

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,  
2 Virginia, held in the Board Room of the County Administration Building, Parham and  
3 Hungary Spring Roads at 7:00 p.m., on December 10, 1998, Display Notice having been  
4 published in the Richmond Times-Dispatch on Thursday, November 19, 1998, and Thursday,  
5 November 26, 1998.

6  
7 Members Present: C. W. Archer, C.P.C., Chairman, Fairfield  
8 Elizabeth G. Dwyer, C.P.C., Vice-Chairman, Tuckahoe  
9 Ernest B. Vanarsdall, C.P.C., Brookland  
10 Mary L. Wade, Three Chopt  
11 David A. Zehler, C.P.C., Varina  
12 James B. Donati, Jr., Board of Supervisors, Varina  
13 John R. Marlles, AICP, Secretary, Director of Planning,  
14

15 Others Present: David A. Kaechele, Board of Supervisors, Three Chopt  
16 Virgil R. Hazelett, County Manager  
17 Randall R. Silber, Assistant Director of Planning  
18 John Merrithew, AICP, Principal Planner  
19 Mark Bittner, County Planner  
20 Jo Ann Hunter, AICP, County Planner  
21 Judy Thomas, Recording Secretary  
22  
23

24 Mr. Archer - Mr. Secretary, we have a quite heavy agenda tonight, but before  
25 we begin, there's something that I need to do. In order for me to do this, I'd have to give a little  
26 history in order to put things into perspective. So, if you'll bear with me just a minute.  
27

28 Now, if there is anyone present who was born before the 1950's? Well, you might know  
29 someone. If you were born before the early 1950's, you were born before polio shots, before  
30 plastic, frozen foods, xerox, contact lenses, frisbees. You were born before radar, before credit  
31 cards, ballpoint pens, pantyhose, dishwashers, air conditioners. And no man had walked on the  
32 moon. Fast food was what you ate during lent. There was no FM radio. Yogurt was not a  
33 word. No electric typewriter, which today is obsolete. No day care centers. McDonalds was  
34 and old guy that had a farm. What do we say EIEIO? As we move forward a bit to the 1980's,  
35 things have changed just a little.  
36

37 Pizza, which was invented on the west coast, I understand, had moved to the east coast. We  
38 were having pizza delivery. Postage had jumped up to a whopping 23 cents per stamp. Pepsi  
39 Cola costs 10 to 15 cents. But Short Pump was still Short Pump. And there was no place  
40 called, "Innsbrook." And even though IBM had invented these little boxes that people put on  
41 their desks called a "PC," which stands for Planning Commission, a chip was still a small piece  
42 of wood. A motherboard was a paddle that your mother whipped you with. And a hard drive  
43 was going across the Huguenot Bridge at 5:15 p.m. However, on January 10, 1980, a  
44 significant event occurred in this County. If you Commissioners will look on your screen, and  
45 you folks will look on the Board, you'll see that significant event.

46 Mary L. Wade attended her first public hearing as the Planning Commissioner from the Three  
47 Chopt District, which if there had been on less chopt, would have been two chopt. That event  
48 has repeated itself, and this doesn't include all of the other meetings that she's gone to, like  
49 community meetings, staff meetings and so forth. But, tonight, give or take a couple of  
50 meetings she may have missed, by my calculations, makes 455 Planning Commission meetings.

51

52 Mr. Zehler - Do you feel tired?

53

54 Mr. Archer - Back in the summer at one of the few meetings that she did miss,  
55 which gave the rest of us an opportunity to do something behind her back, I asked my colleagues  
56 about recognizing her achievements. They agreed that we would not let this year pass without  
57 doing this. So, Mrs. Wade, let me say first of all, what we're doing tonight is certainly not a  
58 license for you to even think about stepping down. So, don't...because you ought to see what  
59 we're planning for your 30<sup>th</sup>. But anyway, there are some other folks besides me who have some  
60 things to say. I'll close with some stolen thoughts that I took from an unknown author that I can  
61 use freely because I don't know who he is. But it expresses the way I see Mary Wade.

62

63 "You are truly so strong that nothing disturbs your peace of mind. You're too large for worry.  
64 To noble for anger. Too strong for fear. And too happy to permit the pressures of trouble." I  
65 am grateful that you are here and that you were here the first night that I came. God bless you,  
66 Mary Wade.

67

68 Mrs. Wade - Oh, thank you.

69

70 Mr. Archer - As I said, we do have some other folks that have thoughts who  
71 would like to express them. We'll try to do it in this order and be as brief as we can. Mrs.  
72 Wade, you'll have your customary 10 minutes for rebuttal. First the Commissioners and the  
73 staff members who might care to say something. Then we have a video tape that Mr. Sadler will  
74 run. Then we'll hear from Mr. Kaechele. We'll hear from Mr. Hazelett. And we have a nice  
75 little gift that we'd like to present you with. We can do this prior to your rebuttal, if you'd like.

76

77 Mrs. Wade - We're going to be here all night.

78

79 Mr. Archer - So, Commission members, in any order.

80

81 Mr. Zehler - Mr. Chairman, if I may, I have a story I must tell. As Mary sits  
82 to my right, whichever since I've been on the Commission, she's been to my right, or either I've  
83 been over where the Chairman is. One particular evening, and not mentioning the case, as it  
84 2:00 a.m. in the morning, Mrs. Wade is arguing over a color of a canopy. I lean over to Mrs.  
85 Wade and I say, "Mrs. Wade, it's 2:00 a.m. in the morning. Beauty is in the eyes of the  
86 beholder." Mrs. Wade leans over to me and she says, "I still don't like that color."

87

88 But as time goes on, Mrs. Wade, its been a pleasure working with you. I know you have had  
89 some numerous decisions to make in Three Chopt District, and there has been numerous cases  
90 which our caseload has been running 50 percent of the time in Three Chopt since I've been here.

91 I know you have made a very good impact, not only in the Three Chopt area, but in Henrico  
92 County. I appreciate that, and I'm sure all the citizens do too.

93  
94 Mrs. Wade - Thank you.

95  
96 Ms. Dwyer - I guess it's my turn. As a relative newcomer to the Commission, I  
97 just would like to thank you, Mary, for your leadership on the Commission. And I think  
98 sometimes to think of leaders, as people who talk the loudest or talk the most. That's certainly  
99 not Mary Wade's style. I think Mary has provided a different kind of leadership for us, as a  
100 person who takes this job very seriously, and is very dedicated to public service. I know  
101 sometimes Mary will ask a question and I'll wonder, "What's behind this question? I don't  
102 really understand where its coming from." It's almost always because Mary had a perspective  
103 that she's gained from her time on the Commission, and she has this wonderful memory. She  
104 usually tries to keep the Commission from repeating its mistakes by asking those pointed  
105 questions.

106  
107 I think, most certainly, Mary has provided leadership because she's a public official with great  
108 integrity. Sometimes I think it is easy to become jaded about people in public service. I think  
109 we also need to take time to say thank you to our public servants who really do serve the public  
110 with integrity. And for, that reason, I, too, would like to thank you, Mary.

111  
112 Mrs. Wade - Thank you, Elizabeth. It's nice to have another lady up here.

113  
114 Mr. John Marlles, Director of Planning - Mary, although I've only had a chance to work with  
115 you for eight months as the Director of Planning, I have known you for a lot longer than that,  
116 but I can certainly tell you, that on behalf of the staff, you really are an inspiration to the staff  
117 because of your commitment and dedication. You're almost a legend as a Planning  
118 Commissioner.

119  
120 Ms. Dwyer - She visits every site.

121  
122 Mr. Marlles - She absolutely does.

123  
124 Mrs. Wade - Not always. Thank you, John.

125  
126 Mr. Vanarsdall - Well, I joined the Commission a few years after Mary did. I had  
127 met Mary and known her, but not as I got to know her on the Commission. I have to tell this  
128 story. Dick Glover asked me to be his Planning Commissioner for the Brookland District one  
129 day at lunch. I was stunned that he would even consider me. I understand people who help  
130 people in elections always will do that for reward. That was very far from my intention. So, I  
131 asked Dick, "Well, how many hours a week do you think I would have to put in?" He said,  
132 "About 20." I think the first case I ever had, I put in about 60 hours.

133  
134 But anyway, I said, "What do I have to learn?" He told me a lot of things I had to know, learn,  
135 and it would take a long time. I told him I was a slow learner. So, then I came to the meeting,  
136 and after a couple of meetings, I heard Mrs. Wade asking an applicant, "Are you going to plant

137 any white pine?" Then I heard her ask him, "What about in the back in the buffer? What kind  
138 of trees is that going to be? Shrubbery or bushes, whatever you want to call it." So, I said to  
139 our friend, Steve Catlett who was on the Commission then, representing Tuckahoe, I said,  
140 "Steve, I didn't know I was going to have to learn about trees and all kinds of bushes and  
141 things." He said, "Oh, you don't have to. He said Mary Wade, she loves White Pines."

142  
143 So, then later on we had a case, I wish Mr. Weinberg was here tonight. He would remember  
144 this. We argued the case. He thought he had finished. And Mary had already told him she  
145 didn't like the color of the roof. So, we got around that. And just before he finished, or just  
146 after he said, "I hope you will recommend approval to the Board of Supervisors, Mary said,  
147 "Mr. Weinberg, I understand they have changed the awning." I thought Mr. Weinberg would  
148 die. He said, "changed the awning? I think they put a stripe in it." So, the point I'm making  
149 is, it wasn't long I learned that the reason Mary did that was because she cared. And, because of  
150 her, the things that you see around Innsbrook, and up and down Broad Street are better because  
151 she did care. And because she took the time to find out what was going to be planted. She took  
152 the time to find out what the building looked like; what the material was. So, she does care.  
153 She is one of the most dedicated people I ever worked with.

154  
155 There have been very few cases that we disagreed on, but we did, but it was a disagreement that  
156 we respected each other. Mary, I want to tell you, its been a pleasure through the years working  
157 with you. And a lot of times when Mary goes to make a motion, I will sit here and think she's  
158 in favor of it one minute. The next minute, I thought she was against it. I never will forget one  
159 time, Steve Catlett, right in the middle of Mary's motion, he hesitated and he said, "Second."  
160 She said, "Mr. Catlett, I have not finished. And leaned back to the mike and said, "Excuse me."  
161 So, I say, "Mary, it has been a pleasure. I think you're deserving of the recognition tonight."

162  
163 Mrs. Wade - Thank you, Ernie. It's been a pleasure to work with you, too.

164  
165 Mr. Vanarsdall - I didn't mean to make it so long, but I never could tell a short  
166 story.

167  
168 Mr. Archer - Any one else?

169  
170 Mr. Donati - Yes. I've known Mary probably for 20 years, I would say, and  
171 had the opportunity to work with her now, for seven years since I've been on the Board. I've  
172 watched her work over the years. I know she's very thorough. She takes her job very seriously.  
173 I think she's fair to the citizens and to the developers when it comes to planning this County.  
174 She's done a great job for her constituents that lives in the Three Chopt District and also the  
175 overall good of the County. Most people don't realize it, but these people are really committed  
176 to their jobs. They commit a lot of time. I guess tonight we'll probably be here to midnight.  
177 Some of you probably won't be. But we've had heavy agendas the last year or so. But all of  
178 these Commissioners deserve a round of applause for the good job that they do in planning our  
179 County, because our County shines and we're the envy of a lot of localities that surround us.  
180 These folks do a great job, and Mary has been there for a long time.

181 Mr. Archer - Thank you, Mr. Donati. I see Mr. Silber stepped down because  
182 he probably thought I was going to ask him to say something.

183  
184 Mr. Randall Silber, Assistant Director of Planning - I really don't want to repeat all of the kind  
185 things that have been said because I know so much of what's been said is really from the heart.  
186 Mary, I can stand up here and talk a long time about the things that have impressed me about  
187 you. But I have known you for 13 years. I've been employed by the County for 13 years, and it  
188 doesn't come close to the 19 you've put in, but I really do appreciate the time you've given us.  
189 I've always found you to be extremely enthusiastic in everything you do. You're extremely  
190 dedicated to the profession of Planning. You have shown that commitment throughout the years.  
191 You have always challenged me. You have challenged the staff. You bring up excellent points  
192 constantly. Always keep us on the right track. I find that your support and insistence on quality  
193 development has been shown throughout the years and its represented by what we see in the  
194 County. So, I just appreciate the years that you've given us, and I hope you have many more  
195 with us. I appreciate that.

196  
197 Mr. Archer - Thank you, Randy.

198  
199 Mrs. Wade - We're blessed with an excellent staff.

200  
201 Mr. Archer - We have something to show you by the magic of technology. So,  
202 Mr. Sadler, would you role that, please.

203  
204 "Angela Moore: ...celebration of your 19 years on the Planning Commission. Unfortunately,  
205 I'm out of state. But I want to send my greetings to you and my thanks to you for all of your  
206 time and patience that you've shown as a Planning Commissioner for all of these years. I want  
207 to thank you personally and professionally for all of your hard work. I especially want to thank  
208 you for dedicating one bedroom in your house for all of those minutes that we've needed so  
209 badly you've kept all these years when things have been missing. Your consistency in going to  
210 the sites and seeing each application's location has meant a lot to the quality in approval of those  
211 plans. In the Three Chopt District, even though its had tons of growth over the years, both  
212 residential and non-residential, it has been evident that you've taken your time to be sure about  
213 the aesthetics and to the actual Planning rules and regs and you have spent time, a lot of time  
214 working on those projects, and the quality really shows.

215  
216 So, as you begin your third decade on the Planning Commission, I want to offer my support to  
217 you in any way I can, and say, "Enjoy today in the celebration that we want you to have."

218  
219 Mr. Archer - And next we'll have the Chairman of the Board of Supervisors,  
220 Mr. Kaechele.

221  
222 Mrs. Wade - Who's responsible for all of this?

223  
224 Mr. Zehler - It's his fault, isn't it?

225  
226 Mrs. Wade - If you don't like what you get, it's all his fault.

227  
228 Ms. Dwyer - The next one will be your third grade teacher.

229  
230 Mr. David A. Kaechele, Supervisor, Three Chopt District - Mr. Chairman, members of the  
231 Commission, I'm really pleased to be here to be a part of this ceremony, tonight. I'm here  
232 representing those citizens born before 1950.

233  
234 This picture, Mary, if that's 1980, you have not changed a bit, I don't believe. Anyway, last  
235 night the Board of Supervisors recognized the Planning Staff and the Planning Department and  
236 the Planning Commission and the Directors for 65 years of service to Henrico County. Henrico  
237 County is noted for its great planning.

238  
239 And, tonight, Mary, you and I haven't been here for the full 65 years, but it may seem like that  
240 at times, but we just want to focus a little bit on the 19 years that you have been here. You'll  
241 recall the election of November, 1979. That event led to your appointment to the Planning  
242 Commission, as Mr. Archer, indicated in 1980. And it has been my pleasure to reappoint you  
243 for 19 years in a row since that time. While you're not quite an institution yet, you have  
244 certainly gained the respect and the honor and the seniority of your office. I think we enjoy that  
245 seniority perhaps in more ways than one. But your contributions over years, I think, have been  
246 alluded to here.

247  
248 At the time you came on the Commission, Innsbrook was a paper plan. Short Pump was kind of  
249 a curiosity place. Wellesley wasn't there. No citizens really lived that far out. A few people  
250 joined hands at Tilly's from time to time, and that was about the furthestest point west in  
251 Henrico.

252  
253 But you have seen the changes developed in the western part of Three Chopt and across the  
254 County. And Innsbrook today is a park of hundreds of small and large businesses with 15,000  
255 or more employees. But the quality of the development there, you can see your hand and your  
256 print all over it in the landscaping up and down Broad Street. So, you have made your mark in  
257 Henrico, and it's a pleasing mark. So, it's just my honor to be here tonight to salute you to say,  
258 thank you for those years of service. Marilyn is here with me tonight, one of your strong friends  
259 and supporters, who has been known to give you some unsolicited advice at times. Me too,  
260 Sometimes it's solicited. But she joins with me in saying thanks in celebrating this occasion with  
261 you. Thank you.

262  
263 Mrs. Wade - Thank you.

264  
265 Mr. Archer - And next, we'll have our County Manager, Mr. Virgil Hazelett.

266  
267 Mr. Virgil Hazelett, County Manager - Mr. Chairman, members of the Commission, ladies and  
268 gentlemen, I quite frankly wouldn't miss an opportunity like this, Mary. I call her, "Mary,"  
269 even though we are in public and should be calling her Mrs. Wade, simply because all of the  
270 years I have known her.

271  
272 I would reflect, Mary, and simply tell you that we celebrated a similar ceremony with an  
273 individual whose still with us, Dave O'Kelly, several months ago, so don't think this is a

274 celebration of ending. It is a celebration of just exactly that. As Angela had said, the beginning  
275 of a third decade of effort on behalf of Henrico County.

276  
277 But, from my standpoint, sitting back, and watching all of these years and recognizing what's  
278 going on, as Mr. Archer had done so well, reminding us what was, I have to remember that  
279 Broad Street many years ago, around 1980 was only two lanes wide. In some spots three lanes.  
280 There was hardly any Innsbrook. There was no I-295. There was no Gaskins Road. Most of  
281 the commercial development on Broad Street actually stopped at Westland Shopping Center,  
282 very near the intersection of Parham Road.

283  
284 And what has come in all of those years, I know, has been trying, in reference to commercial  
285 development, in reference to residential development of the community, and has sometimes been  
286 difficult. But I think that through all of those years, there has been one individual so steady, so  
287 steadfast. And your beliefs and your principals and in the development, itself. I think it has  
288 provided 19 years of growth. Nineteen years of quality development and nineteen years of  
289 quality of life to the citizens of this County that would be extremely difficult to double. We'd  
290 like for you to try.

291  
292 But, in closing, I would simply like to say, Mary, there is a statement that I use often for  
293 employees that I value so very, very much. To take the opportunity to simply say that I value  
294 your input and your effort along with that to that same degree. That is very honestly, I can call  
295 you, the hallmark of Three Chopt development when you care enough to give your very best. I  
296 salute you Mrs. Mary Wade.

297  
298 Mrs. Wade - Thank you.

299  
300 Mr. Archer - Now, Mrs. Wade, before your rebuttal, we do have a gift we'd  
301 like to present you with. I understand from you that you saw your family out in the hall and you  
302 wondered why they were here. So, if you'd like for them to come up so we could meet them,  
303 and we'll hover around you and present you with a token of our appreciation.

304  
305 Mrs. Wade - You want me to introduce them. My husband, Winfrey, and son  
306 Lamont, daughter Suzanne and my son-in-law, Ryan. And Terrill, Lamont's wife, and five  
307 marvelous grandchildren, Alison, who attends Douglas Freeman, and Lindsay, who goes to  
308 Short Pump Middle, Kristen, and in the back there, Lucas and Garrett.

309  
310 Mr. Archer - All future Commissioners.

311  
312 Mrs. Wade - Quite a variety. I am a difficult person to surprise, as they will be  
313 the first to tell you. I did began to wonder when I saw them out here in the hall. I just happened  
314 to go back out.

315  
316 Mr. Vanarsdall - This is the first time they've been here in 19 years.

317 Mrs. Wade - No. They've been here once or twice. Allisan was here at a  
318 Board meeting not all ago with her class from Freeman. All right, hover.

319

320 Mr. Archer - Commissioners, if you will join me. We'll hover. This is for you,  
321 ma'am.  
322  
323 Mrs. Wade - Oh, thank you.  
324  
325 Mr. Archer - It certainly isn't anything to pay you back for all the years of  
326 service, but we do hope you like it. Don't shake it. It might explode.  
327  
328 Mrs. Wade - You wrapped this yourself?  
329  
330 Mr. Archer - No. I had to go to the Vice-Chairman for that.  
331  
332 Mrs. Wade - Well, it isn't a plaque. A clock, how nice. Isn't that lovely.  
333  
334 Mr. Archer - Mrs. Dwyer, would you like to read that inscription?  
335  
336 Mrs. Wade - "Mary L. Wade, in appreciation for your dedicated service on the  
337 Henrico County Planning Commission since January 10, 1980." Thank you. That's lovely. I  
338 do want to thank you all. As I say, I was really, really surprised. I appreciate the opportunity to  
339 be able to serve the County in this regard. I was brought up in an atmosphere of giving back to  
340 the community, and I value this opportunity to do so. For those of you patient citizens who have  
341 sat through this, beginning what will be a long evening, I say, thank you. I think the biggest  
342 challenge I have always found in this job, and its true of the other Commissioners and the Board  
343 of Supervisors, too, who have worked in land use, is trying to reconcile our growth and our  
344 progress. And sometimes you all wonder about that with the needs and concerns of the citizens  
345 in the neighborhood. We try very, very hard to protect our residents in our neighborhoods, and  
346 sometimes that's easier to do than other times, but we appreciate your understanding in that  
347 regard and support that the people in the County give to the planning process. I thank you very  
348 much.  
349  
350 Mr. Archer - You're welcome, Mrs. Wade. It's difficult to proceed from this,  
351 but I guess we have to go on. I would like to again thank Mr. Kaechele and the County  
352 Manager, Mr. Hazelett, for coming by. I appreciate your time.  
353  
354 Mrs. Wade - Getting them all together. It's amazing.  
355  
356 Mr. Archer - I asked Mr. Hazelett if he would come by. He said, "not for you,  
357 but I'll come for Mary."  
358  
359 With that, Mr. Secretary, I believe we do need to begin the agenda. We're a little bit late.  
360 We'll try to speed up things a little bit so we can catch up.  
361  
362 Mr. John Marlles, Director of Planning - Mr. Chairman, the first item is deferrals and  
363 withdrawals and Mr. Merrithew will give us that list.  
364

365 Mr. John Merrithew, Principal Planner – Thank you, Mr. Secretary. Mr. Chairman, the first  
366 deferral this evening is in the Brookland District.

367  
368 **P-39-98** Gloria L. Freye for Triton PCS, Inc.: Request for approval of a  
369 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the  
370 County Code in order to construct, operate and maintain a telecommunications tower up to  
371 199' high and related equipment and improvements on part of Parcel 94-A-10, containing 2500  
372 sq. ft. located on the west side of Byrdhill Road approximately 1200' south of Dumbarton  
373 Road. The site is zoned R-4 One Family Residence District.

374  
375 They've requested a deferral to January 14<sup>th</sup>.

376  
377 Mr. Archer - Okay. Is there any one here who is opposed to the deferment of  
378 P-39-98? No opposition to deferment. Mr. Vanarsdall.

379  
380 Mr. Vanarsdall - Mr. Chairman, I move P-39-98 be recommended for deferment  
381 to January 14, 1999 at the applicant's request.

382  
383 Mr. Zehler seconded the motion.

384  
385 Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Mr. Zehler. All  
386 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
387 abstained).

388  
389 Mr. Merrithew - Thank you, Mr. Chairman. The next case in the Fairfield  
390 District, C-40C-98.

391  
392 **C-40C-98** James W. Theobald for Attack Properties, Inc.: Request to  
393 conditionally rezone from R-2C and R-2AC One Family Residence Districts (Conditional) to  
394 RTH Residential Townhouse District (Conditional), part of Parcels 23-A-72A and 32-A-94,  
395 containing 16.795 acres, located adjacent to the western terminus of proposed J.E.B. Stuart  
396 Parkway and north of the terminus of Proposed Magnolia Ridge Drive. Townhomes or  
397 condominiums for sale are proposed. The RTH District permits densities up to 9.0 units gross  
398 density per acre. The Land Use Plan recommends Suburban Residential 1 development, 1.0 to  
399 2.4 units net density per acre and Suburban Residential 2, 2.4 to 3.4 units net density per acre.

400  
401 They've requested a deferral to January 14, 1999.

402  
403 Mr. Archer - Thank you, Mr. Merrithew. Is there any one here opposed to  
404 deferment of C-40C-98? I move deferment of C-40C-98 to the January 14<sup>th</sup> meeting at the  
405 applicant's request.

406  
407 Mr. Vanarsdall seconded the motion.

408

409 Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All  
410 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
411 abstained).

412  
413 Mr. Merrithew - Thank you, Mr. Chairman. On Page 2 of the agenda in the  
414 Three Chopt District, P-23-98.

415  
416 **P-23-98 Gloria Freye for Triton PCS, Inc.:** Request for approval of a  
417 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the  
418 County Code in order to construct, operate and maintain a communication tower up to 199' high  
419 and related equipment and improvements, on part of Parcel 47-A-59, containing 2,500 sq. ft.,  
420 east of Interstate 64 between Cox Road and Old Cox Road (3600 Old Cox Road). The site is  
421 zoned A-1 Agricultural District.

422  
423 They've requested a deferral to January 14, 1999.

424  
425 Mrs. Wade - And this is which one did you say?

426  
427 Mr. Merrithew - I'm sorry. P-23-98 Gloria Freye for Triton PCS, Inc.

428  
429 Mr. Archer - Is there any one here opposed to this deferment—P-23-98? No  
430 opposition. Mrs. Wade.

431  
432 Mrs. Wade - I move that P-23-98 be deferred to the 14<sup>th</sup> of January, 1999, at the  
433 applicant's request.

434  
435 Mr. Vanarsdall seconded the motion.

436  
437 Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
438 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
439 abstained).

440  
441 Mr. Merrithew - Thank you, Mr. Chairman. On the same page, still in the Three  
442 Chopt District, C-81C-98.

443  
444 **C-81C-98 Jay M. Weinberg for Buckley Shuler Properties:** Request to  
445 conditionally rezone from B-3 Business District and A-1 Agricultural District to B-2C Business  
446 District (Conditional), part of Parcel 46-A-19, containing approximately 17.293 acres, located  
447 on the southwest side of the intersection of W. Broad Street (U. S. Route 250) and John Rolfe  
448 Parkway. A shopping center is proposed. The use will be controlled by proffered conditions  
449 and zoning ordinance regulations. The Land Use Plan recommends Commercial Concentration  
450 and Office. The site is also in the West Broad Street Overlay District.

451  
452 They've requested a deferral to January 14, 1999.

453

454 Mr. Archer - Is there any one here opposed to deferment of C-81C-98 to the  
455 January 14<sup>th</sup> meeting? No opposition. Mrs. Wade.

456  
457 Mrs. Wade - I move Case C-81C-98 be deferred to the 14<sup>th</sup> of January at the  
458 applicant's request.

459  
460 Mr. Vanarsdall seconded the motion.

461  
462 Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
463 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
464 abstained).

465  
466 Mr. Merrithew - Mr. Chairman, that's all the deferrals I have for the 7:00 o'clock  
467 agenda. I would point out on the 8:00 o'clock agenda, P-28-98 Gloria Freye for Triton PCS,  
468 Inc.: which is a proposed tower at St. John's Catholic Church property on Nine Mile Road.  
469 That case has been withdrawn. As well, we have a deferral request still in the Varina District,  
470 C-78C-98 James W. Theobald for Laburnum Retail Center Associates, LLC: That's a request  
471 for B-2C zoning on Route 5 and Burningtree Road. That's a deferral request to January 14<sup>th</sup>  
472 which you can vote on at 8:00 o'clock. Thank you, sir.

473  
474 Mr. Archer - Thank you, Mr. Merrithew. For those of you who heard the  
475 8:00 o'clock deferrals, we can't safely tell you that the deferral will be granted because we  
476 can't do that until it officially comes up on the agenda, but in all likelihood is that it will be, I  
477 think, unless Mr. Zehler knows something I don't know. I just mentioned that to you because  
478 there's a possibility we might be lengthy in our meeting tonight. So, with that, we'll move  
479 onto the next case.

480  
481 Before I do, I omitted doing one thing when we were honoring Mrs. Wade, I need to thank  
482 Mr. Harvey Sandler back in the control room for the excellent job he did producing that  
483 picture and the video tape and making all of this come together. Thank you, Mr. Sandler.

484  
485 Mr. Marlles - The first case of the evening is in the Brookland District--C-79C-98.

486  
487 **C-79C-98** **Ralph L. Axselle, Jr. for Thomas B. Porterfield:** Request to  
488 conditionally rezone from O-2 Office District to B-3C Business District (Conditional), Parcel  
489 103-A-104, containing 1.721 acres, located on the southwest corner of Staples Mill Road and  
490 Massie Road. An unmanned fueling facility is proposed. The use will be controlled by  
491 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends  
492 Commercial Concentration. Mr. John Merrithew will be giving the Staff's presentation.

493  
494 Mr. Archer - All right. Thank you, sir. Is there any one here who is opposed  
495 to this case, C-79C-98? We have opposition and we'll get to you. Mr. Merrithew.

496  
497 Mr. Merrithew - Thank you, Mr. Chairman. The proposed use of this site is  
498 limited to an unattended fueling facility and accessory uses. The facility offers service to fleet  
499 vehicles, primarily. And, according to the applicant, the bulk of the vehicles, 50 percent, are

500 cars; 48 percent are light trucks, such as courier vans, and the last two percent are vehicles  
501 that would be considered large trucks or vehicles with more than two axles. The proposal,  
502 based on the limited knowledge we have of traffic counts for this type of facility, seems to be  
503 low intensity or low traffic use.

504  
505 The proposed site is at the corner of Staples Mill and Massie Road. The rezoning includes  
506 only a portion of the property, leaving a rear third of the property zoned O-2. The  
507 surrounding development includes the Crossroads Shopping Center and a mix of office, light  
508 industrial, and business uses. However, single family homes are adjacent to the site on the  
509 north side of Massie Road.

510  
511 There are policy issues I'd like to point out first in presenting this case. The fact is that this  
512 area is planned for Commercial Concentration. So the proposed business zoning is appropriate  
513 in this particular area. However, it is a transition site, sitting adjacent to residential, and  
514 separating residential from more intense commercial and business development. For that  
515 reason, the "O" District that is currently applicable to the site may be considered appropriate  
516 as well.

517  
518 The proposed fueling site is O-2. It is O-2 unconditional and, as such, it permits banks,  
519 medical offices, and clinics which could generate more traffic than what would be generated by  
520 the proposed use.

521  
522 With regard to the policy issues, as I said, it is Planned Commercial Concentration, so the  
523 zoning is appropriate, according to the Land Use Plan. Staff concerns primarily focused on  
524 the design of the site. The applicant has revised their proffers, and you've had those handed  
525 out to you this evening, that do address a number of staff's concerns in improving the buffer  
526 between the residences and the facility, improving the safety of the facility, and improving the  
527 traffic access to the facility.

528  
529 The series of proffers includes, in addition to restricting the use, to just the unmanned fueling  
530 facility. It includes a 35-foot buffer along Massie and Staples Mill Roads, and offers a  
531 conceptual plan illustrating the site layout. The plan details the type of planting, at the request  
532 of staff, and illustrates that the five-foot hedge around three sides of the property, and the  
533 fence around the southern and western ends of the property, as a means of blocking the view of  
534 headlights and, what have you, and also blocking pedestrian traffic through the site trying to  
535 get to the shopping center.

536  
537 Proffer 1, as I said, permits the fueling facility. The applicant has, in the revised proffers,  
538 clarified what accessory uses are or are not. They've specifically prohibited certain uses,  
539 including convenience stores and auto repair. So, that the only activity on the site will be  
540 fueling at the pumps.

541  
542 Proffer 2 provides the revised concept plan, better illustrating the landscaping and the fencing.  
543 The entrances, I would point out, may be subject to change, of course, at POD depending on  
544 how close they can get to that intersection of Massie and Staples Mill Road. That intersection,  
545 by the way, is lighted. But the principle entrance to this facility will be off of Massie Road.

546 I've already mentioned there's a 35-foot buffer, and the fencing around the south and west  
547 sides.

548  
549 There's also been pointed out by an adjoining business owner that there have been security  
550 concerns with the shopping center in the past; people hanging around the back; or hanging  
551 around the side, apparently lighting fires in garbage cans and that sort of thing. The addition  
552 of the fencing proffer, the lighting associated with this facility, and the day-to-day  
553 maintenance, which is also included in the revised proffers, that is a daily maintenance check  
554 by personnel, and the added security systems, would seem to improve that situation with the  
555 existing shopping center.

556  
557 In staff's opinion, this is a low traffic or a low impact use. I believe the landscape plan and the  
558 concept plan provide for appropriate buffer for the residences to the north. We feel the use is  
559 appropriate as a transition, and we're prepared to recommend approval. And, I'd be glad to  
560 answer any questions.

561  
562 Mr. Archer - Thank you, Mr. Merrithew. Are there questions for Mr.  
563 Merrithew from the Commission members?

564  
565 Mrs. Wade - This could be open all night?

566  
567 Mr. Merrithew - Under B-3. That's correct.

568  
569 Mrs. Wade - This is the kind of question that Mr. Zehler asks—any telephone  
570 or a provision for an alarm?

571  
572 Mr. Merrithew - They provided, in the revised proffers, there will be a fire  
573 suppression system and fire and security systems. Proffer 17, "...fire and security system  
574 approved at the time of Plan of Development review..." Now, whether that's a phone system  
575 or not, the applicant will have to respond to that.

576  
577 Mrs. Wade - Okay. Thank you.

578  
579 Mr. Archer - Any further questions for Mr. Merrithew? Thank you. I believe  
580 we need to hear from the applicant because we do have opposition.

581  
582 Mr. Marlles - Mr. Chairman, because there is opposition, the 10 minute rule  
583 will be in effect tonight. Both the applicant and the opponents will have a total of 10 minutes  
584 to present their comments. The applicant may want to hold back several minutes for rebuttal  
585 purposes. I'd be glad to do that.

586  
587 Mr. Archer - Thank you, Mr. Secretary. Mr. Axselle.

588  
589 Mr. Ralph L. Axselle - Mr. Chairman, I would like to reserve two minutes, if I may.  
590 Mr. Chairman and members of the Planning Commission, Bill Axselle, here on behalf of the

591 applicant, and Woodfin Oil, who proposes to operate this unattended fueling facility. With me  
592 is Tom Porterfield, of Woodfin, and Laraine Isaac with Engineering Designs.

593  
594 As you know, the request is for an unattended fueling facility with the business zoning. As  
595 Mr. Merrithew pointed out, the County's Land Use Plan projecting the future use of this  
596 property does call for Commercial Concentration. So, we are consistent with that plan.

597  
598 As far as the Goals, Objectives, and Policies, I would quote from the staff report, and they  
599 said, I quote, "...the Plan policy calls for minimal impact on adjacent residential uses and the  
600 applicant has taken steps to minimize the impact. Business development on this site support  
601 the County's economic goals by providing the appropriate infill development and providing a  
602 use that supports businesses in the area." As you heard Mr. Merrithew, the staff recommends  
603 this as an appropriate transitional use.

604  
605 The property is bordered on three sides by uses that are as intense or more intense than the use  
606 being proposed. Across Staples Mill Road on the east, of course, you've got a B-3 zoning.  
607 To the south, you've got the Crossroads Shopping Center, which is zoned B-3 and the rear, an  
608 M-1-type use. To the west, to the rear, is an O-2 zoning and M-1. Then across Massie Road  
609 to the north is an R-5 zoning. So, three of the four sides are business or industrial, office-type  
610 uses.

611  
612 The property right across Massie Road, there are two lots there that are vacant. There are no  
613 homes on those, but there are homes on the next lots, and the lots are not particularly wide.  
614 So, that is a factor that needs to be taken into consideration.

615  
616 The road network, as you can imagine, is six lanes; actually seven lanes of Staples Mill Road  
617 with a turn lane there. Massie Road, if you are not familiar with Massie Road, Massie Road is  
618 an extension of Thalboro. It goes back into Leigh Street, 50<sup>th</sup> Street, Marhsall and Clay. And  
619 Massie Road is a very heavily traveled business-type use. The traffic that comes out of that  
620 business area that butts up to Broad from businesses that are back there, such as Kitchen  
621 Distributors of Virginia; Harris Electric; S & S Body Shop; Maddox Supply, Flusing and other  
622 businesses in the area.

623  
624 So, Massie Road serves both residential, but it also serves a lot of businesses. The neighbors  
625 with whom we've spoken with this evening, it has a lot of traffic, especially the evening for  
626 those businesses.

627  
628 The unattended fueling facility you're probably familiar with. It is not a convenience store. It  
629 is not fast food. It is a lot that's improved with a pump to pump gasoline and so forth. As the  
630 staff indicated, 50 percent of the vehicles they'll serve are passenger, two axle types of  
631 vehicles you have with local businesses such as econoline vans and pickups and the remainder  
632 are more than two axles.

633  
634 They are not people who come in from the public. These are people with businesses who have  
635 a contract for their fleet vehicles and come in and pump the gas in and pays with the use of a  
636 card and so forth. There is an automatic shut off; an alarm that can be hit very easily.

637 There's a fire suppression system that's over this area (referring to slide). If the temperature  
638 gets to a certain level, it automatically goes off, putting down foam. It automatically sends a  
639 signal to the fire department which, of course, will respond.

640  
641 The improvements on the property are very limited. It's, basically, the paved area, the pumps,  
642 the fire suppression system. Lighting is very limited. We have a provision that the lighting at  
643 the boundary lines of the property cannot be more than a half foot candle. And, as you know,  
644 that pretty much is the same type of lighting that you see in a movie theatre in the aisles when  
645 the movie is on. Outdoor speakers, one small building which is just a small building where  
646 there will be the computers. That has to be residential in appearance with wood siding.

647  
648 We've added substantial buffers, we think, along Staples Mill. The buffer on Staples Mill is  
649 35 feet. That's primarily an aesthetic buffer with appropriate line of sight considerations.  
650 Along Massie Road, we have a 35-foot buffer on the interior part of the buffer would be a  
651 fence up to 5 feet tall. Then you would have a 5-foot tall evergreen hedge. And then you  
652 would have plantings out further closer to the street, would be more for aesthetic purposes.

