

1 Minutes of the regular monthly meeting of the Planning Commission of the County of
2 Henrico, Virginia, held in the Board Room of the County Administration Building in the
3 Government Center at Parham and Hungary Springs Roads, Beginning at 9:00 a.m.
4 Wednesday, November 17, 1999.

5

6 Members Present: Ms. Elizabeth G. Dwyer, C.P.C., Chairman (Tuckahoe)
7 Mr. Ernest B. Vanarsdall, C.P.C., Vice Chairman (Brookland)
8 Mr. C. W. Archer, C.P.C. (Fairfield)
9 Mrs. Debra Quesinberry, (Varina)
10 Mrs. Mary L. Wade (Three Chopt)

11

12 Member Absent: Mr. James B. Donati, Jr., Board of Supervisors Representative
13 (Varina)

14

15 Others Present: Mr. Randall R. Silber, Assistant Director of Planning
16 Mr. David D. O'Kelly, Jr., Principal Planner
17 Ms. Leslie A. News, CLA, County Planner
18 Mr. E. J. (Ted) McGarry, III, County Planner
19 Mr. Kevin D. Wilhite, County Planner
20 Mr. Mikel C. Whitney, County Planner
21 Mr. Michael Kennedy, County Planner
22 Mr. Todd Eure, Assistant Traffic Engineer
23 Ms. Diana B. Carver, Recording Secretary

24

25 Arrived Late: Mr. John R. Marlles, AICP, Director of Planning, Secretary

26

27 Other Absent: Mr. James P. Strauss, CLA, County Planner

28

29 Mr. Silber - Good morning. I'll be standing in for Mr. Marlles today. He is
30 expected later on. Regarding the Commission members present, we are missing one
31 Commissioner. Mr. Donati is not here. He may be coming later, I don't know. We do have
32 a quorum so we can conduct business. At this time, perhaps, we can go through the deferrals
33 and withdrawals. Mr. McGarry.

34

35 Ms. Dwyer - Good morning, Mr. McGarry.

36

37 Mr. McGarry - Good morning. The first deferral is on page 4 of your agenda.

38 **SUBDIVISION (Deferred from the September 29, 1999, Meeting)**

39

Cole Creek
(July 1999 Plan)

Youngblood, Tyler & Associates, P.C. for HHHunt Corporation and Teal/Centex Homes: The 13.32-acre site is located along the south line of Nuckols Road, approximately 1,200 feet west of Shady Grove Road on part of Parcel 10-A-12. The zoning is R-2AC, One-Family Residence District (Conditional) and C-1C, Conservation District (Conditional). County water and sewer. **(Three Chopt) 18 Lots**

40

41 Mr. McGarry - The applicant is requesting deferral to your December 15, 1999,
42 meeting.

43

44 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of Cole
45 Creek subdivision (July 1999 Plan)? No opposition. We are ready for a motion.

46

47 Mrs. Wade - I move subdivision Cole Creek be deferred until the 15th of December at
48 the applicant's request.

49

50 Mr. Vanarsdall - Second.

51

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

54

55 At the request of the applicant, the Planning Commission deferred subdivision Cole Creek
56 (July 1999 Plan) to its December 15, 1999, meeting.

57

58 **PLAN OF DEVELOPMENT (Deferred from the October 27, 1999, Meeting)**

59

POD-70-99
Red Robin Restaurant -
Virginia Center Commons
Shopping Center

Bengston, DeBell & Elkin for North Park Peripheral Associates L.P. and Red Robin International, Inc.: Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, 6,157 square foot restaurant. The 1.63 acre site is located on the north line of J.E.B. Stuart Parkway, approximately 1,100 feet east of its intersection with Brook Road (U.S. Route 1) in the Virginia Center Commons Shopping Center on part of parcel 24-A-7E. The zoning is B-3C, Business District (Conditional). County water and sewer. **(Fairfield)**

60

61 Mr. McGarry - Page 10 of your agenda. The applicant is requesting deferral to your
62 December 15, 1999, meeting.

63

64 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of POD-70-

65 90, Red Robin Restaurant - Virginia Center Commons Mall? No opposition. We are ready
66 for a motion.

67

68 Mr. Archer - I move the deferral of POD-70-99, Red Robinson Restaurant, to the
69 December 15 meeting, at the applicant's request.

70

71 Mr. Vanarsdall - Second.

72

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

75

76 At the request of the applicant, the Planning Commission deferred POD-70-99, Red Robin
77 Restaurant - Virginia Center Commons Shopping Center, to its December 15, 1999, meeting.

78

79 **PLAN OF DEVELOPMENT**

80

POD-86-99

The Virginia Urology Center

Draper Aden Associates for Med Atlantic, Inc.: Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, 17,800 square foot medical office building. The 1.4 acre site is located at the northeast intersection of Monument Avenue and Byrd Avenue on parcels 115-8-A-1 and 24. The zoning is O-1, Office District. County water and sewer.
(Three Chopt)

81

82 Mr. McGarry - Page 19 of your agenda. The applicant is requesting deferral to your
83 December 15, 1999, meeting.

84

85 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of POD-86-
86 99, The Virginia Urology Center on Monument Avenue? No opposition. We are ready for a
87 motion.

88

89 Mrs. Wade - I move POD-86-99 be deferred until the 15th of December, at the
90 applicant's request.

91

92 Mr. Vanarsdall - Second.

93

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

96

97 At the request of the applicant, the Planning Commission deferred POD-86-99, The Virginia
98 Urology Center, to its December 15, 1999, meeting.

99 **LANDSCAPE PLAN**

100

LP/POD-104-98
The Glenns at Millers Lane

The Clower Group, Inc.: Request for approval of a landscape plan as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 16.57 acre site is located along both sides of Millers Lane approximately 250 feet south of Gay Avenue on parcels 162-A-11, 10C, and 10D and 11-3-99. The zoning is R-6, General Residence District, R-4, One-Family Residence District and Airport Safety Overlay District (ASO). **(Varina)**

101

102 Mr. McGarry - Our last deferral that the staff is aware of is on page 23 of your agenda.
103 The applicant is requesting deferral to your December 15, 1999, meeting.

104

105 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of LP/POD-
106 104-98, The Glenns at Millers Lane, landscape plan? No opposition to the deferral. We are
107 ready for a motion.

108

109 Mrs. Quesinberry - I move the deferral of the landscape plan for LP/POD-104-98 to the
110 December 15 meeting, at the applicant's request.

111

112 Mr. Vanarsdall - Second.

113

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

116

117 At the request of the applicant, the Planning Commission deferred the landscape plan for
118 LP/POD-104-98, The Glenns at Millers Lane, to its December 15, 1999, meeting.

119

120 Ms. Dwyer - Are there any other requests for deferrals or withdrawals by Commission
121 members? Okay. That completes that portion of the agenda. Next item.

122

123 Mr. Silber - Next item on the agenda would be the Expedited Agenda. This is where
124 the Planning Commission considers, according to its rules, regulations and ability to handle
125 items quickly at the beginning of the agenda, if there are no outstanding items. So, under the
126 expedited agenda, it looks as though there are five for expedited review. Mr. McGarry.

127

128 Mr. McGarry - There are five total. The first one is on page 3.

129 **TRANSFER OF APPROVAL**

130

POD-86-90
Broudy-Kantor Company, Inc. **Kaufman & Canoles for Kantor Properties:** Request for approval of a transfer of approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code from Kantor Properties, L.L.C. to National Distributing Company, Inc. The site is located on the south line of Eubank Road, southeast of its intersection with Corrugated Road on parcel 173-A-9C. The zoning is M-1, Light Industrial District and Airport Safety Overlay District (ASO) **(Varina)**

131

132 Ms. Dwyer - Is there anyone in the audience in opposition to the transfer of approval
133 of Broudy-Kantor Company, Inc., POD-86-90? No opposition. Are there any questions by
134 Commission members on this case? No questions. We are ready for a motion.

135

136 Mrs. Quesinberry - I move the approval of POD-86-90, Broudy-Kantor Company, Inc.

137

138 Mr. Vanarsdall - Second.

139

140 Ms. Dwyer - We are just approving the transfer of approval.

141

142 Mrs. Quesinberry - Oh, transfer of approval. I move to approve the transfer of approval for
143 POD-86-90, Broudy-Kantor Company, Inc.

144

145 Mr. Vanarsdall - Second.

146

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

149

150 The Planning Commission approved the transfer of approval request for POD-86-90 Broudy-
151 Kantor Company, Inc.

152

153 **SUBDIVISION**

154

Greenwood Meadows
(November 1999 Plan) **Foster & Miller, P.C. for Viking Developers, LLC:** The 3.847 acre site is located at the southern terminus of Greenstone Place which is along the west line of Greenwood Road north of Mountain Road and includes an expansion of the BMP basin located in the common area of Greenwood Meadows, Section A on part of parcels 42-A-82, 83 and 42-18-A-100. The zoning is R-4, One-Family Residence District. County water and sewer. **(Fairfield) 11 Lots**

155

156 Mr. McGarry - On page 7 of your agenda, this is the Greenwood Meadows subdivision,
157 November 1999 Plan. There is an addendum on this case. The addendum simply takes No.
158 12 and revises it to accurately reflect the landscape plan submission requirement.

159

160 Ms. Dwyer - Is there anyone in the audience in opposition to subdivision Greenwood
161 Meadows (November 1999 Plan)? No opposition to that case. Are there any questions by
162 Commission members on this case?

163

164 Ms. Dwyer - I have a question. Regarding the addendum, I have a question about the
165 wording of that. The approval of the BMP landscaping will be a part of the construction plans
166 as opposed to being approved by the Planning Office, is that a change in policy or practice?

167

168 Mr. McGarry - The revision to the condition is done to reflect the fact that Public Works
169 and Planning have to agree to it, not just Planning. So, we didn't want to mislead anyone
170 because since there is a BMP, they have to see a landscape plan with their construction plans.

171

172 Ms. Dwyer - Because they are concerned about the design of the BMP and
173 engineering part of that.

174

175 Mr. McGarry - And we want to make sure that any landscaping proposed will fit. So,
176 that's why they are involved with it.

177

178 Ms. Dwyer - So, why did we strike Planning Office then if both Planning and....

179

180 Mr. McGarry - This implies that only Planning is reviewing it and we want to be more
181 accurate and let them know that Planning is not the only agency that is going to be looking at
182 their landscape plan.

183

184 Ms. Dwyer - So, we are just not specifying who will review it, but internally it will be
185 Public Works and Planning.

186

187 Mr. McGarry - Yes, the two agencies.

188

189 Ms. Dwyer - Okay. Thank you. Are there any other questions? Mr. Archer.

190

191 Mr. Archer - Madam Chairman, I move approval of Greenwood Meadows subject to
192 the annotations on the plan, the standard conditions for subdivisions served by public utilities
193 and the additional conditions No. 12 revised and No. 13.

194

195 Mr. Vanarsdall - Second.

196

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

199 The Planning Commission approved Greenwood Meadows (November 1999 Plan), subject to
200 the standard conditions attached to these minutes, the annotations on the plan and the following
201 additional conditions.

202

203 12. The detailed plant list and specifications for the landscaping to be provided within the
204 BMP common area shall be submitted with the construction plans for review and
205 approval prior to final approval.

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

211

212 **PLAN OF DEVELOPMENT (Deferred from the September 9, 1999, Meeting)**

213

POD-66-99
Lakewood Manor Entrance
Road - Lauderdale Drive

TIMMONS for Virginia Baptist Homes Inc.: Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct an entrance road for an existing assisted living facility. The 3.0 acre portion of the site is located at the intersection of Lauderdale Drive and John Rolfe Parkway on parcel 76-A-8F and part of parcel 77-A-2A. The zoning is A-1, Agricultural District and R-5, General Residence District. County water and sewer. **(Tuckahoe)**

214

215

216 Ms. Dwyer - Is there anyone in the audience in opposition to POD-66-99, Lakewood
217 Manor Entrance Road on Lauderdale Drive? No opposition. Are there any questions by
218 Commission members? We didn't have anything on the addendum for this one, did we not,
219 Mr. McGarry?

220

221 Mr. McGarry - No, ma'am.

222

223 Ms. Dwyer - All right. I move the approval of POD-66-99, Lakewood Manor
224 Entrance Road to Lauderdale Drive, subject to the annotations on the plans and the standard
225 conditions for developments of this type.

226

227 Mr. Vanarsdall - Second.

228

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

231

232 The Planning Commission approved POD-66-99, Lakewood Manor Entrance Road -
233 Lauderdale Drive, subject to the standard conditions attached to these minutes and the
234 annotations on the plans.

235 **PLAN OF DEVELOPMENT & LIGHTING PLAN**

236

POD-82-99

Car Spa - W. Broad Street
and Staples Mill Road

**Interplan Practice, Ltd. for Lawrence Chrysler Plymouth
and Car Spa, Inc.:** Request for approval of a plan of
development and lighting plan as required by Chapter 24,
Section 24-106 of the Henrico County Code to construct a
~~5,000~~ 6,575 square foot, one-story, car wash with detailing
area and a 5,000 square foot convenience store with fuel
pumps. The 2.14 acre site is located on the northeast corner
of W. Broad Street (U.S. Route 250) and Staples Mill Road
(U.S. Route 33) on part of parcel 115-A-29. The zoning is B-
3, Business District. County water and sewer. **(Brookland)**

237

238 Mr. McGarry - There is an addendum for this case with three items on it. The first one
239 revises the total square footage of the building and the second item correctly numbers the
240 conditions, due to a duplication of a number. And, third, revised condition No. 33 is included
241 for clarity of the condition.

242

243 Ms. Dwyer - Is there anyone in the audience in opposition to POD-82-99, Car Spa -
244 W. Broad Street and Staples Mill Road? No opposition. Are there any questions by
245 Commission members on this case? A part of this is in the County and a part of it is in the
246 City, so how does that work? Do the two Planning Offices coordinate that or what?

247

248 Mr. McGarry - The revised condition states that before we will approve construction
249 plans, we will need confirmation from the City. They need to be satisfied with the layout as
250 well, on their portion of it. The primary entrance is Broad Street.

251

252 Ms. Dwyer - Are there any other questions by Commission members on the case? We
253 are ready for a motion.

254

255 Mr. Vanarsdall - Ted, is there any reason why we don't have No. 9 amended on there?
256 Do you think the landscaping is all right?

257

258 Mr. McGarry - You are approving a POD and the lighting plan. The landscaping is not
259 included with this. It's commercial backing up to industrial area. You can ask for No. 9
260 amended if you like.

261

262 Mr. Vanarsdall - I move POD-82-99, Car Spa - W. Broad Street and Staples Mill Road,
263 be approved on the expedited agenda with No. 9 amended and added conditions Nos. 23
264 through 33 and on the addendum No. 31 is duplicated and it should read Nos. 23 through 34
265 and No. 32 listed on the agenda will now become No. 33 revised and then I approve the
266 revised condition No. 33.

267

268 Mrs. Quesinberry - Second.

269

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

272

273 The Planning Commission approved POD-82-99, Car Spa - W. Broad Street and Staples Mill
274 Road, subject to the standard conditions attached to these minutes, the annotations on the plans
275 and the following additional conditions:

276

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

280 23. The entrances and drainage facilities on W. Broad Street (U.S. Route 250) and Staples
281 Mill Road (U.S. Route 33) shall be approved by the Virginia Department of
282 Transportation and the County.

283 24. A notice of completion form, certifying that the requirements of the Virginia
284 Department of Transportation entrances permit have been completed, shall be submitted
285 to the Planning Office prior to any occupancy permits being issued.

286 25. The developer shall provide fire hydrants as required by the Department of Public
287 Utilities in its approval of the utility plans and contracts.

288 26. Any necessary off-site drainage easements must be obtained in a form acceptable to the
289 County Attorney prior to final approval of the construction plans by the Department of
290 Public Works.

291 27. Deviations from County standards for pavement, curb or curb and gutter design shall
292 be approved by the County Engineer prior to final approval of the construction plans by
293 the Department of Public Works.

294 28. Insurance Services Office (ISO) calculations must be included with the utilities plans
295 and contracts and must be approved by the Department of Public Utilities prior to the
296 issuance of a building permit.

297 29. Approval of the construction plans by the Department of Public Works does not
298 establish the curb and gutter elevations along the Virginia Department of Transportation
299 maintained right-of-way. The elevations will be set by the contractor and approved by
300 the Virginia Department of Transportation.

301 30. The owner or manager on duty shall be responsible for temporarily closing the car
302 facility when the on-site stacking space is inadequate to serve customer demand to
303 prevent a backup of vehicles onto the public right-of-way.

304 31. The owner shall arrange with the Traffic Engineer to provide standard traffic control
305 signs to notify customers that stopping or standing on the public right-of-way shall not
306 be permitted near the entrances of the car wash facility.

307 32. Bulk storage of fuel shall be underground.

308 33. The applicant shall provide the Planning Office proof of site plan approval or letter a
309 letter stating it is not required by the City of Richmond prior to approval of the
310 construction plans.

311 34. Utility plan approval shall be granted prior to construction plan or lighting plan
312 approval.

313 **PLAN OF DEVELOPMENT**

314

POD-85-99
Crestar Bank @ Virginia
Center Marketplace
Shopping Center

TIMMONS for Ukrop's Super Markets, Inc.: Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, 3,612 square foot bank. The 1.01 acre site is located on an outparcel of Virginia Center Marketplace Shopping Center along the west line of Brook Road (U.S. Route 1) approximately 900 feet north of its intersection with J.E.B. Stuart Parkway on part of parcel 24-A-9D. The zoning is B-3C, Business District (Conditional). County water and sewer. **(Fairfield)**

315

316 Mr. McGarry - This is our last case on the Expedited Agenda.

317

318 Ms. Dwyer - Is there anyone in the audience in opposition to POD-85-99, Crestar
319 Bank @ Virginia Center Marketplace Shopping Center? No opposition. Are there any
320 questions by Commission members on this case?

