

1 Minutes of the regular monthly meeting of the Planning Commission of the County of
2 Henrico, Virginia, held in the Board Room of the County Administration Building, Parham
3 and Hungary Spring Roads, Beginning at 9:00 a.m., on June 23, 1999.

4
5 Members Present: Ms. Elizabeth G. Dwyer, C.P.C., Chairman (Tuckahoe)
6 Mr. Ernest B. Vanarsdall, C.P.C., Vice Chairman
7 (Brookland)
8 Mr. C. W. Archer, C.P.C. (Fairfield)
9 Mrs. Debra Quesinberry (Varina)
10 Mr. James B. Donati, Jr., Board of Supervisors
11 Representative, (Varina)

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13 Member Absent: Mrs. Mary L. Wade (Three Chopt)

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15 Others Present: Mr. John R. Marlles, AICP, Secretary,
16 (Director of Planning)
17 Mr. Randall R. Silber, Assistant Director of Planning
18 Mr. David D. O'Kelly, Jr., Principal Planner
19 Mr. James P. Strauss, CLA, County Planner
20 Mr. E. J. (Ted) McGarry, III, County Planner
21 Mr. Kevin D. Wilhite, C.P.C., County Planner
22 Mr. Mikel Whitney, County Planner
23 Mr. Tim Foster, Traffic Engineer for Todd Eure
24 Ms. Diana B. Carver, Recording Secretary
25 Mrs. L. B. Ann Cleary, Office Assistant IV
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27 Ms. Dwyer - I would like to welcome everyone here this morning to our Planning
28 Commission meeting. The Planning Commission will now come to order. I would like to
29 welcome everyone who has come here to do business this morning. Do we have members of
30 the press present? Good morning, welcome. Okay, Mr. Marlles, we will begin with the first
31 item on the agenda.

32
33 Mr. Marlles - Good morning, Madam Chairman, we do have a quorum today. The
34 first item on the agenda is the request for deferrals and withdrawals and these will be presented
35 by Mr. Kevin Wilhite.

36
37 Ms. Dwyer - Good morning, Mr. Wilhite.

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39 Mr. Wilhite - Good morning, Madam Chairman, Commission members, ladies and
40 gentlemen. Staff is aware of six requests for deferrals at this time. The first one appears on
41 page 2 of your agenda, a transfer of approval POD-108-99, Exxon - Patterson Avenue and
42 Lauderdale Drive. The applicant requests a deferral to July 28, 1999.

43 **TRANSFER OF APPROVAL**

44

**POD-108-88
Exxon – Patterson
Avenue and
Lauderdale Drive**

William H. Abbott for Abbot Enterprises, Inc.: Request for transfer of approval of a plan of development as required by Chapter 24, Section 24-106, of the Henrico County Code, from Exxon Corporation to Abbot Enterprises, Inc. The .88-acre site is located at the northeast corner of Patterson Avenue and Lauderdale Drive on Parcel 88-A-17. The zoning is B-2C, Business District (Conditional). **(Tuckahoe)**

45

46 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of the
47 transfer of approval for POD-108-88, Patterson Avenue. There is no opposition to the
48 deferral. I move that the Commission defer the transfer of approval for this case until July 28,
49 1999.

50

51 Mr. Vanarsdall - Second.

52

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

55

56 Pursuant to the applicant's request, the Planning Commission deferred the transfer of approval
57 request for POD-108-88, Exxon - Patterson Avenue and Lauderdale Drive, to its July 28,
58 1999, meeting.

59

60 **SUBDIVISION**

61

**Allen Estates,
Section B
(June 1999 Plan)**

Engineering Design Associates for David H. Allen: The 15.20-acre site is located at the northwest corner of Portugee Road and Memorial Drive on part of Parcel 197-A-5B. The zoning is A-1, Agricultural District ASO (Airport Safety Overly District). Individual well and septic tank/drainfield. **(Varina) 2 Lots**

62

63 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of
64 subdivision Allen Estates, Section B (June 1999 Plan)? There is no opposition to the deferral.
65 Mrs. Quesinberry.

66

67 Ms. Quesinberry - I would like to recommend approval of this deferral to the July 28,
68 1999, meeting at the applicant's request.

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70

71 Mr. Vanarsdall - Second.

72

73 Ms. Dwyer - The motion was made by Mrs. Quesinberry and seconded by Mr.
74 Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.

75
76 Pursuant to the applicant's request, the Planning Commission deferred subdivision Allen
77 Estates, Section B (June 1999 Plan) to its July 28, 1999, meeting.

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PLAN OF DEVELOPMENT (Deferred from May 26, 1999 meeting)

**POD-22-99
Four Mile Creek
Commercial Center -
Master Plan**

Balzer and Associates for Essex Properties: Request for approval of a plan of development for a master plan as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a commercial center consisting of five buildings, including a previously approved one and a half story, 4,122 square foot convenience store with fuel pumps, bank and a car wash; a one-story, 1,700 sq. ft. restaurant; a one-story 3,675 sq. ft. restaurant; a one-story 15,000 sq. ft. restaurant and a three-story 33,480 sq. ft. hotel. The 24.80 acre site is located along the south line of New Market Road (State Route 5) 1600 feet east of its intersection with I-295 on part of parcel 249-A-51. The zoning is B-3C, Business District (Conditional), and ASO, Airport Safety Overlay District. County water and sewer. **(Varina)**

81
82 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral POD-22-99,
83 Four Mile Creek Commercial Center - Master Plan. There is no opposition to the deferral.
84 Mrs. Quesinberry.

85
86 Ms. Quesinberry - I would like to recommend deferral of this case until August 25, 1999,
87 at the applicant's request.

88
89 Mr. Vanarsdall - Second.

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91 Ms. Dwyer - The motion was made by Mrs. Quesinberry and seconded by Mr.
92 Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.

93
94 Pursuant to the applicant's request, the Planning Commission deferred POD-22-99, Four Mile
95 Creek Commercial Center - Master Plan, to its August 25, 1999, meeting.

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SUBDIVISION

**Park Meadows at Twin
Hickory (June 1999 Plan)**

Youngblood, Tyler and Associates for H. H. Hunt Corporation: The 13.15-acre site is located on the south line of proposed Old School Road 705 ft. west of proposed Twin Hickory Lake Drive on part of Parcels 27-A-5A, 26-A-31 and 26-A-27A. The zoning is R-3C, One-Family Residence District (Conditional). County water and sewer. **(Three Chopt)**

June 23, 1999

33 Lots

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Ms. Dwyer - Is there anyone in the audience in opposition to the deferral to subdivision Park Meadows at Twin Hickory (June 1999 Plan)? There is no opposition to the deferral. This is in the Three Chopt District and Mrs. Wade is not with us today so I'll be handling the Three Chopt cases. So, I'll make the motion. I move the deferral of Park Meadows at Twin Hickory subdivision (June 1999 Plan) at the applicant's request to the July 15, 1999, meeting.

Mr. Vanarsdall - Second.

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

Pursuant to the applicant's request, the Planning Commission deferred subdivision Park Meadows @ Twin Hickory (June 1999 Plan), to its July 15, 1999, meeting.

SUBDIVISION

Autumnwood at Twin Hickory (Controlled Density) (May 1999 Plan)

Youngblood, Tyler & Associates, P.C. for H.H. Hunt Corporation: The 21.38-acre site is located at the south line of proposed Twin Hickory Road at Shady Grove Road on parcel 27-A-3A. The zoning is R-2AC, One-Family Residential District (Conditional), and R-3C, One-Family Residential District (Conditional). County water and sewer. **(Three Chopt)** 50 Lots

Ms. Dwyer - Is there any opposition to the deferral of Autumnwood at Twin Hickory subdivision plan? No opposition. I move the deferral of Autumnwood at Twin Hickory (Controlled Density) (May 1999 Plan), at the applicant's request, to our July 15, 1999, meeting.

Mr. Vanarsdall - Second.

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

Pursuant to the applicant's request, the Planning Commission deferred subdivision Autumnwood at Twin Hickory (Controlled Density) (May 1999 Plan), to it's July 15, 1999, meeting.

Ms. Dwyer - Are there any other requests for deferrals, Mr. Wilhite?

Mr. Wilhite- Yes, ma'am. We have one more that we became aware of this morning on page 22.

135 **SUBDIVISION**

136

Tanfield (June 1999 Plan) **E. D. Lewis and Associates, P.C. for Earl Thompson, Inc.:** The 18.2-acre site is located north of Shrader Road and Green Run Drive on part of Parcel 50-A-70 and 70NA. The zoning is R-2A, One-Family Residence District (Conditional), and C-1, Conservation District. County water and sewer. **(Brookland)** 21 Lots

137

138 Ms. Dwyer - Is there any opposition to the deferral of the Tanfield (June 1999 Plan)?
139 No opposition to the deferral.

140

141 Mr. Vanarsdall - I move that Tanfield subdivision be deferred for two weeks to July 15,
142 1999, meeting at the applicant's request.

143

144 Mr. Archer - Second.

145

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

148

149 Pursuant to the applicant's request, the Planning Commission deferred subdivision Tanfield
150 (June 1999 Plan), to its July 15, 1999, meeting.

151

152 Ms. Dwyer - Are there any requests for deferrals or withdrawals by Commission
153 members at this time? I have one. Page 12, POD-51-99, Gaskins Retirement Center.

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155 **PLAN OF DEVELOPMENT**

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POD-51-99 Gaskins Retirement Center - Gaskins Road (Revised POD-8-91) **Balzer and Associates for South Gaskins Retirement, L.L.C.:** 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, 29,871 sq. ft. assisted living facility. The 9.955-acre site is located along the west line of Gaskins Road and approximately 500 ft. south of Three Chopt Road on part of Parcel 58-A-35B. The zoning is R-6C, General Residence District (Conditional). County water and sewer. **(Tuckahoe)**

157

158 Ms. Dwyer - Is there any opposition to the deferral of POD-51-99, Gaskins
159 Retirement Center? Good morning.

160

161 Mr. Kovacs - Good morning. My name is David Kovacs and I live at 10803
162 Foxmoore Avenue. I'm not necessarily in opposition. As you may, recall I was before you at
163 the Rezoning hearing and raised several concerns and was advised that the POD would be
164 placed to address those concerns. And, in reviewing the minutes, I see that the Commission
165 said that they would be addressing matters I brought up with their staff in the interim.

166 However, in going through this submission that came, the letter I wrote you, the subsequent
167 review comments and the like, I find that those concerns haven't been addressed and if this
168 continuation is going to lead toward that than it would certainly be appreciated. I do have a
169 list I was prepared today to go over. I do have a list of the code sections that I felt weren't
170 addressed, if I can provide that to you.

171
172 Ms. Dwyer - If you would hand those to Mr. Wilhite and Mr. Wilhite will make sure
173 they get distributed to us.

174
175 Mr. Kovacs - Thank you.

176
177 Ms. Dwyer - Thank you, Mr. Kovacs. As Mr. Kovacs indicated, we do have some
178 outstanding issues on this case so I'm making a motion to defer it for one month to allow us to
179 attempt to resolve those issues. So, I move that we defer POD-51-99, Gaskins Retirement
180 Center to our July 28, 1999, meeting.

181
182 Mr. Vanarsdall - Second.

183
184 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mr. Vanarsdall.
185 All in favor say aye...all opposed say nay. The motion carries.

186
187 The Planning Commission deferred POD-51-99, Gaskins Road (POD-8-91 Revised), to its
188 July 28, 1999, meeting.

189
190 Ms. Dwyer - Is that it for deferrals and withdrawals, Mr. Wilhite?

191
192 Mr. Wilhite - Yes, ma'am.

193
194 Mr. Marlles - Our next item on the agenda is the presentation of the Expedited
195 Agenda. Again, that will be done by Mr. Wilhite.

196
197 Mr. Wilhite - The staff is aware of nine items for expedited approval. The first one
198 appears on page 11, POD-50-99, AGC Office Building and there is an addendum item that
199 appears on page 2 of your addendum.

200

201 **PLAN OF DEVELOPMENT**

202

**POD-50-99
AGC Office
Building**

Balzer and Associates for Loch Levan Land L.P. and AGC of Virginia: 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, 5,452 sq. ft. office building. The 1.80-acre site is located on the north line of Nuckols Road approximately 175 ft. west of Wyndham Lake Drive on Parcel 9-A-19C. The zoning is O-1C, Office District (Conditional). County water and sewer. **(Three Chopt)**

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203
204 Mr. Wilhite - Staff is recommending approval with an added condition No. 29 that
205 requires dedication of right-of-way along Nuckols Road and 23 feet will be dedicated prior to
206 the issuance of any occupancy permits for this development. With that, staff is recommending
207 approval.

208
209 Ms. Dwyer - Has provision been made for tree preservation along Broad Street?
210

211 Mr. Wilhite - This is Nuckols Road, they do show tree preservation on the site and
212 we've added, with annotations, to try to make sure it's maximum tree save that can be
213 provided, but it appears that they have done a fairly good job.
214

215 Ms. Dwyer - So, you are satisfied with it?
216

217 Mr. Wilhite - Yes, ma'am.
218

219 Ms. Dwyer - Anybody else have any questions about AGC Office Building, POD-50-
220 99? Is there any opposition to POD-50-99, AGC Office Building? No opposition. I move
221 approval of POD-50-99, AGC Office Building, subject to the annotations on the plans, the
222 standard conditions, including additional condition No. 29 found on page 2 of the addendum.
223

224 Mr. Vanarsdall - Second.
225

226 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mr. Vanarsdall.
227 All in favor say aye...all opposed say nay. The motion carries.
228

229 The Planning Commission approved POD-50-99, AGC Office Building, subject to the standard
230 conditions attached to these minutes, the annotations on plans and the following additional
231 conditions:
232

- 233 23. The easements for drainage and utilities as shown on approved plans shall be granted to
234 the County in a form acceptable to the County Attorney prior to any occupancy permits
235 being issued.
- 236 24. The developer shall provide fire hydrants as required by the Department of Public
237 Utilities in its approval of the utility plans and contracts.
- 238 25. Outside storage shall not be permitted.
- 239 26. Deviations from County standards for pavement, curb or curb and gutter design shall
240 be approved by the County Engineer prior to final approval of the construction plans by
241 the Department of Public Works.
- 242 27. Insurance Services Office (ISO) calculations must be included with the utilities plans
243 and contracts and must be approved by the Department of Public Utilities prior to the
244 issuance of a building permit.

- 245 28. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the
246 Planning Office and approved prior to issuance of a certificate of occupancy for this
247 development.
248 29. The right-of-way for widening of Nuckols Road as shown on approved plans shall be
249 dedicated to the County prior to any occupancy permits being issued. The right-of-way
250 dedication plat and any other required information shall be submitted to the County
251 Real Property Agent at least 60 days prior to requesting occupancy permits.
252

253 **PLAN OF DEVELOPMENT**
254

POD-47-99
Glen Center Office
Warehouse 3

Balzer and Associates for Carter 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, 16,500 sq. ft. office/warehouse building. The 0.99-acre site is located at the northwest corner of Mechanicsville Turnpike (U.S. Route 360) and Barlow Street on part of Parcel 139-14-A-1B. The zoning is M-2, Industrial District. County water and sewer. **(Fairfield)**

255
256 Ms. Dwyer - Is there anyone in the audience in opposition to POD-47-99, Glen Center
257 Office Warehouse 3? No opposition. Are there any questions by Commission members? No
258 questions, we are ready for a motion.
259

260 Mr. Archer - I move approval of POD-47-99, Glen Center Office Warehouse 3,
261 subject to the annotations on the plans, the standard conditions for developments of this type
262 and added conditions Nos. 23 through 30.
263

264 Mr. Vanarsdall - Second.
265

266 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall.
267 All in favor say aye...all opposed say nay. The motion passes.
268

269 The Planning Commission approved POD-47-99, Glen Center Office Warehouse 3, subject to
270 the standard conditions attached to these minutes, the annotations on plans and the following
271 additional conditions:
272

- 273 23. The entrances and drainage facilities on (State Route 360) shall be approved by the
274 Virginia Department of Transportation and the County.
275 24. A notice of completion form, certifying that the requirements of the Virginia
276 Department of Transportation entrances permit have been completed, shall be submitted
277 to the Planning Office prior to any occupancy permits being issued.
278 25. The developer shall provide fire hydrants as required by the Department of Public
279 Utilities in its approval of the utility plans and contracts.

- 280 26. Any necessary off-site drainage easements must be obtained in a form acceptable to the
281 County Attorney prior to final approval of the construction plans by the Department of
282 Public Works.
- 283 27. Deviations from County standards for pavement, curb or curb and gutter design shall
284 be approved by the County Engineer prior to final approval of the construction plans by
285 the Department of Public Works.
- 286 28. Insurance Services Office (ISO) calculations must be included with the utilities plans
287 and contracts and must be approved by the Department of Public Utilities prior to the
288 issuance of a building permit.
- 289 29. Approval of the construction plans by the Department of Public Works does not
290 establish the curb and gutter elevations along the Henrico County maintained right-of-
291 way. The elevations will be set by Henrico County.
- 292 30. Approval of the construction plans by the Department of Public Works does not
293 establish the curb and gutter elevations along the Virginia Department of Transportation
294 maintained right-of-way. The elevations will be set by the contractor and approved by
295 the Virginia Department of Transportation.
- 296

297 **LANDSCAPE AND LIGHTING PLAN**

298 **LP/POD-4-99**

Burger King @ Tuckahoe Village

G. Stuart Grattan: 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 .67-acre site is located approximately 580 feet east of Westbriar Drive on Patterson Avenue (State Route 6) on Parcel 88-A-22 and part of 88-A-25. The zoning is B-2, General Business District. **(Tuckahoe)**

299

300 Ms. Dwyer - Is there anyone in the audience in opposition to LP/POD-4-99, Burger
301 King at Tuckahoe Village Shopping Center? No opposition. Are there any questions by
302 Commission members? No questions, we are ready for a motion. Okay. Mr. Strauss, do we
303 have those annotations for that plan that we discussed this morning?

304

305 Mr. Strauss - Yes, ma'am. We've just annotated the plan.

306

307 Ms. Dwyer - Thank you. Are there any other questions by Commission members on
308 this case? All right. I move for the approval of LP/POD-4-99, Burger King at Tuckahoe,
309 subject to the annotations on the plan and the standard conditions for landscape and lighting
310 plans.

311

312 Mr. Vanarsdall - Second.

313

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

316

317 The Planning Commission approved the landscape and lighting plan for LP/POD-4-99, Burger
318 King at Tuckahoe Village Shopping Center, subject to the standard conditions for landscape
319 and lighting plans and the annotations on plans.

320

321 **SUBDIVISION**

322

Wyndham Forest, Section 7 (June 1999 Plan) **Jordan Consulting Engineers for Vernelle H. Barr and H. H. Hunt:**
The ~~25.40~~ 27.2-acre site is located along the east line of Shady Road and adjacent to Chickahominy River on part of Parcel 10-A-7B and 10-A-8. The zoning is R-3C, One-Family Residence District (Conditional). County water and sewer. **(Three Chopt) 51 Lots**

323

324 Mr. Wilhite - There is an addendum item that appears on page 3 of your addendum.
325 Staff is recommending approval. There is a handout to you of a revised plan. There are a
326 couple of annotations that staff would like to add. First of all, in order to satisfy the proffer
327 requirements for pedestrian bicycle access, the developer and owner has agreed to construct a
328 sidewalk from Shady Grove Road through this proposed development through Section 6 of
329 Wyndham Forest and would connect to Concept Road 10-1 as it appears on the plans. Also
330 the applicant has agreed to change the 20-foot planting strip easement along Concept Road 10-
331 1 to a common area, which would be separate from the lots. With these two annotations to the
332 revised plans, staff would recommend approval.

333 Ms. Dwyer - Is there anyone in the audience in opposition to Wyndham Forest,
334 Section 7 (June 1999 Plan)? No opposition. Are there any questions by Commission
335 members? All right. I move for the approval of subdivision Wyndham Forest, Section 7
336 (June 1999 Plan), including the annotations on the plan, the standard conditions for subdivision
337 and typically including the annotations that were handed out to us relating to the sidewalk and
338 the 20-foot common area. (See the Restated motion to include the additional conditions Nos.
339 12 through 15 after the Wyndham Forest, Section 8 case)

340 Mr. Vanarsdall - Second.

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

343 The Planning Commission granted conditional approval to subdivision Wyndham Forest,
344 Section 7 (June 1999 Plan), subject to the standard conditions attached to these minutes, the
345 annotations on the plans and the following additional conditions:

346

347 12. Each lot shall contain at least 11,000 square feet, exclusive of floodplain areas.

348 13. The limits and elevation of the 100-year frequency flood shall be conspicuously noted
349 on the plat and construction plans and labeled "Limits of 100-Year Floodplain."
350 Dedicate floodplain as a "Variable Width Drainage & Utility Easement."

- 351 14. The detailed plant list and specifications for the landscaping to be provided within the
 352 25-foot-wide planting strip easement along Shady Grove Road, and the 20-foot planting
 353 strip easement along concept Road 10-1, shall be submitted to the Planning Office for
 354 review and approval prior to recordation of the plat.
- 355 15. Prior to requesting the final approval, a draft of the covenants and deed restrictions for
 356 the maintenance of the common area by a homeowners association shall be submitted to
 357 the Planning Office for review. Such covenants and restrictions shall be in form and
 358 substance satisfactory to the County Attorney and shall be recorded prior to recordation
 359 of the subdivision plat.

360
 361
 362

SUBDIVISION

**Wyndham Jordan Consulting Engineers for Vernelle H., Garland A., Lewis
 Forest, A. Barr, Theresa Barr Young and H. H. Hunt Corporation:** The
Section 8 3.28 3.89 acre site is located at the western terminus of Alder Ridge
(June 1999 Plan) Place on part of Parcels 10-A-7C and 10-A-8. The zoning is R-3C,
 One-Family Residence District (Conditional). County water and sewer.
(Three Chopt) 12- 10 Lots

363 Mr. Wilhite - There is also an addendum item for this case on page 3. This
 364 subdivision has been revised from 12 lots to 10 lots. Two existing lots in Section 1 have been
 365 pulled off this agenda. They have been sold to builders already and are necessary to be
 366 included within the resubdivision. Staff recommends approval of 10 lots.

367 Ms. Dwyer - I'm sorry, which ones were taking off?

368 Mr. Wilhite - There are four lots in existing Section 1 that is in a cul-de-sac. Those
 369 proposed subdivision, proposes to extend that cul-de-sac street and the two easternmost lots on
 370 either side of that road, have already been sold to builders and are not going to be a part of
 371 this subdivision.

372 Ms. Dwyer - So, we are just simply removing two lots.

373 Mr. Wilhite - Removing those two lots, yes.

374 Ms. Dwyer - Have they already been approved?

375 Mr. Wilhite - I think building permits have been issued for those and they are under
 376 construction. The only changes would be the addition of excess right-of-way in the vacated
 377 cul-de-sac and that can be accomplished without having them go through the resubdivision
 378 process.

379
 380 Ms. Dwyer - Is there any opposition to Wyndham Forest, Section 8 (June 1999 Plan)?
 381 No opposition. Are there any questions by Commission members? All right. I move for the

382 approval of subdivision Wyndham Forest, Section 8 (June 1999 Plan) subject to the
383 annotations on the plans and the standard conditions for subdivisions served by public utilities
384 and including added conditions Nos. 12 through 16.

385

386 Mr. Vanarsdall - Second.

387

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

390

391 The Planning Commission granted conditional approval to subdivision Wyndham Forest,
392 Section 8 (June 1999 Plan) subject to the standard conditions attached to these minutes for
393 subdivision served by public utilities, the annotations on the plans and the following additional
394 conditions:

395

396 12. Each lot shall contain at least 8,000 square feet, exclusive of floodplain areas.

397 13. Prior to requesting final approval, the engineer shall furnish the Planning Staff a plan
398 showing a dwelling situated on Lot 4 to determine if the lot design is adequate to meet
399 the requirements of Chapter 24, of the Henrico County Code.

400 14. The limits and elevation of the 100 year frequency flood shall be conspicuously noted
401 on the plat and construction plans and labeled "Limits of 100 Year Floodplain."
402 Dedicate floodplain as a "Variable Width Drainage & Utility Easement."

