

Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico, Virginia, held in the Board Room of the County Administration Building, Parham and Hungary Spring Roads at 7:00 p.m., on August 13, 1998, Display Notice having been published in the Richmond Times-Dispatch on Thursday, July 23, 1998, and Thursday, July 30, 1998.

Members Present: C. W. Archer, C.P.C., Chairman, Fairfield
Elizabeth G. Dwyer, C.P.C., Vice-Chairman, Tuckahoe
Ernest B. Vanarsdall, C.P.C., Brookland
Mary L. Wade, Three Chopt
David A. Zehler, C.P.C., Varina
James B. Donati, Jr., Board of Supervisors, Varina
John R. Marlles, AICP, Director of Planning, Secretary

Others Present: Randall R. Silber, Secretary, Assistant Director of Planning
John Merrithew, AICP, Principal Planner
Mark Bittner, County Planner
Nancy Gardner, AICP, County Planner
E. Ted McGarry, County Planner
Jo Ann Morgan Hunter, AICP, County Planner
Mikel Whitney, County Planner
Lee Yolton, County Planner
Judy Thomas, Recording Secretary

Mr. Archer - Good evening, everyone. Do we have any members of the press present tonight? Wendy, are you here?

Mr. Merrithew - The press is here.

Mr. Archer - Wendy Wagner for the Richmond Times-Dispatch, cowboy hat and all. Anyone else? If you're here and we didn't recognize you, consider yourself recognized. We have a pretty lengthy agenda tonight as always. At this point in time, I'll turn the proceedings over to Mr. John Marlles, the Director of Planning, and we'll get started. Mr. Marlles.

Mr. John Marlles, Director of Planning - Mr. Chairman, we do have a quorum tonight. I'm going to ask Mr. Merrithew to come up and please present the requests for deferrals and withdrawals.

Mr. John Merrithew, Principal Planner - Thank you, Mr. Secretary. We have a number of deferrals and withdrawals. I tried to put them up on the screen. Those that are up on the screen are for the 7:00 o'clock agenda. The first request for deferral is in the Varina District, on Page 3 of your agenda:

Deferred from the July 9, 1998 Meeting:

P-28-98 James D. Thornton for Triton PCS, Inc.: Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct, operate and maintain a communication tower up to 199' high and related equipment and improvements, on part of Parcels 142-13-B-9 and 11, containing 2,500 sq. ft., located on the southwest line of Nine Mile Road, approximately 100' west of Battery Avenue (St. Johns Catholic Church property, 813 W. Nine Mile Road). The site is zoned R-2A and R-4 One-Family Residence Districts.

They have requested a deferral until September 10, 1998.

August 13, 1998

Mr. Archer - Okay. Is there any one here in opposition to the deferral of P-28-98?

Mr. Zehler - Mr. Chairman, I move that P-28-98 be deferral per applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Ms. Dwyer - What date was that Mr. Zehler?

Mr. Merrithew - September 10th was the date requested.

Mr. Archer - Okay. Next.

Mr. Merrithew - Thank you, Mr. Chairman. On Page 4 of your agenda in the Brookland District:

Deferred from the July 9, 1998 Meeting:

P-21-98 Ellen L. Vogel for Triton PCS, Inc.: Request for a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct, operate and maintain a communication tower up to 199' high and related equipment and improvements, on part of Parcel 22-A-15, containing 2,500 sq. ft., located between the northern terminus of Brookley Road and the southern side of RF&P Park (10820 Brookley Road). The site is zoned A-1 Agricultural District.

They have requested a deferral until October 15, 1998.

Mr. Archer - All right. Thank you, Mr. Merrithew. Is there any one here in opposition to deferment of P-21-98? The request is to October 15th. Mr. Vanarsdall.

Mr. Vanarsdall - I move that P-21-98 be deferred to October 15th at the applicant's request.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Merrithew - Thank you, Mr. Chairman. The next case on your agenda, C-51C-98:

C-51C-98 Strange-Bosten & Associates for Woodmen, LC: Request to conditionally rezone from R-3 One Family Residence District to R-6C General Residence District (Conditional), Parcels 51-A-98 and 99, containing 3.919 acres, located on the southwest line of Woodman Road approximately 340' northwest of its intersection with Parham Road. An assisted living facility is proposed. The Land Use Plan recommends Office development.

They have requested a deferral until September 10, 1998.

Mr. Archer - Is there any one here in opposition to deferment of C-51C-98? No opposition. Mr. Vanarsdall.

Mr. Vanarsdall - Mr. Chairman, I move C-51C-98 be deferred to September 10, 1998 at the applicant's request.

Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Merrithew - Mr. Chairman, on the next page, the next case, P-32-98:

P-32-98 Gloria L. Freye for Food Lion, Inc.: Request for a provisional use permit in accordance with Sections 24-58.2(a) and 24.122.1 of Chapter 24 of the County Code in order to permit 24 hour operation on part of Parcel 70-A-68, containing 45,000 square feet, located in Merchants Walk Shopping Center (7804 W. Broad Street). The site is zoned B-2 Business District.

They have requested a deferral to November 12, 1998.

Mr. Archer - Is there any one here in opposition to P-32-98 Gloria L. Freye for Food Lion, Inc? There's no opposition.

Mr. Vanarsdall - I move P-32-98 be deferred to the November 12, 1998 meeting at the applicant's request.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Merrithew - Mr. Chairman, in the Fairfield District, the same page of the agenda: **Deferred from the June 11, 1998 Meeting:**

P-19-98 James W. Theobald and Charles H. Rothenberg for SprintCom, Inc.: Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct, operate and maintain a communication tower up to 199' high and related equipment and improvements, on part of Parcel 119-A-8D, containing 2,500 sq. ft., located northeast of the terminus of Neale Street and its intersection with Goodell Road (Abundant Life Church property, 3300 Neale Street). The site is zoned A-1 Agricultural District and Airport Safety Overlay District.

They have requested a deferral to November 12, 1998.

Mr. Archer - Okay. Is anyone here in opposition to the deferment of P-19-98 James W. Theobald and Charles H. Rothenberg for SprintCom? Then, I move that the deferment of this case be made until the 12th of November at the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Merrithew - The same District, Fairfield District, same page, next case?

Deferred from the June 11, 1998 Meeting:

C-40C-98 Robert M. Atack for Atack Properties, Inc.: Request to conditionally rezone from R-3AC and R-2AC One Family Residence Districts (Conditional) to RTH Residential Townhouse District (Conditional), part of Parcels 23-A-72A and 32-A-94, containing 18.08 acres, located adjacent to the western terminus of proposed J.E.B. Stuart Parkway and north of the terminus of Proposed Magnolia Ridge Drive. Townhomes or condominiums for sale are proposed. The RTH District permits densities up to 9.0 units gross density per acre. The Land Use Plan recommends Suburban Residential 1 development, 1.0 to 2.4 units net density per acre and Suburban Residential 2, 2.4 to 3.4 units net density per acre.

The applicant has requested a deferral until September 10, 1998.

Mr. Archer - Is there any one here in opposition to the deferment of C-40C-98 Robert M. Atack for Atack Properties, Inc.? I move the deferment of C-40C-98 to the September 10th meeting at the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Merrithew - Thank you, Mr. Chairman. Finally, the last case on the 7:00 o'clock agenda, C-52C-98.

C-52C-98 A. G. Bertozzi for Addon Associates, LLC: Request to conditionally rezone from A-1 Agricultural District to R-3AC One Family Residence District, on Parcel 43-A-43, containing 3.97 acres, located at the east line of Telegraph Road, approximately 200' north of Pennsylvania Avenue. A residential subdivision is proposed. The R-3A District permits densities up to 4.59 units gross density per acre. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

They have requested a deferral until September 10, 1998.

Mr. Archer - Is there anyone here in opposition to the deferment of C-52C-98? I move the deferral of C-52C-98 to the September 10, 1998 meeting at the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Merrithew - Mr. Chairman, there are two other deferrals in the 8:00 o'clock agenda which I'd just like to mention. C-48C-98 which is James Theobald for Snyder-Hunt. Their project located up off of Shady Grove and Pouncey Tract and Nuckols Road. They have requested a deferral as well as C-54C-98 Glenn Moore for ESA Management requested a deferral until September. And finally, C-31C-98 Bill Axselle and Andrew M. Conclin for Sigma Development. That's the case at Church and Pump. They have withdrawn that application.

Mr. Archer - Okay.

Mr. Merrithew - Thank you.

Mr. Archer - Thank you, Mr. Merrithew. Now, for those deferrals that we mentioned for the 8:00 o'clock portion, it simply means that we will more than likely grant those deferrals. We don't necessarily have to, but we will more than likely grant them. So, anybody who was waiting for those cases, at your own discretion, if you don't think you want to wait, you can leave.

Mr. Zehler - Mr. Chairman, if I may, I'd like to ask, I did see Case P-17-98 shown on the screen as withdrawn.

Mr. Archer - Yes.

Mr. Merrithew - That's the first case.

Mr. Zehler - Of course, the screen's gone now.

Mr. Merrithew - P-17-98, that's right. I forgot to mention that.

Deferred from the July 9, 1998 Meeting:

P-17-98 Susan Stancil for Nextel Communications: Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a communication tower up to 199' high and related equipment and improvements, on part of Parcel 217-A-30, containing 2,500 sq. ft., located at 3622 Darbytown Court on the east side of Interstate 295. The site is zoned A-1 Agricultural District. The site is also in the ASO Airport Safety Overlay District.

They have withdrawn that case.

Mr. Zehler - Do we need to take any action on that, Mr. Chairman.

Mr. Merrithew - No sir.

Mr. Archer - Thank you, Mr. Zehler. All right, Mr. Secretary, let's move along.

SUBDIVISION

**Windsor Business Park
(June 1998 Plan)
(A dedication of a portion of Windsor Business Parkway)**

TIMMONS for Robert B. Ball, Sr. Et Al and General Investment & Development Company: Located along the north line of Parham Road approximately 2,400 feet east of the intersection of Park Central Drive, Windsor Business Parkway would extend 500 feet northwardly to its temporary terminus on part of parcels 54-A-1A and 2. The zoning is M-1C, Light Industrial District (Conditional) and O-2C, Office District (Conditional). (Fairfield) 0 Lot

Mr. Archer - Was there any one here in opposition to Windsor Business Park?
Mr. McGarry.

Mr. Ted McGarry, County Planner - Mr. Chairman, members of the Commission, the Major Thoroughfare Plan shows Scott Road connection to Parham Road. The Plan, as submitted, did not provide that connection. So, the developer, instead, requested the Director of Planning and the Director of Public Works to accept the stub road, which is listed as "Road A" on your plan, and the POD that's a companion paper to this, is called Windsor Business Parkway. At any rate, the developer asked that the stub road be determined to meet the requirements of the Major Thoroughfare Plan.

Several meetings were held. And on August 11th of this week, the Director of Planning, in consultation with the Director of Public Works, and the Traffic Engineer, accepted the stub road A on your plan as meeting the intent of the 2010 Major Thoroughfare Plan. This interpretation assumes the balance of the spine road proposed in Windsor Business Park will extend from the western limits of their property to a connection with the existing Scott Road. We've given you a handout to help visualize what I'm describing.

The spine road, beyond the limits of Windsor Business Park, will be dedicated and constructed by other parties which have indicated their agreement with this alignment.

With that background, staff is now in a position to recommend approval of the subdivision, Windsor Business Park, in addition to the standard conditions and the following Conditions 9 and 10 on your agenda. I'd be happy to answer any questions.

Mr. Archer - Are there questions by the Commission for Mr. McGarry?

Ms. Dwyer - Mr. McGarry, what's going to happen to Scott Road? It seems to end at the property line with no place to go; and, obviously, the intention was for it to continue to Parham. What is the concept of the future of Scott Road as shown on our map here?

Mr. McGarry - As indicated on that handout you were given, it's contemplated that this spine road, which is an industrial access type of road, four-lane divided, when it's extended will eventually replace Scott Road...

Ms. Dwyer - Replace Scott Road?

Mr. McGarry - Replace Scott Road, and provide the access to the developing property and give it better access to Parham Road than the existing Scott Road would.

Ms. Dwyer - And Scott Road, I assume is part of Park Central now? Is that right?

Mr. McGarry - That's correct.

Ms. Dwyer - And this new spine road we're talking about is not in Park Central?

Mr. McGarry - That's correct. But if you look at the plan, it envisions future property development that would allow Park Central – Of course, Park Central has its own access to Parham now.

Ms. Dwyer - Right.

Mr. McGarry - It would be a second access point for them. So, it's to their advantage to have this; and yet, the existing Scott Road would still provide service to the existing lots that are existing along there that are undeveloped.

Ms. Dwyer - So, the idea is that the Scott Road that we see on our map now, would just be eliminated or will it just not serve as a spine road and an access to Parham because we have this other one or?

Mr. McGarry - I guess that's an accurate statement.

Ms. Dwyer - Which one? I gave you an option.

Mr. Archer - He took one.

Ms. Dwyer - He took them both.

Mr. McGarry - This does not eliminate Scott Road from being used for access. It accepts the alternative road, the spine road, in place of a formal connection of Scott Road down to Parham Road at this time.

Ms. Dwyer - Is the Cobb Property, is that a part of either of these developments, or is that sometime in the future?

Mr. McGarry - They are separate ownership and they are, to my understanding, in agreement with this concept here. All of the parties have bought into it. So, it's contemplated that

as these properties which have not been approved for development, as they develop, will utilize this spine road for their access.

Mr. Archer - Okay. Are there further questions for Mr. McGarry by the Commission? Any further discussion? Okay. Well, in that case, I move for approval of Windsor Business Park, and the change to the Major Thoroughfare Plan that was indicated by Mr. McGarry, subject to the standard conditions for developments of this type, and the addition of Conditions 9 and 10.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay.

The Planning Commission granted conditional approved to **Windsor Business Park (June 1998 Plan) (A dedication of a portion of Windsor Business Parkway)** subject to standard conditions attached to these minutes and the following additional conditions:

9. As stated in proffer #3, zoning case C-90C-97, the details plant list and legend for the landscaping to be provided within the 25-foot-landscaped buffer along both sides of the spine road shall be provided as any portion of the road is dedicated and constructed and further shall be submitted to the Planning Office for review and approval prior to recordation of the plat.
10. A Phase 1 final plat providing access from Parham Road to the site approved in POD-67-98 shall be granted final approval, recorded and constructed prior to issuance of an occupancy permit for POD-67-98.

Mrs. Wade - We're not really amending the Plan, are we? We're just moving the road over?

Mr. Archer - We are amending the Major Thoroughfare Plan, are we not?

Mr. Marlles - That is correct.

Mrs. Wade - We can do that?

Mr. Marlles - I can. I've done that. As Director of Planning I can make those types of minor adjustments.

Ms. Dwyer - So, this is not viewed as a significant amendment. That's why you were able to do that, because we're just really changing the location...

Mr. Marlles - Exactly.

Ms. Dwyer - Fulfilling the purpose of Scott Road?

Mr. Archer - The major question, Ms. Dwyer, the Director had to make the determination if we made this change, it would still be within the spirit of the Major Thoroughfare Plan, and the determination was made, and that's why we agreed on it. Okay, moving right along.

**Deferred from the July 28, 1998 Meeting:
PLAN OF DEVELOPMENT**

POD-67-98

**Windsor Business
Park Master Plan
And Building #1**

TIMMONS for Robert B. Ball, Sr., Et. Al. and General Investment & Development Company: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code for a master plan and first phase for building #1 which would be a one-story, 55,800 square foot office/warehouse. The 81.5-acre site is located along the north line of E. Parham Road approximately 2,400 feet east of Park Central Drive on part of parcel 54-A-1A and part of 54-A-2. The zoning is M-1C, Light Industrial District (Conditional) and O-2C, Office District (Conditional). County water and sewer. **(Fairfield)**

Mr. Marles - I believe Mr. McGarry will also be giving the staff presentation.

Mr. Archer - Okay. Is any one here in opposition to this Plan of Development POD-67-98. We have opposition in the back. Thank you, sir. We'll get to you. Mr. McGarry.

Mr. Ted McGarry, County Planner - This is a companion case for the Windsor Business Park Subdivision on which you just acted. The only outstanding issue was the issue of the Major Thoroughfare Plan road. And that has been resolved. So, I'll address the actual plan, itself.

There are several annotations on the master plan sheet which is the second plan from the top in your packet after the location map. Some of those annotations no longer apply.

First, under the Planning list of annotations, No.4, where staff is requesting restrictive covenants to be submitted and approved prior to approval of this plan, staff has received them. They have been approved. Therefore, Annotation No. 4 may be deleted..

Under the traffic annotations, Annotation No. 2, this requires that Scott Road connect to the Spine Road, as proposed. That gets to be deleted because of your action a few minutes ago on acceptance of the spine road in place of Scott Road. Therefore, Annotation No. 2 should be deleted.

The application is in agreement with all the other annotations left. Therefore, should the Commission act on this, staff can recommend that, in addition to the standard conditions for developments of this type, Conditions 23-31 be included with your approval. Are there any questions?

Mr. Archer - Thank you, Mr. McGarry. Are there questions of Mr. McGarry by the Commission? Mr. McGarry, on No. 2, does that say, "provide total"? Is that square footage, "...area of all buildings under planting?"

Mr. McGarry - Yes. Square footage of all buildings and a summary table showing the site coverage ratios.

Mr. Archer - Are there further questions of Mr. McGarry? I don't need to hear from the applicant unless someone else does. We do have opposition if the applicant wishes to speak.

Mr. Bill Axselle - I, only briefly, and we were chatting back here. I'm Bill Axselle. I'm here on behalf of the applicant, along with Charlie Pike of Timmons & Assocs. The individual who indicated his desire to be heard is a representative of the North Chamberlayne Civic Association, with whom we had worked on the underlying zoning case. I think his concern was, and he can speak for himself better than I, but we, as you recall, Mr. Archer, had a number of proffers and a number of conditions that were made part of that zoning case. His concern is that, on this POD he did not see those same conditions—that are a part of the proffers. I've indicated to him, and I would indicate to you on the record, that we understand that the zoning case with those proffers is still valid and remains still binding on us; that the POD, in fact, is simply the development implementation of those proffers. But everything that we do has to be consistent with those proffers; and in fact, your staff checked them. I just wanted to put them on the record to help, perhaps, facilitate things.

Mr. Archer - Thank you, Mr. Axselle. You're welcome to speak.

Mr. Tom Henry, North Chamberlayne Civic Association - I am concerned. We asked the Planning Commission to contact the civic association on any changes that went on within our boundaries. And we gave those boundaries very specifically to the Planning Commission. We heard nothing about these two cases until I got a phone call two nights ago. I was not aware this was going on. I'm very concerned that we have already moved connecting the spine road which is probably going to do something that we fought pretty hard not to do with Park Central and the other proffers that were added and get more traffic onto Parham Road.

As I understand listening tonight, we're going to see a spine road connecting Scott Road to Parham Road which will give access from Route 1 across Scott Road, across the back of Park Central and down onto Parham Road. I thought we fought long and hard in front of this Commission about three months ago; four months ago for that not to happen. Low and behold, it happened tonight. I'm concerned about that because I don't see anything here that says the same proffers are going to be on this M-1C zoning that is spelled out here which we worked very hard to maintain a very limited M-1C on the proffers whenever we dealt with the Planning Commission six months ago. Now, what can you do to put my mind at ease that this not going to put more traffic onto Parham Road; the one thing you've already passed. And Number 2, there aren't other hidden things in this POD that we don't see; that we haven't been contacted about; that we haven't been told about until it comes before the Planning Commission?

Mr. Archer - I'll try very hard to ease your mind and anybody can just jump in and help me when you feel like it. The difference between the Plan of Development and zoning case, of course, is that they are not proffers that are attached to a Plan of Development.

What was done in the previous case, prior to this one, was simply a realignment, as such, of items that were already on the Major Thoroughfare Plan. The proposed Scott Road connection would have been there anyway. That was something that was done sometime ago.

Mr. Henry - In 2010, right?

Mr. Archer - Yes.

Mr. Henry - We're talking about 12 years.

Mr. Archer - We really didn't change anything, except we just moved it a little bit from where it would have been to where it is supposed to be now.

Mrs. Wade - Have you seen the proposed road, Mr. Henry?

Mr. Henry - No. I did not see it.

Ms. Dwyer - There's already a connection on the Thoroughfare Plan to Parham Road, and we've just essentially moved that connection down the street a little bit. That's all that we just did.

Mr. Archer - We didn't intentionally change anything. We simply amended the Major Thoroughfare Plan to make a slight change in the location of this road. Instead of the extension coming from Scott Road, it's just going to move a little bit and come out at another point. It is not a significant change.

Mr. Henry - Where was the sign placed that said there was going to be a zoning change of anything of that nature?

Mr. Archer - There wouldn't have been a sign because this was not a zoning change. We don't post signs; I don't think we do, unless there is a rezoning case. And this was not a rezoning case. That's probably why there was no notification. This was something that was just about handled administratively to be honest with you, Mr. Henry. There was no rezoning case. That's why there was no rezoning sign.

Mrs. Wade - Scott is not going to go through. The other road is going to come around north and east of it. So, there'll still be just the one road coming into Parham. And it won't be...

Mr. Henry - Well, do you agree it will tie and connect over to Route 1, as well, and put more traffic onto Parham Road?

Mr. Archer - At some point in time, that's a possibility, but it would have done that anyway. The original Major Thoroughfare Plan already had this existing road on it. The part that we approved tonight was the proposed Scott Road. It's a proposal right now. If you'd like, Mr. Henry, Mr. Silber, the Assistant Director, has indicated he'd be happy to meet with you outside now and try explain this difference to you.

Mr. Henry - Yes. I don't want to tie up this, so that will be fine.

Mr. Archer - We want you to have the answer. I don't want you to think we're trying to do anything under the table. That's very much not what we're doing.

Mr. Henry - Very good. Appreciate it. Thank you.

Mr. Archer - I think that you can ease your mind. There's nothing that has happened here that would not have happened had this not occurred. We just changed the location by a few hundred feet maybe.

Mr. Henry - Thank you.

Mrs. Wade - But you're right. We did have a discussion about notifying your group, because I remember asking what your boundaries were.

Mr. Henry - Very much so. I sent those in. I got nothing. Why did I bother to even send that in? I would appreciate it if I could reemphasize contacting the North Chamberlayne Civic Association.

Mr. Archer - So noted, sir. We appreciate it. Where were we? Is there anyone else to speak in opposition to this POD? Any other questions by the Commission? There being none, then I move for approval of Plan of Development POD-67-98 Windsor Business Park Master Plan and Building No. 1, subject to the standard conditions for developments of this type, and the addition of conditions 23 through 31.

Ms. Dwyer - Second.

Mr. Archer - Motion made by Mr. Archer, seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay.

The Planning Commission granted approval POD-67-98 Windsor Business Park Master Plan and Building No. 1, subject to standard conditions, attached to these minutes, and the following additional conditions:

23. The subdivision plat for Windsor Business Park shall be recorded before any occupancy permits are issued.
24. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
25. The certification of building permits, occupancy permits and change of occupancy permits for individual units shall be based on the number of parking spaces required for the proposed uses and the amount of parking available according to approved plans.
26. Any necessary off-site drainage easements must be obtained in a form acceptable to the County Attorney prior to final approval of the construction plans by the Department of Public Works.
27. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
28. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
29. Approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Henrico County maintained right-of-way. The elevations will be set by Henrico County.
30. The master plan and summary table required by proffers for this project shall be updated with each request for POD approval. The summary table, a minimum, shall include site coverage percentages, gross square footage of all buildings, and percentages of restricted uses.
31. Prior to landscape plan approval, the developer shall provide a sight line plan which would provide details of the berms and walls necessary for the screening of all loading dock facilities. Further, with the construction of future phases, any remedial screening necessary to meet proffer No. 8 shall be completed by the property owner.

Deferred from the July 28, 1998 Meeting:

PLAN OF DEVELOPMENT

POD-73-98

**Aero Park –
Audubon
Drive – Auto Valet**

Charles C. Townes & Associates for ACRE, LLC and Childress Kline Properties: Request for approval of a plan of development, as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a 624 space commercial parking lot. The 8.03-acre site is located along the southern line of Audubon Drive approximately 650 feet west of its intersection with Airport Drive (State Route 156) on part of parcel 163-A-14B. The zoning is M-1, Light Industrial District and ASO (Airport Safety Overlay District). County water and sewer. **(Varina)**

Mr. Marles - I believe Mr. McGarry is going to be giving the staff presentation.

Mr. Archer - Okay. Is there any one here opposed to Plan of Development 73-98 Aero Park – Audubon Drive – Auto Valet? We have opposition on the front. Thank you, ma'am. We'll get to you. Mr. McGarry.

Mr. Ted McGarry – Yes, Mr. Chairman. I'll give you something to look at while we're talking. This plan was deferred to this meeting in order to overcome staff's concerns that the abutting property is so constrained as not to provide proper access between two portions that are owned by one individual. There is, basically, a nine foot portion of land, connecting the abutting property owners northern and southernmost pieces. So, the developer has agreed to provide an access, as shown on the handout. And for the audience, up on the screen, it's shown in a dark gray. This will be an access drive that will connect two portions of Parcel 163-A-19. It currently has only about a nine-foot connection down at the lower left corner of your screen.

With that, staff is satisfied that the abutting property owners are not going to be landlocked and can recommend approval of this, subject to the standard conditions and Conditions 23 through 28. Condition 28 goes into a little bit of detail on what this access agreement needs to accomplish to be accepted. I'd be happy to answer any questions.

Mr. Archer - Are there questions of Mr. McGarry by the Commission?

Ms. Dwyer - This future drive encroaches in the 50-foot transitional buffer then?

Mr. McGarry - Yes. It will. For 20 feet of the 50 feet on the applicant's portion of the site. This is not going to be constructed at this time. And, potentially, depending upon the ownership changes that occur with this property, it may never be needed. But, in the event that it was, staff felt there should have to be some means for the man to have access between his two parcels. So, it was anticipated that, if this was ever needed when that Plan of Development would come in for this parcel, the transitional buffer deviation request would be made at that time to make this connection.

Mr. Archer - Okay. Further questions for Mr. McGarry?

Mr. Zehler - We need to hear from the opposition.

Mr. Archer - Okay. Is the applicant here? Would you come forward, please. Ma'am, are you in opposition or the applicant?

Ms. Paula Griffith - Opposition.

Mr. Archer - Okay. We'll get to you in just a second. I'm sorry. You misunderstood me.

Mr. Bill Promroy, General Manager, Aero Park. I am Mr. Bill Promroy, General Manager, Aero Park.

Mr. Archer - Good evening, sir.

Mr. Zehler - I have no questions for the applicant. I would like to hear what the opposition has to say.

Mr. Archer - Oh. I'm sorry.

Mr. Zehler - I thought I did say opposition.
Mr. Archer - I thought you said, "applicant".

Ms. Paula Griffith - I am here as a resident affected by this proposed POD. I was unable to make the last meeting, because of my job. It requires me to be on call. So, I could not be here.

One thing that I just caught when Mr. McGarry was up here is that he said that this is not going to be constructed at this time. And, right before the meeting started, I spoke with the applicant and they said that they were going to start construction. They wanted to within 90 days.

Ms. Dwyer - Excuse me. I think Mr. McGarry was just referring to this future driveway.

Mr. Zehler - Future access.

Ms. Dwyer - Future access road. That's the part he said may never be constructed, not the whole development...

Ms. Giffith - I guess my concern is, I've only, and I realize this is probably not an issue because business is business, but I'm going to go ahead and speak my mind here. My property values are going to decrease because of this. At least, I feel that way. In addition to that, I don't think it's going to be a very attractive thing to be looking out your back door and see a parking lot out there. Most of the residents in this area, right now, are enjoying wildlife and things of that sort that are coming in there. It's not just going to decrease property values, they're going to interfere with peoples enjoyment when they come home from work.

The parking lot, I realize the airport is planning on expanding and they just finished a lot on airport property. They just finished a huge parking deck. I realize this is supposed to be in competition with them. I just don't see the need for it. There is no proposed start and completion date which would be nice to have. I would ask that, if you are going to approve this, is there a possibility that the spaces cannot be so close to the residential properties? Or can they limit the number of spaces that they're putting in there? Can they decrease them a little bit so that its moving them a little bit further away from the property lines of the residents out there?

I am at 5706. That is my property line there. The person that's right beside me is my next door neighbor, and that's not real attractive to me to be able to go out in my backyard and there's a parking lot.

Mr. Zehler - So, basically, your property abuts up to the piece that is not being developed?

Ms. Griffith - The corner of my property is not on the development line. But if I'm going to go out into my backyard, just a few feet away; I have 700 cars in my backyard, so to speak.

Mr. Zehler - Mr. McGarry, this 5706, if I'm not mistaken, ...
Mr. McGarry - That's her home.

Mr. Zehler - But it's backing up to the M-1 piece that's not being developed?

Mr. McGarry - That's correct.

Mr. Zehler - So, basically, that piece is not being developed that you're speaking of. You're not confused with this being your backyard, are you?

Ms. Griffith - I'm looking out through my backyard and I'm going to see 700 cars.

Mr. Zehler - But you have a parcel of land between the piece that's before us tonight and yourself.

Ms. Griffith - But how many feet is that?

Mr. Zehler - I don't know.

Ms. Griffith - ...If I had a fence when I'm up on my two-story house, looking out my bedroom window, it would block my complete view and I wouldn't have a problem. There is lighting. I understand this is going to be lit. This is going to put light into my house in the evenings. I have a problem with that.

