

1 Minutes of the regular monthly meeting of the Planning Commission of the  
2 County of Henrico held in the County Administration Building in the Government  
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. August 9,  
4 2012. Display Notice having been published in the Richmond Times-Dispatch on  
5 July 23, 2012 and July 30, 2012.  
6

Members Present: Mr. Tommy Branin, Chairman (Three Chopt)  
Mrs. Bonnie-Leigh Jones, C.P.C., Vice Chairman (Tuckahoe)  
Mr. C. W. Archer, C.P.C. (Fairfield)  
Mr. Eric Leabough (Varina)  
Mr. Robert H. Witte, Jr. (Brookland)  
Mr. R. Joseph Emerson, Jr., AICP,  
Director of Planning, Secretary

Members Absent: Mr. Frank J. Thornton,  
Board of Supervisors' Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning  
Mr. Dave O'Kelly, Assistant Director of Planning  
Mr. James P. Strauss, CLA, Principal Planner  
Mr. Benjamin Blankinship, AICP, Principal Planner  
Mr. Benjamin Sehl, County Planner  
Mrs. Lisa T. Blankinship, County Planner  
Mr. Mike Jennings, Assistant Director of Public Works  
Mr. Eric Dykstra, Recording Secretary

7 Mr. Branin - Good evening and welcome to the Henrico County  
8 Planning Commission meeting for August 9, 2012. If everybody would give the  
9 courtesy of turning your phone off or putting it to vibrate so it doesn't disturb the  
10 meeting. And now if everyone would please stand for the Pledge of Allegiance.

11  
12 I don't think we have any media in the room. Our supervisor is—do you know if  
13 Mr. Thornton is coming?

14  
15 Mr. Archer - I'm not sure.

16  
17 Mr. Branin - I think he may be running late. We have a very light  
18 agenda, so let's get started, Mr. Secretary.

19  
20 Mr. Emerson - Yes sir, Mr. Chairman. First on your agenda are the  
21 requests for withdrawals and deferrals. Those will be presented by Mr. Jim  
22 Strauss.

23  
24 Mr. Strauss - Good evening members of the Commission. We  
25 received to two requests for deferral. The first one is in the Fairfield District on

26 page one of the agenda. It's Weatherfield Farms, LLC. The applicant is  
27 requesting a deferral to the September 13, 2012 meeting.

28  
29 **C-17C-12 Jennifer D. Mullen for Weatherfield Farms, LLC:**  
30 Request to conditionally rezone from R-3C One-Family Residence District  
31 (Conditional) to R-5AC General Residence District (Conditional) part of Parcel  
32 811-732-3013 containing 31.02 acres located on the north line of Creighton Road  
33 at its intersection with Carolee Drive and from R-3C One-Family Residence  
34 District (Conditional) to C-1 Conservation District part of Parcel 811-732-3013  
35 containing 21.22 acres located approximately 1,500' north of Creighton Road at  
36 its intersection with Carolee Drive. The applicant proposes no more than 81  
37 residential lots and a conservation district. The R-5A District allows a minimum of  
38 5,625 square feet and a maximum density of 6.0 units per acre. The uses will be  
39 controlled by zoning ordinance regulations and proffered conditions. The 2026  
40 Comprehensive Plan recommends Suburban Residential 2, density should not  
41 exceed 3.4 units per acre, and Environmental Protection Area.

42  
43 Mr. Branin - Is anyone in opposition to the deferral of C-17C-12,  
44 Jennifer D. Mullen for Weatherfield Farms, LLC? No one?

45  
46 Mr. Archer - Mr. Chairman, with that I will move for deferral of C-  
47 17C-12, Jennifer D. Mullen for Weatherfield Farms, LLC, to the September 13<sup>th</sup>  
48 meeting at the applicant's request.

49  
50 Mrs. Jones - Second.

51  
52 Mr. Branin - Motion made by Mr. Archer, seconded by Mrs. Jones.  
53 All in favor say aye. All opposed say no. The ayes have it; the motion carries.

54  
55 At the request of the applicant, the Planning Commission deferred C-17C-12,  
56 Jennifer D. Mullen for Weatherfield Farms, LLC, to its September 13, 2012  
57 meeting.

58  
59 Mr. Strauss - The next request for deferral is in the Three Chopt  
60 District on page two of your agenda. It is C-18C-12, Atack WB Investors, LLC.  
61 The applicant is requesting deferral to the September 13, 2012 meeting.

