

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico, Virginia, held
2 in the Board Room of the County Administration Building, Parham and Hungary Spring Roads at 7:00 p.m.
3 January 9, 2003, Display Notice having been published in the Richmond Times-Dispatch on December 19,
4 2002, and December 26, 2002.

5
6 Members Present: Mr. E. Ray Jernigan, C.P.C., Chairperson, Varina
7 Mrs. Lisa D. Ware, Vice-Chairperson, Tuckahoe
8 Mr. Allen Taylor, P.E., C.P.C., Three Chopt
9 Mr. C. W. Archer, C.P.C., Fairfield
10 Mr. Ernest B. Vanarsdall, C.P.C., Brookland
11 Mr. John R. Marlles, AICP, Director of Planning, Secretary

12
13 Members Absent: Mr. Frank J. Thornton, Board of Supervisors, Fairfield

14
15 Others Present: Mr. Randall R. Silber, Assistant Director of Planning
16 Mr. Ralph J. Emerson, Principal Planner
17 Mr. Mark Bittner, County Planner
18 Mr. Thomas Coleman, County Planner
19 Ms. Jean Moore, County Planner
20 Ms. Audrey Anderson, County Planner
21 Mr. Paul Gidley, County Planner
22 Ms. Debra Ripley, Recording Secretary

23
24 **The Board of Supervisors Representative abstains on all cases unless otherwise noted.**

25
26 Mr. Taylor - Good evening ladies and gentlemen and welcome to the January, 2003 Rezoning
27 Meeting. This is our first meeting of the New Year and on behalf of the Commission, I have the pleasure of
28 wishing you all a Happy New Year and may 2003 be a prosperous and happy one for all of you. With that,
29 I will turn the meeting over to our Secretary, Mr. Marlles.

30
31 Mr. Vanarsdall - Thank you, Mr. Chairman. Happy New Year to you and everybody else, and
32 everybody in the audience.

33
34 Mr. Marlles - Thank you, Mr. Chairman. Mr. Thornton is not with us tonight. He did indicate
35 that he did have a conflict and would not be able to attend tonight's meeting. I just wanted to note that for
36 the record. But, however, we do have a quorum and we can conduct business.

37
38 The first item on the agenda is Requests for Withdrawals and Deferrals and those will be presented by Mr.
39 Joe Emerson.

40
41 Mr. Emerson - The first item for deferral is C-33C-02, Henry L. Wilton for WILHOOK, LLC. It is on
42 Page 1 of your agenda. The deferral is requested to March 13, 2003.

43
44 **Deferred from the June 13, 2002 Meeting:**

45 **C-33C-02 Henry L. Wilton for WILHOOK, LLC:** Request to rezone from B-3C Business District
46 (Conditional) to R-3C One Family Residence District (Conditional) and B-3C Business District (Conditional),
47 Parcel 804-736-0481, containing 10.415 acres (approximately 6.7 acres in R-3C; approximately 3.7 acres in
48 B-3C), located at the northeast intersection of Mechanicsville Turnpike and Neale Street (Maplewood Farm).
49 Commercial and single family residential developments are proposed. The uses will be controlled by
50 proffered conditions and zoning ordinance regulations. The R-3 District allows a minimum lot size of 11,000
51 square feet. The Land Use Plan recommends Commercial Concentration. The site is also in the Airport
52 Safety Overlay District.

54 Mr. Taylor - Is there anyone in the audience who is opposed to the deferral of Case C-33C-02?
55 Nobody opposed.

56
57 Mr. Archer - Mr. Chairman, I move deferral of Case C-33C-02, Henry L. Wilton for WILHOOK,
58 LLC, to the March 13 meeting at the request of the applicant.

59
60 Mr. Vanarsdall - Second.

61
62 Mr. Taylor - Motion made by Mr. Archer and seconded by Mr. Vanarsdall. All in favor say aye.
63 All opposed say no. The motion passes.

64
65 At the request of the applicant, the Planning Commission deferred Case C-33C-02, Henry L. Wilton for
66 WILHOOK, LLC, to its meeting on March 13, 2003.

67
68 Mr. Emerson - The next item for deferral is C-80C-02, RRI, LLC. It is on Page 1 of your agenda.
69 The deferral is requested to February 13, 2003.

70
71 **Deferred from the December 10, 2002 Meeting:**
72 **C-80C-02 RRI, LLC:** Request to conditionally rezone from A-1 Agricultural District to R-3C One
73 Family Residence District (Conditional) and R-5AC General Residence District, (Conditional) Parcels 811-731-
74 2493, 811-731-6048 and 812-731-4040, containing 78.679 acres (R-3 – 52.679 ac.; R-5A – 26.02 ac.),
75 located on the north line of Creighton Road approximately 800 feet east of Harvest Crest Drive, 600 feet
76 west of Cedar Fork Road, and at the eastern terminus of Seasons Lane and Harvest Grove Lane. A single-
77 family residential development (new section to Harvest Crest subdivision) is proposed. The R-3 District
78 allows a minimum lot size of 11,000 square feet. The R-5A District allows a minimum lot size of 5,625
79 square feet. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.
80 The site is also in the Airport Safety Overlay District

81
82 Mr. Taylor - Is there anyone in the audience who is opposed to the deferral of Case C-80C-02,
83 RRI, LLC? I see no opposition.

84
85 Mr. Archer - Mr. Chairman, I move deferral of Case C-80C-02, Roy Rogers Industries, LLC, to
86 the February 13, 2003 meeting, at the applicant's request.

87
88 Mr. Vanarsdall - Motion made by Mr. Archer and seconded by Mr. Vanarsdall to defer Case C-80C-
89 02 to February 13, 2003. All in favor say aye. All opposed say no. The motion passes.

90
91 At the request of the applicant, the Planning Commission deferred Case C-80C-02, Roy Rogers Industries,
92 LLC, to its meeting on February 13, 2003.

93
94 Mr. Emerson - Mr. Chairman, the next deferral request is on Page 2 of your agenda. The deferral
95 is requested to February 13, 2003.

96
97 **C-71C-02 Robert Atack/F. Robert Loftis for Cedar Fork, LLC:** Request to conditionally rezone
98 from A-1 Agricultural District and R-2A One Family Residence District to R-5AC General Residence District
99 (Conditional), Parcels 813-729-0099, 813-729-1810, 813-728-1795, 812-729-4468 and 812-729-5529,
100 containing approximately 51.04 acres, located on the west line of Cedar Fork Road at Tiffanywoods Lane. A
101 zero-lot-line development is proposed. The R-5A District allows a minimum lot size of 5,625 square feet.
102 The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre, and
103 Suburban Residential 2, 2.4 to 3.4 units net density per acre. The site is also in the Airport Safety Overlay
104 District.

105

106 Mr. Taylor - Is there anyone in the audience opposed to the deferral of Case C-71C-02 to
107 February 13, 2003? No opposition.

108
109 Mr. Archer - Mr. Chairman, I move deferral of C-71C-02, Robert Atack/F. Robert Loftis for Cedar
110 Fork, LLC, to the February 13, 2003 meeting at the applicant's request.

111
112 Mr. Vanarsdall - Second.

113
114 Mr. Taylor - Motion made by Mr. Archer and seconded by Mr. Vanarsdall to defer Case C-71C-
115 02 to February 13, 2003. All in favor say aye. All opposed say no. The motion passes.

116
117 At the applicant's request, the Planning Commission deferred Case C-71C-02, Robert Atack/F. Robert Loftis
118 for Cedar Fork, LLC, to its February 13, 2003 meeting.

119
120 Mr. Emerson - Mr. Chairman, the next item on your deferral agenda tonight is on Page 2 of your
121 regular agenda. It is C-27C-02, RFA Management, LLC. The deferral is requested to February 13, 2003.

122
123 **Deferred from the November 14, 2002 Meeting:**

124 **C-27C-02 RFA Management, LLC:** Request to amend proffered conditions accepted with rezoning
125 case C-32C-89, on Parcel 740-750-0178, containing 12.415 acres, located at the northeast intersection of
126 Ridgefield Parkway and Glen Eagles Drive, the northwest intersection of Ridgefield Parkway and Eagles View
127 Drive, and the southeast intersection of Eagles View Drive and Glen Eagles Drive. The amendment would
128 change the maximum density allowed from 7,850 square feet per acre to 8,975 square feet per acre. The
129 existing zoning is B-2C, Business District (Conditional). The Land Use Plan recommends Commercial
130 Concentration.

131
132 Mr. Taylor - Is there anyone in the audience opposed to the deferral of Case C-27C-02, RFA
133 Management, LLC, to February 13, 2003?

134
135 Ms. Ware - I move that Case C-27C-02, RFA Management, LLC, be deferred to the February
136 13, 2003 meeting at the applicant's request.

137
138 Mr. Vanarsdall - Second.

139
140 Mr. Taylor - Motion made by Ms. Ware and seconded by Mr. Vanarsdall to defer Case C-27C-02
141 to February 13, 2003. All in favor say aye. All opposed say no. The motion passes.

142
143 At the applicant's request, the Planning Commission deferred Case C-27C-02, RFA Management, LLC, to its
144 meeting on February 13, 2003.

145
146 Mr. Emerson - Mr. Chairman, that completes the deferrals. You have no withdrawals and no
147 expedited items tonight.

148
149 Mr. Taylor - All right. The next thing is to turn the program back to the Secretary.

150
151 Mr. Marlles - Yes, sir. Mr. Chairman, I think for the election of the Chairman, we have to
152 change seats for a moment.

153
154 Mr. Taylor - Before I yield the chair to Mr. Marlles, I would just like to compliment and thank
155 my fellow Commissioners, Mr. Marlles and Mr. Silber, which I don't think is here yet. He is still out at the
156 high school, and the Planning Staff for their diligent and hard work and excellent performance in the past
157 year. The nature of the growth of Henrico County is a direct result of the efforts, expertise and experience
158 of the group of talented people that make up the staff, as well as the developers, the architects, the

159 engineers and the builders that conceive these projects, and I want to say thanks and this team certainly
160 has a major role in shaping Henrico County in the future, and I want to thank you over the past year for
161 your superb performance, support, and I compliment you for a job well done. Thank you very much.

162
163 Mr. Archer - Thank you, Mr. Chairman.

164
165 Mr. Taylor - And now I am ready to move.

166
167 Mr. Archer - On behalf of all of those people you mentioned, I accept your compliments.

