

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,
2 Virginia, held in the Board Room of the County Administration Building, Parham and Hungary
3 Spring Roads at 7:00 p.m. August 14, 2003, Display Notice having been published in the Richmond
4 Times-Dispatch on July 24, 2003 and July 31, 2003.

5
6 Members Present: Mr. E. Ray Jernigan, C.P.C., Chairperson, Varina
7 Mrs. Lisa D. Ware, C.P.C., Vice-Chairperson, Tuckahoe
8 Mr. Allen Taylor, P.E., C.P.C., Three Chopt
9 Mr. C. W. Archer, C.P.C., Fairfield
10 Mr. Ernest B. Vanarsdall, C.P.C., Brookland
11 Mr. Richard W. Glover, Board of Supervisors, Brookland
12 Mr. John R. Marlles, AICP, Director of Planning, Secretary
13

14 Others Present: Mr. Randall R. Silber, Assistant Director of Planning
15 Mr. Ralph J. Emerson, Principal Planner
16 Mr. Mark Bittner, County Planner
17 Ms. Jean Moore, County Planner
18 Mr. Thomas Coleman, County Planner
19 Mr. Paul Gidley, County Planner
20 Mr. Seth Humphreys, County Planner
21 Ms. Debra Ripley, Recording Secretary
22
23

24 **Unless otherwise indicated, Mr. Glover abstained from voting on all zoning cases.**
25
26

27 Mr. Jernigan - Good evening, ladies and gentlemen and I would like to welcome
28 you on behalf of the Planning staff and the Planning Commission to our August 14, 2003 Zoning
29 Hearing. Tonight we have a pretty long schedule, and for those of you that don't come here on a
30 regular basis, I will go over with you basically how things work. I will wait for these people to come
31 in and get seated.
32

33 OK, as we go through the night, we will call the case and after each case is called, I will ask if there
34 is any opposition in the audience. If there is, just raise your hand and you will have the
35 appropriate time to speak. If you are going to speak, please come to the podium. These hearings
36 are audibly taped. You have to be there for us to pick you up for the record. We will have the 10
37 minute rule in effect tonight. There will be 10 minutes by an applicant to present a case, and 10
38 minutes by the opposition to speak against it. With that, I will tell you we had 15 cases to try.
39 That may have diminished some from yesterday's paperwork, but the first four cases tonight will be
40 the Plan of Development Cases that were brought over from last month, and we will try those and
41 then the two Varina cases have been deferred, three Brookland cases, three Fairfield cases and the
42 five Three Chopt cases will come in after that. So, with that, I would like to turn the meeting over
43 to our Secretary, Mr. Marlles.
44

45 Mr. Marlles - Good evening, Mr. Chairman, and members of the Commission. We do
46 have a long agenda tonight, and we also do have a quorum and we can conduct business. The
47 first item on tonight's agenda is Request for Withdrawals and Deferrals, and those will be presented
48 by Mr. Emerson.
49

50 Mr. Emerson - Thank you, Mr. Marlles. On tonight's agenda you have one Withdrawal
51 and 10 Deferrals, and no Expedited Items, and that leaves 14 cases to be heard tonight. On Page
52 6 of your agenda is Case C-27C-03.
53

54 **Deferred from the June 12, 2003 Meeting:**
55 **C-27C-03 Cedarwood Development, Inc.:** Request to amend proffered conditions
56 accepted with rezoning case C-16C-88, on part of Parcel 764-752-9441, containing approximately
57 1.91 acres, located on the south line of Shrader Road approximately 500 feet west of Hungary
58 Spring Road. The proposed amendment is related to allowing automotive repair and storage as a
59 principle use and regulating exterior lighting, hours of operation, signage, building exterior, parking
60 setback and on-street parking, and exterior speakers on the site. The existing zoning is B-3C
61 Business District (Conditional). The Land Use Plan recommends Commercial Concentration.

62
63 Mr. Emerson - This is a request for a withdrawal.

64
65 Mr. Jernigan - And we don't have to take any action on that.

66
67 Mr. Emerson - That is correct. Yes, sir.

68
69 **Deferred from the July 10, 2003 Meeting:**
70 **C-35C-03 Gary Weinberger:** Request to amend proffered conditions accepted with
71 rezoning case C-43C-94, on Parcel 818-707-0077, containing approximately 5 acres, located at the
72 southwest intersection of Charles City and Miller Roads. The applicant proposes to amend Proffer 3
73 related to building height. The existing zoning is M-2C General Industrial District (Conditional).
74 The Land Use Plan recommends Heavy Industry. The site is also in the Airport Safety Overlay
75 District.

76
77 Mr. Emerson - There is a deferral request to the September 11, 2003 meeting.

78
79 Mr. Jernigan - Is there any opposition to the deferral of Case C-35C-03? With that, I will
80 make a motion to defer C-35C-03 to the September 11, 2003 meeting, by request of the applicant.

81
82 Mr. Vanarsdall - Second.

83
84 Mr. Jernigan - We have a motion by Mr. Jernigan and a second by Mr. Vanarsdall. All in
85 favor say aye. All opposed say no. The ayes have it. The motion is passed.

86
87 At the request of the applicant, the Planning Commission deferred Case C-35C-03, Gary
88 Weinberger, to its meeting on September 11, 2003.

89
90 **C-41C-03 James W. Theobald for Don Smith:** Request to conditionally rezone from
91 B-2C Business District (Conditional) to M-1C Light Industrial District (Conditional), part of Parcel
92 808-729-7538, containing 6.496 acres, located at the southeast intersection of Dabbs House and
93 Creighton Roads. A mini-storage warehouse/self-storage facility is proposed. The use will be
94 controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan
95 recommends Commercial Concentration. The property is located in the Airport Safety Overlay
96 District.

97
98 Mr. Emerson - The deferral request is to September 11, 2003 meeting.

99
100 Mr. Jernigan - Is there any opposition to the deferral of Case C-41C-03? With that, I
101 make a motion to defer Case C-41C-03 to September 11, 2003, by request of the applicant.

102
103 Mr. Vanarsdall - Second

104
105 Mr. Jernigan - We have a motion by Mr. Jernigan and a second by Mr. Vanarsdall. All in
106 favor say aye. All opposed say no. The ayes have it. The motion is passed.

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At the request of the applicant, the Planning Commission deferred Case C-41C-03, James W. Theobald for Don Smith to its meeting on September 11, 2003.

Deferred from the June 12, 2003 Meeting:

C-28C-03 Abe L. Massad for A. F. Associates: Request to conditionally rezone from B-1 Business District to B-3C Business District (Conditional), Parcel 764-752-9619, containing 1.02 acres, located at the northwestern terminus of Fountain Avenue (unimproved) approximately 275 feet west of Hungary Spring Road. A retail, sales, service and warehouse facility relating to a motorcycle and marine business is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Commercial Concentration.

Mr. Emerson - The deferral is requested to the September 11, 2003 meeting.

Mr. Jernigan - Is there any opposition to the deferral of Case C-28C-03, Abe L. Massad for A. F. Associates?

Mr. Vanarsdall - Mr. Chairman, I move that Case C-28C-03, Abe L. Massad for A. F. Associates, be deferred until September 11, 2003, at the applicant's request.

Mr. Taylor - Second.

Mr. Jernigan - We have a motion by Mr. Vanarsdall and a second by Mr. Taylor. All in favor say aye. All opposed say no. The ayes have it. The motion is passed.

At the request of the applicant, the Planning Commission deferred Case C-28C-03, Abe L. Massad for A. F. Associates to its meeting on September 11, 2003.

Deferred from the July 10, 2003 Meeting:

C-24C-03 James W. Theobald for Edward Rose Properties, Inc. and Springfield Land Development Group: Request to conditionally rezone from A-1 Agricultural District to R-5C General Residence District (Conditional) and B-3C Business District (Conditional), Parcels 730-765-7288 and 730-766-8989, containing approximately 55.064 acres (B-3C - 16.00 ac.; R-5C - 39.064 ac.), located on the north line of W. Broad Street (U. S. Route 250) at the Goochland County Line approximately 876 feet west of Cold Hill Lane. A multi-family residential and automotive sales/repair development is proposed. The R-5 District allows a density up to 14.52 units per acre. The Land Use Plan recommends Mixed Use development and Environmental Protection Area. The site is also in the West Broad Street Overlay District.

Mr. Emerson - The deferral is requested to the September 11, 2003 meeting.

Mr. Jernigan - Is there any opposition to the deferral of Case C-24C-03, Edward Rose Properties, Inc. and Springfield Land Development Group?

Mr. Taylor - No opposition, Mr. Chairman. I move deferral of Case C-24C-03, James W. Theobald for Edward Rose Properties, Inc. and Springfield Land Development Group, to September 11, 2003, at the applicant's request.

Mr. Vanarsdall - Second.

Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mr. Vanarsdall. All in favor say aye. All opposed say no. The ayes have it. The motion is passed.

160 At the applicant's request, the Planning Commission deferred Case C-24C-03, James W. Theobald
161 for Edward Rose Properties, Inc. and Springfield Land Development Group, to its meeting on
162 September 11, 2003.

163

164 **Deferred from the July 10, 2003 Meeting:**

165 **C-31C-03 Robert Atack:** Request to conditionally rezone from A-1 Agricultural District to R-
166 2C One Family Residence District (Conditional), part of Parcels 733-775-7627 and 733-777-4209,
167 containing 101.743 acres, located on the west line of Pouncey Tract Road (State Route 271) across
168 from Burberry Lane (Kimberwicke) and Old Wyndham Drive (Wyndham). A single family residential
169 development is proposed. The R-2 District allows a minimum lot size of 18,000 square feet. The
170 Land Use Plan recommends Rural Residential, not to exceed 1.0 unit net density per acre.

171

172 Mr. Emerson - The deferral is requested to the November 13, 2003 meeting.

173

174 Mr. Jernigan - Is there any opposition to the deferral of Case C-31C-03, Robert Atack?

175

176 Mr. Taylor - Mr. Chairman, I move deferral of Case C-31C-03, Robert Atack, to the
177 November 13, 2003 meeting, at the applicant's request.

178

179 Mrs. Ware - Second.

180

181 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mrs. Ware. All in favor
182 say aye. All opposed say no. The ayes have it. The motion is passed.

183

184 At the request of the applicant, the Planning Commission deferred Case C-31C-03, Robert Atack, to
185 its meeting on November 13, 2003.

186

187 **P-8-03 Gloria Freye for Doswell Properties, Inc.:** Request for a provisional
188 use permit under Sections 24-58.2(a) and 24-122.1 of Chapter 24 of the County Code in order to
189 permit 24 hours of service to the general public for a proposed convenience store with fuel pump
190 and restaurant (Great To Go – Store No. 3; POD-119-98), on part of Parcel 747-760-6472,
191 containing 4,400 square feet, located at the northeast intersection of Dominion Boulevard and W.
192 Broad Street (U. S. Route 250). The existing zoning is B-2C Business District (Conditional). The
193 Land Use Plan recommends Commercial Concentration.

194

195 Mr. Emerson - The deferral is requested to the September 11, 2003 meeting.

196

197 Mr. Jernigan - Is there any opposition to the deferral of Case P-8-03, Doswell
198 Properties, Inc.

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200 Mr. Taylor - No opposition, Mr. Chairman, so I move to defer Case P-8-03, Gloria Freye
201 for Doswell Properties, Inc. to September 11, 2003, at the applicant's request.

202

203 Mr. Vanarsdall - Second.

204

205 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mr. Vanarsdall. All in
206 favor say aye. All opposed say no. The ayes have it. The motion is passed.

207

208 At the request of the applicant, the Planning Commission deferred Case P-8-03, Gloria Freye for
209 Doswell Properties, Inc.

210

211 **C-42C-03 William Shewmake for P & F LLC:** Request to conditionally rezone
212 from R-3 One Family Residence District to O-1 Office and B-3C Business District (Conditional),

213 Parcels 761-754-2053 and 761-754-1763, containing approximately 1.0 acre (B-3C - .23 acre, O-1 -
214 .77 acre), located on the east line of Skipwith Road approximately 360 feet north of N. Parham
215 Road and approximately 520 feet south of W. Broad Street (U. S. Route 250). Office uses and
216 parking for the adjacent Infiniti car dealership are proposed. The uses will be controlled by
217 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office.
218

219 Mr. Emerson - The deferral is requested to the September 11, 2003 meeting.
220

221 Mr. Jernigan - Is there any opposition to the deferral of Case C-42C-03, P & F, LLLC?
222

223 Mr. Taylor - No opposition, Mr. Chairman. I move to defer Case C-42C-03, William
224 Shewmake for P & F, LLC, to September 11, 2003, at the applicant's request.
225

226 Mr. Vanarsdall - Second.
227

228 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mr. Vanarsdall. All in
229 favor say aye. All opposed say no. The ayes have it. The motion is passed.
230

231 At the request of the applicant, the Planning Commission deferred Case C-42C-03, William
232 Shewmake for P & F, LLC, to its meeting on September 11, 2003.
233

234 **Deferred from the July 10, 2003 Meeting:**

235 **C-25C-03 Henry L. Wilton for Wilton Companies LLC:** Request to conditionally
236 rezone from O-3C Office District (Conditional) to B-2C Business District (Conditional), Parcel 737-
237 751-4601 and part of Parcel 737-751-4028, containing 11.495 acres, located at the northeast
238 intersection of Ridgefield Parkway and dedicated John Rolfe Parkway right-of-way. Retail
239 businesses with limited office uses are proposed. The use will be controlled by proffered conditions
240 and zoning ordinance regulations. The Land Use Plan recommends Urban Residential, 3.4 to 6.8
241 units net density per acre, and Office.
242

243 Mr. Emerson - The deferral is requested to the September 11, 2003 meeting.
244

245 Mr. Jernigan - Is there any opposition to Case C-25C-03, Henry L. Wilton for Wilton
246 Companies, LLC?
247

248 Mrs. Ware - I move that Case C-25C-03 be deferred to the September 11, 2003
249 meeting at the applicant's request.
250

251 Mr. Vanarsdall - Second.
252

253 Mr. Jernigan - We have a motion by Mrs. Ware and a second by Mr. Vanarsdall. All in
254 favor say aye. All opposed say no. The ayes have it. The motion is passed.
255

256 **P-10-03 Katie Chernau for Betty Morris:** Request for a provisional use permit
257 under Sections 24-58.2(d) and 24-122.1 of Chapter 24 of the County Code in order to permit
258 outside dining areas for Ukrop's - Store No. 434, on part of Parcel 736-751-6741, containing 1,557
259 square feet (front entrance left - 408 sq. ft; front entrance right - 583 sq.ft.; café entrance, far right
260 - 566 sq. ft.), located on the northwest intersection of Ridgefield and John Rolfe Parkways in the
261 proposed John Rolfe Commons shopping center. The existing zoning is B-2C Business District
262 (Conditional). The Land Use Plan recommends Commercial Concentration and Environmental
263 Protection Area.
264

265 Mr. Emerson - The deferral is requested to the October 9, 2003 meeting.

266
267 Mr. Jernigan - Is there any opposition to the deferral of Case P-10-03, Katie Chernau for
268 Betty Morris?
269
270 Mrs. Ware - I move that P-10-03 be deferred to the October 9, 2003 meeting at the
271 applicant's request.
272
273 Mr. Taylor - Second.
274
275 Mr. Jernigan - We have a motion by Mrs. Ware and a second by Mr. Taylor. All in favor
276 say aye. All opposed say no. The ayes have it. The motion is passed.
277
278 At the applicant's request, the Planning Commission deferred Case P-10-03, Katie Chernau for Betty
279 Morris, to its meeting on October 9, 2003.
280
281 **C-33C-03 Andrew Scherzer/Kristen Keatley for B K Katherman:** Request to
282 conditionally rezone from A-1 Agricultural District, RTHC Residential Townhouse District
283 (Conditional) and R-6C General Residence District (Conditional) to O-2C Office District (Conditional),
284 Parcels 749-754-5736 and 749-754-5769 and part of Parcel 749-754-2538, containing 6.813 acres,
285 located on the south line of Three Chopt Road approximately 400 feet west of Gaskins Road and on
286 the west line of Gaskins Road approximately 200 feet south of Three Chopt Road. A condominium
287 office park and freestanding day care development is proposed. The use will be controlled by
288 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Urban
289 Residential, 3.4 to 6.8 units net density per acre.
290
291 Mr. Emerson - The deferral is requested to the September 11, 2003 meeting.
292
293 Mr. Jernigan - Is there any opposition to Case C-33C-03?
294
295 Mrs. Ware - Then I move that Case C-33C-03 be deferred to the September 11, 2003
296 meeting, at the applicant's request.
297
298 Mr. Vanarsdall - Second.
299
300 Mr. Jernigan - We have a motion by Mrs. Ware and a second by Mr. Vanarsdall. All in
301 favor say aye. All opposed say no. The ayes have it. The motion is passed.
302
303 At the applicant's request, the Planning Commission deferred Case C-33C-03, Andrew
304 Scherzer/Kristen Keatley for B K Katherman, to its meeting on September 11, 2003.
305
306 Mr. Emerson - Mr. Chairman, that completes your Withdrawals, Deferrals and Expedited
307 Items tonight.
308
309 Mr. Jernigan - Thank you, Mr. Emerson.
310
311 Mr. Archer - Mr. Chairman, I had two more cases to add to the deferral list. They are
312 C-38C-03 and C-39C-03.
313
314 Mr. Jernigan - Mr. Emerson, would you read Case C-38C-03, please?
315
316 **C-38C-03 Andrew M. Condlin for Park Central Associates, L. C.:** Request to
317 amend proffered conditions accepted with Rezoning Case C-8C-95, on Parcels 790-759-6085 and
318 789-759-9448, containing 14.003 acres, located at the northeast intersection of E. Parham Road

319 and Park Central Drive (Park Central Business Park). The applicant proposes to reduce the Parham
320 Road buffer from 125' to 30'. The existing zoning is O-2C Office District (Conditional). The Land
321 Use Plan recommends Office.

322

323 Mr. Jernigan - Is there any opposition to the deferral of Case C-38C-03, Park Central
324 Associates, LLC?

325

326 Mr. Archer - Mr. Chairman, I move deferral of Case C-38C-03, Park Central Associates,
327 L.C. to the September 11, 2003 meeting, at the request of the applicant.

328

329 Mr. Vanarsdall - Second.

330

331 Mr. Jernigan - We have a motion by Mr. Archer and a second by Mr. Vanarsdall. All in
332 favor say aye. All opposed say no. The motion is passed.

333

334 At the request of the applicant, the Planning Commission deferred Case C-38C-03, Andrew M.
335 Condlin for Park Central Associates, L. C. to its meeting on September 11, 2003.

336

337 **C-39C-03 Andrew M. Condlin for Windsor Business Park, LLC:** Request to
338 amend proffered conditions accepted with rezoning case C-90C-97, on Parcels 791-760-1417, 791-
339 760-7833, 792-760-2349 and 792-760-3482, containing 18.877 acres, located on the north line of
340 E. Parham Road at Magellan Parkway (Windsor Business Park). The applicant proposes to reduce
341 the Parham Road buffer from 125' to 30'. The existing zoning is O-2C Office District (Conditional)
342 and M-1C Light Industrial District (Conditional). The Land Use Plan recommends Office and
343 Office/Service.

344

345 Mr. Jernigan - Is there any opposition to the deferral of Case C-39C-03, Windsor Business
346 Park, LLC? Mr. Archer, no opposition.

347

348 Mr. Archer - All right, Mr. Chairman, I move deferral of Case C-39C-03, Andrew M.
349 Condlin for Windsor Business Park, LLC, to the September 11, 2003 meeting, at the applicant's
350 request.

351

352 Mr. Vanarsdall - Second.

353

354 Mr. Jernigan - We have a motion by Mr. Archer and a second by Mr. Vanarsdall. All in
355 favor say aye. All opposed say no. The ayes have it. The motion passes.

356

357 At the request of the applicant, the Planning Commission deferred Case C-39C-03, Andrew M.
358 Condlin for Windsor Business Park, LLC, to its meeting on September 11, 2003.

359

360 Mr. Jernigan - Thank you, Mr. Emerson. All right, Mr. Secretary, first case.

361

362 Mr. Marles - The first case on the regular agenda is on Page 1 of the agenda.

363

364 **SUBDIVISION (Deferred from the July 23, 2003, Meeting)**

365

Fort Gilmer Estates
(July 2003 Plan)

**Engineering Design Associates for William Rush and
Dorothy W. Gardner and Lee Conner Realty:** The 45.51-
acre site is located approximately 1,500 feet north of Mill Road
at the eastern terminus of Fortress Place on parcel 809-687-
5989. The zoning is A-1, Agricultural District. Individual well
and septic tank/drainfield. **(Varina) 34 Lots**

366
367 Mr. Marlles - The staff report will be given by Mr. Ted McGarry.
368
369 Mr. Jernigan - OK. Is there any opposition to Subdivision Fort Gilmer Estates (July 2003
370 Plan)? OK. We have opposition. Mr. McGarry, you may proceed, sir.
371
372 Mr. McGarry - Good evening, Mr. Chairman and members of the Commission. A revised
373 plan came in yesterday and is being handed out to you currently. You will need to waive the time
374 limits, Mr. Jernigan, on this. The first thing you will notice is the name change. The new name is
375 The Woods at Gilmer. The second thing you will see is the revised plan is better than the original.
376 Rather than a large cul-de-sac subdivision with one entrance and up to 46 dwellings on a single
377 point of access, you will have two subdivisions basically side by side, each with its own entrance.
378 This would allow internal circulation between the two subdivisions to put school busses and
379 neighborhood children and so forth, rather than create a situation where they'd need to go out to
380 Mill Road, which is a minor collector, also emergency vehicles would benefit from this plan.
381
382 There are two annotations on the plan. The first one is the engineer will make his best efforts, this
383 is the applicant's engineer, to redesign the triangular shaped lots 11 through 16 prior to final
384 approval, and then secondly, if required by the Department of Public Works, an extension of
385 Fortress Place to the abutting parcel, which is landlocked, may also be required. Staff can
386 recommend the revised plan to you subject to the annotations on the plans, the standard
387 conditions for subdivisions not served by Public Utilities, and condition No. 11. I'd be happy to
388 answer any questions.
389
390 Mr. Jernigan - Thank you, Mr. McGarry. Are there any questions for Mr. McGarry from
391 the Commission?
392
393 Mr. McGarry - Before the audience is the revised plan that came in yesterday.
394
395 Mr. Jernigan - Now, am I to understand that if the DPW wants that stub road put in, at a
396 later time...
397
398 Mr. McGarry - They would like to revisit that issue during final review, because of
399 potential wetland issues.
400
401 Mr. Jernigan - Do we need to put that on as a condition?
402
403 Mr. McGarry - It is the annotation on the plan.
404
405 Mr. Jernigan - It is already on there.
406
407 Mr. McGarry - Yes, sir.
408
409 Mr. Jernigan - And I believe you told me today that the traffic on Mill Road is right about
410 1,000 cars a day?
411
412 Mr. McGarry - Public Works' engineers say they have estimated, based on an older traffic
413 count, that there should be about 1,000 vehicles per day on Mill, and 1,500 per day on Varina
414 Road.
415
416 Mr. Jernigan - OK. Thank you, Mr. McGarry. All right, Ms. Isaac, I'd like to hear from
417 you, please. Good evening, Ms. Isaac. Would you like to reserve rebuttal time?
418

419 Ms. Isaac - Only about 9 minutes. I think the plan that we have submitted, the
420 revised plan, addresses many of the concerns of the adjacent neighbors and neighborhood and it
421 does provide for good circulation between two subdivisions. This subdivision, with the name
422 change, will stand on its own. Really, that is all I have to say, but I will be happy to answer any
423 questions that you have.

424
425 Mr. Jernigan - Well, I wanted to get you up here because I told you that also that I had
426 talked to Mr. Conner, that he did not want to make, we had told him that he wouldn't have to make
427 improvements on Mill Road as long as the houses he built were facing internally. So, for the record
428 I am putting that in that we did make that deal, that he won't have to make the improvements
429 other than on the three lots that are normally required that he has facing Mill Road, which would be
430 the lots adjacent to Mr. Blackie which, share a common driveway, and then on lot No. 3.

431
432 Ms. Isaac - That is the understanding we have with you.

433
434 Mr. Jernigan - Yes, ma'am. OK. Thank you. Any questions for Ms. Isaac from the
435 Commission? Thank you, ma'am. OK. We have opposition. Would you like to come up and
436 speak, sir? Sir, would you state your name for the record and address, please.

437
438 Mr. Landrup Atkinson - My name is Landrup Atkinson, address 7919 Fortress Place.

439
440 Mr. Jernigan - OK. You may proceed, sir.

441
442 Mr. Atkinson - From what I understand, the stub road that is to be built may or may not
443 be built because of concerns for wetlands. The extension of Fortress Place, on the other hand, is
444 supposed to be a certainty, and from looking at these plans and looking at what I understand is the
445 developer's intention as to size of the homes that he intends to build, the existing Fortress Place
446 development and the new development are not of the same character. The new development is an
447 inferior development in terms of the economic status of that development, with respect to the
448 existing development. Therefore, the development, I am not speaking in opposition to the
449 construction of the new development, what I am speaking in opposition to is the continuation of
450 Fortress Place. The development should be isolated. They are really two different developments,
451 of two different characters, and Fortress Place should simply end where it ends now, and a new
452 road should be built addressing whatever wetlands in terms of being necessary in from Mill Road,
453 and necessary circulation to be provided internally by whatever number of roads are needed
454 internally by whatever number of roads needed internally. But these are two separate
455 developments, an existing established development, and a new lower-income development, and
456 really they shouldn't be mixed. That is all I have to say.

457
458 Mr. Jernigan - Let me explain to you why now. You weren't at the neighborhood
459 meeting that I had?

460
461 Mr. Atkinson - I am sorry. I was not able to attend.

462
463 Mr. Jernigan - OK. And the concern was expressed at that time that they wanted the
464 developer to meet the restrictive covenants that you all have for 2,600 square feet.

465
466 Mr. Atkinson - Correct.

467
468 Mr. Jernigan - He would not do that. And he says he is going to build 2,200 square foot
469 homes that will be quality, will have decks, Jacuzzis and all. Now the reason I made him separate
470 it was so that they could have their own identity. That is the reason that they will have an
471 entrance off of Mill Road and they will have their signage and everything right there. The reason

472 that we are considering putting a road through to Fortress Place, one thing is with the traffic count
473 of cars on Mill Road, those kids from the two neighborhoods will make friends with each other at
474 school. They won't have a way to get from neighborhood to neighborhood other than on Mill Road.
475 The second thing is at this point right now the school kids are having to stand on Mill Road for the
476 school bus, because the bus does not come down Fortress Place and turn around. If that road is..

477

478 Mr. Atkinson - I don't believe that is true.

479

480 Mr. Jernigan - That is what I was told.

481

482 Mr. Atkinson The bus does, in fact, go into Fortress Place.

483

484 Mr. Jernigan - It does? And they are not waiting on Mill Road? OK. Well, that is what I
485 was told, that they were waiting on Mill Road now, and I figured the bus could come in on the one
486 entrance from Mill Road, circulate through the neighborhood, and come out on Fortress, pick those
487 children up there and come back out onto Mill. So that is the reason that the road is joined into
488 Fortress. OK.

489

490 Mr. Atkinson - Thank you.

491

492 Mr. Jernigan - Thank you. Who else would like to speak? Please come up, sir. Good
493 evening.

494

495 Mr. Moore - I am Thomas R. Moore, Jr. I live at 8181 Battlefield Park Road and my
496 land adjoins Mill Road by right of way across from the development, and we have a culvert that
497 runs into my property right now that is draining water from the present community and it is
498 running right into the land behind my house, and it is flooding it when it rains, and I have to go out
499 every time we have a major rain and pick trash up out of the field. And not only that, my father
500 has a land, he lives next to me, at 8301. He is 86 years old and he wasn't able to come up here,
501 but I am going to speak on his behalf, too. His land runs jointly with my land and water comes
502 down from behind the walls, on the Myers property, and runs around behind his house and comes
503 into his property and runs out to a creek and floods his driveway, as it stands now when it rains,
504 and we've had that happen several times this summer because of all of the rain, and it actually
505 brings so much timber and trash down that we have to clean the road off. It overfills the creek,
506 covers his hard surface road, and runs into Battlefield Park Road right at that point, and I
507 understand that you've been down there looking at that territory.

508

509 Mr. Jernigan - I was down there.

510

511 Mr. Moore - And you have seen what it looked like?

512

513 Mr. Jernigan - Yes. You have, there is an 800 ft. easement running...

514

515 Mr. Moore - It runs right into my property.

516

517 Mr. Jernigan - It runs on to your property.

518

519 Mr. Moore - Yes, sir.

520

521 Mr. Jernigan - And that is a deal that you cut with the County. Right?

522

523 Mr. Moore - With the County and the builder for that piece of property only.

524

525 Mr. Jernigan - What we are doing tonight is conditional subdivision approval, and what
526 that means is that the lot layout and the roads are correct to County standards. Now, once it
527 leaves us it goes to the professionals, to the Department of Public Works, all of the other divisions,
528 and I have talked with the planners, and they do have some significant drainage problems down
529 there to work out. But that will be worked out before final approval is given to the developer.
530
531 Mr. Moore - Can I give some feedback on that?
532
533 Mr. Jernigan - Yes. Engineering Design are the people, Bob Nelson. They are the ones
534 that are doing the work on it, and I can get you a contact at the Department of Public Works.
535
536 Mr. Moore - OK. I appreciate it.
537
538 Mr. Jernigan - OK. I will get your phone number later.
539
540 Mr. Moore - I will be glad to give it to you.
541
542 Mr. Jernigan - All right. Is there anybody else who'd like to speak? Good evening.
543
544 Mr. Shaw - Good evening, sir. My name is Howard Shaw and I live at 7900 Fortress
545 Place, and our home is at the end of the cul-de-sac on Fortress Place, which we are speaking about
546 opening that road up to go into the new subdivision. My question is that recently all of the people
547 that live in our housing development now have had a tremendous assessment increase on our
548 home, and everything in there is 2,600 square foot and above. I am not here to stop progress. I
549 like to see progress go, but down the road when I become an old man, if I decide to sell my piece
550 of property, then I would like to be able to get a fair share out of this, and I know from previous
551 times when I purchased homes, the real estate agent would come into me and say, "Mr. Shaw, the
552 houses in the area, all of them are selling for such and such price, so this house would have to be
553 sold for this particular price." I am scared of that. If they are going to have two different names
554 for our subdivision, Fort Gilmer and this new name, and then open up Fortress Place to go in there,
555 with 2,200 sq. ft. homes, how is that going to affect us down the road for our property value, with
556 a minimum of 2,600 sq. ft. that we have. And all that I am saying is that here what the people in
557 our subdivision are saying, and I try to be fair not to stop any progress, but all that we are asking is
558 that we are heard and to see what we are trying to say, something that the average man would
559 not even accept. If a housing development came into either one of you all's homes, and you saw
560 this happening, I know for a fact that you all would be standing up here saying the same thing. I
561 am not a politician or a lawyer or anything like that. All I want to do is live, pay my taxes, and do
562 the right thing, which I have been doing for 57 years, and, again, I love to see progress, but I don't
563 think it is right that our street be opened up for traffic that needs to come through our area into an
564 area like the other gentleman said that, less size houses, they are not anywhere compared to what
565 our homes are, and, hopefully, that is heard and the builder understands that, and, again, not to
566 knock him down, build and grow and make plenty of money. But don't forget that we also are
567 human beings and we live and we want to be heard and respected, also. That is all I have to say.
568
569 Mr. Jernigan - Mr. Shaw, how many residents on Fortress Place have children? Roughly.
570
571 Mr. Shaw - Five or six, and the little kids ride their bikes down to the end, because our
572 home is right at the end, and they turn around and my wife, she knows all the little small kids, and
573 it is really nice the way that it is, and again, please don't misunderstand what I am saying. Open
574 up, do what you have to do, because in order for us to grow as a County, we need to have
575 progress, but again, if our homes are 2,600 sq. ft. and larger, then we need to have that
576 understood. I want Fort Gilmer to stay Fort Gilmer, and let us come in from Mill Road like we have
577 been doing for God knows how long, and it stops at the other end, and the new development do

578 what they please and want, but they can come in from the other place, Varina Road, Mill Road, or
579 both of those, and do what they have to do. We have two different subdivisions and you shouldn't
580 have to go through one to get to the other, and I might be wrong in saying that, but that is the
581 way that I feel.

