

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico held in the County Administration Building in the Government
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. February
4 17, 2014, Display Notice having been published in the Richmond Times-Dispatch
5 on January 27, 2014 and February 28, 2014.
6

Members Present: Mr. Eric S. Leabough, C.P.C., Chairman (Varina)
Mr. Robert H. Witte, Jr., Vice-Chairman (Brookland)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Tommy Branin (Three Chopt)
Mrs. Bonnie-Leigh Jones, C.P.C., (Tuckahoe)
Mr. R. Joseph Emerson, Jr., AICP,
Director of Planning, Secretary

Member Absent: Mr. David A. Kaechele,
Board of Supervisors' Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning
Mr. James P. Strauss, PLA, Principal Planner
Ms. Rosemary D. Deemer, AICP, County Planner
Mr. Seth Humphreys, County Planner
Mr. Benjamin Sehl, County Planner
Mr. Livingston Lewis, County Planner
Mrs. Lisa Blankinship, County Planner
Mr. William Moffett, County Planner
Mr. Kenny Dunn, Assistant Chief, Division of Fire
Mr. Henry Rosenbaum, Fire Marshall, Division of Fire
Mr. David Sacks, Community Development Manager,
Community Revitalization
Mr. John Cejka, County Traffic Engineer, Public Works
Ms. Sylvia Ray, Recording Secretary

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

10
11 Mr. Leabough - Good evening. I'd like to call to order this meeting of
12 the Henrico County Planning Commission. This is our rezoning and provisional
13 use permit meeting. Welcome. This is the meeting that was originally scheduled
14 for the thirteenth, and because of this pesky snow we've been having, we were
15 forced to reschedule it to tonight. So thank you for coming out.

16
17 At this time, I'll ask that you mute or silence your cell phones as a courtesy to
18 others attending the meeting. After that, please rise with me to pledge allegiance
19 to the flag.
20

21 We have a quorum. Unfortunately, Mr. Kaechele, our Board member who's
22 sitting with us this year, was not able to attend tonight, but we can conduct
23 business.

24
25 Is there anyone in the audience from the news media? I don't see anyone. Thank
26 you.

27
28 At this point, I'd like to turn this meeting over to our secretary, Mr. Emerson.

29
30 Mr. Emerson - Thank you, Mr. Chairman. First on your agenda
31 tonight are requests for withdrawals and deferrals. Those will be presented by
32 Mr. Jim Strauss.

33
34 Mr. Strauss - Thank you, Mr. Secretary. We do have a request for
35 withdrawal this evening. This is in the Three Chopt District, page three of the
36 agenda, REZ2014-00003, Towne Center West, LLC. No action is required by the
37 Commission for this.

38
39 **REZ2014-00003 Andrew M. Condlin for Towne Center – West, LLC:**
40 Request to conditionally rezone from B-3C Business District (Conditional) to M-
41 1C Light Industrial District (Conditional) part of Parcel 734-764-9340 containing
42 1.98 acres located approximately 275' north of W. Broad Street (U.S. Route 250)
43 and 545' east of its intersection with N. Gayton Road. The applicant proposes a
44 self-service storage facility. The use will be controlled by proffered conditions and
45 zoning ordinance regulations. The 2026 Comprehensive Plan recommends
46 Commercial Arterial. The site is located in the West Broad Street Overlay District.

47
48 Mr. Strauss - Moving on to the deferrals, we have four requests for
49 deferral that staff is aware this evening.

50
51 Mr. Emerson - Mr. Strauss, can you speak into the microphone a
52 little bit more, please?

53
54 Mr. Strauss - Can you hear this?

55
56 Mr. Emerson - We might need to turn it up a little bit.

57
58 Mr. Strauss - Fred, can you check the volume on this please?
59 How's that?

60
61 Mr. Emerson - I'm sure that Fred will work on it while you're
62 speaking.

63
64 Mr. Strauss - Okay. Staff is aware of four requests for deferral this
65 evening. The first one is in the Brookland District. It's on page one of the agenda.

66 It's REZ2014-00005, Nobility Investments, LLC. The applicant is requesting a
67 deferral to the March 13, 2014, meeting.

68
69 **REZ2014-00005 Andrew M. Condlin for Nobility Investments, LLC:**
70 Request to amend proffered conditions accepted with Rezoning Case C-46C-83
71 on Parcel 768-747-0824 located on the north line of Glenside Drive
72 approximately 385' west of its intersection with Bethlehem Road. The applicant
73 proposes to amend Proffer 1 to allow hotels as a permitted use. The existing
74 zoning is B-2C Business District (Conditional). The 2026 Comprehensive Plan
75 recommends Commercial Arterial.

76
77 Mr. Leabough - Is there anyone here in opposition to the deferral of
78 REZ2014-00005, Andrew M. Condlin for Nobility Investments, LLC? There is no
79 opposition.

80
81 Mr. Witte - Mr. Strauss, did you say the March 15th meeting?

82
83 Mr. Strauss - March 13th.

84
85 Mr. Witte - Thirteenth. Thank you. Well, Mr. Chairman, I move for
86 deferral of REZ2014-00005, Andrew M. Condlin for Nobility Investments, LLC, by
87 request of the applicant, to the March 13, 2014 meeting.

88
89 Mr. Branin - Second.

90
91 Mr. Leabough - Motion by Mr. Witte, second by Mr. Branin. All in favor
92 say aye. All opposed say no. The ayes have it; the motion passes.

93
94 At the request of the applicant, the Planning Commission deferred REZ2014-
95 00005, Andrew M. Condlin for Nobility Investments, LLC, to its meeting on
96 March 13, 2014.

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98 Mr. Strauss - The next request for deferral is also in the Brookland
99 District, page one of the agenda. It is PUP2014-00001, Mr. Bobby Marchetti. The
100 applicant is requesting a deferral to the March 13, 2014.

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102 **PUP2014-00001 Malachi M. Mills for Bobby Marchetti:** Request for a
103 Provisional Use Permit under Sections 24-58.2(d), 24-120 and 24-122.1 of
104 Chapter 24 of the County Code in order to allow outdoor dining for a proposed
105 restaurant on part of Parcel 767-757-8360 located 95' east of the east line of
106 Hungary Spring Road approximately 1,025' south of its intersection with Staples
107 Mill Road (U.S. Route 33). The existing zoning is B-2C Business District
108 (Conditional). The 2026 Comprehensive Plan recommends Commercial
109 Concentration and Office.

111 Mr. Leabough - Is there anyone here in opposition to the deferral of
112 PUP2014-00001, Malachi M. Mills for Bobby Marchetti. There is no opposition.

113

114 Mr. Witte - Mr. Chairman, I move for deferral of case PUP2014-
115 00001, Malachi M. Mills for Bobby Marchetti, by request of the applicant, to the
116 March 13, 2014 meeting.

117

118 Mrs. Jones - Second.

119

120 Mr. Leabough - Motion Mr. Witte, second Mrs. Jones. All in favor say
121 aye. All opposed say no. The ayes have it; the motion passes.

122

123 At the request of the applicant, the Planning Commission deferred PUP2014-
124 00001, Malachi M. Mills for Bobby Marchetti, to its meeting on March 13, 2014.

125

126 Mr. Strauss - The next request for deferral is in the Varina District,
127 page two of the agenda, REZ2013-00022, D. Bryant Gammon. The applicant
128 again is requesting a deferral to the March 13, 2014 meeting.

129

130 **(Deferred from the January 9, 2014 Meeting)**

131 **REZ2013-00022** D. Bryant Gammon: Request to conditionally rezone
132 from R-3 One-Family Residence District to B-1C Business District (Conditional)
133 Parcel 815-688-4303 containing 1.88 acres located on the north line of New
134 Market Road (State Route 5) approximately 970' west of its intersection with
135 Strath Road. The applicant proposes retail uses. The uses will be controlled by
136 proffered conditions and zoning ordinance regulations. The 2026 Comprehensive
137 Plan recommends Commercial Concentration and the site is located in the
138 Varina Village Mixed-Use/Village Special Focus Area. The site is in the Airport
139 Safety Overlay District.

140

141 Mr. Leabough - Is there anyone here in opposition to the deferral of
142 REZ2013-00022, D. Bryant Gammon? There is no opposition. I move for the
143 deferral of REZ2013-00022, D. Bryant Gammon, to the March 13, 2014 meeting
144 at the applicant's request.

145

146 Mrs. Jones - Second.

147

148 Mr. Leabough - Motion by Mr. Leabough, second by Mrs. Jones. All in
149 favor say aye. All opposed say no. The ayes have it; the motion passes.

150

151 At the request of the applicant, the Planning Commission deferred REZ2013-
152 00022, D. Bryant Gammon, to its meeting on March 13, 2014.

153

154 Mr. Strauss - The final request for deferral this evening that staff is
155 aware of is in the Three Chopt District, page three of the agenda, REZ2013-

156 00015, Kain Road, Incorporated. Again, the applicant is requesting deferral to the
157 March 13, 2014 meeting.
158

159 *(Deferred from the December 5, 2013 Meeting)*

160 **REZ2013-00015 dAb Engineering Services for Kain Road, Inc.:**
161 Request to conditionally rezone from A-1 Agricultural District to R-3C One-Family
162 Residence District (Conditional) Parcel 738-767-2794 containing 7.45 acres
163 located on the north line of Kain Road approximately 1,100' west of its
164 intersection with Pouncey Tract Road (State Route 271). The applicant proposes
165 a single-family residential development not to exceed 18 units. The R-3 district
166 allows a minimum lot size of 11,000 square feet and a maximum gross density of
167 3.96 units per acre. The use will be controlled by proffered conditions and zoning
168 ordinance regulations. The 2026 Comprehensive Plan recommends Suburban
169 Mixed-Use.
170

171 Mr. Leabough - Is there anyone in opposition to the deferral of
172 REZ2013-00015, dAb Engineering Services for Kain Road, Inc.? There's no
173 opposition.
174

175 Mr. Branin - Mr. Chairman, I'd like to move that REZ2013-00015,
176 dAb Engineering Services for Kain Road, Inc., be deferred to the March 13, 2014
177 meeting per the applicant's request.
178

179 Mr. Witte - Second.
180

181 Mr. Leabough - Motion by Mr. Branin, second by Mr. Witte, All in favor
182 say aye. All opposed say no. The ayes have it; the motion passes.
183

184 At the request of the applicant, the Planning Commission deferred REZ2013-
185 00015, dAb Engineering Services for Kain Road, Inc. to its meeting on March 13,
186 2014.
187

188 Mr. Emerson - Mr. Chairman, unless the Commission has additional
189 deferrals at this time, that completes the list of withdrawals and deferrals. If there
190 are none, we would move on to the next item on the agenda, which are Requests
191 for Expedited Items. These will also be presented by Mr. Jim Strauss.
192

193 Mr. Strauss - Thank you, Mr. Secretary. We have five requests for
194 approval on the expedited agenda this evening. The first one is in the Varina
195 District on page two of the agenda, PUP2014-00004, WOVA Gyms, LLC. The
196 applicant is requesting approval of a provisional use permit to open at 5 a.m.
197 instead of 6 a.m. Staff is recommending approval with conditions 1 through 7 on
198 the staff report. We are not aware of any opposition.
199

200 **PUP2014-00004 Brian Zachariasen for WOVA Gyms, LLC: Request**
201 **for a Provisional Use Permit under Sections 24-58.2(a), 24-120 and 24-122.1 of**

202 Chapter 24 of the County Code in order to extend hours of operation for a gym
203 on part of Parcel 813-718-3411 located on the west line of S. Laburnum Avenue
204 approximately 660' from its intersection with Gay Avenue. The applicant
205 proposes opening daily at 5:00 a.m. instead of 6:00 a.m. The existing zoning is
206 B-2C Business District (Conditional). The 2026 Comprehensive Plan
207 recommends Commercial Concentration. This site is in the Airport Safety Overlay
208 District.

209
210 Mr. Leabough - Is there anyone here in opposition to PUP2014-
211 00004, Brian Zachariasen for WOVA Gyms, LLC? There is no opposition. I move
212 for approval of PUP2014-00004, Brian Zachariasen for WOVA Gyms, LLC,
213 subject to conditions 1 through 7 as noted in the staff report.

214
215 Mr. Archer - Second.

216
217 Mr. Leabough - Motion by Mr. Leabough, second by Mr. Archer. All in
218 favor say aye. All opposed say no. The ayes have it; the motion passes.

219
220 Mr. Branin - Mr. Chairman, if I may. You asked the question earlier
221 if there was any news media in the room. Our media just showed up late, but
222 they're here.

223
224 Mr. Leabough - Thank you, sir, for pointing it out. Welcome.

225
226 Mr. Strauss - The next request for approval on the expedited
227 agenda is in the Three Chopt District, page three of the agenda, PUP2014-
228 00005, Serve It Up, LLC. The applicant is requesting approval of a provisional
229 use permit for outdoor dining. Staff is recommending approval with revised
230 conditions 1 through 12, which were handed out earlier this evening. We are not
231 aware of any opposition.

232
233 **PUP2014-00005 Jeff Percey for Serve It Up, LLC:** Request for a
234 Provisional Use Permit under Sections 24-58.2(d), 24-120 and 24-122.1 of
235 Chapter 24 of the County Code in order to allow outdoor dining for a proposed
236 restaurant on part of Parcel 747-759-8591 located on the south line of W. Broad
237 Street (U.S. Route 250) at its intersection with Cox Road. The existing zoning is
238 B-2C Business District (Conditional). The 2026 Comprehensive Plan
239 recommends Urban Mixed-Use.