Mr. Archer - Excuse me, ma'am. You do need to speak into the mike when you speak. We are recording the meeting.

Ms. Griffith - I have a problem with the fact that the area will be lit. This is going to light up my house in the evening when I don't wish it to be lit. I'm still concerned about the type of barrier that's being put around, and the security risk.

When you have cars, cars are a theft target. It's going to open, to me, I mean this is my thoughts. It's a security risk. And property lines, realizing that this is not on the other side of my fence when open it, but within a number of feet, I am now going to have a lot more people back there than I do right now, which is zilch, because it is a field.

Mr. Zehler - You need to understand that the piece that's bordering the rear of your property, the fact, it's bordering all of those properties is already zoned M-1. That is heavy industrial use. Well, light industrial use. This request is for a parking lot which would, basically,

have a less impact on the type of use than what you possibly could get there with the M-1 zoning, if that makes sense.

Ms. Griffith - Is there anyway to defer building on this for a number of months so I can put my house up for sale and get out of there? I mean I just bought my house. My property values now are going to...

Mr. Zehler - You just purchased your house?

Ms. Griffith - A year ago.

Mr. Zehler - Did you go to the County and look at that piece of property and see what it was zoned before you purchased your house?

Ms. Griffith - No. And it probably wouldn't have honestly would have...

Mr. Zehler - Made any difference?

Ms. Griffith - Not that it wouldn't have made any difference, is that I would not have understood, because I've never been involved in anything like this before. So.

Mr. Zehler - Unfortunately, this is not a rezoning case. This is a POD and it's a piece of property that's already zoned for this use. We're very limited to what we can do.

Ms. Griffith - Thank you.

Mr. Zehler - I'm sorry.

Ms. Dwyer - Mr. Zehler, is there a fence that's going to be placed along here for the benefit of the residents on this POD, Mr. McGarry?

Mr. McGarry - The site, itself, has a seven-foot black vinyl clad chain link fence around the entire perimeter. That should minimize the appearance of the fence. And I did some scaling a minute ago. The nearest parking space to her property will be 280 feet. And in between, you do have that BMP basin. I was going to suggest to offer Ms. Griffith some sense of protection, if the Commission would like to see a landscaping and lighting plan come back to them to make sure that the cars are, perhaps, better screened than they might be otherwise. That would be an option for you.

Mr. Zehler - If I might also add, Mr. McGarry, which would probably help the situation. In front of the BMP, there'll be a four-foot berm. In front of here, we're going to place a four-foot berm for lights, of which we'll also do plantings on top of the berm. I wonder if you could pull that up for me, Mr. McGarry? You can just slide it down with the BMP (referring to slide)? What I'm trying to do is get it up front, being up here. In this area will be the fence that Mr. McGarry spoke of. In addition to that, the applicant has agreed to come in front of the BMP and do a four-foot berm of which on top of the berm will be additional plantings that will also screen out lighting at night and traffic. That was per my recommendation that I deemed it necessary being that close to the residents that it did need some screening as far as lights at night and traffic.

Mr. McGarry - I guess I'm trying to clarify this. This needs to be annotation on the plan, because I don't think its shown accurately. Is that what you're suggesting?

Mr. Zehler - I don't believe the applicant has a problem with that, because we've already discussed it, but maybe we can get him to come up if he has a problem, or he agrees with it.

Mr. Bill Promroy - That was our intention to put the plantings along the top.

Mr. Archer - Would you identify yourself, please.

Mr. Promroy - Mr. Bill Promroy, General Manager, of Aero Park. That was our intentions to put the plantings along the top. I will say this, I think the current property that we have is testimony to good landscaping and well maintained also.

Mr. Zehler - And you're referring to plantings on top of the four foot berm?

Mr. Promroy - That's correct.

Mr. Zehler - I have no other questions, Mr. Chairman.

Mr. Archer - Does any one else have questions for the applicant? Thank you, sir. Okay, Mr. Zehler.

Ms. Dwyer - I have one question. Mr. Zehler, is the vinyl clad, chain link fence, does that have strips of vinyl through the chain link to block the view?

Mr. McGarry - No ma'am. It's coated. Then the landscaping would help to do the actual screening.

Ms. Dwyer - Okay.

Mr. McGarry - The black vinyl clad is something we'd recommend to just make the fence itself less visible.

Ms. Dwyer - Right. But I mean something to block the cars, they will have landscaping? Okay.

Mr. Archer - Okay. Are there further questions by anyone?

Mr. Zehler - Mr. Zehler, staff has mentioned they are satisfied that with all of the conditions have been met and all of the concerns have been met. I had a meeting with the applicant. As far as I'm concerned, all of the conditions have been met. It will be properly screened and, unfortunately, the property is zoned M-1 for this use. So, with that, I move that POD-73-98 Aero Park, Audubon Drive Auto Valet be approved, subject to the annotations on the plans, the standard conditions for developments of this type, and the additional conditions Nos. 23 through 28.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay.

Mr. Archer - Okay.
Mr. Zehler - Is the applicant, in this particular case, in agreement?

Mr. Yolton - I have not had an opportunity to ask the applicant if they're agreeable to that, but this is a condition which is imposed on the permit. It's not like a proffer. It just happened last night. I didn't get a chance to discuss this with the applicant, although, they were present last night. So, they're aware of it. Any other questions about that?

Mr. Archer - Any other questions of Mr. Yolton?

Mrs. Wade - Now, we know, also, if you want to check to see if its in use, you check the electrical meter, and if it isn't running, it's not in operation.

Mr. Yolton - I heard that.

Mrs. Wade - You couldn't tell that driving by.

Mr. Yolton - Check the electric meters.

Mrs. Wade - If its not going around, it's not in use.

Mr. Yolton - With regard to the specific case before us, P-29-98, as mentioned, this is a request to construct a wireless communications tower on property at the interchange of I-64 and I-295. The property is zoned A-1 Agricultural and there are no homes in this vicinity. This is the first public hearing we've had on this matter.

Triton PCS Company proposes a steel monopole tower with a top mounted antenna that takes the total height to just over 100 feet. The tower would be located at the end of Old Williamsburg Road, right next to an existing communications tower. The existing tower was constructed a couple of years ago by Primeco, and it is 110 feet tall.

The towers at this location are restricted in height by the Federal Aviation Administration. Therefore, they can't be built tall enough to accommodate many additional antennas of other carriers. Triton has indicated they can't co-locate on the Primeco Tower because the only available space is at 60 feet high, which is too low to provide the desired coverage, and there are no other towers that are very close to this location.

Being at the junction of two interstate highways makes this an attractive location for communication towers. In this instance, therefore, even though it means that two towers would be located side by side, staff is recommending approval of this request. This is subject to the conditions listed in the staff report, with the modification of condition No. 1, as I just mentioned.

Condition No. 6, which applies to future co-locations, indicates that at least two additional users would be provided for on this tower. Usually, we require that three additional users be provided for. But in this instance, the tower simply isn't tall enough to accommodate three additional co-locators. So, Mr. Chairman, with that, I'd be happy to try to answer any questions the Commission may have.

Mr. Archer - Thank you, Mr. Yolton. Are there questions for Mr. Yolton by the Commission?

Ms. Dwyer - How many users are there on the Primeco Tower; you've identified as Tower 51?

Mr. Yolton - I believe there are two.

Ms. Dwyer - That's about all we'll be able to get on the tower?

Mr. Yolton - Well, there's one spot left at 60 feet, but I think its too low to be very attractive for another user.

Mr. Archer - I know we probably couldn't do it, but suppose, after this tower was constructed, we get the users on the other one to jump over to this one? Just a thought.

Mr. Yolton - Well, then they'd have to fight over who gets that lowest spot.

Mr. Archer - Somebody has to take it.

Mr. Yolton - They have provided some propagation information that shows that they are not going to get very good coverage at the 60-foot level.

Mr. Archer - All right, any further questions of Mr. Yolton?

Mrs. Wade - Do we now have a consultant in place confirming these things, or is that not happening yet?

Mr. Yolton - Yes ma'am, we do.

Mr. Zehler - Is he a consultant or an attorney?

Mrs. Wade - Both.

Mr. Yolton - A consultant and he's an RF engineer. He works for a company called Comp Com Inc. in New Jersey. John Seiber is his name. He's an RF engineer. We have a legal consultant and a technical consultant.

Mr. Archer - Okay. Are there further questions?

Mr. Zehler - There's no opposition, Mr. Chairman. I move that case P-29-98 be recommended to the Board for approval, subject to the following conditions: New Condition No. 1, through No. 6.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mr. Zehler, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant the requested revocable provisional use permit**, subject to the following conditions:

1. If the use of the tower for communication purposes is discontinued for 180 days, the tower and all related structures shall be removed from the site within 90 days. Within ten (10) business days after written request by the County, the owner of the tower shall provide the County with written confirmation of the status of the tower, the number and identity of users on the tower, available co-location space on the tower and such additional information as may be reasonably requested.
2. Application for a building permit to install the tower must be made within one year after the Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time is granted by the Director of Planning upon written request by the applicant.
3. The applicant shall obtain approval from the Henrico County Planning Commission if the FAA requires the addition of standard obstruction marking and lighting (i.e. red lighting and orange and white striping) to the tower. The applicant shall notify the Henrico County Planning Director prior to making any changes to the original galvanized finish of the tower.
4. When site construction is to be initiated as a result of this Provisional Use Permit, the applicant shall complete requirements prescribed by Chapter 10 of the Henrico County Code. In particular, land disturbance of more than 2,500 square feet will require that construction plans include a detailed drainage and erosion control plan prepared by a professional engineer certified in the Commonwealth of Virginia. Ten (10) sets of the construction plans shall be submitted to the Department of Public Works for approval.
5. A landscaping plan for the purpose of screening the base of the tower from view shall be submitted to the Planning Office for approval prior to the issuance of a building permit for the tower. The Director of Planning may waive the enforcement of this condition if it is deemed unnecessary.
6. The applicant shall allow the co-location of at least 2, and as many additional users as technically possible at this site in accordance with the provisions of the Letter of Intent to Permit Co-Location on Communications Tower, filed by the applicant with this request.

The Planning Commission recommendation was based on its finding that the Provisional Use Permit is reasonable; it would provide added services to the community; and it would not be expected to adversely affect public safety, health or general welfare.

P-30-98 James W. Theobald and Charles H. Rothenberg for Sprint PCS:
Request for a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct, operate and maintain a communication tower up to 199' high and related equipment and improvements, on part of Parcel 196-A-40, containing 2,500 sq. ft., located at 1955 Portugee Road, approximately 1000' east of LaFrance Road. The site is zoned M-3 Heavy Industrial District and Airport Safety Overlay District.

Mr. Marlles - Mr. Yolton will also be giving the staff presentation.

Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to P-30-98? We have opposition in the back. Any one else? Mr. Yolton.

Mr. Yolton - Mr. Chairman, members of the Commission, as mentioned, this is a request to construct a wireless communications tower on property known as "The Richmond

Dragway.” The Richmond Dragway is zoned M-3 Heavy Industrial. It’s located at the intersection of Portugee and LaFrance Roads, not far from the White Oak Semi-conductor plant. As the name implies, the Richmond Dragway stages motor vehicle races on the weekends for the general public with the purchase of an admission ticket. This is the first public hearing we’ve had on this matter.

The Sprint PCS Company proposed a 160-foot tall steel monopole tower with top mounted antennas and a lightning rod to bring the total height to 170 feet. The tower would be located along the south side of the Richmond Dragway property, adjacent to the CSX Railroad tracks, and across the railroad tracks is the Henrico County Police firing range.

With the nearest homes being over 1,500 feet away, this location appears to be suitable for a communications tower, and the tower is at a height that would allow some co-location opportunities in the future. The only issue with this request involves a concern that was expressed by staff of the Capital Region Airport Commission. Apparently, this location is in the general vicinity of flights that use Runway 16/34 at the airport.

A ruling has been issued by the Federal Aviation Administration that the proposed tower cannot exceed 170 feet, but, otherwise, it would be permitted at this location, according to the FAA. Nevertheless, the airport staff feels that since Runway 16/34 is the only runway that allows take off and landings during inclement weather conditions, they requested that this tower be lighted even though it’s not technically required.

Given the location, staff supports the airport’s request and recommends that obstruction lighting be included as part of this particular tower. The representative from Sprint was agreeable to this lighting request.

Condition No. 3, therefore, is recommended to be modified as shown on the handout before you. The Sprint representative can describe the type of lighting that’s being proposed, if that’s needed.

So, Mr. Chairman, with that, I’d be happy to try to answer any questions the Commission may have.

Mr. Archer - Thank you, sir. Are there questions for Mr. Yolton?

Mr. Zehler - Mr. Yolton, do we have a copy of the FAA report in the file?

Mr. Yolton - Yes. We do.

Mr. Zehler - I’m seeing orange and white striping. Is that going to be required?

Mr. Yolton - That is not required. The lighting or striping is not required by the FAA, but the Capital Regional Airport Commission requested that at least the tower be lighted. So, I have discussed that with the applicant. They’ve agreed to put the lighting on top. The condition, I modified it so that it would not require the tower to be painted. If for any reason they come back and indicate they would like to paint the tower, then they have to ask the Planning Director for permission to do that.

Mr. Zehler - It does not have to come back before this Commission?

Mr. Yolton - No. We can change that if you’d like.

Mr. Zehler - If you would, I'd like that they come back before the Commission.

Mr. Yolton - If there is any painting of the tower required, they would have to seek that permission from the Commission. We can make that change.

Ms. Dwyer - Do you expect that Sprint would seek that, or that it would be required by a Federal agency, or the Airport Commission would want that?

Mr. Yolton - This is just a contingency. I don't expect there's going to be any reason why this tower should be painted. But, if for some reason the FAA comes back later and says, "Please paint the tower," then we can have the Sprint people come back to the Commission and get permission to do that. Right now, I don't see any reason why this tower is ever going to be painted.

Ms. Dwyer - I guess I'm just wondering if it says, "approved by the Director of Planning," that they will agree to do it if required to by any governmental authority. The way it reads, it sounds like we have the authority or the Director has the authority to approve it, if they request it.

Mr. Yolton - What would happen, the Planning Director, of course, he would alert the Commissioner, that they have requested the tower be painted. If we don't want that tower to be painted, then we would revoke the Provisional Use Permit and say that the permit is no longer in effect, and they would have to take the tower down.

Ms. Dwyer - And, presumably, they would only request that if required to by a Federal agency?

Mr. Yolton - Right.

Ms. Dwyer - So, the process would be there requesting approval of the County?

Mr. Yolton - They would not just be allowed to go out there and paint it without seeking some kind of approval from the County.

Mr. Vanarsdall - Lee, didn't they have a ruling on painting the towers? At one time at certain heights you had to paint them?

Mr. Yolton - Over 200 feet tall, generally speaking, then you get into where you have to light and paint the tower.

Mr. Vanarsdall - That's still in effect, then?

Mr. Yolton - Right.

Mr. Vanarsdall - But we always deal right under...

Mr. Yolton - Our standard condition, which is shown and striked through, still makes them come back, if, for any reason, they ever get word that they have to paint the tower. Then the County has the option of pulling their permit and saying, "No thanks. Take your tower down. We don't want it to be painted."

Mr. Vanarsdall - Oh. Okay. Thank you.

Mr. Zehler - Lee, I had that happen in Varina.

Mr. Yolton - I know.

Mr. Zehler - ...on a galvanized pole off of Holly Street which was going to be a galvanized tower which would blend in with the sky and the next thing I know, it's red and white with strobe lights on top of it.

Mr. Yolton - That's where this condition originated from.

Mr. Zehler - And if it's been approved by the FAA, and the FAA is not requiring it, who else would require it?

Mr. Yolton - Nobody. It's a very remote possibility. Perhaps, if there was some kind of accident or near miss, then the FAA might come back and say, "How about painting that tower?" Then Sprint would have to come back to you and ask you, if it's all right with you if they paint the tower.

Mr. Zehler - That really makes sense, if they can't see a light on top of the tower, how are they going to see it being painted?

Mr. Yolton - Right.

Mr. Zehler - I have no other questions, Mr. Chairman.
Mr. Archer - Thank you, Mr. Zehler. Any further questions of Mr. Yolton by the Commission?

Mr. Yolton - This would include modified Condition No. 1 that we discussed before.

Mr. Archer - Okay. Do you need the applicant, Mr. Zehler?

Mr. Zehler - No sir. I don't need to hear from the applicant. I would like to hear from the opposition.

Mr. Archer - We do have some opposition, sir. If you'd come forward.

Person from Audience - My questions were answered.

Mr. Archer - Okay. Thank you.

Mr. Zehler - I think in the process, we just answered his questions. With that, Mr. Chairman, I move that Case P-30-98 be approved...

Mr. Charles H. Rothenberg - Excuse me. Could I interrupt for one second, Mr. Zehler?

Mr. Zehler - Sure.

Mr. Rothenberg - My name is Chuck Rothenberg. I'm here on behalf of Sprint. I would simply ask that we also amend Condition 6 to require at least two additional co-locators, instead of three. Because of the height of the tower, I don't think it's feasible to get a total of four users on this tower. I think three could be accommodated.

Mr. Zehler - At 170 feet?

Mr. Rothenberg - No sir. I'm sorry, I thought Mr. Yolton explained that the FAA had issued a subsequent letter saying we could only build this tower to 122 feet.

Mr. Yolton - I was not aware of that.

Mr. Rothenberg - Well, the Airport Commission had notified the FAA that they weren't terribly happy with the tower at 170 feet because of the possible extension of the runway. And, apparently the FAA wasn't aware of that when they issued their ruling for 170 feet. So, the FAA subsequently came back to Sprint and told them that they could only build it to 122 feet.

Mr. Zehler - Has staff got a copy of that letter in the file?

Mr. Yolton - No sir. That's the first I've heard of that.

Mr. Zehler - Would you see that they get a copy of that?

Mr. Rothenberg - Yes sir.

Mr. Archer - So, we're talking a total co-location of three users?

Mr. Rothenberg - That's correct.

Mr. Archer - One, plus two, instead of four?

Mr. Rothenberg - Yes sir.

Mr. Zehler - It's, basically, just like the same case we just heard, Mr. Chairman, with the height and the distance, which probably will make it better. I'm sure the gentleman in the back will be smiling when he notices we just went from 170 to 122. With that, I move that Case P-30-98 be approved, subject to the annotations on the plans, and Condition 1 amended to the new Condition, through No. 6, with No. 6 being changed from 3 to 2. Also, three being amended also to two.

Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant the requested revocable provisional use permit**, subject to the following conditions:

1. If the use of the tower for communication purposes is discontinued for 180 days, the tower and all related structures shall be removed from the site within 90 days. Within ten (10) business days after written request by the County, the owner of the tower shall provide the

County with written confirmation of the status of the tower, the number and identity of users on the tower, available co-location space on the tower and such additional information as may be reasonably requested.

2. Application for a building permit to install the tower must be made within one year after the Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time is granted by the Director of Planning upon written request by the applicant.
3. The applicant shall provide obstruction lighting on the tower. The tower shall maintain its original galvanized finish, however, unless the Henrico County Planning Commission approves obstruction marking (i.e. orange and white striping).
4. When site construction is to be initiated as a result of this Provisional Use Permit, the applicant shall complete requirements prescribed by Chapter 10 of the Henrico County Code. In particular, land disturbance of more than 2,500 square feet will require that construction plans include a detailed drainage and erosion control plan prepared by a professional engineer certified in the Commonwealth of Virginia. Ten (10) sets of the construction plans shall be submitted to the Department of Public Works for approval.
5. A landscaping plan for the purpose of screening the base of the tower from view shall be submitted to the Planning Office for approval prior to the issuance of a building permit for the tower. The Director of Planning may waive the enforcement of this condition if it is deemed unnecessary.
6. The applicant shall allow the co-location of at least 2, and as many additional users as technically possible at this site in accordance with the provisions of the Letter of Intent to Permit Co-Location on Communications Tower, filed by the applicant with this request.
7. The Planning Commission recommendation was based on its finding that the Provisional Use Permit is reasonable; it would provide added services to the community; and the proposed tower at this location was of adequate distance from the closest residential area.

Mrs. Wade - Would you consider the 8:00 o'clock deferrals now? 8:00 o'clock deferrals?

Mr. Merrithew - Mr. Chairman, would you like to consider the deferrals?

Mr. Archer - It is 8:00 o'clock. I guess we can do it, John.

Mr. Merrithew - If I could, the first deferral on the 8:00 o'clock agenda is on Page 6 in the Three Chopt District.

Deferred from the July 9, 1998 Meeting:

C-48C-98 James W. Theobald for The Snyder-Hunt Corp.: Request to conditionally rezone from A-1 Agricultural District to R-2C, R-3C and R-4C One Family Residence Districts (Conditional), RTHC Residential Townhouse District (Conditional), R-5C, R-5AC and R-6C General Residence Districts (Conditional), O-2C Office District (Conditional), B-2C and B-3C Business Districts (Conditional) and M-1C Light Industrial District (Conditional), Parcels 18-A-11, 26-A-27A (pt), 30-32, 73, 27 (pt), 27-A-3A, 5A, 6, 7, 8, 9A, 11 and 10 (pt.), and 37-A-1,10,12 (pt.),13 (pt.), containing 426.452 acres located at the southeast corner of the intersection of Shady Grove Road and Nuckols Road. A mixed use planned community is

proposed. The R-2 District permits densities up to 2.42 units gross density per acre. The R-3 District permits densities up to 3.96 units gross density per acre. The R-4 District permits densities up to 5.45 units gross density per acre. The RTH District permits densities up to 9.0 units gross density per acre. The R-5 District permits densities up to 14.52 units gross density per acre. The R-5A District permits densities up to 6.0 units gross density per acre. The R-6 District permits densities up to 19.8 units gross density per acre. The office, business and industrial uses will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Government, Environmental Protection Area, Light Industry, Urban Residential 3.4 to 6.8 units net density per acre, Suburban Residential 2, 2.4 to 3.4 units net density per acre, and Rural Residential, not exceeding 1.0 unit net density per acre.

They have requested a deferral to September 10, 1998.

Mr. Archer - Okay. Is there any one here in opposition to the deferment of C-48C-98 Snyder-Hunt Corp. to September 10th? No opposition.

Mrs. Wade - I'm not quite sure how this is going to work. I know I have been saying for six months, I'm not going to be here for the September hearing. So, I don't know whether all the details can be worked out by the 10th of September or not. I don't know how the rest of the Commission would feel about dealing with it under those circumstances. Perhaps, they can get it all cleared up. Well, actually, I'm leaving on the 27th of this month, so it doesn't give us much time. Anyway, I would move that Case C-48C-98 be deferred to the 10th of September at the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). Deferral is granted.

Mr. Merrithew - Thank you, Mr. Chairman. The second and last deferral of the evening is again in the Three Chopt District. Case C-54C-98. It is on Page 7 of your agenda, I believe.

C-54C-98 **Glenn R. Moore for ESA Management, Inc.:** Request to amend proffered conditions accepted with rezoning case C-12C-88 on Parcel 47-A-11A, containing 4.67 acres, located at the southwest corner of Dominion Boulevard and Sadler Road. The current zoning is B-3C, Business District (Conditional). The amendment would delete or revise proffers regarding numerous issues including site plan, elevations, building materials, uses, and access. The Land Use Plan recommends Commercial Concentration development.

They have requested a deferral to September 10, 1998.

Mr. Archer - Okay. Is there any one here in opposition to deferment of C-54C-98 to the September 10th meeting? No opposition. Mrs. Wade.

Mrs. Wade - Well, hopefully, we can get the issues for this taken care of before then. They should be a little simpler than the other 400 acres. I move that Case C-54C-98 be deferred to the 10th of September at the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). Deferral is granted.

Mr. Merrithew - Just a reminder, Mr. Chairman, in the Tuckahoe District, Case C-31C-98

C-31C-98 Ralph L. Axselle, Jr. or Andrew M. Condlin for Sigma Development: Request to conditionally rezone from A-1 Agricultural District to B-2C Business District (Conditional), part of Parcel 56-A-62, containing 7.956 acres, fronting on the south line of Church Road approximately 200' east of its intersection with Pump Road and on the east line of Pump Road 200' south of Church Road. Retail use is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Commercial Concentration.

This has been withdrawn by the applicant. You do not need to take action.

Mr. Archer - Thank you, Mr. Merrithew. So, those of you who were waiting to the 8:00 o'clock agenda for those cases, unless you just want to stay with us, they won't be heard. Okay, Mr. Secretary.

P-31-98 Gloria L. Freye for AAT Communications Corporation: Request for a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct, operate and maintain a communication tower up to 199' high and related equipment and improvements, on part of Parcel 249-A-32, containing 4,200 sq. ft., located at the terminus of Fordson Farm Lane, just northwest of Interstate 295. The site is zoned A-1 Agricultural District. The site is also located in the Airport Safety Overlay District.

Mr. Marlles - Mrs. Jo Ann Hunter will be giving the presentation.

Mr. Archer - Thank you, Mr. Secretary. Is there any opposition to P-31-98 Gloria L. Freye for AAT Communications Corporation? No opposition. Ms. Morgan-Hunter.

Ms. Jo Ann Morgan Hunter - Thank you, Mr. Chairman. AAT Communications is a speculative tower builder. They propose to construct a 199 foot lattice wireless communication tower in the southwest quadrant of Interstate 295 and Route 5. There are Route 5 advisory guidelines which recommend no towers to be constructed within 1,000 feet of Route 5. The proposed tower would be located 1,400 feet from Route 5. The tower meets all other County setback requirements. There are no towers in the existing area, with the closest existing tower being 2.5 miles from the site. There is another tower request on tonight's agenda; P-25-98, for the adjacent property. Co-location on one tower is preferable to the construction of two towers.

The AAT tower site is a preferable location to the P-25-98 case due to it being adjacent to Interstate 295 and being further away from the residences along Buffin Road. The applicant of the P-25-98 case has indicated that if the AAT tower is approved, they will request a deferral and work with AAT for co-location. The site appears to be a suitable location, and the proposed height of 199 feet maximizes the opportunity for future co-location.

Staff would recommend approval of the case with the following changes as handed out to you. A change to Number 1, as discussed in the other tower cases. A change to Number 5, which would read, "The applicant shall allow the co-location of at least eight and as many additional users as technically possible." I'd be happy to answer any questions.

Mr. Archer - Thank you, Mrs. Hunter. Are there questions by the Commission?

Ms. Dwyer - Does that mean they have to allow eight even if, eight are not technologically possible?

Ms. Jo Ann Morgan Hunter - They do not have to have eight. It will allow them.

Ms. Dwyer - They have to allow eight?

Ms. Jo Ann Morgan Hunter - Right. But they would not be penalized for not having eight.

Ms. Dwyer - Suppose you just said they have to allow as many additional users as is technically possible? I was just wondering what we add to this by specifying the number?

Ms. Jo Ann Morgan Hunter - They have indicated that they can support up to eight, and requested that be included in the condition. I'd be happy with changing it if you like.

Mr. Zehler - It's because the tower is 199 feet.

Mrs. Wade - What is it about this one that allows for eight?

Ms. Jo Ann Morgan Hunter - It is my understanding, because they are a speculative tower company, they design it to have as many co-location opportunities as possible.

Ms. Dwyer - I would like to hear from the applicant.

Mrs. Wade - We have a lot of 199-foot towers, but they don't have eight.

Mr. Archer - Thank you, Ms. Hunter. Will the applicant come forward, please?

Ms. Gloria Freye - Good evening. My name is Gloria Freye. I'm an Attorney here on behalf of AAT Communications.

Mr. Zehler - Help us with the eight.

Ms. Freye - I think that Ms. Morgan answered it correctly. AAT builds towers, and their business is to find locations that will be attractive to as many carriers as possible. So, they build the tower as tall as you will allow, as appropriate for the location, and as strong as possible to support as many carriers as possible. So, it will be engineered and designed to support at least PCS carriers.

Ms. Dwyer - How much separation will there be? I mean if you have – I'm hearing 20 feet.

Ms. Freye - There can be that minimum of 10 feet.

Ms. Dwyer - Okay.

Mr. Zehler - Do we have a letter of approval from the FAA on this site?

Ms. Freye - We do not have a letter of approval from the FAA. We just have a letter from the consultant.

Mr. Zehler - We don't know what they're going to require as far as lighting and painting?

Ms. Freye - With 199, generally, that is not indicated that we would have to do any painting or lighting on this site. That was what was reported in the staff report, that would not be indicated on this.

Mr. Zehler - Suppose, in the event, that FAA comes back and says it will be required?

Ms. Freye - We have to come back to you, the County, and advise you of that. I think that's Condition No. 3, if I remember.

Mr. Zehler - And that will be a decision made by the Director of Planning?

Ms. Freye - Yes sir.

Mr. Archer - Further questions for Ms. Freye?

Ms. Dwyer - I'm just still intrigued with this eight carriers on the tower. There's going to be a 10-foot separation between one carrier and another. And is that typical of PCS, because I know we've heard a greater separation is required in other places?

Ms. Freye - I know you have. The engineers have designed these, and the company has studied this to maximize the investment that they've put in these towers to get as many co-locators as possible. Now, they've engineered it that way. They still have to negotiate with each of the phone carriers to see if they can go on at the height they want with the space differentials that they want. They still have to negotiate that, but its designed to accommodate that many.

Ms. Dwyer - So, the required separation may not just be a function of space needed, but it may be a function of the way the tower, itself, is designed? Is that what you're saying?

Ms. Freye - Yes ma'am.

Ms. Dwyer - Thank you.

