

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 in the Government
3 Center at Parham and Hungary Springs Roads, Beginning at 9:00 a.m. Wednesday, December
4 17, 2003.

5

6 Members Present: Mr. E. Ray Jernigan, C.P.C., Chairperson (Varina)
7 Mrs. Lisa Ware, Vice Chairperson (Tuckahoe)
8 Mr. C. W. Archer, C.P.C. (Fairfield)
9 Mr. Allen Taylor, P.E., C.P.C. (Three Chopt)
10 Mr. Richard W. Glover, (Three Chopt) Board of Supervisors
11 Representative

12

13 Member Absent: Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)

14

15 Others Present: Mr. John R. Marlles, AICP, Director of Planning, Secretary
16 Mr. Randall R. Silber, Assistant Director of Planning
17 Mr. David D. O'Kelly, Jr., Principal Planner
18 Ms. Leslie A. News, CLA, County Planner
19 Mr. James P. Strauss, CLA, County Planner
20 Mr. E. J. (Ted) McGarry, III, County Planner
21 Mr. Kevin D. Wilhite, C.P.C., AICP, County Planner
22 Mr. Michael F. Kennedy, County Planner
23 Ms. Christina L. Goggin, AICP, County Planner
24 Mr. Michael P. Cooper, County Planner
25 Mr. Michael Jennings, Assistant Traffic Engineer
26 Mr. Steven M. Bandura, Public Works
27 Mr. Jeffrey W. Perry, Public Works
28 Ms. Diana B. Carver, Recording Secretary

29

30 **Mr. Richard W. Glover, the Board of Supervisors Representative, abstains on all cases**
31 **unless otherwise noted.**

32

33 Mr. Jernigan - The Planning Commission will come to order. Good morning ladies and
34 gentlemen. Ladies and gentlemen on behalf of the Planning Staff and the Planning
35 Commission, we would like to welcome you to our December POD and Subdivision Meeting.
36 This is the last meeting of the year. First, we would like to welcome Mr. Glover our Board of
37 Supervisors Member. I'm glad you could sit with us this morning, Sir.

38

39 Mr. Glover - Thank you.

40

41 Mr. Jernigan - Ladies and gentlemen, for those of you who haven't been here, I'll tell
42 you the way things work. As the cases are called I'll ask if there is any opposition to a case
43 and if there is just raise your hand and I will recognize you and you'll have proper time to
44 speak. If you do want to speak, please come to the podium. These hearings are audibly taped
45 and you have to be at the podium and microphone for us to pick you up. In cases that have

46 opposition, we have a 10-minute rule. There will be 10 minutes for the applicant and 10
47 minutes for the opposition. So with that, I'll turn the meeting over to our Secretary, Mr.
48 Silber.

49

50 Mr. Silber - Thank you, Mr. Chairman. We do have a quorum this morning. We
51 are missing one member of the Planning Commission, Mr. Vanarsdall who is vacationing with
52 his family in Florida, but the rest of the members are present.

53

54 The first item on the agenda would be consideration of the requests for deferrals and
55 withdrawals. Mr. O'Kelly.

56

57 Mr. O'Kelly - Good morning, Mr. Chairman and members of the Planning
58 Commission.

59

60 Commissioners - Good morning.

61

62 Mr. O'Kelly - This morning we have two requests for deferrals. The first case is on
63 page 4 of your agenda, it's POD-69-03, Long John Silvers/A& W Restaurant.

64

65 **PLAN OF DEVELOPMENT (Deferred from the November 19, 2003, Meeting)**

66

POD-69-03
Long John Silvers/A&W
Restaurant
4615 Williamsburg Road

**McKinney & Company for Ralph L. Bradley and Yum!
Brands, Inc.:** Request for approval of a plan of development,
as required by Chapter 24, Section 24-106 of the Henrico
County Code, to construct a one-story, 2,860 square foot
restaurant with drive-thru. The 1.927-acre site is located along
the south line of Williamsburg Road (U.S. Route 60)
approximately 200 feet west of Laburnum Avenue at 4615
Williamsburg Road on parcel 816-713-0978. The zoning is B-
3, Business District and M-1, Light Industrial District. County
water and sewer. (**Varina**)

67

68 Mr. O'Kelly - The site is the old Bob's Steak House site on Williamsburg Road, which
69 burnt down many years ago. There are some wetland issues that the applicant would like to
70 explore over the next 30 days with the Department of Public Works and the deferral is in
71 order.

72

73 Mr. Jernigan - Is there any opposition to the deferral of POD-69-03, Long John
74 Silvers/A&W Restaurant? There is no opposition. With that, I will move deferral of POD-69-
75 03, Long John Silvers/A&W Restaurant, to January 28, 2004, by request of the applicant.

76

77 Mrs. Ware - Second.

78

79 Mr. Jernigan - We have a motion by Mr. Jernigan and a second by Mrs. Ware. All in
80 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

81 At the request of the applicant, the Planning Commission deferred POD-69-03, Long John
82 Silvers/A&W Restaurant – 4615 Williamsburg Road, to its January 28, 2004, meeting.

83

84 **SUBDIVISION**

85

Dorey Mill
(December 2003 Plan)

Engineering Design Associates for Pruitt Properties, Inc. and Loftis Real Estate & Development, Inc.: The 220.53 acre site proposed for a subdivision of 134 single-family homes is centered between Charles City and Darbytown Roads and Gill Dale Park and Yahley Mill Road on parcels 840-692-7093; 836-695-0386; 837-695-5661 and 837-693-5764. The zoning is A-1, Agricultural District. Individual well and Septic Tank/Drainfield. **(Varina) 134 Lots**

86

87 Mr. O’Kelly - The next case is on page 22 of your agenda. It’s the subdivision Dorey
88 Mill (December 2003 Plan). There are some issues with the Major Thoroughfare Plan and the
89 applicant is looking into it and the deferral is in order.

90

91 Mr. Jernigan - Is there anyone in the audience in opposition to deferral of subdivision
92 Dorey Mill (December 2003 Plan)? There is no opposition. With that, I will move for
93 deferral of subdivision Dorey Mill (December 2003 Plan) to January 28, 2004, by request of
94 the applicant.

95

96 Mr. Taylor - Second.

97

98 Mr. Jernigan -We have a motion by Mr. Jernigan and a second by Mr. Taylor. All in favor
99 say aye...all opposed say nay. The ayes have it. The motion is passed.

100

101 At the request of the applicant, the Planning Commission deferred subdivision Dorey Mill
102 (December 2003 Plan), to its January 28, 2004, meeting.

103

104 Mr. Jernigan - Mr. O’Kelly, we have one that I’m going to defer in my district and it’s
105 not on the deferral and withdrawal agenda, Camp Hill. We are not going to be able to hear
106 that one today. We’ve got some more work to do on that. I have informed everybody. So, do
107 you want to call that one?

108

109 Mr. O’Kelly - All right. That would be page 29.

110

111 Mr. Silber - This would be the subdivision that was deferred from the November 19,
112 2003, meeting, Camp Hill.

113

113 **SUBDIVISION (Deferred from the November 19, 2003, Meeting)**

114

Camp Hill
(October 2003 Plan)

Foster & Miller, P.C. for Danny R. and C. J. Paxton, A. B. Harrelson and Attack Properties, Inc.: The 576-acre site proposed for a subdivision of 317 single-family homes is located generally along the north line of the intersection of New Market Road (State Route 5) and Long Bridge Road between Turner Road and Yahley Mill Road on parcels 833-686-7681 and 833-682-5297. The zoning is A-1, Agricultural District. Individual well and septic tank/drainfield. **(Varina) 317 Lots**

115

116 Mr. Jernigan - Is there anyone in the audience in opposition to the deferral of
117 subdivision Camp Hill (October 2003 Plan)? There is no opposition. With that I will move
118 for deferral of subdivision Camp Hill (October 2003 Plan) to the January 28, 2004, meeting by
119 request of the Commission.

120

121 Mr. Taylor - Second.

122

123 Mr. Jernigan - We have a motion by Mr. Jernigan and a second by Mr. Taylor. All in
124 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

125

126 The Planning Commission deferred subdivision Camp Hill (October 2003 Plan), to its January
127 28, 2004, meeting.

128

129 Mr. Glover I abstain, Mr. Chairman.

130

131 Mr. Jernigan - Yes, sir. Now I do want to say that I would like to have that case as on
132 this agenda, the last case on the agenda. That's going to be a long one. So, I want to get
133 everybody else knocked out first so that we will be able to try that as the last case. Thank you,
134 Mr. O'Kelly.

135

136 Mr. Silber - Mr. Glover, for those here, I will note you abstaining on all of the cases
137 today unless you indicate otherwise. I appreciate you bringing that to our attention. Next on
138 the agenda.... Mr. O'Kelly, are there any withdrawals today?

139

140 Mr. O'Kelly - No, sir.

141

142 Mr. Silber - Next on the agenda would be the Expedited Agenda items. These are
143 items that are on the agenda that the issues have been resolved to the satisfaction of staff.
144 There is no known opposition to these cases and the Commission member from that district is
145 comfortable with the plan that has been submitted with the annotations. We placed these on
146 the Expedited Agenda to allow for these to be considered and approved more quickly. It looks
147 like we have about four items on the Expedited Agenda. Mr. O'Kelly, if you could walk us
148 through those please.

149 Mr. O'Kelly - The first one is on page 8 of your agenda.

150

151 **PLAN OF DEVELOPMENT**

152

POD-65-03
Marriott Innsbrook
Corporate Center Addition
(POD-49-98 Revised)

Foster & Miller, P.C. for Columbia Properties Richmond, Ltd.: Request for approval of a revised plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story, 8,717 square foot hotel addition containing a ballroom and restroom facilities. The 6.720-site is located on the southwest corner of Dominion Boulevard and Innslake Drive, 4240 Dominion Boulevard on parcel 747-761-2490. The zoning is B-2C, Business District (Conditional). County water and sewer. **(Three Chopt)**

153

154 Mr. Jernigan - Is there anyone in the audience in opposition to POD-65-03, Marriott
155 Innsbrook Corporate Center Addition? There is no opposition. Mr. Taylor.

156

157 Mr. Taylor - I move approval of POD-65-03, Marriott at Innsbrook, subject to the
158 annotations on the plan, the standard conditions for developments of this type and additional
159 conditions Nos. 23 through 28.

160

161 Mr. Jernigan - Second.

162

163 Mr. Jernigan - We have a motion by Mr. Jernigan and a second by Mr. Taylor. All in
164 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

165

166 The Planning Commission approved POD-65-03, Marriott Innsbrook Corporate Center
167 Addition (POD-49-98 Revised) subject to the standard conditions attached to these minutes for
168 developments of this type, the annotations on the plans and the following additional conditions:

169

170 23. The developer shall provide fire hydrants as required by the Department of Public
171 Utilities and Division of Fire.

172 24. The proffers approved as a part of zoning case C-26C-98 shall be incorporated in this
173 approval.

174 25. Storm water retention, based on the 50-10 concept, shall be incorporated into the
175 drainage plans.

176 26. Insurance Services Office (ISO) calculations must be included with the plans and
177 contracts and must be approved by the Department of Public Utilities prior to the
178 issuance of a building permit.

179 27. The location of all existing and proposed utility and mechanical equipment (including
180 HVAC units, electric meters, junction and accessory boxes, transformers, and
181 generators) shall be identified on the landscape plans. All equipment shall be screened
182 by such measures as determined appropriate by the Director of Planning or the
183 Planning Commission at the time of plan approval.

184 28. The conditions of variance A-136-2003 shall be incorporated in this approval.

185 **SUBDIVISION**

186

Sadler Glen, Section D
(December 2003 Plan)

Youngblood, Tyler & Associates, P. C. for Sadlen Development, LLC: The 0.9-acre site proposed for a subdivision of 2 single-family homes is located on the west side of proposed Larabrook Place on part or parcels 746-767-0603 and 745-767-6902. The zoning is R-3C and R-3AC, One-Family Residence District (Conditional). County water and sewer. **(Three Chopt) 2 Lots**

187

188 Mr. Jernigan - Is there anyone in the audience in opposition to subdivision Sadler Glen,
189 Section D (December 2003 Plan)? There is no opposition. Mr. Taylor.

190

191 Mr. Taylor - Mr. Chairman, I move approval of subdivision Sadler Glen, Section D
192 (December 2003 Plan) subject to the annotations on the plan, the standard conditions for
193 subdivisions served by public utilities and additional conditions Nos.12 through 15.

194

195 Mrs. Ware - Second.

196

197 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mrs. Ware. All in
198 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

199

200 The Planning Commission granted conditional approval to subdivision Sadler Glen, Section D
201 (December 2003 Plan) subject to the annotations on the plans, the standard conditions for
202 subdivision served by public utilities and the following additional conditions:

203

204 12. The proffers approved as part of zoning cases C-78C-99 and C-4C-01 shall be
205 incorporated in this approval.

206 13. Prior to requesting the final approval, a draft of the covenants and deed restrictions for
207 the maintenance of the common area by a homeowners association shall be submitted to
208 the Planning Office for review. Such covenants and restrictions shall be in form and
209 substance satisfactory to the County Attorney and shall be recorded prior to recordation
210 of the subdivision plat.

211 14. The detailed plant list and specifications for the landscaping to be provided within the 25-
212 foot-wide planting strip easement along interstate I-295 shall be submitted to the Planning
213 Office for review and approval prior to recordation of the plat.

214 15. The subdivision plat for Sadler Glen, Section B, containing the dedication of Larabrook
215 Place along the bounds of this development, shall be recorded prior to the recordation of
216 any lots within this portion of Sadler Glen.

217

218

218 **SUBDIVISION**

219

Grey Oaks, Section A
(September 2003 Plan)

Youngblood, Tyler & Associates, P.C. for Route 271, LLC and Loftis Real Estate & Development, Inc.: The 24.92-acre site proposed for a subdivision of 49 single-family homes is located on Pouncey Tract Road (State Route 271) at Grey Oaks Park Drive on part of parcel 738-772-9227. The Zoning is R-2AC, One-Family Residence District (Conditional). County water and sewer. **(Three Chopt) 49 Lots**

220

221 Mr. Jernigan - Is there anyone in the audience in opposition to subdivision Grey Oaks,
222 Section A (September 2003 Plan)? There is no opposition. Mr. Taylor.

223

224 Mr. Taylor - Mr. Chairman, I move approval of subdivision Grey Oaks, Section A
225 (September 2003 Plan) subject to the annotations on the plan, the standard conditions for
226 subdivisions served by public utilities and additional conditions Nos.12 through 17 and
227 additional condition No. 18 on the addendum.

228

229 Mrs. Ware - Second.

230

231 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mrs. Ware. All in
232 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

233

234 The Planning Commission granted conditional approval to subdivision Grey Oaks, Section A
235 (September 2003 Plan) subject to the annotations on the plans, the standard conditions for
236 subdivision served by public utilities and the following additional conditions:

237

238 12. The detailed plant list and specifications for the landscaping to be provided within the 10-
239 foot-wide planting strip easement along Grey Oaks Park Drive shall be submitted to the
240 Planning Office for review and approval prior to recordation of the plat.

241 13. A County standard sidewalk shall be constructed along the north side of Grey Oaks Park
242 Drive.

243 14. Any necessary offsite drainage easements must be obtained prior to approval of the
244 construction plan by the Department of Public Works.

245 15. The proffers approved as part of zoning case C-16C-03 shall be incorporated in this
246 approval.

247 16. Prior to requesting the final approval, a draft of the covenants and deed restrictions for
248 the maintenance of the common area by a homeowners association shall be submitted to
249 the Planning Office for review. Such covenants and restrictions shall be in form and
250 substance satisfactory to the County Attorney and shall be recorded prior to recordation
251 of the subdivision plat.

252 17. Prior to recordation a development agreement for the proffered recreational area must be
253 submitted for review and approval by the Director of Planning. The development
254 agreement shall provide for the dedication of the recreational area, a master plan for the
255 recreational area and a performance schedule or bond for the proffered recreational area

256 amenities.
257 18. Prior to issuance of a building permit, the developer must furnish a letter from
258 **Dominion Virginia Power** stating that this proposed development does not conflict
259 with their facilities.

260

261 **SUBDIVISION**

262

Grey Oaks, Section B
(September 2003 Plan)

Youngblood, Tyler & Associates, P. C. for Route 271, LLC and Loftis Real Estate & Development, Inc.: The 19.77-acre site proposed for a subdivision of 40 single-family homes is located on Pouncey Tract Road (State Route 271) at Grey Oaks Park Drive on part of parcel 738-772-9227. The zoning is R-2AC, One-Family Residence District (Conditional). County water and sewer. **(Three Chopt) 40 Lots**

263

264 Mr. Jernigan - Is there anyone in the audience in opposition to subdivision Grey Oaks,
265 Section B (September 2003 Plan)? There is no opposition. Mr. Taylor.

266

267 Mr. Taylor - Mr. Chairman, I move approval of subdivision Grey Oaks, Section B
268 (September 2003 Plan) subject to the annotations on the plan, the standard conditions for
269 subdivisions served by public utilities and additional conditions Nos.12 through 17 and
270 additional condition No. 18 on the addendum.

271

272 Mrs. Ware - Second.

273

274 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mrs. Ware. All in
275 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

276

277 The Planning Commission granted conditional approval to subdivision Grey Oaks, Section B
278 (September 2003 Plan) subject to the annotations on the plans, the standard conditions for
279 subdivision served by public utilities and the following additional conditions:

280

281 12. The detailed plant list and specifications for the landscaping to be provided within the 10-
282 foot-wide planting strip easement along Grey Oaks Park Drive shall be submitted to the
283 Planning Office for review and approval prior to recordation of the plat.

284 13. A County standard sidewalk shall be constructed along the north side of Grey Oaks Park
285 Drive.

286 14. Any necessary offsite drainage easements must be obtained prior to approval of the
287 construction plan by the Department of Public Works.

288 15. The proffers approved as part of zoning case C-16C-03 shall be incorporated in this
289 approval.

290 16. Prior to requesting the final approval, a draft of the covenants and deed restrictions for
291 the maintenance of the common area by a homeowners association shall be submitted to
292 the Planning Office for review. Such covenants and restrictions shall be in form and

293 substance satisfactory to the County Attorney and shall be recorded prior to recordation of
 294 the subdivision plat.
 295 17. Prior to recordation a development agreement for the proffered recreational area must be
 296 submitted for review and approval by the Director of Planning. The development
 297 agreement shall provide for the dedication of the recreational area, a master plan for the
 298 recreational area and a performance schedule or bond for the proffered recreational area
 299 amenities.
 300 18. Prior to issuance of a building permit, the developer must furnish a letter from
 301 **Dominion Virginia Power** stating that this proposed development does not conflict
 302 with their facilities.

303
 304 Mr. Jernigan - Thank you, Mr. O’Kelly.

305
 306 Mr. Silber - Next on the agenda would be the extensions of conditional subdivision
 307 approval. These subdivisions are up for extension and they do not require any Planning
 308 Commission approval. These are for informational purposes only. These will be handle
 309 administratively. But there are two subdivisions shown on the agenda, Claytonshire
 310 (December 2001 Plan) and Sadler Place (November 2002 Plan).

311
 312 **FOR INFORMATIONAL PURPOSES ONLY**

Subdivision	Magisterial District	Original No. of Lots	Remaining Lots	Previous Extensions	Year(s) Extended
Claytonshire (December 2001 Plan)	Brookland	20	3	1	1 Year 12/15/04
Sadler Place (November 2002 Plan)	Three Chopt	32	32	0	1 Year 12/15/04

314
 315 Mr. Silber - Next on the agenda would be the continuation of a public hearing on the
 316 Church Pump Road Land Use Plan.

317
 318 **TUCKAHOE/THREE CHOPT:**
 319 *Deferred from the November 19, 2003 Meeting:*
 320 **Church Road/Pump Road Future Land Use Plan:** The Planning Commission will consider
 321 amendments to the 2010 Land Use Plan in the form of a new Land Use Plan for the Church
 322 Road/Pump Road Study Area. The study area is generally comprised of the area surrounding
 323 the existing intersection of Church Road and Pump Road. **(For Decision Only)**

324
 325 Mrs. Ware - There are several issues concerning this Land Use Plan that needs to be
 326 addressed. Supervisor Mrs. O’Bannon and I are planning a meeting with the neighbors and the
 327 property owners to be held after the holiday season. Therefore, at this time I would like to
 328 make a motion to defer this Land Use Plan decision again for decision only to the January 28,
 329 2004, meeting.

330

331 Mr. Archer - Second, Mr. Chairman.

332

333 Mr. Jernigan - First of all, is there any opposition to deferral of.... We don't need to
334 ask for opposition, do we? Disregard my last statement. We have a motion by Mrs. Ware and
335 a second by Mr. Archer to defer the Church Road/Pump Road Future Land Use Plan Study.
336 All I favor say aye...all opposed say nay. The ayes have it. The motion is passed.

337

338 The Planning Commission deferred the Church Road/Pump Road Future Land Use Plan to its
339 January 28, 2004 meeting for decision only.

340

341 Mr. Jernigan - All right, Mr. Silber.

342

343 Mr. Silber - The next item on the agenda is on page 2, POD-66-03, Walgreens @
344 Virginia Center Station.

345

346 **PLAN OF DEVELOPMENT (Deferred from the November 19, 2003, Meeting)**

347

POD-66-03
Walgreens @ Virginia
Center Station
(POD-52-03 Revised)
9801 Brook Road

**VHB - Scott Chapman for Mid-Atlantic Commercial
Properties, LLC:** Request for approval of a revised plan of
development, as required by Chapter 24, Section 24-106 of the
Henrico County Code, to construct a one-story, 14,820 square
foot retail pharmacy building addition to a shopping center.
The 1.92-acre site is located at the northeast corner of Brook
Road (U. S. Route 1) and Virginia Center Parkway on parcel
783-767-9792. The zoning is M-1, Light Industrial District.
County water and sewer. **(Fairfield)**

348

349 Mr. Jernigan - Is there anyone in the audience in opposition to POD-66-03, Walgreens
350 @ Virginia Center Station? No opposition. Good morning, Mr. McGarry.

351

352 Mr. McGarry - Good morning, Mr. Chairman, members of the Commission. This case
353 was deferred to allow resolution to the southern entrance location. I am happy to report that a
354 compromise has been reached and it is recommended in condition No. 32. So staff can
355 recommend approval of the plan subject to the annotations on the plan, the standard conditions
356 for developments of this type and the following conditions Nos. 23 through 32 plus 33, 34 and
357 35 on the addendum. I'll be happy to answer any questions.

358

359 Mr. Jernigan - Are there any questions of Mr. McGarry from the Commission?

360

361 Mr. Archer - Mr. McGarry, the applicant made me aware this morning that there was
362 an issue that has arisen that I think they would like to address. Are you aware of that?

363

364 Mr. McGarry - Yes, sir, I am.

365

366 Mr. Archer - I guess we should let them come down to speak to it. Thank you, sir.
367 Mr. Jernigan - Thank you, Mr. McGarry. All right, Mr. Archer.

368
369 Mr. Archer - Would the applicant come forward.

