

1 Minutes of the regular monthly meeting of the Planning Commission of the  
2 County of Henrico, held in the County Administration Building in the Government  
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. Thursday,  
4 December 6, 2007. Display Notice having been published in the Richmond  
5 Times-Dispatch on November 15, 2007 and November 22, 2007.  
6

Members Present: Mr. E. Ray Jernigan, C.P.C., Acting Chairperson (Varina)  
Mr. C. W. Archer, C.P.C. (Fairfield)  
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)  
Mrs. Bonnie-Leigh Jones (Tuckahoe)  
Mr. Randall R. Silber, Director of Planning, Secretary

Members Absent: Mr. Tommy Branin, Chairperson (Three Chopt)  
Mr. Frank J. Thornton (Fairfield)  
Board of Supervisors Representative

Also Present: Mr. Ralph J. Emerson, Jr., AICP, Assistant Director of  
Planning  
Ms. Jean Moore, Principal Planner  
Mr. Seth Humphreys, County Planner  
Ms. Nathalie Croft, County Planner  
Ms. Rosemary Deemer, County Planner  
Mr. Livingston Lewis, County Planner  
Mr. Benjamin Sehl, County Planner  
Mr. Roy Props, County Planner  
Mr. David Conmy, County Planner  
Mr. Jon Steele, Technical Support Specialist III  
Ms. Ann Cleary, Recording Secretary

7  
8 Mr. Jernigan - All right. Good evening, ladies and gentlemen.

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10 Mr. Vanarsdall - Good evening, Mr. Chairman.

11  
12 Mr. Jernigan - On behalf of the Planning staff and the Planning  
13 Commission, we'd like to welcome you to our December the 6<sup>th</sup> meeting for  
14 Zoning. With that, I will turn the meeting over to our secretary, Mr. Silber.

15  
16 Mr. Silber - Thank you, Mr. Jernigan; I appreciate that. We are  
17 missing our Chairman this evening, so the Vice-Chairman is running the meeting.  
18 I also understand that Mr. Thornton, representative from the Board of  
19 Supervisors, will not be here tonight. We do have four members of the  
20 Commission present tonight—that is a quorum—and we can conduct business.  
21 Before we get into the formal agenda, I wanted to introduce a new member of the  
22 Planning Department. Roy, if you wouldn't mind standing up for me, please. I'll  
23 have to give you a little history here. Roy Props used to work in the Planning

24 Department some time ago; that was 20 years ago. Roy opted to leave Henrico  
25 County and try planning in the private sector. So, he did that for a few years, and  
26 then he started his own business and did that for a few years. Then he went to  
27 Ken Poore and Associates as a planner. He finally got wise and decided to  
28 come back to the Henrico County Planning Department. And he's back in the  
29 same division he was in 20 years ago when he left. Roy has his bachelors  
30 degree from NC State, and he has his masters degree in Planning from VCU. I  
31 wanted to re-introduce him to the Planning Commission. I think these are all new  
32 Planning Commission members, Roy. I wanted to welcome you and wanted to  
33 introduce you to the Planning Commission.

34  
35 Mr. Props - Thank you very much.

36  
37 Mr. Archer - I guess the moral of that story is you can come back  
38 home.

39  
40 Mrs. Jones - Nice to have you.

41  
42 Mr. Archer - But if you leave and go back to the same place, we'll  
43 be getting suspicious.

44  
45 Mr. Silber - With that, we can move on to our withdrawals and  
46 deferrals this evening. I'm not aware we have any withdrawals, but we have  
47 seven deferrals.

48  
49 Ms. Moore - Yes sir. In the Brookland District, the first is on page  
50 1 of your agenda. It is C-10C-07. The applicant is Pied Venture, LLC. The  
51 deferral is requested to the March 13, 2008 meeting.

52  
53 ***Deferred from the October 11, 2007 Meeting.***

54 **C-10C-07 David Johannas for Pied Venture LLC:** Request to  
55 conditionally rezone from B-2 Business District to R-6C General Residence  
56 District (Conditional), Parcel 772-737-7160, containing 2.874 acres, located  
57 between the north line of Fitzhugh Avenue and the south line of Markel Street,  
58 approximately 236 feet southeast of Byrd Avenue. The applicant proposes  
59 residential condominiums. The R-6 District allows a maximum gross density of  
60 19.8 units per acre. The use will be controlled by zoning ordinance regulations  
61 and proffered conditions. The Land Use Plan recommends Office and  
62 Environmental Protection Area. The site is located within the Enterprise Zone.

63  
64 Mr. Jernigan - Is there any opposition to the deferral of C-10C-07,  
65 David Johannas for Pied Venture, LLC? There is no opposition, Mr. Vanarsdall.

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67 Mr. Vanarsdall - With that, Mr. Chairman, I move C-10C-07, David  
68 Johannas for Pied Venture, LLC, be deferred to the March 13, 2008 meeting, at  
69 the applicant's request.

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Mrs. Jones - Second.

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

At the request of the applicant, the Planning Commission deferred C-10C-07, David Johannas for Pied Venture, LLC, to its meeting on March 13, 2008.

Ms. Moore - Also on page 1 of your agenda in the Varina District is case C-51C-07. The applicant is WWLP Development, LLC. The deferral is requested to the June 12, 2008 meeting.

***Deferred from the September 13, 2007 Meeting.***

**C-51C-07 Alvin S. Mistr, Jr. for WWLP Development, LLC:** Request to conditionally rezone from A-1 Agricultural District to R-5AC General Residence District (Conditional), Parcel 815-691-3804, containing 73.609 acres, located on the west line of Strath Road approximately 580 feet north of Lamrich Road. The applicant proposes a zero-lot line development with a maximum of one hundred seventy-six (176) lots. The R-5A District allows a minimum lot size of 5,625 square feet and a maximum gross density of 6 units per acre. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre. The site is in the Airport Safety Overlay District

Mr. Jernigan - Is there any opposition to the deferral of C-51C-07, Alvin S. Mistr, Jr. for WWLP Development, LLC? There is no opposition. With that, I will move for deferral of C-51C-07, Alvin S. Mistr, Jr. for WWLP Development, LLC, to June 12, 2008, by request of the applicant.

Mrs. Jones - Second.

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

At the request of the applicant, the Planning Commission deferred C-51C-07, Alvin S. Mistr, Jr. for WWLP Development, LLC, to its meeting on June 12, 2008.

Ms. Moore - On page 2 of your agenda is case C-63C-07, JSN Development, LLC. The deferral is requested to the January 10, 2008 meeting.

**C-63C-07 Andrew M. Conclin for JSN Development, LLC:** Request to conditionally rezone from A-1 Agricultural District to B-2C Business District (Conditional), Parcel 816-687-5307, containing 3.820 acres, located at the southeast intersection of Strath Road and New Market Road (State Route 5). The applicant proposes a pharmacy and office. The uses will be controlled by

116 zoning ordinance regulations and proffered conditions. The Land Use Plan  
117 recommends Rural Residential, not exceeding 1.0 unit net density per acre. The  
118 site is in the Airport Safety Overlay District.

119  
120 Mr. Jernigan - Is there any opposition to the deferral of C-63C-07,  
121 Andrew M. Condlin for JSN Development, LLC? There is no opposition. With  
122 that, I will move for deferral of case C-63C-07, Andrew M. Condlin for JSN  
123 Development, LLC, to January 10, 2008, by request of the applicant.

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125 Mrs. Jones - Second.

126  
127 Mr. Jernigan - Motion made by Mr. Jernigan, seconded by Mrs.  
128 Jones. All in favor say aye. All opposed say no. The ayes have it; the motion  
129 passes.

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131 At the request of the applicant, the Planning Commission deferred C-63C-07,  
132 Andrew M. Condlin for JSN Development, LLC, to its meeting on January 10,  
133 2008.

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135 Ms. Moore - Also on page 2 of your agenda in the Fairfield District  
136 is C-44C-07. The deferral is requested to the February 14, 2008 meeting.

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138 **C-44C-07 Andy Condlin for Parham Road Properties and**  
139 **Majestic Properties, LLC:** Request to conditionally rezone from R-4 One-Family  
140 Residence District and O-1C Office District (Conditional) to O-2C Office District  
141 (Conditional), Parcels 782-756-9598, 783-756-0592, 782-756-7785, 782-756-  
142 9285, 782-757-4814, 782-757-5414, and Part of Parcel 782-756-7495, containing  
143 approximately 2.935 acres, located along the north line of E. Parham Road and  
144 the south line of Hungary Road at their intersection with Cleveland Street. The  
145 applicants propose office uses. The uses will be controlled by zoning ordinance  
146 regulations and proffered conditions. The Land Use Plan recommends Office  
147 and Commercial Concentration.

148  
149 Mr. Jernigan - Is there any opposition to the deferral of C-44C-07,  
150 Andy Condlin for Parham Road Properties and Majestic Properties, LLC? No  
151 opposition.

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153 Mr. Archer - Mr. Chairman, I move deferral of C-44C-07, Andy  
154 Condlin for Parham Road Properties and Majestic Properties, LLC, to the  
155 February 14, 2008 meeting, at the applicants' request.

156  
157 Mrs. Jones - Second.

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159 Mr. Jernigan - Motion by Mr. Archer, seconded by Mrs. Jones. All in  
160 favor say aye. All opposed say no. The ayes have it; the motion is passed.

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162 At the request of the applicant, the Planning Commission deferred C-44C-07,  
163 Andy Condlin for Parham Road Properties and Majestic Properties, LLC, to its  
164 meeting on February 14, 2008.

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166 Ms. Moore - On page 3 of your agenda in the Three Chopt District  
167 is case C-7C-07, Farmer Properties, Inc. The deferral is requested to the  
168 February 14, 2008 meeting.

169

170 ***Deferred from the August 9, 2007 Meeting.***

171 **C-7C-07 Andrew M. Condlin for Farmer Properties, Inc.:**  
172 Request to conditionally rezone from A-1 Agricultural District to RTHC  
173 Residential Townhouse District (Conditional), Parcel 747-773-6860, containing  
174 5.204 acres, located on the southeast line of Twin Hickory Road, approximately  
175 800 feet northeast of Nuckols Road. The applicant proposes a residential  
176 townhouse development with a maximum of 28 units. The RTH District allows a  
177 maximum density of 9 units per acre. The use will be controlled by zoning  
178 ordinance regulations and proffered conditions. The Land Use Plan recommends  
179 Urban Residential, 3.4 to 6.8 net units per acre.

180

181 Mr. Jernigan - Is there any opposition to the deferral of case C-7C-  
182 07, Andrew M. Condlin for Farmer Properties, Inc.? No opposition.

183

184 Mr. Vanarsdall - I move C-7C-07, Andrew M. Condlin for Farmer  
185 Properties, Inc., be deferred to the February 14, 2008 meeting, at the applicant's  
186 request.

187

188 Mrs. Jones - Second.

189

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

192

193 At the request of the applicant, the Planning Commission deferred C-7C-07,  
194 Andrew M. Condlin for Farmer Properties, Inc. to its meeting on February 14,  
195 2008.

196

197 Ms. Moore - Next is P-10-07. The applicant is Richmond Strikers  
198 Soccer Club, Inc. The deferral is requested to the March 13, 2008 meeting.

199

200 ***Deferred from the September 13, 2007 Meeting.***

201 **P-10-07 Gloria L. Freye for Richmond Strikers Soccer**  
202 **Club, Inc.:** Request for a Provisional Use Permit under Sections 24-95(a), 24-  
203 120 and 24-122.1 of Chapter 24 of the County Code in order to construct a 157'  
204 high telecommunications tower on part of Parcel 740-768-1098, located on the  
205 east line of Pouncey Tract Road approximately 900 feet south of Shady Grove  
206 Road. The existing zoning is A-1 Agricultural District. The Land Use Plan  
207 recommends Open Space/Recreation and Environmental Protection Area.

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Mr. Jernigan - Is there opposition to the deferral of P-10-07, Gloria L. Freye for Richmond Strikers Soccer Club, Inc.? No opposition.

Mr. Vanarsdall - I move that P-10-07, Gloria L. Freye for Richmond Strikers Soccer Club, Inc., be deferred to the March 13, 2008 meeting, at the applicant's request.

Mr. Archer - Second.

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

At the request of the applicant, the Planning Commission deferred P-10-07, Gloria L. Freye for Richmond Strikers Soccer Club, Inc., to its meeting on March 13, 2008.

Ms. Moore - Also on page 3 is C-40C-07, Boushra and Edna Hanna, and Donald and Shearin Whitehorn. The deferral is requested to the January 10, 2008 meeting.

***Deferred from the November 8, 2007 Meeting.***

**C-40C-07 Courtenay Fisher for Boushra and Edna Hanna and Donald and Shearin Whitehorn:** Request to conditionally rezone from A-1 Agricultural District to R-2AC One-Family Residence District (Conditional), part of Parcels 742-773-4344 and 742-773-5604, containing 7.127 acres, located on the northeast line of Hames Lane approximately 1,550 feet north of its intersection with Shady Grove Road. The applicants propose a single-family residential development of no more than 12 lots, an equivalent density of 1.68 units per acre. The R-2A District allows a minimum lot size of 13,500 square feet and a maximum gross density of 3.23 units per acre. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Rural Residential, not exceeding 1.0 unit net density per acre and Environmental Protection Area.

Mr. Jernigan - Is there any opposition to the deferral of C-40C-07, Courtenay Fisher for Boushra and Edna Hanna, and Donald and Shearin Whitehorn? No opposition.

Mr. Vanarsdall - I move that C-40C-07, Courtenay Fisher for Boushra and Edna Hanna, and Donald and Shearin Whitehorn, be deferred to the January 10, 2008 meeting, at the applicants' request.

Mr. Archer - Second.

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

256  
257 Ms. Moore - That concludes all the deferrals we have received.

258  
259 Mr. Silber - Next on the agenda would be consideration of  
260 expedited items, but I'm not aware that we have any that have been requested  
261 for expedited consideration. So, we can move on to the first item in the Tuckahoe  
262 District.

263  
264 **C-62C-07 James Theobald for Katherman Investments Inc.:**  
265 Request to conditionally rezone from A-1 Agricultural District to O-2C Office  
266 District (Conditional), Parcels 749-754-7958 and -7268, containing 2.172 acres,  
267 located at the southwest intersection of Gaskins and Three Chopt Roads. The  
268 applicant proposes office use. The use will be controlled by zoning ordinance  
269 regulations and proffered conditions. The Land Use Plan recommends Urban  
270 Residential, 3.4 to 6.8 units net density per acre.

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272 Mr. Jernigan - Is there any opposition to C-62C-07, James Theobald  
273 for Katherman Investments, Inc.? There is no opposition. Ms. Croft, how are  
274 you tonight?

275  
276 Ms. Croft - I'm good, thank you.

277  
278 The parcels are surrounded by the Gaskins Professional Office Condominiums.  
279 This office development was approved in January 2005 and is comprised of eight  
280 one-story buildings totaling approximately 49,000 square feet of floor area. The  
281 applicant is now requesting to include the two subject parcels within this office  
282 park, and to develop the parcels as an extension of the office condominium.

