

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico held in the County Administration Building in the Government
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. Thursday,
4 August 13, 2009. Display Notice having been published in the Richmond Times-
5 Dispatch on July 23, 2009 and July 30, 2009.

6
Members Present: Mrs. Bonnie-Leigh Jones, Chairperson (Tuckahoe)
Mr. Ernest B. Vanarsdall, C.P.C., Vice Chairman
(Brookland)
Mr. E. Ray Jernigan, C.P.C., (Varina)
Mr. Tommy Branin, (Three Chopt)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. James B. Donati (Varina)
Board of Supervisors Representative
Ms. Jean Moore, Assistant Director, Acting Secretary

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

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

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

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

14
15 Thank you. Good evening. It's nice to have you here, and welcome to the
16 August 13th Rezoning meeting for the Planning Commission. I'd like to welcome
17 Jim Donati, Supervisor from the Varina District. who joins us this year
18 representing the Board of Supervisors. I'd also ask that you mute your cell
19 phones or turn them off as a courtesy to others. And Commissioners, we had a
20 lot of blanks in the minutes this time, so let's all make an attempt to talk right into
21 the microphone so that we don't have those gaps in the minutes next time
22 around.

23
24 With that, I'd like to turn the meeting over to our secretary for this evening. Mr.
25 Emerson is not with us at the moment, but Jean Moore is taking his place.

26
27 Ms. Moore - Thank you, Madam Chairman. The first item would be
28 the request for withdrawals and deferrals, and we have none on the agenda this

60 Ms. Moore - If you are going to pull it off, what I would do is
61 proceed with the next expedited, and we'll just hear it in the order that it was
62 originally on the agenda.

63
64 Mrs. Jones - Okay. Mr. Strauss, could we move to the second
65 expedited request?

66
67 Mr. Strauss - Yes ma'am. The next request for expedited approval
68 is in the Three Chopt District on page 3 of the agenda. That is C-21-C-09,
69 HHHunt Corporation. This is a request to conditionally rezone from R-3C One-
70 Family Residence District to C-1C Conservation District. Staff is recommending
71 approval.

72
73 **C-21C-09 Hans Klinger for HHHunt Corporation:** Request to
74 conditionally rezone from R-3C One-Family Residence District (Conditional) to C-
75 1C Conservation District (Conditional), part of Parcel 734-781-9430, containing
76 approximately 0.46 acre, located approximately 300 feet north of the northern
77 terminus of Collinstone Drive and approximately 300 feet west of the western
78 terminus of Amershire Court. The applicant proposes a conservation area. The
79 use will be controlled by zoning ordinance regulations and proffered conditions.
80 The Land Use Plan recommends Environmental Protection Area.

81
82 Mrs. Jones - Do we have anyone with us tonight in opposition to
83 case C-21C-09, Hans Klinger for HHHunt Corporation?

84
85 Mr. Branin - Madam Chair, I'm not in opposition to this, but I do
86 have a couple of questions in regards to it, so I'd like to remove it and put it on
87 the regular agenda.

88
89 Mrs. Jones - All right, Mr. Branin, we shall do that.

90
91 Ms. Moore - Madam Chairman, that brings us to a total of six
92 cases to be heard, and we'll proceed with the first item on page 1 of your agenda
93 for POD-14-09.

94
95 **PLAN OF DEVELOPMENT** *(Deferred from the July 22, 2009 Meeting)*

96
POD-14-09 **Engineering Design Associates for IBEW**
IBEW – Multi-Purpose **Building Corp.:** Request for approval of a plan of
Building – 1400 E. Nine development, as required by Chapter 24, Section
Mile Road 24-106 of the Henrico County Code, to construct a
(POD-72-01 Rev.) 9,758 square foot, one-story, multi-purpose meeting
and training building on the site of an existing office
building. The 12.811-acre site is located on the east
line of E. Nine Mile Road (State Route 33),
approximately 500 feet south of N. Airport Drive, on

parcel 825-720-7093. The zoning is B-3, Business District, B-3C, Business District (Conditional) and ASO, Airport Safety Overlay District. County water and sewer. **(Varina)**

97
98 Mrs. Jones - All right. What we'll do now is to have the staff
99 presentation, and then you're welcome to come forward and make the comment
100 that you'd like to make. All right? Good evening.

101
102 Mr. Ward - Good evening Madam Chair, Planning Commission
103 Members, and Secretary.

104
105 This plan of development request for approval is to construct a one-story, 9,758
106 square-foot multi-purpose and training facility to the north of an existing IBEW
107 building.

108
109 Since preparation of the agenda, a revised recommendation and revised
110 condition are in page 1 of the addendum. The revised Condition 37 states road
111 widening, curb and gutter, and concrete sidewalk meeting VDOT standards shall
112 be provided along the east side of E. Nine Mile Road (State Route 33) with any
113 future development. This is where we've drawn where the road improvements
114 would occur with future development.

115
116 Therefore staff recommends approval of the revised plan as presented, subject
117 to the annotations on the plans, standard conditions for developments of this
118 type, conditions 29-36, and condition 37 revised.

119
120 The representative, Mr. Randy Hooker, engineer, is here to discuss any matters,
121 and I will be happy to answer any questions you may have at this time.

122
123 Mrs. Jones - Questions for Mr. Ward from the Commission?

124
125 Mr. Jernigan - Mr. Ward, have you heard of any opposition up to this
126 point?

127
128 Mr. Ward - I have not.

129
130 Mr. Jernigan - Okay. Thank you, sir.

131
132 Mrs. Jones - All right. At this point, Mr. Jernigan, would you like—

133
134 Mr. Jernigan - Yes ma'am.

135
136 Mrs. Jones - Ma'am, if you'll come forward to the podium. These
137 are recorded proceedings, so if you would state your name and speak into the
138 microphone, we'll be able to hear what you have to say.

139
140 Ms. Sherman - Good afternoon. My name is Felicia Sherman, and I
141 live at 1601 Elsing Green Court. The property that IBEW has purchased, my
142 property is adjoined to that, which is a lot of woodlands right now. I did a little
143 research on this, and if I'm not mistaken, I wanted to ask these questions. Are
144 there some wetlands in that area? I really love the woods beside my home, and I
145 know that there's a road beside my home that was constructed in 1968, but no
146 property has been built on that. I'm thinking that there are some wetlands,
147 looking at the zoning and looking at some of the other maps. I just wanted to
148 address that. And if there are some wetlands, would they be removing the
149 wetlands? With all of that, would the County be approving that? Would they be
150 investing that much money into removing the wetlands in order to build this
151 building?
152
153 Mrs. Jones - Okay. So, basically, your question, Ms. Sherman, is
154 about wetlands and wetland impacts on that property.
155
156 Ms. Sherman - Yes. And how close it is to my property? I would like
157 to know how close the construction is to my property.
158
159 Mrs. Jones - Okay.
160
161 Ms. Sherman - And what is the consideration if they are going to build
162 that building. Would they be placing a fence to divide that property?
163
164 Mrs. Jones - Okay.
165
166 Mr. Branin - Ms. Sherman?
167
168 Ms. Sherman - Yes sir.
169
170 Mr. Branin - Can you show us where your house is? If you look
171 down at the screen.
172
173 Ms. Sherman - Yes, the cul-de-sac, Elsing Green Court. My house
174 sits right next to the woods.
175
176 Mr. Branin - So you're the one to the left or to the right of the—
177
178 Ms. Sherman - To the left.
179
180 Mr. Branin - Left, okay.
181
182 Mrs. Jones - I think we can get you those answers.
183
184 Ms. Sherman - Thank you.

