

Draft Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico, Virginia, held in the Demonstration Kitchen, on the 2nd Floor of the Human Services Building in the Government Center 8600 Dixon Powers Drive, Beginning at 9:30 a.m. Tuesday, January 27, 1998.

Members Present:

Mr. C. W. Archer, C.P.S., Chairman (Fairfield)
Ms. Elizabeth G. Dwyer, C.P.C., Vice Chairman (Tuckahoe)
Mr. David A. Zehler, C.P.C. (Varina)
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)
Mrs. Mary L. Wade (Three Chopt)
Mr. James B. Donati, Jr., Board of Supervisors Representative, (Varina)

Others Present:

Mr. Randy R. Silber, Acting, Director of Planning
Mr. David D. O'Kelly, Jr., Principal Planner
Mr. Jim P. Strauss, CLA, County Planner
Mr. E. J. (Ted) McGarry, III, County Planner
Mr. Kevin D. Wilhite, County Planner
Ms. Leslie A. News, CLA, County Planner
Mr. R. Kirby Smith, Drafting Technician
Mr. Robert J. Eagle, Associates County Planner
Mr. L. Jerry Peay, Planning Technician
Mr. Todd Eure, Assistant Traffic Engineer
Ms. Diana B. Carver, Recording Secretary
Mrs. L. B. Ann Cleary, Office Assistant

Mr. Archer - We have a pretty lengthy agenda today, so we will get started and I'll turn it over to the Secretary, Mr. Silber.

Mr. Silber - Yes, sir, Mr. Chairman, I appreciate that. Can everyone hear us in the back of the room? We are having some microphone problems this morning. Welcome to the Planning Commission meeting. I would like to apologize for the accommodations here. The Board Room over in the administration building is still under renovation and with any luck that should be finished by the end of February and by March we should be back in our new quarters. We do have all of the Planning Commission members present this morning, we do have quorum and we can conduct business. Before we get started I would like to make an announcement. We have a new employee to the Planning Office and that is Mr. Jerry Peay. Jerry. Could you stand up in the back of the room, please? Jerry comes to us from the Department of Public Utilities and he is a Planning Technician, new in our office, and has been retained to a new position that we now have that we hope to use to expedite plans through our Planning Office. Jerry, will be a plan expeditor and a processor and we look forward to all of the good services he has to offer us.

Ms. Dwyer - Welcome.

Mr. Vanarsdall - Where did you come from, Jerry?

Mr. Peay - I was with the Department of Public Utilities and Public Information.

Mr. Silber - He was already a County employee.

Mr. Vanarsdall - That's what we need somebody from Public Utilities in here.

Mrs. Wade - Pubic Works is what we need.

Mr. Silber - We do have a lengthy agenda today as Mr. Chairman said. We will try to move as quickly as possible. We do have a work session scheduled and an executive session scheduled at 1:00 p.m. later to day, so we hope to get through the agenda as quickly as possible. If need be, it's up to the Commission, but if need be, they may want to break at that time and take up the Sign Ordinance or Billboards and then continue on with the agenda. That's up to the Commission. We will see how the time goes this morning. I believe that handles the announcements. There are, in the back of the room, copies of the agenda if anyone needs to see that. With that, perhaps, we can get into the deferrals and withdrawals.

Mr. Wilhite - Good morning, Mr. Chairman, members of the Commission, ladies and gentlemen. Staff is aware of two requests for deferrals. The first one is on page two of your agenda. The applicant is requesting a deferral to the February 24, 1998, meeting.

LANDSCAPE PLAN (Deferred from the December 16, 1997, Meeting)

LP/POD-55-95
Villa Park III

James River Nurseries: Request for approval of a landscape plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 9.03 acre site is located on the south line of Villa Park Drive approximately 2,000 feet west of Brook Road (U.S. Route 1) on parcel 62-11-B-1F. The zoning is O/SC, Office/Service District (Conditional). **(Brookland)**

Mr. Archer - Is there anyone in the audience in opposition to the deferral request on this case, LP/POD-55-95, Villa Park III? No opposition.

Mr. Vanarsdall - I move that LP/POD-55-95 be deferred to February 24, 1998, at the applicant's request.

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mr. Vanarsdall and seconded by Ms. Dwyer. All in favor say aye...all opposed say nay. The motion passes.

At the request of the applicant, the Planning Commission deferred LP/POD-55-95, Villa Park III, to its meeting on February 24, 1998.

PLAN OF DEVELOPMENT (Deferred from the September 23, 1997, Meeting)

POD-17-97
Short Pump
Station, Phase III

Balzer & Associates, P.C. for Short Pump Investors, L.P.: 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, 39,925 square foot shopping center addition. The 5.77 acre site is located on W. Broad Street (U.S. Route 250), 450 feet west of Pouncey Tract Road on parcels 36-A-19D, 21, 22, 23, and 24. The zoning is B-2C, Business District (Conditional) and M-1, Light Industrial District. County water and sewer. (**Three Chopt**)

Mr. Archer - Is there anyone in the audience in opposition to the deferral request on this case, POD-17-97, Short Pump Station, Phase III? No opposition.

Mrs. Wade - I move POD-17-97, Short Pump Station, Phase III, be deferred to April 28, 1998, at the applicant's request.

Mr. Vanarsdall - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

At the request of the applicant, the Planning Commission deferred POD-17-97, Short Pump Station, Phase III, to its meeting on April 28, 1998.

Mr. Wilhite - These are all of the deferral requests that we are aware of at this time.

Mr. Silber - The next item of business would be the subdivision extensions of conditional approval. Mr. Wilhite.

SUBDIVISION EXTENSIONS OF CONDITIONAL APPROVAL

<u>Subdivision</u>	<u>Magisterial District</u>	<u>Remaining Lots</u>	<u>Previous Extensions</u>
Almond Creek Estates (January 1993 Plan)	Varina	50	4
Cross Pointe Carriage Homes at VA Center (November 1996 Plan)	Fairfield	86	0
Mill Place West (January 1997 Plan)	Brookland	44	0
Wynfield (January 1997 Plan)	Fairfield	10	0

Mr. Wilhite - Staff can recommend approval of all four subdivisions for another year.

Mr. Vanarsdall - I move subdivision extensions of conditional approval be recommended for extension, per staff.

Mr. Zehler - Second.

Mr. Archer - The motion was made by Mr. Vanarsdall and seconded by Mr. Zehler. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission voted to approve subdivision extensions of conditional approval for 12 months, January 26, 1999.

TRANSFER OF APPROVAL

POD-141-83
Wyndham Garden
Hotel

Airport Garden Limited Partnership: Request for a transfer of approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, from Airport Gardens Associates and Mr. Jay Weinberg & Partners. The 6.3 acre site is located at the northwest corner of Laburnum Avenue and Audubon Drive on parcel 162-8-A-1. The zoning is B-2C, Business District (Conditional). (**Varina**)

Mr. Archer - Is there anyone in the audience in opposition to this transfer of approval for POD-141-83, Wyndham Garden Hotel? No opposition. Mr. McGarry.

Mr. McGarry - Mr. Chairman, the applicant has been given a bond estimate of \$1,680.00 to correct certain deficiencies on the site. Staff can recommend the transfer of approval provided all of the deficiencies have been met by May 30, 1998. His construction schedule requires him to finish by mid June. With that, staff can recommend the transfer of approval.

Mr. Zehler - So, move, Mr. Chairman, the transfer of approval, POD-141-83.

Mrs. Wade - Second.

Mr. Archer - The motion was made by Mr. Zehler and seconded by Mrs. Wade. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the transfer of approval for POD-141-83, Wyndham Garden Hotel, from Airport Gardens Associates and Mr. Jay Weinberg & Partners, subject to the compliance of the original plan of development.

LANDSCAPE & LIGHTING PLAN

LP/POD-127-96
Office/Warehouse
Building
5350 Lewis Road

Aragon Group: Request for approval of a landscape and lighting plan, as required by Chapter 24, Section 24-106 of the Henrico County Code. The 2.95 acre site is located on the west line of Lewis Road approximately 400 feet north of Eubank Road on part of parcel 173-A-4. The zoning is M-1, Light Industrial District. (**Varina**)

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-127-96, Office/Warehouse Building, 5350 Lewis Road? No opposition. Ms. News.

Ms. News - The applicant is in agreement with the annotations on the plan which generally include additional plantings along Lewis Road, and provision for planting the required buffer plantings at the rear of the property with POD-121-97. Staff can recommend approval of the plans as annotated.

Mr. Archer - Mr. Zehler, would you like to hear from the applicant?

Mr. Zehler - No, sir. Mr. Chairman, I move that LP/POD-127-97, Office/Warehouse Building on 5350 Lewis Road, be approved subject to the annotations on the plan and the standard conditions for landscape and lighting plans.

Mrs. Wade - Second.

Mr. Archer - The motion was made by Mr. Zehler and seconded by Mrs. Wade. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the landscape and lighting plan for LP/POD-127-96, Office/Warehouse Building, 5350 Lewis Road, subject to the annotations on the plan and the standard conditions applicable to such plans.

LIGHTING PLAN

LP/POD-58-96
Extended Stay
America at
Paragon Place

McKinney & Company: Request for approval of a lighting plan, as required by Chapter 24, Section 24-106 of the Henrico County Code. The site is located approximately 350 feet southeast of Glenside Drive and approximately 500 feet northeast of W. Broad Street (U.S. Route 250) on parcel 81-A-94N. The zoning is B-2C, Business District (Conditional). (**Brookland**)

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-58-96, Extended Stay America at Paragon Place? No opposition. Ms. News.

Ms. News - The staff recommends approval of the plans subject to the annotations that require a 20-foot mounting height to meet proffered conditions. The applicant has indicated that he is in agreement with the annotations on the plan.

Mr. Archer - Mr. Vanarsdall.

Mr. Vanarsdall - I move LP/POD-58-96, Extended Stay America lighting plan be approved by the staff's recommendation with the annotations on the plan and the standard conditions for lighting.

Mr. Zehler - Second.

Mr. Archer - The motion was made by Mr. Vanarsdall and seconded by Mr. Zehler. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the lighting plan for LP/POD-58-96, Extended Stay America at Paragon Place, subject to the annotations on the plan and the standard conditions applicable to such plans.

SUBDIVISION (Deferred from the November 25, 1997, Meeting)

Camp Holly Farms
(October 1997 Plan)

TIMMONS and Robert N. Johnson, Esquire for Mamie C. Noble and George A. and Rebecca N. Bidaneset: The 54.723 acre site is located on the east line of Turner Road, approximately 2,100 feet north of Town Hall Drive on parcels 250-A-47B, 250-A-48, 250-A-49 and 250-A-50. The zoning is A-1, Agricultural District. Individual well and Septic Tank/Drainfield. **27 Lots (Varina)**

Mr. Archer - Is there anyone in the audience in opposition to Camp Holly Farms subdivision?

Mr. Deal - Yes, sir.

Mr. Archer - Thank you, sir. Is there anyone else? Mr. McGarry.

Mr. McGarry - Mr. Chairman, this is the third set of plans submitted to the Planning Commission on this parcel since 1994. The first plan, the February 1994 plan was granted approval for 16 lots. While that plan was still valid, a second plan was submitted adding some acreage for a total of 27 lots. During the review of this the applicant requested a withdrawal of the second plan and the Commission ultimately granted that request. During the extension of conditional approval for the first plan opposition was heard from a bottling company who objected to the use of the well and septic tank drainfields in the aquifer recharge area from which it draws water. So, on April 23, 1996, the Commission denied the extension of conditional approval for the first plan. The third plan is the 1997 plan, which is before you now. It's the same acreage, number of lots layout as the second plan that was withdrawn by the applicant.

Regarding the Comprehensive Plan. The Henrico 2010 Land Use Plan of the Comprehensive Plan was adopted on December 13, 1995. Timewise, that was between the first plan of approval in February of 1994 and the denial of the extension of the conditional in April of 1996. The Comprehensive Plan contains the environmental goals designed to balance resource conservation and economic growth. One of the policies to further environmental goals is the protection of potable water. It specifically lists protection of the quality of the Camp Holly Springs and Diamond Spring recharge area to the extent reasonably practicable.

The current subdivision application meets the technical requirements of the County Code for conditional

plats. Staff would like to point out that the plan is in conflict with the policies of the Comprehensive Plan as adopted. However, no rezoning or special use permits, which is a zoning requirement, are required to develop single-family subdivision lots on this property. So, based on the technical merits of the application, the zoning requirement for the A-1, Agricultural District and the plat, staff recommends conditional approval subject to the annotations on the plan, the standard conditions for subdivisions not served by public utilities, and the following additional condition No. 12, I'm sorry, condition No. 11 which deals with the Planning's requirement along the planting strip easement on Turner Road. I'd be happy to answer any questions.

Mr. Archer - Are there any questions of Mr. McGarry? Do you need to hear from the applicant?

Mr. Zehler - If I may. Mr. Chairman, I think we are all familiar with this case, as Mr. McGarry did enlighten us. We heard this case last year. I really don't think we need to get into the realm that we got in last time because it was rather lengthy. The only question I have for the applicant is how is this case changed since the last time it came before us. And, by the way, Mr. Johnson, you did not call me.

Mr. Johnson - I'm sorry, sir.

Mr. Zehler - I have not heard from you, how come?

Mr. Johnson - I didn't know you were suppose to, sir, and I apologize if you thought I....

Mr. Zehler - The last time we heard this case you called me.

Mr. Johnson - I'm sorry.

Mr. Zehler - The last time this case came before us you called me and we talked, this time you didn't call me and I was just wondering why. You just didn't deem it necessary?

Mr. Johnson - No. I was just getting the case together and I was preparing a memorandum for all of the Board(sic) and I just thought that would be more appropriate.

Mr. Silber - Mr. Johnson, if I could just remind you, the Planning Commission's rules and regulations stipulate that you have ten minutes to present the case and the opposition would have a total of ten minutes to speak in opposition.

Mr. Johnson - I appreciate that. For the record, my name is Robert Johnson and I represent the applicants, Mamie C. Noble, George A. Bidaneset and Rebecca N. Biadanset who are the owners of this approximate acreage of 54.7 acres. Many years ago when I presented a case to this Commission I indicated that my remarks were going to be brief and I said that I had been told that briefly was brilliance and every time Mrs. Wade has seen me since then she ask me if I'm going to be brilliant today or not. Meaning, if I carry on too long I may lose some of my credibility. So, I still adhere to that and my remarks will be fairly brief.

If I might very quickly, for the record, this is a signed copy for the record (Mr. Johnson was passing out written information to each Commissioner).

Mr. Vanarsdall - Is this what you are going to say this morning? Is that what this is?

Mr. Johnson - Yes, sir. Except what I am going to say is going to be a bit more brief than that. The questioned had been asked by Mr. Zehler as to what has changed and there is a report attached to this memorandum, prepared by Carl P. Benson who not only is a professional engineer but he's a certified professional geologist and I think that is the primary difference today. I will not reiterate the history that's outlined in this memorandum. The Commission members are familiar with that. I will indicate to the Commission that I am familiar with the notebook that was prepared at a previous hearing by Mr. Deal on behalf of his client. One of the key things that are in that report is a letter by a gentlemen, Adolf U. Honkala, which he prepared for the Diamond Springs Water Company. In his letter he states, and they seem to rely quite heavily on this, "I cannot, under any circumstances, recommend that you place a drainfield-septic tank system over the gravel formation which serves your spring. It is just too risky." Now, I think what we have to note here, with that particular letter, is that Mr. Honkala, if you would look at the letter that's in both Mr. Deal's material and is referred to in my material, he is speaking to the Diamond Springs Water Company and he is referring to a proposal by Diamond Springs to construct a drainfield on their own property not on any adjacent or adjoining property which is in a different recharge area. I think that is very important that that be pointed out to you.

I would also indicate to you that I think the crux of this case is whether or not the property of the applicant, my client, is in the same recharge area inside the Diamond Springs Water Company. Mr. Benson, and I have attached his report to this memorandum, his report indicates how he went about making that determination with documents he looked at. It appears that it is professional opinion that the property of the applicant, my client, is not in the same recharge area inside of the Diamond Springs Bottling Company. And if this be the case, that is quite an interesting and crucial point because if negates the effect of what is suggested by the experts that has been presented in Mr. Deal's notebook and I would also indicate that Mr. Benson is also a certified professional geologist and we consider that very important.

I have gone at some length in the memorandum and I will not reiterate here. In the previous notebook provided by Mr. Deal, he talked about a number of cases that dealt with, legal cases, that dealt with certain aspects of this case. I have listed all of those cases in my memorandum, and I have distinguished those cases and showed why they are not applicable to the present situation. The second point that we want to make is that Article I, Section 11 of the Constitution of Virginia prohibits the damage or taking of the property of another without just compensation. Our client has property zoned A-1, Agricultural. You previously granted approval for the subdivision, the extension was not granted and it expired. The staff has recommended that approval be granted and I would suggest to you that there is no reason not to do the same but to prohibit him from using this property which presently has a zoning classification of A-1, Agricultural, which permits the building of single-family homes, would deny him the real use of his property and would be a taking without just compensation. I suggest to you that that is very important.

There are three things that I want to leave you with that are the crux of this memorandum. The first is that Mr. Honkala's letter talked about the placing of something on the Diamond Springs' property not on property adjacent to it. Number two. The property of my client's, according to the certified professional geologist are not within the same recharge area. And, three, to prevent him the use by denial of this subdivision plan would be a taking without just compensation. I've tried to be brief. I submit my memorandum as a matter of record. I incorporate my reference, everything said in the memorandum as if I had repeated it verbatim here. Thank you.

Mr. Archer - Thank you, Mr. Johnson. Are there any questions of Mr. Johnson by Commission

members?

Ms. Dwyer - I have several questions. We are not a legal body and we are not a court of law, to say that you have incorporated you entire memorandum as if you had said it, I think, puts the Commission at a disadvantage because we just got this document. Obviously, we have not had a chance to review it or consider its contents. So, I would like to make that statement now while it may be part of the record, the Commission has not had the benefit of reviewing this document, before we make our decision today.

Mr. Johnson - I understand that, but if the Commission feels.... and I might suggest to the Commission, and I recognize that, it appears that there is an issue that's a very important issue in the determination of this case today, and that's whether the property of my client is in fact in the same recharge area or not. Our certified professional geologist says that it is not. Mr. Deal's expert suggests that it is. This may be something that this Commission may want to take a look at, after today before you make a decision on this case. I think that issue, whenever it comes down to a battle of expert testimony, I think it becomes very important and you need to see the basis of those opinions, what they looked at, who is right and who is wrong. And, it might not be inappropriate for you, after you hear this case today, to make no decision, to defer it and then have the Planning staff invite both experts to sit down with the Planning staff and talk about how they reached their decision that it was or was not in the same recharge area so that the staff can suggest to you how you might view those issues, since it is a battle of the experts. I think this is too important of an issue for it to get cursory treatment. I might suggest that approach as well because I know Mr. Deal has some reports as well that are contrary to that. Thank you.

Ms. Dwyer - I have another question. Our Comprehensive Plans specifically states that the County should protect the quality of Camp Holly Springs and Diamond Springs recharge areas. Assuming, just for the sake of argument now, that it is your development, your proposed subdivision is within the recharge area. How do you respond to that provision in our Comprehensive Plan?

Mr. Johnson - If you would look at the report of Mr. Benson. There are a couple of categories that I alluded to in my memorandum. His report discusses what the law and the hydrology and I think that would be important there as well. I think the determination is that even if it were in the recharge area there will still be protection there. That's why I have included his report. And, that's why we had the geologist take a look at it.

Ms. Dwyer - So, your assertion is that...

Mr. Johnson - Let me ask, just a moment. Mr. Benson, would you like to respond to that in any fashion? Would you come over here, and, if you would, identify yourself for the record.

Mr. Benson - My name is Carl Benson. I work with McKinney and Company. The letter I prepared was under the title block of Schnabel Engineering. I changed jobs in September. Eastern Henrico County has thick layers of sediments. Near the surface there is a layer of sand and gravel. It's a widely used aquifer for domestic wells. In the case of Diamond Springs, it's used for their bottled water business.

Ms. Dwyer - Are you suggesting that if this subdivision were approved then all these septic systems were placed on all of the lots as designed, that there would be no contamination of the shallow aquifer and consequently of the water used in these springs? Is that what you are suggesting?

Mr. Johnson - I'm suggesting that... Repeat your question please.

Ms. Dwyer - Well, my first question, which I am not sure has been answered. Our Comprehensive Plan states that the County should protect the quality of, specifically, Camp Holly Springs and Diamond Springs recharge area to the extent reasonably practical. That's in our Comprehensive Plan. That's been adopted by the Board of Supervisors. So, I'm wondering... I'm assuming that... My first question was assuming that this development would in fact contaminate this water resource, how would you respond to that? I think Mr. Johnson's response was that this recharge area, this water, would not be contaminated by this development. Is that your position?

Mr. Benson - My position is that this development is not in the recharge area of either of the springs used by Diamond Springs.

Ms. Dwyer - Okay.

Mrs. Wade - And therefore it would not contaminate the water?

Mr. Benson - Correct.

Mr. Benson - They are in separate recharge areas. The method of interpretation is to look at the drainage areas. If you had a release from a drainfield in this subdivision the water would have to come out of the drainfield and travel underneath hills in order to get into the drainage area of Diamond Springs. This is not practical. The water would come from the drainfields and it would travel down the hills toward the deeper drainage that are far removed from these springs. In the letter that I presented, and I know you just received it, I have a map from the U.S. Geological Survey Topographic that depicts the surface drainage areas that relates to the two springs of Diamond Springs and it shows that the topography is not, the surface topography does not overlap the subdivision plan. The drainfields in the subdivision what effluent came from them would travel away from the springs, not toward the springs.

Mr. Vanarsdall - Mr. Benson, your opponent, Mr. Deal, says it's not a matter of if this would ever be contaminated but when. Do you specialize in, you work for McKinney Company, do you specialize in this contamination of wells and have you ever had a case like this before?

Mr. Benson - I do specialize in ground water hydrology, and I specialize in forecasting the pattern of contamination as it travels through the ground water table. It's a very complicated field. I will tell you that as there is contamination in the ground water the contamination is retarded and diminished as it flows through the ground water table.

Mr. Vanarsdall - Have you ever had a case like this before, this exact type thing?

Mr. Benson - No. I will tell you that in the realm of ground water hydrology and geo related fields, there are no two cases that are exactly the same. There is too much variation in the ground.

Mrs. Wade - Would you agree, though, that possibly the standards for something like Camp Holly Springs, the water might be different even from your well or my well as far as the level of contamination is concern?

Mr. Benson - I agree that there is potable water supply standards that are in place throughout the nation and they need to be protected. Potable water supply needs to be protected. There is a surface

water treatment rule, there are well head protection rules, there are a whole battery of rules that are established by the EPA and enforced here in Virginia by the Health Department and to another extent by the DEQ. That does not necessarily say that you can arbitrarily map out a huge area of an aquifer and say that there are big restrictions on it. There need to be rules that are applied. Determining a well-head protection area for a water table aquifer is done throughout this Country on the basis of topographic trends and that's the method that I have applied.

Mrs. Wade - So the same standards would apply to a business like the pure spring water business basically as they would to everything else. Perhaps Mr. Deal can respond to that better when he gets up.

Mr. Benson - Well, if there was a municipal water supply well that was in the water table aquifer, the Health Department would require there be testing done to see if that well was under the influence of surface water. That's what would be done to determine if the municipal water supply was suitable for potable consumption. I'm assuming that as a private business that Diamond Springs has testing that shows that their well is not under the influence of surface water. These are the standards that are used to evaluate water quality. Diamond Springs is not pumping water so if you are not pumping water it's just the natural flow of water that is what they are collecting and bottling. That's what a spring is.

Mrs. Wade - Yes, I realize that.

Mr. Benson - But, I mean, as opposed to a well where you are pumping to draw it out.

Mrs. Wade - We don't know much about engineering, but we know what a spring is.

Mr. Archer - Mr. Benson, before you leave. Is there any adequate means of measuring or testing to see if something is introduced at some point, what comes out the other end? Do you understand what I'm saying, in terms of testing for the quality of water, at the level that contaminates may be introduced into it, or is it just a wait and see type of thing?

Mr. Benson - The surface water treatment rule, here and the Health Department, have guidelines for evaluating whether potable water is under the influence of surface water. Typically, you test for coliform, rotifers, diatoms, particulates, which actually you can see, insect parts and things like that are fine enough to go through the water table. You see that more in wells perhaps. Blue-green algae, cosidinia and I might forget a few because I don't have the list, but that's about the gamete. Clearly, coliform would be from livestock raising or from drainfields. The other components like blue-green algae, rotifers, diatoms, cosidinia, they can just be from nature, so, you can see from the water quality issuing from a spring or a well. If you have these sorts of components in there, then it was under the influence of surface water.

Mr. Archer - So, all of these things occur naturally.

Mr. Benson - Yes.

Mr. Archer - I guess what I'm asking is, is there any means of introducing anything that you could determine when you put it in on this end it came out on the other end?

Mr. Benson - There are people that do that, I don't. Like tracing studies, there are dyes that you can add. I know it's very expensive to do that.

Mr. Archer - And it would probably take a pretty long time.

Mr. Benson - Yes, that's true. There are other ways to evaluate the same concern and that is through establishing what is call a numerical ground water flow model, which is a field I do specialize in. What you do is collect field information and you develop a model in the computer that you then calibrate to imitate field conditions. It is essentially like stacking a lot of legos together, different color legos together, to make like a three dimensional shape where you might use blue legos for the sand and gravel and green ones for the clay and then you allow it to rain and you allow the water to flow according to the ground surface that you have from your maps. You can forecast how much time it would take if there was a release from here to influence another location. But, the calibration standard for a model like that would end up showing that the flow from this subdivision is heading toward the south, not toward the north and to the east.

Ms. Dwyer - So, is it fair to say then, to summarize your statement, that no water flows through or from the proposed subdivision to the aquifers or the recharge areas that serves Diamond Springs and Camp Holly Springs? It all flows in an opposite direction. Is that what you are saying?

Mr. Benson - I'm saying that the water flows in the opposite direction.

Ms. Dwyer - All of it?

Mr. Benson - To the best of my knowledge. I hope you can appreciate that there are complex systems in nature and I'm doing my best to answer your questions.

Mr. Donati - I have a question. Have you actually been out to this site and taken samples of soils or borings to get a field?

Mr. Benson - No, I have not taken soil borings for samples.

Mr. Donati - So, how do you base your knowledge, just on....

Mr. Benson - On experience, on first-hand knowledge from eastern Henrico County, from knowing that there's a thick layer of marine clay that's present at some depth below the site and throughout the region. Being familiar with the water table aquifer, being familiar with the sand and gravels, helping large aggregate companies who are speculating for sand and gravel resources, doing the water studies for large aggregate companies in the area.

Mr. Donati - So, it's somewhat of an assumption on your part that this is not going to effect this property. I mean, you don't know exactly where that pulls....

Mr. Benson - Well, I think it's professional judgement.

Mr. Donati - You don't know exactly where that flow of water is coming from that feeds that spring. That would be hard to determine, wouldn't it?

Mr. Benson - I think whenever you develop a theory it's based on physical principals. I think it's fair to say that the water coming from those springs is not going to violate the laws of physics. Based on

the laws of physics, it's fair to assume that the water is not going to flow underneath a hill in order to get into the drainage area that represents the spring.

Mr. Silber - Mr. Benson, to follow up with Mr. Donati's logic, can you determine with any degree of accuracy approximately the location for which the water in Diamond Springs is coming from?

