

Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico, Virginia, held in the Demonstration Kitchen of the Human Resources Building, Dixon Powers Drive, at 6:00 p.m., on February 12, 1998, Display Notice having been published in the Richmond Times-Dispatch on Thursday, January 22, 1998, and Thursday, January 29, 1998.

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

Others Present: Virgil Hazelett, County Manager
Reta Busher, Management & Budget Division Director
Robert C. Thompson, Director, Department of Public Works
John Merrithew, AICP, Principal Planner
Allen D. Webb, Principal Planner
Audrey Anderson, County Planner
Mark Bittner, County Planner
Nancy Gardner, AICP, County Planner
Ted McGarry, County Planner
Lee Yolton, County Planner
Judy Thomas, Office Assistant

Mr. Archer - Good evening, everyone. We've got what I hope is a short agenda. We were to have begun the work session on Non-school Use of School Facilities by Mr. Allen Webb a few minutes ago. Mr. Webb, we're about 14 minutes late. We're not asking you to rush. But, Mr. Webb, before you start, I'd like to recognize Ms. Wendy Wagner from the Times-Dispatch. I'll recognize you a second time, because I forgot to do it at the last meeting. Now, sir.

Mr. Allen D. Webb - Thank you, Mr. Chairman. For the record, I'm Allen Webb, with the Planning Office. This is the second time I've been before the Commission on this matter. So, let me go back to refresh our collective memories just a little as to what has brought us together tonight.

It all began last fall when the Planning Office received a zoning complaint, an official complaint, about the operation of child care programs in the schools; specifically the "YWCA programs." That complaint caused us to sit down and say, "Well, now let's see what the regulations are. Let's take another, closer look at them." So, we went "back to the books," if you will, and reread the Code, studied it, discussed it; and finally concluded that schools are uses permitted in the one-family residence districts by a certain section of the Code, and are viewed as appropriate activities within a residential community. That got our schools into residential communities. We read on further and found churches are also listed as permitted uses in residential districts, as are parish houses and certain County-operated facilities restricted to conservational-type of activities, cultural, administrative or educational, and recreational types of activity. So, all of these types of uses are what one expects to be permitted and to be found in one-family residential districts along with the classic single family home.

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Looking through the Code, we did not find child care centers, with one exception, allowed within a single family district. Churches are permitted by the One-family Residence District regulations to operate child care centers. That is the one exception. Looking further, we noted that child care centers, as commercial facilities, are first permitted as a principal use in the R-5 General Residence District, and that permission carries over into the R-6, the heavier of the multi-family districts. From there, the use is carried into Office Districts and ultimately into the Business Districts.

So, we begin to conclude that, "Yes, if you're not in an R-5 District, R-6 District, an Office District, or a Business District, you cannot operate a child care center unless you're a governmental entity, such as the Recreation Department, in a one-family residence district or in a school. We looked further into the Code and noted it states that, "if it is not listed as a permitted use in that district, it is not permitted." That cinched our conclusion, if you will, that unless it is operated by the county in an officially established program, or is operated by and in a church, it is not possible to operate a child care center in a One-Family Residence District. That finding was transmitted to the Superintendent of Schools in early November. Basically, that finding says the present program operated by the "Y" cannot be continued in the schools. That was in early November.

Just before Christmas the School Board took action and adopted a resolution which I provided to you and which I can provide to other folks here who would like to have a copy. The resolution adopted by the School Board requested the Board of Supervisors to initiate a change in the Code to permit the schools to allow child care centers pursuant to its policy regarding activities in schools. A copy of that resolution is in your report. The School Board took action on December 18. Then, on January 14, about three weeks later, the Board of Supervisors adopted a resolution directing the Planning Office Staff to prepare an amendment to the Zoning Ordinance responsive to the School Board's request and bring it to the Commission for its consideration and recommendation to the Board in the public hearing process. That brings us to this evening, because at its last POD meeting held two weeks after the Board took action; the Commission granted a staff request to schedule tonight's work session to discuss this matter, to hear what has brought us to this point, and to evaluate what proposals the staff has to resolve the School Board's dilemma.

After study of what the Code requires, we asked ourselves, "What would be required in the nature of an amendment, or amendments, to respond to the requests of the Board of Supervisors and the School Board?"

We found that two alternatives appear possible. The Planning Staff and the County Attorney's staff have worked together and agree there are two alternatives—a very simple alternative which is rather restrictive, and a more complex alternative which more broadly defines allowed activities. Let me tell you what those are: The first alternative looks at the section in the Code that allows Child Care Centers to be operated in churches. We would suggest a simple expedient of adding the two words, "or school" in that section. Now, it is very restrictive to say child care could be provided in a church or a school between the hours of 5:00 a.m. and 12:00 Midnight. The hours of operation are already there. We realized, after discussing that option that, yes, it would permit child care centers to be operated in the schools; but, the schools now permit a lot of other activities by a variety of users. This alternative would still not provide what the Board and School Board have asked be done. We could still be challenged and would have to say that the schools can't allow civic associations to meet in them. The schools can not allow the boy scouts to meet, and a host of other activities that are now allowed by the policy would also be eliminated.

So, we looked further in the Code—to the next section which lists other uses that are permitted in a one-family district. Here's where churches, parish houses, colleges and universities and schools are listed as primary uses in a one-family district. So, we concluded we would suggest that by the addition of several phrases, the regulations can be broadened to permit the schools to host cultural and other community services and activities including the child care facilities, which, we feel, are a type of activity that is normally associated with a school and generally considered to be needed in a residential community.

We have before you two proposals for public hearing. Two alternatives. Two ways to look at getting to the same end. The first is restrictive and would cover the situation regarding child care centers. The second is less restrictive and would permit the schools to continue to use the present policy and to continue to host the activities that have been allowed for the past number of years.

The bulk of these proposals would, of course, carry over into the Agricultural Districts, because many of the schools, particularly in the east end of the county, are in Agricultural Districts. So, even though I've mentioned One-Family Residential Districts—single family residential districts if you will—there is a carryover provision that automatically places those uses into agricultural districts as well. So, we haven't forgotten those folks.

That brings me to the bottom line, Mr. Chairman. The staff's recommendation is that Alternative 2 be proposed for public hearing because it provides for those uses which are presently, and have for some time, been carried on in the schools to be continued under the guidance of the school administration. And, it would meet the policies of the School Board. Thus, we're here to ask you to establish a public hearing on the proposal that we recommend—Proposal 2—the least restrictive of the two proposals.

Essentially, the second proposal would result in the ability to maintain the same types of activities and systems that are now in place.

Mr. Archer - Thank you, Mr. Webb.

Mr. Webb - I tried to be brief, Mr. Chairman. Do you or members of your Commission have questions I may answer?

Mr. Archer - Well, you did, but you were thorough. Are there any questions of Mr. Webb by Commission members?

Ms. Dwyer - Mr. Webb, I have a question. In Alternative 2, by including the phrase, "other community services," that's what permits child care in the schools, is that right, in that alternative?

Mr. Webb - Yes ma'am.

Ms. Dwyer - And that also explicitly then allows other activities in schools, for example, girl scout meetings, or community neighborhood meetings, which did I understand you to say that's not explicitly permitted now in the Code. Those other kinds of community activities?

Mr. Webb - If we take a very close look at the Code, a conservative viewpoint would be, yes. Educational activities yes, but unless one could qualify Girl Scouts as an educational activity, one could say, no.

Ms. Dwyer - Okay. So, one of the advantages of Alternative 2, is that it removes any doubt that these other kinds of community activities are, in fact, permitted in the schools. That's one of the reasons you favor Alternative 2, is that right?

Mr. Webb - Yes ma'am. So, there's no question a civic association can have its meetings in the school. The Boy Scouts, the Girl Scouts too. There is a long list of groups that the school board permits today. They are all cultural non-profit types of activities. And with the exception of child care services, we could not find any commercial counterparts to them.

Ms. Dwyer - Okay. The phrase, "other community services," then, would include, for instance, the YMCA Child Care Program. But it would exclude a commercial child care enterprise or business? Is that right?

Mr. Webb - Use of both the school board and the county government facilities is allowed, but by adopted policies these facilities can not be utilized for money making by for-profit enterprises.

Ms. Dwyer - So, it's a non-profit child care group that comes under the definition of a community service? I just had another question as I was reading this. It was the fact that churches are permitted to have child care services in their facilities. Is there a requirement that the child care provided within a church be operated by the church, or could the church allow—well, I guess they couldn't allow a profit making business to come in by definition of...

Mr. Webb - They has always been viewed as "church operated" child care facilities. In other words, the church operates its own service.

Ms. Dwyer - Because I know there's some schools that, for instance, will have a preschool in their church and it is not always church operated. But it may be a nonprofit school it would be permitted in. But for a "for profit" school would not be permitted in a church?

Mr. Webb - I believe these also are under the auspices of the church. There are a number of programs by several churches that are related to that type of provision.

Ms. Dwyer - Well, I don't want to name the school, it's not even there any more, but...

Mr. Silber - The language really doesn't specify that. It simply says, "child care centers operated in a church." It doesn't really qualify that. The way Allen has described it, is basically the way it has been administered in the past. But, the Code doesn't specifically state that requirement.

Ms. Dwyer - Somewhere, there must be a provision that says churches can or can't operate "for profit" businesses within a church. That would, I assume, jeopardize their non-profit status in a lot of ways.

Mr. Silber - Right.

Mr. Archer - Thank you, Ms. Dwyer. Any other questions by Commission members?

Mr. Donati - Is the school property, is that property of the School Board of the Henrico County General Government. Who owns the buildings?

Mr. Webb - The School Board owns them.

Mr. Donati - The School Board owns them?

Mr. Webb - Yes sir, the title of school properties is in the name of the School Board.

Mr. Donati - And they would determine what type of use, whether it's for profit or for non-profit? They would make that determination, not the general government?

Mr. Webb - Yes, sir. And their policy states that they have to be non-profit activities. It states that the uses or activities are not to be conducted for the purpose of making commercial profit. The specific provision says: "No facility will be used for money raising activity unless the proceeds are to be used for charitable, educational, cultural or other community service purposes."

Mr. Donati - Do we know at this point whoever would be using the facility of the school whatever community service it is, would they have to contract to a lease with the School Board to use that property?

Mr. Webb - They would have to make arrangements with the School Board. The School Board would require proper insurance coverage. I would suspect it would require the provider to be a not for profit institution or a not for profit entity. That would be consistent with what they've done with the others.

Mr. Silber - Mr. Donati, I don't think its necessarily a lease they enter into, but it is an agreement they have to sign with the schools. We do have...

Mr. Donati - Would it be actual payment for the use of the facilities?

Mr. Silber - There is payment for the use of the facilities. Yes sir.

Mr. Zehler - Mr. Webb, are these services still available through private enterprises for the day care; the same type of education that's given through the non-profit organization? Is it available through the private enterprise; the commercial market?

Mr. Webb - Yes sir. Child care is available widely in the private market, but not so regarding the other activities that the School Board now allows. In glancing through the list, we could not find any comparable commercial activities to those that the School Board is allowing. Examples are the community association meetings, recreational association meetings, and perhaps, civic associations. There just simply are no commercial types of service of that nature. Boy Scouts, Girl Scouts, so on. The Schools are focused toward "not for profit" types of community service activities.

Mr. Zehler - Some of the letters I received gave the me indication that we'd be putting children out on the streets. So, basically, what you're saying, is that wouldn't be the case. There is private enterprises available they could have an alternative to send their children to.

Mr. Webb - I believe so. Yes sir.

Mr. Vanarsdall - Mr. Webb, I think I asked you this. The midnight thing is because of the churches you said? From 6:00 a.m. to 12:00 Midnight, I didn't realize it would be that late.

Mr. Webb - Yes, sir. The provision specifies that child care is allowed in churches from 6:00 a.m. to 12:00 Midnight. It has been in the Code for a long time. What prompted it, I don't know, but it's parallel to the time permitted for other activities by the Code. For example, you know that the B-1 and B-2 Business District regulations specify that same period of the day. So, it's consistent, and it's been there for years. I don't recall any instance of there having been a difficulty or a problem associated with it.

Mr. Archer - Mr. Webb, who retains the ultimate liability for accident or injury in the event a place is used by someone other than the County?

Mr. Webb - If I may pretend to practice a little law, I would think that the property owner always holds that responsibility. In this case, the School Board also requires, for example the "Y" program, to carry a major amount of liability insurance.

Mr. Archer - That's what I was alluding to.

Mr. Webb - It's my understanding of the law that you can't assign your responsibilities as far as the safety of people using your property is concerned.

Mr. Archer - But we do require insurance of all of the operators in all instances? Is that what you're saying?

Mr. Webb - Yes, sir. The "Y" program has insurance. I don't think its required for civic association meetings, but I will be delighted to look into that.

Mr. Donati - General Government would be liable for the lawsuits if there were any?

Mr. Archer - Ultimately.

Mr. Donati - Not the School Board, right?

Mr. Webb - Probably so. Yes.

Ms. Dwyer - Mr. Webb, would Alternative 1 permit "for profit" child care businesses to operate in the schools?

Mr. Webb - I think it, perhaps would...but, the present policies would not allow that to happen.

Ms. Dwyer - The School would regulate it, but by ordinance it would be permitted as I read Alternative B.

Mr. Webb - Yes. I believe it would.

Mr. Silber - That's the way I read it, Ms. Dwyer. I think it would be regulated by Schools. It would put a burden on schools to determine who uses their facilities. But, our Zoning Ordinance would allow that to take place.

Ms. Dwyer - So, that is the primary difference between the two alternatives, then? Alternative 1 would allow anyone to come in the schools and operate a child care center and Alternative 2 would only allow community service organizations and what you sort of defined tonight as "not for profit?"

Mr. Webb - This language we have here, Ms. Dwyer, in Alternative 2, we don't believe is yet frozen. One of the reasons I say that is because I wanted to hear, and I'm sure that the folks in the County Attorneys Office also wanted to hear the things that are being said tonight about the concerns that you have so that, if necessary, this language can be modified to deal with them.

Mr. Archer - Okay. Any other questions?

Mr. Silber - Mr. Chairman, we were hoping that the Commission would entertain the possibility of setting a public hearing. We would recommend that the hearing be set for March 12th. We, more than likely, will have a good number of zoning cases that night. We could set it at 7:00 o'clock and begin the zoning cases at 8:00, if that's your pleasure. Or, we could have the public hearing on this matter earlier, as we are tonight, and start the zoning hearing at 7:00. Whatever the Commission wishes to do.

Mr. Archer - Okay, members, what is your pleasure? Ms. Dwyer, will you be here?

Ms. Dwyer - No. I will not be here.

Mrs. Wade - I'll be here.

Mr. Archer - I'll be here. You think you'd be here at 6:00 p.m.?

Mrs. Wade - No.

Mr. Zehler - We've got another 6:00 o'clock meeting?

Mrs. Wade - How many cases do we have? It seemed to me it didn't look as heavy...

Mr. Archer - I don't know about the rest of you. I have seven new cases and four deferrals. I'll have 11 cases for March. I'll do the whole thing.

Mrs. Wade - That's right. You do have a long list.

Mr. Archer - 6:30 p.m.?

Mr. Zehler - Is that going to give us enough time, 6:30?

Mr. Archer - I don't know.

Mr. Silber - I think, if we start at 6:30 we can do it. I'd like to start the zoning cases at 7:30 or 8:00 p.m.

Mr. Vanarsdall - Did you say 6:30 p.m.?

Mr. Archer - I'm just asking. Somebody want to make a motion that we set it for 6:30 p.m.?

Mrs. Wade - 6:00 if you want to. I had something unexpected tonight, but I would think 6:00 would be hard for a lot of people.

Mr. Vanarsdall - I move that we set the date of March 12th at 6:30 p.m. for the public hearing on non-school use of school facilities.

Mr. Zehler seconded the motion.

Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Zehler that, we have a public hearing on March 12th at 6:30 p.m. All in favor say aye—all those opposed by saying nay....The motion passes.

Mr. Webb - Mr. Vanarsdall, did I hear the Commission agree that it is to be on Alternative 2?

Mr. Vanarsdall - I just said when it was going to be. Where will we be, Virgil? I don't want to put you on the spot.

Mr. Virgil Hazelett - You should be in the new facilities. But, at this point, you may be here.

Mr. Archer - Mr. Vanarsdall, do you want to include the last portion in your motion?

Mr. Vanarsdall - I don't know what I said.

Mr. Silber - Which Alternative, 1 or 2?

Mr. Vanarsdall - Oh, alternative 2.

Mr. Zehler - You're recommending Alternative 2?

Mr. Archer - That the hearing be on Alternative 2.

Mr. Zehler - We don't want 1. One makes it fair game for everybody.

Ms. Dwyer - Unless the School Board decides differently.

Mr. Archer - Well, do we have to select an alternative tonight, Mr. Secretary?

Mr. Silber - Yes sir. Staff should be given guidance on which one we're holding the public hearing on.