185
186 Mrs. Jones - Sure. How would you like to proceed?
187
188 Mr. Jernigan - Have you seen the drawings on the building? Ms.
189 Sherman, you have to get back to the microphone.
190
191 Ms. Sherman - I'm sorry. No sir.
192
193 Mr. Jernigan - Okay. Maybe Mr. Ward needs to take a couple
194 minutes with you.
195
196 Mr. Ward - Your home would be further up off the page here. The
197 building will go over here to the western part. They are putting in an alternative
198 fence over here to block there, they're going to be keeping the trees here, and
199 there is a 35-foot buffer.
200
201 Mr. Branin - Mr. Ward? Can you switch screens, please, if you
202 wouldn't mind, to the photo? Then show where the building will go, and fence
203 and so forth.
204
205 Mr. Ward - The building's going to go here to the west of the
206 existing building.
207
208 Ms. Sherman - You're not going further back to the wetland area?
209
210 Mr. Ward - There won't be any clearing.
211
212 Ms. Sherman - All right.
213
214 Mrs. Jones - Can you speak to the wetlands' issue at all?
215
216 Mr. Ward - With what I reviewed, I didn't see any wetlands back
217 there. We can defer that. But to my knowledge, I didn't know of any wetlands in
218 the immediate area where the site development will take place.
219
220 Mr. Branin - Mr. Ward, with the current plan, the only construction
221 is going to be directly behind that building and to the left of it.
222
223 Mr. Jernigan - To the west.
224
225 Mr. Branin - And there won't be any impact on the woodlands
226 behind.
227
228 Mr. Jernigan - Ms. Sherman, it's going toward Advance Auto Parts
229 and the flower shop and all that way. It's not coming your way.
230

231 Ms. Sherman - Okay. Thank you.
 232
 233 Mr. Jernigan - Okay? You all right now?
 234
 235 Ms. Sherman - Yes, I'm fine.
 236
 237 Mr. Jernigan - Okay. I just wanted to make sure. We appreciate
 238 you coming out tonight.
 239
 240 Mrs. Jones - Any other questions?
 241
 242 Mr. Jernigan - Ma'am Chairman, with that, I would like to move for
 243 approval of POD-14-09, IBEW – Multi-Purpose Building, subject to the
 244 annotations on the plan, the standard conditions for developments of this type,
 245 and additional conditions #29 through 36, and revised condition #37.
 246
 247 Mr. Vanarsdall - Second.
 248
 249 Mrs. Jones - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.
 250 All in favor say aye. All opposed say no. The ayes have it; the motion passes.
 251
 252 The Planning Commission approved POD-14-09, IBEW – Multi-Purpose Building,
 253 subject to the annotations on the plans, the standard conditions attached to these
 254 minutes for developments of this type, and the following additional conditions:
 255
 256 29. The right-of-way for widening of E. Nine Mile Road (State Route 33) as
 257 shown on approved plans shall be dedicated to the County prior to any
 258 occupancy permits being issued. The right-of-way dedication plat and any
 259 other required information shall be submitted to the County Real Property
 260 Agent at least sixty (60) days prior to requesting occupancy permits.
 261 30. Outside storage shall not be permitted.
 262 31. The certification of building permits, occupancy permits and change of
 263 occupancy permits for individual units shall be based on the number of
 264 parking spaces required for the proposed uses and the amount of parking
 265 available according to approved plans.
 266 32. The location of all existing and proposed utility and mechanical equipment
 267 (including HVAC units, electric meters, junction and accessory boxes,
 268 transformers, and generators) shall be identified on the landscape plans.
 269 All equipment shall be screened by such measures as determined
 270 appropriate by the Director of Planning or the Planning Commission at the
 271 time of plan approval.
 272 33. The proffers approved as a part of zoning case C-86C-87 shall be
 273 incorporated in this approval.
 274 34. The entrances and drainage facilities on E. Nine Mile Road (State Route
 275 33) shall be approved by the Virginia Department of Transportation and
 276 the County.

- 277 35. A notice of completion form, certifying that the requirements of the
278 Virginia Department of Transportation entrances permit have been
279 completed, shall be submitted to the Department of Planning prior to any
280 occupancy permits being issued.
- 281 36. Approval of the construction plans by the Department of Public Works
282 does not establish the curb and gutter elevations along the Virginia
283 Department of Transportation maintained right-of-way. The elevations will
284 be set by the contractor and approved by the Virginia Department of
285 Transportation.
- 286 37. Road widening, curb and gutter, and concrete sidewalk meeting VDOT
287 standards shall be provided along the east side of E. Nine Mile Road
288 (State Route 33) with any future development.

289
290 **Deferred from the July 9, 2009 Meeting.**

291 **C-19C-09 Anthony Battaglia for 3900 Bremner Blvd., LLC:**

292 Request to conditionally rezone from B-2 Business District to B-3C Business
293 District (Conditional), Parcels 772-750-8652 and 773-750-0152, containing 0.54
294 acre, located on the north line of Bremner Boulevard at its intersection with
295 Compton Road. The applicant proposes a pest control company and associated
296 storage facility. The use will be controlled by zoning ordinance regulations and
297 proffered conditions. The Land Use Plan recommends Commercial Arterial. The
298 site is in the Enterprise Zone.

299
300 Mrs. Jones - Good evening, Mr. Sehl.

301
302 Mr. Sehl - Good evening, Madam Chair.

303
304 Mrs. Jones - Is there anyone here in opposition to C-19C-09,
305 Anthony Battaglia for 3900 Bremner Blvd., LLC? We have no opposition.

306
307 Mr. Sehl - Since the Planning Commission's July meeting, the
308 applicant has submitted revised proffers that address previous concerns
309 regarding landscaping at 3904 Bremner Boulevard and drainage. Staff continues
310 to work with the applicant to detail the type of plans that will be necessary to
311 install the proffered curb and gutter, but at this time, as referenced in the proffers
312 and the staff report, as well as recently revised proffers that are in front of you
313 this evening—which I will go over with you here in just a second—the applicant
314 has fully committed to providing curb and gutter, as well as any necessary right-
315 of-way, along their property's frontage.

316
317 These changes address the concerns noted by the Commission at its July
318 meeting. I will apologize. We just received some new proffers from the applicant.
319 Staff provided some additional concerns late this afternoon. There are no black
320 lines provided for you, so I'd just like to briefly walk you through the changes that
321 are provided in the proffers.

322

323 In Proffer 9, the County Attorney made some comments regarding the
324 capitalization of a couple of words in there. So the word *evergreen* no longer
325 contains the capital *E* at the beginning. In Proffer 2, the *g* in *gutter* is also no
326 longer capitalized. And they have lowered the *R* in *right-of-way*. The applicant
327 has provided additional language starting in the first line. It will now say:
328 "applicant/property owner, at the request of the Director of Public Works," which
329 is the main point of this proffer change that was requested this evening, "along
330 the frontage of both parcels subject to this request." So that substitutes for the
331 second language for the proffers contained in your staff report. This change was
332 made by the applicant at the request of staff to address some concerns from
333 Works, and allows the Public Works Department some additional flexibility in
334 when the curb and gutter will be required.

335
336 Staff does continue to work with the applicant, and we'll continue to work with the
337 applicant between now and the Board meeting to detail the exact types of plans
338 that will be necessary to install the curb and gutter. At this time, the applicant
339 has fully committed to providing said curb and gutter.