Mr. Benson - I depicted that on those maps. They are irregularly shaped areas on the maps. In order to check whether those are accurate, you can look at how much infiltration from rainfall occurs in those areas. In this area, and I might be off by a few inches, we get about 40 inches of rain, it depends on the year and things like that. Of that, perhaps 8 to 10 inches of rain infiltrates into the water table aquifer. So, if you take those areas and multiply it by the 8 or 10 inches of infiltration you get tens of thousands of gallons per day that would be available to issue from those springs. So, those recharge areas are more than adequate to support those springs. Now, I don't have the springs withdrawal records. I have to assume that they are less than 10,000 gallons per day because there is no record of the spring withdrawal at the DEQ and if the spring withdraws greater than 10,000 gallons per day it would be on the withdrawal records at the DEQ, which I checked. There a gentleman by the name of Ed Moore at the DEQ that maintains those records and I consulted with him. So, based on withdrawals less than 10,000 gallons per day, those areas were more than adequate to... those are more than adequate recharge areas from the standpoint of rainwater infiltration.

Ms. Dwyer - If this subdivision were built and the septic systems did contaminate the aquifer or the recharge area, could that be corrected or would this be an irreversible contamination?

Mr. Benson - I doubt if it would be irreversible. Yes, it could be corrected but it would require....

Ms. Dwyer - How would one correct it?

Mr. Benson - There are engineering systems that you could use. I would have to think through it. There are ways you can change the flow of ground water. There are hydrologic barriers that you can install. There are engineering systems that can be used.

Ms. Dwyer - And they would have to be done in the subdivision itself.

Mr. Benson - I'd have to look at it. Presumably, there are engineering systems. There are many types of engineering systems, there's a whole field that relates to ground water remediation, so there are a wide variety of tools that are available to remediate. Sometimes you can inject things in the ground to help reverse chemical, you know, ground water chemistry. There are different technologies. It depends on the contaminations as to what you would do.

Mr. Donati - How much waste water does the average home produce a day?

Mr. Benson - I think they use 60 gallons per day, per person, something like that. Several hundred gallons a day perhaps.

Mr. Archer - We were talking about ground water. Has the contour of the lay of the land been studied whereas an individual homeowner might drop something on the ground, such as, changing motor oils, antifreeze. You said the contour, does it all run away from the aquifer or is there a possibility if it's

dropped on the ground it would run towards the aquifer?

Mr. Benson - I'm not exactly sure if I follow your question. If something is dropped on the ground it would go into the aquifer. I want to be sure I'm clear. We are not talking so much about the aquifer as we are talking about the recharge areas. In other words, the aquifer in that part of the County extends for miles and miles in all directions. What we are describing here is within the aquifer there is separate recharge areas for different wells or for different springs. Did I help you with that?

Mr. Zehler - I was anticipating someone in the yard dropping five gallons of antifreeze by mistake, changing their antifreeze in their car, changing the motor oil, if they dropped it on the surface and the contour and the lay of the land, if it were to flow, is it going to flow in that direction, or you said that everything would flow away from it. A study done on the top.

Mr. Benson - In the direction of Diamond Springs?

Mr. Zehler - Right.

Mr. Benson - It would flow away from the direction of Diamond Springs.

Mr. Zehler - Based on the contour of the lay of the land.

Mr. Benson - Correct. If there was a release of five gallons, it would probably get no further than 10 or 20 feet before it's saturated into the soil.

Mr. Zehler - When you drop five gallons of gasoline, when it gets underwater it looks like you have dropped 100. I have no other questions, Mr. Chairman.

Mr. Archer - Are there any other questions of Mr. Benson?

Mr. Zehler - Oh, I have one for Mr. Johnson. I know we have discussed on numerous occasions, Mr. Johnson, that you and Camp Holly possibly trying to get together and work on a sell and a purchase. Has that been exercised?

Mr. Johnson - There have been discussions but they have not proved fruitful. I notice that Mr. Deal in the current version of his notebook, even talked about some of the latest discussions. If we were making a presentation to the court, the conversations regarding settlement proposal would not be admissible so I don't think it's important to you as to what those discussions were and how far off the folks were, but there was some effort but they were not fruitful, unfortunately.

Mr. Zehler - Speaking of a buy or sale, I'll take "x" amount of dollars.

Mr. Johnson - Yes, sir. That kind of thing. You are absolutely correct.

Mr. Zehler - Was that negotiation done?

Mr. Johnson - There were conversations between the parties as to that regard. As I recall, my client stated a price, they thought it was too far off and did not come back with a counter offer because I think they were taking the position that it was too high and that they were bidding against themselves. At

least, that's what Mr. Deal indicated to me. Without getting into the details of the negotiations, yes, sir, they were and that failed because the parties were too far apart.

Mr. Zehler - No appraisals were done on the property by either party?

Mr. Johnson - I would have to ask my client, and he is shaking his head, and I assume there has been no appraisal.

Mr. Zehler - No appraisals were done?

Mr. Johnson - No, sir.

Mr. Zehler - So, therefore, we couldn't come up with a true market value.

Mr. Johnson - Well, assuming the appraisal was qualified and that would be an appraiser's representation of what he/she would consider a true market value. No, sir, that was not done.

Mr. Zehler - Is your client in a position to have an appraisal done on the property as well as Camp Holly having an appraisal and them putting their heads together based on an appraisal value.

Mr. Johnson - I don't know the answer to that. If you would give me just a moment I'll certainly explore that possibility (there was a long pause at this time). Mr. Zehler, I think one of the reason the parties have been so far apart is that if it was appraised presently it would be appraised as farmland and the property has more value in the long range than that, and I think that's where the parties differ. That's the minor in which it would be appraised presently because its present zoning classification is A-1, Agricultural. I think my clients rightfully feel that it's worth more than just farmland.

Mr. Zehler - With this subdivision approved it would still be A-1 property, will it not?

Mr. Johnson - Yes, but with subdivision approval the property would be worth more than if it did not have subdivision approval.

Mr. Zehler - But, you are basing that judgement on something you don't have right now.

Mr. Johnson - Absolutely, but also if you all were to turn them down and they had no recourse, it's a matter, in the future when water and sewer got into the area, obviously it would be worth more. I don't think they want to give it away presently. I wish the parties could have a meeting of the minds that would solve this for everybody but unfortunately they are too far apart I think.

Mr. Zehler - Likewise. I was hoping we were not going to be here today.

Mr. Donati - Does anyone live on the property now?

Mr. Johnson - Mrs. Noble lives on the property now. Is that right, George? Yes, sir.

Mr. Silber - Mr. Johnson, you have used six minutes of your 10 minutes. The questioning by the Commission does not take from your ten minutes.

Mr. Johnson - That's all right. I think we have covered the area and Mr. Benson has answered the questions.

Mr. Deal - Ladies and gentlemen, my name is John Deal. I represent Camp Holly Springs. The last time I was before you was more than ten minutes, and I realize that. What I would like to do, this is an even further engineering report (Mr. Deal passing out documents). The first thing I have to do, and I hate to use the word attack the report that you were just given. If I heard the gentlemen correctly he said his report was based on the assumption of 10,000 gallons a day being withdrawn from these aquifers. First. Camp Holly does not withdraw any water from the aquifer. You will notice in Mr. Johnson's memorandum it states that we are not registered with the State Water Control Board, even though we make withdrawals a report should be made. I have been to the State Water Control Board, I have talked with them, they have agreed since we do not withdraw water, we simply stand there with a great big system and then catch what comes out, we are not subject to their jurisdiction.

Secondly. His statement of 10,000 gallons a day is totally inaccurate. Camp Holly Springs and Diamond Springs flow 6,000 gallons an hour, not 10,000 gallons a day. Six thousands gallons an hour is 144,000 gallons a day of natural spring water that comes out of these springs, the two of them together. That's why our aquifer is a whole lot larger then what he is saying because he is saying his assumptions are the size of an aquifer when 10,000 gallons a day are drawn. Ten thousand gallons a day is not drawn, 144,000 gallons a day flows. Now, if you would in the notebooks that I gave you, please turn to tab No. 5. Go to the last page of tab No. 5 and count back 8 pages. When you do, you are going to come to a map that was drawn by Resource International in 1990. Do you see that map with the hash marks and dots on it? You go to tab No. 5 and turn back 8 pages and you will come to a map. That map was drawn by Resource International in 1990, five years before any kind contest of a subdivision of Noble property ever came to be. If you will notice, the dotted area is the primary recharge area for Diamond Springs, the slash area is the primary recharge area for Camp Holly Springs. Now bearing that in mind, if you would look at this map that I have here. This map shows the primary Diamond Springs recharge area, the primary Camp Holly Springs recharge area and the subdivision overlaying it.

Now does the proposed subdivision sit on top of the aquifer? Forget what we said and let's go to your 2010 Plan, your Land Use Plan that's in tab 8 of your notebook. In tab 8 of your notebook go to the very last page. This tab 8 is a one-page withdrawal, page 14, from the Final Report Henrico County Wellhead Protection Pilot Projection by Haywood Wigglesworth your own engineer, not ours, your engineer. And what does he say on the last page of the last paragraph of page 14? I felt it was necessary to include Diamond Springs and Camp Holly Springs in this project because they are groundwater sources which are particularly vulnerable to polluting land uses. These springs are located in the eastern portion of the County. It would appear that the water which flows to them flows on top of the marine clay. Fortunately, protection areas for both of these springs were mapped by Resource International, Ltd. They seem to be based mainly on topography and I believe provide a good protection area for the springs. Therefore, I used this map when delineating an area to protect. This area is presently zoned A-1 agricultural. It is essential that this zoning be preserved so that the resource can also be preserved.

Now, if you would please turn back to tab 2. So your own County geologist has said I accept the recharge area drawn by Resource International. In that tab 5, and we looked at that, that map was drawn in 1990 and 1991, not 1995. Now, go to Mr. Honkala's report. No where in Mr. Honkala's report states the size of the aquifer. The reason this letter was written was this. My client had been told for years that the water from these springs comes from deep in the ground. My client was getting ready to put a septic system on his own property. Because it comes from deep in the ground, you have got your overburden, you've got a

30 some foot layer of impermeable clay and then you've got your deeper aquifer. What we were told was that the deep aquifer was coming up through the clay and that's what we were getting. Mr. Honkala said, in paragraph one, I cannot, under any circumstances, recommend that you place a drainfield-septic tank system over the gravel formation which serves your spring. It is just too risky. Now we were going to put that on our property because if it was a deep spring it wouldn't make any difference, but it's not a deep spring, it's a shallow aquifer. Now, if you would please turn to tab 3. This letter is signed by Anthony Creech, it's dated 1995. Mr. Creech is here today. He is the engineer for Resource International that did the primary report that contains this map that was done in 1990. The last page of that report says, and the third sentence. "Nevertheless, based on the fact that development in the recharge areas of other natural springs in Henrico County has rendered those springs unusable as sources of drinking water. It is our opinion that development in the Diamond and Camp Holly Springs recharge protection areas represents an unacceptable risk." Turn to tab 4. This report is written by the people at Jacques Whitford in Freeport, Maine, which is acknowledged in industries as being one of the premiere natural spring water engineering for concerns of America, and we had these people come down from Maine to look at this property. What does he say in his conclusions, on the next to the last page on tab 4. "I am in full agreement with the assessments of Resource International and Adolf Honkala in stating that construction of the subdivision as planned will pose a substantial risk to the quality of the water in the shallow aquifer and to the springs. I believe that more detailed investigations would document that which is already apparent, that the potential for contamination of the Camp Holly Springs and possibly Diamond Springs is almost certain if the subdivision project proceeds." We even had another engineer to come from Joyce Engineering here in Richmond. They have studied this problem, they have studied this issue, in that report I gave to you. And, if you will look at the last page of that report, look at the recommendation. She talks about shallow aquifer and she says: I recommend that the proposed 27-lot residential subdivision in the Camp Holly Springs recharge area not be allowed, based on the strong likelihood that the on-site sewage disposal systems will adversely impact the quality of groundwater feeding Camp Holly Springs.

If you multiply 144,000 gallons of water a day times 365 days a year, that, my folks, is a fantastic natural resource. Your own Land Use Plan which you folks developed, and I'm sure you all know verbatim, if you would look at selected portions in tab 8 and in the upper right-hand corner you will see page 59. It says, the last paragraph on page 59. "Proper planning can ensure an adequate supply of drinking water by protecting the quantity and quality of water." Turn to the next page, page 61. Now this is your own Land Use Plan. "In addition to the public supply wells, two fresh water springs, located off of Turner Road." That refers in the Land Use Plan to Diamond Springs and Camp Holly Springs. I don't doubt possibly the sincerity of the gentleman who spoke here before, but when his assumption is based on 10,000 gallons a day coming out of the ground, and it's 144,000, I think the assumption is a bit improper. I believe that the aquifer has to be much, much larger. If you will, also, look at page 66. The second paragraph, the first two sentences. "Virginia's Groundwater Steering Committee in 1987 identified 32 potential sources of groundwater contamination. The top five potential treats statewide are: underground storage tanks, landfills, waste lagoons, septic tanks." Now, if you would, turn to page 82. Goals. To protect the natural and cultural resources. That's No. 1. Number 3. To minimize environmental degradation. No. 4. To balance the concerns for protection of physical resources and natural habitats. No. 5. To encourage conservation and protect physical resources. Look at page 83, if you would, please. Policies.

Mr. Silber -

Mr. Deal, your ten minutes are up. Can you wrap it up, please?

Mr. Deal -

Yes, sir. As for the law, if you allow this subdivision, you will violate your own law, your own code, because your own code says, in Section 23-34 of the Henrico Code, "Any approved method of human disposal excrement must be located and constructed so that it will not endanger a source

of drinking water." Section 23-63. This is on page 10 of the memorandum. If you would look at Tab 1. About 60 percent down the page you will see Section 23-34 of the Henrico County that states: "Any approved method of disposal of human excrement shall be located and constructed so that it will not endanger a source of drinking water." Section 23-63 says, "Location and installation of the sewage disposal system shall ensure that it will function in a sanitary manner with reasonable maintenance and will not create a nuisance or endanger the safety of any domestic water supply." When you look at 144,000 gallons coming out rather than 10,000 being withdrawn.... And we are not withdrawing it, it's coming out by itself. Our aquifer delineation is correct. Your engineer, your own staff geologist studied, accepted it, and gave it the dignity of going into your County Land Use Plan. I'd be glad to answer any questions. Mr. Creech is here to answer any questions you might have, too.

Mr. Donati - Mr. Deal, if this subdivision was allowed in Camp Holly Springs and it contaminated it, is there any possibility that the County could be held responsible for allowing it? Not to put you on the spot. But is it a possibility?

Mr. Deal - I'm asking you to vote for him, now I'm going to tell you I'm going to sue you. Well, let's put it this way. My client has got seven figures invested down there. My client ships water literally all over the world, primarily a five-state area. If that water gets polluted, it is no longer a natural spring water. We've got no more to sell than you have got in the tap in your County. In San Francisco they process raw sewage into drinking water. You can do that because it's not natural spring water. What's the purpose of natural spring water? When the algae bloomed in the James River, where did Philip Morris and other industries line their trucks up to get water, because the only place they could get water in this town was that spring. Whenever a hurricane comes, or anything like that at all, we can't meet the demand. When your water supplies are a threat to the County we can't meet the demand that's on us to supply. The water does not come out of the ground fast enough for us to fill the tankers. They literally back up one behind the other to get filled up.

Ms. Dwyer - So, if the subdivision were built and the septic systems from the homes did contaminate the aquifer, your position is there is no way to rehabilitate the water system at that point.

Mr. Deal - That's right. And let me say this ma'am. Some water moves through the ground fast, some water moves through the ground slow. If those springs ever got contaminated, and I've talked with Resource International about this and they can confirm it. It could take 15 years to clean that spring, depending on how fast the water moves and what it has to move through. If it could be done then. And who is going back the man's house to shut his septic system down because you are about four miles from sewer. So, who is going to buy the 27 houses. It's really ironic. We protect residences from industry, but do we protect industries from residences?

Mr. Archer - Thank you, Mr. Deal. Are there any further questions?

Ms. Dwyer - Mr. Deal, do you want your notebook as a part of the file?

Mr. Deal - Yes, ma'am. If we could, please. Thank you very much, ma'am.

Mr. Archer - Thank you, Mr. Deal. Mr. Zehler.

Mr. Vanarsdall - Mr. Chairman, did we make the memorandum from Mr. Johnson a part of the case too?

Mr. Silber - Yes, we did. We made that a part of the file also.

Mr. Vanarsdall - We made them both?

Mr. Silber - Yes, sir. Mr. Johnson, does have four minutes left for rebuttal, if the Commission wants to hear from him.

Mr. Johnson - Members of the Commission. It appears that one of the crucial issues here is who is correct as to the position of where my client's property is and whether or not it is within the same recharge area as Diamond Springs. Our expert, a geologist, has indicated that it is not. It seems to me that this is an issue that the County and this Commission may face from time to time with properties in and around the area of Diamond Springs. Mr. Deal mentioned that the County's own geologist, what he said as far as the Resource International report was concerned, at that time he didn't have the benefit of Mr. Benson's report. I think it's very crucial for somebody to possibly determine. Sit down with these experts and decide how each of them computed or decided where the recharge areas were, and the basis of their decision. Because, if, in fact, Mr. Benson is correct, and my client's property is not within the same recharge area, then there will be no contamination of the springs and he should be able to develop his property. I think that's an essential issue to all of this. I made a suggestion earlier in that regard. That's all I've got to say. We appreciate the time you have given us. I know it's been lengthy.

Mr. Archer - Thank you, Mr. Johnson. Are there any questions of Mr. Johnson? Thank you, sir.

Mr. Zehler - Mr. Chairman, from what I can see here today, the only difference in change from the last time this case came before us til now, it's gone from 16 lots to 27 lots. My decision is based on twofold. 1. It's in conflict with the policies of the Comprehensive Plan as staff has noted. 2. As I previously stated, when this case was before us in the past, that this Commission has a responsibility to protect the public's health, safety, and welfare and as far as I am concerned this case, we will be protecting a viable and natural resource that is something that we all have to have. Therefore, I move that Camp Holly Farms be denied.

Mrs. Wade - If I may say one thing. We haven't discussed another aspect of the Comprehensive Plan that encourages development where the resources and services are available rather than where they are not. There's nothing that says, I gather here, that if they had utilities that they would not be able to develop this land. The value of it, in that respect, would remain, right now perhaps.

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mr. Zehler and seconded by Ms. Dwyer that Camp Holly Farms be denied. All in favor say aye...all opposed say nay. The ayes have it.

Mr. Zehler - Mr. Deal, do you want your books back, sir?

Mr. Deal - I'll take my books back but you keep the one for the record.

SUBDIVISION

Telegraph Woods,
Section B
(January 1998 Plan)

Blackley & Company, P.C. for Wilton Development Corporation: The 0.196 acre site is located at the southwest corner of the intersection of Telegraph Woods Drive and Brookwood Glen Drive on parcels 53-9-A-100 and part of 53-8-D-4. The zoning is R-4C, One-Family Residence District (Conditional). County water and sewer. **1 Lot (Fairfield)**

Mr. Archer - Is there anyone in the audience in opposition to subdivision Telegraph Woods?
No opposition. Mr. McGarry.

Mr. McGarry - Mr. Chairman, you have just been handed a revised plan that was received on Friday the 23rd. An overview of the two subdivisions as they relate to one another is on the top sheet and a detailed individual lot plat is on the bottom sheet. The revised plan adds some common area to the subdivision plat to avoid a reverse corner situation under the Code. Staff calculations show that the typical lots in Telegraph Woods have a 40-foot lot width at the buildable line. That would also allow for a 24-foot deep dwelling. This lot can also meet the same standards for the typical lots in Telegraph Woods. The common areas within the plat, as you see in the overview, have public purposes. They involve floodplains, wetlands, and contain BMPs. They are also accessible from at least two streets. This common area has none of these values. It also raises questions about the maintenance of this lot, of this common area, adjacent to the lot. Staff feels that the solution is not a proper solution to avoid the proper setback requirements of the Code and cannot recommend approval. Staff can recommend approval of the original plan that was in your plat packet. I'd be happy to answer any questions.

Mr. Archer - Are there any questions of Mr. McGarry?

Mr. Vanarsdall - Did you say you can recommend approval of this current one?

Mr. McGarry - No, sir. We can recommend the one that was in your packet that came to you on Wednesday.

Mr. Vanarsdall - Okay. The one in the packet, that we have seen before, you can recommend approval.

Mr. McGarry - Yes, sir.

Mr. Vanarsdall - I think it's important, Mr. Chairman, that we give dates on the plans that we are approving or denying. Sometimes we can get into a fuzzy area later. I'm just saying that, in the motion we say that.

Mr. Archer - Thank you, Mr. Vanarsdall. Are there any other questions of Mr. McGarry? Is the applicant here?

Mr. Blackley - Members of the Commission, I'm Clay Blackley, representing the owner Wilton Development Corporation and Ryan Homes, the builder. I prepared an illustration showing what I want versus what we had. This is what we want, this is what we have now (referring to rendering).

Mr. Silber - Mr. Blackley, is the different from what we have?

Mr. Blackley - It shows the structure on it. This is the house that Ryan has presold on that lot. Somebody is interested in buying it. They want to build that house. It would go on both layouts but it's so tight on the other one. It's going to be very difficult to stake out and meet the setbacks. It could be built and then they come and to pull the tape on the as built situation, and it wouldn't meet the yard setbacks. So, just to avoid that situation, we will request that it be allowed so that it would give a little bit better situation from a staking out of the building standpoint. That common area in the back right now is wooded and we would just leave it natural and it would allow some buffer between the two lots that are shown.

Ms. Dwyer - So, where is the common area, now, that you want to have around this lot?

Mr. Blackley - It's to the rear of the house. It would be in the backyard of the house. It would be 30-foot wide across that back.

Ms. Dwyer - Why don't you just add this little strip of land to one of the lots?

Mr. Blackley - It would still be considered a reverse corner situation. It wouldn't help the front of that house.

Ms. Dwyer - But what value is it to leave a small strip of land between two lots as common area?

Mr. Blackley - Again, the purpose that it serves, it does avoids the lot that's shown to be considered a reverse corner situation. The value of the common area would be buffer, utility easement, residual land, that would provide for a little bit more distance between houses.

Ms. Dwyer - Could it still do that if it were attached to one of the lots?

Mr. Blackley - If it were attached to the lot, the way it was....

Ms. Dwyer - And then you would know who was going to maintain it.

Mr. Blackley - Right. That would be the other side of it. Right.

Mr. Silber - Ms. Dwyer, the issue is that if that property to the rear of Lot 6 is used as a lot, then, by definition, Lot 6 would rear up to the side of Lot 4, therefore, they would need to have reverse corner lot provisions and a 25-foot setback. The applicant claims that squeezes them. So, they have suggested a proposal of having this common area to avoid the definition that creates the 25-foot requirement. That is where staff has some difficulties.

Ms. Dwyer - But, you are also creating another set of problems, it seems to me, if you have a little strip of common area between two lots. That's my concern.

Mrs. Wade - What happens if they add it to Lot 4? Have we heard that?

Mr. Silber - I think that's what Ms. Dwyer was saying, that if you add the common area shown here to Lot 4, would that resolve the problem. No. That would not resolve the problem of the applicant.

Ms. Dwyer - It would make Lot 6 a reverse corner.

Mr. Archer - Mr. Blackley, what's in that area, physically?

Mr. Blackley - It's just trees now. Its all natural woods that will be, well, where the houses would be, and the backyards will be, it will be cut for grass area. The area that would be common area, that would be left in its natural state unless they were putting any utility lines or transformers or boxes in those areas.

Mrs. Wade - How wide is it?

Mr. Blackley - It's 30 feet. It had to be 30 feet to meet the Planning Department's criteria.

Mrs. Wade - So, if I lived in the neighborhood, I could send my kids over there to play.

Mr. Blackley - Yes, possibly. That's right. It would be used.

Mr. Archer - Mr. Blackley, I was out there Saturday, and it was so muddy that I couldn't get back in there. I would like to defer this case for two weeks, so that I can have an opportunity to get together with staff and with you to see if we can resolve this. I don't think any of us up here totally understand what we have received here today. We can probably ask questions all day and never really understand it. So, with that, I move deferral of Telegraph Woods to the Rezoning meeting on February 12, 1998.

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mr. Archer and seconded by Ms. Dwyer. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission deferred subdivision Telegraph Woods, Section B, (January 1998 Plan), to its meeting on February 12, 1998.

PLAN OF DEVELOPMENT

POD-4-98 **Bengston, DeBell & Elkin, Ltd. for Dominion Bank of Richmond:** 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, 414 square foot addition to a branch bank building and one additional drive-thru window. The 0.96 acre site is located on the southeast corner of Staples Mill Road (U.S. Route 33) and Parham Road on parcel 61-2-B-5. The zoning is O-2, Office District. County water and sewer. (**Brookland**)

Mr. Archer - Is there anyone in the audience in opposition to POD-4-98, First Union Bank - 8727 Staples Mill Road? No opposition. Mr. McGarry, do you have anything to add?

Mr. McGarry - Mr. Chairman, staff has nothing to add and can recommend approval as submitted.

Mr. Vanarsdall - I have one question for the applicant. Something just for my own curiosity. On

your parking lot there is some kind of a metal container, is that going to be moved?

Mr. Faris - Mr. Vanarsdall, I'm Matt Faris, on behalf of the client. I don't believe so. It has not been discussed during any of the reviews.

Mr. Vanarsdall - Will that get in the way of this?

Mr. Faris - No, sir.

Mr. Vanarsdall - What is that for?

Mr. Faris - My understanding, it is a security trash collection because of the nature of the documents. They just can't use a typical dumpster. I know it's on several sites, but it's not been discussed.

Mr. Vanarsdall - Thank you, I don't have any other questions, Mr. Chairman.

Mrs. Wade - Are you agreeable to all of the annotations, Mr. Faris?

Mr. Faris - Yes, ma'am. We worked with staff and I think we have resolved all of the issues.

Mr. Vanarsdall - I don't have any other questions, Mr. Chairman.

Mr. Archer - Are there any other questions by Commission members?

Mr. Vanarsdall - I move POD-4-98 be approved with the standard conditions and annotations on the plan, and conditions Nos. 23 through 29. I would like for it to come back for.... It is going to be landscaped, isn't it?

Mr. McGarry - The perimeter is not being directly affected so staff didn't ask for it.

Mr. Vanarsdall - All right. Then Nos. 23 through 29. That's my motion.

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mr. Vanarsdall and seconded by Ms. Dwyer. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-4-98, First Union Bank - 8727 Staples Mill Road (POD-97-73 Revised), subject to the standard conditions attached to these minutes, the annotations on the plan(s) and the following additional conditions:

23. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
24. The certification of building permits, occupancy permits and change of occupancy permits for individual units shall be based on the number of parking spaces required for the proposed uses and the amount of parking available according to approved plans.
25. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.

26. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
27. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
28. The approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.
29. In the event of any traffic backup which blocks the public right-of-way as a result of congestion caused by the drive-up teller facilities, the owner/occupant shall close the drive-up teller facilities until a solution can be designed to prevent traffic backup.

PLAN OF DEVELOPMENT

POD-6-98
Swift
Transportation
(POD-73-94 Rev.)

Engineering Design Associates for Swift Transportation Company, Inc.:
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 trucking terminal expansion. The 16.12 acre site is located on southwest corner Charles City Road and Miller Road on part of parcel 182-A-20 and 183-A-12. The zoning is M-2C, General Industrial District (Conditional) and ASO (Airport Safety Overlay District). County water and sewer. (**Varina**)

Mr. Archer - Is there anyone in the audience in opposition to POD-6-98, Swift Transportation?
No opposition. Mr. McGarry, do you have anything to add?

Mr. McGarry - Mr. Chairman, staff can recommend approval of this plan to you based on the standard conditions, the annotations and the following additional conditions, Nos. 23 through 28.