168
169 Mr. Marlles - Thank you, Mr. Chairman. Good evening members of the Planning Commission,
170 ladies and gentlemen. It is my duty and honor each year at this time at the first meeting of the Planning
171 Commission in January to preside over the election of the Chairman and Vice-Chairman of the Planning
172 Commission for the coming year. I would start by opening the floor for nominations for Chairman of the
173 Planning Commission for 2003. Do we have a nomination?

174
175 Mr. Vanarsdall - Mr. Chairman, I nominate Ray Jernigan to lead us through 2003 as Chairman, and
176 Lisa Ware, to lead us through 2003 as Vice Chairman. If you want to take those separately you can.

177
178 Mr. Taylor - I will second both of those motions in whatever order your prefer, Mr. Secretary.

179
180 Mr. Marlles - I believe we can do both at the same time. Are there any other nominations from
181 the floor?

182
183 Mr. Archer - Mr. Chairman, I move that the nominations be closed.

184
185 Mr. Taylor - Second.

186
187 Mr. Marlles - We have a motion and a second closing the nomination for Chairman and Vice
188 Chairman of the Planning Commission. All those in favor of Mr. Jernigan to serve as Chairman of the
189 Planning Commission for 2003 say aye. All opposed say no. The motion passes.

190
191 All of those in favor of Ms. Ware to serve as Vice Chairman of the Planning Commission for 2003 say aye.
192 All opposed say no. The motion passes.

193
194 I believe the vote is unanimous. Congratulations, Mr. Jernigan, as Chairman of the Planning Commission,
195 and congratulations, Ms. Ware, as Vice Chairman of the Planning Commission.

196
197 Mr. Jernigan - Mr. Taylor, would you come down here, please. Al, I want you to know that it has
198 been a pleasure having you serve as our Chairman, and it has been a pleasure to sit by and help you as
199 well. I really didn't need to help you, because you had everything under control. But there is life after the
200 Coast Guard and you have shown it to us, because you have been a leader, as you were in the service.
201 You were a Captain and a leader of men in the Coast Guard, and you have been a leader here with us. So,
202 on behalf of the Planning Staff and the Planning Commission, we would like to give you this little token and
203 say thank you. And when you work with us, and every time you use it, I want you to think not so much
204 about the cases that you had but the teamwork that we had.

205
206 Mr. Taylor - Well, thank you very much, Ray. Thank you very much and I will say just a few
207 more words. I have already said a few, but I want to thank you on behalf of - for the staff, for their support
208 over the year and I certainly enjoyed working with you before last year, and last year, and I look forward to
209 working with you in the future, and the developers and the people in the community that make this so
210 great. Thank you very much.

211

212 Mr. Jernigan - I guess with that we will bring the meeting back to order. So, I will turn it back
213 over to you, Mr. Marlles.
214

215 **C-1C-03 Wilton Development Corp.:** Request to conditionally rezone from A-1
216 Agricultural District to R-2AC One Family Residence District (Conditional), Parcel 742-777-9115, containing
217 36.43 acres, located at the northwest intersection of Nuckols and Shady Grove Roads and along the east
218 property line of Dominion Hills subdivision. A single-family residential subdivision is proposed. The applicant
219 has proffered a maximum density not to exceed 68 lots. The R-2A District allows a minimum lot size of
220 13,500 square feet. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density
221 per acre, and Office. [plat contains a flood hazard note]
222

223 Mr. Marlles - Thank you, Mr. Chairman. The first item on the agenda is Case C-1C-03, Wilton
224 Development Corporation. The staff report will be given by Mr. Tom Coleman.
225

226 Mr. Jernigan - Is there any opposition in the audience to Case C-1C-03? We have opposition. All
227 right. Mr. Coleman.
228

229 Mr. Coleman - Thank you, Mr. Chairman and Mr. Secretary.
230

231 Although the subject property is designated Suburban Residential 1 and Office on the 2010 Land Use Plan,
232 developing the entire site as a single-family subdivision would be consistent with recent and ongoing
233 development activity nearby.
234

235 The subject property is located adjacent to Dominion Hills Subdivision, and on December 17, the applicant
236 hosted a community meeting with nearby residents, including Dominion Hills, to discuss this request.
237

238 The applicant has offered several proffers to regulate development of this site, including:
239

- 240 • The maximum number of lots will be 69, for a density of approximate density of 1.9 units/acre.
- 241 • All of the dwellings will have at least 2,700 sq. ft. and most dwellings will have more than 3,000 sq.
242 ft. of finished floor area.
- 243 • At least half of the lots will have a minimum lot width of 90 ft. or more.
- 244 • All dwellings will have two car garages.
- 245 • At least 40% of the front elevation on all dwellings will include brick, stone or an EFIS product.
- 246 • Planting strips will be provided along Nuckols and Shady Grove Roads.
- 247 • Additional proffers address lot clearing, supplemental landscaping on individual lots, chimneys and
248 foundations, restrictive covenants and other items.
249

250 The applicant submitted an unproffered lot plan for the future subdivision. The proposed lot plan does not
251 incorporate two existing stub street connections for the existing Herrick Lane in Dominion Hills. County staff
252 recommends utilizing the stub streets to provide necessary access and circulation and to facilitate long-term
253 development of the road network in this area. In light of the concerns expressed by area residents about
254 increasing traffic and traffic problems along Nuckols and Shady Grove Roads, the need for a well designed
255 road network in this area is imperative.
256

257 Residential development for the entire site is appropriate. The density of this request would be consistent
258 with the surrounding area, and the applicant has provided a desirable set of proffers which will regulate the
259 development of the subject property. Staff recommends approval of this application.
260

261 I would like to make the Planning Commission aware that Mrs. Nuckols, who originally sold this property to
262 the Catholic Diocese before it was purchased by the applicant, and is dealing with adjacent property, did
263 submit a letter this afternoon asking us to address some specific concerns, including asking the applicant to
264 address these. She would like to have a privacy fence along their common property line and she also wants

265 to make sure that the design of the subject property occurs in a way, which would not inhibit the ability of
266 her or the future owners of her property to develop that adjacent property.

267
268 I would be happy to answer any questions.

269
270 Mr. Jernigan - Are there any questions for Mr. Coleman from the Commission? Mr. Taylor, would
271 you like to hear from the applicant?

272
273 Mr. Taylor - Yes, sir, I would, if he is available.

274
275 Mr. Henry Wilton - Mr. Chairman and members of the Commission, for the record my name is Henry
276 Wilton and I am representing Wilton Development tonight. We are proposing an R-2A single-family
277 subdivision on 36 acres, that was originally purchased by the Catholic Diocese.

278
279 Mr. Jernigan - Hank, excuse me one second. Mr. Secretary, would you explain the 10-minute
280 rule, please?

281
282 Mr. Marlles - Yes, sir. Ladies and gentlemen, when there is opposition to a case, it is the
283 Planning Commission's policy to provide 10 minutes to the applicant to make his presentation. The
284 opponents for a case are also provided a total of 10 minutes. The 10 minutes for both the applicant and
285 the opponents does not include time responding to questions from the Commission. The applicant is also
286 able to set aside some time for rebuttal. Mr. Wilton, would you like to do that?

287
288 Mr. Wilton - Yes, sir. Three minutes.

289
290 Mr. Marlles - Three minutes, OK. And with that we can proceed.

291
292 Mr. Jernigan - I am sorry, Hank, but I had to get that out of the way. I apologize.

293
294 Mr. Marlles - With that we can proceed.

295
296 Mr. Wilton - The request is consistent with existing development in the area, and the same
297 zoning classification as Dominion Hills Subdivision. After looking at many alternative development plans, it
298 was decided that this was going to be a high-end subdivision single-family development or community and
299 it was best suited for the site. To give you an idea, the houses will start at about half a million dollars and
300 go up. And this is consistent with our other development there, the Estates of Hampshire development on
301 the other side of the street where houses and contracts are being written in excess of \$600,000. We
302 reviewed the proffered conditions in the adjacent subdivisions, Dominion Hills and Shady Ridge, and
303 developed our proffers to be even more restrictive than the adjacent neighborhoods. Our density is 1.9.
304 The Dominion Hills density is 2.1, and Shady Ridge density is 3.11, so again, our density is lower than the
305 adjacent community. We have added quality assurances to the development, including all of the dwellings
306 have two-car garages, a minimum of 40% of front elevation shall be brick, stone or EFIS, deluxe
307 landscaping package, 25 year dimensional shingles, irrigated and sodded front and side yards with each
308 dwelling.

309
310 The County staff has recommended a connection between Dominion Hills. We met with the Dominion Hills
311 people and other interested parties on December 17 and we are in support of the Dominion Hills
312 Subdivision that a connection should not be made between the two subdivisions. Obviously, this decision
313 would come back before this body at the time of subdivision review.

314
315 We have a new layout because it doesn't show the connection. It is under, what you saw before you was
316 the design of our entrance coming in off of Nuckols. But again, a lot of these issues and a lot of the issues
317 that I am going to talk about in reference to Ms. McSwain are subdivision review issues that will be decided

318 at the time of POD review or subdivision review. But we do support the Dominion Hills as far as not putting
319 a connection between the two, but again, it is up to this body and we will be back to you to discuss that.
320

321 We have two points of access, obviously we don't need a third point of access. Since the development is
322 consistent with the existing development in the area, and we have provided assurances that this will be a
323 quality development, we request that the Planning Commission approve this request. In reference to the
324 comments, and we just received this letter late this afternoon, and we have been working with Ms. Nuckols'
325 attorney, and she was – I believe she was at the meeting on the 17th, and I understand her concerns. I
326 think some of these issues were actually promised to her by the Catholic Diocese, but again, these issues, I
327 think, refer more to the subdivision review process than the zoning application. Certainly, landscaping, the
328 fencing issue, she wants a three-board fence. I would be amenable to proffering a privacy fence, because
329 again, most of these people will probably have privacy fences in their back yard. The white board fence,
330 and again, we will speak, we will arrange another meeting with Ms. Nuckols. We asked if they wanted to
331 meet prior to this meeting, and all we got was this letter to date, and we have been working with her
332 attorney over a number of weeks here. So, the issues, we will address the issues again. Some of these
333 things were promised by the church, and I think we will work through these issues again at the time of POD
334 review or subdivision review.
335

336 She also speaks in regard to, her attorney speaks in regard to access onto Shady Grove Road, which is our
337 second point of access, and obviously the traffic people will review that, is that a safe access or is that not a
338 safe access at the time of subdivision review.
339