582
583 Mr. Jernigan - Well, you know I went to bat for you. I tried everything I could to get the
584 2,600, and that is the reason that I made them separate and come up with a new name, because
585 they wouldn't come up to your restrictive covenants.

586
587 Mr. Shaw - And we also did ask a question about the well, whether they are going to
588 do shallow wells or deep wells. Again, I know nothing about that, but I do know with 34 houses
589 going in there, and when they start digging wells, you are going to start having problems. When
590 we had the drought last year, a lot of people around that area with the highway coming down
591 through there, wells went dry, and they had all kinds of problems. So, you know, I am looking at a
592 can of worms getting ready to be opened, and if it can be protected and stopped, or not stopped,
593 help us out. We pay taxes, too.

594
595 Mr. Jernigan - Well, when I spoke to the developer, he said he had planned on digging
596 deep wells.

597
598 Mr. Shaw - Yes, but the proposal that I got the other day saying that he would do if, I
599 guess, the people that are buying the houses, want to do that. Let me ask this question and then I
600 will be gone. OK. The developer bought the land. And he is going to sell the land in acre parcels,
601 right? According to the County, the person that buys that acre of land, he can go in there and if he
602 decides not to use the developer's people who builds home, he can get somebody else to build him
603 a house. He can build something there from 1,300 sq. ft. up. Am I not correct? And no one can
604 say a word.

605
606 Mr. Jernigan - No, actually, he could build less than that, but from what I understand,
607 and when I have talked to them, they are planning on custom building those homes themselves.

608
609 Mr. Shaw - I understand, but if you had the property, and I bought an acre from you,
610 you can't tell me who I would need to get to build it, to build my home. That is my piece of
611 property and I have the right to let whoever I want to build on that piece of property, as long as I
612 stay within the County ordinance or whatever, the 900 sq. ft. or 1,300 sq. ft., and that can happen.

613
614 Mr. Jernigan - If they are the developer and they are building the houses, they don't
615 have to sell the property. They don't have to sell property to somebody if they are not building the
616 house. They can have that condition that they are going to build the house.

617
618 Mr. Shaw - But none of this is being said to us. As a matter of fact, we are kind of
619 blind here. We don't know what is going on.

620
621 Mr. Jernigan - Well, in this subdivision case, I can't demand it. I mean we have strict
622 laws that we have to go by on this and that is the reason, and I told you in the meeting that we
623 had at Mrs. Wilkinson's that I would ask the developer to do this, because I couldn't demand it. But
624 I think from what I understand, I know they have through time with other projects they've had,
625 they have completely built all of them in there themselves.

626
627 Mr. Shaw - Right. But I think that the neighborhood would be probably the most
628 satisfied if they didn't open up Fortress at the end. If that didn't happen, they would be OK pretty
629 much. I guess my 10 minutes is up.

630

631 Mr. Jernigan - I thank you, Mr. Shaw. Any questions for Mr. Shaw from the Commission?
632 OK, thank you, sir. You will have to make it fast because we are out of time.
633

634 Mr. Carl Lupe - First of all, my name is Carl Lupe and I live on Fortress Place. I appreciate
635 the effort you made to get a second entrance in there off of Mill Road. That is great. I just wanted
636 it to be noted that I also disagree with the 2,200 sq. ft. homes. Again, we have separate identities
637 of styles and sizes of the homes. It is different than what they plan on bringing in. Then I had a
638 question. Is there any information about the covenants that they plan to develop or put in place
639 for that development?
640

641 Mr. Jernigan - They haven't passed anything by me.
642

643 Mr. Lupe - Any more information, you say the wells they are trying to build are deep
644 wells.
645

646 Mr. Jernigan - They told me that more than likely they would put in deep wells. Like I
647 said, I can't demand that.
648

649 Mr. Lupe - OK. Thank you.
650

651 Mr. Jernigan - Thank you. Mr. McGarry. I made my decision. We are going to close the
652 road and leave Fortress Place as a cul-de-sac and there will be just one entrance into The Woods at
653 Gilmer. Would you make that annotation on the plan?
654

655 Mr. McGarry - I will do so.
656

657 Mr. Jernigan - All right. Are there any other questions from the Commission? We have to
658 waive the time limits?
659

660 Mr. McGarry - In your motion to approve. Yes.
661

662 Mr. Jernigan - I make a motion to waive the time limits on the plans for The Woods at
663 Gilmer.
664

665 Mr. Taylor - Second.
666

667 Mr. Jernigan - There is a motion by Mr. Jernigan and a second by Mr. Taylor to waive the
668 time limits on the plans for The Woods at Gilmer dated August 14, 2003. All in favor say aye. All
669 opposed say no. The ayes have it. The motion passes.
670

671 Mr. Vanarsdall - Mr. Chairman, you may want to put the date, since this is the revised plan,
672 and it would be 8/14/03.
673

674 Mr. Jernigan - OK. Thank you, Mr. Vanarsdall. Add that to the minutes please. That is
675 the plan of 8/14/03. With that, I would like to make a motion to approve subdivision, The Woods
676 @ Gilmer, subject to the annotations on the plans, the standard conditions for subdivisions not
677 served by public utilities and the following additional condition #11.
678

679 Mr. Vanarsdall - Second.
680

681 Mr. Jernigan - We have a motion by Mr. Jernigan and a second by Mr. Vanarsdall. All in
682 favor say aye. All opposed say no. The ayes have it. The motion is passed.
683

684 The Planning Commission approved Subdivision The Woods @ Gilmer (Fort Gilmer Estates – July
685 2003 Plan) subject to the standard conditions for subdivisions not served by public utilities and the
686 following additional condition:

687

688 11. The detailed plant list and specifications for the landscaping to be provided within the 25-
689 foot wide planting strip easement along Mill Road shall be submitted to the Planning Office
690 for review and approval prior to recordation of the plat.

691

692 **PLAN OF DEVELOPMENT (Deferred from the July 23, 2003, Meeting)**

693

POD-47-03

Virginia Credit Union @
Dominion Village –
Laburnum Avenue

Koontz-Bryant, P.C. and Skip Gelletly for VEPCO and EDJ Associates, Inc.: Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, commercial bank. The 2.26-acre site is located southeast corner of Creighton Road and Laburnum Avenue on parcel 809-729-7165. The zoning is B-3C, Business District (Conditional). County water and sewer. **(Fairfield)**

694

695 Mr. Marlles - The staff report will be given by Mr. Kennedy.

696

697 Mr. Jernigan - Is there any opposition to POD-47-03, Virginia Credit Union @ Dominion
698 Village – Laburnum Avenue? We have opposition. Mr. Kennedy, how are you?

699

700 Mr. Kennedy - Fine, sir.

701

702 Mr. Jernigan - You may proceed.

703

704 Mr. Kennedy - Good evening, Mr. Chairman and members of the Commission. This case
705 was deferred by the applicant at the Planning Commission's last meeting because the
706 corresponding zoning case had been deferred. The zoning case was adopted on Tuesday, and so
707 this case can now move forward. The plan was revised to address staff's concerns and particularly
708 Planning Commission's. The Traffic Engineer was concerned about access on Creighton Road and
709 with that resolved, and all of staff's concerns have been addressed, so we can recommend
710 approval.

711

712 Mr. Jernigan - OK. Are there any questions for Mr. Kennedy from the Commission?
713 Thank you, Mr. Kennedy. Mr. Archer.

714

715 Mr. Archer - Well, we've got opposition. I suppose we need to hear from the applicant.
716 Is the applicant present?

717

718 Mr. Jernigan - We will hear from him first.

719

720 Mr. Paul Hinson - Good evening. My name is Paul Hinson. I am with Koontz-Bryant. We are
721 the Civil Engineers on this project and I am here on behalf of EJDAssociates, Inc., who is the
722 developer for the project, as well as Virginia Power, who is the other.

723

724 I would like to tell the Commission that we have been working closely with the staff to address all
725 of their concerns. There were several issues that were brought up in the Staff Comments and we
726 have actually resubmitted the entire plan to address the majority of the comments, and we are
727 here to answer any questions the Commission may have this evening.

728

729 Mr. Archer - All right. Mr. Hinson, were you aware of the opposition?
730
731 Mr. Hinson - No, sir. I was not.
732
733 Mr. Archer - Well, then, I suppose you need to reserve some time for rebuttal, because
734 we have to find out what it is, Mr. Chairman.
735
736 Mr. Hinson - Yes, sir. I would like to do that. Nine minutes.
737
738 Mr. Jernigan - OK. You have nine minutes in rebuttal.
739
740 Mr. Hinson - Thank you, sir.
741
742 Mr. Archer - Thank you, sir.
743
744 Mr. Jernigan - Good evening, sir.
745
746 Mr. James Jefferson - Good evening. My name is James Jefferson and he got 9. How many have
747 I got?
748
749 Mr. Jernigan - You have a total of 10 minutes for everybody.
750
751 Mr. Jefferson - OK, good. I will do like Mr. Shaw did. I live at 1124 Leslie Ann Drive and
752 this plan that they sent me, EJD and Associates, this plan that we saw in the beginning is not the
753 same plan. I asked them to send me the same plan that they had, because I asked them about a
754 playground. This spot here, right here, was all whited out. This is no playground. They told us, go
755 down to Arthur Ashe School if the kids want to play. The plan that he showed us, the plan that he
756 showed us, because I live right behind, in that field, the plan they showed us showed townhouses.
757 When I got this, this is totally different from what they showed us. We've got a 5,000 sq. ft. retail
758 whatever it is, got another office space for 5,000 ft. and down here at the bottom a learning center
759 for 10,000 sq. ft., and then all of a sudden, he put the playground, after I questioned him about
760 the playground when he said, "Go down to Arthur Ashe School and go play." Then, they've got
761 something here, a credit union with a driveway and everything else for 3,215 sq. ft. And
762 everything is named off except for this building right here, almost butts up to my house. It says
763 13,000 sq. ft. and this is the only building they haven't said, and I want to know in the world you
764 are going to put anywhere between 137 to 140 units of townhouses on exactly, I think it, it is 9
765 units, and you are going to charge people \$140,000. All I am looking at is parking space and
766 commercial. So, what I am asking this man is, if you are going to do something behind me, and
767 then they talk about the buffer. They got 20 ft. on here. The other one said 25 feet. I say "Just
768 leave the tree line alone." Just leave the tree line alone. I mean, you know, you say you want
769 things, you want to do something else, and I am like Mr. Shaw, they have got something else going
770 on on the other side of us, and they are trying to run a road through there. They don't need any
771 road. They've got a conceptual road. Just the conceptual. Use the conceptual and you can have
772 the buffer, but my main beef is, my main beef is, and that is what it is. And Frank Thornton is a
773 friend of mine, you know. His niece is my neighbor. They are moving. You know, but to make a
774 long subject short, I talked to Mr. Archer last night and heard what he had to say. And I appreciate
775 that. But what I am saying, how in the world are you going to put - you've got all this commercial
776 use right here - you have got all this commercial use, you've got, if you are going to give us a plan,
777 give us one plan and let it be the plan and put the 137 to 140 units there for \$140,000 and leave
778 the tree line alone. So when I asked you about a playground, he said they didn't have plans for a
779 playground, and then when he sent me this, all of a sudden he has got one. And then all of a
780 sudden I see this. Now you tell me what that is about. Money. And I am a retired veteran. I
781 fought for this country for a lot of people to sleep at night, and I ain't got to Iraq and Iran or

782 Afghanistan to find out what is going on. I know where my money goes! I appreciate it. Thank
783 you.

784

785 Mr. Archer - Mr. Jefferson, I am sure that Mr. Gelletly or somebody is going to address
786 the concerns that you just raised, but do you recall at the first neighborhood meeting that we had
787 when this parcel was introduced, there were multiple uses there, part of it was commercial and the
788 other part was townhouses. Are you saying that some of that has changed?

789

790 Mr. Jefferson - I am saying what they told me when I talked to these same people, sir,
791 you asked me a question and I am going to give you an answer. I got his card. I got the envelope
792 they mailed it to me in, and everything else, and that man sent me the same plan supposedly. This
793 gentlemen, I looked at it on the board like I am looking at this, at that meeting, and I asked him at
794 that meeting at the library, I said I want the same plan that you are showing us right now today,
795 and when I got the plan, this was this and it wasn't that. OK. And here is his name and everything,
796 and then they got June 10, 2003 with his name and everything else on it, and I keep stuff. My
797 Mama told me I am a pack rat, but I said "It might be junk, but it is organized junk." I keep stuff.
798 Somebody say something to me or want to come back on me, I got it and I can tell you who talked
799 to me and when they talked to me, how they talked to me, and what they talked about, and this
800 man didn't talk about none of this stuff - you know. And then I got this yesterday. I got this
801 yesterday. About the other thing, I am going to let Mr. Johnson do this, but I got this yesterday
802 and I told Mr. Johnson, I said, "You know, I said on the 12th, and I had just got back from South
803 Carolina from taking care of my Mama, and taking care of one of my cousins, which is a retired
804 veteran, also, having his foot cut off. I said, "Look. I said they are having a meeting while we are
805 having a meeting," and the thing got passed and the man is going to sit up there last night and told
806 us, "It is only going to be 130 houses." Well, if it is only going to be 130 houses, and you bought it
807 from Herman's Farmland Trust, and I know the old man. Why it got 170 homes, not only that, to
808 make a long story short, then this man, Loftis, whatever his name is, you got a wire line that runs
809 right through there. Oh I saw a man with a combine machine come through there...

810

811 Mr. Archer - Excuse me. Can I interrupt you? And I don't mean to, but you are talking
812 about a separate case from this one sir, and I don't want you all to use up all of your time, because
813 counsel wants to speak, also.

814

815 Mr. Jefferson - OK. I just tell you what. Whoever is doing what they are going to do
816 behind me needs to get a plan and stop half-stepping and getting some five year old to color
817 (unintelligible) or make architectural movements and say, if you are going to do something, do it,
818 and if you ain't going to do it, don't do it, but leave the tree line alone, so I don't have to shoot
819 nobody in my backyard, excuse my French, because if you are going to put townhouses, put
820 townhouses, and if is going to be commercial, let me know, because the only thing you got here is
821 parking spaces. You ain't got enough room for no 137 or 140 townhouses at \$140,000 per unit.
822 That is sick. And it is all about money.

823

824 Mr. Archer - All right. Thank you.

825

826 Mr. Marlles - Thank you, sir.

827

828 Mr. Johnson - Good evening, Mr. Chairman, and members of the Planning Commission,
829 my name is Humphrey Johnson and I am the President of the Mitchell Tree Civic Association. I just
830 have a couple of things that the residents have asked me to address this evening. No. 1, they
831 would like to know if this is going to be a service center or just a credit union, and I heard before
832 (unintelligible) represented it on behalf of the builders of the County, some in reference to a bank,
833 so that could be answered it would be fine.

834

835 And, as well as the traffic, and bringing it back again, and that is the traffic issue. That is all I really
836 have to say myself.
837

838 Mr. Archer - Mr. Johnson, let me just clarify something. Were you aware that this was
839 a multiuse plan when it was originally presented to your Association?
840

841 Mr. Johnson - Yes.
842

843 Mr. Archer - Part of it was commercial and part of it was townhouses.
844

845 Mr. Johnson - Right.
846

847 Mr. Archer - I just wanted to make sure something didn't get by me.
848

849 Mr. Johnson - Yes, I was aware of it. Mr. Gelletly spoke, and came and presented the
850 plan to the residents as well as Mr. Jefferson got in contact with me, with that new map that was
851 presented, and we had some concerns, so I said the best way to get your concerns is to come
852 before this Planning Commission and express it, and I don't know have no problem with him. He is
853 a resident.
854

855 Mr. Archer - Well, neither do we.
856

857 Mr. Johnson - This County, and the only way that we are going to get some satisfaction
858 is you hear our pleas, and so he came before this body this evening, and he has some concerns,
859 and he would them to be addressed by the builders as well as the Commission, and it might seem
860 (unintelligible) but the gentleman is for real.
861

862 Mr. Archer - We appreciate it. That is why we are here. This is a public hearing.
863

864 Mr. Jernigan - Are there any questions from Mr. Johnson from the Commission? Thank
865 you, Mr. Johnson. You have one minute left.
866

867 Ms. Palmer - Good evening. My name is Barbara Palmer and my home is 912 Dabbs
868 House Road. I have been a resident of this County for 27 years and primarily in the Fairfield
869 District previously. I have been at Dabbs House for almost two years, and prior to that 2910
870 Peabody Lane, which was in the Fairfield District. Now I am in your district. I am in opposition to
871 the credit union. My primary concern is the development of that property. As you know, the Nine
872 Mile Road Corridor, Mechanicsville Turnpike Corridor, needs development, and I really feel if there
873 is a need or if this organization or company needs to come to our area, that is an already
874 established business area. There is a lot of blight there. There are properties, buildings that need
875 to be torn down, renovated, and if they are in earnest in coming to serve the community, it will
876 best serve them to put this building somewhere else. Thank you.
877

878 Mr. Archer - Thank you, ma'am.
879

880 Mr. Marlles - We are out of time.
881

882 Mr. Archer - Yes, we need to hear back from the applicant. You've got nine minutes,
883 sir. Sounds like you might need all of it.
884

885 Mr. Hinson - Thank you, Mr. Chairman, and members of the Planning Commission. I
886 would like to just reiterate that this is the plan of development for the Virginia Credit Union this
887 evening. It is part of the overall master plan that was proffered with the zoning. The residential

888 zoning has not received approval yet, so there is no opportunity for the citizens to voice their
889 opinions about that portion of the project as well.

890

891 As far as the proffered master plan that was shown with the exhibit that was approved for the
892 zoning for the commercial, there have been no variations to that master plan that I am aware of,
893 other than to address County staff's concerns concerning the entrance location on Creighton Road.
894 We have also complied with all of the proffered transportation issues as far as widening of
895 Laburnum Avenue, the turn lane off of Creighton Road, we are improving Laburnum Avenue with
896 curb and gutter across the entire frontage as well as a full lane width widening all the way from our
897 property adjacent to the library up to the Laburnum Avenue intersection, and I am not aware of
898 any of the issues that were brought up in the public meetings, but Mr. Gelletly, who is the
899 developer, is here as well, and if you'd like to ask him further questions about that project, but
900 again as far as I am aware, and the commercial portion that we have submitted the plan of
901 development for this evening, we have not varied from the conceptual master plan. That was
902 approved with the zoning case.

903

904 Are there any questions the Commission would like to ask of myself or Mr. Gelletly?

905

906 Mr. Archer - For the benefits of the residents, explain to them what portions of the plan
907 has been approved that we are talking about tonight, so they will be able to get the separation and
908 understand that there is a master plan that covers all of it. We understand it, but I don't think they
909 do.

910

911 Mr. Hinson - Yes, sir. The Board of Supervisors on Tuesday evening approved the
912 commercial portion of this property, and right now, in the master plan that was submitted, there
913 was a credit union of approximately 3,200 sq. ft. There was a day care center of approximately
914 10,000 sq. ft. There were two 5,000 sq. ft. retail buildings, and an out parcel in the intersection of
915 Laburnum and Creighton Road. Those are the only portions of the project that have received
916 zoning approval at this date, and we are proceeding with the plan of development on the credit
917 union only. There has also been a plan of development that has been submitted for the remainder
918 of the commercial property that has not been before the Planning Commission yet, and we have
919 not received staff comments concerning that case.

920

921 Mr. Archer - OK. I just wanted to get that on the record so everybody could
922 understand it.

923

924 Mr. Vanarsdall - Sir, you need to come back to the mike (referring to Mr. Hinson who stood
925 up and was making comments). I believe you've said all you need to say and why don't you let
926 him finish?

927

928 Mr. Jernigan - You don't have to leave. We have to pick your comments up at the
929 podium.

930

931 Mr. Archer - Has anything at all changed in this plan since the master plan was
932 presented?

933

934 Mr. Hinson - No, sir. The only changes we made to the commercial project, again, in
935 response to comments from the Department of Public Works was in regards to the location of the
936 entrance on Creighton Road. They requested that we center the entrance either across from the
937 existing Uppie's on the other side of Creighton Road, or the intersection of the existing road to the
938 east of our project site, and due to the presence of the existing wetland area there in the location
939 of the entrance, the Transportation Department did allow us to place our second entrance on
940 Creighton Road across from the Uppie's entrance.

941
942 Mr. Archer - OK. That is all I have. Mr. Gelletly, did you want to say anything?
943
944 Mr. Gelletly - Yes, I am Skip Gelletly. I think it is important that the neighbors
945 understand that during the many meetings that we did have and the discussions that we have had
946 with everyone concerned, and we've paid attention to every one of their comments and have
947 actually incorporated them in our plans, and that if any of them have any questions or concerns,
948 they all have my card and they are more than welcome to call me and we can address any of these
949 items and show them how their input was incorporated.
950
951 Mr. Archer - All right. Thank you, sir. Mr. Kennedy, can you come back up once more,
952 please?
953
954 Mr. Kennedy - It may be helpful to the audience to see. This is where the credit union is
955 (referring to the plan on the screen). The dividing line here running along the property, in the
956 middle of the property, look where that little hand is, see that little dividing line? That divides the
957 B-3C side from what is proposed to be the townhouse section. So the master plan that you have,
958 Mr. Jefferson, for the commercial property incorporates this block of land right here. That is the
959 block of land that it incorporates, and the bank that is shown here, which was shown as a bank, is
960 the credit union which was shown on our plan. So, the credit union is that parcel, and basically
961 what you have is just a master plan for half of the site. You don't have the master plan for this
962 portion of the site. That colored rendering doesn't include that portion of the site.
963
964 Mr. Jernigan - Mr. Archer, we are out of time.
965
966 Mr. Archer - Mr. Jefferson, let me see if I can
967
968 Mr. Jefferson - (Unintelligible) – You look at this and you look at that, and you say it is the
969 same master plan and call him. I called him and I got his....
970
971 Mr. Archer - Mr. Jefferson, wait a minute. Don't come up, please. We are out of time.
972 Let me explain to you what has happened. What you are looking at on that rendering that you
973 have apparently is the entire plan, including the town houses. Well, anyway, is that just a corner
974 plot that he has.
975
976 Mr. Kennedy - He just has the front commercial plot.
977
978 Mr. Jefferson - They mailed this to me May 28, 2003.
979
980 Mr. Archer - Mr. Jefferson, let me explain something to you. What we are voting on
981 tonight is not the plan for the townhouses. This is just the plan for the parcel that Mr. Kennedy
982 just showed on the map up here. It is not, nothing has to fit in that place except this commercial.
983
984 Mr. Jefferson - We don't want it. We don't want it.
985
986 Mr. Archer - Well, it is not as simple as saying we don't want it. The zoning case has
987 already been approved for this portion of the plan.
988
989 Mr. Jefferson - That is just what I am saying. It is a done deal. We don't want it. You all
990 already did it, they already did it, and somebody got some money. Man saying "I ain't got the
991 master plan." I could get my kid to write the Planning office to do this stuff.
992

993 Mr. Archer - Well, sir, the discussion is over. Mr. Kennedy, do you have anything else
994 to say?
995
996 Mr. Kennedy - No, sir. I don't.
997
998 Mr. Archer - Mr. Chairman, I am ready to make a motion unless somebody else has a
999 question.
1000
1001 Mr. Jernigan - Are there any other questions from the Commission? You have it, Mr.
1002 Archer.
1003
1004 Mr. Archer - All right, Mr. Chairman. Do we have to waive the time limits on anything?
1005 This plan was presented in time. All right, then, Mr. Chairman, I move approval of POD-47-03,
1006 Virginia Credit Union @ Dominion Village – Laburnum Avenue, subject to the annotations on the
1007 plan, the standard conditions for developments of this type and the additional conditions Nos. 23
1008 through 34.
1009
1010 Mr. Vanarsdall - Second.
1011
1012 Mr. Jernigan - We have a motion by Mr. Archer and a second by Mr. Vanarsdall. All in
1013 favor say aye. All opposed say no. The ayes have it. The motion is passed.
1014
1015 The Planning Commission approved Plan of Development POD-47-03, Virginia Credit Union @
1016 Dominion Village – Laburnum Avenue, subject to the standard conditions for developments of this
1017 type and the following additional conditions:
1018
1019 23. The right-of-way for widening of Laburnum Avenue as shown on approved plans shall
1020 be dedicated to the County prior to any occupancy permits being issued. The right-of-
1021 way dedication plat and any other required information shall be submitted to the
1022 County Real Property Agent at least sixty (60) days prior to requesting occupancy
1023 permits.
1024 24. The easements for drainage and utilities as shown on approved plans shall be granted
1025 to the County in a form acceptable to the County Attorney prior to any occupancy
1026 permits being issued. The easement plats and any other required information shall be
1027 submitted to the County Real Property Agent at least sixty (60) days prior to
1028 requesting occupancy permits.
1029 25. The limits and elevations of the 100-year frequency flood shall be conspicuously noted
1030 on the plan "Limits of 100 Year Floodplain." In addition, the delineated 100-year
1031 floodplain must be labeled "Variable Width Drainage and Utility Easement." The
1032 easement shall be granted to the County prior to the issuance of any occupancy
1033 permits.
1034 26. The developer shall provide fire hydrants as required by the Department of Public
1035 Utilities and Division of Fire.
1036 27. A standard concrete sidewalk shall be provided along the east side of Laburnum
1037 Avenue.
1038 28. The proffers approved as a part of zoning case C-9C-03 shall be incorporated in this
1039 approval.
1040 29. Deviations from County standards for pavement, curb or curb and gutter design shall
1041 be approved by the County Engineer prior to final approval of the construction plans by
1042 the Department of Public Works.
1043 30. Insurance Services Office (ISO) calculations must be included with the plans and
1044 contracts and must be approved by the Department of Public Utilities prior to the
1045 issuance of a building permit.

- 1046 31. Approval of the construction plans by the Department of Public Works does not
 1047 establish the curb and gutter elevations along the Henrico County maintained right-of-
 1048 way. The elevations will be set by Henrico County.
- 1049 32. Evidence of a joint ingress/egress and maintenance agreement must be submitted to
 1050 the Planning Office and approved prior to issuance of a certificate of occupancy for this
 1051 development.
- 1052 33. The conceptual master plan, as submitted with this application, is for planning and
 1053 information purposes only. All subsequent detailed plans of development and
 1054 construction plans needed to implement this conceptual plan may be administratively
 1055 reviewed and approved and shall be subject to all regulations in effect at the time such
 1056 subsequent plans are submitted for review/approval.
- 1057 34. The location of all existing and proposed utility and mechanical equipment (including
 1058 HVAC units, electric meters, junction and accessory boxes, transformers, and
 1059 generators) shall be identified on the landscape plans. All equipment shall be screened
 1060 by such measures as determined appropriate by the Director of Planning or the
 1061 Planning Commission at the time of plan approval.

1062
 1063 **SUBDIVISION (Deferred from the July 23, 2003, Meeting)**
 1064

The Manors of Sleepy
 Hollow (July 2003 Plan)

**Koontz-Bryant, P.C. for Julia Frauser Robins Estate and
 Wilton Development Corporation:** The 42.02-acre site is
 located on the east line of Sleepy Hollow Road between Sleepy
 Hollow Road and N. Parham Road, approximately 800 feet
 south of its intersection with Derbyshire Road, at 411 Sleepy
 Hollow Road on parcels 751-737-3739 and 751-738-3309. The
 zoning is R-1, One-Family Residence District and R-2, One-
 Family Residence District. County water and sewer.
(Tuckahoe) 50 Lots

- 1065
 1066 Mr. Marlles - The staff report will be given by Ms. News.
 1067
- 1068 Mr. Jernigan - Is there any opposition to The Manors of Sleepy Hollow. OK. We have
 1069 opposition. Ms. News, how are you?
 1070
- 1071 Ms. News - I am fine. Good evening, Mr. Chairman and members of the Commission.
 1072
- 1073 Mr. Jernigan - You may proceed, ma'am.
 1074
- 1075 Ms. News - A revised plan and additional conditions submitted by the developer has
 1076 been distributed to the Commission. This conditional subdivision application is for approval of 50
 1077 lots on the 42-acre parcel of unconditioned R-1 and R-2 zoned property. The zoning for this
 1078 property has been in place since 1960. The parcel currently is an estate property with a single
 1079 house situated on an existing pond. The dwelling is proposed to be retained. A portion of the
 1080 pond is proposed to be filled to accommodate building lots.
 1081
- 1082 Condition No. 16 in your agenda has been recommended to ensure that any lots to be filled within
 1083 the area designated for a principal or accessory structure will meet approval requirements of the
 1084 Building Official for structural fill. Additionally, conditions ensuring the continued integrity of the
 1085 dam have been required. The site is wooded and contains many mature trees throughout. The
 1086 developer has agreed to a condition to minimize the clearing of healthy trees greater than 6 inch
 1087 caliper throughout the site in the interest of maintaining the character of the property. In response
 1088 to citizen request, the developer has also agreed to a condition limiting the height of fencing on any

1089 lot adjacent to Sleepy Hollow Road to 42 inches in height, unless an application for an alternative
1090 fence height review and approval is made.

1091

1092 There has been considerable neighborhood concern voiced regarding access to the property. The
1093 original staff plan in your agenda proposed a single point of access to the property, which was
1094 directly across from existing Wishart Road. This access met the County's requirements. The
1095 applicant held a community meeting on July 21st prior to the scheduled July 23, 2003 Planning
1096 Commission hearing. The meeting had a large neighborhood attendance and considerable
1097 objection was voiced regarding two main points. First, there was an objection to the location of the
1098 access to the subdivision being placed directly across from Wishart Road. Secondly, there was a
1099 strong desire by many of the citizens that access to the subdivision be provided directly to Parham
1100 Road, to lessen the amount of additional traffic on Sleepy Hollow Road. Subsequent to the
1101 informational meeting, the developer requested a deferral of the consideration of the plan by the
1102 Planning Commission to this meeting, to reconsider the proposal in light of the neighborhood input
1103 and requests. A second informational meeting for the neighborhood was held by the developer this
1104 Monday, on August 11, to respond to the neighborhood request. The developer presented a
1105 revised plan which complied with one of the two requests. The access to the subdivision was
1106 shifted approximately 500 ft. from this location here down to this location (referring to rendering),
1107 which is generally in the alignment of the existing driveway. The developer, however, has chosen
1108 not to provide access to Parham Road. The access to Parham Road is not required by County
1109 Code, policy or traffic standards and the Traffic Engineer has indicated that while it is feasible to
1110 construct access to Parham Road, limited to a right in and right out configuration, it is not
1111 necessary to accommodate the traffic from this development, and it may have undesirable
1112 consequences for the neighborhood overall. The majority of the discussion regarding this project
1113 has been on this specific issue. I have tried to provide a general outline of the overall issues. Mr.
1114 Tim Foster, the County's Traffic Engineer, is here and available to address any questions you may
1115 have relating to the traffic issues. The developer, Mr. Hank Wilton, has offered two additional
1116 conditions relating to the provision of landscaping and buffering on adjacent property, which he
1117 would also like to discuss with you. A copy of those conditions was passed out to you earlier. The
1118 revised plan before you meets all regulatory requirements in accordance with State and local laws.

1119

1120 With that said, staff recommends approval of the revised plan No. 2 dated August 14, 2003, subject
1121 to the annotations on the plans, the standard conditions in your agenda, and the two additional
1122 conditions submitted by the developer this evening.

1123

1124 Mr. Jernigan - Are there any questions for Ms. News from the Commission? Thank you,
1125 Ms. News. Mrs. Ware, would you like to hear from the applicant? Good evening, Mr. Axselle.

1126

1127 Mr. Axselle - Mr. Chairman, and ladies and gentlemen of the Commission, my name is
1128 Bill Axselle. I am an attorney and I am here on behalf of the applicant.

