 years, and spent \$50,000 trying to  
2987 restore an old Spanish Mission house, if I knew this was going to be here. I don't think  
2988 my neighbor here who bought her house within the recent months would have bought it  
2989 if she had known this subdivision was going to be here.

2990  
2991 So, what we are asking for is some relief. We are asking for more time, that we have  
2992 some input on how this is going to be laid out and how it relates to us, not just  
2993 Foxboro, because those people have been there since the 1970s. They are accustomed  
2994 to the higher density living. We moved out there for a different quality of life, a  
2995 different character, and that's disappearing. This is the last tract of land for miles that  
2996 we are talking about here. Once its gone, its gone.

2997  
2998 Mr. Jernigan - As I explained to you earlier today, Varina has the raw  
2999 land in this county and it is going to be improved. I can see where you're coming  
3000 from.

3001  
3002 Mr. Rowan - But we are asking for a little bit of relief. And those  
3003 houses being removed on Oakland Road, that would be a consideration to us. That  
3004 would give us a little bit of breathing space that we might be able to live with.

3005  
3006 Mr. Jernigan - The houses being what now?

3007  
3008 Mr. Rowan - We were talking about the houses being too high density  
3009 for this area.

3010  
3011 Mr. Jernigan - Okay.

3012  
3013 Mr. Rowan - Proposed 2.4. I am asking that the houses that are  
3014 fronting on this proposal for Old Oakland Road be removed from that plan; not be  
3015 considered. And I ask that the road that is coming off of Old Oakland be moved over  
3016 to a center point where it is not directly in front of either of our homes, because I don't  
3017 think that is fair to us having to deal with the traffic barreling straight out in front of  
3018 our house. Every time we come in and out, we are also going to fight that traffic.

3019

3020 Mr. Archer - Mr. Rowan, you did indicate you did not have an  
3021 opportunity to talk with anyone at all about this?  
3022  
3023 Mr. Rowan - No one talked to us whatsoever.  
3024  
3025 Mr. Archer - Not the developer?  
3026  
3027 Mr. Rowan - It was sprung on us at the last possible minute. I had  
3028 hardly any time to even get this petition together to get signatures.  
3029  
3030 Mr. Archer - Yes. I noticed that there are about 15 households  
3031 represented on the petition and probably 27 names, I believe.  
3032  
3033 Mr. Rowan - That's right.  
3034  
3035 Mr. Archer - Do you all have any kind of an Association that you could  
3036 get together to...?  
3037  
3038 Mr. Rowan - There is an environmental association. If you notice, they  
3039 are on the receiving list of this mail, and I have been trying to contact them.  
3040  
3041 Mr. Archer - I am talking about people in your neighborhood, the ones  
3042 that signed this petition.  
3043  
3044 Mr. Rowan - No. Unfortunately it is a rural area. And, being so, they  
3045 generally don't have these associations. People know each other as neighbors and  
3046 friends. They don't feel like they have to have a formal relationship like that. They  
3047 stick together when need be like in these circumstances.  
3048  
3049 But, obviously, we need an association badly, because no one is really representing us.  
3050 I think we are the people the County forgot for a long time until this land became  
3051 valuable to build on. The west end is maxed out. There is nowhere left to build there.  
3052 We joke everyday. It is east Charlottesville, you know. I wonder sometimes where  
3053 Short Pump is. It is cleared to the point that I might be able to see Monticello one day.  
3054 And, now, I am wondering, on our end of town, maybe we will be able to see the  
3055 Chesapeake Bay, because it is all going to be leveled. I am asking; I am begging for  
3056 relief here.  
3057  
3058 Mr. Silber - Mr. Rowan, if I can maybe just comment on a couple of  
3059 your points, tonight. I think there are a few basic things you need to know, and then I  
3060 would make a recommendation that you meet with the developer. Whether this goes on  
3061 to the Board or if it is deferred tonight, let me say that this is not the final action. The  
3062 Planning Commission is a recommending body. They will be making a  
3063 recommendation to the Board of Supervisors. There will be another public hearing and

3064 another opportunity to express yourself. If it gets deferred tonight, there may be an  
3065 opportunity for you to work with the developer and, perhaps, have him address some of  
3066 your concerns.

3067  
3068 But, let me point out a couple of observations. One is that, there is R-3 zoning on three  
3069 sides of this piece of property. That is a fact. In R-3 zoning they have a right to  
3070 develop that piece of property up to approximately 2.4 units per acre. It's 11,000  
3071 square feet per lot. In fact, your property is zoned R-3, and your property may be  
3072 much larger than 11,000 square feet, but you, in fact, could subdivide your property  
3073 and have 11,000 square feet per lot.

3074  
3075 Mr. Rowan - But in all honesty, it wouldn't be realistic to do that  
3076 whatsoever. My property is on a slope facing a creek and marshland. It has an open  
3077 spring which percolates from the ground, which is also all the water that people drink  
3078 in that area is directly related to the aquifer.

3079  
3080 Mr. Silber - Okay. Let me finish, if I could, please. So, you do have  
3081 zoning on your property. And, I think that is a fact you need to be aware of. Also, the  
3082 County adopts a long-range land use plan that is supposed to help guide the County in  
3083 making land use decisions.

