

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, October 27, 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. Mary L. Wade (Three Chopt)
10 Mr. James B. Donati, Jr., Board of Supervisors Representative
11 (Varina)

12

13 Member Absent: Mrs. Debra Quesinberry, (Varina)

14

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

26

27 Ms. Dwyer - Good morning. The October 27th meeting of the Planning Commission
28 will now come to order. I would like to welcome everyone whose come to conduct business
29 before the Commission this morning. Do we have any members of the press to be recognized?
30 Okay. Mr. Marlles, let's begin with the roll call.

31

32 Mr. Marlles - Madam Chairman, we do have a quorum today. Mrs. Quesinberry is
33 not going to be able to attend this morning's meeting. Other than that, all of our other
34 members are present.

35

36 Ms. Dwyer - All right. The next item on our agenda are the requests for deferrals and
37 withdrawals.

38

39 Mr. Marlles - Mr. Kevin Wilhite will be handling that item on the agenda.

40

41 Ms. Dwyer - Good morning, Mr. Wilhite.

42

43 Mr. Wilhite - Good morning, Madam Chairman, members of the Commission, ladies
44 and gentlemen. Staff is aware of six deferrals and withdrawals at this time. The first one
45 appears on page 10 of your agenda.

46

47 **RECONSIDERATION OF SUBDIVISION (Deferred from the Sept. 29, 1999, Meeting)**

48

Wyndham Forest
(A Reconsideration of
Wyndham Forest January
1998 Plan)

Jordan Consulting Engineers for Synder Hunt Wyndham Development Corporation: The 67.8 acre site is located along the north line of Twin Hickory Lane (private), approximately 1,300 feet east of Nuckols Road on parcels 10-A-8 and 10-A-28. The zoning is R-3C, One-Family Residence District (Conditional), R-4C, One-Family Residence District (Conditional), and C-1, Conservation District. County water and Sewer. **132 Lots (Three Chopt)**

49

50 Mr. Wilhite - The applicant is requesting withdrawal of this request.

51

52 Ms. Dwyer - Is there anyone in the audience in opposition to the withdrawal of
53 reconsideration of Wyndham Forest? No opposition. We are ready for a motion.

54

55 Mrs. Wade - I move that the application for withdrawal for Wyndham Forest
56 (January 1998 Plan) be approved.

57

58 Mr. Vanarsdall - Second.

59

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

62

63 The Planning Commission granted the applicant's request to withdraw subdivision Wyndham
64 Forest (A Reconsideration of Wyndham Forest January 1998 Plan).

65

66 **PLAN OF DEVELOPMENT**

67

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, B-1C, Business District (Conditional) and O-1C, Office District (Conditional). County water and sewer. **(Three Chopt)**

68

69 Mr. Wilhite - Next on page 14, POD-79-99, Rainbow Station Child Development
70 Center. The applicant is requesting a deferral until November 17, 1999.

71

72 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of POD-79-
73 99, Rainbow Station Child Development Center? No opposition to the deferral. We are ready
74 for a motion.

75

76 Mrs. Wade - I move that the request for the deferral until November 17, 1999, for
77 POD-79-99 be approved, at the applicant's request.

78

79 Mr. Vanarsdall - Second.

80

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

83

84 Pursuant to the applicant's request, the Planning Commission deferred POD-79-99, Rainbow
85 Station Child Development Center to its November 17, 1999 meeting.

86

87 **SUBDIVISION**

88

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**

89

90 Mr. Wilhite - Next on page 15, subdivision Wyndham Forest (October 1999 Plan).
91 The applicant is requesting a deferral until November 17, 1999.

92

93 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of Wyndham
94 Forest (October 1999 Plan)? No opposition to the deferral. We are ready for a motion.

95

96 Mrs. Wade - I move that subdivision Wyndham Forest (October 1999 Plan) be
97 deferred until November 17, 1999, at the applicant's request.

98

99 Mr. Vanarsdall - Second.

100

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

103

104 Pursuant to the applicant's request, the Planning Commission deferred Wyndham Forest
105 (October 1999 Plan) to its November 17, 1999, meeting.

106

107

108 **PLAN OF DEVELOPMENT (Deferred from the Sept. 29, 1999, Meeting)**

109

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

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 1.5 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 Mall on part of parcel 24-A-7E. The zoning is B-3C, Business District (Conditional). County water and sewer. **(Fairfield)**

110

111 Mr. Wilhite - Next on page 17, POD-70-99, Red Robin Restaurant. The applicant is
112 also requesting a deferral until November 17, 1999.

113

114 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of POD-70-
115 99, Red Robinson Restaurant? No opposition to the deferral. We are ready for a motion.

116

117 Mr. Archer - I move deferral of POD-70-99, Red Robin Restaurant, until the
118 November 17, 1999, at the applicant's request.

119

120 Mr. Vanarsdall - Second.

121

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

124

125 Pursuant to the applicant's request, the Planning Commission deferred POD-70-99, Red Robin
126 Restaurant - Virginia Center Commons Mall, to its November 17, 1999, meeting.

127

128 **SUBDIVISION RECONSIDERATION (Deferred from the Sept. 29, 1999, Meeting)**

129

Edgemoor
(A Reconsideration of April
1999 Plan)

Youngblood, Tyler & Associates, P.C. for Boone, Boone, Loeb & Pettit: The 15.8 acre site is located on the east line of 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

130

131 Mr. Wilhite - On page 19 of your agenda, Edgemoor (A Reconsideration of April 1999
132 Plan). The applicant is requesting a deferral until November 17, 1999.

133

134 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of Edgemoor
135 (A Reconsideration of the April 1999 Plan)? No opposition to the deferral. We are ready for
136 a motion.

137

138 Mrs. Wade - I move the subdivision Edgemoor be deferred to the 17th of November at
139 the applicant's request.

140

141 Mr. Vanarsdall - Second.

142

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

145

146 Pursuant to the applicant's request, the Planning Commission deferred Edgemoor (A
147 Reconsideration of April 1999 Plan), to its November 17, 1999, meeting.

148

149 **PLAN OF DEVELOPMENT**

150

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)

151

152 Mr. Wilhite - Our last request for a deferral is on page 30 of your agenda, POD-81-
153 99, Town Center on Nuckols Road? The applicant is requesting a deferral until November 17,
154 1999.

155

156 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of POD-81-
157 99, Town Center on Nuckols Road? No opposition to the deferral. We are ready for a
158 motion.

159

160 Mrs. Wade - I move the POD-81-99, Town Center on Nuckols Road, be deferred to
161 the 17th of November at the applicant's request.

162

163 Mr. Vanarsdall - Second.

164

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

167

168 Pursuant to the applicant's request, the Planning Commission deferred POD-81-99, Town
169 Center - Nuckols Road, to its November 17, 1999, meeting.

170

171 Mrs. Wade - I have a question for Mr. Wilhite. Mr. Wilhite, I have a copy now of
172 the proffers on this original case but would somebody find for me, please, the minutes of that
173 zoning hearing for the Town Center, when it was rezoned.

174
175 Mr. Wilhite - Okay. We will do that.

176
177 Ms. Dwyer - Are there any other requests for deferrals or withdrawals? Okay. The
178 next item on the agenda.

179
180 Mr. Marlles - The next item on our agenda is our expedited agenda. And, again, this
181 will be presented by Mr. Kevin Wilhite.

182
183 Mr. Wilhite - We have six items that appears on the expedited agenda today. The first
184 one is on page six.

185
186 **LANDSCAPE & LIGHTING PLAN**

187
LP/POD-109-98
Stillman Place -
Mayland Drive
James River Nurseries, Inc.: Request for approval of a
landscape and lighting plan as required by Chapter 24,
Sections 24-106 and 24-106.2 of the Henrico County Code.
The 5.54 acre site is located on the northeast corner of
Stillman Parkway and Mayland Drive on part of parcels 48-
A-70B, and part of 58-A-12C and 22. The zoning is M-1C,
Light Industrial District (Conditional). **(Three Chopt)**

188
189 Mr. Wilhite - The staff recommend approval of this plan.

190
191 Ms. Dwyer - Is there anyone in the audience in opposition to LP/POD-109-98,
192 Stillman Place? No opposition. Are there any questions by Commission members on this
193 case?

194
195 Mrs. Wade - I think it was Mr. Strauss that I talked to about this. I know we were all
196 running sort of last minute on a lot of these for one reason or another. The dirt pile on the
197 property.

198
199 Mr. Strauss - The stockpile has a one year... There are two other PODs associated
200 with this project. They are still involved with construction, so I would imagine the clock
201 would start on that stockpile, if they are actively using the stockpile for these other two phases
202 of Stillman Place. So, the stockpile will be there for the life of those projects.

203
204 Mrs. Wade - Okay. Now it's one year from when the pile began or....

205
206 Mr. Strauss - From the time they started the construction for Phase 2. That's my
207 understanding from Public Works on yesterday.

208

209 Mrs. Wade - Well, I think it's the applicant for Phase 2 who's looking for BZA for a
210 variance for parking in order to preserve some of the big trees on the site, as I recall.

211

212 Mr. Strauss - That information, I don't have but I can look it up.

213

214 Mrs. Wade - Any way, we will just keep an eye on that. Thank you.

215

216 Ms. Dwyer - Would you like to move this off of the expedited agenda, Mrs. Wade?

217

218 Mrs. Wade - No. That's fine.

219

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

221

222 Mrs. Wade - But, all of the annotations are being applied with the plat?

223

224 Mr. Strauss - Yes, ma'am.

225

226 Mrs. Wade - Thank you.

227

228 Ms. Dwyer - Are we ready for a motion?

229

230 Mrs. Wade - All right. I move LP/POD-109-98, Stillman Place on Mayland Drive,
231 be approved subject to the standard conditions and the annotations on the plan.

232

233 Mr. Vanarsdall - Second.

234

235 Ms. Dwyer - The motion was made by Mrs. Wade and seconded by Mr. Vanarsdall.

236 All in favor say aye...all opposed say nay. The motion carries.

237

238 The Planning Commission approved the landscape and lighting plan for LP/POD-109-98,
239 Stillman Place - Mayland Drive, subject to the standard conditions for landscape and lighting
240 plans and the annotations on the plan.

241

242 **LANDSCAPE AND LIGHTING PLAN**

243

LP/POD-42-99

Arby's @ Downtown Short
Pump

The Restaurant Company: Request for approval of a
landscape and lighting plan as required by Chapter 24,
Sections 24-106 and 24-106.2 of the Henrico County Code.
The 2.96 acre site is located along the west line of Pouncey
Tract Road (State Route 271) approximately 700 feet north
of W. Broad Street (U.S. Route 250) on parcels 36-A-19F
and 36-A-19E. The zoning is M-1, Light Industrial District
and WBSOD (West Broad Street Overlay District).

(Three Chopt)

244

245 Mr. Wilhite - On Page 7 of your agenda, LP/POD-42-99, Arby's at Downtown Short
246 Pump, the staff recommends approval.

247

248 Ms. Dwyer - Is there anyone in the audience in opposition to LP/POD-42-99, Arby's
249 @ Downtown Short Pump, landscape and lighting plan? No opposition. Are there any
250 questions by Commission members on this case?

251

252 Mrs. Wade - Well, yes, I have. I was away most of last week. Mr. Strauss, there is
253 some reference there that there are stones and river rocks on the landscape plan.

254

255 Mr. Strauss - Yes, ma'am. I don't have the specific information, the type or
256 (unintelligible). The information you need, I'll just refer that to the applicant.

257

258 Mrs. Wade - But, they are not a major item in the landscape plan.

259

260 Mr. Strauss - There are some ornamental areas that I would imagine that those were to
261 enhance there. It is not a continuously mulch bed all over, it's specific spots.

262

263 Mrs. Wade - Okay. Thank you.

264

265 Ms. Dwyer - Are there any more questions by Commission members on Arby's? We
266 are ready for a motion.

267

268 Mrs. Wade - I move LP/POD-42-99, Arby's @ Downtown Short Pump, be approved
269 subject to the annotations on the plan and the standard conditions.

270

271 Mr. Vanarsdall - Second.

272

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

275

276 The Planning Commission approved the landscape and lighting plan for LP/POD-42-99,
277 Arby's @ Downtown Short Pump, subject to the standard conditions for landscape and lighting
278 plans and the annotations on the plan.

279 **PLAN OF DEVELOPMENT & TRANSITIONAL BUFFER DEVIATION**

280

POD-74-99
Short Pump Simply Storage
Pouncey Tract Road

Wingate & Kestner, L.C. for Short Pump Simply Storage, L.L.C.: Request for approval of a plan of development and transitional buffer deviation as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code to construct a one-story, 27,200 square foot storage facility, a one-story, 37,100 square foot storage facility and a two-story, 29,600 square foot storage facility plus manager's quarters/office. The 5.78 acre site is located along the east line of Pouncey Tract Road and the north line of I-64 on parcel 36-A-18C. The zoning is M-1C, Light Industrial District (Conditional). County water and private septic tank/drainfield. **(Three Chopt)**

281

282 Mr. Wilhite - On page 12, POD-74-99, Short Pump Simply Storage, staff recommends
283 approval.

284

285 Ms. Dwyer - Is there anyone in the audience in opposition to POD-74-99, Short Pump
286 Simply Storage? No opposition. Are there any questions by Commission members?

287

288 Mrs. Wade - Is Mr. King here? Oh, don't get up. I just wanted to take a look at you.
289 Is your father name George?

290

291 Mr. King - Yes.

292

293 Mrs. Wade - Okay. Thanks. I gather there is some kind of access question to the
294 adjoining property so it isn't that others are looking into that, as I understand it. And all of
295 the annotations have been addressed, Mr. Wilhite?

296

297 Mr. Whitney - Yes.

298

299 Mrs. Wade - All right. Thank you.

300

301 Ms. Dwyer - Are we ready for a motion?

302

303 Mrs. Wade - I move POD-74-99, Short Pump Simply Storage, be approved subject to
304 the annotations, the standard conditions and conditions Nos. 23 through 33 on the agenda.

305

306 Mr. Vanarsdall - Second.

307

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

310 The Planning Commission approved POD-74-99, Short Pump Simply Storage, Pouncey Tract
311 Road, subject to the standard conditions attached to these minutes, the annotations on the plan
312 and the following additional conditions:

313

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

317 24. The entrances and drainage facilities on Pouncey Tract Road (State Route 271) shall be
318 approved by the Virginia Department of Transportation and the County.

319 25. A notice of completion form, certifying that the requirements of the Virginia
320 Department of Transportation entrances permit have been completed, shall be submitted
321 to the Planning Office prior to any occupancy permits being issued.

322 26. The required building setback shall be measured from the proposed right-of-way line
323 and the parking shall be located behind the proposed right-of-way line.

324 27. A standard concrete sidewalk shall be provided along the east side of Pouncey Tract
325 Road (State Route 271).

326 28. Outside storage shall not be permitted.

327 29. Any necessary off-site drainage easements must be obtained in a form acceptable to the
328 County Attorney prior to final approval of the construction plans by the Department of
329 Public Works.

330 30. Deviations from County standards for pavement, curb or curb and gutter design shall
331 be approved by the County Engineer prior to final approval of the construction plans by
332 the Department of Public Works.

333 31. The applicant shall furnish proof to the Planning Office that conditions satisfactory to
334 the Health Department have been met that insure the proposed septic tank drainfield
335 system is suitable for this project prior to the issuance of a building permit.

336 32. Insurance Services Office (ISO) calculations must be included with the utilities plans
337 and contracts and must be approved by the Department of Public Utilities prior to the
338 issuance of a building permit.

339 33. Approval of the construction plans by the Department of Public Works does not
340 establish the curb and gutter elevations along the Virginia Department of Transportation
341 maintained right-of-way. The elevations will be set by the contractor and approved by
342 the Virginia Department of Transportation.

343

344 **LANDSCAPE & LIGHTING PLAN**

345

LP/POD-5-97

Citgo - Darbytown and
Miller Roads

(Formerly Super Stop
Convenience Store)

Engineering Design Associates and Jeff Collins

Associates: Request for approval of a landscape and
lighting plan as required by Chapter 24, Sections 24-106
and 24-106.2 of the Henrico County Code. The 2.92 acre
site is located at the northeast corner of Darbytown and
Miller Roads on Parcel 204-A-69. The zoning is B-3,
Business District and ASO (Airport Safety Overlay)
District. **(Varina)**

346

347 Mr. Wilhite - On Page 16, landscape and lighting plan, LP/POD-5-97, Citgo at
348 Darbytown and Miller Roads. There is an addendum item that appears on page 3 of the
349 addendum. The applicant has agreed to reduce the wattage of the gas canopy fixtures to 250
350 watts and to install a house side shield closest to the residential property across Miller Road.
351 The staff recommends approval of the revised landscape and lighting plan subject to the
352 annotations on the plan and the standard conditions for landscape and lighting plans.

353

354 Ms. Dwyer - Is there anyone in the audience in opposition to the landscape and
355 lighting plan for LP/POD-5-97, Citgo at Darbytown and Miller Roads? No opposition. I
356 understand there was a call to the Planning Office on this case. What was the gas canopy
357 fixture wattage before this agreement?

358

359 Ms. News - It was originally 400 watts and they have agreed to reduce it to 250 watts
360 and also install the shield on the fixture closest to the residents house.

361

362 Ms. Dwyer - Is that a permanent fixture or is that temporary?

363

364 Ms. News - It's permanent. The shield will be permanent.

365

366 Ms. Dwyer - That's what I meant, the shield is permanent. I've seen some make shift
367 shields and some I think are designed to go with the fixture and some are just make shift.

368

369 Ms. News - As I understand it, you lose your insurance rating if you put makeshift
370 shields on any light fixtures.

371

372 Mrs. Wade - What about the canopy lights?

373

374 Ms. News - They are 250 watt flushed mounted fixtures.

375

376 Mrs. Wade - They are flushed, the flat lens?

377

378 Ms. News - Yes, flat lens.

379

380 Ms. Dwyer - Are there any other questions by Commission members on the Citgo
381 case? All right. In Mrs. Quesinberry's absence she has asked me to make the motion on her
382 cases. So, I move for the approval of LP/POD-5-97, Citgo at Darbytown and Miller Roads,
383 including the standard conditions for landscape and lighting plans. As well as the addendum
384 notation that amendments will be made or adjustments will be made to the lighting on site.

385

386 Mr. Vanarsdall - Second.

387

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

390 The Planning Commission approved the landscape and lighting plan for LP/POD-5-97, Citgo -
391 Darbytown and Miller Roads (Formerly Super Stop Convenience Store), subject to the
392 standard conditions for landscape and lighting plans and the annotations on the plan.

393

394 **PLAN OF DEVELOPMENT (Deferred from the August 25, 1999, Meeting)**

395

POD-37-99
Church of Christ -
Educational and Worship
Facility - Sandy Lane and
Howard Street

Griffith Graham & Associates, Inc. for The Church of Christ: 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, 48,705 square foot education and worship facility. The 10.54 acre site is located on the east line of Sandy Lane at the intersection with Howard Street on parcel 129-A-20A. The zoning is A-1, Agricultural District and ASO (Airport Safety Overlay) District. County water and sewer. **(Fairfield)**

396

397 Mr. Wilhite - Our next case is on page 20, POD-37-99, Church of Christ Educational
398 and Worship Facility. The staff recommends approval.

399

400 Ms. Dwyer - Is there anyone in the audience in opposition to LP/POD-37-99, Church
401 of Christ Educational and Worship Facility? No opposition. Are there any questions by
402 Commission members on this case?

403

404 Mr. Archer - Madam Chairman, I move approval of POD-37-99, Church of Christ
405 Educational and Worship Facility, subject to the standard conditions for plans of this type, the
406 annotations on the plan and additional conditions Nos. 23 through 30 as listed on the
407 addendum.

408

409 Mr. Vanarsdall - Second.

410

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

413

414 The Planning Commission approved POD-37-99, Church of Christ Educational and Worship
415 Facility - Sandy Lane and Howard Street, subject to the standard conditions attached to these
416 minutes for developments of this type, the annotations on the plans and the following
417 additional conditions:

418

419 23. The right-of-way for widening of Sandy Lane as shown on approved plans shall be
420 dedicated to the County prior to any occupancy permits being issued. The right-of-way
421 dedication plat and any other required information shall be submitted to the County
422 Real Property Agent at least 60 days prior to requesting occupancy permits.

423 24. The easements for drainage and utilities as shown on approved plans shall be granted to
424 the County in a form acceptable to the County Attorney prior to any occupancy permits
425 being issued.

- 426 25. The developer shall provide fire hydrants as required by the Department of Public
 427 Utilities in its approval of the utility plans and contracts.
- 428 26. Any necessary off-site drainage easements must be obtained in a form acceptable to the
 429 County Attorney prior to final approval of the construction plans by the Department of
 430 Public Works.
- 431 27. Storm water retention, based on the 50-10 concept, shall be incorporated into the
 432 drainage plans.
- 433 28. Insurance Services Office (ISO) calculations must be included with the utilities plans
 434 and contracts and must be approved by the Department of Public Utilities prior to the
 435 issuance of a building permit.
- 436 29. Approval of the construction plans by the Department of Public Works does not
 437 establish the curb and gutter elevations along the Henrico County maintained right-of-
 438 way. The elevations will be set by Henrico County.
- 439 30. The developer shall provide a fire protection system, including adequate on-site water
 440 storage to meet fire flow requirements. The system will comply with the requirements
 441 of the edition of the Virginia Uniform Statewide Building Code and its referenced
 442 standards in effect at the time of building permit approval. An alarm system shall be
 443 installed with monitoring of sprinkler system and other detection devices as required by
 444 the Virginia Uniform Statewide Building Code.

445

446 **PLAN OF DEVELOPMENT**

447

POD-68-99 Masonic Home Independent Living Units - Phase V (POD-27-94 Rev.)	Mozingo & Associates for Masonic Home of Virginia: Request for approval of a revised plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct 10, one-story, 1,700 square foot retirement housing units. The 4.2 acre site is located on the southwest corner of Nine Mile Road (State Route 33) and Masonic Lane on part of parcel 153-A-21. The zoning is R-5C, General Residence District (Conditional). County water and sewer. (Varina)
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448

449 Mr. Wilhite - Finally, our last expedited case on page 21, POD-68-99, Masonic Home
 450 Independent Living Units - Phase V. The staff recommends approval of this revised plan.

451

452 Ms. Dwyer - Is there anyone in the audience in opposition to POD-68-99, Masonic
 453 Home Phase V? No opposition. Are there any questions by Commission members on this
 454 case? No questions. I move for the approval of POD-68-99, Masonic Home Independent
 455 Living Units, Phase 5, subject to the annotations on the plans and the standard conditions for
 456 developments of this type and including additional conditions Nos. 23 through 26 as they
 457 appear on the Commission's agenda.

458

459 Mr. Archer - Second.

460

461 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mr. Archer. All

462 in favor say aye...all opposed say nay. The motion carries.

463

464 The Planning Commission approved POD-68-99, Masonic Home Independent Living Units -
465 Phase V (POD-27-94 Revised), subject to the standard conditions attached to these minutes for
466 developments of this type, the annotations on the plan and the following additional conditions:

467

468 23. The developer shall provide fire hydrants as required by the Department of Public
469 Utilities in its approval of the utility plans and contracts.

470 24. Insurance Services Office (ISO) calculations must be included with the utilities plans
471 and contracts and must be approved by the Department of Public Utilities prior to the
472 issuance of a building permit.

473 25. The unit house numbers shall be visible from the parking areas and drives.

474 26. The names of streets, drives, courts and parking areas shall be approved by the
475 Richmond Regional Planning District Commission, before any building permits are
476 issued. The standard street name signs shall be ordered for the County and installed
477 prior to any occupancy permit approval.

478

479 Ms. Dwyer - Mr. Wilhite, are there any additions to the expedited agenda?

480

481 Mr. Wilhite - No. That is all.

482

483 Ms. Dwyer - Thank you, Mr. Wilhite. All right, the next item on the agenda.

484

485 Mr. Marlles - The next item on the agenda are the subdivision extensions of conditional
486 approval. Those will be presented by Mr. Wilhite.

487

488 Mr. Wilhite - On page 1 of your addendum there are some corrections to the list of
489 subdivisions shown.

490

491 **SUBDIVISION EXTENSIONS OF CONDITIONAL APPROVAL**

492

Subdivision	Magisterial District	Original No. of Lots	Remaining Lots	Previous Extensions
Canterbury on The James (August October 1998 Plan)	Tuckahoe	11	11	0
Magnolia Ridge Cluster Lot (October 1994 Plan) (Formerly Stuart Ridge)	Fairfield	212 387	122	3
Millrace (October 1990 Plan)	Three Chopt	35	35	8

**Wyndham Overall
Single Family Res.
(June 1991 Plan)**

Three Chopt 538

**37
19**

7

493

494

495 Mr. Wilhite - The staff recommends approval of these four subdivision extensions with
496 the corrections as shown.

497

498 Ms. Dwyer - Is there anyone in the audience in opposition to the subdivision
499 extensions of conditional approval? No opposition. Are there any questions by Commission
500 members on these? Mr. Wilhite, how do we go from 212 to 387 on the Magnolia Ridge
501 Cluster Lot?

502

503 Mr. Wilhite - That was actually a mistake in the printing of the agenda.

504

505 Ms. Dwyer - Okay. All right. Do I have a motion on the subdivision extensions?

506

507 Mrs. Wade - I move the subdivision extensions for conditional approval be granted.

508

509 Mr. Archer - Second.

510

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

513

514 The Planning Commission approved the subdivision extensions for conditional approval as
515 listed above with the corrections until October 25, 2000.

516

517 Mr. Marllles - Madam Chairman and members of the Commission, before I call the
518 next item, I do want to introduce our new staff member. I should have done that at the
519 beginning, Mr. Michael Kennedy has joined the staff. He was formerly with the City of
520 Richmond. He is very experience in review of subdivisions and plans of development. He is
521 a very welcomed addition to the Community Development Division.

522

523 Ms. Dwyer - Welcome, Mr. Kennedy, we are glad to have you.

524

525 Mr. Vanarsdall - Michael are you the Kennedy that was down in Florida?

526

527 Mr. Kennedy - No, sir. I don't have their money and I don't have their problems.

528

529 Mr. Vanarsdall - We are glad to have you.

530

531 Mrs. Wade - Do you call yourself Mike or Michael?

532

533 Mr. Kennedy - Mike.

534

535 Mrs. Wade - Okay. So, we won't get you mixed up with Mikel.
536

537 Mr. Marlles - Okay. Madam Chairman, the next item on the agenda is a transfer of
538 approval.

539

540 **TRANSFER OF APPROVAL**

541

POD-24-72, POD-19-77, **William W. Browning, Jr. and Particeps Properties, L.P.:**
POD-92-79, POD-75-81 and Request for approval of a transfer of approval as required by
POD-81-87 Chapter 24, Section 24-106 of the Henrico County Code from
Byrd Center Phases I - IV International Brotherhood of Painters and Allied Trades Union
& Pension Fund to Particeps Properties, L.P. The site is
located at the northeast corner of S. Laburnum Avenue and
Charles City Road on parcels 172-A-31A, 32 and 182-A-8.
The zoning is M-1, Light Industrial District and ASO (Airport
Safety Overlay District). County water and sewer. **(Varina)**

542

543 Mr. McGarry - Good morning, Madam Chairman and members of the Commission. A
544 few of the inspections are in compliance with the approved conditions and is complete on these
545 various PODs and only minor discrepancies have been found, things like stop signs, stop bars,
546 striping, pavement. So, staff can recommend transfer of approval and there is an addendum
547 item that specifies a timeframe for them. The addendum item reads: All discrepancies listed
548 on the October 7, 1999, inspection report shall be completed by November 30, 1999. With
549 that, staff can recommend approval of the transfer.

550

551 Ms. Dwyer - Thank you, Mr. McGarry. Are there any questions by Commission
552 members on this transfer of approval? No questions. I move for approval of the transfer of
553 approval for POD-24-72, POD-19-77, POD-92-79, POD-75-81 and POD-81-87 Byrd Center
554 Phases I - IV, including the addendum item, which requires discrepancies to be completed by
555 November 30, 1999.

556

557 Mrs. Wade - Second.

558

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

561

562 The Planning Commission approved the transfer of approval for POD-24-72, POD-19-77,
563 POD-92-79, POD-75-81 and POD-81-87, Byrd Center Phases I - IV, including the following
564 added condition:

565 1. All discrepancies listed on the **October 7, 1999**, inspection report shall be completed
566 by **November 30, 1999**.

567 **LANDSCAPE, LIGHTING & ALTERNATIVE FENCE HEIGHT PLAN**

568

LP/POD-10-97

Texaco Eagle Markets -
Staples Mill Road & Aspen
Avenue
(Formerly D & C
Enterprises)

Susan E. Purvis and James Fox & Sons for Davis Investments, LLC: Request for approval of a landscape, lighting and alternative fence height plan as required by Chapter 24, Sections 24-106, 24-106.2 and 24-95(l)(5)b, c of the Henrico County Code. The 1.6 acre site is located on the northeast corner of Staples Mill Road and Aspen Avenue on Parcel 82-11-D-22. The zoning is B-2C, Business District (Conditional). **(Brookland)**

569

570 Ms. Dwyer - Is there anyone in the audience in opposition to LP/POD-10-97, Texaco
571 Eagle Markets at Staples Mill and Aspen Avenue? No opposition. Good morning, Ms. News.
572

573 Ms. News - Good morning, Madam Chairman. The revised landscape and lighting
574 plans have been distributed to you, which address staff's comments. An alternate fence height
575 approval is also requested for this project. An eight-foot-high board on board fence has been
576 constructed along the rear property line to satisfy the proffer of the rezoning case. This fence
577 is along a dedicated right-of-way for currently unimproved School Street, which if constructed
578 would provide access to the industrial parcels behind this property. This office has also
579 received a request from the adjacent property owner, north of the site, to construct a fence
580 along the property line between this project and a residence which is on the O-2C zoned
581 property. Construction of the fence is not required by proffers or code. The applicant is
582 providing landscaping in the 25-foot proffered buffer, including an evergreen hedge which has
583 been added along the property line and does not wish to construct a fence at this time due to
584 monetary considerations. Staff recommends approval of the landscape and lighting plan as
585 annotated.

586

587 Ms. Dwyer - Thank you, Ms. News. Are there any questions of Ms. News by
588 Commission members?

589

590 Mrs. Wade - What's the situation with the canopy lights here?

591

592 Ms. News - They are flush mounted 400 watt fixtures. The light level is not as high
593 as they are on the other project we looked at.

594

595 Mrs. Wade - Because there are people that don't live too far from this particular one.

596

597 Ms. News - That's right.

598

599 Mrs. Wade - Thank you.

600

601 Ms. News - This light is more in an acceptable range. It's a maximum of around 50
602 foot candles on the plan. That other plan, it was up in the upper 80's.

603

604 Ms. Dwyer - Then that was reduced.

605

606 Ms. News - Yes.

607

608 Ms. Dwyer - Okay. What type of shrubs are being added to create a visual buffer
609 between this property and the residence?

610

611 Ms. News - They have added a hedge of Eleagnus along the property line, and they
612 also have some Burford Hollies in there and some evergreen Arborvitae and some deciduous
613 trees in there. They have a 10-foot transitional buffer requirement and they have exceeded that
614 requirement with the trees, and they have added the shrubs and have the 25-foot proffered
615 space that was required.

616

617 Ms. Dwyer - Is that sufficient to provide the screen?

618

619 Ms. News - Eventually it will be. It's being installed at 24 inches high. It won't
620 make an immediate screen, but as it grows it should help.

621

622 Ms. Dwyer - Are there any other questions by Commission members? Thank you,
623 Ms. News. Would you like to hear from the applicant, Mr. Vanarsdall?

624

625 Mr. Vanarsdall - No. I don't need to hear from them. But, I do need to know if Mr.
626 Hamilton is here, the next door neighbor, not the next door neighbor, but the man who owns
627 the house next door. Is Mr. Davis here? I believe you told me that he couldn't be here. All
628 right. First of all we will take the alternative fence height and I move that we approve the
629 eight-foot fence along the rear property line under LP/POD-10-97, Texaco Eagle Markets.

630

631 Mr. Archer - Second.

632

633 Ms. Dwyer - The motion was made by Mr. Vanarsdall and seconded by Mr. Archer.
634 All in favor of the motion to approve the alternative fence height say aye...all opposed say
635 nay. The motion carries.

636

637 The Planning Commission approved the alternative fence for LP/POD-10-97, Texaco Eagle
638 Markets - Staples Mill Road and Aspen Avenue (Formerly D & C Enterprises), subject to the
639 standard conditions for fence height plans.

