

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,  
2 Virginia, held in the Board Room of the County Administration Building, Parham and Hungary  
3 Spring Roads at 7:00 p.m., September 15, 2005, Display Notice having been published in the  
4 Richmond Times-Dispatch on August 25 and September 1, 2005.  
5

6 Members Present: Mr. Ernest B. Vanarsdall, C.P.C., Chairperson, Brookland  
7 Mr. C. W. Archer, C.P.C., Vice Chairman, Fairfield  
8 Mr. Tommy Branin, Three Chopt  
9 Ms. Bonnie-Leigh Jones, Tuckahoe  
10 Mr. E. Ray Jernigan, C.P.C., Varina  
11 Mr. David A. Kaechele, Board of Supervisors, Three Chopt  
12 Mr. Randall R. Silber, Director of Planning, Secretary  
13

14 Others Present: Mr. Ralph J. Emerson, Assistant Director of Planning  
15 Ms. Jean Moore, Principal Planner  
16 Mr. Lee Tyson, County Planner  
17 Ms. Rosemary Deemer, County Planner  
18 Mr. Thomas Coleman, County Planner  
19 Ms. Nathalie Neaves, County Planner  
20 Ms. Ann B. Cleary, Recording Secretary  
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22 Mr. Vanarsdall - Good evening ladies and gentlemen, Planning Commissioners, Mr. Silber  
23 and Mr. Kaechele and Mr. Emerson. The Planning Commission will now come to order. We are  
24 glad to have everybody here this evening. I will now turn the meeting over to our Director and  
25 Secretary, Mr. Silber.  
26

27 Mr. Silber - Thank you, Mr. Chairman. We do have a quorum today. All members of  
28 the Commission are present. The first item on the agenda would be to review the withdrawals  
29 and deferrals. We do have one withdrawal and we have a number of deferrals, so we'd like to  
30 take those first and have the Commission act on those. Ms. Moore, can you walk us through  
31 those, please.  
32

33 Ms. Moore - Thank you, Mr. Secretary. The first item would be for withdrawal and  
34 that is on page 2 of your agenda, and it is C-48C-04, Henry L. Wilton.  
35

36 **Deferred from the August 11, 2005 Meeting:**

37 **C-48C-04 Henry L. Wilton:** Request to conditionally rezone from A-1 Agricultural District to B-  
38 3C Business District (Conditional), Parcels 804-737-4084 and 804-737-1251, containing 4.83  
39 acres, located on the east line of Mechanicsville Turnpike (U. S. Route 360) opposite Springdale  
40 Road. The applicant proposes business uses. The uses will be controlled by zoning ordinance  
41 regulations and proffered conditions. The Land Use Plan recommends Government and Urban  
42 Residential. The site is in the Airport Safety Overlay District.  
43

44 Ms. Moore - This case has been withdrawn by the applicant. Therefore, no action is  
45 required; however, it should be noted that this case has been combined with C-12C-05, which  
46 you are hearing tonight.  
47

48 Mr. Vanarsdall - So noted. Ms. Moore, the first deferral you have is C-48C-05, right?  
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50 Ms. Moore - Yes, sir. We have nine requests for deferrals.  
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52 Mr. Vanarsdall - And on that one, I am going to defer that on behalf of the Planning  
53 Commission.

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Ms. Moore - OK. Yes, sir. I will read it. This would be on page 1 of your agenda. It is C-48C-05.

***Deferred from the August 11, 2005 Meeting***

**C-48C-05 Cameron Palmore for Randy Gibson:** Request to conditionally rezone from A-1 Agricultural District to R-2AC One Family Residence District (Conditional), Parcel 762-771-2433 and Part of Parcel 762-771-7035, containing 7.532 acres, located on the south line of Old Springfield Road approximately 430 feet east of Springfield Court. The applicant proposes a single-family residential subdivision with the maximum density not to exceed 2.0 lots per acre. The R-2 District allows a minimum lot size of 13,500 square feet with a maximum gross density of 3.22 units per acre. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

Ms. Moore - The deferral is requested to the October 13, 2005 public hearing.

Mr. Vanarsdall - Is there anyone in the audience in opposition to the deferment of this case, C-48C-05, in the Brookland District? All right. I move that this case be deferred to October 13, 2005, at the Commission's request.

Mr. Archer - Second.

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

The Planning Commission deferred Case C-48C-05, Cameron Palmore for Randy Gibson, to its meeting on October 13, 2005.

**C-50C-05 Molland Spring/Atack Properties:** Request to conditionally rezone from A-1 Agricultural District to R-2C One Family Residence District (Conditional), Parcel 762-768-2433, containing approximately 6.56 acres, located on the west line of Staples Mill Road approximately 1,350 feet north of Meadow Pond Lane. The applicant proposes a single family subdivision of no more than ten (10) lots. The R-2 District allows a minimum lot size of 18,000 square feet with a maximum gross density of 2.42 units per acre. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

Ms. Moore - The deferral is requested to the October 13, 2005 meeting.

Mr. Vanarsdall - Again, in the Brookland District. Anyone in opposition to deferment of Case C-50C-05, Molland Spring/Atack Properties? No opposition.

I move that Case C-50C-05 be deferred to October 13, 2005, at the applicant's request.

Mr. Jernigan - Second.

Mr. Vanarsdall - Motion made by Vanarsdall and seconded by Mr. Jernigan. All in favor say aye. All opposed say no. The ayes have it. The motion passes.

At the request of the applicant, the Planning Commission deferred Case C-50C-05, Molland Spring/Atack Properties, to its meeting on October 13, 2005.

106 **C-52-05 John G. Shurley:** Request to rezone from C-1 Conservation District to A-1 Agricultural  
107 District, part of Parcel 817-735-3028, containing 6.6 acres, located on the northwest line of  
108 Creighton Road approximately 1.25 miles northeast of Cedar Fork Road. The applicant proposes  
109 to replace one single-family residence. The A-1 District allows a minimum lot size of 43,560  
110 square feet with a maximum gross density of 1.00 unit per acre. The Land Use Plan recommends  
111 Environmental Protection Area. The site is in the Airport Safety Overlay District.

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113 Ms. Moore - The next one is on page 2 of your agenda, also in the Fairfield District,  
114 John Shurley. The deferral is requested to the November 10, 2005 meeting.

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116 Mr. Vanarsdall - In the Fairfield District, C-52C-05, John G. Shurley. Is there any  
117 opposition to the deferment? No opposition. Mr. Archer.

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119 Mr. Archer - Mr. Chairman, I move deferral of Case C-52C-05, John G. Shurley, to the  
120 November 10, 2005 meeting, at the request of the applicant.

121  
122 Mr. Jernigan - Second.

123  
124 Mr. Vanarsdall - Motion made by Mr. Archer, seconded by Mr. Jernigan. All in favor say  
125 aye. All opposed say no. The ayes have it. The motion passes.

126  
127 At the request of the applicant, the Planning Commission deferred Case C-52C-05, John G.  
128 Shurley, to its meeting on November 10, 2005.

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130 Ms. Moore - The next case is in the Three Chopt District.

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132 ***Deferred from the June 9, 2005 Meeting:***

133 **P-2-05 Andrew M. Condlin for Kent Little:** Request for a Provisional Use Permit under  
134 Sections 24-58.2(a) and 24-122.1 of Chapter 24 of the County Code in order to allow extended  
135 hours of operation until 2:00 a.m. for a restaurant on Parcel 735-763-5299, containing 1.922  
136 acres, located on the north line of W. Broad Street (U.S. Route 250), approximately 1,550 feet  
137 east of its intersection with N. Gayton Road. The existing zoning is A-1 Agricultural District. The  
138 Land Use Plan recommends Mixed Use Development. The site is in the West Broad Street  
139 Overlay District.

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141 Ms. Moore - The deferral is requested to the November 10, 2005 meeting.

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143 Mr. Vanarsdall - Is anyone in the audience in opposition to Case P-2-05, Andrew M.  
144 Condlin for Kent Little, in the Three Chopt District? Any opposition to the deferment? No  
145 opposition.

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147 Mr. Branin - Mr. Chairman, I move that Case P-2-05, Andrew M. Condlin for Kent  
148 Little, be deferred to the November 10, 2005 meeting at the request of the applicant.

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150 Mr. Jernigan - Second.

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152 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor  
153 say aye. All opposed say no. The ayes have it. The motion passes.

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155 At the applicant's request, the Planning Commission deferred Case P-2-05, Andrew M. Condlin for  
156 Kent Little, to its meeting on November 10, 2005.

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158 Ms. Moore - Next is on page 3 of your agenda. It is C-27C-05, Pouncey Tract  
159 Properties, LLC.

160

161 ***Deferred from the July 14, 2005 Meeting***

162 **C-27C-05 Pouncey Tract Properties, LLC:** Request to conditionally rezone from A-1  
163 Agricultural District, B-3C Business District (Conditional) and M-1C Light Industrial District  
164 (Conditional) to B-2C Business District (Conditional), Parcels 740-765-2150 and 740-765-7084,  
165 containing approximately 10.1084 acres, located at the southeast intersection of Twin Hickory  
166 Lake Drive and Pouncey Tract Road. The applicant proposes a neighborhood retail shopping  
167 center. The use will be controlled by zoning ordinance regulations and proffered conditions. The  
168 Land Use Plan recommends Office, Commercial Concentration, Light Industry and Environmental  
169 Protection Area. The site is in the West Broad Street Overlay District.

170

171 Ms. Moore - The deferral request is to the October 13, 2005 meeting.

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173 Mr. Vanarsdall - Is anyone in opposition to deferral of C-27C-05, Pouncey Tract  
174 Properties? None. Mr. Branin.

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176 Mr. Branin - Mr. Chairman, I move the deferral of Case C-27C-05, Pouncey Tract  
177 Properties, to the October 13, 2005 Planning Commission meeting, at the request of the  
178 applicant.

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180 Mr. Jernigan - Second.

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182 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor  
183 say aye. All opposed say no. The ayes have it. The motion passes.

184

185 At the request of the applicant, the Planning Commission deferred Case C-27C-05, Pouncey Tract  
186 Properties, to its meeting on October 13, 2005.

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188 Ms. Moore - The next case is on page 4 of your agenda. It is C-56-05, J. F. Williams  
189 for Wms, LLC.

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191 **C-56-05 J. F. Williams for Wms, LLC:** Request to rezone from A-1 Agricultural District to B-2  
192 Business District, Parcels 746-760-6689, 746-760-3696, and part of parcel 746-761-5525,  
193 containing approximately 5.16 acres, located at the northeast intersection of W. Broad Street (U.  
194 S. Route 250) and Old Sadler Road. The applicant proposes a shopping center, service station  
195 and automobile dealership. The uses will be controlled by zoning ordinance regulations. The Land  
196 Use Plan recommends Commercial Concentration.

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198 Ms. Moore - The deferral is requested to the November 10, 2005 meeting.

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200 Mr. Vanarsdall - In the Three Chopt District, C-56-05, J. F. Williams. Is anyone in  
201 opposition to deferring this case? No opposition. Mr. Branin.

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203 Mr. Branin - Mr. Chairman, I move that Case C-56-05, J. F. Williams for Wms, LLC, be  
204 deferred to the November 10, 2005 meeting

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206 Mr. Archer - Second.

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208 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Archer. All in favor say  
209 aye. All opposed say no. The ayes have it. The motion passes.

210

211 At the applicant's request, the Planning Commission deferred Case C-56-05, J. F. Williams for  
212 Wms, LLC, to its meeting on November 10, 2005.

213

214 Ms. Moore - The next is on page 4 of your agenda. This is P-8-05.

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216 **P-8-05 J. F. Williams for Wms, LLC:** Request for a provisional use permit under Sections 24-  
217 58.2(a), 24-120 and 24-122.1 of Chapter 24 of the County Code, in order to allow 24-hour  
218 operation of a convenience store with gas sales as permitted in the B-2 Business District, on  
219 Parcel 746-760-3696, located at the northeast intersection of W. Broad Street (U. S. Route 250)  
220 and Old Sadler Road. The existing zoning is A-1 Agricultural District. The Land Use Plan  
221 recommends Commercial Concentration.

222

223 Ms. Moore - This is a companion case to the previous case. A deferral is requested  
224 to the November 10, 2005 meeting.

225

226 Mr. Vanarsdall - Is anyone in the audience in opposition to this deferment? This is P-8-  
227 05, J. F. Williams, Three Chopt District. No opposition. Mr. Branin.

228

229 Mr. Branin - Mr. Chairman, I move that Case P-8-05, J. F. Williams for Wms, LCC, be  
230 deferred, per the applicant's request, to November 10, 2005.

231

232 Mr. Jernigan - Second.

233

234 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor  
235 say aye. All opposed say no. The ayes have it. The motion is passed.

236

237 At the applicant's request, Case P-8-05, J. F. Williams for Wms, LCC, was deferred to November  
238 10, 2005.

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240 ***Deferred from the July 14, 2005 Meeting***

241 **C-33C-05 Prospect Homes of Richmond, Inc:** Request to conditionally rezone from A-1  
242 Agricultural District to R-2AC One Family Residence District (Conditional), R-6C General  
243 Residence District (Conditional) and B-2C Business District (Conditional), Parcels 819-684-6961,  
244 820-683-2686, 819-683-2452, 819-683-5565, 818-684-8174, 819-685-1803, containing 62.9  
245 acres, located between the east line of Buffin Road, south line of New Market Road (State Route  
246 5), west line of Fordson Farm Lane and northwest line of Interstate 295 at the New Market Road  
247 Interchange. The applicant proposes 40 single family residential lots, 82 townhouse units for sale  
248 and community business uses. The R-2A District allows a minimum lot size of 13,500 square feet  
249 with a maximum gross density of 3.23 lots per acre. The R-6 District allows twelve (12)  
250 townhouse units per acre. The business uses will be controlled by zoning ordinance regulations  
251 and proffered conditions. The Land Use Plan recommends Office and Office/Service. The site is in  
252 the Airport Safety Overlay District.

253

254 Ms. Moore - The request is to defer the case until January 12, 2006.

255

256 Mr. Vanarsdall - In the Varina District, this is C-33C-05, Prospect Homes of Richmond,  
257 Inc. This is deferment until next year. Is there anyone in the audience in opposition? No  
258 opposition. Mr. Jernigan.

259

260 Mr. Jernigan - Mr. Chairman, I move for deferral of Case C-33C-05 to January 12,  
261 2006, by request of the applicant.

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263 Mr. Archer - Second.

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265 Mr. Vanarsdall - Motion made by Mr. Jernigan and seconded by Mr. Archer. All in favor  
266 say aye. All opposed say no. The ayes have it. The motion passes.  
267  
268 At the request of the applicant, the Planning Commission deferred Case C-33C-05, Prospect  
269 Homes of Richmond, Inc., to its meeting on January 12, 2006.  
270  
271 ***Deferred from the August 11, 2005 Meeting:***  
272 **C-31C-05 Courtney Fisher for Richmond Land Company:** Request to conditionally rezone  
273 from O-2C Office District (Conditional) to R-3C One Family Residence District (Conditional), Parcel  
274 818-716-1579, containing 0.762 acre, located on the southwest intersection of Audubon Drive  
275 and Oakleys Lane. The applicant proposes a single-family residential development. The R-3  
276 District allows a minimum lot size of 11,000 square feet with a maximum gross density of 3.96  
277 units per acre. The use will be controlled by zoning ordinance regulations and proffered  
278 conditions. The Land Use Plan recommends Office and Environmental Protection Area. The site is  
279 in the Airport Safety Overlay District.  
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281 Ms. Moore - The deferral is requested to the March 9, 2006 meeting.  
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283 Mr. Vanarsdall - Again, in the Varina District, Case C-31C-05. Is anyone in the audience  
284 in opposition to deferring this case to the 9th of March, 2006? No opposition. Mr. Jernigan.  
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286 Mr. Jernigan - Mr. Chairman, I move for deferral of Case C-31C-05 to March 9, 2006,  
287 by request of the applicant.  
288  
289 Ms. Jones - Second.  
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291 Mr. Vanarsdall - Motion made by Mr. Jernigan and seconded by Ms. Jones. All in favor  
292 say aye. All opposed say no. The ayes have it. The motion passes.  
293  
294 At the request of the applicant, the Planning Commission deferred Case C-31C-05, Courtney  
295 Fisher for Richmond Land Company, to its meeting on March 9, 2006.  
296  
297 Ms. Moore - Mr. Chairman, that concludes the deferrals that we have requested from  
298 the applicant unless there are more from the Planning Commissioners.  
299  
300 Mr. Branin - Mr. Chairman, I have one.  
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302 Mr. Vanarsdall - All right. What page?  
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304 Mr. Branin - It is on page 3, C-53C-05.  
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306 **C-53C-05 D. L. Strange-Boston for Robert R. Bock, LLC:** Request to conditionally rezone  
307 from C-1C Conservation District (Conditional) and M-1C Light Industrial District (Conditional) to  
308 M-1C Light Industrial District (Conditional), Parcel 751-758-8362, containing 1.413 acres, located  
309 on the north line of Mayland Drive approximately 230 feet west of Gaskins Road. The applicant  
310 proposes a car wash. The use will be controlled by zoning ordinance regulations and proffered  
311 conditions. The Land Use Plan recommends Planned Industry and Environmental Protection Area.  
312  
313 Mr. Vanarsdall - OK. Is anyone in the audience in opposition to deferring Case C-53C-05  
314 in the Three Chopt District? Don, you want to speak? Come on down.  
315

316 Mr. Strange-Boston - Gentlemen, we would like to proceed with this. Business plans are in  
317 place and we are trying to close on the property, and we'd like not to defer this, if that is a  
318 possibility.

319

320 Mr. Silber - For the record, could you give us your name, please?

321

322 Mr. Strange-Boston - Excuse me. I am Donald Strange-Boston, architect, representing Robert  
323 R. Bock, the contract purchaser for the land.

324

325 Mr. Vanarsdall - You haven't closed on it and you would rather not defer it?

326

327 Mr. Branin - Mr. Strange-Boston, the plans and the proffers that have come in. I  
328 went through it with the staff. I will be happy to have the staff get with you now, or after the  
329 meeting. Neither staff nor myself felt that the case is ready for approval.

330

331 Mr. Strange-Boston - Can we not discuss the case or present it, or get action on it. If you  
332 choose to defer it, well, obviously, it will be deferred. We'd like not to do that, if that is possible.  
333 If there are issues that the staff has, then we have got the staff issues, and we are willing to  
334 speak to those now.

335

336 Mr. Branin - OK.

337

338 Mr. Silber - At this point, we will need to just hear it in the order in which it is on the  
339 agenda, so when it comes up, we will hear the case and discuss it.

