

1 Minutes of a work session of the Planning Commission of the County of Henrico
2 held in the County Manager's Conference Room, Administration Building in the
3 Government Center at Parham and Hungary Spring Roads, beginning at 5:15
4 p.m. September 11, 2014.
5

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

Member Absent: Mr. R. Joseph Emerson, Jr., AICP,
Director of Planning, Secretary
(Left at break during work session.)

Also Present: Ms. Jean M. Moore, Assistant Director of Planning
Mr. James P. Strauss, PLA, Principal Planner
Mr. Kenny Dunn, Assistant Fire Chief
Mr. Henry Rosenbaum, Chief Fire Marshal
Mr. Greg Revels, Building Official
Mr. Bolman Bowles, Deputy Building Official
Mr. Billy Moffett, County Planner
Mr. Lee Pambid, County Planner
Ms. Sylvia Ray, Recording Secretary

6
7 Mr. Leabough - I'd like to call the Henrico County Planning
8 Commission to order. This is the September 11, 2014, work session. I'll now turn
9 the agenda over to our secretary, Mr. Emerson.

10
11 The Commission convened a work session in the County Manager's Conference
12 Room at 5:15 p.m. to discuss Exterior Building Materials with two guest
13 speakers, architects Mr. Kenny Payne and Ms. Jonathan Fraser.

14
15 The Commission reconvened at 7:00 p.m. for the public hearing.

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico held in the County Administration Building in the Government
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. September
4 11, 2014. Display Notice having been published in the Richmond Times-Dispatch
5 on August 25, 2014 and September 1, 2014.
6

7 Members Present: Mr. Eric S. Leabough, C.P.C., Chairman (Varina)
8 Mr. Robert H. Witte, Jr., Vice-Chairman (Brookland)
9 Mr. C. W. Archer, C.P.C. (Fairfield)
10 Mr. Tommy Branin (Three Chopt)
11 Mrs. Bonnie-Leigh Jones, C.P.C., (Tuckahoe)
12 Ms. Jean M. Moore, Assistant Director of Planning,
13 Acting Secretary
14 Mr. David A. Kaechele,
15 Board of Supervisors' Representative
16

17 Member Absent: Mr. R. Joseph Emerson, Jr., AICP,
18 Director of Planning, Secretary
19 (Left at break during work session.)
20

21 Also Present: Mr. James P. Strauss, PLA, Principal Planner
22 Ms. Rosemary D. Deemer, AICP, County Planner
23 Mr. Benjamin Sehl, County Planner
24 Mr. Livingston Lewis, County Planner
25 Mrs. Lisa Blankinship, County Planner
26 Mr. William Moffett, County Planner
27 Mr. John Cejka, Traffic Engineer, Public Works
28 Ms. Kim Vann, County Planner, Police
29 Ms. Sylvia Ray, Recording Secretary
30

31 **Mr. David A. Kaechele, the Board of Supervisors' representative, abstains**
32 **on cases unless otherwise noted.**
33

34 **THE PLANNING COMMISSION RECONVENED**

35

36 Mr. Leabough - I would like to reconvene this meeting of the Henrico
37 County Planning Commission. Earlier today we had a work session. So thank
38 you all for being here. This is our rezoning meeting. As you all prepare to mute or
39 silence your cell phones, I ask that you all stand with the Commission for the
40 Pledge of Allegiance.
41

42 I don't believe we have anyone from the news media present. It doesn't look like
43 we do.
44

45 Mr. Witte - Mr. Chairman, before we get started, this being the
46 thirteenth anniversary of the terrorist attack, could we take a moment of silence
47 please?
48

49 Mr. Leabough - Actually, you took the words right out of my mouth. So
50 with that, if we all could bow our heads in remembrance of the September 11th
51 attack.
52

53 Thank you.
54

55 With that, I would like to turn the agenda over to our Acting Secretary, Ms.
56 Moore.
57

58 Ms. Moore - Thank you, Mr. Chairman. As noted, we did have a
59 work session regarding—more of an informational work session for the
60 Commission on exterior buildings, —exterior materials that the County often sees
61 in building. We had that in the County Manager's conference room at 5:15. Next
62 we move into the public hearing. First on the agenda are requests for
63 withdrawals and deferrals. Those will be presented by Mr. Jim Strauss.
64

65 Mr. Strauss - Thank you, Ms. Secretary. We do have one request
66 for deferral this evening. It's in the Fairfield District. It's on page 3 of the agenda.
67 That would be case REZ2014-00041, Ample Storage Lake Worth, LLC. The
68 applicant is requesting a deferral to the October 9, 2014 meeting.
69

70 **REZ2014-00041 Bay Companies for Ample Storage Lake Worth,**
71 **LLC: Request to rezone from R-5C General Residence District (Conditional) and**
72 **B-2C Business District (Conditional) to M-1C Light Industrial District (Conditional)**
73 **part of Parcels 804-737-1251, 804-737-7961 and 804-736-0481 containing**
74 **13.191 acres located on the east line of Mechanicsville Turnpike (U.S. Route**
75 **360) at its intersection with Evans Road. The applicant proposes a mini-storage**
76 **facility. The use will be controlled by proffered conditions and zoning ordinance**
77 **regulations. The 2026 Comprehensive Plan recommends Commercial**
78 **Concentration and Urban Residential. The site is located in the Airport Safety**
79 **Overlay District.**
80

81 Mr. Leabough - Is there anyone in the audience in opposition to the
82 deferral of REZ2014-00041, Bay Companies for Ample Storage Lake Worth,
83 LLC? There is no opposition.
84

85 Mr. Archer - Okay, Mr. Chairman. I move to honor the applicant's
86 request and defer this case until the October 9th meeting.
87

88 Mrs. Jones - Second.
89

90 Mr. Leabough - We have a motion by Mr. Archer, a second by
91 Mrs. Jones. All in favor say aye. All opposed say no. The ayes have it; the motion
92 passes.

93
94 At the request of the applicant, the Planning Commission deferred REZ2014-
95 00041, Bay Companies for Ample Storage Lake Worth, LLC, to its meeting on
96 October 9, 2014.

97
98 Ms. Moore - Next on your agenda are any requests for withdrawal.
99 Staff is not aware of any of those requests, so we can move along to our
100 requests on the expedited agenda.

101
102 Mr. Strauss - Thank you, and we do have four requests for approval
103 on the expedited agenda this evening. The first three are in the Three Chopt
104 District, the first one being on page 2 of the agenda, REZ2014-00031, Welwood
105 LLC. This is a request to rezone the acreage from the A-1 District to R-2AC
106 (One-Family Residential District). The applicants propose single-family
107 residences. Staff is recommending approval with the proffers on page 5 of the
108 staff report. We are not aware of any opposition.

109
110 **REZ2014-00031 John Grier for Welwood I, LLC:** Request to
111 conditionally rezone from A-1 Agricultural District to R-2AC One-Family
112 Residence District (Conditional) part of Parcel 736-769-4930 containing .615
113 acres located approximately 475' northwest of the intersection of N. Gayton Road
114 and Kain Road. The applicant proposes single-family residences. The R-2A
115 District allows a minimum lot size of 13,500 square feet and a maximum gross
116 density of 3.22 units per acre. The use will be controlled by proffered conditions
117 and zoning ordinance regulations. The 2026 Comprehensive Plan recommends
118 Suburban Residential 1, density should not exceed 2.4 units per acre.

119
120 Mr. Leabough - Is there anyone in the audience in opposition to
121 REZ2014-00031, John Grier for Welwood I, LLC? There is no opposition.

122
123 Mr. Branin - Mr. Chairman, I'd like to move that REZ2014-00031,
124 John Grier for Welwood I, LLC, move forward on the expedited agenda with a
125 recommendation for approval.

126
127 Mr. Witte - Second.

128
129 Mr. Leabough - We have a motion by Mr. Branin, a second by Mr.
130 Witte. All in favor say aye. All opposed say no. The ayes have it; the motion
131 passes.

132
133 **REASON -** Acting on a motion by Mr. Branin, seconded by Mr.
134 Witte, the Planning Commission voted 5-0 (one abstention) to recommend the
135 Board of Supervisors grant the request because it conforms to the

136 recommendations of the Comprehensive Plan, continues a similar level of single
137 family residential zoning as currently exists in the area, and the proffered
138 conditions will provide appropriate quality assurances not otherwise possible.

139

140 Mr. Strauss - The next request for approval on the expedited
141 agenda, also in the Three Chopt District on page 2 of the agenda is REZ2014-
142 00032, PCG1 LLC. This is a request to conditionally rezone from B-1 Business
143 District and B-1C Business District (Conditional) to the B-2C Business District.
144 This is to allow a restaurant with catering. Staff is recommending approval with
145 the proffers on page 5 of the staff report. We're not aware of any opposition for
146 this one.