340
341 That does conclude my presentation. I'd be happy to answer any questions you
342 might have. The applicant's representative is here as well.

343
344 Mrs. Jones - All right. Do we have questions for Mr. Sehl from the
345 Commission?

346
347 Mr. Vanarsdall - I don't have any questions because we've discussed
348 it several times.

349
350 Mr. Sehl - Sorry to interrupt, Mr. Vanarsdall, but I would note
351 also that since these proffers were received this evening, time limits would need
352 to be waived on the proffers dated today.

353
354 Mrs. Jones - Would you like to hear from the applicant?

355
356 Mr. Vanarsdall - Thank you for your hard work on it, Ben. The proffer
357 that he mentioned, #10, he and I have talked to Tim Foster, who is director of
358 Public Works, and to Steve White. They will work this out between now, as he
359 said, and Board time if there's any problem. Mr. Battaglia is here tonight on it.
360 He's the head of the area. He's the vice president of the Richmond area and all
361 that comes in from Maryland. I thank you for the cooperation you gave us. We
362 promise we'll work out the best for you. I know Ben helped you with cooperation
363 a little. He knows when to push and when not to.

364
365 With that, I'll waive the time limits on C-19C-09, Anthony Battaglia for 3900
366 Bremner Blvd., LLC.

367
368 Mr. Branin - Second.

369
370 Mrs. Jones - Motion to waive time limits by Mr. Vanarsdall,
371 seconded by Mr. Branin. All in favor say aye. All opposed say no. The ayes have
372 it; the motion passes.

373
374 Mr. Vanarsdall - I move C-19C-09, Anthony Battaglia for 3900
375 Bremner Blvd., LLC, be recommended to the Board of Supervisors for approval.

376
377 Mr. Jernigan - Second.

378
379 Mrs. Jones - Motion by Mr. Vanarsdall, seconded by Mr. Jernigan.
380 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

381
382 **REASON:** Acting on a motion by Mr. Vanarsdall seconded by
383 Mr. Jernigan, the Planning Commission voted 5-0 (one abstention) to
384 recommend the Board of Supervisors grant the request because it continues a
385 form of zoning consistent with the area and the proffered conditions will assure a
386 level of development not otherwise possible.

387
388 **P-10-09 Tony Grillo for United Restaurant Group, LP:**
389 Request for a Provisional Use Permit required by proffered condition #28
390 accepted with C-29C-06 to extend hours of operation to 2:00 a.m. for an existing
391 restaurant (T.G.I. Friday's) on part of Parcel 815-718-5710, an outparcel within
392 the Shops at White Oak Village, located on the northeast line of S. Laburnum
393 Avenue at its intersection with Jan Road. The existing zoning is B-3C Business
394 District (Conditional). The Land Use Plan recommends Planned Industry. The
395 site is in the Airport Safety Overlay District and the Enterprise Zone.

396
397 Mrs. Jones - Do we have anyone with us tonight in opposition to P-
398 10-09, Tony Grillo for United Restaurant Group, LP? Okay. Ms. Sherry?

399
400 Mr. Vanarsdall - Good evening, Ms. Sherry.

401
402 Ms. Sherry - Good evening.

403
404 Mr. Jernigan - Good evening.

405
406 Ms. Sherry - Thank you.

407
408 This Provisional Use Permit request would allow for the extension of the hours of
409 operation for the T.G.I. Friday's restaurant within the Shops at White Oak Village.
410 The shopping center is located within the County's Enterprise Zone and the
411 Airport Safety Overlay District. The applicant proposes to extend the hours of
412 operation to 2:00 a.m.

413

414 The Shops at White Oak Village was zoned B-3C Business District (Conditional)
415 via rezoning case C-29C-06. Although hours of operation are generally not
416 restricted in the B-3 District, Proffer #28 of C-29C-06 specifically prohibits
417 businesses from operating between the hours of midnight and 6 a.m. unless
418 otherwise approved by a Provisional Use Permit.

419
420 Recently, the Board of Supervisors granted approval for a Provisional Use Permit
421 for the Steak n' Shake restaurant within the same shopping center to be open to
422 the public between 5:00 a.m. and 2:00 a.m. This Provisional Use Permit was
423 approved with the condition that no alcohol be served.

424
425 Because T.G.I. Friday's is a full service restaurant with a bar, staff is concerned
426 that granting this request will lead to additional requests for similar
427 establishments that serve alcohol.

428
429 Additionally, the Division of Police has noted concern that serving alcohol at this
430 location beyond midnight may cause an increase in police calls for service.

431
432 Staff believes this request is not in keeping with the original intent of Proffer #28
433 accepted with C-29C-06, and therefore does not support this request. However,
434 if the Planning Commission deems this request appropriate, staff recommends
435 the proposed use be subject to the 12 conditions listed in the staff report.

436
437 This concludes my presentation. I would be happy to answer any questions.
438 Thank you.

439
440 Mrs. Jones - Thank you, Ms. Sherry. Do we have questions for Ms.
441 Sherry?

442
443 Mr. Jernigan - Mrs. Jones asked me a question earlier, and I believe
444 at the last meeting I had requested some statistics on restaurants in the West
445 End and other districts.

446
447 Ms. Sherry - That's correct.

448
449 Mr. Jernigan - Has anybody been working on that?

450
451 Ms. Sherry - There has been some work done on it. I don't believe
452 at this point in time it is conclusive.

453
454 Ms. Moore - Mr. Jernigan, we've talked to Police about that. On
455 trying to narrow down that request, they did relay to us that it was pretty
456 extensive and they didn't have, simply, the resources to do it at this time. I
457 believe that Ms. Sherry did do some preliminary work, looking at specific
458 comparable shopping centers.

459

460 Ms. Sherry - Were you interested in putting together numbers at
461 this point? Right now we're in the process of finalizing it, but I do have some
462 preliminary numbers.

463
464 Mr. Jernigan - No. Mrs. Jones wanted to know. As I spoke to you
465 last time, I wasn't pushing it, but I would like, at some point, to have the statistics
466 on it. It's not saying it has to be next week, but maybe in the next three or four
467 weeks. So we'll know for future cases, I guess is what I'm looking at.

468
469 Ms. Sherry - Right. Very good.

470
471 Mr. Jernigan - All right. As I discussed with you before the meeting
472 started, and reading over the conditions on here, first, let's go up to #7, because I
473 know for cameras for the inside and outside—I know we need cameras inside.
474 Kim Vann's not here tonight, but before they go spending a lot of money for
475 cameras on the outside, let's see what the shopping center has around there.

476
477 Ms. Sherry - Okay.

478
479 Mr. Jernigan - They do have an extensive amount of cameras in
480 there. If we already have that coverage, there's no sense in duplicating it, but if
481 they don't, we need to put that in. But we definitely have to put the cameras on
482 the inside. Also, on Condition #10, where it says, "The owner or operator shall
483 require customers to leave the premises and parking areas immediately after the
484 close of business, and shall not permit loitering, criminal assaults, or public
485 nuisances on the premises," we're striking the, "criminal assaults" and "public
486 nuisances," because nobody can control that. Legally, I don't want to see the
487 shopping center or T.G.I. Friday's under the liability. The perpetrator can only
488 control that.

489
490 So, other than that, I'm in pretty good shape. I believe they do have a uniformed
491 police officer as we speak.

492
493 Ms. Sherry - That is one of the conditions. That is Condition #12.

