

1 Minutes of the regular monthly meeting of the Planning Commission of the  
2 County of Henrico, held in the Glen Echo Building, adjacent to the Eastern  
3 Government Center at 3810 Nine Mile Road, beginning at 7:00 p.m. Thursday,  
4 December 11, 2008. Display Notice having been published in the Richmond  
5 Times-Dispatch on November 20, 2008 and November 27, 2008.

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Members Present: Mr. E. Ray Jernigan, C.P.C., Chairperson (Varina)  
Mrs. Bonnie-Leigh Jones, Vice Chairperson (Tuckahoe)  
Mr. Tommy Branin, (Three Chopt)  
Mr. C. W. Archer, C.P.C. (Fairfield)  
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)  
Mr. R. Joseph Emerson, Jr., Director of Planning,  
Secretary

Members Absent: Mr. Richard W. Glover (Brookland)  
Board of Supervisors Representative

Also Present: Ms. Jean Moore, Assistant Director of Planning  
Mr. James P. Strauss, Principal Planner  
Mr. Seth Humphreys, County Planner  
Mr. Livingston Lewis, County Planner  
Mr. Roy Props, County Planner  
Mr. Benjamin Sehl, County Planner  
Ms. Jamie Sherry, County Planner  
Ms. Lisa Taylor, County Planner  
Mr. Mike Jennings, Traffic Engineer  
Ms. Sylvia Ray, Recording Secretary

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**THE PLANNING COMMISSION RECONVENED AT 7:00 P.M.**

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Mr. Jernigan - All right, ladies and gentleman, I'd like to resume the  
12 meeting. On behalf of the Planning Commission and the Planning staff, we'd like  
13 to welcome you to your December 11, 2008 meeting. I'd like to start off the night  
14 by giving the Pledge of Allegiance to the Flag.

15

16

With that, I'd like to turn the meeting over to Mr. Emerson, our secretary.

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18

Mr. Emerson - Thank you, Mr. Chairman. The first item on your  
19 agenda tonight are requests for withdrawals and deferrals. Those will be  
20 presented by Mr. Jim Strauss.

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22

Mr. Jernigan - Good evening, Mr. Strauss.

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24

Mr. Strauss - Thank you, and good evening. Staff is aware of three  
25 requests for deferrals this evening. The first request is in the Three Chopt

26 District. It's on page 1 of the agenda, P-19-08, Towne Center West, LLC. This is  
27 a request for a Provisional Use Permit in order to allow outside dining for a  
28 proposed restaurant in the Towne Center West Shops. The applicant is  
29 requesting deferral to the January 15, 2009 meeting.

30  
31 **P-19-08 Brian Revere for Towne Center West, LLC:**  
32 Request for a Provisional Use Permit under Sections 24-58.2(d), 24-120 and 24-  
33 122.1 of the County Code in order to allow outside dining for a proposed  
34 restaurant in the Towne Center West Shoppes, on part of Parcel 735-764-7344,  
35 located approximately 660 feet north of W. Broad Street (U. S. Route 250)  
36 approximately 1,200 feet west of its intersection with N. Gayton Road. The  
37 existing zoning is B-2C Business District (Conditional). The Land Use Plan  
38 recommends Mixed Use Development. The site is in the West Broad Street  
39 Overlay District.

40  
41 Mr. Jernigan - Is there any opposition to deferral of P-19-08, Brian  
42 Revere for Towne Center West, LLC? No opposition.

43  
44 Mr. Branin - Mr. Chairman, I'd like to move that P-19-08, Brian  
45 Revere for Towne Center West, LLC, be deferred to the January 15, 2009  
46 meeting, per the applicant's request.

47  
48 Mr. Vanarsdall - Second.

49  
50 Mr. Jernigan - Motion by Mr. Branin, seconded by Mr. Vanarsdall.  
51 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

52  
53 At the request of the applicant, the Planning Commission deferred P-19-08, Brian  
54 Revere for Towne Center West, LLC to its meeting on January 15, 2009.

55  
56 Mr. Strauss - The next request is on page 2 of your agenda, and is  
57 in the Tuckahoe District. This is P-20-08, New Cingular Wireless. This is a  
58 request for a Provisional Use Permit in order to construct a 102-foot high  
59 telecommunications tower. The applicant is requesting a deferral to the January  
60 15, 2009 meeting.

61  
62 **P-20-08 Gloria L. Freye, Esquire for New Cingular Wireless**  
63 **PCS, LLC:** Request for a Provisional Use Permit under Sections 24-95(a)(3), 24-  
64 120 and 24-122.1 of Chapter 24 of the County Code in order to construct a 102'  
65 high flagpole-style monopole telecommunications tower and related equipment,  
66 on part of Parcel 732-749-5405, located on the east line of Gayton Road  
67 approximately 900 feet north of its intersection with Cambridge Drive. The  
68 existing zoning is B-1 Business District. The Land Use Plan recommends  
69 Commercial Concentration.

70

71 Mr. Jernigan - Is there any opposition to deferral of case P-20-08,  
72 Gloria L. Freye, Esquire for New Cingular Wireless, PCS, LLC? There is no  
73 opposition.

74  
75 Mrs. Jones - I move that P-20-08, Gloria L Freye, Esquire for New  
76 Cingular Wireless, PCS, LLC, be deferred to the January 15, 2009 meeting, per  
77 request of the applicant.

78  
79 Mr. Branin - Second.

80  
81 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Branin. All in  
82 favor say aye. All opposed say no. The ayes have it; the motion passes.

83  
84 At the request of the applicant, the Planning Commission deferred P-20-08,  
85 Gloria L. Freye, Esquire for New Cingular Wireless, PCS, LLC, to its meeting on  
86 January 15, 2009.

87  
88 Mr. Strauss - The final request for deferral tonight is in the Varina  
89 District, and it is on page 2 of the agenda. It's P-7-08, Diamond  
90 Communications, LLC. This is a request for a Provisional Use Permit to  
91 construction a 134-foot high telecommunications tower and related equipment.  
92 The applicant is requesting deferral to the January 15, 2009 meeting.

93  
94 **Deferred from the November 13, 2008 Meeting.**  
95 **P-7-08 Gregory S. Tully for Diamond Communications,**  
96 **LLC:** Request for a Provisional Use Permit under Sections 24-95(a)(3), 24-120  
97 and 24-122.1 of Chapter 24 of the County Code in order to construct a 134' high  
98 monopole telecommunications tower and related equipment, on part of Parcel  
99 804-702-0772, located on the north line of Midview Road approximately 1,075  
100 feet east of New Market Road (State Route 5). The existing zoning is R-3 One-  
101 Family Residence District. The Land Use Plan recommends Suburban  
102 Residential 1, 1.0 to 2.4 units net density per acre.

103  
104 Mr. Jernigan - Is there any opposition to deferral of P-7-08, Gregory  
105 S. Tully for Diamond Communications? Okay. Can you state your opposition  
106 please, come down? Yes sir. Would you get over to the mike, please, and give  
107 us your name for the record.

108  
109 Mr. Dabney - My name is Theodore Dabney. We oppose this  
110 because of the fact that it's been put off a lot, and we've been through a lot of  
111 stress and anxiety about this particular situation. A lot of us are older, or should I  
112 say younger people, and a lot of us are going through a lot of pain, and stress  
113 and strain. There are a lot of us who have had operations. For one, I've had  
114 open-heart surgery. There are some of us with other types of major surgery. This  
115 is a stress for us to continue to come back, and then continue to defer it. We'd  
116 like it to be heard now rather than to continue to come back.

117  
118 Mr. Branin - Sir, were you notified prior?  
119  
120 Mr. Dabney - I'm sorry?  
121  
122 Mr. Branin - Were you notified, Mr. Dabney, prior to the meeting  
123 tonight that it was being deferred?  
124  
125 Mr. Dabney - No. There has been a lot of confusion with the  
126 contacts, and the way that we have been communicated with in the past. I really  
127 don't want to go into that as far as detail is concerned.  
128  
129 Mr. Jernigan - Do you know why I'm deferring this case tonight? I'll  
130 tell you why. We had a neighborhood meeting last week, and the applicant sent  
131 out 412 letters. My instructions to them were to send out letters to everybody in  
132 a 1500-foot radius of the cell tower site. They did. They were sent out. They were  
133 taken to the post office on November the 14<sup>th</sup>, but they weren't mailed until  
134 December the 7<sup>th</sup>. They sat in the post office for all that time in bulk mail until the  
135 post office found time to go back there and do it. Having sent out 412 letters, I  
136 didn't feel the meeting that we had last week is fair because some people didn't  
137 know about it. So, I instructed the cell people that they should defer this case,  
138 send out another letter, and make sure everybody gets it on time, that we would  
139 have another meeting and another balloon float so everybody in that  
140 neighborhood would get the same treatment.  
141  
142 Mr. Dabney - And I understand that. Sir, with all good blessings to  
143 you, this is not the first time that this has happened. I didn't want to bring that up.  
144 This is not the first time that we did not get it in accordance to the rules and  
145 regulations of getting in contact with the constituents that are in the  
146 neighborhood, as far as receiving the information in a timely fashion like it should  
147 be. This is not the first time, sir.  
148  
149 Mr. Jernigan - By law, the only people they have to send letters to is  
150 the adjacent property owners. I'm the one that requested that it be sent to the  
151 rest of the neighborhood. I feel that everybody on that mailing list should have a  
152 chance to speak, and come to the neighborhood meeting on it.  
153  
154 Mr. Dabney - Yes sir, and I thank you for bringing that up, too. I'm  
155 one of those who are on that adjacent property list, and I didn't receive it either,  
156 sir.  
157  
158 Mr. Jernigan - You didn't receive it at all?  
159  
160 Mr. Dabney - That's correct, sir.  
161  
162 Mr. Jernigan - Okay.

163  
164 Mr. Dabney - And I was at home because I was recuperating from a  
165 heart operation, and also recuperating from walking pneumonia from the  
166 Veteran's Administration.  
167  
168 Mr. Jernigan - Ms. Freye, is Mr. Tully here? Who is here from  
169 Diamond? Okay. Check with this gentleman right here sitting behind this lady in  
170 the blue, and make sure that he has you on the mailing list. You should be on the  
171 mailing list. Do you have the mailing list with you? Okay. They'll take care of you,  
172 sir. Mr. Dabney, I appreciate you coming up.  
173  
174 Mr. Dabney - Okay.  
175  
176 Mr. Jernigan - Thank you.  
177  
178 Mr. Dabney - Would you hear us now?  
179  
180 Mr. Jernigan - No, I'm going to defer the case because I feel that's  
181 fair. We sent 412 letters. There's a small group of people here; there are not 412.  
182 Four hundred and twelve people need to have their right to say something.  
183  
184 Mr. Dabney - Let me ask you a question, sir. As this State being a  
185 Commonwealth State, and we being the common man, would you see that we  
186 will receive our petitions expeditiously, and see that we will receive it in a fair way  
187 as we should by us being the common men that we are on the street, sir?  
188  
189 Mr. Jernigan - I will tell you this. This time this mail will be sent out  
190 first class rather than bulk.  
191  
192 Mr. Dabney - Thank you, sir.  
193  
194 Mr. Jernigan - I didn't know myself that they threw that over in the  
195 corner and got to it when they did. I didn't think the post office—Well, probably  
196 this time of the year they are busier, but I didn't know it would lay over in the  
197 corner for 2-1/2 weeks before it was mailed out.  
198  
199 Mr. Dabney - But let me ask you a question, sir. Would you be  
200 upset about it sir if you were us?  
201  
202 Mr. Jernigan - I understand you being upset, yes sir. But I want you  
203 to understand that I have an obligation to those 412 people that we sent the  
204 letters to.  
205  
206 Mr. Dabney - I understand.  
207  
208 Mr. Jernigan - To you and the other 411.

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Mr. Dabney - Thank you sir.

Mr. Jernigan - Thank you, sir.

Mr. Dabney - Have a blessed evening.

Mr. Jernigan - Okay, thank you.

With that, I will move for deferral of P-7-08, Gregory S. Tully for Diamond Communications, to January 15, 2009, by request of the applicant.

Mr. Branin - Second.

Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Branin. 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-7-08, Gregory S. Tully for Diamond Communications, to its meeting on January 15, 2009.

Mr. Emerson - Mr. Chairman, that brings us to Request for Expedited Items, and you have none this evening, so we are now on to the first case on the agenda.

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

**C-20C-08 Andrew M. Condlin for Patrick J. Sanderson:** Request to conditionally rezone from A-1 Agricultural District to O-2C Office District (Conditional), Parcels 740-766-3730, 740-766-2619, 740-766-6112, 740-765-3690, 739-766-9601 and 739-766-9016, containing 10.950 acres, located at the northeast intersection of Pouncey Tract Road (State Route 271) and Twin Hickory Lake Drive. The applicant proposes an office condominium park and bank. The uses will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office, Urban Residential, 3.4 to 6.8 units net density per acre, and Environmental Protection Area. The site is in the West Broad Street Overlay District.

Mr. Jernigan - Is there any opposition to case C-20C-08, Andrew M. Condlin for Patrick J. Sanderson? There is opposition. Mr. Sehl, you may proceed.

Mr. Sehl - Thank you, Mr. Chairman.

This is a request to rezone 10.95 acres from A-1 Agricultural District to O-2C Office District. The parcels are designated Office, Urban Residential, and Environmental Protection on the 2010 Land Use Plan.

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While the requested office use is not entirely consistent with the Land Use Plan's recommendation for Urban Residential at the eastern portion of the site, it would be consistent with the Office designation for the majority of the site, and would provide for a more cohesive development and a suitable transition from Pouncey Tract Road to the adjacent Hickory Woods at Twin Hickory single-family neighborhood.

The applicant has submitted revised proffers, dated December 5, 2008, that provide many assurances of quality development, and should provide for a level of development not otherwise possible. Major aspects of these proffers include a commitment to develop the property consistent with one of two conceptual plans. Conceptual Plan A shows the development of a bank at the corner of Pouncey Tract Road and Twin Hickory Lake Drive, while Conceptual Plan B shows the property developed solely for office uses. The conceptual plans also illustrate the proffered buffers along Twin Hickory Lake Drive and adjacent residential neighborhoods to the east. A West Broad Street Overlay District buffer would be required along Pouncey Tract Road.

In addition to the conceptual plans provided the applicant, a proffer has been provided requiring any building constructed on the property to be constructed consistent with this photograph.

Other proffers submitted by the applicant address building height, lighting, hours of construction and operation, storm water management, and site coverage.

To address staff concerns regarding traffic generation from the proposed development, the revised proffers provide for the construction of the improvements specified in the revised traffic study submitted by the applicant. These improvements include the construction of turn lanes into the property as well as the addition of a second left turn lane from Twin Hickory Lake Drive onto southbound Pouncey Tract Road.

Additionally, the applicant has committed to conveying the existing Twin Hickory subdivision sign located at the corner of this intersection. This commitment, along with the proffers requiring retention of the existing streetlighting and landscaping along Twin Hickory Lake Drive, should maintain the existing high-quality entrance for the Twin Hickory community.

The proffers provided by the applicant should provide for a high-quality development in keeping with the recommendations of the 2010 Land Use Plan and adjacent development. Staff supports this request. I would be happy to answer any questions you might have, and the County's traffic engineer is also available should there be any questions regarding the revised traffic study.