Mr. Archer - Are there any questions of Mr. McGarry by Commission members?

Mr. Zehler - Mr. Chairman, I move that POD-6-98, Swift Transportation, be approved, subject to the annotations on the plans, the standard conditions and additional conditions Nos. 23 through 28.

Mr. Vanarsdall - Second.

Mr. Silber - Mr. Chairman, I have a question, if I could at this point.

Mr. Archer - Sure.

Mr. Silber - I've got a question, I guess, of the applicant, if I may.

Mr. Archer - Is the applicant present?

Mr. McGarry - Yes. Engineering Design.

Mr. Vanarsdall - You are a little slow on the draw, aren't you, Mr. Secretary?

Mr. Silber - I'm sorry. You all are too fast.

Ms. Isaac - I'm Laraine Isaac with Engineering Design Associates.

Mr. Silber - Ms. Isaac, at the time of rezoning of this property there was a gentleman that came forward concerned about the drainage issues on a piece of property to the north, on property zoned A-1. He said that there was considerable drainage across his property and he wanted to make sure that the wall that's proposed does not cause any drainage on to his property. How has that been addressed?

Ms. Isaac - To the best of my knowledge, the wall is not going to effect the drainage on this site, to his site. Is that the question?

Mr. Silber - Yes. I believe there was discussion about.... Maybe Mr. Donati knows more

about this then I do. But, there is, I believe, sheet flow across A-1 property and it may be shown as Parcel 13 on your drawing. His concern was he wanted to make sure what happens on your client's property does not cause the drainage to worsen on his property. I think it maybe flowing down toward the BMP.

Mr. Donati - Yes, you are exactly right.

Ms. Isaac - Well, the wall does not extend across that entire area, so there would be no wall adjacent to where the BMP is.

Mr. Silber - What happens to the topography across the back of Lot 13? Will it continue to have the same grade and the natural flow will....

Ms. Isaac - Can you show me what lot you are talking about?

Mr. Silber - It would be this one (referring to the rendering).

Mr. Zehler - Mr. Silber, I see three "x's" handdrawn on this plan. What is that in reference to?

Mr. Silber - That's the annotation to extend the wall to that point.

Mr. Zehler - See, that was the purpose of stopping the wall where it was so you wouldn't have the water problem, which would basically put it three quarters away across that lot.

Mr. Silber - I guess my question would be, even if the wall was not extended, I'd want to make sure that the grading is appropriate so that the property would still be....

Mr. Zehler - So it would flow into the BMP.

Mr. Silber - Yes, sir.

Mr. Zehler - And, I'm sure she will assure us that it will flow into the BMP.

Ms. Isaac - I will assure you of that. That is one thing, as far as the actual construction of the wall, may have to have some, I guess you call them weep holes, to make sure there is no stoppage that natural drainage cross that property line, something that could be addressed with revised plans.

Mr. Silber - So, you are agreeable to extending the wall to the end of that property, but you are also agreeable to assuring that there be no drainage complications for Parcel 13?

Ms. Isaac - Right. We have other, the comments received from the County at the staff meeting, we do have some comments from Public Works we have yet to address. So, in the revision of those plans, we can make sure that this issue has been addressed.

Mr. Archer - Are there any other questions of Ms. Isaac while she's up?

Ms. Dwyer - Mr. Silber, were you suggesting that another condition be added relating to that or not?

Mr. Silber - I guess, I bringing to the Commission's attention... I think another condition may be appropriate so that we don't come in with final construction plans and find out that there is a problem. I was hoping that there would be someone from Public Works Drainage Division here, but I don't see anyone.

Mr. Zehler - How would you word that condition, Mr. Silber?

Mr. Silber - I think if you give me a minute or two we could come up with some wording.

Mr. Zehler - I think Ms. Isaac is in agreement with you, as far as.... It's just a matter of wording it?

Ms. Isaac - Yes. I would agreeable to an additional condition on the POD. If for no other reason, it will alert everybody that there is a potential problem.

Mr. Archer - Mr. Silber is writing furiously, let's wait a moment.

Mr. Zehler - Mr. McGarry, your comments on your plan with the extension of the wall. Was staff aware of the drainage consideration? I think that's the reason why we stopped the wall. Instead of extending it all the way across that property. Was staff aware of that?

Mr. McGarry - Not to the extent we should have been.

Mr. Zehler - Staff would not have a problem eliminating that?

Mr. McGarry - No. I was trying to follow the letter of the proffer. That I understand now is the reason for it stopping.

Mr. Zehler - Yes. That was done intentionally.

Mr. Silber - Mr. Zehler, we probably can refine this but I think we can have something along these lines, and this would be condition No. 29. "That the final construction plans shall be so designed to address the storm drainage issues associated with Parcel 182-A-13."

Mr. Archer - Okay. Is that okay with you, Ms. Isaac?

Ms. Isaac - Yes.

Mr. Archer - Mr. Zehler, do you want to amend your motion, then, to include that condition?

Mr. Zehler - Yes. With that, Mr. Chairman, I would like to also show that the fence will stop where it's shown on the proposed plan and not where staff recommends. So, the three "x's" will come off of the plan, as well as adding additional condition No. 29.

Mr. Vanarsdall - I amend my second.

Mr. Archer - The motion was made by Mr. Zehler and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-6-98, Swift Transportation (POD-73-94 Revised), subject to the standard conditions attached to these minutes, the annotations on the plan(s) and the following additional conditions:

23. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
24. The certification of building permits, occupancy permits and change of occupancy permits for individual units shall be based on the number of parking spaces required for the proposed uses and the amount of parking available according to approved plans.
25. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.
26. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
27. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
28. The approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.
29. Construction plans shall be revised to provide proper drainage for any lot abutting the masonry wall.

The Commission took a short break right after this case.

SUBDIVISION

Chartwood
(January 1998 Plan)

Foster & Miller, P.C. for Annette Anderson, Marie N. & Everette A. Felts and Regional Development Co., L.L.C.: The 36.66 acre site is located along the north line of Meadow Road approximately 700 feet west of Taylor Road on parcels 157-A-8, 9 and 13. The zoning is R-3AC, One-Family Residence District (Conditional). County water and sewer. **88 Lots (Varina)**

Mr. Archer - Is there anyone in the audience in opposition to subdivision Chartwood? No opposition. Ms. News, do you have anything to add?

Ms. News - The annotations on the plan address the following issues. 1. Staff recommends a connection to the currently undeveloped Hillview Park subdivision, due to the proximity of these developments to Donahoe Elementary School, and the opportunity to provide a safe travel route for children. 2. Staff is recommending provision of access to parcel 157-A-12 either by road frontage or connection to avoid landlocking this parcel with the reserve strip. 3. The proffers for this development prohibit access to lots from Meadow or Graves Road, so a planting strip easement has been required. Staff, by policy, has been requiring 25 feet to accommodate the likelihood of utility easements such as Virginia Power and C & P which may occur in this area. Finally, land far in excess of the area shown for development of the actual BMP, is shown to be reserved for the BMP. The engineer has indicated that the design for the BMP, in certain scenarios, may require this land. However, the use of the land is undefined

if it is not used for the BMP. Ideally, the land would be added to lots which are currently at the maximum quantity allowed on this site.

Staff has added condition No. 12 which states: "Land not required for BMP purposes shall be added to the proposed lots or be reserved for future development." We would like to add wording to the end of that condition that says "future development of this parcel." Staff can recommend approval of this plan, with the annotations on the plan, and the amended condition No. 12. I'd be happy to answer any questions.

Mr. Archer - Thank you, Ms. News. Are there any questions of Ms. News by Commission members? Mr. Zehler, would you like to hear from the applicant?

Mr. Zehler - Your 25-foot landscape strip, is that typical?

Ms. News - We have been requiring that by policy. The Code requires a minimum of 10 feet but we have had problems with conflicts with utility easements in the past, so 25 feet allows us to get a full 10 feet of landscaping plus any utility easements that may occur.

Mr. Zehler - So, what you are saying is if the utilities, in a 10-foot easement will come through, you won't be able to plant that easement?

Ms. News - Sometimes they will allow you to plant, but you have to get permission from them. It's not clear.

Ms. Dwyer - But the 25 feet will give enough additional space to work with so that you can accommodate....

Ms. News - Yes. Virginia Power and C & P normally requires around 15 feet when they ask for an easement. We don't know for sure that they need an easement. We are just trying to cover that possibility.

Mr. Zehler - I have no other questions.

Mr. Donati - I have a question. On No. 12, where it says "proposed lots be reserved for future development" in the back, for the BMP. What do you have in mind when you think about "future development?"

Ms. News - We've asked that we add future development of this parcel, so that the land would be used in this development also, and not become a part of another development. The lots are at their maximum right now. That would allow them to develop it as a recreation area or some other use, if it wasn't incorporated into the lots.

Mr. Donati - Is staff also recommending the stub road, right here (referring to rendering)?

Ms. News - Yes.

Mr. Donati - Okay. When we heard the zoning case, the citizens were to be assured that there wouldn't be any stub road that would be adjoining those two different subdivisions there. I think we would be kind of going back on our road a little bit to the citizen if we allow that.

Ms. News - That may have occurred in the Board of Supervisors meetings, not in the original zoning case.

Mr. Donati - I remember it very well.

Mr. Vanarsdall - Do you mean it wasn't a proffer?

Mr. Donati - It's not on the plan.

Ms. News - The proffer reads... There is a proffer regarding access that says, "Access shall be from Graves or Meadow Roads unless otherwise required by County staff."

Mr. Silber - Mr. Donati, I think at the time of zoning, the schematic plan that they showed, it showed a connection to this paper subdivision and that became an issue with some of the people out there. I think the issue may have been that the Hillview Park paper subdivision, the concern was that they could only develop so many lots before they would need a second point of access. This could result, and that being a second point of access. We have learned that there is this road, Taylor Road, that runs along the eastern side of the property that would provide that subdivision, Hillview Park, with a second point of access, whether this one occurs in this proposed subdivision or not. So, I wanted to bring that to your attention that they could in the future develop Hillview Park, it appears to us, with a second point of access. So, staff felt that it may be appropriate to make this connection. But, of course, that's a decision that's up to the Commission whether they want to approve that or not. It is an annotation on this plan.

Mr. Donati - Not to be picky here, but we know the proffered conditions for this subdivision, and this R-3 sitting adjacent to it, it's just wide open zoning. It could be a less desirable neighborhood than the R-3AC. Maybe these people wouldn't want them driving through their neighborhood. That's the way I look at it.

Mr. Vanarsdall - So, you are saying not open this one right here (referring to the rendering)?

Mr. Donati - Right. What's the name of that street?

Mr. Silber - I think it's called, it's unimproved, but it's called Roger Street.

Mr. Archer - Okay. Are there any other questions of Ms. News by the Commission? Mr. Zehler, would you like to hear from the applicant?

Mr. Zehler - I believe the applicant would like to say something but I'm not sure.

Mr. Mistr - I'm Spud Mistr with Foster & Miller, representing the applicant. We have met with the staff and on behalf of the applicant, we would like to request that the stub road to the adjacent subdivision be deleted. We would like to have the 25-foot landscape strips reduced to 10 feet and make them exclusive of any other easements. That means that VEPCO and C & P easements could not be parallel to and within this. Now, they could still come through perpendicular, if they needed to. Generally, I would not expect that to happen. But if they came through it, it might be 12 to 15 feet that we couldn't actually plan in, but we could plant right next to it, which would be the same thing if it were 25 feet. So, we would like that. We are agreeable to the condition on the parcel that the Ruritan Club is on that we

would either provide them access or make the right-of-way contiguous with their property line. Any reserved areas for BMPs, if they are not used for BMPs, will either be made common areas or be added to lots that are within this particular subdivision.

Mrs. Wade - What sort of future is predicted for Meadow Road out here, do you know?

Mr. Mistr - Well, I would hope at some point it would be widened, but I don't know where that is in the County's plans. That's why we agreed to develop the first section onto Graves Road and the first 50 lots will have access only to Graves Road.

Mr. Zehler - Is that why you want to reduce your 25 feet to 10 feet, is really anticipating no utilities will be through there?

Mr. Mistr - Yes.

Mr. Zehler - Your utilities are coming from behind the project, not coming down the street?

Mr. Mistr - No. No. No. The utilities will come down the street.

Mr. Zehler - Meadow Road.

Mr. Mistr - Well, some will come down Graves and some will come down Meadow. We will ultimately have to extend the waterline down Graves Road to tie into the new section, is my understanding. The first section will have water coming from Graves in then it will have to loop.

Mr. Zehler - Explain to me again why you want to reduce the 25-foot planting strip.

Mr. Mistr - It encumbers that particular lot, you know, less. I mean, the purpose of the planting strip is to keep somebody from putting a driveway onto one of the main roads, and so we call it a planting strip easement. It has to be landscaped, which, you know, the developer will landscape but whether he landscapes 10 feet or 25 feet, once he sells the lot, it's up to that homeowner to maintain. If they want to maintain it, they will maintain 10 feet. If they want it to be denser, then it's up to them whether they plant something else in there or not.

Mr. Zehler - Is this going to be the responsibility of each one of the property owners on the entrance coming in off of Meadow Road? Or, is this going to become a part of the Homeowners Association?

Mr. Mistr - It is my understanding, that this is a part of those lots. It's the developer's responsibility to landscape that easement. If a homeowner disturbs that easement, the landscaping is there for the protection of the homeowner, of that particular lot. So, I would think if that homeowner disturbed that landscaping, it would be up to that homeowner to put it back, not up to the association.

Mr. Zehler - The landscaping dies and the grass needs to be cut, who is going to maintain it?

Mr. Mistr - On these particular lots, the property owner.

Mr. Donati - Most subdivisions are that way, as I understand. Will there be signage there too?

Mr. Mistr - Yes. There will be an easement for a sign. Probably at both ends, even though that hasn't been designed.

Mr. Zehler - I have no other questions, Mr. Chairman.

Ms. Dwyer - I would like to ask Ms. News what specific problems we have had about conflicts between utilities and planting strip easements. Has this been a problem that staff has encountered and that's why we are going to the 25-foot easement?

Ms. News - I'm not personally aware of problems, in regard to subdivisions. In general, we have problems with utility easements and landscaping, always.

Mrs. Wade - Is there not a conflict out there on Pump Road somewhere near Church Road? It seems to me on the east side of Pump Road there was a big utility easement that was all cleared and....

Ms. Dwyer - And they didn't leave room for the landscaping strip.

Mrs. Wade - I forgot what finally happened. But there was a lot of discussion about it though.

Mr. Archer - Are there any more questions by Commission members? All right. We are ready for a motion.

Mr. Zehler - Mr. Chairman, I move that the subdivision Chartwood be approved subject to the annotations on the plan and the standard conditions for subdivision, including condition No. 12 with the rewording and including of this parcel. On the plat I would like to show that the stub road to Roger Street be deleted, as well as the 25-foot planting strip being reduced to 10 feet.

Mr. Vanarsdall - Second.

Mr. Archer - The motion was made by Mr. Zehler and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission granted conditional approval to subdivision Chartwood, (January 1998 Plan), subject to the standard conditions attached to these minutes, the annotations on the plan(s) and the following additional condition.

12. Land not required for BMP purposes shall be added to the proposed lots or be reserved for future development of this parcel.

LANDSCAPE & LIGHTING PLAN

LP/POD-50-96
Westerre II

James River Nurseries, Inc.: Request for approval of a landscape and lighting plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 5.5 acre site is located at the southeast corner of W. Broad Street (U.S. Route 250) and Westerre Parkway on part of parcels 48-A-37B and 48-A-37C. The zoning is O-3C, Office District (Conditional).
(Three Chopt)

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-50-96, Westerre II, landscape and lighting plan? No opposition. Mr. Strauss, do you have anything to add?

Mr. Strauss - Thank you, Mr. Chairman. Since the preparation date of the agenda, some new information has come to light in regards to trees within a waterline easement, the BMP in back of the second building Westerre II, and a trash enclosure. So, staff now recommends approval subject to the addendum that was distributed this morning, which includes standard conditions for landscape and lighting plans and conditions Nos. 6 and 7.

Mr. Archer - Are there any questions of Mr. Strauss by Commission members?

Mrs. Wade - The landscaping seems to be in place, already.

Mr. Strauss - Yes, a portion of the landscaping in the front parking area. There are some trees that I noticed installed. However, enough field adjustments were made so that some of the annotations on the staff plan have essentially taken place. So, the two I was concerned about are the first two I mentioned in the addendum. One tree in a waterline easement and a second tree in a stormdrainage easement, associated with a BMP in back of building two.

Mrs. Wade - If that old oak tree down there on Broad doesn't make it, it's hard to tell this time of year, they will have to replace it with something, I assume, with something else.

Mr. Strauss - I'm not familiar with that tree in particular.

Mrs. Wade - Out on Broad Street there is a big old tree that's left. It doesn't look to healthy but if that's included in there....

Mr. Strauss - Well, I'm getting an indication from the applicant that's she's in agreement with what you just said.

Mrs. Wade - The only thought I had, and sometimes you do at this time of year, is that it looks fairly bare out there now because there are not much in the way of evergreens anywhere there.

Mr. Strauss - I've discussed the possibility of adding some evergreens to the revised landscape plan, when it comes in for final signature, and they are agreeable to adding some evergreen plantings, particularly to the BMP area in back of the second building.

Mrs. Wade - Now, I guess it's the Broad Street side that I was talking about.

Mr. Strauss - Well, I will have to defer that question to the applicant.

Mr. Archer - Are there any other questions of Mr. Strauss by the Commission? Do you need to hear from the applicant, Mrs. Wade?

Mrs. Wade - Yes. I think so. Just briefly.

Ms. Johnson - I'm Theresa Johnson from James River Nurseries.

Mrs. Wade - Apparently, there's still some adjustments that need to be made. Have you seen the conditions on the agenda?

Ms. Johnson - Yes.

Mrs. Wade - Are you agreeable to those?

Ms. Johnson - We are in agreement.

Mrs. Wade - Is there a possibility that you might add some evergreens for year around greenery?

Ms. Johnson - We have some at a nice sign entrance bed and we have some in the parking lot islands. We have added evergreens there to kind of go along with the Westerre I building. We did not put anything along Broad Street except street trees, for visibility to the building.

Mrs. Wade - What you have in the parking lot, they are low things.

Ms. Johnson - Yes, ma'am. For maintenance reasons. So that the car bumpers and things will not damage them. They are on the ends, also for maintenance reasons. There will be a hedge on the ends of the parking islands with some color with the crepe myrtles.

Mrs. Wade - It would seem that you could put in some evergreens along Broad or, at least, a group or two. That wouldn't interfere that much. The building is quite visible from Broad Street.

Ms. Johnson - True. The parking lot was submerged a bit and they just wanted to keep an open view to the building. That was my client's desire.

Mrs. Wade - It would be helpful if they would consider some evergreens and I would like for you to work with Mr. Strauss on that.

Ms. Johnson - I will discuss that with my client.

Mrs. Wade - Please. So, we will put some kind of note on here. Can we add "condition c to seven" would that do it?

Mr. Strauss - Mrs. Wade, I think that staff could entertain an idea from the applicant that they could substitute some of the trees that need to be relocated, due to conflicts, to make that evergreen material on Broad Street. We would be willing to work with them on that. They have a generous amount of tree planting in the parking area and they more than meet their five percent interior landscaping requirement, due to that. So, perhaps, if it is a cost issue, we can transfer out some of the trees that are in the parking area, evergreen material that which would be more desirable along Broad Street from staff's viewpoint.

Mrs. Wade - Oh. Is that agreeable? I don't mean a thick forest.

Mr. Strauss - And, as far as a condition, I imagine we would have to make an additional condition that the applicant would work with staff to prepare a revised landscape plan for submission

which would include addition of an evergreen hedge and we will work with them on the terms of quantity along Broad Street.

Mrs. Wade - Not so much hedges, perhaps grouping. I know you said hedge around the BMP, but can't we add that as number "C to No. 7," you've already got there and provide....

Mr. Strauss - The applicant is volunteering an evergreen planting material more like a tree, Ilex Nellie Stephens Holly - and are supposed to add some materials that would be acceptable.

Mrs. Wade - Yes, I understand. I've just been trying to decide the best way to handle it here. Whether to put it on the plan, or add a condition, or add it to No. 7.

Mr. Strauss - I would make that condition No. 8.

Mrs. Wade - Okay.

Mr. Strauss - It should read: "To add evergreen tree planting along Broad Street and work with staff with the revised plan."

Mrs. Wade - That sounds good. Okay. Thank you. And do you understand that if the tree dies that you will have to do something else?

Ms. Johnson - Yes, I caught that.

Mrs. Wade - It doesn't look too healthy at the moment. I think its life span is about over. Okay. Thank you.

Mr. Archer - All right. Is there any further discussion? Mrs. Wade.

Mrs. Wade - I move landscape and lighting plan for LP/POD-50-96, Westerre II, be approved subject to the annotations on the plans, the standard conditions, conditions Nos. 6, 7, and 8 on the addendum.

Mr. Vanarsdall - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the landscape and lighting plan for LP/POD-50-96, Westerre II, subject to the annotations on the plan, the standard conditions applicable to such plans, and the following additional conditions:

6. The applicant will work with staff to resolve the following conflicts between trees and easements:
 - a. relocate Zelkova installed in water line easement (Dept. of Public Utilities is not responsible for replacement of landscaping due to maintenance of these facilities)
 - b. relocate Red Maple proposed in storm drainage easement behind building.
 - c. resolve any conflicts as noted on the annotated plan.
7. Upon submission of the revised landscape plan provide the following:

- a. provide details of the landscaping for the BMP facility proposed behind the building.
 - b. provide details of the screening proposed for any trash containers located on site (Phase I and II) in accordance with POD condition No. 13.
8. The applicant will provide additional evergreen planting along W. Broad Street (see annotated plan).

LANDSCAPE & LIGHTING PLAN

LP/POD-117-96
Ethan Allen Furniture

James River Nurseries, Inc.: Request for approval of a landscape and lighting plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The site is located on the north side of W. Broad Street (U.S. Route 250) approximately 300 feet west of Fort McHenry Parkway on parcel 48-A-5. The zoning is B-2C, Business District (Conditional). (**Three Chopt**)

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-115-96, Ethan Allen Furniture, landscape and lighting plan? No opposition. Mr. Strauss, do you have anything to add?

Mr. Strauss - Thank you, Mr. Chairman. The applicant seeks approval of a landscape and lighting plan. We are distributing copies of the lighting plan which was not available at the time the packets were prepared. Staff can now recommend approval of the plans as annotated. And I can answer any questions you may have.

Mrs. Wade - Have you looked at this from the west side there by the apartments?

Mr. Strauss - Yes. Over the weekend I walked around the apartment complex and there are quite a few saved trees, up to 50 feet in height, between the apartment complex and the proposed development.

Mrs. Wade - But, they don't do much in the winter to screen between the apartments and the building. You have on here, "Existing vegetation to be maintained must be supplemented if necessary." Is that applied down the side on the west side also and the 25-foot transitional buffer?

Mr. Strauss - If would apply on all buffer areas were saved trees are being used.

Mrs. Wade - No. I think just in that stretch, and maybe not even in the total length of the building, on what I call the west side, to the left as you stand on Broad, I think needs to be supplemented with some evergreens there too. I don't mean a lot but just something to break it up. The side of the building is pretty bare.

Mr. Strauss - What side, Mary?

Mrs. Wade - On the, well the other side has parking on it, so it's what I call the west side. Where it says 25-foot transitional buffer.

Mr. Strauss - Oh. Well, I imagine... I guess it's difficult to determine exactly how many of the trees will be in leaf until next spring but I would imagine that we could add some....

Mrs. Wade - Well, now it's bare.

Mr. Strauss - I guess I'm not familiar with that area. May I ask you again, maybe you can indulge me one more time, what is the area you talking about? Is it adjacent to the parking area?

Mrs. Wade - Well, if you stand on Broad Street and look at the front of the building and on the left side next to the apartments, on the side.

Mr. Strauss - Well, if that's the case, I must have missed it when I walked the site. I imagine we could, with the revised plan....

Mrs. Wade - There are a few left there, saved, but they don't do the job.

Ms. Dwyer - It looks like the notation says that that 25-foot strip needs to be supplemented if necessary. Are you just saying, if necessary?

Mrs. Wade - Yes. If necessary.

Mr. Strauss - Okay. Well, if that's our determination this morning, then staff would concur and we would ask for some additional evergreen trees.

Mrs. Wade - Okay. Thank you.

Mr. Strauss - I guess I'm a little dense this morning, I'm sorry.

Mrs. Wade - Okay. Are the lights all right, Mr. Strauss?

Mr. Strauss - Yes, ma'am.

Mrs. Wade - Are they flat lens, oh, all right. You "x" out the flat lens.

Mr. Archer - Do you need to hear from the applicant, Mrs. Wade?

Mrs. Wade - Only to say that they are agreeable. Are there any wall packs or anything here?

Mr. Strauss - The only catalogue cuts we have are street lights on poles or shoebox fixtures, concealed light sources.

Mrs. Wade - Okay. And they are 400 watts and they meet the .5 at the property line.

Mr. Strauss - Yes, ma'am.

Mrs. Wade - Okay. Thank you.

Mr. Archer - Is the applicant present?

Mrs. Wade - Do you understand what we are saying here? You just need to supplement on the

apartment side.

Ms. Johnson - Yes, Mrs. Wade. We will probably use something like an evergreen hedge. There's only ten feet between the building and the existing trees. So, it's something that is going to take a low light condition there.

Mrs. Wade - Okay. Not thick but something that will grow and help break up that side of the building as far as the relationship to the apartment is concerned. Okay. That's all I have. Thank you.

Mr. Archer - Thank you, Ms. Johnson. Are there any other questions? Okay. Mrs. Wade.

Mrs. Wade - I move approval of LP/POD-117-96 for Ethan Allen, subject to the annotations with the annotation that refers to the vegetation and the transitional buffer, "Existing mature vegetation to be maintained and such vegetation must be supplemented" and scratch out the "if necessary," and the standard conditions for landscape and lighting plans.

Mr. Zehler - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Mr. Zehler. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the landscape and lighting plan for LP/POD-117-96, Ethan Allen Furniture, subject to the annotations on the plan and the standard conditions applicable to such plans.

LANDSCAPE & LIGHTING PLAN

LP/POD-44-97
Franklin Federal
Savings & Loan

DPR Construction Inc.: Request for approval of a landscape and lighting plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 5.3 acre site is located on the southeast corner of Village Run Drive and Cox Road on parcel 38-3-A-19A. The zoning is O-3C, Office District (Conditional). (**Three Chopt**)

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-44-97, Franklin Federal Savings & Loan, landscape and lighting plan? No opposition. Mr. Strauss.

Mr. Strauss - Thank you, Mr. Chairman. Staff has completed its review of the landscape and lighting plan and can recommend approval at this time. We are distributing additional information at this time regarding the lighting proposed for this project. I received this morning some additional information that answered my question about the .5 foot candle contour. As you can see, the proposed fixture used on the front of this maintenance building has less than a .5 foot candle at the front of the building. I can also answer any questions you may have.

Mrs. Wade - Are there any lights on the end of the building?

Mr. Strauss - There is a small motion detector operated spotlight located on the end of each side of the building, the left side, the front side, and in the back. That's a small 35-watt fixture which is operated, as I said, with a motion detector.

Ms. Dywer - These wall packs don't appear to be shielded. Is that because the wattage is so low, or is it because we don't require shielding or the shoebox type fixture on walls?