403 15. Prior to requesting the final approval, a draft of the covenants and deed restrictions for
404 the maintenance of the common area by a homeowners association shall be submitted to
405 the Planning Office for review. Such covenants and restrictions shall be in form and
406 substance satisfactory to the County Attorney and shall be recorded prior to recordation
407 of the subdivision plat.

408 16. An application for the vacation of the excess right-of-way in the existing cul-de-sac at
409 the end of Alder Ridge Place shall be submitted to the Real Property Office prior to the
410 recordation of the subdivision plat for this development.

411

412 Ms. Dwyer - Mr. Secretary, did I mentioned in Wyndham Forest, Section 7, in my
413 motion, did I include the additional conditions Nos. 12 through 15? I'm not sure that I did.

414

415 Mr. Marlles - I'm sorry Madam Chairman, I'm not sure either.

416

417 Ms. Dwyer- With the Commission's indulgence, I'll redo that motion just to make
418 sure we have covered all of our bases. We are going back to page 17, Wyndham Forest,
419 Section 7. I want to restate my motion to approve Wyndham Forest, Section 7 (June 1999
420 Plan), subject to the annotations on the plan, the standard conditions and additional conditions
421 Nos. 12 through 15.

422

423 Mr. Vanarsdall - Second.

424

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

427
428 The Planning Commission approved the restated motion for Wyndham Forest, Section 7 (June
429 1999 Plan) to include the added conditions Nos. 12 through 15 (See Wyndham Forest, Section
430 7 case for the listed added conditions)

431
432 **SUBDIVISION**

433
Rivendell **E. D. Lewis & Associates, P.C. for Earl Thompson, Inc.:**
(June 1999 Plan) The 30.5-acre site is located on the east line of Osborne
Turnpike (State Route 5), 1,200 feet south of its intersection
with Oakland Road on Parcels 191-A-30 and 41A. The
zoning is R-3, One-Family Residence District and R-5,
General Residence District. County water and sewer.
(Varina) 79 Lots

434
435 Mr. Wilhite - There is an addendum item for this also that appears on page 4 of your
436 addendum. Staff is recommending approval.

437
438 Ms. Dwyer - Is there anyone in opposition to subdivision Rivendell (June 1999 Plan)?
439 No opposition. Are there any questions by Commission members on this particular
440 subdivision?

441
442 Mrs. Quesinberry - I do have one quick question, which is Kilgore Avenue, the shaded area
443 there, what is to happen to that?

444
445 Ms. News - The Kilgore Avenue street is currently not developed. It deadends and
446 there is a driveway that goes to two garages that those adjacent residents are using. We
447 thought it would disrupt their homes and it wasn't necessary because we were able to get two
448 points of access in other acceptable areas so we didn't pursue that stub. We discussed it and
449 looked at it with the developer.

450
451 Mrs. Quesinberry - So most likely that could be vacated by the County and then the two
452 property owners would acquire, each would acquire half the right-of-way. That's a possible
453 scenario.

454
455 Ms. News - Yes.

456
457 Mrs. Quesinberry - Thank you.

458 Ms. Dwyer - Is there any opposition to Rivendell subdivision (June 1999 Plan)? And,
459 no questions by Commission members? Okay. Mrs. Quesinberry.

460 Mrs. Quesinberry - I'd like to recommend approval for Rivendell (June 1999 Plan) subject to
461 the standard conditions for subdivisions served by public utilities and the additional conditions
462 Nos. 12 through 14.

463 Mr. Vanarsdall - Second.

464 Ms. Dwyer - The motion was made by Mrs. Quesinberry and seconded by Mr.
465 Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.

466 The Planning Commission granted conditional approval to Rivendell (June 1999 Plan), subject
467 to the standard conditions attached to these minutes for subdivisions served by public utilities,
468 the annotations on the plans and the following additional conditions:
469

470 12. Final approval shall not be granted for lots containing any portion of the parcel labeled
471 "60' strip reserved for road" until the legal status of this parcel is determined to the
472 satisfaction of the Director of Planning, and anyone having legal interest in the parcel
473 has given consent for it to be incorporated into this development as shown on the Staff
474 Plan.

475 13. No more than fifty lots shall be approved for recordation prior to the developer
476 providing a second point of access.

477 14. The portion of the property currently zoned R-5 must be rezoned for compatible single
478 family use prior to the final approval of this subdivision.
479

480 **LANDSCAPE PLAN**

481 **LP/POD-115-98 E. D. Lewis and Associates, P.C.:** Request for approval of a landscape
NAPA - Retail plan as required by Chapter 24, Sections 24-106 and 24-106.2 of the
Store Henrico County Code. The 2.003-acre site is located on the southeast
Williamsburg Rd. corner of the intersection of Williamsburg Road (U.S. Route 60) and
And Klockner Klockner Drive on part of Parcel 162-09-03-36A. The zoning is B-3,
(POD-65-98 Rev.) Business District, M-1, Light Industrial District and ASO (Airport
Safety Overlay District). (Varina)

482 Mr. Wilhite - There is an addendum item for this case that appears on page 4. There
483 are additional shrubs that have been added on the west side of the BMP. With that, staff
484 recommends approval of this plan.

485 Ms. Dwyer - Is there anyone in the audience in opposition to LP/POD-115-98, NAPA
486 Retail Store, Williamsburg Road? No opposition. Are there any questions by Commission
487 members? Ready for a motion.

488 Mrs. Quesinberry - I would like to recommend approval of LP/POD-115-98, NAPA Retail
489 Store landscape plan with additional shrubs added on the west side of the BMP and subject to
490 the annotations on the plan and the standard conditions for landscape plans.

491 Mr. Archer - Second.

492 Ms. Dwyer - The motion was made by Mrs. Quesinberry and seconded by Mr.
493 Archer. All in favor say aye...all opposed say nay. The motion carries.

494 The Planning Commission approved the landscape plan for LP/POD-115-98, NAPA - Retail
495 Store - Williamsburg Road and Klockner (POD-65-98 Revised) subject to the annotations on
496 the plans and the standard conditions for landscape plans.

497

498 **LIGHTING PLAN**

499

LP/POD-119-97

**The Park at Dickens
Place**

Susan E. Purvis: Request for approval of a Lighting Plan as required by Chapter 24, Section 24-106 of the Henrico County Code. The 5.61-acre site is located at the intersection of Dickens Place and Perl Circle on Parcel 93-A-45B. The zoning is M-1C, Light Industrial District (Conditional). **(Brookland)**

500 Mr. Wilhite - The staff recommends approval of this lighting plan.

501 Ms. Dwyer - Is there anyone in the audience in opposition to LP/POD-119-97, The
502 Park at Dickens Place? No opposition. Are there any questions by Commission members?

503 Mr. Vanarsdall - I move LP/POD-119-97, The Park at Dickens Place, be approved with
504 the annotations on the plans and the standard conditions for lighting plans.

505 Mr. Archer - Second.

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

508 The Planning Commission approved the lighting plan for LP/POD-119-97, The Park at
509 Dickens Place, subject to the standard conditions for lighting plans and the annotations on the
510 plan.

511

512 **LANDSCAPE AND LIGHTING PLAN**

513

**LP/POD-16-98
CVS Pharmacy
Patterson Avenue**

**Gerard T. Canavan and Alesa Hemenway, Canavan
Construction:** 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 1.4-acre site is located in the Maybeury Shopping Center located at the intersection of Patterson Avenue and Quail Lane, on part of Parcel 100-12-D-3 and 100-12-D-4. The zoning is B-2C, General Business District (Conditional). **(Tuckahoe)**

514 Mr. Wilhite - The staff recommends approval of this landscape and lighting plan.

515 Ms. Dwyer - Do we have a handout on that?

516 Mr. Strauss - Yes, ma'am. There should have been one with your packet handed out
517 this morning, the revised annotated plan should be in there.

518 Ms. Dwyer - I thought I saw it earlier, here it is. Is there anyone in the audience in
519 opposition to LP/POD-16-98, CVS Pharmacy Patterson Avenue? No opposition. Are there
520 any questions by Commission members? I see we have added trees and we have added
521 shrubbery.

522 Mr. Strauss - Yes, ma'am. And the applicant is in agreement with the other
523 recommendations in regard to lighting.

524 Ms. Dwyer - And the wall, is that satisfactory?

525 Mr. Strauss - The specification for the wall on the approved POD, it is to be a brick
526 wall, six feet in height.

527 Ms. Dwyer - Thank you. It looks good. All right. Are there any questions by
528 Commission members? I move for the approval of the landscape and lighting plan for
529 LP/POD-16-98 CVS Pharmacy on Patterson Avenue subject to the annotations on the plans
530 and the standard conditions for landscape and lighting plans.

531 Mr. Archer - Second.

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

534 The Planning Commission approved the landscape and lighting plan for LP/POD-16-98, CVS
535 Pharmacy Patterson Avenue, subject to the standard conditions for landscape and lighting plans
536 and the annotations on the plan.

537 Mr. Vanarsdall - Madam Chairman, I would like to ask a request of the Secretary. When
538 we have these expedited agenda, and for the deferments, it would be helpful to put the district
539 on them.

540 Mr. Marlles - I think we can take care of that, Mr. Vanarsdall.

541 Mr. Vanarsdall - Thank you.

542 Ms. Dwyer - All right. Let's move on to our next agenda item.

543 Mr. Marlles - Our next agenda item are the subdivision extension of conditional
544 approval. These will be presented by Mr. Wilhite.

545
546

SUBDIVISION EXTENSIONS OF CONDITIONAL APPROVAL

Subdivision	Magisterial District	Original No. of Lots	Remaining Lots	Previous Extensions
Cedar Grove (June 1998 Plan)	Fairfield	191	122	0
*Lakefield (Sept. 1986 Plan)	Varina	92	28	13

547 Mr. Wilhite - The staff is recommending 12 months extension on Cedar Grove (June
548 1998 Plan). To give the Planning Commission some background on Lakefield (September
549 1986 Plan), this has had 13 previous extensions to this point. Conditional approval for this
550 was granted back in September 1986. We have final approval for Section A, which is for 18
551 lots out of the subdivision, actually, granted twice. First in October 1988, that was allowed to
552 expire and they had a second final approval granted for those 18 lots in June 1991. That just
553 recently came up for an extension. The Planning staff has given them a two-month extension
554 in order to record the subdivision for Section A. Forty-six lots of this subdivision were taken
555 up by the construction of Lakefield Mews Apartments. So, there are 28 remaining lots in the
556 subdivision that have conditional approval. Thirteen extensions on the subdivision is the most
557 of any that staff is aware of for any subdivision that we have. Last year, at the time that they
558 came before the Planning Commission to request extension then, there was discussion by the
559 former Planning Commission member for this district that he may not make a motion to extend
560 this any further. Until we notified them that their subdivision was going to expire this month,
561 we have not heard from the applicant concerning this development. I understand Ben Simon is
562 here who is the developer of the subdivision. He has representation from Charles Rothenburg
563 and they do wish to address the Planning Commission on this extension request.

564 Ms. Dwyer - Thank you, Mr. Wilhite. Is there anyone in the audience in opposition
565 to the extension of conditional approval Lakefield subdivision? No opposition. Is there
566 anyone in the audience in opposition to the extension of conditional approval Lakefield
567 subdivision? No opposition.

568 Mr. Rothenburg - Madam Chair and members of the Commission, my name is Chuck
569 Rothenburg. On behalf of H & N Investment Corp., the developer and owner of this
570 property, I'm proud to be associated with undoubtedly the longest running tentative of
571 approval in the County. The reason for that is twofold. First, H & N Investment is primarily
572 involved with managing and owning their own apartment projects so that 80% of their
573 portfolio are apartments. And their primary concern is protecting their apartment projects that
574 really cause them some pause here when they were thinking about moving forward with this
575 front property up on Gay Avenue, with what to do with that, their decision was that it would
576 be better off to go ahead and maintain the open space, protect the apartments until at such time
577 as the demand for single-family detached homes out there increase. As you know, there are
578 still some lots in Edenwood and the market out there is a little bit soft for single-family

579 detached. So, that was sort of the balancing act they have been going through. The tentative
580 for the 28 lots in Section D was approved prior to the time they acquired the property,
581 including the adjacent site where you see the apartment project.

582 A little bit of background on H & N, not only have they been in business for 40 some odd
583 years, during this they have about 6000 apartments units in six states. I think they have been
584 very good neighbors out here. In fact, the County did award them for their landscaping
585 amenities out at this project several years ago. This request is basically to extend for one year.
586 And I do have it, from Ben Simon with the developer, that this would be their last extension.
587 What they would like to do over that year is determine where to go with this property and they
588 are confident that within that time they will determine whether or not they will move forward
589 with the single-family detached or move forward with some other plans on it.

590 Mrs. Quesinberry, you and I did discuss before the water quality issue, which appears to be,
591 based on our discussions with Kevin Wilhite and Jeff Collins at Charles Townes, the one
592 significant issue dealing with the ordinance requirements, that may have changed over the past
593 10 or 13 years. And in just looking through the files, Mr. Simon pulled out a letter that was
594 from 1996 in connection with an extension back then and it provides that on November 13,
595 1991, Henrico County adopted a series of ordinance amendments in order to implement the
596 Chesapeake Bay Act. The provisions of the ordinance amendments have changed the plan
597 submittal and review requirements. The period for transitional exception has expired therefore
598 a request for final approvals within this subdivision must be applicable to codes. So,
599 consistent with our conversation before, I do believe that they intend to comply and are
600 required to comply with those Chesapeake Bay water quality requirements, notwithstanding
601 the extension of the tentative approval. Really what the extension does is allows them to avoid
602 some costs application fees, engineering fees and going through the hearing process,
603 resubmitting the same thing and that's really the purpose of the request. So, I've basically
604 finished my short presentation for a very long tentative approval and I would be happy to
605 answer any questions.

606 Ms. Dwyer - This would be the 14th extension?

607 Mr. Rothenburg - It's either the 13th or the 14th, I'm not quite sure when the tentative was
608 initially approved, but that would be the last one.

609 Ms. Dwyer - Is there any question as to whether regulations, laws, or ordinances that
610 have been passed in the intervening 13 years, whether or not they would apply to the a
611 development that would take place on this property now?

612 Mr. Rothenburg - Whether there are changes that would....

613 Ms. Dwyer - Would all the changes apply to this now?

614 Mr. Rothenburg - Certainly, the water quality ones, which we have identified through Jeff
615 Collins at Charles Townes as being the only one that we need to review a little bit more and

616 understand how that affects it. But, Mr. Collins did not think there would be any change in
617 the boundaries or the lot configurations or size. But, those changes apparently were not
618 significant over the past 10 years.

619 Ms. Dwyer - Well, my question is that there have been a number of changes in
620 ordinances and regulations over the past 13 years, which is generally why we don't like to
621 grant extensions for that long a period of time. So, are you saying that all of the regulations
622 and laws that have been passed in the intervening 13 years will apply to this property, or you
623 are not sure?

624 Mr. Rothenburg - Perhaps Mr. Wilhite could respond to that better than I can.

625 Ms. Dwyer - It's probably hard to be sure.

626 Mr. Wilhite - It is hard to be sure. The biggest issue that we have is water quality.
627 And, although, that letter does refer to Chesapeake Bay, there are other laws that may apply
628 outside of the Chesapeake Bay Preservation Act. That really comes under the vanguard of
629 Public Works and Design Engineers to review that. Off of the top of my head, I can not recall
630 any real regulation changes since this time that would have a measurable impact on this
631 subdivision.

632 Ms. Dwyer - Of the design.

633 Mr. Wilhite - Yes. But, until we do get the final review, we would not be able to
634 commit to that.

635 Ms. Dwyer - And the letter is an iron clad commit to comply with all Chesapeake Bay
636 requirements.

637 Mr. Rothenburg - That's certainly the way we are reviewing that. And, as I explained to
638 Mrs. Quesinberry before, we are happy to go ahead and commit now that we will do that.
639 The intent of this is not to skirt the Chesapeake Bay requirements, it's simply to avoid having
640 to go through and duplicate a lot of effort on resubmitting a plat that's going to look
641 substantially the same as this, filing another application fee and going through the hearing
642 process for that.

643 Ms. Dwyer - And Mr. Wilhite said there may be other water quality considerations
644 that are not a part of this letter commitment.

645 Mr. Rothenburg - We would review our commit to all of the water quality requirements.
646 All the current water quality requirements will be complied with.

647 Ms. Dwyer - Are there any other questions by Commission members?

648 Mrs. Quesinberry - I just have one for Mr. Wilhite. Is there any reason why this couldn't be
649 extended for less than a year?

650 Mr. Wilhite - No. I think that would be up to the Commission to make an extension
651 for a period of less than a year.

652 Mrs. Quesinberry - I would like to make a recommendation for the rest of the Commission
653 to consider and that is. I have some concern with this because it is so old and even though I
654 think we have the water quality issue addressed, there maybe some other issues because of
655 ordinance changes over 13 years, at least 13 years. Certainly, ordinance changes that I'm not
656 familiar with since, I have less than a year tenure year. And, certainly, there are some
657 ordinance changes that you all know that we are considering with residential strategies and that
658 sort of thing. I would just hate to put off something this old for another year and I would like
659 to recommend that we extend this for six months. I think that would give the property
660 owners, ample time, after 13 years to decide what they want to do, if anything, with this
661 property. And, certainly, not put us in any additional stress over what may happen. That
662 would move this case to about November 17, 1999, for our November POD meeting. It could
663 be taken care of during this year instead of moving to 2000, something would certainly happen
664 during this year, in 1999.

665 Ms. Dwyer - May I see the copy of the letter that Mr. Rothenburg referred to?

666 Mr. Rothenburg - Madam Chair, if I could just add one more point to that.

667 Ms. Dwyer - The letter I'm looking for is the letter committing to comply with the
668 water quality. This is a letter from Angela Harper. I'm not convinced that that really does it.

669 Mr. Rothenburg - I'll add one more point, if I may.

670 Ms. Dwyer - This is just a general statement by Ms. Harper when she noted that the
671 plan was about to expire 1996 that applicable codes must be met. So, I guess that goes back to
672 the question as to what's applicable?

673 Mr. Rothenburg - Right. And we are willing to address that concern of Mrs. Quesinberry.
674 One thing we want to do is avoid coming back in six months. We are willing to commit that
675 we will comply with whatever the ordinance requirements are, in addition to the Chesapeake
676 Bay Act to the extent that those have been modified or are modified prior to the final
677 subdivision approval. We think we will need that entire year. We are simply trying to avoid,
678 again, the expense of coming back through that process, but we are happy to give you the
679 assurance that if those ordinances outside of the Chesapeake Bay Act have changed, we will
680 also comply with those. There is really no downside to the County. I am happy to go ahead
681 and draft or work with Mr. Wilhite with a condition for the extension that provides, will
682 compile all applicable ordinance requirements, current requirements.

683 Ms. Dwyer - Will that condition carry over then if you sold this property?

684 Mr. Rothenburg - That's right. It would be a condition on this most tentative....

685 Mrs. Quesinberry - I realize your intent to comply but I'm not sure about the next....

686 Mr. Rothenburg - Right. On this preliminary plat, that would certainly control that. If
687 somebody comes in with a new plat, a new request for a preliminary plat, they will have to
688 comply with all of the current ordinance requirements anyway.

689 Ms. Dwyer - I have some misgivings about this. Fourteen years is a long time and I
690 don't see the iron clad commit in writing to us having been reviewed perhaps by our County
691 Attorney to assure us that it in fact does what we would like it to be.

692 Mr. Rothenburg - I certainly think you can accomplish that today by providing that as a
693 condition of the extension for the year. We will be required to comply with all current
694 ordinance requirements in addition to the Chesapeake Bay Act. I don't see any down side to
695 the County whatsoever. That's perfectly iron clad.

696 Mrs. Quesinberry - So, you are suggesting a condition which you are willing to draft with
697 Mr. Wilhite that for an extension that you will comply with off current ordinances, including
698 the Chesapeake Bay Act and other water qualities and other ordinances that are in effect today?

699 Mr. Rothenburg - As if we came in, never had a preliminary plat approval, we just simply
700 walked in tomorrow with a new application for a new preliminary plat, which complies with
701 all of the ordinance requirements. We honestly believe that what we submit will do that with
702 the exception of the water quality, which we need to investigate a little bit more, but we are
703 happy to comply with that.

704 Ms. Dwyer - All right. Include that language in there as if we came in today for a
705 subdivision approval.

706 Mr. Rothenburg - That's fine. That's truly our intent to make that bonding and make sure
707 we are complying with the current requirements.

708 Mrs. Quesinberry - And I appreciate your flexibility on this. You realize our concern after
709 13 or 14 years. We just don't want to find out later that we missed something kind of old and
710 we didn't see it coming.

711 Mr. Rothenburg - I understand.

712 Mrs. Quesinberry - And I understand your wiliness when you do get ready to move on this
713 property to build it to today's standards. Mr. Wilhite, is that something you can do?

714 Mr. Wilhite - Yes, ma'am, I believe we can draft a condition and have that attached to
715 the approval letter, if the Planning Commission decides to extend the subdivision, that they
716 comply with all current requirements.

717 Ms. Dwyer - So, we will call this a springing conditional approval.

718 Mrs. Quesinberry - We will call it the "Rothenburg Condition" and will refer to it in the
719 future. And the condition will read as if the subdivision had been approved as of today.

720 Mr. Wilhite - We can add that to it.

721 Ms. Dwyer - Okay. Are we ready for a motion?

722 Mrs. Quesinberry - Yes. I would like to make a motion that we approve for one year
723 extension for Lakefield with the added conditions that, the additional condition will be added
724 to require compliance with all current ordinances in effect today, including all water quality
725 and Chesapeake Bay Act, as if this subdivision was submitted today.

726 Ms. Dwyer - Do you want to extend it for a year?

727 Mrs. Quesinberry - Yes, with those conditions for one year.

728 Mr. Archer - Second.

729 Ms. Dwyer - The motion was made by Mrs. Quesinberry and seconded by Mr.
730 Archer. All in favor say aye...all oppose say nay. The motion carries for the extension of
731 Lakefield (September 1986 Plan).

732 Mr. Archer - Madam Chairman, I will move the subdivision extension for Cedar
733 Grove (June 1998 Plan).

734 Mr. Vanarsdall - Second.

735 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall to
736 approve Cedar Grove subdivision extension. All in favor of the motion say aye...all oppose
737 say nay. The motion carries.

738 The Planning Commission approved the subdivision extensions of conditional approval for
739 Cedar Grove (June 1998 Plan) and Lakefield (September 1986 Plan) for 12 months, until June
740 28, 2000.

741 **TRANSFER OF APPROVAL**

742

**POD-112-98
Hewlett-Packard – White
Oak
(Phase I and Master Plan)**

TIMMONS and John R. Rizzo for MIT-JPM Limited Partnership: Request for transfer of approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code from Meridian Industrial Trust, Inc. and Hewlett Packard Company to MIT-JPM Limited Partnership. The 93.42-acre site is located along the east line of Technology Boulevard approximately 2,400 sq. ft. north of Portugee Road on part of Parcel 187-A-5, White Oak Technology Park. The zoning is M-2, General Industrial District. County water and sewer. **(Varina)**

743 Ms. Dwyer - Is there anyone in the audience in opposition to transfer of approval
744 POD-112-98, Hewlett-Packard at White Oak? No opposition. Good morning, Mr. O'Kelly.

745 Mr. O'Kelly - Good morning, Madam Chairman, members of the Commission. This
746 request is in order. Staff really has nothing to add. It should have been on the expedited
747 agenda and that's my fault for not carrying that forward. I'll be happy to answer any
748 questions.

749 Ms. Dwyer - Do we have any materials or visuals on this? Are there any questions
750 for Mr. O'Kelly? No questions. We are ready for a motion.

751 Mrs. Quesinberry - I would like to move the transfer of approval POD-112-98, Hewlett-
752 Packard - White Oak.

753 Mr. Archer - Second.

754 Ms. Dwyer - The motion was made by Mrs. Quesinberry and seconded by Mr.
755 Archer. All in favor say aye...all opposed say nay. The motion carries.

756 The Planning Commission approved the transfer of approval request for POD-112-98,
757 Hewlett-Packard - White Oak (Phase I and Master Plan) from Meridian Industrial Trust, Inc.
758 and Hewlett Packard Company to MIT-JPM Limited Partnership.