300 Mr. Jernigan - Are there any questions for Mr. Sehl from the  
301 Commission?  
302  
303 Mr. Branin - I don't have any.  
304  
305 Mr. Jernigan - Do you want to hear from the applicant or the  
306 opposition first?  
307  
308 Mr. Branin - I'll hear from the applicant.  
309  
310 Mr. Jernigan - Okay. Mr. Emerson, would you explain, when we  
311 have opposition, the time limits?  
312  
313 Mr. Emerson - Yes sir. When the Commission holds public hearings  
314 on zoning cases, the applicant is allowed ten minutes to present the case, and  
315 time may be reserved for responses to testimony. Opposition is allowed ten  
316 minutes to present its concerns. Commission questions do not count into these  
317 time limits, and the Commission may waive the time limits for either party at its  
318 discretion.  
319  
320 Mr. Jernigan - All right. Good evening, Mr. Condlin, you may  
321 proceed.  
322  
323 Mr. Condlin - Mr. Jernigan, thank you. I'll reserve three minutes for  
324 rebuttal. I'm certainly not going to need the full seven minutes. One thing I did  
325 want to stress, and Mr. Sehl pointed out, was that what the current land use plan  
326 calls for is part of the property is Urban Residential, which goes up to 6.8 units,  
327 3.4 to 6.8 units per acre. Obviously, we think that Office on the entire site is  
328 appropriate as a good transition from a pretty busy intersection, as well as  
329 Pouncey Tract Road into the residential neighborhood that you see in this area  
330 here.  
331  
332 This has been a typical case dealing with infill type development next to  
333 residential where we've had to deal with typical proffers, impact on the  
334 neighborhood, and the buffers, and things of that nature. But also, it's been a  
335 somewhat unique case, as Mr. Sehl's talked about. There's a sign on our  
336 property that announces Twin Hickory. It's a gorgeous sign. Through some  
337 discussions with the homeowners' association, we have a proffer now in there  
338 that we're going to actually retain that signage as it exists to go over to the  
339 homeowners' association. I'm currently working with their attorney on an  
340 agreement on that to finalize that. But that is in the proffers.  
341  
342 The homeowners' association, even though they didn't own the land—it  
343 continues to be owned by Hunt, now under contract by my client—put a beautiful  
344 landscaped hedgerow and streetlamps in that area. Again, we're working with the  
345 homeowners' association. We proffered to retain that as it exists from that



346 standpoint, subject to the concept plan gaining access into our property, but also  
347 to allow them to have maintenance rights, and be able to maintain it to its existing  
348 standards.

349  
350 Again, a typical case, but a little unusual in those two instances where we find  
351 quite a few improvements that benefit the overall area. As you drive down Twin  
352 Hickory, it actually matches on both sides where they're been able to make those  
353 improvements.

354  
355 There are a number of proffers that we've provided throughout this case, and we  
356 have made some changes as we've gone through the case, but I do want to  
357 stress a couple other items. We only allowed one bank at most, which would be  
358 on the corner pursuant to that site plan that Mr. Sehl provided for. The rest  
359 would be required to be office uses only. The expectation is, obviously, office  
360 condominiums. As Mr. Sehl pointed out, we have a number of buffers throughout  
361 our property that are required that we've proffered. We actually didn't proffer  
362 anything on Pouncey Tract. Because this is in the Overlay District, we're already  
363 required to have a 35-foot buffer from that standpoint. We've limited the height of  
364 our buildings. For those that are within a hundred feet of the eastern property  
365 line, we've limited the height of our buildings to no more than one-story and 26-  
366 feet in height. The idea being that we wanted, again, a transition from the  
367 residential. We head towards Pouncey Tract to be able to go to two stories, if we  
368 so desire at that point. We're limited pursuant to our proffers as well to a  
369 maximum amount of development of 95,000 square feet whether we go to one or  
370 two stories. The 95 is based on a one-story layout throughout.

371  
372 The last thing I do want to mention and go over in a little bit more detail is our  
373 road construction and dedication requirements, and what we're proposing for  
374 improvements. When we originally went through the case and through the traffic  
375 study, they proposed a turn lane off of—I might just actually pull this up here, if I  
376 can. They called for a turn lane off Pouncey Tract Road. Then our access,  
377 which we moved to accommodate the neighbors, called for a turn lane off Twin  
378 Hickory. Those are pretty common. I think if you asked Mike Jennings. Public  
379 Works will say they require two access points. There has been some concern by  
380 the neighbors saying do you really need this access off Twin Hickory.

381  
382 Twin Hickory has a median in it; Pouncey Tract does not. So, regardless of that,  
383 our movements would be limited to right in, right out in both those instances. The  
384 problem was that without the development of this site, the intersection of Twin  
385 Hickory, Pouncey Tract, and Bacova is at a D and an F in the morning, and an F  
386 at peak hours in the afternoon. So, without us, there really wasn't a whole lot that  
387 we were able to improve pursuant to that. The one thing that the County asked  
388 for was not only a turning lane on Pouncey Tract, but doing an additional lane  
389 along our boundary line. There is no anticipated timeline for additional  
390 improvements along Pouncey Tract. I call it the lane that goes nowhere. It

391 ultimately would be a lane that would be improved. It would make a really wide  
392 turn lane.

393

394 Our traffic engineer suggested that there's something we can do out there that  
395 will actually improve traffic conditions as they exist, and that is to re-stripe and do  
396 some improvements on Twin Hickory Lake to be able to have a dual left-turn  
397 movement from Twin Hickory onto Pouncey Tract heading south. What that does  
398 is it saves about a minute of wait time. We're still at a D and F, but I'll read you a  
399 statement out of the traffic study that I believe has been reviewed and approved  
400 by both VDOT at this time, and the County engineer. "With the construction of  
401 the improvements," meaning the dual left turn lanes, "it would mitigate any site  
402 impacts, and it would improve the intersection conditions to a level that operates  
403 better than if the site were not constructed." It's not very often I get to get up  
404 here and say we're willing to do improvements that would make the traffic  
405 situation even better than if nothing was done, and if we never did any  
406 development on this site at all.

407

408 With that, we've committed to do those improvements. We've put those in the  
409 proffers. The only caveat we've asked for is that since we're doing these  
410 improvements with the dual left, that we actually not develop, but we'd only be  
411 allowed to dedicate that additional lane along Pouncey Tract. The dedication  
412 would occur whenever the County calls for it, whether it's at the first POD or a  
413 later POD. Whenever the County wants it, we'll dedicate it at that time. I think  
414 Mr. Jennings is comfortable with that, and I think the Planning staff is as well.

415

416 With that, I think we've addressed all of the concerns. I think what you're going to  
417 hear primarily from the opposition—and I understand why—is the traffic impact,  
418 and maybe some other issues from the standpoint of loss of trees, and the use of  
419 the property. Again, I would reiterate given the fact that we are actually providing  
420 for an improved situation from a traffic standpoint with the development, and the  
421 fact that despite what the Land Use Plan calls for—up to 6.4 units an acre—that  
422 office is the appropriate use on this site given some Pouncey Tract transitioning  
423 to the residential neighborhood, the retention of the signage, retention of the  
424 existing buffers, and providing protections otherwise provided in the proffers.

425

426 With that, I would ask you to follow staff's recommendation and recommend this  
427 for approval to the Board of Supervisors.

428

429 Mr. Branin - Mr. Condlin, do you have your revised proffers?

430

431 Mr. Condlin - Yes sir.

432

433 Mr. Branin - Would you look at #5 please?

434

435 Mr. Condlin - Proffer #5? Yes sir.

436

437 Mr. Branin - Okay. Would you read starting on the third line, the  
438 existing landscaping?  
439  
440 Mr. Condlin - Okay. "The existing landscaping and lighting fixtures  
441 within such 25-foot buffer."  
442  
443 Mr. Branin - Right.  
444  
445 Mr. Condlin - Okay.  
446  
447 Mr. Branin - It really doesn't give me a strong enough guarantee  
448 that that's going over to the land. If you look at your now Proffer 20. I would like  
449 5 to follow more like 20.  
450  
451 Mr. Condlin - That was intended, and I can explain that.  
452  
453 Mr. Branin - I would like you to explain that.  
454  
455 Mr. Condlin - Well, that's why I know you asked the question,  
456 looking for an explanation. It is our intent to grant in fee the signage. We were  
457 going to keep the signage on our property, but as Mr. Emerson and the staff  
458 looked at it pretty closely said, "You have a sign that says Twin Hickory for the  
459 homeowners' association. I have to count it against you." I'm like I don't want it  
460 counted against me, so I'll give the sign to the homeowners' association. They  
461 can maintain it. It's all theirs, go for it. It's not a billboard. Not unlike a lot of  
462 HOA's, they have a freestanding area for signage. My problem with giving the  
463 land for the buffer is my setbacks are now no longer counted from the Twin  
464 Hickory Lake side drive of that buffer, they're counted on the inside. I have  
465 additional transitional buffers on the inside of that. I have parking lot setbacks off  
466 of that. Everything changes on our development. Our site plan has to get pushed  
467 way back, about 25 to 30 feet. Instead—and I've talked to the HOA, and I've  
468 talked to their attorney—I insisted, and I can't say they've agreed because they  
469 haven't specifically agreed, but that's what this is for. They have the right to  
470 maintain it. We did this, if you remember Joe, for Dominion Chevrolet in that  
471 area where we had the apartments. We gave an easement, basically, for  
472 maintenance, to allow for the maintenance of an area. We're going to give them  
473 complete control for maintenance, act as if they own it, and fee simple. It's still  
474 going to be on our property, but they will have an easement, a dedicated  
475 recorded easement.  
476  
477 If that's the language you would like to be able to allow the HOA to maintain it—  
478 What we're saying is whoever owns, it has to be maintained pursuant to these  
479 proffers, pursuant to the existing conditions. So, that's why I wanted to keep that  
480 in our fee. I'll give you the signage all day long, but—  
481

482 Mr. Branin - I understand your point now. I would like it tightened  
483 up a little bit more.  
484  
485 Mr. Condlin - Sure.  
486  
487 Mr. Branin - If this does proceed forward.  
488  
489 Mr. Condlin - Okay.  
490  
491 Mr. Branin - I know the Supervisor would want it a lot tighter than  
492 this.  
493  
494 Mr. Condlin - Yes. I just literally received the comments from the  
495 attorney today. I'm hoping we'll get those wrapped up in the next week or two.  
496  
497 Mr. Emerson - Mr. Condlin, I think where the issue really lies here is  
498 when I read it, I don't see anything that guarantees any type of rights to the HOA,  
499 or speaks to any easement being transferred. I'm not looking for the land  
500 transfer, I'm looking for language assuring that they're going to be able to  
501 maintain that, and keep that there as you made in your statement when you  
502 opened, and that's not what the proffer says.  
503  
504 Mr. Condlin - That's the intent, but let me play a little devil's  
505 advocate with this. Should the County be concerned about who's maintaining  
506 versus the fact that it is being maintained? Our easement agreement will say  
507 they have the right to maintain it, they have the obligation to maintain it, but if  
508 they don't maintain it, we're going in and maintaining it because guess who you  
509 send the notice to? You don't send it to the HOA, you send it to us.  
510  
511 Mr. Emerson - Right. I think, also, I would be concerned with the  
512 statements that you could replace it with something that possibly the HOA might  
513 not be satisfied with. There need to be some guarantees.  
514  
515 Mr. Condlin - Right. Replacement being the fact that if something  
516 dies or needs to be replaced, not that we can just go out and clear-cut. I don't  
517 have a problem with that, and maybe that's where the HOA has a say. I don't  
518 want to have to build the monument out there, but as long as we maintain  
519 existing conditions, I can put something. I'm fine with that. And I can clean up  
520 the language. If you want it to maintain, I just wonder—and I haven't talked to the  
521 County Attorney. Does that then obligate the HOA to maintain it? We'll have to  
522 be careful of that. I don't think they want that pursuant to these proffers.  
523  
524 Mr. Emerson - It can be handled, I believe.  
525

526 Mr. Condlin - Yes. Ben and I worked these proffers over pretty hard  
527 for the County Attorney to get them just right. He had a number of comments  
528 about them. I think he's satisfied now.  
529  
530 Mr. Jernigan - Do you all have any questions?  
531  
532 Mrs. Jones - I do.  
533  
534 Mr. Jernigan - All right, Mrs. Jones.  
535  
536 Mrs. Jones - I have a couple. You said that the VDOT and Traffic  
537 reviews are complete?  
538  
539 Mr. Condlin - I'll leave that to Mr. Jennings. We received an e-mail  
540 from VDOT, and they haven't officially written, but they said they're satisfied with  
541 the amended. We deferred last month to allow for review of the amended, the  
542 idea being I read you the amended language. So, I'll leave it to Mr. Jennings, but  
543 that's my understanding, yes ma'am.  
544  
545 Mrs. Jones - Okay. The offices, there's a component that will be  
546 medical offices?  
547  
548 Mr. Condlin - They could be, yes.  
549  
550 Mrs. Jones - All of them possibly?  
551  
552 Mr. Condlin - Sure. That's the way it was designed, the worst-case  
553 scenario.  
554  
555 Mrs. Jones - Right. Even if there is no bank and it's all offices, it  
556 could be all medical offices. And the parking will cover all medical offices.  
557  
558 Mr. Condlin - The concept plan is designed that way to  
559 accommodate worst-case scenario, and the study was done the same way.  
560  
561 Mrs. Jones - What is your priority site plan? Which would your  
562 client rather have?  
563  
564 Mr. Condlin - I guess the bank, but I don't know which banks are  
565 going to be around when this starts coming out of the ground.  
566  
567 Mrs. Jones - That is a question.  
568  
569 Mr. Condlin - Again, you have a lot of community banks coming out.  
570 Our environment is changing from two years ago, you know, who were the ones  
571 looking for bank sites. Office allows for a bank site. I would contend that this

572 corner is good for a bank site. It has good visibility. They want to maintain the  
573 option, quite frankly, they pay a little bit more than the office would otherwise.

574

575 Mrs. Jones - My only other I guess comment/question is having sat  
576 there trying to make a left-hand turn onto Pouncey Tract for many a minute, it's  
577 not a casual wait. This second turn lane is absolutely essential.

578

579 Mr. Condlin - And it reduces it by a minute, according to the traffic  
580 study. The reduction would be 52 to 60-some seconds.

581

582 Mrs. Jones - Well, my personal traffic study is that it's a lot longer  
583 than that.

584

585 Mr. Condlin - No, I'm saying—

586

587 Mr. Jernigan - A reduction.

588

589 Mrs. Jones - Oh, the reduction will be. Excuse me. Okay.  
590 Looking at the way in which you've reworded that, 19C, does that leave any  
591 question that there will be a second left turn lane?

592

593 Mr. Condlin - The only issue is, of course, as we turn from Twin  
594 Hickory to Pouncey Tract Road, you have to have two lanes to accept the two  
595 lanes coming out. We've done the measurements; we think that they are there.  
596 The County actually owns—The County, not VDOT. I've done these before  
597 where the County has readily transferred the real estate in order to do the  
598 widening necessary, but I can't control the County. That's what the language is in  
599 there for, quite frankly. I know it surprises you. It's really within the County's  
600 ability to do that.

601

602 Mrs. Jones - The terminology, "so long as," and that kind of thing. I  
603 mean, that turn lane is essential, I would think, so we don't to have any  
604 misunderstanding.

605

606 Mr. Condlin - That's a VDOT road. They're comfortable with it, but,  
607 you know, dealing with VDOT two years ago versus now is a completely different  
608 scenario. That was my concern is if we go forward with POD and VDOT says  
609 we're going to come forward and do improvements, we're going to redo this  
610 whole area, there's no way we want you to do it, and there's no sense in doing it  
611 because we're going to tear it up in two years. I've been in those situations  
612 before where you go, okay, if that's going to happen from VDOT, we'd rather you  
613 go back and do the Pouncey Tract Road improvements, and we'll wait there or  
614 we'll make you wait for two years. You can do it now or wait two years. I wanted  
615 to leave that option open, but subject to your control at the time of POD.

616

617 Mrs. Jones - Okay, thank you.

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Mr. Condlin - All right. Thank you.

Mr. Jernigan - Any more questions from the Commission? Thank you, Mr. Condlin. Mr. Branin, we have opposition. Would you all come down and state your names for the record, please? They don't all have to come down at the same time.

Mr. Branin - If you want to come down and sit up front so you don't have to do the stand up and move, you're welcome to.

Mr. Jernigan - Good evening.