283  
284 The parcels are partially wooded, and an existing dwelling—which has been  
285 converted into an office—is located on the property with an accessory  
286 outbuilding. The submitted proffered conditions would permit these structures to  
287 remain for up to six years.

288  
289 The 2010 Land Use Plan recommends Urban Residential (3.4 to 6.8 units per  
290 acre). The proposed office use is not consistent with this designation; however, it  
291 would be an appropriate use given the surrounding office development and its  
292 location at the intersection of major roadways.

293  
294 To achieve compatibility with the surrounding office development, the applicant  
295 has submitted a proffered conceptual plan and exterior elevations. A two-story  
296 building at the corner of Gaskins and Three Chopt Roads and four additional  
297 one-story buildings would add approximately 39,000 square feet of floor area.  
298 The parking areas in the existing office park would be extended into the site as

299 the only means of access. No access would be provided from Three Chopt or  
300 Gaskins Roads. A 35-foot buffer planted to the equivalent of a Transitional  
301 Buffer 25 would be provided or retained along Gaskins and Three Chopt Roads.

302

303 The exterior elevations indicate the one-story buildings would be constructed  
304 primarily of brick and would be generally the same as the surrounding offices.

305

306 The two-story building would serve as the focal point of the office complex and  
307 would be constructed primarily of brick with columns and decorative features.

308

309 The additional submitted proffers are generally the same as those accepted with  
310 the original rezoning case. Revised proffers were received today. These  
311 proffers clarify the building height and the screening of utility meters and boxes.  
312 The revisions also limit the hours of construction and require a Plan of  
313 Development application be submitted for the office conversion within six months  
314 of rezoning approval.

315

316 Overall, the request would result in a compatible office development with the  
317 surrounding Gaskins Professional Office Condominiums, and the submitted  
318 proffered conditions will provide appropriate quality assurances. Staff supports  
319 this request. We do note that time limits would need to be waived on the proffer.  
320 The applicant is also here to take questions, as am I.

321

322 Mr. Jernigan - Are there any questions for Ms. Croft from the  
323 Commission?

324

325 Mrs. Jones - Nathalie, you've worked on this a good bit this week.  
326 I wanted to confirm that the indication from Mr. Tokarz was that all is in order for  
327 the office conversion, the way this will be incorporated into this case?

328

329 Ms. Croft - Yes ma'am.

330

331 Mrs. Jones - Okay. I would like to hear from the applicant, if no one  
332 else has anything.

333

334 Mr. Jernigan - Okay. Would the applicant come up, please? Mr.  
335 Theobald, how are you tonight?

336

337 Mr. Theobald - I'm well, sir. Good evening, Mr. Chairman, ladies and  
338 gentlemen. I'm Jim Theobald and I'm here this evening on behalf of Mr.  
339 Katherman, who is with us tonight. This represents a request to rezone 2.2 acres  
340 of land that will basically fill in the hole in the doughnut here at the corner of  
341 Three Chopt and Gaskins Roads. This is a drawing that shows the existing  
342 buildings—the existing buildings are outlined in the white, the darker being, of  
343 course, the drive aisles and the parking. Essentially, we're dealing with the  
344 parcels at the corner in this area. This property has been owned by Exxon for



345 some years. There have been a number of requests previously for different types  
346 of zoning, but I'm pleased that Mr. Katherman—who I think has done an  
347 excellent job developing the office condominiums—has been able to get a hold of  
348 this property and incorporate it into his development.

349  
350 The 6.8 acres surrounding this request was rezoned back in 2003 with significant  
351 proffered conditions and input from the community, apparently after a number of  
352 meetings. I do want to bring to your attention—and we have some blowups you'll  
353 see here in a moment—there was a home—not owned by my client, but by Mr.  
354 Wright—it was an older home—located on Three Chopt in this location, which he  
355 converted to an office building for his personal use to monitor his various  
356 investments and businesses. That has been contracted to be sold to Mr.  
357 Katherman. Mr. Wright did fix this property up significantly—it looks very  
358 attractive. He did, however, fail to get zoning for an office use, which I hope was  
359 but an oversight on his part. But, nonetheless, our agreement with Mr. Wright  
360 is—He's an elderly gentleman who wants to spend his remaining business years  
361 with this office as a place to go during the day, and it doesn't get any traffic from  
362 the public. There are a couple of employees who are there at different numbers  
363 of hours a day. But, nonetheless, the County has been involved with Mr. Wright  
364 in talking to him about bringing this into compliance, and a lot of the discussions  
365 we've had this week have been really related to that.

366  
367 Our contractual agreement with him is that he gets to operate here for six years  
368 and one month, essentially, at which time we would have the ability to tear it  
369 down. We will take ownership within 30 days of rezoning hopefully being  
370 approved. Should Mr. Wright pass away during that time, then that's a triggering  
371 event that also allows us to, basically, raze what's there and incorporate it into  
372 our project. You saw the two-story drawing. It's a terrifically designed building. It's  
373 right at the corner and you can see that it's sort of—the two wings that come  
374 back; it's a nice addition. All the other buildings remain one story, as are there  
375 today. Other buildings being, essentially, the same as those that you see out  
376 there today.

377  
378 The only change that we've really made is to clarify some language in the  
379 proffers from the prior case. We've brought forward all the use prohibitions, all  
380 the buffers. We've proffered the conceptual plan incorporating the new buildings;  
381 we've continued to limit the height significantly. There are no new access points  
382 to Gaskins or Three Chopt—this property would be incorporated and the existing  
383 access points that are there today would be used. We will continue to limit  
384 signage and parking lot lighting. The brand new proffers were to add a proffer  
385 relating to construction hours, to limit those Monday through Saturday, and an  
386 agreement to file a POD on the existing structure within six months. Part of  
387 bringing it back into compliance is not only this zoning action before you this  
388 evening, but to file a POD that will likely incorporate Mr. Katherman's other  
389 buildings, in addition to this existing building. What you see in this instance is  
390 during the period where Mr. Wright would continue to operate his business, we

391 would, basically, allow him to enter through the back through the parking lot.  
392 Here is his current garage. Here is the existing building. A drive aisle through  
393 here. We would close off the direct access to Three Chopt and, literally, work  
394 around his existing structure— here's a little bit of a blowup to show you a little  
395 better—but an access road into here so that we can coexist. When we come in  
396 with our POD, we will certainly need to provide landscaping, etc. The way these  
397 proffers work, his building has been excluded from the impact of some of those  
398 for the period of time that the building exists. So, we've tried to come up with a  
399 way that gets that building into compliance, incorporates it into the project, sets  
400 the stage for the future—all of which you know what you're going to get and  
401 when you're going to get it.

402

403 I appreciate very much the work that Ms. Croft has done and Mrs. Jones. I think  
404 this is a nice resolution, not only to this specific situation, but also allows for a  
405 significant expansion of a Class A development at that corner. With that, I'd be  
406 happy to answer any questions.

407

408 Mr. Jernigan - Are there any questions for Mr. Theobald from the  
409 Commission?

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411 Mrs. Jones - Mr. Theobald, I don't necessarily have questions,  
412 because I think I've asked you about everything I could possibly think to ask over  
413 the past week. I do want, on the record, to thank you for following up with details  
414 on this. It seemed that with this unusual situation, every question led to an  
415 answer, which led to another question because it's not a usual situation.

416

417 Mr. Theobald - It is not.

418

419 Mrs. Jones - With the compliance issue, that's not really a Planning  
420 issue, although it certainly figures into our site design and exactly what's going to  
421 happen here. That's why a lot of that had to be discussed. I feel like this is a  
422 very logical continuation, obviously, of the project. It is a very attractive project  
423 and I'm very happy to see this proposal come forward. All of the work was just to  
424 make sure we were well covered from the County standpoint, that this building  
425 would come into compliance, because it could be here for six years.

426

427 Mr. Theobald - Yes ma'am.

428

429 Mrs. Jones - And that's a significant amount of time. I am happy  
430 with what you've addressed in the proffers, and they are a little bit different than  
431 the original case. I wasn't around for that one, but I think we've upgraded a lot of  
432 the details. I'm happy with the way it stands now.

433

434 Mr. Jernigan - Okay.

435

436 Mr. Silber - I have maybe a question or two, if you would allow  
437 me. Mr. Theobald, I understand Mr. Wright's situation and his interest in staying  
438 here, and it sounds as though you've worked through that the best you can. I  
439 assume that you have offered him space in Mr. Katherman's office development  
440 in return for construction of a building, and he prefers to stay in this—

441  
442 Mr. Theobald - Honestly, I don't believe that was even part of the  
443 negotiations. It was a very short negotiation on the one hand. Mr. Wright was  
444 only willing to sell if he could flat stay put. I think Lee is about 80 years old and  
445 he just wants to stay until he's no longer able, and really wasn't interested in  
446 anything other than what you see.

447  
448 Mr. Silber - All right. The other comment I had was one that  
449 involves your placement of utility boxes on buildings. When the first phase of  
450 these office condos were built, the County Manager brought to our attention utility  
451 boxes on the back of these buildings and raised issue with those, calling me on it  
452 over a weekend about this situation. So, I see it's been addressed in Proffer 11,  
453 to a certain extent, that there will be landscaping that would screen these and  
454 that would be reviewed at the time of landscape plan approval. I would probably  
455 encourage you to place those on the sides of buildings, if possible, in some  
456 locations so that they aren't visible from public rights-of-way.

457  
458 Mr. Theobald - That's certainly preferred. Sometimes, as you know,  
459 utility companies tell you where those are going to go. You don't want them on  
460 the fronts of your buildings, but I think we are sensitive to the way those turned  
461 out and we're going to take some efforts to screen those.

462  
463 Mr. Silber - Okay.

464  
465 Mr. Jernigan - Any other questions for Mr. Theobald?

466  
467 Mrs. Jones - Well, I'm happy that we could discuss this on the  
468 record because it is a little bit unusual. I appreciate your work with that.

469  
470 Mr. Jernigan - Mrs. Jones, you have to waive the time limits first.

471  
472 Mrs. Jones - Yes, okay. I'd like to waive time limits for the proffers  
473 on case C-62C-07, James Theobald for Katherman Investments, Inc.

474  
475 Mr. Vanarsdall - Second.

476  
477 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Vanarsdall.  
478 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

479

480 Mrs. Jones - And with that, I would like to recommend to the Board  
481 of Supervisors for approval case C-62C-07, James Theobald for Katherman  
482 Investments, Inc.

483  
484 Mr. Vanarsdall - Second.

485  
486 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Vanarsdall.  
487 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

488  
489 **REASON:** Acting on a motion by Mrs. Jones, seconded by Mr.  
490 Vanarsdall, the Planning Commission voted 4-0 (two absent) to recommend the  
491 Board of Supervisors **grant** the request because the office use is compatible with  
492 surrounding development, it would not adversely affect the adjoining area if  
493 properly developed as proposed, and the proffered conditions would provide  
494 appropriate quality assurances not otherwise available.

495  
496 ***Deferred from the November 8, 2007 Meeting.***

497 **P-8-07 Gloria L. Freye for Richmond 20 MHZ, LLC:**  
498 Request for a Provisional Use Permit under Sections 24-95(a), 24-120 and 24-  
499 122.1 of Chapter 24 of the County Code in order to construct a 144' high  
500 telecommunications tower on part of Parcel 829-712-4591, located on the west  
501 line of Beulah Road approximately 195' north of Treva Road. The existing zoning  
502 is R-3 One-Family Residence District. The Land Use Plan recommends Open  
503 Space/Recreation. The site is in the Airport Safety Overlay District.

504  
505 Mr. Jernigan - Is there any opposition to P-8-07, Gloria L. Freye for  
506 Richmond 20 MHZ, LLC? We have opposition. Mr. Silber, will you explain to our  
507 audience so they'll know the conditions for opposition?

508  
509 Mr. Silber - Yes sir, I'll be happy to. The Planning Commission's  
510 policies state that following the presentation by staff, the applicant will present  
511 the case. They have 10 minutes to present their case. Some of that time they  
512 can save for rebuttal. The opposition, collectively, has 10 minutes to express  
513 opposition to the request. Any time the Planning Commission is asking  
514 questions of either party, that's not counted towards your 10 minutes. They can  
515 extend the 10-minute period of time, but we try to stick to 10 minutes if at all  
516 possible.

517  
518 Mr. Jernigan - Mr. Lewis, good evening.

519  
520 Mr. Lewis - Good evening, Mr. Chairman.

521  
522 nTelos is requesting to construct a cell tower up to 144 feet in height at the  
523 Fairfield Recreation Center. The eight acre, R-3 zoned parcel is adjacent to  
524 Seven Pines Elementary School and is otherwise surrounded by single-family  
525 residential development.

526

527 As shown on the site plan, the tower and its 2,500 square foot lease area would  
528 be placed toward the northwest corner of the site and would meet all Code-  
529 required setbacks from adjacent properties.

530

531 As shown on this elevation, the applicant proposes a 140-foot monopole with a  
532 lighting rod extending to the maximum height of 144 feet. All antennas would be  
533 inside the monopole structure, and the equipment compound at the tower's base  
534 would be enclosed by a chain link fence of unspecified height. The facility would  
535 be accessed via an easement along the parcel's northern edge.

536

537 The 2010 Land Use Plan recommends Open Space/Recreation for the site which  
538 is also part of the Airport Safety Overlay District. The 2010 Plan acknowledges  
539 the growing and changing need for communication services and makes limited  
540 provision for towers around residential areas if other alternatives have been  
541 exhausted; however, the County's tower siting policies strongly discourage new  
542 towers in residential areas, and call for any such towers to have minimal visual  
543 impact. The applicant's request is not consistent with these policies, and area  
544 residents have expressed opposition to this proposal.

545

546 Internally-mounted antennas would not be seen, and the structure's lower half  
547 would be obscured by trees; however, as shown by this picture taken during a  
548 recent balloon float, the tower's upper portion would extend well above  
549 surrounding trees, making it highly visible from several vantage points in adjacent  
550 neighborhoods. Given the combination of tower height and close proximity to  
551 residential uses, this proposal is not compatible with surrounding properties and  
552 would set a negative precedent for future tower requests. Staff does not support  
553 this request and recommends it be denied.