759 **SUBDIVISION**

760

Berkeley (June 1999 Plan) **Q.M.T. for Gregory A. Windsor and Robert P. Bain, Ayers Realty, LLC, Martha A. Keyser Davis and Herbert W. Atkinson and Bawin, L.L.C.:** The 67.6-acre site is located along the south line of Nuckols Road approximately 420 feet east of Pouncey Tract Road on part of Parcels 17-A-7A, 17-A-7B and part of 17-A-8. The zoning is R-2C, One-Family Residence District (Conditional), and R-2AC, One-Family Residence (Conditional). County water and sewer. **(Three Chopt)** 135 134 Lots

761 Ms. Dwyer - Is there anyone in the audience in opposition to subdivision Berkeley
762 (June 1999 Plan)? No opposition. Mr. Wilhite.

763 Mr. Wilhite - There is a revised plan that we received Friday. The revised plan
764 reduces the number of lots from 135 to 134. It also adds a third connection to Nuckols Road.
765 The first connection being the westernmost, as it appears on the screen. This road was
766 originally supposed to be a cul-de-sac. This will be extended to provide a third connection.

767 Ms. Dwyer - Excuse me, but could you point that out to us on the screen. I don't
768 think we have the revised plan.

769 Mr. Wilhite - This is where the cul-de-sac road will be extended to provide a third
770 connection. This cul-de-sac here was an original second connection that Public Works asked
771 them to eliminate, so they created a cul-de-sac. Another connection has been made here to
772 align with the road in the proposed subdivision across on the north side of Nuckols Road. So,
773 the number of connections into the subdivision goes from two to three off of Nuckols Road.

774 Ms. Dwyer - So, originally, the center road was a cul-de-sac, I mean, with the
775 connection, and the other two cul-de-sacs, there were cul-de-sacs on either side. And under
776 the revised plan, the opposite is true.

777 Mr. Wilhite - Yes. This road right here was supposed to be a cul-de-sac and then there
778 was a connection here where a cul-de-sac shows up.

779 Ms. Dwyer - Right. So they reversed it.

780 Mr. Wilhite - And this revised plan addresses the concerns that staff had over the BMP
781 calculations and location and also the wetlands impacts. The right-of-way islands, that appear
782 in the road, have been shortened to allow access into the lots without having to cause U-turns.
783 There is also a new condition, No. 15, that's being handed out to you. It addresses the
784 requirements for a 25-foot planting strip easement along Nuckols Road. It states: The 25-foot
785 planting strip easement along Nuckols Road shall be provided outside of the existing 15-foot
786 Virginia Power easement unless the developer can provide evidence of an agreement with Virginia
787 Power to allow landscaping within the said 15-foot easement. The developer and/or homeowner's
788 association shall agree to replace any landscaping removed as a result of any construction or

789 maintenance activity within the easement. With this added condition, staff can recommend approval
790 of the revised plan with the annotations the standard conditions and conditions Nos. 12 through 15.

791 Ms. Dwyer - So, the existing 15-foot power easement could be inside the 25-foot
792 planting strip easement if Virginia Power provides a letter that says you can plant in that
793 easement.

794 Mr. Wilhite - That is correct. If Virginia Power will not let us landscape within that
795 15-foot easement then that 25-foot planting strip easement would have to be shifted outside.

796 Ms. Dwyer - So, let's say Virginia Power provide that letter and the plantings are
797 there, and 10 years down the road the trees are mature and then Virginia Power has to come in
798 and redo its lines and tear all the trees up, and then the homeowners are stuck with replacing
799 the trees and having small trees instead of a mature tree.

800 Mr. Wilhite - That's a possibility but that possibility exist with any construction work
801 in any easements that go through these planting strips.

802 Ms. Dwyer - Except, normally, they try to keep planting strips out of known utility
803 easements, don't we?

804 Mr. Wilhite - We try to. However, the County has very little control over Virginia
805 Power or Bell Telephone or cable companies that come through here. We assume, generally,
806 when we ask for a 25-foot planting strip easement that we might lose 10 to 15 to easements
807 from these other type of utilities that don't notify us about where the lines are going to go
808 during the subdivision review process.

809 Ms. Dwyer - Unless we require the easement to be outside of the utilities.

810 Mr. Wilhite - Yes. And particularly the way they worded the proffer for the zoning
811 case here, it required most utility easements to cross perpendicular and here we are dealing
812 with an existing easement that's already there. We are trying to accommodate and make sure
813 that as long as we can landscape those areas, then he can have the existing easement within
814 that 25-foot planting strip easement.

815 Ms. Dwyer - I had a case recently on Saddler Road in which we had this very problem
816 and I'm not sure that it's satisfactory to have a 15-foot utility easement inside a planting strip.
817 I think that nullifies propose of planting strips. How did the proffer read on this case as far as
818 the planting strip is concerned?

819 Mr. Wilhite - The proffer read that granted the utility easements would have to cross
820 perpendicular through the planting strip easement.

821 Ms. Dwyer - And we are making an exception here because this is an existing
822 easement.

823 Mr. Wilhite - Well, an existing easement and also it is not a kind of easement within
824 the control of the County. We are typically very strict about the type of plant materials that
825 can go within the County's drainage utility easements. Here, we would say, we are asking
826 them to move the 25-foot planting strip easement outside that 15-foot Virginia Power
827 easement, if we can not get an agreement from Virginia Power that that area can be
828 landscaped, I think it accomplishes what the proffer intended.

829 Ms. Dwyer - This is a Three Chopt case and my inclination isn't... Is the applicant
830 here?

831 Mr. Wilhite - Yes, I believe so.

832 Ms. Dwyer - I can either defer it for Mrs. Wade to consider, or I'm inclined to say
833 the 25-foot planting strip easement must be outside the 15-foot utility easement.

834 Mr. Condlin - Madam Chairman, members of the Commission. My name is Andy
835 Condlin on behalf of Bawin. The issue at hand, really the intent of the proffer, that whole
836 reason for that proffer is in the past history of the policies of the Planning staff. It was always
837 understood with the term utility that the County's Public Utilities and not Virginia Power or C
838 & P folks that are public type companies that have easements otherwise, that was always our
839 understanding. It's routinely provided in the County and I believe some of the County's staff
840 actually filed that procedure as well that says, if it is a public utility being from the County,
841 that it has to be perpendicular, it can't be within the easement. But, otherwise, with the
842 VEPCO type easements, normally, and I believe the code says that a 10-foot planting strip is
843 required. And the reason it was bumped up to 25 feet because the first 15 feet was going be
844 VEPCO. A VEPCO easement, it's normal for them to put it in along the right-of-way and the
845 cheapest route regardless of what the proffer say. They just go ahead and do it no matter what
846 any way. In this case we have an existing easement. With respect to the landscaping, it was
847 always planned to put shrubs, shallow root type landscaping, lower landscaping in the first 15
848 feet with the majority, with the fencing and the trees and the 10 feet in the rear, next to the
849 lots off of the road and beyond that. So, that would be a minimum, if those were torn up by
850 VEPC, that would be a minimum of costs to be able to put those... versus putting in a mature
851 tree, I mean, those are to be at a low level anyway. And the second issue being that there is
852 going to be, as a part of the homeowners association, reserved time to pull for that type of
853 maintenance that's already built in. The issue is they don't want to defer. This is something
854 that they feel they can and have worked out in the past with the County. It's a precedence that
855 has been set and other cases as well as the anticipation of this proffer as to what that meaning
856 was.

857 Ms. Dwyer - So, where exactly is the Virginia Power easement?

858 Mr. Condlin - It's right along Nuckols Road, the 15 feet. They actually condemn that
859 when the widen Nuckols Road at that point, the condemn that easement at that time and that's
860 when the easement was given for VEPCO.

861 Ms. Dwyer - And you have 15 feet adjacent to the ultimate right-of-way line or the
862 existing line?

863 Mr. Condlin - The existing. I don't think there is going to be any change in those.
864 The houses are measured... That's why we put in that the houses be measured, not from the
865 property boundary line, but specifically it's measured from the back of the 25-foot easement,
866 you know, the setback requirement.

867 Ms. Dwyer - Was there a cross section of this planting strip provided at zoning time,
868 at all? What were the expectations?

869 Mr. Condlin - Just literally what was written, and from my memory I don't think we
870 ever had anything specific as to the landscaping and what was placed in here. This is
871 something that I believe was just... That was the understanding. It's been the precedence in
872 the past cases with this proffer that it be 25 feet because of the 15-foot, usual 15-foot VEPC
873 take along Nuckols Road or along any road. I know there are a number of cases, a number of
874 engineers who probably come across the same situation.

875 Ms. Dwyer- Let me make sure I understand what we have here. We have existing
876 curb and then ultimate right-of-way line. Are you looking at the same thing I'm looking at?

877 Mr. Condlin - I'm not actually looking at anything. I passed out all of my papers.

878 Ms. Dwyer - Then how can you agree with me?

879 Mr. Condlin - I remember it, really.

880 Ms. Dwyer - All right, curb and then 17 feet to the ultimate right-of-way line and a
881 15-foot power easement and a 10-foot planting strip.

882 Mr. Condlin - Correct. That's why in the proffer, we were specific about open space
883 that would be a part of the landscaping and open space area within this planting strip. And
884 that would be a part of it with the shrubs and whatnot. I think we have learned our lesson in
885 the past. I know that the proffers now, because of this issue coming up in other cases, are
886 now saying with (unintelligible) other than existing utility easements or other than as required
887 by Public companies with power condemnation. Quite literally the developer's hands are tied
888 on this issue and this comes up all the time. I think we had one recently with Windsor
889 Business Park as to where to put them and these are issues that are required all of the time.

890 Ms. Dwyer - Are you submitting this as a part of the case?

891 Mr. Condlin - Yes.

892 Ms. Dwyer - If you will submit this, it's acceptable. Okay. Thank you. Are there
893 any other questions by Commission members? All right. I move for the approval of
894 subdivision Berkeley subdivision (June 1999 Plan) subject to the annotations on the plan and

895 the standard conditions for subdivisions, including the additional conditions Nos. 12 through
896 14 and No. 15, which is the new condition. Is this on the addendum?

897 Mr. Wilhite - No. It was handed out separately to you.

898 Ms. Dwyer - Which was handed out separately and we will include with the No. 15
899 condition this visual submitted by Q.M.T. Engineering Service. I don't see a date on it, June
900 22, 1999, depicting the 25-foot planting strip underground easement and ultimate right-of-way
901 line.

902 Mrs. Quesinberry - Second.

903 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mrs.
904 Quesinberry. All in favor of the motion say aye...all opposed say nay. The motion carries.

905 The Planning Commission granted conditional approval to Berkeley (June 1999 Plan), subject
906 to the standard conditions attached to these minutes for subdivisions served by public utilities,
907 the annotations on the plans and the following additional conditions:

- 908
- 909 12. The limits and elevation of the 100 year frequency flood shall be conspicuously noted
910 on the plat and construction plans and labeled "Limits of 100 Year Floodplain."
911 Dedicate floodplain as a "Variable Width Drainage & Utility Easement."
 - 912 13. Prior to requesting the final approval, a draft of the covenants and deed restrictions for
913 the maintenance of the common area by a homeowners association shall be submitted to
914 the Planning Office for review. Such covenants and restrictions shall be in form and
915 substance satisfactory to the County Attorney and shall be recorded prior to recordation
916 of the subdivision plat.
 - 917 14. A subdivision landscaping plan shall be submitted to the Planning Office for review and
918 approval prior to recordation of the plat.
 - 919 15. The 25-foot planting strip easement along Nuckols Road shall be provided outside of the
920 existing 15-foot Virginia Power easement unless the developer can provide evidence of an
921 agreement with Virginia Power to allow landscaping within the said 15-foot easement. The
922 developer and/or homeowner's association shall agree to replace any landscaping removed
923 as a result of any construction or maintenance activity within the easement.

924

925 **SUBDIVISION**

926

**Lake Ridge
(June 1999 Plan)**

Q.M.T. for Windsor Enterprises, L.L.C.: The 50.6-acre site is located south of Lakeside Boulevard and west of I-95 on part of Parcel 73-A-18. The zoning is R-4, One-Family Residence District. County water and sewer. **(Fairfield)** 20 Lots

927 Ms. Dwyer - Is there anyone in the audience in opposition to Lake Ridge subdivision
928 June 1999 Plan? No opposition. Mr. McGarry.

929 Mr. McGarry - Madam Chairman. Staff review of the revised plan that's in your packet
930 is not complete. There is really only one issue to discuss and that had to do with the depth of
931 the planting strip easement along I-95. The developer has several shallow lots backing up to
932 the interstate and he wants to make sure that the future homeowners will be able to provide
933 tool sheds in their rear yards. The policy is normally to get a 25-foot planting strip easement,
934 15 feet for utilities and 10 feet for landscaping. There will be no utilities along this portion of
935 I-95. They will unfortunately be in the front yard. So, the current minimum of 10 feet for a
936 planting strip is currently a vegetated area on these lots. Since the subdivision is squeezed
937 between I-95 and a floodplain, staff is recommending that the 10-foot planting strip easement,
938 rather than the 25-foot-wide planting strip easement, in this instance, be accepted. With that,
939 staff recommends conditional approval of the revised plan, plus the additional conditions Nos.
940 12 through 15. I'll be happy to answer any questions.

941 Ms. Dwyer - Are there any questions of Mr. McGarry?

942 Mr. Archer - Mr. McGarry, would you restate what the ultimate benefit is going to be
943 for the homeowners so that I can be sure that the other Commissioners understand what's to be
944 gained by this?

945 Mr. McGarry - Okay. The normal policy, when you get a 25-foot planting strip
946 easement, which is designated for utilities and plantings, would preclude sheds or garages from
947 being located in them. In instances, where we have shallow lots, this has the net affect of
948 eating up a large portion of the rear yard. So, with a minimum planting strip easement of 10
949 feet, this frees up at least 15 feet of rear yard that's available for the homeowner to utilize for
950 his own wishes.

951 Ms. Dwyer - So, the 15 feet, then, will be added to the rear yard setback in effect?

952 Mr. McGarry - No, it won't actually be added to it, it will allow... Let me restate it.
953 The 25 feet would have precluded any tool sheds or structures in them, which eats up a portion
954 of his rear yard.

955 Ms. Dwyer - I understand.

956 Mr. McGarry - And by reducing it to 10 feet the homeowner will see a net gain of 15
957 feet that would be of disposal for him.

958 Ms. Dwyer - Was the 25-foot easement originally in addition to the rear yard setback?

959 Mr. McGarry - No, it is not in this case.

960 Ms. Dwyer - So, the 25 feet originally was included in the rear yard setback anyway.

961 Mr. McGarry - Yes, it is.

962 Ms. Dwyer - Which is going to be 25 feet for utilities and landscaping.

963 Mr. McGarry - That's correct.

964 Ms. Dwyer - And so we are just removing the prohibition of putting outbuildings in
965 that 15 feet.

966 Mr. McGarry - That's correct. He still has to respect the last 10 feet next to the
967 interstate with no utility sheds or other structures.

968 Ms. Dwyer - The easement is in favor of whom, that 10-foot planting easement? Is
969 that in favor of the homeowners association or the.... If you have an easement and you are
970 giving something to somebody....

971 Mr. McGarry - The easement, I guess, technically, is to the County. But, it allows us to
972 approve a landscape plan or existing vegetation whichever is appropriate to create an
973 environment where the homeowner will, hopefully, not go in and try to clear it.

974 Ms. Dwyer - Is there existing vegetation in that 10 feet?

975 Mr. McGarry - Yes.

976 Ms. Dwyer - And, will that be preserved?

977 Mr. McGarry- Yes, that's the intent. If it is not preserved then the developer gets to
978 come back and plant.

979 Ms. Dwyer - So, it's preferable to have mature trees rather than small landscaping.

980 Mr. McGarry - And that's part of the staff's feeling. We have an existing... this is not
981 an open field environment, this is a wooded environment and it's to everyone's advantage to
982 just use that 10 feet of existing vegetation.

983 Ms. Dwyer - What insures us that that 10 feet will be preserved?

984 Mr. McGarry - When the construction plans come in, we will look at the clearing limits
985 for the subdivision and make sure the limits of clearing do protect the 10 feet. Or, if this were
986 a 25-foot planting strip easement, we would also have that limit of clearing restricted to the
987 developer and also the utilities could come install what they needed but it keeps the developer
988 from going into it.

989 Ms. Dwyer - Wouldn't it be desirable to require the developer to preserve 25 feet of
990 mature trees but only have the easement apply to 10 feet, as you suggest? In other words, is
991 there anyway to limit the clearing? Ten feet of trees is not much. It's going to look like,
992 probably, toothpicks along the edge. Is there a way to do that, to limit the clearing? What do
993 you think, Mr. Archer?

994 Mr. Archer - That's something I hadn't considered but it's not a bad idea.

995 Ms. Dwyer - If the mature trees could be preserved for that whole 25 feet, since we at
996 one time planned to do that anyway. But, just have the easement apply to the 10 feet, the
997 initial development, not that the landowner would be prohibited from cutting down the trees, if
998 they desire to do that, but, at least during construction and development to preserve 25 feet of
999 mature vegetation. This is probably a Chesapeake Bay Area isn't it?

1000 Mr. McGarry - It's high enough next to the interstate that it is not at this point.

1001 Mr. Archer - Will we need to add that as a condition, Mr. McGarry?

1002 Mr. McGarry - I can handle it as an annotation. The plan you have in front of you
1003 shows the 25-foot planting strip easement that I have taken the staff plan and annotated it down
1004 to 10.

1005 Mr. Archer - Okay. So, you can annotate that which would be preserved at initial
1006 development? Is that what you were saying, Ms. Dwyer?

1007 Ms. Dwyer - My suggestion was that when the construction plans are approved or
1008 however that might be done, to preserve 25 feet of existing mature vegetation against the
1009 interstate would be a good idea. And, then, the homeowner would have that to start off with.
1010 If they wanted then to cut down a tree to put in a shed or whatever then that would be within
1011 their right to do because it would not be a part of the easement. I'm not suggesting you
1012 change what you were going to do, which was to reduce the 25-foot easement to a 10-foot
1013 easement but just to try to preserve 25 feet of mature trees during construction.

1014 Mr. McGarry - The developer indicates that's agreeable to him.

1015 Ms. Dwyer - Okay. I'm sure you can do that as an annotation. Are there any other
1016 questions by Commission members? Okay. Ready for a motion?

1017 Mr. Archer - I think so, Madam Chairman. I think ultimately the beneficiary of
1018 whatever we do will be the homeowner and think that is what we are trying to accomplish.
1019 So, with that, I recommend approval of subdivision Lake Ridge (June 1999 Plan) subject to
1020 the annotations on the plans, the standard conditions for subdivisions served by public utilities,
1021 and the additional conditions Nos. 12 through 15.

1022 Mr. Vanarsdall - Second.

1023 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall.
1024 All in favor say aye...all opposed say nay. The motion carries.

1025 The Planning Commission granted conditional approval to subdivision Lake Ridge (June 1999
1026 Plan), subject to the standard conditions attached to these minutes for subdivisions served by
1027 public utilities, the annotations on the plans and the following additional conditions:

1028

- 1029 12. The limits and elevation of the 100-year frequency flood shall be conspicuously noted
 1030 on the plat and construction plans and labeled "Limits of 100 Year Floodplain."
 1031 Dedicate floodplain as a "Variable Width Drainage & Utility Easement."
 1032 13. The detailed plant list and specifications for the landscaping to be provided within the
 1033 10-foot-wide planting strip easement along Interstate I-95 shall be submitted to the
 1034 Planning Office for review and approval prior to recordation of the plat.
 1035 14. Each lot shall contain at least 8,000 square feet, exclusive of floodplain areas.
 1036 15. The construction plans shall be approved by VDOT prior to County approval.
 1037

1038 **SUBDIVISION**
 1039

Westerre Parkway (June 1999 Plan) **Balzer and Associates for Westerre Land Office Development, L.L.C. and Trammel Crow Company:** The 3.072-acre site is located on the south line of W. Broad Street (U.S. Route 250) at its intersection with Fort McHenry Parkway on part of Parcel 48-A-37A. The zoning is 0-3C, Office District (Conditional). County water and sewer. **(Three Chopt) 0 Lots**

1040 Ms. Dwyer - Is there anyone in the audience in opposition to subdivision Westerre
 1041 Parkway (June 1999 Plan)? No opposition. Mr. Whitney.

1042 Mr. Whitney - Thank you, Madam Chairman. Westerre Parkway currently is a
 1043 private road served by an easement to the office buildings and the hotels along here. This
 1044 conditional plan will be the beginning of this being dedicated as a public right-of-way.
 1045 Westerre Parkway is planned to connect into Cox Road. Staff is recommending approval of
 1046 this subdivision and I'll take any questions that you may have.

1047 Ms. Dwyer - Are there any questions of Mr. Whitney? No questions. I move the
 1048 approval of subdivision Westerre Parkway (June 1999 Plan) subject to the annotations on the
 1049 plan the standard conditions and additional conditions No. 11.

1050 Mr. Vanarsdall - Second.

1051 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mr. Vanarsdall.
 1052 All in favor say aye...all oppose say nay. The motion carries.

1053 The Planning Commission granted conditional approval to subdivision Westerre Parkway (June
 1054 1999 Plan) subject to the standard conditions attached to these minutes, the annotations on the
 1055 plans and the following additional condition:

- 1056 11. Any necessary off-site drainage easements must be obtained prior to final approval of
 1057 the construction plans by the Department of Public Works.

1058 **SUBDIVISION**

1059

**Magnolia Ridge,
Phase 3
(June 1999 Plan)
(A dedication of a
portion of Magnolia
Ridge Drive)**

Jordan Consulting Engineers, P.C. for Ukrop's Super Market:
The 2.836-acre site is located on the west line of Brook Road (U.S. Route 1) approximately 1,800 feet north of its intersection with J.E.B. Stuart Parkway on part of Parcel 23-A-9D. The zoning is 0-2C, Office District (Conditional), B-3C, Business District (Conditional) and B-2C, Business District (Conditional). County water and sewer. **(Fairfield)** 0 Lots

1060

1061 Ms. Dwyer - Is there anyone in the audience in opposition to subdivision Magnolia
1062 Ridge, Phase 3 (June 1999 Plan). You are in opposition? Okay. We do have opposition.
1063 Ms. News.

1064

1065 Mr. Condlin - Mrs. Dwyer, would it be appropriate to ask for a deferral on this case?
1066 I've never been in a position in being a neighboring property owner asking that the case be
1067 deferred. (Unintelligible)

1068

1069 Ms. Dwyer - I think maybe what we will do is allow Ms. News to make her
1070 presentation and then we will just handle that as opposition. I think we will need to hear
1071 something to know what the issues are. Is that all right with you, Mr. Archer?

1072

1073 Mr. Archer - That will be fine.

1074

1075 Ms. Dwyer - Ms. News, good morning.

1076

1077 Ms. News - Good morning. Dedication of this road is required as a condition of
1078 approval of POD-77-96, Virginia Center Market Place, Phase II. A portion of the road is
1079 under construction now as approved with the POD. The remaining portion of the road to
1080 complete the future connection to J.E.B. Stuart Parkway will be bonded per condition No. 12
1081 on your agenda. Staff recommends approval of this conditional subdivision.

1082

1083 Ms. Dwyer - Are there any questions for Ms. News? All right. Will the applicant
1084 come forward please? We can hear from the opposition first, if you prefer. Usually, we hear
1085 from the applicant and then the opposition.

1086

1087 Mr. Melton - Whatever you desire. I'm speaking for Ukrop's Supermarket.

1088

1089 Mr. Archer - Sir, are you familiar with what the opposition is?

1090

1091 Mr. Melton - Somewhat, but not completely.

1092

1093 Ms. Dwyer- Could you state your name for the record, please?

1094
1095 Mr. Melton - I'm Nelson Melton and I represent Ukrop's Supermarket. We would ask
1096 that you approve our application for the subdivision, which is now Magnolia Ridge Drive. We
1097 understand that Brookfield has been negotiating with Virginia Center Commons to acquire an
1098 easement across on the east side of Brook Road. We had been aware of that actual design to
1099 acquire the easement for some time. In December I did write a letter in support of that design.
1100 We don't understand all the issues. I'm sure they will speak to them but we don't see the
1101 association of their desire to acquire this easement with the approval of our request for
1102 approval of the subdivision of this particular street. I'll be glad to answer any questions you
1103 might have.

1104
1105 Ms. Dwyer - Are there any questions of Mr. Melton by Commission members?
1106 Thank you, sir. Would the opposition come forward please?