653  
654 That same arrangement at a 15-foot buffer is along the rear, and a 5-foot buffer between us and  
655 the shopping center; each having a fence and the evergreen hedge. As was mentioned by Mr.  
656 Merrithew, the site is visited daily for any purposes of trash clean up, cleaning the lot,  
657 maintaining the property, checking the equipment to make sure the equipment is working fine.

658  
659 We've put a provision in there that the fire suppression and security systems have to be  
660 approved by the County as a part of the Plan of Development process. This is a "State of the  
661 Art" type thing.

662  
663 Now, let me tell you a couple of thoughts that we've heard from some of the neighbors who do  
664 have some concerns. First, is traffic. We would point out to you that the excess will be  
665 primarily off of Massie Road and Staples Mill Road. There could be traffic coming back from  
666 Massie Road from the Broad Street area. I do not think its reasonable to think that people  
667 would exit this site and go back through the residential neighborhood to come out onto Staples  
668 Mill at Park Street, which is north of here at a point where there's no light, that's much more  
669 dangerous. Obviously, the more direct route would be straight out to Staples Mill.

670  
671 Probably, approximately 90 vehicles a day would go to the site and come from the site, fairly  
672 modest when compared to what you have for attended and "C" store type use. If you took 24-  
673 hours divided into the 90, that's five vehicles an hour. Quite frankly, the bulk of the use will  
674 be during the day in the early evening hours equivalent to and consistent with the business  
675 nature.

676 None of these contracts are with over the road haulers. They are all with just local businesses  
677 who have vehicles that they need to service their customers and have their own passenger  
678 vehicles. So, it's all local-type traffic.

679  
680 Concern was expressed about fumes. I think we've clarified that. The new Stage 1 and Stage  
681 2 devices are required on this. All the fumes are collected, taken into an underground tank as  
682 part of the new requirements that go into effect December 22<sup>nd</sup>.

683  
684 There was concerned expressed to us about water runoff. The site, in fact, drains to the south  
685 away from the residents. There would be, on the site, a catch basin. The catch basin then  
686 goes into a water and oil separator, so it separates out the oil product and the water. The oil  
687 product is retained there. The water goes on out the BMP. The oil-type product is then  
688 pumped out. After the water runoff comes off the site, it goes into probably one of two BMPs.  
689 It may be one or two, and then it goes out. It will go through a system that goes under the  
690 shopping center away from the residents.

691  
692 I've tried to go real quickly, knowing that we have some opposition. But I would close by  
693 saying to you that this is an interesting property in this respect. This happens as lot as you see,  
694 where the property on three sides is abutted by the same zoning that we seek or a higher  
695 density use on the one side, with some residential use.

696  
697 I think we have, as the staff indicated, provided a use that is low traffic and low impact. We  
698 have, by the buffers, and the other conditions, and I think the proffers, if you look at them, I  
699 think they're very carefully drawn, have minimized any impact of the property. I can't say if I  
700 were a neighbor I wouldn't want anything on the property. I think that's natural. But the fact  
701 the property is proposed under the Land Use Plan to be used for a commercial-type use, this is  
702 consistent with that. Recommended by the staff and the Land Use Plan. We would ask that  
703 you recommend it for approval to the Board of Supervisors. I'd like to reserve the remainder  
704 of my time, whatever it is, for rebuttal.

705  
706 Mr. Vanarsdall - Mr. Axselle, do you have any idea what will go on the back half  
707 of that? You do have a feel for it? Can you tell us what would go on the back of it?

708  
709 Mr. Axselle - The back half would remain an office-type zoning. We have no  
710 plans and so forth. It probably will, because of its size and so forth, would remain either  
711 unimproved, or if its improved with a small office-type building.

712  
713 Mr. Vanarsdall - Then a fence would stop at this point?

714  
715 Mr. Axselle - Yes sir. The fence goes along, basically, the zoning line. There  
716 would be a fence, a hedge, and plantings to separate this from what would be the office use.

717  
718 Mr. Archer - Okay. Any other questions of Mr. Axselle by the Commission?

719  
720 Ms. Dwyer - Most of the traffic, then, would be coming actually into Massie  
721 Road? Is that your expectations, most of the traffic drawn by the...

722  
723 Mr. Axselle - The bulk of the traffic, we believe, will come off of Staples Mill.  
724 If you're coming south on Staples Mill, you think of as going towards the City, but its south.  
725 We think people would turn at the light and come in, or they would come in the new entrance  
726 off of Staples Mill. Obviously, somebody who is going north on Staples Mill would have to  
727 take a left at the light and come in, in that respect. There would be some traffic, but we don't  
728 think much. But there would be some traffic that would come off of Massie from back in the

729 Leigh, Clay, Marshall-type area where old Best Products was and so forth, back in that area  
730 which you know is a pretty developed business and industrial area. Its zoned industrial.

731  
732 Ms. Dwyer - The B-3 across the street is actually Office; is used as Office is  
733 that right?

734  
735 Mr. Axselle - The B-3 south of Thalboro is Office. The one north is Noland  
736 Company, which, I think, is more of a retail.

737  
738 Ms. Dwyer - Cater cornered?

739  
740 Mr. Axselle - Yes.

741  
742 Ms. Dwyer - But the B-3, that's the Trigon Office?

743  
744 Mr. Axselle - Yes.

745  
746 Ms. Dwyer - So, when you say its surrounded on three sides by B-3, it looks  
747 like a triangle to me. So it really looks, there's only one commercial use adjacent to this  
748 property, right, the shopping center to the south?

749  
750 Mr. Axselle - Depends on how you look at it. I would have to say being  
751 bordered on the south by an Industrial and Business use, and then Staples Mill, at that point, a  
752 seven lane road, I think that would qualify as a non-residential type use. The fact that right  
753 across Massie Road from this property has not been developed with homes in those first couple  
754 lots, that probably is an indication of the fact that part has not been perceived recently as being  
755 as compatible with residential. There are the homes, the next lots on over.

756  
757 Ms. Dwyer - I mean this looks like a very small triangle that was left on this  
758 parcel undeveloped. Why was that omitted from this? It seems like we're leaving an unusable  
759 parcel of land.

760  
761 Mr. Axselle - The case that was filed originally by the applicant, and then when  
762 I became involved thereafter, I felt to seek to zone the rear part, for a business use was,  
763 frankly, inappropriate. And so, I thought it was more appropriate for the rear part which is  
764 more adjacent to the homes, should be Office. Or if it turns, from an economic standpoint,  
765 unimproved, that's fine too. But, I did not think it was reasonable to request a business use in  
766 the back.

767  
768 Ms. Dwyer - The staff report says a lot of the vehicles being serviced will be  
769 cars and vans, and what kinds of other trucks would be serviced; larger trucks?

770  
771 Mr. Axselle - There's an error in the staff report, based on my math, it says,  
772 reference to 20 percent, when its 2 percent. But 50 percent are passenger vehicles. Forty-  
773 eight (48) percent are econoline vans and pick ups. They are the type of things that a plumber,  
774 a carpenter, a nursery, florist, dry clearer; those type of trucks; those that are two axle

775 vehicles. There would be some that would be three or four axle, but that would be the  
776 remaining two percent.

777  
778 Ms. Dwyer - Are they selling gasoline only?

779  
780 Mr. Axselle - It would be gasoline and could be diesel. Some of the two axle  
781 vehicles take diesel; some take gasoline. The passenger cars are gasoline, but there are some  
782 diesel too.

783  
784 Ms. Dwyer - Would it be possible to limit the hours?

785  
786 Mr. Axselle - That was brought to our attention this evening. We are not,  
787 because of contractual things and so forth, we are not in a position to do that this evening and  
788 may not be able to. I'm not sure, from talking to the neighbors, I think that would help the  
789 situation. But I'm not sure that abates their concerns completely.

790  
791 Mr. Zehler - Mr. Axselle, could you not accomplish the same as your request  
792 tonight in doing a B-2 with a Provisional Use Permit?

793  
794 Mr. Axselle - You could, if the Provisional Use Permit were approved to allow  
795 the hours over 12 o'clock. I think the 12:00 o'clock is the limit in the B-2. So, yes, you could  
796 do it that way, but we thought it was best to just do it all in this fashion.

797  
798 Mr. Zehler - You had mentioned about an automatic shut-off system. Is that  
799 included in the event of spillage?

800  
801 Mr. Axselle - Yes. It's a device that's right there where the customer just takes  
802 a few feet and hits the device and cuts it off.

803  
804 Mr. Zehler - Suppose he doesn't have enough sense or not enough knowledge  
805 to know to shut it off?

806  
807 Mr. Axselle - Well, the people who would frequent this facility are people who  
808 are under contract. The public doesn't come in the sense people who just go in. So, there are  
809 people who use it on a regular basis. Literature is provided to them, signage and everything  
810 and its clearly marked and so forth. That's something when the POD comes to you, you  
811 would have the right to ensure that that's done in a fashion that you feel safe with. But, that is  
812 done through that type of system.

813  
814 Mr. Zehler - So, if I have a card, am I allowed to give this card to my 15, 16  
815 year old child and let them go and fuel the vehicle?

816  
817 Mr. Axselle - It depends on the type of program that you have. Most  
818 employers have the program set up so that the frequency of the use is limited and the amount  
819 of purchase if limited to guard against that. That's more for the employer so that you know  
820 you don't pass it to your children who pass it to their buddies and so forth. So, the card is

821 programmed so the computer would not honor that type of request. If there were no such  
822 program, then that would be allowed. But, in fact, the employers want to limit the use for  
823 economic reasons.

824

825 Mr. Zehler - Is there a program that would allow a family use?

826

827 Mr. Axselle - It's all for business. Its not for families. The employees of the  
828 business...

829

830 Mr. Zehler - There are no children whatsoever under the age of 18 using the  
831 facility?

832

833 Mr. Axselle - Other than if they were an employee of the business, but not for  
834 social purposes. It's all business related.

835

836 Mr. Zehler - The thing that concerns me is the spillage. How can you address  
837 the issue? I know we have automatic nozzles which every now and then malfunction. Put  
838 your nozzle in and its supposed to shut off and, at times, if its not kept properly, it doesn't shut  
839 off. You've got gas running all over the parking lot. Is there any way to address that issue?

840

841 Mr. Axselle - First off, it would be inappropriate to say that never happens, but  
842 Tom can maybe talk to the frequency of it. But I'm advised that happens so very, very rarely.  
843 It would take two or three things to happen.

844

845 One, it would be that the nozzle itself broke. Second, that the person did not use the automatic  
846 cutoff. And then that the card would allow the gas to just keep flowing. Because at some  
847 point, the card would cut off of the volume that could go into the vehicle. Plus, the County  
848 POD requirements are such that the land will have a topography made to it so it would flow to  
849 the catch basin where you would have the oil and water separated.

850

851 But Tom Porterfield, Woodfin has 23 of these facilities around the state. He might want to  
852 address the frequency of that, or what may happen if that happened.

853

854 Mr. Tom Porterfield, Woodfin Oil - One, that is an infrequent occurrence. However, but  
855 each of the cards have a petroleum purchase limit on it. If it is an econline van from XYZ  
856 Laundry Company, that employer will have put a limit on the amount of product; the type of  
857 product that that employee may purchase. So, if that does occur, and he is on a 15-gallon  
858 limit, for example, after 15 gallons is dispensed, that pump will shut off even if the handle is  
859 broken.

860

861 Mr. Zehler - He's allowed 15 gallons; his vehicle only holds 10?

862

863 Mr. Porterfield - Pardon me?

864

865 Mr. Zehler - His vehicle will only hold 10.

866

867 Mr. Porterfield - You may well have a 5-gallon spill to answer your hypothetical  
868 situation, but you will not have a 500 gallon spill, because it runs infinitely. Then that 5-  
869 gallons, as Mr. Axselle has explained, then goes into an oil and water separator, which will be  
870 between the islands. Then that petroleum product will go into this holding facility. And from  
871 the holding facility, which will capture the petroleum hydrocarbons, will sit there until a  
872 bonafide reuser or a recycler of petroleum products removes that. And we pay him to do that  
873 - him or her, as the case may be, to use that oil for industrial purposes at a later time.

874  
875 Mr. Zehler - That doesn't concern me as much as the next individual comes  
876 behind this individual smoking a cigarette, gets out the vehicle, and drops on the ground and  
877 you've got 5 gallons of gasoline. I know a gallon of gasoline on the ground looks like 50  
878 gallons. It just spreads continuously and also lays on water.

879  
880 Mr. Porterfield - Pardon me?

881  
882 Mr. Zehler - Gasoline will lay on water, because it is lighter.

883  
884 Mr. Porterfield - Yes. It will float so to speak.

885  
886 Mr. Zehler - And it goes into the separator and its laying in your separator  
887 with the possibility of an explosion.

888  
889 Mr. Porterfield - That, in itself, would be mitigated by your suppressant system.  
890 As you heard Mr. Axselle say, at the moment when a specific temperature is noted near those  
891 sensors, you have foam equivalent to what you would use to extinguish a fire at a jet airplane  
892 fire, for example. It comes down. It makes no noise. It just whoops right down and  
893 extinguishes in a 20-foot radius. So, if what you say occurred, I'm not saying that it couldn't  
894 happen, but the odds are relatively small that, that flame would follow into the oil/water  
895 separator.

896  
897 Mr. Zehler - Have you ever had that happen?

898  
899 Mr. Porterfield - I've been doing this for 35 years, sir, and I've never had that  
900 happen.

901  
902 Mr. Zehler - How about people leaving hoses in gas tanks and driving off?  
903 Have you had that problem?

904  
905 Mr. Porterfield - We have the automatic protractors where, if they pull, they  
906 break, and then they shut off. It's possible for a person to move with the handle in the  
907 gasoline intake valve, but that will break away. Once that breaks away, the system stops.

908  
909 Mr. Zehler - And then your man has to come down...

910  
911 Mr. Porterfield - We have two mechanics and two vehicles at all times who  
912 respond within an hour or an hour and a half to any of mechanical problem. We keep in that

913 small building that we use for the computer equipment. Stationary products such as oil dry;  
914 we keep baffles that people can put down if there is a spill to maintain the integrity of the site  
915 and keep it onsite.

916  
917 Mr. Zehler - But there's nobody there to do it.  
918

919 Mr. Porterfield- We have people that can be there relatively quickly, in about 15  
920 to 20 minutes.

921  
922 Mr. Zehler - How large of a diesel fuel storage tank are you putting in the  
923 ground?  
924

925 Mr. Porterfield - We will have two 15,000 gallon tanks buffered for gasoline and  
926 diesel. We will have what is known as "on road" diesel fuel for the vehicles that we  
927 previously described, and we will have "off road" diesel fuel for those people who may come  
928 in put it in 10/20 gallon containers to take to their caterpillar tractors or to lawn equipment,  
929 whatever may be offsite.  
930

931 Mr. Zehler - And that will be a 15,000 gallon storage for your diesel?  
932

933 Mr. Porterfield - Fifteen thousand (15,000) gallon storage for the diesel; 5,000  
934 gallons which will be buffered, for non-highway use, and 10,000 for highway use. The  
935 gasoline will be 15,000 gallons. It will be 10,000 of regular grade gasoline; 5,000 of premium  
936 grade gasoline; buffered and blended at the time it is dispensed into the automobile.  
937

938 Mr. Zehler - I know you have an outlet on Williamsburg Road near the  
939 airport. What percentage of your sales there is diesel versus gasoline?  
940

941 Mr. Porterfield - I don't know the answer right off the top of my head. But I  
942 would imagine somewhere in the range of 70/30. The ratio of diesel fuel to gasoline is  
943 predicated upon the location of the facility. For example, if you had a facility that was located  
944 near a quarry, you would probably have a propensity to sell diesel fuel. On balance, over  
945 time, our sales are 50/50 to answer your question.  
946

947 Mr. Zehler - But there is a possibility, such as this location, that it would  
948 service large tractor trailers?  
949

950 Mr. Porterfield - On occasion, yes, but I'm not going to tell you that. But the  
951 predominant use, based upon the surrounding area, the economics of that particular area, the  
952 demographics, which we've done good background checks on that, indicate that we will be 50  
953 percent passenger cars, and 45 to 48 percent light trucks.  
954

955 Mr. Zehler - You're not going to restrict that or limit that? If its 100 percent  
956 diesel and regular gas, you won't shut it off?  
957

958 Mr. Porterfield - I would hope not. Thank you. Any more questions?

959  
960 Mr. Vanarsdall - Yes sir. Did you say you will or will not have diesel fuel there?  
961  
962 Mr. Porterfield - We will have diesel fuel there.  
963  
964 Mr. Archer - Fifteen thousand (15,000) gallon storage, Mr. Vanarsdall.  
965  
966 Mr. Vanarsdall - Right. Mr. Zehler, you know more about the type of business  
967 than I do. What is the smallest vehicle that would use diesel fuel?  
968  
969 Mr. Zehler - Probably a half ton pick up truck.  
970  
971 Mr. Porterfield - A Ford Ranger.  
972  
973 Mr. Zehler - Pick up trucks.  
974  
975 Mr. Vanarsdall - But a majority of these are big trucks?  
976  
977 Mr. Zehler - They are larger vehicles.  
978  
979 Mr. Vanarsdall - Every vehicle I see is huge using diesel.  
980  
981 Mr. Porterfield - We just recently purchased from Richmond Ford for our own use  
982 for employees to go to these sites that we previously mentioned and it is a pick up truck and it  
983 is a diesel truck. We simply got that because of the efficiencies that are inherent in a diesel  
984 engine using it as much as we use these particular trucks around these sites. There are very  
985 few diesel automobiles left today, as you probably well know, but the use of diesel products in  
986 trucks under three-quarters ton, half ton trucks is not limited at all. I wouldn't give you  
987 precise numbers because...  
988  
989 Mr. Vanarsdall - What are the cement trucks? What does the Tarmac trucks and  
990 the gravel trucks run on?  
991  
992 Mr. Zehler - Dump trucks, diesel.  
993  
994 Mr. Porterfield - They are primarily diesel fuel.  
995  
996 Mr. Vanarsdall - Diesel. They are the ones that put out all the black smoke.  
997  
998 Mr. Zehler - They all make the same noise whether it's a pick up truck or a  
999 big truck.  
1000  
1001 Mr. Vanarsdall - But you don't anticipate many of those at this site?  
1002

1003 Mr. Porterfield - Not from the surrounding area. As I said, if we are in Rockville,  
1004 near Mr. Luck's quarry, we would see a lot of those diesel trucks, but we don't anticipate that  
1005 here.  
1006

1007 Mr. Vanarsdall - So, does Tarmac have their own tanks down there on Dabney  
1008 Road?  
1009

1010 Mr. Porterfield - I don't know the answer to that.  
1011

1012 Mr. Vanarsdall - Do you know, Bill?  
1013

1014 Mr. Axselle - No sir. I don't know.  
1015

1016 Mr. Zehler - With the EPA laws the way they are, Mr. Vanarsdall, and  
1017 underground storage tanks, it's a high risk. Most of your companies and corporations are not  
1018 installing their own systems. They're using this type of system.  
1019

1020 Mr. Vanarsdall - You're right. It is very strict. Yes. You have a couple of these  
1021 in Varina. Have you ever had any problem with them?  
1022

1023 Mr. Zehler - No sir. Not that I'm aware of. The only thing that really  
1024 concerned me when we first had them was one unattended, and number two, there was no  
1025 phone there, in case of emergency, the public could use, of which they did correct that and  
1026 they did put a phone in.  
1027

1028 Mr. Vanarsdall - Also, there is one over by the Waffle House on Brook Road. It  
1029 looks like the County told them, "Please don't use any kind of landscaping." So, I know this  
1030 one is going to be landscaped. Over there, it looks like you'd be fine, if you'd use some  
1031 landscaping.  
1032

1033 Mr. Axselle- That is only a slight exaggeration. That site is rather stark when  
1034 I first visited it. Only in response to one further question. A lot depends, as Mr. Porterfield  
1035 said, when you think about the businesses that are in this area. This site was selected because  
1036 of its access to Staples Mill, and being on Massie Road, and so forth. But the nature of the  
1037 businesses around it are the type that would be using the facility here. It would be a different  
1038 use at Rockville or Charles City, for example, because the businesses around it are different.  
1039 Thank you, Mr. Chairman.  
1040

1041 Mr. Vanarsdall - This was an afterthought after we were talking. If those Tarmac  
1042 trucks start using that, that would be a disaster. They must have 10 million of those trucks.  
1043 They run every four minutes.  
1044

1045 Mr. Zehler - Twenty four (24) hours a day.  
1046

1047 Mr. Vanarsdall - And they never quit, 6:00 o'clock in the morning; dark in the  
1048 summertime. I don't believe they run on Sundays.

1049  
1050 Mr. Axselle - Mr. Porterfield advises they are not clients of ours.  
1051  
1052 Mr. Vanarsdall - But what I'm saying is, I'm enough of a businessman to know, if  
1053 they wanted to be a client, with as many trucks as they have, you would sign them up  
1054 tomorrow or tonight.  
1055  
1056 Mr. Axselle - I think they would probably want to use a facility that was closer  
1057 to their base of operation. So, theoretically, a situation, but I think from a practical  
1058 standpoint...  
1059  
1060 Mr. Vanarsdall - They have one of the biggest plants down on Dabney Road in the  
1061 whole area. It's no ways from where we're talking.  
1062  
1063 Mrs. Wade - Don't they have their own storage gas/fuel onsite there?  
1064  
1065 Mr. Axselle - At Tarmac?  
1066  
1067 Mrs. Wade - When you have a big fleet like that?  
1068  
1069 Mr. Axselle - Nobody really knows what they have. Mr. Zehler's thought was  
1070 because of the expense of these tanks, these tanks are very expensive. They have to have a lot  
1071 of safety. A lot of companies are doing exactly this. I would ask you to keep in mind, it is his  
1072 experience, as he indicated, that they've not had problems. I don't think the County's had  
1073 problems with the other unattended facilities; at least, it has not been brought to my attention  
1074 through the normal circulation through Police and Fire.  
1075  
1076 Mr. Vanarsdall - Do you think the weight limit would keep them off the street?  
1077 They're too heavy on a residential street.  
1078 Mr. Zehler - Mr. Vanarsdall, just so you'll be aware of this, with the new law  
1079 with the EPA that goes into effect in December of this month, all of the older locations have to  
1080 upgrade. The upgrade expense is anywhere from \$20,000 to \$40,000 of which its going to put  
1081 a lot of the small people out of business who can't afford it. This has all come into effect and  
1082 its hitting everybody at the same time. And a lot of your pump and tank companies cannot  
1083 keep up with the upgrades, and cannot do it. So, right now, at the end of this month, its going  
1084 to be a lot of your service stations that are going to be in violation because they can't do it.  
1085  
1086 Mr. Axselle - Thank you, Mr. Chairman.  
1087  
1088 Mr. Archer - You're welcome, Mr. Axselle. Now, we did have some  
1089 opposition. Is there any one person who can speak on behalf of the opposition, not that we  
1090 don't want to hear from all of you, but bear in mind the 10-minute limit. I didn't want you to  
1091 be repetitious. Come forward, sir, and identify yourself, if you would, please?  
1092  
1093 Mr. Bryan Shumate - I'm a realtor with Century 21. I live in Mayfield. Well, my  
1094 house is right at the corner of Clover Road and Massie, just to describe what its like living

1095 there so far. We just moved in in April. We have a lot of traffic, a lot of trash along Massie  
1096 Road. They can see right in our back window. Some of its trucks because there are  
1097 warehouses and businesses behind us. But mostly cars. There is a lot of noise from the  
1098 traffic, but its livable. We can put up with it. I think our main concern with the unmanned  
1099 fueling facility that its open 24 hours and there's going to be a lot of traffic. I think the main  
1100 thing that I can bring to this discussion, up until July of this year, I drove a tractor trailer. We  
1101 had an account with the Woodfin Oil Company.

1102  
1103 I can't argue with the fact that they maintain their facilities well and put up fences and shrubs  
1104 and try to respect the area. But, I don't think they can control the traffic. I think its going to  
1105 be worse than what they've stated. The entrance to the facility, like he said, off of Massie  
1106 Road. It's a short distance between Staples Mill and where the entrance is going to be.

1107  
1108 When you drive a truck, you have to foresee all your turns, and anticipate every move that  
1109 you're going to make. I think a lot of the trucks are going to come off of Broad Street and  
1110 50<sup>th</sup>, because, quite often, we have to wait. Sometimes there was a line of four to six trucks  
1111 waiting to fuel out there and they have to wait on whatever side street is there, waiting there  
1112 with their trucks running. If they back up, whether they're light or heavy trucks, they have to  
1113 have beepers that sound off when they're backing up to let people know. You're supposed to  
1114 honk before you back up. It's a big honk before you back up. So, our main concern is the  
1115 noise, you know.

1116  
1117 Just to tell you something about the community, it's a lovely community. It's old. I've only  
1118 been there a few months, but I've gotten to know a lot of the neighbors. We have some  
1119 couples and widows that have been there since the forties and fifties. Their grandsons come by  
1120 to mow their grass for them and take car repairs. And there's lots of new families with kids,  
1121 and just starting families. But we all have in common a sense of community and watch out for  
1122 each other. I just don't want to see this neighborhood decline. You know. It's a real gem.  
1123 It's a treasure. You know, we have a small buffer on the north side which is Jordan's Creek, I  
1124 think, protects is from a sort of run down apartment complex on the other side. To the east,  
1125 we have Staples Mill, but there's some small lots. To the west, there's some woods that  
1126 protects from the businesses on Broad and around through there. We have just a small buffer  
1127 on the other side of Massie that protects us from the shopping and the businesses back there.

1128  
1129 And, as a realtor now, I have a hard time asking them not to improve on their land, but I think  
1130 keeping it zoned for Offices would be more reasonable, because, like I said, it wouldn't be 24  
1131 hours. And it wouldn't be trucks. Not that I have anything against trucks. It just seems more  
1132 reasonable. It just seems like it would go with the neighborhood better. Well, that was it.  
1133 Did you have a question, sir?

1134  
1135 Mr. Vanarsdall - Go ahead. I didn't mean to interrupt you.

1136  
1137 Mr. Shumate - It's just, I think Offices are reasonable and a fueling facility is not  
1138 really, even though they do keep their places up well.

1139

1140 It seems to be a lot of room around Dabney Road where they can put a fueling facility and it  
1141 wouldn't affect residents, I don't believe. I haven't researched it, or anything. I just think  
1142 Henrico has a duty to protect this neighborhood. It's a nice quiet neighborhood and we love it  
1143 back there.

1144  
1145 Mr. Vanarsdall - So, your main objection is the traffic, isn't it?

1146  
1147 Mr. Shumate - Yes sir.

1148  
1149 Mr. Vanarsdall - You live on Pinetree?

1150  
1151 Mr. Shumates - No sir. Clover.

1152  
1153 Mr. Vanarsdall - Okay.

1154  
1155 Mr. Shumate - Clover and Massie, right on the corner.

1156  
1157 Mr. Vanarsdall - For a long time, traffic comes off Staples Mill in the morning,  
1158 goes through that neighborhood either on Clover or Pinetree to McDonalds on Broad Street.

1159  
1160 Mr. Shumate - Right. Yes sir. There is a Hardee's right there on 50<sup>th</sup>.

1161  
1162 Mr. Vanarsdall - I mean Hardees.

1163  
1164 Mr. Shumate - Right. So, we do have a lot of traffic. Again, nothing against  
1165 truck drivers, I was one. A lot of them don't really respect "No Littering." I think we'd have  
1166 a lot more trash. I guess that's about it.

1167  
1168 Mr. Archer - Mr. Shumate, based on your objection, can you think of anyway  
1169 that the applicant could improve the plan that would make it suit your tastes?

1170  
1171 Mr. Shumate - I don't really think so. When I think about it, you know, when I  
1172 saw the plans, there are two fueling islands. I guess one is going to be gas and one is going to  
1173 be diesel. I think three pumps on each island. But only two trucks can fill up at one time. If  
1174 a tractor trailer is parked in the wrong spot, fueling up, all the others have to wait on the side  
1175 street. That pile up is going to be a lot of noise. I had to do it. Other truck drivers have to do  
1176 it. You stop to take a nap, and could be there for hours. That doesn't really go well with the  
1177 residential area. Thanks.

1178  
1179 Mr. Archer - Any other questions before he takes his seat? There was other  
1180 opposition, I believe.

1181  
1182 Mrs. Wade - It's interesting that this issue comes up in this neighborhood,  
1183 tonight. My predecessor, and there was somebody here before 1980, that was very good and  
1184 he gave me lots of help. He took me around to three places. One is now Gayton Crossing.  
1185 The other one is the old mines there on Springfeild. The other one was this little residential

1186 neighborhood. It was in Three Chopt at the time. He said, "It's a nice neighborhood. It's  
1187 fairly small houses, but it needs to be protected." I never forgot that. Thank you. So, I was  
1188 interested in you saying, you're getting new families.

1189  
1190 Mr. Charles Dunn - Good evening, Mr. Chairman, and Commission, my name is  
1191 Charles Dunn. I'm with Sydnor-Hydrodynamics. We own and operate the water system that  
1192 serves the Mayfield area, and some of the surrounding commercial. We serve both  
1193 commercial and residential, but predominately it's the residential area we serve. It's 105  
1194 connections out there. If I could I'd like to pass out a little blow up map that shows what I'm  
1195 getting ready to talk about tonight.

1196  
1197 As I said, we do own and operate the water system up there. We own the well that is just  
1198 south of the proposed site which butts up to it. If you'll look on this map, it's almost right  
1199 underneath that pink dot (referring to slide). We have a well on there. It's about 15 feet from  
1200 the property line.

1201  
1202 We have some grave concerns, and object to putting a fueling station like this, this close to a  
1203 public water supply well. We have how the topographical features are and the hydrology out  
1204 there. We are concerned it could pose some serious health risks if their well gets  
1205 contaminated. It would possibly force us to take the well offline.

1206  
1207 I have spoken with the Virginia Department of Health Optional Water Programs about this at  
1208 some length, and they also do have some concerns. As a matter of fact, Mr. Doug Meyer with  
1209 the Health Department is here tonight about the fact, about a system this close to our well. We  
1210 do show a 50-foot buffer and a 100-foot buffer on that circle, to give you an idea of how close  
1211 it would be to our well.

1212  
1213 Our well was drilled there back in 1981. I had no plans back then. This was still part of the  
1214 residential neighborhood back then. Development like this wasn't planned to expand at that  
1215 time. But, as you can see, its grown out there.

1216  
1217 We also have a waterline that cuts across the middle of the proposed property. That's  
1218 something that's going to have to be looked into. We have a severe concern about the  
1219 contamination possibility to the well. If any spills or anything like that, it doesn't take, as you  
1220 stated earlier, Mr. Zehler. One gallon of gasoline gets into the ground, it equates to a lot  
1221 more. If you have any questions of me, I'd be glad to answer them.

1222  
1223 Mr. Archer - Thank you, sir.

1224  
1225 Mr. Vanarsdall - Have you talked to anyone at the County about this?

1226  
1227 Mr. Dunn - I didn't get the notice about this - It came in the mail Friday, I  
1228 believe. I wasn't in the office Friday. I didn't get this until Monday afternoon when I started  
1229 going through my mail.

1230  
1231 Mr. Vanarsdall - You're talking about it Monday, Tuesday...

1232  
1233 Mr. Dunn - I talked to somebody today. I finally got a hold of somebody  
1234 today to get a little bit of information on this and express a concern and said I would be here  
1235 tonight. I talked with Doug Meyer of the Health Department on Tuesday. Doug Meyer, he's  
1236 the District Engineer with the Office of Water Programs who regulate public water supply  
1237 systems. He's responsible for this planning district of the state.  
1238  
1239 Mr. Vanarsdall - But you haven't talked to anyone in our Public Works  
1240 Department?  
1241  
1242 Mr. Dunn - No sir.  
1243  
1244 Mr. Vanarsdall - Let's see, I'm trying to figure out where that is. You can't see  
1245 anything but a manhole cover. Is that right?  
1246  
1247 Mr. Dunn - Right there (referring to slide), there is a cinderblock house right  
1248 there with an old 1,000 gallon hydro tank which you don't use a hydro tank anymore. We  
1249 have a smaller tank inside which we use. That's our well site. It butts right up to that area. If  
1250 you go out there, it drains right towards our well lot. In wet seasons, our well lot doesn't  
1251 flood, but the area all behind it backs up with water.  
1252  
1253 As I'm sure you all know, VOC Volatile Organic Chemicals travel underground for very long  
1254 distances.  
1255  
1256 Mr. Archer - Any other questions?  
1257  
1258 Mr. Dunn - Thank you for y'alls time.  
1259  
1260 Mr. Archer - Thank you, sir. All right, was there someone else?  
1261  
1262 Ms. Karen Hudson, 2111 Clover - I've lived there three years. Our neighborhood has about  
1263 40 homes. It's successfully coexisting with progress and nature. Our patch of trees has  
1264 Jordan's Creek, and the only natural source of water for any wildlife.  
1265  
1266 (gap in tape)  
1267  
1268 three cement companies back will probably use the facilities up here. I don't know what the  
1269 restrictions are, you know, for them using.  
1270  
1271 Ms. Joan Baker, 2100 Clover Road - (gap in tape)  
1272  
1273 Mr. Vanarsdall - ...through the neighborhood, do they?  
1274  
1275 Mr. Dunn - No sir. Well, it's a lot of traffic in the afternoon that back up  
1276 from the stoplight that come down my street in the afternoon, and go out and go out on Park  
1277 Avenue.

1278  
1279 Mr. Vanarsdall - ...the trucks, I mean.  
1280  
1281 Mr. Dunn - No sir. Because the trucks and stuff block the traffic up and they  
1282 exit and come down my way on Pinetree Drive. In the morning they come through there.  
1283 That's all.  
1284  
1285 Mr. Vanarsdall - Thank you.  
1286  
1287 Mr. Archer - Thank you, sir. Any time left? We've got about a minute if  
1288 there is somebody else.  
1289  
1290 Mr. Doug Meyer - Good evening, honorable Commissioners, my name is Doug  
1291 Meyer. I'm with the Virginia Department of Health, Office of Water Programs. As Mr.  
1292 Dunn indicated, I'm responsible for water supply in the Henrico area. I share the concerns,  
1293 which is why he indicated he needed to talk to me, and that we do have concerns. This is  
1294 something very specifically that we look at when citing wells. And, I guess to take what he  
1295 said one step further, if the position were reversed, and the fueling station were there and he  
1296 was coming and asking for permission to cite a well in this location, it would be a very short  
1297 conversation. And we would just say, "No. You can't put a well there. While the technology  
1298 is greatly improved on safety for gasoline facilities; and it sounds like this is an excellent  
1299 facility, there is still a chance that something could happen. And that would jeopardize the  
1300 water supply for the system. And he said there are 105 connections there. That's not  
1301 something that we would want to jeopardize.  
1302  
1303 Mr. Archer - I believe we've used up all of the time for the opposition. Mr.  
1304 Axselle, you've reserved a couple of minutes for rebuttal.  
1305  
1306 Mr. Axselle - Let me address just a couple of points. Keep in mind that the  
1307 proffers provide that they'll be daily pick up, maintenance, security checks, computer  
1308 equipment checks on the site. I just don't think this is a thing where you're going to see  
1309 tractor trailers, people sleeping in their tractor trailers, and that type of thing. This is not the  
1310 folks that will be using this type of facility.  
1311  
1312 Keep in mind, as far as the water supply, that this site will be required to receive approval  
1313 from the Department of Environmental Quality, from the Department of Health. They will  
1314 have to approve this before the permits can be granted. Woodfin Oil just had a facility  
1315 permitted in a flood plain outside of Charlottesville, feeding into the Ravanna River, right on  
1316 the river, received permits from the Corps and EPA and so forth. That shows you the type of  
1317 security and the cleanliness that they have at these facilities. So, as Mr. Meyers has some  
1318 concerns, he'll have an opportunity to address them. We may not ask that he look at this  
1319 particular one, but - I say that jokingly, but seriously, they'll have a chance as well they  
1320 should. That should be kept in mind.  
1321

1322 Jordan's Creek, to which Ms. Hudson made reference, is on the north end, the other side of  
1323 Mayfield. And the water, in fact, from this site drains to the south and does not drain into  
1324 Jordan's Branch or Jordan's Creek.

1325  
1326 And, Mr. Willis, I think, made reference to the water on the site. Keep in mind that we will  
1327 be required, under your requirements and POD requirement, to show an adequate handling of  
1328 that water outfall which will go through the BMP and then offsite. All of that will come up at  
1329 the POD.

1330  
1331 Cement trucks, I just don't see that at all. I think the weight of the vehicles is also a  
1332 prohibition, plus the market area that we're trying to serve.

1333  
1334 On balance, I hope you would keep in mind that the County of Henrico's Land Use Plan calls  
1335 for Commercial Concentration. As the staff indicated, it's a low traffic, low impact use, an  
1336 appropriate transition and recommended it for approval. As indicated here, they have these  
1337 facilities in the County. Some of them back up to residential uses and they've just not been a  
1338 problem. So, thank you very much. I'll respond to any questions you may have.

1339  
1340 Mr. Archer - Thank you, Mr. Axselle. Are there questions of Mr. Axselle?

