

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 Spring Roads, beginning at 7:00 p.m. Thursday,
4 April 9, 2009. Display Notice having been published in the Richmond Times-
5 Dispatch on March 19, 2009 and March 26, 2009.
6

Members Present: Mrs. Bonnie-Leigh Jones, Chairperson (Tuckahoe)
Mr. Ernest B. Vanarsdall, C.P.C., Vice Chairman
(Brookland)
Mr. E. Ray Jernigan, C.P.C., (Varina)
Mr. Tommy Branin, (Three Chopt)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. James B. Donati (Varina)
Board of Supervisors Representative
Ms. Jean Moore, Assistant Director, Acting Secretary

Members Absent: Mr. R. Joseph Emerson, Jr., Director of Planning,
Secretary

Also Present: Mr. James P. Strauss, CLA, Principal Planner
Mr. Benjamin Sehl, County Planner
Mr. Lisa Taylor, County Planner
Mr. Roy Props, County Planner
Ms. Jamie Sherry, County Planner
Mr. Mike Jennings, Traffic Engineer
Ms. Sylvia Ray, Recording Secretary

7
8 **Mr. James B. Donati, the Board of Supervisors' representative, abstains on**
9 **all cases unless otherwise noted.**

10
11
12 Mrs. Jones - I'd like to call this meeting to order, and ask that you
13 stand for the Pledge of Allegiance to the Flag.

14
15 Thank you, and welcome to the rezoning meeting for the Planning Commission.
16 We're happy to have you with us this evening. Thank you for coming out. We
17 always enjoy having people with us, like to hear what you have to say, and
18 appreciate your time. I would like to ask that you mute or turn off your cell
19 phones at this time for the duration of the meeting. I'd also like to welcome Mr.
20 Donati who is with us this year as the representative of the Board of Supervisors
21 from the Varina District. I would also like to tell you that we will be going through
22 this agenda in the order that you see; however, there are some changes. We'll
23 get to that as we go through case by case.

24
25 With that, I'd like to turn over the meeting to Jean Moore, who is taking the place
26 this evening of our Director of Planning, Joe Emerson.

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Ms. Moore: Thank you, Madam Chair. The next item on your agenda will be the requests for withdrawals and deferrals. Those will be presented by Mr. Jim Strauss.

Mrs. Jones - Thank you.

Mr. Strauss - Staff is aware of one withdrawal tonight in the Fairfield District, on page 2 of your agenda. That's P-5-09. This is a request for a Provisional Use Permit in order to allow a culinary training center.

Deferred from the March 12, 2009 Meeting.

P-5-09 Chet Russell: Request for a Provisional Use Permit under Sections 24-55(d), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to allow a culinary training center, on Parcel 784-753-7530, located at the southeast intersection of Brook Road (U. S. Route 1) and Brookside Boulevard. The existing zoning is B-2C Business District (Conditional) and B-1 Business District. The Land Use Plan recommends Commercial Arterial. The site is in the Enterprise Zone.

Mr. Strauss - It's been withdrawn by the applicant and no action is required by the Commission.

Mrs. Jones - Thank you.

Mr. Strauss - Moving on to deferrals. Staff is aware of one deferral that is in the Three Chopt District, page 3 of the agenda. That would be case C-8C-09 CP Other Realty, LLC. This is a request to conditionally rezone from B-2C Business District (Conditional) to B-3C Business District. A carwash is proposed. The applicant is requesting a deferral to the May 14, 2009 meeting.

Deferred from the March 12, 2009 Meeting.

C-8C-09 James W. Theobald for CP Other Realty, LLC: Request to conditionally rezone from B-2C Business District (Conditional) to B-3C Business District (Conditional), part of Parcel 735-763-7898, containing approximately 1.680 acres, located on the north line of West Broad Street (U. S. Route 250) approximately 1,650 feet east of N. Gayton Road. The applicant proposes a car wash. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Mixed Use. The site is in the West Broad Street Overlay District.

Mrs. Jones - Is there anyone in the audience opposed to the deferral of case C-8C-09, James W. Theobald for CP Other Realty, LLC? No opposition.

72 Mr. Branin - Madam Chair, I'd like to move that C-8C-09, James
73 W. Theobald for CP Other Realty, LLC, be deferred to the May 14, 2009
74 Commission meeting per the applicant's request.

75
76 Mr. Vanarsdall - Second.

77
78 Mrs. Jones - We have a motion by Mr. Branin, seconded by Mr.
79 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it; the
80 motion passes.

81
82 At the request of the applicant, the Planning Commission deferred C-8C-09,
83 James W. Theobald for CP Other Realty, LLC, to its meeting on May 14, 2009.

84
85 Mr. Strauss - Those are all the deferrals staff is aware of at this
86 time.

87
88 Mrs. Jones - Are there any deferrals from the Planning
89 Commission?

90
91 Mr. Branin - Madam Chair, I have two.

92
93 Mrs. Jones - All right.

94
95 Mr. Branin - I would like to request on page 2, C-8C-05, and on
96 page 3, C-19-C-6.

97
98 Mrs. Jones - Let's take them one at a time.

99
100 **Deferred from the November 13, 2008 Meeting.**
101 **C-8C-05 G. Edmond Massie, IV for Fidelity Properties, Ltd.:**
102 Request to conditionally rezone from A-1 Agricultural District to RTHC
103 Residential Townhouse District (Conditional), Parcel 746-764-5580, containing
104 approximately 4.54 acres, located on the west line of Sadler Road approximately
105 290 feet south of Wonder Lane. The applicant proposes a residential townhouse
106 development not to exceed six (6) dwelling units per acre. The RTH District
107 allows a maximum gross density of 9 units per acre. The proposed use will be
108 controlled by zoning ordinance regulations and proffered conditions. The Land
109 Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per
110 acre.

111
112 Mrs. Jones - All right. Is there anyone in the audience who is
113 opposed to the deferral of C-8C-05, G. Edmond Massie, IV for Fidelity
114 Properties, Ltd.? No one.

