

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico held in the County Administration Building in the Government
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. November
4 10, 2016. Display Notice having been published in the Richmond Times-Dispatch
5 on October 24, 2016 and October 31, 2016.
6

Members Present: Mr. C. W. Archer, C.P.C., Chair (Fairfield)
Mr. Gregory R. Baka (Tuckahoe)
Mr. Eric Leabough, C.P.C. (Varina)
Mrs. Sandra M. Marshall (Three Chopt)
Mr. Robert H. Witte, Jr., (Brookland)
Mr. R. Joseph Emerson, Jr., AICP, Director of Planning,
Secretary

Member Absent: Mr. Frank J. Thornton (Fairfield)
Board of Supervisors' Representative

Also Present: Mr. Douglas A. Middleton, Deputy County Manager
for Public Safety
Ms. Jean M. Moore, Assistant Director of Planning
Mr. James P. Strauss, PLA, Senior Principal Planner
Mr. Benjamin Blankinship, AICP, Senior Principal Planner
Ms. Rosemary D. Deemer, AICP, County Planner
Mr. Seth Humphreys, County Planner
Mr. Benjamin Sehl, County Planner
Mr. Livingston Lewis, County Planner
Ms. Lisa Blankinship, County Planner
Ms. Erin Puckett, County Planner
Lt. Col. Carl A. Mueller, Police
Mr. Todd J. Pugh, Communications System Manager, Police
Mr. Paul N. Proto, Police
Mr. Jackson Baynard, Battalion Chief, Fire
Mr. Mike Jennings, Assistant Director, Public Works
Ms. Sharon Smidler, Assistant Traffic Engineer, Public Works
Ms. Sylvia Ray, Recording Secretary

7
8
9 Mr. Archer - The Planning Commission will come to order. Good
10 evening, everyone. Welcome to the November 10th meeting of the Henrico
11 County Planning Commission for zonings and rezoning and some other things on
12 the agenda tonight. I would ask that everyone please mute or turn off your cell
13 phones so that we won't be disturbed. And now let's stand and pledge allegiance
14 to the flag.

15
16 Is there anyone here from the press? Ms. Truong, are you here? No? Okay.
17

18 I would like to take this opportunity to introduce to you the new commissioner
19 from the Tuckahoe District, Mr. Greg Baka. He said not to call him Gregory, so.
20 And with that, I will turn things over to our secretary, Mr. Emerson, and we can
21 start with our proceedings.

22
23 Mr. Emerson - Thank you, Mr. Chairman. First let's also note that
24 Mr. Thornton is out of town and is unable to be with us this evening. But we
25 anticipate he'll be back with us at the next meeting.

26
27 With that we do have the first item on the agenda, which are the requests for
28 withdrawals and deferrals. Those will be presented by Mr. Jim Strauss.

29
30 Mr. Archer - Good evening, Mr. Strauss. How are you, sir?

31
32 Mr. Strauss - Thank you very much. We did not actually have any
33 deferrals this evening.

34
35 Mr. Emerson - Any withdrawals?

36
37 Mr. Strauss - And no withdrawals.

38
39 Mr. Emerson - Then we move on to the requests for ex—well, unless
40 there any deferred items from the Commission. That's what threw me for a
41 second. I think we might have a request.

42
43 Mr. Condlin - Mr. Emerson, Mr. Secretary, members of the
44 Commission, Andy Condlin here on behalf of Carvana regarding the rezoning
45 case REZ2016-00035 and PUP2016-00009. As you know, recently we've
46 received from requests to look at the landscape buffer and some concerns about
47 the lighting on the site. So to honor those adjacent property owners and be able
48 to discuss this and tweak the case a little bit to see if we can come to a
49 resolution, I would like to request, respectfully, a 30-day deferral in order to
50 respond to those immediate neighbors on both those matters.

51
52 **REZ2016-00035** **Andrew M. Condlin for Carvana, LLC:** Request to
53 amend proffers accepted with Rezoning cases C-76C-02 and C-31C-97 on part
54 of Parcel 743-762-6518 containing 1.4 acres located on the east line of Tom
55 Leonard Drive approximately 625' north of its intersection with W. Broad Street
56 (U.S. Route 250). The applicant proposes to amend proffers related to prohibited
57 uses, concept plan, hours of operation, signage, and development standards.
58 The existing zoning is M-1C Light Industrial District (Conditional). The 2026
59 Comprehensive Plan recommends Commercial Arterial. The site is located in the
60 West Broad Street Overlay District.

61
62 **PUP2016-00009** **Andrew M. Condlin for Carvana, LLC:** Request for a
63 Provisional Use Permit under Sections 24-66.1 (b), 24-120, and 24-122.1 of the

64 County Code in order to allow a 75' high building on part of Parcel 743-762-6518,
65 located on the east line of Tom Leonard Drive approximately 625' north of its
66 intersection with W. Broad Street (U.S. Route 250). The existing zoning is M-1C
67 Light Industrial District (Conditional). The 2026 Comprehensive Plan
68 recommends Commercial Arterial. The site is located in the West Broad Street
69 Overlay District.

70

71 Mr. Archer - Mrs. Marshall, do you want to move on that?

72

73 Mrs. Marshall - Yes. Mr. Chairman, I move that REZ2016-00035,
74 Andrew Conclin for Carvana, LLC, request to amend proffered conditions
75 accepted with rezoning cases C-76C-02 and C-31C-97 on partial parcel 743-762-
76 6518 and PUP2016-00009, request for provisional use permit under Sections 24-
77 66.1(b), 24-120, and 24-122.1 of the County Code in order to allow a maximum
78 building height of 75 feet on part of parcel 743-762-6518, be deferred until
79 December the 8th meeting. Is that correct?

80

81 Mr. Emerson - Yes ma'am.

82

83 Mr. Archer - All right. So we're doing two cases in one motion. Is
84 that correct?

85

86 Mrs. Marshall - Yes.

87

88 Mr. Emerson - Yes sir.

89

90 Mr. Archer - All right. I think Mr. Leabough was trying to ask me
91 was there anyone who—

92

93 Mr. Leabough - Did you ask for opposition?

94

95 Mr. Archer - I didn't ask if there were objections to the deferral.
96 Anyone object to the deferral? No objections. All right.

97

98 Mr. Witte - Second.

99

100 Mr. Archer - All right. Motion by Mrs. Marshall and second by
101 Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion
102 passes. The case is deferred.

103

104 Female - [Off microphone.] Excuse me.

105

106 Mr. Archer - Yes.

107

108 Female - [Off microphone.] I can't hear you.

109

110 Mr. Archer - I'm sorry. Is it better if I lean in?
111
112 Many voices - [Off microphone.] Yes.
113
114 Mr. Archer - Wow. Thank you, ma'am. All right, next.
115
116 Mr. Emerson - Yes sir. Mr. Chairman, now we move on to the next
117 item on your agenda, which are the requests for expedited items. Those will also
118 be presented by Mr. Strauss.
119
120 Mr. Strauss - Thank you, Mr. Secretary and members of the
121 Commission. We have four requests for approval on the expedited agenda this
122 evening. The first request is in the Three Chopt District on page 2 of the agenda.
123 That is REZ2016-00030, Nuckols Storage, LLC. This is a request to rezone from
124 the O/SC Office/Service District to the M-1C Light Industrial District. And a self-
125 storage facility is proposed. Staff is recommending approval with Proffers 1
126 through 13 on page 5 of the staff report. We have not heard of any opposition.
127
128 **(Deferred from the October 13, 2016 Meeting)**
129 **REZ2016-00030 James W. Theobald for Nuckols Storage, LLC:**
130 Request to conditionally rezone from O/SC Office/Service District (Conditional) to
131 M-1C Light Industrial District (Conditional) Parcel 745-775-4352 containing 1.868
132 acres located on the north side of Nuckols Road approximately 500' west of its
133 intersection with Concourse Boulevard. The applicant proposes a self-service
134 storage facility. The use will be controlled by proffered conditions and zoning
135 ordinance regulations. The 2026 Comprehensive Plan recommends Office.
136
137 Mr. Archer - All right. Is there anyone present who is opposed to
138 this case, REZ2016-00030, James W. Theobald for Nuckols Storage, LLC, being
139 heard on the expedited agenda? I see no opposition.
140
141 Mrs. Marshall - Mr. Chairman. I move that REZ2016-00030, James
142 W. Theobald for Nuckols Storage, LLC, request to conditionally rezone from
143 O/SC Office/Service District (Conditional) to M-1C Light Industrial District
144 (Conditional) Parcel 745-775-4352, be recommended for approval at this time on
145 the expedited agenda.
146
147 Mr. Leabough - Second.
148
149 Mr. Archer - All right. Motion by Mrs. Marshall and seconded by
150 Mr. Leabough. All in favor say aye. All opposed say no. The ayes have it; the
151 motion passes.
152
153
154 **REASON -** Acting on a motion by Mrs. Marshall, seconded by Mr.
155 Leabough, the Planning Commission voted 5-0 (one absent) to recommend the

156 Board of Supervisors **grant** the request because it would not adversely affect the
157 adjoining area if properly developed as proposed.
158

159 Mr. Strauss - The next request for approval on the expedited
160 agenda is also in Three Chopt District, page 2 of your agenda. It is REZ2016-
161 00037, Alden Parke, LLC. This is a request to rezone from the R-3C District to
162 the C-1 Conservation District as required in the original rezoning case. Staff is
163 recommending approval. Again, we are not aware of any opposition.
164

165 **REZ2016-00037 Melody Hackett for Alden Parke, LLC:** Request to
166 rezone from R-3C One-Family Residence District (Conditional) to C-1
167 Conservation District part of Parcels 746-768-7550 and 746-769-7205 containing
168 2.8 acres located on the north line of Interstate 295 at the on-ramp from
169 southbound Nuckols Road. The applicant proposes a conservation district. The
170 use will be controlled by zoning ordinance regulations. The 2026 Comprehensive
171 Plan recommends Environmental Protection Area and Office.
172

173 Mr. Archer - All right, thank you, sir. Is there anyone present who
174 is opposed to REZ2016-00037, Melody Hackett for Alden Parke, LLC? I see no
175 opposition.
176

177 Mrs. Marshall - Mr. Chairman. I move that REZ2016-00037 Melody
178 Hackett for Alden Parke, LLC, request to rezone from R-3C One-Family
179 Residence District (Conditional) to C-1 Conservation District part of parcels 746-
180 768-7550 and 746-769-7205, be recommended for approval at this time.
181

182 Mr. Witte - Second.
183

184 Mr. Archer - Motion by Mrs. Marshall and seconded by Mr. Witte.
185 All in favor say aye. All opposed say no. The ayes have it; the motion passes.
186

187 **REASON -** Acting on a motion by Mrs. Marshall, seconded by Mr.
188 Witte, the Planning Commission voted 5-0 (one absent) to recommend the Board
189 of Supervisors **grant** the request because it conforms to the recommendations of
190 the Comprehensive Plan.
191

192 Mr. Strauss - Moving to the Tuckahoe District, page 3 of your
193 agenda, REZ2016-00032, MCAP West End, LLC. This is a request to rezone
194 from R-6C to the C-1 Conservation District. Again, it's required by the original
195 rezoning case, and staff is recommending approval. We're not aware of any
196 opposition.
197

198 **REZ2016-00032 Steven W. Blaine for MCAP West End, LLC:**
199 Request to rezone from R-6C General Residence District (Conditional) and C-1
200 Conservation District to C-1 Conservation District part of Parcel 749-754-2538
201 containing 2.193 acres located on the west line of Gaskins Road approximately

202 765' south of its intersection with Three Chopt Road. The applicant proposes a
203 conservation district. The use will be controlled by zoning ordinance regulations.
204 The 2026 Comprehensive Plan recommends Environmental Protection Area.
205

206 Mr. Archer - All right. Is there any opposition to the approval of this
207 case? I see no opposition.
208

209 Mr. Baka - Seeing none, Mr. Chairman, I would move that case
210 REZ2016-00032, Steven W. Blaine for MCAP West End, LLC, move to the Board
211 of Supervisors with a recommendation of approval.
212

213 Mr. Witte - Second.
214

215 Mr. Archer - All right. Motion Mr. Baka and seconded by Mr. Witte.
216 All in favor say aye. All opposed say no. The ayes have it; the motion passes.
217

218 **REASON -** Acting on a motion by Mr. Baka, seconded by Mr.
219 Witte, the Planning Commission voted 5-0 (one absent) to recommend the Board
220 of Supervisors **grant** the request because it conforms to the objectives and intent
221 of the County's Comprehensive Plan.
222

223 Mr. Strauss - And our last request for approval on the expedited
224 agenda this evening is in the Brookland District, page 3 of your agenda. It is
225 PUP2014-00001, Bobby Marchetti. It's a request for a provisional use permit for
226 outdoor dining at a restaurant. Staff again recommending approval and we're not
227 aware of any opposition. That would be approval of conditions 1 through 14 on
228 page 3 of your staff report.
229

230 **(Deferred from the September 15, 2016 Meeting)**

231 **PUP2014-00001 Malachi M. Mills for Bobby Marchetti:** Request for
232 a Provisional Use Permit under Sections 24-58.2(d), 24-120 and 24-122.1 of
233 Chapter 24 of the County Code in order to allow outdoor dining for a proposed
234 restaurant on part of Parcel 767-757-6829 located 95' east of the east line of
235 Hungary Spring Road approximately 1,025' south of its intersection with Staples
236 Mill Road (U.S. Route 33). The existing zoning is B-2C Business District
237 (Conditional). The 2026 Comprehensive Plan recommends Commercial
238 Concentration and Office.
239

240 Mr. Archer - All right, Thank you, Mr. Strauss. Is there anyone
241 present who is opposed to this case, Malachi M. Mills for Bobby Marchetti? I see
242 no opposition.
243

244 Mr. Witte - Mr. Chairman. I'm happy to say that since January
245 2014, we finally get to act on this.
246

247 Mr. Archer - Way to go.

248
249 Mr. Witte - Mr. Chairman, I move that case PUP2014-00001,
250 Malachi M. Mills for Bobby Marchetti, move to the Board of Supervisors with a
251 recommendation for approval.

252
253 Mr. Baka - Second.

254
255 Mr. Archer - All right. Motion by Mr. Witte and seconded by
256 Mr. Baka. All in favor say aye. All opposed say no. The ayes have it; the motion
257 passes.

258
259 **REASON –** Acting on a motion by Mr. Witte, seconded by Mr.
260 Baka, the Planning Commission voted 5-0 (one absent) to recommend the Board
261 of Supervisors grant the request because it is reasonable in light of the
262 surrounding uses and existing zoning on the property.

263
264 Mr. Emerson - Mr. Chairman, that completes the requests for
265 expedited items this evening, we now move on to your regular agenda, page 1,
266 for a public hearing regarding an ordinance amendment. The presentation will be
267 made by Mr. Ben Blankinship.

268
269 **PUBLIC HEARING: ORDINANCE –** To Amend and Reordain Section 24-55 of
270 the Code of the County of Henrico Titled "Provisional uses permitted" to Allow
271 Early Hours of Service in the B-1 Business District by Provisional Use Permit.

272
273 Mr. Archer - Good evening, Mr. Blankinship.

274
275 Mr. Blankinship - Good evening, Mr. Chairman, members of the
276 Commission.

277
278 Mr. Archer - Mr. Secretary, I don't guess we need to ask for
279 opposition to this public hearing ordinance, I don't think.

280
281 Mr. Emerson - Yes sir, you do. It is a normal public hearing. You can
282 see if there is opposition, and or comment.

283
284 Mr. Archer - All right. Is there opposition to this ordinance? No
285 opposition. Mr. Blankinship.

286
287 Mr. Blankinship - Thank you, Mr. Chairman.

288
289 The concern that has been brought to our attention lately is that in the B-1
290 Business District there is no provision for hours of operation outside of 6 a.m. to
291 midnight. As you know, in the B-2 District, hours are limited to 6 a.m. to midnight,
292 but a property owner or applicant can apply for extended hours of operation. And

293 that can be considered by a provisional use permit. But in the B-1 District, that
294 option currently does not exist at all.

295

296 We have had several requests from small exercise studios and coffee shops and
297 similar businesses that would like to open early in the morning. We have to either
298 recommend that they rezone the property, which is not always appropriate, or
299 just give them a hard "no." And of course we don't like to be in that situation if we
300 can avoid it.

301

302 So at the request of the Board of Supervisors, we're bringing forward this
303 recommended amendment that would allow for the application for a provisional
304 use permit for service to the public between 4:00 and 6:00 a.m. It would not allow
305 later hours than midnight; that would still be off the table, as it were. But
306 businesses that wish to open earlier than 6 a.m. in the B-1 District would at least
307 have the opportunity to apply for a provisional use permit. And then of course we
308 would be in a position of recommending conditions, which you could consider,
309 and then the Board could impose if they believe it's necessary.

310

311 That's the sum of my presentation. I'd be happy to answer your questions.

312

313 Mr. Archer - Thank you, sir. Are there questions from the
314 Commission?

315

316 Mr. Emerson - Mr. Chairman, if it so suits the Commission, a motion
317 recommending the approval of the ordinance revisions as recommended by staff
318 would be appropriate.

319

320 Mr. Archer - Okay.

321

322 Mr. Witte - So moved.

323

324 Mr. Archer - All right, Mr. Witte.

325

326 Mr. Leabough - Second.

327

328 Mr. Archer - All right. Motion by Mr. Witte, seconded by
329 Mr. Leabough. All in favor say aye. All opposed say no. The ayes have it; the
330 motion passes.

331

332 Thank you, Mr. Blankinship.

333

334 Mr. Emerson - Mr. Chairman, we now move on to the next item on
335 agenda, which is REZ2016-00001, Andrew M. Condlin for Windsor Enterprises
336 Corporation. The staff report will be presented by Ms. Lisa Blankinship.

337

338 *(Deferred from the September 15, 2016 Meeting)*

339 **REZ2016-00001** **Andrew M. Condlin for Windsor Enterprises Corp.:**
340 Request to conditionally rezone from A-1 Agricultural District and R-2AC One-
341 Family Residence District (Conditional) to R-2AC One-Family Residence District
342 (Conditional) Parcels 741-771-3734, 741-771-2432, and part of Parcels 740-771-
343 9736, 741-771-6359, 741-772-9212, -5941, -4776, -0892, and 741-773-2144
344 containing 29.97 acres located at the terminus of Ellis Meadows Lane and along
345 portions of the southern and eastern property boundaries of the Estates at Grey
346 Oaks. The applicant proposes single-family residences. The R-2A District allows
347 a minimum lot area of 13,500 square feet and a maximum gross density of 3.22
348 units per acre. The use will be controlled by proffered conditions and zoning
349 ordinance regulations. The 2026 Comprehensive Plan recommends Suburban
350 Residential 1, density should not exceed 2.4 units per acre, and Environmental
351 Protection Area.

