

1 Minutes of the regular monthly meeting of the Planning Commission of Henrico County
2 held in the County Administration Building in the Government Center at Parham and
3 Hungary Spring Roads beginning at 9:00 a.m. Wednesday, March 28, 2012.
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Members Present: Mr. Tommy Branin, Chairman (Three Chopt)
Mrs. Bonnie-Leigh Jones, Vice-Chairperson, C.P.C. (Tuckahoe)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Eric Leabough (Varina)
Mr. Robert H. Witte, Jr. (Brookland)
Mr. R. Joseph Emerson, Jr., AICP,
Director of Planning, Secretary
Mr. Frank J. Thornton,
Board of Supervisors' Representative

Others Present: Mr. David D. O'Kelly, Assistant Director of Planning
Ms. Leslie A. News, CLA, Principal Planner
Mr. Kevin D. Wilhite, C.P.C., AICP, County Planner
Mr. Michael F. Kennedy, County Planner
Ms. Christina L. Goggin, AICP, County Planner
Mr. Tony Greulich, C.P.C., County Planner
Mr. Matt Ward, County Planner
Mr. Gregory Garrison, County Planner
Mr. Lee Pambid, C.P.C., County Planner
Ms. Aimee Berndt, AICP, County Planner
Mr. Tommy Catlett, Traffic Engineering
Mr. Jeff Perry, Public Works
Ms. Kim Vann, Henrico Police
Mr. Eric Dykstra, Office Assistant/Recording Secretary

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6 **Mr. Frank J. Thornton, the Board of Supervisors' representative, abstains from**
7 **voting on all cases unless otherwise noted.**
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9 Mr. Branin - I'd like to call the Henrico County Subdivisions and Plans of
10 Development meeting to order for March 28, 2012, and welcome everyone that's in
11 attendance. Do we have any press in the audience? None? I would like to wish a good
12 morning to our sitting Board member, the Honorable Frank Thornton. I would like
13 everybody to now stand for the Pledge of Allegiance.
14

15 Mr. Secretary?
16

17 Mr. Emerson - Thank you, Mr. Chairman. First, on your agenda this morning,
18 are requests for deferrals and withdrawals, and those will be presented by Ms. Leslie
19 News.
20

21 Ms. News - Good morning, Mr. Chairman, members of the Commission.
22 We have 2 requests for deferrals on our agenda this morning. The first is found on page

23 seven of your agenda, and is located in the Fairfield District. This is a TOA for POD-02-
24 00, part of the POD Park Central III. There is a request by the Planning Commission to
25 defer this to April 25, 2012.

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27

28 **TRANSFER OF APPROVAL**

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POD-02-00 (Part) POD2011-00433 Park Central III – 8831 Park Central Drive	CB Richard Ellis for C.S. Richmond Corporation: Request for transfer of approval of a portion of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code from Park Central Associates, LC and Robinson Development Group, Inc. to C.S. Richmond Corporation. The 6.37-acre site is located on the east line of Park Central Drive, approximately 2000 feet north of the intersection of Park Central Drive and East Parham Road, on parcel 789-760-7494. The zoning is M-1C, Light Industrial District (Conditional). County water and sewer. (Fairfield)
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31 Mr. Branin - Is anyone in opposition to the deferral of transfer of approval
32 POD-02-00 (Part), Park Central III? No one?

33

34 Mr. Archer - All right, Mr. Chairman, then I will move for deferral of this
35 transfer of approval POD-02-00 (Part), Park Central III, at the request of the
36 Commission.

37

38 Mrs. Jones - Second.

39

40 Mr. Branin - Motion by Mr. Archer, seconded by Mrs. Jones. All in favor
41 say aye. All opposed say no. The ayes have it; the motion passes.

42

43 At the request of the Commission, the Planning Commission deferred transfer of
44 approval POD-02-00 (Part), Park Central III, to its April 25, 2012 meeting.

45

46 Ms. News - The next item is on page 18 of your agenda and is located in
47 the Varina District. This is SUB2012-00020, Osborne Glen (March 2012 Plan). The
48 applicant has requested deferral to the April 25, 2012 meeting.

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51 **SUBDIVISION**

52 SUB2012-00020 **Burgess and Niple for Wilton Investment Corp.:** The
Osborne Glen (March 2012 Plan) – 7200 65-acre site proposed for a subdivision of 43 single-family
Osborne Turnpike homes is located at the northwest corner of the
intersection of Osborne Turnpike and Sholey Road on
parcel 800-695-7559. The zoning is A-1, Agricultural
District. County water and sewer. **(Varina) 43 Lots**

53
54 Mr. Branin - Is anyone in opposition to the deferral of SUB2012-00020,
55 Osborne Glen (March 2012 Plan)? No one?

56
57 Mr. Leabough - Mr. Chairman, I move that we defer SUB2012-00020,
58 Osborne Glen (March 2012 Plan), to the April 25, 2012 Planning Commission meeting.

59
60 Mrs. Jones - Second.

61
62 Mr. Branin - Motion made by Mr. Leabough, seconded by Mrs. Jones. All
63 in favor say aye. All opposed say no. The ayes have it; the motion passes.

64
65 At the request of the applicant, the Planning Commission deferred SUB2012-00020,
66 Osborne Glen (March 2012 Plan), to its April 25, 2012 meeting.

67
68 Ms. News - Staff is not aware of any further requests for deferrals.

69
70 Mr. Emerson - Mr. Chairman, unless the Commission has any deferrals they
71 would like to enter at this time, we'll move on to the expedited agenda, which also will be
72 presented by Ms. Leslie News.

73
74 Ms. News - We have 5 items on our expedited agenda this morning. The
75 first item is found on page 3 of your agenda and is located in the Varina District. This is a
76 transfer of approval for POD-21-70, Townhomes of Oakleys, (Formerly Wedgewood
77 Village Apartments). Staff recommends approval.

78
79 **TRANSFER OF APPROVAL**

80
POD-21-70 **Jeffrey Bisger for Oakleys Townhouses, LLC:** Request
POD2010-00358 for transfer of approval as required by Chapter 24, Section
Townhomes of Oakleys 24-106 of the Henrico County Code from Foundation
(Formerly Wedgewood Housing, Inc. to Oakleys Townhouses, LLC. The 11.5-acre
Village Apartments) – site is located 415 feet north of the intersection of Finlay
4633 Needham Court Street and Sydclay Drive, on parcel 816-716-9044. The
zoning is R-5, General Residential District and ASO,
Airport Safety Overlay District. County water and sewer.
(Varina)

82 Mr. Branin - Is anybody in opposition to transfer of approval for POD-21-
83 70, Townhomes of Oakleys (Formerly Wedgewood Village Apartments)? No one.

84
85 Mr. Leabough - Mr. Chairman, I move that we approve the transfer of
86 approval for POD-21-70, Townhomes of Oakleys (Formerly Wedgewood Village
87 Apartments).

88
89 Mr. Archer - Second.

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91 Mr. Branin - Motion by Mr. Leabough, seconded by Mr. Archer. All in favor
92 say aye. All opposed say no. The ayes have it; the motion passes.

93
94 The Planning Commission approved the transfer of approval request for POD-21-70,
95 Townhomes of Oakleys (Formerly Wedgewood Village Apartments), from Foundation
96 Housing, Inc. to Oakleys Townhouses, LLC, subject to the standard and added
97 conditions previously approved and the following additional condition:

- 98
99 1. The site deficiencies as identified in the inspection report dated November 18,
100 2010 shall be completed by June 30, 2012.

101
102 Ms. News - Next, on page 4 of your agenda and located in the Fairfield
103 District, is a transfer of approval for POD-130-83, Brother's Keeper, Inc. (Formerly Jody's
104 Music Store). Staff recommends approval.

105
106 **TRANSFER OF APPROVAL**

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109 **POD-130-83 David Banks for Brother's Keeper, Inc.:** Request for
110 **POD2011-00481** transfer of approval as required by Chapter 24, Section 24-
111 **Brother's Keeper, Inc.** 106 of the Henrico County Code from Jouda and Virginia
112 **(Formerly Jody's Music** Hadad and Jody's Music Store to Jong Lim. The 0.44-acre
113 **Store) – 54 E. Cedar Fork** site is located on the west line of E. Cedar Fork Road,
114 **Rd.** approximately 215 feet north of the intersection of E.
115 Cedar Fork Road and Nine Mile Road (State Route 33), on
116 parcel 813-725-4634. The zoning is B-2, Business District
and ASO, Airport Safety Overlay District. County water
and sewer. **(Fairfield)**

108
109 Mr. Branin - Is anyone in opposition to transfer of approval for POD-130-
110 83, Brother's Keeper, Inc. (Formerly Jody's Music Store)? No one.

111
112 Mr. Archer - Mr. Chairman, I move approval of transfer of approval for
113 POD-130-83, Brother's Keeper, Inc. (Formerly Jody's Music Store).

114
115 Mrs. Jones - Second.

116

117 Mr. Branin - Motion made by Mr. Archer, seconded by Mrs. Jones. All in
118 favor say aye. All opposed say no. The ayes have it; the motion passes.

119
120 The Planning Commission approved the transfer of approval request for POD-130-83,
121 Brother's Keeper, Inc. (Formerly Jody's Music Store), from Jouda and Virginia Hadad
122 and Jody's Music Store to Jong Lim, subject to the standard and added conditions
123 previously approved.

124
125 Ms. News - Next on page 5 of your agenda and located in the Fairfield
126 District is a transfer of approval for POD-59-80, 34-83, 55-85, and 13-86, Parham One
127 Shopping Center. Staff recommends approval.

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129 **TRANSFER OF APPROVAL**

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POD-59-80, 34-83, 55-85, and 13-86, **Thalhimer and Kalikow Bros., Inc. for Parham Shopping Center, LLC:** Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from Robert B. Ball and Parham One Center, LLC to Parham Shopping Center, LLC. The 7.85-acre site is located on the southeast corner of the intersection of Brook Road (U.S. Route 1) and E. Parham Road, on parcels 784-756-6908, 784-756-6533, 785-756-0316, and 784-755-5085. The zoning is B-3, Business District. County water and sewer. **(Fairfield)**

131
132 Mr. Branin - Is there anyone in opposition to transfer of approval for POD-
133 59-80, 34-83, 55-85, and 13-86, Parham One Shopping Center? No one.

134
135 Mr. Archer - Mr. Chairman, I move approval of transfer of approval for
136 POD-59-80, 34-83, 55-85, and 13-86, Parham One Shopping Center.

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138 Mrs. Jones - Second.

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140 Mr. Branin - Motion by Mr. Archer, seconded by Mrs. Jones. All in favor
141 say aye. All opposed say no. The ayes have it; the motion passes.

142
143 The Planning Commission approved the transfer of approval request for POD-59-80, 34-
144 83, 55-85, and 13-86, Parham One Shopping Center, from Robert B. Ball and Parham
145 One Center, LLC to Parham Shopping Center, LLC, subject to the standard and added
146 conditions previously approved and the following additional condition:

- 147
148 1. All deficiencies, as identified in staff's letter dated October 4, 2010, shall be
149 corrected no later than March 30, 2012.

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TRANSFER OF APPROVAL

POD-50-06
POD2012-00018
St. Mary's Hospital Maple
Avenue Parking Lot –
6202 W. Franklin Street

Howie Long for 6203 Monument Avenue, LLC: Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from St. Mary's Hospital of Richmond and Maple Avenue Holdings, LLC to 6203 Monument Avenue, LLC. The 1.84-acre site is located on the southwest corner of the intersection of Monument and Maple Avenues, north of W. Franklin Street, on parcels 768-738-1260 and 2447. The zoning is O-3C, office District (Conditional). County water and sewer. **(Brookland)**

180

181 Mr. Branin - Is anyone in opposition to transfer of approval for POD-50-06,
182 St. Mary's Hospital Maple Avenue Parking Lot? No one?

183

184 Mr. Witte - Mr. Chairman, I move we approve transfer of approval for
185 POD-50-06, St. Mary's Hospital Maple Avenue Parking Lot.

186

187 Mrs. Jones - Second.

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189 Mr. Branin - Motion by Mr. Witte, seconded by Mrs. Jones. All in favor say
190 aye. All opposed say no. The ayes have it; the motion passes.

91

192 The Planning Commission approved the transfer of approval request for POD-50-06, St.
193 Mary's Hospital Maple Avenue Parking Lot from St. Mary's Hospital of Richmond and
194 Maple Avenue Holdings, LLC to 6203 Monument Avenue, LLC, subject to the standard
195 and added conditions previously approved.

196

197 Ms. News - That completes our expedited agenda.

198

199 Mr. Emerson - Mr. Chairman, that now takes us to Subdivision Extensions of
200 Conditional Approval, and there are none this morning. That moves us into your regular
201 agenda on page 6 and also your amended agenda page 1.

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203

204 **TRANSFER OF APPROVAL**

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POD-102-85
POD2011-00384
Olde Towne Shopping
Center – 7801 W. Broad
Street (U.S. Route 250)

CB Richard Ellis for Olde Towne Retail Investments, LLC: Request for transfer of approval as required by Chapter 24, Section 24-106 of the Henrico County Code from 2001 of Richmond, Inc. and Poag and Thomason to Old Towne Retail Investments, LLC. The 9.99-acre site is located on the south line of W. Broad Street (U.S. Route 250), approximately 550 feet east of the intersection of Hungary Spring Road and W. Broad Street, on parcel 764-750-7286. The zoning is B-3, Business District. County water and sewer. **(Tuckahoe)**

206

207 Mr. Branin - Good morning, Mr. Pambid; how are you?

208

209 Mr. Pambid - Good morning, Mr. Chairman, members of the Planning
210 Commission.

211

212 First of all, the new owner agrees to be responsible for continued compliance with the
213 conditions of the original approval. In your addendum, staff reports that all deficiencies
214 have been corrected or contracted to be corrected. Deficiencies that have been
215 corrected include missing landscaping, faded crosswalks and stop bars, and
216 handicapped parking signs. Signed contracts for the construction of trash enclosures
217 have been provided; therefore staff recommends approval of the transfer request with
218 the condition that enclosures be completed by June 30, 2012.

219

220 This concludes my presentation. I can now field any questions you may have.

221

222 Mr. Branin - I have one. Is anyone in opposition to transfer of approval for
223 POD-102-85, Olde Towne Shopping Center? No one. Does anyone have any questions
224 for Mr. Pambid?

225

226 Mrs. Jones - Mr. Pambid, you are satisfied that all the requirements have
227 been met for this transfer, correct?

228

229 Mr. Pambid - Yes ,ma'am.

230

231 Mrs. Jones - Okay. All right. I appreciate your work on this. With that, I'd
232 like to move for approval of the transfer of approval for POD-102-85, Olde Towne
233 Shopping Center, with the addendum item #1 about the dumpster enclosures being
234 completed by the end of June of this year.

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236 Mr. Archer - Second.

237

238 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Archer. All in favor
239 say aye. All opposed say no. The ayes have it; the motion passes.

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The Planning Commission approved the transfer of approval request for POD-102-85, Olde Towne Shopping Center, from 2001 of Richmond, Inc. and Poag and Thomason to Old Towne Retail Investments, LLC, subject to the standard and added conditions previously approved and the following additional condition:

1. The dumpster enclosures shall be completed by June 30, 2012.

SUBDIVISION (*Deferred from the February 22, 2011 Meeting*)

SUB-09-11
SUB2011-00088
Westin (October 2011
Plan) – Axe Handle Lane

Youngblood, Tyler, and Associates for HHHunt Corporation: The 49.911-acre site proposed for a subdivision of 40 single family homes is located at the northern terminus of Axe Handle Lane, approximately 280 feet north of Sawdust Drive, on parcel 732-774-7514. The zoning is A-1, Agricultural District. County water and individual on-site sewage disposal system. **(Three Chopt) 40 Lots**

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Mr. Branin - Is anyone in opposition to SUB-09-11, Westin (October 2011 Plan)? No one? Okay, Mr. Wilhite.

Mr. Wilhite - Thank you, Mr. Chairman.

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The proposal before you today is a revision to the Westin (January 2005 Plan), which approved 34 single-family lots in an A-1 District on well and septic. The revised layout you have is proposing water to be extended to this subdivision from the adjacent Stonehurst subdivision. It also proposes adding 6 additional lots for a total of 40 lots.

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The issue that's caused this case to be deferred a number of times since it was filed was the staff's recommendation of a second point of access to be provided to serve this subdivision. County policy from the Design Manual, Public Works, is to provide a second point of access when you have more than 50 lots on a single point of access for a single-family development.

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The applicant has spent time looking at a number of options to try to provide a second point of access. He spoke to the developer of the adjacent Stonehurst subdivision to try to extend that road to serve this parcel. He's also talked to the owner of the Hall parcel, which is located here just to the south, about extending Sawdust Drive across it to connect with Heather Grove Road. Another option he's looked at, and the one that he's been trying to pursue, is the purchase of a lot here that's not buildable in order to extend a road from Heather Grove Road to the adjacent subdivision, Westridge East, which would include a cul-de-sac design, extend the road all the way through, and connect here to provide a second point of access.

277 He actually had an agreement in place with the owner of that lot. However, after further
278 research he found out there were covenants associated with this subdivision that
279 prohibited the use of this lot for anything other than residential purposes. In order to
280 extend the street through here, it would require the vote of the property owners—
281 homeowners in the subdivision. He has contacted the homeowners along Willane and
282 Heather Grove and did not find support for extending the street through this lot.

283
284 With that not being an option any longer, the revised plan you have in your packet shows
285 the lot he had shown on here, the Malone lot, as being removed from the subdivision
286 proposal. The applicant has provided information in your packet that shows the history of
287 development in this area and also his efforts to try to get a second point of access here.

288
289 Since a second point of access is not being provided, staff's recommendation is still—the
290 subdivision that was approved back in 2005, which is still valid—the subdivision plan
291 developed on this parcel—we do not support the 6 additional lots because essentially
292 you'll have close to 100 lots on a single point of access that starts at Kain Road and
293 Willane Road—that intersection—and all the way back. That is where that second point
294 of access would occur.

295
296 I will note, however, that the 2026 Major Thoroughfare Plan shows a concept road to be
297 constructed at the intersection of Axe Handle and Kain Road, and that would run south
298 of Kain and connect back to North Gayton Road Extended and Bacova Road. When that
299 is developed in the future, essentially you would have about 76 lots on a single point of
300 access from the intersection of Kain and Axe Handle. That still exceeds the 50 lots,
301 which is the policy of the County. So, our recommendation is that the plan not be
302 approved and the original plan remain in effect for development of this property.

303
304 I'd be happy to answer any questions that you have.

305
306 Mrs. Jones - I have a few, if I could. Mr. Wilhite, the timeline that we were
307 provided by the applicant, can I safely assume that that is fairly accurate?

308
309 Mr. Wilhite - Yes, ma'am.

310
311 Mrs. Jones - In the discussion back in 2005, where it is noted that the 34
312 lots did then exceed 50 lots off one point of access, that was established policy of the
313 County at that time, correct?

314
315 Mr. Wilhite - Yes, ma'am.

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317 Mrs. Jones - Okay. Also, the wetlands impacts that are noted in the staff
318 report, have there been analyses of those to date?

319
320 Mr. Wilhite - We've gotten some additional information, and staff is
321 comfortable with moving forward at this point with that. We don't have complete details

322 on the wetlands, but this is usually resolved with construction plans and final subdivision
323 approval.