3084  
3085 We recognize that the County will be growing in the future. It is a popular place to  
3086 live. You have moved into this area, also. The Land Use Plan recommends this area  
3087 be developed in a fashion pretty similar to what has been filed here. It is not to say that  
3088 there could not be some changes and modifications made to the layout, even density.  
3089 The staff is recommending the density is still too high. We are recommending fewer  
3090 lots.

3091  
3092 But, my point is, that this property in this area is slated to be developed in a fashion  
3093 very similar to what's been filed. So, my advice to you would be to work with the  
3094 developer within the constraints of the existing zoning, the long-range Land Use Plan  
3095 the County has adopted, and attempt to work out some of the issues that more greatly  
3096 impact you directly and your neighbors directly, because there could be some things  
3097 done here to lessen the density slightly, to move or adjust roads, provide perhaps some  
3098 larger setbacks for dwellings, so that maybe they are not right up on Old Oakland. I  
3099 think there are some things that can still be worked on. But I think you need to  
3100 understand, and start from the premise that this person has the right to develop their  
3101 property, and it is being proposed to be zoned for a subdivision that is very similar to  
3102 what exists in the area.

3103  
3104 Mr. Rowan - Well, I understand the zoning areas that are involved here.  
3105 But, when I do see that there is a band width between one acre and 2.4, my question is,  
3106 "Why does it have to always have to be on the opposite end? Why does it have to be  
3107 on the maximum side?" Earlier, we discussed with these higher quality and higher

3108 priced developments, we are never talking about the maximum density. They offer to  
3109 do lower density, because they want to get a higher price for their homes. They want  
3110 to have a higher quality of life for their residents. And that is what I am appealing for,  
3111 as well.

3112  
3113 We have a higher quality of life because of the lower density per acre on our land, and  
3114 that is what I am appealing for, for this land as well. Obviously, yes. It is going to be  
3115 considered. There are going to be houses built here. But, what I am appealing to is,  
3116 why does it have to be 2.4 acres, or right on the border line of that? Why can't we do  
3117 something where there is a reasonable space, and there is some open area left? And I  
3118 ask if houses are going to be removed from the plan, that they be on our side, because  
3119 Foxboro is already built to that standard and Old Oakland should be, if this road is  
3120 going to open up on our side into our area. Our homes have to be considered into that,  
3121 and factored in. Really, all of the homes in our area are entirely made of brick or  
3122 masonry, at least within that half mile radius of where this is concerned. And, I do  
3123 believe that ought to be taken into consideration. Not just a brick foundation, but,  
3124 obviously, a brick home is better quality. It is going to last, and it has that appeal to  
3125 people just as it appealed to us when we bought our homes.

3126  
3127 Mr. Jernigan - Mr. Rowan, when I was down there yesterday, and after I  
3128 talked to you this morning, I was back down there again. The house that is right up on  
3129 the corner where the 90 degree turn is, is a big brick house. The one directly across  
3130 the street is brick. And the one on that lot next to the subdivision is brick. Going  
3131 down that road, there your house is a textured masonry house. The other homes down  
3132 there are all lapboard or either vinyl siding, and there's two cedar homes. So, the only  
3133 brick homes are right; is the three right around you. Am I correct?

3134  
3135 Mr. Rowan - That is correct. That is why I do feel that those homes  
3136 would I hope would be taken into consideration in the planning, at least the ones that  
3137 front Oakland Road. I am not necessarily stating that every home in that subdivision  
3138 has to be brick, but, perhaps, the ones that are fronting us, if they are going to be  
3139 constructed there, should reflect the quality of the homes that we have, and that type of  
3140 design.

3141  
3142 Like I said, I think I have legitimate concerns in terms of the safety of that hairpin turn  
3143 there. How that is going to reflect on the homes that are built there. I have nothing  
3144 against the people that are going to live there. But they are going to have deal with  
3145 safety issues, trying to make a left turn onto Old Oakland Road, and immediately facing  
3146 a 90-degree bend, where we have tractor trailers that take that road routinely, trying to  
3147 cut from Route 5 down to Darbytown and back to Laburnum. And that is something I  
3148 guess they're are going to have to deal with. I sincerely worried for their public safety.

3149  
3150 Mr. Archer - Excuse me, sir. I think your time is up. We let you run a  
3151 little over, because I know you wanted to express yourself. I think we are approaching

3152 the time where we do need to make a decision on this. I don't know if the applicant has  
3153 any rebuttal that he would like to make.

3154

3155 Mr. Jernigan - You know, Mr. Rowan, when I talked to you earlier, I am  
3156 not sure I told you this, but I want to tell you now. In a situation like this, even if we  
3157 get approval tonight, that means that there is going to be a subdivision there. But that's  
3158 not the final end to it. It has to go through POD, where the conditions and everything  
3159 come in on the homes. So, I just want you to know this is the big picture, and then the  
3160 finer prints come in later on the plan of development.