240
241 Mr. Leabough - Is there anyone here in opposition to PUP2014-
242 00005, Serve It Up, LLC? There is no opposition.

243
244 Mr. Branin - Mr. Chair, then I'd like to move that PUP2014-00005,
245 Serve It Up, LLC, be approved on the expedited agenda, subject to the
246 conditions in the staff report.

247

248 Mr. Witte - Second.
249
250 Mr. Leabough - Motion by Mr. Branin, second by Mr. Witte. All in favor
251 say aye. All opposed say no. The ayes have it; the motion passes.
252

253 **REASON -** Acting on a motion by Mr. Branin, seconded by Mr.
254 Witte, the Planning Commission voted 5-0 (one absent) to recommend the Board
255 of Supervisors **grant** the request because the conditions should minimize the
256 potential impacts on surrounding land uses and it is reasonable in light of the
257 surrounding uses and existing zoning on the property.
258

259 Mr. Strauss - The next request for approval on the expedited
260 agenda is in the Three Chopt District on page four of the agenda, REZ2014-
261 00011, Seven Hills Group.
262

263 **REZ2014-00011 Andrew M. Condlin and Jennifer Mullen for Seven**
264 **Hills Group, LLC:** Request to amend proffered conditions accepted with
265 Rezoning Case C-43C-05 and C-44C-06 on part of Parcels 735-764-8708 and
266 735-763-9381 located on the north line of W. Broad Street (U.S. Route 250)
267 approximately 1,870' east of its intersection with N. Gayton Road. The applicant
268 proposes to amend Proffer #17 related to site coverage. The existing zoning is B-
269 2C Business District (Conditional). The 2026 Comprehensive Plan recommends
270 Commercial Arterial. The site is located in the West Broad Street Overlay District.
271

272 Mr. Leabough - Is there anyone here in opposition to REZ2014-
273 00011, Andrew M. Condlin and Jennifer Mullen for Seven Hills Group, LLC?
274 There is no opposition.
275

276 Mr. Branin - I'd like to move that REZ2014-00011, Andrew M.
277 Condlin and Jennifer Mullen for Seven Hills Group, LLC, be approved on the
278 expedited agenda with the amendment to Proffer 17.
279

280 Mrs. Jones - Second.
281

282 Mr. Leabough - Motion by Mr. Branin, second by Mrs. Jones. All in
283 favor say aye. All opposed say no. The ayes have it; the motion passes.
284

285 **REASON -** Acting on a motion by Mr. Branin, seconded by Mrs.
286 Jones, the Planning Commission voted 5-0 (one absent) to recommend the
287 Board of Supervisors **grant** the request because the change does not greatly
288 reduce the original intended purpose of the proffers nor is it expected to
289 adversely impact surrounding land uses in the area.
290

291 Mr. Strauss - The next request is also in the Three Chopt District,
292 page four of the agenda, REZ2014-00012, also Seven Hills Group. Again, the

293 applicant is requesting to amend Proffer 23 related to site coverage, as in the
294 previous case. Staff is not aware of any opposition.

295
296 **REZ2014-00012 Andrew M. Condlin and Jennifer Mullen for Seven**
297 **Hills Group, LLC:** Request to amend proffered conditions accepted with
298 Rezoning Case C-49C-04 and C-27C-09 on Parcels 736-764-0871, -1136, and -
299 3961 located 700' north of W. Broad Street (U.S. Route 250) approximately
300 1,940' east of its intersection with N. Gayton Road. The applicant proposes to
301 amend Proffer #23 related to site coverage. The existing zoning is B-2C
302 Business District (Conditional). The 2026 Comprehensive Plan recommends
303 Commercial Arterial. The site is located in the West Broad Street Overlay District.

304
305 Mr. Leabough - Is there anyone here in opposition to REZ2014-
306 00012, Andrew M. Condlin and Jennifer Mullen for Seven Hills Group, LLC?
307 There is no opposition.

308
309 Mr. Leabough - Mr. Chair, I'd like to move that REZ2014-00012,
310 Andrew M. Condlin and Jennifer Mullen for Seven Hills Group, LLC, be approved
311 on the expedited agenda with the amended Proffer #23.

312
313 Mr. Archer - Second.

314
315 Mr. Leabough - Motion by Mr. Branin, second by Mr. Archer. All in
316 favor say aye. All opposed say no. The ayes have it; the motion passes.

317
318 **REASON** - Acting on a motion by Mr. Branin, seconded by Mr. Archer, the
319 Planning Commission voted 5-0 (one absent) to recommend the Board of
320 Supervisors **grant** the request because the change does not greatly reduce the
321 original intended purpose of the proffers nor is it expected to adversely impact
322 surrounding land uses in the area.

323
324 Mr. Strauss - And finally, the last request for expedited approval is
325 in the Tuckahoe District, page five of the agenda, PUP2014-00007, West End
326 Farmers' Market. The applicant is requesting provisional use approval to allow
327 continued operation of an existing farmers' market. Staff is recommending
328 approval with conditions 1 through 15 on page two of the staff report. We are not
329 aware of any opposition.

330
331 **PUP2014-00007 Kristine Riley for West End Farmers' Market:**
332 Request for a Provisional Use Permit under Sections 24-62.2(g), 24-120 and 24-
333 122.1 of Chapter 24 of the County Code to allow the continued operation of an
334 existing farmers' market on parts of Parcels 732-751-4078, -0561, and 731-751-
335 8088 located at the southwest intersection of Ridgefield Parkway and Gayton
336 Road. Condition #15 of P-8-11 required the permit to expire December 31, 2013.
337 The existing zoning is B-3 Business District. The 2026 Comprehensive Plan
338 recommends Commercial Concentration.

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Mr. Leabough - Is there anyone here in opposition to PUP2014-00007, Kristine Riley for West End Farmers' Market? There is no opposition.

Mrs. Jones - All right. Then I will move that we recommend approval of PUP2014-00007, Kristine Riley for West End Farmers' Market, as presented in the staff report.

Mr. Archer - Second.

Mr. Leabough - We have a motion by Mrs. Jones, a second by Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

REASON - Acting on a motion by Mrs. Jones, seconded by Mr. Archer, the Planning Commission voted 5-0 (one absent) to recommend the Board of Supervisors **grant** the request because it would provide added services to the community and is not expected to adversely affect public safety, health, or general welfare.

Mr. Emerson - Mr. Chairman, that completes the expedited agenda this evening. We will now go to the first case on your regular agenda.

PUP2014-00002 Malachi M. Mills for Bobby Marchetti: Request for a Provisional Use Permit under Sections 24-58.2(d), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to allow outdoor dining for a proposed restaurant on part of Parcel 767-757-8360 located 490' east of the east line of Hungary Spring Road approximately 1,200' south of its intersection with Staples Mill Road (U.S. Route 33). The existing zoning is B-2C Business District (Conditional). The 2026 Comprehensive Plan recommends Commercial Concentration and Office

Mr. Leabough - Good evening, Ms. Blankinship.

Ms. Blankinship - Good evening.

Mr. Leabough - Is there anyone here in opposition to PUP2014-0002, Malachi B. Mills for Bobby Marchetti? There is no opposition. Ms. Blankinship.

Ms. Blankinship - Thank you Mr. Chairman

This is a request for a Provisional Use Permit to allow outdoor dining services for a new restaurant, Franco's, proposed for Staples Mill Market Place. The 2026 Comprehensive Plan recommends Commercial Concentration for the majority of the site, which is zoned B-2C Business District (Conditional).

385 The new restaurant will occupy the eastern most tenant space of the 25,500-
386 square-foot retail building. The proposed 742-square-foot outdoor dining area
387 would be situated along the exterior of the restaurant's eastern wall. A three-foot-
388 tall black aluminum fence with a self-closing, latching gate would surround the
389 patio, which could accommodate twenty-four patrons.

390

391 This request is similar to other recent outdoor dining cases in the area. If properly
392 regulated, this request would be compatible with adjacent uses and would be an
393 appropriate extension of the restaurant's operations. Staff supports this request
394 subject to the recommended conditions outlined in Section IV of the staff report.

395

396 This concludes my presentation. I am happy to answer any questions you may
397 have.

398

399 Mr. Leabough - Are there any questions from the Commission?
400 Mr. Witte, would you like to hear from the applicant?

401

402 Mr. Witte - Yes, please.

403

404 Mr. Leabough - Will the applicant please come forward?

405

406 Mr. Mills - Good evening, members of the commission. I'm
407 Malachi Mills. I represent Bobby Marchetti on this PUP. Any questions of me?

408

409 Mr. Witte - These fourteen conditions?

410

411 Mr. Mills - Yes sir.

412

413 Mr. Witte - Number 14, the fire pit. My understanding is there is
414 no indication that there is going to be a fire pit out there. Is that correct?

415

416 Mr. Mills - Correct. There is not a specific fire pit planned for the
417 development of the patio area.

418

419 Mr. Witte - Okay. So there will be no outdoor flames.

420

421 Mr. Mills - No sir.

422

423 Mr. Witte - Okay. I have no further questions.

424

425 Mr. Leabough - Are there other questions from the Commission?
426 There are no other questions, Mr. Witte. How would you like to proceed?

427

428 Mr. Witte - All right, Mr. Chairman. I move that PUP2014-0002,
429 Malachi M. Mills for Bobby Marchetti, move to the Board of Supervisors with a
430 recommendation of approval as presented with conditions 1 through 14.

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Mr. Branin - Second.

Mr. Leabough - Motion by Mr. Witte, second by Mr. Branin. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

REASON - Acting on a motion by Mr. Witte, seconded by Mr. Branin, the Planning Commission voted 5-0 (one absent) to recommend the Board of Supervisors **grant** the request because it would provide added services to the community and is not expected to adversely affect public safety, health, or general welfare.

PUP2014-00003 Thomas D. Mincher, Jr. for Tripps Properties II, LP: Request for a Provisional Use Permit under Sections 24-58.2(a), 24-58.2(d), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to allow extended hours of operation until 2 a.m. and outdoor dining for a proposed restaurant on part of Parcel 757-757-0843 located on the north line of W. Broad Street (U.S. Route 250) approximately 1,060' west of its intersection with Tuckernuck Drive. The existing zoning is B-2 Business District. The 2026 Comprehensive Plan recommends Commercial Arterial.

Mr. Leabough - Is there anyone here in opposition to PUP2014-00003, Thomas D. Mincher, Jr. for Tripps Properties II, LP? There is no opposition, Mr. Moffett.

Mr. Moffett - Thank you. Mr. Chairman, members of the Commission, this is a provisional use permit request to allow Kickback Jack's to operate an outdoor dining area and extend the hours of operation of the restaurant until 2:00 a.m. Kickback Jack's will be located in an existing restaurant, currently operating as Tripps, located on West Broad Street.

The restaurant is the easternmost building on the parcel that contains the Shops at Tripps community shopping center. The entire site is zoned B-2, Business District and the 2026 Comprehensive Plan recommends Commercial Arterial.

Exhibit A shows the outdoor dining area on the right or eastern side of the building facing the Car Pool carwash on the adjacent parcel.

The applicant has provided new renderings (exhibit B and C in the handout just distributed) that show the newly proposed 1,000-square-foot addition with a permanent roof being enclosed by roll-up glass windows on the side facing West Broad Street and the side facing Car Pool to the east. By enclosing the building and providing heating and cooling measures, this space is considered finished interior dining space. In response to the new elevations, staff has added an additional condition (#22 in the handout) that requires the roll-up windows to be closed between the hours of 10 p.m. and 6 a.m. every day.

477
478 Mr. Emerson - Mr. Moffett, didn't that become combined with
479 Condition #4?
480
481 Mr. Moffett - It did.
482
483 Mr. Emerson - So there are twenty-one.
484
485 Mr. Moffett - There are twenty-one conditions in the revised list.
486
487 Mr. Emerson - And that additional language went on Condition #4.
488
489 Mr. Moffett - It did. Number four. It's underlined. The requested
490 outdoor dining area and the extension of operating hours could be appropriate
491 given the approval of similar requests in the vicinity; however, staff recommends
492 the outdoor dining area not operate after 12:00 a.m. to be consistent with other
493 similar requests.
494
495 Overall, staff believes this request is appropriate and if properly regulated,
496 approval of this request would not negatively impact adjacent properties.
497 Therefore, staff recommends approval of this request subject to the conditions
498 numbered 1 through 22 in the revised list.
499
500 This concludes my presentation. I will be happy to answer any questions. The
501 applicant—
502
503 Mr. Emerson - One through twenty-one.
504
505 Mr. Moffett - One through twenty-one in the revised list.
506
507 Mr. Leabough - Are there questions from the Commission for
508 Mr. Moffett?
509
510 Mr. Witte - Mr. Moffett?
511
512 Mr. Moffett - Yes.
513
514 Mr. Witte - How many additional people will this be able to seat
515 with this addition in outdoor dining?
516
517 Mr. Moffett - The original elevation showed approximately fifty-two
518 seats in the permanently covered area and an additional I believe twenty-
519 something in the uncovered area.
520
521 Mr. Witte - Is that going to be an issue with parking in that
522 parking lot?