554

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

556

557 Mr. Jernigan - Okay. Are there any questions for Mr. Lewis from the  
558 Commission?

559

560 Mr. Silber - Mr. Lewis, what vantage point was this picture taken  
561 from?

562

563 Mr. Lewis - I believe the home in the photo is 304 Treva Road.  
564 So, 304 would be this home right here.

565

566 Mr. Silber - Okay.

567

568 Mr. Lewis - So, it's from across Treva Road.

569

570 Mr. Jernigan - Did you take this last week?

571

572 Mr. Lewis - Yes sir.  
573  
574 Mr. Jernigan - Okay. Any other questions?  
575  
576 Mrs. Jones - The balloon float was done—Is that a true height? I  
577 had heard it was pretty windy and it was off on an angle and this kind of thing.  
578  
579 Mr. Lewis - Most of the time that the balloon was floated and I  
580 was there, the wind was blowing. So, this picture, it's hard to say exactly the  
581 height that this depicts. But one can assume that it is somewhat less than the  
582 maximum height that would be allowed.  
583  
584 Mr. Jernigan - They actually let it out about another three or four  
585 feet—  
586  
587 Mrs. Jones - To compensate for that?  
588  
589 Mr. Jernigan - —to compensate for the wind.  
590  
591 Mrs. Jones - Okay. Do you know if there were other opportunities  
592 to site this tower in places that we're now looking at as much better in residential  
593 settings, maybe within a church steeple or any kind of a taller structure that's  
594 already there? Do you know of any attempts that were made to re-site it  
595 elsewhere?  
596  
597 Mr. Lewis - Well, the applicant indicated they did look at some  
598 other sites, including a church nearby, and the commercial corridor to the north.  
599 As far as how far those discussions were taken and what the reasons were as to  
600 why those would not work, I'm not aware. They might be able to fill in the details.  
601  
602 Mrs. Jones - Okay.  
603  
604 Mr. Jernigan - Any more questions? Thank you, Livingston. I'd like  
605 to hear from the applicant, please.  
606  
607 Ms. Freye - Mr. Chairman, members of the Commission, my  
608 name's Gloria Freye. I'm an attorney here on behalf of nTelos. Before we start,  
609 in your explanation, Mr. Silber, you were explaining about the time allotment for  
610 the applicant and for the opposition. There are about six folks here who are in  
611 support of this and we would like to allow them to have time to speak as well, in  
612 addition to my presentation.  
613  
614 Mr. Silber - Okay. That would be a part of your 10 minutes.  
615  
616 Ms. Freye - That might be a problem because I had some photo  
617 simulations that I wanted to show from the earlier presentation that was taken at

618 150' and a comparison to the visibility of this site to another site that the County  
619 has approved. I'm afraid that that may take up most of my time.

620  
621 Mr. Silber - Well, if the Commission wants to extend that—

622  
623 Mr. Jernigan - If it goes over, then we'll give the opposition an equal  
624 amount of time. Fair enough?

625  
626 Ms. Freye - The supporters.

627  
628 Mr. Jernigan - That's fine; go ahead.

629  
630 Ms. Freye - Thank you very much. The Federal  
631 Telecommunications Act was passed in 1996, 11 years ago, and a lot has  
632 changed since then. Back then, the networks were designed to get customers  
633 from one landline to the next line, basically, the mobile. And so the ordinances,  
634 the policies, the regulations that were developed were pretty much geared  
635 around the same thing. So, the policies were to direct these facilities to be  
636 located in undeveloped agricultural land, along the interstate, and in commercial  
637 areas. Well, a lot has changed. Today, people take their cell phones everywhere.  
638 They want to use them everywhere. They want to use them in their homes; they  
639 want to use them in their offices; and the younger generation doesn't even rely  
640 on landlines anymore. There was an article in the paper just two days ago that a  
641 Verizon spokesman noted that the number of cell phones in this country has far  
642 outnumbered the number of landlines—and that trend is just going to continue.

643  
644 The carriers are repeatedly getting complaints and requests from their customers  
645 to give them better service, to give them service in their homes, to give them  
646 service in buildings, and not to have dropped calls, and to give better capacity,  
647 and to give them access to wireless data. To provide the service to the people in  
648 their homes in this area, nTelos started looking at sites in the summer of 2006.  
649 These search rings are much smaller than what you're used to seeing because  
650 you're trying to serve a denser population in a residential area, so the antennas  
651 need to be closer to homes. So, to respond to their customers in Sandston, to  
652 serve Sandston and the area east of the airport, they started this search. They  
653 looked at all the commercial properties; they looked at existing facilities to see if  
654 they could co-locate; they looked at a church. They looked everywhere. They  
655 exhausted their search because they know what the County policies are. But it's  
656 a challenge to get antennas close to homes when you need to find a piece of  
657 property that doesn't have a house on it, that can meet the setbacks—and  
658 they're 110% of the height. You have to have trees for some screening, and a  
659 willing landlord.

660 nTelos found the Fairfield Recreation site. It meets all those criteria. It has a  
661 mature stand of trees that provides screening on all four sides. It is in the middle  
662 of an eight-acre piece of land that is surrounded by homes, but is developed with  
663 a neighborhood recreational center. And it does meet the setbacks. As a willing

664 landlord, the revenues from this facility would greatly enhance the programs and  
665 the property that they are managing there, and the services that they provide to  
666 their neighborhood.

667

668 The major concern about this site that we heard from the neighbors—and we've  
669 had a couple of neighborhood meetings and the major concern was that it's in an  
670 Airport Safety Overlay District. The first application was for 157 feet. When it  
671 was reviewed by the FAA and by the local airport, there was concern and  
672 objections to that height and that location and marking and lighting. So, we met  
673 with the CEO, president of the Airport Commission and their attorney. We also  
674 resubmitted to the FAA and we resubmitted the 144' height. Both the FAA and  
675 the Airport have now written reports and letters in the file that say 144' at this  
676 location is no safety hazard, will not affect the operations of the airport, would not  
677 have to be lighted or marked in any colors. So, there is no safety hazard; that has  
678 been resolved.

679

680 Now, the need for this site—The first slide was the site that shows the setbacks  
681 and the tree coverage that's all around the facility in that corner. This coverage  
682 map shows you in the center where you see the red dot, the black and the white  
683 area shows that there is either no coverage or unsatisfactory coverage. That's  
684 the area that they're trying to serve. The next map shows you, in the center with  
685 the yellow dot, where this pole would be at the Fairfield Rec Center, that you get  
686 green excellent coverage with this site.

687

688 What is proposed here is a stealth design pole with the antennas hidden,  
689 concealed inside, similar to what was approved at the Masonic Lodge. This is on  
690 Three Chopt Road. This is the same kind of pole. From Three Chopt you can see  
691 that the whole pole, most of the pole is visible. This is also showing the pole in  
692 this photograph that shows how visible the pole is from the adjacent residential  
693 street that goes right up to this property. This next one shows—I think you can  
694 see the dot up there—the visibility, the length of the pole that would be extended  
695 above the rooflines.

696

697 Now I'd like to show you the photo simulations that were taken from floating a  
698 150-foot pole. You can see it—I'm just trying to think. Right there. This is from  
699 the Hunters Run subdivision and I believe it is right about there. Barely visible  
700 above the house. This is from the Seven Pines Elementary School, and you can  
701 see that pretty clearly. This is directly across from the recreation center. This is  
702 from Beulah Road. These are homes that face directly to the facility and you can  
703 see the tip of it right there. This pole is actually a parking lot light. Several of  
704 these residents live directly across the street and this would be the view that they  
705 have. This is the view from Roy Road at Penley Road, which is one block over,  
706 parallel to Beulah. You can see it there above the trees. And this is the view that  
707 Mr. Lewis was showing to you above Mr. Johnson's home at 304. That balloon,  
708 when it was floated, Mrs. Jones, the wind was blowing. They did float it another  
709 10 feet higher to adjust for the wind. We believe that—And they also located the



710 pole, I mean, the balloon from the tennis court, which is not back in the woods,  
711 which is where it would actually be. We think that that would actually be more  
712 over here. The reason we think that is because if you look at this next picture,  
713 which is the house next door, and we floated at 150 on a still day—Now I can't  
714 find it. It's in the trees. Right there. So, just one house over at 150 and straight  
715 up, you can see what the impact is. Very minimal. This is about a mile south on  
716 Beulah Road.

717

718 If you look at even the picture on the left from Treva Road that Mr. Lewis took at  
719 that balloon test on a windy day, even if that were the visibility, which I don't say  
720 that it is, even if it were, it has—this pole, it has no greater impact than this pole  
721 that was approved at the Masonic Lodge. From all the viewpoints around the rec  
722 field, the Fairfield Rec Center, you have screening on all four sides, you have no  
723 clear visibility like you do at the Masonic Lodge, and you have the visibility above  
724 the trees and even above the homes is less visible than what was at Masonic  
725 Lodge.

726

727 Lastly what I want to show you is this map that shows you citizens that support or  
728 do not oppose this facility. In the file, you have cards from supporters saying  
729 things like Lita Moore wrote, "Please allow a new tower in our area. I have  
730 dropped calls all the time. Please assist;" Dustin Lee who wrote, "It would be so  
731 nice to talk in the house instead of having to walk outside in the yard," or  
732 Kimberly Hewlett-Cochran who wrote, "I would love to be able to use my cell  
733 phone from my home without having to go outside." nTelos has shown there is a  
734 need for this facility. They've shown there's no other site. They have exhausted  
735 every other property in this area. There is minimal visual impact. And there is  
736 support from residents. Please recommend approval. We'll be glad to respond to  
737 questions.

738

739 Mr. Jernigan - Are there any questions for Ms. Freye from the  
740 Commission?

741

742 Mr. Archer - Ms. Freye, is there any other lesser height that would  
743 be useful to nTelos?

744

745 Ms. Freye - The reason that we are applying for the 140 feet is  
746 because the top site is being reserved for AT&T. nTelos is actually willing to take  
747 a lower height so that they can get a second carrier on there. They don't have a  
748 commitment from AT&T at this point, but there has been interest from them and  
749 they would like to make that a possibility. If AT&T were not going to go on this  
750 site, then it is true that nTelos could go at a lower height, which would be about  
751 10 feet shorter. One of the policies of the County is to encourage co-location and  
752 to have fewer towers whenever possible, so that's why we'd like to have the 144,  
753 so we would have that opportunity.

754

755 Mr. Jernigan - Ms. Freye, I noticed that you had the propagation  
756 map on that shows the coloration. There's a window that you have, a certain  
757 amount of area that the tower is functional. Outside of that envelope, it's no good.  
758

759 Ms. Freye - Correct.  
760

761 Mr. Jernigan - Were there any other sites that were appropriate  
762 within the envelope?  
763

764 Ms. Freye - No sir. In that whole search ring where a tower would  
765 work to service their customers, there is no other site. They re-visited after the  
766 first community meeting that they had and some of the residents said check this  
767 out, go look at this tower, how about that. They followed up on every one of  
768 those. They just didn't work.  
769

770 Mrs. Jones - Ms. Freye, could you confirm the height of the  
771 Masonic Lodge pole?  
772

773 Ms. Freye - That pole I believe is 102 feet, and that's with the  
774 lightning rod. The elevation there helps so much because it's up on a hill and  
775 it's so open.  
776

777 Mrs. Jones - And that's not a slick stick, that's a—  
778

779 Ms. Freye - It's a flagpole, but they're basically the same design.  
780

781 Mrs. Jones - I just didn't want everyone to think that we were  
782 comparing apples and apples.  
783

784 Ms. Freye - We are comparing the same style stealth pole. And  
785 what we're comparing is the impact of a pole that serves a residential  
786 neighborhood with minimal impact on a neighborhood.  
787

788 Mrs. Jones - That pole is 100 versus 140, and that's a significant  
789 difference.  
790

791 Ms. Freye - The numbers are different, that's true. But the effect is  
792 less than the lower height.  
793

794 Mr. Jernigan - The 10 minutes are up, but what I'm going to do is  
795 extend it 5 minutes, and also to the opposition 5 minutes to give folks a chance to  
796 speak. The citizens are here so I think we need to hear them. Okay? So,  
797 whoever would like to come up first.  
798

799 Ms. Alvis - Good evening. I'm Maria Alvis. I live right across the  
800 street just about from the location where they want to place this tower. I have no

801 problem with it at all. It's very much needed because I do have to go to the end  
802 of my driveway whether it's raining or snowing to use my cell phone. I would like  
803 to have it.

804  
805 Mr. Jernigan - Any questions for Ms. Alvis? Okay.

806  
807 [Off mike] - Can I respond?

808  
809 Mr. Jernigan - You'll have a chance. After they're finished, I'm going  
810 to bring you up and then you'll have a chance to speak. Who would like to speak  
811 next?

812  
813 Ms. Simmons - I'm Cora Simmons and I live directly across from the  
814 pool. My house was in the picture. While I don't have to go to the end of the  
815 driveway to use my phone, I am in favor of this and hope you feel the same.

816  
817 Mr. Jernigan - Thank you, Ms. Simmons.

818  
819 Ms. Clark - I'm Crystal Clark. I live directly across as well at 402  
820 Beulah. My husband and I are here in support of it. We really do need it in the  
821 area for better coverage. So, we very much support it.

822  
823 Mr. Silber - I'm sorry, I didn't catch your name. Could you tell me  
824 your name again, please?

825  
826 Ms. Clark - Sorry. Crystal Clark. And I have a daughter at VCU,  
827 that I like to hear from her when she's leaving school in the evening, and we  
828 have trouble with that because of the service.

829  
830 Mr. Jernigan - Anybody else? Okay. With that, I would like to hear  
831 from the opposition. So, whoever wants to come up first.

832  
833 Mr. Johnson - Thank you, Mr. Chairman. Good evening gentlemen,  
834 ladies. My name is Maurice Johnson and I live at 304 Treva Road. That's my  
835 house. I've been living in the Sandston area for 44 years and I've almost  
836 become part of the fixtures. Before we get too far along with this thing, I wanted  
837 to pass these pictures to you. There's several to show you. I wanted to you to  
838 see those woods that they're talking about behind my house.

839  
840 Mrs. Jones - Are these all the same, Mr. Johnson? One for each  
841 of us or do they go—

842  
843 Mr. Johnson - You can just pass all of them back and forth, if you'd  
844 like. There are different shots.

845  
846 Mrs. Jones - Okay.

847  
848  
849  
850  
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892

Mr. Johnson - I took those, as a matter of fact, three days ago on the 3rd of December. That's a dying woods, ladies and gentlemen. It does not support a tower that cannot be seen from my road, and from the elementary school that would also be involved, and from Beulah Road. That woods are dying and those pictures will prove it. And that's about all I have to say about the woods. I wanted you to see that. Also, I have a petition signed by members of that immediate neighborhood that surrounds the tower. They're located mainly around the school and the apron of the Richmond Airport. We gathered these signatures June of this year, back in the summer months when it was about 90 and 100 degrees temperature. All but two of the residents that we contacted signed the petition. There were those that were not at home or on vacation or just did not want to be disturbed, and we did not return to those, not too many of those homes that were not signed on. The selected areas I mentioned border the Seven Pines Elementary School and the immediate area encompassing the airport apron leading to runway 25 and runway 16, 16 being the main north/south runway at Richmond International Airport. The tower is approximately 2400 feet from runway 25 centerline, and 4,000 feet from runway 16 centerline.

When attending the initial balloon raising, I was told by the representative for nTelos that the location and the 157-foot height was necessary to achieve the planned benefit of their venture. I personally investigated and advised McGuireWoods that there were two locations nearby, which apparently would be available for them. One is a Sprint tower 120 feet in height located at the rear of the airport, only 2.8 miles away, and another which was a previous FAA location and was abandoned approximately three or four months ago, which is only four-tenths of a mile from the present location. The previous lady who spoke mentioned that they had followed up on all of these, but I received no information from them that they had followed up on them, even though I advised them that they were available.