Mr. Strauss - These two wall packs are on the front facing the office building and not the adjacent neighborhood. Normally, if a wall pack is used, we do not recommend it to be used near nearby residential neighborhoods. I would also note that these two wall packs are installed and operating. They are operating on a photosensor. They come on at dusk and go off at dawn. To date, we have received no complaints from the neighbors. So, I assume nobody has any problem from the two residences near by.

Ms. Dwyer - It's because they are on a (unintelligible) facing the building, that we are not....

Mr. Strauss - Right.

Mrs. Wade - Well, actually they are perpendicular to the houses. Is anybody here to speak to this?

Mr. Archer - Are there any more questions of Mr. Strauss?

Mrs. Wade - And they agreed to be the addition that you annotated, the additional plantings?

Mr. Strauss - Yes, ma'am.

Mrs. Wade - All right. Thank you.

Mr. Archer - Would you like to hear from the applicant, Mrs. Wade?

Mrs. Wade - No. I don't think so. I move LP/POD-44-97 landscape and lighting be approved subject to the annotations and the standard conditions.

Mr. Zehler - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Mr. Zehler. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the landscape and lighting plan for LP/POD-44-97, Franklin Federal Savings & Loan, subject to the annotations on the plan and the standard conditions applicable to such plans.

LANDSCAPE & LIGHTING PLAN

LP/POD-54-97
Liberty Plaza

CMSS Architects: Request for approval of a landscape and lighting plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 6.6 acre site is located on the northeast corner of North Park Drive and Cox Road on parcel 28-1-C-3A. The zoning is O-3C, Office District (Conditional). (**Three Chopt**)

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-54-97, Liberty Plaza, landscape and lighting plan? No opposition. Mr. Strauss.

Mrs. Wade - Now, how are we going to move promptly when just about every case we get a new information sheet?

Mr. Zehler - It's just the cover sheet.

Mr. Archer - Mr. Strauss.

Mr. Strauss - Thank you, Mr. Chairman. Staff is recommending approval based on the annotations on the plan. I've discussed the annotations with Mr. Buddy Hall, of CMSS, who was here this morning, and he has no problems with these annotations. I can answer any questions you may have.

Mrs. Wade - Is there an annotation about sight distance someplace on here?

Mr. Strauss - Yes, ma'am. The annotation says, "Provide adequate sight distance." I discussed the issue with Mr. Todd Eure yesterday, and also Buddy Hall. He is agreeable to allow the traffic engineer to stake these trees on site and then make a determination as to whether those five or six trees at the entrance with the "x" through them are appropriate for that location.

Mrs. Wade - Okay. So, the note about providing a sight distance covers that?

Mr. Strauss - Yes, ma'am.

Mrs. Wade - Okay. Thank you.

Mr. Archer - Are there any other questions of Mr. Strauss? Mrs. Wade, do you need to hear from the applicant?

Mrs. Wade - No. Unless, he feels compeled to speak. I move LP/POD-54-97 be approved, subject to the annotations on the plan and the standard conditions.

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Ms. Dwyer. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the landscape and lighting plan for LP/POD-54-97, Liberty Plaza, subject to the annotations on the plan and the standard conditions applicable to such plans.

LANDSCAPE PLAN

LP/POD-2-97
Marriott
Residence Inn

The RBA Group: Request for approval of a landscape plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 2.6 acre site is located on the west line of Westerre Parkway approximately 650 feet south of W. Broad Street (U.S. Route 250) on parcel 48-A-37F. The zoning is B-2C, Business District (Conditional). (**Three Chopt**)

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-2-97, Marriott Residence Inn, landscape plan? No opposition. Mr. Strauss.

Mr. Strauss - Thank you, Mr. Chairman. Staff recommends approval of the landscape plan as annotated and I would point out that the lighting plan is administrative by virtue of the last POD approval. So, we will be reviewing the lighting separately.

Mrs. Wade - Okay. Does the applicant agree to the annotations?

Mr. Strauss - Yes, ma'am.

Mrs. Wade - Is the applicant here?

Mr. Strauss - I don't believe I see them here, no.

Mrs. Wade - All right. Thank you. Are you ready, Mr. Chairman?

Mr. Archer - Yes. Are there any other questions of Mr. Strauss before we Mrs. Wade makes a motion? All right, Mrs. Wade.

Mrs. Wade - I move landscape plan, LP/POD-2-97, be approved subject to the annotations and the standard conditions.

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Ms. Dwyer. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the landscape for LP/POD-2-97, Marriott Residence Inn, subject to the annotations on the plan and the standard conditions applicable to such plans.

LANDSCAPE & LIGHTING PLAN

LP/POD-94-96
IHOP - Circuit
City Plaza

Foster & Miller, P.C.: Request for approval of a landscape and lighting plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 1.0 acre site is located on the north line of W. Broad Street (U.S. Route 250), 895 feet east of Gaskins Road on parcel 48-A-27-B. The zoning is B-2C, Business District (Conditional). (**Three Chopt**)

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-94-97, IHOP - Circuit City Plaza? No opposition. Mr. Strauss.

Mr. Strauss - Thank you, Mr. Chairman. Staff has reviewed the landscape and lighting plan and can recommend approval. However, this morning staff became aware of an issue regarding roof color. If the Commission may recall, this case was the subject of an appeal to the Board. The subject of the appeal was the proposed roof color. The appeal was resolved with the agreement to provide a roof color with a color known as "caman blue," and a sample was provided. It is now apparent, from the applicant's architect this morning, they are experiencing some difficulties in matching the exact material. Therefore, they have not concluded that that roof color is available, but they are looking. It is staff's recommendation at this point to defer the landscape plan and approve the lighting plan. However, the applicant this morning

would like to have the landscape and lighting plan approved because they are confident that we can administratively review the roof coloring with the Director of Planning when that roof color sample is obtained. Mr. Spud Mistr is here to answer any questions regarding the roof color issues. I'll answer any questions that I can.

Mr. Vanarsdall - The color of the roof that we are trying to get is the same color as Short Pump Elementary School. Isn't it?

Mr. Strauss - I'm not aware of that, although the case planner may recall.

Mr. Vanarsdall - Well, we can find out where they got theirs and pass it on to IHOP and get some free pancakes.

Mrs. Wade - The proffer on this shopping center, as I recall, that caused all this trouble is supposed to be harmonious and coordinated with what's there. Most of the others have roof colorwise but they came in and wanted some difference. So, this group denied that. They went to the Board and they worked out something and apparently there is a problem with that. So, now what, Mr. Mistr?

Mr. Mistr - I'm Spud Mistr with Foster & Miller. I'm representing the applicant.

Mrs. Wade - I think a lot of you men are color blind anyway.

Mr. Mistr - What I would like to do... I think we have two separate issues. One is the landscape and lighting plan which is under the purview of this Commission. The other is the roof color issue which the Board of Supervisors approved. But, to answer your question. The color of the roof on Short Pump Elementary was rejected as not being suitable for this shopping center, so we had to get something a little bit different.

Mr. Vanarsdall - Rejected at the school or at the shopping center?

Mr. Mistr - It was rejected by the County.

Mr. Vanarsdall - Oh. Okay. I didn't know that.

Mr. Mistr - So they brought in a sample of a roof material that was "caman blue" that they said they would be able to get and put on this roof which was accepted by the Board. The architect tells me that they are having a hard time finding this exact color. They have gotten something very close. I guess, in our discussions this morning, we are not sure exactly where we have to go to get this modification approved, whether it's the Commission, administrative, or back to the Board. I would like for that to be a separate issue, and the Commission take care of the lighting and landscape plan. As you know, we still have an issue on the color of the roof, but that's separate from landscaping and lighting.

Mrs. Wade - So you will not order any roofing until you consult with....

Mr. Mistr - To the best of my knowledge, the roof has not been ordered.

Mrs. Wade - Yes, this you work out with the Board. Where does he needs to go to get approval for the roof color? I would like to attend the meeting.

Mr. Silber - Well, this just came to my attention this morning when I received a phone call from the architect. Needless to say, I wasn't too happy to hear that the color is changing again. As it was expressed to me, they couldn't find the color that had been approved by the Board. So it causes me some distress that we are sort of back to where we were before. I suggest perhaps what we should do, I'll take a look at the color sample that's now provided to the County, review that with my staff, determine whether there is need to take this back to the Board of Supervisors for reconsideration or whether the color is close enough that it can be reviewed by Mrs. Wade or maybe Mr. Kaechele, whom district it's in. At this point, I don't necessarily want to tell you how we are going to deal with the color of the roof because I haven't seen the color that's proposed.

Mrs. Wade - I'm just wondering where he's going to get the approval, but you just said everybody.

Mr. Silber - At this point, I don't think we know. Now, whether the Planning Commission wants to act on the landscape and lighting plan before you, that's your decision.

Mr. Zehler - Why would we not?

Mrs. Wade - I don't know what the status of this is with our person who checks these things out. Just be sure the building permit agrees with all of the Planning features.

Mr. Strauss - Mrs. Wade, staff would like to have this issue resolved before occupancy.

Mrs. Wade - Yes. I don't think they are going in before they have a roof.

Mr. Strauss - I don't know how to tell you whether the Board has to be involved in the decision or not. I'm mystified, I don't know how to solve it myself.

Mr. Vanarsdall - Well, we are not matching the roof with the landscaping are we? We are matching the roof with the building.

Mrs. Wade - The point is he wants to be sure that the roof is agreeable before they get an occupancy permit.

Mr. Silber - I would think at this point, Mrs. Wade, staff could go along with the Planning Commission acting on the plan that's before them today. I think Mr. Mistr needs to understand that the roof issue needs to be seriously considered and that we deal with this in the proper fashion. This was an appeal to the Board of Supervisors so it's something that I don't feel comfortable that I just look at and say the color is acceptable. I think we need to take a close look at the color of the roof. Obviously, the structure is under construction. It's up. There is some base roof material on right now, so it will have to be dealt with in a quick fashion.

Mrs. Wade - Okay. All right. But the landscape and lighting plan are all right, Mr. Strauss?

Mr. Strauss - Yes. Staff made an observation that was annotated. We would like to see some additional evergreen material at the back of the building which faces the internal travelways to the shopping center and the applicant is agreeable to providing that with the final revised plans.

Mrs. Wade - And the lights are okay.

Mr. Strauss - Yes. We have made an annotation that any wall packs used must be shielded.

Mrs. Wade - We have described lights but no pictures of the lights.

Mr. Strauss - On the second sheet of your packet, you will see that there are shoebox fixtures. I've verified that. They are 400-watt metal hylide.

Mrs. Wade - Do they have wall packs also?

Mr. Strauss - There are wall packs indicated at 175-watts on the building.

Mrs. Wade - But, you noted they must be shielded.

Mr. Strauss - Yes.

Mrs. Wade - All right. I move LP/POD-94-96, IHOP at Circuit City Plaza, landscape and lighting plan be approved subject to the annotations, which they have agreed to add evergreens on the back side. But, no occupancy permit until this roof color issue gets resolved and would recommend that, rather promptly, we get together and get that resolved. I would assume that they will bring some samples or something. The main point is that it meets the requirements of the zoning case, in the first place. So, I would move that the landscape and lighting plan be approved.

Mr. Vanarsdall - Second.
Mr. Archer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the landscape and lighting plan for LP/POD-94-96, IHOP - circuit City Plaza, subject to the annotations on the plan and the standard conditions applicable to such plans.

LANDSCAPE & LIGHTING PLAN

LP/POD-64-97
The Overlook **CK Overlook Associates, LLC:** Request for approval of a landscape and lighting plan, as required by Chapter 24, Section 24-106 of the Henrico County Code. The .4 acre site is located at the intersection of Sadler Road (relocated), Post Office Road, and Cedar Forest Road on part of parcel 28-A-35B. The zoning is O-2, Office District. (**Three Chopt**)

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-64-97, The Overlook, landscape plan? No opposition.

Mrs. Wade - I believe Ms. Dwyer has been handling this.

Mr. Archer - All right. This case will be handled by Ms. Dwyer. Mr. Strauss.

Mr. Strauss - Thank you, Mr. Chairman. This is a landscape plan for the residual portion of

Saddler Road right-of-way which is going to be relocated as shown on your map. The staff recently completed its review of the landscape plan and can recommend approval based on this morning's addendum. We are distributing the annotated plan to you at this moment, and I can answer any questions that you may have.

Ms. Dwyer - Has the applicant seen the additional conditions and agreed to them?

Mr. Strauss - Yes ma'am, they have, and they are in agreement with those conditions.

Mr. Archer - Are there any more questions of Mr. Strauss by Commission members? Would you like to hear from the applicant?

Ms. Dwyer - Yes, just to make sure that there aren't any problems with the additions, since that's new, the additional conditions.

Ms. Hartless - My name is Brenda Hartless, Childress Klein Properties. We agree to the conditions.

Ms. Dwyer - I know we have had meetings with the neighbors and they are happy with this landscape plan, I'm sure.

Ms. Hartless - Right. To my knowledge. They have been provided the revised landscape plan that I submitted.

Ms. Dwyer - Thank you.

Mr. Archer - Thank you, Ms. Hartless. Are there any other questions of Ms. Hartless before she takes her seat? Ms. Dwyer.

Ms. Dwyer - I move that LP/POD-64-97, landscape and lighting plan, well, there's no lighting in this, just the landscape plan, although, it says lighting on the agenda... The landscape plan be approved subject to the annotations on the plan and the standard conditions for landscape plans and the additional conditions Nos. 6, 7, and 8 as listed on the addendum.

Mr. Vanarsdall - Second.

Mrs. Wade - Does this all belong to Childress Klein now?

Ms. Dwyer - No. A portion of this site is actually owned by the State but in the proffers it was agreed that the obscured part of Saddler Road would be landscaped where it is adjacent to the residences. This is in compliance with that proffer.

Mrs. Wade - It doesn't belong to Mr. Wright anymore.

Ms. Dwyer - No.

Mrs. Wade - So, I can vote. That's all I'm trying to decided. Okay. Thank you.

Ms. Hartless - Most of this is actually obscured right-of-way. It's still owned by the State. One of the conditions says that the State will approve the landscape plan. They verbally approved it, and they will approve it in writing.

Mrs. Wade - Thank you.

Mr. Archer - The motion was made by Ms. Dwyer and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the landscape plan for LP/POD-64-97, The Overlook, subject to the annotations on the plan and the standard conditions applicable to such plans and the following additional conditions. Mrs. Wade abstain from voting on this case.

6. The applicant will enter into a maintenance agreement with the Department of Public Works for any planting within the right-of-way of existing Sadler Road. The applicant will provide a letter from the V.D.O.T. Resident Engineer and the Department of Public Works (if necessary) to permit planting in the right-of-way, prior to certificate of occupancy.
7. The applicant is to coordinate with all utility companies necessary prior to installation of proposed planting.
8. In accordance with POD-64-97 condition No. 31, this landscaping shall be installed or bonded prior to any occupancy permit being issued.

LANDSCAPE & TRANSITIONAL BUFFER DEVIATION PLAN

LP/POD-121-96
McGeorge Mercedes
Benz

E. D. Lewis & Associates: Request for approval of a landscape plan and transitional buffer deviation, as required by Chapter 24, Sections 24-106 and 24-106.2(e)(3)(a) of the Henrico County Code. The 3.3 acre site is located on the south side of W. Broad Street (U.S. Route 250) approximately 400 feet west of Parham Road on parcels 59-A-85, 86, 87, and 90. The zoning is B-3C, Business District (Conditional). **(Three Chopt)**

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-121-96, McGeorge Mercedes Benz? Seeing none. Mr. Strauss.

Mr. Strauss - Thank you, Mr. Chairman. The applicant seeks approval of a buffer deviation for a landscape plan. The ordinance requires a 35-foot buffer between this property which is zoned B-3C and the adjacent residential property to the rear of the site which is zone R-3. The owner has indicated that he has acquired ownership of the two rear parcels and therefore seeks approval of a modified buffer, which is proposed to be 15 feet with a seven-foot fence and a row of 10 white pines. The applicant has also indicated that there is a thick row of hedge materials which would be behind the seven-foot fence. Staff believes the proposed modification meets the spirit and intent of the ordinance and can recommend approval as submitted.

Mr. Archer - Are there any questions of Mr. Strauss by Commission members?

Mrs. Wade - Are we getting a lighting plan back, or is that administrative?

Mr. Strauss - The lighting plan was agreed to be or motioned to be an administrative item, and I'm working on the lighting plan now. If you have any questions, I'd be happy to answer them.

Mrs. Wade - Was there a condition on the POD that emphasized there be no display or storage in the greenspace and the buffers?

Mr. Strauss - That's actually a condition of the zoning. I believe it may have been reiterated with the POD. I can check that.

Mrs. Wade - Yes. You have added the note on here, "per proffer No. 3." Thank you.

Mr. Strauss - It's annotated on the plan.

Mr. Archer - Are there any other questions? Would you like to hear from the applicant, Mrs. Wade?

Mrs. Wade - Yes, in just a minute. He wants a deviation, and he can speak to that in just a moment, please, and tell us what he wants to do there.

Mr. Lewis - My name is Monty Lewis and I represent the applicant. We are asking for the transitional buffer deviation. At the time of the POD Mr. McGeorge did not own those parcels behind the dealership. The POD was subsequently approved with a 10-foot-high masonry wall as required by the

transitional buffer requirement. Since then he has acquired these properties. The house immediately behind the site has been boarded up. I believe he has plans to tear it down because it's in an unsafe condition. There is a very thick hedge on these properties which he intends to keep up to help buffer this area. In talking with the staff, we thought this would be the best way to approach the problem to approve it with the landscape plan which was not prepared by our firm but by a landscape company. They are showing a seven-foot-high wood fence which will be a shadow box type design with two inch separation between the boards.

Mrs. Wade - And some trees on the....

Mr. Lewis - Yes, ma'am. As shown on the plan.

Mrs. Wade - Thank you.

Mr. Archer - Are there any questions of Mr. Lewis?

Mrs. Wade - I met them out there and looked at the site. The fact that he owns the land behind is not the main factor here because it is still zoned R-3. There is a lot of growth and there are really different levels now so I don't feel they need the 10-foot-high masonry wall back there, that what they are proposing would be adequate for the current need. Now, the future of that other parcel will be taken up sometime later. The note on here, they eliminated, as I understand it, the (unintelligible) stone from their mulch beds is much to protect their cars as anything. The mulching with wood mulch. They are limited on the tree planting in the front by overhead lines and so forth and the lighting plan later. So, I move that LP/POD-121-96 and the transitional buffer deviation for McGeorge Mercedes Benz be approved subject to the annotations and the standard conditions for landscaping and transitional buffer deviation plans.

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Ms. Dwyer. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved the landscape and transitional buffer deviation plan for LP/POD-121-96, McGeorge Mercedes Benz, subject to the annotations on the plan and the standard conditions applicable to such plans.

LIGHTING PLAN

LP/POD-93-97

Exxon -

Lauderdale Square

TIMMONS: Request for approval of a lighting plan, as required by Chapter 24, Section 24-106 of the Henrico County Code. The 1.07 acre site is located on the east line of Lauderdale Drive, 750 feet north of Church Road on parcel 56-10-2P and part of 56-10-2S. The zoning is B-2C, Business District (Conditional). ~~(Tuckahoe)~~ **(Three Chopt)**

Mr. Silber - This plan is located in the Three Chopt District, not the Tuckahoe District as listed on the agenda.

Mr. Archer - Is there anyone in the audience in opposition to LP/POD-93-97, Exxon Lauderdale Square?

Man in Audience - I would like to ask a question.

Mr. Archer - All right, sir. We will be with you in a moment. Mr. Whitney.

Mr. Whitney - Thank you, Mr. Chairman. Staff would just like to add in its comments "canopy lighting fixture" that a recommendation be for a flush mount or a concealed source type. The applicant has faxed me a copy of a different fixture that they are proposing to put under the canopy, so with that staff can recommend approval of this plan.

Mr. Vanarsdall - Did you say it's a different lighting fixture?

Mr. Whitney - Yes, sir.

Mr. Vanarsdall - What's different about it?

Mr. Whitney - It's a canopy fixture, flushed mount, recessed.

Mr. Archer - Are there any questions of Mr. Whitney by Commission members?

Mrs. Wade - Did they mention the wattage?

Mr. Whitney - I didn't get verification on the wattage. The applicant is here if you would like to have that question answered.

Mrs. Wade - As you pointed out, they have 24 lights under there.

Mr. Whitney - With this additional fixture, the applicant has offered that new photometric be presented to the Planning Office before signature of the final plan.

Mrs. Wade - Okay. Thank you.

Mr. Mignardi - My name is Luigi Mignardi and I'm with TIMMONS, the landscape architect. The original 24 freestanding lights do meet the requirements as far as the photometric and half foot candle to the property line. With the flushed mounted ones on the canopy, the photometric just underneath it will be diminished a little bit. Again, it won't go beyond the half foot candle off the property line.

Mr. Zehler - What is the wattage of your volts?

Mr. Mignardi - For the canopy, it's a 400 watt.

Ms. Dwyer - Are you saying 24 400-watt fixtures or lamps?

Mr. Mignardi - Yes.

Mrs. Wade - It's going to be .5 at all the property lines?

Mr. Mignardi - Yes, ma'am.

Mr. Archer - Are there any further questions of the applicant? I believe we have someone that would like to speak.

Mr. Shunk - My name is Bob Shunk. I'm on the board of the Homeowners Association of Worthington Hills. The shopping center and gas station abuts Worthington Hills. We are concerned about how long will these lights be on at night? What is the height of the light poles. The lights are going to be recessed so that will work out fine. Will there be landscaping around this gas station? That mainly is what we would like to know. How long the lights will be on, and the height of the light poles? Thank you.

Mr. Archer - Thank you, Mr. Shunk.

Mr. Mignardi - The light poles themselves are 18 feet high. As far as how long they are going to be on, I will have to check with the owner. I have an addition to the note about the canopy lighting. I recommended a 400 watt but once I get my isometric drawing back, if it is too high I will adjust it so I'll use a lower wattage light in the canopy. It will conform with the County standards.

Ms. Dwyer - You will use, or might use, the lower wattage?

Mr. Mignardi - I might use it if the 400 watts are excessive.

Mrs. Wade - Because you are not exactly on Broad Street or a major commercial artery here, you are basically in the middle of a residential area.

Ms. Dwyer - And this is not, I think that we can all agree, that 24, 400 watts is more than you need to illuminate the aisles here. It's not like you are trying to illuminate a parking lot for safety sake. It seems to me that what this amounts to is an attention getting situation where it's so bright that people's attention is drawn to the facility. If the County policies don't address this, I think we need to, as a County, to look at it very closely.

Mr. Mignardi - That plan there, that shows the 24 lights under the canopy, the original lamp I believe I think was like a 250 watt standard. That's why I am saying if the 400-watt flushed mount light is too much, that we will reduce it to a lower wattage.

Mrs. Wade - Who's going to decide whether it's too much.

Mr. Mignardi - As far as how late it's going to be on, I'll have to check with the owner.

Ms. Dwyer - Are you in a position to agree to reduce these to 250 today?

Mr. Mignardi - I would like to get my isometric drawing back first. Like I told Mikel Whitney, I would like to get my isometric drawing and if it is excessive I will change it.

Mrs. Wade - Maybe we need to get that before we finish up with the lighting plan. Usually we have the isometrics available with the lighting plan.

Mr. Silber - Also, in regards to the hours of operation....

Mrs. Wade - Excuse me. You haven't even started anything out there yet. I was out there the other day.

Mr. Silber - The property is zoned B-2, so the hours of operation for the use of the property would be 12:00 a.m. It could not go beyond 12:00 a.m. without an additional form of approval. The lighting is not addressed, as far as the reduction of lighting on the property, it maybe appropriate in this case to condition this so that no lighting or the lighting would be reduced to security level, say after 12:00 a.m. Mr. Whitney, has that been addressed or discussed with the applicant?

Mr. Whitney - No, Mr. Secretary. That has not been addressed.

Mr. Gates - Can I say something?

Mr. Archer - You will have to come up to the mike, sir.

Mr. Gates - Just tell me when.

Mr. Archer - Now, is the time.

Mr. Gates - My names is Elmo Gates. I'm on the Board of Directors of the Worthington Hills Homeowners Association. I would like to suggest or make an appeal to the Board (sic). Until you get some answers to some of these questions, the wattage of the lights, how long are they going to be on, etc., that this be denied until you have more information. That is a request, a suggestion, that's not a demand. Thank you very much.

Mrs. Wade - Yes. I had just about concluded that we need more information on the lights before we approve this. So, would you like to defer this until next month, Mr. Mignardi? We don't seem quite ready to approve this with the information we have now.

Mr. Mignardi - If I were to agree to use the 250 light in the canopy and get the isometric drawings to the Planning Commission, would you be able to approve it upon those conditions?

Mrs. Wade - Well, we still don't know how it would look. You haven't done anything out there. Do you have a landscape plan approved?

Mr. Mignardi - They don't have a landscape plan, yet, for the site.

Mrs. Wade - We could, you know, if you want pole lights... Although, that fits into the whole isometric picture, or whatever you call it. Okay. If you don't want defer it, I will.

Mr. Vanarsdall - You are going to reduce it to what, 250?

Mr. Mignardi - Yes.

Mrs. Wade - If it needs it. But, we are not sure if it needs it though, Mr. Vanarsdall, until we get the whole picture here.

Mr. Mignardi - I believe 250 will be all right because the one showing on the original plan were at

250. Just the intensity, because of the flat glass and the flush mount, it will lower the isometric right under the canopy a little bit but it's still fairly intense lighting.

Mrs. Wade - What's our date in February, the 24th?

Mr. Silber - Yes, ma'am.

Mrs. Wade - I move that this lighting plan be deferred until February 24, until we can get some more information about the intensity of the lights.

Mr. Vanarsdall - I'll second. That's at the applicant's request, isn't it, Mrs. Wade?

Mrs. Wade - No.

Mr. Archer - That's Mrs. Wade's request. The motion was made by Mrs. Wade to defer this case to the February 24, 1998, meeting. The motion was seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission deferred LP/POD-93-97, Exxon – Lauderdale Square, to its meeting on February 24, 1998.

SUBDIVISION

Collinstone Manor
at Wyndham
(January 1998 Plan)

Youngblood, Tyler & Associates, P.C. for Loch Levan Land Ltd. Partnership and Synder Hunt Corporation: The 6.48 acre site is located on the northern terminus of Collinstone Drive north of Old Wyndham Drive on part of parcel 9-A-15B. The zoning is R-4C, One-Family Residence District (Conditional) and C-1C, Conservation District (Conditional). County water and sewer. **14 Lots (Three Chopt)**

Mr. Archer - Is there anyone in the audience in opposition to subdivision Collinstone Manor at Wyndham? No opposition. Mr. Whitney.

Mr. Whitney - Thank you, Mr. Chairman. I would like to point out to the Commission that this conditional request would void an approval for Collinstone conditional approval for September 1996 plan. It's a slightly different configuration of lots, a reduction from 17 to 14 lots. Staff is recommending in comment No. 3 that there be a road connection to parcel 4A-4. I would like to point you to your map in your packets, and indicate to you that Bradford Landing, Section C, which would be west of this proposed area, does have a stub road offered to this parcel. Staff feels that this would provide a natural connection between these two subdivisions. Lastly, discussion of Lot 9. I would like to point out that that lot does include the BMP and the BMP easement. In the addendum that you received this morning, staff has reworded condition No. 15 (sic should be No. 15 added) to include that a landscape plan for common area and the BMP be submitted to the Planning Office for review and approval prior to recordation of the plat. The purpose of including the landscaping for the BMP in this is to provide some screening for Lots 7 and 8, which would just be to the east of this BMP facility. Also, on your addendum would be a rewording on condition No. 14. We do have a common area that would be on Collinstone Drive, the center of that circular area. In addition to covenants covering this common area, we would like to add that maintenance of a private drive that is proposed to go for Lots 7, 8 and 9, be included in the wording of these covenants.