1129

1130 Mr. Jernigan - Mr. Axselle, would you like to reserve rebuttal time?

1131

1132 Mr. Axselle - Two minutes, please.

1133

1134 Mr. Jernigan - Two minutes. Thank you, sir.

1135

1136 Mr. Axselle - The matter before you is fairly straightforward. Some concerns have been
1137 and will continue to be expressed, but at the end of the day I think you will say it is fairly
1138 straightforward. The property is zoned for single-family use and, as just indicated by your staff, the
1139 subdivision plan that is before you meets all State and local requirements and is recommended by
1140 them for approval. As you well know, you deal frequently in different types of matters, rezoning,
1141 subdivision approval, and others, and with the rezoning there is a body of law that is out there that

1142 you, the applicant, and the citizens take into consideration, and ultimately the decision is made by
1143 you and recommending it by the Board of Supervisors, with some discretion as to how you interpret
1144 those standards against particular factual situations. It is called a discretionary function. That is
1145 not the situation we have here. This property has been zoned for decades. What you have here is
1146 a subdivision approval, and the subdivision approval is what they refer to as a ministerial function
1147 by you. It is really two sides of the same coin, if you will. The County has set forth certain
1148 standards and criteria for safety and quality and they basically are saying is that this is what you,
1149 the developer, must comply with, and you are not going to deviate from those. You must comply
1150 with them. And you are obligated to comply with them. The other side of that coin, however, is
1151 that the law says that once the developer has complied with the County and State mandated
1152 requirements, then the County is obligated to grant the approval, because he has complied with the
1153 standards that they had preset. That is where we are. The Land Use Plan, the zoning, all complied
1154 with, and the criteria for the safety and quality are also complied with, and we ask that you
1155 approve the matter. Now, we have had a number of meetings, as was referenced, and they have
1156 been spirited meetings. They have been good meetings, but they have been productive meetings.
1157 A number of concerns have been expressed, many of which Ms. News mentioned we have already
1158 addressed in the standard conditions. A new one, not a new one, it was revoiced to me, and that
1159 is whether construction traffic could come off of Parham Road, and I call your attention to
1160 Condition No. 20, which is in there, which basically says that prior to the final construction plan
1161 approval, we will have to submit a construction operations plan to Public Works, and it will decide
1162 the location of the construction entrance, the terms, the conditions, and so forth. Another one, No.
1163 21, to which she made reference that we added that basically says that the fencing along Sleepy
1164 Hollow Road would not exceed 42 inches. The three others that I called to your attention, two of
1165 them are the ones that were mentioned today, one was we have added a condition that we just
1166 made reference to, which basically is to provide a 20-foot tree preservation area adjacent to the
1167 Kinross Subdivision. That has been added at their request.

1168
1169 The second was the entrance from this subdivision onto Sleepy Hollow. The plan that you saw just
1170 a moment ago, and the plan that was originally filed, had the access coming straight out into
1171 Wishart Road, fairly standard, where they try to align roads coming on the opposite side of the
1172 road, so that they can go straight across. The neighbors were concerned that this was going to
1173 facilitate the traffic from this 50-lot subdivision going down Wishart and cutting through the other
1174 neighborhoods. So, at their request, this access was moved about 500 feet to the south, but it
1175 was, I would point out to you, that their concern was that there would be cut-through traffic from
1176 this subdivision. The third change that has been made was added today was also one that we
1177 talked to the neighbors about, and that is because we moved the access, at the neighbor's request.
1178 They were kind enough to go to talk to the gentleman across from his home, we are going to be,
1179 and this will have some impact on him, and Mr. Wilton had met with him, and we have added a
1180 provision that we will provide extra landscaping on his property, so that is the other change. So,
1181 you can see, I think that Mr. Wilton has been responsive and responded in three or four ways. The
1182 remaining issue is one in which we have not been able to accommodate their request. We were
1183 required to have one point of access. We have one point of access, and that is what we suggest is
1184 appropriate. The reason that we have declined to provide an access, right in and right out, on
1185 Parham Road, is that by virtue of the configuration of the property the engineers, the Traffic
1186 Engineers advised that it would facilitate cut-through traffic, people in the Derbyshire and Sleepy
1187 Hollow area cutting through this neighborhood going to Parham Road. Obviously, we think that
1188 would have an effect on this neighborhood, which would have homes ranging from \$800,000 to a
1189 million dollars, private lake and so forth. But the Traffic Engineer, Dexter Williams, is here, and I
1190 tender for you if you want to talk to him. He also did a study. He concluded that it would also
1191 facilitate and encourage cut-through traffic through the community and through the area along
1192 Derbyshire, Wishart and other adjacent roads. So, we have a difference of opinion. We have, Mrs.
1193 Ware and the staff, the neighbors and us have all worked together. We just have a difference of
1194 opinion. That is all that it is. And, we comply with the standards, so I sort of conclude where we

1195 started off, and that is that we comply with the County and State requirements, and we hope that
1196 you will fulfill the ministerial functions that are assigned to you and go ahead and approve this
1197 subdivision. And I would like to reserve the rest of my time for rebuttal.

1198

1199 Mr. Jernigan - All right. Are there any questions from Mr. Axselle from the Commission?
1200 Thank you, Mr. Axselle. OK. We have opposition. Who would like to speak first?

1201

1202 Mrs. Ware - How many of you are going to be speaking this evening?

1203

1204 Mr. Jernigan - Good evening, sir.

1205

1206 Mr. Puckett - My name is Roscoe Puckett and my wife and I have resided at 302 Sleepy
1207 Hollow Road for 20 years, as our neighbors throughout Sleepy Hollow and the Derbyshire
1208 communities. We are not opposed to The Manors at Sleepy Hollow development, per se, however,
1209 we are very concerned about the impact this subdivision will have on traffic in our area. Our
1210 concern stems from the fact that the developer's plan calls for a single access, that has been talked
1211 about, that from Sleepy Hollow Road. This single access will result in well over 100 additional
1212 vehicles using Sleepy Hollow Road on a daily basis, adding to the congestions that already exist and
1213 raising new questions regarding safety. We are especially concerned that this single access will
1214 compound the bad situation at the intersection of Sleepy Hollow and Derbyshire Roads, which is
1215 near the proposed subdivision. Turning onto heavily traveled Derbyshire from Sleepy Hollow is a
1216 very hazardous venture because of the extreme difficulty of seeing approaching traffic, particularly
1217 eastbound traffic. If, as he intends, the developer is permitted to provide only one access, that
1218 from Sleepy Hollow Road, one of two things certainly will happen. Either drivers of the majority of
1219 the several hundred vehicles coming out of the proposed subdivision each day will seek to turn
1220 either left or right onto Derbyshire, thereby adding to the intersection's congestion, or those drivers
1221 coming out will seek to avoid this intersection by cutting through our neighborhood streets, Wishart
1222 Road in particular. Regrettably, the developer has not been receptive to our pleas that he minimize
1223 our traffic and safety concerns by providing a second access, that from Parham Road. He
1224 apparently can refuse to do so because his development plan calls for 50 lots, thus avoiding any
1225 need to comply with your policy requiring a second point of access for subdivisions exceeding 50
1226 lots. However, John Marles, the County's Director of Planning, stated in a letter dated May 30 that
1227 "This policy is reviewed often, on a case-by-case basis." We believe this is an appropriate time for
1228 review of this policy as it pertains to The Manors Subdivision. Many of us attending meetings with
1229 the developer and his representatives have proposed a right in, right out access with Parham Road
1230 as an acceptable means of minimizing our concern. As noted previously, the County's Traffic
1231 Engineer has expressed a concern about the possibility, which is the key word here, because it is
1232 just that, a possibility, that a Parham Road access could result in some traffic cutting through The
1233 Manors. Even so, the engineer has said that such an access would be a workable solution. Let's
1234 put aside for a moment our own belief that a Parham Road access is essential to minimize the
1235 additional impact on Sleepy Hollow Road, and to help reduce concerns about the safety of children
1236 and others active on our neighborhood streets. It would seem that solely in the interest of those
1237 who will eventually reside in The Manor that the Henrico County Fire Department and Police
1238 Department and other emergency services would favor and support a second access, that from
1239 Parham Road. One wife and I, together with our neighbors throughout the Sleepy Hollow and
1240 Derbyshire communities, firmly believe that a modification of your 50-lot policy as it pertains to
1241 subdivision access is fully justified in this particular instance. We urge you to require a right in,
1242 right out access from Parham Road as a condition for approving the development plan for this
1243 subdivision. Thank you.

1244

1245 Mr. Jernigan - Are there any questions for Mr. Puckett from the Commission? Thank you,
1246 Mr. Puckett.

1247

1248 Mr. Frank Frier - I am Frank Frier at 8802 Wishart Road, and I wonder if the gentleman
1249 that has the computer over there could put the last, the previous slide up that shows some other
1250 areas of the road.
1251
1252 Mr. Archer - Pardon me, sir. What was your name again?
1253
1254 Mr. Frier - Frank Frier – F R I E R.
1255
1256 Mr. Archer - Thank you.
1257
1258 Mr. Frier - This is to show that if we had access to the subdivision going south,
1259 people could go south and that would relieve traffic in the morning. Those going north still have to
1260 go through our bottleneck and pass our favorite telephone pole, that is kind of in a critical area.
1261 This is kind of a local joke. And they go up Parham or they go down Derbyshire to Parham and
1262 head on north. Now, the people coming home that went south still have to find a way to come in,
1263 because we have not asked to cross Parham Road, just to use the south lane. So, they find
1264 another way back in. But people coming home that turn north on Parham from Derbyshire would
1265 then have a way of coming down past the light and turning in, and we feel that is significant. I
1266 know that 30% was mentioned going south. I haven't heard a figure, and I don't know if there is
1267 one going north, but we assume it would be equal to or greater than that 30%, and so that is what
1268 we see the benefit. Now, the developer, the County people, the two traffic engineers, we've had
1269 an hour or more conversation on this specific subject on their assumptions about cut through.
1270 They feel that people going south on Parham Road, instead of turning at Derbyshire, which is an
1271 easy off, and going whatever way they want to go, that they are going to cut through and then go
1272 to Sleepy Hollow. We questioned that, but the main concern on cut through is traffic headed east
1273 on Derbyshire. People that want to go east on Derbyshire, connect with Parham, and then go
1274 south. That is wide open. In fact we had some pictures and so forth on that, and so there is no
1275 incentive for those people to want to cut through the areas into Wishart, come on down, and then
1276 go through the new area. Now, we canvassed the area when this thing first came up. We
1277 canvassed it in the form of a petition. I turned in 75 petitions from the Wishart and some of the
1278 streets, including Derbyshire itself. I don't know if they have been turned in, but another
1279 gentleman and my daughter and son-in-law over here helped get those, and they got about 200
1280 other names. Out of the 275 people that were contacted, one person said no, because there were
1281 social contacts with the developer, not because he disagreed with this. So, it boils down to this.
1282 We have 275 people that live in the area, are very familiar with the whole neighborhood, and drive
1283 it every day, and their grass roots opinion is there would be no cut through problem projected. OK.
1284 Now, the two gentlemen, the two qualified gentlemen that are traffic engineers, I think one of
1285 them said, "Well, we are not always right all the time." And due respect to them, I think that they
1286 are in this case. So we have really got 275 to 1. One other thing, if quickly we could have the
1287 other slide back, if there is somebody that could push that, because it boils down to...where the
1288 two cul-de-sacs are that are in the proximity of Parham Road on the right. I believe that those are
1289 on land that is elevated above Parham Road. Is that true? Yes, they are higher elevations. And
1290 so, if the plan is followed right there, as I understand that there is not a practical way to go ahead
1291 and then put a connection into Parham, because of the elevation. Is that correct? Yes, well, all
1292 right. Then we are only talking the northern one?
1293
1294 Mr. Wilton - I guess it comes into play...
1295
1296 Mr. Frier - OK, but is that on elevated property?
1297
1298 Mr. Jernigan - Mr. Wilton, if you are going to respond you will have to come to the
1299 microphone, please.
1300

1301 Mr. Glover - Is that part of his two minutes?
1302
1303 Mr. Wilton - I hope not. The first cul-de-sac because of sight distance, if we were
1304 going to go ahead and put a second point of access in, that would be the safest one, according to
1305 the engineer, to the Traffic Engineer. The second one, the sight distance play comes in, and it is
1306 not safe.
1307
1308 Mr. Frier - Is the one that could be potential, is that on elevated ground? In other
1309 words, my question is...
1310
1311 Mr. Glover - Mr. Chairman, could you let them defer this and have them debate the
1312 case somewhere else, because this is for a public hearing not a debate with the developer. If you
1313 don't mind.
1314
1315 Mr. Frier - My point is, and I will make it on this assumption, I wanted to verify it,
1316 that where the cul-de-sac is now – it is on elevated ground. If it is not done now, then it is locked
1317 on. All right. So what we are asking is that it be put in. Now it is the developer's \$200,000. It is
1318 not the neighbors and I understand that. But, if it could be put in now, then the question is who is
1319 right on this would be proven over the next two or three years as this development comes to
1320 fruition and we would see. If there is no cut-through problem, then basically we are in an
1321 approximately 30-40% relief of traffic on Wishart and the critical question at Derbyshire and Sleepy
1322 Hollow. If it really is a problem, and the 275 of us are wrong, and these two gentlemen here are
1323 correct, then basically it can be blocked off, but right now we are left with the maximum traffic
1324 problem and there is no way to try and ease that later on. Thank you.
1325
1326 Mrs. Ware - How many more people do we have to speak that want to speak this
1327 evening? How much more time?
1328
1329 Mr. Marlles - Two minutes.
1330
1331 Mrs. Ware - Can I ask that we have five more minutes for each side, and that means
1332 that Mr. Axselle would have five more minutes in his rebuttal.
1333
1334 Mr. Axselle - Now or later?
1335
1336 Mrs. Ware - Collectively you have five more minutes.
1337
1338 Mr. Mullen - I hate to do this, but I will introduce myself in a moment. Could we go
1339 back to the previous slide for just one minute.
1340
1341 Mr. Jernigan - Sir, could you introduce yourself first.
1342
1343 Mr. Mullen - Thank you. My name is Michael Mullen. I live at 312 Tarrytown Drive. I
1344 am going to try to be cogent and hopefully lose it in the sake of time. What this boils down to is
1345 what everybody has said thus far from the community is correct. Nobody opposes this
1346 development. What we do oppose and question is the perceived danger with traffic being put on
1347 our streets by not putting in a right in, right out onto Parham Road. The contention by Mr. Axselle
1348 that a right in, right out from Parham into The Manors could cause more cut through for our
1349 community. I believe it is hyperbole, I don't believe that could ever really happen and here is why.
1350 If you, this is Tarrytown here (referring to rendering). We want a right in, right out somewhere
1351 here. We have 50 homes being built here. These are \$800,000 to a million dollar homes. Each
1352 home will have at least two cars, some will have three, and some might have four. Let's err on the
1353 side of conservatism and say that 120 cars will be garaged here. Mr. Foster and the Traffic

1354 Department's hypothesis is that 30% of all cars that will be housed in The Manors will have to
1355 come south on Parham Road to go over the Willey Bridge in the morning. If there is no right in,
1356 right out place somewhere in this area, what will happen, and I guarantee it, is that some of these
1357 cars, and I am not saying all of them, but some of these cars will have two choices to make – when
1358 they come out of Lilly Meadow Road, which is the name of this road being proposed, they will
1359 either have to turn right up Sleepy Hollow, to turn right on Derbyshire, to go down Parham, or they
1360 can decide, why put up with the bottleneck up here, and the light here, when I can just simply go
1361 down here, go Tarrytown, this is my house right here (referring to rendering), go down Tarrytown,
1362 and it doesn't show it on the map, connect to September and Lakeway to get to Parham Road.
1363 There is only one light there, and that is at September and Parham. Mr. Foster said in the last
1364 town hall meeting we had that any route that a driver thinks is going to be more convenient for him
1365 or her to take, they will take it. That will be a cut through for them. I propose that if the right in,
1366 right out does not happen here, we will get anywhere from 20 to 60 cars, morning rush hour, down
1367 Tarrytown, in an effort to cut through and not have to deal with the bottleneck of Derbyshire and
1368 Sleepy Hollow and Parham and Derbyshire. And this morning rush hour is when my children, who
1369 are 7 and 10, walk to the school bus on the corner of Tarrytown and Sleepy Hollow. Statistically,
1370 we can talk about the academics, about how many cars may be going south on the way to work.
1371 Mr. Foster says it may be 30%. If that is 120 cars, that is what, that is 40 cars. It may be more. It
1372 may be less. The bottom line is that the more cars you put on our street, the more accidents could
1373 happen. It is a statistical fact, regardless of how many cars we are actually talking about. So, I
1374 don't buy Mr. Axselle's contention that a right in, right out is going to cause more cut-through
1375 traffic on our street. I also don't buy the fact that it is going to cause cut-through traffic through
1376 The Manors, for this reason. It is a right in, right out. If you are leaving The Manors, in the
1377 morning, you can only turn right onto Parham Road to go south. You cannot turn left, hence the
1378 term right in, right out. Likewise, if you are coming home from work on Parham Road, and you live
1379 in The Manors or elsewhere, in this area, you can only turn right into the right in, right out we are
1380 proposing. Going back to Mr. Foster's contention that if people think a route will be shorter for
1381 them to take, they will take it. This won't be a shorter route for them. If you live in The Manors or
1382 points further west over here, why in the world would you go further south on Parham Road to cut
1383 through a circulative neighborhood when you could just simply turn right here (referring to
1384 rendering). It is much shorter. Plus people coming home from work, traveling north on Parham
1385 Road cannot turn into this right in, right out, because it is a right in, right out. Am I up? Out of
1386 time?

1387
1388 Mr. Marlles - No. There are two minutes remaining for all.

1389
1390 Mrs. Ware - There are other speakers.

1391
1392 Mr. Mullen - We've got other people. Well, let me check my records here. Oh, one last
1393 thing I will say and this will take less than a minute is my neighbor, Mr. Kaiserman, who also lived
1394 on Tarrytown Road, went out with Mr. Foster to take sight distance measurements for this
1395 proposed right in, right out, from Parham Road, into The Manors Subdivision, again, which we are
1396 not opposed to. But we do want the right in, right out, for the reasons I just articulated. What Mr.
1397 Foster and my neighbor, Mr. Kaiserman ascertained is that this right in, right out meet all County,
1398 State and Federal regulations. There is no legal precedence and no Code that we know of for not
1399 putting it in there. It can work. It should work. It will mitigate traffic in our neighborhood and
1400 greatly reduce the risk of bodily injury or God forbid, something worse, because this is an area
1401 where children play, children walk, senior citizens walk their dogs, and I really take offense that this
1402 somehow is better for us in our neighborhood if we don't have the right in, right out. It is clearly
1403 better if we do. Thank you for your time.

1404
1405 Mr. Jernigan - All right, Mr. Mullen. Thank you. You've got one minute left.

1406

1407 Mr. Kaiserman - My name is Col. Don Kaiserman and I live on Tarrytown Drive, also. I
1408 think mostly I have five questions to ask. I think one of them has already been answered by Mr.
1409 Axselle. I think his comment that we have had friendly meetings is sort of like saying the Titanic
1410 stopped to take on ice cubes, but we will let that drop. He answered the first question, "Is there
1411 any change in Mr. Wilton's comments from the meeting we held on the 11th of August where he
1412 said he wasn't going to put this road in." He didn't see the need. Wasn't going to do it. I do raise
1413 the question though. I had a meeting with Mr. Hazelett and our Supervisor yesterday trying to get
1414 at the root of some of the issues. Pat O'Bannon, our Supervisor, was there, and I was told that Ms.
1415 O'Bannon had requested Mr. Wilton to reconsider the right in, right out. I'd like to know what the
1416 status of that is. I haven't heard and I am not sure that Ms. O'Bannon has heard or had a response
1417 to that. I also made a request to Mr. Axselle to step in on our behalf and talk to Mr. Wilton, who
1418 had proposed, he didn't promise, proposed making the connection between the ring road within
1419 The Manors and connecting that with a private road with a gate. I asked him again, because we all
1420 feel that this issue of cut through is a potential, but the reverse of that, what I call reverse cut
1421 through, Mr. Foster challenges that, so I will just say "Traffic flow out of The Manors" is a given.
1422 We are going to get that. Because there is only one way for the people in Manors to get out. I
1423 asked Mr. Axselle to see if Hank Wilton wouldn't consider just putting in the road and let's see what
1424 happens. I think we all make judgments prematurely on what is going to happen. Put in the
1425 connecting road, the right in, right out. If in the event we do see and the people in The Manors
1426 complain about cut through, he could always go ahead with the proposal that he made to me in my
1427 house. It wasn't my idea. It was his idea, to make this a private road with a gate. The last issue
1428 that I would like to bring up is relative to the issue that somebody already covered, and this will be
1429 very short, but Mr. Wilton had made a comment to us at the meeting we held in July that he would
1430 do everything possible to keep the noise level, etc. down during the construction period. We have
1431 never gotten an answer to that. We do request that he consider the idea of keeping the
1432 construction trucks out of the neighborhood, because, again, of the safety consideration, that he
1433 utilize right in, right out, that he could put in, which the County has agreed meets standards.
1434 Those are the questions that I raised. We haven't gotten an answer. We have tried to deal
1435 reasonably with this concern over safety. We have had numerous meetings, and, frankly, we are
1436 up against a brick wall right now, I believe, but we still deserve the answers to these questions.
1437 Thank you folks.

1438
1439 Mr. Jernigan - Colonel, before you leave, are there any questions for the Colonel from
1440 the Commission?

1441
1442 Mr. Vanarsdall - I thought maybe Mr. Marlles wanted to answer these questions for him.

1443
1444 Mrs. Ware - I think the applicant can answer most of these with their rebuttal time.

1445
1446 Mr. Jernigan - Colonel, I guess you are somewhat of a spokesperson for the
1447 neighborhood. Do you realize the laws that we are under?

1448
1449 Col. Kaiserman- I certainly do. That is why I had the meeting with Mr. Hazelett yesterday.
1450 I fully understand them. I don't necessarily agree totally that because somebody meets the zoning
1451 requirements that that makes it a done deal. I think that there should be some flexibility in that,
1452 especially when we've got the number of people that are opposed to this because of the safety
1453 issues that are at stake.

1454
1455 Mr. Jernigan - We have, on an average month, we will have four or five subdivision cases
1456 come through, every month, and we are bound by law from the State legislature to follow the
1457 rules, and that is what we have to do. Mr. Wilton's project meets Code. Now, if we turn that
1458 project down, we can go to court.

1459

1460 Col. Kaiserman - I fully understand that, too, but I think there should be some flexibility in that rule
1461 that allows the Commission to look at the issues and require consideration to be given to the
1462 people that already live there. I understand the...so we shouldn't argue the point.
1463
1464 Mr. Jernigan - We are not going to argue. I am just explaining to you the situation that
1465 it is, that he does meet Code, and by law we can't force him to put that road in there, and I know
1466 that is what everybody wants. Sir, I am sorry. We are out of time. Sir, we are out of time.
1467
1468 Mr. Frier (from audience) -You are making an incorrect statement because one of the County
1469 officials said that they had the option if they felt it was wrong that they could ask the developer to
1470 put that in. That was given to me this afternoon. Sir...
1471
1472 Mr. Jernigan - Sir, that would have to be a policy change.
1473
1474 Mr. Glover - Mr. Chairman, could I interject something here. These people only come
1475 to see this, one time a year or one time every 10 years, and if they want to speak, I would think
1476 you ought to let them speak. I know that our time, we are going to be here until 1:00 tonight I am
1477 sure. But I think whatever they want to say, I think they are very frustrated, and they have a right.
1478 Now, I didn't mean that we should turn around and violate the law. I hope you know that. And all
1479 due respect to you, sir, if he wants to do it, he can do it, but we can't make him do it.
1480
1481 Col. Kaiserman -Planning Commission policy for requiring a second point of access is when the
1482 subdivision exceeds 50 homes or more. This policy is reviewed often on a case by case basis. That
1483 was made by one of the people.
1484
1485 Mr. Glover - Can I reflect on that, Colonel, about the review on a case by case? It is
1486 reviewed by the Traffic Engineer and just as when I would go to get a prescription filled, the
1487 pharmacist reviewed that prescription and if he decided that it was a drug interaction there, he'd
1488 call the doctor and that doctor would then discuss it with him. We review it with that Traffic
1489 Engineer, and just as that pharmacist and that doctor are professionals, they depend on each
1490 other's professionalism. We depend on that Traffic Engineer and if we were to go contrary to what
1491 he has recommended and said, it would be an arbitrary decision, and hopefully, you can appreciate
1492 the fact that it's arbitrary, and Mr. Puckett, you used to fill my prescriptions, so, I appreciate that.
1493
1494 Mr. Puckett - No. I am not the same Puckett.
1495
1496 Mr. Glover - Well, you know what. Maybe you should have been.
1497
1498 Mr. Puckett - My uncle ran a hardware store.
1499
1500 Mr. Glover - Well, I got some nuts and bolts, too. But I hope you understand, what I
1501 am trying to say is every case is reviewed, and even if is 20 houses or lots, if it doesn't meet the
1502 health, safety and welfare, the safety factor, that the Traffic Engineer, we have to depend on him.
1503 If we go contrary to what he recommends, it is an arbitrary decision. I hope very much that you
1504 understand that. I hope the rest of you recognize that you are due to be heard, because you only
1505 come here, once maybe in a lifetime, who knows? But, please try not to be redundant and respect
1506 the fact that we are controlled by legislation that has hopefully been explained. So, thank you very
1507 much.
1508
1509 Mrs. Ware - I see one gentleman who wanted to speak that hasn't had the
1510 opportunity.
1511

1512 Colonel Kaiserman - Just quickly, Mr. Glover, the Traffic Engineer, I believe I am correct in
1513 saying hasn't expressed a concern but he has said this is a doable, workable solution, right in, right
1514 out.
1515
1516 Mr. Glover - It is. You are exactly right, and what I will say to that is, but he also says
1517 that it does not have to be. And if the developer does not want to, he can and can't, depending on
1518 what he wants to do. As long as he knows he does not have to do it, he meets all of the criteria, it
1519 is legal, and the only rebuttal that we have is for the developer to take it to the Circuit Court, not
1520 us.
1521
1522 Mrs. Ware - I think there was one gentleman in the back.
1523
1524 Mr. Coates - My name is Thomas Coates and I am a local lawyer on behalf of the
1525 Kinross Subdivision, and a resident of the Kinross Subdivision, which is probably affected as directly
1526 as any other in the neighborhood by this development. Like all others who have spoken, we are
1527 not opposed to this development, although we certainly have enjoyed the pristine woodland that
1528 has been there before. And I don't want to take any more time to go into details. We are of the
1529 same mind with regard to the access on to Parham, and the desirability of that, as are all those
1530 others who spoke tonight. I also, as a lawyer, understand the issues that have been raised in
1531 terms of the choices or lack of choices that the Commission has, but we wanted to be on record,
1532 nevertheless, as expressing our belief about it in terms of the desirability of it, and also on record
1533 as for the Kinross group to express our appreciation to Mr. Axselle and Mr. Wilton in terms of their
1534 responsiveness in the context of relocating the access onto Sleepy Hollow and the buffering that
1535 they have agreed to be installed between this development and the Kinross development. Thank
1536 you.
1537
1538 Mr. Jernigan - Thank you, sir.
1539
1540 Mrs. Ware - And this gentleman.
1541
1542 Mr. Gene Dew - My name is Gene Dew. If you will bear with me on my voice, I live at
1543 10437 Park Tree Place. It is in a Wilton development. Of course, I am here and concerned about
1544 the many unresolved environmental and safety issues that seem to be cropping up in this particular
1545 subdivision. We look at the integrity of the dam and the liability that they are going to put to the
1546 community, the quality of the pond water, and what about the mitigation for the wetland
1547 destruction. Where is that to take place? How long will that take to mitigate any destruction of the
1548 wetlands? Also, the full and proper covenants for The Manor, to make sure those are again the
1549 proper ones, and, of course, my recommendation would be that since there are so many issues,
1550 that this be deferred until additional answers are given to some of the concerns that were
1551 expressed here tonight. Thank you.
1552
1553 Mr. Jernigan - Thank you, sir. Mrs. Ware.
1554
1555 Mr. Marlles - Mr. Axselle, there is about eight minutes and 54 seconds of rebuttal time,
1556 with the additional five minutes that was added by Mrs. Ware.
1557
1558 Mr. Glover - You don't have to take it though.
1559
1560 Mr. Axselle - I won't. Let me respond to a couple of questions that were posed. One,
1561 what about the environmental consideration? This project will have to comply with all of the
1562 requirements of Henrico and the Commonwealth of Virginia and the Federal government have to
1563 receive all appropriate permits dealing with wetlands, the lake, the dam and so forth. Mrs.
1564 O'Bannon did share with me a request, a formal request, if you will, that we consider this right in,

1565 right out after we resolved all of the other issues anyway. And I did respond to her and I will read
1566 you this part of this letter, the closing part. "The County does not require a second point of access.
1567 The subdivision plan before the Planning Commission is in full compliance with the County's
1568 requirements and ready for approval." Earlier I had stated to her that we would not be making
1569 that change. Then I conclude by saying, "We recognize this has left you in a very difficult position,
1570 as a considerable number of your constituents would like this right in, right out access point...and
1571 yet you have no way of requiring it under the law. This is why we tried to be fairly clear with the
1572 people because this is a choice that Mr. Wilton has made." So, she did make a request, and for the
1573 reasons that have been talked about, from the Traffic Engineers, and the neighbors and the cut
1574 through and our people, that we have declined to make that change." Mr. Colonel Kaiserman
1575 called me this morning and asked that I talk with Mr. Wilton about the possibility of putting through
1576 the road and then later seeing how many problems develop, and then trying to close the road then,
1577 if possible. We do not think that is desirable. We always find that that creates a real problem, and
1578 so forth.

1579
1580 Construction traffic was another question that was raised, and as I pointed out in the opening
1581 statement, we put proffered Condition No. 20 that says a construction plan has to be approved by
1582 the County dealing with the access and the terms and conditions of the construction.

1583
1584 As I said at the start, I think it is a fairly straightforward case, but there, in fact, a very strong
1585 difference of opinion, and we have talked about cut through, concerns that led us to move the
1586 access point, and concerns the neighbors had about cut through to Wishart and other roads. The
1587 concerns they expressed about cut through through Tarrytown and September. Other concerns
1588 were expressed about cut through through The Manors and the Wishart area and so forth. We
1589 have responded in four or five ways, far beyond what the Code requires. We will gladly do it
1590 because we thought these were reasonable requests. It is just our opinion, not my opinion, but the
1591 opinion of the professionals on whom Mr. Wilton and others rely, that the right in, right out not
1592 required by law, would, in fact, facilitate cut through, and so we with a great deal of respect, we
1593 have declined to make that change.

1594
1595 I will be glad to respond to any questions you might have.

1596
1597 Mr. Jernigan - Are there any questions from Mr. Axselle from the Commission? Thank
1598 you, Mr. Axselle.

1599
1600 Mrs. Ware - At this time I would like to hear from Tim Foster, the Traffic Engineer, to
1601 answer a few questions.