321

322 Mr. Archer - Was there an addendum item on this case?

323

324 Mr. McGarry - No, sir.

325

326 Mr. Archer - Okay.

327

328 Ms. Dwyer - No questions. We are ready for a motion.

329

330 Mr. Archer - Madam Chairman, I move approval of POD-85-99, Crestar Bank @
331 Virginia Center Marketplace, subject to the annotations on the plans, the standard conditions
332 for developments of this type, No. 9 amended and the additional conditions Nos. 23 through
333 29.

334

335 Mr. Vanarsdall - Second.

336

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

339

340 The Planning Commission approved POD-85-99, Crestar Bank @ Virginia Center Marketplace
341 Shopping Center, subject to the standard conditions attached to these minutes, the annotations
342 on the plans and the following additional conditions:

343

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

347 23. The easements for drainage and utilities as shown on approved plans shall be granted to

- 348 the County in a form acceptable to the County Attorney prior to any occupancy permits
349 being issued. The easement plats and any other required information shall be submitted
350 to the County Real Property Agent at least sixty (60) days prior to requesting
351 occupancy permits.
- 352 24. The developer shall provide fire hydrants as required by the Department of Public
353 Utilities in its approval of the utility plans and contracts.
- 354 25. Insurance Services Office (ISO) calculations must be included with the utilities plans
355 and contracts and must be approved by the Department of Public Utilities prior to the
356 issuance of a building permit.
- 357 26. Any necessary off-site drainage easements must be obtained in a form acceptable to the
358 County Attorney prior to final approval of the construction plans by the Department of
359 Public Works.
- 360 27. Deviations from County standards for pavement, curb or curb and gutter design shall
361 be approved by the County Engineer prior to final approval of the construction plans by
362 the Department of Public Works.
- 363 28. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the
364 Planning Office and approved prior to issuance of a certificate of occupancy for this
365 development.
- 366 29. The ground area covered by all the buildings shall not exceed in the aggregate 25
367 percent of the total site area.

368
369 Ms. Dwyer - I believe that concludes our Expedited Agenda. For the benefit of those
370 in the audience, the expedited cases are those which have no outstanding issues. We generally
371 put those at the front of the agenda. Those who worked diligently with the staff and the
372 Commissioner to resolve any development issues that we may have, those cases are taking care
373 of up front and quickly. We will now move to the regular portion of our agenda. Mr.
374 Secretary.

375
376 Mr. Silber - Yes, ma'am. The next item on the 9:00 o'clock portion of the agenda is
377 a public hearing on the Proposed Land Use Plan Amendment dealing with the Wireless
378 Communication Towers. This is a follow-up to a concern that was expressed by the Board of
379 Supervisors over the past few months, especially, dealing with the placement and the
380 appearance of communication towers. There was a work session held by the Board of
381 Supervisors back in October and there was also a work session held with the Planning
382 Commission on November 10, 1999. This is a public hearing on this item and Jo Ann Hunter
383 is here to present the Proposed Land Use Plan Amendment.

384
385 **PUBLIC HEARING: Proposed Land Use Plan Amendment - Wireless Communication**
386 **Towers**

387
388 Ms. Dwyer - Good morning, Ms. Hunter, how are you?

389
390 Ms. Hunter - Good morning. As we talked about at last week's work session, this is
391 an amendment to the Comprehensive Plan, which addresses wireless communication
392 technology. Mikel, is handing out two things to you. One is an editorial that was in the

393 Richmond Times Dispatch today, and also a letter from Varina Beautification Committee
394 regarding this amendment. Currently, our existing Comprehensive Plan is silent regarding the
395 issue of wireless communication facilities. Currently, our only policy that we have, in
396 reference to these facilities, is that towers are recommended to be constructed to a height of
397 199 feet in order to encourage co-location opportunities.

398

399 This policy was sufficient when the technology providers were marketing to the mobile
400 market. But now that they are marketing to compete with residential landline services, this
401 policy may not be as appropriate. Staff believes that adoption of this amendment will enhance
402 the County's ability to protect our residential neighborhoods from inappropriately sighted
403 communication towers.

404

405 I reviewed with you briefly last week the proliferation of tower requests. It's basically the
406 influx of new providers began in 1996 when the FCC auctioned an additional seven providers
407 in the County. Another reason is the increased demand and competition among the providers,
408 and new providers are now seeking to replace landline phone in residential developments.
409 Currently, the number of providers in the Richmond region has stabilized at six. We are not
410 aware of any new providers coming in at any time, but there are an additional three licenses
411 available in the Richmond region. There are currently 73 communication towers in the
412 County. We have identified a number of cell site opportunities, including collocation on an
413 existing towers; Virginia Power easements, existing tall buildings, churches, public sites, or
414 private land. This past year we have seen an influx of communication towers in the VDOT's
415 right-of-ways. We currently have six towers constructed and two more are proposed to be
416 under construction this year. The recent State Supreme Court ruling is that these towers in
417 VDOT right-of-ways are now subject to local review and will need to go through the
418 provisional use permit process just as if it was on private land. Here is a map showing our
419 tower locations. As you can see, they are pretty well dispersed throughout the County. It
420 provides fairly good coverage for most of the providers.

421

422 This year we have had seven tower requests, down considerably from 1998, which was 21
423 towers. The Commission and Board saw only one of these tower requests, the six others were
424 in the VDOT right-of-way and did not come before the Commission. We believe the trend
425 will continue to have a low number of tower requests. We don't believe we will see the
426 increased numbers that we saw in 1996 and 1998 when new providers entered the market.

427

428 I'm going to briefly run through the goals, objectives and policies that we are proposing. The
429 goals, objectives and policies are designed to fit in with our existing Comprehensive Plan.
430 The goals are very broad long range. They include: to encourage manage development of
431 wireless communication infrastructure while at the same time not unreasonably interfering with
432 that development. Two. To maintain and preserve the residential character of the community.
433 To insure towers and facilities are compatible with surrounding land uses; to provide a
434 uniform and comprehensive set of standards for the review of new tower applications; and to
435 promote public safety. The objectives begin to get a little more specific. They include:
436 Minimize the adverse visual impacts through careful design, siting, landscape screening, and
437 stealth design; Horizontally separate towers from residential neighborhoods; Encourage the use

438 of alternative support structures, that includes existing towers, may include water tanks,
439 Virginia Power easements. There are a variety of existing structures out there that the
440 telecommunication industries have been using and others that they can look at. Ensure
441 collocation opportunities are fully met before permitting new towers. We currently are already
442 doing this; insure development meets FAA, FCC, and the Uniform Statewide Building Code
443 requirements; insure the removal of obsolete or abandoned equipment; and, insure providers
444 implement any reasonably available technology to reduce the height or number of towers.

445

446 The policies, which I am going to get into, become much more specific and they are divided
447 into three groups. General policies, Siting Policies and Design Policies. These policies will
448 give us, when we are reviewing a request for a telecommunication tower, it will give us some
449 concrete guidelines and recommendations that we can make to the providers. The first General
450 Policy is to encourage the placement of antennas on existing structures; Encourage when
451 appropriate the upgrade or replacement of lower towers. We just had an example of this at the
452 Virginia Power property on W. Broad Street. They had an existing tower that had been there
453 since the early 70's. It was an old wooden structure. It was 150 feet tall but it did not allow
454 for any collocation opportunities. We encouraged the provider that was looking for a tower
455 site in that area to look for co-location opportunities. They have replaced that wooden tower
456 with a new tower and now there is opportunity for three new providers in that area. Expedite
457 the permitting of towers having minimal visual impacts and meet all regulatory standards.
458 Maintain an inventory of towers sites to determine collocation opportunities. We are also
459 currently doing that. Coordinate requests with adjoining localities. The Richmond Regional
460 Planning District Commission is taking the lead on this. They have developed a
461 telecommunication committee that has representatives from all the local jurisdictions and they
462 are getting all the information from where towers are located. So, that if we have a request
463 that's near our boundary we can contact them and find out what other towers are in the other
464 localities jurisdiction that may be able to serve the providers needs. We encourage providers
465 to provide their "build out" coverage grid and to obtain citizen and industry input in the future
466 development of communications regulations.

467

468 The Siting Policies include: Towers in areas zoned or planned for residential uses are strongly
469 discouraged. Non-stealth towers located adjacent to residential districts are discouraged. New
470 towers should be considered only when collocation or replacement of existing towers is not
471 feasible. And we have come up with a hierarchy of land of where we propose towers to be.
472 The first location would be an industrial area not adjacent to residential areas. Then we would
473 encourage the provider to look in commercial areas and then finally agricultural areas not used
474 for residential purposes. Towers should be located as far away from residences as possible.
475 County-owned, State-owned, or Federal properties and facilities should be considered to
476 encourage proper siting. We have come up with three standards to review when it would be
477 appropriate to be placed on these public facility lands. New sites with towers up to 199 feet
478 should be planned for industrial areas; however reduced tower height may be more appropriate
479 in sensitive locations. This would be a modification of our current policy which encourages all
480 towers to be 199 feet, that may not be appropriate if it is adjacent or encroaches near
481 residential area or in a sensitive location. If collocation opportunities are not possible, siting
482 should be encourage in wooded or remote sites. Towers should be located at the lowest

483 possible point along ridge lines, and new towers should not block the County's microwave
484 paths or interfere with the County's public safety radio.

485

486 The last section deals with the Design Policies. That includes: Stealth towers should be
487 considered for all applications; Monopoles are recommended over lattice towers; Limited
488 clearing of the site is recommended; Security fencing and visible tower locations should be
489 screened from public view. We have come up with a standard of a row of evergreen trees, a
490 minimum of 8-feet tall and a maximum of 10 feet apart planted around the perimeter with a
491 continuous hedge of at least 30 inches high in front of the tree line as a recommendation;
492 Lighting and painting of the towers are discouraged and if a reduced height would eliminate
493 the need for the lighting and painting we would recommend the reduced tower height; Earth
494 tone colors for the shelters are recommended; Antennas attached to the buildings should blend
495 in with the existing structure; Access to the site shall meet all requirement of Department of
496 Public Works. And an additional one that we have added is in visible or sensitive locations
497 antennae mounts should be flush mounted.

498

499 We did get a letter this morning from the Varina Beautification Committee and they made a
500 very good point. They pointed out that we did not reference in here on any of our goals,
501 policies, or objectives, the impact on towers on Scenic Route 5. And I believe it is
502 appropriate and important to include a siting policy that references Rout 5. We could include
503 it in our Route 5 Guidelines that no tower should be within 1,400 feet of Route 5, and I think
504 that's important to include in here.

505

506 In summary, I think this amendment would not only enable staff to give better information to
507 the providers on location of appropriate tower sites but it also provides guidance to the
508 providers as they are looking to provide coverage in the County. We recommend that the
509 Commission adopt this amendment to the Comprehensive Plan.

510

511 Ms. Dwyer - Thank you, Ms. Hunter. Are there any questions of Ms. Hunter by
512 Commission members on any of the materials that she has presented?

513

514 Mrs. Wade - One thing. This is basically what we have been trying to do. Although
515 most of the conditions include one about the timely removal, and I don't know if for any
516 reason that was left out on page 7, under the big "F" near the top. Perhaps we might want to
517 add "ensure the timely removal" and that's still pretty vague but it will at least indicate that
518 time should be a factor.

519

520 Ms. Dwyer - So, the suggestion is on page 7, that's a good idea.

521

522 Ms. Hunter - I think that's a good point, and I will add that in.

523

524 Ms. Dwyer - And that is already a part of the conditions that we use. It just reflects
525 what we are already doing. Are there any other comments or questions? Ms. Hunter, on
526 number "E" just above the "F" that Mrs. Wade just referenced, we talk about ensuring that the
527 PCS facilities meet standard of the FAA and FCC and the Uniform Statewide Building Code.

528 I remember a case in which there was some question about what the FAA was going to
529 require, whether they were going to require lighting or striping. And we didn't know at the
530 time when the case came before the Commission. The applicant was trying to craft, I guess, a
531 condition that would give them some leeway because there such great delay in discovering
532 what the FAA was specifically going to require. So, I'm wondering, in light of that, how we
533 would handle ensuring that the facility or the tower would meet FAA requirements. Are we
534 going to be requiring something in writing from the FAA necessarily before we approved the
535 tower?

536

537 Ms. Hunter - Currently, the towers do have to get FAA approval before they get a
538 building permit. We don't know at the time when we are approving whether it would need to
539 be lighted or painted. We have a good idea if it is in a flight path. That's why we add that
540 condition in that if lighting or painting is required by the FAA it has to come back before the
541 Commission. So, that is done before a building permit is granted.

542

543 Ms. Dwyer - So, I'm assuming that the FAA approval is not what may be so time
544 consuming, so we would have that information before it comes to us, but there may be some
545 outstanding questions about lighting and painting or striping.

546

547 Ms. Hunter - Right.

548

549 Ms. Dwyer - And the condition really does take care of that, if lighting or striping is
550 required then we could make them come back to the Commission so that we would have an
551 opportunity to know exactly what the tower is going to look like before we give final approval.

552

553 Ms. Hunter - Right.

554

555 Ms. Dwyer - Thank you.

556

557 Mr. Vanarsdall - Along those lines, Madam Chairman, that was a Varina case that didn't
558 have the light and it came back with a light. And then I believe Gloria Freye had one at the
559 time that said "no light" but a citizen kept saying she knew it would be lighted because the
560 media helicopter travels that route. So, at that time Gloria Freye told us that there was a
561 backlog. So, you are saying that now that has lighten up?

562

563 Ms. Hunter - I'm sure they are still backed up. It's not reviewed locally, it's actually
564 sent to Jamaica, New York and they review all the tower requests nationwide. So, I'm sure
565 that there is quite a backlog.

566

567 Mr. Vanarsdall - I see Gloria in the audience and she could probably shade some light on
568 it but that would be something that would irritate the neighbors more than anything in the
569 world, if you promise no light and then all of a sudden, there it is.

570

571 Ms. Hunter - And in that case, the Commission did not approve the lighting. They
572 did recommend that it be constructed at the lower height and that's one of our policies.

573

574 Mr. Vanarsdall - So, what you are suggesting then would more than likely take care of
575 that.

576

577 Ms. Hunter - Right. What we are recommending is that if the FAA says that it needs
578 to be lit then we will recommend a lower tower height.

579

580 Ms. Dwyer - On the security fencing we require shade trees around the perimeter and
581 then a continuous hedge. Is there any reason why we are not requiring evergreens?

582

583 Ms. Hunter - That's actually in the revised edition it is. It has been changed to
584 evergreen, that was a mistake.

585

586 Ms. Dwyer - All right. So, how does it read now?

587

588 Ms. Hunter - It says "A row of evergreen trees, a minimum of 8-feet tall and a
589 maximum of 10 feet apart shall be planted around the perimeter of the fence and a continuous
590 hedge of at least 30 inches high in front of the tree line are recommended."

591

592 Mrs. Wade - That's in the revised November 10 paper.

593

594 Ms. Hunter - That is revised as of November 10, yes.

595

596 Ms. Dwyer - Are there any other revisions since we got this copy? Jo Ann, mine says
597 November 10 but it doesn't say evergreen.

598

599 Mrs. Wade - Mine says evergreen. Look at page 8, at the bottom, "d".

600

601 Mr. Vanarsdall - Ms. Hunter, has the County Attorney's Office had an opportunity to rule
602 on the VDOT towers in the pipe lines?

603

604 Ms. Hunter - My understanding is that that is under review by the County Attorney's
605 Office with the ruling just occurring just about a week and a half ago now. They will be
606 providing us some sort of interpretation by the end of this week.

607

608 Mr. Vanarsdall - The only other comment I have, in this morning's paper is the editorial
609 about the cell towers, for the audience benefit. And he congratulates the ruling. Thank you.
610 I have no more questions.

611

612 Mrs. Wade - One that was mentioned in the editorial, that I objected to, and I thought
613 they were talking to the supervisor from the district but apparently they went ahead anyway.

614

615 Mr. Silber - Ms. Hunter, on page 7 "e" is missing. Is that just a mislettering or did a
616 policy fall out?

617

618 Ms. Hunter - It's probably just a misnumbering. We can renumber that.
619

620 Mr. Silber - On the recommendation for the Route 5, where is staff recommending
621 that be plug in. Will that come under the Siting Policy?
622

623 Ms. Hunter - I think it should come under Design Policy, I mean, Siting Policy.
624

625 Ms. Dwyer - And how would that read? What are you recommending specifically on
626 that?
627

628 Ms. Hunter - I think it should be consistent with the language and the Route 5
629 Guidelines which says that "No towers shall be located within 1,400 feet of Route 5." And
630 that would be letter "i".
631

632 Ms. Dwyer - Would that be "i" or "j"?
633

634 Mr. Silber - I think it would come under Siting.
635

636 Ms. Hunter - It would be "i" on page 8.
637

638 Ms. Dwyer - Okay.
639

640 Mrs. Wade - This is an addition to the Comprehensive Plan and not the ordinance that
641 we are talking about.
642

643 Ms. Hunter - Right. These are just guidelines in the Comprehensive Plan.
644

645 Ms. Dwyer - Do we have any other, other than Route 5, are there any other sensitive
646 areas that we should mention by name that you are aware of? We mentioned generally
647 residential areas but I was just wondering if there were any other parks or historical areas or
648 anything else that might come to mind.
649

650 Ms. Hunter - If the Commission wants to consider any.
651

652 Ms. Dwyer - I don't know, do you want to mention that, Mrs. Wade?
653

654 Mrs. Wade - No.
655

656 Ms. Dwyer - Are there any other questions by Commission members? My copy was
657 dated November 10, 1999, but revised November 2, 1999, so, I didn't have the 10th revised
658 copy. I didn't bring that. I probably had it and brought the wrong ones. That explains the
659 difference. All right. There are no other questions by Commission members. This is a public
660 hearing. We invite members of the public to come forward and comment on the proposed
661 Goals, Policies and Objectives for Wireless Communication Technology in the County.
662

663 Ms. Freye - Good morning. My name is Gloria Freye and I'm an attorney here in
664 behalf of Triton PCS they are being marketed as SunCom AT&T Wireless. I do appreciate the
665 opportunity to come and get some comments on the plan amendment. Triton recognizes that
666 the County is simply trying to memorialize the Goals, Objectives and Policies, so many of
667 which you have already been operating on and promoting these past several years, and that had
668 been working. They seem to be doing a very good job of collocation and finding the most
669 appropriate site that's available in certain area. And, obviously, we are down at the... if there
670 are any good sites they have pretty much been taking and we are down to some very difficult
671 areas trying to find ways to provide the service without having a negative impact on resident.
672 And, I know that that's a sensitivity that you all are trying to address as well by trying to build
673 some language into the plan amendment. But, Triton would like to ask that you consider
674 deferring this to address a couple of issues that they see is problematic in the language that is
675 before you today. Just for example: The comment that the Varina Beautification Committee
676 raised about adding language that says no towers located within 1,400 feet of Route 5, being
677 added to the siting policies. I think it would be a disservice to leave that language as "no
678 towers" perhaps it would be better phrased to say "no non-stealth towers." People look at the
679 Land Use Plan for guidance and guidelines. We wanted to be a guide, we wanted to be
680 flexible, but when you use language that's so specific like none or all it really does have a
681 limiting effect instead of the ability to promote options. So, I would caution wording in the
682 amendment like that.