115
116 Mr. Branin - Madam Chair, I'm going to ask if we can defer this for
117 two months. Can staff give me the date for two months?

118
119 Mr. Vanarsdall - June 16th, I believe, isn't it?
120
121 Mr. Archer - That would be June 11th, I believe.
122
123 Mr. Vanarsdall - June 11th, that's right.
124
125 Mr. Strauss- That would be June 11th.
126
127 Mr. Branin - June 11th? Thank you so much. With that, Madam
128 Chair, I would like to move that C-8C-05, G. Edmond Massie, IV for Fidelity
129 Properties, Ltd., be deferred to the June 11, 2009 meeting, per Commission
130 request.
131
132 Mr. Vanarsdall - Second.
133
134 Mrs. Jones - We have a motion by Mr. Branin, seconded by Mr.
135 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it; the
136 motion passes.
137
138 At the request of the Commission, the Planning commission deferred C-8C-05,
139 G. Edmond Massie, IV for Fidelity Properties, Ltd, to its meeting on June 11,
140 2009.
141
142 Mrs. Jones - The second case, Mr. Branin?
143
144 Mr. Branin - You want to check to make sure nobody is in
145 opposition?
146
147 Mrs. Jones - The second case is?
148
149 Mr. Branin - C-19C-06.

150
151 **Deferred from the November 13, 2008 Meeting.**

152 **C-19C-06 G. Edmond Massie, IV for Fidelity Properties, Ltd.:**
153 Request to conditionally rezone from A-1 Agricultural District to RTHC
154 Residential Townhouse District (Conditional), Parcels 746-763-2482, 746-763-
155 2896, 746-763-1769, and 746-764-3818, containing 10.79 acres, located on the
156 east line of Glasgow Road, approximately 600 feet north of Ireland Lane. The
157 applicant proposes a residential townhouse development not to exceed six (6)
158 dwelling units per acre. The maximum density allowed in the RTH District is nine
159 (9) units per acre. The proposed use will be controlled by zoning ordinance
160 regulations and proffered conditions. The Land Use Plan recommends Suburban
161 Residential 1, 1.0 to 2.4 units net density per acre.
162

163 Mrs. Jones - Is there anyone in the audience in opposition to the
164 deferral of C-19C-06, G. Edmond Massie, IV for Fidelity Properties, Ltd.? No
165 one.

166
167 Mr. Branin - Madam Chair, I'd like to move that C-19C-06, G.
168 Edmond Massie, IV for Fidelity Properties, Ltd., be deferred to the June 11, 2009
169 meeting per Commission request.

170
171 Mr. Vanarsdall - Second.

172
173 Mrs. Jones - Motion by Mr. Branin, seconded by Mr. Vanarsdall.
174 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

175
176 At the request of the Commission, the Planning Commission deferred C-19C-06,
177 G. Edmond Massie, IV for Fidelity Properties, Ltd., to its meeting on June 11,
178 2009.

179
180 Mrs. Jones - Are there any further deferrals from the Commission?
181 No further deferrals.

182
183 Ms. Moore - Madam Chair, that brings us to the next item on the
184 agenda which is consideration of expedited items. These are cases that are
185 somewhat minor in nature, and the Planning staff has no awareness of any
186 outstanding issues or opposition. If there is opposition, it can be pulled off the
187 expedited agenda and heard at the regular time as it's placed on the agenda.
188 We do have one that's been requested for an expedited case. Mr. Strauss will
189 explain what that is.

190
191 Mr. Strauss - This is a case in the Fairfield District, page 2 of the
192 agenda, P-6-09, Peter L. Francisco. It's located on the west line of Lakeside
193 Avenue at its intersection with Timberlake Avenue. This is a request to amend
194 condition 2 approved with Provisional Use Permit P-18-07, in order to build a
195 permanent structure to develop his outdoor farmers' market at Lakeside Towne
196 Center. The previous condition #2 is on page 3 of the staff report. It prohibited
197 permanent structures at the farmers' market. Staff is recommending approval.
198 We are not aware of any opposition.

199
200 **P-6-09** **Peter L. Francisco:** Request to amend Condition 2
201 approved with Provisional Use Permit P-18-07, on part of Parcel 780-749-9410,
202 located on the west line of Lakeside Avenue (State Route 161) at its intersection
203 with Timberlake Avenue, in order to build a permanent structure for the outdoor
204 farmers' market at Lakeside Towne Center. The existing zoning is B-3C
205 Business District (Conditional). The Land Use Plan recommends Commercial
206 Concentration. The site is in the Enterprise Zone.

207

208 Mrs. Jones - Is there anyone in the audience who is opposed to P-
209 6-09, Peter L. Francisco?
210
211 Mr. Strauss - Did you all—Is that microphone on?
212
213 Mr. Branin - I don't think any of the mike's are working.
214
215 Mr. Strauss - I can reread that if you like.
216
217 Mr. Vanarsdall - It wasn't on for the others either, so I wouldn't turn it
218 on.
219
220 Mr. Branin - You have to say it real loud.
221
222 Mr. Strauss - Testing. Okay. Again, it's P-5-09.
223
224 Mrs. Jones - P-6.
225
226 Mr. Strauss - I'm sorry. P-6-09, Peter L. Francisco. This is for the
227 farmers' market. It's a request to amend condition 2 approved with Provisional
228 Use Permit P-18-07. That is in order to build a permanent structure at the
229 outdoor farmers' market at Lakeside Towne Center.
230
231 Mrs. Jones - All right, Mr. Branin?
232
233 Mr. Strauss - Can you hear me now?
234
235 Mr. Archer - Madam Chair, I will move the P-6-09, Peter L.
236 Francisco, be sent to the Board of Supervisors with a recommendation for
237 approval.
238
239 Mr. Branin - Second.
240
241 Mrs. Jones - Motion by Mr. Archer, seconded by Mr. Branin. All in
242 favor say aye. All opposed say no. The ayes have it; the motion passes.
243
244 **REASON:** Acting on a motion by Mr. Archer seconded by Mr.
245 Branin, the Planning Commission voted 5-0 (one abstention) to recommend the
246 Board of Supervisors grant the request because it is reasonable in light of the
247 surrounding uses and existing zoning on the property and it would not be
248 expected to adversely affect public safety, health, or general welfare.
249
250 Ms. Moore - Madam Chair, that brings us to our regular rezoning
251 cases and provisional uses to be heard. There are three left on the agenda.
252
253