352

353 Mr. Archer - All right. Thank you, Mr. Secretary. Is there anyone
354 present who is opposed to REZ2016-00001, Andrew M. Condlin for Windsor
355 Enterprises Corporation?

356

357 Mr. Witte - Oh, we have a bunch.

358

359 Mr. Archer - Okay, we'll get to you. Go ahead, Ms. Blankinship.

360

361 Ms. Blankinship - Thank you.

362

363 This is a request to rezone approximately 29.97 acres from A-1 and R-2AC to R-
364 2AC to allow for the development of 54 single-family residential homes. Twelve
365 homes would be developed within the Estates at Grey Oaks subdivision, as the
366 Estates at Grey Oaks South and forty-two lots would be developed as a new
367 subdivision, Shady Grove Hills.

368

369 The 2026 Comprehensive Plan's designation for the majority of the site is
370 Suburban Residential 1, which recommends a maximum density of 2.4 units per
371 acre. The proposed density of 1.80 units per acre would be consistent with this
372 recommendation.

373

374 Since this request was submitted, the applicant has held numerous community
375 meetings. Initial concerns were raised regarding the connection from the Grey
376 Oaks subdivision to Ellis Meadow Lane. In response to these concerns, the
377 applicant has revised the conceptual plan and has provided Proffer #16 that
378 eliminates the public road connection and only allows for an emergency access
379 road, as seen here.

380

381 In addition, concerns were raised regarding drainage and flooding. To address
382 these concerns, the applicant has proffered a stormwater system for the
383 proposed Shady Grove Hills subdivision designed to County specifications. The
384 stormwater outfall would be located here, as shown, unless otherwise required

385 by the County. Staff notes that the drainage for the proposed development would
386 be downstream from the existing Grey Oaks subdivision, which should not further
387 impact existing drainage conditions.

388

389 Homeowners were also concerned about the red shouldered hawks that had
390 been seen on the subject property. There were questions regarding whether the
391 red shouldered hawk was an endangered species. According to the Virginia
392 Department of Game and Inland Fisheries, the red shouldered hawk is not an
393 endangered species, but a protected species. A protected species means that it
394 would be illegal to hunt, capture, or possess the hawk without a special permit.

395

396 Overall, staff believes the request is consistent with the Comprehensive Plan, as
397 well as the quality of development in the adjacent Grey Oaks and Shady Grove
398 Meadows subdivisions. For these reasons, staff supports this request.

399

400 This concludes my presentation. I would be happy to answer any questions.

401

402 Mr. Archer - Thank you, Ms. Blankinship. Are there questions from
403 the Commission? All right, Ms. Marshall, we do have opposition. Would you like
404 to hear from the opposition first or the applicant?

405

406 Mr. Emerson - I think Ms. Marshall has a question regarding Proffer
407 #25.

408

409 Mr. Archer - Oh, okay. Go right ahead.

410

411 Mr. Emerson - Ms. Blankinship, if you would read that proffer we can
412 talk about it for a second.

413

414 Ms. Blankinship - Number 25 is the clearing proffer:

415

416 The clearing of healthy trees measuring six or more inches in diameter on any lot
417 shall be limited to areas required to accommodate the homes, driveways,
418 sidewalks, open yard areas, utility lines, and any other typically required for the
419 construction of the single-family residential dwelling unless otherwise prohibited
420 by the restricted covenants of the homeowners' association. This requirement
421 shall terminate after the County has issued the certificate of occupancy for the
422 home on the lot.

423

424 Mr. Emerson - So as I understand it, this proffer is to restrict clearing
425 of trees to all areas necessary for construction of a home and the construction of
426 the necessary infrastructure for the subdivision until the sale of the home? After
427 that, the homeowner would not be restricted. Is that correct?

428

429 Ms. Blankinship - Yes sir.

430

431 Mrs. Marshall - My question is, as far as the clearing of the lot—and
432 we're talking in relationship to the home—it will only be cleared for the footprint of
433 the home?
434

435 Ms. Blankinship - For the footprint of the home and other—driveways,
436 yard area, and utility easements as well.
437

438 Mrs. Marshall - Okay. I just want to make sure that we're clear. There
439 will be no clear-cutting. We'll only be cutting absolutely necessary trees—
440

441 Ms. Blankinship - For the home.
442

443 Mrs. Marshall - —for the home and the driveway.
444

445 Ms. Blankinship - For the construction of the home and the accessories.
446

447 Mr. Emerson - And utilities and things of that nature.
448

449 Ms. Blankinship - Easements, driveway.
450

451 Mrs. Marshall - Okay. Thank you.
452

453 Ms. Blankinship - Okay.
454

455 Mr. Leabough - This says CO not sale of the home.
456

457 Mr. Emerson - Okay. Well, at the time of certificate of occupancy
458 then. Normally a CO is issued at the time its sold, right at that time. But that's
459 what it says, you're correct.
460

461 Mr. Leabough - I'm good.
462

463 Mr. Archer - All right, Mrs. Marshall, is there anything you need to
464 ask Ms. Blankinship?
465

466 Mrs. Marshall - There's not.
467

468 Mr. Archer - Okay. Who would you like to hear from first?
469

470 Mrs. Marshall - I would like to hear from the people that are opposed,
471 please.
472

473 Mr. Archer - Okay. Mr. Secretary, would you go over the rules for
474 opposition?
475

476 Mr. Emerson - Yes sir, Mr. Chairman. The Planning Commission
477 does have rules guiding the conduct of their public hearings, and they are as
478 follows: The applicant is allowed ten minutes to present the request, and time
479 may be reserved for responses to testimony. The opposition is allowed ten
480 minutes to present its concerns, and that's a cumulative ten minutes.
481 Commission questions do not count into the time limits. The Commission may
482 waive time limits for either party at its discretion. Comments must be directly
483 related to the case under consideration.
484

485 Again, the ten minutes is cumulative, so that begins counting with each speaker.
486 When we get to the end of ten minutes, if there are speakers that wish to speak,
487 the Commission may choose to extend the time limit or may not at their
488 discretion.
489

490 Mr. Archer - All right. Thank you, Mr. Secretary. We generally
491 recommend that if there is a spokesperson who can fairly and freely exhibit the
492 concerns of the neighborhood that that person speak first. Therefore it would not
493 be necessary for us to have repetition of the same thing. And I see there is a
494 spokesperson who has indicated he's the one. Please state your name and
495 address for the record, sir.
496

497 Mr. Palumbo - Good evening. My name is Chris Palumbo. Can you
498 hear me okay?
499

500 Mr. Archer - Yes.
501

502 Mr. Palumbo - I'm a resident of Henrico County. I live at 11969 Grey
503 Oaks Park Road, which is in Oxford within Grey Oaks.
504

505 I have some prepared remarks here. I'm going to represent a good group of folks
506 here from the community at both Ellis Meadows and Grey Oaks.
507

508 A few preliminary remarks before getting to the heart of the issue here. First,
509 there have been a number of residents from Ellis Meadows and Grey Oaks who
510 have been heavily involved in dealing with this issue since January of this year.
511 While roughly 20 families have been actively involved, I have the confidence in
512 saying that the majority of our community is being represented by these remarks.
513

514 The second thing is we've heard collectively rumors that the developer is
515 unhappy with our involvement in the planning process and that we're costing him
516 both time and money. He needs to understand that these issues impact our
517 homes and community and we'll not be bullied or silenced.
518

519 I'd like to start by saying I'm not opposed to the proposed development. In fact, I
520 think very few residents of Grey Oaks have an outright objection to the proposed
521 development. We recognize the important of residential development, the

522 positive impact that it has on the local economy, and how integral it is to a vibrant
523 community. That said, it's imperative that the residential development take place
524 in a responsible, balanced, and safe manner. Such developments should protect
525 property values, minimize negative environmental impacts, focus on safety, and
526 enhance the quality of the life in the community. So tonight, with this as a
527 background, what I'd like to do is present to you five very important issues
528 inherent in the current proposal that run counter to our expectations of
529 responsible, balanced, and safe development.

530

531 All of these issues have been raised at previous meetings with representatives of
532 the proposed development. Although I would like to note that the developer, Mr.
533 Windsor, has not seen fit to personally attend any one of these meetings and
534 address the concerns directly. In fact, before I proceed, I'd like to just do a quick
535 attendance check here. Is Mr. Windsor in the room? Okay, he's not. All right, my
536 five issues.

537

538 The first issue is related to Ellis Meadows. The proposed plan increases the
539 number of homes accessed through Ellis Meadows Lane by 400 percent. This is
540 a sleepy small road in Short Pump which currently has approximately ten houses
541 on it. It's a very narrow street, only 37 feet wide. No entrance median. With a 400
542 percent increase in traffic, we are very concerned about safety. We've got a
543 poster here. It's a little bit hard to see, but basically highlights the fact that the
544 street is 37 feet wide. You can see we've got two cars parked across the street
545 from each other on the street. You can use your eye and do an eyeball test to
546 see that there's no possible way that two cars simultaneously could be driving
547 past each other.

548

549 Mr. Archer - One moment, sir, if you would. I want to see if we can
550 exhibit that on the overhead.

551

552 Mr. Palumbo - Would you like me to continue?

553

554 Mr. Archer - Yes, you can continue. Go ahead.

555

556 Mr. Palumbo - Okay. Let's see, in addition to the pictures and doing
557 the analysis of the width of the road, we've also done a very informal assessment
558 of local developments within the Short Pump area with streets with houses of 10
559 or 20 or more. Zero percent of those streets have been built without that middle
560 median at the entrance. From our perspective, that's a very significant safety
561 concern. In fact, given the fact that there are curb cuts that come off the street
562 with children who live in the first three or four houses on both sides of the street,
563 it has been raised as a significant concern.

564

565 The second issue is around flooding. I know we heard from Ms. Blankinship
566 around proposed changes to the flooding, but I want to provide some color and
567 context around what we experience today.

568
569 The north and west portion of the proposed development is already significantly
570 challenged with major flooding and falling trees in every storm. In fact, the
571 weekend that I moved into my house, there were two giant trees that fell. That is
572 the result of the removal of trees. A floodplain and stream protection area runs
573 along the north and west portion of the plan and much of the soil is hydric.
574 Removing 30 acres of trees from the entire plan area only poses greater risk to
575 the areas already experiencing flooding, which has been well documented. In
576 fact, you can see here up on the screen, this is one of my neighbor's yards.
577 Whenever it rains, this is what he experiences. By the way, this is directly across
578 from the outfall that the developer is proposing be installed as a part of the
579 development.

580
581 Mr. Archer - Excuse me, sir. When was this picture taken, do you
582 know?

583
584 Mr. Palumbo - Sometimes in the last two years.

585
586 Mr. Archer - Okay.

587
588 Mr. Palumbo - Three years?

589
590 Male - [Off microphone.] July 2015.

591
592 Mr. Archer - Okay. You say after every rain. Does that mean every
593 rain or a deluge?

594
595 Mr. Palumbo - Good question. Every major snow—thunderstorm,
596 rainstorm that we have. Most of the water collects upstream and flows
597 downstream. Our yards all run on the downstream part right before it starts to exit
598 into the Chickahominy River outlet basin. The new development will be
599 developed directly across from this yard. And the outfall will be directly across
600 about 40 yards or so from this yard.

601
602 Mr. Archer - Thank you.

603
604 Mr. Palumbo - The applicant maintains that flooding won't increase,
605 but also says that more water will be accelerated to the very area that
606 experiences flooding today. Thirty acres of trees removed means less absorption
607 of stormwater and more runoff of the area's already significant risk.

608
609 Now I've got an article that I read recently published by the National Arbor
610 Foundation which just speaks to the amount of value that trees add to flooding
611 and to the absorption of water during rainstorms. I'll just do a quick quote here:
612 "Depending on the size and species, a single tree can store a hundred gallons of
613 water." So it's very difficult for me—I'm not a geologist; I'm not a horticulturist. It's

614 very difficult for me to understand how, with flooding that already exists and 30
615 acres of trees being removed, how possibly this one outfall and some minor
616 changes to the existing plan are going to prevent this problem from getting
617 worse.

618
619 In addition, most of the water that empties from Grey Oaks comes from an
620 incorrectly built spreaders. The County's been out to our area, looked at the
621 spreaders, and deemed them out of compliance. Specifically noted, there's no
622 fabric liner or there's minimal riprap, there's no 6-by-6 tire pressure treated
623 boards at the rear of the area. The County has determined that they require
624 significant improvements and repair to get them more effective and within code.
625 Both spreaders, which are on the right and left side of Mr. Jordan's house, are
626 built as a part of Oxford at Grey Oaks.

627
628 In short, the waterfall and drainage issues is already a documented problem that
629 only will be made worse if the proposed development is currently planned as is
630 approved. That was the second issue.

631
632 The third issue. The Grey Oaks community, largely being developed by Mr.
633 Windsor and Mr. Payne, has been plagued by delayed build-out, and more
634 recently, the financial difficulties and subsequent abandonment of homes by one
635 of Mr. Windsor's selected homebuilders. Construction on a number of homes in
636 the development was discontinued and completely abandoned. No safety
637 measures were taken, no cordoning off of these partially constructed homes has
638 occurred in months since they were abandoned. There were no efforts taken by
639 Mr. Windsor other than—any of his hand-selected builders, Mr. Windsor himself,
640 the HOA, or the County to address this issue and protect the community. In fact,
641 it took one of the community meetings in which we presented our points of view
642 on this development for this issue to be raised.

643
644 Not one of who I would consider the responsible parties—the builders, the
645 development, the HOA, or the County were even aware that the safety hazard
646 even existed. So I ask you, why would you approve yet another new Windsor-
647 backed development when Mr. Windsor himself as a developer and controller of
648 the HOA—and I'll get into that in a second—and his representatives have shown
649 that that they are unwilling to develop Grey Oaks safely?

650
651 The fourth issue is related to the Grey Oaks development and the homeowners'
652 association. Many of the residents of the Grey Oaks community were promised
653 community amenities that we saw as strong benefits to purchasing and building
654 homes in the community. Amenities such as walking trails, playgrounds, and
655 even the discussion of a clubhouse was mentioned as part of all of the
656 negotiations that we had with the builder in attempting to purchase land to build
657 homes. Here's a list of the items promised that have been delivered by our
658 developer . . . a big fat zero. None of them have been delivered upon. In addition,
659 much of the common area in Grey Oaks has been very poorly maintained. This is

660 characterized by poor grounds-keeping, construction trash strewn throughout the
661 development, outdated pool equipment.

662

663 You might ask yourself well, shouldn't the HOA be responsible for taking care of
664 and addressing these issues? I will tell you unequivocally yes. We believe
665 wholeheartedly that the HOA should be taking responsibility for these issues and
666 addressing them. What I will tell you, though, is that the problem is that Mr.
667 Windsor and his development partners drew up HOA covenants giving him a
668 complete stranglehold on the HOA and all but eliminating any influence that the
669 residents have had to remedy any of these issues. We have zero say in how the
670 community is being developed or being run. The covenants require 100 percent
671 of land acquired and recorded through 12/31/15 to be developed prior to
672 transitioning the HOA to the residents. This in comparison to the more customary
673 60 to 70 percent of development being developed before transitioning to the
674 residents, which I know you all are very familiar with.

675

676 I personally have two examples of my experience with the HOA. The first one,
677 after completing the build of my home, I went and attended one of the HOA
678 meetings. I had a real intent of dedicating meaningful time to the community to
679 try and help us develop a better community. Now, my career spans 20 years. I've
680 been to thousands and thousands of meetings. And I can honestly tell you this
681 was the worst meeting I have ever attended. It actually made me sick how poorly
682 run it was. The level of apathy demonstrated by the board members was
683 significant.

684

685 Mr. Archer - Mr. Palumbo, you've just about used up all your time.

686

687 Mr. Palumbo - I have one more point. Can I make it?

688

689 Mr. Archer - Mrs. Marshall?

690

691 Mrs. Marshall - Yes.

692

693 Mr. Archer - Okay, go right ahead, sir.

694

695 Mr. Palumbo - Thank you.

696

697 The last point is many of the homeowners in Grey Oaks were told that Mr.
698 Windsor's home sales arm—which, by the way, is Mr. Windsor's
699 granddaughter—when we built our homes that the no building would be
700 contemplating in the area currently inhabited by the trees, the wildlife, and the
701 solace of the area that we're talking about developing. Unfortunately, the
702 premiums we paid on the lots and promises that were made obviously, based on
703 the proposal of this development, are being broken.

704

705 In conclusion, I feel that I've laid out a pretty compelling argument for not
706 approving the proposed development as currently planned. I'm a firm believer
707 that past performance is an indicator of future performance. And, as I've
708 described, the Grey Oaks community is an example of a poorly planned and
709 poorly executed residential development: flooding, significant safety issues,
710 abandoned homes, an HOA that's organized in a manner that severely hampers
711 our community, and hollow promises. I'm not sure how in good faith a
712 Commission could approve a second development based upon what I've
713 described. As such, we urge the Commission to decline the proposed
714 development or force Mr. Windsor, himself, to sit down with the residents of Grey
715 Oaks and discuss significant changes to his plan in Grey Oaks, as well as to
716 reevaluate the proposed development so that the issues described above can be
717 addressed. With that I thank you.

718

719 Mr. Archer - Thank you, sir. Are there questions for Mr. Palumbo
720 from the Commission?

721

722 Mr. Witte - Very well presented.

723

724 Mr. Palumbo - Thank you.

725

726 Mr. Archer - All right, no questions, sir.

727

728 Mr. Emerson - Mr. Chairman, I do have a few items to add, I guess
729 in response to some of those questions prior to some of the other County
730 employees or staff possibly addressing some of these.

731

732 There were some comments made regarding the development of the roads and
733 the fact that Ellis Meadows Lane is the only road without a center median. Along
734 Shady Grove Road, just off the top of my head, is Bridlewood; there's Prescott
735 Place; there's Old Nuckols at Hampshire; and then there's a second road down
736 near Nuckols, the third entrance to Hampshire, that also is not divided in that
737 manner. Those are the ones that I can think of off the top of my head.