1107
1108 Mr. Condlin - Andy Condlin with Williams, Mullen, Christian & Dobbins. I have with
1109 me Tom Williamson from Brookfield. If I may first address the request for the deferral, I'm
1110 not even sure, I assume that the Planning Commission has that right to defer their motion,
1111 otherwise it's a moot point. Mr. Melton is correct in the fact that we have.... I've been
1112 working with the Simon Property Group and at the expense of avoiding the chance of biting
1113 the hand that we are trying to get to feed us, let's just say that.... And I believe Mr. Archer
1114 has probably gotten half of my letters. I've been somewhat tenacious in going after the Simon
1115 Property Group, the owner of the mall, to get an easement. The problem is, if you can
1116 picture, and if I may put up the VDOT map. The northern entrance to the mall, the
1117 northernmost entrance to the mall, north of that exists, I don't know what to call it, a drainage
1118 way. It's now a swell. I mean, it's huge, it's big, that drains water and then there's
1119 Brookfield. Brookfield, which I've shown here on the VDOT map, the entrance is right next
1120 to that drainage way. As you can see, this is the entrance to the mall that I was discussing.
1121 This you can see is the drainage way. I think I've got the right term. Here, you can see, right
1122 there, the entrance to Brookfield, with the property line being right there.

1123
1124 This drainage area is a huge ditch that goes along. We have attempted and I've been tenacious
1125 in contacting Wendy's. I appreciate Ukrop's writing to the mall saying that "Gee wouldn't it
1126 be nice for the mall to give an easement." We asked for an access easement, and I'm not
1127 going to get into the details of it until we get into the details of our opposition, but suffice to
1128 say we feel it's unsafe now. It's going to create a greater unsafe condition with this light. To
1129 get around that issue, and knowing that the County supports this position of the light, and you
1130 know, not wanting to oppose Ukrop's, we said that we wanted to get an access easement
1131 across the mall to that northernmost entrance. Brookfield is going to have to come out of
1132 pocket. We were hoping to get some contributions from some folks and get an easement. I
1133 tend to be an optimistic guy and I was a little too optimistic. We are going to come out of
1134 pocket between \$80,000 and \$100,000 to build a bridge over this drainage area to just access
1135 the easement. One of the breakdowns of the discussion, and there were details, and I couldn't
1136 get any response. And then finally when I wrote to them recently and said one, the
1137 subdivision has come up and we feel our backs are against the wall, we are going to put out a

1138 measure media outpouring for the orphans of Brookfield and for Mr. Williamson here against
1139 anybody we can because we feel this is this critical of an issue. Only then did we get a
1140 response. I think it was last Wednesday or Friday. I got a call from Mr. Bryan Napp from
1141 the Simon Property Group after about three or four letters. We talked about it. We talked
1142 with Brookfield and I believe we are very close to coming to an agreement. They have been
1143 very difficult to move along but if I can get 30 days I will do everything I can to get that
1144 agreement. That's why I'm asking for that 30-day deferral, so I don't have to oppose this case
1145 on behalf of Brookfield so that I can get that easement.

1146
1147 Ms. Dwyer - Where is the road we are considering today on this map?
1148

1149 Mr. Condlin - This road is directly across the line up with this Virginia Center
1150 entrance. The Virginia Center entrance is right here (referring to map on the screen) and the
1151 road is directly across, it aligns up with it.
1152

1153 Ms. Dwyer - So, how does that relate to your issue by approval of this road?
1154

1155 Mr. Condlin - Well, you can see, and I believe a little farther up, well actually you
1156 can't see it on this map. These are the VDOT plans. You can see, according to these plans,
1157 that are on record, that there is a median strip that's going to be placed across from the
1158 Virginia Center and Ukrop's entrance and across from the Brookfield entrance. The question
1159 is whether there becomes a traffic light at that point. If this subdivision goes through, I have a
1160 VDOT letter, and I believe Tim Foster would agree, with this subdivision comes a light at that
1161 location.
1162

1163 Ms. Dwyer - And a break in the median, obviously.
1164

1165 Mr. Condlin - Obviously, yes, I'm sorry, a break and a light. The issue is, and I guess
1166 I can get into the details of our opposition, if that's what you one me to do.
1167

1168 Ms. Dwyer - I just want to know why your issue relates to what we are considering
1169 today.
1170

1171 Mr. Condlin - I believe, obviously, that the approval of this subdivision will have an
1172 adverse impact, and I would like to go right to the code of the health, safety, and welfare of
1173 Brookfield. Specifically, it is already an unsafe condition. Brookfield has, again, it's an
1174 orphanage, it's been there since 1968. This was an existing site. And I don't know if you
1175 know but Brookfield along Broad Street, that was the original Brookfield site and they came
1176 out here to get away from the congestion. I told Mr. Williamson the next time if they ever
1177 move I'm buying property around them because it seems to be a pretty good investment. I
1178 don't have to tell you about the congestion that's already there. In fact, the buses that pick up
1179 these kids to take them school, they don't pull into the driveway because of the congestion.
1180 They stop on Route 1, specially, the school bus will stop and the kid load and unload at that

1181 location. There are homes, apartments, the mall, Regal Cinemas, Ukrop's, Targets now.
1182 Everything is going to contribute as more and more is developed in this area.

1183
1184 Specifically, VDOT will grant the light at the east/west connector road. The concerns that we
1185 have are not only is there existing danger, specifically, having the school buses stopping out on
1186 Route 1. It is a very congested area. The topography of this area, all of a sudden you come
1187 right on to this driveway and its proximity to the northern entrance to the mall, currently the
1188 folks go out of there with no stop light, just a stop sign. They do the rolling stop and they just
1189 turn right around the right turn. I fear with a traffic light is that, and an unsafe condition is
1190 going to be made that much worse. The green light from the mall will cause drivers to lose
1191 what little incentive they have as they turn north, they are just going to be barreling out of
1192 there and I don't think no one has disputed that. The volume increase will cause multiple
1193 problems for Brookfield. The volume of traffic that's going to be generated not only by this
1194 light but this connection from U.S. Route 1 to J.E.B. Stuart. The County wants this
1195 connection to occur to have that east/west connection. The shear numbers from Ukrop's are
1196 going to be staggering. The light and the road will put traffic from J.E.B. Stuart and
1197 Woodman, as people are heading north. They are going to go along J.E.B. Stuart and use this
1198 entrance to get north, as they try to head north. They are not going to come up Route 1 with
1199 all the traffic lights, they are going to try to either come down Woodman and head north or go
1200 up J.E.B. Stuart to use the center section as well.

1201
1202 And, finally, the ability to pull out of Brookfield with the constant generation of traffic and the
1203 constant light change, it would become almost impossible to move out. I mean, I don't have
1204 to speak to you about the problems with the children coming in and out with the school buses.
1205 The proximity of this light to the existing Brookfield entrance obviously causes this light to
1206 become unsafe. But, I also want to point out to you that a traffic light, I guess, I think it's a
1207 reasonable conclusion to make that says if you grant this approval, a traffic light will go in.
1208 And a traffic light does not always make a safe condition. I know you all have heard through
1209 many zoning cases or residents go "why can't we get a traffic light." It is understood
1210 generally that traffic lights increase rear-end collisions. I can just picture, you know, as the
1211 kids are on the school bus, having to stop there, not by their design, but by the County as I
1212 understand it. I would think it is the County. It's a school bus decision and the school's
1213 decision to stop there. That if you are increasing rear-end collisions then it is only cause that
1214 more problems with the school bus there. This combined with the proximity of the drive
1215 causes great concern for the children. I don't usually like to quote from folks in newspaper
1216 article because I've been quoted in newspapers before and it doesn't always come out right.
1217 But, I have an article in the Times Dispatch about the new Nights of Lights systems that are
1218 being imposed. It says: One of the reasons VDOT officials use lights in night lights to the
1219 road is that traffic counts jump after the coordination of a traffic signal system. Traffic counts
1220 are always going to increase because people use that intersection. I also have a quote from the
1221 Henrico News Leader, from Bob Thompson, which again out of context I'm sure but does say:
1222 Traffic signals usually result in more accidents than people realize. The point being that
1223 traffic lights do cause an unsafe condition. In this case, given proximity to Brookfield, given
1224 the school bus situation, if this subdivision is granted, the danger to the children is only going

1225 to be increased that much more. I believe this denial on this case would have little impact on
1226 Ukrop's and little impact on the County. They can access the light to Target. I don't have an
1227 honest picture, but if you can picture it, Target is immediately adjacent I think it's a common
1228 parking and access way and they have a traffic light at that location. They can make this a
1229 private drive with a right in right out. The County still has the existing Woodman Road for
1230 their east/west connector when the Little Five Azalea Farm develops. And, they can still,
1231 again, Ukrop's could pull people in.

1232
1233 I don't have to tell you that Virginia Code specifically says in 15.2200 that the chapter with
1234 planting and subdivision of land is intended to encourage localities to improve the public,
1235 health, safety, convenience and welfare of its citizens and the plan for development of
1236 communities to the end that transportation systems be carefully planned. I have a couple of
1237 letters that I believe there is as not unusual but I have letters in the files that are in the County
1238 files from Ukrop's that said, in conclusion, and I can give them to you, that says: If Ukrop's
1239 builds the road, the County of Henrico will support this crossover. I have a letter from the
1240 County saying that they will support this crossover and light at this location. Without the two,
1241 the two are absolutely related. So, finally, let me say. The cost of Brookfield and it's
1242 children does not justify the benefit to the County and Ukrop's. Ukrop's get a light and a
1243 crossover. The County gets a new road that they don't have to pay for and the residents
1244 around the area gets the convenience of one more light and one more Route 1 access. All of
1245 that at the cost of Brookfield. I don't see absolutely any upside to Brookfield at this point. To
1246 encourage health, safety, and welfare doesn't mean encouraging the health of Ukrop's
1247 pocketbook, the safety of the County's procedures or to have roads built for them or the
1248 welfare of the resident's convenience. It's for the protection of the orphans and these are
1249 citizens. The services that Brookfield provides is a service that is just as great as this road will
1250 be. That's the best point that I can make. Brookfield is here, they have provided a service in
1251 the past and they are continuing to provide that service for orphans for the children of Henrico
1252 County. And, that service is not greater, it is at least equal to the service to this road and this
1253 light provides. Long answer, sorry. But, that is the conclusion. So, that's why, one, I would
1254 ask that you defer it so that we don't have to oppose it and, two, if we do oppose it, and it
1255 does get heard today, we ask that it be denied until at such time.... And I understand a
1256 subdivision has to be denied with reasons so that the reasons that can be corrected. I would
1257 like to see traffic counts that can prove that Brookfield's children will not be placed in an
1258 unsafe condition by this traffic light, and that potentially prohibit an intersection, so may be
1259 it's not the complete east/west connector road, so that it is only a portion or it's a private
1260 drive. All of these things are convenient for everyone else but Brookfield. I will conclude
1261 with those points.

1262
1263 Ms. Dwyer - Are there any questions of Mr. Conclin?

1264
1265 Mr. Archer - Mr. Conclin, can you review again what could be accomplished by
1266 delaying this, now? You said that there is an agreement that you feel that can be reached.

1267

1268 Mr. Condlin - I've talked over the phone, and as you know, real estate easements can't
1269 be agreed to orally nor has it been substantially agreed to. I've written a letter, did you get
1270 that letter? I finally faxed it.

1271
1272 Mr. Archer - I did.

1273
1274 Mr. Condlin - Okay. Confirming to Mr. Napp, of the Simon Property Group, who are
1275 the owners of the mall, the parameters of the easement. And the major sticking point, that we
1276 basically had to agree to, is that they can terminate the right to use the easement to access that
1277 northernmost entrance to the mall to access that light. If they don't like any future use that's
1278 made of the property. If they don't like if there's competition. If it's obviously an egregious
1279 use or something of that nature but also competitive uses. They want to be able to cut off that
1280 easement. I think Brookfield has made the decision well, a bird in hand is two in the bush and
1281 let's see what we can get for now for the protection of our kids if that signal light goes in and
1282 pay the \$80,000 to \$100,000 for that bridge and tackle the future use if and when it ever
1283 occurs.

1284
1285 Ms. Dwyer - Can you show us on this map about where the access would be that you
1286 would desire?

1287
1288 Mr. Condlin - Yes. It's on this northernmost entrance. We haven't engineered it or
1289 anything but there would be a private access bridge that would go across, we anticipate this
1290 area. The problem for the mall is that they say "Well, gee, your guys come out here they can
1291 go anywhere in this whole area." So, they have asked us for a contribution. That's the other
1292 cost to Brookfield. We have to contribute on an annual basis, probably, hopefully, nominal,
1293 that hasn't been worked out as the specifics but we contribute to the maintenance of those road
1294 systems because we will now be connecting and using it.

1295
1296 Ms. Dwyer - Is there a median there or could you make a left turn into Brookfield if
1297 you accessed...

1298
1299 Mr. Condlin - At the existing entrance?

1300
1301 Ms. Dwyer - No. No. At the....

1302
1303 Mr. Condlin - Yes. That's where we would ask for it to have a left turn. The median
1304 stops at some point, yes, ma'am, we would work that out.

1305
1306 Ms. Dwyer - So, then you would have perhaps the school bus come in, turn left and
1307 then come out.

1308
1309 Mr. Condlin - Yes, they could probably come in and go through the mall and go back
1310 out. I mean, that's probably what would occur.

1311

1312 Ms. Dwyer - School buses don't like to back up.
1313
1314 Mr. Condlin - That's right. I was thinking they could go around the, within the mall
1315 road system. Or, you are right, they could pull in and turn around and come back out the same
1316 way. I understand that they don't pull in now because of the congestion existing on Route 1,
1317 currently, because as you said they don't like to back out. If they turn in and go out they will
1318 never get out again.
1319
1320 Ms. Dwyer - So part of your plan might be a turnaround that would be big enough for
1321 a school bus to turn around on your property and then come out that same mall entrance.
1322
1323 Mr. Condlin - Yes, I believe so. These are all minor details that we have to work out.
1324 We haven't designed anything. We have to redesign the whole entranceway into Brookfield
1325 now, which is additional costs beyond the cost of the bridge, which we understand we are
1326 willing to suck it up. I mean, they have been there, it's a 10-acre site, it's a beautiful site for
1327 the children. Despite this dreaded drainage way it does feed into a creek that goes behind the
1328 property that's very nice. They want to stay here. I mean, the mall creates jobs for their kids.
1329 These are generally 13 to 18 year old teenage types that have jobs at the mall. This is where
1330 they live and this is where they will grow up and they want to protect them as best they can.
1331
1332 Mr. Archer - Mr. Condlin, can you point with the pointer to about where the school
1333 bus stops now?
1334
1335 Mr. Condlin - It's right here, right at the entrance.
1336
1337 Mr. Archer - On the east side of the road, right, so the kids don't have to come across
1338 the road?
1339
1340 Mr. Condlin - No.
1341
1342 Mr. Archer - What about in the evenings when they return?
1343
1344 Mr. Condlin - The same thing. I'm not sure how they get there and where they go
1345 afterwards.
1346
1347 Mr. Archer - I was getting ready to ask you. Do they head north?
1348
1349 Mr. Williamson - They go up into Hanover and turn around, around the Greentop in that
1350 area.
1351
1352 Mr. Condlin - Do you want to come up, Mr. Williamson?
1353
1354 Mr. Archer - That's okay. I can sense that. So, in other words, when they pick up
1355 they turn around and then back into Henrico?

1356
1357 Mr. Condlin - That's correct.
1358
1359 Mr. Archer - Okay.
1360
1361 Mr. Condlin - They still have to do a turnaround. I believe this will probably be their
1362 last stop in Henrico, before they go back.
1363
1364 Mr. Archer - Madam Chairman, I think we need to hear from the Traffic Department
1365 as to how they feel about it and how this fits into the whole scheme of things. Mr. Foster.
1366
1367 Mr. Foster - Good morning. For the record, I'm Tim Foster, traffic engineer. I'm
1368 substituting today for Mr. Eure, who is not here. Some of the things, as I was listening to the
1369 discussion, about the entrances. One. The traffic signal, whether the traffic signal goes there
1370 or not, you are speaking of the traffic on Route 1 and the right turn that's coming out of the
1371 mall. Whether the traffic signal is there or not, those numbers aren't going to change. If
1372 anybody's coming out of that entrance to make a left turn, they are not going to bother
1373 Brookfield. So, the traffic volume that's going by their driveway I see is being the same
1374 whether there is a crossover there or not. As far as the crossover at this point in time, the
1375 roads are still under development. Therefore, from our standpoint, if there is a crossover
1376 there or no crossover there, we expect Grenville Lane to be extended to J.E.B. Stuart Parkway
1377 (sic) Magnolia Ridge Drive. That's a part of our transportation system out there so I don't
1378 see, quite frankly, a problem or from a traffic standpoint, that this road causes that traffic
1379 signal to go there. It's not necessarily the case, but either way we are going to have that road
1380 in there. We think it's needed.
1381
1382 The second thing, to state that, I think the plan I saw is in metric. It looks like the driveway
1383 to Brookfield is about 180 feet north of the mall entrance. To state that that's an unsafe
1384 situation, to have a driveway that close, would make probably every business on Broad Street,
1385 Staples Mill Road and every other place to have what would be called dangerous driveways if
1386 we say that is too close. From our standpoint, that's not too close. We think that can be done
1387 safely. The plan of Grenville Lane and where that driveway went, we looked at that at the
1388 original traffic impact study back in 1991/1992. It was also reviewed back in the 80's by Mr.
1389 Priestas, when he was traffic engineer with the first proposal for a mall there. What we are
1390 seeing there, and what's going to happen there, is no surprise to us, from a County's
1391 standpoint, that something always was expected to happen for many years now. As far as
1392 Grenville Lane goes, that road we feel is needed regardless if there is a crossover over there or
1393 not. And, quite frankly, we can't see whether if it is approved this month or next month what
1394 difference that will make.
1395
1396 Ms. Dwyer - Are there any questions of Mr. Foster?
1397
1398 Mr. Archer - I don't have any but I do want to hear his response anyway.
1399

1400 Mr. Condlin - Well, the issue is not so much the mall traffic but there's going to be a
1401 median there that prevents any Ukrops or, which way am I going, western traffic from going
1402 there by putting the subdivision road all the way through Magnolia Ridge and getting a traffic
1403 signal and you are picking up Ukrops and all that residential area in there. As to an east/west
1404 connector road, the County currently has dedicated to it, this east/west connector road waiting
1405 for development. It's already existing, dedicated to the County and when, I believe this is a
1406 little part of Azalea Farm, gets developed, if and when, that would be placed in there. I
1407 understand their need for it now, or their desire for it now, but that's already there. There is
1408 an opportunity that is already owned by the County. Quite, frankly, VDOT is giving the
1409 preference to this until at such time as the dedication occurs.

1410
1411 And to say that it is unsafe, because it happens all the time, and I understand it happens all the
1412 time, this is not business this is for children, for Brookfield. I believe Mr. Williamson
1413 actually wanted to make a point about that unsafe condition.

1414
1415 Mr. Williamson - The gentleman's point is well taken about the Broad Street
1416 experience, but if you have ever tried to, if you would come out to Brookfield and tried to pull
1417 out onto the highway, people coming out of Wendy's have clear view of what's coming from
1418 the left. They don't stop they speed on out and that's where the danger is. Three times in one
1419 day last week I almost was hit by a car, because from my perspective to the left it was clear,
1420 but by the time I accelerated to go in the cars would zoom around, and three times in one day
1421 that happened. So the Broad Street experience is really not relevant to our situation there.

1422
1423 Ms. Dwyer - So, I understand your concern to be that if this road is put in and
1424 the median is opened and a light is there that that will draw more traffic, if I can summarize
1425 his statement. I'm sorry, sir, would you state your name for the record please?

1426
1427 Mr. Williamson - I'm sorry. Tom Williamson. I'm the director of Brookfield.
1428 Over a year ago we did request that a yellow line, at that entrance, a stopping line, be moved
1429 out close to the highway. The stop sign is far back so if people do stop at the stop sign, we
1430 can't see them and then cars move out. But, nothing has been done about that.

1431
1432 Mr. Condlin - And with the traffic light as that turns green, there's no stopping
1433 at all. There's nothing in front of them and they just bolt right out there and that's the
1434 additional concern for the mall.

1435
1436 Mr. Williamson - May I have an opportunity to just generally respond or make a
1437 statement?

1438
1439 Ms. Dwyer- Yes.

1440
1441 Mr. Williamson - I'll try to make it very short. I would like to give a brief history.
1442 As you know, Brookfield is over 125 years old in terms of its history. It's been in various
1443 forms over that time. The last 31 years we have been at our current location. Originally,

1444 there is a maternity home in recent years, and the last 24 years as a small adolescent group
1445 home. We have endeavored to, because we are a charitable non-profit agency, we have
1446 endeavored to keep a low profile so that our kids eminency and right to privacy is protected.
1447 We have never raised funds by exploiting our kids in our setting. We feel that is a violation of
1448 their right to privacy. So, undoubtedly you have heard very little about Brookfield compared
1449 to some of the other children homes in the community because we really do feel committed to
1450 these kids. They come to us at risk emotionally and physically, and we hope we deal well
1451 with both of those. But I have to say that if this isn't worked out, some way in our favor, we
1452 are continuing to leave those kids at risk physically. Thank you.

1453
1454 Ms. Dwyer - Thank you.

1455
1456 Mr. Archer - Mr. Williamson, I guess you can answer this. Has anybody considered
1457 a way to have an alternative school bus stop, rather than just have the bus stop on Route 1?

1458
1459 Mr. Williamson - First of all, that's only a part of the issue because we have
1460 doctor's appointments, so we take kids all over the community. So we have people coming
1461 and going all day.

1462
1463 Mr. Archer - I understand that, but, I mean, just that one part of it. Has anybody ever
1464 considered that aspect of trying to improve that condition by having an alternate school bus
1465 stop, other than having the bus stop on Route 1?

1466
1467 Mr. Williamson - That would be up to the school bus people. They determine where they
1468 are going to stop. They know our situation.

1469
1470 Mr. Archer - So, it has been reported that it is dangerous?

1471
1472 Mr. Williamson - Yes.

1473
1474 Mr. Archer - Well, I guess it's appropriate to have a response from the applicant.

1475
1476 Ms. Dwyer - Is the applicant here? I don't think we don't have an applicant, we have
1477 a representative from Ukrop's here, in favor of the road.

1478
1479 Mr. Archer - There's nobody here to represent them?

1480
1481 Ms. Dwyer- Who is the applicant?

1482
1483 Mr. Nelson - We are represented by the engineering firm of Jordan Consulting
1484 Engineering. Ukrop's Supermarket would be the applicant.

1485
1486 Ms. Dwyer - You are the applicant?

1487

1488 Mr. Nelson - Yes. I'll be glad to any questions. Obviously, we are not opposed any
1489 issues that would improve the safety, health and welfare of these children. We still don't feel
1490 that the association of this particular granting of an easement from two private parties should
1491 be associated with the dedication of this particular subdivision.

1492
1493 Mr. Archer - Sir, based on what you have heard today, can you think of any
1494 constructive way to help the situation out?

1495
1496 Mr. Nelson - I think the desire by Brookfield is to acquire the easement and we stand
1497 in agreement with them to, but certainly, since we have no interest in it, if you would say
1498 financial interest or have no property rights across from this shopping center we are
1499 developing. We would only say that we did meet with the County and discussed this as far as
1500 what would be accomplished by the signalizing and the four-way intersection felt that, and I'm
1501 not a traffic engineer but felt it was a safer condition in that particular case.

1502
1503 Ms. Dwyer - Since we are all kind of in this together, you are on one side of the street
1504 and Virginia Center Commons is on the other, and Brookfield has this safety issue that seems
1505 to be valid, would it be possible to protect your own business interest as well as to be, you
1506 know, you could work with the people across the street in Brookfield. You can sit down
1507 together and come up with something that would be mutually beneficial.

1508
1509 Mr. Nelson - I can read you the last paragraph of a letter that we wrote to the Simon
1510 Group. I won't read all of it. It says, and this was written by a general council. I am writing
1511 to respectfully convey our belief that such an easement would be a great benefit to Brookfield
1512 and the community it serves. Although, I am not aware of the specific terms of the easement
1513 requested by Brookfield, conceptually there seems to be little down side to the mall with the
1514 potential of providing a greater service to a well known and important organization. So, we
1515 don't stand in opposition to the granting of the easement. We've chosen not to. Just to say
1516 financially, we've agreed to construct all of Grenville Lane, which is certainly a benefit to the
1517 County, which was not a part of the original POD approval.

