

1 Minutes of the Planning Commission of the County of Henrico, Virginia, held in the
2 County Manager's Conference Room of the County Administration Building, Parham and
3 Hungary Spring Roads at 9:00 a.m., March 24, 2004.

4
5 Members Present: Mrs. Lisa D. Ware, C.P.C., Chairperson, Tuckahoe
6 Mr. Ernest B. Vanarsdall, C.P.C., Vice-Chairman,
7 Brookland
8 Mr. C. W. Archer, C.P.C., Fairfield
9 Mr. John Marshall, Three Chopt
10 Mr. Randall R. Silber, Assistant Director of Planning,
11 Secretary

12
13 Members Absent: Mr. James B. Donati, Jr., Board of Supervisors, Varina
14 Mr. Ray Jernigan, C.P.C., Varina

15
16 Others Present: Mr. David D. O'Kelly, Jr., Principal Planner
17 Mr. James Strauss, County Planner
18 Ms. Leslie News, CLA, County Planner
19 Mr. Kevin D. Wilhite, AICP, County Planner
20 Mr. E. J. McGarry, County Planner
21 Mr. Michael Kennedy, County Planner
22 Mr. Michael Cooper, County Planner
23 Ms. Christina Goggin, County Planner
24 Ms. Diana Carver, Recording Secretary
25

26 Mrs. Ware - Welcome to the Planning Commission meeting for plan of
27 development review. I don't see any members of the press, so I am now going to turn
28 the meeting over to the Secretary, Mr. Silber, so we can proceed.

29
30 Mr. Silber - Thank you, Madam Chairwoman. We do have two members of
31 the Planning Commission this morning that will not be here. Ray Jernigan is out of
32 town and Jim Donati, the Board Representative, is not able to be here today as well.
33 So, we do have a quorum. We have four Commissioners present and we can conduct
34 business.

35
36 Mr. Vanarsdall - That is why we all have on dark suits this morning. We are in
37 mourning for the two absent.

38
39 Mr. Silber - We do have a few deferrals and we have a number of items on
40 our Expedited Agenda this morning. Mr. O'Kelly, if you can tell us about the deferrals
41 that have been requested, please.

42
43 Mr. O'Kelly - Good morning, Madam Chairman and members of the Planning
44 Commission. I understand we are having some technical difficulties here at the

45 podium, so I hope no one has any power point presentations this morning. We do have
46 three requests for deferrals that staff is aware of, and the first is on Page 2 of your
47 Agenda. It is a Transfer of Approval.

48

49 **TRANSFER OF APPROVAL (Deferred from the February 25, 2004 Meeting)**

50

POD-10-88

North Court @ Innsbrook

John F. McIntyre for 5030 Sadler Place, LLC and 5040 Sadler Place, LLC: Request for approval of a transfer of approval, as required by Chapter 24, Section 24-106 of the Henrico County Code from Sadler Place, LLC and Financial Enterprises III, LLC to 5030 Sadler Place, LLL and 5040 Sadler Place, LLC. The 1.685-acre site is located at the southwest corner of the intersection of Nuckols Road and Cox Road on parcels 750-766-8562 and 9480. The zoning is O-2C, Office District (Conditional). County water and sewer.
(Three Chopt)

51

52 Mr. O’Kelly - The applicant requests deferral to your April 21, 2004 meeting.

53

54 Mrs. Ware - Is there any opposition to the deferral of this case? No
55 opposition.

56

57 Mr. Marshall - Madam Chairman, I move that POD-10-88 be deferred to April
58 21, 2004, at the request of the applicant.

59

60 Mr. Vanarsdall - Second.

61

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

64

65 At the request of the applicant, the Planning Commission deferred Transfer of
66 Approval for POD-10-88, North Court @ Innsbrook, to its meeting on April 21, 2004.

67

67 **TRANSFER OF APPROVAL**
68

POD-144-88
Mexican Restaurant
(Formerly El Paso
Restaurant)

Leopoldo Lugo for L J Lugo, LLC: Request for approval of a transfer of approval, as required by Chapter 24, Section 24-106 of the Henrico County Code form John G. Dankos, Jr., Mark A. Dankos, Glenn D. Dankos, Tracey L. Dankos, Holly D. Angel, Trustees of the Dankos Family Irrevocable Trust of January 5, 1988 to L J Lugo, LLC. The 0.550-acre site is located at 910 Parham Road, approximately 200 feet west of the intersection of Parham Road and Brook Road (U.S. Route 1) on parcel 783-756-9858. The zoning is B-2, Business District. County water and sewer. **(Fairfield)**

69
70 Mr. O’Kelly - The applicant requests deferral to your April 21, 2004, meeting.

71
72 Mrs. Ware - Is there any opposition to the deferral of this case? Mr. Archer.

73
74 Mr. Archer - Madam Chairman, I move deferral of Transfer of Approval for
75 POD-144-88 to the April 21, 2004, meeting, at the applicant’s request.

76
77 Mr. Vanarsdall - Second.

78
79 Mrs. Ware - Motion made by Mr. Archer and seconded by Mr. Vanarsdall.
80 All in favor say aye. All opposed say no. The motion passes.

81
82 At the request of the applicant, the Planning Commission deferred Transfer of
83 Approval for POD-144-88, Mexican Restaurant (Formerly El Paso Restaurant) to its
84 meeting on April 21, 2004.

85
86 Mr. O’Kelly - The next request is on Page 11.

87

87 **PLAN OF DEVELOPMENT, TRANSITIONAL BUFFER DEVIATION &**
88 **MASTER PLAN (Deferred from the March 11, 2004 Meeting)**
89

POD-21-04 **Jordan Consulting Engineers for Short Pump Mini**
Bowl America @ Downtown **Storage Associates, LC and Bowl America, Inc.:**
Short Pump Request for approval of a plan of development,
transitional buffer deviation and master plan, as required
by Chapter 24, Sections 24-106 and 106.2 of the
Henrico County Code, to construct a one-story, 35,165
square foot, 40-lane bowling alley on a 3.61 acre site
and a master plan for a 8.95 acre addition to the
Downtown Short Pump shopping center. The site is
located on the southwest corner of Pouncey Tract Road
and I-64 on parcel 739-763-7376. The zoning is M-1C,
Light Industrial District (Conditional). County water
and sewer. **(Three Chopt)**

90
91 Mr. O’Kelly - The applicant requests deferral again to your April 21, 2004
92 meeting.
93

94 Mrs. Ware - Is there any opposition to the deferral of this case? No opposition.
95

96 Mr. Marshall - Madam Chairman, I move that POD-21-04 be deferred to the
97 April 21, 2004 meeting, at the request of the applicant.
98

99 Mr. Vanarsdall - Second.
100

101 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall.
102 All in favor say aye. All opposed say no. The motion passes.
103

104 At the request of the applicant, the Planning Commission deferred Plan of Development,
105 Transitional Buffer Deviation and Master Plan (Deferred from the March 11, 2004 meeting)
106 for POD-21-04, Bowl America @ Downtown Short Pump, to its meeting on April 21, 2004.
107

108 Mr. Silber - Are we aware of any other deferrals, Mr. O’Kelly?
109

110 Mr. O’Kelly - Not at this time.
111

112 Mr. Silber - OK. Next on the agenda would be the Expedited Items. These
113 are items that are on the Planning Commission’s agenda that at this point in time there
114 are no known issues. The Planning Commission member from that district is
115 comfortable with the plan and the applicant is agreeable to the conditions that have been
116 recommended with that plan. So, we place them on the Expedited Agenda to speed
117 things along and not necessarily hear all aspects of that plan. If there is someone who

118 is in opposition or has questions with that plan, we will pull it off of the Expedited
119 Agenda and hear the case in the order of the normal agenda. So, I believe we have a
120 large number of items on the Expedited Agenda, starting with Page 16, Mr. O’Kelly.

121

122 Mr. O’Kelly - Correct, Mr. Secretary. Staff is aware of 11 items requested for
123 expedited consideration. The first is on Page 16.

124

125 **PLAN OF DEVELOPMENT**

126

POD-24-04 Hickory Corner – 5350 Twin Hickory Road	Jordan Consulting Engineers, P.C. for Hickory Corner, LC: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct six, one-story office buildings totaling 56,900 square feet. The 5.135-acre site is located on the east line of Twin Hickory Road approximately 170 feet north of Nuckols Road on part of parcels 747-773-1506 and 746-772-8676. The zoning is O-2C, Office District (Conditional). County water and sewer. (Three Chopt)
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128 Mr. O’Kelly - There is a notation on the Addendum which corrects the
129 numbering of conditions recommended by the staff.

130

131 Mrs. Ware - Is there any opposition to hearing this?

132

133 Voice in the Audience - Yes, I am in opposition. I have a few words I would like
134 to say about it.

135

136 Mr. Silber - I would suggest this be pulled off the Expedited Agenda.

137

138 Mrs. Ware - OK, thank you. We will hear it in the order.

139

140 Mr. Silber - POD-24-04, Hickory Corner, will be pulled off of the Expedited
141 Agenda and heard in order on the normal agenda.

142

142 **PLAN OF DEVELOPMENT**

143

POD-25-04
Wachovia Financial Center
@ Twin Hickory -
11290 Nuckols Road

Jordan Consulting Engineers, P.C. for Wachovia Bank, N.A.: 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, 4,025 square foot bank with drive-thru facilities. The 1.556-acre site is located on the northeast corner of Nuckols and Twin Hickory Roads on part of parcels 747-773-1506 and 746-772-8676. The zoning is O-2C, Office District (Conditional). County water and sewer. **(Three Chopt)**

144

145 Mr. O’Kelly - The next case is a companion case.

146

147 Mrs. Ware - Is there any opposition to hearing this case on the Expedited
148 Agenda? There is no opposition. Mr. Marshall.

149

150 Mr. Marshall - Madam Chairman, I move approval of POD-25-04, subject to the
151 annotations on the plans, the standard conditions for developments of this type and
152 conditional conditions Nos. 23 through 34.

153

154 Mr. O’Kelly - The correct numbering of conditions is listed on the Addendum.

155

156 Mr. Archer - Second.

157

158 Mrs. Ware - Motion by Mr. Marshall and seconded by Mr. Archer. All in
159 favor say aye. All opposed say no. The motion passes.

160

161 The Planning Commission approved POD-25-04, Wachovia Financial Center @ Twin
162 Hickory - 11290 Nuckols Road, subject to the annotations on the plans, the standard
163 conditions for developments of this type and the following additional conditions:

164

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

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

172 25. A standard concrete sidewalk shall be provided along the north side of Nuckols
173 Road and the east side of Twin Hickory Road.

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

- 175 27. The proffers approved as a part of zoning case C-70C-99 shall be incorporated
176 in this approval.
- 177 28. The certification of building permits, occupancy permits and change of
178 occupancy permits for individual units shall be based on the number of parking
179 spaces required for the proposed uses and the amount of parking available
180 according to approved plans.
- 181 29. Any necessary off-site drainage and/or water and sewer easements must be
182 obtained in a form acceptable to the County Attorney prior to final approval of
183 the construction plans.
- 184 30. Deviations from County standards for pavement, curb or curb and gutter design
185 shall be approved by the County Engineer prior to final approval of the
186 construction plans by the Department of Public Works.
- 187 31. In the event of any traffic backup which blocks the public right-of-way as a
188 result of congestion caused by the drive-up teller facilities, the owner/occupant
189 shall close the drive-up teller facilities until a solution can be designed to
190 prevent traffic backup.
- 191 32. Insurance Services Office (ISO) calculations must be included with the plans and
192 contracts and must be approved by the Department of Public Utilities prior to
193 the issuance of a building permit.
- 194 33. Approval of the construction plans by the Department of Public Works does not
195 establish the curb and gutter elevations along the Henrico County maintained
196 right-of-way. The elevations will be set by Henrico County.
- 197 34. Evidence of a joint ingress/egress and maintenance agreement must be submitted
198 to the Planning Office and approved prior to issuance of a certificate of
199 occupancy for this development.

200
201
202

SUBDIVISION

Brinley Meadows
(March 2004 Plan)

Engineering Design Associates for Mable Vernell Kahl and Ausland Homes, Inc.: The 25.00-acre site proposed for a subdivision of 19 single-family homes is located on the southern line of Charles City Road, approximately 1,400 feet east of the intersection of Charles City Road and Yahley Mill Road on part of parcel 838-698-2829. The zoning is A-1, Agricultural District. Individual well and septic tank/drainfield.
(Varina) 19 Lots

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209

Mr. O’Kelly - There is a revised plan, which was handed out with the Addendum. Staff recommends approval.

Mrs. Ware - Is there any opposition to hearing this case on the Expedited Agenda? No opposition.

210 Mr. Vanarsdall - I recommend Brinley Meadows (March 2004 Plan) be approved
211 on the Expedited Agenda with the added conditions Nos. 11 through 15 on the
212 Addendum, annotations on the plans, and the standard conditions for subdivisions not
213 served by public utilities.

214

215 Mrs. Ware - Do I have a second?

216

217 Mr. Archer - Second.

218

219 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Archer.

220 All in favor say aye. All opposed say no. The motion passes.

221

222 The Planning Commission approved Subdivision Brinley Meadows (March 2004 Plan)
223 subject to the standard conditions for subdivisions not served by public utilities, the
224 annotations on the plans, and the following additional conditions:

225

226 11. Each lot shall contain at least one acre.

227 12. Any necessary offsite drainage easements must be obtained prior to approval of
228 the construction plan by the Department of Public Works.

229 13. Any future building lot containing a BMP, sediment basin or trap and located
230 within the buildable area for a principal structure or accessory structure, may be
231 developed with engineered fill. All material shall be deposited and compacted in
232 accordance with the Virginia Uniform Statewide Building Code and geotechnical
233 guidelines established by a professional engineer. A detailed engineering report
234 shall be submitted for the review and approval by the Building Official prior to
235 the issuance of a building permit on the affected lot. A copy of the report and
236 recommendations shall be furnished to the Directors of Planning and Public
237 Works.

238 14. The detailed plant list and specifications for the landscaping to be provided within
239 the 25-foot-wide no ingress/egress planting strip easement along Charles City
240 Road shall be submitted to the Planning Office for review and approval prior to
241 recordation of the plat.

242 15. A 10-foot-wide pedestrian access easement shall be provided between lot 10 and
243 11 from the cul-de-sac to the eastern property line.