340

341 Mr. Vanarsdall - Thank you, Don.

342

343 Mr. Silber - Are there any other requests by the Planning Commission for deferral?  
344 No others? The next item on the agenda would be those items that are listed as expedited items  
345 or expedited requests. These are items that we have placed on the expedited agenda so they  
346 can be heard without hearing.

347

348 These are zoning requests that have been considered by the administration. We are  
349 recommending approval of these cases. The County Commissioner is in favor of or supports the  
350 request and has no issues with the requests, and we have no known opposition to the request,  
351 so they are placed on the expedited agenda for that reason. If there is opposition to these  
352 cases, we will pull them off of the expedited agenda and hear them in the order in which they  
353 are on the full agenda. I believe we have five items on the expedited agenda.

354

355 Ms. Moore - Yes, sir, we do. The first is in the Brookland District and is on page 2 of  
356 your agenda.

357

358 **C-51C-05 James W. Theobald for Eagle Construction of VA, LLC:** Request to amend  
359 proffered conditions accepted with rezoning case C-17C-00, on Parcel 762-764-7055, containing  
360 20.057 acres, located at the intersection of the western terminus of Crossridge Glen Way and  
361 Buchmill Drive (Crossridge subdivision). The amendment is related to the type of housing in Tract  
362 8B to allow condominiums for sale to seniors. The existing zoning is R-6C General Residence  
363 District (Conditional). The use will be controlled by zoning ordinance regulations and proffered  
364 conditions. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density  
365 per acre.

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367 Mr. Vanarsdall - Is anyone in the audience in opposition to C-51C-05? Are you in  
368 opposition are do you just want to ask a question? I can't hear you.

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Ms. Hamilton - Am I allowed to comment?

Mr. Silber - Sure. Come on down.

Ms. Hamilton - My name is Karen Hamilton. I live in Glen Allen, Short Pump to be exact. I have waited 47 years to come to a Planning meeting. I have grown up in Henrico County, so bear with me. I don't know if there a public comment period, but I went to my first Zoning meeting about a month ago and since that time I called your office and I requested that each of you read two articles from the *Richmond Times-Dispatch*. Did any of you get that message? It was concerning *Wild Life in Peril*. Did any of you read the *Richmond Times-Dispatch* articles about *Wild Life in Peril*?

Mr. Archer - I did read the article, ma'am, but it wasn't in response to your memo.

Ms. Hamilton - Well, it is just that there is so much development going on with disregard to life. Whether you believe in evolution or creation, the animals and the birds were here before us, and the fact is that there is a law in place to protect birds. It is called the Federal Migratory Bird Act. It was established in 1918. This law protects not only the birds, but also their nests and any eggs inside and the chicks, and when you allow developers to go around and just clear and cut trees, which they have to do when they put too many houses on an acre or condominiums, or all of these developments which they are crowding too much on. They are going to cut down and clear cut all of trees. When you allow that to happen, you are not only destroying bird nests and violating federal law, but you are also destroying other nature, as well. I mean, there are homes for turtles and raccoons and numerous animals. There are 923 species, according to the *Richmond Times-Dispatch*, I'm sorry, 925 species that are going to be considered for federal protection, but there are simple creatures, like box turtles. You might not think that they are actually under risk here, but they are. They are all at risk. But, if you don't care about the animals, you and I are at risk, too, because when you allow them to tear down trees, you are cutting off my oxygen. You are increasing the cancer rate. There is just so much wrong with the way that you allow these developers to work. I hate to say this, but you are not the Planning Commission. They are the Planning Commission, because you have given the power to the developers. You have the power here tonight to say to the developers, "You have got to leave some trees up." "You have got to account for wild life, and you have got to account for human life." But the way that you have been running things in Henrico County, you have just been letting them do whatever they want to do. They are planning. You are just back saying yes. So, if I seem a little upset, I am. I have waited 47 years to say this to you because people always said, "Oh, Karen, you know, it doesn't matter. They are going to do what they want to do." But, it is time for you to start thinking in terms of the environment. These developers don't think that way. They don't care about Federal law. In fact, this woman here tonight I just asked if she had a month to look up the Federal Migratory Bird Act, and she didn't do it. I can guarantee you that not one of these lawyers looked it up. You didn't, and I called your office and asked for you to do that, and I asked that you read these articles. You know, human life is in peril. I mean, the cancer rate is going up and global warming is not my imagination. It is real. If you have ever stood on a piece of asphalt after the sun has gone down, it retains the heat long after the sun has gone down. We have paved over Henrico County. There is not much left.

Mr. Silber - Ms. Hamilton, let me say this. What is being considered at this time is a request to hear this rezoning request on the expedited agenda. If we need to hear this, we can pull it off and hear this, but let me say this. I was at the Board meeting when you came the other night and spoke, and I think the County is interested in your thoughts and comments. They have taken under consideration your interest in the Federal Migratory Bird Act and that is

422 being looked at by our County Attorney's office, so I think that your point is well taken. I think  
423 the Commission has heard your point and from the general context that I think we either need to  
424 hear this request and ask the staff to present it and have the applicant present it, and have you  
425 comment on it in more specific details, or else I think we need to move on and act on the  
426 request to have this on the expedited agenda.

427  
428 Ms. Hamilton - I can only be as specific as this. This that they are proposing is  
429 allowing, what you are allowing is clear cutting of the land, and I think you need to say stop right  
430 here with this first thing that you are proposing tonight. Start with that and say stop cutting  
431 down all the trees. You have got to leave some trees up. You know, if you say yes to these  
432 people, they are just going to go in and cut down everything. You have got to say, "Please leave  
433 some trees." Not just for the animals but for you and me. I need oxygen. I don't know about  
434 you, but I'd like to live a little bit longer.

435  
436 Mr. Branin - Ms. Hamilton, speaking on behalf of, I know, my other Commissioners,  
437 whenever we sit down with a developer, it is not carte blanche, knock down as many trees as  
438 you want. We request green areas. We request tree-save areas, the Chesapeake Bay Act also  
439 provides for tree-save areas, which is a State guideline as well as a Federal. So, to say that we  
440 are with the developers and go ahead and clear, cut and knock down and do whatever you want,  
441 that is very far from the truth.

442  
443 Ms. Hamilton - I have eyes. OK. I am seeing what is going on all around Henrico  
444 County, and I am not one of these people who just stays in Short Pump. I get around. I get to  
445 Varina, too, and you are ruining the planet. That is just the end of it. The bottom line is, you  
446 are ruining the planet. You may say that you are allowing him to save some trees and telling  
447 him they have got to have green areas. There is not enough of it.

448  
449 Mr. Branin - We are not allowing. We are providing that they do that. We are not  
450 allowing them to clear all of the trees.

451  
452 Mr. Vanarsdall - Ms. Hamilton, I appreciate your coming and bringing that to our  
453 attention, and a lot of what you say, I certainly do agree with you, and probably everyone up  
454 here does, but on the other hand, we have laws that we have to adhere to, and this case is in  
455 accordance with all of the County ordinances and everything, and the owner is entitled to  
456 develop his own property. On the other hand, what Mr. Branin just told you we do. We do look  
457 out for it, so I appreciate you coming and thank you.

458  
459 Anyone else want to speak?

460  
461 Mr. Silber - This request, I also want to point out, this request is a change of  
462 proffered conditions. The property is already zoned for a certain form of development, and this  
463 is changing the proffered conditions to actually lessen the type of development or the density of  
464 the development on this piece of property.

465  
466 Mr. Vanarsdall - Also, Ms. Hamilton, this particular case is also reducing from 300 units to  
467 102, so that takes up a lot less space and we'll see about the trees over there. Thank you.

468  
469 With that said, you have already called the case, this is on the expedited agenda, and so I  
470 recommend that Case C-51C-05 be recommended to the Board for approval.

471  
472 Mr. Jernigan - Second.

473

474 Mr. Vanarsdall - Motion made by Vanarsdall, seconded by Mr. Jernigan. All in favor say  
475 aye. All opposed say no. The motion passes. Now, I want to read a letter and want this to go  
476 in the file. This is a letter from the homeowner's association, Cross Ridge Homeowners  
477 Association, in favor of this case. OK. Next case.  
478

479 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Jernigan, the  
480 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant**  
481 the request because it is appropriate residential zoning at this location, it would not adversely  
482 affect the adjoining area if properly developed as proposed, it continues a form of zoning in the  
483 area, and the proffered conditions will provide appropriate quality assurances not otherwise  
484 available.  
485

486 **C-57C-05 Andrew M. Condlin for Shady Grove Co. Inc.:** Request to rezone from R-2AC  
487 One Family Residence District (Conditional) to A-1C Agricultural District, part of Parcel 738-772-  
488 9227, containing 5.379 acres, located at the southeast intersection of Pouncey Tract Road (State  
489 Route 271) and Grey Oaks Park Drive right-of-way. The applicant proposes a community  
490 recreation center. The use will be controlled by zoning ordinance regulations and proffered  
491 conditions. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density  
492 per acre.  
493

494 Mr. Vanarsdall - Is anyone in the audience in opposition to C-57C-05, Andrew M. Condlin  
495 for Shady Grove Co. Inc.? This is in the Three Chopt District. No opposition.  
496

497 Mr. Branin - Mr. Chairman, I move that the Planning Commission approve Case C-  
498 57C-05, Andrew M. Condlin for Shady Grove Co. Inc., and send it to the Board of Supervisors  
499 with a recommendation for approval.  
500

501 Mr. Archer - Second, Mr. Chair.  
502

503 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Archer. All in favor say  
504 aye. All opposed say no. The ayes have it. The motion passes.  
505

506 REASON: Acting on a motion by Mr. Branin, seconded by Mr. Archer, the Planning  
507 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant**  
508 the request because it is reasonable, and the proffered conditions will provide appropriate quality  
509 assurances not otherwise available.  
510

511 **C-58C-05 Andrew M. Condlin for Shady Grove Co., Inc.:** Request to conditionally rezone  
512 from RTHC Residential Townhouse District (Conditional) to R-2AC One Family Residence District  
513 (Conditional), part of Parcel 738-772-9227, containing 1.079 acres, located approximately 1,708'  
514 east of Pouncey Tract Road on the south line of Grey Oaks Park Drive right-of-way. The applicant  
515 proposes a single-family subdivision with the maximum number of lots not to exceed 2.0 units  
516 per acre in the aggregate as approved with rezoning case C-16C-03. The R-2A District allows a  
517 minimum lot size of 13,500 square feet with a maximum gross density of 3.23 units per acre.  
518 The use will be controlled by zoning ordinance regulations and proffered conditions. The Land  
519 Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.  
520

521 Mr. Vanarsdall - Again, in the Three Chopt District, Case C-58C-05, Andrew M. Condlin for  
522 Shady Grove Co., Inc. Any opposition to this case? Thank you.  
523

524 Mr. Branin - Mr. Chairman, I move that Case C-58C-05, Andrew M. Condlin for Shady  
525 Grove Co., Inc. be approved by the Planning Commission and forwarded to the Board of  
526 Supervisors with a recommendation for approval.

527  
528 Mr. Jernigan - Second.  
529  
530 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor  
531 say aye. All opposed say no. The motion passes.  
532  
533 REASON: Acting on a motion by Mr. Branin, seconded by Mr. Jernigan, the  
534 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors grant  
535 the request because the use and density of the project is in keeping with the 2010 Land Use Plan  
536 and it continues a similar level of single family residential zoning as currently exists in the area.  
537  
538 **C-59C-05 Philip Heldrick:** Request to amend proffered conditions accepted with rezoning case  
539 C-72C-89, on Parcel 744-739-3784, containing 0.333 acre, located on the north line of Gaslight  
540 Place approximately 40 feet west of Gaslight Terrace. The amendment is related to the type of  
541 roofing materials allowed. The existing zoning is R-2C One Family Residence District  
542 (Conditional). The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net  
543 density per acre.  
544  
545 Mr. Vanarsdall - Is anyone in the audience in opposition to C-59C-05, Philip Heldrick,  
546 Three Chopt District? No opposition.  
547  
548 Ms. Jones - Mr. Chairman, I recommend that Case C-59C-05, Philip Heldrick, be  
549 recommended to the Board of Supervisors for approval, with amended proffers dated September  
550 13, 2005.  
551  
552 Mr. Jernigan - Second.  
553  
554 Mr. Vanarsdall - Motion made by Ms. Jones and seconded by Mr. Jernigan. All in favor  
555 say aye. All opposed say no. The ayes have it. The motion passes.  
556  
557 REASON: Acting on a motion by Mrs. Jones, seconded by Mr. Jernigan, the  
558 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors grant  
559 the request because it offers a level of affordability to the buyers of these homes, and the  
560 changes do not greatly reduce the original intended purpose of the proffers.  
561  
562 **C-61C-05 Ken Merner for Ross Run, LLC:** Request to conditionally rezone from R-3AC One  
563 Family Residence District (Conditional) to A-1C Agricultural District (Conditional), pt of Parcel  
564 825-692-8035, containing 6.8 acres, located at the northeast intersection of I-295 and Four Mile  
565 Creek. The applicant proposes a private non-profit recreation facility for the Castleton  
566 subdivision. The use will be controlled by zoning ordinance regulations and proffered conditions.  
567 The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre,  
568 and Environmental Protection Area. The site is in the Airport Safety Overlay District.  
569  
570 Mr. Vanarsdall - This is in the Varina District, Case C-61C-05, Ken Merner for Ross Run,  
571 LLC. Anyone in opposition to this case?  
572  
573 Mr. Jernigan - Mr. Chairman, I move for approval of Case C-61C-05 on the expedited  
574 agenda and recommend that it be sent to the Board of Supervisors for approval.  
575  
576 Ms. Jones - Second.  
577  
578 Mr. Vanarsdall - Motion made by Mr. Jernigan and seconded by Ms. Jones. All in favor  
579 say aye. All opposed say no. The ayes have it. The motion passes.

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REASON: Acting on a motion by Mr. Jernigan, seconded by Mrs. Jones, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors grant the request because it is reasonable, and the proffered conditions will provide appropriate quality assurances not otherwise available.

Ms. Moore - Mr. Chairman, this concludes our report for expedited.

Mr. Vanarsdall - Thank you, Ms. Moore.

***Deferred from the August 11, 2005 Meeting***

**C-47C-05 Benjamin L. Holladay, Jr. and Evelyn J. Holladay, RMA/Hunton, LC and WWJ, LC:** Request to conditionally rezone from A-1 Agricultural District to R-3C One Family Residence District (Conditional), Parcels 762-772-5080 and 762-772-6237, containing 13.0 acres, located at the southeast intersection of I-295 and Old Mountain Road. The applicant proposes a single-family residential subdivision with a density not to exceed 1.7 units per acre. The R-3 District allows a minimum lot size of 11,000 square feet with a maximum gross density of 3.96 units per acre. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre, and Environmental Protection Area.

Mr. Vanarsdall - Is anyone in the audience in opposition to this case, C-47C-05? All right. Opposition. Mr. Tyson.

Mr. Tyson - Mr. Chairman, Mr. Kaechele, members of the Commission, Mr. Secretary. This is a request to rezone approximately 13 acres to permit construction of a single-family residential subdivision. The applicant has submitted but not proffered this conceptual layout of the development.

The Land Use Plan recommends SR-1, Single Family Residential uses for this parcel. The proposed project is consistent with the use recommended in the 2010 Land Use Plan, as is the proposed density of 1.7 units per acre.

The applicant has submitted a proffer statement that has been handed out to you dated September 15, 2005 that contains many assurances of quality development.

In addition to the proffered density of 1.7 units per acre, the applicant is proffering the following:

Foundations would be of brick or stone and houses would be built on crawl spaces.

2,000 square feet of finished floor are for one-story dwellings and 2,500 square feet for two-story dwellings.

No cantilevered chimneys. Chimneys to be brick or stone.

Three feet roll face curb and gutter will be used throughout the neighborhood.

Additional proffers address such things as paved driveways, lot width of 85 feet, construction materials for steps and stoops, sodding of front and side yards, and a prohibition on stockade-style fences.

The applicant held a community meeting on August 4, 2005. While there were several questions related to drainage and traffic issues in the area, no one in attendance spoke against

632 the proposed use as a single-family residential subdivision. The applicant has since hosted two  
633 additional meetings with neighboring residents to continue the discussion on these issues.

634  
635 The proposed use is in keeping with the surrounding land uses, and both the use and proposed  
636 density are in keeping with the recommendations of the 2010 Land Use Plan. Staff recommends  
637 that the Planning Commission forward this application to the Board of Supervisors for approval.

638  
639 This concludes my presentation, I would be happy to try to answer any questions you may have.

640  
641 Mr. Vanarsdall - Thank you, Mr. Tyson. Any questions for Mr. Tyson by Commission  
642 members? All right. Mr. Axselle.

643  
644 Mr. Axselle - Thank you. Mr. Chairman, ladies and gentlemen of the Commission, Bill  
645 Axselle on behalf of the applicant. This is 13 acres on Old Mountain Road, 10 acres owned by  
646 Ben Holliday and three acres owned by RMA Hunton. Bob Atack of RMA Hunton is here with me.  
647 I think Mr. Tyson's comments are fairly concise and to the point. The Land Use Plan calls for  
648 exactly this type of development. The density is consistent with what the Land Use Plan calls  
649 for. The proffers and conditions are very consistent with all of the adjacent and nearby  
650 subdivisions. As Mr. Tyson mentioned, we have had three meetings. We had a neighborhood  
651 meeting on August 5 at which Mr. Glover and Mr. Vanarsdall and Mr. Tyson were there. Some  
652 folks were there. Two families were appointed as sort of their liaison, their representative. On  
653 August 9 those two couples met with Bill Johnson and Chris Sims of Foster and Miller, who are  
654 the engineers on this matter, and the reason for that was it became apparent at the first meeting  
655 that all of the issues that these folks will share with you are, in fact, plan of development, site  
656 plan, engineering related issues. As Mr. Tyson said, they do not relate really to the use or the  
657 rezoning of the property. But the idea was to sort of find out from them what their concerns  
658 were. That was on August 9 when that meeting took place. On August 11, the Planning  
659 Commission deferred the matter, with the understanding that there would then be another  
660 meeting which took place on September 6. Mr. Vanarsdall and Lee Tyson were there. Bob  
661 Thompson from Public Works was there. Messrs. Johnson and Simms of Foster and Miller and  
662 Bob Atack and myself went through the same issues in fairly detail, and again, I think the same  
663 conclusion. So, I hope that you would follow the recommendation of your Land Use Plan, follow  
664 the recommendation of your staff. I quote just two very brief comments from the staff report,  
665 because I think they are positive. The proposed use is in keeping with the land use patterns in  
666 the area and would be a logical extension of single-family development patterns in the area. The  
667 proffered conditions provide many assurances of quality development and the staff recommends  
668 its approval. You also hear about traffic and the staff report sets forth, based on the information  
669 from Public Works, the traffic that would be generated, 22 single-family homes, and the staff  
670 report, Mountain Road is currently carrying approximately 7,950 vehicles per day in the area.  
671 The adjacent roadway network could accommodate the additional traffic volume. There will be  
672 at a later time an issue as to the number of homes that can come on a single point of access, but  
673 again, that is a plan of development issue. Mr. Chairman, I reserve the remainder of my time for  
674 rebuttal.