1518
1519 Ms. Dwyer - All right. Are there any other questions for Mr. Nelson? Thank you,
1520 sir.

1521
1522 Mr. Archer - Mr. Condlin, could you come back up here, please? I don't think the
1523 Commission members have benefit of this letter that you sent. Did you send copies to
1524 everybody?

1525
1526 Mr. Condlin - No. I only sent it to you but I have an extra copy here for the files if
1527 you want.

1528
1529 Mr. Archer - While they are looking at that, how can the things discussed in that letter
1530 be adversely affective if we went forward with this approval?

1531

1532 Mr. Condlin - I truly believe, again trying not to bite the hand that feeds, that we are
1533 trying to feed Brookfield, I truly believe with the granting of this subdivision process, which is
1534 the last impediment to the light. And, I have to say, again, making the connection to the light
1535 as a safety issue maybe we missed the boat, maybe we should have been here at the time of
1536 POD. The POD didn't call for the complete east/west connector only upon the subdivision
1537 request and looking at the potential request. I truly believe that if this subdivision is granted,
1538 whatever limited leverage we have against the mall, the mall will say not in good faith, you
1539 know, I know I'm on record but I do not think, based on my past history, they would
1540 absolutely not respond to us. I basically got an answer, "That's too bad, that's not our
1541 problem. Deal with Ukrop's they are the ones doing it." Ukrop's is telling us to deal with the
1542 mall. They are connected and as soon as this subdivision goes through the mall wants the light
1543 because they just want the additional light to produce more traffic to get people over and
1544 across in a quicker manner. Without that light, once that subdivision occurs by this vote
1545 today, and then therefore the light would go in. I think everyone understands that. The mall
1546 will have absolutely no incentive to deal with us at all. I mean, what else is there. The only
1547 thing we have is to go to the media and Mr. Williamson has been steadfast about not
1548 exploiting the kids. He's been willing to stand up and say "Gee isn't this the worse thing that
1549 has happened" but I really don't want to have to do this. This is the only leverage we have
1550 and I truly believe that the passage of this subdivision will create an unsafe condition, a more
1551 unsafe condition for Brookfield given its proximity and given the nature of this traffic.

1552
1553 Mr. Archer - So what alternative would you suggest then for this subdivision?
1554

1555 Mr. Condlin - I think the things you could do, one is... If Ukrop's can show, through a
1556 traffic count, through a traffic report that there will not be an increase in traffic or that it won't
1557 be an unsafe condition, or if Ukrop's could either make this a private road, we could amend
1558 the POD condition to make it a private road or private entrance or stub the road so that it
1559 doesn't go all the way back there therefore requiring a light. I mean, if we could prohibit a
1560 light at this location so that it's a median strip directly across from Brookfield and Ukrop's so
1561 we don't get the Ukrop's and the western traffic, then I think that's where Brookfield wants to
1562 go. I think those are the conditions that I think can be opposed upon. I understand that the
1563 County want's the east/west connector road. I understand the County wants it to be built, but
1564 you know there are greater concerns here. I think what can occur, I think you can grant a
1565 subdivision for a part of the road, cul-de-sac it. I had been assured by VDOT and I think
1566 things change and maybe Ukrop's would generate enough traffic to warrant the light. I've
1567 been told they probably will and there is nothing we can do about that, but if it is not a public
1568 road, VDOT will not give it its precedence, the precedence goes to Woodman Road, existing,
1569 that's already been dedicated and until that's vacated whichever road is dedicated first and built
1570 first gets the precedence for a crossover so that would prohibit a crossover at that point.

1571
1572 Mr. Archer - So you feel also that the connector from the northern entrance to the
1573 mall to your place would also not be granted if this subdivision....
1574

1575 Mr. Condlin - In my discussions with the Simon Property Group, I'm fearful that I'm
1576 going to be back here in 30 days saying that I have not been able to budge that group one bit.
1577 I have been dealing with them for over a year now trying to zero in on this issue. I know I am
1578 a small potato compared to what they are used to dealing with but they have not
1579 concentrated... only after we said listen we are going to be going to the public hearing, and to
1580 be quite blunt, I said I'll be bad mouthing Simon Property Group. I don't know what I've
1581 been doing so far, but, you know, worse than I am today. That's what I truly believe that my
1582 only leverage I have is this subdivision.

1583
1584 Mr. Archer - Have you had a meeting with all of the concerned parties? Have you all
1585 sat down at one time to discuss this?
1586

1587 Mr. Condlin - Charles Cabell, with my office, has met with Brian Jackson and the
1588 representatives of various property owners. I have to say that was about two to three years
1589 ago and there may be one or two, my memories are failing on some of the participants but we
1590 have not been privy, and I honestly feel like, I don't think through any ill intent, but there
1591 have been a lot of meetings that we were not included in and I believe a lot of deals that were
1592 made for payments and construction and support for lights and crossovers that we were not a
1593 party of, both with the County and without the County. And, quite honestly, the only
1594 meetings that have ever been generated with those that we've tried to get in and been assured
1595 that we.... I have a letter here that says: We will get a meeting together, by Ukrop's, saying
1596 that we will get a meeting together and you will be a party to that. We have never been
1597 invited to another meeting. We've tried to get meetings. I've talked on the phone to multiple
1598 property owners, including Wendy's. Dave Thomas is a big component of adoption and
1599 certainly they are sensitive to this issue and they don't have much pull either.
1600

1601 Mr. Archer - Well, Madam Chairman, not to prolong this any further, it appears to
1602 me that all of the parties that are involved in this have not been made privy to or are not aware
1603 of all of the facets that are involved. I don't see very much that could unfold or would be hurt
1604 by a 30-day deferral. I think I am of a mind to grant the deferral. And, Mr. Condlin, I need
1605 for you to be able to assemble all of the people who are involved in this so that we can have a
1606 meeting and discuss it. I'm not disapproving this, to be honest with you, at all but if nobody
1607 has met to discuss this in three years I think that is a little bit too long and I don't think a 30-
1608 day deferral would be unreasonable in terms of trying to work this out. And, not that it may
1609 just go down the way it's anticipated anyway, but if the applicant is not willing to defer, and
1610 apparently they are not, then I will grant a 30-day deferral at the Commission's request. Mr.
1611 Condlin, can you set this up as soon as you possibly can?
1612

1613 Mr. Condlin - Certainly.
1614

1615 Mr. Archer - I would like to attend but I will be out of town the week of the Saturday
1616 the 17th through the 24th, so it would need to be before that and we don't have much time after
1617 that because I believe we will meet again on the 28th. So, my motion is for a 30-day deferral,
1618 to the 28th of July.

1619
1620 Mr. Vanarsdall - Second.

1621
1622 Ms. Dwyer - The motion was made by Mr. Archer for a 30-day deferral and seconded
1623 by Mr. Vanarsdall. All in favor say aye...all opposed say nay. The motion carries.

1624
1625 The Planning Commission deferred subdivision Magnolia Ridge, Phase 3 (June 1999 Plan) (A
1626 Dedication of a portion of Magnolia Ridge Drive), to its meeting on July 28, 1999. Mrs.
1627 Wade and Mr. Donati were absent.

1628
1629 **AT THIS TIME THE COMMISSION TOOK A BREAK. DURING THE BREAK MR.**
1630 **MARLLES HAD TO LEAVE AND RANDY SILBER TOOK OVER AFTER THE**
1631 **BREAK.**

1632
1633 **SUBDIVISION**

1634
Hunton Estates Foster and Miller, P.C. for RMA/Hunton, L.C. and Gunst
(June 1999 Plan) Associates, L.C.: The 176.496-acre site is located between the south
line of Mill Road and I-295 and west of the CSX Railroad on Parcels
13-A-25, 26, 31A, 32A, 33 and part of 14-A-60B and 61; and 22-A-1,
2,10 and 11B. The zoning is R-1AC, Single-Family Residence District
(Conditional). County water and sewer. **(Brookland)** 165 Lots

1635
1636 Ms. Dwyer - Is there any opposition to subdivision Hunton Estates (June 1999 Plan)?
1637 No opposition. Mr. McGarry.

1638
1639 Mr. McGarry - There are two issues identified on your agenda. The first one, the staff
1640 has received a letter requesting acceptance of the road network within the subdivision as
1641 meeting the intent of the Major Thoroughfare Plan, Concept Road 21-1. Both the directors of
1642 Public Works and Planning have jointly agreed that this meets the intent of it. The second
1643 issue, a middle school is proposed within this development, and to be consistent with Board
1644 policy, staff is recommending sidewalks being provided within the development. The site
1645 geometry for this development is such that we have a kind of a closed subdivision where you
1646 have no access to the east or to the south and the only way in is through Mill Road. You have
1647 a total of 165 lots creating this community, here. So, with that in mind, staff is
1648 recommending that the subdivision be approved with the standard conditions plus Nos. 12
1649 through 17 and No. 15 deals with the request for standard County standard sidewalks on all of
1650 the roads in the subdivision that are not on a cul-de-sac street. I'd be happy to answer any
1651 questions.

1652
1653 Ms. Dwyer- Are there any questions of Mr. McGarry?

1654
1655 Mr. Vanarsdall - You said you did receive the letter we spoke of?

1656

1657 Mr. McGarry - Yes, sir. And we are fine with that first issue.
1658
1659 Ms. Dwyer - Is this an elementary or middle school?
1660
1661 Mr. McGarry - I've been since been told it is a middle school. The staff made reference
1662 to an elementary school and that is not correct.
1663
1664 Ms. Dwyer - Are these the only two possible points of access? I was looking at lot
1665 10, block B, and it looked like there was a potential access there, is that not? It looks like
1666 there is access potentially to Mill Road, but that might not be property that the staff
1667
1668 Mr. McGarry - It is not. The subdivision has only two access points.
1669
1670 Ms. Dwyer - Is that sufficient for a middle school plus 165 lots?
1671
1672 Mr. McGarry - It certainly meets the requirement of two access points for more than 50
1673 lots. Whether the middle school changes that ratio, I would have to refer to Tim Foster or
1674 Schools if they think they need more.
1675
1676 Mr. Silber - Ms. Dwyer, I would think that there are two points of access, or at least
1677 two ways of getting to either of those points of access, does come out onto the same public
1678 road, being Mill Road. So, I'm not sure that a third access point would achieve that much. I
1679 think this adequately provide access to the collector road, Mill Road.
1680
1681 Ms. Dwyer - I'm thinking of morning getting children to school. That could be a real
1682 cause of traffic, on Road K. But you are really hemmed in with the railroad and the interstate.
1683 Mr. McGarry, I'm looking at, you know we had our flag lot discussion yesterday and I'm
1684 looking at Block C, Lots 10, 11 and 12. Would there be any regulation regarding setbacks
1685 that would keep, I guess building on Lots 10 and 12 from facing the back of Lot 11?
1686
1687 Mr. McGarry - In Block C?
1688
1689 Ms. Dwyer - I believe it's Block C. It's directly opposite Road "E" that will cul-de-
1690 sac kind of in the middle. Do you see what I'm saying, Lots 10, 11 and 12?
1691
1692 Mr. McGarry - Lots 10, 11 and 12 front on Road "C." It's not a cul-de-sac street there,
1693 it is a through street.
1694
1695 Ms. Dwyer - Right, I know. I'm just saying that our discussion yesterday, Mr.
1696 Glover in particular, was concerned about houses looking at backs of houses, and I'm
1697 wondering if Lots 10, 11 and 12 set that scenario or if there is any way that that could be
1698 changed so that we are setting.... And there are a couple of other places too where that could
1699 happen.
1700

1701 Mr. McGarry - I sense that the lots along Road "C" are all fronting one another and I'm
1702 confused as to which lots you are referring.

1703
1704 Mr. Silber - Mr. McGarry, I think she is saying that lots 10 and 12, they potentially
1705 could be looking in the back of lot 11 by their orientation. I guess, Ms. Dwyer, I'll have to
1706 ask you do you think in this case, believe that this could be addressed with a condition or
1707 redesign of the lot?

1708
1709 Ms. Dwyer - Well, I see two other places where that could occur. Lot 54 kind of
1710 directly south of that and Block A and in Block C you have Lots 25, 26, 27 and 28, we could
1711 also have that same sort of configuration. I think we would want to.... One of the goals of the
1712 flag lot ordinance change was to prohibit the kind of lot configuration where you have the
1713 front of a house facing the rear of another house and this looks like you might have this in this
1714 situation. I don't know how Mr. Vanarsdall feels about it, but it just seems to me that by
1715 condition or a lot that's redesigned, that if we could prohibit having front doors facing rear
1716 portion of houses then we should do that because that is not a good design to have.

1717
1718 Mr. Vanarsdall - I would like to hear from Mr. Spud Mistr first to see what he has to say
1719 about it.

1720
1721 Mr. Mistr - I'm Spud Mistr from Foster & Miller representing the applicant. When
1722 you say Lots 10, 11 and 12....

1723
1724 Ms. Dwyer - I'll tell you what. I have them circled in pink on my copy. Mr. Silber
1725 will put it on the screen so that we all will know what we are talking about. You can barely
1726 see the highlighted lots, but it looks to me that those lots will create a situation where, on the
1727 top portion, lots 10 and 12, could be facing the back of the house on lot 11. The same thing
1728 with the four lots beneath....

1729
1730 Mr. Vanarsdall - Where? (It is pointed out on the screen where the lots are that Ms.
1731 Dwyer is referencing) Oh, right here, 10, 11 and 12.

1732
1733 Ms. Dwyer - And the group of lots below, I think it's 25, 26, 27 and 28, you could
1734 also have the same configuration and then below that Lot 54, which is a kind of stand alone lot
1735 with the rear houses from two separate cul-de-sacs facing it. So, my concern is to avoid a
1736 situation when the house faces the rear of another house.

1737
1738 Mr. Mistr - I agree with you. We certainly try to lay these out so that one won't
1739 face the rear of another. Keep in mind that this is a tentative layout. None of these have
1740 actually been calculated nor has the final road alignment been calculated. In another
1741 subdivision, we have to go to the BZA (Board of Zoning Appeals) next month simply because
1742 of an interpretation of the ordinance to prevent that very thing. The ordinance requires us,
1743 because of what's the front yard, to face houses, one facing the side yard of another one,
1744 which could be in the back and we need a new interpretation. So, some of that, we will try to

1745 make these so that nobody's house faces the back of another. If they all put them at the
1746 standard front yard setback, which is typical, that won't happen. In the case of Lot 54, you
1747 can really go all the way to the rear yard setback if you want to, but that's up to the builder.
1748 If somebody wants to buy a home and put it in the back knowing that there are other houses in
1749 front of him, I mean, I don't know that we can design or legislate around somebody doing
1750 something that we think is a little bit foolish. We can encourage them not to but if they want
1751 to do it then they certainly can. In the case of Lot 54, you can make it a little small lot and
1752 increase Lots 52 and 56. But, if somebody wants to put a goofy house on the lot facing
1753 somebody else backyard they can find a way to do it. We can also find ways that that won't
1754 happen which is what we certainly try to do.

1755
1756 Ms. Dwyer - Well, the same is true in Lots 10 and 12 at the top part of the screen, the
1757 northern part.

1758
1759 Mr. Mistr - Well Lot 11, we certainly have to maybe increase the size of that lot to
1760 give it the proper buildable area.

1761
1762 Ms. Dwyer - And then you have the same thing with Lots 25 and 28 below that. And,
1763 maybe the thing to do, since you are agreeable to that concept, is just to have a condition or
1764 annotation that says: In the subdivision no house shall face the rear of another house. So, that
1765 at whatever stage the plans come in for signature or building permit.

1766
1767 Mr. Mistr - The house can face... As long as a house meets the building setback the
1768 owner can face it in any direction they want to. I mean, we can put it on the plans but
1769 physically, you can turn around and ask to put the front yard facing the back yard, if
1770 somebody really wants to do that. I mean, it might be up to the Planning staff not to approve
1771 it that way, you know, I certainly wouldn't think that that would happen.

1772
1773 Mr. Vanarsdall - We had a case a couple of months ago that the condition was put on
1774 there of what you just said.

1775
1776 Mr. Mistr - What did it say?

1777
1778 Mr. Vanarsdall - We had a case, I don't remember what case it was, but I remember we
1779 had one that said "no houses will face the back with the front." This is what we have been
1780 working on trying to change. People don't enjoy coming out of their front door and looking
1781 into the back of somebody's house with a lot of junk behind it.

1782
1783 Mr. Mistr - Absolutely, they don't.

1784
1785 Mr. Vanarsdall - The possibility of somebody setting a house against the grain is.... I
1786 think the possibility is kind of nil.

1787
1788 Mr. Mistr - Well, you wouldn't and that's why....

1789
1790 Mr. Vanarsdall - So, you are saying, Spud, that we are looking at a plan that is not
1791 necessarily going to be used?
1792
1793 Mr. Mistr- No. I'm saying the general layout of this plan is going to be used. I'm
1794 saying these lots have not been actually calculated.
1795
1796 Mr. Vanarsdall - So would you object to a condition on there, and we will get Mr. Silber
1797 to word it.
1798
1799 Mr. Mistr - I'm not sure how that would.... On the surface of it, I don't object to it.
1800 If it has been used before I'm certain we can do that.
1801
1802 Mr. Vanarsdall - Ms. Dwyer is right. We just spent many hours, days, and months on it.
1803 We could get into it now, although it has not been passed by the Board, but we still have a
1804 responsibility.
1805
1806 Mr. Silber - Mr. Vanarsdall, we certainly can draft a condition, and I'll be glad to do
1807 that. Another alternative might be to identify these six or seven maybe there are nine lots, the
1808 Commission has identified as potential problem areas and ask that a condition or annotate the
1809 plan that these nine lots would be redesigned as to avoid front and back yard relationships.
1810
1811 Mr. Mistr - I think we could certainly do that because as we all know, you don't
1812 have anything approved until you get the final approval.
1813
1814 Mr. Vanarsdall - I think there can be a better way to do it.
1815
1816 Ms. Dwyer - Of course, if this is changed, and it certainly can be between our
1817 approval and final approval, then there may be other lots that we don't see because the
1818 configuration of the lots have changed between now and then. So, maybe it would be better to
1819 say what we want to say in words and that would apply to whatever changes they might make
1820 between now and final approval.
1821
1822 Mr. Mistr - And, we can agree to that. I'm certain we can work through that.
1823
1824 Mr. Silber - If we said that these nine lots would be redesigned so as to not create a
1825 front yard looking into the back yard. In addition, other lots within the subdivision should be
1826 designed so as not to create that relationship.
1827
1828 Mr. Mistr - I would like for it to say that we can lay out the lots so that a house
1829 could be built on every lot, which it wouldn't look into anybody's back yard. I'm not sure
1830 how we can absolutely prevent that from happening, you know, by lot design. I mean, we can
1831 do it with a building permit approval. In other words, let's just take Lot 54. You can build a
1832 house on lot 54 close enough to Road F that it would not look into anybody's back yard. So,

1833 are you saying that we should either cut off the back or put the rear yard setback on a line
1834 between lots 53 and 55 so that they couldn't build a house further back? I mean, we can
1835 certainly get it so that they don't look into anybody's back yard but absolutely preventing them
1836 from doing that may be a little more difficult.

1837
1838 Ms. Dwyer - Well, I think they are going to be looking into at least two people's
1839 backyards.

1840
1841 Mr. Vanarsdall - The way the number is on there, it would be.

1842
1843 Mr. Silber - At that location where Lot 54 sits, if there is a house built where it says
1844 54, it would be looking into the back of several other houses. If the house is moved forward
1845 more than likely it would create a better relationship.

1846
1847 Mr. Mistr- Well, obviously there is nothing that says lot 54 has to back up to I-295.
1848 We could extend the side line of Lot 55 and the side line of Lot 53 and intersect them and just
1849 make lots 52 and 56 larger.

1850
1851 Ms. Dwyer - I don't think we have to necessarily make lot 54 smaller, we just need to
1852 make sure that the house that's put on lot 54 is not looking directly into the backyard of
1853 another house. Potentially, if it is built way back against I-295, and it's a practical matter that
1854 it is probably not going to happen, they could be looking into the back of four houses.

1855
1856 Mr. Mistr - That's true.

1857
1858 Mr. Silber - Mr. Mistr, could we deal with this during construction plans by showing
1859 the buildable area?

1860
1861 Mr. Mistr - We can do it, the buildable area on a construction plan and with the
1862 layout for the final subdivision approval also. I don't have a problem with that.

1863
1864 Mr. McGarry I think what I hear the Commission saying is that they would like for all
1865 houses to be built at the minimum front yard setback. That would accomplish, I think,
1866 everything.

1867
1868 Ms. Dwyer - Well, in that case, yes, but that might not be satisfactory in some of the
1869 other configurations, Ted.

1870
1871 Mr. Mistr - On some of these fan shaped lots, sometimes to get a certain house on,
1872 you have to go back five or ten feet, you know, pass the minimum front yard setback. I'm
1873 afraid if we said that we would end up with a problem somewhere down the road. You could
1874 say as close to the front yard setback, to the minimum front yard setback as practical.

1875
1876 Mr. Vanarsdall - Can you scratch out something I can read, Mr. Silber?

1877
1878 Mr. Silber - I'll scratch out something but I don't know if you can read it.
1879
1880 Mr. Vanarsdall - Okay. I'm a little bit surprised as I look at this because we have been
1881 talking about this for so long and I can't image....
1882
1883 Mr. Mistr - Ms. Dwyer, I will certainly endeavor in the layout of the subdivision to
1884 get all lots so that this won't happen.
1885
1886 Mr. Vanarsdall - The more you look at it, the more you will find.
1887
1888 Mr. Silber - How about if we.... Here the first draft, I will identify these lots, Lots
1889 10, 11, 12, 27, 26, 25, 53, 54 and 55, those lots will be redesigned so as not to cause the front
1890 yard of one lot to look into the rear yard of other lots. Furthermore, all lots within the
1891 subdivision shall be designed so as not to cause that relationship. I think we can come up with
1892 something that meets the Commission's intent. If the Commission is concerned about the
1893 entire subdivision we'd better add that to these nine lots.
1894
1895 Mr. Vanarsdall - Okay. And while you are up here, explain to the Commission about the
1896 sidewalks and then we will be through.
1897
1898 Mr. Mistr - This subdivision is a R-1A large lot subdivision and the understanding
1899 we had when this was zoned, that this would be a rural setting, that it was large lots, that it
1900 would have roadside ditches and would have as much of a rural setting as we could design.
1901 The developers would prefer not to put the sidewalks in. We recognize the Board's policy.
1902 This is a school site and I understand it would be several years, five or six, maybe more before
1903 this middle school is built, but keep in mind when then policy of sidewalks came, school buses
1904 didn't pick the children up if they lived within a mile of the school. Now, I believe it's about
1905 two tenths of a mile that they will pick a child up and they would probably pick a child up
1906 anywhere if a parent really requests it. Now, these are middle school kids, which I guess
1907 would be between 12 and 14 years old. Maybe some of them will be walking or riding
1908 bicycles to school. But, keep in mind, at one point in time we could put a 24-foot road in and
1909 have maybe a one or two foot shoulder and then you had a ditch section. Now, you have to
1910 have 24 feet of asphalt and then an 8-foot shoulder on both sides and then the ditch section.
1911 So, there will be areas outside of the pavement for bicycles and children to walk where they
1912 wouldn't be right on it. Sidewalks tend to give an impression that it is more of an urban area
1913 as opposed to a rural area. And, I think our commitment to the citizens along Mill Road was
1914 that we would keep this as rural as we could. So, if the Commission sees fit, we would
1915 request that the condition for sidewalks be deleted.
1916
1917 Ms. Dwyer - Well, the sidewalks are not on cul-de-sacs streets, it's just through for
1918 the thru streets, is that right?
1919
1920 Mr. McGarry - Every road that is not in a cul-de-sac.