640

641 Mr. Vanarsdall - And the reason I asked if Mr. Hamilton was here, the next door
642 neighbor, is because Mr. Hamilton wanted a fence halfway down the property to protect
643 somebody from going behind this fence. We had a proffer on the original case that would put
644 up the back fence but we had no proffer for the other one. So, I took it upon myself to call
645 the owner, Mr. Davis, down in Petersburg and talked to him about it and he had already
646 talked to Mr. Hamilton. I asked him if he would meet with Mr. Hamilton and do what he
647 could for a fence. I gave him a suggestion that Leslie News gave me, that perhaps it could go
648 to a four-foot fence, maybe down midway. And he said that would take care of the problem.

649 So, having said that, I recommend approval of LP/POD-10-97, Texaco Eagle Market, with the
650 annotations on the plan and landscape and lighting standard conditions of this type.

651

652 Mr. Archer - Second.

653

654 Mrs. Wade - And Mr. Davis agreed to the four-foot fence?

655

656 Mr. Vanarsdall - No. He didn't agree, he said he would talk to Mr. Hamilton and do
657 what he could for him. He said he was already a hundred and some thousand dollars over his
658 budget. When I asked him about the four-foot fence he said that was a good suggestion and he
659 will see what he can do. I called Mr. Hamilton and explained it to him, that I did what I
660 could for him, but this was really between him and the other property owner. Mr. Hamilton
661 has known for over two years that this land was rezoned and what was going to be put there,
662 over two years, and he could have put up a fence himself and buffered his own property. Also
663 I see Sue Purvis in the audience and I believe that she has agreed to put some extra plantings
664 on there, she and Leslie, going to put some extra plantings along the property line to make it
665 better. Thank you.

666

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

669

670 The Planning Commission approved the landscape and lighting plan for LP/POD-10-97,
671 Texaco Eagle Markets - Staples Mill Road and Aspen Avenue (Formerly D & C Enterprises),
672 subject to the standard conditions for landscape and lighting plans and the annotations on the
673 plan.

674

675 **PLAN OF DEVELOPMENT**

676

POD-75-99

FBI Field Office Building @
Parham Place
(POD-150-86 Revised)

**Dewberry & Davis for T R Parham Corporation and The
Penrose Corporation:** Request for approval of a revised
plan of development as required by Chapter 24, Section 24-
106 of the Henrico County Code to construct a three-story,
92,000 ± square foot office building and a one-story, 42,000
± square foot attached accessory building for an enclosed
parking area and service use. The 12.2 acre site is located at
1920-82 Parham Road, Parham Place Office Park on part of
parcel 52-A-5. The zoning is O-2C, Office District
(Conditional). County water and sewer. **(Brookland)**

677

678 Mr. O'Kelly - Good morning, Madam Chairman, members of the Commission.

679

680 Ms. Dwyer - Excuse me, Mr. O'Kelly. Let me ask if there is any opposition. Is
681 there anyone in the audience in opposition to POD-75-99, FBI Field Office Building? We
682 have no opposition. Thank you, Mr. O'Kelly.

683

684 Mr. O'Kelly - Before we get started with the presentation, I would just like to note that
685 there is a correction to the staff map. The map on the screen shows some access proposed for
686 Hungary Road that is not a part of the application before the Commission today, that's a
687 separate matter. We have provided a revised staff map to the Commission that should have
688 been included in your packet in the handout this morning. The staff, as noted on the
689 addendum to your agenda, can now recommend approval of this application subject to the
690 revised layout plan, which I mentioned was included in your packet. The last outstanding
691 issue was the calculation for site coverage of buildings and parking for the overall Parham
692 Place Office Complex. And for both the existing and proposed development, there will be
693 about 37% site coverage, I think the addendum has a figure of 33.7% but the actual site
694 coverage will be 37% which is well within the proffered condition of no more than 50% site
695 coverage.

696

697 As I mentioned, it is important to note the application for the site plan approval is separate
698 from the pending rezoning case to amend proffered conditions to allow an access to Hungary
699 Road. That's a separate matter, not an issue with this application. If the applicant is
700 successful in amending the proffers in accordance with the staff's suggested condition No. 29,
701 a revised plan will be brought back to the Planning Commission for consideration of those
702 access details. The applicant is ready to proceed, after this application is approved, they plan
703 to start construction in the next several weeks. All of the staff's concerns have been addressed
704 by the plan now before the Commission. The applicant is in agreement with the annotations
705 and conditions recommended by the staff. All buffers as proffered will meet or exceed the
706 requirements. For example, there is more than a 100-foot buffer on the eastern property line
707 adjacent to the existing single-family home. There is more than 35 feet of buffer along Old
708 Hungary Road. There is also an existing berm five to six feet tall along the northern boundary
709 of the site, that will remain in place. It's a very attractive building that's been designed for the
710 site. It's all brick construction.

711

712 Mrs. Wade - Oh, good. You couldn't tell from what we got, what it looks like.

713

714 Mr. O'Kelly - And the building and parking areas will be secured by six to eight foot
715 tall brick and metal or wrought iron security fence. And the security fence with supplemental
716 landscaping will screen the loading and service areas from the adjacent properties. Parking
717 has been provided as required for an office building of 92,000 square feet. While the FBI may
718 need less space than required, it's a possibility they may make application to the Board of
719 Zoning Appeals to reduce the parking requirements as they occupy the building. It is desired
720 by the applicant to provide more green space, tree saved area. They simply need less parking
721 than what our ordinance is requiring by experience. However, the master site plan will be
722 designed for the ultimate parking requirement should the FBI ever vacate the premises. As
723 mentioned, staff recommends approval of the revised layout plan subject to the annotations on
724 the plan, the standard conditions for developments of this type, the additional conditions
725 regarding quitclaiming a sewer line easement, which the building would be constructed over.
726 And, as mentioned, the revised plan does not include any access to Hungary Road or Old
727 Hungary Road. All issues are resolved, and Madam Chairman we have a lot of representatives
728 here this morning for the applicant. In fact, most of the back row are representatives for the

729 FBI. We have Chris Penrose, who is the developer. Jessica Kadi the engineer with Dewberry
730 and Davis. Allen Atha the architect and we have Doug Jones and Jack Mullaney of the FBI
731 who are here to answer any questions. At this point, I'll be happy to answer any questions.

732

733 Ms. Dwyer - Are there any questions of Mr. O'Kelly by Commission members?

734

735 Mr. Vanarsdall - Yes. Dave, yesterday we talked about this in a meeting, and if they do
736 decide not to build the parking lot and go to the BZA for a variance, then they could come
737 back and build the parking lot whenever they want to, is that right?

738

739 Mr. O'Kelly - That's correct.

740

741 Mr. Vanarsdall - Is there any time limit on that? I wouldn't think it would be.

742

743 Mr. O'Kelly - Generally, a variance is good for a year unless the applicant exercises his
744 right to carry forth the approval.

745

746 Mr. Vanarsdall - So, that wouldn't be a problem?

747

748 Mr. O'Kelly - No, sir.

749

750 Mr. Vanarsdall - Thank you.

751

752 Mrs. Wade - So, they will only get it for a year, is that what you are saying, release
753 from the parking requirements?

754

755 Mr. O'Kelly - Usually, there is a condition by the BZA that any building permit or
756 permit necessary for the application would have to be taken within one year.

757

758 Mrs. Wade - So, which means...

759

760 Mr. O'Kelly - The variance, if it is exercised runs with the land for ever.

761

762 Mrs. Wade - All right.

763

764 Ms. Dwyer - So, there is an annotation on the plan, the revised plan that omits this
765 access to Old Hungary and Hungary?

766

767 Mr. O'Kelly - That's correct.

768

769 Ms. Dwyer - Because we didn't have a copy of that in our addendum. We have the
770 front revised cover sheet that doesn't show that access.

771

772 Mr. O'Kelly - You do have an annotated plan in your packet.

773

774 Ms. Dwyer - Not permitted by proffers with that annotation.
775
776 Mr. O'Kelly - Right.
777
778 Ms. Dwyer - I didn't notice that. What's going to happen to this property between
779 Hungary and Old Hungary? Do we know?
780
781 Mr. O'Kelly - It is currently owned by the County. The Planning Office would prefer
782 that it continue to be owned by the County and remain as a natural buffer. There may be some
783 issues when we bring the plan back to the Commission when access is approved for Hungary
784 Road there may be remaining issues with the Department of Public Works that affects that
785 property.
786
787 Ms. Dwyer - And the fence will be relocated, I guess this is on the eastern boundary
788 towards the interior of the buffer, is that what this annotation means regarding the fence?
789
790 Mr. O'Kelly - I'm not sure I understand, Ms. Dwyer, the fence you are talking about.
791 Are you talking about the existing fence?
792
793 Ms. Dwyer - There is a notation that says "relocate fence" with an arrow from the
794 property line to the edge of the parking lot on the eastern boundary.
795
796 Mr. O'Kelly - Yes, ma'am. The revised plan reflects the new proposed location.
797
798 Ms. Dwyer - What kind of fence is that?
799
800 Mr. O'Kelly - It is a combination of metal or wrought iron and brick. We have the
801 details of the fence if you would like to see that.
802
803 Mrs. Wade - Proffer No. 2, of course, refers to the access to Hungary. There is some
804 mention on the notes here about Proffer No. 6 and the building location, I assume that's been
805 worked out with everybody.
806
807 Mr. O'Kelly - Yes. Staff is satisfied with the location of the building. Since we started
808 our review, it has moved twice. The first time was to honor the 100-foot buffer on the eastern
809 property line. Proffer No. 6 would not permit a three-story building within 250 feet of the
810 northern property line. The plan has been revised to meet that setback requirement.
811
812 Mrs. Wade - Okay. Thank you.
813
814 Ms. Dwyer - And do we know what the BMP will be, that's up against Parham Road?
815
816 Mr. O'Kelly - We don't have the final details on the BMP. However, there is
817 sufficient area to properly screen that from Parham Road and it will be properly landscaped.
818

819 Ms. Dwyer - Will it be a water feature or just a standard BMP?
820

821 Mr. O'Kelly - Perhaps the applicant could answer that.
822

823 Ms. Dwyer - All right. Are there any more questions for Mr. O'Kelly? Thank you,
824 Mr. O'Kelly. Would you like to hear from the applicant?
825

826 Mr. Vanarsdall - Yes. I see Mr. Penrose in the back there. Chris, would you like to come
827 down and say anything, since you came all the way from "La Jolla," California, which is
828 know as La Jolla. We are glad to have you this morning, we are glad to have the FBI they
829 always give us a comfortable feeling.
830

831 Mrs. Wade - Are they moving off of Staples Mill to here?
832

833 Mr. Vanarsdall - Yes. I thought I would take time to explain what we are doing. In
834 answer to Mrs. Wade's question, yes, they have outgrown the building over on Green Court
835 and this is going to be a lot more space and a very upscale really nice project. This is a unique
836 case. The building is in the Brookland District and the impact of the back ingress/egress
837 would be effecting the Fairfield District. So, Chris Archer and I have been working together
838 on this and we have been to community meetings. I think we have one tonight, that you were
839 invited to but I wasn't.
840

841 Mr. Archer - Well, I'm inviting you now.
842

843 Mr. Vanarsdall - But, I can't be there. So, what this is this morning has nothing, as Mr.
844 O'Kelly said, I want to make sure that this is on the record. This has nothing to do with the
845 change of the proffer that would have to take place on the zoning case that will come to us
846 probably this month. The proffer on the case says that, this was back in 1985, that there
847 would be no ingress/egress ever on Hungary Road, not even during the building for
848 construction. So, this was put on there for a good reason because it was going to be a total of,
849 what, six buildings, Mr. Marlles?
850

851 Mr. Marlles - Yes.
852

853 Mr. Vanarsdall - And it would have just been a lot of traffic. Now the FBI has come
854 along and they only want an emergency exit. They call it, you may not take it as an
855 emergency, but this is what it would be. In other words, if something happens on Parham
856 Road and the traffic was backed up and they couldn't get out and they had an emergency, let's
857 say a bank robbery, they have to have another way to get out. All of their installations are this
858 way. So, we are going to have the proffer change come back to us, this month or next month.
859 So, regardless of how that turns out, the neighbors that we met with and phone calls, I got
860 one and Chris got several, is about that back entrance. And because people heard that the gate
861 would be wide open and as Mr. O'Kelly explained, that would also have a controlled gate as
862 well as the gate that comes off Parham Road. Now, we have one issue that we are trying to
863 resolve. We have a gentleman who lives next door and the County has suggested that they

864 vacate Old Hungary and curb and gutter it and so forth and this gentleman wouldn't have a
865 way to get in and out of his house. So, we will have to give him that right-of-way and he says
866 he doesn't want it. So, we are going to try to resolve that and try to see if the neighbors will
867 accept it and that will come forward. That has nothing to do with this case this morning but I
868 am glad that we talked about it because now we know what we are doing. So, I recommend
869 POD-75-99, FBI Field Office Building at Parham Place and Parham Road, be approved with
870 the annotations on the plans, conditions Nos. 9 and 11 amended and then the added conditions
871 Nos. 23 through 29. And condition No. 29 states that "anything that is going be done back
872 there will have to come back to us."

873

874 Ms. Dwyer - Mr. Vanarsdall, I think conditions No. 28 is revised on our addendum.

875

876 Mr. Vanarsdall - All right. Thank you, I meant to say that. And No. 28 from the
877 addendum dated today's date No. 28 has been revised on there.

878

879 Mr. Archer - Second, Madam Chairman.

880

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

882 All in favor say aye...all opposed say nay. The motion carries.

883

884 The Planning Commission approved POD-75-99, FBI Field Office Building at Parham Place
885 (POD-150-86 Revised), subject to the standard conditions attached to these minutes for
886 developments of this type, the annotations on the plans, and the following additional
887 conditions.

888

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

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

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

898 24. The developer shall provide fire hydrants as required by the Department of Public
899 Utilities in its approval of the utility plans and contracts.

900 25. All repair work shall be conducted entirely within the enclosed building.

901 26. If an incinerator is proposed, it shall be operated in accordance with Rule 9 of the
902 Regulations of the State Air Pollution Control Board.

903 27. Insurance Services Office (ISO) calculations must be included with the utilities plans
904 and contracts and must be approved by the Department of Public Utilities prior to the
905 issuance of a building permit.

906 28. The existing 16-foot utilities easement as noted on the approved plan shall be
907 quitclaimed ~~vacated~~ prior to the issuance of a Building Permit.

908 29. Location and construction details for any future access to Hungary or Old Hungary

909 Roads shall be reviewed and approved by the Planning Commission.

910

911 **ALTERNATIVE FENCE HEIGHT**

912

LP/POD-29-97
Courtyard Marriott -
Williamsburg Road

Courtyard by Marriott: Request for approval of an alternative fence height plan as required by Chapter 24, Sections 24-106.2 and 24-94(l)(5)b, c of the Henrico County Code. The 3.81 acre site is located on the north line of Williamsburg Road at its intersection with Airport Square Lane on parcel 163-A-11. The zoning is B-3 Business District and ASO (Airport Safety Overlay) District.

(Varina)

913

914 Ms. Dwyer - Is there anyone in the audience in opposition to LP/POD-29-97,
915 Courtyard Marriott on Williamsburg Road? No opposition. Ms. News.

916

917 Ms. News - An alternative height approval is necessary for this because a portion of
918 the fence extends into the front yard of the Marriott site. The fence however will not extend
919 past the front of the Waffle House on the adjacent site. The grade in this area falls sharply,
920 approximately 3 1/2 feet, between the properties. So, the fence will not appear to be as tall as
921 when viewed from the Marriott site. The applicant has made revisions to the fence layout as
922 requested by the Police for security purposes. The applicant has also agreed to install a
923 decorative fence and has submitted the detail, which has been distributed to you. As a part of
924 this approval, the landscaping on this site will be brought into conformance with the previous
925 approvals. Staff recommends approval of the fence plan, and I will be happy to answer any
926 questions.

927

928 Ms. Dwyer - How far in the front yard is the fence?

929

930 Ms. News - If you will look on your plan, you see the Waffle House there, I would
931 estimate that it is approximately 40 feet past the front of the building, but it ends flush with the
932 front of the Waffle House building.

933

934 Ms. Dwyer - So, it's that 40 feet that requires the alternative fence height approval.

935

936 Ms. News - That's right.

937

938 Ms. Dwyer - And, this will, of course, appear at its full height from the Waffle House
939 side.

940

941 Ms. News - It will. However, the Waffle House is right up against the property line
942 and the fence will be close. There is a short space between their building and the lot line.

943

944 Ms. Dwyer - And there are a number of sort of utilitarian uses between the Waffle
945 House and the fence, dumpsters and the grease trap and all of that.

946

947 Ms. News - Yes, it's a blank wall on the building, except for propane tanks and other
948 storage things. And their sign runs at the top of building and that's above the fence.

949

950 Ms. Dwyer - I'm looking at the detail you just handed out, it's cedar stain, what color
951 is that stain, or is it a natural wood appearance?

952

953 Ms. News - Yes, a natural wood appearance. They have some fences on the loading
954 area and a dumpster on the site now and they are just looking to match the stain on the other
955 fences that they have.

956

957 Ms. Dwyer - And it is a more decorative sort of curved design as opposed to what's in
958 our packets, where this is straight.

959

960 Ms. News - Correct. And they will be extending it to meet the masonry wall behind
961 this site. Police requested that, to keep people from being able to slip behind the back of that
962 fence, for security purposes.

963

964 Ms. Dwyer - I notice that you had the comment to extend the fence. Why was there a
965 gap there originally do you think?

966

967 Ms. News - The reason for requesting this fence was screening, and they probably
968 just didn't consider that fact, but the Police pointed that out as a security issue and they were
969 happy to extend it.

970

971 Ms. Dwyer - What other comments did the Police make on this case?

972

973 Ms. News - The other comment they had was that, to add a wood fence or any kind
974 of fence would encourage graffiti. I talked this over with the owner and he said that this is a
975 problem on their site in general and he has buckets of solutions to remove graffiti.

976

977 Ms. Dwyer - So, they have graffiti problems now on this site?

978

979 Ms. News - Yes.

980

981 Ms. Dwyer - So, this will be a magnet, this will be a chalkboard. You have added
982 Bayberries, is that right.

983

984 Ms. News - Yes. The original landscape approval had shade trees through there, and
985 when they tried to install these, they had a grade problem there. It's only the standard six feet
986 between property lines and it drops off very sharply, and they couldn't install the trees. They
987 couldn't put the root balls of the trees in there. So, I worked with Mr. Zehler and we agreed
988 to let them install tree form Bayberries instead of the large shade trees because they can fit
989 those on the site. But, since that time, a lot of them have died or have been removed, so they
990 have agreed to replace those trees when they put this fence in.

991

992 Ms. Dwyer - So, that will deter graffiti then on that side, if you have shrubbery on
993 that side.

994

995 Ms. News - Yes. They are putting them in at seven to eight feet tall so they should
996 have some size to them.

997

998 Ms. Dwyer - The other opposite wall, next to the Waffle House may be subject to
999 graffiti.

1000

1001 Ms. News - That wall won't be very visible there. If you go out there, it's kind of,
1002 from Williamsburg Road, it's tucked behind the building and then there's another hotel at the
1003 front of the site so it will be difficult to see back there.

1004

1005 Ms. Dwyer So, maybe we won't be creating the graffiti problem.

1006

1007 Ms. News - Maybe not. And, I'm sure that the Marriott would take care of it. I'm
1008 not sure if the applicant's representative is here but I can ask them.

1009

1010 Ms. Dwyer - I assume the fence is on their property. All right. Are there any other
1011 questions by Commission members on this case? Okay. For the reasons that we have
1012 discussed, and have been outlined by Ms. News as a justification for the taller fence than is
1013 normally permitted on the site, including the need to screen from the next door Waffle House,
1014 the need to screen the hotel and its patrons from these utilitarian uses that are so visible from
1015 their property, and the fact that it is set back and will not create a sight distance problem on
1016 either property. And the Police have approved it and had comments. So, I move that the
1017 Commission approve the alternative fence height proposed for the Courtyard by Marriott on
1018 Williamsburg Road titled LP/POD-29-97.

1019

1020 Mr. Archer - Second, Madam Chairman.

1021

1022 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mr. Archer. All
1023 in favor say aye...all opposed say nay. The motion carries.

1024

1025 The Planning Commission approved the alternative fence height plan for LP/POD-29-97,
1026 Courtyard Marriott on Williamsburg Road, subject to the annotations on the plan and the
1027 standard conditions for fence height plans.

1028 **LANDSCAPE PLAN & TRANSITIONAL BUFFER DEVIATION**

1029

LP/POD-2-98
Park Central - Robinson
Development Phase I,
Building B (~~Phase I~~)

Higgins Associates, Inc.: Request for approval of a landscape plan and transitional buffer deviation as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 6.6 acre site is located along the east line of Park Central Drive approximately 900 feet north of Parham Road on part of parcel 53-A-80M. The zoning is M-1C, Light Industrial District (Conditional). **(Fairfield)**

1030

1031 Ms. Dwyer - Is there anyone in the audience in opposition to LP/POD-2-98, Park
1032 Central - Robinson Development Phase I? No opposition. Ms. News.

1033

1034 Ms. News - The transitional buffer deviation requested along Park Central Drive is in
1035 keeping with the deviation granted for Building A of this phase of development. Similar uses
1036 exist on both sides of this road. This approval is for landscaping for Phases 1 and 2 of
1037 Building B, which are being constructed simultaneously. The caption in your agenda will be
1038 changed to eliminate the second "Phase 1" in the parentheses after Building B. The applicant
1039 has revised the plans to reflect comments from staff and staff recommends approval of the
1040 revised plan as annotated, should the Commission grant the transitional buffer deviation. A
1041 waiver of the time limit is also required as the plans were revised to address staff's annotations
1042 at staff's request after the required deadline.

1043

1044 Ms. Dwyer - Are there any questions of Ms. News by Commission members?

1045

1046 Mr. Archer - Ms. News, when did you receive the revised plan?

1047

1048 Ms. News - I received the revised plans yesterday. I actually had revised plans by
1049 the deadline and had a last minute thought when I visited the site over the weekend, about
1050 retaining some evergreen trees that they were going to take down. I called the applicant and
1051 the applicant agreed to retain those trees. So, they changed the plan and resubmitted it at my
1052 request.

1053

1054 Mr. Archer - Okay.

1055

1056 Ms. Dwyer - You really think about these cases over the weekend, Ms. News?

1057

1058 Ms. News - Unfortunately, yes.

1059

1060 Ms. Dwyer - Are there any other questions by Commission members? Are we ready
1061 for a motion?

1062

1063 Mr. Archer - I think so, Madam Chairman. First I move to accept the new revised
1064 plan dated October 27, 1999.

1065

1066 Mr. Vanarsdall - I'll second that.
1067
1068 Ms. Dwyer - We need to waive the time limit first.
1069
1070 Mr. Archer - That's what I was meaning to do. I just didn't say it right. I move to
1071 waive the time limit and accept the new plan of October 27, 1999.
1072
1073 Mr. Vanarsdall - Second.
1074
1075 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall.
1076 All in favor say aye...all opposed say nay. The motion carries.
1077
1078 The Planning Commission approved to waive the time limit for LP/POD-2-98, Park Central -
1079 Robinson Development Phase I, Building B.
1080
1081 Mr. Archer - And now I move approval of LP/POD-2-98, Park Central Robinson,
1082 subject to the standard conditions and the annotations on the plan.
1083
1084 Mr. Vanarsdall - Second.
1085
1086 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall to
1087 approve the landscape plan. All in favor of the motion say aye...all opposed say nay.
1088
1089 The Planning Commission approved the landscape plan for LP/POD-2-98, Park Central -
1090 Robinson Development, Phase I, Building B, subject to the standard conditions and the
1091 annotations on the plan.
1092
1093 Ms. Dwyer - Now, how about a separate motion on the transitional buffer deviation.
1094
1095 Mr. Archer - Is that required, Ms. News?
1096
1097 Ms. News - Yes.
1098
1099 Mr. Archer - Okay. I move to accept the transitional buffer deviation.
1100
1101 Mr. Vanarsdall - Second.
1102
1103 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall to
1104 accept the transitional buffer deviation. All in favor of the motion say aye...all opposed say
1105 nay.
1106
1107 The Planning Commission approved the transitional buffer deviation for LP/POD-2-98, Park
1108 Central - Robinson Development, Phase I, Building B.

1109 **PLAN OF DEVELOPMENT RECONSIDERATION**

1110

POD-124-96
Cross Point - Fairway
Homes

Jordan Consulting Engineers, P.C. for Virginia Center, Inc. and Roy B. Amason: Request for approval of a plan of development reconsideration as required by Chapter 24, Section 24-106 of the Henrico County Code to construct 73 zero lot line single-family homes. The 21.8 acre site is located on the northern line of Virginia Center Parkway (private) approximately 2,700 feet southeast of the north line of I-95 on parcels 43-A-56 and 33-A-76 and parts of 33-A-69 and 70. The zoning is R-5AC, General Residence District (Conditional). County water and sewer. **(Fairfield)**

1111

1112 Ms. Dwyer - Is there anyone in the audience in opposition to POD-124-96, Cross
1113 Point - Fairway Homes? No opposition. Mr. McGarry.

1114

1115 Mr. McGarry - This reconsideration allows approval of two additional floor plans and
1116 architectural elevations for the Fairway Homes, a zero lot line development. At the time of
1117 rezoning, the architectural exhibits were proffered. These additional architectural styles are
1118 essentially in keeping with the original approved plans except that these would have
1119 garages which face the street rather than side entry. There are 73 lots in this development, 27
1120 are under contract for a total of 17 residents currently living there. Since the architecture is
1121 proffered and is not particularly a site plan issue, the subjectiveness is such that the staff is
1122 going to make no recommendation. In fact, we will let the developer make his case to you for
1123 his acceptance of his plans. I'll be happy to answer any questions.

1124

1125 Ms. Dwyer - Are there any questions for Mr. McGarry on this case?

1126

1127 Mr. Archer - I have none, Madam Chairman.

1128

1129 Ms. Dwyer - The architecturals that are in our packets show side entry garages.

1130

1131 Mr. McGarry - No, ma'am. What you have there are the two proposed plans both of
1132 which show a front entry garage.

1133

1134 Ms. Dwyer - Well, I'd seen that on the floor plan, oh, okay. And the two plans are
1135 just the same plans but reversed?

1136

1137 Mr. McGarry - No. There are two different styles of houses and floor plans by two
1138 different architects.

1139

1140 Mrs. Wade - Is there room for a side garage on these sites? I was a little surprised at
1141 the buyer resistance comment. I would assume that there was room before to get in and out of
1142 the garage.

1143

1144 Mr. McGarry - One of the three floor plans that's available to perspective buyers
1145 provides the side entry garage, directly on the side of the house eight feet off of the property
1146 line. So, you have got to come up an eight-foot wide driveway and turn 90 degrees. The
1147 other side entry garages, the garages are not located this close to the side property line, it's
1148 more centered on the opposite side so that it is more generous, you can get in more easily.

1149

1150 Mrs. Wade - So, that's still an option?

1151

1152 Mr. McGarry - There really is only one of the three plans that's a significant problem.
1153 The other two floor plans have a more generous ability to maneuver into the garage.

1154

1155 Mrs. Wade - But the side still would be an option?

1156

1157 Mr. McGarry - The three that have been made available to the buyers are also available
1158 and this would add two more choices.

1159

1160 Mrs. Wade - Okay. Thank you.

1161

1162 Ms. Dwyer - Exhibit No. 4 is what I was talking about earlier. That just shows side
1163 entry that doesn't show any front entry.

1164

1165 Mr. McGarry - This was the proffered exhibit that I referenced at the time and it
1166 envisioned all side entry garages.

1167

1168 Ms. Dwyer - Did you say why buyers were resistant? I was just curious about that.

1169

1170 Mr. Archer - We can ask the applicant.

1171

1172 Ms. Dwyer - All right. Are there any other questions for Mr. McGarry? No
1173 questions. Would you like to hear from the applicant, Mr. Archer?

1174

1175 Mr. Archer - Yes.

1176

1177 Ms. Dwyer - Would the applicant come forward please?

1178

1179 Mr. Amason - Good morning. My name is Roy Amason.

1180

1181 Ms. Dwyer - Are there any questions of Mr. Amason by Commission members?

1182

1183 Mr. Archer - Good morning, Mr. Amason. Mr. Amason, you and I discussed this.
1184 We talked about having a meeting with the association of the neighborhood to find out what
1185 resistance, if any, might come from offering the plan. Did we do that?

1186

1187 Mr. Amason - What we did was, only because everybody's schedule seemed to be out
1188 there, and the fact that there were some people that aren't living there yet, that have contracts.

1189 We made sure that Home Town Realty was there contacting the people, had plans available of
1190 the model home. We did have some people come by and actually look at the plans. Other
1191 people said as long as they are architecturally the same type of houses they were okay. They
1192 are aware that we are submitting these two new plans. I would add that we have explained to
1193 them that what we are doing are submitting these two plans and I think what we are really
1194 doing is submitting two plans that will set another type of house that can be in the
1195 neighborhood. I don't think you want us coming to you every time we have a plan, but since
1196 this entry of the garage is a change from the proffered ones, we felt like you ought to be aware
1197 of what we were doing.

1198

1199 To answer your question earlier, this is a result of a lot of requests from people that walk in
1200 the door. In fact, two of the contracts that we have are subject to this hearing this morning.
1201 There are a lot of people with large cars. Even the one that's on the side that's got a 20-foot
1202 area to maneuver their car. So, it's tough. You see it all over the County. You see it in
1203 Wyndham, you see it everywhere when you have smaller lots like this. Quite, frankly, when
1204 you get to be my age and older, trying to maneuver that car is more of a challenge.

1205

1206 Mrs. Wade - As you get older you get a bigger car.

1207

1208 Mr. Amason - That's right. But, I think the architectural flavor, no, I don't think, I
1209 know. The architectural flavor of these residents will not change. They will still have the
1210 same type of materials and roof pitches and those types of things. All we are doing is altering
1211 the garage entry. If you will notice, there is a side entry in the original proffer. However, the
1212 side entry is kind of on the front of a house with most of the renderings that were there. So, I
1213 don't know that it is a huge change but it was a change that we felt like that the Commission
1214 ought to consider.

1215

1216 Ms. Dwyer - Will you have more green space?

1217

1218 Mr. Amason - Probably so. With this situation, you will have more grass, if you will,
1219 because you don't have a side type thing to come in, you just go straight in. I can see their
1220 point. It makes it easier for them to get in and quite frankly in some ways makes it a better
1221 security situation because they can just open the garage door, drive in and close the garage
1222 door, as opposed to being in their car backing it up, pulling up, backing up, pulling up,
1223 because that's the way it is.

1224

1225 Mrs. Wade - Exactly what did the proffer say?

1226

1227 Mr. Amason - The proffer just said that we proffer the architectural rendering, which
1228 you have a picture of in your packet. That's all it said. It didn't say anything about front door
1229 garages, side door garages or back door garages, it just proffered the architectural style of the
1230 rendering you have. The renderings that you have when you approved the case did not show a
1231 direct front entry garage and that's the change.

1232

1233 Ms. Dwyer - Is the floor plan different between what you are offering now and what

1234 you are showing today?

1235

1236 Mr. Amason - What we are offering now, we probably have about nine different floor
1237 plans that we offer. So, this doesn't really alter any of those types of floor plans you just enter
1238 the garage differently.

1239

1240 Ms. Dwyer - I like this floor plan, by the way.

1241

1242 Mr. Amason - We have 32 available lots if you would like one.

1243

1244 Ms. Dwyer - No, I'm not ready yet.

1245

1246 Mrs. Wade - I mean, do the proffers say this is what they are going to be or....

1247

1248 Mr. Amason - If my memory is right, it said that the homes will be built in substantial
1249 compliance with the architectural style offered.

1250

1251 Mrs. Wade - Oh.

1252

1253 Mr. Amason - And frankly this front entry garage is still that same situation but we just
1254 felt like the Commission had the right to see it before we all of a sudden did this.

1255

1256 Mrs. Wade - I just wanted to be sure there was some leeway there for changes in the
1257 style.

1258

1259 Mr. Amason - There is plenty of leeway there for it. I just felt it was a courtesy to
1260 Chris Archer and then him to you that we are standing here talking about today.