Mr. Weller - Good evening. My name's Robert Weller, and I'm president of the Twin Hickory Board of the Community Association. The Board has taken no position to either support or deny this applicant's ability here. We've heard several proffers offered here tonight, and our attorneys are working, but nothing is in place. We want the Planning Commission to know that we certainly have an equity interest in that 35-foot-wide strip going down through there. Those are our sidewalks, our hedges, our lighting that we've paid for and have a tremendous capital investment in that 35-foot-wide strip. We've always been under the impression from HHHunt that that property would be titled to us. We're having difficulty now three years into the transition from HHHunt getting title to all of the community property that's in there. This is a perfect example of a piece of assumed community property that has not come our way.

The association has been working with our attorney for four principles, and one of them was already mentioned here tonight. The association will be granted a reasonable easement on the landscape strip along the north side of Twin Hickory Lake Road allowing it to maintain the area to its standards. That no left-hand turns accessed to the median will be permitted on the complex. In other words, when they come out of that driveway on Twin Hickory Lake Road, they can only turn right. No left-hand turns there. There will be no U-turns permitted along Twin Hickory Lake Road, because what will happen is the cars will make a right off Pouncey Tract, go down in, and try to make a U-turn to go back up to make the right turn into the area. That creates a tremendous traffic problem where you have several schools and busy intersections there. The fourth one is that the second left-hand turn be absolutely required, not an "if," ma'am. You pointed that out very nicely. That there be dual left-hand turn lanes, and that Pouncey Tract have two lanes going down through, not merging back into one lane, which would only cause the traffic to back up in the intersection.

The other thing I'd like the Board to be aware of is that we haven't seen any of these documents that were dated December 5<sup>th</sup>. The latest ones we have are dated in November, so we haven't even had an opportunity to look at those other items.

664

665 I'd be glad to answer any of your questions at this time.

666

667 Mr. Jernigan - The only problem I have is the U-turn. I don't know if  
668 we can control a U-turn, because that's on the road.

669

670 Mr. Weller - I would think that you would have the ability to work  
671 with whatever department is responsible for that road. Twin Hickory does not  
672 own the road, the County does. So, the County should require that there be, "No  
673 U-Turn," signs along there. In the morning, the traffic is already congested trying  
674 to get out of each one of those neighborhoods onto Twin Hickory Lake Road. A  
675 lot of the traffic from my area turns left, and you have to wait for that huge slash  
676 of traffic from the light coming through before you can cross over and make a left.  
677 If we add to that all these people making a U-turn to go back into the  
678 development, it would create tremendous traffic problems. You should also be  
679 aware that the opposite corner has an elementary school on it. There's a middle  
680 school just down the road, and there's two other schools in Twin Hickory. So,  
681 there's huge traffic volume there that would create a tremendous problem for the  
682 residents of the area.

683

684 Mr. Jernigan - I guess what I was saying is when you're making a U-  
685 turn you're on the road, and continue on the road. The developer doesn't have a  
686 call on that. That's strictly a Public Works call.

687

688 Mr. Weller - Right. I think that would be something you could  
689 require.

690

691 Mr. Branin - Mr. Tyler, if this case does go forward I'll charge you  
692 with as soon as you see there's a problem—

693

694 Mr. Weller - Oh, there will be a problem. We already have a  
695 problem.

696

697 Mr. Branin - I'm absolutely not questioning that, but I can't go to  
698 Public Works now and say there's a problem that's going to exist when this is  
699 developed. It has to be developed, and then I can say to Public Works that I  
700 need help with this with no U-turns. I can't say it prior to development. Does that  
701 make sense?

702

703 Mr. Weller - I would think the Traffic Study would indicate that  
704 there's a problem there.

705

706 Mr. Branin - Mr. Jennings, can we see you please? Mr. Jennings,  
707 I have two things for you. The first one is in regards to the traffic study. Would it  
708 actually show a potential or a problem existing?

709



710 Mr. Jennings - No, it would not.  
711  
712 Mr. Branin - I wouldn't expect it to.  
713  
714 Mr. Jennings - Basically, you're looking at about 200 total trips from  
715 7:00 a.m. to 9:00 a.m., 200 trips coming to this site, worst-case scenario, if they  
716 had the bank and all medical office. That's distributed between the two  
717 entrances, and not all of those would be making a U-turn. If U-turns were a  
718 problem, causing conflicts, if it was not adequate site distance to make a U-turn,  
719 Public Works would restrict that U-turn.  
720  
721 Mr. Branin - All right. Mr. Jennings, you know as I do that now  
722 there is on public record that there is a potential problem. There's an existing  
723 problem, but with this development, there is a potential problem. With the  
724 introduction of this development, this piece of property being developed, you  
725 know now as I do that we will have to observe and act quickly—  
726  
727 Mr. Jennings - Yes sir.  
728  
729 Mr. Branin - —on putting no U-turns there with the issues of traffic.  
730  
731 Mr. Jennings - Mr. Branin, I will also review the intersection now to  
732 see if I see any issues.  
733  
734 Mr. Branin - If we can get that up prior, that would be great.  
735  
736 Mr. Jennings - If there are issues now, then I will restrict it now, but  
737 we'll look into that.  
738  
739 Mr. Branin - That's why these meetings are good. You're not done  
740 yet.  
741  
742 Mr. Jennings - Oh, I'm sorry.  
743  
744 Mr. Branin - Not even close. One of the things that interest me in  
745 this case that I thought because I got a whole stack of e-mails from you guys.  
746 Thanks. In all these e-mails, it refers to the traffic problem at Pouncey Tract and  
747 Twin Hickory. We know it's there; I know it's there. We are fighting with VDOT  
748 every year trying to get—And you can see how quickly they're responding in little  
749 tiny pieces on giving us a wider Pouncey Tract. The part of this case that excited  
750 me so much was the potential that we can have a developer give us the two  
751 lanes. A lot of the e-mails said now instead of we don't want this project, it was  
752 we don't want this project unless there are two lanes. So that, I think, is a  
753 positive. Mr. Jennings, the attorney mentioned grading in a traffic study, which  
754 goes from a D, F to—  
755

756 Mr. Jennings - Oh, levels of service. Yes sir.  
757  
758 Mr. Branin - Level of service. Would you explain that to us, please,  
759 because I don't know what that means.  
760  
761 Mr. Jennings - Basically, there are levels of service based on the  
762 delay at an intersection. A Level F is if you have an 80-second delay or more.  
763 Obviously, you all know that that left-turn movement is a Level F at this time. I'm  
764 not going to say it's not going to be a Level F in the future with normal growth in  
765 the area, but this improvement will decrease the time at that intersection. So,  
766 basically, right now it only fails, what was it, D in the morning and F in p.m. It'll  
767 actually fail both p.m. in the future whether this is built or not. But as Mr. Condlin  
768 said, this is a very unique case where with this development and with their  
769 proposed improvements, it'll actually reduce the delay at that intersection with the  
770 construction of the site. They're willing to build Pouncey Tract so that it can  
771 accept the two lanes. As far as I can remember, when the school came in at  
772 Bacova and Pouncey Tract, we got enough right-of-way to do that. But just in  
773 case, as Mr. Condlin said, if there's not, I'm sure we can work with the school  
774 board and get more right-of-way if necessary.  
775  
776 Mr. Branin - That was my third question. You knocked it out. You  
777 see, you're ahead of the game tonight. Okay. That's all I have for Mr. Jennings.  
778 Anybody else?  
779  
780 Mr. Jernigan - Any questions for Mr. Jennings from the  
781 Commission?  
782  
783 Mrs. Jones - That answered it.  
784  
785 Mr. Jernigan - Okay. Thank you, Mr. Jennings.  
786  
787 Mr. Branin - Mr. Tyler, thank you. I don't have any more.  
788  
789 Mr. Weller - I just have one further comment, not as a Board  
790 member, but as a community member. When this was presented to us, it was  
791 presented to us as being an office park primarily, not a medical office park, which  
792 requires much more parking, and much more traffic. So, that would be a concern  
793 of mine as a community member. The Board certainly takes no position on that.  
794 The Board hasn't discussed because it was not part of what we were presented  
795 with. We were presented with it would be condominium office park, non-medical,  
796 or limited medical. I think that change tonight was a pretty dramatic change for  
797 us.  
798  
799 Mr. Vanarsdall - Let me ask you a question. In the beginning, you said  
800 HHHunt promised you they would deed the land.  
801

802 Mr. Weller - That is correct.  
803  
804 Mr. Vanarsdall - Three years ago.  
805  
806 Mr. Weller - Correct. We have maintained that property for six  
807 years now.  
808  
809 Mr. Vanarsdall - Have you been back to HHHunt and asked why?  
810  
811 Mr. Weller - We have, and they say they own it and we don't. It  
812 looks like community property. I mean, it was all developed as community  
813 property by HHHunt with the sign out front. Now, they're asking us to own a little  
814 piece coming in, and have a right-of-way along the rest of it. To me, that just  
815 doesn't make sense. It should be one contiguous piece of ground, but that's me  
816 speaking as a homeowner, not as a representative of the Board.  
817  
818 Mr. Vanarsdall - Thank you.  
819  
820 Mr. Jernigan - Thank you, sir.  
821  
822 Mr. Branin - Mr. Tyler? Mr. Tyler?  
823  
824 Mr. Jernigan - Mr. Tyler?  
825  
826 Mrs. Jones - It's Weller.  
827  
828 Mr. Jernigan - Weller.  
829  
830 Mrs. Jones - It's Mr. Weller.  
831  
832 Mr. Jernigan - Weller? Mr. Weller.  
833  
834 Mrs. Jones - It's Mr. Weller.  
835  
836 Mr. Branin - Yes. In regards to the whole HHHunt thing, I don't  
837 disagree with you 1%. It does not make sense. But you also need to know that  
838 the County has no legal authority.  
839  
840 Mr. Weller - We understand that. We have counsel representing  
841 us. Basically, the four things we're putting forth as a Board are the four things  
842 that we want to see negotiated before the Supervisors approve this project. So, I  
843 understand that completely.  
844  
845 Mr. Branin - Trust me, on another case with them, I have brought it  
846 up and said what is this all about. I received pretty much the same answer you  
847 did.

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Mr. Jernigan - Thank you. Good evening.

Mr. Dube - Good evening. Hi. I'm Todd Dube, and I'm speaking on behalf of being a resident in Twin Hickory.

Mr. Jernigan - What's your last name, sir?

Mr. Dube - Dube. I live in Parsons Walk, which is in here. Tom pretty much covered everything we needed to cover from the standpoint of traffic and what our residents are looking for. My concern is that you guys need to be aware of how many buses. And I don't know if it was taken into consideration in the traffic. I have two little children that go to the new school, which is right here. It's not indicated on your map. It's a school that children cannot walk to because of the roads. I live less than a quarter mile from the school and my children cannot walk to it. So, we have buses that go in here for the school. We have buses that go to the middle school. We have buses that go down to the other elementary school down here. So, you have a lot of buses during those peak times where we're failing in the traffic. My concern as a resident is have we taken into consideration even these improvements? I think these improvements are great. Two lanes on Pouncey Tract, the turn lanes, and the widening of Pouncey Tract right in here I think are great. But you guys need to understand you have County buses on those roads at those peak times. So, even is that improvement enough with all those buses and those children? Not only the elementary school, but to that middle school. And you're going to be building a school down here. I know VDOT has to do with that road.

To me, my biggest concern is I have two, soon to be three children that are going to go to that school, and we have all that traffic in there. With the office piece coming up, too, that's the big concern. I have to come out in this intersection in the morning and night. All my shopping is done down this way. We don't need to talk about the Short Pump traffic. Putting in a "No U-turn" would help drastically, because right now, as Tom said, you have to wait for the spillage of that traffic to come through, and then when the high school is coming out, and the high school kids flushing out in here onto Pouncey Tract in the afternoon—that's why it's an F. It's horrible.

That's all I have to say. Do you have any questions for me?

Mr. Jernigan - I think Mr. Jennings is saying there may be a U-turn problem, so he's going to look into that.

Mr. Dube - Yes. My other concern is do we look at the buses, count the number of buses that are going through the traffic at that time? That's a lot of kids and a lot of County responsibility on those buses.

894 Mr. Jernigan - Any questions? Okay, thank you, sir.  
895  
896 Mr. Dube - Thank you.  
897  
898 Ms. Karafotis - My name is Monica Karafotis. I also live in Twin  
899 Hickory. I live in Hickory Woods, which is back behind this area that's proposed  
900 to be developed. As Mr. Dube said, my main concern really is the volume of  
901 traffic that's already going through that intersection. I would love to know, I would  
902 love to hear if he knows how many buses go through there, because there has to  
903 be 80 to 100 buses that travel through there. To rezone this, to change it from  
904 Urban Residential to Office is going to bring more traffic than residential ever  
905 would. I don't understand how that's going to be worked on with the traffic and  
906 the space there to get the number of cars through. My request really is that you  
907 not rezone this for Office. I mean, Urban Residential is already going to bring  
908 more traffic, but not the number that medical office buildings would bring. Unless  
909 he has an answer and has already looked at the number of school buses and the  
910 amount of real traffic that goes through there, I'd like for you to look at the  
911 information before you make any decision. That's all.  
912  
913 Mr. Jernigan - Okay. Any questions?  
914  
915 Mrs. Jones - I do. Ms. Karafotis? Did I pronounce that right?  
916  
917 Ms. Karafotis - Yes.  
918  
919 Mrs. Jones - Something just occurred to me when Mr. Dube was  
920 talking. When you say that you're concerned about the number of buses and it's  
921 effect on this, are you saying it's because the buses travel slower than cars or—  
922  
923 Ms. Karafotis - No, it's for the safety of children, just the safety of the  
924 children that pass through this area of our community. The intersection is  
925 already rated poor. It's not just a wait time that makes that poor, isn't the volume  
926 of traffic that goes through there that impacts on that as well?  
927  
928 Mrs. Jones - The safety of the buses and the safety of the  
929 automobiles would be the same standard, I would think.  
930  
931 Ms. Karafotis - I would hope. I don't know. What I hear him talking  
932 about is wait time is going to be decreased by having the extra turning lane.  
933  
934 Mr. Jernigan - Decreased.  
935  
936 Ms. Karafotis - Right, decreased. But, I mean, that matters to  
937 somebody, but it's more the volume of traffic that's going to be brought by the  
938 rezoning.  
939

940 Mrs. Jones - I just wasn't sure what you meant by the buses being  
941 a different situation.

942

943 Ms. Karafotis - Traffic in general. Because they're County buses, I  
944 guess is why I bring that up. The County has some liability there, and they're our  
945 children. Thank you.

946

947 Mr. Jernigan - Any more questions? Thank you.

948

949 Ms. Duncan - My name is Jeanne Duncan, and I also live in Twin  
950 Hickory. I don't come in and out of this particular entrance on an everyday basis.  
951 I actually try to avoid it, and as an alternate take Shady Grove, which I don't  
952 know that that's any better. But, I would like to simply ask the question whether  
953 we're rezoning because it's cheaper for the County to get a fix to the corner to  
954 have a developer do it, and then take the rezoning that has to come along with it,  
955 or should we look at working with the State to fix that along Pouncey Tract in a  
956 manner that's beneficial to the residents? I know it's maybe a double-edged  
957 sword. I'm not necessarily opposed to the office complex. I would be opposed to  
958 a high number of medical offices because I do think that increases traffic. I  
959 guess I have bigger question to say is that our only option to have a developer fix  
960 that corner, or can we work with the State to fix that corner as it should have  
961 been. I don't understand. We've just finished with construction that took years  
962 and those of who live there saw then that this is going to be a huge problem. I  
963 don't know if that's a bigger question that you could address, and help me  
964 understand how we can work better with the State so that these issues don't  
965 happen.

966

967 Mr. Jernigan - I'll just make an observation. When would you like to  
968 see it fixed?

969

970 Ms. Duncan - Yesterday.

971

972 Mr. Jernigan - Then you better go with the developer.

973

974 Ms. Duncan - Okay.

975

976 Mr. Jernigan - The road improvements are coming because of the  
977 rezoning. We have a tight set of guidelines we go by. People have a right to  
978 develop their property.