254 **Deferred from the February 12, 2009 Meeting.**
255 **P-20-08** Gloria L. Freye for New Cingular Wireless PCS,
256 LLC: Request for a Provisional Use Permit under Sections 24-95(a)(3), 24-120
257 and 24-122.1 of Chapter 24 of the County Code in order to construct a 102' high
258 internal array style monopole telecommunications tower and related equipment,
259 on part of Parcel 732-749-5405, located on the east line of Gayton Road
260 approximately 1,325 feet north of its intersection with Cambridge Drive. The
261 existing zoning is B-1 Business District. The Land Use Plan recommends
262 Commercial Concentration.

263
264 Mrs. Jones - Before Mr. Props gives his report, are there folks in
265 the audience who would like to speak to case P-20-08, Gloria L. Freye for New
266 Cingular Wireless PCS? All right, we do have opposition. It probably would be
267 helpful at this time for Ms. Moore to run through the way in which we handle
268 discussion at the Commission when there are folks who would like to come up
269 and talk.

270
271 Ms. Moore - The Planning Commission rules and regulations allow
272 ten minutes for the representative or applicant to present their case. If there is
273 opposition, the opposition has an aggregate of ten minutes as well. At any point,
274 the representative or applicant can hold time aside to come back as a rebuttal or
275 testimony for that. Questions from or to the Commission are not counted toward
276 that time.

277
278 Mrs. Jones - Thank you. All right, Mr. Props.

279
280 Mr. Props - Madam Chair, members of the Commission, New
281 Cingular Wireless is requesting to construct a 102-foot high internal array
282 monopole telecommunications tower and install related equipment on a 6.6-acre
283 parcel located at 12207 Gayton Road. NOVA of Virginia Aquatics, Inc. leases the
284 property and occupies a building adjacent to the proposed tower. The site is
285 currently zoned B-1 (Business) and requires a Provisional Use Permit for towers
286 exceeding 50 feet in height. The surrounding area is developed and includes
287 single and multi-family residences, and commercial retail.

288
289 The 2010 Land Use Plan recommends Commercial Concentration and this
290 request is consistent with a County preference for locating towers in commercial
291 areas. The monopole tower with internally-mounted antennas and associated
292 equipment will be surrounded and concealed within an eight-foot high masonry
293 wall matching the texture and dark gray color of the existing refuse compound.
294 The stealth design, commercial location, masonry wall and internal antenna
295 system are consistent with the Wireless Communication Technology Element of
296 the 2010 Land Use Plan.

297
298 The proposed telecommunication tower would be located at the edge of the
299 parking area, approximately 425 feet north of the aquatics building and

300 approximately 160 feet east of Gayton Road. The applicant conducted two
301 balloon floats and two community meetings, and has responded to resident
302 concerns by incorporating mitigation measures that include: lowering the
303 maximum tower height from 120 feet to 102 feet; eliminating the proposed flag
304 and associated lighting; proffering a landscape area along a portion of Gayton
305 Road; and, selecting an alternate on-site tower location that was not originally
306 proposed. The proposal would expand and improve network coverage and
307 accommodate one additional co-location.

308
309 The selection of a commercial site, along with the alternate on-site location, lower
310 tower height, concealed internal antennas, and screening and landscaping
311 conditions collectively mitigate visibility, light, noise, and screening concerns. In
312 summary, the applicant has responded to all concerns raised and staff supports
313 this request with the revised recommended conditions that you just received.

314
315 This concludes my presentation and I would be happy to answer any questions.

316
317 Mrs. Jones - Any questions for Mr. Props from the Commission? I
318 think Mr. Props and I have talked every day, several times a day, for the past
319 several weeks, so I don't have any questions. Okay, thank you. I would like to
320 ask the applicant to come forward. After the applicant has presented their side of
321 the case, I'll ask you all to come on down.

322
323 Ms. Freye, do you want to set time aside for rebuttal?

324
325 Ms. Freye - One minute.

326
327 Mrs. Jones - Okay.

328
329 Ms. Freye - Good evening, Madam Chairwoman, members of the
330 Commission. My name is Gloria Freye. I'm an attorney for McGuireWoods here
331 on behalf of AT&T. John Miller, who is with AT&T, is also here this evening. I do
332 appreciate the staff's time and work, and I also would like to thank the neighbors
333 for giving us a lot of time and working with us on these issues as well.

334
335 The first slide is an aerial view, and I show you this just to illustrate that the site
336 there outlined in blue is the swim club, over 6-1/2 acres. With the commercial
337 property to the north and the commercial property to the south, this pole would
338 be in the middle of about 15 acres of commercial property.

339
340 The next slide shows ten sites that the neighbors specifically asked AT&T to
341 investigate. Each one of these sites was researched, and for various reasons
342 they just didn't work, either because of floodplains, because of wetlands,
343 because the property didn't meet setbacks, because the property was zoned
344 residential, because it was too far away, because it was too close to a tower,
345 because it just didn't meet the County siting policy, or because we couldn't get a

346 willing landlord. Fortunately, with the NOVA Swim Club, we didn't have any of
347 those problems.

348
349 The next slide that I have is a propagation map, which shows the swim club site
350 here in the middle. The areas in the green give you in-building coverage, the blue
351 gives you in-vehicle coverage, the yellow gives you on-street coverage, and the
352 white is no coverage. This is the problem area that they're trying to address.
353 With a cell pole at the swim club, you see that the service level would change to
354 the in-building and in-vehicle, which would be a great improvement for the level
355 of service in this area.