370
371 Mr. Redmond - Good morning. My name is Dave Redmond and I'm the attorney for
372 Mid-Atlantic Commercial Properties, and I'm here with Scott Chapman from VHB. We
373 discussed the issue that Mr. Archer referenced with Mr. Marlles immediately before the
374 program and I think we are satisfied that by placing the legend on this POD saying that
375 Virginia Center Station will not prejudice the ability for this parcel to be determined to be an
376 independent parcel and not part of a shopping center. And that is something that we are
377 subsequently going to take up with Mr. Marlles in the sense that we want to have independent
378 signage and independent parcel. So, by taking the POD as we have it now, we are accepting
379 that, we are okay with that legend on it. That was the issue. We just didn't want to be
380 precluded from the discussions later on about signage.

381
382 And, also, with that in mind, there may be a deficiency, as I understand it, of one or two
383 parking spaces, if it is to be an independent parcel as opposed to a parcel with any common
384 parking within the shopping center, to become a shopping center that we don't believe is a
385 shopping center right now. And I think... We just talked to Mr. McGarry and administratively
386 if we need to add one or two spaces we can do that, after the approval of this plan, and it will
387 not have to come back to the Commission at this point to add those parking spaces. Is that
388 correct? So those are the clarifications, which we really have at this point. Scott, do you have
389 anything else to add?

390
391 Mr. Chapman - No, sir.

392
393 Mr. Jernigan - All right. Mr. Archer.

394
395 Mr. Archer - Mr. McGarry, do you have anything else to add?

396
397 Mr. McGarry - No, sir, I do not.

398
399 Mr. Archer - All right, you may recall at the last meeting I deferred this case because
400 there were some issues involving this and a neighboring property and I'm happy to say, with
401 Mr. McGarry's help, and we did have a meeting last week and we got all of the parties
402 together and reasonable minds did prevail. And we were able to come up with a solution that
403 was satisfactory and make this plan work. So with that, I will move for approval of POD-66-
404 03, Walgreens @ Virginia Center Station, subject to the annotations on the plans, the standard
405 conditions for developments of this type and additional conditions Nos. 23 through 35 with
406 Nos. 33, 34 and 35 being on this morning's addendum.

407
408 Mr. Taylor - Second.

409
410 Mr. Jernigan - We have a motion by Mr. Archer and a second by Mr. Taylor. All in

411 favor say aye...all opposed say nay. The ayes have it. The motion is passed.
412 The Planning Commission approved POD-66-03, Walgreens @ Virginia Center Station (POD-
413 52-03 Revised) 9801 Brook Road, subject to the annotations on the plans, the standard
414 conditions for developments of this type, and the following additional conditions:
415
416 23. The developer shall provide fire hydrants as required by the Department of Public
417 Utilities and Division of Fire.
418 24. Any necessary off-site drainage and/or water and sewer easements must be obtained in
419 a form acceptable to the County Attorney prior to final approval of the construction
420 plans.
421 25. Deviations from County standards for pavement, curb or curb and gutter design shall be
422 approved by the County Engineer prior to final approval of the construction plans by
423 the Department of Public Works.
424 26. Insurance Services Office (ISO) calculations must be included with the plans and
425 contracts and must be approved by the Department of Public Utilities prior to the
426 issuance of a building permit.
427 27. Approval of the construction plans by the Department of Public Works does not
428 establish the curb and gutter elevations along the Henrico County maintained right-of-
429 way. The elevations will be set by Henrico County.
430 28. The location of all existing and proposed utility and mechanical equipment (including
431 HVAC units, electric meters, junction and accessory boxes, transformers, and
432 generators) shall be identified on the landscape plans. All equipment shall be screened
433 by such measures as determined appropriate by the Director of Planning or the
434 Planning Commission at the time of plan approval.
435 29. In the event of any traffic backup which blocks the public right-of-way as a result of
436 congestion caused by the drive-up delivery facilities, the owner/occupant shall close the
437 drive-up delivery facilities until a solution can be designed to prevent traffic backup.
438 30. Prior to approval of construction plans, the applicant shall provide proof that the
439 existing 16-foot drainage easement located under the proposed building has been
440 vacated.
441 31. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the
442 Planning Office and approved prior to issuance of a certificate of occupancy for this
443 development.
444 32. Relocation of the driveway entrance closest to Virginia Center Parkway and overall site
445 geometry shall be in a manner satisfactory to the Traffic Engineer Only retail business
446 establishments permitted in a B-3 zone may be located in this center.
447 33. Only retail business establishments permitted in a B-3 zone may be located in this
448 center.
449 34. The ground area covered by all the buildings shall not exceed in the aggregate 25
450 percent of the total site area.
451 35. No merchandise shall be displayed or stored outside of the building(s) or on the
452 sidewalk(s).
453

453 **PLAN OF DEVELOPMENT**

454

POD-67-03
The Shops @ Brook Run
(POD-129-88 Revised)

Wingate & Kestner for Brook Run General Partnership:
Request for approval of a revised plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a 7,200 square foot retail building addition to a shopping center. The 3.8-acre site is located on Brook Road (U.S. Route 1) and Brook Run Drive (private) on part of parcel 784-747-4880. The zoning is B-3C, Business District (Conditional). County water and sewer. **(Fairfield)**

455

456 Mr. Jernigan - Is there any opposition to POD-67-03, The Shops @ Brook Run? There
457 is no opposition. All right, Mr. McGarry, you may proceed.

458

459 Mr. McGarry - The staff can recommend approval of this plan subject to the annotations
460 of the plan, the standard conditions for developments of this type and conditions Nos. 9 and 11
461 amended and Nos. 23 through 41. I'll be happy to answer any questions.

462

463 Mr. Jernigan - Are there any questions of Mr. McGarry from the Planning
464 Commission? Mr. Archer.

465

466 Mr. Archer - Mr. Chairman, I move for approval of POD-67-03, The Shops @ Brook
467 Run, subject to the annotations on the plans, the standard conditions for developments of this
468 type and additional conditions Nos. 9 and 11 amended and Nos. 23 through 41.

469

470 Mr. Taylor - Second.

471

472 Mr. Jernigan - We have a motion by Mr. Archer and a second by Mr. Taylor. All in
473 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

474

475 The Planning Commission approved POD-67-03, The Shops at Brook Run (POD-129-88
476 Revised) subject to the annotations on the plan, the standard conditions attached to these
477 minutes for developments of this type and the following additional conditions:

478

479 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for
480 review and Planning Commission approval prior to the issuance of any occupancy
481 permits.

482 11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including
483 depictions of light spread and intensity diagrams, and fixture and specifications and
484 mounting height details shall be submitted for Planning Office review and Planning
485 Commission approval.

486 23. Only retail business establishments permitted in a B-3 zone may be located in this center.

487 24. The ground area covered by all the buildings shall not exceed in the aggregate 25 percent
488 of the total site area.

489 25. No merchandise shall be displayed or stored outside of the building(s) or on sidewalk(s).

- 490 26. The easements for drainage and utilities as shown on approved plans shall be granted to
491 the County in a form acceptable to the County Attorney prior to any occupancy permits
492 being issued. The easement plats and any other required information shall be submitted
493 to the County Real Property Agent at least sixty (60) days prior to requesting
494 occupancy permits.
- 495 27. The developer shall provide fire hydrants as required by the Department of Public
496 Utilities and Division of Fire.
- 497 28. The proffers approved as a part of zoning case C-30C-88 shall be incorporated in this
498 approval.
- 499 29. Any necessary off-site drainage and/or water and sewer easements must be obtained in
500 a form acceptable to the County Attorney prior to final approval of the construction
501 plans.
- 502 30. Deviations from County standards for pavement, curb or curb and gutter design shall be
503 approved by the County Engineer prior to final approval of the construction plans by
504 the Department of Public Works.
- 505 31. Storm water retention, based on the 50-10 concept, shall be incorporated into the
506 drainage plans.
- 507 32. Insurance Services Office (ISO) calculations must be included with the plans and
508 contracts and must be approved by the Department of Public Utilities prior to the
509 issuance of a building permit.
- 510 33. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the
511 Planning Office and approved prior to issuance of a certificate of occupancy for this
512 development.
- 513 34. The conceptual master plan, as submitted with this application, is for planning and
514 information purposes only. All subsequent detailed plans of development and
515 construction plans needed to implement this conceptual plan shall be reviewed and
516 approved by the Planning Commission and shall be subject to all regulations in effect at
517 the time such subsequent plans are submitted for review/approval.
- 518 35. The location of all existing and proposed utility and mechanical equipment (including
519 HVAC units, electric meters, junction and accessory boxes, transformers, and
520 generators) shall be identified on the landscape plans. All equipment shall be screened
521 by such measures as determined appropriate by the Director of Planning or the
522 Planning Commission at the time of plan approval.
- 523 36. Landscaping along Brook Road, and site and street lighting shall comply with the Brook
524 Road Design Guidelines or standards approved by the Director of Planning at the time
525 of landscape and lighting plan review.
- 526 37. A coordinated design scheme shall be adopted for all parcels being developed within the
527 shopping center and with the "Brook Road Enhancement Study". The buildings shall
528 be constructed with brick coordinated to match the existing Ukrop's building.
- 529 38. A coordinated lighting, landscape and signage scheme shall be maintained for all
530 parcels within the Brook Run shopping center.
- 531 39. The required 35-foot transitional buffer along Brook Road may be reduced to no less
532 than 25-feet. Planting within the transitional buffer along Brook Road shall conform to
533 the planting standards of the 25-foot transitional buffer or as otherwise approved by the
534 Planning Commission.

535 40. As a condition of the transitional buffer deviation, a public sidewalk and streetscape
536 improvements conforming to the Brook Road Enhancement Study and such guidelines
537 as may be adopted by the Director of Planning shall be provided prior to the issuance of
538 any occupancy permits.
539 41. No additional freestanding signs shall be permitted within the shopping center.

540

541 **PLAN OF DEVELOPMENT**

542

POD-72-03 Hickory Grove – Phase 2 Old Nuckols Road	Koontz-Bryant, P.C. for Carol Sacra: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a total of 32 two-story, townhouses units. The 5.26-acre site is located 200 feet west of the intersection of Pinedale Road and Old Nuckols Road, 11501 Old Nuckols Road, on parcel 744-773-8230. The zoning is RTHC, Residential Townhouse District (Conditional). County water and sewer. (Three Chopt)
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543

544 Mr. Jernigan - Is there any opposition to POD-72-03, Hickory Grove, Phase 2 on Old
545 Nuckols Road? We have opposition. Good morning, Mr. Kennedy.

546

547 Mr. Kennedy - Good morning, members of the Commission. Hickory Grove, Phase 2,
548 would add 32 townhouses units to 69 townhouse units in Section 1 that were previously
549 approved by the Planning Commission at their July 24, 2002 meeting. The subject property
550 was rezoned RTHC by case C-17C-03 by the Board of Supervisors in June to permit the
551 second phase of the development. The proposed development would have a net density of 6.1
552 units per acre while the RTHC zoning district permits a maximum of 9 units per acres.

553

554 The residents of Phase 2 would enjoy common open space, common access drives that merges
555 with Phase 1. The Planning Commission at their September 2003 meeting approved a
556 conditional plat for this section. The Commission's action at that time constitutes approval of
557 the layout plan only. The developer is now requesting approval of the POD at this time. The
558 Commission's approval would constitute approval of the construction plans. The plan that is
559 proposed would satisfy the applicable zoning requirements, proffers and multi-family design
560 standards. Staff reviewed the plan with representatives of the adjoining Avery Green
561 subdivision, who has expressed concern about the landscaping and the buffer, the proffer
562 buffer, that would adjoin their property. Staff notes that the schematic landscape plan would
563 need to be revised to address the annotations on the plans and therefore we are recommending
564 Nos. 9 and 11 amended for the landscape plan to come back for approval. At this time, staff
565 recommends approval with Nos. 9 and 11 amended with the landscape plan coming back to the
566 Planning Commission for approval and the engineer is present and we are both available to
567 answer any of your questions.

568

568 Mr. Jernigan - Are there any questions from Mr. Kennedy by the Commission? Mr.
569 Taylor, do you have any questions?
570
571 Mr. Taylor - No, sir, not at this time.
572
573 Mr. Jernigan - Mr. Taylor, would you like to hear from the applicant?
574
575 Mr. Taylor - I believe I would.
576
577 Mr. Jernigan - We need to hear from the applicant first.
578
579 Mr. Miller - Good morning. I'm Daren Miller the project manager with Koontz-
580 Bryant. The applicant Carol Sacra couldn't make it this morning. If you have any questions,
581 hopefully I'll be able to answer them and I'll reserve the rest of my time.
582
583 Mr. Taylor - Mr. Miller, I think that the questions are going to relate to the buffering
584 between Avery Green and your development. So, I think at this time it might be beneficial if
585 you address that.
586
587 Mr. Miller - A 10-foot transitional buffer is required. We do have a six-foot fence
588 that was proffered on the plans and we do have a landscape plan that has trees and bushes and
589 landscaping. I'm not quite sure what the opposition question is at this time.
590
591 Mr. Taylor - Have you had any meetings at all with the neighbors.
592
593 Mr. Miller - No, I have not myself, sir.
594
595 Mr. Jernigan - Mr. Taylor, let's hear from the opposition and then we will go from
596 there. Let's see what he has got to say.
597
598 Mr. Taylor - Okay. Let's do that. Let's just hear from the opposition, sir, and then
599 you can address your comments to that.
600
601 Mr. Short - Good morning. My name is Garnett Short and I am the representative
602 with Avery Green at Twin Hickory. We have just a few concerns. As far as the landscaping
603 goes, it is my understanding that there are supposed to be 20 trees or something like that. I
604 just want to make sure that there is going to be 20 trees. I see that they plan to have seven
605 trees or something like that.
606
607 Mr. Kennedy - That was on the original plan but has been revised on the annotated plan.
608
609 Mr. Glover - What did he say?
610

610 Mr. Kennedy - The plan shows seven shrubs per hundred linear feet on the schematic
611 landscape plan. They are required to have 20 and so the annotations indicate that their plans
612 need to be revised and that's why the plan will come back to the Planning Commission.

613

614 Mr. Short - And then the other concern is the six-foot-high fence. We were
615 wondering if we could get that changed, myself as well as the residents, to an eight-foot-high
616 fence as opposed to a six-foot-high fence. I think that would make things a little more private
617 for us there in Avery Green because we will be so close to the townhouses.

618

619 Mr. Jernigan - Mr. Kennedy, would you move up closer to the mike, please.

620

621 Mr. Kennedy - The proffer require a six-foot-high fence. It is a residential area and the
622 maximum permitted is a seven-foot-high fence on a side lot line like that. So, it would require
623 a variance in order to go eight foot high between residential and residential property.

624

625 Mr. Glover - Mr. Kennedy, you can't get a variance to a proffered condition. It
626 would have to go back to a rezoning case. I think, though, if the applicant and the County
627 Planning staff agreed to raise it a foot, they could.

628

629 Mr. Kennedy - Yes.

630

631 Mr. Glover - In other words, six feet is the minimum, isn't it?

632

633 Mr. Kennedy - Six feet is the minimum, that is correct, sir.

634

635 Mr. Glover - That would be up to the applicant, sir.

636

637 Mr. Short - Well, we can compromise. The last concern is just the working hours.
638 We just want to make sure.... In the meeting we had previously requested that, they wouldn't
639 start before seven o'clock and on Phase 1 sometimes they would start earlier. I understand that
640 they would like to get done but the residents would prefer they not start before seven o'clock in
641 the morning. We would like to get a good nights rest.

642

643 Mr. Silber - I think that is a reasonable request. We will see if the applicant can
644 address that. I also would like to maybe ask a little more about the fence, the type of fence
645 that is proposed. And I would like for the applicant to address if they can provide a seven-foot
646 fence and talk about what that would look like.

647

648 Mr. Short - Those were the only three concerns that we had. That's it.

649

650 Mr. Jernigan - Are there any questions for Mr. Short from the Commission?

651

652 Mr. Taylor - No. Let's hear from the applicant.

653

653 Mr. Kennedy - I would like to answer one question. The proffer requires a minimum
654 six-foot-high wood fence. That's how the proffers read.

655

656 Mr. Jernigan - So, they could put in a seven-foot fence?

657

658 Mr. Kennedy - Yes, sir.

659

660 Mr. Miller - I don't see any problem with it going from a six to a seven. As
661 proffered, it's a six-foot solid wood fence and that's what we are showing on the plans. Going
662 another foot shouldn't be a problem. I can check with the applicant. In regards to revising the
663 landscape plan, I don't see any problem with that either. That's something that I guess just
664 came about the other day. I have no problem with that either. But going from six to seven I
665 don't see that being a problem at all.

666

667 Mr. Taylor - Sir, how about the working hours?

668

669 Mr. Miller - That's something I will have to check with Carol Sacra, the applicant,
670 the owner. Once again I don't think it would be an issue but I can find out. Seven is not
671 unreasonable.

672

673 Mr. Taylor - At this point would you accept the fact that you would make that a
674 condition?

675

676 Mr. Miller - Yes, you can do that.

677

678 Mr. Jernigan - That's what we needed to hear.

679

680 Mr. Taylor - That's all I have, Mr. Chairman.

681

682 Mr. Jernigan - Thank you, sir. Are you ready for a motion, Mr. Taylor?

683

684 Mr. Taylor - In a second. May I ask a question as to whether or not that would
685 require an extra condition to go to a six-foot fence to a seven-foot fence or can we include that
686 in the landscape plan?

687

688 Mr. Silber - I think, Mr. Taylor, that we can either do it with a condition or an
689 annotation. I think we could probably annotate the plan to make that a seven-foot fence and I
690 think that would work. I would suggest that we have a condition, though, condition No. 39
691 dealing with the hours that might read something like "Construction hours of the site shall not
692 began before 7:00 a.m." So, I think we could do the fence with an annotation and the
693 construction hours with a new added condition No. 39.

694

695 Mr. Taylor - All right, sir. Then I'll prepare to move approval of POD-72-03,
696 Hickory Grove - Phase 2, subject to the annotations on the plans, the standard conditions for
697 developments of this type and additional conditions Nos. 23 through 38 with Nos. 9 and 11

698 amended on the addendum and condition No. 39 that states construction hours will start no
699 earlier than 7:00 a.m. And another condition that we look at the landscaping plan in review.
700 And that's my motion.

701

702 Mr. Silber - I think on the landscape plan, Mr. Taylor, I think that we can just.... The
703 plan has already been annotated to provide the trees that staff has indicated....

704

705 Mr. Taylor - That doesn't require a separate condition?

706

707 Mr. Silber - Yes, sir. It will not require a separate condition.

708

709 Mr. Taylor - So we will just go with Nos. 9 and 11 on the addendum.

710

711 Mr. Silber - And the new condition No. 39, yes, sir.

712

713 Mrs. Ware - Second.

714

715 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mrs. Ware. All in
716 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

717

718 The Planning Commission approved POD-72-03, Hickory Grove – Phase 2 on Old Nuckols
719 Road, subject to the annotations on the plans, the standard conditions attached to these minutes
720 and the following additional conditions:

721

722 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for
723 review and Planning Commission approval prior to the issuance of any occupancy
724 permits.

725 11. **AMENDED** - Prior to the approval of an electrical permit application and installation of
726 the site lighting equipment, a plan including depictions of light spread and intensity
727 diagrams, and fixture specifications and mounting height details shall be submitted for
728 Planning Office review and Planning Commission approval.

729 23. The subdivision plat for Hickory Grove, Section 2 shall be recorded before any
730 building permits are issued.

731 24. The right-of-way for widening of Old Nuckols Road as shown on approved plans shall
732 be dedicated to the County prior to any occupancy permits being issued. The right-of-
733 way dedication plat and any other required information shall be submitted to the County
734 Real Property Agent at least sixty (60) days prior to requesting occupancy permits.

735 25. The easements for drainage and utilities as shown on approved plans shall be granted to
736 the County in a form acceptable to the County Attorney prior to any occupancy permits
737 being issued. The easement plats and any other required information shall be submitted
738 to the County Real Property Agent at least sixty (60) days prior to requesting
739 occupancy permits.

740 26. The limits and elevations of the 100-year frequency flood shall be conspicuously noted
741 on the plan "Limits of 100 Year Floodplain." In addition, the delineated 100-year
742 floodplain must be labeled "Variable Width Drainage and Utility Easement." The

- 743 easement shall be granted to the County prior to the issuance of any occupancy permits.
744 27. The developer shall provide fire hydrants as required by the Department of Public
745 Utilities and Division of Fire.
- 746 28. A standard concrete sidewalk shall be provided along the south side of Old Nuckols
747 Road.
- 748 29. The proffers approved as a part of zoning case C-17C-03 shall be incorporated in this
749 approval.
- 750 30. Any necessary off-site drainage and/or water and sewer easements must be obtained in
751 a form acceptable to the County Attorney prior to final approval of the construction
752 plans.
- 753 31. Deviations from County standards for pavement, curb or curb and gutter design shall be
754 approved by the County Engineer prior to final approval of the construction plans by
755 the Department of Public Works.
- 756 32. The pavement shall be of an SM-2A type and shall be constructed in accordance with
757 County standard and specifications. The developer shall post a defect bond for all
758 pavement with the Planning Office - the exact type, amount and implementation shall be
759 determined by the Director of Planning, to protect the interest of the members of the
760 Homeowners Association. The bond shall become effective as of the date that the
761 Homeowners Association assumes responsibility for the common areas.
- 762 33. Storm water retention, based on the 50-10 concept, shall be incorporated into the
763 drainage plans.
- 764 34. Insurance Services Office (ISO) calculations must be included with the plans and
765 contracts and must be approved by the Department of Public Utilities prior to the
766 issuance of a building permit.
- 767 35. Approval of the construction plans by the Department of Public Works does not
768 establish the curb and gutter elevations along the Henrico County maintained right-of-
769 way. The elevations will be set by Henrico County.
- 770 36. The owners shall not begin clearing of the site until the following conditions have been
771 met:
772
- 773 (a) The site engineer shall conspicuously illustrate on the plan of development or
774 subdivision construction plan and the Erosion and Sediment Control Plan, the
775 limits of the areas to be cleared and the methods of protecting the required
776 buffer areas. The location of utility lines, drainage structures and easements
777 shall be shown.
- 778 (b) After the Erosion and Sediment Control Plan has been approved but prior to any
779 clearing or grading operations of the site, the owner shall have the limits of
780 clearing delineated with approved methods such as flagging, silt fencing or
781 temporary fencing.
- 782 (c) The site engineer shall certify in writing to the owner that the limits of clearing
783 have been staked in accordance with the approved plans. A copy of this letter
784 shall be sent to the Planning Office and the Department of Public Works.
- 785 (d) The owner shall be responsible for the protection of the buffer areas and for
786 replanting and/or supplemental planting and other necessary improvements to
787 the buffer as may be appropriate or required to correct problems. The details

824

825 Mr. Taylor - With that, Mr. Chairman, I'll move approval of POD-73-03, Lipstock
826 Laser Center, subject to the standard conditions for developments of this type, and conditions
827 Nos. 23 through 29.