1341  
1342 Mr. Vanarsdall - Mr. Axselle, a couple of things have surfaced tonight that I had  
1343 no idea would surface. I wonder if you would entertain the idea of deferring this for 30 days.  
1344 I'll tell you why. This well is one of the things. I think later on this evening, maybe 10:00  
1345 o'clock, we're going to talk about wells in another case in Varina. And the other thing is,  
1346 there might be a way that we could reconfigure the site, or do something maybe if you came  
1347 up Pinetree Drive, maybe you couldn't pull into the filling station. That would take care of the  
1348 vans and the cars. I remember talking to John Merrithew one day and, one of his main  
1349 concerns was the configuration. So, I wonder if you would do that?

1350  
1351 Mr. Axselle - That would be agreeable.

1352  
1353 Mr. Vanarsdall - I appreciate that. Now, I wonder if everyone here this evening  
1354 would give Mr. Axselle your name and phone number and address, including the gentleman,  
1355 David, from the Health Department, and the gentleman from Sydnor. We used to call it  
1356 Sydnor Well and Pump. I couldn't pronounce Hydrodynamic until I got on the Planning  
1357 Commission. So, I appreciate that.

1358  
1359 Mr. Axselle - That would be fine.

1360  
1361 Mr. Vanarsdall - With that, I move C-79C-98 be deferred to January 14<sup>th</sup> at the  
1362 request of the applicant.

1363  
1364 Mr. Zehler seconded the motion.

1365

1366 Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Mr. Zehler, we  
1367 defer this case to January 14<sup>th</sup> at the applicant's request.. All those in favor say aye—all those  
1368 opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).  
1369

1370 Mr. Vanarsdall - Thank you for coming out.  
1371

1372 Mr. Merrithew - Excuse me, Mr. Secretary. We're way overdue for our 8:00  
1373 o'clock deferment. I'd like to get that in.  
1374

1375 **Deferred from the November 12, 1998 Meeting:**

1376 **P-28-98 Gloria Freye for Triton PCS, Inc.:** Request for approval of a  
1377 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the  
1378 County Code in order to construct, operate and maintain a communication tower up to 199' high  
1379 and related equipment and improvements, on part of Parcels 142-13-B-9 and 11, containing  
1380 2,500 sq. ft., located on the southwest line of Nine Mile Road, approximately 100' west of  
1381 Battery Avenue (St. Johns Catholic Church property, 813 W. Nine Mile Road). The site is  
1382 zoned R-2A and R-4 One-Family Residence Districts.  
1383

1384 Mr. Merrithew - As I mentioned earlier, Mr. Chairman, P-28-98, the proposed  
1385 Triton communications facility at St. John's Catholic Church, Nine Mile Road, has been  
1386 withdrawn. You don't have to take action on that.  
1387

1388 On the last page of your agenda, C-78C-98, again in the Varina District.  
1389

1390 **Deferred from the November 12, 1998 Meeting:**

1391 **C-78C-98 James W Theobald for Laburnum Retail Center Associates, LLC:**  
1392 Request to conditionally rezone from A-1 Agricultural District to B-2C Business District  
1393 (Conditional), Parcel 214-A-36 and part of Parcel 214-A-45A, containing 5.951 acres, located  
1394 on the west side of New Market Road (State Route 5) between S. Laburnum Avenue and  
1395 Burning Tree Road. A convenience retail/office development is proposed. The use will be  
1396 controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan  
1397 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre and Environmental  
1398 Protection Area. The site is also in the Airport Safety Overlay District.  
1399

1400 They've requested a deferral to January 14, 1999.  
1401

1402 Mr. Archer - Thank you, John. Is there any one here opposed to the deferment  
1403 of C-78C-98?  
1404

1405 Mr. Zehler - Mr. Chairman, I move that Case C-78C-98 be deferred to  
1406 January 14, 1999, per applicant's request.  
1407

1408 Ms. Dwyer seconded the motion.  
1409

1410 Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer. All those  
1411 in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).  
1412 Deferment is granted.

1413  
1414 Mr. Merrithew - Thank you, Mr. Chairman.

1415  
1416 Mr. Archer - Is that it, Mr. Merrithew?

1417  
1418 Mr. Merrithew - Yes sir. It is.

1419  
1420 Mr. Archer - Thank you, so much.

1421  
1422 **Deferred from the November 12, 1998 Meeting:**

1423 **P-37-98 Gloria Freye for Triton PCS, Inc.:** Request for approval of a  
1424 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the  
1425 County Code in order to construct, operate and maintain a communication tower up to 199' high  
1426 and related equipment and improvements, on part of Parcel 41-A-24, containing 2,200 sq. ft.,  
1427 located on the west side of Woodman Road approximately 1450' south of its intersection with  
1428 Mountain Road. The site is zoned A-1 Agricultural District.

1429  
1430 Mr. Marlles - Mr. Mark Bittner will be giving the staff presentation.

1431  
1432 Mr. Archer - Thank you, sir. Is there any one here in opposition to this case?  
1433 Mr. Bittner.

1434  
1435 Mr. Bittner - Thank you, Mr. Chairman. There have been some changes in this  
1436 case and I'll outline them now. This was originally at the Glen Allen Softball Complex. And  
1437 they moved it over to the depot site.

1438 The proposed tower would have been right about there (referring to slide), the little rectangle  
1439 that you see. They have now changed the proposed location, because yesterday we got a memo  
1440 from the Fire Department that said this site was unacceptable due to the closeness of the fire  
1441 training facility. They're going to move it about 250 feet to the west, right about there where  
1442 that squiggly line is extended up, which Fire has said is okay. Fire is in agreement with this site.  
1443 They told us earlier today. Another member of our staff and representatives of the Fire  
1444 Department met with the applicant there onsite. The Fire Department gave it their blessing.

1445  
1446 Staff feels that this site is probably even better than the other site to the east because, right in this  
1447 area here (referring to slide), a brand new subdivision is getting ready to start called  
1448 "Cedarpoint." So moving it to the west will move it away from that. Then, in that creek area,  
1449 you'll see its zoned C-1, is a thick stand of trees. Right here, this OSR area is a park -  
1450 Woodman Park. I've stood there and its hard to see through those trees. I looked for that fire  
1451 training tower. This would be right near it and I couldn't see the tower through those trees. So,  
1452 staff feels this site is acceptable, and the Fire Department does as well.

1453

1454 The other change has been, originally, it was a lattice tower. They have now changed that to be  
1455 a monopole tower. Staff feels that would be less visually intrusive than lattice and probably even  
1456 harder to see through those trees.

1457  
1458 Finally, the last change, we passed that out to you, is the addition of a condition. This is at the  
1459 request of the Fire Department. It simply says that anything that comes in relating to this tower  
1460 would have to go to them for review. We wanted to make sure they got that wish taken care of.  
1461 So, with that, staff is in a position to recommend approval on this application. I'd be happy to  
1462 answer any questions you may have.

1463  
1464 Mr. Archer - Does the Commission have any questions for Mr. Bittner?

1465  
1466 Mr. Zehler - Mark, on the Fire, we've never had an issue. What's the issue in  
1467 this particular case?

1468  
1469 Mr. Bittner - There's a fire training facility tower. It's about 40 feet tall or so.  
1470 They use it to train firefighters and they bring trucks up next to it. And oftentimes they have to  
1471 elongate their ladder. They reach up to about 100 feet. If this communications tower was in this  
1472 first section there represented by the rectangle (referring to slide), the Fire Chief told us that they  
1473 wouldn't be able to operate those ladders because it would have gotten in the way of the  
1474 communication tower. They've told us, in this other site to the west, that's not a problem.

1475  
1476 Ms. Dwyer - Does the change from a lattice to a monopole affect the potential  
1477 number of co-locations possible?

1478  
1479 Mr. Bittner - I don't believe so. We have to make sure that monopole has a  
1480 wide enough base to put all the cables running up through the middle of it, but that can be done.

1481  
1482 Ms. Dwyer - It's still going to be 195 feet?

1483 Mr. Bittner - The monopole is actually going to be 190 feet, which I understand  
1484 is the tallest monopole there is. But we still feel we can accommodate the same number of users  
1485 on that.

1486  
1487 Mr. Archer - Are there any other questions for Mr. Bittner? Thank you, sir.  
1488 Unless the other Commission members do, I don't have any questions for the applicant. Ms.  
1489 Freye and I have discussed this case several times; the last time being this afternoon. We have  
1490 moved the proposed location of this tower. It originally was supposed to be near a water tower,  
1491 on the same site. Ms. Freye did an excellent job in contacting the neighbors. We had a little bit  
1492 of opposition. So, it was finally moved further into the site. We thought that location would be  
1493 the one that would be nailed down until we got the opposition from the Fire Department. And  
1494 since that has been achieved, and as Mark said, this probably is the best location out of the three  
1495 that we've looked at, I don't really see any need to prolong this any more. It's an opportunity  
1496 for the County to gain some revenue, leasing of the site.

1497  
1498 Ms. Dwyer - I have one question for Ms. Freye.

1499

1500 Ms. Freye - Good evening. My name is Gloria Freye. I'm an Attorney here  
1501 on behalf of Triton PCS, Inc.  
1502  
1503 Ms. Dwyer - How many users can we have on this tower? I'm not talking about  
1504 the little whip antenna. I'm talking about, you know, how many communication companies?  
1505  
1506 Ms. Freye - We'll be able to accommodate at least three carriers, possibly  
1507 more, depending on the height that they need for that area.  
1508  
1509 Ms. Dwyer - And with the lattice at 195 what would you have expected?  
1510  
1511 Mr. Freye - It probably would have been about the same.  
1512  
1513 Ms. Dwyer - Only three on a tower of that size?  
1514  
1515 Ms. Freye - Well, it depends. We've got a lot of tree coverage there. We've  
1516 got the proximity to the other PrimeCo tower that's there. We really don't know if there's going  
1517 to be any more demand. We know for sure three, and possibly more, but I can't tell you how  
1518 many more. But there is a possibility of more. But we don't have commitments from anybody  
1519 else at this point.  
1520 Ms. Dwyer - Would the pole be constructed so that more than three users  
1521 could...  
1522  
1523 Ms. Freye - The way I understand it, and maybe Larry Horton, who is here  
1524 with me, as well, with Triton, could maybe answer this better. But the way I understand it, by  
1525 doing the 190 foot monopole, it has to come engineered to certain strength standards and weight  
1526 standards that it can accommodate. I think that whatever that will bear is what will be available  
1527 for co-location.  
1528 Ms. Dwyer - So, it would be possible, then, to have a fourth one?  
1529  
1530 Ms. Freye - It is possible.  
1531  
1532 Ms. Dwyer - If the height is okay with that fourth user, the structure will  
1533 accommodate the fourth user?  
1534  
1535 Ms. Freye - I think so. Yes ma'am.  
1536  
1537 Ms. Dwyer - I just want to make sure we're not losing anything by moving from  
1538 the lattice.  
1539  
1540 Ms. Freye - The reason that we're changing to the monopole, and really it's a  
1541 function of the lease area that we have. With a lattice tower, you have a larger footprint.  
1542 Generally, what we'll do is have a 50 x 50 lease area. With the configuration that we have on  
1543 the fire training facility, the Fire Training Division preferred for it to be a longer, narrow tower.  
1544 So, it would be 30 x 70. A monopole fits better in that smaller width space. So, that's why we  
1545 changed from lattice to monopole.

1546  
1547 Mr. Horton - My name is Larry Horton from Triton. As far as the number of  
1548 carriers, I think that three is probably appropriate for this one, because we're the last carrier in  
1549 the market right now, as you're well aware of. There's just nobody coming down the pike, and  
1550 I don't know that we need to build a bigger structure to handle four. Three is more than  
1551 sufficient for anybody that would need it, because everyone else that needs communications in  
1552 this area already has a site.  
1553  
1554 Ms. Dwyer - But could a fourth one go on this structure?  
1555  
1556 Mr. Horton - If we designed it, it would just get bulkier. We'd have to build a  
1557 bigger structure. I think that three is more than enough capacity for whatever I perceive in the  
1558 market at this point in time, with people who have the license to come in this market. Right  
1559 now, we have it designed for three. Considering the tree canopy, and with all the carriers in this  
1560 market already have a location, building it bigger for a fourth carrier, I don't know that would  
1561 be necessary.  
1562  
1563 Ms. Dwyer - I mean, according to one of the reports I recently read, we could  
1564 be expecting more carriers. I think there are six now on the market?  
1565  
1566 Mr. Horton - Yes.  
1567  
1568 Ms. Dwyer - We could see nine before its all over said and done.  
1569  
1570 Mr. Horton - We could talk about business, but this is not New York City.  
1571 We're talking a \$1 million give or take, and six carriers I think is more than enough cellular  
1572 phones for the Richmond market.  
1573 Ms. Dwyer - I agree.  
1574  
1575 Mr. Horton - I know you all probably agree with that for what the near future,  
1576 say, I think that three is adequate for this one.  
1577  
1578 Ms. Dwyer - You're building it for three, and not four?  
1579  
1580 Mr. Horton - Yes ma'am. That's all we are. If you want four, I'll do it, but I  
1581 think three is more than adequate and I can keep down the size. It wouldn't be as big to the  
1582 neighborhood across the creek. So, I'm proposing three.  
1583  
1584 Ms. Dwyer - Okay. Thank you.  
1585  
1586 Mr. Archer - Thank you, sir. Ms. Dwyer, I really appreciate that observation.  
1587 I guess we're caught between a rock and a hard place, in building a bigger tower and not being  
1588 able to hide it as well from the neighborhood, and building a smaller one and being able to keep  
1589 it out of sight. So, with that, I move for recommendation of P-37-98.  
1590  
1591 Mr. Vanarsdall seconded the motion.

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Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

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

1. If the use of the tower for communication purposes is discontinued for 180 days, the tower and all related structures shall be removed from the site within 90 days. Within ten (10) business days after written request by the County, the owner of the tower shall provide the County with written confirmation of the status of the tower, the number and identity of users on the tower, available collocation space on the tower and such additional information as may be reasonably requested.
2. Application for a building permit to install the tower must be made within one year after the Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time is granted by the Director of Planning upon written request by the applicant.
3. The applicant shall obtain approval from the Henrico County Planning Commission if the FAA requires the addition of standard obstruction marking and lighting (i.e. red lighting and orange and white striping) to the tower. The applicant shall notify the Henrico County Planning Director prior to making any changes to the original galvanized finish of the tower.
4. When site construction is to be initiated as a result of this Provisional Use Permit, the applicant shall complete requirements prescribed by Chapter 10 of the Henrico County Code. In particular, land disturbance of more than 2,500 square feet will require that construction plans include a detailed drainage and erosion control plan prepared by a professional engineer certified in the Commonwealth of Virginia. Ten (10) sets of the construction plans shall be submitted to the Department of Public Works for approval.
5. A landscaping plan for the purpose of screening the base of the tower from view shall be submitted to the Planning Office for approval prior to the issuance of a building permit for the tower. The Director of Planning may waive the enforcement of this condition if it is deemed unnecessary.
6. The applicant shall allow the collocation of at least three (3), and as many additional users as technically possible at this site in accordance with the provisions of the Letter of Intent to Permit Collocation on Communications Tower, filed by the applicant with this request.
7. The Fire Department shall review any future submittals pertaining to this application.

The Planning Commission recommendation was based on its finding that the Provisional Use Permit is reasonable in light of the surrounding uses and existing zoning on the property; and it would provide added services to the community.

1642 **Deferred from the October 15, 1998 Meeting:**  
1643 **C-63C-98** **Glenn R. Moore RealtiCorp, Inc.:** Request to conditionally rezone  
1644 from A-1 Agricultural District, O-3C Office District (Conditional) and B-2C Business District  
1645 (Conditional) to B-3C Business District (Conditional), Parcels 47-A-59, 48-A-39 through 43, 48-  
1646 A-43A and 43B, 48-A-55, and 48-A-58 through 66, described as follows:

1647  
1648 PARCEL1  
1649  
1650 BEGINNING at a point on the east line of Cox Road, approximately 667 feet south of its  
1651 intersection with the south line of Broad Street, thence leaving the east line of Cox Road, S  
1652 74° 28' 56' E a distance of 260.13 feet to a point; thence S 15° 08' 01' W a distance of  
1653 286.28 feet to a point; thence S 74° 51' 59" E a distance of 88.88 feet to a point; thence along  
1654 a curve to the left having a radius of 562.50 feet, a distance of 113.00 feet to a point; thence N  
1655 81° 31' 16' E a distance of 140.93 feet to a point; thence along the arc of a curve to the right  
1656 having a radius of 637.50 feet, a distance of 371.96 feet to a point; thence S 65° 02' 56" E a  
1657 distance of 116.96 feet to a point; thence S 03° 40' 05" W a distance of 244.73 feet to a point;  
1658 thence S 39° 03' 44' W a distance of 95.70 feet to a point; thence S 35° 18' 44' W a distance  
1659 of 57.91 feet to a point; thence S 35° 19' 10' W a distance of 62.82 feet to a point; thence S  
1660 26° 51' 17' W a distance of 139.95 feet to a point; thence S 43° 21' 17" W a distance of  
1661 206.63 feet to a point; thence S 43° 21' 18' W a distance of 120.37 feet to a point; thence S  
1662 37° 26' 54' W a distance of 221.86 feet to a point; thence S 29° 31' 34" W a distance of  
1663 214.94 feet to a point on the north line of Old Cox Road; thence along the north line of Old  
1664 Cox Road, N 55° 50' 42" W a distance of 257.03 feet to a point; thence N 37° 58' 16' W a  
1665 distance of 53.25 feet to a point; thence along the arc of a curve to the left having a radius of  
1666 223.23 feet a distance of 115.61 feet to a point; thence N 19° 02' 21" W a distance of 532.54  
1667 feet to a point; thence along the arc of a curve to the right having a radius of 497.49 feet a  
1668 distance of 200.12 feet to a point; thence N 15° 39' 58' E a distance of 145.70 feet to a point;  
1669 thence N 74° 28' 56' W a distance of 13.01 feet a point; thence N 15° 31' 04' E a distance of  
1670 460.09 feet, to the point and place of BEGINNING, containing 23.1 + acres.

1671  
1672 PARCEL2  
1673  
1674 BEGINNING at the point of the intersection of the east line of Cox Road and the north line of  
1675 Interstate 64, thence along the east line of Old Cox Road N 33° 38' 35' E a distance of 348.22  
1676 feet to a point; thence N 70° 24' 21' E a distance of 84.22 feet to a point; thence S 19° 02' 21'  
1677 E a distance of 531.68 feet to a point; thence along the arc of a curve to the right having a  
1678 radius of 183.23 feet, a distance of 134.34 feet to a point on the north line of Interstate 64;  
1679 thence along the north line of Interstate 64 N 54° 14' 15' W a distance of 541.39 feet to the  
1680 point and place of BEGINNING, containing 3.1 + acres.

1681  
1682 Mr. Marlles - John Merrithew will be giving the staff presentation.  
1683

1684 Mr. Archer - Thank you, Mr. Secretary. Is there any one here opposed to C-  
1685 63C-98? Any one? Mr. Merrithew.

1686  
1687 Mr. Merrithew - Thank you, Mr. Chairman. This proposal is for a mixed use retail  
1688 and office complex. The site is situated on the east side of Cox Road, south of the Parkside  
1689 Marketplace and Universal Ford and extends all the way to I-64. The site currently consists of  
1690 residential homes, vacant land and a communication tower. All of the residences in the  
1691 neighborhood would be removed by this project.

1692  
1693 Surrounding development, to the west and the north, consists of retail uses including Comp USA  
1694 and Officemax and the Parkside Place Shopping Center, as well as Universal Ford. Circuit City  
1695 Office Complex is to the east of the site.

1696  
1697 There are a number of policy issues which I'd like to address. First off, this is an infill  
1698 development. The application represents a good example of infill. The current A-1 zoning on  
1699 the property is out of place in the W. Broad Street corridor, and is not consistent with land on  
1700 the central utilities, or with the surrounding zoning and land uses in the area.

1701  
1702 The existing residences are faced with increasing encroachment by incompatible uses. The Land  
1703 Use Plan encourages infill development, such as this, because it makes use of public facilities  
1704 and services already in the area.

1705  
1706 However, there is a concern, with regard to this application, in that it does not conform to the  
1707 Office development plan for the area. You see the site, itself, and the surrounding area to the  
1708 east is designated for Office development. That has been, over the years, eroded. We now have  
1709 Commercial Concentration development to the north, as well as immediately to the west at the  
1710 Colonnades Complex.

1711  
1712 In 1995, land west of Cox Road, that would be Colonnades, was rezoned from O-3C to B-2C to  
1713 permit the Colonnades West development. As, in this case, that rezoning did not comply with  
1714 the Comprehensive Plan. However, it was deemed appropriate because, at the same time, they  
1715 were zoning the area to the east of Cox Road Office 3 (Conditional) as sort of a counter balance  
1716 to maintain the Office influence in the area. Now, they rezoned to B-2C for Colonnades was  
1717 also subject to a set of detailed proffers, including a conceptual master plan, which we do not  
1718 have with this case.

1719  
1720 Now, with regard to site specific issues, the application comes forward with potentially no  
1721 commitment to overall site design, or architectural quality, as was proffered in cases of the  
1722 surrounding property.

1723  
1724 The commitment to buffers, the commitment to architectural considerations and consistency  
1725 throughout the site, not uniquely to this case, but, unfortunately, in this case, all have back door  
1726 clauses that allow for any use of any material on the architectural structures; allow for any type  
1727 encroachment into the buffer; and allow for changes to be dealt with at the time of Plan of  
1728 Development review, essentially making the proffer unenforceable.

1729

1730 The applicant has submitted proffers, which I handed out this evening, that attempt to address a  
1731 number of staff concerns, particularly with regard to land use, transportation and the design that  
1732 I was just mentioning.  
1733

1734 Direct access to Cox Road is limited to three points; one of which would be Westerre Parkway.  
1735 As you will recall from the first staff report, we were concerned that the applicant had  
1736 committed to construction of Westerre, but not specified the degree of construction. At this  
1737 point they have committed to construct Westerre to its ultimate cross section, or ultimate design,  
1738 which is an improvement. And based on the Traffic Engineer's comments is a necessary  
1739 prerequisite to this development.  
1740

1741 The applicant has proposed a 30-foot buffer along Cox Road, and a 25-foot buffer along  
1742 Westerre. Originally, they had specifications that paralleled the proffers on Colonnades about  
1743 the size of trees and other materials to be in the buffer. Most of those specifications have been  
1744 removed in the latest proffers.  
1745

1746 And, as I said before, the buffer can be encroached upon by easements, utilities, driveway access  
1747 points, signs and what have you; essentially, leaving it up in the air as to what purpose that  
1748 buffer would serve or how efficient it will be.  
1749

1750 Parking lot lighting: One of the concerns staff had with this case was try to make sure that there  
1751 would be architectural consistency throughout the site between different buildings and so on.  
1752 They have put wording in there with regard to the architectural consistency and similarity types  
1753 of pitched roofs and features and materials and so on. But, again, there is the "back door"  
1754 clause that allows that to be brought up anew at POD.  
1755

1756 With parking lot lighting, we asked them to make sure the lighting was consistent throughout the  
1757 development, so we'd have the same design of light throughout the project. They put that in  
1758 there and then put in, "...unless otherwise approved at POD." So, I keep hitting on that point,  
1759 but it is consistent throughout all the proffers.  
1760

1761 Lot coverage on this development is 70 percent, which is consistent with the commercial  
1762 development to the west. The property is currently limited to 65 percent under the O-3C zoning  
1763 that applies to the site. The applicant has, in the new proffers added, that "Any office portion of  
1764 this property would be limited to 65 percent open space." We feel that is definitely an  
1765 improvement.  
1766

1767 The applicant has a lengthy list of prohibited uses on the project, and they have added to that list:  
1768 automobile sales, and repair and service; as well as the rental of cars, and vans, and trucks.  
1769 Those two things added, eliminate a couple of concerns that we had about the uses that could go  
1770 on the site.  
1771

1772 In their discussions with the Planning Commissioner for the District, they have added some  
1773 design criteria and some limitations on other uses, specifically auto parts, sales, service and  
1774 installation. That would only be permitted on the site in accord with the B-2 standards, which  
1775 would make it a Provisional Use Permit. A garden center would only be permitted on the site in

1776 accord with the B-2 standards which, basically, say the location of any outside storage or display  
1777 has to be approved by the Commission.

1778  
1779 As submitted, the application does not identify specific types of uses that will be permitted.  
1780 However, the transportation plan for this site was based on office development of about 150,000  
1781 square feet; two hotels; two restaurants; and one convenience store/gas station or a convenience  
1782 store, and I believe and a gas station if they are separate uses.

1783  
1784 The applicant has proffered a minimum of 150,000 square feet of office floor area on the project.  
1785 Based on our analysis of the site, that amounts to, I believe, 60 percent of the potential floor area  
1786 on the site. And that's a very approximate number.

1787  
1788 They've proffered no more than 75,000 square feet of retail space, not counting the hotels that  
1789 might develop on the site. That would amount to about 30 percent of the floor area. That is  
1790 about the same square footage as the Colonnades has on the ground with OfficeMax, CompUSA,  
1791 Mens Warehouse. And it's about twice the size of Parkside Marketplace development, just for  
1792 comparison.

1793  
1794 Hotels are permitted. In the original proffers, if a hotel went in, they would deduct 25,000  
1795 square feet of retail space from the equation. That deduction is no longer included in the  
1796 proffers. So, hotels, are completely outside the equation of retail office development on this site.

1797  
1798 If this site were to develop under the O-3, with theoretically 250,000 square feet of floor area  
1799 potential, you could have about 50,000 square feet of retail space, but it would have to, in that  
1800 case, be inside an office building.

1801  
1802 The applicant has responded to County's traffic engineer's concerns very well. If you will  
1803 recall, the County traffic engineer said there was a cap on the amount of peak hour traffic this  
1804 site could generate and be accommodated by the network. He offered them the opportunity to  
1805 update the traffic study that he was basing his remarks on, and they did update that study, and  
1806 came to the conclusion that I believe it was 756 trips p.m. peak hour is the maximum that should  
1807 come out of this site. That is based on Westerre being in place, and, if need be, a light being  
1808 constructed at Westerre.

1809  
1810 The applicant has agreed, with each POD, they would submit a traffic projection for the use; a  
1811 cumulative figure for each development on the site. And, when it hits 756, or looks like it was  
1812 going to exceed 756, then that development could not go forward without either the Commission  
1813 or the traffic engineer approving the development, and looking at the traffic issue and seeing  
1814 what improvements might be necessary. They have also agreed to contribute towards, I believe,  
1815 50 percent towards a traffic signal at the intersection of Westerre when, and, if its warranted,  
1816 according to the traffic engineer.

1817  
1818 In summary, the applicant is proposing to intensify development of this site. At best, the site  
1819 design proffers are equivalent, and, in some cases, they are not equivalent to what is there for  
1820 the current zoning on the property. They are looking for a 2:00 a.m. operating time. And they

1821 are looking for 75,000 square feet office/retail, I think, overall, making this a more intense use  
1822 on the site than what was envisioned and currently what is planned by the 2010 Land Use Plan.

1823  
1824 The proposal is not consistent with the 2010 Land Use Plan. We feel there are some outstanding  
1825 issues. I don't feel we are getting the level of commitment to quality design that we've gotten in  
1826 other developments in this area. And, for that reason, staff is not prepared to recommend  
1827 approval at this time. I'll be glad to answer any questions. I want to pull up GIS. I want to try  
1828 something. This is the Colonnades. This is the Parkside Marketplace. This is Circuit City over  
1829 here.

1830  
1831 Mrs. Wade - And so, roughly, where is Westerre to go through here?

1832  
1833 Mr. Merrithew - Westerre would follow the top property line of the site that you see  
1834 here, cutting off of that knob at the top. That would be on the north side of Westerre. Then  
1835 Westerre would follow, basically, the property line, loop around and connect over at Circuit City  
1836 on the existing Westerre Parkway on the west side. I apologize. I think its too dark for the map  
1837 to pick it up.

1838  
1839 Mrs. Wade - And there is a piece of County owned land now, intended for...

1840  
1841 Mr. Merrithew - Intended for a fire station I believe right in this area (referring to  
1842 slide). So Westerre Parkway should come out at the entrance, or across from the entrance to  
1843 Colonnades and this loop up and down and around and back to the existing Westerre. We might  
1844 be able to show it better on the zoning map.

1845  
1846 Mrs. Wade - And, of course, all the M-1C on the east is Circuit City parking.

1847  
1848 Mr. Merrithew - Circuit City parking, that's right.

1849  
1850 Mrs. Wade - Thank you.

1851  
1852 Mr. Zehler - John, when you went through that sliver there, that piece has never  
1853 developed. Is it a possibility that link would never have a road in it?

1854  
1855 Mr. Merrithew - There is a possibility. The proffer provides for the road to be  
1856 constructed in conjunction with development on either side. Are you talking about this piece up  
1857 here (referring to slide)?

1858  
1859 Mr. Zehler - Keep going to the tip on the B-2C. Keep coming. Right in there  
1860 (referring to slide).

1861  
1862 Mr. Merrithew - Well, there is a possibility that it would not be constructed. Oh.  
1863 You're talking about another property owner stops it there. That's correct. Yes.

1864  
1865 Mr. Zehler - The B-2C, the little sliver in the pie has already been developed.  
1866 How are we going to get that road completed through there?

1867  
1868 Mrs. Wade - It's not developed.  
1869  
1870 Mr. Zehler - I'm saying, if it ever was developed?  
1871  
1872 Mr. Merrithew - If it was developed without it, we have a problem. I think the  
1873 applicants are better aware of the dynamics of the discussion for the road in there and they can  
1874 probably answer that.  
1875  
1876 Mrs. Wade - I think agreements have been reached, haven't they, about the road  
1877 completion through there?  
1878  
1879 Mr. Merrithew - I can't really answer that very well.  
1880  
1881 Mrs. Wade - You say Public Works is satisfied with the traffic?  
1882  
1883 Mr. Merrithew - Traffic was the big concern for both Public Works and Planning  
1884 the first time around. And, yes, Public Works, at this point, is satisfied with the improvements.  
1885 They have a list of improvements, and the applicant has agreed to make those improvements.  
1886 They are satisfied that they can proceed.  
1887  
1888 Mrs. Wade - Thank you.  
1889  
1890 Ms. Dwyer - Mr. Merrithew, some of the language that has been stricken on the  
1891 December 7<sup>th</sup> copy refers to a master plan. We don't have a master plan for this, tonight?  
1892  
1893 Mr. Merrithew - They submitted a concept plan with the original application that  
1894 was attached to your staff report.  
1895  
1896 Ms. Dwyer - That's right.  
1897  
1898 Mrs. Wade - There's no reference to that, however.  
1899  
1900 Mr. Merrithew - The only purpose for that illustration was to show Westerre Road.  
1901 It wasn't to illustrate the layout or anything like that. So, we do not have a master plan.  
1902  
1903 Ms. Dwyer - There's no commitment to a master plan, in other words? That  
1904 language was taken out, so, I just wondered why that language was taken out.  
1905  
1906 Mr. Merrithew - I'm not sure I'm staying up with you as to where that language...  
1907  
1908 Ms. Dwyer - It's in Proffer 4 toward the end. It was language stricken and it  
1909 said, "Westerre shall be constructed and dedicated substantially as shown on the master plan."  
1910

1911 Mr. Merrithew - It's stated on Proffer 14 where they consolidated all of the  
1912 transportation proffers. 14 c. refers to the master plan, "attached as Exhibit A." They just  
1913 moved that language.  
1914

1915 Mrs. Wade - So, they do refer to it.  
1916

1917 Ms. Dwyer - Again, the master plan is not a commitment in any way, just to  
1918 show conceptually how Westerre would...  
1919

1920 Mr. Merrithew - Exactly.  
1921

1922 Ms. Dwyer - Your comments about the exterior materials. Your comment was  
1923 that, basically,...  
1924

1925 Mr. Merrithew - This is not an uncommon proffer. In Proffer 4 they've proffered  
1926 architectural materials. They proffered coordination between the different buildings across the  
1927 site, as determined at the time of Plan of Development review. And the predominant materials;  
1928 they've proffered a long list of materials, and trim materials, and accent materials, etc, or an  
1929 equivalent permanent architecturally finished material. I'm not sure what "equivalent" and  
1930 "permanent" architectural material is. It could be anything has a 30-year life or what have you.  
1931 So, I raise that as a concern. With the Concept Plan you may have an argument for one material  
1932 or another with just the proffer and then that back door loophole, you really don't have much.  
1933

1934 Mrs. Wade - I think I asked you that question regarding that proffer, "as  
1935 determined at the time of Plan of Development review.." and you said you'd like to leave it open  
1936 for the Commission or administratively. But this seems it could even be the applicant.  
1937

1938 Mr. Merrithew - "As determined by who," that's what you asked me before, and I  
1939 haven't resolved that.  
1940

1941 Ms. Dwyer - So, a hotel could be put on this site?  
1942

1943 Mr. Merrithew - Yes ma'am.  
1944

1945 Ms. Dwyer - Under the O-3.  
1946

1947 Mr. Merrithew - Well, in fact, there's no limit on the number of hotels. They  
1948 would not count against the 75,000 square feet of retail. The commitment for Office is still  
1949 there. It's just, the hotels are unlimited.  
1950

1951 Ms. Dwyer - Since we're not sure how its going to be developed and whose  
1952 going to own what, or what the ownership will eventually be, I'm just wondering, on the traffic  
1953 signal when there a commitment to pay for half the cost. You know if its parceled out and sold  
1954 to different owners, who would be responsible for figuring who owes the County for the cost of  
1955 that signal?  
1956

1957 Mr. Merrithew - That's a fine question? That's not one I've had explained to me. I  
1958 believe either through a bond or a contractual arrangement. They may have resolved that issue,  
1959 and I'll have to let Mr. Moore speak on that.

1960  
1961 Mr. Archer - All right, any further questions for Mr. Merrithew? I don't  
1962 believe we had any opposition, did we? Okay. All right, Mrs. Wade, do you need to hear from  
1963 the applicant?

1964  
1965 Mrs. Wade - Yes. I think so.

1966  
1967 Mr. Archer - Mr. Moore.

1968  
1969 Mrs. Wade - He's pretty well covered the proffers.

1970 Mr. Glenn Moore - Mr. Chairman, members of the Commission, my name is Glenn  
1971 Moore. I am appearing tonight on behalf of RealtiCorp, in connection with this zoning case. I  
1972 want to make one brief comment before I start my presentation concerning Mrs. Wade's  
1973 recognition you received tonight. I have been involved during the entire time she's been on the  
1974 Commission working on zoning cases in the Three Chopt District, and have enjoyed that  
1975 opportunity over the years. It's been enjoyable for me to have these cases to work on, when  
1976 development ultimately occurs, and we see that the work that we've put in on the proffers and  
1977 the details that were addressed and the discussions resulting in quality development. I'm only  
1978 sorry that Mr. Sidney Gunst wasn't here this evening, because I've often heard him refer to Mrs.  
1979 Wade as the "Mother of Innsbrook," and I think, in many cases, that's a fair description.

1980  
1981 Going back to my case, approval of this case will allow development of approximately 26  
1982 acres, that you see on the screen, to be developed for an office and retail mixed use  
1983 development. The development will be undertaken by Realticorp, a real estate development  
1984 firm, headquartered in Greenville, South Carolina. It has offices in seven (7) southeastern  
1985 metropolitan areas, including the Richmond area. And the regional partners for our area are  
1986 Read Goode, Jr. and J. Sargeant Reynolds, Jr., both of whom are with me this evening. if you  
1987 have questions concerning their company, you may want to direct them to Mr. Goode or Mr.  
1988 Reynolds. I will say, what they've done in our area and other locations; one out in Wyndham  
1989 area and in other areas of the metropolitan area, tried to find quality sites, not cheap sites, but  
1990 sites that have some potential for some real quality development and try to acquire those. And  
1991 what they do is really pretty much the same thing that developers of say, a place like  
1992 Innsbrook, would do. They acquire land, but in the infrastructure and try to sell the sites to  
1993 quality users. What we're trying to put into place here are proffered conditions that will allow  
1994 them to do just that.

1995  
1996 They originally contracted to buy the northern 12 acres of the Property from First Union.  
1997 That's the property that's zoned O-3C and B-2 (Conditional). Actually, they've closed on that  
1998 property. They now own that land.

1999  
2000 When they were successful in contracting to buy the First Union property, they proceeded to  
2001 assemble the balance of that from, I think its about seven different owners, which was no small

2002 task. But with all of the Property under control, there is flexibility to develop a desirable  
2003 mixed use project on the site.

2004  
2005 And, I might point out that, many of the sellers I think were glad to have the opportunity to  
2006 sell their property to someone like RealtiCorp, because, with the development of the First  
2007 Union property and other development that's occurred, its become less desirable of a location  
2008 for people to live. So, we hope we will be able to solve the problem as well.

2009  
2010 We would submit that the proposed development is consistent with a general goal of the Land  
2011 Use Plan, which is to encourage large tract planned mixed use development. By assembling all  
2012 of the Property, we have been able to minimize the number of access drives to Cox Road, and  
2013 have provided for the eventual construction of Westerre Parkway through the Property. I  
2014 might add, that is a proffered condition which does not exist with the existing zoning. That  
2015 commitment is not there. As a practical matter, some sort of access would have to be put in  
2016 there, but we have affirmatively committed to build Westerre Parkway as the County thinks it  
2017 ought to be designed.