979

980 Ms. Duncan - I understand that.

981

982 Mr. Jernigan - When this came up, our Traffic staff said we need  
983 some more road improvements. Then they go to Mr. Branin and staff, and they  
984 get the road improvements. If you're going to say, "I'd rather not have this, and  
985 let the State come in and fix it," that could be a long time.

986  
987 Ms. Duncan - Yes. I'm not necessarily saying that. I guess I'm  
988 asking will the increase in cars make that wait time be the exact same with a dual  
989 left turn lane simply because of the increased amount of traffic.  
990  
991 Mr. Jernigan - No. Well, I mean, Mr. Jennings—and he's a  
992 professional; I'm not. What he said was through the study that it should  
993 decrease the time that you sit there by 60 seconds.  
994  
995 Ms. Duncan - Mr. Jennings, does that take into account all the  
996 additional traffic, then, that would be generated?  
997  
998 Mr. Jernigan - Yes. When they adjust that, they're figuring the new  
999 traffic coming in.  
1000  
1001 Ms. Duncan - Okay. All right.  
1002  
1003 Mr. Branin - I don't know if any of you all were at the original  
1004 neighborhood meetings that we had on this, but I thought you were there. There  
1005 was never even talk of a second lane.  
1006  
1007 Ms. Duncan - I think people are still in shock about what do you  
1008 mean they're not putting houses in that area.  
1009  
1010 Mr. Branin - Right. It was about wanting more houses, and even  
1011 townhouses, which scared me because of the traffic problem that that and  
1012 townhouses would create at peak times. It was deferred because we were  
1013 waiting on the traffic study to come in. When the traffic study came in on an  
1014 already-failing intersection, they said the only way it could be developed in any  
1015 fashion would be to have double lanes. That was a good thing, because we're  
1016 going to improve an intersection that's already in bad shape. Any development  
1017 would cause the need for the double lanes. When I heard that point, I went, all  
1018 right, so, we're actually getting a benefit from any development of this property.  
1019  
1020 Ms. Duncan - I have one more question. When you rezone  
1021 something, the proffers have to all be in place. Is that correct?  
1022  
1023 Mr. Branin - Yes.  
1024  
1025 Ms. Duncan - So, as an example, the widening of Twin Hickory Lake  
1026 Drive for the entrance into the development would require changes to the  
1027 sidewalks, etcetera. Would the developer have to pay for that, or would the  
1028 homeowners' association have to pay for that again?  
1029  
1030 Mr. Jernigan - The developer.  
1031

1032 Mr. Branin - Yes.  
1033  
1034 Ms. Duncan - All right. That's all the questions.  
1035  
1036 Mr. Branin - They have to be done to County standards, which  
1037 means there will be pedestrian drops in them. I don't think ADA has to be in  
1038 them.  
1039  
1040 Ms. Duncan - All right, thank you.  
1041  
1042 Mr. Jernigan - Okay, thank you. Do we have anybody left? Good  
1043 evening.  
1044  
1045 Mr. Fine - Good evening. I'm Mike Fine—F-i-n-e. I also live in  
1046 the neighborhood. I live just abutting this strip of land on the corner here. Am I  
1047 looking at it the wrong way? Ah, don't worry about it. I live abutting the back of  
1048 the strip of land. A few concerns. Most of the things I'm concerned about I think  
1049 the group has brought up. I'm pretty impressed. I'm not going to go over stuff  
1050 that's already been brought up. I back up against this strip of land, and when I  
1051 bought my lot from HHHunt, I paid a premium for my lot because it backed up  
1052 against a strip of land they said our homeowners' association owned, and  
1053 nobody could build on that strip of land. That was part of why I paid a premium  
1054 fee for my lot. I'm realizing that apparently—surprise—nobody seems to be able  
1055 to locate the paperwork, and they're claiming HHHunt owns the land. I have a  
1056 real problem there. Now, I realize the Board doesn't necessarily have  
1057 jurisdiction, but just at the beginning of putting access through from Twin Hickory  
1058 Lake Drive, there's been a problem for me there. I don't quite get how that  
1059 happened. For my house, I paid money for a lot that backed up on wetlands that  
1060 the association owned that wasn't supposed to be developed on. I have a real  
1061 problem with that. I just wanted to make sure I expressed that.  
1062  
1063 The other concerns I think the group has brought up. I'm not real thrilled about  
1064 the medical office. We did go to the initial meetings, and they brought up office  
1065 buildings. Generally, I'm unhappy about pulling down some of the old houses  
1066 there and putting up office buildings. Okay. I don't like the access off Twin  
1067 Hickory Lake Drive. I think that's a problem. When you suddenly change and talk  
1068 about medical offices, it just seems like everywhere that there's any kind of a  
1069 loophole, HHHunt keeps changing the story. I have a real trust problem. I'm just  
1070 very concerned about the access.  
1071  
1072 I guess the last concern I have that I haven't heard really talked about a lot is I'm  
1073 really mostly concerned about pedestrian traffic when you talk about safety. My  
1074 kids also go to the new Colonial Trail Elementary School. I think on the map it's  
1075 900 feet. It's pretty close to the new school. Nobody can walk to that school.  
1076 Nobody's allowed to, because going through that intersection is pretty  
1077 dangerous. We all have kids that live in that neighborhood. There's a playground



1078 at the Colonial Trail Elementary School. There are kids that cross that  
1079 intersection on foot every day. There's a mall that's down the street from the  
1080 Twin Hickory neighborhood that kids ride their bikes to. They go through that  
1081 intersection every single day. My kids do. I'm worried about somebody getting  
1082 killed. Not so much wait time, I'm worried about a pedestrian actually getting  
1083 killed. That's my concern at that intersection.

1084  
1085 Mr. Branin - Mr. Fine? I'm going to ask you to help me with  
1086 something. Would you?

1087  
1088 Mr. Fine - Sure.

1089  
1090 Mr. Branin - Okay. That is a VDOT road. You're aware of that,  
1091 correct?

1092  
1093 Mr. Fine - Yes.

1094  
1095 Mr. Branin - I'm typing something because I need this up so I can  
1096 give it to you. I'm going to put in a formal request to a delegate and to a senator.  
1097 That would be Delegate Janis and Senator Stosch. Have you sent it to both of  
1098 them? He lives right around the corner from you. He has the power. He has the  
1099 power to get a pedestrian crossing in there and pedestrian lights in there. We do  
1100 not. He's in your homeowners' association book, so I don't need to give you  
1101 Delegate Janis' number. If you would assist me in contacting both Bill Janis and  
1102 Walter Stosch, and requesting that we get some help. You're absolutely right,  
1103 there does need to be pedestrian crossings there. They should have been there  
1104 when it was designed in by VDOT this past time. So, if you would get in touch  
1105 with those two gentlemen—

1106  
1107 Mr. Fine - I'll follow-up after it. As long as you have the  
1108 information, I'll be glad to, yes.

1109  
1110 Mr. Branin - If you would organize a petition in your neighborhood.  
1111 Again, he is your neighbor. His children do—They're a little bit older to go play  
1112 there, but you guys have an ear—use it. You have an ear here, but I don't have  
1113 any authority.

1114  
1115 Mr. Fine - Right.

1116  
1117 Mr. Branin - He and Mr. Stosch got the light in at Nuckols and  
1118 Pouncey Tract.

1119  
1120 Mr. Fine - Okay.

1121

1122 Mr. Branin - They do have the authority. They do have the power.  
1123 But they need to hear from you to push it. And it's a good time to do it because  
1124 we're coming up on the Assembly in about another month.

1125  
1126 Mr. Fine - All right. Well, thank you very much. Those were  
1127 most of my concerns.

1128  
1129 Mr. Jernigan - Thank you, Mr. Fine. Any more questions for Mr. Fine  
1130 from the Commission? Thank you.

1131  
1132 Ms. Pleasants - Hi. My name is Mojdeh Pleasants. I live right off the  
1133 road back here in this home, right off Twin Hickory Lake Drive. I purchased my  
1134 home exactly a year ago October. One of the specific things when I came into  
1135 Twin Hickory Lake Drive was the scenic of the entrance coming into Twin  
1136 Hickory. It's inviting, it's beautiful. That's one of the things that invited me into  
1137 Twin Hickory. I think it's a great neighborhood to live in. The schools. My  
1138 bedroom faces the traffic off Twin Hickory Lake Drive. Every morning my home  
1139 all the way over here, there is traffic lined up all the way down this road. I see the  
1140 cars. The fumes are back in my yard. Obviously, that's environmentally not really  
1141 great. Honestly, when I bought the house, I didn't know there was going to be  
1142 that much traffic there, but I have to deal with it. Also, I'm not really keen on  
1143 having an entrance here that's going to cause more traffic. And, as far as the  
1144 schools, the school advises us to make sure we have our children on the bus and  
1145 not drive them to school, which I understand public transportation is offered to  
1146 them. However, half the time when they're sitting over there at the light, it takes  
1147 so long for them to get to school. So, they're actually getting to school late. My  
1148 son is missing his morning work because he's sitting in traffic on the bus. And, of  
1149 course, they're going to build more schools. Again, some of the stuff that they've  
1150 already said about how many buses are actually coming through that traffic, how  
1151 many are coming through that intersection. It's not going to get any better. We  
1152 also mentioned sidewalks. When they put that bridge in, they put sidewalks on  
1153 that bridge. We should have a crosswalk. One time I had my car in the shop,  
1154 and I needed to go to the school. I needed to walk over there, and it was hard to  
1155 cross that intersection. So, we really do need to have a crossing over there.

1156  
1157 Basically, the rest of the stuff everybody's pretty much said. I do not want  
1158 medical buildings over there. Not to mention the things that could occur with  
1159 medical buildings with kids around. We have lots of kids around there. That's it.  
1160 Thank you.

1161  
1162 Mr. Jernigan - Thank you. Any questions? All right.

1163  
1164 Mr. Carter - My name's Les Carter. I live right here. You need to  
1165 get your GIS up to date. There are aeriels of that with my house on it. Mike lives  
1166 down here. Even though I'm somewhat in opposition to this because of the traffic  
1167 issues, I do want to actually commend Andy and the developers because I think

1168 they've done a really good job of keeping us up-to-date on what's going on.  
1169 Certainly, he's been very vocal, and he's kept me up-to-date as an adjoining  
1170 landowner.

1171  
1172 I have two concerns. One is the traffic; you've heard it before. I'll just  
1173 demonstrate what I see on an evening basis. I turn in here, I come down here,  
1174 and I want to turn in there. There is invariably somebody doing a U-turn right  
1175 here. For a U-turn, they have to wait longer, because they have to merge into  
1176 traffic. So, I'm sitting here waiting to get in. You know, it's not a three-hour wait;  
1177 it's 15, 20 seconds. But the danger is if you have someone coming out here,  
1178 they're looking that way, they don't see the U-turn. I think we know that that's  
1179 something that we need to deal with. It's an issue now, and it will become a much  
1180 greater issue, I think, when the development takes place.

1181  
1182 Also, I do have some reservations about medical. I'm not sure how in proffers, or  
1183 how in zoning you can actually control that, but it's just one of those things. I feel  
1184 more comfortable with the traffic development from just a normal office than I  
1185 would from medical. Medical offices have to have much more parking because  
1186 that's what you've actually allowed for. And I also think the trip generation is  
1187 going to be greater, too.

1188  
1189 That's really all I have to say.

1190  
1191 Mr. Jernigan - Thank you.

1192  
1193 Mr. Branin - All right. Andy, do you want a rebuttal?

1194  
1195 Mr. Condlin - Maybe I misunderstood. We're not HHHunt. We're not  
1196 representing HHHunt. I'm not going to bash HHHunt, but we're paying for the  
1197 property, and we're giving it to the HOA, in essence, and we're trying to help  
1198 alleviate the situation. I don't know where the advantage comes from that, but it's  
1199 certainly not from our client. Based on that, one gentleman said that he wanted  
1200 the agreement in place before this decision could be made. There's no way I can  
1201 agree to that because two conditions they've asked for, which I have no control  
1202 over, is that HHHunt be a party to this agreement. We all know you can't control  
1203 them, the HOA can't control them, and I certainly can't control HHHunt. The  
1204 second thing is that they talked about the U-turn, and the other road issues as a  
1205 condition of the improvements. I can't agree to that either, because I can't  
1206 control whether a U-turn is made on a public road or not.

1207  
1208 So, I think we've addressed the concerns that they have regarding the signage  
1209 and the strip as best we can, with a couple of tweaks I need to get with Joe on to  
1210 make those happen. Otherwise, the traffic study's accommodated for traffic all  
1211 the way through 2014, so it's going to make it much better from that standpoint.

1212

1213 So, again, I would ask that you approve this, recommend it to the Board of  
1214 Supervisors.

1215  
1216 Mr. Jernigan - Thank you, Mr. Condlin.

1217  
1218 Mr. Branin - Thank you, Mr. Condlin. Okay. Ladies and  
1219 gentlemen, thank you for all of your comments. The U-turn thing I didn't know  
1220 about. It has been brought to the County's attention. Mr. Jennings, I'm formally  
1221 requesting that you get on it, and look at it. If we can, get some signs up there as  
1222 soon as possible.

1223  
1224 With that, I would like to move for approval of C-20C-08, Andrew M. Condlin for  
1225 Patrick J. Sanderson.

1226  
1227 Mrs. Jones - Second.

1228  
1229 Mr. Jernigan - Motion by Mr. Branin, seconded by Mrs. Jones. All in  
1230 favor say aye. All opposed say no. The ayes have it; the motion passes.

1231  
1232 **REASON:** Acting on a motion by Mr. Branin, seconded by Mrs.  
1233 Jones, the Planning Commission voted 5-0 (one absent) to recommend the  
1234 Board of Supervisors grant the request because it conforms to the Office  
1235 recommendations of the Land Use Plan, it would not adversely affect the  
1236 adjoining area if properly developed as proposed, and the proffered conditions  
1237 would provide for a higher quality of development than would otherwise be  
1238 possible.

1239  
1240 Thank you, ladies and gentlemen.

1241  
1242 Mr. Branin - This will also go to a POD. When it goes to POD, I  
1243 expect to see all of you there. Plan of Development, it's the next step. It goes to  
1244 the Board of Supervisors. If the Board approves it, then it goes to POD. At POD,  
1245 you'll get notification that we're meeting for the actual finished design, the  
1246 buffers, the trees, the lights—all the good stuff. I hope all of you are there.

1247  
1248 Mr. Jernigan - That will be on a Wednesday morning at 9:00, the  
1249 POD portion of it.

1250  
1251 Mr. Branin - The meeting, the public hearing. But you will have a  
1252 neighborhood meeting.

1253  
1254 Mr. Emerson - What this group does is make a recommendation to  
1255 the Board of Supervisors. The Board of Supervisors will make a final decision on  
1256 this case, or it will be on their agenda for their review and decision January the  
1257 27<sup>th</sup>. Normally, they would meet earlier in the month, but the first meeting of the

1258 month is their organizational meeting in January, so zoning cases will be on  
1259 Tuesday, January the 27<sup>th</sup>.

1260

1261 Mr. Jernigan - It's a Plan of Development. When he was talking  
1262 about where the architectural, the landscaping and evening, that's at a POD  
1263 meeting, plan of development. That would be on Wednesday morning. The next  
1264 step is it will go to the Board of Supervisors.

1265

1266 Mrs. Jones - What date was that?

1267

1268 Mr. Emerson - The Board of Supervisors is January the 27<sup>th</sup>,  
1269 Tuesday, January the 27<sup>th</sup>. That will be the next meeting.

1270

1271 Mr. Vanarsdall - The Board has the final say on it. They can legislate  
1272 it, we can't. We just make recommendations. It's important that you all attend  
1273 that, too.