494
495 Mr. Jernigan - Yes. I believe they already have that now. Okay.

496
497 Ms. Moore - Mr. Jernigan, for clarification, may I read Condition
498 10, with your comments? "The owner or operator shall require customers to
499 leave the premises and parking areas immediately after the close of business,
500 and shall not permit loitering on the premises during hours of operation." Would
501 that be correct?

502
503 Mr. Jernigan - Yes ma'am.

504

505 Mrs. Jones - Well, "during the hours of operation," ends at 2. The
506 intent is to leave the premises after the close of business. Is that not awkwardly
507 worded?

508
509 Mr. Jernigan - The first thing that brought this to mind was about the
510 criminal assaults. We had discussed this before when another PUP came
511 through. The people that control that restaurant can't control criminal assaults. If
512 that would be true, we wouldn't have a lot of crime because everybody would be
513 out policing it themselves. That's the reason we originally wanted to strike that.
514 When a business closes down, I'm not sure if it closes at 2 everybody's going to
515 be off the lot by 2:10. But yet, I don't think we're going to have the police in there
516 routing anybody out at 2:10. Now, if they're sitting around there at 2:30, 2:45,
517 they might get checked. The intent was to clear up about the criminal assaults
518 and public nuisances.

519
520 Mrs. Jones - I understand the intent, and I agree with what you're
521 saying. It's just that as I read this over, it strikes me that we may have awkward
522 wording there that could possibly be reworded better.

523
524 Mr. Jernigan - On the premises during hours of operation.

525
526 Ms. Moore - We could look at that, but I think the "and," what it
527 does is two things. What it's saying is the owner/operator shall require people to
528 leave after the close of business, and also they're saying they shall not permit
529 loitering during business. So, it's actually two actions in one statement.

530
531 Mrs. Jones - I'd stop it after "loitering," and be done with it. But
532 that's possibly for thought between now and the next—

533
534 Mr. Jernigan - Well, I think that's something we need to sit down and
535 go over with the legal staff.

536
537 Mrs. Jones - I do have a question about the 2 a.m. Ms. Sherry,
538 you may know. Do you know whether the security guard is also going to be
539 escorting employees to cars and this kind of thing?

540
541 Ms. Sherry - It's not part of the condition, so I'm not sure exactly.

542
543 Mr. Vanarsdall - Is this security officer going to be off-duty police?

544
545 Ms. Sherry - Condition #12 requires them to be an off-duty officer,
546 as opposed to just a security guard.

547
548 Mr. Vanarsdall - Do you know why that is?

549
550 Ms. Sherry - Do I know why that is?

551

552 Mr. Vanarsdall - A security officer can hold you long enough to call the
553 police. An off-duty police officer or a deputy sheriff can hold you and doesn't
554 have to call anybody, and cuff and so forth. That's the reason it's better to use
555 the off-duty police.

556

557 Mrs. Jones - All right. I just want to make a very quick comment. I
558 was not in favor of a previous case that came through here with a request for
559 hours extended to 2 a.m. That was for several reasons, not the least of which
560 was the fact that the original rezoning for the entire shopping center had carried
561 those restrictions for a reason. But as we move along, and as the area develops,
562 it seems that this is clearly wanted; it's certainly not protested. So, it seems to be
563 a compliment to the operations of the area. Having talked to quite a few folks
564 between the last meeting and now, I think while we hope none of the security
565 issues will ever, ever be a problem, I think it's probably in keeping with the nature
566 of the area, just as it is in keeping with the Short Pump area, or any other
567 concentration of operations. So, I just wanted to clarify my thinking on that since
568 it has been a month since we visited this issue once before.

569

570 Mr. Jernigan - I would like to say I did speak to the management
571 staff of White Oak. They don't have a problem with it. They did proffer the 12:00.
572 Actually, the Planning Office had requested that, and they went ahead and did it.
573 Now, one situation with this is with a provisional use permit in B-3 zoning, if there
574 is a problem, the Board of Supervisors can revoke the permit. So, that's a little bit
575 of a caveat that we don't have in the West End because most of those places are
576 just open by right because of B-3 zoning. Here, we have to adhere to it and make
577 sure that everything is safe. So, we do have that backing us up.

578

579 Mr. Vanarsdall - Most of your disturbances are in the parking lots
580 anyway. Most everything that happens is after hours in the parking lot. That
581 doesn't say something doesn't happen inside, but most of it is. The biggest
582 problem they have is the people get in the car and go somewhere else and drink.

583

584 Mr. Jernigan - Mr. Branin, looks like he's just ready to say
585 something.

586

587 Mr. Branin - Well—And Mr. Archer is.

588

589 Mr. Archer - Madam Chair, I'm a little bit concerned about what
590 you said about this. As I read this, seems like if we don't stop it at the word
591 "loitering," and we include, "on the premises during hours of operation," it almost
592 sounds like wherever you are on the premises, you have to be doing some
593 loitering. How do we define *loitering* in that case? That would be inside and
594 outside, if we say "loitering on the premises." It almost sounds as though you
595 can't be in a car. Even if you're inside, you have to be actively doing something.
596 The word *loitering* is a little superfluous.

597

598 Mr. Jernigan - These conditions pretty much come through on every
599 PUP, but I just picked it out because I knew that we had discussed this before.
600 This is something—I'd like to strike what I said about the assaults and public
601 nuisances.

602

603 Mr. Archer - I see why you took that out.

604

605 Mr. Jernigan - Right. I think what we need to do—
606 This is another thing that we need to sit down and go over. We have a few
607 things, as Mr. Vanarsdall knows, that we need to clear up, and this is another
608 one of those. We need to sit down with the legal staff, and maybe go over some
609 of these conditions and get them trimmed out, because that's not appropriate;
610 they can't control that.

611

612 Mr. Archer - It would seem to make more sense if you said, "shall
613 not permit loitering *after* hours of operation." That would seem more appropriate
614 than *during* hours of operation. It sort of sounds like you have to drive up and get
615 inside and [blank; inaudible].

616

617 Mr. Branin - Someone's waiting to pick up an employee and
618 they're sitting in the parking lot waiting for them.

619

620 Mr. Archer - I'm not picking, I'm just—

621

622 Mr. Jernigan - Oh, I know.

623

624 Mr. Archer - This is something that could come up in quite a few
625 cases, loitering *during* hours of operation. If you define *premises*. I think if you
626 said in the parking lot, it might make a little more sense, but it's on the premises.
627 That means everywhere—inside, outside.

628

629 Mr. Jernigan - When a person is loitering—if somebody comes up
630 and stands next to the front door, and stands there for four hours, or that comes
631 up there every afternoon, a bum or something standing there, that's loitering.

632

633 Mr. Archer - Yes, I agree, but what—

634

635 Mr. Jernigan - And this, "during hours of operation," well, we can put
636 on there, on the premises during hours of operation and—Well, let's see, how
637 would we word that?