Mr. Archer - Okay. Well, the motion has been made for Alternative 2.

Mr. Zehler - I withdraw my second.

Mr. Archer - The second has been withdrawn. Do I have another second?

Ms. Dwyer - Second.

Mrs. Wade - Excuse me. Let me ask a question. I'm sorry. This may have come up and I missed it. Would Alternative 1 allow everything else or does it just refer to child care? I mean there are a lot of community groups that meet in schools now.

Mr. Archer - Mr. Webb, would you care to answer that, please, sir.

Mr. Webb - May I rephrase your question?. I'm not sure I understood your question, but I believe you've asked if Alternative 1 would allow anything other than child care within schools? I would say a close reading of the proposal would be, no. It would not permit the other activities that are now enjoyed in school facilities...

Mrs. Wade - So, the churches and all the other people who meet in schools would not be able to do that under Alternative 1?

Mr. Webb - Yes, that's correct.

Mr. Vanarsdall - Mr. Chairman, when I made the motion, I thought we were just making it on the time and date. I didn't know we were going to have to decide on Alternative 2 or 1. The only reason I did 2, was because staff recommended it. If you're going to change to 1, that's fine with me.

Mr. Archer - Are you withdrawing your motion?

Mr. Vanarsdall - I'm withdrawing my motion. Why don't we just start over. I'm going to get out of it all together. Withdraw it.

Mr. Silber - Mary, do you need clarification on the difference between 1 and 2?

Mrs. Wade - I thought he answered the question. Under 1, nothing would be allowed in schools except...

Mr. Silber - Basically, No. 1 is the more restrictive of the two alternatives. No. 1, basically, just addresses the child care issue in schools and that's it. Alternative 2 provides greater flexibility and provides the allowance for child care in schools as well as addressing some of the other issues relative to uses of schools for other purposes besides child care. I think Mrs. Dwyer's point was that, with the Alternative 1, it does put, I guess, perhaps, more of a burden on the schools to limit the use of the property. In either case, what is happening, this

would fix this situation from a zoning prospective, but it places the burden on the schools to regulate now they use the property.

Mr. Donati - May I ask a question?

Mr. Silber - Yes sir.

Mr. Donati - Are churches allowed to use schools now for church services?

Mr. Webb - Yes.

Mr. Donati - Alternative 1 wouldn't affect that?

Mr. Webb - No. I'm sorry. I spoke too quickly.

Mr. Vanarsdall - Yes, it would, too.

Mr. Webb - I think it would continue to eliminate it by our finding would be eliminated from the schools.

Mr. Donati - That's already permissible, right?

Mr. Webb - Our finding was that these types of activities are not permitted in the Schools. Alternative 1 would continue that prohibition. Alternative 2 would allow a continuation of the types of activities that are presently being done.

Ms. Dwyer - I think one thing that's confusing is that Alternative 1 doesn't address other activities. It only addresses the child care issue, whereas Alternative 2 not only addresses, essentially, the child care issue, but also other kinds of activities that are currently being done in the schools. It clarifies that it's okay to do them.

Mr. Webb - Absolutely.

Ms. Dwyer - The confusing part is that Alternative 1 seems to permit, by Code, either "for profit" or non-profit" businesses to conduct child care in the schools. Alternative 2 seems to limit that to non-profit. So, there are two differences between Alternative 1 and Alternative 2 as I see it. That makes it a little confusing.

If you want to clarify that other activities can go on in schools, other non-profit activities can go on in schools and can continue, then we want Alternative 2, I would assume. But also, if you want Alternative 2, you're excluding "for profit" child care businesses in the schools. So, the Commissioners may have conflicting feelings about that. The Commission may want "profit" and "non-profit" child care in schools, but it also may want to clarify that other activities are also permissible in schools.

Mr. Webb - That's fine. Whatever the Commission prefers can be done. That's one of the purposes I see in my role tonight. It is to get an understanding of what the Commission would like; which way it wishes to go so that we can develop the language that will meet the Commission's approval.

Mrs. Wade - Well, does one of them allow non-profit churches, and scouts and others to meet, as well as non-profit child care and profit child care, or not?

Ms. Dwyer - No. That's not an option.

Mr. Donati - It's only one.

Mr. Webb - Alternative 2 would allow the non-profits. If you wish to include the "profit," that's fine. We could modify this language. This is the first draft of the proposal.

Ms. Dwyer - I think if you want to do that. Mrs. Wade, you could use proposed Alternative 1, but also direct staff to add language elsewhere in the Code that would allow other non-profit activities to continue to take place in the schools. Is that right, Mr. Webb? That would really clarify that, then, the only difference between one and two is "profit" versus "non-profit."

Mrs. Wade - Well, we don't have "for profit" now, do we?

Ms. Dwyer - No.

Mrs. Wade - We haven't liked your alternatives.

Mr. Archer - Well, we only have two, so we're half way there. Well, staff's recommendation is to schedule an advertised public hearing on Alternative 2, so can we have a motion to either do or not do that?

Mr. Zehler - Say that, again, Mr. Chairman.

Mr. Archer - Alternative 2. The Staff's recommendation is to schedule a public hearing on

Ms. Dwyer - Okay. I'll move that the Planning Commission hold a public hearing on this question of child care and use of schools on March 12th at 6:30 p.m. and that we present to the public Alternative 2 for discussion at that public meeting.

Mr. Donati - Are you going to change the language to make it "for profit," too?

Ms. Dwyer - No. I was going to leave Alternative 2 the way it is.

Mr. Archer - Perhaps, we can get that done at the hearing.

Mr. Donati - And not address that at all when it comes to the Board at a public hearing?

Mr. Silber - It can be addressed, Mr. Donati, at the public hearing. If the Commission wishes to change language, it can be done now, or at the public hearing.

Ms. Dwyer - Yes. My understanding is, even if we propose Alternative 2 to be the topic of discussion at the public hearing; as a result of testimony and discussion, we could amend Alternative 2, as a Commission, and send that recommendation to the Board. We're not limited to the present language in Alternative 2.

Mr. Silber - That's correct.

Mr. Archer - I'm going to ask you to act on this motion before you withdraw it. I have a motion by Mrs. Dwyer, seconded by Mr. Vanarsdall, that we have a public hearing on March 12th at 6:30 p.m. to discuss the recommendation of Alternative 2. All those in favor say aye—all those opposed say nay. The vote is unanimous to accept the motion. Thank you, Mr. Webb.

Mr. Webb - Last, but not least, for clarification, Mr. Chairman. Do you definitely wish that "for profit" activities be excluded from this conversation?

Mr. Archer - Would we rather discuss it at the hearing, or make...

Ms. Dwyer - How do you mean excluded?

Mr. Webb - Would you like to have it written in such a way that it becomes, in effect, Alternative 3, which we haven't discussed, but not to deal with "for profit" or "not for profit" in regard to these activities?

Ms. Dwyer - I think my preference, instead of having three alternatives, since two have given us so much trouble, I would just say, make the two proposals equal and the only exception being that Alternative 1 would include profit or non-profit. Alternative 2 would include non-profit only. Otherwise, have the two alternatives be equal. In other words, Alternative 1 would also have language in it, and I think you'd have to amend that other paragraph to include community, service activities. Does that make sense, Mr. Webb?

Mr. Vanarsdall - No.

Mr. Webb - You're talking about 2...

Ms. Dwyer - Alternative 1 would be the same in Paragraph E. It would read the same as you have it, but it would also include an amendment to Paragraph B, that includes "other community services," which then would take care of the problem of wondering whether the code permits non-profit activities such as girl scouts and neighborhood associations. Is that correct?

Mr. Webb - We could amend that, but, perhaps, I misunderstood the motion that was to deal with only the second Alternative, but we can broaden it to include both Alternatives.

Ms. Dwyer - I'm suggesting we submit Alternative 2, but maybe in your report you could rewrite Alternative 1 so the Commission would at least have that to fall back on, or would have that information going into the public hearing.

Mr. Webb - Okay.

Mr. Archer - We'd have an alternative alternative.

Ms. Dwyer - We want to avoid that.

Mr. Archer -

Okay. Thank you, Mr. Webb. I'm sorry it took so much of your

time.

The next item on the agenda is the Capital Improvements Program, and I'm going to turn it over to our Secretary, the Acting Director, Mr. Randall Silber.

Mr. Silber -

Yes sir, Mr. Chairman. I appreciate that. Good evening, fellow members of the Administrative Staff. The next item on the agenda is the County's Capital Improvements Program. This is a public hearing to consider the five-year capital improvements program for fiscal years 1998-99 through fiscal years 2002-03. This evening, we have the County Manager, Virgil Hazelett, other members of the County Manager's staff, as well as representatives from the Budget Office and representatives from other County agencies and departments that have matters relating to the CIP. This is a public hearing. I presume, Mr. Manger, that you're making the presentation on this?

Mr. Virgil Hazelett, County Manager - Yes. Mr. Chairman, members of the Commission, Mr. Donati, staff and I are here this evening to present to you the Capital Improvements Program. As Mr. Silber has indicated, it is for the fiscal years 1998-99, which is our next budget year to a five-year period ending in the year 2002-2003.

This is a very long process. This is a part of a budgetary process, as I know each of you are aware. We come to you each year providing the information on the proposed Capital Budget which is then forwarded to the Board of Supervisors with your recommendation. The Board of Supervisors will consider that in the adoption process for both the Capital and the operating budget that comes before them.

This evening we are asking that you consider our five-year program which totals, the total is rather staggering from a five-year standpoint; \$542,728,555. For conversation, \$543 million, which would be spent over five years. Obviously, we do not have funding in place for all five years. However, the Capital Improvement Program is an effort. It is a basis in which staff prepares for the future for Henrico County. Therefore we do look at all of our projects, in priority order. We enlist those projects as we deem necessary and appropriate to consider in the future. In many aspects, those projects will not be done over this five-year period, simply because funding is not available through various sources.

In addition to the five-year effort of the \$543 million, we bring to you the one-year program which is our next program which we would propose to fund as a part of the budget process. That would be funding, and we are recommending your consideration of one of this first-year projects which would total \$217,371,966. For conversation purposes, \$217 million.

Last year, we came to the Planning Commission and asked for approval and that was received for a little over \$80 million of effort. This year we are asking for consideration of a Capital Budget of \$217,000,000 for this one-year period. The reason for this is rather staggering from the aspect that, as all of you have seen the development in Henrico County occur and beginning to come to what I will call a "flash point," that is where it actually goes off into what I anticipate to be a program of rather rapid development in Henrico County. We will begin that with actual construction of our water resources efforts for Henrico County. That is our water and sewer effort. A majority of this program, \$166.8 million, is in that particular area.

We are proposing expansion of our waste water treatment plant in eastern Henrico County for \$80.5 million. Our water plant, which would be in western Henrico County, for \$50.8 million,

and our raw water intake, which will be a rather interesting project, in western Henrico County as it proceeds from the river up Gaskins Road into the intersection of Gaskins and Three Chopt, for \$17.4 million. Those are very, very large projects. They do make up the bulk of this which would be, as I indicated, the \$166.8 million dollars.

In addition, in the area of education, which is of primary importance to Henrico County, we are proposing to spend \$29.2 million, a majority of that would be provided through the VPSA Virginia Public School Authority bonding. During this past year, there was discussion with the School Board, and the School Board and Board of Supervisors came to agreement in reference to the future of school projects being programmed over eight years.

With that in mind, this is the beginning of this. During this physical year, itself, we actually provided \$10 million towards acquisition of property on behalf of the schools. We actually loaned the school system \$9 million, or advanced to them \$9 million, for the actual beginning of construction, which would go against a portion of this VPSA.

Under VPSA or, again, Virginia Public School bond issue, we do not go to the citizens for a vote. We are actually authorized to issue, through adoption of resolution by the Board of Supervisors.

There are other aspects in this program. General Service Improvements, pavement rehabilitation, non-glamorous projects such as roof replacement and rehabilitation, communications data base software for the new buildings that we have throughout the County.

One other large and interesting project for you that you may wish to have some responses on and that is the proposed Juvenile detention facility. Henrico County is proposing to build a juvenile detention facility in concert with Goochland County and Powhatan County. That facility would be done by an authority. It is moving forward. And, in this particular program, we're asking for approval of \$13.6 million, which would actually be juvenile detention bonds which would be issued on this behalf.

There are other aspects; Public safety, GIS, and so forth which we can provide information to you.

A summary of that was listed in the blue book which you have on Roman numerals 3 through 6, which is in the very beginning of the book, that provides you a listing of those projects. Obviously, it is located in some other areas.

Staff and I are here to answer any of the questions that you may have on the first year effort which I have elaborated on, and, of course, the five-year effort totaling the \$542.7 million. Mr. Chairman, members of the Planning Commission, Mr. Donati, I'd be glad to answer any questions that you have, and if I can't answer them, I'm sure that somebody along here can answer that. If they're not here, there's a bus parked outside.

Mr. Archer - Thank you, Mr. Hazelett. Any questions of Mr. Hazelett by Commission members?

Mr. Zehler - Mr. Hazelett, in this book somewhere, does it show revenue or does this just show expenditures?

Mr. Hazelett - There are some places in there, Mr. Zehler, which will identify revenues. In essence, the revenues are No. 1, General Fund, which we include as the

operating budget which amounts to about \$5 million; \$2.5 million for schools and \$2.5 million for general government. The VPSA bond issues, which I have addressed, which would be a revenue source. That would be included in our debt service effort, once issued. The Enterprise Fund which, of course, takes care of the water and sewer, which is the massive effort. That is through your water and sewer fees and also bonds that would be issued by the Enterprise Fund, and the Juvenile Detention Authority Bonds. Those are the revenue sources we have. They are listed beside the various projects throughout the book. Yes sir.

Roman Numeral 8, Mr. Zehler, I think Ms. Rita Busher, is indicating will provide you with that information. The revenue sources are listed at the bottom of the small roman numeral 8 General Fund Revenue, GO bonds, landfill, state transportation, VPSA.

Ms. Dwyer - Mr. Hazelett, I'm looking at the Wastewater Treatment Expansion; the \$80 million. Does that plant currently serve other localities and will, whether or not it does now, will it serve additional localities, once this expansion is complete?

Mr. Hazelett - Ms. Dwyer, it is a regional plant. That was the way it was first approved to serve portions of Goochland County and portions of Hanover County. We actually serve a small portion of the City of Richmond. The City of Richmond also takes a part of our sewage out through agreements. This is the regional plant. There is available capacity in our future designs, dependent upon contractual arrangements with these particular localities which wish to participate. We have a contract with Hanover County, and I do anticipate that they will probably increase their request. Goochland County is in limbo at this point in time because there are some considerations that they're giving to their own consideration of a waste water treatment plant.

Ms. Dwyer - How about the water treatment plant? Will we be working with Goochland to provide their water needs, particularly with Motorola?

Mr. Hazelett - Yes ma'am. The water treatment plant is truly regional. We will be providing water to Goochland County, in essence, taking them off of the contract which we currently have with the City of Richmond as well as Hanover County. Hanover will continue to be served by the City of Richmond, in addition to us. That plant will be built in such a way that you will have the ability to also serve the City of Richmond. Should something happen of a catastrophic nature, we would be able to put water back and forth between the two jurisdictions.

Ms. Dwyer - So, Henrico will not be served by the City of Richmond at all when this is completed?

Mr. Hazelett - We actually have a commitment and a contractual agreement with the City of Richmond that we would be buying a minimum of 20 million gallons a day through the year 2040. We have the ability to obtain additional capacity through the City depending upon the growth and development of Henrico County.

Mr. Zehler - You mentioned the waste water treatment plant. Is that the one on Buffin Road in Varina?

Mr. Hazelett - Yes.

Mr. Zehler - You're going to expand that?

Mr. Hazelett - Yes sir. Currently, we just finished construction up to 45 million gallons a day. The Board of Supervisors just authorized the engineering design and feasibility study, if you will, all three, to go to 60 million gallons a day and also 75 million gallons a day. Also, if the determination as to how much further we can expand that particular site. Sixty million gallons we would anticipate to be available by the Year 2001; hopefully, 75 million gallons would be available by the year 2003, and after that, it's wait and see.

As you know, Mr. Zehler, these are very, very expensive projects, and we have to be very careful in reference to our growth and development. But that is the one concern is to stay ahead of the growth and development that we anticipate.

Mr. Zehler - I know that was highly controversial when Mr. Mehfood was in office at that location. I know there were a lot of promises made as far as odor is concerned. I know we've had some problems in the past. I wonder if there is someone who could brief us as far as, I understood they were having bladder problems. The contractor didn't fulfill his obligations. I understand that was being taken care of. But I do know, because I live close by there, on rare occasions, there are some odors. Is there any provision going to be made to eliminate the odors that we were promised years ago we're not going to have?

Mr. Hazelett - Mr. Zehler, I wouldn't stand here and tell you that there won't be odors on a particular day. The design of that, we actually constructed the plant on, what I'll call, for conversation "rolling tops" in some of the units. Those didn't work. They have since been replaced with covered tops on the digesters. That, quite frankly, was the problem at the particular point.