356
357 Mr. Props has already shown you the site plan. The original location was here in
358 the front of the building. The neighbors objected to the fact that this was lined up
359 with the entrance to their townhouses, so we have moved it over here further
360 away. It's about 500 feet now from the townhouses. He's also shown you the
361 ground equipment and the screening that would be provided for that, so that it
362 won't be visible to the public or the adjacent properties. Also, the adjacent area
363 here is where we would do supplemental evergreen landscaping for additional
364 screening.

365
366 We did do two balloon floats, and we did take photographs of where they were
367 visible. We could see it at places along Poplar Forest, along Cambridge, along
368 Gayton, the townhouses and the apartments. I'll show you those views. This is
369 the first view from Brightmoor Court. You can't really see it because it's behind
370 the edge of this building. This is also from Brightmoor Court from a different
371 angle, and you see the pole there between these trees. But you can also see
372 that when these leaves come out, there is going to be screening provided, and
373 with the additional landscaping that's going to be provided in this area, you'll
374 have additional screening as well. This is a third view from Brightmoor Court.
375 Different angle, closer to the road. But again, these trees will have leaves on
376 them, and with the additional landscaping, that helps to mitigate the view from
377 that angle.

378
379 This is the view from inside Kingsbrook Drive. You can see it above the rooftops
380 there. This is the most exposed view. This is the reason that the company has
381 agreed to supplement this landscaping along here to screen the base of the
382 tower, so that when folks are pulling out of Kingsbrook Drive, their line-of-sight is
383 going to be interrupted with landscaping and not just a clear view of the pole.

384
385 This is the view from the north. This is a commercial area to the north, and you
386 see it above this tree canopy. This is from the commercial view from the south.
387 This is from Poplar Forest Drive, and you can barely see it in the photograph. So,
388 when the leaves come out, it won't be visible.

389

390 Further up Poplar Forest are two cul-de-sac's one, is Choate Place. It was visible
391 above this treeline, and then from Taft Place above this treeline. Those were the
392 only two places in that duplex subdivision that it was visible.

393
394 This is from the intersection of Cambridge Drive and Gayton; the pole is right
395 there. This is from Cresthaven Court from the west side of Gayton looking across
396 north. This is actually a commercial property here, and the swim club is up here.
397 The pole would be here in line with these other utility poles. And this is the view
398 from Fox Chase Apartments across the street at Millhaven Drive.

399
400 We did have two community meetings. In addition to that, we had separate
401 meetings with representatives from the neighborhood to address their concerns.
402 We do appreciate the time that they gave us. They were very courteous and
403 generous with their time working with us. Through that process, I think the case
404 was greatly improved from the application that was filed. it was lowered to 102
405 feet; it was changed from a lighted flagpole to a plain slick-stick design; all the
406 other sites were ruled out; it was moved farther away from their entrance; it was
407 moved farther away so that it would be less visible to the townhouses; it was
408 moved next to existing trees to provide better screening; and, of course, the
409 applicant has agreed to the additional landscaping along Gayton, which will help
410 create a better streetscape there in addition to screening the base of the tower.

411
412 The case does comply with the County's siting policies. AT&T (the applicant),
413 and the owner of the swim club have both reviewed the conditions. They are in
414 agreement with those conditions. We ask that you recommend approval. We will
415 be glad to answer questions.

416
417 Mrs. Jones - All right, thank you, Ms. Freye. Anyone have
418 questions for Ms. Freye at this time?

419
420 Mr. Jernigan - Ms. Freye, did you have any other co-locators that
421 wanted to go onto the tower?

422
423 Ms. Freye - We don't have any letters of intent that we have
424 received yet. But it will allow one other co-location on the site.

425
426 Mrs. Jones - All right. If there are folks in the audience who would
427 like to express their concerns or questions, this would be the time. If you will
428 come on down. I ask that you state your name for the record. These are
429 recorded proceedings, so we appreciate you identifying yourself and speaking
430 into the mike. That seems to be a soft mike today.

431
432 Mr. Ratchford - Good evening. I'm Robin Ratchford. I'm the
433 chairperson of Windsor Park Townhome Community Cell Tower Committee,
434 which is a subcommittee of our Board of Directors. I'm also the secretary on our
435 Board of Directors. The opinion of our Cell Tower Committee—again, that was

436 appointed by the Board—is that we're generally opposed to the proposed
437 flagpole cell tower to be installed on the NOVA property. However, if the
438 Planning Commission or the Board of Supervisors decides to vote to approve the
439 provisional use permit, we find the proposed location less objectionable than the
440 original proposed site location. Approximately one-third of our homeowners are
441 in opposition by a petition, which I have here to provide you, regarding placement
442 of the proposed flagpole cellular tower on the NOVA Swim Club site.

443
444 The Windsor Park Cellular Tower Committee wants to ensure—and we
445 understand that the landscaping buffer that AT&T proposes, and that the NOVA
446 Swim Club agrees to maintain, will be evergreen. We would like to see it
447 extended further down Gayton Road than just at the entrance of Kingsbrook. We
448 are trying to create a buffer for residents not only on Kingsbrook Drive, but also
449 on Brightmoor Court and Cresthaven Court, from the proposed flagpole cellular
450 tower. We also understand that the flagpole cellular tower, if approved at the
451 revised site, that no flag will be flown on that pole, and the pole will not be
452 illuminated during nighttime hours. The committee is appreciative of the efforts of
453 AT&T, the NOVA Swim Club, Ms. O'Bannon, Mrs. Jones, and Ms. Freye in taking
454 the time to listen to our concerns and address those concerns of our Board of
455 Directors and homeowners of Windsor Park Townhome Association. Thank you.

456
457 Mrs. Jones - Mr. Ratchford, before you leave the mike, I just want
458 to make sure, you do know that this is now not a flagpole?

459
460 Mr. Ratchford - Correct.

461
462 Mrs. Jones - Flagpole tower at all.

463
464 Mr. Ratchford - That's correct. Just a straight pole.

465
466 Mrs. Jones - Right.

467
468 Mr. Ratchford - Correct.

469
470 Mrs. Jones - I do think that that was a direct response to questions
471 and real concerns that you have, and we certainly could understand. I have
472 been very impressed with your homeowners' association and their thoroughness
473 and their civility when we had these conversations. Believe me, not every group
474 of folks in a cell tower case can be objective and bring goodwill to the meeting.

