

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico, held in the County Administration Building in the Government
3 Center at Parham and Hungary Springs Roads, beginning at 7:00 p.m. Thursday,
4 April 10, 2008. Display Notice having been published in the Richmond Times-
5 Dispatch on March 20, 2008 and March 27, 2008.

6

Members Present: Mr. E. Ray Jernigan, C.P.C., Chairperson (Varina)
Mrs. Bonnie-Leigh Jones, Vice Chairperson (Tuckahoe)
Mr. Tommy Branin, (Three Chopt)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)
Mr. Richard W. Glover (Brookland)
Board of Supervisors Representative
Mr. R. Joseph Emerson, Jr., Director of Planning,
Secretary

Also Present: Ms. Jean Moore, Principal Planner
Mr. Seth Humphreys, County Planner
Ms. Rosemary Deemer, County Planner
Mr. Benjamin Sehl, County Planner
Mr. Livingston Lewis, County Planner
Mr. Roy Props, County Planner
Mr. David Conmy, County Planner
Mr. Jim Strauss, County Planner
Ms. Sylvia Ray, Recording Secretary

7

8 **Mr. Richard W. Glover, the Board of Supervisors' representative, abstains**
9 **on all cases unless otherwise noted.**

10

11 Mr. Jernigan - Good evening, ladies and gentlemen, staff.

12

13 Mrs. Jones - Good evening, Mr. Chairman.

14

15 Mr. Jernigan - On behalf of the Planning Commission and the
16 Planning staff, we'd like to welcome you to our April 10, 2008 meeting for
17 rezonings. First of all, I'd like to welcome Mr. Glover, our sitting member of the
18 Board of Supervisors who sits with us this year. I also see Bill LaVecchia, former
19 County Manager, in the audience tonight. Bill, glad to see you, sir. With that, I
20 will turn our meeting over to Mr. Emerson, our Secretary.

21

22 Mr. Emerson - Thank you, Mr. Chairman. The first item on your
23 agenda tonight is the request for withdrawals and deferrals. Ms. Jean Moore will
24 present those items.

25

26 Ms. Moore - Good evening. We have one withdrawal that is on
27 page 3 of your agenda. It is C-43C-07 and the applicant is John W. Gibbs, Jr.

28 The site is located on the southeast line of Nuckols Road at its intersection with
29 Lower Wyndham Court. There was an application to rezone from R-2AC to R-3C
30 for a 13-home subdivision. As stated, this has been withdrawn by the applicant
31 and therefore no action is required from the Commission.

32

33 Deferred from the January 10, 2008 Meeting. (Withdrawn)

34 **C-43C-07 Gibson Wright for John W. Gibbs, Jr.:** Request to
35 conditionally rezone from R-2AC One-Family Residence District (Conditional) to
36 R-3C One-Family Residence District (Conditional), Parcels 739-774-2569, -3462,
37 -4084, -4463, -4995, -5364, -5381, -7061, -7096, -7170, -7178, -7187, 739-775-
38 6818, and -6905, containing approximately 6.77 acres, located on the southeast
39 line of Nuckols Road at its intersection with Lower Wyndham Court. The
40 applicant proposes a single-family residential subdivision to construct 13 homes
41 as part of the Grey Oaks development, which has a proffered aggregate
42 maximum density of 1.8 units per acre. The R-3 District allows a minimum lot
43 size of 11,000 square feet and a maximum gross density of 3.96 units per acre.
44 The use will be controlled by zoning ordinance regulations and proffered
45 conditions. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4
46 units net density per acre, and Environmental Protection Area.

47

48 Mr. Jernigan - I'm sorry. I need to recognize we have a member of
49 the press in the audience. Melodie Martin is here from the Richmond Times-
50 Dispatch. Thank you. You can continue.

51

52 Ms. Moore - Moving into requests for deferrals. The first is on
53 page 1 of your agenda and is in the Tuckahoe District. It is POD-3-08. The
54 applicant is Third Presbyterian Church. The site is located on the west line of
55 Forest Avenue at its intersection with Silver Spring Drive. The request is for a
56 plan of development to construct an addition to an existing church and a tot lot,
57 as well a parking area improvements. The deferral is requested to the June 25,
58 2008 meeting.

59

60 **PLAN OF DEVELOPMENT** *(Deferred from the February 27, 2008 Meeting)*

61

62 POD-3-08 Third Presbyterian Church Addition	Rummel Klepper & Kahl, LLP for Trustees of Third Presbyterian Church: 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 and a half story, 46,268 square foot addition to an existing church, a tot lot and parking area improvements. The 3.34-acre site is located at on the west line of Forest Avenue at its intersection with Silverspring Drive on parcels 756-737- 8569, 7779, 7986 and 757-737-0393. The zoning is R-3, One-Family Residence District and R-2, One-Family Residence District. County water and sewer. (Tuckahoe)
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62

63 Mr. Jernigan - Is there any opposition to the deferral of POD-3-08,
64 Third Presbyterian Church? There is no opposition.

65
66 Mrs. Jones - I move deferral of POD-3-08, Third Presbyterian
67 Church Addition, to the June 25, 2008, Planning Commission meeting by request
68 of the applicant.

69
70 Mr. Vanarsdall - Second.

71
72 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Vanarsdall.
73 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

74
75 At the request of the applicant, the Planning Commission deferred POD-3-08,
76 Third Presbyterian Church Addition to its June 25, 2008 meeting.

77
78 Ms. Moore - On page 2 of your agenda in the Varina District is
79 case C-53C-07. The applicant is The Terry Companies Six, LLC. The site is
80 located on the north line of N. Airport Drive, on the east and south lines of N.
81 Washington Street, and the southern terminus of Delbert Drive. This is a request
82 to conditionally rezone from A-1 Agricultural to RTHC Townhouse District where
83 a maximum of 160 semi-detached condominium units are proposed. The
84 deferral is requested to the May 15, 2008 meeting.

85
86 **C-53C-07 Andrew M. Condlin for The Terry Companies Six,**
87 **LLC:** Request to conditionally rezone from A-1 Agricultural District to RTHC
88 Townhouse District (Conditional), Parcels 829-725-8000, 829-726-7956, 829-
89 725-2031, 829-725-9496, 829-726-6419, 830-724-1497, 829-725-6657, 829-725-
90 2590 and 828-724-9181. The 46.8-acre site is located between the north line of
91 N. Airport Drive, the east and south lines of N. Washington Street, and the
92 southern terminus of Delbert Drive. The applicant proposes a maximum of one
93 hundred sixty (160) semi-detached condominium units, a density of 3.42 units
94 per acre. The RTH District allows a maximum gross density of 9 units per acre.
95 The use will be controlled by zoning ordinance regulations and proffered
96 conditions. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4
97 units net density per acre. The site is in the Airport Safety Overlay District.

98
99 Mr. Jernigan - Is there any opposition to the deferral of case C-53C-
100 07, Andrew M. Condlin for The Terry Companies Six, LLC? There is no
101 opposition. With that, I will move for deferral of case C-53C-07, Andrew M.
102 Condlin for The Terry Companies Six, LLC, to May 15, 2008, by request of the
103 applicant.

104
105 Mr. Vanarsdall - Second.

106

107 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.
108 All in favor say aye. All those opposed say no. The ayes have it; the motion
109 passes.

110
111 At the request of the applicant, the Planning Commission deferred C-53C-07,
112 Andrew M. Condlin for The Terry Companies Six, LLC, to its May 15, 2008
113 meeting.

114
115 Ms. Moore - On page 3 of your agenda in the Three Chopt District
116 is case C-7C-07. The applicant is Farmer Properties, Incorporated. The site is
117 located on the southeast line of Twin Hickory Road approximately 800 feet
118 northeast of Nuckols Road. This request is to conditionally rezone from A-1 to
119 RTHC where a residential townhouse development is proposed. The deferral is
120 requested to the June 12, 2008 meeting.

121
122 *Deferred from the February 14, 2008 Meeting.*

123 **C-7C-07 Andrew M. Condlin for Farmer Properties, Inc.:**
124 Request to conditionally rezone from A-1 Agricultural District to RTHC
125 Residential Townhouse District (Conditional), Parcel 747-773-6860, containing
126 5.204 acres, located on the southeast line of Twin Hickory Road, approximately
127 800 feet northeast of Nuckols Road. The applicant proposes a residential
128 townhouse development with a maximum of 28 units. The RTH District allows a
129 maximum density of 9 units per acre. The use will be controlled by zoning
130 ordinance regulations and proffered conditions. The Land Use Plan recommends
131 Urban Residential, 3.4 to 6.8 units per acre.

132
133 Mr. Jernigan - Is there any opposition to C-7C-07, Andrew M.
134 Condlin for Farmer Properties, Inc. No opposition.

135
136 Mr. Branin - Mr. Chairman, I'd like to move for deferral of C-7C-07,
137 Andrew M. Condlin for Farmer Properties, Inc., to the June 12, 2008 meeting per
138 the applicant's request.

139
140 Mrs. Jones - Second.

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

144
145 At the request of the applicant, the Planning Commission deferred C-7C-07,
146 Andrew M. Condlin for Farmer Properties, Inc., to its June 12, 2008 meeting.

147
148 Ms. Moore - Mr. Chairman, that concludes our requests for
149 deferrals.

150
151 Mr. Jernigan - Thank you, Ms. Moore.

152

153 Mr. Emerson - Mr. Chairman, that takes you to the next item on your
154 agenda, request for expedited items. You do have one item on the expedited
155 agenda tonight. In order to qualify for the expedited agenda, staff must be
156 recommending approval, the applicant must submit a letter stating agreement
157 with staff on the recommendations and conditions, and there must be no known
158 opposition. If there is opposition, the item will be removed from the expedited
159 agenda and heard in the order as it appears on the regular agenda. Any
160 member of the Commission can also request an item be removed from the
161 expedited agenda. Ms. Moore will be presenting the item.

162
163 Ms. Moore - Thank you, Mr. Secretary. It is on page 3 of your
164 agenda in the Fairfield District. The case is C-15-08. The applicant is Barrington
165 Investors, Ltd. The site is generally located along 100-year floodplain between
166 the east line of Chesapeake and Ohio Railroad and the west line of Barrington
167 Road at its intersection with Yeadon Road. This is a request to rezone from R-
168 5AC, General Residence District, to C-1, Conservation District where a
169 conservation area is proposed.

170
171 **C-15-08 Dan Caskie for Barrington Investors Ltd:** Request
172 to rezone from R-5AC General Residence District (Conditional) to C-1
173 Conservation District, part of Parcel 799-732-4991, containing approximately
174 2.70 acres, located generally along the 100 year floodplain between the east line
175 of the Chesapeake and Ohio Railroad and the west line of Barrington Road at its
176 intersection with Yeadon Road. The applicant proposes a conservation area.
177 The use will be controlled by zoning ordinance regulations. The Land Use Plan
178 recommends Environmental Protection Area and Suburban Residential 2, 2.4 to
179 3.4 units net density per acre.

180
181 Mr. Jernigan - Is there any opposition to case C-15-08, Dan Caskie
182 for Barrington Investors, Ltd.? No opposition.

183
184 Mr. Archer - All right, Mr. Chairman. I therefore move approval of
185 C-15-08, Dan Caskie for Barrington Investors, Ltd., and send it to the Board with
186 a recommendation for approval.

187
188 Mr. Vanarsdall - Second.

189
190 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr. Vanarsdall. All
191 in favor say aye. All opposed say no. The ayes have it; the motion passes.

192
193 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr.
194 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
195 the Board of Supervisors grant the request because it is reasonable and it
196 conforms to the recommendations of the Land Use Plan.

197

198 Mr. Glover - Mr. Chairman, I'd like to have in the record that I do
199 not vote on zoning cases that the Planning Commission hears since these cases
200 will be coming to the Board of Supervisors. I will be abstaining from all cases
201 unless otherwise noted.

202
203 Mr. Jernigan - Thank you Mr. Glover.

204
205 Mr. Vanarsdall - Mr. Chairman, I'd like to point out we have one of our
206 former staff member sitting there, Lee Householder.

207
208 Mr. Jernigan - Hi, Lee, how you doing?

209
210 Mr. Vanarsdall - I notice you didn't come up and talk to anybody, but
211 that's all right. I don't blame you.

212
213 Mr. Jernigan - Okay, Mr. Secretary.

214
215 Mr. Emerson - Yes sir, Mr. Chairman. You're now moving into your
216 regular agenda items.

217
218 **C-10C-08 Glenn R. Moore for J & L Associates, LLC and**
219 **McDonald's Corporation:** Request to rezone from R-4 One-Family Residence
220 District to B-3C Business District (Conditional), Parcels 767-747-1789 and 767-
221 747-0666 and part of Parcel 766-747-9382, located at the southwest intersection
222 of Deep Run and Fountain Avenues, on the east line of Fountain Avenue
223 approximately 100 feet south of Deep Run Avenue, and on the west line of
224 Fountain Avenue at its southern terminus in the West Broad Street Village
225 subdivision. The applicants propose expansion of existing adjacent businesses
226 (West Broad Hyundai and McDonald's Restaurant). The uses will be controlled
227 by zoning ordinance regulations and proffered conditions. The Land Use Plan
228 recommends Urban Residential, 3.4 to 6.8 units net density per acre.

229
230 Mr. Jernigan - Is there any opposition to C-10C-08, Glenn R. Moore
231 for J & L Associates, LLC and McDonald's Corporation? No opposition.

232
233 Mr. Sehl: Thank you Mr. Chairman. This request would rezone
234 three small parcels from R-4 to B-3C to allow for the expansion of adjacent
235 business uses. Specifically, the applicant is proposing to expand the area
236 available for vehicle storage for West Broad Hyundai and West Broad Honda.