324 Mrs. Jones - But there are no huge red flags?
325

326 Mr. Wilhite - No, ma'am.
327

328 Mrs. Jones - Okay. All right, thank you.
329

330 Mr. Witte - I have a question. You said that was a non-buildable lot?
331

332 Mr. Wilhite - Yes.
333

334 Mr. Witte - But then you said it could only be used for residential.
335

336 Mr. Wilhite - That is correct, under the covenants.
337

338 Mr. Witte - So, a park or a playground would be acceptable?
339

340 Mr. Wilhite - I cannot answer that question. Since it's a covenant, it's a
341 private matter to be determined by the homeowners and other members what more
342 could be added on there other than a single-family home.
343

344 Mr. Witte - How many of the homeowners were polled? Do you have any
345 idea?
346

347 Mr. Wilhite - I think approximately 17 letters were sent out. The last staff
348 heard, we had 9 responses. All were against use of that as a road through that lot, and, I
349 believe under the covenants, 80 percent of the homeowners would have to agree to
350 actually construct a road or use it for other than a residential purpose.
351

352 Mr. Witte - What was the downfall of connecting Sawdust to Heather
353 Grove?
354

355 Mr. Wilhite - The applicant approached the owner of that property, the Hall
356 property, and apparently the asking price—they didn't want to sell a piece of the property
357 to allow for the connection; they wanted to sell the entire property for in excess of \$1
358 million.
359

360 Mr. Witte - I just think that's a bad idea to double the capacity for ingress
361 and egress.
362

363 Mr. Branin - Any other questions?
364

365 Mr. Archer - Mr. Wilhite, you mentioned in your presentation something
366 about future development that also would incur 76?
367

368
369 Mr. Wilhite - Yes, sir. There is a road on the Major Thoroughfare Plan
370 designated as a minor collector road that would run from the intersection of Axe Handle
371 and Kain Road south, and end up connecting to North Gayton Road and Bacova Road.
372 That is sometime in the future. It would occur with the development of the properties
373 south of Kain Road.
374
375 Mr. Archer - That would also be on a single point of access?
376
377 Mr. Wilhite - That would change where the second point of access actually
378 starts, moving it from Willane and Kain to the west to Axe Handle and Kain. So that
379 removes some of the existing lots from being considered in that total. It would ease the
380 situation somewhat.
381
382 Mr. Branin - Mr. Wilhite, you can mention this and refer to it as well,
383 please.
384
385 Mr. Wilhite - Staff received an e-mail this morning directed to Mr. Branin.
386 It's from Greg Koontz who actually lives at the end of Kain Road here. He had stated his
387 support for HHHunt and their proposal for 40 lots here, stating that he would not notice
388 the difference in the amount of traffic created by the 6 additional lots; that HHHunt was
389 put in this position because of multiple decisions made by the County on development of
390 surrounding property and eliminating the second point of access potential to this parcel;
391 and also that HHHunt has done a lot of work in the County over the years. He believes
392 they have made a concerted effort to try to get a second point of access and have not
393 been able to.
394
395 Mr. Branin - Okay. Before I hear from the applicant, can I hear from—I'm
396 sorry; does anybody else have any other questions? Okay. May I hear from Traffic,
397 please?
398
399 Mr. Catlett - Good morning, Mr. Chairman, members of the Planning
400 Commission. Tommy Catlett with Public Works, Traffic Engineer.
401
402 Mr. Branin - Good morning, Mr. Catlett. How are you this morning?
403
404 Mr. Catlett - Not too bad. How about yourself?
405
406 Mr. Branin - All right. Our policy has been in place for 50 lots for how
407 many years?
408
409 Mr. Catlett - Since I've been here. I've been here 3 years. Probably 2000.
410
411 Mr. Branin - 2000? Okay. Six additional lots. Is that going to make a
412 substantial difference in the already overcrowded, overloaded road?
413

414 Mr. Catlett - Traffic volume wise, no.
15
416 Mr. Branin - No.
417
418 Mr. Catlett - Maybe 20, 30 trips.
419
420 Mr. Branin - Thank you. Okay, can we hear from the applicant?
421
422 Mr. Holmes - [inaudible.]
423
424 Mr. Branin - Absolutely. Please come down and state your name for the
425 record.
426
427 Mr. Holmes - My name is Bob Holmes. I live at 5225 Eastbranch Drive.
428
429 Mr. Branin - Hello, Mr. Holmes. How are you?
430
431 Mr. Holmes - I'm doing well, thank you. You know, one can argue that 6
432 lots don't make a difference, and granted, 6 out of 100 would be like me gaining 12
433 pounds. It wouldn't kill me, but it wouldn't be all that good for me either. I think it's
434 unconscionable what the County has allowed to happen, and I think you need to come
435 up with a solution. Granted, the County policy is you don't condemn lots in order to solely
436 benefit a developer. The developer is not the one being benefited here; you're going to
37 make your decision no matter what. People benefiting here are the residents who have
438 been put in this position and future residents of Westin subdivisions. There needs to be
439 another solution to this. You have to understand now there's a road that may come off
440 Axe Handle going south. When's that going to happen? Who knows. I understand Mr.
441 Koontz doesn't mind. He's a developer, and what's a little more to make everybody
442 happy?
443
444 I think it's unfortunate that you can't come up with a better decision. I also think if you are
445 going to do this, Kain Road needs to be widened. Kain Road is a dangerous road. I'll
446 grant you 6 houses aren't going to kill anybody—not any quicker, you know, maybe 5
447 percent quicker than it would kill somebody else on Kain Road.
448
449 The County has allowed this to happen. You can see all the dead-end cul-de-sacs
450 coming in everywhere. You can see where they didn't allow the—or they got rid of the
451 easement from Heather Grove to Sawdust. The County needs to fix this. I can't tell you
452 what the answer is. It's supposed to be a Planning decision, and we are where we are.
453
454 So, anyway, those are my comments. Thank you.
455
456 Mr. Moore - Good morning, Mr. Chairman, and members of the Planning
457 Commission. My name is George Moore. I am vice president of development with
458 HHHunt Corporation.

39

460 HHHunt currently has an approved tentative for the proposed single-family neighborhood
461 known as Westin at the terminus of Axe Handle Lane. The plan complies with all
462 requirements of the A-1 District. This morning, we are seeking conditional approval of 6
463 1-acre lots to be added to the already-approved tentative for Westin. This would change
464 the total number of lots for Westin from 34 to 40. The plan that we're proposing is
465 consistent with all the surrounding neighborhoods, which are all 1-acre-minimum lots.
466 The County staff finds the conditional plan acceptable except for the fact that there are
467 50 lots off 1 point of access. This however, is the case even with the already-approved
468 34 lots.

469
470 As I presented and explained in prior Planning Commission meetings, there's a long
471 history in this area with regard to adjacent developments where there were opportunities
472 for the County to ensure a second point of access be provided through road connections.

473
474 I've highlighted for each of you the specific opportunities in a timeline that was included
475 in the staff report. Specifically, there were 4 opportunities, which included: first, to
476 acquire dedication of right-of-way during a homeowner's variance request that would
477 have allowed the connection of Heather Grove Road and Sawdust Drive; then, a planned
478 collector road that was removed from the County's Thoroughfare Plan in 2003; then, a
479 possible connection through Henley, which, by the way, has 80 lots off 1 point of access;
480 and, finally, the most recent opportunity was the connection with Stonehurst that was
481 specifically recommended by the Planning staff but was not required in the final
482 approval.

483
484 As you can see, there were numerous opportunities to require a second point of access
485 that would have resolved this issue. It is not consistent or administratively fair that
486 HHHunt is being held to a policy of not more than 50 lots on one point of access when
487 this policy was never promoted or enforced in the Westin area.

488
489 Mr. Branin - Mr. Moore, I'm going to interrupt you there. I called you in so
490 everybody could hear the timeline. I hear you loud and clear that it's not fair for HHHunt.
491 You and I have had this discussion several times. It's not about HHHunt; it's about the
492 community and the people that live around it. It's about mistakes that have been made in
493 the past, prior to me being Commissioner and working with Hunt, who has a long-time,
494 well-documented, well-done job in Henrico, and begging you guys to come up with
495 means to fix an issue and a problem for which you're not at fault. It's been a problem that
496 has developed over the years. So, I'm going to let you continue, but it's what you said
497 before. I wanted to bring everybody up to date in regards to the timeline and all of that,
498 which I had asked you to, so tread lightly.

499
500 Mr. Moore - Okay. I just wanted to make sure that everybody understood
501 the history of what's taken place.

502
503 Notwithstanding the above, at the request of Westridge and Mr. Branin, we explored
504 what options still might be available to provide access. Two potential options were
505 available that we reviewed. One was connecting Sawdust Drive to Heather Grove Road,

506 which Mr. Wilhite just spoke to. The other was a potential extension of the road that is
507 currently approved as a cul-de-sac in the Westridge East conditional plan to tie into
508 Heather Grove Road.

509
510 The connection of Sawdust Drive to Heather Grove Road was not feasible because of an
511 unwillingness of the property owner to convey the necessary right-of-way for this
512 connection. We initially thought that the second option of extending the cul-de-sac
513 through Westridge East to Heather Grove Road would provide a solution for the second
514 point of access. However, this requires extending the proposed road through a vacant lot
515 in Shady Grove Estates. HHHunt placed this lot under contract and determined through
516 the feasibility period that this was not feasible because of the covenant conditions and
517 restrictions that are placed on this lot and the other lots in that section. To amend the
518 CC&Rs requires 80 percent of the lot owners in Shady Grove Estates, Section B, to
519 consent to the amendment. After sending a letter of explanation and asking for approval
520 from all the lot owners, it was determined that there was no support from Shady Grove
521 Estates, Section B, for amending the CC&Rs to permit the connection to Westin.

522
523 It is unfortunate that we've come to this point, especially in light of the opportunities that
524 existed in the past. I hope you can see the serious efforts that HHHunt has made over
525 the last year to determine if a solution existed to resolve this access. We've spent
526 significant time, money, and energy reviewing the possible options. I can understand the
527 Westridge community's frustration at this issue. However, HHHunt did not create this
528 situation; it should not be held responsible for prior decisions that could have easily
529 resolved this issue. Our tentative plan only requests 6 additional lots to the currently
530 approved 34 lots that are there now. The reality is that these additional lots will have
531 negligible traffic impact to the surrounding communities. It is also important to recognize
532 that we are not requesting to rezone the property but simply asking for what is allowed
533 under the A-1 ordinance.

534
535 Based on the above, I respectfully ask that the Planning Commission approve the 6
536 additional lots providing for a total of 40 lots for the Westin tentative plan. I would be
537 happy to address any questions you may have.

538
539 Mrs. Jones - Good morning, Mr. Moore.

540
541 Mr. Moore - Good morning.

542
543 Mrs. Jones - I do have some questions—questions, comments, thoughts.
544 I'd like your feedback for those. We've been looking at this case now for months as it has
545 progressed through the process. We are well aware of the history. You've done a very
546 specific job of pointing fingers at a number of opportunities, and I don't disagree with you
547 that there were opportunities that probably could have led to a better resolution. We can't
548 change history; here we are. Whether it's the BZA, the Planning Commission, the Board
549 of Supervisors, or whatever—here we are. So, the question is not how do we change
550 what's happened; the question is how do we resolve what is being put before us today.

551

552 I keep coming back again and again and again to the question of, if there's a problem, do
553 we make it better by accepting this proposal? Our job is not to define business plans or
554 winners and losers. Our job is to look at the proposals in front of us and evaluate them
555 on their merits. What you're asking me to—no matter how we got here—what you're
556 asking me to do is to make a decision—that is clearly problematic in a number of
557 respects for you—the way decisions were made in the past for other applicants, and
558 you're asking me to continue this pattern of decisions based on problematic data.
559

560 I do not dispute in the least that HHHunt has been a real influence and has had some
561 wonderful communities in Henrico County. I do not dispute in the least that HHHunt is
562 not solely responsible for this issue we have before us today, but how can you ask me to
563 add another problem to what has clearly been problematic, in all good conscience? The
564 fact that I wasn't on the Commission when all this came through is neither here nor
565 there. It is my problem now. It is the problem of all of us as Commissioners to evaluate
566 your case in the way that makes good sense for the future. We're going forward; we're
567 not going back. There may be another time down the road where this can be resolved
568 because of circumstances and other pieces of the puzzle, but these are puzzle pieces.
569 We do the best that we can to make it all fit together perfectly—sometimes it doesn't.
570

571 You already have the right to build your subdivision. You are requesting 6 additional lots,
572 and you're asking me to say yes to 6 additional lots in the way that others asked in the
573 past for us to say yes to things, even though there were problems involved. I know there
574 is a problem with the 6 additional lots. I don't know—and I'm asking you—how can you
575 request that I approve that and continue the pattern that you have been so very vocal in
576 pointing out is a bad way for the County to go?
577

578 Mr. Moore - Well, I guess I'm asking it from the fact that we've spent the
579 last year trying to come up with a solution. I've taken it very seriously personally to try to
580 do that and have worked very closely with the Westridge community and Mr. Branin to
581 try to come up with a solution.
582

583 Mrs. Jones - But you have not. There has been no solution. I give you
584 credit for effort, but that's not what we're talking about here now. The 6 lots are the
585 question. You've tried; it hasn't worked out through your best efforts. So, I'm asking why
586 is the answer not no?
587

588 Mr. Moore - We're asking on the basis that under the A-1 ordinance we be
589 allowed to build the lots that we're allowed to under that ordinance, which would be 40
590 lots in this case because they're all 1-acre lots. The 6 additional lots that we're asking for
591 do not have a significant impact from a traffic standpoint. It's a minimal impact in the
592 neighborhood. We do not feel like it's an unreasonable request for the 6 additional lots.
593

594 Mrs. Jones - What you're saying to me is, "Aw, shucks, it doesn't matter
595 that much," but it does. At some point, it has to stop. Based on best planning practices
596 that are before us right now, it has to stop.
597

598 Mr. Moore - I don't disagree with you. The 50-lot rule is a policy. It's not an
599 ordinance, and, obviously, it's not always been held to. I guess in this case why does it
600 need to stop here based on the merits of this case and the work that we've done to try
601 and resolve it?

602
603 Mrs. Jones - I'll tell you why—because I'm voting on it, and I take my job
604 very, very seriously.

605
606 Mr. Witte - I have a question. I count 7 lots. Where are 6?

607
608 Mr. Moore - The original tentative plan was for 34 lots, and the current
609 plan is 40.

610
611 Mr. Witte - Okay. But this block actually contained 7.

612
613 Mr. Branin - That was the property that they were trying to get a contract
614 on. They would have picked up an additional 7 lots, you're correct, if they would have
615 been able to build that road and continue that cul-de-sac through the Malone property in
616 Shady Grove Estates.

617
618 Mr. Witte - So, they're right here?

619
620 Mr. Leabough - I have a quick question for you, Mr. Moore, looking at the site
621 plan there. Were you the owner when the subdivision plan was approved in 2005?

622
623 Mr. Moore - Yes, for the 34 lots?

624
625 Mr. Leabough - What's changed since 2005 when the original subdivision
626 plan was approved?

627
628 Mr. Moore - When we applied for the 34 lots at that time, the County was
629 looking at grandfathering the A-1 to 5-acre lots. So, like many other people in the
630 County, we had submitted a plan for the one-acre lots. Since that time we've been
631 looking at issues related to the development such as the sewer, and the water, and the
632 adjacent landfill to see how all those would impact the property. Now that we've worked
633 through all of those, we have gone back, looked at the property, studied it, and are
634 simply asking for 6 additional lots which are allowed under the A-1 ordinance.

635
636 Mr. Leabough - Which was allowed in 2005?

637
638 Mr. Moore - Yes, it would have been allowed in 2005, correct.

639
640 Mr. Leabough - Thank you.

641
642 Mr. Archer - Mr. Chairman, may I make a comment?

644 Mr. Branin - Yes, I was going to ask that. I just wanted to make sure they
645 were finished before I asked.

646
647 Mr. Archer - Mine is not so much of a question as it is a comment. I had
648 some things I wanted to say, but Mrs. Jones covered them very thoroughly. I'm sure, like
649 everyone else up here, we do applaud HHHunt for the work that they've done in the
650 County. You've been really good for us. At the same time, there are a lot of points that
651 we're mentioning today that I think need to be expanded on. One of those is every time
652 we make a decision of this type, cases that come up in the future that are similar, we're
653 setting precedent for them. Some of them will always go back and point to it and say,
654 "Well, you did here. Why won't you do it in this one?" I'm not trying to be divisive or
655 sound unfriendly, but you indicate that the 50-lot policy is policy and not a rule. It's a
656 good policy, and it's a policy that makes a lot of sense. I'm asking myself that same
657 question, how are we making this case any better by exacerbating the situation that
658 already exists? We were already over what we were supposed to have had when the
659 original one was done. So, let's make it better by going even further—that doesn't ring
660 true for me. I wanted to get that out before we make a decision, because we do have to
661 make one, one way or the other. I just wanted to put that out to give us some food for
662 thought.

663
664 Mr. Moore - I guess we're just—I understand that there's a point at which
665 the County has to try to be consistent, and I know as Planning Commissioners that is
666 your job to implement that. I guess just on the basis of fairness here in this situation in
667 light of what's taken place, I think that's our appeal to you in this particular case. They're
668 6 additional lots. I don't think that's going to have a significant impact on the community,
669 especially based on the work that we've done to try to resolve and bring about a
670 resolution.

671
672 Mr. Leabough - Can I make a quick comment?

673
674 Mr. Branin - You're a Commissioner. You can do whatever you want.

675
676 Mr. Leabough - Okay, thank you. You say, Mr. Moore, it's only 6 additional
677 lots from the community perspective, but it's only 6 additional lots from a developer's
678 perspective as well. So, it could go both ways. I wouldn't use that argument. I mean it's
679 only 6 lots; the community could pose that to you as well. It's only 6 lots.

680
681 Mr. Witte - Do we have the original drawing without the 6 lots? I don't
682 believe I've ever seen that.

683
684 Mr. Emerson - Mr. Wilhite may have that in the slide show. Do you have that
685 in the slide show?

686
687 Mr. Wilhite - [Off microphone.] No I don't, but I do—.

688
689 Mr. Emerson - Can we put it on the document table, possibly?

690

691

Mr. Witte - Where are the lots being gathered from? Are they all over, or are they in one section?

692

693

694

Mr. Moore - The original lots were a little bigger than an acre. They were maybe 1.3. We just made the layout more efficient. The layout of the roads is fairly consistent with what the original plan showed. It's just that the lots are a little smaller, closer to an acre.

695

696

697

698

699

Mr. Emerson - Mr. Witte is requesting where the additional lots are and how the project's being redesigned.

700

701

702

Mr. Witte - All right, I can see it. Now I understand. Okay, thank you.

703

704

Mr. Branin - Does anybody have any further questions? Okay. Thank you. Mr. Holmes, can you come here real quickly? Mr. Holmes, representing your community, you and I probably have had—

705

706

707

708

Mr. Holmes - Several conversations and e-mails.

709

710

Mr. Branin - Several conversations. You understand that we all agree that there have been mistakes made by not just the Planning Commission, but the BZA allowed one piece that could have been developed into a road. The Planning Commission has done it in past years, and we are in a tight position. I want you to know on behalf of the Three Chopt District and myself, I'm going to continue working on this. I've asked the Director of Planning. I have talked to Traffic to see what we can do, how we can get more connectivity, and I'm going to continue to work on it.

711

712

713

714

715

716

717

Mr. Holmes - I appreciate it. HHHunt can't come up with a solution; they're boxed in.