638

639 Mr. Archer - It's tough.

640

641 Mr. Branin - Other than what you have already stricken, I would
642 move it up between us and the Board, and have County lawyers go through it.
643 Hopefully, we can get a boilerplate for other PUP's that come up in the future.
644

645 Ms. Moore - Police Division actually helped us develop these
646 policies back in 1999, but you raise very good points. What we can do is revisit
647 this, and with the direction of Planning Commission, go ahead and make an
648 amendment, and with the advisement—whatever you choose, action—that we
649 take another look at it. Certainly we can do that prior to the Board.
650

651 Mr. Jernigan - Now I know why we kept Mr. Branin; that was a good
652 idea. We'll move this on along like it is, and then we'll sort it out between now
653 and the Board with the legal staff. Does that sound okay?
654

655 Mr. Vanarsdall - Says it's okay.
656

657 Ms. Moore - In its entirety as written?
658

659 Mr. Jernigan - No, deleting the "criminal assaults" and "public
660 nuisances," and then we'll let the legal staff work on fine-tuning it.
661

662 Ms. Moore - Okay.
663

664 Mr. Jernigan - Okay? Ms. Sherry, you okay with that?
665

666 Ms. Sherry - Yes sir.
667

668 Mrs. Jones - Are there other questions or concerns? Would you
669 like to hear from the applicant?
670

671 Mr. Jernigan - Well, I see that gentleman standing up back there. I
672 think he wants to come down and say something, so.
673

674 Mr. Branin - I thought we had someone loitering in the premises.
675

676 Mr. Jernigan - I will give you that opportunity, if you want to come
677 down here.
678

679 Mr. Vanarsdall - You know you're loitering back there, don't you?
680 There are a bunch of people sitting back there who haven't been doing anything.
681

682 Mr. Grillo - I fully understand the process, and I apologize for
683 standing while you were speaking. I want to thank the Board and Madam
684 Chairman for—
685

686 Mr. Jernigan - First, sir, could you state your name for the record,
687 please?

688
689 Mr. Grillo - My name is Tony Grillo. I'm the president and owner
690 of the T.G.I. Friday's franchise. We have six restaurants here in the Richmond
691 market.

692
693 I just wanted to comment on the loitering piece. Most importantly, I had no idea
694 that we were operating outside of the proffer. It wasn't in our lease through all of
695 our permitting processes. And then an agent came to the restaurant, and I think
696 that's how the process kind of started here. We certainly take the
697 recommendations of the Board, and we will do whatever needs to be done. We
698 want the restaurant to be a strong part of the community. And 99% of our people
699 don't cause any problems. The loitering piece, really the police kind of, I think,
700 define that. They've asked us in a couple of circumstances to put up signage with
701 the verbiage *loitering*. I think they tend to determine if somebody's loitering more
702 than we do if we say that somebody is harassing us. But that *loitering* term
703 seems to help out the police when you post that. So. I just want to thank the
704 Board for reconsideration here, and we'll certainly do whatever needs to be done
705 to accommodate the conditions.

706
707 Mr. Jernigan - As you heard me say, it is a provisional use permit. If
708 there was an extensive problem that went on for a long time, then it can be
709 revoked by the Board.

710
711 Mr. Grillo - I understand that. If there are a lot of problems, we
712 wouldn't want to deal with them.

713
714 Mr. Jernigan - We like your operation.

715
716 Mr. Grillo - Thank you.

717
718 Mrs. Jones - Can I ask a quick question?

719
720 Mr. Jernigan - Sure you can.

721
722 Mrs. Jones - Mr. Grillo, how many restaurants do you have in our
723 area?

724
725 Mr. Grillo - We have six in the Richmond market—three in
726 Henrico, two in Chesterfield/Midlothian, and one in Hanover. We operate in five
727 states.

728
729 Mrs. Jones - And your other two Henrico locations are?

730
731 Mr. Grillo - Glenside and Broad Street, and Short Pump.

732
733 Mrs. Jones - Are they open until 2?
734
735 Mr. Grillo - Well, we serve liquor until 1:30, and we serve food
736 until 1. Everybody's off premise by 2.
737
738 Mrs. Jones - That's the way this one will operate?
739
740 Mr. Grillo - Yes ma'am.
741
742 Mrs. Jones - And all's well at the other two?
743
744 Mr. Grillo - Yes, yes. They seem to be doing well.
745
746 Mrs. Jones - We wish you well.
747
748 Mr. Grillo - Thank you very much; I appreciate it.
749
750 Mr. Jernigan - Thank you.
751
752 Mr. Vanarsdall - Thank you.
753
754 Mr. Jernigan - All right, Madam Chair, with that, I will move for
755 approval of P-10-09, Tony Grillo for United Restaurant Group, LP, and send it to
756 the Board for their approval.
757
758 Mr. Branin - Second.
759
760 Mr. Jernigan - Excuse me. With changing Condition #10, and
761 deleting "criminal assaults" and "public nuisances."
762
763 Mr. Branin - Second again.
764
765 Mrs. Jones - Motion by Mr. Jernigan, seconded by Mr. Branin. All
766 in favor say aye. All opposed say no. The ayes have it; the motion passes.
767
768 **REASON:** Acting on a motion by Mr. Jernigan seconded by Mr.
769 Branin, the Planning Commission voted 5-0 (one abstention) to recommend the
770 Board of Supervisors grant the request because it is reasonable in light of the
771 surrounding uses and existing zoning on the property and when properly
772 regulated by the recommended special conditions, it would not be detrimental to
773 the public health, safety, welfare and values of the area.
774
775 Ms. Moore - Madam Chairman, that brings us to the cases in the
776 Three Chopt District. We have two that, with your permission, we'd like to go

777 ahead and present together. And, of course, they'd have to be acted on
778 individually.

779

780 **Deferred from the July 9, 2009 Meeting.**

781 **C-8C-05 G. Edmond Massie, IV for Fidelity Properties, Ltd.:**

782 Request to conditionally rezone from A-1 Agricultural District to RTHC
783 Residential Townhouse District (Conditional), Parcel 746-764-5580, containing
784 approximately 4.54 acres, located on the west line of Sadler Road approximately
785 290 feet south of Wonder Lane. The applicant proposes a residential townhouse
786 development not to exceed six (6) dwelling units per acre. The RTH District
787 allows a maximum gross density of 9 units per acre. The proposed use will be
788 controlled by zoning ordinance regulations and proffered conditions. The Land
789 Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per
790 acre.

791

792 **Deferred from the July 9, 2009 Meeting.**

793 **C-19C-06 G. Edmond Massie, IV for Fidelity Properties, Ltd.:**

794 Request to conditionally rezone from A-1 Agricultural District to RTHC
795 Residential Townhouse District (Conditional), Parcels 746-763-2482, 746-763-
796 2896, 746-763-1769, and 746-764-3818, containing 10.79 acres, located on the
797 east line of Glasgow Road, approximately 600 feet north of Ireland Lane. The
798 applicant proposes a residential townhouse development not to exceed six (6)
799 dwelling units per acre. The RTH District allows a maximum gross density of 9
800 units per acre. The proposed use will be controlled by zoning ordinance
801 regulations and proffered conditions. The Land Use Plan recommends Suburban
802 Residential 1, 1.0 to 2.4 units net density per acre.

803

804 Mrs. Jones - I think it makes perfect sense to hear them together.
805 Do we have anyone here this evening who is in opposition to either of these two
806 cases, C-8C-05, G. Edmond Massie, IV for Fidelity Properties, Ltd., or C-19C-06,
807 G. Edmond Massie, IV for Fidelity Properties, Ltd.? We have no opposition. All
808 right, Mr. Sehl.

809

810 Mr. Sehl - Thank you again, Madam Chair.

811

812 As Ms. Moore stated, the applicant is proposing to rezone a total of 15.33 acres,
813 to RTHC to permit a townhouse development with a maximum density of six units
814 per acre.