2018  
2019 The proffers have been designed, as has been noted, to give assurances of quality development  
2020 on the Property. But, importantly, maintaining flexibility for Realticorp to market the  
2021 Property to a variety of acceptable users. I'd like to advise you, they've had numerous  
2022 inquiries regarding the Property, from potential office developers, hotel operators and quality  
2023 restaurant owners.

2024  
2025 We also feel, and we've been very up front about this, that one of the corners at the  
2026 intersection of Westerre Parkway and Cox Road will make a good location for a service  
2027 station/convenience store, subject to appropriate architectural controls, which we feel we've  
2028 included in our proffers. We certainly have provided assurances that offices will be the  
2029 principal use of the Property, with 150,000 square feet of office, versus a minimum of 150,000  
2030 square feet of office, and a maximum of 75,000 square feet of retail. That does exclude the  
2031 hotel.

2032  
2033 The traffic study has been accepted by the Traffic Department, and I won't go into that unless  
2034 you have questions concerning that proffer. Our traffic engineer worked with the County's  
2035 traffic engineer. I believe that they're comfortable that the uses we presume we would have on  
2036 this property will have an acceptable amount of traffic at the intersection of Westerre and Cox  
2037 Road at the peak hour. And whether we go to different uses or not, we're still compelled to  
2038 update that traffic information with each POD.

2039  
2040 I would submit that the proffered conditions here, basically, put us, with respect to  
2041 architecture, particularly, at the mercy of the Planning Commission or the staff, whichever, at  
2042 the time of Plan of Development to assure that we have complementary architectural features  
2043 on this property, regardless of the mix of development.

2044  
2045 I added that language, "...as determined at the time of Plan of Development review."  
2046 Certainly, a developer doesn't determine that. I'd be happy to clarify that in the proffers. It's  
2047 certainly my intent that either the Planning Department or, ultimately, the Commission makes

2048 that determination. And if we come in with an office building that seems to be incompatible  
2049 with a hotel, then I think the Planning Commission would have a perfect right to deny that  
2050 POD or require some alteration of the architecture to make it acceptable. We've also  
2051 stipulated that installation of landscaping and project signage require overall coordination.

2052  
2053 A point about the lighting in the parking lot. We had one user that Mr. Goode has been  
2054 talking about, a quality restaurant user, that might want to have a kind of "residential style"  
2055 lighting. That was the purpose behind adding the language that "except as otherwise provided  
2056 with respect to parking lot lighting." Again, we're leaving that in the control of the  
2057 Commission to allow that deviation or not to allow it. But, if its appropriate for a particular  
2058 user, we'd like to have the opportunity to ask for it.

2059  
2060 I also would like to point out that protective covenants will be recorded against the Property.  
2061 And that will provide review mechanisms for compliance with architecture, landscaping and  
2062 signage requirements by other users on the property, as well as the Planning Department and  
2063 the Planning Commission.

2064  
2065 In summary, we submit that the 26 acre parcel that's been assembled would be a very logical  
2066 location for a coordinated mixed use development. The Land Use Plan recommends office  
2067 development on the Property, and the predominant use of the Property, under the terms of the  
2068 proffers, will be for those uses permitted in the O-3 Office Zoning District. We feel that the  
2069 other permitted uses should complement the office use. We also feel that a commitment to  
2070 quality development and uses has been made through the proffers. For all of these reasons, we  
2071 would request that the Planning Commission waive the time limit for accepting the Amended  
2072 and Restated Proffered Conditions and recommend the case to the Board of Supervisors for  
2073 approval.

2074  
2075 There were a lot of comments made about the proffers, which I don't necessarily agree with. I  
2076 think there is certainly another viewpoint to be expressed. I'd rather respond to questions that  
2077 you all may have about them, than trying to pick out the ones I disagree with.

2078  
2079 Mrs. Wade - I suppose, basically, why B-3 for this case?

2080  
2081 Mr. Moore - First of all, there is no residential zoning in proximity at all to  
2082 this property. You have M-1 Conditional, which, of course, is the Circuit City site to the east.  
2083 You've got B-2C and O-3 to the west. You've got an interstate highway on the south. And  
2084 you've got B-3 zoning and a fire station site to the north.

2085  
2086 The B-3 zoning allows you the flexibility, with hours of operation. It allows you to have  
2087 outdoor dining. Basically, those are the main reasons that we need the B-3 zoning. But, I  
2088 don't see why the B-3 zoning is objectionable at this location.

2089  
2090 I would point out to you that the Forest City project on Broad Street is 147 acres of B-3  
2091 zoning. I'm not suggesting it was inappropriate there either. I think it was appropriate there,  
2092 and its no reason why it shouldn't be permitted here.

2093

2094 Mrs. Wade - One of the changes you made, and these are were just submitted  
2095 today?  
2096  
2097 Mr. Moore - Yes ma'am, in response, to your comments. I submitted some  
2098 two days ago.  
2099  
2100 Mrs. Wade - Well, you deferred this two month's ago.  
2101  
2102 Mr. Moore - Right.  
2103  
2104 Mrs. Wade - About the rental facility for leasing cars, vans, or trucks as a  
2105 principle use," but you could still have cars or trucks at a service station or...  
2106  
2107 Mr. Moore - Well, let me give an example of what I had in mind. Suppose  
2108 you had a hotel on the property that wanted to have an Avis Rental facility there. I don't see  
2109 why that should be precluded. That's what I had in mind. I'd be happy to change that  
2110 language if you feel it's too broad.  
2111  
2112 Mrs. Wade - Sometimes gas stations seem to get into the truck rental business.  
2113  
2114 Mr. Moore - I see your point there. I can eliminate that, so that it couldn't be  
2115 accessory to the service station and the convenience store.  
2116  
2117 Mrs. Wade - Thank you. Anybody else?  
2118  
2119 Mr. Archer - Mrs. Wade.  
2120  
2121 Mrs. Wade - Are there any questions? All right, thank you. I'm glad you  
2122 brought my history with Innsbrook, Mr. Moore. Much of this time has been spent in that area,  
2123 trying to protect and uphold the quality of the development that was set by Innsbrook in the first  
2124 place. The other cases around here certainly have been presented in a way that we were sure  
2125 were going to do that. The Colonnades and the Parkside and even the Universal Ford, although  
2126 we stretched with an automobile dealership here, we knew exactly what it was going to look like  
2127 and how it was going to fit on there.  
2128  
2129 Whenever we have this page and a half or two pages of prohibited uses in a case, I always feel  
2130 that, perhaps, the case isn't in the right category, which is why I asked you about the B-3. It  
2131 would seem you could do just about anything you wanted to do in here with B-2, without having  
2132 to prohibit all these uses.  
2133  
2134 There still could be along Cox, for instance, four outparcels on this parcel. Of course, the Land  
2135 Use Plan still does call for mixed use here, which, as Mr. Merrithew pointed out, or is supposed  
2136 to include more Office on this side of Broad, which this probably does not provide for. It  
2137 certainly is a large tract, which is a goal that we support, and realize there are houses on it that  
2138 increases its cost to the buyer.  
2139

2140 As Mr. Merrithew also pointed out, it's still quite, as far as the site plan is concerned, iffy, and  
2141 the commitment to masonry and things that we get in a lot of other places, in Innsbrook and also  
2142 what used to be the Signet Building next door. As far as compatible uses are concerned, the  
2143 businesses that are around there are things one could expect to find in conjunction more with a  
2144 major office park; office supply and the smaller uses in the Parkside, rather than other big  
2145 outside retail developments.

2146  
2147 Auto service is available down at Gaskins. There is auto service available at Dominion. I think  
2148 we would try to discourage any kind of business with outside storage. You didn't eliminate  
2149 building materials, garden shops, and that sort of thing, which just, at least, in my opinion, don't  
2150 seem to fit in this thing. There's no provision made for any kind of internal pedestrian access.  
2151 The buffer could stand certainly standpoint specifics in how it would be protected.

2152  
2153 So, I think there's a lot of potential here, but in its current form, I don't feel I can recommend it  
2154 as neither did staff. So, therefore, I would move that Case C-63C-98 in its current form be  
2155 recommended to the Board for denial.

2156  
2157 Ms. Dwyer seconded the motion.

2158  
2159 Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Dwyer. All those  
2160 in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).  
2161 The motion for denial will go forward.

2162  
2163 REASON: Acting on a motion by Mrs. Wade, seconded by Ms. Dwyer, the Planning  
2164 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the  
2165 request because it does not conform to the recommendation of the Land Use Plan nor the Plan's  
2166 goals, objectives and policies; and it failed to include the proffered conditions deemed necessary  
2167 to lessen the impact of B-3 zoning on the area.

2168  
2169 **C-80C-98 Henry L. Wilton for Wilton Investment Corp.:** Request to  
2170 conditionally rezone from A-1 Agricultural District to R-2C One Family Residence District  
2171 (Conditional), part of Parcels 9-1-A-7 & 8, described as follows:

2172  
2173 Beginning at a point 544.66' from the northern line of Country Creek Way; thence S. 4° 17'  
2174 45" W., 175.64' to a point; thence N. 45° 36' 25" W., 307.80' to a point; thence S. 80° 13'  
2175 07" E., 236.54' to a point, containing .0475 acre.

2176  
2177 Mr. Marlles - Mr. John Merrithew will be giving the staff presentation.

2178  
2179 Mr. Archer - Thank you, Mr. Secretary. Is there anyone here opposed to C-  
2180 80C-98? Mr. Merrithew.

2181  
2182 Mr. Merrithew - Mr. Chairman, this request would rezone half an acre from A-1  
2183 to R-2C to allow a land swap, and to square up some lots in the proposed adjacent subdivision.  
2184 Staff has no concerns or no opposition to this proposal. The proffers that would apply to the  
2185 new R-2C property, are equivalent to the proffers in the proposed subdivision. So, there's no

2186 discrepancy there. Staff can recommend approval. I'd be glad to try and answer any  
2187 questions.

2188  
2189 Mr. Archer - Thank you, Mr. Merrithew. Are there questions of Mr.  
2190 Merrithew by the Commission?

2191  
2192 Mrs. Wade - You said the same proffers pretty much...

2193  
2194 Mr. Merrithew - The same proffers apply to both sides. That's right.

2195  
2196 Mrs. Wade - You might define this as "housekeeping."

2197  
2198 Mr. Merrithew - I hope you do because I don't know much about this case.

2199  
2200 Mrs. Wade - It hasn't attracted a lot of attention. Does anybody else have  
2201 anything?

2202  
2203 Mr. Archer - Any other Commission members have questions?

2204  
2205 Mrs. Wade - I don't think we need to go into a lot of detail. Mr. Wilton is  
2206 here if anybody has any questions. Okay. I'll move then that C-80C-98 be recommended for  
2207 approval.

2208  
2209 Mr. Vanarsdall seconded the motion.

2210  
2211 Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
2212 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
2213 abstained).

2214  
2215 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
2216 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept**  
2217 **the proffered conditions and grant** the request because it is reasonable; it would assist  
2218 achieving the appropriate development of adjoining property; and it reflects the type of residential  
2219 growth in the area.

2220  
2221  
2222 **C-82C-98 James W. Theobald for Loch Levan Land Limited Partnership:**  
2223 Request to conditionally rezone from R-2C One Family Residence District (Conditional) to R-  
2224 2AC One Family Residence District (Conditional), Parcels 9-A-24 and 25, described as  
2225 follows:

2226  
2227 BEGINNING at a point in the southerly right-of-way line of Nuckols Road at the intersection  
2228 of Tax Parcel Nos. 9-A-24 and 9-A-20; thence south 66° 31' 05" east 41.83 feet to a point;  
2229 thence south 11° 45' 10" west 289.66 feet to a point; thence south 7° 15' 10" east 100 feet to  
2230 a point; thence south 15° 28' 55" west 296.38 feet to a point; thence south 7° 36' 45" west

2231 167.61 feet to a point; thence south 13° 41' 15" west 281.03 feet to a point; thence south 18°  
2232 22' 40" west 229.81 feet to a point; thence south 83° 05' 05" west 50.04 feet to a point; thence  
2233 north 88° 18' 50" west 596.32 feet to a point; thence north 0° 25' 55" west 364.45 feet to a  
2234 point in the southerly right-of-way line of Nuckols Road; thence along the southerly right-of-  
2235 way line of Nuckols Road north 39° 43' 45" east 157.40 feet to a point; thence north 40° 41'  
2236 43" east 296.54 feet to a point; thence north 39° 43' 45" east 453.74 feet to a point; thence  
2237 along a curve to the right with a radius of 1280.55 feet, a distance of 416.04 feet to the point  
2238 and place of beginning, containing 15.796 acres of land.

2239  
2240 Mr. Marlles - Ms. Jo Ann Hunter will be giving the staff report.

2241  
2242 Mr. Archer - Is there any one here opposed to C-82C-98? Seeing none, Ms.  
2243 Hunter.

2244  
2245 Ms. Jo Ann Hunter - Thank you, Mr. Chairman. This request is to rezone from R-2 to R-  
2246 2AC for a 30-lot subdivision. The property is to be developed as part of the Wyndham  
2247 development, and will be the first property to be developed in this area on the east side of  
2248 Nuckols Road.

2249  
2250 The property was zoned R-2 in 1989 as part of the original Wyndham application. The  
2251 existing R-2 zoning allows a minimum lot size of 18,000 square feet and a minimum lot width  
2252 of 100 feet. The requested R-2A zoning would allow a lot size of 13,500 square feet and a  
2253 minimum lot width of 80 feet. The applicant has proffered to increase the minimum lot width  
2254 to 85 feet.

2255  
2256 The current R-2C zoning would allow an estimated maximum net density of 28 lots. The R-  
2257 2A zoning would increase the estimated lot yield to 38 lots; however the applicant has  
2258 proffered a maximum number of lots of 30, which does fall within the land use designation of  
2259 SR1.

2260  
2261 While the density increase of this request would be minimal, the zoning of this property will  
2262 set the precedent for the future development on this side of Nuckols Road. R-2 zoning is an  
2263 appropriate designation for this area. The Board of Supervisors have had numerous work  
2264 sessions to discuss residential strategies in the County. There is a concern that developers are  
2265 not utilizing the R-2 and other large lot zoning districts. The trend for large homes on small  
2266 lots has led to an increased number of variance requests for yard requirements. Larger width  
2267 requirements also allow amenities such as side or rear entry garages.

2268  
2269 In addition, as you'll see on the map, there are several "landlocked" properties adjacent to this  
2270 site, here and here (referring to slide). There is concern that stub roads to these properties are  
2271 critical so that they may have access to either Nuckols Road or the Concept Road that is  
2272 proposed for connection to Wyndham Lake Drive..

2273

2274 There is also a 30 foot greenbelt proposed along Nuckols. A 20 foot utility easement has  
2275 recently been approved to run parallel through that easement. So, there will be limited room  
2276 for a planting easement along Nuckols Road.

2277  
2278 The proffers submitted do address design assurances including, no driveways with direct  
2279 access to Nuckols Road, proffered foundation materials, no cantilevered chimneys, and  
2280 Wyndham's protective covenants.

2281  
2282 Overall, the proffers associated with this request are already addressed under the current  
2283 zoning. While the density increase is minimal, the rezoning of this property will set the  
2284 standard for future rezoning requests in this area. The Comprehensive Plan designates this  
2285 area for single family residential low density development, and the existing R-2 zoning with  
2286 conditions is appropriate. I'd be happy to answer any questions.

2287  
2288 Mr. Archer - Thank you, Ms. Hunter. Are there questions for Ms. Hunter  
2289 from the Commission?

2290  
2291 Mrs. Wade - As I understand, the greenbelt proffer that is not in addition to the  
2292 rear yard setback, or whatever because we don't have a layout?

2293  
2294 Ms. Jo Ann Hunter - That's correct.

2295  
2296 Mr. Vanarsdall - You're recommending the zoning stay like it is?

2297  
2298 Ms. Jo Ann Hunter - Correct.

2299  
2300 Ms. Dwyer - Was the utility line, the 20-foot easement that will go along  
2301 Nuckols Road, is that recent or is that...

2302  
2303 Ms. Jo Ann Hunter - It's to serve Westchase Subdivision, which is located across the  
2304 street. The Commission is currently reviewing it, I believe, right now.

2305  
2306 Ms. Dwyer - That 30-foot greenbelt would not really allow much plantable  
2307 area?

2308  
2309 Ms. Jo Ann Hunter - There would be a 20-foot utility easement that runs parallel  
2310 through it. There would probably be about eight feet. So, there would be limited room for  
2311 planting.

2312  
2313 Mr. Archer - Any further questions? Mrs. Wade, I suppose you need to hear  
2314 from the applicant?

2315  
2316 Mrs. Wade - Well, yes, since the staff doesn't agree with it.

2317  
2318 Mr. Chuck Rothenberg - Mr. Chairman, members of the Commission, my name is Chuck  
2319 Rothenberg. I am here this evening on behalf of Snyder-Hunt, the developer of Wyndham.

2320 This is a request to rezone 15.796 acres on the east line of Nuckols Road from R-2 to R-2A  
2321 with conditions. The property is located at the intersection of Nuckols and Wyndham Lake  
2322 Drive directly across Nuckols from the residential development called Westchase, zoned R-2A,  
2323 the Ashton condominium project, zoned RTH, the Dairy Queen office building, which is zoned  
2324 O-1, and an additional O-1 office building site.  
2325

2326 A little history may help put this in perspective. The subject parcel was rezoned in 1989 as  
2327 part of the original Wyndham zoning. At that time, the ultimate alignment of Nuckols Road  
2328 was unknown. The R-2 designation here was pretty much a holding pattern. Subsequent to,  
2329 that obviously, Snyder-Hunt developed Wyndham, dragged utilities, and completed  
2330 improvements to Nuckols Road, at considerable expense.  
2331

2332 The purpose of this request is to obtain some relief from the development standards applicable  
2333 to the R-2 district. Relief will take the form of a reduction in lot size and minimum square  
2334 foot requirements for homes, and lot width requirements. As staff indicated, we'll end up with  
2335 two additional lots.  
2336

2337 We have proffered that no more than 30 lots will be developed on the site; as staff notes, an  
2338 increase of 2 lots. But still, that is within the 1.0 to 2.4 lots per acre suggested by the Land  
2339 Use Plan.  
2340

2341 You may recall that the existing proffers for Wyndham prohibit no more than 3,264 homes.  
2342 When completed, Wyndham will contain approximately 2,500 homes (2,502); about 750 fewer  
2343 than originally planned.  
2344

2345 We have proffered a minimum 85-foot lot width, which exceeds the 80 feet required in the R-  
2346 2A District. Homes must be at least 1,900 square feet, instead of the 1,500 square feet  
2347 required in the R-2 district. Also, we have carried forward the same proffers applicable to  
2348 other similarly zoned properties in Wyndham.  
2349

2350 Respectfully, I disagree with the staff report comment that the site is not "wholly" consistent  
2351 with the Land Use Plan. It is consistent with the intent of the Land Use Plan; both in terms of  
2352 the number of homes generated, and the residential plan's stated policy to "provide for the  
2353 logical arrangement of land uses which offer transitions from more intense to less intense  
2354 uses."  
2355

2356 This request will permit the development of another quality Wyndham neighborhood, and at  
2357 the same time, comply with the County's strong desire to see only low intensity residential  
2358 development south or east of Nuckols.  
2359

2360 The R-2A zoning is more consistent with a project abutting Nuckols Road and located across  
2361 from higher intensity residential and office uses.  
2362

2363 There is adequate capacity in the road and utility system to accommodate this request. I'm  
2364 not aware of any opposition to the request, and we respectfully ask that you recommend  
2365 approval to the Board. I'd be happy to answer any questions.

2366  
2367 Mr. Archer - Thank you, Mr. Rothenberg. Are there questions from the  
2368 Commission?  
2369  
2370 Mrs. Wade - How do you respond to the comments on the landlocked areas  
2371 adjacent?  
2372  
2373 Mr. Rothenberg - Let me explain a little bit about that. The other sites that are  
2374 landlocked I think will be served by this Concept Road 17-1. There's no requirement that  
2375 anybody developing a site, make sure that they provide access to everybody else.  
2376  
2377 The Thoroughfare Plan, obviously, shows how the Concept Road 17-1 coming off of  
2378 Wyndham Park Drive. In fact, a few years ago, the Thoroughfare Plan showed it coming off  
2379 of, I guess, Wyndham Lake Drive. A group of developers in Snyder-Hunt agreed to relocate it  
2380 where it is now.  
2381  
2382 There's some other reasons behind not wanting to stub into adjacent developments. That is,  
2383 that there is a sense of exclusivity needed to the proximity to Nuckols Road, especially, if the  
2384 project is low density like R-2 and R-2A. I think, if you're going to keep it at that density  
2385 level, you're going to have to do something to maintain its exclusive nature. I think its  
2386 unrealistic to believe that consumers are going to come in and buy expensive homes in a 30-lot  
2387 subdivision with a road cut through it leading to other developments that we don't know what  
2388 they're going to look like at this point.  
2389  
2390 Access to other developments to the site will erode the identification of this project to  
2391 Wyndham and adversely affect that integrity. I think its important to make note of a provision  
2392 in the Land Use Plan which recognizes the importance of maintaining the cohesiveness of  
2393 master planned communities. It specifically acknowledges Wyndham's success.  
2394  
2395 And I quote, "Wyndham has been successful, offering a unique sense of place and prestige to  
2396 the community. Homeowners and business people alike appreciate that their community is  
2397 master planned, that they know how their neighborhood will develop in the future." We can't  
2398 do that if we have access to other development opening up through this small area already up  
2399 on Nuckols Road and have an impact there. It will be a challenge to market an R-2A project  
2400 there with homes in the \$300,000 to \$350,000 range.  
2401  
2402 Ms. Dwyer - What size homes do you expect to have on the lots?  
2403  
2404 Mr. Rothenberg - Well, we've proffered 1,900 square feet as a minimum. I suspect  
2405 they'll be up there. I suspect they'll be akin to the Bellstead project which is 2,300 square  
2406 feet.  
2407  
2408 Mrs. Wade - Well, the desirability could be enhanced by more buffer and  
2409 protection from Nuckols, whatever the size of the house.  
2410  
2411 Mr. Rothenberg - Well, I agree.

2412  
2413 Ms. Dwyer - So, the 30-foot buffer is not in addition to rear yard setback? Is  
2414 that correct?  
2415 Mr. Rothenberg - I don't believe that's calculated from the rear setback. But that  
2416 greenbelt is identical to the existing greenbelt proffer in the Wyndham case. It's identical to  
2417 every greenbelt that Snyder-Hunt has up and down Nuckols Road. It's identical. I think its  
2418 actually measured from the ultimate right of way line? It's just the existing right-of-way line?  
2419  
2420 Ms. Dwyer - Do other greenbelts have utility lines running parallel through  
2421 them?  
2422  
2423 Mr. Rothenberg - I'm sure they have utilities running through them. Keep in mind,  
2424 it's a greenbelt. It's not a landscaped buffer. Since 1989, that's the way that proffer is read.  
2425 It's a greenbelt. In some areas, its open grass.  
2426  
2427 Ms. Dwyer - So, grass is about all would be there. And that would not be in  
2428 addition to the setback for those houses back there?  
2429  
2430 Mr. Rothenberg - That is a concern, I would say, for Snyder-Hunt. They have  
2431 some additional room, and this case will allow them some additional flexibility to take steps to  
2432 avoid impact of Nuckols Road on those lots.  
2433  
2434 Ms. Dwyer - It seems like you'd have more flexibility if the lots were larger.  
2435  
2436 Mr. Rothenberg - Well, you do, and you don't. By reducing the square footage of  
2437 the lots, and having some flexibility there, you can have larger lots up along Nuckols Road that  
2438 will accommodate a larger buffer or a voluntary setback, and provides for tree coverage there.  
2439 Then, you can still have the flexibility to have your smaller lots more on the interior side.  
2440  
2441 Ms. Dwyer - What about the staff's suggestion to eliminate flag lots?  
2442  
2443 Mr. Rothenberg - Actually, we're fine doing that. I think I have a condition that  
2444 was picked up from the TwinHickory case, and I'm happy to submit that, tonight, or I'll  
2445 commit to submit that after. I'd be happy to read that to you.  
2446  
2447 Ms. Dwyer - Does that just eliminate the "stem" shaped flag lots, or all flag  
2448 lots?  
2449  
2450 Mr. Rothenberg - Well, let me go ahead and read it. "No single family detached  
2451 dwelling front elevation view shall be opposite any adjacent dwelling rear elevation view. No  
2452 'stem' shaped flag lots shall be developed on the property." So, I think that avoids a situation  
2453 where you have a lot setback, and looking at the back of another house.  
2454  
2455 Mr. Archer - All right, any further questions for Mr. Rothenberg?  
2456

2457 Mr. Rothenberg - Mr. Theobald has just corrected me on one point. He pointed out  
2458 that the greenbelt is exclusive of the lots. So, the setback is measured from the greenbelt, not  
2459 the right of way.

2460 Mr. Archer - Okay. Any other questions?

2461

2462 Mrs. Wade - Are you ready?

2463

2464 Mr. Archer - Okay. I guess we're ready, Mrs. Wade.

2465

2466 Mrs. Wade - I don't really see the necessity for making this change. The R-2  
2467 would provide another variety. I think that the Nuckols Road impact could be dealt with  
2468 satisfactorily with a buffer kind of situation. I'm concerned, as the staff said, "the precedent-  
2469 setting aspect of this" for the other land that's left there. So, therefore, I would move that  
2470 Case C-82C-98 be recommended for denial.

2471

2472 Mr. Vanarsdall seconded the motion.

2473

2474 Mr. Archer - Motion made by Ms. Wade, seconded by Mr. Vanarsdall. All  
2475 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
2476 abstained). The motion for denial is passed.

2477

2478 Mrs. Wade - And I'm in a good mood, tonight.

2479

2480 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
2481 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the  
2482 request because the applicant failed to meet his burden to show that the requested changes are in  
2483 the best interests of the welfare and future of the community; and it represents an increase in  
2484 intensity which could influence future zoning and development of adjacent properties.

2485

2486

2487 **P-40-98** Gloria L Freye for Triton PCS, Inc.: Request for approval of a  
2488 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the  
2489 County Code in order to construct, operate and maintain a telecommunications tower up to  
2490 120' high and related equipment and improvements on part of Parcel 48-A-19, containing 648  
2491 sq. ft. located on the west side of Springfield Road approximately 300' south of Gaskins Road  
2492 (Tuckahoe Moose Lodge, 4366 Springfield Road). The site is zoned A-1 Agricultural District.

2493

2494 Mr. Marlles - Ms. Jo Ann Hunter will be giving you the staff report.

2495

2496 Ms. Jo Ann Hunter This request is to construct a 120' tall stealth communications  
2497 tower.

2498

2499 Mr. Archer - Ms. Hunter, let me interrupt you. I don't think there was  
2500 opposition? Did I?

2501

2502 Mr. Vanarsdall - No. You didn't.

2503  
2504 Mr. Archer - No opposition.  
2505  
2506 Mrs. Wade - Yes. There is.  
2507  
2508 Mr. Archer - Okay. Go ahead, Ms. Hunter. I'm sorry. I apologize.  
2509  
2510 Ms. Hunter - That's okay. The tower is proposed to be located in the parking  
2511 lot behind the Tuckahoe Moose Lodge.  
2512  
2513 The property is zoned A-1, and is surrounded on all four sides by apartment complexes. The  
2514 applicant has tried to minimize the impact of the tower by using stealth technologies to disguise  
2515 the monopole as a flagpole. However, the applicant has indicated that they do not plan to fly a  
2516 flag on the pole, due to concerns that flag etiquette would need to be met, and the tower would  
2517 need to be lighted. At times, the flag would need to fly at half mast, and they are concerned  
2518 that they don't know if the Moose Lodge would have somebody onsite to address all those flag  
2519 etiquette concerns. The staff, then, would question whether this would still be considered a  
2520 stealth tower, if there is not a flag on the flagpole. It's just a small, narrow monopole.  
2521  
2522 The site does not meet the minimum setback requirements from the property line. In order to  
2523 meet the setback of 110 percent from any "R" district, the tower would need a setback of 132  
2524 feet based on the 120-foot tower. The width of the lot is 210 feet. The proposed side yard  
2525 setback to the north is 127 feet, and to the south is 80 feet.  
2526  
2527 The applicant has indicated, that if the tower location is recommended, they will request a side  
2528 yard variance from the Board of Zoning Appeals. The staff is concerned with approving a  
2529 location of a tower that does not meet the County's minimum setback requirements. A self-  
2530 imposed hardship is not justifiable.  
2531  
2532 A 90 foot tower would eliminate the need for a variance. However, the applicant has indicated  
2533 that the minimum height to meet their coverage needs is 99 feet. If the tower location were  
2534 deemed acceptable, the staff would recommend that the tower be constructed to a height of 120  
2535 feet in order to allow for co-location of one user. The reason why we came up with the 120  
2536 feet is because the closest residential building—and you can see on this map (referring to  
2537 slide), it is approximately about 135 feet to the south of this proposed tower location. So, the  
2538 120 feet will allow a "fall zone" for the tower.  
2539  
2540 The proposed tower is to be located behind the Moose Lodge, as you can see in the triangle on  
2541 the screen. It is going to take up four parking spaces. The minimum parking requirements for  
2542 the Moose Lodge is 100 spaces, and, currently, the Moose Lodge only provides 101. So, the  
2543 applicant will need to provide the information that they can construct an additional three spaces  
2544 onsite, and they need to be constructed prior to the construction of the tower.  
2545  
2546 The staff is concerned with the location of a tower surrounded by residential uses and does not  
2547 meet minimum setback requirements. Staff would recommend that the applicant continue to  
2548 look for alternative sites that better comply with County's standards and policies.

2549 However, if the Commission determines that the tower location is acceptable, the staff would  
2550 recommend the standard conditions identified in the staff report, as well as additional  
2551 conditions that have been handed out to you this evening. And, I'll briefly go over them.  
2552

2553 Number 8, which would address the getting of a variance prior to construction of the tower.  
2554 Number 9 deals with parking requirements. I'd also recommend Condition No. 10, something  
2555 along the lines that "...The tower shall be designed to accommodate the co-location of at least  
2556 one additional user." I'd be happy to answer any questions.  
2557

2558 Mr. Archer - Thank you, Ms. Hunter. Are there questions for Ms. Hunter  
2559 from the Commission?  
2560

2561 Ms. Dwyer - Your No. 10 was, "They must have an additional user?"  
2562

2563 Ms. Hunter - They would need to design it to allow at least one additional co-  
2564 location.  
2565

2566 Ms. Dwyer - Are you still recommending that the tower be lower than 120  
2567 feet; that it be, I think you said, "90 feet" in order for it to meet the setback?  
2568

2569 Ms. Hunter - That was a suggestion made in the staff report. The applicant has  
2570 come back, and had their RF engineer run studies at 90 feet. They've determined that their  
2571 minimum height requirement that they could go would be 99 feet. The staff is recommending,  
2572 if the tower location is appropriate at 99 feet is approved, you're going to need a variance  
2573 anyway. So, might as well go to the 120 to allow for the co-location.  
2574

2575 Mr. Archer - Ms. Hunter, how many co-locators could you have at 120?  
2576 Probably just one?  
2577

2578 Ms. Hunter - Probably, just one other one, based on the height. You'd  
2579 probably have one at the 120 and then one at 110 feet. (Gap in tape). Like the flagpole  
2580 without a flag or a monopole. It's up to the person.  
2581

2582 Mrs. Wade - That size, you'd only need one for the whole end of the County.  
2583

2584 Mr. Archer - If a flagpole has no flag, is it still a flagpole? That's the  
2585 question.  
2586

2587 Mrs. Wade - Well, I think the idea was it would be less conspicuous with a  
2588 flag on it. They have a flag in front of the building, I think, anyway at the Moose Lodge.  
2589

2590 Ms. Hunter - It would be smaller than most monopoles that you see.  
2591

2592 Mrs. Wade - Thank you.  
2593

2594 Mr. Archer - Thank you, Ms. Hunter. We do have some opposition, so Ms.  
2595 Freye, we will need to observe the 10-minute time. Do you need some time for rebuttal?

2596  
2597 Ms. Gloria Freye - Just a few minutes. My name is Gloria Freye. I'm an attorney  
2598 here on behalf of Triton PCS, and Larry Horton is also here from Triton and will be available  
2599 to help us answer questions as we need to.

2600  
2601 The first site that Triton looked at in this search ring, and it is a small search ring. It's only  
2602 about a mile and a half was St. Michaels Church. We did meet with the neighborhood back in  
2603 the spring and summer on that site. And that site met with a lot of opposition. It was close to  
2604 single family homes. It was not well received in the community at all.

2605  
2606 So, Triton went back to the drawing Board and looked within the search ring. But the whole  
2607 search ring is residential. So, we tried to look for anything that was commercial, or not  
2608 residential, to locate the tower on and to look for something that would be the minimal that we  
2609 could do and still be able to serve this coverage in this area.

2610  
2611 The Moose Lodge is in a residential area. It is surrounded by apartments on all four sides.  
2612 But it is not adjacent to any single family homes. We've contacted all of the adjacent property  
2613 owners. We have not received any opposition from them. We've also met with the civic  
2614 associations in the area. Two of them, the townhome association and then also single family  
2615 homeowners association on Springfield, and provided them with information with them.  
2616 Talked with them on the phone, and we have not received any opposition from them either.

2617  
2618 They were glad that we moved away from the church, and felt that this site would be better  
2619 than what we had been looking at before. And, frankly, there just is no other site in the area  
2620 that we can go to. So, we made the pole as short as we could.

2621  
2622 The other difficulty that we have with this site is that it is very long and narrow. So, that there  
2623 is nowhere on this property that it will meet the sideyard setbacks. It will meet the front and  
2624 rear, but not the side. So, it really is a case that's going to have to go to the BZA for a  
2625 variance in that regard.

2626  
2627 What we can do, though, by the 120 feet is meet the intent of that requirement, which is that  
2628 the nearest residential building would be outside the fall zone. So, we can meet the intent. We  
2629 can't meet the practical requirement of that ordinance.

2630  
2631 It is a good site in the respect that it has very good tree coverage on all three sides of that  
2632 property. It is set back to the rear of the properties, so that the visibility from Springfield  
2633 Road is going to be very minimal. It's really not going to be in the line of site of any home.

2634  
2635 It is a very positive use. And when you think about compatibility with the neighborhood, in  
2636 the long run, it really is more compatible than the Moose Lodge. There's no traffic. There's  
2637 no noise. There's no light. There's no dust. There's no activity at all. And, it really is not  
2638 just going to be noticeable once it goes up.

2639 This case is very similar to the situation we had at Fire Station 13. I know that Ms. Dwyer  
2640 will remember that case. That was also a very residential area, and really a lot of single  
2641 family homes that were all around that. And, this flagpole would look just like that flagpole at  
2642 Fire Station 13. And the consensus of the neighborhood there also was, they preferred not to  
2643 have the flag on it, because they thought it would attract more attention, and they really wanted  
2644 it to be as unobtrusive as possible. This is going to be the same technology; the omni  
2645 directional antenna inside the pole, so that it's not going to have any attachments hanging off  
2646 the side. It's not the regular design that you see on monopolies. And, so, in that regard, it is  
2647 stealth, because the antennas are not exposed.

2648  
2649 Ms. Dwyer - Ms. Freye, what is the height of that tower at Fire Station 13.

2650  
2651 Ms. Freye - I knew you were going to ask me that. It's taller than 120, but I  
2652 don't remember the height of that. Do you?

2653  
2654 Mr. Larry Horton - 150 feet.

2655  
2656 Ms. Freye - 150 feet. So, this is considerably shorter and smaller than that.

2657  
2658 Mrs. Wade - You said you couldn't really get another one on here?

2659  
2660 Ms. Freye - At 120 feet, we could. Now, if you feel we need to go down to  
2661 99 feet, which will work for this one carrier, we wouldn't be able to let anybody else to go on  
2662 it. It just wouldn't be attractive for anyone else to go on it. That's why we figured we have to  
2663 ask for a variance anyway, regardless of the height that would be needed, it would make sense  
2664 to promote the County's goal of co-location. At least make it available to one other carrier,  
2665 because it is such a residential area. There just aren't other sites available.

2666  
2667 Ms. Dwyer - How would anyone co-locate with the directional antenna?

2668  
2669 Ms. Freye - There would just have to take the lower height and have the same  
2670 kind of antenna that we use inside of the poles?

2671  
2672 Ms. Dwyer - It would have to be some reconstruction, then, of the poles.

2673  
2674 Ms. Freye - I think it can be designed to accommodate the co-location. Now,  
2675 exactly how they do that with the insert, I'm not sure. But I think they can do it in sections, so  
2676 that it can be designed, knowing that might happen.

2677  
2678 I think that what we are asking is that if you can see this as an appropriate location, then we  
2679 know that the responsibility is going to be on Triton to go to the Board of Zoning Appeals and  
2680 explain what the situation is, as far as the setbacks. And also, we recognize we need to work  
2681 with the Moose Lodge to replace those three parking spaces, which there's ample space on the  
2682 site to do. We've already talked with the Moose Lodge about that.

2683  
2684 Mrs. Wade - Accessible space?