683

684 Another specific concern that they have is that certain terms like "stealth design" is not
685 defined. There aren't any examples giving of stealth. That might mean something entirely
686 different to a lay person than it would mean to a planner than it would mean to someone in the
687 one of the wireless carriers that provided this service. So, we think there should be some
688 language that recognizes that there are various designs of stealth and that there are many
689 different designs that could qualify as stealth, not just a generalized view of that.

690

691 A related issue is that stealth designs be considered for all applications. Stealth design towers
692 are much more expensive than monopoles, which are more expensive than lattice. All of them
693 are appropriate in certain locations, under certain conditions. So, ultimate, if you say all
694 applications have to consider a stealth design, ultimately you are driving the cost up which
695 defeats the purpose of the telecommunication act which was to make the service available and
696 affordable. So, you don't want that higher cost being passed on to consumers when it's not
697 necessary. It wouldn't have to be considered for all applications. So, it's the word "all" that
698 causes the concern there.

699

700 Ms. Dwyer - Ms. Freye, could you refer us specifically to the paragraph you are
701 speaking about now?

702

703 Ms. Freye - It's 3a on page 8, policy 3a.

704

705 Ms. Dwyer - All right. Go ahead.

706

707 Ms. Freye - A third concern that we have, and the reason why we would like to ask

708 for the deferral, there is no language in the amendment that discusses the very important siting
709 options, and they have been alluded to and discussed on the periphery here but they are not
710 addressed in this amendment, and, that is public school sites, I know there is language in the
711 amendment that talks about public sites or County-owned sites, but it doesn't specifically say
712 public school sites. I think that message needs to be sent very clearly to the community that
713 their might be opportunities for school sites, some appropriate, some not, but others that
714 would be where you can get the service to the consumers close to their household without
715 having to be a negative impact on them. Stealth design, a lot of other options could be opened
716 up if some sites could be considered. And, I think specifically language in the plan would
717 help send the message that some of those might be appropriate.

718

719 The other appropriate location I know that has caused the editorial in the paper today, the
720 recent Fairfax decision or the VDOT right-of-ways. Granted, there are some that are not
721 objectionable, there are others that are objectionable. But, they are not discussed at all in this
722 amendment as being something to be considered as possible preferred site. They are close to
723 the highway, they are not usually next to people's homes, they are not usually in situation
724 where they are going to have a negative impact on a residential neighborhood. So, there are
725 situation where they may be appropriate, and they may not, but I think they should be
726 addressed in the amendment as a siting option.

727

728 The other concern is how restrictive the language is about not considering placement on
729 agricultural zoned land where there is any residents. There are several large tracts of
730 agricultural zoned land in the County where there are people that live there, that own that
731 land, they live there or members of their family live there, but they may be large enough and
732 situated in places where it's appropriate to have a tower, even a non-stealth tower. Because
733 the landowner wants it there and it's not going to have a negative impact on anybody else
734 because of where it's located. So, I think the narrow language of that policy does concern me
735 because there is so much agricultural land in the County that the Land Use Plan itself would
736 discourage people from looking at when it might be an appropriate place.

737

738 Ms. Dwyer - Okay. Which policy were you referring to that time?

739

740 Mrs. Wade - It's "c" at the top of page 8.

741

742 Ms. Freye - Another concern is the stated objective about insuring the latest
743 technology be used when a reasonably available, I think is the language that's in the
744 amendment. It's vague and it problematic because it puts the County in the position of trying
745 to regulate the market and what service consumers are willing to buy. I may not be able to
746 afford the latest technology. I may be perfectly happy with using the analog technology,
747 which might be cheaper than the digital. So, I wouldn't want the County to be in a position of
748 trying to dictate to the market what services customers may or may not want. On the other
749 hand, I can understand if you have a particular situation where you want the lowest height
750 possible, you want the best signal strength you can get, but I don't want you to be in the
751 position of trying to regulate the market when I think that is not an element that the County
752 has the expertise to regulate. I think that's a market driven thing and I am concerned about

753 having that in there.

754

755 Ms. Dwyer - Now, would you go back and refer us to that portion?

756

757 Ms. Freye - It's page 7, "g" under Objectives.

758

759 Ms. Dwyer - Ensure that telecommunication providers implement any reasonably
760 available technology that may reduce the number or height of towers. How are we regulating
761 the market with that?

762

763 Mrs. Wade - I don't see anything in here that requires any of those things that you
764 have mentioned. They are all mentioned as goals, but not requirements.

765

766 Ms. Freye - When you think about how the Land Use Plan is used a guide, but often
767 there are specific things in the Land Use Plan that are used as the bases for further regulations
768 or zoning ordinance amendments. And there are specific things in here. Just like the 10-foot
769 tall trees or the 30-inch hedge or 1,4000 feet. There are very specific things that can be lifted
770 out of here and put in an ordinance. And, if it becomes some kind of standard condition that
771 says "This antennae must be replaced with the most advance or newest technology." How is
772 the County going to be in a position to regulate that or enforce that? I think it is dangerous to
773 put that in a Land Use Plan when it's so vague and presents problems that the County is not
774 really in the business of regulating the market. That's what is problematic about that language
775 for us.

776

777 Ms. Dwyer - I guess I'm having trouble understanding how a policy that encourages
778 reducing the tower height regulates the market.

779

780 Ms. Freye - Because it might have to be a certain height to provide a certain service.
781 And the services could be different, analog and digital are different. They have different
782 needs and different equipment. And to put them all in some kind of situation where they
783 would have to upgrade to a certain level of technology that the County think is appropriate, it
784 is not necessarily what the market wants or what the consumer wants or what the providers can
785 provide.

786

787 Mrs. Wade - Reasonably available technology. Now, that's the kind of wording you
788 all use in proffers all the time.

789

790 Ms. Freye - If this were a proffer situation, that would make a difference. This is a
791 condition situation. Provisional use permits are always granted with condition that the County
792 has the power to impose. They are not things that are negotiated. And that's my concern that
793 it would be in the form of a condition. We do support the expedited process for applications
794 that meet the standards and objectives and goals. I would really like to see some language in
795 the amendment that recognizes... it's very unlikely that every tower is going to 100% meet
796 every goal, objective and policy because just as Ms. Hunter said, some of them contradict and
797 compete with each other. To maximize collocation sort of defeats the purpose of shorter

798 stealth towers. And, so you have a balance there and I want that to be real clear in the plan
799 language that you do have flexibility. We are looking for language that allows creativity and
800 different options instead of restricting options. That's why we are concerned about language
801 like none or no or all. For those reasons we would like to have an opportunity to let some
802 representatives of the telecommunication industry work with staff on some of that language
803 and revise that and come back before you. And we do appreciate the opportunity to give
804 comments. I don't know if there was any opportunity or invitation given to the different
805 carriers about working with staff on the draft of the language or not. I think that might be
806 helpful if we could take some time to do that. I appreciate your consideration.

807

808 Ms. Dwyer - Okay. Thank you, Ms. Freye. Are there any questions of Ms. Freye?

809

810 Mr. Archer - Ms. Freye, before you leave, can you tell us the latest innovations are in
811 stealth technology? No invisible towers, yet.

812

813 Ms. Freye - We haven't come up with invisible. We have come up with a lot of
814 camouflage. I mean it can be as finding a tall enough building or structure that can affix the
815 antennae to and then paint it the same color or build a fiberglass type case around it so that it's
816 hidden or concealed in there. You know about putting antennas in church steeples, things like
817 that. They are there but you don't see them. Inserts into flagpoles or flushed mounted and
818 then it goes on from there as far as being on Virginia Power towers, anything short of having
819 to do a new build of a monopole or a lattice tower. They have used wood poles to try to put
820 them in locations where they can use a shorter height. They will use a wood pole to try to get
821 it close to a stand of trees and restrict the height the antenna is over top of the trees. It has to
822 clear the trees, but if you can build in like an average, of say, the closest height of a tree that's
823 within 25 or 50 feet and keep that height at that level, there are ideas like that that can be
824 used. I think that most of the carriers, in working with staff, at least here in Henrico, the staff
825 is very willing to look at alternatives and options and ideas. And I like to keep that flexibility
826 in have it reflected in the language of this amendment.

827

828 Mrs. Wade - Do you want the stealth defined but you've just defined it for a whole lot
829 of examples that you could not include in here anyway, so you know what it means?

830

831 Ms. Freye - But if there was a statement that said "stealth designs, there are various
832 stealth designs examples include" and not have it closed but have an open statement that would
833 open it for a creative solution. Just add another sentence that says "stealth designs, examples
834 of or such as."

835

836 Mr. Vanarsdall - That goes back to the old saying that "a rose for any other name is still a
837 rose." A tower or any other name is still a tower.

838

839 Ms. Freye - Well, I guess maybe that's why we just don't want to say towers because
840 when you think of a tower it's just a structure to support the antennas that really provides the
841 service.

842

843 Mr. Vanarsdall - That's getting down to sell training, don't tell their customers things that
844 he don't want to hear.

845

846 Mrs. Wade - You mentioned schools. That came up the last time we talked about this
847 but I assume that was implied by the public sites and things.

848

849 Ms. Freye - I agree, Mrs. Wade, that that probably is implied there, but I think that
850 that has been an area that has been... that message just hasn't been well received by certain
851 people in the community and that those sites have remained closed and I think specifically
852 expressed language on that matter in the plan amendment would help get that message across
853 that they are appropriate in certain situations. I think that it may be that the people in the
854 school community having gotten the message that the planners think that that might be an okay
855 location. That it might be okay to consider school sites. That it's a legitimate thing to
856 consider.

857

858 Ms. Dwyer - I think it's been raised in a number of context and I think the owners of
859 the school property I believe, It's the School Board, I think they may have made their decision
860 on that and it's just a question of.... I think it's within their authority and I think we certainly
861 don't want to close that door, but I think what you are asking is possibly for the Planning
862 Commission to put pressure on the School Board to reconsider its decision by specifying
863 schools in our plan. So, we need to think about whether we think that is appropriate for us to
864 do. Are there any other questions for Ms. Freye?

865

866 Mr. Vanarsdall - I don't have one for Ms. Freye, when we finish, but I have one for Mr.
867 Silber.

868

869 Ms. Dwyer - Anybody else have any questions for Ms. Freye? Thank you. Would
870 anyone else like to comment on the proposals, the goals, polices and objectives?

871

872 Mr. Vanarsdall - I would like to ask Mr. Silber this question because it pertains to Ms.
873 Freye. Mr. Silber, on "g" on page 7 that she discussed, could you give us your opinion as
874 Assistant Director of Planning?

875

876 Mr. Silber - My view of this, Mr. Vanarsdall, is that these are policies, and I guess
877 in this case, it is actually an objective as proposed as a part of the Comprehensive Plan. It's
878 not a code amendment. It does have language in here that says "any reasonable available
879 technology that has...." I think there is enough language here that could be interpreted that we
880 are not trying to regulate their market situation. I think we are trying to ensure that we reduce
881 the number in the height of towers. And we will work with the industry, as we have in the
882 past, I don't think it's an effort to try to control the market situation.

883

884 Mr. Vanarsdall - Thank you.

885

886 Ms. Dwyer - I agree with that, Mr. Silber. I guess the ones that I have questions
887 about, and I'll ask Ms. Hunter to address those. Sir, if you don't mind, I would like to

888 follow-up this train of thought before we start a new one. You know, as far as specifying
889 schools and VDOT sites, I think that is already included in the language and I don't think we
890 need to personally to be more specific. I don't think objective "g" attempts to regulate the
891 market. It seems to me that it's simply stating that one of our goals is to ensure that if we are
892 able to reduce the height of towers, we certainly should encourage that. I think it's tricky to
893 define stealth and I think if this were a specific regulation, we would need to perhaps be more
894 specific or if it were an ordinance, we would need to define that in the goals, policies and
895 objectives, I think that's an area in which we have a general understanding and it needs to be
896 flushed out as time goes on and as technology changes.

897

898 Ms. Hunter - And we specifically left that open because the stealth is a creative
899 process and we didn't want to limit that in any way. I don't think there would be a problem
900 adding in language that said, "stealth design not limited to but including tree designs or bell
901 towers or water towers, those sorts of things. But, I think we want to keep it open as possible
902 so that we can encourage them to be creative. We don't have all the answers now and we
903 don't want to limit something in the future.

904

905 Ms. Dwyer - I did want to ask you to respond, if you would, to some of the
906 comments. One is on page 8, I believe it was "c." "The order of preference for land use
907 categories when considering a new site would be industrial, commercial... and then third in
908 that hierarchy would be "agricultural not utilized for residential purposes." And the comment,
909 as I understand it, suppose a person owns a 1000-acre farm and they have a house on it, and
910 they farm that property. And that would be land used for, is for residential purposes although
911 presumably there would be enough land there to separate the tower horizontally from other
912 uses. How do you respond to that? With that comment, do you think we should change
913 something in the....

914

915 Ms. Hunter - I think it's still appropriate to have this. This is a guide in the land use
916 plan, just like our land use plan has a guide, it's something that we use to help direct us but it
917 is not something that's an absolute. The best case scenario is the industrial, commercial or
918 agricultural that's not utilized for residential purposes. But, we still have the provisional use
919 permit process and if someone wants to make application, and if it is on a farm that has a
920 house on it and there's no public opposition, it doesn't eliminate the possibility of approving a
921 tower location at that site.

922

923 Ms. Dwyer - So, there is a big different between A-1 land, which has 50 one-acre
924 houses on it versus a 1000-acre farm with one house on it.

925

926 Ms. Hunter - Right.

927

928 Ms. Dwyer - And this policy certainly would not interfere with the Commission's
929 consideration of those factors when we make a decision about that tower.

930

931 Ms. Hunter - That's correct. It's just to provide some guidance.

932

933 Ms. Dwyer - Okay. Then Design Policy 3a was another one. "Stealth tower designs
934 should be considered for all applications." Do you think the "all" is too inclusive in that
935 situation? If we have a site that has no sensitivity, it's in the middle of an industrial area, you
936 can't see it from any sort of residential site or from a prominent roadway, would we
937 necessarily want to consider stealth, and when we say consider, what does that mean? It just
938 means that the planner looks at it and say "oh, yes, this doesn't need to be stealth, that's easy
939 to determine."

940

941 Ms. Hunter - Right. And I think that's what we would do. If it would make the
942 Commission more comfortable, we may want to add in the word sensitive before application,
943 stealth tower design should be considered for all applications. Or, you may want to consider
944 language that says "Stealth design should be considered when in close proximity to residential
945 areas."

946

947 Ms. Dwyer - Sometimes it's not necessarily residential. If it's on a roadway and it is
948 prominent and attractive, you know, that might be as sensitive as a residential area. So, you
949 think if we say all sensitive applications, I'm not sure I like that word sensitive.

950

951 Mrs. Quesinberry - Why don't you say stealth tower design should be considered, period.
952 Instead of defining when and where. It's always considered when an application comes up.
953 It's when you make the determination is it blatantly obviously industrial or is it right next to a
954 home.

955

956 Ms. Hunter - And it could be considered in some sites be recommended that stealth
957 design is not necessary.

958

959 Ms. Dwyer - Right. I'm not sure consider it is much of a burden, I mean if we
960 require the companies or applicants to submit some sort of written analysis that why they
961 didn't use stealth that's more of a burden then coming in and not submitting a stealth design,
962 for obvious reasons. It seems to me, in the past when we've operated, we haven't really
963 imposed this burden on companies to consider stealth when it's not appropriate.

964

965 Mr. Silber - It depends on how the County wants to move in this direction. Even in
966 situations where there is industrial property or commercial property, there may be tall
967 structures close by that they could locate their communication antennas in and a stealth
968 arrangement. So, I think even in situations such as those, it still should be considered. They
969 still should be looking at those opportunities. I think if we are only talking about only
970 sensitive land use or compatibility issues, then that would be something different. We could
971 modify this to say where adjacent to incompatible uses or sensitive land uses. But, I think
972 what we are trying to do here is just consider, for all applications, consider what's around it,
973 what's tall, can this be located in an existing situation that may be more stealth, instead of just
974 going out and saying this is commercial, it's near the airport, it's all industrial therefore we
975 have the right to just put up any tall lattice tower.

976

977 Ms. Dwyer - Because in reality, looking at the height of these towers, is there really

978 any spot in the County that is not potentially sensitive. And we have to make those judgement
979 calls and so we don't want to limit ourselves in that way.

980

981 Mr. Silber - I think the word considered, basically, is a word that puts the burden
982 somewhat on the applicant for them to consider it, for the County to consider, but if there is
983 no opportunities there and it's not a major land use issue then I think we would hold them to
984 it. But, I think every application should be considered.