340 The other issues, the stub road, certainly we are going to go ahead and stub road so that she can use the
341 stub roads for the development of her property at the time when she wants to develop her property. So,
342 certainly, we will cooperate and again, we actually haven't proffered this, because we want to be as flexible
343 as possible. We will work with your staff in coming up with a plan that works, obviously, for her, and for
344 us, too. The only other issue here, I think, is the water, and as far as contamination, and obviously the
345 County is not going to let me contaminate her water source, so again, these issues are, I think will be taken
346 care of at the time of plan review and come back before this body to discuss those issues of stub roads and
347 so on. In regard to that, if you have any other questions, I will be happy to answer them.
348

349 Ms. Ware - Mr. Wilton, you mentioned some proffers that aren't reflected in the staff report.
350 You said a percentage of brick and two-car garages.
351

352 Mr. Vanarsdall - What is the date of the proffer that you are reading from?
353

354 Mr. Wilton - It says 1/02/03 with ours.
355

356 Mr. Jernigan - Ours says 11/25/02.
357

358 Mr. Wilton - OK, because we offered to do that.
359

360 Mr. Marlles - Mr. Taylor, do you have the up-to-date one?
361

362 Mr. Wilton - The one that says January 2, 2003.
363

364 Mr. Taylor - I am not sure that I do.
365

366 Ms. Ware - We need to look and see.
367

368 Mr. Taylor - The ones that I have are dated, with the packet the ones that I have are dated
369 November 25.
370

371 Mr. Vanarsdall - Do these address most of the issues that staff raised, Mr. Wilton?
372
373 Mr. Wilton - Yes, sir, and I think the staff comments are coming in reference to these proffers.
374 Tom, isn't that right? You reviewed the proffers. I mean that is why they support the case.
375
376 Mr. Coleman - You do have before you a black lined copy of the proffers, and all of the black lines
377 do address concerns that the staff raised in the staff report.
378
379 Mr. Vanarsdall - Do the people here tonight in opposition, do they...
380
381 Ms. Verna - They have the latest version of the proffers. They were sent the latest version of
382 the proffers and were also sent a layout.
383
384 Mr. Taylor - The date of the latest proffers – is that December 30?
385
386 Mr. Wilton - Well, December 30th – if the black lines are on there are the changes we made to
387 the proffers that are evident in the actual proffers we submitted on January 2, 2003. So, they actually tracts
388 the revisions that the staff requested of us and we made.
389
390 Mr. Taylor - The black line of December 30th?
391
392 Mr. Wilton - And that shows you where we again adjusted the proffers according to the staff.
393
394 Mr. Jernigan - Can you come up and speak so we can get you on record?
395
396 Ms. Verna - My name is Sandra Verna and I work for Wilton Development Corporation, and
397 actually the neighborhood was sent the latest set of proffers, which is dated January 2, 2003. Mr. Taylor
398 was sent the latest set of proffers and the new layout was sent to the entire neighborhood. The black line
399 was presented to Tom Coleman with the understanding that the Planning Commission would all get a copy
400 of the black lined and the revised proffers prior to this meeting. If that wasn't the case, I would have
401 certainly sent everybody the revised proffers. But basically the revised proffers were based on the staff's
402 recommendation in the staff report, and I worked with Tom to make sure that we addressed all of their
403 concerns. Would you like for me to go through those? I mean that might...
404
405 Mr. Taylor - I think I have them now. Does everybody have the December 30th blackline?
406
407 Ms. Verna - Basically what we did was we added the quality assurances that Tom wanted or
408 recommended in the staff report, the sodded yards, the two-car garages, the 40% brick. We did some more
409 specifics and the lot clearing proffer to make sure that we weren't just talking about trees but trees of 6
410 inch caliper, driveways, sidewalks, and the other things that we added in the proffers, which he
411 recommended that we add curb and gutter, which we did. He recommended that we add additional trees,
412 because the site does not have a lot of trees on it, so that there would be trees added to lots that didn't
413 have trees on them. And then we also added the planting strip along Nuckols Road, even though it is a
414 County requirement that you do have a setback, you do have a planting strip to make sure that is the same
415 quality as the rest of the planting strips along Nuckols Road with sod and irrigation. We also added the
416 proffer about the cemetery screen and...any questions?
417
418 Mr. Vanarsdall - Ms. Verna, are the two-car garages going to be front, side or a mixture?
419
420 Ms. Verna - We did not proffer where they would be located on the house. We just proffered
421 two-car garages. I think that would be left to the flexibility of the size of the lot.
422

423 Mr. Wilton - A front load garage for a half a million-dollar neighborhood you probably will not
424 see any. But we haven't proffered that.
425
426 Mr. Vanarsdall - I just wondered. Thank you.
427
428 Mr. Jernigan - Are there any other questions from the Commission?
429
430 Mr. Taylor - Not at this time.
431
432 Mr. Jernigan - All right. We thank you. We have opposition. Young man, would you come up to
433 the front, please? How are you doing? Go to the podium and state your name and address please.
434
435 Mr. Trevor Dickerson - I am Trevor Dickerson and could I just hand this in. I am not much of a speaker.
436
437 Mr. Vanarsdall - What is it? A petition?
438
439 Mr. Dickerson - It is...
440
441 Mr. Vanarsdall - Send it on up here and we will give it to the secretary. Did you all get his name?
442 Thank you.
443
444 Mr. Jernigan - Did you want to speak young man or did you just want to bring that up? OK.
445 Thank you. Is there anybody else in opposition? OK. Come on up. We just have one other gentleman. Is
446 that it? OK.
447
448 Ms. Claudia Nuckols McSwain - My name is Claudia Nuckols McSwain and I am here representing my
449 mother, Peggy Gilliland Nuckols. You did receive a letter from her attorney today outlining some of my
450 mother's concerns about the proposed development and I would just like to reiterate those for you if I may.
451 As has been stated, my mother was promised certain considerations when the property was sold to the
452 Catholic Diocese about two years ago. And we are very interested in maintaining assurance that my
453 mother's property be kept in the same position or state that it is in right now. With regard to a
454 maintenance fence, or a fence around her property line, to separate her property from the proposed
455 subdivision, my mother has thought long and hard about a privacy fence, and she really does not want a
456 privacy fence around her property line. She feels that over time it will become unsightly and I have privacy
457 fences in the neighborhood that I live in and they do require some maintenance, and my parents are older
458 and cannot provide that maintenance. So, that is why we are recommending a maintenance-free fence to
459 go around her property.
460
461 We also are very concerned about the proposed entrance to the subdivision off of Shady Grove Road. If
462 any of you have traveled that corridor, you know that Nuckols and Shady Grove Road are heavily traveled.
463 There has been a lot of development out there in adding 68 or 69 homes to use Shady Grove Road as a
464 method to access these homes will just increase that traffic dramatically. The intersection of Nuckols and
465 Shady Grove, in my mother's opinion, is already very dangerous and we have frequent accidents at that
466 point, and we would much prefer to have the entrance to the subdivision off of Nuckols Road rather than
467 Shady Grove Road. We are also concerned, naturally, about the value of my mother's property. She has
468 about 25 acres remaining and upon her death, should we need to sell that property to settle her estate, my
469 mother would like some assurances that the value of her property will not be diminished because of things,
470 such as subdivision road or a main entrance for a subdivision right on Shady Grove Road, that might
471 prevent her from having a subdivision put in her property after her death. She is concerned about the stub
472 road issue, and that was discussed at length at the December 17 meeting that was held by Wilton. If the
473 stub roads in Dominion Hills are not used, we have no assurances that the stubs roads in the Covington
474 Subdivision will be used when my mother's property is developed, and in order to maintain the value of her
475 property, we believe that the stub roads should be used for their intended purposes. My mother has a

476 natural spring on her property that she uses for all of her water, and while I am sure that nothing would be
477 done intentionally to contaminate that water supply, when a subdivision is built certainly there is
478 disturbance of the land that feeds into that natural spring potentially, and we are concerned that her water
479 supply could either be depleted or contaminated or something, so that it is not suitable for her to use. Her
480 home is a fair distance off of the road and, of course, she would need access to County water, and to run a
481 County water line from Shady Grove Road to her home would be very expensive. So we are interested in
482 protecting her from that out-of-pocket cost. There are two ponds located on my mother's property. One is
483 about an acre and the other is smaller, and it does cause us some concern to have a subdivision so close to
484 my mother's property because there is, of course, danger there when you have ponds on your property.
485 So, we are interested in ensuring that whatever fencing and shrubbery buffers are put in place will help
486 deter folks from being enticed to go over and put a fishing line into the pond and see how big a bass they
487 can catch.

488
489 There are other items that my mother's attorney is discussing with the Wilton Company and we look
490 forward to resolution of those items. That is all I have.

491
492 Mr. Jernigan - Are there any questions from the Commission for Ms. McSwain?

493
494 Mr. Archer - Ma'am, you mentioned some items that had been agreed to prior to now between
495 your mother and the Diocese. Have these items been addressed to this point?

496
497 Ms. McSwain - That is what we are seeking through this letter and through my mother's attorney
498 working with Wilton Company. Yes.

499
500 Mr. Archer - So, you are in the process of...

501
502 Ms. McSwain - We are in the process of trying to get those items resolved.

503
504 Mr. Archer - OK. Thank you.

505
506 Mr. Taylor - I think part of the question was "Had all of these points been discussed with the
507 Diocese at the point of the time of the sale to the Diocese." I mean, for instance, are these now in effect
508 by some provision of contract that your mother has or are these just things that she has realized within
509 those last few years that need to be included.

510
511 Ms. McSwain - Some of these things, I believe, were in the contract that was held with the
512 Diocese. Other things, when the property was sold, it was sold to be a school, and the school was going to
513 be situated on one end of the property and athletic fields and so forth were going to be on the back end of
514 the property, and they worked long and hard to insure that my mother's home and the view from her home
515 was not obstructed in any way. So some items have arisen since the use of the land has changed. This
516 fencing was included in the Catholic Diocese contract, for example. So, there are things that were in that,
517 but because of the change in land usage, other items have cropped up.

518
519 Mr. Taylor - For instance, I have been out to the site and it is a beautiful site. And I
520 understand it also has the historical ancestral home on it, and the cemetery, which are things that any
521 developer is going to have to work around, but I wasn't sure exactly about the water features. The other
522 question that I had was the entrance that you have now, I believe your Mom's house comes off of Shady
523 Grove Road, does it not?

524
525 Ms. McSwain - Yes, it does.

526
527 Mr. Taylor - She would continue that entrance?