718

719

720

721

Mr. Branin - With an approval of 6 lots, okay, they still can't get that connection.

722

723

724

Mr. Holmes - I understand that.

725

726

Mr. Branin - The case at hand, with a connection, the lots are actually irrelevant because it brought it to us; it brought it to our attention. You and I have started this dialogue. You and I have looked—you have sent recommendations; I've forwarded those recommendations on. It's an issue that has to be addressed and has to be fixed. The reason I brought you back down is if you have any other comments or suggestions that you can make so that it is part of public record, so we can go back and say let's see what we can do with Traffic, with Public Works, with everybody to see how we can—see what we can do to fix this issue. Also, you can see that this Commission is different than probably past Commissions. We understand the 50-lot policy. Mr. Moore was kind enough to point out that Henley was an 80-lot, which was approved prior to this

727

728

729

730

731

732

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734

735

736 Commission. We all have strived and worked diligently to keep it. We have 2 new
737 Commissioners who understand the importance for safety, and that's why the policy is
738 there. So, if you have any other comments that you'd like to give now, please feel free.

739
740 Mr. Holmes - I'm not sure what else I can add. You know, it is obviously a
741 safety issue. We've had a house fire back in there. My next-door neighbor is wheelchair-
742 bound. He has services come in all the time, and we need to have access to the
743 neighborhood. The solutions—there's a bigger brain trust sitting behind me in County
744 Traffic and other things and sitting in front of me. There only appears to be the egresses
745 that Mr. Moore and his crowd have tried to pursue. They can't do it by themselves. I will
746 be open to have discussions at any time if you'd like to give me a call.

747
748 Mr. Branin - I would like you to give me another month to be able to work
749 with staff again to see if there's anything we can do, and then I will contact you. I'd like to
750 sit down with you as a community as a whole and talk about what we found and what we
751 can and can't do. If you will allow me.

752
753 Mr. Holmes - Sure.

754
755 Mr. Branin - Okay. Thank you. Anybody else have anything else for Mr.
756 Wilhite or anybody?

757
758 Mr. Archer - Mr. Chairman, just for the sake of the members of the
759 audience who may not understand why we're talking about this 50-lot access. The logic
760 behind that is if you only have one point of access and some emergency occurs, and that
761 point of access is blocked, there is no way to get in where emergency vehicles or
762 whoever would have to go to give relief to somebody who might need it. So, that's why
763 we talk about having second points of access. If an accident, for example, is blocking the
764 intersection where the access is, there's no other way to get in. That's why that policy—
765 not rule—is talked about so much. Thank you, Mr. Chairman.

766
767 Mr. Branin - Thank you. This has been a long case that I'm sure HHHunt
768 and myself thought would be a short and easy case—6 additional lots being put in. As it
769 unfolded, we saw many issues that were present that we tried to address. I commend
770 HHHunt for all of the work and time and effort that you have put in. I thank HHHunt for all
771 of that work and all of the development that you've done. You've done a great job
772 working hand-in-hand with Henrico County. I apologize for dragging you guys out for
773 many months trying to find what the community needs, because I work actually for the
774 community.

775
776 I have no further statements, so with that, I'd like to move for approval of SUB-09-11,
777 Westin (October 2011 Plan), with the standard conditions for subdivisions served by
778 public water and individual onsite sewage disposal, and the following additional
779 Conditions #6A, #13, #14, and #15.

780
781 Can I get a second? Is there any other vote?

782
 33 Mr. Emerson - Mr. Chairman, a motion without a second does die. You have
 784 to have a second in order for a motion to move forward.
 785
 786 Mr. Branin - Okay.
 787
 788 Mr. Archer - Mr. Secretary, can someone second a motion so that we can
 789 get a vote on it?
 790
 791 Mr. Emerson - Yes, sir. Someone could make a motion and/or second a
 792 motion and then vote against that motion, if that's your question.
 793
 794 Mr. Archer - Okay.
 795
 796 Mr. Witte - Or we could make another motion?
 797
 798 Mr. Emerson - Or you can enter another motion, yes, sir.
 799
 800 Mr. Leabough - I second Mr. Branin's motion.
 801
 802 Mr. Branin - Okay. Then the motion was made by Mr. Branin, seconded
 803 by Mr. Leabough. All in favor say aye. All opposed say no. The no's have it; the motion
 804 does not pass.
 15
 806 Mr. Witte - I would like to abstain.
 807
 808 Mr. Emerson - Mr. Chairman, I can poll the members so we have it for the
 809 record.
 810
 811 Mr. Branin - Would you please do that?
 812
 813 Mr. Emerson - Yes, sir. Motion by Mr. Branin for approval with a second by
 814 Mr. Leabough. Now, we'll poll the members.
 815
 816 Mr. Thornton - Abstain
 817 Mr. Archer - No
 818 Mrs. Jones - No
 819 Mr. Branin - Yes
 820 Mr. Witte - Abstain
 821 Mr. Leabough - No.
 822
 823 Mr. Emerson - So, we have 1 aye, 2 abstentions, and 3 no's. The motion
 824 fails.
 825
 826 Mr. Branin - That's the first time I've ever gone through that process.

17

828 Mr. Witte - I think I was involved in some of this earlier through the BZA.
829 This is one of the reasons why I abstained. I would have voted no anyway because if you
830 have an ingrown toenail, you don't wear shoes that are too tight.

831
832 Mrs. Jones - I think that's the first time that analogy has been said.

833
834 Mr. Witte - You just don't want to squeeze in more than you have to, you
835 know.

836

837 **PLAN OF DEVELOPMENT AND REVISED MASTER PLAN AMENDMENT**

838

POD2012-00060 (POD-42-06 and POD-66-08 Revised) Diamonds Direct at West Broad Village – 2040 Old Brick Road	Balzer and Associates, Inc. for West Broad Village V, LLC: Request for approval of a plan of development and revised master plan, as required by Chapter 24, Section 24-106 of the Henrico County Code, to authorize the construction of a one-story, 5,700 square foot retail store; and master plan revisions for the urban mixed use site to include minor alterations to the common area and future development layout and amenities. The 0.7-acre Diamonds Direct site is located on the south line of W. Broad Street (U.S. Route 250), approximately 500 feet east of Brookriver Drive, on parcel 744-760-0779. The 115.04-acre overall West Broad Village urban mixed use site is located along the south line of W. Broad Street (U.S. Route 250), the north line of Three Chopt Road, and the east line of John Rolfe Parkway, on parcels 744-760-7007, -4764, -6050, and -3257; 743-760-2155, and -2942; 744-759-1143 and 743-759-2698. The zoning is UMUC, Urban Mixed Use District (Conditional) and WBSO, West Broad Street Overlay District. County water and sewer. (Three Chopt)
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839
840 Mr. Branin - Is anyone in opposition to POD2012-00060 (POD-42-06 and
841 POD-66-08 Revised), Diamonds Direct at West Broad Village. No one?

842
843 Ms. Berndt - Good morning. This is the latest outparcel proposal for West
844 Broad Village. They're requesting to construct a one-story, 5,700 square-foot jewelry
845 retail store, which will be located at the eastbound ramp of I-64 and Broad Street,
846 adjacent to the REI retail store and north of the HomeGoods.

847
848 The applicant proposes building materials of primarily brick face with EIFS accents and
849 cornice, as shown in this plan. The building will be a compatible addition to the existing
850 buildings in the existing Urban Mixed-Use District. Here's another view.

851
852 With this plan of development, the applicant is also requesting we approve amendments
853 to the overall West Broad Village Master Plan. The revisions shown on this Master Plan

854 reflect minor differences in as-built conditions from the previous Master Plan approvals.
855 This is going to include changes to the footprints for the Bonefish Grill outparcel here, the
856 ACAC block, and the pool layout at the clubhouse. Also, it's going to show a Phase 3 for
857 the Thomasville building, formerly proposed for Phase 3. That area will be redesigned
858 with a future phase. There's also a tot lot shown along Liesfeld Parkway. The most
859 recent Master Plan approval was granted by the Commission on October 22, 2008.

860

861 The garden shown over to the east along the I-64 ramp is subject to the Commission's
862 Provisional Use Permit, P-6-10, which will expire in August 2012, unless an extension of
863 this approval is requested by the applicant and approved by the Planning Commission
864 for reissuance of the provisional use permit. Those are the major layout changes.

865

866 There are also amendments to reflect changes to the sidewalk and pedestrian trail
867 locations and phasing. Previous plans and additions showed a sidewalk along John
868 Rolfe Parkway. Sidewalk was installed along John Rolfe Parkway with the road
869 construction providing pedestrian connectivity on that portion of the site. Changes to the
870 West Broad Street landscape buffer between Gathering Place and Fish Pond Lane have
871 required minor shifts to the sidewalk location on that frontage as well. The multi-purpose
872 trail along Three Chopt on the south of the boundary has been reduced from 12 feet to 8
873 feet to be consistent with the proffers on the site. A pedestrian connection has also been
874 added to that trail, to Thamesford Way and Three Chopt Road. Revised grading and a
875 landscape plan have been approved in that area as well to reflect field conditions and
876 post-construction grades.

877

878 The Master Plan also indicates a sidewalk along the frontage of Three Chopt Road,
879 which is required in addition to the interior serpentine path. It will be constructed by the
880 County with the Three Chopt Road Widening Project. A sidewalk has been constructed
881 along the north line of Liesfeld Way eliminating the need for the redundant pedestrian
882 trail along the south line of Liesfeld Way between Brownstone Boulevard and John Rolfe
883 Parkway, also at the south boundary of the site.

884

885 Changes to monuments along West Broad Street and John Rolfe Parkway are also
886 included. These monuments have been redesigned for compatibility with surrounding
887 elements, mainly scale with surrounding buildings, and there has been the provision for
888 identification signage where appropriate. A pedestal sign that was previously proposed
889 next to the current Diamonds Direct site is to be removed from the plan since no point of
890 access is going to be at that location.

891

892 The other changes remaining reflect changes to the layout in the residential portions of
893 the site previously approved by the Planning Commission. The resulting plan is an
894 overall summary update of the project's progress.

895

896 Staff can recommend approval of both the plan of development for Diamonds Direct and
897 the revised Master Plan. Should the Commission act on these requests, staff
898 recommends that the conditions for POD-42-06 and POD-66-08, previously approved by
899 the Planning Commission at its meeting on October 22, 2008, shall continue to apply

900 with revised Conditions #2, #7, #16, #20, and #47, #48 deleted to reflect the elimination
901 of the redundant sidewalk along John Rolfe Parkway, and the additional Condition #68 in
902 your agenda.

903

904 The applicant's representatives, Justin Fournier with Balzer and Associates and Mark
905 Kukoski with Eagle Construction, are both here to answer any questions you may of the
906 applicant. I'm happy to answer any questions the Commission may have of me.

907

908 Mrs. Jones - Good morning. I just wanted to clarify, because this is a lot of
909 tweaking. The Liesfeld pedestrian trail—can you go over that and the elimination of that
910 as well?

911

912 Ms. Berndt - All right. There is a tot lot here. Previously proposed there
913 was sidewalk also along the south portion of Liesfeld Way. This sidewalk was eliminated,
914 and the connection has been made to the north side, as this also ties into John Rolfe
915 Parkway, so the pedestrian connection is there. There's nothing on the south side of the
916 site.

917

918 Mrs. Jones - That will allow further landscaping and other features as
919 opposed to you just feel the sidewalk doesn't lead anywhere that would be significant?

920

921 Ms. Berndt - It's a redundancy. If you need to get to John Rolfe you can go
922 up the north and cross over.

923

924 Mr. Emerson - Mrs. Jones, there is a fence along the school property.

925

926 Ms. Berndt - So there is no connection to the school.

927

928 Mrs. Jones - The only reason I was asking is that sometimes folks go the
929 easiest way possible. Even though there is a connection, whether they take it or not is
930 the question. We just want to be safe.

931

932 Ms. Berndt - There's a good streetscape of trees through there, I'd
933 imagine. There's a possibility they could cut through there, but there would not be
934 anything to connect to on the south end.

935

936 Mrs. Jones - Okay. Well, I had a second question; it'll come to me.

937

938 Mr. Branin - Quick, someone else ask another question. Do you all have
939 any questions?

940

941 Mrs. Jones - Oh, I do. The signage. What you're saying is that there will be
942 no monument signs unless they're associated with ingress/egress. Is that correct?

943

944 Ms. Berndt - That is not necessarily correct. The monument to be removed
945 is one pedestal sign adjacent to the Diamonds Direct. There are still at least 3 signs for

946 locational signage. This monument sign here is not associated with an ingress/egress,
947 but is actually an identification sign.

948
949 Mrs. Jones - I didn't mean for you to get into the technology, but for
950 purposes of ingress/egress, there will be monument signage at those points?

951
952 Ms. Berndt - At those points, yes. You can see here these letters are the
953 key to what is proposed at each intersection. On John Rolfe, you'll have 2 entrances
954 there. You're also going to have an identification sign.

955
956 Mrs. Jones - It's okay; I get it.

957
958 Ms. Berndt - Okay. So, you'll have the pedestals on John Rolfe Parkway,
959 just not the additional one by Diamonds Direct. Along Broad, you have a little bit more
960 elaborate monuments. You have the Gathering Place, the Whittal Way. That one's on
961 both sides, and there is additional locational signage.

962
963 Mrs. Jones - Okay. I just wanted to clarify the signage. I think taking away
964 from the front of Diamonds Direct is certainly not an issue, but I wanted to make sure we
965 were keeping those monument signs everywhere they needed to be. Thank you.

966
967 Mr. Branin - Any other questions? None? I don't feel it necessary to hear
968 from the applicant, unless the applicant wants to come down and make some sort of
969 statement. Okay. I invite my fellow Commissioners to go out there; there have been
970 some changes. The trail is in, which is really a nice walking trail with lights and
971 landscaping. You can literally go from where the Diamond Exchange is now all the way
972 along Three Chopt. For the community that lives at the east end of the development—
973 families with children and so forth—for them to get all the way to that tot lot, they can
974 actually walk on that trail with the landscaping and the lake and get all the way to that tot
975 lot and never see traffic. I walked it the other night. When I got there I said, "Wow, this
976 is—no traffic, no danger to children." I'm very impressed with the changes that Eagle has
977 made to that trail to improve it for the community. They've done a great job. That's all I
978 have to say. I was just excited when I walked it. I was like, wow, this is really neat.

979
980 All right. Any other questions? Well, then I would like to move that POD2012-00060
981 (POD-42-06 and POD-66-08 Revised), Diamonds Direct at West Broad Village, be
982 approved with Condition #2 revised, #7 revised, #16 revised, #20 revised, #47 revised,
983 #48 deleted, and #68.

984
985 Mrs. Jones - Second.

986
987 Mr. Branin - Motion made by Mr. Branin, seconded by Mrs. Jones. All in
988 favor say aye. All opposed say no. The ayes have it; the motion passes.

989
990 The Planning Commission approved POD2012-00060 (POD-42-06 and POD-66-08
991 Revised), Diamonds Direct at West Broad Village, subject to the annotations on the

992 plans, the standard conditions attached to these minutes for developments of this type,
993 and the following additional conditions:

994
995 2. **REVISED** - The Director of the Department of Public Utilities shall approve the plan
996 of development for construction of public water and sewer, prior to beginning any
997 construction of these utilities. The Department of Public Utilities shall be notified at
998 least 24 48 hours prior to the start of any County water or sewer construction.

999 7. **REVISED** - The plan of development plan shall be revised as annotated on the staff
1000 plan dated ~~October 22, 2008~~ **March 28, 2012**, which shall be as much a part of this
1001 approval as if details were fully described herein. Eight (8) sets of revised plans,
1002 including the detailed drainage, erosion control and utility plans, shall be submitted
1003 by the design engineer who prepared the plans to the Department of Planning for
1004 final review. Upon notice from the Department of Planning to the Engineer that all
1005 comments have been addressed, twenty-one (21) sets of final plans for signature
1006 shall be submitted to the Department of Planning for approval signatures. Two (2)
1007 sets of the approved plan shall be attached to the building permit application.

1008 16. **REVISED** - The assigned property number(s) shall be displayed so it is easily
1009 readable from the street. If assistance is needed with the address, please contact
1010 the Department of Planning at 501-4284. **The Planning Department must assign**
1011 **all property addresses.**

1012 20. **REVISED** - ~~The approved plan of development is not transferable except that the~~
1013 ~~holder of the first mortgage of the property may assume responsibility under this~~
1014 ~~plan after written notification to this Commission.~~ The approved Plan of
1015 Development is granted by the Planning Commission only to the
1016 owners(s)/applicant(s) listed on the Plan of Development application on file for this
1017 project. Upon written notification to the Director of Planning, the Plan of
1018 Development approval may be transferred to subsequent owner(s) subject to
1019 approval by this Commission.

1020 47. **REVISED** - A 12-foot 8-foot curvilinear sidewalk shall be constructed within the
1021 Three Chopt Road streetscape buffer with a corresponding pedestrian access
1022 easement granted to the County.

1023 48. **DELETED** - ~~A 5-foot curvilinear sidewalk shall be constructed within the John~~
1024 ~~Rolfe Parkway streetscape buffer with a corresponding pedestrian access~~
1025 ~~easement granted to the County.~~

1026 68. Insurance Services Office (ISO) calculations shall be included on the final
1027 construction plans for approval by the Department of Public Utilities prior to
1028 issuance of a building permit.

1029
1030 Mrs. Jones - This vote carries both the proposal and the amendments to
1031 the Master Plan.

1032
1033 Mr. Emerson - Yes, ma'am, it does.

1034
1035 Mrs. Jones - Okay.

1036
1037

PLAN OF DEVELOPMENT

POD2012-00064
(POD-09-06 Revised)
Chipotle at Staples Mill
Square Shopping Center –
Staples Mill Road (U.S.
Route 33)

Bowman Consulting Group, LLC for Staples Mill Square Holding and H231 Partners, LLC: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code, to construct a one-story 2,215 square foot restaurant with convenience outdoor seating. The 1.26-acre site is located on an outparcel in an existing shopping center along the north line of Staples Mill Road (U.S. Route 33), approximately 980 feet west of Old Staples Mill Road, on part of parcel 769-757-3208. The zoning is B-2C, Business District (Conditional). County water and sewer.
(Brookland)

1040

1041

Mr. Branin - Is there any opposition to POD2012-00064 (POD-09-06 Revised), Chipotle at Staples Mill Square Shopping Center? No opposition? Mr Ward.

1042

1043

1044

Mr. Ward - Good morning, members of the Planning Commission and Mr. Secretary.

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As of this morning, staff and the applicant have resolved the landscaping issues that were of concern. We wanted to ensure that the proffered buffer along Staples Mill Road and the peripheral parking lot landscape requirements had been addressed, and the applicant did that. In the schematic landscaping plans in your handout addendum you'll see along the northern part of the outparcel the added trees here, which we don't have any at this time. This meets the landscaping requirements that could not be met here along the eastern portion of the outparcel. You can see here that the proffered buffer along the north line of Staples Mill Road has been supplemented with some additional trees. The sidewalk has been changed in location to lessen the impact of the proffered buffer. They also went ahead and provided the sidewalk extensions here so that there is more connectivity to the existing shopping center from the site.

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Staff has requested some new architectural plans to coordinate the building's features with the existing shopping center's principal building colors. We've had several discussions with the architect. The current building's elevations show a two-tone brick color building with a charcoal storefront, which matches the rooftop and metal cornice here around the front of the building, and there's a light colored gray knee-wall to delineate the outdoor convenience seating.