As we expand and technology changes, obviously, I think we will get better. But under conditions of hot, hot weather, extremely dry conditions, I just cannot tell you that there would not be an odor from it or under low ceiling conditions. But I think that the odor situation itself will improve dramatically. I can have Mr. Brady explain more to you if you wish, but I do believe it will continue to improve.

Mr. Zehler - I'll just give his phone number and name to all the people who call me.

Mr. Hazelett - They have Mr. Brady's and mine.

Mr. Zehler - I'm sure he's already gotten some of them.

Mr. Hazelett - Oh yes.

Mrs. Wade - One question, I think I have asked every year for several years. The Cultural Arts Center was to be a public/private activity?

Mr. Hazelett - The Cultural Arts Center was actually funded, Mrs. Wade, through money provided by the Board of Supervisors for the actual construction. The operation of that, which will be established by the foundation which is underway, is anticipated to actually create an endowment for the operation, perhaps, even for additional improvements. We are not completing the entire facility in the future. I have a meeting next week with the President of the foundation, which I'm sure, the actual fund raising efforts are going to be discussed.

In the beginning, there was a vision and the Board of Supervisors had committed to matching dollar for dollar that what was raised in the private sector. After going out and making presentations and so forth, the Board of Supervisors did make a decision to fund the total construction, which, hopefully, will be completed some time between September and November of this year.

Mrs. Wade - One other minor question. How many vehicle trips are there on Westover Avenue in a day? Do you know?

Mr. Hazelett - I have no idea, Mrs. Wade.

Mrs. Wade - How about Mr. Thompson? Mr. Thompson, do you know?

Mr. Hazelett - Mr. Thompson, how many vehicles trips on Westover?

Mrs. Wade - Isn't it Westover that's going to be improved?

Mr. Robert K. Thompson - Westover?

Mrs. Wade - In the east end.

Mr. Thompson - There are approximately 600 vehicles per day on that road right now. It's a very narrow road that serves a park site. It has been in the CIP for a number of years. It's supposed to be improved.

Mrs. Wade - Okay. Thank you.

Mr. Vanarsdall - Under 5.69, Fire Station No. 21, where will that be?

Mr. Hazelett - Fire Station No. 21, as I recall, is up off of Route 1. Virginia Center Commons is to the west, Mr. Vanarsdall. We acquired that site two to three years ago, the actual site, itself.

Mr. Vanarsdall - I think the developer helped us. Gave us the land, didn't he?

Mr. Hazelett - Yes sir.

Mr. Vanarsdall - That's the one I thought it was. Mr. Hazelett, over in the Juvenile Courts section over there, Page 23, maybe I overlooked it when I read it. But I didn't see anything about parking. They have a pretty hard problem over there, don't they?

Mr. Vanarsdall - Mr. Vanarsdall, there is an extreme parking problem on the entire campus complex.

Mr. Vanarsdall - I know that.

Mr. Hazelett - No. This is not anticipation of additional parking. That is something that we're going to have to consider through some acquisition of land or reconsideration of the Juvenile Courts facility.

Mr. Vanarsdall - I was going to ask you about the southeast corner. I think it's the southeast corner, there at Hooper Road and Dixon Powers; that lot. A lot of the cars park up

in there now, even some County police cars. I wonder - we don't own that do we? The County doesn't own it?

Mr. Hazelett - We do not own it, Mr. Vanarsdall.

Mr. Vanarsdall - Is there a possibility that might could be for parking? I don't know.

Mr. Hazelett - It's a possibility. We have not discussed it with the Board, and probably, the last two years, the Administration had requested the Board consider acquisition of property in this area for expansion of parking. The concern was that we are removing taxable property from the tax roles to do this.

The Juvenile Courts, the family courts situation, itself, are changing. There is possibilities that if we have to expand the facilities for parking that we would do it closer to this building, just to the east of this building, if you will, on what is commonly called the "Smith Tract", which was part of the Smith family for a number of years.

Mr. Vanarsdall - Thank you. I have one more question. Over on Page 11, Roman Numeral 11, we have under, it starts with 694 - It's all 694. It says, "Group Homes." Do we know where they will go or is that just making arrangements for group homes or...

Mr. Hazelett - Those are simply making arrangements, Mr. Vanarsdall. We acquire them as the money is available. We have a waiting list in reference to group homes. The Board has made a commitment over a number of years, and as revenue becomes available, we try to distribute the group home facilities throughout the County.

Mr. Vanarsdall - Thank you.

Mr. Archer - Okay, are there other questions of Mr. Hazelett by Commission members?

Mrs. Wade - I thought it was very clearly presented. Thank you, Mr. Manager.

Ms. Dwyer - I have one more; maybe two questions. We had a public hearing over on Nine Mile Road to discuss the revitalization of that area, and I know you're familiar with that. It was a tremendous turn out I thought from the community and they expressed a lot of interest in revitalizing their neighborhood. One of the concerns expressed both by the neighbors, and by staff, in their staff report, had to do with the lack of sewer and water to certain locations along the corridor, particularly between I-64 and Laburnum, in that area which, according to the study done, might be a good place to develop some residential; some new residential properties. Is that part of this year's plan or where might that fit in the next five years?

Mr. Hazelett - Ms. Dwyer, actually, we presented the study to the Board of Supervisors in a work session last evening, based upon the recommendations the Planning Commission. After receiving a positive reaction from the Board, staff will now begin to work on addressing the recommendations of that study. Normally, we would not provide water and sewer to such an area. We would allow that to be done by development. That is one of the activities that we will have to consider in an effort to enhance the particular area. I would anticipate through this year, through this total calendar year, that we would be looking at all of

those recommendations; alternatives to fit those recommendations, including any possible general assembly action which, of course, we would be looking to in January of 1999.

Ms. Dwyer - So, we may see that next year?

Mr. Hazelett - It's a possibility. You will see portions of it before then.

Mr. Silber - Mr. Manager, I have one simple question. Under the Western Area Middle School that's proposed for this upcoming fiscal 1998-99, the road improvements for Three Chopt are on some out years. Would the school portion of that construct Three Chopt Road so there's access from both sides?

Mr. Hazelett - Those are cooperative projects. Three Chopt will be constructed back to Pump Road. In a particular aspect, Bob, I think we revised that to go all the way back over to Three Chopt.

Mr. Robert K. Thompson, Director, Public Works - Three Chopt Road; that's in the out years CIP for the extension and other areas of Three Chopt Road, is not for the school.

Mr. Hazelett - Three Chopt, being the alternative to Broad Street, is going to carry a lot more traffic. You'll receive the requests and consideration of that anticipating it for the future. The actual new Three Chopt Road, if you will, Mr. Silber, will be constructed with the school itself.

Mr. Silber - It will be from the school, then, back over to Pump, and not...

Mr. Hazelett - It will be from the existing Three Chopt, through the school property, over to Pump.

Mr. Silber - Okay.

Mr. Vanarsdall - I do have one more question, and Bob Thompson probably can answer this. I didn't find it on this page under drainage and maybe it shouldn't be under there. At the corner of Greenwood Road and Old Washington Highway, out in Hunton, we had some complaints on this last rain which, it was so much rain, we almost had to build an arc, but they said it happened before at that corner. It's a big water that stands about 10 to 12 inches. I think somebody in Public Works has been on top of it. Do you know the status of it? That's all I need to know.

Mr. Thompson - We are getting the easements from the residents. It should be under construction this spring. I believe that's a combination of a ditch and storm sewer.

Mr. Vanarsdall - This spring?

Mr. Thompson - This spring.

Mr. Vanarsdall - Great.

Mr. Thompson - All the property owners have agreed.

Mr. Vanarsdall - Thank you.

Ms. Dwyer - Mr. Hazelett, what is the Geographic Information System; this million dollar item in this years budget?

Mr. Hazelett - Geographic Information System (GIS) is something we have looked at probably for 10 years now. It is a computerized system that allows you to overlay certain perimeters; mapping perimeters, as well as information in which to allow you to, in essence, map the County, or sections of the County by computer. For instance, if you wanted to see information on zoning, which would be a layer; water and sewer, which may be a layer; utilities, such as VEPCO and C&P which may be a layer, and vacant properties worth \$50,000, we could provide that to you as a map. In addition, we could provide you, virtually, if you will, a combination of things that you would like to see that are in existence, we can provide through that. The basis of that is a mapping aspect. I would indicate to you, you may have seen the white crosses in places very recently. That is actually where we have begun to fly the County. That will be used as the basis of this geographical information system. We will be able to locate anything in this County within two feet in reference to those maps.

Ms. Dwyer - Is it handled through the Planning Department or where?

Mr. Hazelett - It's actually handled through the Department of Public Works. We have a GIS coordinator. It will involve virtually all of the departments that have information that would be included into perimeters or layers, if you will, that various departments will maintain that information that goes onto the system.

Ms. Dwyer - Sounds exciting.

Mr. Hazelett - It's very exciting. It's something that we have been very cautious about. A lot of money has been spent on GIS systems. They are very worthwhile, but be careful with them. You can waste a lot of money quickly. We believe we're on the right track, and with the gentleman we have with us, that this will be a success for us.

Mrs. Wade - Do we have one selected that's going to fit in with the rest of the region?

Mr. Hazelett - Mrs. Wade, the difficulty, in reference to the rest of the region, is that we're not all on the same system. Chesterfield's system is a number of years old. Hanover's system is not to the detail that we would do it. So, the PDC could possibly fit in reference to some of the layers of perimeters. This is the difficulty in reference to a GIS system. Different localities look for different things. Our community, in its developing manner, and what we have, we feel we need the development "snap shot," if you will, of what is existing and what we can do with that in the perimeters that go with that. Perimeters you have to often broaden our mind.

This includes tax information. It includes ownership information. It includes virtually anything about all of the parcels in the County, as well as any of the services provided to them. I related a number of years ago, we were asked to draw a water and sewer map for a public presentation. I think it took Mr. Brady about two weeks to draw the map. It was used about 10 minutes. That's the kind of effort that sometimes goes into these things. With the GIS system, it might take us 30 seconds to get it out.

Mr. Archer - Okay. Any further questions of Mr. Hazelett? Thank you, sir. This is a public hearing, so if there are comments by members of the audience, you're invited

to come forward and express yourselves. Any comments? Any questions? If not, thank you, Mr. Hazelett.

I believe the Secretary has a resolution that we have to take some action on. I'll turn it over to you, sir.

Mr. Silber - Thank you, Mr. Chairman. What we would be doing here, the Commission would be passing a resolution approving the first year of the five-year Capital Improvements Program. I can quickly read this. It is very short. This would pass your recommendation forward to the Board of Supervisors.

"WHEREAS, the County Manager has requested the Planning Commission to review the Capital budget for Fiscal year 1998-99 according to 15.2-239 of the Capital Improvements Program for Fiscal years 1998-99 through 2002-03, and to make appropriate comments and recommendations to the Board of Supervisors; and,

WHEREAS, the Planning Commission has completed its review of the Capital Budget together with the five-year Capital Improvements Program;

NOW, THEREFORE, BE IT RESOLVED that the Henrico County Planning Commission finds the capital budget for Fiscal year 1998-99 is generally consistent with the County's Comprehensive Plan and recommends its approval."

Mr. Zehler - So move the resolution, Mr. Chairman.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Resolution moved by Mr. Zehler, seconded by Mr. Vanarsdall. All in favor say aye—all those opposed by saying nay. The motion carries. The Resolution is adopted.

Mr. Silber - Okay. The next item, this evening, is to consider the requests for deferrals and withdrawals. Mr. Merrithew, can you walk us through those, please?

Mr. John Merrithew, Principal Planner - Thank you, Mr. Secretary. In your 7:00 o'clock agenda, we have a number of deferral requests, this evening. The first deferral request would be on Page 2 of your agenda.

C-7C-98 Glenn R. Moore for Northgate Associates, LP: Request to conditionally rezone from O-2C Office District (Conditional) to B-2C Business District (Conditional), Parcel 71-A-11, containing approximately 3.173 acres, located on the west side of Staples Mill Road at Hermitage Road. Commercial retail development is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office development.

They have requested a deferral until April 9, 1998.

Mr. Archer - Thank you, Mr. Merrithew. Is there any one here in opposition to the deferment of C-7C-98 Northgate Associates, LP? Any opposition? Is there a motion?

Mr. Vanarsdall - To what, April 19th?

Mr. Merrithew - April 9th.

Mr. Vanarsdall - I move that C-7C-98 be deferred to April 9, 1998 at the applicant's request.

Mr. Zehler seconded the motion.

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

Mr. Merrithew - On the same page, but in the Fairfield District, the next case C-34C-97.

Deferred from the August 14, 1997 Meeting:

C-34C-97 J. Barry Lynn: Request to conditionally rezone from B-1C Business District (Conditional) to B-3C Business District (Conditional), Parcel 96-A-3, containing 2.175 acres, located at the northwest corner of Azalea Avenue and Wilkinson Road. The Land Use Plan recommends this site for Commercial Concentration development. A self-service car wash is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations.

This requested deferral is to September 10, 1998.

Mr. Archer - Any one in the audience in opposition to C-34C-97 J. Barry Lynn? September 10th.

Mr. Merrithew - September 10, 1998. Get his money's worth out of that deferral.

Mr. Archer - All right, I move that we defer C-34C-97 J. Barry Lynn to September 10, 1998 at the applicant's request.

Mr. Vanarsdall seconded the motion.

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

Deferred from the January 15, 1998 Meeting:

C-64C-97 Abigail S. Phillips for Dodson Bros. Exterminating Co.: Request to conditionally rezone from R-4 One Family Residence District to B-3C Business District (Conditional), part of Parcel 53-A-12, containing 0.301 acres, located at the southern terminus of Portsmouth Street approximately 250' west of Brook Road (U.S. Route 1). A pesticide service is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Commercial Concentration development.

Mr. Merrithew - The applicant has requested a deferral to March 12, 1998.

Mr. Archer - Is the applicant present, Mr. Merrithew?

Mr. Merrithew - I do not know if they are here or not. Is the applicant for C-64C-97 present? I do not believe so.

Mr. Archer - Can I extend this deferral date?

Mr. Silber - Yes sir.

Mr. Archer - I would like to at least explain to the Commission what problem I have here. I guess I shouldn't call it a problem. But next month we have seven cases to hear in Fairfield that are already on the agenda. I think I've got four deferrals listed here tonight. That means I would have 11 cases to hear, and you all probably wouldn't want to be here until around 10:00 p.m. or 10:30 p.m. So, I'm going to request that we extend some of these deferrals. You might want to do this one until April? Is that permissible, Mr. Secretary?

Mr. Silber - Yes sir.

Mr. Zehler - Is that at the Commission's request?

Mr. Silber - The applicant has asked for the one-month deferral. If he was here, he could extend that on his own accord. If he's not here, I think this may have to be recorded as a Planning Commission deferral.

Mr. Archer - Well, I'll do it. Okay. I move the deferral of C-64C-97 Dodson Bros. Exterminating, until the April 9th meeting.

Mr. Vanarsdall seconded the motion.

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

C-8C-98 Jim Thornton for Virginia Center, Inc.: Request to conditionally rezone from B-3 Business District and R-2A One Family Residence District to B-2C Business District (Conditional), Parcels 33-A-46 & 47, containing 16.047 acres, located at the southeast corner of Brook Road (U. S. Route 1) and Virginia Center Parkway. Office, hotel and restaurant uses are proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office development.

Mr. Merrithew - They have a requested a deferral again, until March 12th.

Mr. Archer - All right. Is there anybody in the audience in opposition to the deferral of C-8C-98? I know the applicant is here somewhere. You wouldn't want to go until...Okay. No opposition. I move the deferral of C-8C-98 to the March 12th meeting.

Ms. Dwyer seconded the motion.

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

P-6-98 Charles H. Rothenberg and James W. Theobald for Sprint PCS: Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-

122.1 of Chapter 24 of the County Code in order to construct and maintain a communications tower up to 160' high and related equipment and improvements on part of Parcel 53-A-20A, containing 3,450 sq. ft., located on the east side of Mountain Road, approximately 600' northwest of Yellow Tavern Park Road. The site is zoned M-2C General Industrial District (Conditional).

Mr. Merrithew - They have requested a deferral to March 12th.

Mr. Archer - Mr. Rothenberg, are you here, sir?

Mr. Chuck Rothenberg - Yes sir.

Mr. Archer - You wouldn't want to go another month, would you?
Mr. Rothenberg - The 30-day deferral, are you asking us to extend that?

Mr. Archer - I'm asking you if you would mind doing it. Yes.

Mr. Zehler - If you don't, he is.

Mr. Archer - Not necessarily.

Mr. Rothenberg - We'd be more than happy to defer that case for 60 days.