Mr. Zehler - Ms. Freye, the way No. 3 is written, "The applicant shall obtain approval from the Henrico County Planning Commission, should the FAA require additional standard obstruction marking and lighting." Does that mean in the event, you will come back before this Commission?

Ms. Freye - Yes sir. We will abide by that condition.

Mrs. Wade - Actually, it's only 190, with a nine foot lightening rod.

Mr. Donati - Ms. Freye, it is my understanding the next case, 360 Communications will probably withdraw if this case is approved tonight?

Ms. Freye - Yes sir. We do have a commitment letter from 360, and they are just deferring their case to see the outcome of this.

Mr. Donati - When were they made aware of your tower?

Ms. Freye - They actually applied prior to this application. And, I think it was a month afterward that they became aware of each other and began talking about co-location and have been able to work this out.

Mr. Zehler - So, their application, basically, was in front of your application?

Ms. Freye - Yes sir. It was in front of ours.

Mr. Zehler - For the same piece of property?

Ms. Freye - No sir. Adjacent property.

Ms. Dwyer - What is it about the design of this tower that allows you to co-locate...

Ms. Freye - It's stronger.

Ms. Dwyer - For two years we've been hearing 20 feet.

Ms. Freye - The difference, Ms. Dwyer, is that the wireless telephone companies are not in the business of building towers. They're in the business of putting up a structure to support their antennas to get the coverage that they need. My client, AAT, is in the business of building towers to get as many users on it as possible. So, they go in with the goal and objective of making it as strong as possible to accomplish that. That dovetails very well with the County's goals and objectives to find appropriate sites and to have it the appropriate height so it will accommodate as many users as possible.

Ms. Dwyer - I buy that.

Mrs. Wade - They have a bigger base, presumably?

Mr. Archer - I know there is not other tower builders here, so I wouldn't want to say this too loud, but you're telling us that it is possible to have eight users on one tower?

Ms. Freye - On a lattice tower.

Mr. Archer - At 199 feet.

Ms. Freye - Yes sir.

Mr. Archer - I didn't want to say that real loud, because I didn't want that to get out.

Ms. Freye - Yes sir.

Mr. Archer - Thank you.

Mr. Zehler - Mr. Chairman, with that, I move that Case P-31-98 be approved, subject to the conditions and the additional conditions that was given to us by the applicant. With No. 1 being changed to the new wording, and five being changed from three to eight.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mr. Zehler, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant the requested revocable provisional use permit**, subject to the following conditions:

1. If the use of the tower for communication purposes is discontinued for 180 days, the tower and all related structures shall be removed from the site within ninety (90) days. Within ten (10) business days after written request by the County, the owner of the tower shall provide the County with written confirmation of the status of the tower, the number and identity of users on the tower, available co-location space on the tower and such additional information as may be reasonably requested.
2. Application for a building permit to install the tower must be made within one year after the Provisional Use Permit is granted by the Board of Supervisors, unless an extension is granted by the Director of Planning upon written request by the applicant.
3. The applicant shall obtain approval from the Henrico County Planning Commission should the FAA require the addition of standard obstruction marking and lighting (i.e. red lighting and orange and white striping) to the tower. The applicant shall notify the Henrico County Planning Director prior to making any changes to the original galvanized finish of the tower.
4. When site construction is to be initiated as a result of this Provisional Use Permit, the applicant shall complete requirements prescribed by Chapter 10 of the Henrico County Code. In particular, land disturbance of more than 2,500 square feet will require that construction plans include a detailed drainage and erosion control plan prepared by a professional engineer certified in the State of Virginia. Ten (10) sets of construction plans shall be submitted to the Department of Public Works for approval.
5. The applicant shall allow the co-location of at least eight (8) and as many additional users as technically possible at this site in accordance with the provisions of the Letter of Intent to Permit Co-Location on Communications Tower filed by the applicant with this request.
6. A landscaping plan for the purpose of screening the base of the tower from view shall be submitted to the Planning Office for approval prior to the issuance of a building permit for the tower. The Director of Planning may waive the enforcement of this condition if it is deemed necessary.

The Planning Commission recommendation was based on its finding that the Provisional Use Permit is reasonable; it would provide added services to the community; and when properly developed and regulated by the recommended special conditions, it would not be detrimental to the public health, safety, welfare and values in the area.

Deferred from the July 9, 1998 Meeting:

P-25-98 Heidi H. Parker for 360 Communications Company: Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct, operate and maintain a communication tower up to 199' high and related equipment and improvements, on part of Parcel 249-A-30, containing 4,200 sq. ft., located on the east line of Buffin Road, approximately 1200' northwest of Interstate 295. The site is zoned A-1 Agricultural District. The site is also located in the Airport Safety Overlay District.

Mr. Marlles - This is the tower that was referred to in the preceding presentation, which, I believe Ms. Hunter is going to be giving the presentation.

Ms. Jo Ann Morgan Hunter - With the approval of the previous zoning case, the applicant has indicated they would like to request a 30-day deferral. The reason why they're just requesting a deferral and not withdrawing it, is they want to see this case through to the Board of Supervisors meeting, so they're requesting a deferral to September 10th.

Mr. Archer - Okay. Is any one here in opposition to the deferment?

Mr. Zehler - Mr. Chairman, I move that Case P-25-98 be deferred to September 10th, per applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). Deferment is granted.

BROOKLAND:

Deferred from the July 9, 1998 Meeting:

C-36C-98 Gloria L. Freye for Sun Suites: Request to amend proffered conditions accepted with rezoning case C-11C-88, part of Parcel 59-A-12C, containing 1.988 acres, located on the east line of Homeview Drive approximately 640' north of W. Broad Street (U.S. 250). Amendments to permitted uses are proposed. The site is zoned B-3C Business District (Conditional). The Land Use Plan recommends Commercial Concentration.

Mr. Marlles - The staff presentation will be by Mr. Merrithew.

Mr. Archer - All right. Thank you, sir.

Mr. Merrithew - Thank you, Mr. Secretary. Mr. Chairman, this request has been deferred a couple of times in order to allow the applicant to work out issues that have been raised by the neighborhood as well as the Home for Boys. Before I forget, I would like to indicate into the

record that the Virginia Home for Boys has put in writing, stipulated that they are not in opposition to this case.

The Virginia Home for Boys has made an extensive review of the proposed proffers on the 1.988 acres of land owned by Homeview Associates, and does not oppose the proffer amendment request by Home Suites Hotel. I told them I would get that into the record for them.

Mr. Archer - Thank you, sir. Before you go on, John. Let me ask, is there anyone here in opposition to this case? We're going to be real lonely when this one is finished. We'll get to you. Mr. Merrithew.

Mr. Merrithew - The subject property is located, as was mentioned, on the east side of Homeview Drive, was rezoned to B-3C in 1988 to permit an auto parts and repair shop or uses permitted in the B-2 zoning district. That rezoning, back in 1988, provided a number of proffered conditions, including a 50-foot buffer, and six-foot chain link fence along the property line for the Boys Home. They proffered no external loud speakers. No overnight truck parking or disabled vehicle storage. And proffered brick construction of the buildings on the site.

This application is a request to amend the permitted height of any building that locates on this property from 25 feet, which is a proffered restriction, to 35 feet. It has expanded to be a discussion about the hotel, but, in fact, just to clarify. This application is to allow any use that would locate on that site to increase the proffered height by 10 feet from 25 to 35 feet.

Since the initial submittal, the proffered amendment has expanded to address a number of other issues associated with the proposed location of a hotel on the site. The site, itself, is planned for Commercial Concentration development, as shown in the 2010 Land Use Plan. And the proposed uses, as currently proffered, in the hotel that is proposed tonight, are appropriate and supported by the Commercial Concentration designation.

The site can be adequately served by existing utilities and roads, and will have no effect on schools, Parks and Rec and other general government services and facilities.

It's expected that between 630 and 730 vehicles per day will be generated by the hotel. And to put that into context, a convenience store or in mall-shopping type of use can be expected to generate anywhere from 1,500 to 3,000 trips per day. And convenience stores and gas stations are permitted on this site.

Staff feels that the site, because of its location, well off of Broad Street and adjacent to residential neighborhoods and a residential-type institutional use would best be used by a less intensive commercial use. One preferably not generating traffic, or a great amount of traffic, and not attracting traffic into the neighborhood, as would a convenience store or other use. Compared to a number of uses in the B-1 and B-2 zoning districts, which are currently permitted on the site, a hotel use generates less traffic, less noise, and less on-site activity, particularly during the day, of course, than might conflict with the surrounding area.

As I mentioned before, the applicant has expanded this proffered amendment to include several new proffers related directly to the hotel use that they are proposing. And with that, I'd like to run through those quickly, if I could.

The current proffered permitted use on the site is an automobile, service, repair and equipment establishment as permitted in the B-3 zoning district and uses permitted in the B-2 zoning districts. That is unchanged.

With regard to other proffers, the applicant has proffered that trash and debris will be picked up from the site between the hours of 7:00 a.m. and 7:00 p.m. So, they've restricted the hours of refuse container dumping and trash removal.

They have also proffered that all ground and roof mounted air conditioning units and heating units will be screened from public view at the property lines.

Heating and air-conditioning units attached to the exterior of a hotel, motel or lodging facility will be same color as the surrounding materials and screened with either hand railing or landscaping.

Lighting is restricted to fixtures not greater than 20 feet in height. Concealed source lighting is required, of course.

There is an existing chain link fence six-feet high between the property and the Virginia Home for Boys. That was provided for and required by the existing proffers. The Home for Boys has asked that chain link fence be left in its current condition.

The applicant has agreed to provide additional evergreen plantings along the interior side of the fence, as approved at the time of Plan of Development review.

They've limited open burning. They've agreed to maintain the existing 15-foot wide landscaped area along Homeview Drive, with the exception, of course, of their entrances. That is the site plan for the project. As I go through these, there might be some things to point out.

With regard to dumpsters, you can see in the upper right hand corner of the property, the dumpster location. That is to be cut into the grade of the property. There's to be a berm at the back and there's an elevation difference, in any event. That dumpster will be cut into the ground at that berm.

With regard to signage, they've agreed to continue to restrict detached signs to 15-feet in height.

The building height proffer; that is the one that has been the subject of this case would change to allow buildings up to 35 feet. That's 10-feet higher than what was originally proffered.

They have agreed that all uses on the property shall be regulated in accordance with the B-2 District standards. That has been an addition; an improvement over the existing proffers. Although the uses were restricted to B-2, they could develop under the B-3 standards.

They've agreed to consult with the Special Services Division of the Division of Police in order to obtain crime prevention techniques, with the construction of this site.

They've agreed that stormwater management facilities will be placed underground. That is an additional proffer added because of this case. There really is insufficient space on the property to put surface stormwater management on it, in any event. They have agreed to go underground.

With regard to the Virginia Home for Boys, the buffer area of 35 feet width has been established to separate the Home for Boys from the hotel site. The buffer is to be irrigated and landscaped. The

planting is specified; although I think it can be modified by the Commission at the time of Plan of Development approval. The buffer will include a berm at least five feet in height to further elevate the landscaping in the buffer. The utilities easements and so on will be permitted, but generally perpendicular to the direction of the buffer. That is an additional stipulation brought on by this case. The original proffer was for 15 feet along that side. They've increased it to 35.

With regard to building materials, all exterior walls will be constructed of brick veneer, stucco, or dryvit. I guess the most important thing is that the site plan that was included with your package, and the elevations that were included, are now both proffered conditions to this case. They stipulate the elevations and the building materials and appearance of the elevation. They are part of this case.

Mrs. Wade - Do you have a colored one?

Mr. Merrithew - I have a colored one in the file. Would you like me to put it up?

Mrs. Wade - Yes. Please. Because the proffered mentions the colored one and we didn't get one. Thank you.

Mr. Merrithew - Okay. I guess the final comment is related specifically to the hotel use. It's a proffer related to how it will operate. That would be proffer C4. "No guests shall be permitted to lodge at any hotel, motel or lodging facility on the property for longer than 12 consecutive weeks. Guests shall not be permitted to move in their own furniture or major appliances, to obtain separate utilities or phone service or redecorate the rooms. No outdoor play equipment for children shall be provided on any hotel, motel, or lodging facility on the property. And no more than two adult guests per room shall be permitted at any hotel, motel, or lodging facility on the property, This is language I think I would say is at the heart of the issue with the neighborhood who are concerned that the facility might become a defacto low rental apartment complex and concerned about how long people would stay, and what the property would look like. These conditions, as proffered, would provide for at least the opportunity for the County to enforce time limits on the stay and ensure that nobody is, in fact, moving their home into one of the units.

The proffer, Proffer 5, provides for security surveillance cameras and a video system operated and maintained by any hotel, motel or lodging facility on a 24-hour basis to observe all entrances, parking, and grounds, and County Police or Planning Department staff would have access to those tapes upon request. And it provides for security personnel to be on the site.

With regard to automotive uses in Proffer D 1 through 3, those are proffers were originated with the case when it was first rezoned.

Mr. Chairman, with the amended proffers as submitted here and presented this evening, staff feels that the increase in height from 25 to 35 feet does not significantly intensify the permitted uses on the property. And with these proffers, they, in fact, address a number of concerns about that increase height in regard to its visibility over to the Boys Home and security and so on with the neighborhood. With those proffered amendments, staff feels the application is reasonable and appropriate at this location. I'd be glad to answer any questions.

Mr. Archer - Are there questions for Mr. Merrithew by Commission members?

Ms. Dwyer - Mr. Merrithew, if this zoning case were not brought here tonight, a hotel or motel could still be built on this property? Is that correct?

Mr. Merrithew - That's correct. Yes.

Ms. Dwyer - So, they're not rezoning tonight to enable them to build a hotel or motel? That can already be done?

Mr. Merrithew - That's correct.

Ms. Dwyer - So, what they're doing is adding some proffers that will ensure what we might consider "quality design," but they're also asking for a higher building?

Mr. Merrithew - Their point is the higher building. Any building that could go on the property, if this is approved, could go up to 35 feet. Because they're proposing a hotel, they are able to add additional proffers for quality design, protection and security.

Ms. Dwyer - Thank you.

Mrs. Wade - Yes, I was going to ask you, basically, what's the point of this zoning case, because all the other things are still included.

Mr. Merrithew - That's right. None of the other uses that are permitted by the 1988 zoning are removed or changed in any way.

Ms. Dwyer - Would that improve the case, in your view, to eliminate all the other uses that could be on the property?

Mr. Merrithew - That is something that staff had encouraged the applicant to consider, since we are dealing with an end user in this particular case. Yes. It would.

Mr. Archer - Okay. Are there further questions of Mr. Merrithew by the Commission?

Mrs. Wade - They have eliminated the setback. They've got the 15 feet on Homeview, but have they eliminated the 50-foot setback of the building? Have they not for the building?

Mr. Merrithew - Yes. They have.

Mr. Archer - Any other questions?

Mr. Merrithew - I need to confirm that. Is that still 50 feet, the building setback? I need to look at the plan, but it may be that the building setback is still 50 feet, based on their proffered concept plan.

Mrs. Wade - If they build a hotel?

Mr. Merrithew - If they build a hotel. That's correct.

Mr. Archer - Any further questions? Thank you, Mr. Merrithew. Mr. Vanarsdall, I assume we need to hear from the applicant?

Mr. Vanarsdall - Yes sir.

Mr. Archer - All right. Will the applicant come forward, please.

Mrs. Wade - Not much left to do.

Mr. Marlles - Mr. Chairman, I'd like to remind the applicant, as well as the opponents to this case, that there is the 10-minute rule that's in effect. The attorney may want to consider reserving some of that 10 minutes for rebuttal.

Ms. Gloria Freye - Yes sir. I would like to reserve about two minutes. And I also understand that the time for the applicant includes even people who are speaking in support of this. Is that correct?

Mr. Marlles - That's correct.

Ms. Freye - Could you remind me when it gets to be about five minutes, so I'll know how much time I've used?

Mr. Marlles - Sure.

Ms. Freye - Thank you. Good evening. My name is Gloria Freye. I am an attorney here on behalf of the applicant, Sun Suites Hotels. Also here with me this evening is Bob Henrency, the President of Sun Suites, and the project manager, Wade Higgins, who has come in from Atlanta to be with us this evening.

As Mr. Merrithew explained, the whole reason the case started was for us to ask for an amendment to the proffers to change the 25-foot height restriction to 35 feet. One of the things we did early on was investigate the records to see if we could find why that restriction was a part of the 1988 zoning case. I know that Mr. Vanarsdall spent some time looking into that as did the staff as did we, trying to understand where that came from. But we really didn't come up with anything definitive at all.

It is noteworthy that in 1993 after this case did have the 25-foot height restriction put in it, Bruce's Body Shop came and asked for an amendment to change the height restriction from 25 feet to 35 feet. And that was approved. So, Bruce's does have a 35-foot tall building now.

And as Mr. Merrithew explained, this zoning does permit a hotel or a motel there now. But this amendment would allow Sun Suites to have a three-story hotel. And one thing that I'd like to take the opportunity to correct a misstatement that was made at one of the civic association meetings. I think it was said that the three-story hotel would have 112 rooms, when its really 121. That is shown on the site plan. I think that was just a misstatement. But I did want to take this opportunity to correct that.

This amendment is consistent with the Commercial Concentration land use designation. It would be compatible with the zoning of the other properties along Homeview. I'd like to point out, and if you could put up the zoning map. On the north end of Homeview, the property is zoned R-6C; the dark site in the middle is the Sun Suites proposed hotel site. But the property to the north, which is between the Sun Suites Hotel site and the residential development is zoned R-6C; that property is currently developed with a parking lot that serves the movie theatre. But that R-6C zoning, which would back up to the homes off of Mapleview Drive, by ordinance, permits 45 feet. So, if you

have the possibility of 45 feet all the way at the north end of this commercial area, and 35 foot building at the beginning; having a 35 foot building in the middle is not incompatible.

Even though that height is in keeping with the surrounding commercial development, the Boys Home did oppose this request when we first talked with them. The Boys Home is in the process of expanding some of its facilities that would be closer to the east property line of the hotel site, and it would bring their buildings closer and make it more visible. And we determined that the Boys Home would be better served to take out the existing trees at the back of the site and put in a 5-foot berm and landscape that with evergreens to block their view.

I've also done a perspective view drawing to show what that will do for the Boys Home. So, you can see that a 6-foot tall person standing in the Boys Home driveway, looking toward the back of the hotel having the berm between them and the hotel, they're basically, going to see the top of the building. They're not going to feel like they're overpowered by a 3-story building. We were able to accomplish that by grading into the site, which would also help us with the berming in the back.

The other concern the Boys Home had was that we would have a green roof to help-blend in. That they felt that would be more attractive for them to look at. So we did agree to do that. We actually just ended up, then, just proffering the color elevations that you saw earlier.

The other thing that we committed to the Boys Home is that end of the building would have no windows in it.

We did have several meetings with the officers of the civic association. We had two large community meetings. From those meetings we did hear some specific concerns and we did address those in the proffers, as Mr. Merrithew has reported to you. I will not go through all of those.

I think it is very important to have in the record that all of the abutting property owners are either not opposed or in favor of this application. And several of them are here this evening to express that.

I understand that the civic association voted to oppose this application. But I would like to show you a couple of photographs to show that I don't believe that this project will have any adverse impact on them. Could I have the other two first? These two photographs show that there is between six or seven feet. I'm not sure if it's all seven feet, but I'm sure it's at least a six foot tall masonry wall that is behind the residences on Mapleview Drive. And then the pictures also show the landscaped parking lot that is between the backs of their homes and the site. You can also see there is a very nice stand of trees behind their properties. Even from a two-story window, you possibly could see the hotel, but the hotel would not be visibly intrusive even at three stories. And then the next set of photographs just shows you the distance between that wall and looking toward the site. So, you see the trees in the background. That would be the distance. It's five acres of land; about 800 feet away.

As staff has reported, this amendment is consistent with commercial use. It is a lower intensity use and more compatible with the Boys Home and the residences than any of the other uses. There are no adverse impacts on the adjacent properties. And for these reasons, we ask that you recommend approval. I would like some of the adjoining landowners to have an opportunity to come to the podium.

Mr. Jack Beamon - I represent B & K Associates, also Mountaineer Properties, and I'm the owner of this site. I'm also developing a building, a retail building, right next to this site. It's under construction right now. We didn't need to come back for height restrictions or anything. We feel like that Sun Suites would help our retail building. It wouldn't adversely affect us. This is not a Super 8 Hotel. This is an extended stay hotel, which I'm sure, you had a lot of sites here in Henrico recently that had the same thing.

There's another height restriction that was changed. It's a tower on Bruce's property. It's 150 feet tall. I'm sure that these residents came in opposition to that.

I don't feel like the 10 feet is going to adversely affect this property. The 25 feet was picked up on the original zoning case by a proposed building in the Bruce's location. We had a proposed building that showed 25 feet with a rendering. That's how that was picked up in the original zoning case. That building never got built. We sold the property to Bruce's. We're developing the two acres right next to him. We proposed to sell this property to Sun Suites.

I think it will be, in my opinion, the development of the property will have a positive impact on the area. It's not going to hurt our retail. It's not going to hurt Loehmann's Plaza. I think it will help it. Thank you.

Mr. Vanarsdall - Mr. Beamon?

Mr. Beamon - Yes sir.

Mr. Vanarsdall - Aren't you getting ready to build your shopping center next door?

Mr. Beamon - We're building a retail store. Yes sir. It's already been cleared and the building permit has been issued. The POD has been approved. It's under construction. That should be finished...

Mr. Vanarsdall - Do you think you'll get any business out of this Sun Suites?

Mr. Beamon - I don't know. There are business men that basically reside there. I wouldn't think so. I would think that most of the business that we would get would be local business.

Mr. Vanarsdall - Would be what?

Mr. Beamon - Local business.

Mr. Vanarsdall - Thank you.

Mrs. Wade - Mr. Beamon, you're asking, or would certainly like for the neighborhood to agree to the extra story here. What is there in this revised case of value to the neighborhood?

Mr. Beamon - The advantage to the neighborhood? Basically, the additional restrictions they've put on this property.

Mrs. Wade - Which are what?

Mr. Beamon - Which are security, buffering, the looks of the property.

Mrs. Wade - The buffering, of course, for the Boys Home, but...

Mr. Beamon - It's a 35-foot buffering zone between the parking lot and the parking of Sun Suites. That was under the original case. It was proffered that way. That's there.

Mrs. Wade - But I mean between the original case and this there's not much difference.

Mr. Beamon - No ma'am.

Mrs. Wade - Except that you want another story.

Mr. Beamon - No ma'am. If this doesn't get approved, it will be another use for this property. It could be an automotive use. It could be a hotel with two stories, without even coming to rezone the property. So, we're, basically, standing on our zoning and just asking for the 10 feet like Bruce's got.

Mrs. Wade - How tall is the tower?

Mr. Beamon - The tower is 150 feet tall.

Mrs. Wade - On the hotel or Bruces?

Mr. Beamon - On Bruces. A 150-foot tall, and they came to you for agreement.

Ms. Dwyer - Are you talking about the telecommunication tower?

Mrs. Wade - Okay. That's what he meant.

Mr. Beamon - the tower on Bruce's, the glass tower, is about 45 feet if you count it. Now, how they got by the 35 feet, I don't know.

Mrs. Wade - Well, the same way that this one would. Okay. Thank you.

Mr. Archer - Any further questions of Mr. Beamon? Thank you, sir.

Mr. Vanarsdall - Mr. Chairman, I didn't get a chance to ask Mrs. Freye anything. I wonder if she could come back to the mike? Ms. Freye, you left so quick, I didn't get a change to ask you a thing. Let me ask you about Proffer No. 4. How could you enforce that? How could that be enforced that we know only two people rent that room, unless we were over there watching it?

Ms. Freye - The policy of the hotel. I think the County knows that policy is in place. If there were a complaint, the County would investigate,

Mr. Vanarsdall - I know that Bob, the President, runs a good shop. But he also doesn't live here and he has a lot of motels and he's certainly not going to be around outside watching it. And the key to it is the management team he has. And most of the management team, today, and this is not restricted to this business, are bogged down with paper work and are

told when they are hired, that this is what you have to do to get the reports to headquarters on time. Some of them never come out of the building.

I rode around one not long ago, not Sun Suites, of course, a competitor, and I parked my car and I walked and I did everything in the world to call attention. And nobody ever came out of the building. Finally, the manager came out. He was twice as big as I am and had a white shirt and ran to the car to get something out of the car and ran back. I could have been standing there with no clothes on. He's never known I was there. This is a sad, sad thing that's happened to a lot. So, I just wondered.

My second question is Proffer No. 10 on the building height. Your building height, you mentioned would be 10 more feet. But does that include where the logo goes that says, "Sun Suites"? And I don't mean measuring it according to the way an architect or an engineer does. I mean, when I'm driving down the street, do I see 35 feet, plus that logo?

Ms. Freye - The logo cannot extend above the roofline of the building, and it will be constructed toward the building height definition of the County Code. The signage is going to be oriented toward W. Broad, not toward the neighborhood.

Mr. Vanarsdall - So, it is further up?

Ms. Freye - I don't have the exact location of that.

Mr. Vanarsdall - I think this was discussed in a meeting. And it is. So, we are talking about more than 10 feet.

Ms. Freye - Well, Mr. Vanarsdall, let me just...

Mr. Vanarsdall - Ten feet is not the issue here, anyway. So, I just wanted to know what you'd say about it.

Ms. Freye - I don't understand your comment, because this is a conceptual drawing. Of course, we will comply with the County's ordinance and sign ordinance and place that where it needs to be. This is just conceptual to show you what the architecture would look like and to give the neighbors and the Boys Home an idea about what the building would look like. But that signage, you know that will be determined at POD with the sign plan that's submitted, and we will work with the County on the correct appropriate placement of that sign.

Mr. Vanarsdall - So, we're talking about a total of 10 feet?

Ms. Freye - We're talking about having a building height, accepted by the County, of 35 feet. Yes sir.

Mr. Vanarsdall - The logo could be higher?

Mr. Zehler - Ms. Freye, if you'll come forward. Let me show you what we have here that we're looking at, that maybe you don't quite understand.

Mrs. Wade - That's what I meant when I asked how tall the tower is.

Mr. Zehler - What his question was. the way this is designed, see how much higher the tower is than the top of the room?

Ms. Freye - Yes.

Mr. Zehler - As likewise in that picture. So, what is the distance from the top of the roof to the ground, or from the top of the tower to the ground? Is the tower higher than the roof?

Ms. Freye - That tower at that end of the building does extend above the top point of the apex of the roof. I believe the height from the grade to the very tip of that is 45 feet. But I would like to check with the project manager and he can correct me on that. Between 40 and 45.

Mr. Zehler - We're no longer at 35. We're now at 45?

Ms. Freye - What we are doing is asking for a building that could be approved at POD under Henrico County's Zoning Ordinance that has a height of 35 feet. I can tell you what the building height definition is in the Ordinance, if you would like to hear that. You measure...

Mr. Zehler - You're not counting the tower as part of your building? Is that where the discrepancy is?

Ms. Freye - The County does not count that architectural feature as part of the building height.

Mr. Zehler - You answered my question.

Ms. Freye - I thank you for explaining that to me because I didn't understand.

Mrs. Wade - That's what I mean when I was asking about the tower.

Mr. Zehler - Our picture is quite different than what your picture is.

Ms. Freye - Well, you have the actual drawings.

Mr. Zehler - Well, we have just the staff...

Mr. Vanarsdall - I just have two more questions of Ms. Freye. You mentioned in your presentation about the adjoining property owners have no problem, and they are here tonight. Do any of them live in the area that these people live in?

Ms. Freye - Of course, there are people who reside at the Boys Home. There are several families that live there.

Mr. Vanarsdall - Well, I know that.

Ms. Freye - What I said, was the abutting property owners, I know if they live in Huntington or West End Manor. I don't believe they do.

Mr. Vanarsdall - My last question is, have you looked at the calls for service on the police report in that area?

Ms. Freye - Yes sir.

Mr. Vanarsdall - You don't think that this will have any bearing and this will add no more vandalism, larceny or anything? I was also told the other day that the average income of the people who use extended stays are \$70,000 and \$72,000. They are business people. I asked the question about pets?" They said, "Why would they have pets because business people don't bring pets. IBM sent some people down for a month. Why would they want to bring a dog? So, I felt very comfortable about that until I just recently heard about a man out in, I believe, was in the Innsbrook area that was mentally unstrung and thought there was somebody under his bed and he called the Police several times. And then they called the Manager and they called everybody in the place. They went and looked under the bed and when they did, he had a .38 in his drawer. So, they had to call the Police. So, I'm just wondering, how could anyone like that who is a business person, of course, he could have been a business person and still have been mentally unstrung. That's all the questions I have and I thank you. Mr. Chairman, I have no more questions.

Mr. Marlles - Ms. Freye, you have a minute and 40 seconds on your time.

Ms. Freye - There is a speaker.

Mrs. Wade - When you get through, I have a couple of more questions of Ms. Freye.

Mr. Jeff Williams - Good evening. My name is Jeff Williams. I'm the managing partner of the partnership that owns Loehmann's Plaza next door. And we are here to endorse this particular case. We feel that it is compatible in the neighborhood. We think it is a betterment of the neighborhood. We have no vested interest in the development of the property. But we think this area, our center, and several of the other developments took place within the last 15 or 20 years. It's time for a betterment. We are making plans to spend an extensive amount of money on the betterment of Loehmann's Plaza. We think this development fits very much and the timing is right to better this particular neighborhood. We feel that they would be good neighbors and an asset to this part of the community.

Mr. Vanarsdall - I didn't hear what the name of your place was.