675  
676 Mr. Vanarsdall - All right. Any questions for Mr. Axselle? Bill, I have proffer #15. Would  
677 you follow this if it goes to the Board? We need to know. You see, you told me you didn't know  
678 the number of two-car garages and one-car garages because of the layout of the land. Will you  
679 follow that between now and the Board? The other thing in #17 was fences and walls, and on  
680 the second line where it says 42 inches in height, the word "must", it should be "shall." Would  
681 you change that between now and the Board? You can change it and initial it, if you want to.

682  
683 Mr. Axselle - Actually, I changed it after we chatted.

684

685 Mr. Vanarsdall - That is all of the questions that I had. Thank you. Now, we will take  
686 the opposition. Whoever wants to come down, please come down and state your name and  
687 what you need to tell us about.  
688

689 Mr. Jim Moore - Good evening, ladies and gentlemen. I am Jim Moore. I live in the  
690 neighborhood, a resident there, some of you I am familiar with, certainly Mr. Atack and Mr.  
691 Axselle. As a resident and in speaking with other residents in the neighborhood, we do have  
692 some issues we still don't feel like we have gotten adequate response. First of all, I'd like to  
693 restate, as we have many times, we are not totally against the development. We are for  
694 adequate development and space development and protection of residents who already live  
695 there, some for 30 or 40 years. I am a 20-year resident. Most of the people who have shown  
696 up here have also been in the neighborhood that long.  
697

698 Our main issues are that Mr. Atack's proposal is to pull sewer through a wetland floodplain.  
699 Again, we are assured by all of the Planning people and Engineering people in the County that  
700 that is a doable issue, so that is a done issue, as far as we are concerned. However, the  
701 pathway that this sewer is going to be pulled, because of where the pumping station has already  
702 been located excludes probably 50% of the other residents in the neighborhood from access to  
703 sewer, and it has been set as a precedent in the County and other parts of the County, notably  
704 the East End, at some point in the future when the County is built out, essentially, the water  
705 table will no longer support safely people with wells and septic systems. They bleed into each  
706 other. That is just a natural fact. So, at that time, County residents will be required to hook up  
707 to sewer. Long before that ever happens, you are going to have an inverse square law basically  
708 happen as far as property values. If you built the identical house across the street on Holladay  
709 property from one that is already existing on Old Springfield or Old Mountain, if one of those  
710 houses has sewer and the other doesn't, our property values are going to go up the same.  
711 When we go to resell for anyone who lives on that street, if both of those houses were for sale at  
712 the same time, not only would the house with the sewer sell first, but it would sell for a lot more.  
713 So, we are interested in protecting our property values, the residents who have lived there, and  
714 invested their time and energy in raising their families there.  
715

716 Some of the other issues, the property values I went over, road improvements are going to have  
717 to be made. We understand the developer is not required to do anything other than the road  
718 frontage on his property. This is already a dangerous area in that emergency vehicles cannot  
719 get safely in and out of there. If there is a car parked on the street, of course, they have to pass  
720 each other. This happened just two weeks ago and a girl got thrown from a horse. You will  
721 have to excuse me. I am not a lawyer, so I am sort of jumping all around here. The density  
722 was another issue that came up in our meetings. Why do there have to be 22 houses in a  
723 neighborhood where precedent has already been set that the neighborhood is built to capacity,  
724 meaning there is only one point of ingress and egress into that neighborhood, and you can talk  
725 to the County EMS people and this is a policy, as Mr. Tyson has agreed with, has been set. It is  
726 probably sometimes there are amendments made to it and in this case we don't feel that it would  
727 be a safe amendment and, indeed, in a previous rezoning of Mr. Atack's on Old Springfield and  
728 another developer who has property that adjoins his, that developer was not allowed to build  
729 another house, based on this policy that would dump onto Old Springfield, and Mr. Atack,  
730 supposedly when he built his house, the only reason he was able to get a driveway on to that  
731 street is because there had been an existing house and that is supposed to be a temporary  
732 driveway. So, I don't know how you all are going to sort that issue out, but that is something  
733 that we are talking about all of the time.  
734

735 Again, we are reaping all of the monetary problems associated with urbanization. Our property  
736 value assessments are going up. We are not getting any of the benefits from urbanization. We  
737 don't have sidewalks. If there are going to be 253 more extra trips on that one street alone, and

738 there is another proposed development on Old Springfield, which was dumped down through the  
739 same street, it is compounding the problem and I am not going to rehash some of these things  
740 that my neighbors are aware of, the drainage and the sewer issue, and I have made too many  
741 people in the County aware of it until I am blue in the face, and they are tired of listening. But,  
742 we just feel like we don't want the County to forget 50 residents who already live there, as  
743 opposed to the one other entity who wants to come in and get their way. So, we are asking for  
744 your consideration, and we don't feel that the density is in total keeping with the area. There  
745 are houses and neighborhoods that are on half-acre lots. There are houses that are on three  
746 and up. There are houses on one acre, so why not cut to the chase. If you take out the flood  
747 plain acreage on this development, the density is actually only .39 acres per unit, which is below  
748 what the County would recommend. Mr. Thompson, with the County, explained that, and to me  
749 this is a case of semantics. As long as there is a buildable amount of square footage on a lot,  
750 you can count flood plain as part of the overall acreage to get the density. To me, again, that is  
751 just a case of semantics. I wouldn't buy a lot that was 50% floodplain and I don't think many  
752 people out there who experienced Gaston would either. So we don't feel this is in keeping with  
753 the general ethic of what is right, and I'd be glad to hear another one of my neighbors' opinion  
754 on the matter. Thank you for your time.  
755

756 Mr. Vanarsdall - Jim, thank you for your time, but let me mention one thing you said, the  
757 22 lots average 1.7 units per acre.  
758

759 Mr. Moore - Right.  
760

761 Mr. Vanarsdall - The Land Use Plan in this particular case can have 1 to 2.4.  
762

763 Mr. Moore - We understand that.  
764

765 Mr. Vanarsdall - And so they have it down and we have a lot of good proffers on here.  
766 We added several today, and I understand, because you were at the meeting and I was at the  
767 meeting, and let me ask you another question. When Bob Thompson suggested that you go to  
768 Public Utilities and he gave you a name of Art Petrini, were you all ever able to connect with him?  
769

770 Mr. Moore - No. And I work full time. I am not an attorney. If I had all of the time  
771 in the world, I would have had a lot more things lined up.  
772

773 Mr. Vanarsdall - I know you are tired of hearing this because we had three meetings on  
774 it, but here is what the problem is. This tonight is a rezoning.  
775

776 Mr. Moore - I understand that.  
777

778 Mr. Vanarsdall - I know you understand that, and it is too bad, like you said that night,  
779 we had the cart before the horse. It is too bad that they can't do something with the property,  
780 find out what is there, the wetlands, and do something with the roads and all of that, and then  
781 rezone it, but it just doesn't work that way.  
782

783 Mr. Moore - That was an issue we brought up. We feel that should be changed.  
784

785 Mr. Vanarsdall - The next step they are going to do something about the roads and all of  
786 that, because Bob Thompson has already promised that he would put his engineers back out  
787 there.  
788

789 Mr. Moore - But no one will make a commitment on the sewer for the other people in  
790 the neighborhood whose property values will be drastically affected.

791  
792 Mr. Vanarsdall - Mrs. Farosi, who I think is not here tonight. She went to China. She  
793 explained that to me last time. She said she has well water and somebody down the street has  
794 County water, and she is not going to be able to sell her house for the same price as the other,  
795 but the County is going to offer this to you. I am sure Mr. Axelle will tell you. Does anybody  
796 else have any questions?  
797  
798 Mr. Moore - Is that predicated on when they get the houses built, or is it going to be  
799 another 10 years? I have lived in that neighborhood 20 years. The County has never repaved it  
800 in that whole time, and I was on that road numerous years before that. I can't ever remember  
801 either of those streets ever being repaved. We have been told in the past, not me directly but  
802 another neighbor, that there aren't enough houses there for us to pull sewer there. So, all we  
803 were asking for is some kind of definitive word on some of these issues. Are you or are you not,  
804 the County, I am not saying you, but is the County going to pull sewer in and give access to the  
805 rest of the neighborhood at a reasonable cost?  
806  
807 Mr. Vanarsdall - I am sure they are.  
808  
809 Mr. Moore - That is what we get all of the time, I am sure that is going to happen. I  
810 understand this is going to happen. I don't see anything in concrete.  
811  
812 Mr. Vanarsdall - I understand exactly what you are talking about, but we can't do  
813 anything until this is rezoned, if it is rezoned, and then they are zeroed in on it now. We have  
814 talked to everybody in the County.  
815  
816 Mr. Moore - I am just making comments based on the rest of the neighbors.  
817  
818 Mr. Vanarsdall - We sympathize with you, Jim, and we are trying to do something about  
819 it.  
820  
821 Mr. Moore - OK, thank you. That is all I ask.  
822  
823 Mr. Vanarsdall - That is something that came to light that we didn't know about. Your  
824 case is not an isolated case in the County.  
825  
826 Mr. Silber - Mr. Moore, let me follow up with what the Chairman is saying. I think  
827 when it comes to the time of development of this property the sewer situation will be looked at.  
828 I know you are wanting some answers now, but it is difficult to give answers when it hasn't been  
829 designed and engineered, so I think that will come at some future point. Also, a point of  
830 clarification, you had indicated that relative to the flood plain on the property, the requirements  
831 are that you have to have the minimum lot area outside of the flood plain, so the lot area  
832 minimum for this zoning case of R-3 is 11,000 sq. ft. So they do have to have 11,000 sq. ft.  
833 outside of the flood plain. It is not just the buildable area, but they have to have the entire  
834 11,000 sq. ft. outside of that flood plain.  
835  
836 Mr. Moore - Thank you.  
837  
838 Mr. Vanarsdall - I appreciate your interest, Jim. Anyone else want to speak? Well, I  
839 understand exactly where you are coming from, and I sympathize with you, and I just feel very  
840 confident that something will be done to help you. As far as tonight's rezoning case, this is a  
841 very good rezoning case. It is the same that is in the area now, and like I said, it is below even  
842 what the land use plan recommends at 1.7 units per acre, and the houses that are going to be  
843 built are very upscale. There are going to be garages and chimneys and the lot widths are going

844 to be good. There are a lot of good amenities that are going to be in it. The yards are going to  
845 be sodded and everything about this part, and I know you all don't want to hear about this part,  
846 but everything about the rezoning and the quality of the case is above board. And so, I am glad  
847 you told me that you haven't been able to get up with Art Petrini. Lee, will you make a note to  
848 follow up on that and then we will go from there, and Mr. Axelle has about, how many minutes  
849 did you say you had for rebuttal?

850  
851 Mr. Axelle - If I could just make one comment, and I think this was probably the  
852 reason that you asked for the deferral last month and the reason we had the meeting with the  
853 staff, because while these issues are issues that are properly addressed in the engineering and  
854 plan of development stage, I think your thought was or the way you explained it to me was it  
855 was good for our engineers, the developer's engineers, and good for the County folks to hear  
856 that, as we now begin to consider that.

857  
858 Mr. Vanarsdall - That is the reason I was surprised, when I asked who was at the  
859 meeting. Even you weren't there. And I found out that none of our engineers and that is why  
860 we got Bob Thompson...

861  
862 Mr. Axelle - I think this has helped highlight the issues that when we get to the POD  
863 stage they will be appropriately addressing.

864  
865 Mr. Vanarsdall - Thank you, Bill. Any Commissioners have any questions? I move that  
866 Case C-47C-05 be recommended to the Board of Supervisors for approval.

867  
868 Mr. Branin - Second.

869  
870 Mr. Vanarsdall - Motion made by Vanarsdall and seconded by Mr. Branin. All in favor say  
871 aye. All opposed say no. The motion passes.

872  
873 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Branin, the  
874 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant**  
875 the request because it conforms to the recommendation of the Land Use Plan, it reflects the type  
876 of residential growth in the area, and the proffered conditions will provide appropriate  
877 assurances not otherwise available.

878  
879 Mr. Vanarsdall - I appreciate the community coming and you will be hearing from me.

880  
881 Person in the Audience - I appreciate that. Our main concern, we live up on Springfield  
882 Court, and our main concern is that the sewer won't come up to where we are, and that, the  
883 County reassess my house every year, and I don't mind paying taxes to help the County out, but  
884 if I ever decide to sell, the value of my house goes down. So I appreciate it.

885  
886 Mr. Vanarsdall - All right. Thank you.

887  
888 Mr. Jernigan - You may want to explain time limits for cases.

889  
890 Mr. Silber - As far as rebuttal and opposition? I could do that. I was hesitating  
891 because the battery ran out on my timer tonight and I was hoping I would not have to use it, Mr.  
892 Jernigan.

893  
894 Mr. Vanarsdall - I want to go back to C-47C-05. I wrote waive right here and couldn't  
895 read it. I want to waive the time limits on the proffers on C-47C-05.

896

897 Mr. Archer - Second.

898

899 Mr. Vanarsdall - Motion made by Vanarsdall and seconded by Mr. Archer. All in favor say  
900 aye. All opposed say no. The ayes have it. I want to put for the record that Mr. Axselle was not  
901 late on the proffers. I caused this, and so I take credit for that.

902

903 Mr. Silber - As a reminder for those that may be attending their first Planning  
904 Commission meeting, the Planning Commission has a policy that the applicant has 10 minutes to  
905 present their rezoning request. Some of that 10-minute period of time may be saved for rebuttal  
906 by the applicant. Those speaking in opposition, likewise, have 10 minutes to present their  
907 concerns relative to rezoning requests. That is 10 minutes cumulatively and the Planning  
908 Commission poses this policy in a way to try to move the meeting along. When questions are  
909 asked by the Planning Commission, that is not a part of the 10-minute allocation. The Planning  
910 Commission, on occasion, will extend that 10-minute period beyond 10 minutes, but that is the  
911 policy of the Commission.

912

913 *Deferred from the August 11, 2005 Meeting:*

914 **C-12C-05 Wilton Development Corp.:** Request to conditionally rezone from A-1 Agriculture,  
915 B-3C Business District (Conditional), B-2C Business District (Conditional) and R-5C General  
916 Residence District (Conditional) to R-5C General Residence District (Conditional), and B-2C and  
917 B-3C Business Districts (Conditional), Parcels 804-737-4084, and 1251, 804-736-0481 and part of  
918 Parcel 804-737-7154, containing 36.6 acres, located at the northeast intersection of  
919 Mechanicsville Turnpike (U.S. Route 360) and Neale Street. A multi-family residential complex  
920 (29.51 acres) and business uses (7.12 acres) are proposed. The R-5 District allows a density of  
921 14.52 units per acre. The proposed districts would be controlled by zoning ordinance regulations  
922 and proffered conditions. The Land Use Plan recommends Commercial Concentration,  
923 Government and Urban Residential. The site is in the Airport Safety Overlay District.

924

925 Mr. Vanarsdall - Any opposition to this case, C-12C-05? Thank you. Good evening, Ms.  
926 Deemer.

927

928 Ms. Deemer - Good evening, Mr. Chairman.

929

930 As you may recall, you have seen this case before you in several iterations. Previously the  
931 applicant was proposing a single-family residential subdivision along Neale Street with two retail  
932 pad sites along Mechanicsville Turnpike. In a separate case that has since been combined with  
933 this case and withdrawn earlier this evening, the applicant was proposing retail sites along  
934 Mechanicsville Turnpike, including an unmanned carwash adjacent to the Chickahominy National  
935 Battlefield. Over the last several months the applicant has met with local residents and worked  
936 with staff to revise plans that were more in keeping with the 2010 Land Use Plan.

937

938 The applicant is requesting to rezone approximately 29.5 acres to R-5C General Residence  
939 District (Conditional), 5.45 acres to B-2C Business District (Conditional) and 1.67 acres to B-3C  
940 Business District (Conditional) to allow an owner-occupied condominium complex, a retail/office  
941 complex and an unmanned Woodfin Watchcard filling station.

942

943 The Land Use Plan recommends Commercial Concentration, a small sliver of Government and  
944 Urban Residential and the request is generally consistent with the Plan. Since the writing of the  
945 staff report the applicant has submitted revised proffers that address many of staff's concerns  
946 including:

947

- 948 1. Proffering specific building materials for the R-5C and B-2C portions of the property
- 949 2. Limiting construction hours and posting signs in both English and Spanish

- 950 3. Providing a low fence along the perimeter of the property adjacent to the National
- 951 Battlefield Park
- 952 4. Reducing the number of driveway accesses onto Neale Street to two
- 953 5. Prohibiting drive-thru restaurants, check cashing establishments, gas stations, garden
- 954 centers and nurseries
- 955 6. Limiting signage in the B-2C district to 6 feet in height and 5 feet in height in the B-3C
- 956 district

957  
958 Additionally, staff feels that the following items could enhance the proffers and we would request  
959 that the applicant, if the request is approved, work on adding these as it is working its way  
960 towards the Board.

- 961
- 962 1. Providing an elevation detailing the proposed entrance features and their locations
- 963 2. Delineating paths using pavers and sidewalks along the main entrance to allow a safe
- 964 pedestrian passageway to the proposed commercial and office uses
- 965 3. Clarification of the parking lot landscaping proffer and
- 966 4. Clarification of building materials based on proffered exhibits; some materials may not be
- 967 in keeping with the design of the proposed condominiums

968  
969 The applicant has had two community meetings, one on April 20th and one on September 6th.  
970 Both were well attended and provided the residents of the area an opportunity to ask questions  
971 and voice their concerns. The applicant has made several major concessions to their original  
972 request and overall, staff believes the requested business and residential uses could be  
973 appropriate on this site if the applicant can provide the remaining assurances of quality and  
974 compatibility between the proposed and existing uses.

975  
976 This concludes my presentation, I would be happy to try and answer any questions you may  
977 have. Time limits will have to be waived on the proffers.

978  
979 Mr. Vanarsdall - All right. Any questions for Ms. Deemer by Commission members?  
980 Thank you, Ms. Deemer. Now we will hear from the applicant. Where is the applicant?