Mr. Archer - You're a gentleman and a scholar. Thank you, Mr. Rothenberg. Okay, then I move the deferral of P-6-98 Sprint PCS for 60 days until the April meeting, 4/9/98 at the applicant's request and agreement.

Mr. Vanarsdall seconded the motion.

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

Mr. Merrithew - Thank you, Mr. Chairman. That's all the deferrals, of course, for the 7:00 o'clock agenda. I would like to announce in the 8:00 agenda in the Three Chopt District C-79C-97 Jay M. Weinberg for Summit Properties. That request to rezone property on the northwest corner of Three Chopt and Gaskins has been withdrawn by the applicant.

Mr. Silber - You should announce that again after 8:00 o'clock.

Mr. Merrithew - We'll announce it again at the 8:00 o'clock.

Mr. Archer - Thank you, Mr. Merrithew.

Mr. Merrithew - Thank you.

Mr. Archer - Okay. Next on the agenda, Mr. Secretary.

SUBSTANTIAL ACCORD: Resolution - Northwest Elementary School Site (Francistown Road) Substantially in Accord with the County of Henrico Comprehensive Plan.

Mr. Silber - Audrey Anderson is here presenting this paper and we also have a representative or two from the Schools in case the Commission would like to hear from them.

Ms. Audrey Anderson, County Planner - Mr. Chairman and members of the Commission, I just have a few brief summary comments on this. The site under consideration is located on the west side of Francistown Road in the Three Chopt Magisterial District, about 900 feet south of Springfield Road.

The staff has reviewed this site in terms of the three elements of the Comprehensive Plan; the Land Use Plan, the Major Thoroughfare Plan, and Parks Open Space and Recreation Plan. We have concluded that locating a school at this particular site will not be in conflict with the Plan, nor would it be a significant departure from the Plan, but would, instead, support the intent of the Comprehensive Plan.

The site is suitable for the proposed use in terms of the zoning on the site. It is zoned A-1 Agricultural District, R-3C One Family Residence District (Conditional) and C-1 Conservation District along the western portion of the site along Meredith Branch. The conservation area would have to be accommodated so that there would be no impact on the flood plain area along the western portion of the site. There are also some wetlands on this site. But it has been determined that the proposed development could be accomplished without impacting those areas. The topography on this site is moderately sloping. This is also suitable for the proposed development.

The Land Use Plan shows that this area, where the site is located, is predominantly recommended for One Family Residence development. The site, itself, is recommended for Suburban Residential 1 development and also Environmental Protection Area, again, along the flood plain of the Meredith Branch. The school can be designed, however, to be compatible with this existing and the proposed land use.

The Goals, Objectives and Policies of the Plan stress the importance of providing adequate public facilities in a timely manner for all citizens within the County and coordinating land development with provision of these services. And locating an elementary school in this area, where there's a steady population growth would provide relief for Springfield Park Elementary School, the existing elementary school in the area that's already over capacity. Therefore, based upon all of these considerations and others regarding the Major Thoroughfare Plan and the Recreation Plan, the staff would, therefore, recommend that the Planning Commission approve the resolution finding the proposed Northwest Elementary School Site to be substantially in accord with the Comprehensive Plan.

Mr. Archer - All right, thank you, ma'am. Are there any questions of Ms. Anderson?

Mrs. Wade - Ms. Anderson, have you seen any kind of tentative site plan for this site?

Ms. Anderson - No, not for the school yet. We haven't gotten to that step yet.

Mrs. Wade - It does present a number of challenges in terms of design. It drops off about 46 feet or something from one end to the other.

Ms. Anderson - As far as the flood plain on the western side of the site, is that what you're...

Mrs. Wade - Part of it. I mean there's quite a grade between the road and down to the creek in the back. So, I assume...

Ms. Anderson - That has been taken into consideration. There is enough acreage remaining on the site that that area wouldn't be impacted by the proposed design of the site, according to what the Schools have told us about it.

Mrs. Wade - I assumed they had figured that out, but it remains to be seen.

Mr. Zehler - Is the radio tower owned by the County, or is that private?

Ms. Anderson - It's an MCI tower.

Mr. Archer - Any other questions? This is a public hearing. Are there any questions from anybody of Ms. Anderson concerning this proposal?

Lady from Audience - I was just wondering, you said the existing school is overpopulated.

Mr. Archer - We want to hear from you.

Ms. Anderson - You're asking about Springfield Park. Yes. That was open in September of 1996. It's already over capacity. Yes.

Lady from Audience - I can't believe that.

Mr. Archer - Any other questions from the audience?

Mrs. Wade - Are you ready for a motion?

Mr. Archer - I think so, Mrs. Wade.

Mrs. Wade - I move the resolution be passed.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Moved by Mrs. Wade, seconded by Mr. Vanarsdall that the resolution be passed. All in favor say aye—all those opposed by saying nay. The vote is unanimous. Thank you, Ms. Anderson.

SUBDIVISION

Telegraph Woods,
Section B
(January 1998 Plan)

Blackley & Company, P.C. for Wilton Development Corporation:
The 0.196 acre site is located at the southwest corner of the intersection of Telegraph Woods Drive and Brookwood Glen Drive on parcels 53-9-A-100 and part of 53-8-D-4. The zoning is R-4C, One-Family Residence District (Conditional). County water and sewer. 1 Lot (Fairfield)

Mr. Silber - This was deferred by the Commission at their last public hearing.

Mr. Archer - Thank you, Mr. Secretary. Is there anyone in the audience in opposition to Telegraph Woods? Ted.

Mr. Ted McGarry, County Planner - The Plan that came in your packet is an overall plan. It's a composite showing the two recorded subdivisions called Telegraph Woods and Brookwood Glen. The overall shows the existing common area, including floodplains, wetlands, BMP structures, for which serve a public purpose. Now, the handout you just received includes the actual conditional subdivision plat. It was not in the packet that you received. That subdivision plat shows the applicant is asking for one lot, plus a common area. The inclusion of that common area, staff feels, is a poor design, and frankly, is done to circumvent the code. The developer has, apparently, presold the lot and the building he wants to put on there is too tight. So, to avoid the normal setbacks for a corner lot, he's proposed creating this common area.

The developer has offered to provide two picnic tables, a sandbox, and leave the common area in a natural state which means, to staff, grass, which means someone is going to have to cut it.

The common area, staff feels, would become a maintenance burden on the back of the homeowners association. It does not serve any public purpose.

Staff recommends approval of just the one lot, with no common area. The applicant is here to answer questions. Are there any questions of me?

Mr. Archer - Any questions of Mr. McGarry? Thank you, Ted. Would the applicant come forward, please.

Mr. Clay Blackley - I represent Wilton Development and Ryan Homes, the owner. We propose the common area to provide a little bit of buffer between the houses, and, therefore, give the lot a normal side yard, rather than it being considered a reverse corner lot, which requires a 25-foot setback.

The main reason it's needed is so that the house will fit within the building envelope properly, and not create a problem trying to lay the house out in that smaller building envelope. The common area would be maintained by the homeowners association. Grass would be cut, like the other common areas with the subdivision that's proposed for Telegraph Woods.

Mr. Archer - Are there any questions by Commission members of Mr. Blackley?

Ms. Dwyer - The difference is that, for a reverse corner lot, you would be required to have a 25-foot setback from Brookwood Glen Drive, but if it's not a reverse corner lot, you'd only have a 12.5 foot setback. Is that correct?

Mr. Blackley - Correct.

Ms. Dwyer - So, it sounds to me, that staff was correct in its assessment that this little slip of common area is being designed to circumvent the requirement of the code for reverse corner lots? Is that correct?

Mr. Blackley - It allows that to happen. Yes. But, then, again, it does provide a useable purpose in providing buffer between the houses.

Ms. Dwyer - Buffer between two residential homes?

Mr. Blackley - Two residential homes. There are trees in that area that, possibly, could be taken out by a homeowner if they so wanted.

Mr. Archer - Any other questions of Mr. Blackley? Well, Mr. Blackley and I visited this site this week. We slipped and slid in the mud, but we got there. One of the biggest problems that staff had with this was the fact there was no public purpose for this common area. So, after visiting the site, I discussed it with him to see if it was possible to be able to adapt the 30-foot common area to a purpose that would be suitable for the entire neighborhood. And, of course, after that, you discussed it with Mr. McGarry. It seems as though that the recommendation that you made are not suitable to do much beyond making this exactly what it sounds like. I was hoping that we'd get a little bit more out of this, but you indicated picnic tables and a sand box. I just don't feel like that's enough of a public purpose to saddle the neighborhood association with the responsibility of having to maintain it. I also understand that you're here on behalf of your client, so I guess the decision wasn't entirely up to you. But, in any event, I just don't feel the Commission is comfortable with this the way it is, and staff isn't, and I'm not really comfortable with it either. So, my motion would be to recommend approval, as recommended by Mr. McGarry, subject to the annotations on the plan, and standard conditions to subdivisions without the common area.

Mr. Vanarsdall - Second.

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

The Planning Commission granted conditional approval to Telegraph Woods, Section B (January 1998 Plan) subject to the annotations on the plan, and standard conditions to subdivisions without the common area.

Deferred from the December 11, 1997 Meeting:

C-81C-97 Glenn Moore for Springfield Land Development Group: Request to conditionally rezone from A-1 Agricultural and R-3 One Family Residence Districts to B-3C Business District (Conditional) Parcels 49-A-33, 34, 49-5-O-9 (Reserved), described as follows:

Beginning at the point of intersection of the east line of Springfield Road and the north line of Huron Avenue, thence along the east line of Springfield Road N. 13° 11' 24" W., 97.56 feet to a point; thence along the arc of a curve to the north having a radius of 983.41 feet, 196.31 feet to a point; thence N. 11°21' 10" W., 134.87 feet to a point; thence N. 13° 10' 22" W., 59.01 feet to a point; thence leaving the east line of Springfield Road N. 87° 18' 36" E., 414.34 feet to a point; thence S. 02° 21' 25" E., 488.32 feet on the north line of Huron Avenue; thence along the north line of Huron Avenue, S. 88° 07' 55" W., 375.39 feet, to the point and place of beginning, containing 4.012 acres.

Mr. Archer - Is there any one here in opposition to C-81C-97 Springfield Land Development Group? A couple or three. Thank you. We'll hear from you at the appropriate time. Ms. Gardner.

Mr. Vanarsdall - Do you have any guards guarding the neighborhood, or anything?

Mr. Silber - Before you get started, perhaps I need to go over, the Planning Commissions rules and regulations relative to the applicant's presentation and opposition speaking against a rezoning request. The Rules and Regulations stipulate that the applicant has 10 minutes to present his case. Some of that 10 minutes may be saved for rebuttal time. The opposition also is given a total of 10 minutes. That's total time, 10 minutes, to speak in opposition. We do have a clock—a timer, so we will be keeping track of that so we can get through this agenda in order. So, I appreciate that.

Ms. Dwyer - May I ask a question before we get started. We just got new proffers and I received some other new proffers dated the 9th in the mail or by fax, I'm not sure which. So, are these the same, or are these different than the ones we received? Do you know?

Ms. Nancy Gardner, County Planner - I'm not aware of what the applicant has faxed.

Mr. Glenn Moore - I didn't change anything to what I sent before.

Ms. Dwyer - This says, "Revised 2/10/98" on the bottom.

Ms. Gardner - "Received..."

Ms. Dwyer - Oh, okay.

Ms. Gardner - I'm sorry. That's my bad handwriting—"Received 2/10."

Ms. Dwyer - So, it's the same one?

Mr. Vanarsdall - Same one?

Ms. Gardner - Yes. And on those new proffers, you do not have to waive the time limits to consider them.

Mr. Archer - Okay. Thank you, Ms. Gardner.

Ms. Gardner - As Mr. Silber has stated, this is a request to rezone four acres on Springfield Road from A-1 and R-3 to B-3C, which is a relatively intense commercial district. There was a very similar request in 1994 for the same use. This request was ultimately denied. Staff does not see that anything has changed since 1994.

This request is not consistent with the Suburban Residential 1 designation of the site and it could possibly hurt the viability of the neighborhood. So, staff cannot support the request at this time.

Turning attention to the proffers, the first proffer states that uses would be limited to new vehicle inventory storage. I should say that this limitation would be hard to enforce; enforce "new" versus "used." It would also be hard to enforce a prohibition on sales; hard but not impossible.

This proffer does not preclude the storage of RVs or over sized vehicles. It also does not preclude other dealers from using the lot. This could place an undue traffic burden on the residential neighborhoods in the vicinity.

Proffer No. 2 is on access. There's no access to Greenford and Huron. As far as I know, there is still a problem with access to Springfield. The applicant was going to look into whether a joint crossover on Springfield Road could be achieved with the child care center next door. I do not know if that agreement has been reached with VDOT. As stated in the staff report, Springfield Road is due to be widened shortly.

Proffer No. 3 on the screening and buffering. Buffers are proposed to soften the appearance of the parking lot. There is a required 35-foot buffer. This is by code - a required 35 foot buffer adjacent to the A-1 and R-3 properties. The applicant has proposed to install a brick wall adjacent to the residential area and brick pillars and wrought iron fence in other areas. You can see by the plan that was handed out with the proffers that, in some places, this was reduced to 25 feet. We would have to see whether that would meet code requirements. There are alternatives allowed, but only if there is a solid fence. So, that would have to be discussed at time of Plan of Development.

Proffer No. 4, Hours of Operation. He has proposed 7:00 a.m. to 9:00 p.m. daily. Certainly, this is too early on a Sunday morning, and it may be too early on a Saturday morning.

Other proffers state that delivery of vehicles would be limited to the hours of operation. There would be no outside speakers. No business signs. Customers would not be brought onto the property. Lighting will be limited to 15 feet in height from a concealed source. The exact hours of the lighting has not been stated.

In summary, this request is not consistent with the Plan and could be detrimental to the neighborhood. So, staff does not support the request. I'd be happy to take any questions.

Mr. Archer - Thank you, Ms. Gardner. Any questions of Ms. Gardner by Commission members?

Ms. Dwyer - Ms. Gardner, you alluded to the fact that the proffers were received February 9th don't limit the use of the property to this dealership. But the proffers we received in December did limit it to a dealership.

Ms. Gardner - That's correct. In December, there was another representative working for the applicant. That representative was comfortable with limiting it to Haynes Jeep. However, that has been removed.

Ms. Dwyer - So, we could have, if Haynes doesn't need the lot, then other car dealerships could bring, presumably, their cars and park in there.

Ms. Gardner - That's exactly right.

Ms. Dwyer - ...or trucks, because we're just talking about vehicles.

Ms. Gardner - Right.

Ms. Dwyer - We're not talking about automobiles, anymore.

Ms. Gardner - That's right.

Ms. Dwyer - So, automobile and truck before. Okay. Thank you.

Mrs. Wade - Is there buffers provided here for Springfield or is there some requirement? I'm wondering, did you get the drawing where the right of way of Springfield is on there?

Ms. Gardner - I don't know if the applicant accounted for the expanded right of way of Springfield in doing this drawing. You can see he contemplates landscaping along Springfield Road, but we don't know what width.

Mr. Archer - Any further questions of Ms. Gardner?

Mr. Zehler - Nancy, could you explain to me how this request would increase pressure for additional commercial development?

Ms. Gardner - It would set a precedent for B-3 this far off of Broad Street.

Mr. Zehler - Based on the map, here, though, it doesn't look like anything would be available that could be rezoned. It looks like this might be the last parcel.

Mrs. Wade - Across the street.

Mr. Silber - Across the street, it's zoned O-2C, and its a vacant piece of property. It has been a request previously for that to be used for a more intense use than office. Your point is well taken that this probably is one of the few remaining vacant tracts of land.

Mr. Archer - Okay. Are there any other questions? Is the applicant here? Mr. Moore.

Mr. Silber - Do you want to save some time for rebuttal?

Mr. Glenn Moore - Save 2.5 minutes. Mr. Chairman, members of the Commission, I'm an attorney. I here this evening on behalf of Springfield Land Development Group, the applicant and the owner of this particular piece of property. As has been stated, this is a request to rezone approximately four acres of land from A-1 and R-3 to B-3 (Conditional). Because of the extensive proffered conditions submitted as part of the case, this request will allow only one use, and that's a passive use for the property. That is a new vehicle inventory storage lot for Haynes Jeep Eagle. The first condition specifies that the property may be used only for new vehicle inventory storage.

The only purpose for which this land can be put and the only precedent that is established by this zoning case is for a new vehicle inventory storage lot. The only building which could possibly be put on the property is a shelter for a security guard if one if determined to be necessary.

We have determined that no access shall be permitted between the property and Huron Avenue and also Greenford Drive, which you can see dead ends into the property. As shown

on the landscape plan, which each of you have received, the only access to this property would be from Springfield Road.

Because the property abuts residential development on two of its sides, a landscape and natural buffer area, together with a brick wall of a minimum of six feet in height will be located on the perimeters of the property, adjacent to lots in Huntington and along a portion of the southeastern boundary of the property along Huron Road extending from that southeastern corner towards Springfield Road.