244

244 **PLAN OF DEVELOPMENT**
245

POD-23-04
The Townes @ Meredith
Creek, Section 3 –
Springfield Road

Koontz-Bryant, P.C. for Kenneth E. Mills, Jr., James T. Mills, Keith A. Mills, Karen M. De Jarnette and Wilton Development Corporation:
Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct 18, two-story townhouse units. The 3.73-acre site is located on the east side of Springfield Road (State Route 157) approximately 200 feet north of Bocastle Road at 4475 Springfield Road on parcel 755-762-0241. The zoning is RTHC, Residential Townhouse District (Conditional). County water and sewer. **(Brookland)**

246

247 Mrs. Ware - Is there any opposition to hearing this case on the Expedited
248 Agenda? No opposition.

249

250 Mr. Vanarsdall - I move that POD-23-04, The Townes @ Meredith Creek, Section
251 3, be approved subject to the annotations on the plans, standard conditions for
252 developments of this type and conditions Nos. 23 through 34.

253

254 Mr. Marshall - Second.

255

256 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Marshall.
257 All in favor say aye. All opposed say no. The motion passes.

258

259 The Planning Commission approved POD-23-04, The Townes @ Meredith Creek,
260 Section 3, subject to the annotations on the plans, the standard conditions for
261 developments of this type and the following additional conditions:

262

263 23. The subdivision plat for The Townes at Meredith Creek, Section 3, shall be
264 recorded before any building permits are issued.

265 24. The easements for drainage and utilities as shown on approved plans shall be
266 granted to the County in a form acceptable to the County Attorney prior to any
267 occupancy permits being issued. The easement plats and any other required
268 information shall be submitted to the County Real Property Agent at least sixty
269 (60) days prior to requesting occupancy permits.

270 25. The limits and elevations of the 100-year frequency flood shall be conspicuously
271 noted on the plan "Limits of 100 Year Floodplain." In addition, the delineated
272 100-year floodplain must be labeled "Variable Width Drainage and Utility
273 Easement." The easement shall be granted to the County prior to the issuance of
274 any occupancy permits.

- 275 26. The developer shall provide fire hydrants as required by the Department of
 276 Public Utilities and Division of Fire.
 277 27. The proffers approved as a part of zoning case C-37C-03 shall be incorporated
 278 in this approval.
 279 28. Any necessary off-site drainage and/or water and sewer easements must be
 280 obtained in a form acceptable to the County Attorney prior to final approval of
 281 the construction plans.
 282 29. Deviations from County standards for pavement, curb or curb and gutter design
 283 shall be approved by the County Engineer prior to final approval of the
 284 construction plans by the Department of Public Works.
 285 30. Storm water retention, based on the 50-10 concept, shall be incorporated into
 286 the drainage plans.
 287 31. Insurance Services Office (ISO) calculations must be included with the plans and
 288 contracts and must be approved by the Department of Public Utilities prior to
 289 the issuance of a building permit.
 290 32. Approval of the construction plans by the Department of Public Works does not
 291 establish the curb and gutter elevations along the Henrico County maintained
 292 right-of-way. The elevations will be set by Henrico County.
 293 33. Evidence of a joint ingress/egress and maintenance agreement must be submitted
 294 to the Planning Office and approved prior to issuance of a certificate of
 295 occupancy for this development.
 296 34. The location of all existing and proposed utility and mechanical equipment
 297 (including HVAC units, electric meters, junction and accessory boxes,
 298 transformers, and generators) shall be identified on the landscape plans. All
 299 equipment shall be screened by such measures as determined appropriate by the
 300 Director of Planning or the Planning Commission at the time of plan approval.
 301

302 **SUBDIVISION RECONSIDERATION**

303 Blairmount of Grey Oaks,
 Section A
 (March 2004 Plan)

**Youngblood, Tyler & Associates, P. C. for Route 271
 and Loftis Real Estate & Development, Inc.:** The
 24.92-acre site proposed for a subdivision of 50 single-
 family homes is located on Pouncey Tract Road (State
 Route 271) at Grey Oaks Park Drive on part of parcel
 738-772-9227. The zoning is R-2AC, One-Family
 Residence District (Conditional). County water and
 sewer. **(Three Chopt) 50 Lots**

- 304
 305 Mrs. Ware - Is there any opposition to hearing this case on the Expedited
 306 Agenda? No opposition.
 307
 308 Mr. Marshall - Madam Chairman, I move approval of Subdivision Blairmount of
 309 Grey Oaks, Section A, (March 2004 Plan), subject to the annotations on the plan, the

310 standard conditions for developments of this type and additional conditions Nos. 12
311 through 18.

312

313 Mr. Vanarsdall - Second.

314 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall.

315 All in favor say aye. All opposed say no. The motion passes.

316

317 The Planning Commission approved Blairmount of Grey Oaks, Section A (March 2004
318 Plan), subject to the annotations on the plan, the standard conditions for developments of
319 this type and the following additional conditions:

320

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

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

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

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

331 16. Prior to requesting the final approval, a draft of the covenants and deed
332 restrictions for the maintenance of the common area by a homeowners
333 association shall be submitted to the Planning Office for review. Such
334 covenants and restrictions shall be in form and substance satisfactory to the
335 County Attorney and shall be recorded prior to recordation of the subdivision
336 plat.

337 17. Prior to recordation a development agreement for the proffered recreational area
338 must be submitted for review and approval by the Director of Planning. The
339 development agreement shall provide for the dedication of the recreational area, a
340 master plan for the recreational area and a performance schedule or bond for the
341 proffered recreational area amenities.

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

351

351 **SUBDIVISION**
352

Turnbridge @ Grey Oaks,
Section E
(March 2004 Plan)

Youngblood, Tyler & Associates, P. C. for Route 271 and Loftis Real Estate & Development, Inc.: The 13.29-acre site purposed for a subdivision of 29 single-family homes is located on the south side of proposed Grey Oaks Park Drive approximately 600 feet east of Pouncey Tract Road on part of parcel 738-772. The zoning is R-2AC, One-Family Residence District (Conditional). County water and sewer. **(Three Chopt) 29 Lots**

353

354 Mrs. Ware - Is there any opposition to hearing this case on the Expedited
355 Agenda? No opposition.

356

357 Mr. Marshall - Madam Chairman, I move approval of Subdivision Turnbridge @
358 Grey Oaks, Section E (March 2004 Plan), subject to the annotations on the plan, the
359 standard conditions for developments of this type and additional conditions Nos. 12
360 through 18.

361

362 Mr. Vanarsdall - Second.

363

364 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall.
365 All in favor say aye. All opposed say no. The motion passes.

366

367 The Planning Commission approved Subdivision Turnbridge @ Grey Oaks, Section E
368 (March 2004 Plan), subject to the annotations on the plans, the standard conditions for
369 subdivisions served by public utilities and the following additional conditions:

370

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

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

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

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

381 16. Prior to requesting the final approval, a draft of the covenants and deed
382 restrictions for the maintenance of the common area by a homeowners
383 association shall be submitted to the Planning Office for review. Such
384 covenants and restrictions shall be in form and substance satisfactory to the

- 385 County Attorney and shall be recorded prior to recordation of the subdivision
386 plat.
- 387 17. Prior to recordation a development agreement for the proffered recreational area
388 must be submitted for review and approval by the Director of Planning. The
389 development agreement shall provide for the dedication of the recreational area, a
390 master plan for the recreational area and a performance schedule or bond for the
391 proffered recreational area amenities.
- 392 18. Any future building lot containing a BMP, sediment basin or trap and located
393 within the buildable area for a principal structure or accessory structure, may be
394 developed with engineered fill. All material shall be deposited and compacted in
395 accordance with the Virginia Uniform Statewide Building Code and geotechnical
396 guidelines established by a professional engineer. A detailed engineering report
397 shall be submitted for the review and approval by the Building Official prior to the
398 issuance of a building permit on the affected lot. A copy of the report and
399 recommendations shall be furnished to the Directors of Planning and Public
400 Works.

401
402
403

SUBDIVISION

Sterling Forest, Section 4
(September 2003 Plan)

Bay Design Group, P.C. for Wilton Real Estate & Development Corporation: The 4.28-acre site purposed for a subdivision of 7 single-family homes is located on the corner of Wilkinson Road and Sterling Forest Parkway on part of parcel 796-751-5394. The zoning is R-2C, One-Family Residence District (Conditional). County water and sewer. **(Fairfield) 7 Lots**

404

405 Mr. O’Kelly - As noted on the Addendum, there is a correction to the Magisterial
406 District. It is located in the Fairfield District.

407

408 Mrs. Ware - Is there any opposition to hearing this case on the Expedited
409 Agenda? No opposition. Mr. Archer.

410

411 Mr. Archer - Madam Chairman, I move approval of Sterling Forest, Section 4,
412 subject to the annotations on the plan, the standard conditions for subdivisions served by
413 public utilities and additional conditions Nos. 12 and 13 and the corrected Addendum.

414

415 Mr. Vanarsdall - Second.

416

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

419

420 The Planning Commission approved Subdivision Sterling Forest, Section 4, (September
421 2003 Plan), subject to the annotations on the plan, the standard conditions for subdivisions
422 served by public utilities and the following additional conditions:

423

424 12. The proffers approved as part of zoning case C-13C-99 shall be incorporated in
425 this approval.

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

431

432 **LANDSCAPE & LIGHTING PLAN**

433

LP/POD-84-02

Jiffy Lube at
9215 Quioccasin Road

Balzer & Associates, Inc. for Vircal Lubes, Inc.:

Request for approval of a landscape and lighting plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 1.89-acre site is located at 9215 Quioccasin Road approximately 500 feet west of Inez Road on parcel 750-745-1577. The zoning is B-1C, Business District (Conditional) and B-2C, Business District (Conditional). **(Tuckahoe)**

434

435 Mrs. Ware - Is there any opposition to hearing this case on the Expedited
436 Agenda? No opposition. I will move approval of Landscape and Lighting Plan for POD-
437 84-02, subject to the annotations on the plan and the standard conditions for landscape and
438 lighting plans

439

440 Mr. Vanarsdall - Second.

441

442 Mrs. Ware - Motion made by Mrs. Ware and seconded by Mr. Vanarsdall. All
443 in favor say aye. All opposed say no. The motion passes.

444

445 The Planning Commission approved Landscape and Lighting Plan LP/POD-84-02, Jiffy
446 Lube at Quioccasin Road, subject to the annotations on the plan and the standard
447 conditions for landscape and lighting plans.

448

449 **LANDSCAPE PLAN**

450

LP/POD-13-03

Church of the Epiphany
8000 Hermitage Road

Hulcher & Associates for Church of the Epiphany:

Request for approval of a landscape plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 5.985-acre site is located on the north line of Hermitage Road at 8000 Hermitage Road across from Gibraltar Drive on parcel 775-752-8156. The zoning

is R-3, One-Family Residence District. **(Brookland)**

451

452 Mrs. Ware - Is there any opposition to hearing this case on the expedited agenda?

453 No opposition.

454 Mr. Vanarsdall - I move that LP/POD-13-03 be approved on the Expedited Agenda

455 subject to the annotations on the plans and the standard conditions for landscape plans.

456

457 Mr. Marshall - Second.

458

459 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Marshall.

460 All in favor say aye. All opposed say no. The motion passes.

461

462 The Planning Commission approved Landscape Plan LP/POD-13-03, Church of the

463 Epiphany, 8000 Hermitage Road, subject to the annotations on the plan and standard

464 conditions for landscape plans.

465

466 **LANDSCAPE & LIGHTING PLAN**

467

LP/POD-26-03

YMCA Shady Grove –

Twin Hickory Road

Gilbert McCraw for YMCA of Grater Richmond:

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 22.56-acre site

is located at the southwest corner of Twin Hickory Road

and Nuckols Road at 11255 Nuckols Road on parcel

746-771-2682. The zoning is A-1, Agricultural District.

(Three Chopt)

468

469 Mrs. Ware - Is there any opposition to hearing this case on the Expedited

470 Agenda? No opposition.

471

472 Mr. Marshall - Madam Chairman, I move approval of LP/POD-26-03, YMCA

473 Shady Grove – Twin Hickory Road, subject to the annotations on the plans and the

474 standard conditions for landscape and lighting plans.

475

476 Mr. Vanarsdall - Second.

477

478 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall.

479 All in favor say aye. All opposed say no. The motion passes.

480

481 The Planning Commission approved LP/POD-26-03, YMCA Shady Grove – Twin

482 Hickory Road, subject to the annotations on the plans and the standard conditions for

483 landscape and lighting plans.

484

484 **LANDSCAPE PLAN**
485

LP/POD-37-03
Jamerson Park Sections
A & B

Higgins & Gerstenmaier for HHHunt Corporation:
Request for approval of a landscape plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 29.68-acre site is located at the intersection of proposed Hickory Bend Drive and proposed Parkland Drive, 11664 New Wade Lane on parcel 745-768-7374. The zoning is RTHC, Residential Townhouse District (Conditional). **(Three Chopt)**

486

487 Mrs. Ware - Is there any opposition to hearing this case on the Expedited
488 Agenda? No opposition.

489

490 Mr. Marshall - Madam Chairman, I move approval of LP/POD-37-03, Jamerson
491 Park, Sections A and B, subject to the annotations on the plan and the standard
492 conditions for landscape and lighting plans.

493

494 Mr. Vanarsdall - Second.

495

496 Mrs. Ware - Motion made by Mr. Marshall, seconded by Mr. Vanarsdall. All
497 in favor say aye. All opposed say no. The motion passes.

498

499 The Planning Commission approved LP/POD-37-03, Jamerson Park, Sections A and B,
500 subject to the annotations on the plan and the standard conditions for landscape plans.

501

502 Mr. O'Kelly - That concludes the Expedited Agenda.

503

504 Mr. Silber - Next on the Agenda would be the Subdivisions for Extension of
505 Conditional Approval and these have been divided into two portions. The first portion
506 would be those subdivisions; in fact, there is one subdivision that would require
507 Planning Commission approval. This would be an extension of the Effinger Drive
508 Subdivision. This is a road. This does not involve any lots, but it does require
509 Planning Commission consideration. Mr. O'Kelly, is there anything we need to add?

510

510 **SUBDIVISION EXTENSIONS OF CONDITIONAL APPROVAL**
 511
 512 **FOR PLANNING COMMISSION APPROVAL**
 513

Subdivision	Magisterial District	Original of Lots	No.	Remaining Lots	Previous Extensions	Year(s) Extended
Effinger Drive (Ded. of a Port. of Effinger Dr.) (June 1998 Plan)	Fairfield	0		0	4	1 Year 3/23/05

514
 515 Mr. O’Kelly - There is nothing to add. I will be happy to answer any questions.

516
 517 Mr. Silber - It is in the Fairfield District.

518
 519 Mr. Archer - I don’t have any questions. I have discussed this. I move
 520 approval of the Extension of Effinger Drive, Fairfield District, for one year.

521
 522 Mr. Marshall - Second.

523
 524 Mrs. Ware - Motion made by Mr. Archer and seconded by Mr. Marshall. All
 525 in favor say aye. All opposed say no. The motion passes.

526
 527 The Planning Commission approved Subdivision Extension of Effinger Drive
 528 (Dedication of a portion of Effinger Drive (June 1998 Plan) for one year, to March 25,
 529 2005.