62  
63 **C-18C-12 James Theobald for Atack WB Investors, LLC:**  
64 Request to rezone from A-1 Agricultural District to B-2C Business District  
65 (Conditional) part of Parcel 730-765-7288 containing 5.0 acres located along the  
66 north line of W. Broad Street (U.S. Route 250) at the Goochland County line;  
67 from A-1 Agricultural District to O-3C Office District (Conditional) part of Parcels  
68 730-765-7288, 730-766-8989, 731-766-6068, and 731-766-8757 containing 16.6  
69 acres located along the north line of W. Broad Street (U.S. Route 250)  
70 approximately 730' east of the Goochland County line; from A-1 Agricultural  
71 District to R-6C General Residence District (Conditional) part of Parcels 730-766-

72 8989, 731-766-6068, 731-766-8757, and 730- 765-7288 containing 38.0 acres  
73 located on the north line of W. Broad Street (U.S. Route 250) bounded by the  
74 Goochland County line to the west and Interstate 64 to the north; and from A-1  
75 Agricultural District to RTHC Residential Townhouse District (Conditional) part of  
76 Parcel 730-766-8989 containing 10.7 acres located 1000' north of the north line  
77 of W. Broad Street (U.S. Route 250) bounded by the Goochland County line to  
78 the west and Interstate 64 to the north. The applicant proposes a development  
79 consisting of office, retail, residential townhouses, and multifamily dwelling units.  
80 The R-6 District allows a maximum gross density of 19.8 units per acre. The RTH  
81 District allows a maximum gross density of nine (9) units per acre. The uses will  
82 be controlled by zoning ordinance regulations and proffered conditions. The 2026  
83 Comprehensive Plan recommends Urban Mixed-Use and Environmental  
84 Protection Area. The site is in the West Broad Street Overlay District.

85  
86 Mr. Branin - Is anyone in opposition to the deferral of C-18C-12,  
87 James Theobald for Attack WB Investors, LLC? No one? Then I would like to  
88 move that C-18C-12, James Theobald for Attack WB Investors, LLC, be deferred  
89 to the September 13<sup>th</sup> meeting per the applicant's request.

90  
91 Mrs. Jones - Second.

92  
93 Mr. Branin - Motion by Mr. Branin, seconded by Mrs. Jones. All in  
94 favor say aye. All opposed say no. The ayes have it; the motion carries.

95  
96 At the request of the applicant, the Planning Commission deferred C-18C-12,  
97 James Theobald for Attack WB Investors, LLC, to its meeting on September 13,  
98 2012.

99  
100 Mr. Emerson - Mr. Chairman, that completes the requests for  
101 withdrawals and deferrals unless the Commission has any deferral requests.

102  
103 Mr. Branin - None? Okay.

104  
105 Mr. Emerson - Next item on your agenda are requests for expedited  
106 items and those will also be presented by Mr. Jim Strauss.

107  
108 Mr. Strauss - We have a request for expedited approval this  
109 evening and it's in the Fairfield District on page two of the agenda. It is C-23C-12,  
110 Dana's Habitat Incorporated/Unique Lessons. This is request for an amendment  
111 of Proffer 2 to allow adult day services. Staff is recommending approval. Staff is  
112 not aware of any opposition.

113  
114 **C-23C-12 Delores Johnson for Dana's Habitat, Inc./Unique**  
115 **Lessons:** Request to amend proffered conditions accepted with Rezoning Case  
116 C-35C-93 on Parcel 783-762-9328 located on the west line of Brook Road (U.S.  
117 Route 1) between New York and Pennsylvania Avenues. The applicant proposes

118 to amend Proffer 2 related to prohibited uses to allow for adult day services. The  
119 existing zoning is O-1C Office District (Conditional). The 2026 Comprehensive  
120 Plan recommends Office.

121  
122 Mr. Branin - Is anyone in opposition to C-23C-12, Delores  
123 Johnson for Dana's Habitat Incorporated/Unique Lessons? No one?

124  
125 Mr. Archer - Mr. Chairman, before we vote on this, I have a  
126 declaration I need to read into the record.

127  
128 Mr. Branin - Okay.

129  
130 Mr. Archer - This is a declaration of personal interest in the  
131 transaction considered by the Planning Commission.

132  
133 Pursuant to the requirements of Section 2.2-3112(A)(1) and 2.2-3115(E) of the  
134 Code of Virginia, 1950, as amended, I hereby declare my personal interest in a  
135 transaction considered by the Planning Commission of Henrico County, Virginia,  
136 on August 9, 2012, as follows:

137  
138 (1) The transaction involved is the Planning Commission's  
139 consideration of rezoning case C-23C-12. The applicant is Delores  
140 Johnson for Dana's Habitat, Incorporated/Unique Lessons, and the  
141 subject of the rezoning application is 9220 Brook Road. (2) My  
142 personal interest in the transaction arises because I am a member  
143 of the Planning Commission, which is considering the rezoning  
144 application, and Ms. Johnson is a client of C W Archer Insurance  
145 Agency Incorporated, 3108 North Parham Road, Suite 302A,  
146 Henrico, Virginia, 23294. I would like the secretary to record that I  
147 am neither participating in nor voting on this transaction. C. W.  
148 Archer.

149  
150 Mr. Branin - Thank you, Mr. Archer. I will be handling the case for  
151 you.

152  
153 Mr. Archer - You're very kind, sir.