981  
982 Ms. Verna - Good evening, Mr. Chairman, Mr. Kaechele, my name is Sandra Verna  
983 and I am here tonight representing Wilton Development. We are requesting to rezone  
984 approximately 36 acres of land between Neale Street and the Chickahominy Bluffs Battlefield on  
985 Mechanicsville Turnpike. This would enable a more comprehensive approach to the land  
986 remaining to be developed. The parcels are currently zoned and that is what is before you, B-3,  
987 Business Conditional, R-5C, General Residence, and A-1, Agricultural, and would allow a mixture  
988 of retail and business uses and apartments. We have incorporated the comments and concerns  
989 from the Planning staff, the Planning Commissioner and the neighborhood, and revised our plan  
990 to rezone the majority of the site, 29.5 acres, to R-5C, Condominiums for sale, 5.45 acres to B-  
991 2C, Office Retail, and 1.6 acres to B-3C, Business. (Referring to rendering). That shows what  
992 we are proposing now. The rezoning would retain a 50 ft. buffer adjacent to Neale Street,  
993 Mechanicsville Turnpike, the Orchard Glen Subdivision and the entrance to Chickahominy Bluffs  
994 Battlefield property. At our last meeting held on September 6, the neighborhood supported the  
995 condominiums for sale and the office retail uses proposed for the site, but had some concerns  
996 about the B-3 portion of the property. This is an example of the wood fence height. Height  
997 limitations to the pump not to exceed six feet in height with no canopies. Ground mounted  
998 monument-style signage not to exceed five feet in height. A decorative six foot black aluminum  
999 fence surrounding the site. Any service buildings must be all brick. Assurances that the site will  
1000 meet environmental quality standards acceptable with the State and Federal Government.  
1001 Lighting directed downward and landscape buffers. Woodfin would be heavily screened from the  
1002 site, have a very low traffic volume. The majority of trips are approximately five to seven per

1003 hour. The majority of the use is between 7:00 a.m. and 6:00 p.m. Monday through Friday with  
1004 very little use on the weekends. Over 75% of the vehicles are passenger cars and vans with two  
1005 axles. It is totally secure and there are no cash transactions. Only vehicles with cards can use  
1006 this site. With the improvements we have made to the proffers, we are asking the Planning  
1007 Commission to approve this request tonight, and all of those comments that were made by  
1008 Rosemary, as far as making those changes between now and the Board of Supervisors meeting,  
1009 we will certainly accomplish. We will follow all of staff recommendations. I'd be happy to take  
1010 any questions.

1011  
1012 Mr. Vanarsdall - Thank you, Ms. Verna. Any questions for Ms. Verna?

1013  
1014 Mr. Archer - Ms. Verna, so in your last statement you are saying that those things  
1015 that Ms. Deemer said were additional things and you can accommodate those?

1016  
1017 Ms. Verna - We can accommodate all of those before the Board meeting.

1018  
1019 Mr. Archer - OK. That is all I have for now.

1020  
1021 Ms. Verna - And I will work with Rosemary on this.

1022  
1023 Mr. Archer - Thank you, ma'am. You did mention single-axle trucks would be most  
1024 vehicles and no tractor-trailers. Is that correct, except for delivery.

1025  
1026 Ms. Verna - We do have a representative from Woodfin here tonight. What they did  
1027 was, they took a count of their Woodfin on Williamsburg Road as a sample of the number of  
1028 vehicles, types of vehicles, and on Williamsburg Road there were two vehicles, good large tractor  
1029 trucks, but if you would like Woodfin to answer that, what they said about this particular type,  
1030 the other thing about our site, Neale Street, that would be different from the site that you are  
1031 viewing on the screen is very direct access from that site to the road in front of this. There is no  
1032 direct access from the Neale Street site to the road, so basically you wouldn't see that entrance.  
1033 You would see just buffering, so you would just see trees in front of that site and in front of the  
1034 pumps. The other thing that you will notice about this particular photo is that adjacent to the  
1035 woods and pumps is an office, exactly an office and retail use, which is in very close proximity,  
1036 so it is a possibility that could fit on the site.

1037  
1038 Mr. Archer - OK. I think someone is standing back there to answer that question I  
1039 just asked. Come on up.

1040  
1041 Mr. Tom Porterfield - My name is Tom Porterfield. I am Vice-President of Business  
1042 Development for Woodfin Heating, Inc. and this is our proposal here. To direct your question or  
1043 to answer your question concerning tractor trailers, No. 1, the design in the proffers we have  
1044 offered here is somewhat limited in the fact that they don't encourage tractor trailers to come in,  
1045 the 18 wheelers. We don't have an account with Estes or people like that. They have their own  
1046 fuel. Our largest customers are Loveland Distributing Company and Coca Cola. This one  
1047 particular example we ran, we had three of their trucks in Brook Road in one day, and I think it  
1048 was 151 trips that were in there in a 24-hour period. I would venture to say that in excess of  
1049 75% are two-axle vehicles, if you put your econoline vans, your pickup trucks and your Ford  
1050 Taurus and your Chevrolet Malibu company cars in this particular mix, and that is historically.  
1051 We can substantiate that.

1052  
1053 Mr. Archer - All right. Now one more thing that was mentioned in our earlier  
1054 conversation, so that the members of the community that are here tonight will know. My  
1055 understanding is that you would like to have a community meeting again with that community

1056 between now and the time the Board meets, so they can get a more intimate detailed look at  
1057 what it is that you are proposing, and also that if they think it is something that doesn't meet  
1058 their approval, you will pull it. Is that what I am to understand?  
1059  
1060 Mr. Porterfield - We will look at that and abide by that.  
1061  
1062 Mr. Archer - OK. I think that is fair enough. Thank you.  
1063  
1064 Mr. Porterfield - Thank you.  
1065  
1066 Mr. Vanarsdall - Tom, I was talking to Mr. Archer about this earlier and I know that you  
1067 have a lot of very nice locations around town and I remember one over in the industrial  
1068 development in Hanover you had the vinyl white fence and he said that you said you would fix it,  
1069 any kind of landscaping and anything on it, and I told him that if you said you would that he  
1070 could bank on it.  
1071  
1072 Mr. Porterfield - I appreciate that.  
1073  
1074 Mr. Vanarsdall - And I want the people here to know about that.  
1075  
1076 Mr. Archer - Thank you, Mr. Vanarsdall. I think we had some opposition.  
1077  
1078 Mr. Vanarsdall - Come on down.  
1079  
1080 Mr. Dunn - Good evening, Commissioners, ladies and gentlemen. My name is  
1081 Samuel Franklin Dunn. I am a resident of the Orchard Glen community.  
1082  
1083 Mr. Vanarsdall - I didn't get your name.  
1084  
1085 Mr. Dunn - Samuel Franklin Dunn. I am a resident of the Orchard Glen community,  
1086 which will be backing right up to the property that will be developed. I also attended the  
1087 September 6 meeting. There was a lot of opposition regarding the Woodfin Oil development  
1088 there. A number of concerns regarding the different types of trucks that would be coming  
1089 through, the volume and the impact that that would have on the residents currently there. Also,  
1090 that particular location on the area of land, tract of land that they have is at a major intersection  
1091 as far as Neale Street and Mechanicsville Turnpike is concerned are located, so there was  
1092 concern about potential leakage, what type of tanks that might be put in place there, if there  
1093 were any sort of accident I understand that they would get a 50 foot buffer situation there. But  
1094 as far as spillage, backing into the fueling apparatus there, what kind of safeguards would be put  
1095 in place where the existing residents as well as the properties that are proposed to be built. We  
1096 also, we hadn't had an opportunity to talk to Woodfin Oil as much as the Woodfin folks are  
1097 concerned, but we would definitely be interested in sitting down at that next meeting and  
1098 explore these concerns. The County staff was very helpful at the meeting on the 6th in being  
1099 able to explain things to us, but we just wanted to rise and share our concerns and our  
1100 opposition to the rezoning of that particular parcel. Thank you.  
1101  
1102 Mr. Vanarsdall - Any questions?  
1103  
1104 Mr. Archer - No, but Mr. Dunn, I really do appreciate you coming tonight and being at  
1105 the last meeting. To just make sure you understand, they do intend to meet with the community  
1106 again and show you exactly, in detail, what this plan will entail. As you heard him say, if you still  
1107 are vehemently opposed to it, they will pull that section from the plan. I think the one feature of  
1108 it that is impressive is that, if it is constructed as Ms. Verna said, we are talking just five to seven

1109 cars per hour, cars or whatever the vehicles are. Under the other part of the zoning, if we don't  
1110 do this, we won't have a known quantity. We won't know exactly what will go there. It will just  
1111 be whatever will fit within that zoning subject to the proffered conditions and it could be anything  
1112 that fits in that particular zoning classification, so we are looking at it from that regard. I think  
1113 we do at least need to hear them out so that they can have an opportunity to show us what  
1114 could be better for us if they are there.  
1115  
1116 Mr. Dunn - We are very appreciative of the opportunity to have that meeting.  
1117  
1118 Mr. Archer - OK. Thank you for coming again tonight.  
1119  
1120 I need to ask a question to Ms. Verna or Ms. Deemer. We were talking about the number of  
1121 entrances and did we agree that that third entrance would come out, the one closest to Neale  
1122 Street?  
1123  
1124 Ms. Verna - It is out. We just have two entrances.  
1125  
1126 Mr. Archer - OK.  
1127  
1128 Ms. Verna - We did eliminate that entrance. As you see, we did have one to the  
1129 condominiums for sale and just one that is actually just the service entrance.  
1130  
1131 Mr. Archer - It still showed up on the staff report.  
1132  
1133 Mr. Vanarsdall - You don't need but two, do you?  
1134  
1135 Ms. Verna - Right. And we eliminated the other one, and regardless, if Woodfin  
1136 stays or goes, we will still eliminate it.  
1137  
1138 Mr. Vanarsdall - Anyone else want to speak? Thank you.  
1139  
1140 Mr. Archer - Mr. Chairman, before I move on this, I would like for Mr. Hatcher who is  
1141 here from the Maplewood Farms Civic Association, and Mr. Hatcher, we would like you to get  
1142 with Ms. Verna and Mr. Porterfield and determine what would be a good time to have a  
1143 community meeting that would allow us enough time to get letters out and so forth, so that the  
1144 people would know to come, and then it will be up to them to sell that feature to you and I will  
1145 come and we will see what we can do.  
1146  
1147 Ms. Verna - OK. Great. Thank you.  
1148  
1149 Mr. Vanarsdall - And Mr. Archer, I want to remind you that I forgot it, to waive the time  
1150 limits.  
1151  
1152 Mr. Archer - I didn't forget it. I wrote it down. OK. With that, Mr. Chairman, I will  
1153 move to waive the time limits on the proffered conditions.  
1154  
1155 Mr. Jernigan - Second.  
1156  
1157 Mr. Vanarsdall - Motion made by Mr. Archer and seconded by Mr. Jernigan. All in favor  
1158 say aye. All opposed say no. The ayes have it. The motion is passed.  
1159  
1160 The Planning Commission voted to waive the time limits on Case C-12C-05.  
1161

1162 Mr. Archer - And subject to all of the caveats we have mentioned here tonight, I will  
1163 also move to recommend to the Board for approval Case C-12C-05, Wilton Development Corp.

1164  
1165 Mr. Jernigan - Second.

1166  
1167 Mr. Vanarsdall - Motion made by Mr. Archer and seconded by Mr. Jernigan. All in favor  
1168 say aye. All opposed say no. The ayes have it. The motion is passed. Thank you.

1169  
1170 REASON: Acting on a motion by Mr. Archer, seconded by Mr. Jernigan, the  
1171 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors grant  
1172 the request because the use and density of the project are generally in keeping with the 2010  
1173 Land Use Plan and in keeping with existing zoning and surrounding uses, and the proffered  
1174 conditions will provide appropriate quality assurances not otherwise available.

1175  
1176 **C-53C-05 D. L. Strange-Boston for Robert R. Bock, LLC:** Request to conditionally rezone  
1177 from C-1C Conservation District (Conditional) and M-1C Light Industrial District (Conditional) to  
1178 M-1C Light Industrial District (Conditional), Parcel 751-758-8362, containing 1.413 acres, located  
1179 on the north line of Mayland Drive approximately 230 feet west of Gaskins Road. The applicant  
1180 proposes a car wash. The use will be controlled by zoning ordinance regulations and proffered  
1181 conditions. The Land Use Plan recommends Planned Industry and Environmental Protection Area.

1182  
1183 Mr. Vanarsdall - Any opposition to this case, Case C-53C-05? All right. Thank you. Mr.  
1184 Coleman.

1185  
1186 Mr. Coleman - Mr. Chairman, members of the Commission, this proposal would rezone  
1187 1.413 acres from M-1C and C-1C to M-1C. The applicant proposes an unmanned car wash. The  
1188 subject property is designated planned industry and environmental protection area on the 2010  
1189 Land Use Plan. The subject property was originally rezoned to M-1C and C-1C in 1981 as a part  
1190 of a zoning case to permit a development of the Deep Run Business Center. This case, C-7C-81,  
1191 rezoned the 100-year flood plain area to the Conservation District. The applicant has  
1192 demonstrated the C-1C zoned portion of the property only contains a small amount of flood plain  
1193 area. Therefore, a request to develop the site is reasonable. This application would rezone the  
1194 C-1C to M-1C to allow more developable area to construct the car wash. The applicant proposes  
1195 to essentially retain the same proffers approved with C-7C-81. The proffers accepted with that  
1196 case include many assurances of quality development as demonstrated in the Deep Run Business  
1197 Center. However, this application could be strengthened by revising and updating selected  
1198 proffer language to assure that clarity, intent and enforceability. The applicant submitted an  
1199 unproffered conceptual site plan and elevation exhibiting one potential development scenario for  
1200 the site. While it is helpful to show a potential site layout and elevations, the application offers  
1201 no assurances the site would be developed in this fashion. The applicant could strengthen the  
1202 application by committing to the site plan and elevations. In addition, staff recommends the  
1203 following changes to the request:

- 1204  
1205 • Proffer language in Proffer No. 3 regulating uses should be updated to prohibit other  
1206 selective uses.

1207  
1208 The applicant indicated the possibility of utilizing brick, split block or masonry on the exterior  
1209 elevations. The property is highly visible from Gaskins Road. It is heavily traveled in this  
1210 corridor. The site is also visible entering the Circuit City Headquarters site. Therefore,  
1211 orientation of the building, bays and materials are important considerations. The applicant  
1212 should commit to you the high quality building materials consistent with the surrounding  
1213 development.

1214

1215 The Division of Police offered several recommendations to incorporate crime prevention to  
1216 environmental design principles into the development of a car wash. Staff encourages the  
1217 applicant to contact Special Services Unit within the Division of Police for crime prevention  
1218 techniques. The applicant should also consider restricting the hours of operation at this location.  
1219 Staff recommends restricting the amount of signage otherwise permitted in the M-1 District.  
1220

1221 Properly designed and regulated, a car wash may be an acceptable use for this location. The  
1222 applicant proposes to carry forward the existing proffers accepted with C-7C-81, almost  
1223 verbatim. Staff recommends updating and clarifying selected proffer language to mirror  
1224 language approved in recent rezoning applications and addressing additional concerns related to  
1225 hours of operation, signage, building materials and design. If the applicant could address these  
1226 items, staff could be more supportive of this application. At this time, however, staff would  
1227 recommend deferral of the request.  
1228

1229 That concludes my presentation.  
1230

1231 Mr. Vanarsdall - Any questions for Mr. Coleman?  
1232

1233 Mr. Kaechele - Yes, Mr. Coleman, did you indicate that the site plan and the materials  
1234 have been, they are not proffered, but how are they...  
1235

1236 Mr. Coleman - I could defer to the applicant to explain this a little bit further. They  
1237 have indicated that the site is subject to the restrictive covenants of the Deep Run Business  
1238 Center and they feel that that is appropriate. I have talked to them about also committing to  
1239 those with the rezoning application, but they haven't done that.  
1240

1241 Mr. Kaechele - So, what does the previous zoning say about materials? And, of course,  
1242 the site plan doesn't contain it.  
1243

1244 Mr. Coleman - Bear with me just a moment.  
1245

1246 Mr. Silber - Mr. Kaechele, while he is looking that up, I want to point out also that I  
1247 believe these are governed by a zoning case from 1981, so they are very old proffered  
1248 conditions.  
1249

1250 Mr. Kaechele - And you recommend updating?  
1251

1252 Mr. Silber - Yes, sir. We are trying to get things looking as nice as we can, so I  
1253 don't know if the proffered conditions even address the materials.  
1254

1255 Mr. Coleman - They do not appear to address the building materials.  
1256

1257 Mr. Kaechele - How are they addressed in this case? We have pictures but they are not  
1258 proffered.  
1259

1260 Mr. Coleman - Correct.  
1261

1262 Mr. Silber - So, at this point in time, Mr. Coleman, the staff report has gone out.  
1263 The applicant has reviewed the staff's comments and they have chosen not to address the staff's  
1264 comments.  
1265

1266 Mr. Coleman - We have exchanged some correspondence. They have agreed that they  
1267 would be willing to address some of the items, and they have indicated that they are not going

1268 to address some of the items, but the application stands as it was described in the staff report  
1269 that no proffers or revisions have been submitted, no proffer forms or any blacklines or anything  
1270 like that.  
1271  
1272 Mr. Silber - And that is why we were recommending deferral?  
1273  
1274 Mr. Coleman - Yes, sir.  
1275  
1276 Mr. Silber - OK.  
1277  
1278 Mr. Vanarsdall - All right.  
1279  
1280 Mr. Silber - Do you want to hear from the applicant?  
1281  
1282 Mr. Vanarsdall - I thought I asked Tommy if he wanted to.  
1283  
1284 Mr. Branin - Yes, I do. I want to hear from the applicant, please.  
1285  
1286 Mr. Vanarsdall - Come on down, Don.  
1287  
1288 Mr. Strange-Boston - Thank you, gentlemen. Donald Strange-Boston for Robert R. Bock.  
1289 There aren't any real objections to the staff's suggestions, but some of them are not, we don't  
1290 think, appropriate at this time. There is no problem with binding, I think, to the site plan and the  
1291 elevations that are there, and by the way, they do specify brick. Of the six items the staff came  
1292 up with, modifying the proffer language of No. 3 in order to avoid check cashing and payday  
1293 loans and it says "adult use". I presume it means adult entertainment use, and that is perfectly  
1294 fine, and here is an amended proffer signed and ready to go on that. Proffer No. 13 was  
1295 brought up and that amounts to or applies to retail footage in excess of 40,000 sq. ft. Well, this  
1296 is neither retail nor is it 40,000 sq. ft., so that is sort of cautionary rather than implementable. In  
1297 talking about the outside of the building, we thought that that probably really should be  
1298 appropriate for a POD hearing as opposed to a zoning hearing. However, we have indicated  
1299 brick on the outside, and there are restrictive covenants on the Deep Run property owners  
1300 association that give them complete control of review of our design. So, there is a double back  
1301 up on that for the County. Section 5 on the security, the Division of Police, those are very  
1302 detailed items, such as the construction of door frames and peep holes and internal view panels  
1303 and things. We think that properly belongs in a POD and not in zoning, and we certainly are  
1304 going to do that, but we just thought that that belonged in a POD hearing and not a zoning  
1305 hearing. And the applicant should consider restricting hours of operation, I want to come back  
1306 to that one. That is the one that gives us the problem. Staff recommends restricting the amount  
1307 of signage, and using the criteria for office district as opposed to M-1. Well, the property is  
1308 bound by the property owners association sign limitations, which are far more restrictive than the  
1309 County, and that apparently has been approved by the County, and it is very prescriptive as far  
1310 as the sign and the appearance and the lighting and everything else, and we believe that we are  
1311 held to a higher standard than the County would hold us, otherwise. If you all don't have a copy  
1312 of that, which probably is in your file somewhere, we do have a copy for staff perusal.  
1313  
1314 And, back to the next to last item, the hours of operation. Mr. Bock would like to be able to  
1315 operate that 24 hours a day. It is block and a half from the ramp onto the interstate. It is a  
1316 block from Broad Street. The closest residence is something close to a mile away. Right in front  
1317 of it is a late hours mini-mart and gas station and there are a couple of hotels there that are  
1318 open 24 hours a day. We don't think that that is unreasonable or that anybody would be  
1319 damaged in any way if it were allowed to operate whatever hours the owner would choose, so  
1320 basically, there aren't any real problems with it. We think that a couple of these staff

1321 recommendations really belong in PODs and shouldn't be committed at this time, but there is no  
1322 real objection to them, and one of them doesn't really apply, and the only one we really come  
1323 down to is the hours of operation, and we think it is reasonable, in that location, to be able to  
1324 operate 24 hours a day, if you should choose to do so. Don't want to bind him to do it, but it is  
1325 surrounded by nothing but commercial and M District and there aren't any houses, so we  
1326 thought that was an appropriate thing to do. So, that was our position on it and that is why we  
1327 wanted to have it heard tonight, to bring it up to you all. That was our thinking on it. We would  
1328 invite you to agree with that.