475
476 Mr. Ratchford - Thank you.

477
478 Mrs. Jones - So I thank you for that. Basically, I think we have
479 come upon a location that is suitable. I don't think that there is any way to say
480 that it's perfect for everybody for all reasons, but it is suitable. I think your
481 association was a big part of helping guide the process to that. Let me just ask

482 you specifically. If you had to list one, two, three what your concerns are—since
483 we now do not have lighting, we do not have the noise of a flag, and we do have
484 a location that is not the primary exit point for the townhouses—

485
486 Mr. Ratchford - Correct.

487
488 Mrs. Jones - —what would your concerns be? Could you list what
489 are your remaining concerns?

490
491 Mr. Ratchford - Speaking for this subcommittee, which is, again, a
492 group of our Board of Directors, our last primary concern is that we would like to
493 have landscaping extended further down the entrance, to the right of the
494 entrance, which would be down toward Brightmoor Court and Cresthaven Court.
495 As was pointed out, you can see that, and there is at least six months out of the
496 year where there will be no leaves on those trees, where we'll see the pole there
497 along the treeline. We are, again, appreciative of AT&T's consideration of adding
498 the landscaping on the exit and entrance of Kingsbrook Drive and to the left of
499 that going up towards the apartments. We would like to ask for the same
500 consideration moving down Gayton Road directly across the eyesight from
501 Cresthaven Court and Brightmoor Court.

502
503 Mrs. Jones - Well, I thank you very much for your time.

504
505 Mr. Ratchford - Thank you.

506
507 Mrs. Jones - We'll see if we can't get some clarification on some of
508 the things you brought up.

509
510 Mr. Ratchford - Thank you. May I present you with this petition?

511
512 Mrs. Jones - Certainly. If you give it to a staff member. Thank you.

513
514 Mr. Ratchford - Thank you.

515
516 Mr. Jernigan - Madam Chair, how much distance are they talking
517 about?

518
519 Mrs. Jones - Do you need to speak to Mr. Ratchford?

520
521 Mr. Jernigan - I was asking you.

522
523 Mrs. Jones - Oh, okay.

524
525 Mr. Jernigan - Do you know how much distance they're talking about
526 down the road that they want landscaped?

527

528 Mrs. Jones - It'll be easy for you to see here. I'd like to ask Mr.
529 Props to get the answer to that question, and then Ms. Freye, I'd like you to
530 respond to the question that Mr. Ratchford brought up.

531

532 Ms. Moore - Mr. Strauss, could you pass the petition up for the
533 Commission, please?

534

535 Mrs. Jones - Ms. Freye, are you getting a site plan up there to
536 show Mr. Jernigan?

537

538 Ms. Freye - I can show the area, if I can go backwards. I was
539 going to start with this slide, Mrs. Jones. This is the area, I think, from
540 Cresthaven, the view from Cresthaven. This view is actually across from the
541 commercial development here. I think the area that is being requested to be
542 landscaped is right here, which is south of the entrance to NOVA. You can see
543 that landscaping there is going to be on the curve of Gayton. There is a concern
544 about sight distance and the fact that you have driveways here and here on this
545 curve. You can see the trees that are there now have been set further back from
546 the right-of-way, I'm guessing because of a concern about that. Additional
547 landscaping here is not going to mitigate the view of a pole.

548

549 Let's see if I can get back to the site plan. This is the landscape exhibit. The
550 entrance is here, and the area that Mr. Ratchford is asking to be landscaped is
551 from here to here. You can see that it is on that curve, but I don't know the
552 distance of that. This distance is about 225 feet, so I would guess about 225 feet,
553 just by judging by sight.

554

555 Mrs. Jones - Or less.

556

557 Ms. Freye - Or less, yes.

558

559 Mrs. Jones - Basically, your answer to the question of why
560 landscaping would not be suitable is because it wouldn't be effective?

561

562 Ms. Freye - Correct. It would not screen the view of the pole, the
563 base, or any part of it as this landscaping would. The objective of AT&T would be
564 to concentrate the landscaping here so that it would be effective from the
565 townhouses where people live (and view from their homes), and as they exit and
566 come up Gayton Road.

567

568 Mrs. Jones - Now, this is conceptual, obviously, but could you
569 touch on the types of things (plants) that might be going in there?

570

571 Ms. Freye - We have talked with staff about what would be
572 appropriate. The first concern was to make sure we had drought-resistant native
573 species that would thrive. We've talked about wax myrtle, Leyland, evergreens

574 that will grow of different heights of 15, 20 feet in that strip. It would provide a
575 nice streetscape in that area. Not only would it help to screen the base of the
576 pole, but to screen that parking lot.

577
578 Mrs. Jones - Any other questions for Ms. Freye? Are there any
579 other comments you'd like to make in reference to the points brought up by the
580 townhome association?

581
582 Ms. Freye - No, I think that everything really has been covered
583 and fairly represented from both sides, and both views, both perspectives. AT&T
584 has deferred the case many times to work on this, and to do further research,
585 and to be able to answer every question that was raised. We feel like this is as
586 good as we can get this case to be. We have compromised the size of the
587 compound, have comprised the co-location opportunities, and have the added
588 expense with the additional landscaping. And everything they've done has been
589 in a direct response to mitigate the concerns raised by the neighbors.