3161

3162 Mr. Stout - I am sorry. One of the things that I did not mention  
3163 before was that the developer is willing to proffer the number of lots. I will tell you the  
3164 reason we didn't originally was, because the residue parcel that's right here (referring  
3165 to slide) is under contract with the people that own the R-5 property to the southeast of  
3166 us. And we weren't sure what was going on with the whole thing. And that's why we  
3167 were sitting there on the fence, not knowing what was going to occur. But Jo Ann and  
3168 I have spoken about it. And we can add the number of lots and density to the proffers.  
3169 I would note that for you.

3170

3171 Second off is, I've met with both Planning and with Traffic Engineering with several  
3172 different alternatives. One offered a buffer strip along Oakland Road, with lots backing  
3173 onto it. Another one offered a through road onto Oakland Road, up here, to try to get  
3174 closer to the hairpin road, and try to make some kind of transition there. And this  
3175 modification right here that's shown, (referring to slide) is based on what was  
3176 recommended by Traffic Engineering. And, that the lots fronting on Oakland Road and  
3177 the cul-de-sac are both recommended by Traffic Engineering.

3178

3179 Traffic Engineering is the one that asked us if we would put the road over to the side  
3180 here, in case this property is developed, so they would have access out onto an interior  
3181 road right on Oakland Road. It wasn't just at a whim. We have met with the various  
3182 agencies to develop the property. We didn't just walk off on our own to come up with  
3183 what we've done.

3184

3185 He mentioned the school. The elementary school is slated for upgrade by 2004. I  
3186 think everybody else has said everything else.

3187

3188 Mr. Archer - In light of what you have heard here tonight, and their  
3189 basic objections, would you be willing to meet, if you and Mr. Jernigan so desire, to  
3190 meet with the people who signed the petition to see if you can compromise a little bit on  
3191 what is being done here?

3192

3193 Mr. Stout - What I have heard this evening is, "We don't want lots to  
3194 back onto Oakland Road, and we don't want lots that front on Oakland Road. We  
3195 don't want lots." I am willing to try to compromise in there somewhere, but the

3196 immediate answer is “yes”. But, from what I heard, “We don’t want the property  
3197 developed.”

3198

3199 With regard to the road coming out across from the house, I don’t remember the  
3200 situation. Although I have been out to the site, I just don’t remember how it is. We  
3201 could possibly offer, or talk to him about putting some screening there, maybe some  
3202 pine trees or something else.

3203

3204 And with regard to the lot on the corner there, we have already discussed, and you can  
3205 see here that I showed pine trees for buffering to make a barrier there. So that, when  
3206 people are coming down the road, right now, when you come down the road, it just  
3207 continues. But, if you put some kind of obstacle there like we were talking about, the  
3208 idea of putting a berm from some of the dirt that we removed from the road, to put a  
3209 berm on the curb and put pine trees on the berm, in order to make people slow down  
3210 for that hairpin curve. We have discussed it. And I know it was not a thing that you  
3211 could proffer, but we have considered the need for doing something.

3212

3213 Mr. Jernigan - On Lot 32, you could very well have somebody sitting in  
3214 your driveway.

3215

3216 Mr. Stout - Yes, sir. And that’s why I decided that we could berm  
3217 here and put pine trees, both, because the pine trees would offer a visual, and the berm  
3218 would offer protection.

3219

3220 Mr. Jernigan - Could you live with 31 lots? Mr. Davis, did you want to  
3221 make a comment on something?

3222

3223 Mr. Gene Davis - I am Gene Davis, FDS Management. First of all, I would  
3224 like to assure you that we do quality developments within the parameters of the zoning.  
3225 And I would like to tell this gentleman I would be happy to meet with him. He has not  
3226 contacted me. And I would ask the Commission that we would proffer the number of  
3227 lots. That we would proffer the brick foundations. And that I would be willing to meet  
3228 with these gentleman and the other people on the petition between now and the Board of  
3229 Supervisors, which we know it all has to go to, And I would be willing to cut back to  
3230 31 lots.

3231

3232 Mr. Jernigan - That would cut the density to 2.44.

3233

3234 Mr. Davis - That would. Yes, sir. And like Mr. Stout said, I know  
3235 he has talked to all of the agencies in the County and they are the ones that suggested  
3236 this layout, as far as Old Oakland Road was concerned, because we had some  
3237 conceptals to start with that were different. And, obviously, we’ve got to work with  
3238 all County staff as far as roads are concerned and the layout, and everything else, as we

3239 all know, and he knows, too, that this is not cast in stone tonight. It has got to go to  
3240 the Board of Supervisors, have a POD and all that.

3241

3242 Mr. Rowan - Mr. Stout told me it was pretty much in stone...

3243

3244 Mr. Jernigan - Well, this is a concept.

3245

3246 Mr. Davis - Yeah. Absolutely. We want to work with everybody, but  
3247 we want to use our property. And I am certainly willing to meet with these gentlemen,  
3248 and the other people on Old Oakland Road.

3249

3250 Mr. Jernigan - Mr. Rowan, the people that signed the petition, were they  
3251 kind of in the mood, too, that they just didn't want to see anything there?