528

529 Ms. McSwain - She would continue to use her existing driveway.
530
531 Mr. Taylor - But your point is any additional entrances into the property, you would appreciate
532 it if Mr. Wilton could arrange them to come in off of Nuckols, directly. Is that true?
533
534 Ms. McSwain - That is what my mother's desire is.
535
536 Mr. Taylor - Because I think our roads people are going to be looking for two sets of access,
537 two means of access, and it is a question of whether we put one on Nuckols and the other on Shady Grove,
538 or whether we would have to avail ourselves of the neighboring communities.
539
540 Ms. McSwain - Right.
541
542 Mr. Taylor - Dominion Hills access point, and I know that people from Dominion Hills really
543 aren't too enthusiastic about having additional traffic bleed through their development. I am sure we will
544 hear from them later. But, did the Catholic Church, what did they do with the historic nature of the site and
545 the school and the cemetery? Did they have any plans for that that you know of?
546
547 Ms. McSwain - I know that there were plans to do protection, of course, of the cemetery in terms
548 of fencing and that type of thing. The cemetery is on my mother's property, so that was going to be
549 protected.
550
551 Mr. Taylor - And I understand that the original structure, the Civil War Era family home is on
552 your property, too, and that is not affected by this.
553
554 Ms. McSwain - No. The home, the two-story home, that is the Nuckols' home, is on the property
555 that Mr. Wilton is proposing developing.
556
557 Mr. Taylor - OK. Thank you. I didn't realize that. That is all the questions I have.
558
559 Mr. Jernigan - Any other questions from the Commission? All right, we have one more speaker.
560 How are you, sir?
561
562 Mr. Clyde Walker - All right. My name is Clyde Walker and I live at 11752 Herrick Lane in Dominion
563 Hills. We are adjacent to the property.
564
565 A couple of issues, not really proposals, per se, but one, we are in agreement not to connect the
566 neighborhood with this neighborhood, because the excess traffic would be more. Children play on that
567 road, and we know at that end of that neighborhood if it was an access through our neighborhood, it is
568 going to cause more cars more traffic and nobody in their neighborhood would ride up to the Nuckols Road
569 entrance. They would be cutting through ours, since we have the entrance that goes in both directions on
570 Nuckols Road, so we are in favor and agreement with the Wilton Properties of not connecting the
571 neighborhood.
572
573 But a concern we have is that our property backs up to a wetlands area on that property, the part that is
574 not having any houses built on, and our concerns are that the water flows into a drain and on our property.
575 So, our concern is how the Corps of Engineers and how the developer is going to address that so that it is
576 not taking too much water or causing too much water to come onto our property, so that is a concern there
577 with what is going to happen.
578
579 Mr. Marlles - Mr. Walker, if I could try to respond to that right now, at this stage in the
580 development process, we are focused on the rezoning of the property and the use of the land. As the
581 development process proceeds, the storm drainage will be looked at by the Department of Public Works. It

582 will have to meet all of the requirements of the Department of Public Works, not something that the
583 Planning Commission would look at this point, so it will be addressed. There are standards that will be
584 used, and it will be looked at very carefully.

585

586 Mr. Walker - That is all.

587

588 Mr. Jernigan - Any questions from the Commission?

589

590 Mr. Taylor - Mr. Walker, if I could, while we are discussing it, because it is an issue that will
591 have to be discussed because I know someone will, the staff will look for a secondary means of access, and
592 I understand that you don't want to use the opening through Dominion Hills, and I also understand that Ms.
593 McSwain doesn't want the access over on the Shady Grove. Somewhere in here, between those two roads,
594 I think the roads people are going to look for an alternative, and I as I have looked at the area in the
595 neighborhood, would you tell me how many people are now in Dominion Hills? How many houses are
596 there?

597

598 Mr. Walker - Sixty-eight lots, I think. About the same as what is going to be proposed.

599

600 Mr. Taylor - Sixty-eight?

601

602 Mr. Walker - Is that correct? Sixty-nine.

603

604 Mr. Taylor - OK, thank you. That is all I want to know.

605

606 Mr. Jernigan - Any other questions? Thank you, Mr. Walker. As Mr. Marlles said, I think that
607 most of these...would you come up to the podium please and state your name. There is about 3 and a half
608 minutes left.

609

610 Mr. Paul Newell - My name is Paul Newell and I am president-elect of the Dominion Homeowners
611 Association. When we met on the 17th of December, one of the main concerns was traffic flow in the
612 community. I think that is possibly one of the reasons the secondary entrance on Shady Grove was
613 incorporated into the revised plan. It is my understanding that there will not be a median break at that
614 intersection and anybody attempting to get to Innsbrook or to 295, if there is not a means to access Shady
615 Grove Road, will have to turn north and make a u-turn at an existing area where there is no left-hand turn
616 lane at a median break and there is currently construction in the Hampshire Estates and in the morning
617 when I am leaving, the construction people are coming. They block one lane of the road. You've got
618 people coming up the hill from Wyndham. It is a very dangerous intersection and our concern being that if
619 nothing is done at the entrance to the new community, it is going to create people coming up and making a
620 u-turn, and if it is connected to Herrick Lane on the, I guess northern side, terminus, people will be coming
621 through our neighborhood to make an easier left-hand turn out of that neighborhood as opposed to having
622 to come up and make a u-turn. If you live there and take a look at the road system, that was one of the
623 concerns that has been expressed. Of the homeowners that responded to our request for comments, only
624 one homeowner supported the road being connected. The other 14 people that responded did not want
625 the road connected to the new subdivision.

626

627 Mr. Vanarsdall - How many wanted it connected?

628

629 Mr. Newell - Only one homeowner indicated they wanted the road connected to the new
630 proposed development and the concern basically is how it would exit to 295 from this development, if there
631 is no access to Shady Grove Road and there is no median break on that road. The only alternate is either
632 to turn north and make a u-turn or then go up to Wyndham and turn at the light.

633

634 Mr. Taylor - Mr. Newell, let me just make this clear to myself. Right now in the plan there is no
635 median break at Shady Grove in the design stage?
636

637 Mr. Newell - When we asked Wilton Development, there is no median break at the entrance to
638 the new proposed neighborhood. So, anyone heading south towards 295 would have to make a u-turn to
639 come back at Shady Grove, and anyone exiting the neighborhood would have to turn north and then make
640 a u-turn to head back towards 295.
641

642 Mr. Taylor - And you are feeling that that is basically clumsy?
643

644 Mr. Newell - It is extremely dangerous because there is no left-turn lane at the median break
645 for Dominion Hills to turn even into the new Hampshire Subdivision, and as I said, now you have
646 construction traffic stopping and blocking the left-hand lane, waiting to turn across the road.
647

648 Mr. Taylor - In looking at the two alternatives to a second access, the one on Shady Grove to
649 me is perhaps the most attractive, although I have been in your neighborhood looking at the design and
650 looking at the arrangements and looking at this particular adjoining neighborhood as it is developed, I don't
651 believe it is going to yield that many cars, and it occurred to me that actually opening that stub street to
652 Dominion Hills to the new development, while I acknowledge that it will increase traffic in the Dominion
653 Hills, I really can see that Henrico County Traffic authorities and the road people would really like those
654 communities to join each other so traffic could flow, and would you state for me again the number of
655 people for and against.
656

657 Mr. Newell - We had 15 homeowners respond to my request to comment, and 14 people were
658 against connecting it to the proposed subdivision. Only one person supported it.
659

660 Mr. Taylor - What were their primary reasons?
661

662 Mr. Newell - Primary reasons were increased traffic and before the revised proffers were sent to
663 the people that attended the meeting on the 17th, there was no access to Shady Grove shown on the
664 original plan of development that was shown on the meeting in December. And the concern was the traffic
665 coming through the neighborhood, to try to get out and head for 295 or Innsbrook from that corner.
666

667 Mr. Taylor - So your feeling really is if we were able to put a median break on at Shady Grove
668 at Nuckols, would you sense that the opposition to connecting the streets internally – is it your sense that
669 that would be acceptable?
670

671 Mr. Newell - I would have to ask the homeowners. I would think that would go a good deal to
672 alleviating some of the concerns about the traffic.
673

674 Mr. Taylor - The issue out there, it is a new neighborhood and we don't have an established
675 traffic pattern. And with that you get used to traffic patterns that just kind of pop out as the roads are
676 built, frankly, and when you look at it from a neighborhood standpoint, sometimes when you see it and it is
677 all connected, it actually flows better... as we look at it. But it may take some compound movements of
678 going across, allowing Shady Grove to go across Nuckols and then trying to sway some of the people in the
679 neighborhood who are opposed to that connection, that really there wouldn't be that much traffic and it
680 would be a secondary means for emergency traffic, and we could work some kind of an arrangement out
681 there. And that really would probably be the County's No. 1 view of it, because typically we don't like to
682 have developments separate within themselves, because when emergency vehicles get in there they may
683 be able to get in, but they have difficulty getting out. We can't get additional ones and it just makes
684 emergency response that much more cumbersome.
685

686 Mr. Newell - I understand.

687
688 Mr. Taylor - So I just want to thank you for your comments.
689
690 Mr. Newell - Thank you.
691
692 Mr. Archer - Mr. Chairman, can I get Mr. Coleman to come up and see if you can zoom in a
693 little bit where these stub streets are supposed be.
694
695 Mr. Coleman - Here is one of the stubs right here (referring to rendering). This is an existing stub
696 right here (referring to rendering) and here is the other existing stub (referring to rendering).
697
698 Staff would prefer this connection to continue.
699
700 Mr. Vanarsdall - What is that, Herrick Lane?
701
702 Mr. Coleman - Yes, this is the north connection.
703
704 Mr. Taylor - Tom, you may want to take this in the entrance off of Shady Grove and...
705
706 Mr. Coleman - Here is Shady Grove.
707
708 Mr. Archer - The reason I asked a question, Mr. Chairman, is that I am just wondering if
709 everybody understands what the implications will be if we don't do the stub street as opposed to if we do,
710 and I am basing that on Page 3 of the Staff Report which indicates Planning and Public Works Staff strongly
711 recommend utilizing the adjacent stub streets to provide for necessary access and circulation appropriate
712 for long-term development. Both stub streets will provide for the future development of the subject
713 property and the 2010 Land Use Plan specifically recommends development adjoining existing stub roads be
714 designed to provide through road connections. Then it says, "In light of the concerns expressed by area
715 residents about increasing traffic and associated problems, the need for a well-designed road network in
716 this area is imperative." So, I don't know which direction we are going in. Are we moving away from that.
717 It sounds like the report is saying "We need the stub streets in order to have good traffic circulation and at
718 the same time, if we don't do them then we will decrease the traffic circulation."
719
720 Mr. Vanarsdall - Can you shed some light on that, Hank? Or Sandy.
721
722 Mr. Wilton - Actually I think, obviously, this is going to be, the traffic engineer is going to tell us
723 the best way to do it. Policy in the past has always been to connect subdivisions wherever possible, and
724 this particular point, Mr. Taylor's point, obviously, I don't see too many people going all the way to the
725 northern access if we did connect up there. They would probably come out and go Shady Grove and come
726 out at Shady Grove right there (referring to rendering) if they are going to 295, instead of coming through
727 their subdivision, if we open that. Again, what we did when we met with the adjacent subdivision, we did
728 support the closing of that, but again, we all know that it comes back before this Board (sic), and until we
729 see what the Traffic Engineer says, I think it is an open question. If he says it is going to be a lot safer, and
730 almost all of that traffic is going to go to Shady Grove, then I think that it is up to the adjacent association
731 to find that that is OK with them to support that plan of development the way that is. But, again, we did
732 proffer the layout because of the concerns of everybody. Obviously, we will follow this body with what they
733 decide, but again, until you find out what the Traffic Engineer says, I think we really can't say we are going
734 to do it this way or that way. We will wait for your staff to come up with the recommendation that is the
735 safest and best for everybody.
736
737 Mr. Jernigan - Thank you.
738
739 Mr. Wilton - Did I answer your question?