Mr. Williams - Loehmann's Plaza.

Mr. Vanarsdall - neighborhood? Oh. You own that. Okay. Do you live over near the

Mr. Williams - No sir. I don't.

Mr. Vanarsdall - Thank you.
Mr. Williams - But I have a significant vested interest in the area.

Mr. Archer - Thank you, Mr. Williams.

Mr. Vanarsdall - Thank you.

Mr. Archer - Mr. Vanarsdall, we have some opposition. I'm sorry. Do we have someone else to speak?

Mr. W. S. Richardson, Jr. - If there's still time.

Mr. Marlles - It's 41 seconds.

Mr. Richardson - I'm W. S. Richardson, Jr. and I own the property to the north.

Mr. Vanarsdall - This is not opposition. This is the other side.

Mr. Richardson - Forty-five seconds and count down. Given the alternative uses that could be made of this property, and the proffers that enhance the security, I see this particular development as a positive use. During the time that I've had that property, I've tried to make use of the things that I could control that came into the area are in a more positive vain than many could have brought over the years. As to, do I live in the area? When I was in high school at Hermitage, I lived on Three Chopt Road, right where Gaskins and Interstate 64 intersect. So, we didn't volunteer to move. Now, I do live elsewhere.

Mr. Vanarsdall - Mr. Richardson, did you move over in West End Manor when you had to move?

Mr. Richardson - I did not move to West End Manor. They are mighty fine folks who live there. I think we've been friends with them for most...

Mr. Vanarsdall - Don't you own the property that we're talking about? No. Mr. Beamon owns that.

Mr. Richardson - Mr. Beamon owns that. I own the property to the north.

Mr. Vanarsdall - You own the parking lot?

Mr. Richardson - ...where we could have 45-foot high buildings. There is a parking lot. Also, I will tell you that my wife and I provided the roadway dedication that permitted Homeview to go into the Boys Home.

Mr. Vanarsdall - I know you've been very loyal to the Boys Home. That's nice.

Mr. Richardson - Well, they're fine folk. I would not knowingly do anything that would put them in danger or in a way that would diminish the quality of product they're able to produce. I know that we can't always have the most perfect conditions as we go through life, but we can strive to get the best possible. Given that there are many other uses that would not necessarily have to come here that might give you a finished product you really would prefer not to have.

Mr. Vanarsdall - No sir.

Mr. Richardson - Personally, I'm in favor of this one.

Mr. Vanarsdall - Thank you, Steve.

Mr. Archer - Thank you, Mr. Richardson. We have exhausted the time for the applicant. We do have some people here to speak in opposition. Is there one among you who can express the feelings of the entire group?

Mr. Mark Andrachek - Not of the entire group.

Mr. Archer - Well, I understand, but the majority of you? We're not going to restrict you to one speaker, but we just want to let you know that you do have 10 minutes also. That's why I phrased it that way. Just don't want to be repetitive.

Lady from Audience - ...Is it 10 minutes per person?

Mr. Archer - Ten minutes total. But that does not include the time that we're asking questions. You're not on the clock when we're asking questions. It runs more than 10 minutes. Just want to remind you of that. Go ahead, sir.

Mr. Andrachek - Hi. I'm Mark Andrachek. I'm representing West End Manor Civic Association. We had a meeting. We listened to Sun Suites proposal and they were real nice to present it to us. After they left, we discussed what we heard and we expressed our concerns. And overwhelmingly by a near majority, we had one dissenting vote, the West End Manor Civic Association, said, "No. We do not want to see that height restriction raised." They were real careful to show you their views looking from the Boys Home to the hotel, but they never showed you a view looking from the homes to the hotel. That third floor can look down into the homes. Sure, there are trees. Those trees drop their leaves in the winter time too, don't they. And Bruce's has a great big tower by it, but that tower doesn't have hotel rooms with transients in them looking out at night, do they?

It's real easy to say, "We just want 10 feet." But when you heard, did the County break its tape measure? Forty-five feet is 35 feet. Somewhere I'm confused on that and I don't understand the process, but I know governmental rules stretch tape measures.

The parking lot that exists there, yes, buildings could be 45 feet high can go there. I don't know that a hotel is going in an R-6C? I know the consensus that I heard at our meeting was, "We would prefer to see a 9 to 5 or a 9 to 9 business in there a whole lot more than we'd like a 24/7 business in there. Doors slamming at all hours of the night. Businessmen coming in and out, flying up and down West End Drive to get to the back side of Innsbrook, where they claim their customers will come from.

During one of their meetings, they said that their price structure would be \$179 to \$229 per week. The meeting this week they changed that number from \$239 to \$325. That's almost \$60 to a \$100 jump. Are they trying to tell us they're going to attract a better clientele than they were originally? I understand a hotel can go there without going up higher, but going up higher really intrudes on the neighbors who live close by. I'll leave the time for somebody else unless you have questions for me.

Mr. Archer - Thank you, sir. Are there questions from the Commission?

Ms. Camilla Phelps - I'm here, tonight, as President of the Huntington Civic Association. I represent those people and I'm here in support of our friends and neighbors in Traditional Manor. I'm asking you that you deny this request. I feel that it is an inappropriate use for the land on Homeview Drive.

At one time, the Boys Home did not support this. And, now, I understand the Boys Home has been swayed. Sun Suites agreed to help them with sewer hookup and tree removal on their new expansion. I feel that there should be some ordinance for extended stay hotels that differ somewhat from those of traditional hotels and motels in the County. Extended stays are new to this area. Consistent protections must be in place for hotels of this type in the County.

To my knowledge, there are none at the present time. What do we know about extended stay hotels? Hotels pose problems for our community. In addition to the traffic, the potential is there for drug distribution, prostitution and other undesirable elements. We do not need this so close to where we live and raise our families. We all have children walking to and from school. They all frequent the movie theatre and shopping center. I don't feel that the protections are there for us. A hotel located so far off Broad Street is a prime location for undesirables to prey on a neighborhood. I thank you for giving me this opportunity to address you and ask that you deny their request.

Mr. Archer - Thank you, Ms. Phelps.

Ms. Dwyer - I have a question. I understand what you're saying. But my concern is that it's already zoned B-2 which permits hotels to go in there even without this rezoning. So...

Ms. Phelps - I just feel like a hotel is an inappropriate use.

Ms. Dwyer - I understand. It's already zoned for hotels.

Ms. Phelps - I know that. But I think there are other things that could go in there, such as a 9 to 5 as Mr. Andrachek suggested.

Ms. Dwyer - Its possible, but you know if a two-story hotel wanted to go in there, it could go in there today without this Commission ever having any say. As I was looking through the Ordinance, there are other things that are permitted in B-2 like gun shops; you know, things that you might not want to go in there also. So, I just throw that out for your consideration, too.

Ms. Phelps - Well, maybe we could take the lesser of the evils. Thank you.

Mr. Vanarsdall - Well, Ms. Phelps, you already knew that, because Ms. Dwyer told the community that a two-story hotel could go there.

Ms. Phelps - Yes. We knew that.

Mr. Archer - Thank you, Ms. Phelps. Is there another speaker? How are we doing on time, Mr. Secretary?

Mr. Raymond Hall, 8919 Mapleview Avenue – Since learning about the proposed hotel, a group of concerned citizens talked with a lot of families in our community. The first thing we explained to them, the land is zoned and one of the uses is a hotel with a proffer of two stories, and that they could build it tomorrow with the right building permits. Also, we explained to them other uses, good and not so good. Mr. Glover visited our neighborhood and also explained to them, and left information that they could read later on. If he changed the proffer from 25 to 35 feet, it will definitely change conception and character of our neighborhoods. The height of this building

should be getting smaller as it comes from Broad Street towards the neighborhood, instead of getting larger.

Sun Suites has requested this change proffer because Bruces has a unlivable tower of 35 feet. Total height of Sun Suites, including the tower, is 47.4 feet. This is over four stories high. Who says the next developer will not ask for 47.4 inches plus, because Sun Suites has it? From Homeview Drive looking east and west, both sides of Broad Street, there is no building over two stories high in this vicinity.

The President of Sun Suites wants this proffer change because it would not be economical without the third floor. Second, without the third floor, you could not see it from Broad Street.

A proffer is a promise from a landowner that shouldn't be broken because location of land. They knew this when they started planning this hotel on this piece of land. They are now coming before the Planning Commission to ask for the promise and the proffer to be broken. I ask on behalf of concerned citizens of Huntington and West End Manor and Walton Farms, Traditional Manor that you will reject this request. I thank you for your time.

Mr. Archer - Thank you, Mr. Hall. Are there questions of Mr. Hall by the Commission?

Mrs. Wade - Do you live in Traditional Manor or across the road?

Mr. Hall - Yes ma'am.

Mrs. Wade - Which is directly behind the parking lot next to this?

Mr. Hall - Yes ma'am.

Mr. Archer - Mr. Secretary.

Mr. Marlles - Three minutes and 22 seconds.

Ms. Valerie Halsey - Thanks. A lot of what I had has already been shared with you. I am a resident of the community where this hotel will be located. There's been a lot of emphasis tonight on the appearance of the building which you know that the Boys Home has essentially camouflaged. I'm wondering what hotel will look like without any windows as well? The picture demonstrated they've actually hidden it. You know, maybe we should consider hiding all four sides of it, regardless of the height. No one is emphasizing that people are on these additional feet that we're talking about here. There's people there. No one can assure us of the security that was referred to earlier. There was emphasis by the people who are representing this case that there's a noise factor that is not an issue during the day. We are residents predominantly in 1998, unlike 1988 with the zoning and the law, of enjoying our homes and our families and our security in the evening when we need peace and quiet and not 121 plus people living in our backyard. That's the sensitivity that I bring to this committee to use your creativity and sensitivity to the fact that things change. I appreciate the education that I've received as an ignorant resident, a week ago, about the zoning law, and the unfortunate occurrence that some of us were not around in 1988 to fight like hell to not have that done. We're stuck with it now. So, we're here to say, "Please, the only thing we have going for us is the proffer. Don't pay attention, please, to the height of it. Pay attention to what is in it, because that's what we have to live with after you make your decision." Thank you.

Mr. Archer - Is there anyone else to speak in opposition? I think there's a little time left, isn't it, Mr. Secretary? A minute or so. If not, then I believe you reserved a couple of minutes of rebuttal time.

Ms. Freye - I would like to remind you, I don't think I need to remind the Commission, but this case is an amendment to a proffer for the additional height for the building. Regardless, of whether Sun Suites builds a two-story hotel there or the three story that they prefer, they plan to manage this hotel with the highest management standards and they plan to be the best corporate citizen and the best neighbor that they can be to this neighborhood. I think they have demonstrated to this community their willingness to listen, to repeatedly meet with them, to make repeated trips from Atlanta to defer this case twice so that more people could be involved. Every specific comment that we received, we responded to in the proffers. We ask if there were other things that we could do, specific things. We were open to that.

If this amendment is approved with the three stories, what it will allow Sun Suites to do is to add these additional proffers. It will allow them to build in the protections that the neighbors have talked about. It will allow Sun Suites the ability to do the extra things they they've committed to do to the neighbors in response of the concerns that have been expressed. Without that, they can do the two-story building, and they'll still be a good corporate citizen. They'll be the best neighbor they can, but they won't be able to afford the protections that are being built in if this case can't be approved.

If the case isn't approved, the values of the adjoining property owners are not going to be enhanced the way they would be otherwise. The Boys Home, who is an immediate abutting adjacent landowner that has a direct view into the hotel, will not be protected. I do want to remind you that this property is five acres away. It's over 800 feet. The homes are protected by a masonry wall and huge trees. We've put in a 35-foot buffer, retaining mature trees on our site to help screen that visibility. None of that will be there if this case is denied. We ask that you please consider the benefits that will be brought to all the adjoining property owners and the neighborhood at large and recommend approval.

Mrs. Wade - So, what you're saying is, any other business that came here wouldn't be interested in being a good neighbor?

Ms. Freye - Mrs. Wade, my comment is, they can build a two story building and they will be a good neighbor even with a two-story building as best they can. They can be a better neighbor if they can have the three stories and build in the protections that we've proffered. That was what I meant when I said that.

Mr. Archer - Thank you, Ms. Freye. I believe the opposition has a minute and some seconds left.

Mr. Vanarsdall - He isn't going to say nothing new.

Mr. Hall - She is showing the pictures of that wall there. That wall is 7-feet high. But that wall stops at the end of the theatre parking lot. You can go right around that wall, be right in our neighborhood, be right in that church parking lot, be right in Huntington in a matter of minutes. It wouldn't even be a minute. That's all I have to say. That picture that she showed you is very deceiving. And I have a petition that I'd like to present to the panel, please. (Presented the petition to the Chairman).

Mr. Archer - Thank you, sir. All right, there being no further discussion, Mr. Vanarsdall.

Mr. Vanarsdall - I'll start out by thanking everybody who came in opposition and everyone who came in support where we left off the two-story versus the three-story. If two stories went on the lot, then that's 75 rooms. That's a lot fewer rooms than the 112. The traffic count would go from 558 to 436 so that's less traffic. We put a lot of emphasis on the height, tonight, that Ms. Dwyer had said I spent quite a bit of time researching why the proffer was ever put on there. That's true. I did. I asked everyone that was involved in it. But somebody had the wisdom to put it on there. It's on there for a reason. I believe the height of Mr. Beamon's building is going to be something like 16 feet, and I believe that Bruce's is 27.5 feet, not counting the dome. So, somebody had the wisdom to put it on there to keep the intensity down.

As staff points out, this is a Commercial Concentration area—this corridor along there. But to amend this proffer would give a more intense use into the neighborhood, and I don't feel like they need it.

Under our Goals, Objectives and Policies of the Land Use Plan, it does not promote the health, safety, and welfare of the residents. With that said, I recommend to the Board of Supervisors that C-36C-98 be denied. Before you clap, I need a second.

Mr. Zehler - Second, Mr. Chairman.

Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Zehler, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny the request for an amendment to proffered conditions** imposed with **C-11C-88** because the proffer amendment would allow more intense development than intended by the original rezoning ; and the conditions had not changed to warrant the proffer amendment.

Deferred from the May 14, 1998 Meeting:

C-14C-98 James Thornton for Virginia Center, Inc.: Request to conditionally rezone from O-3C Office District (Conditional) to M-1C Light Industrial District (Conditional), part of Parcel 24-A-8D, containing approximately 61.74 acres, located on the east line of I-95 approximately 1,620' north of Virginia Center Parkway within the Virginia Center development. Light Industrial uses are proposed. The uses will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office development.

Mr. Marlles - The staff presentation will be by Mr. Merrithew.

Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to C-14C-98? Thank you. Okay. We'll get to you. Mr. Merrithew.

Mr. Merrithew - Thank you, Mr. Chairman. This is a request to rezone 61 acres from O-3C Office use to M-1C Light Industrial. The property is located on the east side of I-95,

north of Virginia Center Parkway. The site is designated in the 2010 Land Use Plan for Office development, and is also designated as a prime economic development site for office uses. The site is separated from residential, and a major flood plain, as you can see from the zoning map, surrounds it on, basically, three sides.

The key issue to staff, in this particular application, was the potential view of this site, or the appearance of this site from I-95 and what impact that would have on the County's character with people driving down I-95. It is likely that the site, if rezoned to M-1, and developed with more industrial uses, would generate less total traffic than the site would generate as O-3C. However, one of the issues that's been raised previously in our review of this case was the fact that it would generate more industrial truck traffic. And that is a concern of some of the neighboring properties, and I'm sure they'll speak to that. However, from the County Traffic Engineer's perspective, the additional industrial truck traffic can be accommodated safely from the property.

The applicant has submitted proffers that were handed out this evening. I'd like to run through those, hopefully, a little bit quicker than I ran through the last proffers, but nonetheless, enough detail to give you a picture of what they have done to try to resolve the concerns about the adjoining properties.

Ms. Dwyer - Excuse me, John. Are these actually new proffers, because the proffers in our packet are also dated July 22nd?

Mr. Merrithew - Yes ma'am. Well, that's a good question. The proffers were not changed from July 22nd. The new proffers I have signed in the file are August 7, I believe. They have not changed. I just wanted to make sure that you had the most recent that were given to me. Go ahead and ask the question. Maybe I can get that a little bit better.

Ms. Dwyer - I was just wondering if there was any difference.

Mr. Zehler - If they haven't changed, why are they giving them back out to us tonight?

Mr. Merrithew - Because I got the proffers two days ago and I just automatically copied them and handed them out. How's that?

Ms. Dwyer - There's no difference then?

Mr. Merrithew - There should be no difference between the two sets of proffers. That's right. It was an automatic move of efficiency to just put them in the packet to hand out.

Mr. Archer - You handled that well, Mr. Merrithew.

Mr. Merrithew - I don't know. The biggest issue we have with this case is the Office development to the south of this project is opposed to it becoming industrial in character. There is a concern that the industrial not only will affect the property from the point of view of noise, but also detract from its quality as an office project. The applicant has responded by attempting to minimize the industrial nature of the uses that would go there. They've eliminated through Proffer 1, the heavy or "blue collar" smoke stake type of manufacturing. However, I think the key uses are still permitted are distribution businesses, wholesaling, warehousing; those types of uses, probably the ones more likely to occur on any industrial property, today, can still occur on this site. And those would be the ones generating the most truck traffic most likely.

Staff has suggested to the applicant, although they, at this point, feel they are unable to comply, if we could limit the size of individual warehouse or distribution operations to a smaller square footage, that, perhaps, would change the character of the site and reduce the amount of heavy truck traffic that would occur there. We have not had a response to that, or the applicant has not been able to respond to that in a positive way.

However, the applicant has provided a number of proffers to protect the view of this site or improve the view of this site from I-95. Proffer 2, regarding outside storage and fleet parking. They provide that, of course, it will have to be screened from view. They provide that, for buildings within 300 feet, the outside storage and the fleet parking cannot be any closer than the setback of the building. They provide that the parking will be screened by either walls, landscaping, topography, or putting buildings between the parking and the highway.

In regard to Proffer 3, Building Materials: They have to agree to provide for split-face block, concrete, pre-cast concrete, brick, stone and glass and architecturally treated concrete panels to provide a more finished appearance to the buildings than would normally be required in the M-1 District. The buildings that are closest to I-95, within 200 feet of I-95, would have finished walls that include at least 15 percent glass to give them more of a front wall appearance to the building.

Proffer 5 would screen heating and air-conditioning. Proffer 6 would screen the loading docks from I-95. Again, they would have to be to the eastern side of the building or screened by a wall built of the same materials of the building.

The applicant has also proffered that an additional landscape strip will be provided between the property and I-95. It would only be 15-feet wide and would be intended to be ornamental, not as a visual buffer. Even with the existing trees that are in that area, you will not be able to screen this site from view of I-95. So, staff is agreeable to trying and approve the appearance or ornamental landscaping, rather than trying to screen the appearance all together.

The applicant has agreed to monolithic signs no higher than 15 feet. Finally, the applicant is proposing that they will include restrictive covenants applicable to the site similar to what is applicable to Virginia Center West.

The maps that are attached behind those proffers just refer to the frontage of the property where these conditions would apply adjacent to I-95.

This application is not consistent with the County's 2010 Land Use Plan. The proposal for Industrial is not consistent with the Office designation. The proposal would have the benefit of potentially reducing total traffic entering onto Virginia Center Parkway and travelling across the bridge over I-95.

It would have the benefit of improving, perhaps, the potential marketability of the site. That, in fact, is a reason for this application. There is no user at hand at this point. They are simply trying to improve its marketability. But, at the same time, as I said, it is not consistent with the 2010 Plan. Staff does feel, because of its isolated location, that it is a reasonable location for industrial development. I don't feel it will have an impact on the nearest residential development. For that reason, we do feel it is reasonable and appropriate. With that, I'd be glad to answer any questions.

Mrs. Wade -

What did you say about the traffic again, Mr. Merrithew?

Mr. Merrithew - The rezoning to M-1 would potentially reduce the overall, or total traffic volume from the property, but its likely to increase the industrial truck traffic volume.

Mrs. Wade - I look at these uses that they are permitting and some of those are pretty heavy traffic generators.

Mr. Merrithew - That they are permitting, that's right. But Office uses will generate a lot more car traffic.

Mrs. Wade - Than schools and colleges and medical offices? The only other thing, No. 8, does that pretty much prohibit billboards on this property, unless you can get it 15 feet tall, and how many square feet are allowed in M-1?

Mr. Merrithew - M-1 is 150 square feet or is that B-3?

Mrs. Wade - Is that the max?

Mr. Merrithew - Maybe the Assistant Director can speak to that? The maximum sign size in the M-1 District? But it would certainly prohibit any sign taller than 15 feet.

Mr. Archer - Mr. Merrithew, in view of the fact that the proffers indicate that the uses would be, "as permitted and regulated in O-3," what is the major difference now between the requested M-1, and what could be allowed in the O-3?

Mr. Merrithew - Are you referring to Proffer No.1?

Mr. Archer - Yes.

Mr. Merrithew - Well, one of the uses are those uses permitted in the O-3 District. Then, in addition to that, you have these other uses on this list that are M-1-type uses.

Mr. Archer - Okay.

Mr. Merrithew - So, what they are doing is adding to the O-3 list.

Mr. Archer - I was clear. I wanted to make sure everybody else was; and not thinking it was just controlled by the O-3 District.

Ms. Dwyer - Mrs. Wade, I'm looking at your sign question and I'm wondering if it could be argued at a subsequent time that, unless you specifically prohibit billboards, they might be allowed if they're allowed generally by ordinance and they're not specifically prohibited here. One might argue that this language only refers to a detached sign to identify the businesses there. Just as a stray thought to be sure, do you want to prohibit billboards. It should probably be specifically stated in the proffer.

Mr. Merrithew - Well, I think the intent was to prohibit billboards, and the applicant can speak to that. I don't think that's a problem to change that proffer.

Mr. Zehler - This is not in conformance with the Land Use Plan?

Mr. Merrithew - That's correct. The Land Use Plan designates this site for Office development. Is there a specific reason for that designation? I believe it is just to comply with the zoning that preceded the plan. But, it is, in fact, Office development and also a prime economic site for office development. It is designated Prime Economic Site in the Plan as well.

Mr. Zehler - Even though it is against the Land Use Plan, staff is making a favorable recommendation?

Mr. Merrithew - No. Staff didn't say in favor. The staff said we felt it was reasonable and appropriate, given the location and isolation from surrounding development.

Ms. Dwyer - How marketable is this as Office, in view of its isolated location?

Mr. Merrithew - Well, we asked that question. How hard have they tried to sell it as O-3? I'll ask them to give you an answer to that question as well.

Mrs. Wade - The access road is not there yet? It would be what, two-lanes?

Mr. Merrithew - There is a dirt road currently travelling down to the site from Virginia Center Parkway. It would have to be improved, of course.

Mr. Zehler - So, that would be their main point of access?

Mr. Merrithew - That is their only point of access.

Mr. Archer - Are there further questions for Mr. Merrithew by the Commission?

Mr. Marlles - Mr. Chairman, there was a question relating to the maximum area for signs in the M-1 District. The Ordinance does permit one sign with a maximum of 100 square feet, unless it's a corner lot, in which case, two signs are permitted, not exceeding 150 square feet.

Mr. Archer - That's for both signs?

Mr. Marlles - Correct?

Mrs. Wade - Only 100 in "M?"

Mr. Marlles - One sign a maximum of 100 square feet.

Ms. Dwyer - Detached sign.

Mr. Marlles - Correct.

Mr. Archer - Thank you, Mr. Marlles. Any other questions for Mr. Merrithew? Okay, will the applicant come forward, please?

Mrs. Wade - Actually, I don't think he could put one there under the current rule anyway, because it wouldn't be on the same site nor within 500 feet, or whatever the rule is for billboards.

Mr. Jim Thornton - Okay. I am going to try and take advantage of some of the new technology here. So, if I accidentally pull in the Braves game, I hope you'll bear with me. Mr. Chairman, members of the Board (sic), my name is Jim Thornton. I'm here this evening on behalf of Virginia Center, Inc., which is the developer of the Virginia Center office and industrial park in Glen Allen.

Virginia Center has applied to rezone 61 acres of land east of Interstate 95 from O-3C to M-1C. Just to give you the general layout, if you'll look at the bottom of this plan here (referring to slide), you'll see Virginia Center Parkway. You move north from Virginia Center Parkway; that initial O-3 land there is the Pittston Companies. The A-1 land is the Crossings Golf Course. The O-3 land is an undeveloped piece owned by Virginia Center. There's a small C-1 piece there and then the subject site.

This will give you an idea of the layout and the location of the land. You can see Virginia Center Parkway in the foreground. You can also see the Pittston Building there in the foreground. The road that swings to the right there and goes back in, although that looks like an off ramp, because of an unusual configuration there on I-95, that is actually an I-95 through lane. The straight north/south road you see there is the on ramp from I-295 to northbound I-95.

Mrs. Wade - What's that brownish spot?

Mr. Thornton - Oh. That's the outline of the site to show you the UFO landing site there. And this is a shot of the site from the north, again, showing the Pittston property in the background and I-95 there to the right.

With the White Oak project in full swing and Motorola creeping slowly but surely toward that point, it makes sense for the County to put itself in a position to attract the types of businesses that are going to want to serve those two projects.

Hanover County right now, for example, is aggressively marketing itself as the best place to be for companies that want to serve both, with access to I-95 and the adjoining I-295 corridor to take them both to Goochland County and to the Elko property.

This site represents an unusual opportunity for Virginia Center and for the County to get into that mix with a piece of property that can be rezoned industrial with a minimum of impact to the surrounding area.

Mr. Archer - Mr. Thornton, did you want some time for rebuttal from the opposition?

Mr. Thornton - I'd like to keep about four minutes.

Mr. Archer - Did we start, yet?

Mr. Marlles - Yes.

Mr. Thornton - All right, this piece of property is surrounded on three sides by C-1 and on the fourth side by Interstate 95. Across Interstate 95 is other Virginia Center property maximizing the incentive for Virginia Center to develop this in accordance with the high quality standards that they've established over in Virginia Center West. In addition, this piece of property is about a quarter mile from the nearest occupied building—that being the Pittston Headquarters.

The initial engineering on this site shows a possible buildout of about 500,000 square feet, compared to the 400,000 square feet of Office that was initially designed with the accompanying parking and BMP. That equates to roughly a \$25 million asset for the County, generating almost a quarter million dollar property tax revenues, plus additional employment tax and business taxes.

Depending on the type of the mix of uses that come to the property, you could create as many as 2,000 or around 700 jobs; somewhere within that range.

The proffers I'll go through very quickly. The uses are essentially proffered to Office/Service uses. The language you see in Proffer No. 1 in front of you essentially mirrors the O/S 2 language that is still being considered by the Board.

As Mr. Merrithew stated, some of the most objectionable features of industrial property are being moved to where they'll provide the least impact to I-95. Loading docks, fleet parking, outside storage will all be screened from view. They will all be at least 100 feet from Interstate 95. And for those first tier buildings, what we've referred to as, "building," that are within 300 feet of Interstate 95, none of those accessory uses will be between the building and Interstate 95.

The long sides of any building exceeding 200 feet, will be 15 percent glass to prevent long walls facing Interstate 95.

Building materials will be split-face block, tilt up concrete, pre-cast concrete, face brick, stone, glass, architecturally treated concrete panels.

There are also proffers for lighting, signs, landscaping, screening of HVAC equipment, which I'd be happy to go into as much detail as you'd like.

As Mr. Merrithew mentioned, access to this property would be along the existing roadway that parallels Interstate 95. This would be a 42-foot wide industrial grade road built at Figgie's expense, at Virginia Center's expense, and dedicated to the County.

Although this property is shown on the Comprehensive Plan as an Office area, it does further several of the Comprehensive Plan's Goals and Objectives. It furthers the development of a Prime Economic Development site. It encourages large tract mixed-use development. It encourages the County's goals of balanced growth, and provides for an orderly transition for more intense to less intense uses. Given that, and the staff's position that this is a reasonable request, we would hope that you would consider that and recommend approval of this case to the Board. I'd like to retain the rest of my time for rebuttal.

Mr. Archer - Okay. Thank you, Mr. Thornton. Are there questions of Mr. Thornton by the Commission?

Mrs. Wade - Just in No. 3, Building Materials.

Mr. Thornton - Yes ma'am.

Mrs. Wade - You changed, "comparable" to "compatible"?

Mr. Thornton - That was at staff's request. They liked "compatible" better. On the correction assumption, I think, that you compare any two things, but compatible is a higher

standard. But the compatible materials would need to be approved by staff or Planning Commission at Plan of Development.

Mrs. Wade - When you're talking about aesthetics, "compatible" is one thing, but when you're talking about materials, "comparable" means something else.

Mr. Thornton - We're open to either.

Mrs. Wade - But I just wondered why that was staff's idea.

Mr. Thornton - Either or both. We could say "compatible" and "comparable".

Mrs. Wade - Because you pretty well covered the good materials here in your list.

Ms. Dwyer - You mean they haven't eliminated much? Is that what you're saying?

Mrs. Wade - No. I mean what they've included here is reasonable, I think. I just wondered about the other.

Ms. Dwyer - ..."or aesthetically compatible finished materials." I always wonder what that means.

Mr. Thornton - And that's to give the Planning Commission another crack at this. If there is a high quality material that we haven't listed; new materials come out all the time. That gives everyone the flexibility to allow that to happen without going through the entire zoning process again.

Mrs. Wade - Mr. Thornton, what features, if any, would the access road have?

Mr. Thornton - What features would it have?