985

986 Ms. Dwyer - The word consider makes it, it's limiting. Okay. The last question I'd
987 like you to address is this Route 5 addition. And I think certainly Route 5 deserves protection
988 for its visual appeal. But Ms. Freye comment that no tower should be located within 1,400
989 feet and her recommendation perhaps a stealth tower and a silo or something that might be
990 appropriate along that area, particular in the rural landscape. What are your thoughts on that?

991

992 Ms. Hunter - I think you can come up with stealth tower that could, it can limit the
993 visibility of a tower but like Mr. Vanarsdall said it's kind of hard to hide an elephant. And, if
994 the Commission feels that stealth towers could be appropriate within 1,400 feet, I think that is
995 something that we are able to review through our provisional use permit process. And, again,
996 this is just a guide, it is not an absolute.

997

998 Ms. Dwyer - It says no tower. So, that's a fairly definitive statement.

999

1000 Mrs. Quesinberry - But, it also says should so I think there is some flexibility in that.

1001

1002 Ms. Dwyer - Well, I had "no tower shall."

1003

1004 Mrs. Quesinberry - I had "no tower should be located."

1005

1006 Ms. Dwyer - Let's agree on the language then. What had you suggested?

1007

1008 Mr. Archer - I think "shall" is a little bit more commanding than "should." Should
1009 means maybe we ought to but we don't. Shall means, yes, you will.

1010

1011 Ms. Dwyer - Had you suggested shall or should?

1012

1013 Ms. Hunter - I had "shall" but "should" would give flexibility.

1014

1015 Ms. Dwyer - So, the question is if you can actually hide it, I mean I've seen them
1016 hidden in steeples and in bell towers in churches and you know perhaps a silo is another
1017 potential location or the Virginia Power lines that are existing. Those might be limited
1018 circumstances in which a within 1,400 feet of Route 5 might be appropriate. What are your
1019 thoughts?

1020

1021 Ms. Hunter - It could be modified to say "no non-stealth tower shall be located."

1022

1023 Ms. Dwyer - Then we really need to understand the definition of stealth and that
1024 would be something to be flushed out on an individual case I guess.

1025

1026 Mrs. Quesinberry - I think it's flexible enough that something presents itself, and it is
1027 appropriate, and it's less than 1,400 square feet, it gives us an opportunity to be flexible to
1028 approve it.

1029

1030 Ms. Dwyer - If we said "no non-stealth tower."

1031

1032 Mr. Silber - How about something that would say, "no tower should be located
1033 within 1,400 feet of Route 5 unless an acceptable stealth tower design is utilized."

1034

1035 Ms. Dwyer - I think "shall" if we are going to put the stealth option in there.

1036

1037 Mr. Silber - No tower shall be located within 1,400 feet of Route 5 unless an
1038 acceptable stealth tower design is utilized.

1039

1040 Ms. Dwyer - Yes. Does that sounds reasonable?

1041

1042 Mrs. Quesinberry - Yes.

1043

1044 Ms. Dwyer - So, we are going to keep shall but we are going to permit these stealth
1045 options.

1046

1047 Ms. Hunter - Could you repeat that, Mr. Silber?

1048

1049 Mr. Silber - No tower shall be located within 1,400 feet of Route 5 unless an
1050 acceptable stealth tower design is utilized.

1051

1052 Ms. Dwyer - Are there any other questions by Commission members? Thank you,
1053 Ms. Hunter. Would the next speaker come forward? Sorry, sir, we wanted to clear up some
1054 of those issues before we launched in a new direction.

1055

1056 Mr. Schoenenberger - That's perfectly all right. My name is Michael Schoenenberger and
1057 I'm a long time resident of Henrico County. I became interested in this issue one morning
1058 when I went out to visit my son's grave. And, I just happened to notice that there was a big
1059 bulldozer right across the little path that was next to his grave and that bulldozer was clearing
1060 out a very large portion of the cemetery. And, I walked over to the fellow and I said "what
1061 are you doing here" and he said, "well, I'm getting ready to build one of these communication
1062 towers" and I said "well, how big is this tower going to be" and he said, "well, about 165
1063 feet" and I said, "well, you know, that kinds of violates the architectural plan of this whole
1064 cemetery. For 50 years, this was Westhampton Cemetery, by the way, you may remember.
1065 That cemetery had been built with the exact opposite idea in mind. And that was that it was
1066 supposed to be kind of an outside cathedral with a series of gardens that depicted the various
1067 Christian scenes from the Bible. Over the last 30 or 40 years, that cemetery had been built

1068 that way with the idea that no obstructions were supposed to be in it. So, I went to the
1069 cemetery owner and I found out that the ownership had changed fairly recently, and that a new
1070 corporate owner had taken over. I also found out that this was true of most of the cemeteries
1071 in Henrico County. That many of the family owned cemeteries, that had been here in Henrico
1072 County, were being taken over by four large corporations nationwide, I might say, out of
1073 state corporations, who had very little understanding or care for the basic architectural plan of our
1074 cemeteries. So, when the tower people came along, they saw these towers as being a new
1075 source of income for their cemetery. They were paid very well for having these big things in
1076 the cemetery. And the cemeteries in Henrico County are some of the few places of open land
1077 left in the residential areas of the cemetery. In other words, these are some of the few really
1078 choice spots left for these towers. So, we organized, and I think you know the rest of the
1079 story, finally the Board of Supervisors voted against it and we were able to keep that 165 foot
1080 tower out of our cemetery.

1081

1082 However, that was not the end of the story. The industry came back and said, "well, Henrico
1083 County does not have any requirement about a 50-foot tower. You can build a 50-foot tower
1084 in Henrico County without ever coming before you or the Board of Supervisors. So, what we
1085 are going to do is build a 50-foot stealth tower." And, basically, what they did was to put
1086 their antenna into a flagpole, which was put up next to the administrative offices of the
1087 cemetery. In my personal opinion that was satisfactory. Had they worked with us, by the
1088 way, we had met with them many times and had made many suggestions about having a stealth
1089 tower such as a bell tower. I wanted a bell tower in the cemetery, but they virtually ignored
1090 us. They did listen to us, they did have meetings with us, but they could care less. So, that's
1091 why I am here today to ask you if in your Comprehensive Plan you would put some language
1092 that would protect cemeteries in Henrico County. Now, I'm not saying that it should be
1093 protected against all towers. And, I didn't say that from the very beginning. What I am
1094 saying is that of all the places in Henrico County, where there should be a stealth tower, in my
1095 opinion, it should be in our cemeteries. So, that's the first thing that I would like to suggest to
1096 the Board.

1097

1098 Secondly, I would like to take issue with one of the Commissioners here who said, which I
1099 would have said when I began this research, that a rose is a rose is a rose. Well, in this day in
1100 age a rose is not necessarily a rose I have found out. What I would like to have you consider
1101 is the fact that a communication tower is nothing more than a, something to lift a series of
1102 wires called an antenna. And there are many, many, ways that you can put these antennas
1103 throughout our County without putting up 165/190 foot tower, many, many ways. To show
1104 you just at what lengths some of these folks are going to, I just happened to come across a
1105 magazine article that shows you one of these. (Mr. Schoenenberger pass up the article for the
1106 Commission to view) If that's not the strangest rose I've ever seen, I don't know what is.
1107 What they have done there, that is not a palm tree, that is a fake palm tree. When they got out
1108 to.... What's that famous place out in California where all the stars live? Beverly Hills. They
1109 found out that Beverly Hills and the stars did not like these 165-foot towers in their property.
1110 So, what they did was build a fake palm tree and put the antenna in the fake palm tree. So,
1111 just about anything can be done here. And, I would strongly recommend that you stick with
1112 the language that you've been discussing here this morning. First of all I would like to

1113 compliment you on these new additions to the Comprehensive Plan. This is long overdue and
1114 this is extremely important. And, I can see that the Times Dispatch has picked up on that. In
1115 fact, I like the way they kind of describe it. They said: Henrico has the general idea to
1116 consolidate antennas on existing towers, in other words collocate, discourage the installation of
1117 towers in residential areas....

1118

1119 Mr. Vanarsdall - What page are you on, Mr. Schoenenberger?

1120

1121 Mr. Schoenenberger - I'm just reading from the editorial.

1122

1123 Mr. Vanarsdall - Oh, this morning's editorial?

1124

1125 Mr. Schoenenberger - Yes, sir. Encourage the installation of towers in wooded areas and
1126 blend the antennas with its surroundings. I think that is basically one of the best summaries of
1127 what you have done here with your Comprehensive Plan. And, I would strongly recommend
1128 that you stay very, very, much to what you have already done. However, there are some
1129 suggestions that have been made by the industry, at least that I can agree with, but I would say
1130 stick with the language that you've got here already.

1131

1132 I would also go on to recommend something that I found in my research. First of all, I would
1133 like to ask a question, if I may, of the staff here. How many towers do they estimate, now,
1134 over the next ten years will have to be built in Henrico County? Do you have any instruments
1135 about that?

1136

1137 Ms. Hunter - We don't have any specific estimates. Currently, we have 73 towers in
1138 the County with six providers. What the providers have indicated is that they may potentially
1139 be doing some what they call grooming, which means finding where they have holes in their
1140 coverage and coming in and either collocating or building new towers. I think a number of
1141 tower requests will decrease considerably from what we have seen in the last four years. But,
1142 we have no estimated numbers. I would guess probably about maybe.... It's hard to say, at
1143 least a few a year, approximately five and that's a complete guess.

1144

1145 Mr. Schoenenberger - Well, five over the next five years would be another 25. That's 100 in
1146 Henrico County. You have to add in Chesterfield County, they are going to have to have at
1147 least 100 or more and you are going to have to add in the City of Richmond and they are
1148 going to have 100 or more, if we use those figures. Actually, I've had figures from friends of
1149 mine, who have experience in this, who say if you can get away with 300 or 400 of these in
1150 the next five years you are going to be lucky. Well, what we are going to become then is
1151 basically an antenna farm no matter how you look at it. And, if we are going to become an
1152 antenna farm, I think that the County, all counties, and the City are going to have to do
1153 something very, very strong about how these towers are coming in, especially the new ones.

1154

1155 I would also call to your attention, that some of these folks have been able to slip under your
1156 jurisdiction and come in through the VDOT roadways. I would remind you that we are
1157 approaching the year 2007. This is the year when hundreds of thousands of visitors will be

1158 coming down I-95, up I-85 and down I-64 to visit such things as Jamestown and all of the
1159 historical areas that we've got here in Richmond and the surrounding areas. And, when you
1160 get to looking at the.... I happened to notice in your debate, you said, well, we can't say much
1161 about these towers that are in industrial areas. Well, I think we can and the reason that we can
1162 say something about that is that we have a skyline, at least we did once. And, if you put in
1163 300 or so towers into that skyline into the Richmond Metropolitan area, I wouldn't care to see
1164 that skyline, to be very frank with you. And, I would call your attention to a country that has
1165 already gone down this road, namely, Japan. Japan is way ahead of us in these cell telephones
1166 and the applications of these cell telephones. And many of the visitors who are now coming
1167 back from Japan say that Japan has literally ruin the aesthetics of its country with these towers.
1168 So, not mentioning the health, safety, and all the other reasons I have against some of these
1169 towers, I believe we have to work very hard to avoid this coming crunch and to avoid this
1170 antenna farm mentality that the industry seems to have here. One thing that really scared me
1171 was in your, I don't know what you call it here, but the introductory language to your new
1172 Comprehensive Plan, they just happened to mentioned that the industry is now promoting the
1173 use of these cell towers, not for mobile situations. You see that's how it all came in. We
1174 wanted to use our cell phones in our cars, right, or in some other mobile application. If you
1175 will notice in that language now, they are apparently coming to your Planning people and
1176 saying we want to replace the land line situation here. We want to sell people on the use of cell
1177 phones in their own homes. Forget all the telephone poles we have in this County, we are
1178 going to replace them with 199-foot poles to handle these cell phones so people can use their
1179 cell phones in their homes. I hope that doesn't come about.

1180

1181 But, there are even answers to that. I would recommend that the Planning Commission
1182 seriously consider getting in touch with Virginia Tech. We are very lucky, and I am not a
1183 Virginia Tech alumnus so I'm not trying to sell my own school. We are very lucky to have
1184 here in Virginia a school that has announced as one of its primary goals, is to get involved in
1185 this whole area of cell phones and modern communications. I can't find my article here, but
1186 I'm sure you are aware of the article that awarded a Virginia Tech student something like
1187 \$100,000.00 award just recently for the "smart antenna" that they invented, which will be
1188 coming on the market in 2002. This "smart antenna", it is said, will be able to reduce the
1189 number of towers by 1/3 of their present number. So, you are going to be faced with that too.
1190 You are going to be faced with a hoard. Just like the technological move that we see in
1191 computers. We know that a computer becomes obsolete in six months, maybe even less than
1192 that sometimes. Well, you are going to see the same kind of technological development take
1193 place in these cellular phone. And, as an old army signal officer, I can tell you that the
1194 technology that they are trying to bring into Richmond right now, is really old technology.
1195 About the only thing new in this technology are the switching stations that allows the signal to
1196 be switched on the tower. This is old stuff. We could have had it year's ago, if we really
1197 wanted it.

1198

1199 But, in the future, you are going to have things like "smart antennas." In the future you are
1200 going to have things like "smart antennas." Smart antennas, then, will reduce even the
1201 number of present poles that you have right now. On top of that, they have something called a
1202 "micro cell" technology. Now this is a technology whereby the signal can go to a "fane?"

1203 about the side of a suitcase hung from the present cables that you see out in the suburbs.
1204 These are "micro cells." In other words, when you have a grid that you have laid over the
1205 city, that grid might be serviced by a large tower, a small tower and even a micro cell situation
1206 within the grid. Now, the problem with all this is that it cost money and you can here the
1207 industry already arguing, "well, we don't want to spend that much money." Hopefully, that
1208 technology will even overcome some of those cost problems. But, what I'm trying to say is
1209 that you have to allow language that will keep the flexibility of being able to accept new
1210 technology as it comes on, and it's going to come on quickly. And, I would recommend that
1211 you might want to contact the Virginia Tech and the people there to advise you on some of this
1212 new technology that's in the pipeline right now. I would ask permission, if I could, to submit
1213 a written statement to you all. I didn't have a chance to do that before I came today, but I
1214 would like to do that, if I could.

1215

1216 Ms. Dwyer - That will be fine, Mr. Schoenenberger. If the Commission acts on this
1217 today, it would then to go the Board of Supervisors so you may want to submit your written
1218 statement to the Board. If we don't act on it today, then we will be glad to consider your
1219 written comments in addition to.... I assume it will be a summary of what you have said today.

1220

1221 Mr. Schoenenberger - Yes.

1222

1223 Ms. Dwyer - So, we thank you for your comments. Are there any questions for Mr.
1224 Schoenenberger?

1225

1226 Mrs. Wade - Other than that we are hoping that technology will help us with the tower
1227 situation.

1228

1229 Ms. Dwyer - I guess one thing that I would like to add is that even the industry admits
1230 that these towers are not exactly aesthetically pleasing or desirable in our skyline and on our
1231 landscape. We are all in agreement with that. As I know you are aware, we have an
1232 obligation under Federal law to permit these companies to operate, so it becomes that difficult
1233 balancing act of where do you put them, giving that you have to have them. And, you are
1234 right, sometimes it comes down to some very difficult decisions. I don't think you are
1235 addressing a group of people who would be.... Well, let me just say, we would be very happy
1236 if we never had to see another tower case because we share your views about unsightly they
1237 can be. So, our task is to balance the needs of the industry, the wants, and needs of the public
1238 against the aesthetic issue.

1239

1240 Mr. Schoenenberger - I completely agree with you, but all I'm trying to say is that there are
1241 many, many, answers in that balance. When we first came before the Board and tried to
1242 convince them of many of these things, many of them cited that Federal Law as the reason
1243 why they had no power. Well, you now have seen the decision of the Fourth Circuit, you
1244 have now seen the decision of the Supreme Court of Virginia. You do have power, and you
1245 especially have power over the aesthetics of all things. I thought the Courts would rely more
1246 on safety and health and things of that nature. They didn't even bother with those issues, they
1247 went right to the aesthetics. They say you do have that power. So, I hope you are not

1248 operating from some idea that you can't do anything. You can certainly require alternative
1249 technologies and better technology.

1250

1251 Mr. Vanarsdall - Your point is well taken. I'll go back to the Westhampton. That was
1252 deferred by the Board once or twice and then they looked for alternatives and Mr. Glover, on
1253 the Board of Supervisors, said all along that they did have the right to deny that or to alter it in
1254 some way. But, what happened was that there was a ruling that had not been ruled on in
1255 Norfolk and finally the Courts in Norfolk ruled in favor of the Norfolk City Council. So, that
1256 changed the landscape of it. Where it all begin is when Congress took it upon themselves to
1257 take it out of the hands of the locals, and I hate to be a quoted like the rose, but Tip O'Neal
1258 said all politics are local and we find that many of the local things become political.

1259

1260 Mr. Schoenenberger - But now you do have the power and the Forth Circuit has reaffirm that.

1261

1262 Mr. Vanarsdall - We hope so.

1263

1264 Ms. Dwyer - All right. Are there any other comments by Commission members? I
1265 will say also that these goals, policies and objectives really have very little that's new in them.
1266 What this is really, is an attempt to write down what the policies, goals and objectives are that
1267 we have been operating under for quite some time. Mr. Schoenenberger, in your article that
1268 shows the palm tree, we are very aware of stealth technology. And, in the article that you
1269 handed to us, it mentions Henrico County as resolving some of the difficulties that come up
1270 with towers and it comments that in Henrico some of the residential concerns about towers
1271 dissolved when existing utility structures were used. So, I think Henrico is very aware, very
1272 active in this area. We attend a lot of regional and national conferences. I think our staff is
1273 very well informed of stealth options. In fact, Henrico, as I mentioned, was noted in this
1274 article about trees that you just handed to us. So, I'm glad to hear that you are appreciative of
1275 staff's efforts and to clarify what our existing policies are in this regard. Are there any other
1276 questions or comments by members of the public on this issue.