2685  
2686 Ms. Freye - Yes. And not interfere with the dumpster or with the rear door  
2687 deliveries; any of that. We have reviewed the staff's recommended conditions, and we are in  
2688 agreement with them. We ask that you recommend approval of this.  
2689  
2690 Mrs. Wade - And not in the front yard?  
2691  
2692 Ms. Freye - No. No ma'am.  
2693  
2694 Mrs. Wade - For the parking spaces?  
2695  
2696 Ms. Freye - No. Now, we understand that would have get that done before  
2697 we could build the tower.  
2698  
2699 Mr. Archer - Ms. Freye, do you see any problem with having that done? Are  
2700 we talking about increasing the parking to accommodate? I'm just looking at the site and I  
2701 can't really tell by looking at it. Can you see how that could be accomplished?  
2702  
2703 Ms. Freye - Yes sir. There is a lot of green space at the rear of the site,  
2704 passed the paved portion of the parking lot now. There a retention facility and there's land to  
2705 the rear of that, that we could put the parking spaces back there.  
2706  
2707 Mrs. Wade - Can you get there though?  
2708  
2709 Ms. Freye - Yes. We have to build a drive along side the BMP and do the  
2710 three spaces back there. Of course, we couldn't get a building permit unless we can show  
2711 we've already done that.  
2712 Mr. Archer - Okay. Are there any further questions? We do have some  
2713 opposition. We can hear from them if there are no more questions. Okay. Will the  
2714 opposition come forward, please?  
2715  
2716 Mr. Clarence E. Padget, 9460 Hungary Road - Being there is no other opposition in the  
2717 community, I think I'd probably be out of line.  
2718  
2719 Mr. Archer - Sir, you wouldn't be out of line.  
2720  
2721 Mr. Archer - Could we have your name for the record?  
2722  
2723 Mr. Padget - Clarence E. Padget, 9460 Hungary Road. Number 1, I think its  
2724 way out of line with the rest of the community. It's residential on all three sides of that  
2725 corner. I just don't think it should be there. No one can guarantee you the health hazards pro  
2726 or con that these things present from the Federal government on down. And the articles you  
2727 read in the paper and so forth. I'm against it. I was offered \$120,000 for a 20-year lease for  
2728 one-quarter of an acre. I have 10 acres on Hungary Road, and have been living there since  
2729 1928. I'm against it as much that I turned that down. I don't think its right for the  
2730 community. I just don't think its right.

2731  
2732 Mr. Archer - Thank you, Mr. Padget. Are there any questions of Mr. Padget?  
2733 Sir, can you tell us what your basic concern is with this? You think it presents a health  
2734 hazard?  
2735  
2736 Mr. Padget - I've read and I've traveled this Country throughout. It's a  
2737 controversy all over the Country. Nobody knows or nobody will state positively whether it is  
2738 or is not a health hazard from these new type towers, especially when they hang two, three,  
2739 four or five different things on them.  
2740  
2741 In some parts of this Country, its tower after tower. When you see one go up in a community,  
2742 in one to two years, you're going to see three, four or five. You will see them within 200 to  
2743 300 feet of one another.  
2744  
2745 I just went down I-295 to the airport today. And its two towers between Hungary Road and  
2746 Meadowbridge Road that I guarantee you is not 200 feet apart. So, if you get one up there,  
2747 you're going to have some more.  
2748  
2749 Its three companies and I don't know the other two names. I didn't have any reason to keep  
2750 them that has contacted me by phone or in person within the last year wanting to put a tower  
2751 on the back of my 10 acres. So, you're going to have some more. Somebody is going to sell  
2752 some more land. If the Church wouldn't sell it, the Moose is going to sell it. Somebody is  
2753 going to have a right to sell it. This is why I'm 100 percent against it.  
2754  
2755 Mr. Archer - Have you spoken to any of your neighbors, sir, to see whether or  
2756 not there is other opposition?  
2757 Mr. Padget - No. I did talk to the people from Champions Glen Apartment  
2758 Complex on the corner, and also Westbury, Springfield West. The people that I talked to  
2759 didn't know a whole lot about it. They said they didn't know whether it would bother them or  
2760 not. I don't know who was notified or what kind of meeting. I was notified of the meeting of  
2761 the St. Michael's Church property, but I wasn't notified of the meeting that Mrs. Freye spoke  
2762 of, if they got together with all of these other people.  
2763  
2764 If I was notified for the St. Michael's property, I should have been notified for this  
2765 informational meeting or whatever it was for this particular tower.  
2766  
2767 Ms. Dwyer - Where on Hungary Road do you live, sir?  
2768  
2769 Mr. Padget - The second house on the left off of Springfield approximately  
2770 1,000 feet, I would say, give or take a little bit. This tower would probably be 1,200 or 1,300  
2771 feet.  
2772  
2773 Mr. Archer - Okay. Any other questions of Mr. Padget? Thank you, Mr.  
2774 Padget. We appreciate your remarks. Mrs. Freye, you do have some rebuttal time, if you  
2775 care to use it.  
2776

2777 Ms. Freye - We think that Mr. Padget lives in that area (referring to slide).  
2778 We think it's a nine acre tract of land that he has. I just wanted to state for the record that  
2779 there is no known evidence that this technology is not safe. As a matter of fact, the Federal  
2780 Telecommunications Act has determined that it is safe, and there are no public health risks  
2781 with this technology.

2782  
2783 We try very hard to make these be compatible, knowing that when we need to be in a  
2784 residential area to minimize the impact. And I think, that with this request, we've done that.  
2785 And it is consistent with stealth designs that have been approved in other residential areas in  
2786 the County. We would ask that you recommend approval.

2787  
2788 Mr. Archer - Thank you, Ms. Freye. Any further questions from anyone? All  
2789 right, Mrs. Wade.

2790  
2791 Mrs. Wade - We certainly don't encourage them in residential areas, but I  
2792 think they're doing enough here to try to make this agreeable as possible and as inconspicuous.  
2793 It is a safety issue as far as its falling over is concerned. The final setback determination  
2794 would have to be made, obviously, by the Board of Zoning Appeals. Is there one of these  
2795 conditions that mentions that, or does that go without saying?

2796  
2797 Ms. Jo Ann Hunter It's one of the added conditions.

2798  
2799 Mrs. Wade - Okay. No. 8. There certainly aren't a whole lot of other spots  
2800 around in this immediate area that would do. I think put it east over where Mr. Padget lives  
2801 and over in the Church would have put it closer to the subdivision. There are trees next to it  
2802 and its way back behind the Moose Lodge. I would move, therefore, that P-40-98 be  
2803 recommended for approval, with the conditions of today, 1 through 9 and 10. There would be  
2804 accommodations for one more user on the 120 foot stealth pole.

2805  
2806 Ms. Dwyer seconded the motion.

2807  
2808 Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Dwyer. All those in  
2809 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

2810  
2811 REASON: Acting on a motion by Mrs. Wade, seconded by Ms. Dwyer, the Planning  
2812 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant the**  
2813 **requested revocable provisional use permit**, subject to the following conditions:

- 2814  
2815 1. If the use of the tower for communication purposes is discontinued for 180 days, the tower and  
2816 all related structures shall be removed from the site within ninety (90) days. Within ten (10)  
2817 business days after written request by the County, the owner of the tower shall provide the  
2818 County with written confirmation of the status of the tower, the number and identity of users on  
2819 the tower, available co-location space on the tower and such additional information as may be  
2820 reasonably requested.

2821

- 2822 2. Application for a building permit to install the tower must be made within one year after the  
 2823 Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time is  
 2824 granted by the Director of Planning upon written request by the applicant.  
 2825
- 2826 3. The applicant shall obtain approval from the Henrico County Planning Commission should the  
 2827 FAA require the addition of standard obstruction marking and lighting (i.e. red lighting and  
 2828 orange and white striping) to the tower. The applicant shall notify the Henrico County Planning  
 2829 Director prior to making any changes to the original galvanized finish of the tower.  
 2830
- 2831 4. When site construction is initiated as a result of this Provisional Use Permit, the applicant shall  
 2832 complete requirements prescribed by Chapter 10 of the Henrico County Code. In particular,  
 2833 land disturbance of more than 2,500 square feet will require that construction plans include a  
 2834 detailed drainage and erosion control plan prepared by a professional engineer certified in the  
 2835 State of Virginia. Ten (10) sets of the construction plans shall be submitted to the Department  
 2836 of Public Works for approval.  
 2837
- 2838 5. A landscaping plan for the purpose of screening the base of the tower from view shall be  
 2839 submitted to the Planning Office for approval prior to the issuance of a building permit for the  
 2840 tower. The Director of Planning may waive the enforcement of this condition if it is deemed  
 2841 necessary.  
 2842
- 2843 6. Advertising devices are prohibited and only flags and insignias of any government are  
 2844 allowed.  
 2845
- 2846 7. All easements must be shown on the site plan with the building permit.  
 2847
- 2848 8. The tower may be constructed on site only when the applicant complies with or is granted  
 2849 relief from the required setback from residentially zoned property and/or from other property  
 2850 line setbacks.  
 2851
- 2852 9. The tower may be constructed on site only when the applicant complies with all County  
 2853 parking requirements. Location of new parking spaces must be approved by the Planning  
 2854 Department and constructed prior to construction of the tower.  
 2855
- 2856 10. If the tower is constructed to a height greater than 100', the applicant agrees to allow co-  
 2857 location of at least 1 and as many additional users as technically possible at this site in  
 2858 accordance with the provisions of the Letter of Intent to Permit Co-location on Communication  
 2859 tower, filed by the applicant with this request.  
 2860

2861 The Planning Commission recommendation was based on its finding that the Provisional Use Permit  
 2862 would provide added services to the community; and when properly developed and regulated by  
 2863 the recommended special conditions, it would not be detrimental to the public health, safety,  
 2864 welfare and values in the area

2865 Mr. Zehler - Mr. Chairman, if I may, on the next two cases to be called, if we  
 2866 could hear these two cases together with separate motions. But I would also like to ask that C-  
 2867 56C-98 we heard before C-55C-98.  
 2868

2869 Mr. Archer - Any problem with that, Mr. Secretary?  
 2870

2871 Mr. Marllles - No sir. It may also be helpful for the citizens to know that the  
 2872 Planning Commission is an advisory body. The Planning Commission makes recommendations

2873 to the Board of Supervisors. The recommendations for the next Board of Supervisors meeting  
2874 will be considered on the 26<sup>th</sup> of January. It is a Tuesday evening. So, just for your information.  
2875

2876 **C-56C-98** James W. Theobald for Roy B. Amason: Request to conditionally  
2877 rezone from A-1 Agricultural District to R-1C, R-2AC and R-3AC One Family Residence  
2878 Districts (Conditional), RTHC Residential Townhouse District (Conditional), R-5C and R-6C  
2879 General Residence Districts (Conditional), O-2C Office District (Conditional), B-2C Business  
2880 District (Conditional) and C-1 Conservation District, Parcels 240-A-17, 250-A-48, 49, and  
2881 51A, and 251-A-4A, and 260-A-28, containing 633.61 acres, generally located along the east  
2882 line of Turner Road between New Market Road (Route 5) and Camp Holly Drive; along the  
2883 north line of New Market Road (Route 5) from Turner Road to Camp Hill Road and from  
2884 Kingsland Road to Long Bridge Road; along the northwest line of Long Bridge Road to its  
2885 intersection with Yahley Mill Road and along the west side of Yahley Mill to the Virginia  
2886 Power easement. A mixed use planned community is proposed. The R-1 District permits  
2887 densities up to 1.74 units gross density per acre. The R-2A District permits densities up to  
2888 3.23 units gross density per acre. The R-3A District permits densities up to 4.59 units gross  
2889 density per acre. The RTH District permits densities up to 9.00 units gross density per acre.  
2890 The R-5 District permits densities up 14.52 units gross density per acre. The R-6 District  
2891 permits densities up to 19.80 units gross density per acre. The office and business uses will be  
2892 controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan  
2893 recommends Prime Agriculture and Environmental Protection Area. The site is also in the  
2894 Airport Safety Overlay District.  
2895

2896 Mr. Marlles - Mr. Mark Bittner will be giving the staff presentation. I believe,  
2897 Mr. Zehler, you asked that this case also be heard along with C-55C-98?  
2898

2899 Mr. Zehler - That's correct. With two separate motions.  
2900

2901 **C-55C-98** James W. Theobald for Roy B. Amason: Request to conditionally  
2902 rezone from A-1 Agricultural District to B-2C Business District (Conditional), Parcel 260-A-36,  
2903 containing 3.87 acres, located at the northeast corner of the intersection of New Market Road  
2904 (Route 5) and Long Bridge Road. A business use is proposed. The use will be controlled by  
2905 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Prime  
2906 Agriculture. The site is also in the Airport Safety Overlay District.  
2907

2908 Mr. Archer - Thank you, Mr. Secretary. Is there any one here who is in  
2909 opposition to this case C-56C-98? We have opposition. We'll get to you. Thank you.

2910 Mr. Zehler - Mr. Chairman, may I ask, what was this information we just  
2911 received?  
2912

2913 Mr. Bittner - I'm going to explain that in my presentation, Mr. Zehler.  
2914

2915 Mr. Archer - All right, Mr. Bittner.  
2916

2917 Mr. Zehler - Am I supposed to read this and listen to you at the same time?  
2918

2919 Mr. Bittner - It's there for your reference.  
2920  
2921 Mr. Zehler - I think this was something we needed prior to this meeting.  
2922  
2923 Mr. Bittner - Well, it just was prepared yesterday. It's just an outline and I'll go  
2924 over it right now.  
2925  
2926 Mr. Zehler - Are these your concerns that we just got now?  
2927  
2928 Mr. Bittner - Yes.  
2929  
2930 Mr. Zehler - And we're just receiving them at 10:30 at night?  
2931  
2932 Mr. Bittner - Well, we've just also received new proffers a few hours earlier  
2933 tonight as well.  
2934  
2935 Mr. Zehler - Does it address all these issues?  
2936  
2937 Mr. Bittner - No. They do not.  
2938  
2939 Mr. Zehler - All right, go ahead.  
2940  
2941 Mr. Bittner - As I just stated, we have received new proffers, tonight. To accept  
2942 those, a waiver would be needed. On the handouts we just touched on, I'd like to explain what  
2943 those were. One is a list of outstanding issues that staff has put together that we see are still  
2944 outstanding at this point. The second set of items of that handout is the applicant's response to  
2945 those points. Finally, are the new proffers in a blackline version. They've been given to you  
2946 tonight.  
2947  
2948 I'd like to point out, the applicant has addressed several of the issues that were raised in the  
2949 previous staff report, although staff feels there are still some outstanding matters. Most of these  
2950 matters are detailed oriented. Individually, they may not be much, but taken as a whole, they  
2951 become significant. Those are listed in the document I just gave you tonight. I'll touch on some  
2952 of those points.  
2953  
2954 Number 1, lack of detail. Right now this application is in three distinct components. We've got  
2955 a conceptual master plan, a zoning plat, and a set of proffers. Every time we want to look  
2956 something up as to what is allowed on a certain site, let's say we have to find the connections  
2957 between those three documents.  
2958  
2959 Staff would prefer that all this information be put on one document, and in this case, the master  
2960 plan. Included in the handout, on the third page, is a table that the staff has prepared, based on  
2961 the acreage that is being rezoned and various proffers made by the applicant. This is not  
2962 guesswork. This is all based on the applicant's proffers and plan. Staff would prefer to see  
2963 information such as that on the conceptual master plan.  
2964

2965 Some other issues include, there are several new terms associated with this proposal, including  
2966 “club commons, club shops, and loop road.” I can make a guess as to what I think they are. I  
2967 think most people could, but from a zoning enforcement standpoint, I think we need more  
2968 clarification on what those terms mean, precisely.

2969  
2970 Another issue is, there’s no direct pedestrian trail access to the shopping center. One of the  
2971 major things we seek with planned communities is, for instance, a 13-year old boy let’s say can  
2972 get on his bike and ride clear across the community to get to the shopping center with, hopefully,  
2973 encountering very little traffic. And without a trail access to the shopping center, that might not  
2974 be possible.

2975  
2976 Sotherlyn could become the model for development in Varina. This area is, basically,  
2977 undeveloped at this point. Addressing as much as possible now, will help to assure quality  
2978 development in the future on surrounding parcels.

2979  
2980 There’s one other significant issue that staff sees with this proposal. That is the adjacent Camp  
2981 Holly Springs also known as the Diamond Springs Bottled Water Operation. That’s located  
2982 generally in this area right here (referring to slide).

2983  
2984 The owner of Diamond Springs is here tonight and he is in opposition to this proposal because of  
2985 the potential impact on the springs. I’ll let him handle most of the details of what his objections  
2986 are, but they concern No. 1, contamination of the spring by the development, golf course  
2987 chemical runoff and so forth. And also, a potential loss of water level in the springs. There’s a  
2988 concern that the lakes that would be established within Sotherlyn could potentially pull water  
2989 away from Diamond Springs.

2990  
2991 These new proffers that we received tonight do contain some protection measures. However,  
2992 Diamond Springs position on these new proffers is not known. Staff also has not had a chance to  
2993 review them in depth. Staff would prefer that time to do an adequate review. Staff would also  
2994 prefer that this matter, dealing with Diamond Springs, be resolved before this case moves  
2995 forward.

2996  
2997 In summary, while the applicant has addressed several issues, there are several points that still  
2998 remain. Because of the impact this development could have on Varina, staff recommends  
2999 deferral to try and iron out the relevant details. I’d be happy to answer any questions you may  
3000 have.

3001  
3002 Mr. Archer - Thank you, Mr. Bittner. Are there questions from the  
3003 Commission?

3004  
3005 Mr. Zehler - Mark, have you discussed these issues with the applicant?

3006  
3007 Mr. Bittner - Yes. I sent them to him yesterday.

3008  
3009 Mr. Zehler - You sent it to them yesterday?

3010

3011 Mr. Bittner - He has a response letter included in that packet.  
3012  
3013 Mr. Zehler - Why haven't you sat down with him and discussed these issues  
3014 with him prior to the meeting? That's probably what my question is.  
3015  
3016 Mr. Bittner - Well, there's been a pretty steady flow of information on this case.  
3017 In the last month alone, we've received a revised conceptual master plan, some new building  
3018 elevations, three new sets of proffers, a draft set of proffers, also three new zoning plats. So,  
3019 digesting that information has been quite a challenge. Every time we get new information in,  
3020 we've got to send it out to the various agencies that are affected to allow them to review it.  
3021 Keeping up with all this new information coming in has been difficult. That's why I haven't  
3022 been able to put anything together such as that until yesterday.  
3023  
3024 Mr. Zehler - I haven't had a chance to review them myself. I just got them.  
3025 Mark, have you reviewed the "Large Tract Development Guidelines" for the County?  
3026  
3027 Mr. Bittner - Yes, I have.  
3028  
3029 Mr. Zehler - In your opinion, does this project meet all the criteria for these  
3030 guidelines?  
3031  
3032 Mr. Bittner - All of them, No. Those are outlined in the staff report and also  
3033 here. One, is submission of a Community Impact Statement. That has not been submitted with  
3034 this application.  
3035  
3036 Mr. Zehler - What is that?  
3037  
3038 Mr. Bittner - That is, simply, a study of all facets; the Land Use Impact,  
3039 Transportation Impact, also an Economic Analysis Impact on what potential ramifications of a  
3040 development such as this could be. That document has not been prepared.  
3041  
3042 Also, the Large Tract Plan Development Guidelines would recommend the dedication of public  
3043 land. The applicant has proffered to reserve some land for a school site for a period of four  
3044 years. However, they have not dedicated it. So, I don't know that suggestion of the Large Tract  
3045 Plan Development Guide has been wholly met.  
3046  
3047 Mr. Zehler - In your opinion does this development in chorus define the  
3048 intention of the Henrico County 2010 Comprehensive Plan?  
3049  
3050 Mr. Bittner - I believe, for the most part, yes, but there are some details, again,  
3051 that we would like to see ironed out before we send this forward.  
3052  
3053 Mr. Zehler - Do the additional proffers submitted today address all the concerns  
3054 for the protection of the aquifer, as far as you're concerned?  
3055  
3056 Mr. Bittner - I don't know. I haven't had a chance to review those.

3057  
3058 Mr. Zehler - I don't have any other questions, Mr. Chairman.  
3059  
3060 Mr. Archer - Okay, Mr. Zehler. Are there other questions by the members of  
3061 the Commission?  
3062  
3063 Ms. Dwyer - When you say this complies with the current plan, does the Comp  
3064 Plan anticipate this level of residential density and retail development in this area of the County?  
3065  
3066 Mr. Bittner - Well, the Land Use Plan calls for Environmental Protection Area  
3067 and Rural Residential. The density for that would be one lot per acre or less. This Plan is not in  
3068 compliance with that. However, we do have the Large Tract Plan Development Guidelines  
3069 which outlines Planned Community guidelines. It also specifically states that the eastern section  
3070 of Henrico could be a good candidate for a development such as this. Based on that section of  
3071 the plan, we feel that, again, this is mostly in line with the recommendation of the Plan, but there  
3072 are some things we'd like to get worked out.  
3073  
3074 Ms. Dwyer - The concept of a large tract mixed use development complies with  
3075 the Comp Plan.  
3076  
3077 Mr. Bittner - The density does not comply with the land use designations in the  
3078 2010 Plan. The Large Tract Plan Development Guidelines do not suggest a density. They  
3079 simply say the concept of a planned community in Varina could be appropriate.  
3080  
3081 Ms. Dwyer - Thank you.  
3082  
3083 Mr. Archer - Other questions; comments?  
3084  
3085 Mr. Zehler - Going back to your guidelines, Mark, it says under your guideline  
3086 components, Number 2, it says, "...a mixture of development types between 20 and 30 percent  
3087 office, commercial and industrial development shall be planned for large tract development  
3088 communities..." And this particular project is only showing 9 percent. Is that correct?  
3089 Mr. Bittner - Yes.  
3090  
3091 Mr. Zehler - So, basically, based on these guidelines, they need to go back and  
3092 increase that?  
3093  
3094 Mr. Bittner - Well, based on the guidelines, yes. However, in this case I don't  
3095 necessarily think we would want them to do that. This is a rural section of the County, and I  
3096 don't think we'd want to see quite yet a W. Broad Street let's say out on Route 5. We would  
3097 like to see mainly residential development with this application.  
3098  
3099 Ms. Dwyer - How about increasing the Office component as opposed to the  
3100 Commercial?  
3101

3102 Mr. Bittner - We haven't examined that, but I think that's something we could  
3103 work with, and support possibly.  
3104

3105 Mr. Zehler - Now, I've read the Large Tract Planned Development Guidelines,  
3106 and this project fits to a "T" to it. I would recommend all the rest of the Commissioners get a  
3107 copy of it and read it. It even mentions eastern Henrico in the Guideline. It is a very interesting  
3108 Guideline. This project, just about every paragraph you read, there's something that falls within  
3109 that guideline. So, I would strongly recommend the Commissioners get a copy of it and take a  
3110 look at it. Because not only this project, but I'm sure you're going to see it again in the future.  
3111 I don't have any other questions.  
3112

3113 Mr. Archer - Are you done, Mr. Zehler?  
3114

3115 Mr. Zehler - Yes sir.  
3116

3117 Mr. Archer - Anybody else have a question? Okay, then I suppose we need to  
3118 hear from the applicant.  
3119

3120 Mr. James Theobald - Mr. Chairman, members of the Commission, Mr. Chairman, I've  
3121 indicated to you previously that I think the complexity of this case might dictate a little extra time.  
3122 I would very much appreciate your indulgence. We have about a 3.5 minute video. I have a 10-  
3123 minute presentation. I would like to have a few moments for rebuttal. I know there are people  
3124 here to speak in favor of the case. We've tried to get organized out in the hallway so that the  
3125 folks will limit their time to just really a few comments each. But they have sat through the  
3126 earlier proceedings. We've lost a few who've given us letters along the way. But, I will be as  
3127 succinct as possible. But with your permission, I would appreciate a little extra time.  
3128

3129 Mr. Archer - Mr. Theobald, how much additional time do you think you would  
3130 need above the normal 10 minutes?  
3131

3132 Mr. Theobald - I think, including rebuttal, I would need a total of 20 minutes.  
3133

3134 Mr. Archer - I would think the other Commissioners would concur with that. I  
3135 spoke with the Secretary about it. This is a large case. People have come a long way to hear it  
3136 and we wouldn't want to short anybody's contribution. With the Commission's indulgence, I  
3137 think we could do that.  
3138

3139 Mr. Theobald - Thank you very much. I do appreciate it.  
3140

3141 Mr. Archer - I don't think 10 minutes would kill the rest of us.  
3142

3143 Ms. Dwyer - Would we also expand the opposition's time?  
3144

3145 Mr. Archer - Yes. We would to both sides.  
3146

3147 Mr. Theobald - And if we can each keep it to 20 minutes, we'll all be fortunate.  
3148

3149 Well, Mr. Chairman, ladies and gentlemen, my name is Jim Theobald. I'm here this evening on  
3150 behalf of Mr. Roy Amason, the Home Builders' Association Builder of the Year. And if you  
3151 would allow me to roll a video tape, I'd like to introduce you to the concept of Sotherlyn.  
3152

3153 "The top of that hill right over there was the perfect lookout for colonists who wanted to spot  
3154 redcoats headed up the river to Richmond. Forty some years later the colonists once again  
3155 gave it their best shot when the War of 1812 flared up. Then in the 1860's the citizens of the  
3156 north paid a visit. What's in store at Sotherlyn is rich and exciting in its past. We have an  
3157 opportunity at Sotherlyn to make this part of Henrico County one of the best parts of Virginia,  
3158 to the tradition that Henrico already has, in good planned growth, in wonderful communities  
3159 where families can grow and work.  
3160

3161 While privacy is preserved, there is also spacious village greens, much like the ones you'll find  
3162 in many small towns; a plan that encourages neighbors to get to know one another. The  
3163 crowning center piece of Sotherlyn is the Village Clubhouse where neighbors come together to  
3164 share good times, or when the need arises, conduct a little business after office hours.  
3165

3166 There will also be an opportunity to give love a chance, or get in the swim of things. And the  
3167 most challenging drive residents of Sotherlyn will ever face is here—18 holes of golf right in  
3168 their own backyard, and just a chip shot away are schools, shopping, and Henrico's newest  
3169 high tech industries.  
3170

3171 Perhaps, the most extraordinary thing about Sotherlyn is its natural beauty. Beauty that will be  
3172 protected, because about a third of the entire community will be devoted to the woods,  
3173 fairways and wetlands that currently grace its hills and valleys, protecting the preserving the  
3174 scenic beauty that has made Route 5 a tourist attraction itself is an important part of  
3175 Sotherlyn's master plan.  
3176

3177 Attractive white fencing, stone walls, and wide boulevards welcome you. The developed  
3178 beauty of Sotherlyn is tucked inside, keeping the natural beauty of Route 5 intact.  
3179 And history, so prevalent in this part of the County, is bolstered through the preservation of  
3180 Ft. Southard, a forgotten treasure that has long been in a state of decay.  
3181

3182 The time has come for this undiscovered area of Henrico County to embark upon its first  
3183 planned community. So, as we march toward the future, we can salute the past with a truly  
3184 revolutionary community; Sotherlyn."  
3185

3186 Mr. Theobald - Thank you. This is a request to rezone approximately 637 acres  
3187 of land near the intersection of Interstate 295 and Route 5 for the development of Sotherlyn,  
3188 Varina's premier large tract, planed, mixed-use community. This request provides a unique  
3189 opportunity to create a community consistent with one of the most important goals of the  
3190 County's Land Use Plan, rather than a continuation of piecemeal development. Sotherlyn will  
3191 be a place where people live, work and play within a mix of single-family detached homes,  
3192 empty-nester maintenance free homes, one multi-family community, an assisted living facility,  
3193 daycare, office and retail opportunities.  
3194

3195 Sotherlyn enhances and promotes the values of community in Varina by providing a place for  
3196 residents to live and retire, who wish to stay in the Varina area near family, friends, their  
3197 doctors, and familiar shopping, in a community designed around an environmentally sensitive  
3198 golf course and recreational areas. It will also provide homes for those employed in the  
3199 expanding high technology field who will contribute to both the society and economy of eastern  
3200 Henrico.

3201  
3202 But the creation of a new community can't be at the expense of the old. So, we have crafted  
3203 some 60-proffered conditions; ten pages of binding, written conditions designed to guarantee  
3204 that Sotherlyn will respect the historical, environmental and aesthetic integrity of Varina.

3205  
3206 This case has been substantially amended from its initial filing, reflecting input from many  
3207 Varina residents and the professional Planning Staff of the County. The overall density has  
3208 been reduced to 2.1 dwellings per acre. The number of rental units has been dramatically  
3209 decreased to but one apartment development of 372 units on approximately 35 acres of land,  
3210 which is a density of just over ten units per acre in contrast to the 14.5 units per acre permitted  
3211 under the R-5 ordinance. Our business zoning has been reduced by over 20%, and what  
3212 remains has been reduced from B-3 to B-2. The golf course zoning classification has been  
3213 changed to C-1, Conservation District.

3214  
3215 We have engaged geotechnical experts to study the geology of the area to assure that Sotherlyn  
3216 will not interfere with Mr. Dowdy and his Camp Holly Spring water bottling and distribution  
3217 business conducted on adjacent properties.

3218  
3219 Our golf course proffers requiring an Integrated Pest Management Program designed to  
3220 minimize the use of pesticides and providing for the protection of riparian areas with buffers of  
3221 dense herbaceous vegetation are evidence of our commitment to be a good neighbor. After  
3222 meeting with Mr. Dowdy and Mr. Deal earlier this week, we have added four additional  
3223 Stormwater Quality proffers. These provide in summary:

3224 Any lots developed adjacent to those tax parcel numbers surrounding the springs, or lots that  
3225 are within six hundred (600) feet of Camp Holly Spring, shall utilize sand and gravel  
3226 infiltration trenches as a filter, which trenches must be installed prior to issuance of a  
3227 Certificate of Occupancy for improvements on any such lot.

3228  
3229 Any stormwater that drains away from the Camp Holly Springs area shall be controlled by  
3230 drop inlets and concrete culverts, discharging to an adequate outfall at a point below the  
3231 downgradient of the springs.

3232  
3233 The lake beds of the two lakes that you see in the upper right and left corners that are between  
3234 Fairways 12 and 13 and the other between Fairways 6 and 7 must be constructed, those lakes,  
3235 with an impervious liner. Additionally, any lakes designed to collect stormwater shall be  
3236 designed so that the normal pool elevation of those lakes shall be lower than the elevation of  
3237 Camp Holly Spring.

3238  
3239 Fairways 7 and 12, the two golf holes closest, as you can see on your plan here, (referring to  
3240 slide), the two holes closest to Camp Holly Springs, we have committed that the fairways on

3241 those holes shall be constructed with an impervious liner and an underdrain system to carry  
3242 stormwater and irrigation water into a storm sewer and away from Camp Holly Spring. That's  
3243 an enormous additional expense, but further evidence of our sincere desire not to harm the  
3244 integrity of that spring.

3245  
3246 I should add that our geotechnical experts don't believe that any of these measures are needed,  
3247 but rather constitute an additional safety net to assure the integrity of the Spring. We have not,  
3248 in fact, been asked by Mr. Dowdy to proffer anything. These were proffers that our team tried  
3249 to develop this week to show our good faith and our sensitivity toward the spring.

3250  
3251 Our proffered conditions are the most detailed of any case brought before you. It is a  
3252 commitment by Mr. Amason that what you see is what you get. Accordingly, he has proffered  
3253 that the development of Sotherlyn will be in substantial conformance with this Conceptual  
3254 Master Plan. We have proffered green belts along roadways, buffers against some of our  
3255 closest neighbors, and provided that at least 40 percent of Sotherlyn will remain in open space.  
3256 Forty percent. When you take out the golf course, we still have over 20 percent of open space  
3257 dedicated to environmentally protected areas, such as RPA's, floodplains, wetlands, buffers,  
3258 and greenbelts.

3259  
3260 Most significantly, public water and sewer must be extended and utilized for Sotherlyn, rather  
3261 than well and septic. We have promised to provide the championship golf course you see  
3262 before you, and to construct it with the initial phase of development. We have proffered  
3263 elevations of our empty-nester homes surrounding the golf course, as well as our townhomes.  
3264 All other buildings and dwellings within Sotherlyn must be of Colonial, New England Colonial  
3265 or Georgian-style in appearance.

3266  
3267 We have agreed to phase our development consistent with roadway and intersection  
3268 improvements, which have been approved by the Department of Public Works. With input  
3269 from Dr. Manarin and Chuck Peple with the Department of Parks and Recreation, we have  
3270 made a commitment to the Department of Parks and Recreation to cooperate with them in  
3271 evaluating and interpreting any historical findings discovered during our development.

3272  
3273 We have also set aside approximately two acres for the preservation of the ruins of the old  
3274 breastwork fort known as Fort Southard, which will include public access, a parking lot and  
3275 some type of commemorative plaque.

3276  
3277 We have agreed that a school site of a minimum of 20 acres at a location along Route 5, which  
3278 you see just to the left of the shopping area down here in the lower left hand corner (referring  
3279 to slide), will be reserved for purchase by the County for a period of at least four years.

3280  
3281 We have regulated signage, lighting and screening of mechanical equipment. We have  
3282 provided for median landscaping within our roadway system. We have capped our residential  
3283 density at 1,341 dwelling units. We have limited clearing on residential lots, and provided that  
3284 in the majority of Sotherlyn, there will be no direct access driveways to major roads.

3285

3286 We have committed to a minimum square footage for our homes. Our multi-family site has  
3287 been similarly highly restricted. We have proffered elevations. We've limited the mix of unit  
3288 types so as to reduce the potential for school-age children. And we've provided a separate  
3289 amenity package, consisting of, at least, a community center and swimming pool.

3290  
3291 Our assisted living facility is essentially limited to those 55 years of age or older. Our retail  
3292 parcels have been restricted to only 6,700 square feet per acre, versus the norm of 10,000  
3293 square feet per acre, with use restrictions consistent with the Route 5 Proposed Guidelines.  
3294 Those buildings must also be of colonial design.

3295  
3296 And we have additionally limited the height and type of lighting. We've prohibited outside  
3297 display, storage or sales along Route 5 and Long Bridge Road and have eliminated outdoor  
3298 public address systems. That is but a highlight of the 60 proffers applicable to this request.

3299  
3300 Sotherlyn is consistent with the goals, objectives, and policies of the County's Land Use Plan.  
3301 We have demonstrated the ability to provide the necessary community amenities and  
3302 infrastructure. Sotherlyn furthers another essential goal of the Land Use Plan in maintaining  
3303 orderly growth and efficient development, "encouraging large tract, planned, mixed-use  
3304 development, which promotes economies of scale, energy conservation and efficient use of  
3305 infrastructure and revenues." Your Plan, on page 65, specifically promotes large tract planned  
3306 communities as a strategy for development in Eastern Henrico. Additional road-stripped  
3307 development on well and septic is viewed rightly as a serious concern. Large tract  
3308 development better facilitates the preservation of sensitive areas than traditional development.  
3309 There is the potential to provide development on a scale that is needed to fund the necessary  
3310 investment in public utilities and roads; an investment, in this case, of over \$6 million dollars.

3311  
3312 As enumerated, we have substantially met the guidelines set forth in the Plan to justify  
3313 development in an outlying area. Your Plan acknowledges on page 67 that large tract planned  
3314 developments are not listed as a separate land use classification, but suggests that the general  
3315 guidelines allow large tract planned developments to function as floating zones. That section  
3316 of the Plan concludes by stating, "Encouraging large tract planned development allows the  
3317 County to plan for its future, while preserving those existing qualities which have made  
3318 Henrico County such an attractive place to live."

3319  
3320 Mr. Amason has conducted some eleven meetings with area residents, as well as, a number of  
3321 meetings with representatives of the Varina Beautification Committee. An initial mailing to  
3322 some 400 residences provided information to the community, followed last week by a mailing  
3323 of 440 additional packets of information in an attempt to inform the community at large of the  
3324 significant changes made to the original application.

3325  
3326 I am very pleased to inform you of the support of our request by the Varina Beautification  
3327 Committee, members of whom may speak this evening, which is the result of scores of hours  
3328 of meetings and work on their part. Our conditions before you reflect that constructive  
3329 dialogue, and I very much appreciate their efforts and courtesy.

3330

3331 But our dialogue with citizens doesn't end here, it begins here. As we develop, we commit to  
3332 keep the community informed as plans are finalized. Sotherlyn really represents a "win-win"  
3333 opportunity for the citizens of Varina and the County at large.

3334  
3335 Closing the door to Varina is not the answer. You can't promote only industrial growth in  
3336 eastern Henrico. Forty-two of some 46 managers at White Oak live in Wyndham. That's not  
3337 because of the address, it's because of the amenities.

3338  
3339 Sotherlyn incorporates the best of the past, while planning, I emphasize, "planning", for the  
3340 future. If not this planned community at this location with all of its guarantees, then what kind  
3341 of community for Varina and where?

3342  
3343 I would respectfully request that you recommend approval of this case to the Board of  
3344 Supervisors. I'll be most happy to answer any questions, as will the members of our  
3345 development team. I also believe that there are many others here, this evening, who wish to  
3346 speak in favor of this case.

3347  
3348 Mr. Chairman, I do have a series of letters from folks who either could not attend the meeting,  
3349 or because of other commitments, or, perhaps, advanced age, that as the hour grew late dashed  
3350 off a letter. But I do have a letter here from Elliott McGeorge, former Director of Parks and  
3351 Recreation, in support of this case; Bernie Mann, Albert Noland, Sandra Seelman, Mrs. Viola  
3352 Tally, and Belinda Bern.

3353  
3354 Mr. Archer - Thank you, Mr. Theobald. Are you done?

3355  
3356 Mr. Theobald - Yes.

3357  
3358 Mr. Archer - Okay.