147

148 **REZ2014-00032 Andrew M. Condlin for PCG1, LLC:** Request to
149 conditionally rezone from B-1 Business District and B-1C Business District
150 (Conditional) to B-2C Business District (Conditional) Parcel 747-757-0157
151 containing .959 acres located at the southeast intersection of Three Chopt and
152 Church Roads. The applicant proposes a restaurant with catering. The use will
153 be controlled by proffered conditions and zoning ordinance regulations. The 2026
154 Comprehensive Plan recommends Commercial Concentration.

155

156 Mr. Leabough - Is there anyone in the audience in opposition to
157 REZ2014-00032, Andrew M. Condlin for PCG1, LLC? There is no opposition.

158

159 Mr. Branin - Mr. Chairman, I would like to move for REZ2014-
160 00032, Andrew M. Condlin for PCG1, LLC, to be approved on the expedited
161 agenda and move forward with a recommendation for approval.

162

163 Mr. Witte - Second.

164

165 Mr. Leabough - We have a motion by Mr. Branin, a second by Mr.
166 Witte. All in favor say aye. All opposed say no. The ayes have it; the motion
167 passes.

168

169 **REASON -** Acting on a motion by Mr. Branin, seconded by Mr.
170 Witte, the Planning Commission voted 5-0 (one abstention) to recommend the
171 Board of Supervisors **grant** the request because it conforms to the
172 recommendations of the Comprehensive Plan and it would not be expected to
173 adversely affect the pattern of zoning and land use in the area.

174

175 Mr. Strauss - Our final expedited item in the Three Chopt District is
176 REZ2014-00034, Attack West Broad Investors, LLC. This is a request to
177 conditionally rezone from R-6C General Residential District (Conditional) and
178 RTHC General Residential Townhouse District (Conditional) to the C-1C
179 Conservation District, thus fulfilling obligations of the previous zoning case. A
180 Conservation District is proposed. Staff is recommending approval. And there is
181 a proffer on page 4 of the staff report. We are not aware of any opposition.

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REZ2014-00034 Timmons Group for Attack WB Investors, LLC: Request to conditionally rezone from R-6C General Residence District (Conditional) and RTHC Residential Townhouse District (Conditional) to C-1C Conservation District (Conditional) part of Parcels 730-767-7336, 730-766-6366, and 731-766-4295 containing 6.422 acres located between the Goochland County line, W. Broad Street (U.S. Route 250), and Interstate 64. The applicant proposes a conservation district. The use will be controlled by proffered conditions and zoning ordinance regulations. The 2026 Comprehensive Plan recommends Environmental Protection Area. The site is located in the West Broad Street Overlay District.

Mr. Leabough - Is there anyone in opposition to REZ2014-00034, Timmons Group for Attack WB Investors, LLC? There is no opposition.

Mr. Branin - Mr. Chairman, I'd like to move that REZ2014-00034, Timmons Group for Attack WB Investors, LLC, be approved on the expedited agenda and move forward with a recommendation for approval and the additional condition.

Mr. Witte - Second.

Mr. Leabough - We have a motion by Mr. Branin, a second by Mr. Witte. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

REASON - Acting on a motion by Mr. Branin, seconded by Mr. Witte, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors grant the request because it was specifically required by proffer C-18C-12 and conforms to the recommendations of the Comprehensive Plan.

Mr. Strauss - The last request on our agenda this evening for expedited approval is in the Varina District. It's on page 3 of the agenda, REZ2014-00039, Becknell Services, LLC. This is a request to rezone from A-1 Agricultural District to M-1C Light Industrial District (Conditional). The applicant is proposing expansion for truck trailer parking. Staff is recommending approval with the proffers on page 5 of the staff report. We are not aware of any opposition.

REZ2014-00039 Randy Hooker for Becknell Services, LLC: Request to rezone from A-1 Agricultural District to M-1C Light Industrial (Conditional) part of Parcel 815-700-1434 containing .915 acre located approximately 400' from the west line of Darbytown Road approximately 1000' from its intersection with S. Laburnum Avenue. The applicant proposes truck/trailer parking. The use will be controlled by proffered conditions and zoning ordinance regulations. The 2026

228 Comprehensive Plan recommends Planned Industry. The site is located in the
229 Airport Safety Overlay District.

230

231 Mr. Leabough - Is there anyone in opposition to REZ2014-00039,
232 Randy Hooker for Becknell Services, LLC? There is no opposition. With that I
233 move that we forward this case to the Board of Supervisors with a
234 recommendation of approval. It is for REZ2014-00039, Randy Hooker for
235 Becknell Services, LLC. This is subject to the conditions noted in the staff report.

236

237 Mrs. Jones - Second.

238

239 Mr. Leabough - We have a motion by Mr. Leabough, a second by
240 Mrs. Jones. All in favor say aye. All opposed say no. The ayes have it; the motion
241 passes.

242

243 **REASON -** Acting on a motion by Mr. Leabough, seconded by
244 Mrs. Jones, the Planning Commission voted 5-0 (one abstention) to recommend
245 the Board of Supervisors **grant** the request because it conforms to the
246 recommendations of the Land Use Plan and the proffered conditions should
247 minimize the potential impacts on surrounding land uses.

248

249 Ms. Moore - Mr. Chairman, that completes our requests for
250 expedited items for this evening. We now move into your regular agenda to the
251 first item, which appears on page 2.

252

253 **REZ2014-00033 Andrew M. Condlin for Windsor Enterprise Corp.:**
254 Request to conditionally rezone from A-1 Agricultural District to R-2AC One-
255 Family Residence (Conditional) part of Parcels 740-770-9386 and 740-770-7171
256 containing 8.789 acres located approximately 125' south of the terminus of Grey
257 Oaks Park Lane. The applicant proposes a maximum of 22 single-family
258 residences. The R-2A District allows a minimum lot size of 13,500 square feet
259 and a maximum gross density of 3.22 units per acre. The use will be controlled
260 by proffered conditions and zoning ordinance regulations. The 2026
261 Comprehensive Plan recommends Suburban Residential 1, density should not
262 exceed 2.4 units per acre. The staff report will be presented by Mr. Ben Sehl.

263

264 Mr. Leabough - Is there anyone in the audience in opposition to
265 REZ2014-00033, Andrew M. Condlin for Windsor Enterprise Corp? No
266 opposition. Mr. Sehl, good evening.

267

268 Mr. Sehl - Good evening, Mr. Chairman.

269

270 This is a request for R-2AC zoning to allow for the development of property
271 directly to the south of the Estates at Grey Oaks. The development would be
272 incorporated into the Grey Oaks community, and the proposed subdivision would
273 be largely consistent with the proffered requirements for Grey Oaks.

274

275 Adjacent properties to the north and west are also zoned R-2AC, and are
276 developed as the Estates at Grey Oaks and Mason Park communities,
277 respectively. To the south and east are properties zoned A-1 and developed as
278 single-family homes.

279

280 The applicant has proffered to develop the subject properties with a maximum of
281 twenty-two homes. Some of these new lots would include property previously
282 rezoned with the original Grey Oaks case. When this area is included, the
283 proposed residential density would be 2.29 units per acre, which is consistent
284 with the site's SR1 designation, shown here.

285

286 In addition to the proffered maximum density, the applicant has submitted a
287 number of other proffers, including this concept plan. These proffers have
288 recently been revised, and have been handed out to you this evening. The
289 concept plan is generally consistent with the pattern of development throughout
290 Grey Oaks, and shows the proposed layout of the property, including two
291 possible road extensions to the east. Other major proffers include:

292

- 293 • A minimum finished floor area of 3,000 square feet.
- 294 • A minimum lot width of 90 feet, with 80 percent of the lots being at
295 least 100 feet wide.
- 296 • All homes would have a two-car garage, of which 90 percent would be
297 side or rear loaded.
- 298 • Homes would be constructed of brick, stone, or HardiPlank, and each
299 home would have a minimum of 60 percent brick or stone on the front
300 elevation.

301

302 To address staff concerns regarding access, the applicant has revised the
303 proffers to require an additional emergency access to this property should it be
304 requested at the time of subdivision review. This change is reflected in the
305 proffers distributed this evening. This proffer change also addresses previous
306 concerns regarding the wording of Proffer 9.

307

308 Overall, staff believes this request is consistent with the comprehensive plan, as
309 well as the quality of development in the adjacent Grey Oaks subdivision. The
310 proffers should allow for a development in keeping with recent residential
311 construction in the area, and allow for a logical expansion of the Grey Oaks
312 community. For these reasons, staff supports this request. This concludes my
313 presentation, and I'd be happy to try and answer any questions you may have.

314

315 Mr. Leabough - Are there questions for Mr. Sehl?

316

317 Mrs. Jones - Where would this emergency access be located?

318

319 Mr. Sehl - The applicant owns a number of properties in the area
320 and is also talking with additional property owners in the area. This little portion
321 here you can see is actually part of one of the subject parcels. So it could
322 potentially be located here. There are some improved driveways that could be
323 improved even further, to potentially provide that access. The applicant is also
324 here and could potentially expand upon that if you'd like.

325
326 Mrs. Jones - But as far as your review, this does not concern you. I
327 mean, you don't think this is an insurmountable problem because there are a
328 number of ways in which it can be solved?