1066

1067

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1069

1070

A few originals have been shown that would provide different options that the applicant is willing to consider. This one here would consider a brick knee-wall instead of the light gray that is proposed. They also had another option that would pick up shopping center colors at the front and back sides, which would actually be facing the second entrance of the shopping center and part of Target. The third option would change the brick color

1071 scheme of the building and the knee-wall to blend more with the existing Target,
1072 McDonald's, and Food Lion there.

1073

1074 At this time, if the Commission should act on this request, staff recommends approval of
1075 the site plan subject to the standard conditions for developments of this type, the
1076 following additional Conditions #29 through #33 on page 15 of the agenda, and
1077 Conditions #34 through #36 on page 2 of the addendum, which address shopping center
1078 conditions. A waiver of time limits would be needed, too.

1079

1080 I'm happy to answer any questions you may have of me. Today, we do have Ryan
1081 Ritterskamp with Bowman Consulting, the engineer, and Jennifer Saum should you have
1082 any questions of them.

1083

1084 Mr. Branin - Does anybody have any questions for Mr. Ward?

1085

1086 Mr. Witte - We've discussed this several times, to bring the colors more
1087 in line with the existing shopping center, and if I'm correct, in the near future we're going
1088 to get some samples of the color selections to work from. Is that correct?

1089

1090 Mr. Ward - Correct.

1091

1092 Mr. Witte - Okay.

1093

1094 Mrs. Jones - Question. My understanding of convenience outdoor seating
1095 is simply seating available for the public but no service.

1096

1097 Mr. Ward - Correct. And no alcoholic beverages.

1098

1099 Mrs. Jones - Okay. And as far as the architectural are concerned, I'm
1100 sure Chipotle, like many other businesses, has a wide variety of options. I would hope
1101 that they would seriously consider having something that seems to blend into the whole
1102 a little more than this. So, I do agree with the question that staff has raised and the
1103 Commissioner has raised about the appropriateness of this particular design for this
1104 particular place. I'm sure we all enjoy Chipotle, but I think it needs to be appropriate to
1105 this location.

1106

1107 Mr. Witte - I have a question. If I make a motion to approve the site plan
1108 and defer the architectural, does that have to be 2 separate motions?

1109

1110 Mr. Emerson - No, you could include it in your motion and just say you want
1111 the architectural to return to the Commission for approval.

1112

1113 Mr. Witte - Okay.

1114

1115 Mr. Emerson - So, you can include that in your motion.

1116

1117 Mr. Branin - Does anybody else have questions for Mr. Ward?
1118
1119 Mrs. Jones - My only question would be do we have a commitment from
1120 the applicant to work towards a resolution of the architectural?
1121
1122 Mr. Branin - Mr. Witte is planning to put into his motion to approve the site
1123 plan but have the architectural and landscape come back to the Commission.
1124
1125 Mrs. Jones - All right. Okay.
1126
1127 Mr. Branin - Mr. Witte, would you like to hear from the applicant?
1128
1129 Mr. Witte - One more question. You said that we had some—let's see
1130 here, #29 through #33. What was the other one?
1131
1132 Mr. Ward - Thirty-four through 36.
1133
1134 Mr. Witte - I don't have 34 through 36.
1135
1136 Mr. Ward - That is on page 2 of your addendum.
1137
1138 Mr. Witte - Okay, thank you. All right, I'd like to hear from the applicant if
1139 there are no more questions.
1140
1141 Mr. Branin - Is the applicant present? Are you the applicant? The
1142 Commission would like to hear from you. Would you mind coming down? And when you
1143 get down, would you state your name for the record. Thank you, sir.
1144
1145 Mr. Ritterskamp - I'm Ryan Ritterskamp with Bowman Consulting representing
1146 the applicant.
1147
1148 Mr. Witte - My concern—and I want to make sure you're aware of it
1149 explicitly—is the blending with the shopping center and not contrasting. When we
1150 actually come with the samples, the dark is not as good as the light because the whole
1151 shopping center is light. Do you have any issues with that?
1152
1153 Mr. Ritterskamp - I'll send you to Jennifer Saum the architect.
1154
1155 Ms. Saum - Hello. I don't think there are going to be any issues with that.
1156
1157 Mr. Witte - Would you state your name, please?
1158
1159 Ms. Saum - Oh, I'm sorry. My name is Jennifer Saum. I'm representing
1160 Chipotle Mexican Grill; I'm the consulting architect. I'll have to speak with Chipotle, of
1161 course, but in my previous conversations with them, they're more than willing to work
1162 with the Planning Commission to come to an agreeable decision on this.

1163
1164 Mr. Witte - Okay. So the lighter brick or split block, and the lighter
1165 accents?
1166
1167 Ms. Saum - Yes.
1168
1169 Mr. Witte - It's kind of a primary thing for that area.
1170
1171 Ms. Saum - Yes.
1172
1173 Mr. Witte - Okay. Thank you.
1174
1175 Ms. Saum - Yes.
1176
1177 Mr. Witte - Anybody else?
1178
1179 Mr. Branin - Thank you.
1180
1181 Mr. Witte - With that I'd like to make a motion. First, I'd like to make a
1182 motion to waive the time limits on the conditions.
1183
1184 Mr. Archer - Second.
1185
1186 Mr. Branin - Motion made by Mr. Witte, seconded by Mr. Archer. All in
1187 favor say aye. All opposed say no. The ayes have it; the motion passes.
1188
1189 Mr. Witte - Now, I'd like to make a motion to approve the site plan for
1190 POD2012-00064 (POD-09-06 Revised), Chipotle at Staples Mill Square Shopping
1191 Center, with Conditions #29 through #33 and #34 through #36 but defer the architectural
1192 plan to April 25, 2012.
1193
1194 Mr. Leabough - Second.
1195
1196 Mr. Branin - Motion by Mr. Witte, seconded by Mr. Leabough. All in favor
1197 say aye. All opposed say no. The ayes have it; the motion passes.
1198
1199 The Planning Commission approved POD2012-00064 (POD-09-06 Revised), Chipotle at
1200 Staples Mill Square Shopping Center, subject to the annotations on the plans, the
1201 standard conditions attached to these minutes for developments of this type, and the
1202 following additional conditions:
1203
1204 29. Outside storage shall not be permitted.
1205 30. The proffers approved as a part of zoning case C-77C-94 shall be incorporated in
1206 this approval.
1207 31. The developer shall install an adequate restaurant ventilating and exhaust system
1208 to minimize smoke, odors, and grease vapors. The plans and specifications shall

- 1209 be included with the building permit application for review and approval. If, in the
 1210 opinion of the County, the type system provided is not effective, the Commission
 1211 retains the rights to review and direct the type of system to be used.
- 1212 32. The conceptual master plan, as submitted with this application, is for planning and
 1213 information purposes only.
- 1214 33. The location of all existing and proposed utility and mechanical equipment
 1215 (including HVAC units, electric meters, junctions and accessory boxes,
 1216 transformers, and generators) shall be identified on the landscape plan. All
 1217 building mounted equipment shall be painted to match the building, and all
 1218 equipment shall be screened by such measures as determined appropriate by the
 1219 Director of Planning or the Planning Commission at the time of plan approval
- 1220 34. Only retail business establishments permitted in a B-2 zone may be located in this
 1221 center.
- 1222 35. The ground area covered by all the buildings shall not exceed in the aggregate 25
 1223 percent of the total site area.
- 1224 36. No merchandise shall be displayed or stored outside of the building(s) or on
 1225 sidewalk(s).

1227 **PLAN OF DEVELOPMENT – CHESAPEAKE BAY RESOURCE PROTECTION AREA**
 1228 **EXCEPTION**

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Timmons Group for CVI/Rocketts Landing and WVS/Rocketts Landing Construction Management:
 Request for approval of a Chesapeake Bay Resource Area Exception as required by Chapter 24, Sections 106.3(f) and 106.3(l) of the Henrico County Code. The applicant requests approval to encroach into the required 100-foot wide buffer of the Resource Protection Area (RPA) associated with the James River to construct proposed buildings and related hardscape improvements. The proposed encroachment includes two elevated one story buildings totaling 12,800 square feet, two elevated decks totaling 6,720 square feet, and related site improvements in the landward 50-feet of the RPA buffer. The proposed encroachment also includes shoreline stabilization totaling approximately 8,750 square feet in the seaward 50-feet of the RPA buffer. The 16.154 acre parcel is located along the western line of Old Osborne Turnpike (State Route 5) north of its intersection with Bickerstaff Road, on parcel 797-711-6071. The zoning is UMUC, Urban Mixed Use District (Conditional). City of Richmond water and sewer. (Varina)

1230
 1231 Mr. Branin - Is there any opposition to POD-018-11, Rocketts Landing
 1232 Phase 3, (POD-051-07 Rev.), Chesapeake Bay Resource Protection Area Exception?
 1233 We have 2 people in opposition. Okay. Ladies, have you attended a Planning

1234 Commission meeting before? Okay, well let me explain to you the rules of engagement.
1235 Well, actually I'm going to pass it on to the Secretary.
1236

1237 Mr. Emerson - Yes, sir, Mr. Chairman. The public hearing rules and
1238 regulations, the applicant is allowed 10 minutes to present the request, and time may be
1239 reserved for responses to testimony. Opposition is allowed 10 minutes to present its
1240 concerns. Commission questions do not count into the time limits. The Commission may
1241 waive the limits for either part at its discretion.
1242

1243 Mr. Branin - Mr. Perry, you're on. What a pleasure to have you here.
1244

1245 Mr. Perry - Mr. Chairman, members of the Planning Commission, it is a
1246 pleasure to be here. It's been a while and I always look forward to coming here and
1247 discussing issues with you.
1248

1249 Rocketts Landing is requesting approval of a Chesapeake Bay exception for
1250 encroachment into the RPA. The Department of Public Works is recommending denial of
1251 the applicant's request. The Department of Public Works feels the applicant has not met
1252 the requirements for an exception. I believe the Planning Commission has a copy of
1253 Public Works' last letter dated March 21, 2012, outlining the 5 conditions for granting an
1254 exception and our position on each of those conditions.
1255

1256 Mr. Chairman, I would be happy to answer any questions you have right now, or if you
1257 would like me to go over each of those 5 conditions and our response, I can do that now
1258 as well; whatever your pleasure.
1259

1260 Mr. Branin - How about we ask you some questions so we can move
1261 along without taking up a lot of your time, because I'm more interested in hearing the
1262 opposition first.
1263

1264 Mr. Perry - Okay.
1265

1266 Mrs. Jones - I seem to have a lot of questions today, and this case is no
1267 exception. I am very, very interested in your take, which is diametrically opposed to
1268 some others' takes, on the 5 points that we as a Commission must take into
1269 consideration. I'm very proud to have a CPC behind my name, but I do not have an
1270 engineering degree. I depend on those who are experts in the field to give me guidance
1271 for my decisions which have tremendous impacts. No one loves the bay more than I do,
1272 and I'm sure the other members of this Commission do as well. So, this is important to
1273 us. When we have folks coming at this from 2 completely different angles—one telling us
1274 this is beneficial; one telling us this should be denied. I, as a commissioner, need to have
1275 a way to reconcile that. So, what I'm asking you to do as you go forward with your
1276 answers to our questions is tell me why you all are not understanding this on the same
1277 level, because my understanding comes from your explanations—on both sides. So
1278 that's what I'm going to ask as we go forward. There are arguments both ways, but I
1279 need to understand why.

1280

31 Mr. Perry - Certainly. I'll do my best.

1282

1283 Mrs. Jones - Okay. And in that light, I'd like you to give me your best
1284 reason why you feel none of these 5 conditions are, in fact, being met.

1285

1286 Mr. Perry - My understanding is that they have to meet *all* of the
1287 conditions, but I will go through each one because you're correct. I do not feel they meet
1288 *all* the conditions, but, in fact, if they do not meet one, my understanding is they have to
1289 meet all 5, as far as granting an exception.

1290

1291 Mrs. Jones - Then I'd like to hear your layman's translation.

1292

1293 Mr. Perry - Okay. Condition #1, granting the exception will not confer
1294 upon the applicant any special privilege denied to similar-situated property owners.
1295 Department of Public Works—and I've been before the Planning Commission before on
1296 RPA encroachments—has recommended denial on similar proposals in the past for
1297 encroachment into RPA. One thing, for the Planning Commission, we have a lot of
1298 applicants that come into the County that want to maximize the use of their property,
1299 they want to encroach into an RPA. Sometimes, it's an existing home, and the RPA runs
1300 through their backyard. They might want to put a pool out there, and we recommend
1301 denial because they're not allowed to encroach into it unless there's an exception and
1302 we feel they don't meet the conditions.

33

1304 We've had redevelopment sites. For instance, we've had the Steak and Ale, which is at
1305 Glenside and Broad, where already they were in the RPA because when the RPA came
1306 into effect in 1989, it basically came through their property. That's allowed it. It's allowed
1307 to be in there. They can redevelop in there. They just can't—again, according to State
1308 law and County Code—what they can't do is they can't add additional impervious cover
1309 into that area, additional parking, additional buildings into the RPA, and there can be no
1310 further encroachment. They can't get any closer to the stream.

1311

1312 So, they have to meet conditions, and it's not unusual when people come to us to go
1313 ahead and say, "Look, you know, these are the conditions; this is what you have to meet
1314 with your development." They choose either to remove their development from the RPA
1315 because they know they have to come to the Commission and pay a fee, and we're
1316 going to be recommending denial. Or, in situations they're already in, they basically have
1317 to adhere to those conditions with their development. So, this is not unusual. The idea of
1318 someone coming in and wanting to encroach into the RPA—whether it's a
1319 redevelopment or whether it's new development, is really nothing unusual. There are
1320 many, many cases.

1321

1322 In addition to that, where the sites have similar concerns, we have had sites that have
1323 contaminating materials with RPA on them. White Oak Village comes to mind. That's a
1324 site that was formally an ATT site, had contaminating material. The RPA's on their site.
35 They had to honor that RPA and stay out of the RPA. So, that's not unusual.

1326
1327 Mr. Leabough - Mr. Perry, let me ask a quick question. You mentioned that
1328 you recommended denial. My question for you is has there been a situation where a
1329 similarly-situated property has been denied an exception?

1330
1331 Mr. Perry - Has been denied an exception? Not that I know of.

1332
1333 Mr. Leabough - Okay, thank you.

1334
1335 Mrs. Jones - And specifically for Rocketts Landing, which is a challenging
1336 site at best, the fact that this has been an industrial location, my question to you is a
1337 similarly-situated property owner, I can't think that there are many that meet that
1338 qualification. We haven't had that many that are similar to this come through. So let's just
1339 talk specifically about Rocketts Landing. There are encroachments into the RPA in other
1340 sections of Rocketts Landing, are there not?

1341
1342 Mr. Perry - Correct.

1343
1344 Mrs. Jones - And that has been a consistent recommendation. You would
1345 have consistently recommended denial for those particular projects as well?

1346
1347 Mr. Perry - Not if they met the conditions. For instance, if you look at the
1348 Code, permitted development in the RPA, there shall be no development in the RPA
1349 unless permitted by the zoning district of the lot and unless the development is limited to
1350 redevelopment—which would be Rocketts Landing—or isolated development sites, but
1351 only if there is, a) no increase in the amount of impervious cover within the RPA; and, b)
1352 no further encroachment within the RPA. So, you can have a situation in a previous
1353 section of Rocketts Landing where they have 2 existing buildings—let's see—and those
1354 buildings may have been dilapidated, but they're still there—the remnants are still there.
1355 They can go in and renovate those buildings. In our opinion, that is in accordance with
1356 the ordinance and within state law. So, they're allowed to do that. They can come in and
1357 do that. We've had a situation where DEQ actually specified that something had to be
1358 hard-capped. They specified an area. Certainly, that's something we would recommend
1359 approval on.

1360
1361 Our position is that certainly development and redevelopment can occur in the RPA as
1362 long as it meets the conditions. That's why we're here today; we feel that they don't meet
1363 the conditions. So I guess I'm trying to answer your question. We would not always
1364 recommend denial. We would recommend approval if, in fact, they met the conditions.

1365
1366 Mrs. Jones - So, following up on that point, I think what we're coming down
1367 to is hardscape versus no hardscape. In that context, if there is a demonstrative ability to
1368 improve environmental water quality, retention of the shoreline, those kinds of
1369 benchmark qualities for the development. If there is a way to see that the development
1370 will improve those factors, thereby improving the goals of the Chesapeake Bay Act and

1371 the RPA Preservation and all this kind of thing, then would that not be a basis upon
72 which you would recommend this exception?
1373

1374 Mr. Perry - It's certainly something we could entertain, but my counter
1375 question would be if you can still maintain the RPA and still achieve that, that would be
1376 the best situation. In other words, if we can still provide the water quality that was
1377 necessary on the site and at the same time maintain the 100-foot buffer, I think that's the
1378 intent of the Act. When we get into the harmony of the Act, that becomes my question.
1379 When I look at this, I really kind of defer to DEQ because I have a lot of respect for DEQ.
1380 When they come in and they say, "Hey, look, you know, for this piece of property, we
1381 realize it's contamination, okay, and what we're recommending is you can do either a soil
1382 cap—you can do a hard cap or you can fence, because our primary concern is human
1383 contact."
1384

1385 Certainly, DEQ, in many cases when the primary concern—and I've read the reports
1386 from the applicant—but certainly if their primary concern is groundwater contamination,
1387 they have the ability to require someone to remove the material entirely. They have the
1388 materials put in ground wells to go ahead and actually pump the contaminated ground—
1389 they're doing it out at White Oak Village. There's a perfect example. They basically take
1390 the groundwater out there that's contaminated, and they pump it into the sanitary sewer.
1391

1392 So, they have that ability. I did not see anywhere where DEQ came forward and said,
1393 "Hey, look, this needs a hard cap." Just the opposite. They said, "Hey, a soil cap is fine,
94 so you can go ahead and put a soil cap in there, and you can still maintain the RPA. You
1395 can maintain that buffer; you can re-vegetate it." That's where we're coming from.
1396 Certainly, if DEQ were to come forward and say it has to be hardscaped because we're
1397 concerned about groundwater contamination, I'd be recommending approval, but they
1398 can do both.
1399

1400 Mr. Leabough - If the developer or the applicant is proposing something that's
1401 above and beyond the minimum required by DEQ, because they said that they'll require
1402 a hardscape cap, a soil cap is fine. That's the minimum of what DEQ is requiring, not the
1403 maximum of what could be done to solve the problem or address the issue.
1404

1405 Mr. Perry - I understand that, but going along those lines—I mean, and
1406 again—someone could come in and say, "Wait a minute, if we're talking maximum, let's
1407 go ahead and remove all the material, go back and put clean material in, maintain the
1408 buffer, and we've dealt with the contamination, period." So, you're kind of picking how far
1409 you want to go for a reason. I mean, with all due respect, that's just the way I'm thinking
1410 about it. You could take that maximum to degrees.
1411

1412 Mr. Leabough - Let me ask this question of you. If the applicant is willing to
1413 address the issue with a hardscape cap, willing to pump the surface water into the
1414 sanitary sewer, would you be amenable to the request?
1415

1416 Mr. Perry - Again, I would defer to DEQ, what their requirement is. I
1417 certainly wouldn't want to say the applicant has to go ahead and pump contaminated
1418 material because that may not be the issue.

1420 Mr. Leabough - I'm just asking, though. If that were the case, hypothetically,
1421 would you be in a position to recommend the exception be granted?