After contacting the Capital Region Airport Commission, I was made aware of a letter signed by the CEO, Mr. Mathiasen, and written to the Planning Commission on June the 8th of this year, where they and the local FAA flatly opposed the structure and its location between the two runways involved. Now we learn nTelos reduced the height of the structure to 144 feet, and with the help of their lobbyist, McGuireWoods, satisfied the demands of the FAA in Kansas City for the Seven Pines Location.

In speaking for the people most affected by the unwavering position of nTelos and McGuireWoods, we reject any effort by them to locate a hazardous 150-foot tower in our neighborhood located between two active runways leading into a growing international airport, and practically in the school yard of the Seven Pines Elementary School, not to mention the backyards of the homes in the surrounding area. We believe this attempt by nTelos is only for achieving a competitive advantage over the competition at the unnecessary expense of the

893 citizens of Seven Pines who must live with this hazard each night and day for as  
894 long as they live in the area. Therefore, we join with the Planning Commission in  
895 recommending the rezoning be denied based on the conditions described and  
896 others set forth in the Airport Overlay Ordinance.

897

898 If there are any questions for me, I'll be happy to answer.

899

900 Mr. Vanarsdall - I just have one correction. You're not joining with the  
901 Planning Commission; you're joining with the Planning staff. The Planning  
902 Commission has taken no action tonight so far.

903

904 Mr. Johnson - Okay. Excuse me for my ignorance.

905

906 Mr. Jernigan - No, you're fine.

907

908 Mr. Johnson - This is my first trip here; I'm sorry.

909

910 Mr. Jernigan - You're doing great.

911

912 Mr. Johnson - Thank you.

913

914 Mrs. Jones - I have a quick question. The petition for a 157-foot  
915 tower. Did you circulate a second petition when the height was dropped?

916

917 Mr. Johnson - No ma'am. If need be, to get a favorable decision  
918 from you folks, I will triple those signatures on that petition, and I'll also canvass  
919 the other neighborhoods that surround the Richmond Airport to prove to you  
920 gentlemen that there people out there who reject this tower.

921

922 Mrs. Jones - Just wondering. Okay.

923

924 Mr. Johnson - And I might add that nTelos and McGuireWoods have  
925 been given five postponements to cool this matter down. Well, it's not cooled  
926 down. I'm here to state that we will fight it tooth and nail, to the nth degree, if we  
927 have to. I'll solicit every house in Sandston and Seven Pines to prove that we do  
928 not need this tower, and nTelos don't need this tower either. There are other  
929 places out there that they could locate their apparatus, and for the benefit of the  
930 citizens of Seven Pines. Thank you.

931

932 Mr. Jernigan - Don't leave yet, Mr. Johnson. First of all, the  
933 postponements were mostly due to me because I wanted to clear up with Mr.  
934 Mathiasen and the FAA. Secondly, the first neighborhood meeting that we had,  
935 which you were there that night, was July the 5th and it was a stormy night and  
936 we had nine people that showed up. So, to be fair to the neighborhood, I told Ms.  
937 Freye that we should have another meeting on a night that's not during a

938 vacation period. That's the reason we rescheduled and had one two weeks ago.  
939 We had one person show up. And everybody was notified.

940  
941 Mr. Johnson - Right. Again, that's my ignorance and I apologize. My  
942 only statement, ladies and gentlemen, is this. If you are inclined to grant  
943 approval for this tower, give me the opportunity. Give the citizens of Seven Pines  
944 the opportunity to express their desire, one way or the other. And we'll do it by a  
945 petition, as we've done here. We will continue this thing until we, hopefully, gain  
946 approval for our side, or either disapproval, one way or the other. That's all we  
947 ask.

948  
949 Mr. Jernigan - All right. Now, you said there was a tower site four-  
950 tenths of a mile away that was abandoned?

951  
952 Mr. Johnson - Yes sir.

953  
954 Mr. Jernigan - It has a tower on it?

955  
956 Mr. Johnson - No. It was abandoned by the FAA. Just a moment. If  
957 you don't mind my scribbling on this thing.

958  
959 Mr. Jernigan - Point eight miles.

960  
961 Mr. Johnson - Point eight miles?

962  
963 Mr. Jernigan - Eight-tenths of a mile.

964  
965 Mr. Johnson - Excuse me. You could halve that if you were flying.  
966 I'm sorry. It should have been point eight miles, which is eight-tenths of a mile.

967  
968 Mr. Jernigan - Right, eight-tenths.

969  
970 Mr. Johnson - And that location is there and it's still vacant. I would  
971 only assume that the FAA would be happy to sell it to nTelos or one of the other  
972 competitors just to get rid of it.

973  
974 Mr. Jernigan - All right. Now, getting back to—Okay, I'll look at this.  
975 Getting back to runway 25 and 16.

976  
977 Mr. Johnson - Yes.

978  
979 Mr. Jernigan - I spoke to Mr. Mathiasen myself, actually after our first  
980 meeting, and I spoke to you. And you felt it was a hazard because you said  
981 choppers were flying in at that height.

982  
983 Mr. Johnson - Absolutely.

984  
985 Mr. Jernigan - And I brought that up to him and I could hear him  
986 sizzling on the other end of the phone. He said, "Let me tell you right now. There  
987 are not choppers flying down that low." He said, "By federal law, you can't."  
988 You're an ex-pilot, correct, or a current pilot?  
989  
990 Mr. Johnson - I'm a current pilot. I'm not flying now. As I say, I'm 77  
991 and my eyes are gone.  
992  
993 Mr. Jernigan - He mentioned two conditions, and to the life of me, I  
994 was going to call him.  
995  
996 Mr. Johnson - One condition would be as the helicopter is coming in  
997 to runway 25.  
998  
999 Mr. Jernigan - Mmm-hmm.  
1000  
1001 Mr. Johnson - It's less than 200 feet.  
1002  
1003 Mr. Jernigan - All right. But now he told me—  
1004  
1005 Mr. Johnson - As I mentioned, that thing has rattled my windows.  
1006 The helicopters have rattled my windows as they come over at tree-top level.  
1007 And my neighbors will tell you the same thing. Now, that's not to say that it's  
1008 within FAA regulations.  
1009  
1010 Mr. Jernigan - As you're a pilot, because I don't know this, so I'm  
1011 asking you. At what point do you drop off the radar?  
1012  
1013 Mr. Johnson - You know, I really can't truthfully tell you at what point  
1014 you drop off the radar. I would imagine it's probably 2 or 300 feet though.  
1015  
1016 Mr. Jernigan - Okay. As far as I understood it, they were supposed  
1017 to be under radar control coming in and I don't know what it is.  
1018  
1019 Mr. Johnson - What I'm trying to say, Mr. Chairman, is that there are  
1020 too many what-ifs. I recall probably 8, 10 years ago as a helicopter was coming  
1021 into runway 25, and it chopped the top of a house off over in Lee Park, which is  
1022 in this neighborhood. And it fell right in the middle of the street. Again, back to  
1023 what-ifs. I don't think there's a citizen in this room that would like to walk out the  
1024 back door and face a 157-foot tower or 144-foot tower every day, day in and day  
1025 out, or at nighttime when they're trying to sleep, worrying about aircraft flying in  
1026 and around that tower. That's what we would be faced with. That's not to  
1027 mention the Seven Pines Elementary School where all the children are gathered,  
1028 sports events and other things. This thing would be located only 50 feet from the  
1029 schoolyard. And I rolled it today to make certain I was right. Fifty feet.

1030  
1031 Mr. Jernigan - Well, I'd have to look at the drawings to see exactly  
1032 what it is.  
1033  
1034 Mr. Silber - The setback, Mr. Johnson, is required to be more  
1035 than that. It has to be 110% of the height of the tower.  
1036  
1037 Mr. Johnson - Excuse me, yards. I'm a little bit nervous; I'm sorry.  
1038  
1039 Mr. Jernigan - That's all right, that's all right.  
1040  
1041 Mr. Johnson - Fifty yards.  
1042  
1043 Mr. Jernigan - Yeah. The closest building has to be 110% of the  
1044 height of the tower.  
1045  
1046 Mr. Johnson - You'll have to excuse me again; I'm sorry.  
1047  
1048 Mr. Jernigan - No, you're all right. Like I said, after our meeting,  
1049 that's the reason I did call Mr. Mathiasen. And then, as you well know, it's in the  
1050 record that he sent me another letter saying that they were okay with it at the  
1051 current height. Mainly what he was interested in was he wanted to make sure  
1052 that they didn't have to make any changes at the airport for this. He said FAA  
1053 confirmed that they can run everything as they are now. And not only did I have  
1054 the letter, I talked to him personally to make sure, because I know this is the  
1055 Airport Safety Overlay District, and I wanted to make sure everything was  
1056 straight.  
1057  
1058 Mr. Johnson - Mr. Jernigan, I also feel this, that of the people we  
1059 canvassed, they're speaking about the transmission of these cell conversations.  
1060 Of the people that we contacted, not a single one of them stated that they had  
1061 problems with their cell phone transmissions. Not a single one. As a matter of  
1062 fact, two of the people that we contacted—and I can't tell you exactly who they  
1063 are—are members of the pool who signed that petition. They state they don't  
1064 have any problems with their cell phones. This thing about needing a tower, 150-  
1065 some-foot tower, or 140-some-foot tower for the citizenry and the cell phones  
1066 that they have—I don't believe that's true. I live right behind the airport and I've  
1067 got one. I don't have any problems with my cell phone transmissions at all. Of  
1068 course, I'm with Verizon; maybe that makes some difference.  
1069  
1070 Mr. Jernigan - When we are going to have a tower, I always try to  
1071 make sure that we can have co-locators on it, because that cuts down on the  
1072 amount of towers.  
1073



1074 Mr. Johnson - I mean a Sprint tower. Why not that? Why not the  
1075 Sprint tower? That just don't jive with their business plan. We just do not want to  
1076 suffer as a result of some company needing a competitive advantage.  
1077

1078 Mr. Jernigan - Okay. Are there any other questions for Mr. Johnson  
1079 from the Commission?  
1080

1081 Mr. Johnson - Would you give me time, in the event that you people  
1082 are inclined? Would you give me a postponement, give me the opportunity to get  
1083 some more signatures so that I can prove to you that there's others out there  
1084 who feel exactly as we do?  
1085

1086 Mr. Jernigan - Well, you know when this leaves here tonight, this  
1087 isn't the final hearing. It has to go to the Board of Supervisors. They're the ones  
1088 that decide. What we make is a recommendation to the Board—  
1089

1090 Mr. Johnson - Right.  
1091

1092 Mr. Jernigan - —after hearing this case, and then that's passed on  
1093 up to the Board—  
1094

1095 Mr. Jernigan - —to see.  
1096

1097 Mr. Johnson - Okay.  
1098

1099 Mr. Jernigan - Well, did you have somebody else that wanted to  
1100 speak?  
1101

1102 Mr. Johnson - I don't know. Did you folks want to speak? Thank  
1103 you.  
1104

1105 Mr. Jernigan - Oh, Mr. Johnson, can I ask you one question?  
1106

1107 Mr. Johnson - Sure.  
1108

1109 Mr. Jernigan - How many names did you have on the petition?  
1110

1111 Mr. Johnson - I didn't count them.  
1112

1113 Mr. Jernigan - But nobody showed up, and nobody showed up for  
1114 the meeting.  
1115

1116 Mr. Johnson - I didn't ask anybody to show up.  
1117

1118 Mr. Jernigan - Okay.  
1119

1120 Mr. Johnson - Mr. Canter just lives across the street from me. He  
1121 and I showed up. That was the only two on our street.  
1122  
1123 Mr. Jernigan - All right.  
1124  
1125 Mr. Johnson - I don't think anybody was notified except those  
1126 directly inclined to be associated with that tower, where their properties back up  
1127 there. I haven't talked to a single person, not a single person.  
1128  
1129 Mr. Jernigan - They don't send a notice to—I think they send them  
1130 out to—I'll have to ask Ms. Freye. Anyway, it is listed in the paper. They show all  
1131 the cases coming up. All right. I thank you, sir.  
1132  
1133 Mr. Johnson - Thank you.  
1134  
1135 Mr. Jernigan - All right, Ms. Freye. I forgot what I wanted to ask you,  
1136 but I know what it is now. The tower location that FAA had that he was speaking  
1137 of is eight-tenths of a mile away. Was that looked at by the nTelos people?  
1138  
1139 Ms. Freye - Yes sir. I understand that the site acquisition people  
1140 did go look at every site that he spoke about in that first meeting that we had.  
1141 They revisited them so that we would be able to report back that they did not  
1142 work.  
1143  
1144 Mr. Jernigan - It was outside of the propagation window?  
1145  
1146 Ms. Freye - Each site was either outside or too close to an  
1147 existing tower that we already had, and wouldn't fill this coverage area. This is  
1148 right in the center. If you want me to put that map back up, you can see that it's  
1149 right in the center of the network that they're trying to cover.  
1150  
1151 Mr. Jernigan - Yes, let's put the map back up so everybody can see.  
1152  
1153 Mr. Archer - Was the propagation map the one you wanted to  
1154 see?  
1155  
1156 Mr. Jernigan - She's going to put the propagation map back up.  
1157  
1158 Ms. Freye - That's the existing coverage, which shows the white  
1159 and black area in the center. That's the area that they're trying to cover. The  
1160 next one is the yellow. You can see the purple dots that surround it. Those are  
1161 the other nTelos towers that this one would send and receive from. It needs to  
1162 be situated certain distances from each of those to be able to provide the  
1163 coverage.  
1164

1165 Mr. Jernigan - The tower to the right—and I guess that's 295 there?  
1166 You have a tower to the right and a tower to the left.  
1167  
1168 Mr. Silber - Looks like it's 295 and 64 to the right.  
1169  
1170 Mr. Jernigan - So, the tower is right in the middle. The Sprint tower  
1171 that they're speaking of is 2.8 miles away, so that would throw it out of the  
1172 window.  
1173  
1174 Ms. Freye - Mmm-hmm.  
1175  
1176 Mr. Jernigan - Because the one that's eight-tenths of a mile throws it  
1177 out of the window.  
1178  
1179 Ms. Freye - Yes sir. I don't know if Mr. Johnson is aware, but  
1180 there are taller towers than this that are very close to the airport that have been  
1181 approved. I think there's a 150-foot Virginia Power transmission tower, and I  
1182 think there's one around Lewis Road at 150 feet. The FAA and the airport  
1183 reviewed these very carefully for safety. I feel confident that they would not have  
1184 put in writing that it was not a safety hazard if they had not fully vetted this  
1185 application. They were very cautious about the one at 157. It wasn't until we got  
1186 it lowered to the 144 that they felt comfortable saying they had no opposition.  
1187 The evidence supports that it is not a safety hazard.  
1188  
1189 Mrs. Jones - Mr. Jernigan, at some point, I just have two concerns  
1190 I'd like to throw out.  
1191  
1192 Mr. Jernigan - Oh, you can ask now, Mrs. Jones.  
1193  
1194 Mrs. Jones - Okay. I didn't want to cut you off. This is not really a  
1195 question—these are concerns. This is why I've struggled. This is not in my  
1196 district, but cell tower cases will be a challenge for this Commission always, I  
1197 think, because we are asking more of our cell phones, we're requiring more  
1198 bandwidth. We are on this path and I realize that we're not coming back. People  
1199 are going to need this coverage. On the other hand, this had been pending for  
1200 quite a long while. I've spent quite a lot of time sitting in the parking lot over at  
1201 the recreation center looking and thinking and driving the streets. It's a very  
1202 difficult thing. You've represented your client very well; there's no right or wrong,  
1203 and this is nothing personal with anybody who's come up to talk for or against.  
1204 But here are my two concerns, and if you can add some thoughts, I guess that  
1205 might be beneficial. Even if the FAA doesn't object, it doesn't necessarily mean  
1206 this is the right site. Even if the coverage is needed, that doesn't, by definition,  
1207 mean that this is the place it has to go. With all of the guidelines that we try to  
1208 support about not putting this right next to people's homes and all of the other  
1209 factors that come into placing cell towers, does it mean that if we meet some of  
1210 those, but this is the only option, that it has to go here? It's a real question. Do