3252

3253 Mr. Rowan - That is what I gathered. The people that live on Old  
3254 Oakland Road have been there for 15 years or more. And there are some elderly  
3255 people that are trying to retire now. And they are trying to get a little peace and quiet,  
3256 really. I am sure they don't want to hear bulldozers at 6:00 in the morning for the next  
3257 two years, or however long it takes for this development to be completely built. It is  
3258 my own fault that I ran on and didn't really defend this land the way I should. That's  
3259 what I needed. Maybe I should have hired a lawyer to cover for me tonight, because I  
3260 didn't really talk about the EPA concerns at all that I have or the environmental impact  
3261 on all the homes that are going to be built in this area. It is very sensitive.

3262

3263 But, if the development has to be made, I do strenuously ask that the homes that are on  
3264 Oakland Road here that are proposed not be considered. They are the ones that should  
3265 be removed. And that the homes that are facing Almond Creek area on the back end  
3266 have to be situated in such a way where the grass runoff and fertilizer aren't going to  
3267 go directly into Almond Creek and feed downstream. I am extremely concerned about  
3268 that.

3269

3270 I think with the adjacent subdivision, they are treating it like it is a runoff ditch. There  
3271 is a, I don't know what you call it, a cesspool, that has been built adjacent to it, and I  
3272 am very concerned about the environmental impact here.

3273

3274 Mr. Jernigan - You know, staff studies that.

3275

3276 Mr. Rowan - I understand that.

3277

3278 Mr. Jernigan - Okay. So, that the Henrico staff will take that into accord.  
3279 As I explained to you earlier today, when somebody wants to put up a subdivision and  
3280 they fall within the guidelines of the law, there is not much that I can do about it.  
3281 There is not much any of us can do about it. The law is the law. That is the reason  
3282 ordinances are set up.

3283 Now, as I explained to you earlier, if we get approval on this tonight, it comes back to  
3284 POD. Between that time, and it has to be approved by the Board of Supervisors after  
3285 us. There is time for you to talk to the developers and see what you all can work out  
3286 on this. But, like I said, at this point, they are legal.

3287  
3288 Mr. Rowan - I understand that. Something I didn't get a chance to  
3289 introduce I hope you might be able to take a look at your leisure. I took photographs of  
3290 all of the other subdivisions immediately adjacent to this, and all of the homes that are  
3291 for sale that are also adjacent to these properties. Where Varina Point is, every single  
3292 home that is on the frontage of Oakland Road, is up for sale. People are selling out in  
3293 this area, because they can't stand to see it developed this way. They can't see it  
3294 getting destroyed. And the things they moved out there for are just disappearing. You  
3295 might be able to take a look at these.

3296  
3297 Mr. Archer - Excuse, Mr. Rowan, if you would like to pass those up,  
3298 so Mr. Jernigan can have them. We will take them, but we can't--We have two more  
3299 cases to hear tonight. We can't prolong this discussion much more. Mr. Jernigan.

3300  
3301 Mr. Jernigan - Well, as I explained to him earlier, this subdivision falls  
3302 within the parameters of the law. It is not apartments going up there. It is single-  
3303 family dwellings. They have considered to knock it down to 31 lots, which will give it  
3304 a density of 2.44.

3305  
3306 I am going to make a motion that we approve the case C-20C-01 for FDS Management  
3307 on the conditions that were stated tonight, the 31 lots and brick foundations, and that  
3308 you people get together and discuss things you can do. But, Mr. Rowan, I don't see  
3309 any feasible way that they can knock four or five houses off this subdivision and make  
3310 it profitable. And what you were saying earlier about having the bigger homes, as we  
3311 were talking about Twin Oaks, nobody is going to come in and put a \$200,000 home in  
3312 next to a \$120,000 home. They are not going to do it. People build generally the same  
3313 as that is in the area, and I am sure you will agree with that. Right?

3314  
3315 Mr. Rowan - Yes, I do.

3316  
3317 Mr. Jernigan - Okay. They're not going to put nine lots in there and put  
3318 up a \$250,000 home, because, first of all, everybody in the subdivision around it is  
3319 going to be mad because it is going to blow their taxes up. So that is another thing.  
3320 But, anyway, I make that motion.

3321  
3322 Mr. Taylor - I will second that motion with a few comments that occur  
3323 to me here in terms of the development. I think it's incumbent on everybody in the  
3324 neighborhood to work with the developer to come up with a reasonable alternative plan  
3325 that includes some of the amenities that we have discussed in previous cases, because  
3326 one of the concerns that I hear from Mr. Rowan is really with regard to staying with

3327 the character of the neighborhood. I think attention has to be given to that, and even to  
3328 the size, and even the intensity of the lots and the arrangement of the lots. So,  
3329 additional work, I think, both on behalf of the developer and on behalf of the  
3330 community, and some additional quality of life and quality development features can  
3331 make this into a project that is characteristic of the neighborhood and in keeping with  
3332 the nature, natural aspects, and the agrarian nature of the site. With that, I will second  
3333 Mr. Jernigan's motion.