1602
1603 Mr. Foster - For the record, I am Tim Foster. I am the Traffic Engineer for the County.
1604 This came in as a subdivision case that was reviewed by our department, and as a standard
1605 subdivision we did review it and recommended approval. We did go into a little more detail than
1606 we generally do on subdivisions. We generated traffic – how much traffic was going to be
1607 generated by this subdivision. The amount of traffic on a daily basis generated by the subdivision
1608 is actually about 548 vehicles on a daily basis. Trips is what we call it. A trip is going to work is
1609 one trip, coming home is one trip. So, if you just go of your subdivision and come back in, that is
1610 two trips. This information is based on the Institute of Traffic Engineers Traffic Generation
1611 Handbook, which we have trip generation for lots of uses. As you know with your zoning cases, we
1612 always generate traffic, and also from experience of reviewing hundreds of subdivisions over the
1613 years and the counts we've gotten in other subdivisions. When we reviewed this traffic, it was
1614 brought to our attention that some of the residents were concerned about the volume of traffic
1615 generated by the subdivision. There is no doubt Derbyshire Road has a lot of traffic on it. We are
1616 over 12,600 and we will doing some more counts out there when school starts so we can get a
1617 count because the counts we did out there were in June of this year. We have been around that

1618 number for about four years. Numbers fluctuate daily, to be honest with you. So, when we looked
1619 at it, we looked at the a.m. peak hour and the p.m. peak hour, which is what we looked at, and
1620 how it would be generated. This development generates about 45 trips during the morning peak
1621 hour. What that means is 34 cars leave the subdivision and 11 will go in the subdivision. That is
1622 an average for subdivisions of this size. When we broke down that traffic into the 30% that we
1623 didn't think would go south, 30% of 34 vehicles coming out is about 10 vehicles. That puts amount
1624 19 north, and we did assign traffic on Wishart, but that was a concern to see, so we are thinking
1625 maybe about 7 or 8 vehicles per hour will actually possibly use Wishart Road. That was when the
1626 road was aligned. Now one thing about subdivisions versus office, if you can think of office, offices
1627 generate traffic, but everybody typically gets there at similar times, and everybody leaves at once,
1628 so we have that massive traffic going, getting there at the same time, and leaving at the same
1629 time. For subdivisions, the traffic is typically spread out a lot more, so when we meet with the
1630 (unintelligible), you've got to work. If you work downtown, you may leave earlier than if you
1631 worked up at Regency, for example, from this case. And when we looked at that, we were looking
1632 at possibly adding about 17 cars to Sleepy Hollow northbound, about 6 vehicles westbound, and
1633 about 10 southbound. Even if, I don't think all 10 would use Tarrytown, but even if they did, we're
1634 talking 10 vehicles in an hour - spread out over an hour - so the thing that we looked at with this
1635 was the fact that even though we have more traffic through the neighborhood, in the scheme of
1636 things from a traffic engineering standpoint, it is not a lot, and typically I can tell you if we get a
1637 count on most of those roads today and did one tomorrow, the daily count traffic would probably
1638 vary more than that. So, we did feel that one point of access was viable and that traffic could be
1639 absorbed into the existing traffic stream, recognizing that we have problems out there that we
1640 need to work on. At Sleepy Hollow and Derbyshire, we've had some plans there about the pole.
1641 We went through a public hearing several years ago, and I think we are going to resurrect that
1642 based on some citizens concerns. There are some sight line issues up there that we are working
1643 on, regardless of this case, that need to be work on, and we are working on that as well. Cut-
1644 through traffic, if I could explain a little bit about that. We are concerned about cut-through traffic,
1645 if there was a right in and right out. That is based on experience of the two things that we have
1646 right now. The two number one problems we have in the County based on calls I get and public
1647 calls others get, speeding vehicles and neighborhoods' cut-through traffic. Based on those two
1648 things alone, the County this fall is probably going to approve a Traffic Calming Program to try to
1649 address these issues. I can tell you, just based on my experience, that roads that are parallel to
1650 roads that carry a lot of traffic, people typically use them as cut throughs. They will find a way
1651 down there. We have plenty of those and many examples in the County. So, even though it is a
1652 projection, and someone told me I was speculating, I think it is good speculation based on
1653 experience that we have with this problem. One thing that Mr. Axselle said was, "Cut-through
1654 traffic from the Sleepy Hollow people," well, if we had the right in, right out, I don't consider
1655 anyone from Sleepy Hollow going through this subdivision as a cut through. Because it would be
1656 as this subdivision is, part of the neighborhood. Cut-through traffic is when you are on a major
1657 road or a road that is heavily traveled and you cut through to another road, such as Parham Road,
1658 but you don't have any purpose of being in the neighborhood. That is what cut-through traffic is.
1659 From our standpoint, from a traffic engineering definition, once this neighborhood gets assimilated
1660 into it, it is part of the neighborhood, and in our definition and in my opinion, is not considered cut-
1661 through traffic. I was then asked about the right in, right out, whether or not it could be approved.
1662 We measured sight distance, and we did feel that an access point could be approved, on Parham
1663 Road, and it would meet all standards. I did express my concerns about the cut-through traffic at
1664 the public meeting. Also, obviously, Parham Road has 40,000 cars a day there, so that is the
1665 higher traveled road. However, based on the traffic numbers that I generated, I did not feel that I
1666 could require the developer or recommend that the developer put in a right in, right out there, and
1667 what I said at the meetings was that if the developer and the neighbors could agree on that
1668 entrance, we could make it work. But, looking at the traffic volumes that were generated, there is
1669 no way I can recommend and require that entrance out there.
1670

1671 Mr. Jernigan - Are there any questions for Mr. Foster from the Commission? Thank you,
1672 Mr. Foster.
1673
1674 Mr. Marlles - Mr. Silber, would you mind coming to the podium? Mr. Chairman, if I
1675 could, I think Mr. Axselle touched upon some of these points in his opening comments, but I do
1676 think, just to clarify it for the citizens in the audience, there is different legislation here than there is
1677 when a rezoning occurs and I have asked Mr. Silber to just clarify some of those points for the
1678 benefit of the citizens who may not be as familiar with zoning and subdivision laws as the
1679 Commission is, that deals with it on a monthly basis. So, if you would, Mr. Silber.
1680
1681 Mr. Silber - Sure. Mr. Marlles, members of the Commission, Randy Silber, Assistant
1682 Director of Planning. I think it is important to remember that the authority provides local
1683 governments with certain rights when it comes to subdivision regulations. Subdivision regulatory
1684 powers are granted to local jurisdictions by the General Assembly, by the State. The approval
1685 powers are very specific and they are very limited. Keep in mind that there is a major distinction
1686 between the rezoning of property and the subdivision of land. The rezoning is a discretionary
1687 process. It is legislative. It is a legislative power that is granted to the local government, so there
1688 is a lot of flexibility with the rezoning of land. It is review of the Comprehensive Plan, the Land Use
1689 Plan, and local government has considerable discretion in determining what land uses should go in
1690 what locations. In this case, the review and approval of a conditional subdivision plat, it is really a
1691 ministerial or administrative process. This is what is granted to us by the State government, and
1692 with it being administrative it really only allows the County and the Planning Commission's review of
1693 the subdivision plat relative to its subdivision and zoning regulations, and if it meets those
1694 regulations and meets the technical requirements of the Ordinance, then the State Code says that
1695 you are compelled to approve that subdivision plat. Once the applicant's subdivision plat complies
1696 with the requirements of the Ordinances, then the Commission really is expected to approve that
1697 plat. The Board of Supervisors has appointed the Planning Commission, this body, as a review
1698 agent for conditional subdivision plats. The Board of Supervisors has also granted the Director of
1699 Planning the right to make final approval on subdivisions. Of course, this is a conditional
1700 subdivision process, and the final subdivision comes after this, and is authorized by the Director of
1701 Planning. So as staff has noted, with this subdivision, The Manors of Sleepy Hollow, as annotated
1702 and with the recommended conditions, this meets all of the zoning and subdivision regulations, so
1703 approval in this case would be in order, based on the State law.
1704
1705 Mr. Jernigan - Are there any questions for Mr. Silber from the Commission? Thank you.
1706
1707 Mrs. Ware - I would like for Mr. Axselle to come back to the podium, please. I just
1708 wanted to say that there are many people out there who want this access to Parham Road, and is
1709 your client, at this point in time, willing to grant that access?
1710
1711 Mr. Axselle - I appreciate that. Sometimes you have hearings and something pops up,
1712 and you don't have a chance to look into it. We have had two or three meetings and this is an
1713 issue that has been not only researched when the matter was zoned, and experts have been hired
1714 and experts retained, and so while I appreciate and very well understand the genesis of that
1715 request, because of the considerations that we have all discussed in the past, we are inclined and
1716 would not make that change, respectfully, and perhaps regrettably, but that is the position we take
1717 which we think it is right, in this particular instance.
1718
1719 Mrs. Ware - OK.
1720
1721 Mr. Jernigan - Thank you, Mr. Axselle.
1722

1723 Mrs. Ware - There has been considerable dialogue concerning this case, and there
1724 have been three neighborhood meetings sponsored by the developer, which have been attended by
1725 the County staff and various departments, as well as County officials. Many meetings, with various
1726 staff members and citizens have taken place. There have also been meetings and site visits
1727 involving staff, County officials, the developer, and citizens. I can assure you that I, as well, as all
1728 of the County staff involved have listened intently to your concerns and requests. I also
1729 understand your concern for your neighborhood and the traffic issues that have arisen from this
1730 proposed subdivision. There are long-standing traffic concerns in this area, and the County has
1731 conducted various traffic studies of Derbyshire, River and Sleepy Hollow Road. Mr. Foster said that
1732 you can be assured that more studies will be conducted in the near future in order to further
1733 address these traffic issues.

1734

1735 The County Department of Public Works, through various studies, has determined that the
1736 resident's area can handle additional traffic from this subdivision. Based on your development
1737 traffic number and how the traffic is distributed on surrounding road networks, the increase in
1738 traffic by the subdivision can be absorbed into the existing traffic without increasing the current
1739 traffic delays in the area. The plan for The Manors at Sleepy Hollow meets all County traffic
1740 standards. The County's Traffic Engineer also expressed concern about the potential for cut-
1741 through traffic within the neighborhood if a connection with Parham is made. This subdivision, with
1742 its 50 homes, will eventually be a part of a larger Sleepy Hollow neighborhood. People living within
1743 the neighborhood, traveling to points outside of the community, is not considered cut-through
1744 traffic from the Traffic Engineering standpoint. Traffic that travels through the neighborhood to get
1745 from one heavily traveled road to another, without having a need to be within the neighborhood, is
1746 considered cut-through traffic. This is what Mr. Foster and the County Department of Public Works
1747 is concerned about. The applicant has moved the Sleepy Hollow entrance away from Wishart Road
1748 in order to discourage cut-through traffic on Wishart and several other adjoining roads. As to the
1749 Parham Road access, Mrs. O'Bannon has requested this access of the developer as advised tonight
1750 at the hearing. The developer is also aware of the concerns of the surrounding neighborhood, and
1751 their desire for this access. The developer has chosen not to provide the right in, right out access
1752 onto Parham Road. The County Attorney has advised if a subdivision plat meets all County
1753 Ordinances and adopted policies, then the Planning Commission, by law is obligated to approve
1754 that plat. The staff reports that the subdivision plat is in accordance with County regulations and
1755 recommends conditional approval.

1756

1757 I believe I need to make an annotation on the plan for the enhanced boulevard entrance, is that
1758 right, Ms. News?

1759

1760 Ms. News - That has been included on the plan.

1761

1762 Mrs. Ware - That has been included? OK. Then, at this point I recommend approval
1763 of this plan, subject to the annotations on the plan, the standard conditions for subdivisions of this
1764 type, and the additional conditions Nos. 12 through 23.

1765

1766 Mr. Vanarsdall - Second.

1767

1768 Mr. Jernigan - We have a motion by Mrs. Ware and a second by Mr. Vanarsdall. All in
1769 favor say aye. All opposed say no. The ayes have it. The motion is passed.

1770

1771 The Planning Commission approved Subdivision The Manors of Sleepy Hollow (July 2003 Plan),
1772 subject to the annotations on the plans, the standard conditions for subdivisions served by public
1773 utilities and the following additional conditions:

1774

- 1775 12. The limits and elevation of the 100-year frequency flood shall be conspicuously noted on
1776 the plat and construction plans and labeled "Limits of 100 year floodplain." Dedicate
1777 floodplain as a "Variable Width Drainage & Utilities Easement."
- 1778 13. The detailed plant list and specifications for the landscaping to be provided within the 25-
1779 foot-wide planting strip easement along N. Parham Road and Sleepy Hollow Road shall be
1780 submitted to the Planning Office for review and approval prior to recordation of the plat.
- 1781 14. Prior to requesting the final approval, a draft of the covenants and deed restrictions for the
1782 maintenance of the common area by a homeowners association shall be submitted to the
1783 Planning Office for review. Such covenants and restrictions shall be in form and substance
1784 satisfactory to the County Attorney and shall be recorded prior to recordation of the
1785 subdivision plat.
- 1786 15. Any future building lot containing a BMP, sediment basin or trap and located within the
1787 buildable area for a principal structure or accessory structure, may be developed with
1788 engineered fill. All material shall be deposited and compacted in accordance with the
1789 Virginia Uniform Statewide Building Code and geotechnical guidelines established by a
1790 professional engineer. A detailed engineering report shall be submitted for the review and
1791 approval by the Building Official prior to the issuance of a building permit on the affected
1792 lot. A copy of the report and recommendations shall be furnished to the Directors of
1793 Planning and Public Works.
- 1794 16. Any lot, in previously inundated areas, to be filled within the buildable area for a principal
1795 structure or accessory structure shall be developed with engineered fill. All material shall
1796 be deposited and compacted in accordance with the Virginia Uniform Statewide Building
1797 Code and report shall be submitted for review and approval by the Building Official prior to
1798 issuance of a building permit on any lot with engineered fill. A copy of the report and
1799 recommendations shall be furnished to the Directors of Planning and Public Works.
- 1800 17. The clearing of healthy trees measuring 6 or more inches in diameter on any lot shall be
1801 limited to areas required to accommodate dwellings, driveways, sidewalks, open yard
1802 areas, utility lines and any other areas typically required for construction of a dwelling,
1803 unless otherwise approved by the Director of Planning.
- 1804 18. Prior to final subdivision approval, provide evidence to the Director of Public Works
1805 indicating if the dam is required to be included in the Virginia Dam Safety Program.
- 1806 19. Prior to final subdivision approval, a dam breach analysis shall be submitted for review and
1807 approval to the Director of Public Works.
- 1808 20. Prior to final construction plan approval, a construction operations plan shall be submitted
1809 for review and approval by the Director of Planning and the Director of Public Works. The
1810 plan shall address the following items at a minimum: Proposed routes of construction
1811 traffic, phasing of development construction, contact person for all inquiries and
1812 complaints, and scheduled days and times of construction operations. Construction on
1813 Sunday is not permitted.
- 1814 21. Fencing on all lots adjacent to Sleepy Hollow Road shall be limited to 42 inches in height,
1815 unless an alternative fence height is specifically requested and approved by the Planning
1816 Commission.
- 1817 22. A twenty-foot wide tree preservation area shall be maintained along the northern boundary
1818 of the subdivision, adjacent to Kinross Subdivision. All healthy trees measuring six inches
1819 or more in caliper shall be maintained, except where removal is necessary for grading or
1820 utility lines. Any area graded within the preservation area shall be replanted with
1821 appropriate landscaping as deemed acceptable by the adjoining landowner, with such
1822 approval not unreasonably held, as determined by the Director of Planning.
- 1823 23. Landscaping shall be provided on the property of 410 Sleepy Hollow Road to help screen
1824 the lights from cars entering and leaving The Manors of Sleepy Hollow Subdivision, prior to
1825 the issuance of the first certificate of occupancy. The type and amount of landscaping shall
1826 be determined by the developer, as deemed acceptable by the property owner of 410

1827 Sleepy Hollow Road with such approval not unreasonably held, as determined by the
1828 Director of Planning.

1829

1830 **THE PLANNING COMMISSION AT 9:03 P.M. TOOK A 15-MINUTE BREAK.**

1831

1832 **THE PLANNING RECONVENED AT 9:18 P.M.**

1833

1834 Mr. Jernigan - Before we get going, I do want to recognize that our Board of Supervisors
1835 member is with us, Mr. Glover, and I didn't introduce him as he wasn't here when we first started.
1836 So, it is a pleasure to have you with us.

1837

1838 Mr. Glover - Always make sure everybody knows I was late.

1839

1840 Mr. Jernigan - Well, you know, it happens. And also we have Chris Dovi here from *The*
1841 *Richmond Times-Dispatch* and Jonathan Spars from *The Henrico Leader*. So, with that, it is now
1842 9:26. We will restart the meeting and I will turn it over to Mr. Marlles.

1843

1844 Mr. Marlles - Thank you, Mr. Chairman. The next item on the agenda is at the bottom
1845 of Page 4.

1846

1847 **PLAN OF DEVELOPMENT ARCHITECTURAL ELEVATIONS ONLY**
1848 **(Deferred from the July 23, 2003, Meeting)**

1849

POD-48-03 **Timmons Group for The Linhart Company:** Request for approval of a
Dominion Chevrolet plan of development as required by Chapter 24, Section 24-106 of the
Parking Henrico County Code to construct a three-story parking deck. The 9.13-
Deck – W. Broad Street acre site is located on the north line of W. Broad Street (U.S. Route 250)
east of North Gayton Road extended (12050 W. Broad Street) on part of
parcel 734-764-5375. The zoning is B-3C, Business District (Conditional).
County water and sewer. **(Three Chopt)**

1850

1851 Mr. Marlles - The staff report will be given by Mr. Michael Kennedy.

1852

1853 Mr. Jernigan - OK, is there any opposition to POD-48-03? No opposition. Mr. Kennedy,
1854 you may proceed.

1855

1856 Mr. Kennedy - I will try to make this short and sweet. The only thing we are considering
1857 tonight are the architecturals. The staff has expressed some concerns at the last meeting about
1858 the architectural design of the parking deck, and as well, the adjoining property owner to the north,
1859 had also expressed some concerns. Mr. Linhart and his company were willing to work with us to
1860 resolve those concerns. There are revised elevations in the packet in front of you. These are the
1861 elevations (referring to copies of the plan on the screen), this is a photo simulation showing how it
1862 will look from the Breeden property.

1863

1864 There is a landscape plan that they also provided, a schematic landscape plan to provide additional
1865 landscaping, which is a condition of this approval, and then this is the perspective of the parking
1866 deck behind the existing Dominion Chevrolet building. Staff is satisfied with the changes that Mr.
1867 Linhart has made to these plans. He has been very cooperative and, in fact, Mr. Breeden has
1868 agreed, as well, that these changes are adequate at this time. There is a condition that the
1869 schematic landscape plan be implemented, and that landscaping along all the sides of the building
1870 be irrigated. With those concerns accepted by the applicant, which he has, we are willing to
1871 recommend approval.

1872

1873 Mr. Jernigan - OK. Are there any questions from Mr. Kennedy from the Commission?
1874 Thank you, Mr. Kennedy. Mr. Taylor.

1875
1876 Mr. Taylor - Mr. Chairman, I want to just echo comments of the staff in terms of this
1877 project. Mr. Linhart and Mr. Breeden worked together very well and I am pleased with all of their
1878 responses that they have done in improving this project. It seems to be a project that went from
1879 some questions to one of almost universal acclaim. So, with that I will move for approval of POD-
1880 48-03, subject to the standard conditions for developments of this type, the annotations on the
1881 plan, and the standard conditions for developments of this type.

1882
1883 Mr. Archer - Second.

1884
1885 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mr. Archer. All in favor
1886 say aye. All opposed say no. The ayes have it. The motion passes.

1887
1888 The Planning Commission approved Plan of Development Architectural Elevations Only, for POD-48-
1889 03, Dominion Chevrolet Parking Deck – West Broad Street, subject to the standard conditions for
1890 developments of this type, the annotations on the plan and the standard conditions for
1891 developments of this type.

1892
1893 Mr. Glover - Mr. Chairman, as we move into Zoning Cases, I'd like to make it official on
1894 the record that I do not vote on zoning cases, since all zoning cases, unless they are withdrawn,
1895 will be brought to the Board of Supervisors and at that time I will cast my vote.

1896
1897 Mr. Jernigan - OK. Thank you, Mr. Glover.

1898
1899 **Deferred from the July 10, 2003 Meeting:**
1900 **C-21C-03 Steven A. Williams for Carl Childress, Trustee:** Request to rezone from O-3C
1901 Office District (Conditional) and A-1 Agricultural District to R-0C One Family Residential District
1902 (Conditional), Parcels 760-770-7401, 761-769-0273 and 761-770-2421, containing 18.126 acres,
1903 located at the NW intersection of Springfield Road and Staples Mill Road. A Christian education,
1904 training and worship building is proposed. The use will be controlled by proffers and zoning
1905 ordinance regulations. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net
1906 density per acre.

1907
1908 Mr. Marlles - The staff report will be given by Mr. Tom Coleman.

1909
1910 Mr. Jernigan - Is there any opposition to Zoning Case C-21C-03, Carl Childress? No
1911 opposition. Mr. Coleman, good evening.

1912
1913 Mr. Coleman - Good evening. Thank you. The revised proffers which were distributed to
1914 you will require waiving the time limit.

1915
1916 The subject property was originally rezoned from A-1 to O-3C in 1983 by the A. H. Robins Company
1917 to serve as a corporate conference center. In 1990, the subsequent owner amended the proffers
1918 to allow limited office uses.

1919
1920 The main building on the site, the Hartley House, features an attractive combination of brick and
1921 a stucco-or-dryvit style EIFS treatment. The applicant, the Glen Allen Church of Christ, would like
1922 to expand their use of the site for education, training, and worship activities.

1923

1924 The applicant has made changes to the proffers to address concerns expressed in the staff report. I
1925 would like to direct your attention, in particular, to new Proffer #9, which regulates outdoor
1926 speakers.
1927
1928 The subject property is designated Suburban Residential 1 on the Land Use Plan and the proposed
1929 church is not consistent with this designation. However, churches can be a compatible land use in
1930 an otherwise residential area and appropriate proffers can help ensure this. Staff remains concerned
1931 about the potential impacts from outdoor activities and outdoor speakers at this location.
1932
1933 If the applicant were to appropriately restrict outdoor activities and outdoor speakers, staff could
1934 recommend approval of this request.
1935
1936 I would be happy to answer any questions.
1937
1938 Mr. Jernigan - Are there any questions for Mr. Coleman from the Commission? Thank
1939 you, Mr. Coleman. Mr. Vanarsdall, would you like to hear from the applicant?
1940
1941 Mr. Vanarsdall - Yes.
1942
1943 Mr. Jernigan - Would the applicant come up, please? Good evening.
1944
1945 Mr. Williams - Good evening. My name is Steven A. Williams, Deacon of the Glen Allen
1946 Church of Christ, and I will be brief, due to the lateness of the hour. This is my second time
1947 addressing you all, and I just want to say that I've been working with the County for, I guess, five
1948 months now and trying to craft something which will allow us to build a beautiful church, as I have
1949 said over and over again. I would disagree with Mr. Coleman's comments as far as an appropriate
1950 proffer, because we believe that everything the County has asked us to do, we have done. Two
1951 things the County has asked us to do that we feel are inappropriate, because we are on the
1952 property. We have been on the property for three years and never had any complaints from our
1953 neighbors, and when the County has asked us to say "You can't have an outdoor speaker" all we
1954 are asking for is to be genuine in what we are requesting, it is a portable podium and from time to
1955 time to deliver a prayer, maybe to have a wedding, as most churches have. The County has also
1956 asked us to have a buffer of 400 feet. Four hundred feet cuts across the area where the children
1957 today have an Easter Egg Hunt. A 400-ft. buffer also means we cannot have a picnic in our picnic
1958 area, as you can see on our master plan. We have gone to the expense and are due diligent to
1959 consult HVC Chenault as an architect for a master plan. There is no opposition from residents, as
1960 we seen for the past two and a half hours, but the opposition comes from the County. And I
1961 personally am disappointed and I am personally just ashamed. Those are my comments.
1962
1963 Mr. Jernigan - Are there any questions for Mr. Williams from the Commission?
1964
1965 Mr. Williams - I am sorry. I will defer the rest of my time to Mr. Carl Childress, one of
1966 our Trustees.
1967
1968 Mr. Jernigan - OK. Please come up, sir. Good evening.
1969
1970 Mr. Childress - Good evening, sir. Carl Childress, 10615 Harborough Way. Mr. Chairman
1971 and members of the Board (sic), I guess over the past three months the Glen Allen Church has
1972 made a request to Henrico County to rezone this land right across here (referring to rendering), this
1973 back part, which is zoned O-3C. That is 10.7 acres and we requested to zone it to A-1. The
1974 County recommended that the O-3C be rezoned R-OC, since it had a more restrictive – it was a
1975 more restrictive zoning than the A-1. Later the staff at Henrico County recommended that the 7.3
1976 acres, which is the front part, the 7.3 acres, which is zoned A-1, be rezoned R-OC, which would be

1977 more beneficial to Henrico County. The Glen Allen congregation agreed to rezone the 18+ acres to
1978 R-0C. Since there were existing proffers on the O-3C property, it was agreed that these proffers
1979 could be used with the R-0C zoning. Throughout these several months of meetings and telephone
1980 conversations, the Glen Allen Church has maintained a sense of fairness and a cooperative spirit
1981 with the staff at Henrico County. But it soon became evident that the County was dealing with the
1982 Glen Allen Church in a discriminatory manner by adding proffers that were neither fair nor
1983 reasonable, such as no outdoor sponsored activities within 400 feet of the northern property line
1984 adjacent to Carrington North Subdivision or western property. Which is if you will look that is
1985 coming this way (referring to rendering) just past this and that way. That means that section, that
1986 6 acres is the only 6 acres that we can use. You are talking about the north line is 959', which is if
1987 you take 400' x 959' and your back property line which is 716', that is a total of 11.7 acres. Not
1988 only is this, not being able to utilize 65% of the property for outdoor activities, but also is
1989 unnecessarily restricts the use of many areas. This prohibition constitutes an interference with the
1990 free exercise of our religious beliefs even on our own property.
1991
1992 In reference to the swimming pool, this is used not only in the summer months as a swimming pool
1993 but it is used as a baptistery approximately 8 months of the year. In other words, with 400' we
1994 can't even use it as a baptistery. We can't use the pool, we can't use the picnic area, we can use
1995 the tennis courts, we can't use the front entrance or yard. The Easter egg hunt that we have for
1996 the neighborhood every year, we can no longer do that because we no longer have the picnic area.
1997
1998 I guess we would like to know how this 400' was arrived at and by whom. This is not only
1999 unreasonable but is very discriminatory since we have been blessed with the most beautiful 18
2000 areas of prime property in Henrico County.
2001
2002 Over the past 3 ½ years we have been good neighbors by allowing neighborhood activities to be
2003 held at the Hartley House and on the property. It pleased me this evening, I was out here and I've
2004 met Mr. Bob Attack for the first time and he was very complimentary of the good neighbor that we
2005 have been and he appreciated it very much. Not only have we been good neighbors but we plan to
2006 continue being respectful and considerate of our existing neighbors as well as those who will be
2007 moving into the new subdivisions.
2008
2009 Unless the last set of proffers that were submitted to the staff at Henrico County is accepted then
2010 we wise to drop the rezoning request and we will use the property as currently zoned.
2011
2012 Mr. Vanarsdall - Mr. Childress, are you officially withdrawing the case?
2013
2014 Mr. Childress - I am unless those proffers are accepted and we'll use it, which we have A-
2015 1 zoning and O-3C zoning. Yes, sir.
2016
2017 Mr. Vanarsdall - How do we handle that Mr. Marlles?
2018
2019 Mr. Marlles - Excuse me, sir.
2020
2021 Mr. Jernigan - Well, he is not withdrawing the case. He wants to know...
2022
2023 Mr. Vanarsdall - If the proffers are not accepted.
2024
2025 Mr. Jernigan - Yes.
2026
2027 Mr. Childress - Yes, sir. If I have to live with a 400' restriction, which restricts us using
2028 our property then, yes, sir I want to withdraw, if that is the restriction. Yes, sir.
2029

2030 Mr. Vanarsdall - Mr. Childress, let me fill you in on that. We reduced that to 200'

2031

2032 Mr. Childress - Sir, when did you reduce it?

2033

2034 Mr. Vanarsdall - Last week. I talked to Mr. Coleman to talk to Mr. Williams. We reduced it

2035 and we have no activities on the northern and western line. We went out and stepped off. I also

2036 said we didn't want any, we would not like to see any of the outdoor speaker system at all.

2037 Whether it would be temporary, part time or full time.

2038

2039 Mr. Childress - Yes. sir. We have addressed that with saying that we do not plan to have

2040 permanent outdoor speakers, but if we're having something in the picnic area we may use portable

2041 speakers and at one time that was okay. I really don't know where it is right now. As far as the

2042 200', I struggle with...

2043

2044 Mr. Vanarsdall - That was a buffer. I don't know where the buffer came in. There never

2045 was a buffer, never was considered a buffer. It was to protect the people outside of the church

2046 property. That is all it was. We had a meeting about that remember. That is what that is about.

2047 Those were the 2 main issues. We had other issues that we did, and you have been very

2048 cooperative. I deferred the case last month as a Commission because I didn't feel comfortable

2049 taking action on it because I felt we've come so far that you would eventually not want this PC

2050 system and would stay away from the subdivision.

2051

2052 Mr. Childress - Sir, I would...

2053

2054 Mr. Vanarsdall - As the Commission knows, proffers are volunteered on your part. I

2055 couldn't enforce one.

2056

2057 Mr. Childress - Sir, I understand that and I've been told that the proffers are up to us, but

2058 no matter what we submit it comes back with different proffers from you all. So therefore they are

2059 not from us, because the speakers we talked about, the 400', and we talked about that. I don't

2060 know why we have to give up over half of the property or if you make it 200' why have you got to

2061 give up 6 acres of your property that you can't use.

2062

2063 Mr. Glover - Mr. Chairman, I'm not going to vote on this but I want to try and help Mr.

2064 Childress. If you don't want to offer that proffer don't offer it. Then all that takes place is a

2065 decision making process that takes place here. If you don't want to offer them, don't offer them.

2066 Now remember that the final decision, either you withdraw it or the Planning Commission, you are

2067 proposing something they can deny it or they can approve. If you want not to offer the first proffer

2068 that is perfectly okay with the Commission and the Board. Then the decision has to be made on

2069 whether it is compatible, whether there is encroachment or intrusion into your neighbors should

2070 you use certain things outside. We didn't say that you couldn't use your property. I'm a little bit

2071 familiar with because I met with Mr. Williams, I believe the first time we met and certainly didn't tell

2072 him he had to do anything and I wouldn't do that. I think though that if you want to cut down

2073 every tree and build within the standards of the County of Henrico you can have any activity that is

2074 allowed within a church. But just to have baseball, softball, those type of activities that might very

2075 well be encroachment or intruding into the neighborhood, nor do I want the neighborhood to

2076 intrude into your area either and you have been a great neighbor. So, since you've been a great

2077 neighbor I just think that if you want to offer the proffer you offer them, if you don't, don't and

2078 then the decision will be up to the Commission. But to take the Commission to task and the County

2079 to task, I am little bit concerned there because that is not what the County is here for. The County

2080 is here to help you through this process and if you want to be helped that is fine and if you don't

2081 won't to be helped then you present what you want and then we'll make a decision. How about

2082 that?