237
238 The 2010 Land Use Plan recommends Urban Residential for the subject site.
239 The proposed uses are not entirely consistent with this designation, but would be
240 in keeping with the land use trends established by previous rezonings on
241 adjacent properties.

242

243 The applicant has provided this un-proffered conceptual plan to indicate how the
244 property subject to this rezoning case would be integrated into the existing uses.

245
246 The applicant has submitted revised proffers, dated today, that are generally
247 consistent with previous cases that rezoned adjacent parcels. These proffers
248 commit to limitations on uses, parking lot lighting, outdoor speakers, signage,
249 and architecture. The most recent change to the proffers pertains to the fencing
250 on the property. The applicant has committed to providing a vinyl fence, rather
251 than the generalized opaque fence previously proffered. The applicant has also
252 provided a letter stating their intent to continue the vinyl fencing along Deep Run
253 Avenue when the property is developed.

254
255 This request would allow for the expansion and retention of existing commercial
256 uses and the properties subject to this request are surrounded by commercial
257 uses and are no longer viable as residentially-zoned property. The proffers
258 submitted by the applicant are consistent with those accepted on adjacent
259 properties, and should provide for a level of development not otherwise possible.

260
261 Staff supports this request and notes that time limits would need to be waived to
262 accept the proffers, dated today, and distributed to you this evening. I'll be happy
263 to answer any questions you might have.

264
265 Mr. Jernigan - All right. Are there any questions for Mr. Sehl from
266 the Commission?

267
268 Mr. Vanarsdall - I don't have any.

269
270 Mr. Jernigan - Mr. Vanarsdall, would you like to hear from the
271 applicant?

272
273 Mr. Vanarsdall - No sir, I don't need to.

274
275 Mr. Jernigan - Okay. You have to waive the time limits.

276
277 Mr. Vanarsdall - All right. I'd like to waive the time limits on C-10C-08,
278 Glenn R. Moore for J & L Associates, LLC and McDonald's Corporation.

279
280 Mr. Archer - Second.

281
282 Mr. Jernigan - Motion by Mr. Vanarsdall, seconded by Mr. Archer to
283 waive the time limits. All in favor say aye. All opposed say no. The ayes have it;
284 the motion passes.

285
286 Mr. Vanarsdall - This is a very good use for this property. As he said,
287 it's storage for the West Broad Honda and they keep up their property very
288 nicely. I want to thank Mr. Moore for helping us on this last minute thing, and

289 thank Ben Sehl for your working on it. With that, I recommend C-10C-08, Glenn
290 R. Moore for J & L Associates, LLC and McDonald's Corporation to the Board of
291 Supervisors for approval.

292

293 Mr. Archer - Second.

294

295 Mr. Jernigan - Motion by Mr. Vanarsdall, seconded by Mr. Archer. All
296 in favor say aye. All opposed say no. The ayes have it; the motion passes.

297

298 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by
299 Mr. Archer, the Planning Commission voted 5-0 (one abstention) to recommend
300 the Board of Supervisors **grant** the request because it continues a form of zoning
301 consistent with the area, and the proffered conditions should minimize the
302 potential impacts on surrounding properties.

303

304 Mr. Glover - Mr. Chairman?

305

306 Mr. Jernigan - Yes sir.

307

308 Mr. Glover - I know there are some people in the audience that
309 know why this was a 40-foot strip of land that was behind that McDonald's and so
310 forth. But prior to proffered zonings, the County would many times leave a strip of
311 zoning, of residential zoning such as this 40 feet, and then the businesses along
312 Broad Street would have to set back from that residential. Well, in this particular
313 case, you have commercial across the street from this and it's not necessary as
314 a buffer to businesses because across the street is business. This was zoned
315 prior to the McDonald's proffered zoning. There is one individual in the crowd that
316 knew how to do that. That was Mr. LaVecchia.

317

318 Mr. Jernigan - Okay. Thank you, Mr. Glover.

319

320 **C-11C-08 Rastek Construction & Development Corporation:**
321 Request to amend proffered conditions accepted with Rezoning Case C-59C-87,
322 on Parcel 772-752-0526, located approximately 456 feet east of Staples Mill
323 Road (U. S. Route 33), approximately 330 feet north of Wistar Road, and
324 approximately 215 feet west of Kimway Drive. The applicant proposes to amend
325 Proffer 1 related to use restrictions to allow automobile/truck tires and parts sales
326 and service; and plumbing, electrical and heating shops, and amend Proffer 9 to
327 further restrict hours of operation. The existing zoning is M-1C Light Industrial
328 District (Conditional). The Land Use Plan recommends Light Industry.

329

330 Mr. Jernigan - Is there any opposition to C-11C-08, Rastek
331 Construction & Development Corporation? There is no opposition.

332

333 Mr. Props - Good evening, sir. Mr. Chairman, members of the
334 Commission. This request is to amend Proffers 1 and 9 accepted with rezoning

335 case C-59C-87 regarding permitted uses and hours of operation within the Wistar
336 Commons development behind Wistar Center on Staples Mill Road. The
337 buildings have recently been completed.

338

339 The property is zoned M-1C Light Industrial District (Conditional). Proffer 1
340 accepted with C-59C-87 prohibits all uses first permitted in the B-3 Business
341 District. The applicant wishes to amend this Proffer to allow: automobile/truck
342 tires and parts sales, service and installation; and plumbing, electrical and
343 mechanical shops. In addition, Proffer 1 has been expanded to prohibit additional
344 uses including: check cashing or payday loan establishments; funeral homes and
345 undertaking establishments; and bars. Because the M-1 District allows 24-hour
346 operation of uses, the applicant also has proffered additional language to Proffer
347 9 stating uses would adhere to the B-2 hours of operation. All other proffers
348 accepted with C-59C-87 have been restated and will remain.

349

350 The 2010 Land Use Plan recommends Light Industrial. The additional uses
351 proposed with the amendment of Proffer 1 would be compatible with surrounding
352 uses and would be consistent with the development. In addition, no outside
353 storage or retail display would be permitted. Since the revised proffer
354 amendment was received yesterday morning, the time limits will need to be
355 waived. Staff supports this request.

356

357 This concludes my presentation and I would be happy to answer any questions.

358

359 Mr. Jernigan - Are there any questions for Mr. Props from the
360 Commission?

361

362 Mr. Vanarsdall - I don't have any.

363

364 Mr. Jernigan - Okay.

365

366 Mr. Vanarsdall - I don't need to hear from the applicant.

367

368 Mr. Jernigan - All right.

369

370 Mr. Vanarsdall - I don't think he's here anyway.

371

372 Mr. Jernigan - Do you want to entertain a motion?

373

374 Mr. Vanarsdall - I move that we waive the time limit on C-11C-08,
375 Rastek Construction & Development Corporation.

376

377 Mr. Archer - Second.

378

379 Mr. Jernigan - Motion by Mr. Vanarsdall, seconded by Mr. Archer. All
380 in favor say aye. All opposed say no. The ayes have it; the motion passes.

381
382 Mr. Vanarsdall - First of all, thank you Mr. Props, for the changes and
383 so forth on this one and following it so closely. I move that C-11C-08, Rastek
384 Construction & Development Corporation be recommended to the Board of
385 Supervisors for approval.

386
387 Mr. Archer - Second.

388
389 Mr. Jernigan - First off, I thought I did. Is there any opposition to
390 case C-11C-08, Rastek Construction & Development Corporation?

391
392 Mr. Vanarsdall - You did that once.

393
394 Mr. Jernigan - I thought I did. Okay. We have a motion by Mr.
395 Vanarsdall and a second by Mr. Archer. All in favor say aye. All opposed say no.
396 The ayes have it; the motion passes.

397
398 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by
399 Mr. Archer, the Planning Commission voted 5-0 (one abstention) to recommend
400 the Board of Supervisors **grant** the request because it would not greatly reduce
401 the original intended purpose of the proffers and the proposed uses would be
402 compatible with surrounding developments.

403
404 **C-12-08 Lakeridge Builders LLC.:** Request to rezone from
405 R-5 General Residence District to R-2A One-Family Residence District, Parcels
406 815-724-4963 and 815-724-8094, containing 0.657 acre, located on the east line
407 of Pleasant Street approximately 390 feet north of Yates Lane and at the
408 southwest intersection of Emerson and Jefferson Streets. The applicant
409 proposes to develop a single-family residential subdivision in conjunction with
410 adjacent property. The use will be controlled by zoning ordinance regulations.
411 The R-2A District allows a minimum lot size of 13,500 square feet and a
412 maximum gross density of 3.23 units per acre. The Land Use Plan recommends
413 Suburban Residential 2, 2.4 to 3.4 units net density per acre. The site is in the
414 Airport Safety Overlay District.

415
416 Mr. Jernigan - Is there any opposition to case C-12-08, Lakeridge
417 Builders, LLC? No opposition. Okay, Mr. Props.

418
419 Mr. Props - Mr. Chairman, members of the Commission. This
420 request proposes to rezone two parcels totaling .657 acre from R-5 General
421 Residence District to R-2A One-family Residence District. These parcels are
422 adjacent to an R-2A One-family Residence zoned parcel that was previously
423 under consideration as Ashley Manor Subdivision. Existing residential
424 subdivisions ranging in zoning from R-2A to R-5 surround this proposal.

425

426 The 2010 Land Use Plan recommends Suburban Residential 2 at a density of 2.4
427 to 3.4 units per acre. The R-2A One-Family Residence District permits a
428 maximum of 3.23 units per acre and is consistent with the Land Use Plan
429 recommendation. The site is in the Airport Safety Overlay District.
430

431 Since this rezoning would increase design flexibility and provide road access for
432 a potential subdivision, while continuing the logical extension of single-family
433 uses, staff supports this request.
434

435 This concludes my presentation and I would be happy to answer any questions.
436

437 Mr. Jernigan - Wait a second, Mr. Props. One thing I wanted to
438 check. When we zoned this R-5A some years ago, what was the house size?
439

440 Mr. Props - The house size?
441

442 Mr. Jernigan - Yes. Did we have a minimum square footage on
443 there?
444

445 Mr. Props - There is one in the ordinance, sir.
446

447 Mr. Jernigan - Nine eighty is the ordinance. Nine hundred, excuse
448 me, 900 is the ordinance.
449

450 Mr. Emerson - The case on Ashley Manor I believe is un-proffered.
451

452 Mr. Props - Yes, it's un-proffered, yes sir.
453

454 Mr. Emerson - It's a straight R-5.
455

456 Mr. Jernigan - Okay. All right, thank you. I don't need to hear from
457 the developer on this. When this originally came through, it went to R-5A and
458 they were trying to fit some things on it. It's a tough piece of property to work
459 with, but I'm okay with going with R-2A on this. With that, I will move for approval
460 of C-12-08, Lakeridge Builders, LLC, to move to the Board of Supervisors for
461 their approval.
462

463 Mr. Vanarsdall - Second.
464

465 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.
466 All in favor say aye. All opposed say no. The ayes have it; the motion passes.
467

468 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.
469 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
470 the Board of Supervisors grant the request because it conforms to the

471 recommendations of the Land Use Plan and would permit development of the
472 land for residential use in an appropriate manner.

473

474 **C-14C-08 Marion Cake for Elderhomes Corporation:** Request
475 to conditionally rezone from B-2 Business District to R-3C One-Family Residence
476 District (Conditional), Parcel 814-725-2886, containing 1.94 acres, located
477 approximately 230 feet north of Nine Mile Road (State Route 33) and 175 feet
478 west of Bayard Road at the western terminus of Chuck Road (unimproved). The
479 applicant proposes a single-family residential subdivision with a maximum of four
480 (4) dwellings. The use will be controlled by zoning ordinance regulations and
481 proffered conditions. The R-3 District allows a minimum lot size of 11,000 square
482 feet and a gross density of 3.96 units per acre. The Land Use Plan recommends
483 Suburban Residential 2, 2.4 to 3.4 units net density per acre and Commercial
484 Concentration. The site is in the Airport Safety Overlay District and the
485 Enterprise Zone.

486

487 Mr. Jernigan - Is there any opposition to case C-14C-08, Marion
488 Cake for Elderhomes Corporation? There is no opposition. Good evening, Mr.
489 Lewis.

490

491 Mr. Lewis - Good evening, Mr. Chairman.

492

493 Mr. Vanarsdall - Good evening.

494

495 Mr. Jernigan - You may proceed.

496

497 Mr. Lewis - Thank you, Mr. Vanarsdall. Thank you, Mr. Chairman.

498

499 This is a request to rezone 1.94 acres from B-2 to R-3C to allow development of
500 a single-family subdivision at the western terminus of Chuck Road. Residential
501 uses are adjacent to the east, south, and northwest. A neighborhood shopping
502 center is situated west of the site and a church is adjacent to the north.

503

504 The 2010 Plan recommends Suburban Residential 2, which is consistent with this
505 request. The property is also part of the Nine Mile Road Corridor Special
506 Strategy Area and is located in the Enterprise Zone.

507

508 As shown on this proffered conceptual plan, the applicant wishes to construct a
509 maximum of four homes resulting in a density of 2.06 units per acre. The
510 applicant's revised proffers dated April 8th address the following major topics:
511 1,150 square feet of finished floor area per dwelling; exterior materials to include
512 brick, brick veneer, and vinyl; construction according to elevations; commitment
513 to provide a landscape and lighting plan for Planning Commission approval; and
514 buffers and fencing on three sides of the property.

515

516 The proposed treated wood fence would be seven feet in height and would tie
517 into the existing chain link fence along the rear of the adjacent apartment
518 complex. Because of the long-term maintenance issues associated with wood
519 fencing, staff believes a more durable fence material would be appropriate in this
520 location to ensure screening from adjacent properties and prevent cut-through
521 pedestrian activity.