1921
1922 Ms. Dwyer - Every road that does not end in a cul-de-sac?
1923
1924 Mr. McGarry - Right.
1925
1926 Mr. Mistr - But, that's Road "A" all the way to the cul-de-sac of "B" and all of Road
1927 "C" and all of Road "F" and Road "K" from Mill Road down to Road "C", which is the
1928 majority of the subdivision. I don't know the percentage but it's about 70% of it would have a
1929 sidewalk.
1930
1931 Ms. Dwyer - Well, children might not be walking to school if they live in this
1932 neighborhood but also using the school for recreational purposes in the evenings in the summer
1933 and weekends.
1934
1935 Mr. Mistr - Well, they certainly could be but keep in mind, this is a 165 lot
1936 subdivision with two points of access. So, it's not like you are on Mill Road or Staples Mill
1937 Road where you have a lot of traffic going to other destinations. The only traffic coming
1938 through these roads will be people either coming to one of these homes or going to this school.
1939 There is nothing else in there. There is no convenience store, there's no movie theatre or
1940 high-traffic generator.
1941
1942 Ms. Dwyer- It would be an amenity for the neighborhood itself. Sidewalks would be
1943 an amenity for the neighbors, the people who live in this neighborhood.
1944
1945 Mr. Mistr - Well, I'm sure that some people would consider it an amenity and some
1946 probably wouldn't. That's sort of a personal thing I guess.
1947
1948 Ms. Dwyer - I guess, I tend to be in favor of sidewalks. I live in a district that's
1949 almost entirely developed and I see baby carriages being pushed on the sides of the road, you
1950 know, very dangerous circumstances. People walking in the street because there is no safe
1951 place to be.
1952
1953 Mr. Mistr - I can understand that point of view also.
1954
1955 Mr. Vanarsdall - We had several community meetings, that you weren't present, and this
1956 is their desire, to have it just like he explained it, have it rural no curb and no gutter.
1957
1958 Mr. Mistr - That was my understanding, but I wasn't at those meetings.
1959
1960 Mr. McGarry - For the Commission's knowledge, the walk zone for an elementary
1961 school is three tenths of a mile but it's half a mile for a middle school. And, this, as a middle
1962 school, encouraged me to include all of the streets that are in the subdivision as needing
1963 sidewalks.
1964

1965 Ms. Dwyer- All right. Are there any other questions by Commission members?
1966 There is no opposition.
1967
1968 Mr. Mistr - I would like to make one statement. In condition No. 13 about this
1969 detailed planting list, around any of these utility petals in the front, which I agree with, it's
1970 nice to do that, and I know the Commission and the Board has been working a long time with
1971 C & P and with Virginia Power to put these petals and transformers and things in the back
1972 yard. And, while we will do this, and we encourage people to landscape around them, I hope
1973 the County will work hard to get some of these out of the way. It would be much less of an
1974 eyesore if these would be put in the backyards instead of right on cul-de-sac streets.
1975
1976 Ms. Dwyer - You have no argument here.
1977
1978 Mr. Vanarsdall - That's right. You will get no argument out of us because we have been
1979 working on that, what, how long now?
1980
1981 Mr. Mistr - I just wanted to put that on the record.
1982
1983 Mr. Archer - Since 1997.
1984
1985 Ms. Dwyer - All right. Are there any other questions by Commission members? Are
1986 you ready for a motion, Mr. Vanarsdall?
1987
1988 Mr. Vanarsdall - Ready. I move that subdivision Hunton Estates (June 1999 Plan) be
1989 approved with the standard conditions, the annotations on the plan, conditions Nos. 12 through
1990 17 and we are going to add No. 18. Mr. Silber, would you read that No. 18 condition for us?
1991
1992 Mr. Silber - You are going to make me read that again?
1993
1994 Mr. Vanarsdall - Yes, sir. This is where they will be it up on the minutes.
1995
1996 Mr. Silber - Okay. I think we can massage this, but generally it would say. Lots 10,
1997 11, 12, 25, 26, 27, 53, 54 and 55 will be redesigned so as not to cause the front yard of one
1998 lot to look into the rear yard or side yard of another lot and furthermore all lots within the
1999 subdivision shall be designed so as not to create this relationship.
2000
2001 Mr. Archer - Is that it?
2002
2003 Mr. Vanarsdall - That's it. Then delete No. 15 about the County sidewalk because of the
2004 rural setting and because Public Works is not going to build curb and gutter, so we will have a
2005 ditch there. That's it.
2006
2007 Mr. Archer - Second.
2008

2009 Ms. Dwyer - The motion was made by Mr. Vanarsdall and seconded by Ms. Dwyer.
2010 All in favor say aye...all opposed say nay. I vote no because I'm in favor of the sidewalks.

2011
2012 Mr. Vanarsdall - Thank you, Mr. Mistr for explaining all of that, and Ted.

2013
2014 With a three to one vote, the Planning Commission granted conditional approval to subdivision
2015 Hunton Estates (June 1999 Plan), subject to the standard conditions attached to these minutes,
2016 the annotations on the plan, and the following additional conditions. Mr. Donati was absent.

2017
2018 12. The limits and elevation of the 100 year frequency flood shall be conspicuously noted
2019 on the plat and construction plans and labeled "Limits of 100 Year Floodplain."
2020 Dedicate floodplain as a "Variable Width Drainage & Utility Easement."

2021 13. The detailed plant list and specifications for the landscaping to be provided within the
2022 25-foot-wide planting strip easement along I-295 and around any utility box located in
2023 front of a dwelling shall be submitted to the Planning Office for review and approval
2024 prior to recordation of the plat.

2025 14. Prior to requesting the final approval, a draft of the covenants and deed restrictions for
2026 the maintenance of the common area by a homeowners association shall be submitted to
2027 the Planning Office for review. Such covenants and restrictions shall be in form and
2028 substance satisfactory to the County Attorney and shall be recorded prior to recordation
2029 of the subdivision plat.

2030 15. Both the two 25 foot and 50 foot rights of way shall be vacated prior to construction
2031 plan approval.

2032 16. The construction plans shall be approved by VDOT prior to County approval.

2033 17. Lots 10 - 12, Block C, 25 - 27, Block C, and 53 - 55, Block A, shall be redesigned so
2034 as to not cause the front of a dwelling to face into any portion of the rear or side of an
2035 adjacent dwelling and furthermore, all lots within the subdivision shall be designed so
2036 as to minimize that relationship.

2037
2038 **PLAN OF DEVELOPMENT**

2039
POD-49-99
Jiffy Lube – Deep Run
Business Center
(Rev. POD-60-81)

TIMMONS and Douglas W. Roan for B & G Associates:
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 3,745 sq. ft. automobile service
building. The 1.11-acre site is located along the south line
of W. Broad Street (U.S. Route 250) 150 ft. west of
Gaskins Road on Parcel 48-04-B-01. The zoning is M-1C,
General Industrial District (Conditional). County water and
sewer. **(Three Chopt)**

2040
2041 Ms. Dwyer- Is there any opposition to POD-49-99, Jiffy Lube - Deep Run Business
2042 Center? No opposition. Mr. Whitney.

2043 Mr. Whitney - Thank you, Madam Chairman. Staff has completed its review of this
2044 plan of development. The revised plan is included in your addendum. Also on the addendum
2045 I would like to point out to you that condition No. 28, that was on your agenda, requiring a
2046 sidewalk on W. Broad Street, has been deleted. No. 28 has been replaced with the new
2047 condition on the addendum stating that "The building shall be constructed of red brick and the
2048 brick shall not be painted at any time." Also condition No. 37 has been added and it states:
2049 "Prior to final plan approval, the applicants shall submit a tabulation of all retail uses in Deep
2050 Run Business Center." This condition is to satisfy a proffer for the Deep Run Business Center
2051 where predominant retail businesses may not total more than 40,000 square feet in the
2052 aggregate. Staff wants to get a handle on this, so to speak, to see where we stand with it. I
2053 don't think it's been tracked, up until now, and then with the POD approved for Holiday Inn
2054 Express, I think it's become an issue that we need to get a hold of. As well, that doesn't have
2055 to come now.

2056
2057 Public Works has completed their review of the plan and they are now recommending approval
2058 since it has been demonstrated that the BMP will work on this site. It is at the rear of the
2059 parking area located just outside of the floodplain, in that triangular piece at the bottom of the
2060 plan. I would also like to point out that on the revised plan there is a box, so to speak, on the
2061 westerly side of this parcel that's showing a future retail. The parking tabulation to include the
2062 Jiffy Lube and that future retail is in the lower left-hand corner of the revised plan.

2063
2064 Ms. Dwyer - The future retail is why we have excess parking.

2065
2066 Mr. Whitney - That is correct. We have more than excess of the minimum
2067 requirements for the Jiffy Lube and the future retail.

2068
2069 Ms. Dwyer - Was Mrs. Wade aware of this future retail building?

2070
2071 Mr. Whitney - Yes, she was. She is also aware of the situation with not requiring a
2072 sidewalk on this location on W. Broad Street. However, staff has been trying to get sidewalks
2073 on W. Broad Street wherever possible.

2074
2075 Ms. Dwyer - She mentioned that she didn't see a point in a sidewalk along this section
2076 of Broad Street. She also had a question about erosion control. What erosion control
2077 measures will be instituted here located at the confluence with two creeks, if those would be
2078 the proper terminology, so it's an environmentally sensitive site.

2079
2080 Mr. Whitney - Yes, with the floodplain surrounding this development, the
2081 environmental engineer, on your original staff plan, commented that silt fence does not appear
2082 sufficient for erosion control along slope grading. Slopes steeper than 3:1 need alternative
2083 erosion control. What they recommended here is a jute mesh to be used, I believe, in
2084 conjunction with the silt fence to reduce the amount of erosion that could occur with this steep
2085 slope.

2086

2087 Ms. Dwyer - A jute fence in addition to a silt fence?
2088
2089 Mr. Whitney - Yes, for the most part, silt fence.
2090
2091 Ms. Dwyer- And that would be surrounding the entire U-shaped property, not just....
2092
2093 Mr. Whitney - For the most part, in the areas where the grading is greater than 3:1, that
2094 is the area that it would be required. I don't have the grading plan included in your packet,
2095 but it is with the plans.
2096
2097 Ms. Dwyer - Do you have the grading plan?
2098
2099 Mr. Whitney - It is included with the plans, yes. Do you need to see that, Mrs. Dwyer?
2100
2101 Ms. Dwyer- Well, I'm just wondering why we wouldn't have the height and erosion
2102 control around the entire perimeter, in light of the floodplain surrounding it. It's only required
2103 for certain slopes?
2104
2105 Mr. Whitney - Based on the environmental engineer's comments, it is based on slopes
2106 steeper than 3:1.
2107
2108 Ms. Dwyer - You might have some silt fence and jute and silt fence (unintelligible).
2109
2110 Mr. Whitney - Yes. That's my understanding, anyway. I haven't looked that closely at
2111 the grading plan to see exactly where the jute mesh would be required versus just the silt
2112 fence.
2113
2114 Ms. Dwyer - But, that would be monitored by the environmental people at Public
2115 Works.
2116
2117 Mr. Whitney - Yes, that is correct. The erosion control plan is still yet to be finalized
2118 and that would be looked at when we do the final review for signature on the plan of
2119 development. As well as, I'm certain, a pre-construction meeting would be required on this
2120 site and the environmental engineer would be involved from the onset.
2121
2122 Ms. Dwyer - The other issue I had dealt with, the preservation of trees along the, the
2123 existing trees, along the Broad Street area, and I guess along the perimeter of the site. Do you
2124 have a tree save plan and explain to me the plan?
2125
2126 Mr. Whitney - There is a, along with the grading plan, there is the tree save area shown
2127 on there. There is an area in front of the drive, in front of Jiffy Lube, that will have a limit of
2128 clearing along that area, labeled 25-foot parking setback.
2129
2130 Ms. Dwyer- So, that whole 25 feet will be preserved?

2131
2132 Mr. Whitney - Yes, it will.
2133
2134 Ms. Dwyer - Okay. How about around the other parts of the site?
2135
2136 Mr. Whitney - Around the other parts of the site, around the perimeter of the site, with
2137 the grading involved, there is very little tree save left, including the area to be cleared for the
2138 BMP at the southerly portion of the property.
2139
2140 Ms. Dwyer - So, we will be clearing inside the floodplain?
2141
2142 Mr. Whitney - The engineer, Sam Saunders, representing TIMMONS and the applicant
2143 is here and he is nodding his head to affirm that there will be some clearing in the floodplain.
2144
2145 Ms. Dwyer- Is that permissible?

2146 Mr. Whitney - I'm not qualified to answer that question.

2147 Ms. Dwyer- Will the applicant come forward please. Does anyone have any
2148 questions for Mr. Whitney?

2149 Mr. Saunders - I'm Sam Saunders with TIMMONS representing the applicant. We met
2150 with Public Works staff, with Sam Amos and Steve Bandura, about the floodplain. We have
2151 some of our fill catching grade at the edge of the floodplain. We are going to do some
2152 offsetting upstream where we will have a no net gain in floodplain and no net loss in
2153 floodplain volume, so we are not going to be losing any of that volume to attenuate the storms
2154 in there but there is some fill going over there to accommodate the travel lanes.

2155 One other thing about the silt fence and the jute mesh is, to clarify that, the silt fence will still
2156 be there. The jute mesh is a mesh you lay on the slope to help hold the straw and seed down
2157 and keep the slope from slipping. So, that would be used together where it is required and
2158 would be a part of the erosion and control plan. We do show some grading in the floodplain
2159 and we are trying to minimize that. We have talked with them about off setting that so that we
2160 don't have any net loss in the volume of the floodplain.

2161 Ms. Dwyer- You are off-setting it on the site?

2162 Mr. Saunders - Yes, ma'am.

2163 Ms. Dwyer - How do you do that exactly?

2164 Mr. Saunders - Well, if there is some area we can cut a little bit, or if we have to, we
2165 could push it back with the retaining wall. I don't have all of the grading plans in front of me,
2166 wait a minute, here it comes. Where we are filling, and I'm talking off the cuff here a little

2167 bit, where we are filling here, we might be able to offset up in here (referring to the
2168 rendering). With that type of thing, we have got to work those volumes through.

2169 Ms. Dwyer - By offset you mean, to dig out some additional area for floodplain. I'm
2170 looking at that and that looks like a square and usually water doesn't flow.

2171 Mr. Saunders - No. The idea behind the floodplain is that that there is a central part of
2172 the floodplain where the water is really flowing and then you have the over-bank area where
2173 the water is going to be going slower and that's really what a lot of floodplain management is
2174 about, having that extra storage above the creek for water to sit in. I don't mean sit in, it's
2175 moving to some extent, but you have that back water sort of area you want to preserve in
2176 floodplain management.

2177 Ms. Dwyer- Where is the creek line? Is that identified on here?

2178 Mr. Saunders - The creek is down through here and it's running all down through here
2179 (referring to the slide). The confluence and the other creek line comes through here, so the
2180 confluence is right down in there.

2181 Ms. Dwyer - Okay. Let's go back to the other one, the one that shows the, I think,
2182 the grading plan. So you are creating what slope, here, on this side, near the creek? I guess
2183 that would be the east side.

2184 Ms. Saunders - Right. We are using... this is going to be a 2:1 up in here and then we
2185 are getting back to 3:1 in here. That's (unintelligible) to try to hold onto the property line and
2186 off the creek bed, but the creek is running down through here.

2187 Ms. Dwyer - Are you going to have to have.... You created some fairly steep slopes,
2188 how will they be stabilized?

2189 Mr. Saunders - That's where we will be using the jute mesh and stabilizing those. A 2:1
2190 is a stable slope, once you get it stabilized with vegetation and that's where we will be using
2191 the jute mesh and planting plant materials that would be appropriate to hold that slope. A 2:1
2192 is a stable slope, a 3:1 is a more maintainable slope and that's why we use it much more in
2193 design but a 2:1 will hold stable.

2194 Ms. Dwyer - Okay. So you are going to be clearing all around the perimeter but you
2195 are going to be maintaining all of the existing trees in the front?

2196 Mr. Saunders - That's the clearing limits right, there (referring to rendering).

2197 Ms. Dwyer - So, it looks like you are into that 25-foot parking setback, you are
2198 clearing within that 25-foot parking setback, also.

2199 Mr. Saunders - Yes, Mrs. Dwyer. That would be correct that there is some grading
2200 there behind that curb so a part of that will have to be cleared of trees.

2201 Ms. Dwyer - What does the little "x's" mean on here?

2202 Mr. Saunders - That's the silt fence.

2203 Ms. Dwyer- So, how much vegetation will be preserved then along Broad Street?

2204 Mr. Saunders- I can't tell you how far it goes but from here over to the curb line. We
2205 are not showing any clearing at all in that area right there.

2206 Ms. Dwyer- And that's in the ultimate right-of-way, I presume.

2207 Mr. Saunder - Yes, ma'am, right through there.

2208 Ms. Dwyer - Okay. Has the Department of Public Works, Mr. Whitney, approved
2209 this plan as being in compliance with the Chesapeake Bay requirements?

2210 Mr. Whitney- It is my understanding they have approved it as far as their water quality
2211 management.

2212 Ms. Dwyer - Is that the same thing as saying they approved it?

2213 Mr. Whitney- Again, I'm not qualified to say that.

2214 Ms. Dwyer - What feedback did we get from Public Work, then, on the plan?

2215 Mr. Whitney - That they were able to demonstrate that the BMP will work for their
2216 water quality management.

2217 Ms. Dwyer - Okay, then far as the slope grading and all that, were there any
2218 comments made about clearing and slopes and....

2219 Mr. Whitney - There were no outstanding issues after the staff/developer beyond the
2220 comment from environmental engineer for the jute mesh and erosion control. It was the
2221 design engineer that was holding back approval until the BMP was shown to be adequate.

2222 Ms. Dwyer - I guess I'm just interested for my own personal edification exactly what
2223 information we get from Public Works on these environmental sites. So, the BMP was
2224 determined to be adequate. And, what else, that there were just no other issues to be
2225 addressed?

2226 Mr. Whitney - I can go over the comments from Public Works, which include
2227 environmental, if you like.

2228 Ms. Dwyer - Okay.

2229 Mr. Whitney - I'll kind of go back through this. From the staff/developer's meeting I
2230 have a note here that says, as far as the Department of Public Works, it says they were going
2231 to meet with Steve Bandura, the design engineer who had the comments. It turned out, they
2232 met with Mr. Bandura's supervisor, Sam Amos, and that's where the water quality was
2233 worked out as far as the BMP. As far as environmental, it was just discussed that jute mesh
2234 would be something that they would recommend as far as erosion control. As far as
2235 environmental comments, they required a pre-construction meeting. They said that an
2236 environmental site assessment would be included with the plans and that was checked, yes.

2237 Ms. Dwyer - Did you say, an environmental site assessment was included?

2238 Mr. Whitney- Was included, yes. Not all of the questions were answered correctly. It
2239 stated that Nos. 5 and 11 were incorrectly answered. They asked, as far as the RPA, it's
2240 checked off, no. As far as RMA, it's checked off, yes. They checked the comment "the
2241 limits of the RMA must be shown on the plans." Under comments, they recommend a
2242 meeting with the environmental inspector to review flagging of the wetland boundaries and/or
2243 RPA boundaries. They have checked off "All wetland areas must be shown on the plans."
2244 Wetland impacts must be clearly identified and quantified on the plans. The reason for that is
2245 to see what type of Corps permit they would need, if it is nationwide or something else, the
2246 Corp of Engineers.

2247 Ms. Dwyer- Were there any other requirements of this applicant imposed by Public
2248 Works?

2249 Mr. Whitney - Again, well, let me just go through the rest of the environmental
2250 comments to see if anything stands out. They checked off comments about sediment traps and
2251 sediment basins to be shown on the plans. They checked off to indicate any stockpiles. They
2252 are asking for an erosion and sediment control sequence narrative to be included with the
2253 plans. The narrative must include a statement that "no erosion control measures can be
2254 removed without the approval of the environmental inspector." The narrative must include
2255 details on how the sediment basin will be converted into a BMP. Again, on the narrative,
2256 details on how runoff will be diverted into the sediment basins or traps, that's during
2257 construction grading. And dumpster pads should be located on the plans so that it does not
2258 drain directly to the storm sewer system. Additional comments: silt fence does not appear
2259 sufficient for erosion control along slope grading. Slopes steeper than 3:1 need EC2 line,
2260 which has been identified as a jute mesh. And design engineer, they typically check off on
2261 their standard comments whether items have been already required or included with the plans
2262 or additional information that's required and it's usually worked out and we do the final plan
2263 review for signature. As far as additional comments, that's where, I think, we are at from
2264 design. It says, No.1: Cannot recommend approval at this time. It has not been demonstrated
2265 that the BMP proposed will work.

2266 Ms. Dwyer - But, that has been satisfied?

2267 Mr. Whitney - That has been satisfied. I spoke to Mr. Amos personally to find out the
2268 outcome of the meeting with Charlie Pike who was representing TIMMONS, at the time.
2269 They asked for additional volume in the forebay. And a question about treatment, nutrient
2270 treatment, I guess that is. Actually, I'm learning as I'm going on this issue. There's a
2271 question about volume, designer routing of 50/10 control structure. Show a 50-year runoff
2272 will stay onsite and/or get into the basin. There was a comment here that they made to shift
2273 the building and parking lot to the west or reduce the number of parking spaces, only six are
2274 required to move development out of the 100-Year Floodplain. A 50-year runoff will stay
2275 onsite and/or get into the basin otherwise provide cut and filled areas for the filling in the
2276 floodplain.

2277 Ms. Dwyer - Well, this plan doesn't show any development in the floodplain.

2278 Mr. Whitney- Mr. Saunders said there was some cut and fill in the floodplain. So, the
2279 development is not necessarily in the floodplain, but the grading for the development is.

2280 Ms. Dwyer - And that's where the discussion about compensating wetlands enter the
2281 picture.

2282 Mr. Whitney - Yes.

2283 Ms. Dwyer - And that's negotiated, then, with Public Works?

2284 Mr. Whitney - That's correct.

2285 Ms. Dwyer - So, there are no outstanding issues as far as you can tell, from Public
2286 Works, on the environmental question.

2287 Mr. Whitney - As far as I can tell, yes.

2288 Ms. Dwyer- Thank you, Mr. Whitney. Are there any other questions by Commission
2289 members? I have one more question of the applicant. Tree save, as you gather, is important
2290 the few trees that we are able to save on the site are along Broad Street. What measures will
2291 be taken to insure that the trees are protected during the grading and development during
2292 construction?

2293 Mr. Saunders - One of the piece up here will have the silt fence there, and that will have
2294 to go in before any grading or clearing is done.

2295 Ms. Dwyer - Will that be all along, all the way towards the entrance?

2296 Mr. Saunders - We are showing it starting all the way up here (referring to slide).

2297 Ms. Dwyer- So, that will be put up first?

2298 Mr. Saunders - That has to be up first before they even start clearing the site.

2299 Ms. Dwyer - Is that the orange fence?

2300 Mr. Saunders - No, that's the black fence that filters, that keeps the mud from running
2301 off the site.

2302 Ms. Dwyer - Do you think that will be sufficient?

2303 Mr. Saunders - I know what you are talking about. I haven't seen what all of the trees
2304 through here look like. Charlie Pike has been out there and looked at it. There are some
2305 more extreme measures you can go to, putting up heavier fences and that kind of thing,
2306 especially if there are some specific trees up there, that might be something we could do.

2307 Ms. Dwyer - What kind of fence would that be?

2308 Mr. Saunders - We have used the orange plastic fence that you talked about. We have
2309 used snow fence, which is a little more expensive, but I think the orange does just as well.
2310 You are going to have the silt fence there already so it could be something in addition to that.
2311 I know when you get wetlands, the County's environmental staff requires us to put this heavy
2312 tape up, this plastic tape that we use for wetlands.

2313 Ms. Dwyer - We found that not to be adequate.

2314 Mr. Saunders - There are some of the things like that we can do, I don't think any of
2315 them are perfect measures but....

2316 Ms. Dwyer- Well, how about, would you agree just to put the orange fencing since
2317 it's not that much space. That would be a little bit more visible.

2318 Mr. Saunders - Along Broad Street?

2319 Ms. Dwyer - Along the tree save area, where you show the silt fence along the Broad
2320 Street section where we are saving trees.

2321 Mr. Saunders - I think that makes sense.

2322 Ms. Dwyer - We will annotate the plan, is that the best way to do that, Mr. Whitney?
2323 We are going to add the orange fencing.