2083
2084 Mr. Childress - Sir, we have spent the last 4 to 5 months.
2085
2086 Mr. Glover - If you want to make, present a presentation, the County will accept or
2087 reject it. We don't want you going through this 3 or 4 months anymore. You are not going to have
2088 but 1 more month and you'll have a decision.
2089
2090 Mr. Childress - Okay. I'm saying, if the proffers are ours to submit, the last proffers we
2091 submitted will be the proffers that we submit and if they're accepted then it can be zoned R-OC and
2092 if not we'll stick with the O-3C and the A-1 zoning.
2093
2094 Mr. Glover - Well, I'm just telling you that there is not going to be any outside speaker
2095 now. If you want to withdraw now you can. I mean, when it comes to the Board I'm not going to
2096 recommend it. Now the rest of the Board may accept it. But I'm not going to recommend you
2097 having an outside speaker. We catch a lot of flack. Churches aren't any different from anybody
2098 else when they get to be with an outside speaker. Now if you don't disturb people nobody is going
2099 to bother you. You haven't disturbed anybody so far so nobody is bothering you. But if you would
2100 like to submit your case submit it exactly the way you want it and I recommend that you not
2101 discuss anything else with anyone else and you just bring it on to the Board.
2102
2103 Mr. Childress - I don't know that we have disturbed anyone and we do not plan to disturb
2104 anyone.
2105
2106 Mr. Glover - Sir, you haven't disturbed anyone and I don't think you will disturb
2107 anyone. I'm just telling you if you want to take the County to task, take them to task about
2108 something that they have done.
2109
2110 Mr. Childress - Sir, I'm not here to take anybody to task. I'm here to say that I don't feel
2111 like we've been treated fairly. The 400' came back in the first set of proffers that we submitted,
2112 they came back with 400' written in the proffers.
2113
2114 Mr. Glover - Well, if they did then they were out of line because it should have been a
2115 recommendation or a request. Then you make whatever you want. Like I said, make whatever
2116 proffer you want and then the County will make a decision.
2117
2118 Mr. Childress - But each time we make it, it comes back with something else in it.
2119
2120 Mr. Glover - Mr. Childress, it is going to come back this time with either a yes or a no,
2121 sir.
2122
2123 Mr. Childress - We can live with that.
2124
2125 Mr. Glover - Okay.
2126
2127 Mr. Vanarsdall - Mr. Childress, excuse me Mr. Glover, are you finished.
2128
2129 Mr. Glover - I'm finished.
2130
2131 Mr. Vanarsdall - Mr. Childress, stand right there and Mr. Coleman would you come to the
2132 microphone? I don't believe that the 400' has ever been in the form of a proffer.
2133
2134 Mr. Coleman - No, that was in a staff report...
2135

2136 Mr. Vanarsdall - Right.
2137
2138 Mr. Coleman - ...for consideration. But it wasn't a proffer.
2139
2140 Mr. Vanarsdall - And that was another suggestion. Mr. Childress, come on back and we'll
2141 finish the conversation.
2142
2143 Mr. Childress - Sir, can I get the sheet from Mr. Williams that came back from the County
2144 with the 400' on. I think he has it.
2145
2146 Mr. Vanarsdall - That's all right.
2147
2148 Mr. Childress - If not, I have it and I'll be happy to fax it to you.
2149
2150 Mr. Vanarsdall - That's all right, I don't want to debate that, that is okay. I just want to
2151 answer what you said. You have been good neighbors for 3 years and I said that last month when
2152 I deferred the case and I want to state up front now for those in the audience and especially for my
2153 colleague, this is not about Christ and it is not about the Church, it is a zoning issue and once you
2154 get in your mind that this is zoning and that I'm not an anti-Christ. I'm not trying to put down the
2155 Church then maybe you will be able to understand what we're asking. You and Steve Williams did
2156 a good job, very good on all the proffers, the suggestions that we suggested to you and we're at 2
2157 different ends of the spectrum. We don't feel like the people in the subdivision, the houses that are
2158 being building, we have been through this before, don't I want to state it again. We don't feel like
2159 the homes around there need to hear your PA system and at one time you said, "what about those
2160 people if they had beer parties over there." I stated to you that we have other ways of taking care
2161 of that. We have another kind of ordinance and we have a police department.
2162
2163 We met one of your people out on the property when we were over there and he said, "he thought
2164 that those neighbors in those subdivisions would bother the Church a lot more than the Church
2165 would bother." That isn't much spirit of a Church as far as I'm concerned. So, I saw you at the
2166 door here tonight and you said that you and Mr. Williams said you were not going to do away with
2167 the speakers and you are not going to abide by no activities at 200'. So, that is fine. Just like Mr.
2168 Glover said, "you don't have to."
2169
2170 Mr. Childress - Sir, that is not true because the speaker problem was presented to Mr.
2171 Tom Coleman over a week ago in reference to no outdoor speakers, permanent speakers, but that
2172 there may be sometimes that we would have a portable speaker. That's been submitted. As a
2173 matter of fact we had a sound expert submit a letter with it. That has been submitted. I want to
2174 say something. I'm not calling anybody an Anti-Christ, I not saying anybody is not a Christian, I'm
2175 not saying that.
2176
2177 Mr. Vanarsdall - Okay. Then I will tell you on Friday the 8th in the afternoon I asked Tom
2178 Coleman to get in touch with Mr. Williams and tell him that we would reduce the property line to
2179 200' and under no circumstances would we accept any speakers temporary, part-time, full-time or
2180 anything else.
2181
2182 Mr. Childress - Okay.
2183
2184 Mr. Vanarsdall - So, if we are finished now I will go ahead with my motion and then you all
2185 can do what you think is proper.
2186
2187 Mr. Williams - If I can say just one thing.
2188

2189 Mr. Vanarsdall - All right.
2190
2191 Mr. Williams - I think it is appropriate that people addressing me and about what, about
2192 me or Mr. Coleman, I feel it is important that I respond to that. The proffers that are written are
2193 the proffers that were submitted.
2194
2195 Mr. Vanarsdall - Right.
2196
2197 Mr. Williams - And that is what we want to submit.
2198
2199 Mr. Vanarsdall - Okay.
2200
2201 Mr. Williams - The conversation about 200' with no speaker within 200', there was never
2202 a conversation about Church activities within 200' of our property line. We feel it's frankly un-
2203 American to say, give up your property because of you, might disturb a neighbor.
2204
2205 Mr. Vanarsdall - All right.
2206
2207 Mr. Williams - Particularly if we've been proven to be good neighbors all along.
2208
2209 Mr. Vanarsdall - I understand.
2210
2211 Mr. Williams - I understand the County has to deal with probabilities. We have to deal
2212 with actualities and actually we are not bad neighbors, never been a disturbance.
2213
2214 Mr. Vanarsdall - All right. Thank you, thank you both. Mr. Chairman, any questions from
2215 the Commission? If there are none I'm going on to make a motion to recommend C-21C-03 be
2216 denied to the Board of Supervisors.
2217
2218 Mrs. Ware - Second.
2219
2220 Mr. Jernigan - We have a motion by Mr. Vanarsdall, and a second by Mrs. Ware. All in
2221 favor say aye. Opposed. The ayes have it the motion is denied.
2222
2223 The Planning Commission denied recommendation of approval of case C-21C-03, Steven A.
2224 Williams for Carl Childress, Trustee, to the Board of Supervisors.
2225
2226 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Ware, the Planning
2227 Commission vote 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the
2228 request because the applicant failed to show that the requested changes are in the best interests of
2229 the welfare and future of the community and would not have an adverse effect on the surrounding
2230 residential development.
2231
2232 Mr. Vanarsdall - Thank you.
2233
2234 **C-36C-03 Lakebrook Partners, LLC and F. Philip Parker, Jr.:** Request to
2235 conditionally rezone from A-1 Agricultural District to R-2AC One Family Residence District
2236 (Conditional), Parcels 761-771-8842, 761-770-8595 and 761-770-5494, containing 9.529 acres,
2237 located on the south line of Old Springfield Road approximately 1026 feet west of Old Mountain
2238 Road and on the east line of Staples Mill Road approximately 800 feet south of Old Springfield
2239 Road. A single family residential subdivision is proposed. The applicants proffer the maximum
2240 density shall not exceed 2.4 lots per acre. The R-2A District allows a minimum lot size of 13,500

2241 square feet. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density
2242 per acre.
2243
2244 Mr. Marlles - The staff report will be given by Mr. Tom Coleman.
2245
2246 Mr. Jernigan - Is there any opposition to case C-36C-03? We have opposition. Mr.
2247 Coleman, you may proceed.
2248
2249 Mr. Coleman - Thank you. The revised proffers require waiving the time limit.
2250
2251 The subject property is located within a triangle of land framed by Old Springfield Road, Mountain
2252 Road, and Staples Mill Road. Springfield subdivision is to the north across Old Springfield Rd. The
2253 Meadows at Carrington is under construction to the west across Staples Mill Road. The Planning
2254 Commission approved a conditional subdivision application for Mountain Spring to the south in June
2255 2003, and the applicant has indicated that upon approval of this application, development of the
2256 subject property would be coordinated with Mountain Spring.
2257
2258 The subject property is designated Suburban Residential 1 on the 2010 Land Use Plan. The
2259 applicant proposes to limit the density to 2.4 units per acre, which is at the upper range of the 2010
2260 Land Use Plan recommendation of 1.0 to 2.4 units per acre. Staff recommends a density closer to
2261 2.0 units/acre, which would be more consistent with development in this area.
2262
2263 The applicant has increased the minimal lot width required in the district from 80' to 85'.
2264
2265 High quality single family residential development is an appropriate use for the subject property.
2266 The revised proffers have added prohibitions against access from the subject property to Old
2267 Springfield Road and Staples Mill Road and a requirement for brick steps to the main entrance of
2268 the home.
2269
2270 In conclusion, staff believes a single family residential subdivision is an appropriate use at this
2271 location, and the proposed density is within the land use plan recommendation. While staff will
2272 continue to encourage the applicant to include additional elements associated with quality
2273 development, the applicant has provided sufficient assurances of quality development for staff to
2274 recommend approval of this application.
2275
2276 I would be happy to answer any questions.
2277
2278 Mr. Jernigan - Are there any questions for Mr. Coleman from the Commission? Thank
2279 you, Mr. Coleman.
2280
2281 Mr. Vanarsdall - I would like to hear from the applicant.
2282
2283 Mr. Jernigan - Would you like to hear from the applicant, sir?
2284
2285 Mr. Vanarsdall - (unintelligible) we have opposition.
2286
2287 Mr. Jernigan - Mr. Theobald, would you like to reserve rebuttle time?
2288
2289 Mr. James Theobald - Three minutes, Mr. Chairman.
2290
2291 Mr. Jernigan - Thank you, sir. You may proceed.
2292

2293 Mr. Theobald - Mr. Chairman, ladies and gentlemen, my name is Jim Theobald, I'm here
2294 this evening on behalf of Lakebrook Partners. This is a request to rezone approximately 9 ½ acres
2295 to R-2A conditional which is consistent with the guidelines established by the County's Land Use
2296 Plan which suggest this area for a density range between 1 and 2.4 units per acres.
2297

2298 This property is adjacent to R-4 zoning on the north, R-2A to the south, A-1 and R-2 to the west,
2299 and A-1 zoning to the east. We have worked very diligently with staff and the Commission to
2300 assure a quality development and the many revisions to the proffers that you all have received over
2301 the past few days, both in draft form and final form reflect that dialogue. Most importantly those
2302 proffers reflect, as stated by Mr. Coleman, a legally binding obligation that there be no access from
2303 this property to or from Old Springfield Road. We've also limited the density on the site to 2.4 lots
2304 per acre. What you see on this plan (referring to rendering), of course, is the original section which
2305 is already zoned R-2A to the bottom of the arrow or the triangle if you will (referring to rendering),
2306 which has some 17 lots within in it and the new section just above it which has approximately 25
2307 lots in it. We've also guaranteed minimal house sizes of 2000 square feet for one storage
2308 dwellings, finished floor space, and two story homes would be a minimum of 2500 total square
2309 feet. We have increased the lot widths from the minimum required by the ordinance of 80' to 85'.
2310 We've provided for street trees in the lots. We have limited the height of fencing along Staples Mill
2311 Road to but 42" in height unless a higher fence would be of finished masonry product. We've also
2312 committed to provide both brick steps and brick stoops to the main entrance of every home.
2313

2314 I believe this represents a quality development consistent with the area development and once
2315 again this is consistent with your Land Use Plan. I'd be happy to answer any questions at this time.
2316

2317 Mr. Jernigan - Are there any questions for Mr. Theobald from the Commission?
2318

2319 Mr. Vanarsdall - I don't have any.
2320

2321 Mr. Jernigan - Thank you, Mr. Theobald.
2322

2323 Mr. Theobald - Thank you.
2324

2325 Mr. Jernigan - All right. We have opposition. How many people are in opposition? Do
2326 you have one speaker or do each of you want to say something?
2327

2328 Good evening, sr.
2329

2330 Mr. Ron Mohr - Good evening. My name is Ron Mohr. I live at 11019 Springfield Court
2331 and I'm actually north of the subdivision that is proposed. First time up here and we as a resident
2332 who live in that subdivision currently have not had the chance to meet. This is the first time we've
2333 had a chance to even see this plan. My first recommendation is that we defer this till next meeting
2334 because we haven't even had a chance to study this.
2335

2336 One of our main concerns, two concerns really. First would be the entrance onto Mountain Road.
2337 That is a heavily traveled road currently and I feel that the entrance is so close to Staples Mill and
2338 Mountain Roads that it is going to create major traffic problems especially if somebody goes to turn
2339 left headed, I guess that would be northeast.
2340

2341 The other concern was they had informed us that they would be installing sewer. Currently all the
2342 residents north of that subdivision are on the septic system and they said that it would be minimal
2343 disruption. Currently the roadway coming up Old Springfield Road, on the plan they are currently
2344 showing as an entrance. They just now informed us that there would be no entrance on Old
2345 Springfield Road. The problem we have currently with Old Springfield Road is that people or

2346 residents living there currently have to stop to let school buses by because there is no shoulder on
2347 the road. Therefore, what happens, to stop from having an accident we have to wait to let school
2348 buses pass by and they've somewhat assured us that the construction for the sewage system
2349 would take place during the summer months when children are not in school. I don't know how
2350 they can assure that given the time frame that they've just given us this information.

2351

2352 I would like to pass this to somebody else that has other comments.

2353

2354 Mr. Vanarsdall - Let me ask you a question. You say that you are glad that they are not
2355 going. What did you say about the school bus?

2356

2357 Mr. Mohr - Currently the school bus traffic is up and down Old Springfield Road.
2358 They're going to install sewer, which is not currently in our subdivision using Old Springfield Road
2359 as the access to sewer lines coming to this subdivision. They are going to have to maintain traffic
2360 through that area for the residents living there currently. Right now the road is so narrow that we
2361 basically as residents have to slow down just to go by people coming in opposite directions and
2362 concern that could be a major problem down the road.

2363

2364 Mr. Jernigan - Are there any questions for Mr. Mohr from the Commission? Thank you.
2365 All right, who ever is next. How are you sir?

2366

2367 Mr. Hudnull Davis - I'm fine, thank you. Good evening. My name is Hudnull Davis and I live
2368 at 11030 Springfield Court. The issue that I'm bringing up is one that we've already fought before
2369 on a previous subdivision right around the corner from this and I was at that point consulting with
2370 the principal of the school, Glen Allen Elementary, which would have to serve all of these residents
2371 in this community. I think you are going to find with the new construction that is already in place
2372 and up-coming on the other side of the interstate which is going to be using all of the same schools
2373 as this subdivision would have to use, is easily going to max out and we are going to end up
2374 sticking half the kids in trailers in Glen Allen Elementary. Now I don't know what the Middle School
2375 situation is, how soon that construction that's on-going is going to be brought into line, you know,
2376 to where it can be used. But I think you are going to find that just on the issue of Public Schools
2377 you are not going to have room for the students that would be created just in this small property
2378 here. Traffic concerns and things like that you are going to hear plenty of that opposition, but that
2379 is my biggest concern.

2380

2381 Mr. Jernigan - Are there any questions for Mr. Davis from the Commission?

2382

2383 Mr. Vanarsdall - Thank you, Mr. Davis.

2384

2385 Mr. Jernigan - Thank you. All right, who is next? How are you sir?

2386

2387 Mr. James Sikes - Hello, Mr. Board Chairman, Board Members, my name is James Sikes and
2388 I live at 4180 Old Springfield Road. I've lived there since 1987. My property is currently zoned A-1.
2389 The majority of property around there is actually zoned R-4 but with a 25,000, I believe square foot
2390 lot size.

2391

2392 My concern period is, you know, we live in a rural area. We all moved out there to be in a rural
2393 area, per say, country. Granted everything is catching up with us, but I don't see a need where, if
2394 they want to develop this property, which I know he has already got the 17 lots and there is
2395 nothing we can do about it. But the other property, I believe they would be better off if they were
2396 going to have to change the zoning on it to change it to R-2A, which would make them 35,000
2397 square foot lots with 175' width. It would be more in line with what is actually out there. It would
2398 blend in very well I believe.

2399
2400 Mr. Vanarsdall - Thank you.
2401
2402 Mr. Jernigan - Any questions for Mr. Sikes from the Commission? Thank you. Who is
2403 next? Hello.
2404
2405 Ms. LeAnn Weir - Hi. Mr. Chairman, Members of the Board, my name is LeAnn Weir. I live
2406 at 11030 Springfield Court. A couple of comments.
2407
2408 First of all I would like to address Mr. Atack, not personally, but the appropriateness of presenting
2409 this plan in the hallway here where we as a community, before when we had another issue we
2410 were at least given the curiosity of having a community meeting and it was presented at the
2411 community, pardon me, the Hunton Community Association building. We were able to see what
2412 the plans were. This is kind of, you know, surprise, surprise. For the record I would like to at
2413 least, you know, question the properness of it and that is all.
2414
2415 My concern is that within this little community, there again, a quaint little community in the
2416 northwest section of Henrico and I would just like to make the comment that within walking
2417 distance of this piece we have a century old working farm that is part of the community, part of
2418 Henrico County that is maintained from the Parks and Recreation, actually on the historical registry,
2419 landmarks. I would just hope that whether you decide to defer it until later or you know, vote
2420 tonight that you would consider that fact from Glen Allen, the railroad tracks on west to Staples Mill
2421 we have a real jewel in Henrico County and that is the Old Mountain corridor that, I think needs to
2422 be at least thought about and considered in your decision. You know, they are gone through,
2423 they've renovated the little gas station there and it is just a gem for the County. So, that is were
2424 I'm going from on this. Of course, I know you can't stop progress, but there again going back to
2425 the previous subdivision issue right up the road there I think Dr. Taylor presented the fact that
2426 homes in this area, approximate are on 5 acres of land. All through this little Glen Allen area. So
2427 that is another consideration I wish you folks would have.
2428
2429 That is all that I have to say.
2430
2431 Mr. Jernigan - Any questions for Ms. Weir from the Commission?
2432
2433 Mr. Vanarsdall - I will add this. I am glad that you liked that service station and that
2434 corridor because Mr. Glover is responsible for all of those things.
2435
2436 Mr. Glover - I've been trying to buy gas there for...
2437
2438 Mr. Vanarsdall - I haven't had any ethol in a long time.
2439
2440 Ms. Weir - But I think that in itself desires attention.
2441
2442 Mr. Jernigan - Thank you, Ms. Weir. Is there anybody else to speak?
2443
2444 Mr. Ron Mohr - Like I stated before I do have one quick question because this is the first
2445 time that I've seen the plan tonight, because of traffic concerns. How far is the entrance of this
2446 subdivision to Staples Mill Road? We have no earthly idea of how far away that is and that is one
2447 main concern. We live in this area, we drive this road every single day, most of us live in that
2448 subdivision and to me that is going to be a major traffic problem because that entrance is so close
2449 to a major intersection.
2450
2451 Mr. Vanarsdall - Thank you.

2452

2453 Mr. Jernigan - Thank you.

2454

2455 Mr. Vanarsdall - I think Mr. Theobald can cover that distance.

2456

2457 Mr. Mohr - Thank you.

2458

2459 Mr. Vanarsdall - I know that it is in accordance with the traffic engineer.

2460

2461 Mr. Jernigan - Mr. Theobald, would you come up please.

2462

2463 Mr. Theobald - Mr. Chairman.

2464

2465 Mr. Vanarsdall - Is there anyone else who would like to speak?

2466

2467 Mr. Jernigan - Is there anyone else in opposition that wants to speak?

2468

2469 Mr. Theobald - Members of the Commission I think when we met in the Planning Office

2470 and scaled that off it was some 400 to 500 feet which exceeded the county requirements for

2471 distance between and I also understand that a dedicated right turn lane is either under construction

2472 or is in place at that intersection to help the traffic movement onto Staples Mill Road. The staff

2473 report, I know you the Commissioners have read it, but the traffic engineer has commented on the

2474 safety aspects of this request and that the adjacent roadway network can readily accommodate this

2475 traffic from this request. The request being 25 lots and the companion development being 17 lots.

2476

2477 Similarly, with the schools, the section in the staff report regarding schools indicates that there is a

2478 new Elementary and Middle School that will be open in the fall of 2004. There is still existing

2479 capacity in the current Elementary and Middle Schools to support this application.

2480

2481 Lastly, on the construction of the sewer line, Mr. Mohr is correct. We will need to bring sewer

2482 down Old Springfield. I would hope that would be good news to that neighborhood in that we are

2483 bringing sewer substantially closer to that neighborhood should anybody decide to hook-up. Mr.

2484 Parker indicates that with the right weather conditions that the disruption might be limited to about

2485 a 2 week period to bring the run of sewer up that road. In any event, we are going to have to

2486 comply with all safety requirements from Public Works in terms of making sure the traffic can

2487 safety get around that construction whether it be through folks with flags routing traffic or stopping

2488 traffic or whatever. So there would be most hopefully modest disruption, but I think the benefit far

2489 out ways what I hope would be a minor inconvenience.

2490

2491 The lots to the north in the R-4 subdivision, those lots were built to a larger standard historically as

2492 a result of the fact that while there was public water near by there was not public sewer so they

2493 were all developed on septic systems and thus the size of those lots.

2494

2495 I would be happy to answer any other questions. I would respectfully request that you recommend

2496 approval of this request of this case to the Board of Supervisors.

2497

2498 Mrs. Ware - Mr. Theobald, have you all hosted a neighborhood meeting on this area.

2499

2500 Mr. Theobald - No ma'am, we have not.

2501

2502 Mrs. Ware - That is something that we generally like to see.

2503

2504 Mr. Theobald - Understood.

2505
2506 Mrs. Ware - Pardon.
2507
2508 Mr. Theobald - I understand. We've not had a meeting Mrs. Ware.
2509
2510 Mr. Jernigan - Any questions for Mr. Theobald from the Commission? Thank you, Mr.
2511 Theobald. Mr. Vanarsdall.
2512
2513 Mr. Glover - Mr. Theobald, let me ask you one question. Regardless of what happens
2514 by the Planning Commission, like I said I abstain from voting here because I will vote at the Board.
2515 Between now and the Board of Supervisors regardless of what the decision of the Commission,
2516 would you agree to have a meeting with that neighborhood?
2517
2518 Mr. Theobald - Sure.
2519
2520 Mr. Glover - Even though, and I assume the reason you didn't was because you
2521 decided not to impact ingress/egress to ...
2522
2523 Mr. Theobald - That is correct, Mr. Glover and perhaps that was not a good assumption
2524 on our part that having done that would perhaps mollify concerns of that neighborhood. We would
2525 be happy to have the meeting between now and the Board. Sure.
2526
2527 Mr. Glover - Regardless of what happens.
2528
2529 Mr. Theobald - Sure.
2530
2531 Mr. Glover - Okay.
2532
2533 Mr. Vanarsdall - Thank you, Mr. Theobald. I am really for a motion Mr. Chairman.
2534
2535 Mr. Theobald - It would be helpful if we had everybody's address so we could notify folks
2536 of a public meeting.
2537
2538 Member in Audience - Forty-seven homes in the that subdivision.
2539
2540 Mr. Jernigan - We are going to have to waive the time limits.
2541
2542 Mr. Vanarsdall - I move that C-36C-03 time limits be waived.
2543
2544 Mr. Taylor - Second.
2545
2546 Mr. Jernigan - We have a motion by Mr. Vanarsdall, a second by Mr. Taylor. All in favor
2547 say aye. Opposed. The ayes have it. The motion is passed.
2548
2549 The Planning Commission voted to waive the time limits on Case C-36C-03, Lakebrook Partners,
2550 LLC and F. Philip Parker, Jr.
2551
2552 Mr. Vanarsdall - This subdivision is more of the same quality type subdivision that we
2553 already have in the area and it's the same classification. It has many proffers on it, 2.4 lots per
2554 acre, the 2 story homes will be 2500 square feet, 2000 square feet for 1, we're going to have brick
2555 steps and stoops instead of the country porch and wooden type thing, and it is going to be done in
2556 high quality and I do appreciate all of you that came and spoke tonight and Mr. Glover mentioned
2557 about the meeting. With that I would recommend C-36C-03 to the Board for approval.

2558
2559 Mr. Taylor - Second.
2560
2561 Mr. Jernigan - We have a motion by Mr. Vanarsdall, a second by Mr. Taylor. All in favor
2562 say aye. Opposed. The ayes have it. The motion passed.
2563
2564 Mr. Glover - I abstain, Mr. Chairman.
2565
2566 Mr. Jernigan - Yes, sir.
2567
2568 The Planning Commission approved recommendation of approval of Case C-36C-03, Lakebrook
2569 Partners, LLC and F. Philip Parker, Jr., to the Board of Supervisors.
2570
2571 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mr. Taylor, the Planning Commission
2572 voted 5-0 (one abstention) to recommend that the Board of Supervisors grant the request because
2573 it conforms to the recommendations of the Land Use Plan and the proffered conditions will provide
2574 appropriate quality assurances not otherwise available.
2575
2576 **C-37C-03 Ralph Axelle, Jr. for Kenneth E. Mills, Jr., James T. Mills, Karen**
2577 **Mills DeJarnette and Keith A. Mills:** Request to conditionally rezone from A-1 Agricultural
2578 District to RTHC Residential Townhouse District (Conditional), Parcel 755-762-0241, containing 3.75
2579 acres, located on the east line of Springfield Road (State Route 157) approximately 1050 feet north
2580 of Hungary Road. A residential townhouse development is proposed. The applicants proffer the
2581 number of dwellings shall not exceed six (6) units per acre exclusive of floodplain areas. Density in
2582 the RTH District cannot exceed nine (9) units per acre. The Land Use Plan recommends Suburban
2583 Residential 1, 1.0 to 2.4 units net density per acre.
2584
2585 Mr. Tom Coleman - The revised proffers require waiving the time limit.
2586
2587 The subject property is located adjacent to the recently constructed St. Michaels Catholic Church to
2588 the north and to the Townes at Meredith Creek townhome community to the south. A large area
2589 along Meredith Branch (a creek) zoned C-1 lies to the east. The Townes at Meredith Creek are
2590 zoned RTHC, and the POD was approved in 2001.
2591
2592 The developers have indicated their intention to coordinate development of the subject property
2593 with the adjacent Townes at Meredith Creek development, and the proposed proffers are very
2594 similar to those approved for Meredith Creek. Staff encourages the applicant to commit to
2595 developing the subject property in conjunction with Meredith Creek, and this could be accomplished
2596 with an appropriate proffer.
2597
2598 The 2010 Land Use Plan recommends Suburban Residential 1, however considering the location
2599 of the subject property between The Townes at Meredith Creek and St. Michaels Catholic Church,
2600 this alternative to the land use plan is acceptable.
2601
2602 A well designed townhouse development would be appropriate at this location, and if the applicant
2603 were to commit to coordinating development of the townhomes on the subject property with the
2604 adjacent Townes at Meredith Creek, staff could recommend approval of this application.
2605
2606 Mr. Jernigan - Are there any questions for Mr. Coleman from the Commission? Thank
2607 you, Mr. Coleman.
2608
2609 Mr. Vanarsdall - Mr. Axelle is coming down now.
2610

2611 Mr. Axselle - Mr. Chairman, Members of the Commission, Bill Axselle on behalf of the
2612 applicant. This property lies between St. Michaels Church and The Townes at Meredith Creek, RTH
2613 zoning. The proffers that are before you are identical to the proffers in the adjacent RTH with one
2614 exception. We have added, at the suggestion of Mr. Vanarsdall, a language saying that the wall
2615 that may be in the buffer, any fencing rather within the buffer shall not exceed 42" in height unless
2616 of finished masonry. That is not a provision in The Townes at Meredith Creek, and we have added
2617 that. Otherwise they are identical to those at Meredith Creek except for the fact they have some
2618 applying to Hungary Road, which doesn't apply here.

2619
2620 We think that it is a logical extension; the staff has said the zoning is appropriate because it is
2621 similar to the adjacent property. Staff thinks that we should proffer that we will be developing this
2622 in conjunction with the adjacent development, which we do in fact intend to do.

2623
2624 First off, one is an intellectual difference. We think that this property, because it is identical in use
2625 to the adjacent property could be developed on its own. Having said that, our plan is to develop it
2626 with the adjacent property and we have given to the staff a letter from the representative of Ryan
2627 Homes, which is developing that, which said that they, talking about themselves being the logical
2628 buyer and they are very interested in partnering with you, Mr. Neil Farmer. Then it said that after I
2629 get a preliminary layout from either Bill Delmonte or you I will forward you a Letter of Intent to
2630 purchase the lots created as a result of the rezoning effort now in progress. That was July 30th.

2631
2632 So, we would ask, we don't think that we ought to put that proffer in at this point and time,
2633 because quite frankly if we put in a proffer that we can only develop this property in conjunction
2634 with Ryan Homes and the contract is not yet signed, we have said to Ryan Homes that the only
2635 way we can develop that property if we do it in conjunction with you. We will commit to you, to
2636 the Board, that we will have that contract in place by the Board of Supervisors time or if not we will
2637 be dealing with Mr. Glover and explaining why and so forth. I think you can understand why, from
2638 a leverage standpoint, we prefer not to make that commitment at this time, but it is in fact our
2639 intent. That is the reason we gave the letter from Ryan to Mr. Coleman.

2640
2641 Thank you.

2642
2643 Mr. Jernigan - Are there any questions for Mr. Axselle from the Commission?

2644
2645 Mr. Vanarsdall - Thank you, Mr. Axselle.

2646
2647 Mr. Jernigan - Thank you, Mr. Axselle.

2648
2649 Mr. Vanarsdall - No opposition, was there?

2650
2651 Mr. Jernigan - No, sir.

2652
2653 Mr. Vanarsdall - As Mr. Axselle explained this sort of an extension of The Townes at
2654 Meredith Creek. The reason the fence changed is The Townes of Meredith Creek was originally
2655 zoned in the Three Chopt District and then when it came to be built it was in the Brookland District.
2656 The Brookland District is not too much on wooden fences. So when I went out and looked at it and
2657 saw the prettiest wooden fence that you have ever saw today I asked him would he put, what he
2658 did, would he change that proffer which he graciously did. If it were over 42" if would be built out
2659 of something other than a big pretty wooden fence that would fall down. If you don't believe me
2660 ride down to Ridgefield Parkway and look at them. So, with that said I recommend that...

2661
2662 Mr. Jernigan - We have to waive the time limits...

2663

2664 Mr. Vanarsdall - I waive the time limits on the proffers of C-37C-03.
2665
2666 Mr. Archer - Second.
2667
2668 Mr. Jernigan - We have a motion by Mr. Vanarsdall and a second by Mr. Archer to waive
2669 the time limits. All in favor say aye. Opposed. The ayes have it the motion is passed.
2670
2671 The Planning Commission voted to waive the time limits on Case C-37C-03, Ralph Axselle, Jr. for
2672 Kenneth E. Mills, Jr., James T. Mills, Karen Mills DeJarnette and Keith A. Mills.
2673
2674 Mr. Vanarsdall - Then I recommend -37C-03 to the Board of Supervisors for approval.
2675
2676 Mr. Taylor - Second.
2677
2678 Mr. Jernigan - We have a motion by Mr. Vanarsdall and a second by Mr. Taylor to
2679 approve. All in favor say aye. Opposed. The ayes have it the motion is passed.
2680
2681 The Planning Commission approved recommendation of approval of Case C-37C-03, Ralph Axselle,
2682 Jr. for Kenneth E. Mills, Jr., James T. Mills, Karen Mills DeJarnette and Keith A. Mills, to the Board of
2683 Supervisors.
2684
2685 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mr. Taylor, the Planning
2686 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant**
2687 the request because it reflects the type of residential growth in the area and is proposed to be a
2688 continuation of the existing RTH development.
2689
2690 **C-40C-03 F. Robert Loftis:** Request to conditionally rezone from A-1 Agricultural
2691 District to R-3C One Family Residence District (Conditional), Parcel 812-728-5668, containing
2692 approximately 18.42 acres, located on the west line of Cedar Fork Road at Meadows Run and at the
2693 eastern terminus of Mitcheltree Boulevard. A single family residential development is proposed.
2694 The R-3 District allows a minimum lot size of 11,000 square feet. The Land Use Plan recommends
2695 Suburban Residential 2, 2.4 to 3.4 units net density per acre. The property is located in the Airport
2696 Safety Overlay District.
2697
2698 Mr. Marlls - The staff report will be given by Ms. Jean Moore.
2699
2700 Mr. Jernigan - Is there any opposition to C-40C-03? We have opposition. Okay, Ms.
2701 Moore you may proceed.
2702
2703 Ms. Moore - Good evening Commissioners and Mr. Chairman. This item is a request to
2704 rezone the subject property to R-3C to allow the construction of up to 35 single-family dwellings.
2705 The applicant has submitted revised proffers dated August 12, 2003, copies of which you just
2706 received. A conceptual plan of the project is also attached. Due to this submission the time limits
2707 would have to be waived on the proffers before any actions could be taken tonight.
2708
2709 This project would be constructed in conjunction with rezoning request C-71C-02, which abuts the
2710 subject property to the north. Case C-71C-02 is also a request for R-3C zoning to allow up to 100
2711 new homes and was recommended for approval at the May 15, 2003 Planning Commission
2712 Hearing. The recommendation of this case, unless deferred, and C-71C-02 will be reviewed by the
2713 Board of Supervisors on September 9, 2003.
2714
2715 The subject site is designated as Suburban Residential 2 in the 2010 Land Use Plan. This
2716 designation recommends a density range of 2.4 to 3.4 dwelling units per acre. The density of this

2717 request would be 1.9 dwelling units per acre, which is well below the density range recommended
2718 for the site.

2719
2720 The Major Thoroughfare Plan shows Concept Road 140-3, to transverse east-west through the
2721 property. At its completion, the concept road would provide access from Laburnum Avenue to
2722 Cedar Fork Road.

2723
2724 At the time the staff report was drafted, school comments have not yet been received.
2725 Subsequently, we have received school comments and it should be noted this request and the
2726 pending rezoning request for residential development in the vicinity would place the elementary
2727 school at full capacity.

2728
2729 Also, at the time the staff report was drafted, staff had several concerns regarding this proposal,
2730 including:

- 2731
- 2732 • The lack of a conceptual plan;
 - 2733 • The lack of designated open space and recreation areas;
 - 2734 • The elimination of Concept Road 140-3, without a proper amendment to the Major
2735 Thoroughfare Plan;
 - 2736 • Lot widths; and
 - 2737 • Density.
- 2738

2739 The applicant held a neighborhood meeting on August 13th. During this meeting, residents of the
2740 adjoining subdivisions expressed concerns regarding the lack of landscaping for yards and vehicular
2741 access to Mitcheltree.