740
741 Mr. Archer - I think you did partially, Mr. Wilton. I am looking at the staff map and it shows
742 that Herrick Lane would leave the property on one side and go back into it on the other side, unless I am
743 looking at it wrong, and I don't understand. I don't know why that would cause such a problem, because it
744 seems like to me you are leaving your neighborhood and going right back into it, but I could be looking at it
745 wrong.
746
747 Ms. Ware - This looks like it is a road to nowhere.
748
749 Mr. Archer - It does.
750
751 Mr. Wilton - Exactly. I mean that should be like a temporary turnaround or something like that
752 or a cul-de-sac. And that is what the County would, I think, make us do in that particular instance. We
753 would actually make that into a cul-de-sac if we were going to stop that road. I think that is the way it
754 would happen.
755
756 Mr. Archer - At both ends.
757
758 Mr. Wilton - I think that is the way it would happen, yes. Again, pushing the lower road
759 through doesn't make any sense because it is too close to our access road, and it would be an unsafe
760 situation, so that is why we decided to cul-de-sac the lower road and put two lots on there with the
761 Dominion Hills development. The upper access is...
762
763 Mr. Vanarsdall - You would cul-de-sac both ends of Herrick Lane?
764
765 Mr. Wilton - Well, what we could do is, we've done this before a number of time, instead of
766 having the stub road stop right there, and again, we don't want to ...the Dominion Hills people, too. It
767 would make it a cul-de-sac that looked like a finished road, that is a finished cul-de-sac in there, so that it
768 does not look like a road to nowhere. Because that is where kids go riding their bicycles and everything,
769 and they want to keep it that way. So, certainly, we can obviously go ahead and turn that into a cul-de-sac
770 with our development plan.
771
772 Mr. Archer - The only reason I asked the question and I am not, I don't understand the road
773 network at this point. I am not trying to say I am for it or against it, but in looking at the particular concern
774 that was put on it in the staff report, I want to make sure the residents come away with what is really best
775 for them. And right now it might be a little too confusing for us to really know.
776
777 Mr. Wilton - I know, and we won't know until we really let the Traffic Department come up with
778 their recommendation and we go back to your staff and hash it out, and we have already made a
779 commitment to go back to the Dominion Hills people, obviously, before that POD review comes up.
780
781 Mr. Archer - Right.
782
783 Mr. Wilton - And get a consensus and come to you with what we think is best after we have all
784 of the information.
785
786 Mr. Archer - Well, I just want to make sure that before we act on this we make sure that it is in
787 their best interests, because we don't want them to come back two years from now and go "Oops, we
788 shouldn't have done that."
789
790 Mr. Wilton - But I am not asking you to close any roads or anything at this point. And again, I
791 think we've got to wait for that, but certainly, it does come back before this body, and I am sure that there
792 is going to be a lot of discussion on it.

793
794 Mr. Archer - OK. Thank you, Mr. Wilton.
795
796 Ms. Verna - Tom and I had already discussed this, and that is why we did not proffer any,
797 there aren't any proffers talking about access on Nuckols and access on Shady Grove. We did not proffer
798 the lay out. We did not proffer that we wouldn't have access to Herrick Lane. That would give us the
799 greatest flexibility during the time of subdivision review. So, nothing is proffered, so we do have the
800 flexibility.
801
802 Mr. Archer - I think that is the way it ought to be right now until we really know. Thank you,
803 Ms. Verna.
804
805 Mr. Taylor - I had one question. And that is, the issue that has come up in my mind of a
806 median break on Nuckols Road at Shady Grove, and what you feel the County's policy would be to that,
807 because I really think that would cause, that would help traffic flow measurably.
808
809 Mr. Wilton - A median break in our entrance. Is that what you are talking about?
810
811 Mr. Taylor - A median so that you could go from one side of Shady Grove to the other.
812
813 Mr. Jernigan - Nuckols Road.
814
815 Mr. Taylor - On Nuckols at Shady Grove.
816
817 Mr. Wilton - No, because, again we did the Estates of Hampshire, and we checked at that point
818 when we, when Hampshire Subdivision, which is that one right there (referring to rendering), came up, we
819 tried to find out if we could get one at that point. Certainly we would have loved to have had one, but there
820 is one up at your next access point, and they are not going to go ahead, from what we understand, they
821 are not going to give us another cut between those two. It is just, is not enough space involved and,
822 obviously, it wouldn't be safe, but we would have loved to have had our median break right there where
823 Hampshire comes out, but, and we asked about it, but there is no plan for that and the traffic people
824 weren't going to give it to us. So, we did look into that originally. That was a number of years ago.
825
826 Ms. Ware - I have a question concerning the farm issue and this map that we have in our staff
827 report. The development runs around, I am assuming that the farm is what is located right here (referring
828 to rendering).
829
830 Mr. Coleman - There are actually two Nuckols properties, there is a structure on the subject
831 property and one is on the adjacent property. The one really mentioned in the staff report is actually on the
832 subject property.
833
834 Mr. Vanarsdall - What she is saying is what is that in the middle?
835
836 Mr. Coleman - That is a pond.
837
838 Ms. Ware - That is not part of Wilton properties?
839
840 Mr. Wilton - No, ma'am. That is the Nuckols Farm. The existing part of the Nuckols Farm.
841
842 Ms. Ware - There is a house actually on this property?
843

844 Mr. Wilton - Right. There are two houses on the Nuckols property. We have got the older
845 house on there, on the property our search is from the Diocese and then there is another newer home
846 around the pond on that side of the property.

847
848 Mr. Jernigan - OK, thank you. Mr. Wilton, you have four minutes left if you'd like to make a
849 statement.

850
851 Mr. Wilton - Yes, just a couple of comments in regard to the Nuckols comments on the
852 evaluation and so on, and these lots are \$120,000 lots. I have \$95,000 lots on the other side of the street,
853 and there are \$625,000 houses on the other side of the street, so, again, my comment, my earlier comment
854 that these houses will start at over a half a million dollars as far as the value of the Nuckols property, I think
855 that the, and I think most anybody would, any real estate person would say building half a million plus
856 homes next door to you probably is not going to hurt your real estate values. That is on the
857 Comprehensive Plan to be developed residential, and I would like to develop that piece of property,
858 certainly. And laying out the stub roads for that development is what I am going to do, and the staff is
859 going to work on it and we will be back to the Nuckols to discuss that, so when the time does come, if it
860 ever does come, certainly we'd love to participate in the development. So I am going to go ahead and lay it
861 out so it does benefit the development, not just my property, but I will look towards developing if I can the
862 Nuckols tract, too. So, the stub roads and the way we finalize them with the County will certainly benefit, I
863 think, the development of the adjacent property, because I'd like to develop that property. So, the only
864 issue, again, most of the issues here that we talked about I will meet with the Nuckols again. Our attorneys
865 have gone back and forth. The Catholic Diocese did not go ahead and tell me that there are other
866 contractual arrangements that they had with the Nuckols. We will go ahead and certainly work with the
867 Nuckols on as many issues as we can. But again, a lot of those issues will be plan of development issues or
868 subdivision review issues that will come up a little later, but we will meet with them between now and the
869 Supervisor's meeting and go over that and address their concerns per the letter. Again, the fencing issue, if
870 we were going to put up, let's say, a three board fence, if that is what the Catholic Diocese said they would
871 do, most of the people in this neighborhood that would back up would probably put up privacy fences so
872 that then you'd have a board fence against a privacy fence, and again, I said at one point during my
873 presentation that I certainly would consider putting a privacy fence along the way along there because most
874 people do go ahead and fence their backyards. In that case if we put up, and say we did come to a
875 resolution and we would put up the white board fence, well then you'd have right next to the white board
876 fence you would have a privacy fence anyway. So, that is an issue we have to work out with the Nuckols.
877 I don't think that is an issue that we are going to work on here tonight. If you have any questions?

878
879 Mr. Jernigan - Any more questions for Mr. Wilton?

880
881 Mr. Taylor - Mr. Chairman, I think the opposition may have a minute or two left if there is
882 anymore comment from there? I think there were a couple of people who had their hands up.

883
884 Mr. Jernigan - Sir, there is no time left. I will tell you, for those of you that are not familiar with
885 the process, all of the issues that have been brought up here do come back before this body through the
886 plan of development. The issue tonight is zoning, whether, and I don't believe that we have heard any
887 opposition to the neighborhood itself coming in existence. It is just how it is going to be. So, basically,
888 tonight this just gets the property straight for what it is going to be, and during the plan of development all
889 of the issues that were discussed here will come back. They will have met with you all before that period
890 and then we will settle it out then. So, Mr. Taylor.