1277

1278 Mrs. Wade - Other than what he said about 2007, would apply, especially, Route 5.

1279

1280 Ms. Dwyer - What about the concern about cemeteries? And, I'm assuming that he's
1281 suggesting that one option would be to include comments about cemeteries that are similar to
1282 what we have stated about Route 5. That is, to require stealth towers in cemeteries. Are there
1283 any comments about that?

1284

1285 Mr. Archer - Madam Chairman, I sympathize with Mr. Schoenenberger and I
1286 certainly compliment him on his knowledge on how the industry has evolved, and I guess a
1287 couple of things that we ought to at least think about, is that this telecommunication industry is
1288 an evolving industry. The problem is, we are not in a position where we can stop the
1289 evolutionary process while we wait for the next thing to come along. I wish there was a way
1290 we could do that, but we can't. And the comment about the cemeteries, I'm very much in
1291 sympathy with his assertion about prohibiting towers in cemeteries. But, the problem with that
1292 is, I think, if we start to specifying or began specifying places where we can't have a tower,

1293 than we will open up a Pandora's box and we will continue to start adding location where we
1294 can't have them and then the Government will get involved again and we will go back through
1295 this process all over again. I think that's one problem, when you read this editorial, is that we
1296 have seemed to have started and stopped so many times, that sometimes I wonder if it is not
1297 best to just tear the whole thing down and go back and start over from scratch. But, I don't
1298 know how we stop and wait for the next wave of technology to evolve. I can remember, and I
1299 believe that most of my colleagues on the Commission can, there was a group in here one day,
1300 I think, from the west end that were opposed to a cell tower location. (Unintelligible,
1301 someone's name) was sitting right about in there, and while they were waiting to speak, her
1302 cell phone rang and she answered it. So, we are stuck with the problem. We want to have the
1303 cell phones but we don't want to have the means to utilize the technology. I really don't know
1304 why I said all of that but I just kind of figured it fit. But, I guess I want to say to Mr.
1305 Schoenenberger that we are sympathetic to what you are saying but I just don't know how we
1306 will get there from here, but we are trying.

1307

1308 Mr. Vanarsdall - And, I'll add, we do have a condition that says if we do have advanced
1309 technology, that the tower people will have a certain number of days or months to take the
1310 towers down. That would be like, if we went for a satellite or something. We do appreciate
1311 your input.

1312

1313 Ms. Dwyer - I have no problem in putting something in about the cemeteries. You
1314 know we have done it for Route 5 and I think Route 5 is a unique and historic roadway in the
1315 County and there maybe some other specific areas that we may want to consider. Does staff
1316 have a thought on that? One thing we could do is tract the Route 5 language and just say that
1317 we won't have towers in cemeteries unless it's an appropriate stealth design.

1318

1319 Mr. Archer - That might help.

1320

1321 Ms. Dwyer - Does any one else on the Commission have a thought on that? I know
1322 we do run the risk about....

1323

1324 Mrs. Wade - Evidently, the Board has the authority to do that.

1325

1326 Ms. Dwyer - I think the authority exists, the question is do we want to emphasis that
1327 point to make it clear in advance that in this unique land area this would be, whether this
1328 would be appropriate.

1329

1330 Mrs. Wade - Well, I think we need to move on because we have a lot of other issues
1331 today.

1332

1333 Mr. Silber - The Commission certainly could consider the items that have been
1334 discussed today and send this to the Board of Supervisors with the recommendations on several
1335 of these items. Either be specific and say this is the language we recommend or you could
1336 send it forward and suggest that the Board of Supervisors consider language to deal with x, y,
1337 and z.

1338

1339 Ms. Dwyer - Well, that's a good suggestion. We could send it along with the Route 5
1340 that I think we have already reached consensus on, and then suggest to the Board to consider if
1341 a lot of specific language regarding the siting of these towers, specifically ask them to consider
1342 cemeteries. Does that sound agreeable?

1343

1344 Mrs. Wade - Yes.

1345

1346 Mr. Archer - Yes. In other words, we are going to add the comments that we heard
1347 today to what we send along to the Board.

1348

1349 Ms. Dwyer - Right. And, I think we did make an amendment regarding Route 5 and
1350 we agreed on a language to that. That's the only change that we are recommending to go
1351 forward to the Board, if we make a decision. We have been asked by the industry to defer our
1352 decision to another time to allow the industry more time to work with staff. I think that we
1353 have taken the time this morning to hash out a number of those issues and in my view we can
1354 go ahead and make a decision today and send it on to the Board. Okay do we have a motion.

1355

1356 Mr. Silber - There is one other change. Mrs. Wade suggested on page 7 to insure the
1357 timely removal. That would be the second specific thing.

1358

1359 Ms. Dwyer - Exactly, you are right. There are two changes. All right. Do I have a
1360 motion?

1361

1362 Mrs. Quesinberry - I make a motion that we approve and move forward the Wireless
1363 Communication Technology Element of the Henrico 2010 Land Use Plan before us today with
1364 the changes that we agreed upon concerning Route 5 and also the timely removal of obsolete
1365 and abandon equipment. And just include for the Board's discussion the other elements that
1366 were discussed here for further consideration, regarding cemeteries.

1367

1368 Mrs. Wade - Second.

1369

1370 Ms. Dwyer - The motion was made by Mrs. Quesinberry and seconded by Mrs. Wade
1371 all in favor say aye...all opposed say nay. The motion carries.

1372

1373 The Planning Commission approved to forward the proposed Land Use Plan Amendment on
1374 Wireless Communication Towers to the Board of Supervisors with the changes regarding the
1375 Route 5 and the timely removal of obsolete and abandon towers and include the discussion on
1376 the cemeteries discussed at this meeting.

1377

1378 Mr. Silber - Before we go on a break, staff has informed me that there are a couple
1379 of additional deferrals. Mr. Wilhite, do you want to walk us through those?

1380

1381 Mr. Wilhite - Page 12, POD-79-99, Rainbow Station Child Development Center.

1382

1383 **PLAN OF DEVELOPMENT (Deferred From the October 27, 1999, Meeting)**

1384

POD-79-99
Rainbow Station Child
Development Center -
Three Chopt Road

Potts, Minter & Associates, P.C. for Wachovia Bank, N.A., Executor of the Estate of Philip J. Kennedy and R. Earl Johnson: Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct two, two-story day care buildings, totaling 17,500 square feet and a two-story, 9,800 square foot office building (future). The 3.686 acre site is located approximately 235 feet east of the intersection of Three Chopt Road and Church Road on parcel 57-A-66. The zoning is B-1, Business District and O-1C, Office District (Conditional). County water and sewer. **(Three Chopt)**

1385

1386

1387 Mr. Wilhite - The applicant has requested a deferral until December 15, 1999,
1388 meeting.

1389

1390 Ms. Dwyer - Okay. Is there anyone in the audience in opposition to the deferral of
1391 POD-79-99, Rainbow Station Child Development Center? No opposition. Mrs. Wade.

1392

1393 Mrs. Wade - I move POD-79-99, Rainbow Station Child Development Center be
1394 deferred until the 15th of December, at the applicant's request.

1395

1396 Mrs. Quesinberry - Second.

1397

1398 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mrs.
1399 Quesinberry. All in favor say aye...all opposed say nay. The motion carries.

1400

1401 At the request of the applicant, the Planning Commission deferred POD-79-99, Rainbow
1402 Station Child Development Center, to its December 15, 1999, meeting.

1403

1404 **PLAN OF DEVELOPMENT (Deferred from the October 27, 1999, Meeting)**

1405

POD-81-99
Town Center -
Nuckols Road

Hankins & Anderson, Inc. for Retlaw 100 L.L.C. and Realti Corporation: Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a shopping center with a one-story, 38,000 square foot grocery store, a one-story, 15,400 square foot retail building, and a one-story, 4,800 square foot retail building. The 19.32 acre site is located on the northwest corner of Nuckols Road and Twin Hickory Road on parcel 18-A-22E. The zoning is B-2C, Business District (Conditional). County water and sewer. **(Three Chopt)**

1406

1407 Mr. Wilhite - On page 14, the applicant also has requested a deferral until December
1408 15, 1999, meeting.

1409

1410 Ms. Dwyer - Okay. Is there anyone in the audience in opposition to the deferral of
1411 POD-81-99, Town Center - Nuckols Road? No opposition.

1412

1413 Mrs. Wade - I move POD-81-99, Town Center, be deferred until the 15th of
1414 December, at the applicant's request.

1415

1416 Mr. Vanarsdall - Second.

1417

1418 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall.
1419 All in favor say aye...all opposed say nay. The motion carries.

1420

1421 At the request of the applicant, the Planning Commission deferred POD-81-99, Town Center -
1422 Nuckols Road, to its December 15, 1999, meeting.

1423

1424 Ms. Dwyer - Is there anything else?

1425

1426 Mr. Wilhite - No. That's all we are aware of.

1427

1428 Ms. Dwyer - All right. The Commission will take a five-minute break.

1429

1430 **AT THIS TIME THE COMMISSION TOOK A BREAK**

1431

1432 Ms. Dwyer - The Planning Commission will now reconvene. Mr. Wilhite, are you
1433 up?

1434

1435 Mr. Wilhite - Yes, ma'am, I am.

1436

1437 Ms. Dwyer - I understand we have some transfer of approval to address first, is that
1438 right?

1439

1440 Mr. Silber - No. I think first would be subdivision extensions of conditional
1441 approval.

1442

1443 **SUBDIVISION EXTENSIONS OF CONDITIONAL APPROVAL**

1444

Subdivision	Magisterial District	Original No. of Lots	Remaining Lots	Previous Extensions
Cross Creek (Nov. 1998 Plan)	Three Chopt	11	3	0

Fairlawn (Oct. 1993 Plan)	Varina	60	10	5
Hunt Valley (Nov. 1990 Plan)	Varina	401	401	8
Wilton View (August 1997 Plan)	Varina	40	40	1

1445

1446 **Staff Recommends Extension for 12 Months until November 22 15, 2000.**

1447

1448 Mr. Wilhite - We have received and requests and fees for extension of all four
 1449 subdivisions that you see listed on your agenda. I understand there is concern with Hunt
 1450 Valley (November 1990 Plan). It's had eight previous extensions. We requested from the
 1451 applicant some more detailed information about what the status of this project was and all we
 1452 got was a statement saying that they did not believe market conditions were adequate at this
 1453 time to proceed, which is essentially the same thing they have been telling us for a number of
 1454 years now. There is an existing sand and gravel mining operation that operates on this
 1455 property. In talking to the inspector who looks at this site for the County, he's been told that
 1456 they have approximately six to eight months left to work until this site has been tapped out.
 1457 I've passed out the only information I have on Hunt Valley subdivision. It's possible that the
 1458 Commission may just want to extend this for a month if they wish to have the owner or
 1459 developer come before you and be able to answer any questions that you may have about
 1460 extending this further.

1461

1462 Mrs. Quesinberry - I have questions about extending it further simply because it is a ten-year
 1463 old plan. And as my fellow Commissioner members know, we have talked a lot recently
 1464 about changes to our ordinances, I know we are working on multi-family right now but we
 1465 have certainly talked about subdivisions and we've talked about open space and setbacks, at
 1466 length, list of issues. And with a ten-year-old plan, I'm not really sure what this plan looks
 1467 like or what conditions it meets, so, I think it would be a very prudent thing to defer it for at
 1468 least one month and give us an opportunity to look at it because I am not at all sure that this is
 1469 something that we would want to extend for another year.

1470

1471 Ms. Dwyer - Okay, Mrs. Quesinberry, would you like to go ahead and move on this
 1472 case alone, to extend it for perhaps for one month? Is that what you are suggesting?

1473

1474 Mr. Wilhite - Yes. It would have to be extended rather than deferred. But, you can
 1475 do it for one month.

1476

1477 Mrs. Quesinberry - I'd like to make a motion to extend this case for one month, to
 1478 December 15, 1999.

1479

1480 Ms. Dwyer - And, in the meantime, we want staff to communicate further with the
 1481 applicant and let us know.

1482

1483 Mr. Wilhite - Yes. We will try to get more detailed information and try to have the
1484 applicant or representative be here at the next meeting.

1485

1486 Ms. Dwyer - Do we have a second?

1487

1488 Mr. Vanarsdall - Second.

1489

1490 Ms. Dwyer - We have a motion by Mrs. Quesinberry and seconded by Mr. Vanarsdall
1491 to extend Hunt Valley subdivision (November 1990 Plan) until December 15. All in favor of
1492 the motion say aye...all opposed say nay. The motion carries.

1493

1494 The Planning Commission granted a one-month extension for subdivision Hunt Valley
1495 (November 1990 Plan) until December 15, 1999.

1496

1497 Ms. Dwyer - Were there any other questions on any of the other subdivisions? Mr.
1498 Wilhite, any concerns?

1499

1500 Mr. Wilhite - No. Staff can recommend approval for one year for the remaining three.

1501

1502 Ms. Dwyer - All right. Do we have a motion on the remaining subdivisions?

1503

1504 Mr. Archer - I move approval of the remaining subdivision extensions of conditional
1505 approval for 12 months.

1506

1507 Mr. Vanarsdall - Second.

1508

1509 Mr. Archer - I guess I should say excluding Hunt Valley.

1510

1511 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall.
1512 All in favor of the motion say aye...all opposed say nay. The motion carries.

1513

1514 The Planning Commission approved the subdivision extensions of conditional for Cross Creek
1515 (November 1998 Plan), Fairlawn (October 19993 Plan), and Wilton View (August 1997 Plan)
1516 for 12 months, November 15, 2000.

1517

1518 Mrs. Wade - I sort of have a question here about the agenda. There were some
1519 people here for something that was scheduled at 9:30 a.m. and we deferred it at 9:00 a.m. and
1520 of course they weren't here at 9:00 to hear that it had been deferred.

1521

1522 Mr. Silber - That's a very good point. We probably should have had the deferrals
1523 and withdrawals under the 9:30 a.m. portion. I didn't think of that at the time either.

1524

1525 Ms. Dwyer - We normally don't have our public hearings and work sessions at the
1526 beginning so we usually don't come across that conflict in our schedule. So, from now on, at

1527 the very least, we should stop at 9:30 a.m. and review the deferrals and withdrawals and the
1528 expedited items. So, that anybody who is spending time doesn't waste it.

1529

1530 Mr. Silber - I'll take blame for that. It should have been scheduled for a different
1531 portion of the agenda. Okay. Moving on to page two.

1532

1533 **TRANSFER OF APPROVAL**

1534

POD-105-84 Rack & Sack/Mars Music - W. Broad Street (Formerly Farm Fresh)	FF Acquisition Company, L.L.C. for Broad Street FF LLC and Richfood Holding, Inc.: Request for approval of a transfer of approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code from FF Acquisition Company, LLC to Broad Street FF LLC and Richfood Holdings, Inc. The 8.28 acre portion of this site is located at the northwest corner of W. Broad Street and Tuckernuck Drive on parcel 59-13-1. The zoning is B-2, Business District. County water and sewer. (Brookland)
--	---

1535

1536 Ms. Dwyer - Is there anyone in the audience in opposition to the transfer of approval
1537 POD-105-84, Rack & Sack/Mars Music at W. Broad Street? No opposition. Are there any
1538 questions by Commission members on this case? Well, I guess we should have a presentation
1539 by Mikel Whitney.

1540

1541 Mr. Whitney - It's very short and sweet. Staff is recommending approval of this
1542 transfer with condition No. 1 that a bond shall be posted to cover the site deficiencies as
1543 identified in the inspection report dated November 3, 1999, and such deficiencies shall be
1544 corrected by December 17, 1999. I'll take any questions that the Commission members may
1545 have.

1546

1547 Mr. Vanarsdall - I would like to tell him, as a matter of information. I told you that I
1548 would call Mr. Johnson, and I did call him yesterday and they will not be seeking a 24-hour
1549 permit, not now anyway. They are going to wait and see how they are going and he can
1550 (unintelligible) staying open 24-hours a day on November 1. I'm sorry I didn't tell you
1551 sooner. Madam Chairman, I talked to Mikel yesterday on this, and Scott did a good job
1552 finding the discrepancies and there will be some plantings, very soon, 75 white pines, and 36
1553 cypresses and the bond does cover all of this. And they do have until December 17 to
1554 complete all these items. So, with that, I will move that POD-105-84 transfer of approval,
1555 Rack & Sack and Mars Music, be approved with condition No. 1.

1556

1557 Mr. Archer - Second.

1558

1559 Ms. Dwyer - The motion was made by Mr. Vanarsdall and seconded by Mr. Archer to
1560 approve transfer of approval POD-105-84. All in favor of the motion say aye...all opposed
1561 say nay. The motion carries.

1562

1598 condition.

1599

1600 1. The owner shall submit a revised landscape plan for review and approval by December
1601 17, 1999, showing relocated and deleted plant material.

1602

1603 **SUBDIVISION RECONSIDERATION (Deferred from the October 27, 1999, Meeting)**

1604

Edgemoor **Youngblood, Tyler & Associates, P.C. for Boone, Boone,**
(A Reconsideration of April **Loeb & Pettit:** The 15.8 acre site is located on the east line of
1999 Plan) Nuckols Road at Wyndham Lake Drive on parcels 9-A-25 and
9-A-24. The zoning is R-2C, One-Family Residence District
(Conditional). County water and sewer. **(Three Chopt)**
28 Lots

1605

1606 **John Marles enters during this case.**

1607

1608 Ms. Dwyer - Is there anyone in the audience in opposition to Edgemoor subdivision?
1609 This is a reconsideration of a plan that the Commission approved in April 1999. No
1610 opposition. Mr. Wilhite.