530
 531 **FOR INFORMATIONAL PURPOSES ONLY**
 532

Subdivision	Magisterial District	Original of Lots	No.	Remaining Lots	Previous Extensions	Year(s) Extended
Covington (March 2003 Plan)	Three Chopt	73		6	0	1 Year 3/23/05
Jamerson Park @ Twin Hickory (March 2003 Plan)	Three Chopt	124		58	0	1 Year 3/23/05
Wellington Woods (March 2003 Plan)	Varina	32		32	0	1 Year 3/23/05

533
 534 Mr. Silber - The other three subdivisions listed on the Planning Commission
 535 Agenda do not require Planning Commission approval. These will be handled
 536 administratively. There are three subdivisions that have conditional approval. This
 537 would extend the conditional approval for these three subdivisions. The first is
 538 Covington (March 2003 Plan), Jamerson Park @ Twin Hickory (March 2003 Plan),
 539 and Wellington Woods (March 2003 Plan). Mr. O’Kelly, is there anything to add to
 540 these three?

541 Mr. O’Kelly - The staff can answer questions.

542

543 Mr. Silber - These are simply on here for Planning Commission’s
544 information.

545

546 **ALTERNATIVE FENCE HEIGHT PLAN (Deferred from the January 28, 2004,**
547 **Meeting)**

548

West Lawn Subdivision
8000 Moorfield Road

Linda A. Bergh: Request for approval of an alternative fence height plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The applicant requests a fence 52 inches in height in the front yard, whereas Section 24-95(7) permits 42 inches. The approximately 12,100 square foot lot is located on the northeastern corner of Moorefield Road and Fon-du-lac Road on parcel 759-750-1616. The zoning is R-3, One-Family Residence District. **(Three Chopt)**

549

550 Mrs. Ware - Is there any opposition to this case? Are you opposed? OK,
551 thank you. Good morning, Mr. Strauss.

552

553 Mr. Strauss - Good morning and thank you, Madam Chairman and members of
554 the Commission. This case was deferred at our January meeting to allow the applicant
555 time to meet with the staff and the neighbors. You may recall that the applicant, Mrs.
556 Linda Bergh constructed a split-rail wood fence around her lot to contain her
557 Greyhound dogs. The fence is built and because it exceeds the maximum height
558 permitted in a front yard, Commission approval is required. The staff and the various
559 agencies and the Traffic Engineer have reviewed the application and have no issues.
560 There are some residents in the neighborhood that oppose the application, while an
561 equivalent number have registered no opposition to the approval of this application.
562 Since our last meeting, the neighbors have met with the applicant to discuss landscaping
563 around the fence. The next-door neighbor at 2408 Fon-du-lac has suggested planting
564 evergreen shrubs along the 30-foot section of the fence on the northern property line.
565 The applicant has agreed to do this by May 1 and that is what is shown on the
566 landscape plan that we have just handed out this morning. Another neighbor has
567 suggested planting the entire perimeter of the lot with evergreen hedge material to
568 screen the fence on both street frontages. The owner, Mrs. Bergh, has indicated that
569 that would be a bit too expensive and she doesn’t wish to screen her entire property
570 with hedge. Mrs. Bergh has agreed to plant areas of fence over the next several
571 planting seasons and the landscape plan indicates those areas that she is willing to do
572 this. I would add that the Traffic Engineer would not recommend screening the entire
573 fence, as several areas that are shown on the landscape plan with a crosshatch are areas
574 that must be clear for site distance. So, with that, that concludes my presentation and I

575 will be happy to answer any questions, and Mrs. Bergh is here as well as are two of the
576 neighbors, Mrs. Puryear and I believe Mrs. Jerry Hale Cooper. Thank you.

577 Mrs. Ware - Are there any questions for Mr. Strauss at this time?
578

579 Mr. Marshall - Mr. Strauss, you developed this landscape plan in conjunction
580 with Mrs. Bergh and Mrs. Puryear, correct?
581

582 Mr. Strauss - That is true.
583

584 Mr. Marshall - And Mrs. Puryear was OK with that landscape plan?
585

586 Mr. Strauss - So far. There are suggestions for additional planting, which as I
587 said Mrs. Bergh spend a considerable amount this year on the fence itself. So, she is
588 willing to do the 10 shrubs by May 1. Other plantings she will do as she can afford it
589 over the next several planting seasons.
590

591 Mr. Marshall - With the plantings between her property and Mrs. Puryear's
592 would be done by May 1?
593

594 Mr. Strauss - By May 1.
595

596 Mr. Marshall - I have no further questions.
597

598 Mrs. Ware - OK. Thank you. Can we hear from the applicant?
599

600 Mrs. Linda Bergh - My name is Linda Bergh, 8000 Moorefield Road. Like Mr.
601 Strauss said, I adopted a retired racing Greyhound a year and a half ago, and I signed
602 an agreement that I would either keep him on the leash all the time or put him in a
603 fenced yard. After I walked him on the leash for a little more than a year, his health
604 was starting to suffer. He wasn't getting enough exercise because I can't keep up with
605 him, so I checked into building a fence. I called someone at the County who gave me
606 the wrong answer and I trusted that answer, so I had my fence built to four feet, which
607 is the answer they gave me. In one spot it is a little higher than four feet.
608 Subsequently, I have adopted another dog and they do love the fence. Obviously, some
609 of the neighbors think it is ugly. I picked that style because I have always loved that
610 style of fence. It looks so neat with vines growing over it. I could have picked a less
611 expensive fence. I could have picked a chain link fence around the front yard, but I
612 like the split rails and they make it look good, and my plan was to eventually make
613 some plantings around it. I had thought a few azaleas, some vines, but now there is a
614 complaint, my plans have been derailed. I really do not want a hedge around the whole
615 fence. For one reason, I would like the police to be able to see in my yard as well as
616 I'd like to be able to see out of the yard. I think just having a fence around the whole
617 thing is not very secure. I have met with Mrs. Puryear and I gave her a list of plants a
618 few weeks ago and last weekend she and I met, when she told me about her desire to

619 have a hedge around the whole fence. I am willing to work with her to keep the fence,
620 because I really, I can cut the fence down. I can cut the top off of the fence if you guys
621 don't approve it. But I would really like to keep it because my dogs need a four-foot
622 high or they will jump out. They are big dogs. And I guess that is all I have to say.

623

624 Mrs. Ware - Are there any questions for Mrs. Bergh?

625

626 Mr. Marshall - Mrs. Bergh, when we were here last there was an issue Mrs.
627 Puryear had raised about the fence material being on the outside of the split rail fence
628 near her yard.

629

630 Mrs. Bergh - Right. The wire has been moved since then.

631

632 Mr. Marshall - It was moved to the other side of the fence? I have no further
633 questions.

634

635 Mrs. Ware - Any more questions?

636

637 Mr. Archer - Mrs. Bergh, what is the height of the inner fence? Is that four
638 foot, also?

639

640 Mrs. Bergh - Right. It comes up to the top of our yard.

641

642 Mrs. Ware - Any more questions? I believe there is opposition. Would you
643 come to the podium, please?

644

645 Ms. Ann Puryear - Hello. My name is Ann Puryear. I am the neighbor who lives at
646 2408 Fon-du-lac Road. When I was here for the January 28, 2004 meeting I was asked
647 when I walked outside by Ms. Goggin if I would be willing because the fence came
648 directly to the edge of my property, and I was asked if I would be willing to
649 compromise, and I asked what, and she suggested that instead of having her move the
650 fence back and plant the shrubs on her property, if I would be willing to leave the fence
651 where it is now and have the shrubs planted on my property. And as far as the fence
652 height, I have measured all along the edge from the back of my fence to the street and
653 along most of the front. The fence measures 54 to 56 inches every place that I
654 measured. The wire has been moved. I think the wire is, to me it looks more like
655 something for a dog pen that would be appropriate for a front yard. I told her that I
656 would be willing to have her not move the fence and I checked with several landscaping
657 companies and they suggested the compacted hollies would probably do well in my
658 yard. I have a lot of clay and I also have compacted hollies in the front of my house,
659 and this is really not the entire yard, that I know, and I know it is my responsibility, but
660 I am going to have to put a lot of money to this to landscape the rest of my yard from
661 there back to the edge of the back of my house, and I would like to have the plants
662 planted within the next month, so that they can get started before it starts getting hot,

663 and I will have the expense of the upkeep of the shrubs and the watering of the shrubs.
664 You know, particularly during the first year. As far as like around the fence in the
665 front yard, I feel there are several open places. There is a double gate at the drive
666 way, which would be open. An area on the corner of Moorefield and Fon-du-lac that
667 no plants would be planted. Also, an area that is near my property adjacent to the
668 double fence would be no shrubs, and the shrubs would just go part of the way just
669 down to where her gate is that goes into her house. This is not very many areas that
670 would need to have shrubs. I feel that like a short amount of time, perhaps like say one
671 year the shortest amount of time would be sufficient for her to plant shrubbery around
672 the fence in the front yard so that they can start growing, because the fence is 54 to 56
673 inches. I had discussed the bill with Mrs. Bergh. She seemed to think it was
674 outrageous. I checked with three landscaping companies and they felt someone, a
675 landscaping company that would dig a hole, plant a shrub for \$10 was dirt cheap. And
676 I went with the cheapest price that I could get and I did not include the mulch in the
677 planting of the shrubs, which I think it should be included. So, I would really like to
678 have my shrubs planted within the next month and the ones along the fence, I am
679 willing to give her a year to plant shrubs, to hide most of the fence. It is really not
680 much of an area to be planted as it sounds like when you look at all of the open spaces
681 where shrubs cannot be planted. And that is all I have to say. Thank you.

682
683 Mr. Vanarsdall - Let me ask you a question. Didn't you all have a meeting since
684 the last it was deferred?

685
686 Mrs. Puryear - Yes I did. I invited Mrs. Bergh and Jerry Hale Cooper over to
687 my house on Saturday and we really didn't come to any conclusions. She wasn't sure
688 what she was going to plant. She sort of wanted somebody to help her plant it or not
689 her plant it but make suggestions, whatever. I have the bill where I have gotten like
690 two of the estimates, one from Strange's for the price of the plant and one from
691 Tuckahoe Landscaping for the planting, which if you would like to know the price I can
692 tell you. The price to buy the plants was \$20 each, to plant them \$10, plus
693 amendments to the soil and the mulch would be extra, and I understood that she agreed
694 and thought this was OK with her to do this. But I would like to have them planted
695 before it starts getting hot and now is a good time to pick out shrubs because they have
696 a better selection as the season moves along.

697
698 Mrs. Ware - Are there any questions for Mrs. Puryear? Mrs. Puryear, can
699 you refresh for me. Are you on Moorefield or are you on Fon-du-lac?

700
701 Mrs. Puryear - I am on Fon-du-lac. I am the house that is beside the corner
702 house, that faces to the corner.

703
704 Mrs. Ware - And the lady who is with you today, your name again is. Can you
705 give your name and address?

706

707 Mrs. Cooper - Jerry Hill Cooper and I am 8401 Marriot Road, which is the
708 corner house right next to Ann on the other corner.

709

710 Mrs. Ware - OK, so there is a house between you and Ann's house?

711 Mrs. Puryear - Right.

712

713 Mrs. Ware - Are there any questions? I have a question for you as far as how
714 this is transpiring with the needs of Mrs. Puryear and Mrs. Bergh, how is this going to
715 transpire? Have you all discussed that?

716

717 Mr. Marshall - Yes. Mrs. Bergh has agreed to do the plantings as drawn by Mr.
718 Strauss, above and beyond the call of duty, I may add. The landscape plan that he has
719 drawn on this map, she has agreed to do these plantings along this area to shield Mrs.
720 Puryear's rather than from the fence, because if you recall at the last meeting, the main
721 issue with this fence was not necessarily the height of the fence but the appearance of
722 the fence. They don't particularly like the appearance of the split rail fence. They
723 would, the statement was that they would prefer a chain link fence to what they have
724 now.

725

726 Mrs. Puryear - Excuse me. I really don't think that was the main objection. I
727 think the appearance of the fence is offensive, but the height of it is even more
728 offensive, but we would prefer for her to cut it to 3-1/2 feet and leave like it is and to
729 landscape it, because it really is quite high and quite unattractive, and it is a dog pen.
730 It is designed to be a dog pen. I told Mrs. Bergh that I had friends who live in the
731 County that have the exact same fence that they keep their doggies in and I just feel
732 kind of resentful the way you have framed that.

733

734 Mr. Marshall - Well, you were not here at the last meeting were you when that
735 discussion took place?

736

737 Mrs. Puryear - Well, I wasn't here, but I am just telling you now that that is my
738 objection. My objection is not the type of fence so much as it is a dog pen fence that is
739 also the height. Both things were objectionable to all of us. So maybe you just got the
740 wrong impression.

741

742 Mrs. Ware - And Mrs. Puryear, what you were asking for is supplemental
743 landscaping beyond what Mr. Strauss has drawn to fill in some areas that you feel are
744 not covered.

745

746 Mr. Marshall - I think she is asking that these supplemental plantings shown
747 along the street, that they be put in at least within a year.

748

749 Mrs. Puryear - And also if I may, I don't know how we (unintelligible) as far as
750 the cost of it for the shrubs that I am willing to not have her move her fence back, but

751 have the shrubs planted in my yard. I would like to have that done within the next
752 month instead of May 1.
753

753 Mr. Marshall - I need to hear from the applicant again. I have a question for
754 Mrs. Bergh. Mrs. Bergh, are you willing to do the supplemental planting that is shown
755 on the drawing by Mr. Strauss beginning beside your driveway and going around to the
756 front and keeping those open areas open there, across there. Can you do
757 that? Are you willing to agree to do that within a year?
758
759 Mrs. Bergh - I would be willing, but I don't know if I'd be able.
760
761 Mr. Marshall - If you are going to agree to do it, then you are going to be held to
762 that agreement.
763
764 Mrs. Bergh - I understand and it would be very difficult for me. I certainly
765 will agree to do the ones on Mrs. Puryear's side within a month like she wants, and I
766 will start. I certainly am able to start with the ones on the other side, but I don't think I
767 can complete it.
768
769 Mr. Marshall - Well, it doesn't appear to be that many...
770
771 Mrs. Bergh - It is a lot of dots on there.
772
773 Mr. Marshall - And it is a year. Azaleas or whatever you choose to plant.
774
775 Mrs. Bergh - Well, if you insist, yes. Of course, I have no choice. But it will
776 not be easy for me.
777
778 Mr. Marshall - OK, if you willing to do that I think I can be supportive of your
779 case, but you are going to have to tell me that you are going to be willing to do that
780 within a year.
781
782 Mrs. Bergh - If you say I have to do it within a year, I will do it within a year.
783
784 Mr. Marshall - Are you willing to plant the other shrubs on Mrs. Puryear's side
785 within a month?
786
787 Mrs. Bergh - Right.
788
789 Mr. Marshall - Madam Chairman, I want to say that we had petitions regarding
790 this fence, which you can see on your screen. There were an equal number of people
791 that had no problem with the fence and liked the fence. They were residents that lived
792 directly across the street from the fence, and there as an equal number that signed the
793 petition saying that they didn't like the looks of the fence. You recall, the gist of the
794 last meeting was not - mostly what we heard about was the look and the appearance of
795 the fence, not that much about the height. I am inclined to grant the alternative fence
796 height plan subject to Mr. Strauss' excellent landscape plan drawing, and I must say

797 that he and Christina worked a great deal on this case and I've had numerous
798 discussions with Mr. Strauss about this case.