1211 we do it, or do we kind of wait and hope that something will come up that will be  
1212 a better site that's just not there now, or do we let the technology get a little more  
1213 advanced—perhaps we can do a little more with a little less. It's a big question  
1214 and I'm not sure this is a good fit for this site. There are so many plusses and  
1215 minuses, but at this point, there are a lot of minuses. Unfortunately, I'm not sure I  
1216 have a better suggestion for you for a site; I didn't see any driving around.  
1217 However, I'm not sure that makes this a good decision.  
1218

1219 Second concern is precedent. We try to treat each cell tower case on its own  
1220 because it is a very specific situation for each location. The Masonic Lodge has  
1221 been brought up here in a way that indicates if we approved that, we really have  
1222 to approve this. That's the danger of precedents. Having been a little bit involved  
1223 with the Masonic Lodge case, I am concerned that should this be approved, that  
1224 all of a sudden, every case that comes up before us, we're going to be talking  
1225 about the Fairfield Recreation Association case. It takes away our ability to look  
1226 at each case on its own. The Masonic Lodge case, in my view, had a lot of  
1227 differences because of the place it was, the way in which the pole was situated,  
1228 the context of the case—it's a lot. And I'm concerned about precedents.  
1229

1230 Those are my two concerns. Do we have to do it even if it's a bad fit for this site  
1231 in a lot of respects, and two, precedents are dangerous in some respects and I'm  
1232 afraid this might be one.  
1233

1234 Ms. Freye - I would actually say that I think this would actually set  
1235 a good precedent because what you said is so true. More and more cell  
1236 companies are going to be looking for sites close to residential development; Mr.  
1237 Kaechele has one in his district now that was just deferred on tonight's agenda  
1238 until March because of trying to find enough screening and a location that doesn't  
1239 have a house on it, but will still serve those residents. So, the challenge is there.  
1240 And particularly, I guess, even in your district, which is so developed, there are  
1241 very few opportunities to get antennas close to homes without having a negative  
1242 impact. The policies for not siting towers close to homes is the visual impact. If  
1243 you look at the visual impact analysis, does this visually impact the neighborhood  
1244 worse than the Masonic Lodge? No, it doesn't. It's not as visible as the Masonic  
1245 Lodge. It was open—it didn't have trees on all four sides of it. It was designed  
1246 with a flag on it to compliment the use on that site, to try to make it compatible,  
1247 but it's the same stealth design—antennas hidden inside a pole. The visibility,  
1248 the visual impact on that neighborhood was greater than—on the homes—what's  
1249 at Fairfield Recreation Center. So, if you look at a precedent, and setting a  
1250 precedent—is, does it have screening, what is the visual impact—and you  
1251 compare that to the visual impact of the precedents that have been set. In this  
1252 case, it's less than the impact that's been set. So, that's the precedent that I  
1253 would see.  
1254

1255 Mrs. Jones - Thank you.  
1256

1257 Mr. Jernigan - Any more questions from the Commission?  
1258

1259 Mr. Archer - I would like to make a comment, if I can, Mr.  
1260 Chairman, if I don't launch into a coughing spasm. I would say probably eight,  
1261 nine years ago when cell phones began to really proliferate, we had three or four  
1262 tower cases almost every time we met. Sometimes it would fill this auditorium up  
1263 just to talk about these tower cases. As time has gone by, if you notice, we had  
1264 a drop off. I think that's mostly because we had filled a lot of tower areas. When  
1265 we first started approving these things, we weren't all that wise and we initially  
1266 started building lower towers so that they wouldn't be obtrusive, with one  
1267 company on them. Then, in somebody's wisdom, we decided, well, if we build  
1268 them higher, we could put two or three or four users on it and have to use less  
1269 towers. So, since that time, we've seen a significant drop-off in the amount of  
1270 towers that we've had to construct.  
1271

1272 The other part of that is—I don't remember who it was did some research on it to  
1273 determine how much we're obligated by the FAA to furnish these towers—maybe  
1274 it was the Federal Communication, the FCC—to furnish these towers whether we  
1275 really like it or not. Mr. Secretary, do you remember what some of that  
1276 correspondence was? I know we studied it at one time. It had to do with  
1277 whether or not we could actually deny a tower location. I know we've done a few.  
1278 We've been harnessed into having to approve most of them, because I just  
1279 recently did one not too long ago in my neighborhood that nobody really liked,  
1280 but we couldn't come up with enough anti to not do it. Do you recall any of that  
1281 correspondence we floated around one time?  
1282

1283 Mr. Silber - Yes. There was a fair amount of research that was  
1284 done a number of years ago. We looked into the rights that local governments  
1285 had in considering towers and tower locations. For a while, it was perceived that  
1286 local governments didn't have a lot of say, that they had to be considered and  
1287 often approved. It was later discovered that that wasn't necessarily true, that the  
1288 local governments did have rights to be able to review it against the land uses  
1289 and the compatibility of neighborhoods, of residential uses. So, there is some  
1290 case law that comes into play. Yes, we researched that extensively, and you're  
1291 right, Mr. Archer, I think things have changed significantly. You may recall we  
1292 even amended the Comprehensive Plan and adopted a section, and placed in  
1293 our Comprehensive Plan some guidelines for reviewing cell towers against land  
1294 uses and compatibility issues. There are some regulations, or some guidelines,  
1295 in our Comp Plan that we review when we evaluate a use permit. But the  
1296 Commission does have, and the Board of Supervisors does have purview in  
1297 determining the appropriate location. That being said, the regulations or statutes  
1298 indicate that you can't prohibit locations of towers in your locality. You can't just  
1299 not allow them. They have to be able to be placed. You have to find suitable  
1300 locations for them and localities have to approve them in suitable locations.  
1301

1302 Mr. Archer - That's what I was trying to get at, I just didn't  
1303 remember what all came out of that. I remember the Board took some offense to  
1304 the fact that it was initially stated that we didn't have the authority to deny, and  
1305 then we discovered that we did have some authority to do that. It's a tough  
1306 situation to be in. I can certainly sympathize with those folks who are opposed to  
1307 it, and can also sympathize with those people who are not getting a cell signal at  
1308 the time that it might be required, because there are some health and safety  
1309 factors that are involved in that part of it. Having said that, I didn't provide  
1310 anyone with an answer. Food for discussion anyway.  
1311  
1312 Mrs. Jones - Willing landlords. You said there were—Obviously,  
1313 that's part of the equation. How many unwilling landlords could be a potential  
1314 site that would serve the need that your client has?  
1315  
1316 Ms. Freye - I could ask the site AC if he has a count of that, of  
1317 how many properties he looked at that would have worked with the setbacks—  
1318  
1319 Mrs. Jones - If the landlord had been willing.  
1320  
1321 Ms. Freye - One? One? There was one. It was a commercial  
1322 site. The airport, apparently, was approached for the 157 height. Just the  
1323 airport.  
1324  
1325 Mrs. Jones - So, the church, which does not need to be named, is  
1326 not a viable option?  
1327  
1328 Mr. Cornell [Off mike] - [Unintelligible.]  
1329  
1330 Mr. Jernigan - Could you repeat that, Ms. Freye?  
1331  
1332 Ms. Freye - The church was not appropriate because they didn't  
1333 have a steeple. They would have had to have built a pole, and it would not have  
1334 met the setbacks. It's a very, very hard area. I understand the frustration that Mr.  
1335 Johnson talked about, about the delay, but we've been working that whole time,  
1336 looking for another site, working with the FAA, working with the airport, reaching  
1337 out to the community. We have six people that showed up here in person to  
1338 support, and we have a map showing you 21 people who support it or who no  
1339 longer, who don't oppose it, who don't have a problem. They're not here, but  
1340 there are cards and writings in the file to document their support, and to  
1341 document their need.  
1342  
1343 Ms. Alvis [Off mike]- [Unintelligible.]  
1344  
1345 Ms. Freye - Ms. Alvis was just saying that the membership of the  
1346 Fairfield Rec Center has 44—excuse me—43 signatures supporting, and we

1347 didn't turn that in. That was part of the Association's deliberations about being a  
1348 landlord in the first place.

1349  
1350 Mr. Jernigan - Okay, thank you. I guess everybody was hoping, and  
1351 I thought through technology that soon we would be satellites and not have to  
1352 worry about cell towers. But apparently through discussions with different people,  
1353 that that may be years away, if it ever happens.

1354  
1355 Mr. Vanarsdall - That's the reason that one of our rules and  
1356 regulations is that the tower will be taken down.

1357  
1358 Mr. Jernigan - Within 90 days.

1359  
1360 Mr. Vanarsdall - Within 90 days, if and when that ever happens. It's  
1361 not like leaving graveyards everywhere; they won't be there.

1362  
1363 Mr. Jernigan - Unfortunately, what I've found out so far is that we  
1364 may never be on satellite technology because it's too complex, and if you have a  
1365 problem, you can't go up and repair it. Second thing is—and everybody, I've  
1366 made no bones about this—I wish these things were declared just like when  
1367 you're going to get power, Virginia Power tells you where you're going to put it,  
1368 and Verizon tells you where you're going to put the phone lines. But when it  
1369 comes to cell towers, everybody has to work around, and I kind of wish the  
1370 government would take over and just tell them where they're going to be. But  
1371 that's not the situation tonight, so we're going to have to make a decision on this  
1372 now.

1373  
1374 Mr. Johnson - Excuse me, Mr. Chairman.

1375  
1376 Mr. Jernigan - You'll have to come down, Mr. Johnson, and I'll hear  
1377 what you have to say.

1378  
1379 Mr. Johnson - I think using the Masonic Lane location and the Lewis  
1380 Road location—I haven't seen the Lewis Road location. I think they're not in  
1381 comparison with what they're trying to attempt here. There's no comparison  
1382 whatsoever. They want to locate a tower right between an elementary school (as  
1383 I say, 50 yards), 40 yards from the neighborhood, and right on the apron of an  
1384 international airport. There is no comparison to those other two locations, in my  
1385 humble belief. That's all I want to say; thank you.

1386  
1387 Mr. Jernigan - Okay, thank you. Marc, you're going to have to  
1388 explain to me on this, but am I understanding? The greater number of phones  
1389 you have, then that works the tower more and then it doesn't cover such a large  
1390 area? Could you come down and explain that? I know now that—and tell me if  
1391 I'm wrong. I know that they plan on putting wireless internet up along with the  
1392 cell towers also?

1393

1394 Mr. Cornell - Yes, Mr. Jernigan, there will be a lot of new  
1395 technology that's going to be used wirelessly that are, today, only available  
1396 through wired connections. Right now, broadband is primarily a wired  
1397 connection, but very soon you'll be able to get the same type of performance  
1398 wirelessly that you can only obtain through a wired connection or cable modem  
1399 or DSL service in your home. That's the technology that we'll be rolling out within  
1400 the next 12 to 18 months regionally.

1401

1402 As far as subscribers go, yeah, as you add a lot more subscribers to a network, it  
1403 does put stresses on the network. But in this particular instance, we're not  
1404 building a site because we have a lot of subscribers stressing coverage and  
1405 people being blocked out of being able to make and receive phone calls. We  
1406 have an area here where people just can't plain use their phone service because  
1407 there isn't a facility close enough to provide them service in the manner that they  
1408 expect to use it. We're really building this in response to our customers' needs.

1409

1410 Mr. Jernigan - All right. I asked Ms. Freye this before, but there isn't,  
1411 in the propagation window, anywhere else that you can put this tower without it  
1412 being in somebody's front yard, back yard, or—

1413

1414 Mr. Cornell - I promise you we would not be here tonight if there  
1415 was an alternative location to go to.

1416

1417 Mr. Jernigan - Okay, thank you.

1418

1419 Mr. Silber - Can you give us your name, please?

1420

1421 Mr. Cornell - My name is Marc Cornell. I'm the Site Development  
1422 Manager for nTelos.

1423

1424 Mr. Silber - Thank you.

1425

1426 Mr. Jernigan - Thank you. Well, I know Livingston did a lot of work  
1427 on this, and we talked about this quite a bit. I understand staff's recommendation  
1428 on this for denial, because, as Mrs. Jones said, they don't want to set a  
1429 precedent for having a cell tower close to an existing neighborhood and, in some  
1430 cases, apparently where there would be a new neighborhood. I don't like it  
1431 either. I wish we didn't have to have it in here, but in reviewing this case—and  
1432 I've been thinking about this for a long time—it comes down to a point that either  
1433 you're going to have a tower or you're not going to have communication. In the  
1434 world today, I don't know how we can move along and not have good  
1435 communication. I've said this before, I get aggravated when I'm watching the  
1436 world news and I see bin Laden talking on a cell phone; he's in Afghanistan.  
1437 That does aggravate me—he aggravates me anyway. But the fact that they're  
1438 doing communication and we're having trouble here... I don't like it here, but in



1439 this case I don't really see—I think that nTelos has searched every other option  
1440 that they can. I feel personally that—and for the better of the citizens of Varina—  
1441 we need a tower. With that, I am going to move for approval of provisional use  
1442 permit P-8-07, Gloria L. Freye for Richmond 20 MHZ, LLC, to send to the Board  
1443 of Supervisors for their approval.

1444

1445 Mr. Vanarsdall - I second.

1446

1447 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.  
1448 All in favor say aye. All opposed say no. We have one in opposition; the motion  
1449 passes.

1450

1451 Mr. Jernigan - Yes

1452 Mr. Vanarsdall - Yes

1453 Mr. Archer - Yes

1454 Mrs. Jones - No

1455 Mr. Branin - Absent

1456 Mr. Thornton- Absent

1457

1458 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.  
1459 Vanarsdall, the Planning Commission voted 3-1 (two absent) to recommend the  
1460 Board of Supervisors **grant** the request because it would provide added services  
1461 to the community.