522
523 The revised proffers address concerns raised in the staff report and provide
524 assurances not otherwise available if the site were developed more intensely
525 under its current B-2 zoning. The proposed use would be a logical extension of
526 residential development on Bayard Road and could help advance revitalization
527 efforts in the area. Staff could fully support this request if the issue related to
528 fence material were to be addressed.

529
530 This concludes my presentation. I will be happy to take questions.

531
532 Mr. Jernigan - Thank you. Any questions for Mr. Lewis from the
533 Commission? I know you mentioned that it is in the Enterprise Zone, but they're
534 aware that they can't use that for residential.

535
536 Mr. Lewis - Yes sir.

537
538 Mr. Jernigan - Mr. Archer, do you have anything?

539
540 Mr. Archer - No, but we need to hear from the applicant, then I'll
541 have some more information for Mr. Lewis that I don't think he's had an
542 opportunity to hear.

543
544 Mr. Jernigan - All right. Would the applicant come down, please?
545 State your name for the record, please.

546
547 Mr. Cake - Marion Cake for Elderhomes Corporation.

548
549 Mr. Jernigan - Good evening.

550
551 Mr. Cake - Good evening.

552
553 Mr. Archer - Good evening, Mr. Cake.

554
555 Mr. Cake - Good evening, Mr. Archer.

556
557 Mr. Archer - Mr. Chairman, Mr. Cake and I talked two hours ago,
558 maybe, or less, and I don't think he's had an opportunity to speak with Mr. Lewis
559 at this point. If you would tell Mr. Lewis what you and I discussed, I think we
560 could move forward with this.

561

562 Mr. Cake - We are able to do a six-foot vinyl fence instead of the
563 seven-foot wood fence.

564

565 Mr. Archer - Okay. Mr. Chairman, Mr. Cake offered this
566 information to me probably around 4:30 or so this afternoon. I guess it's a
567 condition you're willing to proffer. We need to write it into the revised proffers we
568 received tonight in order to make it effective. We talked about this yesterday and
569 I also talked about it with Mr. Lewis. We couldn't find any particular reason why
570 the fence had to be exactly seven feet high. It was quite a bit cost-prohibitive to
571 Mr. Cake to do it that way, but we talked about it and he thought he'd have to
572 come in tonight and plead for the wooden fence anyway. Today, he managed to
573 find somebody who was willing to provide a fence for him that would be cost-
574 effective and at the same time do what we need to do. So, being that he's willing
575 to do that at six feet instead of seven feet and he meets all of the other things
576 that we had anticipated and asked for, I think we're okay with that. Does that
577 meet your approval, Mr. Lewis?

578

579 Mr. Lewis - Yes sir.

580

581 Mr. Archer - All right. One thing I would like to mention, the last
582 time I visited that property there were some wooden fences already in place
583 down there, particularly between I think its 10 and 12 Bayard Avenue that are
584 becoming dilapidated. Also, some of the fencing that runs around the apartment
585 complex between the back of the stores had some wood slats, it looks like, inside
586 of it. They're about to fall down. Looking at some of the properties on the way
587 down there, some years ago we did a project on Creighton Road and I can't think
588 of the name of it right now. I think it was a residential subdivision. We did put a
589 fence around it. It was a scalloped fence; looked real nice at the time we put it
590 up there, but now—you probably saw it on the way down there—it's on its last
591 legs. That's why we were insisting on the vinyl fence. One thing I would like to
592 mention to Mr. Secretary is that in driving around that property, the rear of the
593 stores in that shopping center down there has become a dumping ground. If we
594 could look into that in some manner so that we could alleviate some of that. Old
595 sofas and refrigerators and everything are back there.

596

597 Mr. Emerson - Yes sir.

598

599 Mr. Archer - We need to find a way to clean that up.

600

601 Mr. Emerson - We can report that to Community Maintenance.

602

603 Mr. Archer - Okay. So, with putting that suggestion into the
604 proffers tonight, I don't have any other objections to that unless somebody on the
605 Commission has a question.

606

607 Mr. Vanarsdall - Along the same lines as the two cases I have tonight
608 that started out with wooden fences. There are wooden fences over there now
609 and they look just like you describe them. The boards are gone. They just never
610 hold up.
611
612 Mr. Archer - Yes, and the thing with this one is there wouldn't be
613 anybody left with the responsibility of maintaining it. So, Mr. Cake, I was not
614 kidding. Does anyone else have questions?
615
616 Mrs. Jones - The six-foot fence you feel is going to be suitable to
617 provide the degree of screening? This is a real concern.
618
619 Mr. Archer - I believe so. There are going to be some plantings
620 also, in addition to the fence. It would be a huge improvement over what's there
621 now. How do you want to handle it, Mr. Lewis? Do you want to revise the proffer
622 now or we can do it between now and the time the Board meets?
623
624 Mr. Lewis - The language change would be fairly simple, if you
625 wanted to accomplish it now.
626
627 Mr. Archer - Okay. Yes, we could do it tonight. We just need to
628 change the word "seven" to "six."
629
630 Mr. Emerson - Yes sir.
631
632 Mr. Archer - And "wood" to "vinyl."
633
634 Mr. Lewis - Strike, "from created wood, dog-eared, four rail." So, it
635 would read, "A ten-foot wide buffer of trees and a six-foot high vinyl privacy fence
636 shall line the south," so on and so forth.
637
638 Mr. Archer - Okay. Any questions? Okay. I'm assuming Ms.
639 Moore is taking care of that as we speak. Do I need to waive the time limits on
640 these proffers? Well, I guess I do now because one has been added. All right.
641 With that, I move to waive the time limit on the proffers.
642
643 Mr. Vanarsdall - Second.
644
645 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr. Vanarsdall to
646 waive the time limits on C-14C-08, Marion Cake for Elderhomes Corporation. All
647 in favor say aye. All opposed say no. The ayes have it; the motion passes.
648
649 Mr. Archer - Okay. I move to recommend C-14C-08, Marion Cake
650 for Elderhomes Corporation, to the Board of Supervisors with a recommendation
651 for approval.
652

653 Mr. Vanarsdall - Second.

654

655 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr. Vanarsdall. All
656 in favor say aye. All opposed say no. The ayes have it; motion passes.

657

658 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr.
659 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
660 the Board of Supervisors **grant** the request because it conforms to the
661 recommendations of the Land Use Plan and it represents a logical continuation
662 of the one-family residential development which exists in the area.

663

664 Mr. Archer - Thank you, Mr. Cake. I enjoyed working with you.

665

666 *Deferred from the March 13, 2008 Meeting.*

667 **C-8C-08 Caroline L. Nadal for Pavilion Development**

668 **Company:** Request to amend proffered conditions accepted with Rezoning Case
669 C-3C-98, on part of Parcel 739-763-7259, located on the west line of Pouncey
670 Tract Road (State Route 271) approximately 485 feet south of Interstate 64. The
671 applicant proposes to amend Proffers 1, 3, and 11 related to conceptual plan,
672 permitted uses, and orientation of loading doors to permit a retail tire sales and
673 service facility. The applicant also proposes to delete Proffer 12 pertaining to
674 restrictions regarding traffic generation and add new proffers pertaining to
675 landscaping and outdoor storage. The existing zoning is M-1C Light Industrial
676 District (Conditional). The Land Use Plan recommends Mixed Use. The site is in
677 the West Broad Street Overlay District.

678

679 Mr. Jernigan - Is there any opposition to C-8C-08, Caroline L. Nadal
680 for Pavilion Development Company? Okay, there is no opposition. Mr. Sehl?

681

682 Mr. Sehl - Thank you again, Mr. Chairman.

683

684 This request would amend proffers accepted with rezoning case C-3C-98 which
685 permitted a mini-storage facility and retail uses on the subject property. The
686 applicant is proposing to amend proffers relating to uses, loading doors, and
687 traffic generation.

688

689 The 2010 Land Use Plan recommends Mixed Use for the subject property. The
690 proposed uses, properly regulated, would be consistent with this designation.

691

692 With the most recent version of the proffers submitted by the applicant, dated
693 April 8 and distributed to you this evening, five proffers accepted with the original
694 rezoning case are proposed to be amended. Two new proffers are also
695 proposed.

696

697 The proposed amendments pertain to this updated conceptual plan which would
698 apply only to the property subject to this request, new architectural elevations,

699 dumpster screening, and uses. Specifically, Proffer 3 would be amended to
700 allow motor vehicle repair and tire sales as a permitted use. This use was
701 specifically prohibited with C-3C-98.

702
703 The proffer pertaining to traffic generation is also proposed to be removed and
704 the Department of Public Works has not voiced concern with the removal of this
705 proffer.

706
707 The applicant has also submitted two new proffers. These limit outside storage
708 on the property and discuss the preservation of the existing mature white oak
709 that is located on the site.

710
711 The preservation of this tree was a focus during Plan of Development review for
712 the existing Bowl America access drive. The applicant has revised the language
713 in Proffer 14 to provide further protection for this tree. The items committed to
714 with the proffer follow the recommendations presented by a certified arborist, and
715 should provide for the protection of the tree during construction; however, staff
716 notes this proffer could be strengthened by detailing the area to be preserved for
717 future reference, and by committing to a high level of replacement landscaping
718 should the tree be damaged or removed.

719
720 In conclusion, staff believes the proposed development is appropriate at this
721 location and the commitments provided by the applicant provide for a quality
722 development in keeping with the area and the recommendations of the West
723 Broad Street Overlay District. If the applicant could further strengthen the proffer
724 pertaining to the existing tree on the property, staff could support this request.

725
726 That concludes my presentation. I'd be happy to try to answer any questions you
727 might have.

728
729 Mr. Jernigan - Are there any questions for Mr. Sehl from the
730 Commission? Mrs. Jones?

731
732 Mrs. Jones - Would you just repeat for me why Proffer 12 should
733 be removed?

734
735 Mr. Sehl - That proffer required them to allow the Director of
736 Public Works to limit further development on the property unless a second
737 access point was provided if the Director felt that traffic generation could not be
738 adequately handled. The applicant in this case has provided a letter of intent
739 committing to providing this access road, which would provide a second point of
740 access to the Park Place Development from the Bowl America site, which would
741 provide the second point of access. Therefore, they feel the proffer is no longer
742 necessary.

743

744 Mrs. Jones - A letter of intent is as strong of a commitment as
745 having a proffer.
746

747 Mr. Sehl - The proffer didn't specifically require them to provide
748 that access; it allowed the Director of Public Works to allow permit for further
749 development even without that access point if he felt the traffic generation could
750 be adequately handled. The traffic engineers reviewed the removal of that
751 proffer and see no concern. They feel even with the existing access drive that
752 this could be handled. The applicant has committed to providing that no
753 Certificate of Occupancies would be permitted on the property until that access
754 drive [inaudible].
755

756 Mrs. Jones - It's a tricky pattern in there and somewhat of a tight
757 space in some of those access roads. I just wanted to ask the question about it.
758

759 Mr. Sehl - Some of the focus could be to get the Bowl America
760 traffic, which this would serve, certainly allow that more free flow between the
761 Bowl America site. This portion of the property is also proposed for development
762 in the future.
763

764 Mr. Emerson - Mrs. Jones, we have used Letters of Agreement fairly
765 regularly in the past without any issue in cases like that.
766

767 Mrs. Jones - Thank you.
768

769 Mr. Jernigan - Are there any more questions for Mr. Sehl?
770

771 Mr. Branin - I have none for Mr. Sehl, but I would like the
772 applicant, Ms. Nadal, to come forward.
773

774 Mr. Jernigan - Okay. Would the applicant come down, please?
775

776 Mr. Theobald - Good evening, Mr. Chairman, ladies and gentleman.
777 I'm Jim Theobald on behalf of Pavilion Development. Also with me tonight is the
778 owner of the property and contract seller, my friend Jerry Levy, who many of you
779 have known for quite sometime.
780

781 Mr. Branin, I'm happy to make a presentation, unless you'd prefer just to ask
782 some questions.
783

784 Mr. Branin - Go ahead and make your presentation.
785

786 Mr. Theobald - Thank you.
787

788 This site is approximately 1.7 acres in size and, as you have heard, it is currently
789 zoned M-1C. The property was zoned about 10 years ago for purposes of the

790 construction of a mini warehouse facility, in as much as it was behind the
791 additional M-1 property where American Family Fitness and the ice rink is, and it
792 abuts Interstate 64. It also sits very much below the grade of Pouncey Tract, so
793 it's down a little bit in a hole without great visibility.

794

795 That case in 1998 reserved the ability to do B-2 uses. It was thought at the time
796 that those uses might be somewhat limited unless additional access could be
797 provided. As you come into the site across from the Wal-Mart over here, there
798 was an old road where you turned right and went all the way back. It served a
799 couple of homes back in here. It was just not really adequate. Mr. Levy, when he
800 sold this property to Bowl America, at the suggestion of Mr. Hazelett and Mr.
801 Silber, we spent approximately two years negotiating the right to extend the road
802 straight back through the Park Place property, which was pending at the time we
803 were doing the negotiations to get out to the ring road. That triggered a series of
804 events where we needed literally every owner of property in Short Pump Town
805 Center and their lenders to join in this easement agreement, which is why it took
806 so long. So, the road that Mr. Sehl was showing you earlier was an access road
807 that helped Bowl America, but the actual connection that we have committed to
808 provide is this connection here. This other road was also a condition of the Bowl
809 America POD. That access issue has been solved once and for all.

810

811 The B-2 uses were permitted but, of course, a tire and battery center like that
812 proposed by Merchant's Tire is a B-3 use. It would normally be allowed under M-
813 1, but since it was a self-service storage facility or B-2, we had to amend the
814 proffers in order to accomplish that. Thus, the plan that you see before you with
815 Merchant's Tire. We'll show you the elevations here in a second, but the way
816 this site functions—here's Pouncey Tract Road here. All of the service bays are
817 internal. You will exit through one garage door on this side and then enter where
818 the service bays are at an angle along this back wall. There are no doors along
819 here. When complete, they exit back out to this area. It's a neat design. We've
820 proffered elevations, which we'll show you in a moment.