3334  
3335 Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Taylor. All  
3336 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele  
3337 abstained. The motion carries. Mr. Rowan, just for your information, the Board will  
3338 meet on this recommendation on what date, Mr. Silber?

3339  
3340 Mr. Silber - It will be May 8<sup>th</sup>.

3341  
3342 Mr. Archer - May 8<sup>th</sup> in this place, 7:00 p.m. All right, next case.

3343  
3344 REASON: Acting on a motion by Mr. Jernigan, seconded by Mr. Taylor, the Planning  
3345 Commission voted 5-0, (one abstention) to recommend that the Board of Supervisors  
3346 **grant** the request because it represents a logical continuation of the one-family  
3347 residential development which exists in the area; and it would permit infill development  
3348 with the proper connection for roads and other public facilities.

3349  
3350 **Deferred from the March 8, 2001 Meeting:**  
3351 **C-17C-01 L. Anderson Hughes, Jr. for Deborah Sperberg:**  
3352 Request to conditionally rezone from R-5 General Residence District to O-2C Office  
3353 District (Conditional), Parcel 103-16-A-17, containing 0.04 acre, located on the east  
3354 side of Pinetree Drive approximately 129 feet south of its intersection with Park Lane  
3355 (2115 Pinetree Drive, Mayfield Subdivision). Office parking is proposed. The use will  
3356 be controlled by zoning ordinance regulations and proffered conditions. The Land Use  
3357 Plan recommends Urban Residential, 3.4 to 6.8 units net density per acre.

3358  
3359 Mr. Archer - Mr. Bittner.

3360  
3361 Mr. Bittner - Thank you, Mr. Archer. No new construction is  
3362 proposed with this application. The property is residentially zoned and contains a  
3363 portion of an existing office parking lot for the adjacent Staples Mill Professional  
3364 Building, which is zoned 0-2. This proposal would correct a zoning violation in that  
3365 the office parking lot would be appropriately zoned.

3366  
3367 The property to be rezoned extends approximately 3 feet south of a retaining wall on  
3368 the site's southern border. You can see that clearly in this picture (referring to slide).  
3369 The area to be rezoned is in this area here; (referring to slide), this existing parking lot.  
3370 But it also extends where you see this pink flag (referring to slide) on top of the stake.

3371 The distance between that stake and this retaining wall here is about three feet. Again,  
3372 the bulk of what they want to rezone is in this area right over here (referring to slide).  
3373 As you can see, that area sits about eight feet below the grade of the area to the right of  
3374 the retaining wall.

3375

3376 Rezoning the three-foot strip of land south of the retaining wall would not introduce a  
3377 significant amount of office zoning into the adjacent residential neighborhood.  
3378 Therefore, staff recommends approval of this application.

3379

3380 This case was deferred by the Planning Commission from their last meeting to allow  
3381 more time to determine additional landscaping to be planted on the adjacent office site.  
3382 The applicant has agreed to install landscaping even though this is off-site of the  
3383 proposed rezoning. The letter we handed out to you outlines that agreement, and staff  
3384 and Mr. Vanarsdall and the applicant have been in discussion on that.

3385

3386 Attached to that letter is sort of a sketched landscape plan prepared by the Planning  
3387 staff. It is not a final plan or anything that has to be done, but its more of a guide for  
3388 what the applicant may ultimately do with landscaping on the site. The area we are  
3389 talking about generally would probably be in front of the professional building along  
3390 Staples Mill Road.

3391

3392 Part of the agreement is that they would have this landscaping installed prior to  
3393 November 1<sup>st</sup> of this year. The reason for that date is that, generally, the fall is a better  
3394 time to plant new landscaping rather than spring or summer. And staff would monitor  
3395 that. But, again, that has been agreed to between Mr. Vanarsdall, staff and the  
3396 applicant, and we recommend approval of the zoning case. I'd be happy to answer any  
3397 questions you may have.

3398

3399 Mr. Archer - Thank you, Mr. Bittner. Any questions from the  
3400 Commission?

3401

3402 Ms. Dwyer - Just for my information, what is the status of the well lot?  
3403 Is that just...It doesn't exist anymore?

3404

3405 Mr. Bittner - As far as I know, it is, basically, underneath the parking  
3406 lot. There might be a hole there that was filled in, but there is no operating well.

3407 Ms. Dwyer - So, there was a well before there was public water. Is  
3408 that correct?

3409

3410 Mr. Bittner - It was probably a well before the office building was  
3411 constructed. I don't know the exact sequence.