329
330 Mr. Sehl - Yes, I would agree with that.

331
332 Mrs. Jones - Okay, all right. Thank you.

333
334 Mr. Leabough - Are there other questions for Mr. Sehl? Thank you,
335 sir.

336
337 Mr. Sehl - Thank you.

338
339 Mr. Leabough - Mr. Branin? Would you like to hear from the
340 applicant?

341
342 Mr. Branin - Sure.

343
344 Mr. Leabough - Would the applicant please come forward?

345
346 Mr. Condlin - Members of the Commission, Andy Condlin here
347 representing Windsor Enterprise Corporation. Mr. Sehl covered everything. I'll be
348 happy to answer any questions you have.

349
350 Mr. Branin - I just wanted to bring out that you guys are aware of
351 the need for possible emergency exits.

352
353 Mr. Condlin - Yes.

354
355 Mr. Branin - And I was looking for some insight on the other
356 consolidation of the properties in the future.

357
358 Mr. Condlin - With adding onto this property? Yes. As Mr. Sehl
359 pointed out and we're committed to, we may have to work on the language a little
360 bit, but as the County requires emergency access anywhere through the
361 subdivision process, we'll go ahead and provide it. The reason we're not saying it
362 has to be done is because we might actually provide access—for example,
363 here's Ellis Meadows Lane, and Windsor Enterprises owns all of this property.
364 We could certainly connect to that, so that would no longer need an emergency

365 access if we make that public road connection. That could also serve as an
366 emergency access as Mr. Sehl had pointed out, as well as there's property that
367 Mr. Winsor owns, a strip of property that comes down here that could serve as
368 the emergency access through here as well. As we develop, there is property
369 here that obviously will make that public road connection if we need to. If these
370 properties are under contract, which they're not, but if they do become under
371 contract they would provide the public access through this way behind these
372 homes. So there are a number of ways that access could be provided for full
373 working public road access as well as the emergency access.

374

375 The only other thing I would mention is the commitment that we made with
376 respect to Bridlewood from the back of these lots on the other side of Bridlewood,
377 Hames Lane, those have been developed. Those are really large lots. We have to
378 deal with those neighborhoods as well. We committed to come back to them at
379 some point in the future when we bring subdivision that way. So that's one of the
380 reasons for the delay. It will just be a temporary delay in developing those other
381 parcels.

382

383 Mr. Branin - And Mr. Condlin, we've had extensive conversations
384 between us, but I wanted the other commissioners to be aware. And you are fully
385 aware that as this does get developed and then we go into POD, this is going to
386 be A number 1.

387

388 Mr. Condlin - Yes. Yes sir.

389

390 Mr. Leabough - Other questions for—

391

392 Mr. Kaechele - Yes, one other question. These homes will become
393 part of the Grey Oaks Homeowners Association?

394

395 Mr. Condlin - Yes sir. We've committed to do that as well. That
396 includes the pool and the racquet club, which was sized originally to include this.
397 It's actually sized to include this property as well as this additional property that
398 Windsor Enterprises owns. It was always anticipated that those would go into
399 Grey Oaks. So yes sir, they'll become part of the restrictive covenants, part of the
400 association, as well as the benefits of all that.

401

402 Mr. Kaechele - Grey Oaks is really a great subdivision. They have
403 very high-quality homes and standards. So this will be equally part of that.

404

405 Mr. Condlin - Yes sir.

406

407 Mr. Kaechele - Thank you.

408

409 Mr. Condlin - Yes sir.

410

411 Mr. Leabough - Thank you. Other questions for Mr. Condlin? If not,
412 thank you, sir.

413
414 Mr. Condlin - Thank you.

415
416 Mr. Leabough - Mr. Branin?

417
418 Mr. Branin - Mr. Chairman, I'd like to move that REZ2014-00033,
419 Andrew M. Condlin for Windsor Enterprise Corp., move forward to the Board with
420 a recommendation for approval.

421
422 Mr. Witte - Second.

423
424 Mr. Leabough - We have a motion Mr. Branin, a second by Mr. Witte.
425 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

426
427 **REASON -** Acting on a motion by Mr. Branin, seconded by Mr.
428 Witte, the Planning Commission voted 5-0 (one abstention) to recommend the
429 Board of Supervisors **grant** the request because it conforms with the objectives
430 and intent of the County's Comprehensive Plan, reflects the type of residential
431 growth in the area, and the proffered conditions will assure a level of
432 development otherwise not possible.

433
434 **REZ2013-00021** **Geriel DeOliveira:** Request to conditionally rezone
435 from B-2 Business District to B-3C Business District (Conditional) Parcel 767-
436 741-7271 containing .618 acres located on the north line of Horsepen Road at its
437 intersection with Catawba Lane. The applicant proposes an automobile repair
438 service. The use will be controlled by proffered conditions and zoning ordinance
439 regulations. The 2026 Comprehensive Plan recommends Commercial
440 Concentration. The site is located in the Enterprise Zone. The staff report will be
441 presented by Mrs. Lisa Blankinship.

442
443 Mr. Leabough - Is there anyone in the audience in opposition to
444 REZ2013-00021, Geriel DeOliveira?

445
446 Mrs. Jones - Do you mind going over all of that, the regulations?

447
448 Ms. Moore - Certainly, Mrs. Jones. The Commission does adhere
449 to some rules that regulate the public hearing process. Basically, the applicant or
450 their representative has a total of ten minutes to present the request. At any time
451 they can reserve any part of the ten minutes for any responses or testimony to
452 questions that may arise. Opposition is also allowed ten minutes to present their
453 concerns. This is ten minutes cumulative not per speaker. We ask that you do
454 have your questions or concerns related to only the case under consideration. If
455 the Commission feels like more time is warranted, they can grant that as well.

456

457 Mr. Leabough - Thank you. Ms. Moore. Ms. Blankinship, good
458 evening.

459
460 Ms. Blankinship - Good evening. Thank you Mr. Chairman, members of
461 the Commission.

462
463 This is a request to rezone .618 acres from B-2 to B-3C to allow for an auto
464 repair use. Auto repair is first permitted in the B-3 District, hence the reason for
465 this request.

466
467 The site is located in the Enterprise Zone and the 2026 Comprehensive Plan
468 recommends Commercial Concentration. The requested B-3 zoning could
469 therefore be consistent with the Plan's recommendation and Enterprise Zone
470 objectives.

471
472 The site was developed in 1968 as a service station. This use continued until
473 1977 when an administrative plan was approved for a dry cleaning use. In 1983,
474 the property was purchased by the current owners who leased the property to
475 multiple tenants over the years for retail uses.

476
477 The applicant is requesting to rezone the property to B-3C to allow for an
478 automobile repair use which is first allowed in the B-3 District. The applicant has
479 submitted a number of proffers to help minimize negative impacts. These proffers
480 include:

- 481
- 482 • Prohibited uses;
 - 483 • Limited hours of operation for the auto repair use;
 - 484 • Limited number of auto repair service bays;
 - 485 • Limited number of automobiles to be serviced; and
 - 486 • Site improvements including landscaping and the closing of two
 - 487 entrances closest to the Catawba/Horsepen intersection.
- 488

489 Since the staff report, the applicant has submitted revised proffers and building
490 elevations that have been handed out to you this evening.

491
492 These revised proffers address:

- 493
- 494 • The screening material of the dumpster enclosure;
 - 495 • The size of the tow truck that will be utilized;
 - 496 • The assurance that the bay doors will be closed when repairs are
 - 497 conducted; and
 - 498 • The assurance that there will be no exterior storage of tires,
 - 499 equipment, tools, auto parts, or auto fluids.
- 500

501 A community meeting was held on August 13, 2014, and was attended by
502 approximately fifteen citizens. Concerns raised included the use of auto body

503 repair, and auto body painting, the number of automobiles to be serviced, and
504 the hours of operation. The applicant believes he has addressed these concerns
505 with revised proffers.

506

507 Staff notes that since the staff report, the Planning Department has received
508 letters and phone calls in opposition to this request.

509

510 The requested B-3 zoning could be consistent with the Plan's recommendation of
511 Commercial Concentration and the Enterprise Zone incentives directed at
512 encouraging continued revitalization and economic growth. In addition, the
513 applicant has submitted proffers that would further regulate the site and help to
514 mitigate negative impacts on adjacent property owners. For these reasons, staff
515 believes this request could be appropriate.

516

517 Staff notes the time limits would need to be waived. This concludes my
518 presentation. I will be happy to answer any questions.

519

520 Mr. Leabough - Are there questions for Ms. Blankinship?

521

522 Mrs. Jones - I do, if no one else does. Because the revised proffers
523 have just been submitted, they were not available to folks on the website were
524 they.

525

526 Ms. Blankinship - No ma'am.

527

528 Mrs. Jones - So just because we do have a number of people here
529 tonight who I don't believe have had a chance to actually know what's in the
530 revised proffers—there are only several of them where wording has changed.
531 Would you just go over those—

532

533 Ms. Blankinship - Yes ma'am.

534

535 Mrs. Jones - —I believe there are three of them—so that
536 everybody in the audience knows what is in those proffers that have been
537 changed.