799

800 Mr. Silber - Mr. Marshall, before you go too much further on that point, if I
801 can ask clarification. The way that I am reading Condition No. 6, it says that the
802 landscape plan will be reviewed and approved by the County staff. Are we assuming
803 that this is the landscape plan that has been reviewed or are we assuming that another
804 landscape plan is going to be prepared and reviewed by the County staff?

805

806 Mr. Marshall - No. I am comfortable with Mr. Strauss' landscape plan as it is.

807

808 Mr. Silber - OK. You may need to modify that language under 6.

809

810 Mr. Strauss - I think that we will have to add that the condition 6 has been
811 changed to one month from today, if that is what we have agreed to, instead of May 1.

812

813 Mr. Silber - I think we also need to clarify that the plan that is before you
814 here, this landscape plan is what the Planning Commission is agreeing would be done,
815 not another plan that would be prepared.

816

817 Mr. Strauss - Right. That would be the plan and we could put today's date on
818 it.

819

820 Mr. Vanarsdall - Are you saying the plan today that you are recommending is what
821 the plan is going to be?

822

823 Mrs. Ware - By the end of April.

824

825 Mr. Marshall - Right. And the planting along Mrs. Puryear's property line will
826 be installed within a month from today.

827

828 Mr. Silber - You are saying this would be April 24, which would be a
829 Saturday.

830

831 Mr. Marshall - Right. And then the other plantings shown starting at the
832 driveway would be in within a year from today's date.

833

834 Mr. Vanarsdall - Mr. Secretary, do we need to put the conditions on that, 9 and
835 10?

836

837 Mr. Silber - No. I think we would amend 6 and 6 would need to be amended
838 to state something like "This plan that has been prepared and planted in accordance
839 with this plan, the ones along Mrs. Puryear's side by April 24 and the ones out by the
840 street by March 24, 2005. I think that would all be condition No. 6.

841
842 Mr. Marshall - That is correct.
843
844 Mrs. Ware - So that is your motion?
845
846 Mr. Marshall - That is my motion.
847
848 Mrs. Ware - Do I have a second?
849
850 Mr. Archer - Second.
851
852 Mrs. Ware - OK, motion made by Mr. Marshall and seconded by Mr. Archer.
853 All in favor say aye. All opposed say no. The motion passes.
854
855 The Planning Commission approved Alternate Fence Height Plan for West Lawn
856 Subdivision, 8000 Moorefield Road, subject to the annotations on the plan and the
857 following additional conditions:
858
859 6. ~~This plan that has been prepared and planted in accordance with this plan, the~~
860 ~~ones along Mrs. Puryear's side by April 24 and the ones out by the street by~~
861 ~~March 24, 2005.~~ The landscape plan reviewed and approved by the Planning
862 Commission and County Staff dated March 24, 2004, will have all plant material
863 installed in accordance with the following dates:
864
865 • The 10-3 gallon Compacta Hollies, along the northern fence line, will be
866 installed by **April 24, 2004**.
867 • The plantings labeled 'future additional shrub plantings' will be installed
868 by **March 24, 2005**.
869 7. All fences on the site shall be continuously and properly maintained in good
870 repair by the property owner.
871 8. Trash and debris will not be allowed to accumulate along the fence.
872

903 The Planning Commission approved POD-14-04, Gaskins Professional Offices, subject
904 to the annotations on the plans, the standard conditions for developments of this type
905 and the following additional conditions:
906

- 907 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning
908 Office for review and Planning Commission approval prior to the issuance of
909 any occupancy permits.
- 910 11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan
911 including depictions of light spread and intensity diagrams, and fixture and
912 specifications and mounting height details shall be submitted for Planning Office
913 review and Planning Commission approval.
- 914 23. The right-of-way for widening of Three Chopt Road as shown on approved
915 plans shall be dedicated to the County prior to any occupancy permits being
916 issued. The right-of-way dedication plat and any other required information
917 shall be submitted to the County Real Property Agent at least sixty (60) days
918 prior to requesting occupancy permits.
- 919 24. The easements for drainage and utilities as shown on approved plans shall be
920 granted to the County in a form acceptable to the County Attorney prior to any
921 occupancy permits being issued. The easement plats and any other required
922 information shall be submitted to the County Real Property Agent at least sixty
923 (60) days prior to requesting occupancy permits.
- 924 25. The limits and elevations of the 100-year frequency flood shall be conspicuously
925 noted on the plan "Limits of 100 Year Floodplain." In addition, the delineated
926 100-year floodplain must be labeled "Variable Width Drainage and Utility
927 Easement." The easement shall be granted to the County prior to the issuance of
928 any occupancy permits.
- 929 26. The developer shall provide fire hydrants as required by the Department of
930 Public Utilities and Division of Fire.
- 931 27. A standard concrete sidewalk shall be provided along Gaskins and Three Chopt
932 Roads.
- 933 28. The proffers approved as a part of zoning cases C-33C-03 and C-62C-03 shall
934 be incorporated in this approval.
- 935 29. Any necessary off-site drainage and/or water and sewer easements must be
936 obtained in a form acceptable to the County Attorney prior to final approval of
937 the construction plans.
- 938 30. Deviations from County standards for pavement, curb or curb and gutter design
939 shall be approved by the County Engineer prior to final approval of the
940 construction plans by the Department of Public Works.
- 941 31. Storm water retention, based on the 50-10 concept, shall be incorporated into
942 the drainage plans.
- 943 32. Insurance Services Office (ISO) calculations must be included with the plans and
944 contracts and must be approved by the Department of Public Utilities prior to
945 the issuance of a building permit.

- 946 33. Approval of the construction plans by the Department of Public Works does not
 947 establish the curb and gutter elevations along the Henrico County maintained
 948 right-of-way. The elevations will be set by Henrico County.
- 949 34. Evidence of a joint ingress/egress and maintenance agreement must be submitted
 950 to the Planning Office and approved prior to issuance of a certificate of
 951 occupancy for this development.
- 952 35. The conceptual master plan, as submitted with this application, is for planning
 953 and information purposes only. All subsequent detailed plans of development
 954 and construction plans needed to implement this conceptual plan shall be
 955 reviewed and approved by the Planning Commission and shall be subject to all
 956 regulations in effect at the time such subsequent plans are submitted for
 957 review/approval.
- 958 36. The certification of building permits, occupancy permits, and change of
 959 occupancy permits for individual units shall be based on the number of parking
 960 spaces required for the proposed uses and the amount of parking available
 961 according to approved plans.
- 962 37. The location of all existing and proposed utility and mechanical equipment
 963 (including HVAC units, electric meters, junction and accessory boxes,
 964 transformers, and generators) shall be identified on the landscape plans. All
 965 equipment shall be screened by such measures as determined appropriate by the
 966 Director of Planning or the Planning Commission at the time of plan approval.

967
 968 **REVISED LANDSCAPE & LIGHTING PLAN**
 969

LP/POD-79-01
 John Rolfe Commons
 Shopping Center –
 John Rolfe Parkway and
 Ridgefield Parkway

The Wilton Companies, LLC: Request for reconsideration of a revised landscape and lighting plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 34.90-acre site is located on the northwest corner of Ridgefield Parkway and proposed John Rolfe Parkway on parcels 735-751-6513, 8611; 736-751-0405, 6330; 736-750-3696, 6388, 8896 and 737-751-0413, 2333, 3748, 0067. The zoning is B-2C, Business District (Conditional). **(Tuckahoe)**

970
 971 Mrs. Ware - Is there any opposition to this case? Anyone who wants to speak
 972 to this case? OK. Ms. News.

973
 974 Ms. News - Good morning, Madam Chairman, and members of the
 975 Commission. A community meeting was held by the developer on March 16th to
 976 present a revised landscape and fencing plan to residents of the adjacent subdivision.
 977 The developer presented a plan which included a black, 5 foot vinyl clad chain link
 978 fence across the rear of the shopping center, as well as a continuous row of evergreen
 979 plantings consisting of 6 to 7 ft. evergreen trees and 5 to 6 ft. evergreen shrubs. In

980 areas of the buffer, where the need for screening was determined to be most critical,
981 including in front of a loading dock and in front of a compactor, a double layer of
982 buffering consisting of a row of trees and a row of shrubs has been provided.
983 Additional shrubs and trees were added in front of the compactor, which were
984 redistributed from a less critical area at the request of the adjacent property owner.
985 The landscaping will be provided adjacent to the curb, and the fence provided behind
986 the landscaping to allow for maintenance of the plantings in the shopping center. Staff
987 is not aware of any remaining concerns regarding the provision of the plantings in this
988 area.

989
990 There are some outstanding issues regarding the exact placement of the fence, as it
991 was not shown on the plans submitted by the developer. Due to the site restraints and
992 potential conflicts with utilities and slopes, staff has recommended a revised condition
993 No. 9 requiring the location of the fence and plantings to be field staked for approval
994 prior to installation. This will allow staff the opportunity to address any conflicts and
995 perform final coordination with the adjacent neighbors. The fence will be installed
996 across the entire rear of the shopping center to the end of the Brewster's Ice Cream.
997 The buffer will be extended with the Brewster's landscape plan. The remaining issues
998 with the site are in regard to conditions recommended by staff. There was much
999 concern expressed by the neighbors regarding noise related to the servicing of the
1000 dumpsters and cleaning of the parking areas after hours. A condition has been
1001 recommended limiting the hours for these activities from 7:00 a.m. to 11:00 p.m. as
1002 discussed by the applicant with the neighbors in the first community meeting. The
1003 developer is in disagreement with the hours, which are permitted to be from 6:00 to
1004 12:00 by code. Additionally, the developer objects to the condition limiting the
1005 delivery hours to the shopping center. The developer's written objections were
1006 received yesterday afternoon. Staff has proposed changes to the developer's proposal
1007 and you have been given both documents. With that said, staff can recommend
1008 approval of the revised landscape plan subject to the conditions in the agenda and the
1009 revised conditions you have been given.

1010
1011 Mrs. Ware - Thank you. Are there any questions for Ms. News? I don't
1012 have any questions right now. I might in a little bit. I guess at this time we will hear
1013 from the applicant.

1014
1015 Mr. Rich Johnson - Good morning, Madam Chairman, Commissioners and staff,
1016 ladies and gentlemen. My name is Rich Johnson and I am president of Wilton
1017 Companies. As Ms. News said, we have worked through several meetings with the
1018 neighbors and feel like we have come up with a plan to modify the existing approved
1019 plan to provide a substantial amount of enhancement to the landscaping. I think all of
1020 the details are worked out and we certainly are in agreement with the added condition
1021 where we would go to a field location situation before finally locating a fence, and I
1022 think all of those issues are done and we have certainly worked very diligently at a
1023 substantial increase of about 400% of the original budget in order to meet these

1024 requirements on a good faith basis, as I said, despite the fact of a previously approved
1025 landscape plan and I think everybody is happy with that and we appreciate the
1026 opportunity to have worked through that. The two concerns that we have got are with
1027 respect to item 6, which has to do with dumpsters. We have agreed that all of the
1028 dumpsters that we can control that we are comfortable with putting that time restriction
1029 on. However, there are four dumpsters that we don't control. Those would be
1030 Ukrop's, which was previously approved under a separate POD earlier and in
1031 addition, there were POD approvals for outparcels four, six and nine previously
1032 approved. We will publicly state and commit that we will work and use our very best
1033 efforts to attempt to coordinate with these people on a voluntary basis, their
1034 cooperation from 7 a.m. to 11:00 p.m. and we are agreeable to controlling all of the
1035 dumpsters that we control, which would be the normal shopping center dumpster and
1036 we also will confirm that moving forward with additional POD application for the
1037 other out parcel yet to be developed that will have PODs, that we will be agreeable to
1038 adding this time limitation to those future ones. Unfortunately, the cat is somewhat
1039 out of the bag with regard to the ones that are previously approved. We have already
1040 gone to leases. At least, in the case of Ukrop's, the store is already open and
1041 operating and in the case of the other three out parcels, one is very close to being
1042 open. The other one has already started construction, and the third one is just waiting
1043 for the plans to be cut loose out of the Building Inspector's office. Again, we have
1044 moved forward in good faith with these tenants, have signed leases with them that
1045 were signed in accordance with the POD restrictions that were put in place with them
1046 at the time they were approved under their separate PODs. As such, while we feel
1047 there is an extremely high probability that we can secure voluntary cooperation, there
1048 is no way that we can legally guarantee the acts of third parties under leases that have
1049 already been in place for many months. Additionally, item 8, we feel must be deleted.
1050 While this is a specific restriction that will affect the overall shopping center, we do in
1051 the same situation have leases that have already been entered into pursuant to the
1052 PODs approved at the time and these tenants, particularly in the case of Ukrop's, as
1053 with virtually every grocery store, does get deliveries after hours. Ukrop's has
1054 worked voluntarily with us in a very, very good way and has limited that to only one
1055 delivery, but again, this is a long-term lease arrangement. There are also other tenants
1056 in the shopping center as we all know, and it is just an item that if we could control it,
1057 we could work with it, but again these leases were entered into in good faith with third
1058 party tenants, and we just don't have the ability to restrict that because we know that
1059 in fact these tenants do receive limited, but nevertheless, deliveries after hours. So,
1060 our request would be that item 6 be modified to accept Ukrop's and pads 4, 6 and 9,
1061 and item No. 8 be deleted. Everything else is acceptable and again, it is our intention
1062 to try to secure cooperation to the best degree possible, and we will tell you that we
1063 will work toward that end. We just can't guarantee something that was not previously
1064 required under the prior PODs, which are already completed. I appreciate your
1065 consideration and I will be glad to answer any questions.
1066

1067 Mr. Vanarsdall - I have a question for the Secretary. Mr. Secretary, can that be
1068 worded so that it just affects the one that they are responsible for?
1069

1070 Mr. Silber - I think, Mr. Vanarsdall, that is certainly an option. I guess I
1071 have a question or two that I would like to ask Mr. Johnson, maybe, before I answer
1072 your question.
1073

1074 Mr. Vanarsdall - And for Mr. Johnson, I understand No. 8. What is your
1075 objection to No. 8? Is it deliveries?
1076