3412

3413 Ms. Dwyer - Maybe to serve that subdivision. Do you know?

3414

3415 Mr. Vanarsdall - I think it was serviced by Sydnor Well.  
3416  
3417 Mr. Bittner - Yes.  
3418  
3419 Mr. Vanarsdall - If it was not Sydnor, it could have been something else.  
3420 And they closed it. They get their water from the County now for the subdivision.  
3421  
3422 Ms. Dwyer - So this is not operable well? It's been filled in?  
3423  
3424 Mr. Bittner - No. And I have been out to the site, and I did not see  
3425 anything that looked like a well and that you could get any water out of. From the  
3426 information we have, I think, where the well was is now underneath the parking lot  
3427 pavement.  
3428  
3429 Mr. Vanarsdall - A long time ago.  
3430  
3431 Mr. Taylor - They just fill the casing with sand.  
3432  
3433 Mr. Archer - Any further questions? All right. Thank you, Mr.  
3434 Bittner. Mr. Vanarsdall, would you like to hear from anyone?  
3435  
3436 Mr. Vanarsdall - Mr. Eric Reynolds is here, and is substituting for Sonny  
3437 Hughes, the attorney on the job, tonight, and I appreciate you coming and waiting. I  
3438 don't need for you to tell us anything unless somebody else wants to know about it.  
3439  
3440 Ms. Dwyer - We are sorry that you had to wait so long to say nothing.  
3441  
3442 Mr. Reynolds - That is okay.  
3443  
3444 Mr. Vanarsdall - Mr. Hughes had to go out of town on business, and he  
3445 told Mr. Reynolds he would not be here very long.  
3446  
3447 Mrs. Dwyer - Well, he got an education.  
3448  
3449 Mr. Reynolds - I am charging him by the hour. I find the whole process  
3450 very fascinating. No, and I do not want to get into the Land Use Planning area of law.  
3451  
3452 Mr. Vanarsdall - With that, I recommend Case C-17C-01 be recommended  
3453 to the Board of Supervisors for approval. I do thank Mr. Hughes for having the  
3454 applicant consider the landscaping around it.  
3455  
3456 Mr. Taylor seconded the motion.  
3457

3458 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Taylor. All  
3459 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele  
3460 abstained.

3461

3462 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Taylor, the  
3463 Planning Commission voted 5-0, (one abstention) to recommend that the Board of  
3464 Supervisors **grant** the request because it is not expected to have a precedent setting  
3465 affect on the zoning in the area.

3466

3467 **C-22C-01 Robert L. Stout for Verizon Communications:** Request  
3468 to conditionally rezone from R-2A One Family Residence District to O-3C Office  
3469 District (Conditional), part of Parcel 70-A-50, described as follows:

3470

3471 Beginning at a point marked by a rod in the southern line of Hungary Spring Road, said  
3472 also being the northwest corner of property acquired by Verizon Communications  
3473 (formerly The Chesapeake and Potomac Telephone Company of Virginia) from Louise  
3474 W. Davis, minus a dedication of right-of-way of a width of 21 feet, then along the south  
3475 line of Hungary Spring Road South 46° 27' 30" west for a distance of 150.59' to a rod,  
3476 then south 59° 38' 20" east for a distance of 277.41' to a rod, then north 45° 38' 40" east  
3477 for a distance of 150.00' to a rod, then north 59°, 38' 20" west for a distance of 275.20'  
3478 to a rod marked by a rod and the place of beginning, and as shown on a plat entitled "Plat  
3479 of ±0.92 acre property owned by Verizon Communications" located on Hungary Spring  
3480 Road in the Brookland Magisterial District of Henrico County, Virginia.

3481

3482 Mr. Archer - Is there any opposition to C-22C-01? No opposition?  
3483 Mr. Bittner.

3484

3485 Mr. Bittner - Thank you, Mr. Archer. This site is presently vacant. An  
3486 unproffered conceptual plan submitted with the proposal shows the parking area  
3487 proposed for the site. This is Hungary Spring Road. This is the site in question, and  
3488 they are proposing a parking area here (all referring to slide).

3489

3490 Future building construction would also be permitted although the applicant is not  
3491 proposing any at this time. Proffers include a setback of at least 50 feet from Hungary  
3492 Spring Road. And the minimum 0-3 front yard setback required by the zoning  
3493 ordinance is 35 feet.

3494

3495 There are several mature trees on or adjacent to the site. You can see those in this  
3496 photograph right here. This is looking from Hungary Spring Road. A line of trees runs  
3497 along the site's southern border adjacent to the Hungary Spring Office Park, on the  
3498 right side of this picture (referring to slide).

3499

3500 North of the site is a line of mature oak trees along the driveway serving the Verizon  
3501 Communications complex, and you can see those on the left side of the picture. The

3502 proposed parking area would be accessed from the driveway currently serving Verizon,  
3503 and would probably require the removal of some of these oak trees.

3504  
3505 The proffers state that, with the exception of the proposed parking area access,  
3506 development or construction activity on this site shall not disturb any of the existing  
3507 trees or their root systems.

3508  
3509 Staff feels that this application is acceptable, because it would fill in office zoning  
3510 consistent with the surrounding zoning and development. With the proffered  
3511 conditions, the quality of this site would be elevated relative to surrounding property.  
3512 Staff recommends approval of this request. I will be happy to answer any questions  
3513 you may have.

3514  
3515 Mr. Archer - Thank you, Mr. Bittner. Any questions?

3516  
3517 Mrs. Dwyer - Mr. Bittner, is a parking lot a structure?

3518  
3519 Mr. Bittner - No. I don't believe we consider it to be a structure.

3520  
3521 Mrs. Dwyer - So a parking lot could be closer than 50 feet from  
3522 Hungary?

3523  
3524 Mr. Bittner - Let me check the wording on the proffer again.