738

739 As far as amenities, to my knowledge, everything that has been proffered with
740 that development has been placed there, which includes the pool and the pool
741 house. There may have been other things discussed, but what was proffered to
742 the County to my knowledge has been developed.

743

744 Let's see, what else did we have. The covenants. The covenants do require a
745 hundred percent of the properties being sold before being turned over to the
746 homeowners. That's not necessarily unusual. I can think of several communities
747 off the top of my head that are drawn that way. Covenants are provided to the
748 owners or to the purchasers at the time of purchase and reviewed prior to
749 closing. So that's a buyer-beware situation. Fox Hall, for example, that has been

750 developed for over 20 years, has this same restriction. That developer still
751 maintains control over that HOA because it isn't completed.

752
753 So, while I hear your concerns, I do want to make sure that everybody
754 understands that some of the items that were presented, there are other
755 perspectives on many of them. It might seem as presented somewhat pointed in
756 this nature, but it's typical of the developments in the County.

757
758 Mr. Archer - Okay. Thank you, Mr. Secretary, for that explanation.
759 Nothing from anyone else?

760
761 Female - [Off microphone.] I'm sorry [inaudible]—

762
763 Mr. Witte - Ma'am, you'll have to come up here.

764
765 Mr. Archer - You'll have to come up here, please.

766
767 Mr. Emerson - Mr. Chairman, your time is completed unless you
768 extend it.

769
770 Mr. Archer - Yes. Mrs. Marshall, did you want to allow them to
771 speak?

772
773 Mrs. Marshall - We can hear from one more person, please.

774
775 Mr. Archer - Okay. We have well surpassed the allotted time. So
776 ma'am, if you'll be brief. And then we'll have to cut it off at that point.

777
778 Ms. Laganke - Hi. I'm Traci Laganke. I'm at 12141 Grey Oaks Park
779 Road.

780
781 Mr. Archer - Would you say your last name again, please?

782
783 Ms. Laganke - Laganke.

784
785 Mr. Archer - Okay.

786
787 Ms. Laganke - I wasn't planning on speaking tonight. It's just in
788 response to Mr. Emerson.

789
790 I heard everything that you said, but I'm quite concerned about the safety issue.
791 If you're talking about the roads—I don't know what the numbers were, but
792 increasing the traffic through our neighborhood and the safety concern, coming
793 from a mother, a mother of a child who obviously has some special needs. And
794 I've already gone through the speed bump process to help keep him safer. But I
795 moved into that community based on how that community is.

796

797 I'm sorry. He thinks he's—

798

799 Mr. Archer - That's okay. You go right ahead.

800

801 Ms. Laganke - My whole point is I moved in there for the safety.
802 Increasing the traffic is going to increase the dangers of the roads. They're
803 already speeding through our neighborhood. So, again, I wasn't planning on
804 speaking, but I just felt compelled to actually bring that to your attention as well.
805 Thank you.

806

807 Mr. Archer - Thank you, Ms. Laganke.

808

809 Mr. Witte - Thank you.

810

811 Mr. Emerson - Mr. Chairman, I did have one other item I meant to
812 address, and that was the un-built homes. The un-built homes were sold to a
813 developer that went into bankruptcy. Those have been examined by the County.
814 There is a bank that controls those. The Building Inspection Department has
815 been in contact with that bank. I've personally been out there myself and walked
816 through those homes. Those are in the process. It is my understanding that the
817 lots have been cleaned up. If those homes haven't been boarded, they're in the
818 process of being boarded. When homes get placed in bankruptcy, when a
819 developer goes bankrupt, there's a process. Ms. Blankinship may have some
820 additional information regarding that.

821

822 Ms. Blankinship - Yes. I did speak to Building Inspections today, this
823 afternoon. They said the three homes have been boarded up.

824

825 Mr. Emerson - Thank you.

826

827 Ms. Blankinship - I just wanted to let you know.

828

829 Mr. Baka - A question for staff.

830

831 Mr. Archer - Yes, go right ahead.

832

833 Mr. Baka - Either Ms. Blankinship or Mr. Emerson. When the
834 comments came up about the inadequate level spreaders, is the County in any
835 position to improve drainage on existing lots within an existing subdivision?

836

837 Ms. Blankinship - The Public Works director is in communication with
838 the homeowners and from my understanding, they're trying to work out that
839 situation. Mr. Jennings may want to speak to that as well.

840

841 Mr. Archer - Okay. Good evening, sir.

842
843 Mr. Jennings - Good evening. Yes, I'm Mike Jennings, assistant
844 director of Public Works. We have reviewed those level spreaders, and they do
845 need some work. They are now our responsibility, so we're going to send our
846 road maintenance crew in there to maintain them. We have to do some changing
847 to clean out some debris. And some of the pools were not built correctly, so we
848 need to redo them. So yes, we are giving that some attention.
849
850 Mr. Baka - That work would be done at County cost?
851
852 Mr. Jennings - Yes sir. It's now our responsibility. They've been
853 turned over to us. We plan on doing them within the next few weeks.
854
855 Mr. Baka - Thank you.
856
857 Mr. Emerson - Mr. Jennings, could you address the cross section of
858 the road and the width?
859
860 Mr. Jennings - Yes. The width that they mentioned is our standard
861 subdivision street that we have. It's around 36, 37 feet wide, which does allow
862 parking on each side and room for two-way traffic. This is our typical subdivision
863 streets we have all over the County.
864
865 Mr. Archer - All right. Any other member have questions for Mr.
866 Jennings?
867
868 Mr. Emerson - What about the flooding itself, Mr. Jennings? Could
869 you address that and any environmental area?
870
871 Mr. Jennings - Yes. There is a stream protection area,
872 environmental, and there's a 100-year wetlands along the backs of those lots. So
873 when they do have a significant storm—as was mentioned back in July—it will
874 have some water that does stand at the back of those lots. So it is to be expected
875 in a significant storm.
876
877 Mr. Emerson - And this is a designated stream protection area,
878 which, again is an environmental feature, was noted on the plans of the
879 development by the County? These areas, are they signed?
880
881 Mr. Jennings - Originally, they are signed. And they're actually
882 recorded on those lots. It's a recorded stream protection area, which is a 50-foot
883 buffer off the edge of that bank, the existing stream bank.
884
885 Mr. Emerson - So that would appear on the plat of a lot being sold to
886 a purchaser?
887

888 Mr. Jennings - Yes sir.
889
890 Mr. Witte - I have one question.
891
892 Mr. Archer - So ahead.
893
894 Mr. Witte - With parking on both sides of the street, is that going
895 to inhibit emergency traffic, fire trucks and large vehicles from getting through?
896
897 Mr. Jennings - No sir. And that does allow them room to set up their
898 apparatus in between the cars also. If there happens to be cars all the way up
899 and down those roads, it still gives the fire department access in and out of there,
900 and ability to set up their fire apparatus.
901
902 Mr. Witte - They can set the outriggers to balance the ladder
903 trucks?
904
905 Mr. Jennings - Yes sir.
906
907 Mr. Witte - Okay.
908
909 Mr. Jennings - Those are our typical street standards, just so you
910 know.
911
912 Mr. Witte - Thank you.
913
914 Mr. Archer - Okay.
915
916 Mr. Leabough - There was another question about the trips per day
917 that I don't think was addressed. The additional traffic, I think it was a 400
918 percent increase that was quoted. Can you speak to that?
919
920 Mr. Jennings - Yes sir. The existing Ellis Meadows has 14 lots on it.
921 With this proposal of the 54 lots that they're proposing, 42 of them will be
922 accessed through Ellis Meadows, as you see. So basically, there are about 140
923 vehicles per day now, and this will add about another 480. It is almost four times
924 the trips that are on that road right now. The road is a typical subdivision street
925 and can handle that traffic.
926
927 Mr. Baka - One additional question. So the existing cul-de-sac
928 bulb at Ellis Meadows terminates at the property line? Typically, we see a typical
929 subdivision has lots on the rear of the bulb.
930
931 Mr. Jennings - Yes sir.
932

933 Mr. Baka - So with that terminus of the bulb at the property line,
934 does that usually suggest that it would be a stub road, a cut-through road one
935 day?
936

937 Mr. Jennings - Yes sir. This Ellis Meadows, when it was developed,
938 the cul-de-sac was there, but the stub was to that property line for a possible
939 extension into the adjacent property to extend it in the future. So yes, that was
940 planned to extend. That was on the original plat for that subdivision.
941

942 Mr. Baka - Thank you.
943

944 Mr. Archer - Anything further? The applicant, Mrs. Marshall?
945

946 Mrs. Marshall - Yes, please.
947

948 Mr. Archer - Okay. Would the applicant come down. And while
949 you're coming, let me just mention that Mrs. Marshall has had some surgery
950 recently, as you all can see. And from time to time, she may need to stand up. So
951 if you see her stand up, she's not ignoring you; she just needs to.
952

953 Mr. Witte - And she's got a couple big sticks with her.
954

955 Mr. Condlin - Andy Condlin here on behalf of both Windsor
956 Enterprises and V Moss Development, a joint venture development for part of the
957 property, which I'll explain in a second.
958

959 This is a request—and if you could put it up on PowerPoint, please, that I
960 provided to you earlier. This is a request to rezone for two separate subdivisions,
961 as you can see up on the site. But there are 12 lots for the existing Grey Oaks.
962 The existing Grey Oaks has 12 lots. That's the Windsor Enterprises. The other
963 one with the 42 lots is with V Moss Development. It's a separate development
964 that they're—well Mr. Windsor has it under contract for that development with the
965 joint venture with someone else out of Fredericksburg.
966

967 This area obviously has a lot of history. When the PowerPoint comes up, I'll be
968 able to reference a little bit where—the original zoning was in 2003 for Grey
969 Oaks. I wanted to be able to show you. If I could just have a second for that to
970 pull up. I think it's significant regarding the road network.
971

972 Thank you. So this is the development. I tried to get all the slides the same way.
973 So these are the 12 lots that are going to be developed by Windsor, and this is a
974 separate subdivision called Shady Grove Hills that will connect to Ellis Meadows
975 Lane. When Shady Grove Meadows was original subdivided—and we got the
976 subdivision plat and we've looked at it in a community meetings—it showed that
977 the cul-de-sac actually went up to the property line specifically for an extension of
978 this development.

979

980 What I'm showing here is this area that originally with the cases with Grey Oaks
981 had over 450 lots in Grey Oaks. This is the entire Grey Oaks subdivision, which
982 you see on this particular map was part of the subdivision. And the plan for that
983 included future access roads. It was actually one of the cul-de-sacs that would
984 come out and access Ellis Meadows. The other one through what's known as the
985 Parish property. I believe there's a church right there off of Nuckols Road. In
986 addition to the other subdivision access roads. And there's an emergency access
987 here as well. So this was planned for as part of an access to and through Shady
988 Grove Meadows.

989

990 The reason I'm showing you this is that when we did the original subdivision, you
991 can see Grey Oaks Estates Way actually planned for a connection. The reason
992 for that was the folks in Bridlewood on Hames Lane looked across the street and
993 when development was occurring on the other side of Hames Lane, on the
994 backyard of those lots, they asked for and were given a commitment by the
995 Planning Commissioner at the time, as well as Mr. Windsor in the development of
996 Grey Oaks that he would include those properties within the subdivision itself. So
997 we're trying to honor that. That's coming forward as part of the original plans.
998 And of course it's in the Comprehensive Plan being for 2.4 units an acre for
999 residential development.

1000

1001 This particular subdivision with Grey Oaks was originally included. And when we
1002 submitted the original application and had our first community meetings, one of
1003 the things we showed consistent with that was instead of having the connection
1004 on Grey Oaks Estates Way, we actually went down another level and connected
1005 it here. There were a lot of concerns raised, obviously, with respect to that
1006 access. That would be 450 homes that otherwise would be accessing through
1007 Ellis Meadows Lane instead of 42 homes. So when they talk about a 400 percent
1008 increase, that really was a concern. We tried to address that with the emergency
1009 access at this location.

1010

1011 Mr. Palumbo was absolutely right. All those issues that he raised were raised
1012 during the community meetings. I've kind of narrowed them down into four
1013 particular issues, which I guess you could look at it as five as well, which
1014 included stormwater, traffic, and environmental. And I just wanted to go over a
1015 little quickly for you of how we responded to those.

1016

1017 In the environmental, the things we heard were with respect to the wetlands and
1018 the impact on the wetlands and whether there were any threatened or
1019 endangered species associated with this development. We've done a preliminary
1020 study and as part of the permitting, we're going to have to confirm with DGIF, of
1021 course. And we also delineated the wetlands and had them confirmed. One of
1022 the reasons for this delay—it's only been since January 2016, not 2014 like the
1023 other case. But it's still been a significant delay in order to get the Army Corps to
1024 confirm the wetlands, which were increased in this area and decreased from

1025 what we anticipated in that area. But now we can look at this subdivision concept
1026 plan and be that much more accurate.

1027

1028 The other thing that we did was that we changed the plan. If you look at the two
1029 plans, they are slightly different because we moved the road in this area by
1030 purchasing additional land over here. Moving the road over there and creating
1031 less impact on the wetlands, we were able to cul-de-sac this to be able to put two
1032 additional lots in this location and two additional lots in that location. The reason
1033 for that is because we also—as part of the concern was the impact of the
1034 stormwater. What we did was we originally had the stormwater outfall at this
1035 location on lot 28, which of course is I believe upstream is how I would call that,
1036 coming into those residences. Instead, we've moved this, and we've proffered
1037 pursuant to proffer 16 that the stormwater outfall will be located at this location. I
1038 think this was a significant change. In order to do that, we had to purchase over
1039 three acres from lot 7 to be able to shift everything over and get this stormwater
1040 outfall over to that area.

1041

1042 The other item which we discussed was the emergency access. This was a
1043 significant issue with the neighbors to be able to not have—both for Grey Oaks
1044 and Shady Grove Meadows—this cut-through. As I showed you on the previous
1045 plan, all along this is what is expected with the original development of Grey
1046 Oaks as to what would be appropriate from the standpoint of traffic regulations. I
1047 think we've already covered the fact that this is a 50-foot right-of-way and it is a
1048 subdivision road. I don't think I have to go over that, unless you have any other
1049 questions on that.

1050

1051 Finally, with respect to the—that's the map again. With respect to the stormwater,
1052 our subdivision—it's turned the other way. I apologize. But this is the subdivision
1053 with Ellis Meadows Lane down here and Grey Oaks in this area. You can see
1054 this particular drainage area is 264 acres. It encompasses more than just the
1055 Grey Oaks area; it encompasses a lot more. You can also see the reason we
1056 show this. This is the area in which the outfall is going to be located. It's picking
1057 up a lot of water and moving it along up through the SPA, the confirmed wetlands
1058 up to the RPA and the floodplain that's further along.

1059

1060 And this is the specific area that we've provided. Again, I apologize, I turned it
1061 around. But here's the Ellis Meadows Lane with the outfall right here. And you
1062 can see some of the various SPA and floodplain area.

1063

1064 These colors didn't come out as well as Ms. Blankinship's, but this was an
1065 attempt—and as you know, as part of the process we have to come back to the
1066 County with a grading plan and a stormwater plan as part of our subdivision plan.
1067 Typically not done. It's hundreds of thousands of dollars in order to do that based
1068 on the topographic surveys. But at the request of the neighbors, during one of
1069 our community meetings, we came back and said we'll do an estimate of where
1070 the water would flow. We've actually been able to pick up in this green area

1071 additional lots that currently the water flows as it hits. And yes, trees do soak up
1072 the water and we will have impervious area.

1073

1074 But as you know, the regulations require that we be able to not have any greater
1075 quality or quantity increase from stormwater. And we have to address that, and
1076 that's all done during the stormwater plan approved as part of the subdivision.
1077 Our engineers who've put some time into, more than just typical at this time in
1078 the proximity of case, have determined that they can put a basin in, in this
1079 area, that would pick up everything in green including a lot of the area that
1080 currently flows upstream from these lots and pull it back here so that it will then
1081 flow through its natural flow currently as it does through Bridlewood, as these
1082 area currently do. The other area that's light shaded blue is where that gets picks
1083 up by the road. And when that gets picked it, it will be put in the outfall out
1084 towards—again, downstream from where the problem area occurs. The rest of
1085 the area is either where Grey Oaks currently flows through as part of that
1086 development—and this is a confirmed wetlands in this area, which we can't
1087 touch. So it's just this area that will be pulled in. What it currently does is flows in
1088 that area naturally.

1089

1090 The other thing that we talked about that we added was that limitation on the
1091 clearing of trees. Again, trying to maximize it, so there will be no clear-cutting.
1092 That was the intent. We use the CO because sometimes there is a transfer
1093 before the house is built, both of the lot, the builder—that's how it's typically
1094 done—or when a bank is involved in a foreclosure. We wanted to make sure it
1095 was a CO before anybody could move in. That would be the trigger point. If
1096 there's a different trigger point, we're happy to use it. It's for the protection of the
1097 ultimate homeowner; and that's what we're trying to get. The builder's not going
1098 to clear any additional area.

1099

1100 Finally, with respect to the issues that were raised, I believe while every
1101 subdivision is unique, there are some typical issues that go with a large, planned,
1102 master plan community. This one, the delay in some of the sale of the lots
1103 obviously has been aggravated by the fact that we're straddling a recession on
1104 either side of that. But also a developer would like to get out of a subdivision as
1105 quickly as possible because they're holding and paying for lots. There is not any
1106 intent to try to stay in there any longer.

1107

1108 A couple of things were brought up. I was going to talk about the builder. There
1109 were I believe three lots that went bankrupt. They're under foreclosure. It's a
1110 privately owned home, lot, partially built home. None of the developers have the
1111 ability to go ahead and grab that. They don't control it. They sell the lot to the
1112 builder when they go to build it.

1113

1114 There are other things that were brought up about the clubhouse, which I think
1115 has been addressed. If there have been things that were promised, then they
1116 have the right to file suit privately against the folks that promised those, including

1117 the developer if they promised, the builder if they promised, or the realtor. Those
1118 are private actions. That does not get to what's an appropriate use, which is what
1119 we're really talking about today, whether the zoning is an appropriate use.