1329  
1330 And the others, we really don't have a problem with, but some of them we think should be done  
1331 later and others don't apply, and we do have the amended proffer on the adult entertainment  
1332 available for submission right now. Are there questions that I could answer that might help?

1333  
1334 Mr. Branin - Mr. Strange-Boston, let me shed some light on why I wanted it deferred,  
1335 not denied. The reason I wanted to defer it was you based a lot of your submittal based on a  
1336 1981 case. I was looking for it to be more updated. I think it is great that you brought the  
1337 proffer with you, but it would have been proper to submit it prior to the hearing. So, what we are  
1338 looking for is the items, the time. I will be more than happy to discuss that with you prior to the  
1339 hearing and get with you. I think that is a great location for a car wash, but we currently try to  
1340 get as much proffered ahead of time, even before the POD.

1341  
1342 Mr. Strange-Boston - Well, as I said, there is no real objection to any of these things, but we  
1343 prefer not to do it as a proffer. We prefer to do it as part of a POD approval. For instance, the  
1344 various details and having to do with security, they have to do with the detailed design of the  
1345 doors and the locks and the internal view panels that might be between the stalls, things of that  
1346 nature, which really are a matter of building design, not zoning, and we would hope that you  
1347 would agree that that could be adequately covered and properly arranged at POD.

1348  
1349 Mr. Silber - Mr. Branin, I would agree. I think relative to the CPTED comments, I  
1350 think those items can be addressed in greater detail at the time of POD, but I do think there are  
1351 some other outstanding issues here. I do believe the CPTED comments can be dealt with at the  
1352 time of POD.

1353  
1354 Mr. Strange-Boston - We have indicated brick on the exterior of the building and we'd be glad  
1355 to bind to those.

1356  
1357 Mr. Branin - I would be happy to see that. Like I started to say earlier when I was  
1358 about to defer it earlier, I don't have a problem with the actual product that is going in there  
1359 being a car wash. I definitely don't have a problem with that. I'd like to talk to you about it. I  
1360 am sure we will come to the same agreement with that as well. But, the proffers that you  
1361 presented need to be updated, and I was going to say earlier that I would like to defer it to the  
1362 next meeting to give you time to work with staff and work with myself, as well, and get this a  
1363 little tighter. And then we can get to the POD even quicker.

1364  
1365 Mr. Strange-Boston - May I take a minute to confer?

1366  
1367 Mr. Branin - Absolutely.

1368  
1369 Mr. Strange-Boston - Agreed.

1370  
1371 Mr. Branin - Good. I am glad you saw it my way, because it was going to go that way  
1372 anyway.

1373

1374 OK, Mr. Chairman, I move deferral of Case C-53C-05, D. L. Strange-Boston for Robert R. Bock,  
1375 LLC, to the October 13, 2005 Planning Commission meeting at my request.

1376  
1377 Mr. Jernigan - Second.

1378  
1379 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor  
1380 say aye. All opposed say no. The ayes have it. The motion passes.

1381  
1382 The Planning Commission deferred Case C-53C-05, D. L. Strange-Boston for Robert R. Bock, LLC,  
1383 to its meeting on October 13, 2005.

1384  
1385 **C-54C-05 Ahmad Nessar et als:** Request to conditionally rezone from A-1 Agricultural District  
1386 to R-2C One Family Residence District (Conditional), Parcel 743-773-5025, containing 1.651  
1387 acres, located on the west line of Shady Grove Road at Prescott Place. The applicant proposes a  
1388 single-family subdivision. The R-2 District allows a minimum lot size of 18,000 square feet with a  
1389 maximum gross density of 2.42 units per acre. The use will be controlled by zoning ordinance  
1390 regulations and proffered conditions. The Land Use Plan recommends Suburban Residential 1,  
1391 1.0 to 2.4 units net density per acre.

1392  
1393 Mr. Silber - This is in the Three Chopt District.

1394  
1395 Mr. Vanarsdall - Is there anyone in the audience in opposition to this case? Thank you.  
1396 C-54C-05 in Three Chopt? All right.

1397  
1398 Mr. Tyson - Mr. Chairman, Mr. Kaechele, members of the Commission, Mr. Secretary.  
1399 This is a request to rezone approximately 1.67 acres to permit construction of two single-family  
1400 dwellings. The existing single-family dwelling on the property, constructed in 1949, would be  
1401 demolished and two new buildings constructed in its place.

1402  
1403 The Land Use Plan recommends SR-1, Single Family Residential use for this parcel. The  
1404 proposed project and density are consistent with the existing uses; however, staff is concerned  
1405 that the proposed development may promote piecemeal development and would leave a small A-  
1406 1 parcel to the south that would be hard to integrate into surrounding developments if it were  
1407 left undeveloped at this time. The most logical development pattern would be to acquire  
1408 properties to the north and south and incorporate them into the site and provide a common  
1409 entrance opposite Prescott Place. This is the existing parcel (referring to rendering) as it  
1410 currently exists. The applicant is proposing to essentially split the existing parcel into two and to  
1411 build two new homes.

1412  
1413 The applicant has submitted a revised proffer statement that has been provided to you.  
1414 Elements of the proffers include that:

- 1415
- 1416  Each home would be a minimum of 3,000 square feet in floor area.
  - 1417  Garages would be side or rear loaded and would be two car garages.
  - 1418  The applicant has proffered that the architectural features will be substantially similar to  
1419 the houses depicted in these photographs. (Referring to rendering)
  - 1420  Crawl space or basement foundations will be provided. Exterior walls below the first floor  
1421 would be finished with brick, stone, or EIFS.
  - 1422  A setback of at least 100 feet from the ultimate right-of-way of Shady Grove Road is  
1423 proffered.

1424  
1425 The proposal is in keeping with the surrounding land uses. The applicant has made a good faith  
1426 effort in addressing the concerns raised by staff with the exception of obtaining additional

1427 property to improve the site layout. The applicant is present tonight to answer questions, and I  
1428 would also be happy to answer any questions that I could.  
1429  
1430 Mr. Silber - Mr. Tyson, in consideration of these proffered conditions, when did they  
1431 come in?  
1432  
1433 Mr. Tyson - They came in the 11<sup>th</sup>. They would not have to be waived.  
1434  
1435 Mr. Silber - OK.  
1436  
1437 Mr. Vanarsdall - All right. Any other questions?  
1438  
1439 Mr. Kaechele - Each lot would have 100 plus linear feet on Shady Grove Road. Right?  
1440  
1441 Mr. Tyson- Yes, sir.  
1442  
1443 Mr. Kaechele - Each lot would have a drive way?  
1444  
1445 Mr. Tyson - Yes. There is an existing curb cut for the existing house. A new curb  
1446 cut would be needed for the new lots essentially, and Traffic Engineering has indicated that that  
1447 would not be an issue.  
1448  
1449 Ms. Jones - Did you say the other parcels have been investigated?  
1450  
1451 Mr. Tyson - I have spoken to the applicant and he can provide you with that  
1452 information, but it is my understanding that he has investigated it.  
1453  
1454 Mr. Vanarsdall - You want to hear from the applicant, don't you, Mr. Branin?  
1455  
1456 Mr. Branin - Absolutely.  
1457  
1458 Mr. Vanarsdall - Thank you, Mr. Tyson.  
1459  
1460 Mr. Amad Nessar - Ma'am, sirs, good evening. My name is Amad Nessar, along with my  
1461 brother. We are joint owners of this particular property. We initially had purchased this property  
1462 in 2003 with the intention of splitting it into two lots and building our private homes on this  
1463 particular piece of property, and that is what I wanted to stress the most here, that we intend to  
1464 use this particular lot or two lots we are requesting, if you respectfully allow us to divide, and  
1465 building our private homes on them. In addition to that, because this will be our primary  
1466 residence and our private homes, the aesthetic appeal of the neighborhood will be retained. We  
1467 will attempt to beautify the neighborhood with this particular plan that we have. In terms of the  
1468 question that he had raised for the properties adjoining this particular piece of property of ours,  
1469 we have spoken with both owners. As a matter of fact, the property to the left of this is  
1470 currently zoned as R-2C and that is the zoning that we are requesting for our property. The one  
1471 to the right is in Agricultural A-1, however, the owner of that particular property we have spoken  
1472 with and he is, this particular gentleman is very suspicious of, I can't really explain it. He will not  
1473 allow us to incorporate this property into what we are requesting here. We had asked him if we  
1474 would be able to purchase the property from him and he is not willing to do so. We had  
1475 requested to do that of the property to the left of ours, and he had conveyed a particular number  
1476 that he wanted for the property and we had agreed that we would do that, and, again, he  
1477 doesn't want to sell the property, as well. So, what we are left with now is that we have this  
1478 property that we are building our private homes on, and we have no other recourse in terms of  
1479 getting the two neighbors to agree. They had resisted allowing the rezoning of their property

1480 when Millrace was rezoned and they are not going to change that now. So, that is where we are  
1481 currently.  
1482  
1483 Mr. Branin - Thank you, and if they do come up, either one of them come up for sale,  
1484 you had voiced that before?  
1485  
1486 Mr. Nessar - Absolutely. Yes.  
1487  
1488 Mr. Branin - You are interested in acquiring them for an uncle?  
1489  
1490 Mr. Nessar - As a matter of fact, we have three brothers who live in Richmond and I  
1491 had spoken to Mr. Branin earlier and conveyed that to him, that our intention in purchasing the  
1492 property next to it was that and we wanted to build four homes for three brothers and my uncle  
1493 who live here in Richmond, and that is why we had proposed to the gentlemen that we'd be  
1494 willing to purchase the property, and if and when that does come available, he is willing to sell it,  
1495 and we will go through whatever means necessary to purchase that and do the same, to meet  
1496 the proffers that we have in place for what we are proposing, at least, or exceed that, and I  
1497 didn't want to add the proffers that we do have and some of the additions are updated that Mr.  
1498 Tyson had requested and the staff had requested. We have included what you are seeing now.  
1499 Those are minimal. Those are absolutely minimum proffers and the two-car garages that will be  
1500 added, that will be at least a three to four car garages that we intend on putting on there. So,  
1501 what you will see in the quality of the product will exceed anything that you have seen in  
1502 neighboring Crown Place today.  
1503  
1504 Mr. Vanarsdall - All right. Any more questions? Thank you.  
1505  
1506 Mr. Branin- OK, Mr. Chairman, I move for approval of Case C-54C-05.  
1507  
1508 Mr. Jernigan - Did we have opposition?  
1509  
1510 Mr. Branin - Yes?  
1511  
1512 Ms. Hamilton - I don't know this gentleman, but I just know that this house looks  
1513 enormous to me and I think we need to start thinking in terms globally, in terms of the  
1514 environment. Does he need a house this big? Does he need a four-car garage? Can he scale  
1515 down the house? He says he wants to beautify the area. Well, if you want to beautify the area,  
1516 I think birds and trees are beautiful. I think box turtles are beautiful. I think tree frogs are  
1517 beautiful to me. And I just think he is not beautifying the area by making these two humongous  
1518 houses, so...  
1519  
1520 Mr. Branin - Ma'am. Could you state your name again, please.  
1521  
1522 Ms. Hamilton - I am sorry. It is Karen Hamilton. I just figured you remembered from  
1523 before, but I don't see the need for these enormous houses and he is taking trees down that are  
1524 beautiful.  
1525  
1526 Mr. Branin - But, Ms. Hamilton, there is one house on it. I think it is great that Mr.  
1527 Nessar wants to have family near him. I really do. And for him to take a piece of property that  
1528 he owns, living in America, that he owns and ask for two houses to keep family close to him. I  
1529 could see you getting upset about parking lots and getting upset about shopping centers, but to  
1530 deny a man to have a house with another family member...  
1531

1532 Ms. Hamilton - I am just saying that they shouldn't be humongous houses. I am not  
1533 saying you shouldn't build a house. I am saying it shouldn't be so big. Half of the houses in  
1534 Wyndham are too big. I mean, we just need to start thinking in terms of construction pollution  
1535 and the destruction of the environment, and I think if he made a smaller house you'd have more  
1536 trees and birds around it, he'd see that there is beauty in the earth. So that is my comment.

1537

1538 Mr. Jernigan - Ms. Hamilton, are you familiar with property rights?

1539

1540 Ms. Hamilton - Yes, I am, but I am just trying to encourage people to think globally.  
1541 (Unintelligible)

1542

1543 Mr. Vanarsdall - Thank you. Did you want to say something else? Did you forget  
1544 something? Come on down and tell us very quickly.

1545

1546 Mr. Ahmad Nessar - For the record, my name is Ahmad Nessar, Mr. Chairman. Thank you for  
1547 allowing me to speak. As a matter of clarity, I am a medical scientist with AstraZeneca  
1548 Pharmaceuticals. I wanted to make a couple of points in regards to what Ms. Hamilton had  
1549 been speaking about today. Although I am cognizant of what she is conveying to you in regards  
1550 to the adverse effect of loss of trees and the respiratory system and oxygen consumption and so  
1551 forth, what we will do with this particular property is we will actually add to the number of trees  
1552 that are currently on the property. Those are some of the things that you don't currently see in  
1553 the proffers. Some people add more trees than you actually do see now. It actually will add  
1554 more beauty to the neighborhood, and, fortunately, the size that we have, what we asking is  
1555 that you allow that we put the size of the house. It is really what we need. I have two children.  
1556 I have my wife and myself, and we have other family who at times stay with us, so I can  
1557 certainly understand what her concerns are. However, everything that we will do will, at the  
1558 very least, add to alleviate some of her concerns.

1559

1560 Besides, most of the houses in that neighborhood are on a quarter of an acre or less. We are  
1561 dividing almost two acres of land into two pieces of property for us to build. If you look at it, we  
1562 really are not adding any pollution on you. We are just building a house for ourselves.

1563

1564 Mr. Vanarsdall - All right. Thank you. Need a motion.

1565

1566 Mr. Branin - Mr. Chairman, I move for approval of Case C-54C-05, Ahmad Nessar et  
1567 als.

1568

1569 Mr. Jernigan - Second.

1570

1571 Mr. Vanarsdall - Motion made by Mr. Branin and seconded by Mr. Jernigan. All in favor  
1572 say aye. All opposed say no. The motion passes.

1573

1574 REASON: Acting on a motion by Mr. Branin, seconded by Mr. Jernigan, the  
1575 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant**  
1576 the request because it conforms to the recommendations of the Land Use Plan, it continues a  
1577 form of zoning consistent with the area, and the proffered conditions will assure a level of  
1578 development not otherwise available.

1579

1580 *Deferred from the July 14, 2005 Meeting*

1581

1582 **C-27C-02 Richfield Assoc., LLC, Eagle Pediatric Assoc., LLC, and Venture Investments,**  
1583 **Inc.:** Request to amend proffered conditions accepted with rezoning case C-32C-89, on Parcels  
1584 740-750-0178, 739-750-8644, 740-750-4970, 740-750-0649 and 740-750-2862, containing

1585 14.295 acres, located on the north line of Ridgefield Parkway at the intersection with Eagles View  
1586 Drive and Glen Eagles Drive. The amendment is related to the permitted density of the shopping  
1587 center, permitted uses, and site design. The existing and proposed zoning is B-2C, Business  
1588 District (Conditional). The Land Use Plan recommends Commercial Concentration.  
1589

1590 Mr. Vanarsdall - Is there any opposition to this case, C-27C-02? All right. Opposition.  
1591 Mr. Tyson.

1592  
1593 Mr. Tyson - Mr. Chairman and members of the Commission, this property was  
1594 rezoned to B-2C with case C-32C-89 to permit the construction of an in-line shopping center with  
1595 four out parcels. At the time of the initial rezoning, all of the parcels were under common  
1596 ownership. A proffer accepted with case C-32C-89 restricted the development of the site to an  
1597 average of 7,850 square feet of building area per acre. The parcel is 14.295 acres in size and  
1598 accordingly, the maximum square footage of buildings for the site in total is currently capped at  
1599 112,215 square feet.  
1600

1601 In the intervening years, two of the out parcels (Parcels #2 and #3) have been sold. The  
1602 following uses are on site:  
1603

1604 Shopping Center – 93,092 square feet  
1605

1606 Parcel #1 - Unimproved  
1607

1608 Parcel #2 - 7,630 (Medical Office)  
1609

1610 Parcel #3 - 2,503 (Convenience Store)  
1611

1612 Parcel #4 - Unimproved  
1613

1614 Under the current proffers, this leaves 8,990 square feet of building square footage that may be  
1615 constructed on site over the entire site.  
1616

1617 The applicant has applied to delete the proffer language restricting development density to 7,850  
1618 square feet per acre, and is proposing instead to have an absolute maximum amount of square  
1619 footage permitted per development parcel. The proposed limits are as follows and they have  
1620 been submitted to you in the revised proffer statement:  
1621

1622 Shopping Center – 93,092 square feet (no change)  
1623

1624 Parcel #1 - 6,600 s.f.  
1625

1626 Parcel #2 - 7,630 s.f. (Medical Office) (no change)  
1627

1628 Parcel #3 - 4,690 s.f. (Convenience Store) (2187 extra square feet)  
1629

1630 Parcel #4 - 6,600 s.f.  
1631

1632 118,612 of potential development  
1633

1634 The proposed proffer amendment would permit an additional 6,397 square feet of building  
1635 square footage over what is currently now allowed.  
1636

1637 The existing proffers prohibit any exposed building walls from being unpainted concrete block. A  
1638 portion of the rear wall of the in-line shopping center is constructed of this material, and the  
1639 applicant has suggested a proffer amendment that would prohibit any future buildings from  
1640 being constructed using the same material. This would not correct the existing proffer violation,  
1641 which the applicant is proposing to mitigate with increased landscaping along that property line.