1261

1262 Mr. Archer - Nobody never said you weren't courteous Mr. Amason.

1263

1264 Mr. Amason - Well, I did have an ex-wife who said that once, Mr. Archer.

1265

1266 Mr. Archer - Mr. Amason, don't go way, but I do need to ask Mr. McGarry another
1267 question, if I could. Mr. McGarry, are there any other alternatives that we have explored to
1268 handling this in some other fashion other than...

1269

1270 Mr. McGarry - Well, staff thought it might be appropriate to perhaps recommend that
1271 these styles be available on the loop road in the back and try to keep the styles more consistent
1272 along the main roadway through there. In other words, put them so... You will be going
1273 through this development on the main roadway to enter another development further down.
1274 So, we thought if perhaps it would be appropriate to come up with a requirement that they all
1275 be on the loop road and not on the main road, perhaps you wouldn't want two of them side by
1276 side, something on that scale.

1277

1278 Mr. Archer - Mr. Amason, do you have any reaction to that? Do you see what he is

1279 talking about?

1280

1281 Mr. Amason - I do see what he is talking about.

1282

1283 Mr. Archer - If we did that you would maintain the same flavor that you have now
1284 from most of the visible part of the project and it would still leave you some room on the loop
1285 road in the back to put these additional styles.

1286

1287 Mr. Amason I think the loop road and the main road may have some merit. I think
1288 the side by side is frankly going to restrict us tremendously on the number that we will be able
1289 to do because by doing it to the loop road we would be cutting it about half and half. At least
1290 half, I'm saying that because I really haven't counted them but it seems like to me on the main
1291 road we have either have 32 or 39 somewhere in that range.

1292

1293 Mr. Archer - Okay. I understand. But the loop road would hold a few more I
1294 believe, wouldn't it?

1295

1296 Mr. Amason - Well, a few more. There are 37 out of 73 lots that are on the main road.
1297 So, if you restrict this to the loop road you will have more than half that will not be able to
1298 have this type of garage. I understand your point but from a developer's standpoint it has a lot
1299 of merit one way or the other. These are not unattractive houses, it's just a different way of
1300 getting into the garage. If you go to Wellesley, Wyndham, etc., etc., etc. you are going to see
1301 front row garages. It's common place now in the County.

1302

1303 Mr. Archer - I know. I drive in and out of one everyday.

1304

1305 Mr. Amason - So, why would we pick out Cross Point and make it different, penalize it
1306 in other words, I don't know but....

1307

1308 Mr. Archer - Mr. Amason, we don't want to penalize you, but I think it would
1309 probably be a little bit more palpable to the Commission and probably to some of the folks
1310 who have already purchased them, if we agree to do it on the loop road and leave the main
1311 road as is, would you object to doing that?

1312

1313 Mr. Amason - I would not object, I would not agree, I'll just stand back, shut up and
1314 let you do what you need to do.

1315

1316 Mr. Archer - Mr. McGarry, could we draw up a condition that would address that,
1317 that the style change be confined to the loop. And I can understand Mr. Amason's point
1318 because some of the people out here are senior citizens, more senior than some of us and it can
1319 be a difficulty. My mother just tore the boards off of her garage backing straight out, so I can
1320 understand that we lose some of our manual dexterity as we get a little older and that situation
1321 doesn't reverse itself. So, if we can come up with a condition that we will constrict the
1322 changes to the loop road and leave the main road the way it is and that would sort of appease
1323 those people who have already purchased their homes and might feel like they were penalized

1324 somewhat, if that is agreeable with Mr. Amason. I don't have any further questions, Madam
1325 Chairman.

1326

1327 Ms. Dwyer - Are there any other questions?

1328

1329 Mrs. Wade - So, basically, it looks like the sections have different numbers then.

1330

1331 Mr. Amason - Section 2 is basically the loop. The reason I didn't say anything about
1332 Section 1 is that in Section 2 you have a couple of corner situations that we just have to deal
1333 with for aesthetic reasons. If you have some setback requirements, etc., buffer requirements
1334 that are going to effect those corner lots any way. But, if we say loop road that pretty well
1335 does it. We already have a contract on that one on the corner (referring to map) with a side
1336 entry on it so that is a moot point and over here the grade is not going to allow you to come in
1337 on this side.

1338

1339 Ms. Dwyer - All right. Are we ready for a motion?

1340

1341 Mr. Archer - Yes, ma'am. So, we are really just adding some more choices?

1342

1343 Mr. Amason - Correct.

1344

1345 Mr. Archer - Madam Chairman, I move approval of POD-124-96, for POD
1346 reconsideration for Cross Point Fairway Homes, subject to the standard conditions and the
1347 condition that the new style of home be confined to what we described as the loop road. Is
1348 that a better way to describe it?

1349

1350 Mrs. Wade - The Links Road

1351

1352 Mrs. Archer - To the Links Road. That's it.

1353

1354 Mr. Vanarsdall - Second.

1355

1356 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall.
1357 All in favor say aye...all opposed say nay. The motion carries.

1358

1359 The Planning Commission approved the reconsideration for POD-124-96, Cross Point -
1360 Fairway Homes, subject to the standard conditions and the following additional conditions.

1361

1362 23. The developer shall provide fire hydrants as required by the Department of Public
1363 Utilities in its approval of the utility plans and contracts.

1364 24. Any necessary off-site drainage easements must be obtained in a form acceptable to the
1365 County Attorney prior to final approval of the construction plans by the Department of
1366 Public Works.

1367 25. Deviations from County standards for pavement, curb or curb and gutter design shall
1368 be approved by the County Engineer prior to final approval of the construction plans by

- 1369 the Department of Public Works.
- 1370 26. Insurance Services Office (ISO) calculations must be included with the utilities plans
1371 and contracts and must be approved by the Department of Public Utilities prior to the
1372 issuance of a building permit.
- 1373 27. Approval of the construction plans by the Department of Public Works does not
1374 establish the curb and gutter elevations along the Henrico County maintained right-of-
1375 way. The elevations will be set by Henrico County.
- 1376 28. Roof edge ornamental features that extend over the zero lot line and which are
1377 permitted by Section 24-95(i)(1) must be authorized in the covenants.
- 1378 29. Eight-foot easements for construction, drainage, and maintenance access for abutting
1379 lots shall be provided and shown on the POD plans.
- 1380 30. Building permit request for individual dwellings shall each include two (2) copies of a
1381 layout plan sheet as approved with the plan of development. The developer may utilize
1382 alternate building types providing that each may be located within the building footprint
1383 shown on the approved plan. Any deviation in building footprint or infrastructure shall
1384 require submission and approval of an administrative site plan.
- 1385 31. Architectural plans for this development must meet the standards of the April 24, 1995,
1386 Planning memo of Zero Lot Line Development Standards. The standard memo
1387 addresses the building relationship to the zero lot line and include: minimum percentage
1388 of wall on the zero lot line, number, size and location of window and door openings in
1389 first and second floors and height and setbacks for fences abutting decks.
- 1390 32. The architectural plans must be submitted to the Planning Office and Building
1391 Inspection for compliance with the requirements of conditions #31 by May 1, 1997 or
1392 before any Building Permit approval.
- 1393 33. The two architectural styles with front entry garages approved with this reconsideration
1394 may be constructed only on the lots fronting Links Road.

1395

1396 **SUBDIVISION**

Old Williamsburg Road (A **Rickmond Engineering, Inc. for UCP Limited Partnership**
Dedication of a Portion of **and 000-3 Limited Partnership:** The road dedication is
Old Williamsburg Road) located at the eastern terminus of Old Williamsburg Road in
(October 1999 Plan) the southwest quadrant of the I-64 and I-295 interchange on
part of parcel 165-A-82. The is zoning M-1C, Light
Industrial District (Conditional). County water and sewer.
(Varina) 0 Lot

1397

1398 Ms. Dwyer - Is there anyone in the audience in opposition to Old Williamsburg Road
1399 Dedication (October 1999 Plan)? No opposition. Mr. McGarry.

1400

1401 Mr. McGarry - Since you received your packets, staff has reevaluated the design of the
1402 road. We feel it is appropriate to have a wider entrance road with the median as it comes off
1403 existing Old Williamsburg Road. This would allow adequate landscaping at the entrance.
1404 That portion is also more visible from the interstate. For the change that has been recommend
1405 and the applicant has seen and is in agreement, an 80-foot right-of-way with the median for the
1406 first 200 feet at the entrance to the development, and then it would taper to 66 feet without a

1407 median, which is standard for an industrial access road. And our plan has been so annotated
1408 today.

1409

1410 Ms. Dwyer - Excuse me. It is an 80 foot right-of-way at the entrance from Old
1411 Williamsbrug Road.

1412

1413 Mr. McGarry - With median.

1414

1415 Ms. Dwyer - With a median and then it would taper to 66 feet?

1416

1417 Mr. McGarry - Correct.

1418

1419 Ms. Dwyer - Because on our plan it says 60-foot right-of-way.

1420

1421 Mr. McGarry - That's correct.

1422

1423 Ms. Dwyer - So it would be increasing.

1424

1425 Mr. McGarry - Increasing to provide for the wider right-of-way.

1426

1427 Ms. Dwyer - And then later on it says 80 feet on our plan. So, I wasn't clear on that
1428 either. It does seem to get wider as the road....

1429

1430 Mr. McGarry - We have basically split that since you've gotten your plan to where the
1431 first 200 feet would be 80 feet wide and then everything else would become 66, which is
1432 basically reversed from the current plan.

1433

1434 Ms. Dwyer - And then what's now 60 feet, even though we are reversing those to 66
1435 feet.

1436

1437 Mr. McGarry - We are specifying 66 feet.

1438

1439 Ms. Dwyer - Are there any other changes?

1440

1441 Mr. McGarry - No, that was it. Staff can recommend approval.

1442

1443 Ms. Dwyer - I have a question about this... I wasn't clear about... are we connecting
1444 to Betner Road?

1445

1446 Mr. McGarry - There will be a paved portion of Betner provided but there will be a
1447 cable for emergency access only. There is a blockage at the end of this road currently and
1448 because the potential is for over 400,000 square feet of office space and warehouse back here,
1449 the Fire Bureau wanted a second or emergency access available. So, their recommendation
1450 was to put it out there. They asked for a paved portion up to Betner Road to support their
1451 heavy equipment.

1452

1453 Ms. Dwyer - So, it will be paved and what will prevent access?

1454

1455 Mr. McGarry - A cable and signage.

1456

1457 Ms. Dwyer - My experience is that doesn't really work. I'm wondering if there are
1458 any other options that have been discussed. This is a residential area and I'm not sure it would
1459 be good to have the cable broken and then having industrial vehicles moving in and out of that
1460 new road. So, I'm wondering if there could be a more affective way of prohibiting access.
1461 One idea that comes to mind, is from a case that I had. They would somehow reinforce the
1462 ground underneath the emergency access but still have grass over it so that by appearance it
1463 was a grassy area but it was supported and reinforced enough to be able to handle a fire truck
1464 or an emergency vehicle that might need to come through. Is that something that's been
1465 considered?

1466

1467 Mr. McGarry - That was one of the two options available when the Fire Bureau was
1468 asked which preference they had and they chose the one staff recommended.

1469

1470 Ms. Dwyer - They chose pavement. Do you have any thoughts on that Mr. Donati?

1471

1472 Mr. Donati - No. I understand what you are saying. There are apartments there.

1473

1474 Ms. Dwyer - We have a pool in our neighbor that had a chain and it was just easily
1475 knocked through, I guess, by pickup trucks and they finally put one of those New Jersey
1476 barriers up in the off season. That was the only way they could.... I'm just concerned that if
1477 you just have a cable and a paved area and if the cable gets broken, then a lot of the vehicles
1478 servicing this industrial area may use Betner Road and that's a residential area. That was the
1479 Fire Fighter's preference?

1480

1481 Mr. McGarry - Correct. If there is any consolation to you, Betner Road doesn't allow
1482 you another way out of this area. This area is a very enclosed cul-de-sac, if you will. From a
1483 traffic standpoint, there is no advantage to take Betner Road to try to get out of this industrial
1484 development because you are still forced to the north to Old Williamsburg Road. And it also
1485 goes to the traffic light on New Williamsburg Road. So, it's not really a short cut that would
1486 benefit anyone.

1487

1488 Ms. Dwyer - So, there is no natural incentive then to use Betner Road.

1489

1490 Mr. McGarry - Not that staff is aware of.

1491

1492 Ms. Dwyer - Yes, there are extra turns and it would be a little bit more difficult to get
1493 out.

1494

1495 Mr. McGarry - Old Williamsburg Road is the only way out of this area.

1496

1497 Mr. Donati - What's the width of the emergency access road?
1498

1499 Mr. McGarry - It would probably be 50 feet to match the existing Betner Road.
1500

1501 Mr. Donati - Okay.
1502

1503 Mrs. Wade - I don't remember this M-1C zoning case, and some neighborhood
1504 involvement, is this what was acceptable then with the emergency access and the chain and
1505 everything?
1506

1507 Mr. McGarry - I believe that is one of the conditions of the proffered case. It specifies
1508 that there will be no access and that there will be a cable provided. The graphic that was
1509 included with the rezoning case envisioned this physical connection blocked with a cable.
1510

1511 Mrs. Wade - If there is room, they are more likely to go around the post and the cable
1512 if there is room on both side.
1513

1514 Mr. Donati - Betner Road has been a problem in the past and I think staff has helped
1515 us correct some of the problems, if there has been an eye sore. I don't think there is any
1516 parking allowed, along Betner Road because of some people that were using the apartments
1517 that shouldn't be there.
1518

1519 Ms. Dwyer - Yes. It's kind of isolated once you drive down that road. I guess it
1520 won't be once M-1 is developed. What do you think? Which emergency access do you think
1521 is good?
1522

1523 Mr. Donati - I would have to go along with the Fire Department, I guess.
1524

1525 Ms. Dwyer - Okay. All right. Are there any other questions by Commission
1526 members on this case? All right. I move approval of subdivision Old Williamsburg Road
1527 dedicating a new portion of Old Williamsburg Road according to the October 1999 plan,
1528 subject to the annotations on the plans and the standard conditions for subdivisions accept Nos.
1529 10 and 11. Specifically, changing the right-of-way widths as Mr. McGarry identified in his
1530 presentation and permitting the limited emergency access to Betner Road, which is indicated
1531 on the annotated plan. Is that correct?
1532

1533 Mr. McGarry - Correct.
1534

1535 Ms. Dwyer - So, that would be the paved emergency access with a cable to limit
1536 access. All right.
1537

1538 Mrs. Wade - Second.
1539

1540 Ms. Dwyer - The motion was made by Ms. Dwyer and seconded by Mrs. Wade. All
1541 in favor say aye...all opposed say nay. The motion carries.

1542

1543 The Planning Commission granted conditional approval to Old Williamsburg Road (A
1544 Dedication of a Portion of Old Williamsburg Road) (October 1999 Plan), subject to the
1545 standard conditions attached to these minutes, not including Nos. 10 and 11, for subdivisions
1546 served by public utilities and the annotations on the plans.

1547

1548 **PLAN OF DEVELOPMENT & TRANSITIONAL BUFFER DEVIATION**

1549

POD-84-99
Park Central - Robinson
Development Phase 2
Telecommunications Center
(POD-2-98 Revised)

**TIMMONS for Park Central Associates, L.C. and
Robinson Development Group, Inc.:** Request for approval of
a revised plan of development and transitional buffer deviation
as required by Chapter 24, Sections 24-106 and 24-106.2 of
the Henrico County Code to construct a one-story, 39,900
square foot Phase 1 telecommunications center and a 49,800
square foot Phase 2 addition. The 5.373 acre site is located 500
feet east of Park Central Drive and south of Scott Road on
parcel 53-A-80M. The zoning is M-1C, Light Industrial
District (Conditional). County water and sewer. **(Fairfield)**

1550

1551 Ms. Dwyer - Is there anyone in the audience in opposition to POD-84-99, Park
1552 Central - Robinson Development Phase 2 Telecommunications Center? No opposition. Mr.
1553 McGarry.

1554

1555 Mr. McGarry - Staff would like to remind you that there needs to be two motions on this
1556 case. The first one would be for your transitional buffer deviation and the acceptance of it and
1557 that is something staff can recommend. And, secondly, staff can recommend approval of this
1558 plan subject to the standard conditions and additional conditions Nos. 23 through 30. I'll be
1559 happy to answer any questions.

1560

1561 Ms. Dwyer - Okay. Are there any questions for Mr. McGarry on Park Central?
1562 Could you review the transitional buffer deviation please?

1563

1564 Mr. McGarry - Certainly. The applicant is asking the Planning Commission to accept
1565 the transitional buffer deviation. They are asking for a 30-foot reduction in the Transitional
1566 Buffer 50 along the Scott Road portion of the site. This recommendation is in keeping with
1567 the spirit staff feels of the ordinance. Further, to substantiate the deviation, the abutting
1568 property is designated on the Comprehensive Plan for office service and not agricultural,
1569 which is what's dictating the 50-foot transitional buffer. And, secondly, staff has condition
1570 No. 30 which requires the vacation of Scott Road and that would have the potential to add
1571 some additional property to the transitional buffer, get it up closer to the 50 feet.

1572

1573 Ms. Dwyer - Are there any other questions for Mr. McGarry?

1574

1575 Mr. Archer - Mr. McGarry, under condition No. 30, what's the process for achieving
1576 that?

1577
1578 Mr. McGarry - The applicant has to petition the Board of Supervisors.
1579
1580 Mr. Archer - So, they would have to come through the Commission for a
1581 recommendation?
1582
1583 Mr. McGarry - I don't think so.
1584
1585 Mrs. Wade - Where is it going to start, the part to be vacated?
1586
1587 Mr. McGarry - The portion that will be vacated would start at Park Central Drive and
1588 continue eastwardly to its terminus.
1589
1590 Mrs. Wade- Okay.
1591
1592 Mr. McGarry - And with the vacation request, like this property owner within Park
1593 Central and the property to the north, would also be given notice and would be in a position to
1594 agree to it. Staff has seen an informal master plan where this portion of Park Central Drive
1595 will continue to the north. And when that property is developed, it should connect with
1596 Windsor Business Parkway, which has been previously approved.
1597
1598 Ms. Dwyer - Are there any other questions on Park Central?
1599
1600 Mr. Archer - I don't have any, Madam Chairman.
1601
1602 Ms. Dwyer - Okay. Are we ready for a motion?
1603
1604 Mr. Archer - Yes, I think so. Let's do the transitional buffer first, if that's okay.
1605
1606 Ms. Dwyer - Okay.
1607
1608 Mr. Archer - I move to approve the transitional buffer deviation.
1609
1610 Mr. Vanarsdall - Second.
1611
1612 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall to
1613 approve the transitional buffer deviation. All in favor say aye...all opposed say nay. The
1614 motion passes.
1615
1616 The Planning Commission approved the transitional buffer deviation request for POD-84-99,
1617 Park Central - Robinson Development Phase 2 Telecommunications Center (POD-2-98
1618 Revised)
1619
1620 Mr. Archer - And I move approval of POD-84-99, Park Center Robinson
1621 Development Phase 2 Telecommunications Center, subject to the annotations on the plan, the

1622 standard conditions for developments of this type, and additional conditions Nos. 23 through
1623 30.

1624

1625 Mr. Vanarsdall - Second.

1626

1627 Ms. Dwyer - The motion was made by Mr. Archer and seconded by Mr. Vanarsdall.

1628 All in favor say aye...all opposed say nay. The motion passes.

1629

1630 The Planning Commission approved POD-84-99, Park Central - Robinson Development Phase
1631 2 Telecommunications Center (POD-2-98 Revised), subject to the standard conditions attached
1632 to these minutes, the annotations on the plans and the following additional conditions.

1633

1634 23. The developer shall provide fire hydrants as required by the Department of Public
1635 Utilities in its approval of the utility plans and contracts.

1636 24. Any necessary off-site drainage easements must be obtained in a form acceptable to the
1637 County Attorney prior to final approval of the construction plans by the Department of
1638 Public Works.

1639 25. Deviations from County standards for pavement, curb or curb and gutter design shall
1640 be approved by the County Engineer prior to final approval of the construction plans by
1641 the Department of Public Works.

1642 26. Insurance Services Office (ISO) calculations must be included with the utilities plans
1643 and contracts and must be approved by the Department of Public Utilities prior to the
1644 issuance of a building permit.

1645 27. Approval of the construction plans by the Department of Public Works does not
1646 establish the curb and gutter elevations along the Henrico County maintained right-of-
1647 way. The elevations will be set by Henrico County.

1648 28. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the
1649 Planning Office and approved prior to issuance of a certificate of occupancy for this
1650 development.

1651 29. The master plan and summary table required by proffers 3, 4 and 5 for this project
1652 shall be updated with each request of POD approval. The summary table, at a
1653 minimum, shall include total gross square footage of all buildings, site coverage and
1654 open space.

1655 30. The portion of Scott Road right-of-way abutting this site shall be vacated by the Board
1656 and in effect prior to approval of any occupancy permit or the right-of-way widening
1657 shall be dedicated and improvements escrowed.

1658

1659 Ms. Dwyer - All right, next case.

1660

1661 **PLAN OF DEVELOPMENT**

1662

POD-77-99
Knowledge Beginnings -
Deep Rock Road
(POD-8-97 Revised)

Foster & Miller, P.C. for Circuit City Stores, Inc. and Children's Discovery Centers of America, 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, 14,685 square foot day care center. The 2.147 acre site is located on the west line of Deep Rock Road, 900 feet south of W. Broad Street (U. S. Route 250) on part of parcel 48-4-A-4A. The zoning is M-1C, Light Industrial District (Conditional). County water and sewer. **(Three Chopt)**

1663

1664

1665 Mr. Marlles - Mr. Mikel Whitney will be presenting the staff report.

1666

1667 Ms. Dwyer - Is there any one in the audience in opposition to POD-77-99, Knowledge
1668 Beginnings? No opposition. Good morning, Mr. Whitney.

1669

1670 Mr. Whitney - Good morning, Madam Chairman. I'd like to remind the Commission
1671 that the approval of this POD also includes a request for a transitional buffer deviation. A
1672 transitional buffer of 25 feet is required between the M-1 District and the O-3 District that is to
1673 the west. A deviation, although they're providing a majority of it, a great majority of the 25-
1674 foot buffer, their request is only to have the dumpster encroach into the 25-foot buffer. Staff
1675 would recommend approval of the transitional buffer. I'd also add that the buffer is required,
1676 because of the zoning distinction between M-1 and O-3, the uses between these two properties
1677 would be comparable to day care and an office building next door. This is a revised POD,
1678 POD-8-97, being an additional parking area for the Circuit City Headquarters. The parking
1679 lot is partially completed at this time. They will use the northern portion of this.

1680

1681 I've asked the applicant what the status of completion of the parking lot. And at this time,
1682 Circuit City is waiting to see when they will complete it. Staff was asking that question
1683 because of the circulation question...Circuit City employees will be predominantly using this
1684 day care. Staff would like this being improved, the parking was completed.

1685

1686 Ms. Dwyer - You said you don't know when the parking lot will be completed? Is
1687 that...

1688

1689 Mr. Whitney - No. I've asked the question, but I've not been given an indication when
1690 they plan to complete the parking lot. It is graveled now, and the curb and gutter is installed.
1691 The BMPs that were associated with that have been completed, but they've chosen to...

1692

1693 Mrs. Wade - Regarding that dumpster enclosure, we'll deal with the deviation here
1694 first. I assume they won't be having trash pick up busy hours and in the morning and evening
1695 when the customers or children would be delivered.

1696

1697 Mr. Whitney - The applicant is here from Foster & Miller, representative for the
1698 applicant, excuse me. They can probably answer that question. That would certainly make
1699 sense.

1700

1701 Mrs. Wade - Make sense. Thank you.

1702

1703 Mr. Whitney - The plan on your screen, I would point out, is a revised plan from what
1704 you have in your packet. The staff was looking at traffic circulation as being somewhat of a
1705 problem in this area. And the Fire Division has a question about truck turn around.

1706

1707 On the southerly portion of this property, a gravel area, part of the parking lot was added as a
1708 place where a fire truck could turn around. It would be cabled off to not be a through way.

1709 However, it looked like Traffic Engineering needed to take another look at this and came up
1710 with a one-way pattern, which is platted on a map on your screen. It is a revised plan.

1711

1712 With the improved traffic circulation, staff feels we're not in need of Condition No. 28, after
1713 discussing this with the applicant. There should be plenty of ability for traffic to flow in and
1714 out of here at the busy time of the day, morning and evenings. With that, staff would
1715 recommend approval of this plan. I'll take any questions that you may have.

1716

1717 Mrs. Wade - As I understand it, a guard rail is to be added to that retaining wall
1718 between that and the BMP.

1719

1720 Mr. Whitney - That's correct.

1721

1722 Ms. Dwyer - Is that parking area on the southeastern sort of corner of the property, is
1723 that part of this site?

1724

1725 Mrs. Wade - That's employees.

1726

1727 Mr. Whitney - Yes. It is.

1728

1729 Ms. Dwyer - That's for employees?

1730

1731 Mr. Whitney - The curb and gutter has been installed along there. But it will be paved
1732 and become parking spaces. It's been discussed, and employees would use this area to stay
1733 away from the potential drop off area...side of the building.

1734

1735 Ms. Dwyer - Because the fence goes between the day care and the parking lot.

1736

1737 Mr. Whitney - There is a fence around the play area. Yes.

1738

1739 Ms. Dwyer - And what kind of fence is that?

1740

1741 Mr. Whitney - Mrs. Wade was referring to the guard rail on top of a retaining wall by

1742 the parking spaces next to the BMP.

1743

1744 Mrs. Wade - But then they have another fence proposed. So between that parking and
1745 the playground, do we have a detail on the fence? What kind of fence?

1746

1747 Ms. Dwyer - That was the fence I was asking about.

1748

1749 Mrs. Wade - Yes. That was what she was asking about.

1750

1751 Mr. Whitney - Oh. I'm sorry. I'll have to defer that question to the applicant.

1752

1753 Mrs. Wade - Okay. Basically, it's a fairly tight site. But Public Works is satisfied
1754 now with the circulation as it is on the screen—the revised plan.

1755

1756 Ms. Dwyer - Am I reading this correctly? Where are the outdoor play areas? In the
1757 rear and on both sides inside the fence?

1758

1759 Mr. Whitney - Yes. The front entrance to the building is here (referring to slide). The
1760 fence would follow around in this area up to the retaining wall on the property line and around
1761 through here. There would be a gate here and here.

1762

1763 Ms. Dwyer - Will this be grassy area in here, or do we know that?

1764

1765 Mr. Whitney - I'm assuming it will be a grass area – a play area, yes.

1766

1767 Mrs. Wade - It currently isn't anything on this site in terms...

1768

1769 Mr. Whitney - It currently is a gravel parking lot.

1770

1771 Ms. Dwyer - You may not know this, because we don't usually ask this question. We
1772 don't usually look into this question, but what percent of the site would consist of outdoor play
1773 area; useable outdoor play area?

1774

1775 Mr. Whitney - I've heard that the State has a requirement of so many square feet per
1776 child. Again, I don't know the answer.

1777

1778 Ms. Dwyer - Maybe I can ask the applicant. Okay. Any other questions for Mr.
1779 Whitney? Thank you. Would you like to hear from the applicant, Mrs. Wade?

1780

1781 Mrs. Wade - Well, probably to answer the questions we have about the fence and the
1782 play area. I think that play area ratio thing does come up sometimes. It varies a lot from as a
1783 practical matter, but what the requirements are, I don't know.

1784

1785 Mr. Akers - Good morning, ladies and gentlemen. My name is Chris Akers. I'm
1786 with Foster & Miller.

1787

1788 Ms. Dwyer - What percent of the site is available outdoor play area?
1789

1790 Mr. Akers - I don't think it's a specific number. I'm not sure of any specific square
1791 footage. I don't have that information.
1792

1793 Ms. Dwyer - It looks very small to me. How many children will be here? Do you
1794 know?
1795

1796 Mrs. Wade - Somewhere I got 234 kids max, with 17 per room. Does that sound
1797 right?
1798

1799 Mr. Akers - I don't remember the number off the top of my head. This plan was
1800 given to me by the architect and we discussed the play area. And we have made some
1801 adjustments. So, it is typical of the day care centers they do around the nation. They have
1802 certain play equipment arranged for certain areas, and it does fit their typical design.
1803

1804 Mr. Whitney - On your floor plan that's included in your packet. It's indicated as 234
1805 children...
1806

1807 Ms. Dwyer - Two hundred thirty four? Do we not know the square footage of the
1808 outdoor play area?
1809

1810 Mr. Akers - No, ma'am, not at this time.
1811

1812 Ms. Dwyer - Do you know what the minimum State requirement is?
1813

1814 Mrs. Wade - Is somebody here from the day care? You're the engineer.
1815

1816 Mr. Akers - Yes. I'm the only person...
1817

1818 Mrs. Wade - You're the only person here for this case?
1819

1820 Mr. Akers - Yes.
1821

1822 Mrs. Wade - Well, anyway, in order to get a license, I assume they have to meet
1823 whatever that is.
1824

1825 Ms. Dwyer - I know, but it appears that the State requirements must be fairly
1826 minimal. Will this be a grassy area or...
1827

1828 Mr. Akers - Some grass and some mulch area protecting children from falling. The
1829 only part that's concrete as you can see is kind of sprinkled around with the sidewalks around
1830 the building. Everything else would either be grass or mulch. All within, inside the fence and
1831 between the sidewalk.

1832

1833 Mrs. Wade - And what kind of fence is it?

1834

1835 Mr. Akers - I spoke to the architect about that. He typically likes to put a chain link
1836 fence around the other day cares in the nation. He is open to other possibilities, particularly a
1837 chain link fence. They like to have some softer feel to the site.

1838

1839 Mrs. Wade - Okay. And it will be landscaping around it?

1840

1841 Mr. Akers - Yes.

1842

1843 Ms. Dwyer - I'm sorry. I'd just have to say it strikes me as "prison like" to have a
1844 chain link fence, not much outdoor grassy area and 234 children, you know, in this small
1845 building. You don't have to respond to that.

1846

1847 Mrs. Wade - We don't have to send ours there.

1848

1849 Ms. Dwyer - Thank you. Any other questions by Commission members of the
1850 applicant? Ready for a motion, Mrs. Wade?

1851

1852 Mrs. Wade - Yes. First, I suppose we need to waive the time for the revised plan. I
1853 know they've been working with Public Works on it until pretty much until the last minute.
1854 So, I move that it be accepted.

1855

1856 Mr. Archer - Second.

1857

1858 Ms. Dwyer - Motion to waive the time limits by Mrs. Wade, seconded by Mr.
1859 Archer. All in favor of the motion say aye...all those opposed by saying nay. The vote is
1860 unanimous.

1861

1862 The Planning Commission granted approval to waive the time limit for the revised plans.

1863

1864 Mrs. Wade - What was the question, Mr. Whitney?

1865

1866 Mr. Whitney - Did you include, "transitional buffer?"

1867

1868 Mrs. Wade - No. I haven't gotten to that yet. Next is the transitional buffer
1869 deviation which is only a small area there. As I said, I assume they won't be collecting trash
1870 at the same time that the children are coming and going.

1871

1872 Mr. Whitney - Not during peak hours.

1873

1874 Mrs. Wade - ...It would get even more crowded. It is, as Mr. Whitney said, it does
1875 back up to a parking lot next to an office, so it shouldn't be a problem. It would still be 30
1876 feet of buffer there for that short distance. So I move that the transitional buffer deviation be

1877 granted.

1878

1879 Mr. Archer - Second.

1880

1881 Ms. Dwyer - Motion by Mrs. Wade, seconded by Mr. Archer to permit the
1882 transitional buffer deviation. All in favor of the motion say aye...all those opposed by saying
1883 nay. The motion carries.

1884

1885 The Planning Commission approved the transitional buffer deviation for POD-77-99,
1886 Knowledge Beginnings - Deep Rock Road (POD-8-97 Revised)

1887

1888 Mrs. Wade - All right, now, for the POD, I move POD-77-99, which seems to meet
1889 the basic requirements, Deep Rock Road, be approved. This is the revised plan that we see on
1890 the screen with the one-way traffic circulation through the parking lot on the north side. I
1891 move it be approved, subject to the annotations, the standard conditions, and additional
1892 conditions, 9 Amended, to bring landscape plan back, 23 through 31, but omit 28, which will
1893 mean renumbering the last three and move it be approved.

1894

1895 Mr. Archer - Second again.

1896

1897 Ms. Dwyer - Motion by Mrs. Wade, seconded by Mr. Archer. All in favor of the
1898 motion say aye...all those opposed by saying nay. The motion carries.