The buffer area adjacent to the eastern boundary of the property will be a minimum of 35-feet in width. And other buffer areas will be a minimum of 25 feet in width. At one meeting we had with some representatives of residents, we were asked to extend that eastern buffer area an additional 10 feet, because houses are really pretty close to that property line. We were able to do that.

Extensive landscaping has been committed for the perimeter of the property, as shown on the landscape plan that you all have all received. That's part of the case. The balance of the site which is not enclosed by a brick wall will be enclosed by a security fence consisting of brick pillars and wrought iron.

The perspective drawings that I distributed to you, if you look at the site plan, you will see an "A," "B," and "C," on the site plan. If you look at each of the perspective drawings, those drawings will show you what people looking into the site will see, or is an artist's conception of what people will see looking into the site when it is developed. So you get a feel for what the brick wall will be like on "A" and "B" and then Drawing C shows if you were at the corner of Springfield Road and Huron, and looking into the site, the effect that you will get with the brick pillars and the wrought iron. It also shows the landscaping. That landscaping is consistent with what is shown on the site plan.

As has been noted, the property only may be accessed between the hours of 7:00 a.m. and 9:00 p.m. I can assure you, on Saturday and Sunday, it was not our intention to access it at 7:00 a.m. on Saturday morning. We can certainly take care of that. It was an oversight. Further, no business signage of any type will be placed on the property. Outdoor lighting standards are limited to a maximum of 15 feet in height. Lighting will only be provided as necessary for security purposes.

We submit that the requested use of the property, with the required landscapings and screening, and limitation on access activity provides a logical transition between the commercial activity on Springfield Road, which is soon to be widened to four lanes, and the Huntington development to the east of the site.

Haynes Jeep anticipates an average of three to four delivery carriers per week, bringing vehicles to the site. Other traffic that might be generated would be taking vehicles from the site to Haynes Jeep which, we think, would be 60 trips a week, or 60 vehicles being moved a week on average. We wouldn't think it would be 20 trips a day. I can't imagine a use that would be less traffic intensive than this. Inventory, as I said, will be relocated as necessary to replenish cars that are sold.

We would submit that the proposed use of the property will generate virtually no noise or traffic for the adjacent neighborhood. I say "no noise", I don't think it would be much noise in the first place. I think that wall will further limit the noise.

The landscape buffer and attractive brick wall will provide a reasonable transition between this passive use on the property and the adjacent neighborhood. Accordingly, we would submit that the request is consistent with the Land Use Plan's goal of protecting residential areas from encroachment by incompatible or inappropriate land uses.

In summary, this case is unique. With the extensive proffered conditions, we submit will establish no precedent for other commercial uses in the vicinity of the property, other than this one use. We submit that the jurisdictional prerequisites for the Planning Commission to recommend approval of the case to the Board is satisfied by virtue of the conditions. We would ask that you recommend the case to the Board, subject to the amended and restated proffered conditions. I'd be happy to answer any questions. Thank you.

Mr. Archer - Thank you, Mr. Moore. Any questions of Mr. Moore by Commission members?

Mrs. Wade - Have the neighbors seen these?

Mr. Moore - Yes ma'am. I spoke to the neighbors here that are here in opposition, were at a meeting. And, frankly, we had a discussion that I thought was very above board and I just I wasn't able to convince them. But they have seen those drawings.

Ms. Dwyer - Mr. Moore, when I looked at the proffers offered to us in December, and I look at the proffers offered to us in February, they seem to be, I don't know, I guess, worse or better, depending on your perspective. But the proffers in December limit the use of this lot to Haynes Jeep Eagle. The proffers we are now asked to consider don't limit it to this dealership, so I assume your intent is to...

Mr. Moore - We can limit it to only Haynes Jeep Eagle.

Ms. Dwyer - And the earlier proffers also limited the weight of trucks that could be stored on the property to 7,000 pounds and there's no similar limitation in the proffers that were submitted...

Mr. Moore - I'd have to talk to my client about that. These conditions have been reviewed with representatives of the neighborhood, carefully, in two different meetings. One was just a small group and one was a larger group. The conditions that you have, were given out and discussed. That wasn't an issue. But, I mean, if that is a problem, we can discuss it and see if it's something we can agree to modify.

Ms. Dwyer - One thought that crossed my mind, too, and I guess I'll just make a comment is that, the Commission has been asked to review our billboard ordinance. One of the options we have to consider is that billboards could be put in B-3 areas. So, that's just an example of the kind of intrusiveness that we could have.

Mr. Moore - I disagree with that, Ms. Dwyer. This is a B-3 conditional use. The only use that you could have on this property is an inventory storage lot. You can't have a billboard. You can only have an inventory storage lot. You can't have an office. For example, if we wanted to come back someday and build offices here, just for example, we'd have to come back again to rezone for that purpose.

I think the wall's in place so that—I don't think anybody is ever going to take that down because it is too much money invested in it. But any other use, including houses, will require a rezoning.

Ms. Dwyer - Well, I guess its speculative, considering you haven't actually - we don't have the renewed billboard ordinance yet, so we don't know what that's going to say. But, I just thought I would bring that up.

Mr. Moore - You couldn't put a billboard any more on that property after this rezoning case is approved than you could with today, with A-1 zoning.

Ms. Dwyer - Okay.

Mr. Archer - Okay. Any more questions of Mr. Moore?

Mr. Silber - Mrs. Dwyer, if the Commission is considering, or if Mr. Moore is considering amending that first condition to tie it to Haynes Jeep, I would recommend that we not tie it to a name of a dealership. If they ever change the name or went out of business and became James Jeep or something, it wouldn't comply. I think we could tie it to a location and say, "a dealership at the corner of Springfield and Broad" or something like that.

Mrs. Wade - You mentioned the buffer on Springfield in here. Do you know where the right-of-way line is?

Mr. Moore - Whatever transitional buffer is required between B-3 and O-2 is what the buffer will be. I don't know what that is in the Zoning Ordinance.

Mrs. Wade - Do you know on this drawing what's the future right-of-way line, if one of these are?

Mr. Moore - Randy, do you know what the transitional buffer is between B-3 and O-2?

Mr. Silber - Ten (10) feet.

Mr. Moore - It would be a minimum of 10 feet.

Mrs. Wade - You don't know where the right-of-way line is?

Mr. Moore - I don't know if the person who drew that took into consideration the right-of-way line. The purpose of that, really, was to depict the landscaping and location of the fence more than it was other aspects of the site plan. Although it does show that the only access is to Springfield.

Mr. Archer - Any further questions? Thank you, Mr. Moore. Okay. Now, is the time for the opposition. Is there a person amongst the group who could be considered the spokesperson, not that we mind hearing from everybody, but we just don't want to be repetitive if we don't have to.

Ms. Camilla Phelps - I'm President of the Huntington Civic Association. I'm going to keep my remarks very brief because we do have other people who would like to speak and not on repetitive issues.

We request that the Planning Commission deny this case. The case came up in 1994. At that time we felt it was improper zoning, too close to our neighborhood. And we feel the same way now. We feel like that it opens up "the flood gates" so to speak, for other vacant pieces of property further down Springfield Road. And we just don't want to see that type of development right at our neighborhood. And I would like to distribute these petitions. I have a copy of the petition from 1994 and copies from this year. I do apologize, Mr. Archer. I thought when we started this, Ernie, I think, was Chairman of the Commission. So, I do apologize for that.

Mr. Archer - That's quite all right, ma'am.

Mr. Phelps - But the message is still the same. I would like to invite the other speakers to come up.

Mr. Vanarsdall - I'm glad I haven't been forgotten.

Ms. Donna Anderson - Good afternoon. I live at 9320 Huron Avenue. I've lived there for 11 years. I am opposed to this plan. I'm a mother of two small children. I believe it will increase the traffic on our street. As for many plans that come through that say it does not increase the traffic, come look at my house on a daily basis and you can see the traffic has increased. It would be a threat to our children and I'm opposed to it. Thank you.

Mr. Archer - Ms. Anderson, just a moment, please.

Mr. Zehler - How many square feet is the house you presently live in?

Ms. Anderson - I believe 1,300.

Mr. Zehler - 1,300. Thank you.

Mr. Matt Genovese - I live at 9505 Greenford Drive. I'd like to give to you my reasons why I'm against the rezoning of the property. I am a fairly new homeowner. I've been in my residence for three months now. I purchased the residence under the assumption that I had a view of four acres of wooded area. This just kind of brings business a little too close to home. There's a proposed 35-foot buffer, which, as you know, the trees are very sparse. That is really no protection from road noise. And also, from reflective light. It's proposed the lights will shine directly straight down, and be only 15 feet high. But, as you know, they are shining on brand new cars, which, of course, creates a big reflection, just like shining a light into a mirror. I'm not against progress. I know it's essential to the betterment of our county, but I'm against it when it threatens the separation of homes and business. I ask you, when you make your vote, to please vote as if you were voting on the future of your own home and your own family. Thank you.

Mr. Archer - Thank you, Mr. Genovese. Any questions, any one? Thank you, sir.

Mr. Dan Schardein - I live in West End Manor, which is adjacent to Huntington Subdivision. I oppose this for all the reasons that your staff pointed out. In addition to that, I'd like to point out, in my opinion, these proffers, while they might be intended to give the neighborhood a nice warm, fuzzy feeling are basically, unenforceable. This site will be in violation in short order. I don't doubt the sincerity of the Haynes folks that they would want to do what they're saying here. What I'm telling you is the nature of these animals is that they are going to become violations. I say that, not as a personal opinion, but a professional opinion. While I live here in Henrico, I'm employed by Stafford County as the Director of Code Administration, which my job there is enforcing this stuff. I can tell you, your staff is not going to be able to keep up with it. If you're like most counties, you're going to do this on an enforcement basis only through complaints. The landscaping is going to die and its not going to be replaced unless there's a complaint. All you have to do is look at the shopping center, and things along West End Drive; Hawthorne Motors, where things have been taken out. Things have not been replaced in the landscaping.

Also, truck drivers don't know or care about proffers. They're going to show up in the middle of the night or whenever when the tractor trailer gets there and they're going to park on Huron or Old Springfield. That's where the vehicles are going to be unloaded. In my opinion, it doesn't matter. The Haynes folks are going to tell you, "Well, we put up a sign. We told them not to do that." But it's going to happen anyway. And you're going to have to deal with that. I also feel that, in short order, that lot will become a wholesale collection lot for the dealership. They're not going to be walking people back and forth and closing at 9:00 o'clock and everything else. If they've got a hot sale, they're not going to say, "You just stand right there, Mr. Customer, while I run all the way over here and get a vehicle." They're going to take them there. They're going to be there and they're going to sell from that lot.

Sooner or later, the new vehicles are going to be in the lot up on Broad Street, and this lot is going to become the wholesale collection lot for all of the stuff waiting to go to second hand. Anyway, I'll just leave it at that so other people can talk. But, I think it's definitely going to have a violation. But it shouldn't be approved in the first place. But I wanted to point that out to you if it does get through. I'd be happy to answer any questions.

Mr. Archer - Any questions, anyone? Thank you, sir.

Ms. Madeline Stillman - I live at 9601 Greenmeadows Circle. I live at Springfield Woods Townhouses. I'm the President of the Homeowners Association there. I'd like to come as being on record as opposed to this also. We do have that O-2C property right next to us between us, and Price Club. While their lawyer, this evening, is telling you that will not in any way affect other properties around us, we feel, if this property is rezoned to B-3C, it will be much easier to say, "Well, we've got it right here. What's wrong with putting it across the street?" We have already been embroiled in many fights with the County about things that have been developed around us. We went through a battle with this O-2C property to have it rezoned to M-1 several years ago. We feel fortunate that did not come into our neighborhood. But we do feel opposed to it primarily because it may affect us directly considering that you will allow a business to come in so close to residential property. We would prefer to see the business kept in concentration on Broad Street. I do echo the gentlemen's comments before me. I know that would be repetitive, so I will just stick to my point.

Mr. Archer - Thank you, ma'am. Are there any questions? Sir, if I may interrupt you just a minute. The opposition has three minutes left to speak.

Mr. Steve Barry - Mr. Chairman, members of the Board (sic), I live at (unintelligible) Francistown Road. I was chosen to come up here and finish the comments. First of all, I'd like to point out that the proffers that were provided to us by Mr. Moore, as you have noticed, have heavily dwindled in the scope to which they apply to this property. They have become so vague that they cannot be enforced. Also, they do not fit the Comprehensive Use Plan for this property. It's our understanding the Comprehensive Use Plan is for O-2C, not for B-3C. If I may read for a minute or two, I'll be as brief as I can from the proffers, "The lot shall be used for new vehicle storage only." It does not say what kind of vehicles. It does not say motorcycles. It does not say tractor-trailers. It does not differentiate anything to that nature. It also states that the owner shall request "no direct vehicular access." It does not say there will not be any. It simply states, he will not request. Also, it states that the owner shall pick up trash and debris on a regular and timely basis. It does not state, "once a month, once a week." It is so vague. It is so diluted. It is nearly enforceable. We are not opposed to development of that property. We are opposed to development of a B-3C. We would not be opposed to seeing an O-2. We would not be proposed to seeing it done as residential. But we do not want high impact business in our neighborhood. As we see it, the proffers were designed to circumvent the responsibility of the owner to the neighboring community. It leaves so many loop holes. It allows so much room for interpretation that we feel we are literally naked and have no option but to oppose this. I'll take any questions.

Mr. Archer - Any questions? Thank you. The Secretary tells me we have less than a minute if anybody else wants to speak. You can use it. It's your time. I think they're done. Here we go.

Mr. Marvin Katz - I live at 9504 Greenford Drive. I'm right next to the dead end. My concern in this issue is what the owners can give other than proffers to ensure that the property in question will only be for its stated intended purpose. In perpetuity, if any future owner of this property were to go to any lengths or expense to allow any ingress or egress, other than that on Springfield Road, the current proffers would be totally unacceptable and a hazardous nuisance. I would ask that any change in zoning be denied.

Mr. Archer - Thank you, sir. You only went over about 10 seconds.

Mr. Silber - Mr. Moore, you have 4.5 minutes.

Mr. Moore - In response to comments that were made, I would like to reiterate that the use, and I think that's what you need to look at in this case, is not the zoning so much, because it's a single purpose zoning case. It's the use that ought to be considered. To the extent that the use sets a precedent, I would agree that the use does set a precedent for a car lot if there's another site someone could argue for that, but that is the only B-3 use I see or any commercial use I see any precedent set for. I think from a traffic and a noise standpoint, it's a very positive precedent. It also would allow a good, locally owned business to help it become an even better corporate citizen. They need this space. They wouldn't be proposing to be building a very expensive brick wall and do all the things that need to be done to use it, if it wasn't really needed. I think you know that Haynes Jeep is a valuable corporate citizen and contributes over \$200,000 annually in taxes to Henrico County and employs 115 people.

We think, because of the very passive nature of the use and the attractive screening and the location on Springfield Road, which is a major collector, that this use is not inconsistent with the low density residential development. But, rather provides a positive transition from the commercial uses along Springfield to the residential neighborhood.

Again, I've spoken about the zoning. I think you need to look at the use in this particular instance. As far as traffic, the people that are concerned about traffic or have suggested that O-2 zoning would be a more appropriate use, I guarantee you, you would have more traffic, really anything, even residential development of this property I think the staff report said you could have 12 lots developed on the property. That would generate 120 trips a day which is not that much, but that would probably, I would guess through Greenford Drive. If I were a developer, that would be the way I would develop it rather than off of Springfield.

Mr. Genovese, he moved there because of the four acres of woods. I don't know that it's reasonable to expect that those woods are going to last forever either. As far as light goes, as far as any of the proffers go, this is the first real criticism of the proffers that I've heard from any of the residents. I'll be happy to work with people to try to correct any language that's deemed to be inappropriate or misleading in the proffers. That shouldn't be a problem.

The truck drivers coming and going to the site. Haynes Jeep has been in operation there for years. They can control when those delivery vehicles come in the three or four times a week that they come. They can control them and they will come in on Springfield and go back up to Nuckols and go back out to the Interstate. The proffers, to me, I don't know how these proffers could be any less enforceable than any other proffers that the County accepts on a regular basis. They're very consistent with the type of proffers you often see. And I think you're right. People do enforce proffers primarily on a complaint basis. That's a true statement. But in this case, there's going to be a lot of people scrutinizing what goes on, on that lot. So, I would say, if anything is being done that wasn't in accordance with the proffers, which I submit is certainly not our intention, the County would be notified. That's about all the comments I have...

Mr. Archer - Are there any further questions of Mr. Moore by Commission members?

Mrs. Wade - Is it not true, Mr. Moore, that the trucks sometimes unload on Springfield? I've seen them once myself, but I understand that sometimes not only next to there, but I've heard people say that they park across the street in the right hand turn lane to Broad.