523
524 Mr. Moffett - Doing the parking calculations—looking at the parking
525 calculations, it looks like they have plenty of parking.
526
527 Mr. Witte - Okay. All right. Thank you.
528
529 Mr. Leabough - Are there other questions from the Commission?
530
531 Mrs. Jones - Just real quickly. What I'm looking at is the open and
532 closed, correct?
533
534 Mr. Moffett - Yes ma'am.
535
536 Mrs. Jones - Okay. So there are still barstools out there when the
537 window is closed. It's just that they won't be in use.
538
539 Mr. Moffett - That's correct.
540
541 Mrs. Jones - Barstools out in the patio area.
542
543 Mr. Moffett - Yes ma'am.
544
545 Mrs. Jones - Okay. All right.
546
547 Mr. Moffett - The applicant, Mr. Mincher, is also present to answer
548 any questions you may have for him.
549
550 Mr. Witte - I'd like to hear from the applicant.
551
552 Mr. Leabough - Would the applicant please come forward? Please
553 state your name for the record.
554
555 Mr. Mincher - Hello, Mr. Chairman, I'm Tom Mincher, Greensboro,
556 North Carolina. I represent Tripps Properties II. Also, we do operate both of these
557 concepts, Tripps and Kickback Jack's. The same company.
558
559 I have some concerns with the staff's requirements. I think they are somewhat
560 excessive. Personally, I think it's hard—they're not very practical in reference to a
561 few points. One, the hours of operation, being open until two. It's going to be
562 hard to ask a patron who is sitting at that outside bar to move inside because the
563 garage door is going to be pulled down at ten o'clock. The same thing with
564 people dining inside enjoying the nice spring weather, having the door pulled
565 down on them I don't think is going to be—the patrons are going to be that happy
566 with those requests. It makes it difficult to manage in the restraint. I don't see any
567 downside, personally, to why it would be an issue. Nobody has given me answer

568 other than "because that's what we do." So I'm really not sure as to why that's
569 the case.

570
571 Mr. Leabough - Mr. Mincher, it is 12 a.m., correct? I think you
572 mentioned ten.

573
574 Mr. Mincher - Well, what they're asking is—they say any operable
575 windows and doors exposing the restaurant to the outside will remain closed
576 between the hours of 10 p.m. and 6 a.m.

577
578 Mr. Leabough - Okay. But the outdoor dining can operate until twelve,
579 correct?

580
581 Mr. Mincher - Right. But you don't get the use—I mean no—I don't
582 think people really want to sit out there as—they wouldn't want to sit out there as
583 much if it's not part of this integral bar that we've created to open up to the
584 outside and be a—I mean, I don't know why you would open—operate the
585 outside and have to close the doors. I don't understand.

586
587 Mr. Emerson - Right. Mr. Mincher, I think the point there is normally
588 our outdoor dining closes at 10 p.m. By allowing you to lower the windows and
589 close that area at 10 p.m., we were considering the allowance of leaving the
590 other area open until midnight to accommodate your patrons that did want to be
591 outside. But normally, outdoor dining in Henrico County ends at ten.

592
593 Mr. Branin - Mr. Mincher, where do you live?

594
595 Mr. Mincher - Greensboro, North Carolina.

596
597 Mr. Branin - In Greensboro. Well I'm sure the noise that's
598 generated from your restaurant won't bother you in Greensboro, but it may the
599 residents here in Henrico, which is the reason why we do that.

600
601 Mr. Mincher - I work long hours. A lot of times, I do my best work
602 late at night. Our office is located right next door to a Kickback Jack's. I can
603 promise you I've never left at 1:00, 1:30, 2:00 and heard any noise coming out of
604 the restaurant. We have outdoor dining, windows open. You can't hear it.
605 Between cars driving by and HVAC units on the roof, it's all muffled. It's no
606 different than when you're walking through a parking lot and you hear anybody's
607 conversation as they're walking in the front door forty feet away or fifty away or a
608 hundred feet away. And there's nobody to disturb close by our restaurant at 2:00
609 in the morning. So by doing this—this facility is here for the citizens of
610 *Hen-ree-co* County.

611
612 Mr. Branin - It's pronounced "*Hen-rye-co*," sir.

613

614 Mr. Mincher - In Henrico, excuse me. For Henrico County. And, you
615 know, we're just trying to make a large investment here. We're trying to do
616 something that will be well received. I don't think—I don't understand the
617 restraint. We've operated—we operate six of these restaurants right now. We
618 don't have issues. There's no problem with outside dining at night. There is a
619 resident a lot close—
620

621 Mr. Leabough - Mr. Mincher, are you suggesting that we not approve
622 the PUP?
623

624 Mr. Mincher - No. I would just like to approve it without these—
625 without this restraint.
626

627 Mr. Leabough - Okay.
628

629 Mr. Branin - Mr. Chairman, I'm going to move that we just not
630 approve it period. If he's not satisfied with it, he can just move forward without it.
631

632 Mrs. Jones - On the outside patio are there televisions? Are there
633 other things that people come to watch?
634

635 Mr. Mincher - If you look at the picture—
636

637 Mrs. Jones - Okay. I'm looking at the same thing—
638

639 Mr. Mincher - Yes. Hanging down there are TVs inside there. We
640 actually will put somewhere around or above fifty TVs in the restaurant.
641

642 Mrs. Jones - So those blue areas are televisions.
643

644 Mr. Mincher - No. The blue—what you see blue I think is the—are
645 windows dividing the existing building from the outside area. But if you see the
646 little black shadows hanging down, those would be TVs.
647

648 Mrs. Jones - Ah, yes, yes. Okay. Comparables with other
649 restaurants?
650

651 Mr. Emerson - Comparables with other restaurants in terms of?
652

653 Mrs. Jones - Hours of outside—
654

655 Mr. Emerson - Hours of outside dining in Henrico are normally
656 10 p.m. In this area, it has been allowed to extend to twelve in some very limited
657 instances. There is one that I can think of and that restaurant is no longer in
658 operation. So when these conditions were crafted, you were given the benefit of
659 that.

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Mr. Mincher - Okay. Well, I'm not here to try to change the rules here in Henrico County. I'm just trying to—from where we've operated and how we've operated, I'm just presenting a case as to why I think that—I don't know why that would be an issue. But, I mean, if—obviously, it's going to be difficult for us to deal with patrons at 10:00 at night. I think most people, if you're sitting there and it's a nice spring evening, it's difficult. You know, they don't understand why.

Mr. Leabough - Are there any other questions for Mr. Mincher?

Mr. Witte - Mr. Mincher, are you aware of conditions 20 and 21?

Mr. Mincher - Yes sir. I do have some concerns with some of these other requirements. I've looked at other—you know, I guess the ones I've seen that have been passed before, they didn't have—they had thirteen requirements, the two that I was shown before receiving this, I guess the staff report last week. It's the first time I saw the expansive list. The reason why I have a problem with twenty is I wish—if I knew what the requirements were for security cameras, but nobody has given me any—been able to give me what the requirements would be. So it's sort of open-ended. That's the only reason why I have a concern.

Under fifteen as well, it said the facilities shall windows shall not be tinted. Well, this facility is actually facing southwest. I don't know why that—we normally put a certain amount of tint on the windows when you're facing the sun. That's typical in almost any retail establishment. So I don't know why that would be a concern or a problem.

Mr. Emerson - I can explain that for you. That is a concern of the police that they have visibility into the entity, be it a convenience store, bar, and/or restaurant. That's a security issue for police so they can see into the restaurant and see what's going on when they enter the parking lot. As far the request regarding potential requirements for surveillance cameras or security cameras, the police provide a free security survey and can go over that with you. I apologize if staff didn't inform you of that. We do have a list of security items that were worked with the police a number of years ago regarding these types of facilities that certainly we can provide you with. And they do have staff that will come out and meet with you on site and walk you through all of their suggestions to make your facility safe and secure.

Mr. Mincher - Right, okay. Thank you for clarifying that.

Mr. Witte - Mr. Mincher.

Mr. Mincher - Yes sir.

705 Mr. Witte - It's pretty apparent to me that you're not familiar with
706 our situation around here or our rules and regulations. In all fairness, I can't
707 approve this feeling that you're not aware of what's actually going to happen and
708 take place. So I'm going to recommend deferral of this for thirty days. And if the
709 Board sees fit to agree with me, then we'll give you thirty days to get it all
710 together.
711
712 Mr. Mincher - What is the thirty days going to help us potentially do?
713
714 Mr. Witte - You're not familiar with the police situation. You're not
715 familiar with our hours of operation. The tinted windows. The whole situation. I
716 only have two choices here with the communications we've had and that's to turn
717 it down or defer it. But I can't recommend approval under these conditions.
718
719 Mr. Mincher - You mean under the—
720
721 Mr. Witte - These circumstances.
722
723 Mr. Mincher - —conditions by staff or the conditions of—
724
725 Mr. Witte - The circumstances.
726
727 Mr. Mincher - Okay.
728
729 Mr. Witte - I don't feel that there is enough information and you
730 don't understand enough of it to move on. So would you prefer I defer it or deny
731 it—or recommend denial?
732
733 Mr. Mincher - If it's recommended denied and it's denied, then I
734 guess I still can go before the Board of Supervisors?
735
736 Mr. Witte - Yes sir, you can.
737
738 Mr. Mincher - I think I would just prefer it be denied.
739
740 Mr. Witte - All right.
741
742 Mr. Mincher - I'll do that. Thank you.
743
744 Mr. Witte - Thank you. No problem. Mr. Chairman, I move that
745 PUP2014-00003, Thomas D. Mincher, Jr. for Tripps Properties II, LP, move to
746 the Board of Supervisors, as presented with conditions 1 through 21, with a
747 recommendation for denial.
748
749 Mr. Branin - I second that.
750

751 Mr. Leabough - We have a motion by Mr. Witte, second by Mr. Branin.
752 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

753

754 **REASON -** Acting on a motion by Mr. Witte, seconded by Mr.
755 Branin, the Planning Commission voted 5-0 (one absent) to recommend the
756 Board of Supervisors **deny** the request because the proposed extension of
757 operating hours and outdoor dining could have a detrimental impact on property
758 owners in the vicinity.

759

760 **REZ2014-00001 Philip Parker for Monarch Land LLC:** Request to
761 amend proffered conditions accepted with Rezoning Case C-32C-09 on Parcels,
762 799-732-4991, -8887, -8597, -6697, 799-733-5351, -8231, -8525, -8819, -9113, -
763 9209, -9504, -8204 -7808, -7023, -6143, -5223, -5614, and -5810 located
764 between the east line of the Chesapeake and Ohio Railway right-of-way and the
765 west line of Barrington Road at its intersection with Springton Road. The
766 applicant proposes to amend Proffer 12 related to garages. The existing zoning
767 is R-5AC General Residence District (Conditional). The 2026 Comprehensive
768 Plan recommends Suburban Residential 2, density should not exceed 3.4 units
769 per acre, and Environmental Protection Area.

770

771 Mr. Leabough - Is there anyone here in opposition to REZ2014-
772 00001, Philip Parker for Monarch Land LLC? There is no opposition.

773

774 Mrs. Jones - Yes there is.

775

776 Mr. Leabough - I'm sorry; I didn't see you. Oh, okay. All right, we have
777 one person in opposition. Mr. Secretary, would you like to read our rules for
778 public speaking?

779

780 Mr. Emerson - Yes sir, Mr. Chairman. As you noted the Planning
781 Commission does have rules and regulations for their public hearings regarding
782 time limits. The applicant is allowed ten minutes to present the request, and time
783 may be reserved for responses to testimony. Opposition is allowed ten minutes
784 to present its concern. Commission questions do not count into the time limits.
785 The commission may waive the limits for either party at its discretion, and
786 comments must be directly related to the case under consideration.

787

788 Mr. Leabough - Thank you, sir. Ms. Deemer?

789

790 Ms. Deemer - Good evening, Mr. Chairman, members of the
791 Commission.

792

793 Since the staff report was completed, the applicant has revised his request and is
794 now seeking to amend only one proffer accepted with rezoning case C-32C-09
795 and is removing one GPIN from the case as the lot has sold.

796

797 The property was rezoned for a single-family, zero-lot-line subdivision of fifty-four
798 units via case C-65C-06. Twenty-one proffers were accepted with the original
799 rezoning case, major aspects of which included finished floor area, maximum
800 density, exterior materials, and landscaping. Conditional approval of the
801 subdivision was granted by the Planning Commission on April 25, 2007, and
802 Section 1 of Dillyn Place (SUB-029-07) was recorded on June 16, 2008.

803

804 In March 2010, the case was amended via C-32C-09 to remove the requirement
805 of a walking trail through the common area, allow for the use of slab foundations
806 and decrease the number of homes required to have garages from 60 percent to
807 50 percent. A request to amend exterior materials was removed before Board of
808 Supervisors' consideration. Eleven houses have currently been built on the site,
809 with one under construction.

810

811 Ownership of the project has changed hands, and the current developer is
812 requesting to amend the number of homes required to have garages from 50
813 percent to 25 percent. In the revised language handed out to you this evening,
814 the applicant has revised the proffer to exclude any of the garages currently
815 existing from the calculations. This would translate to fourteen of the remaining
816 homes to be built requiring garages, 50 percent of which are to be side or rear
817 loaded.