1274

1275 Mr. Emerson - Adjacent property owners will receive a notification  
1276 from the County, and the HOA will receive notification.

1277

1278 Mr. Jernigan - Thank you, ladies and gentlemen.

1279

1280 **C-37C-08 Caroline L. Peters for Metromont Corporation:**  
1281 Request to conditionally rezone from R-5AC General Residence District  
1282 (Conditional) to M-2C General Industrial District (Conditional), Parcels 806-710-  
1283 8061, 806-711-6674 and 807-711-0058, containing approximately 25.251 acres,  
1284 located on the northeast line of Darbytown Road at its intersection with Acton  
1285 Street, extending to the northeast to the eastern terminus of Oregon Avenue.  
1286 The applicant proposes office use with storage for industrial equipment. The use  
1287 will be controlled by zoning ordinance regulations and proffered conditions. The  
1288 Land Use Plan recommends Heavy Industry and Suburban Residential 1, 1.0 to  
1289 2.4 units net density per acre.

1290

1291 Mr. Jernigan - Do we have any opposition to case C-37C-08,  
1292 Caroline L. Peters for Metromont Corporation? Okay, we do have opposition.  
1293 Mr. Sehl, you may proceed.

1294

1295 Mr. Sehl - Thank you, Mr. Chairman.

1296

1297 The subject property is vacant except for an existing house and a small  
1298 accessory building located at the southeast corner of the property along  
1299 Darbytown Road. The applicant has indicated these structures will be removed.

1300

1301 The site was rezoned from M-2 to R-5AC in 2005 in order to develop a zero lot  
1302 line development. Plans for this development did not move forward, and this  
1303 request would rezone the subject property to M-2C to allow for the expansion of

1304 an existing concrete manufacturing operation, which is located on adjacent  
1305 property to the east and is also owned by the applicant.

1306

1307 Approval of this request would also allow the existing facility to meet zoning  
1308 ordinance requirements regarding setbacks to residential districts. The applicant  
1309 is proposing to expand their operations onto the subject site, and this expansion  
1310 would include office space, restroom facilities, and break rooms for employees of  
1311 the existing manufacturing operation.

1312

1313 A temporary use permit was approved by the Board of Zoning Appeals in  
1314 October of this year to permit the applicant to locate three modular buildings on  
1315 the property for this purpose. This permit expires in November 2010.

1316

1317 Environmental constraints such as resource protection area, wetlands, and a  
1318 100-year floodplain are located on a large portion of the subject property. This  
1319 location here. These environmental features, in conjunction with a 300-foot  
1320 setback required for M-2 District uses should provide reasonable protections for  
1321 the adjacent residential communities.

1322

1323 To further enhance the request, and provide additional protection for adjacent  
1324 property owners, the applicant has submitted proffered conditions which will  
1325 regulate the use of the property. Staff notes these proffers were submitted today,  
1326 December 11, and time limits would need to be waived to accept them this  
1327 evening. The major aspects of these proffers address prohibited uses, buffering,  
1328 lighting, fencing, outdoor speakers, signage, and access. The revised proffers  
1329 distributed to you this evening provide for a 100-foot buffer adjacent to residential  
1330 properties to the north and west, prohibit M-1 and M-2 uses except for storage of  
1331 industrial equipment on the northern two parcels, and provide a timeline for the  
1332 submission of a Plan of Development.

1333

1334 Staff believes the proposed expansion of the concrete manufacturing operation is  
1335 a reasonable use for the subject site, and the proffers provide many guarantees  
1336 regarding the operation of the proposed development. However, the proffers do  
1337 not address other uses which could potentially locate on the site, including a wide  
1338 range of B-1, B-2, B-3, and M-1 uses. No details regarding the design, location,  
1339 or operation of those uses have been provided. For instance, as currently  
1340 proffered, uses such as convenience stores and restaurants would be permitted  
1341 to operate without restrictions on hours of operation or location.

1342

1343 Additionally, staff encourages the applicant to commit to providing high-quality  
1344 foundation materials for the trailers proposed with the use permit, such as brick  
1345 or stone, at the time that they are made permanent as provided for in the  
1346 proffers.

1347

1348 In conclusion, the proposed zoning and use will be consistent with the 2010 Land  
1349 Use Plan's recommendation of heavy industry for the majority of the site, and if

1350 the applicant were able to address staff's concerns regarding prohibited uses and  
1351 foundation materials, staff could support this request.

1352

1353 That concludes my presentation. I'd be happy to try to answer any questions you  
1354 might have.

1355

1356 Mr. Jernigan - As of our conversation this afternoon, did you talk to  
1357 Ms. Peters?

1358

1359 Mr. Sehl - I did talk to Ms. Peters, and she indicated that they—I  
1360 could let her speak to that when she does her presentation, but we did talk about  
1361 some of the uses that they might need to prohibit, and restrictions on operations  
1362 such as potential hours of operation, and architectural features. I believe that she  
1363 was going to speak to that this evening, as well work towards providing proffers  
1364 to address those concerns.

1365

1366 Mr. Jernigan - Okay. Any questions for Mr. Sehl from the  
1367 Commission? Okay. Thank you, Mr. Sehl. Ms. Peters, would you come down,  
1368 please? Good evening.

1369

1370 Ms. Peters - Good evening, Mr. Chairman, members of the  
1371 Commission. My name is Caroline Peters. I'm here on behalf of the applicant,  
1372 Metromont Corporation. As Mr. Sehl already stated, Metromont is a pre-cast  
1373 concrete manufacturer, and they operate a plant at 1650 Darbytown Road. They  
1374 acquired this property in order to install some support facilities for their existing  
1375 operation. They're really not looking to expand their industrial operations over  
1376 because there are severe setbacks under the Code that really preclude them  
1377 from using the property in any significant fashion. What they're proposing—and  
1378 this was in accordance with the temporary use permit that we just received from  
1379 the Board of Zoning Appeals—is to have some structures that would have office  
1380 space, restrooms, and break facilities, and also a parking lot. The existing plant  
1381 at 1650 Darbytown Road has limited parking, and the employees just don't have  
1382 the capacity to park there. So, they're looking at putting a parking lot behind the  
1383 proposed office structures, and then possibly in the back putting some storage of  
1384 the equipment that they have. There is not an expansion right now of the plant  
1385 that is planned.

1386

1387 As Mr. Sehl indicated, what we're proposing is consistent with the 2010 Land  
1388 Use Plan in that we are willing to limit uses on the northern parcel so it won't  
1389 create any additional disturbance to neighbors. Also, we're pretty limited by the  
1390 environmental conditions. There are wetlands and RPA's all throughout the site,  
1391 so we really can't use a good bit of it. If you look on this, this is really the area  
1392 that we're looking at using, with possibly coming back here with some storage.

1393

1394 Mr. Sehl has already gone through the proffers and shown you the site plan. We  
1395 are willing to proffer out a number of the B-3 uses, and are willing to discuss

1396 further with staff if there are additional concerns with commercial uses. Like I  
1397 said, we've limited any industrial operations on the two northern parcels. We've  
1398 provided a lot of buffering and landscaping. There won't be any non-residential  
1399 access through those neighborhood residents, which I think possibly has been a  
1400 problem in the past. We're also going to make everything permanent. Our  
1401 temporary use permit does not require that, but by the end of that, which is  
1402 November of 2010, we're going to make sure that these office units are on  
1403 permanent foundations. Mr. Sehl mentioned that the staff would like to see a  
1404 commitment to a foundation material that's of higher quality, at least the exterior,  
1405 and we're willing to proffer to a higher quality masonry product. I'm happy to get  
1406 with Mr. Sehl on that, and work out the standard language that's required in  
1407 Henrico County that we provide in those proffers.  
1408

1409 A couple of other things regarding the proffers that staff are interested in having.  
1410 We are willing to provide those proffers. I don't think we're going to have much  
1411 disagreement with staff over the language. We'll provide the standard proffer  
1412 regarding a commitment to any additional structure that we may put on this  
1413 beyond what has been approved in the temporary use permit, and what we will  
1414 make permanent through this rezoning. We will provide a commitment to certain  
1415 materials, the EIFS or split-faced block, brick, stone, and we will also provide  
1416 elevations of those for Plan of Development should we ever develop the property  
1417 that way. I can tell you this right now, there's absolutely no intention of  
1418 developing further retail or office on the property. We're also willing to limit the  
1419 hours of any retail operations that may occur to the standard B-2 hours.  
1420

1421 Finally, I just wanted to address a couple of things because I think they're  
1422 important, and I think that's why we have some opposition tonight. We had a  
1423 neighborhood community meeting on November 10<sup>th</sup>, and Mr. Jernigan was  
1424 there. We had about 12 members of the community that came. They didn't seem  
1425 to have any opposition to what we were proposing, but it seemed like people had  
1426 concerns about what was going on at the plant that already exists out there. We  
1427 are working with those neighbors to try to correct any problems that may exist.  
1428 For example, there is a light that is located on top of the plant that has been  
1429 turned and is facing the neighborhood to the north. It's affecting these parcels up  
1430 here, and probably some around here, too. We've actually already turned that  
1431 light so that it's no longer facing residential properties.  
1432

1433 The other thing that some of the neighbors were concerned about was the noise  
1434 that's emanating from the existing plant. That won't be expanded by what we're  
1435 proposing tonight. My client is working on, and should install in the next few  
1436 months, 150 Leyland Cypress trees, 10-gallon. They're going to plant them all  
1437 along the rear to try to cut back on that sound. At the existing facility, the work is  
1438 done under very long work days, and that's where the noise is generated from.  
1439 When funds permit, they are looking at actually walling-in those work bays, and  
1440 that will really cut down on the noise that is experienced in the neighborhood. I  
1441 think with the combination of fixing the lights and planting the trees, which should



1442 be soon, and then eventually trying to wall in the work bays, that's going to really,  
1443 really cut down on the sound. Metromont wants to be a good neighbor, and they  
1444 want to work with folks to try to make their impact less on the community.

1445

1446 I wanted to point that out because I think that some of the opposition wants to  
1447 see proffers that go back to that existing plant, which is a different parcel, and  
1448 we're not here to rezone tonight. I just wanted to state that really has no impact  
1449 on what we're proposing. We're not proposing to expand the plant; we just need  
1450 support facilities to help us with the existing operation. There are not going to be  
1451 more employees. It's actually going to move employees from pulling in off  
1452 Darbytown Road. The end result is going to be favorable for the community.

1453

1454 This is going to be more consistent with the Land Use Plan; it's going to  
1455 ultimately be better for the neighborhood. I respectfully request that you  
1456 recommend approval of this case to the Board of Supervisors. I'm happy to  
1457 answer any questions, but I do remember that I forgot to reserve a minute or two  
1458 for rebuttal in the beginning. If you would be so kind, unless I've—

1459

1460 Mr. Emerson - You have approximately a minute and a half.

1461

1462 Ms. Peters - Okay. Can I reserve that?

1463

1464 Mr. Jernigan - Let's go back. First of all, as we discussed before,  
1465 these temporary facilities, when you file for the POD, they become permanent.  
1466 Then we do have to put a permanent foundation under them.

1467

1468 Ms. Peters - That's fine.

1469

1470 Mr. Jernigan - We normally use brick.

1471

1472 Ms. Peters - Well, I see that Henrico County, when they're building  
1473 commercial office structures or even residences, want to see a commitment to a  
1474 higher masonry type product, which we're willing to give. I'd be happy in the next  
1475 couple days to get those proffers in to Ben. I don't think we're going to really  
1476 have any issue over the substance of these things. Some of the issues came up  
1477 actually today, as to how we could kind of work out the issues we were having.  
1478 That's certainly one that we're happy to provide a higher quality of foundation  
1479 material.

1480

1481 Mr. Jernigan - Okay. I was going to say on like a split-faced block of  
1482 something, normally you wouldn't use a split-face on that with having the wood  
1483 structure above it.

1484

1485 Ms. Peters - Brick, stone—if that is what you'd like to see.

1486

1487 Mr. Jernigan - So, you're proffering that you would use a brick  
1488 foundation.  
1489  
1490 Ms. Peters - Yes, we'll use brick.  
1491  
1492 Mr. Jernigan - All right.  
1493  
1494 Mrs. Jones - The storage that you referenced on the northern part  
1495 of the parcel, could you describe what is being stored, and what it will look like  
1496 from the residents' view? Will it be visible?  
1497  
1498 Ms. Peters - I'm not sure that that's actually been decided, or the  
1499 developer knows exactly. Mr. Fowler is here with Metromont, and he can speak  
1500 to any specifics of what they've determined just yet. If you look at this, there's  
1501 actually RPA all through here. This is the area that we have to work with  
1502 setbacks and everything. There may be a little portion of this that we could  
1503 actually use for some storage. I think that, you know, maybe to the extent there's  
1504 any available space down here, they may use some, too, that would be closer to  
1505 the plant.  
1506  
1507 Mrs. Jones - Storage of?  
1508  
1509 Ms. Peters - Industrial materials, industrial equipment. It wouldn't  
1510 be cranes moving in and out. Let me ask Mr. Fowler to get more specific with  
1511 you, if he's able to, because I don't think there is a specific plan in place.  
1512  
1513 Mrs. Jones - I'm asking the question simply because this is close to  
1514 residents.  
1515  
1516 Ms. Peters - Sure.  
1517  
1518 Mrs. Jones - And we need to know.  
1519  
1520 Ms. Peters - Sure.  
1521  
1522 Mr. Jernigan - Let me enlighten things here, and explain the  
1523 background because you might not have been around. This site used to be  
1524 zoned M-2. What happened was the concrete plant was floundering, has been  
1525 floundering for years. I figured its demise was around any day, and we had a  
1526 developer that came in from Norfolk that wanted to put nice housing in there. We  
1527 told him what I would like to have, which was two-story with Georgia porches,  
1528 rear-loaded garages, and they committed to it. So, we ended up rezoning it. It  
1529 actually worked out better that he didn't get it, because later we found there's a  
1530 lot of concrete buried over on that site, too, so they would have had some major  
1531 problems. This had been an M-2 site up until 2005.  
1532

1533 Now, with this going to M-2, they have a 300-foot buffer that they have to keep  
1534 off the back. It's hard to tell exactly on that picture, but there was another picture  
1535 that showed the buffer line. Right now, they have a temporary use permit from  
1536 the BZA for bathrooms, for a temporary office, and for a parking lot. Metromont,  
1537 which bought this, has turned this company around. They're out of South  
1538 Carolina. I guess you all have 150 employees now?  
1539

1540 Mr. Fowler - [Off mike.] Sir, we had 150 employees. With the  
1541 economy the way it is, we are down to about 80 now.  
1542

1543 Mr. Jernigan - Okay.  
1544

1545 Mr. Fowler - [Off mike.] [Inaudible.]  
1546

1547 Mr. Jernigan - I knew that the employee group increased.  
1548

1549 Ms. Peters - Mrs. Jones, I think I can better address your question  
1550 now.  
1551

1552 Mrs. Jones - Okay.  
1553

1554 Ms. Peters - I have a little more insight. It looks like they're going  
1555 to put some small trailers back there that will store equipment. It wouldn't be just  
1556 stuff lying around on the ground. Also, the Leyland Cypress, where they're going  
1557 to be is actually going to shield the residents. It's not just going to be a dump  
1558 yard of equipment. It's going to be contained in trailers and containers and stuff  
1559 like that.  
1560

1561 Mrs. Jones - That was my concern. We needed to define that that  
1562 has to be done well for the neighbors.  
1563

1564 Ms. Peters - Sure. I understand that.  
1565

1566 Mr. Jernigan - We were discussing today on the uses, and generally,  
1567 what you have proffered out is 33 uses of what you could use back there. What  
1568 Mr. Sehl is concerned about is you all own this property now, and you guys are  
1569 here, but this property will be here a long time after you may be gone or  
1570 whatever. What we're trying to do is make sure for the future that whether you  
1571 own that plant, or somebody else owns that plant, whatever they decide to do, it's  
1572 something that's compatible.  
1573

1574 Ms. Peters - Sure.  
1575

1576 Mr. Jernigan - I don't want you to proffer what you will put back  
1577 there; I do want proffers of what you won't put back there that's detrimental to the  
1578 neighborhood. You don't have any buildings planned for back there now, but I

1579 want a commitment of materials that would be used for anything that was built  
1580 back there, and a limitation of building size.