1611

1612 Mr. Wilhite - At the time when this plan was first approved, or given conditional
1613 approval, there was an issue concerning the location of Circus Farm Road which is an existing
1614 private road that runs along the southern boundary of this proposed development. At that
1615 time, staff had recommended and a condition was adopted that the final approval shall not be
1616 granted for any of the proposed lots on which Circus Farm Road is currently located until at
1617 such time the legal status of said road is determined to the satisfaction of the Director of
1618 Planning, and anyone having legal interest in the road is given consent for it to be removed or
1619 relocated.

1620

1621 The applicant has come back with a revised plat, and what the applicant wishes to do is to
1622 remove Circus Farm Road from the lots in the back and hold this area as reserved at this time
1623 until further development occurs along here. One concern that staff still has was that
1624 Edgemoor Lane, which is stubbed to the east, still shows impact into that existing roadway.
1625 And there are concerns from staff about prescriptive easements and the legal rights that other
1626 people may hold within that roadway. Talking among staff, this morning, and in conversation
1627 with the County Attorney and also with the applicant, we have come up with an alternative
1628 condition that staff can offer, that I believe would satisfy all the concerns. It is agreeable
1629 among staff and the applicant to this wording, and that would allow this revised plat to be
1630 adopted. This is different from the condition that you have listed in your addendum. The new
1631 wording would read, and this would be revised condition No. 14 to the original approval:
1632 Prior to final subdivision approval, the applicant shall provide evidence satisfactory to the
1633 County Attorney of its legal right to dedicate a public road over Circus Farm Road. With that,
1634 staff would be in a position to recommend approval of this revised plat and revised condition
1635 No. 14 as stated.

1636

1637 Ms. Dwyer - Thank you, Mr. Wilhite. Are there any questions of Mr. Wilhite about
1638 this case?
1639

1640 Mrs. Wade - So, the only thing then, the concern that was left, was the Edgemoor
1641 Lane stub going over the going over the private road.
1642

1643 Mr. Wilhite - Yes. From the plat that's been provided us, there still seems to possibly
1644 be some conflict there and the County wants to be sure that they are not going to get into the
1645 position where it's going to create a problem down the road.
1646

1647 Mrs. Wade - And they have given up your concern then about the strip on the west.
1648

1649 Mr. Wilhite - The reserve strip, it's deferring resolution of this road issue to when
1650 further development occur. Ideally, we would like to see it done up front but we realized that
1651 this is a workable solution.
1652

1653 Mr. Silber - Mr. Wilhite, could you read that revised condition again?
1654

1655 Mr. Wilhite - Yes, sir. Prior to final subdivision approval, the applicant shall provide
1656 evidence satisfactory to the County Attorney of its legal right to dedicate a public road over
1657 Circus Farm Road.
1658

1659 Ms. Dwyer - So, that deals with Edgemoor Lane?
1660

1661 Mr. Wilhite - Edgemoor Lane and the stub to the property to the east, yes.
1662

1663 Ms. Dwyer - Stubs to the east.
1664

1665 Mr. Wilhite - Where it stubs to the eastern property line is where the conflict with the
1666 existing private road occurs.
1667

1668 Ms. Dwyer - Well, isn't that Edgemoor Lane? Isn't Edgemoor Lane the one that
1669 stubs?
1670

1671 Mr. Wilhite - Yes. Edgemoor Lane stubs at the eastern boundary of the property,
1672 down at the southeast corner.
1673

1674 Ms. Dwyer - What about what's labeled as Circus Farm Road on the eastern
1675 boundary? How is that going to be? I know that's not a part of the lots anymore, but there's
1676 nothing....
1677

1678 Mr. Wilhite - It is held as a reserved strip that would allow for use of the road and
1679 future development if it incorporates that strip, then all the legal requirements would have to
1680 be met at that time.
1681

1682 Ms. Dwyer - Okay. And, then, let's assume they acquire all the legal rights and
1683 interest in that property then it will be deeded to the lot owners.

1684

1685 Mr. Wilhite - That would be a possibility but what they are proposing is that it would
1686 be sold at market value to the adjacent property owners and incorporated into any other
1687 development that might occur adjacent to this subdivision.

1688

1689 Ms. Dwyer - And what about the Circus Farm on the eastern part where it no longer
1690 lies within the lots, but it did at one time I think with the original, would that be deeded to
1691 these lot owners?

1692

1693 Mr. Wilhite - Well, that would be the same case. It's a reserved strip so the road sets
1694 apart from the lots itself on reserve strip land. And, once again, it could be deeded or sold to
1695 the adjacent property owners.

1696

1697 Ms. Dwyer - Or to the people in the Edgemoor.

1698

1699 Mr. Wilhite - Or it could be incorporated into the existing lots, that is correct.

1700

1701 Ms. Dwyer - That would just be up to the owner.

1702

1703 Mr. Wilhite - Yes.

1704

1705 Ms. Dwyer - But the lots are still good size and reasonably shaped even without that.

1706

1707 Mr. Wilhite - Yes. With this particular plan there is no impact from having a
1708 ingress/egress easement on the back of the lots or the road is not being proposed to be
1709 removed or relocated at this time.

1710

1711 Ms. Dwyer - Thank you. Are there any other questions of Mr. Wilhite?

1712

1713 Mrs. Wade - Yes. It removes most of the technical problems now. It still may be a
1714 different no mans land down there that somebody will have to deal with in the future one way
1715 or the other.

1716

1717 Ms. Dwyer - Would you like to hear from the applicant, Mrs. Wade?

1718

1719 Mrs. Wade - I don't think so. Are you all right now with it, Mr. Wilhite?

1720

1721 Mr. Wilhite - Yes, ma'am.

1722

1723 Mrs. Wade - You are recommending it with that substitute amendment?

1724

1725 Mr. Wilhite - Yes, the remaining concerns would be able to be cleared up prior to final
1726 approval being granted.

1727
1728 Ms. Dwyer - Would the applicant like to speak?
1729
1730 Mr. Webb Tyler - I've always felt it's not better to speak at all.
1731
1732 Mr. Vanarsdall - I remembered one time you said I'll just be brief and we almost went to
1733 sleep.
1734
1735 Mr. Tyler - I learned my lesson well.
1736
1737 Mrs. Wade - I think we can move on. Is there nobody opposing this?
1738
1739 Mr. Wilhite - No, ma'am. We know of no opposition, well we knew of no
1740 opposition.
1741
1742 Mrs. Wade - Oh, well, here comes some.
1743
1744 Ms. Dwyer - I'm sorry. Didn't I ask for opposition? Well, we have newfound
1745 opposition.
1746
1747 Mr. Wright - Well, actually, I'm not opposing this case. I just wanted to clarify
1748 something. In their course of the zoning as well as the plan of development, the neighbors to
1749 the rear of that property, one of which I represent. We have always encouraged that stub road
1750 to open up that landlocked land behind this property. And, in the course of this approval, the
1751 applicant is going on record to say that this would be developed in one section and if that is the
1752 case we would encourage the approval of this and would like to certainly resolve that road
1753 issue. The key is just getting some access to the public road. I don't know if that is the intent
1754 of the applicant in the letters that we have received. They have indicated they wanted to
1755 develop it as one section and that was their intent and if that is the case we would like that
1756 made a condition of this approval.
1757
1758 Ms. Dwyer - Would you state your name for the record, please?
1759
1760 Mr. Wright - I'm Gibson Wright and we have the property Southern Title Insurance,
1761 the property behind this.
1762
1763 Ms. Dwyer - What do you mean, developed in one section? I don't understand what
1764 you are saying.
1765
1766 Mr. Wright - Meaning that the road would be dedicated at the time of any activity,
1767 any plat would dedicate the ultimate stub road right-of-way which would be Edgemoor Drive
1768 or whatever that is.
1769
1770 Ms. Dwyer - All right. Thank you, sir. Would anyone like to respond to that?
1771

1772 Mrs. Wade -
1773

Well, maybe we do need to hear from the applicant, briefly.

1774 Mr. Tyler -

For the record, my name is Webb Tyler and I'm with Youngblood, Tyler & Associates. I will tell you that, as of today, it is the applicant's intent to develop this as, and build the infrastructure at one time. The applicant has a builder that has a concern that Mr. Gibson Wright will go forward with his project at the time that he is trying to establish a \$300,000.00 neighborhood along Nuckols Road. And he is concerned about the competition that Mr. Gibson Wright is not providing any financial reimbursement to my client for the building of the infrastructure road. And, so, quite frankly, my client is afraid of Gibson competing with him simultaneously. And, so my client wants to be able to develop a 300,000 plus thousand dollar neighborhood, home neighborhood, without having to be, what he perceives, as being undercut by Gibson's, which may or may not be lower priced homes.

1784

1785 Mrs. Wade -

Well, you know we can't deal with that.

1786

1787 Mr. Tyler -

I understand that. So, therefore, what we believe is that, yes, we want to go forward but we don't think it is fair to impose upon us the fact that we can't develop this in sections. But, if that is the wish of this Commission, then we will abide by that wish.

1790

1791 Ms. Dwyer -

Well, there's nothing in any of the conditions that address whether or not this is built in phases or stages, is that right, Mr. Wilhite?

1793

1794 Mr. Wilhite -

No, ma'am. Typically, we do not include language to that affect.

1795

1796 Mrs. Wade -

And we are concerned mainly with getting a stub road through there. I can't see where we can say you have got to do it all at one time.

1798

1799 Mr. Wilhite -

And, typically, staff, at final approval, would not approve a situation where the majority of the subdivision was given final approval and the stub left off. We have had situations like that before.

1802

1803 Mrs. Wade -

Well, no, I mean not the whole.... I mean when you get back to Edgemoor Lane they have got to do the stub.

1805

1806 Mr. Wilhite -

Yes.

1807

1808 Mrs. Wade -

But, we really can't say he's got to do all corner lots all at once or even put the road in.... I mean they have to have the road before they did the lots.

1810

1811 Mr. Wilhite -

Say, if the applicant wants to agree to have a conditional along that line, that would be acceptable, but it's not typical.

1813

1814 Mr. Tyler -

We don't desire to have that condition applied to us. We don't intend to spice trip it or anything like that, but we may, for fear of competition, may desire to carve this particular subdivision into two 14-lot sections or a 20-lot section and a 10-lot section, but we

1817 would not hold off a stub upon ultimate development.

1818

1819 Ms. Dwyer - So, whenever you decide to develop the lots along Edgemoor Lane, you
1820 will be building Edgemoor Lane.

1821

1822 Mr. Tyler - Yes, ma'am.

1823

1824 Ms. Dwyer - But, you may not do that first or you might not do that for some period
1825 of time.

1826

1827 Mr. Tyler - That is correct. But, for purposes of the economy of scale, clearly, you
1828 have a much greater economy of scale if you build more roads the cost per lot goes down. So
1829 we would like to build the entire road network at one time.

1830

1831 Mrs. Wade - I don't know what you said about the competing houses, but implying
1832 that his is not going to be \$300,000.00 houses, if I were out looking for a \$300,000.00 house I
1833 wouldn't be looking at \$150,000.00 house probably.

1834

1835 Mr. Tyler - I understand that.

1836

1837 Mrs. Wade - Anyway, that's not our issue here. Just so Edgemoor Lane gets stubbed
1838 down there before you get done.

1839

1840 Mr. Tyler - We agree to that.

1841

1842 Mr. Wilhite - Mrs. Wade, I would just like to add to the record. We are dealing with
1843 a similar subdivision at final time where a developer is trying to leave a stub street out and two
1844 adjoining lots and we are not in favor of approving that in that manner. We would not be in
1845 favor of granting final approval for a situation where the stub was left off and maybe the two
1846 adjoining lots adjacent to the stub was not included as well. So, I would just like to state for
1847 the record, staff would not support that at final approval time. We don't believe that an
1848 additional condition is needed. We still like to give flexibility for the developer to develop
1849 more than one section if he deems he would like to approach it that way.

1850

1851 Ms. Dwyer - So, what you are saying is that there is a mechanism in the process to
1852 prevent that from happening, that is you would not grant final approval.

1853

1854 Mr. Wilhite- Staff would have to grant final approval and we would start to look at it
1855 as a spite strip which is not allowed in the Code at that point and not logical development of
1856 the property so staff would not grant approval in those situations.

1857

1858 Mrs. Wade - That would be for basically, No. 18, 10 and 17.

1859

1860 Mr. Wilhite - I would say at least for the two lots adjoining the side, 10 and 18, and
1861 17 probably would be affected as well because it has road frontages as well.

1862

1863 Ms. Dwyer - Are there any other questions or comments? Thank you, Mr. Wilhite.
1864 Are we ready for a motion?

1865

1866 Mrs. Wade - The concept road is supposed to go through here.

1867

1868 Mr. Wilhite - Yes, that's correct.

1869

1870 Mrs. Wade - Okay. Thank you. All right. I move Edgemoor, the reconsideration of
1871 the April 1999 plan be approved subject to the standard conditions, the annotations, we don't
1872 have the other conditions but the only thing being changed is No. 14, and the substitute for
1873 No. 14, instead of the one on the addendum it's one that says, roughly, prior to final approval
1874 the applicant shall provide evidence satisfactory to the County Attorney of its legal right to
1875 dedicate a public road over Circus Farm Road. So, I move, with the understand that you will
1876 not get final approval for those last lots until the stub street is constructed. I move it be
1877 approved.

1878

1879

1880 Mr. Vanarsdall - Second.

1881

1882 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall.
1883 All in favor of the motion say aye... all opposed say nay. The motion carries.

1884

1885 The Planning Commission granted conditional approval for Edgemoor (A Reconsideration of
1886 the April 1999 Plan) subject to the standard conditions for subdivision served by public
1887 utilities, the annotations on the plan and the following revised additional condition:

1888

1889 14. Prior to final subdivision approval, the applicant shall provide evidence satisfactory to
1890 the County Attorney of its legal right to dedicate a public road over Circus Farm Road.

1891

1892 **SUBDIVISION (Deferred from the October 27, 1999, Meeting)**

1893

Wyndham Forest
(October 1999 Plan)

Youngblood, Tyler & Associates, P.C. for HHHunt Corporation: The 85.2 acre site is located at the northern terminus of Twin Hickory Lane and adjacent to the Chickahominy River on parcels 11-A-1A, 3 and 4. The zoning is R-3AC, One-Family Residence District (Conditional) and R-3C, One-Family Residence District (Conditional). County water and sewer. **(Three Chopt) 181 Lots**

1894

1895 Ms. Dwyer - Is there anyone in the audience in opposition to subdivision Wyndham
1896 Forest (October 1999 Plan)? No opposition. Mr. Wilhite.

1897

1898 Mr. Wilhite - On the screen is a revised subdivision plan that we received on Friday.

1899 Staff has reviewed it and it does take care of most of staff's concerns. There is a slight change
1900 in the location of the roads and the lots with this plan. Staff at this point is okay with the cul-
1901 de-sac road that shows up at the northern portion of the property line. The stem lots that were
1902 shown on the original plan have been eliminated. There won't be any stem lots requested by
1903 the applicant so there is no need for a special exception by the Planning Commission with this
1904 plan. Once, again, we had a similar situation as to what appeared in Edgemoor with an
1905 extension from the existing court across the private Twin Hickory Lane. With that, we are
1906 also suggesting an additional condition worded the exact same way as it appeared with
1907 Edgemoor that Prior to final subdivision approval, the applicant shall provide evidence
1908 satisfactory to the County Attorney of its legal right to dedicate a public road over Twin
1909 Hickory Lane. This would be added condition No. 17.

1910

1911 Also there are some issues that still needs to be worked out concerning the use of the existing
1912 pond as a BMP. That discussion was still taking place as of this morning. I understand that
1913 George Moore, who is the applicant has gotten with the County Engineer and I believe they
1914 have worked out a solution to the point where it is acceptable and that staff can recommend
1915 approval. Mr. Moore will address that before you. That's all.

1916

1917 Ms. Dwyer - Are there any questions of Mr. Wilhite?

1918

1919 Mrs. Wade - So, that covers all the annotations.

1920

1921 Mr. Wilhite - Yes, ma'am, I believe so.

1922

1923 Mr. Silber - Mr. Wilhite, I thought when this was discussed before there was
1924 consideration of a sidewalk along the concept road. There was a condition No. 14 that talks
1925 about a sidewalk on the west side of Twin Hickory.

1926

1927 Mr. Wilhite - Yes. Their plan shows the sidewalk already along the concept road.
1928 That's in place. Staff had requested a sidewalk connection along Twin Hickory and they are
1929 agreeable to that and that's what the condition covers.

1930

1931 Ms. Dwyer - But, not the concept road?

1932

1933 Mr. Wilhite - The plan already shows it on there so it will be there.

1934

1935 Mr. Silber - So, No. 14 is addressing Twin Hickory because it's not shown on the
1936 plan?

1937

1938 Mr. Wilhite - It was not originally shown and staff had requested that of the applicant
1939 and the applicant agreed and we had a condition that addressed that as well.

1940

1941 Ms. Dwyer - We have this common 30-foot buffer by proffer area, kind of behind the
1942 house that fronts on Chapel Road, which is a private road. I assume that was just for the
1943 benefit of that one homeowner.