Mr. Archer - Two lane, four lane, boulevard?

Mr. Thornton - It would be 42-feet wide. It would probably be two lanes up until it reaches the intersection with Virginia Center Parkway and then the geometry there would be dictated by the safety concerns of the traffic staff at that time. I would suspect without having done the engineering work, that there will be a wider turn radius for the property approaching.

Ms. Daphne Shifflett, Director of Marketing, Virginia Center - I just wanted to add that the road plans have already been submitted to Henrico County for review. We have received approval of those plans. There's a 42-foot road and a 50-foot right of way. It will be built to industrial standards and dedicated to the County at our expense.

Mr. Archer - Any further questions?

Ms. Dwyer - I'm looking at proffers 5 and 6 for screening, HVAC and loading docks. It says, "It shall not be visible from public rights of way at the perimeter of the property." Are you just referring, then, to I-95 that they'll be screened from I-95? Is that what you mean?

Mr. Thornton - The access road will be dedicated to some point into the property. That exact point hasn't necessarily been set yet. So, it'll be screened to that point. The concern was that we didn't want every access road in there to have that proffer. Once you were in the property, once you were in the development, it may very well be that, in some of the roads through the property, you will be able to see the HVAC. But from the perimeter of the property, you will not.

Mr. Archer - Mr. Thornton, I know we discussed this at some of our meetings, but would you explain in a little bit more detail for the rest of the Commission why you feel this property is not marketable in the O-3 designation?

Mr. Thornton - The goal here is to position this property to take advantage of a likely source of business, both for Virginia Center and for the County. And, although, its not impossible that it could be developed for Office, we think the added flexibility would increase both Virginia Center's chances and the County's chances attracting the business that hasn't started coming yet, but I think most people expect to come as these large operations start to get rolling.

Ms. Dwyer - I just have one question. There is that vacant Office parcel between this and the Pittston property. Are there any plans for that? Will we be seeing a zoning case for that to be zoned industrial also?

Mr. Thornton - There's none currently planned. No.

Ms. Dwyer - Do you think that's marketable as Office; that remaining piece?

Mr. Thornton - I don't know how much consideration has been given to that particular piece. Obviously, it is not as far removed from the other properties and so isn't as good a candidate for an Industrial development. And there is a fair amount of Office development on the other side where Virginia Center feels it is more marketable by being closer to the shopping mall and the theatres and amenities that people like to have a little bit closer to the Office.

Mrs. Wade - Mr. Merrithew mentioned building size. You've got, of course, building sizes on your concept here.

Mr. Thornton - Right. That is a conceptual plan.

Mrs. Wade - This is a conceptual plan indicating, basically, what you plan to do?

Mr. Merrithew - It's not a part of the proffers.

Mrs. Wade - No. I understand that. Okay.

Mr. Thornton - That plan was really laid out just to give an idea of a likely scenario if a larger user came in. If Intel wanted to come in and put an operation there, we'd sure be glad to have them. We'd had to...

Mrs. Wade - Halfway between Motorola.

Mr. Thornton - We'd hate to foreclose that by committing to smaller buildings. I think, as a practical matter, the total square footage is going to have to be in that ballpark because of parking constraints and water treatment constraints.

Mrs. Wade - Do you have some kind of site coverage for this? Do you know yet?

Mr. Thornton - We haven't calculated that yet. Do you know?

Ms. Daphne Shifflett - As Jim indicated earlier, the C-1 on the eastern side of the property, with that carries a 100-foot mandatory Chesapeake Bay buffer. I believe that totals approximately five to seven acres of land that will be lost to that buffer. In addition, we also have, obviously, the buffer on the western side and the various landscaping that will be taking place within the site in the islands. But, no. We have not calculated an overall site coverage.

Mr. Archer - Okay. Are there further questions of Mr. Thornton? Thank you, sir. At this time we will hear from the opposition. I think we've got it on both sides.

Mr. Carl Fisher - I am the Director of Real Estate for the Pittston Company. I'm located at our worldwide headquarters at 1000 Virginia Center Parkway in Glen Allen. I'd like to thank the Planning Commission this evening for allowing me the time to address Pittston's concerns regarding Virginia Center's plan to rezone this property from O-3 to M-1.

As most of you know, the Pittston Company located its worldwide headquarters to Henrico County from Stamford, Connecticut in 1996. That process involved considerable time evaluating property alternatives. We made the decision to locate at the Virginia Center property and bought it from Figgie International on the basis that it would provide a productive work environment for our employees and our business operations.

We've made a substantial investment in our property. In part, based on the expectation that the County would not make any change that would have a negative impact on that investment. We view the undeveloped land to the north as protected by the spirit and the letter of the Land Use Plan that is recommended by the Office.

Combined with the Crossings Golf Course, we believe that the environment would be consistent with our headquarters use, and that there would be no significant change done to that. However, the recently proposed change to the Land Use Plan from the Office to Industrial introduces what, we feel, is an incompatible land use in the immediate area isolating our property, and subjecting it to negative impacts of industrial operations.

How does this affect us? Well, let me share with you a couple of ways. First, it introduces multiple industrial uses, including warehouse distribution, and manufacturing and other ancillary uses that are consistent with a corporate environment.

Second, there will be five unrelated zoning classifications in a confined area only served by Virginia Center Parkway as a single point of access. Those zoning classifications include Office, retail, recreational, residential, and now industrial in a very, very confined area.

Third, the introduction of multiple industrial uses would have an adverse impact on property values. The development of apartments across the street have already had such an impact.

Fourth, there would significant increases in heavy truck traffic, which has been admitted by the planners and everyone else. We agree, by the way, with the Planning assessment that the Office use would generate more traffic, but that's car traffic. Easier to manage. Truck traffic is a whole different issue. They can develop over a half million square feet of space which could be literally hundreds and hundreds of trucks per day.

There would be added road maintenance from the road deterioration. Despite the standards being done, it always happens. It deteriorates faster. There would be litter generated, and there's always, of course, the concern for safety, because you have a single point of access, a two-lane road that would be accessing that site. Of course, there's always the potential for noxious odors and accidental hazardous material waste and so forth that can be generated from such operations in the M-1 District.

Finally, this is Henrico County's front door. I don't believe that multiple warehouse operations would put on the best visible image for Henrico County by placing it in that location, despite what's being planned with the buffering.

When Pittston moved to Henrico County, we never asked for any incentives. No tax abatements. No special treatment. We only ask today that the County honor its commitment to its own Land Use Plan. The Pittston Company firmly and actively supports economic development within the County and in the region. However, we believe that economic development can only be accomplished by maintaining good land use and sound Land Use Planning principles and consistency in supporting the Land Use Plan.

The sellers have offered various conditions to their request that are generally cosmetic in nature. The fundamental issue is that the uses permitted in the M-1 zone are so broad that they would permit, and be in direct conflict with our use and other uses in the area.

On behalf of the Pittston Company, I respectfully request that you deny Virginia Center's request for a rezoning change. Thank you. Do you have any questions?

Mr. Archer - Are there any uses that fall within the M-1 class that you could approve of?

Mr. Fisher - Not with warehousing and manufacturing, no. We believe what you can do there, despite what may be restricted, what you can do there is you can warehouse, you can manufacture and you can operate a distribution center with multiple truck traffic and the congestion that's going to be created and the problems associated with that.

Mr. Archer - So, the only use that you would find palatable then, would be within the O-3 district?

Mr. Fisher - That's correct.

Mr. Archer - Any further questions of Mr. Fisher?

Mr. Vanarsdall - Mr. Pittston, I mean, Mr. Fisher. Excuse me. I can tell you did a good job on me. Let me ask you something, and, if its not common knowledge, you don't have to answer it, but there's a rumor on the street that you are going to leave over there, anyway. Is that that true? Are you looking at different places like Innsbrook for an office?

Mr. Fisher - To answer that question, its not confidential. It's true. We are considering relocating our headquarters from that property to another property. Let me point out that we are remaining in Richmond, and, hopefully, remaining in the County. The background of that, very briefly is, that the amount of space that we have on that site and the 20 acres is too much for our needs in the foreseeable future. And our plan is to sell that property, prior to making any relocation.

Mr. Vanarsdall - The reason I asked you is because I know you know of the article in the Sunday paper maybe last year, or year before. The man in charge here, I mean he was so enthused with it, it's almost like he found heaven on earth and wouldn't move anywhere. I can't imagine what happened in such a short length of time.

Mr. Fisher - I think he found heaven and earth in Richmond. I'm not sure it was the building. Our CEO has retired. There is new management in place. We've had some redirection as happens with any corporation. And I think the issue there is not a function of our displeasure with Richmond, or its location by any means, but more as a practical matter. If we cannot use the facility that we're in, then we need to get into something that we can use.

But that doesn't take away from the importance of what we're doing here, tonight, whether we are here, or anyone else is here.

Mr. Vanarsdall - I appreciate you answering it. I just wanted...

Mr. Fisher - A very appropriate question.

Mr. Vanarsdall - Did the subdivision over there have anything to do with the development have anything to do with your decision to move?

Mr. Fisher - You mean the residential part of it? No. It did not. We were aware of that when we went in. We elected not to resist that.

Mr. Vanarsdall - Thank you. I don't have any more questions, Mr. Chairman.

Mr. Donati - You made reference to some apartments? Could you elaborate on that a little bit?

Mr. Fisher - In talking with the real estate professionals in discussing our potential move, we talked about the point of the apartments that are located directly across from our property. We felt at the time; we feel today that was an inappropriate use for that land. And I think what has occurred that has been even worse than what we expected in both its design and what's been done with the overall density.

Unfortunately, we can't make that go away and we'll live with it. Hopefully, they'll manage it in an appropriate manner. But I think that, overall, that that has taken away some value to our property. We'll live with it. That's what we have to do.

Mr. Donati - I assume its not the quality that you probably expected?

Mr. Fisher - I beg your pardon?

Mr. Donati - I'm assuming its not the quality that you expected?

Mr. Fisher - It is not, and certainly not what was represented to us. Thank you.

Mrs. Wade - A number of changes have certainly occurred in that area since the original big zoning case, Virginia Center. Do you know, and you probably do, how long your building was for sale before you all purchased it?

Mr. Fisher - My understanding was, and I think the former owners can speak better on that than I can. But I think it was like seven to eight years that it was on the market. We hope that's not the case this time.

Mr. Archer - Any further questions of Mr. Fisher? If not, there was somebody else who wanted to speak in opposition. Would you come forward, please.

Mr. Ted Hoover, General Manager, Southern Insurance Company of Virginia - Good evening. We are a Virginia domicile insurance company. We're located at 801 Virginia Village Drive in Virginia Center. I want to thank the committee for allowing us to have this opportunity to voice our objections to the proposed rezoning. We wish to echo all of the comments made by the representatives from Pittston.

We chose the location that we're at because it had what we thought was the aesthetic projections that were consistent with our corporate image. We reviewed the Land Use Plan on the basis, and saw as it was laid out. It had the basis for which our decision; our comfort level for what we would be anticipating for our operation and our growth objectives. By the way, we bought the building in 1997, and we purchased the land, I believe, adjacent to the building about a month or so afterwards for expansion plans.

I guess all we want to say here is, although we're not proximal to the area that's in dispute, we feel this opens the door for other rezoning requests for Office, O-3 in the Virginia Center, and that we feel any changes in that area that have more detrimental effect than may, perhaps, been what has already occurred in regards to the residential changes. So, again, we echo Pittston's objections and hope the committee will rule in our favor.

Ms. Dwyer - Where are you located?

Mr. Hoover - 801 Virginia Village Drive.

Ms. Dwyer - Can you show us on the map?

Mr. Hoover - May I walk up right here. I'm going to need a little help. We're right here and right here (referring to slide).

Ms. Dwyer - Okay.

Mr. Hoover - This is Virginia Village Drive right here (referring to slide),

Mrs. Wade - Is there realtors or somebody down there.

Mr. Hoover - I think, at one time, the Richmond Board of Realtors was in the building. I think they're up the road now on the other side. Any other questions of me?

Mr. Archer - Any questions of Mr. Hoover?

Mr. Hoover - Thank you, very much.

Mr. Archer - Is there someone else? We have a little bit of time left.

Mr. Kent LaMotta - I'm a neighboring resident. I bought in CrossPointe and I'll show you where I live. The area right here (referring to slide). It's about 700 feet from my door to where there their main access will be off of Virginia Center Parkway.

Ms. Dwyer - These are condominiums?

Mr. LaMotta - Townhouses.

Mr. Archer - I'm sorry, sir. I didn't get your last name.

Mr. LaMotta - LaMotta. I moved in three months ago, and unlike Pittston, I don't intend to move. Our main concern, and a group of residents have met on this issue already, is not where the site is, but where the accessibility is. The only access to our homes in CrossPointe is on Virginia Center Parkway, as is the only access to their property if on Virginia Center Parkway. As I said, it's less than 800 feet from where they would turn into that point up to their site.

Our main concern is our safety, with the increased truck and tractor trailer traffic, property values decreasing and the quality of life.

In summary, I would just read this to the Henrico Planning Commission: "We the undersigned homeowners at CrossPointe in Glen Allen, Virginia are strongly opposed to the proposed change in the zoning on the above mentioned parcel of land from O-3C to M-1C. This change would adversely affect our quality of living and the overall value of our homes. We bought in this area of Henrico County for the beauty of the area and the serenity of living near a very fine golf course. We certainly did not move here to be within the site and hearing of an industrial park for general industrial uses, light manufacturing and distribution. Having trucks in and out of our neighborhood at all hours of the day and night would be very disruptive to our peaceful living conditions we currently enjoy.

Traffic, including tractor trailer traffic would increase significantly causing hazardous conditions and costing the taxpayers thousands of dollars in road and bridge maintenance. We request that you deny Virginia Center's request."

Mr. Archer - Any questions for Mr. LaMotta?

Mrs. Wade - Other than that, you don't consider the possibility that the residential property may become more valuable if there are a lot more people working out there? Of course, they could work in offices.

Mr. LaMotta - They could work in offices. That's more what we prefer. That's what it was when I purchased, and that's what I would like it to stay.

Mr. Archer - Any further questions? How much time do we have left, Mr. Secretary. We have roughly a minute if someone else is in opposition.

Mr. Rothenberg - Mr. Chairman, a couple of things. I'm not sure that I completely agree that the apartments are a relevant consideration in this case. Such to the extent that they are, I will address them.

As Mr. Fisher said, Pittston knew about the apartment buildings before purchasing. They are on the Board of Directors of the Homeowners Association that reviews plans for those apartments. Likewise, Southern Insurance was shown those plans. I have a letter here from Roy Amason, who is the developer of those apartments, both supporting our request, and also stating both Southern Insurance and Pittston were given ample opportunity to review the plans for those apartments before they became final. Southern Insurance bought their property somewhat later. The Wiltons owned the building that they were in and paid \$750,000 for it according to County records in 1990. Again, according to County records, Southern Insurance bought that property for \$1,100,000. Someone at Southern Insurance felt that property values were increasing significantly out at Virginia Center, notwithstanding the construction of the apartments.

Mr. Fisher stated that O-3 and M-1 are Office/Service, as the uses have been proffered to, are incompatible land uses. I would submit to you that there is absolutely no support for that position in the County's Comprehensive Plan.

If you look throughout the County, you'll see literally dozens of instances where the County Plan recommends an interface between Office or Office/Service or Industrial. From the Fairgrounds Distribution Center, to Park Central, to the Brookfield, Reynolds-Metals complex to the Concourse at Wyndham to Deep Run. One particularly apt comparison would be Innsbrook North which has a configuration very similar to what we're proposing; an M-1C property with access down through O-3C to Nuckols Road. I'm not sure that I can accept that O-3 zoning is required to be protected from truck traffic. O-3C zoning is the highest intensity office use in the County. And there are office uses all over the County with truck traffic passing all the time.

If you'll look at the traffic report that I gave you, at Tab 5 you'll see a study of the traffic generation at the existing M-1 over at Virginia Center West. And the traffic coming from the Virginia Center West property was approximately 5.5 percent heavy trucks. The traffic along the arterial Brook Road was approximately 3 percent heavy trucks. And the Traffic Engineer states that those are typical values for office/industrial complex and typical values for arterial roads.

If you apply those percentages say, to Parham Road, you'll see that probably 800 trucks a day pass the Henrico Government Center. I've heard people in the County say lots of things about this building, but I never heard them say they couldn't work here because of the truck traffic on Parham Road. It's a comparable situation. The road is approximately the same size at Virginia Center. And the setbacks are comparable and the buffering is comparable.

Mr. Archer - You're running close on time. I'll give you a little more.

Mr. Rothenberg - Let me wind up then. What you see here is a photographic simulation of the development out on Virginia Center, showing the relationship to Pittston. Again, there is a quarter mile between these properties.

We've proffered that all activities will take place in buildings. I simply cannot imagine that with the golf course, the O-3 and the C-1 and that amount of distance, with the tree coverage that's there, I suspect that the folks at Pittston will not even be able to see this property. I'm quire

certain as you go down the hill past the parts at Southern Insurance folks won't be able to see it. I certainly can't accept that they're going to be affected by the noise from that property, or by any odors or that sort of thing.

You also look and see, as that road comes up there, that road is very well buffered from the Pittston property and that right next to it, an Interstate 95 through lane carries 18,000 trucks a day, according to VDOT. So, at a generation, based on the traffic generation rate, even if 10 percent of the vehicles out of there were trucks, which far exceeds what the Traffic Engineer say is typical, you'd be looking at 200 to 300 trucks a day.

Mr. Archer - Okay. Any questions for Mr. Thornton by the Commission? I guess that wraps that up. Thank you, Mr. Thornton. I think one of the major drawbacks of this case, of course, is the point of access. I think its probably the biggest thorn that exists to it, because everything has to come in and out of that point of access.

Mr. Merrithew, in his staff report, has difficulty recommending this case, although he does agree the request is a reasonable one. There are several things in here that he mentions that would make this a better case if they were adopted, particularly I'll refer to the items he mentions on Page 4 of the staff report. I guess before I go further, Mr. Fisher and the gentleman who were in opposition, have you all, at any point, had a chance to sit down with Mr. Thornton, the member from the Board, with the applicant to discuss this case?

Mr. Fisher - I'm sorry. I didn't hear what you said.

Mr. Archer - I'll repeat it. Have you had an opportunity to sit down with Mr. Thornton and the applicants to discuss this case in any detail?

Mr. Fisher - Yes. We have.

Mr. Archer - ...to see if it could be all this as one group?

Mr. Fisher - We've had two meetings over the past several months. We talked about our concerns. They did attempt to try to come up with some conditions, but we kept coming back to the same fundamental issue which was the use, and what ultimately could be put on there, as opposed to what they might tell us they would put on there.

Mr. Archer - Do you see any circumstance under which, if they did tell you what would not go there, you could find a way to possibly come closer to mediation?

Mr. Fisher - We have a lot of difficulty with that, with anything that's related to industrial uses. I might take exception to what Mr. Thornton said, but I don't think I want to debate that here. But we feel, and we came in there. We looked at the zoning before we bought the property. It was O-3C. It was Office. That's what we anticipated. Anything short of that is going to isolate us, and as I said before, would put five zoning classifications in a very confined area. So, I don't see there's any room other than what we expected to see, which was O-3.

Mr. Archer - None, whatsoever?

Mr. Fisher - None. Whatsoever.

Mr. Archer - Even if they were to place some restrictions on the M-1 class that could apply? Would you be willing to sit down and talk about it? Let me ask you that? I haven't had an opportunity to meet with all of you together.

Mr. Fisher - Mr. Chairman, I would be happy to sit and talk with anybody at any time and we're happy to do that again. But I also say, we've attempted to do that on more than one occasion. If they wanted to leave the warehousing, light manufacturing and distribution, I'd be more than happy to talk to them, which gets us back to the O-3 zoning. That's where the problem lies.

Mr. Archer - I understand. And you understand, also, that they're trying to get some flexibility out of a zoning classification?

Mr. Fisher - I understand that, as well. I'm not sure which direction to go with it.

Mr. Archer - I think what I would like to do, I certainly haven't had the opportunity to sit down and talk with everybody about this at one time. I kind of get caught in the middle. One person writes another and the other person responds and I get a copy of the letters one wrote to the other. This case has been around since March. I suppose we do need to dispose of it in some kind of fashion. We're looking at a 62-acre site that we need to do something with. Virginia Center has expressed reasons why it does not feel like its feasible to develop it as an O-3 case. I can respect the reason why they think not. I wasn't expecting the opposition. I expected you to be here, but I had not expected hearing from anybody else. The gentleman who lives in the residence near there. There's a couple of ways we can go with this right now. I'm leaning toward trying to have a meeting with all of you and deferring this case one more time. It's been around since March. I don't guess it would hurt to do it at least once more to see if we can reach some medium that everybody—We might not all go away happy, but maybe not quite as mad.

Would that be agreeable to you, sir, if we could arrange to do that and do it all within the next 30 days and get it rid of it once and for all one way or the other? Would that be agreeable with Virginia Center? Okay. Are you willing to defer this again to whatever date?

Mr. Thornton - Yes sir. The applicant would be agreeable to deferring this.

Mr. Archer - Okay.

Mr. Thornton - Would you like us to request a deferral?

Mr. Archer - It would be nice.

Mr. Thornton - The applicant requests a deferral to the September 10th meeting.

Mr. Archer - Mr. Merrithew, would you be willing to help us with coordinating a meeting. I'll talk to Mr. Thornton, but I'd like for him to be involved with it also.

Mr. Merrithew - Yes sir.

Ms. Dwyer - Mr. Chairman, would that be a deferral for Decision Only?

Mr. Archer - It will be for decision only. We'll hash this out when we meet, if we're able to meet, and we'll make the decision at that time. I thank you all for coming.

With that, I move for deferral to the September 10th meeting at the applicant's request.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). Thank you.

Deferred from the July 9, 1998 Meeting:

C-24C-98 Arthur McGurn: Request to conditionally rezone from A-1 Agricultural District and R-2C One Family Residence District (Conditional) to R-5C General Residence District (Conditional), Parcels 32-A-102N, 117 and 122, and Part of Parcel 32-A-114A, described as follows:

Beginning at a point on the south line of Virginia Center Parkway 27.92 feet from the intersection of the south line of Virginia Center Parkway and the east line of Francis Road extended; thence continuing along Virginia Center Parkway 404.11 feet along a curve to the left, having a radius of 770.00 feet and a chord length of 399.49 feet, bearing S. 84° 58' 38" E., to a point; thence N. 74° 34' 25" E., 68.56 feet to a point; thence leaving the southern line of Virginia Center Parkway S. 00° 49' 28" E., 580.63 feet to a point; thence S. 89° 11' 41" W., 705.32 feet to a point; thence S. 00° 49' 29" E., 192.85 feet to a point; thence S. 89° 10' 31" W., 160.00 feet to a point; thence S. 88° 59' 31" W., 345.07 feet to a point on the east line of Francis Road; thence continuing along Francis Road N. 29° 51' 40" E., 219.64 feet to a point; thence S. 58° 51' 17" W., 13.00 feet to a point; thence N. 31° 08' 43" E., 98.47 feet to a point; thence 497.31 feet along a curve to the right, having a radius of 929.43 feet and a chord length of 491.39 feet, bearing N. 46° 28' 42" E., to a point; thence N. 74° 34' 25" E., 21.77 feet to a point; thence 205.34 feet along a curve to the left, having a radius of 330.00 feet and a chord length of 202.04 feet, bearing N. 41° 59' 28" E., to a point; thence N. 24° 09' 54" E., 33.04 feet to a point; thence leaving the east line of Francis Road 44.97 feet along a curve to the right, having a radius of 30.00 feet and a chord length of 40.88, bearing N. 67° 06' 41" E., to the point of beginning and containing 12.659 acres of land.

Mr. Marlles - The staff presentation will be given by Ms. Gardner.

Mr. Archer - Okay. Is any one here in opposition to C-24C-98? We have opposition. We'll get to you. Ms. Gardner.

Ms. Gardner - Good evening. This is a request to rezone 12.6 acres from the A-1 and R-2C Districts to the R-5C General Residence District. The proposed use on the property is multi-family residential located at the southeast corner of Virginia Center Parkway and Francis Road. It's in the Fairfield District.

The Land Use Plan designation on almost all the property is Suburban Residential 2. And this point bears emphasizing. Suburban Residential 2 designation would support between 30 and 43 single family residences. I think there's been some confusion about this. The maximum number of single family residences that would be supported by the Land Use Plan on this property would be 43. That would be, at most, the R-3A District, with a minimum lot size of

9,500 square feet. Actually, let me say, if this zoning were not approved, we have the A-1 District. Not much can be done with A-1. A further rezoning would be needed and we would have to go through this process again. There would be an expectation of some proffers to ensure quality. So, that is what we're left with if this were not to pass; a potential for a rezoning likely to at most an R-3A District with a maximum of 43 units on the property. So, again, this proposal is not consistent with the Land Use Plan, and staff recommends denial.

The applicant has proposed 102 units. This equates to approximately 8 units per acre. Eight units per acre is only appropriate in the Multi-family Residential designation. The applicant is proposing to building condominiums.

Initially, this could have been rental property. This was one of the main concerns of staff. Although making the units initially for sale does not guarantee that they will be owner-occupied. We would certainly have a lower percentage of rented properties. So, that concern has been lessened.

As stated in the staff report, there was a similar case in 1996. At that time staff recommended denial. The case was never heard. It was withdrawn before it ever did get to public hearing.

There are a number of reasons that we do not support this case. There is already a concentration of multi-family in the immediate vicinity, both on Brook Road and Virginia Center Parkway. This would only add to that concentration of this unit type in this area.

As proposed, and as I will get into shortly, I do not believe that this is compatible with nearby single family residences. Again, it is not consistent with the Comprehensive Plan, either in density or in unit type. The Comprehensive Plan contemplates a maximum of 43 single family residences.

Now, to get into the proffers, briefly, all of these issues were raised in the staff report according to what was on the table at the time, though not all the detail was in the staff report, because we didn't have anything to look at, at that time.

I'm going to start in the middle looking at Proffer No. 6. This refers to the site plan. Although it's not a site plan quite in the sense that you might think of it, it only commits to that residence building shall be developed on the property, substantially as shown on this plan (referring to slide). I take to mean that only those residential buildings are committed to. Perhaps, the number. Perhaps, the general location. You'll notice that this plan is not to scale and there is some lack of detail on that plan.

The applicant had discussed putting a 100-foot buffer on a portion of the property in approximately this area (referring to slide). You see no reference to 100 feet. This has not been committed to.

The applicant also has discussed, and here implies, you can't see it on the screen, but there would be a 170-foot setback. The way the proffer is worded, I don't see that we have that assurance that this building would be 170 feet from the closest houses.

Proffer No. 5 gives us a height limitation to abide by the R-4 zoning district, but for uses other than single family, this allows a building up to 45 feet or three stories. The applicant had discussed two stories. Perhaps, they could address whether that plan has changed, or, perhaps, the proffer needs to be reworded.

The applicant had discussed garages not being oriented to existing residential to the south. I had asked whether this could also be extended to the project periphery. Neither of those provisions have been made.

Proffer No. 9, a 20-foot parking lot lighting. This seems excessive in an area, if this is to be compatible with single family residential, the height of those lights should be brought down to 10 or 12 feet, or, perhaps, even, perhaps, 8 feet. Twenty feet is certainly not compatible with single family residential.

What has been put on the table does not match the quality standards of apartments in the vicinity. New multi-family on the north side of Virginia Center Parkway has committed to 50 percent brick for two-story buildings. If these are to be two-story buildings, that would be comparable. We have no commitment for the percentage of brick, although the architectural do depict some percentage of brick.

The applicant had discussed committing to brick foundations for buildings, including the chimneys. That assurance has not been brought forward into the proffers. Some of it is depicted on the architectural, however, some of the foundation is hidden by landscaped planting so you can't tell what is back there.

There has been no discussion of screening or location of refuse or service areas, including the treatment of HVAC equipment.

Again, I would point out to you on Proffer 6, as well as on Proffer 3, the applicant has made a commitment to abide by the architectural that are submitted in this conceptual landscape plan that's been submitted, unless they so chose to submit something different at the time of POD and you approve it. Of course, I don't have to tell you that your leverage to not approve some alternative plan is not terribly good. So, since there is a rather large out clause, you can't really use this to take an assurance of quality, either in its conceptual landscape plan, or the architectural.

A couple of other items mentioned in the staff report have not been addressed. There is no commitment to a minimum percentage of open space and there is no discussion of recreational areas. You do see what appears to be a trail, but its just a drawing on the plan. I don't know how to interpret that. Again, staff recommends denial and I'd be happy to take any questions.

Mr. Archer - Thank you, Ms. Gardner. Are there questions for Ms. Gardner by the Commission members? No questions? Thank you, Ms. Gardner. We'll hear from the applicant, Mr. Moore. Mr. Moore, while you're doing that, I assume you'll want to reserve some time for rebuttal? We do have opposition.

Mr. Glenn Moore - Yes sir. Mr. Chairman, I do want to reserve some time for rebuttal. I also believe there may be a couple of other people here in support of this case and I want to allow them some time. So, I'll try what Ms. Freye tried, and if you could let me know when 5 minutes have elapsed.

I have a fair amount to go through, and the proffers that Ms. Gardner just mentioned, I want to say, we just submitted to her two days ago and to the staff. She probably hasn't had time to review them. Tonight, is the first time I've heard the objection she has to the proffers with the additional comments. Virtually, all of them will be responded to. Rather than take your time,

unless you have specific questions about them, I can work through all those, I believe, with the staff.