1899

1900 The Planning Commission approved POD-77-99, Knowledge Beginnings - Deep Rock Road
1901 (POD-8-97 Revised), subject to the standard conditions attached to these minutes, the
1902 annotations on the plan and the following additional conditions:

1903

1904

1905 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for
1906 review and Planning Commission approval prior to the issuance of any occupancy
1907 permits.

1908 23. The easements for drainage and utilities as shown on approved plans shall be granted to
1909 the County in a form acceptable to the County Attorney prior to any occupancy permits
1910 being issued.

1911 24. The developer shall provide fire hydrants as required by the Department of Public
1912 Utilities in its approval of the utility plans and contracts.

1913 25. Any necessary off-site drainage easements must be obtained in a form acceptable to the
1914 County Attorney prior to final approval of the construction plans by the Department of
1915 Public Works.

1916 26. Deviations from County standards for pavement, curb or curb and gutter design shall
1917 be approved by the County Engineer prior to final approval of the construction plans by
1918 the Department of Public Works.

1919 27. The temporary gravel temporary turnaround shall be properly compacted and
1920 maintained at all times.

1921 28. In the event of any traffic backup which blocks the public right-of-way as a result of

- 1922 congestion, the owner/occupant shall provide traffic control to relieve congestion.
- 1923 29. Storm water retention, based on the 50-10 concept, shall be incorporated into the
1924 drainage plans.
- 1925 30. Insurance Services Office (ISO) calculations must be included with the utilities plans
1926 and contracts and must be approved by the Department of Public Utilities prior to the
1927 issuance of a building permit.
- 1928 31. Approval of the construction plans by the Department of Public Works does not
1929 establish the curb and gutter elevations along the Henrico County maintained right-of-
1930 way. The elevations will be set by Henrico County.

1931

1932 **PLAN OF DEVELOPMENT**

1933

POD-78-99
Pier 1 Imports -
Brookhollow Center

**Foster & Miller, P.C. for S & K Famous Brands, Inc. and
BR of Wisconsin 24, LLC c/o Centres Development:**
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, 17,029 ~~16,750~~ retail building. The 2.32
acre site is located on the northeast corner of W. Broad Street
(U.S. Route 250) and Brookriver Drive on part of parcel 47-
4-A-2A. The zoning is M-1C, Light Industrial District
(Conditional) and WBSO (West Broad Street Overlay)
District. County water and sewer. **(Three Chopt)**

1934

1935 Mr. Marlles - The staff report will be given by Kevin Wilhite.

1936

1937 Ms. Dwyer - Any one in the audience in opposition to POD-78-99 Pier One Imports at
1938 Brookhollow Center? No opposition. Mr. Wilhite.

1939

1940 Mr. Wilhite - The revised site plan was just handed out to you. We received this
1941 yesterday. You would need to waive the time limits to accept it. The revisions show a
1942 building that's slightly larger. The building size has been increased to 17,029 square feet. It
1943 also shows an altered loading area in the back. This loading area was adjusted to connect the
1944 two behind the Pier 1 and also the retail spaces.

1945

1946 Speaking with the Traffic Engineer yesterday afternoon, we are recommending that a
1947 landscape strip be placed between the right of way; there's a private road in the back and the
1948 building. This would be 5 by 50 feet in length to provide more landscape area to be shown on
1949 the plan. It has been discussed with the applicant's representative. They are in agreement to
1950 providing that.

1951

1952 The revised plan also shifts the building to meet a 50-foot setback off of Brookriver Drive on
1953 the side. Originally, the staff had recommended that this be considered part of the shopping
1954 center with the adjacent S & K Building that's already built. The applicant had difficulty
1955 meeting setback requirements, in particular, in the rear. They only show a 40-foot setback off
1956 the property line which runs down the middle of the driveway in the back.

1957

1958 Due to the location of the setback, staff is now recommending that this not be considered a
1959 part of the shopping center. We have an agreement by the applicant to provide the 50-foot
1960 setback off Brookriver. And his plan does reflect that. Staff feels that the setback in the rear
1961 of the building, since it is not visible from Broad Street, it's not critical, and, therefore, would
1962 not apply shopping center setbacks to this development.

1963

1964 We did ask that the applicant look at the architectural design of the building in hopes of
1965 creating a little bit better match with the existing S & K next door. It is my understanding that
1966 he has a presentation for us here that he can address that issue. I'd be happy to answer any
1967 questions you may have.

1968

1969 Ms. Dwyer - Thank you, Mr. Wilhite. Are there any questions for Mr. Wilhite by
1970 Commission members?

1971

1972 Mrs. Wade - So, all of your concerns have been addressed, basically?

1973

1974 Mr. Wilhite - Yes.

1975

1976 Mrs. Wade - All right, thank you. Well, the applicant can confirm this, but they
1977 intend to leave all the existing landscaping along Broad and the...

1978

1979 Mr. Wilhite - There should be a requirement all the work is completed along Broad
1980 Street. We specifically asked them to leave the entrance feature there. The only work being
1981 done is the extension of the sidewalk along Brookriver Drive. The rest of the improvements
1982 are in the rear of the site.

1983

1984 Mrs. Wade - So much of what was put there is the original Brookhollow plans remain
1985 there. Thank you. Of course, it is in that Overlay too.

1986

1987 Mr. Wilhite - Yes.

1988

1989 Mrs. Wade - ...which I think you mentioned. Thank you.

1990

1991 Mr. Parker - Mr. Wilhite is correct. The limits of construction on the northern side
1992 of the existing BMP and the existing landscaping along the Brookriver Drive entrance will stay
1993 100 and so odd feet from Broad Street with any disturbances that are proposed. So, we're not
1994 getting down into any of that area. It's shaded on the site plan now as existing. All those
1995 shaded areas are to remain undisturbed.

1996

1997 The questions that we've all worked out here recently on the material types, etc., and colors
1998 on the building. I did ride by the S&K Building yesterday after we finished speaking. I was
1999 late for supper, but we're okay.

2000

2001 The brick that is along the lower portion of the existing S&K retail center is effectively the

2002 same stone and granite. It is darker brown brick, then the lighter white dryvit or EFIS that
2003 they have on that building.

2004

2005 Fundamentally, this is just a negative of the colors used on the S&K. The question you had,
2006 Mrs. Wade, regarding the blue, the potential blue band around the cornice does not exist. It is
2007 not blue band...The only blue is...

2008

2009 Mrs. Wade - All right. In case this question is about come up, explain, then, why the
2010 landscaping has to be limited behind the building next to Brookriver Boulevard?

2011

2012 Mr. Parker - Yes ma'am. We are limited in increasing the landscaped areas, as we
2013 have in the last two days with Planning and Public Works. We've limited the maneuverability
2014 of the tractor trailers that deliver to this building to a loading area that is 14.5 to 15 foot in
2015 width. A clear opening from bollards that protect the building so the truck does not run into
2016 the building and to give separation from the landscape area so we don't run over the landscape
2017 area. You all have the site plan before you?

2018

2019 Mrs. Wade - Yes. We all have one.

2020

2021 Mr. Parker - I'll kind of walk through it if you like or we can do it on the screen,
2022 either way. But on the site plan before you, you see the tractor trailer that's shown in that
2023 back area. That tractor trailer will enter from the east in a westwardly direction. He will pull
2024 in along the rear of the building. The service area for the building is right here (referring to
2025 slide). That is the receiving door. As the tractor trailer pulls in, he'll pull up the length of the
2026 building and maneuver himself in a backing maneuver to align himself with the receiving.

2027

2028 When he exits, he'll exit out and pull in a forward direction out onto S & K Drive, which is
2029 now private. The purpose behind this landscape strip is to buffer this receiving area. We
2030 agree with that. We have worked out the total lengths and all for this landscape strip in order
2031 to allow this tractor trailer not to block the oncoming traffic that would be coming in this
2032 direction. He needs a certain amount of room to be able maneuver and get his vehicle onto the
2033 land in which he belongs.

2034

2035 And Traffic has reviewed this and supported this layout. Planning has agreed to the revisions
2036 along this landscaped area, as well.

2037

2038 Mrs. Wade - Okay. Thank you. No, I, too, Mrs. Dwyer, share your concern for the
2039 guests at hotels and motels in that general environment. But this seems to be the best they are
2040 able to do here. They are going to put that landscaping and it's across the parking lot.

2041

2042 Mr. Parker - Yes ma'am. We're going to do a speculative motel has always been
2043 shown with some type of development along this area. They knew what was coming into this
2044 area. We have actually carried the same materials through the entire - on all four elevations
2045 of the building. And we really have upgraded this building...

2046

2047 Mrs. Wade - No. I understand. Okay. Thank you. Any other questions?
2048

2049 Ms. Dwyer - Are there any other questions by Commission members? Okay. Ready
2050 for a motion.
2051

2052 Mrs. Wade - Do we have to waive anything here?
2053

2054 Mr. Wilhite - We received the plans yesterday, so to accept the revised plans you have
2055 to waive the time limit.
2056

2057 Mrs. Wade - Okay. All right, then, I move that we waive; as I said, we were all
2058 again in other departments working on this until yesterday. I move that the time limit be
2059 waived to accept the revised plans.
2060

2061 Mr. Archer - Second.
2062

2063 Ms. Dwyer - Motion by Mrs. Wade, seconded by Mr. Archer. All in favor of the
2064 motion say aye...all those opposed by saying nay. The motion carries.
2065

2066 Mrs. Wade - You know the main thing is, they get it here. Okay, for POD-78-99,
2067 Pier One Imports, I move it be approved; that is the revised plan that we saw on the screen a
2068 minute ago.
2069

2070 Mr. Wilhite - Excuse me, for interrupting, Mrs. Wade. I forgot to mention, there's
2071 one condition on your addendum.
2072

2073 Mrs. Wade - Yes. I see.
2074

2075 Mr. Wilhite - It pertains to the shifting of the building. ...This is more or less a
2076 standard condition...
2077

2078 Mrs. Wade - Yes. Thank you. I did catch that. I don't always. I move it be
2079 approved with the revised plan, subject to the standard conditions, annotations on the Plan, the
2080 following additional conditions 23 through 30 with 30 on the addendum as Mr. Wilhite
2081 described.
2082

2083 Mr. Archer - Second.
2084

2085 Ms. Dwyer - Motion by Mrs. Wade, seconded by Mr. Archer to permit the
2086 transitional buffer deviation. All in favor of the motion say aye—all those opposed by saying
2087 nay. The motion carries.
2088

2089 The Planning Commission approved POD-78-99, Pier One Imports, subject to the annotations,
2090 the standard conditions, and additional conditions 23 through 30 as follows:
2091

2092

2093 23. The easements for drainage and utilities as shown on approved plans shall be granted to
2094 the County in a form acceptable to the County Attorney prior to any occupancy permits
2095 being issued.

2096 24. The developer shall provide fire hydrants as required by the Department of Public
2097 Utilities in its approval of the utility plans and contracts.

2098 25. A standard concrete sidewalk shall be provided along the east side of Brook River
2099 Drive.

2100 26. Outside storage shall not be permitted.

2101 27. Deviations from County standards for pavement, curb or curb and gutter design shall
2102 be approved by the County Engineer prior to final approval of the construction plans by
2103 the Department of Public Works.

2104 28. Insurance Services Office (ISO) calculations must be included with the utilities plans
2105 and contracts and must be approved by the Department of Public Utilities prior to the
2106 issuance of a building permit.

2107 29. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the
2108 Planning Office and approved prior to issuance of a certificate of occupancy for this
2109 development.

2110 30. Any existing drainage and utility easements in conflict with the footprint of this
2111 building shall be vacated prior to the issuance of any building permits.

2112

2113 **THE PLANNING COMMISSION TOOK A BREAK AT THIS TIME AND**

2114

2115 **MR. VANRARSALL LEAVES AND RETURNS LATER DURING THE MEETING.**

2116

2117 **PLAN OF DEVELOPMENT (Deferred from the September 29, 1999, Meeting)**

2118

POD-59-99

McBal Office Building -
Technology Park Drive

**Balzer & Associates, P.C. for Virginia Center Inc. and
McBal 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 two-story, 15,375 square
foot office building. The 1.90-acre site is located on the north
line of Technology Park Drive, 250 feet east of its intersection
with J.E.B. Stuart Parkway on part of Parcels 33-A-64A and
52A. The zoning is M-1C, Light Industrial District
(Conditional). County water and sewer. **(Fairfield)**

2119

2120 Mr. Marlles - The staff report will be given by Mrs. News.

2121

2122 Ms. Dwyer - Is there any one in the audience in opposition to POD-59-99 McBal Office
2123 Building on Technology Park Boulevard? No opposition. Mrs. News.

2124

2125 Ms. News - The building has been revised to eliminate the roof originally proposed and to
2126 provide a flat roofed all brick structure in keeping with the other buildings in this development. The
2127 plans just distributed show the original submission as well as the revised submission, as the original

2128 submission was inadvertently left out of your agenda packet. It will be necessary to waive the time
2129 limits on this project as minor revisions were made after the deadline. Staff recommends approval of
2130 the revised plan and revised architectural as annotated with the standard conditions and the additional
2131 conditions on your agenda.

2132

2133 Ms. Dwyer - Thank you, Ms. News. Any questions for Mrs. News by Commission
2134 members?

2135

2136 Mr. Archer - Mrs. News, this is inclusive of what you and I discussed yesterday, then?

2137

2138 Ms. News - That is correct.

2139

2140 Mr. Archer - Okay.

2141

2142 Ms. Dwyer - Ready for a motion?

2143

2144 Mr. Archer - I am, Madam Chairman, unless somebody else has questions. Okay, I move to
2145 waive the time limits on the late submission.

2146

2147 Mrs. Wade - Second.

2148

2149 Ms. Dwyer - Motion by Mr. Archer, seconded by Mrs. Wade. All in favor of the motion say
2150 aye...all those opposed by saying nay. The motion to waive time limits carries.

2151

2152 Mr. Archer - Okay. I move approval of POD-59-99 McBal Office Building at Technology
2153 Park Drive, subject to the annotations on the plans, standard conditions for developments of this type,
2154 and the additional conditions 23 through 28.

2155

2156 Mrs. Wade - Second.

2157

2158 Ms. Dwyer - Motion by Mr. Archer, seconded by Mrs. Wade. All in favor of the motion to
2159 approve POD-59-99 say aye...all those opposed by saying nay. The motion carries.

2160

2161 The Planning Commission approved POD-59-99, McBal Office Building at Technology Park Drive,
2162 subject to the standard condition attached to these minutes for developments of this type, the
2163 annotations the plans and the following additional conditions. Mr. Vanarsdall was absent.

2164

2165 **23.** The easements for drainage and utilities as shown on approved plans shall be granted to the
2166 County in a form acceptable to the County Attorney prior to any occupancy permits being
2167 issued.

2168 **24.** The developer shall provide fire hydrants as required by the Department of Public Utilities in
2169 its approval of the utility plans and contracts.

2170 **25.** Any necessary off-site drainage easements must be obtained in a form acceptable to the County
2171 Attorney prior to final approval of the construction plans by the Department of Public Works.

2172 **26.** Deviations from County standards for pavement, curb or curb and gutter design shall be

2206

2207 There is only one issue which has not been fully resolved at this point in time. The proffers
2208 require that the loading areas be designed to minimize visibility from adjacent "A" and "R"
2209 Districts. Due to the road exposure on three sides of the project, the loading and service spine
2210 is probably located as well as possible on the site. A 35-foot buffer to be landscaped,
2211 basically, in accordance with the transitional buffer requirements, as detailed by the proffers,
2212 is provided between the shopping center and the adjacent residential properties.

2213

2214 The minimum required width is exceeded in some areas. The site conditions on the adjacent
2215 parcels do not place residential structures, for the most part, directly adjacent to the loading
2216 areas. There are, however, two locations where single-family residential lots, and an
2217 apartment building directly abut the minimum buffer.

2218

2219 In these locations, staff has recommended a masonry wall be constructed, and the applicant
2220 prefers to install landscaping and, perhaps, a fence. The applicant has asked that a final
2221 decision on the treatment of the buffer be made with the Landscape Plan review which must
2222 come back to the Planning Commission. At that time, the clearing will be complete, the
2223 buildings located and the actual site conditions will be apparent. Staff can agree with this
2224 approach with the knowledge that the wall still may be recommended, or may be
2225 recommended individually at loading areas behind the buildings.

2226

2227 Upon resolution of this remaining issue, staff recommends approval of the revised staff plan as
2228 annotated, with conditions on your agenda, and the additional conditions on the addendum.
2229 The applicant is prepared to make a presentation to you and answer any questions if there are
2230 no questions of staff.

2231

2232 Ms. Dwyer - Thank you, Ms. News. Any questions by Commission members of Ms.
2233 News?

2234

2235 Mr. Archer - So, Ms. News, what you're saying, then, is that we bring this back, and
2236 if it appears that the recommendation for the fence is still warranted, well, I guess I'll have to
2237 ask the applicant if they're willing to construct that, at that point in time. But is that the
2238 approach that you're talking about.

2239

2240 Ms. News - That's the approach we're talking about. That at the time of the
2241 Landscape Plan, they would still be open to consideration of the wall at that point. They're
2242 just asking that we delay it, and look at it at that time.

2243

2244 Mr. Archer - How high a fence are we talking about?

2245

2246 Ms. News - Staff recommended six feet. The grade behind the building where the
2247 single family residential structures most closely abut, that would be the sporting goods store,
2248 drops down quite a bit there.

2249

2250 Mr. Archer - Okay.

2251

2252 Ms. News - So, we're looking more for a screening of the trucks that would be going
2253 back and forth and separation between these properties and children and whatever reason. The
2254 staff feels that landscaping alone would insufficient for that because of the amount of traffic
2255 and activities that would be happening behind the shopping center.

2256

2257 Mr. Archer - Okay.

2258

2259 Ms. Dwyer - What is the likelihood that these existing woods will remain? These are
2260 adjacent to Magnolia Ridge, Section 1, kind of behind the second store next to what I believe
2261 will be the Dick's Sporting Goods?

2262

2263 Ms. News - There's no woods between the single-family residential property. But
2264 there is some woods past that in this area here. And those are cemetery lots. It should stay
2265 there. They also have some woods in this area here. And there is a creek running through
2266 there and their engineer can tell you a little bit more about that.

2267

2268 Ms. Dwyer - So, are those to be preserved.

2269

2270 Ms. News - Yes.

2271

2272 Ms. Dwyer - Those existing woods? And the apartment complex is a little bit to the
2273 east, right, the R-6C?

2274

2275 Ms. News - Correct.

2276

2277 Ms. Dwyer - And that's where the other masonry wall is?

2278

2279 Ms. News - Yes. If you look on the original staff plan in your agenda that has all the
2280 comments on it, this apartment building right there (referring to slide) is directly backing up to
2281 the property line. Staff has recommended a wall in that location also because of the traffic that
2282 would be coming down from the parking lots, possibly, using that loading exit there to exit the
2283 shopping center.

2284

2285 For the most part the rest of the area between is parking lots. There are garages at the
2286 apartments that back up to the property line, that, in themselves, provide a screen for the
2287 residential units.

2288

2289 Ms. Dwyer - Because the shopping center is right up against the property line here.

2290

2291 Ms. News - Correct.

2292

2293 Ms. Dwyer - Do they meet or exceed their parking requirements?

2294

2295 Ms. News - Yes. They do. They exceed them by approximately 300 spaces.

2296

2297 Mrs. Wade - Three hundred and fifty-two (352). It seems like a lot of extra parking
2298 places. There are several conditions here that deal with noise. I don't see anything about leaf
2299 blowing, leaf clearing. I don't think that's what 44 is intended to cover. When they get the
2300 gas ones going, you can hear for blocks, and they're not too picky about what time they come.
2301

2302 Ms. News - This condition came directly from, as a result of conversations with The
2303 Villas, because they already have some outdoor dining, at the lake. They were concerned
2304 about the possibly of having music out there.

2305

2306 Mrs. Wade - I assumed that that's what that meant. But sometimes we'll have
2307 a condition or proffer that will limit the time for the leaf blowing, and parking lot cleaning.
2308 The dumpster service is delivery all year. It's all limited here, but nothing about the parking
2309 lot clearing. Sometimes they're out at 3:00 or 4:00 o'clock in the morning, because I know.

2310

2311 Ms. News - If there's a concern, we will talk with the applicant about adding,
2312 "Dumpster and maintenance activities shall occur between 7:00..."; the same time...That
2313 would be a possibility.

2314

2315 Mrs. Wade - We even have from 7:00 until sometime earlier in the evening. They
2316 sometimes do go all night. Yes, I had a question, too, about the parking surplus, but I assume
2317 they feel they need that.

2318

2319 Of course, you have the usual condition about any auto servicing to be conducted indoors.
2320 There are apparently two buildings there at are going to be a business of that nature. I was
2321 glad to see, at the least the doors face inward toward the parking lot. And also, perhaps, their
2322 rendering is a little more forthright than a lot that we see, the pictures that they have doors
2323 open with servicing going on inside which is sometimes an issue. It's supposed to be an
2324 enclosed building, but virtually in good weather, it's never enclosed.

2325

2326 Ms. News - That was added for the car stereo installation services for the Circuit
2327 City building which is actually behind the shopping center.

2328

2329 Mrs. Wade - Yes. I'm looking at the two down at the corner. Number outparcels 2
2330 and 3 in the rendering have big doors open.

2331

2332 Ms. News - Those are retail. They're intended to be for retail use.

2333

2334 Mrs. Wade - They're not having servicing? They don't have names on them like a lot
2335 of the others do, but they have the pictures here.

2336

2337 Ms. News - The applicant may be able to tell you what tenants he has in mind, but it
2338 is the staff's understanding, those are retail use, not car uses. And the other three outparcels
2339 are restaurants.

2340

2341 Mrs. Wade - Oh. Okay. All right, it makes more sense on this plan because you've
2342 got parking across there. I couldn't reconcile the plan with the parking there, with the
2343 renderings with the doors open and the car servicing. It seemed to be some conflict there, but
2344 if what you're saying about the use applies...

2345

2346 Ms. News - They added some windows on the back of those buildings. They did
2347 have some blank sides originally. We were concerned about the appearance from the
2348 intersection there since its actually the rear of the building that's backing up to the road, would
2349 look like the back of a building...

2350

2351 Mrs. Wade - Thank you.

2352

2353 Ms. Dwyer - So, this car stereo installation, there will be people driving their cars into
2354 the rear of this shopping center next to the residentially-zoned property, and driving their cars
2355 off, to have the stereos installed. And, I assume, there'd be some noise associated with that as
2356 well? Now, did the conditions in the proffers require all of that to be done inside with the
2357 doors closed?

2358

2359 Ms. News - We have our standard condition in there. "Repair work shall be
2360 conducted entirely within the enclosed building..." They haven't added the wording that the
2361 doors should be closed. I guess you could...

2362

2363 Mrs. Wade - Exercise in futility.

2364

2365 Ms. Dwyer - Could we make sure that includes this? Audio installation may not be
2366 considered repair work.

2367

2368 Ms. News - We've had it interpreted that way before. We could add, "all repair and
2369 installation work," to be sure that's clear.

2370

2371 Mr. Archer - We could add some wording to No. 29. "All repair work, including
2372 audio installations..."

2373

2374 Ms. News - That would be fine.

2375

2376 Ms. Dwyer - Well, I'm concerned about the proximity of this shopping center, all the
2377 back door activities that are associated with, including this kind of activity, installation of car
2378 stereos. People back there loading and unloading, and noise associated with that. I think that
2379 this masonry wall is very appropriate. And, I also think maybe a chain link fence connecting
2380 those to limit people wandering from the rear of this shopping center into the residential area
2381 would also be appropriate to really try to seal off commercial activity from the residential.

2382

2383 Ms. News - Staff's annotated the plan, showing masonry wall behind the apartment
2384 building and these residential units.

2385

2386 Ms. Dwyer - Right.
2387
2388 Ms. News - Right. The area you're talking about, was Circuit City. We haven't
2389 added any annotations. There is a slope there. There's a small retaining wall at the bottom of
2390 the hill right now. We haven't annotated anything....
2391
2392 Ms. Dwyer - I guess my preference would be to see, you know, this entire property,
2393 given it's proximity to the houses and apartments, giving its proximity to the residential units,
2394 I think we should it be incumbent upon the commercial user to seal their activity off from the
2395 residences. So, would be looking for a chain link fence along that entire property line. What
2396 do you think, Mr. Archer? Is that...
2397
2398 Mr. Archer - We've had some discussion with the applicant, but let's let him do his
2399 presentation, first, and we'll try to address that. He may recall across the street from there's a
2400 neighborhood that has a fence running along the entire outer perimeter of it. And it has been
2401 good, in some instances, but in some other instances, it has not been. I hazard to say, there's
2402 two sides to a fence.
2403
2404 Ms. Dwyer - Okay.
2405
2406 Ms. News - And the applicant has just reminded me that there's an existing chain
2407 link fence that the apartments have provided along their property line, currently.
2408
2409 Ms. Dwyer - So, a portion of this is covered. Is that the R-5?
2410
2411 Ms. News - Yes. All the way out to Brook Road. I know that this apartment
2412 building that's closest to Brook Road has a 10-foot transitional buffer planting by proffer on
2413 their side and then behind that, a vinyl chain link fence I believe that runs right here along the
2414 property. There's nothing on the single-family side.
2415
2416 Ms. Dwyer - Well, if there's an existing chain-link fence, then maybe the landscaping
2417 on their side would be sufficient if there's already planting and the fence. Maybe additional
2418 planting would be appropriate. Okay. I don't have any additional questions. Any other
2419 questions for Mrs. News? So, you would like to hear from the applicant, Mr. Archer?
2420
2421 Mr. Archer - Yes ma'am.
2422
2423 Ms. Dwyer - Would the applicant come forward, please?
2424
2425 Mr. Archer - We couldn't let him do this presentation and then not let them show up.
2426
2427 Ms. Dwyer - That's right.
2428
2429 Mr. Tweed - Hello, everyone. My name is Mark Tweed and I'm the architect. I'm a
2430 principal at MCG Architects. I'm the Director of Design there. I'd like to share for you what

2431 we've done for the developer and the applicant of this project. Share with you some of the
2432 ideas we have and how we sort of took the inherent advantages of the site, which, I guess
2433 some people could have used as ...advantages and turn it into, I think, a fun sort of
2434 opportunity.

2435

2436 Let me just advance. This is a little sell promotion going on here. We've got a lot of retail,
2437 everyone, The Creeks at Virginia Center. Once again, this particular site had a creek that ran
2438 through it. And rather than to take it and pipe it underground, we thought what we would do
2439 is we would turn this into an amenity. First off, its retail. So, we've got to try to make these
2440 large users which everyone is fond of. We all love to go to them, but to create it as a
2441 humanistic fun environment that was in keeping with the community and also used whatever
2442 advantages were on the site to sort of make it as "people friendly" as possible.

2443

2444 What we have done in the basic layout is, we took the creek, and it is piped just under the
2445 parking area. It has a chance to merge at a reservoir or a small pond that if you'll notice some
2446 of the outparcels are nestled around to create some sort of outdoor dining around some of these
2447 restaurants overlooking this sort of pond, ducks, whatever type of fun, sort of serene
2448 environment we can create.

2449

2450 The ring road then becomes a really fun little bridge that goes across, as you can see, up there
2451 near the corner which is sponce and, then we treat sort of the runoff from the pond, we use
2452 rocks and stepping stones type rock to create some sort of a waterfall condition there; a slight
2453 water rumbling over the stones as it leaves the site. There, of course, is both of those other
2454 outparcels which, perhaps, a restaurant use can enjoy as well.

2455

2456 The area to the area of the large box users of course is heavily landscaped. That is the break
2457 between the existing conditions, the housing behind and, of course, the loading of the boxes as
2458 well.

2459

2460 This is an overall aerial perspective. It shows that view. Once again, the look that we have
2461 created, of course, was the brick use. The idea was to create a sort of fun, sort of warehouse
2462 look, very sort of 1930's, fun sort of brick facades with the old fashioned sort of gooseneck
2463 lamps-type of thing gently washing the sidewalk.

2464

2465 The idea that its awning and, of course, the outer buildings, if they're near a corner, picked up
2466 on that sort of the roofs. The roofs have sort of a tin look of a brick warehouse look sort of
2467 like down at the Tobacco Factory, that type of look of old Richmond.

2468

2469 And, then, of course, between those two you see the small bridge, of course, with the lamps,
2470 lamp posts on either end of that, and of course the creek that rumbles over the rock between
2471 the two. This is just an up close and personal of that condition. How we have used the water
2472 to turn it into a really fun amenity for this retail district. And, of course, this is what we used
2473 to help make this a "sense of place." We've all seen these type of uses done poorly. I think
2474 that using this amenity will certainly help as well as landscaping. Of course, the whole fun
2475 sort of warehouse look of the project will also add to it's charm.

2476

2477 This just shows sort of the break between the two buildings where there is a low wall that goes
2478 on. Green screen, a hedge type of thing, trees. This is from the other view.

2479

2480 These two sort of rough sketches are sort of a concept. This is where it all began. That idea
2481 that along the sidewalk where a lot of times the sidewalk is just, basically, just treated like
2482 concrete and its leftover space. We're going to turn this into the transition space. In
2483 particular, the Barnes and Noble, those types of tenants who want to have food uses, the
2484 cappuccino, and having the scone outside. This now becomes that transition space. It also is a
2485 fun way to break down these large "box" users. You get shade, and shadow and break these
2486 things down into a much more sort of architectural look to them. Number 1, toward the
2487 parking lot, and Number 2, you can use that as a space that really animates the sidewalk. It
2488 allows for the covering, for the sun, shading device, which, of course, you would need in the
2489 summer anyway. It also can be misted. In some places, we've actually misted it to keep it
2490 cool.

2491

2492 It becomes sort of the outdoor theatre, if you will, for the umbrellas and tables and chairs and
2493 the landscaping. The landscaping is now growing up the fragment so that all of these things
2494 begin to work as one to create a really nice sense of place so that its not just having "a cup of
2495 coffee on a table on a sidewalk," looking at the parking lot. These kinds of things are used to
2496 create this sense of place along this sidewalk area.

2497

2498 So, once again, this is an idea of that brick sort of warehouse fragment piece. The gooseneck
2499 lights that you'll see to the right are coming off of it, that kind of thing.

2500

2501 And, once again, here's another view that really helpful to show as you're approaching from
2502 your car. The way, along with the metal awnings, and the light sconces and these fragments
2503 done in brick and landscaping the sidewalk, this can be used to scale down those large box
2504 uses, and create something that along with shade and shadow and materials and landscaping,
2505 can create something that's very, very handsome and very, very useable with that sense of
2506 separation from the car when you're trying to enjoy that outdoor space.

2507

2508 And these are just, as we go down the entire front, these are facades of the project and how we
2509 used them with the different uses of Circuit Cities and Barnes and Nobles. As you can see,
2510 they all have a sense of an entry fragment done in the brick and the architectural sort of
2511 bygone era lighting. Some have fabric awnings. Some have metal awnings held by cables.
2512 Everything's in the same language and everything's in the same sort of family of materials, but
2513 there's a break up in several different things we used so that this project doesn't look like one
2514 monotone project.

2515

2516 Of course, the "different" comes in different colors and finishes. All of that can be applied as
2517 well to give this the "village feel," sort of warehouse vernacular. And this also deals with the
2518 elevations. Everyone always wants to know about the sides and the rear.

2519

2520 Once again, the brick is taking around the building. And, of course, we break it up with

2521 striping. It can either be done either with the brick or the block, as well. The fragments, as
2522 you'll see on the second one there, where it says "dips?" The fragment is taken around the
2523 corner so that it's not in just one dimensional. And, of course, then you also see, in the very
2524 first one, how that fragment stands in the front of the building as the entry point to the user.
2525 And, of course, this is the rear, as well, and how the brick is brought around and the striping
2526 is done to break of the scale of it down, as well give you (unintelligible) base. You also see
2527 that sort of hedged wall that stands between the two pieces there where the trees are beyond.

2528

2529 And these are outparcel buildings, the ones that are at the sort of spillway to the pond where
2530 the water runs over the stone. The idea here is to let these buildings actually have a tin
2531 pedimented roof. And, once again, those fragments were taken out. Those actually aren't
2532 doors on those fragments. They're actually the metal awning that comes off if held back with
2533 sort of the warehouse-style cable that holds it. So, the hope here is, not only will this
2534 architectural vernacular be used on the string of buildings, but also brought out to the
2535 outparcel buildings so that, you know, we've all seen them where the outparcel buildings just
2536 begin to sort of architecturally spin out of control and just became those objects sitting there.
2537 These actually will have the same architectural style as the larger users beyond. So, that this
2538 really is a sense of a village. It really is a sense of a place that just happens to have these uses
2539 and separated by the parking. And this just helps to show some of the amenities, the idea of
2540 the green screen. The idea, of course, benches and gooseneck lamp posts, awnings and brick
2541 style.