1120

1121 If they have problems with respect to the homeowners' association, they have
1122 rights under the state law, as well as under the restrictive covenants that are part
1123 of the title documents when they—as Mr. Emerson pointed out, when they get
1124 recorded before the sale of a lot, and they're part of their title. That's why you get
1125 title insurance and go over those things. That's when you buy into a subdivision
1126 in a development such as this you understand what those items are.

1127

1128 This case has met or exceeded—and I'll be happy to go over all the various
1129 proffers. We're at a density of 1.8 units an acre in a Comprehensive Plan area
1130 that calls for 2.4 units. It's consistent or exceeds all the other development and
1131 quality proffers of the surrounding subdivisions, including Shady Grove
1132 Meadows, Estates at Grey Oaks, and Grey Oaks. I will mention as well that Grey
1133 Oaks itself was developed by four different developers originally, over 150 acres.
1134 And they came together specifically because the County wants to have master
1135 planned communities. And those four different developers—Pruitt, Payne,
1136 Windsor, and Wright—have continued to develop part of the homeowners
1137 association and every homeowner is treated the same way with respect to the
1138 declarations that are out there and how the homeowners association is run. This
1139 has been questioned about the funding, and they have been fully capitalized.

1140

1141 With that, because the case is consistent with the Comprehensive Plan, the case
1142 meets or exceeds all the quality standards of all the surrounding subdivisions, I
1143 would ask that you follow staff's recommendation and recommend this to the
1144 Board of Supervisors. I'll be happy to answer any questions.

1145

1146 Mr. Archer - Thank you, Mr. Condlin. Are there questions from the
1147 Commission?

1148

1149 Mr. Witte - Mr. Condlin, can you go back a couple slides where it
1150 shows the—wait a minute; you're going too fast.

1151

1152 Mr. Condlin - Sorry.

1153

1154 Mr. Witte - I want to see the property across from the outflow.
1155 There it is. What's that large piece of property there?

1156

1157 Mr. Condlin - This here?

1158

1159 Mr. Witte - It looks like that's where the water's—

1160

1161 Mr. Condlin - Okay. This is the end of our whole subdivision.

1162

1163 Mr. Witte - Right.
1164
1165 Mr. Condlin - I believe, Mr. Jordan, that is your lot. Is that where the
1166 spreaders are?
1167
1168 Mr. Witte - Go to the left of that. Right there. What is that
1169 property?
1170
1171 Mr. Condlin - I think that's an undeveloped portion of Grey Oaks.
1172
1173 Mr. Witte - I can't read what it says.
1174
1175 Mr. Condlin - I don't know if I can either.
1176
1177 Male - [Off microphone.] It's an additional cul-de-sac not
1178 shown on your map that's currently being developed by the same developer.
1179
1180 Male - Is it not, Mr. Condlin?
1181
1182 Mr. Condlin - I'm not going to answer the questions here.
1183
1184 Mr. Witte - It looks to me like—
1185
1186 Mr. Condlin - I'll be happy to answer your question if I'm given an
1187 opportunity.
1188
1189 Mr. Witte - Yes, I understand. It looks to me like with the angle of
1190 the outflow you're directing the water away from the existing residents, but you're
1191 pushing it towards that. Now, obviously, I don't have a map that shows the
1192 elevations, so I can't be sure.
1193
1194 Mr. Condlin - You won't be able to see it but—
1195
1196 Mr. Emerson - I believe we have that—
1197
1198 Mr. Witte - Oh, there we go. We have something.
1199
1200 Mr. Condlin - This property actually drops about 40 feet overall. It's
1201 a pretty significant drop as it's going through here.
1202
1203 Mr. Witte - So it shouldn't back up?
1204
1205 Mr. Condlin - This actually expands out. This wetlands area
1206 continues to expand out and turns into a Resource Protection Area and the
1207 floodplain farther up from that site. I apologize if the map doesn't show existing
1208 current, but that's the information that was drawn at that time, which was earlier

1209 in the year with respect to that particular subdivision. That's part of Grey Oaks.
1210 The four developers continue to develop in that area. So I'm not sure who
1211 specifically that is, whether it's Mr. Payne or Mr. Windsor or Mr. Pruitt or
1212 someone else at this point.

1213

1214 Mr. Witte - Okay. Thank you. You've answered my question.

1215

1216 Mr. Condlin - I would say as well that the level spreaders—from that
1217 standpoint, again from what I understand of the process, they're built by the
1218 developer, and then there's a bond, and they're inspected, and then the bond is
1219 released after it's approved for inspection. That's all occurred. I could be wrong,
1220 but that's why I believe the County is now responsible if it's in a County
1221 easement. I don't believe it was construction. Mr. Yob stood up in the last
1222 community meeting and said it wasn't a construction issue, that they were
1223 constructed correctly. It's just a question of maintenance since that time. That is
1224 a different issue. So again, that's what was told at the last community meeting.

1225

1226 Mr. Baka - Question for the applicant.

1227

1228 Mr. Archer - Go right ahead.

1229

1230 Mr. Baka - If the applicant could scroll forward two or three slides
1231 back to the drainage map with the arrows, this map right there. You said earlier
1232 we want to understand if this is an appropriate use for this land bay. I specifically
1233 want to ask you about the cul-de-sacs over at Grey Oaks Estates Way, Grey
1234 Oaks Park Terrace. As you look at the green, the green areas would drain at the
1235 base, and the blue to the road to the outfall in the rear. What effect would the
1236 sheet flow drainage where the red arrows show—that's pretty much on lot 8 of
1237 Grey Oaks Estate run, that red arrow—right there. What effect would that have
1238 on the neighboring subdivision lots at the terminus of Grey Oaks Estates Way
1239 and the others? Because it looks like you're adding to drainage across the
1240 properties, which is similar to the question that's being raised here by the other
1241 residents on the other side.

1242

1243 Mr. Condlin - Yes, if I may. I think these six lots are continued to be
1244 owned by Windsor. The question became, as required, from Windsor Enterprises
1245 that they would have to extend this cul-de-sac out to create that extension. If you
1246 remember the previous map, that's what was planned for. This particular cul-de-
1247 sac, this road wasn't necessarily under contract. It wasn't owned at the time, so
1248 they couldn't plan on that. So this was going to be the extension. Continued to be
1249 owned by Windsor. When they did the stormwater analysis for this property, they
1250 anticipated the drainage of this property coming off in the white area, on this
1251 area, coming off and picking up on swales. When they do the grading in this,
1252 specifically when they do the construction, they're going to have to accommodate
1253 for that based on the grading plan. It was already anticipated to have that water
1254 come off there.

1255
1256 Mr. Baka - Okay. So to address offsite drainage, you're
1257 anticipating swales on your fee simple lots, on your property not impacting those
1258 other lots in the cul-de-sac?
1259
1260 Mr. Condlin - Correct. That's how that would work.
1261
1262 Mr. Baka - I just wanted to clarify that for the folks here tonight.
1263
1264 Mr. Condlin - And the same would happen down here. These also
1265 all drain that way. And I've learned quite a bit in this. You can't have more than
1266 three homes that continue to drain on the backyards before a swale has to bring
1267 it out. But in this floodplain area, there's nothing we can do about that. We're not
1268 going to go in there and do any development in that area. And these houses
1269 actually drain into that floodplain area, and it gets picked up currently. That won't
1270 change at all with this plan.
1271
1272 Mr. Baka - Thank you.
1273
1274 Mr. Archer - All right, any further questions for Mr. Condlin?
1275
1276 Mrs. Marshall - Mr. Condlin, can we speak for a minute just about the
1277 traffic on Ellis Meadows?
1278
1279 Mr. Condlin - Sure.
1280
1281 Mrs. Marshall - I know that with all the meetings that we've had,
1282 we've discussed the increase of traffic. We have discussed if we decided to
1283 approve this subdivision, what would be the best point of entry. I feel that
1284 between all the meetings that we've had, between the neighbors and myself, Mr.
1285 Branin, and everybody represented, we thought as a group it was better to come
1286 from the side than extend Ellis Meadows Lane. We thought that if we connected
1287 at the end of the cul-de-sac that we were going to be bringing a lot more traffic
1288 than what we're looking at by coming from the side. Is this correct?
1289
1290 Mr. Condlin - That means coming from the side through Grey Oaks
1291 and connecting it through here?
1292
1293 Mrs. Marshall - Right.
1294
1295 Mr. Condlin - This property could by-right now connect Ellis
1296 Meadows Lane to Grey Oaks Estates Run without doing any subdivision or any
1297 zoning. We'd have to do subdivision for the road itself. That was what's been
1298 anticipated all along. And as you know, from the 50-lot rule, you have to have a
1299 second access or a certain number of points. We would be tipping over that. If
1300 we did not have this connection to Ellis Meadows Lane, we would be limited by

1301 that. This is already impacted by that 50-lot rule. That's where the emergency
1302 access comes in from that standpoint. And why, quite frankly, Ellis Meadows
1303 Lane was designed the way it was to be able to make that connection. That's
1304 why we ended up just putting in the emergency access because of the traffic
1305 from 450 homes versus 42 homes. It's a significant decrease in the amount of
1306 traffic that would otherwise come through there.

1307
1308 Mrs. Marshall - Mr. Jennings, can I hear from you for a moment,
1309 please?

1310
1311 Mr. Jennings - Yes ma'am.

1312
1313 Mrs. Marshall - Yes. It would mean a lot to all of us sitting here if we
1314 could talk a little bit about #16 and how the water's going to flow, where it would
1315 be collected, how it would be held. Can you address that, please?

1316
1317 Mr. Jennings - Well, according to their plan, which is shown here,
1318 Andy Condlin explained it. The area in green will be collected in this BMP and
1319 then sent through this channel, through the existing pond, and down into the
1320 Environmental Protection Area, the wetland area down through here. The area in
1321 blue will be collected in the storm sewer along the roadway and then sent down
1322 through here to a level spreader that will then send the water this direction.

1323
1324 The sheet flow in white is what's occurring now. Actually, there's more sheet flow
1325 heading towards the existing wetlands now off this property. They're actually
1326 diverting more of it away from directly behind the neighbors that are concerned.
1327 So they'd actually be helping that concern because they're diverting the water
1328 beyond them.

1329
1330 Mrs. Marshall - That means after a huge storm, there should be less
1331 runoff—

1332
1333 Mr. Jennings - Well there will be less coming from this property.
1334 Depending on the size storm it is. I mean if it's a 50- or 100-year storm, they're
1335 still going to get a lot of water in that wetland area. So it just depends on the size
1336 of the storm. But this development, the way it's proposed—and obviously we
1337 would review it to make sure it does meet the 1-, and 2-, and the 10-year storms
1338 and how they're diverting water. If they go with what they're proposing right here,
1339 it should help their concerns, their existing concerns, yes ma'am.

1340
1341 Mrs. Marshall - Okay. I'm not sure if this is in your realm of
1342 knowledge, but you can let me know if it is. As far as with the construction of new
1343 houses, if you're following the footprint and the driveway and only removing the
1344 trees that are necessary—and you can tell me if you know the answer to this or
1345 not—they'll be more absorbed so we'll have less runoff coming into the street the
1346 more trees that we leave?

1347

1348 Mr. Jennings - Yes ma'am. Leaving some large existing trees will
1349 help with the transpiration and evaporation, which will increase the infiltration into
1350 the ground, which obviously will reduce runoff. So yes, that will help with the
1351 runoff in those areas if you leave trees. The roots will take it in through the soil,
1352 and it'll be sent up to the leaves and then evaporated. So it won't be sent down to
1353 that channel. That will help to reduce runoff. Yes ma'am.

1354

1355 Mrs. Marshall - Okay. Thank you.

1356

1357 Mr. Jennings - You're welcome.

1358

1359 Mr. Archer - All right, anything further? Mr. Leabough, you have a
1360 question?

1361

1362 Mr. Leabough - Yes, for Mr. Condlin about the developer's due
1363 diligent. Irrespective of what happens with this case tonight, can you speak to the
1364 developer's due diligence as it relates to who would be a potential partner? The
1365 fact that the other builder went bankrupt, that is a concern. You would think it
1366 would be in the developer's best interest to do a better job of vetting or doing
1367 their due diligence in terms of who they partner with.

1368

1369 Mr. Condlin - Well, don't forget that out of 450 homes, 3 homes
1370 aren't finished because that builder went bankrupt.

1371

1372 Male - [Off microphone.] [Inaudible] not the only one.

1373

1374 Mr. Condlin - Again, they do vet their builders. And that's not the
1375 developer—now with the joint venture Valerie Moss that they're in, with Shady
1376 Grove Hills, that's someone who's done a lot of development. If they're joint
1377 venturing on this, again, an additional developer as opposed to just Windsor. As
1378 happens a lot of times with developers, different than the builders themselves.
1379 Once they sign a contract with a builder that will buy a lot, the builder buys the
1380 lot. Now it's under control. They obviously have to abide by the restrictive
1381 covenants and the terms of the contract. There is some control over that, and
1382 they do control that. But once the construction starts, the lender has the most
1383 control over that. And that's what's happening in this case. These things happen.
1384 It's unfortunate. It's been rare. But that was a personal issue with that one
1385 builder, to my understanding. There have not been any other builders. I don't
1386 know how many there are, but there are certainly a large number of them to build
1387 this many homes and not have any problems. I understand your point.

1388

1389 Mr. Leabough - Is one of the other builders or the developer trying to
1390 acquire the property through the foreclosure process?

1391

1392 Mr. Condlin - Mr. Windsor has been working closely with Mr.
1393 Romm. I'm talked with Mr. Romm as well. I'm trying to talk with the bank in order
1394 to pick those properties up.

1395
1396 Mr. Leabough - It's in their best interest to do so.

1397
1398 Mr. Condlin - It's in their best interest because it doesn't help sales
1399 when you have a half-built home. Again, they want to get out as quickly as
1400 possible. While the bank has it under control, it's under the bankruptcy court, and
1401 the bank has control of it at this point. There's nothing we can do at that point.

1402
1403 Mrs. Marshall - Mr. Condlin, following Mr. Leabough for a minute.
1404 Until the homes have been through the entire bankruptcy process, on the legal
1405 end, there is nothing that can be done until that is decided. Is that correct?

1406
1407 Mr. Condlin - That's correct. Other than what the County has done,
1408 which is to secure—

1409
1410 Mrs. Marshall - Other than what the County has done. Is that correct?

1411
1412 Mr. Condlin - And I apologize from the standpoint—on behalf of Mr.
1413 Windsor, who is not living in town right now. I have appeared at every meeting,
1414 both the formal community meetings as well as met with a number of
1415 homeowners. When this issue was raised, that was the first time I'd heard of it
1416 other than what was in the paper. Did not know that they were being left empty
1417 and some of the kids were in there. So when it was raised—I think you were at
1418 the meeting—we raised it immediately to the County to say what can be done.
1419 And this is the result of that. It takes a little time to do that. Again, sometimes
1420 these things come up. Like, the maintenance of the common area. I immediately
1421 contacted the homeowners association. They've been talking to—I understand
1422 they're trying to get a new landscape/maintenance/grounds-keeping folks that will
1423 do a better job. That's what comes out of these meetings sometimes.

1424
1425 Mr. Leabough - I just hope that they could do a better job of at least
1426 corresponding and communicating with the community, because it does seem
1427 like there's a concern.

1428
1429 Mr. Condlin - Absolutely. I agree with you on that. There's no doubt
1430 that that's been a problem for all of the developers and the community. There's
1431 been frustration on both sides with that.

1432
1433 Mrs. Marshall - Mr. Condlin, do we know for a fact—is Greg Windsor,
1434 he is going to be the sole developer of this land?

1435
1436 Mr. Condlin - No. He will be from the standpoint of controlling Grey
1437 Oaks, the area right here. He will be involved with—again, it's a joint venture.

1438 He's going to have control, as he usually does, of everything. He keeps control of
1439 the development, so he's going to continue this. I can go through the proffers that
1440 we have, but it's going to be very similar to Grey Oaks and Shady Grove
1441 Meadows. And he'll have control of it. I just want to be honest and upfront about
1442 it that it will be somebody he's joint venturing with.

1443
1444 Mrs. Marshall - And do you know who the joint venture is with?
1445

1446 Mr. Condlin - Valerie Moss out of Fredericksburg. V Moss
1447 Development is what it's called. But again, he keeps control. He always does, he
1448 always has, even with the developers within Grey Oaks. There have been a
1449 number of sections. The section you pointed out, Mr. Witte, I have no idea if
1450 that's it, but I know Mr. Payne and Mr. Windsor have developed some together. I
1451 know Mr. Wright and Mr. Windsor have developed some together. What happens
1452 is you get partial lots in between these sections of what they own, and they try to
1453 lay it out the best way as opposed to saying I just build mine and you build yours.
1454 They join venture on a lot of these and put the properties together. They'll share
1455 in the cost and share in the risk and share the profits. So it's not unusual. In Grey
1456 Oaks, I know there are three already developed. And I believe Mr. Pruitt has
1457 done the same thing.

1458
1459 Mrs. Marshall - Once the developers have sold the land to a builder,
1460 do they still have any responsibility or is all on the builder after that point?
1461

1462 Mr. Condlin - There are always the property rights that they have.
1463 But there's a contract with the builder when they sell it until they purchase it. In
1464 that contract there are things like how they keep the property and keep the lot
1465 that are part of the restrictive covenants, but also a part of the contract. Typically
1466 what they'll do is they'll say we'll buy five lots—I'm just picking a number. If I buy
1467 five lots, I'll buy the first lot, and they have control under that contract with some
1468 of that on how that works. But the lender for the construction loan makes sure
1469 that they have the ultimate control. And in the situation that we have here with
1470 Mr. Romm, they've taken over. And then the bankruptcy court has now entered
1471 into the scene, which totally stops any ability to develop.

1472
1473 So yes, they do have some control. They don't have absolute control over those
1474 lots. Just like if a homeowner has a broken window, the developer or the HOA
1475 can't go in and do it for them or change it for them. They can ask them to do it,
1476 but they can't make them do it. At that point, there are private property rights that
1477 are impacted by the lender, and in this case the bankruptcy court that restricts
1478 that.