1077 Mr. Johnson - The tenants that we have in many cases are a part of a chain
1078 operations, and these chains in most cases require delivery of product pursuant to a
1079 schedule that is predetermined and that the tenant does not even control. Ukrop's is
1080 certainly one of those. Ukrop's, on a voluntary basis, works very carefully to get that
1081 down to one delivery, but again with long-term leases going many years into the
1082 future, they simply cannot guarantee to do that now. I think it is fair to say they will
1083 work with us, but we can't guarantee something that was not in their lease because it
1084 was not in the original POD. We weren't requested to limit that at that time.
1085

1086 Mr. Silber - Yes, I guess I am somewhat less concerned about the delivery. I
1087 think the delivery aspect is certainly something that we can discuss more about, but
1088 relative to the dumpster servicing and the ground maintenance of this shopping center,
1089 tell us how the, for example, the dumpster servicing happens. Does each tenant
1090 contract with a company that empties their dumpster, or is it done for the center as a
1091 whole?
1092

1093 Mr. Johnson - It is actually a two-part answer. The individual out parcel will
1094 each have their own dumpster and will each schedule with their own refuse contractor.
1095 In addition, Ukrop's has its own dumpster compactor and it is scheduled for its own
1096 refuse contractor. All of the other common areas shall we say, the ones that are
1097 shared by the smaller tenants in the row of stores are, in fact, under our control, and
1098 that is the reason we have indicated that the only exception we are looking for is
1099 Ukrop's and the three PODs that are already approved, which is out parcel four, six
1100 and nine. We are agreeable for the other out parcels that are yet to come that we can
1101 live with this restriction, because we can incorporate this time frame into our lease in
1102 the future for the other out parcels, but as I said, the cat is kind of out of the bag with
1103 regard to the out parcels that were already approved under PODs and already had
1104 leases signed in accordance with the requirements of the PODs. We just can't go back
1105 and change a legal document that does that does that again. I think voluntary
1106 cooperation has a 99.9% probability, but it just physically is not something that we can
1107 100% guarantee, and we feel like as a matter of good faith and credibility in our
1108 operation that if it is something we can't guarantee, we are obligated to say so up front
1109 as opposed to potentially creating a problem down the road.
1110

1111 Mr. Silber - I guess that is where I am coming from. I am not so sure that
1112 the County at this point is requesting that you change the lease that you have already
1113 entered into. I think what we are saying is that the shopping center basically is served
1114 as a whole as a retail center that has potentially certain impacts on residential
1115 communities. If we begin to make exceptions and say this party doesn't have to
1116 comply with it and this one does, I think you begin to lose the continuity of the impact
1117 we are trying to mitigate here on the residential community. I certainly think that this
1118 condition is appropriate in that we would hope for voluntary compliance from Ukrop's
1119 and those other three out parcels. Perhaps you can send them a letter saying that the
1120 County has imposed this condition and you would hope that they would comply with
1121 that condition, but I don't think we are asking that you enter into a new lease
1122 agreement with those four parties. But I really think that there needs to be some
1123 continuity as far as servicing of dumpsters and the cleaning of parking lot, etc. This is
1124 fairly standard for the County to be concerned about the impact of this type of a center
1125 in a residential community from a standpoint of dumpster servicing and cleaning of
1126 parking areas.

1127
1128 Mr. Johnson - And I don't agree conceptually what you are saying. Had this
1129 issue been imposed in the prior PODs, we could have easily incorporated it into the
1130 leases, but under the theory of property ownership there are certain rights when they
1131 enter into a lease that we give away to the tenant, and the tenant has certain rights.
1132 The landlord, therefore, has those fewer rights, and those rights have been given away
1133 under the contract, and, again, we feel very confident we can get voluntary
1134 compliance. We feel very comfortable we will get that, and we are telling you
1135 publicly that we will work hard to achieve that, and it is just a position that if I can't
1136 guarantee something, I think I would be less than honest with the Commission if I
1137 promised you something that we could do and achieve if we do have limitations to our
1138 legal rights and our counsel has reviewed this and confirmed that our rights are limited
1139 in this area.

1140
1141 Mrs. Ware - One thing that I do want to bring up at this point is that your
1142 center has been open since the first of year and it has taken a few months and the
1143 people have come forward that live in that adjacent area and expressed their concerns
1144 and their frustrations with what was going on at that shopping center. So, yes, maybe
1145 you have some leases, but we are now hearing the concerns of the people that you are
1146 located in their neighborhood as well. So, that is why things have happened a little bit
1147 later than maybe you would have wanted to, but I agree with the concept of Mr. Silber
1148 in that this is a County-imposed condition for the entire shopping center, and if you
1149 were to leave the Ukrop's out, you would be leaving out one of the main buildings and
1150 businesses that directly impact the people that live along the perimeter of your
1151 shopping center.

1152
1153 Mr. Johnson - Ukrop's is significant...
1154

1155 Mr. Marshall - Mr. Silber, the problem I have with this is that and maybe it is
1156 because I am a lawyer, but the language is “shall”, OK. So that is basically, you are
1157 giving the neighbors, if you will, something to hang their hat on legally. We have this
1158 “shall do this” and someone has come at 6:00 a.m. and done it. Why can’t we legally
1159 enforce this? And the answer is going to be because the prior POD didn’t have it in
1160 there and Ukrop’s lease allows it legally to do it at 6:00 a.m., so I think it puts the
1161 County in kind of a box when you are saying legally OK, this is “shall” and you all
1162 have to do this. And if you are outside you are in violation, but then on the other hand
1163 legally, by the tenants rights in the lease that we are given pursuant to the prior POD,
1164 which is legal and enforceable, says that they can do it outside, the 7 to 11. So, I
1165 think – and I agree that the County with the supposition that it is better to have a
1166 policy, an overall policy. So maybe if you did it as “should” and not make it legally
1167 100% that is the way that it has got to be, then that would still give them something,
1168 give the Wilton Company something to take back to Ukrop’s and the tenants that have
1169 already been legally put outside of this restriction, and say look, “This is what the
1170 County says should be going on and hopefully you will comply with this.” I think it
1171 just opens up a difficult situation, and you are saying now, after the fact legally we
1172 want to do it this way, when it can’t be enforced because they have legal rights that are
1173 in contracts, that came prior to it.

1174

1175 Mr. Johnson - We would certainly be agreeable to that language and I think that
1176 is an excellent suggestion.

1177

1178 Mr. Silber - Has there been any discussion with Ukrop’s or the three out
1179 parcels that maybe they would easily comply with this request?

1180

1181 Mr. Johnson - We haven’t approached them individually. In the sense of there
1182 is a whole group of tenants that are effectively part of chains and, you know, going to
1183 these people and asking them for a limitation of an existing right to go decades into the
1184 future, frankly, is not a very credible question for us to ask when there is no quid pro
1185 quo coming back to them in any way, shape or form. We don’t feel like it is an
1186 appropriate question to even ask them to give up rights when you are looking at
1187 particularly the other three parts, which are parts of big companies. I guess what I am
1188 saying is there is no motivation for them to give up a lot.

1189

1190 Mrs. Ware - But companies would want to know that that is being asked of
1191 them by the people that live around them.

1192

1193 Mr. Marshall - If we give you something to take to them and say, “This is what
1194 the County wants.”

1195

1196 Mr. Johnson - Absolutely. If we can switch it to the should and I have told you
1197 all, and I will reiterate this that we will use our best effort to secure cooperation. We
1198 feel like we are 99% plus getting there. We just feel like that if we lock ourselves into

1199 something that is legally precluded from the rights under the lease, we are not being
1200 open and fair with this Commission. And I agree with the “should” and I think that...
1201
1202 Mrs. Ware - If the language is changed, then can we get a letter from you
1203 showing that you have sent these letters to these tenants that you have?
1204
1205 Mr. Johnson - I will be delighted to confirm to you in writing that we will use
1206 our best efforts, and that will obviously back up the minutes to this meeting.
1207
1208 Mr. Marshall - Could you give us copies of the letters that you send out?
1209 Mr. Johnson - You’ve taken the words right out of my mouth and I will attach
1210 copies of certified letters to each of the tenants suggesting that this is something that is
1211 very important that they relinquish their cooperation with.
1212
1213 Mr. Archer - Mr. Johnson, just one question. The prior PODs and the lease
1214 arrangements that are in place now, do they mention any time limits at all concerning
1215 this, or it just doesn’t speak to the issue at all?
1216
1217 Mr. Johnson - They speak to the issue only within the limitation that they have
1218 to be code compliant, which is 24-hour service on pick ups and trash and deliveries.
1219 So, there are also limitations that it is 6:00 a.m. to midnight on store opening hours,
1220 so there are limitations on certain things with regard to servicing their other issues,
1221 with regard to trash at 6:00 a.m. to midnight on store-opening hours, so there are
1222 limitations on certain things with regard to delivery service to the individual stores.
1223
1224 Mr. Archer - Those time limits are specified?
1225
1226 Mr. Johnson - Those time limits are specified in the Code under the zoning and
1227 our lease does incorporate those by reference, so all of those are covered. And I know
1228 we are asking for an hour on each end, and I am not trying to be a nit picker on that
1229 one. I just don’t want to promise something that we can’t deliver on with full
1230 credibility.
1231
1232 Mrs. Ware - Any more questions?
1233
1234 Mr. Johnson - The other one was item 8, which again we know we can’t
1235 comply with because, again, there are numerous leases and there are tenants that do, in
1236 fact, get these deliveries and it is an issue that we know in advance we can’t comply
1237 with.
1238
1239 Mrs. Ware - Any more questions for Mr. Johnson from the Commission?
1240 Thank you. It was evident from the earlier PODs that came before this Commission
1241 that the neighborhood had concerns about the impact that was being caused by this
1242 shopping center as well as frustrations with how to be heard and helped with those

1243 issues. Yes, they knew the shopping center was coming and the zoning for this had
1244 taken place for this in the 1980s, but they still weren't fully prepared for the impact of
1245 this large center. Also, it really did take a few months of business operations for them
1246 to assess the impact of all these issues. The very well attended meetings in February
1247 and March were certainly a testament to the many concerns of the surrounding
1248 neighbors. This is a neighborhood and it part the individual residents that make it up
1249 as well as the centers that operate within them and cooperation is definitely needed
1250 between the two and continued communication. The increased landscaping in the back
1251 once established will help decrease the sound and sight impact to the people that live
1252 adjacent to the center. On things like the reduced lighting after hours and limiting the
1253 service hours will make life much more comfortable for the surrounding neighborhood
1254 and this shopping center, like I said, is a part of the community and tend to be a good
1255 and responsive neighbor. And while I am on the subject of responsiveness, I also need
1256 to mention a few points concerning the shopping center and its PODs. As was
1257 mentioned in the February public hearing, the applicant didn't follow through with
1258 plans for landscaping nor did it reschedule the follow-up meeting with the
1259 neighborhood within the agreed upon time, and that was talked about last month. The
1260 landscaping information, when it was submitted to staff prior to the last hearing, was a
1261 sheet with three options on fence height and a number of plantings. No plans were
1262 given for the staff to review, and there has been frustration along with this month as
1263 well with information not being submitted in a timely fashion. So, as more PODs
1264 come before the Commission with regard to the shopping center, which, of course,
1265 they will, I do hope that you will be responsive to the concerns of your adjacent
1266 neighbors, the County staff, as well as the Commission.

1267
1268 So, at this time I am prepared to make a motion. What I want to do is reword No. 6
1269 and due to the fact that the landscaping in the back is substantial. There is a fence for
1270 security, and there are more PODs coming through that are along that portion of this
1271 property and we have worked through to the satisfaction with most of the people who
1272 live behind this neighborhood. I am willing to remove No. 8, which, there might still
1273 be a No. 8, because we had a No. 9, so let me know how you want me to do this.

1274
1275 Mr. Silber - I think we would have 6 and there is a 7 that deals with the
1276 lighting, which would stay, and there would be the existing 8 which would be deleted
1277 and the No. 9 shown on your Addendum would become 8.

1278
1279 Mr. Vanarsdall - Do you want to mention the letter that Mr. Johnson...

1280
1281 Mr. Silber - I think staff may want to fine tune this language, but I think we
1282 could say something these lines. Of course, the Commission is considering changing
1283 the word "shall" to "should" in the first sentence, so I think we could then add...let
1284 me read what I have. All dumpsters should be serviced and all ground maintenance
1285 shall occur in the shopping center between the hours of 7:00 a.m. and 11:00 p.m.
1286 except for emergency service inclusive of snow removal and I think we can add the

1287 language that was suggested by the applicant in that and then say “and except for
1288 Ukrop’s and out parcels four, six and nine.” The next sentence could read: The
1289 applicant will, however, request voluntary compliance from Ukrop’s and out parcels
1290 four, six and nine regarding the servicing of dumpsters and ground maintenance. The
1291 applicant will copy the Director of Planning with required letter to the excepted
1292 parties.
1293

1294 Mr. Marshall - That sounds good, but I have one question for Mr. Johnson.
1295 Mr. Johnson, the “shall” is still OK for the ground maintenance of the parking lot,
1296 because that shouldn’t fall with the lease with the, you are taking care of that.
1297

1298 Mr. Johnson - That actually solves the problem with Ukrop’s. It doesn’t solve
1299 the problem with the other groups, with the out parcels.
1300

1301 Mr. Marshall - Are they responsible for their own?
1302

1303 Mr. Johnson - Each out parcel is responsible for their own grounds
1304 maintenance. Yes, sir. I am less concerned over that, because of the modest nature of
1305 it, but in a perfect world, “should” in both places would be ideal, because, again, the
1306 Ukrop’s, we do take care of that like on the grounds maintenance, so we can control
1307 that there. The “shall” is perhaps a less significant but still technical conflict on the
1308 grounds maintenance. In a perfect world, I would love “should” in both places.
1309

1310 Ms. News - I was just going to mention that we may not need the exception
1311 if we are going to put “should” because “should” already gives them a blanket
1312 exception.
1313

1314 Mr. Marshall - Yes, but “should” allows them to take something to the tenant
1315 saying that that is what the County wants.
1316

1317 Ms. News - We are saying “should” and then “with the exception of
1318 Ukrops.”
1319

1320 Mrs. Ware - You don’t need the exception. I agree.
1321

1322 Mr. Johnson - I agree with that, as well.
1323

1324 Mrs. Ware - OK.
1325

1326 Mr. Johnson - I am sorry I didn’t pick up on that detail, but yes.
1327

1328 Mr. Marshall - That is why staff is smarter than we are.
1329

1330 Mrs. Ware - That is why we depend on them. OK.

1331
1332 Mr. Silber - Back on the ground maintenance, just to make sure that I am
1333 straight, because I don't think I am. The ground maintenance, are we tying that also
1334 to the dumpster servicing from the "should" standpoint?