1462

1463 ***Deferred from the November 14, 2007 Meeting.***

1464 **C-60C-07 Allen Twedt for Kalyan III Inc.:** Request to  
1465 conditionally rezone from O-3C Office District (Conditional) to B-2C Business  
1466 District (Conditional), Parcels 786-770-7883 and 786-770-9586, containing 3.575  
1467 acres, located between the east line of Telegraph Road and the west line of I-95  
1468 approximately 1,170 feet north of JEB Stuart Parkway. The applicant proposes  
1469 increased signage for a hotel use. The use will be controlled by zoning ordinance  
1470 regulations and proffered conditions. The Land Use Plan recommends Office.

1471

1472 Mr. Jernigan - Is there any opposition to C-60C-07, Allen Twedt for  
1473 Kalyan, III, Inc.? No opposition. Good evening, Mr. Sehl.

1474

1475 Mr. Sehl - Thank you Mr. Chairman; good evening to you and  
1476 members of the Commission. This item was previously discussed at the  
1477 November 8<sup>th</sup> Planning Commission meeting.

1478

1479 Subsequent to the November 8<sup>th</sup> meeting, the applicant submitted revised  
1480 proffers limiting the height of detached signage on the property to eight feet  
1481 above road grade. The applicant also revised the proffered sign elevations to  
1482 show brick bases for the detached monument-style signage on the property.

1483

1484 Following further discussion with staff, the applicant has submitted additional  
1485 revised proffers—which are dated today and were distributed to you this  
1486 evening—that remove extraneous language from the proffer limiting sign height.  
1487 These proffers also commit to locating detached signage on the property to the  
1488 areas shown on this exhibit, unless otherwise approved by the director of  
1489 planning.  
1490  
1491 Staff believes these changes address the outstanding concerns presented in the  
1492 staff report, and recommends approval of this request at this time. I'll be happy  
1493 to answer any questions you might have.  
1494  
1495 Mr. Jernigan - Are there any questions for Mr. Sehl from the  
1496 Commission?  
1497  
1498 Mr. Archer - To my fellow commissions, notice at the end of  
1499 Proffer 4, that the words “above road” were stricken, and that’s an important item,  
1500 so just want you all to make note of that.  
1501  
1502 Mr. Jernigan - Okay. Did you want to hear from the applicant?  
1503  
1504 Mr. Archer - I really don’t think it’s necessary.  
1505  
1506 Mr. Jernigan - Okay.  
1507  
1508 Mr. Archer - Ben, is there anything you think they need to explain?  
1509  
1510 Mrs. Jones - Mr. Archer, the “above road grade” was, I thought, the  
1511 critical element so that they could be seen from the highway.  
1512  
1513 Mr. Archer - Yeah, we were able to work through that.  
1514  
1515 Mrs. Jones - Okay.  
1516  
1517 Mr. Archer - This is more preferable.  
1518  
1519 Mrs. Jones - Okay.  
1520  
1521 Mr. Jernigan - Okay, then I’ll entertain a motion from you, Mr.  
1522 Archer.  
1523  
1524 Mr. Archer - Okay. But first, I will move to waive the time limits on  
1525 the proffer.  
1526  
1527 Mr. Vanarsdall - Second.  
1528

1529 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr. Vanarsdall to  
1530 waive the time limits. All in favor say aye. All opposed say no. The ayes have it;  
1531 the motion is passed.

1532

1533 Mr. Archer - Based on staff recommendation and the revised  
1534 proffers, I move for a recommendation of approval of C-60C-07, Allen Twedt for  
1535 Kalyan, III, Inc.

1536

1537 Mr. Vanarsdall - Second.

1538

1539 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr. Vanarsdall. All  
1540 in favor say aye. All opposed say no. The ayes have it; the motion passes.

1541

1542 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr.  
1543 Vanarsdall, the Planning Commission voted 4-0 (two absent) to recommend the  
1544 Board of Supervisors **grant** the request because it is reasonable in light of the  
1545 Business zoning in the area and it is not anticipated to adversely affect adjacent  
1546 properties.

1547

1548 **C-65C-07 James Theobald for W2005 WRL Realty, LLC.:**  
1549 Request to amend proffered conditions accepted with Rezoning Case C-57C-06,  
1550 on Parcel 736-762-2022, located at the southwest intersection of West Broad  
1551 Street (U. S. Route 250) and Lauderdale Drive. The applicant proposes to  
1552 amend proffers related to the conceptual master plan, maximum square footage,  
1553 hours of delivery, uses, and landscaping. The existing zoning is RTHC  
1554 Residential Townhouse District (Conditional) and B-2C Business District  
1555 (Conditional). The Land Use Plan recommends Urban Residential, 3.4 to 6.8  
1556 units net density per acre and Mixed Use. The site is in the West Broad Street  
1557 Overlay District.

1558

1559 Mr. Jernigan - Is there any opposition to case C-65C-07, James  
1560 Theobald for W2005 Realty, LLC?

1561

1562 [Off mike] - Yes, Mr. Jernigan.

1563

1564 Mr. Jernigan - Okay, we do have opposition. All right, Mr. Sehl.

1565

1566 Mr. Sehl - Thank you again, Mr. Chairman.

1567

1568 This is a request to amend proffers accepted with Rezoning Case C-57C-06 to  
1569 revise the conceptual plan for the property and to allow for the development of an  
1570 87,000-square-foot grocery store.

1571

1572 In January 2007, the property was rezoned to B-2C and RTHC to permit the  
1573 development of a retail and townhouse development. No POD's have been filed  
1574 for the development at this time.

1575

1576 The applicant is proposing to amend several proffers from Case C-57C-06. One  
1577 additional proffer is also proposed. The applicant proposes the following  
1578 amendments in the proffers that were dated today, and distributed to you this  
1579 evening.

1580

1581 These proffers include Proffer #1 being amended to reference a revised  
1582 conceptual plan showing the proposed grocery store. This plan has been revised  
1583 since the distribution of the staff report to show the removal of the office building  
1584 at the southwest portion of the site, as well as the relocation of the loading area  
1585 for the grocery store. The revised conceptual plan also shows additional areas of  
1586 green space along Three Chopt Road corresponding to the removal of the office  
1587 and its associated parking. This additional green space and the relocation of the  
1588 loading dock addressed one of the major concerns voiced by nearby residents  
1589 during the community meetings held by the applicant.

1590

1591 Proffer #13u is an addition that would prohibit the sale of any gasoline on the  
1592 property. This proffer was revised in response to resident and staff concerns  
1593 over the possibility of accessory fuel sales associated with the proposed grocery  
1594 store.

1595

1596 Proffer #14 would remove the previous 75,000-square-foot limitation on any one  
1597 retail user for one grocery store on the property. The only use permitted to  
1598 exceed the previous limitation would be the single grocery store. Overall  
1599 development on the property would also be limited to 238,000 square feet.

1600

1601 Proffer #15 would remove the previous requirement for a 40,000-square-foot  
1602 office building on the property, which would allow for additional green space  
1603 between the grocery store and Three Chopt Road extended. The proffer has  
1604 also been revised to restrict the hours of delivery to the grocery store to between  
1605 6 a.m. and 11 p.m.

1606

1607 Additionally, several proffers have been amended to require that landscaping  
1608 plans for the development and buffers on the property be submitted to the  
1609 Planning Commission for review.

1610

1611 In addition to these revised proffers, the applicant has provided Proffer #42,  
1612 which limits the clearing and grading of the RTHC portion of the property until  
1613 development is imminent on that portion of the property.

1614

1615 The most recent revisions to the amended proffers were received today, and time  
1616 limits would need to be waived to accept them this evening. These most recent  
1617 proffers address the items outlined in the staff report and staff believes this  
1618 request is substantially in keeping with rezoning case C-57C-06, and  
1619 recommends it be approved.

1620

1621 Mr. Jernigan - Any questions for Mr. Sehl from the Commission?  
1622 Did you have anything, Bonnie-Leigh?  
1623  
1624 Mrs. Jones - No, I'm just trying to absorb it all here.  
1625  
1626 Mr. Jernigan - All right, now. This was Mr. Branin's case, but he  
1627 couldn't be here tonight, so I spoke to him earlier on this. Everything that's here  
1628 was definitely discussed with him on a phone call, correct?  
1629  
1630 Mr. Sehl - Yes sir. There was another community meeting held  
1631 two evenings ago—Tuesday night—where the applicant referenced there were  
1632 two pending issues from the staff report that they hadn't addressed with some  
1633 proffers. Those were the landscape plans coming back to the Planning  
1634 Commission and the vehicle fuel sales on the property. The applicant, since that  
1635 community meeting, submitted these revised proffers, actually two versions of  
1636 them, because the earliest version didn't have the landscape plans for all of the  
1637 buffers coming back to the Planning Commission, so they were subsequently  
1638 revised. What I tried to provide you this evening was a reference to kind of show  
1639 what changes were made from the original proffers. But they all were discussed  
1640 with Mr. Branin, yes sir.  
1641  
1642 Mr. Jernigan - In the case, it was numbers 1 and 14, the conceptual  
1643 plan and the addition of the—  
1644  
1645 Mr. Sehl - With the original, yes, we had to change that. But  
1646 staff concerns and nearby residents, their concerns, gave rise to these additional  
1647 proffers changes.  
1648  
1649 Mr. Jernigan - Okay. All right. I'd like to hear from the applicant,  
1650 please.  
1651  
1652 Mr. Theobald - Mr. Chairman, ladies and gentlemen. Again, I'm Jim  
1653 Theobald, here this evening on behalf of Archon Group.  
1654  
1655 This case started out, the amendment, in that the original zoning had a  
1656 prohibition against any one user being in excess of 75,000 square feet. Archon  
1657 had a request by Kroger to relocate from its current Brookhollow site to here, but  
1658 the store that was desired was one that provided additional amenities to the  
1659 shoppers. So, the request is to, really, add 12,000 square feet to the size of a  
1660 single user that's a grocery store. What that allows Kroger to do is provide wider  
1661 aisles, and expand their organic and health food sections, and provide a larger  
1662 prepared food section, and put a chef in their store, as well as a wine steward,  
1663 as they have done in the Village of Midlothian where they recently renovated an  
1664 old K-Mart site down there, which has been very, very successful. We believe  
1665 there's a lot of benefit in allowing them to relocate. We've had a lot of discussions

1666 with you and others about the future of Brookhollow and how that might change,  
1667 and this has some ancillary benefits, I think, to that situation.

1668

1669 What I wanted to show was what we really wanted to do, initially, was just revise  
1670 the plan to show a slightly different footprint, and to get an extra 12,000 square  
1671 feet. We met with the Wellesley community throughout the original zoning.  
1672 There's some 40+ conditions in the original case. If you recall, this is the original  
1673 concept plan that is with that case, and you may also recall that we had  
1674 absolutely no opposition at the Planning Commission or the Board level with the  
1675 original case. I think it's because we have sought out the Wellesley residents  
1676 and their board, and discussed this every step of the way. So, this was the  
1677 original, and then I'm going to flip you to the new, just so you see that very little  
1678 has really changed, and most of it is right down here in terms of this area. We  
1679 were always allowed to have a grocery store on this site, but no single user could  
1680 be more than 75,000 square feet. Didn't want to play games where we did a  
1681 75,000-square-foot Kroger, and have their card section or their drug section in  
1682 the 10,000 next door, so we just came in and asked for exactly what we wanted.  
1683 Here's the new plan. Basically, it's the same configuration internal-wise; parking  
1684 with landscaping and circulation; preserving—actually enhancing this focus out  
1685 on the corner. All of the attention, of course, was with this building back here.

1686

1687 At our initial meeting with Wellesley with some 30 to 40 folks, some of whom had  
1688 not participated in the original case, so we had lots of questions. Their very  
1689 strong desire was that we reorient the loading dock, which had been in this  
1690 corner, facing this way. Even with a masonry-screening wall, it was likely to be  
1691 somewhat visible to these townhomes. So, we switched the loading dock; there  
1692 is a masonry wall that's required along the loading area. And they asked that we  
1693 eliminate this office building in this area, provided we leave it green, which we  
1694 have done. Of course, you can't just go ask a group that's as active and  
1695 interested as Wellesley to make one change without, basically, opening up so  
1696 many other issues—we'll go through those in a moment.

1697

1698 Here's an overall aerial perspective where we've now dropped in the Kroger in  
1699 the background. You'll see it remains consistent with the general theme  
1700 previously offered. This is a rendition of the front of the Kroger building. Once  
1701 again, this is consistent with the proffers in the original case. This was the proffer  
1702 showing the rear treatment along Three Chopt Road, the buildings. Once again,  
1703 we're bound by this, continue to be bound by this. This is a little bit of a section or  
1704 an elevation, if you will, that just shows a screening wall treatment. This is  
1705 looking from the Pruitt property east, if you will. So, what you see in this cutaway  
1706 section is the green space provided at the corner, the drive aisles, additional  
1707 plantings, the median within Three Chopt Road, and then, ultimately, the  
1708 townhomes. This is a rendering by leaving that corner, what we're able to  
1709 accomplish in the very back. Again, I think the residents—You're not going to  
1710 see this from Wellesley, and you never were, but I think they were interested in  
1711 making sure that the new townhome residents would, and that those townhomes

1712 would be as of high a quality, and that there would be no prohibitions against  
1713 providing the highest quality product. There were always loading areas on the  
1714 back of these buildings, consistent with the orientation.

1715

1716 So, again, these changes, we've just asked that the one user be able to grow to  
1717 87,000 square feet. That does not include mezzanine space, which you see in a  
1718 grocery store that sorta hangs over the entrance, but we have committed that  
1719 that cannot be more retail space; it really is just office and administrative space.  
1720 There was no cap on the original amount of development, and we have provided  
1721 a cap of—again, at the request of the residents—238,000 square feet, again  
1722 exclusive of the mezzanine. The plan has been revised to delete the office  
1723 building and show the additional green space in the back.

1724

1725 They asked us to restrict the hours of delivery to the grocery store. As you know,  
1726 many grocery stores, while they may close at some point in the evening—and  
1727 they may be restricted, as in this case, to a midnight closing under the B-2  
1728 ordinance—they continue to deliver all night long and restock, which is not  
1729 otherwise prohibited. But here, Kroger has agreed to limit those hours of delivery.  
1730 And, importantly, they didn't want us to clear-cut and grade the townhouse site  
1731 before we had a developer who was really going to do that, to leave those trees  
1732 back there as long as possible, and we have committed to do that. They wanted  
1733 to make sure that notwithstanding that we proffered out automotive service  
1734 stations, that that would also include the fueling islands like you see on some  
1735 wholesale clubs or some grocery stores now, and we did clarify that we did mean  
1736 no gasoline anywhere on the property.

1737

1738 Lastly, at the request of Mr. Branin, and given our relationship with Wellesley, we  
1739 did offer to bring all landscape plans back to the Planning Commission.

1740

1741 Our first meeting with Wellesley on this request, there were a lot of questions,  
1742 there were a lot of concerns. I think staff got a lot of e-mails, most of which were  
1743 echoing the same things. We responded to those issues; we put them in writing;  
1744 we went back to Wellesley. Had about 20-some folks there two nights ago and  
1745 the changes were very well received; people seemed to be very complimentary,  
1746 which is think is evidenced by the lack of lots of folks here tonight. We sort of hit  
1747 the mark with that. We got Mr. Branin happy; we got staff happy. I think we have  
1748 just about all of Wellesley happy.