154  
155 Mr. Branin - Yes. So since there is no opposition I would like to  
156 move that C-23C-12, Delores Johnson for Dana's Habitat Incorporated/Unique  
157 Lessons, be approved on the expedited agenda and move forward to the Board  
158 of Supervisors with a recommendation for approval.

159  
160 Mr. Witte - Second.

161  
162 Mr. Branin - Motion by Mr. Branin, seconded by Mr. Witte. All in  
163 favor say aye. All opposed say no. The ayes have it; the motion carries.

164

165 So we have four votes for approval and one abstain.

166

167 Mr. Branin - Yes

168 Mrs. Jones - Yes

169 Mr. Archer - Abstain

170 Mr. Leabough - Yes

171 Mr. Witte - Yes

172

173 **REASON:** Acting on a motion by Mr. Branin, seconded by Mr.  
174 Witte, the Planning Commission voted 4-0 (one abstention one absent) to  
175 recommend the Board of Supervisors **grant** the request because the changes do  
176 not greatly reduce the original intended purpose of the proffers and it is not  
177 expected to adversely impact surrounding land uses in the area.

178

179 Mr. Emerson - Mr. Chairman, that now takes you to your regular  
180 agenda on page one for C-22C-12.

181

182 **C-22C-12 HHHunt Communities for HHHunt Homes, LC:**  
183 Request to amend proffered conditions accepted with Rezoning Case C-24C-04  
184 on Parcels 761-769-5168 and 761-769-5274 located on the south line of  
185 Springfield Road (State Route 157) approximately 260' west of its intersection  
186 with Staples Mill Road (U.S. Route 33). The applicant proposes to amend Proffer  
187 22 related to garages. The existing zoning is R-5AC General Residence District  
188 (Conditional). The 2026 Comprehensive Plan recommends Urban Residential,  
189 density should range from 3.4 to 6.8 units per acre. The staff report will be  
190 presented by Mr. Ben Sehl.

191

192 Mr. Branin - Good evening, Mr. Sehl. How are you?

193

194 Mr. Sehl - I'm well, thank you.

195

196 Mr. Branin - Good. Is anyone in opposition to C-22C-12, HHHunt  
197 Communities for HHHunt Homes LLC? No opposition? Okay.

198

199 Mr. Sehl - Proffer #22 accepted with rezoning case C-24C-04  
200 requires all homes in Linden Pointe to have front-loaded detached garages.  
201 Almost all of the homes in the development have been constructed with this style  
202 garage; however, the subject lots will be accessed by a rear shared driveway,  
203 unlike other homes in the development. Because the required front-loaded  
204 garage would require a large driveway area to access the garage door, the  
205 applicant proposes to amend Proffer #22 to allow rear-loaded garages on the  
206 subject lots, as shown on Exhibit A.

207

208 The proposed revision to Proffer #22, which was further revised yesterday and  
209 has been distributed to you this evening, commits to serving the garages as

210 shown on this exhibit. The shared driveway and garage aprons would be  
211 constructed of exposed aggregate concrete, and the garage aprons would be a  
212 minimum of 20 feet long to ensure no conflicts with parked vehicles exist. The  
213 revised proffer also commits to providing additional landscaping as shown here,  
214 and decorative doors as shown on Exhibit B.

215  
216 Overall the proposed revisions are not anticipated to negatively impact other  
217 homes in the area or the rest of the Linden Pointe subdivision. The remaining  
218 proffers of C-24C-04 would continue to ensure a high-quality development in  
219 keeping with the area, and the commitments regarding decorative doors and  
220 additional landscaping could enhance the subject properties. For these reasons  
221 staff supports this request and recommends its approval. Time limits would need  
222 to be waived on the proffers as they were handed out to you this evening and  
223 signed yesterday afternoon.

224  
225 That concludes my presentation and I'd be happy to try to answer any questions  
226 you might have.

227  
228 Mr. Branin - Thank you, Mr. Sehl. Does anybody have any  
229 questions for Mr. Sehl?

230  
231 Mr. Witte - No. I've spoken to him several times on the issue.

232  
233 Mr. Branin - You've worn him out?

234  
235 Mr. Witte - I've worn him out. He's tired of hearing me.

236  
237 Mr. Branin - All right. If there are no questions for Mr. Sehl, would  
238 you like to hear from the applicant or would you like to forego that formality?

239  
240 Mr. Witte - I think we can forego that formality.

241  
242 Mr. Branin - Okay.

243  
244 Mrs. Jones - I do have a quick question. I'm sorry. Mr. Sehl, I'm  
245 looking for the phrase here. When I went out looking at it there was a question of  
246 the access and having that either dedicated or changed. It looks to me like this is  
247 changed around from the original staff report, so the access issue is no longer a  
248 problem.

249  
250 Mr. Sehl - We had questions about the construction methods  
251 and materials of the access drive. The applicant has clarified that with the revised  
252 proffers to commit to the exposed aggregate concrete.

253  
254 Mrs. Jones - Okay. And in your view that will not, then, be a  
255 problem at all? It satisfies your concerns?