2742
2743 To address staff concerns, the applicant submitted the revised proffers dated August 12, 2003,
2744 which you just received. The applicant has not yet addressed concerns expressed by the adjacent
2745 residents.

2746
2747 Staff has had an opportunity to review the revised proffers, which do satisfy most of the concerns
2748 expressed in the staff report. These revisions include:

- 2749
- 2750 • The submission of a conceptual plan dated August 11, 2003, which shows lot layouts, open
2751 space, and vehicular travel through the site. Proffer 16, states the development would be
2752 consistent with this site plan.
 - 2753
 - 2754 • Proffer 7 has been revised to address access to the site and concept road 140-3. The
2755 applicant intends to seek an amendment to eliminate the concept road; however, the
2756 conceptual plan shows its placement if this road is warranted. In addition, as shown, a
2757 portion of this road could serve as an alternative route to access the seven northern lots that
2758 abut Mitcheltree subdivision. This would help address resident concerns of having access
2759 through Mitcheltree.
 - 2760
 - 2761 • Proffer 17, states the lots would have an average lot width of 85'. In addition, 30% of the
2762 lots would have an average minimum width of 90.' The proposed lot widths would be
2763 consistent with the adjacent pending rezoning case C-71C-02 and would be substantially
2764 larger than the existing developments to the east.
 - 2765
 - 2766 • Proffer 16 states that no more than 35 lots would be constructed on the site, which addresses
2767 staff concerns regarding density.

2768
2769 In addition the applicant has proffered:

2770

- 2771 • Brick or stone faced crawl foundations and brick entry steps for all homes;
- 2772 • Covered front porches for at least 30% of the homes;
- 2773 • Windows on all side elevations facing streets;
- 2774 • Two and one car garages for at least 75% of the homes;
- 2775 • Boulevard style entrances;
- 2776 • Tree lined residential streets; and
- 2777 • Proffered elevations for 6 home designs.

2778

2779 Overall, the proposed project would be in keeping with the existing adjacent residential
2780 developments and with the 2010 Land Use Plan. In addition, the project includes several positive
2781 features including an attractive layout showing interconnectivity with the existing and proposed
2782 adjacent subdivisions, tree-lined streets, and quality homes.

2783

2784 Staff maintains the applicant should clearly define a minimum of 1 acre for useable open space and
2785 recreational areas. The applicant states recreation and/or open space areas can be delineated once
2786 the future of the concept road is known.

2787

- 2788 • To address the residents' concerns, the applicant should also clarify how access would be
2789 provided to the seven northern lots, if the concept road is amended or eliminated in the future.
- 2790
- 2791 • Finally, staff recommends the applicant clarify the number of single-story homes proposed for
2792 the site to ensure that the majority of the homes would be two-stories.

2793

2794 If the applicant could address these issues, staff could support this request.

2795

2796 This concludes my presentation. I would be happy to try to answer any questions you may have.

2797

2798 Mr. Jernigan - Are there any questions for Ms. Moore from the Commission?

2799

2800 Mr. Archer - I may have some later, Mr. Chairman, but I think we need to hear from
2801 the Applicant first.

2802

2803 Mr. Jernigan - Okay, thank you, Ms. Moore.

2804

2805 Mr. Archer - Thank you.

2806

2807 Mr. Jernigan - Alright, we have opposition. Who would like to speak first? Oh, I'm sorry,
2808 excuse me, it is getting late, we'll get you in a minute, would the applicant come down.

2809

2810 Mr. James Theobald - May I reserve 3 minutes, please?

2811

2812 Mr. Jernigan - Okay, Mr. Theobald, thank you.

2813

2814 Mr. Theobald - Mr. Chairman, ladies and gentlemen, once again my name is Jim
2815 Theobald, I'm here on behalf of Rob Loftis and this is a request to rezone approximately 18 acres of
2816 land to R-3. As Ms. Moore indicated, this is in your Land Use Plan as an SR-2 destination, which
2817 would suggest a density of 2.4 to 3.4 units per acre. The proffered density of 35 lots would result
2818 in a 1.9 units per acre density on this plan, well below your Land Use Plan recommendation. As a
2819 point of reference, Mitcheltree Subdivision has been developed to a density of 2.89 units per acre,
2820 Tiffany Meadows on the other side of the street has been developed to a 2.99 units per acre.
2821 There is R-4 zoning to the west and south, R-3 zoning to the north, which has been recommended
2822 for approval by the Planning Commission, has not yet been before the Board of Supervisors and

2823 that is a companion case and what you are seeing is a consolidated conceptual plan on the screen
2824 at the moment (referring to rendering). There is R-3 zoning across the street from us.

2825
2826 With regard to the Concept Road, we have submitted a formal request to Mr. Thornton to amend
2827 the Major Thoroughfare Plan to eliminate the Concept Road. Certainly not knowing whether he
2828 would find that to be a well taken request we have shown how we could connect, if the County
2829 should require the Concept Road to be developed.

2830
2831 Our proffers are consistent with the case to the north for which you have recommended approval.
2832 Again, we have kept our density to 35 lots; we have limited the size of our lots and provided wider
2833 lot widths than required, we have provided certain minimums of square footage; one story homes
2834 having a minimum of 1600 square feet, two story a minimum of 1800 square feet with one-third of
2835 those having to have a minimum of 2000 square feet. We have provided for a certain percentage
2836 of garages with a certain percentage also being side or rear loaded. Architectural treatment, we
2837 have provided 50% brick fronts on at least 50% of the units and we have provided elevations as
2838 part of our proffers. The proffers include paved driveways. We have all reverse frontage lots,
2839 street trees, landscaping along Cedar Fork Road, we have shown a boulevard entrance and the
2840 impact of the street trees on our conceptual plan. The traffic engineer has determined that the
2841 adjacent roadway network could accommodate this request.

2842
2843 I would point out that on the schools report that it is somewhat in error in that the density assumed
2844 by the school system in the chart that you may have before you does not reflect the proffered
2845 densities in any of those cases and as a matter of fact there final assumptions are off by some 15
2846 to 16%. So, I believe that the school issues are less of a concern then perhaps as indicated and I
2847 would be happy to walk you through some of those numbers if you would like to go through the
2848 math. When we looked up the various cases, for instance our case is included in there, 55 units
2849 per acre and we have proffered 35. That was a fairly recent change, so they perhaps didn't have
2850 an opportunity to catch up with us on that. In any event, I think that is positive news on the school
2851 front.

2852
2853 I believe we have presented a case that has very high quality development, certainly consistent
2854 than the Land Use Plan. Consistent with the case to the north for which you have recommended
2855 approval and I would hope that you might recommend approval of this request to the Board of
2856 Supervisors. I will be happy to answer any questions.

2857
2858 Mr. Jernigan - Are there any questions for Mr. Theobald from the Commission?

2859
2860 Mr. Archer - Mr. Theobald.

2861
2862 Mr. Theobald - Yes, sir.

2863
2864 Mr. Archer - I was at the meeting last night. I attended the meeting last night and you
2865 and I talked today about the ramification of what might happen with this Concept Road.

2866
2867 Mr. Theobald - Yes.

2868
2869 Mr. Archer - I can also tell that the residents are opposed to ingress and egress to the
2870 upper left quadrant of this plan being accessed from Mitcheltree. They would prefer to see the
2871 Concept Road stop where it is at Mitcheltree and of course we don't know what will happen in
2872 terms of having to eliminate it from the plan all together.

2873

2874 Given the conceptual layout that has been put before us it would appear that ingress and egress
2875 would have to come the direction the Cedar Fork along what is the, at least a portion of the
2876 intended Concept Road.
2877
2878 Mr. Theobald - Right.
2879
2880 Mr. Archer - So, the Concept Road, at this point, is involved in a couple of things that
2881 are at issue here. One, of course, being as Ms. Moore indicated in her presentation the placement
2882 of a recreational area which would depend on the development of the Concept Road. I think you
2883 indicated today that that portion of this plan could be worked out. Could you explain to the rest of
2884 the Commission how you would go about dealing with the Concept Road and ingress and egress?
2885
2886 Mr. Theobald - Yes, sir. If there was an objection by the Mitcheltree residents to
2887 extending Mitcheltree Boulevard to access the 7 or 8 lots that you see in the upper left hand corner
2888 then, if that was a serious concern of theirs, then we would be prepared to essentially extend the
2889 Concept Road basically to our back property line or 2 lots along that back property line. That would
2890 require us to build a section of the Concept Road through the Vepco easement area and potentially
2891 cross some wetlands and some reason if that weren't feasible then I guess you wouldn't be able to
2892 develop lots there. Mr. Archer, if that is a concern I would be prepared to amend proffer number 7
2893 so that it would state that a connection to Mitcheltree Boulevard shall only occur if required by the
2894 County at time of Subdivision approval. So therefore, if the Board saw fit to eliminate a portion of
2895 that Concept Road my proffer would restrict access to Mitcheltree Boulevard.
2896
2897 Mr. Archer - Okay. What about the recreation area that would be dependent upon the
2898 placement of the road? How would that effect the...?
2899
2900 Mr. Theobald - Well, it would cause a reworking of those lots. We would have to, in fact
2901 it may cause some reworking of some of the other lots, but I think that the applicant has stated in
2902 both the original case and through Ms. Moore that we believe in that concept of providing some
2903 passive recreational areas and it is just so stated on the record. It would require a reworking of a
2904 bit of that plan once we knew where the road was, but we would be providing areas for recreation,
2905 Mr. Archer.
2906
2907 Mr. Archer - So you could still do...
2908
2909 Mr. Theobald - Yes, sure.
2910
2911 Mr. Archer - Okay. That is all I have for right now, Mr. Chairman, unless there is
2912 somebody else we need to hear from.
2913
2914 Mr. Marlles - Mr. Archer, if I could, just an update on the Concept Road as Mr. Theobald
2915 mentioned, Mr. Thornton had submitted a letter requesting the removal of the Concept Road be
2916 studied. A second Board Member has agreed with that and staff is going to be conducting a study
2917 on that possibility. Just to update both of you.
2918
2919 Mr. Archer - Great.
2920
2921 Mr. Theobald - Thank you.
2922
2923 Mr. Jernigan - Thank you, Mr. Theobald.
2924
2925 Mr. Archer - I knew it had been initiated but I didn't know at what point we had
2926 reached at this point and time.

2927
2928 Mr. Jernigan - Okay. We do have opposition, so if you all would like to come up, we
2929 have 10 minutes.
2930
2931 Mr. Carl Overton - Good evening.
2932
2933 Mr. Jernigan - Good evening.
2934
2935 Mr. Overton - Carl Overton from Mitcheltree. Ever since we moved there the Civic
2936 Association was formed in 1991. We've had this bone of contention about the possibility of
2937 Mitcheltree Boulevard becoming a thoroughfare through traffic. The Concept Road idea was on the
2938 maps at the time, but we have on several occasions found reason to oppose it. This development
2939 here already has, appears to be 3 entrances on Cedar Fork Road. That's 1 more entrance than we
2940 have on Mitcheltree, which is, I believe a larger area. The other end of this Concept Road, on the
2941 other side of Mitcheltree would empty into Laburnum. In the Tiffany Meadows area, that is a very
2942 large development and would have traffic coming as far down as, the bridge, the community, what
2943 is the church down there...
2944
2945 Mrs. Ware - Saint Pauls.
2946
2947 Mr. Overton - No, no. The other direction...the community with bridge in its name.
2948
2949 Mr. Archer - The bridge over the Chickahominy. Is that what you mean?
2950
2951 Mr. Overton - No, no, no. I said community with bridge in its name.
2952
2953 Mr. Archer - Newbridge.
2954
2955 Mr. Overton - Newbridge, right. The traffic would have almost a straight line down the
2956 Newbridge area, general area, through Tiffany Meadows and now with this plan directly through
2957 Mitcheltree. There is no need for all that traffic to come through Mitcheltree Boulevard, which is
2958 not built for heavy traffic to start with and since its inception Mitcheltree, that Mitcheltree Boulevard
2959 has been fundamentally the playground, which it seems the County does not deem necessary for
2960 the developers to build into their developments. So Mitcheltree Boulevard has been, in essence, a
2961 play street, because it is dead ended at each end and no one other than the residents, basically
2962 speaking, have occasion to go through there. I believe, in my estimation, this plus the potential
2963 health problem of that pond is my only objection to the development. But that 8 or 9 lots,
2964 whatever it is up there, could very well, we feel that if this plan goes through as is then that, rest of
2965 the Concept Road, which is marked Concept Road, which is actually the entire road from the
2966 Mitcheltree borderline down through to Cedar Fork, that connection would be built eventually and
2967 we'd have nothing to say about it. That is our belief and so therefore we say no, stop it right now
2968 at the Mitcheltree line and the proposed development already has 3 entrances, which would serve
2969 them without access through Mitcheltree. That is my basic argument.
2970
2971 Mr. Archer - So you do understand then, Mr. Overton, that is what we are proposing.
2972
2973 Mr. Overton - Uh, that is not for certain. It has never, to my knowledge...
2974
2975 Mr. Archer - I shouldn't say, the applicant...
2976
2977 Mr. Overton - Okay. We were talking about it last night and we say something might be
2978 done about it, but they were talking about, as far as I know, just cutting it off at the circle there
2979 into Mitcheltree. But that part, which is the present Concept Road, would still remain there.

2980
2981 Mr. Archer - Okay. Well let me refresh what the Secretary just said a few minutes ago.
2982 Mr. Thornton has already initiated some action to deal with the study of the Concept Road.
2983
2984 Mr. Overton - I understood that.
2985
2986 Mr. Archer - He understands that you all don't want it.
2987
2988 Mr. Overton - Definitely not.
2989
2990 Mr. Archer - At this point I don't know that we see that there is any necessity for it, but
2991 the study will determine it.
2992
2993 Mr. Overton - Right.
2994
2995 Mr. Archer - What the applicant has proposed to do is just that, eliminate that portion if
2996 the Board see fits. Eliminate that portion of the Concept Road that goes through Mitcheltree and
2997 use the remainder of it as a means of ingress/egress to that quadrant of the property that would
2998 required access.
2999
3000 Mr. Overton - Right. Okay.
3001
3002 Mr. Archer - So it seems like, if all these things fall into place then that would solve that
3003 problem. Hopefully forever.
3004
3005 Mr. Overton - Whereas I did understand that there was something in the works
3006 concerning it.
3007
3008 Mr. Archer - Right.
3009
3010 Mr. Overton - It isn't cut and dry and I just wanted the Board to understand how we felt
3011 about it.
3012
3013 Mr. Archer - I appreciate it.
3014
3015 Mr. Overton - Because this has been a bone of contention for some time.
3016
3017 Mr. Archer - Okay.
3018
3019 Mr. Overton - Thank you, very much.
3020
3021 Mr. Archer - Well, this brought it to light anyway.
3022
3023 Mr. Overton - I beg your pardon.
3024
3025 Mr. Archer - This brought it to light anyway.
3026
3027 Mr. Jernigan - Thank you, Mr. Overton. Who would like to speak next?
3028
3029 Ms. Barbara Palmer - Barbara Palmer, 912 Dabbs House Road. My concern with this subdivision
3030 is more of a holistic approach to the entire area. We have proposed, for this Board, part of it has
3031 been approved, some of it has gone before the Board of Supervisors, some have been deferred,
3032 several subdivisions in this area which will be a part of Cedar Fork and Creighton Road that will

3033 impact holistically traffic, health and safety, education. I know, I have learned something tonight; I
3034 know that there are certain guidelines, certain restrictions that the Board has to adhere to when
3035 these developers come to you with these proposals for these communities. But I do understand
3036 that as a Planning Commission, as those members who are for the citizens of Henrico County, you
3037 do have certain guidelines, certain requirements that you can adhere to in terms of a planned
3038 community. I do understand that was the reason why you changed some of the requirements for
3039 density. The representative for the developer mentioned the density. I understood that the lot
3040 sizes were changed because of the growth in the County and trying to manage some of that
3041 growth. I'm just asking that you look at managing the growth. Look at the impact on the health
3042 and safety arena for this particular area, the fire department, the police department, look at the
3043 schools. Now I'm a little disturbed that the representative from the developer did not closely pay
3044 attention to the report in terms of the school system because it states in the report from your office
3045 that it will put this school over capacity with the developments for this area. Both on the
3046 elementary, middle and the high school level. I would like for you to look at, again, holistically,
3047 how is this going to impact the Cedar Fork/Creighton Road corridor with the traffic, with those
3048 persons who have to live and work in that area. How can it be managed better?

3049
3050 My other main point has to do with this pond. I asked the representative from this development
3051 this night if he had an opportunity to talk to the developers for Glen Wood Lakes and he was totally
3052 unaware of that subdivision. There is another development, Glen Wood Lakes, which a part of the
3053 draw had to do with the lakes being developed there. Well, that development has not developed
3054 well at all. As a matter of fact, the first builder pulled out and Ryan took over and that brought up
3055 my other question, who is the builder. We have had some builders who have come in and done
3056 very well in terms of the type of housing, how they look, and some who have not done so well. I
3057 want you all to take a look at Maplewood Farms as an example.

3058
3059 Please, again, consider not just this development, on paper it looks fine. The layout of the home
3060 looks fine. I do have a concern with the area of the home, you know, I know the requirements,
3061 13,000 square feet, 18,000 square feet, but look at what is around it in terms of what is in
3062 Claredon Farms, Claredon Woods and the other developments by Ryan Homes when you make a
3063 decision about whether or not to approve this development.

3064
3065 Thank you.

3066
3067 Mr. Archer - Thank you, Ms. Palmer.

3068
3069 Mr. Jernigan - Okay, is that it? Ma'am we have 2 minutes left.

3070
3071 Ms. Artina Taylor - Good afternoon, Artina Taylor, 5107 Meadows Run.

3072
3073 Mr. Jernigan - Good evening.

3074
3075 Ms. Taylor - I live in the Tiffany Meadows Subdivision. I have been there for 20 years.
3076 My concern is that, when I found out about these additional 35 homes that they had changed the
3077 design and I understand now that the entrances and exits could come out to Cedar Fork, which I'm
3078 on Meadows Run, which comes directly into Cedar Fork. Right now we can wait anywhere between
3079 3 and 7 minutes to get out of my exit on Meadows Run, any time between 8 and 8:30 in the
3080 morning. We have, additionally they have built a church down there, there is a school down there,
3081 and the church plans to take over the school so there is going to be additional traffic. It is going to
3082 create a problem for us as far as trying to get out and a safety problem.

3083
3084 The other thing is that these houses that are proposed, the backs of them will border, or the rear
3085 will border Cedar Fork which will be very unattractive to our houses that border, all of our fronts

3086 face the main street, whereas the rear of these houses would face the front of Cedar Fork. So it
3087 would be very unattractive for us. The developer yesterday said that they would be putting up
3088 some type of fence. I don't know how attractive that would be. The other concern has already
3089 been mentioned about the pond and the fact that there is a lot of growth that is there already and
3090 the schools are over crowded and that should be considered.

3091
3092 Mr. Archer - Thank you, ma'am.

3093
3094 Mr. Jernigan - Thank you, ma'am. Okay, Mr. Archer.
3095

3096 Mr. Archer - Well, I guess Mr. Theobald would like to, in his response time, answer
3097 some of the questions, which have been raised. I think we pretty well established what we will
3098 have to do with the Concept Road and the only thing that bothers me is that Mr. Overton said, I
3099 don't know what point we have reached in terms of how we are going to deal with that or how long
3100 it will take to do it. Mr. Secretary, can you help me out a little bit? What is the process that we
3101 have to go through to remove a Concept Road if the Board decides to do it? Is there a public
3102 hearing process?
3103

3104 Mr. Marllles - Yes it is, Mr. Archer. What essentially happens is staff conducts a study
3105 that is presented to the Board at a public hearing; the Board does consider the input, the research
3106 by staff and the recommendation by staff. They consider, certainly, the input of citizens and then
3107 they do vote on it. It is a public hearing process.
3108

3109 Mr. Archer - Right. Now what happens, and I guess what could happen, I know that
3110 nobody can make a recommendation at this point. I guess I should be asking Mr. Theobald. What
3111 happens if the Concept Road removal is not approved? Then how do we proceed with that portion
3112 of the...well I guess, the part that you were going to develop wouldn't be a problem.
3113

3114 Mr. Theobald - No.
3115

3116 Mr. Archer - What concerns the people from Mitcheltree is the piece that would be left
3117 at, what is it Mitcheltree Boulevard, Mr. Overton?
3118

3119 Mr. Theobald - Well, we are prepared to amend proffer 7 so that it would state a
3120 connection to Mitcheltree Boulevard would only occur if it were required by the County. So in other
3121 words, what I am saying is that I don't desire to connect to Mitcheltree Boulevard at all.
3122

3123 Mr. Archer - Okay.
3124

3125 Mr. Theobald - We will make that change tonight and initial it.
3126

3127 Mr. Archer - All right.
3128

3129 Mr. Theobald - Okay.
3130

3131 Mr. Archer - There were a couple more questions I think they had.
3132

3133 Mr. Theobald - Yea, a couple. Responding to a few of the comments with regard to, what
3134 I call a reverse frontage lot, there is a very desirable development feature in a sense that were the
3135 lots to face Cedar Fork Road everybody would have their own driveway directly to Cedar Fork Road
3136 and all those people would be trying to access all hours of the day. We provided a 10' landscape
3137 strip along Cedar Fork Road and we've said that it would include a white vinyl fence and
3138 supplemental landscaping where there is not existing vegetation consisting of Bayberry or Wax

3139 Myrtle hedge so that we would mitigate the impact of that view from the homes in Tiffany
3140 Meadows.
3141
3142 With regard to traffic, again, the traffic engineers found that these 35 lots would not cause a
3143 problem on the adjacent roadway networks and I guess that is the best evidence I can provide in
3144 that regard.
3145
3146 Mr. Archer - Is it Ms. Taylor?
3147
3148 Ms. Taylor - Yes.
3149
3150 Mr. Archer - You don't have to come up. How many homes are on Cedar Fork front?
3151 Can you tell me what front across from this project?
3152
3153 Ms. Taylor - It is only 8 to the front of here.
3154
3155 Mr. Archer - Okay. That would look into the backyards that they are proposing for this
3156 project.
3157
3158 Ms. Taylor - No, it would be more than that. Yes, it is about 8 that would face the
3159 front, but because Meadow runs so close to that property ours fronts this way, and the property is
3160 this way.
3161
3162 Mr. Archer - Okay. I am familiar with it. For the record she said 8. The street scape
3163 that you all planned for that side of the project would be a white vinyl fence, also trees and scrubs.
3164
3165 Mr. Theobald - There are some existing vegetation there now, what we have said is it
3166 would be a minimum of 10' in width for a planting strip easement and it would include a white vinyl
3167 fence and supplemental landscaping where there wasn't sufficient vegetation consisting of
3168 Bayberry, Wax Myrtle hedge, or some equivalent acceptable to the Commission when we come
3169 back. The idea was to provide some visual screening over there while at the same time, I think,
3170 controlling traffic access to Cedar Fork Road.
3171
3172 Mr. Archer - The other issues that were brought up, of course, have to do with the
3173 schools and capacity. They always do. Since I have been on this Commission I have never really
3174 known how to answer the question. From time to time we always see cases where as development
3175 is fostered schools get to the point where they reach capacity, we have to build new ones.
3176
3177 Mr. Theobald - I will tell you that based on the recalculation of these numbers, based on
3178 the proffers of all the cases sited in the schools report that the numbers changed some, dropped by
3179 some 79 units, some 50 school age children, and when you do the math with existing capacity if all
3180 those zoning cases were approved at there proffered densities and they were all built tomorrow you
3181 would be 13 kids over in the elementary school.
3182
3183 Mr. Archer - I did the math. I went through the supplementary report today.
3184
3185 Mr. Theobald - Yes.
3186
3187 Mr. Archer - But, you know, we are getting to that. That is not your problem and I
3188 hope everybody understands it is not his problem. He doesn't build schools. But at the same time
3189 we all realize it is coming.
3190
3191 Mr. Theobald - It is coming.

3192
3193 Mr. Archer - You know perhaps what will come out of it is maybe we will get some new
3194 schools for the neighborhood. I think it is going to happen and the schools are all level. My real
3195 concern now is, and maybe I can get some wisdom from Mr. Secretary, is the Concept Road. Mr.
3196 Overton and the people from Mitcheltree want, you know, I think some assurance that that
3197 Concept Road will not go pass Mitcheltree Boulevard and that it will end at that point. I think if
3198 they could be assured that that would not happen I think that answers Mr. Overton's objections to
3199 what we are doing. But I don't...
3200
3201 Mr. Theobald - Only Mr. Thornton can guarantee that.
3202
3203 Mr. Archer - I know that.
3204
3205 Mr. Theobald - I've done as much as I can by proffering that I don't desire the
3206 connection. I've got to think that knowing Mr. Thornton and his on-going support of his
3207 constituents, I can't image that giving that the traffic engineer in the traffic study said that the
3208 Concept Road was not needed and might cause a cut through condition and given the wishes of
3209 Mr. Thornton's constituents I think it is extraordinarily unlikely that he wouldn't see fit to fix that.
3210
3211 Mr. Archer - I concur with that. I've discussed it with him. I guess, Mr. Secretary, in
3212 your opinion do you think that would become a reality, that we would remove this road or is there
3213 some other obstacle that we've not mentioned tonight that might come up.
3214
3215 Mr. Marlles - Mr. Archer, without obviously doing all of the research and all the study
3216 there maybe something out there that we are not aware of tonight, but I think I would agree
3217 generally with what Mr. Theobald is describing.
3218
3219 Mr. Archer - So, where are we?
3220
3221 Mr. Theobald - I think we have done everything legally possible from our end to make
3222 sure that we don't want to disturb the neighbors in Mitcheltree.
3223
3224 Mr. Archer - Well, I concur with that and I know that Mr. Thornton does also. I can
3225 and I guess I was asking Mr. Secretary to see if he could foresee any eventuality in which that
3226 might not occur.
3227
3228 Mr. Theobald - Well, you have already gotten comments from Mr. Foster. I think that is
3229 the best, perhaps the best early indication that you are not going to get any negative opinion from
3230 that from Public Works.
3231
3232 Mr. Archer - Mr. Marlles, would there be time to do the study and have it completed
3233 between now and the time the Board meets on this?
3234
3235 Mr. Marlles - Mr. Archer, it does require a Public Hearing before the Planning
3236 Commission and the Board and it does require a study by the staff. I think you are looking at a 60
3237 to 90 day process to complete that process. So I'm not sure that is going to be possible.
3238
3239 Mr. Archer - All right. Let me see if I can structure this in another way. I could make a
3240 recommendation for approval with a caveat that the Board would have to remove this Concept
3241 Road. I can't tell them whether or not to approve it, but I could advise Mr. Thornton that
3242 Mitcheltree and the other neighborhoods down there are concerned about it and so is this
3243 Commission. I'm really thinking will happen. I will be honest with you. But we are now getting
3244 into a time frame that we have to have time to give notice for the public hearing. We have to hold

3245 the public hearing, but at least we would not slow it down at this point by removing it from our
3246 process tonight.

3247

3248 Mr. Theobald - I might respectfully suggest, I don't know if the study could be done even
3249 though the public hearings hadn't occurred. But I do think that you could make your
3250 recommendation to the Board with a note of your desire that the Concept Road be removed. You
3251 are correct you can't (unintelligible) the Board, but I think sending that message up is appropriate.

3252

3253 Mr. Archer - I think we are to that point. I think that is how I'm going to make my
3254 motion, Mr. Chairman. I'm just trying to figure out in my mind how I'm going to structure it. Also,
3255 I want to complement these people from Mitcheltree and Tiffany Meadows, and Dabbs House
3256 because this is the second night they have been out to a meeting. I know all of you all are not
3257 retired. But in any event, I think we have overcome the major objections that you all had and that
3258 maybe we'll get to the point now that we can get this road off your street scape and you don't have
3259 to worry about it anymore. With that I am going to move for...

3260

3261 Mr. Jernigan - Mr. Archer, we have to waive the time limits.

3262

3263 Mr. Archer - Okay. I move to waive the time limits on the submitted proffers.

3264

3265 Mr. Vanarsdall - Second.

3266

3267 Mr. Jernigan - We have a motion by Mr. Archer and a second by Mr. Vanarsdall to waive
3268 the time limits. All in favor say aye. Opposed. The ayes have it. The motion passes.

3269

3270 The Planning Commission voted to waive the time limits on Case C-40C-03, F. Robert Loftis.

3271

3272 Mr. Archer - As far as the Concept Road is concerned I'm going to discuss it with Mr.
3273 Thornton thoroughly. I do know that at this point he is in favor of doing it. At least that is what he
3274 told me yesterday. We got your letter on it yesterday or the day before, one of the other. With
3275 that I will move to recommend approval of this case to the Board of Supervisors and at their
3276 discretion it will be subject to the ingress/egress as they see fit.

3277

3278 Mr. Vanarsdall - Second.

3279

3280 Mr. Jernigan - We have a motion by Mr. Archer and a second by Mr. Vanarsdall to
3281 approve. All in favor say aye. Opposed. The ayes have it the motion is passed.

3282

3283 Mr. Theobald - Thank you.

3284

3285 The Planning Commission approved recommendation of approval of Case C-40C-03, F. Robert
3286 Loftis, to the Board of Supervisors.

3287

3288 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning
3289 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the
3290 request because it is an appropriate residential zoning at this location and it conforms to the
3291 recommendations of the Land Use Plan.

3292

3293 **THE COMMISSION TOOK A RECESS AT THIS TIME.**

3294

3295 **THE COMMISSION RECONVENED.**

3296

3297 **Deferred from the July 10, 2003 Meeting:**

3298 **C-16C-03** **Ralph Axelle, Jr. for Route 271, LLC:** Request to conditionally rezone
3299 from A-1 Agricultural District to R-2AC One Family Residence District (Conditional) and RTHC
3300 Residential Townhouse District (Conditional), part of Parcel 738-772-9227 and Parcel 739-770-
3301 0693, containing 120.34 acres (107.97 – R-2AC; 12.37 RTHC), located on the east line of Pouncey
3302 Tract Road approximately 400 feet south of Perrywinkle Road and 600 feet north of Shady Grove
3303 Road. A single family subdivision, including detached condominiums for sale, is proposed. The
3304 applicant has proffered the maximum number of lots not to exceed 2.0 units per acre. The R-2A
3305 District allows a minimum lot size of 13,500 square feet. The RTH District allows a maximum
3306 density of nine (9) units per acre. The Land Use Plan recommends Suburban Residential 1, 1.0 to
3307 2.4 units net density per acre, and Environmental Protection Area.

3308
3309 Mr. Marlles - The staff report will be given by Mr. Mark Bittner.

3310
3311 Mr. Jernigan - Is there opposition to case C-16C-03, Route 271, LLC? We have
3312 opposition. Mr. Bittner, how are you?

3313
3314 Mr. Bittner - A little tired, but I think I am going to make it.

3315
3316 Mr. Jernigan - Okay. Then you may proceed.

3317
3318 Mr. Bittner - This request would be for development of approximately 200 single-
3319 family homes and 40 detached condominiums. I would like to just quickly orientate everybody
3320 to the drawing here (referring to rendering). This is the conceptual layout (referring to rendering)
3321 for both C-16C-03 and C-15C-03, which are adjacent rezoning cases. This is Nuckols Road, this
3322 is Pouncey Tract Road, this quadrant here (referring to rendering) is the case we are now
3323 discussing, C-16C-03.

3324
3325 The County's Major Thoroughfare Plan shows Concept Road 17-1 running through this property and
3326 the applicant would construct this roadway as part of this proposed development. Concept Road
3327 17-1 is proposed to run from the south side of Nuckols Road at its intersection with Wyndham Park
3328 Drive, right here (referring to rendering), all the way down through the property to the north
3329 eastern side of Pouncey Tract Road.

3330
3331 The proffered conditions contain several other quality standards including:

- 3332
- 3333 • A maximum density of 2 units per acre;
 - 3334 • 5 acres of recreational space;
 - 3335 • Full-faced curb and gutter;
 - 3336 • Single-family homes at least 2,500 square feet in size; and,
 - 3337 • Condominiums at least 1,700 square feet in size.

3338
3339 In summary, the proposed development would be appropriate considering its similarity to the
3340 surrounding area. Staff recommends approval of this request.

3341
3342 I would be happy to answer any questions you may have.

3343
3344 Mr. Jernigan - Are there any questions for Mr. Bittner from the Commission? Thank you,
3345 Mr. Bittner.

3346
3347 Mr. Taylor - What I would like to ask, Mr. Chairman, is with regard to Concept Road
3348 17-1 we have heard various reports of the status of the development of the right-of-way of that
3349 road and it's a work in progress. But what I would like to do, Mr. Bittner, is to ask for the current
3350 status of that.