With those addendum items, staff can recommend approval, and I will take any questions you may have.

Ms. Dywer - Lot 9 includes the BMP and this floodplain area near the river. Is that right? Why isn't that separate as a common area?

Mr. Whitney - Pardon me?

Ms. Dwyer - Why is the BMP, and the floodplain near the river, why is that a part of Lot 9 instead of being a separately maintained common area?

Mr. Whitney - I'll have to defer that question to the applicant.

Mrs. Wade - It is rather complicated. It makes for a strange lot.

Mr. Whitney - But the property line for Lot 9 does goes down to the Chickahominy River.

Mr. Archer - Are there any other questions of Mr. Whitney? All right, do we need to hear from the applicant, Mrs. Wade?

Mrs. Wade - Yes, I think so. He can explain this BMP situation.

Mr. Tyler - I have question also regarding the proposed stub road to the Cosby property. As I understood you, Mikel, you know longer feel that that stub road....

Mr. Archer - Mr. Tyler, would you identify yourself for the record, please.

Mr. Tyler - Yes. My name is Webb Tyler with Youngblood, Tyler & Associates, representing Snyder Hunt. Just a point of clarification. In your presentation, Mikel, did I understand you correctly when you indicated that you did not feel that the stub road was now necessary to go to the Cosby property?

Mr. Whitney - No. I indicated that the stub road would still be necessary with the information that Bradford Landing also had a stub road connection.

Mr. Tyler - So you are quoting from condition No. 3.

Mr. Whitney - Annotation No. 3, yes. Staff is still recommending that connection.

Mr. Tyler - And we are respectfully disagreeing with annotation No. 3. We don't believe that that stub road is necessary to the Cosby property because the Cosby property already has one stub built by and dedicated by Snyder Hunt and has access to Pouncey Tract Road via a property that Mr. Cosby owns. That stub road was initially shown on the initial plan because it was a part of the agreement with Mr. Cosby and was only shown on that plan because of that agreement which never came to fruition with Mr. Cosby and, so therefore, Snyder Hunt is not voluntarily incorporating the stub road and thus the desire for that change to this tentative.

In regard to Lot 9, the reason Lot 9 includes the BMP in the floodplain is because under the ordinance there is a minimum number of flag lots that is required or allowed on a cul-de-sac. This minimum number of lots must have 20 feet, flag lots must have 20 feet. We have included the BMP and the floodplain with Lot 9 in

order to have the minimum required road frontage, although Lots 7, 8 and 9 will be served by a private access road similar to what we did in the Carrington Court Subdivision and the Treyburn Subdivision. Wyndham Homeowners Association, Wyndham Foundation, will be maintaining the BMP in perpetuity.

Ms. Dwyer - Where is the private drive?

Mr. Tyler - The private drive comes from the cul-de-sac bubble, along the front of lots 7, 8 and 9. I will gladly draw it on your plan if you would like me to.

Ms. Dwyer - So, the lots are designed to have their own access to the bubble but those aren't going be used. Instead, you are going to be using a private drive.

Mr. Tyler - That is correct. Then there will be a, between that private drive and the BMP, there will be a landscape strip whereby screening will be constructed between that private drive and the BMP.

Ms. Dwyer - So, what we are looking at really isn't accurate because it shows access drives to the bubble but those aren't going to be used.

Mr. Tyler - Those are the lot lines. What you are seeing on here is the lot lines, not necessarily the private.... on the public road. You are not seeing the private roads on here.

Mr. Whitney - Ms. Dywer, on the final plat, the lot configuration will remain the same but they will show a private easement for a drive to access these three lots. That depiction still needs to be shown on the final plat.

Mr. Tyler - And on the construction plans, actually. It doesn't show up on the subdivision plat, it shows up on the construction plans because it is a private road.

Ms. Dwyer - What are the implications for having all this BMP and floodplain on Lot 9? Will the owner of Lot 9 be, when they go to get insurance, for instance, will they somehow be penalized or be held responsible for all of this area that's a part of their lot, even though it's going to be maintained in perpetuity by the Homeowners Association?

Mr. Tyler - There will be a recorded agreement between the Wyndham Foundation and that builder, that will be a matter of title, whereby all owners and future owners of that lot will not have the responsibility for the maintenance of the BMP. They will have the responsibility for areas outside the BMP, which would include, of course, their yards and floodplain.

Ms. Dwyer - Well, although they may not be responsible for maintaining the BMP, the liability is a question, it seems to me, since it's on their lot. I'm just trying to think of some of the complexities that arise from this kind of configuration. It seems to me that we might be building in some problems for people in the future. Particularly, the owner of Lot 9. Suppose someone is injured in the BMP, it seems to me that they would be held liable. It's their lot, it's their land, even though it's maintained by someone else.

Mr. Tyler - I believe what we have done in the past is basically give that lot owner a "hold harmless" agreement on the BMP and its maintenance thereof. At this point, we have done this in the past, the question of... We are comfortable with it. Attorneys have written papers, various documents on it,

and other people have purchased it and we have not experienced any difficulty with it. The aesthetic question has been solved, relative to the screening. So, visually it will not look like it's a part of a lot.

Mr. Archer - Ms. Dwyer, if I may interject. You did mention something with regard to flood insurance. Mortgage lenders will generally require that you purchase flood insurance if any part of the incumbent property is in a floodplain. It's their option, they don't have to, but, generally, they will do it.

Ms. Dwyer - Well, I was speaking to the liability of Lot 9 for all of this land within their lot, including the BMP. To some extent you might say "the buyer beware" of Lot 9. If they want this, then they will have to accept all of the liability with it. But, I have to question whether this is good planning to build this into a subdivision.

Mr. Archer - Okay. Are there any other questions of Mr. Tyler?

Mrs. Wade - No. It is convoluting. You are right about that. We have to use every space (unintelligible).

Mr. Archer - All right. Are there any other questions? Are you ready for a motion, Mrs. Wade?

Mrs. Wade - So, Mr. Whitney, it meets the requirements.

Mr. Whitney - Yes, it does, Mrs. Wade. It meets the requirements of the subdivision ordinance.

Mrs. Wade - Okay. Thank you. I move Collinstone Manor at Wyndham be approved subject to the annotations, eliminating No. 3, there is adequate access to Cosby property next door from two other locations. Although, it would be best, probably, if these all ran together but that doesn't always happen, the standard conditions, additional conditions Nos. 12, 13 and 14. And eliminate No. 14 on the agenda and replace with the one on the addendum, the revised condition. So, we will have Nos. 12, 13, 14, and 15 agenda combined with the addendum, be approved, with reservations.

Mr. Archer - Is there a second?

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Ms. Dwyer. All in favor say aye.

Mr. Vanarsdall - Aye.

Mr. Zehler - Aye.

Mrs. Wade - Aye.

Mr. Archer - Aye.

Mr. Archer - All opposed say nay.

Ms. Dwyer - No.

Mr. Archer - On a three to one vote, the motion passes.

The Planning Commission granted conditional approval to subdivision Collinstone Manor at Wyndham (January 1998 Plan), subject to the standard conditions attached to these minutes, the annotations on the plan and the following additional conditions. Mr. Donati abstained on the vote.

12. The limits and elevation of the 100 year frequency flood shall be conspicuously noted on the plat and construction plans and labeled "Limits of 100 Year Floodplain." Dedicate floodplain as a "Variable Width Drainage & Utility Easement."
13. Any necessary off-site drainage easements must be obtained prior to final approval of the construction plans by the Department of Public Works.
14. Prior to requesting the final approval, a draft of the covenants and deed restrictions for the maintenance of the common area by a homeowners association and maintenance of the private drive shall be submitted to the Planning Office for review. Such covenants and restrictions shall be in form and substance satisfactory to the County Attorney and shall be recorded prior to recordation of the subdivision plat.
15. The detailed plant list and specifications for the landscaping to be provided within the common area and the Best Management Practices (BMP) facility shall be submitted to the Planning Office for review and approval prior to recordation of the plat.

Mr. Archer - Folks, we have a little housekeeping matter that we have to take care of as it pertains to how we are going to resolve the rest of the afternoon. We are going to take a brief break, so, don't nobody leave. We will only break for about two minutes to discuss how we are going to continue with the rest of the day.

At this time the Commission took a break and then reconvened.

Mr. Archer - Folks, we have a rather lengthy agenda as you can see. We still have quite a few cases left and Mr. Silber is going to explain to you how we are going to try to handle the rest of the afternoon, and we will try to make it as convenient as we possibly can.

Mr. Silber - We do have a number of things to get through. I think what the Commission has decided to do is, we do have at the end of the agenda a work session and an executive session on the Signs Ordinance, specifically, Bill Boards. I think what the Commission would like to do is continue with the agenda, the POD and subdivision agenda at this point but around 1:15 or 1:30, we will go into executive session with our attorneys. At that time, they will eat lunch at the same time, kill two birds with one stone and then probably come out of executive session maybe in the neighborhood of roughly 30 minutes, after that time and then we will continue with the PODs and subdivisions, at that point, and then do the work session on the Bill Boards at the very end of the day. So schedule your time accordingly. I would suspect we will be doing PODs and subdivisions for another 30 to 45 minutes before we break.

Mr. Archer - Thank you, Mr. Secretary. Okay. Next case.

PLAN OF DEVELOPMENT

POD-5-98 **Beamon & Associates, P.C. for Homeview Associates and Mountaineer**

Mountaineer
Properties
Retail Center

Properties: 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, 17,400 square foot commercial/retail building. The 2.0 acre site is located on the east side of Homeview Drive, 554 feet north of the north line of Broad Street (U.S. Route 250) on part of parcel 59-A-12C. The zoning is B-3C, Business District (Conditional). County water and private system. **(Brookland)**

Mr. Archer - Is there anyone in the audience in opposition to POD-5-98, Mountaineer Properties? Mr. Whitney.

Mr. Whitney - Thank you, Mr. Chairman. I would like to point out to the Commission on your architecturals sheet No. 2. Staff had some difficulties with the architecturals matching what was in the rezoning, the proffered conditions for this. I've put a note on that sheet that the southern and western walls shall be constructed of brick, except for windows and doors. A metal standing seam facade, that you may notice, has been crossed off on that architectural. Also, the proffers point to requiring earth tone metal which would be on the easterly and northerly sides of this building. With that, staff can recommend approval of this plan of development with the standard conditions and the annotations on the plans. I'd be glad to answer any questions.

Mr. Archer - Are there any questions of Mr. Whitney by Commission members?

Ms. Dwyer - What materials will they be using?

Mr. Whitney - On the west and south, it is proffered to use brick, outside of windows and doors.

Mr. Vanarsdall - I would like to hear from the applicant, Mr. Chairman.

Mr. Archer - All right, Mr. Vanarsdall. Is the applicant present?

Mr. Beamon - Hello. My name is Jack Beamon with Beamon & Associates, representing Mountaineer Properties. In order to alleviate any problems we have with these existing proffers, that are 10 years old, we decided to just build the whole thing out of brick.

Mr. Vanarsdall - Your proffers said two sides, didn't it?

Mr. Beamon - The proffer said two sides but we are going to do four sides.

Mr. Vanarsdall - Okay. Thank you.

Mr. Archer - Are there any other questions of Mr. Beamon by Commission members?

Mr. Vanarsdall - I move that POD-5-98, Mountaineer Properties Retail Center, be approved with conditions Nos. 23 through 30. And I would like add conditions Nos. 9 and 11 amended, the standard conditions and the annotations on the plan.

Mr. Zehler - Second.

Mr. Archer - The motion was made by Mr. Vanarsdall and seconded by Mr. Zehler. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-5-98, Mountaineer Properties Retail Center, subject to the standard conditions attached to these minutes, the annotations on the plan, and the following additional conditions:

9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for review and Planning Commission approval prior to the issuance of any occupancy permits.
11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams and fixture mounting height details shall be submitted for Planning Office review and Planning Commission approval.
23. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
25. The certification of building permits, occupancy permits and change of occupancy permits for individual units shall be based on the number of parking spaces required for the proposed uses and the amount of parking available according to approved plans.
26. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
27. The loading areas shall be subject to the requirements of Chapter 24, Section 24-97(b) of the Henrico County Code.
28. Storm water retention, based on the 50-10 concept, shall be incorporated into the drainage plans.
29. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
30. The approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.

PLAN OF DEVELOPMENT

POD-9-98	Jordan Consulting Engineering for Hubel Robins, Jr.: Request for approval
Third Presbyterian	of a plan of development, as required by Chapter 24, Section 24-106 of the
Church - Parking Lot	Henrico County Code to construct an accessory parking lot. The 0.95 acre site
Addition	is located on the southwest corner of Forest Avenue and Silverspring Drive on
	parcel 113-A-64. The zoning is R-3, One-Family Residence District.
	(Tuckahoe)

Mr. Archer - Is there anyone in the audience in opposition to POD-9-98, Third Presbyterian Church - Parking Lot Addition?

Man. - Yes, sir.

Mr. Archer - Okay. Thank you, sir. Mr. Whitney.

Mr. Whitney - Thank you, Mr. Chairman. I would like to remind the Commission this particular situation here does have approval of a variance to have off site parking for the church, which is located across the street from Silverspring Drive. Staff would like to add, I will point out in the annotations, that we are recommending a sidewalk be continued along Silverspring Drive to facilitate pedestrian traffic that will be coming across the street from the church to the parking lot. With that, staff can recommend approval of the plan, and I will entertain any questions.

Mr. Archer - Thank you, Mr. Whitney. Are there any questions of Mr. Whitney?

Ms. Dwyer - What about the sidewalk along Silversprings, is the applicant agreeable to that?

Mr. Whitney - They would like to comment on that. They have another configuration they have in mind.

Mr. Archer - Are there any other questions? Will the applicant come forward please?

Mr. Mills - Good morning, Commissioners. My name is Malachi Mills, with Jordan Consulting Engineers, and I represent Third Presbyterian Church on this matter. The church is agreeable to all of the annotations, specifically, the sidewalk along Forest. We have no objection to that. By my plans, we need to shift it over two feet for utility strips. The question of having a sidewalk on Silversprings, the church had not intended to install a sidewalk there. Mostly, in response to the neighborhood's concerns during the variance time, their concern of a lot of the commercial use and/or a lot of the activity along Forest, across the street, and the gas station and some of the other shopping areas that are close by, I think that the concern, I know that the concern of the neighborhood was some of that flowing up Silverspring. So, we didn't want to invite a lot of traffic paralleling Silverspring. The only intent we have is, that we may have, as a part of our landscaping plan, would be a sidewalk that will just be perpendicular to Silverspring. The way the parking lot lines up you could walk straight across that 15 or 20 foot strip of grass and go directly into the church, into the sanctuary that this parking lot would serve. Having a long sidewalk paralleling Silverspring, we don't think there is a need for it and I don't believe the neighbors don't want to see that either. Other than that, we have no objection to the annotations and comments of staff.

Ms. Dwyer - What about lighting for the site?

Mr. Mills - That has come up through the variance process from the standpoint of the neighborhood they don't want to see any. The church, we are not intending to put any in. At the staff developers meeting, when we brought it up, from the standpoint of if at the time of landscaping and lighting or whatnot, safety, if the police say we want some level of security lighting or whatever then we would respond to that. I think we've got an agreement with the neighborhood that any lighting that is required by the County, it would be very limited to only security and it would have to meet the absolute minimum from the standpoint of security only.

Ms. Dwyer - You haven't bound yourselves not to have any lighting on the site but just....

Mr. Mills - We have not bound ourselves to have no lighting. We don't want the site to be, in commercial terms, a hot site with a lot of light on it. It would be the absolute minimum or absolute none.

Ms. Dwyer - I certainly don't want that either.

Mr. Mills - We do have the option of putting it in, but it would be very limited and that would be something that the neighborhood and the church would have to work out.

Ms. Dwyer - Okay. So, you plan on submitting a lighting plan or just waiting to see if the County would ask for that?

Mr. Mills - We plan on submitting a landscape plan on the project that's done. We do not plan on submitting a lighting plan at all.

Ms. Dwyer - We need to talk about that further because I have a safety concern about having a completely dark lot where people will be walking from the church at night to get to their cars. Having absolute no lighting, I think, would be improper.

Mr. Mills - I think we left that open to following the lead of safety and Planning Commission and staff. It would be a situation that we know, in cooperation with the neighborhood and the Commission and the church, it would be the absolute minimum. We do recognize it probably needs some security lighting but we will need to address that with the lighting and landscape plan at the time.

Ms. Dwyer - Minimum is good, but we need something. Okay. And my understanding on your position about access to Silverspring Drive, if I may summarize that for you, is that you are agreeable to it. It would improve traffic flow from the existing parking lot to this lot. But, if you are asked to close it off, you are agreeable to that too.

Mr. Mills - Yes. We recognize the recommendation of traffic and that's what we have adhered to but we also recognize the neighborhood's concerns about that vehicular access up Silversprings. We told them that, if the decision is made right now, we are working with staff to provide the two. We also know that it isn't an impossibility from a traffic standpoint to eliminate it and that we would be willing to eliminate that if it's your pleasure. Thank you.

Mr. Archer - Mr. Mills, I do need to say that we have opposition, and you do have a time limit. By my count, you have used about two and a half minutes without questions being asked, so you have a few left for rebuttal. I will also let the opposition know that you have ten minutes. Thank you, sir.

Mr. Tracy - Good evening. My name is John Tracey. I would like to address a couple of things, Ms. Dwyer. We have agreed if lighting is necessary between the church and our association, that it would be the type of lighting that would not be intrusive into the neighborhood. A neighbor agreed to work with us on that so I think we are okay there. The sidewalk situation is something we are not in favor of having along Silverspring. Our whole neighborhood has no sidewalks. We are very happy with the sidewalks along Forest Avenue, and we feel that is a necessity. We have no problem with that. We do have another problem, though, and that is the proposed entrance onto Silverspring. I believe that each one of you all have a plat that's available to you. Knowing that part of the concern for the second entrance here is possibly for public safety, we have a concern of two things at this particular entrance would create. One. We do think it would create a potential area for additional hazard not only to pedestrians but for vehicular traffic. Second. In the site plan as you have here, the entrance right here (referring to rendering) is right next to a residential neighborhood. And, if you are going to have an entrance here you are probably going

to need a site easement on either side of this to allow for the public to be able to see.

As it stands right now, there is parking on either side of the road that is occurring. I think it would be kind of hard to eliminate public parking in front of a residential house, which adjoins right up to this. We do not feel that it is necessary that there has to be an entrance on Silverspring. The church has a major parking lot on the other side of its facility, on Forest Avenue, that only has one entrance. We feel that one entrance to this site would also accommodate all of the needs that we have concerning our neighborhood. Third, and finally, if this access site is provided for, it's going to eliminate our ability to provide the kind of buffer that the church and the community have been trying to work with in terms of buffering this parking lot from our residential neighborhood. By putting this site here, for entrance, we are eliminating a major portion of that property line which we are trying to buffer ourselves from the shopping center and commercial area that is across the street beginning from that particular area. Those are the three things that I would like to address. We have no problem with perpendicular sidewalks leading from the parking lot to the church, but we do have a problem with sidewalks running parallel with Silverspring.

Ms. Dwyer - Mr. Eure, could you speak to the Silverspring access point, please?

Mrs. Wade - In the meantime, Mr. Secretary, would you announce again what the estimated time for the work session is, please?

Mr. Silber - Yes. The plan, for those of you who may have just arrived, is that the Commission will continue to hear plans of development and subdivisions. They will probably take a break for an executive session and lunch around 1:15 p.m. or 1:30 p.m. They will come back and continue to hear PODs and subdivisions until the agenda is complete and then at that point they will then have a work session on the Billboard Ordinance.

Mrs. Wade - So, it will be after 2:00 p.m.

Mr. Silber - I would suspect that it will be after 2:00 p.m. before we will be talking about Billboards.

Mr. Eure - My name is Todd Eure, assistant traffic engineer. Our recommendation for the access onto Silverspring Drive was based on the function of the lot as an overflow parking lot for the main lot which is to the rear of the church. What we anticipate happening, as the main lot to the rear of the church fills, traffic will flow out of that lot and then to the adjacent lot which they are proposing to build. Rather than bringing that traffic back onto Forest Avenue, having them turn off onto Forest and turning into the access off of Forest Avenue, this would give them direct access across Silverspring to eliminate any potential safety conflicts of them having to pull back onto Forest Avenue. Certainly, the size of the lot is not want that warrants two access points per se, but the whole purpose of the additional access on Silverspring was to serve the overflow function.

Ms. Dwyer - So, it's not that bigger lot, in other words, that you would feel particularly compelled to have the second access.

Mr. Eure - Correct. One access can certainly handle the size of the lot.

Ms. Dwyer - Thank you.

Mr. Archer - Thank you, Mr. Eure. Would you like to hear from somebody else?

Mrs. Wade - The people don't walk from the neighborhood up to the shopping area and the school? Where do they walk?

Ms.Dwyer - I guess there are two primary issues. Lighting I think we have discussed. So, I think we will be expecting a lighting and landscape plan to come forward after this POD today. I think that the lighting needs to be minimal due to the location of this lot, but I think lighting needs to be there for the safety of the people who use the lot at night time. As far as the sidewalk. I think we will keep the sidewalk on Forest Avenue. I think a sidewalk would be good along Silverspring but if the neighbors and the church are in favor of it and they like the look of a non-curb and gutter or a non sidewalk area along there, I can go with that. So, eliminate the sidewalk along Silverspring Drive. I was on the fence about this access to Silverspring. Obviously, it would improve traffic flow but Mr. Eure has stated that this is a relatively small lot which can accommodate the one point of access, so I'm going to go ahead and eliminate that access point on Silverspring Drive for that reason. So, with those changes to the annotations on the plan, I move approval of POD-9-98, Third Presbyterian Church Parking Lot Addition, including the remaining annotations to the plan, the standard conditions and additional conditions Nos. 23 through 26.

Mr. Zehler - Second.

Mr. Archer - The motion was made by Ms. Dwyer and seconded by Mr. Zehler. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-9-98, Third Presbyterian Church - Parking Lot Addition, subject to the standard conditions attached to these minutes, the annotations on the plan, and the following additional conditions:

23. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.
24. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
25. Storm water retention, based on the 50-10 concept, shall be incorporated into the drainage plans.
26. The approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.

SUBDIVISION

Wyndham Forest
(January 1998 Plan)

Jordan Consulting Engineers for Synder Hunt Wyndham Development Corporation: The 67.8 acre site is located along the north line of Twin Hickory Lane (Private), approximately 1300 feet east of Nuckols Road on parcels 10-A-8 and 10-A-28. The zoning is R-3C, One-Family Residence District (Conditional), R-4C, One-Family Residence District (Conditional), and C-1, Conservation District. County water and sewer. **132 Lots (Three Chopt)**

Mr. Archer - Is there anyone in the audience in opposition to subdivision Wyndham Forest

(January 1998 Plan)? We have opposition in the back. Thank you, sir. Mr. Wilhite.

Mr. Wilhite - This plan is a revision to a previously approved conditional plan back in 1995. The only thing being changed with this is that you have elimination of one lot from 133 down to 132 lots. One street that was originally supposed to be a stub street is being changed to a cul-de-sac street; that is Alder Ridge Terrace. This staff can support it because the land use plan shows the existing property for office designation in the future and in the past it was for low density residential. The conditions, for the most part, follow the original conditions of approval. Condition No. 16 has been changed and modified so that Twin Hickory Lane will be used as an emergency access after the approval of 54 lots in the subdivision. This, the applicant is in agreement to. Staff can recommend approval of this subdivision plan.

Mr. Archer - Okay. Are there any questions of Mr. Wilhite? No, questions. Would you like to hear from the applicant, Mrs. Wade?

Mrs. Wade - Maybe the applicant would like to speak after the neighbor.

Mr. Archer - Okay. All right. There was opposition. Sir, you can come up next.

Mrs. Wade - He may have questions that the applicant could answer. This is basically the same plan that was approved earlier except for what you mentioned about the cul-de-sac.

Mr. Edwards - My name is Norm Edwards. I reside at 5500 Twin Hickory Lane. This subdivision borders my property. I guess, rather than opposition, I'm looking for some clarification. It was my understanding at the beginning that the only thing that would be changed was the changing of Alder Lane I think to a cul-de-sac and now we are also changing condition No. 16. Condition No. 16, I do have a problem with changing. That was an agreement that has been long standing with Snyder Hunt that Twin Hickory Lane should not be used for general vehicular or construction access to this subdivision. Construction access, there was never supposed to have been any construction access on Twin Hickory Lane, period. We have already had construction access on Twin Hickory Lane from various other construction projects there.

You all are familiar with Twin Hickory Lane, if you are not, it's a one-lane, basically, dirt road. I've had to get out, way after dark, and I would help back tractor trailers out for over a mile, to get them out of there. There's no way to turnaround down there. We are getting construction traffic in. I think we need to leave that condition No. 16 as it is. We don't need construction there. If you are going to make an emergency ingress/egress into that subdivision, fine. But, I understand now that the plan is not to construct that corner of the subdivision where Lynhaven, I believe is the name of it, or Lynwood Drive, intersects Twin Hickory. So, in that case, that portion of Lynhaven Drive would have to be at least partially constructed to get vehicles in and out. If that is the case, it needs to be blocked which was the original agreement that it would be blocked at Twin Hickory Lane. Also I think if it's not going to be developed in that corner, then you also need to block the other end of it, temporary road, because we are already having trouble with traffic parking down there at night and dump areas and what have you. So, we need to block both accesses at each end of that road to make sure people don't get down in there and can't be seen. Are there any questions?

Mrs. Wade - Now where is it that you think the road should be blocked, Mr. Edwards?

Mr. Edwards - Okay. Lynwood Drive, where it intersects between Hickory Lane. That was supposed to be blocked at that intersection and to be used for emergency traffic only, if they are not going to develop that corner, which I understand now that that corner is not to be developed for a while. There still has to be a vehicular access through there. So, you need to block the other end of it also to keep traffic from getting down in there, so to speak. I think applicant, we probably have an agreement with that already, but it needs to be clarified as to what's, what's, and any other conditions or proffers that are being changed here, we would like to get them up front. Are there any questions? Thank you.

Mr. Archer - I think we need to hear from the applicant now.

Mr. Silber - Mr. Wilhite, do you want to add something?

Mr. Wilhite - Yes. Just for clarification purposes. The only thing that's being changed in Condition No. 16 is the second sentence. We originally stated that Twin Hickory Lane may be used as an existing emergency access. That's how we originally stated it. With the change, it states that "It shall be used for emergency vehicular access after the approval of 54 lots in the subdivision." That's the only change. It still requires that Twin Hickory Lane and Lynwood Drive shall be barricaded to prohibit use by the general public, and that general vehicular access to the subdivision through Twin Hickory Lane is prohibited.

Mr. Dozzi - My name is Mike Dozzi with Jordan Consulting Engineers, representing Snyder Hunt. With the two issues, one was the emergency access. We agree with that. Blocking Lynwood at the terminus for emergency access, we agree with that. The construction traffic being used on Twin Hickory.... This subdivision is obviously not under construction. It is not ours. What we have discussed with the homeowners is we are amenable to putting a sign up down at the intersection of Twin Hickory and Nuckles. That says "No construction traffic." We hopefully will try to avoid vehicles accidentally turning in there when they are not supposed to be.

Mrs. Wade - You would that Twin Hickory is not adequate for construction traffic.

Mr. Dozzi - No, ma'am.

Mrs. Wade - Will you be active in enforcing that in addition to the sign down there? I know about these signs sometimes.

Mr. Dozzi - I'm not sure beyond putting a sign up how you can keep them out.

Mrs. Wade - I mean, if you should see somebody or if somebody is reported or something that you would take care of it.