590
591 Mrs. Jones - All right, I thank you. Well, we have come to this point
592 after long and arduous discussions. The neighbors have been part of that, and
593 AT&T has been revising and revising based on different thoughts and ideas that
594 have come along. It's been a long process. I can't thank Mr. Props enough for
595 the time he has given to this case, especially the endless conversations he's had
596 with me in a very patient way. We've worked through a lot of these details. I
597 think we are where we are because everybody has pitched in and done this. I
598 think there are certain situations where there aren't perfect answers. I do believe
599 that it is important to note that while the cell tower is going to be located at one
600 end of this property, and therefore our concentration with the case is at that
601 location, it is not unheard of and not unknown that the things that are necessary
602 to compliment that case may be done at other parts of the property. In other
603 words, you view the property as a whole even though the lease area is quite
604 small at one end. That's how we came to consider the landscaping along
605 Gayton. But there is a real difference between the landscaping effectiveness
606 along Gayton, the part that you see here in green, and the effectiveness of the
607 landscaping or any further landscaping—there is currently landscaping there—
608 along the curve. It's simply a question of how the landscaping will help to
609 mitigate the tower. In that location, it will not. That has been proven by our
610 simulations. I wish there were a way to have that be effective, but it really can't
611 be because of the way the road curves. Again, I wish I had a perfect answer,
612 and in this case, I know the applicant does, too. But we are here, and I think we
613 have to move ahead because we have worked this through as best we can.

614
615 So, with that, I really do want to thank everybody for working on this. I think it's a
616 better case for the effort that's been made, and I appreciate everyone's time.

617
618 I would like to move at this time that P-20-08—Do we have to do anything with
619 the conditions?

620
621 Ms. Moore - You don't have to. Just note the date and the number
622 of conditions.

623
624 Mrs. Jones - I would like to move that P-20-08, Gloria L. Freye for
625 New Cingular Wireless PCS, LLC, be forwarded to the Board of Supervisors with
626 a recommendation for approval, with revised conditions dated April 9, 2009.

627
628 Mr. Vanarsdall - Second.

629
630 Mrs. Jones - Motion by Mrs. Jones, seconded by Mr. Vanarsdall.
631 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

632
633 **REASON:** Acting on a motion by Mrs. Jones seconded by Mr.
634 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
635 the Board of Supervisors **grant** the request because the conditions should
636 minimize the potential impacts on surrounding land uses, it would provide added
637 services to the community and when properly developed and regulated by the
638 recommended special conditions, it would not be detrimental to the public health,
639 safety, welfare and values of the area.

640
641 **Deferred from the March 12, 2009 Meeting.**

642 **C-7C-09 Roger G. Bowers for McDonald's Corporation:**
643 Request to conditionally rezone from B-1 Business District to B-2C Business
644 District (Conditional), part of Parcel 753-747-8509, containing approximately
645 1.037 acres, located on the west line of N. Parham Road, approximately 230 feet
646 north of Starling Drive. The applicant proposes to redesign and reconstruct the
647 existing restaurant (McDonald's) with drive through service. The use will be
648 controlled by zoning ordinance regulations and proffered conditions. The Land
649 Use Plan recommends Commercial Concentration.

650
651 Mrs. Jones - Before Mr. Props starts, is there anyone in the
652 audience who is opposed to case C-7C-09, Roger G. Bowers for McDonald's
653 Corporation? All right, thank you. Mr. Props?

654
655 Mr. Props - Madam Chair—

656
657 Mrs. Jones - Oh.

658
659 Mr. Jernigan - It's working now.

660
661 Mr. Props - Excuse me. Madam Chair, members of the
662 Commission, the applicant is requesting to rezone approximately 1.037 acres
663 from B-1 Business District to B-2C Business District (Conditional) to permit the
664 removal and reconstruction of an existing McDonald's restaurant with drive-
665 through service. Drive-through service, once a permitted B-1 use, is now first

666 allowed in the B-2 Business District. Surrounding uses include a pharmacy,
667 childcare facility, medical offices, restaurant and post office.

668
669 The 2010 Land Use Plan recommends Commercial Concentration and the
670 proposed request is consistent with this land use classification and other
671 commercial uses located along N. Parham Road.

672
673 The applicant proposes to demolish the existing restaurant and reconstruct a
674 4,140-square-foot single-story building and provide site improvements which
675 would enhance traffic circulation and parking. The applicant has proffered:
676 restricting uses to those permitted in the B-1 District except for the drive-through;
677 limiting parking lot lighting to 20 feet in height and from a concealed source; right-
678 of-way dedication and construction of a sidewalk along N. Parham Road; and,
679 using matching main building exterior brick finishes for the central refuse
680 enclosure and N. Parham Road sidewalk retaining wall.

681
682 Proffered building materials would consist of mixed color, unpainted face brick
683 and glass that accents an arcade style front and side entries. The proposed
684 *development would enhance the property and surrounding area.* The applicant
685 has also addressed exterior architectural concerns and revised the building
686 elevations to incorporate vertical roof elements, a cornice addition, and substitute
687 color variations that accent the buildings appearance.

688
689 The existing restaurant has been in operation since 1979, and the continuation of
690 this use is compatible with surrounding developments and the 2010 Land Use
691 Plan's commercial concentration recommendation. The request also presents an
692 opportunity to enhance the property through: additional landscaping; sidewalk
693 improvements; screening of HVAC equipment; and the incorporation of building
694 accents that enhance the building's exterior appearance. Staff supports this
695 request. Revised proffers have been distributed and require a waiver of the time
696 limits.

697
698 This concludes my presentation and I would happy to answer any questions.

699
700 Mrs. Jones - Are there any questions for Mr. Props from the
701 Commission?

702
703 Mr. Branin - Mr. Props, are they removing the playground?

704
705 Mr. Props - Yes sir. There is also a proffer that it will not be
706 replaced.

707
708 Mrs. Jones - I'm sorry, Mr. Branin. Did you like that playground?

709
710 Mr. Branin - I did. Now I don't know where I'll go play.