1479
1480 Mrs. Marshall - Okay.
1481

1482 Mr. Archer - All right. Anything further for Mr. Condlin from the
1483 Commission?

1484
1485 Mr. Emerson - I just have one question, Mr. Chairman. Mr. Condlin,
1486 are you aware of any of the proffered amenities that have not been developed?
1487
1488 Mr. Condlin - I know they said that there were supposed to be—
1489 referenced some tennis courts. The proffered development required the pool and
1490 the clubhouse. Those have all been placed in there. We have the common park
1491 area—the common areas that they have, the pocket parks. Those have all been
1492 developed. Again, all these developers have done multiple developments—Pruitt,
1493 Payne, Windsor, and Wright. They've all done a lot of developments in the area.
1494 Even inspect those. That's part of the proffers, and that's what they'd done.
1495
1496 I can't tell you what has been told. We hear this in a lot of cases, "what my realtor
1497 told me." The developer told me to buy the lot. Those things may or may not
1498 happen. But there's an action that they have outside and separate from what is
1499 the use of the property and proffers that were there. And we've met all the
1500 proffers, as far as I'm concerned. I've never heard otherwise.
1501
1502 Mr. Emerson - Right. I did ask staff to look back at that today, but I'm
1503 not aware of any.
1504
1505 Mr. Condlin - I'm not either.
1506
1507 Multiple voices - [Off microphone.]
1508
1509 Mr. Archer - Excuse me, folks.
1510
1511 Male - [Off microphone.] Can we have an opportunity to
1512 address some of the inaccuracies that's we've heard in the rebuttal?
1513
1514 Mr. Archer - Mrs. Marshall, I'll leave that up to you.
1515
1516 Mr. Emerson - Mr. Chairman, I would note that your rules and regs
1517 don't allow for that.
1518
1519 Mr. Archer - Okay. Sir, we have surpassed the time by a good
1520 margin that the opposition had to speak.
1521
1522 Male - [Off microphone; inaudible.]
1523
1524 Mr. Archer - Sir, I'm sorry.
1525
1526 Male - [Off microphone.] I've contracted Lyme disease twice
1527 [inaudible].
1528

1529 Mr. Archer - I understand. I wish we had more time, but we don't.
1530 We have to make a decision. Mrs. Marshall?

1531
1532 Mrs. Marshall - Mr. Chairman, this case began in January. There
1533 have been many meetings with residents, discussions with Planning staff and
1534 Public Works, and discussion with Mr. Condlin concerning this case. I've been at
1535 all of the meetings but one. That was the most recent meeting. There have been
1536 many concerns raised and issues presented, some relevant to the case and the
1537 applicant, and some that are not relevant to the case. All concerns and issues
1538 are important.

1539
1540 Construction that's started and not completed is not the fault of the applicant.
1541 And there are legal limitations of what the County can do to rectify those issues. I
1542 want to assure the residents that myself and the County will remain responsive to
1543 this issue, and when legally possible, take action. So as far as addressing what
1544 we did, with the homes that weren't built, we did not know that the homes were
1545 not finished. At the time, we had not been out. Mr. Branin and I went out. We
1546 went in them. We had conversations with people. We did what we legally could
1547 do. I just want to make sure that you do understand that.

1548
1549 There have been issues with the wetlands, property lines, and drainage. Some of
1550 these issues have a root cause in prior zoning cases and the resulting
1551 development. Though a lot of these issues may not be the applicant's fault, they
1552 exist, and the effects have to be considered when assessing the case.

1553
1554 One of the initial concerns was adding to Grey Oaks the 42 lots, now called
1555 Shady Grove Hills due to the impact on the homeowners' association. The
1556 applicant was required to make these 42 lots a separate subdivision. The
1557 additional access connecting these 42 lots to Grey Oaks was eliminated to
1558 reduce traffic in both of these developments in Ellis Meadows. I felt like we
1559 worked a long time on making that happen. I think it was important to the people
1560 that were there that that was something that we worked on. I felt like that has
1561 been done.

1562
1563 The only trees that can be removed from the property are the ones that are
1564 necessary for the homes to be built and necessary for the decks and the
1565 driveways. The retention of trees will allow for more absorption of water on the
1566 property. The applicant may feel a lot of the requirements in this case are the
1567 result of other development, but the issues cannot be ignored. I've done all I
1568 know to do to address these issues.

1569
1570 As the staff report indicates, this rezoning case is in compliance with the
1571 Comprehensive Plan. It complies with all other requirements for the single-family
1572 residential development in this area. The homes will be of high quality, consistent
1573 with the homes in adjacent Grey Oaks.

1574

1575 So, Mr. Chairman. I move that REZ2016-00001, Andrew Condlin for Windsor
1576 Enterprise Corp, request to conditionally rezone from A-1 Agricultural District and
1577 R-2AC One-Family Residence District (Conditional) to R-2AC One-Family
1578 Residence District (Conditional) parcels 741-771-3734, 741-771-2432, and part
1579 of parcels 740-771-9736, 741-771-6359, 741-772-9212, 741-772-5941, 741-772-
1580 4776, 741-772-0892, and 741-773-2144 be recommended for approval with the
1581 proffered conditions.

1582
1583 Mr. Witte - Second.

1584
1585 Mr. Archer - Motion by Mrs. Marshall and seconded by Mr. Witte.
1586 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1587
1588 **REASON -** Acting on a motion by Mrs. Marshall, seconded by Mr.
1589 Witte, the Planning Commission voted 5-0 (one absent) to recommend the Board
1590 of Supervisors **grant** the request because it conforms to the recommendations of
1591 the Comprehensive Plan.

1592
1593 Mr. Emerson - Mr. Chairman, we now move on to page 2 of your
1594 agenda for REZ2016-00033, Andrew M. Condlin for Bacova and Bacova Texas,
1595 LLCs. The staff report will be presented by Ms. Erin Puckett.

1596
1597 **REZ2016-00033 Andrew M. Condlin for Bacova and Bacova Texas,**
1598 **LLCs:** Request to conditionally rezone from A-1 Agricultural District and R-5AC
1599 General Residence District (Conditional) to R-5AC General Residence District
1600 (Conditional) Parcels 736-768-6361, -5323, and 736-767-2166 containing 23.1
1601 acres located at the southeast intersection of N. Gayton and Kain Roads. The
1602 applicant proposes single family dwellings. The R-5A District allows a maximum
1603 density of six (6) units per acre. The use will be controlled by proffered conditions
1604 and zoning ordinance regulations. The 2026 Comprehensive Plan recommends
1605 Suburban Mixed-Use and Environmental Protection Area.

1606
1607 Mr. Archer - All right. Thank you, Mr. Secretary. Is there anyone
1608 present who is opposed to REZ2016-00033, Andrew M. Condlin for Bacova and
1609 Bacova Texas, LLCs? Opposition, sir? Okay, thank you. We'll get to you. Good
1610 evening, Ms. Puckett. How are you?

1611
1612 Ms. Puckett - I'm well, thank you. Thank you, Mr. Chairman and
1613 members of the Commission.

1614
1615 The applicant is requesting to rezone approximately 23.1 acres from R-5AC and
1616 A-1 to R-5AC to allow an addition to a previously approved zero-lot-line single-
1617 family development for up to 66 dwellings. The subject property includes three
1618 parcels and is located along the southeast line of North Gayton Road, between
1619 Liesfeld Farm Drive and Kain Road.

1620

1621 In 2011, the Board of Supervisors approved rezoning case C-9C-11, which
1622 rezoned approximately 135.94 acres for the planned residential community of
1623 Bacova, which included a total of 610 dwelling units. A portion of that approved
1624 rezoning included 19.48 acres to R-5AC for 45 zero-lot-line homes. This request
1625 would add approximately 3.6 acres and increase the maximum number of
1626 dwellings on this portion of the development to 66.

1627
1628 The 2026 Comprehensive Plan's recommended future land use for the subject
1629 property is Suburban Mixed-Use, with a small area in Environmental Protection
1630 Area. The request is generally consistent with the SMX designation and would
1631 only slightly increase the density approved with the original development. It
1632 would also further the SMX objective of creating cohesive, planned development
1633 rather than isolated subdivisions.

1634
1635 The applicant has submitted revised proffers dated October 26, 2016. They
1636 would not require a waiver of time limits. The proffers are generally consistent
1637 with those approved with case C-9C-11. The October 26th revision now includes
1638 a proffer for road improvements along the property's frontage on North Gayton
1639 Road, to include a third northbound lane and a right turn lane into the property.

1640
1641 Overall, the request to increase the previously approved rezoning by 21 units is
1642 generally consistent with the recommendations of the 2026 Comprehensive Plan,
1643 and the previous rezoning approval for the overall Bacova development. For
1644 these reasons, staff supports the request.

1645
1646 This concludes my presentation and I would be happy to answer any questions.

1647
1648 Mr. Archer - Thank you, Ms. Puckett. Are there questions from the
1649 Commission? No questions. Thank you, ma'am. We do have opposition. Mrs.
1650 Marshall, would you like to hear from opposition first?

1651
1652 Mrs. Marshall - Yes, please.

1653
1654 Mr. Archer - All right. Would the opposition come forward, please
1655 state your name and address for the record.

1656
1657 Mr. Perkins - Thank you. My name is Channing P. Perkins. I live
1658 actually at 5250 East Branch Drive. I do own an adjacent property, 12252 Kain
1659 Road which is—if you can flip back to an overall picture for me, please. If you
1660 move towards the bottom. Do you see the pond? There's another house right in
1661 there. The pond property has already been bought, and that has been zoned. It is
1662 my understanding that property has been zoned for an SR-3 or an R-3.
1663 Surrounding properties on Kain Road are all R-3. To allow this finger from where
1664 North Gayton—kind of that little finger coming out to go to an R-5 with zero lot
1665 lines makes no sense. The adjacent property on the west side where it almost
1666 looks like a-a desert, which is Welwood, that's R-3.

1667
1668 So you have R-3, R-3—R-3 all the way up. Why not have R-5, that little stop it,
1669 and let the R-3 continue to Kain Road? Keep the zoning consistent with the
1670 adjacent properties. Let it phase in to. We have massive apartments down on
1671 Bacova all the way from Pouncey Tract down to Bacova to North Gayton.

1672
1673 There are water runoff issues. I just sat here and listened to 30 minutes of Grey
1674 Oaks and backup of stormwater. When they cleared off Welwood, there was well
1675 underestimation of water runoff. The County just spent x-number of dollars
1676 having to put in three new storm drains, storm pipes under Kain Road by the
1677 Benford Leake property. And I will be speaking out on the case for the
1678 telecommunications.

1679
1680 I wish the County would show some real sense in its proposed plans in making
1681 developers and looking at the whole picture versus a small minute picture. Thank
1682 you. I'll be happy to entertain any questions.

1683
1684 Mr. Archer - Thank you, sir. Are there questions for Mr. Perkins
1685 from the Commission? Don't believe so, sir. All right. Will the applicant come
1686 forward, please?

1687
1688 Mr. Condlin - Mr. Chairman, members of the Commission,
1689 Mr. Emerson, Andy Condlin here with Mr. Babcock, Andrew Browning,
1690 representing the applicants in this case.

1691
1692 This is the original. I thought at least we'd take a quick look at the original zoning
1693 case from the standpoint of what we're looking for in the overall. This was part of
1694 the original Bacova, which had 130-plus acres. To orient you, Pouncey Tract is
1695 here, Gayton Road, section F, Kain Road. So this is part of section F, which
1696 originally was 19.48 acres. We're actually just adding that 4.46-acre piece. This
1697 is already zoned R-5AC for most of the property, but just adding about 4-1/2
1698 acres to that. The reason we're rezoning the whole thing is so we didn't have two
1699 different sets of proffers. We thought we'd just rezone it to same set of proffers
1700 that meet or exceed what was otherwise provided for in the original Bacova case.

1701
1702 Similar to the other case you just heard, looking for a master planned community
1703 being able to provide for a better creation with a clubhouse that we've provided
1704 for and has been built as well, and then construction of the infrastructure and the
1705 roads, including public access and parks and things of that nature. So what
1706 we've done is we've taken the proffers from the original Bacova case. And the
1707 extent that they're applicable with respect to section F, we copied them and
1708 exceeded them. As we pointed out, the Comprehensive Plan called for SMX.
1709 This is the plan that we put together.

1710
1711 I did want to point out to Mr. Perkins' point that it does call for SMX on this side of
1712 Gayton Road, and we are on Gayton Road. This is a heavily trafficked road and

1713 was expanded recently by the County as they went thru this and constructed this.
1714 On the other side is Suburban Residential 1. Despite the fact that Suburban—
1715 SMX was typical of suburban development patterns, the Comprehensive Plan
1716 calls for a master plan with a variety of housing types. We have single-family
1717 detached, as well as apartments, but also these would be zero lot lines with an
1718 R-5AC. Despite that, the master plan then calls for limited to four dwelling units
1719 an acre. Our density on this section F is actually 2.85. So while it's not R-3, it
1720 would be consistent with R-3. And the reason is we want to have zero lot lines in
1721 different housing types, which is called for specifically by the Comprehensive
1722 Plan.

1723
1724 The other thing you'll notice on the plan is that there is no access to Kain Road.
1725 And while Mr. Perkins is right, this finger does go out to Kain Road, again, there
1726 is no access. We have our access off of Gayton, with houses backing up to
1727 Gayton, as well as on Liesfield Farm Drive, which was the original plan. We've
1728 just added this area right here to the existing plan that we had for the property.
1729 Again, for R-5A.

1730
1731 The proffers are the same or enhanced. We've increased the dwelling size, the
1732 minimum dwelling size. We've increased the number of garages or the size of the
1733 garages. Before it was one car; now we're providing for two-car garages, still with
1734 brick, stone or masonry siding and 25-year roof warranty. Typical proffers that
1735 you otherwise see.

1736
1737 So with that, I'll be happy to answer any questions. But I'd asked that you follow
1738 staff's support and recommend this to the Board of Supervisors for approval.
1739 Happy to answer any questions.

1740
1741 Mr. Archer - Thank you, Mr. Condlin. Are there questions from the
1742 Commission?

1743
1744 Mrs. Marshall - Mr. Condlin, can you back up one slide, please?

1745
1746 Mr. Condlin - Right there?

1747
1748 Mrs. Marshall - Yes. On section F, right now that is zoned R-5AC?

1749
1750 Mr. Condlin - Correct. And they have subdivision plans already
1751 approved.

1752
1753 Mr. Condlin - And the subdivision plans, they're actually building it
1754 R-3? Is that my understanding?

1755
1756 Mr. Condlin - On section F?

1757
1758 Mrs. Marshall - Yes.

1759
1760 Mr. Condlin - No. It's R-5A on section F.
1761
1762 Mrs. Marshall - Okay.
1763
1764 Mr. Condlin - Currently, R-5A, already zoned that. They got the
1765 subdivision approval, but they haven't done any construction in there. So with
1766 this acquisition, they thought they would add that. Again, you're at the corner of
1767 Gayton Road and Kain Road. You can see that it makes sense to continue that
1768 R-5A. And we've got the exact same proffers that we had otherwise.
1769
1770 Mrs. Marshall - As far as adding the acreage to this and the
1771 extension, as far as adding that lane—
1772
1773 Mr. Condlin - Are you talking about Gayton Road?
1774
1775 Mrs. Marshall - I'm talking about Gayton Road.
1776
1777 Mr. Condlin - Yes ma'am. A third lane is being required that all of
1778 Bacova did as part of that. That was part of the original case here, so we'll
1779 continue that third lane. And there's a question on the turn lane, the beginning of
1780 the right turn lane. We have a survey, and we're going to figure that out in a little
1781 more detail where the light is at Gayton and Kain Road. Is that too close to be
1782 able to put a turn lane in. We didn't think we should be responsible for taking all
1783 that lighting, the arm and all the equipment, since it was just placed in there by
1784 the County. But the County said that we have room to put that in there, so to the
1785 extent that—there's room we're going to be able to put that turn lane in and meet
1786 all the requirements.
1787
1788 Mrs. Marshall - As far as traffic goes, how much traffic are we talking
1789 about adding to North Gayton?
1790
1791 Mr. Condlin - Well, there are a couple points. When you look at the
1792 traffic—let me pull it out here to make sure I get you the right numbers. The total
1793 weekday trips that they're looking at is 720. That's what the Transportation
1794 Department—of course 20 of those 25 acres are already approved that were
1795 already there. So we're just adding the five acres. I'm taking a guess here that's
1796 it's probably about 210 trips. About 21 lots. So I'm multiplying that by 10. Out of
1797 the 720. It says right here in the staff report it's an increase of 220. I said 210. I
1798 was off by ten on that. So it's an increase of 220 by adding the 4-1/2 acres on
1799 there.
1800
1801 If you look at the plan, of course it's Gayton Road were adding the third lane, and
1802 that's anticipated for that. We've got the distance from the intersection. But also
1803 don't forget this is Liesfield Farm Drive. When you look at the overall plan—well,
1804 this doesn't show it. Liesfield Farm Drive goes all the way out to Twin Hickory. It's

1805 an extension of that that comes in around here. Is that already completed or it will
1806 be completed in the next 30 days. So that whole extension will be completed. So
1807 those cars will be able to come out and either go to Pouncey Tract or to Gayton,
1808 take a left to go out the other way on Gayton. So it's not like they're all heading
1809 on Gayton and going that way.

1810
1811 Mrs. Marshall - Okay.

1812
1813 Mr. Condlin - Probably a long answer to what you asked, but
1814 thought I'd throw it all in there.

1815
1816 Mrs. Marshall - It was very thorough. Thank you.

1817
1818 Mr. Archer - All right, any further questions for Mr. Condlin?

1819
1820 Mr. Baka - One question. Clearly with the way the lots are
1821 configured there's no envisioning of any stub road or any access to the other
1822 portions of un-zoned property on Kain Road to the east of the cul-de-sac?

1823
1824 Mr. Condlin - That's correct.

1825
1826 Mr. Baka - By extending the land bay, the 4-1/2 acres up there,
1827 this property also has an advantage of having no direct access—the 4-1/2 acres
1828 has no direct access on Kain or North Gayton, which I think is an added benefit.

1829
1830 Mr. Condlin - Thank you, that's a good point. Currently, if it was
1831 developed on its own, it couldn't go to Kain—it couldn't go on Gayton because
1832 it's too close to the intersection; it would have to go on Kain. It reduces one point
1833 of access. That's a good point. I hadn't thought to bring that up. Thank you.

1834
1835 Mr. Archer - All right, anything further? Mrs. Marshall?