1581

1582 Ms. Peters - Sure. We're happy to provide those things. And even  
1583 if there are additional uses that staff has a particular concern about, sort of the  
1584 bad commercial uses that the County typically likes to exclude, we are willing to  
1585 look at that. Like I said, we don't have any intention, but I do recognize that this  
1586 could be sold, potentially, and we're willing to work with staff.

1587

1588 Mr. Jernigan - So, you can come up with some language, if this is  
1589 passed, before it goes to the Board of Supervisors.

1590

1591 Ms. Peters - Oh, yes, yes.

1592

1593 Mr. Jernigan - Mr. Sehl, is that acceptable to you?

1594

1595 Mr. Sehl - Staff will be happy to continue to work with the  
1596 applicant on the proffers. We can go through the list of uses again, and see if  
1597 there are additional items that need to be addressed, as well as the operational  
1598 limits as far as hours of operation. That would certainly address that concern.

1599

1600 Mr. Jernigan - Okay. All right. The next thing was the light. The  
1601 angle of the light has been changed? Did they just change the angle of the light,  
1602 or did they put skirts on it? Why don't you come on up and state your name for  
1603 the record.

1604

1605 Mr. Fowler - Mr. Jernigan, my name is Todd Fowler. I'm with  
1606 Metromont Corporation. In regards to your question on the light, the light was  
1607 located at the top of a batch plant, very high up in the air. It was facing out  
1608 across the batch plant so that the employees that were loading the batch plant  
1609 could see at night. We have since moved lighting around to the back side of the  
1610 batch plant, and the ones that were up on top have been angled down with the  
1611 shielding, a box-top—shoebox, I guess they call it, type of light. Facing down on  
1612 the ground, so there's no longer a cast across the property. It is directly down on  
1613 top of the conveyor belt that loads it. We've taken any type of lighting that may be  
1614 reflecting in that direction, and have turned them down since then. All the towers  
1615 and stuff that used to sit out there with the portable lighting have been taken  
1616 down. We now have lights going up in the columns that shine directly on the  
1617 beds. The ones at the batch plant have been redirected and shielded.

1618

1619 Mr. Jernigan - Okay. All right. Now, you say that you are going to  
1620 install 150 Leyland Cypress?

1621

1622 Mr. Fowler - That is correct, sir.

1623

1624 Mr. Jernigan - When are you planning on doing this?

1625  
1626 Mr. Fowler - We have a contractor that we are talking to now that  
1627 is coming up to actually look at the site, determine exactly how he could place  
1628 those around there for rapid growth and the right type of climate and element to  
1629 get those in. We have someone working on it now.

1630  
1631 Mr. Jernigan - All right. That's something we need to straighten out,  
1632 too. Once your contractor comes in, contact me and let me know what he says  
1633 on that.

1634  
1635 Mr. Fowler - Yes sir.

1636  
1637 Mr. Jernigan - Okay. Any questions from the Commission? Thank  
1638 you. We do have opposition. First person come on down, please. Good evening.

1639  
1640 Mr. Bailey - Good evening, Mr. Chairman, members of the  
1641 Commission. My name is David Bailey. I'm an attorney at law, and I represent  
1642 residents who are just about the third or fourth home right here. I think I can  
1643 make this very simple for you, very straightforward. Before Metromont came in,  
1644 these people had lived in these home completely compatible with whoever was  
1645 there before—I forget their name—the concrete company that was there before.  
1646 They didn't have any problems. They didn't have any problems because there  
1647 was a significant barrier—not buffer, not distance, barrier, physical barrier to the  
1648 north of that property. This area here, that barrier blocked the lights, it blocked  
1649 the noise, it blocked the dust, the dirt, and everything else that comes from a  
1650 concrete plant. Metromont came in and destroyed it, completely. Now there's no  
1651 barrier. I think, although I'm still waiting to get County records, it wasn't quite on  
1652 the up-and-up. But in any event, the barrier is gone now. So, my clients are  
1653 measuring up to 70 or more decibels of noise in their homes, or right outside their  
1654 door. They don't sleep at night. During the day, it drives you nuts. And it's  
1655 infrequent. It can last for a couple of hours, it can last a half day, may skip a day.  
1656 You never accommodate to it, you never get used to it. This is a residential area  
1657 living next to a heavy industrial operation without any noise barrier. That's what  
1658 we have here, and that's my client's problem.

1659  
1660 The rezoning you have now, my clients are not concerned about the parking lot,  
1661 or the additional house that they want to build over there. Fine. But what you're  
1662 doing is you're rezoning 25 more acres, and you're picking up this property up  
1663 here. That expands their boundary. It expands their right to have those noise  
1664 levels extend to their boundary. Now the first industrial operation didn't have any  
1665 noise controls on it, as far as I can tell. It was probably done a long time ago,  
1666 and we didn't put them on. Now you have a rezoning. Not of the back property,  
1667 but of the one right around it, and right next to my client's house. You have to  
1668 mitigate for this rezoning. Does it affect the noise that comes from the other  
1669 facility? Of course it does. If you're rezoning it to M-2, you have an obligation to  
1670 mitigate. My clients shouldn't have to have a judge take care of that; the County

1671 needs to take care of this. I'm pleased that there's talk now; there's been no talk  
1672 with me. There's talk, apparently, with somebody about trying to do some buffer.

1673  
1674 But let's be realistic here. You can plant a thousand Leyland Cypress if you want  
1675 to. There's a lot of wetland there, half of them probably will die. Putting in a 10-  
1676 gallon, three-foot high Leyland Cypress, maybe it's even four or five, fifteen years  
1677 from now, it'll be a good buffer. You need a lawn berm there, or a solid barrier.  
1678 These Cypress trees will take years to achieve the result that you want, and my  
1679 clients want. They need to proffer a realistic noise barrier. I don't know if the  
1680 County has any noise meters or not, but if you get out there and you look at it,  
1681 you're going to find it's unacceptable. County staff has been out there and said  
1682 it's unacceptable. They just don't have the authority to make all the changes.  
1683 We just ask that a realistic, viable noise barrier be put in place that will bring the  
1684 noise level down—these people, they're like four lots up—something  
1685 approaching 55 or 60 decibels, which is what EPA says residential areas are  
1686 supposed to have in the day, 45 at night. I'm looking at 70 now. This is not a  
1687 linear chart; it's a logarithmic chart. We just ask that you use your power to  
1688 require meaningful mitigation of noise at this site, and then let them go about and  
1689 do their business. I'm not concerned whether there's going to be a 7-11 up there  
1690 or not, or whether the building has brick on it or not—I need noise reduction.  
1691 That's what my clients need. That's it.

1692  
1693 Mr. Jernigan - You don't have to search the County records to find  
1694 out if they had a problem. I'll tell you straight up they did. They were cleaning up  
1695 back there, and they did cut down stuff in the process of cleaning concrete that  
1696 had been sitting around.

1697  
1698 Mr. Bailey - I have aerial photos.

1699  
1700 Mr. Jernigan - That did happen, so you don't have to search that  
1701 anymore.

1702  
1703 Mr. Bailey - Thank you.

1704  
1705 Mr. Jernigan - Knowing that you were going to be here tonight, I  
1706 called my County Attorney today to find out how we legally stood on this,  
1707 because I know that you had talked about a wall. If you heard Ms. Peters say  
1708 that when funds will allow, they're planning on putting up a wall. That case is not  
1709 what we're talking about tonight, and the County Attorney advised me that I can't  
1710 ask for it, because it's not part of this case. The plant is there on a piece of  
1711 property now that's been zoned years ago. This is a separate piece of property.

1712  
1713 Mr. Bailey - Your County Attorney and I may deal with this at  
1714 some point in the future, but I would agree with him you can do nothing to  
1715 change the original zoning for the existing facility. But when you rezone property  
1716 anywhere, the law is absolutely clear you have to include any mitigation that's

1717 appropriate for the adjacent property owners. This sound now goes across what  
1718 is a residential barrier. By converting all of this to M-2, you will effectively extend  
1719 the authorization for the original plant out to these additional barriers. They still  
1720 should meet some reasonable sound limitation at their property boundary. But we  
1721 have to be realistic here. If you don't address the sound problem—You don't  
1722 have to grant the zoning. You may not be able to require the sound, but you  
1723 don't have to—

1724

1725 Mr. Jernigan - I can't turn it down because of the sound; it's a  
1726 concrete plant. It's been there since in the '20's. What I'm trying to express to  
1727 you is I can't turn down a case because of the noise that's coming from another  
1728 piece of property that's zoned.

1729

1730 Mr. Bailey - It's the same property owner.

1731

1732 Mr. Jernigan - Same property owner, but it's two separate—

1733

1734 Mr. Bailey - I'm not going to—

1735

1736 Mr. Jernigan - I had to call to find out legally how we stood because  
1737 that's what I have to do. He informed me of that.

1738

1739 Mr. Bailey - You, of course, will follow the advice of your County  
1740 Attorney; I wouldn't expect you to do anything different. My position—

1741

1742 Mr. Jernigan - You do need some sound suppression.

1743

1744 Mr. Bailey - I need sound suppression.

1745

1746 Mr. Jernigan - That's the reason I had discussed with these people  
1747 that they are going to address that. Mr. Fowler, do you know what size trees  
1748 you're planning on putting up?

1749

1750 Mr. Fowler - [Off mike] Approximately 150 six to eight foot Leyland  
1751 Cypress to be placed along the outside [inaudible].

1752

1753 Mr. Jernigan - Okay.

1754

1755 Mr. Bailey - I thought he said ten gallon.

1756

1757 Mr. Jernigan - Six to eight feet.

1758

1759 Mr. Bailey - I thought he said ten gallon.

1760

1761 Mr. Fowler - [Off mike] Ten gallon, six to eight feet.

1762

1763 Mr. Bailey - We'll see. I've seen so many of these Cypress. You  
1764 see them sitting all around everywhere, you know, in these little tiny things,  
1765 around all these lots. I'm not even sure if six feet is going to do it. It's real easy  
1766 to test because you can take people out there with sound meters. You can put  
1767 up something that's a reasonable six-foot barrier, and then you can measure the  
1768 sound at the distance away over there. You can tell, you can measure this. The  
1769 test is will it reduce the sound, not whether it looks pretty, or whether it appears  
1770 to be an effort. Quite frankly, I would think the company would be interested in  
1771 that, too, because if the Cypress trees work, great. If they don't work, I'm in court  
1772 on a nuisance action, and they're going to put in something else. That's a waste  
1773 of their money and time, so they need to make sure that the sound barrier that  
1774 they put in—whether it's Cypress, or dirt berms, or whatever it may be—is going  
1775 to be effective.  
1776

1777 Mr. Jernigan - I did discuss with them a wall, and they said they do  
1778 want to do that, but I can't ask for them to proffer that, and I can't make them  
1779 proffer it. I can't make anybody proffer anything.  
1780

1781 Mr. Bailey - A berm would probably be even more effective.  
1782

1783 Mr. Jernigan - Well, you know, we discussed that berm situation,  
1784 too, but I'm not sure with the RPA situation if a berm will work.  
1785

1786 Mr. Bailey - That's an issue.  
1787

1788 Mr. Jernigan - And when you put that berm up, that's going to take  
1789 up a significant amount of land. If it's 12 to 15 feet high, it's going to be very wide  
1790 at the bottom.  
1791

1792 Mr. Bailey - I understood they weren't going to put anything up in  
1793 that northern part.  
1794

1795 Mr. Jernigan - They're not putting anything up there now, but what  
1796 I'm talking about—Like I say, I'm not sure that the berm will work—  
1797

1798 Mr. Bailey - Give me 15 feet of berm, and then put your Cypress  
1799 on top of that. Then it'll probably work.  
1800

1801 Mr. Jernigan - Well, we'll have to talk to Public Works about that  
1802 because, like I said, there is an RPA situation.  
1803

1804 Mr. Bailey - Yes. I'll just let you know what my position is. I've  
1805 been doing zoning law for nearly 30 years, so your attorney and I will just have to  
1806 have some fun, if it comes to that. When you rezone, you have to mitigate. This  
1807 is an extension of an existing facility through another 25 acres. I think sound



1808 mitigation is required. Hopefully, we won't have to test that, but I'm already in  
1809 court, so what the heck.  
1810  
1811 Mr. Jernigan -                                 Seventy-eight dollars will get a lawsuit anyway.  
1812  
1813 Mr. Bailey -                                 I just urge you to ask for some measurements, ask for  
1814 some guarantees, ask for some sound reports. Get them to tell you if this is going  
1815 to take care of it. Don't just buy into this because it looks like something. It can  
1816 be verified.  
1817  
1818 Mr. Jernigan -                                 Bear in mind, too, what you have is a civil suit, and we  
1819 have a zoning case.  
1820  
1821 Mr. Bailey -                                 Well, he's proffering the trees. So, all you want to  
1822 know is will that solve the problem. What will that do to the sound?  
1823  
1824 Mr. Jernigan -                                 He hasn't proffered them yet. And I'm not saying  
1825 that's going to solve the problem. I'm saying what we have here is a zoning  
1826 case, and what you have is a civil case.  
1827  
1828 Mr. Bailey -                                 Oh, yes. But I'm saying you have to mitigate in your  
1829 zoning case. That's my position.  
1830  
1831 Mr. Branin -                                 Mr. Bailey, their attorney just mentioned that they are  
1832 doing that. Those haven't been proffered. It's not part of this case.  
1833  
1834 Mr. Bailey -                                 Yes, well. It should be proffered. It should be. You  
1835 know how this thing works. You know how these things work. They're going to  
1836 give you only what they need to give you to get what they want. A lot of this they  
1837 can have, no problems, works for them. You know.  
1838  
1839 Mr. Jernigan -                                 Okay. Are there any questions for Mr. Bailey from the  
1840 Commission? Okay, thank you.  
1841  
1842 Mr. Bailey -                                 Thank you, sir.  
1843  
1844 Mr. Jernigan -                                 All right. We have other people in opposition. Would  
1845 you come down, please?  
1846  
1847 Mr. Brydn -                                 Good evening. My name's Joseph Brydn. I live at  
1848 5301 Eanes Lane, the property to the north.  
1849  
1850 Mr. Vanarsdall -                                 Joseph Brydn.  
1851  
1852 Mr. Brydn -                                 Brydn. B-r-y-d-n. Very similar. Yes, thank you. We  
1853 enter our property through a deeded access lane from Williamsburg Road.

1854 We've been there since '99. We come on down that lane. You see a game  
1855 preserve setting that was set up by Browning-Ferris—BFI—which is now Allied  
1856 Waste, which we have very small problems with them. We knew there was a  
1857 form plant to the south of us, but we had a barrier between us, which you see  
1858 right here. It doesn't exist anymore. It's just totally gone. If I click on this, it will  
1859 bring up the first one. Yes, but I'd like to get to the north of this again. Can I get  
1860 some help with that? You had one up first that showed all the plots. Right,  
1861 exactly.