828

829 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mr. Archer. All in
830 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

831

832 The Planning Commission approved POD-73-03, Lipstock Laser Center on Horsepen Road,
833 subject to the standard conditions attached to these minutes for developments of this type, the
834 annotations on the plan and the following additional conditions:

835

836 23. The easements for drainage and utilities as shown on approved plans shall be granted to
837 the County in a form acceptable to the County Attorney prior to any occupancy permits
838 being issued. The easement plats and any other required information shall be submitted
839 to the County Real Property Agent at least sixty (60) days prior to requesting
840 occupancy permits.

841 24. The developer shall provide fire hydrants as required by the Department of Public
842 Utilities and Division of Fire.

843 25. Any necessary off-site drainage and/or water and sewer easements must be obtained in
844 a form acceptable to the County Attorney prior to final approval of the construction
845 plans.

846 26. Deviations from County standards for pavement, curb or curb and gutter design shall be
847 approved by the County Engineer prior to final approval of the construction plans by
848 the Department of Public Works.

849 27. Insurance Services Office (ISO) calculations must be included with the plans and
850 contracts and must be approved by the Department of Public Utilities prior to the
851 issuance of a building permit.

852 28. Approval of the construction plans by the Department of Public Works does not
853 establish the curb and gutter elevations along the Henrico County maintained right-of-
854 way. The elevations will be set by Henrico County.

855 29. The location of all existing and proposed utility and mechanical equipment (including
856 HVAC units, electric meters, junction and accessory boxes, transformers, and
857 generators) shall be identified on the landscape plans. All equipment shall be screened
858 by such measures as determined appropriate by the Director of Planning or the
859 Planning Commission at the time of plan approval.

860

861

861 **PLAN OF DEVELOPMENT**

862

POD-74-03
Hollywood Video @ John
Rolfe Commons Shopping
Center (POD-79-01 Revised)

Koontz-Bryant, P.C. for The Wilton Companies, LLC:
Request for approval of a plan of development, as required by
Chapter 24, Section 24-106 of the Henrico County Code, to
construct a one-story, 6,497 square foot retail building addition
to a shopping center. The 1.33-acre site is located on the north
side of Ridgefield Parkway approximately 300 feet north of the
intersection of Ridgefield Parkway and John Rolfe Parkway in
the John Rolfe Commons Shopping Center on part of parcel
736-751-6741. The zoning is B-2C, Business District
(Conditional). County water and sewer. **(Tuckahoe)**

863

864 Mr. Jernigan - Is there any opposition to POD-74-03, Hollywood Video @ John Rolfe
865 Commons Shopping Center? We have opposition. Good morning, Mr. Strauss.

866

867 Mr. Strauss - Good morning, Mr. Chairman, thank you. Staff is recommending
868 approval of this application for Hollywood Video to be constructed in the existing John Rolfe
869 Commons Shopping Center. The architecture of which to be compatible with the existing
870 shopping center architecture. You will note that staff has included additional conditions in this
871 morning's addendum. That will be conditions Nos. 9 and 11 amended for subsequent
872 Commission approval of the landscape and lighting plan. The additional conditions Nos. 36,
873 37 and 38 in the addendum are relating to shopping centers in general and they are standard
874 conditions and I'll be happy to answer any questions you may have.

875

876 Mr. Jernigan - Are there any questions of Mr. Strauss by Commission members? Is the
877 applicant here? Would you come down please, sir? Thank you, Mr. Strauss. Good morning.

878

879 Mr. Hinson - Good morning. My name is Paul Hinson with Koontz-Bryant and I'm
880 here representing Wilton Companies today on behalf of the plan of development for the
881 Hollywood Video parcel. We are also the engineers on the Phase II of the John Rolfe
882 Commons Shopping Center. So, if there are issues related to that we maybe able to answer
883 them as well if they are not directly related to the out parcel today. In concerns to the out
884 parcel for Hollywood Video, we have met with the staff. We have addressed all of the staff's
885 concerns. We have revised plans ready to resubmit to the staff for Planning Commission
886 approval that addresses all of the staff's comments. I'll be happy to answer any questions
887 related to the project.

888

889 Mr. Jernigan - Are there any questions for Mr. Hinson by the Commission?

890

891 Mrs. Ware - I have none at this time.

892

893 Mr. Jernigan - Okay. Thank you, sir. All right. Who would like to speak first? We
894 have 10 minutes. Mr. Silber will keep the time. Would you like to speak first, sir?

895

896 Mr. George - My name is Bob George and I live on the south side of Ridgefield
897 Parkway at Ridgestone Court and there is a creek running behind my house, which has been
898 overloaded since the shopping center at John Rolfe Commons has been built. And it appears to
899 me the pond that was built there is insufficient to handle the runoff in the parking lot and I fear
900 any additional paving of that lot is going to exacerbate the situation significantly. Since that
901 time, there's been a tremendous amount of silt that has filtered through that creek which runs
902 underneath Ridgefield Parkway over to the south side. It's filling up the creek. Every time it
903 rains we get excessive amounts of water coming up in the yard. My lot slopes down to the
904 creek and the top soil is being washed away and I've got about 15 to 18 trees back there and I
905 fear that they are going to fall over from the effects of this water being pumped out of this
906 pond. I'm not an engineer and I don't know much about ponds and to how you manage the silt
907 coming out of these ponds, but it seems to me the pond is there and it insufficient for the
908 project that is already there, let alone any additions.

909

910 I know people along the other side, behind me, on Shady Branch Trail that indicated that they
911 have similar problems of losing their topsoil. Their grass planted has just been washed away.
912 I know over off of Popular Forest in Heritage Oaks subdivision that during the heavy rains,
913 recently, the water came up underneath their houses. Now, this meeting being at 9:00 a.m. in
914 the morning and most people are at work and unavailable to attend these things, and I'm being
915 retired, has got the time. Yes, I do object to any addition to that shopping center and I wish
916 they would do something about the pond that is already there. Increase the size, put some
917 filters on it, do something because it's a problem. Thank you.

918

919 Mr. Silber - Mr. George, where is your property relative to the shopping center?

920

921 Mr. George - I don't know how detailed your map is but it's at 2004 Ridgestone Court.
922 Ridgestone is on the south side of Ridgefield Parkway and the creek comes diagonally across
923 underneath Ridgefield Parkway from the shopping center.

924

925 Mrs. Ware - And the trees that you are talking about are the trees on your property,
926 right?

927

928 Mr. George - Yes. It's going to wash the soil away and I'm going to lose my trees,
929 eventually, from this problem. And who is going to take care of cutting these trees up when
930 they fall over? With all of these trees, it's going to be quite an expense to me and I'm sure all
931 of the other residents in the area have the same problem. As far as finding it on the map here
932 (referring to the map on the screen) I can't see it very well. I'm right in here (pointing to map)
933 and the creek comes across that intersection, right there and comes down through there and on
934 down to Shady Branch Trail. It's not showing it on the map but I understand that the people
935 on this side of Ridgefield were notified because their properties back up to it. Well, my
936 property doesn't back up to it but I'm sure getting the effects from that creek from all that
937 paved parking over here.

938

939 Mr. Silber - Let me point out a couple of things, for your benefit and perhaps the
940 benefit of others who may want to speak. The plan of development that is before the

941 Commission today is a plan of development for one of the out parcels of this shopping center.
942 It's out on proposed John Rolfe Parkway. This property was zoned a number of years ago for
943 a shopping center and was to allow the development of this shopping center. What the County
944 needs to be careful of or to assure you of is that as this site develops we need to make sure that
945 the drainage issues are taking care of adequately so we don't cause additional runoff down
946 stream that may cause problems for your property. Therefore, the developer will be held
947 responsible for handling the water on site and not causing problems down stream.

948

949 The Planning Commission does not have the expertise nor gets into any detail relative to
950 specify design issues associated with drainage. The County has a professional staff that deals
951 with drainage and those matters can be addressed. We do have a drainage engineer here today
952 that we can have to come up and speak, perhaps at the end after others have spoken and told us
953 of their concerns. Steve Bandura is here and perhaps he can address some of these concerns. I
954 just wanted to make clear that the Planning Commission typically doesn't get into the specify
955 details of drainage and engineering of that drainage. But, we hear your concern and perhaps,
956 Mrs. Ware, at this point we want to hear from others that may have similar concerns or may
957 even live closer by.

958

959 Mrs. Ware - Okay.

960

961 Mr. Jernigan - Thank you, Mr. George. All right, come on up, sir, please. Good
962 morning.

963

964 Mr. Khansari - Good morning. My name is Nader Soheygy Khansari. I live right
965 exactly behind the new shopping mall that has been constructed off of Thornbury Drive, 2255
966 Thornbury Drive. The main concern for me has been the fact that A. the working hours. I
967 don't know the allowable time hours are that they can actually start their work, but on several
968 occasions I have been awoken about 5:30 a.m. in the morning with the constant noise of
969 generators running, trucks warming up for their daily duty, whatever they are going to be
970 doing around there. The second concern for me is that when they went ahead in started the
971 construction there was supposed to be an allowable size of land, the wetlands, that was
972 supposed to be left alone right along the stream. That was supposed to shade us from seeing
973 the actual main building, but due to the storm and of course taking down the trees, or either
974 affected the trees right along the stream because they don't run a very deep root. Most of
975 these trees have been uprooted and knocked over.

976

977 Me and several neighbors tried on numerous occasions to get in contact with them to find out if
978 there was going to be something done about this. But, it seems like everybody is just giving us
979 the runaround. One person says that the other person is handling this, one says it's the Corps
980 of Engineers that needs to look at this. The others say we are not allowed to touch this part of
981 land because it does not belong to us. So, we want to know whether this is going to be an
982 ongoing issue with the noise and everything, and whether there is going to be similar things
983 happening and who is going to be responsible in trying to fix the situation.

984

985 Mrs. Ware - That can be addressed but we would like to hear from everyone first,

986 like he said. I do know that there is someone here to speak to that. I know that's a C-1,
987 Conservation area and it's very limited as to what you can do within that area. Do you want to
988 go on and hear from this now or wait until everybody speak?

989

990 Mr. Silber - Yes, I think we can but let me point out, you expressed some concerns
991 about the hours of operation or noise coming from the back of the shopping center. The
992 property is zoned B-2, which does restrict the hours of operation to the public. They can't
993 open before 6:00 a.m. and they can't stay open pass 12 midnight. Now that might sounds like
994 a long period of time, but that is allowed by the ordinance. But that's doors opening to the
995 public. They are allowed to conduct business, you know, loading and unloading even outside
996 of those hours. What we may want to do is work with the tenant in this case, I guess Ukrop's
997 is the only one open at this time, and we might be able to talk to them about the hours in which
998 they are unloading, we may be able to address some issues associated with sounds coming
999 from the site that's impacting the residential community. So, we will be glad to make note of
1000 that and work with Ukrop's and your community in trying to address the noise issues.

1001

1002 Mrs. Ware is correct. In the flood plain area we understand that there are trees that have
1003 fallen in the flood plain. We are aware of that. We visited the site and we have taken
1004 pictures. We may have Steve Bandura address that as well, but associated with fallen trees in
1005 flood plain areas or wetland areas, the County have many of these around the County now
1006 because of the hurricane that came through in September. It is an issue and it is not an easy to
1007 address because these trees are on private property. If they are not disrupting the flow of
1008 water, if they are not blocking drainage ways then it's very difficult to go in and remove these.
1009 You almost have to do it by hand. You can't bring heavy equipment in to do that because
1010 many of these are in wetland areas and do come under the purview of the Corps of Engineers.
1011 Perhaps Mr. Bandura can address that further when we get him up here in a few minutes.

1012

1013 Mr. Khansari - Thank you.

1014

1015 Mr. Jernigan - Thank you, Mr. Khansari.

1016

1017 Mr. Riddle - Good morning. My name is Bob Riddle and I live on Shady Branch
1018 Trail, that's on the south side of Ridgefield Parkway. My concern also is about the creek and
1019 the runoff and the additional water flow into the holding pond as of a result of any new
1020 construction. The creek, before John Rolfe Commons was built, was maybe a foot wide, six
1021 inches deep and now when it rains it's probably 30 to 40 feet wide. It's taking all of my
1022 topsoil, it's broken my fence, and there is a VEPCO power transformer and cable units back
1023 there that constantly gets flooded anytime there's a rain now. So my concern, like the other
1024 gentleman, is the creek and the water runoff.

1025

1026 Mr. Jernigan - Are there any questions for Mr. Riddle from the Commission? All right.
1027 Thank you, sir.

1028

1029 Mrs. Ware - Would you like for Mr. Bandura to come up? Oh, I'm sorry, we have
1030 one more.

1031 Mr. Jernigan - Good morning.

1032

1033 Mr. Vakili - Good morning. My name Hassan Vakili and I live at 1901 Thornbury
1034 Court. I live right behind the new Ukrop's. My concerns are basically the existing plan that
1035 they have there and has been approved or we are approving a plan today. These plan they
1036 should be amended without any public hearing, without any public notice. I looked at the
1037 original plan that was there. They had an access to put a manhole on there which was three
1038 feet. When I called the staff from Henrico County they brought the plan and they said that this
1039 plan will be amended on a later date. To cut a 20-foot-wide manhole and in order to do that
1040 they will cut all of the trees down. Because of the thinning of area of the trees, the rest of
1041 them came down during the storm. I complained because there were two trees that were
1042 bending and if they had fallen they would have fallen on my roof. So, they came down and cut
1043 those two trees down, after the Henrico County staff called the Wilton Company.

1044

1045 They came and cut those down. There are many trees that have fallen and they are treating the
1046 remaining trees, which I have asked them to come and cut these trees down, which at least we
1047 will have some buffer between us and the shopping center. But the excuse, as far as I am
1048 concern is, Henrico County is not allowing them to come down there because it is a wetland
1049 and if they cut those trees it's going to fall into the creek and so it would damage the wetlands.
1050 The wetland has already been damaged. I have some pictures here, I know that you mentioned
1051 you have some pictures, but I have taking some pictures.... They was 110 foot buffer between
1052 my house and the new shopping center. There is a single tree standing there, so basically my
1053 backyard is the parking lot for the shopping center.

1054

1055 So, I would like for them to... the same way Henrico County has not asked them not to go
1056 there and destroy the wetland, there is a violation of this existing lost on the wetland there.
1057 There is a ripraft. When they diverted the creek, they put ripraft. The ripraft is supposed to
1058 be on the embankment of the trees. It comes all the way back to my fence. It is against my
1059 fence. So, what I am saying that even today if we are approving it, there is no guarantee that
1060 tomorrow will not be changed and also if there is any violation, the staff from Henrico County,
1061 two of them came to my house. They went back there and looked at the creek and they told
1062 me that there is some problem there. Also, they told me that there was supposed to be 20 feet
1063 wide access to the manhole. They have cut in some areas 30 feet. Nothing was done. They
1064 talked to the Wilton Company but nothing has been done. So, there is no guarantee that these
1065 trees are going to be cut. There are kids, even though they are not supposed to be there, they
1066 are going out in the creek and they are playing.

1067

1068 These trees are bending and at any time they could fall down, and I would like for somebody
1069 to ask them to come down and the same way the allowed them to come down the rest of the
1070 trees that they were not suppose to cut in some areas, to come down and cut those trees and at
1071 least I can maybe later on go on myself, because they are not going to do it, plant some trees.

1072

1073 Mrs. Ware - I have a question. The trees that you said were cut for the manhole,
1074 were those in the conservation area, is that what you are saying?

1075

1076 Mr. Vakili - Yes. It is in the wetlands area. They were supposed to cut based on the
1077 existing plan today. They were supposed to cut 20 feet and they cut 30 feet. You can come
1078 and measure it.

1079

1080 Mr. Jernigan - Are there any other questions for Mr. Vakili?

1081

1082 Mr. Silber - Could you spell your last name for me please.

1083

1084 Mr. Vakili - Yes. V A K I L I.

1085

1086 Mr. Silber - Thank you very much.

1087

1088 Mr. Jernigan - Thank you, sir.

1089

1090 Mrs. Ware - I think at this time we will have Mr. Bandura come down and address
1091 some of these concerns. Mr. Bandura, would you come down and address some of the
1092 drainage issues with the BMP and the pond?

1093

1094 Mr. Silber - And we do have Jeff Perry here from the Environmental Division. He
1095 may be able to address some of the conservation issues as well.

1096

1097 Mr. Bandura Good morning. My name is Steve Bandura and I am a staff engineer
1098 with the Department of Public Works Design Division. I'm not the engineer that reviewed
1099 this project, he is out sick so I can address any general questions, not so much the specify ones
1100 at this time. The issue of the trees, it's been a Department policy that normally we do not go
1101 into flood plains and clear these. Mr. Silber did state correctly that our issue of cutting, not
1102 getting mechanical equipment in there is correct. Public Works had cleared, in the 100-Year
1103 Flood Plain, where it's been an obstruction to culverts or pipes or so usually just within an
1104 area within the roadway. We do not have, necessarily, permission to go on private property to
1105 cut trees down.

1106

1107 And the issue as far as the drainage, this is not a 50-10 area. The creek, again I don't know if
1108 Mr. Hicks, Al Hicks is the engineer who reviewed this, if he had met with any of the people.
1109 It is a part of the development to have adequate outfall for the runoff for the site and that is
1110 supposed to be checked with the plan. And we could go back and look at that and make sure
1111 that it is adequate.

1112

1113 One thing I want to say is that I heard that this was the wettest 12 months in history for
1114 Virginia, so this passed year has been extreme and unusual with the amount of rainfall we have
1115 had. So, people who are saying they are seeing stuff that they have never seen before are
1116 correct. We have never had this amount of rainfall in a 12-month period. Are there any other
1117 questions that I can answer?

1118

1119 Mr. Jernigan - Are there any questions for Mr. Bandura from the staff?

1120

1121 Mr. Archer - Mr. Bandura, do we ever make exceptions in the event of any
1122 catastrophes like the hurricane to normal policy.

1123

1124 Mr. Bandura - As far as clearing the trees, Mr. Archer?

1125

1126 Mr. Archer - Yes.

1127

1128 Mr. Bandura - I'm not aware of any, but I can check with Mr. Thompson or the County
1129 Engineer and see if there are exceptions that can be made.

1130

1131 Mr. Archer - Okay.

1132

1133 Mrs. Ware - One thing that was mentioned to me was the trees can be cut and the
1134 stump could go back again to where it was located.

1135

1136 Mr. Bandura - You are saying so that they can cut the tree but not disturb the root
1137 master.

1138

1139 Mrs. Ware - But that would be incumbent upon the landowner to do that type of thing,
1140 right?

1141

1142 Mr. Bandura - That's my understanding of the policy.

1143

1144 Mrs. Ware - Okay.

1145

1146 Mr. George - I would like to know from the gentleman here, on these holding ponds, I
1147 need a little education, are they allowed to pump those ponds into that creek? What is the
1148 purpose of a holding pond? Is it just there until the water evaporates? I mean, how do they
1149 get rid of the water in the pond?

1150

1151 Mr. Bandura - Again, I'm not entirely familiar with the project, but it sounds like you
1152 are describing a sediment basin and that's there to catch the runoff from the site during the
1153 construction and it's only a temporary device that's there. They are supposedly designed for
1154 25-year intensity rainstorm event from the site. The environmental engineer from the County
1155 is here and maybe he can address those more as also the engineer of the site.

1156

1157 Mr. George - If they are pumping water, and the water is overflowing the pond, do
1158 they have some kind of filter that's suppose to filter out this silt? If they have one, and I don't
1159 believe they have one, it's not working.

1160

1161 Mr. Bandura - Mr. Perry is here, he is the environmental engineer and he can answer
1162 that question.

1163

1164 Mr. Perry - Excuse me, I'm fighting a little bit of a cold. As far as the sediment
1165 basins are concern, sediment basins are required on the site. And what happens, when they

1166 design the sediment basin, they do it for the entire drainage area coming to it. Okay. Not just
1167 the disturbed area, all the water coming to it. Now, it's done in accordance with State Law.
1168 It's based on certain cubic yard, it has to be held 134 cubic yards, and they figure it out and
1169 that's what the size the volume of the basin on. And as Steve said, it's for a 25-year storm.
1170 So, all those calculations are done and that is what is used to go ahead and size the sediment
1171 basin. Now anything over that, they have a spillway, they have an emergency spillway,
1172 because that basin can only hold so much water during a massive rain event and then it has to
1173 go out the emergency spillway.

1174

1175 Now, I can tell you this. Unfortunately, the technology for erosion control and removing
1176 sediment has been the same technology that has been around for years. And when you have
1177 dirty water coming off a site that runs over exposed land, you can only get so much silt out of
1178 it. If you remove 65% of the silt then you've really theoretically done the best you can
1179 because those silt particles, the whole idea is to go ahead to get as much of those silt particles
1180 out as they settle out of that basin. Other silt particles that are suspended in the water are
1181 going to go down stream. There's just no magic, there just no solution, there's no technology
1182 out there short of a treatment plant that can do that. So, unfortunately, and it is unfortunate,
1183 but unfortunately some of the downstream people expect that water when it comes to one of
1184 these basin, is actually clean and clear when it leaves the basin and goes into the creek. And
1185 that just doesn't happen. I mean, I'm just being honest with you, that just doesn't happens.
1186 So, the best we can do is make sure that those basins are sized and in accordance with State
1187 standards, are functioning properly and is removing as much silt as possible. And after that,
1188 that is about the best we can do.

1189

1190 Now, when it gets to be a really storm and it starts going over the spillway, than really you are
1191 not getting much treatment at all, and so when an extreme storm event, that does happen on
1192 occasions. We can check the design of those and make sure, we can double check.

1193

1194 Mr. Glover - Mr. Perry, do they have pumps that are supposed to be....

1195

1196 Mr. Perry - They are not allowed to go ahead and pump the basin down directly.
1197 Now I will check on that with my inspector. Now, that is a violation. If they pumped the
1198 basin directly into a creek or goes unfiltered, now what happens sometimes they will pump
1199 those basins down, pump them down into another filtered area, another filter and then down
1200 into the creek. But, if that's not being done and I'll be the first to admit, I've seen that myself.
1201 I've seen contractors do that before, this is a violation and we can stop them immediately and
1202 if we have to we can shut them down. I talked to my inspector before I came to the meeting,
1203 and I'll double check with him when I leave today.

1204

1205 Mr. Glover - Mr. Perry, let me ask you a question.

1206

1207 Mr. Perry - Yes, sir.

1208

1209 Mr. Glover - You explained the situation as it exist, as a siltation filter, what happens
1210 when they finish the shopping center? Do they do anything to put that basin back into a

1211 different stage? I think that would be good to explain. In other words, during construction
1212 you have one function, after the construction there is another function.

1213

1214 Mr. Perry - Right. What they will do is clean the silt, everything they have caught,
1215 they will clean the silt and they will remove it and it will either go to a landfill or it will go to
1216 someplace where they can actually use and that basin will be converted to a BMP many times.

1217

1218 Mr. Glover - What's a BMP.

1219

1220 Mr. Perry - A BMP, that's a Best Management Practice and what that will do is, now
1221 since the site has been stabilized, before we remove that basin you need to have grass, you
1222 need to have pavement, basically the site has to be completely stabilized. Once that occurs
1223 then the basin will get converted. It will change the riser pipes, and I know I'm using
1224 technical terms with some of the pipes and all, and the whole idea will then it will now catch
1225 runoff from the parking lot, from some of those grassed areas that get fertilized and what they
1226 will do then is they will try to keep fertilizer, nitrogen and things like that, phosphorus, from
1227 entering the stream. So, it would go from catching silt to catching any type of nutrients. So
1228 the basin gets converted to do that.