1423 Mr. Perry - If DEQ came in and said, "Hey look, it should be hardscaped
1424 and you should pump"? Absolutely. I mean, I'm just going by what DEQ has presented
1425 us and what the applicant has presented us.

1427 Mr. Leabough - Understood.

1429 Mr. Perry - And they're just giving those options. There's an option in
1430 there that clearly satisfies DEQ and maintains the integrity of the RPA. Before the
1431 Commission, I just need to tell them that. There is an option that's out there that's been
1432 recommended by another agency that accomplishes both goals. What you all do with it is
1433 obviously up to you. That's my job.

1435 Mr. Leabough - Yes. I appreciate it.

1437 Mrs. Jones - So the reason that you're recommending this particular
1438 exception before us today be denied is because your feeling as our County resource is
1439 that everything can be accomplished for the applicant, as well as for the purposes of the
1440 RPA, by moving development out of the RPA and leaving the RPA without improvement
1441 or—?

1443 Mr. Perry - With a soil cap.

1445 Mrs. Jones - With soil cap only.

1447 Mr. Perry - And re-vegetate the RPA. Then, you've accomplished both.
1448 You've met DEQ's requirement, and you've met the Bay requirement. Obviously, we
1449 would approve that.

1451 Mr. Leabough - That's a minimum. I just keep going back, Mr. Perry, that
1452 that's a minimum of what could be done.

1454 Mr. Perry - Correct.

1456 Mr. Leabough - So, I want to look at the range between minimum and
1457 maximum, if there's another alternative that could be better for the Chesapeake Bay and
1458 the community, as well as the developer to meet us somewhere in the middle. That's
1459 what I'm looking at—a solution so we could work together to go above and beyond what
1460 DEQ is telling us the minimum requirement is. That's what I'm asking.

1461

1462 Mr. Perry - I think my problem, Mr. Leabough, is simply that once you
53 choose to hardscape the RPA, you lose the integrity of the buffer, which is the 100-foot
1464 buffer, maintain the 100-foot buffer. One of the goals of the Chesapeake Bay Act is to
1465 maintain 100-foot buffers along our streams, for various reasons. I mean there are all
1466 sorts of benefits to a buffer other than just water quality, everything from wildlife
1467 shading—it's well documented—the importance of a buffer.

1468
1469 Certainly my goal would be to work something out, like you said, and make it easy on
1470 everybody. Just by the nature of it, by putting hardscape in there where you can't grow
1471 vegetation, obviously you no longer can have a buffer.

1472
1473 Mr. Branin - Mr. Perry, can I ask you a question?

1474
1475 Mr. Perry - Certainly.

1476
1477 Mr. Branin - When we talk about hardscape and we talk about permeable
1478 versus impermeable, what does the County consider impermeable and what does the
1479 County consider permeable?

1480
1481 Mr. Perry - As far as impermeable, I mean, obviously, driveways,
1482 rooftops. But as far as gravel, compacted gravel, we would consider that to be
1483 impermeable.

1484
35 Mr. Branin - You consider that to be impermeable?

1486
1487 Mr. Perry - Impervious.

1488
1489 Mr. Branin - Impervious, okay. What does DCR consider it?

1490
1491 Mr. Perry - I—

1492
1493 Mr. Branin - I believe pervious. I'll check tomorrow because I'm on the
1494 Board.

1495
1496 Mr. Perry - Oh, well, we'll see you there. Our IAP is—

1497
1498 Mr. Branin - Tomorrow, right.

1499
1500 Mr. Perry - Obviously, we make that call all the time, and a lot of it's
1501 actually—

1502
1503 Mr. Branin - I would understand if you specified a 21A or compacted stone
1504 dust being impervious; I get that. But a 57—Public Works in roads will contest to this as
1505 well. If you're putting 57 as a base it's considered a—what, pervious or impervious?

1506
37 Mr. Perry - Probably pervious.

1508
1509 Mr. Branin - Pervious.
1510
1511 Mr. Perry - And again, like I said earlier, it all depends on the amount of
1512 [inaudible] that get in it, as you're well aware. Is this something that's going to be
1513 compacted, non-compacted.
1514
1515 Mr. Branin - Okay. When I was reading through it, I was like how can we
1516 consider—and looking at the case itself, how are we considering stone, 57s, 58s, being
1517 impervious where everything in my 25 years have been called—as long as we're not
1518 talking stone dust or crush and run—
1519
1520 Mr. Perry - Mr. Chairman, are you referring to the water quality, #5, the
1521 issue with regards to whether they're improving water quality? There are 5 conditions
1522 and the last condition has to do with water quality. I think the applicant made—came in
1523 and said that they felt they were improving water quality, and we had an issue with that.
1524
1525 Mrs. Jones - Please address that because we need to know where you
1526 base the—
1527
1528 Mr. Perry - We had a problem with the amount of—and that's when Mr.
1529 Branin was talking about impervious cover. We had an issue of how much impervious
1530 cover they considered in their calculation, and I'll be honest with you, I just got a memo
1531 dated March 26, 2012. Mr. Axselle was so kind to go ahead and include—I think Total
1532 Environment Concepts. There's a letter that came in; you probably have all seen that.
1533 When we get back to #5, which is the water quality, I guess I have a real problem with
1534 that part of the calculation.
1535
1536 For instance, it says the pollutant-loading calculations. I'm reading from the bottom if you
1537 have it in front of you. The pollutant-loading calculations from the Virginia Stormwater
1538 Management Handbook completed by Timmons are designed for a typical Virginia site.
1539 The calculations use potassium as a benchmark pollutant to calculate pre-development
1540 and post-development. Well, we all know potassium is not the benchmark; it's
1541 phosphorous.
1542
1543 Mr. Branin - Benchmark that you would have wanted—correct.
1544
1545 Mr. Perry - We've been using phosphorous since 1981.
1546
1547 Mr. Branin - I didn't catch that one.
1548
1549 Mr. Perry - And then they go on to say that many assumptions are made
1550 in the calculation. "This is a standard calculation and was provided to meet Henrico
1551 County requirements for water quality impact study. There is no reason to assume that
1552 these calculations represent the conditions at the site in any way." Well, if the

1553 calculations don't represent the conditions at the site, I'm not sure how you say you're
54 improving the water quality.

1555
1556 So, I'm not sure. I guess we're having problems even agreeing with—probably with a lot
1557 of the conditions—well, we're even having problems agreeing with that condition.
1558 Someone's coming forward and saying, "Hey, we're actually improving water quality on
1559 this site." I'm not sure I've seen that.

1560
1561 Mrs. Jones - Define for me, then, how you would tackle that question.

1562
1563 Mr. Perry - That question would be a two-calculation process, but it
1564 would be based on the site itself. In other words, you would go in and say, "Okay, this is
1565 what the preexisting for my site is. Here is what the post-calculation is, and we're
1566 showing that we're doing a better job." I haven't seen that yet.

1567
1568 Mrs. Jones - So, what you're saying is that could be the case, but you just
1569 haven't seen the statistical data to back that up?

1570
1571 Mr. Perry - Right. But again, I do want to say that would be just 1 of the 5
1572 conditions. Again, we'd have to look at that to say whether we'd agree with that or not.

1573
1574 Mrs. Jones - What I'm hearing from you is that this is, at the moment, a
1575 guess. You can't take statistical data to be necessarily accurate from other sites because
76 this is a unique site. The data that is being presented is being done on models that don't
1577 apply to this site. It sounds to me like we don't have things amassed together enough to
1578 have the engineering minds behind this on both sides of the issue come to any definitive
1579 conclusion.

1580
1581 My initial question to you was—and I still have the question—how can I make a decision
1582 when the experts in the field are not in agreement? That's what I'm being asked to do.

1583
1584 Mr. Perry - I understand your position. With respect to the water quality
1585 part of this, I'm with you. When I look at whether they've actually minimized the
1586 disturbance into the RPA—again, you're asking us to work with the applicant, and I
1587 understand that. You try to work that middle ground. To me it's clear that this proposed
1588 restaurant can be moved 50 feet outside of the RPA. There is plenty of room there. So
1589 when the Act says minimize the amount of disturbance in the RPA, I just want to let you
1590 know that's going to be hard for you to twist me to—or get me to see the light, let me
1591 say. Not twist me, get me—because there's just a—maybe I'm just dense, but I just don't
1592 see where that is going to change because I think you can physically move it.

1593
1594 Certainly, if DEQ were to come forward or someone were to come forward and say it
1595 absolutely needs to be hardscaped—we had a situation with a pool. They had a certain
1596 area that they felt was really a hot spot and went ahead and hardscaped that and put a
1597 pool on top. We were behind them; that made sense. We were behind it; we understood
98 it; we felt like it was in accordance with the requirements and what the law allows and

1599 says we should do. Some of the others ones? I'm sorry, it's just—obviously, that's just
1600 staff's position.

1601
1602 Mr. Leabough - Just a question. The site was rezoned, correct? What was it,
1603 2003?

1604
1605 Mr. Emerson - Yes, sir, that's correct.

1606
1607 Mr. Leabough - Did Public Works have the same concern? If I'm not
1608 mistaken—correct me, Mr. Secretary. The applicant proffered a condition of staying fifty
1609 feet out of the RPA or away from the river, if you will. Was that similar concern shared
1610 with the Commission and the Board during the rezoning process, because that was a
1611 condition that was proffered during the rezoning.

1612
1613 Mr. Perry - Mr. Leabough, I honestly can't answer that. I don't know if it
1614 was, but I did see Mr. Axselle's e-mail. It made perfect sense. A lot of those things I
1615 agree with. In fact, you can redevelop in the RPA. That upper fifty you can redevelop, but
1616 you just have to meet those conditions. I don't think the County, when they said that
1617 someone could—you know, through rezoning said that was carte blanche, you can do
1618 anything you want. We're approving something and you can go ahead and pave it or
1619 build anything you want. You can be in there, but you still have to satisfy the conditions.

1620
1621 So I don't disagree. The applicant is allowed to be in there, but they just have to meet the
1622 conditions of that.

1623
1624 Mr. Emerson - Mr. Leabough, just to expand. There were conceptualls
1625 included that showed buildings within this area on that application, and at your request, I
1626 had staff go back and review the minutes and the comments from Public Works, and
1627 there was no comment received from Public Works regarding development within 50 feet
1628 of the RPA at the time it came through for approval.

1629
1630 Mr. Leabough - I'm just trying to understand the concerns, as prevalent as
1631 they are today, why we didn't say, "Hey, they proffered a condition of a 50-foot buffer.
1632 That's a problem, because we need it to be at least 100 feet." Or, if they are going to be
1633 within the 100-foot buffer with the conditions of building that you mentioned, why weren't
1634 they mentioned at the time when the property was rezoned?

1635
1636 Mr. Perry - I can't answer that. I don't know if when property like that gets
1637 rezoned that it's understood that they have to meet all the conditions that would come
1638 with it, that's required by law or not. I don't get involved in that part.

1639
1640 Mr. Leabough - I understand.

1641
1642 Mr. Emerson - Mr. Perry, I have a quick question. You indicated that Public
1643 Works considers gravel impervious.

1644

1645 Mr. Perry - Right. For the most part, especially if it's something that's
1646 going to run.

1647
1648 Mr. Emerson - This site is primarily compacted gravel, as I understand it.
1649

1650 Mr. Perry - I have photos, if you'd like to see them. I mean we've been
1651 out there. I'd actually like you to see the photos before someone says it's gravel.
1652

1653 Mr. Emerson - My question is why isn't it redevelopment, if it is. That's where
1654 I was going with that.

1655
1656 Mr. Perry - [Off microphone getting photos; inaudible.]
1657

1658 Mr. Emerson - Do you want to put them on the document table so everybody
1659 can see them?
1660

1661 Mr. Leabough - Yes, please put it on the document table.
1662

1663 Mr. Branin - While they're doing that, are you going to want to hear from
1664 the applicant? I'm not saying right now.
1665

1666 Mr. Leabough - I do want to hear from the applicant and any opposition.
1667

1668
1669 Mr. Branin - Would you like to hear from the opposition before you hear
1670 from the applicant?
1671

1672 Mr. Leabough - Yes, please. May I ask one quick question of Planning staff
1673 after we look at these photos?

1674 Mr. Branin - Mr. Kennedy, can I make a recommendation? Zoom in and
1675 do one at a time.
1676

1677 Mr. Emerson - Can you zoom it out just a little bit, Mike, and see if we can
1678 get a little more clarity?
1679

1680 Mr. Leabough - There you go. That's it.
1681

1682 Mrs. Jones - All right.
1683

1684 Mr. Perry - That's the most recent photo. We have photos before. The
1685 wetland and permit person was down there just recently and [inaudible] on the dozer
1686 right there, which is kind of in the area of where the restaurant would be, approximately.
1687 As you're looking at that, I guess it's to the left. And we have some photos of what that
1688 area looked like prior to that. I have them labeled and numbered. Maybe Mike, can you
1689 throw on a couple of those photos of what it looked like before in some of those areas.

90

1691 When someone says the area is gravel—
1692
1693 Mr. Branin - A gravel parking lot.
1694
1695 Mr. Perry - —I think we're talking like a gravel—
1696
1697 Mr. Branin - Four inches of—right.
1698
1699 Mr. Perry - I don't think that's the case here.
1700
1701 Mrs. Jones - Mike, I'm sorry, I couldn't hear you. What?
1702
1703 Mr. Emerson - He said that's the railroad where he was pointing and it's a
1704 2009 photo, I believe.
1705
1706 Mrs. Jones - Okay.
1707
1708 Mr. Emerson - Can you speak up just a little bit, Mike? Why don't you come
1709 to the podium, Mike, and explain it, and then you'll be out of the picture and you won't be
1710 shadowing it. There you go.
1711
1712 Mr. Kennedy - You can see where the road is. That's just north of the
1713 encroachment. So, where that trailer is, that's the encroachment area there. There is
1714 some vegetation now.
1715
1716 Mr. Archer - So, the buildings would be in that area?
1717
1718 Mr. Branin - So, that whole area. You can see some elements that are
1719 stone, but it looks mostly like silt loam and—
1720
1721 Mr. Perry - Right. And we felt that was not—as part of their calculation—
1722 one of the things, they'd call that about 97 percent of it as—and don't quote me on that—
1723 a large percent of it as impervious. Here are some of the photos before. I just don't see
1724 it.
1725
1726 Mrs. Jones - Mr. Perry, may I ask one more question of you?
1727
1728 Mr. Perry - Yes, ma'am.
1729
1730 Mrs. Jones - In my attempts to understand clearly how we could handle
1731 situations like this, in wetland situations where we have to try to figure out how to deal
1732 with an existing wetland or part of a wetland that impacts a proposal, there are
1733 processes for mitigating those wetlands. How does any of that work with the RPA?
1734
1735 Mr. Perry - There is something similar in a sense if it is allowed. Let's say
1736 an encroachment was permissible. Then there is an offset, basically permission, much in

1737 the same as mitigation, that you would provide the same type of compensation—the
38 same amount of RPS elsewhere on your site, but that's only once you're allowed to do
1739 that by the Code. In other words, if an exception were to be granted and it met the
1740 conditions, then that could happen. That would be a way to mitigate it as well.

1741
1742 Mrs. Jones - So, what you're saying is it isn't that that becomes part of the
1743 thinking for the granting or denial of the exception.

1744
1745 Mr. Perry - Correct.

1746
1747 Mrs. Jones - It just becomes part of the plan going forward.

1748
1749 Mr. Perry - You said it much better than I did; thank you.

1750
1751 Mrs. Jones - Just trying to understand. Thank you.

1752
1753 Mr. Leabough - I have a question for Planning staff. The 5 conditions for
1754 granting an exception, you feel as though in your personal opinion and professional
1755 opinion those conditions are met to grant it, to be in a position to grant an exception?

1756
1757 Mr. Kennedy - I do. There is something else that's missing from the
1758 equation. There are a couple of things that the ordinance says. It assumes that a buffer
1759 provides a certain amount of water quality. The question is how much of a buffer was
50 really at this location at the time but they didn't really provide it now. There is some
1761 vegetation there, but over the years there's been contaminated soil. So there really
1762 hasn't been vegetation that can grow, but the Code also says that this section shall not
1763 be interpreted as the taking of property. Is this a taking? If someone wants to put a road
1764 close to my house—

1765
1766 Mr. Emerson - Mr. Kennedy, I don't think we want to get into the taking.
1767 Thank you. I would not view it that way, Mr. Kennedy. Mr. Leabough, yes, we do have
1768 questions in regards to this exception. From a staff perspective on the Planning side, we
1769 think it's reasonable. We do not see that it sets a precedent because the only area that
1770 you would consider an exception would be from Rocketts Landing down to Almond
1771 Creek. I don't think there's anywhere else on the James River in the County that it's not
1772 in somewhat of a pristine and original environment. This environment has been changing
1773 since before the Civil War. It's a great deal of fill. I believe the site is not that permeable.
1774 What is permeable is probably draining residue from the existing heavy industry fill that
1775 has occurred there, and one of the approved methods by DEQ is the hard cap. Of
1776 course, VMRC has already approved riprapping a portion of the 50 seaward feet of this
1777 RPA.

1778
1779 Until a few years ago exceptions were done by a water quality impact assessment that
1780 was submitted and approved administratively. There was some concern that those were
1781 being approved randomly without good, good review. Of course, then it was changed to

1782 where they come to the Planning Commission, but in my viewpoint, after dealing with the
1783 Chesapeake Bay Act since its implementation, this is justifiable.

1784
1785 Mr. Leabough - I'd like to hear from the opposition if there are no other
1786 questions.

1787
1788 Mr. Archer - I wanted to ask Mr. Perry something. Mr. Perry, you
1789 mentioned a little while ago about mitigation, and you indicated on-site mitigation. Is off-
1790 site mitigation permissible in this type of case, and, if so, would it be applicable here?

1791
1792 Mr. Perry - It would be unusual. I'm not sure if we've ever had a situation
1793 like that where someone was proposing to mitigate the buffer somewhere else along the
1794 James River, let's say. I'll be honest, I don't know if any precedent has ever been set
1795 along those lines or not; I'd have to look into it.

1796
1797 I would like to just say something and not be rebutting County staff. I just want to clear
1798 up something maybe. As far as the buffer being in the condition it's in now, I will say we
1799 do experience situations where an RPA comes along, a 100-foot buffer from the stream,
1800 and it's not a forested buffer. We've come across buffers where it might just be grass
1801 and it might be in a gravel situation, as you've indicated, Mr. Branin. The Code is clear
1802 that if a buffer doesn't exist, one will be reestablished. So, as part of this, just like in the
1803 other section, we require folks to reestablish the 100-foot buffer. So, just because the
1804 buffer is not there doesn't mean—there is no buffer there now, therefore what are we
1805 protecting, why are we—and that's a big point, and that's why I'm bringing it up. That's
1806 not the situation. The Act is clear—reestablish, reforest that buffer in those situations.
1807 So, just because the buffer does not exist does not mean it doesn't have a benefit.

1808
1809 Mr. Emerson - Mr. Perry, I'm not in a position to argue with you either, but
1810 just to make it clear, there are options. I agree the Act clearly talks about reestablishing a
1811 buffer. There are also options in areas that have been developed. If water quality
1812 parameters are met, and it is improving those water quality parameters and that can be
1813 proven through a water quality impact assessment, the Commission can grant those
1814 exceptions. That's what the rules and regulations are set up for.