Mr. Moore - If you will look at that site plan, you'll see that is designed so that a truck can pull in there, unload and pull back out on Springfield Road very easily. I just don't see how that would be a problem if this site was developed as proposed.

Mrs. Wade - Also, they park on the buffer on Springfield. The Inspector had to go out there, I understand, not long ago to enforce that. Enforcement, as the gentleman said, gets difficult. Has he not been doing well there? I understand that Haynes Jeep is one of the most successful in the Country.

Mr. Moore - Well, if he wasn't doing well, he wouldn't be looking for a place to put new cars to sell. Yeah. I think he is doing well.

Mrs. Wade - He's doing well, but on the space he has, I guess, is my point.

Mr. Moore - Believe me, Mrs. Wade, there's a lot of money to be spent on this. If he didn't need it, he wouldn't be proposing it.

Mr. Archer - Any further questions?

Mr. Vanarsdall - I have a question for Mrs. Phelps. How many names are on this petition?

Mrs. Phelps - The last count, I think it was about 178. There are approximately 300 homes in our community.

Mr. Vanarsdall - Thank you. Mr. Chairman, this case came before us the first time in 1994, and it was for the same B-3 zoning, and it was for the same use. The only difference then, it was for two acres, and tonight, it's for four acres. So, it's a double request. I say that only because in 1994 and in this, one of the concerns of the citizens was where would it stop? So, I'm going to read to you what was said in 1994 at this meeting. One of the people said, "There's a child day center right down the street from this and a vacant piece of property in the center, which we have some fears that if this should be rezoned for Haynes Jeep; they call it a 'holding lot,' an adjoining piece of property may also one day be acquired by Haynes Jeep and enlarge this dealership in this residential area." So, here was what the answer was. And Mr. Moore was not representing them at this time. The answer was, "As far as acquiring any other land, anything that we would attempt to do would have to come before this Commission for zoning and would certainly be heard by those associations again." Now, it is very true,

Haynes does not have to come to any of you people or to us to purchase the property. What the citizens meant was that more land would be purchased. So, it's kind of odd, that the same thing that they said would not happen, came to pass between the last year and this one. So, I always have to add this, that we are not elected officials. So, we do not count ballots. I say that, because the Planning Commission is supposed to look at something whether it's good planning or not good planning. To sit here in front of you in opposition to say, "It makes no difference to me that you are in opposition." would be a falsehood, because you always like for a case to go smoothly. But, I've always thought that in good planning, if you didn't have a lot of people against a case, that wasn't against it in things like "Well, I've always liked trees, and I'd like to see the trees stay there." I know there's a deer over there and some birds. I'm not talking about that kind of opposition. It seems to me like when you own your home and you own your property and you live there and you're in opposition, well, then it seems like to me there is something wrong with the planning.

So, we look now to what has changed in this case since 1994? We have wider buffers. We have brick walls. We have more acreage. It went from two to four. We have additional proffers. The petitions last time were about the same, I think. I think it was a little more. So, what has not changed in this case since 1994? What has not changed, as the staff has pointed out, it is still a heavy B-3 zoning and it's not just near the neighborhood. It's across the street in the neighborhood, in the same place. It is still against the 2010 Land Use Plan. That was approved since the 1994 case. It was approved in December, 1996 by the Board of Supervisors. It is still against the Goals, Objectives, and Policies of the Land Use Plan. It is still not recommended by Staff, in spite of the new proffers, regardless of how they're worded. And it is still an encroachment into the neighborhood. I, therefore, recommend to the Board of Supervisors that Case C-81C-97 be denied.

Ms. Dwyer seconded the motion.

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

Mr. Silber - This will come up before the Board of Supervisors on the 11th of March. The Board will be considering it on that evening.

Mr. Vanarsdall - Thank you for coming.

Mrs. Wade - Thank you for organizing your presentations.
Ms. Dwyer - Very well done.

REASON: Acting on a motion by Mr. Vanarsdall, seconded by Ms. Dwyer, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the request because it would likely set an adverse zoning and land use precedent for the area; and it would have a detrimental impact on the adjoining residential neighborhood.

Deferred from the December 11, 1997 Meeting:

C-83C-97 Glenn R. Moore for Costen Floors, Inc.: Request to conditionally rezone from O-2C Office District (Conditional) and A-1 Agricultural District to M-1C Light Industrial District (Conditional), Parcels 48-A-70B, 58-A-21C and 58-A-22 containing 8.6 acres located at the northeast corner of Mayland Drive and Stillman Parkway (also borders Pemberton Road). Office/distribution uses are proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office development.

(At this time C-83C-97 testimony was suspended).

Mr. Merrithew - Would you like to deal with the deferrals on the 8:00 o'clock agenda at this point?

Mr. Archer - Let's do that.

Mr. Merrithew - I just have one deferral, but I would like to announce one withdrawn case.

Deferred from the January 15, 1998 Meeting:

C-79C-97 Jay M. Weinberg for Summit Properties: Request to conditionally rezone from A-1 Agricultural District to O-2C Office District (Conditional), RTHC Residential Townhouse District (Conditional) and R-5C General Residence District (Conditional), Parcels 58-A-3, 4, 5, 6, 6A and 31, containing 48.9 acres, located on the north line of Three Chopt Road approximately 440' west of its intersection with Gaskins Road. Office, townhouses and apartments are proposed. Uses will be controlled by proffered conditions and zoning ordinance regulations. The RTH District permits densities up to 9.0 units gross density per acre and the R-5 District permits densities up to 14.52 units gross density per acre. The Land Use Plan recommends Environmental Protection Area, Office and Urban Residential development, 3.4 to 6.8 units net density per acre.

That case has been withdrawn. The Commission does not have to take action on it.

Mr. Chairman, in the Varina District, on Page 4, of your agenda: C-67C-97.

Deferred from the December 11, 1997 Meeting:

C-67C-97 Scott D. Stolte for Pendragon Development Company: Request to conditionally rezone from A-1 Agricultural District to R-2AC One Family Residence District (Conditional), Parcel 238-A-31, containing 86.31 acres, located on the west line of I-295 approximately 1,600' north of its intersection with New Market Road (State Route 5). A residential subdivision is proposed. The R-2A District permits densities up to 3.23 units gross density per acre. The Land Use Plan recommends SR 1 Suburban Residential 1 development, 1.0 to 2.4 units net density per acre, Office and Environmental Protection Area.

They have requested a deferral to March 12, 1998.

Mr. Archer - Okay. Is any one in the audience in opposition to deferral of Case C-67C-97?

Mr. Zehler - Mr. Chairman, I move that Case C-67C-97 be deferred to March 12th per applicant's request.

Mrs. Wade seconded the motion.

Mr. Archer - It's been properly moved and seconded that C-67C-97 be deferred to March 12th at the applicant's request. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Merrithew - Thank you, Mr. Chairman. Sorry for the interruption.

Mr. Archer - We apologize for overlooking you.

(At this time testimony resumed on Case C-83C-97).

Mr. Archer - Now, is there any one in the audience in opposition to Case C-83C-97 Costen Floors, Inc. Any one in opposition? Thank you. We have a couple, Mr. Yolton.

Mr. Vanarsdall - We don't have any minutes, tonight, do we?

Mr. Silber - No. We don't.

Mr. Archer - Mr. Yolton.

Mr. Yolton, County Planner - Good evening, Mr. Chairman, members of the Commission. As mentioned, this is a request for a rezoning to the M-1C Light Industrial District from the O-2C Office District and A-1 Agricultural District. The property is located between Pemberton Road on the east side, Mayland Drive on the west side, and is bordered by Mayland Drive on the southern side. This case was originally scheduled for the December 11th meeting of the Planning Commission and was deferred until tonight. So, this is the first public hearing we've had on this matter.

The applicant has indicated that the revised proffers and conceptual site plan for this case was delivered to each member of the Planning Commission, today. The Planning Commission would need to waive the time limits to accept those amended and restated proffers.

The applicant faxed me a copy of those proffers yesterday afternoon at 3:00 p.m. As you can see, there are extensive revisions to the proffered conditions. Quite frankly, I haven't had the opportunity to go through the revised proffered conditions and carefully analyze them to see what effect this would have on the case and on this request. So, I must say I'm not prepared, tonight, to recommend to the Planning Commission that they accept these proffers. I would like the opportunity to sit down with the applicant. I have a number of questions about some of the language. What some of the revised proffers mean and what their intent is. I haven't had an opportunity to do that. So, at this point in time, I am unable to recommend that the Commission accept these proffers. I would like the opportunity for the County Attorney to review these proffers. They are extensively changed from what we have seen before. Staff, simply, has not had the time to carefully review these proffered conditions. Generally speaking, as indicated in the staff report, the staff was not opposed to this rezoning, but with the new revised proffers, I feel there are some concerns about accepting some of the language that's in there. Obviously, the public hearing is not the place to pick apart the

proffers as to what their intent and what their meaning is. So, it is staff's recommendation that we have a little bit more time to review these proffers, and, perhaps, the applicant would consider deferred this request until we can do so. I'd be happy to try to answer any questions the Commission might have.

Mr. Archer - Thank you, Mr. Yolton. Are there any questions of Mr. Yolton by Commission members?

Mrs. Wade - Well, we certainly would like to have the benefit of the staff input. Most of these I saw for the first time this morning. Many of them are I think as a result of a neighborhood meeting they had a week ago, in response to the neighbor's concerns. But, I can see why it would be difficult to take all of this in tonight. Perhaps, the applicant would like to address this issue. Mr. Moore.

Mr. Glenn Moore - Mrs. Wade, I apologize. I didn't hear all of that.

Mrs. Wade - It was concern that staff has not had adequate time because of the late submittal of the proffers to look at it closely. We always benefit from staff input on these matters. I'm not sure about the rest of the Planning Commissioners.

Mr. Moore - How much time do you feel you need, Mrs. Wade? Lee?

Mr. Yolton - A minimum of 30 days.

Mr. Moore - We would agree to a 30-day deferral.

Mrs. Wade - You would request a 30-day deferral?

Mr. Moore - We would agree to one.

Mr. Archer - So, you're saying you're not requesting it, but you would agree with it?

Mr. Moore - I don't have much choice. If you wanted to defer the case, you could certainly do that anyway. I would prefer that you requested it.

Mrs. Wade - We could hear it without the new proffers, tonight, especially since we have to waive the time limit on the proffers.

Mr. Moore - I can present the new proffers. I will request a deferral.

Mrs. Wade - All right. Given that you do have a lot of changes in here, I think that's probably a good plan. Until March.

Mr. Archer - March 12th. Well, I wouldn't mind somebody else being on the program with me that night.

Mr. Archer - How many cases does that give us now?

Mrs. Wade - I don't think there are too many in the Varina area next month. All right. I move, therefore, that Case C-83C-97 be deferred until the 12th of March. Apparently, you still have some opposition here. Per applicant's request.

Ms. Dwyer seconded the motion.

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

Deferred from the January 15, 1998 Meeting:

C-82C-97 Gene B. Holman for Hearthside Builders: Request to conditionally rezone from A-1 Agricultural District to O-1C Office District (Conditional), Parcel 56-A-45, described as follows:

Beginning at a point on the northern line of Church Road, said point being 760' more or less from the centerline of Pump Road; thence leaving the said line of Church Road N. 29° 47' 49" W., 286.39'; thence N. 68° 38' 33" E., 172.55'; thence S. 25° 55' 48" E., 266.65' to the northern line of Church Road; thence along the said line of Church Road S. 62° 04' 12" W., 152.78' to the point of beginning, 1.0 acre.

Mr. Archer - Is there any one in the audience in opposition to Case C-82C-97 Hearthside Builders? Thank you. Okay, Mr. Yolton.

Mr. Yolton - Mr. Chairman, members of the Commission, as mentioned, we did have a public hearing on this case before on January 15th. So, at that time it was thoroughly discussed about what the nature of this case was and what the precedent setting nature of it. Some of the issues that were discussed concerned, if it would set a precedent in this area for additional commercial-type of development. We talked about the fact that Pump Road is going to be realigned from its present location and would be directly adjacent to this property. We talked about the fact that it might require some right-of-way dedication from this property, but we're not sure at this time how much right-of-way dedication. We talked about the fact that this property is currently planned for Suburban Residential development. However, with this ramp and the major intersection, perhaps, it may not be suitable for residential development.

Since the original case was filed, the applicant did request O-2 zoning of this property. He has now modified that request for an O-1 zoning request, which is lower intensity, in terms of office uses. At this point in time, the staff does not have a strong recommendation on this particular case, but did indicate that, perhaps, this might set a good precedent because we feel that, at some time in the future, that this location would be kind of desirable for a commercial use, such as a convenience store or filling station. So, the thought was, that, perhaps, by approving Office, we might prevent that type of thing in the future. So, the staff does recommend approval of this request for O-1 zoning. I'd be happy to try to answer any questions that the Commission may have.

Mr. Archer - Thank you, Mr. Yolton. Are there any questions of Mr. Yolton by Commission members?

Mrs. Wade - You sound in person, the way your report did, Mr. Yolton. You're not quite sure about this case.

Mr. Yolton - It's a tough case to really evaluate.

Mrs. Wade - Okay. Thank you. But the O-1 is certainly more desirable than the O-2 was.

Mr. Yolton - Yes ma'am. I think its improved since the applicant dropped his request to the O-1.

Mrs. Wade - What is the time frame on Pump Road now? Do you know, presumably?

Mr. Yolton - The Public Works Department told me that it should be constructed within the next two to two and one-half years.

Mrs. Wade - Hopefully. Okay. Thank you.

Mr. Archer - All right, any further questions? I guess we'll hear from the applicant.

Mr. Silber - Let me again announce, since some of you may not have been in the room, previously, when this was announced, but the Planning Commission's rules and regulations stipulate that the applicant has 10 minutes to present his case. He may save some of that 10-minute period of time for rebuttal. Any opposition against the request has 10 minutes to present their case. That's 10 minutes total time. Any questions that the Commission has of either the applicant or the opposition is not deducted from the 10-minute period of time.

Mr. Gene Holman - Ladies and gentlemen, I'm President of Hearthside Builders.

Mr. Silber - Mr. Holman, would you like to reserve some of your time for rebuttal?

Mr. Holman - Yes sir.

Mr. Silber - How much time would you like to reserve?

Mr. Holman - Most of it. Ladies and gentlemen, I think the case pretty wells speaks for itself. It is precedent setting due to the fact that it will be zoned Office space. There is a one-story building on the site, now, which we intend to use for a real estate office. No improvements are planned for the site until the road is built. In this case, it has been proffered so. Once the road is built, then we do reserve the right to develop it, in whatever is left on the property. We don't know what's going to happen either.

I live in the area right now. What I'm requesting is a lot less dense than any of the locations out there right now; especially what Pump is right now. Pump right now is nothing but B-3.

What we are proposing is a low density office use—two-story in nature, and only built once the road is ready for public use. Right now, it will be occupied just as it is with some modifications for the inside of the building until a road is built.

We do not feel it is going to devalue the property any at all. We feel like its going to enhance the value of the properties there. There's approximately five to six acres adjoining it, most of which, if you look at your staff report, backs up to a pond. So, it's not going to be a whole lot of land that can be developed there. This is right on, what's going to be a major ramp, at a major intersection, more so than probably some of the major intersections that are out there right now. We can't find anybody that wants to build a home there. They couldn't sell it residential.

Mrs. Wade - You mentioned the B-3 at the intersection that currently exists. How long has that been there? It was before conditional zoning.

Mr. Holman - I really couldn't tell you, Mrs. Wade.

Mrs. Wade - It probably would be a long time. And I know it's been causing some problems.

Mr. Holman - Well, you know, we don't want to see any more B-3 in the area. We feel like sooner or later somebody is going to come on in there and ask for B-3. It's a perfect location for a service station or a convenience store. We're not asking for that.

Mrs. Wade - That could be one point of view. I expect there's another point of view represented.

Mr. Holman - You know, we have tried to strengthen the case so no bank or anything else could be there, except that it would be very minimal in use.

Mrs. Wade - Do you still intend to, if you get the zoning, to convert that house to an office?

Mr. Holman - That is my intention, Mrs. Wade, is to go ahead—The inside needs to be renovated. I intend to renovate the inside of the home. I don't intend to touch the outside of the structure; those trees or anything else that's there right now, not until the road is built and we know exactly what we've got. We don't know how much property we're going to lose, because we're giving the easements to the County, but they need to build a ramp. We will end up with less than one acre there, once the easement is given, I have a feeling, but we don't know how much we're going to have to give up for the BMP. We can't really say what side building that we will eventually build on the site. The maximum that we know of would probably be in the neighborhood of 10,000 to 12,000 feet. It's already 2,000 feet there now. But, we seriously doubt we'll be able to get that much.

Prior to the meeting, I gave Mr. Zehler a picture of what we would foresee in that area. That would be the type of office building that would eventually go there if the Board looks upon us favorably.

Mrs. Wade - This is your concept?