1335
1336 Mr. Marshall - Yes, because some of the out parcels are already exempt from
1337 that requirement, but it still gives them something to take to the out parcel owners,
1338 tenants and say that the County wants you to service your parking lot between 7 and
1339 11, despite what your lease says.

1340
1341 Mr. Silber - So we are tying both the dumpster servicing and the ground
1342 maintenance to the same parameters.

1343 Mrs. Ware - But as far as deliveries are concerned, I do want to say that I
1344 really hope that you will work with the people that live around you and be considerate
1345 of them and their concerns, because they did come out in large numbers to express
1346 them, and I do hope that this landscaping will help to mitigate some of the effects and
1347 Spring, too, in the Conservation District as things kind of fill out in there. OK.

1348
1349 At this time I will move that LP/POD-79-01 be approved subject to the standard
1350 conditions for landscape and lighting plans and the following additional conditions,
1351 Nos. 6 through 8.

1352
1353 Mr. Silber - Eight is deleted but the new Addendum No. 9 becomes 8.

1354
1355 Mr. Vanarsdall - And you are going to revise No. 6?

1356
1357 Mrs. Ware - And the revision of No. 6.

1358
1359 Mr. Vanarsdall - Second.

1360
1361 Mrs. Ware - Motion made by Mrs. Ware and seconded by Mr. Vanarsdall.
1362 All in favor say aye. All opposed say no. The motion passes.

1363
1364 The Planning Commission approved LP/POD-79-01, John Rolfe Commons Shopping
1365 Center - John Rolfe Parkway and Ridgefield Parkway, subject to the standard
1366 conditions for landscape and lighting plans and the following additional conditions:

1367
1368 ~~6. Revised~~
1369 ~~7. Exterior lighting in the shopping center shall be reduced to security level only~~
1370 ~~within one hour of the close of business.~~

1371 ~~8. Add here!~~

1372
1373 6. All dumpsters should be serviced, and all ground maintenance should occur in
1374 the shopping center between the hours of 7:00 a.m. and 11:00 p.m. except for

1375 emergency service, inclusive of snow removal. The applicant shall request
1376 voluntary compliance from all tenants and outparcels, by written letter. The
1377 applicant shall provide a copy of the required letter to the Director of Planning
1378 prior to final acceptance of the landscape installation, and in the future upon
1379 request of the Director of Planning.
1380 7. Exterior lighting in the shopping center shall be reduced to security level within
1381 one hour of the close of business.
1382 8. The location of the fence and plantings in the buffer shall be staked for final
1383 approval by the Planning Office prior to installation of the fence and
1384 landscaping.

1385
1386
1387
1388 **PLAN OF DEVELOPMENT**

1389 **(Deferred from the February 25, 2004 Meeting)**
1390

POD-15-04 Wendy's @ John Rolfe Commons Shopping Center (POD-79-01 Revised) 2120 John Rolfe Parkway	Balzer & Associates, Inc. for the Wilton Companies, LLC and WEN-Rich, Inc.: Request for approval of a revised plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story, 4,095 square foot restaurant addition to a shopping center. The 1.39-acre site is located on the northwest corner of John Rolfe Parkway and Ridgefield Parkway on parcels 736-750-6338, 736- 751-6330 and 737-751-0067. The zoning is B-2C, Business District (Conditional). County water and sewer. (Tuckahoe)
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1391
1392 Mrs. Ware - Is there any opposition to this case? There is opposition. OK.
1393 Ms. News.

1394
1395 Ms. News - Issues relating to the site plan for Wendy's, have been resolved
1396 to staff's satisfaction. The applicant has agreed to provide a brick dumpster screen
1397 matching the building, which was the remaining site issue. The applicant had
1398 objections to the wording of several conditions. You have been handed out some of
1399 the conditions incorporating the applicant's changes. Some of these go along with the
1400 discussion we just had, so it may resolve itself. I am not sure if the applicant is still in
1401 disagreement with No. 37 or not.

1402
1403 You have also been handed a second petition in opposition to the Wendy's, which we
1404 have just received. The opposition is here to address any questions that the
1405 Commission may have, and I'd be happy to answer any questions.
1406

1407 Mrs. Ware - Are there any questions for Ms. News at this time? OK, thank
1408 you. Can we hear from the applicant at this time, please. Good morning.

1409
1410 Mr. John Chevalier - Good morning. I am John Chevalier representing WEN-Rich,
1411 Inc. The only thing that I would like to say is that we are in agreement with the
1412 discussions that just went on. We would like to have the same changes made in our
1413 agreements there. Other than that, I think that we have worked out all the issues and I
1414 am willing to answer any questions you may have.

1415
1416 Mrs. Ware - Are there any questions for Mr. Chevalier at this time? I have
1417 none. Thank you.

1418
1419 Mr. Rich Johnson - Sorry to bore you again with a familiar face, but Rich Johnson,
1420 President, Wilton Companies, as the property owner here, with John representing
1421 Wendy's. We are in agreement with all changes with the exception of No. 43, which
1422 is the very issue we just finished talking about before, in that there are deliveries to the
1423 other parties and I guess I don't need to belabor that any further, the same issue, but
1424 everything else we are in 100% agreement with, and we respectfully would request
1425 that No. 43 be deleted, and again I'd be glad to answer any questions.

1426
1427 Mrs. Ware - Are there any questions for Mr. Johnson? I have none.

1428
1429 Mr. Marshall - So you are all right with No. 41, Mr. Johnson?

1430
1431 Mr. Johnson - That is correct, and in this particular case we have worked with
1432 Wendy's because we knew about them in advance. Wendy's has agreed to that time
1433 limitation there and as long as we know in advance that we can work with these things
1434 and, again, we thank Wendy's for their cooperation in that area.

1435
1436 Mrs. Ware - Thank you. At this time I would like to hear from the
1437 opposition. Hello. State your name and address please.

1438
1439 Mr. Wade Evans - My name is Wade Evans. I live at 1801 Rolfe Way and I am
1440 also president of the homeowner's association for Rolfe, and if pleases the
1441 Commission, I would like to read our petition:

1442
1443 The undersigned members of the Rolfe Homeowner's Association hereby request
1444 that the Planning Commission recommend to the Board of Supervisors that the plan for
1445 the Wendy's establishment on plan of development POD-15-04 be denied. The reason
1446 for this request from our community is that the location of this fast food restaurant,
1447 unlike the shops and grocery store in the John Rolfe Commons Shopping Center,
1448 would not be a positive addition to this area. Currently our community as well as
1449 other neighboring communities is experiencing issues related to teenagers and young
1450 adults utilizing John Rolfe Parkway as a drag racing strip. We have continually

1451 contacted the police when this occurred and they have been responsive. However,
1452 bringing a fast food restaurant that advertises late night hours will only add to this
1453 situation by providing a location for teenagers and young adults to congregate. There
1454 are many fast food restaurants located 3.3 miles from the intersection to West Broad
1455 and Pump Road. The establishments on West Broad are easily accessible from our
1456 area and will become even more accessible, 2.5 miles, with the completion of John
1457 Rolfe Parkway, and I might add that there is a Wendy's located at Broad and Pump
1458 already. Additionally, unlike the fast food establishments located on Broad Street, this
1459 proposed establishment would be located in the middle of several single-family home
1460 communities. In addition to the concern with young adults and teenagers congregating
1461 at the site, the added late night traffic noise and lights generated at fast food
1462 establishments would be a nuisance to the adjacent community. We hope that you will
1463 take the serious concerns of your citizens into consideration with reviewing this plan.
1464 Thank you.

1465
1466 Mr. Vanarsdall - Madam Chairman, I would like to call on the Secretary to
1467 explain to Mr. Evans that this does not go to the Board of Supervisors and it is a plan
1468 of development.

1469
1470 Mr. Silber - Yes, sir, Mr. Vanarsdall. Mr. Evans, Mr. Vanarsdall is
1471 referring to the first sentence in your petition that references the Planning Commission
1472 making a recommendation to the Board of Supervisors. They would not be making a
1473 recommendation to the Board of Supervisors on a plan of development. The way the
1474 process works is when a request for rezoning comes in, when the property is rezoned
1475 to determine appropriate uses for the property, the Planning Commission then does
1476 make recommendation to the Board of Supervisors on a request for rezoning of land.
1477 In this particular case, this property has been rezoned to business, B-2C, and at this
1478 particular time B-2C allows certain uses on this piece of property. The uses are fairly
1479 broad and one of those uses is a fast food restaurant. The Planning Commission's
1480 hands are virtually tied. They don't have the ability according to law to be able to
1481 deny a plan of development that complies with the permitted uses allowed in that
1482 zoning classification. So, unfortunately, that is not a right they have today to deny this
1483 POD based on that premise.

1484
1485 Mr. Evans - OK. Thank you.

1486
1487 Mrs. Ware - I would just like to speak to a couple of the other issues that you
1488 brought up in your petition just so that I can explain. That is what we have been
1489 trying to do today is put some conditions on this plan of development that would help
1490 your neighborhood and the other adjacent neighborhoods, such as decreasing the
1491 lighting, the security level after business hours. The hours are limited here from 6 to
1492 12 in a B-2, so it will not be open past midnight, and I can see where you'd be
1493 concerned about the drag racing and the speeding along the road, but I just suggest that
1494 you continue to contact the police so that they can enforce that. Any more questions

1495 or comments? Thank you. All right. Any more opposition? OK, I am going to make
1496 a motion at this time that POD-15-04 be approved subject to the annotations on the
1497 plans, the standard conditions for developments of this type and added conditions Nos.
1498 23 through 42.

1499
1500 Mr. Vanarsdall - Second.

1501
1502 Mrs. Ware - Motion made by Mrs. Ware and seconded by Mr. Vanarsdall.
1503 All in favor say aye. All opposed say no. The motion passes.

1504
1505 Mr. Silber - Just for the record, that would be with the changes as passed
1506 out, the revisions to 38, 41 and 42, and the removal of 43.

1507
1508 The Planning Commission approved POD-15-04, Wendy's @ John Rolfe Commons
1509 Shopping Center (POD-79-01 Revised) 2120 John Rolfe Parkway, subject to the
1510 annotations on the plans, the standard conditions for developments of this type and the
1511 following additional conditions:

- 1512
- 1513 23. The easements for drainage and utilities as shown on approved plans shall be
1514 granted to the County in a form acceptable to the County Attorney prior to any
1515 occupancy permits being issued. The easement plats and any other required
1516 information shall be submitted to the County Real Property Agent at least sixty
1517 (60) days prior to requesting occupancy permits.
 - 1518 24. The developer shall provide fire hydrants as required by the Department of
1519 Public Utilities and Division of Fire.
 - 1520 25. A standard concrete sidewalk shall be provided along the south side of the
1521 interior access road.
 - 1522 26. Employees shall be required to use the parking spaces provided at the rear of the
1523 building(s) as shown on the approved plans.
 - 1524 27. All repair work shall be conducted entirely within the enclosed building.
 - 1525 28. Outside storage shall not be permitted.
 - 1526 29. The proffers approved as a part of zoning case C-66C-88 shall be incorporated
1527 in this approval.
 - 1528 30. The developer shall install an adequate restaurant ventilating and exhaust system
1529 to minimize smoke, odors, and grease vapors. The plans and specifications
1530 shall be included with the building permit application for review and approval.
1531 If, in the opinion of the County, the type system provided is not effective, the
1532 Commission retains the rights to review and direct the type of system to be
1533 used.
 - 1534 31. Any necessary off-site drainage and/or water and sewer easements must be
1535 obtained in a form acceptable to the County Attorney prior to final approval of
1536 the construction plans.

- 1537 32. Deviations from County standards for pavement, curb or curb and gutter design
 1538 shall be approved by the County Engineer prior to final approval of the
 1539 construction plans by the Department of Public Works.
 1540 33. In the event of any traffic backup which blocks the public right-of-way as a
 1541 result of congestion caused by the drive-up delivery facilities, the
 1542 owner/occupant shall close the drive-up delivery facilities until a solution can be
 1543 designed to prevent traffic backup.
 1544 34. Insurance Services Office (ISO) calculations must be included with the plans and
 1545 contracts and must be approved by the Department of Public Utilities prior to
 1546 the issuance of a building permit.
 1547 35. The conceptual master plan, as submitted with this application, is for planning
 1548 and information purposes only.
 1549 36. The location of all existing and proposed utility and mechanical equipment
 1550 (including HVAC units, electric meters, junction and accessory boxes,
 1551 transformers, and generators) shall be identified on the landscape plans. All
 1552 equipment shall be screened by such measures as determined appropriate by the
 1553 Director of Planning or the Planning Commission at the time of plan approval.
 1554 37. Service to the public is limited to 6:00 a.m. to 12:00 midnight.
 1555 38. Only retail business establishments permitted in a B-2 zone may be located in this
 1556 center.
 1557 39. The ground area covered by all the buildings shall not exceed in the aggregate 25
 1558 percent of the total site area.
 1559 40. No merchandise shall be displayed or stored outside of the building(s) or on
 1560 sidewalk(s).
 1561 41. All dumpsters shall be serviced, and all ground maintenance shall occur in the
 1562 shopping center between the hours of 7:00 a.m. and 11:00 p.m.
 1563 42. Exterior lighting in the shopping center shall be reduced to security level only
 1564 within one hour of the close of business.
 1565

1566 **PLAN OF DEVELOPMENT**

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Jordan Consulting Engineers, P.C. for Hickory Corner, LC: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct six, one-story office buildings totaling 56,900 square feet. The 5.135-acre site is located on the east line of Twin Hickory Road approximately 170 feet north of Nuckols Road on part of parcels 747-773-1506 and 746-772-8676. The zoning is O-2C, Office District (Conditional). County water and sewer. **(Three Chopt)**

Mrs. Ware - Is there any opposition to this case? Good morning.

1571 Mr. Wilhite - Good morning, Madam Chairperson, and Commission members.
1572 This property was rezoned to O-2 in 1999. Originally we had a POD approved back in
1573 the year 2000 for one 3-story office building. The POD before you today is a plan for
1574 six 1-story office buildings, which would be office condominiums with a mix of general
1575 office and medical office uses. We have just spoken with the adjacent property owner
1576 to the north, Mr. Andy Turner, who has some concern about the treatment of the buffer
1577 area adjacent to his property. What was proffered with the rezoning case was a 50 ft.
1578 wide buffer with Leyland Cypress plantings in it and a chain-link fence, which would
1579 have a black vinyl-clad treatment on it. It seems from staff's understanding that he is
1580 satisfied with the treatment. I am sure if he still has any questions that he would like to
1581 ask the Commission though. I'd be happy to answer any questions that you would
1582 have.

1583
1584 Mrs. Ware - Any questions of Mr. Wilhite by the Commission? Can we hear
1585 from the applicant? No applicant.

1586
1587 Mr. Andy Turner - I am Andy Turner.

1588
1589 Mr. Marshall - How are you, Mr. Turner?