Mr. Dozzi - If I'm out there, I can assure you that none of my crew will be using it.

Mrs. Wade - And you have another alternative way for them to go.

Mr. Dozzi - Yes. The contractor is going to be using Wyndham Forest Drive to access Wyndham Forest subdivision. That's his only construction access. It's the only construction access we show on the plans.

Mrs. Wade - I think he mentioned blocking off Lynwood in two places so it would just be a deadend.

Mr. Dozzi - The way the condition is read, when we hit 54 lots we have to provide the emergency access. When we hit the 54 lots that particular section will have been built. When we provide the emergency access, we will provide the barricade at Lynwood. The two access situation, well the two barricades won't actually come into play because the emergency access doesn't kick in until 54 lots.

Mrs. Wade - So, there won't be anything down there until you get ready to develop that.

Mr. Dozzi - At this time, that road will not be cleared until that section is developed, yes ma'am.

Mrs. Wade - Okay. Thank you.

Ms. Dwyer - What the status of the future of Twin Hickory? Is that on our Thoroughfare Plan?

Mr. Silber - Yes, ma'am. It is a concept road I believe on the Major Thoroughfare Plan to tie into to Concept Road 10-1.

Mr. Archer - Okay. Are there any further questions?

Mrs. Wade - His comments about Lynwood satisfies you, Mr. Edwards?

Mr. Edwards - Maybe I misunderstood. The emergency access on Twin Hickory Lane into this subdivision, according to the applicant there, does not take affect until the 54 lots are completed. You will be selling houses in there, I'm sure, before you complete all 54 lots. Does that mean there's no emergency access into that subdivision until all those 54 lots are completed?

Mrs. Wade - Yes. That's kind of generally what we do.

Mr. Edwards - Okay. In that case, as long as there's no access on Lynwood Drive between Twin Hickory and the rest of this subdivision, then there is no need for the two barricades, I agree with that.

Mrs. Wade - That's what I understood he indicated, yes.

Mr. Edwards - Okay.

Mrs. Wade - Thank you. Are you ready for a motion, Mr. Chairman?

Mr. Archer - Yes, ma'am.

Mrs. Wade - I move Wyndham Forest (January 1998 Plan) be approved subject to the annotations, added conditions Nos. 12 through 16, and I would add that on condition No. 16 that "Twin Hickory Lane shall not be used for general vehicular access nor construction traffic to this subdivision until at such time it's dedicated and constructed."

Mr. Silber - Are you adding "and construction traffic?"

Mrs. Wade - Yes. "Nor construction traffic." That's all. I move it be approved for 131 (sic) lots.

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mrs. Wade and second by Ms. Dwyer. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission granted conditional approval to Wyndham Forest (January 1998 Plan), subject to the standard conditions attached to these minutes, the annotations on the plans, and the following additional conditions:

12. The detailed plant list and specifications for the landscaping to be provided within the 20-foot-wide planting strip easement along Wyndham Forest Drive, Twin Hickory Lane and Concept Road 10-1 shall be submitted to the Planning Office for review and approval prior to recordation of the plat.
13. The limits and elevation of the 100 year frequency flood shall be conspicuously noted on the plat and construction plans and labeled "Limits of 100 Year Floodplain." Dedicate floodplain as a "Variable Width Drainage & Utility Easement."
14. Final subdivision approval shall not be granted for any portion of the property that is located north of Concept Road 10-1 until such time that a second point of vehicular access is provided to that portion of the subdivision via a dedicated and constructed roadway.
15. The right-of-way for Twin Hickory Lane from Nuckols Road to the eastern corner of the site shall be dedicated with the first section for recordation.
16. Twin Hickory Lane shall not be used for general vehicular access nor construction traffic to this subdivision until such time that it is dedicated and constructed. In the interim, the existing road (private) shall be used as an emergency vehicle access with final approval of more than 54 lots in this subdivision. The intersection of Twin Hickory Lane and Lynwood Drive shall be barricaded to prohibit use by the general public.
17. The Snyder Hunt corporation shall enter into a maintenance agreement with Henrico County Department of Public Works for the perpetual maintenance of existing Twin Hickory Lane from Lynwood Drive south of its intersection with Nuckols Road. The agreement shall be executed prior to final approval being granted for any section of this subdivision. The agreement must remain in effect until such time when the subject road has been dedicated as a public road.
18. Prior to requesting the final approval, a draft of the covenants and deed restrictions for the maintenance of the common area by a homeowners association shall be submitted to the Planning Office for review. Such covenants and restrictions shall be in form and substance satisfactory to the County Attorney and shall be recorded prior to recordation of the subdivision plat.

Mr. Wilhite - If I could just make a clarification on the last case. That was for 132 Lots, not 131.

Mrs. Wade - Okay. I thought I heard 131.

Mr. Wilhite - It was reduced by one. One-hundred and thirty-three was what was originally approved, down to 132.

Mrs. Wade - So, it's 132 lots. Thank you.

PLAN OF DEVELOPMENT

POD-118-97
Suburban Lodge

Grattan & Associates, P.C. for TTG. Inc., Southeast Properties I, LLC and The Generation Companies: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a three-story, 143 unit extended stay hotel. The 2.34 acre site is located along the south line of Schrader Road approximately 600 feet west of Hungary Spring Road on part of parcel 70-10-1-4. The zoning is B-3C, Business District (Conditional). County water and sewer. (**Brookland**)

Mr. Archer - Is there anyone in the audience in opposition to POD-118-97, Suburban Lodge?
No opposition. Mr. Wilhite.

Mr. Wilhite - You just received a revised architectural plan. The building proposed is basically a base brick and stucco. They removed the masonite siding that was originally proposed that would have had them specifically approved by the Planning Commission. The stucco siding is allowed under the proffered conditions for this property. The original site was altered. Originally, they showed a cul-de-sac extension for Colyer Street. That has been modified and Fountain Avenue will be extended and they will dedicate and construct the portion of Fountain Avenue at the property. Staff can recommend approval of this revised plan subject to the original annotations on the first staff plan, and with the understanding that wetland impacts and the water quality issues will be worked out prior to signing of construction plans for this project.

Mr. Archer - Are there any questions by Commission members?

Mr. Silber - Mr. Wilhite, the dedication of construction of, you said, Fountain Avenue. Is that an annotation on the plan?

Mr. Wilhite - The revised plat shows Fountain Avenue there instead of the Colyer Street cul-de-sac. There is a condition that requires the dedication of Fountain Avenue as well.

Mr. Silber - Okay. We will just need to mark that carefully and file as to which plan the Commission is acting on.

Mrs. Wade - Where they added this tower, that says Suburban Lodge, how much of that is considered the sign?

Mr. Wilhite - That I can't answer. The sign is not a part of the approval and it wasn't looked at as a sign.

Mrs. Wade - Yes, I know. And it wasn't on the first plan that we had, it's on the one we got today.

Mr. Wilhite - Right. That was a revision with new architectural plans.

Mrs. Wade - But, just technically speaking, how much of that do you consider to be the sign?

Mr. Wilhite - I don't look at signs. I can't answer that. I'm sorry.

Mr. Zehler - So, wouldn't that be considered a four story?

Mr. Wilhite - No. It's considered an architectural... It's not a separate floor in that tower. That's just an architectural design feature.

Mrs. Wade - Which is what is happening now and everybody is putting a tower on now that goes way up above the roof and then putting a sign down there on the tower.

Mr. Silber - Mrs. Wade, from just a quick glance, it looks like there are several problems from a signs prospective. We will have to look at that at a later date. It can't extend above the roof line and the size is a factor. So, that will be looked at carefully later.

Mr. Archer - All right. We will hear from the applicant.

Mr. Grattan - My name is Stewart Grattan with Grattan & Associates, representing the Generations Companies with Suburban Lodge. This is the first I've heard of any signage comments. To date I don't know that we are asking for approval of signage. I think that's a separate review.

Mrs. Wade - That's been made clear, yes, thank you.

Ms. Dwyer - I think the question though is when you have an architectural detail that appears to be a sign, then you have to question whether it's in fact an architectural detail or a part of the sign. Is that your question, Mrs. Wade?

Mrs. Wade - Yes.

Ms. Dwyer - That's what was raised in my mind.

Mrs. Wade - But, we don't have to decide that today.

Mr. Grattan - I may have to defer to the owner here, but the architectural treatment there whether it's got a lettering on it or not, it's a part of the building and it's a part of a statement I think in a characteristic that is seen on all Suburban Lodges. I think as far as whether there is an actual signs that says Suburban Lodge affixed to that tower, I don't think we need to get into that right now.

Mr. Archer - Are there any other questions of the applicant? All right, Mr. Vanarsdall, we are ready for a motion.

Mr. Vanarsdall - Before I make the motion, I want to thank the folks from Generation who came up from Chapel Hill many times and made this turn out to look three times better than what it would have looked in the beginning. I appreciate it. With that, I move that POD-118-97, Suburban Lodge, be approved with the annotations on the plan, the standard conditions for developments of this type, and Nos. 9 and 11 amended and Nos. 23 through 30.

Mr. Zehler - Second.

Mr. Archer - The motion was made by Mr. Vanarsdall and seconded by Mr. Zehler. All in

favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-118-97, Suburban Lodge, subject to the standard conditions attached to these minutes, the annotations on the plan, and the following additional conditions:

9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for review and Planning Commission approval prior to the issuance of any occupancy permits.
11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams and fixture mounting height details shall be submitted for Planning Office review and Planning Commission approval.
23. The subdivision plat to Fountain Avenue shall be recorded before any occupancy permits are issued.
24. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued.
25. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
26. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.
27. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
28. Storm water retention, based on the 50-10 concept, shall be incorporated into the drainage plans.
29. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
30. The approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.

SUBDIVISION

Fountain Avenue
(January 1998 Plan)
(Formerly Colyer Street Extension)

Grattan Associates, P.C. for TTG, Inc. and Southeast Properties I, L.C.: The 0.22 acre site is located at the northern terminus of Colyer Street approximately 320 feet north of W. Broad Street (U.S. Route 250) on part of parcel 70-10-1-4. The zoning is B-3, Business District and B-3C, Business District (Conditional). County water and sewer. **0 Lot (Brookland)**

Mr. Archer - Is there anyone in the audience in opposition to subdivision Fountain Avenue (January 1998 Plan)? No opposition. Mr. Wilhite.

Mr. Wilhite - Staff recommends approval based on the original staff's annotations.

Mr. Archer - Are there any questions of Mr. Wilhite by Commission members?

Mr. Vanarsdall - I'm ready for a motion, Mr. Chairman, unless somebody has a question. I move Fountain Avenue be approved with staff recommendation and the annotation on the plan.

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mr. Vanarsdall and seconded by Ms. Dwyer. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission granted conditional approval to Fountain Avenue (January 1998 Plan) (Formerly Colyer Street Extension), subject to the standard conditions attached to these minutes and the annotation on the plan(s).

PLAN OF DEVELOPMENT

POD-10-98
St. Andrews
United Methodist
Church Additions

Robert K. Carter, Inc. for St. Andrew's United Methodist Church:
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 and two-story, 12,206 square foot classroom and multipurpose room addition to an existing one and one-half story, 14,072 square foot church. The 8.552 acre site is located on the southwest corner of the intersection of Fort King Road and Pine Bluff Drive on parcel 68-A-17. The zoning is R-2A, One-family Residence District. County water and sewer. (**Tuckahoe**)

Mr. Silber - Please note that this plan also includes a lighting plan.

Mr. Archer - Is there anyone in the audience in opposition to POD-10-98, St. Andrews United Methodist Church Additions? No opposition. Mr. Whitney.

Mr. Whitney - Thank you, Mr. Chairman. Clarification for the lighting approval, they did request lighting approval but after visiting the site myself, and Ms. Dwyer, we have some problems with the site lighting as it exist and we have discussed it with the applicant. We will postpone the lighting approval until prior to their occupancy for the building addition.

Ms. Dwyer - So, we will do No. 11 amended.

Mr. Whitney - Pardon me.

Ms. Dwyer - Approve this with No. 11 amended.

Mr. Whitney - With that, I can recommend approval.

Mr. Archer - Are there any questions of Mr. Whitney by Commission members?

Mr. Whitney - The applicant is here if you need to hear from him.

Mr. Archer - Do you need to hear from the applicant, Ms. Dwyer?

Ms. Dwyer - No.

Mr. Archer - All right. Moving right along. We'll take a motion.

Ms. Dwyer - I move POD-10-98, St. Andrews United Methodist Church Additions, be approved subject to the annotations on the plans, the standard conditions for developments of this type, and additional conditions Nos. 23 through 30. Add No. 11 amended so that the lighting plan will come back to the Commission for review at another time.

Mr. Vanarsdall - Second.

Mr. Archer - The motion was made by Ms. Dwyer and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-10-98, St. Andrews United Methodist Church Additions, subject to the standard conditions attached to these minutes, the annotations on the plan(s) and the following additional conditions:

11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams and fixture mounting height details shall be submitted for Planning Office review and Planning Commission approval.
23. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued.
24. The limits and elevation of the 100 year frequency flood shall be conspicuously noted on the plan "Limits of 100 Year Floodplain." In addition, the delineated 100 year floodplain must be labeled "Variable Width Drainage and Utility Easement." The easement shall be granted to the County prior to the issuance of any occupancy permits.
25. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
26. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.
27. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
28. Storm water retention, based on the 50-10 concept, shall be incorporated into the drainage plans.
29. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
30. The approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.

PLAN OF DEVELOPMENT

POD-12-98
The Greens at
Wyndham

Youngblood, Tyler & Associates, P.C. for Loch Levan Land Limited Partnership and Snyder Hunt Corporation: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code to construct 48 freestanding condominium units. The 12.87 acre site is located on the east side of Wyndham Lake Drive, 1,200 feet south of Old Wyndham Drive on part of parcels 4-A-7B and 5-A-1C. The zoning is R-5C, General Residence District (Conditional). County water and sewer. (**Three Chopt**)

Mr. Archer - Is there anyone in the audience in opposition to POD-12-98, The Greens at Wyndham? No opposition. Mr. Whitney.

Mr. Whitney - Staff still recommends approval and can answer any questions.
Mr. Archer - Are there any questions of Mr. Whitney by Commission members?

Mr. Archer - Mrs. Wade, do you need to hear from the applicant?

Mrs. Wade - No.

Mr. Archer - If there are no other questions, I'll entertain a motion.

Mrs. Wade - I move POD-12-98, The Greens at Wyndham, be approved subject to the annotations on the plans, the standard conditions, conditions Nos. 9 and 11 amended and Nos. 23 through 33, be approved.

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Ms. Dwyer. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-12-98, The Greens at Wyndham, subject to the standard conditions attached to these minutes, the annotations on the plan(s) and the following additional conditions:

9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for review and Planning Commission approval prior to the issuance of any occupancy permits.
11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams and fixture mounting height details shall be submitted for Planning Office review and Planning Commission approval.
23. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
25. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.
26. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
27. The pavement shall be of an S-5 type and shall be constructed in accordance with County standards and specifications. The developer shall post a defect bond for all pavement with the Planning Office - the exact type, amount and implementation shall be determined by the Director of Planning, to protect the interest of the members of the Homeowners Association. The bond shall become effective as of the date that the Homeowners Association assumes responsibility for the common areas.
28. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
29. The unit house numbers shall be visible from the parking areas and drives.
30. The names of streets, drives, courts and parking areas shall be approved by the Richmond Regional Planning District Commission, before any building permits are issued. The standard street name signs shall be ordered from the County and installed prior to any occupancy permit approval.
31. All driveways serving two or more dwelling units shall be a minimum of eighteen (18) feet wide.
32. Each building permit request must be accompanied by two copies of a detailed overall layout plan which provides a detailed layout of the subject building and drives, as well as all other buildings

occupied and/or under construction.

33. Two parking spaces per dwelling unit shall be provided exclusive of garages.

PLAN OF DEVELOPMENT

POD-3-98
Highwoods
Commons
(Formerly Highwoods III,
Phase B)
(POD-26-97 Rev.)

Foster & Miller, P.C. for Highwoods/Forsythe Limited 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 two-story, 50,879 square foot office building. The 4.6 acre site is located approximately 600 feet north of the terminus of Cox Road on part of parcel 28-A-20N. The zoning is M-1C, Light Industrial District (Conditional). County water and sewer. **(Three Chopt)**

Mr. Archer - Is there anyone in the audience in opposition to POD-3-98, Highwoods Commons?
No opposition. Mr. Wilhite.

Mr. Wilhite - Staff has completed its review at this time. We can recommend approval.

Mr. Archer - Are there any questions of Mr. Wilhite by Commission members?

Mrs. Wade - Do you have the Cox Road status straighten out?

Mr. Wilhite - That was the question we had of the developer. What is the status of Cox Road at this time? Was there any feeling towards the dedication as is public right-of-way and when in the near future will that happen? It's not a requirement that staff is making at this time.

Mrs. Wade - Okay. I move POD-3-98 be approved subject to the standard conditions, the annotations on the plans and conditions Nos. 23 through 29.

Mr. Vanarsdall - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-3-98, Highwoods Commons (Formerly Highwoods III, Phase B) (POD-26-97 Revised), subject to the standard conditions attached to these minutes, the annotations on the plan(s) and the following additional conditions:

23. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
25. The certification of building permits, occupancy permits and change of occupancy permits for individual units shall be based on the number of parking spaces required for the proposed uses and the amount of parking available according to approved plans.
26. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.

27. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
28. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
29. The approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.

PLAN OF DEVELOPMENT & TRANSITIONAL BUFFER DEVIATION

POD-7-98
 Stillman Office
 Building
 (Formerly Stillman
 Office/Warehouse)
 (POD-96-96 Rev.)

Jordan Consulting Engineers, P.C. for Stillman Associates, L.C.: Request for approval of a revised plan of development and transitional buffer deviation, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code to construct a two-story, 9,440 square foot office building. The 1.4 acre site is located at the northwest corner of Mayland Drive and Stillman Parkway on part of parcel 48-A-70B. The zoning is M-1C, Light Industrial District (Conditional). County water and sewer. (**Three Chopt**)

Mr. Archer - Is there anyone in the audience in opposition to POD-7-98, Stillman Office Building? No opposition. Mr. Wilhite.

Mr. Wilhite - This is another revised POD. Originally, with the zoning case for this property they had the architectural design for a building approved. The building was a one-story building. Now, they are proposing a two-story building design feature and the architectural materials used are essentially similar. So, staff can recommend approval.

Mr. Archer - Are there any questions of Mr. Wilhite by Commission members?

Mrs. Wade - Okay. There is a 20 foot buffer around the corner of Stillman and Mayland, which will be landscaped later.

Mr. Wilhite - On Stillman Parkway, yes. A transitional buffer deviation is required from 25 down to 20. That matches the proffer condition, and they will meet the 25 planting requirements within that 20-foot buffer.

Mrs. Wade - But, that's only on the north side next to the Lube Tech?

Mr. Wilhite - That's on the Stillman Parkway side, yes.

Mrs. Wade - But, not parallel to Stillman Parkway. I thought it was perpendicular to Stillman.

Mr. Wilhite - Originally, that was a 10-foot transitional buffer requirement that's eliminated with the shared access drive.

Mrs. Wade - But the 20-foot buffer remains along Stillman Parkway. Where is says "20 foot

minimum buffer." We are not, well let's see. That was supposed to have been.... Okay. So, they wanted a 20-foot buffer but 25-foot planting requirements were proposed.

Mr. Wilhite - There was a proffer requirement for a 20-foot buffer, but a transitional buffer requirement of 25 feet. They agreed to do the 25 planting requirements within the 20-foot buffer.

Mrs. Wade - Okay. That's all I need to know. Thank you.

Mr. Archer - Are there any other questions of Mr. Wilhite? Do you need to hear from the applicant, Mrs. Wade?

Mrs. Wade - I don't think so. There is a transitional buffer deviation request but I don't think it's so complicated that we can't handle it without input from him. Do you have anything to add? All right. I move POD-7-98, revised plan be approved subject to the annotations, the standard conditions, with the transitional buffer deviation as noted on the plan. Nos. 9 and 11 amended and Nos. 23 through 32.

Mr. Vanarsdall - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-7-98, Stillman Office Building (Formerly Stillman Office/Warehouse) (POD-96-96 Revised), subject to the standard conditions attached to these minutes, the annotations on the plan(s) and the following additional conditions:

9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for review and Planning Commission approval prior to the issuance of any occupancy permits.
11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams and fixture mounting height details shall be submitted for Planning Office review and Planning Commission approval.
23. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
25. A standard concrete sidewalk shall be provided along the west side of Stillman Parkway.
26. The certification of building permits, occupancy permits and change of occupancy permits for individual units shall be based on the number of parking spaces required for the proposed uses and the amount of parking available according to approved plans.
27. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.
28. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
29. Storm water retention, based on the 50-10 concept, shall be incorporated into the drainage plans.
30. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
31. The approval of the construction plans by the Department of Public Works does not establish the

curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.

32. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the Planning Office and approved prior to the issuance of a certificate of occupancy for this development.

PLAN OF DEVELOPMENT & LIGHTING PLAN

POD-11-98
West End
Assembly of
God - Gymnasium
Addition
(POD-66-93 and
POD-119-86 Revised)

Koontz-Bryant, P.C. for West End Assembly of God and DeFoggi Development & Construction: Request for approval of a revised plan of development and lighting plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code to construct a two-story, 21,401 square foot multi-purpose room/office/classroom addition. The 19.62 acre site is located along the east line of Parham Road at its intersection with September Drive on parcels 112-A-31, 32 and 52. The zoning is R-1, One-Family Residence District and R-3, One-Family Residence District. County water and sewer. (**Tuckahoe**)

Mr. Archer - Is there anyone in the audience in opposition to POD-11-98, West End Assembly of God? No opposition. Mr. Wilhite.

Mr. Wilhite - Staff has become aware that the applicant wishes to phase this project. The parking lot addition would be a future phase. Originally, in talking to the applicant, there was no building lights proposed. I understand that the applicant at this time is proposing seven, 150-watt high pressure sodium wall mounted fixtures on the building. Staff would essentially prefer seeing the shoebox concealed source hidden fixtures. I do understand that they do have existing wall packs on the building. We could probably recommend the 150 watt fixtures with the understanding that shields may be needed on those.

Mr. Archer - Are there any questions of Mr. Wilhite by Commission members? Do you need to hear from the applicant, Ms. Dwyer?

Ms. Dwyer - Yes.

Mr. Archer - All right. Will the applicant please come forward.

Mr. Koontz - Mr. Chairman and members of the Commission, my name is Greg Koontz with Koontz-Bryant, and I represent the applicant. The wall pack lights that he was talking about, I talked with Mr. Deffoggi who represents the Church. Basically, what they have tried to do is match the existing wall packs. They are 175 watts. They are shielded. The photometric, the half candle, makes it just to the very edge of the parking lot. The reason they are trying to do that instead of just say putting up a shoebox fixture, it's just to make sure that the light does extend to the parking lot that's right along the property line. They are trying to do that instead of avoid putting up more poles. So, they are shielded wall packs.

Ms. Dwyer - These will be shielded?

Mr. Koontz - Yes.

Ms. Dwyer - I couldn't tell from the fax you sent me.

Mr. Koontz - Yes, ma'am, they are.

Ms. Dwyer - And we are going to bring back the landscaping plan for the parking lot addition, which is phase II.

Mr. Koontz - Yes, ma'am, landscape and lighting.

Mr. Archer - All right. Are there any other questions?

Ms. Dwyer - I move approval of POD-11-98, West End Assembly of God - Gymnasium Addition and parking lot addition, subject to the annotations on the plans, the standard conditions for developments of this type, conditions Nos. 23 through 26 and Nos. 9 and 11 amended for Phase II but not Phase I. Can I do that, Randy?

Mr. Vanarsdall - Second.

Mr. Silber - Yes, ma'am.

Mr. Archer - The motion was made by Ms. Dwyer and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-11-98, West End Assembly of God - Gymnasium Addition (POD-66-93 and POD-119-86 Revised), subject to the standard conditions attached to these minutes, the annotations on the plan(s) and the following additional conditions:

9. **PHASE 1** - A detailed landscaping plan shall be submitted to the Planning Office for review and approval prior to the issuance of any occupancy permits.
AMENDED FOR PHASE II ONLY - A detailed landscaping plan shall be submitted to the Planning Office for review and Planning Commission approval prior to the utilization of parking lot addition.
11. **AMENDED FOR PHASE II ONLY** - Prior to the installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams and fixture mounting height details shall be submitted for Planning Office review and Planning Commission approval.
23. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
25. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
26. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.

PLAN OF DEVELOPMENT

POD-13-98
Colonnades West
(POD-118-96 and
POD-27-96 Rev.)

Balzer & Associates for Wilton Partners Broad Street, 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, 136,000 square foot shopping center. The 14.7 acre site is located at the northwest corner of West Broad Street (U.S. Route 250) and Cox Road on parcel 48-A-47. The zoning is B-2C, Business District (Conditional). County water and sewer.
(Three Chopt)

Mr. Archer - Is there anyone in the audience in opposition to POD-13-98, Colonnades West?
No opposition. Mr. Wilhite.

Mr. Wilhite - This is a revision to a previously approved shopping center. Basically, they had a 55,000 single tenant space that's being reduced down to three spaces and a drop in total square footage to 45,000 square feet. This occurs were the Marshall's and the proposed Shoe Carnival shows up. The approval is also in for the retail and, restaurant space, adjacent to Cox Road at the entrance into the shopping center and revisions to the CVS Pharmacy at the corner of W. Broad Street and Cox by adding a brick enclosed trash compactor and the changes to the parking and the drive thru. One issue that was just recently discovered yesterday. I have not had a chance to contact the applicant on it. In looking at the proposed plans for the Hard Times Café and proposed retail. That building does not meet the proffered requirements for seventy percent brick and glass so staff can't recommend approval of those architecturals at this time but we can recommend approval of the site plan.

Mr. Archer - Are there any questions for Mr. Wilhite?

Mrs. Wade - At this zoning case too, had proffers related to harmonious development and coordinated development and I'm not sure that they really didn't take that up until yesterday for consideration, in terms of the architecturals of these buildings, and lacking information about them. The two comments or reservations that I have, one is about the south wall of the proposed Shoe Carnival and the other one is about this Hard Times Cafe and whatever else is going to be in that building. Is the applicant here?

Mr. Archer - Is the applicant present?

Mrs. Wade - They also called me late yesterday but I didn't have a chance to get back to him.

Mr. Archer - Are they not here, Mr. Wilhite?

Mr. Wilhite - I just saw them. They must have just left. I'll check.

Mr. Wilhite exits to look for the applicant.

Ms. Dwyer - Maybe, since we announce that we will break at 1:15 p.m., perhaps we can hear it when we come back.

Mr. Wilhite returns.

Mrs. Wade - Are they here?

Mr. Wilhite - Apparently, they are not here.

Mrs. Wade - Maybe they left for lunch. I guess we will have to wait then.

Mr. Archer - Okay. Well, do we want to recess and continue this when we come back?

Ms. Dwyer - Yes.

Mrs. Wade - Let's do that.

The Planning Commission went into Executive Session at this point and will continue with POD-13-98, Colonnades West, after the Executive Session and lunch.

Mr. Silber - Moving on to the next item of business. I think we have one continuing POD that was to be continued after the Planning Commission's Executive Session and that being POD-13-98, Colonnades West (POD-118-96 and POD-27-96 Revised).

Mr. Wilhite - The representative from the engineer is here. Staff is in the position to recommend approval of the site plan. The architectural plans, though, there are some questions as far as the relationship to the proffer conditions, and they will need to be looked at further. I'd be happy to answer any questions.