1836
1837 Mrs. Marshall - Mr. Chairman, I move that REZ2016-00033, Andrew
1838 M. Condlin for Bacova and Bacova Texas, LLCs, be forwarded to the Board of
1839 Supervisors with a recommendation of approval with proffers dated October 26,
1840 2016.

1841
1842 Mr. Leabough - Second.

1843
1844 Mr. Archer - Motion by Mrs. Marshall and seconded by
1845 Mr. Leabough: All in favor say aye. All opposed say no. The ayes have it; the
1846 motion passes.

1847
1848 **REASON -** Acting on a motion by Mrs. Marshall, seconded by Mr.
1849 Leabough, the Planning Commission voted 5-0 (one absent) to recommend the

1850 Board of Supervisors grant the request because it conforms to the objectives
1851 and intent of the County's Comprehensive Plan.

1852

1853 Mr. Emerson - Mr. Chairman, we now move to page 3 of your
1854 agenda. We are moving into a section that is going to cover a number of staff
1855 reports regarding a Public Safety communication system upgrade. Each one of
1856 these cases has both a Substantially in Accord report and also a Provisional Use
1857 Permit report. I will call two of these together each time because they are so
1858 similar in nature it makes sense for that to happen. These applications dovetail
1859 together and create an entire Public Safety communications system. So I'll leave
1860 it to your discretion. You may want to hear the presentation on each of these
1861 items and then come back and take your actions, or you could take it individually
1862 after the presentation of each two items. I'll leave that up to your discretion.

1863

1864 But we will lead off with a summary presentation of the proposed Public Safety
1865 communication system upgrade, including details from the project team
1866 regarding network and project history, technical requirements, regional
1867 cooperation, the site identification process. This presentation will be made by one
1868 of the assistant chiefs, Lieutenant Carl Mueller. And I believe he has a little cadre
1869 of individuals to answer any questions you may have.

1870

1871 Mr. Archer - All right. Thank you, sir. Is there opposition to these
1872 cases? Also, what is the pleasure of the Commission? Would you like to hear
1873 them all or do them individually?

1874

1875 Mr. Leabough - Combining them would be preferable.

1876

1877 Mr. Archer - Okay. All right. Mrs. Marshall, you okay with that?

1878

1879 Mr. Leabough - I'm fine.

1880

1881 Mr. Archer - Mr. Baka? All right. Go right ahead, sir. I didn't mean
1882 to interrupt you.

1883

1884 Lt. Mueller - As Mr. Emerson said, I am Carl Mueller. I'm one of
1885 the assistant chiefs of the Henrico County Police. I'm also a member of the
1886 Henrico project team for the next generation radio system.

1887

1888 Mr. Chairman and members of the Commission, thank you for the opportunity to
1889 address the planned Public Safety Communications System that represents
1890 seven of the provisional use permits and SIAs before you today. I'm joined today
1891 by the Henrico project team, our project consultants, Altairis Technology
1892 Partners, and the system vendor, Motorola Solutions.

1893

1894 Today, Henrico County and our regional partners in Chesterfield and the City of
1895 Richmond have a truly interoperable land mobile radio system, which allows

1896 public safety assets to seamlessly traverse radio systems in the metro Richmond
1897 area. It also allows public safety assets to communicate with each other on
1898 shared interoperability talk groups in a routine and simple manner.
1899

1900 Over time, this need has grown due to world events which clearly show that
1901 crime and other public safety emergencies do not respect jurisdictional
1902 boundaries. Our current system was developed in 1996 and entered service in
1903 1998. In the early 2000s, Chesterfield County and the City of Richmond built their
1904 systems, which were then joined with the Henrico County core system. While this
1905 has served as a robust and reliable system to date, it has reached its end of life.
1906 And as such, the region is currently in year four of our replacement planning and
1907 project development. The planning process included a thorough needs
1908 assessment, which helped us identify the needed capabilities of the new land
1909 mobile radio system, which would not only serve our needs today, but service the
1910 needs of Henrico for the next 20 years.
1911

1912 After the needs assessment was developed, the region, along with our
1913 consultants, developed a request for proposal, which encompassed over 6500
1914 technical specifications. The development of the RFP was a year-long process.
1915 And it was another full year to review the vendor proposal and negotiate a
1916 satisfactory contract with a successful vendor.
1917

1918 A major portion of our technical specifications for this radio system related to
1919 coverage-level requirements. These coverage specifications included lessons
1920 learned from our current system, known locations of limited coverage today, and
1921 how public safety agencies use and carry radios, along with current and
1922 anticipated development in Henrico County.
1923

1924 Predicted coverage takes into account hundreds of physical, geographic, and
1925 atmospheric conditions, all of which affect reliable voice communication both to
1926 and from the public safety first responders in the field and, more importantly,
1927 inside the thousands of structures where we render life-saving functions. It is
1928 within the structures that much of our technical coverage discussions and
1929 contract negotiations resided. We refer to this as "in-building coverage," which
1930 was one of the primary drivers behind the eventual selection of tower sites to
1931 meet the specifications.
1932

1933 Twenty years ago, Henrico County's population was just over 254,000 people.
1934 Today, our estimated population is over 329,000. Along with the growth in
1935 population comes a growth in the community of new and different structures,
1936 which the public safety radio system must provide reliable in-building coverage.
1937 Not only have the quantity of the structures increased in the last 20 years, but
1938 also the building materials and the construction techniques have changed
1939 dramatically to improve energy efficiency. However, we have learned that high
1940 energy-efficient commercial buildings and residential structures also greatly
1941 affect radio frequency transmissions. We have experienced numerous examples

1942 of new construction and refurbishment of older structures that block radio
1943 frequency transmission of our current public safety radio system. These are just
1944 some of the factors which helped us guide our specifications for adequate
1945 coverage for the next generation radio system.

1946
1947 To meet the coverage requirements dictated by our RFP, Motorola first proposed
1948 a 15-tower-site system. Through a series of detailed coverage design workshops,
1949 our consulting team and the Henrico project team and Motorola arrived at a 13-
1950 site design which leveraged our existing four tower locations and County-owned
1951 property for most of the nine new sites required.

1952
1953 Part of our coverage design was a thorough assessment of existing commercial
1954 and municipal tower locations in Henrico and an assessment of their feasibility to
1955 support our needs. It was through this assessment that Henrico identified two
1956 opportunities for co-location, leaving us with seven total new tower sites to
1957 consider today. While these two co-location opportunities are still pending final
1958 approval, we are encouraged by our progress to secure these sites.

1959
1960 The seven new tower locations before you this evening, along with the two co-
1961 location opportunities and our existing four towers, comprise our contract of a 13-
1962 site system, which will serve the needs of the public safety radio communications
1963 for the next two decades. Each of these sites delivers critical coverage in the
1964 overall design of the simulcast system.

1965
1966 This concludes my summary of the project, and I'll be glad to answer any
1967 questions which the Commission may have regarding the radio project. I'm also
1968 prepared to address specific questions or comments as part of the individual site
1969 discussions as the Planning Department proceeds with their presentation.

1970
1971 Mr. Archer - Thank you, Chief Mueller. Are there questions for
1972 Lt. Mueller from the Commission?

1973
1974 Mr. Baka - One question, sir.

1975
1976 Mr. Archer - Go right ahead.

1977
1978 Mr. Baka - Can you explain how as you—equi-distance between
1979 two tower sites, how the signal transfers from one tower to another when you
1980 determined the locations of where these sites should be placed?

1981
1982 Lt. Mueller - Are we talking transmission between the towers, how
1983 the system's connected?

1984
1985 Mr. Baka - Yes.

1986

1987 Lt. Mueller - This is what we refer to as back calls, how the towers
1988 communicate to each other and eventually back to the Communication Center
1989 just down the street on Parham Road. It's connected by microwave. The more
1990 brown line represents the system design microwave path between all these
1991 suggested 13 towers and the prime site just up the street at the Emergency
1992 Communication Center. So they're all connected by microwave and it's
1993 redundant. As you see, the path of the signal can go any direction through that
1994 microwave path. So if one particular link might break, the traffic can turn around
1995 and go the other direction around the ring.

1996

1997 Mr. Baka - Thank you.

1998

1999 Lt. Mueller - Yes sir.

2000

2001 Mr. Archer - We need to take a recess for just a few moments.
2002 Give us about ten minutes. Thank you.

2003

2004 **THE PLANNING COMMISSION RECESSED THE MEETING AT 8:42 P.M.**

2005

2006 **THE PLANNING COMMISSION RECONVENED AT 8:54 P.M.**

2007

2008 Mr. Archer - I think we need to see if anybody has questions for
2009 Mr. Mueller.

2010

2011 Mr. Emerson - Mr. Mueller and the whole team will be here through
2012 the presentation.

2013

2014 Mr. Archer - Okay.

2015

2016 Mr. Emerson - Mr. Chairman, if you want to reconvene the meeting,
2017 we'll pick up with the first case. And I'll explain how we can do this.

2018

2019 Mr. Archer - Thank you, Mr. Secretary. Okay, we will be
2020 reconvened.

2021

2022 Mr. Emerson - Thank you, Mr. Chairman. The way we'll proceed now
2023 after the Lieutenant Colonel's presentation, I will call two cases at a time, an SIA
2024 and a PUP, and staff will give brief details about each one versus going in depth.
2025 And then we can take questions from there. If you wish, you can—or you
2026 probably should open the public hearing or take public comment after each two
2027 because those are specific locations. And then depending upon how you wish to
2028 take your actions, since this is a system, you could wait until the end. We could
2029 go back and take action on each individual case. Or if you're comfortable as you
2030 move through—and I believe you may be based on where we are right now—you
2031 could take action after each two. I'll leave that up to you.

2032

2033 Mr. Archer - I think that would probably be the best method,
2034 Mr. Secretary. As they're called and completed, we'll just go through each one.

2035
2036 Mr. Emerson - Certainly, certainly.

2037
2038 Mr. Archer - Mr. Secretary, before you go on, we will need to make
2039 separate motions for the SIAs and the PUPs?

2040
2041 Mr. Emerson - Yes sir, you will.

2042
2043 Mr. Archer - Okay. All right.

2044
2045 Mr. Emerson - Mr. Chairman, with that said—I will add the SIAs do
2046 have a resolution in the rear of each one. You could simply make a motion to
2047 move the resolution number.

2048
2049 Mr. Archer - Okay.

2050
2051 Mr. Emerson - Such as the first one, PCR9-16. That would be
2052 simplest way to that. And then over course your normal motions for the
2053 provisional use permits.

2054
2055 With that said, Mr. Chairman, the first item is in the Three Chopt District. It is
2056 SIA2016-00002, County of Henrico, Public Safety Telecommunications Tower.
2057 The companion case with this is PUP2016-00010, County of Henrico. The staff
2058 report on these two items will be presented by Mr. Livingston Lewis.

2059
2060 **SIA2016-00002 County of Henrico – Public Safety**
2061 **Telecommunications Tower:** The County of Henrico Administration is
2062 requesting a Substantially In Accord finding for a proposed public safety
2063 telecommunications tower on part of Parcel 734-769-4535, located approximately
2064 1,700' south of the intersection of Kain and Willane Roads. The existing zoning is
2065 A-1 Agricultural District. The 2026 Comprehensive Plan recommends
2066 Government and Environmental Protection Area.

2067
2068 **PUP2016-00010 County of Henrico:** Request for a Provisional Use
2069 Permit under Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the
2070 County Code in order to construct a lattice-style public safety
2071 telecommunications tower up to 360.9' in height and related equipment on part of
2072 Parcel 734-769-4535, located approximately 1,700' south of the intersection of
2073 Kain and Willane Roads. The existing zoning is A-1 Agricultural District. The
2074 2026 Comprehensive Plan recommends Government and Environmental
2075 Protection Area.

2076

2077 Mr. Archer - Thank you, Mr. Secretary. Good evening, Mr. Lewis.
2078 Are there people in the audience that object to either of these? Okay. Thank you,
2079 sir, we'll get to you. Mr. Lewis, go ahead, sir.

2080

2081 Mr. Lewis - Thank you, Mr. Chairman, members of the
2082 Commission.

2083

2084 As Mr. Mueller has provided a full summary of the project background and
2085 technical needs, the individual case presentations will deal primarily with site-
2086 specific information relative to the 2026 Plan and zoning and just to add a few
2087 network and project-wide points of information to what Mr. Mueller presented.

2088

2089 The proposed towers this evening would range from 174 feet to 361 feet,
2090 depending on the site. They would all be lattice-style structures with fenced
2091 ground equipment compounds. And all but one would be on County-owned
2092 properties. Also, it should be noted that in October, the applicant hosted two
2093 community meetings to discuss these requests with property owners in the areas
2094 surrounding the proposed sites.

2095

2096 Because all of the proposed sites would be new public facilities not already
2097 specifically identified and described in the County's Comprehensive Plan, state
2098 code requires that each tower undergo a substantially in accord finding, in other
2099 words, a determination of general consistency with the Plan's goals, objectives,
2100 policies, and future land use designations for the respective sites.

2101

2102 The accompanying provisional use permit requests are required because of the
2103 proposed heights. To avoid repeating information, each site will have a combined
2104 presentation for its substantially in accord and provisional use permit.

2105

2106 So with that, the first site is the Kain Road location, which as you might have
2107 seen on the map previous, the system-wide map, is the western most of the
2108 seven proposed.

2109

2110 This is a request to construct a 360-foot, 9-inch tower with a 100-by-100-foot
2111 ground equipment compound. The proposed tower location is approximately
2112 1,700 feet southwest through the woods from the Kane Road/Willane Road
2113 intersection, noted by the red dot on this map. It's on a 205-acre County-owned
2114 parcel. Surrounding uses include single-family residential to the north and south,
2115 as well as Triple J Farms to the west. The closest residence is approximately
2116 1,030 feet to the southwest. The site is zoned A-1 and recommended for an
2117 Environmental Protection Area and Government uses, as shown on the 2026
2118 Plan.

2119

2120 This conceptual layout shows the proposed access easement from Kain Road
2121 and the required fall zone radius from dwellings and residentially-zoned

2122 properties. The fall zone is required to be 110 percent of the height of the
2123 proposed structure.

2124
2125 The enlarged site plan provides additional details of the ground equipment
2126 compound including four above-ground propane tanks and a shelter-enclosed
2127 generator for powering the facility during emergency situations. This exhibit
2128 shows the tower's lattice design with the maximum 361-foot-height
2129 measurement. Depictions of approximately where antennas and microwave
2130 dishes may be placed on the structure and a possible light at the top. It's hard to
2131 see in this exhibit, but a very small little knob on the top there. That would be
2132 required to comply with FAA requirements.

2133
2134 A communication tower is a permitted use in the A-1 District. All County agencies
2135 have found the site to be suitable for the proposed use, and the facility's public
2136 safety function would be consistent with the 2026 Plan's Government designation
2137 and public safety and infrastructure-related goals. For these reasons, staff
2138 concludes the proposed use of the site presents no apparent conflict with the
2139 intent of the adopted 2026 Comprehensive Plan. Furthermore, staff supports the
2140 request for a provisional use permit subject to the conditions recommended in
2141 the Section 4 of the staff report.

2142
2143 This concludes my presentation. I'm happy to answer any questions.

2144
2145 Mr. Archer - Thank you, Mr. Lewis. Are there questions from the
2146 Commission?

2147
2148 Mr. Baka - A question for the staff or maybe for the applicant.
2149 Can you describe why this location within the parcel was selected as opposed to
2150 centering this site more towards the center of the parcel?

2151
2152 Mr. Lewis - There are long-term plans to develop the property for
2153 a variety of public facilities including a school, park, and so forth. Centering the
2154 tower in the center of the parcel would encumber some of those plans. We don't
2155 have approved plans at this point, but generally those are the types of uses that
2156 would go here.

2157
2158 Mr. Baka - Very good. Thank you.

2159
2160 Mr. Archer - All right. Anyone else? Okay. I believe Mr. Perkins
2161 has expressed opposition. State your name again for the record, if you would sir,
2162 and your address.

2163
2164 Mr. Perkins - Yes sir. Thank you. My name is Channing P. Perkins.
2165 I live at 5250 East Branch Drive, which is at the end of Kain Road. I'm not
2166 opposed to having a communications tower. I realize the County's need. What
2167 about a solid tower, communications tower? I have seen similar towers right

2168 across the border in Goochland, which is a solid pole. Is the tower going to be
2169 leased out to other communications? I think we as the taxpayers, have a right to
2170 know where our tax dollars are being spent and if we're receiving any revenues
2171 for those tax dollars spent.

2172
2173 Likewise, the access. If somebody could please pull up the access? Is my
2174 understanding correct that this access, ingress/egress, to the facility is supposed
2175 to be 30 feet wide?

2176
2177 Mr. Lewis - The access as it's labeled on the plan documents is
2178 30 feet wide.

2179
2180 Mr. Perkins - Excuse me, but Kain Road is only a 15-foot-wide
2181 access. It services over 120 homes. We have tractor-trailers coming down with
2182 loader and track hoes building a new subdivision behind us called Westin. Why
2183 do we need a 30-foot ingress/egress to a facility that's only going to probably
2184 have one lane of traffic to it in and out? Isn't that a mismanagement of our tax
2185 dollars to spend for an ingress/egress to a property that the County acquired as a
2186 park? And designated—back when they purchased this property, they wanted a
2187 park, the high school, and a fire department, and possibly a water pumping
2188 station to be located on. The fire station has such been moved to the corner of
2189 the north side of Kain and North Gayton.

2190
2191 I would like to see the County use reasonable diligence and not waste our
2192 taxpayers' money, such as doing the culverts, redoing a drainage on a pond
2193 where I saw a jon boat, track hoes, only to learn now that it's going to be filled in
2194 and houses are going to be placed on there. Nobody's given me any answers as
2195 far as the wetlands. Well, they can do away with the wetlands as long as they
2196 buy them from the bank.

2197
2198 Mr. Archer - Mr. Perkins, can you please confine your comments
2199 to the case we're discussing right now?

2200
2201 Mr. Perkins - Okay.

2202
2203 Mr. Archer - So you have three questions that you've asked. One
2204 is could it be a monopole, and two is—

2205
2206 Mr. Perkins - It's monopole.

2207
2208 Mr. Archer - And two is the 30-foot-wide ingress/egress?

2209
2210 Mr. Perkins - Smaller ingress/egress. Non-paved. And is that
2211 egress—is this actually co-sponsored with Motorola or is this a wholly-owned
2212 Henrico public utility?