1229

1230 Mr. Glover - How long do the water stay in that thing then?

1231

1232 Mr. Perry - As a BMP, if depending of the type of design whether.... Okay. In this
1233 particular case this basin, I guess, is going to be pretreated and then it's going to become a
1234 sand filter, is that right, Steve?

1235

1236 Mr. Bandura - I don't know, I'm not the engineer.

1237

1238 Mr. Perry - He's not the engineer.

1239

1240 Mrs. Ware - I think this one is buried, it will be buried eventually, the BMP.

1241

1242 Mr. Perry - Okay, then it is a sand filter. So, what it will do is actually the water
1243 will go underground into this big huge sand filter and it will treat it. Now a lot of times it will
1244 have pretreatment first. The water will go in, it will remove any kind of heavy particles and
1245 then it will go actually through a medium of sand. And the whole idea is that is very efficient,
1246 that's like 65% efficient. So, the quality of water coming out of that sand filter is actually very
1247 good. Now, they are very expensive, sand filters. When you start to build a concrete vault
1248 underground, but they are a lot more efficient then let's say a basin that would be left above
1249 ground.

1250

1251 Mrs. Ware - So, at this point, to address the concerns of the people here today, can it
1252 be checked to see... I know you had the question about the pumps. Is there any obstruction or
1253 blockage that's causing their yards to flood more than others? I know we have had a huge
1254 amount of rain but is there anything that can be checked for these people?

1255

1256 Mr. Perry - A couple of things on the basin. Number one, what I here, is there is a
1257 concern about the sizing, okay. And what we will need to do is not only look at the basin how
1258 it's functioning on the existing drainage area but to make sure that this outparcel is included in
1259 that calculation. If this sediment basin is going to serve for this outparcel as well as what's
1260 going on currently out there, I need to go back and look at those calculations and make sure
1261 that it is included in those areas. And we will go from there. And the second thing is to make
1262 sure that it is functioning properly. I mean to go out and make sure that it is functioning
1263 properly and see what we have. And we can do that as well. I'll check on the pumping and
1264 do that as well.

1265

1266 Mr. Glover - Mr. Perry, I have another question. If Mrs. Ware will let me do it.

1267

1268 Mr. Perry - Yes, sir.

1269

1270 Mr. Glover - If for instance, after this is all finished and they still release more water
1271 than the people have been used to, you said 65%, isn't there some liability there for the
1272 property owner that created this situation, greater than was there before he began the
1273 construction? What obligation do they have? I think that's what these people are asking.
1274 What's going to happen to me in the future, maybe I can live with it today if I know there's
1275 going to be something corrected, but if we get these heavy rains in the future, is this
1276 underground sand filter going to hold the water long enough that it doesn't inundate these
1277 people property. And I think that's the question they have, not necessarily what the process is.
1278 I don't think they care what the process is, they just want to know if you are going to stop the
1279 water.

1280

1281 Mr. Perry - Unfortunately, I'm going to ask Mr. ...because I think you are almost
1282 asking a drainage law question.

1283

1284 Mr. Glover - That's exactly what it is.

1285

1286 Mr. Perry - And I think Mr. Bandura is going to need to answer that because I think
1287 what they do, in the Design Division, they look at the amount of current drainage and drainage
1288 patterns and determine if that has been changed by this project. Is that correct, Steve?

1289

1290 Mr. Bandura - That is correct.

1291

1292 Mr. Perry - His Division does that.

1293

1294 Mr. Glover - Did he answer that question? I didn't hear it.

1295

1296 Mr. Bandura - Yes, Mr. Glover, that is correct.

1297

1298 Mr. Glover - What's correct?

1299

1300 Mr. Bandura - As far as design criteria, we have the engineers check the creek for

1301 adequacy of a 10-year statistical storm event. And they are required to cross sections. We
1302 check volume. We check flow velocity. If it over 4 feet per second then that was considered
1303 possible erodible and they would have to do something else to make the channel adequate.

1304

1305 We require a minimum of 150 feet down stream, now that is the minimum. If the upper three
1306 sections say that it is not adequate, then they have to go farther down stream to make the
1307 channel adequate and they may require getting an easement from property owners or do some
1308 work in the channel.

1309

1310 Mr. Glover - The reason I'm asking the question, Mrs. Ware, is I have the problem in
1311 my area when these drainage areas and I'm interested in how you do it but I also.... Who is
1312 liable? After the County has accepted and you have released them with an occupancy permit,
1313 final inspection and they still put more water on these property owners than was there before,
1314 whose responsible and whole liable? Is the County still liable to come back and make them do
1315 something different and more?

1316

1317 Mr. Bandura - Mr. Glover, sir, I can't answer that question. That's more of a legal
1318 type thing.

1319

1320 Mr. Glover - But I think this is what there question is.

1321

1322 Mr. Bandura - I understand and...

1323

1324 Mr. Glover - To ask the question and then find out what the process is doesn't answer
1325 their question, I don't think. I have the same situation in my area, Steve, as you know.

1326

1327 Mr. Bandura - I can check with the County Attorney's Office and see what liability the
1328 County has in these regards in these matters.

1329

1330 Mrs. Ware - Based on the review of the plans that you have made, Public Works
1331 wise, that the facilities that they have in place with this additional plan of development should
1332 be able to handle the additional runoff or drainage based on building this outparcel, right?

1333

1334 Mr. Bandura - Yes, that is the policy. And again I want to say that I am not the review
1335 engineer for this specific project so I can't answer that specifically.

1336

1337 Mrs. Ware - And then there may be other issues involved in what's happening to their
1338 property.

1339

1340 Mr. Silber - I think what's important also, Mr. Bandura, is that this is one out parcel
1341 and we have on the agenda following this one another outparcel in the same shopping center
1342 and there are other outparcel sites that are not yet developed. I think what you need to look
1343 into is the full development of this site and whether the outfalls are adequate and the system is
1344 being designed as adequate. I presume that is where we need to be heading. Mr. Glover's
1345 concern is that when the site is fully developed we don't want any problems down the line.

1346 Mr. Bandura - Our design criteria is to take in how future development and everything
1347 is to be sized to handle any future development.

1348

1349 Mr. Glover - Their engineer designs it and you all review it, is that correct?

1350

1351 Mr. Bandura - That's correct, sir.

1352

1353 Mr. Glover - And if it is constructed the way they designed it then your professional
1354 approach to it is you approve it.

1355

1356 Mr. Bandura Yes, sir.

1357

1358 Mr. Glover - So, at that point in time if they designed it properly, according to the
1359 professional standards and the state law, then the liability does go back to the applicant rather
1360 than the County. I think I can help you answer that.

1361

1362 Mr. Bandura - Like I said, Mr. Glover, I will check with the County Attorney's Office
1363 and see.

1364

1365 Mr. George - I would like to ask that the Commission defer on this issue until the
1366 review engineer that's in charge of the project is available, that knows specifically the
1367 conditions and how it should be handled.

1368

1369 Mr. Glover - Mr. George, I'm going to try to help the Commission at this point
1370 because I don't believe we have the professional position to question other than just to question
1371 that they go back and review it again. That becomes an engineering professional question and
1372 to defer this, and I'm not going to say that you wouldn't want to do it, Mrs. Ware, but to defer
1373 it, we couldn't do any more than what they are going to do already. I know that doesn't give
1374 you any comfort zone but it gives me a comfort zone. They are well aware, the minutes are
1375 verbatim, they are taken here and so they can always go back and review the fact that they are
1376 going to check, from a professional standpoint, to be sure that it is correct.

1377

1378 Mr. George - Thank you.

1379

1380 Mr. Glover - Okay.

1381

1382 Mr. Bandura - Mr. Glover, I would also like to point out too that just because the
1383 Commission approves it, does not mean that the construction plans are approved. So, if the
1384 body over here approved it, we still have to approve the construction plans at this point. They
1385 may have to make improvements on the channel but, again, not being familiar with the plans I
1386 can't tell you at this point. But, Planning Commission approval does not constitute approval of
1387 the construction plans.

1388

1389 Mr. Glover - Will you meet with these people again, after the construction plan, meet
1390 them out there or here and enlighten them on what you have found.

1391 Mr. Bandura - Yes. We can schedule a meeting. We have done that in the past for
1392 other groups, that's not a problem.

1393

1394 Mr. Glover - That's what they are looking for.

1395

1396 Mr. Bandura - All right.

1397

1398 Mr. Jernigan - Mr. Bandura, that was an important fact that you made. This is
1399 conditional approval. When it comes through here, it means your elevations, the building is
1400 right. What happens when it leaves here it goes on to the other agencies. So, they will be
1401 checking on that and insuring that you have the right flow coming out of there.

1402

1403 Mr. Bandura - We will sit down with you in a conference and lay out the plans and go
1404 over the engineering calculations and what we look for and what they are doing on the site.

1405

1406 Mr. Vakili - Can I ask a question?

1407

1408 Mr. Jernigan - Okay, come on up front. You get one more and that's it.

1409

1410 Mr. Vakili - I would like to get an answer for the question that the gentleman raised.
1411 This is just a portion that has been done, if after the construction is complete and still we have
1412 a back up of water in our backyards, who is responsible, who is going to do something about
1413 it? Is something going to be done about it or do we have to call the state and then they say call
1414 somebody else and then the next person say it's not my problem. And also, if the existing
1415 sedimentation pond is not adequate, we know it is not adequate because we have received more
1416 water in our backyards than what we had. So, what is guaranteeing us? Is additional paving
1417 going to help this or is it going to hurt it? If the size today is not adequate, is it going to be
1418 better in the future?

1419

1420 Mr. Jernigan - You are going to get the answers on the legal terms but it can't be today
1421 because we don't have a County Attorney here, but this is a POD case and not a zoning case
1422 and that property has already been zoned for retail. But, the corrections are going to be made
1423 to take care of the water problem and that's going to have to come through Public Works.
1424 But, they will make the corrections. But, as far as the answer on who is liable, we will look
1425 into that but we don't have the County Attorney here to make that decision.

1426

1427 Mr. Vakili - Are we going to get something on that?

1428

1429 Mr. Glover - That's part of what he just said. He's going to meet with you and...

1430

1431 Mr. Jernigan - Yes. They are going to meet with you and discuss this situation.

1432

1433 Mrs. Ware - Mr. Bandura, how long would it take to get some answers for the people
1434 who are concerned here today as far as the drainage in their yard and the effect of the
1435 additional out parcel?

1436 Mr. Bandura - I would say that it would be just in a matter of a few days or so in
1437 reviewing the plans and meeting with the County Attorney.

1438

1439 Mrs. Ware - And there is still another issue too that we haven't even addressed yet of
1440 the conservation district/area, the trees and the concern of who is responsible for that, the
1441 safety issues involved, etc. Do you want to speak to that, Mr. Perry?

1442

1443 Mr. Perry - Certainly, the applicant is here and he has heard the comments and
1444 Randy hit it right on the head that in wetland areas they can go down and they can hand clear
1445 those trees, chainsaws, pickup trucks, they just can't take heavy mechanicsized equipment into
1446 wetland areas and tear them up to remove the trees. Now, again, it is private property and it is
1447 a part of the... It's the owner of the wetlands if he chooses to remove those trees and haul
1448 them away. It's an act of God. I don't walk on the people's property and tell them they have
1449 to clean their property up and cut their trees and remove them. We have them everywhere in
1450 the County.

1451

1452 Mr. Glover - At some point would they call the Corps of Engineers? I know we don't
1453 have a jurisdiction there but would they call the Corps of Engineer or DEQ?

1454

1455 Mr. Perry - To be quite honest, as long as they follow the guidelines it's not really
1456 necessary.

1457

1458 Mr. Glover - But, they don't know the guidelines is my point.

1459

1460 Mr. Perry - But, the applicant does, is what I'm saying, Mr. Glover, but as far as
1461 these gentlemen, what they need to do and they need to do it by hand and as long as the owner
1462 was willing to do it, they can remove trees from wetlands that are dead, diseased, or if they
1463 have been knocked down by a hurricane, they can remove those as well. I just wanted to let
1464 you know though that I can't force them to do that. If they are willing to do that then they can
1465 do it in accordance with the law.

1466

1467 Mr. Jernigan - Thank you, Mr. Perry.

1468

1469 Mrs. Ware - At this point, I would like to hear from the applicant to address the issue
1470 of the conservation area and the trees.

1471

1472 Mr. Hinson - There are two points that I would like to bring out. Number one. I do
1473 believe the property line is the center of the creek. A lot of the trees that are in question are
1474 not within property that is owned by the applicant. He has no control over those areas. I
1475 know that the applicant has been meeting with these neighbors, has assisted them in any way
1476 he can to this point in time. I know as Mr. Vakili mentioned, that he has removed trees that
1477 were endangering peoples home. I know that they have had various meetings and that the
1478 applicant has been open to assisting these individuals in the clearing of these trees and is trying
1479 to be a good neighbor. I can't say that the applicant will remove every tree within the stream
1480 protection area, this is also stream protection area, which requires that we leave trees within

1481 this area as well as jurisdiction of wetlands and the C-1 conservation area as you have
1482 mentioned.

1483

1484 We are attempting to be a good neighbor. I know that the applicant is going to do all they can
1485 to try to do everything possible to remove some of these trees and to make this a pleasant area
1486 for both the back of their development and these people's backyards. They are in the mist of
1487 construction right now. Timing is probably not the best right now to divert individuals from
1488 deadlines that they have for the property to get into these areas, but I do know that the
1489 applicant has indicated that when things slow down and that they have more time to look at
1490 some of these issues that they are willing to go in here and try to do so hand clearing and
1491 remove some of these dead trees from within these areas.

1492

1493 I'm not sure that there is any other commitment that the applicant can make other than to meet
1494 with the neighbors, try to address their concerns, and try to do what they can within the legal
1495 limits of their ability to move within these wetlands areas, the stream protection areas, and the
1496 C-1, Conservation areas.

1497

1498 Mrs. Ware - And what are the time constraints that you mentioned as far as to looking
1499 into this?

1500

1501 Mr. Hinson - There are issues concerning commitments to tenants and spaces that they
1502 have out there. I apologize for the applicant himself not being here today. I have heard
1503 numerous conversations at many meetings concerning some of the items that they have already
1504 done in the stream protection areas. Some of the trees have already been removed and some of
1505 the issues have been addressed. But, I know that he is aware of this and I'll be more than
1506 happy to ask him to continue with this "good faith" effort to do the best he can to satisfy the
1507 neighbors and continue to be a good corporate citizen and to help in any way he can with the
1508 resources he has available on the project.

1509

1510 Mrs. Ware - I have a question. Can these issues be addressed during the amended
1511 landscape plan, when it comes back before the Commission?

1512

1513 Mr. Silber - Yes, Mrs. Ware, there is an approved landscape plan on the property
1514 right now. We believe there is need now that the trees has fallen in this area, the screening in
1515 this buffer is not as great as it was at one time. We believe there is a need for a revised
1516 landscape plan be submitted so that there can be additional plantings along the back of this
1517 property to provided screening that I think these neighbors thought they previously had. I
1518 believe that could be addressed with a revised landscape plan, and I believe staff has had
1519 conversations with the applicant regarding a revised landscape plan.

1520

1521 It may be appropriate also, if Mr. Hinson can commit to this, that maybe the applicant and the
1522 neighbors and staff can walk this general area and come up with a reasonable solution to
1523 removing some of the trees that are an eyesore or inappropriate to be left in their current state
1524 in some degree of falling and maybe there could be some resolution to remove some of the
1525 trees but not all of the trees with additional landscaping to supplement what's left. Whether

1526 that can be done between now, if this gets deferred, maybe between now and the next meeting.
1527 If it's not deferred maybe we can deal with it with the landscape plan. But, I certainly think
1528 there is enough interest here between the applicant and the County and the residents to work
1529 out a solution.

1530

1531 Mr. Hinson - I'm sure that I can make the commitment on the applicant's behalf to
1532 have this meeting. I can not make commitment as to the resolution of the meeting but I
1533 guarantee you we can arrange a meeting with the applicant on site to look at these areas and try
1534 to come up with an acceptable plan for all parties involved.

1535

1536 Mr. Jernigan - Mr. Hinson, how many meetings have you all had with the neighbors?

1537

1538 Mr. Hinson - I was not the engineer for the original shopping center project. I know
1539 that Mr. Johnson has had personal conversations with many of the neighbors that they have
1540 expressed their desires. Ms. Goggin who is the planner and has been involved in this project
1541 has a lot of information about the meetings they've been involved in. I'm sure she could
1542 probably comment on that further. I do not know how many meetings have been with the
1543 neighbors. I do know that there have been some individual meetings and discussions with
1544 individual property owners.

1545

1546 Mr. Jernigan - Do you want to hear from Christina or do you want to move along?

1547

1548 Mrs. Ware - We'll hear from Christina.

1549

1550 Ms. Goggin - Hello, I'm Christina Goggin and I am the Planner for the case and the
1551 original shopping center. Mr. Wilton did hold a neighborhood meeting at Tuckahoe Little
1552 League approximately, I believe it was around three years ago, before the POD was heard by
1553 the Planning Commission. All I can say is if anytime somebody called me I've called Wilton,
1554 tried to get them to response, which they have. They have even called people back for me to
1555 show that they are willing to work with adjacent property owners.

1556

1557 Mrs. Ware - All right. Thank you. Anybody have any more questions?

1558

1559 Mr. Jernigan - Are there any more questions for Mr. Hinson from the Commission?

1560 All right. Thank you, sir.

1561

1562 Mr. George - I have

1563

1564 Mrs. Ware - Sir, we've closed. Those were questions from the Commission.

1565

1566 Mr. Jernigan - They were for Mr. Hinson.

1567

1568 Mr. George - Regarding this ladies remark, I was not included in any meetings and I
1569 don't believe people on the south side of Ridgefield were included in meetings because their
1570 properties aren't adjacent to the shopping center, but their properties are affected by it. And

1571 the fact that the creek flows across the main road onto our side. So, the people on the south
1572 side of Ridgefield were not included in these meetings.

1573

1574 Mr. Jernigan - Okay. Thank you. All right, Mrs. Ware, what do you want to do here?

1575

1576 Mrs. Ware - I have a question for Mr. Silber. The drainage issues that we spoke of
1577 today will be address regardless of whether this is deferred or not. The landscaping can come
1578 back and the conservation area can be dealt with in that regard, correct?

1579

1580 Mr. Silber - In that regard, meaning?

1581

1582 Mrs. Ware - There concerns. I'm sorry.

1583

1584 Mr. Silber - To answer your question. The drainage issues will be looked at by
1585 professional engineers by the County will be address beyond this point with the final
1586 engineering and construction plans. So, I feel confident that the drainage issues will be
1587 adequately addressed. I think that the engineers have committed to looking at several items
1588 relative to checking the outfall, looking to see if any culverts are blocked, etc. So, all of that
1589 will be analyzed. I think that really goes beyond the purview of the Planning Commission's
1590 consideration of this. I think that will be addressed.

1591

1592 Relative to the trees that have fallen down, I think we can deal with that by working with the
1593 applicant and requiring them to submit a revised landscape plan to provide additional
1594 screening.

1595

1596 Mrs. Ware - Okay. Thank you. All right. Based on that, I think with the drainage
1597 issues being looked at and the commitment from Public Works and to make sure that these
1598 drainage issues are checked and that their calculations and plans meet the needs of this
1599 development. As well as asking for a landscaping plan to be revised to provide the screening
1600 for the people who are behind the shopping center and to take care of some of the fallen tree
1601 issues that are behind there. And, also, you have a commitment from the applicant to meet
1602 with you to address these issues and it will come back to the Planning Commission for
1603 consideration. So with that, at this point, I'm going to move for approval of POD-74-03,
1604 Hollywood Video @ John Rolfe Commons Shopping Center, subject to the annotations on the
1605 plans, the standard conditions for developments of this type, and the following conditions Nos.
1606 23 through 35 and on the addendum No. 9, which is the landscaping plan, and No. 11, which
1607 is lighting, amended and they will both come back before the Commission and additional
1608 conditions Nos. 36, 37 and 38.

1609

1610 Mr. Taylor - Second.

1611

1612 Mr. Jernigan - We have a motion by Mrs. Ware and a second by Mr. Taylor. All in
1613 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

1614

1615 Mr. Silber - Let me point out, Mrs. Ware, that this site is not fully developed. There

1616 will be additional plans of developments that will be coming in. There will be additional
1617 opportunities for the surrounding property owners to receive notification and come back before
1618 the Commission and express concerns. So, believe me, there will be other opportunities that
1619 we can continue to monitor this site.

1620

1621 Mr. George - The neighbors on the south side of this site, were not notified even of
1622 this meeting. Could we be notified in the future?

1623

1624 Mrs. Ware - If you would give your name and address, I'm sure that the applicant or
1625 the gentleman representing the applicant, and Mrs. Goggin, if you will get with them too as
1626 well and get their names and addresses so that they will definite receive notification when there
1627 is something else coming up.

1628

1629 The Planning Commission approved POD-74-03, Hollywood Video @ John Rolfe Commons
1630 Shopping (POD-79-01 Revised) subject to the annotations on the plans, the standard conditions
1631 for developments of this type, and the following additional conditions.

1632

1633 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for
1634 review and Planning Commission approval prior to the issuance of any occupancy
1635 permits.

1636 11. **AMENDED** - Prior to the approval of an electrical permit application and installation of
1637 the site lighting equipment, a plan including depictions of light spread and intensity
1638 diagrams, and fixture specifications and mounting height details shall be submitted for
1639 Planning Office review and Planning Commission approval.

1640 23. The easements for drainage and utilities as shown on approved plans shall be granted to
1641 the County in a form acceptable to the County Attorney prior to any occupancy permits
1642 being issued. The easement plats and any other required information shall be submitted
1643 to the County Real Property Agent at least sixty (60) days prior to requesting
1644 occupancy permits.

1645 24. The developer shall provide fire hydrants as required by the Department of Public
1646 Utilities and Division of Fire.

1647 25. Employees shall be required to use the parking spaces provided at the rear of the
1648 building(s) as shown on the approved plans.

1649 26. All repair work shall be conducted entirely within the enclosed building.

1650 27. Outside storage shall not be permitted.

1651 28. The proffers approved as a part of zoning case C-66C-88 shall be incorporated in this
1652 approval.

1653 29. Any necessary off-site drainage and/or water and sewer easements must be obtained in
1654 a form acceptable to the County Attorney prior to final approval of the construction
1655 plans.

1656 30. Deviations from County standards for pavement, curb or curb and gutter design shall be
1657 approved by the County Engineer prior to final approval of the construction plans by
1658 the Department of Public Works.