3351
3352 Mr. Bittner - The current status...
3353
3354 Mr. Taylor - Of the Concept Road.
3355
3356 Mr. Bittner - It is on the MTP and is required with development on this property. With
3357 both of these rezoning cases, if they were to be approved, 17-1 would be constructed from
3358 Pouncey Tract Road up to this point right here (referring to rendering). Then you see this dotted
3359 line; this is a piece that is not a part of either rezoning application. This is, I think, the Glen Allen
3360 Community Church property and this portion of the road is now their entrance and would become a
3361 portion of 17-1 eventually. So, even if these cases were approved and developed you would still
3362 have this gap here (referring to rendering), and if that property is ultimately developed they would
3363 have to complete 17-1 in its entirety.
3364
3365 Mr. Taylor - With that one parcel, as being a cork in the bottle, so to speak, do you
3366 know anything about recent developments to acquire that right-of-way?
3367
3368 Mr. Bittner - No, sir. I have not been privy to any of those discussions.
3369
3370 Mr. Taylor. All right. Thank you. That was my questions just what developments
3371 were underway. That Mr. Chairman is all the questions that I have.
3372
3373 Mr. Jernigan - Thank you, Mr. Bittner.
3374
3375 Mr. Taylor - I think we might want to hear from the applicant.
3376
3377 Mr. Jernigan - You in opposition, sir?
3378
3379 Gentleman in Audience - Yes.
3380
3381 Mr. Jernigan - We will hear from the applicant first, then from the opposition. Mr. Axselle
3382 would you like to reserve rebuttle time.
3383
3384 Mr. Bill Axselle - Three minutes.
3385
3386 Mr. Jernigan - Okay. Thank you.
3387
3388 Mr. Axselle - Mr. Chairman, ladies and gentleman of the Commission, Bill Axselle on
3389 behalf of Route 271, LLC and Pruitt Properties is with me, Tommy Pruitt and Rob Loftis and other
3390 folks who are involved in this ownership and development. I won't go through all the details of the
3391 zoning case because they have been worked out fairly extensively with staff. I will just highlight
3392 the major points that have deferred this case for a couple times, as they needed to be worked out.
3393 As Mr. Bittner said, there is a number of assurances of quality in the proffers and I think when we
3394 had a neighborhood meeting the conclusion of the neighbors from the adjoining subdivisions,
3395 mainly Berkshire, was that this development is comparable, if not slightly larger than their
3396 properties. So, there has never been a question about the quality of the development, so I'll not
3397 spend much time on that. I will tell you that one of the conceptual plans that we showed shows
3398 the cul-de-sac coming out right to the property line. That is conceptual in nature and in reality they
3399 will be pulled back more in the traditional fan type fashion, I wanted to state that.
3400
3401 Okay, we had 2 or 3 things that came up as we went through this. One was that the County felt
3402 that because of the total number of units in this case and the immediately following case, while
3403 they are 2 separate ownerships that they are back to back both on your agenda and back to back

3404 in the sense of their adjoining property. The County asked us to consider placing on the properties
3405 a recreation center. So, one of the proffers, proffer #11, provides that we will have a 5 acre
3406 recreation center on our property. The arrangement that we have with the adjoining property
3407 owners, C-15C-03, is they will be participating in that too. So that recreational center will serve
3408 both the properties.

3409

3410 The next issue that came up was Concept Road 17-1 and the traffic pattern. Now the one concern
3411 that we heard and that was the traffic. So a number of things have happened. The case was
3412 deferred and we were required to do a traffic study and then to redo the road layout. So, certain
3413 commitments have been made as Mr. Bittner made, we will have to build 17-1 through our
3414 property and the adjoining property will have to build 17-1 as far as the county, then they will have
3415 to provide another access to Nuckols Road. Without going into details the traffic folks for the
3416 County and the planners and the developers have all worked together on a road network that
3417 allowed, and after the traffic study had been done and after those changes have been put in place
3418 the traffic engineer with the county withdrew the objection and said that the road network can
3419 handle it. So, that has been done.

3420

3421 I think you will probably hear from Mr. Gidley, who is a friend and neighbor from Luxford and great
3422 to work with and we have provided an agreement with them that we will not access through one
3423 particular piece of property, Hillshire Way. Then we've agreed with the neighbors on which
3424 properties, which roads will be accessed. If you noticed on proffer 15, we agree that we will access
3425 through Luxford Way and then in the adjoining case there is an provision that they shall not access
3426 another property in Luxford. All that has been worked out. Then as a provision in there that there
3427 will be connections to Luxford Way by road that includes a cul-de-sac. So the people have to come
3428 through a cul-de-sac to get to the property, lessening the traffic.

3429

3430 Then we have a provision, which was negotiated with the neighbors that during the construction on
3431 the property this connection shall be blocked unless opening such connection is necessary to
3432 comply with the county requirements of the development of the property. The negotiations with
3433 the neighborhood was that this road will be open, but during the construction it's going to remain
3434 shut as long as we can do so and unless required by the county requirements. So, that I think
3435 provided some assurance.

3436

3437 The next thing that happened was that we had the distinction and honor of being before you as the
3438 first case with the voluntary case proffer. It is like being...

3439

3440 Mr. Vanarsdall - I thought (unintelligible) I never seen that proffer.

3441

3442 Mr. Axselle - Yes, it's the first. It's an interesting proffer. Proffer 17, of course you are
3443 familiar with the, and I use these words advisedly, voluntary cash proffer. Whereby certain amount
3444 of monies are being paid, \$10,048 per lot per residential unit for the, basically the Gayton Road
3445 project. I won't go through all of those details. That came up during these deliberations. That has
3446 been negotiated. This language has been agreed to with the County Attorney and others on the
3447 third floor.

3448

3449 Part of the understanding is that when you build a Concept Road you will get a credit for the
3450 incremental difference in having to build the Concept Road. You don't see that in our proffer, the
3451 understanding we had with those individuals is that that language will be inserted after the
3452 Planning Commission. We have agreed on the language, we've not agreed on the amount. Mr.
3453 Lee Priestas did a horrible thing; he took 2 weeks vacation at a very inopportune time. I fussed
3454 that Mr. Thompson who pointed out he just got off a 3 week vacation. We will agree on the
3455 language, excuse me, we have agreed on the language but we've not yet agreed on the amount.

3456

3457 In combination though, however, I will tell you and most seriously that the new road network that
3458 has been put in place, the commitments have been made regarding 17-1 and the commitment on
3459 the voluntary case proffer have put this in the situation where this developer will be paying, I think
3460 2 and a half million dollars in effect towards the Gayton Road project, less the credit. But would
3461 not reduce that as much as we would like. A lot has changed. In light of this I'm trying to give you
3462 the impression that it is very accurate that a lot of work has been done.

3463

3464 I will mention one other thing that Mr. Smart is here as adjoining property owner on the lower part
3465 of the map. We want to state for the record that we will be bringing sewer to his property. That is
3466 a commitment that we have made. He has water to his property from Shady Grove. He has made
3467 an inquiry to us about us providing a stub road to his property, which we've indicated to him, and I
3468 want to state for the record that he has a contract purchaser and we are going to get with him and
3469 that contract purchaser to look at the stub road. Of course, the outcome of that will depend on the
3470 compatibility of their development and our development, because the properties where it would be
3471 accessing our homes will be in the neighborhood of the upper \$400,000 to the lower \$500,000.
3472 We're work with him in that respect. So we will see how that works out.

3473

3474 Mr. Chairman, I given you sort of a quick overview, because this matter as you can see by the
3475 length of the proffers and the longest time I've been here, its been worked out pretty well. I will
3476 close with what the staff said in that they recommend its approval.

3477

3478 Mr. Jernigan - Are there any questions for Mr. Axselle from the Commission?

3479

3480 Mr. Glover - I want a clarification only because I haven't had, I think I know what this
3481 is. You said a voluntary cash proffer. I want to be sure, I understand it was also recommended by
3482 these people that have zoning cases in that area this would be one of the ways to take care of the
3483 traffic. That it was recommended by the developers, not only volunteered.

3484

3485 Mr. Axselle - Yes. The stem of it perhaps is an attention getter, but they recognize,
3486 quite frankly, as the county, and I'm serious that this area is developing at a pace far beyond what
3487 the county infra-structure can handle in a normal fashion. We've been very fortunate in Henrico
3488 that infra-structure has kept ahead of, or pace with development. I think the county has concluded
3489 and the bulk of the development community has concluded that this is an exception. That left to
3490 its own devices the infra-structure would not be in place for what the market said the developer
3491 should be. So, yes they have worked in that respect and we've not opposed this, it's just a matter
3492 of us getting the language straight.

3493

3494 Mr. Glover - I want to tell you that I commend the developers here for recommending
3495 it, not waiting for the county to recommend it because we have in the past taken a stance of no
3496 cash proffers, adamantly. But since the developers are anxious to give the county some money I
3497 think probably we'd be willing to take it.

3498

3499 Mr. Axselle - Well, you may have just gone over the edge there, but...

3500

3501 Mr. Taylor - They don't know what they...

3502

3503 Mr. Glover - Well, just making sure that we get it in the record.

3504

3505 Mr. Jernigan - I believe, Mr. Glover, by next July this won't be a cash proffer it will be a
3506 transportation impact fee.

3507

3508 Mr. Vanarsdall - Impact fee.

3509

3510 Mr. Glover - Maybe. I don't want it in Brookland, how about that. We get our cars up
3511 and down the road pretty good. I'm surprised they don't walk, ride a bicycle.
3512

3513 Mr. Jernigan - Thank you, Mr. Axselle. All right, sir, you are in opposition. Will you come
3514 up, please?
3515

3516 Mr. Gerald Meyer - Is this issue and the next one the same one? The next case.
3517

3518 Mr. Taylor - They are two separate cases. But they are basically the same. They are
3519 based on the same logic and principles and they are two side by side projects.
3520

3521 Mr. Meyer - I'll wait for the next one that comes up.
3522

3523 Mr. Taylor - Okay. Fine.
3524

3525 Mr. Jernigan - Okay, sir you are in opposition? Good evening.
3526

3527 Mr. Larry Gidley - Good evening, my name is Larry Gidley and the address is 12221 Luxford
3528 Place.
3529

3530 Mr. Vanarsdall - Mr. Gidley, are you any kin to Paul?
3531

3532 Mr. Gidley - I'm proud to announce to the world, yes, he is our number one son. We
3533 are proud and pleased.
3534

3535 Mr. Taylor - Mr. Gidley, he is behind you just beaming.
3536

3537 Mr. Gidley - I hope so. I'm acting as the spokesperson for the residents of the Luxford
3538 neighborhood in the Berkley Subdivision. During a March meeting conducting by Bill Axselle and
3539 Andy Condlin we became award of two planned residential developments that will be adjacent to
3540 Berkley. Lot sizes and housing will be consistent with and compliment our subdivision. The only
3541 concern was related to traffic. This concern is especially relevant to the Luxford neighborhood.
3542 The housing in Luxford is located on three streets. Two of these streets would connect to the two
3543 planned residential neighborhoods. The scale on what is on your monitors is small and I don't
3544 know how well I can identify those two streets. Is this, there we go. Can you, okay, very good.
3545 All right. This is the Luxford neighborhood, right here (referring to rendering). Its 30 lots, 28 of
3546 which are now occupied. The main entrance is Luxford Way and notice the stub road here
3547 (referring to rendering). The second street is Luxford Place and notice the stub road here
3548 (referring to rendering) and then Luxford Court which ends at a cul-de-sac. Two of these three
3549 streets, Luxford Way and Luxford Place, at the March meeting were connecting to the two
3550 developments and this is where our concern developed about traffic relative to Luxford. Luxford
3551 residences participated in two neighborhood meetings during which we developed request to
3552 minimize concerns about traffic.
3553

3554 With the cooperation with the two attorneys, the developers and the county the following proffers
3555 were developed: In 16(c), proffer 14, Bill Axselle has already commented about it. Here is where
3556 Luxford Way (referring to rendering) connects and originally it was coming through here (referring
3557 to rendering) straight down to the Concept Road. They have agreed to add a cul-de-sac here
3558 (referring to rendering) to make a few additional turns involved in traveling on Luxford Way
3559 between Nuckols Road and the Concept Road. So that was a positive for us.
3560

3561 The next rezoning application you will be dealing with, C-15C-03, Luxford Place was connecting to
3562 that development. But here again we have an agreement that it will stop with the stub road and

3563 instead there will be a cul-de-sac here (referring to rendering). We Luxford residents are most
3564 appreciative to everyone involved in developing the above proffers. Once both developments are
3565 completed Luxford Way will serve the intended purpose of being a neighborhood connection.

3566
3567 One concern remains. Everyone recognizes the importance of completing Concept Road 17-1,
3568 between Pouncey Tract and Nuckols Road. In our opinion, next in significance will be, and there is
3569 no name for it yet but I will refer to it as the north south road, which is this road (referring to
3570 rendering) that is in the next rezoning application. It goes from Nuckols Road down to the Concept
3571 Road. We feel this is as important to Luxford as is the Concept Road. The other connections
3572 through existing subdivisions will be, and we have already talked about Luxford Way with the
3573 added cul-de-sac, and Heather Brook Lane and Edgemoor. Now that doesn't show on here
3574 (referring to rendering).

3575
3576 Yes, if you could go back to where you were. Thank you.

3577
3578 Heather Brook Lane and Edgemoor, this is Edgemoor (referring to rendering), borders on Nuckols
3579 Road and Heather Brook Lane is this road here (referring to rendering). In 15C, proffer 19, reads
3580 as follows; "there shall be no vehicular connection between Heather Brook Lane and Concept Road
3581 17-1 until Concept Road 17-1 is fully constructed through parcels 740-775-9712 and connects to
3582 Nuckols Road", and that includes getting through what is now the bottle neck.

3583
3584 The bottom line is that once the county requires unblocking Luxford Way for further development,
3585 Luxford Way will become for an indefinite period a thru street rather than the intended
3586 neighborhood street. We understand the point at which Luxford Way will be opened, is when 50
3587 occupancy permits have been issued. This will provide secondary access for emergency vehicles.
3588 This is the main reason why we are here. We are requesting the county at that time to physically
3589 limit traffic on Luxford Way at the southern property line to emergency vehicles only until the
3590 Concept Road and the north south road are completed. Development of 16C can continued
3591 uninterrupted, the 30 children in our neighborhood will have a much safer environment.

3592
3593 That concludes my comments. Are there any questions about what we are requesting?

3594
3595 Mr. Jernigan - Are there any questions for Mr. Gidley from the Commission?

3596
3597 Mr. Taylor - Mr. Gidley, what you have given us is quite complicated although it looks,
3598 as we follow it, it looks reasonable and I know you have given it a great deal of thought. Are you
3599 satisfied with that scenario? Assuming its...

3600
3601 Mr. Gidley - You mean the limit to emergency vehicles?

3602
3603 Mr. Taylor - Yes, the conditions that you specified.

3604
3605 Mr. Gidley - Yes.

3606
3607 Mr. Taylor - All right. I just wanted to make sure that you were pleased with the
3608 outcome of the deliberations and I know that your son helped with that and we appreciate that.

3609
3610 Mr. Gidley - We appreciate the efforts on the part of Bill and Andy and the developers
3611 and the county. In contrast to some of the things we've seen earlier this was a very cooperative
3612 effort.

3613

3614 Mr. Taylor - Yes, it is also very, very complicated by a number of technical issues and a
3615 number of human issues and other financial issues and I appreciate your patience and the patience
3616 of your group in working through with the county staff.
3617
3618 Mr. Gidley - Thank you.
3619
3620 Mr. Jernigan - Thank you, Mr. Gidley. Do you need to hear back from Mr. Axselle or are
3621 you straight?
3622
3623 Mr. Taylor - No, I think Mr. Chairman that there are probably some more people to
3624 speak in opposition.
3625
3626 Mr. Jernigan - Do we have other people in opposition? Okay. I'm sorry, I didn't see...
3627
3628 Mr. Taylor - There are only two gentlemen who would like to speak in opposition.
3629 Okay, sir, if you would come to the microphone and identify yourself for the record.
3630
3631 Mr. John Hinckley - My name is John Hinckley, I live at 8705 Ruggles Road. I'm former Senior
3632 Warden at Christ Church. I share the building and grounds committee at Christ Church, which is at
3633 5000 Pouncey Tract Road. I also work closely with the Methodist Church across the street and
3634 Striker Park down the road which is part of our little community there at the intersection. There is
3635 a concern on the part of those three parties and other parties in the neighborhood on the traffic
3636 impact which seems to be a theme here this evening. There are two sections here, so I'm really
3637 talking about both sections if I could take the liberty because they both have a traffic impact. The
3638 concern that we have is that we are certainly in a fast growing area. I guess it was maybe 2 weeks
3639 ago there was an article about the development out there where we presently enjoy some 10,000
3640 cars a day on Pouncey Tract Road. That is a whole lot of cars. We do have some shoulders but we
3641 don't have some shoulders. The Methodist Church now in order for safety purposes because they
3642 are right there at Shady Grove every Sunday have a policeman there to control traffic. We have
3643 had a few of nasty accidents there.
3644
3645 I just want to address that issue. I know that Pouncey Tract Road is a VDOT road, were the
3646 county able to get a hold of it they could do something for us. I would also recognize that there is
3647 the plan to bring the road over to us from Broad Street. I know that Short Pump is growing. I
3648 don't know what. There is a tremendous traffic impact for those of us on Pouncey Tract Road. Mr.
3649 Taylor has been out there one time with us and we were talking about some water and sewer
3650 problems, great help. The county has been marvelous to us. There is a stop light now down the
3651 street from us but that is because there is a cross street there and Shady Grove is not a cross
3652 street yet.
3653
3654 I just wanted to go on record with you ladies and gentleman that there is a on-going traffic
3655 problem and this subdivision, which is a nice subdivision, is going to contribute I hear 400 cars at
3656 least to Pouncey Tract Road. That is all I have to say.
3657
3658 Is there any questions?
3659
3660 Mr. Jernigan - Is there any questions for Mr. Hinckley? Thank you.
3661
3662 Mr. Taylor - Thank you, Mr. Hinckley.
3663
3664 Mr. Jernigan - Was there anybody else to speak? Okay, Mr. Taylor.
3665
3666 Mr. Taylor - Mr. Axselle I think has 2 minutes left.

3667
3668 Mr. Marlles - Three minutes actually.
3669
3670 Mr. Axselle - Very briefly, Mr. Gidley was kind to contrast the cooperative nature of
3671 these discussions as opposed to some others that we saw this evening. It also shows in the results
3672 for the developer and the neighborhood. This has worked out very well.
3673
3674 The staff report originally did indicate that there were considerable traffic concerns. After the
3675 traffic study the changes that made the staff withdrew the language that earlier had said, "that
3676 staff has concerns regarding the traffic impact in the area without the completion of Concept Road
3677 17-1." That was withdrawn. That is not to say that they said there were no traffic concerns in the
3678 area. They said in an affirmative fashion that the road network adjacent to the site can handle the
3679 traffic. They went on and began to set the stage for what became the voluntary cash proffer
3680 because of the problem that is out there. We are glad to have, I was kidding earlier about some of
3681 the delays and things involved with, but it has actually been (unintelligible) at the end of the day.
3682 We think it is going to be an improvement. But with another quality subdivision in Henrico County,
3683 but I think that the whole deliberation will result in a much improved traffic system out there
3684 ultimately.
3685
3686 Thank you.
3687
3688 Mr. Jernigan - Thank you, sir. Any questions for Mr. Axselle? Thank you.
3689
3690 Mr. Taylor - Mr. Chairman, I would like to just briefly compliment speakers and
3691 compliment the people who worked with this project and that is mostly the neighbors who endured
3692 a number of meetings in various different communications with the developer and with the staff. It
3693 worked really in a spirit of cooperative harmony and this is a very complicated undertaking. Both
3694 because of the fiscal nature of what we are trying to do as well as the social structure that we are
3695 dealing with and the economics. I am delighted so far with the cooperation of the few developers,
3696 both in this case and the one that we are going to talk about in a few minutes. I think what we
3697 have done in here, is we've optimized unit size; we've got a nice recreational facility coming on
3698 board. I am hopeful that 17-1 will have a happy ending. We'll finally acquire the right-of-way and
3699 we can do what we hope to do and do it correctly. I'm delighted to compliment the developers
3700 with regard to the cash proffers as a brand new concept. I know that everybody hopes they have
3701 acquired a right to 17-1 quickly.
3702
3703 It has been complicated and long and it's going to continue that way I'm afraid. It's not going to
3704 happen within the next few months but we will have a nice recreational facility, and the cooperative
3705 spirit and team work of the developers with Mr. Pruitt and Mr. Windsor is good to see. I'm hopeful
3706 that the outcome will be as commendable as the events to date.
3707
3708 With that Mr. Chairman, I'll move to approve C-16C-03 for Route 271, LLC.
3709
3710 Mrs. Ware - Second.
3711
3712 Mr. Jernigan - We have a motion by Mr. Taylor, second by Mrs. Ware. All in favor say
3713 aye. Opposed. The ayes have it the motion passes.
3714
3715 The Planning Commission approved recommendation of approval of Case C-16C-03, Ralph Axselle,
3716 Jr. for Route 271, LLC, to the Board of Supervisors.
3717
3718 **REASON:** Acting on a motion by Mr. Taylor, seconded by Mrs. Ware, the Planning Commission
3719 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because

3720 it conforms with the recommendations of the Land Use Plan, because it represents a logical
3721 continuation of the one-family residential development which exists in the area, and because it
3722 provides for the necessary public infrastructure improvements in this area of the County.

3723

3724 **Deferred from the July 10, 2003 Meeting:**

3725 **C-15C-03 Andrew M. Condlin for Windsor Enterprises:** Request to conditionally
3726 rezone from A-1 Agricultural District to R-2AC One Family Residence District (Conditional), Parcels
3727 740-775-9712, 740-774-4255, 739-774-4564, 740-774-1407, 740-771-4107, 740-773-4426, 740-
3728 772-8110, 740-775-5801, and part of Parcel 740-771-4780, containing 128.4 acres, located
3729 beginning on the south line of Nuckols Road, the northern terminus of Luxford Place and the
3730 southern and western boundaries of Bridlewood subdivision. A single family residential subdivision
3731 is proposed. The applicant has proffered the maximum density of 1.8 units per acre. The R-2A
3732 District allows a minimum lot size of 13,500 square feet. The Land Use Plan recommends
3733 Suburban Residential 1, 1.0 to 2.4 units net density per acre, Rural Residential, maximum of 1.0
3734 unit per acre, and Environmental Protection Area.

3735

3736 Mr. Marlles - The staff report will be given by Mr. Mark Bittner.

3737

3738 Mr. Jernigan - Is there opposition to case C-15C-03? We do have opposition. Okay, Mr.
3739 Bittner you may proceed.

3740

3741 Mr. Bittner - Thank you, Mr. Chairman. This proposal will be for the development of
3742 approximately 230 single-family homes.

3743

3744 The site is along the southeastern side of Nuckols Road across from the Westchase Subdivision
3745 and it is comprised of this area here (referring to rendering).

3746

3747 As with the adjacent C-16C-03 case, the applicants would construct Concept Road 17-1 as part of
3748 this proposed development.

3749

3750 The proffered conditions are similar to those for C-16C-03 and contain several quality standards.

3751

3752 In summary, the proposed development would be appropriate considering its similarity to the
3753 surrounding area. Staff recommends approval of this application.

3754

3755 I would be happy to answer any questions that you may have.

3756

3757 Mr. Jernigan - Are there any questions for Mr. Bittner.

3758

3759 Mr. Taylor - Mr. Chairman, I don't have any questions for Mr. Bittner.

3760

3761 Mr. Jernigan - Thank you, Mr. Bittner.

3762

3763 Mr. Bittner - You are welcome.

3764

3765 Mr. Jernigan - Would we like to hear from the applicant Mr. Taylor?

3766

3767 Mr. Taylor - Yes, sir, I would.

3768

3769 Mr. Andrew Condlin - I think I am the only one who hasn't had a chance to speak tonight. My
3770 name is Andy Condlin from Williams and Mullen.

3771

3772 Mr. Jernigan - Andy, would you like to reserve rebuttle time?

3773
3774 Mr. Condlin - I'll reserve a couple of minutes, two or three would be fine, whatever I've
3775 got left.
3776
3777 Mr. Jernigan - Okay.
3778
3779 Mr. Condlin - I am here on behalf of Bob Bay, Gibson Wright and Greg Windsor, the
3780 developers of about 9 different properties. Some of which have been known for as long as 20
3781 years.
3782
3783 This case is very much like the previous case and almost exactly like it. We've had the same issues
3784 as we went along. I am not going to repeat all of the issues or all of the development standards
3785 that have been set except for foremost among our standards we've provided, I believe, is a density
3786 level of 1.8 units per acre, which puts us squarely within the Land Use Plan and squarely within
3787 consistency with the surrounding properties. That being said, I believe the case that we have
3788 provided provides the assurances of the highest quality that we met or exceed the precedence of
3789 the various case surrounding use, as well as the Land Use Plan.
3790
3791 With that I'll be happy to answer any questions that you may have.
3792
3793 Mr. Jernigan - Are there any questions for Mr. Condlin from the Commission? Thank you,
3794 Mr. Condlin.
3795
3796 All right, we do have opposition, sir you may come up. How are you this evening?
3797
3798 Mr. Gerald Meyer - Good evening. My name is Gerald Meyer. I'm at 11989 Circus Farm
3799 Road. I come to see you people about every 2 years. I know the Board's change, but this time it
3800 is personal. We're the white space that is just south of the Edgemoor Subdivision. As far as the
3801 problems I have with the developers, it's all having to do with the impact of our life style and what
3802 we do in the community compared to the new neighbors that are moving in.
3803
3804 In 1970, I'm sorry 1987 Dr. Phil Bolscher invited us up to Henrico County and asked us to help
3805 build this place. In 1988 my wife and I moved here. She was in the public school system as the
3806 Director of Special Education for 12 years and she just retired last year. Our children have grown
3807 up here and we have put a lot into this community. I'm sorry that I threw them away just prior to
3808 this issue coming up here in March. We had hundreds and hundreds of letters from school children
3809 thanking us for what we had done in the elementary, middle and high school over the last 10
3810 years. Our farm has a lot to do with why this place is really nice and why everybody wants to live
3811 there. I'm still involved in the schools and there is barely a time that I can go over to the high
3812 school now without people coming and thanking me for bringing chickens and the rabbits and the
3813 other animals that we have had for their children to use and grow up with. It's coming to an end.
3814 The last couple of years with having to do with the Edgemoor Subdivision I've had problems with
3815 the developers because they don't listen, they're not paying attention to the things and the
3816 residents out there are just plain angry and feed-up with things like poor drainage, the bad roads,
3817 the increase traffic and this development is just going to add more to it. There is a creek that runs
3818 just on the south side of our property that has changed significantly over the past couple of years
3819 because of the development that is coming. I don't, I know it's not going to impact me that much.
3820 There is a lot of people who are going to be angry once this, we start to have a storm, a flood
3821 again, and their properties are going to be flooded out. Nobody has talked about this yet. I've
3822 talked to the folks at the County about it and they said we'll work it out. But I think there is just to
3823 many houses in that area to be safe.
3824

3825 Another item, I know the people discussed the roads and I don't think that is much of an issue. I
3826 know Steve Parrish that owns the property of the Concept Road and he is willing to move for
3827 money. But nobody has wanted to come up with enough yet.

3828
3829 My last item is concerning this business of the proffers. I've talked to both Mr. Kaechele and Ms.
3830 O'Bannon in the last couple of weeks about this. Frankly, I think you folks are shooting yourself in
3831 the foot my starting this proffer business here. If the growth is to much, just stop the
3832 development, postpone it, just say that the people can't develop here until we have time to catch
3833 up with the schools, the roads and to work these other problems out. Asking for cash proffers now
3834 is leading down a road that I recognize happened to the people in Virginia Beach a number of years
3835 ago. It had a negative impact in development a couple of years, once they started getting use to
3836 it.

3837
3838 I made up a list of things that I would like to ask for; I don't think I need to read them here in
3839 public. These are just a couple of things that if the developers would cooperate would help stop
3840 future problems that I might have or the neighbors would have with me in the future.

3841
3842 Okay, thank you.

3843
3844 Mr. Taylor - Mr. Meyer, may I ask you a couple of questions?

3845
3846 Mr. Meyer - Certainly.

3847
3848 Mr. Taylor - Sir, how many areas do you have in here now?

3849
3850 Mr. Meyer - Seven.

3851
3852 Mr. Taylor - Seven. And your intentions are to remain in this area, even with the
3853 encroaching development?

3854
3855 Mr. Meyer - Well, if the encroaching development, if we can cooperate with the
3856 encroaching development, yes. We need a place to live and this is a nice place.

3857
3858 Mr. Taylor - I have been to your home, I've been to your farm, I have looked it over, I
3859 understand your wildlife, but you know there is a time that you have to adapt to the world around
3860 you as the world has to adapt to you being there. I mean, we may be able to provide you with the
3861 utilities and the services, but I don't know that we could resolve all of the issues that you have
3862 listed here on the items of concern because quite frankly sir they are beyond the scope of
3863 developers and they're probably beyond the scope of what the county could do. Some of these
3864 types of things...

3865
3866 Mr. Meyer - What is beyond the scope of the county to do?

3867
3868 Mr. Taylor - I don't know that the county can provide a 10' green space on all lots
3869 adjoining your property to act as a buffer for noise, for instance. I don't want to get into the
3870 individuals here sir. I'm just trying to get an idea of what your long term objectives are. Are they
3871 to say here?

3872
3873 Mr. Meyer - Our long term objectives were to stay there because we hadn't gotten
3874 anywhere with the developers trying to buy us out.

3875
3876 Mr. Taylor - Okay. But if you...