256  
257 Mr. Sehl - Yes ma'am.  
258  
259 Mrs. Jones - Okay.  
260  
261 Mr. Witte - Mrs. Jones, I had a concern because they didn't list  
262 the aggregate and every other driveway in the neighborhood is aggregate.  
263  
264 Mrs. Jones - It's a lovely neighborhood.  
265  
266 Mr. Witte - It is.  
267  
268 Mrs. Jones - I just was hoping that this would fit right in and it  
269 seems like it will.  
270  
271 Mr. Witte - I think it will.  
272  
273 Mrs. Jones - All right, thanks.  
274  
275 Mr. Branin - Mr. Witte, I would like to remind you to waive the time  
276 limits.  
277  
278 Mr. Witte - Yes. Mr. Chairman, I'd like to propose we waive the  
279 time limits on C-22C-12, HHHunt Communities for HHHunt Homes LLC, for  
280 proffers on the rear garage, and the minimum 20 feet in length, and the  
281 aggregate concrete on lots 32 and 33.  
282  
283 Mr. Branin - Okay. First we'll vote on waiving the time limit. Can I  
284 get a second.  
285  
286 Mr. Archer - Second.  
287  
288 Mr. Branin - Motion by Mr. Witte and seconded by Mr. Archer. All  
289 in favor say aye. All opposed say no. The ayes have it; the motion carries. Time  
290 limit is waived.  
291  
292 Mr. Witte - Okay. Now I'd like to propose we approve C-22C-12,  
293 HHHunt Communities for HHHunt Homes LLC, with the amended proffers  
294 concerning the driveway length, and aggregate, and garage door, and window  
295 treatments on lots 32 and 33.  
296  
297 Mrs. Jones - Second.  
298  
299 Mr. Branin - Motion by Mr. Witte, seconded by Mrs. Jones. All in  
300 favor say aye. All opposed say no. The ayes have it; the motion carries.  
301

302 **REASON:** Acting on a motion by Mr. Witte, seconded by Mrs.  
303 Jones, the Planning Commission voted 5-0 (one absent) to recommend the  
304 Board of Supervisors grant the request because the changes would allow  
305 additional development flexibility and the proffers continue to assure a quality  
306 form of development with maximum protection afforded the adjacent properties.

307  
308 Mr. Branin - Mr. Secretary, that takes us past all of our cases now,  
309 correct?

310  
311 Mr. Emerson - Yes sir. It takes us to page two where we're moving  
312 into a public hearing on zoning ordinance amendments.

313  
314 **PUBLIC HEARING ON ZONING ORDINANCE AMENDMENTS** - To Amend and  
315 Reordain Section 24-106 Titled "Plan of development (POD), administrative and  
316 schematic site plans" and Section 24-106.2 Titled "Landscaping, tree cover,  
317 screen and buffer requirements, transitional buffering and design standards" of  
318 the Code of the County of Henrico to Repeal Provisions for Appealing to the  
319 Board of Supervisors.

320  
321 Mr. Branin - Good evening, Mr. Blankinship.

322  
323 Mr. Blankinship - Good evening, Mr. Chairman.

324  
325 Mr. Branin - Very handsome tie you have on this evening.

326  
327 Mr. Blankinship - Thank you, sir.

328  
329 Mr. Branin - You received the memo, I see.

330  
331 Mr. Blankinship - Good evening members of the Commission. As Mr.  
332 Emerson said, we are here this evening to propose an amendment to the Zoning  
333 Ordinance regarding the POD appeal process.

334  
335 As you know, the current regulations provide for either the applicant or an  
336 affected property owner adjacent to the subject property to appeal either the  
337 approval or denial of a plan of development. That appeal, according to our code  
338 today, would go to the Board of Supervisors and must be filed within 15 days.  
339 There is a similar provision in the Landscape Ordinance, 24-106.2, providing for  
340 appeals under that section of the Code to follow the same process, 24-106(p).

341  
342 There is an inconsistency between those provisions in the County Code and the  
343 provision in the State Code that has to do with the same subject. The State Code  
344 for final plats is in front of you now on the screen and it states that if the  
345 Commission disapproves a plat-or a plan of development follows the same  
346 process—it can be appealed by the developer to the circuit court within 60 days.  
347 So it goes to the circuit court rather than to the Board; 60 days rather than 15;

348 and it only provides for an appeal by the developer. The Code is silent as to an  
349 adjoining property owner who wishes to appeal. The parallel provision for a  
350 preliminary plat, or a POD, is the following Section of the Code, 22-60, in  
351 paragraph E. and as you see, it has the same provisions there.

352

353 So on the advice of the County Attorney, we have recommended to you a very  
354 simple amendment that would simply repeal and reserve paragraph 24-106(p),  
355 and would simply repeal 24-106.2(e)(5)d. That's the last subsection of that  
356 section, so there's no need to reserve it.