3359 Mr. Theobald - Thank you for the extra time.

3360  
3361 Mr. Archer - You have about three minutes left for rebuttal time if necessary.  
3362 We'll open it up to the Commission for questions.

3363  
3364 Mr. Donati - Mr. Chairman, I have a question. Mr. Theobald, were you  
3365 insinuating that there wasn't suitable homes for those 42 managers that live elsewhere in our  
3366 County?

3367  
3368 Mr. Theobald - No sir. I find it odd that 42 of the 46 would not choose to live in  
3369 the Varina District. I don't know how to explain that, other than they found the setting of a  
3370 planned community, with the amenities provided there, to be preferable. I think the Varina  
3371 District would benefit by having those same amenities available in a planning community to  
3372 potentially attract more of the people who work out there, so when they get their paycheck,  
3373 Mr. Donati, they're going to spend it in your district, perhaps, rather than in Mrs. Wade's  
3374 district. I know you know that's what you thought I meant.

3375

3376 Mr. Donati - You were referring to well and septic that you're going to have  
3377 public water and sewer. You don't have any choice but to use public water and sewer in this  
3378 planned community, do you?  
3379 Mr. Theobald - Whether I do or not, we're providing public water and sewer.  
3380  
3381 Mr. Donati - You have to.  
3382  
3383 Mr. Theobald - Sure.  
3384  
3385 Mr. Donati - Don't you?  
3386  
3387 Mr. Theobald - Sure.  
3388  
3389 Mr. Donati - Guidelines for the County?  
3390  
3391 Mr. Theobald - Sure.  
3392  
3393 Mr. Donati - Okay. You talked about in your proffers that you would use  
3394 other sources of water.  
3395  
3396 Mr. Theobald - Yes sir.  
3397  
3398 Mr. Donati - ...for irrigation. Where are those sources coming from?  
3399  
3400 Mr. Theobald - The lakes created around the golf course, which will collect  
3401 stormwater runoff can be used to provide irrigation for the golf course.  
3402  
3403 Mr. Donati - I thought you were putting a liner in the lakes to protect the  
3404 environment, but you're going to take this contaminated water and put it right back on the  
3405 earth?  
3406  
3407 Mr. Theobald - I can, perhaps, have Mr. Clower address that better, but  
3408 essentially when the nutrients leech out of the BMPs and collect it, we'll be putting it back on  
3409 the golf course fairways, which are draining away from the spring.  
3410  
3411 Mr. Gary Clower - I represent Roy Amason in the Sotherlyn development. To  
3412 answer, the irrigation, the golf course industry is moving towards less irrigation. We will not  
3413 be irrigating 200 acres. The typical par 4 fairway will only consist of about 5.5 acres of  
3414 irrigated area. Most of our courses are designed now to collect stormwater; drain it back.  
3415 Basically, our main lake would be for irrigation. We would recirculate it. The industry is also  
3416 putting irrigation systems in now that provide fertilization through the irrigation head itself. So  
3417 this way, all the fertilization is controlled, and not applied like in the old days they used to use  
3418 tractors, and people who were not skilled. Now, you are required to have certification for use  
3419 of pesticides and herbicides.  
3420

3421 We've also proffered the Integrated Pest Management Program for this golf course. What that  
3422 does is, really you do not put any pesticides or herbicides down until there is a problem.  
3423 Basically, it would be monitored throughout the whole project and you would only attack very  
3424 small areas, rather than spraying the whole course. I think there's a lot of safeguards put  
3425 forward in the project.

3426  
3427 I don't know if I've answered totally on the nutrients, because there's a lot of chemicals  
3428 involved. Most of chemicals that we use on the golf courses now are biodegradable. The  
3429 collection systems that we are proposing to put on the golf course, and the protection of the  
3430 spring area, with the drainage back, I don't think there's any way it would affect the aquifer.

3431  
3432 Mr. Donati - Do you think you have addressed all the concerns of Camp Holly  
3433 Springs?

3434  
3435 Mr. Clower - Personally, I don't know the aspects that they've asked for.  
3436 Maybe there's something tonight. I think we've made a great attempt to protect the  
3437 environment. I think Mr. Amason has had his consultants, from a geotechnical standpoint,  
3438 analyze the ground water. His report reflected, and I think he's here and could answer that  
3439 better than I. But I do know that, from a golf course layout standpoint, we've tried to be  
3440 sensitive to the environment. Most of our golf course will probably end up in a design that  
3441 would be adding areas of wetlands to create the look of the golf course. Any other questions?

3442  
3443 Ms. Dwyer - Just a general question. We have a master plan that's dated July  
3444 1<sup>st</sup>. The second set of proffers indicates that's been revised. Is that what we're looking at on  
3445 the screen?

3446  
3447 Mr. Clower - I think its revised and there's a new revision date on that.  
3448 Ms. Dwyer - Revised November 20, 1998.

3449  
3450 Mr. Clower - I do not have that in front of me.

3451  
3452 Mr. Bittner - The date on this plan is November 30<sup>th</sup>, I believe.

3453  
3454 Mrs. Wade - This one says November 3<sup>rd</sup>.

3455  
3456 Mr. Clower - November 20<sup>th</sup> is the revision date.

3457  
3458 Ms. Dwyer - Just so we're speaking from the same page, how has it been  
3459 revised?

3460  
3461 Mr. Theobald - Ms. Dwyer, the plan was revised to add the area to the left of the  
3462 shopping area which is an R-2A district which is also being potentially held for purchase by the  
3463 School system. We also had some zoning categories where they were previously labeled, "B-3  
3464 to B-2," and that sort of thing.

3465  
3466 Ms. Dwyer - Would you show me where the additional acreage is?

3467  
3468 Mr. Theobald - Yes ma'am. If it will show up with this pen. I'll put a dot across  
3469 the street from it (referring to slide).  
3470  
3471 Ms. Dwyer - Because that shows up on my July plan also.  
3472  
3473 Mr. Theobald - We've also added the pedestrian trail system on this plan, the thin  
3474 yellow lines.  
3475  
3476 Mrs. Wade - The July one has the thin yellow lines.  
3477  
3478 Mr. Theobald - It's this property in here that was added (referring to slide), and  
3479 then the pedestrian trail system which goes throughout the project.  
3480  
3481 Ms. Dwyer - I see now in the small print that this is the November something.  
3482 So, it must be the 20<sup>th</sup>.  
3483  
3484 Mr. Theobald - I have the large version here, which I can place up there  
3485 physically somehow if you'd like to see it.  
3486  
3487 Mr. Archer - There is some small print that indicates that the plan was revised  
3488 in September, and it looks like again in November.  
3489  
3490 Ms. Dwyer - I just wanted to make sure...  
3491  
3492 Mr. Theobald - We were just cleaning up zoning categories, adding the pedestrian  
3493 trail system, and adding the additional...  
3494  
3495 Ms. Dwyer - Is there a way to quantify or qualify what the Integrated Pest  
3496 Management Program is?  
3497  
3498 Mr. Theobald - Again, I can let Mr. Clower explain what is better. My  
3499 understanding is that is somewhat of a term under the Audubon International standards for golf  
3500 course turf management. If you'd like to hear more about it, Mr. Clower would be happy to  
3501 explain it.  
3502  
3503 Ms. Dwyer - If it can be quantified or qualified, that's my question. What  
3504 does that mean, exactly?  
3505  
3506 Mr. Clower - Two things. Basically, it's a total system. It's not just one thing.  
3507 It includes plant materials. It includes the water quality, storm runoff, turf management. It  
3508 looks at a lot of things, rather than just spraying chemicals. There's micro-organisms that they  
3509 use now that are environmentally—Basically, its good organisms that they put into soil so you  
3510 do not have to fertilize as much. All this technology, in the last 10 years has grown like crazy.  
3511 My credentials, I am a landscape architect by profession. I've been developing and designing  
3512 golf courses for 28 years. I started in the Sea Pines Corporation, Company Hilton Head. I

3513 can tell you, from my profession, the industry is a thousand fold more environmentally  
3514 friendly now than it was when I first started in the design industry.

3515  
3516 Basically, we have set aside on this property, the golf course, itself, is a wider golf course. It  
3517 used to be the golf courses could do it in a 300-foot wide area at the landing. On this golf  
3518 course, we have 400 feet. It's safety zones. It adds more vegetation that is saved in the long  
3519 run.

3520  
3521 Ms. Dwyer - Just to save time, I appreciate that you know what you're doing,  
3522 but I guess the question is, "Is this a standardized term, or is this something that one landscape  
3523 architect or golf course designer in California would recognize to mean the same thing that you  
3524 think it does, or is this just a general term that means many different things to many different  
3525 people?"

3526  
3527 Mr. Clower - It is a whole program. It's becoming the industry standard.  
3528 Rather than spraying herbicides and insecticides, it is a control method to only use chemicals  
3529 as needed for a problem.

3530  
3531 Ms. Dwyer - Is there some recognized standard? That's my question. Not so  
3532 much what the details are.

3533  
3534 Mr. Clower - Each course is different. Each course is different. They set up  
3535 an individual program for your project.

3536  
3537 Ms. Dwyer - Who?

3538  
3539 Mr. Clower - Basically, it's the consultants—the industry such as myself.

3540  
3541 Ms. Dwyer - Course designers?

3542  
3543 Mr. Clower - Course designers, along with Audubon International. They kind  
3544 of regulate and set guidelines with you, and the developer. And Mr. Amason is going to be  
3545 what they call, "Audubon International Cooperative Course," which is, basically, they will  
3546 help us set up what is best for our site.

3547  
3548 Ms. Dwyer - Is there some certification process or anything that any...

3549  
3550 Mr. Clower - I'm sorry I didn't hear...

3551  
3552 Ms. Dwyer - Is there some certification process or anything?

3553  
3554 Mr. Clower - Yes ma'am. In fact, their people would visit the site. We would  
3555 submit our plans to them. Together, we would develop an overall integrated pest management  
3556 program.

3557  
3558 Ms. Dwyer - Would that be certification by Audubon?

3559  
3560 Mr. Clower - Audubon International. They kind of develop with golf courses.  
3561 Of course, businesses and other things also.  
3562  
3563 Mr. Zehler - Mr. Theobald, there seems to be a lot of concerns as far as  
3564 traffic.  
3565  
3566 Mr. Theobald - Yes sir.  
3567  
3568 Mr. Zehler - Could you address that issue?  
3569  
3570 Mr. Theobald - Yes. We also have our traffic consultant here this evening. I  
3571 will tell you that we have submitted volumes; did a full bore traffic study for the project. I  
3572 have submitted it to Mr. Foster. Mr. Foster has prepared a memo outlining the needed  
3573 improvements, both intersection improvements, road widening dedications, traffic  
3574 signalization. Mr. Amason has, in writing, agreed to provide those improvements. The most  
3575 significant one, I think, to Mr. Foster, was we agreed that we would limit the phasing proffer  
3576 in here that, essentially, limits this development on both cases that are before you this evening  
3577 to that development which will not exceed the equivalent of 1,700 vehicles per day during the  
3578 p.m. peak hour, as calculated using the most recent Transportation Engineer's Trip Generation  
3579 Handbook until they say it's okay that there's actually more capacity out there, or until New  
3580 Market Road has been widened to a four-lane divided roadway between Longbridge Road and  
3581 I-295. And, based on that, Mr. Foster's memo, which is referenced in your staff report, has  
3582 indicated both Phase 1 and the Phase 2 of this project are acceptable, in his opinion.  
3583  
3584 Mr. Zehler - As far as widening Route 5, whose responsibility is that?  
3585  
3586 Mr. Theobald - We're not going to be able to develop until it gets done before  
3587 we're there. Then, wonderful, but we're expecting to have to do that.  
3588  
3589 Mr. Donati - And if Route 5 is not widened?  
3590  
3591 Mr. Theobald - Then, we'll have to do it, or stop developing.  
3592  
3593 Mr. Donati - I beg your pardon?  
3594  
3595 Mr. Theobald - We would either have to do it, or stop our developing at 1,700...  
3596  
3597 Mr. Donati - The whole length of Route 5 through the Varina District?  
3598  
3599 Mr. Theobald - No sir. From I-295 to Longbridge Road. That was the section...  
3600  
3601 Mr. Donati - The 1,700 peak hour load of traffic, are you're being specific that  
3602 you can take one hour; I guess its an evening hour; 5:30, 6:00 p.m.?  
3603 Mr. Theobald - Seventeen hundred (1,700) trips is our traffic...  
3604

3605 Mr. Bittner - That's in your packet that I handed out tonight. These were  
3606 provided by Tim Foster of Public Works. Seventeen hundred (1,700) trips in the p.m. peak  
3607 hour is equivalent to 2,100 single family homes, or one million square feet of office space, or  
3608 450,000 square feet of commercial space.  
3609  
3610 Mr. Donati - Did you say 2,100?  
3611  
3612 Mr. Bittner - Twenty-one hundred (2,100) single family homes.  
3613  
3614 Mr. Donati - It's only 1,400 units in this...  
3615  
3616 Mr. Bittner - Correct. If you did a combination; if you split it half and half  
3617 between residential and commercial, the 1,700 limit would be reached with 1,400 homes, plus  
3618 150,000 square feet of commercial space.  
3619  
3620 Mr. Donati - Back to the 1,700 cars. Are you taking a given hour in the  
3621 evening and saying that, in that immediate vicinity, its going to be 1,700 cars there?  
3622  
3623 Mr. Bittner - I'm not sure, exactly, but the P.M. peak hour generally  
3624 represents rush hour which is the highest traffic generator.  
3625  
3626 Mr. Donati - The way I calculate that, that is a car every two seconds in the  
3627 vicinity.  
3628  
3629 Mr. Theobald - That's what Mr. Foster, your expert, said the roads could handle  
3630 that amount.  
3631  
3632 Mr. Donati - I'm just saying that's a lot of traffic. I don't care what he says.  
3633 Seventeen hundred (1,700) is a lot of traffic. A car every two seconds. I think it would  
3634 probably be a line forming somewhere.  
3635  
3636 Mr. Archer - Okay. Do we have any questions for Mr. Theobald?  
3637  
3638 Mr. Theobald - We have others who wish to speak in favor of this case, Mr.  
3639 Chairman.  
3640  
3641 Mr. Andrew Ferguson - I represent the Varina Beautification Committee. I'd like to thank  
3642 you for allowing me to speak, tonight, and start by reading a letter into the record from Dr.  
3643 Henry Nelson, and the Varina Beautification Committee to Mr. Zehler stating our position.  
3644 "Dear Mr. Zehler, The purpose of this letter is to inform you, that, after much discussion and  
3645 input, the Varina Beautification Committee is in favor of the concept of a planned community  
3646 in the Varina District, and in the proposed Sotherlyn project, as proffered, in the draft  
3647 document presented by Mr. Jim Theobald to the Varina Beautification Committee on  
3648 December 2, 1998.  
3649

3650 We are committed to promoting quality growth in Varina, which saves open space areas,  
3651 proffers quality colonial construction and amenities, and is sensitive to the historic aspects of  
3652 our community. Based on the proffers that have been developed with the community input,  
3653 and the input from the Henrico County Planning Staff, the Sotherlyn project has evolved to a  
3654 level which merits our support.

3655  
3656 As the Varina community grows, we expect other developers to meet high standards with  
3657 respect to the key ingredients that will make our community a destination that reflects pride in  
3658 its history, open spaces, colonial architecture. We feel that the Sotherlyn project, as proffered,  
3659 will assist us in this mission.

3660  
3661 Thank you for your interest in this important process. Yours truly, Henry L. Nelson, Jr. of  
3662 the Varina Beautification Committee.”

3663  
3664 We, as a group, realize that, Varina is going to change over the next several years with its  
3665 proximity to downtown Richmond, and the new infrastructure that’s being put in to support the  
3666 growth of Richmond. With those concerns in mind, you know, we try, as a group, to make  
3667 sure that we can influence development in the Varina area in a positive way.

3668  
3669 When we first heard about this project, we had several concerns; many concerns about the  
3670 project. And, in every instance, Mr. Amason and Mr. Theobald have worked hard to meet the  
3671 requests of the committee, not just with promises, but with written proffers, to the  
3672 development.

3673  
3674 So, at this point, our committee felt, that if Sotherlyn was developed, as proffered, we have  
3675 succeeded in assisting and proffering a well thought out, well designed precedent-setting  
3676 development for the community. Therefore, enabling us, and it to conform to the standards we  
3677 believe are right for Varina, as well as establish a standard for future development at this time.  
3678 Thank you.

3679  
3680 Mr. Archer - Thank you, Mr. Ferguson. Are there questions of Mr. Ferguson  
3681 by the Commission? Thank you, sir. Mr. Secretary, do we have time for any one else?  
3682 Thirty seconds for proponents. Come on forward, sir.

3683  
3684 Mr. Albert Noland - I live across from Camp Holly Drive on New Market Road. I  
3685 brought some pictures, if I might bring them. I want to show you something (hands pictures to  
3686 Commission). This is a Stuart Turner designed home I built in 1984 on Osborne Turnpike. If  
3687 I had to build that house up there, today, I wouldn’t do it. They brought in low rent subsidized  
3688 housing on Oakland Road. And the people only had to pay on what they could afford to pay,  
3689 according to their income.

3690  
3691 Gradually, I moved out now one mile east of the I-295 beltway. It’s a real nice area. I was  
3692 concerned about this subdivision at first, but after I looked into it and seen what the quality and  
3693 all has gone into it, I feel like, for the neighborhood and the County and the District of Varina,  
3694 I believe that it would be an asset. Thank you.

3695

3696 Mr. Archer - We have expired the time for the applicant. Now, we'll have to  
3697 hear from the opposition. We will allow the same 20 minutes that we did Mr. Theobald's  
3698 time. I say that, because if there are several people who want to speak, that have points of  
3699 view that one person may express, you can save yourself some time with as few speakers as  
3700 possible.

3701  
3702 Mr. Theobald - Mr. Chairman, there are additional people here who would like  
3703 to speak in favor of this case. I understand we are short on time.

3704  
3705 Mr. Archer - I'm sorry, Mr. Theobald.

3706  
3707 Mr. Theobald - There are some additional people here who did desire to speak in  
3708 favor of this case. I realize we've used our 20 minutes.

3709  
3710 Mr. Archer - Could we just see a show of hands of those who are in favor of.  
3711 Thank you. We're not just trying to count hands, but just want to know. Thank you.

3712  
3713 Mr. Zehler - Mr. Deal, I will remind you, you only have 20 minutes. You've  
3714 got to share that with somebody else too.

3715  
3716 Mr. John F. Deal - I understand that.

3717  
3718 Mr. Archer - That's what I was trying to say, Mr. Zehler. Thank you.

3719  
3720 Mr. Deal - Y'all are making lawyers short winded, aren't you. My name is  
3721 John Deal. I represent Camp Holly Springs, Inc. Sitting here with me is Mr. Dowdy, the  
3722 owner of Camp Holly Springs. To his right is Mr. Jim Richards, a hydrogeologist from  
3723 Tennessee who has been on a 10-year special assignment with Camp Holly Springs. To his  
3724 right is Anthony Creach of Resource International here in Richmond. He's had a 10-year  
3725 relationship with Holly Springs - Camp Holly. Sitting back here, is Mark Williams. Terry  
3726 Phillips, with Resource International, who've had a several year relationship, all studying the  
3727 aquifer, geology and the recharge area of Camp Holly Springs, and all of whom will refute  
3728 everything that has just been said about the protection of the springs and you may ask them any  
3729 questions you may like when we finish.

3730  
3731 First, those revolutionary war soldiers in that movie that you saw did drink from those springs.  
3732 The north and the south drank from these springs. But, if I live another several years, I won't  
3733 be able to drink from them. I want to tell you a story that I heard this morning. Actually it's  
3734 an actual incident. You all have heard of Governor's Land on Route 5 about 30 miles down  
3735 the road from this place. The lots in there sell for \$300,000. Houses and lots here aren't  
3736 going to sell for \$300, 000 together.

3737  
3738 They have that golf course in Governor's Land. And this information was given to me by  
3739 James C. Dawson, Professional Engineer, Chief Engineer for Water of the James City Service  
3740 Authority. Governor's Land found out their grass is dying on their golf course. "We're  
3741 putting a lot of water on it. We don't understand why." Well, they checked and they found

3742 out why. The fertilizer was running off of the golf course; pesticides and fertilizer were  
3743 draining off the golf course into these lakes that are supposed to be imperviously lined up here,  
3744 and prevent them from going into the aquifer. That water was so charged with fertilizer, when  
3745 they squirted it back on the golf course, it killed the grass.

3746  
3747 So, they went out and they asked a consultant to come in and tell us “What’s wrong and how do  
3748 we fix it?” He said, “What’s wrong is, your fertilizer on your golf course is so charged from  
3749 your lake, when you squirt the water back on top of the golf course, it kills the grass.” They  
3750 said, “Well, what do we do?” Here’s his answer. You’re ready, “Mix battery acid in the  
3751 water to neutralize the fertilizer.” Now, what’s an aquifer? I’m standing on marine clay.  
3752 This seal that represents the surface of the land, when God makes it rain, the water comes  
3753 down, hits the surface, goes through a layer of soil, and gets into the aquifer, which is a  
3754 gravel, sand/clay area. That water pressure builds up. When it builds up, that water begins to  
3755 move laterally. Where does it go when it moves laterally? It goes right here and comes out  
3756 right here. Right there. Camp Holly Springs, which as we sit here right now, is flowing at a  
3757 rate of 378 gallons a minute, or 22,680 gallons an hour, or 544,320 gallons per day. Those  
3758 revolutionary war; civil war soldiers drank that water, but we won’t be able to, because I don’t  
3759 care how good a management program you put on a golf course, and I don’t give a rip what  
3760 the law says, its no better than the man you pay \$6.50 an hour to put it down. And if he’s got  
3761 an early date that night, and you want him to spread 18 holes, and he doesn’t mind, so he can  
3762 make his date, you’ve got too much pesticide on your golf course. And nobody is going to  
3763 stand here and tell you, that a manager, trained, schooled and everything follows that man  
3764 around for \$6.50 an hour to put that stuff on that golf course.

3765  
3766 These engineers right here have had a 10-year relationship with Camp Holly Springs. This  
3767 man has done nothing but spring work for 24 years. And he will tell you, Jim Richards will  
3768 tell you that it is not a question of “if” Sotherlyn, as currently designed over the aquifer will  
3769 impede this aquifer. It’s only when.

3770  
3771 Now, look at the map for a minute please. You see this black line around here. The black  
3772 line drawn around here is the aquifer line that is overlaid by the development of Sotherlyn as  
3773 currently planned. It has 60 multi-family units over the aquifer; 52 single family houses over  
3774 the aquifer, two full fairways; portions of two other fairways, two greens over the aquifer and  
3775 recharge areas serving them. So, what we’re talking about is the survival of a natural  
3776 resource.

3777  
3778 Let’s go to your 2010 Plan. I went through the Environmental Element of the 2010 Plan. And  
3779 its been related to you tonight that the project is in accordance with the 2010 Plan. I will give  
3780 to you right now, I only have one copy of this, of the Environmental Element of the 2010  
3781 Plan. What you folks adopted, and the Board of Supervisors adopted, requires that, not only the  
3782 springs, but the recharge areas and the aquifers be protected. And I have numbered them on the  
3783 sheet. There is a paper clip by each one, and you can see what I have talked about. It is really a  
3784 shame that Mr. Amason had 11 meetings with the neighbors, but we had two meetings with him;  
3785 the last one in about early October, and he had his engineers start to do some work on the project  
3786 and they did, and they came back. By the way, when he came in late 1997 to develop this  
3787 project, one of the first people who he went to see was Mr. Dowdy, and said, “I want to build this.”

3788 Mr. Dowdy said, "Fine." And Mr. Dowdy was in favor of this project to the point that he put Mr.  
3789 Amason on to this 100 acres right in here (referring to slide). Mr. Dowdy called the lady that owns  
3790 that property and said, "There is a good thing coming down here. I think you need to look at it."

3791  
3792 Mr. Archer - Excuse me. I hate to interrupt you, but could you show that, we  
3793 didn't see.

3794  
3795 Mr. Deal - I can't get this thing to work.

3796  
3797 Mr. Archer - Can somebody help him out?

3798  
3799 Mr. Merrithew - I think the drawing is just a little too dark for it.

3800  
3801 Mr. Deal - Right there. Okay. That hundred acres, roughly to the right of that  
3802 dot is in this plan, because Mr. Dowdy called the lady who owns a good portion of that land, told  
3803 her to call Mr. Amason, and she might be able to sell this land to him. So, Mr. Dowdy is not  
3804 fighting planned developments in Henrico County. What he is fighting, is fighting to preserve the  
3805 aquifer, that in those 20 specific points in your 2010 Plan, you pledge it was your goal, your  
3806 objective and your purpose to protect. And these five engineers sitting here will tell you that it is  
3807 not going to work. And if you call Mr. Dawson down at the Water Authority in James City County,  
3808 he will be glad to relate the story to you about how fine a development Governor's Land is, and it  
3809 is. It is \$300,000 lots, and they were going to have all of these nice protections. And I'm sure that  
3810 they would show you a video, too, but it doesn't work like it is represented.

3811  
3812 Nextly, Mr. Dowdy told Mr. Amason, when he started to develop this project, he said, "I want to be  
3813 your friend, but you want to put a golf course in here and if you do, I am going to have to oppose  
3814 you, because I can't have a golf course over my aquifer. I can't have dense housing over my  
3815 aquifer." And, Mr. Amason said, "Fine. I will include you in the planning process." Mr. Dowdy  
3816 never heard again from Mr. Amason, but he started hearing about public meetings that were  
3817 going on in Varina. And somebody one day handed Mr. Dowdy this basic plan right here  
3818 (referring to slide) that Mr. Dowdy had no input into whatsoever, even after he was promised it  
3819 would be done.

3820  
3821 Last night at 4:45 p.m. I received the four proffers that are supposed to protect the aquifer. You  
3822 know the problem? Each one of those four proffers, now remember, this was in September when  
3823 we met him. I got them last night at 4:45 p.m. And remember, each one of these is to protect the  
3824 aquifer. You know what each one of them does? Diverts water from the aquifer. In other words,  
3825 water won't be going into the aquifer hardly but in a very few places in that development.

3826  
3827 Also, if you look at the single-family lots, they are dense. You look at the multi-family. It is dense.  
3828 And, it is a known fact, that individual citizens with yards put more fertilizer on them than they  
3829 should, more pesticides on them than they should. Farms generally don't. They put the stuff on  
3830 for a profit. Citizens put in on to get green grass. And they will do whatever they have got to do to  
3831 get green grass.

3832  
3833 What happens? It goes down in the aquifer, pollutes the water. And you must remember this.  
3834 Once you pollute an aquifer, it is generally irreversible. And even last week, the Governor's office,  
3835 excuse me, the Purchasing Department for the Commonwealth of Virginia called Camp Holly  
3836 Springs and said, "The Governor's office is concerned about the drought in Virginia. We want to  
3837 know, since a lot of wells are drying up in the state, if we come to you and ask you for water, can  
3838 you supply it?" And, Mr. Dowdy said, "Yes," as he has said yes before, and he said "I will supply

3839 the water at no cost to the State for the people who need it.” So, the Purchasing Department  
3840 knows where to go to get water in times of emergency. When the algae was in the James River a  
3841 few years ago, the tanker trucks were lined up bumper to bumper all the way to Turner Road from  
3842 the spring house to receive spring water, and we could not meet the demand. The water from  
3843 these springs is shipped over five states and into Europe. This water is 99.9% pure. For you to  
3844 vote to approve this plan of development over that aquifer is to vote against your 2010 Plan in 20  
3845 specific points. You will have to, if you vote approval for this, you will have to revise your entire  
3846 Environmental Element of your 2010 Plan.

3847  
3848 Ms. Dwyer - Mr. Deal, what can be done to protect the aquifer and allow this  
3849 development to...

3850  
3851 Mr. Deal - Ma'am, when we met at my office the first time on September 12 of  
3852 this year with Mr. Amason and his engineers, and that meeting came about only because I  
3853 contacted Mr. Amason's office and said, "We have got a problem, and we have got to sit down  
3854 and work it out." So, he came. He brought Mr. Dozci and the gentleman that just spoke; the golf  
3855 course engineer, who just spoke. And Mr. Amason said, "What do you want me to do?" And, Mr.  
3856 Dowdy appropriately said, "Look, we are not land planners. We are not planned unit developers.  
3857 You are. Here are our concerns," and here's what we told him."

3858  
3859 We said, "We had eight concerns: the use of fertilizing chemicals on a golf courses and in the  
3860 yards, the locations to the fairways over the aquifer. Because of that, the location of the lakes,  
3861 because that is concentrations of fertilizer. The locations of the lakes—actually, we had a  
3862 problem. You see this fairway right here, ma'am (referring to slide). Hello. Right there. That  
3863 fairway, I think that is Fairway No. 6, or whatever. There is another fairway here. You see the  
3864 lake sitting here. We said, "They are all problems." The location of the cottage houses in this  
3865 area of the development over the aquifer were a problem. We told him it was crucial that the  
3866 depths of the cuts to be made for the roadways, lakes and storm drainage sewer and water  
3867 improvements throughout the northern portion of Sotherlyn, near the aquifer, be so planned so as  
3868 not to invade the aquifer, and, thereby, bleed the water off of the springs. He said, "I will get back  
3869 to you." You know when he got back to me? Last night at 4:45 p.m."

3870  
3871 Ms. Dwyer - Would it be sufficient, or maybe you don't know, would it be  
3872 sufficient, let's say we eliminate all of the development in what is designated here as the aquifer  
3873 boundary?

3874  
3875 Mr. Deal - Yes, ma'am.

3876  
3877 Ms. Dwyer - So anything out of this aquifer boundary does not affect the aquifer  
3878 at all. No water flows into that aquifer from other...

3879  
3880 Mr. Deal - There happens to be a deep ravine. There's a ravine, ma'am. This  
3881 point right here (referring to slide) is the spring. There is a ravine that runs along this area that  
3882 separates this aquifer. That ravine runs all along here, all along this way here and separates it.

3883  
3884 Ms. Dwyer - Along the black line?

3885  
3886 Mr. Deal - And separates it. That is right. Now, on that point, you know, it is  
3887 real interesting. The Planning staff and Mr. Amason, jointly, made a good decision. We are going  
3888 to protect the creeks down here by Longbridge Road and this area down in here. In this area  
3889 down in the bottom of the project. In the bottom of the project. Can somebody give me a hand

3890 here that knows how to operate this thing (referring to the electronic pen)? I am trying to hit this  
3891 area right in here. That area, you see the blip that just came on your screen. Right here. Right  
3892 below there was some creeks and some wetlands. You know what they have done? They've  
3893 protected the water in the creeks, and the water in the wetlands, and everybody's got creeks, and  
3894 everybody's got wetlands and bulrushes, but there is only one Camp Holly Springs. There is only  
3895 one Diamond Spring. So we are protecting the water in the ditch, but we are not protecting the  
3896 water we drink. Let's give the same protection to the water thousands of people a day drink, and  
3897 which is a natural resource you have sworn by 20 specific references in your 2010 Plan to protect.  
3898 Let's protect that. If we can put green areas in the bottom, let's put green areas up the top.  
3899 Listen, we are not opposed to this development. But we are opposed to the springs being  
3900 denigrated to the point that they are no longer usable, and...

3901  
3902 Mr. Zehler - I keep hearing this, but all of these scientists and geologists and  
3903 everybody you are saying, has anybody come up with a reason, or a way that we can protect this  
3904 aquifer? Just leave it the way that it is?  
3905

3906 Mr. Deal - Yes. The best way to protect it is to leave it the way that it is.  
3907 However, there are certain things you can do over an aquifer, but we have received no input from  
3908 Mr. Amason back whatsoever when he was told a year ago, "I'll fight you if you put those things  
3909 on my aquifer." He was told in September eight specific concerns. And, at first, addressing those,  
3910 he got an engineering report by the way. And that engineering report was based on incorrect  
3911 data, conflicting data in the face of the report itself. These five engineers reviewed that report.  
3912 And each one of them said, from these people separately, from this man, from those two, that  
3913 report is a start, and it is a confirming report. It is a report that confirms location decisions already  
3914 made, rather than an investigative report to determine what really should be done.  
3915

3916 Mr. Zehler - So it is not worth the paper that it was written on?  
3917

3918 Mr. Deal - That is one way to put it, in our opinion. It is a start. It's a start  
3919 talking point. That's it. It is not proper for conclusions. And I think they will agree with me saying  
3920 that. It is a starting point paper. It is not a paper to draw conclusions from. But, now let me say  
3921 this, Mr. Zehler. We pray to God they are right. Because, if they are right, they say there are two  
3922 geological faults; one here, and one here (referring to slide), that protect the spring, there is only  
3923 one problem with that. With that spring flowing 500 and some thousand gallons a day in a  
3924 drought, 700 and some thousand gallons a day when it was raining last spring, for that to be done,  
3925 this fault would have to be 3.2 miles long, and we would have to afford to that area within it twice  
3926 the water that normally reaches the aquifer to get that flow out of Camp Holly Springs. There's a  
3927 problem. U.S.G.S. map says there are no faults in the area.  
3928

3929 Mr. Zehler - Where you have that dot right there, (referring to slide), in that  
3930 proximity right there?  
3931

3932 Mr. Deal - Why do I have it there?  
3933

3934 Mr. Zehler - No. Where you have that dot.  
3935

3936 Mr. Deal - Yes sir.  
3937

3938 Mr. Zehler - Is that property owned by Diamond Springs?  
3939

3940 Mr. Deal - Yes, sir. Four acres.

3941  
3942 Mr. Zehler - Okay. Move the dot down towards the left hand of the end of the  
3943 red bar.  
3944  
3945 Mr. Deal - Yes sir.  
3946  
3947 Mr. Zehler - Is that owned by Diamond Springs?  
3948  
3949 Mr. Deal - No, sir. That land in there is owned by somebody else. We own a  
3950 four-acre area that is about a square – almost with the spring about in the middle of it. Isn't it,  
3951 David?  
3952  
3953 Mr. David Dowdy - We own eight acres and one hundred and some adjoining it.  
3954  
3955 Mr. Deal - We own eight acres right in here (referring to slide).  
3956  
3957 Mr. Zehler - All right, John. Where you had the pink dot on the property, you did  
3958 not own where you went to at the end of the red bar?  
3959  
3960 Mr. Deal - All right. We do not own the property that they show to be  
3961 developed there.  
3962  
3963 Mr. Zehler - Bring your dot back over to just the left of the end of the red bar.  
3964 Come on to the left of the bar.  
3965  
3966 Mr. Deal - Okay.  
3967  
3968 Mr. Zehler - Come on to the left of the bar. Now, down to the end of it. Right  
3969 there. You don't own that property (referring to slide)?  
3970  
3971 Mr. Deal - No, sir.  
3972  
3973 Mr. Zehler - If I were an innovative young individual, and I had purchased that  
3974 property, could I dig a well there and make a spring and sell water just like you are doing? Is  
3975 there anything in the law that says that I could not do that?  
3976  
3977 Mr. Deal - You don't make a spring.  
3978  
3979 Mr. Zehler - You have got one right there, according to what you have told me.  
3980  
3981 Mr. Deal - It is natural. You could dig. Yes sir.  
3982  
3983 Mr. Zehler - Could I tap into the aquifer?  
3984  
3985 Mr. Deal - Yes sir.  
3986  
3987 Mr. Zehler - And I could do, basically, the same thing?  
3988  
3989 Mr. Deal - Yes sir. Anybody around here who wanted to, could dig. As a  
3990 matter of fact, there are people all up and down Turner Road who have wells.  
3991

3992 Mr. Zehler - If that is that important to him, why doesn't he purchase that land?  
3993  
3994 Mr. Deal - That is something that we are amenable to.  
3995  
3996 Mr. Zehler - I think we've been saying that for years now, haven't we?  
3997  
3998 Mr. Deal - No. We have not. No. That only came up on the Nolan farm.  
3999  
4000 Mr. Dave Dowdy - I can answer that question.  
4001  
4002 Mr. Archer - You have to come up to the microphone.  
4003  
4004 Mr. Dowdy - Ladies and gentlemen, my name is Dave Dowdy. I tried, for a long  
4005 time, to buy that property so that the folks that own it could have the money they want, and I could  
4006 have the protection that I need. And, after a long period of time, they finally came to me and said,  
4007 "We have decided that we will sell it to you." It is 60 acres of land. Some of this is wetlands, and  
4008 so forth. So I don't know the actual usable acreage there. But the price for that farmland and  
4009 wooded land was \$1,200,000.  
4010  
4011 Mr. Deal - For 60 acres.  
4012  
4013 Mr. Dowdy - Now, I've got, if I didn't need to protect my aquifer, I sure would  
4014 sure like to sell that 100 some acres that I have bought to protect it at that rate, \$1,200,000. I  
4015 mean, I don't have that kind of money. And, if I did, I wouldn't be stupid enough to do something  
4016 like that.  
4017  
4018 Mr. Zehler - Yes, but you are claiming that is where your main source of water is  
4019 coming from. I would think it would be very viable to you. That is your business.  
4020  
4021 Mr. Dowdy - No. Our recharge area probably, as you see, this is the southern-  
4022 most portion of our aquifer (referring to slide). This shows a part of the recharge area. And, this,  
4023 by the way, is what geologists refer to as "a primary recharge area". Some of that could extend  
4024 beyond that. But that is a risk that we have to take. We have to say, "We think this will protect  
4025 us." But, this extends on up north from here, and is probably in the neighborhood of a total of 600  
4026 acres. And I am buying as much as I can, as it is offered to me. And just in the last year, I have  
4027 made two purchases. I've bought four acres adjacent to the spring there, because it was there  
4028 and it was offered to me, and I jumped on it. Four acres there with a rundown house and no road  
4029 frontage for \$42,000. And I have taken it out of the environment. I just recently bought a piece  
4030 further down Turner Road in the curve down there with a house that I now have an application in  
4031 to have torn down, because it is an eyesore, 2.0; a few acres for \$55,000 for a shack and some  
4032 sheds, because, if I can buy it, I can. Now, I can't buy all of this 600 and some acres right now.  
4033 And, I can tell you this, if it is developed the way it is proposed, I won't be able to buy an acre in a  
4034 short period of time. Now, I say a short period of time. It could be 20 years. I don't know. These  
4035 folks don't know. It is a matter of not "If it is going to happen." but "When it is going to happen?"  
4036  
4037 Now, I'd like to say a little something here that might let you know how I feel. And this might not  
4038 be a good example, because it is kind of off of the top of my head.  
4039  
4040 Let's suppose that down here, in this land below my spring and my recharge area (referring to  
4041 slide), back in 1923, an enterprising young man decided, "With pure 55-degree water coming  
4042 down here, I can raise trout. Maybe I can develop a market for that." And, so he put in raceways,

4043 and he started raising trout and the trout, and then as the water warmed up, he had to go to  
4044 catfish, because it is not cold enough for trout. And the result is, that the water that is coming out  
4045 here is still pretty good, except that it has some waste in it from these trout. And he says, "Well,  
4046 this is valuable. I can put this on this pristine land down here, and I can have an organic truck  
4047 farm here." So, for generations, he does this. And he establishes something that is valuable to  
4048 his consumers. And I come along, in 1998, and I say, "Well, I bought this land, and it has got  
4049 springs on it. And, the bottle water business seems to be like gold, right now. It really isn't, but  
4050 everybody thinks it is. So, I am going to bottle this water. So I go up here and my plans are, and I  
4051 have got to get a permit to do all of this. So I come to you folks, and I say, "I want to bottle this  
4052 water and I am going to use all of the water that comes out of these springs, and that creek is  
4053 going to dry up." Would it be fair for me to be able to do something on my property, for my own  
4054 gain, that would destroy this man's livelihood and what he had in mind, for not only for his  
4055 employees but for his descendants? I don't think it would be fair for me to ask that.