1590
1591 Mr. Turner - Fine. 5412 Twin Hickory Lane and anyway my concern has
1592 been since I was looking at one smaller set of drawings and then we have a larger set of
1593 drawings and things like that, I am trying to be a little bit...be general and have made
1594 me pretty comfortable. You know how fences are and things. I have heard some of
1595 them here today how they always get into all of this, and you know, when are they
1596 going to be put up and things like that. Right now I do feel pretty comfortable on the
1597 fence situation as far as the size of it along with adjacent to my property. There has to
1598 be a 6 ft. high fence, 10 ft. spacing between the containers to be set. The posts are to
1599 be in concrete and really I don't know much else that I can really say right now, no
1600 more than I wanted you all, the County, to be aware of the fencing situation and what is
1601 going on there and things like that, and like I say, I was looking at one thing and then I
1602 got an older drawing here that I am relating to, and that made it a little bit confusing for
1603 me, but anyway, I think we are doing OK right now and I appreciate your concern.

1604
1605 Mr. Marshall - I was looking out for you, Mr. Turner.

1606
1607 Mr. Turner - Thank you.

1608
1609 Mr. Marshall - Madam Chairman, I move approval of POD-24-04 subject to the
1610 annotations on the plans, the standard conditions for developments of this type and
1611 additional conditions Nos. 23 through 34, unless there are any amended ones.

1612
1613 Mr. Silber - I think there may be changes to the numbering.

1614

1615 Mr. Marshall - So it is Nos. 23 through 34.
1616
1617 Mr. Vanarsdall - Second.
1618
1619 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall.
1620 All in favor say aye. All opposed say no. The motion passes.
1621
1622 The Planning Commission approved POD-24-04, Hickory Corner – 5350 Twin Hickory
1623 Road, subject to the standard conditions for developments of this type and the following
1624 additional conditions:
1625
1626 23. The easements for drainage and utilities as shown on approved plans shall be
1627 granted to the County in a form acceptable to the County Attorney prior to any
1628 occupancy permits being issued. The easement plats and any other required
1629 information shall be submitted to the County Real Property Agent at least sixty
1630 (60) days prior to requesting occupancy permits.
1631 24. The developer shall provide fire hydrants as required by the Department of
1632 Public Utilities and Division of Fire.
1633 25. A standard concrete sidewalk shall be provided along the north side of Nuckols
1634 Road and the east side of Twin Hickory Road.
1635 26. All repair work shall be conducted entirely within the enclosed building.
1636 27. The proffers approved as a part of zoning case C-70C-99 shall be incorporated
1637 in this approval.
1638 28. The certification of building permits, occupancy permits and change of
1639 occupancy permits for individual units shall be based on the number of parking
1640 spaces required for the proposed uses and the amount of parking available
1641 according to approved plans.
1642 29. Any necessary off-site drainage and/or water and sewer easements must be
1643 obtained in a form acceptable to the County Attorney prior to final approval of
1644 the construction plans.
1645 30. Deviations from County standards for pavement, curb or curb and gutter design
1646 shall be approved by the County Engineer prior to final approval of the
1647 construction plans by the Department of Public Works.
1648 31. Insurance Services Office (ISO) calculations must be included with the plans and
1649 contracts and must be approved by the Department of Public Utilities prior to
1650 the issuance of a building permit.
1651 32. Approval of the construction plans by the Department of Public Works does not
1652 establish the curb and gutter elevations along the Henrico County maintained
1653 right-of-way. The elevations will be set by Henrico County.
1654 33. Evidence of a joint ingress/egress and maintenance agreement must be submitted
1655 to the Planning Office and approved prior to issuance of a certificate of
1656 occupancy for this development.
1657 34. The location of all existing and proposed utility and mechanical equipment
1658 (including HVAC units, electric meters, junction and accessory boxes,

1659 transformers, and generators) shall be identified on the landscape plans. All
1660 equipment shall be screened by such measures as determined appropriate by the
1661 Director of Planning or the Planning Commission at the time of plan approval.
1662

1694 Mr. Marshall - You have the other material, don't you?
1695
1696 Mr. Wilhite - This is a sample showing the color of the proposed building this
1697 time.
1698
1699 Mr. Vanarsdall - Is it going to look like this, really look like this?
1700
1701 Mrs. Ware - The building is going to look like that, but it is not going to have
1702 really. It is going to be a little more subdued.
1703
1704 Mr. Wilhite - The brick color is more or less in keeping with the adjacent
1705 Seasons Restaurant. They have an old fashioned brick look with a white glaze over top
1706 of it, so it will be in line with the adjacent building.
1707
1708 Mrs. Ware - Any more questions of Mr. Wilhite?
1709
1710 Mr. Marshall - Madam Chairman, I am going to move approval of POD-26-04
1711 subject to the annotations on the plans, the standard conditions for developments of this
1712 type and added conditions Nos. 23 through 31. Is there anything we need to add in
1713 about the material, Mr. Silber.
1714
1715 Mr. Vanarsdall - Second.
1716
1717 Mr. Silber - Mr. Wilhite. I think that is covered through the annotation.
1718
1719 Mr. Wilhite - The way the proffer is written is that the buildings had to
1720 primarily be of masonry brick and glass construction. I guess we ought to note for the
1721 record that this is a brick veneer type.
1722
1723 Mr. Silber - I think Mr. Marshall was asking if we needed to have a condition
1724 that indicates the material.
1725
1726 Mr. Wilhite - I think we are covered by the annotation.
1727
1728 Mrs. Ware - Motion made by Mr. Marshall and seconded by Mr. Vanarsdall.
1729 All in favor say aye. All opposed say no. The motion passes.
1730
1731 The Planning Commission approved POD-26-04, The Cheesecake Factory @ Short
1732 Pump Town Center, subject to the annotations on the plans, the standard conditions for
1733 developments of this type and the following additional conditions:
1734
1735 23. The developer shall provide fire hydrants as required by the Department of
1736 Public Utilities and Division of Fire.
1737 24. Outside storage shall not be permitted.

- 1738 25. The proffers approved as a part of zoning case C-29C-98 shall be incorporated
 1739 in this approval.
- 1740 26. The developer shall install an adequate restaurant ventilating and exhaust system
 1741 to minimize smoke, odors, and grease vapors. The plans and specifications
 1742 shall be included with the building permit application for review and approval.
 1743 If, in the opinion of the County, the type system provided is not effective, the
 1744 Commission retains the rights to review and direct the type of system to be
 1745 used.
- 1746 27. Deviations from County standards for pavement, curb or curb and gutter design
 1747 shall be approved by the County Engineer prior to final approval of the
 1748 construction plans by the Department of Public Works.
- 1749 28. Insurance Services Office (ISO) calculations must be included with the plans and
 1750 contracts and must be approved by the Department of Public Utilities prior to
 1751 the issuance of a building permit.
- 1752 29. The location of all existing and proposed utility and mechanical equipment
 1753 (including HVAC units, electric meters, junction and accessory boxes,
 1754 transformers, and generators) shall be identified on the landscape plans. All
 1755 equipment shall be screened by such measures as determined appropriate by the
 1756 Director of Planning or the Planning Commission at the time of plan approval.
- 1757 30. The ground area covered by all the buildings shall not exceed in the aggregate 25
 1758 percent of the total site area.
- 1759 31. No merchandise shall be displayed or stored outside of the building(s) or on
 1760 sidewalk(s).

1761 **SUBDIVISION**

1762 Westcott @ Grey Oaks,
 1763 Section C
 (March 2004 Plan)

**Youngblood, Tyler & Associates, P. C. for Route 271
 and Loftis Real Estate & Development, Inc.:** The
 42.68-acre site purposed for a subdivision of 66 single-
 family homes is located on the south side of Grey Oaks
 Park Drive approximately 1,900 feet east of Pouncey
 Tract Road on part of parcel 738-772-9227 and 739-
 770-0693. The zoning is R-2AC, One-Family Residence
 District (Conditional). County water and sewer. **(Three
 Chopt) 66 Lots**

1764
 1765 Mrs. Ware - Is there any opposition to this case? No opposition. Mr.
 1766 Kennedy.

1767
 1768 Mr. Kennedy - Good morning, again. Westcott @ Grey Oaks is the third section
 1769 of development to be proposed along Grey Oaks Park Drive, which is also known as
 1770 Concept Road 17-1. A tentative plat for the concept road was approved by the
 1771 Commission in November of last year. Construction Plans for the concept road have
 1772 been submitted for administrative approval. In December of last year, tentative plats for

1773 Sections A and B, now know as Blairmont and Stonewick, were approved by the
1774 Commission. On the expedited agenda the Commission reconsidered a revised tentative
1775 plat for Section A, also known as Blairmont, that added an additional lot and also
1776 Section D, which is also known as Turnbridge was approved. Construction Plans for
1777 both Sections A & B have been submitted for administrative approval and are pending
1778 today's approval by the Planning Commission.
1779

1780 Planning staff's concerns are addressed by the plat, however, the Department of Public
1781 Works has recommended disapproval of the plat since the subdivision would consist of
1782 68 lots served by a single point of access. Public Works' departmental policy limits a
1783 subdivision to a maximum of 50 lots from a single point of access. An exception to this
1784 policy would require specific Commission approval. It should be noted that a limited
1785 pedestrian and fire access and utility easement is provided to the property to the east. It
1786 is a 20-foot easement that connects this subdivision to the subdivision to the east. This
1787 easement reflects a similar easement which was approved by the Commission in
1788 January as the XYZ Subdivision. That subdivision also required the planning
1789 Commission to grant a similar waiver or exception to Public Works' policy which
1790 limits subdivisions to 50 lots for one point of access.
1791

1792 Given the emergency access easement, the Fire Marshall has expressed no opposition to
1793 the plan. The plan otherwise satisfies both the proffers on the property and all
1794 applicable ordinance requirements. The engineer and the developer are present and are
1795 both available to answer any questions you may have.
1796

1797 Mrs. Ware - Any questions for Mr. Kennedy?
1798

1799 Mr. Marshall - Mr. Kennedy, do we need 19, since there has been the prior
1800 access easement. You pointed out that they have provided that.
1801

1802 Mr. Kennedy - They have provided. The agreement just has to be approved. If it
1803 is an easement agreement it has to be approved.
1804

1805 Mr. Marshall - So they can't do more than 50 until they get that easement
1806 agreement in?
1807

1808 Mr. Kennedy - Right. Once they go over 50 they have to have a second point of
1809 access.
1810

1811 Mr. Vanarsdall - It doesn't guarantee it won't go through.
1812

1813 Mr. Kennedy - It will be limited to fire access, basically.
1814

1815 Mr. Marshall - So they are willing to tie their hands as far as that is concerned.
1816

1817 Mr. Kennedy - That is right.

1818

1819 Mr. Marshall - Madam Chairman, I move approval of Subdivision Westcott @
1820 Grey Oaks, Section C (March 2004 Plan), subject to the annotations on the plan and
1821 standard conditions for subdivisions of this type and additional conditions Nos. 12
1822 through 19.

1823

1824 Mr. Vanarsdall - Second.

1825

1826 Mrs. Ware - Motion made by Mr. Marshall, seconded by Mr. Vanarsdall. All
1827 in favor say aye. All opposed say no. The motion passes.

1828

1829 The Planning Commission approved Subdivision Westcott @ Grey Oaks, Section C
1830 (March 2004 Plan), subject to the annotations on the plans, the standard conditions for
1831 subdivisions served by public utilities and the following additional conditions:

1832

1833 12. The detailed plant list and specifications for the landscaping to be provided within
1834 the 10-foot-wide planting strip easement along Grey Oaks Park Drive shall be
1835 submitted to the Planning Office for review and approval prior to recordation of
1836 the plat.

1837 13. A County standard sidewalk shall be constructed along the north side of Grey
1838 Oaks Park Drive.

1839 14. Any necessary offsite drainage easements must be obtained prior to approval of
1840 the construction plan by the Department of Public Works.

1841 15. The proffers approved as part of zoning case C-16C-03 shall be incorporated in
1842 this approval.

1843 16. Prior to requesting the final approval, a draft of the covenants and deed
1844 restrictions for the maintenance of the common area by a homeowners
1845 association shall be submitted to the Planning Office for review. Such
1846 covenants and restrictions shall be in form and substance satisfactory to the
1847 County Attorney and shall be recorded prior to recordation of the subdivision
1848 plat.

1849 17. Prior to recordation a development agreement for the proffered recreational area
1850 must be submitted for review and approval by the Director of Planning. The
1851 development agreement shall provide for the dedication of the recreational area, a
1852 master plan for the recreational area and a performance schedule or bond for the
1853 proffered recreational area amenities.

1854 18. Any future building lot containing a BMP, sediment basin or trap and located
1855 within the buildable area for a principal structure or accessory structure, may be
1856 developed with engineered fill. All material shall be deposited and compacted in
1857 accordance with the Virginia Uniform Statewide Building Code and geotechnical
1858 guidelines established by a professional engineer. A detailed engineering report
1859 shall be submitted for the review and approval by the Building Official prior to
1860 the issuance of a building permit on the affected lot. A copy of the report and

1861 recommendations shall be furnished to the Directors of Planning and Public
1862 Works.
1863 19. A maximum of 50 lots may be developed with a single point of access, unless a
1864 limited (pedestrian and fire) access and utility easement is provided to the
1865 property to the east.
1866

1866 **PUBLIC HEARING: AMENDMENT TO THE MAJOR THOROUGHFARE**
1867 **PLAN OF THE COMPREHENSIVE PLAN: MTP-1-04 Proposed Deletion of Kara**
1868 **Drive, Forest Drive and Concept Road 219-1 between Yahley Mill Road and**
1869 **Charles City Road.**

1870

1871 Mr. Silber - That concludes review and consideration of plans of development
1872 and subdivisions. Next on the agenda is a public hearing on the Amendment to the
1873 Major Thoroughfare Plan of the Comprehensive Plan: MTP-1-04 Proposed Deletion of
1874 Kara Drive, Forest Drive and Concept Road 219-1 between Yahley Mill Road and
1875 Charles City Road. The Commission may recall that about a month or six weeks ago
1876 the Commission initiated the study. The staff has completed this study and has
1877 scheduled public hearing this morning. Mr. Bittner is going to explain staff's position.