1862  
1863 Okay. Metromont wants to state that they want to be good neighbors, but so far  
1864 they've come in and done exactly the opposite of that. This area right here did  
1865 have trees. Yes, it had a bunch of machinery in there. It would be hard to clear  
1866 out without taking down the trees. When we come down this lane, it's all we saw  
1867 was trees. And in our yard right here, looking across here, all we saw was trees,  
1868 as we still do right here—50-foot trees, maybe 200 feet thick. This is gone. This  
1869 pond they just got rid of. And they built what he called a batch plant. They built  
1870 that with no POD at all. Just all of a sudden it was there, and then the County's  
1871 going, what happened. And we're going, what happened. Well, my  
1872 granddaughter lives with us; she's a little over a year old. Last night, I got no  
1873 sleep. You know why I didn't get any sleep? Because in my bedroom you hear at  
1874 4:00 in the morning—They have no hours. They run through the night, which I  
1875 talked to Mr. Donati's office about. They said they couldn't have any sound  
1876 leaving the property at night, but that's not what has happened for over a year  
1877 now. It's getting to my health real bad by having my sleep disturbed, my  
1878 granddaughter's sleep disturbed. There's nowhere in our house you can be  
1879 without hearing this—beep, beep, beep—like your alarm's going off. We called  
1880 Metromont's home office in South Carolina and talked to them. They were  
1881 extremely rude, and said it's their property, they can do what they want with it.

1882  
1883 Well, the County with all its good efforts, up here is Carter's Pond Estates. They  
1884 put in a buffer between the old lane and the new existing subdivision. They kind  
1885 of convinced us that that would be all right, and everybody would abide and  
1886 respect the old and new. That's not what happened. Immediately when  
1887 homeowners moved in, even though they signed their deed and whatnot, and  
1888 they knew that those plants were there, the plants came up. They started using  
1889 the lane. No ingress or egress to that lane from the new subdivision. And the  
1890 County? It's their land, we cannot stop them from doing it.

1891  
1892 What I'm concerned with now is this plot of land here, no big deal. This stuff  
1893 here, I don't want them any closer to me than they are now. Now, when I look in  
1894 my backyard—I have an approximately two-acre yard. I'm out there doing  
1895 whatever, enjoying the yard. I'm in my swimming pool looking across there, and  
1896 all I see it looks like Langley NASA Cape Canaveral setup with this batch plant  
1897 that they built, which they put no POD on. It just grew there overnight in the last  
1898 year.

1899

1900 When they get this piece of property here, and they're going to be out there like  
1901 they were last night with their cranes that take the concrete from place to place,  
1902 and it's beeping. People are yelling, and horns are beeping all through the night.  
1903 They're going to be up here right on my house doing this now. I've called the  
1904 police numerous times. If this was residential, and these were houses—If any  
1905 one of these houses here were making a pile of noise, I could call the police and  
1906 they would go over there and do something about it. But you know what? They  
1907 went over here, and all they got up with was a security guard, and they didn't  
1908 stop them from making noise in any single time. You need to take that into  
1909 consideration.

1910  
1911 I don't think this needs to be rezoned at all right here. They can purchase it. They  
1912 need to stay off it. They need to stay away from us. Home is not home  
1913 anymore. You can see me shaking. This has happened all in the last year.  
1914 None of you probably live by this, and don't quite understand it. I invite you to  
1915 come to my home any time and sit down and have dinner, or barbecue, or just  
1916 play golf or whatever. Stand around my property, and you'll say, "You have a  
1917 one-year old granddaughter here? She's subject to this?"

1918  
1919 Personally, my thoughts on it are I kinda demand that the rezoning doesn't take  
1920 place for those properties to the north, because they're going to come around,  
1921 and they're going to go—Just like their Human Resource manager did in  
1922 Carolina. "We own the property, we can do what we want." Quote unquote. And  
1923 we ended the phone call with them. I don't know what to tell you about it. We  
1924 lived there for all these years with the other plant.

1925  
1926 Mr. Jernigan - When did you buy this house?

1927  
1928 Mr. Brydn - We moved into the house in '99.

1929  
1930 Mr. Jernigan - You bought it in '99.

1931  
1932 Mr. Brydn - We did not purchase it in '99; we moved into the  
1933 house in '99. We had a rent to lease, and we purchased the house in 2003 or 4.  
1934 Don't hold me exactly to that, but we've been there since October of '99.

1935  
1936 Mr. Jernigan - You realize that the concrete plant is not the zoning  
1937 case tonight.

1938  
1939 Mr. Brydn - This parcel right here that puts them closer, with the  
1940 people that have an attitude of we can work when we want to work, we can make  
1941 as much noise as we want to make. It's our property, and we can do what we  
1942 want with it. They're asking for a rezoning, and with that kind of mentality, how do  
1943 we go, yes, this is fine.

1944

1945 Mr. Jernigan - You may have had a call like that, but you were at the  
1946 neighborhood meeting.  
1947  
1948 Mr. Brydn - I was at the neighborhood meeting.  
1949  
1950 Mr. Jernigan - Okay. And those people didn't talk to you that way  
1951 here.  
1952  
1953 Mr. Brydn - Excuse me?  
1954  
1955 Mr. Jernigan - They didn't talk to you like that at the neighborhood  
1956 meeting.  
1957  
1958 Mr. Brydn - No, but they jumped up and down about taking these  
1959 trees down, and I've got satellite photos about it. This pond is not there anymore.  
1960 This drainage is not here, which the County has got up with them, and they then  
1961 put in two 48-inch pipes across there. At least that's according to Steve  
1962 Hartman, I believe. You know what? We're still waiting tonight to see if that  
1963 works, because our property is flooded. It's underwater, and it's not flowing.  
1964 Tomorrow when that rain stops, we get about six hours. For the past ten years  
1965 after rain has stopped for six hours, the property was back dry. We'll see  
1966 tomorrow on that. But you know what I'm saying? No, this person and this  
1967 person personally have not acted that way. But you know what, when you have a  
1968 problem—And the police said this to us. The police said, "You need to call the  
1969 main office and talk to them." So, when we called them, they were extremely  
1970 rude.  
1971  
1972 I'm looking for a guarantee from the County that they're not going to do this,  
1973 they're not going to do that. You know what I mean? Where's the guarantee?  
1974 My example is up here in Carter's Pond. The County said we'd put in a plant  
1975 strip bordering the lane so people would respect your lane. None of that took  
1976 place. They ripped the plants up, and they use the lane every day. I paid for that  
1977 lane. I pay \$800 a year on that lane to have it graded, and gravel put on it. My  
1978 other neighbors pay for that lane, and work on it all the time, and put out gravel  
1979 all the time. All these other people just ripped up the plants, and just use it. It's  
1980 the same mentality. How are you going to stop them? They'll be out here 4:00,  
1981 5:00 in the morning doing whatever they want to, just like they're doing now over  
1982 here. They're over here working 4, 5:00 in the morning. Home is not home  
1983 anymore. I'll guarantee you it's ruining our health, and I'm concerned for the  
1984 safety of my granddaughter and her health. I just want you take that into  
1985 consideration.  
1986  
1987 Mr. Jernigan - All right. Thank you, sir. We've run a little over here,  
1988 but I'm going to hear it.  
1989

1990 Ms. Karlis - I'm Kellie Karlis, and I own the property at 5301  
1991 Eanes Lane. I'm the owner. Kellie Karlis. That's K-a-r-l-i-s. I'm the one that  
1992 talked to Jason Wooder from Human Resources in Carolina from the home base.  
1993 When I talked to him, I was telling him the tree buffer was gone. What they told  
1994 me—I'm shaking. This has really got me upset. They said, "Well, the trees were  
1995 on our property, correct?" I said yes. That was like blowing me off because they  
1996 were on the property. I said, "Well, you should open your drainage. My  
1997 property's going under water. I have septic. The pond is overflowing." "Well,  
1998 it's on our property, right?" And I said, "Well, there's nothing more for me to  
1999 discuss." I shouldn't have to get out of bed at 3:00 in the morning to videotape  
2000 them making noise. I shouldn't have to be disturbed. I no longer sleep in my  
2001 bedroom because of this. I'm sleeping with the grandbaby in the other bedroom  
2002 so I don't have to hear this noise. Their mentality is they're going to do what they  
2003 want. I have film of people yelling break time at 4:00 in the morning. I don't need  
2004 to hear that. And they're going to be parking right there, yelling back and forth or  
2005 whatever? I'm strictly opposed.

2006  
2007 Mr. Jernigan - Let me explain something to you. I know I've  
2008 explained this, but I want to make it clear. If this property doesn't get zoned, you  
2009 still have the same noise. Now, the chances of diminishing that noise get better  
2010 if this does get zoned. I talked to them after the neighborhood meeting that we  
2011 had about cutting down on noise. Mr. Jimmy Knight, who is one of his associates,  
2012 told me, he said, "Ray, it would be better to put up a wall, but we can't do it until  
2013 we get the funds." He said at this point now, they wanted to put in some trees.  
2014 He had told me that before. He didn't tell me how many. He didn't tell me how  
2015 high they were going to be. But regardless of what happens on this, it's not  
2016 going to change the situation that you have now. If you want to work with them  
2017 and give them some time, they can make the changes. I can't make them say  
2018 that they're going to put that wall up because it's on a different piece of property  
2019 than this. These pieces of property are owned by the same people, but it's two  
2020 separate pieces of property. I've been talking to these people probably—I've  
2021 probably had 10 or 12 phone calls, plus 5 or 6 meetings other than the meetings  
2022 that I've had that you all were in on. I've met with them at the County quite a few  
2023 times to try to work these problems out. So, I want you to know we're working on  
2024 this thing. I understand your situation. How long have you been there?

2025  
2026 Ms. Karlis - Ten years. 1999. That's my boyfriend, Joseph Brydn.

2027  
2028 Mr. Jernigan - That plant's been there many, many—

2029  
2030 Ms. Karlis - Never heard them.

2031  
2032 Mr. Jernigan - I know. What happened is they geared up. They  
2033 geared up.

2034

2035 Ms. Karlis - I have one more thing I want to say. They're  
2036 supposed to be 300 feet away from a residential area. That's why I thought  
2037 [unintelligible] area here so they could be in compliance. They're right there in a  
2038 residential area. That's why I feel like that's why they're trying to change this, so  
2039 they can come up to compliance, which they should have already been.  
2040

2041 Mr. Jernigan - Actually, we checked into that. It's a long story on  
2042 that. Part of this is grandfathered. That has been there for some time, and it falls  
2043 under the grandfather rule. I understand your concern, and we're trying to get  
2044 this thing taken care of. It's not pretty, but we're doing the best we can.  
2045

2046 Ms. Karlis - I no longer have a country setting like I had. I was  
2047 going to sell my house based on a country setting. There's no longer a country  
2048 setting. I'm sorry. I've taken too much time.  
2049

2050 Mr. Jernigan - That's okay. All right, thank you. You can't do that. I  
2051 checked on that.  
2052

2053 Mrs. Jones - Okay. All right.  
2054

2055 Mr. Jernigan - We went way over time here, but I want to hear you.  
2056

2057 Ms. Smith - We're on Eanes Lane as well, 5303. My name is  
2058 Loretta Smith, and this is my husband, David Smith. First of all, I really want to  
2059 thank you. You took care of the lighting situation like the next day, and I really  
2060 appreciate that. That was a big help. I'm right there, so yes, we greatly  
2061 appreciate that.  
2062

2063 The only concern I have are the trees in this particular vicinity that are already  
2064 here. Are they going to be taken down with acquiring this property or making the  
2065 changes? The other thing I'm concerned about is that they mentioned putting  
2066 trailers here for storage. I don't want it to look like a trailer park and diminish the  
2067 look of the area from housing to look like a trailer. I'm wondering if it's going to be  
2068 like a U. S. building, like one of those metal buildings, or is it portable.  
2069

2070 Mr. Jernigan - Mr. Fowler, will you elaborate on what type of trailer it  
2071 is?  
2072

2073 Mr. Fowler - Yes sir. In our operation, we have—  
2074

2075 Mr. Jernigan - Would you get up a little? These hearings are taped.  
2076

2077 Mr. Fowler - Absolutely. On the back side of the property over  
2078 here where we were discussing, in this area here. Just to clarify, there was a row  
2079 of trees sitting right here. There are also power lines that run across here and  
2080 down this side road. They came in and cleaned these trees up in that area. That

2081 was the utilities that came in and trimmed those back so if there was an ice storm  
2082 or anything, it wouldn't take out the power lines. So, we're not cutting these trees  
2083 down along Eanes Lane. Actually, we came over and we were fixing the potholes  
2084 and things.

2085  
2086 As far as the trailers go, what we're talking about is we have flatbed semi-trailers.  
2087 They're just for moving product. When we have an overflow in our process,  
2088 which I can show you here, these drainage pipes and things are running from this  
2089 over into the wetlands, and that went back into compliance. With those drainage  
2090 pipes there, we can't really cross this lane anyway. We were just leaving the  
2091 door open that if we had to ever park semi-trailers or anything back in this area  
2092 here with our yard trucks, it gave us an area to place them. We really have no  
2093 desire to put anything back there, because we don't want to go through the  
2094 hassle of trying to bridge those 48-inch pipes that are sitting there. Most of the  
2095 trailers that you see now are going to be contained up in this area, and in  
2096 between these two buildings. When it does overflow, we put them back in this  
2097 area. If you notice, we've graded all this back here, leveled it out, and are re-  
2098 tapping and stuff at this point. We have really no desire to go back there, but we  
2099 wanted to leave the option open. If we had spare trailers, they would be parked  
2100 back there. It's not like mobile homes or anything of that nature.

2101  
2102 Ms. Smith - Oh, okay.

2103  
2104 Mr. Jernigan - Everything is a flatbed trailer.

2105  
2106 Mr. Fowler - That's correct.

2107  
2108 Mr. Jernigan - There are no structures.

2109  
2110 Mr. Fowler - A flatbed trailer. We couldn't even put product back  
2111 there because it's not paved or anything. And we couldn't have the trailers sink  
2112 down into the ground. So, they would be empty trailers until we pulled them out  
2113 to use them.

2114  
2115 Mr. Jernigan - Does that satisfy?

2116  
2117 Mr. Smith - I just want to say one thing. I've actually heard a lot  
2118 of stuff tonight about the improvements that have been made by your company  
2119 and everything, and I've heard that you all want to be good neighbors. As far as I  
2120 can tell with what you've done so far, you're off to a good start.

2121  
2122 Mr. Fowler - [Off mike.] Thank you, sir.

2123  
2124 Mr. Jernigan - All right. Thank you, folks.

2125  
2126 Ms. Smith - Thank you for your time.

2127

2128 Mr. Archer - Mr. Chairman, can I just ask a question? Based on  
2129 the information we've heard tonight from Mr. Bailey and from the neighbors, is  
2130 there anything new that you've not heard before in neighborhood meetings? The  
2131 reason I ask that question is because the applicant seemed to be willing to want  
2132 to work with the neighborhood. I'm just wondering if there's something new that  
2133 you've heard here tonight that might give you an outlet to doing some other kind  
2134 of thing to mitigate the noise problem, things like whatever it is that makes the  
2135 most noise, keeping it as far away from the neighborhood as you possibly can, or  
2136 maybe some other type of sound suppression that can be used on the  
2137 equipment.

2138

2139 Ms. Peters - We heard this at the community meeting, concerns  
2140 about the noise. The folks that came up and spoke were at the meeting. I didn't  
2141 hear anything new. I don't know, Mr. Jernigan, if you heard anything new.

2142

2143 Mr. Jernigan - No. I mean, pretty much everything that was  
2144 expressed tonight was expressed at the neighborhood meeting.

2145

2146 Ms. Peters - There's been communication since then with the  
2147 community members. I don't know if Todd has spoken directly with the  
2148 community members, but I know Mr. Knight has, and has engaged them in the  
2149 process, or is willing to and trying to at this point in time. If the neighbors would  
2150 like another meeting, that would be fine. I mean, we could do that between—I'd  
2151 certainly not like to delay this, but if Mr. Donati wanted another meeting, we'd be  
2152 willing to do that.

2153

2154 Mr. Jernigan - I don't know that anything new is going to come out.

2155

2156 Mr. Archer - That's what I'm trying to get at.

2157

2158 Mr. Jernigan - What they expressed tonight was what we had at the  
2159 meeting.

2160

2161 Mr. Archer - I was just curious about whether or not there are  
2162 some things that could be done that might help in some ways at suppressing the  
2163 sound. Somebody mentioned, I think, a beep-beep, which probably comes from  
2164 the backup beeper. Are they at a level that they have to be? Is there a maximum  
2165 or minimum level that those things can be? They are annoying. I know it's an  
2166 OSHA requirement.