821

822 We also spent a lot of time working on the tree. The preservation of that tree is
823 also a condition of the POD for Bowl America. We did hire Davy Tree Company
824 and a certified arborist to examine the health of the tree and provide
825 recommendations as to its preservation. We have adopted those in the proffer. It
826 does provide that, basically, we protect the drip line, two to four inches of mulch,
827 fertilize it, and then ultimately install a split-rail fence along the edge of the drip
828 line in order to preserve that area. This is consistent with what you've done just
829 across Hungary Spring here on I believe it's the police site. I noted on my way in
830 that you also have a split-rail fence at the drip line in addition to some silt fencing
831 at the moment. Nonetheless, we have preserved this. If there are concerns
832 about the exact location of that, I think that's something that at the time of POD
833 we can actually survey and identify on the POD plans. This is drawn to scale, by
834 the way. I'd be happy to change the proffer to provide for that. I know there was

835 a little concern as to exactly where that drip line would be and how you establish
836 it. I think we can do that as we do our engineering at the time of POD.

837

838 These are the elevations, the design. This is the door I was showing you that
839 would face Pouncey Tract. Again, it's below grade. It's a stone material, split
840 face block. This is the other end, the western end of the property, the front
841 where customers would enter, and this is the side that faces Interstate 64.

842

843 We have proffered the site plan. The other retail building that is speculative at
844 this point would have to be complementary in design and materials. We have
845 limited the uses to motor vehicle repair, mini storage, and B-2 uses with the
846 extensive list of more intense uses proffered out, and, again, the relatively new
847 proffer that incorporated the recommendations of the arborist.

848

849 With that, I'd be more than happy to answer any questions you might have.

850

851 Mr. Jernigan - Are there any questions for Mr. Theobald from the
852 Commission?

853

854 Mr. Branin - I have one or two.

855

856 Mr. Jernigan - Okay.

857

858 Mr. Branin - Mr. Theobald, I know this is Ms. Nadal's case, but I
859 believe you're pretty current on it and you've been working this area for many
860 years.

861

862 Mr. Theobald - Yes sir.

863

864 Mr. Branin - The reason I asked you to present—you know
865 generally I don't ask for a presentation—was for the benefit of our other
866 Commissioners. Mrs. Jones, in regards to the road, this new road access will
867 serve the land, Bowl America and the other actually better.

868

869 Mrs. Jones - Very good.

870

871 Mr. Branin - Three concerns I had when this case was brought
872 were that the architecture would be up to the standards of this area, especially it
873 being an automotive use, that it would not look like an automotive use. It would
874 be the Grand Poobah of all tire stores. Second was the ring road. Mr. Levy, as
875 soon as you can get that road started, you'll be making us very happy. The third
876 thing was the tree. Compliments to you on the architectural; they're great. The
877 road, if we get it started, great. The last issue that we do need to discuss is the
878 tree. If you were going to change your proffer to include the surveying and
879 moving the fence—because I requested that you get the fence out for future
880 growth—to the POD, how would you state that?

881
882 Mr. Theobald - Well, just to make sure that there's no
883 misunderstanding, what I've indicated is we would actually survey the actual drip
884 line at the time of POD. As we discussed earlier, I really don't have the ability to
885 go any further than the existing drip line with the fence, although there are many
886 areas around the tree that are not contemplated for development. There is really
887 just one place here that would touch with a parking space. This road currently
888 exists to serve Bowl America, so what we would do, I believe, under Proffer 14,
889 we're in the middle of the—if you have the red line version, the sentence says,
890 "The undisturbed area shall include only the area under the branch expansion as
891 of the date these proffer amendments become effective." I guess I would add,
892 "as definitively determined at the time of POD."
893
894 Mr. Branin - You're willing to do that now.
895
896 Mr. Theobald - Yes sir, I am.
897
898 Mr. Branin - Thank you.
899
900 Mr. Theobald - Now, if for some reason—
901
902 Mr. Branin - Also, what I would be looking for is during time of
903 construction, what means are you all planning to do to protect the tree?
904
905 Mr. Theobald - Just like you've done over here, we're going to have
906 to surround it with silt fencing and barricade it so that the construction vehicles
907 don't run over the root structure. That's not overly difficult in that some of this
908 parking is already in and this road is already in, so we don't need to really go
909 cross-country and disturb it. We'll be working with staff to make sure that this is
910 preserved.
911
912 Mr. Branin - Okay. That's all the questions I have. Do any of the
913 other Commissions have questions? Mr. Secretary?
914
915 Mr. Emerson - The only thing I would raise possibly, Mr. Theobald, is
916 would you consider some language to replace this tree with a certain size tree in
917 the event that it did meet an untimely end. Is that possible?
918
919 Mr. Theobald - I guess that's a very speculative type question. If the
920 tree died, I'm not sure I could commit today as to what I would plant in its place,
921 or even if that would be possible with that root mass there. Certainly, it's an area
922 that would need to be landscaped, if not more trees planted. I can't replace a
923 specimen tree like that, though.
924
925 Mr. Emerson - No, I wouldn't expect that you'd be able to do that.
926

927 Mr. Branin - Okay. At time of POD, I will be looking to work with
928 either you or Ms. Nadal if this tree somehow was damaged what we would plant
929 as an alternative. I'm not speculating that you'd need to—
930

931 Mr. Theobald - I understand. I hope you're not suggesting an
932 alternate landscape plan for the future in the event the tree dies. Is that what
933 you're saying?
934

935 Mr. Branin - Yes, for that area.
936

937 Mr. Theobald - Well, we'll work with that, I guess. It's a little unusual.
938

939 Mr. Branin - All right. As long as you're comfortable with it now. I
940 just wanted to know.
941

942 Mr. Theobald - No, I'm not comfortable with it; I'm just agreeing to do
943 it.
944

945 Mr. Branin - Close enough. Okay. Mr. Chairman, if there are no
946 other questions—
947

948 Mr. Jernigan - Any more questions for Mr. Theobald from the
949 Commission? Thank you, Mr. Theobald.
950

951 Mr. Theobald - Thank you.
952

953 Mr. Branin - I would like to move that C-8C-08, Caroline L. Nadal
954 for Pavilion Development Company, be approved.
955

956 Mrs. Jones - Second.
957

958 Mr. Jernigan - Motion by Mr. Branin, seconded by Mrs. Jones. All in
959 favor say aye. All opposed say no. The ayes have it; motion passes.
960

961 **REASON:** Acting on a motion by Mr. Branin, seconded by Mrs.
962 Jones, the Planning Commission voted 5-0 (one abstention) to recommend the
963 Board of Supervisors **grant** the request because the proposed amendments do
964 not reduce the original intended purpose of the proffers and are not expected to
965 adversely affect surrounding land uses in the area.
966

967 **C-16C-08 Andrew M. Condlin for Ronald W. Vaughan:**
968 Request to amend proffered conditions accepted with Rezoning Case C-25C-92,
969 on Parcel 745-745-3910, located between the northeast line of Cherrywood Drive
970 and the northwest intersection of Clearwood and Gayton Roads. The applicant
971 proposes to amend Proffer 4 pertaining to the landscape buffer adjacent to the
972 Ednam Forest subdivision and Cherrywood Drive. The existing zoning is O-2C

973 Office District (Conditional). The Land Use Plan recommends Suburban
974 Residential 1, 1.0 to 2.4 units net density per acre.

975
976 Mr. Jernigan - Is there any opposition to C-16C-08, Robert W.
977 Vaughan? We do have opposition. Okay. You'll have time to speak. Mr.
978 Secretary, would you read the rules for public speaking, please?

979
980 Mr. Emerson - Yes sir, Mr. Chairman. Under the Public Hearing
981 Rules and Regulations, the applicant is allowed 10 minutes to present the
982 request and time may be reserved by the applicant for responses to testimony.
983 The opposition is allowed 10 minutes to present its concerns. Commission
984 questions do not count into the time limits. The Commission may waive the time
985 limits for either party at its discretion.

986
987 Mr. Jernigan - Okay, Mr. Lewis, you may proceed.

988
989 Mr. Lewis - Thank you, Mr. Chairman.

990
991 This is a request to amend Proffer 4(c) of Rezoning Case C-25C-92 pertaining to
992 the species and planted height of supplemental tree plantings. The subject office
993 property is zoned O-2C and is adjacent to the Ednam Forest neighborhood. The
994 Land Use Plan recommends Suburban Residential 1 for the site.

995
996 As shown on Exhibit 3 approved with the 1992 rezoning, a 75-foot wide buffer is
997 to be provided along the site's northwest boundary with Ednam Forest—shown in
998 this location—and a 30-foot wide buffer is to be provided along the western and
999 southern boundaries with the neighborhood— In this location here extending to
1000 the south. These natural buffers are to be supplemented specifically with 10
1001 white pine trees a minimum of 15 feet in height, planted in the specific locations
1002 on this exhibit—four trees in the northern buffer, six trees in the western buffer
1003 area as shown. Some trees in the group of six have died and been replanted
1004 several times.

1005
1006 Because of white pines' lack of success becoming established as part of the
1007 existing understory, the applicant wishes to amend Proffer 4(c) to allow planting
1008 of an appropriate evergreen species for the conditions of this location. The
1009 proposed change would also allow the minimum planted height to be reduced
1010 from 15 feet to 10 feet to expand the inventory of available trees.

1011
1012 The proposed changes would provide substantial initial screening and would also
1013 allow appropriate flexibility to support the buffer's long-term success; therefore,
1014 staff supports this request.

1015
1016 This concludes my presentation. I will be happy to take any questions.

1017

1018 Mr. Jernigan - All right. Are there any questions for Mr. Lewis from
1019 the Commission?
1020
1021 Mrs. Jones - Of course.
1022
1023 Mr. Jernigan - Mrs. Jones?
1024
1025 Mrs. Jones - Unless someone has something? Mr. Lewis, did you
1026 have some pictures of that buffer that you could show just so—
1027
1028 Mr. Lewis - I have a number of photos. Which would like to see
1029 first?
1030
1031 Mrs. Jones - Just—
1032
1033 Mr. Lewis - We'll start at the north.
1034
1035 Mrs. Jones - Yes, we'll work around here. Just so the other
1036 Commissioners can actually see what we're talking about here.
1037
1038 Mr. Lewis - Let's look down Cherrywood Drive. Okay. As you
1039 come to the dead end portion of Cherrywood Drive, that's what you see and the
1040 office building is in the distance behind the fence. This is the northwestern 75-
1041 foot wide buffer area. The four white pine trees are intermingled in those that you
1042 see here. These are two of the dead white pines in the six-tree group. I believe
1043 this one here is possibly one that has sustained growth over time. This one here
1044 is, I believe, another of the dead white pines. I'm not positive about that, but it
1045 looked to be the same species. This tree here is another of the group of six. It
1046 appears that two out of the six are currently living. I believe these two smaller
1047 evergreens, from what I understand, were planted at one point in the past to
1048 replace two previous white pines that had died in this location. I'm not certain if
1049 the stumps you see here are those previous white pines or not. That is the group
1050 of six trees, the area that is targeted with this request.
1051
1052 Mrs. Jones - Okay. Well, that's helpful. I think clearly as far as a
1053 thick, living buffer between office and residential, there are a few holes in the
1054 screening effect and we're here to see if we can't find a solution to make this
1055 much more beneficial for both parties. When you went out there to look at the
1056 site, you and I talked about the fact that conditions have changed a little bit. This
1057 white pine requirement was put in 15 years ago. Since then, obviously, any kind
1058 of living area like this changes. Things have grown up, the shade requirements
1059 are different, and Isabel's rolled through here. There are a lot of influences in 15
1060 years that sometimes may affect the viability of plant materials. I appreciate your
1061 taking those pictures for the benefit of everybody to see.
1062

1063 Would you just relate, if you could, the conversations that you've had with our
1064 landscape professionals on staff as far as species that might be suitable here?

1065
1066 Mr. Lewis - The conditions of the specific six-tree location sort of
1067 narrow down your options, in addition to the desire to have a species that grows
1068 somewhat quickly or more quickly than others. Given the specific location, they
1069 have provided a handful of species. Giant arborvitae is one; cryptomeria, cedar,
1070 and holly are several others. Leyland Cypress was mentioned at one point, but it
1071 is certainly not shade tolerant. I believe Leyland Cypress is what you see on the
1072 other side of the fence, the office side of the fence. They are in a much sunnier
1073 spot.

1074
1075 Mrs. Jones - Okay. Well, and they do shade the area that we're
1076 looking at here, which means that they do influence the amount of sun that
1077 comes on over to this side. Okay. Of course, we're dealing with 15-year-old
1078 proffers, but the rezoning case was followed by the POD and landscaping plan.
1079 As I understand it, there are conditions of that POD from 1993 that still apply. I
1080 happen to have them here. Do you have them readily available just to mention
1081 them before we talk to other folks?

1082
1083 Mr. Lewis - I do have a copy.

1084
1085 Mrs. Jones - Condition 10, Condition 1 of the Landscape and
1086 Lighting Plan. Then there's a note on the landscape plan.

1087
1088 Mr. Lewis - The landscaping and lighting plan conditions. Yes, I
1089 see Condition 1 that states, "All ground cover and landscaping shall be properly
1090 maintained in a healthy condition at all times. Dead plant material shall be
1091 removed within a reasonable time and replaced during the normal planting
1092 season."

1093
1094 Mrs. Jones - That's pretty specific, I think. Okay.

1095
1096 Mr. Lewis - The exact same wording is Condition 10 on the
1097 overall site POD.