4056  
4057 Unfortunately, I am over here, and it has kind of happened in reverse. Would it be fair for you to  
4058 allow something to take place here that will destroy what my father, and I, and my employees and  
4059 everyone, allowing that to be destroyed? Would that be fair?

4060  
4061 Now, I am willing to be reasonable. And we have spent a lot of time and a lot of money talking  
4062 with these people to get their advice. What I would like to do is say, "Okay." I think the thing for  
4063 us to do, and I have tried to cooperate, even feel like somewhat of an idiot because of increased  
4064 what surrounds me by suggesting to the lady that I have--the real estate agent called her, and she  
4065 might make a good deal. And it happened.

4066  
4067 I really don't think that what we want is unreasonable, because I have never said, "Hey, Mister,  
4068 you are farming over here and you're putting fertilizers down, and that might get in my water and I  
4069 don't like it." Or, "You're farming down here, whatever." And, there are some people here tonight  
4070 that are farmers. They have been farming before I ever started bottling water. How can I go to  
4071 them and say stop doing it? That is the chance that I take. If it goes bad, it goes bad. Hopefully, I  
4072 can retire before that. But this is not someone that wants to come in and continue doing  
4073 something that they want to do. This is someone who wants to come in and do something entirely  
4074 different.

4075  
4076 And, I believe in my heart, that, eventually, it will destroy this aquifer. And, I am not trying to tell  
4077 you that I am out crusading for aquifers, because, naturally, this is very important to me, because  
4078 it is my life's work and my livelihood. I am not going to talk anymore. I will be happy to answer  
4079 any questions if I can. But, I will talk about this all night and these folks don't want to stay here all  
4080 night.

4081  
4082 Ms. Dwyer - You mentioned earlier that, if there were no building over the  
4083 aquifer as its designated on this plan, that you think that might protect you. And then, Mr. Deal  
4084 said, certain activities would be permissible over the aquifer. And I was going to follow that up  
4085 and ask you, what activities, consistent with this kind of development, might be available to them  
4086 that would also protect your aquifer?

4087  
4088 Mr. Dowdy - I don't know that I can suggest something that would. I know that  
4089 our concerns are twofold; quantity, of course, and quality. It is not going to do us much good to  
4090 still have good quality water if it slows down to a trickle.

4091

4092 So, when you start putting roofs in and driveways and all of these things that shed water away,  
4093 then that water no longer has the capability to be absorbed into the aquifer. So we lose pressure.  
4094 We lose flow. We lose quantity.

4095  
4096 What may go in, if we do get the normal recharge, and it has to pass through fertilizers and spilled  
4097 antifreeze, etc., could be something that could destroy the quality. The reason that my answer to  
4098 Mr. Amason and his folks was, "I am not going to suggest what I want you to do." is because, I  
4099 don't have any idea what they can do with that. Ideally, it stays natural and that's it. If there is  
4100 something these folks can do to use it, maybe to leave the wooded parcel wooded, and put some  
4101 picnic tables in or something. They're not making any money off of that. But maybe some kind of  
4102 recreational area like that that doesn't require chemicals, etc., and doesn't really destruct the  
4103 normal influence of water into the ground and so forth, might be moved from somewhere else and  
4104 put up there. I just don't know. And that's why I don't want to play the role of land developer,  
4105 because I have no expertise in that area.

4106  
4107 Mr. Deal - I would like to make three short points: Number 1, your 2010 Plan  
4108 either means something or it doesn't. And it's got 20 points in there relating to aquifers and to  
4109 recharge areas. You are going to have to rewrite it if you allow this development overtop of this  
4110 aquifer.

4111  
4112 Number 2, there is only one Diamond Spring, and one Camp Holly Spring. For Mr. Amason, this  
4113 is development Number 60. Then that will be 61, and 62, and 63, but no more Diamond Spring or  
4114 Camp Holly Spring.

4115  
4116 And, when we walked in here tonight, there was a picture on that screen. And the picture said,  
4117 "We are excited about our future." Well, we are pleased you can be excited about your future. If  
4118 this is approved, we can't. And this man deserves the respect of having been in this  
4119 neighborhood, worked 18 hours a day for many years of his life, and his father. And what you're  
4120 doing, you're saying to him, "If you approve this, we are going to put everything you have worked  
4121 for in jeopardy, and we are going to violate our 2010 Plan and take, as Mr. Creet said in his report,  
4122 a copy of which was delivered to you folks, an unacceptable risk of the diminution of the quantity  
4123 and the quality of the water in the aquifer." And every one of those four proposals that they put  
4124 forth last night, and proffers, diverts water away from the aquifer. No water coming in. No water  
4125 going out. That is a pretty simple situation.

4126  
4127 And, so I ask you, he has the right to be excited about his future. What would you do? Let me  
4128 ask you a question? What would you do if Mr. Amason was there first and then Mr. Dowdy came  
4129 and was going to put up an operation that would cause these 52 single-family homes, 60 multi-  
4130 family homes, and four fairways on a golf course that would have to be abandoned and put out of  
4131 commission? Would you give Mr. Dowdy permission to come in and do that to Mr. Amason's plan  
4132 of development, if he was there first? Certainly, you wouldn't do that. But, if you allow this portion  
4133 of this development over the aquifer, that is exactly what you are doing to Mr. Dowdy, and I know  
4134 that is not your intent. I will be glad to answer any questions you have.

4135  
4136 Mr. Archer - Mr. Deal, in reviewing all the information that we've had to  
4137 review on this case, and it has been a constant flow. Some came last night, and some even  
4138 came as late as tonight. And, I'm being very honest about this. It is very difficult for me, and  
4139 I don't know about the rest of the Commissioners, to be able to make a decision, based on the  
4140 information that we've got, with so many conflicts. We really do want to make a decision one  
4141 way or the other.

4142  
4143 For example, there are two geotechnological, I guess is the correct term, reports that we've  
4144 gotten, and they are both in direct conflict with each other. \

4145  
4146 Mr. Deal - That's correct.

4147  
4148 Mr. Archer - For example, EGS, I believe, it is.

4149  
4150 Mr. Deal - Yes sir.

4151  
4152 Mr. Archer - ...uses a technique called, "Hollow stem Arguer Boring."...Then  
4153 your guys say the information in that report is absolutely useless.

4154  
4155 Mr. Deal - That's right.

4156  
4157 Mr. Archer - So, we read one report and it says, "We've done these borings  
4158 and we've done the tests. And this looks good. Then we get the other side that says, this test  
4159 data is entirely invalid. So, the question necessarily arises, "What is the standard by which the  
4160 tests are done and who do we believe and how do we make a decision based on conflicting  
4161 information?"

4162  
4163 Mr. Deal - That's a valid question. Here's what happened.

4164  
4165 Mr. Archer - And let me say, I'm not saying that to support either side, I need  
4166 to know.

4167  
4168 Mr. Deal - I understand. It's a good question. Mr. Amason's people went  
4169 out there and did what I call, they drug or coursed or drove radar devices across the ground to  
4170 sound down to try to find, what I understand, to be miceane clay. Let this gentleman answer  
4171 that. He's Mr. "Clean Eyes." He's been in this 24 years, reviews all of this and knows about  
4172 it.

4173  
4174 Mr. Zehler - Mr. Deal, while he's coming up, I had a question. In the VGS  
4175 report, but it says that Resource International, and this was on the October, 1998, which I  
4176 think you had gotten together, and their report was questions were asked and they went  
4177 through and they answered the questions.

4178  
4179 Mr. Deal - They got together on November 18<sup>th</sup>. We met in early October  
4180 for Mr. Amason and his engineer, VGS to say what they were going to do. The engineers and  
4181 our engineers were finally able to sit down on November 18<sup>th</sup>, is the first look that our  
4182 engineers had at that information.

4183  
4184 Mr. Zehler - Well, what confuses me, is in this book, and its dated October. It  
4185 doesn't give a specific date. It just says October. It says, "Page 11, Resources International  
4186 noted in the closing comments of the same letter that, and they stated, 'The type of land use  
4187 associated with the proposed development is certainly compatible with the protection of the

4188 aquifer used by Camp Holly Springs. It is Resources opinion that proposed Sullivan property,  
4189 if developed in accordance with the 2010 Comprehensive Plan will allow use of the land  
4190 without putting the aquifer recharge area in undue jeopardy.”

4191  
4192 Mr. Deal - And the qualification, and I'll let Mr. Creech answer that. He's  
4193 the one who wrote those words. Anthony, why don't you come answer that?

4194  
4195 Mr. Zehler - While he's coming also, looking at your map, I'm looking on  
4196 Map 10 of the book, your area is a lot larger than the area that the geologist on the VG report.  
4197 And its only showing affecting a very small portion.

4198  
4199 Mr. Deal - It is, and, as a matter of fact, I have copies of the recharge areas,  
4200 as drawn by Resource International, several years ago. The drawing that is in the VGS Report  
4201 of the report of the outline of the aquifer is incorrect, and does not comport with the drawing  
4202 made by Resource International some years ago. Let me find that while Mr. Creech is  
4203 answering your other question. If you would, please. Anthony.

4204  
4205 Mr. Anthony Creech - I feel there's, possibly, several questions to answer. My name is  
4206 Anthony Creech. I am a geologist with Resource International. My company has been  
4207 working with Camp Holly Springs for about ten years. I've been working with it, for, I think,  
4208 five or six. I'm very familiar with their operation and their concerns.

4209  
4210 The language quoted here was, I believe, sort of a closing statement. I think the best way to  
4211 answer this question, I want to answer a question that Mrs. Dwyer asked earlier, which is, the  
4212 various people talking about protecting this area. Camp Holly Springs had that information  
4213 how to do that. And, I think that's possible. We're not the developer. Our company hasn't  
4214 been hired to develop this. Dave Dowdy is not interested in doing a developer's work for  
4215 them. So, the answers are possibly there, but its just we haven't been asked to specifically do  
4216 that. What we were asked to was, look at this development as proposed, give us our thoughts,  
4217 and then give Mr. Dowdy some information as to how to proceed. It wasn't just my firm. It  
4218 was also Joyce Engineering, working independently so that kind of "us versus them" sort of  
4219 mentality to give more than one incite.

4220  
4221 So, the letter that this is quoting was written, given to Mr. Dowdy. This is what think we  
4222 should be concerned about. Joyce did the same thing. Camp Holly Springs provided these to  
4223 the developer to say, "These are what our concerns are. These are the issues we'd like you to  
4224 address, so that we can all work together." So, I think it was presented in a spirit of  
4225 cooperation.

4226  
4227 Mr. Deal - And let me say this. That statement you just read said,  
4228 "...provided, its developed in accordance with the 2010 Plan..." And I've just brought it out,  
4229 20 different points in the 2010 Plan, where this developed as designed over the aquifer doesn't  
4230 meet that test. I've told you the story from Governor's Landing. Governor's Landing the lots  
4231 cost more than the house and the lots here together do. You'd think anybody that was going to  
4232 take care of a golf course, they would. If I pay \$300,000 for a lot, I wouldn't want a polluted  
4233 lake by me that you had to put battery in to get it neutral.

4234  
4235 Mr. Zehler - Mr. Deal, in this meeting, what I'm confused about is this book.  
4236 It appears that he questions, and I'm assuming the questions that you had asked, you, being the  
4237 engineers, as well as yourself...  
4238  
4239 Mr. Creech - The ones labeled, "R-1, R-2, etc.?"  
4240  
4241 Mr. Zehler - Yes.  
4242  
4243 Mr. Creech - Yes.  
4244  
4245 Mr. Zehler - And the responses are, Mr. Amason engineer, VGS to your  
4246 questions?  
4247  
4248 Mr. Creech - That's correct. Yes.  
4249  
4250 Mr. Zehler - Well, I mean, it appears the questions asked were good questions,  
4251 and the answers given were good answers.  
4252  
4253 Mr. Creech - I would respectfully disagree. And let me explain why. We're  
4254 talking about a resource that is extremely sensitive. More so than other...  
4255  
4256 Mr. Zehler - Did you dispute those answers at that time?  
4257  
4258 Mr. Creech - In the response letter, based on our review of this report, which I  
4259 think was dated December 8<sup>th</sup>.  
4260  
4261 Mr. Deal - A copy of which was delivered to you last evening in response.  
4262 Because I got their response yesterday, was when you got it. We only met with them on the  
4263 18<sup>th</sup>, and had all of the reams of paper to review. And these people went out; Resource and  
4264 Joyce employees went out in the field and tried, by hand argoring to verify VGS's report, and  
4265 could not do so.  
4266 Mr. Zehler - Why not?  
4267  
4268 Mr. Creech - The specific issue that Mr. Deal is referring to, this report  
4269 indicated that, along one of these geologic structures, one called, "Structure A," that the  
4270 marine clay would be within three feet of the surface. So, we said, "That's a very easy thing  
4271 to check. We'll go out and check." We tried with several hand arguers, a soil coring device,  
4272 several bore holes to see if they could go down three feet that we see this clay. What we were  
4273 hitting was gravel. I think the deepest one we went a little over four feet. But, consistently,  
4274 we were hitting gravel. So, basically, we were just not able to verify one of the points in this  
4275 report.  
4276  
4277 But, again, to answer the question regarding this clay here, Camp Holly Springs has never  
4278 asked me or my company to fight this development, to say, "We don't want it and we want  
4279 you to shoot it down anyway possible." He has asked me to say, "What do I think? What will

4280 work? What will not work?" And the original list of impressions, faced, with that in mind,  
4281 and really, that statement, I still stand by it. I have no problem with development in the area.  
4282 And by that, I mean the Varina area, and even, specifically within the aquifer recharge area,  
4283 providing it is in accordance with the intent of the 2010 Plan, which I have read many times.  
4284 To me it says, and I think it would say to anyone who reads it, that the quality of water and the  
4285 quantity of water that comes out of this spring cannot be changed.

4286  
4287 Mr. Zehler - So, nobody has really sit down and asked you if, as Ms. Dwyer  
4288 asked previously, if, in order to make this project work, you, as an engineer, what would you  
4289 recommend to do?

4290  
4291 Mr. Creech - No one has specifically asked me that. No.

4292  
4293 Mr. Zehler - Of course, you expect to get paid for that? Right?

4294  
4295 Mr. Creech - My boss does.

4296  
4297 Mr. Zehler - The discrepancy in the VSG's report and yours as far as the area  
4298 that's going to be affected?

4299  
4300 Mr. Creech - What it really boils down to is, as been stated several times this  
4301 evening. There is a lot of water coming out of this spring; 378 gallons a minute was what we  
4302 measured back in March. That was one day's measurement, but that was a definitive  
4303 measurement. That's a lot of water. There's a very simple rule that we live by. You cannot  
4304 take more out of the system than goes in. It's already been determined, very definitely, that  
4305 rainwater is the only source of recharge for this aquifer. There's no water coming from a  
4306 deeper source that's running from another type of geologic process.

4307  
4308 So, the only way to account for the water that comes out of the spring, is to have a recharge  
4309 area. In other words, where the rain recharges the aquifer that is sufficient to provide that  
4310 volume of water.

4311 And, looking at the conclusion rendered in this report, we do a very simple calculation. And,  
4312 independently of us, Joyce did a similar calculation, sort of the same one, but attacking it from  
4313 a different angle. And both, independently determined that we just cannot; that no one would  
4314 be able to justify the amount of water that's coming out of the springs, if this interpretation is  
4315 correct, as they have stated it. John Deal was very accurate earlier stating, "It's a good  
4316 starting point." Let's see what's going on. It is a starting point for discussion, but, as a final  
4317 conclusion, we could not accept it. It just did not meet the standard of defensibility.

4318  
4319 Mr. Zehler - So, in your opinion, basically, what you're saying is the reason  
4320 why you will not respond is, the best thing you can do to protect this aquifer and to be sure  
4321 that nothing will ever affect it, is just to leave it alone?

4322  
4323 Mr. Creech - That's the best...

4324

4325 Mr. Zehler - Not develop the property, not do anything with it, just leave it  
4326 alone?  
4327  
4328 Mr. Creech - The best thing? Yes.  
4329  
4330 Mr. Archer - Mr. Creech, I have one more question.  
4331  
4332 Mr. Creech - Sure.  
4333  
4334 Mr. Archer - You stated, in your opening remark, I can't quote you, but I can  
4335 paraphrase you, that possibly the answers are there, but it's not your job to help the developer  
4336 develop the answers. Was that literally what you meant...  
4337  
4338 Mr. Creech - Well, no. The burden of proof, as I understand Virginia Law, in  
4339 general, and certainly the 2010 Comprehensive Plan, I'm not an attorney. I'll state that right  
4340 away. But the burden of proof is on the person who wants to develop.  
4341  
4342 Mr. Archer - That's really what I wasn't trying to get at. I guess I'm trying to  
4343 get at, is there a solution to this problem that all of you all working together could come up  
4344 with?  
4345  
4346 Mr. Zehler - I've got the question. Is it possible that, you, along with VGS,  
4347 could sit down and say, "John, what do we need to do, in order to protect this aquifer and do  
4348 this planned community?" Do you think you could come together and come with an  
4349 agreement, whether it be your opinion, or his opinion whether what you've got to do to protect  
4350 this properly and make this subdivision work? Do you think its possible, or are you still going  
4351 to contend, leave it alone?  
4352  
4353 Mr. Creech - Leave it alone would definitely be my starting point, and then,  
4354 frankly, the way I would approach it is, frankly, is to go back to square one. We don't know  
4355 what we're going to do with this land. Let's do an evaluation of the land and see what's there  
4356 and then use that as the basis for how you would develop it. I don't know how productive it  
4357 would be to already having everything in place, and then say, "Okay, now let's figure out how  
4358 we're going to get it all, you know, to fit with the land." It's kind of like building the outside  
4359 of the car before you build the frame.  
4360  
4361 Mr. Zehler - But, in the same essence, you've got a property owner sitting  
4362 there that you're saying, It's a viable source. It's my income. Don't you touch it. You leave  
4363 it alone, but yet you own it. You're paying taxes on it."  
4364  
4365 Mr. Creech - I'm going to ask you to restate that. I'm not sure...  
4366  
4367 Mr. Zehler - I don't think I can.  
4368  
4369 Mr. Deal - There's also a property owner at the bottom of this hill, where  
4370 there's a lot of green area. He's selling too, his green area. Why is he selling green area?

4371 Because he's got to protect creeks, and streams that animals drink out of. What we're saying  
4372 is, in the 2010 Plan, if we run out of water, we're all in trouble. And these two springs,  
4373 Highland Springs used to have springs like this. They just did single family homes in  
4374 Highland Springs, but I wouldn't dare drink a drop out of anything in Highland Springs.  
4375 That's why the County is not pulling any water from the Highland Springs springs. But the  
4376 Governor's Office is calling and saying, "Hey, can you supply us water, because it isn't no  
4377 good anymore." What I'm saying is, why not accord the same dignity to the springs of green  
4378 area as you accord to the creeks and the wetlands in the lowland area? That's what the 2010  
4379 Plan contemplates.

4380  
4381 Mr. Zehler - John, what concerns me, is we have a situation, because I believe  
4382 we can still protect the area, and do what we want to do. My biggest concern is, this area  
4383 being zoned agricultural, any individual could go in there. He could clear that land. They  
4384 could raise pigs. They could raise hogs. They can raise cattle. There's not a thing you can  
4385 do about it. You're potentially more susceptible for damage in that area than you are in a  
4386 situation right now where you've got a bunch of individuals that want to make a good project.  
4387 They want to develop it. Even Mr. Dowdy has agreed to that. Where the engineers can't sit  
4388 down and say, "Here's my problem. Here's your problem. What do we need to do? If you  
4389 don't know, let's find out. Let's get the proper people in here and work this thing out."

4390  
4391 Mr. Deal - We've been waiting since September 12<sup>th</sup> to sit down. Nobody  
4392 on the other side has come back with an idea until last night at 4:45 to talk about it. We were  
4393 willing to sit down and talk with people. To answer your question about the agricultural and  
4394 about the inaccuracies in the VGS report, I'd like for Jim Smith to come up here or Jim  
4395 Richard. I want to get your name right. I just met him this afternoon.

4396  
4397 Mr. Jim Richard - I won't take but a minute. My name is Jim Richard. I am a  
4398 hydrogeologist. I've spent about 20 years of my 24 professionally working with bottled water  
4399 companies.

4400  
4401 Mr. Zehler - Who are you with?

4402  
4403 Mr. Richard - I am a private consultant. I'm in private practice.

4404  
4405 Mr. Zehler - You're not with Joyce and you're not with Resource?

4406  
4407 Mr. Richard - No. My function here has been to review the Joyce report;  
4408 review the Resource report, and also to review the original report by Virginia Geotech and to  
4409 function as a "clean set of eyes," I guess is the best way to describe it. Basically, to reach  
4410 these things, and see what makes sense, given my perspective on the industry and where it's  
4411 gone for the last number of years.

4412  
4413 And I have, basically, agreed that the original report done, in support of the project, the  
4414 Virginia Geotech Report, doesn't quite hit the mark. It's not there yet. There were some  
4415 interpretations that were made. This speaks to an earlier question as to what are the standards  
4416 for studies of this type. And, basically, the standards to draw the types of conclusions that this

4417 report attempts to draw, generally requires much more aggressive and extensive subsurface  
4418 work; more borings, actual installation of wells. Along with those borings were the borings  
4419 were drilled, perhaps some additional geophysics in addition to the ground penetrating radar.  
4420 It's just a more extensive study.

4421  
4422 There were some conclusions drawn in the original report that, probably best thing to say is  
4423 that they were premature. And, that we really are not sure if there is, in fact, what exists or  
4424 what does not exist from a geologic perspective.

4425  
4426 So, when I looked at the reports, and then I looked at the responses that came from Joyce and  
4427 from Resource, I realized that I was in agreement with basically what they were saying, and  
4428 some more work was obviously needed. Before we could even understand the aquifer, we  
4429 don't even know what this aquifer is doing on a detailed level. And until you know what the  
4430 aquifer is doing on a detailed level, how can you possibly hope to plan what you're going to do  
4431 on top of that aquifer? And that really is the fundamental point here. And that is, we just  
4432 don't know what it is.

4433  
4434 There were some assertions made, and some preliminary conclusions drawn, but there's really  
4435 no way to back them up.

4436  
4437 Mr. Zehler - We don't know, but can we find out?

4438  
4439 Mr. Richard - The work can be done to find out. The work can be done. We  
4440 can understand this aquifer, as thoroughly as anybody can, given the financial and economic  
4441 limitations to the people involved.

4442  
4443 But, certainly, the technology is there to understand this aquifer, which would then allow us,  
4444 and allow the developer and opportunity to design, to know what he was dealing with for a  
4445 system, and design something that would work.

4446 Mr. Zehler - What length of time are you speaking of in order to do something  
4447 that would be positive?

4448  
4449 Mr. Richard - Generally, you'd want to look at some sort of investigation  
4450 involving a temporal collection of data. So, we would start in the fall. It really should cover a  
4451 couple of seasons into the winter. Perhaps, even in the high water of the spring to understand  
4452 how the dynamics of the aquifer change with the seasons, because they can change  
4453 significantly, in terms of direction of ground water flow. The primary recharge area may have  
4454 a different configuration in the spring than it does in the fall. We don't know that. We don't  
4455 know that for this aquifer.

4456  
4457 Armed with that information, armed with real numbers for recharge rates, how fast does it  
4458 recharge? Armed with real numbers or real vectors for flow direction, where does the ground  
4459 water really flow? Then the developer can develop some meaningful interpretations and  
4460 proposals that fit with that aquifer, as we understand it from a technical point of view.

4461

4462 Mr. Zehler - So, you're speaking of a long length of time. You're not  
4463 speaking of days?

4464  
4465 Mr. Richard - Exactly. And, typically, this kind of investigation is, typically,  
4466 done early on in the conception of a project like this. My sense of this report was that it was  
4467 done in response to questions that arose late in the development of the overall master plan.  
4468 And, really, it should occur very early on in the process, and actually help to guide the  
4469 development plan itself.

4470  
4471 I would like to speak; there was a question that was raised just before I came up with regard to  
4472 agriculture. And you were asking what we could do here, what we can't do. One, for sure, is  
4473 that you continue doing what's being done, because it's always been done. It was there when  
4474 the current land uses were there when they started using the spring as a source. And, up until  
4475 now, remember now, Mr. Dowdy spends a lot of money every year in water quality testing.  
4476 And the water quality tests show little or no impact. No impact, as a matter of fact, from the  
4477 current land use activities. So, that's one thing we do know. You can proceed with what's  
4478 going on now.

4479  
4480 The other thing you had mentioned; pig farms and so forth. One thing I would point out is that  
4481 fertilizers are probably not as much a problem as pesticides and herbicides could possibly be,  
4482 because they're talking chemical compounds that don't readily break down, even though they  
4483 call them "biodegradable." There are certain elements that are needed in order for  
4484 biodegradable products to biodegrade. One of them is oxygen, and the other one of them is  
4485 bacteria. And, when you get into an aquifer system, you tend to lose a fair amount of both of  
4486 those entities. Biodegradation does not happen, as one might expect at the surface of the earth.

4487  
4488 And, whereas, with agricultural animal wastes, for instance, what we're dealing with there,  
4489 primarily, is the nitrogen impact of those wastes; nitrogen being a highly soluble component of  
4490 most of those wastes. It does flush through the system. While its not something that you want  
4491 to have in your water, if you were to take that pig farm away, or take that feed lot away, with  
4492 time, the aquifer would dilute the nitrogen or the nitrates that occur in the water in the aquifer  
4493 would dilute and would be removed. And the aquifer would return to its state that it was in  
4494 prior to that land use. However, when you start adding chemicals that don't readily break  
4495 down in an aquifer environment, those things have a tendency to attach themselves to the soil  
4496 as part of the soil particles and they remain for a long time. Correcting a contaminated  
4497 aquifer; cleaning a contaminated aquifer is probably one of the biggest engineering challenges  
4498 that we face in the hydrologic sector. It's a tough one. It's a tough one.

4499  
4500 Mr. Archer - Mr. Richard, you stated a few minutes ago that it would take a  
4501 certain period of time to study this aquifer, to kind to see what kind of life it has. I thought  
4502 earlier I had heard that somebody had been with Mr. Dowdy's firm over 10 years. During that  
4503 period of time, has any study been done, so that type of animal this aquifer is, is identified?

4504  
4505 Mr. Richard - I really should let Anthony speak to this, but there has been some  
4506 work done on the aquifer, but not to the detailed extent that it would have to be done to  
4507 understand the impact of this specific project. Remember, that this project represents a portion

4508 of the recharge area. What Dave understands, and what Resource International understands, at  
4509 this point, is pretty much the overall recharge area.

4510  
4511 But, remember, that investigations of this sort are expensive. And, fundamentally, they  
4512 usually don't happen until there is a pressing reason for them to happen. And, this being, a  
4513 pressing reason.

4514  
4515 Mr. Archer - Are there any further questions for Mr. Richard?

4516  
4517 Mr. Richard - Thank you.

4518  
4519 Mr. Zehler - Mr. Chairman, as we continue on, I know its getting late, but  
4520 time is really no factor. I just, based on what we received tonight, with Mark's package, with  
4521 the staff's questions, based on the geological, I just don't feel like right now, this is ready to be  
4522 heard. We can continue on, if you'd like, but I'd like to defer this case for at least 30 days.

4523  
4524 Hopefully, the engineers can get together and maybe come up with some type of resolution or,  
4525 in the meantime, get with staff. I haven't reviewed the comments that Mr. Theobald made to  
4526 staff's questions. There's so many issues that I believe this case needs more time. If you want  
4527 to continue on, we can continue on and listen to everybody's concerns.

4528  
4529 Mr. Donati - Mr. Zehler, it might be some other issues, other than this water  
4530 that they might need to address also. So, it might be good to hear from some of the other folks  
4531 as briefly as we can.

4532  
4533 Mr. Zehler - That would be fine.

4534  
4535 Mrs. Wade - They've been waiting a long time.  
4536 Mr. Zehler - I can tell you, if you want to go, you can go, because this case is  
4537 going to be deferred.

4538  
4539 Mr. Archer - While you're coming up, I'll make an observation. I was just  
4540 thinking the same thing that Mr. Donati just said. You asked some very pointed questions.

4541  
4542 Mr. Donati - And there are others to be asked.

4543  
4544 Mr. Archer - We have gone away from all of that. We're just talking about the  
4545 water. I agree. That does need to be heard. It does need to be made a part of the equation.  
4546 But, also, from what Mr. Zehler said, there are a lot of people who came here tonight to speak  
4547 to this issue on one side or the other. We're here this late, we may as well stay a little bit  
4548 longer. We'll break in a few minutes, but we'll hear some more.

4549  
4550 Mr. Richard Harifield - Mr. Chairman, Commissioners, my name is Richard Hairifield.  
4551 I'm an attorney. I represent that lady in the brown suit over there. Her name is Mamie  
4552 Noble. Mamie Noble and her family own just about the entire section on that map that's not  
4553 highlighted. She owns most of what's underneath of that aquifer. And I will tell you that she

4554 takes insult with Mr. Dowdy saying it is his aquifer, because I think she owns probably more  
4555 of it than he does under her land.

4556  
4557 Her grandfather owned Camp Holly Springs. He was a minister in this County, and he bought  
4558 the property in 1917. And her father ran the spring up until about 20 years ago until he sold to  
4559 the Dowdy family. She still lives there. I will tell you, she has an interest in this because she  
4560 has agreed to sell a portion of her family's property to Mr. Amason. So, I will tell you that  
4561 right up front. She's in favor of the development, because it's going to put some money in her  
4562 pocket. She's in her seventies. She's now a widow, unfortunately. Her husband passed away  
4563 a few years ago and she'd like to move elsewhere in the County closer to her family. But she  
4564 is in favor.

4565  
4566 I will tell you that her family right now farms over 30 acres. Wheat was grown on the  
4567 property this past year. They fertilizer it every year. They've fertilized every year for the last  
4568 50 years.

4569  
4570 Mr. Zehler - Do you use pesticides?

4571  
4572 Mr. Harifield - I can't answer that. But I can tell you, for some reason, this  
4573 fertilizer is not getting down in that aquifer. And I will also tell you, I'm not a geotech  
4574 engineer, but, obviously, from what we have heard, there's an awful lot of water coming out  
4575 of that spring. I don't know about you folks, but other than one night last week, beyond that, I  
4576 can't remember the last time it rained in my yard. So, there's a lot of water still coming from  
4577 somewhere. It's certainly not coming from ground water. It's not coming from ground water  
4578 out of the fields that they farm. It probably would be fertilizer and other things in it.

4579  
4580 I would suggest to you; we've heard about battery acid in Williamsburg and all this kind of  
4581 thing. That's exciting. It sounds real nice, but I would encourage you folks to look at the  
4582 reports. There's got to be a way to manage this situation. There's got to be a way to manage  
4583 it and go forward.

4584  
4585 I've heard from these folks risks. Sure. There's risks in everything we do in life. But just  
4586 because there's some risk that, perhaps, this aquifer might be contaminated at some point in  
4587 the future, why should my client not be able to do anything with her 60 acres for the next  
4588 however long she lives? There's a way to manage it, and I would encourage you to listen to  
4589 the experts and find out how to deal with it.

4590  
4591 My client would like to see, for lots of reasons, as I said, part of personal. She'd like to see  
4592 this development go through. She's lived down in that part of the County a long time. So,  
4593 we're in favor of it. Thank you.

4594  
4595 Mr. Zehler - Thank you, sir.

4596  
4597 Mr. Archer - Thank you, Mr. Hartifield.

4598  
4599 Lady from Audience - May I speak?

4600  
4601 Mr. Archer - Yes ma'am. Come on up.  
4602  
4603 Lady speaking from Audience - (Comments unintelligible—not at microphone.)  
4604 Mr. Archer - Actually, ma'am, we have used up all the time on both sides.  
4605  
4606 Lady speaking from Audience - (Comments unintelligible—not at microphone.)  
4607  
4608 Mr. Archer - Ma'am, we'll hear you next, if that's okay. Is that all right?  
4609  
4610 Lady speaking from Audience - (Comments unintelligible—not at microphone.)  
4611  
4612 Mr. Archer - I understand that, ma'am. We sympathize with you having to sit  
4613 there. And I hope you sympathize with us having to sit here, too, but we'll hear from you  
4614 next, if that's okay. Go ahead ma'am, since you're...  
4615  
4616 Ms. Cindy Marshall - I live at 4883 Longbridge Road. I do share the environmental  
4617 concerns that have already been expressed here. And I think they were well covered and I do  
4618 think we would be very wise to take the time to look fully into those before this development  
4619 would proceed. But in the case that it does proceed, let me tell you, that Longbridge Road is a  
4620 very narrow road. Mr. Donati certainly knows that. It has become a thoroughfare for  
4621 everything, especially, since Route 295 went in.  
4622  
4623 All the time we have traffic on Longbridge Road going to the Motorola Plant. We have traffic  
4624 going to New Kent. We have lots of dump trucks. Whatever construction is going on in the  
4625 area, it hits Longbridge Road, because those dump trucks go through there every day steadily.  
4626 We have 18-wheelers that come through Longbridge Road so they do not have to go through  
4627 weight stations. Longbridge Road has become a thoroughfare for everything. And let me tell  
4628 you, it is not very safe at this point. And it will be a whole lot less safe, particularly, if the  
4629 development targets people who are working at the Motorola plant. They are not going to go  
4630 out onto Route 5 and go two miles to get to the I-295 interchange and get on I-295 and then get  
4631 off I-64 and then whatever they have to do. They're going to come down Longbridge Road  
4632 just like everybody else does. Longbridge Road is narrow. In front of my house, it's probably  
4633 not 18-feet wide. That's my major concern is the traffic. Because I don't think the County  
4634 wants to go to the expense to widen Longbridge Road. I doubt right now, and I have not done  
4635 a count, but I doubt there are more than 50 houses on Longbridge Road. And, certainly, the  
4636 County has not had any reason, up to this point, to come through and widen it.  
4637  
4638 However, I can assure you, if this development goes in, they're going to need to widen it. I  
4639 don't know what aquifer I share a water supply with. I only know that we had to drill a well  
4640 and we had to go 268 feet deep to hit water. I don't want to share that water with everybody  
4641 else you know. I don't mind sharing it with the normal concentration of people that would  
4642 build on - You know, we've traditionally had two acres and above down there. There are just  
4643 a whole lot of concerns that I have. And the largest one is the traffic because it does present a  
4644 terrible safety issue. And so, I would like to see these concerns taken into consideration. It's  
4645 great to widen Route 5, you know down to I-295, but everybody that leaves that development,

4646 to get onto Route 5 and go to I-295, and never go anywhere else. They're going to be all over  
4647 Longbridge Road. It has been a rural country lane type road for a very, very long time. We  
4648 already have had to take all sorts of insults in the east end for years, and years, and years  
4649 because we're not densely populated.

4650  
4651 Across our family property, we have the Colonial pipeline. We have power lines that were put  
4652 across so that people in Chesterfield would have better electric service. We've had to endure  
4653 having the septic, whatever you call it, the sewage treatment plant down on Kingsland Road.  
4654 Of course, the marina on Kingsland, you know, when it expanded. We have all the traffic  
4655 from the marina. So, anyway, it's a whole array of concerns. I realize that development has  
4656 to happen. And I do want upscale development when it occurs, but I do want all those issues  
4657 addressed before we say, "Oh yeah, let's jump in and do it," because it could, forever, change  
4658 the character of Varina. Thank you.