Mr. Archer - Okay, Mrs. Wade. I believe you had some questions for the applicant. Is he here now, did you say, Mr. Wilhite?

Mr. Wilhite - The engineer is here.

Mr. Grogan - My name is Clay Grogan with Balzer & Associates.

Mrs. Wade - You heard the concerns regarding the conformance of the proffer as far as coordination and whatnot concern, especially in view of the rendering that we have of that third, where that small building is on Cox Road. As I looked through the architecturals yesterday and the last couple of days in preparation for this meeting, I really don't have that much information about what you are planning to do. In order to make the south end of the center to look more like the rest of it, and the wall, the southern end of the Shoe Carnival and toward the motel, is there anything you can do to that, maybe to break it up?

Mr. Grogan - I'm the engineer on the project or represent the engineer. I don't have any comment or can't make any comment on the architecturals.

Mrs. Wade - Well, that takes care of that. I think as far as the site design we are all right, but as far as the buildings are, we are not. So, we will have to put it off until we can talk to somebody who can talk about the architecturals.

Mr. Grogan - The whole thing, I guess has to go. Can the site plan get approval with a deferral of the architecturals?

Mrs. Wade - We've done that before. I would think we could do that. Mr. Secretary, can we do that?

Mr. Silber - I think that would be fine. Yes, ma'am.

Mrs. Wade - Okay. Those were the main areas of concern, that south end of that building and then the building on Cox Road.

Mr. Archer - Are there any other questions of the engineer?

Mrs. Wade - Okay. I move POD-13-98, Colonnades West, be approved subject to the annotations, additional conditions Nos. 23 though 29. I assume we already have the landscaping and lighting plan for this whole center already, do we or don't we?

Mr. Wilhite - The landscape and lighting plans will have to be revised as well because of the change in the parking areas. You can have that come back before the Planning Commission.

Mrs. Wade - Okay. Nos. 9 and 11 amended and additional conditions Nos. 23 through 29, except for the architecturals which needs further discussion to see if they conform to the requirements expectations of the proffers. So, I move that that be approved, the site plan be approved.

Mr. Vanarsdall - Second.

Ms. Dwyer - What happens to architecturals?

Mrs. Wade - I'm deferring that until the 24th of February.

Mr. Silber - That will be four weeks from now.

Mrs. Wade - I'd rather they not come back on Rezoning night.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion passes.

The Planning Commission approved POD-13-98, Colonnades West (POD-115-96 and POD-27-96 Revised), subject to the standard conditions attached to these minutes, the annotations on the plan(s) and the following additional conditions. The architecturals for this case was deferred to the February 24, 1998, meeting by the Planning Commission.

9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for review and Planning Commission approval prior to the issuance of any occupancy permits.
11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams and fixture mounting height details shall be submitted for Planning Office review and Planning Commission approval.
23. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.

25. Outside storage shall not be permitted.
26. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.
27. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
28. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
29. The drive-thru window may be used in conjunction with a pharmacy operation only unless otherwise approved by the Henrico County Planning Commission.

AT THIS POINT THE PLANNING COMMISSION STARTED THE WORK SESSION ON BILLBOARDS. AFTER THE WORK SESSION ON BILLBOARDS, THE COMMISSION CONTINUED WITH THE REMAINDER OF THE AGENDA

**Work Session regarding
Proposed Amendment of Chapter 24 Affecting Billboards**

Mr. Archer - Well, we will recess and go into Executive Session and be back as close to 2:30 p.m. as we can.

Mr. Silber - We are going into Executive Session, but before we do, I will need a motion and a second. This is Executive Session to deal with legal matters concerning the Sign Ordinance, particularly billboards. This Session is to be conducted under the Code of Virginia, Section 2.1-344(a)7. I need a motion and a second.

Mr. Vanarsdall - I make the motion to go into Executive Session.

Mr. Zehler - Second.

Mr. Archer - OK. We have a motion by Mr. Vanarsdall and a second by Mr. Zehler. All in favor say aye. All opposed say nay. The motion passes.

On a motion by Mr. Vanarsdall, seconded by Mr. Zehler, the Planning Commission voted to go into Executive Session to discuss legal matters requiring the provision of legal advice by the County Attorney regarding the County's Sign Ordinance, as permitted by 2.1-344(a)(7) of the Code of Virginia. The vote was 6-0.

At this time the Commission recessed and went into closed Executive Session.

Reopening of Work Session

On a motion by Ms. Dwyer, seconded by Mr. Vanarsdall, the Planning Commission concluded the Executive Session and voted to return to the open meeting. The vote was 6-0.

CERTIFICATION OF EXECUTIVE MEETING

WHEREAS, the Henrico County Planning Commission has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act: and

WHEREAS, Section 2.1-344(a)(7) of the Code of Virginia requires a certification of the Planning Commission that such executive meeting was conducted in conformity with Virginia law:

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission certifies that, to the best of each member's knowledge, (I) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed, or considered by the Planning Commission.

VOTE: Ayes 6 - Nays 0
Absent during Vote: None
Absent during meeting: None

Secretary of the Henrico County
Planning Commission

Mr. Silber - I need some advice if you do not want to take up the Discussion Item later and Approval of the Minutes and go straight into the Work Session on the Billboards. The next item of business, then, is a Work Session on the County Sign Ordinance, specifically, Billboards. Without any further delay I will turn this over to Allen Webb, the Project Planner on this proposed amendment.

Mr. Webb - Thank you Mr. Secretary and members of the Commission. I am going to give you a replacement copy of the document that you were provided earlier. We discovered that we overlooked an error in Appendix A. Nothing was added in this document. It simply corrects a page that was in error when submitted to you last week. We had improperly located some of the billboard inventory in the Three Chopt District whereas the units are in the Brookland District. We had failed to properly recognize the change of district lines in 1990.

Mrs. Wade - Which are those now?

Mr. Webb - Generally speaking, Mrs. Wade, some billboards in the Willow Lawn area were improperly located.

Mrs. Wade - Oh, I wondered about that, so, OK.

Mr. Webb - From the standpoint of the text, they were properly moved into the Brookland District.

Mrs. Wade - So these are all accurate now?

Mr. Webb - Yes, ma'am, to the best of our knowledge they are.

Mrs. Wade - We don't have one either in Three Chopt.

Mr. Webb - Ladies and gentlemen, the white paper that was distributed picked up the discussion from the initial information that staff was provided in early December on the status of billboards. You will recall that by virtue of the 1987 Adoption of a Revised Sign Ordinance, billboards were removed as permitted uses in the County of Henrico. By that action, they became non-conforming and subject to the non-conforming regulations as forth in the Code. Back on November 12, approximately two months ago, the Board of Supervisors adopted a regulation asking the Planning Commission to evaluate the matter of billboards and develop any recommendations the Commission may have and forward them to the Board for its consideration. The Board's action responded to a request by the outdoor advertising industry to go back, review and look at the subject of billboards again and to evaluate whether or not the total ban was or was not incorrect. In order to answer to the question, "What can we do to fulfill that charge that the Board of Supervisors has given us?" this paper you have before you recognizes half a dozen possible alternatives as to what may be done should the Commission decide to recommend a change in the Code. They begin with the most conservative change which would be Alternative 1 and through a series of alternatives to Alternative 6 which would be the least restrictive, going back to what the pre-1987 Code was. In effect, it would undo the changes of 10 years and the Code change that banned these types of

structures. So, you have there a full plate, so to speak, of possible alternatives. Bear in mind there is also one other alternative this paper does not point out, which is always available; and that is the alternative to do nothing.

But, for the benefit of everyone here, let me explain these alternatives as they are presented and respond to your questions. First of all, the Code in 1987 declared billboards as non-permitted uses and also required those that existed at that time, to be removed after a period of 12 years. That 12 years will expire in January of next year. Of course, that is what has prompted the outdoor advertising industry to ask for reconsideration. The alternative that staff is looking at is Alternative #1, the most modest change to the Code. It would simply be removal of the amortization requirement that the billboards be taken down; to allow them to stand and be regulated as non-conforming uses. Now, non-conforming uses cannot be changed and they may remain but not be changed. So, Alternative 1 would simply say, "Go ahead and keep them and use them, but you can't change them."

Going one step further to Alternative 2 is the possibility of removing the amortization, letting the signs remain, and then adopting a replacement provision, which is one of the proposals of the industry, thus allowing them to be reconstructed or changed in order to use new technology or whatever reworking they would like to do. New technology, for example, refers to the changeable message provision. The changeable message signs are now permitted in the County, but they are not permitted on billboards because billboards are non-conforming and cannot be changed. So, the machinery, if you will, to make them into changeable message boards can not be installed on them simply because they are non-conforming. So, Alternative 2 goes that second step and says, "Well, OK. You keep them and you can change them to allow the new technology or otherwise improve them." You see, we are trying to build additional rights as we go.

Now, let's look at the remainder of the alternatives. Alternative 2, remember, would not allow any new additional signs, it wouldn't allow their location to be changed, it would just freeze their location in time, but allow them to be changed physically and allow the new technology to be used.

One of the things talked about is what is called a tri-vision sign. This sign is a changeable message sign. If you can picture a three-sided tubular device, like a pencil with three sides, each side having a little different picture on it. Place all of them in a row making a sign which would be one picture. Now, if you turn each cylinder a third of a turn to expose a new side, you could have a new sign message, a new face. If you turned the cylinders another third of a turn, you could have the third face or the third message. This technology would require a structural change of the sign structure itself to allow this to happen. Alternative 2 would provide that ability to the other company. And I might comment, Mr. Chairman, that we have representatives here from the outdoor advertising industry, and should you have questions relating to technical requirements and so forth, I would imagine Mr. Pappalardo would be open to questions.

Going on from those first two alternatives, we have Alternatives 3, 4, 5 and 6, and each one builds on the previous one. So, in Alternative 3 we are saying that in addition to removing the take-down provision, capping the number and allowing reconstruction, we would, in addition, go one step further to allow new billboards by right in appropriately zoned locations adjacent to interstate highways.

Most of our billboards are adjacent to interstate highways. Now, a decision to do Alternative three would mean that you would have to devise appropriate regulations, such as what districts billboards would be in, what would their setback be, what height would they be, what size would they be, similar to what was in the Code prior to the 1987 Edition. There were a number of standards that the 1987 action removed from

the Code. This proposal would require placing those or some type of regulations back into the Code to regulate them so that everyone has knowledge of what is permitted, where and how. To do that, for example, with a cap and replacement provision, one of the policies could be to allow the sign structures not located in the chosen areas; let's say, adjacent to other highways, to be moved into the selected areas. That would allow as many as 58 structures to be moved away from locations, such as one is that located in the vicinity of Broad and Hungary Spring Roads, to a location of choice by the industry adjacent to an interstate; provided it met all of the requirements that the Commission and Board would enact.

So that would take us into the next step which would be Alternative 4. Now, we have gotten to the point where we have removed the take-down provisions, we have capped the number, we have allowed the existing ones to be reconstructed, we have allowed them to be moved into new districts along the interstates. Adding to Alternative 4 would be allowing billboards in areas not adjacent to the interstate. A suggested means of accomplishing this is a provisional use permit, whereby each and every location or alternative location could be looked at and evaluated on its merits. We have now moved through four steps, beginning with the simple removal of the take-down provision to where we are now allowing them adjacent to the interstates and moving others to locations adjacent to the interstates, and allowing yet other locations pursuant to a provisional use permit. So, there are four alternatives that we have now gone through.

Each one of these alternatives offers more options to the advertising industry for locations. Going to the next one, Alternative 5 says: "Remove the take down provision, adopt a cap replacement provision, and allow the construction of new signs by right in any appropriately zoned location." This alternative would still retain the number of billboards at 90, although you have the right to move them around and so forth into any appropriately zoned location. Part of the process of developing this alternative would be to decide what districts they could be in and what the regulations are that they could be permitted in - the standards again. "How large are they?" "What should the setbacks be?" It is an addition that is not too difficult to see and the last alternative would simply be to remove the amortization and allow billboards by right in any appropriately zoned location.

Essentially, I started out by saying this would move us back to that point where we were prior to the 1987 action. At that time, billboard structures were allowed in any B-3 Business District and the three industrial districts. The Code had a number of standards that had to be met. There were setback and spacing provisions, there were sign area provisions, there were height provisions in the Code prior to June 10, 1987.

Alternative 6 would essentially go back to that status point. We have started from a simple Alternative 1 step to remove the take-down provision and progressed through alternative 6 which goes back to where we were in early 1987. So, we've progressed from one extreme to the other; from the most restrictive to the least restrictive. I have tried to explain the alternatives without going into details. It is my hope that in this Work Session the Commission would be able to give thought to the directions it would like to go to respond to the request by the Board to make a recommendation. I deliberately tried to stay away from details and standards because it is too easy to get into the forest and lost because of all of the trees.

Mr. Chairman, do you or your Commission members have any questions? I have tried to be brief in the interest of time. Does the Commission have questions?

Mr. Archer - Thank you, Mr. Webb. Are there any questions by Commission members?

Ms. Dwyer - Mr. Webb, you said there are 90 sign structures with 218 spaces. Is that because some billboards have three sides, or are you counting divided spaces as two?

Mr. Webb - Some have two sides, some have three sides, I know there are double-sided signs. Here again there are different ways to review the data. If we look at a large billboard that is this high (gesturing) and this wide; if it is split in half, it has two panels.

Ms. Dwyer - You count those as two faces.

Mr. Webb - Right. So one could have four panels on it if each side is split into two.

Mr. Vanarsdall - Mr. Webb, the main difference between Alternative 1 and 2 is that you'd be able to use new technology in No. 2. Is that right? Is that the only difference?

Mr. Webb - Yes, it would allow use the new technology. It would allow you to...

Mr. Vanarsdall - It still would not increase the number, but that's the difference between No. 1 and 2.

Mr. Webb - It would also allow rebuilding of the structure if it is deteriorated. It could be rebuilt and in effect fixed up more appropriately or changed to that extent, but you would still be dealing with the same number of structures and the same locations.

Ms. Dwyer - Who has control on the embellishments now for signs? What is the current rule about embellishments - which go up above the ...

Mr. Webb - Well, being nonconforming, I would have to say they can't be added to an existing structure. That was an issue that was, I think, subject to a fair amount of discussion, perhaps debate and contention a decade ago. I know it is a popular notion and if we were to go back to allowing new billboards, setting of standards, I think that is one of the very legitimate standards that one would set. I believe the proposal has been put out to allow embellishments of perhaps 10% of the area of that sign.

Mrs. Dwyer - No, I was interested in what we allow now.

Mr. Webb - Now, it is not allowed simply because it is a non-conforming structure and it is supposed to remain exactly as it was 10 years ago.

Mrs. Dwyer - So anything that might have an embellishment is not only non-conforming, but also illegal.

Mr. Archer - Do you have questions of Mr. Webb? Mr. Webb, we thank you so much for your presentation. I understand that there is someone here from the sign industry who may be able to answer some questions that any person may have.

Mr. Silber - Actually, it looks like several representatives from the sign industry. The Commission has questions, sometimes, that staff may not be experts on when it comes to the industry issues. Certainly the industry would be better informed and better able to answer those questions, and the Commission also wants to hear from anyone else today. This is a Work Session. It is not a public hearing. This is a Work Session, so it is up to the Commission as to who they'd like to hear from and to what extent you want to discuss this today.

Mr. Archer - OK. Are there any questions of the billboard industry by Commission members?

Ms. Wade - Well, yes, actually. I was under the impression that was one of the purposes for the work session.

Mr. Webb - Yes, yes. If the chair would like, if you would like to invite Mr. Pappalardo up to cover those points that I certainly am not going to pretend to be an expert on.

Ms. Wade - I would think others, too, would have additional comments.

Mr. Archer - Thank you, Mr. Webb. Mr. Pappalardo, you have the floor, sir.

Mr. Pappalardo - I am just hear this after having worked with staff now, I guess, for over 6 months. I am really here to answer any questions you might have. We have worked very closely with the staff. The only thing I would say is that we are not looking for carte blanche. All we want to be able to do is to maintain the amount of structures that we have. We have been reduced by 50% which staff can attest to. All we want to do is be able to maintain what we have and it is felt that amortization is not legal and that it is not justifiable compensation under State law, so we really don't want an increase. Don't let anybody tell you that. We don't want to increase the amount of structures or signs, but if we are to lose a lease because of a widening of a highway or something like that, we would just like to be able to maintain what we have since we have taken such a real hit over the last 10 or 11 years. I really see as the answer to your question to that, the technical questions or any of the options that you might have some questions about.

Mr. Archer - When you said maintain the existing, and you mentioned the roadway just now. If a roadway should take out a sign, you want to have the ability to replace that at another location?

Mr. Pappalardo - Well, sometimes it is very simple just to - a piece of property is going to be put a building or a business on - and sometimes it is just a matter that they need to put the driveway there, and it is a matter of us moving it 30 feet on a piece of property. Right now, we don't have that ability. So, all we want to do is to be able to do is survive. Right now if we lose a structure, that is one less structure that we have, and, like I said, over the last 10 or 11 years we have lost 50% of the structures that we had. You know, some people will say, "That's great." But, we are a legitimate industry and we just want the right to survive. We are not asking for anything more than what we have.

Mr. Vanarsdall - So, what you are saying is that if, for some reason, the sign at Parham and Broad Street had to come down for whatever reason, you are not asking to take that sign and maybe put it at Short Pump, or Pouncey Tract and Broad.

Mr. Pappalardo - No, not necessarily. There might be some cases where it is just not conducive to keep it on that piece of property. What we are asking for is, that with properly zoned areas that you will decide, and we hope at a work session with what is doable and best for the community. We want the ability to be in certain zones as a matter of right, but it wouldn't increase the number of boards. So, I wouldn't lose a structure if I went to move it from Broad to, what's a good, Patterson, not Patterson, well you know, any other artery.

Mr. Vanarsdall - Well, you may very well ask for it to be moved from one zoning area to another.

Mr. Pappalardo - Well, only to the zones that will be approved by you all and by the supervisors.

Mr. Vanarsdall - So, we are not talking about a mile down the road, a half-mile, or 10 miles...

Mr. Pappalardo - Well, I don't know. What I am basically asking for is the ability to maintain the 90 structures that are in Henrico County now and where they would go would be determined by the Planning Commission and by the Board of Supervisors. We would have those restrictions. It may be, you know, if we can keep it on the same piece of property most of the time, that's our intent. But sometimes, more times than not, we can't, because they're going to be using it and it is just not enough area.

Ms. Dwyer - It looks like to me that you are talking about Alternative 5. Is that correct?

Mr. Pappalardo - Yes, ma'am. And that is really a good one because it would be predetermined ahead of time where the Commission and where the Supervisors would allow us to be. Hopefully, they would have input from industry, so we are not going to be able to put them in areas that, you know, are not wanted. We just want to be in industrial and business areas. There're the only areas we are looking for.

Ms. Wade - As I recall, Mr. Pappalardo, when we first started looking at the sign ordinance back in 1984, there was a proposal then to regulate billboards and allow them in certain areas. But, as time went on we never could work out details, so that was one reason we had the prohibition, because we could never come to any meeting of the minds about regulations. You mention the word "survive," yet you are with Lamar Advertising. How many billboards does Lamar Advertising have, not just in Henrico County, but everywhere?

Mr. Pappalardo - It doesn't matter. We are a national company, but we are talking about surviving in Henrico County and the metropolitan area of Richmond, so we feel we are a legitimate industry and we have a right to exist, and by very strict regulations. You know, we are the most restricted and regulated industry probably in the state, other than something like chemicals. It is a mater of survival, and right now I am talking to the Planning Commission of Henrico County, not for Chesterfield, or Virginia. I am talking to you folks and asking you for a legitimate ordinance that would help us be able to maintain, not exceed, but maintain what we have now. We have lost a tremendous amount of inventory in the last 11 years and I think it is all right to ask for the ability just to stay.

Mrs. Wade - Are you all connected with the Logo Signs that are along the interstate, are they your company or are they your subsidiary?

Mr. Pappalardo - We do have, yes ma'am. We are involved in, Lamar is involved in some around the State of Virginia.

Mrs. Wade - And you do a lot of those Logo Signs?

Mr. Pappalardo - We don't. That is a separate part of the company.

Mrs. Wade - Of the company? Well, there have been a number of articles put in the paper so far and the fact that this was coming up and quite a bit has been made about the results of the poll that you commissioned in the area. Nobody seemed to know exactly what the poll contained. Is there any particular reason why you don't share it?

Mr. Pappalardo - Well, that stuff is all being released ma'am. You can't always believe what you

read in the papers. That information is being released and if anybody would question the poll, it is the Commonwealth Poll, and, you know, every legislator we have talked to told us that was the most prestigious poll that we could do. We went to them. We asked them to do the poll, and if there are any questions about the poll, they really should be directed to VCU. But, the questions about the data and all of that are in the process of being released. There is no question there. There is no problem there.

Ms. Wade - Is VCU not saying that you ran the poll and they can't release the questions for a year?

Mr. Pappalardo - I am sorry, ma'am....

Ms. Wade - VCU is not saying that you own the poll and...

Mr. Pappalardo - No, all of that information is going to be released.

Ms. Wade - It hasn't been, but it will be?

Mr. Pappalardo - It has nothing to do with this, but they are going to be released. VCU will release the information. At least, they will release the information.

Ms. Wade - I think we all realize that some of this discussion is in the public realm.

Mr. Pappalardo - Yes, ma'am. I think I answered that question.

Ms. Dwyer - Will they give us copies of that poll?

Mr. Pappalardo - Well, sure. No problem.

Ms. Dwyer - Do you know when?

Mr. Pappalardo - I believe it is going to be ready some time this week. I don't have any exact date, but I believe that is what they said.

Mr. Archer - Well, I haven't seen anybody indicate anything to the contrary, so I assume your colleagues here are all in agreement with what you are requesting of us in terms of how you'd like to see this go forward.

Mr. Pappalardo - Yes, sir.

Ms. Dwyer - I believe it will be released some time this week. I don't have any exact date, but I believe that is what they said they were going to do.

Mr. Steve Hughes - May I make one point, also. My name is Steve Hughes and I am with Colony Advertising here in Richmond and a little bit was just made about the size and scope of Lamar's operations. We have two signs in Henrico County.

Mr. Archer - Who is we?

Mr. Hughes- My name is Steve Hughes and I am with Colony Advertising. Our office is in Henrico County. We have two signs in Henrico County on the interstate that comprise - of those type signs - we have about 15 faces in the state - and that makes four of them right there at I-64 and Staples Mill, and if you want to talk about the impact of the size of the local company, it may not put him out of business, but it can certainly put me out of business. I have been working on that since these regulations were passed in 1987, and it is a significant amount of income for us and it is a significant detriment to our advertisers, who are all local Henrico businesses. Tom said most of the points we wanted to make and we are in agreement with him, but I just wanted to put a little different face on it and that everyone here, I was born and raised here. It is my livelihood and I'd be happy to answer any questions you all might have, also.

Mr. Archer - Are there any questions of Mr. Hughes by Commission members? Well, this is not a public hearing, but I can look out and see that there are several people here who would like to have something to say on this matter. Are you all representing one group or are you together? Do you have several faces to put on this? Is there a spokesperson who...

Lady in the Audience - May I speak?

Mr. Archer - Yes, ma'am, you may. We don't want to allow an unlimited amount of time, but we want to be as liberal as we can in that regard.

Ms. Hylah Boyd - I am Hylah Boyd and I am with the Garden Club of Virginia. I don't want to be out of order, but I would like to answer some questions you directed toward the industry. Is that possible?

Mr. Archer - I suppose you could say anything you like, ma'am.

Ms. Boyd - You asked Mr. Pappalardo how many billboard structures they own in the state. In the state of Virginia they own 1,207, and that is current as of August 1997. Mr. Hughes said Colony owned two in the County of Henrico, but they over 100 permits statewide. In the last year or two they sold quite a number of billboards to Lamar, so if they are going to be put out of business, ...

Mr. Archer - While we are on that point, would somebody like to come up and address that, please, and correct what they think is wrong. Don't leave ma'am.

Mr. Hughes - She is right. We do have 100 permits in the state, most of which are 4 x 5 signs, comparable to a historic marker. We have not sold one board to Lamar Advertising. I don't know where that comes from.

Mr. Archer - OK. Thank you. Go ahead, ma'am.

Ms. Boyd - I see Colony Signs everywhere I go. I mean I am from Essex County and I cross Hoskins Creek and there it is in the marsh, just on the left side of the creek as you go into Tappahannock. In Richmond County, there is one right behind the 7-11 and it is a Colony sign. So, what is a billboard? Can I get a definition? How does a billboard differ from a sign? Just because it is on a billboard structure, is that the difference?

Mr. Webb - OK. We are talking about two things. First of all, we are talking about the signs presently permitted by law in Henrico that are called "on premise signs." In other words, they are the free-standing sign and all of the signs relating to the business or the operation on that property. An off-premise sign, which is a sign that advertises a product or a service in another location, is essentially and has been in

the past, treated as a billboard. The Code, prior to 1987, basically classified all “non-premise signs” as billboards, but for the purpose of our discussion here, we are talking about the billboard structure, that we commonly recognize when we see it. Will that help, to use it under those terms?

Ms. Wade - What is the maximum amount of signs we allow for on-premise in the County?

Mr. Webb - It depends on several things. First of all, it could be a free-standing sign. It could be 150 square feet.

Ms. Wade - So, 150 is as big as a free-standing one could get?

Mr. Webb - Yes, and the attached signs, there are all sorts of variations there in the Code depending on the size of the area at a business and utilizes the size of the building or property. But up to 150 square feet is the largest one. The shopping center may have a free-standing sign that can be up to 100 square feet, or 10 x 10 feet.

Ms. Boyd - So, we are still talking about any off-premises sign is considered a billboard and that is what we are talking about today, or is there a size definition in addition to that?

Mr. Webb - Prior to 1987, basically an off-premise sign was classified as a billboard. The two terms were used synonymously. Here we are talking about billboard structures. We have inventoried signs and we have reclassified them, if you will, or just given them a new definition to deal with in the way we are looking at them now. There are some signs around the County, half a dozen at most, that refer to off-site things. They are old signs that have been there for years. Down on Route 5, for example, there is a small sign, maybe 4 x 5 feet, I think that it refers to one of the plantations. Years ago that was called a billboard, but for this process we said, “That is not a billboard because it is not a billboard structure as such.”

Ms. Boyd - So, after 1987, what in our Code distinguishes - I think you are talking about the Berkeley Plantation - what distinguishes that in our Code from the kind of billboard that we all think about when we think about billboards as a very large sign one might see on the interstate?

Mr. Webb - Really nothing. Neither one is now permitted by Code. The 1987 Amendment did away, if you will, with off-premise signs.

Mr. Archer - Thank you, Mr. Webb. Mrs. Boyd.

Ms. Boyd - Mr. Pappalardo also referred to the fact that amortization is illegal. The information we have says the State and Federal Courts disagree. According to the Government Account Office, “Our review indicates that a vast majority of the cases hold that billboard amortization is a reasonable exercise of the power of the state and not violative of the Constitution. While the Supreme Court has never directly addressed the issue, petitions to review billboard amortization periods have been repeatedly denied.” I have some information, we have studies that show that not only are tourist revenues higher in areas with billboard bans, but retail sales have improved. We find that an over-abundance of billboards almost invariably accompanies an area’s deterioration and lowers property values. I can pass out some of my information if you choose. Our studies show that of the 10 municipalities in the State of Virginia, Henrico is one, bringing in the most in tourist revenues, 9 of those 10 have billboard bans. Only Norfolk does not and is No. 5.

Mr. Hughes - When that comes to a public hearing, I would like to address that, if possible.