1098
1099 Mrs. Jones - Okay. You mentioned to me that General Note 4 on
1100 Sheet 2 of the landscape plan. I'm sorry, I'm cheating; I have it in front of me. I'm
1101 making you rustle through all your papers.

1102
1103 Mr. Lewis - That's okay. Condition 4 in the General Notes on the
1104 sheet, is it Sheet 1, did you say?

1105
1106 Mrs. Jones - Sheet 2.

1107

1108 Mr. Lewis - Sheet 2 of 3, yes, states, "All plant material to be
1109 guaranteed during installation and until final project acceptance. Any plant
1110 material which dies, is damaged or diseased, or is unhealthy and in an unsightly
1111 condition or other causes due to contractor's negligence shall be replaced
1112 immediately at the contractor's expense.
1113
1114 Mrs. Jones - Is it your opinion that these conditions have come
1115 forward from that original POD and landscape plan and continue in force today?
1116
1117 Mr. Lewis - I would say that they do apply.
1118
1119 Mrs. Jones - Okay, thank you.
1120
1121 Mr. Jernigan - Okay. Are there any more questions for Mr. Lewis
1122 from the Commission? Do you want to hear from the applicant?
1123
1124 Mrs. Jones - Sure would.
1125
1126 Mr. Jernigan - Okay. Would the applicant come down, please?
1127
1128 Mr. Condlin - Andy Condlin from Williams Mullen here on behalf of
1129 Mr. Vaughan, who's stuck somewhere in Texas. It's a likely story, but he called
1130 me and said it was true. He could not make it tonight, but I did talk to him right
1131 before this. Obviously, on one hand, this case is very simple. It reminded me of
1132 when I first started practicing where there was a photography studio on
1133 Quioccasin Road. There was a proffer on that, it was one of the original proffers
1134 that said it could only be used as a Baptist bookstore. We actually had another
1135 bookstore come in and they couldn't use it because it wasn't a Baptist bookstore.
1136 Sometimes you can get too specific and I think that's the case. As Mr.
1137 Emerson's letter pointed out, on behalf of the request by Mr. Vaughan, which
1138 was what else can we do here. The County's hands were tied because it required
1139 15-foot white pine trees. At the time of planting, they had to be 15 foot tall.
1140 Turns out that wasn't the best choice long term, given the situation as you've
1141 already described it and as you can see in some of the pictures. Obviously, the
1142 purpose of this buffer is to provide good screening and that certainly is not the
1143 case going on with the white pines having to continually be replaced a number of
1144 times throughout the past years, at not an insubstantial cost, but more
1145 importantly, doesn't want to have to keep replacing the pine trees and not really
1146 having a good buffer.
1147
1148 Based on that, what we proposed is to have a more general provision with
1149 respect to evergreen trees at 10 feet in height. I think it's pretty obvious and it's
1150 pretty well known that certainly requiring a 15-foot tree greatly limits your choices
1151 and also limits the chances or certainly reduces the chances of the tree's
1152 survival. Lowering the height provides for greater choices. This is not just any
1153 evergreen tree. We've also provided that the tree species shall be submitted to

1154 the Planning Department for staff review and approval prior to the planting. On
1155 the one hand, I think in that sense it makes a lot of sense. On the other hand, I
1156 do realize in having talked to the County and looked through the files, etcetera,
1157 that there are a number of issues related to maintenance of the buffer. I agree
1158 with Mr. Lewis' conclusion, not that it matters, not that anyone cares what my
1159 opinions are ultimately, but—

1160

1161 Mrs. Jones - We care.

1162

1163 Mr. Condlin - Thank you. It would be subject to the conditions of
1164 the POD. Quite frankly, as I read through the case, there are a number of
1165 references that are enumerated in the proffers themselves, having to do with the
1166 landscape plan, a little bit different than what we typically see. Obviously, it was
1167 very important to the neighbors at the time. I really don't think there's any
1168 question that the buffer per the landscape plan has to be maintained. As a
1169 matter of fact, as part of the Community Revitalization review of this property with
1170 a number of inspections in the last few months, they've noted a number of items
1171 including repair of the fence that has to be done and replacement of these trees.
1172 That's part of this, waiting for all this to occur so it can all occur at one time and
1173 certainly cleaning up the buffer.

1174

1175 With that, I'll be happy to answer any questions and ask that you recommend approval to
1176 the Board of Supervisors.

1177

1178 Mrs. Jones - I do have a question. Let me just make sure I
1179 understand. The Community Maintenance pending action includes what you're
1180 referencing here—repair of the fence, replacement of—

1181

1182 Mr. Condlin - The white pine trees.

1183

1184 Mrs. Jones - With either white pines if this does move forward or
1185 with evergreens if this does move forward.

1186

1187 Mr. Condlin - They just said replacement of the white pines with
1188 white pines—

1189

1190 Mrs. Jones - Okay.

1191

1192 Mr. Condlin - —because that's what the proffers required. Certainly,
1193 if this gets amended, we could then go back to the Revitalization and put
1194 together the plan as approved by the Planning staff.

1195

1196 Mrs. Jones - Did you say they're waiting until this action is
1197 concluded before moving on?

1198

1199 Mr. Condlin - Yes, because we've taken action to comply with
1200 Community Revitalization notices by filing this application.
1201
1202 Mrs. Jones - Okay.
1203
1204 Mr. Condlin - I think that's right, Mr. Emerson. I think that stays their
1205 action at this point.
1206
1207 Mrs. Jones - Okay. Repairing the fence and replacing the trees.
1208 How about what is involved with other things? Is there general cleanup? Is there
1209 taking stumps out? How involved is this?
1210
1211 Mr. Condlin - They didn't mention that. They did mention in the
1212 letter—There's a little bit of hesitation as to exactly what it meant because we
1213 talked about what it says in the proffers, protecting its natural state or—
1214
1215 Mrs. Jones - Or.
1216
1217 Mr. Condlin - I went through that with the client and he's like, "Well,
1218 I just thought I was supposed to keep it in its natural state. I read the proffers and
1219 that's the way I read it." He thought that's the way Community Revitalization
1220 read it as well, that he had to replace the specific landscaping that was approved
1221 and maintain that, but otherwise, you know. I've had this discussion with some of
1222 the planners. What does it mean to be a natural state? Don't do anything. If
1223 natural trees fall, they die, etcetera. So, you have to maintain it. Other times, it
1224 gets interpreted differently, so. I'll leave that to staff.
1225
1226 Mrs. Jones - I think in this case we have a variety of descriptions in
1227 that particular proffer line and I think the important thing is to try to figure out what
1228 the spirit of the intent is in this case. Obviously, we're 15 years after the fact and
1229 we're going to have to fill in the blanks here.
1230
1231 Mr. Condlin - Absolutely. The landscaping plan, in having looked
1232 through it—and you all have looked at it a lot closer than I have—I certainly think
1233 [unintelligible] to the County to go back and take a look at that and I think to
1234 provide for a maintenance program that makes sense based on what's already
1235 been planted and what's out there currently.
1236
1237 Mrs. Jones - Do you know what kind of timeframes are involved
1238 with Community Revitalization citations?
1239
1240 Mr. Condlin - Typically you have 30 days, I think, by state law and I
1241 think County of Henrico follows that. So, we have 30 days to comply and
1242 compliance can include appealing that, which we haven't done, or filling an
1243 amendment to the proffers, which in this case we have done.
1244

1245 Mrs. Jones - Just wanted to check. Okay.
1246
1247 Mr. Branin - Mr. Condlin, can I ask a question?
1248
1249 Mr. Condlin - Sure.
1250
1251 Mr. Branin - When was that wood fence put up?
1252
1253 Mr. Condlin - That wood fence? I think it was put up as part of the
1254 original POD, sometime in the mid '90's.
1255
1256 Mrs. Jones - It would be about 15 years.
1257
1258 Mr. Branin - Fifteen years?
1259
1260 Mrs. Jones - Mmm-hmm.
1261
1262 Mr. Condlin - Yes.
1263
1264 Mr. Branin - Have you thought about replacing it with, say, vinyl
1265 fencing so in another 15 years it won't look like this?
1266
1267 Mr. Condlin - We haven't been asked.
1268
1269 Mr. Branin - Okay. That's an issue that we have with wood fences
1270 all the time. In 5, 10, 15 years, they start to look ragged.
1271
1272 Mr. Condlin - It's a pretty long fence. As a cost benefit to this, he
1273 could still keep putting about \$4,000 or so towards replacing these white pines
1274 and comply with the proffers. He just wants to say, well, let's put something
1275 more effective and I'll spend a little bit more money and make it better but I don't
1276 have to keep spending it every year. I think he'd rather repair, to be quite honest
1277
1278 Mr. Branin - Okay.
1279
1280 Mrs. Jones - Also in reference to that, I had thought about that, but
1281 if you put something back there, let's say that it is a white vinyl fence or
1282 something, it will jump out from the wooded setting in ways that we don't intend.
1283
1284 Mr. Branin - Brown, black, green. That's the nice part about vinyl.
1285
1286 Mr. Condlin - Chain link?
1287
1288 Mrs. Jones - Oh, please don't go there. Have you had a chance to
1289 discuss with your client, because maintenance of trees is obviously very
1290 important in the first year. We're having this landscaping discussion in the middle

1291 of the rezoning meeting, but this is what it revolves around. Have you discussed
1292 with him how he takes care of these trees, how are they watered with that fence?
1293

1294 Mr. Condlin - I didn't think I would be able to find anyone that knows
1295 any less about maintaining trees than I do, but I think I found him, which is Mr.
1296 Vaughan.

1297
1298 Mrs. Jones - Mr. Vaughan?

1299
1300 Mr. Condlin - He said, "I hire the people to do it and they say they
1301 keep trying, the white pines. They go out there until they're established." But I
1302 came up with I think a solution, if I may. It made sense to me.

1303
1304 Mrs. Jones - Thinking outside the box. All right.

1305
1306 Mr. Condlin - It made sense to me because I can put it off to the
1307 staff where there's a provision. If you look on the proposed additions, on the very
1308 last line where it says, "A landscaping plan, including the proposed tree species."
1309 What do you think of putting in a landscaping plan and maintenance program for
1310 the buffers so that we would have to submit what are you going to do, other than
1311 what I do, which is put a sprinkler out by my trees.

1312
1313 Mrs. Jones - And wish them luck.

1314
1315 Mr. Condlin - Yes, wish them a lot of luck. If we put in "a
1316 landscaping plan and maintenance program for the buffers, including the
1317 proposed the tree species." My thought would be that that maintenance program
1318 would not just be for what we're planting, but what do we need to do for the rest
1319 of it to clean it up.

1320
1321 Mrs. Jones - I think that would certainly address some of my
1322 concerns.

1323
1324 Mr. Condlin - I think in that way it goes to the staff and staff says,
1325 you know, this is how you're going to plant the trees and maintain them. That's
1326 not cutting it, what else are you going to do. Obviously, they have to have a plan
1327 for the new trees, but also that gives you a chance to walk the property and say,
1328 you know, we could clean it up here, put some additions there and that kind of
1329 thing.

1330
1331 Mr. Jernigan - Who's going to monitor it?

1332
1333 Mr. Condlin - Who's going to monitor the maintenance plan? Well,
1334 my thought was that we would submit a plan that says this is what we're going to
1335 do in order to maintain these new trees and if there's anything that needs to be
1336 done to maintain or clean up old ones. The plan would include a timeframe in

1337 which that needed to be done and obviously the watering and everything like
1338 that. If they're not being maintained, that's where the County could come in and
1339 double-check that. I don't know what else to do.

1340

1341 Mrs. Jones - It would be a condition of the POD.

1342

1343 Mr. Condlin - That would be subject to staff's review and approval
1344 as to what we have to do. Obviously, if those trees die, they have to be replaced.
1345 The idea would be how are you going to maintain and this is the program you're
1346 going to set and have a contract. Quite frankly, he contracts with the people that
1347 plant the trees to help maintain them. We'd have to be able to put that in.

1348

1349 Mrs. Jones - You don't happen to know who has been doing that
1350 for him, do you?

1351

1352 Mr. Condlin - James River Nurseries has done some in the past
1353 with the white pines. He's said it twice before.

1354

1355 Mrs. Jones - Okay. Well, they're a very fine group.

1356

1357 Mr. Condlin - I think that kind of highlights the problem of putting
1358 white pines in an area that isn't suitable for white pines for whatever reason, but
1359 shade and—

1360

1361 Mr. Branin - Mr. Condlin, if you put a lot of evergreens in it or
1362 change it to make it denser, is Ms. Vann going to have issues with density now?

1363

1364 Mrs. Jones - Well, we may be getting to that when we talk about
1365 fencing. One of the neighbors would like to raise a point with that.

1366

1367 Mr. Branin - Okay.

1368

1369 Mr. Condlin - It does say, "Planning Department review." I know
1370 the Planning Department could certainly pass this by Ms. Vann to say where
1371 they're going to be located. That is part of the maintenance.

1372

1373 Mrs. Jones - There will be six in one area and four in another by
1374 proffer.

1375

1376 Mr. Condlin - Yes. I thought it was a brilliant resolution, but we'll
1377 see how it works.

1378

1379 Mrs. Jones - I appreciate your creative thinking and if you don't
1380 mind not going too far, I think we may have some folks who would like to say
1381 something.