2542

2543 We had a lot of fun on this. The developer really wanted to sort of push what these centers
2544 could be like. We certainly had a good time doing it. Are there questions?

2545

2546 Ms. Dwyer - I'm sorry. I didn't get your last name.

2547

2548 Mr. Tweed - Tweed. Just like the fabric.

2549

2550 Mr. Archer - Mr. Tweed, you will recall when Mrs. News was doing the staff report,
2551 she talked about the probability that a fence might become an issue that we might have to
2552 resolve and Madam Chairman also raised that question. And, you know, I'm willing to see if
2553 we can bring this back at the time of landscape plan, and see how it just fits in with everything
2554 else.

2555

2556 You know I raised that issue because I have seen instances where activities occurred on one
2557 side or the other of a fence that you kind of wish hadn't happened. And, of course, I'm also
2558 aware that, of course, chain link fences aren't quite as bad, but solid fences can be at some
2559 point in time. But as long as you all are willing to agree to that, that if that landscape plan is
2560 something we need to look at something else in terms of a fence, are you willing to make that
2561 assertion?

2562

2563 Mr. Tweed - Yes. That's no problem.

2564

2565 Mr. Archer - Okay. And the other thing is, Mrs. Wade, mentioned leaf blowing. I

2566 didn't know people blew leaves at 4:00 o'clock in the morning, but they might.

2567

2568 Mr. Tweed - It's a real issue in Los Angeles.

2569

2570 Mr. Archer - Can we add, just as an addition to No. 42, I believe it is, "Dumpsters shall be serviced between the hours of 7:00 and 7:00..." Could we add "leaf blowing" to that condition?

2573

2574 Mr. Tweed - Yes sir.

2575

2576 Mr. Archer - Okay. And there was one more. Madam Chairman, made an observation about audio equipment being installed and that could probably work in Condition No. 29, if we specified that "All repair work, including audio installation, shall be conducted entirely within an enclosed building." Would that be any problem?

2580

2581 Mr. Tweed - No sir.

2582

2583 Mr. Archer - You're very agreeable. Those are all the questions I have, Madam Chairman, I might want to mention, unless anybody else has a question. Anybody else have a question?

2586

2587 Mrs. Wade - I'll ask him something in a minute.

2588

2589 Mr. Archer - Sure. Go ahead.

2590

2591 Mrs. Wade - This thing sort of came out of the blue. This whole center. I had forgotten it was that much business left over there. I asked about the two questions down at the corner. I'm still not quite sure. The outparcels that are at the main corner?

2594

2595 Mr. Tweed - Right.

2596

2597 Mrs. Wade - What are they intended to be?

2598

2599 Mr. Shore - They will be retail soft good users.

2600

2601 Ms. Dwyer - If you could just state your name for the record.

2602

2603 Mr. Shore - My name is Nathan Shore with Shore & Associates in Richmond. They are not automotive uses. They will be standard retail soft good uses; men's clothing, women's clothing, hair salon, bagel shop, Kinko's copies, those types of uses. They will not be automotive uses. The only automotive that you see would be the installation of those car stereos by Circuit City.

2608

2609 Mrs. Wade - Okay. Because it just occurred to me, too, there by the waterfall, I wondered how the business could take advantage of the surroundings, which might be more of

2611 a restaurant or something.

2612

2613 Mr. Tweed - That's correct.

2614

2615 Mrs. Wade - It didn't seem like a very good place for automobile service.

2616

2617 Mr. Tweed - No. That won't be an automobile service out there.

2618

2619 Mrs. Wade - Okay. I understand that. Thank you.

2620

2621 Mr. Tweed - Okay.

2622

2623 Ms. Dwyer - Mr. Tweed, you mentioned that the hope was that the outparcels would
2624 carry these same architectural themes forward. Is there any assurance that they will, or is this
2625 just a plan on the drawing board?

2626

2627 Mr. Tweed - No. There's some assurance.

2628

2629 Ms. Dwyer - In terms of unified ownership and requirement of the owner to have each
2630 building built.

2631

2632 Mr. Tweed - (Comment unintelligible).

2633

2634 Mr. Archer - Mr. Tweed, what is the rate of that water flow of that creek? Is there
2635 any possibility that creek could ever dry?

2636

2637 Mr. Tweed - I don't know.

2638

2639 Mr. Archer - I haven't seen it, but I just haven't paid that much attention to it. The
2640 worse thing in the world is a waterfall with no water in it.

2641

2642 Mr. Barber - Good morning, ladies and gentlemen. I'm Shawn Barber from Balzer &
2643 Associates, engineer on the project. This BMP, as you know, is going to be hydrated by
2644 wells...The waterfall system in front of the center is going to be some type of circulation with
2645 a pumping system that will keep those waterfalls forever flowing. We're working on the
2646 details of that right now. It's going to be constantly moving and constantly flowing. The
2647 BMP, itself, will be hydrated and kept...supplied by wells.

2648

2649 Ms. Dwyer - Is it the natural water flow supplemented by well water?

2650

2651 Mr. Barber - Yes ma'am. It is, as Mr. Archer had indicated in the event we have a
2652 dry summer (unintelligible) it will give us the opportunity to hydrate it (unintelligible).

2653

2654 Mr. Archer - We had discussed that, actually, Madam Chairman, but I just wanted to
2655 make sure the rest of you all were aware of that.

2656

2657 Mrs. Wade - I assume that everything, goodness knows, forget the proffers, that
2658 everything, the lights, and signs and all of those things conform to the proffers that are on this
2659 land already? I'll ask Mrs. News if she'd come back a minute, please.

2660

2661 Ms. News - We've marked lighting out as not a part of this approval. We'll deal
2662 with that at the time of lighting plan. There are proffers regarding both lighting and signage.
2663 The proffer for signage requires that signage conform to B-2 zoning. This is B-3 and B-2.
2664 And the proffers for lighting, I believe, are concealed source and half foot candle, are standard
2665 information. I think the zoning came about at the same time they were developing the lighting
2666 guidelines and the transitional buffer guidelines, and almost everything in there jives.

2667

2668 Mrs. Wade - Thank you.

2669

2670 Ms. Dwyer - I wonder if I could have some clarification about... I know we're not
2671 deciding about the fence. Was there a commitment to do whatever the Planning Commission
2672 wants back there as far as the fence is concerned? I mean I saw heads nodding, but I'm just
2673 wondering if there are any limitations if a masonry wall is deemed to be important, would that
2674 be acceptable and what do we mean by "masonry?"

2675

2676 Mr. Shore - Yes ma'am. Masonry that would match the architecture that exists in
2677 the center.

2678

2679 Ms. Dwyer - So, it looks like brick. And is this split-face, this stripe here in the
2680 front? Is that split face?

2681

2682 Ms. News - The proffers state the buildings are required to be 75 percent brick; on
2683 the sides they use a combination of split-face at the base, ...it's 75 percent brick.

2684

2685 Mrs. Wade - And what's in the back?

2686

2687 Mr. Shore - (Comment unintelligible.)

2688

2689 Mrs. Wade - Same thing in the back?

2690

2691 Mr. Archer - Yes ma'am.

2692

2693 Ms. News - The proffers also requires that all sides be similar.

2694

2695 Mrs. Wade - You certainly have given us a lot of graphic information here.

2696

2697 Ms. Dwyer - So, what was the statement on the fence?

2698

2699 Mr. Shore - It will match the architecture of the buildings if deemed necessary.

2700

2701 Ms. Dwyer - And, you're willing to do the masonry fence, if that's deemed
2702 necessary?
2703

2704 Mr. Shore - Yes ma'am.
2705

2706 Ms. Dwyer - Across the whole property line, or...
2707

2708 Mr. Shore - Well, in the areas that are indicated on the staff plan.
2709

2710 Ms. Dwyer - And, then, what about the other areas, if it's deemed that some sort of
2711 fencing is appropriate between the areas marked for masonry fences on the plan?
2712

2713 Mr. Shore - There's actually some limitations in the rear of the site that are caused by
2714 grading activities. There is approximately one area down near the apartments behind Circuit
2715 City. There's about a 16-foot difference of the apartments being that much higher. There is a
2716 combination of 3 to 1 slopes and a retaining wall...existing chain link fence on the apartment
2717 side...as the masonry wall would in other areas.
2718

2719 Ms. Dwyer - But, if that are any gaps?
2720

2721 Mr. Shore - ...whatever you feel is necessary...whether it's a combination of
2722 landscaping of fencing or a masonry wall...
2723

2724 Mrs. Wade - What are you doing about the HVAC then in terms of screening for the
2725 units?
2726

2727 Mr. Shore - They'll all be screened. There's actually a sketch in there...is a cross
2728 section to the...
2729

2730 Mrs. Wade - Which is going to be a problem, if, as you say, you are much lower than
2731 some of the neighbors.
2732

2733 Mr. Shore - (Comment unintelligible).
2734

2735 Ms. Dwyer - I'm sorry. I didn't hear what you said.
2736

2737 Mr. Shore - I'm sorry. Mrs. Wade had asked about the other buildings in those areas
2738 with the elevation changes and the screening of the mechanical equipment on the roof...in that
2739 35-foot transitional buffer; a combination of that and/or whatever other material that's used for
2740 a wall or a fence would take care of that. That 35-foot transitional buffer, we plan it to be
2741 very densely vegetated back there, probably in excess of what is the requirement.
2742

2743 Mrs. Wade - We don't need to have another Target roof.
2744

2745 Ms. Dwyer - I know we don't. The HVAC on what's labeled as "Dick's Sporting

2746 Goods,” I’m thinking of the noise factor, given the proximity to the homes.

2747

2748 Mr. Shore - Actually, the proffers that were set forth by the Villas Association, one of
2749 those proffers speaks to the infusion of sound. I think the way the proffer is written is that it
2750 is inclusive of Dick’s Sporting Goods and the Staples which is the adjacent building...and there
2751 will be sound infusors...

2752

2753 Ms. Dwyer - And that’s a part of the what?

2754

2755 Mr. Shore - The conditions.

2756

2757 Mr. Archer - That is Condition 43, Madam Chairman.

2758

2759 Mr. Shore - ...proffers by The Villas Association.

2760

2761 Ms. Dwyer - The Villas Association?

2762

2763 Mr. Shore - As Leslie spoke about earlier.

2764

2765 Ms. Dwyer - Okay. I don’t have any more questions. Anymore questions by
2766 Commission members? Okay. Are we ready for a motion?

2767

2768 Mr. Archer - Yes. Madam Chairman. I just want to also indicate, we’ve had several
2769 meetings on this and I did get some citizen calls from some residents of The Villas. So, we
2770 met with them. And they have formed a committee. And the Chairman of that committee or
2771 the President is Mr. Earl Clarke who used to work here in the County Planning staff in some
2772 capacity and he’s retired, and he was there.

2773

2774 As a result of that meeting, he did write a letter to Mr. Shore, which we have used a portion
2775 of that letter to enhance the conditions that are a part of this case. So, I think we’ve satisfied
2776 them to the point that we can. I have, personally, spoken to some of the residents who live in
2777 the single-family residences in Magnolia Ridge. They seem to be satisfied with the way we’re
2778 going.

2779

2780 And, well I guess I’ve got to concoct a motion out of all of this some kind of way. I move
2781 approval of POD-83-99 The Creeks at Virginia Center, subject to the annotations on the plan,
2782 standard conditions for developments of this type, and the additional conditions 9 Amended,
2783 23 Revised, and Nos. 24 through 46, subject to the revised language in No. 42 and Condition
2784 44 has to do with leaf blowing activities and 42 having to do with. I’m sorry, one of them
2785 was 29. Hold on one second.

2786

2787 Mrs. Wade - That’s the audio one.

2788

2789 Mr. Archer - Yes. Having to do with the audio installation being done within
2790 building. I think I included everything.

2791
2792 Ms. Dwyer - Mr. Archer, I may have missed a part of your motion. Did you amend
2793 also for lighting, or not?
2794
2795 Mr. Archer - I didn't. No.
2796
2797 Ms. Dwyer - Okay.
2798
2799 Mr. Archer - You'd rather see me add them. We talked about it.
2800
2801 Ms. Dwyer - Did you want to do that?
2802
2803 Mr. Archer - Yes. I'll add 11 Amended. I think there's enough activity there that the
2804 Commission might want to see it again. So, I'll add 11 Amended, along with 9 Amended.
2805
2806 Ms. Dwyer - Okay. Motion by Mr. Archer, do I have a second?
2807
2808 Mrs. Wade - Second.
2809
2810 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mrs. Wade. All those in
2811 favor say aye...all those opposed by saying nay. The motion carries.
2812
2813 The Planning Commission approved POD-83-99, The Creeks @ Virginia Center Shopping
2814 Center - Brook Road (U.S. Route 1), subject to the standard conditions attached to these
2815 minutes, the annotations on the plan, Nos. 9 and 11 Amended and the following additional
2816 conditions. Mr. Vanarsdall was absent.
2817
2818 9. **AMENDED** - A detailed landscaping plan shall be submitted to the Planning Office for
2819 review and Planning Commission approval prior to the issuance of any occupancy
2820 permits.
2821 11. **AMENDED** - Prior to the installation of the site lighting equipment, a plan including
2822 depictions of light spread and intensity diagrams and fixture mounting height details
2823 shall be submitted for Planning Office review and Planning Commission approval.
2824 23. The right-of-way for widening of Brook Road (U.S. Route 1), J.E.B. Stuart Parkway
2825 and Virginia Center Parkway as shown on approved plans shall be dedicated to the
2826 County prior to any occupancy permits being issued. The right-of-way dedication plat
2827 and any other required information shall be submitted to the County Real Property
2828 Agent at least 60 days prior to requesting occupancy permits.
2829 24. The easements for drainage and utilities as shown on approved plans shall be granted to
2830 the County in a form acceptable to the County Attorney prior to any occupancy permits
2831 being issued.
2832 25. The entrances and drainage facilities on Brook Road (U.S. Route 1) shall be approved
2833 by the Virginia Department of Transportation and the County.
2834 26. A notice of completion form, certifying that the requirements of the Virginia
2835 Department of Transportation entrances permit have been completed, shall be submitted

- 2836 to the Planning Office prior to any occupancy permits being issued.
- 2837 27. The developer shall provide fire hydrants as required by the Department of Public
2838 Utilities in its approval of the utility plans and contracts.
- 2839 28. A standard concrete sidewalk shall be provided along the south side of J.E.B. Stuart
2840 Parkway and the west side of Brook Road (U.S. Route 1).
- 2841 29. All repair work, including audio installation, shall be conducted entirely within the
2842 enclosed building.
- 2843 30. Insurance Services Office (ISO) calculations must be included with the utilities plans
2844 and contracts and must be approved by the Department of Public Utilities prior to the
2845 issuance of a building permit.
- 2846 31. Approval of the construction plans by the Department of Public Works does not
2847 establish the curb and gutter elevations along the Henrico County maintained right-of-
2848 way. The elevations will be set by Henrico County.
- 2849 32. Approval of the construction plans by the Department of Public Works does not
2850 establish the curb and gutter elevations along the Virginia Department of Transportation
2851 maintained right-of-way. The elevations will be set by the contractor and approved by
2852 the Virginia Department of Transportation.
- 2853 33. The developer shall install an adequate restaurant ventilating and exhaust system to
2854 minimize smoke, odors, and grease vapors. The plans and specifications shall be
2855 included with the building permit application for review and approval. If, in the
2856 opinion of the County, the type system provided is not effective, the Commission
2857 retains the rights to review and direct the type of system to be used.
- 2858 34. Any necessary off-site drainage easements must be obtained in a form acceptable to the
2859 County Attorney prior to final approval of the construction plans by the Department of
2860 Public Works.
- 2861 35. Deviations from County standards for pavement, curb or curb and gutter design shall
2862 be approved by the County Engineer prior to final approval of the construction plans by
2863 the Department of Public Works.
- 2864 36. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the
2865 Planning Office and approved prior to issuance of a certificate of occupancy for this
2866 development.
- 2867 37. The conceptual master plan, as submitted with this application, is for planning and
2868 information purposes only. All subsequent detailed plans of development and
2869 construction plans needed to implement this conceptual plan may be administratively
2870 reviewed and approved and shall be subject to all regulations in effect at the time such
2871 subsequent plans are submitted for review/approval.
- 2872 38. The ground area covered by all buildings and canopies shall not exceed in the aggregate
2873 25% of the total site area.
- 2874 39. No merchandise shall be displayed or stored outside of the building or on the sidewalk.
- 2875 40. All costs associated with provision of a future traffic signal at the entrance from Brook
2876 Road (U.S. Route 1) shall be borne by the developer of the property.
- 2877 41. Deliveries to all units shall be only between the hours of 7:00 a.m. and 11:00 p.m.
- 2878 42. All dumpsters shall be serviced and grounds maintenance shall occur between the hours
2879 of 7:00 a.m. and 7:00 p.m.
- 2880 43. All rooftop equipment for the units shall be screened from view and the units for

2881 Dick's Sporting Goods and Staples shall be surrounded by noise dampening structures
2882 to reduce, as far as practical, any noise from this equipment.
2883 44. Any outdoor activities permitted in the shopping center (except outdoor dining) shall
2884 end at 12 midnight, and any sound producing equipment used shall be located,
2885 arranged, and controlled so that no sound is produced that will exceed 65 decibels at
2886 the residential boundaries of The Villas at Virginia Center.
2887 45. Any freestanding sign located on Virginia Center Parkway and any sign attached to the
2888 buildings which is directed toward Virginia Center Parkway shall be internally lighted,
2889 if lighting is provided, and shall not emit a light level in excess of 1/2 foot candle at
2890 the residential boundaries of The Villas at Virginia Center.
2891 46. A minimum four-foot-high landscaped berm shall be provided along Virginia Center
2892 Parkway in areas which do not interfere with sight distance as determined by the
2893 Department of Public Works.

2894

2895 **PLAN OF DEVELOPMENT**

2896

POD-80-99
Downtown Short Pump
(POD-58-98 Revised)

Balzer & Associates for Short Pump Entertainment, L.L.C., Bee-Fit, Inc., Skate Nation of Richmond West, LLC and Menin Development Companies, Inc.: Request for approval of a revised plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, 55,534 square foot, 14-screen movie theatre, a ~~one~~ two-story, 52,447 square foot retail building, a one-story 6,911 square foot restaurant, and a one-story, 4,900 square foot restaurant in an existing shopping center. The 23.18 acre site is located on the southeast corner of W. Broad Street (U.S. Route 250) and Pouncey Tract Road on parcels 36-A-19G, 19H, 19I, 19J, 21, 22N and 25. The zoning is B-2C, Business District (Conditional), M-1, Light Industrial District, and WBSO (West Broad Street Overlay) District. County water and sewer. **(Three Chopt)**

2897

2898 Mr. Marlles - The staff report will be given by Mr. Kevin Wilhite.

2899

2900 Ms. Dwyer - Is there any one in the audience in opposition to Downtown Short Pump,
2901 POD-58-99 Revised, now POD-80-99? There's no opposition. Okay, Mr. Wilhite.

2902

2903 Mr. Wilhite - This POD project was originally approved August, 1998. This
2904 revision is to add a Barnes & Noble Store, 27,000 square feet. The Barnes & Noble Store is
2905 two stories. It should show up on your caption as a two-story building. It also incorporates
2906 the adjacent parcel down at the southwest corner of the site for additional parking, and creates
2907 a second point of access on to W. Broad Street, with an accompanying right turn lane. There
2908 are some architectural revisions incorporated with this revised POD.

2909

2910 You've just been handed out a revised site plan, and architectural plans. The site plan

2911 addresses all the staff's concerns. It increases a new entrance on W. Broad Street to 30 feet in
2912 width. It changes the parking arrangement on the new parcel to a hammer head design to
2913 allow for cars to turn around and maneuver.

2914

2915 There is also a pedestrian connection that connects from the Barnes & Noble to a sidewalk
2916 along W. Broad Street. It adds a dumpster behind the Barnes and Noble requested by the
2917 staff. The outdoor dining areas that were shown near the Barnes & Noble and the restaurant
2918 along W. Broad Street have been removed with the revised plans.

2919

2920 There still may be a possibility that these would be added in the future. But, in the B-2
2921 location it does require a Provisional Use Permit, so they need to come back before the
2922 Planning Commission and the Board to get approval for those outdoor dining locations.

2923

2924 The revised architectural in your handout includes the two outbuildings shown along Pouncey
2925 Tract Road and W. Broad Street. The architectural design, in staff's opinion, blends very well
2926 with the proposed main portions of the center.

2927

2928 Staff did ask they address some blank walls. One appears along the building next to Pouncey
2929 Tract and facing Pouncey Tract Road. The other on the west side of Building No. 5 along W.
2930 Broad Street.

2931

2932 In speaking to the architect yesterday, they were agreeable to providing some architectural
2933 elements around the building. Sort of tie in all four sides of each building. It is our
2934 understanding that, more than likely, once a tenant is identified for these two buildings, there
2935 may be a need to come for revisions to the footprint and architectural design of these two
2936 buildings.

2937

2938 As approved before, this building is primarily of EFIS material. The proffers that regulate the
2939 site requires that any buildings predominantly EFIS, it has to be specifically approved by the
2940 Planning Commission.

2941

2942 The applicant is here. They can address the architectural designs of the building. With that,
2943 I'd be happy to answer any questions that you may have.

2944

2945 Mrs. Wade - And all this conforms to the proffers on the B-2?

2946

2947 Mr. Wilhite - Yes ma'am.

2948

2949 Mrs. Wade - And we discussed with them the fact, and I think you mentioned, they'll
2950 need a Provisional Use Permit if they want outdoor dining?

2951

2952 Mr. Wilhite - That's correct.

2953

2954 Mrs. Wade - ...for the restaurant.

2955

2956 Mr. Wilhite - In the B-2 portion.
2957
2958 Mrs. Wade - Yes, too, they've got a lot of standards to meet now. We want a
2959 humanistic, fun, serene environment here with nestled...You can tell we're from California.
2960 Okay. Thank you. I think a lot of the issues here, well, I have been sort of determined, I
2961 think, previously with the earlier POD, but we are interested in what you are doing
2962 architecturally here, whoever is speaking to that. I don't have any more questions of Mr.
2963 Wilhite.
2964
2965 Ms. Dwyer - Would you like to hear from the applicant, Mrs. Wade?
2966
2967 Mrs. Wade - Yes.
2968
2969 Ms. Dwyer - Will the applicant come forward, please?
2970
2971 Mr. Shady - Good afternoon. I'm Jack Shady. I'm President of Freeman & Morgan,
2972 Architects. The design evolved with the introduction of Barnes & Noble. In working with the
2973 Barnes & Noble architect, we have revised the overall elevation in minor detail to coincide
2974 with their horizontal look.
2975
2976 In talking with Mrs. Wade, one of the concerns that she raised, back of the Regal Theatre
2977 requires additional architectural detail. At my suggestion I am going to add the element that is
2978 shown on Pouncey Tract elevation or the east elevation, which generally is represented by a
2979 cornice line; tile line with sign band, vertical pilasters, I'm going to introduce those elements
2980 to the back of the theatre. That is not to say there would be a colonnade on the back of the
2981 theatre, but there will definitely be relief that caused of the depth of the cornice, the bands and
2982 the pilaster.
2983
2984 We believe that will coincide with the overall representation on the east. As well we will
2985 carry that detail around on the north elevation and tie it back into, as you can see, on the lower
2986 left hand corner (referring to slide), you can see the side of the retail store. That detail will,
2987 basically, surround our structure. I think it will better represent what you and I had talked
2988 about previously.
2989
2990 Mrs. Wade - Yes. It will be highly visible.
2991
2992 Mr. Shady - It's going to be highly visible. As I stated, we have another good client
2993 to the west...
2994
2995 Mrs. Wade - I'm going to work on that with this representation and deal with staff on
2996 the details?
2997
2998 Mr. Shady - First thing, Wednesday, I'll see that everybody has it in their hands by
2999 no later than Tuesday of next week.
3000

3001 Mrs. Wade - Okay. Thank you. I believe there is a proffer with this case that says, if
3002 EFIS is to be used that we have to approve it, specifically, so.

3003

3004 Ms. Dwyer - I have a question about the EFIS, if I may ask. Some of the reading I've
3005 gone has cast some negative dispersions on the EFIS systems.

3006

3007 Mr. Shady - Yes. Of course, they could be poorly detailed. Predominantly, the
3008 problems of EFIS has taken a bad rap for is you have a lot of residential people putting this up
3009 on wood framing. Our experience has shown if you have wood framing, we use a drainboard
3010 which is put up first on top of the sheathing, which will allow any penetration of water,
3011 predominately at window heads, to drain pass the material and onto the ground.

3012

3013 In my experience with using quality contractors, I have yet to have a problem with the EIFS.
3014 And I think the first job was in 1974 with EFIS at Staples Mill and Fitzhugh. The building's
3015 still there. So, it's a combination of poor detailing, poor implementation of the details, and
3016 people buying it in a bucket and slapping it up.

3017

3018 Ms. Dwyer - So, in layman's terms, how is the construction process, and how is the
3019 construction material different from commercial construction? ...

3020

3021 Mr. Shady - The predominant problem with the wood frame causes that. When the
3022 water infiltrates the building, it settles in on the wood frame and generates rot because it has
3023 no way to get out. In certain areas of North Carolina along the coast, EFIS has been banned,
3024 which I think is truly incorrect, in that other areas of North Carolina, they're required that the
3025 board be put up on combustible or non-combustible structures. As I said, the detailing that we
3026 utilize we have yet to have a problem.

3027

3028 Ms. Dwyer - Detailing meaning?

3029

3030 Mr. Shady - Sealing around the perimeter and as well counter flashing on the wall.

3031

3032 Mrs. Wade - What are you putting it on here?

3033

3034 Mr. Shady - Its going on gypsum sheathing which has a...

3035

3036 Mrs. Wade - Styrofoam.

3037

3038 Mr. Shady - It has a water resistant base, and then we'll put a vapor barrier over top
3039 of that.

3040

3041 Ms. Dwyer - Is that the plastic sheets.

3042

3043 Mr. Shady - It's a composite sheet.

3044

3045 Ms. Dwyer - Obviously, you have steel framing instead of the wood.

3046
3047 Mr. Shady - Yes. Everything is steel framing. We like to use metal framing, no
3048 wood.
3049
3050 Ms. Dwyer - Thank you.
3051
3052 Mr. Shady - Thank you.
3053
3054 Ms. Dwyer - Any other questions by Commission members?
3055
3056 Mrs. Wade - I think everything's been worked out.
3057
3058 Ms. Dwyer - Ready for a motion?
3059
3060 Mrs. Wade - ...pretty well. You all still intend to have that access to the property to
3061 the west at least to their line. It presumably will continue when they develop over there. All
3062 right, we ready?
3063
3064 Ms. Dwyer - Yes.
3065
3066 Mrs. Wade - Okay. I move that POD-80-99, we have a revised plan again, Mr.
3067 Wilhite?
3068
3069 Mr. Wilhite - We received those drawings last week, so we don't need to waive the
3070 time limits.
3071
3072 Mrs. Wade - Good. It apparently conforms to the proffers. The zoning line goes up
3073 diagonally through this property, basically. They are going to make some changes to the two
3074 walls that are on here. That's the west and the north walls in order to break up the blank
3075 surfaces. Otherwise, it has some color features and what not that go along with the rest of the
3076 center, although there is quite a bit of variety in the center already. And I would think we
3077 could approve the EFIS specifically. I believe we did in the former POD. So, therefore, I
3078 would move that POD-80-99 be approved, subject to the standard conditions, annotations on
3079 the Plan, Conditions 9 and 11 Amended, and Conditions 23 through 30 as they appear on the
3080 agenda.
3081
3082 Mr. Archer - Second.
3083
3084 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer. All those in
3085 favor say aye...all those opposed by saying nay. The motion carries.
3086
3087 The Planning Commission approved POD-80-99, Downtown Short Pump (POD-58-98
3088 Revised) subject to the standard conditions attached to these minutes for developments of this
3089 type, the annotations on the plans and the following additional conditions. Mr. Vanarsdall was
3090 absent.

- 3091
- 3092 23. The right-of-way for widening of W. Broad Street (U.S. Route 250) as shown on
3093 approved plans shall be dedicated to the County prior to any occupancy permits being
3094 issued. The right-of-way dedication plat and any other required information shall be
3095 submitted to the County Real Property Agent at least 60 days prior to requesting
3096 occupancy permits.
- 3097 24. The easements for drainage and utilities as shown on approved plans shall be granted to
3098 the County in a form acceptable to the County Attorney prior to any occupancy permits
3099 being issued.
- 3100 25. The entrances and drainage facilities on W. Broad Street (U.S. Route 250) shall be
3101 approved by the Virginia Department of Transportation and the County.
- 3102 26. A notice of completion form, certifying that the requirements of the Virginia
3103 Department of Transportation entrances permit have been completed, shall be submitted
3104 to the Planning Office prior to any occupancy permits being issued.
- 3105 27. The developer shall provide fire hydrants as required by the Department of Public
3106 Utilities in its approval of the utility plans and contracts.
- 3107 28. A standard concrete sidewalk shall be provided along the north side of W. Broad Street
3108 (U.S. Route 250) and the west side of Pouncey Tract Road.
- 3109 29. Outside storage shall not be permitted.
- 3110 30. The developer shall install an adequate restaurant ventilating and exhaust system to
3111 minimize smoke, odors, and grease vapors. The plans and specifications shall be
3112 included with the building permit application for review and approval. If, in the
3113 opinion of the County, the type system provided is not effective, the Commission
3114 retains the rights to review and direct the type of system to be used.
- 3115 31. Any necessary off-site drainage easements must be obtained in a form acceptable to the
3116 County Attorney prior to final approval of the construction plans by the Department of
3117 Public Works.
- 3118 32. Deviations from County standards for pavement, curb or curb and gutter design shall
3119 be approved by the County Engineer prior to final approval of the construction plans by
3120 the Department of Public Works.
- 3121 33. Insurance Services Office (ISO) calculations must be included with the utilities plans
3122 and contracts and must be approved by the Department of Public Utilities prior to the
3123 issuance of a building permit.
- 3124 34. Approval of the construction plans by the Department of Public Works does not
3125 establish the curb and gutter elevations along the Virginia Department of Transportation
3126 maintained right-of-way. The elevations will be set by the contractor and approved by
3127 the Virginia Department of Transportation.
- 3128 35. The ground area covered by all the buildings shall not exceed in the aggregate 25
3129 percent of the total site area.
- 3130 36. No merchandise shall be displayed or stored outside of the building(s) or on
3131 sidewalk(s).
- 3132 37. Prior to the issuance of a Certificate of Occupancy, the developer shall construct the
3133 point of access to the property line to the west of this development as shown on the
3134 approved plan.
- 3135 38. The developer shall share on the cost of any future signalization of the entrance from

3136 the development onto Pouncey Tract Road.

3137

3138 Ms. Dwyer - All right, that concludes our POD agenda. Now, we have a decision to
3139 make about what to do next.

3140

3141 Mr. Marlles - Madam Chairman, in the interest of time, staff would recommend that
3142 the work session on draft zoning ordinance amendments, be held following our 1:00 p.m.
3143 public hearing. However, there are a couple of items that staff feels that the Commission
3144 should take action on now, while we still have a quorum. Those are the minutes for the
3145 August 25th and September 29th meetings. Also, the staff has a question for the scheduling of a
3146 work session and a public hearing on communication towers.

3147

3148 I think as the Commission is aware, there was a work session held with the Board yesterday on
3149 a proposed amendment to the Comprehensive Plan that would provide some guidelines relating
3150 to communications towers. There was interest from the Board that we move forward with that
3151 Comp Plan Amendment as soon as possible.

3152

3153 So, staff is requesting that the Commission schedule a work session on November 10th and a
3154 public hearing on November 17th. I do have copies of the proposed Comp Plan Amendment
3155 right now that I can pass out to the Commission.

3156

3157 Ms. Dwyer - All right, so what is it we can do without a quorum?

3158

3159 Mr. Marlles - Well, that's why staff is suggesting at this point that, if we want to
3160 approve the minutes, we go ahead and do that and set the work session and public hearing on
3161 the proposed Comp Plan Amendment and it does take a quorum to do those two items.