538

539 Ms. Blankinship - Right. Proffer #6 regarding trash receptacles. It's
540 elaborating what the building material would be made of. Around the wall, the
541 enclosure will be made of brick.

542

543 Mrs. Jones - Would you read the proffers as they are now?

544

545 Ms. Blankinship - Oh, yes ma'am. "Trash receptacles, not including
546 convenience cans, shall be screened from public view at ground level and
547 enclosed with walls made of bricks and doors made of material that is not
548 transparent."

549
550 Mrs. Jones - Okay.
551
552 Ms. Blankinship - Number 7 with regards to the tow truck. "A tow truck
553 weighing three to four tons, may be used during the hours of operation, but shall
554 not be parked on the property between the hours of 8 p.m. and 7 a.m."
555
556 Number 8 regarding the auto repair bays. "The number of bays for the auto repair
557 service shall be limited to three. During the hours the car repair shop will be
558 open, any repair service performed or oil change will be done within enclosed
559 doors."
560
561 And then lastly it's an additional Proffer #13. "There will be no exterior storage of
562 tires, equipment, materials, tools, auto parts, or auto fluids." I'm sorry; that was
563 not underlined in your handout.
564
565 Mrs. Jones - I just wanted to make sure—I know we have
566 neighbors here tonight who are very interested in this case—they realize where
567 the proffers stand at this moment.
568
569 Are you able to show the elevations for us please?
570
571 Ms. Blankinship - Yes ma'am.
572
573 Mrs. Jones - And the site plan and other things that might help
574 folks understand?
575
576 Ms. Blankinship - These are the proposed elevations. Up top is the
577 proposed; the bottom is the existing. Facing east. Facing Horsepen. And then we
578 have facing south, the side elevation facing Catawba. And then we have the site
579 plan showing the proposed landscaping, the closure of the entrances at the
580 Catawba and Horsepen with landscaping around the perimeter. Would you like to
581 see anything additional?
582
583 Mrs. Jones - If you have anything additional that you think might
584 help everyone understand.
585
586 Ms. Blankinship - There's just a close-up of the floor plan, existing and
587 proposed.
588
589 Mrs. Jones - This is proposed?
590
591 Ms. Blankinship - Yes ma'am.
592
593 Mrs. Jones - All right. I have no more questions for Ms.
594 Blankinship.

595
596 Mr. Leabough - I just have a quick question. So is this an existing
597 business that's operating currently?
598
599 Ms. Blankinship - No sir. It's an existing building but not an existing—
600
601 Mr. Leabough - It's not in operation.
602
603 Ms. Blankinship - No sir.
604
605 Mr. Leabough - Okay. Thank you.
606
607 Ms. Blankinship - You're welcome.
608
609 Mrs. Jones - All right. Mr. Chairman, I think because it would be
610 easier to address the issues that folks wish to raise, I'd like the people who are
611 here in opposition to come forward. And just among yourselves try to be non-
612 repetitive. And just remember we're working with ten minutes. And then we will
613 certainly try to get answers to all the issues you raise.
614
615 Mr. Leabough - As you approach the podium, these are recorded
616 proceedings, so if you could state your name for the record, we would appreciate
617 it.
618
619 Mr. Lafayette - Mr. Chairman, my name is Michael Lafayette. I am an
620 attorney.
621
622 Mrs. Jones - Hold on a moment. Folks, you can relax in a chair,
623 and we'll call you up. This is a much less formal proceeding than you might think.
624 Okay. Thank you. I'm sorry.
625
626 Mr. Lafayette - I thought I was going to get attacked.
627
628 Mrs. Jones - All right. Go ahead.
629
630 Mr. Lafayette - My name is Michael Lafayette. I'm an attorney here in
631 Henrico County. My office is at 10160 Staples Mill Road. I do represent the
632 Bisker Family and MB Ventures, which is the property owner immediately
633 adjacent to the east of this property. So if you're facing it, it's the property that's
634 right to the right. So they would be impacted with respect to this development.
635
636 This is a downgrading zoning from B-2 to B-3, so it downgrades the use of this
637 area. Our concern and my client's concern is that it's inconsistent for this
638 neighborhood. There has been a substantial investment made in this
639 neighborhood from apartments to homes to different things over the last several
640 years. The neighborhood has increased as far as property values. The

641 neighborhood has done better with respect to drawing new businesses and
642 different businesses. And we feel that allowing an automobile repair service at
643 this location, which is full time, is inconsistent with the use of this property.
644

645 Very specifically, right now it's B-2. As you're well aware, B-2 does allow for auto
646 repair if it's ancillary to a service station. But does allow for a full-time use of
647 repairing of cars. And we feel that a full-time use of the vehicle repair, again, is
648 inconsistent.
649

650 There were some proffers that were offered. No doubt the landscaping and
651 things like that look great. I certainly have no objection to that. But it's not the
652 landscaping and the finishing touches that are important here; it's what they're
653 going to do at the premises. And what they're going to do at the premises again
654 we feel is inconsistent.
655

656 I'd also like to point you to the code and say that inoperable vehicles may be
657 stored on the premises for up to the thirty days. That has not been proffered out,
658 so they have proffered no more than ten vehicles. But really, that's nothing,
659 because the lot can't hold but ten vehicles. So they really haven't provided
660 anything with respect to parking or the storage of vehicles that are not working.
661

662 The last thing this neighborhood needs is a repair shop that has vehicles, broken
663 down vehicles sitting in the parking lot when this neighborhood is on the rebound
664 and up and going.
665

666 So I would ask you to consider that, consider the characteristics of this
667 neighborhood, consider the use, and consider that this is a step backwards for
668 the community. And the community does not want this, members of the
669 Commission. They certainly do not want an auto repair shop next door. They
670 would support retail; they would support anything that would be consistent with
671 B-2. They want this owner to do that. They want to be a good neighbor and
672 support the use of this property for retail and other uses. But just not an
673 automobile repair shop.
674

675 Thank you for your time.
676

677 Mr. Leabough - Thank you.
678

679 Mrs. Jones - All right. Whoever would like to come on up.
680

681 Mr. Lipscomb - My name is Lawrence Lipscomb. I lease 6410
682 Horsepen Road. I've been there for twenty-nine years, and I've seen a lot of
683 improvements in the area. I don't believe down-zoning this property would be an
684 asset to the community. I appreciate your time.
685

686 Mr. Leabough - Thank you, sir.

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731

Mrs. Jones - Thank you.

Mr. Hendrick - I'm Richard Hendrick with Custom Kitchens. My brother, David, and I, and our dad own that building. We've invested in that building over the years and seen that neighborhood go down. And it's come back up with the new houses and other retail on the street. We're really opposed to seeing the zoning being downgraded. Thank you.

Mr. Leabough - Thank you.

Mr. Hendrick - My name is David Hendrick. I'm Richard's brother. Both of us own Custom Kitchens, and my dad owns the building. But we would like to see that be retail. We were very fortunate that we were the retailer of the year for the Retail Merchants Association. And we have worked very hard to make that a very good retail space. So what I did, I went and took some pictures in some other areas in Lakeside that we feel like could be done in that area and it would enhance Horsepen Road. I would urge you for the other members on Horsepen Road to not pass this. I'd like to just show what we feel like could be done. Thank you for your time.

Mr. Leabough - Thank you, sir.

Mrs. Jones - Thank you.

Ms. Myers - My name is Roberta Myers. My husband and I have lived on Horsepen Road for thirty-six years. We've seen the different businesses that have come into that location. We don't think an auto repair shop is appropriate. There are already two repair shops half a block down the road. There is one around the corner on Broad Street. There are two at least three miles up the road. So there is no need for an auto repair shop, especially not across the street from where I live. Thank you.

Mr. Leabough - Thank you.

Mr. Myers - Good evening. I'm J. R. Myers, the other half. We bought this property when the neighborhood was really crumbling. We've been here thirty-six years. We've seen it come and go. And we beg you, please don't accept this. It could be so much better in other businesses. We don't—we've seen the fly-by-night operations. We call for help. The County's closed at 4:30. When we finally get attention, nobody's around; it's over and done with. Let's look for better usage of for the property. Thank you.

Mrs. Jones - Thank you, Mr. Myers.

732 Mr. Kirkland - Good evening, my name is Rick Kirkland. My wife and
733 I own a building at 2006 Redman Road, which is in the Pine Acres area, as we
734 call it. For fifteen years we've been there, and we've seen a lot of changes for the
735 better also. But we've also seen in that fifteen years all-night sweepstakes, all-
736 night clubs living in business structures, all-night phone stores—everything
737 imaginable that's illegal goes on in that area. Community Revitalization has an
738 inspector that stays there. Every day he comes through, he cites, he writes. And
739 the owner of the property has had reasonable use of this property since 1982 as
740 a B-2. To pigeonhole it to an automobile repair shop and to take out all of the
741 other uses in this B-3 case would condemn this land to an automobile repair
742 shop for its history. You would have to come back and rezone it and change it
743 again. And we've had tow truck issues in this neighborhood. And I can tell you,
744 after 4:30, a tow truck is going to be parked on the property. On the weekends,
745 the tow truck's going to be on the property. You can't do nothing about it. You'll
746 call the owner on Monday. He'll call the other person that's running the business.
747 It just goes around and around and around and around it goes. ICE and another
748 couple of law enforcement agencies stay in there pretty often too on a lot of the
749 businesses.