1642  
1643 The applicant is also proposing the following proffer amendments, which would apply only to out  
1644 parcels #1 and #4:

1645  
1646 With respect to use restrictions, among the uses prohibited are restaurants with drive-thru  
1647 windows, payday/check cashing facilities, automobile service stations including those with light  
1648 auto repair, flea markets, Laundromats and other uses that are listed in the proffers.

1649  
1650 Each of the parcels would be provided a 25' buffer along Glen Eagles and Eagles View Drive,  
1651 planted to a Transitional Buffer 25 standard. Increased landscaping to a Transitional Buffer 30  
1652 standard along Ridgefield Parkway has also been proffered.

1653  
1654 Any buildings constructed on Parcel 1 and 4 would be all brick with exception of architectural  
1655 elements (doors, trim, etc.) and would be compatible with the existing buildings already existing  
1656 on Parcels 2 and 3.

1657  
1658 Any freestanding signs shall be perpendicular to Ridgefield Parkway and no electronic message  
1659 boards will be permitted. Attached signs shall consist of letter only (no boxes or trays). Within  
1660 one foot of the sign face, the intensity of the sign illumination shall not exceed .25 foot candles.  
1661 All exterior signs shall be reduced in intensity to no more than security level within 30 minutes of  
1662 closing or 9 pm., whichever is later.

1663  
1664 With respect to interior lighting, no interior surface mounted fluorescent lights shall be visible  
1665 from the exterior of the building. If the out parcel store is open past 9 p.m. and the store fronts  
1666 face a public right of way, the windows will be tinted to reduce the glare and the Visible Light  
1667 Transmittance percentage shall not exceed 47%.

1668  
1669 The applicant has addressed a number of the staff's original concerns. Staff still believes that the  
1670 application could be improved by having the proffers apply to all of the parcels, not just those  
1671 controlled by Blackwood Development Company. It has been the County's position from the  
1672 original rezoning that the site should be viewed as a unified development opportunity.  
1673 Additionally, the applicant is encouraged to coordinate refuse removal so as to minimize trash  
1674 truck traffic. If the applicant could address these issues, staff could be more supportive of the  
1675 request.

1676  
1677 This concludes my presentation. I would be happy to answer any questions you may have. I  
1678 know the applicant is also here to try to address the questions.

1679  
1680 Mr. Vanarsdall - Any questions for Mr. Tyson? No questions. All right. We will hear from  
1681 the applicant first and then the opposition.

1682  
1683 Mr. Axselle - Mr. Chairman, ladies and gentlemen of the Commission, Bill Axselle, on  
1684 behalf of the applicant, Willis Blackwood, who is the principal and the applicant is here with us,  
1685 but we have been joined in the application by the other property owners of all five parcels.

1686  
1687 This is not your run-of-the-mill zoning case for a number of reasons, and it is going to be fairly  
1688 interesting, so I am going to take a minute to kind of give you a little bit of a background,  
1689 because I think it is important. The issue is not the rezoning. The property is already zoned and

1690 can be used for B-2 purposes. The issue is not whether it can be developed. The two out  
1691 parcels, 1 and 4, they can be developed. There are 8,900 some sq. ft. that can be located  
1692 additionally on the property. The issue is what are the appropriate proffers for the development  
1693 of the two out parcels and the uses, the shopping center and the two out parcels. Now, I think  
1694 Mr. Tyson made one misstatement. The use restrictions that we are putting on do apply to the  
1695 main shopping center and out parcels 1 and 4, and I think he said it was just 1 and 4. The use  
1696 restrictions that we are volunteering proffer apply to about 12 acres of the total 14 acres. So  
1697 what is the issue? There are really three issues and I will go back through them in a little more  
1698 detail. #1, what is the appropriate square footage? We are seeking what would allow us to  
1699 have an additional 3,200 square feet on each of the two out parcels. We are asking for 6,600  
1700 and we could get about 3,400, but we are talking about 3,200 on each of the two out parcels.  
1701 The uses, the enhanced development standards, they have been worked out in meetings with  
1702 the community prior to my involvement.

1703

1704 Well, this case goes back to before almost many of us. Maybe Mr. Kaechele, but the rest of us  
1705 weren't, but it is important that you know the history. In 1989, 153 acres was zoned west of  
1706 Pump Road. There was nothing in this area where Ridgefield Parkway is. There were no  
1707 subdivisions. There was nothing. That case had offices at Pump and Broad. It had this  
1708 shopping center and it had subdivisions around it, and so we may be amending the proffers, but  
1709 we are not breaking faith, if you will, with commitments made to neighbors at that time because  
1710 of the commitment, those neighbors were not there. What we are trying to do is address what  
1711 should be in 2005 the appropriate development standards. You will hear from people who are  
1712 opposed to the square footage increase. Unfortunately, you will probably not hear from the folks  
1713 in Eagles Drive subdivision, who have authorized me to say they support it. They are right  
1714 adjacent to out parcel No. 4. They are the ones that are going to have a fast food or some of  
1715 the other things that are currently permitted. Ralph Fisher in Royal Oaks has also authorized us  
1716 to say he is in favor of it, and he has been adamantly opposed before, but he is now authorizing  
1717 me to say that he is in favor of it. We sent 225 notices out for a citizen meeting. Eight people  
1718 showed up. I think you will hear from four or five of them tonight. So in 1989, all of the area  
1719 was zoned. In 1992 the shopping center got a plan of development. It was approved by the  
1720 County to have four out parcels, and as Mr. Tyson has said, two of those out parcels have been  
1721 built on. In about 2001 or so, Mr. Blackwood was not the original developer. He bought the  
1722 main center and the two out parcels later. He came in and wanted to develop those two. He  
1723 filed a plan of development. The County said, "Well, wait a minute. We've got this antiquated  
1724 (that is not their words, but my words), but I think it was 7,850 square feet average density over  
1725 the whole 14 acres, and yet we've got these five different parcels. It would be best to sort of  
1726 assign and determine the square footage for each of those parcels, because under the current  
1727 system that Ms. Jones has described is first-come, first-serve. Well, the County said, no. We  
1728 don't want you to do that, and we want you to get all of the property owners to agree, and  
1729 which we have in that respect, and so that is where we are now. The issues that have come up  
1730 have dealt with square footage. Let me address that. We are asking for an increase of about  
1731 6,200 square feet. That is about a 7% increase in the square footage that is permitted. It is  
1732 about 6,200 square feet over 14 acres, which is 622, 701 square feet. That is what we are  
1733 asking for in exchange for giving up some of these conditions. Even if this is approved, the staff  
1734 report says that the development on this property, even with additional square footage would  
1735 only be at 19% of the buildable area and B-2 is allowed up to 25%. So, we are really talking  
1736 about a fairly modest amount. They said, "Well, why do you want that?" Well, when we met  
1737 with the neighbors, and this was before my involvement, Mr. Blackwood and his preceding  
1738 attorney had some neighborhood meetings, and they talked about square footage uses and  
1739 development standards, so the neighbors were concerned about some of the uses, and I ask you  
1740 to go to Page 2, the bottom of Page 2. These are uses that are currently permitted under the  
1741 1989 proffers. The neighbors felt like they weren't real sure they wanted these in their  
1742 neighborhood. The restaurant with drive-thru windows, adult businesses, dance halls, gun shops,

1743 flea markets, private fraternal clubs, bingo parlors, Laundromats, automobile service stations,  
1744 etc. So, Mr. Blackwood has agreed to say that those uses will not be on out parcels 1 and 4, and  
1745 will actually not be on the center itself. We have restricted the hours of the dumpster uses.  
1746 Then, the other issue that came up in those meetings, I am told, was "What are you going to put  
1747 on out parcels 1 and 4, and what are they going to look like?" Right now you could put, I  
1748 wouldn't suggest this is going to happen, but you can put a cinderblock building and an  
1749 aluminum building. That didn't appeal to folks, so one of the proffers we have is that the  
1750 building will be brick and compatible in appearance to the two out parcels. How much  
1751 landscaping will you have? Obviously, the landscaping standards have changed a lot since 1989  
1752 and 2005. We have committed to enhance landscaping, following the current transitional buffer  
1753 requirements as the staff indicated. Better building, better landscaping. The landscape is  
1754 already in and approved, but we are going to add to that.

1755  
1756 Signage. This is on page 3 and 4. Restrictions on the type of signage and the attached signs.  
1757 This is a – they really have limited what type of signage can be on those out parcels 1 and 4 and  
1758 they have also restricted what can be on the interior lighting. It says the time the lights have to  
1759 go off and so forth. These were negotiated with and concurred with the neighbors. The  
1760 neighbors had not concurred, however, with the square footage increase. Mr. Blackwood, in  
1761 doing those discussions and prior to my time, had an opportunity to have the Wendy's on this  
1762 site before it went down to Ridgefield Parkway, that shopping center. Because he was in those  
1763 discussions and the commitment to the neighbors, he did not do that. So the real issue for you,  
1764 I suggest, is this on balance? Will the neighborhood be better served by having slightly  
1765 increased square footage, which is less than what would otherwise be allowed under B-2, but  
1766 more than what was approved in 1989, but in exchange not have the uses on the main shopping  
1767 center and out parcels 1 and 4, and also having much improved development standards on out  
1768 parcels 1 and 4. It is a balancing act. It is not whether you should allow a use or not allow a  
1769 use. It is, in fact, that simple.

1770  
1771 I have enjoyed working with Ms. Jones, so we've narrowed the issue. We both inherited facts  
1772 and circumstances, as did Mr. Blackwood. We have narrowed the issue down and I think after  
1773 you consider the case, we are changing what we did in 1989, so I think we are changing on  
1774 balance for the better, but you will make that determination. I would like to reserve the rest of  
1775 my time for rebuttal. Thank you.

1776  
1777 Mr. Vanarsdall - Thank you, Mr. Axselle. Are there any questions from Commission  
1778 members? Now we will here from the opposition, and you all come down and tell us what you'd  
1779 like to tell us, and take turns.

1780  
1781 Mr. Howard - Good evening. My name is Chuck Howard. I live in Royal Oaks, across  
1782 the street. Ms. Jones, nice to see you finally. I assume that when we send correspondence to  
1783 Mr. Tyson, Ms. O'Bannon and you, that it gets distributed.

1784  
1785 Ms. Jones - We discuss the case and Mr. Axselle has given them a lot of facts to  
1786 work with on that.

1787  
1788 Mr. Howard - Well, OK. Just so you know, Mr. Fisher is a member of our neighborhood  
1789 but he is the only one in my neighborhood that I have spoken to that is in favor of this proposal.  
1790 We generally oppose it. We oppose it for a lot of reasons, quality of life. We believe it is going  
1791 to negatively impact our property values, but I really strongly oppose what is happening now,  
1792 because I think what the applicant is trying to do is change the rules in the middle of the game.  
1793 We all bought our houses in this neighborhood with the shopping center there. We kind of saw  
1794 what was there. We knew what we were buying into. Planning should be a process that  
1795 promotes stability and when we buy our house we want to buy into a stable environment. For

1796 many of us, it is a quality of life issue. For many of us, it is a major investment. By changing the  
1797 rules, by trying to go forward with additional development and whether it is good or bad is all  
1798 subjective, we happen to believe it is bad. I happen to believe it is bad. I think that destabilizes  
1799 what we are looking for. Planning should be, after all, should provide stability, provide us with  
1800 assurances that what we have in our neighborhood is going to continue to be there. The  
1801 applicant has told us that this a relatively modest increase in size in the building area. I think  
1802 one way to get around this is to really test the applicant's belief in this is to get the applicant to  
1803 truncate that 6,000 or 7,000 sq. ft. that is currently built and allocate it to the two out parcels. If  
1804 the applicant is willing to do that, I can support the applicant wanting to increase development  
1805 areas on those two out parcels. I'd be surprised that he could do that, that he would want to do  
1806 that, but I think this is important in terms of, again, emphasizing stability in the neighborhoods.  
1807 Stability with the planning process. You know, when this was done, and there was some  
1808 question about average density and the complications of this case, I just don't see it. In looking  
1809 at one parcel you have an average density. You have the total area. You get the buildable area.  
1810 How the previous owners allocated that amongst the out parcels and among the in-line center  
1811 was their business. How is it that we should now be subject to any miscalculations or mistakes  
1812 they made and Blackwood buying into that as an "as is" condition, how is it now all of a sudden  
1813 they are allowed to change those rules? If I buy a house and I find that I have a sink hole under  
1814 my house, is that the County's issue? Is that Mr. Blackwood's issue? That is my issue. I think  
1815 by allowing this change in the rules is destabilization. You are allowing Mr. Blackwood to prosper  
1816 at the expense of what is happening in the neighborhood. With respect to the residents behind  
1817 the shopping center, and their support of the proposal, those folks are at the back of their house  
1818 of the shopping center operation. That is loading docks. That is dumpsters. That is trash. That  
1819 is debris. Anything would be an improvement, and I can understand their support for proffers  
1820 that would basically improve their situation. For us in the front of the parcel, in front of the  
1821 shopping center, we don't see those improvements. And in terms of Blackwood's stewardship of  
1822 the property since their ownership, I was in a meeting with Mr. Blackwood a long time ago. We  
1823 were actually joking about the red sign that was on the gas station and Mr. Blackwood said he  
1824 would not allow those red signs on his development. We have a red sign that came in after Mr.  
1825 Blackwood, a lit sign, after Mr. Blackwood took ownership. So I question that trust that we  
1826 would have to be placing in Mr. Blackwood and his associates moving forward. As I said before,  
1827 Ms. O'Bannon and Ms. Jones have told us this is a complicated case. I suggest especially with  
1828 the changing of the rules that this process is actually encouraging that if this case is so  
1829 complicated that it should not be approved while there is still one person in opposition to this  
1830 proposal. Thank you for your time.

1831  
1832 Mr. Vanarsdall - Thank you. Any questions by Commission members? Who else would  
1833 like to come down? State your name, please.

1834  
1835 Mr. Berry - Thank you for allowing me to say a couple of words. My name is Frank  
1836 Berry. I live right across the street from parcel 4. I would just like you to know I don't know  
1837 anything about planning or anything, but I live across the street. It is a dense area now. From  
1838 my bathroom window I can see the lights. I pick up Food Lion trash bags out of my backyard.  
1839 All of these issues that have been mentioned have been existing for the past three years. There  
1840 has been no improvement that I can see in the past three years. I just feel like someone is  
1841 asking for something for nothing at my expense, and I hope you deny it.

1842  
1843 Mr. Vanarsdall - Thank you.

1844  
1845 Ms. Jones - Thank you, Mr. Berry.

1846  
1847 Mr. Marchinko - Good evening. George Marchinko. I am the president of the Royal Oaks  
1848 Homeowners Association and Royal Oaks is the subdivision that borders Ridgefield Parkway

1849 directly across the street from the Food Lion. I will be brief. I know we are getting extremely  
1850 close to our 10 minutes here. I am just here to bring the message from a number of  
1851 homeowners that I have had the opportunity to speak with. There aren't 360 folks up here  
1852 today. There is just a few, but I have talked to most of the homeowners in the subdivision who  
1853 would be affected predominantly along Old Prescott Road, and there is vast opposition with the  
1854 one exception of Mr. Fisher. Frankly, he and I have had a conversation and he is confident that  
1855 this is a good idea and he is in a vast minority. There are no other individuals, homeowners,  
1856 that I have had an opportunity to speak with that are in favor of this zoning density issue.  
1857 Again, not having a prepared statement, it is a dangerous thing to do in front of you all, so I am  
1858 just going to go ahead and thank you for your time. I appreciate it.

1859  
1860 Mr. Vanarsdall - Thank you.

1861  
1862 Mr. Kaechele - Has the homeowner's association taken a position on this, official  
1863 position?

1864  
1865 Mr. Marchinko - Yes. Opposed.

1866  
1867 Mr. Kaechele - Right, but it has been voted and recorded, right?

1868  
1869 Mr. Marchinko - In the minutes? I'd be happy to share those with you if you like.

1870  
1871 Mr. Kaechele - Thank you.

1872  
1873 Mr. Vanarsdall - Any more questions? Thank you.

1874  
1875 Ms. Hamilton - I don't live in Royal Oaks, and you guys know that already, but I am  
1876 opposed to this, because we already have too much retail space in Henrico County as it is. Do  
1877 any of you remember Freshfields, a store that opened on Broad Street, in an existing building, in  
1878 about 1992? Does anyone remember that? Well, I am the only person, and I know this, because  
1879 they told me I was, I am the only person that wrote to Freshfields before they came to Richmond  
1880 and I said, "I have lived in Richmond all of my life. It is not a health food town. Don't come.  
1881 You're going to hurt the businesses that already exist that do sell health food, because I happen  
1882 to have friends who are in the business, in Good Foods Grocery, and they are very dedicated,  
1883 and the thing is, Freshfields wrote me a letter and said, 'Well, Ms. Hamilton, you are the only  
1884 person who has told us not to come. So we are coming.' And I didn't have a problem with the  
1885 existing building. I had a problem with the fact that we just didn't need that retail business, and  
1886 they came and they lasted 10 months, and they left. They lost 2 million dollars doing so. I don't  
1887 know if you've got people already wanting this retail space or clients that have already signed up  
1888 for that retail space, but I can tell you we already have too much retail space in Henrico County  
1889 and in Richmond and we don't need any more. What we need are trees and birds. And one  
1890 thing I didn't mention to you before in the previous zoning meeting, sir, a month ago when I  
1891 came, there is case law on the books that if you so much as disturb a nest to the point that the  
1892 parents abandon the nest because they are scared from the noise around and they abandon that  
1893 nest, you are killing those eggs and that is against Federal law. These developers need to  
1894 examine the Federal Migratory Bird Act and they could simply, I will be honest with you, I think  
1895 that probably Mr. Axelle here could probably retire and not need to make another penny for the  
1896 rest of his life. I don't know why anybody needs this. I think you all need to consider that you  
1897 are never going to satisfy the greed of mankind.