3877

3878 Mr. Meyer - And the (unintelligible) that I ask for these things is because of the
3879 neighbors that have come into Edgemoor. That a couple of years ago at this, when I was before
3880 the Board, and I asked to have things like problems with the drainage and the lot size worked out it
3881 didn't happen. It got worse and now I have neighbors calling the police on me because I'm
3882 watching them walk around in their underwear in the morning when I go out to get my newspaper.
3883
3884 Mr. Taylor - Are you neighbors that close sir?
3885
3886 Mr. Meyer - Yes, they are that close.
3887
3888 Mr. Taylor - Okay.
3889
3890 Mr. Meyer - They are that close, they are terribly close and its inconveniently close to
3891 them. The developers sell a dream to people and they tell them that they are out in the woods and
3892 that they're having a wonderful nature experience. But when the people have to deal with the
3893 nature experience like animals getting killed they are upset. Okay. I've had a number of the
3894 people call the animal control on us because we have had to destroy animals that were ruined by
3895 their dogs coming and encroaching on our property. We didn't ask for this, they knew what was
3896 going on, they knew the farm was there, they brought the houses and the developers didn't tell
3897 them what was going on there and I asked you to remedy that situation, to ask the developers to
3898 put this in the deeds. To put this in the covenants when this project goes through.
3899
3900 Mr. Taylor - Okay, thank you, sir.
3901
3902 Mr. Jernigan - Thank you.
3903
3904 Mr. Archer - Mr. Meyer, excuse me while he is coming up. Have you given a copy of
3905 that to the developers?
3906
3907 Mr. Meyer - I gave it to the attorneys, yes.
3908
3909 Mr. Archer - Okay. Thank you.
3910
3911 Mr. George Smart - How are you'll this evening?
3912
3913 Mr. Jernigan - How are you?
3914
3915 Mr. Taylor - Good evening, sir.
3916
3917 Mr. Smart - My name is George Smart. I live at 4790 Shady Grove Road. We have
3918 approximately 43 acres for sale that is under contract right now. I would like to see where, at the
3919 very bottom they've got a Concept Road to come out to Shady Grove, if they would change that
3920 cul-de-sac and make it come over to our property or to abut to that property line that would help
3921 me because we have a wetland that comes through there. That would help me on developing that
3922 property as well. Excuse me for my voice and everything but 4 weeks ago I had my back fused.
3923 I'm not supposed to be in a car but I'm here. I need to get this straightened out. If I could just
3924 get that cul-de-sac changed to an abutment road it would help me because I need 2 exits on my
3925 property, because it would give me approximately 86 lots at 2 lots to the area.
3926
3927 Mr. Taylor - I think we talked about that at our last meeting, did we not.
3928
3929 Mr. Smart - We had a meeting...
3930

3931 Mr. Taylor - Have you talked to the developer since that meeting?
3932
3933 Mr. Smart - I can't get anywhere with them. Now the Pruitts are willing to talk, but
3934 Greg Windsor is not.
3935
3936 Mr. Taylor - What I would say is to, the best thing that I can advise is to talk to the
3937 staff and ask the staff to see what they can do about setting up a meeting and then we will review
3938 your case and see what we can work out. Would that be fair?
3939
3940 Mr. Smart - All right. Thank you.
3941
3942 Mr. Taylor - Okay.
3943
3944 Mr. Jernigan - Thank you, sir.
3945
3946 Mr. Taylor - Are there any other...Mr. Chairman, do you want to see if there was
3947 another opposition.
3948
3949 Mr. Jernigan - I don't think there was any other opposition.
3950
3951 Mr. Taylor - Okay.
3952
3953 Mr. Jernigan - Do you want to hear back from Mr. Condlin?
3954
3955 Mr. Taylor - If Mr. Condlin would like to come back up and speak he may. You looked
3956 so comfortable there....
3957
3958 Mr. Condlin - I'd like to make a couple of comments about a couple of things that were
3959 said. First of all we have now proffered the lot layout, this was given as a tentative or just as a
3960 proposal of how the property would be developed. The actual road layout will obviously come
3961 before this commission at the time of subdivision approval and at that time we can talk about the
3962 location. Many of the things that Mr. Meyers has also presented in his list I think are subdivision
3963 issues related to utility and lot layouts and things of that nature. Finally, I would point out that
3964 while he has had problems with neighbors in the past there are some items on the list with respect
3965 to what he is doing on his property if he has the legal right and lawful right to do does, we're not
3966 going to inhibit that and nor should we. I don't think by any right that we do have that right.
3967 Finally, I'd say that the proposal that we are setting forth before you is consistent with the
3968 surrounding development that you have approved before and that is consistent with the Land Use
3969 Plan requirements and we'd ask you to recommend this to the Board of Supervisors for approval.
3970
3971 Mr. Jernigan - Are there any questions for Mr. Condlin from the Commission?
3972
3973 Mr. Taylor - Mr. Chairman, before I make the motion I do want to compliant Mr.
3974 Windsor, Mr. Bain and (unintelligible) for the work that they have done in this. My previous Condlin
3975 and Pruitt case equally apply. Its been consistent and its been complicated and its been long, but I
3976 think they've worked in good faith and cooperative spirit and I expect they would continue to work
3977 that way, both together for the benefit of Henrico County and for the benefit of the people who live
3978 there. Most importantly by those who are affected by these two major projects coming together.
3979 With that I will move approval of case C-15C-03, Windsor Enterprises.
3980
3981 Mrs. Ware - Second.
3982

3983 Mr. Jernigan - We have a motion by Mr. Taylor, a second by Mrs. Ware. All in favor say
3984 aye. Opposed. The ayes have it the motion is past.

3985

3986 The Planning Commission approved recommendation of approval of Case C-15C-03, Andrew M.
3987 Condlin for Windsor Enterprises, to the Board of Supervisors.

3988

3989 **REASON:** Acting on a motion by Mr. Taylor, seconded by Mrs. Ware, the Planning Commission
3990 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because
3991 it conforms with the recommendations of the Land Use Plan, because it represents a logical
3992 continuation of the one-family residential development which exists in the area, and because it
3993 provides for the necessary public infrastructure improvements in this area of the County.

3994

3995 **Deferred from the July 10, 2003 Meeting.**

3996 **C-23C-03 Robert Atack:** Request to conditionally rezone from A-1 Agricultural
3997 District to R-3C One Family Residential District (Conditional), Parcels 747-764-3839, 747-764-7729,
3998 and 747-764-9550, containing approximately 9.71 acres, located at the southeast intersection of
3999 Sadler Road and Thorncroft Drive. Single family subdivision is proposed. The applicant proffers a
4000 density not to exceed 2.3 units per acre. The Land Use Plan recommends Suburban Residential 1,
4001 1.0 to 2.4 units per acre.

4002

4003 Mr. Marlles - The staff report will be given by Mr. Tom Coleman.

4004

4005 Mr. Jernigan - Is there any opposition to case C-23C-03? We have opposition.

4006

4007 Mr. Marlles - Ladies and gentlemen, the meeting is still going on and if you don't mind
4008 going out into the outside area.

4009

4010 Mr. Coleman - The proffers submitted to you require waiving the time limit.

4011

4012 This application originally sought an RTH zoning district, however the request has been amended to
4013 an R-3C district to develop a single family residential subdivision.

4014

4015 A number of rezoning applications and subdivisions have recently been approved along Sadler Road
4016 with the most recent rezoning requests being approved for the R-3C zoning district.

4017

4018 The amended proffers include several new proffers committing to higher quality building materials.
4019 Proffer #4 includes requirements for dimensional shingles, exposed aggregate driveways and
4020 walkways, screening for HVAC units visible from public rights-of-way, and sodded and irrigated
4021 front yards. These are in addition to the previous commitment to 2200 sq. ft. dwellings with
4022 garages, a percentage of brick/stone fronts, paved driveways, and other items. In proffer #7, the
4023 applicant has increased to 50% the number of lots requiring minimal 85' lot widths.

4024

4025 The subject property serves as a gateway to the neighborhood served by Thorncroft Drive. This
4026 well established residential area is zoned primarily A-1 and is characterized by one acre lots with
4027 150 foot lot widths. The most recent rezoning applications approved in this area require minimal
4028 85' wide lots. Staff continues to believe that the minimal 85' lots would be more consistent with
4029 the ongoing development along Sadler Road and serve as a better transition to the wider lots along
4030 Thorncroft Drive.

4031

4032 If the applicant were to satisfactorily address the concern regarding lot width, staff could
4033 recommend approval of this application.

4034

4035 I would be happy to answer any questions.

4036
4037 Mr. Jernigan - Are there any questions for Mr. Coleman from the Commission? Thank
4038 you, Mr. Coleman. Do you want to hear from the developer/applicant, Mr. Taylor?
4039
4040 Mr. Taylor - Yes, sir if we may.
4041
4042 Mr. Philp Parker - I would say good evening, but actually it is good morning.
4043
4044 Mr. Jernigan - Good morning.
4045
4046 Mr. Parker - My name is Philp Parker, Vice President of Atack Properties. The
4047 application as Tom mentioned, the application before you was originally submitted RTH, the intent
4048 was this as an RTH development would have been a transition from the Innsbrook Corporate
4049 Center into the existing single family residences. That was met with some concerns from both staff
4050 and the adjoining owners and the applicant has reconsidered and is now submitted before you as
4051 an R-3C case.
4052
4053 Through the continued efforts and communications with staff and with Mr. Taylor we have created
4054 what we feel will become a very desirable neighborhood. Instilling a sense of community among
4055 the future residents of this area. To accomplish this we have committed to a number of proffers,
4056 which include such niceties and upgrades as outlined on the proffer sheet. I'll briefly touch on
4057 them: minimal dwellings will be a minimum 2200 square foot finish floor area, attached garages
4058 required for each home, brick or stone foundations to include bay windows and chimneys, quality
4059 exterior products including at least half of the homes having brick elevations, 30 year dimensional
4060 shingles, exposed aggregate sidewalks and driveways, standing seam metal roof for all bay
4061 windows and ornamental roofs (those would be the eyebrows under return A), sided irrigated front
4062 yards, brick or stone chimneys, we are proffering 2 street trees with a minimal 2 ½" caliber per lot,
4063 a 1.3 acre common area with a contemplated foot trail is now incorporated within the desire based
4064 on recent conversations with staff and Mr. Taylor, all new utilities will be installed underground, we
4065 will install, based on designs that we will work through with staff and irrigated landscape entrance
4066 feature, and we'll work through that relative to site distances as well and we've proffered a 25'
4067 landscape buffer, no ingress/egress easement along the Sadler Road frontage of the property
4068 which is on the curve of Sadler Road right through there referring to rendering). Finally, a recorded
4069 deed of covenants and restrictions will be placed on the subdivision.
4070
4071 We feel based upon the dialogue with staff and Mr. Taylor by including the 1.3 acre common area
4072 that is shown on the monitors now and the design of this neighborhood will help instill a strong
4073 sense of community within this neighborhood that doesn't typically exist in a lot of neighborhoods
4074 as things are developed in the current design criteria.
4075
4076 This common area will be used as a passive amenity. It will be governed by a preservation
4077 easement prohibiting anything but a passive use of the area and it will be owned by the
4078 homeowners association.
4079
4080 Based upon the high quality of the previously mentioned features and this neighborhood and
4081 through staff's support of this request and our ability to meet staffs desire to exceed the quality
4082 components of previously approved cases in this area we would respectfully request that this
4083 request be recommended for approval to the Board.
4084
4085 I am happy to answer any questions.
4086
4087 Mr. Jernigan - Are there any questions for Mr. Parker from the Commission?
4088

4089 Mr. Taylor - Mr. Parker with regard to the buffer space, I think it was quite clear of
4090 what you are going to do and the particular aspect of that I think we need to dwell on is the
4091 availability of that amenity to everybody who is a resident in that area.
4092
4093 Mr. Parker - You are referring to the common area that we have included.
4094
4095 Mr. Taylor - Right.
4096
4097 Mr. Parker - Yes sir, we...go ahead.
4098
4099 Mr. Taylor - I think it is much better in my judgment to incorporate it is a common use
4100 area to be shared by everybody rather than parceled up as individual lots and I want to commend
4101 you on that effort. I think that will be a very positive recreational feature as the years go by. I also
4102 wanted to compliment you for some of the details of 30 year dimensional shingles and the exposed
4103 aggregate, sidewalks in some of those and other upgraded activities.
4104
4105 Mr. Parker - Thank you.
4106
4107 Mr. Taylor - I think those are features that will wear well in their longevity and add a
4108 great deal of quality, charm and value to the houses.
4109
4110 Mr. Parker - And we agree.
4111
4112 Mr. Taylor - I wish we could get, more lots greater than 50%, but I understand. You
4113 can't get up to 85 but how close are you going to get to the width?
4114
4115 Mr. Parker - Well, the average lot width is 85' throughout this neighborhood, minimums
4116 are 80, and we've got approximately 7 lots, if memory serves correct, this has been adjusting a lot
4117 since adding this common area. I believe it is 7 lots that are 80' in width, 3 lots 82 to 83' in width
4118 and everything else 85 and above. If you look at the piece of property its got a number of unique
4119 features to it. Its shape, number one, as it was compiled prior to our involvement of number
4120 properties along Thorncroft. There is an existing pond on the property, that is hard to see on this
4121 layout because of the coloring and the environmental features going through the middle of the
4122 property will become a part of the common area. Its unique. Obviously the easy pieces don't exist
4123 much any more. Everything is an opportunity.
4124
4125 Mr. Taylor - Well, I think the other opportunity there is the buffer along Sadler Road
4126 really provides an amenity and a green space for everybody. So, Mr. Chairman I'll move to approve
4127 case...
4128
4129 Mr. Jernigan - Wait a minute, we've got opposition.
4130
4131 Mr. Taylor - Oh, we do...
4132
4133 Mr. Dave Cummings - Why bother speaking up if you're going to approve it.
4134
4135 Mr. Taylor - No, please come down sir. I'm sorry.
4136
4137 Mr. Cummings - Well, that was certainly inappropriate.
4138
4139 Mr. Taylor - I'll agree to that. I'm sorry.
4140

4141 Mr. Cummings - Since we have been here since 7:00. Given you assurances that we would
4142 be out after 11:00 and its already midnight and you're already approving this.

4143

4144 Mr. Jernigan - Who assured you we would be out of here by 11:00?

4145

4146 Mr. Cummings - Mr. Taylor. Now, I'm Dave Cummings, I represent the Cedars
4147 neighborhood and we are a subdivision of about 100 homes just on the other side of this, but we
4148 do have folks who live on Thorncroft. This development will certainly impact them. There are
4149 several things that we are very concerned about. I wish you would take a little bit of time to listen
4150 to what we have got to say before we rush to approve this.

4151

4152 One of the things is we had not even seen this before tonight. The folks that we had here from the
4153 Cedars obviously couldn't stay and I'm the elected one to stay around. But we would, number 1
4154 ask for a little bit of time to explain to our neighbors exactly what is going on here so they have an
4155 opportunity to see it and identify any concerns or issues that they might have. So number 1 we
4156 would ask for at least a 30 day deferral. Secondly, the density issues are another concern. Now
4157 the staff has recommended and has urged you to consider the minimum 85' lot widths and that
4158 would reduce the density in this area. There are unique ways to deal with the layout and the
4159 wetland areas which are required and so forth. Sadler Road is an unsafe road. You have approved
4160 several developments along Sadler Road in recent years, for Webb Tyler, for Neil Farmer, for
4161 others. They have all been given this R-3 zoning and this Commission has understood and has
4162 heard the concerns of these neighbors and others about the density and the traffic along Sadler
4163 Road and it is still a problem. It is not getting better, it is getting worse. The assurances that this
4164 road issue will be dealt with by the county have been going on for years, probably 10 years maybe
4165 longer. You'll hear from some of these ladies.

4166

4167 I heard tonight that, yes again, the county is prepared to deal with this issue in 2004. We have no
4168 idea what it is going to do, when its going to happen, or if it is going to happen. I would also urge
4169 you to consider restricting the density in the development along Sadler Road until Sadler Road gets
4170 fixed. There are school buses, there are construction vehicles that go back and forth on Sadler
4171 Road and there are places that you simply cannot pass a school bus or a truck without running off
4172 the road. There are no shoulders along Sadler Road. So that is the second issue. That you have
4173 to deal with and this business of saying we are going to deal with it is just not going to cut it
4174 anymore. I'm speaking from neighborhoods and neighbors and people who live all along Sadler in
4175 addition to the Cedars neighborhood that I represent.

4176

4177 Thirdly, the proffers that have developed or have been proposed sound very good. I mean they
4178 sound to be reasonable and in keeping with the development that is along Sadler Road so far. As
4179 far as that is concerned I don't think that I have any concern and I don't think our neighbors will
4180 have any concern. But the timing of this is issue, the density of this development and the traffic
4181 along Sadler Road are three reasons why you ought to consider giving some more time, at least a
4182 30 day deferral so that we can explain to our neighbors what's going on since they weren't even
4183 given the courtesy of receiving a mailing and I don't know why. I guess it is because we don't
4184 directly about this, but we've got folks who live right on the end of Thorncroft that are very much
4185 impacted. Beyond that I wish you would really consider avoiding anymore development until
4186 Sadler Road gets fixed.

4187

4188 That concludes my comments.

4189

4190 Mr. Jernigan - Are there any questions for Mr. Cummings from the Commission?

4191

4192 Mr. Taylor - Well, Mr. Chairman I think he made some good points.

4193

4194 Mr. Jernigan - Thank you, Mr. Cummings.
4195
4196 Mrs. Ware - Has there been a meeting with the developer and the adjacent property
4197 owners?
4198
4199 Mr. Cummings - No, there has not been with the Cedars. Now I think, there has been
4200 some meetings, but these ladies that live directly beside this can speak about any meetings that
4201 they may have attended.
4202
4203 Mr. Taylor - I think more basic than that is the traffic, roads has looked very carefully
4204 at that road and I think that they understand the challenges and its on the schedule for widening.
4205 I think we would benefit from an errand of where we are so that everybody can catch up.
4206
4207 So, Mr. Cummings I will move to defer this for 30 days at my request. The resident meetings that
4208 you suggest and I do apologize for overlooking you. It is so late at night and..
4209
4210 Mr. Cummings - I certainly understand.
4211
4212 Mr. Taylor - I didn't recognize you. So my heart felt apologies for stepping over you.
4213
4214 Mr. Cummings - I appreciate that.
4215
4216 Mr. Taylor - I would appreciate it if you would forgive the oversight and we'll just defer
4217 it and we will meet again.
4218
4219 Mr. Glover - Do the other people have something to say over there? They might.
4220
4221 Mr. Taylor - Ma'am, if you would like to talk please go ahead.
4222
4223 Ms. Nettie Flippen - My name is Nettie Flippen and I live at 11171 Thorncroft Drive. Mr.
4224 Cummings has more or less expressed most of our concerns and interest. Although I do have one
4225 that as far as I know and I have been told with my records, one of the houses in this project, the
4226 brick home is already in a subdivision. That concerns us because we are in Oakland Hill Subdivision
4227 and we do have our own covenants and I not sure that this undertaking is going to be in with that.
4228 So I would like that issue concerned. I can give you or I can send you copies of the Deeds and our
4229 plot plans which the house that is in there I think it is the very first one that was built in Oakland
4230 Hills. I can't give you that plot plan but I can give you ours.
4231
4232 Mr. Taylor - Thank you, ma'am.
4233
4234 Mr. Jernigan - Thank you, ma'am. Is there anybody else who wanted to speak? Okay,
4235 thank you. All right, Mr. Taylor.
4236
4237 Mr. Taylor - I want to hear from Mr. Parker again. This previous comment that the
4238 lady had, is this the first time you've heard of this?
4239
4240 Mr. Parker - Regarding Oakland Hills? Actually Ms. Flippen and I spoke earlier this
4241 evening. Our title report did not indicate such. I don't debate what she is saying. I've ask her
4242 tonight that she and I be able to discuss that. We will definitely dive into that further, but the title
4243 report for the purchase of the property did not reveal that any of this property was in a subdivision
4244 previously existing. If that is true I've got an issue with my title company and I appreciate her
4245 bringing it to my attention.
4246

4247 Mr. Taylor - I think it is reasonable to defer this for 30 days until we get this all
4248 squared away. So I will move, Mr. Chairman, to defer this case for 30 days at the request of the
4249 Commissioner.

4250

4251 Mr. Archer - Second.

4252

4253 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mr. Archer. All in favor
4254 say aye. Opposed. The ayes have it the motion is passed.

4255

4256 The Planning Commission deferred Case C-23C-03, Robert Attack, to its meeting on September 11,
4257 2003.

4258

4259 **P-9-03 Ben Lilly for Goode Land Co., Twin Hickory LLC:** Request for a
4260 provisional use permit under Sections 24-58.2(d) and 24-122.1 of Chapter 24 of the County Code in
4261 order to provide outside dining for a proposed restaurant, on part of Parcel 746-773-1046,
4262 containing approximately 955 square feet, located at the southwest intersection of Old Nuckols and
4263 Nuckols Roads in the Town Center @ Twin Hickory retail center. The existing zoning is B-2C
4264 Business District (Conditional). The Land Use Plan recommends Commercial Concentration and
4265 Environmental Protection Area.

4266

4267 Mr. Marlles - The staff report will be given by Mr. Gidley.

4268

4269 Mr. Jernigan - Is there any opposition to case P-9-03. Mr. Gidley, you may proceed.

4270

4271 Mr. Gidley - Thank you Mr. Secretary, Mr. Chairman, members of the Planning
4272 Commission.

4273

4274 This case is P-9-03, a request for a Provisional Use Permit for outside dining at a proposed Bottom's
4275 Up Pizza.

4276

4277 This restaurant would be located on an out parcel of the Twin Hickory Town Center. It is planned
4278 for the northern edge of a group of shops proposed for this out parcel. The outside dining area
4279 would be no larger than 1,000 square feet, and contain approximately 68 seats. As you may be
4280 able to see on this slide (referring to slide), a black painted steel railing fence would be along the
4281 edge of the outside dining area and it would also contain significant landscaping with shrubs and
4282 some small trees.

4283

4284 Coming into view now is the side elevation (referring to slide), the outside dining is right here
4285 (referring to slide), again you can see the black steel rail fencing along with some of the shrubs and
4286 the trees that would be planted in this area.

4287

4288 Earlier this year, a Provisional Use Permit (P-3-03) was issued for outside dining at Garlands Way
4289 Restaurant, which is also located in the same shopping center. Since this facility too is in the same
4290 shopping center, yet further away from the nearby residence, quite a bit further away from the
4291 nearby residences. I believe this request would be appropriate.

4292

4293 If the Planning Commission decides to support this request, staff suggests several conditions that
4294 you have received copies of. In addition to what was in the staff report, staff added condition #11,
4295 which would require the construction of the dining area to be in substantial conformance with the
4296 attached drawings, that I have shown you here (referring to rendering). Also, condition #13 that
4297 states any umbrellas associated with the outside dining would not contain any advertising.
4298 Evidently, these tables that will go here (referring to rendering) will have some umbrellas and we
4299 just want to make sure that they don't have any advertising slogans on them.

4300
4301 With that staff can recommend approval with the suggested conditions.
4302
4303 Are there any questions I can entertain from the Commission?
4304
4305 Mr. Taylor - The question on the last one, you said you didn't want any umbrellas with
4306 any logos or advertising.
4307
4308 Mr. Gidley - Yes, sir.
4309
4310 Mr. Taylor - That has been agreed to by the developer.
4311
4312 Mr. Gidley - I believe I mentioned it to them. They told me late when I asked them,
4313 "are you going to have any type of awning that is not shown on here or are you going to have
4314 umbrellas, or what?" Due to an easement in the area and to avoid any permanent structure, they
4315 needed to go with umbrellas. I want to say that I am 80% sure that I mentioned it to them that I
4316 was going to put that in as a recommended suggestion.
4317
4318 Mr. Taylor - The remainder of the conditions that are on this sheet, you accept these.
4319
4320 Mr. Gidley - They are my suggested conditions, of course, I accept them. It would be
4321 up to the developer to speak for him or herself.
4322
4323 Mr. Glover - I thought with Provisional Use Permits, we imposed conditions that we
4324 want on them.
4325
4326 Mr. Gidley - Yes, sir that is correct.
4327
4328 Mr. Glover - Whether or not they accept or not. These are conditions that you want,
4329 Mr. Taylor.
4330
4331 Mr. Jernigan - These aren't proffers, these are conditions.
4332
4333 Mr. Taylor - Have they met the conditions you feel appropriate.
4334
4335 Mr. Gidley - Yes, sir, they are.
4336
4337 Mr. Taylor - That is good. Thank you, sir.
4338
4339 Mr. Gidley - Thank you.
4340
4341 Mr. Jernigan - Thank you, Mr. Gidley.
4342
4343 Mr. Vanarsdall - Mr. Gidley, what is the reason for nothing on the umbrella. What is that
4344 for, what is the reason for that?
4345
4346 Mrs. Ware - No advertising.
4347
4348 Mr. Glover - Pierre water is pretty good.
4349
4350 Mr. Vanarsdall - Any umbrella associated with outdoor dining are not contained in the
4351 advertisement. I have never heard of that.
4352

4353 Mr. Gidley - The reason it was put in there is, for one thing you can get in trouble with
4354 regards to signage on the property. Does this exceed the limits and so on? I didn't think we
4355 wanted to go into a case where we get into a debate or an argument of whether or not this, in my
4356 opinion this would be signage and would be subject to their limits. I thought it would be more
4357 appropriate just to go ahead and say out front that your signage would be on the building.
4358
4359 Mr. Vanarsdall - You mean if the umbrella had Bottoms Up on it?
4360
4361 Mr. Gidley - Yes, sir.
4362
4363 Mr. Vanarsdall - If I went in there with my Wilson umbrella it wouldn't make any
4364 difference. Is that what you are saying?
4365
4366 Mr. Gidley - Well, I don't think that would be permanent there. But in their case...
4367
4368 Mr. Vanarsdall - I never saw that in my life.
4369
4370 Mr. Jernigan - So you wouldn't have an umbrella that said Corona?
4371
4372 Mr. Gidley - Yes, sir, that is correct.
4373
4374 Mr. Ware - So they would all be nice looking.
4375
4376 Mr. Archer - Well, they agreed to it.
4377
4378 Mr. Vanarsdall - I never heard of such a thing.
4379
4380 Mr. Jernigan - Thank you, Mr. Gidley.
4381
4382 Mr. Gidley - Thank you.
4383
4384 Mr. Taylor - Do we want to hear from the applicant, Mr. Chairman?
4385
4386 Mr. Jernigan - That is up to you.
4387
4388 Mr. Taylor - Does the applicant want to address the Commission.
4389
4390 Mr. Jernigan - I mean, if you feel you need to hear from him, if not, if you are
4391 comfortable, if you don't have a problem with it you can make a motion.
4392
4393 Mr. Taylor - Well, he has been just sitting there for 1 hour, its 12:30, I think he can at
4394 least approach the podium and describe his desires.
4395
4396 Mr. Jernigan - Well, if he has only been here for an hour he doesn't qualify.
4397
4398 Mr. Reed Goode - My name is Reed Goode with Goode Land Company. I am the applicant
4399 and I will say that I did request to Paul that it be on the expedited agenda tonight and I see that I
4400 ended up being last. So that will be the last time that I request that. I did want to clarify that
4401 there are 2 additional conditions that you added and that is the no advertising and that the building
4402 conformity with the rest of the building. Is that it?
4403
4404 Mr. Gidley - The outside dining would be built in conformity.
4405

4406 Mr. Vanarsdall - What did you say, I cannot hear you?
4407
4408 Mr. Gidley - I'm sorry. The 2 conditions I added from what was in the staff report is:
4409 (1) that these 2 drawings that the gentlemen submitted entitled Exhibit C which you see before you
4410 (referring to rendering) and Exhibit B, right here (referring to rendering) that these be in substantial
4411 conformity to the actual outside dining that they built. That what we get in reality is quite similar to
4412 what they show here (referring to rendering). It is almost like proffering the drawings, very similar
4413 to that. The other condition was the one that dealt with the umbrellas and advertising.
4414
4415 Mr. Glover - Whose desire is it that this be done? Who brought that up?
4416
4417 Mr. Gidley - The drawings here, Mr. Glover?
4418
4419 Mr. Glover - No, who brought it up that they should be, these drawings. In other
4420 words who is deciding that this is something that is needed to be a part of the Provisional Use
4421 Permit? Did you do it or has an applicant, a citizen done it, or has your Planning Commission done
4422 it or is this just your personal...
4423
4424 Mr. Gidley - The department's administration has requested more details on Provisional
4425 Use Permits such as elevations and drawings of the outside dining area and in response to...
4426
4427 Mr. Glover - What is this suppose to represent? I can't figure it out.
4428
4429 Mr. Gidley - Yes, sir.
4430
4431 Mr. Vanarsdall - It looks like a quilt and then it looked like a pool table, or something.
4432
4433 Mrs. Ware - The dining area.
4434
4435 Mr. Gidley - It shows an aerial top down view of the outside dining area.
4436
4437 Mr. Glover - Suppose they don't put those tables in that order. Does that mean that
4438 they are in violation? I think this is a personal feeling of yours Mr. Gidley and I'm questioning it for
4439 that reason. Is this a personal feeling of yours?
4440
4441 Mr. Gidley - No, sir.
4442
4443 Mr. Glover - That it is pretty and that it ought to be this way.
4444
4445 Mr. Gidley - No, sir. Staff was informed that we need more details on Provisional Use
4446 Permits.
4447
4448 Mr. Glover - Who informed you of this? What staff? Who was it that informed staff to
4449 do this?
4450
4451 Mr. Gidley - The department's administration requested...
4452
4453 Mr. Glover - Who is the department? Put me a name on this. I've got to take you here
4454 because I think you are doing this because you like it. Who likes this?
4455
4456 Mr. Gidley - Mr. Silber requested that we have more details.
4457

4458 Mr. Glover - But who likes this particular proffer, condition right here. I've got to take
4459 you here, because this is your personal feeling and I want to know why. Because you know what,
4460 one day you are going to use your personal feelings in a case that I don't have the same feelings.
4461 So tell me where did you get this personal feeling that this was acceptable and needed as a
4462 condition of the case?
4463
4464 Mr. Gidley - Since it was requested that we get more details. Obviously, if we don't
4465 include it as a condition they are free to come back with whatever drawing; there have been
4466 concerns in the neighborhood that this shopping center, for instance, has not been pedestrian
4467 friendly, not had appropriate landscaping and this is an effort to go ahead and get some idea of
4468 what is going to occur out here rather than just leaving it up totally half hazard to the developer to
4469 just say, just put cement out there and throw some tables up.
4470
4471 Mr. Glover - Now let me ask you this. Are they going to have waitresses out there
4472 waiting on tables?
4473
4474 Mr. Gidley - I think so. Yes, sir.
4475
4476 Mr. Glover - Okay. I don't know what that is right there Mr. Gidley, you have got to
4477 get more detail if that is what they are asking you for. I need more details if you put one of these
4478 in a case of mine. I don't have any idea of what this is and still after you have explained it I don't
4479 know what it is. If I don't know what it is. I don't believe the people that own the building know
4480 what it is. Does anybody else understand it? Am I the only one who doesn't understand it?
4481
4482 Mr. Goode - Mr. Glover, if I could; I think; go back a second here. The Commission
4483 approved a plan of development on this at its meeting last night.
4484
4485 Mr. Glover - I was here.
4486
4487 Mr. Goode - And in that whole set of drawings there was no, it shows the brick, but it
4488 didn't show a railing, for instance, around the patio. It did not show any landscaping, because the
4489 landscaping plan hadn't been submitted yet and I think that some of the staff members wanted to
4490 see some more details about how it was going to be finished and how the tables may be laid out
4491 there so they could maybe understand the view from Nuckols Road and what might be going on
4492 there. So Paul ask me to provide, we did not with the PUP submit colored rendered elevation or
4493 rendered site plan and he asked and said that we would like some more detail beside just the POD
4494 drawings to help us in our decision making. So we submitted these additional drawings and I think
4495 that his comment was just to enforce that, that you guys are going to actually do this, for instance,
4496 it is going to be a red brick patio and not a slab of concrete.
4497
4498 Mr. Glover - The tables are not going to be this color?
4499
4500 Mr. Goode - I don't think...
4501
4502 Mr. Glover - I'm just being facetious now. But you know what, this is so detailed that
4503 I'm just having a little difficulty with it, but you go ahead because you seem to like it too. So let's
4504 go ahead and impose it. Okay. I just think it is too much detail to know, the next thing you know
4505 you are going to be able to serve hot dogs without onions. Don't do that because we don't like
4506 that. I'm being facetious now, but it's going too far with what we are doing. If you want outside
4507 dining, let's have it. If you don't, let's don't have it. I don't like to see us being so technical that
4508 we have got to get an aerial view of what the brick is going to look like.
4509
4510 Mr. Taylor - Thank you, Mr. Goode, appreciate it.

4511
4512 Mr. Gidley - Do you have any more questions?
4513
4514 Mr. Taylor - No. Thank you very much, Mr. Gidley, I appreciate that.
4515
4516 Mr. Gidley - Any other questions?
4517
4518 Mr. Taylor - No. Thank you very much, Mr. Gidley.
4519
4520 Mr. Jernigan - Thank you, Mr. Gidley.
4521
4522 Mr. Gidley - Thank you.
4523
4524 Mr. Taylor - Mr. Chairman, with all that comment forgoing I will move for approval of
4525 P-9-03, Goode Land Company, Twin Hickory, LLC.
4526
4527 Mrs. Ware - Second.
4528
4529 Mr. Jernigan - We have a motion by Mr. Taylor and a second by Mrs. Ware. All in favor
4530 say aye. Opposed. The ayes have it the motion is passed.
4531
4532 The Planning Commission approved recommendation of approval of P-9-03, Ben Lilly for Goode
4533 Land Co., Twin Hickory, LLC, to the Board of Supervisors.
4534
4535 **REASON:** Acting on a motion by Mr. Taylor, seconded by Mrs. Ware, the Planning Commission
4536 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the request because
4537 when properly developed and regulated by the recommended conditions, it would be an asset to
4538 the neighborhood and not be detrimental to the public health, safety, welfare and values in the
4539 area.
4540
4541 Mr. Jernigan - Is there any corrections to the minutes of July 10th?
4542
4543 Mr. Archer - I did not note any, Mr. Chairman.
4544
4545 Mrs. Ware - Not me.
4546
4547 Mr. Archer - I move approval.
4548
4549 Mrs. Ware - Second.
4550
4551 Mr. Jernigan - We have a motion by Mr. Archer and a second by Mrs. Ware to approve
4552 the minutes of July 10th. All in favor say aye. Opposed. The ayes have it the motion passes. The
4553 minutes are approved.
4554
4555 Mr. Archer - Move adjournment, Mr. Chairman?
4556
4557 Mrs. Ware - Second.
4558
4559 Mr. Jernigan - Don't have to do that, but we are going to adjourn. The meeting is
4560 adjourned, 12:31 a.m.
4561
4562
4563

4564
4565
4566
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4568
4569
4570
4571
4572
4573

E. Ray Jernigan, C.P.C., Chairman

John R. Marlles, AICP, Secretary