1659 31. Insurance Services Office (ISO) calculations must be included with the plans and
1660 contracts and must be approved by the Department of Public Utilities prior to the

- 1661 issuance of a building permit.
- 1662 32. Approval of the construction plans by the Department of Public Works does not
 1663 establish the curb and gutter elevations along the Henrico County maintained right-of-
 1664 way. The elevations will be set by Henrico County.
- 1665 33. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the
 1666 Planning Office and approved prior to issuance of a certificate of occupancy for this
 1667 development.
- 1668 34. The master plan, as submitted with this application, is for planning and informational
 1669 purposes only.
- 1670 35. The location of all existing and proposed utility and mechanical equipment (including
 1671 HVAC units, electric meters, junction and accessory boxes, transformers, and
 1672 generators) shall be identified on the landscape plans. All equipment shall be screened
 1673 by such measures as determined appropriate by the Director of Planning or the
 1674 Planning Commission at the time of plan approval.
- 1675 36. Only retail business establishments permitted in a B-2C zone may be located in this
 1676 center.
- 1677 37. The ground area covered by all the buildings shall not exceed in the aggregate 25 percent
 1678 of the total site area.
- 1679 38. No merchandise shall be displayed or stored outside of the building(s) or on sidewalk(s).

1680
 1681 **MR. GLOVER LEAVES AFTER THIS CASE AND IS ABSENT FOR THE REST OF**
 1682 **THE MEETING.**

1683
 1684 **PLAN OF DEVELOPMENT**
 1685

1686 1687 POD-76-03 1688 Bruster's Ice Cream @ John 1689 Rolfe Commons Shopping 1690 Center (POD-79-01 Revised)	Balzer & Associates, Inc. for The Wilton Companies, LLC: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story, 1,216 1,118 square foot restaurant building addition with a 480 square foot canopy to an existing shopping center. The 0.52-acre site is located on the north side of Ridgefield Parkway approximately 1100 feet west of John Rolfe Parkway in the John Rolfe Commons Shopping Center on part of parcel 736-351-6741. The zoning is B-2C, Business District (Conditional). County water and sewer. (Tuckahoe)
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1686
 1687 **Mr. Jernigan** - Is there any opposition to POD-76-03, Bruster's Ice Cream @ John
 1688 Rolfe Commons Shopping Center? We have no opposition. All right, Mr. Strauss, you may
 1689 proceed.

1690
 1691 **Mr. Strauss** - Thank you, Mr. Chairman. Since the agenda was prepared, the staff has
 1692 completed its review of the revised plan of this proposed development, which is another out
 1693 parcel to the existing shopping center, John Rolfe Commons. You will note in the addendum
 1694 this morning there is a 480 square foot outdoor convenience seating area for customers using
 1695 the proposed ice cream establishment. This canopy has been the subject of a great deal of

1696 discussion this last week. The staff and the shopping center developer are not as enthusiastic
1697 about the design of this canopy and canopy supports. We are not recommending approval of
1698 the canopy design at this time. Staff is discussing the revised architectural treatment that we
1699 are looking for. There are proffers on this shopping center. Architectural compatibility is a
1700 goal of those proffers and we are working out the details of the canopy at this time.

1701

1702 Staff is recommending approval of the 1,118 square foot Bruster's building and the site plan
1703 itself in accordance with the revised annotated plan that we just handed out this morning, along
1704 with the additional conditions on the addendum, which as, in the previous case, include Nos. 9
1705 and 11 amended and the additional standard conditions for shopping centers. And with that,
1706 I'll be happy to answer any questions you may have. Thank you.

1707

1708 Mr. Jernigan - Are there any questions for Mr. Strauss by Commission members?

1709

1710 Mrs. Ware - I want to ask you about the canopy issue and how it's addressed.

1711

1712 Mr. Strauss - Okay.

1713

1714 Mrs. Ware - In the conditions or will it come back to the Commission?

1715

1716 Mr. Strauss - Yes. We are going to work out the details. As we have done in the past
1717 with other cases, where we were in disagreement with the architecture, we delayed the
1718 architectural approval. We have the Commission approve the site plan. We are going to bring
1719 back the architectural design for the canopy itself.

1720

1721 Mr. Jernigan - Can't you just amend the canopy?

1722

1723 Mr. Strauss - Yes.

1724

1725 Mr. Jernigan - Can we just

1726

1727 Mr. Strauss - Well, we are not going to amend it, we are not approving the canopy
1728 today, we are approving the building, not the canopy that's attached to it.

1729

1730 Mrs. Ware - The canopy is just not included in anything right now.

1731

1732 Mr. Jernigan - It's not included in the case. Okay.

1733

1734 Mrs. Ware - So when I approve this, I am not approving the canopy, right?

1735

1736 Mr. Strauss - Right.

1737

1738 Mr. Silber - So the approval will be without the canopy. If they want the canopy
1739 they'll need to come back and provide new architectural.

1740 Mr. Jernigan - Thank you, Mr. Strauss. All right, Mrs. Ware.

1741

1742 Mrs. Ware - With that, I will move for approval of POD-76-03, Bruster's Ice Cream
1743 @ John Rolfe Commons Shopping Center, subject to the standard conditions for developments
1744 of this type and the following additional conditions Nos. 23 through 36 and on the addendum
1745 Nos. 9 and 11 amended and Nos. 37, 38 and 39.

1746

1747 Mr. Archer - Second, Mr. Chairman.

1748

1749 Mr. Jernigan - We have a motion by Mrs. Ware and a second by Mr. Archer. All in
1750 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

1751

1752 The Planning Commission approved POD-76-03, Bruster's Ice Cream @ John Rolfe Commons
1753 Shopping Center (POD-79-01 Revised) subject to the annotations on the plan, the standard
1754 conditions attached to these minutes for developments of this type, and the following additional
1755 conditions. Mr. Glover was absent.

1756

1757 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for
1758 review and Planning Commission approval prior to the issuance of any occupancy
1759 permits.

1760 11. **AMENDED** - Prior to the approval of an electrical permit application and installation of
1761 the site lighting equipment, a plan including depictions of light spread and intensity
1762 diagrams, and fixture specifications and mounting height details shall be submitted for
1763 Planning Office review and Planning Commission approval.

1764 23. The easements for drainage and utilities as shown on approved plans shall be granted to
1765 the County in a form acceptable to the County Attorney prior to any occupancy permits
1766 being issued. The easement plats and any other required information shall be submitted
1767 to the County Real Property Agent at least sixty (60) days prior to requesting
1768 occupancy permits.

1769 24. The developer shall provide fire hydrants as required by the Department of Public
1770 Utilities and Division of Fire.

1771 25. Employees shall be required to use the parking spaces provided at the rear of the
1772 building(s) as shown on the approved plans.

1773 26. All repair work shall be conducted entirely within the enclosed building.

1774 27. Outside storage shall not be permitted.

1775 28. The proffers approved as a part of zoning case C-66C-88 shall be incorporated in this
1776 approval.

1777 29. Any necessary off-site drainage and/or water and sewer easements must be obtained in
1778 a form acceptable to the County Attorney prior to final approval of the construction
1779 plans.

1780 30. Deviations from County standards for pavement, curb or curb and gutter design shall be
1781 approved by the County Engineer prior to final approval of the construction plans by
1782 the Department of Public Works.

1783 31. Insurance Services Office (ISO) calculations must be included with the plans and
1784 contracts and must be approved by the Department of Public Utilities prior to the
1785 issuance of a building permit.

- 1786 32. Approval of the construction plans by the Department of Public Works does not
 1787 establish the curb and gutter elevations along the Henrico County maintained right-of-
 1788 way. The elevations will be set by Henrico County.
- 1789 33. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the
 1790 Planning Office and approved prior to issuance of a certificate of occupancy for this
 1791 development.
- 1792 34. The master plan, as submitted with this application, is for planning and informational
 1793 purposes only.
- 1794 35. The location of all existing and proposed utility and mechanical equipment (including
 1795 HVAC units, electric meters, junction and accessory boxes, transformers, and
 1796 generators) shall be identified on the landscape plans. All equipment shall be screened
 1797 by such measures as determined appropriate by the Director of Planning or the
 1798 Planning Commission at the time of plan approval.
- 1799 36. Final Construction Plans for this project will not be approved until the revised
 1800 construction plans for POD-79-01 are approved by the County staff.
- 1801 37. Only retail business establishments permitted in a B-2C zone may be located in this
 1802 center.
- 1803 38. The ground area covered by all the buildings shall not exceed in the aggregate 25 percent
 1804 of the total site area.
- 1805 39. No merchandise shall be displayed or stored outside of the building(s) or on sidewalk(s).

1806

1807 **PLAN OF DEVELOPMENT**

1808

POD-77-03
 Plow & Hearth @ Short
 Pump Town Center

**Little Diversified Architectural Consulting for Short Pump
 Town Center, LLC and Plow & Hearth:** Request for
 approval of a plan of development, as required by Chapter 24,
 Section 24-106 of the Henrico County Code, to construct a
 one-story, 9,988 square foot retail building in an existing
 shopping center. The 2.596-acre site is located along the north
 line W. Broad Street (U.S. Route 250), approximately 200 feet
 west of its intersection with Lauderdale Drive (11700 W. Broad
 Street) on parcel 737-763-0900. The zoning is B-3C, Business
 District (Conditional) and WBSOD, West Broad Street Overlay
 District. Private water and sewer. **(Three Chopt)**

1809

1810 Mr. Jernigan - Is there anyone in the audience in opposition to POD-77-03, Plow &
 1811 Hearth @ Short Pump Town Center? There is no opposition. Mr. Wilhite, how are you?

1812

1813 Mr. Wilhite - I'm fine, sir. How are you?

1814

1815 Mr. Jernigan - I'm doing great. You may proceed.

1816

1817 Mr. Wilhite - Thank you. There were a few site issues that were brought up in the
 1818 staff developer meeting. We have received additional information. All the questions that staff
 1819 had related to the site have been resolved. The main issue on this project had to deal with the

1820 architectural design of the building. I have to say that we have not come to an agreement with
1821 the applicant at this point. However, I have provided a handout with the most recent
1822 architectural plans that we have received. They came in Friday.

1823

1824 The original issues that we had with the building design had to do with the amount of brick
1825 being provided. The proffered conditions for this site state that the primary building materials
1826 has to be masonry brick and glass. It does allow for accent materials; hardi plank siding is
1827 being proposed here (referring to screen). Staff feels the amount of hardi plank siding on here
1828 goes beyond that as an accent material and it's becoming a primary building material on the
1829 proposed building.

1830

1831 After the staff/developer meeting we did have a conference call with the applicant. They did
1832 provide us some sketch plans that essentially changed the siding on the east and west sides of
1833 the building from hardi plank to brick. The siding that appears on the rear elevation went to
1834 brick with the brick portion of the rear elevation going to stone. The one façade that the
1835 applicant did not address at that time was the façade facing W. Broad Street, which is the
1836 primary façade for the structure. They did not have any proposed changes on there. For the
1837 most part, they proposed the hardi plank siding and the stone base.

1838

1839 Staff would recommend that the stone base go to brick the same that's used on the other sides
1840 that were being proposed. The revised plan that we received Friday, however, did show that
1841 change from stone to brick, however, they reverted back to the original design taking the brick
1842 off of the other three sides. The only other changes were made were some slight changes to
1843 the chimney itself and the addition of a brick soldier course.

1844

1845 It is staff's feeling that they do not go far enough to meet the proffered conditions of the site.
1846 We are recommending that the site plan be approved at this time. However, the architectural
1847 be deferred until the January 28, 2004 meeting.

1848

1849 Mr. Jernigan - Okay on the site but not okay on the building.

1850

1851 Mr. Wilhite - Yes, sir, that is staff's recommendation.

1852

1853 Mr. Jernigan - Any questions for Mr. Wilhite from the Commission?

1854

1855 Mr. Silber - Mr. Wilhite, the staff is comfortable with the site plan at this point?

1856

1857 Mr. Wilhite - Yes.

1858

1859 Mr. Silber - The issues have been resolved relative to the site layout. But the concern
1860 at this point still relates to the architectural elevations.

1861

1862 Mr. Wilhite - Yes. We believe the applicant can proceed with preparing the final site
1863 plan for approval and to defer the architectural plans to the January meeting and this would not
1864 substantially hold them up. They can still proceed with the site plan approval.

1865
1866 Mr. Silber - Okay. Thank you.
1867
1868 Mr. Jernigan - Mr. Taylor, do you want to hear from anybody?
1869
1870 Mr. Taylor - Mr. Chairman, I think it might be reasonable to hear from the applicant
1871 in this case.
1872
1873 Mr. Jernigan - Okay.
1874
1875 Mr. Taylor - Particularly relative to the issue of the elevations on the site plan not
1876 matching.
1877
1878 Mr. Jernigan - Good morning.
1879
1880 Mr. Cole - Good morning. I'm Josh Cole and I'm with Little Diversified
1881 Architectural Consulting out of Charlotte, NC. I am the architect for Plow & Hearth and I'm
1882 here to represent or answer any questions you might have towards that elevation.
1883
1884 Mr. Taylor - Mr. Cole, on that elevation, if you would, just explain the dichotomy
1885 between the elevations that we have here and let's say elevations in terms of more
1886 architecturally enduring materials, as Mr. Wilhite pointed out.
1887
1888 Mr. Cole - Are you asking me about the changes, why the changes took place or
1889 why we proposed...
1890
1891 Mr. Jernigan - Your site plan is okay, the building is not up to snuff. That's what he is
1892 asking about the façade on the building.
1893
1894 Mr. Cole - Our staff basically, we are dealing with Plow & Hearth, which is
1895 actually out of Madison, Virginia. They are the country's largest heartland magazine. They
1896 have a brand statement for themselves. We were hired by Plow & Hearth to give the essence
1897 of that brand. That brand actually has to do with the Virginia country home and the essence of
1898 that considering they sell products for Virginia county living. They feel very strongly that this
1899 brand has certain materials and values that go along with their brand, such as hardi plank, such
1900 as stone, such as brick, such as the roofing materials you see here. But, they are one of the
1901 essence of the architecture to feel more residential in scale and in style than what you would
1902 normally see. When you see a Plow & Heart building, you would recognize that Plow &
1903 Heart building as a Plow & Heart building without even actually having to see the signage on
1904 it. That was the goal intended for Plow & Heart.
1905
1906 Talking with Kevin and the Planning Commission, Plow & Heart was willing to take the three
1907 back side elevations and change those to a more durable material such as brick and just stone
1908 and just get rid of the hardi plank, in favor of leaving the front elevation alone, which is really
1909 their icon elevation. In further conversation, again, with Kevin and the Planning Commission,

1910 Plow & Heart went back to say well if we have to put brick on the front in lieu of stone, which
1911 actually stone is a more expensive material, in lieu of stone can we get the hardi plank back on
1912 the sides. And I said, well we can that to Henrico County and see if that will go over.

1913

1914 Mrs. Ware - Do all your stores look like the one we see right here?

1915

1916 Mr. Cole - We are actually doing two stores right now, one in Fairfax Corners,
1917 outside of DC and here in Short Pump. They are slated to do five to seven stores within the
1918 next two years and up to 100 units. And, yes, all of these stores will look alike.

1919

1920 Mrs. Ware - Okay. That was my question. Do you have any other stores anywhere
1921 else that you have built that is different from this?

1922

1923 Mr. Cole - There is one in Madison, Virginia, which is similar to this but it is not a
1924 part of this line. So, this is actually the first one to be constructed for Plow & Heart.

1925

1926 Mr. Jernigan - You only have one up now.

1927

1928 Mr. Cole - There's one only existing store but that is not of this prototype.

1929

1930 Mrs. Ware - What is the other prototype?

1931

1932 Mr. Cole - The other prototype is actually like country home, kind of a low country
1933 style barn feel, which actually has not a whole lot... more or less of the Virginia country store
1934 market.

1935

1936 Mrs. Ware - So, it's more hardi plank, then?

1937

1938 Mr. Cole - Yes. It is all hardi plank.

1939

1940 Mr. Silber - Mr. Cole, I think the challenge before the Planning Commission is, and I
1941 think this needs to be taken back to Plow & Hearth and explain to them, this is in a special area
1942 of the County that is in the West Broad Street Overlay District. This is a special strategy area.
1943 The County has identified this as an extremely high-quality area and this is one of the out
1944 parcels. In fact, it would be at the entranceway out parcel into a very upscale brand new mall
1945 that is being looked at favorably and we look at the architectural treatment of each and every
1946 out parcel very carefully. So, I think they need to understand that the architectural of this
1947 building is important and I think a sizeable amount or maybe any hardy plank needs to be
1948 looked at very carefully. I think that we are probably still a long ways from finding this
1949 acceptable.

1950

1951 What is a good alternative is to send forward with approval the site plans so it doesn't slow
1952 down the development of the site and our staff will continue to work with you on its design.

1953

1954 Mr. Cole - Absolutely. In my last conversation with Kevin, which took place early

1955 yesterday morning, I got in touch with my client, about six o'clock last night, and through my
1956 discussion with Kevin earlier that morning, they said it Plow & Heart is willing to do the three
1957 sides basically out of brick with stone accents, as we had suggested before, and to continue the
1958 front lower part of that building, which you see now is stone, and convert that to brick. Kevin
1959 said that he was under the assumption that his Planning Commission would approve that. Plow
1960 & Hearth will do that if that is okay.

1961

1962 Mr. Jernigan - Mr. Wilhite, would you like to comment on that?

1963

1964 Mr. Wilhite - Yes, sir. Essentially, our earlier discussions before the last revision that
1965 you received, we had agreed on the other three sides of the building and the only sticking
1966 point, I guess, was the front of the façade. We had suggested that they change from stone to
1967 brick and that we would find that acceptable. However, with the revision that was handed out,
1968 we actually backed away from that agreement, so we were further apart. Now, this is the first
1969 that I have heard that Plow & Hearth would commit to providing the brick on the front. I do
1970 have the sketches that were sent to me and I can put those up on the screen to show what the
1971 other sides would look like.

1972

1973 Mr. Jernigan - Now, let me clear this up. If they put brick around the sides are you
1974 saying that you will be happy with the former elevation, with 50% brick and 50% hardy
1975 plank?

1976

1977 Mr. Wilhite - Well, essentially, what will happen on the sides, the hardy plank will be
1978 brick on those sides, in the back, where they are shown hardy plank goes to brick as well. The
1979 brick in the center of the rear elevation would go to the stone that they show on the front. The
1980 one change that would occur on the front elevation, the stone on the bottom half of the
1981 elevation would go to brick. And with all those changes, staff can recommend approval. I'll
1982 be happy to put the sketches up on the screen if you need some clarification?

1983

1984 Mr. Jernigan - Yes, you can put those up.

1985

1986 Mr. Wilhite - I don't know how well you can see this, but that shows the front and rear
1987 elevations (referring to sketches on the screen). The rear elevation, what we are showing is
1988 the hardi plank side and originally on the two wings is now brick. What was brick in the
1989 middle has gone to the stone to match the chimneys.

1990

1991 Mr. Jernigan - In the middle of the back would be stone?

1992

1993 Mr. Wilhite - Yes, that would be stone.

1994

1995 Mr. Jernigan - Okay. So, we have got brick with stone in the middle.

1996 Mr. Cole - That's correct.

1997 Mr. Wilhite - On the sides, the materials is primarily all brick except for the stone
1998 chimneys. They did add the soldier course through the middle of the brick. There is a little bit
1999 of hardi plank siding around the window areas. Essentially, its gone to an all brick on the two

2000 sides. And staff does find this acceptable.

2001

2002 Mr. Jernigan - Now, on the front it's going to be 50% brick and then hardy plank above
2003 it.

2004

2005 Mr. Wilhite - Essentially, 50% brick and hardi plank in front. The stone that's shown
2006 on the drawings that you have, is essentially replaced by brick.

2007

2008 Mr. Jernigan - And you are okay with that?

2009

2010 Mr. Wilhite - Yes, sir. We can recommend approval of that.

2011

2012 Mr. Silber - Well, Mr. Wilhite, I guess the concern that I have is this is really a
2013 prominent site on Broad Street. It is going to be the gateway into this shopping center. I hear
2014 what you are saying. To me it seems like it's a little bit of a rush for us to be considering this.
2015 I was just pointing out replacement, parts or materials. I guess I will leave it up to Mr. Taylor
2016 as to what he wants to do. I'm fine with the site plan being approved but I'm still a little leery
2017 to rush these through with these elevations.

2018

2019 Mr. Taylor - I would like to ask a question. Has the development Mr. Pruitt seen or
2020 approved the colored elevations for this site? Elevations first and then would they be color for
2021 this site. I ask that because this is at the entrance to Short Pump Town Center. The developer
2022 here has gone to a large amount of trouble to make that entrance to be grand and imposing. If
2023 we are not careful and we put a building there that looks likes it's out of the 18 century, I' not
2024 sure that he's going to enjoy what that's going to look like contrasted to the buildings that he
2025 now has and the elevations, and lighting that he has now, And really a 20th Century modern
2026 décor and architecture of the site.

2027

2028 Mr. Wilhite - Actually, Mr. Taylor, Forest City has reviewed the architectural plans,
2029 and were apart of our discussions and they actually approved the building with less brick than
2030 staff has recommended. I understand what you are saying. The site immediately adjacent to
2031 this, Season's Restaurant, is actually a reproduction of an 18th century building that's been
2032 constructed. So, we do have a wide range of styles on the Short Pump Town Center property.

2033

2034 Mrs. Ware - It just sounds like more work could be done as far as meeting the needs
2035 of both the County and probably Plow & Hearth.

2036

2037 Mr. Taylor - Okay. I agree with that. I think the best thing might be, as Mr. Silber
2038 pointed out, it might be good to pass the basic project but leave the elevations to a deferred
2039 meeting, which we can look at the materials as well as the colors. So, that we can get an ideal
2040 of what's that going to look like, how much stone is going to be there, how the stone is going
2041 to fit, and how the site fits. And make sure we've got everything line up there. I think we can
2042 do that in one motion.

2043

2044 Mr. Jernigan - All right, Mr. Taylor.

2045

2046 Mr. Taylor - So, what I will do is, I will move for the site plan, the building
2047 elevations are to come back to the Commission at a later date. And I'll move that we approve
2048 POD-77-03, Plow & Hearth @ Short Pump Town Center, subject to the standard conditions
2049 for developments of this type, and additional conditions Nos. 23 through 30 with the elevation
2050 and material issues being addressed at the January 28, 2004, meeting.

2051

2052 Mrs. Ware - Second.

2053

2054 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mrs. Ware. All in
2055 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

2056

2057 The Planning Commission approved POD-77-03, Ploy & Hearth @ Short Pump Town Center,
2058 subject to the standard conditions attached to these minutes, and the following additional
2059 conditions. Mr. Glover was absent.

2060

2061 23. The developer shall provide fire hydrants as required by the Department of Public
2062 Utilities and Division of Fire.

2063 24. Outside storage shall not be permitted.

2064 25. The proffers approved as a part of zoning case C-29C-03 shall be incorporated in this
2065 approval.

2066 26. Deviations from County standards for pavement, curb or curb and gutter design shall be
2067 approved by the County Engineer prior to final approval of the construction plans by
2068 the Department of Public Works.

2069 27. Insurance Services Office (ISO) calculations must be included with the plans and
2070 contracts and must be approved by the Department of Public Utilities prior to the
2071 issuance of a building permit.

2072 28. The location of all existing and proposed utility and mechanical equipment (including
2073 HVAC units, electric meters, junction and accessory boxes, transformers, and
2074 generators) shall be identified on the landscape plans. All equipment shall be screened
2075 by such measures as determined appropriate by the Director of Planning or the
2076 Planning Commission at the time of plan approval.