1898  
1899 Ms. Jones - Ms. Hamilton, I don't mean to cut you off, but I don't know whether you  
1900 visited this site and whether you have seen this particular issue that is before us tonight. These  
1901 two out parcels, it is not a question of whether they will be developed or not, it is a question of

1902 how density is allocated through this shopping center, because of the 1989 case, and these two  
1903 parcels that we are talking about are really, with no trees on them, where there will be buildable  
1904 area. These have always been allocated for development, and tonight I can assure you that we  
1905 are not going to be displacing any nests on these particular two out parcels. But I appreciate  
1906 your comments, because I think they are certainly timely for the general philosophy of planning.  
1907 In this particular case, I think we are OK.

1908  
1909 Mr. Vanarsdall - Thank you, Ms. Jones. I believe we have one more. Come on down.

1910  
1911 Mr. Mizelle - I am Max Mizelle and I live at 2017 Old Prescott Court and I wanted to  
1912 thank you for the opportunity to come and try to protect the quality of life in our neighborhood.  
1913 I live in Prescott and while not formally, I have had many informal discussions in our  
1914 neighborhood and I found no one in support of this proffer change or zoning change, and I also  
1915 have spoken with some people in the neighborhood behind the shopping center and have found  
1916 people that are not supportive of it. Subsequently, to buying my house, I also bought a lot in  
1917 the subdivision, knowing what the potential development was going to be and like Mr. Howards,  
1918 that I would ask you not to change the rules. You know the history of this, in 1989 there was an  
1919 arduous fight between the owner, who I believe was Mr. Earl Thompson, the neighbors at the  
1920 time, and then the County was involved and Hirschler Fleischer was the attorney, and they  
1921 reached the 1989 zoning agreement that was satisfactory to all of the parties and, as far as we  
1922 can tell, the only thing that has changed between 1989 and now is that the Mayland Shopping  
1923 Center was bigger than anticipated. The two out parcels were subdivided, sold off and  
1924 developed, so the only thing that has changed is the mismanagement of the developable  
1925 property. There were no other factual changes. When the proponents of this were saying these  
1926 were minor and modest changes, if you take the number of developable square feet that are left  
1927 and what they are asking for, if you used the developers number, it is a 91% increase of what is  
1928 developable, not this minor little number than he gives, and if he used Mr. Schwartzkopf's  
1929 numbers, it is almost a tripling of what is left. The proffers, as you know, haven't been agreed to  
1930 by all of the owners, so if this gets approved, the proffers only apply piece meal to the portions  
1931 on here. We have asked the developer what he wants to do with the two parcels that he is  
1932 trying to get rezoned, and he won't tell us. He says either he doesn't have a plan or he won't tell  
1933 us the plan, and if he needs additional square footage to develop it, we ask him to come and  
1934 either sell it to someone subject to rezoning or to try to develop them. He does not need this  
1935 blind rezoning for changes before he has developed it, so we are leery of what he wants to do  
1936 with it, and I also want to remind you that your staff has not approved this request. They have  
1937 not given it approval. So, in conclusion, I just want to tell you how I imagine the negotiations for  
1938 the purchase of this shopping center occurred between the current owners and the seller. The  
1939 seller, called the Blackwood Company, I must disclose to you that the central mall built larger  
1940 than anticipated, and that the two out parcels have been sold off, leaving you with only, and the  
1941 figure they provided us was 930 developable square feet, but Mr. Schwartzkopf came up with  
1942 4366. Blackwood Company said, don't worry about it. I will just pay you for what I can develop,  
1943 then I will just get the County to allow me to develop more square footage. I will fudge the  
1944 numbers so that everybody is confused from the Planning staff to the Board to the neighbors,  
1945 and I will drag the case on for years, lulling everybody to sleep, and hoping that the opposition  
1946 will melt away. I will throw in some meaningless proffers to sucker in the uninformed neighbors,  
1947 and hire an experienced rezoning attorney to sell it to everybody. Then, viola! It is like we  
1948 never had even used up the developable space. We will pretend to be a victim of uncontrollable  
1949 circumstances. So, I beseech the Board (sic) not to fall for this dog and pony show.

1950  
1951 Mr. Vanarsdall - Thank you. Mr. Axselle, rebuttal time.

1952

1953 Mr. Axselle - Well, I obviously have some points of disagreement. I would have to  
1954 say Mr. Mizelle's speculation is actually irresponsible. That did not occur and he should not say  
1955 that.  
1956  
1957 The issue is, I suggest, as they said, quality of life. These folks live in Royal Oaks, which has a  
1958 fence. It is across Ridgefield Parkway. It has got a fence and heavy trees. The houses back up  
1959 to it. If they can see light now, wouldn't it be better to have a restraint on the light that would  
1960 go on out parcels 1 and 4. If they are concerned, wouldn't it be better to have good  
1961 architectural treatment on out parcels 1 and 4? Would it be better to not have an automobile  
1962 filling station. Would it be better to not have a fast food restaurant? So, it is a balancing act,  
1963 just as I said, not an act, but it is a balancing effort that you need to go through. It is not a  
1964 compromise in the sense of the parties before you have reached an agreement, but I suggest to  
1965 you that, in fact, it is a compromise in view. Mr. Howard, I believe, one of the gentlemen, said  
1966 that if we would truncate what we want to do on the two out parcels, and I am not sure I  
1967 understood what he said, but let me tell you, if the case is not recommended for approval, then  
1968 we will, and the County is aware of this, we will get about 3400 square feet on each of the two  
1969 out parcels without any development restraint and without the enhanced buffering and so forth.  
1970 What we are asking is for another 3200 on each of those out parcels with, taking away a bunch  
1971 of the uses, not just out parcels 1 and 4, but for the whole shopping center. You have to decide  
1972 whether it is balancing. You have to decide whether that is best or not. But I do hope that you  
1973 will consider the entire community when you make your decision. Thank you very much.  
1974  
1975 Mr. Vanarsdall - Thank you, Bill.  
1976  
1977 Ms. Jones - I have a question if you don't mind. Mr. Axselle, you and I have spent  
1978 more time with calculators over the past two weeks than I ever care to do again, however, you  
1979 just made the statement that if this case is not approved that the allowable buildable square  
1980 footage, which by my calculations here is 8900 sq. ft. that is left from the 1989 case. That would  
1981 give you 4,450 sq. ft. per out parcel as opposed to 3,200. Is that what you said?  
1982  
1983 Mr. Axselle - Yes. But I did not go into detail. The out parcel #3, which has about  
1984 2,600 sq. ft. on it now is by the simple easement agreement entitled to 4,600 approximately, so  
1985 that is the 200.  
1986  
1987 Ms. Jones - Would you explain where that 4,600 came from?  
1988  
1989 Mr. Axselle - Back in 1991 when the shopping center was put in this arrangement, the  
1990 prior owners said that that out parcel would have 4,690 sq. ft.  
1991  
1992 Ms. Jones - And that is in the deed, I understand?  
1993  
1994 Mr. Axselle - Yes. So we would need to honor that, so what we would suggest is that  
1995 the current center would stay at 93 and 92 and then the out parcels 1 and 4 would be around  
1996 3,400. The medical office building would stay where it is and the out parcel #3 would go to  
1997 4,690 consistent with that. And if the case is not recommended for approval, we would most  
1998 likely amend the case and take that square footage and go on down the road. We just don't  
1999 think that is in the best interest total, but sometimes that is life.  
2000  
2001 Ms. Jones - Thank you. I just thought we should make that clear in case people  
2002 were doing math on their paper.  
2003  
2004 Mr. Vanarsdall - Any more questions for Mr. Axselle? Thank you. All right, Ms. Jones, it is  
2005 up to you.

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Ms. Jones - This has been difficult. I came in to this case after many, many years of discussion and Mr. Axselle has done a wonderful job of bringing everybody through the history in an organized way, and has been present at a neighborhood meeting, has been present at many staff meetings, has been incredibly patient with me as a new Commissioner, with many, many questions as well. I appreciate all of that.

As we have boiled it down, this case involves density of development as a primary issue and the wording of the 1989 case, which addressed this entire parcel and the vision that the County had for the development as it was established with the 1989 case. It is very important to me that those factors be considered. The flip side of changing the proffers from the 1989 case, of course, is the very attractive package of proffers, which has come to us with this case. I have heard from many citizens, many pros, many cons. There are quite a number of folks who couldn't be here tonight who are in favor of this, and have contacted me ahead of time to tell me so. Many folks that I talked to are opposed.

When a general neighborhood area is so very split yes and no, it becomes even more difficult, because what we all want for our County is that the vision we have through the Land Use Plan and through the development standards and the life that we enjoy here is kind of a joint agreement, and what I have learned through my very short time on the Planning Commission is that there is a lot of work that goes into making these agreements, the staff time, the Commissioner time, the attorney time, the developer time, the community meetings. They are all supposed to give us at the end of the day, maybe not a perfect solution, but a solution that allows us to go forward with a community as close to what we all think is best as we can get, given the economic reality, and given the restrictions as well as the opportunities of the land that is available and the uses we want on it. Originally, this was presented and approved as a part of a very expansive case. The specified average density spoke to the thought that this one parcel needed to be developed as one parcel. It was touching the residential communities, although those were not built at the time. They are part of the, and again I say, vision for this area. Those residential communities have grown up. They are beautiful areas. This has always been intended, this entire parcel, as a very low density, low profile neighborhood center with services and retail areas that will serve the community right around it. The current shopping center and the current dining and other tenants serve the area well. These are good examples of the kinds of uses that serve a neighborhood use, and I think that the neighborhood is better for their services being close, but the reason this zoning happened in the first place, and the reason it was given approval was because there were safe guards built into that 1989 case, speaking specifically of density, that tried to assure it would always be a very low profile and low impact commercial area within a residential setting. Have things changed since 1989? Of course they have. And while I think we have tremendously changed the types of proffers that are offered with rezoning cases, we do, nonetheless, have one already on the books that speaks to what was thought to be the best use at this area at the same.

The second issue, I want to just make sure I put on the record here, is the ownership. This is a parcel that has, at the moment, three owners. Mr. Blackwood, of course, owns the major portion with the main center and the two undeveloped parcels and then there are separate owners for the other two that are already developed. Mr. Axselle and Mr. Blackwood, as well, have tried their level best, I am convinced, to make the other owners understand that they would be able to present a much, much stronger case to us if they would simply come on board for the full case as opposed to their very limited acceptance of this case, only as to assignment of square footage. If we could tell that any development that would come in place of what is already there would be held to the same standard of the very fine proffers that Mr. Blackwood has given, then I think everyone would feel quite sure that this was being developed as a unified parcel and would be very comfortable with the discussion of maybe talking about a little more

2059 square footage if we had an idea this was going to be a unified use, unified design, unified retail  
2060 and commercial area. So, I feel strongly that we go through this whole process for one reason,  
2061 and that is to end up with a case that is our best vision for that area. I wish we all had crystal  
2062 balls. I wish we all could make sure that whatever we decide here and now is going to be great  
2063 for 20 years down the road, but we do the best we can, and they did the best they could back in  
2064 1989.

2065  
2066 There must be a compelling reason to change proffers. I am not opposed to changing proffers.  
2067 I have done several already in my short time here on the Commission. But to change proffers,  
2068 there must be a reason that signifies the change in the agreement that was made. Everybody  
2069 tries to understand the rules of the game. If we are going to change them, we need to have a  
2070 compelling reason, and there are plenty. If a road had been changed somehow and square  
2071 footage had somehow been taken away from the shopping center, any number of good reasons  
2072 why we had to go back and revisit this. However, those compelling reasons or hardships, any of  
2073 those kinds of things are not clear to me in this case.

2074  
2075 I have considered this case from every angle I can possibly do and then some. It certainly  
2076 seems and again I say, Mr. Axelle and his client have presented a very, very attractive set of  
2077 proffers. I've worked hard with staff and have given it a lot of thought myself. I have taken the  
2078 points raised by the neighbors to heart and there have been pros and cons as I said. But in the  
2079 end, gentlemen, I am sorry. For all of the reasons I have said before, I will have to make a  
2080 motion now that the Planning Commission recommend to the Board of Supervisors that Case C-  
2081 27C-02 be denied.

2082  
2083 Mr. Jernigan - Second.

2084  
2085 Mr. Vanarsdall - Motion made by Ms. Jones and seconded by Mr. Jernigan. All in favor  
2086 say aye. All opposed say no. The motion passes.

2087  
2088 REASON: Acting on a motion by Mrs. Jones, seconded by Mr. Jernigan, the  
2089 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **deny**  
2090 the request because the applicant failed to meet his burden to show the requested changes are  
2091 in the best interests of the welfare and future of the community, and that the intensity of the  
2092 business development will detrimentally impact surrounding uses.

2093  
2094 Mr. Silber - For those present, this would come up before the Board of Supervisors  
2095 at their meeting in October. That meeting date would be October 11 at 7:00 p.m.

2096  
2097 Mr. Vanarsdall - Thank you all for coming.

2098  
2099 **P-10-05 Dale Finocchi for Nextel Communications of the Mid-Atlantic:** Request for a  
2100 provisional use permit under Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the  
2101 County in order to construct and operate a telecommunications tower up to 100' in height and  
2102 related equipment on part of Parcel 746-744-4470, containing approximately 1,575 square feet,  
2103 located at the northeast intersection of Gayton Road and Gaskins Road. The existing zoning is R-  
2104 3 One Family Residence District. The Land Use Plan recommends Semi Public uses.

2105  
2106 Mr. Vanarsdall - Is anyone in the audience in opposition to this case?

2107  
2108 Ms. Jones - I think I cleared them out.

2109  
2110 Mr. Vanarsdall - Mr. Coleman.

2111

2112 Mr. Coleman - Mr. Chairman and members of the Commission, Nextel is requesting to  
2113 construct a monopole-style communication tower at 1261 Gaskins Road. Verizon owns the 2.4  
2114 acre site, which includes a large building housing phone-switching equipment. The tower and  
2115 support equipment would be located within a 1,575 sq. ft. lease area next to the building.  
2116

2117 The parcel is zoned R-3 and is designated semi-public on the 2010 Land Use Plan. The property  
2118 abuts non-residential uses to the north, south, and west. To the east, however, the property lies  
2119 adjacent to dwellings fronting on Wembly Rd. The base of the tower and the equipment will be at  
2120 least partially screened from view from Wembly Road by mature existing trees and other plants on  
2121 the site. The applicant indicated no plantings will be removed to accommodate the tower or  
2122 equipment, and will install a wooden fence and supplemental landscaping to further screen the base  
2123 of the tower. The tower will also meet required setbacks.  
2124

2125 Wembly Swim and Racquet Club operates on the property to the north. There is an existing 85'  
2126 wood pole on their property which serves as a communication tower. Staff normally prefers not to  
2127 have two towers in such close proximity to one another. However, these structures would be  
2128 somewhat lower than most towers in the County, which typically range from 140' – 199' in height.  
2129 Providing the necessary height to accommodate telecommunication providers on one structure in  
2130 this area would require going significantly higher than 100', which would increase the visual impact  
2131 on nearby residential areas.  
2132

2133 The applicant hosted a community meeting on September 8 which was attended by one nearby  
2134 resident. The applicant also conducted a balloon test that morning, of which adjacent property  
2135 owners were also notified.  
2136

2137 Staff noted the elevation submitted with the application shows a 6' lightning rod on top of a 100'  
2138 tower. The applicant should amend this request so the requested height and elevations are in  
2139 agreement.  
2140

2141 Staff is recommending "flush mounted" antennae to reduce the visual profile of the tower, and  
2142 proposes Condition #10 support this intent. This would be consistent with the Comprehensive Plan  
2143 recommendation to use stealth equipment to reduce the visual impact of towers on residential  
2144 areas.  
2145

2146 If the applicant were to resolve the issue regarding the proposed tower height, staff could  
2147 support this request. Should the Planning Commission decide to recommend approval of this  
2148 Provisional Use Permit, staff suggests the permit be recommended subject to the conditions  
2149 listed in the staff report.  
2150

2151 That concludes my presentation. I would be happy to answer any questions.  
2152

2153 Mr. Vanarsdall - Any questions for Mr. Coleman? Thank you, Mr. Coleman.  
2154

2155 Ms. Jones - The applicant would like to say a few words.  
2156

2157 Mr. Vanarsdall - Come on down, Steve.  
2158

2159 Mr. Steve Romine - Good evening. My name is Steve Romine. I am local attorney for Nextel  
2160 Communications. Mr. Chairman, Mr. Kaechele, members of the Commission, do you want me to  
2161 proceed with my presentation?  
2162

2163 Ms. Jones - Abbreviated version.  
2164

2165 Mr. Romine - I can definitely do that. Essentially, a couple of points I wanted to make  
2166 and I first want to thank Tom Coleman for working closely with us on this case. We have spent  
2167 some time together trying to put it in a manner that you see it tonight, and also, Ms. Jones, for  
2168 meeting with me on the site and coming to the community meeting as well. I won't belabor  
2169 what you have heard in the past on telecom towers. Essentially today, over 170 million  
2170 Americans use wireless services. More than 70% of all 911 calls are conducted from wireless  
2171 phones, so what is critical is that we have good signals and good coverage. Nextel is one of six  
2172 carriers that serves Henrico County. It is six now, because Sprint and Nextel just recently  
2173 merged and you continue to see some of that merger going on. They are mandated by the FCC  
2174 to provide service to the citizens of Henrico County, Richmond, as well as the Tuckahoe District.  
2175 So, essentially what they did in this case was there was a gap in coverage, and you may have in  
2176 your package a propagation map and what shows here real clearly is the top thing shows with  
2177 our proposed coverage, we have got this yellow area, which is poor coverage around our VA1530  
2178 site, which is the one we are asking for tonight. Then when we turn that on, it all turns green  
2179 and you see how it connects to several other sites in the area, so it really does fill in the gap that  
2180 we are trying to fill here. So, normally we would not build an additional tower if you could find  
2181 tall structures, water tanks, buildings, some place we could co-locate. In this case, there is a  
2182 gap in coverage and we absolutely need to fill that in by creating the structure that we are  
2183 talking about tonight. The site, as Tom mentioned, is 2.39 acres at the corner of Gayton and  
2184 Gaskins. We have proposed 100 foot galvanized monopole self support, and it will be able to  
2185 support at least three carriers. Nextel would propose to go at the 96 foot level, though the pole  
2186 is 100 feet, and as Tom pointed out accurately, we have a 6 foot lightening rod on top, so  
2187 actually I want to, on the record tonight, tell you it is an application for 106 in height, even  
2188 though the pole itself would be only 100 feet. So what we believe is that Nextel will take that  
2189 top position. We've already had inquiries from T-Mobile and an intention that they want to go on  
2190 the tower as well. I don't have anything in writing for you tonight, but we also firmly believe  
2191 that that third position is very feasible and marketable as well. So, you'd have someone basically  
2192 at the 95 rad, 85 rad, and the 75 rad on that facility. Let me point out several things. One thing  
2193 is this location, although highly residential around it, the facility itself being 2.39 acres is used for  
2194 commercial purposes, the Verizon switch currently established in 1975. Heavy berms, heavy  
2195 trees around it, very well screened, so really kind of an ideal site. This site had been looked at  
2196 for many years by telecommunication carriers, but was not available. Verizon, for whatever  
2197 reason, would not make it available until this past year.