1944
1945 Mr. Wilhite - That was addressed in the zoning proffers. It was required at the time
1946 and the applicant is providing that.
1947
1948 Ms. Dwyer - And that is an addition to required rear yard setback?
1949
1950 Mr. Wilhite - Yes, it is.
1951
1952 Ms. Dwyer - And in the reserved area, at the end of concept road KK, the cul-de-sac
1953 kind of on the northeast side, what's that reserved for? Do we know?
1954
1955 Mr. Wilhite - Once the property to the east is developed that's going to be incorporated
1956 into lots and they would have frontage on that cul-de-sac street. That's being reserved for
1957 future development.
1958
1959 Ms. Dwyer - The dimensions are not suited for a lot at this time?
1960
1961 Mr. Wilhite - The way the cul-de-sac is drawn I don't believe that there is enough
1962 depth for a lot, it probably would not have any buildable area as shown.
1963
1964 Ms. Dwyer So, they would have to acquire additional land to make it a buildable lot.
1965
1966 Mr. Wilhite - That is correct, yes.
1967
1968 Ms. Dwyer - In the meantime, would that be held by the homeowners association or
1969 just by the owner?
1970
1971 Mr. Wilhite - The current owner of the property would hold it in reserve.
1972
1973 Ms. Dwyer - Okay. Thank you. Are there any other questions for Mr. Wilhite?
1974 Would you like to hear from the applicant, Mrs. Wade?
1975
1976 Mrs. Wade - He need to comment on the BMP.
1977
1978 Mr. Wilhite - Yes, ma'am. That issue is still being worked out this morning and I
1979 believe they have addressed that with the drainage engineer and they can address that issue.
1980
1981 Mrs. Wade - They need to assure us that they and the engineer have agreed on it.
1982
1983 Mr. Webb Tyler - As of this morning, that issue is still being discussed between Scott
1984 Jackson and us and George Moore has just returned from Scott Jackson's office. I'll let
1985 George address that.
1986
1987 Mr. Moore - My name is George Moore and I'm with HHHunt Corporation. I did
1988 have the opportunity to talk with Jeff Perry, Scott Jackson and Keith White just a few minutes

1989 ago and they are okay. The concern was they wanted to make sure they had sufficient
1990 documentation that the proposed BMP, which is an existing pond, was not jurisdictional as far
1991 as wetlands. And we have met with the Corps of Engineers in the field, and they are not
1992 asserting jurisdiction over that pond so Jeff Perry was fine with what we propose right now.

1993

1994 Mrs. Wade - So, you will be using the existing pond as a BMP.

1995

1996 Mr. Moore - That is correct.

1997

1998 Mr. Silber - Mr. Moore, there is also a location that says proposed pond, would that
1999 still be needed?

2000

2001 Mr. Moore - Yes. There are actually two BMPs on this project, one adjacent to the
2002 Chickahominy which is the existing pond and then the other one is up near Twin Hickory
2003 Lane.

2004

2005 Mr. Silber - So, you will be using an existing pond and a proposed pond?

2006

2007 Mr. Moore - Exactly.

2008

2009 Mrs. Wade - There used to be a pond where the proposed pond is. There are
2010 Christmas trees growing on it.

2011

2012 Ms. Dwyer - Will the community have access to this existing pond for recreational
2013 use?

2014

2015 Mr. Moore - Yes. We do plan on extending a pedestrian trail along the Chickahominy
2016 River and it would have access directly to the existing pond.

2017

2018 Ms. Dwyer - It looks like it is surrounded by lots except in, towards the Hanover
2019 County side, toward the Chickahominy River side, so I'm wondering where would those pads
2020 lie so that it would be open to both.

2021

2022 Mr. Moore - We would provide, along the concept road there, there is a creek that
2023 runs up to the proposed pond and there would be access provided down into that area. They
2024 would have access down to the creek and to the pond from that point (referring to map).

2025

2026 Mrs. Wade - It looks as if it touches the road KK down here.

2027

2028 Mr. Tyler - That's one trail.

2029

2030 Mrs. Wade - And I understood you are going to have pedestrian trails along the river.

2031

2032 Mr. Tyler - Yes, all along the river and then there's a bridge here and then it comes
2033 up in here, goes around this pond, here, and there's the ability to walk around this pond, this

2034 existing pond as well in the 15 feet of common area between the waters edge and the rear lot
2035 line. It's a 15-foot land strip not inundated by water, between the water's edge, when it's
2036 called normal pool and the rear property line. That would allow people, although not a path
2037 per se but would allow people to walk around the lake.

2038

2039 Ms. Dwyer - So, that would be common area maintained by the homeowners
2040 association.

2041

2042 Mr. Tyler - Right. And in the bottom of the pond, existing and proposed, would
2043 also be common area.

2044

2045 Ms. Dwyer - Are there any other questions for the applicant by Commission
2046 members? Thank you. Are we ready for a motion?

2047

2048 Mrs. Wade - Yes. I move Wyndham Forest (October 1999 Plan), dated November
2049 17, be approved subject to the annotations which still apply, except the notes regarding stem
2050 lots because that is not applicable, and added conditions Nos. 12 through 17, and No. 17 says
2051 at final approval (unintelligible) authority to build the public road over the private road there at
2052 Twin Hickory. Kevin, you have the wording on that. And the BMP to be approved by Public
2053 works. So, I move it be approved.

2054

2055 Mr. Archer - Second, Madam Chairman.

2056

2057 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Archer. All
2058 in favor of the motion say aye...all opposed say nay. The motion carries.

2059

2060 The Planning Commission granted conditional approval of Wyndham Forest (October 1999
2061 Plan), subject to the standard conditions attached to these minutes, the annotations on the plan
2062 and the following additional conditions:

2063

2064 12. Each lot in the R-3C district shall contain at least 11,000 square feet, exclusive of
2065 floodplain areas.

2066 13. The limits and elevation of the 100-year frequency flood shall be conspicuously noted
2067 on the plat and construction plans and labeled "Limits of 100-Year Floodplain."
2068 Dedicate floodplain as a "Variable Width Drainage & Utility Easement."

2069 14. A County standard sidewalk shall be constructed along the west side of Twin Hickory
2070 Road.

2071 15. Prior to the final approval, a draft of the covenants and deed restrictions for the
2072 maintenance of the common area by a homeowners association shall be submitted to the
2073 Planning Office for review. Such covenants and restrictions shall be in form and
2074 substance satisfactory to the County Attorney and shall be recorded prior to recordation
2075 of the subdivision plat.

2076 16. A subdivision landscaping plan shall be submitted to the Planning Office for review and
2077 approved prior to recordation of the plat.

2078 17. Prior to final subdivision approval, the applicant shall provide evidence satisfactory to

2079 the County Attorney of its legal right to dedicate a public road over Twin Hickory
2080 Lane.

2081

2082 **SUBDIVISION**

2083

Gayton Ridge Park **Balzer & Associates, Inc. for Delmah M. Baugh, Estate and**
(November 1999 Plan) **13654 Gayton Road LLC:** The 5.00 acre site is located
approximately 200 feet south of the intersection of N. Gayton Road
and Gayton Station Boulevard on the west side of N. Gayton Road
on parcel 35-A-16B. The zoning is R-3AC, One-Family Residence
District (Conditional). County water and sewer. **(Three Chopt)**
13 Lots

2084

2085 Ms. Dwyer - Is there anyone in the audience in opposition to subdivision Gayton
2086 Ridge? No opposition. Mr. Whitney.

2087

2088 Mr. Whitney - Thank you, Madam Chairman. Staff has completed a review of this plan
2089 and is now recommending approval. The first point I would like to make is on the application
2090 for this subdivision, the applicant used the name Gayton Ridge. We already have a
2091 subdivision with that name. So, at this point they would like change that to read Gayton Park.
2092 So, in your approval, if we could include that and have that name carry on with this
2093 subdivision. The second thing is in your addendum, we have a revised condition No. 12
2094 dealing with the landscape plan for the planting strip easement along N. Gayton Road and the
2095 BMP common area. This is to be submitted with the construction plans for review and
2096 approval and this type of condition Mr. McGarry used in a subdivision that you considered
2097 earlier, the same language for that. Public Works is now recommending approval of this plan.
2098 There was a problem with the BMP. They have obtained a wavier for their water quality
2099 requirements in this subdivision. The last issue which came up when the rezoning case went to
2100 the Board of Supervisors last week, there was a question from Traffic Engineering whether
2101 this subdivision would come in alignment at the entrance to Sedgemoor Oaks. The applicant
2102 has checked with the field survey crew and has adjusted the center line of the road for this
2103 subdivision to align up with Sedgemoor Oaks. Therefore, Traffic Engineering is comfortable
2104 with recommending approval at this time. With that, I will take any questions you may have.

2105

2106 Ms. Dwyer - Okay. Are there any questions for Mr. Whitney?

2107

2108 Mrs. Wade - I think the question came up before about who and when this stub street
2109 will be built.

2110

2111 Mr. Whitney - The stub street will be built with this subdivision.

2112

2113 Mrs. Wade - When they do Gayton Manor Drive, they would do Gayton Place stub
2114 street also.

2115

2116 Mr. Whitney - That is correct.

2117
2118 Mrs. Wade - And they have a buffer along Gayton.
2119
2120 Mr. Whitney - Along N. Gayton Road.
2121
2122 Mrs. Wade - Is there anything in there about a fence?
2123
2124 Mr. Whitney - I would have to get the file. The proffer for the landscape strip reads:
2125 Within this strip the developer shall provide landscaping with or without a berm. The
2126 landscape buffer shall be in addition to the minimum required setbacks. Fencing within the
2127 landscape strip shall be prohibited.
2128
2129 Mrs. Wade - So, it's no fence.
2130
2131 Mr. Whitney - Correct, no fence.
2132
2133 Mrs. Wade - All right. Thank you.
2134
2135 Ms. Dwyer - Are there any other questions for Mr. Whitney? Would you like to hear
2136 from the applicant, Mrs. Wade?
2137
2138 Mrs. Wade - No.
2139
2140 Ms. Dwyer - Are we ready for a motion?
2141
2142 Mrs. Wade - I move subdivision formerly Gayton Ridge now Gayton Park (November
2143 1999 Plan) be approved subject to the annotations and added conditions Nos. 12 through 15
2144 with the understanding that the stub street will be built up front and the main street will align
2145 with Sedgemoor Oaks, I move it be approved.
2146
2147 Mr. Archer - Second.
2148
2149 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Archer. All
2150 in favor of the motion say aye...all opposed say nay. The motion carries.
2151
2152 The Planning Commission granted conditional approval of Gayton Park (November 1999
2153 Plan), subject to the standard conditions attached to these minutes, the annotations on the plan
2154 and the following additional conditions:
2155
2156 12. The detailed plant list and specifications for the landscaping to be provided within the
2157 15-foot-wide planting strip easement along N. Gayton Road and the BMP common area
2158 shall be submitted with the construction plans for review and approval prior to final
2159 approval.
2160 13. County standard sidewalk shall be constructed along the west side of N. Gayton Road.
2161 14. Any necessary off-site drainage easements must be obtained prior to final approval of

2162 the construction plans by the Department of Public Works.
2163 15. Prior to final approval, a draft of the covenants and deed restrictions for the
2164 maintenance of the common area by a homeowners association shall be submitted to the
2165 Planning Office for review. Such covenants and restrictions shall be in form and
2166 substance satisfactory to the County Attorney and shall be recorded prior to recordation
2167 of the subdivision plat.

2168
2169 Mrs. Wade - One thing about the Wyndham Forest. I found on the addendum there
2170 was a No. 17, we had changed the No. 17 or is that the one...

2171
2172 Mr. Wilhite - No, ma'am. What we did was use the revised No. 17 that was worked
2173 out this morning so the addendum item was not pertinent any more.

2174
2175 Mrs. Wade - Okay. Thank you.

2176
2177 **PLAN OF DEVELOPMENT, TRANSITIONAL BUFFER DEVIATION & SPECIAL**
2178 **EXCEPTION**

2179
POD-87-99 **Jordan Consulting Engineers, P.C. for Daniel**
Westchase I & II - Cox **Corporation:** Request for approval of a plan of development,
Road and Westerre Parkway transitional buffer deviation and a special exception for
buildings in excess of three stories as required by Chapter 24,
Sections 24-106, 24-106.2(c) (3) and 24-59(c) of the Henrico
County Code to construct two (2), six-story, 154,938 square
foot office buildings. The 14.8 acre site is located on the south
line of proposed Westerre Parkway, 400 feet east of Cox Road
on parcels 47-A-59 and 48-A-39, 40, 41, 55, 58, 61, 63, 64,
65 and 66. The zoning is O-3C, Office District (Conditional)
and B-2C, Business District (Conditional). County water and
sewer. **(Three Chopt)**

2180
2181 Ms. Dwyer - Is there anyone in the audience in opposition to POD-87-99, Westchase I
2182 & II - Cox Road and Westerre Parkway? We do have opposition. Mr. Whitney.

2183
2184 Mr. Whitney - Thank you, Madam Chairman. As it states in your agenda, staff makes
2185 no recommendation as far as the special exception, and as was read into the record, this will
2186 be for two, six story buildings. The applicant is here to state his case for your granting of this
2187 special exception for six stories. Also included is a transitional buffer deviation. There are
2188 two areas where this is being requested. The zoning line which runs through the proposed
2189 plan of development property separates B-2C and O-3C. Along that line would be a
2190 transitional buffer 10 required. The applicant has requested to provide that 10-foot landscape
2191 buffer along the western boundary of the parking lot adjacent to what would become retail
2192 space in the B-2. So, it's just moving it from the zoning line to the edge of this development.

2193
2194 Ms. Dwyer - So, will that be at the Phase 2, Phase 3 line?

2195

2196 Mr. Whitney - Yes, it would. I believe that is circled on the staff plan you received
2197 where that line is located and labeled. The second area where the deviation is requested is
2198 along the B-2 portion of the property at the southwest corner adjacent to the A-1. The A-1
2199 being I-64 and that little protrusion piece that contains a communication tower. So along that
2200 boundary there would be a transitional buffer 25 required. They are requesting to reduce it by
2201 five feet providing a 20-foot buffer in that area. On your addendum there is an added
2202 condition, No. 33, which reads: Prior to final approval of the construction plans, the developer
2203 shall provide evidence of the abandonment of Old Cox Road. Apparently, there is public
2204 utility in this area and they are working on this with attorney Glen Moore to see that the
2205 abandonment is taken care of and the County would retain an easement for utility that is in the
2206 existing right-of-way. With that I will take any questions you may have.

2207

2208 Ms. Dwyer - Are there any questions for Mr. Whitney?

2209

2210 Mrs. Wade - And did we ever come up with site coverage?

2211

2212 Mr. Whitney - They are meeting the proffered and zoning requirements for their site
2213 coverage. That open space calculation does include the area that will be in the BMPs. The
2214 two BMPs are adjacent to the property... they will be in this area (referring to map) here along
2215 Westerre Parkway and then down in the southeasterly corner of the property. Those are being
2216 built with the Westerre Parkway plan, Phase 2.

2217

2218 Mrs. Wade - So most of it, the BMP, are down in the corner where nobody will see
2219 it.

2220

2221 Mr. Whitney - There are quite a number of islands in the parking area and around the
2222 two buildings. Plus, they are providing a 25-foot proffered buffer along Westerre Parkway.

2223

2224 Mrs. Wade - Is it going to look like this?

2225

2226 Mr. Whitney - That's what they provided us, this colored rendition.

2227

2228 Ms. Dwyer - Mr. Whitney, did you say that there was a condition relating to the
2229 reservation of an easement on behalf of the County once Old Cox is abandon?

2230

2231 Mr. Whitney - Yes. On your addendum is an added condition No. 33, which states that
2232 the abandonment of Old Cox Road must be accomplished prior to final signature of the
2233 construction plans. And in that abandonment, the County will retain an easement for, I
2234 believe it's a sewer in there.

2235

2236 Ms. Dwyer - So, we don't need to make a statement that they reserve an easement in
2237 this condition.

2238

2239 Mr. Whitney - They would not get approval of their construction plans nor their utility

2240 plans without providing that easement.

2241

2242 Ms. Dwyer - Because it just says "shall provide evidence of abandonment" it doesn't
2243 say anything about requiring an easement.

2244

2245 Mr. Whitney - That evidence is added to an annotation made by Public Works that they
2246 need the deed, book and page number of that abandonment on the construction plan. So, they
2247 will not be signing those until that occurs. So, that is the evidence we are asking for.

2248

2249 Ms. Dwyer - Are there any other questions for Mr. Whitney? Would the applicant
2250 come forward please?

2251

2252 Mr. Mills - Good morning, Madam Chairman, members of the Commission. My
2253 name is Malachi Mills. I'm with Jordan Consulting Engineers, and I represent the applicant in
2254 this case, Mr. Chris Dell, Develop Manager for Daniel Corporation who is here with us today
2255 to aid any questions you may have in reference to the building and the concept. We have
2256 reviewed and met a number of times with staff and a meeting with Mrs. Wade to go over the
2257 building and the site and the annotations and comments that staff has rendered, we are in
2258 agreement with those. Specifically, on the special exception request on the screen, you can
2259 see the yellow line. That is the zoning line and we are maybe about 10 or 12 percent of our
2260 buildings across the zoning limits into the B-2C. We are proposing six-story buildings for the
2261 project and about eight feet of building No. 2 and one quadrant of building No. 1 crosses into
2262 the B-2 zoning limit and that's the need for the special exception request. We feel that we
2263 have located the building accordingly to strike a balance. We looked at the zoning case and
2264 given the limits of the zoning line between the business and the office we've maintained a
2265 valuable retail sites up front and provided an ample development that the clients can get the
2266 proper tenants for and everything on a class A building. We just request that you except the
2267 special exception and I think the intent would be that you don't have a six-story building right
2268 up on your right-of-way to close to where you would typically have your retail area. And
2269 even though we have got the taller buildings, we are well away from Cox and Westerre where
2270 there would be the one-story retail businesses.