2077 29. The ground area covered by all the buildings shall not exceed in the aggregate 25 percent
2078 of the total site area.

2079 30. No merchandise shall be displayed or stored outside of the building(s) or on sidewalk(s).

2080

2081

2081 **SUBDIVISION (Deferred from the November 19, 2003, Meeting)**

2082

Westover Pines
(June 2002 Plan)

Schmidt & Associates for Westover Pines, L.L.C.: The 3.895-acre site proposed for a subdivision of 35 townhouses for sale is located on the west side of Westover Avenue, approximately 125 feet north of Third Street on parcel 816-728-0487. The zoning is RTH, Residential Townhouse District. County water and sewer. **(Varina) 35 Lots**

2083

2084 Mr. Jernigan - Is there any opposition to subdivision Westover Pines (June 2002 Plan)?

2085 We have opposition. Mr. Wilhite, you may proceed.

2086

2087 Mr. Wilhite - Thank you, sir. You have just been handed out a revised elevation that
2088 was received today. In your packet, along with the original site plan with staff's comments,
2089 there was a revised site plan included that was submitted at the time the packets went out but
2090 had not been reviewed by staff. In the meantime, the staff has looked at that revised site plan.
2091 We have had meetings with the applicant concerning this project. What has been agreed to,
2092 the applicant is going to withdraw the revised site plan shown in the packet that was included
2093 and revert back to the original June 2002 plan.

2094

2095 This plan addresses concerns expressed by the neighbors regarding the adequate screening of
2096 the project. It provides a 40-foot landscape area along Westover Avenue and a 25-foot
2097 landscape strip around the units located at the northern and western parts of this project. It
2098 was agreed that, in lieu, some additional upgrades to the architectural design would be added.
2099 I would like to point out that this is a subdivision for your approval. The architectural plans
2100 are here for specify approval of there would be a POD that will be filed in the future with the
2101 architectural plans going to the Planning Commission then. But, what has been agreed to at this
2102 point is that the applicant is willing to provide brick on a minimum of three units per row,
2103 including all end units. There are brick foundations on the buildings, alternating roof lines,
2104 and bay windows on the ends of units.

2105

2106 Staff is in a position to recommend approval of the original plan with the annotations on it and
2107 the standard conditions for subdivisions. I'll be happy to answer any questions that you have.

2108

2109 Mr. Jernigan - Are there any questions for Mr. Wilhite from the Commission? Thank
2110 you, Mr. Wilhite. I think at this time I would like to hear from the opposition first before I
2111 hear from the applicant so that we can address all the issues at one time. Would you come
2112 down, please, sir. Good morning.

2113

2114 Mr. Kenny - Good morning. My name is Robert Kenny and I live at 300 Westover
2115 Avenue. My property lies right beside this proposed subdivision. It's going to be built and I
2116 do have some concerns. One of them being water drainage. The way this land is set up the
2117 water that comes from the back of that property it naturally falls across my property. Any
2118 time it rains, all the water comes over to my property. My driveway runs right along side his
2119 property line. The problem I see is that there is a drainage ditch that is on his property. If he

2120 is going to build a buffer, where is he going to put the buffer? If he puts it on the other side of
2121 that ditch, I'm still exposed to the water. If he runs any kind of drainage under the ground
2122 then the buffer would almost have to go on top of that drainage. I'm concern about what type
2123 of material. What is the length of the buffer going to be? I have a trouble problem with
2124 mosquitoes in the summer because water does sets back there. That's one of my major
2125 concerns.

2126

2127 My other concern is he only has 3.8 acres of land and he's talking about putting 35 townhouses
2128 in there. That seems to be pretty dense. Westover Avenue was just widen to handle existing
2129 traffic that was already in the community. Now, he's talking about putting 35 more homes in
2130 there. That's going to increase the traffic. On Westover Avenue there is a playground where
2131 kids come. We have a lot of events there and that already increases the traffic on Westover.
2132 The rest of the residents on Westover as well as the community are not aware of these 35
2133 townhouses coming in and that this traffic is going to filter back within the community, which
2134 in my opinion is going to create a safety hazard.

2135

2136 Also, putting 35 units on such a small parcel of land, with all the wooded area around, heaven
2137 forbid there is a fire, what would happen. There is about a 140 acres of wood land that's
2138 running almost adjacent to where he's talking about building, and you are talking about
2139 squeezing 35 homes in there. Also there are no sidewalks. There is no street lighting on
2140 Westover Avenue, so you are bringing families in, what about the kids. We have concerns
2141 about parking zone, the shoulders on Westover Avenue are not wide enough. Most of
2142 Westover is zoned for no parking, no standing at any time. We would like to see that for the
2143 remainder and for the cul-de-sac at the end of Westover Avenue, so people won't be hanging
2144 out.

2145

2146 I'm concerned where the proposed entrance to this subdivision will be because I haven't seen
2147 the plans, but my understanding is that the entrance is going to run almost parallel with my
2148 driveway. I don't want to be coming out of my driveway and here is someone right beside me
2149 coming out of this subdivision. You are talking about 35 homes, Mr. Henderson here, who is
2150 my neighbor, he has the figures on how many cars that the County figures that would be per
2151 family that would be coming out of there, that's an accident waiting to happen. We already
2152 have enough accidents that happen at that turn off at Nine Mile Road and Westover Avenue.
2153 So you are still talking about more cars coming in, people coming from work. I would just
2154 like to hear how Schmidt & Associates plan to address some of the issues. And also we are
2155 concerned about our property value.

2156

2157 Mrs. Ware - Are you on 3rd Street?

2158

2159 Mr. Kenny - No. I'm right beside where he is going to build. My house sits right
2160 beside there. I have a brand new home.

2161

2162 Mrs. Ware - Okay.

2163

2164 Mr. Kenny - His property line runs right beside my driveway and his property line

2165 consist of a drainage ditch where all the water that comes from the subdivision behind us and
2166 everything just naturally falls that way and it goes across my property. So, those are some of
2167 my concerns.

2168

2169 Mr. Jernigan - All right, and I am going to address them now. The first thing is, this
2170 property was zoned RTHC some time ago.

2171

2172 Mr. Kenny - Twenty year's ago.

2173

2174 Mr. Jernigan Okay. Which means at that time it got zoned for townhomes and the
2175 density was there, that all came in at the time of zoning. So, as far as whether it's 34 or 35
2176 units it's not really going to make a difference. We can't cut it down to 10 or 12.

2177

2178 Mr. Kenny - What is the requirement for the Varina area, per acre, for townhouses?

2179

2180 Mr. Silber - Let me speak to that, if I could, the zoning ordinance allows for RTH
2181 zoning, which this is, to have up to nine units per acre. I don't know what this calculates to.

2182

2183 Mr. Wilhite - They are right at nine.

2184

2185 Mr. Silber - They are right at nine acres per unit. But, they can't exceed that. That's
2186 the maximum you can put on RTH zoned property. Mr. Jernigan is correct, this piece of
2187 property, good or bad, was zoned RTH about 20 years ago so the owner of that property has
2188 the right to build townhouses to a density of nine units per acre on this property.

2189

2190 Mr. Jernigan - And that we can't control.

2191

2192 Mr. Kenny - The only problem is 20 years ago, the community wasn't the size that it
2193 is now and we didn't have the new homes that have been built out there 20 years ago and they
2194 lie dormant. I have no problem with Mr. Schmidt building the townhouses but we do have
2195 some serious safety concerns, and we want to know what is the County going to do about it.
2196 When we come to the County talking about the accidents at the turn on Nine Mile Road and
2197 Westover Avenue, the County says they are not responsible for Nine Mile Road because that's
2198 run by the State. The State comes down and says there are not enough accidents happening
2199 there for us to put a traffic light or anything there. So, you are talking about all of these cars
2200 and no one is taking any responsibility for the safety of the families that are on that row.

2201

2202 Mr. Jernigan - Well, Mr. Kenny, I have these meetings every month and I go to a lot of
2203 neighborhood meetings. Believe me when I tell you, everybody would have a stop light at the
2204 end of their street because that's what everybody wants. I hear the same discussion at every
2205 meeting, it's traffic. Now, what is the usage on a townhome, six trips per day?

2206

2207 Mr. Silber - Approximately, six trips per day.

2208

2209 Mr. Jernigan - Out of a townhouse. It's ten trips for a single-family dwelling cause

2210 normally there are more people there. Westover have been widen.

2211

2212 Mr. Kenny - Right. That was for the traffic already coming through before anyone
2213 had knowledge of this project.

2214

2215 Mr. Jernigan - I know that. But, this also deadends. How many people do you have on
2216 Westover, how many homes are there?

2217

2218 Mr. Kenny - Whenever there is something that happens at that park, I have cars that
2219 park from out of that park all the way down Westover Avenue pass my driveway, and I know I
2220 am a good 200 feet from the park and that park is used on a regular basis. And that's just with
2221 stuff at the park, so when you factor in these townhouses, along with the traffic at that park,
2222 that's a problem. And then we are concerned about the parking. What about people, when
2223 their guest come, where will they park? Is there going to be ample parking for guest in those
2224 townhouse?

2225

2226 Mr. Jernigan - The County has a calculation where you have to have an x amount of
2227 extra spaces for people coming in.

2228

2229 Mr. Silber - The minimum requirement, sir, for parking, and we will make sure there
2230 is adequate parking here to serve the needs of those living in this community.

2231

2232 Mr. Kenny - Let me ask you a question. Can we get the rest of Westover Avenue,
2233 down pass those townhomes, zoned for no parking and no standing so that there is no loitering
2234 around?

2235

2236 Mr. Silber - We can make that request. We do have the assistant traffic engineer here
2237 today, Mr. Jennings, we could have him address that. I think there are times in which no
2238 parking signs can be installed. We will need to take a look at that.

2239

2240 Mr. Jernigan - We can't get it zoned for that, no. We may be able to do something
2241 about it. It's not a zoning issue.

2242

2243 Mr. Kenny - Okay.

2244

2245 Mr. Jernigan - And when you were talking about the street coming out, I mean, that
2246 street was moved over for Mr. Henderson so the lights wouldn't be coming into his house.
2247 That driveway was on the over side and they moved the apartments and the road switched that
2248 so the lights won't be shining in his house.

2249

2250 Mr. Kenny - Now, how far are the townhouses are going to be from my property
2251 line? I mean, are they going to be right up on my house, which I just built, or am I going to
2252 have some distance on the other side of whatever buffer he puts up and how long is the buffer
2253 going to run along his property and mine?

2254

2255 Mr. Jernigan - Ms. Goggin, what's the setback?
2256

2257 Ms. Goggin - The setback is ten feet from the property line, by code, from the
2258 townhouse property line to the overall property line. But, this design provides, according to
2259 Mr. Schmidt, 83 feet from his property line to the first townhouse.
2260

2261 Mr. Silber - Mr. Kenny, have you seen the plan?
2262

2263 Mr. Kenny - No. I haven't seen anything.
2264

2265 Mr. Silber - I think it may be appropriate just to pass this by for a few minutes and let
2266 the applicant go out in the hallway and explain this to you and get some details.
2267

2268 Mr. Jernigan - Yes, let's do that. You go out and talk to Mr. Schmidt and let him show
2269 you the plans, and I think when you look at it you'll see. And, the drainage issue, you will
2270 probably be in better shape than you are now with drainage because DPW is going to be on top
2271 of this. The Department of Public Works is going to be on top of this to make sure the
2272 drainage is where it is supposed to be.
2273

2274 Mr. Kenny - Okay.
2275

2276 Mr. Jernigan - So, I am just going to table this for a few minutes and let you go out and
2277 talk to Mr. Schmidt and then we will continue this.
2278

2279 Mr. Kenny - Okay. Thank you.
2280

2281 **THIS CASE WAS PASSED BY AND HEARD LATER DURING THIS MEETING (SEE**
2282 **PAGE 64 OF THESE MINUTES) Mr. Glover was absent.**
2283

2284 Mr. Jernigan - Let's take a 10-minute break, it's 11:03 a.m.
2285

2286 **AT THIS TIME THE PLANNING COMMISSION TOOK A 10-MINUTE BREAK**
2287

2288 **SUBDIVISION**
Stoneleigh Subdivision **Timothy L. Rohmoser for Robert B. Ball, Sr. and**
(December 2003 Plan) **Stoneleigh L.L.C.:** The 99.1-acre site proposed for a
subdivision of 173 single-family homes is located south of east
Parham Road and west of Chamberlayne Avenue (U.S. Route
1) on parcels 791-759-1653, 792-759-3596 and 793-759-4718.
The zoning is R-2AC, One-Family Residence District. County
water and sewer. **(Fairfield) 173 Lots**

2289

2290 Mr. Jernigan - Is there anyone in the audience in opposition to subdivision Stoneleigh
2291 (December 2003 Plan)? There is no opposition. Okay, Mr. Strauss, you may proceed.
2292

2293 Mr. Strauss - Thank you, Mr. Chairman. Since the preparation of the agenda staff has
2294 received a revised plan which address several issues that were indicated in the previous agenda.
2295 The Department of Public Works Design had concerns about sight distance at the proposed
2296 entrances on E. Parham Road. Public Works Environmental had concerns regarding the
2297 buildable area of Lot 38 in Block A. That would be the buildable area exclusive of the RPA
2298 line. And the Planning staff had concerns about the proposed location of the tot lot near Lot
2299 38, which in staff's opinion should have been relocated to an area more suitable and less steep
2300 slopes. The revised plan, which we just handed out this morning, addresses all of these issues
2301 and the Department of Public Works is now recommending approval. The Planning Staff can
2302 also recommend approval of this revised plan, which we have handed out, in accordance with
2303 the standard conditions as listed in the original agenda, and I'll be happy to answer any
2304 questions you may have.

2305

2306 Mr. Jernigan - Are there any questions for Mr. Strauss by the Commission?

2307

2308 Mr. Archer - I don't have any questions, Mr. Chairman, but I would like to say that
2309 Mr. Strauss, the rest of the staff and the applicant, you all did a lot of work since last
2310 Thursday.

2311

2312 Mr. Strauss - That's true. Mr. Greg Windsor and Andy Condlin assisted us in that
2313 effort. Thank you.

2314

2315 Mr. Archer - I do have a question about that turning we were talking about and we
2316 defined it but I don't think we defined it in to concise terms. The turn-in, the 700 feet and 500
2317 feet.

2318

2319 Mr. Strauss - Right, the sight distance. That was an issue between the developers
2320 understanding and our Public Works Department. This easternmost entrance, my
2321 understanding, and we can call Greg if you like to elaborate. The entrance is acceptable in its
2322 location as shown on the revised plan. It was a sight distance that was the concern because of
2323 that curvature which is pretty prominent in that road there. For now it's considered a right in,
2324 right out and no medium break until it gets reviewed later at the construction plan. That's my
2325 understanding of the agreement.

2326

2327 Mr. Archer - But, that's acceptable?

2328

2329 Mr. Strauss - Yes.

2330

2331 Mr. Jernigan - Thank you, Mr. Strauss. Mr. Archer.

2332

2333 Mr. Archer - That's all of the questions that I have. But, I would like to make
2334 reference to one more issue. It doesn't have anything to do with this case in particular but it
2335 does have to do with something we discussed some time ago and Ms. Goggin brought it to my
2336 attention again, and I hope we will do something about having some sort of standards set to
2337 allow us to be able to treat tot lots and play areas because that was an issue that held this up for

2338 a little bit. There are no standards set as to how we do, and I still think we need to address
2339 that to some degree instead of leaving it peace meal. But, it has been taking care of.

2340

2341 Mr. Chairman, I will move for approval of Stoneleigh Subdivision subject to the standard
2342 conditions for subdivisions served by public utilities, the additional conditions Nos. 12 through
2343 18.

2344

2345 Mr. Taylor - Second.

2346

2347 Mr. Jernigan - We have a motion by Mr. Archer and a second by Mr. Taylor. All in
2348 favors say aye...all opposed say nay. The ayes have it. The motion is passed.

2349

2350 The Planning Commission granted conditional approval to Stoneleigh Subdivision (December
2351 2003 Plan) subject to the annotations on the plans, the standard conditions for subdivisions
2352 served by public utilities and the following additional conditions. Mr. Glover was absent.

2353

2354 12. Prior to requesting final approval, the engineer shall furnish the Planning Staff a plan
2355 showing a dwelling situated on Lots 17 and 18, Block C, Lots 11, 12, 17 and 18 and
2356 Block D, to determine if the lot design is adequate to meet the requirements of Chapter
2357 24, of the Henrico County Code.

2358 13. The limits and elevation of the 100 year frequency flood shall be conspicuously noted
2359 on the plat and construction plans and labeled "Limits of 100 year floodplain." Dedicate
2360 floodplain as a "Variable Width Drainage & Utilities Easement."

2361 14. The detailed plant list and specifications for the landscaping to be provided within the
2362 25-foot-wide planting strip easement along E. Parham Road and Chamberlayne Avenue
2363 shall be submitted to the Planning Office for review and approval prior to recordation
2364 of the plat.

2365 15. Any necessary offsite drainage easements must be obtained prior to approval of the
2366 construction plan by the Department of Public Works.

2367 16. The proffers approved as part of zoning cases C-46C-03 and C-47C-03 shall be
2368 incorporated in this approval.

2369 17. Prior to requesting the final approval, a draft of the covenants and deed restrictions for
2370 the maintenance of the common area by a homeowners association shall be submitted to
2371 the Planning Office for review. Such covenants and restrictions shall be in form and
2372 substance satisfactory to the County Attorney and shall be recorded prior to recordation
2373 of the subdivision plat.

2374 18. Any future building lot containing a BMP, sediment basin or trap and located within the
2375 buildable area for a principal structure or accessory structure, may be developed with
2376 engineered fill. All material shall be deposited and compacted in accordance with the
2377 Virginia Uniform Statewide Building Code and geotechnical guidelines established by a
2378 professional engineer. A detailed engineering report shall be submitted for the review
2379 and approval by the Building Official prior to the issuance of a building permit on the
2380 affected lot. A copy of the report and recommendations shall be furnished to the
2381 Directors of Planning and Public Works.

2382

2383 **SUBDIVISION**

2384

Fairlawn
(December 2003 Plan)

Balzer & Associates, Inc. for Richmond Metropolitan Habitat for Humanity: The 2.90-acre site proposed for a subdivision of 7 single-family homes is located at the southwestern terminus of Carlstone Drive at Meadow Road extended on parcel 827-721-4474. The zoning is R-4A, One-Family Residence District. County water and sewer. **(Varina)**
7 Lots

2385

2386 Mr. Jernigan - Is there anyone in the audience in opposition to subdivision Fairlawn
2387 (December 2003 Plan)? There is no opposition. Mr. McGarry, you may proceed.

2388

2389 Mr. McGarry - Staff received a revised plan and that is what is being handed out to you
2390 and for the audience it is also on the screen. Its review is complete. The plan meets all of
2391 staff's concerns for the technical requirements. Staff also has a letter received this morning
2392 from the owner of the BMP granting permission for its use by Habitat. Staff can recommend
2393 approval subject to standard conditions for subdivisions served by public utilities. I'll be
2394 happy to answer any questions you may have.

2395

2396 Mr. Jernigan - He did sign off on the BMP.

2397

2398 Mr. McGarry - Yes, sir.

2399

2400 Mr. Jernigan - And you have done all of the calculations, the BMP calculations were
2401 also in the staff report, are they correct?

2402

2403 Mr. McGarry - The research that has been done through Public Works indicates that we
2404 believe we have the right capacity in here. The engineering firm that actually did the work has
2405 gone out of business and so Public Works went through their files and based on the history
2406 they found, it appears to be that way. Now, the current engineering firm is going to have to
2407 confirm that and do its own calculations. Public Works is satisfied that it can take the
2408 additional capacity, if it is needed. And there is room to expand it if there is a problem that
2409 comes out of this.

2410

2411 Mr. Jernigan - In the staff report it said BMP calculations are incomplete, but we are
2412 okay on that now?

2413

2414 Mr. McGarry - We think we've got it covered.

2415

2416 Mr. Jernigan - You think we've got it covered, okay. Do we have a cul-de-sac? (Mr.
2417 McGarry may have nodded his head, yes. There was no verbal answer) All right. Well, we
2418 have no opposition on this and those were the three things we were waiting to clear up. So,
2419 with that, I will move approval of subdivision Fairlawn (December 2003 Plan) with the
2420 standard conditions for subdivisions served by public utilities and no added conditions.

2421 Mrs. Ware - Second.

2422

2423 Mr. Jernigan - The motion was made by Mr. Jernigan and seconded by Mrs. Ware. All
2424 in favor say aye...all opposed say nay. The ayes have it. The motion is passed.

2425

2426 The Planning Commission granted conditional approval to subdivision Fairlawn (December
2427 2003 Plan) subject to the annotations on the plans and the standard conditions for subdivisions
2428 served by public utilities. Mr. Glover was absent.

2429

2430 **SUBDIVISION**

2431

Townhomes @ Deep Run
(December 2003 Plan)

Bay Design Group, P.C. for Merchants, LLC: The 1.41-
acre site proposed for a subdivision of 7 single-family homes
is located at the intersection of Ridgefield Parkway and
Flintwood Drive, 9990 Ridgefield Parkway on parcel 745-752-
4031. The zoning is R-5, General Residence District. County
water and sewer. **(Three Chopt) 7 Lots**

2432

2433 Mr. Jernigan - Is there any opposition to subdivision Townhomes @ Deep Run
2434 (December 2003 Plan)? There is no opposition. Mr. Kennedy, you may proceed.

2435

2436 Mr. Kennedy - The Townes at Deep Run is a proposed seven-unit townhouse
2437 development located along Ridgefield Parkway adjacent to Deep Run Park. The subject
2438 property was zoned R-5, General Residence District, in 1971 and is both unproffered and
2439 undeveloped. The proposed development would result in the construction of 5.1 lots per acre,
2440 while the R-5 District permits the construction of a maximum of 12 townhouse lots or 14
2441 multi-family units per acre. The 2010 Land Use Plan recommends Multi-family use of the
2442 property.

2443

2444 The plan satisfies multi-family design requirements and is generally consistent with the
2445 County's multifamily design guidelines. Major thoroughfare setbacks are satisfied from
2446 Ridgefield Parkway, a landscaped perimeter buffer would be maintained or provided, and a
2447 sidewalk would be provided along Ridgefield Parkway.

2448

2449 A POD for the proposed townhouses would return to the Commission for approval at a later
2450 date. At that time the developer will be required to provide elevations and floor plans for the
2451 proposed buildings. At this time the plans indicate that each unit will have two car garages.
2452 Conditional subdivision approval at this time constitutes approval of the schematic layout plan
2453 only. Staff recommends approval of the conditional plat. The engineer and the developer are
2454 present and are both available to answer any questions.