1815
1816 Mr. Perry - Truly, I mean, the Commission can grant anything they want.
1817 But I just want to make sure that they're getting what I feel like is the correct information,
1818 because obviously people have come forward when the act was first—when it was first
1819 enacted in 1991, as far as the County was concerned you've had many people that were
1820 saying, "Hey, look, we can make water quality better. Let us build a BMP right down by
1821 the river, and let us build right up to the river. We can show you through calculations that
1822 water quality is going to be better." That is clearly not allowed because the buffer has
1823 features that they want to preserve, everything from wildlife habitat to water quality,
1824 shade. Mr. Emerson, we've never taken that approach that if someone can show the
1825 benefit in water quality they can go ahead and eliminate the buffer.

1826

1827 Mr. Emerson - But I would think in certain areas such as ones that have
1828 been developed in this one area, in my opinion, it's justifiable.
1829
1830 Mr. Perry - Thank you very much.
1831
1832 Mrs. Jones - Thank you.
1833
1834 Mr. Leabough - Thank you, Mr. Perry. Can we hear from the opposition,
1835 please, Mr. Chairman?
1836
1837 Mr. Branin - Absolutely.
1838
1839 Mr. Leabough - Please state your name for the record, ma'am.
1840
1841 Ms. Caphart - Thank you. I'm Eleanor Caphart, and I live at 251 Rocketts
1842 Way in Henrico County. I'm not far from that site right there. I can tell you that there are
1843 turkeys along there. There are groundhogs. There are raccoons and deer. I have seen
1844 all of those personally, and I've seen some other tracks that I don't know. I'm here to
1845 speak sort of for the river because I don't know all the rules and regulations, but I do
1846 know that to have a healthy river, part of it is keeping the water cool and providing
1847 shelter for things like ducks and fish that need the cool banks. Riprap that has been
1848 established in other areas along there just upstream from that is nothing but huge,
1849 square, ugly boulders. I mean ugly from my point of view. They're not river rock; they are
1850 blasted rock. There are no trees. There were trees when I first moved there, some large
1851 cottonwood and other trees maybe bigger than the ones you see along there. The trees
1852 are on the steep slope that goes down to the water.
1853
1854 My feeling is that there would be great competition for every building to get closer and
1855 closer to the river all along developing rivers. I have the closest deck to the water. No,
1856 I'm going to build a little closer. I want the closest deck to the water so you'll come to my
1857 restaurant rather than the other restaurant.
1858
1859 But anyway, I feel like we should protect 100 feet because it's part of the whole
1860 protection plan for the Chesapeake Bay and for the improvement of the James as well.
1861 The capital trail is going to go along there where you saw the railroad tracks. That allows
1862 more visibility of the river on this one spot of the capital trail, which will soon veer away
1863 from the river. I think it will be a great attraction for people coming from downtown into
1864 Henrico County because you can get there on the trail. You can come on your bikes; you
1865 can walk. And you can see the river doing that. By taking care of that buffer and
1866 improving the planting, you can have a very nice setting for restaurants.
1867
1868 Part of Henrico County's value is how our river looks. If it looks industrial and hardscape
1869 all along there, it's not very attractive, so you won't have river cruises and other things
1870 that can happen along there, river taxis. Also, just the fact that this is called a Resource
1871 Protection Area—rocks aren't the same as trees, and they don't do the same thing for

1872 eagles, which we now have in Richmond, as well as the herons you know about and the
1873 other water fowl that are coming into this area.

1874
1875 So, that's really it for me. It's just part of the beauty that we have when we have the
1876 James River, and how we can care for our water in the future. Thank you.

1877
1878 Mr. Emerson - Ma'am, you do understand that the riprap has been approved
1879 by the Virginia Marine Resources Commission and that's not a consideration by the
1880 Planning Commission? The seaward 50 feet?

1881
1882 Ms. Caphart - You're saying it's not in consideration?

1883
1884 Mr. Emerson - That's not in their consideration. The riprap and the rock
1885 along the river for shoreline stabilization—that's being approved by VMRC.

1886
1887 Ms. Caphart - I'm only speaking from the effect of it. There is no water
1888 cooling from that.

1889
1890 Mr. Emerson - Sure.

1891
1892 Ms. Caphart - You can vegetate in an area even with riprap. I think Linda
1893 may speak to that, but when you have weeds growing up in there, then that's unsightly to
1894 the development. So you spray chemicals to kill those weeds. Where do those chemicals
1895 go? I mean they go downhill. Thank you for your time.

1896
1897 Mrs. Jones - Thank you.

1898
1899 Ms. Jennings - Good morning. My name is Linda Jennings. I live at 251
1900 Rocketts Way at Rocketts Landing. First of all I would like to say that I'm not in
1901 opposition to the restaurants. I think the restaurants would be a nice addition to our
1902 community down there. The restaurants we have down there now bring people from the
1903 city to Henrico County, so it's a great revenue stream for Henrico County's taxes.
1904 Actually, I think the ones that are there are in the city so you're not getting the revenues
1905 from that. So, having restaurants now in Henrico County will certainly improve revenue
1906 for Henrico County. Hopefully, that revenue stream will help improve things in Varina.
1907 Varina is a wonderful resource for Henrico County. It's an area where you can still—I
1908 love living right near the city and can still within 5 minutes be in the country. It's very
1909 wonderful. I really applaud the developers for their vision, for what they're doing down
1910 there. So, I'm not opposed to the restaurants.

1911
1912 What I do want to encourage Henrico County to do as they allow the development of
1913 these restaurants is to remember the river. The river was a resource that was there long
1914 before any of us came. A hundred years ago the residents of this area only used it as
1915 boon to their industry, to dump stuff in, to get up and down, but we know better now. We
1916 know that a river is a wonderful resource that actually makes people want to come down
1917 to the area. I think that Henrico County can be a steward of this river and also encourage

1918 people, not just Henrico County residents. There's so much in Henrico. There is so much
1919 with the Civil War that people want to come to Henrico County to visit, and this will be a
1920 wonderful area to visit. I think that being able to see the river when they're visiting down
1921 there is going to be beneficial, and I think the river should be available to all inhabitants
1922 of Henrico and anyone who visits there, as well as its non-human inhabitants.

1923
1924 I believe the reclamation of that area is important. I understand that it's spoiled from the
1925 toxins in the soil there and that the hope of the developer is to keep more toxins from
1926 going into the river. They believe one way of doing that is to basically keep any water
1927 from going through the soil at that point to get into the river. That is the plan for having
1928 the restaurants close together and having the riprap and a lot of decking to basically
1929 push the water away from the river, and I understand that concept. There are other ways
1930 to decontaminate the area.

1931
1932 The EPA has put out a study about using—I have a cold so my mouth is dry, and I'm
1933 sure I won't pronounce this properly—phytoremediation to clean up sites. That type of
1934 remediation is actually using vegetation to do the remediation. There are many types of
1935 trees that are used to actually pull chemicals out of soil to help remediate the soil.

1936
1937 So, I do urge that the County take many looks at this to yes, encourage the
1938 development, yes, allow the restaurants, yes, have remediation of toxic soil, but to look
1939 at all the ways that it can be done, to not look at it in a way of just blanketing it off and
1940 having the water run away. Perhaps, space the buildings further apart and combine the
1941 type of vegetation that will also help with pulling the chemicals out. This vegetation would
1942 also do what Mr. Perry was talking about, and that is to improve the quality of the water.
1943 It's not just chemicals not going in the water; it's also water temperature that's important
1944 for the wildlife that lives down there. That's what vegetation gives to that. So, I would ask
1945 that all of those things be taken into consideration. Thank you.

1946
1947 Mr. Branin - Ma'am, in regards to the EPA study and the phyto, you are
1948 aware that the EPA has set standards now to the point that it's to microns and that we're
1949 trying to remove toxins from water? That same recommendation that they made with
1950 plants that would absorb doesn't meet their own standards.

1951
1952 Ms. Caphart - I wasn't aware of that. But I do believe that vegetation is
1953 going to be beneficial down there. So I do encourage—

1954
1955 Mr. Branin - Absolutely vegetation's beneficial.

1956
1957 Ms. Caphart - Yes.

1958
1959 Mr. Branin - But to state that study and that recommendation, they
1960 actually counteract each other.

1961
1962 Ms. Caphart - Well, I appreciate your correcting me on that, and I am not an
1963 EPA specialist. I do know that there are studies that are being done, and I appreciate the

1964 fact that—my point is I want to encourage the County to look at all the avenues that are
1965 available to make this part of the river nice for the restaurants so the restaurants can be
1966 there but also still try to incorporate the vegetation and the beauty that would be
1967 necessary to keep the river in good condition and to keep the area somewhat park-like.
1968 Thank you.

1969
1970 Mr. Leabough - Mr. Chairman, may we hear from the applicant?

1971
1972 Mr. Branin - Absolutely. Mr. Axselle, come on down.

1973
1974 Mr. Axselle - Mr. Chairman, and ladies and gentlemen of the Planning
1975 Commission, my name is Bill Axselle. I'm an attorney with Williams Mullen. Since the
1976 Rocketts Landing development has been under consideration, it's been my pleasure to
1977 work with them. With me is Richard Souter, who is the primary person with Rocketts
1978 Landing on the ground there (been there the entire time), and David Sayre, who is an
1979 environmentalist who's done all the environmental work on that property from the onset
1980 through this date. He knows the property better than anyone else.

1981
1982 Our purpose, obviously, is to request that you grant this exception that's been requested
1983 of a very limited resource protection area buffer reduction. I won't go through all of the
1984 background starting in 1607, but it is interesting to note—I'll give you a summary of some
1985 thoughts that I had shared earlier at Mr. Leabough's suggestion, as well as the material
1986 that you received from the Department of Public Works.

1987
1988 It is undeniable that since 1607, literally, when Christopher Newport landed there 11
1989 days after Jamestown, there has been, in what is referred to now as the Rocketts
1990 Landing area, a major maritime development—a major maritime commercial area of
1991 wars, different businesses, so forth. Rocketts Landing gets its name from Robert Rockett
1992 who actually took it over and began to make it really the primary port. If you think about
1993 it, though, the canals eventually took it up through the city and further west on the
1994 James. Then in the late 1800s, the railroads had come along and right there they took
1995 the items to a much deeper port at Newport News, so Rocketts Landing was less viable
1996 as a commercial area. It then became an industrial area. From the late 1800s up until at
1997 least the 1960s, 1970s, it was an industrial area. The larger uses were the Cedar Works.
1998 The Cedar Works building there has been preserved by Rocketts Landing. I now know
1999 they took cedar and used it for just about everything—this was before the days of
2000 plastic—and it was very pliable. It was a major activity there, but it was an industrial area.

2001
2002 Throughout all of this time, the maritime folks, the commercial folks, and the industrial
2003 folks were not very sensitive at all to the environment. They did their processes, poured
2004 the things on the ground, put the things on the ground, and unfortunately the property
2005 was so environmentally contaminated that if it was going to be reused it had to be done
2006 by people who were very concerned with the environment. Bill Abeloff, originally, and the
2007 Rocketts Landing folks went to DEQ. What DEQ entered into then was the first total
2008 remediation, and some of the conditions we've spoken to and will speak to were part of
2009 that. DEQ, however, their requirements deal with human health. What we're talking

2010 about today is human health, but it's also water quality. They did say that they could put
2011 on a 2-foot soil cap, and David Sayre can talk about that more than I.

2012
2013 The second major user in the latter stages of this was the Virginia Carolina Chemical
2014 Company. They had some uses there that I will describe. They were in buildings on the
2015 site from 1895 until at least 1965. The last buildings were demolished sometime before
2016 1991, the ones that were demolished, and 1991 is when the Chesapeake Bay
2017 Preservation Act came into effect. A building that was still on the property is exempt, but
2018 a building that had been torn down would require an exception. We'll get into that in a
2019 moment.

2020
2021 What is most important, I think, in many respects is for you to note that when we came to
2022 the Planning Commission and the Board of Supervisors to have this property zoned, as
2023 the Director of Planning said, the plan showed buildings on this very site. The Board of
2024 Supervisors, the Planning Commission, approved it. Quoting the staff report, both the
2025 proffers and the concept plan approved by the Board of Supervisors, rezoning case C-
2026 55C-04, contemplated development in the land with fifty feet of the RPA, a previously
2027 disturbed area.

2028
2029 They knew that this proposal would be here one day. Maybe not this exact proposal, but
2030 they knew that there were going to be buildings on this property, and that's what they
2031 approved. What I did not gather until today is—from the comments, it's clear—that the
2032 Department of Public Works, as they do with every zoning case, they see the proposal,
2033 and they make their comment. And they did not object to this. What's the difference
2034 between then and now? I will offer an explanation in a moment. It goes on, the same
2035 County-approved proffers say a minimum of 50 feet of the property immediately adjacent
2036 to the James River shall be used for open space, parks, promenade, or water-dependent
2037 uses. That's what we have here proposed too.

2038
2039 As I said in my earlier notes to you, the City and County did things a little differently. The
2040 City basically said if you're within 50 feet of the river, you can't do any development, but
2041 if you're on the landward side of the 50 feet and you're in an area that's been
2042 intentionally developed you can do this automatically. So, the Rocketts Landing
2043 properties that are in the City on the landward fifty feet don't have to have any
2044 exceptions. Henrico did it differently, but, quite frankly, it was a very logical way, because
2045 as we went through this study from—and your staff basically did this, which I thought
2046 was a very logical approach by them—the James River flows along Henrico County for
2047 34 miles and only less than a mile had been this type of development for commercial and
2048 industrial uses. So, the County said, "Okay, we're going to give you the ability to come in
2049 and request an exception."

2050
2051 The Department of Public Works, quite frankly, is doing their job in the sense of laying
2052 out their thoughts, but I think they've also illustrated today that there is no circumstance,
2053 no case under which they think any exception should be granted. That's their position.
2054 We accept it; we respect it. Your position is a balance, to look at all of the evidence and
2055 say, "Is the exception correct? Should it be approved? As you've heard from Mr.

2056 Kennedy, who is the planner in charge with this, he feels that our proposal does meet the
2057 criteria of the exception. As you've heard from the Director of Planning, who has the
2058 overall responsibility, he feels that we meet the criteria and the exception is justifiable.
2059

2060 A couple of other thoughts—I'm trying not to go too long. Look at the piece of property.
2061 See the green here? That's the area that's highlighted. Look at the property to what
2062 would be the north of that, right above it where it says, "Village of Rocketts Landing."
2063 That is in Henrico County. The Carolina Virginia Chemical Company did not tear down
2064 those buildings. Because those buildings exist, uses can be made without an exception.
2065 The building that was on this property was, in fact, torn down. It's an inconsistency to say
2066 because the buildings are still there you can use them, but because the other buildings
2067 were town down you have to go through these criteria. But that's all right.
2068

2069 Where I think it is not conveyed and understood is that this property was intensely and
2070 harshly developed. If I can get the exact quote because this one—if you'll let me pause
2071 just a moment. David Sayre in his report says that this property was very dirty compared
2072 to modern chemical product processes and led on this property to significant
2073 accumulation of lead and arsenic and acid disposition on the site. Solid waste, including
2074 cleaning out of the furnaces, was residual iron and arsenic oxides, and coal ash and
2075 cedars were dumped on site, used as fill, or pushed into the river. Lead and arsenic
2076 released from the process through the leaks and spills infiltrated the site and flowed to
2077 the river. This report, if you remember, also says that they'd gone down in the side and
2078 they've done the tests. It's almost nothing there that God had provided; it is just junk
2079 that's been left there over the years. Thus, in fact, it will, in fact—if it's not hardscaped—it
2080 will permeate through the soil and go into the James River.
2081

2082 We think this is a reasonable proposal. It brings to you the ability to hardscape this area,
2083 to collect the contamination, treat it in the simplest process, and prevent the runoff from
2084 going through the property and into the James River. Some of the pictures—and Richard
2085 can probably do a better job of that—with the real green area? That's the steep slope.
2086 That's not where we're talking about. If you looked at it, it is completely unstable. Trees,
2087 as they grow bigger, just fall in the river. What we're talking about is up in the area—and
2088 Richard can address that better than I—but it is basically stone. Nothing grows there.
2089

2090 I'm going to defer, if I can, to Richard. I'll answer any questions, but I'll let Richard talk
2091 about that. Then, David can engage in the discussion from an environmental standpoint.
2092

2093 Mr. Leabough - I don't want to get into a lot of technical detail here. Are there
2094 any questions of Mr. Axselle by the Commission?
2095

2096 Mrs. Jones - Yes. Good morning, Mr. Axselle. Help me understand just a
2097 few things so that I'm clear on this, please. When you say hardscape, can you define for
2098 us in between the buildings and the river what you envision to be there?
2099

2100 Mr. Axselle - I'm going to say this, but I'm going to quickly ask Richard to
2101 make sure I'm telling you right. There would be the building. There would be a dining
2102 deck on the front of the building. Okay.

2103
2104 Mrs. Jones - Which suspends—cantilevered or something—out from the
2105 building?

2106
2107 Mr. Axselle - Yes. Richard, if you don't mind making sure I get the details
2108 correct. But everything is collected and taken off.

2109
2110 Mr. Souter - Good morning. Hi, I'm Richard Souter with the developer at
2111 Rocketts Landing.

2112
2113 Mrs. Jones - Good morning.

2114
2115 Mr. Souter - I think when we say *hardscape* in this particular instance
2116 we're really talking about essentially the roof of the building. We're not talking about
2117 building a 1200-square-foot parking lot on the banks of the river. So, hardscape is
2118 basically just anywhere where the water would hit a hardscape, find its way into the
2119 storm sewer without touching dirt. It's predominantly roofs and the decks of restaurants.
2120 Out back of this as well, there's going to be the Virginia Capital Trail that's going to be
2121 running through there. It's not designed yet, but it's probably a 6-by-8-foot—8- to 10-foot-
2122 wide bicycle trail, a multiuse trail. That would be another area of hardscape that would
2123 kind of adjoin it. In this particular area within the 50-foot on the landward side of the RPA,
2124 hardscape is essentially the roof of a building or the deck.

2125
2126 Mrs. Jones - So, between the deck and the river, in that 50 feet, what do
2127 you envision?

2128
2129 Mr. Souter - That 50 feet is going to riprap, primarily to stabilize the
2130 bank—a permit we already have from the VMRC, which is essentially to stabilize the
2131 bank ahead of putting a marina in the river.

2132
2133 Mrs. Jones - And there will be no sea grasses, natural vegetation, nothing
2134 in conjunction with the riprap, just hard riprap?

2135
2136 Mr. Souter - I think we'd be happy to grow an indigenous species, a kind
2137 of maybe ivy—I say, "Ivy," that's probably not even indigenous—but indigenous, some
2138 ground cover. What we don't want is large trees growing there because the bank is
2139 fundamentally—structurally not as sound as we'd like it to be. So, when big trees grow
2140 there and they fall out, they end up doing way more damage to the bank and ultimately
2141 to the river.

2142
2143 Mrs. Jones - And they also impact the use.

2144

2145 Mr. Branin - When they come through and they riprap that, wouldn't that
2146 be eliminating part of that issue?

2147
2148 Mr. Souter - The stabilization issues?

2149
2150 Mr. Branin - Yes.

2151
2152 Mr. Souter - Oh, yes. That basically solves it. I guess I thought your
2153 question was how to maybe make the riprap—

2154
2155 Mrs. Jones - I understand you already have the permit in place, but what
2156 I'm trying to find here is some common ground and some attainment of everybody's
2157 goals. The reason why I questioned exactly what you're considering hardscape is
2158 because I'm looking for ways in which to introduce some softer elements to help with the
2159 overall mitigation of water impacts. I'm looking for a middle ground here, and I was
2160 hoping that you might have something planned.