750
751 So we are cleaning it up. And I think the gentleman from Custom Kitchens has a
752 good idea: Keep it retail and not an auto repair shop. Thank you very much. Do
753 you have any questions? Thank you for your time.

754
755 Mr. Leabough - Thank you.

756
757 Mrs. Jones - Thank you, Mr. Kirkland.

758
759 Mr. Leabough - Would you like to hear from the applicant now, Mrs.
760 Jones?

761
762 Mrs. Jones - I just want to commend you all. I don't think I've ever
763 had a group of folks in opposition to a case who have actually come in
764 underneath the ten-minute deadline. However, if anyone else has any comments,
765 there is a little bit of time left over. However, at the moment I would like
766 somebody to come forward for the applicant. We'll talk about some of the issues
767 that were raised. Just remember to state your names for the record.

768
769 Ms. Bernardes - Yes. Good evening. My name is Pabla Bernardes. My
770 husband, Edison Santos, is partner with Mr. DeOliveira. We saw the building
771 over there on Horsepen. We drove by it for seven years. We saw trash on that
772 building. We saw it was decaying. And I know there were people trying to rent it
773 before. But pretty much in the evenings when I would come and get my bread on
774 the block behind it from the Asian bakery, I would often see people parking there.
775 And, you know, just seeming to kill time or do something wrong. And we said you
776 know what? My husband was trying to open a business Ms. DeOliveria said why

777 don't you guys try to find out who's renting that business and actually—I hope my
778 husband doesn't regret that I gave him this idea.

779

780 Basically what we were trying to do is work, do the right thing. And as you guys
781 know, the people that were there before did not try to get licensed. Right? Or if
782 they did, they did not come through all the way as we are here. Like I don't like
783 standing in front of a bunch of people, but I'm doing it today because we are
784 trying to do the right thing. That being said, we have made all the promises and
785 commitments that we were supposed to do with the County to make that property
786 decent and clean. And I know you have had ideas of what a repair shop should
787 look like. But give us a chance to show you that we're going to do it different. It
788 doesn't mean [unintelligible] [0:34:49.9]* business because you have seen
789 people do it in a different way. We can prove to the community that we can do it
790 in a different way and provide a good service, keep a clean place. We have plans
791 to keep storage inside, as I have spoken to the County representatives before.
792 We don't have to keep tires outside. You have options. And we have room in that
793 building that we could store those tires inside. Actually, I don't think it would be
794 healthy for us to keep tires outside collecting water or whatever, especially during
795 the summer.

796

797 The other thing is we are proposing and we are accepting the County
798 landscaping plan which would keep the sounds away from the neighbors. And
799 just think, there are other uses on B-2 that could damage the neighborhood too.
800 You know, it all depends on [unintelligible] [0:35:50.3]*. If you go on the County
801 list of kinds of businesses that you can have under B-2, some of you would say
802 hey, I don't want that in my neighborhood either.

803

804 So it's not a matter of changing the zoning. What I think is it's a matter of who's
805 managing the business. And if you know how to do it—and my parents were
806 business owners since I was seven. I don't want to alarm you, but I started
807 serving people when I was seven years old cleaning tables. So I know what it
808 takes to please customers. And I know an ugly, dirty place will not please
809 customers. And it will not bring money to my pockets either. And it will not pay
810 taxes.

811

812 So basically, we're just trying to get it done properly. And if the neighbors and the
813 community would help us, we would be willing to do whatever it takes to make it
814 happen.

815

816 Mrs. Jones - Okay. Thank you for that introduction.

817

818 Ms. Bernardes - You're welcome.

819

820 Mrs. Jones - If you don't mind staying there for a moment. Okay. I
821 know this isn't easy, so thank you. We've had a number of concerns that have
822 been raised by the adjacent business owners and neighbors. And we've told you

823 that there have been a number of letters sent to the County. Some of the things
824 that were raised here tonight are what were in the letters that were received. So
825 maybe you can speak to some of these.

826
827 Inconsistent with the neighborhood or a full-time use for auto repair and the
828 impacts that it would have. Parking, storage of vehicles. Can you talk a little
829 about those points?

830
831 Ms. Bernardes - In thinking about having it full time, we know we have
832 certain hours that we could operate as a B-3, but we don't have necessarily to be
833 under those hours full time. We can arrange to work less hours. So let's say we
834 don't have to be there at six unless the County asks us to stay there. We could
835 stay there until six, but we could arrange to close it earlier, open it a little bit later
836 as far as using it in hours.

837
838 Inconsistent? I would say the County plan for the building will bring the property
839 up. We'll show that the property will have a better look and actually will improve
840 what it looks like now.

841
842 For the improvement itself, I think that would improve the neighborhood. What it
843 doesn't look like, good for the neighborhood should have that building the way it
844 is right now? You come and you see those old windows, and you see the way the
845 building is. And I think that that could make the neighborhood—I think if we work
846 together, the neighborhood could get an improvement from the business being
847 opened. That's what I think. All the things that I said before—the way you
848 manage it. And we are willing to do it.

849
850 Did I miss anything?

851
852 Mr. Leabough - I have a quick question. As far as work being done
853 exterior to the building, have you all proffered something that speaks to that?

854
855 Ms. Bernardes - You mean work—physical work or?

856
857 Mr. Leabough - Yes, like repairing a wheel bearing in the parking lot
858 or something.

859
860 Ms. Bernardes - No. We have the proffers and we have the projects,
861 but we were waiting for this meeting to know if we basically could put any more
862 funds into the project. Basically that's it. Because, I mean, it would only make
863 sense. But we know we have to close those entrances. If it went through today,
864 that would be our next project, to work on close the—going from four entrances
865 to two. That's one request that the County has made to diminish traffic over
866 there. That would help. And then from there go with landscaping. We would have
867 a ninety-day deadline to get everything together once we are approved. Did I
868 answer what you asked me?

869
870 Mr. Leabough - Yes. How long has the business been vacant or how
871 much turnover have they had? Do you know?
872
873 Ms. Bernardes - I know it has been a while, but Mr. Sung, the property
874 owner is here. I think he would be a better person to tell you how many people
875 have rented it in the last thirty years since he purchased it.
876
877 Mr. Leabough - Yes, please.
878
879 Mrs. Jones - Okay.
880
881 Mr. Leabough - If you would, please state your name for the record.
882
883 Mr. Sung - Yes. My name is Daeyong Song Sung, and my family
884 has owned that building since 1984, 85—83. And we have had a number of
885 tenants including—the previous tenant, I'd rather not mention the name. But Mr.
886 Strauss can testify that he also wanted to operate an automobile business. And
887 actually he submitted a rezoning application as well. But just like what was stated
888 earlier, the previous tenants maintained the property real poorly. I mean, it was
889 not consistent with what he promised to comply with for the rezoning process. So
890 as a result, we had to evict him. And then earlier this year I met—I hate to
891 pronounce this name because every time I pronounce it, it's wrong. It's Dr.
892 DeOerbra?
893
894 Ms. Bernardes - DeOliveira.
895
896 Mr. Sung - See?
897
898 Ms. Bernardes - I know.
899
900 Mr. Sung - I mean, I never pronounce his name right. Anyway.
901 He and Mr. Santos, who is sitting over there, are the two partners who are
902 interested in opening an automobile business. Just because we had a bad
903 experience, my first reaction was oh no. I mean I didn't want to go through the
904 same thing again. But they are really religious people, honest people. And they
905 pointed out what was wrong with the previous tenant, and they pointed out that
906 they had a plan to correct every wrongdoing of the previous guy, that they will do
907 it the right way. So he convinced me that we wanted to take the chance.
908
909 Your original question was how long was the place vacant. It was vacant since
910 last January.
911
912 Mr. Leabough - And have you had a lot of turnover in tenants?
913

914 Mr. Sung - No, no, no. I'm talking about January 2014 we had to
915 evict him. And it's been vacant since they moved.
916

917 Mr. Leabough - So prior to that tenant, have you had a lot of turnover
918 or has it been pretty consistent?
919

920 Mr. Sung - We had a pretty consistent tenant for years. And then
921 the one that applied for the rezoning for the automobile service, he stayed there
922 for only like six months. And then the one before that stayed—didn't finish the
923 lease, but was there for about a year and a half.
924

925 Mr. Leabough - Okay. Thank you, sir.
926

927 Mr. Sung - Okay? Thank you.
928

929 Mrs. Jones - Do you have another question for Mr. Sung?
930

931 Mr. Witte - I still don't understand why they can't operate under
932 the existing zoning. Can somebody enlighten me with that?
933