3525  
3526 Mrs. Dwyer - I know that is not what they are planning, but I am just  
3527 curious.

3528  
3529 Mr. Bittner - Yes. That was something we could have overseen...

3530  
3531 Mrs. Dwyer - So they could build a parking lot all the way out to the  
3532 road, eventually, if they wanted to.

3533  
3534 Mr. Bittner - Yes, within 10 feet of the road. I think staff would  
3535 recommend that we say the parking area as well, or whether it would be a 50-foot  
3536 buffer along Hungary Spring Road as opposed to just a setback.

3537  
3538 Mr. Silber - I am not sure if I understood your question. I think this  
3539 proffer would allow the parking lot to come all the way out to within 10 feet of the  
3540 right of way.

3541  
3542 Mr. Taylor - In regards to what the question was, do we stick with 10  
3543 feet, or do we have to go with normal setback of a building which would be 50 feet?

3544

3545 Mr. Silber - Well, I think the proffer says within 50 feet of a structure.  
3546 I would think we should ask the applicant if he is willing to make that for the parking  
3547 lot, as well, and see if we can't have 50-feet for the parking lot and structure.  
3548

3549 Mr. Robert Stout - I was asking about your proffer to see if we could amend  
3550 it. Robert Stout, again. It appears, we are looking at the overall plan that you have in  
3551 your packet. You can see the overall concept of what it currently looks like.  
3552

3553 Right now, the building that is located on the south is already closer than 50 feet to  
3554 Hungary Spring Road, which would be on the right hand side of the picture that you are  
3555 looking at. We are not proposing to put anything up there. I guess that we could say  
3556 that we would be no closer. I'd rather say the parking would be no closer than the  
3557 existing corner of the building that is already there, rather than limiting it to 50 feet.  
3558

3559 We don't have any plans there, but I don't want to indicate that. Right here, this  
3560 corner right here, of this building, can you put that one up (referring to slide)? See this  
3561 building right here. If you look at their parking right there, it is already parking next  
3562 door to us, is already 10 feet off of the right-of-way line.  
3563

3564 Mr. Silber - But we don't know what distance it is off the right-of-way  
3565 line.  
3566

3567 Mr. Stout - It is not 50 feet.  
3568

3569 Mr. Silber - It's not 50 feet. I would think its more than 10.  
3570

3571 Mr. Stout - Far from 50. And, what we are proposing, if you look at  
3572 our concept, and look at where we are with regard to that first structure, I'd rather say,  
3573 and I will measure it to make it exact. But, I will say "No structures will exist closer  
3574 to Hungary Spring Road than that existing building." would be my preference.  
3575

3576 Mr. Silber - Okay. But I think that the question was, it wasn't from  
3577 the structure, because you have already proffered the structure to be at least 50 feet  
3578 back.  
3579

3580 Mr. Stout - No. I meant parking. I am sorry. I mean parking or  
3581 building no closer than that existing structure.  
3582

3583 Mr. Silber - Okay. I would venture to say that that building is  
3584 probably 50 feet off of the right of way.  
3585

3586 Mr. Stout - Well, if it is, then I'd go that route.  
3587

3588 Mr. Silber - We may want to address this between now and the time  
3589 that it gets to the Board.  
3590  
3591 Mr. Stout - Yes. And, what I am saying is, we will proffer whatever  
3592 that measurement is, that no parking or structure will be closer to Hungary Spring Road  
3593 than the existing structure located to the south. We will measure that and give you the  
3594 exact measurements.  
3595  
3596 Mr. Bittner - I would just like to say that the structure to the south I  
3597 estimated to be about 100 feet off of Hungary Spring Road.  
3598  
3599 Mr. Stout - Okay. That is why I said I would take a look at it.  
3600  
3601 Mr. Bittner - Well, I wanted you to be aware of it.  
3602  
3603 Mr. Vanarsdall - I knew it was a pretty good ways, but I didn't know what  
3604 it was.  
3605  
3606 Mr. Stout - I couldn't quite remember either. It looks closer on this  
3607 map here. That is what I was going by.  
3608  
3609 Ms. Dwyer - Are you talking about the Verizon structure?  
3610  
3611 Mr. Stout - No ma'am. This building right here that's on the corner  
3612 (referring to screen).  
3613  
3614 Ms. Dwyer - In the office park?  
3615  
3616 Mr. Stout - Yes, ma'am. And there is a parking lot closer to Hungary  
3617 Spring Road. And our 50 feet would be, probably back to the end of that existing  
3618 parking lot, that we would not have anything closer beside that parking lot, right  
3619 through here (referring to screen).  
3620  
3621 Mr. Taylor - The existing parking lot or almost parallel to Hungary  
3622 Spring Road, Bob?  
3623  
3624 Mrs. Dwyer - Let's just leave it.  
3625  
3626 Mr. Stout - See right here, where I'm drawing, that's the parking lot.  
3627  
3628 Mr. Taylor - That's the parking lot?  
3629  
3630 Mr. Stout - That's the parking lot. And what I am saying is....  
3631