2213

2214 Mr. Archer - Okay. We'll try to find out for you, sir. Officer Mueller,
2215 if you or someone from your team could address those questions please.
2216

2217 Lt. Mueller - I'll be glad to. As I described, our coverage design
2218 and how it's set up, one of the factors is the height of the tower. This is a high
2219 tower, over 360 feet. Monopoles are not conducive to that kind of height. The
2220 lattice-style, self-supporting tower is a much stronger tower, especially for the
2221 type of equipment that we put on it. That's why we lead ourselves to self-
2222 supporting towers. Most monopoles you see, they're in the cellular environment,
2223 and they're usually 200 feet and below. So this is much higher, and monopoles
2224 aren't conducive to that.
2225

2226 The access road that will go in, it's not paved. It is a gravel road. I dare say that
2227 the gravel road will not be 30 feet wide. The right-of-way is 30 feet wide, but the
2228 gravel road will not be. Again, it's a gravel access driveway. The right-of-way is
2229 set up so that we can get in and access, maintain the tower. Occasionally, there
2230 may need to be a crane there, sometimes large equipment. Rarely, but when you
2231 need it, it needs to be there.
2232

2233 And the—
2234

2235 Mr. Leabough - A question about co-location, I think.
2236

2237 Lt. Mueller - Co-location. This will be a Henrico County-owned
2238 tower. This belongs to the County. The vendor that is building it and building the
2239 radio system is Motorola, but it is entirely owned by us. The financing that was
2240 arranged to finance part of this project prohibits co-locators from the tower for ten
2241 years. After that, the County has an established co-locator policy that anybody
2242 that wished to come on that tower would have to follow. Again, that's up to the
2243 County and various people that would approve such a lease, not the Police
2244 Department.
2245

2246 Mr. Archer - Thank you, sir.
2247

2248 Mr. Perkins - [Off microphone.] May I ask one more question?
2249

2250 Mr. Archer - Yes, if you make it brief sir, please.
2251

2252 Mr. Perkins - I just wanted to know where the allocation of funds
2253 was coming from for the new communications. I didn't see anything in the bond
2254 referendum. If we were voting for it in the bond referendum, if this is included in
2255 that new bond referendum, why wasn't it publicized? Thank you.
2256

2257 Mr. Archer - Okay, thank you. Can someone answer that?
2258

2259 Lt. Mueller - The Finance Department has been arranging
2260 financing for this project for a number of years. It was not part of the most recent
2261 bond referendum, and that's why you didn't see it. Part of it is through savings
2262 that the County has been retaining for a number of years in the cash reserves,
2263 and some of it is financed through a loan through a bank.
2264

2265 Mr. Archer - Thank you, sir. All right. If there are no more
2266 questions, I guess we can move on to a motion. Mr. Secretary, do we need that
2267 resolution or can we just pass it?
2268

2269 Mr. Emerson - Mr. Chairman, I believe you can just move the
2270 resolution number. It's the last page on the SIA, if you flip it over. So a motion
2271 moving PCR9-16 for approval would be appropriate.
2272

2273 Mr. Leabough - Mr. Chairman, I move that PCR9-16 be approved.
2274

2275 Mr. Witte - Second.

2276
2277 Mr. Archer - Okay. Motion by Mr. Leabough and seconded by
2278 Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion
2279 passes.
2280

2281 Mr. Witte - Before we go any further, I would like to say that for
2282 over 40 years I've been pretty much committed to public safety and protection of
2283 life and property through the Fire Department and my contacts with the police. A
2284 lot of work has gone into this project to make it better. I feel that it's critical for the
2285 protection of our citizens, in my opinion, that this endeavor be approved and
2286 operating as soon as possible. I know a lot of hard work went into this. I know
2287 Chief Middleton was involved. I just think it's a critical aspect of the future of our
2288 public safety. That being said, I have nothing else to say.
2289

2290 Mr. Archer - All right, then. We'll need a motion on the PUP.
2291

2292 Mr. Emerson - Yes sir, we'll need a motion on the PUP.
2293

2294 Mr. Leabough - Mr. Chairman, I move that PUP2016-00010 be
2295 approved—move on to the Board of Supervisors with a recommendation of
2296 approval. Sorry.
2297

2298 Mr. Baka - Second.
2299

2300 Mr. Archer - All right. We have a motion by Mr. Leabough and a
2301 second by Mr. Baka. All in favor say aye. All opposed say no. The ayes have it;
2302 the motion passes.
2303

2304 **REASON -** Acting on a motion by Mr. Leabough, seconded by
2305 Mr. Baka, the Planning Commission voted 4-0 (two absent) to recommend the
2306 Board of Supervisors **grant** the request because it would provide added services
2307 to the community.

2308
2309 Mr. Emerson - Mr. Chairman, we now move on to SIA2016-00004,
2310 County of Henrico, Public Safety Telecommunications Tower. Also there is a
2311 companion PUP2016-00012. The staff report will be presented by Mr. Livingston
2312 Lewis.

2313
2314 **SIA2016-00004 County of Henrico – Public Safety**
2315 **Telecommunications Tower:** The County of Henrico Administration is
2316 requesting a Substantially In Accord finding for a proposed public safety
2317 telecommunications tower on part of Parcel 753-740-8228, located approximately
2318 170' southeast of the intersection of Ridge Road and Henrico Avenue. The
2319 existing zoning is R-3 One-Family Residence District. The 2026 Comprehensive
2320 Plan recommends Governmental uses.

2321
2322 **PUP2016-00012 County of Henrico:** Request for a Provisional Use
2323 Permit under Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the
2324 County Code in order to construct a lattice-style public safety
2325 telecommunications tower up to 174' in height and related equipment on part of
2326 Parcel 753-740-8228, located approximately 170' southeast of the intersection of
2327 Ridge Road and Henrico Avenue. The existing zoning is R-3 One-Family
2328 Residence District. The 2026 Comprehensive Plan recommends Governmental
2329 uses.

2330
2331 Mr. Archer - All right. Thank you, sir. Is there anyone present who
2332 is opposed to either of these two cases in the Tuckahoe District? I see no
2333 opposition. Mr. Lewis.

2334
2335 Mr. Lewis - Thank you, Mr. Chairman. The next proposed tower
2336 site is located at the southeast intersection of Ridge Road and Henrico Avenue
2337 on a 4.8-acre County-owned parcel. It's used by the Department of Public
2338 Utilities.

2339
2340 This is a request to construct a 174-foot-tall tower with a 94-by-30-foot ground
2341 equipment compound just west of the Greenwater storage tanks. The proposed
2342 tower would be approximately 50 feet from Ridge Road in the same general
2343 location as an old, smaller tower that would be removed. Surrounding uses
2344 include single-family residential to the north, east, and south, and Grove Avenue
2345 Baptist Church to the west. The closest residence on this site to this tower is
2346 approximately 240 feet to the northwest.

2347
2348 The site is zoned R-3 and is recommended for government uses on the 2026
2349 Plan. The conceptual layout shows the proposed access easement from Henrico

2350 Avenue and the required fall zone radius from dwellings in residentially-zoned
2351 properties. The ground equipment plan shows a generator shelter and propane
2352 tanks, but in a much more compact arrangement than the previous site. Again,
2353 the type of tower proposed is lattice-style with a similar combination of antennas
2354 and microwave dishes to be placed as illustrated. A light is also shown atop this
2355 structure, but it's possible a light will not be required by the FAA on this tower
2356 given its lower height. However, the final decision does rest with the FAA, and
2357 that review has not yet been completed.

2358

2359 Another point to note on this site, because it is a smaller property surrounded by
2360 homes, an additional condition is recommended with the provisional use permit
2361 to plan for supplemental landscaping to help screen the ground equipment.

2362

2363 A communications tower is a permitted use in the R-3 District. All County
2364 agencies have found the site to be suitable for the proposed use, and the
2365 facility's public safety function would be consistent with the 2026 Plan's
2366 Government designation and public safety and infrastructure-related goals. For
2367 these reasons, staff concludes the proposed use of this site presents no
2368 apparent conflict with the intent of the adopted 2026 Comprehensive Plan. Staff
2369 also supports the request for a provisional use permit subject to the conditions
2370 recommended in Section 4 of the staff report.

2371

2372 This concludes my presentation on this site.

2373

2374 Mr. Archer - All right. Thank you, Mr. Lewis. Are there questions?

2375

2376 Mr. Baka - Yes sir. I briefly have a couple of questions either for
2377 staff or for Lt. Mueller. As you mentioned, lattice. Why is the lattice tower
2378 preferable at this site rather than a monopole?

2379

2380 Mr. Lewis - I think I would go back to Mr. Mueller's previous
2381 comments regarding the weight of the equipment to be placed on the structure,
2382 but I'll defer to him for more detail.

2383

2384 Mr. Baka - Thank you.

2385

2386 Lt. Mueller - Again, with the lattice-style tower there are more
2387 opportunities to add equipment, change equipment than a monopole. Our
2388 equipment typically sticks out from the tower somewhat on arms, the transmit
2389 towers, and that lends well into a lattice-style. And they're simply stronger. Again,
2390 the towers we have are designed for certain ice loads, certain wind speed, and
2391 lattice is much stronger than a monopole.

2392

2393 Mr. Baka - Even at the 170-foot height where some monopoles
2394 are typical—

2395

2396 Lt. Mueller - Correct.
2397
2398 Mr. Baka - —it's still stronger. That's helpful. And then secondly,
2399 the location on the parcel. There are some encumbrances in the center of the
2400 parcel. Could this not be located further to the back?
2401
2402 Lt. Mueller - As you can see, this is a very residential area as most
2403 of that area is. The dotted lines represent the tanks that are there now, and
2404 Ridge Road is to the top. We would be putting the tower out here. To comply with
2405 the fall distances from the residential properties, we would have to be
2406 somewhere along this area. This is a new pumping station that's actually under
2407 construction now. Future plans for utilities is probably to put in another 3-million-
2408 gallon tank here and some kind of stormwater pond there. So, to avoid any
2409 conflicts with them, putting our tower in the wrong place that would inhibit their
2410 ability to continue to provide water, we believed that this was the best place. And
2411 it will also allow us to take the very old tower down.
2412
2413 Mr. Baka - Excellent. Thanks. One final question. This is one of
2414 the highest points in ground elevation in the West End. Grove Avenue Baptist
2415 Church built their church there because it was on high ground. Is the height
2416 you're proposing the minimum height necessary to achieve optimal service at this
2417 location?
2418
2419 Lt. Mueller - We believe it is. We actually first were looking to put
2420 in about a 200-foot tower. Again, the elevation there helps quite a bit. Our first set
2421 of propagation studies were for a 200-foot tower, but we couldn't fit it in with a
2422 110 percent fall distance. So we had to take a little bit of loss going down to 174.
2423 But we do not believe we can go any further.
2424
2425 Mr. Baka - All right, thank you very much. No other questions,
2426 Mr. Chairman.
2427
2428 Mr. Archer - All right, thank you, sir. All right, a motion would be in
2429 order.
2430
2431 Mr. Baka - Mr. Chairman, in light of what we've heard, I also
2432 wanted to point out the applicant's been able to facilitate a large cost savings to
2433 all County taxpayers by bundling these projects together and achieving a cost
2434 savings that helps everyone.
2435
2436 I would recommend approval of the SIA, substantially in accord with the
2437 Comprehensive Plan for SIA2016-00004 at 8611 Henrico Avenue for a public
2438 safety radio tower because it is in compliance with Section 15.2.2232, the goals
2439 and objectives of the Comprehensive Plan.
2440
2441 Mr. Witte - Second.

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Mr. Archer - All right. Motion by Mr. Baka and seconded by Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

Now for the PUP.

Mr. Baka - Mr. Chairman, I'd also make a motion that PUP2016-00012, County of Henrico Public Safety Radio Tower, move to the Board of Supervisors with a recommendation of approval.

Mr. Witte - Second.

Mr. Archer - Motion by Mr. Baka, seconded by Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

REASON - Acting on a motion by Mr. Baka, seconded by Mr. Witte, the Planning Commission voted 4-0 (two absent) to recommend the Board of Supervisors grant the request because it would provide added services to the community.

Mr. Emerson - Mr. Chairman, the next two cases call in Fairfield, and they are SIA2016-00005. The companion case for this would be PUP2016-00013. The staff report will be presented by Mr. Livingston Lewis.

SIA2016-00005 County of Henrico - Public Safety Telecommunications Tower: The County of Henrico Administration is requesting a Substantially In Accord finding for a proposed public safety telecommunications tower on part of Parcel 787-758-3213, located adjacent to the on-ramp from westbound E. Parham Road to northbound Interstate 95. The existing zoning is M-1 Light Industrial District, PMD Planned Industrial District, and O-3C Office District (Conditional). The 2026 Comprehensive Plan recommends Urban Mixed-Use.

PUP2016-00013 County of Henrico: Request for a Provisional Use Permit under Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to construct a lattice-style public safety telecommunications tower up to 308' in height and related equipment on part of Parcel 787-758-3213, located adjacent to the on-ramp from westbound E. Parham Road to northbound Interstate 95. The existing zoning is M-1 Light Industrial District, PMD Planned Industrial District, and O-3C Office District (Conditional). The 2026 Comprehensive Plan recommends Urban Mixed-Use.

Mr. Archer - Thank you, Mr. Secretary. Is there opposition to either of these cases? I see no opposition. Mr. Lewis again.

2488 Mr. Lewis - Thank you, sir.

2489

2490 This tower site is located at the southern end of the 93-acre County-owned
2491 property identified as 1400 Best Plaza Drive. It's at the intersection of East
2492 Parham and Interstate 95.

2493

2494 This is a request to construct a 308-foot tower within a 100-by-100-foot ground
2495 equipment compound on the opposite side of the parking lot across from the
2496 vacant office building.

2497

2498 Uses in the area include single-family homes to the southeast across Parham
2499 Road, as well as to the north behind the office building. Other surrounding uses
2500 consist of the highway interchange and vacant sections of the subject parcel. The
2501 closest residence is approximately 630 feet to the southeast.

2502

2503 The site is zoned M-1 and is recommended for Urban Mixed Use on the 2026
2504 Plan. The layout plan shows the proposed access from Parham Road, as well as
2505 the fall zone radius. The ground equipment plan and tower elevation exhibits are
2506 also very similar to those previously shown.

2507

2508 Communication towers are a permitted use in the M-1 District. All County
2509 agencies have found the site to be suitable for the proposed use, and the
2510 facility's public safety function would be consistent with the 2026 Plan's Urban
2511 Mixed-Use designation and public safety and infrastructure-related goals. For
2512 these reasons, staff concludes the proposed use of this site presents no
2513 apparent conflict with the intent of the adopted 2026 Comprehensive Plan. Staff
2514 also supports the request for a provisional use permit subject to the conditions
2515 recommended in Section 4 of the staff report.

2516

2517 This concludes my presentation.

2518

2519 Mr. Archer - All right. Thank you, Mr. Lewis. Are there questions?
2520 And I have none. Okay. With that, I will move for approval of the provisions of
2521 SIA2016-00005 and move to pass the resolution.

2522

2523 Mr. Leabough - Second.

2524

2525 Mr. Archer - Motion by Mr. Archer and seconded by Mr. Leabough.
2526 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

2527

2528 I will also move for a recommendation of PUP2016-00013, the County of
2529 Henrico, with all of the information that's in the introduction of the case and the
2530 staff report.

2531

2532 Mr. Leabough - Second.

2533

2534 Mr. Archer - Motion by Mr. Archer and seconded by Mr. Leabough.
2535 All in favor say aye. All opposed say no. The ayes have it; the motion passes.
2536

2537 **REASON -** Acting on a motion by Mr. Archer, seconded by Mr.
2538 Leabough, the Planning Commission voted 4-0 (two absent) to recommend the
2539 Board of Supervisors grant the request because it would provide added services
2540 to the community.
2541

2542 Male - Mr. Chairman, if I could take the liberty with the
2543 Commission for just a moment.
2544

2545 Mr. Archer - Go right ahead.
2546

2547 Mr. Lewis - Ms. Marshall has been delivered home. She's safe
2548 and is resting well.
2549

2550 Mr. Archer - That is good to know.
2551

2552 Mr. Witte - Thank you, sir.
2553

2554 Mr. Emerson - Mr. Chairman, with that said, the next item, again in
2555 Fairfield, is SIA2016-00006, County of Henrico, Public Safety
2556 Telecommunications Tower. The companion provisional use permit is PUP2016-
2557 00014. The staff report will be presented by Mr. Ben Sehl.
2558

2559 **SIA2016-00006 County of Henrico - Public Safety**
2560 **Telecommunications Tower:** The County of Henrico Administration is
2561 requesting a Substantially In Accord finding for a proposed public safety
2562 telecommunications tower on Parcel 800-741-8157, located on the east line of
2563 Vawter Avenue approximately 4,000' north of its intersection of E. Laburnum
2564 Avenue. The existing zoning is C-1 Conservation District. The 2026
2565 Comprehensive Plan recommends Open Space/Recreation. The site is in the
2566 Airport Safety Overlay District.
2567

2568 **PUP2016-00014 County of Henrico:** Request for a Provisional Use
2569 Permit under Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the
2570 County Code in order to construct a lattice-style public safety
2571 telecommunications tower up to 308' in height and related equipment on Parcel
2572 800-741-8157, located on the east line of Vawter Avenue approximately 4,000'
2573 north of its intersection of E. Laburnum Avenue. The existing zoning is C-1
2574 Conservation District. The 2026 Comprehensive Plan recommends Open Space
2575 / Recreation. The site is in the Airport Safety Overlay District.
2576

2577 Mr. Archer - All right. Thank you, Mr. Secretary. Anyone present
2578 who is opposed to SIA2016-00006? No opposition. Mr. Sehl.
2579

2580 Mr. Sehl - Thank you, Mr. Chairman. The first tower that I'll be
2581 presenting this evening as we move east in the system is located along Vawter
2582 Avenue and is adjacent to the Vawter Street Park and Glenwood Recreation
2583 Area, which is in the Fairfield District.

2584
2585 The request is to construct a 308-foot-tall tower on a 4.24-acre parcel that is
2586 owned by the County and is zoned C-1. It's adjacent to a park area and the ball
2587 fields with the noted recreational uses. The closest residence is approximately
2588 720 feet to the southeast of the subject tower. The 2026 Comprehensive Plan
2589 recommends Open Space/Recreation for the subject site.