1749

1750 So, with that I would be happy to answer any questions.

1751

1752 Mr. Vanarsdall - I notice that it says, "Hours of delivery to any grocery  
1753 store on a retail property shall be limited hours between 6 a.m. and 11 p.m." I  
1754 don't remember seeing that much.

1755

1756 Mr. Theobald - Most grocery stores, including Ukrop's, they bring in  
1757 stuff all night long. Now Kroger, they way they distribute to this area, they don't  
1758 need to do that.  
1759  
1760 Mr. Vanarsdall - We have a new Target that abuses that. They say  
1761 that doesn't include them. And now, I was told tonight by Mike Kennedy that  
1762 Lowe's is the same way. So, I'm glad to see that on there.  
1763  
1764 Mr. Theobald - Thank you.  
1765  
1766 Mr. Vanarsdall - It will take care of it.  
1767  
1768 Mr. Jernigan - Any other questions for Mr. Theobald from the  
1769 Commission?  
1770  
1771 Mr. Archer - Mr. Theobald, this isn't all that relevant, but do you  
1772 know where the Kroger Distribution Center is located?  
1773  
1774 Mr. Theobald - None of us know where the Kroger Distribution Center  
1775 is. It's not in Richmond; I think it comes out of Roanoke.  
1776  
1777 Mr. Theobald - Yeah. I think that was Mr. Childers, who is with Kroger  
1778 who was at the community meetings. They didn't have anybody here to—They  
1779 have to schedule the deliveries because it's not local and they don't have people  
1780 there to receive it after hours.  
1781  
1782 Mr. Archer - I was just curious.  
1783  
1784 Mr. Jernigan - Okay, any more questions? Thank you Mr. Theobald.  
1785 All right, we do have opposition. Sir, if you would come on down and state your  
1786 name for the record, please. How are you, sir?  
1787  
1788 Mr. Stepp - I'm fine, Mr. Chairman. My name is Larry Stepp. I'm a  
1789 resident of Wellesley, and sent a letter in dated December the 2<sup>nd</sup> to the Planning  
1790 Office. I wasn't able to make the meeting on Tuesday night with the  
1791 homeowners; I was out of town on business. Much of the proffer does address a  
1792 lot of our concerns, but I still have two or three concerns that I think fall short  
1793 here.  
1794  
1795 Number one, there is no restriction on the operating hours of the grocery store,  
1796 so we're very concerned that that grocery store will be open until midnight. I'd like  
1797 to see the proffer include some shorter closing time, a 10:00 or 11:00 time.  
1798 Concerned about vehicular traffic noise, and alcohol sales happening between  
1799 10:00 and midnight. That's our main concern. We had a major fatality at this  
1800 intersection with drunk driving.  
1801



1802 The second concern with respect to the maximum square footage, I think that's  
1803 unnecessary. The Kroger representative indicated at a Wellesley meeting they  
1804 would still build the store at 75,000 square feet. We're not looking for a big box.  
1805 We don't want Three Chopt Road to look like Midlothian Turnpike. The  
1806 development could still occur, it will still be there under the current square  
1807 footage. So, we see the 87,000 square feet as unnecessary.

1808  
1809 The third one really had to do with the delivery of the grocery trucks, the tractor-  
1810 trailers coming into the store. It's helpful that there is some time in here that  
1811 limits it. I'm concerned about 11:00 p.m. I'm concerned about tractor-trailer  
1812 coming in and out of Three Chopt Road across from those townhomes that late  
1813 in the evening. Would like to also see that restricted a little bit more to 9:00 or  
1814 10:00.

1815  
1816 Mr. Jernigan - To what time, sir?

1817  
1818 Mr. Stepp - Nine or ten p.m. Some reasonable hour that would,  
1819 again, keep the quality of the neighborhood, the quality of the townhomes.  
1820 We're very concerned that the townhomes across from this store be quality  
1821 townhomes. That's the only buffer we have between Wellesley and all the  
1822 development on West Broad Street. I'm not sure they would be quality  
1823 townhomes if there are tractor-trailers moving in and out of there at 10:00 or  
1824 11:00 at night. It seems to me that would be unnecessary. I think you could still  
1825 function the store with a shorter time.

1826  
1827 I would recognize the developer's made a lot of changes, and they are positive  
1828 changes, and we appreciate that. So mainly, it's operating hours of the store,  
1829 maximum square footage of the store. It's 14 and 15, in terms of the proffers that  
1830 are listed here, that we still have a lot of concerns about. I'd ask you to consider  
1831 those. I'd ask you to consider to deny the request until such time as there are  
1832 some additional changes to these documents. Thank you.

1833  
1834 Mr. Jernigan - All right, Mr. Stepp, don't go anywhere yet. I'm in a  
1835 little bit of a disadvantage because I'm working this case for Mr. Branin tonight,  
1836 but I did talk to him earlier today to make sure everything was straight. You do  
1837 have a HOA in Wellesley?

1838  
1839 Mr. Stepp - Yes sir, we do. That's correct.

1840  
1841 Mr. Jernigan - On our discussion with him, he told me that the HOA  
1842 seemed to be okay with this.

1843  
1844 Mr. Stepp - I'm not speaking on behalf of the HOA; I'm speaking  
1845 on behalf of just being a resident of the neighborhood next to this development.

1846  
1847 Mr. Jernigan - Okay.

1848  
1849 Mr. Stepp - I did miss the meeting Tuesday night. I was in  
1850 California; I couldn't attend.  
1851  
1852 Mr. Jernigan - Okay. I don't know what time they plan on doing  
1853 this—I believe the zoning is B-2, so they can be open till midnight.  
1854  
1855 Mr. Stepp - I find that of grave concern, personally. That's what I  
1856 wanted to express.  
1857  
1858 Mr. Jernigan - I'll ask Mr. Theobald when you come back up on that.  
1859 On alcohol sales, normally that's a problem, but it's not just a problem here.  
1860 Alcohol sales, people just don't do what they're supposed to do. I don't know that  
1861 limiting the time on that is going to do it. Most stores don't have restrictions on  
1862 alcohol sales after certain—If a store is open until midnight, they don't cut alcohol  
1863 off at 6. The state, I believe, cuts it off at midnight. I think it's a state law. Correct  
1864 me if I'm wrong, Mr. Silber, but you can't buy alcohol between midnight and 6:00  
1865 in the morning. Am I correct on that? Even in your 7-Eleven stores, after  
1866 midnight, you can't sell any alcohol.  
1867  
1868 Mr. Vanarsdall - It is a state law, not a local law.  
1869  
1870 Mr. Silber - Yes sir.  
1871  
1872 Mr. Jernigan - Okay.  
1873  
1874 Mr. Stepp - My only thing there, sir, is that as you close the store,  
1875 a grocery store—The Ukrop's, for example, on Pump Road, closes at 10 p.m.  
1876 There is a period of closing time where people are in the store still shopping.  
1877 There's a period of closing time where the employees are leaving and the store is  
1878 being set up, the alarms, etcetera, and it can run another 30 minutes after that.  
1879 So, you have people that could, in theory, be in the store just before midnight,  
1880 still shopping for another 30 minutes actually in that store. And it seems to us  
1881 that that's just a little bit too late for that development and for that type of traffic.  
1882  
1883 Mr. Jernigan - The last thing you said was about the quality of the  
1884 townhomes. As far as that, I know that was worked out in the proffers before.  
1885 There are not any changes in the townhomes. Best as I can remember this case,  
1886 they were pretty nice. I guess you were referring to having late traffic, that you  
1887 think that you won't have the quality of people or—  
1888  
1889 Mr. Stepp - Quality of townhomes, as well as someone wanting to  
1890 just invest in the property behind the Kroger. If there were tractor-trailers moving  
1891 in there at 11:00 at night, if there were people still shopping between 11:00 and  
1892 12:00, it would seem to me that that would be a challenge to make that the  
1893 quality townhome community that we hope to have between us and this

1894 development. I look at it like would I buy a townhome behind a Kroger when I  
1895 saw that amount of traffic and saw the opening hours of that store. I think the  
1896 answer for me personally would be no I would not. So, then it become what is  
1897 that townhome community going to look like and what's the quality going to be. I  
1898 think it would be higher with an earlier closing time of the grocery store.  
1899

1900 Mr. Silber - Mr. Stepp, let me just interject this—and I think the  
1901 applicant should come back up and address his questions. I think we share  
1902 some of your concerns as well, as far as the relationship between the  
1903 townhouses and the back of this center. That's why so much time was spent on  
1904 trying to get the protection through landscaping and open space, and buffering  
1905 and screening so that the back of this center doesn't impact the residences.  
1906 There obviously will be some impact. You have these two uses that are very  
1907 different, separated by this four-lane road with a median. The way the building's  
1908 been turned, the direction of the loading docks, the removal of the office  
1909 buildings, and enhancement of landscaping, I think this could be viewed as  
1910 improvement over what was there before, because there was less landscaping,  
1911 you would still have retail back there, and you could potentially still have tractor-  
1912 trailers coming in servicing the other retail on the site. So, I understand your  
1913 concern, and I think we need to understand there is going to be a relationship  
1914 here that could have some impact, but we're trying to do the best we can in  
1915 screening with the landscaping.  
1916

1917 Mr. Stepp - I would agree with you, this is a vast improvement  
1918 over what was originally presented. I'm just concerned about the operating hours  
1919 of that store, and the building there.  
1920

1921 Mr. Jernigan - Are there any other questions for Mr. Stepp?  
1922

1923 Mr. Stepp - Thank you.  
1924

1925 Mr. Jernigan - Thank you, sir. Mr. Theobald, would you come back  
1926 up, please? Jim, time. If we can clear this up. You have the management  
1927 people here, do they know, roughly, what the hours are going to be?  
1928

1929 Mr. Theobald - 7 a.m. to midnight.  
1930

1931 Mr. Jernigan - Okay.  
1932

1933 Mr. Theobald - Just for your information, though, I did take a moment  
1934 to check the Shoppes at Westgate, which are directly across Lauderdale Drive,  
1935 as well the Short Pump Town Center. At the Shoppes at Westgate—also zoned  
1936 B-2—there are no restrictions on hours of operation, nor any restrictions on hours  
1937 of delivery. This at least has restrictions on hours of delivery for the one user that  
1938 would be prone to try to actually deliver in the middle of the night. Short Pump  
1939 Town Center has permission through their zoning—They're a B-3 case, but their

1940 retail and food operations are allowed to be open until 2 a.m. every day. This is  
1941 consistent, or less, frankly, than the others that are directly across both streets.  
1942 The extra 12,000 square feet does give us the additional opportunity to provide  
1943 upscale, high quality with the kinds of services that folks that live in this area  
1944 desire. And I think apropos of Mr. Silber's comment, if you just stare at the back  
1945 of this for just a moment, along Three Chopt, and then I flip you back—no, it  
1946 didn't flip back; let's go back here—to the original, you'll know we still had loading  
1947 courts, we had large junior department stores with loading courts here and here  
1948 as well. So, the back of the house, if you will, has only gotten better. So, nothing  
1949 has really changed in terms of impacts, expected impacts on this area.

1950  
1951 Mr. Jernigan - In the old case, were the times of delivery restricted?

1952  
1953 Mr. Theobald - No, none whatsoever.

1954  
1955 Mr. Jernigan - Okay. Any other questions for Mr. Theobald?

1956  
1957 Mrs. Jones - Do you happen to know the Kroger hours on  
1958 Quioccasin?

1959  
1960 Mr. Theobald - Kroger has a number of 24-hour stores in Richmond.  
1961 Some of those 24-hour stores have actually been rolled back to midnight. Like  
1962 most retailers, if there are customers who routinely utilize their stores, they stay  
1963 open till whenever. Here, it could only be midnight. I don't honestly know about  
1964 that.

1965  
1966 Mrs. Jones - I keep thinking that's midnight. Okay.

1967  
1968 Mr. Jernigan - Mr. Stepp, I'm sure you heard in the last case—you  
1969 don't have to get up—that ours is a recommendation that goes to the Board of  
1970 Supervisors, so this will come up again with them on a later date. All right.

1971  
1972 Mrs. Jones - Mr. Jernigan, since this is Mr. Branin's district and  
1973 he's been so involved, whatever we decide to do, should we suggest that the  
1974 issue of hours be discussed, certainly between now and the Board, just so he's  
1975 aware of this? That seems to be a pivotal issue for the opposition.

1976  
1977 Mr. Jernigan - Yeah. We can note it in the records. It is noted  
1978 because Mr. Stepp stated it for the record, but I'll discuss it with him when he  
1979 gets back. Mr. Branin told me that he did meet with the Wellesley HOA and felt  
1980 at this time everything was okay with, I guess, the majority of the neighborhood.  
1981 I'm not saying it's 100%, because Mr. Stepp is here. I told him that unless—I  
1982 know how he feels about this case—something jumped at me that hadn't been  
1983 brought up at all, I figured it would be okay. So, what I'm going to do on that is  
1984 I'm going to recommend approval of C-65C-07, James Theobald for W2005  
1985 Realty, LLC—

1986

1987 [Off mike] - You need to waive the time limits.

1988

1989 Mr. Jernigan - Excuse me. I'd like—Thank you. I'd like to waive the  
1990 time limits on case C-65C-07, James Theobald for W2005 Realty, LLC.

1991

1992 Mr. Vanarsdall - Second.

1993

1994 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.  
1995 All in favor say aye. All opposed say no. The ayes have it; the motion carries.

1996

1997 Mr. Jernigan - With that, I would like to move for approval of C-65C-  
1998 07, James Theobald for W2005 Realty, LLC, and move it to the Board of  
1999 Supervisors for their approval.

2000

2001 Mr. Vanarsdall - Second.

2002

2003 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.  
2004 All those in favor say aye. All opposed say no. The ayes have it; the motion  
2005 passes.

2006

2007 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr.  
2008 Vanarsdall, the Planning Commission voted 4-0 (two absent) to recommend the  
2009 Board of Supervisors **grant** the request because the amendments do not reduce  
2010 the original intended purpose of the proffers, and the changes are not anticipated  
2011 to adversely affect adjacent properties.

2012

2013 Okay. I guess the next thing on the agenda would be the minutes. Do we have  
2014 any corrections?

2015

2016 Mr. Silber - This would be the minutes of November 8, 2007.

2017

2018 Mrs. Jones - Mr. Chairman, I read the minutes fairly quickly and  
2019 there's one or two little typographical things, which we can correct. In substance,  
2020 I believe they're fine and I would like to move for approval.

2021

2022 Mr. Vanarsdall - Second.

2023

2024 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Vanarsdall.  
2025 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

2026

2027 Okay, do we have a motion to adjourn?

2028

2029 Mr. Silber - I have one more item. Mr. Vanarsdall, if you can give  
2030 me a minute here. We have a little short presentation. We probably should have  
2031 added this to the agenda, but it slipped our minds. We wanted to share with you

2032 a concept as we are preparing our budget for the coming year. We were looking  
2033 for ways to improve efficiency and productivity. The County is attempting to go to  
2034 a more paperless method of document management. We're moving more into  
2035 electronic forms of document management. In looking for ways to improve, we  
2036 have explored the possibility of placing within our budget for submission—which  
2037 is due to be submitted within the next week or two—exploring the possibility of  
2038 acquiring laptop computers for members of the Planning Commission—with  
2039 printers—that you could use from home to receive information, perhaps agendas,  
2040 perhaps have access to information that you now don't have access to.