I'd like to go ahead and present this case, and to say that this is a request to rezone 12.66 acres. Could you show the zoning map, please (referring to slide)?

Ms. Dwyer - Mr. Moore, could I ask you a question before you get started?

Mr. Moore - Yes.

Ms. Dwyer - It seems to me that Ms. Gardner's comments were substantial and I was wondering, do you mean you might need a deferral in order to work with staff to redraft the proffers, or...

Mr. Moore - I don't need a deferral to do it. If you all want to defer the case for that purpose, I would understand that. What I mean is, I'll go through some of these things in response to questions. I believe it does show a 100-foot buffer on that site plan. I also think there's a 170-foot setback at the location she mentioned. Things like the height of the parking lot lighting, that's pretty easy to change. We'd just have to discuss with my client whether or not that's something they could do. Percentage of brick, I felt like proffering the elevations that show what they were going to look like, eliminated the necessity to proffer any percentage of brick, or say anything about the foundations. It's clearly all brick, vinyl and windows.

But nevertheless, having said that, sometimes you get into these things where you do proffer those things in addition to the elevations. I'm sure we could work through that. There's certainly no intent to evade those quality issues. What we're showing you is what we intend to build, to the extent language can be added that enhances what's shown on the exhibits that are given as part of the case. We would add that language.

Mr. Zehler - How do you explain No. 3; "...unless otherwise requested by the developer, as specifically approved at time of POD...?" I mean, do you have the right to change anything anytime you want to?

Mr. Moore - No. I have the right to ask the Planning Commission to permit a change. If they feel something is as good or better, and if they decide they would like the changes, they have the ability to change it. That's how I would explain it. I think you have an absolute veto power.

Mr. Zehler - That's no good then, because you have the right to change it.

Mr. Moore - You have the right to approve the changes. I have the right to ask you to change it. You don't have to approve it. All that does, in my opinion, it gives the applicant the opportunity; suppose something comes along that's better. Suppose we wanted to do something that's all brick. Rather than have to amend the proffer, we could come in and say, "We now think this would be a better product on this site. Do you agree, and would you approve it?" And if you say, "No," then we're stuck with what we originally had approved.

Mr. Zehler - Why don't you do that now; proffer all brick?

Mr. Moore - We don't want to do that at this point, Mr. Zehler. That's the point of the proffer. I don't agree with Ms. Gardner's statement at all that you all have no leverage in denying peoples request to changes. I think you have absolute veto power on that.

Mrs. Wade - She didn't say, "no leverage." She said, "little."

Mr. Moore - I would disagree with little leverage. I think you have complete leverage. And I would also say that proffer has been used probably 100 times; at least 100 times. We use it all the time.

Mr. Zehler - It hasn't been used in Varina.

Mr. Moore - Maybe not. Is that in response to your question, Ms. Dwyer? Look at the zoning map. You will see that to the east and most of this property, you have property which is zoned R-6 Conditional and R-5 Conditional. We're asking for R-5 Conditional. Those two properties are developed with an apartment project; multi-family apartments for rent. I believe the proffers allow their development to a density of 14.5 units per acre.

What we're requesting is R-5 zoning for condominiums for sale limited to a density of approximately 8 units per acre, which we submit is somewhere between probably closer to the density permitted in the Land Use Plan designation for the property and adjoining properties. We would submit that this zoning request represents a transition from apartments to the east and the north to properties to the south and west.

If rezoned as requested, Mr. McGurn proposes to develop the property generally as shown on the conceptual landscape plan which has been filed as an exhibit in this case. The exterior appearance of the buildings has also been proffered as Exhibits A-1 and A-2. It should also be noted that each unit will have garage parking for two cars.

Further, the extensive landscaping shown on the conceptual landscape plan has been proffered as a part of this case, and includes an extensive evergreen plantings or buffer adjacent to the single family homes.

The condominium development of this property will allow a greater setback of buildings from property lines adjacent to single family homes which will likely improve privacy considerations for such properties with respect to development on this site. In addition, we have proffered a privacy fence of a minimum of six feet in height, vinyl covered fence along the southern boundary of the property which abuts single family homes.

What is labeled as the "rear elevation," that you see at the top picture, will be the side of the building's façade oriented to building perimeters. So, as you can see from the site plan, I believe you all have the site plan there. There are no instances where parking areas are located closer to the southern property line, which is where residential properties are, than the adjoining buildings. I'd like to point out that this concept has been tried successfully in other areas. Generally, residents tend to be young professionals, what we call, "empty nesters," and retired people who wish to retain home ownership without the headache of maintaining a yard.

We have proffered that all utilities will be underground. And a homeowners association will be responsible for maintaining landscaping, driveways, and other common area features on the property.

We have also specified that a decorative rail fence will be maintained along the road frontages of the property.

I would also like to point out that I have just gotten involved in this case in the last two weeks. Mr. McGurn was handling the case himself before that time. He's had a number of meetings with residents, and has committed to the residents to have an advisory committee with whom he will consult prior to development, and during development with respect to issues that might be of interest to the neighbors.

I want to suggest to the Commission that this request with the residential goal of the Land Use Plan which is to encourage home ownership. It also complies with the objective of the Land Use Plan to provide for a logical arrangement of land uses which offer a transition for more intense uses to less intense uses. The proposed rezoning will also add to the variety of housing types offered in this area of the County.

We submit that the requested rezoning will allow development of the property, pursuant to its highest and best use, as a transition between the adjacent apartment property and single family homes. I say that, especially in view of the conditions which require significant setbacks and high quality development on the property.

We further submit that the jurisdictional prerequisites for the Planning Commission to recommend approval of this case are satisfied. Accordingly, we would request that the Planning Commission waive the time limit for accepting the amended and restated proffered conditions and recommend this case to the Board of Supervisors for approval.

I believe there are some supporters, or people who feel that this is an appropriate use of the property in the audience as well, and I'd like to ask for them to raise their hands. Thank you. I'll be happy to answer any questions Planning Commission would have.

Mr. Archer - Are there any questions for Mr. Moore by the Commission?

Mr. Donati - Yes, I have one, Mr. Chairman.

Mr. Archer - Mr. Donati.

Mr. Donati - If I'm not mistaken, we had a zoning case last night for apartments. These are the same renderings that we had last night for apartments and, tonight, they're townhouses?

Mr. Moore - I didn't handle the case and I don't believe it was Mr. McGurn. Is that possible?

Mr. Donati - I believe it was, on Broad Street.

Mrs. Wade - The Summit case?

Mr. Weinberg - No. These are nothing like Summit's.

Mr. Donati - These are the same renderings that I saw last night with the Summit case.

Mr. Moore - Would you like me to respond? I'll tell you a little bit about these condominiums in the interest of time. Each of these buildings will have six condominium units in

them. They'll each have a garage and parking, two per unit. I think Mr. Weinberg's project had more units than that per building.

Mr. Donati - It was identical to this, if I'm not mistaken.

Mr. Weinberg - Not my case.

Mr. Donati - Not yours? Who was the other attorney last night? Dave Kaechele's case?

Mr. Weinberg - I had the apartment site. Ted Linhard has the automobile dealership. This is totally different...

Mr. Donati - These renderings are the same renderings I saw last night.

Mr. Zehler - I'm with you, Mr. Donati. We've seen them before somewhere.

Mrs. Wade - No. I don't think I've ever seen anything that looks like this before. How tall...

Mr. Moore - And I did want to respond to Ms. Gardner. She had a good point with respect to the height. What I did mean when I proffered the R-4 maximum, I did mean the R-4 maximum for houses.

Mrs. Wade - Thirty-five (35), is that what it is?

Mr. Moore - It's 35. But actually these are measured 26. And they're two stories.

Mrs. Wade - Although to the ridge, they'd be more than that, because the roof's kind of tall.

Mr. Archer - Okay. Are there further questions for Mr. Moore by the Commission? Mr. Moore, was there somebody else who wanted to speak in favor of?

Mr. Moore - Yes. I think there was.

Mr. Archer - How much time do we have, Mr. Secretary.

Mr. Marlls - A little less than five minutes.

Mr. Archer - Did you want to retain some time for rebuttal?

Mr. Moore - Two minutes.

Mr. Archer - Two minutes? Okay. You've got about three minutes for the remainder.

Mr. Jack Stevens - I'll try to keep it under that, Mr. Chairman. Thank you for your time. Members of the Commission, my name is Jack Stevens. I live at 1717 Bellmeade Place in Magnolia Ridge. I, and others in Magnolia Ridge have been concerned, and I am pleased to

tell you that on Monday, July 20, the residents of Magnolia Ridge, as well as residents in Lee's Crossing and on Francis Road were invited to a meeting at Longdale Elementary School to get first hand information from the owner of the property involved, as well as on behalf of the developer whose proposing and requesting the change in zoning.

There were some who were opposed, initially, to the proposal, and one person even suggested that, if any of the residents agreed to the proposed changes, that they were all idiots. I look a little umbrage with that, because I don't think we have any idiots living up in Magnolia Ridge.

After a thorough discussion, the vast majority of people in attendance at that meeting agreed that they would rather see multi-family ownership development than apartment, rental, or even single family residential development over which there could be possibly no control or similar stringent covenants such as we have on our single family homes in Magnolia Ridge. Our covenants even require that we use a brand name paint and the color on our mailbox. So, it is stringent. I don't have any assurances from the County that single family development would impose those same restrictions.

In addition, the developer has established an advisory committee of Magnolia Ridge residents and we have been asked to help establish proffers and covenants that would be in our best interests in maintaining standards and values in the community. '

The Advisory Committee has met with the property owner and the developer. We did that on August 4th, and we reviewed proposed changes in the development. We were given pretty complete copies of that information. It has been circulated in the community. I have plenty of letters here from people in Magnolia Ridge and the surrounding area that would, based on the proffers and the covenants and the promises made by the builder, that if they were to do those things, that we would not oppose the project. If we don't oppose it, I guess we support it. We proudly ask you to do the same in lieu of anything else. Thank you.

Mr. Archer - Is there any time left for the applicant? He wanted two minutes for rebuttal. Anybody got anything they want to say in 24 seconds?

Ms. Dwyer - If I may make a comment about your last comments, sir. You indicated that if this were developed as single family, there'd be no assurances as to quality and covenants and those types of things. I think that there may be some assurance of that because it would have to be rezoned. A large portion of this is A-1. And in order to develop it as a traditional single family neighborhood, they would have to get a rezoning. And through that rezoning process, the neighborhoods would have an opportunity again to meet with the developer and acquire assurances of quality on single family homes as well. I just wanted to point that out. You don't have to comment. I just wanted to clarify that point.

Mr. Stevens - We'd have to go through the same process again, though?

Ms. Dwyer - Right.

Mr. Stevens - At some time in the future?

Ms. Dwyer - You'd have to sit through another meeting.

Mr. Stevens - ...so something could be built. And we're interested in the ownership, and getting on with it now.

Mr. Archer - Thank you, Mr. Stevens.

Mrs. Wade - How far is your house from this property? Are you close by? Do you live close to this property?

Mr. Stevens - Two blocks, I guess. Maybe long blocks, but it's about two blocks.

Mrs. Wade - Thank you.

Mr. Archer - Okay. Is there someone to speak for the opposition? You have also a total of 10 minutes.

Mr. Louis Daniel - Good evening, ladies and gentlemen. My name is Louis Daniel and I live at 1304 Old Francis Road in the Fairfield District. I'm here, tonight, representing a group of residents from Old Francis Road, Lee's Crossing and Magnolia Ridge who oppose rezoning Case C-24C-98. I'd like all of those who I'm representing here tonight to please stand and be recognized. Thank you. Now, if I could go up to the map, I'll show you where I live so you'll have an idea of where I live in relation to this property. This is my home right here. This is the property we're talking about (referring to slide). So, I'm pretty close.

I'll give you a little background on our meetings with the applicant so you can have an idea of the sound of the discussions that we've had. The adjacent property owners first met with the applicant on April 29, 1998. The applicant explained his, "big house" concept, and stated that he wanted to build approximately 100 units. We left that meeting clearly stating that the density, we felt, was too high. The applicant agreed to talk with the seller about their financial arrangements had been made to see if it was possible for them to reach an agreement so that fewer of these units could be built. We're trying to keep an open mind to see what could be worked out.

Early, the next month, the July 9th Planning Commission meeting, the applicant was instructed, right here in this room, to hold neighborhood meetings with all concerned parties, "all concerned parties," not just individual meetings with each subdivision. Such a meeting was held on July 20th.

A major concern at this meeting was the way the case was presented. Many of the people there opposed the case at the beginning of the meeting. Some were led to believe that, if they didn't chose the applicant's proposal, they'd be left with something far worse. Some of the things that were quoted were, more units of the current proposal, or the maximum number of allowed homes, with neighbors having no input of the proposal. And you just discussed, ma'am, that there would be input. And No. 3, more low income apartment units such as adjoining the Greens Apartments. But from our standpoint, there was one thing they didn't mention. And that was, that none of those alternatives that they quoted has been formally offered, and, therefore, we can't judge an alternative that's never been presented to us.

In early August, we heard that the applicants planned to change it again. We later learned that he had met only with residents of Magnolia Ridge, instead of having another community meeting.

On August 6th the adjacent landowners met again with the applicant to see his final proposal. The applicant told us that he had met with the County and reduced his number of units to 102. Keep in mind, when he first came to us early in April, he had said, he was going to build

approximately 100. He's, from our standpoint, back to what he originally proposed. He hasn't come down any in terms of his density.

Now, that I've explained a brief outline of the process to come to some sort of compromise, I'd like to explain how we are still in opposition to the presented rezoning case.

Primarily, its density. The density in the community has steadily increased with all the recent development, including subdivisions and multi-family units, commercial and retail ventures. Over 800 multi-family units have been approved for this area. Many of the apartments are not yet occupied. Eighty more scheduled to be built in Phase 2 of The Cameron. And if you'll go out there, today, you'll notice that land is being bulldozed even as we speak, but has happened today.

The 102 condos proposed is still more than we were told at the first meeting in April. We were supposed to be working towards reducing the density. We have no idea what the impact is from this development; all these additional apartment/multi-family units are going to be. That's one reason we're so opposed to more R-5 at this time.

Traffic and Road conditions: Traffic continues to increase with each additional family or business that moves into the area. The intersection of Route 1 and I-295 is becoming increasingly congested. More and more people are using Francis Road as a cut through to Target and Virginia Center Commons. The intersection of Francis and Old Francis Roads is still very dangerous with its sharp curve and resulting blind spots. Francis Road to Greenwood Road is extremely narrow with minimum shoulders and high crown. One of the access points for the proposed project is located on Francis Road, right up from that sharp curve.

The Land Use Plan, the staff has mentioned just a few minutes ago, indicated that this proposed plan does not fit with the County's 2010 Land Use Plan to recommend Suburban Residential 2 and government uses for this piece of property and not multi-family R-5C.

Transition: Many of the adjacent landowners have acre plus lots currently zoned Agricultural. Now, the applicant has indicated that he believes that R-5C is a transition from A-1 to other uses. We disagree. We don't believe that one house to eight to nine units per acre is an appropriate transition.

Proffers: Staff also mentioned their concerns about the proffers. We have concerns also. They, as far as we are concerned, are too loosely written. They allow for way too much flexibility from the conceptual plan as presented. For example, Proffers No. 3, Architectural Treatment; No. 6 Site Plan, and No. 7, Landscaping, all include language relating to "substantially" or "otherwise specifically requested by the developer". That sounds very vague to me. I don't understand exactly what they're saying there.

Units are to be built for sale, but not required to be owner/occupied. This could also allow for rental property.

Several items that we were told that were proffered were not. For example, aerators being installed in both retention ponds to keep them from stagnating like many of those already around us.

Exact footage amounts of buffers between the adjacent property owners and the first structures.

Buffers being kept in natural state with no play equipment, grilling pads, or parking allowed using dimensional shingles on the roofs and screens for trash dumpsters.

Other concerns include the lack of a scale; conceptual landscape plan. The walking trail along the southern edge of the property was not removed from their plan as indicated by the applicant, and no footage for height requirements or size of these big houses. It seems very vague. There are no specifics there.

Conflicting information. At the first meeting with the applicant, we were told the condos would sell for a minimum of \$125,000. At the neighborhood meeting, it was \$110,000. By last Thursday, it was \$100,000.

Building Schedule: The applicant indicated he plans to build units as they are sold. We are concerned that, if the property is rezoned R-5 and his condos don't sell as well as he hopes, he has to pull out. That existing zoning would already be R-5 and could permit apartments or rental property with amended proffers. We do know that sometime proffers do get amended.

I do want to stress another point. We realize that the seller has a right to try and sell their property. With that, will come development. But at some point, the nature of that development can infringe on the quality of life and reduce the value of the property of the owners who stay behind. We'll be staying behind. That's what we see happening with any project of a higher density than R-2. Density both on the site and the surrounding area is one of our major concerns from the start. Even though we had multiple meetings, we were not able to agree on a density that was mutually acceptable to the neighborhood. All we ask is that you take into consideration that we are the folks who will have to deal with the consequences of this proposed change. Now, I would remind you that one of the earlier cases was of a situation where some folks were upset because there was going to be a hotel/motel or motel being built, and you reminded them that the property had already been rezoned for that. There wasn't any way that they could prevent it from happening.

Well, this property has not been rezoned R-5, and we're coming to you at this point before it's rezoned to express our concerns to let you know that we do have a concern. We don't feel that R-5C is appropriate.

Please also consider the letters that you've received in opposition to this case. We know you've received many. I would remind you, also, that the applicant has had since April 29th to get proffers specific. We've been meeting since April 29th trying to get things squared away. We have not been able to do so at this point. So, thank you very much for listening.

Mr. Archer - Thank you, sir. Are there questions of Mr. Daniels before he takes his seat? Mr. Daniels, the Advisory Committee that was formed, was that all people from Magnolia Ridge, or were some of you on the committee?

Mr. Daniels - As far as I know, there are no members who oppose on this Advisory Committee. This advisory committee is apparently only people who support this plan.

Mr. Archer - Are there any other questions for Mr. Daniels? How much time do we have left for the opposition? Any? Forty seconds. Anybody else would like to use that?

Mrs. Wade - You pretty much covered everything, didn't you?

Mr. Daniels - I tried. I don't know whether I did or not.

Mr. Archer - Mr. Moore, I believe you had reserved some rebuttal time. We'll hear from you, sir.

Mrs. Wade - Weren't the proffers in, like two days ago?

Mr. Moore - The proffers were just submitted just two days ago, so I understand why they might not have had a chance...

Mrs. Wade - But you asked to have the time limit waived?

Mr. Moore - I asked to have it waived. I don't know whether it needs to be waived or not.

Mrs. Wade - No. I didn't think so.

Mr. Moore - Let me respond to some of Mr. Daniel's points. First, again, with respect to the meetings, again, I just got involved in this case. So, I'm sorry, I haven't had the opportunity—I was out of town last week for the meeting and I'm sorry I missed that. Some of the things he mentioned I think we could certainly address if we had an opportunity to meet with the residents. The language of the proffers, I feel certain we could come to agree on many of those issues.

Mr. Daniels mentioned the 850 multi-family units approved in this area, but I think the vast majority of those I believe are apartments. This is committed to be a "For Sale" project. I think that does make it unique. Mr. Daniels mentions the density. What I'd like to find out, I submit to you, that 102 condominium units has no more impact on an area from the standpoint of traffic. It's certainly less from the standpoint of school age children than 43 homes would have. I'm not sure what it is with respect to density that is trying to be addressed, but that's something maybe we could address with more discussion.

With respect to the Land Use Plan, it does call for this to be SR-2. The Land Use Plan is a guide. I would submit to you that we do comply, and I've mentioned it earlier in my presentation, with some of the Goals, Policies, and Objectives of the Comprehensive Plan, which I don't think can be overlooked.

Again, proffer language. We can work on that. Things like the aerators that they mentioned. Those things can be included. I think Mr. McGurn did commit to that, and we would be willing to address that.

We agree the type of development does affect the people that are in the community. I would submit to you that this type of development with a minimum of 100-foot setbacks; a commitment to building materials; the type of development that it is, which will have a positive impact on number of school-age children and will be neutral with respect to traffic will not have an adverse affect on the people that are left.

Also, take into consideration the evergreen screening and the fence along the southern property line. I'd be happy to answer any other questions that the Planning Commission members may have.

Mr. Archer - Thank you, Mr. Moore. Are there questions for Mr. Moore?

Mr. Jack Stevens - Point of information, please?

Mr. Archer - Yes. Would you come up to the mike, sir.

Mr. Stevens - I wanted to make a clarification on something. The comment was made that the Advisory Committee was made up of people from only Magnolia Ridge. That may be the case, but I want to make it very clear, at the meeting of July 20th, the property owner and the developer called for volunteers from all of the areas to volunteer to serve on the Advisory Committee. Then that group of letters that I referred to are residents on Francis Road, and Lee's Crossing. The fact that there are only Magnolia Ridge people on the Advisory Committee, I don't think anybody else had any control over.

The reason we are here fewer in numbers is the fact that we do have the Advisory Committee and we circulated the information and got the letters to support our position. Thank you.

Mr. Archer - I understand, sir, but I thank you for the explanation anyway. There are no further questions. This case has been around since May, I believe the first time it came up and we deferred it to July. Then we deferred it again to this month.

You may recall that, at last month's meeting, I based my deferral on the fact there were so many points that were brought within the staff report that had not been answered. But at the same time, I have gotten so many letters and phone calls, this is my stack of letters and phone calls from people who are in opposition to this case. But I think I did state, at the last meeting, that this would not ultimately evolve into how many people we could line up opposed to it and how many people we could line up that were in favor of it.

Some of the points that Ms. Gardner mentioned in the Land Use Plan are just as salient today as they were two years ago when the first multi-family case came up. Now, I've met with Mr. Lowery and Mr. McGurn and Mr. Moore and they're all nice people. And I think they all have worked hard to try to make this case one that could be workable.

I've got letters and phone calls as late as 5:00 o'clock this evening from people who wanted to talk about this case. At the last meeting when I deferred it, even though staff had recommended it be denied, one of the reasons I did was because there had been information circulated that Mr. Lowery thought may have been somewhat misinforming. And I agreed that it might have been. It might not have been intentional, but he, at least, wanted to set the record straight as to what he planned to do.

After that time, I attended a meeting that Mr. McGurn chaired with the residents of Magnolia Ridge to talk about some of those things and to talk about the new plans. And I was hoping that we could, at some point in time, get to where we could at least come close enough to approximating the Land Use Plan that we could make this plan workable. It still seems like, listening to Ms. Gardner's staff report, that we're just too far away from what we have to do in order for me to be able to make a recommendation to the Board. Some of the information that has been contained in the letters that I received has been divisive. I don't know whether it was intentional or not, but there seems to be the sense that if this project is not accepted, then something worse could go on the land. I think, to some degree, that has frightened some people. I don't know to what degree that may have happened. But I even had one call where we had a household that was divided. One person in the household was for the project and one was against it. I don't really know what we could do to make this case to fall within the

constraints of the Land Use Plan and the objections that Ms. Gardner has been trying to get everybody to overcome. We're just too far removed from it. I tried to give it another month to see if we could approach it and get closer to it, but I just don't think we're getting there. I don't see where it would do any good to defer it again. Of course, Mr. Moore and Mr. McGurn have the opportunity between now and the time the Board meets to work on this and tweak it some more and maybe we can get it to the point where the Board will accept it. But as for now, I just don't think we're close enough to it to keep batting it around. For that reason I move we recommend that the Board of Supervisors deny C-24C-98.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the request because it would have a detrimental impact on the adjoining residential neighborhood; and the applicant failed to meet his burden to show that the requested changes are in the best interests of the welfare and future of the community.

Deferred from the July 28, 1998 Plan of Development Meeting:

C-50C-98

Brenda Hartless for CK Overlook Associates, LLC: Request for amendment of proffered conditions accepted with rezoning case C-88C-96, on Parcels 28-A-35A, 23 and parts of Parcels 28-A-24A, 35B, and 25, containing 11.398 acres, located between the north line of Sadler Road and the southwest line of Nuckols Road, approximately 100' east of Interstate 295. Amendments related to the buffer are proposed. The existing zoning is O-2C Office District (Conditional).

Mr. Marlles - Mr. Bittner is going to be giving the staff presentation.

Mr. Archer - Okay. Is there anyone here in opposition to C-50C-98?

Person from Audience - I'm not in opposition, but I would like to comment.

Mr. Archer - Okay. We'll get to you. Mr. Bittner.

Mr. Bittner - Thank you, Mr. Chairman. You'll notice the graphic up on the screen is for a POD. This is for the Overlook office development which is currently under construction. I thought this would be the best to illustrate what ultimately is going to be out there.

This proposal would amend Proffers 3, 6, and 8 accepted with C-88C-96. The amendments would permit a temporary occupancy prior to completion of relocated Sadler Road and the placement of a fiber optic cable easement within the proffered Sadler Road natural landscaped buffer.

Adjoining residential neighbors have expressed opposition to the request for temporary occupancy and agreement with the amended buffer proffer. New proffers have been submitted since the printing of the staff report.

The staff worked closely with the applicant during his formulation of these proffers. They were submitted on Tuesday of this week, and, therefore, a time limit waiver is not needed.

Staff does not object to allowing temporary occupancy prior to completion of relocated Sadler Road. This is because the applicant has proffered to install the Sadler Road buffer and landscaping prior to temporary occupancy. This buffer is shown on Exhibit A attached to the proffers and also on this graphic here. It's the cross hatched area (referring to slide).

Installation of this buffer will help protect the nearby residences from potential impacts associated with this development. Staff also does not object to inclusion of a fiber optic cable easement within the Sadler Road buffer. This is because the applicant has proffered to replant this easement to maintain the required buffer width. The proffered buffer width of the Sadler Road buffer is 70 feet.

Staff recommends approval of this proposed proffer amendment, and I'd be happy to answer any questions you may have.

Mr. Archer - Thank you, Mr. Bittner. Are there questions by the Commission?

Ms. Dwyer - Mr. Bittner, do you have some documents in the file relating to Permit Application by Childress-Klein to request permission from VDOT for Childress-Kline to landscape Parcel D? Do you have that document in the file?

Mr. Bittner - I believe Mr. Whitney or Mr. Strauss are a little bit more familiar with that. I might have a copy of it here.

Ms. Dwyer - Okay. I have it and it looks like you were copied on that.

Mr. Bittner - July 24, 1998, is that the date?

Ms. Dwyer - No. It was August 11th.

Mr. Bittner - August 11th? I do not believe I have that. Have you got that, Jim?

Ms. Dwyer - Do you have that Jim?

Ms. Dwyer - I have a copy. I just want to make sure that there's a copy in the file for Mr. Kaechele's benefit. To Mr. Melvin Corso from Brenda Hartless. Do we have that, Jim?

Mr. James Strauss, County Planner - Okay. I just wanted to verify that that's there.

Ms. Dwyer - Are there also documents to and from the Virginia Department of Transportation relating to the 15-foot right of way that VDOT is conveying to Childress-Kline?

Mr. Bittner - Yes. I have those in my possession right here. They are not yet in the file, but we'll put them there.

Ms. Dwyer - They will be a part of the file also? Okay. All right. Thank you. I just wanted to verify that.

Mrs. Wade - I assume nobody's planning on planting anything now?

Ms. Dwyer - Not in August. The plan is to wait a little while.
Mr. Archer - Okay. Any further questions? Do you want to hear from the
applicant, Ms. Dwyer?

Ms. Dwyer - Yes.

Mr. Archer - Okay. Will the applicant come forward, please?

Mr. Leon Shadowen - Good evening. I don't think its morning yet.

Ms. Dwyer - It's still evening. You have a few more minutes.

Mr. Shadowen - Mr. Chairman, and members of the Commission, I'm Leon
Shadowen and this is Brenda Hartless with Childress-Kline.

Ms. Dwyer - The documents that I was just checking with staff on, making sure
they are in the file, support Childress-Kline's efforts to make sure they are square with VDOT in
terms of landscaping in Parcel D which will be obscured right of way from Old Sadler Road when
the road project is finished. And also the document from VDOT indicating that there is an
agreement to sell the 15-foot right of way along Sadler Road that has been subject of much
contention in this case. It is my understanding that the Commonwealth Transportation Board will
actually issue that deed in September. They'll make a decision and issue the deed in September.

Mr. Shadowen - That's what I understand.

Ms. Dwyer - And Mr. Lowery, who is an adjacent property owner, is looking, as I
understand it, at one outstanding issue. That was landscaping to be done along that western
border to replace the 20 trees that were inadvertently cut down and then also to add all those, I
believe, it's 50 wax myrtles. So, your intention is to do that prior to temporary occupancy as part
of this whole landscaping that you're going to do along Sadler Road. Is that correct?

Mr. Shadowen - That's correct. We've sent the letter to Mr. Lowery to that effect.
My understanding was that was acceptable to him.

Ms. Dwyer - Okay. I believe that's all I had for now. Thank you.

Mr. Shadowen - Thank you. Any other questions?

Mr. Archer - Any further questions?

Mr. Shadowen - Thank you very much. I appreciate all of your help.

Mr. Archer - There was opposition, I believe.

Mr. Wayne Lowery - I have owned the property on the westernmost side adjoining the
Overlook property. I'd just like to make one comment. We're into this rezoning six months or
more; eight months, a year maybe, and I think maybe today; and I'd like to commend Ms. Dwyer
of the Planning Staff members; Mikel Whitney, Jim Strauss, Mark Bittner, the Childress-Klein
people, Brenda Hartless and Mr. Shadowen for all of their efforts they put into trying to straighten

this mess out. But the problem I have is that we allowed a zoning to take place with the original applicant. He made proffers to us and he did not control the property that was rezoned.