818

819 Based on a review of real-estate records and a windshield survey of the adjacent
820 Brentwood neighborhood, 17 percent of homes have either attached or detached
821 garages. When the numbers are adjusted for carports, the figure jumps to 27
822 percent. Considering the proposed proffer is similar to the adjoining
823 neighborhood, staff could support this request. Time limits will need to be waived
824 on the proffers. I'd be happy to answer any questions you may have.

825

826 Mrs. Jones - May I ask a quick question?

827

828 Mr. Leabough - Yes ma'am.

829

830 Mrs. Jones - Just so I'm clear. The exterior proffer from the original
831 case, #2, is off the table; it remains the same.

832

833 Ms. Deemer - Correct. It was on the table back several years ago
834 and was removed. And again it was brought up this time and again has been
835 removed.

836

837 Mrs. Jones - Okay, thank you.

838

839 Mr. Leabough - Are there any other questions? Okay, Mr. Archer,
840 would you like to hear from the opposition?

841

842 Mr. Archer - I think I'd like to hear from the opposition first.

843

844 Mr. Leabough - Okay. Would the opposition please come forward?
845 Please state your name for the record.

846

847 Ms. Hamilton - My name is Karen Hamilton, and I live in the Wild
848 West where at least two cars run every red traffic light, usually four, and
849 sometimes eight cars run a light.

850

851 I'm wondering about why, first of all, the walking trail was deleted. Is it completely
852 gone? Secondly, I did see trees. And as you know—and as I'm wearing tonight
853 my tree-hugger shirt—it is approaching nesting season for migratory birds. But
854 guess what? It's already—even though we've had a very severe cold winter, it's
855 already mating season for some birds of prey like owls, great blue herons,
856 eagles. They're already beginning to mate. It is the time. So I did see trees, so I
857 am concerned about the time of construction.

858

859 And she said something about the—let me see, what was waived. The time limits
860 are waived on the proffers. You need to have restrictions on the time that these—
861 the time period that these trees are to be cut down.

862

863 Mr. Leabough - Ms. Hamilton, may I interrupt real quick, please?
864 They're just asking to reduce the number of garages.

865

866 Ms. Hamilton - I know. But you know I have to get that in there.

867

868 Mr. Leabough - Okay. Thank you. Mr. Archer, would you like to hear
869 from the applicant?

870

871 Mr. Archer - Yes, I would.

872

873 Mr. Leabough - Thank you. Would the applicant please come
874 forward?

875

876 Mr. Parker - Good evening, Chairman, Commission members. My
877 name is Philip Parker, representing Monarch Land. Staff has presented the case
878 very succinctly. It's been a languishing neighborhood that we're trying to
879 revitalize and get a lot of opportunity in there for the area. I'd be happy to answer
880 any questions that any of you may have.

881

882 Mr. Leabough - Are there any questions from the Commission?

883

884 Mr. Archer - Mr. Parker, I just wanted to make a couple of
885 comments. As Ms. Deemer stated, the original case was done in 2007. We have
886 since then amended the original case. You're aware of this; I just want to make
887 sure everybody else knows. In doing so, we have allowed some things that we
888 didn't do in the original case to try to make it more attractive and more amenable

889 to purchasers. I don't know if that is a product of this particular product or
890 whether or not it mostly has to do with the economy, which we can't control very
891 much. And there are several things that we did revisit in terms of going back to
892 allow you to do some of the things you want to do.

893
894 The garages, for example, have been dropped from 60 percent to 50 percent,
895 and now it's 25. We allowed some slab in 2010 that we normally don't do, and we
896 didn't do it in the original zoning. I do want to reiterate that this will probably be
897 the last time we revisit this if I hear any more concessions, because I don't think
898 we can do this anymore than we've done now. Our concern has always been to
899 make sure that we don't diminish the quality of the homes that we build.

900

901 Mr. Parker - Absolutely.

902

903 Mr. Archer - In looking back at it, I don't know if the garages would
904 have a whole lot to do with the quality of homes, although I don't know anybody
905 who has a garage who would want to get rid of it. The other thing that kind of
906 struck my mind is this property has been languishing for some time. I hate to see
907 people buy houses in a subdivision and sit for six to seven years with no
908 neighbors ever coming in and the lots just sort of growing up in weeds. For that
909 reason, we came up with a compromise, and you have agreed.

910

911 Mr. Parker - Yes sir. We've worked hard to get to the point where
912 we are.

913

914 Mr. Archer - Okay. Anybody else have any questions? Well, in that
915 case, then, I first move to approve the time limits on the proffer presented tonight.

916

917 Mrs. Jones - Second.

918

919 Mr. Leabough - Motion by Mr. Archer to waive the time limits and a
920 second by Mrs. Jones. All in favor say aye. All opposed say no. The ayes have it;
921 the motion passes.

922

923 Mr. Archer - Secondly, I would move to send to the Board of
924 Supervisors with a recommendation for approval REZ2014-00001, Philip Parker
925 for Monarch Land LLC.

926

927 Mrs. Jones - Second.

928

929 Mr. Leabough - Motion by Mr. Archer, a second by Mrs. Jones. All in
930 favor say aye. All opposed say no. The ayes have it; the motion passes.

931

932 **REASON -** Acting on a motion by Mr. Archer, seconded by Mrs.
933 Jones, the Planning Commission voted 5-0 (one absent) to recommend the
934 Board of Supervisors **grant** the request to amend Proffer 12 because the change

935 does not greatly reduce the original intended purpose of the proffers nor is it
936 expected to adversely impact surrounding land uses in the area.

937

938 **REZ2014-00008 Andrew M. Condlin for Carolyn C. Penniston**
939 **Family Trust:** Request to conditionally rezone from A-1 Agricultural District and
940 C-1 Conservation District to O-3C Office District (Conditional) Parcel 790-762-
941 3014 containing 75.677 acres located between the south line of Interstate 295,
942 the northern terminus of Magellan Parkway and Park Central Drive. The
943 applicant proposes office uses. The uses will be controlled by proffered
944 conditions and zoning ordinance regulations. The 2026 Comprehensive Plan
945 recommends Urban Mixed-Use and Environmental Protection Area.

946

947 Mr. Leabough - I there anyone here in opposition to REZ2014-00008,
948 Andrew M. Condlin for Carolyn C. Penniston Family Trust? We have one person
949 in opposition. Mr. Sehl?

950

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

952

953 This is a request to rezone approximately seventy-six acres from A-1 to O-3C to
954 allow for office development north of the existing Park Central and Windsor
955 Business Park office/service developments. The subject site is located between
956 those developments and I-295, with extensive frontage along the interstate.
957 Access would be provided via Magellan Parkway and Park Central Drive, and the
958 applicant has committed to constructing the connection to Magellan Parkway
959 across the subject site recommended by the Major Thoroughfare Plan.

960

961 The majority of the property to the south is zoned M-1C Light Industrial district, and
962 the applicant has submitted proffers that would continue many of the design,
963 quality, and landscaping measures included in the Park Central and Windsor
964 Business Park developments. Specifically, the applicant has provided proffers
965 addressing:

966

- 967 • exterior building materials;
- 968 • signage;
- 969 • lighting;
- 970 • screening of mechanicals and loading docks; and,
- 971 • landscaped buffers along new roadways consistent with existing plantings
972 on Magellan Parkway.

973

974 A proffer has also been provided that would prohibit construction access on Scott
975 Road to the west to limit impacts on residences located between the site and I-95.

976

977 The 2026 Comprehensive Plan's recommendation for the subject site is Urban
978 Mixed-Use. While this proposal is not entirely consistent with this designation, it is
979 consistent with the site's designation as a Prime Economic Development site. The
980 comprehensive plan recommends commercial uses in this Prime Economic

981 Development site, focusing on office development. The requested zoning and use
982 are consistent with surrounding uses, and the proffers would ensure quality
983 development in keeping with the area. For these reasons, staff supports this
984 request.

985
986 This concludes my presentation. I will be happy to answer any questions.

987
988 Mr. Leabough - Are there any questions from the Commission? How
989 would you like to proceed, Mr. Archer? Opposition or applicant first?

990
991 Mr. Archer - Let's hear the opposition first.

992
993 Mr. Leabough - Those in opposition please come forward.

994
995 Ms. Hamilton - My name is Karen Hamilton, for the record. I oppose
996 this because the comprehensive plan does say, just as a rule, that you need to
997 have the preservation of agricultural and forest land for the production of food
998 and fiber, you need to have land for natural resources, groundwater, surface
999 water, geologic factors, flood control, flood damage, prevention measures,
1000 potential impacts to downstream properties, and more.

1001
1002 So the comprehensive plan, the rules for this don't even matter to you people
1003 because you just do whatever you want. But I'm going to go over this a little bit
1004 because the comprehensive plan, the reason it was written, the rules for this,
1005 were having to do with the fact that we do need land for nature and wildlife. We
1006 also need trees for the production of oxygen. And I don't know about you guys,
1007 but I happen to like breathing.

1008
1009 Henrico County has for several years violated the ozone standards. And the only
1010 reason last summer that we didn't violate the ozone standards is because we
1011 had too much rain last year, last summer. We had more than the usual amount of
1012 rain. But we normally violate the ozone standards. We need the trees. We need
1013 open space. We need green space.

1014
1015 I want you to take something into consideration. And I'm trying to be different
1016 tonight, because I need to get you guys to really think. And I know it's not going
1017 to work, but I'm going to try here.

1018
1019 Think about migration. We have two seasons of migration. We have both winter
1020 and summer migration. And just today, I happen to go to the library to check my
1021 e-mail. And just so you know, I got an e-mail from the YardBirds store in Gayton
1022 Crossing. And how exciting is this? There was a new sighting in the winter, a
1023 tanager, a scarlet tanager has been sighted in the West End, and a woman is
1024 feeding this in her yard. She's feeding it mealworms. But they're not supposed to
1025 be here. This is a migratory bird. Should have gone home to South America or
1026 Cuba. Apparently, it got lost along the way and came to Virginia.

1027

1028 But we're supposed to provide habitat for these. We have treaties that are
1029 international treaties. And under the Constitution, international treaties are to be
1030 considered of the highest order. You're supposed to care about this. Think about
1031 the size and expanse that Henrico covers from the eastern end of Henrico to the
1032 western end. That's a great expanse. And you're going to tell me that no
1033 migratory birds stop here? What happens in every situation is all about fraud
1034 because the first thing—

1035

1036 Mr. Leabough - Ms. Hamilton? Why are you opposed to this case?

1037

1038 Ms. Hamilton - Because it has trees. You need to leave green space.

1039

1040 Mr. Leabough - Okay. Thank you. I just wanted to clarify because I
1041 wasn't sure why you opposed to it.

1042

1043 Ms. Hamilton - Have you not seen me before? I know I've seen your
1044 face before. The Migratory Bird Treaty Act was written in 1913. Last year it
1045 became a hundred years old. And it says that we have to leave space for
1046 migratory birds. And there are two seasons—I just said that—two seasons of
1047 migration: winter and summer. And they come from Canada to survive the frigid
1048 cold winters of Canada. And I guess they're sorry now they didn't go to Cuba
1049 because it's been very, very bad here this winter, as you know. But the point is
1050 they come here—we have some birds that aren't smart enough to leave. I
1051 happen to have a flock of goldfinches in my yard. They're actually migratory birds
1052 and they're supposed to go home, but they didn't. Just as this scarlet tanager
1053 didn't make it home all the way to South America. We're supposed to provide
1054 habitat; it's the law.

1055

1056 There's the Western Hemisphere Convention that say's we're supposed to
1057 provide habitat. The Ramsar Treaties were written so that we would provide
1058 wetlands for the purpose not just of human protection for human water and
1059 groundwater, but also for wetlands for wildlife.

1060

1061 Birds cannot move their nests. Once they nest, once they put those eggs in the
1062 nest they can't move it. And what happens here is strictly fraud because—

1063

1064 Mr. Leabough - Ms. Hamilton? So you're opposed to this because of
1065 the Migratory Bird Treaty.

1066

1067 Ms. Hamilton - Oh, way beyond that. See, I've lost you. I know I'm
1068 speaking English here. I know I am. There are many, many treaties.