2324 Mr. Whitney - Yes, I can annotate the plan to show that. I believe that's TP2, 42-inch
2325 fence.

2326 Ms. Dwyer - All right. If there are no questions, I move the approval of POD-49-99,
2327 Jiffy Lube - Deep Run Business Center, including annotations to the plan, including the
2328 additional annotation regarding the orange fencing around the tree save area. Also, including
2329 the standard conditions for this type of development and additional conditions Nos. 23 through
2330 36, replacing existing No. 28 regarding the sidewalk, deleting that and replacing that with a

2331 new No. 28, which discusses the red brick and no painting. Also adding additional condition
2332 No. 37 relating to a tabulation of retail uses, also adding Nos. 9 and 11 amended to bring the
2333 landscape and lighting plan back to the Commission. I'm finished.

2334 Mr. Archer - Second.

2335 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mr. Archer. All
2336 in favor say aye...all opposed say nay. The motion carries.

2337 The Planning Commission approved POD-49-99, Jiffy Lube - Deep Run Business Center
2338 (POD-60-81 Revised), subject to the standard conditions attached to these minutes, the
2339 annotations on the plans, and the following additional conditions. Mr. Donati was absent.
2340

2341 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for
2342 review and Planning Commission approval prior to the issuance of any occupancy
2343 permits.

2344 11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including
2345 depictions of light spread and intensity diagrams and fixture mounting height details
2346 shall be submitted for Planning Office review and Planning Commission approval.

2347 23. The easements for drainage and utilities as shown on approved plans shall be granted to
2348 the County in a form acceptable to the County Attorney prior to any occupancy permits
2349 being issued.

2350 24. The limits and elevations of the 100-year frequency flood shall be conspicuously noted
2351 on the plan "Limits of 100 Year Floodplain." In addition, the delineated 100-year
2352 floodplain must be labeled "Variable Width Drainage and Utility Easement." The
2353 easement shall be granted to the County prior to the issuance of any occupancy permits.

2354 25. The entrances and drainage facilities on U.S. Route 250 shall be approved by the
2355 Virginia Department of Transportation and the County.

2356 26. A notice of completion form, certifying that the requirements of the Virginia
2357 Department of Transportation entrances permit have been completed, shall be submitted
2358 to the Planning Office prior to any occupancy permits being issued.

2359 27. The developer shall provide fire hydrants as required by the Department of Public
2360 Utilities in its approval of the utility plans and contracts.

2361 28. The building shall be constructed of red brick and the brick shall not be painted at any
2362 time.

2363 29. All repair work shall be conducted entirely within the enclosed building.

2364 30. Outside storage shall not be permitted.

2365 31. The certification of building permits, occupancy permits and change of occupancy
2366 permits for individual units shall be based on the number of parking spaces required for
2367 the proposed uses and the amount of parking available according to approved plans.

2368 32. Any necessary off-site drainage easements must be obtained in a form acceptable to the
2369 County Attorney prior to final approval of the construction plans by the Department of
2370 Public Works.

- 2371 33. Deviations from County standards for pavement, curb or curb and gutter design shall
 2372 be approved by the County Engineer prior to final approval of the construction plans by
 2373 the Department of Public Works.
- 2374 34. Storm water retention, based on the 50-10 concept, shall be incorporated into the
 2375 drainage plans.
- 2376 35. Insurance Services Office (ISO) calculations must be included with the utilities plans
 2377 and contracts and must be approved by the Department of Public Utilities prior to the
 2378 issuance of a building permit.
- 2379 36. Approval of the construction plans by the Department of Public Works does not
 2380 establish the curb and gutter elevations along the Virginia Department of Transportation
 2381 maintained right-of-way. The elevations will be set by the contractor and approved by
 2382 the Virginia Department of Transportation.
- 2383 37. Prior to final plan approval, the applicants shall submit a tabulation of all retail uses in
 2384 Deep Run Business Center.

2385
 2386 **LANDSCAPE PLAN (Deferred from May 26, 1999 Meeting)**
 2387

LP/POD-89-98
Lawrence Chrysler
Plymouth – Laburnum
Avenue

Gerri Nolan for Lawrence Chrysler Plymouth: Request for approval of a Landscape Plan and minor revisions to paving and parking areas as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 4.9-acre site is located on the southwest corner of Laburnum Avenue and Eubank Road on Parcel 172-A-27. The zoning is M-1, Light Industrial District, and ASO, Airport Safety Overlay District.
(Varina)

2388
 2389 Ms. Dwyer - Is there anyone here in opposition to landscape plan LP/POD-89-98,
 2390 Lawrence Chrysler Plymouth - Laburnum Avenue? No opposition. Ms. News.

2391
 2392 Ms. News - The applicant's request for approval of a landscape plan has been revised
 2393 to add some additional paved areas in front of the building for use as car display. Staff's
 2394 concern throughout the review was a complete lack of large shade trees along Laburnum
 2395 Avenue. All Crape Myrtles and some Nellie Stephens and Foster Hollies were originally
 2396 proposed. The applicant has now agreed to revise the plans to include 12, three-inch red
 2397 maples along the frontage and five small to medium accent trees in front of the building. The
 2398 required tree canopy for the site is now also exceeded by a percentage of about 20%. With
 2399 these changes, staff can recommend approval of the plan before you.

2400
 2401 Ms. Dwyer - Are there any questions of Ms. News by Commission members? No
 2402 questions? Would you like to hear from the applicant, Ms. Quesinberry?

2403 Ms. Quesinberry - It's not necessary, I don't think.

2404 Ms. Dwyer - All right. We are ready for a motion.

2405 Ms. Quesinberry - I'd like to move for recommending approval of the landscape plan
2406 LP/POD-89-98, Lawrence Chrysler Plymouth, with the additional annotations on the plan and
2407 the standard conditions for landscape plans.

2408 Mr. Archer - Second.

2409 Ms. Dwyer - The motion was made by Mrs. Quesinberry and seconded by Mr.
2410 Archer. All in favor say aye...all opposed say nay. The motion carries.

2411 The Planning Commission approved POD-89-98, Lawrence Chrysler Plymouth - Laburnum
2412 Avenue, subject to the standard conditions attached to these minutes and the annotations on the
2413 plan. Mr. Donati was absent.

2414 Ms. Dwyer - All right, Mr. Secretary, the next item on the agenda.

2415 Mr. Silber - The next item on the agenda are the minutes.

2416 **Approval of Minutes: March 23, 1999 and April 20, 1999**

2417 Ms. Dwyer - I would like to postpone the minutes, if that is all right, to the zoning
2418 meeting. Is that all right with the Commission? I didn't get a chance to review the minutes.
2419 Do we need a motion?

2420 Mr. Vanarsdall - I don't think we do but if we do, I second it.

2421 Ms. Dwyer - All right. We will approve the minutes then at our rezoning meeting.

2422 Mr. Vanarsdall - I don't read them anymore any way because all we do is correct English.
2423 We don't correct anything that's pertaining to the case.

2424 Mr. Silber - Okay. We will put them on the Rezoning meeting in July.

2425 The Planning Commission deferred the March 23, 1999 and the April 20, 1999, minutes to its
2426 Rezoning meeting, July 15, 1999. Mr. Donati was absent.

2427 Mr. Silber - Our next item is a discussion item dealing with the level of service
2428 review on proposed developments. I believe Mrs. Quesinberry suggested that we take a look
2429 at some examples being used in Chesapeake. We have received those and provided those to
2430 the Planning Commission and John Merrithew is here to explain more about this and some
2431 information from Hanover as well.

2432 **DISCUSSION:**

2433

2434 **Level of Service Review on Proposed Developments -- The Chesapeake Example.**
2435 **(Staff Presentation by John Merrithew)**

2436 Ms. Dwyer - Good afternoon, Mr. Merrithew.

2437 Mr. Merrithew - Thank you, Madam Chairman. I'm pleased to be here. I know this is at
2438 the end of your meeting so I will try to be as brief as possible. We were asked to take a look
2439 at and present to you information from the City of Chesapeake regarding a new means of
2440 evaluating rezoning that they are using, which more closely ties development to the available
2441 capacity of certain capital facilities. The City of Chesapeake has rezoning criteria included in
2442 their comprehensive plan. That is something that Henrico County does not have. Henrico
2443 County does have some policies related to growth and what it should look like and I will show
2444 those in just a few minutes. But, we do not have a policy dealing with rezoning per se. Also
2445 the City of Chesapeake has in their zoning ordinance, rezoning criteria, which specify
2446 compliance with the Comprehensive Plan among other things, which is, again, something that
2447 the County of Henrico ordinance does not include.

2448 Ms. Dwyer - May I stop you there Mr. Merrithew? Could you go back to that point,
2449 just for a minute.

2450 Mr. Merrithew - All right. I'm going backwards.

2451 Ms. Dwyer - When you say we don't have in our zoning ordinance criteria, that does
2452 not include compliance with the Comprehensive plan. What does that mean?

2453 Mr. Merrithew - What I am saying is we don't have a statement in the zoning ordinance
2454 that says rezoning shall meet the following criteria, comprehensive plan, utilities, whatever
2455 those criterias might be. We tie our rezoning evaluation, of course, into what the
2456 comprehensive plan calls for but it's not a statement in the zoning ordinance to that effect. It's
2457 clear as mud, right?

2458 Ms. Dwyer - No, it's very clear.

2459 Mr. Silber - Maybe if stated differently, for example, correct me if I'm wrong, John,
2460 but I believe the Chesapeake example they have in their zoning ordinance consideration for
2461 rezoning of property as reviewed against criteria that's established in their comprehensive plan.

2462 Mr. Merrithew - And criteria written in the ordinance itself.

2463 Mr. Silber - Criteria written in the zoning ordinance?

2464 Mr. Merrithew - Right. They list it. They list comprehensive plan as one criteria,
2465 available services another criteria, public health, safety and welfare another criteria and so on
2466 and so on.

2467 Ms. Dwyer - If we were to have something like that, where would it go in our Code?

2468 Mr. Merrithew - Probably near the beginning under general, well, no, in fact it might go
2469 with the Planning Commission section of the ordinance. It's the Planning Commission's
2470 responsibility.

2471 Mr. Silber - There's a section that deals with Planning Commission's and Board's
2472 right to rezone property.

2473 Mr. Merrithew- Right, it would probably go there.

2474 Ms. Dwyer- All right.

2475 Mr. Merrithew- One of the issues that the city looked at this whole process or this whole
2476 policy, there are a couple of issues. Number one. Their comprehensive plan, same as ours,
2477 shows the ultimate build out of the county but does not show the phasing of that development
2478 or it doesn't have any criteria with regard to how that development should be phased against
2479 utilities and services. The second issue was a desire on their part to direct growth and prevent
2480 leapfrog development from occurring. The approach is fairly simple. All the rezonings must
2481 pass a test, that is for transportation and for schools. With regard to transportation, an
2482 application comes in and it must show that the existing road system that would serve that
2483 property can meet a level of service "D." Tim has disappeared but he could probably explain
2484 that better than I, but road capacity, and road level of service, quality of service of these
2485 roads, there's a standardized measure used by other counties and they would require a level of
2486 service "D," which is not a high quality level of service. It's not the best quality. It goes
2487 from "A to F." And "D" is on the low end of capacity or free flow.

2488 Mr. Vanarsdall - John, are you saying that if it is not adequate for road facility, I don't
2489 know how to ask this but, what roads would you be speaking of? Roads into the subdivision,
2490 for example, not inside.

2491 Mr. Merrithew - They measure from the property, they look at existing roads a certain
2492 distance away, either to a major intersection or some other standard that is included in the
2493 policy that I gave you of how they determine what stretch of road they are going to use to
2494 measure the level of service. It's not in the subdivision.

2495 Mr. Vanarsdall - Since, you have been with us, in Henrico, have you ever seen traffic
2496 write, that a road would not take the rest of the traffic? No.

2497 Mr. Merrithew - I've never seen transportation staff suggest that was an issue.

2498 Mr. Vanarsdall - I think down in Varina we had one last year or the year before and Mr.
2499 Donati denied the rezoning at the Board level because the road was inadequate and no plan to
2500 ever widening it or anything. That's the only one I can remember in recent memory.

2501 Mr. Merrithew - The other side of that is that we never asked for a level of service
2502 measurement, so we don't know what the level of service is on those roads.

2503 Mr. Vanarsdall - Okay. Thank you.

2504 Mr. Merrithew - If the application in Chesapeake City does not meet the least, and the
2505 roads don't meet a level of service "D," staff automatically recommends denial.

2506 Mr. Vanarsdall - I think that's good.

2507 Mr. Merrithew - And then there are exemptions for non-residential uses because they have
2508 a pro-economic development leaning, for smaller developments, for less than five residential
2509 lots. And I think also for uses that would not generate more traffic than what the current
2510 zoning already permit. With regard to service for schools, again, the applicant must pass a
2511 test to show that schools have the capacity to meet existing student populations. The
2512 application fails a test if the school have an existing population that is 120% of the schools'
2513 design capacity or program capacity. In looking at the school capacity, and also looking at
2514 roads, they take into consideration already available zoned, lots, and property. So, they take
2515 into consideration the capacity that's going to be used by land that's already been approved
2516 prior to this case.

2517 Mrs. Quesinberry - Even if that land hasn't been developed yet, but it's sitting there
2518 approved ready to go.

2519 Mr. Merrithew- Exactly.

2520 Mrs. Quesinberry - Accounts in the calculations.

2521 Mr. Merrithew - That's right.

2522 Mrs. Quesinberry - Thank you.

2523 Mr. Archer - John, is there a cut off period as to how old a subdivided piece may be
2524 considered?

2525 Mr. Merrithew- I don't recall them stipulating a cut off. Do you mean an existing lot
2526 that's been there for 30 years?

2527 Mr. Archer - Yes, an old subdivision.

2528 Mr. Merrithew - I don't think they make that distinction. It is there, it is ready to happen
2529 at any time with a building permit, it's as good as built as far as their calculation is concerned.

2530 So, the two level of service measurements are level D for roads and 120% capacity for
2531 schools. They do take into consideration what capital improvements and what road
2532 improvements are planned within the next year that might effect the capacity of that road or
2533 the capacity of that school and improve the situation. So, there are some improvements that
2534 will be taken into affect. We have to have the C.I.P. that's pretty accurate to use in the
2535 calculation as well. With regard to schools, there are, again, some exempt uses. Age
2536 restricted housing, that is housing for senior adults and other housing that does not generate
2537 children, of course, small subdivisions and, again, developments that do not exceed the student
2538 generation expected under the current zoning. So, if you have an R-3 zoning, you can
2539 anticipate a certain student generation. They may go to R-5 zoning but show that their
2540 generation is no higher. Then they pass the test.

2541 The second policy that Chesapeake has looked at is the sewer/service area expansion policy.
2542 This deals with the leapfrog development issue. The city has defined a service area as one
2543 mile or within one mile of any of their existing force mains. They now require that an
2544 extension of that service area, that is, an extension of a utility to a piece of property, that is
2545 partially outside, or entirely outside of that service area must go to the City Council for
2546 approval. They have set an urban growth boundary, if you will, or sewer/service area
2547 boundary of one mile around their force mains, not their pump stations, but their force mains
2548 because you can define the area around the force mains as being the area that flows by gravity
2549 to that force main. If you were to use a pump station, that greatly expands the potential area
2550 because you can, of course, pump back to the pump station. Well, at least that is my
2551 understanding of their intent. To expand the sewer/service area, again, as I said, City Council
2552 has to approve it. They will examine each proposed expansion based on how many other types
2553 of improvements have to be made to the sewer system. They will look at the costs to the city,
2554 both capital and operating costs, of those improvements and relate it back to the development.
2555 So, if the cost is too high or there are too many other improvements outside of the project that
2556 need to be made to the system, then they will consider not approving that expansion.

2557 I mentioned earlier Henrico County's growth strategies. These are some of the policy
2558 statements or objective statements that are in our Plan dealing with growth that could extend to
2559 dealing with rezoning. The three to one residential to business area ratio, certainly could be
2560 evaluated in every case. Encouraging business is a growth rezoning statement. Maintaining
2561 community integrity is a broad statement about compatibility of the new development with the
2562 existing. And then there are several others, but you have to go through the plan to find those
2563 statements and we really don't have a distinct policy on when land use changes, what criteria
2564 we will use to evaluate it.

2565 Ms. Dwyer - In other words, we don't have a growth strategy statement or series of
2566 statements set out separately, identified separately in our comprehensive plan.

2567 Mr. Merrithew - We don't have criteria that directly allows us to evaluate a rezoning.
2568 When we get a rezoning, we look all through the plan to find what are some of the issues that
2569 have to be dealt with in this particular case. And that's the case across the state with most

2570 plans and zoning ordinances. But, what the city is doing, is saying, here is some specific
2571 criteria that you are going to have to meet in each case.

2572 Ms. Dwyer - To address the growth issue.

2573 Mr. Merrithew - To address the growth, yes. I wanted to talk for a couple of seconds on
2574 Hanover County. They are taking an approach to growth management something similar to
2575 what we discussed in terms of eliminating some of their single-family zoning districts. They
2576 have decided to substitute one single family zoning district for the three that they already have
2577 and within that one district allow different densities or different lot sizes based on the
2578 amenities that the developer brings to the table for that project. They established a base in this
2579 one district of one unit per acre and then allow the density increases at certain ratios. For
2580 example, to get the two units per acre, you have to have 25% of the site left as open space and
2581 you have to provide four out of the six improvements listed here (referred to slide).

2582 Ms. Dwyer - Excuse me. That open space does not include Chesapeake Bay Areas, is
2583 that right?

2584 Mr. Merrithew - I believe you are right. Are you saying 25% of the buildable area?

2585 Ms. Dwyer - Yes.

2586 Mr. Merrithew - I'll have to go back and double check that.

2587 Ms. Dwyer - It says net acreage shall be the total area of the district minus the total of
2588 Chesapeake Bay Resource protection areas and areas of slopes greater than 25%.

2589 Mr. Merrithew - So they take out the unbuildable area and then calculate 25%

2590 Ms. Dwyer - Above and beyond that. We tend to just get the undevelopable areas as
2591 open space.

2592 Mr. Merrithew - Right.

2593 Ms. Dwyer - You know, coal mines and creek beds. Okay, Mr. Merrithew. I
2594 thought that was interesting.

2595 Mr. Merrithew - Yes, I agree. You see the items here, basically street amenities,
2596 recreation areas. Then you can go to three units an acre. In order to get the three units per
2597 acre, you have to do everything that was called for in two. All six of these improvements for
2598 two units have to be done and then you have to do some of the other improvements, three of
2599 the following five improvements listed here (referring to slide), plus all of the improvements
2600 listed for two units per acre.

2601 Ms. Dwyer - What is a single loaded street?

2602 Mr. Merrithew - That's a street with houses on one side and nothing on the other side.

2603 Ms. Dwyer - Why would they want that?

2604 Mr. Merrithew - Jo Ann may have a more detailed explanation of that.

2605 Mrs. Hunter - It's trying to get a center common area with a park in the center with the
2606 houses on the four sides facing into the park.

2607 Ms. Dwyer - Like Savannah.

2608 Mrs. Hunter - Right.

2609 Mr. Silber - John, not all the streets would have these single loaded streets, would
2610 they?

2611 Mr. Merrithew - No. I think they have to provide some amount and I don't know the
2612 amount. It may simply be that they have a community green with the four streets around it or
2613 two streets going by it, that may suffice. And, finally, four units an acre all the previous
2614 improvements, plus design standards, which they have quantified and the townhouses may be
2615 included at four units an acre, and that's their maximum density permitted in a single-family
2616 district. So, I thought I would bring you up-to-date on both of those. Apparently, the
2617 Hanover Board has sent this item to committee, it doesn't appear that they are trying to do
2618 anything to it. They want to go to the committee and sit down with the homebuilders and
2619 some other people. It has been received fairly positively according to the news report that Jo
2620 Ann provided me earlier.

2621 Ms. Dwyer - Is there a date for a public hearing on it?

2622 Mrs. Hunter - September 2, 1999, the report is due back.

2623 Mr. Merrithew - The committee is going to come back September 2. So, as requested,
2624 we have presented Chesapeake and Hanover. Jo Ann is also here to give you a brief update on
2625 Henrico Residential Strategies, unless you have any other questions.

2626 Ms. Dwyer- Refresh my memory on the multifamily piece of that. Does this address
2627 that?

2628 Mr. Merrithew - This single zoning district would allow townhouses. Are you talking
2629 about Hanover?

2630 Ms. Dwyer- Yes.

2631 Mr. Merrithew - Hanover did not include or address multifamily in this particular change.

2632 Ms. Dwyer - Would it include condominium developments? Other than single family
2633 detached, what is included in this?

2634 Mr. Merrithew - Townhouses, at the four units an acres. And that could be
2635 condominiums, townhouses or fee simple townhouses.

2636 Ms. Dwyer - But apartments are not.

2637 Mr. Merrithew - That's a separate zoning category, zoning district, this is the single-
2638 family district that they are trying to generate.

2639 Ms. Dwyer - Are they looking at that also, the multi-family?

2640 Mr. Merrithew - That I don't know and I'll defer to Jo Ann.

2641 Ms. Dwyer - How did you get to be the expert on Hanover County?

2642 Mrs. Hunter - I used to work in Hanover.

2643 Ms. Dwyer - All right.

2644 Mrs. Hunter - Their policy is that they are generally supportive of apartments but they
2645 do have a proffer requirement of approximately \$6,000.00 per unit for each apartment, so that
2646 has scared away most of the multi-family development in the county. They have very limited
2647 number of apartments they only have about three apartment complexes and none have been
2648 constructed in the last eight years. No new rezoning for apartment have been issued.

2649 Ms. Dwyer - That's why we are getting them all in Henrico.

2650 Mr. Silber - Jo Ann, didn't they also amend their land use plan to remove any multi-
2651 family or apartment destinations from their plan?

2652 Mrs. Hunter - That was Chesterfield and what Chesterfield is doing is they are only
2653 encouraging multi-family development within planned communities.

2654 Mr. Silber - I thought Hanover did that also, about a year ago, amended their plan to
2655 remove any destination, on their plan map, for apartments.

2656 Mrs. Hunter - I'll have to double check that, Randy.

2657 Ms. Dwyer - How do they treat a non-townhouse condominium development?

2658 Mrs. Hunter - I think what their intention is on the townhouses, what they are trying to
2659 get at is a village type of community which would have given you the option of having some
2660 single-family attached houses as well as detached and that's why that is falling into this single-
2661 family category.

2662 Ms. Dwyer - But, how would they treat the condominium development that looks like
2663 a garden style apartment?

2664 Mr. Merrithew - Most places do not make a distinction between condominiums and rental
2665 apartments. A condo is an apartment building that has more than so many units and they are
2666 divided up a certain way. We have condominiums discussed in the plan, in the urban
2667 residential versus multi-family residential but I don't know if the ordinance separates them.

2668 Mr. Silber - The Land Use Plan allows multi-family, which is a density factor. It
2669 doesn't speak to ownership. It could be apartments or condominiums if it's over, I think, six
2670 units per acre and that goes into the multi-family. In our zoning ordinance, in R-5 and R-6,
2671 you can have condominiums or apartments.

2672 Mr. Merrithew - We do make the distinction. We are one of the few places that does
2673 make that distinction.

2674 Ms. Dwyer - But, Hanover would say, you know, it's single family or it's some sort
2675 of attached dwelling or townhouses and that's it. No apartment style product would be
2676 permitted under this particular ordinance.

2677 Mr. Merrithew - In this particular district, no apartment style product, only single-family
2678 detached or townhouses.

2679 Ms. Dwyer - What's it called, R...?

2680 Mrs. Quesinberry - It's called RS.

2681 Mr. Merrithew - Right. RS.

2682 Mrs. Hunter - In reference to your previous question, I just pulled out some old notes,
2683 Hanover County stated that their policy towards multi-family development was to be
2684 discouraged. And that they wanted their community character to be two units per acre.

2685 Ms. Dwyer - Okay. Are there any other questions by Commission members?

2686 Mr. Vanarsdall - Are we ready for Mrs. Hunter?

2687 Ms. Dwyer - If there are no more questions for Mr. Merrithew, then we are ready for
2688 Mrs. Hunter. Mrs. Hunter.

2689 Mrs. Hunter - Thank you. I think that the Commission had asked for a briefing, at the
2690 last POD meeting and as a follow up to hearing about the Chesapeake regulations, to just get a
2691 brief update on the residential strategies. Briefly, staff has been working with the Board of
2692 Supervisors on this issue for about the last two years. And during several work sessions that
2693 we have had, the following concerns, that are on the screen, keep coming up as issues
2694 identified by the Board. The first concern is a concern with the relationship of the County,

2695 within the region, our neighboring jurisdictions are taking measures to require larger lots and
2696 discourage high-density development. Henrico County allows the smallest lot sizes in the
2697 region. We have 10 single-family districts where no other locality has more than six. We also
2698 have about half of our single-family districts allow for minimum lot size of less than 15,000
2699 while Chesterfield and Hanover both only have one district.