934 Mrs. Jones - Go ahead, Ms. Moore.
935

936 Ms. Moore - Their current zoning is B-2. And under the B-2 District
937 Zoning Ordinance you can have a service station that has fuel sales as the
938 primary use. And with that—and that's how this was established originally back in
939 the '60s. At that time, that was an allowed use. It would have bays that would be
940 ancillary to do small repairs. So over the years—and they could have a service
941 station there now with that and some small repairs. Over the years, the fuel
942 station is no longer offered on the site. And because that has been removed,
943 they now have to request B-3 zoning to have an auto repair without gas sales.
944

945 Mr. Witte - Thank you.
946

947 Mrs. Jones - And the tanks have been removed.
948

949 Mr. Branin - That was going to be my question, have the tanks
950 been removed.
951

952 Mr. Leabough - Someone mentioned something about the only thing
953 the property could be used for is an auto repair. My understanding of the
954 conditions that were proffered for that, they proffered out other uses like auto
955 body painting, billiard parlor, things of that nature. But I guess Ms. Blankinship or
956 Ms. Moore, there are other uses that are allowed under the B-3 zoning other than
957 just an auto repair place. Am I correct?
958

959 Ms. Moore - If I may, and I wanted to clarify that too. And I'm not
960 advocating it either way, just to clarify. What they are offering to do is because
961 they are requesting to rezone to B-3 that the only B-3 use allowed would be for
962 the auto repair. It would not prohibit anything that would currently be allowed
963 under B-2 and B-1, except they do have a list that they went through those B-1
964 and B-2 to see further prohibited that might not be suitable for the site now.
965 There are plenty of B-1 and B-2 uses that would be allowed should they leave
966 the site.

967
968 Mr. Leabough - Thank you for clarifying.

969
970 Ms. Bernardes - May I please ask you all a question since we are
971 here. That B-3 changed if we got it, would that be—how can I say it?—attached
972 to our business or to the property?

973
974 Mrs. Jones - To the property.

975
976 Ms. Bernardes - Okay. So if eventually—let's say we operate it for two,
977 three years, and we say we love it here, we love the place, we love the property,
978 but auto repair is good, but we can do something else even better with this
979 property. Do we have to change it back or can we still use it under B-2 and B-1?
980 Could we still use it under B-1 and B-2 if we could improve it for something else
981 greater, like the people are stating here?

982
983 Mrs. Jones - They would have to go through a different process for
984 a plan of development, would they not?

985
986 Ms. Moore - If this was approved, the B-3 runs with the land until it
987 changed. So even if you downgraded it to a different use, you'd have to go
988 through this public hearing process again to rezone. However, the B-3, if it was
989 approved, will always allow those uses under B-2 and B-1 excluding the ones
990 that you're offering to proffer out.

991
992 Mrs. Jones - Does that make sense?

993
994 Ms. Bernardes - Yes, it makes sense. Thank you.

995
996 Mr. Archer - You can use the property as long as the uses that
997 you're thinking about fall within that zoning classification and are not proffered
998 out by the proffers that you're submitted now.

999
1000 Ms. Bernardes - I think it's a good neighborhood. I understand the
1001 concerns of everybody here. I'm not saying that we don't want to do the business
1002 we want to do, but we are open to the future.

1003
1004 Mrs. Jones - All right. Are there any other questions?

1005

1006 Mr. Leabough - No, no questions from me.

1007

1008 Mr. Witte - No, I'm good.

1009

1010 Mrs. Jones - Okay. As you can see, this has been a difficult
1011 situation. Before I make a motion I did want to express a few thoughts here about
1012 this case and the process we've gone through because I want to be sure for the
1013 applicant's sake, and for the sake of those in the community who have joined us
1014 this evening, and also for my fellow commissioners that I'm clear in expressing
1015 my analysis of this rezoning request. It's important as this goes forward to the
1016 Board that we have pulled together all the aspects of it so that it can be
1017 presented to the Board completely, comprehensively, and obviously not
1018 everyone is going to be satisfied with whatever decision is reached by this
1019 Commission.

1020

1021 I would encourage you all—all of you who are here and have an interest in this
1022 case—to follow this onto the Board level in one month and present your opinions
1023 there for their consideration the way you've done tonight for us here at the
1024 Planning Commission. I don't know whether Mrs. O'Bannon would want to have
1025 another community meeting, but if in fact she does, I would encourage you to
1026 take part and to be involved. The Board has the final say in this rezoning matter.
1027 And no matter what this ultimate outcome is at the end of the process, I do
1028 believe that everybody has had an opportunity to voice their opinions and be part
1029 of the conversation.

1030

1031 That being said, I do have some strong feelings about this case. And these
1032 opinions have evolved over a period of the last six months or so as this proposal
1033 has become more defined. To me it was almost like peeling away layers, and
1034 each layer, one by one, showed some other considerations and concerns that
1035 needed to be addressed.

1036

1037 I do think the applicant has great enthusiasm for this project. You can hear it in
1038 their voices. And they're tried through their proffers to resolve the County and
1039 neighborhood concerns. And always—I cannot not stress this enough—they
1040 have been cooperative and a pleasure to work with. Lisa Blankinship and Jim
1041 Strauss are to be commended as well for the hours that they have spent helping
1042 the applicant through a process with which they were not familiar. And as well
1043 they are to be commended for their thoughtful analysis of this case. Roy Props,
1044 the Enterprise Zone program manager, has been integrally involved as well in
1045 helping the applicant with site layout and design and other considerations. So a
1046 lot of people have spent a lot of work, a lot of time, and a lot of energy bringing
1047 this case to the form that you see it in before you this evening. I did want to just
1048 publically take a moment and thank everyone.

1049

1050 The basic question as I see it before us is whether or not a conditional B-3
1051 rezoning request for an auto service use is appropriate in this location. Without
1052 reiterating all the points in the staff report which we have just heard, it is true that
1053 redevelopment, especially in an Enterprise Zone, generally contributes to
1054 economic growth in the community, and it's considered a benefit to the area. A
1055 refurbished site that has long been an eyesore can present a far more pleasant
1056 aesthetic and reflect positively on the community surrounding it. And a successful
1057 business obviously presents incentives for more business and certainly brings
1058 renewed energy to a site that has been unused and untended for a while. Staff
1059 does support this request for all the reasons outlines in their report.

1060
1061 Redevelopment, in my view, must also meet other thresholds of quality and
1062 compatibility. This is in order to be appropriate for this location. There has been
1063 recent significant redevelopment taking place not too far away with the overhaul
1064 of Willow Lawn and the large-scale developments like Libby Mill. And business
1065 owners along Horsepen have commented to me that they're hoping this high-
1066 quality redevelopment is heading west. While that remains to be seen, Horsepen
1067 has experienced some of that large-scale revitalization with the Estates at
1068 Horsepen and the other significant upgrades in residential areas in the area. And
1069 there have been business sites along Horsepen that have been recently
1070 upgraded for lease or sale. So it really comes as no surprise that this parcel here
1071 at Horsepen and Catawba is a prime candidate for redevelopment.

1072
1073 It comes down to whether or not an auto service use is able to fit compatibly and
1074 well into an area that is not geared to B-3 uses. The category of B-3 is our most
1075 intense business zoning classification, and there is obviously a reason for that.
1076 The applicant has tried through their proffers to regulate their business to have
1077 as little impact on adjacent residences and businesses as possible. They're
1078 proffered out other B-3 uses. They have restricted their hours. They've restricted
1079 their repairs. They restricted the scope of their operation. They've restricted the
1080 number of cars to be serviced. They're restricted their signage. They've promised
1081 to move the tow truck at night—and on and on.

1082
1083 As we—and again, I come back to that analogy of peeling back the layers. But as
1084 we went further and further into the specifics of this case, it became clear to me
1085 that the only way in which this use could really be compatible with the area was
1086 to restrict almost every aspect of the operation of an auto service use to the point
1087 that it could hardly function at all. If you are to have a successful auto service
1088 operation there will inevitably be noise from equipment used for repairs, a tow
1089 truck will bring cars that are not operable to the site. Even with the best of
1090 intentions, to restrict the number of cars being serviced to ten is an almost
1091 impossible promise to keep. There will inevitably be things that get left or stored
1092 outside. This is just the nature of it. The applicants have never operated an auto
1093 service business before, but I do honestly believe that they are sincere in hoping
1094 to be able to proffer away all the impacts.

1095

1096 The list of concerns, however, comes from the impacts that are unavoidable with
1097 a use such as this. It's no one's fault. At the same time there is really no way to
1098 have a successful auto service business with two or three bays without having
1099 undesirable impacts on surrounding properties. While these very specific proffers
1100 have been offered by the applicant with the best of intentions—I truly believe
1101 this—wanting to make the case meet and exceed County requirements and be
1102 appealing to the neighbors, the fact that such restrictions are needed to manage
1103 the negative impacts of this use are, in my view, almost the best indicator that
1104 this use cannot fit appropriately into this location. The use is too intense; it is just
1105 that simple. And I do not want to create what could become an enforcement
1106 nightmare for the County or for the owner or for the operator of the business with
1107 so many restrictions that could become problematic. Ongoing enforcement
1108 issues would inadvertently lead to more problems than they would solve.