1069

1070 Mr. Leabough - So can you succinctly tell us the other reasons as to
1071 why you're opposed to the case?

1072

1073 Ms. Hamilton - Oh, you want the other—
1074
1075 Mr. Leabough - In a succinct way?
1076
1077 Ms. Hamilton - I got about a million reasons. First of all, traffic. We
1078 have—unfortunately, we don't have buses that extend out there, so you're going
1079 to have more traffic out there. Henrico refuses to support the GRTC buses all
1080 over the far reaches of Henrico County. Is that another good reason for you
1081 because it's a good enough reason for me. That reason alone should prohibit—
1082 you create blight. You don't just create blight in Richmond where you've driven
1083 out the business from Richmond and brought it into Henrico County. But you
1084 create blight all over the world because you think that you have to have an
1085 economic development director to take business from Northern Virginia and
1086 every other place on the planet—you try to lure businesses here. We're already
1087 crowded enough. Henrico has reached the maximum population, the maximum
1088 traffic everywhere. Everywhere I go, every bit of Henrico in the Brook Road
1089 corridor and the Broad Street corridor, I don't care where you are, we have too
1090 much traffic already.
1091
1092 Mr. Leabough - So traffic and migratory birds.
1093
1094 Ms. Hamilton - You know what? I told Mr. Vithoukaskas—and I know
1095 you're doing this on purpose. I told Mr. Vithoukaskas that this is not the cooking
1096 show where you tell me how many minutes and seconds I have left to talk. You
1097 are being very disruptive. Excuse me for talking while you're interrupting. But you
1098 don't do this to other people. You don't. You have purposely sought me out. In
1099 every meeting, you'll interrupt me to get me riled and you're succeeding at that.
1100 This is what you do.
1101
1102 Mr. Emerson - Ms. Hamilton, if you'll go ahead and make your
1103 points.
1104
1105 Ms. Hamilton - I am making my points, and he keeps interrupting.
1106
1107 Mr. Emerson - Okay, please move forward. You have about four
1108 minutes left. Thank you.
1109
1110 Ms. Hamilton - See, you did it again. It's not a cooking show where
1111 you tell me how much time I have left. But nonetheless, okay. So we have the
1112 Western Hemisphere Convention. It says that we need to leave open space, and
1113 trees, and wetlands specifically for wildlife. And specifically it mentions migratory
1114 birds.
1115
1116 I know that you guys are going to do what you're going to do tonight. I know that
1117 no matter what I say, this is all about your jobs. It's not about construction jobs.
1118 It's not about retail jobs. It's not about people who work in the offices. It's not

1119 about their jobs. It's about your jobs. You know that you have to have a certain
1120 amount of development to keep your overpaid jobs. That's what this is about. We
1121 already have too many buildings. We have too many empty buildings as it is. And
1122 what you're doing is you're creating blight, whether it's in the city of Richmond or
1123 beyond. You have—you try to lure businesses here. We already have enough
1124 people here. Our landfills are overflowing. We have too much in the way of
1125 everything—too many empty buildings, too many shopping centers. We have too
1126 much traffic. It's time for you to quit.

1127

1128 Mr. Leabough - Thank you.

1129

1130 Mr. Archer - Ms. Hamilton, you don't have to come back, but I just
1131 want to tell you how much we appreciate your stewardship of the Migratory Bird
1132 Act and trees. I'm sure that every time you come here people learn something. I
1133 do.

1134

1135 Mr. Condlin, I think you need to come forward and respond to that.

1136

1137 Mr. Condlin - Thank you, Mr. Archer, Mr. Chairman, members of
1138 the Commission. Andy Condlin and Jennifer Mullen here on behalf of not only the
1139 Penniston Trust but Dominion Power. Caroline Penniston Trust is the property
1140 owner. We're actually representing the ultimate user and developer of this
1141 property, who is Dominion Power. I will go over a couple of points that have been
1142 raised by Ms. Hamilton. I'm just going to go to the zoning, actually. Fred, we can
1143 just go ahead and leave up that existing map that we had up there. I'll just go to
1144 the—use the County's facilities. Or we can go there. All right. I'm just going to
1145 use the zoning map. If you have any specific questions, we can use the other
1146 maps.

1147

1148 We're actually requesting to use this property for office purposes for a system
1149 operations center for Dominion. We do feel, obviously, as I'll go over—and has
1150 been reviewed by Ben Sehl—that this is appropriate given the surrounding
1151 property, and the Comprehensive Plan designation. And to Ms. Hamilton's point,
1152 you can see up in this map there are a number of C-1 (Conservation) Areas for
1153 the particular environmental areas that will be continued to be preserved on our
1154 property, including a proffer that we will rezone for conservation for protection of
1155 those specific areas.

1156

1157 We're also providing for a two-story, 100,000-square-foot building initially on the
1158 seventy-six acres. Two stories and 100,000 square feet on seventy-six acres. A
1159 lot of this area will be protected from development, particularly since we're
1160 backing up to 295. And to get to this property, we're using existing road
1161 infrastructure. We're not building new road infrastructure, other than as required
1162 by the Major Thoroughfare Plan for the concept road that runs through the
1163 property.

1164

1165 With respect to that, we are providing for what's called a system operations
1166 center. Really what they're doing is overseeing the grid network for Dominion.
1167 Over 6300 miles of distribution lines and 245 substations. That's what's being
1168 taken care of at this particular site. They're analyzing and monitoring the data
1169 and the flow of electricity over that 6300 miles of distribution lines and the 245
1170 substations and analyzing the peak flow and quality of electricity as it ebbs and
1171 flows to go through the system to be able to redistribute power both because of
1172 construction and planned interruptions, but also because of unplanned losses
1173 such as natural issues that come up whether it's trees or weather as they come
1174 forward. So they're constantly monitoring the grid network so they can reroute
1175 the power.

1176
1177 They currently have a facility that was constructed in the late 1980s. It will
1178 probably surprise you that technology has advanced since the late '80s and early
1179 '90s when this was brought online. Because of the regulatory requirements, not
1180 only do we have to provide for higher technology, but also be able to provide for
1181 more space than the existing facility can provide for. So we're going to build
1182 using the highest technology that we have.

1183
1184 As Mr. Sehl has pointed out, this particular property is not only consistent with
1185 the comprehensive plan, which calls specifically as a prime economic
1186 development site for office on this property, it's also consistent with the adjacent
1187 zoning and uses on this property.

1188
1189 For these reasons, we feel it is appropriate and will be happy to answer any
1190 questions. I have a slew of folks from Dominion to help us answer any specific
1191 questions that you have from this point forward.

1192
1193 Mr. Archer - Mr. Condlin, I don't have any questions. As you know,
1194 I've attended two meetings, one being a public meeting attended by Mr. Strauss
1195 and Mr. Sehl, Mike and Scott from Public Works, Mr. Cejka, Mr. Thornton, and
1196 myself. But my colleagues might have some questions, so if you do, go ahead.

1197
1198 Mr. Leabough - Any questions for Mr. Condlin?

1199
1200 Mr. Branin - I want to commend Mr. Garrett for coming in with an
1201 environmentally conscious project.

1202
1203 Mr. Leabough - No questions.

1204
1205 Mr. Condlin - Thank you very much.

1206
1207 Mr. Archer - Thank you, Mr. Condlin.

1208
1209 Mr. Leabough - How would you like to proceed, Mr. Archer?

1210

1211 Mr. Archer - I'm ready to make a motion. I move that we send to
1212 the Board of Supervisors with a recommendation for approval REZ2014-00008,
1213 Andrew M. Condlin for Carolyn C. Penniston Family Trust.

1214

1215 Mrs. Jones - Second.

1216

1217 Mr. Leabough - We have a motion by Mr. Archer, second by
1218 Mrs. Jones. All in favor say aye. All opposed say no. The ayes have it; the motion
1219 passes.

1220

1221 **REASON -** Acting on a motion by Mr. Archer, seconded by Mrs.
1222 Jones, the Planning Commission voted 5-0 (one absent) to recommend the
1223 Board of Supervisors **grant** the request because it continues a form of zoning
1224 consistent with the area and the proffered conditions will assure a level of
1225 development otherwise not possible.

1226

1227 Mr. Emerson - Mr. Chairman, we now move on to the next two
1228 cases, which I will call together. They will require separate motions, however,
1229 when you take action.

1230

1231 **REZ2014-00009** **Gloria L. Freye for ME Nuckols, LLC:** Request to
1232 conditionally rezone from A-1 Agricultural District to UMUC Urban Mixed-Use
1233 District (Conditional) part of Parcels 731-764-5533 and 731-764-4292 containing
1234 66.9 acres located on the south line of W. Broad Street (U.S. Route 250)
1235 approximately 600' west of its intersection with N. Gayton Road. The applicant
1236 proposes an urban mixed-use development, GreenGate, with approximately
1237 80,000 square feet of commercial area and no more than 300 residential units.
1238 The uses will be controlled by proffered conditions and zoning ordinance
1239 regulations. The 2026 Comprehensive Plan recommends Traditional
1240 Neighborhood Development and Environmental Protection Area. The site is
1241 located in the West Broad Street Overlay District.

1242

1243 **PUP2014-00006** **Gloria L. Freye for ME Nuckols, LLC:** Request for a
1244 Provisional Use Permit under Sections 24-32.1(a), 24-32.1(i), 24-32.1(k), 24-
1245 32.1(n), 24-32.1(s), 24-32.1(w), 24-120 and 24-122.1 of Chapter 24 of the
1246 County Code related to a Master Plan for the proposed GreenGate Development
1247 and to permit certain uses and exceptions to permitted uses, heights, and square
1248 footages of uses within the proposed urban mixed-use development on part of
1249 Parcels 731-764-5533 and 731-764-4292 located on the south line of W. Broad
1250 Street (U.S. Route 250) approximately 600' west of its intersection with N.
1251 Gayton Road. The existing zoning is A-1 Agricultural District. The 2026
1252 Comprehensive Plan recommends Traditional Neighborhood Development and
1253 Environmental Protection Area. The site is located in the West Broad Street
1254 Overlay District.

1255

1256 Mr. Leabough - Is there anyone here in opposition to REZ2014-
1257 00009, Gloria L. Freye for ME Nuckols, LLC? One person in—two people in
1258 opposition to that. And I'll ask for opposition to PUP2014-00006, Gloria L. Freye
1259 for ME Nuckols, LLC. Those will be voted on separately. Can we combine
1260 comments for these?

1261
1262 Mr. Emerson - Yes, sir.

1263
1264 Mr. Leabough - That would probably be the best since they're related.
1265 Okay. We just have one person in opposition to the provisional use permit—or
1266 two. Two. Okay. Mr. Sehl?

1267
1268 Mr. Sehl - Thank you, Mr. Chairman.

1269
1270 As Mr. Emerson stated, this request consists of two applications. One is a
1271 request to rezone approximately sixty-seven acres to Urban Mixed Use
1272 (Conditional), and a provisional use permit to allow for the design features,
1273 building heights, and uses proposed by the applicant. The site is currently zoned
1274 A-1, and the applicant proposes up to 300 residential units and a minimum of
1275 80,000 square feet of retail and office uses.

1276
1277 As shown on this aerial photograph, the property was previously used as a farm.
1278 Strange's Florist is located to the east, and a large environmental feature is
1279 located to the west of the proposed development. Graham Meadows subdivision
1280 and Nuckols Farm elementary school are located to the south in this area.

1281
1282 The subject property is designated on the 2026 Plan for Traditional
1283 Neighborhood Development and Environmental Protection Area uses and is part
1284 of the West Broad Street – West Mixed-Use/Village Special Focus Area. These
1285 designations indicate mixed-use development could be appropriate on the
1286 subject site, provided the proposed community is consistent with the mixed-use
1287 keystone policies adopted as part of the 2026 Plan. These policies indicate
1288 mixed-use developments of this type could be appropriate should they be:

- 1289
- 1290 • master-planned;
 - 1291 • developed with quality design features;
 - 1292 • designed to accommodate pedestrian features;
 - 1293 • coordinated with public facilities; and,
 - 1294 • developed in a manner sensitive to environmental features.

1295
1296 In order to demonstrate this request's consistency with the recommendations of
1297 the comprehensive plan, as well as meet the requirements for Urban Mixed-Use
1298 District applications, the applicant has submitted a number of items, including an
1299 extensive master plan book. This book has been proffered and would provide the
1300 requirements for future development plans and applications.

1301

1302 This conceptual layout shows how the site would be developed. Areas west and
1303 south of an existing drainage divide would be developed in a block pattern for
1304 residential uses. These uses would contain a mixture of townhomes and single-
1305 family dwellings. North of the divide, adjacent to West Broad Street, would be the
1306 commercial area. This area would be accessible to future residents through
1307 multiple pedestrian and vehicular connections. This area would also be
1308 accessible to residents in Graham Meadows and Gayton Station subdivisions to
1309 the south through three access points on Graham Meadows Drive.

1310

1311 As previously mentioned, a minimum of 80,000 square feet would be developed
1312 for commercial uses. The master plan book provides four scenarios for the
1313 commercial portion of the development. The applicant's preferred scenario—
1314 Scheme A shown here—would contain approximately 112,000 square feet of
1315 commercial area, including a small retail anchor along West Broad Street. Retail
1316 and restaurant uses would be located along the development's main street,
1317 which would also include a multi-story office-over-retail building. Scheme B1
1318 would not contain the retail anchor, and would instead reallocate certain
1319 residential units north of the drainage divide, shown here, while still maintaining
1320 at least the office-over-retail building. Scheme B2 would contained a similar level
1321 of square footage, but would eliminate the multi-story building and would
1322 continue the non-residential frontage along Main Street through the northern
1323 portion of the development. Scheme C would contain the highest level of
1324 development, up to 224,000 square feet, and could include a four-story office
1325 building and associated parking garage.

1326

1327 In addition to the general site plans shown previously, the applicant has provided
1328 a specific regulating plan for the entire development, as shown here. This section
1329 of the master plan book also includes design guidelines for details such as
1330 setbacks and lot widths, sidewalk widths, building heights, parking, and frontage
1331 requirements. For instance, the applicant has detailed certain commercial
1332 frontages, as show here, as well as residential frontages, seen here. In order to
1333 ensure these guidelines are adhered to as part of future building permit and plan
1334 applications, the applicant has also provided a checklist for design details that is
1335 to be submitted with each application showing how the proposed building or plan
1336 meets the requirements of the master plan book.