815

816 The 2026 Land Use Plan, recently adopted by the Board of Supervisors,
817 recommends Urban Residential uses for the majority of the subject properties. A
818 small portion to the west of the proposed realigned Sadler Road in this area is
819 also designated SR2. Because of these designations, an appropriately
820 designed, high-quality townhouse development could be an appropriate use on
821 the subject property and complement the recent residential redevelopment in the
822 area.

823

824 To provide quality assurances and detail the type of development proposed with
825 these requests, the applicant has submitted proffers for each case. These
826 proffers were revised on August 11, 2009 and distributed to you this evening.
827 The proffers for C-8C-05 and C-19C-06 are nearly identical, and major aspects of
828 these proffers include:

829

- 830 • No building permits to allow construction before January 1, 2011 for the
831 property subject to C-19C-09, or prior to January 1, 2015, or the start of
832 construction for Sadler Road relocated, for the property subject to C-8C-
833 05. This proffered phasing is the only difference between the proffers for
834 the two cases.
- 835 • A commitment to dedicate right-of-way for relocated Sadler Road has
836 been provided;
- 837 • Streetlights and sidewalks would be provided along both sides of new
838 streets and one side of existing streets;
- 839 • Foundation plantings and street trees, with irrigated and sodded front and
840 side yards;
- 841 • Minimum unit size of 1,100 square feet, and minimum unit width of 20 feet
842 for 50% of the units. Up to 25% of the units could be a minimum of 18 feet
843 in width, with the remaining 25% permitted to be 16 feet in width. No more
844 than two units in any building could be 16 feet in width;
- 845 • No more than six units will be attached, and all units will contain a
846 minimum of 100% brick or stone on the front and side elevations. Rear
847 elevations will contain a minimum of 75% brick. HardiPlank or a similar
848 material will be used on the balance of the exterior. The optional garages
849 shown on the proffered conceptual plan and in the proffered photos will
850 contain the same exterior materials as the dwellings.
- 851 • Additionally, a minimum sound transmission coefficient rating of 55 will be
852 provided between units and for the exterior walls of end units.

853

854 While the proffers provide a number of quality guarantees, and while the
855 proposed Urban Residential designation for the subject sites means the
856 proposed use and density could be appropriate at this location, staff notes a
857 number of outstanding concerns, including the following items:

858

- 859 • The phasing proposed in Proffer 2 of each case does not provide
860 adequate assurances that the necessary roadway infrastructure would be
861 completed prior to the occupancy of the proposed townhouses. The
862 densities proposed by the Draft 2026—and now the Adopted 2026 Land
863 Use Plan—were based on the realignment of Sadler Road, and staff
864 believes build-out at the requested density could be premature until such
865 time as the roadway improvements are completed. At a minimum, the
866 applicant is encouraged to provide a revised traffic study for review by the
867 Department of Public Works.

- 868 • The applicant has indicated garages would be optional and would be
869 arranged as shown on the proffered conceptual plan, shown here at these
870 locations. Because garages would not be required in the proposed RTHC
871 district, staff recommends the applicant commit to a minimum number of
872 garages for the proposed developments;
- 873 • Details of the park area, including any proposed amenities or
874 improvements, should be provided by the applicant;
- 875 • The revised proffers commit to providing sidewalks along all public streets.
876 To ensure the details shown on the conceptual plan are implemented,
877 staff recommends the applicant commit to providing sidewalks adjacent to
878 all streets within the development, whether public or private;
- 879 • Similar to other recent requests of this type proposing private streets, the
880 applicant should commit to providing certification that all private streets
881 within the development are built to Public Works' standards, except for
882 width, prior to the issuance of any occupancy permits on the property.
883

884 The applicant has provided a number of quality guarantees consistent with other
885 recent residential developments in the area, and staff believes the proposed
886 density and use, with the commencement of land development adequately
887 phased, could be an appropriate use on the property, given the site's proposed
888 use on the 2026 Land Use Plan. However, as previously noted, a number of
889 concerns do remain. If the applicant can address these concerns, staff could
890 fully support this request.
891

892 This concludes my presentation. I would be happy to try to answer any
893 questions you might have. The applicant's representatives are also here this
894 evening.
895

896 Mrs. Jones - Questions from the Commission?
897

898 Mr. Branin - I personally have none for Mr. Sehl, but I do have a
899 couple for the applicant.
900

901 Mrs. Jones - Okay. Mr. Sehl, thank you.
902

903 Mr. Sehl - Thank you very much.
904

905 Mr. Tyler - Seeing no opposition, I think it's better that I answer
906 your questions rather than make a presentation.
907

908 Mr. Branin - I wasn't going to ask you to make a presentation; I
909 just wanted something clarified.
910

911 Mr. Tyler - Yes sir. For the record, my name is Webb Tyler. I'm a
912 semi-retired engineer with Youngblood, Tyler & Associates. I am here tonight

913 with the owner of the subject property, the large tract, the contract purchaser of
914 the smaller tract, and my partner, G. Edmond Massie, IV.

915

916 Mr. Branin - Mr. Tyler, in numerous meetings that we've had in
917 regards to these two cases—which these two case have been in front of us for
918 actually a year now—

919

920 Mr. Tyler - I believe it's approximately 3-1/2 to 4 years.

921

922 Mr. Branin - I was hoping your memory wouldn't be as good as
923 mine. Still, the concern of Sadler Road getting done. I thank you for phasing it.
924 Before this gets to the Board, I would ask you to please get a traffic study, which
925 we discussed in our latest meeting on Tuesday.

926

927 Mr. Tyler - Yes sir.

928

929 Mr. Branin - Mr. Kaechele had requested that, of course, we have
930 a traffic study looked at. There is already a traffic study present?

931

932 Mr. Tyler - There has been a traffic study done in the earlier
933 years of this zoning case indicating approximately 110 additional single-family
934 detached homes could be built. Obviously, we are supportive of Sadler Road
935 relocating, by the willingness to dedicate approximately 30% of the right-of-way
936 for that road at no cost to the County, as well as providing drainage easements.
937 We feel like we're supporting it. The vast majority of our traffic will be going out
938 via the safer portion of Sadler Road through the roadway system in the Small
939 McDonald Farms, as far as Ireland and Glasgow Roads that access out to the
940 south and more towards Broad Street.

941

942 Mr. Branin - The County is very grateful to you for dedicating that
943 land, but the most important thing is that we rush a traffic study so we can review
944 it. That's number one. Number two, for the Commission's benefit, the park area
945 that you see on the diagram. What I have requested the developer to do instead
946 of—As we see in most developments, they leave it wooded. They put a walking
947 trail through it and they say, okay, well, that's a park. What I've asked them to do
948 in this area is to clear a large area and create grass—Leave trees, but create a
949 large grass area, because the demographic that they're going to be pushing
950 towards are younger professionals. A walking trail is great, but we don't have
951 enough open area that people can throw Frisbees, walk dogs, picnic. Most of
952 what we have is wooded. So, I asked if they would consider opening up an area.