Ms. Boyd - Now, one other study done by a student at W&L University, she was working for the Rockbridge County Zoning and Planning Department and studied cities across the country that had initiated billboard bans. She studied Houston, Jacksonville, Florida, Raleigh and Williamsburg; and she found in every case retail sales went up. Now maybe you can't make the correlation that because of the ban retail sales went up, but retail sales did not go down. You can say that. Thank you.

Mrs. Wade - Are Tri-vision signs allowed on interstates and state roads?

Mr. Hughes - No, ma'am.

Mr. Silber - No, no thoroughfare-like primaries. Unless the state law is changed, they will not be allowed adjacent to federally aided roads..

Mr. Hughes - But the federal government has indicated to the states that don't have a problem with it if they choose to change the state laws. But, right now Virginia law does not allow it. The federal government has cleared the way for that if the state wants to do it.

Mr. Archer - Mr. Pappalardo, before you go on, let me see if I can see a few ground rules here so that we can try and maintain order. I would like to allow the people who would like to speak another 15 minutes total time so you can have some more time to speak. And sir, if you would like to say some things at the end of that time, you can do that. But, we would like to conclude this by 4:00 p.m. or maybe a little before, but certainly no later.

Mrs. Ware - I want to say that I really was so proud of Henrico County when you all instituted this change in your ordinance because there are four states in the country that ban billboards; there are 70 communities across Virginia that prohibit billboards, and most communities have found that they can attract visitors, that tourist revenues go up, that it is more appealing to people to do business there and for visitors to come. You think about Hilton Head Island, think about the Blue Ridge Parkway, you think about Colonial Williamsburg. There are no billboards and people like to go to those places. So, I just urge you to reconsider, I think, I personally think it is quite a mistake to reopen this issue and I hope you all will just abide by what was decided 11 years ago. I think it is an excellent decision and I hope you will abide by it. Thank you.

Mr. Archer - Thank you, Mrs. Ware. Is there someone else?

Ms. Walker - I am Katherine Walker. I was very involved representing the League of Women Voters of the Richmond Metropolitan Area in the development of the 1987 ordinance. I didn't know this was to be, you know, that we would have a hearing and it isn't official. I just want to bring up two points that have not been made. Nobody has mentioned how distracting some billboards are. The motorist could be very distracted and apt to cause accidents especially by these rotating ones. Now, I want to say I can't remember all of the areas that banned billboards, and Hawaii has never had one billboard from the time it became a state. I wish I could remember more of the things that happened in 1987, but we will be involved with this. Thank you.

Mr. Archer - Is there anyone else?

Ms. Snyder - Yes, Mr. Chairman, I am Nelda Snyder from the Varina Beautification Committee. We would like to see everything stay just as it is with the current regulations. We are particularly sensitive, because we are in Varina, which is an area that has a lot more industrial zoning, commercial zoning come in, that would leave us open to a lot of these billboards. We could be just loaded with these billboards that come down from other places so we have a special interest for not wanting any changes. We also feel that Henrico County is very sensitive to business issues and is very fair and very open to business and that this business has had many years now to adjust to the business climate that they knew was coming under this regulation. Really, nobody is denying them anything now, because they knew it all along, and we would have hoped that they could have adjusted in other areas. Thank you.

Ms. Wade - Ms. Snyder, down along 295 there, I want to call the new road that went up when we were working on this ordinance before, what is it that they advertise before you get to Route 5 going south?

Ms. Snyder - I never checked the road.

Ms. Dwyer - Do you remember what is advertised on the three billboards?

Lady in the Audience -Cracker Barrell, some gas, some hotels.

Ms. Wade - The three that got..through there. I was there a couple of weeks ago and it seemed to me that they did advertise hotels and motels that were located down the road in Petersburg and Colonial Heights or something.

Ms. Boyd - That same area has new commercial zoning on it at the interchange of I-295 and Route 5. Route 5 is a Virginia Byway and historic and so, if any additional billboards were allowed or allowed along the interstate through there, 295 could have it and it would be fully visible from the Virginia Byway which would be quite a distraction to tourism and the subject we have discussed before - that Route 5 corridor from Richmond to Williamsburg is tourist heaven. Henrico could reap a lot of benefits from tourism if they emphasized that along that way rather than buy into too much commercial zoning.

Ms. Wade - Of course, nothing that I know anything about limits the signs that go on Route 5 now through there other than our Sign Ordinance. Nothing limits the signs that go on Route 5 now.

Ms. Boyd - Does the zoning?

Ms. Wade - And the zoning. Yes, they say if it is the zoning category, larger signs could go on Route 5.

Ms. Boyd - And we've got that same category at that interchange there to allow that.

Mr. Archer - Is there another person to speak? Yes, sir. Mr. Nuckols.

Mr. Nuckols - Ladies and gentlemen, my name is Norwood Nuckols. I live in the Three Chopt District on Innesbrook Road. I have lived in Henrico County for approximately 50 years which includes my growing up years in the 1930s and 1940s. Henrico was a much different place than it is today; plus, I have been here continuously now since 1963. When I first heard of this hearing, my reaction to it was, if I

can use an old expression, "If it ain't broke, don't fix it." That, I am a little vexed here after seeing these details so I am going to offer a little compromise which is probably going to make everyone in the room mad; but, I hope this is may be a way to resolve it. I don't want to see an increase in the number of billboards or the number of messages in the County. On the other hand, I don't want to totally put a ban or a speech restriction on business development. To that end, I would like to suggest as a solution to this the adoption of Alternative 2, which would be "removal of amortization and adopt the cap and replacement provisions allow reconstruction of the sign structures." You could keep your existing billboards in operation according to that, as I understand it. But the rest of Alternative 2 is printed here, "use for new message technologies," leave that out of it. We don't want to get into the position where if the federal restriction about that is ever changes, we are suddenly faced with a three-fold increase in the number of messages. I think that would be a reasonable solution for this for all concerned. That is all I have. I will answer your questions.

Mr. Archer - Are there any questions of Mr. Nuckols? Thank you, sir.

Mr. Peyton - Good afternoon. I am George Peyton with the Retail Merchants Association of Greater Richmond. We are representing all of the retail merchant associations; also the Greater Richmond Hotel and Motel Association. We are speaking in support of the industry. Many of our members use this industry to advertise their business, attracting not only local but the tourist that comes through this region, so we are supporting the industry on this issue.

Mr. Pappalardo - First of all, I am not going to argue the fact that these fine folks just don't like billboards and I respect that. OK. The fact is that we are a legitimate industry and we should be allowed to exist. The number, as Ms. Boyd gave you, was sign faces, not structures, throughout the state. There were 90 structures in Henrico County the last time I checked. Movable signs, that keeps coming up. That was one of the alternatives we talked about. Right now, I am citing words that you all have passed, "Movable and changeable signs are illegal." That is not something that we asking for. It is already a part of your Sign Ordinance. The only thing it would allow us to do would be to make it conform, or you can still make it conform and I hope you wouldn't do that. But no. That is something that Henrico County - you folks - could vote to already pass. That is something we would like to be part of because it allows us to keep inventory without increasing. They keep talking about boards all over the place. Well, first of all, it will not be an increase in structures. Period. It will not be an increase. And we can only go where you allow us to go. I hope that would be a good, open discussion. So, it is just not going to be random billboards - it is just not true. It is just not the facts. Like I said, zoning will take care of your concerns.

One other thing, too, is, it kind of stuck in my craw and I have been hearing this the last couple of weeks - they talk about the areas that have banned billboards. Well, first of all, some of their figures, I would like to see some of their background and some of their figures, but ours indicate that first of all, some of these areas have gone down indeed, but the fact is that they have banned billboards, but billboards still exist. A lot of these areas use advertising in other areas to promote their area. So, of course, you ban new billboards. It doesn't mean billboards go away. So their reasoning really isn't accurate. The boards still exist. It is very simple. We are not asking for a lot. We are a legitimate business. We ask that you allow us to be able to exist and the amount of inventory we have lost, for those who wanted to get rid of billboards, it has been a great thinning out period for those folks. All we want to be able to do is to exist with what we have. I appreciate the gentleman getting up and presenting a compromise that is good.. All we want to be able to build; keep what we have, and if we lose something only put it in approved zoning areas where there are restrictions that you all choose. Now, I appreciate your time.

Mr. Archer - Thanks, Mr. Pappalardo.

Mr. Donati - Mr. Pappalardo, how important is the new electronic message board to the industry?

Mr. Pappalardo - Well, it is critical. If you allow, I will be very honest, if you allow us to be able to move them to different zoning areas, it is not nearly as critical. If you allow us to keep the 90 structures, what Tri-vision would be able to do is allow us to have, and these messages aren't flashing, they could be according to, now we are talking in a work session, they can turn very, very slow, so they are really not very distracting - not anymore distracting than any other movable sign. It is important. It certainly is important. It is innovative; it is very, very expensive, but it is great technology and will allow us to really move up some of the inventory we have lost over the years. If we are not able to, if you chose not to allow us to move them, which is kind of hard to do unless I can keep it on the same piece of property, that's not a good alternative to us because eventually we will lose those structures. Therefore, the technology would become very important. So, the answer to your question is, I mean, yes. I would not want this whole thing to go away because you don't like Tri-vision, but yes, it is a critical part of our industry.

Mr. Donati - Were you pretty receptive to Mr. Nuckols' recommendation on No. 2 with the solution of the electronics?

Mr. Pappalardo - Well, no.

Mr. Donati - Not being able to move.

Mr. Pappalardo - Well, no, because No. 2 does not allow us to move. Did he take away the tri, and basically all you are allowing us to do, with few exceptions, if, unless we could move it on that piece of property, that really wouldn't work. We would continue to lose our inventory, so to take away all of those things really would not be acceptable to us. I mean, if we could have a little more, the ability to move them into predetermined zoned areas. If there are areas you don't want us to be in, we will work that out with you. We only want to be in business and industrial areas.

Ms. Dwyer - What are some examples of enhancements or new technology? I know you talked about this Tri-vision and we have seen on other signs a moving message. Is that something that you would use - or look to use on a billboard?

Mr. Pappalardo - No. The only thing we are talking about is and I will explain very well is really just a three-sided triangular form and part of the message is on there and every 15, 20, 30 seconds, whatever time you set it up to, it will do a flip, but we are not talking about any flashing lights or anything like that.

Ms. Dwyer - What other technologies have been used in the billboard industry?

Mr. Pappalardo - Well, one of the things, maybe not technology, I don't know if you have noticed, not just in Henrico County, but throughout the Richmond Metropolitan area, we have put this slim trim around the billboards. It just looks more aesthetically pleasing than the other ones. They can't peel, old paint and vinyl can't peel off and they are very clean. There are some other things that have been done in other markets and we have always talked about the possibility of landscaping, there's a lot of things we can do around the structure to the poles themselves; there are other things available. There are other

concessions or compromise that we could make to make them more aesthetically pleasing at the bases of the structures.

Ms. Dwyer - What about neon? I have seen neon on some.

Mr. Pappalardo - We have what is called "back lit" and the light comes from inside and at night it is not like it is flashing on them. There's been a little of that used in Richmond, not a lot, but in some of those used in the more populated cities.

Ms. Dwyer - What about actually neon writing? There is a billboard off of I-95 out of the city that has an advertisement, I am not sure what it is. There's a neon light on the billboard that lights up..

Mr. Pappalardo - Yes, that is what we call a "back-lit board."

Ms. Dwyer - I think we are talking about two different things. Back-lit sounds like a light behind the board that maybe shines around the edges..

Mr. Pappalardo - No. It's a white light from within.

Ms. Dwyer - Well, this looks like a neon sign. Actually, external to the surface of the billboard. I think it is a cigarette..

Mr. Archer - Yes, Camel cigarettes.

Ms. Dwyer - Yes, it actually looks like a neon sign that you see in a door window.

Mr. Pappalardo - That is what we call in the industry a "back-lit board."

Ms. Wade - Anyway, the one reason we have more of the changeable signs now in the County was the idea was they were terribly expensive, so we won't be seeing a whole lot of them in different areas. At that time and this time we were still assuming billboards were going out next year, so billboards were not taken into consideration.

Mr. Pappalardo - My only point to that, ma'am, was that, is that you found it to be OK and there's a limit and there's some things, we could walk out and you could put a limit on the amount that would be allowed at one time.

Ms. Wade - Now, how expensive is this billboard?

Ms. Dwyer - This brings up a good point. When we did look at the moveable signs, we did think that there was a sunset requirement on a billboard. Maybe if we consider this, we should reconsider moveable signs, because that really was dependent on this, because that raises a good point.

Mrs. Wade - It just seems strange to me that people ask what has changed and we get more signs, we have got more traffic, we have got more distractions, we've got more people riding around with a cell phone in their ears and every neighborhood is getting a communication tower and now we are talking about, if not expanding, retaining them.

Mr. Pappalardo - Please don't blame the whole world on it, I mean, I don't run the cell phones, I don't run the towers, you know I...

Ms. Wade - No, I didn't mean to imply you were responsible for those. I just mean it is a part and parcel of the whole scene and reduced traffic safety which they attribute to the cell phone and other distractions. Obviously, if your signs weren't attracting eyes and attention, you wouldn't be putting them up, and if you have three things going around...

Mr. Pappalardo - Well, they are not - this is what I want you to understand - they are not just flipping around like that. They can set, I think, up to 45 seconds. If they were split like that they would sit there for 30 second more or whatever time you determine it to be, and then they would flip again. So, it is not the squirrel changing sign. That is not it at all.

Mr. Vanarsdall - Mr. Pappalardo, are you familiar with the Capitol Lincoln-Mercury sign on Broad Street at Parham and Broad? Are you interested, I mean, is this the type of thing you see down the future road with the billboards, that type of change? There is one there and there is one at the fairgrounds.

Mr. Pappalardo - That is not at all what our intention is. No. Those are available, I mean, the technology is available, but...

Mr. Vanarsdall - That would be an expensive billboard.

Mr. Pappalardo - It is an expensive billboard, it is just not, we have our own, I personally have concerns about that. But there are a lot of different areas we can do, and like I said, I want to be part of...

Mr. Archer - Are there any other questions? Thank you, Mr. Pappalardo. I guess this will conclude the discussion of the billboards for today, at least. I would like to thank all of you ladies who just came up and those from the billboard industry who participated, and Mr. Webb. Allen, do you...

Ms. Wade - May I ask him a question first? You have people on the list who are getting information. Are they getting information or just notices about meetings?

Mr. Webb - The list we have compiled is the list we plan to use to notify people of the coming meetings. We are not sending information to them, but notifying them of meetings. They can certainly get copies of the information if they wish to contact the Planning Office.

Ms. Wade - And they will continue to get notices of hearings and meetings?

Mr. Webb - Yes, ma'am. We have been requested to keep these people notified as to when this matter will come back on the agendas for consideration, discussions or hearings. We will do this right through the process, so that anyone who wishes to be kept up to date would receive the notices.

Ms. Wade - Those who have worked on this before know a lot of the big groups and other organizations.

Mr. Webb - At this time we are responding to those who would like for us to keep them informed. We are not screening and not preparing additional data and mailing lists, but are responding to those who have expressed a desire to be on a mailing list and be kept informed.

Ms. Wade - Is any kind of Planning Newsletter going out regularly? You were sending one out every two months or something.

Mr. Webb - I believe one is probably being considered, but I don't know what the schedule is, Mrs. Wade.

Mrs. Wade - I mean, not just this topic, but...

Mr. Silber - Are you talking about a Planning Newsletter type of thing? We try to send them out about three times a year, and I don't know if we have one going out soon, but we would certainly include this type of information in the next one that goes out. I think it is more efficient, when meetings or work sessions are scheduled, we inform people through other means than just the newsletter.

Mr. Archer - OK. Since there are no other questions of Mr. Webb, Mr. Secretary, how do we proceed from here?

Mr. Silber - Well, I think it is probably the desire of the staff to have some guidance provided by the Planning Commission. We are prepared to draft whatever ordinance amendments the Commission prefers. We have offered six alternatives. If the Commission needs time to think about it, another work session can be scheduled. Or, if you feel so compelled to make a decision today, we would certainly move forward with your recommendation. The next step would then be for the staff to prepare the appropriate ordinance amendment on direction given by the Planning Commission.

Ms. Wade - I think we need to digest this. We have been listening to this since 2:30 p.m. and it's now about 3:45 p.m.

Mr. Zehler - I can't help but sit here and listen. We've got approximately 90 billboards and we have a lot of opponents against the billboard issue, but yet we have 190 foot towers being erected in a community and we don't have anybody opposed to that. We have got one company that has already announced they are going to do 90 towers in Henrico County, but yet we have people concerned about billboards. Billboards are already there and they have been there for years. I think our attention is really being focused on the wrong issue. I think a lot of you need to be aware of the tower situation we have got coming now. I am averaging two to three requests per month, and I am talking about 195 ft. towers. You don't hide those.

Mrs. Wade - Well, maybe they will come back when we get those.

Ms. Dwyer - So, one option then would be to think about what we have heard today, to have another work session to get staff direction about how, I mean, do we really know what ordinance we want prepared until we have had the public hearing?

Mr. Silber - I would recommend that we not have a public hearing until we have an ordinance prepared. We have provided some alternatives, but we need the Commission's preference.

Ms. Dwyer - Narrowing it down...

Mr. Silber - Narrowing it down, if you don't want to decide today and if you want to think

about it, we certainly can hold another work session in a month or something like that. At that time, we can discuss it further and you can tell us which way to go. I think staff's next marching orders, I believe, Mr. Webb, would be to seek advice from you and prepare the appropriate draft amendment.

Mr. Archer - Well, am I hearing from everybody then that maybe we should have another work session. It probably does not have to be as long as this one.

Mr. Donati - I think a problem we have is that we have too many alternatives. We have got six. How are you going to get five people to agree on one set?

Mr. Archer - We can do it by process of elimination.

Ms. Wade - We don't need to hear from everybody again.

Mr. Archer - I think we could do this in a relatively short work session, don't you think? I think we should be able to digest this a little bit more before we make a decision. I agree with Ms. Dwyer. We could set it before the next meeting.

Mr. Vanarsdall - At our next meeting we have our CIP at 6:30 p.m., don't we?

Mr. Silber - At the February 12 meeting we do have...

Mr. Vanarsdall - I believe we have CIP at 6:30 p.m. on the 12th, so could we have something on the following meeting? The POD meeting like we did today?

Mr. Archer - I am open to suggestions.

Mr. Donati - How about the same meeting? The rezoning and POD meeting? I think within 30 days we can get our heads together and maybe come up with a reasonable recommendation.

Ms. Wade - Or we could schedule a separate work session to do that, or do you think that is necessary?

Mr. Archer - I think we could very easily eliminate the items we don't want considered and I think probably we will reach a consensus that way, and then narrow it down to one.

Ms. Dwyer - All we are doing is making a proposal for a draft amendment to be presented to the public. We are not going to the Board yet. We are going to the public. Really, if you want to, you can go ahead today, if we could agree on a draft amendment to be presented to the public for discussion, but that doesn't necessarily bind us to that particular draft, because it could certainly be changed as a result of the public hearing. So, all we want to do now, what we need to do next is to make a decision about what draft to put forward. We have seven options because the other option is to leave the statute as it is.

Mr. Webb - Ms. Dwyer, as a staff member who needs to be told to do something, I need direction as to which way to go and what to bring back to the Commission. There isn't time nor energy that anyone has to deal with seven alternatives and drafts of them. So, let's go toward doing something and getting language written to do one of these alternatives for the Commission.

Ms. Dwyer - My point is simply that we are not ready to vote. If we selected one of these options today, we will not be presenting it to the Board. You will simply be presenting it to the public and it could be changed out of a draft, but we are not really binding ourselves to even one option now, as we make a decision. So, I don't mind making a motion now and if people do not want to vote on it, don't feel comfortable voting today, that is fine.

Mr. Archer - I think that would be in order and we could determine by the vote whether or not, how far we are going to go.

Ms. Dwyer - I move that we leave the ordinance as it is now. That would be my motion to not adopt, not present any of these alternatives to the public for public hearing, but that we stay with the ordinance as it was written in 1987.

Ms. Wade - Second.

Mr. Archer - It has been moved by Ms. Dwyer and seconded by Ms. Wade that we leave the ordinance as it currently is and present that option for public hearing. All in favor, let it be known by saying aye. All opposed by saying no. We have three ayes and two nos. (Messrs. Vanarsdall and Zehler voted no.) Bear in mind the wording of her motion, we can revisit it if we have to. The ayes have it. The motion passes.

Mr. Donati - It appears that vote is going to be the same vote that you are going to send to the Board of Supervisors, so why send it to the Board?

Ms. Dwyer - I think we need to have a public hearing, an official public hearing though.

Mr. Vanarsdall - I think we have to, don't we?

Mr. Silber - Why don't we, I was just sitting here thinking we are to hold a public hearing on doing nothing.

Mr. Webb - Would you specify what you would like us to draft a proposal in the event that alternative is unacceptable?

Ms. Dwyer - I think you have your draft.

Mr. Webb - In other words, I am suggesting that we would state a preference not to do anything, but if you, the Board, prefer to do something, here is what we recommend as being best.

Ms. Dwyer - I think that would come after the hearing, Mr. Webb. We sort of formalized today's work session as a public hearing, it really is not, and it seems to me that again we are not bound to this option during or after the public hearing. We can decide after the public hearing that this option that was voted today is not a good one and that we would like to have some other language. We could certainly come up with that after the public hearing and have a subsequent public hearing if the language needs to be changed. Does that sound reasonable, Randy?

Mr. Silber - I think so. I am trying - I may need time to think about this. I think what we are talking about doing is holding a public hearing and at the hearing notification and advertisement would simply state that the Planning Commission would be holding a public hearing on whether there is need to amend the sign ordinance relative to billboards. There would not be any proposed amendment prepared.

There would be nothing to hand to the public. It would be a public hearing to discuss the issue.

Ms. Dwyer - There would be discussion about keeping the ordinance as it is or changing the ordinance.

Mr. Zehler - Why discuss? We have just voted and the majority says that there is no acceptable change, so why continue on?

Mr. Silber - Well, Mr. Zehler, we really have not held a public hearing.

Mr. Zehler - What is this here today?

Ms. Dwyer - I am sure there are people who did not come today because it was not officially a public hearing and the process requires that we have a public hearing.

Mr. Webb - Mr. Zehler, to address your comment. In order to have an official action, if you will, the matter needs to be advertised for public hearing and a public hearing held, so that, if anything, you will be able to get reaction to the proposal.

Mr. Silber - I think the Board of Supervisors, by resolution, asked that this be studied and considered. I think it really needs to go through the public hearing process before a recommendation can go back to the Board. I think it may be best to do this.

Ms. Wade - Well, it says "Study for possible recommendations," and we are ready to make a recommendation now.

Mr. Zehler - It is quite obvious what the majority voted here today and I don't see where that is going to change.

Mr. Archer - Mr. Secretary, I believe we have two more items.

Mr. Silber - The next item of business is to set a work session on the ordinance amendment on Non-School Use of school use. If you may recall, this is dealing with the YMCA use of public facilities, schools, elementary schools, for child care uses. Let me remind the Commission of a couple of things.

Mr. Zehler - All these issues, Mr. Silber, are very important but there's just not enough time in the day for this Commission right now.

Mr. Silber - Mr. Zehler, this particular issue does have, I think, some real timelessness to it because this matter does impact our public schools. It does impact the YMCA programs. I think this matter probably should be decided in one fashion or another, at the latest, by the Board of Supervisors, in early summer.

Mrs. Wade - Yes. I'm already getting letters on it.

Mr. Silber - I really think we need to push forward on this. As busy as we are, my recommendation was going to be that we set a work session and that we set it to come back to you on February 12, 1998, with a white paper, an issue paper, discussing the background, discussing issues on this

and then perhaps at that time you can set another work session that we can have a draft ordinance ready for you.

Mrs. Wade - Can't we have a night session and have several topics?

Mr. Zehler - That's what we ought to do, seriously.

Mrs. Wade - We could put several topics together and have....

Mr. Zehler - Yes. One night together we can put the Billboards, do this, and....

Mrs. Wade - No, no, not the Billboards.

Mr. Zehler - Do them all. It's getting to the point at each meeting we have a work session, we need to schedule and it's got to be done tomorrow.

Ms. Dwyer - Well, on the 12th we've got C.I.P.

Mr. Silber - Yes. We have CIP at 6:30 p.m. I was going to suggest that we do the work session at 6:00 p.m. I think that we can dispense of this very quickly. Allen Webb is also handling this very controversial issue. He assures me that he can be brief. We can educate the Commission very quickly and get into the CIP hearing by 6:30 p.m.

Ms. Dwyer - So, this would be just to introduce us to the issues and then distribute your written document and then we would have a work session at a later date?

Mr. Silber - That's correct.

Mr. Archer - So, we are saying February 12 at 6:00 p.m.?

Mr. Silber - That's my recommendation.

Mr. Zehler - So move, Mr. Chairman.

Mr. Archer - Okay. Do we have a second?

Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mr. Zehler and seconded by Ms. Dwyer to have the work session for the ordinance amendment on Non-School Use of School Facilities, to its meeting on February 12, 1998, at 6:00 p.m. All in favor say aye...all oppose say nay. The motion passes.

Mr. Silber - The last matter are the minutes. We have the October 28, 1997, minutes and Diana Carver said there were two changes called in.

Mr. Archer - I have a few. Page 78, a couple of times the word "mark up" is referenced to. It should be "mock up." On page 86, these lines aren't numbered, but in the second paragraph the word should be "resort" instead of "result." On page 112, the second sentence from the bottom, next to the last

paragraph, "I would much rather have a truck." The same comment on page 113, around the middle of the page, "I would rather have one telephone" rather than "I rather." That's all I have.

Ms. Dwyer - Page 15, at the bottom, the last paragraph. Instead of "defined" it should be "determine." Instead of "woofers" it should be "River Road." After the word "woofer" the "The" should be a small "the." It's not a new sentence. Omit the period after "woofers" and make the "The" lowercase.

Mr. Archer - Okay. Is that it?

Mr. Silber - Anything else? Are you ready for a motion, Mr. Archer?

Mr. Archer - Yes. May I have a motion for the minutes please?

Mrs. Wade - I move the minutes of the December 11, 1997, meeting be approved as corrected.
Ms. Dwyer - Second.

Mr. Archer - The motion was made by Mrs. Wade and seconded by Ms. Dwyer. All in favor say aye...all opposed say nay. The motion passes.

Mr. Silber - Those were the December 11 minutes?

Ms. Dwyer - No. That was October's.

Mr. Silber - I think Mrs. Wade said December 11.

Mrs. Wade - Yes. I did say December 11.

Mr. Archer - Well, amend that to October 28, 1997.

Mrs. Wade - All right. Did you all have any changes to the December 11 minutes?

Mr. Zehler - I called mine in.

Mrs. Wade - Okay. I move that the October 28, 1997, minutes be approved as amended.

Mr. Archer - You, mean the December.

Mrs. Wade - I'm sorry. I'm doing them back just because we deferred the December ones, so I assume they were first. I guess it's October's now. Never mind. Let somebody else do it.

Ms. Dwyer - Okay. I move that we approve the October 27 and December 11, 1997, minutes as amended.

Mr. Archer - May I have a second, quickly.

Mrs. Wade - Second.

Mr. Archer - The motion was made by Ms. Dwyer and seconded by Mrs. Wade, the acceptance

of the October and December minutes as corrected. All in favor say aye...all opposed say nay. The motion passes. Is there any further business, Mr. Secretary?

Mr. Silber - No, sir. That should do it.

Mr. Archer - The meeting is adjourned.

Mr. Zehler - So move.

Mrs. Wade - Second.

On a motion by Mr. Zehler and seconded by Mrs. Wade, the Planning Commission adjourned its January 27, 1998, meeting at 4:00 p.m.

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

Randall R. Silber, Secretary