357

358 And finally after discussing concerns particularly expressed by Mrs. Jones, and  
359 by Mrs. O'Bannon on the Board of Supervisors, we worked out with the County  
360 Attorney's office a provision at the end of this ordinance that it would only affect  
361 plans of development that entered the pipeline after its date of approval. We're  
362 assuming that date is going to be September 11, 2012. If it's not, then we'll need  
363 to change that date to match whatever the date of adoption by the Board of  
364 Supervisors would be. But the idea is that any POD that is in the pipeline today  
365 would be under the current rules for appeal. But after that date any new POD that  
366 comes in after that date would be handled under this new procedure.

367

368 We held a work session on this last month. Tonight, of course, is the public  
369 hearing. We would like to present this to the Board of Supervisors in a work  
370 session next Tuesday and have it prepared for them for public hearing on  
371 September the 11<sup>th</sup>. With that, I'll be happy to answer any questions.

372

373 Mr. Branin - Fantastic. Does anybody have any questions for Mr.  
374 Blankinship at this time?

375

376 Mrs. Jones - I do.

377

378 Mr. Leabough - I have one question as well. Go ahead, Mrs. Jones.

379

380 Mrs. Jones - Sure? Okay.

381

382 Mr. Leabough - Yes.

383

384 Mrs. Jones - One, thank you. I appreciate the nod to the cases  
385 already in the pipeline. I think that's fair and done correctly.

386

387 I do have a quick question about the proposed change. Who, then, would be able  
388 to initiate an appeal?

389

390 Mr. Blankinship - As the State Code reads now—well, I should preface  
391 by saying by removing this subject completely from the County Code, we would  
392 fall back on the State Code. And as the State Code has provided for quite some  
393 time, the appeal is only open to a developer whose plan has been denied. There

394 is no provision for appeal of an adjoining landowner who feels aggrieved  
395 because a plan is approved.

396

397 The reason for that, I believe, is because site plans and subdivisions, the  
398 approval and review of them is an ministerial act. It's not a legislative act. So  
399 you're really not supposed to be applying discretion in those decisions. If it meets  
400 the requirements of the code, you're required to approve it. So if the developer  
401 feels that he has met the code and you have denied it anyway, he has a recourse  
402 to appeal. But if a neighbor is just displeased with the fact that something is  
403 being done the way it is, as long as it meets the requirements of the code the  
404 neighbor really has no basis for appeal anyway. So I suspect that that's why the  
405 State Code doesn't provide for such an appeal.

406

407 Mrs. Jones - All right. I wanted to make sure I knew that the scope  
408 was exactly as you presented it. Thank you.

409

410 Mr. Leabough - I had the exact same question.

411

412 Mr. Blankinship - All right. If that answers that, that's fine.

413

414 Mr. Witte - If a property owner was displeased and was adamant  
415 about it, couldn't they file an injunction to have it stopped and then proceed  
416 though court?

417

418 Mr. Blankinship - If they believe that the action of a developer is in  
419 some way harming their property interest, then yes, they would have a civil suit.

420

421 Mr. Witte - So they still have some recourse?

422

423 Mr. Blankinship - Yes sir.

424

425 Mr. Witte - Okay.

426

427 Mrs. Jones - But it would have nothing to do with our process?

428

429 Mr. Blankinship - Exactly.

430

431 Mrs. Jones - Completely gone?

432

433 Mr. Blankinship - Yes.

434

435 Mr. Emerson - I think you always have an opportunity to appeal  
436 various interpretations made during the process to potentially the BZA or the  
437 Board of Supervisors. So I don't think this completely eliminates the possibility of  
438 someone other than the applicant actually filing an appeal. Because within your  
439 approvals there are always interpretations of the Code that could be appealed to

440 the Board of Zoning Appeals, and interpretations of proffers that could be  
441 appealed to the Board of Supervisors. So there are other avenues to appeal the  
442 decision-making process without specifically going in as it's currently set up.

443

444 Mrs. Jones - Okay.

445

446 Mr. Emerson - Does that make sense?

447

448 Mrs. Jones - It does. Thank you.

449

450 Mr. Branin - Any other questions? I would like to state that this is a  
451 public hearing, so if there is anyone in the audience that would like to make  
452 comment or come up and ask any questions at this time, feel free. Anyone?  
453 Okay, then we'll move on.

454

455 Mr. Emerson - Mr. Chairman, we need a motion for a  
456 recommendation on this item.

457

458 Mr. Branin - Commission, are you comfortable with it moving  
459 forward at this point?

460

461 Mrs. Jones - I will be happy to move that the Planning Commission  
462 recommend to the Board of Supervisors the ordinance changes amending and  
463 re-ordaining Section 24-106 of the Code and Section 24-106.2.

464

465 Mr. Leabough - Second.

466

467 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Leabough. All  
468 in favor say aye. All opposed say no. The ayes have it; the motion carries.