2455

2456 Mr. Jernigan - Are there any questions of Mr. Kennedy by the Commission?

2457

2458 Mr. Taylor - No, sir, I don't have any.

2459

2460 Mr. Jernigan - All right, Mr. Taylor.
2461

2462 Mr. Taylor - I don't have any questions on it but would the applicant like to make any
2463 comments? Go right to the motion, okay. Not having any comments, not having any
2464 reservations about this, I move approval of subdivision Townhomes @ Deep Run Ridgefield
2465 Parkway (December 2003 Plan) subject to the annotations on the plan and standard conditions
2466 for subdivisions served by public utilities and additional conditions Nos. 13, 14, and 15.
2467

2468 Mr. Archer - Second, Mr. Chairman.
2469

2470 Mr. Jernigan - The motion was made by Mr. Taylor and seconded by Mr. Archer. All
2471 in favor say aye...all opposed say nay. The ayes have it. The motion is passed.
2472

2473 The Planning Commission granted conditional approval to subdivision Townhomes @ Deep
2474 Run Ridgefield Parkway (December 2003 Plan) subject to the annotations on the plans, the
2475 standard conditions attached to these minutes for subdivisions served by public utilities and the
2476 following additional conditions. Mr. Glover was absent.
2477

2478 13. Before the plat is recorded, the developer shall submit to the Planning Office a detailed
2479 report prepared by a qualified professional engineer specifying the proposed treatment
2480 of mine shafts and scars. The report shall be reviewed by the Design Division of
2481 Public Works, and shall be made a part of the construction plans approved for the
2482 subdivision.

2483 14. A County standard sidewalk shall be constructed along the north side of Ridgefield
2484 Parkway.

2485 15. Any necessary offsite drainage easements must be obtained prior to approval of the
2486 construction plan by the Department of Public Works.

2487

2488 **SUBDIVISION**

2489

Willow Gate
(December 2003 Plan)

Foster & Miller, P.C. for Phase One Development, LLC and Estelle M. Urban: The 8.59-acre site, proposed for a subdivision of 18 single-family homes, is located approximately 450 feet northeast of Trexler Road, along the northern line of Sadler Road on parcels 747-767-4490, 7057 and 8072. The zoning is R-3C, One-Family Residence District (Conditional). County water and sewer. **(Three Chopt) 18 Lots**

2490

2491 Mr. Jernigan - Is there anyone in the audience in opposition to subdivision Willow Gate
2492 (December 2003 Plan)? There is no opposition. Ms. News, good morning.

2493

2494 Ms. News - Good morning, Mr. Chairman and members of the Commission. This
2495 plan is for a proposed 18-lot, single-family subdivision located along Sadler Road adjacent to
2496 interstate I-295. As you may recall, this land was rezoned with rezoning case C-50C-03.

2497 Although the layout was not proffered, the proposed plan conforms with the site layout
2498 presented at the time of rezoning. In accordance with proffers associated with this site, the
2499 houses in the subdivision will contain a minimum of 2,000 square feet of finished floor area
2500 and be comprised of brick, stone, drivit or other materials approved by the Director of
2501 Planning. All houses shall have a two-car garage as well.

2502

2503 Staff initially had concerns with the proposed layout as it did not accurately portray the
2504 correct right-of-way dedication required by Public Works nor did it provide the correct
2505 floodplain information. The applicant's engineer has since provided the corrected information
2506 required by Public Works. As well, the typical lot details showed an unrealistic house
2507 footprint. The house footprint has since been revised and is shown on the plan in your
2508 packet. Public Works is now satisfied with the plans.

2509

2510 Another concern pertains to Lot 11 of Block A. Staff is interested in the orientation of the
2511 dwelling on that lot as it may have impacts on the adjoining lots. The applicant has provided
2512 a typical house layout for that lot, which has just been distributed to you. Staff is satisfied
2513 with the proposed orientation at this time and has added condition in your addendum requiring
2514 that the proposed dwelling orientation for Lot 11, Block A, be approved by the Director of
2515 Planning prior to final approval of the subdivision. Additionally, there is a revision to
2516 condition No. 16, noted in your addendum, for provision of a 25-foot planting strip easement
2517 along the interstate. The applicant has therefore addressed staff's concerns and is in
2518 agreement with the conditions.

2519

2520 Staff is satisfied with the proposed layout and can recommend approval of this subdivision
2521 subject to the standard conditions for subdivisions served by public utilities, the conditions in
2522 your agenda and the additional conditions in the addendum. I'll be happy to answer any
2523 questions and the applicant's engineer is also present.

2524

2525 Mr. Jernigan - Are there any questions of Ms. News from the Commission?

2526

2527 Mr. Silber - I have a question. The layout you provided us, Ms. News, shows
2528 orientation of this house on Lot 11, is this just for informational purposes because we have
2529 this condition No. 17 that deals with the actual orientation to be returned prior to final.

2530

2531 Ms. News - That's correct. At the time of final, if they chose to revise it, we will
2532 look at it again. But, the intent is to put it at an angle like this so that the rear yard is not
2533 facing either towards Lot 10 or Lot 12, but is some how oriented on the lot to minimize any
2534 negative impact on the adjacent lots.

2535

2536 Mr. Silber - Okay. Thank you.

2537

2538 Mr. Jernigan - Are there any other questions? Thank you, Ms. News. Mr. Taylor.

2539

2540 Mr. Taylor - Mr. Chairman, I looked this over and it looks appropriate to me, and I
2541 think with that motion of the house, that way, it resolves a problem of the appearance of that

2542 as you come in the cul-de-sac and it improves the access from the street for vehicles, so I
2543 think, that overall, that was a good amendment. Now with that, I will move approval of
2544 subdivision Willow Gate subject to the standard conditions for subdivisions served by public
2545 utilities, the annotations on the plans and additional conditions Nos. 12 through 15 and then
2546 Nos. 16 and 17 in the addendum.

2547

2548 Mrs. Ware - Second.

2549

2550 Mr. Jernigan - We have a motion by Mr. Taylor and second by Mrs. Ware. All in
2551 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

2552

2553 The Planning Commission granted conditional approval to subdivision Willow Gate
2554 (December 2003 Plan) subject to the standard conditions attached to these minutes for
2555 subdivisions served by public utilities, the annotations on the plan and the following additional
2556 conditions. Mr. Glover was absent.

2557

2558 12. Each lot shall contain at least 11,000 square feet.

2559 13. Any necessary offsite drainage easements must be obtained prior to approval of the
2560 construction plan by the Department of Public Works.

2561 14. The proffers approved as part of zoning case C-50C-03 shall be incorporated in this
2562 approval.

2563 15. Any future building lot containing a BMP, sediment basin or trap and located within the
2564 buildable area for a principal structure or accessory structure, may be developed with
2565 engineered fill. All material shall be deposited and compacted in accordance with the
2566 Virginia Uniform Statewide Building Code and geotechnical guidelines established by a
2567 professional engineer. A detailed engineering report shall be submitted for the review
2568 and approval by the Building Official prior to the issuance of a building permit on the
2569 affected lot. A copy of the report and recommendations shall be furnished to the
2570 Directors of Planning and Public Works.

2571 16. The detailed plant list and specifications for the landscaping to be provided within the
2572 25-foot-wide planting strip easement along Sadler Road **and I-295** shall be submitted to
2573 the Planning Office for review and approval prior to recordation of the plat.

2574 17. Prior to final approval, the engineer shall furnish the Planning Office a plan showing a
2575 dwelling situated on Lot 11, Block A to determine if the orientation is acceptable, as
2576 approved by the Director of Planning.

2577

2578 Mr. Silber - If we could perhaps move forward to page 31 before going back to
2579 Westover Pines. On page 31, we have discussion item POD-39-03, Promenade Shops an
2580 amended condition No. 43. If we can hear from staff on this maybe we can resolve this matter
2581 before taking up Westover Pines.

2582

2582 **DISCUSSION ITEM: POD-39-03 Promenade Shops--Amended Condition (Three Chopt)**

2583

2584 This development and the Westgate access road (POD-36-01, First Union National Bank) were
2585 originally submitted as separate projects with different developers. Blackwood Development
2586 Company, Inc. is under contract with Wachovia Bank to purchase all of the land in both PODs
2587 and construct all improvements associated with the PODs. Mr. Blackwood requests the
2588 Planning Commission consider amending condition 43 to remove the bonding requirement
2589 prior to building permit approval. Currently, the road is under construction and the center's
2590 building permit is pending this decision. Staff feels that the modified condition will still address
2591 possible road completion issues by restricting temporary certificates of occupancy until the
2592 road is ready for public use.

2593

2594 Mr. Jernigan - Is there any opposition to POD-39-03, Promenade Shops, amended
2595 conditions? There is no opposition. Mr. Wilhite, you may proceed.

2596

2597 Mr. Wilhite - Mr. Chairman, essentially what is being proposed here is an amended
2598 condition to POD-39-03. At that time, that POD for the retail shops incorporated a driveway
2599 in the rear of the property that runs from Westgate Drive in the Westgate/Wellesley
2600 Development connecting to Spring Oak Drive out to Broad Street. Spring Oak Drive is a
2601 signalized intersection.

2602

2603 Originally, we had a POD-36-01 for First Union National Bank that was approved as a part of
2604 that POD construction of that access drive was to take place. In the meantime, since that, we
2605 have approved the first phase of that development, which actually just incorporated the
2606 construction of the access drive. A new owner/developer for that site came about, POD-39-03
2607 was approved for the Promenade Shops. Originally, there was an agreement for the original
2608 developer to construct the access drive, then the developer of the Promenade Shops to
2609 construct the building separately. With that, we had recommended a condition because we
2610 were concerned that the access drive needed to be constructed first. We needed surety that we
2611 proposed No. 43 as originally stated on POD-39-03.

2612

2613 Since that time, the POD was approved we now have the original... The developer of the
2614 Promenade Shops is going to construct that access drive now. With that, the fact that it has to
2615 be constructed prior to them getting occupancy permits, we think there is enough surety there
2616 to make sure that the access drive gets constructed and a need for a bond is no longer
2617 necessary. So, with that, we are essentially just eliminating the need for a bond to be posted.

2618

2619 Mr. Jernigan - Are there any questions for Mr. Wilhite? Thank you, Mr. Wilhite.

2620

2621 Mr. Wilhite - Yes, sir.

2622

2623 Mr. Jernigan - All right, Mr. Taylor.

2624

2625 Mr. Taylor - Mr. Chairman, I just think this is a situation where we are taking
2626 advantage or recognition of a basic change in ownership here and this is a more, in my mind,

2627 it's a more rational approach toward the road construction. And, with that, I will move
2628 approval of amended condition No. 43 for POD-39-03, Promenade Shops.

2629

2630 Mrs. Ware - Second.

2631

2632 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mrs. Ware. All in
2633 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

2634

2635 The Planning Commission approved to amend additional condition No. 43 for POD-39-03,
2636 Promenade Shops, as follows. Mr. Glover was absent.

2637

2638 42. **AMENDED** - If the final construction plans for the access road and brick wall are
2639 proposed with another POD, final plans for this project (building and parking) will not
2640 be approved until plans for the access road and brick wall are approved. ~~A building~~
2641 ~~permit will not be issued until the road and wall are built or bonded and~~ No temporary
2642 or final certificate of occupancy will be issued until road and wall construction is
2643 complete and ready for public use.

2644

2645 Mr. Silber - Now, I think it would be appropriate at this time to go back to page 18
2646 where we had passed by a subdivision, Westover Pines (June 2002 Plan) to allow the applicant
2647 to further explain the specifics of this plan to some of the adjoining property owners.

2648

2649 **CONTINUED FROM PAGE 55**

2650

2651 **SUBDIVISION (Deferred from the November 19, 2003, Meeting)**

2652

Westover Pines
(June 2002 Plan)

Schmidt & Associates for Westover Pines, L.L.C.: The
3.895-acre site proposed for a subdivision of 35 townhouses for
sale is located on the west side of Westover Avenue,
approximately 125 feet north of Third Street on parcel 816-
728-0487. The zoning is RTH, Residential Townhouse District.
County water and sewer. **(Varina) 35 Lots**

2653

2654 Mr. Jernigan Mr. Kenney was speaking prior. Do you want to say anything else, Mr.
2655 Kenny?

2656

2657 Mr. Kenny - Mr. Henderson and I had a long conversation with Mr. Schmidt. We
2658 shook hands and he's going to get back with me on the landscaping situation. And from what
2659 he showed us, we are inclined to go along with him a little bit. But, I've got to go and get my
2660 wife's approval first.

2661

2662 (Everybody laughing)

2663

2664 Mr. Jernigan - We can't wait for that, now.

2665

2666 Mr. Kenny - We have talked and he has agreed to get back with us and show us what
2667 he's coming up with. So far, what he has down, it looks like it will work.

2668

2669 Mr. Jernigan - In lieu of the situation, they have done pretty good. They bumped it up
2670 some from what it was.

2671

2672 Mr. Kenny - And I guess we will talk to traffic or whoever it is we need to see to
2673 address those issues and see what they will come up with.

2674

2675 Mr. Jernigan - Why don't I just amend the landscaping plan. That means it will come
2676 back to the Planning Commission and then we will review it. Dave.

2677

2678 Mr. O'Kelly - This is not a POD, Mr. Jernigan, it's a subdivision, so we

2679

2680 Mr. Silber - Maybe for the record, I don't think they could hear you, Dave. But,
2681 what Mr. O'Kelly is saying is that this is the subdivision and the POD will be coming next and
2682 we can amend No. 9 to have the landscape plan come back at the time of POD approval.

2683

2684 Mr. Jernigan - I got ahead of myself. Thank you, Mr. O'Kelly.

2685

2686 Mr. Silber - Mr. Jennings, could you get the gentleman's name and number and see if
2687 you can address his concerns relative to the "no parking" signs.

2688

2689 Mr. Jennings - Yes, sir.

2690

2691 Mr. Jernigan - If Mr. Kenney is okay, Bill, unless you want to say something, I'm all
2692 right. I appreciate the fact you all put the brick in the bay windows, you know, to make it
2693 look a little nicer. I wished we could have worked something out on the zero lot line, but Ms.
2694 Goggin told me that it really didn't come up with that many lots.

2695

2696 Mr. Schmidt - No it didn't. I tried it too as well. The rendering that I got was
2697 delivered at 11:00 o'clock last night over the internet and consequently the quality is not as
2698 good as it should be. But, we agreed, mutually, on everything.

2699

2700 Mr. Jernigan - Okay. Thank you, Bill. All right. With that, I will move for approval
2701 of Westover Pines subdivision (June 2003 Plan) subject to the annotations on the original plan,
2702 the standard conditions for RTH subdivision served by public utilities, and additional
2703 conditions No. 11.

2704

2705 Mrs. Ware - We have a second by Mr. Jernigan and a second by Mrs. Ware. All in
2706 favor say aye...all opposed say nay. The ayes have it. The motion is passed.

2707

2708 The Planning Commission granted conditional approval to subdivision Westover Pines (June
2709 2002 Plan) subject to the annotations on the plan, the standard conditions for subdivisions
2710 served by public utilities and the following additional condition. Mr. Glover was absent.

2711 11. Prior to requesting the final approval, a draft of the covenants and deed restrictions for
2712 the maintenance of the common area by a homeowners association shall be submitted to
2713 the Planning Office for review. Such covenants and restrictions shall be in form and
2714 substance satisfactory to the County Attorney and shall be recorded prior to recordation of
2715 the subdivision plat.
2716

2717 Mr. Silber - Next on the agenda would be the November 19, 2003 minutes.
2718

2719 **APPROVAL OF MINUTES: November 19, 2003, Minutes**
2720

2721 Mr. Jernigan - All right are there any corrections to the minutes of November 19, 2003?
2722 Then I'll move for approval of the November 19, 2003, minutes.
2723

2724 Mr. Taylor - Second.
2725

2726 Mr. Jernigan - We have a motion by Mr. Jernigan and a second by Mr. Taylor. All in
2727 favor say aye...all opposed say nay. The ayes have it. The motion is passed.
2728

2729 The Planning Commission approved the minutes for the November 19, 2003, meeting.
2730

2731 Mr. Silber - Next on the agenda is a work session to discuss a proposed ordinance
2732 amendment regarding gated communities on public roads. You may recall that the Planning
2733 Commission initiated this ordinance amendment several months ago. There was a joint work
2734 session held with the Board of Supervisors and the Planning Commission. Staff now has put
2735 together a proposed ordinance amendment that will deal with this to allow gated communities.
2736 That proposed amendment has been shared with the Commission. Today is a work session on
2737 this. This is an opportunity for the Commission to ask questions and have questions addressed.
2738 We will then be setting a public hearing and receiving input from the public on this ordinance
2739 amendment. Mr. O'Kelly is here. He and his staff have drafted this ordinance amendment and
2740 are prepared to speak to it. Everyone have a copy of the ordinance amendment? If not, I believe
2741 we have extra copies.
2742

2743 Mr. O'Kelly - I have some extra copies.
2744

2745 Mrs. Ware - I will need one, I left mine at home.
2746

2747 Mr. Silber - How many copies do you have, Dave?
2748

2749 Mr. Jernigan - I didn't bring mine either. I'll just share with Lisa.
2750

2751 Mr. O'Kelly - I have just five.
2752

2753 Mr. Silber - All right. We need two copies.
2754

2755 Mr. Jernigan - All right, Mr. O'Kelly, you may proceed.
2756

2756 **WORK SESSION: Ordinance Amendment for Gated Communities on Public Roads**

2757

2758 Mr. O'Kelly - Thank you, Mr. Chairman. As Randy mentioned, this was the subject of
2759 a joint work session with the Board of Supervisors and the Planning Commission on November
2760 25. The Commission and the Board were introduced to the subject of Gated Communities in
2761 Henrico and the subject in general, both the pros and the cons, and many questions were
2762 raised. Staff also at that work session was provided some direction of ways to proceed with an
2763 ordinance amendment to permit single-family subdivisions on private roads, and a schedule
2764 was also presented at the work session for a time line to have an ordinance in place. This is a
2765 very aggressive time line. Today's work session is the first milestone in meeting the
2766 recommended schedule.

2767

2768 The County Attorney has also explored the subject and discovered State enabling legislation,
2769 which permits localities to approve gated subdivisions on public right-of-ways with privately
2770 maintained roads. The roads would be maintained by homeowner associations but they would
2771 be public in the sense that there is public right-of-way dedicated to the County. We have
2772 modeled our proposed ordinance based on the existing State legislation.

2773

2774 It appears this legislation came about in 1980. It was obviously requested by some Virginia
2775 locality, which staff is yet to be able to identify. I suspect it may have been James City County
2776 who has some large planned unit developments which are gated communities. Those were
2777 developed along with the development of Bush Gardens. We will try to verify or maybe visit
2778 some of those communities before the public hearing.

2779

2780 We want to review with you our proposal for amendments to the zoning ordinance and review
2781 with you the proposed development standards, both of which were distributed in your packet
2782 last week. I will review the ordinance and Kevin Wilhite, who coordinated the development of
2783 the development standards will follow with his presentation.

2784

2785 Mr. Chairman, before I began the review of the ordinance, are there any questions of staff?

2786

2787 Mr. Jernigan - Are there any questions of staff on this? I think probably we would want
2788 to hear it first, go through it, and then we will see if there are any then.

2789

2790 Mr. O'Kelly - Okay. What the State legislation says and what is contained in our
2791 version, of a proposed ordinance, is when roads in a subdivision have not yet been accepted
2792 into the road system for maintenance, and the road serves only the residents of the subdivision
2793 and do not serve as a connector to other public roads, then the residents or the developer may
2794 file a petition, which we are suggesting would be an application for provisional use permit.
2795 That would be filed with the Board of Supervisors requesting to restrict ingress and egress to
2796 the subdivision. The key phrase is when roads have not been accepted for maintenance. This
2797 means existing subdivisions whose existing roads are currently maintained by the Department
2798 of Public Works will not qualify for these provisions. This will only be for new subdivisions
2799 from here on out, where the residents or the developer request that they have a gated
2800 subdivision. The process would be to apply for a provisional use permit.

2801 So what we are saying is, in the “R” Districts, single-family residential, under the proposed
2802 provisional use section, we have added “gated subdivisions” as a provisional use.

2803

2804 Mr. Jernigan - I have a question. It says here that the owners of 2/3 of the subdivision
2805 lots. So, the HOA (Homeowners Association).... No. I guess the developer who owns all of
2806 the property, he owns all of the lots.

2807

2808 Mr. O’Kelly - I think in most cases, the request is going to come directly from the
2809 developer and not the homeowners association. But the State enabling legislation allows for
2810 2/3 of the owners in the subdivision to also be able to request a gated subdivision.

2811

2812 Mr. Silber - I think, Mr. Jernigan, in most cases, Mr. O’Kelly is correct, in most
2813 cases we anticipate the developer will control all of the lots. There may be a situation where
2814 maybe a subdivision has just gotten started, and perhaps its been recorded, and maybe a couple
2815 of lots have been sold to some builders. This State Code says that at least 2/3 of the owners of
2816 those lots have got to concur with this. It’s simply stating what’s in the State Code.

2817

2818 Mr. Jernigan - Thank you.

2819

2820 Mr. O’Kelly - Yes, sir. And there are five conditions that are enumerated in the State
2821 legislation that we incorporated into our proposal. The first is the restriction may be abolished
2822 at any time in the sole discretion of the Board of Supervisors.

2823

2824 Secondly. The restriction shall not be asserted in opposition to the public ownership to streets
2825 dedicated to the public. I’m not sure exactly what that means. We have discussed it as a staff
2826 and it’s not worded very appropriately, according to the County Attorney, but it is currently in
2827 the State enabling legislation worded this way.

2828

2829 Thirdly, the street shall not be blocked to ingress and egress of government or public service
2830 company vehicles. This would allow the normal law enforcement, normal mail deliveries,
2831 Virginia Power, Verizon, whoever else needs to access the subdivision would have that right.

2832

2833 Fourth. The necessary maintenance of the streets would be paid for by the owners of the
2834 individual lots.

2835

2836 And, lastly, the Board may impose such other conditions deemed appropriate and we are
2837 suggesting in accordance with guidelines and standards established by the Director of Planning
2838 and the Director of Public Works. So the gated subdivision would be permitted in all of the
2839 residential districts, the R-O District through R-3 in the zoning ordinance.

2840

2841 Secondly. We have proposed that single-family development be permitted in the R-5A
2842 District. Currently, the principal uses permitted are detached and semi-detached dwellings on
2843 zero lot line. What we are proposing is in R-5A that single-family subdivisions meeting the R-
2844 2 standards, be permitted as a provisional use and secondly that gated subdivisions also be
2845 permitted as a provisional use in the R-5A District.

2846 Mrs. Ware - Why when you have it proposed in an R-2 District already, according to
2847 the changes that will be made, why do you have to do it within the R-5A District as well when
2848 you already have the capability based on this?

2849

2850 Mr. O'Kelly - That's a good question, Mrs. Ware, and I'm not sure exactly how to
2851 answer it, other than there may be some proposed R-5A zoning cases where it's desirable to
2852 perhaps do single-family development.

2853

2854 Mrs. Ware - Can they not come in for a rezoning to....

2855

2856 Mr. O'Kelly - To R-2?

2857

2858 Mrs. Ware - Yes.

2859

2860 Mr. O'Kelly - Ok. Yes.

2861

2862 Mrs. Ware - To meet the R-2 zoning and whatever standards would apply, provisional
2863 use would apply to that as well instead of, I guess, why change or manipulate another
2864 classification when one would already exist.

2865

2866 Mr. O'Kelly - That is a good point and you are exactly right. The only other thing I
2867 might add is that there may be some R-5A undeveloped already existing. Of course, it could
2868 be rezoned R-2.