3162

3163 We will not be able to take action, nor are we requesting it on the work session, on the draft
3164 ordinance amendments. That was just on as a work session item.

3165

3166 Ms. Dwyer - Okay, for the public hearing, we need a quorum, and then...

3167

3168 Mr. Marlles - Right. To schedule the work session and public hearings for the Comp
3169 Plan Amendment, we do require a quorum, and for the minutes, we require a quorum.

3170

3171 Ms. Dwyer - Okay. Let's take the minutes for August 25, 1999.

3172

3173 Mrs. Wade - Okay. I finally got through them last night. I intended calling them in.
3174 I just have several things?

3175

3176 Page 53, Line 2073 - It should be, "...the 19 foot space rule does apply even for commercial
3177 parking lots...

3178

3179 Page 54, Line 2118 - This may be what Mrs. Dwyer said, the motion was made by Mr.
3180 Vanarsdall, and seconded by me, but I suppose this is what happened at the time, we leave this

3181 here, but make it understood the action was the other way around.

3182

3183 That's all, basically. Those are minor things.

3184

3185 Ms. Dwyer - Mr. Archer, did you have any comments?

3186

3187 Mr. Archer - On the 25th?

3188

3189 Ms. Dwyer - Yes.

3190

3191 Mr. Archer - Just one. On the front page it shows that members present included Mr.

3192 David Zehler.

3193

3194 Ms. Dwyer - Do I have a motion on the August 25th minutes as amended?

3195

3196 Mrs. Wade - I move they be approved as corrected.

3197

3198 Mr. Archer - Second.

3199

3200 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer. All those in

3201 favor say aye...all those opposed by saying nay. The motion carries.

3202

3203 The Planning Commission approved the August 25, 1999, minutes with the corrections.

3204

3205 Ms. Dwyer - All right, September 29th minutes.

3206

3207 Mrs. Wade - I didn't have any corrections in there.

3208

3209 Ms. Dwyer - I didn't either. Mr. Archer.

3210

3211 Mr. Archer - I don't believe so, ma'am.

3212

3213 Ms. Dwyer - All right, motion on the 29th minutes.

3214

3215 Mr. Archer - I move that the minutes of September 29th be accepted. Were there any

3216 corrections made?

3217

3218 Mrs. Wade - No.

3219

3220 Mr. Archer - Okay. As written.

3221

3222 Mrs. Wade - Unless somebody else call them in.

3223

3224 Ms. Dwyer - Did you want to second, Mrs. Wade?

3225

3226 Mrs. Wade - Yes.
3227
3228 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mrs. Wade to approve the
3229 minutes for September 29th. All those in favor say aye—all those opposed by saying nay. The
3230 motion carries.
3231
3232 The Planning Commission approved the September 29, 1999, minutes. There were no
3233 corrections.
3234
3235 Ms. Dwyer - The next item, we need to set the work session.
3236
3237 Mr. Marlles - Yes. Staff is recommending the Commission schedule a work session
3238 for November 10th on the proposed amendment to the Comprehensive Plan dealing with
3239 wireless communications facilities, and a public hearing on November 17th.
3240
3241 Ms. Dwyer - So, we'll have a work session on the 10th, and a public hearing on the
3242 17th.
3243
3244 Mr. Marlles - Yes ma'am.
3245
3246 Mr. Archer - Do we need to designate a time now, or can we just...
3247
3248 Mr. Marlles - I can tell you what the staff is recommending at far as time is concerned,
3249 if it helps. Staff is recommending the work session be scheduled for 6:30 p.m. on November
3250 10th, and November 17th, which is a POD Planning Commission meeting, we're recommending
3251 that the public hearing be scheduled for 9:00 a.m. Then we would follow that up with POD's
3252 and subdivisions starting at 9:30 a.m.
3253
3254 Mrs. Wade - You know, the 10th is a Wednesday.
3255
3256 Mr. Archer - Yes.
3257
3258 Mr. Silber - Thursday, the 11th is Veterans Day, so the County is closed. One other
3259 point is on the 10th, we're going to be serving dinner, because we already have scheduled
3260 Residential Strategies work session. So, we will probably do dinner like at 5:00 p.m.,
3261 Residential Strategies, like 5:45 p.m., and 6:30 communication towers. We'll start our zoning
3262 public hearing at 7:00.
3263
3264 Ms. Dwyer - Okay. So, we need to be here at 5:00 o'clock on the 10th? You will
3265 make sure that Mrs. Quesinberry and Mr. Vanarsdall who are absent are aware of those
3266 schedules.
3267
3268 Mr. Silber - Come with an appetite.
3269
3270 Mr. Archer - Where will we be, Randy?

3271
3272 Mr. Silber - That will be up in the Board's Conference Room. I guess its called the
3273 County Manager's Conference Room.
3274
3275 Ms. Dwyer - Do, I have a motion for that scheduling.
3276
3277 Mrs. Wade - Do we need two separate motions?
3278
3279 Mr. Archer - Do it all in one motion.
3280
3281 Ms. Dwyer - Yes. I think so.
3282
3283 Mrs. Wade - Okay. I move we set a work session on the Residential Strategies first,
3284 at 5:00 o'clock on the 10th.
3285
3286 Mr. Marlles - 5:45 p.m., dinner at 5:00.
3287
3288 Ms. Dwyer - So, the work session would begin at 5:45 p.m.
3289
3290 Mrs. Wade - Okay. Then what happens at 6:30?
3291
3292 Mr. Marlles - We have the work session on communications towers.
3293
3294 Ms. Dwyer - Two work sessions.
3295
3296 Mrs. Wade - On the Residential Strategies work session on November 10th at 5:45 to
3297 be followed by a work session on the communications at 6:30 p.m. and the public hearing on
3298 Communications Towers on November 17th.
3299
3300 Mr. Archer - I second that motion.
3301
3302 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer. All those in
3303 favor say aye...all those opposed by saying nay. The vote is 4-0 (Mrs. Quesinberry and Mr.
3304 Vanarsdall absent). The motion carries. All right, next item.
3305
3306 Mr. Marlles - We are scheduled at 1:00 o'clock to have a public hearing. It is fairly
3307 important that we start right at 1:00 o'clock in order that we, hopefully, can take that and have
3308 a quorum.
3309
3310 Mr. Silber - BZA Powers, John.
3311
3312 Mr. Marlles - I'm sorry. Following the public hearing at 1:00 o'clock, we will have
3313 Mr. Blankinship come back and present in a work shop the proposed changes to the Zoning
3314 Ordinance that deal with the temporary uses, as well as some other provisions related to BZA.
3315

3316 Ms. Dwyer - Okay, so we can do that without a quorum?

3317

3318 Mr. Marlles - We can do the work session without a quorum. We're not asking the
3319 Commission to take any action.

3320

3321 Ms. Dwyer - When you said, "residential strategies," you meant, "multi-family, and
3322 major road setbacks, what Angela is doing?

3323

3324 Mr. Marlles - Correct.

3325

3326 Ms. Dwyer - It is sometime called "Residential Strategies" also. Okay. And that's
3327 what we can set for the 10th. All right, we need to break now, eat lunch, and be back at 1:00
3328 p.m. The Commission will take a lunch break.

3329

3330

**BEGINNING AT 1:00 P.M.
PUBLIC HEARING**

3331

3332

3333 **Zoning and Subdivision Ordinance Amendments related to the "Development Timetables"**
3334 **Project**

3335

3336 **(Mr. Donati leaves during this case and Mr. Vanarsdall is absent)**

3337

3338 Ms. Harper -asked for staff from the Planning Office and from myself to hold.
3339 They were held on December 13th and December 19th. There were some people who attended
3340 both hearings, actually. And, you do have before you that list. I did not put them in any
3341 priority order. And some of the citizens actually thought that staff could ask and recommend
3342 amendments. And I tried to help them understand that, "No." They need to come today and
3343 request any amendments that they have that the tone of the meeting were information
3344 meetings. Either John Marlles or Randy Silber were also present to discuss Planning projects
3345 that were underway. And, obviously, that's not the subject of the meeting today, but I'm sure
3346 that they'll share that with you later.

3347

3348 The four categories of changes are simply the change from the controlled density Provisional
3349 Use Permit which would now include a conditional subdivision plan would be reviewed and
3350 approved as a part of a Provisional Use Permit process by the Board of Supervisors now,
3351 instead of by the Planning Commission. So, the Code has been changed to substantively allow
3352 that to occur.

3353

3354 The next recommended change focuses on the coordination or review of approval of the annual
3355 requests for subdivision extensions. And also to allow that to be done by the Director of
3356 Planning that you would authorize that. And that a five-year extension period could be
3357 approved by the Director of Planning if the first section of subdivision was approved and
3358 recorded prior to one year. That would only be the first time. After one year passes, they
3359 wouldn't have the ability to ask for that any more.

3360

3361 And, then the Director would be able to refer to the Planning Commission if the conditions of
3362 the site have changed. The Director would take it upon himself that changes had occurred
3363 enough that this conditional subdivision request would need to come back to the Planning
3364 Commission.

3365

3366 And then the fourth item would be the extension would be for more than five years. Of
3367 course, you won't have any of those for awhile. But, when it occurs, at some point, even if
3368 its been five one-year extensions, after that fifth year, the Planning Commission would be the
3369 one that would have to see the plan, if a sixth request was made, even though it had five one-
3370 year requests. It was still, perhaps, hadn't recorded any lots.

3371

3372 The change focuses on the "agent for the Board" would be the Planning Commission for
3373 certain specified subdivision types, which I will list in a moment. And, then that all other

3374 applications for conditional subdivision would come to the Director of Planning.

3375

3376 Now, what has been changing during this process is when that would occur. And we now are
3377 up to six bullets under that item. We started off with three. And let's remember that first, a
3378 site zoned in the proffers would require that the Planning Commission would review and
3379 approve that through some statement in the proffers, may affect landscaping, or second, that
3380 the applicant or, and we did add this phrase at the last public hearing on August 25th, "the
3381 Director of Planning." Previously, it just stated the "applicant" requests the Planning
3382 Commission review and approval. Now, in the version of the Ordinance dated August 26th,
3383 that phrase has been added and this was based on discussion at the last meeting regarding the
3384 requests that, perhaps, citizens would make to the Director or the Planning Commission
3385 wanted the Director to be able to respond by referring it to you.

3386

3387 The next bullet is about roads. It is proposed that the plan would establish a direct connection
3388 between roads and the Major Thoroughfare Plan again to try prevent through traffic going
3389 through existing residential subdivisions, that the Planning Commission would the ability to
3390 look at that and deal with that sensitive issue.

3391

3392 The next one would be an exception for stem lots or double frontage. We don't use the word
3393 "flag lots" anymore to say we now have replaced that with stem lots and double frontage lots.
3394 You go from the passage of that change to the Code that requires Planning Commission
3395 approval even if its just for one lot in a very large subdivision. And when one or more lots
3396 are connected to public water and sewer.

3397

3398 When you asked me to add this to the list, you said you'd like to know more about it because
3399 of the use now of non-traditional forms of approval mostly of septic tanks. It wasn't really an
3400 issue of water as much as it was of septic systems. And we did include it. I assume, it still
3401 appears on the list and that you still want it to be included.

3402

3403 And in the last one would be an appeal of the Director's decision. And that would be any
3404 decision that the Director of Planning, based on all those plans that are reviewed by staff. If a
3405 plan is reviewed by staff, then there would be the potential for the applicant to appeal if he did
3406 not agree with the denial of the application or some condition.

3407

3408 And the last recommended change category is the plan application itself would now require
3409 certain points to be included as you remember to coordinate the geodetic control network so
3410 that our GIS system, our Geographic Information System, would be updated constantly as
3411 plans are approved.

3412

3413 And so, the next step, of course, is, today, in hopes of getting a recommendation by the
3414 Planning Commission to the Board of Supervisors on any action that you would like to
3415 recommend on these changes. I am aware that there are citizens most of which, I believe all
3416 of them, that are here today, attended one of the two meetings, and some of them attended
3417 both of the information meetings. I'd be glad to answer any questions.

3418

3419 Ms. Dwyer - Okay. Any questions of Mrs. Harper by Commission members? We've
3420 been through this many times and you've been very thorough in your previous explanations.
3421 So, we thank you for your review. And we will invite anyone else who would like to speak on
3422 this subject to step forward. This is a public hearing, so we invite comments from citizens of
3423 Henrico County.

3424

3425 Ms. Brown - Good afternoon, I'm Nancy Brown and I represent the Mitchelltree Civic
3426 Association. And this afternoon, I, basically, have a question that I'd like to pose. And that
3427 question is, "Will the Board or the Director hear the residents concerns as it relates to their
3428 community when there is new development if we feel that the new development may be a
3429 detriment to the community?"

3430

3431 Ms. Dwyer - May I ask a little bit of specificity be added to your question. That is,
3432 you know, we tend to have zoning cases in which, say in your area maybe an agricultural
3433 piece of land might be rezoned for a subdivision or it might be a request to rezone it for a
3434 subdivision, or might be a request to rezone it for some other purpose. Are you speaking of a
3435 rezoning case?

3436

3437 Ms. Brown - Not specifically. Mainly, my concern comes from the section of the
3438 amendments 19-117, "Public sites in open spaces." As I've learned from the previous
3439 meetings that I've attended, this section primarily, and correct me if I'm incorrect in my
3440 understanding of this, that the Board and the Director will not be responsible for acquiring
3441 reserved areas of land. And in this particular instance, from the last meetings that we've
3442 attended, it was indicated that this process was sort of an administrative process where the
3443 public is not informed, and would not be involved. So, my concern is, when there is new
3444 development in the neighborhood, and we feel, as a community, or residents, that the new
3445 development may be a detriment, will we have the opportunity to speak with someone?

3446

3447 Ms. Dwyer - Some one correct me if I'm wrong from staff. But, I believe that 19-117
3448 applies when there's a public necessity. For instance, we used to have sewage pumping
3449 stations or some old subdivisions have wells, or there's a need for a road, that's what this
3450 particular section talks about. The Board, the Commission, or the Director of Planning can
3451 request dedication of that land that's needed for that public purpose. That is a road, or say, a
3452 pumping station or something like a public utility. That's what this particular provision is
3453 limited to. As far as you know, will the Commission and Board and will the Director of
3454 Planning listen to the public, I can speak for the Planning Commission, all of our meetings are
3455 public, and we always invite the public to come speak at our meetings.

3456

3457 The Board does as well, but the Board, typically, does not review subdivisions. Typically, the
3458 Planning Commission is the final reviewer of those unless there is some sort of an appeal. I
3459 know Mr. Marlles, perhaps, could speak as to the availability of his staff to the public
3460 comments.

3461

3462 Mr. Marlles - Certainly, the staff or myself, are open for any member of the public
3463 who wishes to express concern on a particular development. I can tell you my door would be

3464 open if there were concerns that you wished to express.

3465

3466 Ms. Brown - Thank you very much.

3467

3468 Ms. Dwyer - Thank you. Is there any one else who would like to speak? Please come
3469 forward.

3470

3471 Ms. Donally - Good afternoon. Ann Morrow Donally from the Varina area. It's very
3472 nice to hear, and by the way, I want to thank you very much for your decision last meeting
3473 here to allow us extra time to consider this and to direct the Planning staff to have some
3474 informational meetings and, actually, one was held in the east end, which has got to be an
3475 historic occasion. So, I really appreciate that very much and thank you for that.

3476

3477 It's nice to hear that your door will be open. And I'm not making fun of you for that. I'm
3478 glad that all of you want to hear from the public. But, until it's actually written into the Code
3479 that the public is a part of the process, then I think we have some really grave concerns. That
3480 was one of the big issues that was raised at the question and answer session.

3481

3482 Several citizens who spoke at the east end meeting noted that, at many occasions, on this
3483 particular ordinance, and other occasions, we've noticed that industry representatives are
3484 permitted to request and be part of the meeting and the planning. They're the ones who
3485 brought this up to you. We didn't realize they brought it up to you, and we weren't a part of
3486 the work session discussions that went on about this. So, that's a grave concern.

3487

3488 Then, in the actual ordinance, itself, you have it written, that if an industry representative
3489 requests or demands that there be a public hearing on a subdivision or a development matter,
3490 they can do that. But nowhere in there is there language that a citizen could request or
3491 demand that there be a public hearing. All you have is, "If the Director of Planning says,
3492 "Well, I think this is going to be controversial, therefore, blah, blah, blah." But, the Director
3493 of Planning may not realize that it is going to be controversial, or who may make the decision
3494 that may not be the gentleman whose here today. Maybe somebody else in the future who
3495 isn't as sympathetic to this community.

3496

3497 So, we would like to have language written in there, that says that "A citizen may request a
3498 public hearing." I don't think you'll be bothered with a lot of arbitrary appeals coming up,
3499 but I think that we need that protection for us so that we are a part; it's supposed to be
3500 government, of the people, by the people, for the people, kind of thing. So, we'd like to put
3501 the people back into that ordinance.

3502

3503 Another thing that was brought up at the session was that citizens would be notified and
3504 included in all work sessions of both the Planning Commission and the Board of Supervisors.
3505 And, a mention was made in the past, which is like what is before you right now, an example
3506 of that would be the formation of this Ordinance and also of the billboard business, where we
3507 are not a part of that decision, but industry had your ear. So, the citizens would like to feel
3508 they're on a level playing field with the housing industry and other industries.

3509

3510 And concerns regarding eminent domain, language that would transfer property from the State
3511 or private ownership for the County is another concern.

3512

3513 Ms. Dwyer - I'm sorry. Could you explain what you just said? Make sure I
3514 understand it.

3515

3516 Ms. Donally - The section that you were just talking about with Ms. Brown is a section
3517 that is concerning our people because of the problems, perhaps, of eminent domain there.

3518

3519 Ms. Dwyer - Could you explain...

3520

3521 Ms. Donally - I'm afraid I don't understand it enough to know that; when it was
3522 brought up at the meetings, I began to have some concerns myself in that 19.17. I think that
3523 Mr. Overton; I think another speaker is going to address that further. They know more about
3524 it than I do.

3525

3526 Lastly, I would say that the concerns of many people in the east end were that the way the
3527 Ordinance is now, it is opening the door to a little more uncontrolled growth that we have
3528 already.

3529

3530 I was doing some research recently. The State Police compiled statistics from across the State.
3531 And in those statistics, I discovered, that while the crime rate has gone down dramatically and
3532 significantly across the State of Virginia, it has gone up dramatically in Henrico. All levels of
3533 crime that they look at: arson, theft, murders, burglary, aggravated assault, forcible rape. All
3534 of those have gone up in Henrico that have gone down statewide.

3535

3536 When you have continued growth like we have, then you invite more of these problems as you
3537 change the quality of life and so on. So, this is another reason why we're all concerned.
3538 While we want to be a part of the process, which we do not feel we are a part of. It doesn't
3539 matter how many doors are open. We are told its written in the code that we are a part of the
3540 process, we're not. And also that we look at these things more carefully that the citizens are a
3541 part of it. Thank you.

3542

3543 Ms. Dwyer - Any questions for Mrs. Donally? Ms. Donally, I have a question.
3544 Specifically, how do the amendments proposed for our consideration today, how do they
3545 permit uncontrolled growth, if I understood your statement correctly?

3546

3547 Ms. Donally - Well, one, I think the fact that there is this rush by the housing industry
3548 to have this all accomplished before the General Assembly meets next January when the
3549 General Assembly is going to be taking up issues of growth, which they did this last session.
3550 But they promised to come back more to it next year.

3551

3552 Ms. Dwyer - I don't understand how...

3553

3554 Ms. Donally - And, and what I'm getting at, is I don't know what State changes will be
3555 made that may impact this Ordinance and others that pertain to Planning Commissions and so
3556 on. So, I'm concerned that the housing industry is pushing this to get through so quickly.

3557

3558 Ms. Dwyer - So, specifically, there's nothing in this ordinance that permits
3559 uncontrolled growth other than your concern?

3560

3561 Ms. Donally - Yes. There is. That is one concern is that the housing industry is
3562 pushing it to get it through right away. Secondly, is the fact that the housing industry can ask
3563 for a public hearing that the citizen cannot and fact that it gives more and more control into the
3564 Planning staff and less and less to the citizens. It's all very well and good to say that citizens
3565 can go to the internet and go to the Government Center and find this and that and the other,
3566 but I don't know how many citizens in Henrico County actually have access to the internet
3567 right now. And you don't always know what's happening in an area until you read about it in
3568 the paper. I think the White Oak Semi-conductor Plant is a good example of that.

3569

3570 Ms. Dwyer - I just want to understand how this...

3571

3572 Ms. Donally - By not allowing citizens in the process. That would be the one major
3573 thing you could do with this. Myself, I think you ought to delay a decision on this until after
3574 the General Assembly session next year. I realize you're not likely to do that. So, if you
3575 would, at least, put citizens in there, allowing citizens to request a public hearing when they
3576 want it, then I think that would allay a lot of fears.

3577

3578 Ms. Dwyer - So, the subdivider being able to request a public hearing might lead to
3579 uncontrolled growth. Is that how I understand your statement?

3580

3581 Ms. Donally - The citizen not being able to request it.

3582

3583 Ms. Dwyer - Okay.

3584

3585 Ms. Donally - The only thing the citizen can do is go and talk to the Planning
3586 Department or talk to the Planning Commissioner, that sort of thing, and maybe, not meaning
3587 any of you people or any offense to any of you, but you're not here forever. And they may be
3588 people who won't be sympathetic or who won't listen. I think we've all had that experience
3589 with people in government.

3590

3591 Mrs. Wade - Of course, the answer to that is in the ballot box, basically, Ms.
3592 Donally.

3593

3594 Ms. Donally - You don't always have a choice at the ballot box, either, do you?

3595

3596 Mrs. Wade - Well, then you have to get involved at the level that you have a choice.
3597 But, that, I suppose is another item. I'm not sure exactly what you mean by the process. Of
3598 course, there's certain requirements for notice on zoning cases. There's certain requirements

3599 for notices on PODs. No. We haven't been giving notices on subdivisions and I've
3600 questioned that a number of times through the years myself.

3601

3602 Some of the concerns that Mrs. Harper sent us that she made notes at your hearings seemed to
3603 me a major problem is just a matter for communication and notice to citizen's groups. Of
3604 course, you understand, even then, you're limited in your authority, just as we are, to direct
3605 development under many circumstances. Sometimes we're limited by Virginia Code, and
3606 there are a lot of groups out there now who are looking, besides the development group, that
3607 are looking at the growth issues and plan to make themselves heard at the next General
3608 Assembly.

3609

3610 Ms. Donally - I understand what you're saying. And I was glad that she summarized
3611 those concerns, and, perhaps, Mrs. Harper or Mr. Marlles can come up with some language.
3612 I think all you have to do is insert the word, "or citizen."

3613

3614 Mrs. Wade - But just any citizen can't initiate a zoning case.

3615

3616 Ms. Donally - Where it says 19-31, Page 2. "The Planning Commission shall be the
3617 agent of the Board for conditional approval of subdivision plats in the following situations:"
3618 And then, he says, "The subdivider or the Director of Planning can request that the
3619 Commission look at something. It goes on down, "...and the subdivider can appeal..." The
3620 subdivider can do this and so on. Nowhere does it say anything about a citizen. So, all we're
3621 saying, can't you put in the word, "citizen?" "...a citizen or the subdivider, or Director of
3622 Planning requests, etc.?" That's No. 2. Then in No. 4, "A citizen or the subdivider" can
3623 appeal..." We want to be a part of the process, other than just the ballot box.

3624

3625 Ms. Dwyer - Ms. Harper, on that point, I have a question. I know there is a State law
3626 that does limit this question of appeals. Typically, its an adjacent property owner is permitted
3627 to appeal a case.

3628

3629 Ms. Harper - You have to have standing and the standing has to be approved.

3630

3631 Ms. Dwyer - So, could we add, "Any citizen could appeal a decision by the Director
3632 of Planning" on a plat? Do you happen to know whether that would conform with State Law?
3633 As you know, Virginia is a "Dillon Rule" State. So, it's kind of ironic to say that the State
3634 government might do something, somehow the State might liberalize planning laws that the
3635 County would not do that. Because, actually, the State determines exactly what the localities
3636 do. We are very limited by State law.

3637

3638 Ms. Harper - Right.

3639

3640 Ms. Dwyer - And traditionally that has been, I guess, a barrier that was chafed at
3641 times because the State Law is very limiting in a lot of localities that would like to be able to
3642 do more in the way of planning. So, you know, not only are we limited, but whatever the
3643 State tells us to do, we will do so there would be no purpose to postponing this until after the

3644 General Assembly session is my next point. My first point is, "Can we permit any citizen to
3645 make an appeal of this type?"

3646

3647 Ms. Harper - My understanding it would have to be a citizen that had standing, which
3648 would be an adjoining property owner usually. That's the only type of citizen that's usually
3649 allowed to have standing, and that's to the best of my knowledge. Unfortunately, Mr. Tokarz
3650 already had a previous commitment and could not be with us today. Obviously, that question
3651 can be answered between the Planning Commission and Board hearing if you want a specific
3652 answer to that.

3653

3654 The other option that came up at some of the hearings, I believe, is summarized in the
3655 information that you had. It was also a question of adding the word, "Planning Commission"
3656 in there. A Planning Commission member...request. The idea would be then that it would be
3657 discussed by a citizen with the Planning Commission member and the Planning Commission
3658 member, felt that he or she that if it was an administrative item, versus a legislative item. The
3659 Planning Commissioner is well informed of the rights, that it would be appropriate for coming
3660 to the Planning Commission versus just the fact that we don't want the subdivision there,
3661 which is, as you know, a legislative decision based on zoning. I know Mrs. Brown's comment
3662 about not wanting certain uses there, unfortunately, administrative approval items such as
3663 subdivisions and site plans do not give the Planning Commission authority to decide that nor
3664 the staff. So, I would say an option to their concerns is one that was mentioned was the
3665 Planning Commissioner.

3666

3667 Mrs. Wade - Can we, in fact, continue the public hearing?

3668

3669 Mr. Marlles - We can continue the public hearing. Just won't be able to take action on
3670 it.

3671

3672 Ms. Harper - We can't take action.

3673

3674 Mrs. Wade - Okay.

3675

3676 Mr. Archer - Madam Chairman, I wanted to ask Mrs. Donally a question. Maybe
3677 Mrs. Harper can help, because I'm trying to understand exactly what it is we're omitting.
3678 Mrs. Donally, at what point would you say that a citizen would want to request a public
3679 hearing, or is that what you're asking?

3680

3681 Ms Paschke - I'm sorry, Marilyn Paschke also from the Varina area. In this
3682 discussion, we were talking about what the aim of this legislation change was trying to change
3683 the non-controversial trying to go through the process...In reviewing this the Director of
3684 Planning or the Subdivider would be able to ask for review. And we wanted the citizens to be
3685 included in that. And, again, we feel like this would be an extraordinary time when a citizens
3686 would be, you know. So, in other words, if something should become controversial during
3687 the process, we didn't want the door closed. And, can you clarify to me what do you mean a
3688 "citizen has standing if you are an adjoining property owner?" I know they get notification

3689 because of that, but I thought any citizen had standing.

3690

3691 Ms. Dwyer - Well, we don't have the benefit of legal counsel.

3692

3693 Ms. Paschke - ...technicality...

3694

3695 Ms. Dwyer - The concept of standing is that people who have some sort of interest the
3696 law determines is sufficient to allow them to take action, that's called "standing." In many
3697 cases, you have to be an adjoining property owner to have standing in a case. So, in some
3698 cases, if there's an appeal to be made from a decision, you have to be an adjoining property
3699 owner. You have to be the property owner, itself, in order to be able to initiate that appeal.
3700 Because it's determined, perhaps, someone who lives 20 miles away shouldn't have the right
3701 to tie up another person's property when they're not directly affected by that particular
3702 development. So, how it applies in this case, I'd have to say, I'm not quite sure the concept
3703 of "standing" would limit who can initiate an appeal or who could request Planning
3704 Commission review of a subdivision plat. I just throw that out as a concept I know applies in
3705 land use cases.

3706

3707 Ms. Paschke - Basically, what we were addressing was the fact the fact that they were
3708 trying to take the non-controversial out of the process, shorten the process, take it out of the
3709 Planning Commission.

3710

3711 Ms. Dwyer - Right.

3712

3713 Ms. Paschke - ...give it to the Director of Planning. But, you know, it gave two
3714 avenues of requests for review. We just wanted the citizens' door not to be closed there and
3715 two suggestions were made to insert "citizens" and to insert "Planning Commissioner," to
3716 insert both, as far as I'm concerned, to make sure its covered. But that's the one thing I
3717 would request and seemed to be addressed by pretty much all that attended the meeting that I
3718 attended. Okay.

3719

3720 Mr. Marlles - Madam Chairman, if I could just comment. I do think one of the
3721 reasons for including the Director of Planning was so that there would be an avenue for
3722 citizens that had concerns for the Director to be able to bring that particular plan before the
3723 Commission. So, I think that was what the objective was, was to provide that avenue.

3724

3725 Ms. Paschke - We know how busy some of these people are. We just thought it would
3726 be a good idea to make sure that avenue is open, because that is one of the concerns. And, I
3727 think it is one of the concerns of the Board of Supervisors, too, that that citizen avenue is
3728 maintained wide open. Hopefully, you can see a way to do that.

3729

3730 Ms. Dwyer - Of course, there's six reasons why a case may come before the Planning
3731 Commission. And, we're only talking about two of those. And in those two, you're saying
3732 that you want the citizen to have the right to direct the case to the Planning Commission or the
3733 right to appeal to the Planning Commission.

3734

3735 Ms. Paschke - That's No. 2 and 4.

3736

3737 Ms. Dwyer - Any other comments?

3738

3739 Ms. Paschke - No. That's basically the thing we would like to have addressed and
3740 covered if at all possible. Make sure the door is left open.

3741

3742 Mrs. Wade - Chris, actually, as you have heard, you've come to POD and
3743 Subdivision meetings, our authority to approve or disapprove a lot of these things is very
3744 limited as long as they're meeting the basic requirements and it is already zoned. It's only so
3745 much we can do about many things.

3746

3747 Ms. Paschke - ...ever become an issue. Again, I guess we want equal rights with the
3748 subdivision and the County administration with the citizenry. I think they should be a part of
3749 the process and be included in it.

3750

3751 Mrs. Wade - Well, the law, I suppose, "standing," means that everybody doesn't
3752 have the same right if you own the property, you have a greater right than she said somebody
3753 20 miles down the road.

3754

3755 Ms. Paschke - Really, a small subdivision 20 miles away may not affect me, but a large
3756 project may affect me even 20 miles away.

3757

3758 Mrs. Wade - That's true. What did you all say about the billboard thing now? It
3759 really pains me. I know many of your people down there in Varina. I've worked directly
3760 with a number of the groups down there and you know, you came and you did your best. It's
3761 hard to get people excited about that kind of an issue, but it wasn't because the word didn't get
3762 out, especially in your area.

3763

3764 Ms. Paschke - Well, no. Again, I think that was addressed very well by the citizenry
3765 and I still wonder about that legality thing, but I'm not a lawyer, so...

3766

3767 Ms. Pascke - I didn't mean to put it directly to you or to pain you in that way.

3768

3769 Mrs. Wade - That's a touchy subject with me.

3770

3771 Ms. Pascke - What I mean is, I know you all went through a great deal, and the Board
3772 went through a great deal, but the thing was, I remember 10 years or whatever it was ago,
3773 being involved in it, and the groups that were there, and the slide presentations that were
3774 made, and the work sessions and everything else. Then, as time passed, it was the industry
3775 that went to the Board or to whomever and kept talking about things. That's where I thought
3776 that we were not apart of that process. It wasn't like they're calling out and saying, "Hey, the
3777 billboard industry is talking about this, how about you coming in and so forth?" That's where
3778 we felt locked out.

3779

3780 I think one of the things that I had brought up at the meeting before was, we have work
3781 sessions with the industry. When the citizens, their input is only able to come in through the
3782 public hearing and most of us are nonprofessional speakers. We have a hard time really
3783 expressing our views thoroughly when we stand up here. Its not quite as bad today. You all
3784 are a more comfortable group, particularly at Board of Supervisors' meetings. We have a lot
3785 of people that have some good information that just refuse to get in front of this microphone.
3786 And I can understand it because it is uncomfortable. So, we're saying could the citizens
3787 participate or a work type work session where we're sitting around a table more comfortably, I
3788 think they would express their views and input done more thoroughly. That's one of the
3789 things. That doesn't pertain to today, but that is one of the discussions. And the billboard was
3790 the perfect example of not being able to really get it across thoroughly.