2161
2162 Mr. Souter - If you go and look at the riprap that's been there for a number
2163 of different seasons, there are some species of plant life. It's nowhere near as obvious
2164 as the day it was first put in there. So, we think that over the course of a couple of
2165 growing seasons that we'll get a vegetative cover that begins to soften the bank. That
2166 bank's not technically hardscaped; it's purely a stabilization measure to make the bank
2167 stable for both the upland development and to allow the marina to go in.

2168
2169 Mrs. Jones - Did you plant that vegetation, or did it just come up naturally?

2170
2171 Mr. Souter - We planted some of it. Some of it made it through the soil and
2172 some of it didn't. I think it's a mix of what we planted and what might naturally occur.

2173
2174 Mrs. Jones - On the diagram that's in front of us now, would you just point
2175 out, please, the Capital Trail—the proposed Capital Trail?

2176
2177 Mr. Souter - Sure. The Capital Trail alignment is not 100 percent locked in
2178 right now, but the idea would be that it would basically run along the old railway line. As
2179 much as it follows the old rail part—that's really where it goes—you can't see off the
2180 map, but here is the next block along and it's kind of an existing development. So, the
2181 next big block on the left there would be [inaudible] line, and below that is a swimming
2182 pool complex. The trail runs between the building and the swimming pool. The swimming
2183 pool kind of occupied an existing structure. Certain sections of the trail are right on the
2184 water. For certain sections, you go between 1 building and a 1-story riverfront building.

2185
2186 Mr. Branin - Okay, but you still haven't shown us on this diagram, with the
2187 hand, where the trail comes in accordance with the building that's proposed.

2188
2189 Mr. Souter - Yes, okay. It's going to run along here. This is an existing
2190 building; this is a future building. It runs along the train track. The train track then bends

2191 up into our property over there. So, those are the buildings on the riverfront. This is a
2192 future building—and the train track—think of the train track as basically the alignment of
2193 the Virginia Capital Trail through this part. It goes through here, and it eventually ties into
2194 our next door neighbor and finds its way back to Route 5.

2195
2196 Mr. Branin - So, the bike trail will be north?

2197
2198 Mr. Souter - It's on the landward side of the building.

2199
2200 Mr. Branin - The landward side of your building.

2201
2202 Mr. Souter - It's there because of the rails—

2203
2204 Mr. Branin - I get that. I'm just trying to get an orientation. So, it's on the
2205 landward side?

2206
2207 Mr. Souter - It's actually on the east side. The river runs north-south
2208 across our project. That's why it's confusing.

2209
2210 Mr. Branin - The landward side.

2211
2212 Mr. Souter - The landward side of the building.

2213
2214 Mr. Branin - Okay. Can you put that hand on where the deck is?

2215
2216 Mr. Souter - The deck is going to be on the waterfront side.

2217
2218 Mr. Branin - Okay. And can you show me where the bulkhead is—the
2219 new riprap that's coming in?

2220
2221 Mr. Souter - The new riprap—I think our riprap goes up to elevation 15.

2222
2223 Mr. Branin - Fifteen, okay. The riprap and deck is how many feet?

2224
2225 Mr. Souter - I think that dotted line there is the 50-foot RPA, so maybe it's
2226 25 feet.

2227
2228 Mr. Branin - Twenty-five feet?

2229
2230 Mr. Souter - It's a steep bank. They say that first 50 feet—if you stand at
2231 the top of the bank you're standing almost on the 50-foot line from the river. When you
2232 look down, it's a pretty steep bank into the river, and the riprap's probably half the length
2233 of the bank.

2234

2235 Mr. Branin - Okay. So, if this is approved, the proposed building is done,
2236 the deck is there, and you're on the front edge of that deck where the rail is so you don't
2237 fall off—okay?—how many feet of flat land goes before you start down the slope?
2238
2239 Mr. Souter - Almost 0.
2240
2241 Mr. Branin - Zero. So, basically what you're saying is there is no
2242 vegetation from this point to the river.
2243
2244 Mr. Souter - Not in the form of—
2245
2246 Mr. Branin - Well, vegetation is vegetation.
2247
2248 Mr. Souter - I think there could be ground cover.
2249
2250 Mr. Branin - Where?
2251
2252 Mrs. Jones - On the slope?
2253
2254 Mr. Branin - You just said from this edge of the deck to the—we have 25
2255 feet of stone coming up on an angle.
2256
2257 Mr. Souter - Vegetation or un-vegetated sloped ground. I guess I'm not
2258 exactly sure what—
2259
2260 Mr. Branin - If this proposal is done, how much vegetation will be from
2261 where the building stops to the river?
2262
2263 Mr. Souter - I'm not trying to—it may or may not be vegetated. We may
2264 take the riprap all the way up to the top of bank.
2265
2266 Mr. Branin - In my experience over the years, I would take it all the way
2267 up. Seeing the way the river floods, I would take it all the way up. Because if you
2268 compare that to where the wall is, you're going to need that kind of space unless
2269 because it's—unless it's a 1-to-1, and that's 50 feet, and you're talking 25 feet. You
2270 would need to protect that bank because if the soils are as poor as you say they are then
2271 you're subject to sloughing under your building.
2272
2273 Mr. Souter - Agreed. Agreed. I think under our permits, we had permission
2274 to do up to 15, but above that would be at our discretion if we think that bank needs
2275 additional. On this particular section, it is very steep, and we haven't necessarily got
2276 there to do that. I think taking riprap to the top of the slope is the best way to optimally
2277 stabilize the whole slope.
2278
2279 Mr. Branin - So, then we're going to have a deck, patio—building, patio,
2280 and riprap. So, no vegetation whatsoever, most likely?

2281

32 Mr. Souter - In all likelihood. You have to stabilize that steep of a slope.
2283 We just haven't gotten there to do it.

2284

2285 Mr. Branin - I'm in complete agreement with you. If the soils are that poor,
2286 you're going to need to stabilize that slope because it will slough and you'll have your
2287 deck slide down the hill in a good flood, which we do have good floods here.

2288

2289 Mr. Souter - And we've witnessed a couple of them.

2290

2291 Mr. Branin - So, the answer is there is no vegetation.

2292

2293 Mr. Souter - I'll give you a no.

2294

2295 Mr. Branin - I was just trying to clarify.

2296

2297 Mr. Leabough - Were you done, Mr. Branin?

2298

2299 Mr. Branin - Yes, and I stepped on you; were you done?

2300

2301 Mrs. Jones - I'm ongoing, but go ahead.

2302

2303 Mr. Leabough - Where will parking be located?

34

2305 Mr. Souter - With a project like this parking, as much as you can, is at
2306 grade for the first part of the project, and then eventually finds its way into parking decks,
2307 as you start getting in the density that warrants it getting into parking structures. So, I
2308 think for phase 1 of this you would use this—this particular developed lot—you would
2309 use it as an at-grade lot, as well as potentially this if we need additional space. I think we
2310 can accommodate the majority of the parking in this at-grade lot—lot 17.

2311

2312 Mr. Leabough - Okay. What vegetation would you plant throughout the area
2313 around the buildings? Are you planning to plant vegetation along the trail as well as
2314 around the buildings to the extent possible?

2315

2316 Mr. Souter - I think so. It's an urban project, so I've had urban style
2317 vegetation. So it has streetscapes, but urban style streetscapes with trees. If you go look
2318 at phase one, it has urban street lighting, urban street trees. That kind of pattern of
2319 vegetation would go throughout the project. I think if this was an at-grade lot we would
2320 put additional vegetation there to meet at-grade parking lot requirements, and to soften
2321 that area. We don't like large acres of asphalt parking if we can avoid it.

2322

2323 Mr. Leabough - Okay.

2324

2325 Mrs. Jones - Mr. Secretary, I'm going to have to ask your help with this. I
26 may be viewing this in perhaps not the correct way. Given the history of this site—I'm not

2327 talking about all other places—I have always considered this more of a redevelopment, a
2328 cleanup and a redevelopment than a new development. Am I correct in doing that?
2329

2330 Mr. Emerson - Yes, ma'am, I would consider it that way. I think where the
2331 conflict lies with the Bay Act is that the building that existed here was removed prior to
2332 the enactment, so, therefore, you don't have that preexisting building that you had in
2333 other areas. You have preexisting development here. There are foundations and things
2334 that still exist in this area, but it is an area that has been filled. It has been historically
2335 used industrially, and, I agree with you. I consider this a redevelopment. Technically,
2336 from the Bay Act, it may not necessarily meet that criteria in the view of Public Works.
2337

2338 Mrs. Jones - Okay. Thank you for clarifying.

2339 Mr. Leabough - Any other questions for the applicant?

2340 Mr. Branin - Who did the water quality study?

2341
2342 Mr. Axselle - David Sayre is here, and he can best address those
2343 questions.
2344

2345
2346 Mr. Sayre - I'm David Sayre. I'm a professional geologist, and I represent
2347 Rocketts Landing. My involvement with the project started in 1999, and I'm really more of
2348 a hazardous waste, contaminated site type. Timmons did the water quality assessment. I
2349 apologize for getting phosphorous and potassium mixed up. My only defense is they're
2350 both metals and they both start with "p." I do not do Chesapeake Bay Act on a daily
2351 basis, although I am familiar with environmental regulations on a broad basis and
2352 certainly the specifics of the Chesapeake Bay Act.
2353

2354
2355 I'd like to discuss with you just briefly the site.
2356

2357 Mr. Branin - Actually, I had a question.

2358 Mr. Sayre - Sure, go ahead.

2359
2360 Mr. Branin - I didn't want you to stand up so you could give us your
2361 analysis.
2362

2363 Mr. Sayre - I'd be happy to answer your questions.

2364 Mr. Branin - I had a specific question about the water quality study. Did
2365 you do it, or did Timmons do it?
2366

2367
2368 Mr. Sayre - Timmons did it.
2369

2370 Mr. Branin - They tested for potassium?
2371
2372

2373 Mr. Sayre - They don't do any tests; it's a calculation. They model
74 phosphorous. I misspoke and said potassium in my letter.

2375
2376 Mr. Branin - So, it was a typo?

2377
2378 Mr. Sayre - Mine. I didn't do it, but in my assessment of it, yes, I made a
2379 typo, if you will. It's a calculation out of a handbook. That's one of the issues.

2380
2381 Mr. Branin - I was just dumbfounded why someone was doing a water
2382 quality study on potassium when that's not a state or federal standard.

2383
2384 Mr. Sayre - That was—I misspoke. As I said, they're both metals; they
2385 both start with "p." That's how it got into my letter.

2386
2387 Mr. Branin - Okay. That was the only question I had. If we change those
2388 "p" words, we can base the study on the proper thing.

2389
2390 Mr. Sayre - Right.

2391
2392 Mr. Branin - Okay.

2393
2394 Mr. Sayre - That was my mistake, not Timmons. They did the correct
2395 calculation.

96
2397 Mr. Leabough - Any other questions? The one thing that I take into
2398 consideration is the site itself and what was there before. This is a site that would not
2399 have been developed if it weren't for the developer that's there. It's a site that was
2400 already contaminated. We can't change that. What it does bring is development to an
2401 area that would not have been developed, and it adds residential units to an area, to
2402 Varina. It provides the opportunity to develop commercial space, restaurants, and retail
2403 to an area that has none today, other than what's on the city site. In addition to that, you
2404 have to take into consideration the precedent that's already been set on the city side of
2405 the river. Development is already within 50 feet of the river. It's just a matter of whether
2406 we try to draw that line and a hard line between the city and the county.

2407
2408 I appreciate the healthy dialogue between Public Works and Planning. We want to
2409 assume that we're all agreeing to everything. If you all agree to everything, then we're
2410 not here for a purpose. At the same time, I have to take into consideration the greater
2411 good of the community—the greater good of an area that was abused. So, to that extent,
2412 we can make it better—not according to the minimum DEQ standards but according to
2413 what's above and beyond the minimum standards required by DEQ.

2414
2415 Having said that, I do take into consideration the concerns about the river—the quality
2416 that the community has expressed. I have to look at the greater good for the entire area,
2417 the entire Varina District, and Henrico as well. That being said, I move for the approval of
18 POD-018-11, Rocketts Landing Phase 3, (POD-051-07 Rev.), Chesapeake Bay

2419 Resource Protection Area Exception, as required by Chapter 24 Section 106.3(f) and
2420 106.3(1), to permit construction of 2 buildings totaling 12,800 square feet and related
2421 accessory structures to encroach in the landward 50 feet of the RPA buffer as presented,
2422 subject to the following conditions:

- 2423
- 2424 1. The applicant shall submit a complete plan of development for Planning
2425 Commission review and approval prior to the construction of proposed
2426 improvements.
 - 2427 2. The applicant will collect surface water from the hardscape in the RPA buffer in an
2428 engineered stormwater system and provide an engineered BMP that will improve
2429 the water quality for this portion of the site by a minimum of 10 percent over
2430 existing conditions, in accordance with County standards for redevelopment.

2431
2432 Mrs. Jones - Second.

2433
2434 Mr. Branin - Motion by Mr. Leabough, seconded by Mrs. Jones. All in
2435 favor say aye. All opposed say no. The ayes have it; the motion passes.

2436
2437 The Planning Commission approved POD-018-11, Rocketts Landing Phase 3, (POD-
2438 051-07 Rev.), a Chesapeake Bay Resource Protection Area Exception, subject to the
2439 following conditions:

- 2440
- 2441 1. The applicant shall submit a complete plan of development for Planning
2442 Commission review and approval prior to the construction of proposed
2443 improvements.
 - 2444 2. The applicant will collect surface water from the hardscape in the RPA buffer in an
2445 engineered stormwater system and provide an engineered BMP that will improve
2446 the water quality for this portion of the site by a minimum of 10 percent over
2447 existing conditions, in accordance with County standards for redevelopment.

2448
2449 **SITE LIGHTING PLAN**

2450
2451
2452 **POD-33-11 Keith Whipple for Collegiate School:** Request for
2453 **POD2012-00099** approval of a site lighting plan, as required by Chapter 24,
2454 **Collegiate Upper School – Academic Commons –** Sections 24-106 and 24-106.2 of the Henrico County
2455 **201 N. Mooreland Road** Code. The 4.0-acre portion of the 52.9-acre site is located
2456 at the southeast corner of the intersection of N. Mooreland Road and Tarrytown Drive, on part of parcels 748-736-1139 and 748-737-1411. The zoning is R-2, One-Family Residential District. County water and sewer. **(Tuckahoe)**

2451
2452 Mr. Branin - Is anyone in opposition to POD-33-11, Collegiate Upper
2453 School – Academic Commons? No opposition.

2454
2455 Mr. Wilhite - Thank you, Mr. Chairman. I promise to be brief on this one.

2456

2457 A revised lighting plan was included in your packet this morning. It addresses all staff's
58 concerns. This lighting plan will show one additional light pole fixture adjacent to the
2459 traffic circle next to the proposed academic commons building. It also shows wall-
2460 mounted light fixtures that were not on the original plan. All these fixtures are proposed
2461 for the academic commons building. There were 5 recessed fixtures under a canopy that
2462 did not show up, and that's been annotated on the plan. There are no proposed lighting
2463 fixtures added to the fine arts building. All fixtures are concealed-source.
2464

2465 Staff can recommend approval of the revised lighting plan. That recommendation shows
2466 up on page 2 of the addendum.
2467

2468 Mrs. Jones - Mr. Wilhite, you have had a chance to review this, and, as all
2469 of us know, the neighbors watch carefully because this has been a real cooperative effort
2470 between Collegiate and the neighborhood. We appreciate their willingness to do that. My
2471 only concern, photometrics being hard to read, would you confirm for me that the light
2472 output is within acceptable levels for Planning standards?
2473

2474 Mr. Wilhite - Yes, ma'am. The Police planner looked at the light levels in
2475 the parking lot and found that they're sufficient for safety purposes. There is no light
2476 impact on the boundaries of the site. There are some light fixtures already previously
2477 approved on the outside loop road. The lighting that is being installed with this plan does
2478 not impact adjacent properties. They are concealed-source fixtures so they should be
2479 hidden very well.

80
2481 Mrs. Jones - Okay. This is not quite as extensive a case as we just heard.
2482 Does anyone have any questions before I move ahead? Okay. Mr. Carson, good
2483 morning. I want to thank Kevin for working with this. The lighting and the construction
2484 have been a little bit in different order, but I think it's well on its way to a wonderful new
2485 area for the Collegiate School.
2486

2487 With that, I would like to move for approval of the site lighting plan for POD-33-11,
2488 Collegiate Upper School – Academic Commons, with the standard conditions for lighting
2489 plans and for the revised plan and revised recommendation noted on the addendum on
2490 page 2 with staff's approval.
2491

2492 Mr. Witte - Second.

2493
2494 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Witte. All in favor say
2495 aye. All opposed say no. The ayes have it; the motion passes.
2496

2497 The Planning Commission approved the lighting plan for LP/POD-33-11, Collegiate
2498 Upper School – Academic Commons, subject to the standard conditions attached to
2499 these minutes for lighting plans.
2500

2501 Mr. Emerson - Mr. Chairman, that completes your agenda with the exception
'02 of the consideration for the approval of the minutes from the February 22, 2012 meeting.

2503
2504 APPROVAL OF MINUTES: February 22, 2012

2505
2506 Mrs. Jones - I move we accept the minutes as distributed unless there are
2507 corrections.

2508
2509 Mr. Witte - I'll second that.

2510
2511 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Witte. All in favor say
2512 aye. All opposed say no. The ayes have it; the motion passes.

2513
2514 The Planning Commission approved the February 22, 2012 minutes as submitted.

2515
2516 Mr. Leabough - Mr. Chairman, may I make one quick comment on the RPA
2517 exception case? I did take into consideration the traffic impact for the proposed use as
2518 well. Many of you know about the Route 5 corridor study. The one thing that helped me
2519 with that was the fact that the businesses that are proposed—in my opinion, my personal
2520 opinion, professional opinion—would not be competing with the traffic times during the
2521 day when people are going to and from work. So, I want to go on the record that I did
2522 take into consideration the traffic impact as well that additional commercial space would
2523 bring to the area. I just want to go on record having said that.

2524
2525 Mr. Branin - So noted. Thank you.

2526
2527 Mr. Emerson - Mr. Chairman, if we could, before you adjourn. I've been
2528 remiss. I'd like to introduce the Commission to Eric Dykstra. Eric, if you'd stand up. He's
2529 been filling in for us while Holly Zinn has been on maternity leave. He came to us as an
2530 intern, and we asked him if he'd hang around. He's done an excellent job getting all the
2531 information together and out to the Commission. I just wanted to thank you and also let
2532 all of you know who's been putting all of this together and getting it to you.

2533
2534 Mr. Branin - Thank you.

2535
2536 Mr. Emerson - The other item I'd like to mention to you is—and you'll be
2537 getting a letter from me on this, or a memo—it appears that you will not have an April 12
2538 meeting because we do not have any items for the agenda.

2539
2540 Mrs. Jones - That can't be possible.

2541
2542 Mr. Emerson - Well, at our last filing date, we had 7 filed. So, this isn't
2543 because we haven't had filings. This is because cases are not ready to move forward
2544 and the applicants have tabled them. I will inform you of that. Here's the other thing. I
2545 would just compliment Mr. Leabough on his choice of ties. I think he has very good taste.
2546 With that, I have nothing else.

2547
2548 Mrs. Jones - Let's adjourn. I move for adjournment.

2549

50

Mr. Archer -

Second.

2551

2552

Meeting is adjourned.