2167

2168 Mr. Vanarsdall - We have had that before, and there's nothing you can  
2169 do about it. OSHA enforces that.

2170

2171 Mr. Archer - I'm just wondering if there's a sound level, a minimum  
2172 sound level that they can be lowered to, to maybe suppress some of the noise.



2173  
2174 Ms. Peters - We are certainly happy to work with them to find  
2175 those ways, but I think we're getting a little off issue because what we're going to  
2176 be doing on the property we're trying to rezone isn't going to expand operations.  
2177 We're actually proffering out industrial operations from the parcels that are closer  
2178 to the residents. We're willing to work with them. We're willing to meet with them  
2179 again. But for the purposes of this zoning case, I think we've addressed  
2180 everything we can. We are not obligated under law to provide proffers to mitigate  
2181 damages, or nuisances, or problems that exist on a parcel that isn't subject to the  
2182 rezoning.  
2183  
2184 Mr. Archer - I understand that. I'm simply asking because I wasn't  
2185 at the meeting. So, I don't know what went on, and what did not.  
2186  
2187 Mr. Jernigan - I discussed with Mr. Knight after the neighborhood  
2188 meeting about the sound. He told me at that point that he was going to put in  
2189 some trees. Leyland Cypress grow about two feet a year. I think about 2 to 2-  
2190 1/2 feet a year is about what they grow. I wasn't sure what size trees they were  
2191 planning on putting in. I don't know, there's a possibility you could put a small  
2192 berm back there, and put the trees on top of it. But I don't know that they would  
2193 live at that point, you know, in pressed dirt. Also, you do have the RPA situation  
2194 back there, and that would be something that Public Works would have to go and  
2195 look at. Mr. Knight did say a wall would be the best thing to do, and put that at  
2196 the end of the plant where the concrete stops. That would be the best thing to do.  
2197 But at this point, the funds wouldn't allow it. It could be something they could do  
2198 in the future.  
2199  
2200 Mr. Emerson - Mr. Chairman, could I ask a question?  
2201  
2202 Mr. Jernigan - Yes sir.  
2203  
2204 Mr. Emerson - What type of pre-cast work do you do at this facility?  
2205  
2206 Mr. Fowler - We build hospitals, parking garages, elementary  
2207 schools, high schools.  
2208  
2209 Mr. Emerson - So, you're creating pre-cast slabs.  
2210  
2211 Mr. Fowler - We're creating pre-cast insulated panels, parking  
2212 structures, double-T's, roofs, things of that nature.  
2213  
2214 Mr. Emerson - Couldn't you create a barrier wall to be placed on your  
2215 property within your own operation?  
2216  
2217 Mr. Fowler - When funds would actually allow. We are looking into  
2218 doing something back there. At this time, it's a startup operation. It's our first year

2219 in business up here. We are looking at everything that we could do to make the  
2220 company viable in Virginia with competitors right down the street, and looking at  
2221 what we could do to mitigate here as well. So, we are entertaining the wall  
2222 concept, but for immediate mitigation, we're looking at putting in the Leyland.  
2223

2224 Mr. Emerson - If you have no current plans for the property adjacent  
2225 to the neighborhood, and it sounds like you have difficulty actually accessing that  
2226 property, is there a specific reason it needs to be included in the case, or could it  
2227 be removed?  
2228

2229 Ms. Peters - Mr. Fowler addressed it before that sometimes there's  
2230 an overflow of the trailers, and they would like to at least retain the option to do  
2231 that, to put them back there.  
2232

2233 Mr. Emerson - Placing trailers, they will be clearing, I guess, some of  
2234 the property?  
2235

2236 Ms. Peters - It already is.  
2237

2238 Mr. Emerson - Is it reasonably clear at this point?  
2239

2240 Ms. Peters - Yes.  
2241

2242 Mr. Emerson - Okay.  
2243

2244 Ms. Peters - It's right here.  
2245

2246 Mr. Jernigan - Excuse me a minute.  
2247

2248 Mrs. Jones - The barrier that I've heard referenced there that was  
2249 cleared, apparently, when you all took over the operation, what did that consist  
2250 of? Was it a hardwood barrier?  
2251

2252 Mr. Fowler - Back in this line right here, if you look at this photo—  
2253

2254 Mrs. Jones - It's the northern parcel we're talking about.  
2255

2256 Mr. Fowler - Over in this area here?  
2257

2258 Mrs. Jones - Yes.  
2259

2260 Mr. Fowler - We cleared nothing in here. This is still grown up.  
2261 There are a lot of—I forget the homeowner's name here, but they asked us to  
2262 leave this brush and stuff here because there are a lot of fox, and deer, and  
2263 things in this area.  
2264

2265 Mrs. Jones - So, that remains.  
2266  
2267 Mr. Fowler - We haven't cleared any of the brush out. There is a  
2268 small section here. Some of these trees right in this area had to be cleared so  
2269 we could put in the 48-inch pipes. There are two of them that run over here and  
2270 fill this wetland.  
2271  
2272 Mrs. Jones - All right. Okay.  
2273  
2274 Mr. Fowler - So, we cleared a few of these trees here, and then all  
2275 along Eanes Lane, there are utility poles that come there. They came through  
2276 and trimmed all these trees back through here where the utility poles run so that  
2277 in an ice storm or whatever—  
2278  
2279 Mrs. Jones - So, it's your contention the utility clearing has been  
2280 the problem?  
2281  
2282 Mr. Fowler - The utility clearing, when they came in this corner  
2283 right here around these poles, they cleaned out a lot of those trees and cut back  
2284 the branches. Ours was cleaning up just this trash and stuff that you see laying  
2285 back in here from an old photograph of the facility.  
2286  
2287 Mrs. Jones - If the problem was much different, I think there are  
2288 two elements to that, either vegetation or a more ramped-up operation. I would  
2289 tend to think that a ramped-up operation is not going to be mitigated by even  
2290 replanting more trees than you're planning to. Would you agree to that? The  
2291 noise of your operation probably will not be taken care of by the trees. Visually  
2292 they'll help, but not noise.  
2293  
2294 Ms. Peters - I think that the Leyland Cypress do reduce noise. I  
2295 mean, I do think it will be a reduction. I don't think either of us can say that the  
2296 folks living up there will not hear anything once those trees are planted. I think  
2297 the walls—a wall, or walling in the work bays will definitely cut it down.  
2298  
2299 Mrs. Jones - I know. This is a tough situation with the two separate  
2300 situations we find ourselves confronting here.  
2301  
2302 Ms. Peters - As was mentioned, there is a lawsuit, and some of  
2303 these items are being addressed in that lawsuit. What's existing out there is  
2304 going to stay whether the rezoning case is approved or not. It's not going to  
2305 change based on whether the zoning is approved. In fact, we're going to try to do  
2306 what we can to reduce the noise to the best of our ability.  
2307  
2308 Mr. Jernigan - I just had a small conference.  
2309  
2310 Ms. Peters - I saw that.

2311  
2312 Mr. Jernigan - I have some ideas, but I can't discuss them right now.  
2313 What I would like for you to do is defer this case. I think we can get something  
2314 worked out in the next 30 days that will make everybody happy.  
2315  
2316 Ms. Peters - I'll tell you what, Mr. Jernigan, if you defer it, then we  
2317 don't have to pay \$100, right?  
2318  
2319 Mr. Vanarsdall - Mr. Chairman, before you say anything, I don't know  
2320 what you have in mind, but it seems like to me the two things here tonight are the  
2321 noise, which maybe a wall would take care of. I notice there is nothing here  
2322 about hours. I know M-2 doesn't have hours, but M-2C, that condition means  
2323 you can put hours if you want. So, you can't stop OSHA from these backing up  
2324 and stopping those things no matter what you lower it, because we've had this  
2325 many times. Maybe not beeping at midnight would be one of the things, and a  
2326 wall would be the next. I don't see how you can get around it if they can't afford a  
2327 wall.  
2328  
2329 Mr. Jernigan - I have some ideas I'm going to go over with you. I'll  
2330 defer this.  
2331  
2332 Ms. Peters - Okay.  
2333  
2334 Mr. Jernigan - All right.  
2335  
2336 Ms. Peters - Thank you.  
2337  
2338 Mr. Jernigan - Okay. I make a motion to defer case C-37C-08,  
2339 Caroline L. Peters for Metromont Corporation, to January 15, 2009, by request of  
2340 the Commission.  
2341  
2342 Mr. Vanarsdall - Second.  
2343  
2344 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.  
2345 All in favor say aye. All opposed say no. The ayes have it; the motion passes.  
2346  
2347 At the request of the Commission, the Planning Commission deferred C-37C-08,  
2348 Caroline L. Peters for Metromont Corporation to its January 15, 2009 meeting.  
2349  
2350 **C-38C-08** **Everett Wayne Behr:** Request to conditionally  
2351 rezone from B-1 Business District to B-3C Business District (Conditional), Parcel  
2352 827-716-2023, containing 0.5 acre, located at the northwest intersection of E.  
2353 Williamsburg Road (U.S. Route 60) and Naglee Avenue. The applicant proposes  
2354 a printing business. The use will be controlled by zoning ordinance regulations  
2355 and proffered conditions. The Land Use Plan recommends Commercial

2356 Concentration. The site is in the Airport Safety Overlay District and the  
2357 Enterprise Zone.

2358  
2359 Mr. Jernigan - Do we have an opposition to case C-38C-08, Everett  
2360 Wayne Behr. There is no opposition.

2361  
2362 Ms. Sherry - Thank you, Mr. Chairman.

2363  
2364 Mr. Jernigan - Ms. Sherry, how are you this evening? You may  
2365 proceed.

2366  
2367 Ms. Sherry - Thank you.

2368  
2369 This request is to rezone .5 acres on Williamsburg Road from B-1 Business  
2370 District to B-3C Business District (Conditional) to convert an existing 6,000-  
2371 square-foot structure for a printing business, associated retail operations, and  
2372 offices. The site is the former Trios Market. A nonconforming residence is located  
2373 on the rear portion of the property. No changes are proposed for the dwelling at  
2374 this time.

2375  
2376 The 2010 Land Use Plan recommends Commercial Concentration uses for the  
2377 subject property which is located in the County's Enterprise Zone and the Airport  
2378 Safety Overlay District. The proposed zoning and use would be consistent with  
2379 these designations.

2380  
2381 The property is also located within the Sandston Special Strategy Area. The  
2382 purpose of this Special Strategy Area is to provide guidance for redevelopment in  
2383 order to achieve economic stability and a cohesive appearance for the  
2384 Williamsburg Road corridor. Recommendations adopted with the amendment  
2385 address items such as building design and streetscape improvements.

2386  
2387 The applicant submitted proffers regulating the use of the property. The only use  
2388 first permitted in the B-3 District would be for the printing business. All other  
2389 uses, including hours of operation and signage would adhere to the B-1 District  
2390 regulations. Other proffers address outdoor lighting, mechanical equipment,  
2391 outside storage, trash receptacles, dumpsters, and severance.

2392  
2393 The applicant submitted amended proffers today, December 11, 2008, copies of  
2394 which you just received. The amended proffers commit to improving the building  
2395 to be consistent with the proffered front, side and rear elevations.

2396  
2397 The applicant has also proffered language that would require a landscape plan  
2398 be submitted to the Planning Department for review and approval which features  
2399 at minimum a 100 square feet of planting area in the front of the building, a  
2400 minimum 150 square feet interior planting island in the parking area and a 7-foot-

2401 wide planting strip between the fence line of the residence and the rear parking  
2402 lot. Paint colors have also been proffered.

2403  
2404 In addition, the applicant has proffered a timeline for completing these  
2405 improvements.

2406  
2407 With the amended proffers to include the elevation and landscape plan, this  
2408 request is in keeping with the goals of the Enterprise Zone and Sandston Special  
2409 Strategy Area. Staff notes improvements depicted in the elevations could be  
2410 beneficial to the Sandston Commercial area; however, because of the building's  
2411 prominent location and high visibility, more architectural features on the side of  
2412 the building facing Naglee Avenue would break up the mass of this elevation and  
2413 enhance this request's consistency with the Sandston Special Strategy Area  
2414 guidelines. Staff supports this request, but encourages the applicant to explore  
2415 additional architectural enhancements to this frontage.

2416  
2417 Staff notes time limits would need to be waived on the amended proffers. This  
2418 concludes my presentation. I would be happy to try to answer any questions you  
2419 might have.

2420  
2421 Mr. Jernigan - Okay. Thank you, Ms. Sherry. Are there any  
2422 questions for Ms. Sherry from the Commission? On number 12, just to clear this  
2423 up, and I'm sure this is just an error. It says, "The existing dumpster shall be  
2424 repaired and painted." We don't paint the dumpsters.

2425  
2426 Ms. Sherry - Right, yes. That will be fixed.

2427  
2428 Mr. Jernigan - That's just a typo error there. We'll just clean that up,  
2429 and that should be okay. I spoke to Mr. Beahr prior to our meeting, knowing that  
2430 we had very short time on this because this was tied up in the Enterprise Zone to  
2431 go over things. Everything is looking pretty good. He has told me that we do  
2432 need to do something to break that up a little bit. He concurred that he  
2433 understood that.

2434  
2435 Ms. Sherry - Okay.

2436  
2437 Mr. Jernigan - So, what I'm going to do is move this along, and let  
2438 him work with you between now and the Board of Supervisors to clear up that  
2439 little issue on the side.

2440  
2441 Ms. Sherry - Okay, thank you.

2442  
2443 Mr. Jernigan - So, with that, I will move for approval of case C-38C-  
2444 08, Everett Wayne Beahr, to send to the Board of Supervisors for their approval.  
2445 First of all, I want to waive the time limits on case C-38C-08, Everett Wayne  
2446 Beahr.

2447  
2448 Mr. Branin - Second.  
2449  
2450 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Branin. All  
2451 in favor say aye. All opposed say no. The ayes have it; the motion passes.  
2452  
2453 Now I move for approval of C-38C-08, Everett Wayne Beahr, to send to the  
2454 Board of Supervisors for their approval.  
2455  
2456 Mr. Branin - Second.  
2457  
2458 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Branin. All  
2459 in favor say aye. All opposed say no. The ayes have it; the motion passes.  
2460  
2461 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.  
2462 Branin, the Planning Commission voted 5-0 (one absent) to recommend the  
2463 Board of Supervisors grant the request because it is appropriate business  
2464 zoning in this area and the proffered conditions should minimize potential  
2465 impacts on surrounding land uses.  
2466  
2467 Mr. Emerson - Mr. Chairman, that takes us to the last item on your  
2468 agenda at the top of page 3, which is the approval of the minutes of your  
2469 Planning Commission meeting on November 13, 2008.  
2470  
2471 Mr. Jernigan - Are there any corrections to the minutes of November  
2472 13, 2008?  
2473  
2474 Mrs. Jones - I move approval of the minutes.  
2475  
2476 Mr. Archer - Second.  
2477  
2478 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Archer. All in  
2479 favor say aye. All opposed say no. The ayes have it; the motion passes.  
2480  
2481 Mr. Emerson - Mr. Chairman, before you adjourn the meeting, I  
2482 would like to note that you do have one last meeting at this facility, which would  
2483 be next week on December the 17<sup>th</sup> for the Plan of Development meeting.  
2484  
2485 Mr. Jernigan - Okay. Is there any other business?  
2486  
2487 Mr. Archer - Mr. Chairman, I move that we be adjourned and  
2488 allowed to go our separate ways.  
2489  
2490 Mr. Branin - Second.  
2491

2492 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr. Branin. All in  
2493 favor say aye. All opposed say no. The ayes have it; the motion passes.

2494  
2495 The meeting adjourned at 9:27 p.m.

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Mr. R. Joseph Emerson, Jr., Secretary

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Mr. E. Ray Jernigan, C.P.C., Chairperson