469

470 Thank you so much, Mr. Blankinship.

471

472 Mr. Blankinship - Thank you, Mr. Chairman.

473

474 Mr. Emerson - Mr. Chairman, that now takes us to a discussion that  
475 was continued from your last agenda on the 2013 Planning Commission agenda.  
476 I have some copies for you, additional, if you don't have—

477

478 Mr. Branin - Oh, additional ones. Good.

479

480 Mr. Emerson - This has highlighted what I believe might be one of  
481 the topics you wish to discuss, which would be if you restored the August Plan of  
482 Development meeting. It's highlighted in red when it would fall, just for the sake  
483 of your discussion so you'd be aware of what would happen there.

484

485 Mrs. Jones - I would like to make a comment, if I may, at this time.

486

487 Mr. Branin - Absolutely.

488

489 Mrs. Jones - This was not discussed at the last meeting because  
490 two out of our five commissioners were not here. And the reason I wanted to  
491 bring this up and just discuss it for one moment is because we do have two new  
492 members of the Commission who are, at this time, looking at the calendar for the  
493 first time as a vote. This has come up before. I wanted to introduce you to an  
494 idea and a thought. I'd like you to give it your consideration and see what you  
495 think about this. I have not discussed this with anybody or put any undue  
496 pressure on anyone. But it's always seemed to me—and I think it's just a fair  
497 point of discussion—the calendar is set up to accommodate a number of things.  
498 There are changes in the calendar for holidays. There are changes that work  
499 around certain national planning conferences and other things. And those are  
500 fairly standard year to year. Also, year to year since I've been involved in 2005—  
501 and Mr. Archer is our veteran Commissioner; he may have some more history on  
502 this. But there has never been a POD meeting in August. And that means that  
503 there are 12 zoning meetings, but only 11 POD meetings.

504

505 I have always asked every year why that is so. I have always received the  
506 answer every year, "Because that's the way we've always done it," which is fine; I  
507 understand tradition. But I just want us to give a little bit of thought because this  
508 year it has been evident to me very personally because of one of my cases what  
509 kind of a convoluted pressure that puts on discussions about cases because you  
510 don't have that meeting available to be used for any scheduling purpose. It puts,  
511 in my view, an unnecessary stress on the discussion of cases because all of a  
512 sudden instead of deferring, if we must, for four weeks, all of a sudden we're into  
513 eight weeks.

514

515 Now, that raises the question is this a good thing? It does pile on the September  
516 agenda for the POD/Subdivision meetings in some cases. Do we have  
517 quantitative data? Maybe, maybe not. But anecdotally I can tell you this year it  
518 has been a factor, and I'm sure other commissioners may have experience with  
519 that. All I'm saying is we have one of three choices. We can leave it. I'm in big  
520 favor of vacations—I love it—and this is quite nice. But it does put a wrench in  
521 the progress of cases. Our question is do we leave it as it is because that's how  
522 we've always done it; do we keep the zoning meeting and add a POD meeting in  
523 August; or do we take August off?

524

525 Mr. Leabough - I was going to say take it all off.

526

527 Mrs. Jones - There are three possibilities that I see. All of them  
528 have grave consequences and I'm not sure that there would be any consensus.  
529 Zoning has certain ramifications if it doesn't happen, as do POD/Subdivision  
530 cases. So I'm simply asking that I'd like for especially the new commissioners to  
531 give it some thought, talk to anyone you think you'd like to talk to about their

623 Mr. Branin - I would add also—I understand Mr. Archer’s personal  
624 feelings in taking two months in a row, but I truly believe that as a Commissioner  
625 you can handle your cases and work with your developers with such things as  
626 expedited or deferred. Your fellow Commissioners can always pick up the load  
627 for you. Like I said, we’ve had this discussion every single year and it usually  
628 comes down to—well, you know, it’s six one way, half a dozen the other. It’s  
629 been this way since we’ve been here so we all just move forward with it and then  
630 we don’t change it. Having two new members, if you guys would like to table this  
631 to next meeting and vote on it then, we can do that. If you would like to vote on it  
632 now, we can do that.

633  
634 Mr. Leabough - I don’t think we need to table it.

635  
636 Mr. Witte - Just for point of reference, my golf vacations are the  
637 end of March and the beginning of October.

638  
639 Mr. Branin - So we should take those months off, too? Okay then.

640  
641 Mrs. Jones - Mr. Chairman, I think a decision on this needs to be  
642 based on some thought. There may be some discussions that commissioners  
643 may want to have with staff and try to figure out exactly what they want to do with  
644 this. I would suggest that we vote on this in September. If that is not agreeable to  
645 the Commission, we can vote on it tonight. I’ll be happy either way.

646  
647 Mr. Branin - Then I will leave it up to the fellow Commissioners.  
648 Would you like to move forward with this or table it?

649  
650 Mr. Emerson - This is nothing pressing on this. It’s fine if you want to  
651 leave it until next month. It’s not going to cause us any problems.

652  
653 Mr. Leabough - We didn’t hold the August meeting, right?