2198  
2199 As indicated by Tom, there is an 85 foot wood pole at the Wembly Swim Club. We met with  
2200 them and we couldn't work out an arrangement that was satisfactory to them, because it took up  
2201 too much ground space the way they wanted us to locate, so I believe they are in favor of this  
2202 being moved over there as well, but we would have liked to co-located there as well. So, we  
2203 think on balance and because of the high topography at this site, we can go down to the 100-  
2204 foot height that we are requesting tonight. The other issue we have are setbacks. We would  
2205 like to go higher, but then we'd have to get a variance on the setbacks, so 100 feet suits us. It  
2206 is something that we can live with.

2207  
2208 There are two points of clarification I'd like to put on the record as well and ask your  
2209 consideration and I was looking at the proffers today, and we hadn't had much discussion on  
2210 those, but the one proffer talks about a hundred foot pole; that needs to be read as 106 and that  
2211 is proffer No. 8, just for clarification, and then proffer No. 10 is one where I would respectfully  
2212 request tonight some consideration. It kind of asks us to go with a flushed mount antennae.  
2213 What a flush mount antennae does is take that top hat away and basically smushes it next to the  
2214 pole, makes it a tighter looking array.

2215  
2216 I passed photos to Ms. Jones. I apologize. I have four copies and I should have produced more,  
2217 which I would like to hand these out as well. In the photos we ran a balloon test . We took

2218 about eight photos from our photo balloon test that we performed on September 8, and I will tell  
2219 you that at most locations the balloon was invisible. You couldn't see it at all. At the corner of  
2220 Gayton and Gaskins, you could see it. From the shopping center, you could see it from the  
2221 commercial side, but by and large, I think Ms. Jones and Mr. Coleman will confirm what I am  
2222 telling you, that it really is not that visible at that location. So, what I would ask with respect to  
2223 Proffer No. 10 is because it is a short tower, and what would happen if we go to flush mount is  
2224 we lose capacity and we lose signal strength. It is a weaker system for propagation of our  
2225 signal, so I think it would diminish and would degrade what we are trying to achieve at this  
2226 location, so respectfully, I would ask you to consider, although it is part of your normal  
2227 application of these types of cases to recommend a stealth, that you'd allow us to put our  
2228 standard antennae right on that facility.  
2229

2230 Those are my abbreviated comments. I apologize for not passing out photo sims earlier. Let me  
2231 make several more in closing. It will not be lit or marked. There is a definite need for coverage  
2232 in this area. We comply with the requirements of the Provisional Use Permit requirements, as  
2233 well as other setting guidelines of the County, and I will standby for questions and I am sorry for  
2234 taking seven minutes.  
2235

2236 Ms. Jones - I have a question. May I? I just wanted to double check. We had a  
2237 conversation at the, somewhat of a tradeoff, I guess, for the ability to use the triangular  
2238 antennae would be double rows of landscaping and there is a stockade fence, which as opposed  
2239 to the traditional chain-link, which is often seen at cell facilities. This particular site is amazingly  
2240 well buffered naturally, visually from the neighborhood. You can barely see anything until above  
2241 the trees, just a little bit of height, so it is really nicely suited to this purpose. There was no  
2242 neighborhood opposition after the gentleman who was most vocal saw the balloon test and he  
2243 was amazed at how much less problematic it was than he thought it might be.  
2244

2245 Mr. Branin - Did you say that it won't be lit or marked?

2246  
2247 Mr. Romine - It will not be lit or marked. Correct. It is only 100 feet.

2248  
2249 Ms. Jones - It doesn't need to be because of the height.

2250  
2251 Mr. Branin - It is not high enough for a plane to hit.

2252  
2253 Mr. Romine - Normally 199 is what triggers the lighting requirement.

2254  
2255 Ms. Jones - Two hundred. One hundred ninety-nine is...

2256  
2257 Mr. Romine - We have to have FAA approval as well and if was a requirement, we'd  
2258 have to come back to you for that requirement.

2259  
2260 Mr. Silber - On the height of the tower, you are wanting a 100 foot tower with the  
2261 ability to put a lightening rod or...

2262  
2263 Mr. Romine - It is a lightening rod, actually, I didn't file the application. They probably  
2264 technically should have asked for 106 feet, because the lightening rod sits on the pole, and that  
2265 is just a standard part of their construction.

2266  
2267 Mr. Silber - So your interest in going for 106 feet is for the lightening rod on top.  
2268

2269 Mr. Romine - Correct. If the lightening rod is six feet in height, and it was shown in  
2270 our plan, it wasn't verbally written in the blank as 106. It was written as 100 foot pole, but I  
2271 want to make sure that was clarified.  
2272  
2273 Ms. Jones - And it is technically a 100 foot pole. It is just that the total height will  
2274 include the lightening rod, because this is a very lightening prone area.  
2275  
2276 Mr. Silber - We just need to make sure that the conditions change to 106 feet and  
2277 the advertisement reflects 106 feet.  
2278  
2279 Mr. Romine - Tom and I discussed that and we thought with your permission  
2280 appropriately handle that for the next advertised round when it goes to the Board. Also, the  
2281 balloon test was conducted at the 106 feet height that we went to the top, with respect to the  
2282 balloon float as well.  
2283  
2284 Mr. Silber - So, Ms. Jones, you are saying that you can live with a triangular  
2285 antennae if that is the case, if that is what the Commission chooses and you would not want to  
2286 pass this forward with Condition No. 10.  
2287  
2288 Mr. Romine - That is my request as well.  
2289  
2290 Mr. Silber - These, by the way, just for clarification, these are not proffers. These  
2291 are conditions that are imposed by the County and proffered conditions are voluntarily offered.  
2292  
2293 Mr. Romine - I request of the Commission that No.10 be deleted.  
2294  
2295 Ms. Jones - That would be acceptable.  
2296  
2297 Mr. Vanarsdall - OK. Anymore questions?  
2298  
2299 Mr. Branin - Is this in an open area that goes straight up?  
2300  
2301 Ms. Jones - It is - there will not be a single tree touched.  
2302  
2303 Mr. Branin - I am just checking to prevent any opposition here.  
2304  
2305 Ms. Jones - No. Seriously. This is a cleared area within the wooded Verizon tower  
2306 site, which is right there at the corner of Gaskins and Gayton.  
2307  
2308 Mr. Branin - So there will be no clear cut. It is wide open.  
2309  
2310 Ms. Jones - It is wide open where the tower will go, but it is extremely well buffered  
2311 from the adjacent neighborhood, because of very mature, tall trees.  
2312  
2313 Mr. Branin - OK.  
2314  
2315 Ms. Jones - Are we ready?  
2316  
2317 Mr. Vanarsdall - Yes. Ready for a motion.  
2318  
2319 Ms. Jones - With that discussion, Mr. Chairman, I would like to move that P-10-05 be  
2320 recommended to the Board for approval with conditions as outlined in the staff report and the

2321 following amendments to those conditions that the height of the tower will be listed as 106 feet  
2322 and that Condition No. 10 will be stricken.  
2323  
2324 Mr. Jernigan - Second.  
2325  
2326 Mr. Vanarsdall - Motion made by Ms. Jones and seconded by Mr. Jernigan. All in favor  
2327 say aye. All opposed say no. The ayes have it. The motion passes.  
2328  
2329 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Branin, the  
2330 Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors grant  
2331 the request because it is reasonable and would not be expected to adversely affect public safety,  
2332 health, or general welfare.  
2333  
2334 Mr. Silber - That concludes the rezoning requests. The only other item on the  
2335 agenda would be consideration of the Planning Commission minutes. However, the Planning  
2336 Commission minutes were not delivered to the Planning Commissioners or sent to the Planning  
2337 Commission, so you haven't had a chance to read them. I would recommend that you not act on  
2338 them tonight, since you haven't seen those.  
2339  
2340 Mr. Jernigan - Mr. Archer can remember his.  
2341  
2342 Mr. Archer - I only remember the things I didn't say.  
2343  
2344 Mr. Jernigan - We can take the minutes up at the next meeting.  
2345  
2346 Mr. Silber - Yes, sir. We will get them out to you in the next packet. I have nothing  
2347 else to add tonight.  
2348  
2349 Mr. Jernigan - Did you want to mention anything about the discussion I had with you  
2350 on the...  
2351  
2352 Mr. Silber - I thought we might talk about that administratively.  
2353  
2354 Mr. Jernigan - What I had discussed with Randy was that we had two cases that were  
2355 expedited tonight, but were clubhouses that go into a subdivision. Even after we rezone a  
2356 property, they have to go to the BZA to get permission to put up a clubhouse, and in the case  
2357 that we had in Varina and Three Chopt, the parking had to be in the front and couldn't be in the  
2358 back, so that is the reason we had to downzone Ken Merner. What I had suggested to Randy  
2359 was that we look into an ordinance amendment that when a clubhouse comes through at the  
2360 time of zoning, and it is included in the proffers, that you wouldn't have to go to the BZA to get a  
2361 separate OK for the clubhouse, and let the Director of Planning get all of it brought through at  
2362 the same time and be discretionary on the parking. That way it would save two steps.  
2363  
2364 Mr. Vanarsdall - Oh yes. That would be a good idea.  
2365  
2366 Mr. Silber - The challenge is, and Mr. Jernigan and I spoke about this, the zoning  
2367 ordinance stipulates that in Agricultural and Residential Districts a private non-commercial  
2368 recreational facility needs approval by way of Conditional Use Permit. Conditional Use Permits  
2369 are granted by the Board of Zoning Appeals. So, once the zoning is in place, then they still have  
2370 to get a Conditional Use Permit to operate that. In this case it was even further confusing  
2371 because in the R-District it requires that parking not be allowed in the front yard. They wanted  
2372 to propose parking in the front yard, so they had to...  
2373

2374 Mr. Jernigan - Well, I am not saying do away with the CUP, if there is an existing  
2375 subdivision now and somebody wanted to do that, they would still have to file for a CUP. What I  
2376 am saying is if that clubhouse is included in the zoning case and it is proffered, that they  
2377 shouldn't have to go through the process of going to the BZA after it has already been approved  
2378 and proffered in a zoning case, to have to go through that second step, when...I was thinking  
2379 there was some way we could word the ordinance if it is included at the time of zoning that the  
2380 CUP would not have to be, you would not have to go to the BZA for that.  
2381  
2382 Mr. Silber - It doesn't come up too often. There were two on the agenda tonight,  
2383 but it might be five years before we have another one.  
2384  
2385 Mr. Jernigan - If you are getting ready to rezone 52% of Henrico County in Varina, too,  
2386 that's, this could be coming around quite a bit.  
2387  
2388 Mr. Silber - It is not that often that we get recreational facilities proffered with  
2389 zoning cases. They have to be a very large case.  
2390  
2391 Mr. Vanarsdall - I was trying to think of when the last time we had one.  
2392  
2393 Mr. Jernigan - Camp Hill has amenities and has a clubhouse.  
2394  
2395 Mr. Silber - Right, but that was 650 acres. My point is that it takes a larger  
2396 development before you see those recreational facilities.  
2397  
2398 Mr. Jernigan - That's true. Castleton was about 600 units in there.  
2399  
2400 Mr. Vanarsdall - Do you want him to look into it?  
2401  
2402 Mr. Jernigan - I figured it would be easier on staff, too, instead of having once a case is  
2403 zoned is to come back and then take it to the BZA for a CUP when you have already approved it  
2404 in a zoning case.  
2405  
2406 Mr. Silber - To amend the zoning ordinance requires two Board members to sponsor  
2407 an ordinance amendment, so we will need to talk to the Board about that before we begin to  
2408 work on it.  
2409  
2410 Mr. Jernigan - Unless you all think it is a bad idea?  
2411  
2412 Mr. Vanarsdall - While we are all here together and in a talking mood, I'd like to know  
2413 and I asked Randy this, I think we had too many rezoning cases for one meeting, and it has  
2414 been like that for a while, and I don't know how we can cut them down. We can't stop the  
2415 instruments that we have of deferment and stuff like that. How can we get back to where we  
2416 used to have 12, 15, including the deferments? Any way to do that?  
2417  
2418 Mr. Jernigan - She said as soon as the interest rate goes up, you won't have to worry  
2419 about it. We could get 12 new cases and then we have the cases that were deferred.  
2420  
2421 Mr. Silber - We still have the Planning Commission policy of no more than 12 new  
2422 cases.  
2423  
2424 Mr. Vanarsdall - I know we have that policy, but it is putting a hardship on the staff and I  
2425 am not talking about so we can get out at 7:00. I just think it is too many cases and I have for a  
2426 long time thought that.

2427  
2428 Mr. Silber - Mr. Chairman, I think the reason these agendas have gotten long is  
2429 because there are a lot of deferrals and there are a lot of deferrals because in many cases the  
2430 applicants aren't prepared to bring these cases forward, so they are being filed before they are  
2431 ready.  
2432  
2433 Mr. Vanarsdall - What I want to hear from you is that staff is not hurting.  
2434  
2435 Mr. Silber - Oh, I didn't say that. This is a challenge for staff to keep up with this  
2436 load. We have to turn around a staff report every time there is a deferral, and every time there  
2437 is a deferral we have to rewrite that staff report, have additional community meetings. I am not  
2438 disagreeing with you. I don't know what the answer is, but most of these are not because a new  
2439 case is being filed inasmuch as there are deferred cases. Joe, would you agree with that?  
2440  
2441 Mr. Emerson- Oh, absolutely. That is exactly what the situation is, because we hold  
2442 the line on the deferrals...(unintelligible) and they are automatically coming back.  
2443  
2444 Mr. Kaechele - Well, how many cases have been filed this year? Are we in the 70s.  
2445  
2446 Mr. Silber - This year? Jean?  
2447  
2448 Ms. Moore - I think as of September 2005 it was 66 cases.  
2449  
2450 Mr. Silber - That is about our norm.  
2451  
2452 Ms. Moore - Yes, it actually is more than the total for the 2003 and 2002. We have  
2453 been getting increasing amounts the last few years.  
2454  
2455 Mr. Silber - But I think if you look at how long it has taken a case to get through, it  
2456 is taking longer, on the average. There are more deferrals than there used to be.  
2457  
2458 Ms. Moore - And the cases are getting more complex, as well.  
2459  
2460 Mr. Jernigan - Well, since we revised the process now and have to have a pre-app  
2461 meeting, I think we are getting that done. It is just, well I have got two cases that they deferred  
2462 because right now they are getting denied.  
2463  
2464 Mr. Vanarsdall - Well, if there is no humanly possible way we can come down...  
2465  
2466 Mr. Kaechele - Well, no. That is 66 cases in eight months, nine months.  
2467  
2468 Mr. Archer - Well, thank God for the expedited agenda. I can remember some of  
2469 those 1:30 and 2:00 nights, many of them. In fact, it was almost a norm.  
2470  
2471 Mr. Secretary, before we adjourn, could I say a word to Ms. Hamilton before you leave. Ms.  
2472 Hamilton, I have seen you come up several times and I know you feel very passionately about  
2473 environmental protection and I want you to understand and I know I do, and I am sure many of  
2474 my colleagues on the Commission feel just as passionately as you do. I think a lot of things are  
2475 occurring because we are not taking care of the environment as we probably should, but I guess  
2476 the point I am trying to make is that this is just not the venue that we have much authority to do  
2477 anything about it. So, even though I appreciate you coming. We'd like to help as much as we  
2478 can, but we just are not able to do it in this venue. So...  
2479

2480 Ms. Hamilton - I guess I was misinformed. I got the feeling when I went to zoning  
2481 meeting that that was too late, that I should be coming to you first.  
2482  
2483 Mr. Archer - I guess the point I am trying to make is we are guided by law and  
2484 ordinance and we don't have the authority to make the law or ordinance. We simply have to  
2485 interpret it and try to rule as best we can on it. Bear in mind that all we do here is make  
2486 recommendations to the Board of Supervisors. So, that was all I wanted to say. I didn't want  
2487 you to think you were sitting out there and not being listened to.  
2488  
2489 Mr. Jernigan - That is the reason I said something to you about property rights,  
2490 because the State law says that people have a right to develop their property and we have to  
2491 follow that law.  
2492  
2493 Ms. Hamilton - That doesn't mean that people are only thinking wisely. They are  
2494 thinking of themselves. (Unintelligible) I walked here tonight. I will be walking home. I am  
2495 walking about 40 miles a week, but I get around. You'd be surprised. I take the bus a lot, too. I  
2496 grew up in Henrico County and I am not seeing the trees and I am not seeing the quantity of  
2497 frogs this year, and I hate seeing a frog smashed in the road. It kills me to see that.  
2498  
2499 Mr. Archer - Ms. Hamilton, I just want to tell you I understand. We need to adjourn  
2500 and move on, so Mr. Secretary, I move for adjournment.  
2501  
2502 Ms. Hamilton - I wish all of you sincerely would look up the Federal Migratory Bird Act.  
2503  
2504 Mr. Kaechele - I intend on doing that. Right.  
2505  
2506 Ms. Hamilton - You told me that a month ago. A month ago.  
2507  
2508 Mr. Archer - I move for adjournment.  
2509  
2510 Mr. Vanarsdall - Second. We are adjourned.  
2511  
2512 The meeting adjourned at 9:52 p.m.  
2513  
2514  
2515  
2516  
2517 

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Randall R. Silber, Secretary  
2518  
2519  
2520  
2521 

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Ernest B. Vanarsdall, CPC, Chairman  
2522  
2523  
2524