1382

1383 Mr. Jernigan - Are there any more questions for Mr. Condlin from the
1384 Commission?
1385

1386 Mr. Archer - Mr. Condlin, I may have missed this. Did you indicate
1387 how many times these white pine trees have been replaced?
1388

1389 Mr. Condlin - I was told that he's made three separate attempts.
1390

1391 Mr. Archer - I mention that because—and I'm certainly not
1392 knowledgeable about trees even though I grew up in the country—I've always
1393 understood, since I've been on this Commission, that in general, white pines just
1394 don't do well around here.
1395

1396 Mrs. Jones - Well, they didn't do well at this site, that's for sure. I
1397 think the sunlight—
1398

1399 Mr. Archer - One site I remember that's quite a ways away from
1400 here because it's over in the eastern part of Fairfield, there was a gentleman who
1401 complained about a landscape plan we did one time. He said those white pines
1402 won't live and he was right, they didn't.
1403

1404 Mr. Condlin - They must have lived for some time until the
1405 hurricane. I don't know what happened before the hurricane. Certainly the
1406 neighbors probably could tell you better than us, as it's on their side. There didn't
1407 seem to be any issues until they got knocked down by Isabel.
1408

1409 Mr. Archer - That's not to say that every white pine you plant is
1410 going to die, but the ones he talked about, all of them did.
1411

1412 Mr. Vanarsdall - I was told by one of the landscaping people that if you
1413 plant them too close together and one gets a disease, they all will.
1414

1415 Mr. Condlin - Yes, yes.
1416

1417 Mr. Vanarsdall - If they're not a certain space, they can't expand.
1418 Leyland Cypress are famous for that.
1419

1420 Mr. Jernigan - All right. Thank you, Mr. Condlin. We have
1421 opposition. Would you like to come down and speak, please? Good evening,
1422 ma'am. Would you state your name for the record, please?
1423

1424 Ms. Lowrance - Nancy Lowrance. This building is right behind my
1425 house. I have white pines in my yard; they've been there 30 years and doing
1426 well. The neighbors of Ednam Forest are very concerned about reestablishing
1427 the buffer and screen promised us upon the rezoning of this property and it's
1428 continued maintenance. We've had difficulty accomplishing this since the

1429 problems left by Hurricane Isabel in 2003. The trees have been replaced twice
1430 since Hurricane Isabel. The first time they replaced them, it seemed they backed
1431 the truck up and just pushed them off the back. We had to call the County and
1432 ask them to come and plant them properly. They came and put a little dirt around
1433 them and they didn't live. The second time, they seemed to have planted them
1434 better, but we still had hot, dry summers and they didn't survive.

1435

1436 We want the replacement trees to be attractive, tall, hardy, fast-growing, and
1437 property planted with continued care provided. It would be to the advantage of
1438 all to have a professional arborist plant the replacements properly, perhaps
1439 preparing the soil by digging out old roots, bringing in soil if necessary, and
1440 planting them in the fall, giving the trees time to become established before the
1441 hot, dry summer. We would appreciate your help in making sure that the proffers
1442 offered with the rezoning are honored. Thank you.

1443

1444 Mr. Jernigan - Thank you, ma'am. Good evening.

1445

1446 Ms. Lewis - My name is Elaine Lewis. I live just to the left of this
1447 picture. My concern is a little more than the trees. The property next to me is
1448 vacant and it goes from Cherrywood to Gayton. It's used as a path and it's also
1449 used as a dumping ground. Numerous times during the summer, I have to call
1450 the County to have someone to get the grass cut. A couple of times a lady came
1451 out and looked at. It usually gets about two feet tall before I call. When
1452 someone comes out and cuts it, they just cut it and the dead grass is left lying
1453 there, and it's also left in the street, and it's allowed to grow along the curbing. I
1454 don't like this next to me. I asked the lady if they could get him, the owner, to
1455 clean it up. She told me they couldn't do it, you all couldn't do it. I called to the
1456 County, I spoke to someone, asked them if they could get him to clean this
1457 property up. They said there was nothing they could do; maybe I could talk with
1458 him.

1459

1460 There were previously two owners of it, two partners and one of them that was
1461 domiciled in the building, I had him to come over. He came over and we walked
1462 through it and I had him to look at it. He said, "Well, I understand what you
1463 mean." I said, "No, I don't think you really understand. You own it, you don't live
1464 next door to it. I have to look at it." People come over and they dump Christmas
1465 trees, they dump their own leaves from their yards, but they come in from the
1466 Gayton Road side. People go over to the shopping center and they have dinner.
1467 Whatever they finish eating, it's dumped over in there through that pathway. The
1468 path is next to my fence, not next to the fence by the other owner's property.

1469

1470 I don't like it and you wouldn't like it if you lived next door to it. I have tried for the
1471 last eight or nine years to try to get some success and I can't get any.

1472

1473 It disturbs me. I hear the attorney say natural means leave it like it is. Not if you
1474 live next door to it. I don't mind the natural, but I don't want the beer bottles, the

1475 soda cans, the soda cups, the paper that came from Ukrop's or the sub shop
1476 blowing into my yard. I don't like them walking past my fence and dropping it
1477 over in my yard. When I spoke to the gentleman, I asked him, "Can you do
1478 something? Can you put a fence; connect your fence to my fence? I have no
1479 problem." He said, "The County won't let me do it." So, I'm asking you all, can
1480 you give us some relief? Can you help us? That's all I'm asking because you
1481 wouldn't like it next door to you and we don't want it next door to us. If I had this
1482 in my yard, you would make me move it, you would make me clean it up, or you
1483 would fine me. I think he's entitled to the same privileges you give me. Fine him
1484 or do as you say you would do to the lawn. You say you cut it and make him pay
1485 for it. Then maybe you all want to clean it up and make him pay him pay for it.
1486 Thank you.

1487

1488 Mr. Jernigan - Any questions for Ms. Lewis?

1489

1490 Mrs. Jones - Ms. Lewis, let me ask you this. I walked this area as
1491 well, and I just want to say this looks pretty nice from this angle, but this isn't
1492 really the angle that you're talking about. If you can go further back towards
1493 Gayton and that's where you get into the piles of debris and things.

1494

1495 Ms. Lewis - Yes. You're looking at the Cherrywood side.

1496

1497 Mrs. Jones - Right, okay.

1498

1499 Ms. Lewis - Sometimes pictures are a little deceiving. If you look
1500 right in there, you see some wood.

1501

1502 Mrs. Jones - That's the start of where it gets a little junky.

1503

1504 Ms. Lewis - There was a teepee, I think, and somebody knocked it
1505 down and it's still there.

1506

1507 Mrs. Jones - Yes. It could have been the start of a bonfire area.

1508

1509 Ms. Lewis - And that is still there.

1510

1511 Mrs. Jones - Okay.

1512

1513 Ms. Lewis - As you go further up in there, it gets worse.

1514

1515 Mrs. Jones - Ms. Lewis, you said you've called the County on a
1516 number of occasions. Can you tell us about how many over the past 15 years?

1517

1518 Ms. Lewis - For the grass cutting or the cleaning?

1519

1520 Mrs. Jones - Both.

1521 Ms. Lewis - Well, usually, I have to call for the grass cutting at
1522 least twice every summer. Normally, it's not less than two feet when I call.
1523
1524 Mrs. Jones - Okay.
1525
1526 Ms. Lewis - For the cleaning, I spoke with the lady who came out
1527 and looked at it, and I think I called the County once. When they told me there
1528 was nothing they could make him do, I didn't see any reason to call back.
1529
1530 Mrs. Jones - Well, thank you for your comments.
1531
1532 Mr. Emerson - Ms. Lewis, I assume you have been talking with
1533 Community Maintenance?
1534
1535 Ms. Lewis - I think so, yes.
1536
1537 Mr. Emerson - If you can leave your name and phone number with
1538 one of the staff, we'll certainly follow up on this issue with you. The foot traffic
1539 through there may be an item for community policing. There's a representative
1540 from Police sitting back there and she may want to get your name and number so
1541 we can follow up from that aspect.
1542
1543 Ms. Lewis - We certainly would appreciate it.
1544
1545 Mr. Branin - Ms. Lewis, do you know who owns this property?
1546
1547 Ms. Lewis - Previously, I think it was Kornblau. I don't know if Mr.
1548 Vaughan was with him. It was two gentlemen. I remember the name Kornblau.
1549 One of them, I think the younger one, he came around in his pickup truck and he
1550 and I walked through and I showed him what it looked like. He said he
1551 understood. But I said he didn't quite understand because you don't live next
1552 door to it. When I drive into my driveway, I have to look right over there at it. If I
1553 decide to walk through to the shopping center, I have to look at it. The vagrancy
1554 that came through caused me not to have telephone service for almost a month.
1555 The box, the telephone box sits at the end of our fence and its right there, right at
1556 the end of the fence next to his property where they come through. For about a
1557 month, I had to deal with the telephone company seemed like every week. It was
1558 raining, like on a weekend, and my telephone service would go out. Finally, I had
1559 to call the state customer service corporation to get some help and they called
1560 them. Consumer Affairs called them and they sent someone out and went back
1561 and found out that the box had been taken off, destroyed, and it was bent over to
1562 the ground and the telephone lines going to our home were touching the ground.
1563 Every time it rained, we had no telephone service. That was from people coming
1564 through.
1565

1566 Mr. Branin - And the phone company, after the first time of fixing it,
1567 never did—
1568
1569 Ms. Lewis - The telephone company, they wanted me to do their
1570 job, go out and check the box and check this. Unplug all of your telephone lines
1571 and check this and check that.
1572
1573 Mr. Vanarsdall - You were the relay switch.
1574
1575 Ms. Lewis - Yes. After a while, I just got tired. My husband was in
1576 the hospital, he had just had quadruple bypass and I came home and I had no
1577 phone service. Here I was in the house and the only thing—I was fortunate to
1578 have a cell phone. This went on for over a month. Finally, when I called the
1579 State on them, they sent someone out to check. The fellow told me that the box
1580 had been damaged by vandalism.
1581
1582 Mr. Branin - Ms. Vann? If you could definitely get Ms. Lewis'
1583 number. That's definitely a police issue with vandalism.
1584
1585 Mrs. Jones - Thank you.
1586
1587 Mr. Jernigan - Would anybody else like to speak? Okay, Mrs.
1588 Jones.
1589
1590 Mrs. Jones - Yes. Mr. Condlin, would you come speak to a
1591 number of the issues that were raised? I realize you're not the owner of the
1592 property.
1593
1594 Mr. Condlin - If I heard that correctly, it's a lot that's either in
1595 between her home and the buffer area or—
1596
1597 Mrs. Jones - No, it is the buffer area.
1598
1599 Mr. Condlin - It is part of the buffer area?
1600
1601 Mrs. Jones - Yes. It's a 75-foot buffer area. It almost looks like a
1602 separate lot, but it is part of the buffer. Fifteen years ago, that was designed to
1603 be a nice compliment to the residential to office use. That's the reason it's there.
1604
1605 Mr. Condlin - There is no doubt that there has been some foot
1606 traffic. Mr. Vaughan has made that statement to me, as well as the fact that
1607 people, neighbors are dumping stuff out there that's not coming from this. I think
1608 that's part of what he's committed to cleaning up, and making that part of what I
1609 provided for as a maintenance program. That includes the grass cutting that
1610 needs to be done on a continuing basis. We can set that out so staff can see
1611 that and approve that. I think that's something where he, quite frankly, when he

1612 looked at it, it's on the other side of the fence, he doesn't see it. It looks fine on
1613 his side of fence, but he doesn't see it otherwise until someone raises the issue.

1614

1615 Mrs. Jones - Sure, sure. Do you think you client would commit to
1616 having the dead, diseased material taken out fairly quickly and the site given a
1617 cleanup should this proffer amendment go forward? Do you think he would be
1618 agreeable to that?

1619

1620 Mr. Condlin - I think he probably would be required to per the
1621 landscaping plan anyway, but yes.

1622

1623 Mrs. Jones - Well, with planting geared to the fall when the
1624 conditions are better.

1625

1626 Mr. Condlin - Right.

1627

1628 Mrs. Jones - The other thing is that the maintenance program for
1629 the buffer sounds like a positive step to me. I would like very much to include
1630 that. The neighbors have talked about various species. The species that they
1631 prefer is the Green Giant Arborvitae. I'm not sure how we would want to
1632 incorporate that as the first choice of plant material, if we could somehow.

1633

1634 Mr. Condlin - If I may. Mr. Emerson is sitting there and you're
1635 sitting there, which is it's subject to staff review and approval.

1636

1637 Mrs. Jones - Sure.

1638

1639 Mr. Condlin - If that's your request. We're basically saying if it's
1640 evergreen and it's 10-feet tall, it's your choice. Later on, we might say it's not the
1641 plant of choice anymore and it can be replaced again. That leaves some
1642 flexibility, but it puts it in your control. I'd rather not list a species, but yes, we can
1643 make that commitment to say—

1644

1645 Mrs. Jones - I wanted to make you aware, though, that the
1646 neighbors had checked that out. As a matter of fact, they have been to different
1647 garden centers today looking at samples. I hope you'll make your client aware.

1648

1649 Mr. Condlin - That's the plan, to be able to put a new plan in to staff
1650 who can then review it. I know Mr. Lewis has the information and he's going to
1651 send it to me as far as what is preferred.

1652

1653 Mrs. Jones - Okay.

1654

1655 Mr. Emerson - I think that's what we need based on the experience
1656 we've had. In the event that something does go in that doesn't work, we need the
1657 flexibility to continue to work with it until we find something that's successful.