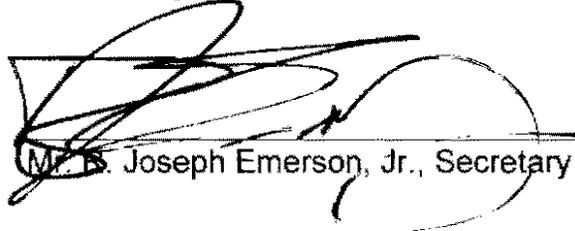
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Mr. Tommy Branin, Chairman



Mr. B. Joseph Emerson, Jr., Secretary

PLANS OF DEVELOPMENT

A. Standard Conditions for all POD's:

1. The owner shall enter into the necessary contracts with the Department of Public Utilities for connections to public water and sewer. **(when the property is served by public utilities)**
- 1A. The owner shall enter into the necessary contracts with the Department of Public Utilities for connections to public water. The well location shall be approved by the County Health Department before a building permit is issued. Connection shall be made to the public water system when available within 300 feet of the site/building. **(when not served by public water)**
- 1B. The owner shall enter into the necessary contracts with the Department of Public Utilities for connections to public sewer. The septic tank location shall be approved by the County Health Department before a building permit is issued. Connection shall be made to the public sewer when available within 300 feet of the site/building. **(when not served by public sewer)**
2. The Director of the Department of Public Utilities shall approve the plan of development for construction of public water and sewer, prior to beginning any construction of these utilities. The Department of Public Utilities shall be notified at least **48** hours prior to the start of any County water or sewer construction.
3. The parking lot shall be subject to the requirements of Chapter 24, Section 24-98 of the Henrico County Code.
4. The parking spaces shall be marked on the pavement surface with four-inch-wide traffic painted lines. All lane lines and parking lines shall be white in color with the exception that those dividing traffic shall yellow.
5. Sufficient, effectively usable parking shall be provided. If experience indicates the need, additional parking shall be provided.
6. Curb and gutter and necessary storm sewer shall be constructed as shown on approved plans.
7. The plan of development plan shall be revised as annotated on the staff plan dated **March 28, 2012**, which shall be as much a part of this approval as if details were fully described herein. Eight (8) sets of revised plans, including the detailed drainage, erosion control and utility plans, shall be submitted by the design engineer who prepared the plans to the Department of Planning for final review. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final plans for signature shall be submitted to the Department of Planning for approval signatures. Two (2) sets of the approved plan shall be attached to the building permit application. **(Revised January 2008)**
8. Two copies of an Erosion and Sediment Control Agreement with required escrow shall be submitted to the Department of Public Works. Approval is required prior to construction plan approval and beginning construction. The Department of Public Works shall be notified at least 24 hours prior to the start of any construction.
9. A detailed landscaping plan shall be submitted to the Department of Planning for review and approval prior to the issuance of any occupancy permits.

9. **AMENDED** - A detailed landscaping plan shall be submitted to the Department of Planning for review and Planning Commission approval prior to the issuance of any occupancy permits.
10. All groundcover and landscaping shall be properly maintained in a healthy condition at all times. Dead plant materials shall be removed within a reasonable time and replaced no later than the next planting season.
11. Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including light spread and intensity diagrams, and fixture specifications and mounting height details shall be submitted for Department of Planning review and approval.
11. **AMENDED** - Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including depictions of light spread and intensity diagrams, and fixture specifications and mounting height details shall be submitted for Department of Planning review and Planning Commission approval.
- 11B. Prior to the approval of an electrical permit application and installation of the site lighting equipment, a plan including light spread and intensity diagrams, and fixture specifications and mounting heights details shall be revised as annotated on the staff plan and included with the construction plans for final signature. **(For POD which includes lighting plan approval)**
12. All exterior lighting shall be designed and arranged to direct the light and glare away from nearby residential property and streets.
13. The site, including the parking areas, shall be kept clean of litter and debris on a daily basis. Trash container units/litter receptacles and recycling containers shall be maintained with regular pickups scheduled and shall be screened properly on all four sides. The gate(s) shall remain closed except when the receptacle(s) are being filled or serviced and shall be repaired or replaced as necessary. Details shall be included with the final site plan or required landscape plan for review and approval.
14. Required fire lanes shall be marked and maintained in accordance with the Virginia Statewide Fire Prevention Code.
15. Traffic control signs shall be provided as indicated on the Department of Planning Staff plan. All signs shall be fabricated as shown in The National Manual on Uniform Traffic Control Devices for Streets and Highways and The Virginia Supplement to The Manual on Uniform Traffic Control Devices for Streets and Highways.
16. The assigned property number(s) shall be displayed so it is easily readable from the street. If assistance is needed with the address, please contact the Department of Planning at 501-4284. The Planning Department must assign all property addresses. **(Revised January 2008)**
17. The owner shall have a set of plans approved by the Director of Public Works, Public Utilities and Secretary of the Planning Commission available at the site at all times when work is being performed. A designated responsible employee shall be available for contact by County Inspectors.
18. The property shall be developed as shown on the plan filed with the case and no changes or additions to the layout shall be made without the approval of this Commission.

19. Upon completion of the improvements and prior to the certification of the permanent occupancy permit, the owner shall furnish a statement by the engineer or land surveyor who prepared the POD plan, to the effect that all construction including water and sewer is in conformance to the regulations and requirements of the POD.
20. The approved Plan of Development is granted by the Planning Commission only to the owners(s)/applicant(s) listed on the Plan of Development application on file for this project. Upon written notification to the Director of Planning, the Plan of Development approval may be transferred to subsequent owner(s) subject to approval by this Commission **(Revised July 2007)**.
21. Vehicles shall be parked only in approved and constructed parking spaces.
22. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
23. The site, including paving, pavement markings, signage, curb and gutter, dumpster screens, walls, fences, lighting and other site improvements shall be properly maintained in good condition at all times. Any necessary repairs shall be made in a timely manner.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities and Division of Fire.
25. Insurance Services Office (ISO) calculations shall be included on the final construction plans for approval by the Department of Public Utilities prior to issuance of a building permit.
26. Any necessary off-site drainage and/or water and sewer easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans.
27. The easements for drainage and utilities as shown on approved plans shall be granted to the County in a form acceptable to the County Attorney prior to any occupancy permits being issued. The easement plats and any other required information shall be submitted to the County Real Property Agent at least sixty (60) days prior to requesting occupancy permits.
28. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
29. **(Start of miscellaneous conditions)**

STANDARD CONDITIONS FOR LANDSCAPE /LIGHTING/FENCE PLANS

1. The plan shall be revised as shown in red on Staff plan dated **March 28, 2012**, which shall be as much a part of this approval as if all details were fully described herein. **Five (5)** sets of **prints** of the revised plan shall be submitted to the Department of Planning for approval stamps and distribution.
2. The property shall be developed as shown on the plan filed with the case and no changes or additions to the layout shall be made without the approval of this Commission.
3. The owner shall have a set of approved plans available at the site at all times when work is being performed. A designated responsible employee shall be available for contact by County Inspectors.
4. All groundcover and landscaping shall be properly maintained in a healthy condition at all times. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting season. **(DELETE IF NO LANDSCAPING)**
5. All exterior lighting shall be shielded to direct lights away from adjacent residential property and streets. **(DELETE IF NO LIGHTING)**
6. All fences, walls, and screens, including gates and doors, shall be maintained in good repair by the owner. Trash and debris should not be allowed to accumulate along the fence or wall. **(DELETE IF NO FENCE, WALL, OR DUMPSTER SCREEN)**

B. In Addition to Item A, the Following Standard Conditions for Approval of All Zero Lot Line Developments shall apply:

29. Roof edge ornamental features that extend over the zero lot line, and which are permitted by Section 24-95(i)(1), must be authorized in the covenants.
30. Eight-foot easements for construction, drainage, and maintenance access for abutting lots shall be provided and shown on the POD plans.
31. Building permit request for individual dwellings shall each include two (2) copies of a layout plan sheet as approved with the plan of development. The developer may utilize alternate building types providing that each may be located within the building footprint shown on the approved plan. Any deviation in building footprint or infrastructure shall require submission and approval of an administrative site plan.
32. Windows on the zero lot line side of the dwelling can only be approved with an exception granted by the Building Official and the Director of Planning during the building permit application process.

C. Standard Conditions for Approval of All Dry Cleaners and Laundries in Addition to Item A:

29. The dry cleaning establishment shall use only non-inflammable cleaning solvents and have fully enclosed cleaning and solvent reclamation processes and fully enclosed pressing equipment with no outside steam exhaust.

D. In addition to Item A, the Following Conditions for Approval of All Shopping Centers Shall Apply:

29. Only retail business establishments permitted in a zone may be located in this center.
30. The ground area covered by all the buildings shall not exceed in the aggregate 25 percent of the total site area.
31. No merchandise shall be displayed or stored outside of the building(s) or on sidewalk(s).

E. In Addition to Item A, the Following Standard Conditions for Approval of All Multi-Family Shall Apply:

29. The unit house numbers shall be visible from the parking areas and drives.
30. The names of streets, drives, courts and parking areas shall be approved by the Richmond Regional Planning District Commission and **such names shall be included on the construction plans prior to their approval.** The standard street name signs shall be installed prior to any occupancy permit approval.

F. In addition to Item A, the Following Standard Conditions for Approval of All Service Station Developments Shall Apply:

29. This business shall not remain in operation after midnight and no exterior signs shall remain lighted after **(12:00 midnight - B-1) (1:00 o'clock a.m. - B-2) (no limit - B-3)**.
30. No merchandise shall be displayed outside of the building except that oil racks will be allowed on the pump islands.
31. This service station shall be used only for the sale of petroleum products and automobile accessories and parts. It shall not be used to sell or rent camping trailers, nor as a base of operation for truck fleets or fuel oil delivery or other such use that is not strictly a service station operation.
32. Only light repair work shall be allowed at this station, including motor tune-up, brake, generator, ignition, and exhaust repairs, and wheel balancing. The only work that can be performed outside the building is those services that are normally furnished at the pump island and the changing of tires.
33. No wrecked automobiles, nor automobiles incapable of being operated, shall be kept on the premises.
34. The prospective operator of this station shall come to the Department of Planning and sign the file copy of the special plan of development letter before he signs a lease with the oil company to operate this station.

G. STANDARD CONDITIONS FOR CONVENIENCE STORES WITH FUEL PUMPS IN A

B-2 ZONE

29. Bulk storage of fuel shall be underground.
30. There shall be no exterior display of merchandise except on pump islands and on paved walkway areas within three (3) feet of building.
31. Lighting fixtures shall not exceed a height greater than twenty (20) feet.
32. No temporary storage of wrecked or inoperative vehicles or rental of vehicles, trailer campers, vans or similar equipment shall be permitted.
33. Not more than two (2) electronic amusement games shall be permitted.
34. Not more than two (2) vending machines for food and beverage and similar merchandise shall be permitted on the premises outside of an enclosed building.
35. The prospective operator of this facility shall come to the Department of Planning and sign the file copy of the special plan of development letter before he signs a lease with the oil company to operate this station.
36. The landscaping plan shall include details for screening of refuse containers and refuse storage facilities in accordance with Section 24-61(i).
37. Refuse containers or refuse storage facilities shall be serviced during business hours only.
38. The owner or manager on duty shall be responsible for temporarily closing the car wash facility when the on-site stacking space is inadequate to serve customer demand to prevent a backup of vehicles onto the public right-of-way.
39. The owner shall arrange with the Traffic Engineer to provide standard traffic control signs to notify customers that stopping or standing on the public right-of-way shall not be permitted near the entrances to the car wash facility. **(If Car Wash Is Proposed)**

**H. STANDARD CONDITIONS FOR CONVENIENCE STORES WITH FUEL PUMPS
IN A**

B-3 ZONE

29. Bulk storage of fuel shall be underground.
30. The owner or manager on duty shall be responsible for temporarily closing the car wash facility when the on-site stacking space is inadequate to serve customer demand to prevent a backup of vehicles onto the public right-of-way. **(If Car Wash Is Proposed)**
31. The owner shall arrange with the Traffic Engineer to provide standard traffic control signs to notify customers that stopping or standing on the public right-of-way shall not be permitted near the entrances to the car wash facility. **(If Car Wash Is Proposed)**

SUBDIVISION - CONDITIONAL APPROVAL

Standard Conditions for Conventional Subdivisions Served By Public Utilities Public Water and/or Sewer (January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Final Subdivision application. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water. **(Substitute condition 5A if well)**
- 5A. A detailed soil analysis shall be performed and other requirements of the Health Department met before final plats are recorded. The developer shall have the center lines of all streets and lot corners staked to facilitate the examination of lots by the Health Department Sanitarians prior to filing for final approval and shall notify the Department of Planning and Health Department in writing when the staking has been done.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer. **(Substitute condition 6A if on site sewage disposal/septic)**
- 6A. A detailed soil analysis shall be performed and other requirements of the Health Department met before final plats are recorded. The developer shall have the center lines of all streets and lot corners staked to facilitate the examination of lots by the Health Department Sanitarians prior to filing for final approval and shall notify the Department of Planning and Health Department in writing when the staking has been done.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **March 28, 2012**, which shall be as much a part of this approval as if all details were fully described herein.

9. This approval shall expire on **March 27, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
11. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting a number of requirements including but not limited to minimum zoning requirements, Health Department requirements as applicable, and design considerations.
12. Prior to a request for final approval, the developer shall provide a buildable area plan showing information for all lots within the subdivision. Such plan shall be a part of the construction plans submitted for review and for signature. The buildable area plan shall be a minimum of 1" to 50' scale or larger and shall show the buildable area for the principal structure, all setback dimensions, the minimum lot width (perpendicular to the center line of the lot at the front building line), and if applicable, any Special Flood Hazard Areas (floodplains) and the area of each lot exclusive of floodplain, wetlands, easements, buffers, Chesapeake Bay Act Areas, wells and primary/reserved drainfields.

Standard Conditions for Conventional Subdivisions Not Served By Public Utilities
(January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage and erosion control plans have been approved by the Department of Planning, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Final Subdivision application. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, fifteen (15) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works, and a preconstruction meeting has been conducted with the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. A detailed soil analysis shall be performed and other requirements of the Health Department met before final plats are recorded. The developer shall have the center lines of all streets and lot corners staked to facilitate the examination of lots by the Health Department Sanitarians prior to filing for final approval and shall notify the Department of Planning and Health Department in writing when the staking has been done.
6. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
7. The plat shall be revised as shown in red on Staff plan dated **March 28, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
8. This approval shall expire on **March 27, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the fee and must be filed a minimum of two weeks prior to the expiration date.
9. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
10. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting a number of requirements including but not limited to minimum zoning requirements, Health Department requirements and design considerations.

11. Prior to a request for final approval, the developer shall provide a buildable area plan showing information for all lots within the subdivision. Such plan shall be a part of the construction plans submitted for review and for signature. The buildable area plan shall be a minimum of 1" to 50' scale or larger and shall show the buildable area for the principal structure, all setback dimensions, the minimum lot width (perpendicular to the center line of the lot at the front building line), and if applicable, any Special Flood Hazard Areas (floodplains) and the area of each lot exclusive of floodplain, wetlands, easements, buffers, Chesapeake Bay Act Areas, wells and primary/reserved drainfields.

Standard Conditions for Residential Townhouse for Sale (RTH) Subdivisions
(January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Plan of Development and Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Plan of Development and Final Subdivision applications. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works, and a preconstruction meeting has been conducted with the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **March 28, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
9. This approval shall expire on **March 27, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the required fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.
11. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting all requirements, including but not limited to, minimum zoning requirements, and design considerations.
12. A draft of the Declaration of Covenants, Conditions and Restrictions shall be submitted to

the Department of Planning for review, prior to final approval. The proposed Homeowners Association for the project shall be responsible for the exterior maintenance of all buildings and grounds.

13. All block corners shall be monumented and referenced, where possible, to the exterior boundaries of the site
14. The record plat shall contain a statement that the common area is dedicated to the common use and enjoyment of the homeowners of **(name of subdivision)** and is not dedicated for use by the general public. This statement shall refer to the applicable article in the covenants recorded with the plat.

Standard Conditions for Zero Lot Line Subdivisions
(January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Plan of Development and Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Plan of Development and Final Subdivision applications. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works, and a preconstruction meeting has been conducted with the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated **March 28, 2012**, which shall be as much a part of this approval as if all details were fully described herein.
9. This approval shall expire on **March 27, 2013**, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the required fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change may be implemented.
11. The conditional approval of this plat by the Planning Commission does not imply that all lots shown thereon will be granted final approval. Such approval is contingent on each lot meeting all requirements, including but not limited to, minimum zoning requirements, and design considerations.
12. Prior to a request for final approval, the developer shall provide a buildable area plan

showing information for all lots within the subdivision. Such plan shall be a part of the construction plans submitted for review and for signature. The buildable area plan shall be a minimum of 1" to 50' scale or larger and shall show the buildable area for the principal structure, all setback dimensions, the minimum lot width (perpendicular to the center line of the lot at the front building line), and if applicable, any Special Flood Hazard Areas (floodplains) and the area of each lot exclusive of floodplain, wetlands, easements, buffers and Chesapeake Bay Act Areas.

SUBDIVISION - CONDITIONAL APPROVAL

Standard Conditions for Conventional Subdivisions Served By Public Utilities Road Dedication (No Lots) (January 2008)

1. All requirements of Chapter 18, 19 and 24 of the Henrico County Code shall be met.
2. Construction plans, including proposed erosion and sediment controls, shall be submitted to the Department of Planning at least 30 days prior to final approval.
3. Construction shall not commence until the Director of Planning has granted final approval of the plat; and until the construction plans including the detailed drainage, erosion control, and utility plans have been approved by the Department of Planning, the Department of Public Utilities, and the Department of Public Works and a preconstruction meeting has been held with the Department of Public Works. Plans for Final Subdivision review shall be submitted to the Department of Planning in accordance with the requirements of the Final Subdivision application. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, twenty-one (21) sets of final construction plans for signature shall be submitted to the Department of Planning for approval signatures. All erosion and sediment control plans, agreements, and bonds must be submitted to the Department of Public Works and approved prior to approval of the construction plans.
4. Clearing and grubbing shall not commence until a clearing and grubbing plan has been approved by the Department of Planning and the Department of Public Works. Upon notice from the Department of Planning to the Engineer that all comments have been addressed, eight (8) sets of clearing and grubbing plans shall be submitted to the Department of Planning for approval signatures. All appropriate bonds and agreements, authorizations from state and/or regulatory agencies for impacts to the Waters of the United States, and offsite easement plats must be submitted to the Department of Public Works and approved prior to approval of the clearing and grubbing plans. Approvals must be updated prior to recordation of the plat.
5. The owner shall enter into the necessary contracts with the Department of Public Utilities for water.
6. The owner shall enter into the necessary contracts with the Department of Public Utilities for sewer.
7. A copy of the letter from the Richmond Regional Planning District Commission giving approval to the street names in this subdivision shall be submitted to the Department of Planning before the recordation plat is submitted for review.
8. The plat shall be revised as shown in red on Staff plan dated March 28, 2012, which shall be as much a part of this approval as if all details were fully described herein.
9. This approval shall expire on March 27, 2013, unless an extension is requested in writing stating the reason such extension is necessary. The request shall include the fee and must be filed a minimum of two weeks prior to the expiration date.
10. The name of this development, as designated in this approval, shall be the name used for marketing and public recognition purposes. A written request for a name change must be received and granted by the Department of Planning before such a change can be implemented.