711

712 Mrs. Jones - Do you have any further questions?
713
714 Mr. Branin - I've noticed that McDonald's has started to do this
715 everywhere. I watched for years how McDonald's was putting additions on to put
716 playgrounds in, and now, all the new buildings, they're taking them back out. So,
717 when I was looking at this case, I said oh, they're taking the playground out. I
718 don't understand why.
719
720 Mrs. Jones - Luckily for you, we have folks here who can tell you
721 why.
722
723 Mr. Jernigan - You still have a Chuck E. Cheese left in your district,
724 so you can go there.
725
726 Mr. Branin - Actually, we have a Dave & Busters that's coming.
727
728 Mr. Vanarsdall - We were down in the Florida, and they were using it
729 to pray. They could hardly say anything about that, could they?
730
731 Mr. Branin - Well, no, I'm okay with a playground, but I just don't
732 understand why.
733
734 Mrs. Jones - Okay.
735
736 Mr. Archer - Madam Chair, I think I've heard something. I think
737 somebody has discovered that it is a health risk.
738
739 Mr. Branin - Is it?
740
741 Mr. Vanarsdall - I would think so. All those germs bouncing around on
742 those little balls in there.
743
744 Mrs. Jones - Are there any other questions for Mr. Props from the
745 Commission? Again, Mr. Props and I have talked several times a day for the
746 past several weeks on this case as well. He'll be happy to move on from this
747 evening. Thank you very much.
748
749 Mr. Vanarsdall - Thank you for lightening up the microphone.
750
751 Mrs. Jones - I would like to ask the applicant to come down to tell
752 us a little bit about this case. You can also answer the question about corporate
753 vision for the new McDonald's designs. That would be helpful for us all.
754
755 Mr. Bowers - Good evening, thank you. Members of the
756 Commission, Mr. Donati, and Ms. Moore, my name is Roger Bowers, and I'm
757 speaking on behalf of McDonald's. McDonald's representative Mr. Chuck Phan

758 is here with us in the audience as well. Would like to thank Roy for the
759 presentation, and also for his hard work over the last few weeks or months to put
760 this together.

761

762 This is a rebuild of the existing use, although it does not have the play yard that
763 is there now. It is a new building for the same use. We have reviewed the
764 revised conditions with McDonald's, and they are in agreement with them.

765

766 We appreciate the input and the effort that we have received in terms of revising
767 the design and the other improvements that have been made. We feel like this is
768 a better project for that input, and that this is an investment in redevelopment in a
769 commercial location that will help enhance this vital corridor.

770

771 To answer the questions, while I think there is a perception that it's because of
772 germs or because of kids, I think the biggest reason why McDonald's is moving
773 away from having play yards—and you are right that they are not part of a lot of
774 the newer buildings—is because of a couple of different reasons. One, they've
775 worked to integrate other areas within the new stores that have play areas. Not
776 the same kind of ball pits, but areas where families can be, as well as where
777 business people can be, or people who are just coming through. Also, I think it's
778 just being responsive to the marketplace. The play yards were not used as much
779 as they were. They really were a hit in the 80's and it brought people in. Now,
780 they're not used as much in those locations. So, McDonald's is anything if
781 responsive to its customers in trying to provide a quality experience at a
782 restaurant. I don't know if that's responsive or not. I can inquire further, if you
783 would like.

784

785 Mr. Branin - No, that's fine. May I ask a question?

786

787 Mrs. Jones - Absolutely.

788

789 Mr. Branin - Thank you so much. What's the turnaround time?

790

791 Mr. Bowers - There is a several month period where we will go
792 through getting a POD approval and then we'll have to get a building permit.
793 Once the building permit is in hand, the takedown and rebuild time is I believe
794 somewhere in the order of 100 to 120 days for the restaurant closing to being
795 back up and in operation.

796

797 Mr. Branin - This isn't a modular, is it?—

798

799 Mr. Bowers - It's a new stick-built construction. One of things that's
800 nice is that they build the buildings anew from the ground up. We would much
801 prefer to go forth this way, even with having to go through a rezoning, than just
802 doing a remodeling of the existing building.

803

804 Mr. Branin - Okay.

805

806 Mrs. Jones - One of the reasons I asked both Mr. Props and Mr.
807 Bowers to be prepared to talk was things have changed a lot since your staff
808 reports came out. One of the things that has changed significantly are the
809 elevations, and I do want to thank you and your client for being willing to consider
810 some changes to the original design. I think it's a much nicer building and I think
811 it has a lot more visual appeal. I think it will be a great compliment to Parham
812 Road. I think that's an area that's growing and changing, and this will be a nice
813 part of it. I appreciate your efforts to bring that up a notch or two.

814

815 Mr. Branin - Me, too.

816

817 Mrs. Jones - Thank you. Are there any other questions or
818 concerns? If not, I would like to waive the time limits on the proffers before you.

819

820 Mr. Branin - Second.

821

822 Mrs. Jones - Motion by Mrs. Jones, seconded by Mr. Branin. All in
823 favor say aye. All opposed say no. The ayes have it; the motion passes. The
824 time limits are waived.

825

826 With that, I would recommend C-7C-09, Roger G. Bowers for McDonald's
827 Corporation, to the Board of Supervisors with a recommendation for approval.

828

829 Mr. Jernigan - Second.

830

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

833

834 Thank you all very much.

835

836 **REASON:** Acting on a motion by Mrs. Jones seconded by Mr.
837 Jernigan, the Planning Commission voted 5-0 (one abstention) to recommend
838 the Board of Supervisors grant the request because it conforms to the
839 recommendations of the Land Use Plan, it would provide for appropriate
840 development and the proffered conditions will assure a level of development
841 otherwise not possible.

842

843 **C-9C-09 Andrew M. Condlin for Thornhurst Land Company**
844 **& Colwyck Land Company:** Request to conditionally rezone from R-3 One-
845 Family Residence District and C-1 Conservation District to R-3C One-Family
846 Residence District (Conditional), part of Parcels 813-720-2876, 813-721-9111,
847 and 813-721-3024 containing 9.136 acres, located at the southeast intersection
848 of S. Laburnum Avenue and Thornhurst Street and on the south line of Colwyck
849 Drive approximately 150 feet west of Gretna Court. The applicant proposes a

850 single family residential subdivision. The R-3 District allows a minimum lot size
851 of 11,000 square feet and a maximum gross density of 3.96 units per acre. The
852 use will be controlled by zoning ordinance regulations and proffered conditions.
853 The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net
854 density per acre, and Environmental Protection Area. The site is in the Airport
855 Safety Overlay District.