891
892 Mr. Taylor - All right. Well, looking at the comments and spending some time looking at what I
893 consider to be a very beautiful and historic site, I recognize the sensitivity that we have to pay to the
894 development of this site. And as our Chairman indicates, normally as we advance from the zoning to the
895 POD stage, many of the details that we have discussed are handled, but my first look at it is that residential
896 zoning is appropriate for this area because I think it is in a wonderful area, residences seem to be

897 appropriate. They are there now. The Nuckols property has been there in one form or another since 1810,
898 I believe I remember from the Historical Digest, and I think that the request for zoning at a two-way level
899 where you've got, as Mr. Wilton indicates, we are looking at \$600,000 homes and the work at that cost.
900 There will be many amenities that are already assumed in there, but there is another whole stage where we
901 can tweak that particular area, but along that area you've got Hampshire, Wyndham, Dominion Hills, and
902 they are all deluxe developments and I think that R-2A would complement the neighborhood, and most of
903 the issues that we have here are at the subdivision review process. I recognize we have not had a
904 community meeting yet, but I think that what we will do is we will, oh, I am sorry. There was a community
905 meeting. There was one. But I was not at it. I was not at it and I have not really looked at this before and
906 dialogued with it, and looked at the design, but I am convinced that, as I said, residences are appropriate in
907 the area and a high-class residential neighborhood will go well in there. It will complement Dominion Hills
908 and from Mr. Wilton's comments, he intends to revisit this site again, looking at the rest of the Nuckols
909 property, which truly is historic and beautiful, and I hope that we can maintain parts of it as a heritage
910 area, and I think that the residual value of the houses in there won't be diminished. Stub roads, I feel, are
911 going to be a problem. I think we've got to work some magic in circulation, but I think we can do that
912 either administratively at the County or working at the POD stage. Water supply, I think, can be handled.
913 The pond on that property is beautiful. It needs to be preserved. It needs to be incorporated in the design
914 as well as the historic site needs to be incorporated in the design. So, I am struck with it and I think that R-
915 2A zoning is appropriate. The devil is truly going to be in the details, but looking at 2,700 hundred square
916 feet houses, 90 foot wide lots, prices in the \$600,000 range, two-car garages, lots of brick work, planting
917 strips and sub streets, I am convinced that we can resolve the issues of fencing, circulation, historicity, and
918 how we are going to let some of our young folks fish for some of the bass in that pond. I am sure they are
919 looking forward to that. So, at this point, I am going to recommend approval of Case C-1C-03, and pass it
920 on the POD stage, and I will move to approve C-1C-03.

921
922 Mr. Vanarsdall - Second.

923
924 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mr. Vanarsdall to approve Case
925 C-1C-03. All in favor say aye. All opposed say no. The motion passes.

926
927 **REASON:** Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning Commission voted 5-
928 0 (one absence) to recommend that the Board of Supervisors **grant** the request because it is appropriate
929 residential zoning at this location and the proffered conditions will assure a higher quality level of
930 development then required by existing ordinances.

931
932 **P-1-03 Bohler Engineering, PC for Chick-Fil-A:** Request for a provisional use permit under Sections
933 24-58.2.d and 24-122.1 of Chapter 24 of the County Code in order to allow an outside dining area of
934 approximately 225 square feet containing 20 seats, on part of Parcel 757-757-9923, containing 0.9605 acre
935 (lease area), located at the northwest intersection of West Broad Street (U. S. Route 250) and Tuckernuck
936 Drive. The existing zoning is B-2 Business District. The Land Use Plan recommends Commercial
937 Concentration.

938
939 Mr. Marlles - The staff report will be given by Mr. Paul Gidley.

940
941 Mr. Jernigan - Is there anyone in the audience in opposition to P-1-03? No opposition. Mr.
942 Gidley, you may proceed.

943
944 Thank you Mr. Secretary, Mr. Chairman, members of the Planning Commission.

945
946 Tonight, I have the pleasure of presenting the first Provisional Use Permit request of the year, P-1-03. It is
947 a request for outside dining at a proposed Chick-Fil-A restaurant.

948

949 The site is located at the northwest corner of the intersection of W. Broad Street and Tuckernuck Drive.
950 Prior to submitting a Plan of Development, the applicant wanted to make certain that an outside dining
951 component would be permitted, thus tonight's request.

952
953 This location is the former home of Rack N Sack grocery, which is now a furniture store. Plans call for the
954 creation of an out parcel on the site, where the Chick-Fil-A would then be built. Since this shopping center
955 has experienced a fairly high turnover of tenants, staff believes this request would be a plus by attracting
956 additional customers to the site.

957
958 Since the planned out parcel is zoned B-2, is shown as Commercial Concentration on the Land Use Plan,
959 and is surrounded by other commercial uses, staff believes this use request is appropriate.

960
961 In the staff report, I suggested several conditions similar to those approved for the nearby Apollo Pizza's.
962 (P-4-00) However, since this report went out, there have been two changes in these conditions that I'd like
963 to note and you have those in front of you, and they are at the bottom of the page.

964
965 First, Condition No. 5 suggested the outside dining area be accessed from inside the restaurant only.
966 However, the applicant has indicated these tables are simply there for people who have picked up their
967 food and would like to eat outside. Since there would be no outside table service, staff does not have a
968 problem recommending elimination of this condition.

969
970 The second change is an addition and that is the addition of a condition that would state "The approval of
971 this Provisional Use Permit is subject to the applicant obtaining a Plan of Development for this site."

972
973 With these changes, along with the suggested conditions in the staff report, staff can recommend approval
974 of this request. Are there any questions I can answer?

975
976 Mr. Jernigan - Are there any questions for Mr. Gidley from the Commission? Thank you, sir.

977
978 Mr. Gidley - Thank you, Mr. Chairman.

979
980 Mr. Jernigan - Mr. Vanarsdall, would you like to hear from the applicant?

981
982 Mr. Vanarsdall - We didn't have any opposition, did we?

983
984 Mr. Jernigan - No, sir.

985
986 Mr. Vanarsdall - This is the first time I ever recommended approval for a PUP, a Provisional Use
987 Permit, before we ever built a building. So, for the benefit of the Commission, as Paul said, he put a
988 condition down here that "Approval of this permit is subject to the applicant obtaining a plan of
989 development (POD) for this site."

990
991 We have the POD in the office now. This came before the other. I don't see any problem with it
992 whatsoever, and I think this would be a welcome site on that corner. So, with that, I recommend P-1-03,
993 Chick-Fil-A be recommended to the Board of Supervisors for approval. Also, I would like to say that Chick-
994 Fil-A is a good place to eat. I went over to the one at Virginia Center Commons last Saturday just on
995 purpose just to see what was going on. It was so busy I almost didn't get a seat. And as I understand,
996 you will have drive-up, too. So that was busy, so we are in good shape. Thank you.

997
998 Mr. Taylor - Second.

999
1000 Mr. Jernigan - We have a motion by Mr. Vanarsdall to approve PUP, P-1-03, and second by Mr.
1001 Taylor. All in favor say aye. All opposed say no. The motion passes.

1002
1003 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mr. Taylor, the Planning Commission voted 5-
1004 0 (one absence) to recommend that the Board of Supervisors **grant** the request because it is reasonable
1005 and when properly developed and regulated by the recommended special conditions, it would not be
1006 detrimental to the public's health, safety, and welfare.

1007
1008 **WORK SESSION:** Discussion of amendments to the Zoning and Subdivision Ordinances required by new
1009 regulations of the Chesapeake Bay Preservation Act in Tidewater Virginia. (Presentation by Jeff Perry, Dept.
1010 of Public Works)

1011
1012 Mr. Marlles - Mr. Chairman, at your last meeting I indicated that the Chesapeake Bay Act had
1013 been amended to require some additional requirements and changes to our zoning regulations and to our
1014 subdivision regulations. We are privileged tonight to have actually a couple of representatives from the
1015 Public Works Department. Jeff Perry, I think, who most of you know, is an Environmental Control Engineer,
1016 with the Environmental Division of Public Works. He is joined by Keith White, also with the Environmental
1017 Division. I am not sure if you have met Keith before, but he is a good person to know. Also, we have Mr.
1018 Tokarz and his young associate with us tonight in case there are any legal questions, so Mr. Perry you can
1019 begin at any time.

1020
1021 Mr. Jeff Perry - OK. Mr. Chairman, it is a pleasure to be here once again. Planning Commission
1022 members, it certainly is a pleasure. OK. Effective March 1, 2002, the Chesapeake Bay Local Assistance
1023 Board adopted final amendments to their regulations, and local governments need to revise their
1024 regulations by March 1, 2003, which is why we are here tonight.

1025
1026 Now, Henrico County does not have any separate Chesapeake Bay Ordinance. When the Bay Act was first
1027 enacted back in 1989, the County chose to just go ahead and revise their existing ordinance rather than
1028 adopt a separate Chesapeake Bay Ordinance. Therefore, we need to make changes to several of our
1029 ordinances and those being Chapters 10, 19, 23 and 24. Now, most of the changes that the Chesapeake
1030 Bay Board are initiating are housekeeping; more or less definitions, clarifications, that sort of thing. Now
1031 we have had two meetings with the liaison from the Chesapeake Bay Board to the County going over these
1032 changes, making sure that we are familiar with them and that we know what they are all about, and that
1033 they can look at the changes we are proposing. I am very fortunate. I had two former Chesapeake Bay
1034 staff members on my staff. Mr. Keith White, who Mr. Marlles introduced, was with the Chesapeake Bay
1035 Board for five years before he came over to the County, and he has been with us for five years. The reason
1036 why I am bringing that up is just the fact that they are so familiar with the regulations that they can look
1037 out for the County's interests and make sure that the changes to the regulations were up to speed on all of
1038 them. So, that has gone very successfully. But there is one significant change, and that is going to involve
1039 the approval process for encroachments to the RPA and that is going to involve the Planning Commission,
1040 and that is really why I am here tonight.

1041
1042 Before I get involved with what the approval process change is for those encroachments, I would like to
1043 maybe backup and go over what an RPA is, just to familiarize yourself with that all over again. Really RPA
1044 areas are special areas for water quality. They trap nutrients and take them out of the runoff and they trap
1045 sediments and things like that, and the areas that really need to be protected, to give you a little idea, are
1046 lands that are included in RPAs, perennial streams, and really a perennial stream is a stream that flows all
1047 of the time except in extreme drought conditions, so that is an RPA feature.

1048
1049 Tidal wetlands, we do have just a few tidal wetlands. The James River is tidal all of the way to the fall line,
1050 so we have a few creeks. This is Four Mile Creek, out in Mr. Jernigan's area. We have a few streams that
1051 are tidal, and they would be included in the RPA. We do have a lot of non-tidal wetlands that are
1052 connected by surface flow, so in this case, not just the stream but the wetlands that are contiguous
1053 adjacent to it would also be an RPA feature.

1054

1055 Tidal Shores. We really don't need to worry about that too much and a buffer, not less than 100 feet in
1056 width, of land with all of the other components. So, really what I mean by that is if, let's say you had a
1057 perennial stream, you'd have 100 feet on either side of the stream that would be part of the RPA, or let's
1058 say you had a stream and you had 20 feet of wetlands. The 100-foot would be off of those wetlands, so
1059 you would really be 120 feet from the stream. So, that is really your RPA. This gives you a little idea right
1060 here. This just happens to be right next to one of the cases that was before you tonight, Dominion Hills.
1061 You can see the stream, the perennial stream in the middle, and you can kind of notice the buffer on either
1062 side of that stream that kept the development off of it, and that would be the RPA area.