2590
2591 This conceptual layout does show the proposed access easement through the
2592 existing parking lot. The site would meet the required setbacks and fall zones
2593 discussed for the other towers. And the equipment compound and tower will be
2594 very similar to those uses as well.

2595
2596 A communications tower is a permitted use in the C-1 District. The County
2597 agencies have found that the site would be suitable for the proposed use and
2598 that the public safety function will be consistent with the 2026 Comprehensive
2599 Plan. For those reasons, staff concludes that the proposed use of this site
2600 presents no apparent conflict with the Plan. And furthermore, we support the use
2601 of the subject site with the provisional use permit with the conditions noted in the
2602 staff report in front of you.

2603
2604 That concludes my presentation. I'd be happy to answer any questions. As
2605 Mr. Lewis noted, this tower also includes a provision for supplemental
2606 landscaping given the proximity to the existing park area.

2607
2608 Mr. Archer - Thank you, sir. Questions for Mr. Sehl? No questions.
2609 And I have none. Therefore, I will move for approval of SIA2016-00006 and find
2610 that it is substantially in accord.

2611
2612 Mr. Witte - Second.

2613
2614 Mr. Archer - Motion by Mr. Archer, seconded by Mr. Witte. All in
2615 favor say aye. All opposed say no. The ayes have it; the motion passes.

2616
2617 Moving right along.

2618
2619 Mr. Emerson - Yes sir, we need a motion on the Provisional Use
2620 Permit.

2621
2622 Mr. Archer - Oh, I'm sorry.

2623
2624 Mr. Emerson - That's okay. There's a lot of stuff here tonight.

2625

2626 Mr. Archer - All right. I move for a recommendation of approval for
2627 PUP2016-00014, County of Henrico.

2628
2629 Mr. Baka - Second.

2630
2631 Mr. Archer - Motion by Mr. Archer and seconded by Mr. Baka. All
2632 in favor say aye. All opposed say no. The ayes have it; the motion passes.

2633
2634 **REASON -** Acting on a motion by Mr. Archer, seconded by Mr.
2635 Baka, the Planning Commission voted 4-0 (two absent) to recommend the Board
2636 of Supervisors grant the request because it would provide added services to the
2637 community.

2638
2639 Mr. Emerson - Mr. Chairman, we now move on to Varina for the next
2640 set of cases, and they appear at the bottom of page 4 and the top of page 5. The
2641 first one is SIA2016-00008, County of Henrico, Public Safety
2642 Telecommunications Tower. The companion case is PUP2016-00016. The staff
2643 report on these two items will be presented by Mr. Ben Sehl.

2644
2645 **SIA2016-00008 County of Henrico - Public Safety**
2646 **Telecommunications Tower:** The County of Henrico Administration is
2647 requesting a Substantially In Accord finding for a proposed public safety
2648 telecommunications tower on part of Parcel 818-709-9610, located on the west
2649 line of Lewis Road approximately 1,000' north of its intersection with Charles City
2650 Road. The existing zoning is M-2C General Industrial District (Conditional). The
2651 2026 Comprehensive Plan recommends Light Industry. The site is in the Airport
2652 Safety Overlay District.

2653
2654 **PUP2016-00016 County of Henrico:** Request for a Provisional Use
2655 Permit under Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the
2656 County Code in order to construct a lattice-style public safety
2657 telecommunications tower up to 208' in height and related equipment on part of
2658 Parcel 818-709-9610 located on the west line of Lewis Road approximately
2659 1,000' north of its intersection with Charles City Road. The existing zoning is M-
2660 2C General Industrial District (Conditional). The 2026 Comprehensive Plan
2661 recommends Light Industry. The site is in the Airport Safety Overlay District.

2662
2663 Mr. Archer - Thank you, sir. Is there anyone present who is
2664 opposed to, in the Varina District, SIA2016-00008 and/or PUP2016-00016? No
2665 opposition.

2666
2667 Mr. Sehl - Thank you, Mr. Chairman. The next tower is located
2668 on Lewis Road just west of Richmond International Airport, as shown here. This
2669 request is to construct a 208-foot tower within the noted 100-foot-by-100-foot
2670 ground equipment compound. The proposed tower is located on property owned
2671 by the Capital Region Airport Commission. It is zoned M-2C and is surrounded

2672 by industrially-zoned property and a railroad spur immediately to the west. The
2673 closest residence is approximately 1,400 feet to the southwest adjacent to
2674 Laburnum Avenue. The 2026 Comprehensive Plan recommends Light Industry
2675 for the subject property and surrounding properties.
2676

2677 The conceptual layout shows a proposed access easement from Lewis Road,
2678 and the site would meet the required setbacks and fall zone discussed for the
2679 other towers. And the equipment compound and lattice-style tower would also be
2680 similar, only this tower would be a maximum of 208 feet in height.
2681

2682 As noted previously, a communication tower is a permitted use in the M-2
2683 District, and the proffers accepted with the noted rezoning case do not prohibit
2684 the proposed use. All County agencies have found the site to be suitable for the
2685 proposed tower and the facility's public safety function will be consistent with the
2686 goals of the 2026 Comprehensive Plan. For these reasons, staff concludes the
2687 proposed use of the site presents no apparent conflict with the intent of the
2688 adopted plan. Furthermore, staff supports the request for a provisional use permit
2689 subject to the conditions recommended in Section 4 of your staff report.
2690

2691 That concludes my presentation on this tower. I'd be happy to answer any
2692 questions you might have.
2693

2694 Mr. Archer - Thank you, Mr. Sehl. Are there questions on the SIA
2695 or PUP?
2696

2697 Mr. Leabough - Mr. Chairman, there being no questions, I move
2698 approval of PCR15-16.
2699

2700 Mr. Baka - Second.
2701

2702 Mr. Archer - Motion by Mr. Leabough, seconded by Mr. Baka. All
2703 in favor say aye. All opposed say no. The ayes have it; the motion passes.
2704

2705 Mr. Leabough - Also, Mr. Chair, I move that PUP2016-00016 move
2706 forward to the Board of Supervisors with a recommendation of approval.
2707

2708 Mr. Witte - Second.
2709

2710 Mr. Archer - Motion by Mr. Leabough, seconded by Mr. Witte. All
2711 in favor say aye. All opposed say no. The ayes have it; the motion passes.
2712

2713 **REASON -** Acting on a motion by Mr. Leabough, seconded by
2714 Mr. Witte, the Planning Commission voted 4-0 (two absent) to recommend the
2715 Board of Supervisors **grant** the request because it would provide added services
2716 to the community.
2717

2718 Mr. Emerson - Mr. Chairman, we now move on to the next set of
2719 cases, also in the Varina District. SIA2016-00009, County of Henrico, Public
2720 Safety Telecommunications Tower. Its companion case is PUP2016-00017. The
2721 staff report on these two items will be presented by Mr. Ben Sehl.
2722

2723 **SIA2016-00009 County of Henrico - Public Safety**
2724 **Telecommunications Tower:** The County of Henrico Administration is
2725 requesting a Substantially In Accord finding for a proposed public safety
2726 telecommunications tower on part of Parcel 842-709-3425, located on the east
2727 line of Technology Boulevard approximately 1,300' south of its intersection with
2728 E. Williamsburg Road (U.S. Route 60). The existing zoning is A-1 Agricultural
2729 District. The 2026 Comprehensive Plan recommends Office. The site is in the
2730 Airport Safety Overlay District.
2731

2732 **PUP2016-00017 County of Henrico:** Request for a Provisional Use
2733 Permit under Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the
2734 County Code in order to construct a lattice-style public safety
2735 telecommunications tower up to 358' in height and related equipment on part of
2736 Parcel 842-709-3425, located on the east line of Technology Boulevard
2737 approximately 1,300' south of its intersection with E. Williamsburg Road (U.S.
2738 Route 60). The existing zoning is A-1 Agricultural District. The 2026
2739 Comprehensive Plan recommends Office. The site is in the Airport Safety
2740 Overlay District.
2741

2742 Mr. Archer - Thank you, sir. Is there anyone present who is
2743 opposed to either of these cases? No opposition. Mr. Sehl.
2744

2745 Mr. Sehl - Thank you again, Mr. Chairman.
2746

2747 The next tower location will be located on Technology Boulevard, southeast
2748 Williamsburg Road. The tower will be located at the rear of a two-acre parcel
2749 owned by the County that currently contains Fire Station 14.
2750

2751 The proposed tower will be 358 feet in height and on the property that is zoned
2752 A-1, as are all surrounding properties, as you can see on this map. The closest
2753 residence is approximately 900 feet to the southwest in this area. The site is
2754 designated as Office on the 2026 Comprehensive Plan.
2755

2756 This conceptual layout, similar to others you have seen this evening, shows how
2757 the tower site would be accessed through the existing parking lot for the fire
2758 station. The ground equipment compound and style of tower would be similar to
2759 others that you've heard this evening as well.
2760

2761 The 2026 Comprehensive Plan calls for Office on the subject site, and all County
2762 agencies have found the site to be suitable for the proposed use. Staff
2763 concludes the proposed use of the site represents no apparent conflict with the

2764 2026 Comprehensive Plan. Staff supports the request for a provisional use
2765 permit subject to the conditions noted in Section 4 of your report.
2766

2767 I'll be happy to answer any questions you might have at this time.
2768

2769 Mr. Archer - Thank you, sir. Any questions?
2770

2771 Mr. Leabough - Mr. Chair, there being no questions, I move for
2772 approval of PCR16-16.
2773

2774 Mr. Witte - Second.
2775

2776 Mr. Archer - Motion by Mr. Leabough, seconded by Mr. Witte. All
2777 in favor say aye. All opposed say no. The ayes have it; the motion passes.
2778

2779 Mr. Leabough - I'd also move that PUP2016-00017 move forward to
2780 the Board of Supervisors with a recommendation of approval.
2781

2782 Mr. Baka - Second.
2783

2784 Mr. Archer - Motion by Mr. Leabough, seconded by Mr. Baka. All
2785 in favor say aye. All opposed say no. The ayes have it; the motion passes.
2786

2787 **REASON -** Acting on a motion by Mr. Leabough, seconded by
2788 Mr. Baka, the Planning Commission voted 4-0 (two absent) to recommend the
2789 Board of Supervisors **grant** the request because it would provide added services
2790 to the community.
2791

2792 Mr. Emerson - Mr. Chairman, we now move on to our final two cases
2793 in this series of telecommunication towers. They also appear in the Varina
2794 District. They are SIA2016-00010, County of Henrico, and its companion case,
2795 PUP2016-00018. Mr. Ben Sehl; will present the staff reports on these two items.
2796

2797 **SIA2016-00010 County of Henrico - Public Safety**
2798 **Telecommunications Tower:** The County of Henrico Administration is
2799 requesting a Substantially In Accord finding for a proposed public safety
2800 telecommunications tower on part of Parcel 823-674-9992, located on the east
2801 line of WRVA Road approximately 3,500' south of Kingsland Road. The existing
2802 zoning is A-1 Agricultural District. The 2026 Comprehensive Plan recommends
2803 Government and Environmental Protection Area.
2804

2805 **PUP2016-00018 County of Henrico:** Request for a Provisional Use
2806 Permit under Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the
2807 County Code in order to construct a lattice-style public safety
2808 telecommunications tower up to 313' in height and related equipment on part of
2809 Parcel 823-674-9992, located on the east line of WRVA Road approximately

2810 3,500' south of Kingsland Road. The existing zoning is A-1 Agricultural District.
2811 The 2026 Comprehensive Plan recommends Government and Environmental
2812 Protection Area.

2813

2814 Mr. Archer - All right. Is there anyone here who is opposed to
2815 either one of these two cases in the Varina District? No opposition. Mr. Sehl.

2816

2817 Mr. Sehl - Thank you. Mr. Chairman. The final tower location will
2818 be located on WRVA Road, south of the County's water reclamation facility, as
2819 shown here on the map.

2820

2821 This request would be to construct a 313-foot tower on property that is zoned A-1
2822 and is generally surrounded by open farmland and scattered woodlands. Two
2823 radio towers approximately 450 feet in height are located to the south of the site
2824 in this area closer to the James River. The closest residence is approximately
2825 3,200 feet to the east of the subject property.

2826

2827 The conceptual layout is generally consistent with the others you've seen this
2828 evening. It will be located adjacent to a curve in WRVA Road, which is a private
2829 road in this location. It would meet the required setbacks and fall zone discussed
2830 with the other towers, and the equipment would be similar to those as well.

2831

2832 The 2026 Comprehensive Plan recommends Government for the subject
2833 property, and a communication tower is permitted use in the A-1 District. All
2834 County agencies have found the site to be suitable for the proposed use. Staff
2835 therefore believes it would be consistent with the recommendation in the 2026
2836 Comprehensive Plan. Furthermore, staff supports the request for a provisional
2837 use permit subject to those conditions noted in your staff report.

2838

2839 That concludes my presentation. I'll be happy to answer any questions you might
2840 have.

2841

2842 Mr. Archer - All right. Questions for Mr. Sehl?

2843

2844 Mr. Baka - One brief question.

2845

2846 Mr. Archer - Go right ahead sir.

2847

2848 Mr. Baka - The 450-foot-tall existing tower, can you or Mr.
2849 Mueller describe why co-location is not an option on that tower? It's 450 feet tall.

2850

2851 Lt. Mueller - The two antennas there in question are WRVA's AM
2852 towers. I'm pretty sure that co-location is not an option on AM at all.

2853

2854 Mr. Baka - Due to structural capacity?

2855

2856 Lt. Mueller - Due to the interference from the AM towers
2857 themselves.
2858
2859 Mr. Baka - Interference. Thank you.
2860
2861 Mr. Archer - All right, anything further?
2862
2863 Mr. Baka - It's worth noting. Thank you.
2864
2865 Mr. Archer - Mr. Leabough?
2866
2867 Mr. Leabough - Yes. Mr. Chair, I move approval of Resolution PCR-
2868 17-16.
2869
2870 Mr. Witte - Second.
2871
2872 Mr. Archer - Motion by Mr. Leabough, seconded by Mr. Witte. All
2873 in favor say aye. All opposed say no. The ayes have it; the motion passes.
2874
2875 Mr. Leabough - Mr. Chair, I move that PUP2016-00018 move forward
2876 to the Board of Supervisors with a recommendation of approval.
2877
2878 Mr. Baka - Second.
2879
2880 Mr. Archer - Motion by Mr. Leabough, seconded by Mr. Baka. All
2881 in favor say aye. All opposed say no. The ayes have it; the motion passes.
2882
2883 **REASON -** Acting on a motion by Mr. Leabough, seconded by
2884 Mr. Baka, the Planning Commission voted 4-0 (two absent) to recommend the
2885 Board of Supervisors **grant** the request because it would provide added services
2886 to the community.
2887
2888 Mr. Leabough - Mr. Chair, may I ask a quick question?
2889
2890 Mr. Archer - Yes, you may.
2891
2892 Mr. Leabough - You all don't have any more towers that you think you
2893 should add to the agenda tonight? You're done, right?
2894
2895 Lt. Mueller - [Off microphone.] I can add some if you don't mind
2896 staying.
2897
2898 Mr. Leabough - As long as they're in the Brookland District.
2899
2900 Mr. Witte - I noticed the Brookland District was left out; it was
2901 quite obvious.

2902

2903

Mr. Leabough - I'm trying to spread the love.

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Mr. Witte - Chief Middleton and Lt. Mueller, all of the departments represented here, we really appreciate this. I know it took a lot of time and effort, but we really appreciate your effort and time to increase this public safety issue. Thank you for all that.

2916

2917

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2919

Mr. Archer - And I concur. And as far as this Commission is concerned, you both may be off tomorrow. All right, anything further to bring before the Commission?

2920

2921

2922

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2924

Mr. Emerson - Yes sir, Mr. Chairman, you do have a couple of items left on your agenda this evening. Very quickly, you have the consideration of the approval of your minutes from your Planning Commission meeting of October 13, 2016. You do have an errata sheet in front of you.

2925

2926

Mr. Archer - Anything to add to the errata sheet?

2927

2928

2929

Mr. Leabough - Mr. Chair, I move the minutes be approved as corrected.

2930

2931

Mr. Witte - Second.

2932

2933

2934

2935

Mr. Archer - Motion by Mr. Leabough, seconded by Mr. Witte for approval of the minutes. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

2936

2937

2938

Mr. Baka - Abstain since I wasn't present. I wasn't on the Commission at the time. Or if it's three votes—

2939

2940

Mr. Leabough - We're good with three votes.

2941

2942

Mr. Witte - Too late now.

2943

2944

Mr. Archer - We're good.

2945

2946

2947

Mr. Emerson - Just as a point of clarification, as long as we have four people here, an abstention stands as an action. So we have four people. Three affirmative and an abstention will pass your minutes, so we're in good shape.

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Mr. Archer - Anything else to bring before the Commission?

Mr. Emerson - Yes sir, Mr. Chairman. I would just like to remind you to hold some time on your calendar for November the 22nd for your joint meeting with the Board of Supervisors. I know Ms. Hill has been in touch with all of you, I believe. Right now, I'm not sure of the exact time, but I've been instructed to tell you to hold form 4:45 on. This could be a lengthy work session, and we're not sure just exactly what time that might start. As soon as I get more information, I will let you know.

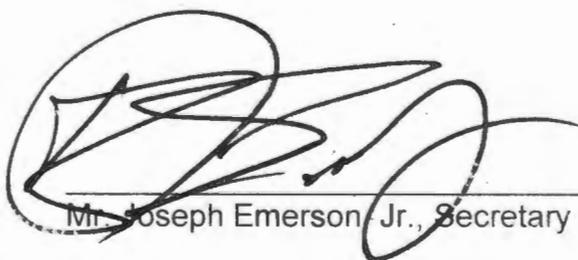
Mr. Archer - All right.

Mr. Emerson - Other than that, I have nothing further for you this evening. I guess I would like to express my gratitude to all our support here tonight, both those individuals that are with us every meeting and those that were with us this evening in relation to our medical emergency that we had. We certainly appreciate all of your assistance. It's nice to have you guys here. Thank you.

Mr. Archer - Come again. All right, Mr. Secretary, if there's nothing further to bring before the Commission, I declare that we are adjourned.



Mr. C. W. Archer, C.P.C., Chairman



Mr. Joseph Emerson, Jr., Secretary