654  
655 Mrs. Jones - Next time.

656  
657 Mr. Emerson - This is next year.

658  
659 Mr. Leabough - So we’re not going to have it this year anyway.

660  
661 Mr. Emerson - Correct, you won’t be having it this year. It doesn’t  
662 impact you this year. We do need to know by September or October so people  
663 can begin to plan for their submission dates for the beginning of the year. But you  
664 can hold this until September or October to make a decision. I can put together  
665 some more information for you in regards to what caseload has been like in the  
666 past. It’s whatever you desire. We put that information together previously; I just  
667 didn’t pull it back up for tonight.

668

669 Mr. Witte - Personally, it seemed to work pretty well for the last  
670 eleven years. I don't have a problem with it.

671

672 Mr. Leabough - I think we're over-thinking this thing. If it's not broke,  
673 why fix it.

674

675 Mr. Witte - But that's just my own opinion.

676

677 Mr. Branin - Mr. Archer, we have two that are saying let's just  
678 move forward with this calendar, they're fine with it.

679

680 Mr. Archer - Well my answer is going to be the same as it's been  
681 for the last eleven years.

682

683 Mr. Branin - Okay. Then I'll entertain a motion to accept this  
684 calendar and move forward.

685

686 Mrs. Jones - Which calendar are you talking about? We have two  
687 calendars.

688

689 Mr. Leabough - I move that we approve the 2013 meeting schedule  
690 with no POD meeting being held in August.

691

692 Mr. Archer - Second.

693

694 Mr. Branin - Motion by Mr. Leabough, seconded by Mr. Archer. All  
695 in favor say aye. All opposed say no. The ayes have it; the motion carries.

696

697 Mr. Branin - Yes

698 Mrs. Jones - No

699 Mr. Archer - Yes

700 Mr. Leabough - Yes

701 Mr. Witte - Yes

702

703 Mrs. Jones - My influence on this Commission is not much, I can  
704 tell. All right.

705

706 Mr. Branin - Is there any other business that we need to conduct?

707

708 Mr. Emerson - Yes, yes, Mr. Chairman. You need to consider  
709 approval of your minutes from the July 12, 2012, meeting. You did receive an  
710 errata sheet and you also received at your chair this evening a corrected copy of  
711 the minutes based on the errata sheet.

712

713 Mr. Branin - Does anybody have any additional changes to the  
714 minutes? Then I'll entertain a motion to accept the minutes with the errata sheet.

532 feelings about this, and I'd hope that we could have a final vote on this  
533 September 13<sup>th</sup>. Not looking to get up on my bully pulpit anymore, but it has  
534 always seemed like a somewhat odd calendar to me.

535

536 Mr. Branin - And with those comments I will also say to the new  
537 fellow commissioners this discussion, for as long as you serve, will happen every  
538 year. We have this discussion every year.

539

540 Mr. Emerson - Mr. Chairman, if I could add. I did look into the  
541 background. We just began doing this in 2001. The first time you did not have a  
542 second meeting in August was 2001.

543

544 Mrs. Jones - Why?

545

546 Mr. Emerson - It was not at the request of staff. It does create some  
547 logjam issues. The best I understand it is that the Commission felt they needed  
548 some time in their schedule to be able to plan for vacations and things. But it  
549 does create some logjams on July and then in September. We've been able to  
550 work around it. So it's purely up to the Commission what you choose to do. But  
551 it's been since 2001.

552

553 Mr. Archer - Mr. Chairman, I can clarify that a little bit since I'm the  
554 veteran.

555

556 Mr. Branin - Since you're the grandfather of the Commission.

557

558 Mr. Archer - As Mr. Emerson said, prior to that time we did meet  
559 all of the year. There were several of us—they tried to blame it on me. They call  
560 this the Archer Rule, but it's not. There were some of us who had vacations that  
561 coincided with this meeting. And this is just me now. I can't speak for the entire  
562 Commission, but just me. I take two vacations, one in July and one in August.  
563 The one in July I get somebody to cover for me. And the one in August, it creates  
564 a real bad feeling for me when I miss two months in a row. And there were some  
565 others. And I don't know, but I think Mr. Vanarsdall and Ms. Dwyer were here  
566 then and had the same concerns. It wasn't something that was just done  
567 overnight because we had to get the Board to approve it before anything could  
568 be done. I think there was some sort of informal survey done with the  
569 development community to see if this is something that would cause them any  
570 severe heartburn and we didn't get any responses back that it would. So that's  
571 how all of this was initiated in the first place. I remember one time we had a  
572 meeting and I was relatively new then, but I was at a convention at the  
573 Homestead. I drove all the way back down here to have a meeting that lasted  
574 about ten minutes, I think, and gave up one of my free days at the Homestead.