1063
1064 OK. The RPA is not to be disturbed unless allowed by regulations. Now what are those allowances? What
1065 is allowed to encroach into the RPA. Right now you get water dependent uses. Obviously, things like boat
1066 docks, boat ramps, they need to be in the RPA. Obviously, that is where a dock needs to be located,
1067 actually in a stream or river, but not the marina restaurant. For instance, if you had a marina, that could be
1068 located outside of the buffer, and then you'd have the boat ramp that would go through the buffer, and
1069 then the dock, so the dock and the boat ramp would be allowed to encroach into the RPA, but not
1070 necessarily into the marina.

1071
1072 Utility lines, roadways. Obviously, they need to cross-streams. They need to cross through buffers. They
1073 are allowed, as well as lots recorded prior to the Act. Now, with all of those, encroachments into the RPA
1074 shall be the minimum amount necessary. So, for instance, if you were putting in a utility line, you would
1075 just need to clear the absolute minimum to put that utility line in.

1076
1077 There is another encroachment that is allowed, and that is the BMPs, and they can be located in the
1078 landward 50 foot of the RPA, and what I mean by that is you took that 100 foot buffer and you cut it in
1079 half, you have a seaward 50 foot that would be closest to the stream, and then you would have a landward
1080 50 that would be above that, and you can build a BMP in that landward 50 if that is the only location. In
1081 other words, what I mean by that is quite often if you look at the topography of land, sometimes a BMP, a
1082 basin has to be where it can collect water. So, sometimes it has to be in that low area, and sometimes it
1083 has to be located in that buffer. So, those are the real easy encroachments that are allowed, and those
1084 encroachments really wouldn't come to the Planning Commission, because they are allowed by regulation.
1085 You just wouldn't see them, but approve them right here at the County administratively.

1086
1087 And, to just give you an idea, I will try this. That is a BMP right there, and if you really look at it you can
1088 see that it is in the 50 feet. You can kind of see the buffer on either side of it, and that is the case where it
1089 was allowed. OK. How about RPA encroachments that are not allowed by the regulation? And the way this
1090 used to work before these changes that were adopted by the Chesapeake Bay Local Assistance Board, the
1091 way it used to work, all RPA exceptions and waivers were handled by the Director of Public Works, and they
1092 were submitted to the Public Works staff for review. And, basically, they would come to our office and we
1093 would make a recommendation to Bob Thompson, and he would approve them or deny them. Under the
1094 new regulations, all RPA exceptions and waiver requests are going to come to the Planning Commission.
1095 They would be submitted to the Planning Department staff, who will forward them on to our staff, and we
1096 will make those same recommendations that we always have, and send them back through. And,
1097 obviously, I am assuming I will have to appear before the Planning Commission from time to time to discuss
1098 those. The way we will look at them won't change at all.

1099
1100 Now, the requests that need to be granted. They really, when you look at these requests, really the top
1101 two are of particular interest, that the strict application for these encroachment requests would produce an
1102 undue hardship, and if that hardship is not shared by other properties in the same vicinity, and what we
1103 really do, if someone wants to encroach into that RPA, is there a hardship? Is there really a reason that
1104 they need to be there? And just off of the top of my head, you know, a hardship may be, let's say you had
1105 a lot that was recorded and it was an RPA, and your building envelope was away from the RPA, and when it
1106 came time to build they discovered there was a coal mine shaft. Right there where your building footprint
1107 was going to go, and you couldn't build there, so they needed to move it, and the only place they could

1108 move it would be to move it into, let's say, the RPA. Well, to me, that is a hardship. I mean you didn't
1109 know that coal mine shaft was there to start. To me that is a legitimate hardship, and that is something
1110 that we would look favorably on. I think as you move down to the bottom of the screen, the requests must
1111 clearly explain the undue hardship and demonstrate that all conditions listed above have been met. Please
1112 note that cost is generally an issue shared by others and does not qualify as a hardship. So, when
1113 someone comes before us and says, "Look, I am going to lose three lots because of this RPA, and it is
1114 going to cost me \$150,000." Well, that is the same for everybody. Nobody wants to lose a lot. That is
1115 really not a hardship and we deny those. So, that is kind of how that works. Why the change? There was
1116 a lot of concern over the amount of the exceptions and waivers being granted by some localities. About a
1117 year ago, The Virginia-Pilot ran three articles in succession and there was a great deal of concern in that
1118 area of the state with the amount of exceptions and waivers that were being granted. I did pass, there was
1119 such a concern that the General Assembly sent JLOC Committee out to do a study. I sent you some
1120 excerpts of the study, and I can back up. Do you really look at the amount of encroachment applications
1121 and the amount of non-exempt applications that were approved, and you can see for some areas of the
1122 state quite a few exceptions were granted, and some probably maybe should not have been granted. And
1123 there was some real concern there. With our County, you can see that there is really not many. We are
1124 very strict as far as the hardships go. I think if you turn the page you will see what JLOC had to say about
1125 our County, and I think that was really quite interesting. I will say this...

1126
1127 Mr. Vanarsdall - Jeff, do you mind if we stop you? Just take Chesapeake for example, 75. I don't
1128 see, unless they had three times as many requests as we did, I don't see how they could 75. Just must
1129 have a lot of liberal thinking about it or not necessarily liberal, but just different.

1130
1131 Mr. Perry - You are right. And you do have to remember one thing, in fairness to them, and
1132 don't get me wrong. I am definitely not, but they are in a situation where some of those localities down
1133 there have a lot of open water vistas, and there is a real demand for people to see the water in some of
1134 those areas. When you get to the Rappahannock River, or you get down in the Bay, people buy lots down
1135 there just to have a tendency to want to clear the trees all the way, where here streams and creeks are
1136 pretty small and there is not that real pressure to create those scenic vistas. So, in fairness to them, but at
1137 the same time, I am like you, Mr. Vanarsdall, it would raise a concern with me, as well.

1138
1139 Mr. Vanarsdall - Well, I think that you should toot your own horn on the next page, because this
1140 report came from the Virginia General Assembly and it says, "Henrico County is an example of localities that
1141 follows a strict RPA buffer policy." So, I think that is a compliment to you and to you all.

1142
1143 Mr. Perry - And I appreciate that very much. I mean...

1144
1145 Mr. Vanarsdall - That certainly bears it out.

1146
1147 Mr. Perry - I hate to say that we do take it seriously, but we do take it seriously. And you
1148 either have a hardship or you don't. And hopefully that will continue. If I just back up for a second here.
1149 There was another reason, too. And I didn't want to bypass that. They recognized that public input, there
1150 was a real concern that the public wasn't involved in granting some of these exceptions and waivers, and by
1151 getting it before a public entity, like yourself, it will not allow a lot of people to comment on waivers and
1152 exceptions, where in the past it would be something that Mr. Thompson would do, and most of the time the
1153 public really didn't have a chance to comment on that. So, that was another reason, not so much
1154 specifically Henrico County but in Virginia overall. The only other real change other than now the Planning
1155 Commission would get involved is the work, a few notes we need to add to plats, and a pretty much
1156 standard note, and they are basically just notes that alert the property owner that they have limitations,
1157 RPA limitations on the property, so there is better disclosure. And with that, I'd be happy to answer any
1158 questions you may have.

1159
1160 Mr. Archer - Who is the typical applicant?

1161
1162 Mr. Perry - Who is the typical applicant? Well, a lot of times it can be an individual owner, a
1163 home owner; for instance, the one that we did grant just happened to be a woman who had just bought a
1164 home and had a pool delivered to her house, and found out that she had an RPA 10 foot from the back of
1165 her house, and that was, the lady was in tears. And it was a real bad situation, and being a soft heart, as
1166 we are. I will tell you what has really helped...
1167
1168 Mr. Vanarsdall - I was going to say, we actually saw that. The issues we had over the Diamond
1169 Springs three or four years ago, Chris and I went down to the Diamond Springs and coming back we came
1170 through a neighborhood and he showed me the lady and the RPA looked like the Police – with the yellow
1171 tape.
1172
1173 Mr. Perry - We get some complaints about that.
1174
1175 Mr. Vanarsdall - And the lady ordered the swimming pool and wouldn't but half of it go in the yard,
1176 so they took it back.
1177
1178 Mr. Perry - Now don't forget, when you look at that same study from JLOC, one of the things
1179 they do touch upon is our new policy providing that rear yard setback, and that has really, really helped a
1180 great deal.
1181
1182 Mr. Vanarsdall - It is 45 feet now.
1183
1184 Mr. Perry - Whatever the zoning is, whatever the zoning classification is, 35 or 45, that rear
1185 yard setback now is measured from the RPA line or the wetland line, so basically everybody has the same
1186 amount of usable back yard as everyone else. And, no longer are people limited to just the 10-foot
1187 backyard. That has just changed everything dramatically. People don't buy homes and automatically get
1188 saddled with just 10 foot of usable back yard, and I will be honest with you, the change, the other localities
1189 that have called us and are now adopting similar policies is large. Because, what it did is it set you up for
1190 constant violations, people calling in, my neighbor is encroaching in the RPA and you go out and you have
1191 only got 10 foot of backyard, and it was a nightmare. And that was a significant change. So, we see a lot
1192 less encroachment and a lot less waiver and exception requests, because of that.
1193
1194 Mr. Marlles - Jeff, how many of these requests would you anticipate that the Planning
1195 Commission would see, on the average?
1196
1197 Mr. Perry - That is a very interesting question and I will be honest with you, and I believe in
1198 being honest with the Planning Commission, so here goes. If you toe the line, in my opinion, if you toe the
1199 line and people go ahead and are only given exceptions when they can demonstrate a hardship, I would
1200 imagine that you would see less than 10 a year. I really do. If it becomes known that you can possibly
1201 come to the Planning Commission and you would be looked favorably on if you had an exception request,
1202 Katie bar the door. Because you are going to get a bunch. I will leave that up to you.
1203
1204 Mr. Archer - We need to set a precedent, right?
1205
1206 Mr. Perry - I will leave that up to you, but that is about as honest as I can get. Let's face it,
1207 when we first got started we had a lot of people who came through the door, and we showed them the
1208 regulations, showed them what our requirements are. This is it, and as the report said, we are one of the
1209 localities that follows a strict application and you saw how many we had. We didn't have many, and that is
1210 the tone we set and that is the tone we followed, so really that answer is up to you all.
1211
1212 Mr. Vanarsdall - For the benefit of the Commission, I talked to Jeff early this morning at some
1213 length. My concern was this: We didn't even handle the BMPs, because the Manager's office wants to