2271

2272 The waivers for the buffers are... the one along the buffer 10 along the zoning line, I think is
2273 obvious that we are not able to provide it, and in that location we would provide the minimum
2274 10 feet between our retail and the office uses. We have a minimum of 12 feet to as much as
2275 14 feet that separates between our parking and our property line that separates us from the
2276 business. The natural grades between the two sites... you look at the grading plan and there is
2277 a three to one slope that's going to be roughly 20 feet is what would have to be provided
2278 between the actual limits of the two parking lots that are there. There would probably be
2279 about 10 feet on the other side that would have to... there is just too much slope there. The
2280 retail sites, the Marriott provides view to Cox Road and that land is higher than what we have
2281 got in the back. So, in the end you would have about a 20-foot strip there separating the
2282 business use from our office use. We meet the open space requirements and I think we have
2283 an excellent product that I think the intent of the zoning case is to provide a good anchor of
2284 office here in this area. And just for clarification, on the right-of-way vacation of Old Cox,

2285 the vacation has been filed and a comment that came up with staff review from Mr. Claytor's
2286 office was to provide the easement over that existing sewer line and we have since drawn that
2287 up and it's all being processed together. So we initiated all of that, we recognized that
2288 condition and hopefully the timing will work out and it all will be recorded and taken care of.
2289 But, we have provided all those easement plats, they are just going through tech check right
2290 now with Keith Adams in Real Property. Do you have any other questions of me or Mr. Dell?
2291

2292 Mrs. Wade - Where is the property line now between you and Circuit City?

2293

2294 Mr. Mills - The actual property line is the dark line right along in here (referring to
2295 map) separating the two sites. RealtiCorp. with their development of Westerre Parkway and
2296 knowing that they have got to provide basins for the site development, has worked out an
2297 agreement with Circuit City owners over there to utilize some of that space for their
2298 stormwater management area. Frankly, we are looking to break up that area. The Circuit
2299 City site has a good size buffer there because they have got a massive deal of parking over
2300 there and providing the separation. Also the grading lends itself to that because of the low
2301 places there by the Circuit City site. That was the best, optimal place to place the basin that's
2302 where things drain to.

2303

2304 Mrs. Wade - I'm trying to look positively at this, at the six-story buildings which
2305 certainly have some advantages from the planning and design standpoint. However, it just
2306 means you got to pave over most of the rest of the site that provides parking for your six-story
2307 buildings. Are you going to clear all this site, of course, over there where the houses are, you
2308 know there are a lot of big trees? Do you intend to retain any of the ones that are there or can
2309 you do?

2310

2311 Mr. Mills We do meet the open space requirements to hold us to that. The clearing
2312 for the sake of just paving or whatnot, we are right at code to meet the parking. We haven't
2313 over parked the space, not a single space. We meet the minimum code. Actually, from the
2314 engineering standpoint of just the grading there is quite a bit of grade across the site that we
2315 would not be able to retain, the majority of vegetation, there would be quite a bit in some of
2316 the old growth that's between the Circuit City site and us. We are not grading off of our
2317 property with the exception of those two areas that the basins go into that's shown on Hankins
2318 and Anderson's plan for Westerre Parkway. The clearing is really driven by just the grading.

2319

2320 Mrs. Wade - Are you going to clear all the way over to Cox or just to where you've
2321 got the line now? Of course, that's not in this POD.

2322

2323 Mr. Mills - Our current POD site plan shows clearing up to Cox Road in order to
2324 provide the grading for the whole site at one time and I believe there is some language in the
2325 zoning proffers to provide some berming along Cox and Westerre and we will accomplish that
2326 with this POD.

2327

2328 Mrs. Wade - I was wondering where this picture came from. It looks as if there are
2329 older trees left around then I see that's not what's going to happen. Now, in the interest of

2330 truth in advertising here, I did turn up from the meeting that we had distinctive office space in
2331 a serene setting, serene seems to be popular now with architects. The tree lined entry
2332 experience, where is the tree lined entry on the plan?

2333

2334 Mr. Mills - Well, we have got the main entrance coming off of Westerre Parkway
2335 comes in about 500 linear feet with the landscaped areas off of this main entrance here and
2336 here and then there will be landscaping along this access road coming in off of Cox Road as
2337 well.

2338

2339 Mrs. Wade - And multi-layered landscaping. Does that just mean a variety in the
2340 height of the material?

2341

2342 Mr. Mills - Yes, ma'am. I think it's more in the standpoint of instead of just having
2343 a freestanding tree in each island, there would be shrubbery, low lining wooded shrubs,
2344 dogwoods, crape myrtles and then high canopy deciduous and evergreen trees planted
2345 accordingly.

2346

2347 Mrs. Wade - An expansive view for occupant. They will be able to see a long way I
2348 assume.

2349

2350 Mr. Mills - Yes, ma'am. It will be very prominent. We look at is as a rural plus
2351 because as you drive by the site, you have got a cellular tower and a water tower and we
2352 would like to compete with that. We know we want but it will be very prominent on the
2353 horizon and that rendering depicts the mass of the building and how it would be seen because I
2354 think that's going to be the prominent fixture out there.

2355

2356 Mrs. Wade - We will look forward to the landscaping. And you are in accordance
2357 with the rest of the conditions, including the sidewalk?

2358

2359 Mr. Mills - Yes, ma'am. We have just got to coordinate a little better with the
2360 Westerre Parkway drawings and our drawings. But, Mike Whitney and I spoke about that and
2361 I since talked to Hankins & Anderson and we can work that out. I mean, my grading and all
2362 can accommodate it and it's just a matter of who shows it on the plan at this point.

2363

2364 Mrs. Wade - All right. That's all I have.

2365

2366 Mr. Mills - Thank you.

2367

2368 Ms. Dwyer - Are there any other questions? Okay. Will the opposition come forward
2369 please?

2370

2371 Mr. Plotkin - Good morning, Madam Chairman and members of the Commission

2372

2373 Mrs. Wade - Is this something we can do something about, Mr. Plotkin?

2374

2375 Mr. Plotkin - Maybe, maybe not. Actually, I'm not positive if this is the correct time
2376 to jump in with my concerns but I want to jump in on the record at some point in the process
2377 and I'll unfold my thoughts if you don't mind. My name is James Plotkin. I represent FFP
2378 Company which is an adjoining property owner. I've spoken with County officials in Public
2379 Works and I consulted with Hankins & Anderson and our engineers Foster & Miller and I've
2380 looked at the RealtiCorp plan, plans for Westerre III, plans for Westerre Parkway as it will be
2381 built across the RealtiCorp land in the southern tip of the FFP Company property. We have
2382 tried to be proactive, but after looking at all of these plans I have determined if they are really
2383 a more of a work in progress and that they are not really finally completed or approved plans.
2384 I believe the issues and concerns that I have are being addressed for Westerre Parkway as part
2385 of RealtiCorp POD somehow. I think they are going to be approved if this is approved or
2386 something to that affect.

2387

2388 But, there has been precious little opportunity for input and clarification on certain issues and
2389 concerns during the design process. Some of those issues and concerns include access to and
2390 from the new road, I speaking of Westerre Parkway, from our site. We have a severe slope
2391 condition. Another concern is the vertical elevation of the new road as it relates to the
2392 elevation of our land. There is also talk of a pedestrian shelf area on the north side of the new
2393 road. There are concerns about the impact of the new road on the sanitary sewer and drainage
2394 at the southern tip of the FFP Company property. And, lastly, the timing of the proposed
2395 sanitary sewer line changes and the construction of Westerre Parkway.

2396

2397 Our concerns about the impact of the new road on the future development of the balance of
2398 our property are all together natural and legitimate. While we were obliged to dedicate a
2399 right-of-way across the southern tip of our property, for the proposed Westerre Parkway when
2400 we applied for rezoning several years ago, the expectation was that the County would work
2401 with us as well as with our neighbors to coordinate the design and construction issues such as
2402 those I have previously mentioned. Since the road is being designed by Balzer and Hankins &
2403 Anderson, both of whom who have PODs pending or have been granted, and not by Henrico
2404 County, the road is really being coupled together, piecemealed rather than master planned by
2405 Henrico County with input from all of the neighbors who are expected to use the road. While
2406 County officials have been very forthcoming in trying to answer my questions and address my
2407 concerns, and they have reassured me that they are aware of the issues and that there should be
2408 no problems for the future development of the balance of our property, I felt it was
2409 encumbered upon me to point out to you some of the uncertainties and issues that remain to be
2410 resolved. Please do not misunderstand the remarks I'm sharing with you this morning. I do
2411 not object to the RealtiCorp project. I support it. I'm happy to see it come. But, it would be
2412 a lot easier to support their plan if we had the benefit of seeing the final proposed plans for
2413 Westerre Parkway. The manner in which the stormwater will be handled from the southern tip
2414 of our property and so forth. So, with very limited opportunity, as the smallest player for
2415 effective input into the plan, we must go along as we have in the past, on good faith, that the
2416 County will help us see that the unresolved issues are ultimately resolved in an equitable
2417 manner. I realize that the final resolution might not be practical until a plan of development
2418 for the undeveloped portion of our property is presented. But, I hope that the reassurances
2419 that have been so readily offered by County officials up to this point in time will be

2420 remembered and honored when the POD for the balance of our properties is ultimately
2421 presented. Thank you for hearing my concerns and allowing me to share them with you this
2422 morning.

2423

2424 Ms. Dwyer - Thank you, Mr. Plotkin. Are there any questions of Mr. Plotkin by
2425 Commission members?

2426

2427 Mr. Silber - Mr. Plotkin, who have you discussed these concerns with in the County,
2428 or which agencies?

2429

2430 Mr. Plotkin - Public Works.

2431

2432 Mr. Silber - Okay.

2433

2434 Mrs. Wade - I've never heard anything definitive about this situation either, except
2435 that it's going to be done. That's all I know about it. If it runs on both ends, they have to do
2436 theirs in order to have POD's, but what the history of the future is of your little segment there,
2437 I don't know. And, of course you are not getting back into that area for building now.

2438

2439 Mr. Plotkin - No. Not at this point in time.

2440

2441 Mrs. Wade - Perhaps Public Works can shed some further light on this.

2442

2443 Mr. Plotkin - Thank you, again.

2444

2445 Mr. Eure - Good morning, my name is Todd Eure, Traffic Engineering, Public
2446 Works. Mr. Plotkin's most recent meeting with Public Work was this morning. I was not in
2447 that meeting because I was down here. But he met with Steve Bandura, among other people,
2448 and I spoke with Steve briefly and I think one of Mr. Plotkin's concerns is potential access to
2449 the portion of Westerre across his property. We have not seen the final plans for the Hankins
2450 and Anderson portion of Westerre, which is the portion from Cox back to Mr. Plotkin's
2451 property. However, we have met with them on it and they have agreed to show design for the
2452 portion across the Plotkin property to make sure that all the horizontal and all the vertical
2453 elements fall together and that it ties in properly with the portion of Westerre that Balzer is
2454 working on. So, until we actually see that design, it's hard to give him firm answers, but
2455 again offer the assurance that we are certainly looking at his concerns from not only access but
2456 also the drainage side of things. Correct me if I'm wrong, but I don't think we are approving
2457 this portion of Westerre with this POD.

2458

2459 Mrs. Wade - Not his part. I thought we had already approved the west end of the
2460 road.

2461

2462 Mr. Eure - But, we have not approved the final plans for that. We have seen the
2463 first version of those and we sent the engineer back to address some of the issues, and, again,
2464 to just show that the design across the Plotkin property and then at that point we will be able to

2465 look at all of the horizontal, vertical elements as well as the drainage. And we will certainly
2466 be glad to involve Mr. Plotkin in a follow-up meeting at that point, if he's interested, to
2467 address his concerns.

2468

2469 Mrs. Wade - The road alternatives at this point are somewhat limited.

2470

2471 Mr. Eure - True. The points of the road are set on both ends, so there is not a
2472 whole lot of leeway there as well as the vertical elements.

2473

2474 Mrs. Wade - All right. So you are continuing to work on that.

2475

2476 Mr. Eure - Yes, ma'am.

2477

2478 Mrs. Wade - And you will involve Mr. Plotkin?

2479

2480 Mr. Eure - Yes, ma'am.

2481

2482 Ms. Dwyer - Are there any other question by Commission members for staff or the
2483 applicant or the opposition?

2484

2485 Mrs. Wade - And he presumably is expected to build the section that goes across his
2486 property.

2487

2488 Mr. Whitney - RealtiCorp has indicated in a letter that they would seek the funds to
2489 build the portion across Mr. Plotkin's property and it is going to be a part of the design of
2490 Hankins & Anderson, which would be the Phase II plan.

2491

2492 Mrs. Wade - It is important to get that other piece finished.

2493

2494 Mr. Whitney - Mr. Plotkin indicated that it was piecemeal and adjacent property owners
2495 haven't been involved in this and I'd like to differ with that. From the beginning, when we
2496 did Westerre Phase I, it was conditionally approved by this Planning Commission, there was
2497 public notice, same thing with Westerre II. So, we have two portions and the County is very
2498 cognizant that we've told all the applicants that we want this to match this and we want it to be
2499 done in a timely fashion and not have one portion built and then not have an agreement in
2500 place where the other portion will not be built. So, Public Works, especially, and the County
2501 Manager's Office is trying to get everyone together to get this completed. So, we have
2502 Westerre Parkway finally dedicated as a public thoroughfare.

2503

2504 Mrs. Wade - And so, basically, it is in order then?

2505

2506 Mr. Whitney - Yes. Both phases of Westerre have received final approval, Phase 2 was
2507 just a couple of days ago, received final approval.

2508

2509 Mrs. Wade - I mean today, the POD.

2510

2511 Mr. Whitney - Yes. All right.

2512

2513 Ms. Dwyer - All right. Are there any more questions, comments? Are you ready for
2514 a motion, Mrs. Wade?

2515

2516 Mrs. Wade - Yes. First we need to deal with the special exception.

2517

2518 Ms. Dwyer - Yes.

2519

2520 Mrs. Wade - I'll say there are certain advantages to having a taller building if this is a
2521 suitable place to put it. I do hate to see the site cleared as it's going to have to provide parking
2522 for the taller buildings, but I gather it's important from an economic development standpoint
2523 and it's a good location for this type of structure or structures. So, therefore, I move that the
2524 special exception be granted for these six-story buildings.

2525

2526 Mr. Archer - Second, Madam Chairman.

2527

2528 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Archer. All
2529 in favor say aye...all opposed say nay. The motion carries.

2530

2531 The Planning Commission approved the special exception for POD-87-99, Westchase I & II -
2532 Cox Road and Westerre Parkway, for two, six-story buildings. Mrs. Quesinberry was absent.

2533

2534 Mrs. Wade - The transitional buffer deviation will that be separate or with the POD?

2535

2536 Mr. Silber - I think it could be with the POD, I believe.

2537

2538 Mrs. Wade - Okay. Then I move POD-87-99, Westchase I and II be approved subject
2539 to the annotations that are still applicable, No. 9 amended and the additional conditions on the
2540 agenda, Nos. 23 through 33 and No. 33 being on the addendum and the transitional buffer
2541 deviation as describe down on the bottom end and along the business section. Obviously, you
2542 can't have the buffer going through the middle of the office park, so they are basically shifting
2543 it over between the office and the business sections. So, I move that it be approved.

2544

2545 Mr. Archer - Second.

2546

2547 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Archer. All
2548 in favor say aye...all opposed say nay. The motion carries.

2549

2550 The Planning Commission approved POD-87-99, Westchase I and II - Cox Road and Westerre
2551 Parkway, subject to the standard conditions attached to these minutes, the annotations on the
2552 plans, and the following additional conditions. Mrs. Quesinberry was absent.

- 2553 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for
 2554 review and Planning Commission approval prior to the issuance of any occupancy
 2555 permits.
- 2556 23. The subdivision plat for Westerre Parkway, Phase II shall be recorded before any
 2557 occupancy permits are issued.
- 2558 24. The easements for drainage and utilities as shown on approved plans shall be granted to
 2559 the County in a form acceptable to the County Attorney prior to any occupancy permits
 2560 being issued. The easement plats and any other required information shall be submitted
 2561 to the County Real Property Agent at least sixty (60) days prior to requesting
 2562 occupancy permits.
- 2563 25. The required building setback shall be measured from the proposed right-of-way line
 2564 and the parking shall be located behind the proposed right-of-way line.
- 2565 26. The developer shall provide fire hydrants as required by the Department of Public
 2566 Utilities in its approval of the utility plans and contracts.
- 2567 27. A standard concrete sidewalk shall be provided along the south side of Westerre
 2568 Parkway.
- 2569 28. The certification of building permits, occupancy permits and change of occupancy
 2570 permits for individual units shall be based on the number of parking spaces required for
 2571 the proposed uses and the amount of parking available according to approved plans.
- 2572 29. Any necessary off-site drainage easements must be obtained in a form acceptable to the
 2573 County Attorney prior to final approval of the construction plans by the Department of
 2574 Public Works.
- 2575 30. Deviations from County standards for pavement, curb or curb and gutter design shall
 2576 be approved by the County Engineer prior to final approval of the construction plans by
 2577 the Department of Public Works.
- 2578 31. The loading areas shall be subject to the requirements of Chapter 24, Section 24-97(b)
 2579 of the Henrico County Code.
- 2580 32. Storm water retention, based on the 50-10 concept, shall be incorporated into the
 2581 drainage plans.
- 2582 33. Insurance Services Office (ISO) calculations must be included with the utilities plans
 2583 and contracts and must be approved by the Department of Public Utilities prior to the
 2584 issuance of a building permit.
- 2585 34. Approval of the construction plans by the Department of Public Works does not
 2586 establish the curb and gutter elevations along the Henrico County maintained right-of-
 2587 way. The elevations will be set by Henrico County.
- 2588 35. Prior to final approval of the construction plans, the developer shall provide evidence
 2589 of the abandonment of Old Cox Road.
 2590
- 2591 Ms. Dwyer - Mr. Secretary, I believe that is our last case for the day.
 2592
- 2593 Mr. Silber - Yes, it is. We do not have any minutes on this agenda.
 2594
- 2595 Ms. Dwyer - Is there any other business?
 2596
- 2597 Mr. Silber - Not that I am aware of.

2598

2599 Ms. Dwyer - Can we get a motion for adjournment?

2600

2601 Mr. Archer - So move, Madam Chairman.

2602

2603 Mr. Vanarsdall - Second, Madam Chairman.

2604

2605 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall.

2606 All in favor of the motion say aye...all opposed say nay. The motion carries.

2607

2608 On a motion by Mr. Archer and seconded by Mr. Vanarsdall, the Planning Commission

2609 adjourned its November 17, 1999, meeting at 12:05 p.m.

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

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Randall R. Silber, Acting Secretary