2041  
2042 Before going any further, I've asked Joe Emerson to present our concept to you.  
2043 He has his expert here in case he needs additional information or backup. We  
2044 wanted to just take a few minutes. We were hoping this meeting would end  
2045 earlier so we wouldn't be so late in explaining this to you. We want to take a few  
2046 minutes to get your input and tell you a little bit about what we have in mind.

2047  
2048 Mr. Emerson - I'll make this relatively quick and painless. I do have  
2049 with me the head of our Planning Systems section, Jon Steele. I don't know how  
2050 many of you have had the opportunity to meet him, but his expertise and ability in  
2051 this section will play a big role in what I'm going to speak to you briefly about. I  
2052 hope you'll be as excited about this as we are. We feel like what we're putting in  
2053 the budget this year in order to enable the Planning Commission to access more  
2054 information and work more efficiently, I think, and probably embellish your work  
2055 to an even greater level than you currently do is an exciting move.

2056  
2057 What we're trying to do this year is we're calling it Planning Commission's  
2058 Information Resource Initiative. What this will entail is trying to computerize the  
2059 majority of the deliveries, agenda packages, and things that you receive, along  
2060 with enabling you to access the County network, set up e-mails, have access to  
2061 different sources of information. We have built into the budget funds to purchase  
2062 six laptops for the Commission, and also additional funds for printers. We're  
2063 going to experiment with this project to determine what the best format is for this  
2064 to work. Along with the laptops, in order to make it easier for you to work with at  
2065 home, we are purchasing what we call a docking station—it really is a stand—  
2066 along with keyboards and an additional mouse, so it will operate exactly like a  
2067 desktop in your home environment. So, you'll have a monitor and you'll be able  
2068 to use your keyboard and things like that.

2069  
2070 Again, this is moving you into state-of-the-art type of information technology. It  
2071 should reduce the dependency on the large volumes of printed paper that you  
2072 receive. And it also should aid in quicker dissemination of information, and it'll  
2073 take out the necessity of hand-delivering a lot of documents and information that  
2074 we receive and try to get to you. Again, it will also give you access, as it will give  
2075 you County network accounts; it'll provide you remote access accounts; we'll set  
2076 you up a County e-mail account. Again, you'll get laptop computers. It'll have  
2077 Microsoft Office software on it. All of this won't happen at once, so don't get too

2078 concerned right off the bat. You'll have a dedicated website for electronic  
2079 information resources that we can place there for you. And we'll also provide  
2080 training for you, obviously, and support. We have enough staff that we can send  
2081 someone out that is trained. Jon has two folks that help him in this aspect, and  
2082 we just added a new person that's very adept at this, that we'll have available to  
2083 come out and assist you as we work through this process.

2084  
2085 Again, what we're thinking is the network and e-mail accounts will provide you  
2086 with better communication and collaboration between staff and your constituents.  
2087 We will be able to provide you additional information, as I said, such as your  
2088 agendas; your packets; your staff reports; memos; maps and graphics; facts and  
2089 figures; demographic statistics; current lists of development cases. I think the  
2090 possibilities of this are really endless.

2091  
2092 The Board already does some of this, but not quite to the extent that we would  
2093 like to get to over several years. So, in a way, we hope this will turn into a pilot  
2094 program that will move on up to information that they will use. The Board  
2095 currently—I don't know if you've ever been to their meetings—well, I know you've  
2096 been to their meetings. But you'll notice they don't carry a whole lot of paperwork  
2097 with them to the meetings. They have a package that's placed on those  
2098 computers that are in front of you. You'll notice you have a little switch up there  
2099 that says, "local" and "system." You can switch back and forth on the screen. So,  
2100 if there's a presentation going on and you want to pull up a staff report, or some  
2101 notes that you've made, or something that's been entered in the system, you  
2102 punch the button, and you pull up your other screen, and you pull that information  
2103 out in your folder. So, that would enable you to even go into the system. If there  
2104 was something that you needed to know, there's a presentation going on—oh,  
2105 yeah, I need to know this; I have a question—you can go in. Once you get adept,  
2106 you could go into the system, pull that information up, and just say, okay, I've got  
2107 this, this is my question, and based on this information, Mr. Presenter, I'd like to  
2108 ask you this. You can see how powerful this tool could be.

2109  
2110 Now, we anticipate dividing this into phases, because we don't want to  
2111 overwhelm you. Phase 1 would involve assembling a project team, surveying the  
2112 Commissioner's needs, brainstorming with you on possible information you may  
2113 want, resources we can make available to you. Then we'll divide that huge list  
2114 into at least three categories. Depending on how large it is, we might divide it  
2115 into more. Then we'll focus down on immediate information that we think would  
2116 really be beneficial. A lot of that probably, initially is going to be agenda packages  
2117 and things like that that we can park on a server, that you can come into the  
2118 system and pick up, and look at, and things like that, versus trying to deliver  
2119 hardcopy. We have very different ideas of how to accomplish this. We have to  
2120 work some of these things out. What we'll ask, once we get to that point, is for  
2121 two volunteers on the Commission that want to serve as the pilot program, and  
2122 we'll work with you over four or five months, probably beginning right after the  
2123 budget year, because we have to get our funds approved. We can start a lot of

2124 our planning once we know we're funded. We cannot start actually purchasing  
2125 hardware and things until after the beginning of the fiscal year, which would be  
2126 July 1.

2127

2128 So, we would move forward. We would purchase the equipment for probably two  
2129 Commissioners. We would start working with those volunteers, determining how  
2130 this works, debugging it. Once we got through that, we determined where our  
2131 issues were and we had solved all our issues and concerns, we'd move forward  
2132 and bring the other Commissioners into the program.

2133

2134 We're very excited about it. We think that, number one, it keeps you on the  
2135 cutting edge, keeps you at the forefront of the Planning Commissions not only in  
2136 the state, but probably in the nation. Also, it just makes us all much more  
2137 efficient.

2138

2139 With that, myself or Jon is here. He can answer the questions far better than I.  
2140 Any questions you may have about this or concerns, certainly we'd like to hear  
2141 them.

2142

2143 Mr. Silber - Do you have any initial thoughts or reactions? We  
2144 don't want to scare you. It's not being forced upon you. It's an opportunity that's  
2145 being given to you. If you still want to receive some forms of your packet, we can  
2146 transition over a period of time. Or there may be some of you that just don't want  
2147 to go there. The County really is beginning to move more towards electronic  
2148 document management, instead of providing these volumes of staff reports and  
2149 information. If there are better ways of doing it, we want to try and explore those.  
2150 We probably can save money over time, probably considerably.

2151

2152 Mr. Archer - Would this system be proprietary, or could we access  
2153 other sites? Is it just networked into the County and that's it?

2154

2155 Mr. Emerson - Once you get on the County network, you would have  
2156 access out into other realms. You probably would be restricted to certain areas,  
2157 at least initially, within the County intranet site. Jon, do you want to address that  
2158 a little bit more?

2159

2160 Mr. Steele - Right now, these computers—To my knowledge—and  
2161 Fred would have to explain this—I believe all of these computers up here right  
2162 now cannot access the Internet outside of the County's intranet that the County  
2163 has. You would have access to everything, I guess, employees have, minus the  
2164 Internet, and that could be possibly changed. I don't know all that's involved with  
2165 that.

2166

2167 Mr. Jernigan - I think these do go on the Internet. These are not—

2168

2169 Mr. Jernigan - —outside County regulations.



2170  
2171 [Off mike] - Yes, I believe you can.  
2172  
2173 Mr. Steele - Oh, okay, I wasn't sure.  
2174  
2175 Mr. Jernigan - All right. Well, Joe, let me—So, none of the cases  
2176 would be sent, period; they would just be all electronic and we would download  
2177 them.  
2178  
2179 Mr. Emerson - Yes. And as Randy noted, the County's moving more  
2180 and more into electronic document management. All our documents are going  
2181 electronic. We're scanning everything in. You'd have access to old cases. As  
2182 we move through this and we got to the point where we were comfortable with the  
2183 system working well, we would be able to provide you that. We're not exactly  
2184 sure how your access is going to be into the system right now. We may either set  
2185 it up to where it's programmed. You can dial into our system through phone  
2186 access. We may initially start delivering packages to you on CD or something.  
2187 There are a lot of different ways we can approach the initial steps. We may, as  
2188 we move through it, place funding to pay for Internet access for you to be able to  
2189 get into the system. The laptops, we currently have laptops with our inspectors  
2190 that have what we call an EVDO card—did I get that acronym correct?  
2191  
2192 Mr. Steele- Mobile card.  
2193  
2194 Mr. Emerson - It's a mobile card. It essentially turns your laptop into  
2195 a cell phone that would allow you to carry this with you. They will be wireless  
2196 anyway. You'll have a wireless component with it. You can take it on vacation.  
2197 You could stop at Starbucks or Panera, wherever you happen to be, and check  
2198 in. We wouldn't have to FedEx your packages to you any longer; you could just  
2199 go right in and pick it up. So, there are a lot of advantages to it. I think it gives  
2200 you a lot of freedom. It's a very powerful tool.  
2201  
2202 Mrs. Jones - I can remember coming to your office on at least three  
2203 or four occasions, trying to zero in for research purposes. I'd have to come sit  
2204 down with somebody in the Planning Office and have them look at the locator to  
2205 try to get to a certain—because I didn't know what the case number was; it was  
2206 long before my time. But I didn't have that ability through the website. It would  
2207 really, really help. What I'm hearing from you is that we will have those abilities  
2208 as if I were sitting at a computer in the Planning Office.  
2209  
2210 Mr. Emerson - You would, eventually, as we work through it and get  
2211 everything debugged. Obviously, we have to crawl before we can walk, but you  
2212 would have access to that. We have the Web GIS, which is a little bit easier user-  
2213 based tool versus the Arc GIS. I think we could probably work out something  
2214 where we could have a Planning Commissioners' toolbar that would link you to

2215 the various uses that would be most applicable to you. Those are things that Jon  
2216 and his staff would develop.

2217

2218 Mrs. Jones - That would be great. This is envisioned with a printer,  
2219 as well? So, you're not expecting us to—Obviously, paperless is a pretty far-  
2220 reaching goal. I, for one, like to carry things around with me as I'm driving  
2221 around and looking, so, obviously, I'd be printing out some things.

2222

2223 Mr. Emerson - Print it out. Provide you with supplies for the printer  
2224 and things. We're planning on being able to take care of all that for you.

2225

2226 Mrs. Jones - Have I just been under a rock, or has this been  
2227 discussed and I had no clue? This is the first—

2228

2229 Mr. Emerson - Well, we've internally bounced it around probably for  
2230 about the last year, and we have enough money in the budget to fund it this year.

2231

2232 Mrs. Jones - I feel like I've just gotten—

2233

2234 Mr. Jernigan - Well Joe, you know I think it's a good idea, because I  
2235 made the comment myself one time—Remember the Gleneagles case that  
2236 probably got deferred 19 times? I figured they used a whole case of paper just  
2237 on that, because we got one in the packet every time.

2238

2239 Mr. Vanarsdall - It would save us tons and tons of paper.

2240

2241 Mr. Jernigan - I'll make this announcement. I just had my DSL  
2242 connection come in today from Verizon, so this is good timing. I tried to  
2243 download six e-mails the other night; it took two hours on dialup.

2244

2245 Mr. Archer - Where have you been?

2246

2247 Mr. Jernigan - Somebody sent me some pictures.

2248

2249 Mr. Archer - What is dialup?

2250

2251 Mr. Jernigan - Well, I'm not under the rock, but I'm just kinda up on  
2252 the edge of it. That made the decision for me. When I went up there and I says,  
2253 "Still downloading 2 of 6," and it had been on there for 45 minutes, I was about  
2254 ready to—So, I've got that coming.

2255

2256 Mrs. Jones - This is very exciting.

2257

2258 Mr. Emerson - You'll be getting elevations and things like that. When  
2259 staff gets color elevations, you don't have to wait on them because you'll be able  
2260 to pull them up and look at them.

2261  
2262 Mr. Steele - All your mapping will be what you see up on these  
2263 screens. That's what you will see in front of you, and you'll actually have a color  
2264 printer that you could actually print those color maps out. That touches me,  
2265 because a lot of those maps, you almost have to have the color to even hardly  
2266 decipher what's going on. It really, I think, will enhance your ability just to make  
2267 those maps out.  
2268  
2269 Mr. Jernigan - I bought a new laptop, a Hewlett-Packard, a few  
2270 months ago, and it's just done everything; it's a bullet. But I'm working with slow  
2271 ammunition right now. But anyway, this is going to be good. My wife told me to  
2272 get rid of the old computer because she wanted to use that room for something.  
2273 I have a nice computer table and all. So now, she'll be delighted to know I'm  
2274 getting a new County computer.  
2275  
2276 Mr. Emerson - We're very excited about it—I am. I think it's a huge  
2277 step forward for us.  
2278  
2279 Mr. Steele - That's kind of an example of what we're looking at  
2280 getting.  
2281  
2282 Mr. Jernigan - What brand is that?  
2283  
2284 Mr. Emerson - It's a Dell.  
2285  
2286 Mr. Steele - The County is pretty much all Dell.  
2287  
2288 Mr. Emerson - It's a state contract, so that's what we work through  
2289 on.  
2290  
2291 Mr. Silber - At this point, we're simply putting it into our budget.  
2292 We will be making the submission of this budget, I guess, is next week.  
2293  
2294 Mr. Emerson - It's Monday.  
2295  
2296 Mr. Silber - Monday. We then have to present our budget in  
2297 February, and again in March to the Board of Supervisors, and it's usually  
2298 adopted in April. So, assuming all of this takes place, we can bring these to you  
2299 and begin this program. It's not a done deal yet, but we wanted to tell you about  
2300 what we're working on.  
2301  
2302 Mr. Emerson - I guess what we'd ask is if you feel pretty positively  
2303 about it, that you mention that to your individual Board members. That would help  
2304 us in terms of support, I would think.  
2305  
2306 Mr. Silber - Okay.

2307  
2308 Mr. Jernigan - Thank you, Joe.  
2309  
2310 Mr. Archer - Thank you so much.  
2311  
2312 Mr. Silber - Thank you. That's all we have.  
2313  
2314 Mr. Jernigan - Anything else?  
2315  
2316 Mr. Silber - No.  
2317  
2318 Mr. Jernigan - Can I have a motion?  
2319  
2320 Mr. Archer - So moved.  
2321  
2322 Mr. Jernigan - Meeting's adjourned.

2323  
2324 The meeting was adjourned at 9:14 p.m.  
2325  
2326  
2327

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2328 Randall R. Silber, Secretary  
2329  
2330

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2331  
2332 Mr. E. Ray Jernigan, Acting Chairman  
2333