1337

1338 In addition to the details provided as part of the design guidelines, the master
1339 plan book includes specifics regarding the proposed streets in the development.
1340 The majority of the proposed streets would be publically maintained, and include
1341 various widths and design features depending on the street's location within the
1342 development. This section of the master plan book also details proffered
1343 improvements to Graham Meadows Drive, as shown here. These improvements
1344 are intended to address current issues with traffic during student drop-off and
1345 pickup, and would include the construction and striping of additional turn lanes, a
1346 new parking area within the school property, and the addition of crosswalks to
1347 create safe crossing points from the development to the school. The applicant

1348 has been working closely with schools administration on this portion of the
1349 project.

1350

1351 As part of the application, a traffic impact analysis was also required, and the
1352 Department of Public Works has indicated the recently revised traffic study now
1353 meets their requirements. The findings of the study indicate several
1354 improvements are necessary, such as a signal on West Broad Street, and the
1355 applicant has proffered the improvements recommended by the study.

1356

1357 As previously mentioned, detailed architectural design with high-quality materials
1358 is a keystone for mixed-use developments. The master plan book provides
1359 numerous requirements for architectural details, for both residential and
1360 commercial development. Numerous example photographs, such as these
1361 shown here, have been provided for residential development and detail specific
1362 requirements for various architectural styles such as Georgian, Greek Revival,
1363 Victorian, and Craftsman.

1364

1365 Also provided are details for commercial developments. These would largely be
1366 one-story buildings, and a variety of architectural features would be provided.
1367 Details have been provided for rear elevations that would face parking areas, as
1368 well as details for taller mixed-use buildings should the more intense
1369 development envisioned with Scheme C end up occurring.

1370

1371 The final section of the master plan book deals with landscaping, open space,
1372 and pedestrian accommodation. Details regarding the various open spaces are
1373 shown, as are specific requirements for items such as a community center and
1374 pool, tot lots, and trail areas. An extensive pedestrian network would be provided
1375 and would connect to adjacent neighborhoods and Nuckols Farm Elementary
1376 school. Specifics for each open area such as the main street plaza are also
1377 provided. That would be located at the end of the Main Street prior to crossing
1378 into the more residential portion of the development.

1379

1380 Overall, the master plan book provides a detailed vision for the future
1381 development, and meets the requirements of the Urban Mixed-Use district. To
1382 ensure this vision is carried out, the applicant has submitted a number of proffers
1383 that reference the master plan book, as well as address items such as density,
1384 road standards, prohibited uses, exterior building materials, and buffering. The
1385 applicant has also provided a proffer that would require all residential dwellings
1386 on the property be sprinklered for fire protection. These proffers should ensure
1387 that the property is developed consistent with the master plan book and the
1388 mixed-use keystone policies contained in the 2026 Comprehensive Plan.

1389

1390 With regards to the submitted provisional use permit application, staff believes
1391 the requested provisional uses and design modifications are appropriate,
1392 especially when taken in concert with the proffered design guidelines included as
1393 part of the rezoning request. The recommended conditions are consistent with

1394 those imposed as part of similar requests throughout the county, and the
1395 provisional uses requested would help create the more traditional form of
1396 development proposed with the companion application. The requested uses,
1397 design requirements, and building heights are consistent with the
1398 recommendations of the Comprehensive Plan. For this reason, and because the
1399 conditions would allow for appropriate regulation of the requested provisional
1400 uses, staff supports the PUP request.

1401

1402 Overall, staff supports the rezoning and provisional use permit requests and
1403 believes they are consistent with the recommendations of the Comprehensive
1404 Plan and would provide for a form of development in keeping with the
1405 recommendations of the West Broad Village Mixed-Use/Village Special Focus
1406 Area. The applicant has worked closely with the adjacent communities and other
1407 stakeholders, and has provided the required impact analyses. The project would
1408 include an appropriate mixture of uses and provide for a high-quality
1409 development in a well-planned environment. For these reasons, staff
1410 recommends approval of both requests. This concludes my presentation and I'd
1411 be happy to answer any questions you might have at this time.

1412

1413 Mr. Leabough - Questions from the Commission? I have a quick
1414 question. Is there a checklist of any sort? This is a large document to reference
1415 on each case.

1416

1417 Mr. Sehl - A checklist as far as for future applications?

1418

1419 Mr. Leabough - Yes.

1420

1421 Mr. Sehl - Yes.

1422

1423 Mr. Leabough - Maybe you mentioned that and I missed it.

1424

1425 Mr. Sehl - They're required to provide—you can see here. This
1426 is part of the master plan book.

1427

1428 Mr. Leabough - Okay, there it is. Okay, great.

1429

1430 Mr. Sehl - And there are approval forms that they have to submit
1431 as part of future plans of development or building permit applications to assist our
1432 staff in reviewing those.

1433

1434 Mr. Emerson - Which is standard protocol for all UMUs.

1435

1436 Mr. Leabough - Thank you. So, how would you like to proceed?

1437

1438 Mr. Branin - Mr. Chairman, I would like to hear from the opposition
1439 first. And then after we hear from the opposition, I would like for the applicant to

1440 come up and address, and that way we can get the questions from the
1441 Commission answered as well as the opposition's questions answered.

1442

1443 Mr. Leabough - Sounds great. Would the opposition please come
1444 forward. And state your name for the record again.

1445

1446 Ms. Hamilton - My name is Karen Hamilton. I need some clarification
1447 from you, Mr. Leabough. Am I not speaking loud enough for you because I can
1448 really turn it up if you need me to. Do you need me to slow it down? Mr. Sehl
1449 talks very fast and Mr. Condlin talks very fast—

1450

1451 Mr. Emerson - Ms. Hamilton, would you please get to you points?

1452

1453 Ms. Hamilton - I need clarification. If he can't hear me, I shall talk
1454 louder.

1455

1456 Mr. Emerson - We can hear you, ma'am.

1457

1458 Mr. Branin - Ms. Hamilton—

1459

1460 Mr. Emerson - Please speak respectfully to the Commission. Thank
1461 you.

1462

1463 Ms. Hamilton - He hasn't been very respectful to me tonight.

1464

1465 Mr. Emerson - Ms. Hamilton, please get to your points. Thank you.

1466

1467 Ms. Hamilton - And you know that. Okay. The point is traffic studies
1468 are bogus. They're all a bunch of lies. Out there on Broad Street and everywhere
1469 in western Henrico and out there on Brook Road—everywhere you go where
1470 there's a lot of traffic, at least two cars, usually four cars, and sometimes I count
1471 eight cars, run red lights. People are frustrated because these are highly dense
1472 areas and there's too much traffic already. All you do is bring in more traffic.
1473 These studies are a bunch of lies. You're making up this stuff.

1474

1475 But the guidelines for how you make—how you make a comprehensive plan say
1476 that you're supposed to have harmonious development. There's nothing
1477 harmonious about people running red lights and then all this traffic. It says you're
1478 supposed to best promote the health, safety, morals, order, prosperity, general
1479 welfare of the inhabitants. Okay. Let's talk about health and safety. First of all,
1480 smog, traffic, ozone—and I've talked about that. You're increasing the ozone
1481 levels out there. But morals. People don't care about traffic lights; they're
1482 violating the law out there, so you're creating an immoral place. And order?
1483 There's no order out there; it's chaos.

1484

1485 Let's talk about the fact that the biggest thing here that you don't want out there
1486 in Western Henrico is you're trying to make this—and you have made this into a
1487 very exclusive area for rich people. And you're trying to make us poor people
1488 move out.

1489

1490 But this—this is the guideline for how make a comprehensive plan, according to
1491 the law. It says you're supposed to—the comprehensive plan shall include the
1492 designation of areas and implementation of measures for the construction,
1493 rehabilitation, and maintenance of affordable housing. Ohhhh, y'all hate
1494 affordable housing in the West End. Oh my goodness. You think apartments are
1495 affordable; they're not. They're not. This is not about affordable housing. This is
1496 not—this is not going to help anybody. Even if there was affordable housing, you
1497 don't allow GRTC buses to come out there. You don't want buses out there. You
1498 don't want affordable housing at all. So you're not following the Constitution.
1499 You're not following the comprehensive plan. You couldn't care less about order
1500 and morals and traffic. This is all a bunch of bull. It's bogus. You are not at all
1501 interested in the needs of the people. And the needs, we have needs for open
1502 green space.

1503

1504 So now I'm going to take you back to where we were before, Mr. Leabough. We
1505 have to have open space. It's in the Western Hemisphere—

1506

1507 Mr. Leabough - Ma'am, let me interrupt you. Do you mind? You yelled
1508 at me just a few minutes ago.

1509

1510 Ms. Hamilton - Yeah, but you couldn't hear me before, so I'm yelling.
1511 Yes, because you couldn't hear me. You kept interrupting me.

1512

1513 Mr. Leabough - Excuse me. You're interrupting me now. What I will
1514 say is that you will respect our Commission, as we will respect you. I've taken
1515 detailed notes about everything that you said in the last case. I will take detailed
1516 notes, as I'm doing now. Okay?

1517

1518 Ms. Hamilton - These will be typed up for you. You don't need to take
1519 detailed notes. If I need to talk slower, tell me that. I'll talk slower because I've
1520 got ten minutes. I can talk slower.

1521

1522 Mr. Emerson - Ms. Hamilton, there is another gentleman that did
1523 want to speak, so we would like to give him a little time too. So if you would wrap
1524 your points up and make them clearly.

1525

1526 Ms. Hamilton - Okay. Well you're going to vote for this and you're
1527 going to approve it, but you're wrong.

1528

1529 Mr. Branin - Sir, come on down. Please state your name for the
1530 record. To the microphone. State your name for the record.

1531
1532 Mr. Chen - Thank you for this opportunity. First, I want to be clear
1533 I'm not—
1534
1535 Mr. Leabough - Could you state your name first, please?
1536
1537 Mr. Chen - Oh, I'm Gao Chen. I come here because I'm the first
1538 house at Grand Meadows Drive. I come here—I'm not against this development.
1539 I hope this development is successful and it's a pretty good outcome for our
1540 Graham Meadows community. I just come here—people—Eagle Construction
1541 here, my idea about that outlet beside my house—I'm the one, two—the first one.
1542
1543 Mr. Leabough - Would you mind pointing on the screen there?
1544
1545 Mr. Branin - See where the #11 is? Look to the left.
1546
1547 Mr. Chen - Okay, this is my house. And there is an outlet here.
1548 No other questions, just that outlet. First, I think this development is a walk—
1549 walking community. They have a lot of walkways. So why don't they add the idea
1550 of walking to the school? They are close enough to the school, Graham
1551 Meadows and Nuckols Farm school is right here. They're close enough. Most of
1552 Graham Meadows neighbors, we walk to the school. I walk to the school. My
1553 daughter walks to school. It's too close. That's complicated by driving there.
1554 That's the first thing.
1555
1556 The second is, okay, this intersection, I feel that the function is not very clear. As
1557 the people if they drive here and try to get to the school, what they do, they turn
1558 left or turn right. If they want to drive their kids to school, they should go here
1559 because this is the drop there. This is a bus loop. During school hours, only
1560 school buses can get in there. So if they turn left, they're trying to get a shortcut
1561 here. But here, Gayton Station cars come this way too. So, I don't know. For me,
1562 I feel it's not clear what the function is of this outlet.
1563
1564 The third is they say this outlet is convenient for Graham Meadows to get to
1565 Broad Street, so we can drive this way to get to Broad Street or from Main Street
1566 to get to Broad Street. I would think for GreenGate, their development, if I live
1567 here, I don't want people every day bypassing in front of my property to get to
1568 Broad Street. It's a lot of traffic here. Maybe not a lot; we only have sixty
1569 houses—residences in our Graham Meadows community.
1570
1571 If it's a dead end walk paths—walkway to the school, I think that would be better.
1572 The house here—if it's an intersection, the house here and here, every time you
1573 have an intersection beside the road, two houses will be—people don't like to be
1574 beside the road—beside the intersection. So that's why I come here.
1575

1576 This development, I like it. It's a good development. It will create jobs for Henrico.
1577 It will create wealth for Henrico County. So I'm not against it. It's just I'm
1578 concerned for that outlet. If Eagle wants to modify it, they can consider my idea.
1579 That's why I came here today.

1580

1581 Mr. Leabough - Thank you, sir.

1582

1583 Mr. Chen - Thank you.

1584

1585 Mr. Leabough - Would you like to hear from the applicant?

1586

1587 Mr. Branin - I would like to hear from the applicant. Before you do
1588 your presentation, if you would address Mr. Chen's question that would be great.

1589

1590 Ms. Freye - Good evening, Mr. Chairman, members of the
1591 Commission. My name's Gloria Freye. I'm an attorney for McGuire Woods here
1592 on behalf of Markel|Eagle. We do have several representatives from
1593 Markel|Eagle here with me. The first two rows are all these folks. We're all
1594 available to respond to questions.

1595

1596 The response to Mr. Chen—we have talked with him on the phone, and we also
1597 have a meeting set up with him next week to look specifically at his ideas and his
1598 suggestions. I think we're going to be able to have the traffic engineer involved
1599 with that meeting so that they can explain the traffic impact analysis and how the
1600 accesses were designed to divide and disperse the traffic so that it would be
1601 safer on Graham Meadows Drive. There are going to be improvements made to
1602 Graham Meadows Drive to restripe that right-of-way to allow parents to drop their
1603 children off in the morning, pick them up in the evening, and have a center lane
1604 striped on the road so that through-traffic can pass by without getting involved in
1605 that congestion.