1214 handle that, so I don't feel like I am an expert on making these exceptions, and so, he explained to me how
1215 this would be. That it really would come down from him and his department to the staff.
1216
1217 Mr. Marlles - The recommendation.
1218
1219 Mr. Vanarsdall - The recommendation to the staff, and then it feeds to us. Would you be handling
1220 this or would Audrey Anderson?
1221
1222 Mr. Perry - It will either be myself or Keith who will make the recommendation to the Planning
1223 staff, and if they choose to have us here at the meeting, we will certainly be here to explain the situation.
1224
1225 Mr. Vanarsdall - But we will get the information in the packet like we do everything else?
1226
1227 Mr. Perry - Sure. Absolutely. We will give you a report.
1228
1229 Mr. Vanarsdall - So, what I am saying is that anything we can learn will be good, but we don't have
1230 to go to school to handle this, because it says that "We may, and the Commission is being considered." I
1231 understand from Jeff that we've already been considered. We are no longer considered. We are it.
1232
1233 Mr. Perry - That is just my take on it.
1234
1235 Mr. Taylor - In deference to Jeff and the staff, both staffs, whenever there is a wetlands issue,
1236 I think the staff, both staffs work together, both Public Works and Planning, and the Planning people are
1237 more apt to see these as they come up in our development business of the first case and go to you. Am I
1238 correct? I mean they are usually the ones that sees it now, but it is just that we are going to take a more
1239 central role in working with the Planners.
1240
1241 Mr. Perry - Yes. I don't envision any problem at all, Mr. Taylor, with that. We work real well
1242 with Planning.
1243
1244 Mr. Taylor - I know you do. You do work good and you have always worked good with us on
1245 the projects, but what I am saying is, from the standpoint of development, many times the Planners are the
1246 ones that first get the information that there is an issue with wetlands or RPA rights, and they usually come
1247 to you. Every case that I have had it has originated with the staff, and we referred it to you as the
1248 specialist. So, it just seems we have a more enhanced or broadened or deepened role in it now.
1249
1250 Mr. Jernigan - Jeff, I am sure of one thing, that your recommendation to staff will weigh heavily
1251 with us.
1252
1253 Mr. Perry - I appreciate that very much. Thank you.
1254
1255 Mr. Marlles - Jeff, would you anticipate that most of these requests would come in at the same
1256 time that we are, that the Commission is reviewing the subdivision, or a POD, as opposed to the rezoning
1257 stage, or do you have any feel for that?
1258
1259 Mr. Perry - I would imagine quite a few will. Now, you are still going to get the homeowner,
1260 let's say, that bought a home in 1995 that had the 10 foot rear yard setback before the policy went into
1261 effect. Some of those will still come in and those are going to be the toughest ones. Because then you are
1262 dealing with one property owner and your emotions get involved, and they become a little tough.
1263
1264 Mr. Marlles - Mr. Chairman, this is a new function for the Commission, I think as Jeff has
1265 indicated. We do have the assistance of Public Works staff and department in reviewing these requests,
1266 and I think, you know, it is going to be probably a learning curve for all of us, as we kind of get into this,

1267 but I think it will be a pretty smooth transition, based on the understandings we are working out now.
1268 There is a public hearing that is scheduled on these Ordinance Amendments at your next POD meeting. I
1269 believe it is January 22. In order to make the March 1 deadline imposed by the State, we would like the
1270 Commission to be comfortable in acting at that January 22 public hearing, so if any questions come up
1271 between now and our public hearing, I would certainly encourage you to contact either Randy, Jeff, Keith,
1272 Tom Tokarz or myself, and we will make sure that you get answers. But that is where we are at right now
1273 with this process. Tom, did you have anything that you wanted to say?

1274
1275 Mr. Tokarz - The only thing I would say is that we did get comments from the Departments.
1276 They did review them. We got comments. They basically requested about five minor changes. Planning
1277 has asked for some changes of a minor nature. Public Works has. So, I will be incorporating all of those
1278 comments. I think the draft has also been submitted to the Homebuilders to review, to the Manager's
1279 office, so anything else would also be rolled in and we would come back with probably a January 22 draft,
1280 and what I would propose to do would be to have a black line that would show the changes from the draft
1281 that you have already seen, and the ones that I have worked on at this point are very minor, and I don't
1282 think would cause any problems there. There are no substantive changes that have been recommended
1283 thus far by anybody that has reviewed it.

1284
1285 Mr. Jernigan - Thank you, Tom. Thank you Jeff.

1286
1287 Mr. Vanarsdall - Tom, you have a pretty daughter.

1288
1289 Mr. Tokarz - Thank you. Thank you. I am hoping she will join a law firm.

1290
1291 Mr. Vanarsdall - I am glad she came to watch us in action.

1292
1293 Mr. Jernigan - As I sit back and look at this, you know, this may be the best thing, because the
1294 public does have a little bit to say about it from now on. It is a public hearing, where before it was just kind
1295 of behind closed doors. So, Mr. Secretary, do we need to take any action?

1296
1297 Mr. Marlles - No, sir. This is a work session, and if there aren't any other questions, we are
1298 ready to move ahead to the next item on the agenda.

1299
1300 Mr. Jernigan - Move ahead, sir.

1301
1302 Mr. Vanarsdall - I think we ought to thank Jeff.

1303
1304 Mr. Jernigan - Thank you, Jeff. Keith, thanks for coming. Thanks, Tom.

1305
1306 **DISCUSSION: CAPITAL IMPROVEMENT PROGRAM:** The Commission will discuss scheduling a Public
1307 Hearing to consider the FY 2003 – 2004 through FY 2007 – 2008 Capital Improvement Program for
1308 February 13, 2003 at 6:15 P.M.

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1310 Mr. Marlles - The next item on the agenda, Mr. Chairman, and members of the Commission, this
1311 is the time of the year that we set the public hearing for the Capital Improvement Program. As in previous
1312 years, as you may recall, the Manager and all of the department heads do attend that public hearing. The
1313 Manager usually summarizes the Capital Improvement Program and the Commission is allowed to ask
1314 questions. So, staff is asking that you schedule that public hearing for February 13, at 6:15 p.m. Ms.
1315 Ware, do you have a question on that? Does that ring a bell? The Capital Improvement Program public
1316 hearing?

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1318 Ms. Ware - Oh, yes. From my class.

1319

1320 Mr. Marlles - OK. Good. We ought to have a motion to schedule the public hearing.
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1322 Mr. Vanarsdall - If everyone is in agreement, I make a motion that on the 13th of February we have
1323 the Capital Improvement Program presented to us at 6:15 p.m.
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1325 Mr. Taylor - Second.
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1327 Mr. Jernigan - We have a motion by Mr. Vanarsdall and a second by Mr. Taylor. All in favor say
1328 aye. All opposed say no. The motion passes.
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1330 Mr. Taylor - Mr. Chairman, just a point of clarification, that is going to be before we handle
1331 zoning or is it going to be after?
1332
1333 Mr. Jernigan - At 6:15 p.m.
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1335 Mr. Vanarsdall - One of my colleagues said do we need a motion for dinner that night?
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1337 Mr. Marlles - Not if it comes out of the Planning Commission's budget. I am not sure the
1338 Commission needs a dinner to get the energy to handle this discussion on the Capital Improvement
1339 Program, unless the Commission would really like to have it.
1340
1341 APPROVAL OF MINUTES: Planning Commission December 12, 2002
1342
1343 Mr. Jernigan - We will hold out until later. OK. The next thing is approval of minutes. Are there
1344 any corrections to the minutes of December 12, 2002?
1345
1346 Mr. Vanarsdall - I don't have any. Chris, you usually read them. Do you have any?
1347
1348 Mr. Archer - No, I don't have any.
1349
1350 Mr. Jernigan - No corrections?
1351
1352 Mr. Taylor - I move the minutes of the Planning Commission meeting of December 12, 2002 be
1353 approved.
1354
1355 Mr. Vanarsdall - Second.
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1357 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mr. Vanarsdall. All in favor say
1358 aye. All opposed say no. The motion passes. The minutes are approved.
1359
1360 Mr. Vanarsdall - Mr. Secretary, you usually have something to say. So if you don't, I make a
1361 motion that we adjourn.
1362
1363 Mr. Marlles - The brochures for the APA Conference are open. Has everybody received their
1364 brochure now at this point?
1365
1366 Mr. Vanarsdall - Yes, and I have already sent mine in to Melba, and she has already sent it in, and I
1367 have already booked the airline, and already booked a room at the Adams Mark.
1368
1369 Ms. Ware - Randy gave me an extra, because they didn't send one to me either.
1370
1371 Mr. Vanarsdall - We have had the manuals for a good while. And I filled out everything and sent it
1372 to Melba, and she booked my flight yesterday, and I have already booked my room.

1373
1374 Mr. Marlles - They were supposed to do it on a disk, but they ended up sending them out
1375 anyway.
1376
1377 Mr. Jernigan - I don't have one.
1378
1379 Mr. Vanarsdall - You do the room by e-mail through the APA Housing.
1380
1381 Mr. Marlles - You can go on the APA website and make your reservations, but we want to go
1382 through the County to make the reservations, don't we Randy?
1383
1384 Mr. Silber - They can do that on their own.
1385
1386 Mr. Vanarsdall - I have already got my confirmation on the room and already got my confirmation
1387 on the flight.
1388
1389 Mr. Taylor - And chances are you have already picked your tours, right?
1390
1391 Mr. Vanarsdall - Yes. The only thing I haven't picked is the sessions, and they don't cost anything,
1392 so Melba didn't need to know that. The flight is \$335, normally \$80 more than it was to Chicago. The room
1393 is \$7 cheaper. The rooms are \$134 double, single, triple, quartet. Two beds and you can put your beds
1394 together if you want to!
1395
1396 Mr. Marlles - That would be cute.
1397
1398 Mr. Jernigan - I will take a King. We have a motion from Mr. Vanarsdall to adjourn.
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1400 Mr. Archer - Second.
1401
1402 Mr. Jernigan - We have a motion by Mr. Vanarsdall and a second by Mr. Archer. All in favor say
1403 aye. All opposed say no. The meeting is adjourned.
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 J. Ray Jernigan, C.P.C., Chairman
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 John R. Marlles, AICP, Secretary
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