And the reason that we're here tonight asking for the proffers to be changed is because, you know, into it nine months there's a problem where the proffers are broken. Where the telephone line is put on VDOT property and then it comes to the attention of all of the homeowners around it. This applicant did not even control this property. I find it hard to believe that he did not realize he controlled that property in that he was negotiating with them on an additional piece of property on the other side that fronted on Nuckols Road. I'm the property adjacent to it. I know that I front on VDOT property. There's VDOT stones all the way down that line. It's not Childress-Klein's fault. It's not, I guess, not the County's fault. But if there is any way that somebody should be penalized for making proffers that they didn't have rights to do so, the County should certainly do that in this case. It just bothers me that we're trying to correct a problem because the original applicant proffered these to us not controlling that property.

The second thing I'd like to point out is that, we've been told that, when they had this temporary occupancy, it would coincide with a portion of the new road that intersects with Nuckols being completed, and a traffic light being installed at that time. We desperately need that traffic light now. Why should it coincide with that road going in if there's a way to put poles and stanchions up there? Why can't we go ahead and put the traffic light into operation now? It's been pointed out that that would potentially help our situation at the intersection of Sadler and Cox. I guess I don't understand how the traffic light, and this new portion that feeds into this development, has any bearing on when that light should go in. There's already a substantial amount of traffic that goes across into the other development on the other side of Nuckols at this particular intersection. And, personally, I have an eight year old son. We go out in the mornings when school starts. It's unbearable trying to turn onto Cox to get down to go over into Wyndham to deliver him to school.

The bus driver that comes actually picks up our children from this neighborhood at 7:00 o'clock in the morning to get them to school at 8:00 o'clock. And he is so concerned. And again we're putting this light in because of this reason. But he's so concerned, that he goes out Sadler to Broad Street, gets on I-295. Comes down I-295, gets on Nuckols Road to go out to Wyndham to deliver those kids to the school. I guess my point is, is there any way that we can apply that light now, or is that light paid for in this road project? How does that work?

Ms. Dwyer - I'll attempt to answer that question, Mr. Lowery, about the light and its relationship to this temporary occupancy. My understanding is that the light going in is not going to be delayed by the occupancy of the building. We're requiring that the light be installed before temporary occupancy can be gained. So, in other words, there's all the impetus in the world to get the light done sooner, rather than later.

Mr. Lowery - I understand what you're saying.

Ms. Dwyer - That's not being delayed.

Mr. Lowery - If anything, that will hold up opening up the road.

Ms. Dwyer - What's that?

Mr. Lowery - The time element taking the light being installed may hold the temporary occupancy.

Ms. Dwyer - Right. My understanding from the traffic folks is that, it's impractical to try to have sort of a temporary light system up. It's all part of parcel of the road. They're putting in cables and the detectors under the road, and installing all of that. It's all happening at one time. And that phase of the road is being worked on first, because that's the most intensive and that's the most important piece of this road project is the intersection of New Sadler with Nuckols. That light is going to be at the end. That segment of the road will be completed. I've heard estimates as early as September 15th. That may be optimistic, but that's the earliest time. We may be looking at September 15th.

Mr. Lowery - Amen. We need it today. I was in hopes it would be there when school started.

Ms. Dwyer - Right.

Mr. Lowery - Again, I commend you, Ms. Dwyer, for the time that you've put in. We've spent many 5:30 afternoons out there in the 90 degree heat in discussing this. It just bothers me that this thing has gotten this far. The development is already there, and I'm not so sure that it's still not decided. You're saying that the VDOT people; have they sent a letter of intent that they intend to sell this property to the original applicant so that he can convey it to Childress-Klein? Is that...

Ms. Dwyer - Right. I have copies of the application. I have documentation from VDOT that there's been an agreement. There's one piece of the puzzle left which is the final stamp of approval by the Commonwealth Transportation Board. But I'm assuming by the representations in the letter that I have from VDOT that there is no real impediment to that occurring.

Mr. Lowery - Okay.

Ms. Dwyer - I'm satisfied that is on track.

Mr. Lowery - Okay.

Ms. Dwyer - And I asked for that documentation for tonight's meeting just to make sure that we had some assurance of that...And I think there are lots of people who share your frustration about that 15 feet of right of way.

Mr. Lowery - Well, in reality, I think we're probably going to end up with more buffer than what we had. I think it's going to be nice. It bothers me that somehow this slipped through and the County allowed this to be zoned; allowed the building to go on, when again, the original applicant did not have control of that property. And those proffers were made clear and there was a lot of discussion about it that there was no utilities to be put in those buffers. So. Okay. Thank you.

Mrs. Wade - Thank you for mentioning all the parties that worked on this. I was going to do that too. Actually, it's been more like five years. Mr. Catlett was still around here when we started on this.

Mr. Lowery - Actually, Mrs. Wade, you and I discussed the relocation of this road nine years ago in Sidney Gunst's office with Bob Warlock. That was when they were relocating Sadler into Cox. Thank you.

Ms. Dwyer - Well, the fun has intensified in recent years.

Mr. Archer - Thank you, Mr. Lowery. We appreciate a commendation any time.

Ms. Dwyer - I agree with Mr. Lowery. I think it's a good development and I think the building is very attractive. I think the neighbors agree. I think that when all is said and done, there will be some degree of pleasure that everyone can take in the way that the road is built and the way the development has occurred. It's been a long tough road getting there, however.

The purpose of these proffer amendments, again, is just to summarize, is to account for Bell-Atlantic fiber optic cable that is in the 15 feet of VDOT right of way that is about to be transferred to the owner of the property now. That's an unfortunate occurrence, but it did occur. There's additional landscaping that the owner of the property has agreed to add in this right of way to compensate somewhat for the fact that there is now utilities in the buffer, whereas, originally it was proffered that there would be no utilities in that buffer. I believe the neighbors are satisfied with the additional landscaping that has been offered.

The temporary occupancy issue; I know that was a very important issue back in 1997 with the original zoning. And the concern then by the neighbors was that they didn't want additional traffic on Sadler because it's very difficult to get off of Sadler Road onto Cox Road. I think that their concerns will be almost entirely alleviated by the fact that no additional office traffic will be able to get onto Sadler Road during this temporary occupancy period of time. And also alleviated by the fact that the proffers require the traffic light to be installed and operational and requires certain road standards to be met before temporary occupancy can be gained.

Also, the neighbors benefit from the fact that this landscaping along Sadler, landscaping along Mr. Lowery's property by letter agreement, that landscaping will be installed this fall rather than in the spring, after the final road project has been completed. So, I think that ends up being a win-win, we hope, situation for the homeowners as well.

The permitting process for Parcel D has begun. I know that has been an issue, again, for the neighbors. So, I believe we have tied up all the loose ends that need to be tied up on this case and we will cross our fingers and hope that things continue to work themselves out.

So, with those comments, I would like to recommend to the Board approval of the proffer amendments in Case C-50C-98.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mrs. Wade - It's still two more parcels along there, Mr. Lowery.

Ms. Dwyer - Along where?

Mrs. Wade - Between Sadler and Nuckols.

Ms. Dwyer - Undeveloped yet.

thence leaving the southwestern boundary of the right of way line of Springfield Road in an westerly direction with five (5) courses and distances along lines common to the lands owned by now or formerly Martha T. Jenkins; (1) S. 86° 51' 43" W., 684.13 feet to a point; (2) thence N. 63°29' 12" W., 321.34 feet to a point; (3) thence S. 37° 43' 38" W., 122.16 feet to a point; (4) thence N. 71° 44' 29" W., 155.78 feet to a point; (5) Thence S. 59° 44 '31" W., +/- 5.0 feet to a point on the limits of the 100 Year FEMA Flood Plain, said point being the Actual Point and Place of Beginning for Parcel B; thence continuing in a westerly direction with three (3) courses and distances along lines common to the lands owned by now or formerly Martha T. Jenkins; (1) S. 59° 44 '31" W., 135.49 feet to a point; (2) Thence N. 63° 17' 30" W., 32.54 feet to a point; (3) thence S. 83° 52' 54" W. 56.21 feet to a point on a line common with the lands of the County of Henrico; thence in a northerly direction with five (5) courses and distances along lines common to the lands owned by the County of Henrico; (1) N. 11° 37' 24" W., 117.63 feet to a point; (2) thence N. 02° 54' 42" E., 165.95 feet to a point; (3) thence N. 16° 46 '37" E., 361.20 feet to a point; (4) N. 01° 04' 47" E., 291.33 feet to a point; (5) Thence S. 69° 51' 53" E., +/-16.61 feet to a point on the limits of the 100 Year FEMA Flood Plain; thence along the limits of the 100 Year FEIVIA Flood Plain in a southerly direction +/-909 feet to a point on the 100 Year FEMA Floodplain, said point also being the Point and Place of Beginning for Parcel B and containing approximately 2.0 acres.

Mr. Marles - The staff presentation will be by Ms. Hunter.

Mr. Archer - Is there any one here in opposition to C-53C-98 Robert M. Atack for Atack Properties, Inc.? Ms. Hunter.

Ms. Jo Ann Morgan Hunter - Thank you. The applicant is requesting to rezone 21 acres from A-1 to R-3C, and two acres of floodplain from A-1 to C-1. The property is located on the south side of Springfield Road, immediately adjacent to the County's Echo Lake Park.

The Land Use Plan designation for this area is SR-1 which represents densities of 1.0 to 2.4 units per acre. Although the applicant is requesting R-3 zoning, the applicant has proffered no more than 49 lots which does fall within the recommended land use range.

The applicant has submitted revised proffers, since the staff report, which John is handing out this evening.

Mr. Merrithew - The proffers are out there.

Ms. Jo Ann Morgan Hunter - These proffers do provide some design assurances, including foundations of brick, stone, dryvit or stucco. Chimneys with foundations, and the foundation material being similar to that of the house; minimum house size of 2,000 square feet, and no lots fronting on Springfield Road.

The applicant has also proffered a 25-foot natural buffer along Springfield Road that can be penetrated only by utilities installed perpendicular and a perimeter fence that would be installed by the developer. The developer has not indicated, at this time, the height of the fence or the style.

The buffer will be a part of the rear yard, which means that some lots along Springfield Road could have limited usable rear yards.

The property is immediately adjacent to the County's Echo Lake Park. The applicant is proposing to rezone these two acres adjacent, which are floodplain, to C-1. The area is proposed not for common area, but to be incorporated in subdivision lots.

Also the applicant has proffered that this would serve as a buffer between this development and the park. The buffer has not been defined and the staff has concerns, that without any additional restrictions, inappropriate uses could be allowed in the floodplain, which would have an environmental impact on the Echo Lake.

The applicant submitted a letter to the Planning Staff late this afternoon stating that, prior to the Board meeting, they would continue to work to submit revised proffers that would include a 50-foot buffer that would be left undisturbed. With this commitment, and further clarification that this language will be improved, staff would recommend approval of this case. I'll be happy to answer any questions.

Mr. Archer - Thank you, Ms. Hunter. Are there questions by Ms. Hunter by the Commission?

Ms. Dwyer - Do you think that the 50-foot buffer will then; I guess I'm kind of confused about this. Is the intent that the 50-foot buffer will be zoned C-1 and that will be, or not?

Ms. Jo Ann Morgan Hunter - The entire two acres of the floodplain, if the rezoning is approved, will be zoned C-1. But this 50-foot buffer would be added assurance. In the C-1 District, you can still have accessory uses that you can have in any residential district.

Ms. Dwyer - A tool shed, if it's part of a lot or something?

Ms. Jo Ann Morgan Hunter - This 50-foot buffer, if I'm understanding Mr. Atack's intent, there would be no disturbing any of it; no clearing of trees; no accessory uses in this 50-foot buffer area.
Ms. Dwyer - Would this 50-foot buffer be in addition to required setback?

Ms. Jo Ann Morgan Hunter - Not the way this proffer is worded.

Mrs. Wade - Where the park adjoins this parcel, there's a big chain-link fence, right?

Ms. Jo Ann Morgan Hunter - Right.

Mrs. Wade - What I understood he's offering is 50 feet on his side of the chain link fence will be this natural buffer. It contains a lot of big old trees, which would help enhance the park area, which is very narrow through there. I think also his site too. Actually, the floodplain is more like a 100 or so feet.

Ms. Jo Ann Morgan Hunter - That's correct.

Mrs. Wade - It varies a lot through there. So, basically, half of it would be reserved.

Ms. Dwyer - Half of the 50-foot buffer would be...

Mrs. Wade - Half of the floodplain would be reserved.

Ms. Dwyer - Without seeing the proffer, just having this letter of intent, I guess I'm thinking, you know, of a case in which we had a buffer in a neighborhood.

Mrs. Wade - I know. I told him this question would come up. It came up last night at the Board meeting.

Ms. Dwyer - I think the wording of the proffer is really important. Because if a person buys a home and this is a part of their lot, they're probably not going to understand or agree that they can't use part of the property that belongs to them for whatever they want to use it for. I think when we place those restrictions on residential lots, I think that 50-foot buffer is important and a great idea but...

Mrs. Wade - Well, there may be more related to the park. We'll ask Mr. Atack when he comes down, if that's okay.

Mr. Archer - Okay. Are there further questions for Mrs. Hunter? Do we need to hear from the applicant?

Mrs. Wade - That same question could apply, then, to the buffer in No. 10, along the new lots on Springfield, that says, it's "natural state."

Ms. Dwyer - Yes,

Mr. Archer - Good evening, Mr. Atack. Good morning, Mr. Atack. I'm sorry.

Mr. Bob Atack - Thank you, Mr. Archer. Good morning. Mr. Chairman, members of the Planning Commission, my name is Bob Atack. I am the applicant this evening. This property is unique in that it has a number of challenges and opportunities. As the property is directly across from my own home, I intend to develop it as an enclave of executive homes, priced over \$250,000.

The proffers stated before you will provide for the following minimum requirements of 2,000 square foot homes, though our first plans are calling for over 3,000 square feet. The density proffer calls for a maximum of 49 lots, which is 2.1 lots per acre. We expect by the time we get to the actual tentative site plan that we will end up with 1.7 lots per acre. We proffered no lots to front on Springfield Road. We are also proffering a 25-foot buffer along Springfield Road.

We intend to build, to answer Ms. Hunter's question as to the explanation on the fencing, we intend to build a white rail fence which is comparable to the fence that we have built in our Magnolia Ridge community, as well as the Shady Oaks project on Springfield Road, that exists now. It's a maintenance free fence and it's an aesthetic fence as it's sole purpose.

We are also committed to this 50-foot buffer, which we have provided the County with a letter of intent, around the C-1 property. I hope you will accept the recommendations of the Planning Department, and I'll be glad to answer any questions.

Mr. Archer - Thank you, Mr. Atack. Are there questions by the Commission?

Mr. Zehler - Bob, on your Number 7, your 2,000 square feet, is that finished, livable?

Mr. Atack - No sir. That is square footage.

Mr. Zehler - So, 30 percent of that could be unfinished, so then, you're at 1,400 square feet?

Mr. Atack - That's correct.

Mrs. Wade - To get to Number 10, you know the question that I've had all along that may come up somewhere along the line about the natural state. You start putting a fence in there, you could run into a problem, because "natural state," seems to have come to mean, "nothing," going in. Ms. Dwyer knows more about that than I do.

Mr. Atack - Well, obviously, there's a existing, I guess, scenario, that's going on in the County that has caused some rise to the fear of penetrating some of these buffers. We've done buffers in a lot of municipalities. I do appreciate Ms. Dwyer's comments that you made about the actual homeowners understanding of a zoning proffer, much less the after effect of someone penetrating a proffered buffered area. I'm not sure, exactly, how best maybe I could articulate satisfaction of how that might be scripted, but I would be glad to defer to some of your most recent experiences, if you have a suggestion.

Mrs. Wade - Well.

Ms. Dwyer - I think, as a practical matter, its simply difficult to limit a homeowner's use of their own property. That's the difficulty we've had in another case in which there was a proffered buffer between two neighborhoods. And the people who purchased the homes had no idea that they would be limited in any way in using their backyards, when, in fact, the proffer required, you know, the buffer area to remain in its natural state. That's our experience. So, it's just a word of caution as we see, I think staff had recommended that this buffer area be community owned, jointly by the community or the homeowners association. That would be one way to clarify the distinction between land you can use and putting a tool shed on and land you cannot. So, beyond that, I'm not sure how you would word the proffer, other than maybe having the different zoning classification, might help to make that distinction for the homeowner. I don't know. I think that if you allow this buffer to be a part of the lots, you know, you're setting up difficulty.

Mr. Atack - We sell about 200 lots a year throughout the Richmond area. And, regardless, of how we intend or edit or record easements, the resident's home is their preverbal castle. Obviously, the County is suffering from consequence of late. I'm sort of in my mind searching, "Well, we've had everything in the world happen in one of our communities at one time or another. This, we seem, to have avoided. I'm trying to think, is there something we've done in the past that has been able give a guideline, because we have not in our other developments in the Richmond area had a problem with the residents penetrating a buffer. I'm just trying to think. We have sort of a disclosure package when someone buys one of our houses. We have typical architectural guidelines and these various things. So, in all due respect, I suspect a lot of people don't really even read those. I'm not sure what the answer is.

Mrs. Wade - Perhaps, you can get with staff between now and the Board meeting and pin down No. 10. Number 9, I believe we discussed you were still considering the possibility of dedicating that 50-foot strip? You were going to talk to the Park people about how you were going to work that. Of course, it's going to be outside of their fence.

Mr. Atack - Yes. I talked to Karen in the Parks Department today. I will speak to Wes Malcolm, whose the Director of Parks prior—My intention is to provide this proffer with regard to the 50-foot buffer, Mrs. Wade, along the County perimeter. What I will do is, prior to that submission, which I had said in my letter to the County that I will do in two weeks. I will have gotten an audience with Wes Malcolm and come to resolve to his satisfaction. I don't know if that's to your satisfaction, but that's...

Mrs. Wade - No. Well, the letter, basically, declared your intent to do this before the Board meeting occurred. I'll discuss this with our Board member also about what I understood to be our understanding.

Why R-3, rather than R-2 or something?

Mr. Atack - That's a very good question. We have the most significant challenges with utilities with this property, for the size of it, of any property we develop in the Richmond area. It's only 23 acres. But we have severe, severe problems severing the entire property. We have proffered, as I mentioned, 49 lots, which is 2.1 lots to the acre. It appears that our tentative may drop the yield down to 1.7, which may further beg the question, "Well, why don't you just zone it R-2?" Well, what our situation is, because of the severity of access in the entire property with sewer, some of the lots will need to be an R-3 qualification lot as far as the square footage of the lot, even though some of the lots will be significantly higher. We need a little bit of flexibility to be able to maintain a reasonable density.

Mrs. Wade - And there was a small delegation from Hartley Plantation here inquiring and they went away satisfied.

Mr. Atack - Yes. We have met with the adjoining property owners, and I've dragged my brother-in-law out to be here. But, facetiously speaking, the Hartley Plantation residents did come out. I have not spoken to them at all before this evening. I did speak to those four different property owners and they all were satisfied. I do have their names. And, after I was able to explain to them the proffers, they were satisfied with our proposal.

Mrs. Wade - Okay, by the time you get down to 2.1 or as you say, possibly even 1.7, you'd certainly be meeting the Comprehensive Plan, fall in that density category of Suburban Residential 1. Okay. I think that's everything I have. I don't believe I have any more questions. Thank you. Anybody else have any more questions?

Mr. Archer - Okay. Mrs. Wade.

Mrs. Wade - I don't think there's anybody here in opposition to this case.

Mr. Archer - Didn't see anyone.

Mrs. Wade - All right. This is certainly an attractive piece of land in a very good, convenient location and should make a nice subdivision, and especially when the other Springfield Road is finished. Everybody doesn't have to come by here to get to Staples Mill some day. As I said, it does conform, basically, to the density of the Land Use Plan. I am very supportive of having the 50 feet between here. I really, of course, would have liked to have had the whole two acres, but most of the attractiveness actually of the strip is within, I concluded going out here yesterday, or was it, this morning, actually, yesterday morning, that most of the trees and the good vegetation is within the 50 feet from that fence. But you have agreed to work out a proffer to

cover that and leave that growth. And agreed also to work with the Park people about the best way to handle that strip as far as maintenance and things are concerned. And you're going to work with staff on the No. 10 to get the wording there so we'd be sure there's no misunderstanding of what's expected in the 25-foot buffer along Springfield. I would move, therefore, that Case C-53C-98 be recommended to the Board for approval.

Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mrs. Wade, seconded by Ms. Dwyer, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **accept the proffered conditions and grant** the request because it is appropriate residential zoning at this location; it is not expected to have a precedent setting effect on the zoning in the area; and it reflects the type of residential growth in the area.

P-33-98 Jay M. Weinberg for Stor-All: Request for a provisional use permit in accordance with Sections 24-62.2(h), 24-58.2(b) and 24.122.1 of Chapter 24 of the County Code in order to permit a self-service storage facility on part of Parcel 47-A-21, containing 2.979 acres, located on the south side of W. Broad Street (U.S. Route 250) at the ramp to Interstate 64. The site is zoned B-3C Business District (Conditional) and is also in the West Broad Street Overlay District. The Land Use Plan recommends Commercial Concentration.

Mr. Marlles - Mr. Merrithew will be giving the staff presentation.

Mr. Archer - Thank you, sir. Is there any one here in opposition to P-33-98 Stor-All? Thank you. We'll get to you. Ms. Freye. All right, Mr. Merrithew.

Mr. Merrithew - Thank you, Mr. Chairman. This is a request for a Provisional Use Permit to operate a self-service storage facility on a 2.9 acre portion of a tract of land located at I-64 and W. Broad Street.

This may look real familiar to you. Just a couple of months ago, the Board of Supervisors denied an application to rezone a 7-acre portion of this same tract to allow a mini-warehouse. They denied that case. This particular proposal is for a use that is permitted by a Provisional Use Permit in a B-3C. And there's some distinct differences between the mini-warehouse use and this self-service storage facility use. I will get to those in just a second.

As you probably recall, this is a site that was rezoned to permit an automobile rental operation by Avis. It's approximately 10 acres in total size. This proposal, as I said, would take about three acres of the site.

The surrounding area is zoned A-1, for the most part. The immediately surrounding area is zoned A-1 and is undeveloped. There is unconditional Office zoning to the south of the site. To the north of the site, on Broad Street, there is M-1 zoning, where the S&K operation is located immediately across the road.

The difference, in this particular case, from the M-1 rezoning application is that this is an enclosed storage facility with very limited outside access to the facility. And, in fact, it is further permitted in

the B-2 District and has some specific conditions or standards, if you will, regulations, in the Ordinance to control this particular use that we do not have with the mini-warehouse proposal.

This self-service storage facility has to have access to a minor arterial road. The site cannot exceed three acres. At the same time it must have a minimum floor area of at least 50,000 square feet. Building coverage cannot exceed 60 percent. There can be no more than four exterior doors. Then the one parking space for 40 storage cubicles, etc. etc. on the parking. No exterior storage nor storage of perishables, flammable or hazardous goods. The exterior areas of the facility have to be a finished quality and maintained as not to be offensive to the view. Hours of operation: 6:00 to 10:00 p.m.

The applicant, since they first submitted this case, have made some improvements to the operation, to the design of the site that should, in staff's opinion, serve well to mitigate and minimize the impact on adjoining properties.

One of staff's concerns is that the A-1 land just immediately to the east of the site is likely to develop as residential uses one sort or another. We expect the land, obviously, to the west to be more of a commercial non-residential nature.

So, staff was very much concerned about the impact of this use. The view of this use on the residential properties in particular. I would point out, when I go back to the concept plan, and I guess its visible from the Plan that...Let me see if I included a plan with the Staff Report? Yes. I did. The property is L-shaped, and one of the buildings is 50 feet wide, would be two stories high, and is 446 feet long. So, it's a very unusual, almost non-commercial; an industrial-appearing building. We want to be able to screen that as much as possible from the perimeter properties.

The concept plan that you have in front of you in the staff report showed that, what was between that building and the eastern side, the vacant land to the east, was BMPs, either dry or wet. Either way, they were going to be fairly cleared land between the buildings and the perimeter properties. And you see the same situation on the south side; two large BMPs back there. But that south side is facing on to the remainder of the Avis property, and would be under control of the applicant, and, therefore, its their problem to deal with, essentially.

However, they have come back with a modified concept plan, which I am attempting to show you, which provides for now a larger buffer along the eastern side of the property, which would be the top of it as its seen on the screen, that is to be left in its natural state. The site is heavily wooded. So, leaving this area in a natural state should help to screen, to a good extent, the view of the property towards the eastern side, as well as towards I-64.

The landscape buffering, or perimeter buffering is much less along the south against the remainder of this property, and much less towards the west, where there is more open view to the site.

I guess where I'm headed with this part of the discussion is the fact that I think the applicant's concept plan and layout, both of which we would like to make conditions of approval to this case, do address some of the design concerns that we raised, both with the mini-warehouse application a couple months ago, and with this case when it first came in.

You can see that the building is to be earth tone. Because of the proffers that apply to this site, they will have to be brick or stone; a variation of brick or stone construction. We feel that overall improvements have been made to the design.

I'd like to speak to the conditions of this case at this point. We have handed out new conditions to you. Those conditions have been modified, based on our discussions with the applicant, and review of the latest information from them.

As you know, the Ordinance restricts the number of loading doors to this facility to four doors. We had suggested three.

Mr. Zehler - Can I stop you right there?

Mr. Merrithew - Yes sir.

Mr. Zehler - The plan I'm looking at, I count eight doors.

Mrs. Wade - They're not really doors. They're just decorations.

Mr. Merrithew - There are breaks in the wall to break up the length of that building, but not all of those are doors. In fact, the longest building only has the one door, where you see the cut in the building in the middle on the eastern side?

Mr. Zehler - That's not eight bay doors I'm looking at?

Mr. Merrithew - No sir.

Mrs. Wade - They are design features to break up...

Mr. Merrithew - No sir. They are architectural features to break up the long line of that building. They cannot propose eight doors. The ordinance would not allow more than four. They have one in the long building, and then they have three smaller doors on the southern side of the building to the back. I think the applicant has the material to go into that in more detail with you. But because the Ordinance limits it to four, we had asked for three. They had come with five. We hit the middle, and decided that we would move this condition with three loading doors, and allow them to go to the maximum permitted by the Ordinance which is four.

We have also proposed to condition the case, if there's any security fence to be provided, that it be subject to review at the Plan of Development stage. In the case of a chain-link fence, it would be either bronzed aluminum or clad in black or dark green vinyl, not the sheets of vinyl blocking the view, just have the metal and vinyl or bronzed aluminum.

Condition No. 3, we had originally proposed that the freestanding exterior light standards be limited to 20 feet. We've also added a condition that the wall lighting units also be concealed source lights. They had shown us some wall pack units that were not concealed source and would have glared onto the surrounding property. We feel they do need to conceal the wall units as well.

We had proposed previously that there be no detached monolithic signs or no detached signs at all on the property, because the applicant had shown a substantial sign on the front of their building that we felt would serve the same purpose. There was no need to have two different signs on such a narrow frontage property.

The applicant has asked to have the opportunity to have either one attached monolithic sign or one attached sign. Either way, it would just be the one sign. This site is in the West Broad Street Overlay District, so the sign is limited to, I believe, 10 feet in height.

Heating and air-conditioning equipment shall not be visible from adjoining properties. They will be putting some of the air-conditioning units between the two buildings in that 10-foot gap and screening them off. I believe there is another location that will be screened as well.

Waste and trash will be stored within the principal buildings. They've already been proposed to be stored inside one of the buildings and access it through a sliding door. We've agreed, at this point, that sliding door does not count against the loading doors for the facility, since it is going to be used solely by staff for trash collection.

And then, finally, the key things, I think we believe the case should be conditioned on the concept plans that you see in front of you, the elevations and the site plan.

Finally, in No. 8, because they are proposing that the existing vegetation should be the buffer for the property, we are suggesting that it be maintained in its natural condition. If anything dies, and they have to remove something because it is diseased, then they should replace it with evergreen trees, a minimum of 6 to 8 feet tall at the time of planting.

With regard to the site, itself, and the impact of the use on adjoining properties from a visual, noise and physical perspective, we believe the concept plan and the proposal put forward, tonight, is appropriate and does minimize any potential impacts. We believe the design is reasonable, although industrial in character, it is much better than what we had seen previously with the rezoning application. There is one, however, fundamental issue that staff has with this case and that is the fact that it is located at a key point, if you will, on W. Broad Street at I-64. We believe that, although it is permitted as a B-3 use, it is the type of use that is not in keeping with the intent and goals of the West Broad Street Overlay District or the Land Use Plan for this area. I say, "the intent of the Goals and Policies," it does fall under the Commercial Concentration designation for the Land Use Plan, but as far as Goals and Policies go, we feel it is an under utilization of the property and not the highest and best use of the property. As we did before, we think there is a great potential for the property between I-64 and John Rolfe Parkway to the west to be developed in a much more intensive and quality mixed-use pattern. We don't think that this use would support that pattern. So, from the point of view of the land use policy perspective, staff does not support this use on this site. We don't think that denying this case would affect the landowner. He still has permitted uses under the B-3 District on this property. But this is, we think, not the best use for the property. With that, I'd be glad to answer any questions.

Mrs. Wade - What is allowed on there now, according to the...

Mr. Merrithew - Well, they could have the automobile rental operation; a range of retail uses. The current proffers do prohibit fast food and several other uses. Fast food sticks out in my mind. But, otherwise, the range of B-3/B-2 uses would be permitted.