1109

1110 So, rezoning to accommodate a request for a specific use also carries with it the
1111 potential for setting a precedent for further and increased requests for rezoning to
1112 put a particular use shoehorned in place that would not be allowed by right in the
1113 existing zoning. In many older areas of my district, the zoning may not match
1114 development patterns. And certainly in some cases it would be appropriate to
1115 follow a change in a zoning. Each case has to be evaluated on its own merits.
1116 But if a rezoning such as this is successful in gaining approval, other rezoning
1117 requests down the line may well argue that they are no different and should be
1118 accommodated based on the precedent set. In this case, I believe the existing
1119 zoning category is a good match for the area and for redevelopment potential.

1120

1121 The Comprehensive Plan supports revitalization and reinvestment in this area.
1122 However, it carries as well in its community character description the goal that a
1123 strong sense of community identity is built when existing development and
1124 residential areas are protected from encroachment by incompatible uses, that the
1125 new development should minimize disruption and conflict among existing uses.
1126 The Plan's vision for this corridor includes mention that residential uses of the
1127 surrounding area should be respected and that new development into those
1128 areas should occur only where appropriate.

1129

1130 I am not convinced that an auto service use at this location will bring the kind of
1131 quality assurances needed and compatibility of use that this corridor of far less
1132 intense business office and residential zoning should have. I also believe that
1133 there are adverse effects on adjoining properties which simply cannot be
1134 proffered out or mitigated sufficiently enough to justify the rezoning request. The
1135 applicants have done everything they could think of to make this request suitable.
1136 I cannot emphasize that enough. However, the nature of the business use they
1137 are requesting simply cannot, in my opinion, be overcome.

1138

1139 So it is for those reasons, Mr. Chairman, if it suits you for me to make a motion at
1140 this point.

1141

1142 Mr. Leabough - Yes ma'am.
1143
1144 Mrs. Jones - I'd like to make a motion that MS. BERNARDES,
1145 Geriel DeOliveira, move to the Board of Supervisors with a recommendation for
1146 denial.
1147
1148 Mr. Archer - Excuse me, Mr. Chairman. The time limits have to be
1149 waived on the proffers, I believe, before—
1150
1151 Mr. Leabough - Yes, you're correct. But it's a recommendation for
1152 denial, so do we need to waive time limits.
1153
1154 Mrs. Jones - No.
1155
1156 Mr. Branin - No, not on a denial.
1157
1158 Mr. Archer - All right.
1159
1160 Mr. Witte - Second.
1161
1162 Mr. Leabough - So we are voting right now at this point. We have a
1163 motion by Mrs. Jones, a second by Mr. Witte. All in favor say aye. All opposed
1164 say no. The ayes have it; the motion passes.
1165
1166 **REASON -** Acting on a motion by Mrs. Jones, seconded by Mr.
1167 Witte, the Planning Commission voted 5-0 (one abstention) to recommend the
1168 Board of Supervisors **deny** the request because it would likely set an adverse
1169 zoning and land use precedent in the area and the intensity of the business
1170 development will detrimentally impact surrounding uses.
1171
1172 Mr. Branin - Mrs. Jones, if you would, because you had a question
1173 from—just real quick review the process of where it goes from here onto the next.
1174
1175 Mrs. Jones - I want to encourage those of you who have an
1176 interest in this case to be active in the next month as this case proceeds to the
1177 Board. The Board has the final decision. I don't have the exact date in hand—
1178
1179 Ms. Moore - I believe it's the fourteenth.
1180
1181 Mrs. Jones - The 14th of October.
1182
1183 Ms. Moore - Can staff double-check that?
1184
1185 Mrs. Jones - Is that a Tuesday?
1186
1187 Mr. Archer - That's correct.

1188
1189 Mrs. Jones - At that point, there will be opportunities for the
1190 applicant to present their case and for the opposition to present theirs. And the
1191 Board of Supervisors will make that final decision.

1192
1193 Mr. Branin - Do you know if there will be another community
1194 meeting or not?

1195
1196 Mrs. Jones - At this point I don't know. But as I said in my remarks,
1197 Mrs. O'Bannon may choose to have a second community meeting, in which case
1198 there will be ample notice to everyone who has expressed an interest in the case
1199 whose name is in the file. And there will be an opportunity for a continued
1200 dialogue on this.

1201
1202 Mr. Leabough - All right, thank you. And sir, if you have a question,
1203 Ms. Blankinship, do you mind meeting this gentleman in the hallway to answer
1204 his question? Thank you.

1205
1206 **REZ2014-00038 James W. Theobald for Weinstein Family, LLC:**
1207 Request to rezone from O-2 Office District to R-6C General Residence District
1208 (Conditional) Parcel 742-741-5065 containing 1.833 acres located at the
1209 northwest intersection of Castile and Otlyn Roads. The applicant proposes a 30
1210 unit apartment building. The R-6 District allows a minimum lot size of 2,200
1211 square feet and a maximum gross density of 19.8 units per acre. The use will be
1212 controlled by proffered conditions and zoning ordinance regulations. The 2026
1213 Comprehensive Plan recommends Office. The staff report will be presented by
1214 Ms. Rosemary Deemer.

1215
1216 Mr. Leabough - Is there anyone in the audience in opposition to
1217 REZ2014-00038, James W. Theobald for Weinstein Family, LLC? There is no
1218 opposition. Good evening, Ms. Deemer.

1219
1220 Ms. Deemer - Good evening, Mr. Chairman, members of the
1221 Commission:

1222
1223 This request is to rezone 1.833 acres from O-2 Office District to R-6C General
1224 Residence District (Conditional) to permit the construction of a thirty-unit
1225 apartment building. The subject property is located at the northwest corner of
1226 Castile and Otlyn Roads. A Bank of Virginia branch office is located to the north,
1227 Commonwealth Eye Care is located to the northeast, across Otlyn Road, Kings
1228 Crossing Apartments are located to the east and south and the Ridge location of
1229 the U.S. Post Office is located directly to the west. The bank, eye care facility and
1230 post office are zoned O-2 Office, while the apartments are zoned R-5 General
1231 Residence District. The Comprehensive Plan recommends the site for Office.

1232

1233 The intent is to model the development after The Addison at Kings Crossing. The
1234 applicant has submitted a proffered conceptual/landscape plan as shown here,
1235 as well as proffers, amended September 4, 2014 and being handed out this
1236 evening, which include:

1237

- 1238 • One-bedroom units would contain a minimum of 740 square feet of
1239 finished floor area; two-bedroom units would contain a minimum of
1240 1,050 square feet of finished floor area.
- 1241 • Walls between units would be constructed to a Sound Transmission
1242 Coefficient rating of 50.
- 1243 • Exterior materials would be limited to brick, stone, stone veneer,
1244 cementitious siding, or a combination of the foregoing.
- 1245 • Any building would be constructed with a roof that has a minimum
1246 certified twenty-five-year warranty.
- 1247 • Detached signs shall be monolithic in style and shall not exceed six (6)
1248 feet in height.

1249

1250 While not consistent with the Comprehensive Plan's designation of Office, the
1251 request is a logical extension of the multi-family residential in the area and the
1252 applicant has provided assurances of quality design and development. With the
1253 latest proffer amendment, the applicant has addressed the outstanding issue in
1254 the staff report, which was the reduction from eight feet to six feet in sign height.
1255 Staff supports the request. I'd be happy to answer your questions.

1256

1257 Mr. Leabough - Are there questions for Ms. Deemer?

1258

1259 Mrs. Jones - Ms. Deemer, that signage specification was the only
1260 outstanding issue that you had.

1261

1262 Ms. Deemer - Right.

1263

1264 Mrs. Jones - Okay.

1265

1266 Mr. Leabough - Ms. Jones, there is no opposition, I don't believe.
1267 Would you like to hear from the applicant?

1268

1269 Mrs. Jones - Actually, I've done a lot of talking tonight. I think I'll let
1270 him off easy. I do want to say, however, that as an extension of an existing
1271 community this blends beautifully into what has become a very successful
1272 community in my district. And I certainly hope that this will be as well received as
1273 the other sections. It's a very nice community and we wish you well. Thank you,
1274 Ms. Deemer, for your work on this.