953

954 Mr. Tyler - And we will.

955

956 Mr. Branin - I'd like to see that proffered, as well, by the time it
957 gets to the Board.

958

959 Mr. Tyler - Yes sir.
960
961 Mr. Branin - It's been a long haul. You've made up for the size with
962 quality, and I thank you for that. That's why it is moving forward. Sixteen feet
963 wide, even on a minimal scale such as two units, is a stretch from the norm here.
964 I don't know if it is quite a good idea County-wide. In this area, I think it can be
965 acceptable. But the quality of the product is really what's carrying this project.
966 I'm familiar with the model that you all used for this because it's a couple miles
967 away from my office in North Carolina. So, I've seen the product. Once you guys
968 had presented it, I went through the product down there. According to what
969 you're showing and what you're proffering, you're going to be building that same
970 product. It is a good product.
971
972 Mr. Tyler - Thank you.
973
974 Mr. Branin - I don't have any further questions for him.
975
976 Mrs. Jones - So, you're satisfied that the objections have been
977 met.
978
979 Mr. Branin - I am. The streets being proffered out to that size, to
980 County standards, that will be cleaned up before it gets to the Board as well,
981 correct?
982
983 Mr. Tyler - As far as the private streets, yes sir.
984
985 Mr. Branin - The phasing. We sat for quite a few hours trying to
986 determine what the proper phasing would be. Originally, they had spoken about
987 that outparcel at the top—and then move down this way. And the section that's
988 closer to CarMax at that end because it's closer to—access, be done and face
989 the other way, which they have agreed to. When Tim Foster was asked when, it
990 could be as early as 2012. But with VDOT and with economic conditions today,
991 it's not really a guarantee. So, we went with the best.
992
993 Mrs. Jones - Would that we all had crystal balls. Do we have
994 questions for Mr. Tyler from the Commission? This has been a long road.
995
996 Mr. Tyler - Yes ma'am.
997
998 Mrs. Jones - Thank you.
999
1000 Mr. Branin - Okay. Madam Chair, I'd like to move—
1001
1002 Mrs. Jones - You're going to move for each individually?
1003

1004 Mr. Branin - -that C-8C-05, G. Edmond Massie, IV for Fidelity
1005 Properties, Ltd., move forward with a recommendation for approval, with all
1006 conditions and standards set in the case.

1007
1008 Mr. Vanarsdall - Second.

1009
1010 Mrs. Jones - Motion by Mr. Branin, seconded by Mr. Vanarsdall.
1011 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1012
1013 **REASON:** Acting on a motion by Mr. Branin seconded by Mr.
1014 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
1015 the Board of Supervisors grant the request because it would permit development
1016 of the land for residential use in an appropriate manner, it conforms to the 2026
1017 Comprehensive Plan's recommended future land use, and the proffered
1018 conditions would provide for a higher quality of development than would
1019 otherwise be possible.

1020
1021 Mr. Branin - I'd like to move that C-19C-06, G. Edmond Massie, IV
1022 for Fidelity Properties, Ltd., move forward with a recommendation for approval,
1023 with all conditions and standards set in the case.

1024
1025 Mr. Vanarsdall - Second.

1026
1027 Mrs. Jones - Motion by Mr. Branin, seconded by Mr. Vanarsdall.
1028 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1029
1030 **REASON:** Acting on a motion by Mr. Branin seconded by Mr. Mr.
1031 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
1032 the Board of Supervisors grant the request because it would permit development
1033 of the land for residential use in an appropriate manner, it is consistent with the
1034 2026 Comprehensive Plan's recommended future land use, and the proffered
1035 conditions would provide for a higher quality of development than would
1036 otherwise be possible.

1037
1038 **C-21C-09 Hans Klinger for HHHunt Corporation:** Request to
1039 conditionally rezone from R-3C One-Family Residence District (Conditional) to C-
1040 1C Conservation District (Conditional), part of Parcel 734-781-9430, containing
1041 approximately 0.46 acre, located approximately 300 feet north of the northern
1042 terminus of Collinstone Drive and approximately 300 feet west of the western
1043 terminus of Amershire Court. The applicant proposes a conservation area. The
1044 use will be controlled by zoning ordinance regulations and proffered conditions.
1045 The Land Use Plan recommends Environmental Protection Area.

1046
1047 Mrs. Jones - Well, I know the answer to this, but is there anyone
1048 who objects to this case? All right, Mr. Sehl.

1049

1050 Mr. Sehl - Thank you again, Madam Chair.

1051

1052 The subject property contains the portion of the proposed Ellington at Wyndham
1053 Subdivision located within the 100-year floodplain. This request is to comply with
1054 Proffer 8 of rezoning case C-2C-08, which requires areas within the 100-year
1055 floodplain to be rezoned to a C-1.

1056

1057 Because the conditions listed in Proffer 8 of C-2C-08 further restrict the
1058 development of floodplain areas within the proposed subdivision, the applicant
1059 has proffered that the area subject to this case would be governed by the same
1060 conditions contained in C-2C-08.

1061

1062 Conditional approval was granted for 91 lots within Ellington at Wyndham on July
1063 23, 2008; however, no plats have been recorded and no homes have been
1064 constructed on the property at this time. Staff notes that the area within the
1065 floodplain might change due to Department of Public Works conducting a
1066 floodplain study at this time. This may require the applicant to file for additional
1067 C-1 area within the proposed subdivision. It is not anticipated that the floodplain
1068 study would result in any floodplain revisions that would affect the proposed lots
1069 within the subdivision.

1070

1071 This request is consistent with the 2026 Land Use Plan designation of
1072 Environmental Protection Area, and supports the goals of the Land Use Plan.
1073 This request would satisfy the proffers accepted with rezoning case C-2C-08,
1074 therefore, staff does support this request. I'll be happy to answer any questions
1075 you have at this time.

1076

1077 Mrs. Jones - All right. Mr. Branin?

1078

1079 Mr. Branin - Mr. Sehl, I know we support this case, but I have
1080 some questions. I'd rather ask the applicant, so, if I may.

1081

1082 Mr. Klinger - Yes. I'm Hans Klinger. I'm with HHHunt.

1083

1084 Mr. Branin - Mr. Klinger, how are you?

1085

1086 Mr. Klinger - Doing well, thank you.

1087

1088 Mr. Branin - If the floodplain study increases the amount of
1089 floodplain on the property, how is this going to affect your design for your lots and
1090 your layout?

1091

1092 Mr. Klinger - It's anticipated that it won't. We've seen the
1093 preliminary findings from Timmons Group, who is doing the study for the County
1094 in this. Compared with the floodplain that we had done on this versus what
1095 they've proposed, the area does get bigger, but it's well away from the lot areas.

1096
1097 Mr. Branin - So, you're saying that it's not going to affect it at all.
1098
1099 Mr. Klinger - Yes. At this time, it doesn't appear to be affected.
1100
1101 Mr. Branin - So, it's not going to affect your density.
1102
1103 Mr. Klinger - That's correct.
1104
1105 Mr. Branin - You all aren't planning to remove any trees in this
1106 area, right?
1107
1108 Mr. Klinger - No. This area is mostly contained within the 50-foot
1109 stream protection area, so we wouldn't be able to anyway.
1110
1111 Mr. Branin - Right. Are you anticipating having to rezone any
1112 additional area?
1113
1114 Mr. Klinger - Not at this time. If the floodplain does change by the
1115 time we go to recordation, we would probably have to do that.
1116
1117 Mr. Branin - And if so, how is that going to—First, when are you
1118 planning to actually begin to develop this?
1119
1120 Mr. Klinger - That's a good question. It depends on market
1121 conditions. At this time, we don't foresee starting anything this year. We're
1122 looking to next year, and it all depends on what happens between now and then
1123 not only with the market, but with the lending institutions as well.
1124
1125 Mr. Branin - So you're looking at the beginning of next year,
1126 summer next year?
1127
1128 Mr. Klinger - We're looking at spring. But, as I said, it's all
1129 dependent upon market conditions. The market for this type of home is not doing
1130 well right now, so it would not make sense for us to bring these onto the market.
1131
1132 Mr. Branin - Okay. That was it. I had some questions I wanted to
1133 ask you directly.
1134
1135 Mr. Klinger - Okay. Thank you. I'd be happy to answer any other
1136 questions.
1137
1138 Mrs. Jones - Anything else? All right, thank you very much.
1139
1140 Mr. Klinger - All right, thank you.
1141

1142 Mr. Branin - Madam Chair, I'd like to move that C-21C-09, Hans
1143 Klinger for HHHunt Corporation, move forward with a recommendation for
1144 approval.