4659  
4660 Mr. Archer - Thank you, ma'am.

4661  
4662 Mr. Tim Donley - Gentleman speaking from Audience - (Comments unintelligible—  
4663 not at microphone). Mr. Chairman, members of the Commission, my name is Tim Donley. I  
4664 live not too far from the development. I also own a 40-acre tree farm in the area. I do want to  
4665 address a couple of issues which I don't think anyone has mentioned tonight, and possibly even  
4666 present a potential solution to some of the problems surrounding this development that have  
4667 just been discussed.

4668  
4669 Just a few weeks ago, I talked with the gentleman. He was in his upper sixties. He says, I'm  
4670 getting ready to retire soon. I've lived in the City of Richmond all my life. He says, I want,  
4671 when I retire, to take my retirement pension and go out to the County; not just to the County  
4672 but to the country. I want to have about 10 acres out there with the house in the middle of it  
4673 where I can go outside and enjoy my 10 acres, my "Little piece of God's country" and have a  
4674 garden out there. I can raise animals if I chose to. I can enjoy the woods and see the stars  
4675 come out at night without the light pollution of the City. That's what I want to do when I  
4676 retire. That's what this fellow said. There might be a potential development in Varina - a 10  
4677 acre lot. I said, "Well, that sounds like a nice thing to do when you retire. Why don't you  
4678 come out in eastern Varina. That's a community that's based in a rural tradition; a community  
4679 which values land, which enjoys living with the land on large tracts of land. You're the kind  
4680 of person that would fit right in, in that sort of community. That's a sort of development, if it  
4681 occurs, would be acceptable to most people in eastern Varina, I would think.

4682  
4683 We, as a community, do have a fundamental right to determine our own future. It's our  
4684 community. That's where we live. Eastern Varina is not undeveloped land. It is not vacant  
4685 land. That is our home. That's where we live. That is not vacant land. We have a  
4686 fundamental right to determine our own future. But don't I, as a property owner, have certain  
4687 rights, too? It's my land. I can do whatever I want to with it. Is that really true?

4688  
4689 If I buy a tract of land out in Wyndham, can I put a chicken coop in the front yard? I cannot  
4690 put a tree farm out there and have a fellow come out there every 30 or 40 years so and cut a

4691 few trees to let my Boy Scout troop camp out in the front yard sometimes. I don't think the  
4692 folks in Wyndham would mind that too much.

4693  
4694 No. There are certain restrictions a community places upon its residents. The residents of that  
4695 community place the restrictions upon themselves because they feel that those activities or  
4696 those developments are not consistent with the character and the values of the community in  
4697 general.

4698  
4699 What about my 40 acres? Can I put a house in the middle of my 40 acres for my family?  
4700 Maybe my neighbors wouldn't mind that too much. What about six or ten houses? Some of  
4701 them may object? What about a 40-acre hog farm or paper mill, or perhaps, a bar, outdoor  
4702 rock concerts every Friday night. All the free beer you can drink, \$5 at the gate. Some  
4703 neighbors might like that. Most of them probably would not.

4704  
4705 What if I wanted to put in lots of houses and apartments and the County could put a golf course  
4706 in the middle of this rural community, right next to Virginia's leading producers of bottled  
4707 water. Is that a good idea? I really don't think so. It threatens to destroy the fundamental  
4708 character of our community. It is not consistent with the Land Use Plan, which was brought  
4709 together, not just by the professional planning staff of the County of Henrico, it's also with  
4710 some input from the citizens who live out there.

4711  
4712 The Land Use Plan, if I'm not mistaken, calls for that area to be Prime Agricultural use and  
4713 Environmental Protection Area. The Land Use Plan, though it does not necessarily reflect  
4714 verbatim the exact will of the people, it does encompass the basic fundamentals of our vision  
4715 for our future for our community.

4716  
4717 When you look at the plan, you might be confused, because it doesn't say a lot about  
4718 development. That's correct. We don't want a lot of development out there. We already have  
4719 a community. We are a community of farms, of tree farms, of soybean and corn farms.  
4720 Maybe even bottled water farms.

4721  
4722 We are people who have a financial stake in the land remaining wide open and rural in the  
4723 terminology of the zoning laws, undeveloped.

4724  
4725 Beyond that, there are folks out there who do not have a direct financial stake. They just like  
4726 to live in the country. Like living down the road from a farm. They'd like to raise some  
4727 chickens or raise a tree farm. They may just be able to raise their children in a rural area.

4728  
4729 As Mr. Zehler, and my parents, were fortunate enough to do. That's a very nice thing to be  
4730 able to raise your kids in area. We can let them walk out in the woods at night and not be  
4731 afraid and be able to wander around their place. Camping, without having to go up into the  
4732 mountains.

4733  
4734 As far as access to shopping areas, we have plenty. We are 20 minutes from the Capitol of  
4735 this Commonwealth of Virginia. We are 30 minutes from Carytown. Forty-five from  
4736 Regency Square. We are only 5 minutes from the airport shopping area. We have plenty of

4737 shopping. We have some good convenience stores immediately in our area; Carlton's Store in  
4738 Varina. There's plenty of places to shop. We don't need more.

4739  
4740 And, as far as development and planned communities are concerned, we do have a planned  
4741 community. Development is not inevitable. Development may occur if the community  
4742 chooses for it to occur. And, if they do choose for it to occur, it should be consistent with the  
4743 goals and the visions of the people who live in that community, and who plan to stay in that  
4744 community for the rest of their lives.

4745  
4746 We, as property owners, have a right to determine the future of our community. We do have  
4747 planned communities. They're not called Sotherlyn. They're called, "Elko." They're called  
4748 "Glendale." They're called, "Camp Holly Springs." "Malvern Hill, Gravel Hill, Varina."  
4749 These are communities and they are planned as the Land Use Plan of the County of Henrico  
4750 which, we, the citizens have had some input into and which does represent, in some basic  
4751 ways, our visions for our community.

4752  
4753 This development does threaten to fundamentally alter the character of our community in ways  
4754 which are not acceptable to myself and many of my neighbors that I've discussed this with in  
4755 the area. I respectfully ask you to deny these zoning requests. Thanks very much. If you  
4756 have any questions for me, I should be pleased to answer them.

4757  
4758 Mr. Archer - Thank you, sir. May I ask before anyone else comes up to  
4759 speak, how many people are here to speak for? How about against? I say that, because Mr.  
4760 Zehler has indicated that we're not going to make a decision on this tonight. And there are  
4761 other cases still to be heard. There are two more cases that need to be heard tonight. These  
4762 folks have been sitting here all night. So, I don't know there's very much can be added to  
4763 what has already been said.

4764  
4765 We've heard a lot of sound and fury and there's a been a lot of passion. And we understand  
4766 that, on both sides. Let's hear one more speaker from each side, and then I'm afraid we'll  
4767 have to wrap this up, since the case is going to be deferred, Mr. Zehler. Are you for or  
4768 against? You're for and you're against?

4769  
4770 Mr. Theobald - How about one for, one against and a little rebuttal? Well, I  
4771 think its only fair to let our geotechnical expert debate the five experts who've been working  
4772 out there for 10 years, don't you? If you all want to get the full picture when we leave even if  
4773 we defer it, I think there is a few things that need to be answered. I'm very sorry about the  
4774 hour of the night. I'd like to go home, too.

4775 Mr. Archer - I understand, sir. If you do have your geotechnical expert here,  
4776 I really would like to hear what he has to say. How about five minutes?

4777  
4778 Mr. Theobald - That would be fine. I'm sure.

4779  
4780 Mr. Archer - Let's hear, you, ma'am, and then you, sir. and then we'll hear  
4781 from the geotechnical expert. I'm sorry, sir, you look disappointed. What...

4782

4783 Man from Audience - Yes. I am. I've been here since 8:15.  
4784  
4785 Mr. Archer - We've been here since 7:00 p.m.  
4786  
4787 Man from Audience - (Comments unintelligible—Not at microphone).  
4788  
4789 Mr. Archer - Do you have anything that's different from what's already been  
4790 said in opposition?  
4791  
4792 Ms. Dwyer - Perhaps, we could just limit each speaker to a couple of minutes?  
4793  
4794 Mr. Donati - We only have two more to speak.  
4795  
4796 Mr. Archer - That will be fine.  
4797  
4798 Mr. George Taylor - I live right in the horseshoe of this entire subdivision. If you  
4799 follow this around (referring to slide), my house is located at that little pink dot right there  
4800 (referring to slide). I would like to invite each and every one of you, and Mr. Foster, to come  
4801 to my driveway and pull out with 1,700 cars pulling down that road between 5:00 and 6:00  
4802 o'clock. I risk my life every day to pull out there.  
4803 My son goes to Varina Elementary, five minutes away from my house. It takes him an hour  
4804 and two minutes to get home before he gets dropped off on the right side of that road. That's  
4805 because it's a rural area. Buses do take longer to get around. But, because it is unsafe to  
4806 cross the road, it takes an hour and 10 minutes for him to come five minutes home.  
4807  
4808 The schools are near capacity on every one. You're talking about 800 new students at this one  
4809 subdivision, not counting the other growth that's already going on in the County. Very little  
4810 has been said about that.  
4811  
4812 He says, he'll reserve the land. It's not designated for a school, but it's reserved. Nothing  
4813 saying what the limits would be on that land. I think there's a lot of issue there that the  
4814 County would have to absorb to build a new elementary school; new middle school; new high  
4815 school. There's no way the schools can handle this amount of kids and the traffic itself.  
4816  
4817 Route 5 is dangerous as it is. I pull out there everyday. Sit there and wait for the bus. We  
4818 see cars pass the buses. Two-lane highway with 14,000 trips a day is what the County figures  
4819 will come in and out of there, not counting from the business part of it. That's just from the  
4820 residential part. I think a lot of things need to be observed on that. That's it.  
4821  
4822 Mr. Archer - Thank you, sir.  
4823  
4824 Ms. Anne Morrow Donnelley - I believe each one of you has received a letter from the Varina  
4825 Environmental Protection Group, stating our concerns. We are vigorously opposed to this  
4826 proposed subdivision and the entire plan.  
4827

4828 I think that we need to have a quick perspective on it. And that is, that, as has been pointed  
4829 out, the community, itself has certain goals that what it wants to be is a rural community. As  
4830 they said, it would change forever the way things are, because it's not just this project. There  
4831 are many blocks of land around there on Longbridge Road and on Darbytown Road and so on.  
4832 People have recently died, who are tired, or whatever. You're looking at 900 acres, a 100  
4833 acres here and there; two hundred acres in another place.

4834  
4835 If you were to approve this, then, suddenly, those would go also, and suddenly, we would be  
4836 Midlothian or whatever. We would no longer be a rural community, which is where many of  
4837 us grew up and we wanted to retire there and the right to expect the integrity of the rural  
4838 community to continue.

4839  
4840 I think the thing is also that, when Mr. Amason came around and had some of his meetings,  
4841 many of us didn't even know they were going on and then we heard about it and we managed  
4842 to get there and heard the same "Pony and Dog" show that you heard tonight.

4843  
4844 The thing is that, finally, he did come out and say that his whole point in doing this, naturally,  
4845 is a businessman was to make money. And when pressed, he finally said, he would not do this  
4846 project at all unless he could have the apartments.

4847  
4848 There are not really apartment complexes down in this area. I also live very close to this area,  
4849 and have some property that borders onto Longbridge Road. Now, if you suddenly put in 300  
4850 some apartments, plus as many townhouses and so on, that presents many problems.

4851  
4852 That's one of the things that many of the people down there are very concerned about. That  
4853 brings up the other things that have already been mentioned with the schools and the traffic,  
4854 and so on.

4855  
4856 Light pollution; the environmental problems. The letter that we sent you listed several  
4857 concerns which concluded the aquifers and the other environmental problems that we have.  
4858 There has been no environmental impact statement made. There has also been no financial  
4859 impact statement made. And I think they really need to do that.

4860  
4861 Mr. Donati was at a meeting that a New Kent Supervisor had, where some people from  
4862 Virginia Beach came and presented information. I will try to wind it up, and he can, perhaps,  
4863 share this with you. I think you need to have a planning session before the next meeting on  
4864 this project where you look at this. Virginia Beach found it was cheaper for them, as a  
4865 locality, to buy, at fair market value, the land to keep it from being developed than it was to  
4866 pay for it to have it developed for all the costs that are there. So, those are the major things.

4867  
4868 And, I must say, I take offense at Mr. Amason's attorney saying how they wanted to move out  
4869 into this area so that they could make them one of the best. We feel that what we have now is  
4870 the best. We feel this would make it worse and increase crime, etc. Thank you.

4871  
4872 Mr. Archer - Okay. We had someone to speak from the proponent's side, and  
4873 then, Mr. Theobald, you have five minutes for your expert.

4874  
4875 Mr. Henry Nelson, 3600 New Market Road - This is just east of this project. Or to the west  
4876 of it rather. I've been here so long, I'm not sure of orientation. Nevertheless, there are  
4877 several issues about this project. Water seems to be the one that rises to the surface. But,  
4878 also, the density, and also the proffers.

4879  
4880 Varina is going to grow no matter whether it's this community or the next. The question is,  
4881 "How is it going to grow?" And, each time we look at community growth, we try to look at it  
4882 in a way in which we can do it to present the best positive profile.

4883  
4884 Proffers, in my opinion, are the best positive profile that we can ask for. They come about as  
4885 a voluntary action on the part of the developer. This developer has been very amenable to put  
4886 as many proffers into this subdivision as any I've seen.

4887  
4888 True, there's always the uncertainty of what something new will present. But, there's also the  
4889 challenge of what it could do on the positive side. I think they far outweigh the negative.

4890  
4891 One of the things that every community needs, and if it is to grow, and if it is to maintain  
4892 itself, is it needs diversity. Varina, for a long time, has needed some place to grow into, as far  
4893 as income of houses. This project presents housing that will be up to \$485,000 per unit with  
4894 the single-family dwellings.

4895  
4896 There are very few projects currently, in Varina, that afford that option. I think that's an  
4897 important thing to look at. We're looking at people in a community. Obviously, people who  
4898 are here, and all of us are somewhat like this, myself included. We like to draw the line and  
4899 say, "We're here. Now, we challenge you to get in." Well, we can't do that.

4900  
4901 We have to look at a way in which we can afford the opportunity for our children to be able to  
4902 grow up in this community. A place where they're going to live and so on. I think this  
4903 community affords that option. It talks about the elderly. It talks about elderly care. It talks  
4904 about assisted living. It talks about their amenities. There are amenities here that you cannot  
4905 get from just an ordinary agricultural subdivision-type thing. Ones which cost a lot of money  
4906 and to be able to afford to put them in, you have to have the density. But there is a good trade  
4907 off. We're saving over 40 percent of the land as open space.

4908  
4909 Now, true, there's some debate about whether it should be a golf course or it should be this or  
4910 it should be that. But, nonetheless, I think, if you're going to ask them to save open space,  
4911 there has to be some appreciable return for the investment made.

4912  
4913 I think it's a quality idea. I think it's a challenging idea. I think the positive aspects of it far  
4914 outweigh the negative.

4915  
4916 (Gap in tape)...aquifer and call it a "no build zone," and buy it and protect it, as much as we'd  
4917 all like that spring to continue. I think that any business has its risks, and this certainly has a  
4918 risk involved with it. Whether or not that can be worked out, I don't know. I'm not an expert  
4919 and I don't intend to be one in the area of hydrology. I did study this site at one time and I do

4920 know it cannot be developed in any way shape or form unless it has water and sewer to it,  
4921 because I did explore it to purchase it one time myself and declined to do so because only 25  
4922 percent of it perks.

4923  
4924 So, if anybody develops it in any shape or form, its going to have to have water and sewer.  
4925 With that, you're going to have to have some density. I think 2.1 units per acre, overall, is a  
4926 small price to pay for the quality we're getting. I hope you consider it favorably. Thank you.

4927  
4928 Mr. Archer - Thank you, Mr. Nelson. Mr. Theobald, as we agreed, we've  
4929 heard from the geotechnical experts, I guess you could say from the other side. So we'll give  
4930 you time to have your expert - You can use 5 minutes, please, to have your expert...

4931  
4932 Mr. Theobald - He may need slightly more than that, Mr. Archer. I appreciate  
4933 the amount. I've had 20 minutes, and the opposition has now had an hour and a half. I will be  
4934 very brief, and I'd like my geotechnical experts to rebut just a few of the statements.

4935  
4936 Mr. Archer - We'll do our best.

4937  
4938 Mr. Theobald - I'm sorry to put you through this, but I think fair is fair.

4939  
4940 No matter what's been said previously this evening, or yet to come, nobody wants to hurt  
4941 Camp holly Springs, okay. But they've drawn a line around 75 acres of our property, at the  
4942 tail end of their recharge area.

4943  
4944 The 2010 Plan doesn't condemn Mr. Amason's property. That's not what the 2010 Plan does.  
4945 It talks about protecting the aquifer to the extent reasonably practical. Doesn't it strike you  
4946 just a little bit odd that someone who is so concerned about the business for as long as they've  
4947 run the business, with as many engineers as they have sitting here, that they've never, in this  
4948 process, would have asked those experts, "What can we ask them to do to protect my spring?"  
4949 That's what I've been asking. That's what Mr. Amason's been asking. That's what VGs has  
4950 been asking. But, no, they weren't asked to do that. I guess they were asked to poke holes in  
4951 our report.

4952  
4953 Well, the reason Mr. Deal only got proffers last night at 5:45 was because there hasn't been  
4954 one suggestion from Mr. Dowdy's side of the table as to what we might do to protect what he  
4955 called "his aquifer." So, we came up with some proffers, that were now totally meaningless.  
4956 But we've never been given one constructive, positive suggestion as to what we can do. I  
4957 don't think its enough to stand here and say, "Well, I'm not the developer. So, you do it." I  
4958 don't think that's right. There is no multi-family housing, by the way, within this line.  
4959 You're going to hear more about the line in a minute. In fact, the engineers did sit down to  
4960 talk about the scope of the investigation and study. They confirmed what we were going to do.  
4961 They wouldn't let us drill on their side of the line. We told them how we were going to study.  
4962 We asked them their input as to how the study was going to be made. We answered the  
4963 questions in our study. We sat back down with them to go through the study. And, so, all  
4964 you've heard about total silence, in this regard, is not quite accurate.

4965

4966 I'd like to ask Jerry Sanford to rebut some specific questions that have been posed. He is our  
4967 geotechnical scientist with Virginia Technical Services, and we'll try not to take too much  
4968 time. I do appreciate it.

4969  
4970 Mr. Jerry Sanford - Well, good morning, Mr. Chairman, and members of the  
4971 Planning Commission. I thought it was still yesterday until a little while ago until I woke up.  
4972 My name is Jerry Sanford, Vice-President and Principle of Virginia Geotechnical Services. I  
4973 was responsible in charge of work that we did in trying to investigate the Sotherlyn  
4974 Development and the aquifer conditions there.

4975  
4976 What I'd like to do, real quickly, not to take up any more time in rehashing everything that's  
4977 already been said, simply run through pretty quickly the chronology of events that we went  
4978 through, and some of the processes and thoughts that we went through in developing our study  
4979 and coming up with the conclusions we did.

4980  
4981 We were retained in September to take a look at the questions that Resource International and  
4982 Joyce Engineering had raised about the developments. And during our research, looking into  
4983 the questions, we requested copies of the studies and evaluations of the aquifer and the spring  
4984 that had been done in the past.

4985  
4986 We got a couple of packages of information that had absolutely no invasive information about  
4987 the aquifer; no description of the aquifer materials. We had a copy of the 2010 Plan which  
4988 defined the recharge area of the aquifer as the 80 foot topographic contour with no rationale or  
4989 background as to how that number came up.

4990  
4991 If you look carefully at that line, and maybe we'll go back to it later if we have time, you'll see  
4992 that some parts of the recharge area that have been outlined at that 80-foot contour line were  
4993 very definitely not part of the recharge area. So, that's a fairly empheriferal boundary. Is  
4994 there any way to get the color a little bit better on that (referring to slide)? How do you get rid  
4995 of the pink dots (referring to slide)? I love technology. We came back with a plan to study the  
4996 aquifer and get an idea of what was going on in the aquifer. And we used a combination of  
4997 two different techniques. One was hollow stem arguer drilling where we actually take a drill  
4998 rig and bore holes into the aquifer down into see where—the general geology out there is you  
4999 have sand and gravel and clay. The water perches on top of the clay and comes up from the  
5000 spring. Very simplified.

5001  
5002 We wanted to know where the clay was because that's going to govern a lot of the flow  
5003 conditions in the aquifer, itself. So, we drilled holes in it to find out how deep it was to that  
5004 clay unit. And on this map, you can see where four of the holes are. You can see them  
5005 labeled on the drawing at "B-1, B-2, B-3 and B-4." Those are borings that are all on the  
5006 Sotherlyn development. We were not allowed to drill any borings on Mr. Dowdy's property.  
5007 So, partially because of that, and partially because we wanted some additional information that  
5008 would be more contiguous, we also used a technique called, "ground penetrating radar" where  
5009 you, basically, drag a radar machine across the ground surface and its sending radar waves  
5010 down into the ground. When they hit something that they reflect off of and it comes back up,  
5011 a computerized machine can calibrate how deep it is to that refractive layer. Things like sand

5012 and gravel have almost no influence on radar waves. Things like clay and silt strongly reflect  
5013 radar waves. So, in this kind of a condition, its very good technique to use to try to find how  
5014 deep it is to some sort of clay layer. The technique does have a limitation in depth. It can't  
5015 see forever.

5016  
5017 Our on this site, we had subcontracted with North American Exploration Company out of the  
5018 Charlottesville area, who are experts in using this technique, to evaluate all sorts of sites.  
5019 They came out about a week before we wanted them to actually do the study to try the machine  
5020 on the site and see if it would work. It did. They got some good information. They came  
5021 back a week later and we ran 6,000 feet; over a mile of ground penetrating radar lines across  
5022 the site. And you can see them labeled on the drawing as BG-1, BG1A, BG2, etc. Those are  
5023 simply broken down segments that they numbered out in the field so they could keep track of  
5024 them.

5025  
5026 What this technique does, is it gives a continuous profile of how deep it is to the clay. In some  
5027 of the area, we found that the clay area was too deep for the radar to reach, so we have some  
5028 blank spots. In some of the other areas, we found some extremely abrupt changes in elevation  
5029 of the clay, where it would be at one point, maybe 20 feet below ground surface and then ten  
5030 or fifteen feet away, it would have jumped up to 10 feet below the ground surface.

5031  
5032 This kind of an abrupt transition is something that we didn't expect at all. We had to start  
5033 looking for reasons why this was going on. Also in the borings, you see Boring B-2 is almost  
5034 due north of Camp Holly Spring. Boring B-2 had about 9 feet of ground water in it when we  
5035 drilled it. That's to be expected. There's a lot of water coming out of the spring. We  
5036 suspected a water recharge was coming generally in the north or northwestern kind of  
5037 direction.

5038  
5039 Boring B-1, which is right at the corner of Mr. Dowdy's property and Mrs. Noble's property,  
5040 was dry. Boring B-1 there is within the area they call the recharge area for the spring, and it  
5041 was a dry boring.

5042  
5043 Boring B-3, on the opposite side of the property, was also a dry boring. That's also within the  
5044 recharge area, according to their map. And Boring B-4 had about a half foot of water in it.  
5045 This is a very distinct difference from the 9 feet we found in the B-2. So, based on that, and  
5046 we did not install monitoring wells. We did not take long term water levels. This is true, but  
5047 it was very clear when we hit water during the drilling. And it would seem that there's  
5048 something that's causing the recharge to come down from the northern part of the site towards  
5049 the spring, but there's something that's preventing it from going on down the spring.

5050  
5051 We started looking at the radar profiles. I'm not personally an expert in radar. The folks at  
5052 North American area. I'm a geologist. I'm a hydro-geologist. I've had experience with the  
5053 Department of Waste Management before it became the Department of Environmental Quality.  
5054 And I also wanted some expert help that would go even beyond me. So, I went down to the  
5055 College of William & Mary and got a hold of Jerry Johnson, who is the Chairman of the  
5056 Department of Geology at the College of William & Mary, an expert in Coastal Plain Geology  
5057 and Geomorphology. We sat down in his home for about four hours one afternoon and

5058 interpreted the ground penetrating radar profiles and my boring data. He also came out to the  
5059 site and walked around there with me. And between the two of us, we put together the  
5060 interpretation that you see in that report. It's a valid interpretation, based on all of the data  
5061 that we have.

5062  
5063 When you have a dry boring on one side, you have to explain why there is no water in it. The  
5064 recharge of that boring has to be cut off by something. We see geologic structures where  
5065 there's a marked vertical offset and a clay layer which makes a very nice subsurface dam and  
5066 prevents water from moving in the direction you might otherwise think it should.

5067  
5068 We put our report together in about the middle of October. October 26<sup>th</sup> is the date on the  
5069 cover letter, and sent it to Resource and to Joyce, along with Mr. Amason and probably a  
5070 dozen other people. I called them shortly after to set up a meeting, and we actually were able  
5071 to sit down in mid-November and discuss the report. They had had it approximately two  
5072 weeks, but not had a chance to look at it and we really didn't get into any of the responses to  
5073 the specific comments that they had raised in their September letters, because they hadn't had a  
5074 chance to look at the report. But they'd had it for a couple of weeks.

5075  
5076 And then, subsequently, we've come to this point, and I don't know what else I can tell you.  
5077 We could spend two days talking about the geology of the site and still probably not cover  
5078 everything.

5079  
5080 Mr. Zehler - Mr. Sanford, let me ask you the same question I asked them. Do  
5081 you feel its possible, from your knowledge and their knowledge, you can sit down and come  
5082 up with a fairly reasonable, agreeable amongst everybody in order to do what we're trying to  
5083 do here, tonight and protect the aquifer also?

5084  
5085 Mr. Sanford - I would hope so. We will need to agree on the science first. We  
5086 seem to have a marked disagreement, despite having sat down in my office for about 3 hours  
5087 discussing this. I thought we were a lot closer to agreement, at that point, than we seem to be  
5088 now.

5089  
5090 Mr. Zehler - Do you think it would be possible to sit down with them and hash  
5091 over this report; find out where there's discrepancies and where the differences are, and come  
5092 to a better resolution than what we have here tonight?

5093  
5094 Mr. Sanford - I'm certainly willing to try.

5095  
5096 Mr. Zehler - Basically, there's a lot of discrepancies, and it's a problem not  
5097 only I'm having, but the rest of the Commission is having, is that two engineers say one thing,  
5098 another engineer is saying another thing. We rely on the professional people to make our  
5099 decisions. It's difficult for us to make a decision tonight with the discrepancies that's  
5100 (unintelligible). I would love to see you guys go behind closed doors and hash out your  
5101 differences; come up with a report that everybody can agree upon, and a resolution as to what  
5102 you can do in order to protect that aquifer that properly. And I know Mr. Dowdy has been

5103 studying that aquifer many, many years. You've got many, many dollars in it. And I would  
5104 love to see you share that information with them.

5105  
5106 Mr. Dowdy - (Comments unintelligible.)

5107  
5108 Mr. Zehler - I think it can be done, in order to accomplish what we want to  
5109 accomplish. Mr. Dowdy has admitted he's not afraid of this project. He'd like to see it  
5110 because it's going to be a plus to the community. But we do have concerns and we have had  
5111 other situations with that aquifer that we've denied cases. It is our job to protect that. It's a  
5112 very viable water supply that we need to take an awful strong look at.

5113  
5114 I think, instead of the engineers not working together, we need to get a pattern where we can  
5115 get together, go behind closed doors, hash it out, call each other fibbers, liars, whatever you  
5116 want to do, and come out with a report that everybody can agree upon. That is going to make  
5117 our job up here a lot easier, as well as Mr. Donati, when it gets to the Board. We can make a  
5118 reasonable decision. That's why I'd like to see you do it.

5119  
5120 Mr. Archer - Well, Mr. Zehler, at this point in time, just in a few seconds, it  
5121 will be 1:00 o'clock. So, I would leave it to your discretion to wrap this up for tonight.

5122  
5123 Mr. Zehler - Well, I really, basically, can't say anymore than what I've  
5124 already said, Mr. Chairman. There seems to be a lot of unanswered questions. This is a very  
5125 large project. It's probably one of the largest in my seven years I've had.

5126  
5127 I came in, tonight, with a good feeling. But as time went on and the discrepancies going on, it  
5128 gave me a bad feeling. We've been this far this long and I don't see where 30 days is really  
5129 going to make a difference. I think it would make us all feel a lot better with that time and  
5130 coming up with the real answers to the questions. Now, we don't have the real answer.

5131  
5132 So, with that, Mr. Chairman, I would move that Case C-56C-98 be deferred to our January  
5133 14<sup>th</sup> meeting at my request.

5134  
5135 Mrs. Wade seconded the motion.

5136  
5137 Mr. Archer - Motion made by Mr. Zehler, seconded by Mrs. Wade. All those  
5138 in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

5139  
5140 Mr. Zehler - With that, Mr. Chairman, I move that Case C-55C-98 be  
5141 deferred until January 14<sup>th</sup>.

5142  
5143 Ms. Dwyer seconded the motion.

5144  
5145 Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer. All those  
5146 in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).  
5147 The case is deferred.

5148

5149 Mr. Archer - Hello. We would appreciate it if you could move to the outer  
5150 area. We do have two more cases that we've got to hear. So, all of you who stayed, we  
5151 appreciate your indulgence, and thank you for being so kind. Mr. Secretary, call the next  
5152 case, please.

5153

5154 **Deferred from the November 12, 1998 Meeting:**

5155 **C-74C-98 David DuVal and Andrew M. Condlin for the Estate of Barbara**  
5156 **Bannister: Request to conditionally rezone from A-1 Agricultural District to R-3AC One**  
5157 **Family Residence District (Conditional), Parcel 140-A-45, described as follows:**

5158

5159 Beginning at a point on the S. line of Creighton Road, approximately 0.80 miles west of  
5160 Laburnum Avenue; thence S. 44° 53' 10" E., a distance of 782' +/-, to a point in the  
5161 centerline of a creek called Stony Run; thence in a western direction along the centerline of  
5162 Stony Run a distance of 1850' ± to a point in the centerline of Stony Run where it intersects a  
5163 branch running North to South; thence in a northern direction along the centerline of a branch  
5164 a distance of 730' ±, to a point on the southern line of Creighton Road; thence along the  
5165 southern line of Creighton Road, along a curve to the right having a radius of 380.32' a  
5166 distance of 63' ±, to a point; thence N. 47° 00' 00" E., a distance of 296.91' to a point; thence  
5167 along a curve to the left having a radius of 1816.66' a distance of 141.09', to a point ;thence  
5168 N. 42° 33' 00" E., a distance of 402.76', to the point of beginning, containing 22.8 ± acres.

5169

5170 Mr. Marlles - Ms. Jo Ann Hunter will be giving the staff report.

5171

5172 Mr. Archer - Thank you, sir. Is there any one here in opposition to C-74C-98?  
5173 No opposition. Ms. Hunter.

5174

5175 Ms. Jo Ann Hunter - Thank you, Mr. Chairman. I will be brief. The property lies on  
5176 the east side of Creighton Road across the street from Glenwood Golf Course. It is a request  
5177 to rezone from A-1 to R-3A. The applicant has made significant changes to the proffers, and I  
5178 really, briefly, just want to review those changes with you.

5179

5180 These proffers were handed out to you tonight. The time limit does not need to be waived.  
5181 The density of the case was reduced from 60 lots to 54 lots. This now falls within the SR-1  
5182 range of the Comp Plan. The applicant has revised the proffer regarding foundations from the  
5183 front only being brick to the entire foundation. He has limited the number of ranch homes  
5184 from 30 to 15. The applicant has proffered 20 feet of right of way dedication along Creighton  
5185 Road. In addition, he has provided a 25-foot landscape buffer along Creighton Road which is  
5186 an addition to the minimum yard setback requirements. A conceptual plan has also been  
5187 proffered, which is shown on your screen.

5188

5189 This concept plan shows the dedication of 80-feet of right of way for the concept road at the  
5190 southern edge of the property. This concept road is designed to connect Creighton Road and  
5191 Dabbs House Road.

5192

5193 The applicant has also provided a 25-foot buffer along the concept road, in addition to the rear  
5194 yard requirement.

5195  
5196 The applicant has addressed all of staff's concerns and have made considerable improvements  
5197 to the case with these proffers. The staff recommends approval of this request.

5198  
5199 Mr. Archer - Thank you, Ms. Hunter. Are there questions from the  
5200 Commission?

5201  
5202 Mr. Zehler - Ms. Hunter, was there an additional proffer given on the  
5203 percentage of cape cods?

5204 Ms. Hunter - Yes. There was. That was not for the cape cods, but there was  
5205 an additional proffer regarding split level and tri-level. The ones that can go below the one-  
5206 third unfinished were limited to 15, but not a limitation on cape cods.

5207  
5208 Mr. Zehler - So, every home in that subdivision can be a cape cod at 1,300  
5209 square feet with 30 percent unfinished, therefore, giving you a minimum of 800 square feet, in  
5210 your opinion?

5211  
5212 Ms. Hunter - That could happen.

5213  
5214 Mr. Zehler - I need to see the applicant.

5215  
5216 Mr. David DuVal - Mr. Chairman, members of the Commission, my name is David  
5217 DuVal. I'm an attorney here in Richmond. I represent the applicant in this case. I will  
5218 quickly address the one question that Mr. Zehler has brought forth. We failed to include in  
5219 that proffer, the split level and tri-level limitation, and also the cape cod limitation.

5220  
5221 And we would be willing to put the same limit on the number of cape cods that can have  
5222 unfinished square footage. I've been told to offer 10 of those type homes.

5223  
5224 Mr. Zehler - A maximum of 10?

5225  
5226 Mr. DuVal - Yes.

5227  
5228 Mr. Zehler - Ms. Hunter, did you get that?

5229  
5230 Ms. Hunter - Yes. I did.

5231  
5232 Mr. Zehler - Okay. Would you get him to initial that? Mr. Chairman, that  
5233 addressed all of the concerns that was made by staff. Therefore, I move that Case C-74C-98  
5234 be recommended to the Board for approval.

5235  
5236 Ms. Dwyer - You didn't ask if we had any questions?

5237  
5238 Mr. Zehler - Any questions?

5239  
5240 Mr. Archer - Do I have a second?  
5241  
5242 Ms. Dwyer seconded the motion.  
5243  
5244 Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer. All those  
5245 in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).  
5246  
5247 Mr. Zehler - Thanks for being patient, David. Sorry, we're so long.  
5248  
5249 Mrs. Wade - What is, "Hallwood Farm?" Do you know, Mr. DuVal?  
5250  
5251 Mr. DuVal - Hallwood Farm?  
5252  
5253 REASON: Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Planning  
5254 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept**  
5255 **the proffered conditions and grant** the request because it is appropriate residential zoning at  
5256 this location; it represents a logical continuation of the one-family residential development which  
5257 exists in the area; and the proffered conditions will assure a level of development otherwise not  
5258 possible.  
5259  
5260  
5261 **MTP-3-98** Amendment to the Major Thoroughfare Plan to delete the planned  
5262 extension of Edgefield Street from North Road to its planned connection with an access road  
5263 near U.S. Route 301 (Chamberlayne Road).  
5264  
5265 Mr. Marlles - Mr. Merrithew will be giving the staff presentation.  
5266 Mr. Archer - Is there any opposition to this? Is there any one here?  
5267  
5268 Mr. Merrithew - Mr. Chairman, I have nothing new to add to the staff report, if  
5269 you'd like to proceed without a presentation, but I would be happy to make a short one if you  
5270 wish?  
5271  
5272 Mr. Archer - Does any one here need a presentation on this?  
5273  
5274 Mrs. Wade - We had the information on it before.  
5275  
5276 Mr. Archer - We did have the information.  
5277  
5278 Mr. Merrithew - That's correct.  
5279  
5280 Mr. Archer - We all know what this is about. John, I think this is pretty clear  
5281 cut.  
5282  
5283 Ms. Dwyer - I'm sure, Mr. Vanarsdall agrees.  
5284

5285 Mr. Archer - I move to recommend approval of MTP-3-98.  
5286  
5287 Ms. Dwyer seconded the motion.  
5288  
5289 Mr. Archer - Motion made by Mr. Archer, seconded by Ms. Dwyer. All those  
5290 in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).  
5291  
5292 Acting on a motion by Mr. Archer, seconded by Ms. Dwyer, the Zoning Minutes of  
5293 November 12, 1998 were approved as corrected:  
5294  
5295 Page 2, Line 55 - After the word, “opposed to,” there should be “deferring this  
5296 case.”  
5297 Page 23, Line 986 - Omit word, “without” at the beginning of the sentence.  
5298 Page 24, Line 1025 - After the word sometimes, the word “good” needs to be inserted.  
5299  
5300 Acting on a motion by Mrs. Dwyer, seconded by Mr. Zehler, the Planning Commission  
5301 adjourned its meeting at 1:10 a.m. on December 11, 1998.  
5302  
5303  
5304  
5305  
5306 

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C. W. Archer, C.P.C., Chairman  
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5308  
5309  
5310  
5311 

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John R. Marlles, AICP, Secretary  
5312  
5313  
5314