Mr. Holman - That's the concept. You know, we can't give you a plan of development until the zoning is done, but that would be, basically, the nature of what would go there. That's what we would foresee would be enhancing to the property there.

Ms. Dwyer - Have you thought about reducing some the characteristics of this building to words and including those as proffers, because there's very little in the way of assurances about what any future building would look like. That's a brick colonial style, and you said here, it would be brick, stone or dryvit. So, it could be dryvit.

Mr. Holman - We'd be glad to proffer brick, colonial style; dryvit, colonial style. I don't have any problem with that. We just don't know how we're going to have to design the building before we have the (unintelligible), but once the road comes through, we might have more than we anticipate, so we may end up with 6,000 feet rather than 12,000 feet. We just don't know. We've only got one acre, now. And by the time we give up sites for the BMP and green areas, and parking, and easements, there's not going to be that much left there.

Mr. Archer - Okay, any further questions of Mr. Holman? Mr. Secretary, I believe we have some opposition?

Mr. Silber - Yes sir. Again, the opposition will have 10 minutes total to speak.

Mr. Louis Mahroney - Members of the Planning Commission, I'm happy to be here. My name is Louis Mahroney. I'm a resident of the Barrington Community, which is a development of over 70 existing custom built homes bordering Church Road, less than .2 of a mile from this property. I'm sure most of you know where its located, but just for record purposes. There are an additional fifteen to twenty homes planned to be built, or either now under construction in the next two years in this area.

I'm currently on the Board of Directors for the Barrington Property Owners Association which comprises both the Barrington Community and the Barrington West Community. I'm here tonight representing all of those people and speaking for those residents and homeowners. We strongly oppose this rezoning request and the planned use of the property being made in this application. We feel, due to its close proximity to our homes, and other residential properties already existing in the immediate area, which we also understand are in opposition; namely the Lake Loreine area, the changing of its classification to other than single family residence, we feel, would have a substantial detrimental effect on the value of our homes, as well as the harmonious development of the land in the immediate community. Approval of this request will cause significant harm to the adjoining and adjacent property owners undoubtedly, and invariably will lead to their wanting to also obtain some type of non-residential zoning to overcome their loss; thus compounding the problem of non-residential development in an area we overwhelmingly believe should be left single family residential. It will ultimately create a substantial disturbance to the peace and tranquillity of several very fine neighborhoods in Henrico County. We firmly support the County's development plan for this property, and others in this area, which has, as already been stated, I believe, was up to an R-2 classification, allowing only for the future development of single family residences.

We do not believe that the property is unsalable. There are other residential properties bordering corners of this type after the relocation of Pump Road and living harmoniously with the neighborhood. I don't know what the value of this property is today, but I would venture to suspect that its worth what it can bring on the market. The home, itself, is in substantial disrepair. It is in the hands of the heirs to the estate of the former owners who are now

deceased. We feel like the future use of the land on this side, our side, of relocated Pump Road for single family residences, as is proposed, in the County development land plan, provides an excellent natural barrier. It's a natural buffer between our residential property on this side of Pump Road and the section that is going to be allowed to developed as commercial, which now exists. We feel that's one of the reasons why it was done that way. If there is a need for commercial or retail development, it's on the other side where it is right now. It is not an encroachment into a new area. It would be in this case.

We believe that was the intent of the land development planners. We firmly support it. As the largest community in the immediate area of this property, we strongly support those plans and believe they should remain intact.

Now, I also might say, as a sidebar, is that the value of the property for commercial use, in our opinion, is also somewhat questionable, but that's in the mind of the developer since there's going to be a median strip in front of it which will only allow entrance and exit from the property to west bound traffic only. While we could elaborate even further on our position, in the interest of time, we reserve our time and respectfully urge the Planning Commission to reject this request, based on our strongest objections which we have stated.

Mr. Archer - Thank you, Mr. Mahroney. Any questions? Thank you, sir. Is there any other opposition before Mr. Holman speaks again?

Mr. Silber - There's five minutes left for opposition.

Mrs. Wade - I don't know whether everybody received a letter from the Lake Loreine Homeowners Association or not. Did everybody? Okay. I might include that in the record from the Board of Directors of the Lake Loreine Homeowners Association opposes this zoning case. This is an earlier letter from them. Even after the O-1, which, of course, is right across the street from this.

Mr. Archer - You'd have to come up, sir.

Mr. Zehler - While he's coming up, Mr. Secretary, what are the permitted uses in an A-1?

Mr. Silber - O-1?

Mr. Zehler - A-1.

Mr. Silber - A-1?

Mr. Zehler - The existing zoning now, the way it is zoned?

Mr. Silber - Mr. Zehler, there are many uses in A-1. Let me refer to my Code.

Mr. Dennis Bowman - I'm a resident in the local area there; resident nearby. My point is a very simple one. As you look at the map there, question, if this is approved, where do you draw the line? Where do you draw the line? Zoom out of that picture would show a very large residential area, and a very large A-1 area. There is a line now. It's clear. It's enforceable. It is justifiable. If that's approved, what about the neighbor next to that building? What are they going to do? How are they going to live next to an office building?

Second point, there are no restrictions, promises made or offered in a planning session are just that. Absolutely no enforcement mechanism beyond approval, other than the good will of the developer. I have no reason to doubt the intentions, today, in February of 1998, of the developer. Things change. People change. Projects change. Once approval is given, there are virtually no restrictions other than those provided by the Zoning Ordinance, themselves, over the use of that property. Please keep that in mind. We're going to have to live with it. We ask for your help and indulgence to establish a clear demarcation line between the residential and office neighborhood, a highly dense neighborhood. Thank you very much.

Ms. Dwyer - If I could just make a comment about what you stated, and I'm not speaking to the substance of your comments, just your comments about the promises or proffers offered. Anything that is proffered by the developer does bind the developer, almost as if it were a part of our law. That's the important part to remember about these proffers. Now, it's true that he has not proffered much in terms of the development standards of the future office park, but please keep in mind that is a promise that is enforced. When he comes in to do a plan of development which shows the site plan and how the building will look, we will go back to these proffers and make sure that the promises made have been complied with. So, a promise that's a proffer is valid and is binding not only to him but to future owners of the property.

Mr. Bowman - I appreciate that clarification. The only thing I would offer is, please take a look at the substance of the proffers. I think you'll agree, as I think you indicated, the proffers are very vague in nature and offer a lot of room for latitude and interpretation. Also, the enforcement mechanisms are sometimes uneven and take a long time to do, and once things are built, sometimes are allowed to stay in place because of the cost of dismantling. So, I just ask to think in terms of the broader substance of what's offered, but I appreciate your clarification. Thank you.

Mrs. Wade - I understand that if they become law.

Ms. Dwyer - Yes.

Mrs. Wade - If they are accepted with the zoning case, they go on the County books as law. But, whatever they are.

Mr. Archer - Okay. Any questions of Mr. Bowman? Thank you, Mr. Bowman.

Mr. Zehler - Mr. Secretary, if I may, could you please give us what the Code allows in an A-1?

Mr. Silber - Yes sir, Mr. Zehler. The A-1 District, for which the property is currently zoned, allows single family dwellings. It allows some forestry sawmill-type of operations with meeting the distance requirements. The distance requirements, in this case, would be about 400 feet away from any residentially-zoned property. It allows summer homes, cabins. It allows farming operations, dairy farming, commercial livestock facilities; farming operations. Many of the farming operations must meet the distance requirements as well. It permits antique shops. A landfill, but you have to have 50 acres, and a group care facility, as well as manufactured homes for single family use placed on a permanent foundation. Those are permitted by right.

Mr. Zehler - What is the minimum square footage allowed in an A-1?

Mr. Silber - For a home, for a single family home is 900 square feet minimum.

Mr. Zehler - And is that 30 percent allowed to be unfinished?

Mr. Silber - Possibly. Yes sir.

Mrs. Wade - These would be small homes on very expensive lots.

Mr. Zehler - There are no proffered conditions?

Mr. Silber - That's correct.

Mr. Holman - I appreciate you pointing that out, Mr. Zehler. Trust me. I have no intention of putting hogs there. I live in the largest neighborhood in the surrounding area. Our neighborhood is Keswick. I am currently building in Keswick. I'm on the other side where all the B-3 and where the John Rolfe Parkway is going through. We're going to have well over 100 homes; 150 homes in Keswick when we get through. We're building in there now.

We're afraid that four or five years from now somebody is going to come in there and rezone this property B-3. It's naïve to think; it would be nice to believe it could remain the way it is, but it's not going to happen, pure and simple. Once that road goes in there and the ramp goes in there, somebody's going to be coming in, asking for heavier zoning than what I'm asking for. I'm asking for a low density zoning for office space and something's going to be nice. I can't tell you how much space is going to be there, because I don't know how much land I'm going to lose.

My track record here in the County, as far as the neighborhoods and all that I have done, I think pretty much speaks for itself. Most of the high class neighborhoods in the west end, were either developed by me or sold by me; exclusive of Barrington where Mr. Mahroney lives. I didn't do that I'm sorry to say.

I go back to the staff report and it says, "Since the proffered conditions, phased developments with improvements to the road network, the applicant has addressed the argument the request is premature. The Land Use Plan calls for residential use on the site, with a substantial overpass, i.e., Pump Road, adjacent to this site. It may not be attractive for new home construction." That's what I do all day long. I sell new homes. I develop property. I build new homes. I've been doing it for 25 years and I cannot see that place remaining that way. No developer or homebuilder in his right mind could go there and build a home to sell against a ramp going there off of the interchange. We've got houses now in the west end that are sitting in major interchanges that are just residential that we can't sell. People can't move out of, simply because there's so much traffic. A classic example is Cambridge at Ridgefield. We've had houses foreclose there. We've had vacant lots sitting there. We've had people try to sell to move to upper neighborhoods. They can't do it, simply because of the traffic. I think, that once this is built, I think that the residential is gone. I mean, sad as it may seem, the agricultural is gone. I don't want to see a sawmill there. I don't want to see a small home. I don't want to see a service station.

It also goes on to say that, "Consideration has also been made that it may be preferable to set a pattern for office use now, rather than attempt to discourage possible strip commercial

development later.” I don’t think I can say anymore. As far as I can see of what I’ve seen happening in the west end, that’s what’s going to happen to the site as far as I can see unless something is done with it. I strongly urge that you pass the case and look favorably upon it.

Mr. Archer - Thank you, Mr. Holman. I think the opposition had some more time if anybody wanted to speak?

Mr. Silber - We’ve heard from both sides now.

Mr. Archer - Mrs. Wade.

Mrs. Wade - Okay. The proffers have been in for awhile. A lot of uncertainties here. The O-1 is certainly an improvement over the previous zoning request. I could probably be convinced, under certain conditions, that transforming or redoing this building for an office could possibly be acceptable there, under certain circumstances. O-1 is intended to be compatible with residential areas if treated properly. It often serves as a transition between a heavier use and the residences, although Mr. Mahroney almost talked me out of that. But I’ve talked to Mr. Holman several times over the past few months about what it is he wants to do, and I was concerned about the future of this site. But he can’t seem to give me any more assurances about exactly what would happen there, either soon or further in the future. No, we’re not going to debate now, Mr. Holman. As far as the precedent is concerned, we sort of heard that on both sides. It would either serve a precedent for more office around, or it could, if it were left single family, as Mr. Mahroney said, it could encourage more single family there. But given the circumstances and the proffers that we have before us, I just don’t feel I can support this right now, Mr. Holman. So, I move that C-82C-97 be recommended for denial.

Ms. Dwyer seconded the motion.

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

Mr. Silber - This case will come up before the Board of Supervisors on March 11th.

REASON: Acting on a motion by Mrs. Wade, seconded by Ms. Dwyer, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the request because it would likely set an adverse zoning and land use precedent for the area; and it does not conform to the recommendation of the Land Use Plan nor the Plan's goals, objectives and policies.

Deferred from the January 15, 1998 Meeting:

C-4C-98 Ralph L. Axselle, Jr. or Andrew M. Condlin for Manorhouse Retirement Centers, Inc.: Request to conditionally rezone from R-3 One Family Residence District and R-5 General Residence District to R-6C General Residence District (Conditional), Parcel 69-A-92 and part of Parcel 59-A-97, described as follows:

Beginning at a rod on the west line of Skipwith Road 684.10' from the south line of Parham Road, as widened, thence along the west line of Skipwith Road S. 4° 29' 49" E., a distance of 338.85' to a rod, thence N. 86° 01' 40" W., a distance of 666.27' to a rod, thence N. 28° 29' 15" E., a distance of 54.70' to a rod, thence N. 01° 10' 40" W., a distance of 405.49 to a point,

thence S. 85° 57' 52" E., a distance of 60.31' to a point, thence S. 01° 10' 40" E., a distance of 116.16' to a point, thence S. 85° 57' 52" E., a distance of 169.08' to a stone, thence S. 85° 39' 30" E., a distance of 390.25' to the place and point of beginning, containing 5.2 acres.

Mr. Archer - Okay, Mr. Secretary, this is indicated that this is "For Decision Only".

Mr. Silber - Yes sir. This was heard at the last meeting. I believe when the Commission deferred this for this meeting, they said they would prefer not hearing more testimony. They were wanting to simply have more time for the community to get with the applicant. I think this was for a Decision Only.

Mr. Archer - Okay.

Mr. Zehler - Just out of curiosity, Mr. Chairman, would you see if there is any opposition?

Mr. Archer - I'd be glad to. Is there any one here who is in opposition to this case.

Mr. Small - Mr. Chairman, I spoke last month. I was under the understanding I would not be permitted to speak again. I am here for the opposition and I would like to make sure you know that I continue to be in opposition.

Mr. Archer - Thank you, Mr. Small.

Mrs. Wade - It might be helpful for the Commission, however, to go over some of the changes that have been made.

Mr. Bittner - Shall I go over the proffers?

Mr. Archer - You could, and we could ask questions, Mrs. Wade. The Commission could ask questions. Mr. Bittner.

Mr. Bittner - Thank you, Mr. Archer. A couple day ago, I believe the entire Commission received a new set of proffers. I'd like to point out, that today, another new set came in which, I believe, only went to Mrs. Wade. I will now attempt to describe what the changes are up to this minute. They are dated February 12th, today, therefore, you'd have to waive the time limit.

One is, they have changed the elevation; the outdoor appearance of the structure is to have a more colonial look with some brick and beaded siding in it. The last look was a little bit more institutional in style.

They have changed the site plan some. They are now proffering a 150-foot rear setback to be along the western border. They also have changed the site plan to reflect the fact the landscape buffer will be provided on the north border only adjacent to the R-6C property—a 35-foot landscaped buffer. The normal zoning ordinance requirement for a landscaped buffer would be on the rest of the northern border.

They have proffered that lighting shall be reduced to security levels at 10:00 p.m. every night. They don't have any closing hours, which is why they changed the proffer and related it to an hour. They have proffered that there will be no drainage structures within any buffers. They have also proffered a wooden fence along the southern border along Parcel No. 93. That would not extend along the entire southern border, but only about the first half of the southern border.

They have also proffered there will be no trash pickups on Sunday. They have proffered that all landscaped and open areas shall be irrigated by an underground irrigation system.

These proffers do go a little bit further than the previous set. However, staff is still not in a position to be able to recommend approval of this, given the designation on the Land Use Plan which is Suburban Residential 1, for this property. Also, we would recommend that the applicant find a way to not have to encroach into the Westshire Apartments, which are on the northwest side of the property. They have tried to find out, but they haven't been able to find a way yet. But, for those reasons, we cannot fully recommend approval. Actually, we are in opposition to this case. I'd be happy to answer any questions that you have at this point.

Mr. Archer - Thank you, Mr. Bittner. Any questions of Mr. Bittner by Commission members?

Mrs. Wade - You say, "encroach on the apartments." Does that have some kind of bad effect on the apartment zoning or why is that a problem?

Mr. Bittner - Well, right now, it's a nice rectangular piece of property, as this property is. You can see that little wedge up there at the northwest corner that would actually come off of the Westshire Apartments which are accessed from Parham Road. Now, what they plan to do would not end up violating the zoning ordinance provision in any way. However, we just feel, instead of encroaching on the Westshire Apartments that way, if you'll notice that R-6C property on the north side, that, at one point, was going to be part of this site, back in 1990, I believe, for an assisted living center. That never developed. Now, this time around, the owner of the R-6C property has chosen not to take part in this application. However, without that property, the applicant doesn't meet the five acres required under the zoning ordinance for a nursing home facility. We feel, the staff does, that having the R-6 property being part of this proposal, instead of carving off a little piece for the Westshire Apartments, would be the best situation.

Mrs. Wade - That was one thing they were going to look into. It is my understanding they have not been able to arrange it with the R-6C parcel, although there's not much left there with which to do anything. Plus, the former zoning case proffers will apply to it. He apparently isn't ready to sell right now. Okay. The neighbor has already said he is still in opposition. You've given us changes. So, I don't think we need to hear anymore. Do we? Does anybody else have any questions?

Mr. Archer - Any other Commission members have questions?