856
857 Mrs. Jones - Is there anyone in the audience opposed to case C-
858 9C-09, Andrew M. Condlin for Thornhurst Land Company & Colwyck Land
859 Company? No opposition. How are you, Ms. Sherry?

860
861 Ms. Sherry - I'm doing well, thank you. Thank you, Madam Chair.

862
863 The applicants propose to rezone 9.1 acres to the R-3C One-Family Residence
864 District (Conditional) in order to build a total of 14 single-family homes within two
865 separate areas located on the south side of Thornhurst Street and Colwyck
866 Drive. Both areas are just north the 100-year floodplain and the Southern
867 Railway right-of-way. Development is not proposed within the floodplain areas.

868
869 The Hechler Village neighborhood is located directly across Thornhurst Street
870 and Colwyck Drive and is zoned R-3 One-Family Residence District. To the
871 south and between both sections of this request is an area zoned C-1
872 Conservation District.

873
874 Just to the east of Hechler Village is the proposed Oakleys Chase subdivision,
875 which was rezoned R-3C via case C-58C-07 in 2007. The proffered conditions
876 accepted with that case set a standard for quality development that complements
877 the existing Hechler Village neighborhood and the more recent residential
878 development trends throughout this area of the county.

879
880 The applicants have submitted revised proffers that were distributed to you this
881 evening. These proffers are similar to those accepted with the Oakleys Chase
882 rezoning case and address the issues outlined in the staff report. Major aspects
883 include architectural elevations; a minimum finished floor area of 1,800 square
884 feet; 100% brick or stone fronts for at least two of the dwellings; a garage for
885 each home with at least 50% of them having a two-car garage; a conceptual plan
886 showing the placement of the proposed lots; placement of street trees along the
887 front of each lot; and a commitment to retain the existing vegetation along S.
888 Laburnum Avenue.

889
890 The continuation of single-family residential development would be appropriate at
891 this location and would be consistent with the recommendation of the 2010 Land
892 Use Plan. The applicants have committed to rezone any 100-year floodplain to
893 C-1 Conservation District which would be consistent with the goals and
894 objectives for the EPA designated areas. Staff supports this request.

895

896 This concludes my presentation. I would be happy to answer any questions.
897
898 Mrs. Jones - Are there questions for Ms. Sherry from the
899 Commission? Thank you.
900
901 Ms. Sherry - Thank you.
902
903 Mrs. Jones - Mr. Archer, how would you like to proceed?
904
905 Mr. Archer - Since there is no opposition, unless Mr. Condlin has
906 something that he wants to talk about. That time is yours.
907
908 Mr. Vanarsdall - We don't need to hear from Mr. Condlin anyway.
909
910 Mr. Archer - Well, Madam Chair, we've met with Mr. Condlin, and
911 Mr. Condlin has had more than one meeting with the neighborhood down there.
912 There have been some minor complaints, but he has complied with everything
913 that we've asked of him. I think this particular subdivision, even though it's rather
914 small, will not only compliment, but it will enhance the appearance of Hechler
915 Village, which is an aging community, but well preserved. People take a lot of
916 pride in their neighborhood.
917
918 With that, I will move that we send it to the Board of Supervisors with a
919 recommendation for approval.
920
921 Mr. Branin - Second.
922
923 Mrs. Jones - We have a motion by Mr. Archer, seconded by Mr.
924 Branin. All in favor say aye. All opposed say no. The ayes have it; the motion
925 passes. Thank you very much.
926
927 **REASON:** Acting on a motion by Mr. Archer seconded by Mr.
928 Branin, the Planning Commission voted 5-0 (one abstention) to recommend the
929 Board of Supervisors grant the request because it is appropriate residential
930 zoning at this location and the proffered conditions should minimize the potential
931 impacts on surrounding land uses.
932
933 Ms. Moore - Madam Chair, that brings us to the end of our
934 agenda. I won't rush you. It's approval of the minutes for the Planning
935 Commission meeting March 12, 2009. This, of course, does include the minutes
936 from our work session. They're combined with this one because we simply
937 reconvened at 7:00.
938
939 Mrs. Jones - That's correct. I have one small correction. On page
940 36, line 1586, the word needs to be "perspective," as opposed to "prospective."

941 Just a little different meaning there. Anybody else have additions or corrections
942 to the minutes? I will entertain a motion.

943
944 Mr. Jernigan - So move.

945
946 Mrs. Jones - We have a motion by Mr. Jernigan that the minutes
947 be accepted.

948
949 Mr. Branin - Second.

950
951 Mrs. Jones - Seconded by Mr. Branin. All in favor say aye. All
952 opposed say no. The ayes have it; the motion passes.

953
954 I have one quick thing. You all should have received the Monthly Meeting Report
955 from the Richmond Regional Planning District session. If you have not, I would
956 like very much for the [inaudible] to send a copy to [inaudible]. But I think there
957 are some important issues that are handled there. It wasn't normally sent out to
958 every member of the Planning Commission, and I thought it should be. I'm the
959 one to blame for extra mail.

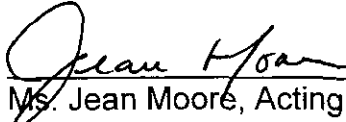
960
961 Mr. Jernigan - I've received it.

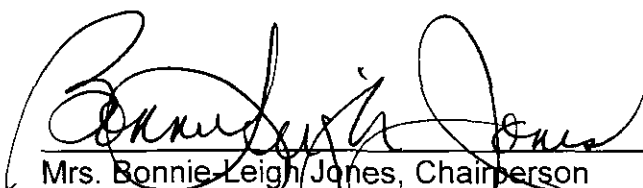
962
963 Mrs. Jones - Okay. Any other business to come before the
964 Commission?

965
966 Mr. Archer - Madam Chair, there being none, I move for
967 adjournment.

968
969 Mr. Archer - Mr. Archer has moved for adjournment. I second.
970 This meeting's adjourned.

971
972 The meeting adjourned at 7:50 p.m.

973
974
975
976
977 
978 Ms. Jean Moore, Acting Secretary

979
980
981
982 
983 Mrs. Bonnie Leigh Jones, Chairperson