3791

3792 Mrs. Wade - We've had many work sessions when you know there have been citizens
3793 there expressing their opinions. I think, again, I'm sort of back to the notice and getting that
3794 information out about that's apparently a big part of the problem. I think we can work
3795 probably on improving our communications, although the County keeps really trying to find
3796 ways to communicate, but its hard. Because a lot of people, unlike you all, who are out there
3797 who just don't pay any attention unless its next door or something. And you know that if
3798 you're trying to get peoples' support.

3799

3800 Ms. Dwyer - My next question, too, to follow up on what Mrs. Wade says. What
3801 suggestions do you have, in terms of notice, about work sessions? And the problem we've had
3802 citizens appear before us say a zoning case and say, "I want to get notice on anything that
3803 happens within a 100-mile radius of my property. Obviously, we cannot do that. We cannot
3804 send a personal letter to every household within a particular radius or to everyone in the
3805 County if an issue of general interest, such as billboards, comes up. So, then the question
3806 becomes and, believe me, we are very interested in having citizen input. For example, we're
3807 considering now, amending the Ordinance to improve the development standards for multi-
3808 family housing and to increase setbacks for open space along major roadways.

3809

3810 It would be wonderful to have citizen input on those two amendments that we think could go a
3811 long way to improve the quality of life in Henrico County. How do we get that notice out so
3812 that the citizens are aware of it? What specific advice do you have since this is something that
3813 you desire?

3814

3815 Ms. Paschke - Right now, the first thing that comes to mind, I think it might be being
3816 used, this Directory of Citizen Groups, broken down. That's the first thing that pops in my
3817 mind.

3818

3819 Mrs. Wade - Now, we've been talking about that. But the only problem with that is,
3820 and the County, I think, makes some effort to keep that up to date. But when the outgoing
3821 person doesn't give the County the address and the phone number, we don't know.
3822 Sometimes they'll send the notice to the outgoing person and it never gets passed on. And
3823 that's the only problem with that.

3824

3825 Ms. Dwyer - That's proven not to be a particularly effective way to get notice to the
3826 community in the past, I believe.

3827

3828 Mrs. Quesinberry - Let me just interrupt on all of that. I know there's at least one more
3829 person who wanted to say something and may have some answers to all the things you've been
3830 asking as well. We'd be happy to give you some more suggestions after he speaks, but I don't
3831 want to be unfair to him.

3832

3833 Mrs. Paschke - I think the one thing too that we were bringing out, and again. When
3834 we heard about this project, it was already developed. And, I guess, that's what we were
3835 trying to do and I think that's ...is in the development stages if we could get our input at that
3836 time, so that, in other words, you might get a different point of view. You might get another
3837 way to look at it while its developing not after if its been developed, if its some way of doing
3838 it. And I think you all are looking for that, so...

3839

3840 Mrs. Wade - Well, sometimes, I think we've all had a controversial zoning case, for
3841 instance. And a lot of people will be involved. We go to community meetings and people
3842 come here to hearings and then things don't go as they necessarily would like and then, the
3843 next thing we hear is, "Well, you didn't listen to us," which isn't the case. But, I don't know
3844 how we get over that hurdle. But I guess that's human nature.

3845

3846 Mrs. Paschke - We really felt the Board listened to the billboards. I realize that was a
3847 technical reason supposedly. There's was a response to the community then, because it was
3848 very overwhelming. Usually, when its zoning cases, its one district. You know, Varina,
3849 Tuckahoe, or whatever. But, in that case, it was county-wide and very well represented for all
3850 the districts.

3851

3852 Mrs. Wade - No. You're right. Some people gave, obviously, more time and
3853 resources to get their voices heard than other people. There's no question about that.

3854

3855 Mrs. Paschke - Thank you.

3856

3857 Ms. Dwyer - Mr. Archer, did you have a statement or question a little bit earlier?

3858

3859 Mr. Archer - I think they answered it. I was trying to determine at what point in time
3860 a citizen would request a hearing or a review or whatever. But I think they're getting toward
3861 it. Maybe Mr. Overton can clear that up after we hear him.

3862

3863 Mr. Overton - Carl Overton, Mitchelltree Subdivision.

3864

3865 Ms. Dwyer - I'm sorry, what subdivision, sir?

3866

3867 Mr. Overton - Mitchelltree. When I got the information of the internet, I read through
3868 it more or less cursory, because most of it did not really interest me that much until I came to

3869 this Section 19-117. Suddenly, it hit me between the eyes like a sledge hammer. Here is a
3870 paragraph which except in the most extreme sense has nothing to do with what comes before
3871 nor after. Why is this stuck in here in this particular place? And the more I read it the more
3872 concerned I got. And then it came to me. At the time when we had the discussions
3873 concerning the proposed development across from Mitchelltree, and that particular area
3874 immediately across from us was more or less set aside and the focus made on areas on the
3875 other side of Cedar Fork Road.

3876

3877 I got word by phone, at that particular time, that something on the order of this section was in
3878 the works. The people had got the word, take it easy, relax. The County will take care of it.
3879 Now, Number 1, we all know that there are several ways which the County uses to acquire
3880 properties that it needs for various projects; roads, power lines and so on. ...go through
3881 without some kind of public controversy. But the question of public needs has never been the
3882 central problem. It is safety, health problems. The negative affects on property and so on.

3883

3884 As I understand it, and I believe this is the way I heard it, this particular section originated
3885 back in the fifties, I forget the particular date, and has never been used. Why is it being
3886 brought up at this particular time and why were the people to the north side of Creighton Road
3887 given the impression that this was going to be their saving grace?

3888

3889 Over the years, if County's projects, whatever they were have gone through without ever
3890 having to resort to public need and the "public be damned," sort of legislation. We would like
3891 to know, specifically, under what circumstances this particular ordinance was coming to be.
3892 Was that a hypothetical case where the County would take over private property under this
3893 particular rule of law, public need and pass it through over the heads of the public. And that's
3894 the explanation that we would like to have from this group. If it has never been used before,
3895 that, in itself, is an indication that there is no need for it.

3896

3897 Mrs. Wade - Is this a new section?

3898

3899 Mr. Overton - It may be a revision. That's my understanding. Was I correct in—Oh,
3900 1950. Oh all right. Since, 1950, am I also right in stating that Mr. O'Kelly said that had
3901 never been used.

3902

3903 Mr. O'Kelly - As I said in the public meeting, and I told Mr. Overton that I wasn't
3904 here in 1955. The period between 1955 and 1968, when I came to work for the County, I
3905 don't know whether this Ordinance was used or not. It was in our Ordinance adopted in 1955.

3906

3907 Ms. Dwyer - Do you understand the concern about this ordinance, as expressed by
3908 Mr. Overton?

3909

3910 Mr. O'Kelly - Not totally.

3911

3912 Ms. Dwyer - I'm afraid I don't understand the concern.

3913

3914 Mrs. Wade - Is there some specific case that has caused this concern on his part and
3915 their part?

3916

3917 Mr. Archer - Mr. Overton, you mentioned an area on the north side of Creighton
3918 Road that this pertained to.

3919

3920 Mr. Overton - The Planning Commission, for some time now, incidentally, they've
3921 gone through a 180 degree change. For the year 2005 Plan, the Planning Commission was
3922 very sympathetic towards the residential areas on the south side of Creighton Road.

3923

3924 Mr. Archer - That's your side, right?

3925

3926 Mr. Overton - That's our side. This covers all five districts. This section of
3927 Creighton, if I remember correct, 13 pages of proposals for industrialization of one form or
3928 another along Creighton Road. The Planning Commission at the time this was published had
3929 and the answer for one is pretty much the feeling for all 13 that this kind of industrial growth
3930 in this area was not feasible.

3931

3932 Suddenly, about the time a piece of property was purchased by a member of government on
3933 Creighton Road, there was a complete turn around in thought by the Planning Commission.
3934 And, consequently, it stayed focused on industry in that area ever since, despite the protests of
3935 the people in that area.

3936

3937 You have something like eight or ten families, as far as we are concerned, on that side of the
3938 Creighton Road. Over 264 families on the south side of the road, and what is happening is
3939 that these few homeowners; landowners are going, if they have their way, and local
3940 government passes it their way, going to affect the property values of over 200 families to the
3941 south side of Creighton Road. I got the phone call concerning that very item at that time, that
3942 we are questioning this now. Why is it coming up now?

3943

3944 Mrs. Wade - Would you explain?

3945

3946 Ms. Dwyer - I'll try. This is not a new section, as you know. And the only reason its
3947 in here, as far as I can see, is that now the Director of Planning and the Board are going to be
3948 reviewing subdivisions in certain limited cases. So, the only purpose of having this section in
3949 here is because the word, "Board" which is underlined, and the words, "Director of Planning"
3950 which is underlined, means those two...

3951

3952 Mr. Overton - And the Planning Commission is crossed out.

3953

3954 Ms. Dwyer - The Planning Commission is still there. But the word, "Board" and
3955 "Director of Planning" have been added. Because, some cases, now, the Board and Director
3956 of Planning review subdivisions. So, the purpose of this is to add "the Board and Director of
3957 Planning" to this paragraph. We're not changing the meaning of this paragraph. That's one
3958 thing. The second thing I want to say, I think what you're referring to in your hand is the

3959 long range Land Use Plan. And your concern about what has been done for planning for land
3960 use in the County. And this paragraph has absolutely nothing to do with that, absolutely
3961 nothing, as I understand it. This has to do with, let's say, a person is planning to build a
3962 subdivision. It's zoned for the subdivision. There's no problem with zoning. It's zoned for a
3963 subdivision. And, for some reason, let's use an old example. Let's say some subdivisions
3964 before we had wide use of public sewer and water would have a well that would serve the
3965 whole subdivision. So, let's say, in the process of the subdivision in the 1960's or whatever,
3966 they decided that this subdivision needed a well to serve this public need. And so, the
3967 Planning Commission would ask, and they would say, "Can we reserve a 50 by 50 foot area in
3968 the middle of this subdivision to put the well so that the houses in the subdivision can have
3969 water?" That's an example of what this provision is meant to do. It has nothing to do with
3970 the long range Land Use Plan at all as I read it. Maybe Mrs. Harper can amplify that
3971 explanation or clarify it if there's any confusion still.

3972

3973 Mr. Archer - Mrs. Harper, may I just ask one thing before you start? I think we
3974 might be overlooking in 19-117 the word, "proposed." Whatever land in a "proposed"
3975 subdivision is necessary to meet public needs. The intent of what I get out of that is that, prior
3976 to the subdivision actually being done, the authority in charge of this, would, at that time, set
3977 aside whatever land or whatever is needed to take care of public need before the subdivision is
3978 done, not after.

3979

3980 Mr. Overton - I understand that.

3981

3982 Mr. Archer - Okay. All right.

3983

3984 Mr. Overton - I understand that. All I can say is what we are concerned about. Well,
3985 we gave you all a very hard time, and I realize that concerning that property; Mitchelltree.
3986 But, the point is, with the word getting out that government promised these people that they
3987 would take care of the case. This is at the time when suddenly everything was quiet about that
3988 property directly opposite us, and is refocused down the other side of Cedar Fork Road where
3989 there's no large population to worry about.

3990

3991 Mr. Archer - Can you be a little more specific about where this property is because, I
3992 honestly don't know. You say, across from Mitchelltree?

3993

3994 Mr. Overton - Directly across Creighton Road from Mitchelltree.

3995

3996 Mr. Archer - That field over there with the power line running through it?

3997

3998 Mr. Overton - Yes.

3999

4000 Mr. Archer - And when was this done?

4001

4002 Mr. Overton - Well, this goes back, well, three years now.

4003

4004 Mr. Archer - It had to have been longer than that, because I wasn't on the
4005 Commission when it was done.

4006

4007 Ms. Harper - There were two requests involved. There was a rezoning request on the
4008 west side of Creighton Road, just up from the Chickahominy River between there and where
4009 Cedar Fork Road has been extended to the west, which is now to the school. That property is
4010 the property that has most concern because it is now zoned industrial conditional, and then
4011 Harvest Crest Subdivision sits on the property that was across from...

4012

4013 Mr. Archer - I know where that is.

4014

4015 Ms. Harper - The property that is currently zoned industrial is not across from
4016 Mitchelltree. It is zoned residential; Harvest Crest Subdivision. And that subdivision was
4017 originally on the long range plan, there was non-residential uses proposed in that area.

4018

4019 Mr. Archer - That's where Harvest Crest is.

4020

4021 Ms. Harper - That's where Harvest Crest is. The rezoning request was for residential.
4022 The only controversy, at that time, on the zoning request was the amount of density; how
4023 dense was that subdivision going to be. The rezoning case was always for residential there on
4024 the Harvest Crest Subdivision. And, that question was R-4 versus R-3.

4025

4026 There was controversy in the neighborhood about values, size of homes, lots, all that
4027 regarding that subdivision. But, in all cases, the controversy and concern by the neighbors has
4028 been either on a Land Use Plan which they were involved with. Mr. Overton was on the
4029 committee. The Creighton Road Corridor Study that Mark Bittner coordinated. There were
4030 numerous meetings.

4031

4032 Mr. Archer - A small area land use study, is what it is?

4033

4034 Ms. Harper - A small area land use study that Mr. Thornton and you were at meetings
4035 on that occurred maybe three or four years ago.

4036

4037 Mr. Archer - It was in 1996.

4038

4039 Ms. Harper - Right after you came on the Commission.

4040

4041 Mr. Archer - It was in 1996.

4042

4043 Mrs. Harper - And then, the property he's saying was right across the street, as far as I
4044 can remember has never been a rezoning case for that property to be industry. It has been R-4
4045 or R-3 for Harvest Crest. The controversy dealt with that. So, the property, Section 19 in the
4046 Code, right here, all that section is Subdivision has nothing to do with the long range plan or
4047 rezoning. There's no intention; the frustrations that this neighborhood had is about rezoning
4048 of the property to industry. This section of the Code in no way involves rezoning. The

4049 property has to have already been zoned so that you can put a subdivision on it, which means
4050 it has to be an "R" District or "A-1" for residential. It has to be one of those districts. I had
4051 slides on this at the information meeting showing that what cases would actually qualify for
4052 subdivision. An industrial case does not qualify for a residential subdivision. So, the concern
4053 that we thought they were talking about was that unbeknownst to the neighborhood, property
4054 could be reserved for public use and then that public use could turn into industry whether or
4055 not it is for development purposes or for sale. That was the way the question started on
4056 October 13th.

4057

4058 I'm glad you gave an example. We have tried to find examples and to explain that this has
4059 nothing to do with rezoning. It has nothing to do with the Land Use Plan. I understand
4060 there's frustration in the neighborhood, but there's no change in this code that will allow a
4061 public use to go on industrial land, unless the County goes and buys it. There's no way a
4062 public use is going to come next to Mitchelltree unless the County buys it and has their hearing
4063 of necessity, or their notice.

4064

4065 So, I understand your fear and frustration about, perhaps, something unknown happening, but
4066 this is simply an update of the Code, as Mrs. Dwyer said to allow the Planning Commission
4067 and the Board and the Director of Planning, all to be able in the reviewing of a subdivision to
4068 say, "This area of the Plan needs to be reserved for public use." And then they can require it
4069 as a part subdivision.

4070

4071 Mr. Archer - That's why I was putting emphasis on the word, "proposed," Mr.
4072 Overton.

4073

4074 Ms. Dwyer - Is that point clarified, Mr. Overton.

4075

4076 Mr. Overton - Not really. No. Number 1, the area that is now Harvest Crest was
4077 never in question. We were so glad when we came here to this forum and okayed Harvest
4078 Crest. We were thankful that they were going to put up homes there. That would be one
4079 more of the areas in the general area that would not be industrialized.

4080

4081 The basic argument stems from the fact that the Planning Commission, and, therefore, the
4082 County had intention of, we have tons of your County maps, showing their intention of
4083 rezoning for industry directly across the road from us. What makes us most particularly mad
4084 is that these decisions are going to be made by some people who will not have these types
4085 industries in their district, much less in their neighborhoods.

4086

4087 Mr. Archer - That's directly across from Mitchelltree? You're talking about that big
4088 field?

4089

4090 Mr. Overton - That big field across from Mitchelltree.

4091

4092 Mr. Archer - And somebody has requested rezoning?

4093

4094 Ms. Dwyer - It is on the Land Use Plan, Mrs. Harper? Is he talking about the long-
4095 range Land Use Plan?

4096

4097 Ms. Harper - As far as I know. I don't have it in front of me.

4098

4099 Mr. Overton - Now everything from Harvest Crest to Cedar Fork is the area we are
4100 concerned about. Number 1, the County put a school there. Now, there's been a small
4101 development. One street on one side of the school, and a small settlement on the other. The
4102 rest of this, three sides of this residential development, Clarendon Farms, is proposed to be
4103 surrounded by light industry. Okay. This is not done anywhere. A school belongs to the
4104 people, not to industry. And its time that the people in the east end of Fairfield got a fair
4105 shake, a level playing field as they do in the rest of the County.

4106

4107 Mrs. Wade - I'm sure when we worked on the Comprehensive Plan that it was an
4108 information meeting, at least one in the east end. I mean at the County Building where you
4109 could go and see what's being proposed.

4110

4111 Mr. Overton - We know what was proposed.

4112

4113 Mrs. Wade - Okay.

4114

4115 Mr. Overton - We have many meetings with the Planning Commission concerned the
4116 proposed development of this area.

4117

4118 Ms. Dwyer - Mr. Overton, are you still concerned that 19-117 has anything to do
4119 with...

4120

4121 Mr. Overton - I have to be concerned when I was told over the phone at the time that
4122 this was going to come into play. The wording was not exactly according to this, but the
4123 intent, the idea; the gist of this paragraph what was told to me.

4124

4125 Ms. Dwyer - Okay. I'm having difficulty seeing how 117 relates to the industrial use
4126 or potential industrial use.

4127

4128 Mr. Overton - I do not know either. I'm not into all the intricacies of government.

4129

4130 Ms. Dwyer - They're in different universes is all I can say. I don't know how else to
4131 say it. This has, as far as I can see, no potential of having any affect or impact on the
4132 potential use of that property for industrial uses. It's a different section of the Code. It deals
4133 with housing and subdivisions. It has nothing to do with industry, you know is one way to put
4134 it.

4135

4136 Mr. Overton - Okay.

4137

4138 Ms. Dwyer - I just don't want you walking away thinking that, you know, that it does

4139 have an effect on your concern. I understand your concern, but concern about this section
4140 affecting that is misplaced.

4141

4142 Mr. Overton - Well, we will have to accept that. But, all I can say, it's going to be
4143 "Hell to pay" on Creighton Road if we find differently. Because over the years they have
4144 never have had to resort to a public need putting it in a handful of people to determine what
4145 they want to get. This has been an open question all along.

4146

4147 The questions when they come when roads have to be moved from what their original
4148 proposals were, more recently power lines, re-routed, or whatever, it is not because somebody
4149 is arguing it is "public need." So, why have a legislation that is based just on the words,
4150 "public need" when its never been an argument? It could be an argument in court because all
4151 of these things can be argued to be public needs. There's the whole moral question of
4152 government getting involved in something that is contrary to the wishes of the people in that
4153 particular area. They are definitely involved in that area across from Mitchelltree.

4154

4155 Mr. Archer - Mr. Overton, where did you get the information that there is to be
4156 industrial development across, because I'm not aware of it?

4157

4158 Mr. Overton - Could I refer to the Planning Commission, sir, and have them present
4159 you with their land development plans for the area of Creighton Road? I have, perhaps,
4160 myself, a dozen of these maps with it laid out on there, "Office/Services, light industry."
4161 Even some people have recommended, they're on the maps, other industrial uses of this land.
4162 I got mine from...

4163

4164 Mr. Archer - I got the impression from what you were saying that you had heard that
4165 there is impending industrial development.

4166

4167 Mr. Overton - This has been a "bone of contention" for several years now.

4168

4169 Mr. Archer - Okay.

4170

4171 Mr. Overton - It goes back several years. The whole thing is this; developers who get
4172 prime time with government have offered the people "X" amount of money for their property.
4173 These people are prepared to pack up and leave. There was a time when the whole west half
4174 of Creighton Road was covered with "For Sale" signs. I noticed just recently that I think most
4175 of them are down, for whatever reason or not. Maybe this had something to do with it.
4176 Maybe they feel their time has come and they don't have signs up anymore. Maybe, instead
4177 they have, been sold. We don't know that. But the point is the maps are there for you to see.
4178 They changed at least three times over the course of our discussions.

4179

4180 Mr. Johnson - My name is Humphrey Johnson. I live in Mitchelltree.

4181

4182 Mr. Archer - I'm sorry, Mr. Johnson.

4183

4184 Mr. Johnson - And the map that he's speaking of is the County approved land map,
4185 April, 1997, showing light industry across from the section that he's speaking of Creighton
4186 Road.

4187

4188 Mrs. Wade - Yes. We don't question that. What the process was that it got to that
4189 point.

4190

4191 Mr. Johnson - ...was under the impression that it was never zoned as that. That's the
4192 map...

4193

4194 Mrs. Wade - It's not zoned as that. It's that on the Comprehensive future planning.
4195 Maybe you all should get with your representative and have a meeting and talk to him,
4196 directly, about the issues as they apply to that section of the County.

4197

4198 Mr. Johnson - Basically, I came up for this to express that, and also to express, please
4199 don't make this a handful of people that live in that area that own land that's going to be
4200 moving out and dictate the lives of the people that are investing their money in buying homes
4201 out there. Now, you have two new subdivisions came up; Harvest Crest and you've got
4202 Clarendon Farms. And you have homes valued anywhere up from \$80,000 up to close
4203 \$200,000. You've got a brand new school that you've put up there. You're talking about
4204 putting a nature trail up around up in there. All this. That part of the County, correct me if
4205 I'm wrong, from the Plan that Mr. Overton has in that book, it seems like you want to put that
4206 industry up in there. Warehousing and all that. And if those people, as well as myself, if they
4207 knew that was in the plans for the County, I know, myself, personally, and I know those
4208 individuals that have invested close to \$200,000 in those homes out there wouldn't have built
4209 out there. And I just ask you to put yourself in those peoples' positions that have invested all
4210 that money in homes. I know you don't want to see any warehouses or similar type light
4211 industry coming up around your house. I just beg and plead for your compassion on that.
4212 Thank you.

4213

4214 Ms. Dwyer - Thank you, Mr. Johnson. It may be, as Mrs. Wade, mentioned, an
4215 opportunity for some of the residents of Mitchelltree who do have a grave concern about the
4216 potential for industrial development in your area. I understand it is not presently zoned
4217 industrial, but it is on the long range Land Use Plan as possible future development for
4218 industrial. So, it may be something that you would want to speak with Mr. Archer and Mr.
4219 Thornton about. We'd love for you to do that. Mr. Archer is a great guy and I know that he
4220 will lend a willing ear to your concerns. And there's probably a way to address your
4221 concerns. We don't want you to think that we're not listening and we don't understand your
4222 concern, because there is a way to address your concern. It's with Mr. Archer and Mr.
4223 Thornton and it might be a way to make some changes. I don't know.

4224

4225 The point that I would like to make is what we're doing here, today, is not related to the Land
4226 Use Plan. And your concerns seem to be related more to the Land Use Plan, and what are
4227 Henrico County's plans for actual land in the County, and that's what these maps refer to. So,
4228 I would recommend that you work with your representative to attempt to achieve your goals in

4229 that area.

4230

4231 We're not, today, giving anybody authority to make those kinds of changes that I hear you
4232 saying you're concerned about. We're not putting power in the hands of a few people to make
4233 that decision.

4234

4235 Okay, next speaker.

4236

4237 Mr. Archer - While he's coming up, I'd just like to say, Madam Chairman, to Mr.
4238 Brown, Mr. Overton and Mr. Johnson. Anytime you'd like to meet to discuss this, just holler.
4239 You know where to find me.

4240

4241 Mr. Johnson - Thank you.

4242

4243 Mr. Archer - You're welcome.

4244

4245 Ms. Dwyer - Okay. Yes sir.

4246

4247 Mr. Gary - Good evening, Mrs. Wade, Ms. Dwyer, you fellas. My name is Bob
4248 Gary. I'm Vice-President of North Airport Civic Association. Like Marilyn said, I'm not a
4249 professional speaker, like most of you builders and developers, but I'll do my best. They've
4250 said most of what my concerns were about citizen input being put in there somewhere. But,
4251 I'd like to recall a piece in the paper I read Wednesday, May 19th. "Plan aims to ease
4252 approval process. New proposals would help County officials and developers." It says
4253 nothing about citizens. Thank you.

4254

4255 Ms. Dwyer - Thank you, sir. Anyone else like to speak to the planned Ordinance
4256 Amendments? Any other speakers? Any comments by Commission members? We're not
4257 able to vote on this today as we had planned, because we no longer have a quorum on the
4258 Commission. I would recommend that we vote on this; well, Mrs. Harper, maybe you have a
4259 suggestion.

4260

4261 Ms. Harper - Well, you can do it at one of your November meetings, I assume that
4262 you could defer it to. I do recommend, since you have taken public testimony, at two hearings
4263 that you defer it for action.

4264

4265 Ms. Dwyer - Action only.

4266

4267 Ms. Harper - Action only. If you need any more information, I think there were some
4268 questions raised regarding definition of "public meeting," definition of "standing," we'll be
4269 glad to work with the County Attorney to get that information for you prior to that time. If
4270 there are any other types of information you need, in addition to those, I'll be glad to follow
4271 up on that.

4272

4273 Ms. Dwyer - Mrs. Harper, know when you were Director of Planning, we had

4274 discussions about notice. Do you have any thoughts about the general issue of notice and
4275 encouraging public participation in work sessions? It doesn't relate to this.

4276

4277 Mrs. Harper - I understand.

4278

4279 Ms. Dwyer - What you have before us doesn't deal with that, but it is a question that I
4280 think is a valid one.

4281

4282 Ms. Harper - Well, I think that it would be wonderful if we could, by some chance,
4283 go back to publishing a newsletter on a regular basis on Planning and Development Needs. It,
4284 perhaps, would have to be multi-departmental in some respects, because Planning and road
4285 widenings and, you know the water treatment plant are a lot of things that citizen groups
4286 would be interested in. And I think having some consistent mechanism for letting people
4287 know what's going on is important. I think getting every civic association to be aware of the
4288 web site, and knowing that on the web site we would commit to posting dates and times of
4289 work sessions and topics would be important. It's very difficult sometimes to give enough led
4290 time to be able to have a major mailing because you know you may decide you want a work
4291 session two weeks from now. So, the faster way to do it is really over the web site. So, I
4292 think we're very fortunate that we have the technology that we have that, in most civic
4293 associations, there is at least one person who could be assigned to monitoring that web site to
4294 come up with that. Of course, do mailings whenever possible. But I think sometimes it's
4295 impossible to do mailings.

4296

4297 The work sessions, they really do want to be involved earlier in the process. I'm totally
4298 convinced of that, as does the development community. There are many things you're
4299 working on that the development community and the citizens want to know about sooner. So,
4300 I think to get the word out to those groups as I did for these two meetings. I sent probably
4301 515 mailings for those meetings. We had very low attendance considering how many notices
4302 went out.

4303

4304 Ms. Dwyer - I'm sorry. You sent 515 mailings and how many people attended those
4305 work shops?

4306

4307 Ms. Harper - Seventeen at the east end, and seven at the west end.

4308

4309 Ms. Dwyer - And some of them attended both.

4310

4311 Mrs. Wade - To whom did you send the 500 and some notices?

4312

4313 Ms. Harper - Four hundred of them are the mailing lists that has been accumulated of
4314 people that have been involved with the Development Timetables project and to all the people
4315 that apply for different things through Public Utilities, Planning, Public Works. That data
4316 base has been built up over a long time. Civic organizations was a combination of the Public
4317 Information mailing lists that we have in their directory and we added the Varina
4318 Environmental Concerned group, Marilyn Paschke, and Mrs. Donnelly are members of. They

4319 are not classified in that group that she had attended.

4320

4321 That group is only about 77 or 78.

4322

4323 Mrs. Wade - Oh, okay.

4324

4325 Ms. Harper - You're not classified as a civic association. You're classified as an
4326 environmental.

4327

4328 Mrs. Paschke - Right.

4329

4330 Mrs. Wade - And Public Information, they only have fewer than 100.

4331

4332 Ms. Harper - Fewer than 100. Of course, we have to hope that the person who
4333 receives that spreads the word.

4334

4335 Mrs. Wade - But that would be the leader, but oftentimes it is out of date or
4336 something.

4337

4338 Ms. Harper - I don't know what else to use.

4339

4340 Mrs. Wade - I'm trying to think about some ideas to at least keep that up to date.

4341

4342 Ms. Harper - Well, what we're hoping, in the County, in general, is hoping, both for
4343 job ads, for people to apply for jobs with the County and for public meetings and agendas is
4344 that people will start using the web site. It could be put up and you could know about things
4345 within five minutes of them happening or 10 minutes of them happening if the person is able
4346 to get to the web site. Because it is amazing how we are able to be much more interactive.
4347 We have e-mail ability with questions coming back from citizens regarding these items. I
4348 frequently get questions that are sent to me through e-mail to the County about something
4349 that's going on.

4350

4351 We really do feel that's the best way for people to get the word. And it does put the burden
4352 on the citizen groups and on citizens and on developers to do that. I mean, it requires that, but
4353 its just so open and easy to get to once you do that. That's the way we suggest is that there
4354 be, I mean the work sessions are real important, because a lot of action does occur there. The
4355 public hearings are important. So, my suggestion is we need to do a better job of doing both
4356 of those things. Getting, perhaps, the news letter.

4357

4358 We have a new reporter covering Henrico County. He seems to be interested a lot in
4359 development. That may help, too.

4360

4361 Ms. Dwyer - So you have a listing of civic associations and environmental associations
4362 are listed separately, or is this something for...

4363

4364 Ms. Harper - The Public Information Office of the County sends out requests every
4365 year for people to update their lists. And then they publish a book which is called, "Henrico
4366 County Organizations." It has a whole variety of organizations. We use that in various ways
4367 to do mailings.

4368

4369 Ms. Dwyer - So, you sent out 515 mailings and had not more than 25, because I think
4370 you said in your letter to me, some of the people attended both?

4371

4372 Ms. Harper - Right. We had three people who attended both.

4373

4374 Ms. Dwyer - So, probably 22 people out of your 515. That's not much of a return on
4375 the direct mailing. Mr. Secretary, does the Planning Office post work sessions on the
4376 internet?

4377

4378 Mr. Marllles - At your last meeting, you requested that we do that. I believe we are
4379 starting to do that. So, work sessions of the Planning Commission will be on our web page.

4380

4381 Mrs. Wade - I know Public Information has got women's clubs, and garden clubs,
4382 and churches and everything else. But the civic associations often will have one person
4383 appointed to be sort of the land use contact in that group. Sometimes the ones in my area
4384 hear about things before I do. They, obviously, are making some aggressive effort to keep up
4385 with those things, too, I suppose. I don't know whether they call the County or what they do.

4386

4387 Ms. Dwyer - Okay. Thank you, Mrs. Harper. Are there any other comments by
4388 Commission members on the Ordinance that has been proposed? Sir, would you like to speak
4389 again?

4390

4391 Mr. Mayton - Yes ma'am. I'd just like to express that we're only trying to be good
4392 stewards to Henrico County. And, believe me, we ask for nothing unreasonable. We're not
4393 against development. Just the right kind of development. Please let us have a say on what
4394 goes on? Thank you.

4395

4396 Ms. Dwyer - Sir, its our intention to make sure that the citizens have an opportunity.
4397 We have always encouraged that. There is nothing that is of significance in this that would
4398 prevent that. I know that the points that you've made, which I consider in the scheme of
4399 things to be fairly minor, looking at the number of the subdivisions that we hear. The ones
4400 that we will be hearing, as proposed by this, and considering the limited authority that we have
4401 no subdivision cases. I think it's unfair, very unfair to characterize this as shutting out the
4402 citizens.

4403

4404 Mr. Mayton - I made 3 e-mails to different people in different departments of Henrico
4405 County and I have not received the first answer from one of them.

4406

4407 Ms. Dwyer - Okay. Thank you, sir. Did you have any other comments?

4408

4409 Mr. Mayton - No ma'am. Thank you.

4410

4411 Ms. Dwyer - Do we have any other comments by Commission members on the
4412 suggestions made regarding the language proposed for the subdivision and zoning ordinance
4413 changes?

4414

4415 Mrs. Wade - Do we have now a concise idea of exactly what they are? We've gotten
4416 off into other topics. Would you summarize for, or one of them summarize...I understand
4417 about ..117, but the other things...