1658
1659 Mrs. Jones - Mr. Secretary, do you agree that the wording that Mr.
1660 Condlin has volunteered will be helpful to try to keep this going in the direction we
1661 want?
1662
1663 Mr. Emerson - I think so. The maintenance plan would probably be
1664 helpful and certainly we can review that and make sure that it will take care of the
1665 landscaping and the other concerns that have been raised. We'll also follow up
1666 through Community Maintenance and Police in regards to some of the other
1667 issues as well.
1668
1669 Mr. Condlin - I think more importantly the maintenance plan will put
1670 him on notice to what he needs to do. Really, there's no plan now, it's just out
1671 there, so I think that will be helpful.
1672
1673 Mrs. Jones - That would be helpful. The only other item that was
1674 mentioned to me by the neighbors that hasn't come out in comments tonight is
1675 the Lewis' had wondered whether cut-through traffic could be alleviated with a
1676 fence that would come parallel to Gayton Road from their fence to your client's
1677 fence to eliminate cut-through from the Ednam Forest neighborhood to Gayton. I
1678 was going to ask Ms. Vann if she would just make a comment on that so that you
1679 could at least hear—
1680
1681 Mr. Condlin - To be honest, the first I've heard of it was as you
1682 heard it this evening.
1683
1684 Mrs. Jones - Exactly.
1685
1686 Mr. Condlin - I can't make that commitment at this point. We could
1687 take a look at it.
1688
1689 Mrs. Jones - But for the neighbors' benefit, I'd like to have her
1690 comment on that.
1691
1692 Ms. Vann - Good evening. Kim Vann with Henrico Police. Yes
1693 ma'am. What I would propose is that working with a community officer, myself,
1694 and the other County staff, meet with the neighbors out there and see what the
1695 problem is and what we have going on, and see what the best solution would be.
1696 A parallel fence to an existing fence is always a concern for me because then
1697 you may have an alleyway that nobody can see what's going on in between it.
1698 So, if there's a way to tie in so it does alleviate that cut-through, I think that would
1699 be the best benefit for everybody.
1700
1701 Mrs. Jones - Would that be something that we could discuss with a
1702 landscape plan?
1703

1704 Ms. Vann - Yes ma'am. I usually review landscape plans, too, so
1705 I would be looking at that.
1706
1707 Mrs. Jones - Thank you.
1708
1709 Mr. Jernigan - Okay. Are there any more questions from the
1710 Commission? Mrs. Jones?
1711
1712 Mrs. Jones - I want to thank you very much. Certainly I want to
1713 thank Mr. Condlin for working on something that he was brought in fairly last
1714 minute to handle and Livingston Lewis has been a tremendous resource for me.
1715 I want to tell my fellow Commissioners the reason I've taken all of this time is
1716 very specifically because I feel strongly. If you look at our agenda tonight, about
1717 half of the cases that we've discussed tonight are proffer changes. I know from
1718 my short experience on the Commission that when rezonings come through
1719 here, proffers are the result of a tremendous amount of time and effort between
1720 County staff, applicants, developers, neighborhoods, other interested parties.
1721 These things are hammered out with a lot of care and thought. I think that same
1722 amount of care and thought needs to go into any kind of changes. There is a
1723 good faith effort on everybody's part at rezoning to get this right the first time.
1724 However, in a case like this, living plant material and development trends, land
1725 use, all kinds of things certainly can change in 15 years and we do want to be
1726 able to respond to that.
1727
1728 My feeling about this is that the neighbors have brought a situation to our
1729 attention in a very straightforward way that I think we must respond. I think the
1730 applicant will be held to account for this and certainly probably wants to do the
1731 right thing, it's just a question of defining what that right thing is. And there will
1732 be ongoing oversight.
1733
1734 With that, the changes to the proffers seem to make sense for the best possible
1735 creation of a buffer that will serve the neighborhood, as well as serve the intent of
1736 the case. With the addition of this sentence, which Mr. Condlin suggested, "and
1737 maintenance program for the buffers" to be included in 4(c)—Mr. Lewis, should I
1738 go ahead and—We'll have to do that how, to include that sentence as part of
1739 this?
1740
1741 Mr. Emerson - You possibly could request that that language be
1742 hammered out between now and the time of the Board—
1743
1744 Mrs. Jones - Okay.
1745
1746 Mr. Emerson - —hearing so we can work on it a little bit and make
1747 sure we get it to where it works properly. That's a little more complicated than
1748 some of the earlier changes we've done this evening.
1749

1750 Mrs. Jones - Okay. I'll be happy to do that, then. If we can have
1751 this worded and ready to go for the Board then I think we'll be able to accomplish
1752 what will serve everyone well. So, with that, I will move that C-16C-08, Robert
1753 W. Vaughan, be sent to the Board of Supervisors with a recommendation for
1754 approval.

1755
1756 Mr. Archer - Second.

1757
1758 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Archer. All in
1759 favor say aye. All opposed say no. The ayes have it; the motion passes.

1760
1761 **REASON:** Acting on a motion by Mrs. Jones, seconded by Mr.
1762 Archer, the Planning Commission voted 5-0 (one abstention) to recommend the
1763 Board of Supervisors **grant** the request because the changes were determined
1764 to be reasonable and would not greatly reduce the original intended purpose of
1765 the proffers.

1766
1767 **C-17C-08 Bay Design Group, P.C. for Thomas B. Porterfield:**
1768 Request to amend proffered conditions accepted with Rezoning Case C-17C-91,
1769 on Parcel 745-742-4101, located at the northeast intersection of Patterson
1770 Avenue (State Route 6) and Gaskins Road (State Route 157). The applicant
1771 proposes to amend proffers pertaining to permitted uses and floor area limitation
1772 and add new proffers pertaining to a conceptual plan and architectural treatment
1773 to permit the expansion of an existing convenience store. The existing zoning is
1774 B-2C Business District (Conditional). The Land Use Plan recommends
1775 Commercial Concentration.

1776
1777 Mr. Jernigan - Is there any opposition to C-17C-08, Bay Design
1778 Group, P.C. for Thomas B. Porterfield? There is no opposition. Mr. Sehl, you
1779 may proceed.

1780
1781 Mr. Sehl - Thank you, Mr. Chairman.

1782
1783 This request would amend proffers accepted with rezoning case C-17C-91 which
1784 rezoned the subject property from B-1 to B-2C.

1785
1786 The 2010 Land Use Plan recommends Commercial Concentration for the subject
1787 site. The proposed use, properly regulated, would be consistent with this
1788 designation.

1789
1790 The applicant submitted revised proffers and exhibits, which are dated today—a
1791 change was made this evening, so they would be dated April 10—and have been
1792 distributed to you this evening. There's one minor change that I will speak to in a
1793 second. The amended proffers commit to redeveloping the existing gas station
1794 in a manner consistent with this conceptual plan. The site layout would be
1795 slightly altered to allow for the addition of a car wash at the rear of the building.

1796 Car washes are permitted in conjunction with a gas station upon the issuance of
1797 a special exception by the Planning Commission at the time of Plan of
1798 Development.
1799

1800 The addition of the proposed car wash would eliminate the existing service bays
1801 on the property, which necessitates the proposed amendment to Proffer 3, which
1802 increases the square footage of the structure permitted to be occupied by a
1803 convenience store from 900 to 2,000 square feet. I do note that the change I just
1804 spoke to involves an addition to Proffer 2, which limits the signage on the
1805 property. The applicant has added at that end of that sentence a prohibition on
1806 changeable message signs and attention-getting devices. That proffer has been
1807 provided this evening and time limits would need to be waived to accept the
1808 change to that proffer.
1809

1810 The applicant also proposes to add five proffers. These include a commitment to
1811 building upgrades to match these elevations, which show the proposed changes
1812 from all four sides. The proposed alterations would make the structure more
1813 residential in nature and would be more in keeping with other recent
1814 developments in the Patterson Avenue corridor.
1815

1816 Other proffers proposed by the applicant pertain to trash receptacle screening,
1817 retaining walls, and landscaping. Staff notes the applicant has indicated an
1818 intent to soften the appearance of the existing retaining wall adjacent to Gaskins
1819 Road on the property by adding landscaping as determined at the time of POD
1820 and landscape plan review.
1821

1822 In conclusion, this request would allow for a logical expansion of the existing
1823 convenience store on the property. The upgrades to the building and the
1824 submitted proffered conditions should ensure a quality development not
1825 otherwise possible. Staff supports this request. I'd be happy to answer any
1826 questions you might have.
1827

1828 Mr. Jernigan - Any questions for Mr. Sehl from the Commission?
1829

1830 Mrs. Jones - A quick one. The wording for #2 that was added
1831 tonight, could you just read that again, or is it not specific?
1832

1833 Mr. Sehl - It is specific. Mr. Porterfield has made and dated
1834 4/10/08 that no attention-getting devices or changeable message signs shall be
1835 permitted per Code on the property. The changeable message signs are defined
1836 in our Code as anything that changes more than three times on a 24-hours basis.
1837

1838 Mrs. Jones - Okay.
1839

1840 Mr. Jernigan - That's in addition to what's already stated.
1841

1842 Mr. Sehl - Correct. Yes sir. The limitation would still be 105
1843 square feet total signage on the property.
1844
1845 Mr. Jernigan - Normally, we wouldn't put the square foot of signage
1846 on a case because you have to determine that by the linear feet.
1847
1848 Mrs. Jones - That came along with the previous case.
1849
1850 Mr. Sehl - Mrs. Jones is correct. That's a continuance of the
1851 proffer originally accepted in 1991.
1852
1853 Mr. Jernigan - All right.
1854
1855 Mrs. Jones - Two thoughts which may have come through with the
1856 previous case that I don't believe we've spoken about. Do you know if there are
1857 any outdoor speakers on this site for any reason?
1858
1859 Mr. Sehl - My understanding is no. The applicant is here and he
1860 could maybe answer that question.
1861
1862 Mrs. Jones - Okay. Do you know their hours of operation?
1863
1864 Mr. Sehl - They're limited to B-2.
1865
1866 Mrs. Jones - Okay. That wasn't changed with—
1867
1868 Mr. Sehl - No, it wouldn't. They would require a provisional use
1869 permit. I'm not sure what their current operating hours are.
1870
1871 Mrs. Jones - Okay. I'll ask.
1872
1873 Mr. Jernigan - Any other questions for Mr. Sehl? Thank you, sir.
1874 Would you like to hear from the applicant?
1875
1876 Mrs. Jones - I would.
1877
1878 Mr. Jernigan - Okay. Would the applicant come down, please?
1879
1880 Mrs. Jones - Good evening.
1881
1882 Mr. Caskie - I'm Dan Caskie with Bay Design Group and I have
1883 Tom Porterfield here. I'd be happy to answer any questions or if you want me to
1884 present anything, I'll be happy to do that, too.
1885

1886 Mrs. Jones - I would. Just let me ask you those two quick things
1887 and then I want to compliment you. Outdoor speakers, do you know if there are
1888 outdoor speakers on this property?
1889
1890 Mr. Caskie - No. Tom has indicated that we do not have outdoor
1891 speakers.
1892
1893 Mrs. Jones - Okay. How about the hours of operation, just so I'm
1894 clear on that.
1895
1896 Mr. Caskie - 6 a.m. to 12 p.m.
1897
1898 Mrs. Jones - Which are the full hours permitted, I believe, in the
1899 zoning.
1900
1901 Mr. Emerson - That's correct.
1902
1903 Mrs. Jones - Okay. The compliment I want to give you is this.
1904 When originally this came through, this was a very I want to say ordinary looking
1905 structure. We thought with everything else coming on in at the
1906 Gaskins/Patterson corridor, it would sure make a difference if this were taken up
1907 a notch. The next thing I saw was quite a few notches. I wanted to tell you that I
1908 thought the response to that on behalf of your client and you working with this I
1909 would like very much to thank you for the effort that went into this on materials,
1910 and architectural, and for your commitment to the landscaping on this parcel.
1911
1912 Mr. Caskie - Thank you for the comments.
1913
1914 Mrs. Jones - It's a difficult parcel and this turned around mighty
1915 fast.
1916
1917 Mr. Caskie - Well, thank you.
1918
1919 Mrs. Jones - I have no more questions as far as the actual case,
1920 unless somebody else does.
1921
1922 Mr. Jernigan - Any other questions for Mr. Caskie from the
1923 Commission? Thank you, Mr. Caskie.
1924
1925 Mrs. Jones - Then I guess I waive time limits. First, I'd like to move
1926 that we waive time limits on C-17C-08, Bay Design Group, P.C. for Thomas B.
1927 Porterfield, for the proffers dated April 10, 2008.
1928
1929 Mr. Vanarsdall - Second.
1930

1931 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Vanarsdall.
1932 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1933
1934 Mrs. Jones - I move that we send C-17C-08, Bay Design Group,
1935 P.C. for Thomas B. Porterfield, to the Board of Supervisors with a
1936 recommendation for approval.

1937
1938 Mr. Vanarsdall - Second.

1939
1940 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Vanarsdall.
1941 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1942
1943 **REASON:** Acting on a motion by Mrs. Jones, seconded by Mr.
1944 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
1945 the Board of Supervisors grant the request because the amendments continue
1946 to assure a quality form of development with maximum protection afforded the
1947 adjacent properties, and do not reduce the original intended purpose of the
1948 proffers.

1949
1950 **AMENDMENT TO THE MAJOR THOROUGHFARE PLAN: MTP-1-08**
1951 Proposed Deletion of a Segment of Concept Road W-3 between Rasmussen
1952 Drive Extended and White Oak Road.

1953
1954 Mr. Jernigan - Is there opposition to the Amendment to the Major
1955 Thoroughfare Plan: MTP-1-08? There is no opposition.

1956
1957 Mr. Humphreys - Thank you, Mr. Chairman.

1958
1959 The Board of Supervisors, at its meeting on March 11, 2008, adopted a
1960 resolution directing the County Staff to initiate a study of Concept Roads W-2 and
1961 W-3 in their entirety, as seen here on this map.

1962
1963 Although the exact alignments have not been designed and the ultimate lengths
1964 could change, Concept Roads W-2 and W-3 are planned to be minor collector
1965 roads providing a road network from White Oak Road at Windsor Road,
1966 westbound approximately 6,160 feet then south approximately 1,480 feet to Elko
1967 Road. Concept Road W-3 would also intersect Rasmussen Drive, which is also
1968 shown to be extended southward to Elko Road.