1606

1607 This is designed as a walkable community. One of the first things that
1608 Markel|Eagle did—they acquired this property in December 2012. So for the past
1609 year they have kept an open, ongoing dialogue with the neighbors about the
1610 planned development and the issues and concerns that they heard from the
1611 neighbors. Most of the proffers that are in the case were the direct result of
1612 responding to the concerns and the issues that were raised by the neighbors.
1613 And one of those was the safety of the children walking to school. So there are
1614 also going to be crosswalks that are going to be provided. So there will be
1615 multiple opportunities for walking.

1616

1617 For the environment, the reason it's called GreenGate is because this developer
1618 is preserving the wetlands and the trees that are there. The property that's
1619 actually being developed is pasture or farmland. So trees are actually going to be
1620 added and supplemented, not taken away. The proffer actually says that they are
1621 committed to 30 percent open space, but the plan that you saw earlier is closer to

1622 40 percent. So the sensitivity to the environment and the walkable community are
1623 by design by this developer.

1624
1625 Mr. Branin - Okay, thank you.

1626
1627 Mr. Leabough - Any questions from the Commission for Ms. Freye?

1628
1629 Mr. Archer - Ms. Freye, so you've spoken with Mr. Chen?

1630
1631 Ms. Freye - Yes sir, just briefly this afternoon.

1632
1633 Mr. Archer - Okay. Do you think in terms of what he was trying to
1634 express that there is a realistic way to address his concerns?

1635
1636 Ms. Freye - I think that we can explain—at least the traffic
1637 engineer better than I can explain the amount of traffic, what the congestion
1638 issues are, and why the three accesses actually work best for the traffic that will
1639 be generated by this development and the congestion problems that the Graham
1640 Meadows residents already experience. It's going to solve a lot of their problems.

1641
1642 Mr. Sehl spoke to this earlier. Another thing that the developer is doing is
1643 meeting with the school administration about making improvements to the school
1644 parking lot so that people who drop their children off or pick them up can actually
1645 get onto the property and have stacking on the property and not stacking
1646 Graham Meadows Drive.

1647
1648 We had a citizen meeting a couple weeks ago. It was very well attended and the
1649 plan was very well received. And I think the thing that we heard back was that
1650 they felt heard, that they had been listened to, and that their concerns had been
1651 addressed. I believe in your file there's actually a letter of support from one of the
1652 officers of the homeowners association supporting the project. She could not be
1653 here this evening; she had a sick child. She had planned to be here to speak in
1654 support.

1655
1656 Mr. Leabough - Any other questions?

1657
1658 Mr. Branin - I'll be happy to give the Commission a little history on
1659 actually this piece of land and what was proposed in the past. The first
1660 development that came through that was proposed, there was a community
1661 meeting; Graham Meadows attended. Graham Meadows attended with I'd say
1662 about 150 strong that wanted to crucify everybody in the room. They weren't
1663 happy with it. On this last go-round, one of the things they said at that meeting
1664 was, you know, we're not opposed to what's out at West Broad Village, that sort
1665 of townhome, that sort of took, that sort of land. They brought in—and that
1666 developer ended up not doing the 10,000 apartments he wanted to do to start
1667 with, which we wouldn't have approved anyway.

1668
1669 Markel|Eagle came in and brought in someone to look at the land. This land itself
1670 is a challenge. There is a wetland. There is a lot of creek. And there is a lot of up
1671 and down in the topography. The land use person they brought in actually took
1672 into account the tiered the land, the topography, and developed what you see in
1673 front of you, not making a flat countertop like most developments are. So I
1674 commend Markel|Eagle for taking consideration of the difficult and sensitive land
1675 out there and using it to the best of their ability and the best of the community's
1676 ability.

1677
1678 I never thought I would see the connectivity between this development and
1679 Graham Meadows, period. But after working with Graham Meadows, they have
1680 come to an arrangement, and in the community meeting it was made clear that
1681 they're on board with actually combining the two neighborhoods to make one as
1682 opposed to being two totally separate. I'm ecstatic that a project this big was
1683 welcomed by an established community that's so strong.

1684

1685 That's all I have to say.

1686

1687 Mr. Leabough - All right.

1688

1689 Mr. Branin - I have no further questions for staff.

1690

1691 Mr. Leabough - How would you like to proceed?

1692

1693 Mr. Branin - I think I might make a couple motions.

1694

1695 Mr. Leabough - All right. So we have to act on the PUP and the REZ.

1696

1697 Mr. Branin - Which one would you like first, Mr. Chairman?

1698

1699 Mr. Leabough - I think we have to act on the rezoning first.

1700

1701 Mr. Emerson - Correct. Rezoning first and then the provisional use
1702 permit second, Mr. Branin.

1703

1704 Mr. Branin - Mr. Chairman, Mr. Secretary, I move that REZ2014-
1705 00009, Gloria L. Freye for ME Nuckols, LLC, move forward to the Board of
1706 Supervisors with a recommendation for approval.

1707

1708 Mr. Witte - Second.

1709

1710 Mr. Leabough - Motion by Mr. Branin, second by Mr. Witte. All in favor
1711 say aye. All opposed say no. The ayes have it; the motion passes.

1712

1713 **REASON -** Acting on a motion by Mr. Branin, seconded by Mr.
1714 Witte, the Planning Commission voted 5-0 (one absent) to recommend the Board
1715 of Supervisors **grant** the request because it conforms with the objectives and
1716 intent of the County's Comprehensive Plan; it would not adversely affect the
1717 adjoining area if properly developed as proposed; and the proffered conditions
1718 would provide for a higher quality of development than would otherwise be
1719 possible.

1720

1721 Mr. Branin - And with that I'd like to move that PUP2014-00006,
1722 Gloria L. Freye for ME Nuckols, LLC, move forward as a companion with
1723 REZ2014-00009, with a recommendation for approval.

1724

1725 Mr. Witte - Second.

1726

1727 Mr. Leabough - Motion by Mr. Branin, second by Mr. Witte. All in favor
1728 say aye. All opposed say no. The ayes have it; the motion passes.

1729

1730 **REASON -** Acting on a motion by Mr. Branin, seconded by Mr.
1731 Witte, the Planning Commission voted 5-0 (one absent) to recommend the Board
1732 of Supervisors **grant** the request because when properly developed and
1733 regulated by the recommended special conditions, it would not be detrimental to
1734 the public health, safety, welfare and values in the area.

1735

1736 **REZ2014-00010 James W. Theobald for Attack Properties:** Request
1737 to conditionally rezone from O-3C Office District (Conditional) and B-2C
1738 Business District (Conditional) to RTHC Residential Townhouse District
1739 (Conditional) Parcel 747-770-3395 containing 5.66 acres located on the west line
1740 of Nuckols Road approximately 465 feet south of its intersection with Hickory
1741 Park Drive. The applicant proposes a residential townhouse development not to
1742 exceed 37 units. The RTH District allows a maximum density of nine (9) units per
1743 acre. The use will be controlled by proffered conditions and zoning ordinance
1744 regulations. The 2026 Comprehensive Plan recommends Office.

1745

1746 Mr. Leabough - Is there anyone here in opposition to REZ2014-
1747 00010, James W. Theobald for Attack Properties? Okay, Ms. Hamilton. We have
1748 one in opposition. Anyone else? All right, Mr. Humphreys.

1749

1750 Mr. Humphreys - Thank you Mr. Chairman, Members of the
1751 Commission.

1752

1753 As the secretary stated, this request is to rezone approximately 5.66 acres from
1754 O-3C and B-2C to RTHC to allow the development of up to thirty-seven
1755 residential townhouse units. The subject property is located on the west line of
1756 Nuckols Road approximately 465 feet south of its intersection with Hickory Park
1757 Drive.

1758

1759 The subject site is predominantly zoned O-3C with the small stream separating
1760 the B-2C portion of the property to the rear. This property was zoned for those
1761 districts with case C-76C-05 along with the parcel immediately to the west. The
1762 intention of that case was for an office development to connect to the north on
1763 the O-3C portion of the property and a hotel development on the rear on the B-
1764 2C portion of the property. The office portion of the development was to have
1765 access through the site to the north to Hickory Park Drive as well as a single
1766 point on Nuckols Road. The adjacent parcel zoned B-2C with that case was later
1767 down-zoned to A-1—that's the current map here—with case C-34-09 because it
1768 was not foreseen the down-zoning would impede unified development in the
1769 future.

1770

1771 The 2026 Comprehensive Plan recommends Office for the subject property. The
1772 subject parcel is also one of eleven parcels that make up Prime Economic
1773 Development Site #2 identified in the 2026 Comprehensive Plan. The proposed
1774 use is not consistent with that land use recommendation or its designation as
1775 part of the Prime Economic Development Site.

1776

1777 The applicant has submitted revised proffers dated February 14th and a new
1778 layout and elevations dated February 12th. Both of those have been distributed to
1779 you by e-mail and were also just handed out to you now. These would not require
1780 a waiver of the time limits.

1781

1782 The revised layout no longer shows a connection to Nuckols Road and that
1783 eliminates the concern about a significant number of increases in U-turns with
1784 the previous layout. However, the new plan does not show any stubs coming out
1785 of the property to the west or to the south. A stub from this property could be very
1786 beneficial in the cohesive development of the larger area that's surrounding it.

1787

1788 The revised proffers would provide some assurances of quality for a townhome
1789 project. Major aspects of the proffers include an entrance feature, internal
1790 sidewalks, a buffer along Nuckols Road, building materials, one-car garages,
1791 streetlights, and landscaping. While these proffers do address some of the
1792 aspects seen in other recent townhouse projects, they do not remedy the fact the
1793 requested use is inconsistent with the recommendations of the 2026
1794 Comprehensive Plan and could hinder opportunities for non-residential office
1795 development with a good internal vehicle network.

1796

1797 Due to additional requests in the area for residential development and the
1798 changes in the 2026 Comprehensive Plan resulting from the Innsbrook Area
1799 Study, deferral of this request is recommended to allow staff to conduct a short
1800 but thorough examination of the recommended land uses in the immediate area.

1801

1802 This concludes my presentation. I will be happy to take any questions.

1803

1804 Mr. Leabough - Are there any questions from the Commission of
1805 Mr. Humphreys?
1806
1807 Mrs. Jones - May I ask a quick one?
1808
1809 Mr. Leabough - Yes, of course.
1810
1811 Mrs. Jones - Okay. If I'm hearing you correctly, the major concern
1812 that staff has now is that the land use is not consistent with what is currently in
1813 the plan.
1814
1815 Mr. Humphreys - Correct.
1816
1817 Mrs. Jones - Okay. And that this could be—if you had time to do a
1818 quick study, this could be an appropriate use, but the study has not been done to
1819 confirm where you stand on that issue.
1820
1821 Mr. Humphreys - I wouldn't necessary say that we think now it could be
1822 an appropriate use, but we would like to study the surrounding area in a more
1823 wider scope both north of Nuckols Road and south of Nuckols Road to determine
1824 what land uses would be appropriate.
1825
1826 Mrs. Jones - And how long would such a study take?
1827
1828 Mr. Humphreys - We have a time frame right now that we've already
1829 started working on this, so it would be about another sixty days.
1830
1831 Mrs. Jones - Another sixty days.
1832
1833 Mr. Humphreys - Sixty days.
1834
1835 Mrs. Jones - Okay. Thank you for clarifying that.
1836
1837 Mr. Leabough - I'm sorry. I'm just processing all of that. How would
1838 you like to proceed, Mr. Branin?
1839
1840 Mr. Branin - As always, I always like hearing from the opposition
1841 first.
1842
1843 Mr. Leabough - Okay. Would the opposition please come forward.
1844
1845 Ms. Hamilton - For the record, my name is Karen Hamilton. And as
1846 usual, the usual reasons for opposing this. The traffic on Nuckols Road is bad.
1847 But when you made the Gayton Road Extension, you said that you were going to
1848 alleviate traffic out there. Instead, you keep adding all of these developments.
1849 You're not alleviating traffic. So that was a lie right there. That was false.

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To quote Mr.—oh dear, one of the supervisors—Mr. Thornton. To quote Mr. Thornton from the newspaper this week, he said that we should be more transparent, but you're not. Well, I mean I can see through you but, you know, you're not being honest with the general public. But no, this is not—this is not necessary. And this does not do anything. Like I've said, it doesn't help with the affordable housing. It doesn't help with agricultural and forestal districts, it doesn't help with the groundwater, it doesn't help with the traffic and the ozone. We need areas for conservation. We need green space. And you people just don't get it.

Mr. Leabough - Would you like to hear from the applicant?

Mr. Branin - I would love it.

Mr. Leabough - Would the applicant please come forward?

Mr. Theobald - Good evening, Mr. Chairman, ladies and gentlemen, my name is Jim Theobald. And I'm here this evening on behalf of Attack Properties. This is a request to rezone approximately 5.66 acres of land to an RTH classification. You've seen the location on Nuckols Road. There's a median in the Nuckols Road opposite the property. Hickory Park Office Condominiums are here in this location. This is the Union First Market Bank site, and this is a vacant site owned by HHHunt.