2700 The second concern that's been identified is a concern with the quality of lots including
2701 irregular configuration of lots as well as the proportionate relationship between house size and
2702 lot size. As the land becomes more and more expensive, the developers are seeking to maximize
2703 their density, which is creating a number of oddly shaped, awkward subdivision layouts.
2704 These awkward layouts are causing problems for residents and are also requiring an increase
2705 number of variance requests. In addition, the trend is for large houses on small lots, which is
2706 making the homes appear more crowded as you drive through the subdivisions.

2707 The final concern is with the quantity of land zoned R-5, R-6, and RTH with no design
2708 assurances. In addition, the County is getting a much higher percentage of multi-family
2709 housing than the surrounding jurisdictions. If current trends continue the County will absorb
2710 more than its regional fair share of future residential development on small lots or multi-family
2711 development. In order to try to address some of these concerns, staff developed several
2712 different strategies that were presented to the Board in February of this year. They are divided
2713 into four basic categories, they include residential design, density, multi-family zoning and
2714 options for growth management in the outlying areas. They were divided into two phases.
2715 Phase one dealt with issues that were already in our zoning ordinance. And there were changes
2716 that we could make to our existing zoning ordinance to try to address some of these concerns.
2717 They include, one, under residential design objectives, to increase the setbacks on major roads.
2718 Currently, our ordinance does not make a distinction between a setback on a subdivision road
2719 compared to a major road, such as Gaskins Road. The staff's proposal would double the
2720 setbacks along all of the roads that are identified on the Major Thoroughfare Plan. This would
2721 also address the concern of us fencing in our roadways. As you drive down the road and all
2722 the major subdivisions have fences on either side. No. 2, under residential design objectives,
2723 would be to increase the yard and width requirements. This would determine the context of
2724 how the house relates to the lot. The development trend in the County is for lots in the 8,000
2725 to 11,000 square foot range, but our average house size is 2,265 feet. And that is average so
2726 that means it's much larger in certain subdivisions. With houses of that size, and a small lot
2727 size, it's becoming more difficult to have a workable building envelope and it's resulting in
2728 more variance requests.

2729 Ms. Dwyer - Excuse me. What was the average house size?

2730 Mrs. Hunter - It's 2,265. And the County does allow smaller lot widths than other
2731 jurisdictions in the region. The third initiative under the design objectives, would be to
2732 improve the design standards for multi-family. Currently, the County has about, just a little
2733 under 600 acres zoned for multi-family that is currently vacant. Right now we have fairly
2734 minimal standards for our multi-family district. And some of the suggested standards included

2735 road construction standards, minimal parcel size, required recreational amenities, lot coverage
2736 requirements and increased setbacks. The fourth strategy under that category was the
2737 elimination of the flag lots. That has been dealt with by the Planning Commission. The Board
2738 of Supervisors had a work session yesterday, and it is my understanding there is going to be a
2739 public hearing in August.

2740 In Phase II strategies for, not things that the County had in its current ordinances, and were a
2741 little more creative than some of the basic standards, and this would be where other initiatives
2742 such as Chesapeake or Hanover could be looked at also. The things we presented to the Board
2743 was to look at the multi-family zoning, such as a comprehensive rezoning of existing vacant
2744 land inappropriately zoned R-5, R-6 and RTH. Again, that will need to be reviewed by the
2745 County's Attorneys Office to see if we could pursue any of those initiatives. The second one
2746 would be to develop incentives for redevelopment of our existing multi-family development.
2747 The final option strategies was for the growth management in the outlying areas. And some of
2748 the strategies that we discussed, was the possibility of an urban growth boundary. Hanover
2749 and Chesterfield both use this policy; to investigate funding mechanism for purchase of
2750 development rights program; or, three, review the density standards in the A-1 district. That
2751 list is not finite, there are many different initiatives that we can look at, other than those
2752 things. All of these strategies were presented to the Board in February. At that time, we got
2753 the go ahead to go forward with the flag lot issue, which we have done. Since that time, there
2754 has been no further direction from the Board on what strategies they would like us to pursue.

2755 Ms. Dwyer - Are there any questions of Mrs. Hunter?

2756 Mr. Archer - So, Mrs. Hunter, what you are saying in your last statement, is that Item
2757 4, under Phase I, is the only thing that we are actively pursuing right now?

2758 Mrs. Hunter - That's correct.

2759 Ms. Dwyer - But, the Commission can also initiate an ordinance amendment, isn't that
2760 correct?

2761 Mrs. Hunter - That is correct, yes.

2762 Mrs. Quesinberry - For the purposes of discussion, I would just like to say that was one of
2763 the reasons I wanted to look at the Chesapeake's ordinances. And their relationship to their
2764 comprehensive plan, was to generate some discussion with this group so that, in line with what
2765 we are looking at in residential strategies, that we might consider some of those things along
2766 with Hanover and see where that fits in. It may be that... We all agree that there is room for
2767 improvement, and it may be that we can take some of those ideas and look at ordinance
2768 changes that would be more adequately reflect what we would like to see happening in our
2769 County.

2770 Ms. Dwyer - I agree, Mrs. Quesinberry, and it's really shocking to me to compare
2771 what we do, to say, what Hanover does, to what some of our neighboring counties does.

2772 Admittedly, Hanover is a more rural County than we are, yet they are considering the
2773 residential strategy which requires 25%, correct me if I'm wrong, 25% open space, excluding
2774 all Chesapeake Bay Areas for any development that's more than one lot per acre. In our
2775 County that would be, if you have an R-2 development, which we haven't seen, I don't think,
2776 since I've been on the Planning Commission in the last three in a half years. Even that would
2777 require 25% open space and, you know, that's really stunningly different from the way we
2778 proceed in Henrico. I'm not sure what that means about whether we want to change the way
2779 we do business, but it is certainly in great contrast. One of the issues was to look at how we
2780 compare to our neighboring jurisdiction. So, I think that comparison is very useful to us to get
2781 a handle on what we do allow. One of my, one of the issues I know you have in Varina, and
2782 we have seen some cases come through here recently, was old multi-family zoning. And, we
2783 realize that our design standards, development standards, are so minimal that we are creating
2784 living environments or environments that are not livable. But, that's my concern. We can
2785 look at our design standards for multi-family and that would presumably apply to existing
2786 multi-family zoning. Look at things, as Mrs. Hunter mentioned, minimal parcel size, well
2787 that couldn't be done if it is already rezoned. Road construction, open space, recreational
2788 areas, amenities of those kinds. I would like to see us move forward on that one.

2789 Mr. Merrithew - On the multi-family standards?

2790 Ms. Dwyer - Yes.

2791 Mr. Vanarsdall - Were you at the Board meeting last night, John?

2792 Mr. Merrithew - No, sir, I was not. I believe Randy was there.

2793 Mr. Silber - I was there, Mr. Vanarsdall.

2794 Mr. Vanarsdall - Did any of those cases get turned down?

2795 Mr. Silber - One was denied, two were approved and three were deferred. The one
2796 that was denied was not a residential case, it was an office request over at Saddler and Nuckols
2797 Road.

2798 Ms. Dwyer - I'm not sure we want to proceed independently of the Board, maybe we
2799 should each contact our respective Board members. To see if this seems like a reasonable way
2800 to proceed, if, generally speaking, they would like for us to initiate it.

2801 Mr. Vanarsdall - Madam Chairman, the problem I've had, we do not have a clear signal
2802 from the Board to do anything and I think staff will be the first to admit the same thing. I
2803 haven't seen anything from the Manager that has any intentions of changing anything. I don't
2804 have any hidden agenda or secret passage or anything like that. You all have spoken to me
2805 about it after meeting, you might do this, you might do that and we haven't gotten anywhere.
2806 And, they had that little secret meeting over a year ago.

2807 Ms. Dwyer - What secret meeting?

2808 Mr. Vanarsdall - The one that came out in the paper. It was a secret from us, we were
2809 never notified. So, I don't know.

2810 Ms. Dwyer - It was a secret meeting in the newspaper. Well, that's why I suggest
2811 that... On the other hand we are, as the Planning Commission, part of our task is to advise the
2812 Board on development issues. I fully agree with you. I don't see any purpose of wasting
2813 staff's time or our time to pursue an ordinance amendment that the Board does not concur
2814 with. I'm just lifting this one up as one that seems to me to be most critical based on some of
2815 the cases we have seen come through here in the last year. And, maybe this is something we
2816 could ask our Board members about. Is this something that you think would be a good idea
2817 for us to look at and develop a proposal for? Yes, Mr. Merrithew.

2818 Mr. Merrithew - Could I suggest that... One of the problems we've had through this
2819 whole discussion is that we put items like these out there without discussing what the issue is
2820 we are trying to solve. And, perhaps, the Commission needs to... I would suggest two things.
2821 One is the Commission needs in its own mind to decide what it is about multi-family
2822 development that needs to be corrected, if you will, in terms of quality design and come to
2823 some consensus yourself. And, number two, I would suggest that perhaps then a statement of
2824 principles or more like policy statements from you to the Board might be worth taking when
2825 you go to talk to them so they have an idea of what you are bringing to them. I don't think
2826 the Board fully comprehends what improving multi-family design standards really means.
2827 And, I don't think there is consensus there as to what issues they really want to resolve with
2828 the widths of streets or the pavement thickness.

2829 Ms. Dwyer - Hanover and Chesapeake actions are much more comprehensive than
2830 what I am suggesting here today. I mean, they are looking at the whole ball of wax.

2831 Mr. Merrithew - But, based on a couple of specific issues, leapfrog development and the
2832 level of service for a couple of key facilities. So, if we can get it down to a couple of knots
2833 that we can easily understand, then we can work on the design guidelines from there.

2834 Mr. Silber - I think also, if I can add to that, John. It seems like when you look at
2835 this list of items, there are some that I would sort of classify as low-hanging fruit. Some
2836 things that are very easy to began to get a hold of and deal with and there are some that are
2837 more policy oriented that I think maybe the Board needs to be dealing with. I have no
2838 problems with, and I encourage the Commission to talk to their Board members to determine
2839 which one of these are more important. I do think you all have a good handle on the problems
2840 associated with some of these aspects. Especially, the Phase I things. For example: Increase
2841 setbacks from major roads. We dealt with that on a couple of cases just today. What should
2842 that depth be off of Nuckols Road and off of Interstate 95? I think that's an issue that could be
2843 brought forward with you all, certainly discussed and dealt with very easily with ordinance
2844 amendment. And I also think multi-family design standards also, although, that begins to get
2845 into, and I agree with John, if you all can identify what the concerns are and to get that in

2846 writing and discuss that with your Board members. Those may be two things that staff feels
2847 comfortable moving forward with that could have some immediate results.

2848 Mr. Vanarsdall - The reason I asked you about the meeting last night. There were about
2849 five to six high-density cases on the agenda and that's where you knock the density in the
2850 head, is right there. You can drop 3 A's and 4 F's and everything you want to but that's what
2851 stops the density and the overload.

2852 Mr. Silber - The tools are out there. We have a Land Use Plan, and if the Land Use
2853 Plan is followed we should have zoning approved at different densities. Yes, sir. There was
2854 one approved last night that was R-3A, approved in the suburban residential one classification.

2855 Mr. Vanarsdall - And, that doesn't mean we can't do our part. Whatever we want to do
2856 we will do.

2857 Ms. Dwyer - Well, recognizing that we seem to be, I mean, this is probably not a
2858 good time for the Board to be focusing on this, and recognizing that, I'm thinking that maybe
2859 in the meantime, in order to not lose momentum on these things, it might be a good idea to do
2860 as John suggested. And, as Randy indicated, we have some fairly finite issues to identify. I
2861 don't think anybody is ready to say let's eliminate R-3A. Although, there are some R-5A that
2862 I would like to do that. I'm not sure that's something the Commission should initiate but we
2863 could initiate some more of these more finite issues like setbacks on major roads and I think
2864 multi-family I would throw into that. So maybe we could look at those as a Commission and
2865 not do a lot of study on it but make a statement about what we think these are important issues
2866 that need to be addressed with ordinance amendments, the purpose of those amendments that
2867 we see as a Commission. The goals that we want to achieve and then put that in sort of a
2868 policy statement and then take that to the Board and say does this look like something you
2869 want us to pursue? In other words, as the advisors to the Board, we are saying we see this as a
2870 problem and this is a general direction we would like to go in. Give us the green light or the
2871 red light.

2872 Mr. Merrithew - Right. Give them the approach you want to use and get "buy-out" on
2873 the approach.

2874 Ms. Dwyer - What do you all think? Do you think that would be a good way to
2875 pursue it?

2876 Mrs. Quesinberry - I think it is a good step, because getting back to what Ernie referred to, I
2877 don't think we are going to get a clear cut direction from the Board. They are looking for us
2878 to come to them with suggestions. We are the ones that deal with the problems all of the time
2879 and see the consequences of what happens.

2880

2881 Mr. Vanarsdall - Well, you can't get a clear-cut direction. We can had an all day work
2882 session, when you were sick, and they (staff) didn't have any more direction when they left the
2883 building then I did as a Commissioner. You can get it if they will bring it to a head.

2884 Mrs. Quesinberry - That's why I think if we go in with what you call a policy statement or a
2885 goal that we want to achieve and get their buy off it, yes, they think this is valuable then we
2886 can proceed ahead. And that they will look at what we present and say, yes, this is a good
2887 idea. Because you are talking about, again, five different people with different constituencies
2888 and different issues, and we are looking at planning across the whole County. That's why I
2889 think if we give that policy statement, if that's what you want to call it, and tell them that this
2890 is where we think we need to proceed, do you agree? And when they look at that broad
2891 statement or goal, then they would give us agreement or disagreement based on that.

2892 Ms. Dwyer - Well, why don't we do that?

2893 Mr. Merrithew - It sounds good to me. We don't have any cases coming forward
2894 anymore.

2895 Ms. Dwyer - Okay, good.

2896 Mr. Vanarsdall - Do we need a motion to do that?

2897 Mr. Archer - I don't think we do.

2898 Ms. Dwyer - Well, what we would like to lift up and start formulating a policy
2899 statement for the increase in setbacks on major road and design standard for multi-family.
2900 Okay.

2901 Mr. Vanarsdall - Whatever you all want do. I have to leave. I have another meeting.

2902 Ms. Dwyer - Ernie, agrees with everything we do for now on.

2903 Mrs. Quesinberry - I think those are two things that...

2904 Ms. Dwyer - Ernie, wait a minute. We don't have a quorum anymore. Ernie, we
2905 won't have a quorum if you leave.

2906 Mr. Vanarsdall - Oh. I didn't know you were going to do anything.

2907 Ms. Dwyer - That's what I'm asking. Do we need a quorum for anything?

2908 Mr. Silber - If you are proceeding along the lines you are discussing, no you don't
2909 need to act on it.

2910 Mr. Merrithew - We will go with the consensus and come back to you.

2911 Ms. Dwyer - We will just give the direction to staff to come up with a policy
2912 statement. Okay. Ernie, you may leave. All right. So, is that enough direction to staff to
2913 sort of come up with maybe an outline that we will fill in the blanks for? Something to say,
2914 for instance, the Board has identified a number of development issues that are of concern.

2915 Mrs. Quesinberry - A preamble kind of thing.

2916 Ms. Dwyer - Right. Just to explain where we are coming from. There are a number
2917 of issues that have been identified. The Planning Commission has lifted up these two as barely
2918 finite but manageable, low-hanging fruit issues, that we think are important and we would like
2919 to proceed with staff to investigate them and then name the increase on setbacks on major
2920 road, improve designs for multi-family. And, then, underneath that maybe have a statement
2921 about perhaps what we see as the issue and the goal. What do you think?

2922 Mrs. Quesinberry - I think that's pretty direct and clear.

2923 Mr. Archer - Madam Chairman, that doesn't mean that we are doing away with the
2924 others that are listed but these are the two that we feel are currently important.

2925 Ms. Dwyer - Not at all.

2926 Mrs. Quesinberry - I think these two will be to good short-range things to present and
2927 continue to work on. Certainly, the definable goals we should be able to accomplish in a
2928 reasonable period of time. And, likewise, I would like to say again that we need to consider
2929 long-range similar things that we see in Chesapeake, for example, and/or Hanover that apply
2930 overall. Because, certainly, if you do some things, like, for example, if we think level of
2931 service is important, you know, before approving zoning, and we have that built into our
2932 ordinance, then that takes care of a lot of issues, including setbacks and yard width
2933 requirements, you know, what the Capital Improvement Plan addresses, can we afford a
2934 school or a road. All of those issues become subordinate to that because you either have
2935 services available, adequately to serve the community, or you don't. And you don't go any
2936 further if you don't.

2937 Ms. Dwyer - I agree with you, and I think maybe that is something we need to have.
2938 We need to have on-going discussion with our Board members about it. In the long run what
2939 are their goals.

2940 Mrs. Quesinberry - Exactly. And when you look at the Hanover example, when we talk
2941 about open space and just things like improved design standards for multi-family, well in the
2942 long run if you had some of that built into your ordinance you wouldn't have to nick pick
2943 every little design standard because automatically when someone is considering multi-family
2944 they would have to have a certain amount of open space. We wouldn't be begging for all of
2945 these things, nickel and diming developers can you please do this or that or could you put in a
2946 sidewalk so that someone could stroll a baby. All of that would be built in. You wouldn't
2947 even have to bring it up. It would be a part of it.

2948 Ms. Dwyer - That's the goal.

2949 Mrs. Quesinberry - The long-range goal would be to have those kinds of things in place in
2950 the ordinance. Short range, I think we could accomplish increase setbacks on major roads and
2951 design improvements for multi-family that would benefit us in the short range greatly for some
2952 of these pieces of property that are coming up right here, right now, and we are dealing with
2953 every single month. We don't want to take our focus off of that back burner either with those
2954 long range goals to try to get them in place.

2955 Mr. Silber - Okay. Let me see if I understand what we are doing. So, you want the
2956 staff to prepare a draft policy statement identifying the issue and the goal for these two that we
2957 have talked about. Bring that back to the Planning Commission, when?

2958 Mr. Merrithew - The POD meeting would probably be best to do this.

2959 Ms. Dwyer - It may not be a policy statement.

2960 Mr. Silber - I'm not sure what it is either, but we will bring something back to the
2961 July meeting.

2962 Mr. Merrithew- It's as clear as a bell to me, it's an issue statement with some approaches
2963 attached to it. I would ask the Commission for one thing, though. My only request is that if
2964 the Commission could give me some insight, between now and then, as to what you think, in
2965 your minds, are the design issues associated with multi-family. I'd offer you two ways of
2966 doing that. Either give me what you think is the issue or give me the best example and the
2967 worst example of multi-family development that you know of in the County, before that
2968 meeting.

2969 Mr. Silber - The Commission can do that maybe within the next week.

2970 Mr. Merrithew - That would be good.

2971 Mr. Silber - So, by this time next week give Mr. Merrithew your ideas.

2972 Ms. Dwyer - Maybe you should call Mrs. Wade and Mr. Vanarsdall, since they are
2973 not here, and just ask them what they think.

2974 Mr. Merrithew - If you are agreeable to that, I will call them too.

2975 Ms. Dwyer - All right. Sounds good. Thank you.

2976 Mr. Merrithew - Thank you.

2977 Ms. Dwyer - Is there any other business?

2978 Mr. Silber - I have one other item that's not on the agenda. I would like to run a
2979 concept by you about our calendar for next year. Can you see that (referring to document on
2980 the screen)? I received a call this morning from the Budget Office wanting to schedule their
2981 C.I.P. hearing with the Planning Commission in March of 2000. They want to know when
2982 the Planning Commission Zoning Hearing is in March of 2000. That sounds like an easy
2983 request but it is not as easy as you think because the Board of Supervisors, as you recall,
2984 changed their meeting dates. So, they are now meeting on Tuesday instead of Wednesday of
2985 each month. The Planning Commission's rules and regulations stipulate that for your Zoning
2986 Hearing, that the Zoning Hearing will be the 1st Thursday after the second Wednesday of each
2987 month. Basically, it is saying that it would be the Thursday that follows the 1st Board meeting of
2988 each month. By the Board moving their meeting from Wednesday to Tuesday, it has
2989 complicated things. I'm not so sure there is any logic to having our Planning Commission
2990 meetings, for Zoning Hearings, follow or be on the same week as the Board meeting because
2991 in my view that causes some complications. There are three months in the year of 2000, and I
2992 have identified those with a circle around them, March, June and November, that if the
2993 Planning Commission, for example for the 2nd Thursday of the Month, it will not be on the
2994 same week as the Board meeting. If we kept it on the same week as the Board meeting, you
2995 will run into some problems and that you will have your Planning Commission zoning hearing
2996 and POD hearing back to back, one week and then the next week.

2997 Ms. Dwyer - I'm sorry. Does our rules say we have to meet after the Board or does it
2998 just say the second the Thursday after the second Wednesday?

2999 Mr. Silber - It says you have to meet the 1st Thursday after the 2nd Wednesday. And
3000 it goes on to say unless you decide to move it to some other date.

3001 Ms. Dwyer - So, if we just do that and ignore when the Board meets, then we are
3002 okay?

3003 Mr. Silber - Yes. I think we should modify the language in your Rules and
3004 Regulations and say that the Planning Commission Zoning Hearing will just be the 2nd
3005 Thursday of every month. That's it. For example, if on March you had your meeting on
3006 March 16, as the rules and regulations stipulate, that would be only six days before you have
3007 your POD meeting.

3008 Ms. Dwyer - Why wouldn't that be the 9th, Randy?

3009 Mr. Silber - Because the rules and regulations say it's got to be the 1st Thursday...
3010 Well, I see where you are getting at. The rules and regulations basically are trying to get the
3011 Planning Commission to follow the Board meeting. Your point is, I guess that, that will still
3012 be the 9th because that's still the 2nd Thursday.

3013 Ms. Dwyer - And if the rules don't say anything about it having to be after the Board
3014 meeting, then we could just, even though we know that's why they did it.

3015 Mr. Silber - Right. So, if I understand what you are saying, then, for the months of
3016 March, June and November, you are okay with meeting on March 9, June....

3017 Ms. Dwyer - June 15th.

3018 Mr. Silber - No. June 8th would be the second Thursday.

3019 Ms. Dwyer - Yes. But if we stay with our present rule, it would be the 1st Thursday
3020 after the 2nd Wednesday would be the 15th, which still gives us that week between zoning and
3021 POD.

3022 Mr. Silber - Right. And in November it would be the 9th. Okay.

3023 Ms. Dwyer - I guess I'm wondering why we need to change anything. If the rules
3024 don't say you have to meet after the Board, then it seems to me that we are okay.

3025 Mr. Silber - That's fine. I'm just hoping the calendar will fall the way it always fall
3026 in the year 2000 so we wouldn't have a situation where that Thursday that follows the second
3027 Wednesday would create a week to week on our zoning and POD agenda.

3028 Ms. Dwyer - That's what we have always done, I think. I think the way it is worded,
3029 it wouldn't happen that way. The only time that that does happen is when we bump up our
3030 POD to avoid Thanksgiving and Christmas.

3031 Mr. Silber - Okay. We will use it that way. So, the meeting, so I can tell Budget,
3032 that the C.I.P. in March will be March 9.

3033 Ms. Dwyer - Right. The fact that the Board has moved itself around, really doesn't
3034 change our rules and regulations.

3035 Mr. Silber - It looks like it doesn't, now that you have gotten me straight. Okay.
3036 We will be setting the calendar for the Planning Commission year, I think Diana said we will
3037 be doing that next month or the following month. So, we will be bringing the calendar to you.
3038 The timing of this is good. Thank you for your time.

3039 Ms. Dwyer - Thank you. Randy. The Planning Commission will now adjourn.

3040 Mr. Archer - Second.

3041 On a motion by Ms. Dwyer and a second by Mr. Archer, the Planning Commission adjourned
3042 its meeting at 1:00 p.m.

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3045 Ms. Elizabeth G. Dwyer, C.P.C. Chairman

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3048 John R. Marlles, AICP, Secretary