4418

4419 Ms. Dwyer - I think, as I understand it, there were a lot of general comments made
4420 about notice, in general, which I think we've taken the time to discuss today, regarding work
4421 sessions. I think, going through my list, the one that I see as really appropriate for us to
4422 consider is in 19-31, when there is discussion about who approves subdivisions. In the second
4423 paragraph, it says, "The Planning Commission shall be the agent for the Board for conditional
4424 approval of subdivision plats in the following situations...", and it lists the six situations.

4425

4426 There is a concern on a part of the citizens in Paragraph 2, "The Subdivider and Director of
4427 Planning can request Planning Commission review, if the Planning Commission is not already
4428 reviewing that subdivision." We have two options there. One is to include citizens, which I
4429 think raises the issue of "standing." I don't know whether that's a true issue or not. That
4430 would be something that our legal counsel would need to look at.

4431

4432 Secondly, an alternative to that would be to say that, "The Planning Commissioner could
4433 request Planning Commission review." So, that would give the citizens a specific person to
4434 contact if they had a concern about a subdivision. We have 100 citizens out here who are
4435 concerned about the subdivision. We would like to have opportunity to have a public hearing
4436 on this. And then the Planning Commissioner could respond to that and request that. So, that
4437 would be an avenue for acquiring participation again. This is a very limited situation in
4438 which, I just want to keep emphasizing this, because there seems to be a comment that the
4439 citizens are being precluded somehow from this, from a significant part of the work that we
4440 do. It's a grain of sand compared to the beach that we are normally responsible for.

4441

4442 Also, there's Paragraph 4, "The subdivider can appeal the Director of Planning's decision on
4443 the preliminary plat approval." And there's a request that the citizen be able to approve that.
4444 Again, I think that has a potential standing issue. Is may be that it would be safer to say,
4445 "subdivider or an adjoining property owner could appeal the Director of Planning's
4446 decision..." I know that's the case in POD's.

4447

4448 Mrs. Wade - But, "subdivider" implies some ownership of the property, doesn't it? I
4449 just can't go out and post "standing" if I want to subdivide somebody else's property?

4450

4451 Ms. Dwyer - Well, if a person comes in to request a subdivision, they either have to
4452 be the owner or they have to have the power of attorney for the owner, is my understanding.
4453 So they would automatically have standing just by virtue of the fact that they are the

4454 applicants.

4455

4456 Mrs. Wade - Yes. That's what I assumed.

4457

4458 Ms. Dwyer - So, those are the two, as I see it, the two proposals that directly affect the
4459 language that we're considering today.

4460

4461 Mr. Mayton - (Comments unintelligible).

4462

4463 Ms. Dwyer - Sir, I think the Planning Commission is just having a discussion at this
4464 moment.

4465

4466 Mrs. Wade - What we have to think about between now and when we make the
4467 decision next month.

4468

4469 Mr. Mayton - (Comments unintelligible).

4470

4471 Mrs. Wade - We understand about that. When we have zoning cases, sometimes we
4472 get people from 10 and 20 miles away who oftentimes have genuine concerns about this.

4473

4474 Mr. Mayton - I have a genuine concern because of traffic.

4475

4476 Mrs. Wade - You're right.

4477

4478 Ms. Dwyer - Mrs. Wade and Mr. Archer, would you just like to simply think about
4479 this in the meantime, or would you like to make a proposal today for any changes you might
4480 like to consider for 19-31?

4481

4482 Ms. Harper - I was just going to say that we'll be glad to follow up on questions of
4483 both two and four on standing for citizens. I'll be glad to work with the Planning Office and
4484 the County Attorney's office in trying to develop some information for you so you can have it
4485 prior to your meeting. You have two meetings in November. One of them has been moved
4486 up. Your POD meeting is a week earlier than normal. So, I think that's the 17th and you
4487 already have hearings that day. I don't know if the zoning meeting is a better time or not.

4488

4489 Ms. Dwyer - We have a number of work sessions and things. I'm sorry we couldn't
4490 vote on this today. Let me ask you a question, Ms. Harper. Do you see any problems in
4491 adding, "Planning Commission" to Paragraph 2, and "adjacent property owner" to Paragraph
4492 4? And then we could verify...

4493

4494 Ms. Harper - Planning Commissioner?

4495

4496 Ms. Dwyer - Planning Commissioner.

4497

4498 Ms. Harper - You wouldn't want to add the whole Planning Commission, I mean in

4499 the sense that...

4500

4501 Ms. Dwyer - The Planning Commissioner in the District in which the case resides.

4502

4503 Ms. Harper - I don't have any problem of adding "Planning Commissioner," to any of
4504 these paragraphs, but I think that the concern I would have on adding "a citizen," I still go
4505 back to my example is that we have seen situations in which it is used as a tool for personal
4506 gain by the person that is appealing it to avoid development of property, and delay
4507 development of property. I cannot, in professional way, recommend to you that "a citizen" be
4508 added to this. I'm sorry.

4509

4510 Ms. Dwyer - In Paragraph 2, the "Planning Commissioner for the District..."

4511

4512 Ms. Harper - That is fine. I think that could be a very good way to get the citizens
4513 comments.

4514

4515 Ms. Dwyer - Because that's our job is to be the connecting point for citizenry in
4516 matters, particularly that resolve land that lies in our district. So, I would recommend in
4517 Paragraph 2 to provide that connection that we add "The Planning Commissioner for the
4518 District in which the property lies...", or however you want to say that, for Paragraph 2.

4519

4520 Lady from Audience - (Comments unintelligible.)

4521

4522 Ms. Dwyer - We have that proposal, ma'am, but I'm not recommending that. I'm not
4523 suggesting that, personally, today. In Paragraph 4, "Subdivider appeals..." You know we
4524 have a decision by the Director of Planning. And "the subdivider may appeal..." And I know
4525 in POD's the adjacent property owners have the right to appeal. How have we handled
4526 subdivision in the past? I know its extremely rare to ever have an appeal of a subdivision
4527 because our authority is so limited in a subdivision case?

4528

4529 Mrs. Wade - You have to have some specific issue.

4530

4531 Ms. Harper - Excuse me, Mrs. Wade.

4532

4533 Mrs. Wade - Go ahead, I'm just saying, even for the POD, you've got to have some
4534 specific issue.

4535

4536 Ms. Harper - Time frame. There's a time frame. But in this case, any citizen appeal
4537 of a subdivision has been to the Circuit Court.

4538

4539 Ms. Dwyer - Okay.

4540

4541 Mr. O'Kelly - It has to be filed within 30 days of the decision.

4542

4543 Ms. Harper - What is happening here is that we are not putting another step in it.

4544

4545 Ms. Dwyer - Right.

4546

4547 Ms. Harper - Because, at this point, if you remember, the plans are not currently seen
4548 by the Planning Commission, or the ones that we're talking about in this list. Currently, a
4549 decision made by, as a Planning Commission, all those other plans are still going to be coming
4550 to you are going to go to Circuit Court if there's an appeal. It doesn't go to the Board of
4551 Supervisors, unlike a site plan.

4552

4553 Ms. Dwyer - And it still would not?

4554

4555 Ms. Harper - It's not done like a site plan. A site plan, or POD would go to the
4556 Board of Supervisors upon appeal from you. But, in this case, as it currently exists, whether a
4557 citizen wants to appeal it, or the applicant wants to appeal it, it goes to Circuit Court. So, this
4558 really isn't changing that.

4559

4560 Ms. Dwyer - Right.

4561

4562 Ms. Harper - It's just saying, when we add that extra layer that the staff is doing
4563 review, then they still have a chance at the Planning Commission before they go to Circuit
4564 Court. So, in this case, this does not prevent, in anyway for the citizen being able to appeal to
4565 Circuit Court. It does not prevent appeal. It's just who you appeal it to.

4566

4567 Ms. Dwyer - May I ask you to do something, Mrs. Harper?

4568

4569 Ms. Harper - Sure.

4570

4571 Ms. Dwyer - ...between now and the next time we hear this. If you would check with
4572 legal counsel about whether it would be appropriate to add "citizens," or "adjoining property
4573 owners." Those are the two possibilities that I see as potential amendments for Paragraph 4.
4574 And if you could see if there are any constraints that State law or law relating to property
4575 rights, any effect that those laws would have on our ability to amend that in this way?

4576

4577 Ms. Harper - I'd be glad to.

4578

4579 Mrs. Wade - Are you talking about just "citizen" standing alone? I mean you've got
4580 to be a resident.

4581

4582 Ms. Dwyer - Right. Exactly what limitations are there on who might be able appeal a
4583 decision by the Director of Planning to the Planning Commission.

4584

4585 Mrs. Wade - You can get a lot of nuisance problems. I know these folks wouldn't do
4586 it, but there are other out there who would take advantage of it.

4587

4588 Ms. Dwyer - Is there any more discussion by the Planning Commission on any

4589 proposed changes?

4590

4591 Mrs. Wade - Well, I think she said, "developers," but my question about the
4592 subdivider who has standing is, basically, either the property owner or somebody for the
4593 property owner. The property owner still has his rights in these matters.

4594

4595 Ms. Dwyer - Okay. So, we will be hearing this "For Decision Only," although you
4596 can report back to us on...

4597

4598 Ms. Harper - I will be getting you that information as soon as we possibly can. You
4599 will definitely have it the week before the meeting. But, at this point, without Mr. Tokarz
4600 here to comment, I would assume, I guess, can you tell me which meeting this will be on?

4601

4602 Ms. Dwyer - Do we need a quorum to set the date?

4603

4604 Ms. Harper - I assume it would be November 17th because that's the next meeting of
4605 this type...

4606

4607 Ms. Dwyer - Defer decision to November 10th. Why don't we do it November 10th?

4608

4609 Mrs. Wade - I would assume that the interested citizens maybe would have a preference
4610 between a morning and an evening.

4611

4612 Ms. Harper - We're not going to be taking any more public testimony.

4613

4614 Mrs. Wade - No. I understand that.

4615

4616 Ms. Harper - They're definitely interested, and we'll be glad to communicate with
4617 them whatever you decide.

4618

4619 Mrs. Wade - Well, okay.

4620

4621 Ms. Harper - It's up to you. If you want a night meeting they may prefer.

4622

4623 Ms. Dwyer - 7:00 o'clock on the 10th?

4624

4625 Ms. Harper - That's fine.

4626

4627 Ms. Dwyer - "For Decision only."

4628

4629 Mrs. Wade - What is it that happens at 6:30 that night?

4630

4631 Ms. Harper - Do you have something at 6:30?

4632

4633 Ms. Dwyer - We have something at 6:00 p.m. We have a work session on the multi-

4634 family design standards.

4635

4636 Mrs. Wade - Residential things, and communication towers.

4637

4638 Ms. Dwyer - Communication towers at 6:30, and at 7:00 o'clock, we'll make the
4639 decision on this. So, we have three items.

4640

4641 Ms. Harper - And the citizens who are here may have interest in those other topics.

4642

4643 Ms. Dwyer - That would be great. That would be a very productive arena to be...

4644

4645 Mrs. Wade - We have a few zoning cases.

4646

4647 Ms. Dwyer - Right. A few zoning cases. All right, thank you, Mrs. Harper.

4648

4649 Ms. Harper - Thank you.

4650

4651 Ms. Dwyer - All right, that concludes our hearing on the proposed amendments for
4652 subdivisions and zoning ordinances. If I could thank the citizens for coming out. And I hope
4653 that you will continue to be interested in the work of the Commission to improve quality
4654 development in Henrico County. As you hear, we'll be making our decision at our Rezoning
4655 Meeting which is an evening meeting on November 10th. Thank you very much. Okay, Mr.
4656 Secretary our next item is:

4657

4658 **Work Session Draft Zoning Ordinance Amendment Limiting the Uses to be Granted**
4659 **Temporary Use Permits**

4660

4661 **Mr. Vanarsdall returns at this time and Mr. Donati is absent during this Case.**

4662

4663 Mr. Marlles - Dealing with the responsibilities of the Board of Zoning Appeals in
4664 respect to granting of variances and temporary use permits. Mr. Ben Blankinship will be
4665 summarizing those changes which have been prepared by the County Attorney's office.
4666 Unfortunately, Mr. Tokarz is not able to be here because he had a prior commitment. No
4667 action on the part of the Commission is required.

4668

4669 Mr. Blankinship - Madam Chairman, as you know the construction of a communication
4670 tower requires a Provisional Use Permit, and that goes to the Planning Commission for
4671 recommendation and then to the Board of Supervisors. There was recently a request for a
4672 temporary telecommunications tower which the Ordinance seemed to allow by a temporary
4673 Conditional Use Permit going only to the Board of Zoning Appeals. When staff sat down and
4674 looked at the uncertainty of how that process should flow, whether it should go to the
4675 Commission and the Board or the BZA, we decided to suggest amending the Zoning
4676 Ordinance to make it more clear for which cases the BZA should have that authority over and
4677 which cases they would not have that authority over. As Mr. Tokarz looked into that
4678 question, he also chose this as an opportunity to make some housekeeping changes to the

4679 section on the Board of Zoning Appeals powers, so 24-116 is the section at issue. The first
4680 four pages of this draft concentrate on variances and you will notice that they are fairly minor
4681 changes. What Mr. Tokarz has proposed here is simply bringing the County Ordinance more
4682 strictly in line with the State Code. Right now they are fairly similar, but there are some
4683 differences between the County Ordinance and the State Code, and what Mr. Tokarz proposes
4684 here are changes that would bring our County Ordinance very strictly and specifically in line
4685 with the State Code. I am not going to dwell on the first four pages unless you have any
4686 specific questions.

4687

4688 Ms. Dwyer - Just generally, what are the changes?

4689

4690 Mr. Blankinship - Well, as you see here, the first one, for example, striking the words,
4691 "where it is alleged there is an error," just delete that to say "to hear and decide appeals from
4692 any order, requirement, decision or determination by an administrative officer."

4693

4694 Ms. Dwyer - Who is that?

4695

4696 Mr. Blankinship - That would be any administrative officer, any one making a decision on
4697 behalf of Mr. Marlles. As it is written right now, the Board can only hear appeals from Mr.
4698 Marlles' decision, but State law is clear that if somebody else on the staff makes a decision
4699 under Mr. Marlles' delegated authority, that should be appealed in the same way, so it is a
4700 very minor conflict between the State Code and the County Ordinance.

4701

4702 Mr. Marlles - And again, I think that you already said this, Mr. Blankinship, but the
4703 wording that is being proposed by the County Attorney's office essentially tracks the same
4704 wording that is in the State Code. It brings our County Code closer into line with actually
4705 what the State Code says.

4706

4707 Ms. Dwyer - Has this been presented to us before?

4708

4709 Mr. Marlles - No. This has not.

4710

4711 Ms. Dwyer - So, we are basically fairly uninformed about this.

4712

4713 Mr. Marlles - Yes, that is right.

4714

4715 Ms. Dwyer - You might not want to skip over it.

4716

4717 Mr. Blankinship - I apologize. I thought it might move things along. Well, Paragraph A
4718 then...

4719

4720 Ms. Dwyer - We are down now to two Commissioners.

4721

4722 Mr. Blankinship - By the time I finish I will be the only one here.

4723

4724 Mrs. Wade - It is not that bad I hope.

4725

4726 Mr. Blankinship - On Paragraph A, on the first page then, OK. On Paragraph B, the
4727 existing language adds the statement "unnecessary to carry out the spirit and purpose of this
4728 chapter." In an attempt to clarify what is an unnecessary hardship, case law defines an
4729 unnecessary hardship rather differently, so that leaves a conflict between what the County does
4730 and the State does, so Mr. Tokarz has suggested striking the language added to the County's
4731 Ordinance so that it will exactly track with the statute. And then inserting the word
4732 "provided" and then striking the word "as follows" at the end of the paragraph, which isn't
4733 really going to change the meaning. Then, two paragraphs are inserted defining what a
4734 variance is, "a deviation from the provisions of the zoning ordinance regulating size or area of
4735 a lot or parcel or the side area of a building location or structure," and then describing when
4736 the Board is authorized to grant this, and stating clearly that the Board cannot bring a variance
4737 for use or any variance that has the same effect as a use variance, that is, anything that would
4738 substitute for rezoning. If he wants to use the property for something that is not allowed, he
4739 has to apply for rezoning. You can't take that to the BZA.

4740

4741 Mrs. Wade - So, regulating the size or area of a lot or parcel, what is the area mean?

4742

4743 Mr. Blankinship - The zoning ordinance sets minimum lot areas for each zoning district,
4744 one acre...

4745

4746 Mrs. Wade - OK.

4747

4748 Ms. Dwyer - The second paragraph in the State law, is the Board of Zoning
4749 authorized or is that something we have added?

4750

4751 Mr. Blankinship - I know that content is in the State Code. I am not sure it is in those
4752 words, and I am not sure it is in the same position, but I know that the statement is provided in
4753 the State Code.

4754

4755 Ms. Dwyer - But what seems to be the gist of what we are trying to do here is to
4756 clarify they cannot indirectly rezone land to effect the use.

4757

4758 Mr. Blankinship - It says that explicitly in the statute.

4759

4760 Mrs. Wade - I am just trying to get some idea here about what they are talking about.
4761 It doesn't say anything about sections of the ordinance that might not have anything to do with
4762 the size or setbacks and that kind of thing, size, shape, narrowness or shallowness of a parcel.

4763

4764 Mr. Blankinship - They are not authorized to grant a variance to any other regulation
4765 besides what is stated here. As I said, that is already a matter of State law whether we copy it
4766 in the County Ordinance or not.

4767

4768 Mrs. Wade - That includes the number of parking spaces and things like that?

4769

4770 Mr. Blankinship - That would fall under the size, area, bulk or location of a building or
4771 structure.

4772

4773 Mrs. Wade - As well as topographic conditions...does it say anything about a
4774 variance?

4775

4776 Mr. Blankinship - That may well be outside a strict interpretation of that. Road frontage, I
4777 think, would be a characteristic – it is pretty specific – size or area. It is pretty rare that they
4778 hear parking lot cases.

4779

4780 Mrs. Wade - Well, they've got two that I know of that are coming up now.

4781

4782 Mr. Blankinship - They have heard them. But they are not nearly as common as road
4783 frontage. I think that it might be stated in the Code, that you can only build on a parcel with
4784 road frontage if authorized by the BZA.

4785

4786 On Page 2, describing the finding that the Board has to make, the County language, about six
4787 lines down says "extraordinary or exceptional situations" and the State Code only says
4788 "extraordinary," so Mr. Tokarz has struck the word "exceptional." And then again added in
4789 "or condition of a piece of property or the condition, situation or development of property
4790 immediately adjacent thereto" which are additional considerations in the State Code now, so
4791 that should be added to make the two consistent. That is not going to change the meaning very
4792 much, but brings it in line.

4793

4794 In paragraph 2, a. "No such variance shall be altered by the Board unless it finds," "striking
4795 by a preponderance of evidence that all of the following facts and conditions exist." The test
4796 still is the preponderance of evidence and they do still have to meet all of these, but it is not
4797 stated that way in the Code and Mr. Tokarz has suggested striking it. And, paragraph a there
4798 is worded differently in the County Ordinance from the way that it is in the Code, and Mr.
4799 Tokarz would change it to exactly what is in the code "That the strict application of ordinance
4800 would produce undue hardship."

4801

4802 The same thing on paragraph b. Striking the language that is different and changing it to "The
4803 hardship is not shared generally by" and changing "authorizing" to "authorization". Mr.
4804 Tokarz is a very picky man. Also, "and will not materially impair the purpose of this chapter
4805 or the public interest" would be changed to "and that the character of the district will not be
4806 changed by the granting of the variance".

4807

4808 In paragraph 3, striking "specifically" and "specific piece of property" and pointing out that it
4809 is the "property concerned" that we are talking about.

4810

4811 In paragraph 4 there, changing "attach" to "impose" and stating that they have the power to
4812 require a financial guarantee or bond, which is something that they do, on occasion, already,
4813 and they do have that authority under State Code, and this would clarify it in the County

4814 Ordinance as well.

4815

4816 Then, adding (c) “To hear and decide appeals from the decision of the director of planning
4817 after notice and hearing as provided in Virginia Code § 15.2-2204.”

4818

4819 Mrs. Wade - Now, does that mean they have to comply with the previous
4820 requirements or does just any appeal or any decision of the director of planning? It wouldn't
4821 cover everything.

4822

4823 Mr. Blankinship - Any appeal from the decision of the director of planning is taken to the
4824 BZA rather than going directly to Court.

4825

4826 Mrs. Wade - OK, so that is sort of all inclusive, isn't it?

4827

4828 Mr. Blankinship - It is just an extra administrative procedure between the staff and the
4829 courts, but everything under B there, most of page 1, all of page 2 and most of page 3, all
4830 applies specifically to variances. Then going to C, we are really going from variances to
4831 appeals from the director's decisions, and then D, “To hear and decide applications for special
4832 exceptions as are authorized elsewhere in this chapter” and this is getting toward the real heart
4833 of the matter, although these changes on pages 3 and 4 are mostly of the same nature, striking
4834 the words “after the hearing” that the proposed establishment or use will “be in substantial
4835 accordance with the goals and objectives of this chapter and will” – purely grammatical
4836 changes here, striking “nor” and substituting “will not” and striking “official” and substituting
4837 “adopted”. You are not really changing the meaning, just making it so that the County's text
4838 will exactly mirror the State Code.

4839

4840 And then, when we get to the middle of page 5, starting in the middle of page 5 there, we get
4841 into the changes that were really requested here. As it reads now, (1) Temporary uses and
4842 structures, in any district, for a purpose that does not conform to the regulations prescribed by
4843 this chapter for the district in which located; provided that such uses be of a temporary nature
4844 and do not involve the erection of substantial buildings. The word buildings became very
4845 important in the case that I mentioned for what they want to put up is a telecommunications
4846 tower, a monopole, 85 foot monopole. That is not a building. So, we could not read this
4847 paragraph as excluding that. We had to allow that application to be processed. Mr. Tokarz
4848 has changed that from “building” to “structure”. Now, an 85 foot monopole is a structure,
4849 and it is substantial and it is going to be in concrete, so we are going to call it permanent and
4850 under this change we would not have heard that application. He is also adding at the end of
4851 the paragraph “However, no temporary use permit may be granted to allow business or
4852 commercial activity in a residential district.” That is fairly broad and covers a lot of ground
4853 right there. A lot of the problems that we imagine could arise were immediately taken away.
4854 Also, there has been, in the past, a temporary use permit granted for a Christmas Tree Farm in
4855 a residential area. That would not be allowed under this new language.

4856

4857 Ms. Dwyer - It says that the “Board shall have the power to permit temporary uses
4858 and structures in any district” so you have taken out “buildings” and that...

4859

4860 Mr. Blankinship - Well, we are changing "building" to "structures".

4861

4862 Ms. Dwyer - Where do you change "building" to "structures?"

4863

4864 Mr. Blankinship - It is going to be farther down. We have added a list of exceptions a
4865 through f. But, first, he said, "However, no temporary use permit may be granted to allow
4866 business or commercial activity in a residential district." So, with that one sentence he has
4867 taken out the Christmas Tree operation and similar cases. OK, "The temporary use permit
4868 shall comply with the following requirements" and here we have a list of six requirements that
4869 will narrow when the Board can hear these cases, the Board of Zoning Appeals can hear these
4870 cases:

4871

4872 a. the use or structure must be of a temporary nature; and

4873 b. the temporary use may not involve the erection of substantial or permanent
4874 structures; and

4875

4876 All buildings are structures, so any building would be prohibited by this, any permanent or
4877 substantial building, and also something like a monopole.

4878

4879 Mrs. Wade - A building is something with a roof over it.

4880

4881 Mr. Blankinship - Yes, a roof supported by walls or columns.

4882

4883 Ms. Dwyer - What is the difference between A and B?

4884

4885 Mr. Blankinship - A just says that it has to be temporary, and B says that you can't have a
4886 temporary use in a permanent structure. For example, the Fairgrounds, where you have
4887 structures that are there all of the time, but they are only in use occasionally. That sort of
4888 thing would not be allowed under paragraph B.

4889

4890 Ms. Dwyer - So, does A mean that the use must be temporary and B speaks to the
4891 structure in which the use is permitted. So, why do we say structure in A?

4892

4893 Mr. Blankinship - Just to be thorough, I guess.

4894

4895 Ms. Dwyer - Well, it is confusing. You might make a note of that. I would take out
4896 structure from paragraph A, just looking at it, but maybe you might want to check with Tom
4897 on that.

4898

4899 Mr. Blankinship - And then,

4900

4901 c. the use may not be one for which a provisional use permit is required; and

4902

4903 This is what we were really going after in the beginning of this process; the confusion, that

4904 something may go to the Planning Commission and the Board of Supervisors, or you can take
4905 a different path and submit it only to the BZA. By putting C in there, it is pretty clear that
4906 anything that is allowed by a Provisional Use Permit cannot go to the BZA. It has to go this
4907 way.

4908

4909 d. the temporary use or use of the temporary structure may not continue more than
4910 24 months including all renewals and extensions by the Board.

4911

4912 Under the current rules, they can only authorize a use for 24 months, but it has been appealed
4913 and decided on appeal that they can renew that 24-month permit indefinitely. So, in essence,
4914 the temporary use permit can become permanent. This would clarify that, once you've got
4915 your 24 months, that is all you get.

4916

4917 Mr. Marlles - If I recall, the Board of Zoning Appeals actually asked for clarification
4918 on this particular matter.

4919

4920 Mr. Blankinship - Yes, they were somewhat uncomfortable with that particular
4921 interpretation.

4922

4923 e. the temporary use shall not include the sale, rental, distribution or showing of
4924 materials depicting specified anatomical areas or specified sexual activities; and

4925

4926 This came up at the same time that we were working on the adult book store and the adult
4927 video store regulations and even though they are permitted by right and not by Provisional Use
4928 Permit, Mr. Tokarz wanted to make sure that those applications didn't find an end run around
4929 you and the Board of Supervisors. And finally,

4930

4931 f. the board shall impose any conditions necessary to protect the public health,
4932 safety and welfare.

4933

4934 That is not new but repeated and stated clearly.

4935

4936 Ms. Dwyer - How does he determine when to use may and when to use shall?

4937

4938 Mr. Blankinship - That question was raised specifically on this language.

4939

4940 Mr. Marlles - Actually, on a previous draft where you see the word "shall" I think in
4941 most cases it said "may" and the Planning Staff actually asked for the stronger language.

4942

4943 Mrs. Wade - Because they are using both in here.

4944

4945 Mr. Blankinship - Yes, and normally when you use may with not, if you say that "you may
4946 not" do something, that is just as exclusive as "shall not." It is not like it is in the affirmative
4947 where may and shall have very different meanings. Why he changed it in e and did not
4948 change it in the others, I don't know.

4949

4950 Ms. Dwyer - You probably will want to ask him that, too.

4951

4952 Mr. Blankinship - Paragraph (2) does not contain any changes nor does Paragraph (3), and
4953 then on Page 7, (d) would be renumbered to (e) or indexed to (e) and the whole first sentence
4954 has been struck. I am not really sure why he took out that whole first sentence. The last
4955 power just enumerated for the BZA is the authority to interpret the zoning maps, and he does
4956 make clear that they have to notify the affected property owners before they made such a
4957 decision, which again is the State Code requirement. We were just as bound by that before,
4958 but it is nice to have the two agree.

4959

4960 Ms. Dwyer - Thank you, Mr. Blankinship. Do we have any questions by Commission
4961 members on this?

4962

4963 Mr. Vanarsdall - Well, I have a question because I was not here, and what we are doing is
4964 giving the Board more authority.

4965

4966 Mr. Blankinship - We are clarifying the authority they have now and one could say
4967 "limiting that authority." Specifically, the case that triggered some of this was an application
4968 for a telecommunications tower that they only wanted to have up for one year. And, when we
4969 looked at that, the way this section is written now currently, we, the County Attorney's office
4970 directed us that we had to accept the application and process it through the BZA, although it
4971 was clearly a conflict with the Board's intent of allowing that only by Provisional Use Permit.

4972

4973 Mr. Vanarsdall - Well, this don't involve us as the Planning Commission, the changes
4974 directly.

4975

4976 Mr. Blankinship - It won't bring any more applications to you.

4977

4978 Mr. Vanarsdall - It has always affected us indirectly, but it is changes for the Board.

4979

4980 Mr. Blankinship - Yes, sir, the powers and duties of the Board of Zoning Appeals.

4981

4982 Mr. Vanarsdall - When do you plan to, what is your pecking order now, what do we do
4983 next after you finish today?

4984

4985 Mr. Blankinship - That I don't know.

4986

4987 Mr. Marlles - If the Commission is comfortable, we will recognize that this is the first
4988 time you have had a chance to see this, and I think I said prior to your coming, Mr.
4989 Vanarsdall, that we were not asking the Commission to take action at all on this today,
4990 however, if the Commission is comfortable, the staff would recommend that we schedule a
4991 public hearing; certainly not in November, but possibly in December.

4992

4993 Ms. Dwyer - All right, so we will schedule a public hearing in December, or a work

4994 session?

4995

4996 Mr. Marlles - If the Commission is comfortable, we would recommend scheduling a
4997 public hearing.

4998

4999 Ms. Dwyer - I think we are ready for that. What do you all think?

5000

5001 Mrs. Wade - No, I wouldn't think that would generate a big crowd.

5002

5003 Ms. Dwyer - No, I don't think so either. Just minimal stuff, and I don't think that
5004 this is controversial. It really does just clarify what, I believe, everyone understands the
5005 authority of the BZA to be, and that was the intent of the Board in initiating this. So, I think
5006 we are ready to set a public hearing.

5007

5008 Mr. Vanarsdall - If we do it in December, can we do it on one of the two dates, the 9th or
5009 the 15th?

5010

5011 Ms. Dwyer - Yes, let's do it on the 9th, and that is the zoning date, but it should not
5012 take that long to do it. Do you all want to do it on the 9th? That is our rezoning meeting,
5013 around 6:30 p.m. All right, we can do it at 7:00 and start zoning at 7:30 p.m.

5014

5015 Mr. Vanarsdall - It shouldn't take long.

5016

5017 Ms. Dwyer - Thank you, Mr. Blankinship. I wish you'd been here 30 minutes earlier.
5018 We could have voted on that other stuff. We didn't have a quorum. We will have to vote
5019 next time.

5020

5021 Mr. Vanarsdall - You can't bring it back now?

5022

5023 Ms. Dwyer - No, I think that the public is gone.

5024

5025 Mrs. Wade - The rest of the hearing was deferred, basically.

5026

5027 Ms. Dwyer - We discussed everything under the sun. I'm sorry you were not here to
5028 participate. We were in a different universe, weren't we, Mr. Archer? Expanding our
5029 knowledge. Nobody said a word about you. OK. Next. 7:00 p.m. for the public hearing on
5030 the BZA and 7:30 p.m. for rezoning. We don't expect a large crowd on the BZA unless the
5031 BZA wants to come and speak.

5032

5033 Mr. Vanarsdall - Mr. Blankinship, does the Board of Zoning Appeals know about this
5034 paper?

5035

5036 Mr. Blankinship - I will be discussing it with them at their meeting tomorrow.

5037

5038 Mr. Marlles - Madam Chairman, I believe that concludes all of our business items.

5039

5040 Ms. Dwyer - We rescheduled our meeting for November 10th. Now, let me ask a
5041 question on this multi-family and setback. Have we notified the public about that? What
5042 efforts have we taken?

5043

5044 Mr. Marlles - It is going to be a work session and we have it on the web page. That is
5045 what we have done.

5046

5047 Mr. Silber - We have tried to notify everybody, the Homebuilders, there are residents
5048 who have requested information, so Jo Ann is on top of that.

5049

5050 Ms. Dwyer - Are there any other citizens groups that we might notify?

5051

5052 Mr. Silber - We'd be glad to send them something if you tell us who they might be.

5053

5054 Ms. Dwyer - The industry has people who are paid to find out what is happening and
5055 when. Do we have other regional civic groups?

5056

5057 Mr. Silber - We used to have Bill Smith years ago.

5058

5059 Ms. Dwyer - That 515 that Angela did, was that ever an organization?

5060

5061 Mr. Marlles - We have it scheduled for public hearing in November.

5062

5063 Ms. Dwyer - Does anybody want to adjourn?

5064

5065 Mr. Archer - So moved.

5066

5067 Ms. Wade - Second.

5068

5069 On a motion by Mr. Archer and seconded by Mrs. Wade, the Planning Commission adjourned
5070 its meeting at 3:00 p.m.

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

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John R. Marlles, AICP, Secretary