We believe that this proposal is consistent with area development. Our request is for this little rectangle here—and you can see it is sort of the tip of the nose, if you will, on all of Twin Hickory. So we're looking at a massive planned community. Lots of different uses that relate very favorably with the request before you this evening.

The zoning map shows the R-6 zoning, existing zoning. We're down here in this area. But lots of townhouse in the light brown and the R-6 property around it, again, consistent with area development.

Some history about the site. Back in 2005, we actually filed on—this front portion of the T is what's before you this evening, not this back. We filed on the whole of this property for 150 condominiums under the RTH category. Staff also recommended denial at that point, and we began looking for other users. In 2007, we thought we had some users, and we amended the cases and, in fact, zoned the case for office. This was to be a satellite emergency center for HCA, a hotel use, and general office use here. With regard to that request, that was also recommended for denial, but the case was nonetheless approved. The user—or it was supported.

Mr. Emerson - Jim, I think we supported the office on that.

1896 Mr. Theobald - Really? I didn't see that.
1897
1898 Mr. Emerson - I thought we did.
1899
1900 Mr. Theobald - I may be wrong then about that.
1901
1902 Mr. Emerson - I think we supported the office. We never have
1903 supported the residential. You're correct on that.
1904
1905 Mr. Theobald - Okay.
1906
1907 Mr. Emerson - But I think we supported the office.
1908
1909 Mr. Theobald - Our user backed out on us, so at that point we
1910 terminated the contract. Mr. Urban, who owned the property then rezoned this
1911 back portion back to agricultural I think for some tax relief.
1912
1913 So the site is still zoned O-3 in the front with just a little slice of business zoning
1914 in the back, but we've had no takers. There have been no takers for the office-
1915 zoned land for quite some time. Mr. Bill Barnett, who's here this evening, the
1916 broker for Mr. Urban who has been marketing his property since 2000 or 2001
1917 without any takers other than the one we lured into the trap and who got away
1918 from us.
1919
1920 The current request is for the thirty-seven townhomes. These townhomes will
1921 start somewhere in the \$350,000-on-up range depending upon options. It's
1922 showing an internal boulevard with various areas of green space located
1923 throughout. We have reoriented our entrance based on staff comments and
1924 some discussions with Mr. Branin. We had originally sought one entrance onto
1925 Nuckols Road to serve the thirty-seven homes, well under the eighty-unit
1926 maximum requirement to provide two points of access. And it would have been a
1927 right-in/right-out on Nuckols Road. So we're going to take advantage of the
1928 access road that you might recall having seen, and you can see it a little bit on
1929 the inset over the office park. There was a condition in the POD, I believe it was,
1930 on the office condominiums to provide cross access to this parcel. Those
1931 easements have been recorded. They still need to be technically granted to
1932 benefit this particular piece, but we've had discussions with HHHunt, who
1933 controls the access. So we've shifted our entrance so that we can get over to
1934 Hickory Park Drive to take you out to a traffic light onto Nuckols Road.
1935
1936 There will be an entrance feature along that main entrance with wrought iron-
1937 appearing fencing, and brick columns, and plantings. These are three-story
1938 townhomes with a minimum of a one-car garage. Two different potential
1939 renderings. We hope to start site work sometime toward the end of 2014, start
1940 home building late spring of 2015, and with a little luck finish the project by the
1941 end of 2016. We've proffered the plan, the entrance feature, and the elevation.

1942 Sidewalks on both sides of the internal private streets. The homes would be a
1943 minimum of 1700 square feet in size. Exterior materials would be of stone, brick,
1944 HardiPlank, or engineered wood. No vinyl. Thirty-five percent of all the building
1945 fronts would be either brick or stone. No direct access to Nuckols Road. We've
1946 added a green belt along Nuckols Road. Sound suppression features between
1947 each unit, and the minimum of a one-car garage. Regulated the height of our
1948 street lightings and proffered a maximum density of thirty-seven homes. The
1949 grassy medians throughout the internal areas would be landscaped.

1950
1951 We did hold a community meeting. There was no opposition present at that
1952 meeting. We believe that this is consistent with what the market is asking for, as
1953 well as existing development in the area. We believe this development continues
1954 to promote a tax base in Henrico County and support economic development.

1955
1956 With that I would be happy to answer any questions, and I would respectfully ask
1957 that you recommend approval of this case to the Board of Supervisors.

1958

1959 Mr. Leabough - Are there any questions from the Commission?

1960

1961 Mr. Branin - None? Okay. Mr. Theobald, thank you for seeing the
1962 vision that I had at our community meeting and helping with the County's wishes
1963 of moving some things around, checking and changing the access point. As this
1964 proceeds forward to the Board, there is one or two things that I still think could
1965 happen to make it a little bit more future-friendly and I'll go over that with you at a
1966 later date before it gets to the Board. The one thing that I have a concern on, as
1967 staff does, is connectivity for the future. The developer that develops this builds
1968 townhomes there may want the next piece down the road and continue down
1969 developing. I think if some of the buildings are shifted a hair, they'll be a little bit
1970 of a connectivity on the—what's that, the northeast? If you look at where your
1971 entrance comes in now, go directly across. If you push those buildings down a
1972 little bit and move—you're going to push into that grassy area. I don't know if that
1973 is a wetland. That's why I said I would like to look at it in the future further with
1974 you.

1975

1976 Mr. Theobald - That property to the—if that's the south on that side,
1977 Mr. Branin, that property does have direct access to New Wade Lane.

1978

1979 Mr. Branin - Okay. All right. So, that may be one thing that we
1980 want to look at, at the Board level. Okay?

1981

1982 Mr. Theobald - Happy to discuss it.

1983

1984 Mr. Emerson - One thing, Mr. Branin, I'd like to point out as we look
1985 at this area. There have been discussions about eliminating the access of New
1986 Wade Lane and trying to create an internal road network that would carry all the
1987 traffic up to Hickory Park Drive and as the uses change in this area, you'd like to

1988 eliminate that conflict so close to the interchange with 295. That's why it's
1989 important for this project to have connectivity to the south, to the parcel to the
1990 south.

1991

1992 Mr. Branin - I'm very pleased to hear that you're open to more
1993 discussion.

1994

1995 Mr. Theobald - I'm happy to talk about it. I must say we have five
1996 acres and we wanted sole access to Nuckols Road with a right in/right out, and
1997 we're done. We bought into the notion of going over to the office building. But we
1998 can't have this five acres serve as the intersection of all the communities in that
1999 area, reduce the number of potential units when you have other access. So at
2000 the same I'm happy to discuss it, that's the slippery slope. You agree to go north,
2001 and now I'm being asked to consider going south.

2002

2003 Mr. Branin - Well, and that's why I would like to discuss it with you
2004 further.

2005

2006 Mr. Theobald - Okay.

2007

2008 Mr. Branin - I'm open to discussion as well, Mr. Theobald.

2009

2010 Mr. Theobald - I bought into your original vision. How's that?

2011

2012 Mr. Branin - And it was a great vision, wasn't it?

2013

2014 Mr. Theobald - It was.

2015

2016 Mr. Branin - I'm shameless. It was fantastic, wasn't it? All right.
2017 Mr. Chairman, I'd like to move that REZ2014-00010, James W. Theobald for
2018 Attack Properties, move forward to the Board of Supervisors with a
2019 recommendation for approval.

2020

2021 Mr. Witte - Second.

2022

2023 Mr. Leabough - Motion by Mr. Branin, second by Mr. Witte. All in favor
2024 say aye. All opposed say no. The ayes have it; the motion passes.

2025

2026 REASON - Acting on a motion by Mr. Branin, seconded by Mr.
2027 Witte, the Planning Commission voted 5-0 (one absent) to recommend the Board
2028 of Supervisors grant the request because it reflects the type of residential growth
2029 in the area.

2030

2031 I just want to note that I'm concerned about the connectivity as well, even though
2032 I voted to approve it. It's an interesting layout.

2033

2034 Mr. Emerson - Mr. Chairman, we now move to page five of your
2035 agenda to consider the approval of your minutes from the January 9, 2014
2036 meeting. You also have an errata sheet that was provided to you of comments
2037 that we have received to date.

2038

2039 Mr. Leabough - Do I hear a motion for approval of the minutes?

2040

2041 Mrs. Jones - I'd like to move approval as corrected.

2042

2043 Mr. Archer - Second.

2044

2045 Mr. Leabough - Motion by Mrs. Jones, second by Mr. Witte. All in
2046 favor say aye. All opposed say no. The ayes have it; the motion passes.

2047

2048 Mr. Emerson - Mr. Chairman, I would like to note that the CIP
2049 hearing has been moved to 6 p.m. on March the 13th. I'll talk to you about this at
2050 your next meeting, but we may consider scheduling a work session at 5:30 or 5.
2051 We do still have the rules and regulations to discuss. I'm working with the
2052 attorneys to come up with some language that would allow you to put in place an
2053 inclement weather policy so we won't have to jump through quite as many hoops
2054 the next time the weather throws us a curveball. So I will put that on your next
2055 agenda as a discussion item, and we'll consider scheduling that on the twenty-
2056 sixth of this month. With that, I don't have anything further for the Commission.

2057

2058 Mr. Leabough - So the CIP is next.

2059

2060 Mr. Emerson - CIP is on March 13th.

2061

2062 Mr. Leabough - March 13th.

2063

2064 Mr. Emerson - We'll have a discussion about scheduling a work
2065 session on the thirteenth. I'm going to put that as a discussion item on your
2066 agenda for the 26th of February. I know that's confusing; I'm sorry.

2067

2068 Mrs. Jones - No, well. I just wanted to say that if we're coming
2069 early—and we will be here early for the CIP—if the proposed changes are ready
2070 to go and that doesn't push the staff too hard to get everything squared away
2071 with inclement weather policies and all that, I'd really like to see us get this done
2072 as soon as we can. I think we need to have our rules and regulations reflect the
2073 meeting. So let's try to do it then if we can.

2074

2075 Mr. Emerson - I will try to get some information to you just to give
2076 you a little idea of the conversation right now. The attorneys tell me the way the
2077 state code reads you have to set a specific date. What they sent me was moving
2078 your meeting to a week later. In the event of inclement weather, this meeting will
2079 be moved to a week later. We're already having a little difficulty staying on an

2080 advertising schedule for the first Board meeting. Moving to a complete week
2081 later, I don't know that we could pull that off effectively. And then your second
2082 meeting, if you have the same policy for your second meeting a week later, that
2083 might not be quite as problematic. But the first meeting is what concerns me. You
2084 may have to have two separate resolutions or one resolution drafted. It seems to
2085 me it makes sense to be the next business day with the exception of a Friday or
2086 a Friday night. If this meeting moved to the next business day, it would be a
2087 Friday night. I don't think that's acceptable to anyone. Your Wednesday morning
2088 meeting could easily move to the next business day and not be a problem. So
2089 maybe the proper language would be the next business day with the exclusive of
2090 Friday evenings. That might get you there.

2091
2092 Mrs. Jones - The simplest the better. However, this does sound
2093 dangerously close to our discussion about the calendar, doesn't it?
2094

2095 Mr. Emerson - It does, it does. But that's what I'm struggling with
2096 right now.

2097
2098 Mrs. Jones - Thank you.

2099
2100 Mr. Leabough - Is there any other business?
2101

2102 Mr. Archer - Mr. Secretary?
2103

2104 Mr. Emerson - Yes sir.
2105

2106 Mr. Archer - In that regard—and I know we have to give notice.
2107 We're probably talking about winter months to be those months when we could
2108 possibly have to defer a meeting. Might it not be good to develop some language
2109 to put in the notice that indicates that a meeting may have to be cancelled and if
2110 so when?
2111

2112 Mr. Emerson - We can try that. Our notices take about all the—we
2113 could put it in the ad in the paper. But what goes to adjacent property owners,
2114 we're about at the limit of what we can get on that paper now. It's very close. But
2115 certainly we'll look at that; that's not a bad thought at all.
2116

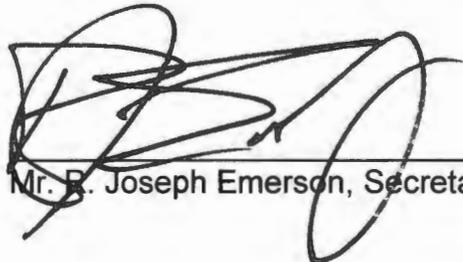
2117 Mrs. Jones - We can have hurricanes in September and everything
2118 else, so. It's a year-round issue.
2119

2120 Mr. Archer - It could be just a standard piece of language that we
2121 could put in that would indicate that a meeting might have to be cancelled and, if
2122 so—
2123

2124 Mr. Emerson - Right.
2125

2126 Mr. Witte - What the next date would be.
2127
2128 Mr. Emerson - We could it add it to the ad in the paper, I think.
2129
2130 Mr. Archer - Right. It would give us a legal out.
2131
2132 Mr. Emerson - Right. We need something. And I was thinking
2133 language along the lines of the next unimpeded business day or something or
2134 weather—some kind of language. We'll come up with something. That's what we
2135 have attorneys for. They're good at that stuff.
2136
2137 Mr. Leabough - I don't have anything. Motion for adjournment?
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2139 Mrs. Jones - So moved.
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2141 Mr. Archer - And I second that.
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2143 Mr. Leabough - The meeting is adjourned.

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Mr. R. Joseph Emerson, Secretary



Mr. Eric S. Leabough, Chairman