1969
1970 As a result of that study, staff is bringing a proposed amendment for the removal
1971 of a portion of Concept Road W-3 before you this evening. The portion of
1972 Concept Road W-3 proposed for deletion is located between Rasmussen Drive
1973 and White Oak Road.

1974

1975 All of the parcels adjacent to Concept Roads W-3 and W-2 are currently zoned
1976 A-1. An existing R-2A subdivision, Shady Oaks, is located just to the north along
1977 the existing Rasmussen Drive.

1978
1979 The 2010 Land Use Plan designates the areas adjacent to Concept Road W-2
1980 and W-3 as SR-1 and SR-2. These designations indicate detached single-family
1981 uses with a density of 1 to 2.4 and 2.4 to 3.4 units per acre, respectively.

1982
1983 Concept Roads W-2 and W-3 are planned to traverse through a total of eight
1984 parcels. One of the larger parcels that abuts the Windsor and Shady Oaks
1985 subdivisions to the north and east, respectively, does not have road frontage or
1986 access to existing roads in the 2010 Major Thoroughfare Plan. For this reason, it
1987 is not recommended that the segment of Concept Road W-3 west of Rasmussen
1988 Drive Extended be removed at this time. That would be the segment here.

1989
1990 Three parcels adjacent to the eastern segment of Concept Road W-3 currently
1991 have access to Elko Road, White Oak Road, or both. The only exception is a
1992 parcel that currently has a subdivision filed on it (Selph Ridge). This subdivision
1993 is scheduled on the May 28, 2008 Planning Commission agenda for final
1994 approval.

1995
1996 The proposed lot layout for Selph Ridge would not be able to accommodate the
1997 segment of Concept Road W-3 planned through the site, but instead would
1998 provide access to Elko Road via Scaffold Court and Chillie Lane. Removal of this
1999 segment of Concept Road W-3 east of Rasmussen Road Extended would allow
2000 for the development of this parcel as currently proposed.

2001
2002 It is not foreseen the deletion of Concept Road W-3 between White Oak Road
2003 and Rasmussen Drive Extended from the 2010 Major Thoroughfare Plan would
2004 have adverse impacts on surrounding properties, future development of such
2005 properties, or the larger road network in this area.

2006
2007 Retention of Concept Roads W-3 west of Rasmussen Drive Extended and W-2
2008 will also provide access to future residential developments in the area north of
2009 Elko Road.

2010
2011 For these reasons, staff recommends the removal of the portion of Concept Road
2012 W-3 between Rasmussen Drive Extended and west of White Oak Road.

2013
2014 This concludes my presentation, and I would be happy to answer any questions.

2015
2016 Mr. Jernigan - Any questions for Mr. Humphreys from the
2017 Commission? All right, Mr. Humphreys, the gentleman's name that I spoke to
2018 earlier was Mike Eberhart.

2019
2020 Mr. Humphreys - How do you spell that?

2021
2022 Mr. Jernigan - Mike Eberhart. I believe it's E-b-e-r-h-a-r-t. I had an
2023 extensive conversation with him. He has about 130 acres back there. When I
2024 spoke to him, he said that he has with his property, access to Elko Road, White
2025 Oak Road, and Rasmussen. So as you stated earlier, nobody in here with the
2026 deletion of this road is landlocked.
2027
2028 Mr. Humphreys - Correct.
2029
2030 Mr. Jernigan - Okay.
2031
2032 Mr. Glover - Could I ask a question?
2033
2034 Mr. Jernigan - Yes sir.
2035
2036 Mr. Glover - In 24 years as I've been dealing with land use, I've
2037 never known a concept road to be set in concrete, as it appears this one has
2038 been. In other words, it appears that you have labeled it as a minor collector
2039 when in fact it hasn't been built. I thought when you developed you could
2040 automatically do away with it. In fact, we've done it in the past. I know you said
2041 the Board of Supervisors asked that it be studied. At what point does the
2042 concept road become beyond a concept? "Concept" means what?
2043
2044 Mr. Humphreys - Just an idea.
2045
2046 Mr. Glover - A what?
2047
2048 Mr. Humphreys - Just an idea or possibility.
2049
2050 Mr. Glover - It doesn't mean concrete, does it? I'm not real sure I
2051 understand why it takes an amendment to the Land Use Plan, although I don't
2052 have an objection to it except that it takes your time, the staff's time, this
2053 Commission's time, the Board of Supervisor's time to do something that could be
2054 done at the time that you brought something in for development. "Concept" was
2055 the idea of how do you get from Point A to Point B, not that it was some concrete
2056 line that was drawn, that it had to be in that particular area. Now, if it was
2057 dedicated, that's different, but this has never been dedicated, has it?
2058
2059 Mr. Emerson - No sir, it hasn't been dedicated. This is the way it's
2060 been done in the past, as it's been explained to me, and this is the way it's been
2061 handed to me.
2062
2063 Mr. Glover - I'll help explain it to you, because I've been a part of
2064 it.
2065

2066 Mr. Emerson - Yes, sir. And I know you have, yes sir. There is a
2067 certain amount of discretion in the movement of these roads between the
2068 Director of Public Works and the Director of Planning. This road was put on the
2069 Plan by the Williamsburg Road Study. We couldn't move it—
2070
2071 Mr. Glover - It's not a road.
2072
2073 Mr. Emerson - No sir, it's conceptual; I agree with you.
2074
2075 Mr. Glover - It's an idea and that's my point. You're taking up all
2076 kinds of staff time, this Commission, and the Board's time to do something that I
2077 don't see as necessary—and I have a little bit of an idea about planning—except
2078 if somebody wants to take the time to take it off, that'll be fine. You don't have to
2079 go through the study of it, you just remove it at the time that development comes.
2080 Anyway, I don't guess I know what I'm taking about it, so go ahead and vote on
2081 it.
2082
2083 Mrs. Jones - Would that be just an administrative action?
2084
2085 Mr. Glover - Well, no. It's an action that's taken by this body and
2086 the Board when you develop the land. In other words, the concept is to take
2087 traffic from Point A to Point B, not a defined line. Once it becomes a defined line,
2088 then it has to be a dedicated piece of property. This isn't dedicated. This is—
2089 What did you say it is, Seth?
2090
2091 Mr. Jernigan - Conceptual.
2092
2093 Mr. Glover - No.
2094
2095 Mr. Humphreys - An idea or proposal.
2096
2097 Mr. Glover - I like the idea that it's an idea, because that's what it
2098 is. Anyway, I just thought I'd bring it up. The Planning Commission is being
2099 requested to do something that I've never heard of. And you know what? That
2100 doesn't mean I won't hear of things in the future that I hadn't heard of with this
2101 Commission.
2102
2103 Mr. Jernigan - We've closed a couple more.
2104
2105 Mr. Glover - It's not a matter that you can't do it, but why do it
2106 when you can do it when you address a development? It is a concept of how to
2107 get traffic from here to here. That's all it is, unless you dedicate it.
2108
2109 Mr. Jernigan - This wasn't dedicated.
2110

2111 Mr. Glover - Unless you draw the line on there and say this is the
2112 major thoroughfare. In other words, a major thoroughfare is part of the Land Use
2113 Plan and it is meant to be a part of the Land Use Plan to serve the land that it
2114 touches. In other words, the hierarchy of a major thoroughfare is from local roads
2115 all the way up to limited access. If a concept road doesn't fit in one of those, then
2116 why are you having to remove it? It doesn't exist.
2117

2118 Mr. Jernigan - I was told this was the procedure we had to go
2119 through.
2120

2121 Mr. Glover - Who told you that?
2122

2123 Mr. Jernigan - Public Works. The only way that we can get rid of a
2124 concept road, it has to be a Board action.
2125

2126 Mr. Glover - Well, it does.
2127

2128 Mr. Jernigan - It has to come through the Commission.
2129

2130 Mr. Glover - But you do it at the time of development. The 130
2131 acres you're talking about is a part of the development that might take place one
2132 day and when you remove this concept road, you remove the possibility of
2133 suggesting to that person that he has to do something not along this line, but
2134 somewhere close to it to get traffic from over here to over here.
2135

2136 Mrs. Jones - Is this not a result of Selph Ridge?
2137

2138 Mr. Jernigan - Yes. The 130 acres is not actually the case with this.
2139 It's an eight lot—
2140

2141 Mr. Glover - In 25 years I've never seen this done and we've
2142 gotten rid of concept roads.
2143

2144 Mr. Jernigan - What you're suggesting is, is to do it at the time of the
2145 zoning?
2146

2147 Mr. Glover - I'm asking if that can be done. I'm not going to tell you
2148 that it's in concrete with me, but I said I've never seen it done. I've seen concept
2149 roads removed at the time of development. Now, if it's dedicated, it's different. If
2150 it is adopted as a minor arterial, a line is drawn, you can then say—In fact, I'll you
2151 a good example—John Rolfe Parkway. John Rolfe Parkway was 288 Extended,
2152 which was 295 extended all the way over across the James River. That was a
2153 1965 determination by Regional Planning that there would be a road there and it
2154 was defined. It wasn't concept, it was defined. From 1965 until 1988, this
2155 Planning Commission would reserve 350 feet of land that that road would go
2156 through one day. When they moved it out to where it is in Goochland, it no longer

2157 was 288, it was then John Rolfe Parkway. It was reduced from 350 feet limited
2158 access to a major arterial, and it stayed there. It wasn't concept, it stayed there.
2159 Now I'm not saying that I'm right, I'm just saying I've never seen it done and I
2160 don't understand why. So, since I'm here—I'm not here just to not vote on these
2161 cases; I'm here to understand what it is we're doing and why we do it. I'm not
2162 saying you're wrong; I'm saying I need an explanation beyond somebody saying,
2163 well, that's what Public Works said. Textbooks are not always interpreted the
2164 same way by different professionals. All I'm asking is I'd like an interpretation of
2165 why we have to do this as a concept road, not a dedicated road. Go ahead and
2166 vote on it because it doesn't hurt anything. You've already put the time in.

2167

2168 Mr. Jernigan - Okay.

2169

2170 Mr. Glover - I just want to make sure we don't get all tied up in
2171 things we don't need to do, if we don't need to do them.

2172

2173 Mr. Jernigan - All right. Any other questions from the Commission?
2174 With that, I will make a motion to approve the Amendment to the Major
2175 Thoroughfare Plan: MTP-1-08 and send it to the Board of Supervisors for their
2176 approval.

2177

2178 Mrs. Jones - Second.

2179

2180 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mrs. Jones. All
2181 in favor say aye. All opposed say no. The ayes have it; the motion passes.

2182

2183 Mr. Glover - For the benefit of the Chairman and the rest of you,
2184 every time you change by way of a zoning case you amend the Land Use Plan.
2185 That's what you do. You're amending the Land Use Plan with a zoning case. I
2186 figure you do not need to amend a concept.

2187

2188 Mr. Jernigan - What I'm told now, if you're zoning a piece of property
2189 for a subdivision case on a piece of property that has a concept road on it—

2190

2191 Mr. Glover - Delete it.

2192

2193 Mr. Jernigan - But it has to be Board approval. You can't just knock it
2194 off.

2195

2196 Mr. Glover - But you're not just knocking it off. When you go
2197 through the zoning process, you are changing the Land Use Plan and a concept
2198 road goes with that change.

2199

2200 Mr. Branin - From what I understand, our Supervisor's saying is
2201 you don't have to address it if it's a concept previously. We can address at the

2202 time of the case in which the concept is on so we're not wasting time and energy
2203 to make a two-step process in something that we could do in one. Am I right?
2204
2205 Mr. Glover - That's what I understand. I don't necessarily mean
2206 that I'm correct, but I do believe I am.
2207
2208 Mr. Jernigan - I had a zoning case that we couldn't do anything on
2209 until we got rid of a concept road and it couldn't be done at the same time.
2210
2211 Mr. Glover - I'm not sure that you were led right then.
2212
2213 Mr. Jernigan - Well, I might not have been.
2214
2215 Mr. Glover - Textbooks are interpreted differently by different
2216 people.
2217
2218 Mr. Branin - Mr. Secretary, can you contact Public Works and ask
2219 them?
2220
2221 Mr. Glover - I'm going to do that.
2222
2223 Mr. Branin - I'm going to ask our Secretary to look into.
2224
2225 Mr. Jernigan - All right. The next thing is the approval of the minutes
2226 of March 13, 2008. Do we have any corrections?
2227
2228 Mr. Archer - I have one correction, Mr. Chairman, on page 26, line
2229 1161. I think that the Paxton Drive—There is no Paxton Drive; I think he meant
2230 driveway on 1161.
2231
2232 Mr. Vanarsdall - You sure?
2233
2234 Mr. Archer - Yes.
2235
2236 Mr. Jernigan - All right. Are there any other corrections?
2237
2238 Mrs. Jones - Page 24, line 1063. Dr. Malatin, it's "so that
2239 answered my question," not "by" question.
2240
2241 Mr. Jernigan - Any other corrections? Do we have a motion to
2242 approve the minutes?
2243
2244 Mr. Archer - Move approval of the minutes as corrected.
2245
2246 Mr. Vanarsdall - Second.
2247

2248 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr. Vanarsdall. All
2249 in favor say aye. All opposed say no. The ayes have it; the motion passes. If
2250 there be other business, do we have a motion to adjourn?

2251

2252 Mr. Archer - So move.

2253

2254 Mr. Vanarsdall - I second the move.

2255

2256 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr Vanarsdall. All
2257 in favor say aye. All opposed say no. The ayes have it; the motion passes.
2258 Thank you.

2259

2260 The meeting was adjourned at 8:56 p.m.

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R. Joseph Emerson, Jr., Secretary

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E. Ray Jernigan, Chairman