575

576 But in any event, like I say, this is just me. We have five members of the  
577 Commission that would and should vote on this as to the way they prefer. But

578 that's how this whole situation came about. We did, at one time, meet every  
579 month. And then somebody brought forth the idea that the Board meets only  
580 once, I believe, in August, and only once in December. And I guess they must  
581 have seen it our way because they approved of it. So that's how the whole thing  
582 started. So since I'm the only one that's here, I'm the only one to throw rocks at.

583

584 Mrs. Jones - Our job is a part-time job and we can adjust  
585 schedules usually. So I don't see that as an issue, but.

586

587 Mr. Branin - Mr. Leabough?

588

589 Mr. Leabough - In terms of the log-jamming you mentioned, Mr.  
590 Emerson, what are you talking about? On average, are we looking at—does it  
591 give staff time or room to breathe, or it actually creates more work in July and  
592 then in September? I guess it would do that, but does it give staff any opportunity  
593 to kind of come up for air? I guess I'm trying to ask how burdensome is it? I  
594 would suggest that we look at the whole month of August, to be honest.

595

596 Mr. Emerson - For staff I think we can work with it either way. The  
597 last couple of years it hasn't been that big of an issue, but when we're really,  
598 really busy, yes, it's been an issue. You would have a lot of people rushing, it  
599 creates a pretty big workload on staff to get things ready for that July meeting  
600 because everybody is trying to get in. And then of course, you know, in  
601 September you have that backed-up situation as well. But it hasn't been  
602 unmanageable, is what I would tell you. It's worked fine for what, eleven years—  
603 ten, eleven years.

604

605 Mr. Leabough - Can we manage the caseload that we have? Sure.  
606 So, I mean, we could cut off a number of cases that we have on any given  
607 agenda.

608

609 Mr. Emerson - Well, that's set by your rules.

610

611 Mr. Leabough - So that kind of addresses the issue of having too  
612 many cases.

613

614 Mr. Emerson - That deals with new cases coming in; it doesn't deal  
615 with the number of cases that are deferred. So we've had agendas with as many  
616 as 22 and 25 items on them before even though you can only accept nine or ten  
617 new cases at a time. Again, that was at a time we might not see again.

618

619 Mr. Archer - Not for a while anyway.

620

621 Mr. Emerson - I don't think it's going to be any time soon.

622

715

716 Mrs. Jones - I so move.

717

718 Mr. Leabough - Second.

719

720 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Leabough. All  
721 in favor say aye. All opposed say no. The ayes have it; the motion carries.

722 Is there any other business, Mr. Secretary?

723

724 Mr. Emerson - Mr. Chairman, I guess I will just remind you that you  
725 do have a work session scheduled for 5:30 at your September 14<sup>th</sup> meeting,  
726 which will be the next time that we meet. That will appear on your agenda, but  
727 just to remind you. We will provide food. That work session will be to discuss the  
728 changes in the County zoning code brought to us by the General Assembly.

729

730 Mr. Branin - Mr. Vanarsdall would be very appreciative of that.  
731 Does anybody else have any other comments or questions?

732

733 Mr. Leabough - Quick question. I'm not sure if this is the appropriate  
734 time to ask it. A few months ago there was a code update, a code amendment—  
735 code assessment. Is that ongoing? Where are we in that process?

736

737 Mr. Emerson - It's ongoing. We have not received the first draft from  
738 the consultant yet, but we're anticipating that.

739

740 Mr. Leabough - So that will be brought before the Commission at  
741 some point.

742

743 Mr. Emerson - At some point. The first draft will come back to staff  
744 and we'll work on it. It'll probably be several months before we have it to where  
745 we'll be ready to present it to you.

746

747 Mr. Leabough - But it's in progress?

748

749 Mr. Emerson - It is in progress, yes sir.

750

751 Mr. Branin - Mr. Secretary, just for the fact of record, since the  
752 minutes are taken down. The fourteenth would be a Friday, so it would be the  
753 thirteenth.

754

755 Mr. Emerson - The thirteenth; I'm sorry.

756

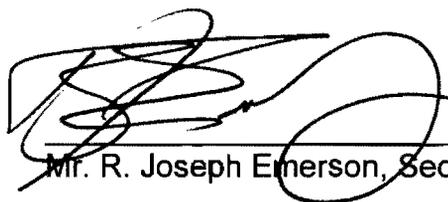
757 Mr. Leabough - I thought he said fourteenth.

758

759 Mr. Emerson - I did say the fourteenth.

760

761 Mr. Archer - And that will be in the manager's conference room?  
762  
763 Mr. Emerson - I believe that we were successful in scheduling that,  
764 but that will be on your agenda. I'm not totally certain if it will be in that room. I  
765 believe we are.  
766  
767 Mr. Branin - Is there any other business? None? I'll entertain a  
768 motion for adjournment.  
769  
770 Mr. Archer - I move for adjournment, Mr. Chairman.  
771  
772 Mr. Leabough - Second.  
773  
774 The meeting adjourned at 7:40 p.m.  
775  
776  
777  
778  
779



Mr. R. Joseph Emerson, Secretary



Mr. Tommy Branin, Chairman

798