Mrs. Wade - ,,on here anyway. And what's intended for the center of the "L" here?

Mr. Merrithew - Avis retains control of the center of the "L" for, at this point, their rental operation. The applicant is acquiring the full seven acres of the back of the property, however, is indicating that the rear portion would be retained for future development, perhaps, with other property in the area.

Ms. Dwyer - You're talking about the B-3; what's on the zoning map as the B-3 area? "By applicant," you mean the applicant of the storage facility?

Mr. Merrithew - When I speak to the uses permitted in a B-3, I was speaking to the owner of the property right now. I'm sure the applicant has not completely acquired this property. I was speaking to the fact that, if this case is denied, there are a range of other uses permitted in B-3 still available, and open to the current owner of the property.

Ms. Dwyer - How would one gain access to the B-3C property?

Mr. Merrithew - The only access to that property at this point is from the service road that you see coming off of Broad Street and swinging over. It would be extended across...

Ms. Dwyer - You'd have to come through this property to get to...

Mr. Merrithew - You'd have to come through the Avis property to get to this property. That's correct.

Ms. Dwyer - I guess its southwest.

Mr. Merrithew - This piece in here?

Ms. Dwyer - Yes. How would one get access to that piece?

Mr. Merrithew - Well, one could gain access through this property, although I don't believe that is likely. I think, for security reasons, that is not the intent. They are showing on their concept plan an access to the west, ultimately to connect to Brookriver Drive which is right here. Brookriver Drive which now services the S & K property is programmed or planned to be extended down to Three Chopt. The only real access to this, if the storage facility goes in, is going to be to the west.

Ms. Dwyer - Is that under unified ownership or is that...

Mr. Merrithew - It's either going to be unified ownership, or cross access agreements with the parties between.

Ms. Dwyer - So, it's landlocked now to that B-3 piece? By virtue of this case it was landlocked?

Mr. Merrithew - It's under the same ownership. It's all one property. They are developing the front half. Maybe they can speak to it better. But from an engineering point of view, they certainly can gain access through the storage facility to the access road on Broad Street.

If it goes under separate ownership, its landlocked, unless it gets an access through to Brookriver Drive, and Brookriver Drive, in turn, is constructed, which are two major impediments.

Mrs. Wade - I doubt if anybody's going to buy it if they can't get there.

Mr. Zehler - Now what is the difference between a mini-warehouse and a self-service storage?

Mr. Merrithew - The major difference is the fact in a mini-warehouse, each of these storage cubicles opens outdoors. Then you have direct access from the outside into each cubicle. In this case, you have to walk and carry, or somehow get your material through one or two entrances and then you find your cubicle inside. It has access from the inside.

We have a couple of these facilities in the area. We approved one over on Lauderdale and Gayton. We've got one on Pump and Patterson, which are not as substantial, I don't think, as this proposal. But they are quiet. They are brick buildings. A low intensity use, no doubt about it.

Mr. Zehler - Are they monitored by the Police?

Mr. Merrithew - I imagine, to the extent the Police monitor any commercial building. I don't know of any special circumstances for Police monitoring.

Mr. Zehler - It seems like an ideal situation for storage of drugs.

Mr. Merrithew - Well, I think you could say that for any of the self-storage-type of facilities, where you're the person with the key to that cubicle.

Mr. Zehler - I mean, do the Police monitor those whether it is self-service or a mini-warehouse? Do they monitor those at all?

Mr. Merrithew - I can't speak to that question.

Mrs. Wade - A few years ago they did raid one and they did find some drugs, but that is presumably the exception.

Mr. Merrithew - We had that discussion come up on the Parham Road mini-warehouse facility. I do know there has to be a reporting and monitoring of hazardous material. Of course, this facility would not be allowed to store those hazardous materials. But in terms of drugs and so on, I have no idea if there's anything special looked at.

Mrs. Wade - It's always a concern when its close to residents.

Mr. Merrithew - I guess, from a security point of view, the difference is, I don't believe there will be a 24-hour manager on this site. Mr. Weinberg can speak to that, but the other proposal had an apartment for the manager as well.

Ms. Dwyer - I have a question about the tree preserved area. What was included in our packet didn't show that. What are the dimensions of that? Is there a commitment to a specific dimension on this? I can't read this.

Mr. Merrithew - It's kind of hard to see. I believe it's 35 feet.

Mrs. Wade - Thirty-five (35) okay.

Mr. Merrithew - It's 35 feet on the eastern side, at the top side of the drawing.
Ms. Dwyer - And can that be interfered with in any way, according to the conditions that you have...?

Mr. Merrithew - Well, the intent of the conditions is that it be maintained in its natural condition. They can remove dead or diseased trees.

Ms. Dwyer - But no utilities?

Mr. Merrithew - We had not made any statement with regard to utilities. Perhaps, that should be specified. I believe as previously interpreted, "natural state," that "natural" means, "do not touch it."

Mr. Zehler - You'd be surprised how many people have a different definition of that, John.

Mr. Merrithew - Yes sir.

Mr. Archer - Okay. Are there further questions for Mr. Merrithew by the Commission?

Mr. Jay M. Weinberg - Mr. Chairman, and members of the Commission, I'm Jay Weinberg. Penny Koch and I represent Stor-All in this request for a Provisional Use Permit to construct and operate a self-storage facility on approximately 2.97 acres on the south side of W. Broad Street, at the ramp for east bound Interstate 64.

Let me say, by ordinance, it cannot exceed three acres; hence the 2.97, but cannot grow back into that B-3 to the south. The property is presently zoned B-3 Conditional, which is the proper zoning for the proposed use. In fact, the proposed use could go into B-2 zoning.

We submit that the requested Provisional Use Permit complies with the applicable provisions of the County Ordinance and should be recommended for approval by the Commission to the Board for the following reasons:

First of all, the location is appropriate because subject parcel abuts the east bound ramp of Interstate 64, across its entire frontage; and, accordingly, has very limited vehicular access and very limited visibility. Because it is an extremely low traffic generator, it is ideally situated for a parcel of land which has both limited access and visibility.

Two, the public health, safety, morals, and welfare will not be adversely affected because the buildings will be constructed in accordance with all applicable building and health and safety codes. Are attractive and provide visual screening from the permitted uses on the adjoining parcel on the north, which can, under existing zoning be used for rental car lot, used car lot; and/or automobile service facilities with exposed exterior walls of precasted or exposed concrete. Let me say the area I'm talking about is what fills out the "L" towards that Broad Street or access frontage.

Next, adequate utilities and parking are provided onsite in accordance with the Code requirements. And the conditions recommended by staff provide the necessary safeguards for the protection of surrounding property, persons, and neighborhood values. All storage in the facility is accessed from the inside of the buildings and none of the storage is accessed from the outside of the buildings.

The storage facility is in conformance with Commercial Concentration designation on the Land Use Plan. As I said earlier, it is permitted in a B-2 zoning and this is a B-3 zoning.

It's in compliance with the Staff's request in the prior case on this property. The applicant has specifically reserved, for future assemblage with adjoining properties, this 4.1 acre parcel in the rear, which staff made such a significant point of in the other case that this property would better be used as an assemblage with others. And we specifically stated on the plan which is submitted that, that is reserved for assemblage. And, in fact, some negotiation is going on with respect to an adjoining property owner.

The staff, in its report, concedes that eight of the nine standards set forth in the zoning ordinance applicable to a self-service storage facility are, in fact, complied with. The only one which they appear to question is that the exterior areas of the facility shall be of finished quality and maintained so as not to be offensive from view.

Since the preparation of the staff report, we have submitted elevations which clearly reflect finished quality materials on the exterior areas of the facility which would be properly maintained in compliance with the foregoing standard. Accordingly, this request, does, we submit, comply with all nine standards specifically set forth in the Zoning Ordinance applicable to self-storage facilities.

Six, the site is heavily wooded and offers an opportunity to maintain a natural visual screen as well as the buildings themselves, providing desirable screening from the parcel which it adjoins on the north which is zoned for an automobile rental lot, used car lot, or repair shop.

For all of the foregoing reasons, we respectfully submit that this request for a Provisional Use Permit is in complete accordance with the existing zoning on the property; the proffered conditions pertaining thereto; and meets the criteria set forth in the Ordinance for the granting of our request.

If granted, your applicant will develop the property in accordance with the existing proffered conditions applicable to the property and with the elevation plan and layout plan submitted in the case which have been made as a condition to the development of the property.

It should also be noted that the property to the south of the reserved parcel, while zoned for Office use, has no proffered conditions; accordingly, is devoid of quality controls, landscaping requirements, building materials, lighting, access, and all other items which are customarily specifically set forth in conditional rezoning cases.

The eight conditions, or seven recommended by staff, are acceptable to your applicant and will be complied with. For all of the foregoing reasons, we would respectfully request that the Planning Commission recommend approval of this Provisional Use Permit, subject to the conditions set forth in the revised staff report. I'll be happy to answer any questions, Mr. Chairman, and members of the Commission.

Mr. Archer - Thank you, Mr. Weinberg. Are there questions by the Commission?

Mr. Zehler - Mr. Weinberg, you heard the conversation as far as the access to the balance of the B-3 to the rear?

Mr. Weinberg - Yes.

Mr. Zehler - Where would that be?

Mr. Weinberg - That's why it's reserved for assemblage. There are two alternatives. We put on there, "Reserved for future assemblage." It means that it will be joined with all the other parcels that the staff feels strongly will happen. If not, we have two other alternatives. Brookriver Drive comes through here. This could go out to that. Or this could have access out to that. That road is proposed. Of if you don't get any of that, the theory of assemblage doesn't work, Brookriver Drive is never built, it is a possibility we could come through here in some way (referring to slide).

Ms. Dwyer - The property doesn't adjoin Brookriver even if it is built?

Mr. Weinberg - No. There is land in between that, but that is the land staff refers to, "as appropriate for assemblage."

Mr. Zehler - But is it the same owner owns that piece that owns this piece?

Mr. Weinberg - No. No. What you see here is what this owner owns. He's willing to throw this into the assemblage pot.

Ms. Dwyer - So, it will be landlocked, basically?

Mr. Weinberg - No. It can come through here.

Ms. Dwyer - Unless you're going to provide access through your storage facility.

Mr. Weinberg - If you assume, one, it never gets assembled with any other property owner; two, Brookriver Drive is never built; then your only other two alternatives are go through here or they leave it there. But it has two good possibilities and one actual method of handling the traffic.

Mrs. Wade - You have to have an easement to Brookriver, but I suppose it would be a part of the deal when they...

Mr. Weinberg - Well, I think what's proposed is a public road. Brookriver Road would be a public road over to it.

Let me say this, what I think makes this parcel so ideally suited is, what you see in front of you is probably one of the lowest traffic generators you can have. And the mini-storage cannot go back there, because, by statute, it's limited to three acres. So, this is the extent of the size of it.

Mrs. Wade - You mentioned, "good visibility." I assume you were speaking of Broad Street?

Mr. Weinberg - I said, "limited visibility." I said, "limited traffic and limited visibility."

Mrs. Wade - That's what I meant. Limited only from Broad, because otherwise, when the trees are down, it will be plenty visible from other areas.

Mr. Weinberg - Well, you'd have to be looking out of your rear view mirror to see it, once you got on the other side of it coming down the ramp.

Mrs. Wade - I mean, from the land around, eventually, because it's got a lot of trees on it right now. But, when it's cleared, it will be fairly visible from every place but Broad.

Mr. Weinberg - We have clearly delineated the existing trees that have to be maintained. All this light gray in here (referring to slide). We must maintain those. And we haven't put any exceptions in there for stormwater retention, or sidewalks. They must be retained period, or utilities coming through there.

Mrs. Wade - In the front, of course, in the Broad Street Overlay, you'll probably have to have a sidewalk across the front, and the landscaping that's required when POD...

Mr. Weinberg - The sidewalk is installed by the State, if I'm not mistaken, on the widening of Broad Street, in their right of way.

Mrs. Wade - Bruce's started down there. It's not on that...

Mr. Merrithew - I can't answer that question.

Mrs. Wade - I'm not sure about that stretch right there. It's so close to the...

Mr. Weinberg - Well, it would go in the State's right of way and not on this property. But I doubt you're going to have a sidewalk on that ramp.

Mrs. Wade - Well, not on the ramp.

Mr. Weinberg - I don't mean on the ramp. There's no where it could go. You would run into the dirt wall.

Mrs. Wade - I remember this being a concern when the rule was changed to allow this type of storage in the beginning about the security issues of people coming and going. Just refresh my memory about how that's handled. I have never heard that's been a big problem with any of these, but...

Mr. Weinberg - It really isn't, Mrs. Wade, because this we have the outside storage. You could have people coming and going, so you can get into these things from the outside. Here you've got four doors.

Mrs. Wade - Yes. Like they do at Willow Lawn.

Mr. Weinberg - Not everybody has a clicker or anything. Nobody can get into this thing after hours.

Mrs. Wade - Well, I guess the one off of West End Drive, a mini-storage, has a card kind of situation, but...

Mr. Weinberg - Here, you've got to go into four doors. That's it. That's your only way to get into either of these buildings. One door for the long building and only three doors for the other building. That's as secure as any business on W. Broad Street.

Mrs. Wade - Of course, I suppose you'd be concerned about who else might be in there when you are, but, the Police didn't seem to raise any question about that.

Mr. Weinberg - I think these inside storage facilities have as fine a tract record for not requiring police as any other business in this County.

Mr. Zehler - If you lease a cubicle, do they give you a key to one of the doors? Is that how you get your access?

Mr. Weinberg - Either that, or you would have a card. But I'm not really sure of that answer. I'm not sure of that answer, and I'd have to get that for you.

Mr. Zehler - Is there going to be a manager on duty 24 hours?

Mr. Weinberg - Not 24 hours. There is an office which is manned during normal business hours.

Mrs. Wade - Well, it won't be open 24 hours, will it?

Mr. Weinberg - The rest is locked up. This case has restricted hours because of the proffered conditions. It has to be locked up and closed down.

Mr. Zehler - Rather than a key, you think it might be a card access?

Mr. Weinberg - I don't think you can get in there after hours.

Mr. Merrithew - The regulations require set hours of operation.

Mr. Weinberg - You can't operate. That's because of the proffered conditions on this case. You have to close it up at 11:00 or 10:00 p.m., John?

Mr. Merrithew - Well, the proffered condition, I think, is superceded by the Ordinance which says, "6:00 a.m. to 10:00 p.m." I think the proffer said 11:00 o'clock.

Mr. Zehler - Is that done by a front gate?

Mr. Weinberg - There is a gate in the front. Yes.

Mr. Zehler - So, when the hours are over with, they'll lock that front gate where you can't even get access to the property.

Mr. Weinberg - This is the gate right there (referring to slide).

Mrs. Wade - All right. Any other questions, anybody? There is opposition.

Mr. Archer - Mrs. Freye.

Ms. Gloria Freye - Thank you, Mr. Chairman, members of the Commission, my name is Gloria Freye. I am an attorney and I am here this evening representing three landowners; Dominion Capital...Would you put the zoning map back up? That's good. Dominion Capital owns the O-1 piece that is located to the south of the reserved parcel that would be created with this application. CCA Industries, Inc. which owns the parcel to the west of this site which is zoned A-1; and J. J. Liesfeld, Jr., who owns A-1 land both to the east and to the west; and CCA Industries also owns the corner on the other side of Mr. Liesfeld's A-1 piece.

So, each one of these owners strongly opposes the Provisional Use Permit for a storage building at this location. The Board of Supervisors denied a storage facility at this location not more than two months ago.

This storage building can only be permitted with a Provisional Use Permit. That can be approved by the Board of Supervisors. It is not permitted by right. It's permitted only by provisional use, and if the criteria have been met.

The Board of Supervisors has already decided that a storage building at this location does not conform to the Goals and Policies of the Comprehensive Plan, and would have a negative impact on the development potential of the surrounding area.

Just like the previous case, the storage building would be in the middle of a large tract of vacant land at the Intersection of I-64 and W. Broad that is prime commercial real estate land. It has the opportunity for a large-scale, mixed use project that would bring a lot greater revenue to the County than a single storage building. A large mixed use development will bring better quality, better design, better road improvements that would be hindered if this application would be approved.

Try to imagine marketing a large tract of land like this for a large developer having a storage building as your lead tenant? That would bring results that the County does not want. What the County wants to see here are the Goals and the Policies and the Objectives, and the Strategies for the far W. Broad Street Strategy Area calls for; large tract development, high quality design, enhanced landscaping, enhanced setbacks, and good circulation and transportation improvements.

This proposal would create a landlocked piece of "reserved land" of B-3 land whose only access would be to come through a storage facility site that's already developed as tightly as it can be developed.

What does that leave as far as development potential for that reserved piece of land? High concentrated commercial development that would probably be the least desirable, located behind a storage facility that doesn't have any other access. That would not have a good impact on the value of the adjoining property.

A Provisional Use Permit should not be approved where the nature of the use does not promote the intent of the Land Use Plan, and has a negative impact on the adjacent properties. And, in this situation, has a negative impact on a larger, more important section of the County. The use is not permitted by right. It needs a Provisional Use Permit. A Provisional Use Permit has to meet a higher standard than "by right" uses. The proposal does not even meet the usual standards that the County requires for B-3 uses. The building is very industrial looking. The screening is not adequate. The site plan creates a reserved parcel that is, essentially, landlocked. It is very poor planning and a prime candidate for less desirable uses.

The Provisional Use Permit should be recommended for denial because a storage building is not appropriate in this location. It will negatively impact the public welfare by discouraging the most appropriate large-scale development the County wants here, and conditions do not protect the surrounding property values. A storage building is not the highest and best use of this land. And these are the same reasons that the Board of Supervisors denied a storage building in this

location in June. For these reasons, we recommend you recommend denial of this Provisional Use Permit.

Mrs. Wade - Ms. Freye, I suppose this might not be a fair question. But, I assume that none of these other landowners have tried to purchase this parcel already?

Ms. Freye - Discussions are continuing with the adjoining landowners. Discussions have been conducted to date with the owners of this property? I know there may be discussions going on, but I don't know the nature of them.

Mrs. Wade - Of course, all of these parcels have been sitting here a long time now.

Ms. Freye - They have.

Mrs. Wade - With nothing happening. And, yet, things can happen here in the B-3C use that's already zoned here.

Ms. Freye - I would still submit that whatever can happen there is not the highest and best use and that there is an opportunity for large-scale mixed use development to happen that will be hindered if this storage building is approved.

Mr. Archer - Any further questions of Ms. Freye?

Mrs. Wade - Of course, you know there's a mini-storage in Deep Run Business Park.

Mr. Archer - Mr. Weinberg, I know we neglected to mention to you that you could reserve some time for rebuttal, but you have it.

Mr. Jay M. Weinberg - I'd like to have about four minutes. Mr. Chairman and members of the Board (sic), in the course of trying zoning cases, we run into very many arguments. But I have never heard anyone put forth an argument with any satin of persuasiveness that says, "You can't develop your piece of land until I get ready to develop mine." I think that's a preposterous argument, and I can tell you, it is absolutely void of any legal authority whatsoever.

My client has to substitute Gloria Freye's judgement for what's best on this parcel of land. She represents three people that have owned their land for many, many years, and they've never assembled their own land to build a development. Why is my client got to wait and use his land solely to maximize the value of her clients' property? That's an "Alice in Wonderland" theory to a very practical legal issue. And I submit to you, that it would be absolutely illegal to say that my client cannot use his property in a manner which complies with every provision of the Zoning Ordinance until her three clients decide to get together, among themselves, and then tell my client what they might want to pay for it.

We've reserved the four acres in the back for assemblage. It is available for sale. We're more than happy to talk to any of her clients; the owner of the property is. You're criticising my client for creating a landlocked piece of land; the balance of that B-3 property. I submit to you, it is not landlocked today. It will not be landlocked after this is over. And the potential for at least two other alternate sources of access are available. But as much as I respect your judgement, I don't

need you to protect my client's property. I think my client is sufficiently sophisticated to do that himself.

Mrs. Wade - Mr. Weinberg, would you direct your comments to us please.

Mr. Weinberg - Certainly. I'd be glad to. The Board did not turn down a self-storage facility. The Board turned down a mini-storage warehouse. This Planning Commission voted to grant a mini-storage warehouse on this property with less buffering than is here tonight. I happen to think this is a more improved case. I think it's a better case. But I think that, clearly, when a client owns a piece of property and when that client complies with all of the provisions; notice in a provisional use permit the statute doesn't say, "This Commission or the Board of Supervisors may grant the Provisional Use Permit." It says, "It should grant the Provisional Use Permit if it meets these nine tests," that staff concedes we meet, which I submit to you, we genuinely meet.

Again, no law requires my client to wait until three other people around him decided to aggregate their property and then come and put the bite on him as to what they'll give him for it. That is neither the law, nor is that democracy.

I think we have complied with the law. I think we have a B-2 use in a B-3 property. We've provided for the rear portion to be eligible for assemblage. We are more than happy to work with any clients that want to acquire that, or perhaps, joint venture it with them. We are open to all of those discussions. For all of those reasons, I would respectfully request that the Planning Commission do what it did the last time, and recommend approval of the Provisional Use Permit to the Board of Supervisors. I'd be happy to answer any questions.

Mr. Archer - Are there any questions of Mr. Weinberg?

Ms. Dwyer - Mr. Weinberg, I'd just like to make a comment. I didn't really hear from the opposition's argument that they intended to make you wait until they were ready to develop their property. At least, I didn't hear that argument and I don't find that necessarily persuasive. I do have a concern that we have a rectangular shaped piece of property in a prime economic area and we've parceled it off in what seems to be an unusual way, blocking off one section of it so that it appears to be, in my view, landlocked. The only assurance you have it will have access to anything is to come right through the middle of this storage facility. So, I think that the design of the parcels here leaves a great deal to be desired, regardless of what the adjoining landowners intend or don't intend to do with or without your client's property.

Mr. Weinberg - I understand. Actually, we'd come down towards the eastern portion of the property. I think we also need just to think for one moment what are the alternatives to this development? The entire parcel could be developed for an automobile used car lot; automobile sales and rentals, for automobile repairs. That requires nothing but a building permit, or a plan of development.

But, you know, I think this is a perfectly valid use. It provides climate control, inside self-storage, which is a little different from all the other services that are being provided.

I guess you can look at any case and say it isn't perfect. But certainly this case meets the requirements of the ordinance. I think, I know, literally, and I believe, in spirit and intent, and is better than the alternative that may take place. Staff would have encouraged us not to do anything but let it all go into assemblage. I think we've done an equitable and fair thing to give our

client a reasonable use of this property; to buffer properly the front parcel that's being retained, and yet, to say, it's four acres of this property that we're more than happy to join with the others in assemblage.

Mrs. Wade - Well, you're right, this group certainly voted to approve the mini-storage on this site. The Board, on the other hand, turned it down which, I assume was a legal decision on their part.

Mr. Weinberg - They turned down the zoning case, not the Provisional Use Permit. This is only a Provisional Use Permit, not a zoning case.

Mr. Zehler - So, you're saying you have no right to deny a Provisional Use Permit?

Mr. Weinberg - I think you have every right to condition it,...or you can disapprove that it would meet those nine criteria. But if you agree with staff that it meets those nine criteria, and I think staff does say you should...

Mrs. Wade - I thought I had heard, well, I wouldn't begin to speak for our legal authority that there is some discretion involved here that we're allowed, but...

Mr. Archer - Are there any other comments or questions?

Mr. Merrithew - Could I add a clarification, Mrs. Wade? With regard to a Provisional Use Permit, the Ordinance requires that approval be granted only where it is found that the location is appropriate, and not in conflict with the intent of the Land Use Plan. Where the public health, safety and morals will not be adversely affected. Where adequate utilities and parking are provided. And where necessary safeguards are provided for the protection of surrounding property, persons and neighborhood values. Just to clarify what the grounds are for granting a Provisional Use Permit.

Mr. Zehler - Could you read that last one, John, please?

Mr. Merrithew - "Requires that approval be granted only where it is found that necessary safeguards are provided for the protection of surrounding property, persons and neighborhood values."

Mr. Archer - Okay. Any further questions? Comments?

Mrs. Wade - No.

Mr. Archer - Okay. I suppose we're ready, Mrs. Wade.

Mrs. Wade - Of course, as I said, we all voted for the mini-storage on this site earlier. At that time, of course, there was no apparent opposition to the case. The only person I heard opposed, I assumed, had been reassured and so it wasn't a problem. And although, from the Planning standpoint, it would certainly be ideal to save this and include it—all these people get together, then plan the whole thing together. But here's someone whose ready to use his parcel for a use that for which it is, basically, zoned with the Provisional Use Permit. It certainly is more compact and has many, I think, desirable features over the mini-storage that was proposed before. There is, as I mentioned earlier, actually a mini-storage in the Deep Run Business Park

east of Innsbrook. I don't really think this is going to have a detrimental effect. It might even serve a need in this area for this type of storage. So, I would move that P-33-98 be approved with the revised conditions that we received dated 8/13/98 to eliminate Number 1, and of course, renumber the others. It would be Nos. 1 through 7. I move it be recommended to the Board for approval.

Mr. Archer - Is there a second?

Mrs. Wade - No second.

Mr. Vanarsdall - Second.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 2-3. Mr. Donati abstained. Mrs. Wade and Mr. Vanarsdall voted for the motion. Messrs. Archer, Zehler, and Ms. Dwyer voted against the motion. (Mr. Donati abstained). The motion fails to pass.

Mrs. Wade - He doesn't have to vote for it just because he seconded it. Somebody else will have to make a motion or have to move something.

Mr. Archer - The vote is 3-2 in opposition.

Mrs. Wade - It was 2 to 3. It was only 2 for...

Ms. Dwyer - Three against. Okay, I'll go ahead and recommend then that the Planning Commission recommend to the Board denial of P-33-98.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall that the Planning Commission recommend denial to the Board. All those in favor of this motion, let it be known by saying aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). Denial is recommended. What was the vote on the second motion? Was there any opposition?

Mrs. Wade - No. I voted for it.

Mr. Archer - The second was Ms. Dwyer's motion.

Mr. Archer - It was 100 percent.

Mr. Merrithew - 5-0. Mrs. Wade voted for the motion.

Ms. Dwyer - She was persuaded.

Mrs. Wade - Overwhelmed, is a better word.

REASON: Acting on a motion by M. Dwyer, seconded by Mr. Zehler, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny the requested revocable provisional use permit**, because it could have a detrimental impact on property owners in the vicinity; and it could influence future land use decisions in the area.

1. Should the request be deemed reasonable, the following conditions are recommended:
2. Any security fencing shall be approved at the time of Plan of Development review and in the case of chain-link fencing shall be clad in bronzed aluminum or black or dark green vinyl.
3. Freestanding exterior lighting standards shall be limited to 20 feet in height and use concealed sources of light. Wall lighting units shall also be concealed source lights.
4. There shall be either one detached, monolithic sign or one attached sign. Outdoor advertising signs shall not be permitted.
5. Heating and air conditioning equipment shall not be visible from adjoining properties. Waste and trash will be stored within the principal buildings.
6. The proposed development will be in substantial accord with the Site Plan and Exterior Building Elevations prepared by Gregory Anderson, PA, Architect and dated August 6, 1998.
7. Areas designated as existing trees on the site plan referenced in Condition 7 shall be maintained in a natural condition. Dead or diseased trees may be removed but shall be replaced by evergreen trees measuring a minimum of 6 – 8 feet high at the time of planting.

Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Rezoning Minutes of June 11, 1998 were approved as corrected.

Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Rezoning Minutes of July 9, 1998 were approved as corrected.

Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Plan of Development Minutes of April 28, 1998 were approved as corrected.

Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Plan of Development Minutes of May 26, 1998 were approved as corrected.

Mr. Marlles - Mr. Chairman, we do have a request by Ms. Harper to do a briefing to the Commission to present the Zoning Concept Plan to the Planning Commission. She might have mentioned it during her briefing on her Development Review Procedures. There are three possible dates that staff has looked at that we can recommend to the Commission for this briefing. The first is on the September 10th. If we did it on that day, we could provide dinner to the Commission. That would be before our regular meeting. That's an evening meeting.

Mr. Archer - Six o'clock, maybe?

Mr. Marlles - Six o'clock, versus 5:15. That would be fine.

Mr. Vanarsdall - What are we going to do?

Mr. Marlles - This is a briefing on the Zoning Concept Plan. The other date was 9/16 or 9/25. 9/25 is the POD meeting and we could provide lunch.

Mr. Archer - Dinner or lunch?

Ms. Dwyer - Dinner.

Mr. Zehler - I'd rather do POD, lunch.

Mr. Archer - We have one POD and one dinner.

Mr. Marlles - That would be the 25th for lunch.

Ms. Dwyer - 22nd.

Mr. Archer - 22nd?

Ms. Dwyer - Is it September?

Mr. Marlles - September.

Ms. Dwyer - The POD meeting is on the 22nd. The 25th this month.

Mr. Marlles - Then it's the 22nd.

Mr. Archer - I don't think we need a motion. We just need to agree.

Ms. Dwyer - I want to know, is this a hint that food service opportunities are available, as alternative careers?

Mr. Archer - I'm taking it that way. Is there a motion to adjourn?

Acting on a motion by Mr. Vanarsdall, seconded by Ms. Dwyer, the Planning Commission adjourned its meeting at 1:15 a.m. on August 14, 1998.

C. W. Archer, C.P.C., Chairman

John R. Marlles, AICP, Secretary

Last revised October 16, 1998.