1145
1146 Mr. Vanarsdall - Second.

1147
1148 Mrs. Jones - Motion by Mr. Branin, seconded by Mr. Vanarsdall.
1149 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1150
1151 **REASON:** Acting on a motion by Mr. Branin seconded by Mr.
1152 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
1153 the Board of Supervisors **grant** the request because it is reasonable and is
1154 consistent with the 2026 Comprehensive Plan's recommended future land use
1155 designation of EPA for the site.

1156
1157 Ms. Moore - That concludes our section and consideration of
1158 provisional use permits and rezoning.

1159
1160 On page 3 of your agenda, you'll notice there is a discussion item. As the
1161 Commission is aware from their work session regarding street frontage
1162 requirements, what we'd like to ask is for the Commission to set a public hearing
1163 for the September 23, 2009, public hearing—which is your normal day POD
1164 meeting—to consider the amendment on the Rezoning and Subdivision
1165 Ordinance regarding the street frontage requirements.

1166
1167 Mrs. Jones - Ms. Moore, would that be at the beginning of the
1168 meeting, or after, or how would that work?

1169
1170 Ms. Moore - That's a good question. I think typically they hold
1171 them at the end. Basically, if you just want to set it—Because the time is set at
1172 your normal time, we can place that on the agenda wherever you like. Typically,
1173 I would place it toward the end.

1174
1175 Mrs. Jones - So we don't have to advertise that at 10:00, or 9:30,
1176 or—

1177
1178 Ms. Moore - We would consider the regular time at 9 a.m.

1179
1180 Mrs. Jones - Okay. Very good.

1181
1182 Mr. Jernigan - I think if we look back, most of the time we've had
1183 them first.

1184
1185 Ms. Moore - You've had them first?

1186
1187 Mr. Jernigan - Haven't we, Mr. Archer?

1188
1189 Mr. Archer - Yes, I think we do.
1190
1191 Mr. Jernigan - We normally have a public hearing first, and then
1192 have the cases after that.
1193
1194 Mrs. Jones - We've done this a few times, but I can't remember.
1195
1196 Ms. Moore - There's some discrepancy. Mr. Strauss, do you recall
1197 any time with public hearings? We can certainly do it any time the Commission
1198 wants to.
1199
1200 Mr. Strauss - The complication is, if you have a public hearing, you
1201 have to hold it at that hour. If the cases run longer than expected, you would
1202 have a problem if it's held later. So, I think it is beneficial to have it at the
1203 beginning of the meeting.
1204
1205 Mrs. Jones - Okay. I think that makes perfect sense, as well, for
1206 the public.
1207
1208 Ms. Moore - Okay.
1209
1210 Mrs. Jones - All right, let's do that.
1211
1212 Mr. Vanarsdall - What are we going to do?
1213
1214 Mrs. Jones - What we will need to do is to have a formal motion, or
1215 simply agree?
1216
1217 Ms. Moore - A motion would be good.
1218
1219 Mrs. Jones - All right. I'll entertain a motion for the public hearing
1220 on street frontage requirements to be held September 23, 2009, prior to the
1221 regular agenda for the Planning Commission meeting.
1222
1223 Mr. Vanarsdall - So moved. And what time did you say?
1224
1225 Mr. Archer - Regular time, isn't it?
1226
1227 Mrs. Jones - Nine.
1228
1229 Mr. Jernigan - Nine. It's in the morning.
1230
1231 Mr. Vanarsdall - Oh, I'm sorry, September 23rd. Oh, okay.
1232
1233 Mrs. Jones - Nine a.m. Okay. We have a—

1234
1235 Mr. Branin - Second.
1236
1237 Mrs. Jones - —motion by Mr. Vanarsdall, seconded by Mr. Branin.
1238 All in favor say aye. All opposed say no. The ayes have it; the motion passes.
1239 That's when it will be.
1240
1241 Ms. Moore - The next item on your agenda is the approval of
1242 minutes for the Planning Commission for July 9th, 2009. We do apologize for the
1243 blanks.
1244
1245 Mrs. Jones - I think most of that is probably because we get
1246 enthused, and move our head, and talk to other folks. I do want to make a couple
1247 of comments about the minutes over the blanks, which we'll work on. On page 9,
1248 line 357, it's obvious it should be "Ms." Sherry not "Mr." Sherry. On page 19, line
1249 810, it's "we apostrophe l-l," as opposed to "well."
1250
1251 Mr. Archer - I'm sorry, Madam Chair, what page is it? Page 19?
1252
1253 Mrs. Jones - Yes sir. Line 810. I think most of my other markings
1254 were due to the blanks. Does anyone else have other corrections?
1255
1256 Mr. Archer - On page 27, line 1176. The word should be "trying to
1257 collect data," not "college data."
1258
1259 Mrs. Jones - All right.
1260
1261 Mr. Archer - It seems like most of the blank sections on the tape
1262 were places where I was talking. Was I using bad language or something?
1263
1264 Mrs. Jones - No, Mr. Archer. We were all equally guilty. All right.
1265 Are there other corrections? Additions? Do I hear a motion that the minutes be
1266 approved as correct?
1267
1268 Mr. Vanarsdall - So moved.
1269
1270 Ms. Jones - Motion by Mr. Vanarsdall.
1271
1272 Mr. Branin - Second.
1273
1274 Mrs. Jones - Seconded by Mr. Branin. All in favor say aye. All
1275 opposed say no. The ayes have it; the motion passes.
1276
1277 All right. I thank you all very much. If there is no other business to come before
1278 the Commission—
1279

1280 Ms. Moore - I just want to say I know everyone's aware that our
1281 Comp Plan was approved by the Board Tuesday night, so that's hardly news. It
1282 was very long task, and we just thank you for your input on that.

1283
1284 Mr. Branin - And let me say on behalf of the Commission, I think
1285 staff did a fantastic job dealing with the citizens at large, and us.

1286
1287 Mrs. Jones - Not an easy task. I also want to thank the technology
1288 that allows us to listen to all of this from the comfort of our own homes, which I'm
1289 sure most of us probably do.

1290
1291 I thank you all very much. Is there anything else to come before the
1292 Commission? Meeting adjourned.

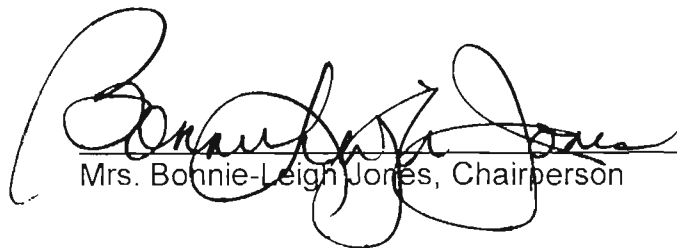
1293
1294 The meeting adjourned at 8:03 p.m.

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Ms. Jean Moore, Acting Secretary

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Mrs. Bonnie-Leigh Jones, Chairperson