1275

1276 All right. I do not have to do anything with the proffers; they were a week ago or
1277 so, weren't they? Okay. With that I would like to make a motion that REZ2014-

1278 00038, James W. Theobald for Weinstein Family, LLC, move to the Board of
1279 Supervisors with a recommendation for approval.
1280

1281 Mr. Archer - Second.
1282

1283 Mr. Leabough - We have a motion by Mrs. Jones, a second by
1284 Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion
1285 passes.
1286

1287 **REASON -** Acting on a motion by Mrs. Jones, seconded by Mr.
1288 Archer, the Planning Commission voted 5-0 (one abstention) to recommend the
1289 Board of Supervisors **grant** the request because it would provide for appropriate
1290 development and it would not be expected to adversely affect the pattern of
1291 zoning and land use in the area.
1292

1293 **PUP2014-00014 James W. Theobald for Gumenick Properties:**
1294 Request for a provisional use permit under Sections 24-32.1(aa), 24-34(p), and
1295 24-122.1 of Chapter 24 of the County Code, related to a parking plan and a
1296 comprehensive sign program for Libbie Mill Urban Mixed-Use Development on
1297 Parcels 771-740-9118, 772-740-0431, -1137, -1743, -2229, -2836, -4023,
1298 773-739-8155, -6286, 773-740-5043, -8899, -9498, 773-741-2637, -3132, -3726,
1299 -4222, -5414, -6011, -6808, -7505, -8102, 774-739-4371, -5043, -5750, 774-
1300 740-0096, -0894, -1592, -2190, -2403, -2888, -3584, -4182, and 4708 located on
1301 the east line of Libbie Avenue approximately 310 feet north of W. Broad Street
1302 (U.S. Route 250) to its intersection with N. Crestwood Avenue, then along the
1303 east line of Spencer Road to the south line of Bethlehem Road and the west line
1304 of Staples Mill Road (U.S. Route 33). The applicant proposes alternative parking
1305 rates and signage regulations for the overall mixed-use development. The
1306 existing zoning is UMUC Urban Mixed-Use District (Conditional). The 2026
1307 Comprehensive Plan recommends Urban Mixed-Use. A portion of the site along
1308 Libbie Avenue north of W. Broad Street (U.S. Route 250) and along Staples Mill
1309 Road (U.S. Route 33) is in the Enterprise Zone.
1310

1311 Mr. Leabough - Is there anyone in the audience in opposition to
1312 PUP2014-00014, James W. Theobald for Gumenick Properties? There is no
1313 opposition. Good evening, Mr. Lewis.
1314

1315 Mr. Lewis - Good evening, Mr. Chairman.
1316

1317 This is a request for a Provisional Use Permit (PUP) for the Libbie Mill
1318 development to substitute a shared parking plan; adopt a conceptual signage
1319 program; and amend requirements related to in-building emergency command
1320 and communication infrastructure.
1321

1322 The 79.5 acre site is zoned Urban Mixed Use (UMU) Conditional and is
1323 recommended for Urban Mixed Use in the 2026 Plan. A variety of commercial,

1324 office, industrial, and residential uses surround the property, which is currently in
1325 Phase 1 of development.

1326
1327 The original Libbie Mill rezoning and PUP approvals granted in 2007 were
1328 subject to a previous version of the UMU zoning code. Subsequent UMU code
1329 revisions included language allowing the substitute parking plan (Exhibit A) and
1330 requiring the signage plan submittal (Exhibit B). PUP Condition #5 is being
1331 revised at the request of the applicant and for consistency with the Division of
1332 Police communication upgrades.

1333
1334 The parking study methodology adjusts for different modes of transportation,
1335 seasonal and time of day demand variability, and the concept of using a single
1336 parking space to serve several destinations in close proximity. Using a 30
1337 percent non-residential parking rate reduction, staff calculations estimate the
1338 proposed plan would result in a surplus of approximately 275 parking spaces—if
1339 built out according to this layout in the study. As detailed in Condition #11,
1340 aggregate parking supply and demand calculations would be updated with each
1341 new Plan of Development and Subdivision filing to ensure adequate parking is
1342 provided for each phase of the development.

1343
1344 As required by UMU code, the applicant has provided the Libbie Mill Signage
1345 Guidelines dated June 2014 for inclusion with other proffered conceptual
1346 exhibits. The details submitted are consistent with UMU requirements and
1347 provide extensive information about the hierarchy, types, sizes, and placement of
1348 potential signage. Former Condition #13, new Condition #12, requires
1349 consistency with these guidelines.

1350
1351 Condition #5 approved in 2007 required each non-townhouse multi-family
1352 building, regardless of height, to include both a fire command center and
1353 emergency communication hardware. Because Building Code requires fire
1354 command centers in structures over seventy-five-feet tall and the Division of Fire
1355 has stated this is sufficient for their needs, the applicant's request to remove this
1356 part of Condition #5 has been accommodated. The requirement pertaining to
1357 installation of radio communications infrastructure remains, with additional
1358 detailed language provided by the Division of Police.

1359
1360 The other lined changes on the revised conditions handed out this evening reflect
1361 housekeeping items after recent discussions between the applicant and staff.

1362
1363 Overall, the nature of the collective changes proposed by the applicant would be
1364 compatible with the site's Urban Mixed Use designation in the 2026 Plan and
1365 consistent with requirements of the property's UMUC zoning. Staff supports this
1366 request subject to the revised conditions before you.

1367
1368 This concludes my presentation. I am happy to answer any questions.
1369

1370 Mr. Leabough - Any questions for Mr. Lewis?
1371
1372 Ms. Moore - Mr. Lewis, just to clarify. The black lines are just to
1373 show the black line differences from the staff report. And the conditions, if
1374 approved, would be twelve total. Is that correct?
1375
1376 Mr. Lewis - Yes. I tried to get Word to work on that #12 and #13; I
1377 couldn't get it to work so. But it would just end up being twelve conditions. The
1378 one that's #13 would become 12.
1379
1380 Ms. Moore - Okay. And that's shown on black line. I just wanted to
1381 clarify that for the Commission.
1382
1383 Mr. Leabough - Thank you. Are there other questions for Mr. Lewis?
1384 All right. Mr. Witte, would you like to hear from the applicant?
1385
1386 Mr. Witte - I would just like to ask a question.
1387
1388 Mr. Theobald - Good evening, Mr. Chairman. I'm Jim Theobald here
1389 on behalf of the applicant.
1390
1391 Mr. Witte - Mr. Theobald, I know there's been a lot of banter back
1392 and forth in the last forty-eight hours. Has everything been accommodated and
1393 covered?
1394
1395 Mr. Theobald - It has. I appreciate Mr. Lewis's and Mr. Emerson's
1396 efforts in working throw a lot of thorny issues. These UMUs are enormously
1397 complicated and I appreciate your help. We're satisfied with the conditions.
1398
1399 Mr. Witte - So we're satisfied.
1400
1401 Mr. Theobald - Yes sir.
1402
1403 Mr. Witte - Okay.
1404
1405 Mr. Leabough - Are there other questions for Mr. Theobald? If not,
1406 thank you, sir.
1407
1408 Mr. Witte - All right, Mr. Chairman. I move that PUP2014-00014,
1409 James W. Theobald for Gumenick Properties, move to the Board of Supervisors
1410 with a recommendation of approval.
1411
1412 Mrs. Jones - Second.
1413

1414 Mr. Leabough - We have a motion by Mr. Witte, a second by Mrs.
1415 Jones. All in favor say aye. All opposed say no. The ayes have it; the motion
1416 passes.

1417
1418 **REASON -** Acting on a motion by Mr. Witte, seconded by Mrs.
1419 Jones, the Planning Commission voted 5-0 (one abstention) to recommend the
1420 Board of Supervisors grant the request because it does not significantly alter the
1421 intent and vision of the Urban Mixed-Use Development and would be compatible
1422 with surrounding uses and zoning patterns in the area.

1423 Mr. Leabough - Where are we on the agenda?
1424

1425 Ms. Moore - The next item on your agenda comes to the
1426 consideration of the approval of your minutes from the August 10, 2014 meeting.
1427 We do have an errata sheet that should be at everyone's seat by now.
1428

1429 Mr. Leabough - Are there other corrections to the minutes? If not, I'll
1430 entertain a motion.

1431
1432 Mrs. Jones - I move we approve the minutes as corrected.
1433

1434 Mr. Archer - Second.
1435

1436 Mr. Leabough - We have a motion by Mrs. Jones, a second by
1437 Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion
1438 passes.

1439
1440 Is there any other business for the Commission?
1441

1442 Ms. Moore - That's all that I have.
1443

1444 Mrs. Jones - I just wanted to clarify. The public hearing for the
1445 ordinances.

1446
1447 Ms. Moore - Yes.
1448

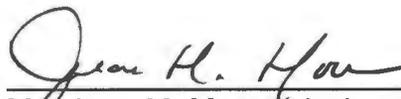
1449 Mrs. Jones - When is that?
1450

1451 Ms. Moore - I should have mentioned that because they are still on
1452 the agenda. Those will be on the public hearing rezoning on the 24th of
1453 September. That has been re-advertised as well. No motion was needed
1454 because of that.
1455

1456 Mrs. Jones - Okay. Thank you.
1457

1458 Mr. Leabough - Thank you for sitting with us tonight. You've done a
1459 wonderful job.

1460
1461 Ms. Moore - Thank you.
1462
1463 Mr. Leabough - With that, if there's no other business, I'll entertain a
1464 motion for adjournment.
1465
1466 Mrs. Jones - I so move.
1467
1468 Mr. Archer - And I second.
1469
1470 Mr. Leabough - All right. We're adjourned.
1471
1472 Mr. Witte - And I agree.
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Ms. Jean M. Moore, Acting Secretary



Mr. Eric S. Leabough, Chairman