3632 Mr. Taylor - You draw a parallel line from there along side Hungary  
3633 Spring Road. That's the minimum?  
3634  
3635 Mr. Stout - Well, the minimum of 50 or the building, whatever it  
3636 happens to be. Either the building or 50 feet, whatever.  
3637  
3638 Mrs. Dwyer - Ask Mr. Vanarsdall what he wants.  
3639  
3640 Mr. Stout - So in essence, we are saying that we are going to do it.  
3641  
3642 Mr. Vanarsdall - Okay.  
3643  
3644 Mr. Silber - Mr. Vanarsdall, typically, you can see the low parking  
3645 area that he was highlighting. It looks like it is a double-loaded parking lot. So, that's  
3646 18 feet, 18 feet, 24 feet, that's 60 feet of parking lot. So, that building is going to be  
3647 back at least 60 feet, and looks like there is some space there. I would say that the  
3648 building is probably in the neighborhood of maybe 75 to 100 feet. But, we understand  
3649 where you are coming from and that could be addressed.  
3650  
3651 Mr. Stout - Like I said, 50 feet or the building, whichever.  
3652  
3653 Mr. Silber - Okay.  
3654  
3655 Mr. Taylor - But, I really can't see from the Resource International  
3656 drawing what that parking lot looks like relative to the parallel line of Hungary Spring  
3657 Road, on here. What would that be, Mr. Stout?  
3658  
3659 Mr. Stout - The proposed parking lot on the Resource drawing is on  
3660 the lower right-hand side. And if you look in the square, you will see low parking, and  
3661 that's to serve the switching station there. Is that what you are asking me?  
3662  
3663 Mr. Taylor - Yes. Is that the darkened area on the drawing? I just  
3664 can't see where Hungary Spring is. Where is Hungary Spring?  
3665  
3666 Mr. Stout - Right here, (referring to screen) way back there.  
3667  
3668 Mr. Taylor - Way back there? Okay.  
3669  
3670 Mr. Stout - Yes, sir. It's almost to the back side of the building.  
3671  
3672 Mr. Taylor - It's much further than I thought it would be.  
3673  
3674 Mr. Stout - It's back pretty far. And we are not proposing to build  
3675 any more structures there. That's a switching station that they are enlarging there.

3676 Mr. Taylor - Just the parking lot, at that setback?  
3677  
3678 Mr. Stout - Yes, sir.  
3679  
3680 Mr. Vanarsdall - Thank you. I move C-22C-01 be recommended to the  
3681 Board of Supervisors for approval.  
3682  
3683 Mr. Taylor seconded the motion.  
3684  
3685 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Taylor. All  
3686 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele  
3687 abstained. And that was the last case.  
3688  
3689 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mr. Taylor, the  
3690 Planning Commission voted 5-0, (one abstention) to recommend that the Board of  
3691 Supervisors **grant** the request because it conforms to the recommendations of the Land  
3692 Use Plan; and it would not be expected to adversely affect the pattern of zoning and land  
3693 use in the area.  
3694  
3695 Mr. Silber - The next item on the agenda is a Resolution. This needs a  
3696 little bit of explaining in that you may recall two weeks ago, Mr. Blankinship was here  
3697 and presented a work session on the proposed ordinance on Non-commercial Kennels.  
3698 The Planning Commission, at that time, went ahead made a motion to set a public  
3699 hearing for April 25, 2001. That really should have been done by resolution, but we  
3700 did not have a resolution here for you to adopt. So, we are coming to you, after the  
3701 fact, with the resolution that should have been acted on by the Commission two weeks  
3702 ago. We apologize for not having that with us, but we do have it tonight, and if I could  
3703 request that you provide us with a motion and second so that we could be legal with the  
3704 advertizing that's already appeared in the paper once.  
3705  
3706 Mr. Vanarsdall - Can we still do it on the 25<sup>th</sup>?  
3707  
3708 Mr. Silber - We can still do it on the 25<sup>th</sup> if you grant me that tonight.  
3709  
3710 Ms. Dwyer - I move that we approve the resolution.  
3711  
3712 Mr. Vanarsdall seconded the motion.  
3713  
3714 Mr. Archer - Motion by Mrs. Dwyer, seconded by Mr. Vanarsdall . All  
3715 those in favor say aye—all those opposed by saying nay. The vote is 5-0, Mr. Kaechele  
3716 abstained.  
3717  
3718 Mr. Silber - Thank you very much.  
3719

3720 Mr. Archer - All right, Mr. Secretary, what is the last thing?  
3721  
3722 Mr. Silber - The last thing is the approval of minutes.  
3723  
3724 Acting on a motion by Mrs. Dwyer, seconded by Mr. Vanarsdall, the Zoning Minutes  
3725 of March 8, 2001 were approved as amended.  
3726  
3727 There being no further business, acting on a motion by Mr. Vanarsdall and seconded by  
3728 Ms. Dwyer, the Planning Commission adjourned its meeting at 10:55 p.m.  
3729  
3730  
3731  
3732  
3733 

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Chris W. Archer, C.P.C., Chairman  
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3737  
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John R. Marlles, AICP, Secretary  
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