1878

1879 Mrs. Ware - Was there anyone here to speak in opposition to this? Mr.
1880 Bittner, good morning.

1881

1882 Mr. Bittner - Thank you, Madam Chairman. These roads are planned to
1883 provide roadway connections between anticipated future subdivisions in the area north
1884 of Darbytown Road, south of Charles City Road, east of Yahley Mill Road, and along
1885 Gill Dale Road. Elimination of these roads is requested by the applicant of a proposed
1886 subdivision in this area, Dorey Mill. This subdivision, in its present design form,
1887 would have access to Gill Dale Road and Darbytown Road via Bradbury Road. It
1888 would not connect to Kara Drive and Forest Drive as currently required by the MTP.
1889 The Department of Public Works has stated these roads are a vital link in the County's
1890 Major Thoroughfare Plan in this area and they should remain in the plan as currently
1891 shown. Staff, therefore, does not support this amendment and would prefer the MTP
1892 remain in its current form. If these roads are to be eliminated, the Department of
1893 Public Works also recommends consideration of a new Concept Road north of Kara
1894 Drive that would connect to Forest Drive and Concept Road 219-1. This road could
1895 also provide a Yahley Mill access to the Dorey Mill Subdivision. This new road would
1896 insure the Thoroughfare Plan remains intact and would eliminate the concern of traffic
1897 traversing through an existing established neighborhood. This concludes my
1898 presentation. I'd be happy to answer any questions you might have.

1899

1900 Mr. Vanarsdall - I already talked to Mr. Bittner.

1901

1902 Mrs. Ware - I don't have any questions. From what you said, you are
1903 suggesting an alternative.

1904

1905 Mr. Bittner - Yes, we did suggest an alternative.

1906

1907 Mrs. Ware - Yes, from what I read you suggested an alternative.

1908

1909 Mr. Archer - Can you kind of show us that on here, Mark, where the
1910 alternative will go?
1911 Mr. Bittner - Yes, if we could go to the Dorey Hill Road Subdivision slide, it
1912 is a little difficult to see, but basically the very top of this, right in that area is a strip of
1913 land that is part of the property that the subdivision will be on that extends out to
1914 Yahley Mill Road. There have been discussions on putting a road through there so the
1915 subdivision would have three accesses and not just the two that are currently being
1916 proposed. Public Works...
1917
1918 Mr. Silber - Actually, it is further down, Mark. A little further to the east.
1919
1920 Mr. Bittner - To the right.
1921
1922 Mrs. Ware - To where that cul-de-sac is?
1923
1924 Mr. Bittner - The very top of the plan. Maybe, Dave, you can point it out.
1925
1926 Mr. Silber - Who is operating the hand?
1927
1928 Mr. O'Kelly - If we go to the insert at the northwest corner of this plat, there is
1929 a strip of land shown in that insert diagram.
1930
1931 Mr. Silber - The laser pointer, I am going to have to point up here, and then
1932 you guys look at the screen. Sorry for the low technology we have. This is Yahley
1933 Mill along this side of the subdivision. This insert right here is sitting on top of this
1934 point right here, so what staff is recommending is that there be some other way of
1935 getting this subdivision traffic distributed to Yahley Mill, and we are suggesting that it
1936 go out in this direction, which would extend out through this stem to Yahley Mill,
1937 which is right here. What that would do then is distribute traffic that goes to Gill Dale,
1938 to Darbytown, and to Yahley Mill. The Major Thoroughfare Plan has adopted on the
1939 plan Kara Drive coming through in this fashion and coming to Forest to come down to
1940 tie into Gill Dale, and then an extension of 219-1 going over to Charles City Road.
1941 The County's position is that we do not support the deletion of these Concept Roads,
1942 but if that is going to be contemplated by the Planning Commission and the Board, then
1943 we are suggesting that this subdivision, when it is considered by the Planning
1944 Commission, have an excess out to Yahley Mill in this direction.
1945
1946 Mrs. Ware - So what that does is it opens up this area in question for the
1947 development of the subdivision, but it just gives another option of getting out that is in
1948 a different direction than all of the other ways.
1949
1950 Mr. Silber - That is correct. It would not be a Major Thoroughfare Plan
1951 Road. The depth of the base material would be different. It does not have to be a
1952 straight shot. It can meander through the subdivision, but we believe that at least if the

1953 MTP Road is deleted, we believe there should at least be a means of access out to
1954 Yahley Mill to distribute the traffic in three different directions.
1955
1956 Mr. Marshall - How many lots is that?
1957
1958 Mr. Silber- I believe it is 134.
1959
1960 Mrs. Ware - It is a lot of lots. And the other...
1961
1962 Mr. Marshall - And that land is owned by the developer?
1963
1964 Mr. Silber - Yes. See this strip of land that goes out to Yahley Mill, that is
1965 owned and controlled by the developer.
1966
1967 Mr. Marshall - But he is not proposing lots or anything for it?
1968
1969 Mr. Silber - No, they are proposing the subdivision to have a cul-de-sac here
1970 and with just lots backing up.
1971
1972 Mr. Marshall - So it is not that burdensome for him to run it out there?
1973
1974 Mr. Silber - He can speak to that. It is our recommendation that it go
1975 through.
1976
1977 Mrs. Ware - That it go through? The other consideration that I just want to
1978 mention from my perspective is roads have been removed from the Major
1979 Thoroughfare Plan in the past since I have been on the Commission, and there are some
1980 issues where a lot of the roads have been removed as far as traffic issues, traffic
1981 circulation that exists in areas of new development and I just don't want to see
1982 something like that happening in another area of the County that might be getting ready
1983 to experience growth perhaps. I mean it is important to...
1984
1985 Mr. Marshall - I think what staff has proposed is reasonable.
1986
1987 Mrs. Ware - You don't just cut everything off.
1988
1989 Mr. Marshall - I think it is reasonable.
1990
1991 Mrs. Ware - Yes, I do, too.
1992
1993 Mr. Marshall - And it gives them three accesses for a little less than 50 lots for
1994 each access.
1995

1996 Mr. Silber - There is a property owner that owns property in this vicinity,
1997 also, that supports this position. He is concerned about a substantial portion of this
1998 coming out onto Gill Dale and Gill Dale carrying so much of the traffic. This would
1999 allow for better distribution so they adopt three different collector roads.
2000
2001 Mrs. Ware - I can understand that.
2002
2003 Mr. Silber - Now what is before the Commission today is simply this request
2004 to amend the Major Thoroughfare Plan.
2005
2006 Mr. Marshall - You could require the subdivision – before approval of the
2007 subdivision – that they construct that road.
2008
2009 Mr. Silber - Yes. If the subdivision is not before you, the subdivision would
2010 be on the Planning Commission’s April 21 agenda. This matter, if the Commission
2011 takes action on this today, would go to the Board of Supervisors the first meeting in
2012 April and the subdivision would be on the Planning Commission’s April 21st agenda.
2013
2014 Mrs. Ware - OK, so we would either have to remove or not remove the road
2015 at this point.
2016
2017 Mr. Vanarsdall - Today is to remove or not Kara Drive, Forest Drive and Concept
2018 Road 219-1.
2019
2020 Mr. Archer - And bear in mind that there will be another public hearing to
2021 discuss this when it comes before the Board. Right?
2022
2023 Mr. Silber - Correct.
2024
2025 Mrs. Ware - But we get the subdivision next month and can ask for the access.
2026
2027 Mr. Archer - Yes, but we can’t tie the two things together.
2028
2029 Mr. Silber - I think today you may make some comment that you could
2030 perhaps support the removal of the Major Thoroughfare Plan roads with the
2031 understanding that you think there is benefit to seeing better distribution with this
2032 Dorey Mill Subdivision when it comes before you.
2033
2034 Mr. Archer - Well, I would like to suggest then that if the Commission should
2035 see fit to make this recommendation to the Board that it be with a condition that the
2036 proposed road be a part of that subdivision.
2037
2038 Mr. Marshall - I think it would be better to defer to the same meeting as to when
2039 the subdivision comes up.

2040

2041 Mr. Silber - Well, except that what they propose to do here is not in
2042 compliance with the Major Thoroughfare Plan. You cannot act on this subdivision,
2043 because it conflicts with the Major Thoroughfare Plan. So, the Major Thoroughfare
2044 Plan has to be amended.

2045

2046 Mr. Marshall - Right, but at our meeting on the 21st, it is, if we act on the Major
2047 Thoroughfare Plan and then act on the subdivision.

2048

2049 Mr. Silber - But the Board of Supervisors would not have acted on the Major
2050 Thoroughfare Plan.

2051

2052 Mr. Vanarsdall - I think we should send it on to the Board and let them do
2053 something with it, whatever they want to do.

2054

2055 Mrs. Ware - But then we have also stated for the record that we want to see
2056 the developer provide another access. Would that be a part of the motion?

2057

2058 Mr. Archer - If we do it, then I think that condition should be stated
2059 somewhere.

2060

2061 Mr. Vanarsdall - Yes, I do, too.

2062

2063 Mr. Silber - I think it could be a statement of intent, the subdivision is not
2064 before you today, but I think it could be a statement of intent that you would like to see
2065 distribution of traffic to Yahley Mill when you consider the subdivision.

2066

2067 Mrs. Ware - That can be a part of the motion that you are making.

2068

2069 Mr. Vanarsdall - I am ready for a motion. I had thought Mr. Donati was going to
2070 be here today because Mr. Jernigan said that he was going to check with Mr. Donati,
2071 which he did, and Mr. Donati wanted this all removed, but I think it is a good
2072 suggestion that we have a way out, so I recommend to the Board of Supervisors that the
2073 Kara Drive, Forest Drive and Concept Road 219-1 be removed, but that we have
2074 another access point.

2075

2076 Mr. Marshall - Second.

2077

2078 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Marshall.
2079 All in favor say aye. All opposed say no. The motion passes.

2080

2081 The Planning Commission recommended to the Board of Supervisors for approval the
2082 AMENDMENT TO THE MAJOR THOROUGHFARE PLAN OF THE

2083 COMPREHENSIVE PLAN: MTP-1-04 Proposed Deletion of Kara Drive, Forest
2084 Drive and Concept Road 219-1 between Yahley Mill Road and Charles City Road.

2085

2086 Mr. Vanarsdall - Another thing, I don't know if you all, somebody mentioned
2087 before this is already advertised in the paper. Of course, it doesn't say it was
2088 advertised because the Planning Commission wanted to do it or not do it.

2089

2090 Mr. Marshall - It is presumptuous by the Board to advertise something that we
2091 have not acted on.

2092

2093 Mr. Vanarsdall - You can't develop the subdivision with all of those streets in it
2094 and it probably wouldn't be as good as it is now if we hadn't.

2095

2096 Mr. Silber - Members of the Commission, I do have a couple of
2097 announcements.

2098

2099 Mr. Vanarsdall - How about the minutes?

2100

2101 Mr. Silber - Oh, yes, of February 25, 2004.

2102

2103 Mr. Vanarsdall - I move that we approve the minutes.

2104

2105 Mr. Archer - Second.

2106

2107 Mrs. Ware - Motion made by Mr. Vanarsdall and seconded by Mr. Archer.
2108 All in favor say aye. All opposed say no. The motion passes. The minutes are
2109 approved.

2110

2111 Mr. Vanarsdall - I have faith in those ladies back there, that Diana is going to type
2112 them like we said.

2113

2114 Mrs. Ware - I need to mention something. We were planning on meeting after
2115 the plan of development meeting next month for a discussion session of various issues
2116 that affect the Planning Commission. I have a conflict that day and will not be at the
2117 Planning Commission meeting. Mr. Vanarsdall will have to step in for me.

2118

2119 Mr. Vanarsdall - I suggest that we set it on a day or night that you can be here,
2120 because that was the reason Randy wouldn't change it before, because...

2121

2122 Mrs. Ware - No, if was for today but Ray could not be here. What about
2123 prior to the rezoning meeting that month? April 15th.

2124

2125 Mr. Silber - I don't know if we could be ready by then. How about the
2126 rezoning meeting in May and perhaps we can feed you dinner and talk with you.

2127
2128 Mr. Vanarsdall - May 13th, right?
2129
2130 Mrs. Ware - Yes, May 13th, that is correct.
2131
2132 Mr. Vanarsdall - And did I hear meal?
2133
2134 Mr. Silber - Yes, what time would you like to start?
2135 Mr. Archer - Depends on how much we have to eat.
2136
2137 Mr. Silber - Maybe we need to determine how long we are going to talk. We
2138 also wanted to, Mr. Archer, several months ago mentioned that he would like the staff
2139 to take a look at standards for tot lots in residential subdivisions, so staff has been
2140 working diligently on this. We almost have it finished, but not quite. We would like to
2141 add that to the discussion item at that dinner, so we would have both the tot lot
2142 discussion and the Planning Commission discussion, so I suppose if we start at 5:30
2143 p.m. we can get through both of those. Mr. Emerson or Mr. O’Kelly, would that seem
2144 appropriate based on information you guys have to present?
2145
2146 Mr. Vanarsdall - I thought we were just going to have a Planning Commission
2147 meeting and nothing else. Are you saying incorporate the tot lots in with the Planning
2148 Commission meeting?
2149
2150 Mr. Silber - We are going to have a discussion with the Planning Commission
2151 to talk about some of the procedures and matters, and we are hoping to be able to talk,
2152 if the Commission wants to talk, about the tot lot standards.
2153
2154 Mr. Vanarsdall - OK, suits me.
2155
2156 Mr. Silber - If we start at 5:30 I think we can get through both of those items
2157 and feed you and come down here to the 7:00 meeting.
2158
2159 Mrs. Ware - We can eat and talk at the same time.
2160
2161 Mr. Silber - OK, we will do that on the 13th at 5:30 p.m. One other item, you
2162 probably all have received this by now and have read this, but the County Attorney was
2163 served with suit papers in the case of Camp Holly Springs, Inc. versus Henrico County
2164 Planning Commission. So Camp Holly is seeking a court order declaring the Planning
2165 Commission acted improperly in approving the preliminary plan for the subdivision. I
2166 have not had a chance to talk to the County Attorney regarding this. I just received this
2167 late yesterday afternoon. I do intend to talk to him to find out what needs to be done at
2168 this point. He does have to prepare a response to this suit by Friday, April 9, 2004.
2169 Did you all receive a copy of this?
2170

2171 All Commissioners - Yes, we got it.
2172
2173 Mr. Marshall - I am just waiting for the process server, but I have not seen him
2174 yet.
2175
2176 Mr. Vanarsdall - The Sheriff brought mine, and what I did, I called Mr. Marshall
2177 and asked him would he represent us, and he said that he'd have a conflict, so that just
2178 shows you what kind of a fellow he is.
2179
2180 Mr. Silber - I have no other business.
2181
2182 Mr. Archer - Madam Chairman, I move for adjournment.
2183
2184 Mr. Marshall - Second.
2185
2186 Mrs. Ware - Motion made to adjourn by Mr. Archer and seconded by Mr.
2187 Marshall. All in favor say aye. All opposed say no. The motion passes. The meeting
2188 is adjourned.
2189
2190 On a motion by Mr. Archer and seconded by Mr. Marshall, the Planning
2191 Commissioned adjourned its March 24, 2004, meeting at 10:57 a.m.
2192
2193
2194
2195
2196

Lisa D. Ware, C.P.C., Chairperson
2197
2198
2199
2200
2201

Randall R. Silber, Secretary