2869

2870 Mrs. Ware - They could come back for rezoning as well, exactly. It sounds like you
2871 are changing something to meet something that you are already proposing to be there anyway.

2872

2873 Mr. O'Kelly - Correct.

2874

2875 Mr. Jernigan - This is about the time we recessed when we were having this discussion
2876 with the Board when they told us to go into the other room and that's when Mr. Glover, and
2877 we were all discussing that if he wanted to have R-5A but to make the lot wider and put the
2878 house in the middle, which is R-2.

2879

2880 Mrs. Ware - Which is R-2 anyway, yes.

2881

2882 Mr. O'Kelly - Correct. Staff is following directions.

2883

2884 Mrs. Ware - Strange direction.

2885

2886 Mr. Archer - I agree with Mrs. Ware's point. It seems like we are complicating the
2887 situation that could lead to a further complicated situation.

2888

2889 Mrs. Ware - Yes.

2890

2891 Mr. Archer - We are certainly not simplifying this by any means, I don't think.
2892

2893 Mrs. Ware - No. And we are probably lessening our chances of getting certain
2894 standards and conditions, which I know haven't been gone over yet. Well, I guess they would
2895 apply for all of the districts.
2896

2897 Mr. O'Kelly - True.
2898

2899 Mr. Jernigan - Well, correct me if I'm wrong. R-5A is a 50-foot lot but you can move
2900 it to 100. You can make it 100-foot wide, right?
2901

2902 Mr. O'Kelly - You have that right with proffers, yes, sir.
2903

2904 Mr. Jernigan - Okay. Now, the house is supposed to be on the lot line.
2905

2906 Mr. O'Kelly - Correct.
2907

2908 Mr. Jernigan - So, that's where the differences come in, moving the house to the center
2909 of the lot as opposed to on the lot line.
2910

2911 Mrs. Ware - Which would just be R-2 anyway, if you move it to the center. Why,
2912 that's our question.
2913

2914 Mr. O'Kelly - Well, this is a work session whatever directions you provide to the staff,
2915 we will, and I'll mention that the County Attorney is also looking at this ordinance, so there
2916 will be some changes before it is advertised for a public hearing. So, if you decide that it is
2917 not appropriate to amend the R-5A District, then that's the way we can move forward.
2918

2919 Mr. Jernigan - Well, what Mrs. Ware is saying, and I can tell you why they wouldn't
2920 want to rezone it because they don't want to have to come and pay the rezoning fee. I mean, if
2921 they rezoned property to R-5AC and then they have to come back through the zoning process
2922 again, I don't think they will want to do that.
2923

2924 Mr. O'Kelly - They could, in R-5A, you can already do detached or semi-detached on
2925 private roads which could be gated. They wouldn't be single-family per se but you can already
2926 do detached and semi-detached.
2927

2928 Mr. Jernigan - But, like I said, they can already take R-5A to 100 foot wide, so the
2929 position of the house is the only discussion we have on it.
2930

2931 Mrs. Ware - Which would be met in another zoning classification.
2932

2933 Mr. Taylor - What happens because of R-5A as separate, you think that that is a
2934 difference. And when you talk it I can't discern a difference. I feel much more comfortable if
2935 we just used it for all of the categories R-0 through R-4A, R-5A, or R-5.

2936 Mrs. Ware - Well, is that the consensus of the Commission? Okay. We'll wait.
2937

2938 Mr. Silber - Mr. Taylor, are you saying.... You said it was already covered by
2939 another section R-0 through R-4A but then you said R-5A.
2940

2941 Mr. Taylor - No. What I'm asking is to resolve the difference over the R-5 couldn't
2942 we go through all of them from R-O to R-5.
2943

2944 Mr. Silber - Well, R-5 moves you into.... R-5 is multi-family. We are just talking
2945 about single family. I think the point that some of the other Commissioners are raising is
2946 Section 24-12.1 is a section of the Code that deals with R-O through R-4A. We no longer
2947 have R-3A or 4 or 4A but there may be some existing zoning out there in those three
2948 classifications, but I think what the other Commissioners are saying is perhaps maybe 12.1
2949 could be changed and that could deal with gated communities and all the single zoning
2950 classification, if I hear your concerns being expressed, why do we need to get into R-5A. It
2951 raises a good question. I guess what I need to ask Mr. O'Kelly is if we go to public hearing,
2952 do we go to public hearing with the ordinance the way it is now, leaving R-5A in tact, in this
2953 ordinance, hear the testimony and public input and then the Commission can recommend
2954 whatever they want to recommend. I would think at this point we may not want to take out the
2955 provision with R-5A but leave it in there, hold a public hearing on it and let the Commission
2956 recommend what they want.
2957

2958 Mr. Jernigan - Now on R-5AC, you can put a house on the lot line but does it say you
2959 have to put the house on the lot line?
2960

2961 Mr. Silber - Yes. The house has to be on the zero lot line.
2962

2963 Mr. Jernigan - Okay.
2964

2965 Mr. O'Kelly - Most people don't know this, Mr. Chairman, but you can do zero lot
2966 line in any of the residential districts.
2967

2968 Mr. Jernigan - I thought there was a minimum side yard of 20 feet.
2969

2970 Mr. O'Kelly - It has to meet the minimum zoning requirements for the district but you
2971 can do zero lot line in any of the residential districts. You can do it in agricultural.
2972

2973 Mr. Silber - That may be true, Mr. O'Kelly. I think that just maybe complicates
2974 things.
2975

2976 Mr. O'Kelly - I know, I'm just throwing that out. Most people aren't aware of it.
2977

2978 Mr. Taylor - Well, my point is that it complicates things when you do that, and,
2979 frankly, I think this just standing alone, in terms of gated subdivision, has a certain degree of
2980 relevance to our present world. And if we just used it unilaterally to say all categories could

2981 achieve this gated subdivision it would be less confusion and less restrictive, I believe. Or,
2982 I'm confusing it?

2983

2984 Mr. Silber - Well, why don't we let Mr. O'Kelly go through the rest of his
2985 presentation, walk us through the rest of the ordinance, unless you were completed.

2986

2987 Mr. O'Kelly - The only additional comment that I have is that we are also
2988 recommending that this be permitted in agricultural districts as a provisional use.

2989

2990 Mr. Silber - That's at the bottom of page 2, that's Section 24-51.1. The same
2991 language and that is the section that would apply to the A-1 District. So, as proposed, this
2992 provisional use permit to allow gated communities in this ordinance would be permitted in the
2993 R-O through the R-4A classifications as 12.1. Would be permitted in the R-5A zoning
2994 classification is 13.4 and would be permitted in A-1 District under 51.1.

2995

2996 Mr. Jernigan - If we do the R-5A just include the house relocation in the PUP that you
2997 are moving it off the lot line.

2998

2999 Mrs. Ware - But, you are still being redundant.

3000

3001 Mr. Taylor - My concern is that it becomes confusing when we start making all of
3002 these minor cases. Whereas, I would think that the blanket application would be the preferred
3003 thing because it would be less confusing. You could use it in any zoning category.

3004

3005 Mr. Jernigan - Well, the only problem we have is the R-5A. I mean, the rest of it is
3006 okay. And what he is saying they want to move it off the lot line to the middle of the lot.
3007 They want to take R-5A make it a 100-foot lot and move the house to the center, which in
3008 essence is R-2. But, rather than going through the zoning process again I would just say that I
3009 would include the house relocation in R-5A as part of the PUP. Is that possible, Randy?

3010

3011 Mr. Silber - Well, I think that in essence is the way it's been drafted here, in 13.4,
3012 the way it's been drafted, it says, keep in mind right now you cannot do one-family residential
3013 development in R-5A. Those houses have to be on the side property line. So, this is saying,
3014 under 13.4(a), that you can do one-family dwellings but it has to match the R-2 regulations.
3015 So, the house will be moved to the center of the lot and you match the R-2 regulations. Then
3016 that allows for under "(b)" a gated subdivision with these restrictions.

3017

3018 Mr. Jernigan - Okay.

3019

3020 Mr. Silber - I think it gets back to the basic discussion as to whether the Commission
3021 feels it's necessary to have an R-5A section, that being 13.4, effective with this ordinance
3022 amendment or not.

3023

3024 Mr. Jernigan - The way you said it, I'm all right with that.

3025

3026 Mr. Silber - Mr. O’Kelly, do you want to have Mr. Wilhite walk them through the
3027 standards or guidelines for gated communities?

3028

3029 Mr. O’Kelly - That will be fine. And after his presentation staff is available to answer
3030 any additional questions and then the Commission needs to set a date for a public hearing,
3031 which we are suggesting be January 28, the next POD meeting.

3032

3033 Mr. Silber - All right. Why don’t we hear from Mr. Wilhite and then we will
3034 consider setting a public hearing.

3035

3036 Mr. Archer - Mr. Secretary, before we move away from this, can we just for a brief
3037 moment discuss the redundancy that Mrs. Ware was talking about?

3038

3039 Mr. Silber - Yes, sir.

3040

3041 Mr. Archer - I just want to make sure that I understand it a little bit better before we
3042 move on. If we do not change this, what provision do we have for being able to allow what
3043 this is trying to accomplish other than changing the ordinance? I know that’s confusing
3044 because it was confusing to say it. What is the alternative to accomplish what this change
3045 would do with out actually having to change the ordinance?

3046

3047 Mrs. Ware - Do you mean for the R-5?

3048

3049 Mr. Archer - Yes, the R-5.

3050

3051 Mr. Silber - I guess you mean R-5A.

3052

3053 Mr. Archer - Yes, R-5A, I’m sorry.

3054

3055 Mr. Silber - I think what we are saying, or what I thought I heard Mrs. Ware and
3056 Mr. Jernigan saying, initially, was that it seems like the provision, 12.1, allows for gated
3057 communities in all the one-family residential districts, that is R-O through R-4A. So, if
3058 anybody wants to come in and do a gated community they can do that in any of the one-family
3059 residential districts. This proposed ordinance in addition takes it a step further and amends the
3060 R-5A section of the Code to also allow for gated communities, but it says if you want to do a
3061 one-family residential district it has to meet the R-2 standards. So, I think that I heard Mrs.
3062 Ware and Mr. Jernigan say “Why do we need R-5A to be affective here. If you want to do a
3063 one-family dwelling with a gated community then just use the first provision under R-2, which
3064 is 12.1.” Why do you need the 13.4 section to be amended?

3065

3066 I don’t have a good answer for that. I don’t know that 13.4 does any damage. It’s an extra
3067 provision in the Code but I’m not sure that it accomplishes anything. And it could lead to
3068 some confusion when there are properties out there... Say there is an area that’s zoned R-2 and
3069 someone comes in and zone something R-5A, and wants to do a gated community then they
3070 have got to meet the R-2 standards. So, it’s really going to be like an R-2 but the map is going

3071 to show R-5A, which could be a problem. Does that answer your question?

3072

3073 Mr. Taylor - Not really, but it's getting closer.

3074

3075 Mr. Archer - It answered my question.

3076

3077 Mrs. Ware - It's just a continuum. See how confused we are.

3078

3079 Mr. Jernigan - Okay. Let's sort it out. We are all right with the R-O though the R-4A
3080 Districts. Now, in R-5A, and maybe I missed what I was trying to say, but I thought you
3081 answered it but maybe you didn't. The only thing we have to be concerned about right now is
3082 R-5A. If they want to gate it and put a bigger house, if there is property out there that is
3083 already zoned and they want a 100-foot lot, and they want to move the house.... I think what
3084 I'm reading here, if it is a gated community and it's R-5A, they may gate it. They can extend
3085 the lot to 100 feet and move the house to the middle. That will just apply to a gated
3086 community and that's it. I mean, we have got to keep.... But, you said you wanted to meet R-
3087 2 standards.

3088

3089 Mrs. Ware - But that's not the purpose of R-5A. If they want to do that then why
3090 don't they rezone it to R-2? I guess that's my point.

3091

3092 Mr. Jernigan - Well, I'll have to say this for this Commission. You don't want to have
3093 all those rezoning cases coming through here. And second thing, the developer is not going to
3094 want to take a double wammy on it having to pay for zoning at the R-5A and then if we change
3095 the ordinance coming back and paying another zoning fee to rezone it to R-2. They are not
3096 going to want to do that. And that's probably not going to get by the Board like that. I don't
3097 think that the Board, from what I am hearing, I know Mr. Glover, this is one issue that he was
3098 talking about. And the R-5A thing was one thing that he was worried about. I guess I'm all
3099 right... If it's going to be gated, the R-5A can meet R-2 requirements. I'm okay with that.

3100

3101 Mr. Silber - Keep in mind that right now in R-5A you can do public roads or private
3102 roads. If you do private roads you could gate the community and you can have zero lot line
3103 development. And we have communities that have a gate in R-5A type development. What
3104 this is allowing is if someone wants to do something above and beyond the R-5A with a much
3105 larger lot and allows a one-family dwelling that would be positioned in the middle of the lot,
3106 this gives them that option.

3107

3108 Mr. Jernigan - With R-5A they don't have to file for a PUP, they can automatically do
3109 it, gated communities.

3110

3111 Mr. Silber - In the current ordinance right now they can go ahead and do it on private
3112 roads but....

3113

3114 Mr. Jernigan - In R-5A you can already do gated communities, but you can't in the rest
3115 of them.

3116
3117 Mrs. Ware - But not the standards of R-2, right?
3118
3119 Mr. O’Kelly - No. You can only do detached or semi-detached units on zero lot line.
3120 You can’t do a single-family subdivision in R-5A.
3121
3122 Mrs. Ware - And is that the right thing to do regardless of how much trouble or cost
3123 is caused the developer. I mean, the issue is what’s the best thing to do zoning wise and
3124 ordinance wise, not how many applications the developer has to submit.
3125
3126 Mr. Jernigan - But what I’m doing is looking at the end result. I mean, we are talking
3127 R-5A, which is already zoned. You increase the lot size right now. It’s a 50 foot minimum,
3128 but you can put a 100-foot lot now.
3129
3130 Mr. Silber - Yes, you can, Mr. Jernigan, but it has to be a zero lot line.
3131
3132 Mrs. Ware - But it has to be zero lot line.
3133
3134 Mr. Jernigan - But the house has to sit on the lot line.
3135
3136 Mrs. Ware - But that’s signifying the zero lot, R-2 is not.
3137
3138 Mr. Jernigan - Well, not according to Mr. O’Kelly he is saying that you can build it up
3139 on the lot line now even in R-2. Isn’t that what you just said?
3140
3141 Mr. O’Kelly - Yes, sir.
3142
3143 Mrs. Ware - But, you cannot in R-5A, you have to put it on the lot line.
3144
3145 Mr. Jernigan - What he’s saying is you can build R-2 on the lot line.
3146
3147 Mrs. Ware - Right, but you don’t have to. The way R-5A is set up you have to build
3148 it on the lot line at this point so why not go and do it for R-2 or whatever other zoning
3149 classification you want it to meet the needs of what you want to develop to keep it separate so
3150 that you don’t have that cross confusion.
3151
3152 Mr. Silber - Mr. O’Kelly, do we know the amount of land that is currently zoned R-
3153 5A that is not developed?
3154
3155 Mr. O’Kelly - No. We haven’t had an opportunity to research that but we can certainly
3156 do that before the public hearing.
3157
3158 Mr. Silber - You might want to do that before the public hearing.
3159
3160 Mr. Jernigan - I was just saying, I don’t think we are ready for a public hearing yet

3161 because we are all confused and I can imagine what these folks would think.

3162

3163 Mr. Silber - We really don't want the Commission to be confused. We will spend
3164 extra time talking about this if necessary. I not so sure if we should continue this discussion
3165 during the work session. We need to provide you with the information you need to be able to
3166 make a decision. I would suggest we probably go ahead and talk about the conditions or the
3167 standards and the guidelines and then set a public hearing and then we can continue to have
3168 dialog on this before the Planning Commission's public hearing, which would be the end of
3169 January.

3170

3171 Mr. Jernigan - We can discuss this later on, but still set the hearing for the 28th.

3172

3173 Mr. Silber - Right.

3174

3175 Mr. Jernigan - All right. Thank you, Mr. O'Kelly. All right, Kevin.

3176

3177 Mr. Wilhite - Thank you, sir. In your packet there is document labeled "Development
3178 Standards for Gated Single-Family Subdivisions" and this is a list of 26 conditions that are
3179 shown. This is an early draft of requirements for these types of developments and staff expects
3180 that there will still be changes made based on additional research and compiling additional
3181 information that we are in the process of doing. We are still trying to get examples of
3182 standards that are used in other communities in the state of Virginia as well as outside. We are
3183 interested in James City County and understand that there are also these types of developments
3184 in Prince William County as well although we are not sure that they are on dedicated public
3185 right-of-ways.

3186

3187 The document that you have is based on input that was provided to the Planning Office.
3188 Planning drafted some of these, Public Works, Public Utilities, the Division of Fire and the
3189 Division of Police were all involved with this as well. They submitted suggested conditions to
3190 the Planning Office. We organized them and compiled them together. There were some
3191 overlapping and we tried to organized them as best we could at this point.

3192

3193 The final form that you will receive will probably follow development standards but we would
3194 also expect that some of these will be guidelines for these type of developments that there
3195 would be some flexibility involved in it. Also we will probably come up with a standard
3196 condition or conditions for provisional use permits that may tie back to a document listing
3197 development standards for gated communities.

3198

3199 It is not my intent to go over all 26 of these conditions at this point line by line but if you have
3200 any specific questions of me that's fine. You can stop me at any time or if you have any
3201 suggestions please feel free to chime in. Condition No. 1 basically deals with the fact that the
3202 staff looks at this as the roads will be built to current public standards. All current standards
3203 for public roads would be met in these types of subdivisions as well.

3204

3205 No. 3 deals with financial security for the road maintenance and also updating or upgrading the

3206 streets possibly to foresee possible inclusion into the County road system at some point. We
3207 understand that there's still a lot more details necessary at this point dealing with these issues.
3208 We are drafting some additional conditions at this point, as well.

3209

3210 Conditions Nos. 4 through 6, address requirements for details necessary for subdivision
3211 construction plans and language to go on the subdivision plats informing anybody looking at
3212 the plat that these roads are maintained by the public. And also the need for language within
3213 the homeowners association covenants that will cover all aspects of road maintenance. Also
3214 possibly dealing with bus access to the site; postal delivery would probably need to be address
3215 in the homeowners covenants as well.

3216

3217 Conditions Nos. 11 and 12 deals with signage, traffic calming that may be used in these
3218 developments, requiring that they meet current County requirements.

3219

3220 Conditions Nos. 13 and 14 address entrance design. This is also another area that more detail
3221 is going to be necessary including the Department of Public Works possibly sketching up some
3222 design detail sheets for the developer use that shows configurations of roadwork design as you
3223 go into an entrance to a gated community.

3224

3225 Conditions 15 through 26, which is the bulk of the document in front of you, deals primarily
3226 with the gate design and gate operation. This is an area that we do have some level of detail in
3227 the documents because we do have experience in working in these areas because we have seen
3228 these types of communities in multi-family developments. So, over the period of the last few
3229 years we have been able to work out more or less some conditions that we attach in these
3230 situations that deal with the gate design and operation. For instance: Most of the gates have
3231 what is called a "click to enter" technology where emergency vehicles, all County emergency
3232 vehicles can operate the gate using radio frequency from their vehicles. There are conditions
3233 that deals with being able to bypass the system whenever we have any mechanical failure or
3234 power outages that would be possible. Also, if the gates do fail, the gates are required to stay
3235 open until they have been fixed and tested to make sure that they are operating properly.

3236

3237 One thing that we have not addressed at this point is conditions or ways of dealing with
3238 manners of seeking modifications or relief from some of the requirements. We understand that
3239 that is something that will have to be added to the document as well. Once again, this is a
3240 rough draft. More work is necessary and we do anticipate that there will be a meeting of the
3241 County Agencies prior to coming back before you to try to refine this document even further.
3242 If you have any questions specifically on any of the conditions, I'll be happy to try to answer
3243 them.

3244

3245 Mr. Jernigan - Are there any questions for Mr. Wilhite?

3246

3247 Mr. Taylor - No, sir, Mr. Chairman, but I do have an observation. In reading these
3248 over, I really was struck by the breath of the research and the amount of data that's in here, in
3249 terms of these conditions. I don't know who really on the staff did the work but whatever
3250 group it was I really have to commend them for a very good assemblage of many, many,

3251 arcane things that can happen with these gates and their efforts in assembling this material that
3252 we have before us. And with that I'll move approval.

3253

3254 Mr. Jernigan - No. We have to set a work session for January 28.

3255

3256 Mr. Taylor - Can we approve it somehow?

3257

3258 Mr. Jernigan - Just make a motion for the work session.

3259

3260 Mr. Silber - It will be a public hearing. We would recommend that the Commission
3261 set a public hearing for January 28.

3262

3263 Mr. Taylor - I will move that we set a public meeting on January 28, 2004, to review
3264 the Gated Subdivision Ordinance Amendment Draft.

3265

3266 Mr. Jernigan - Second. We have a motion by Mr. Taylor and a second by Mr. Taylor.
3267 All in favor say aye...all opposed say nay. The ayes have it. The motion is passed. The
3268 public hearing is set.

3269

3270 The Planning Commission approved to have a public hearing on January 28, 2004, for the
3271 Ordinance Amendment for Gated Communities on Public Roads. Mr. Glover was absent.

3272

3273 Mr. Jernigan - I guess all of you know that Al is not going to be back with us next year
3274 and he has been with us for four years. Anyway, in appreciation they got you this. They gave
3275 you something to look at.

3276

3277 Mr. Taylor - Oh, isn't that nice.

3278

3279 Mr. Jernigan - We are proud of your service.

3280

3281 THE AUDIENCE APPLAUDES

3282

3283 Mr. Taylor - I just want to say a few things. First I want to say thank you for that
3284 memento. Over the years I have worked with lots of staffs and really looking at it you are one
3285 of the best. Working with you, you have never failed to respond and it's really been good of
3286 you and I just want to say I've really enjoyed working with you and I wish you the very best in
3287 the future and I know you will continue to do a good job and we'll enjoy staying in Henrico
3288 County and enjoying your good work. Thank you very much.

3289

3290 Mr. Jernigan - Thank you, Al.

3291

3292 Mr. Silber - Thank you, Mr. Taylor. You have served the Commission well, you
3293 have served the County well, you have represented a district that has grown by leaps and
3294 bounds that far exceeds what's happening in the other four districts. It is no small task, you
3295 have handled it well and we appreciate the time you have giving the County. Staff has enjoyed

3296 working with you and we wish you the best in the time you are going to have available now to
3297 spend with your family and grandchildren. Thank you very much for your time, we appreciate
3298 it.

3299 Mr. Taylor - Thank you, enjoyed it.

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3301 Mrs. Ware - Thank you.

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3303 Mr. Archer - Thank you.

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3305 Mr. Jernigan - All right, if there is no other business the meeting is adjourned.

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3307 Mr. Archer - Second.

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3309 On a motion by Mr. Jernigan and a second by Mr. Archer, the Planning Commission
3310 adjourned its December 17, 2003, meeting at 12:17 p.m.

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E. Ray Jernigan, C.P.C. Chairman

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Randall R. Silber, Acting Secretary

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