Mrs. Wade - Do you have a rendering the way it looks now? Do you have a little one in there somewhere, since I've got a big one?

Ms. Dwyer - Where is the EIFS on here? Is it just the columns, or is there something I'm missing on the rendering, because the drawing just looks like brick and vinyl, but the proffers said, "brick, vinyl and EIFS, or brick siding and EIFS"?

Mr. Bittner - I couldn't tell you that, Ms. Dwyer. Maybe the applicant can shed some light on that.

Mrs. Wade - And they're proffering the renderings and the site plan. They made the changes in order to make it look more residential so it would fit into the surrounding area better. All right, do you want to answer her question, then, please?

Mr. Andy Condlin, Williams & Mullens - The front rendering, when we had the proffers, actually had some EIFS in it. But some portions were revised to add the brick, at the request of Mrs. Wade, to make it a better residential appearance. There's no more EIFS on the front. Any of that, as I understand, is just small portions on the rear. They just wanted to leave that ability in there on the rear portion. They've taken it all out of the front and replaced it with brick.

Ms. Dwyer - So, where is it on the rear?

Mr. Condlin - Well, I don't see it. As I understand, from the architect and from Mr. Bittner, it's just a small portion somewhere on the rear portion that they want to leave that availability with the EIFS.

Mrs. Wade - Well, it looks like bricks and siding on there. So, if it was much EIFS, it will be questioned when POD time comes.

Mr. Condlin - Would you like for me to remove it? We could make it work otherwise, if that would be preferable?

Ms. Dwyer - Because you've accepted architectural materials for windows, architectural decoration, so if it's columns or whatever, I think you're safe there.

Mr. Condlin - We can remove that, if you desire.

Mr. Archer - Okay. Any other questions of Mr. Condlin? Mrs. Wade.

Mrs. Wade - I move we waive the time limit to accept the amended proffers.

Mr. Zehler seconded the motion.

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

Mrs. Wade - And, yes, the Comprehensive Plan does provide for Low Density Residential here, but the fact, remains, seven or eight years ago, now, it was deemed suitable for assisted living. Of course, assisted living, is, obviously, a residential use, albeit more intense in some ways than single family. On the other hand, single family isn't always ideal either, depending on your neighbors, perhaps. But they've proffered and worked very hard on this case. It's, obviously, needed housing now. I think we all realize there's a great demand for the assisted living services, as our population ages and also for other handicapped people

who might need some help. I did have a request, yes. Well, I'll mention this in my motion, actually. The location certainly has adequate access there on Skipwith. This is a low traffic generator. I don't believe the traffic from this is certainly going to cause Skipwith to be widened. It's not on the plan for any time in the foreseeable future. Precedent wise, I understand there might be some land in the area that could be considered for some other use, but it would have to be taken on a case-by-case basis. And there's really no reason to think that if somebody wanted to change something, they'd have to make a good case for ignoring or not following the Land Use Plan on that site. So, basically, I don't feel that it's going to have any adverse affect on the neighborhood. We try very hard to protect our neighborhoods. I think that these will be good neighbors. So, I move that Case C-4C-98 be approved. I would recommend that they look at the use of the property which I think is Number 1, because this question came up the last time we had an assisted living case which was in my neighborhood about the definition. We don't have a definition for assisted living as such. There are a lot of different degrees, as you know, of care for nursing homes, to convalescent and so forth. So, we hope to have some kind of assisted living in the ordinance eventually. In the meantime I would like to see the applicant work with the Secretary and with the County Attorney, perhaps, before the Board meeting, to come up with something that doesn't include nursing home here. It's not intended to be a nursing home, because that's an entirely different type of operation, I think, from what this is going to be. Another term was used in the last case to which I refer to "assisted living." So, I would hope that they could clarify that before the Board takes up the case next month. So, I would move, therefore, that C-4C-98 be recommended for approval.

Ms. Dwyer seconded the motion.

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

Ms. Dwyer - I have a question. What is Mr. Flynn going to do with all his beautiful plant materials?

Mrs. Wade - I don't know. We don't want to see Mr. Flynn leave, do we? I don't think he wants to leave either, but time has come.

REASON: Acting on a motion by Mrs. Wade, seconded by Ms. Dwyer, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the proffered conditions and grant the request because it is reasonable; it would not adversely affect the adjoining area if properly developed as proposed; and the proffered conditions would provide for a higher quality of development than would otherwise be possible.

C-9C-98 Glenn R. Moore for Ikon Office Solutions: Request to conditionally rezone from A-1 Agricultural District to M-1C Light Industrial District (Conditional), Parcel 28-A-22, , containing 12.8 acres, located at the southeast corner of Interstate 295 and Nuckols Road. A regional headquarters building, office and light industrial development are proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Planned Industrial development.

Mr. Archer - Is there any one in the audience in opposition to C-9C-98 Ikon Office Solutions? Ms. Gardner.

Ms. Gardner - I handed out new proffers to you on this case. You do not have to waive the time limits.

The applicant has requested rezoning of 12.8 acres from A-1 Agricultural to M-1C Light Industrial. This site, as you can see from the map on the screen, is sandwiched in between Innsbrook, I-295, Nuckols Road, and the Elks Lodge next door. It's a fairly remote, although highly visible site.

The site is designated on the Land Use Plan, PMD Planned Industrial. I'd like to remind you what PMD is. It's not a designation that we see very often. PMD Industrial designation calls for high environmental quality standards, integration into an overall development plan, development on large tracts of land, and minimization of impact on adjacent uses. You should look at the proffers and consider whether this case meets those standards set forth in the Land Use Plan.

Turning now to the proffers, the application contemplates a regional headquarters for Ikon Office Solutions. However, the proffers do not restrict uses to only a regional headquarters or any of the uses that are contemplated. Rather, it's a much broader light industrial use than that would be allowed here.

The first proffer gets into exterior materials. They would be predominantly brick, split-face block, natural stone, EIFS, glass, precast concrete, or an equivalent, although, as we often see, this would be left to further argument at the time of Plan of Development. They could request, and you could approve, an alternative material. So, this issue is not really closed.

There will be no outside storage on the property. This will not preclude fleet parking or the parking of trucks. Parking lot lighting will be limited to 25 feet. This would only pertain to parking lot lighting, not all outdoor lighting. Utilities shall be underground. On the access, Elks Pass Lane shall not be utilized as the primary access to the property. At this point, I would tell you that they have submitted a plan of development on the property. It's only in the earliest stages of review. They have shown a primary access in the northeast corner of the property. Elks Pass Lane is likely to be an emergency access only. The reason that Elks Pass Lane is problematic is because it is so close to Nuckols Road. The Traffic Engineer does not believe that would be a safe access.

Heating, ventilation and air-conditioning equipment shall be screened from view at ground level. We asked the applicant to consider screening it from public view, period. The reason there is particular concern here is because of the topography. I-295 has a very good view of this, particularly the on ramp which is adjacent. So, the rooftop equipment could very well be very visible from any of the adjacent streets.

In terms of open space, the applicant has committed to 62 percent site coverage. This is consistent with what is the case in Innsbrook.

Signage would be limited to 48 square feet in area, 8 feet in height above grade.

Proffer No. 9 gets us back to uses, which I mentioned before. Except for the sale of equipment, supplies, and so forth, there shall be no retail business permitted on the property. However, as you well know, the M-1 District is a very broad zoning district, allowing a wide variety of uses, such as vehicle storage, bag, carpet and rug cleaning, bottling, clinics, funeral home, hotel, laboratories, manufacturing, offices, sheet metal shop, wholesaling and warehousing. Some these uses, per se, are not problematic. This, of course, is designated for industrial use. Where this could be problematic, though, is because the site is so highly visible. This is at a place where people get onto the interstate. You can see very well in to the

property. So, these uses could be acceptable if the property were well screened and well hidden, particularly, if the loading and service areas were hidden. To this point, the applicant has not made any commitments about the loading areas, or the service areas, and, in fact, the initial POD submitted, shows the loading areas oriented towards the I-295 ramp. At this stage, it's impossible to tell whether the landscaping would be adequate to block that view. Certainly, landscaping is not typically designed to screen. It's designed to soften the appearance, though. So, that is not a closed issue.

Another point that I would make here is that Ikon only plans to use the forward part of the property. The back part of the property, they may sell off. It could be used for virtually anything. So, while, Ikon, itself, would be perfectly compatible with the Planned Industrial District, there could be another use to the rear of the property that may not be so compatible and could, in fact, have some of the negative features that I have discussed in reviewing the proffers. This case has potential. As I mentioned, the use is acceptable. But staff cannot support it at this time because there are simply too many issues in the proffers that have not been adequately addressed. I'd be glad to take any questions.

Mr. Archer - Thank you, Ms. Gardner. Any questions by Commission members?

Ms. Dwyer - I may have missed this, but how would the property be accessed, since it's along I-295 and the on ramp of I-295 and they can't use Elks...

Ms. Gardner - All right, if you see, Lakebrook Drive. You can barely see an access across and parallel to the adjacent property.

Ms. Dwyer - I see it.

Ms. Gardner - I believe that would be the access.

Ms. Dwyer - Off of a cul-de-sac there?

Ms. Gardner - Right. That has not been made a part of this case. Perhaps, Mr. Moore can answer that question how they intend to get that access.

Ms. Dwyer - Okay. The other question I had related to the HVAC. It says, it shall be shielded at the property lines. Does that necessarily mean it will be shielded from view from the on ramp?

Ms. Gardner - No. It would not. It would be at the property boundary, strictly.

Ms. Dwyer - Okay. So, you might be shielded from ground level, depending on the elevation of the road and how that all fits together, you could be looking down on it from the on ramp. Okay.

Mrs. Wade - Yes. That was one of the issues we've been discussing; sort of hanging out there a little bit.

Mr. Silber - Nancy, when you say, "the forward part of the property," do you mean the portion of the property closest to Nuckols Road?

Ms. Gardner - Yes. Closest to Nuckols Road.

Mrs. Wade - They appear to be dividing it halfway thereabouts across the middle from side to side. What's the timing now on this relating to the POD? I know you have a POD now in hand already.

Ms. Gardner - The POD came in last Friday. It's scheduled to come before the Planning Commission in March. So, they are hoping to get to the Board by March. Of course, we cannot review and approve a Plan of Development before the Board has acted.

Mr. Archer - Okay. Any more questions of Ms. Gardner? We'll hear from the applicant.

Mrs. Wade - Yes. Please.

Mr. Archer - I'm sorry, Mrs. Wade. Did you have another question?

Mrs. Wade - No sir.

Mr. Archer - Okay.

Mrs. Wade - I thought you said, "Did you want to hear from him?"

Mr. Glenn Moore - Mr. Chairman, members of the Commission, my name is Glenn Moore. I am here this evening on behalf of Ikon Office Solutions, contract purchaser of this property. With me, tonight, from Ikon is Mr. Larry Jarvis, if you have questions concerning the proposed use of the property, that I don't answer, he'll certainly be able to answer those. Also, with me, are the architects that prepared the plans, or two representatives of their firm that prepared the plans before you. Mr. Keith Mauck and Ms. Julia Wyatt and also Mr. Clay Blackley who is with the firm of Foster & Miller, who has done the engineering work on this proposal. Hopefully, we can answer your questions.

If rezoned as requested, Ikon intends to locate the Virginia Headquarters on approximately the southern half of this site. From that black line (motioning towards map) forward to Nuckols Road will be their site. They propose to sell this site to another user (referring to rendering). However, the proffers will apply to the entire property, except to the extent we qualify them in some manner.

Mrs. Wade - You said, "Virginia headquarters." I thought you said, "regional."
Do they mean...

Mr. Moore - Virginia headquarters. That's correct, isn't it, Larry?

Mr. Larry Jarvis - Yes.

Mr. Moore - Virginia Headquarters.

Mrs. Wade - State headquarters. Okay. I don't know where I thought I heard regional, here. Thank you.

Mr. Moore - Now, these plans that you have before you reflect what has been shown on the Plan of Development. So, one of the concerns that Ms. Gardner mentioned about the materials, at least with respect to this building, should be answered with the POD request that's been filed. It's a brick and glass building that you see before you. The side; this side faces the Elks Lodge property. That would face the interstate. I have drawings that would show the other two sides as well. This would face Nuckols and this would be the northern portion. The areas that are not colored are building expansion in the future. That's a 40,000 square foot building with the first phase on two floors. They hope, when the need arises, to expand to 60,000 square feet.

Now, the proffered conditions that you have, which have been criticized somewhat, are consistent with the proffered conditions, and, in fact, go beyond the proffered conditions, which have given rise to the high quality development in the Innsbrook development. If you look at the proffered conditions on the M-1 zoned property adjacent to this site, you will find that they are not as restricted as to what we filed. However, we have addressed some of the concerns raised in the staff report, and we'll address other concerns even though this is a zoning request that complies with the Land Use Plan, in my judgment. The Land Use Plan is the same for this property as it is for Innsbrook, adjacent to it. Those proffers were acceptable to the Innsbrook development. I don't quite see why there is such a problem with it. Nevertheless, we will address some of those concerns.

As noted in the staff report, the request is consistent with the economic development goal of the Land Use Plan to attract new and expanding commercial and industrial activities to increase the economic base of the County.

Now, a question was asked about access. Access; I've got another plan that shows this better. If you turn this sideways so Ikon Solutions is at the top (referring to rendering), this will make more sense to you. Like that. The access, you come up Lakebrook Court. There's a cul-de-sac. That's the end of Lakebrook Court. You can probably see on the zoning map up there. There's a driveway which extends across the property where the Albright Wilson Headquarters is on. It ends right about there. It would be extended and it would come over into this site. That's where we propose the access and that's the way the access—This is the POD plan right here. This is the way its been submitted.

In order to have this access in this manner, we have to go through Innsbrook. To go through Innsbrook, you've got to get Innsbrook's approval of what you build on the site. So, I think that gives you a little more assurance with regard to quality; both in respect to this building and anything that is going to be built on the northern site.

We would submit that jurisdictional prerequisites for the Planning Commission to recommend approval of this case to the Board of Supervisors are satisfied. Now, Mrs. Wade asked me earlier if we would agree, and I have some additional conditions I would like to submit. I could go over them with you tonight. I understand that this case could be deferred for two weeks and still be kept on the current schedule. Timing is very tight for Ikon on this site. That's why they have their POD filed now. I certainly would be willing to have the case deferred to get those proffers in writing and allow the staff whatever more time they can have in the next week or eight days, whatever it is until the Planning Commission meets again, to review the additional proffers.

I did want to go over the case, so if it's in your judgment that the case should be deferred, that's acceptable to me. I did want to present the case, because the architects and engineer

and the owner are here. Now, is the chance to ask them questions concerning the proposed use of the site for layout. I did want to point out one thing about the loading door.

The only loading that you're going to need to have here, out of about 40,000 square feet, they have about a 4,000 square foot demonstration area. It's in this part of the building (referring to rendering), where Ikon sells copying machines; things of that nature. You could go there, if you wanted to, and see what their copying machines look like. This is not their warehouse. Their warehouse is on Perl Road and they'll continue to have a warehouse there. This is an office building, except they will have a demonstration area there. That's the reason for that language in the proffer about being able to sell office equipment. We'll tighten that up. That does need to be tightened up. I agree with that.

The loading area right here is at ground level. It's two doors. It's not a door that you pull down or anything. It just opens up. It's two metal doors. I think they'll be painted in the same color as the brick, is that right, or compatible with the brick?

Mrs. Wade - Maybe he'd want to come up.

Mr. Moore - Do you want to address it, Tim?

Mrs. Wade - Since we had some questions about treatment around the windows also. They've come from out of town, so it was helpful to be able to participate tonight.

Mr. Keith Malcolm - I am with Ballenger, Architects. As Mr. Moore was indicating, the rear entry doors, which are, basically, the loading doors, are simple parametal doors that swing like any pair of doors and they would be in a color that would be compatible with the other metal materials which are primarily the window mullions.

Mrs. Wade - So, there is no loading dock?

Mr. Malcolm - There is no loading dock. It's all at curb height. There's no raised dock.

Mrs. Wade - In this building, okay.

Mr. Malcolm - That's correct.

Mr. Moore - I want to point out something else about this layout; the concern about the way it looks from I-295. The way this is laid out, this is significant. This is a wooded area. There's a significant area that will be left green. Now, there is a retention area, there. The trees will have to come out of there. And I will say also, with respect to the HVAC, we will agree that it will be screened from I-295. It's about the same level anyway. It's not a problem to do that.

Mr. Malcolm - If I could just add to that, the highest point of the adjacent area of the site is, in fact, Nuckols Road. This is the elevation of Nuckols Road. This is the height of the building. The I-295 access road actually dips down and becomes lower on the site. So, actually, from Nuckols Road, the HVAC will be as screened as it is from the parking lot. There's no chance that you'll be able to see down into it.

Mrs. Wade - You're not proffering these, but you have already submitted the POD? I mean these are not part of the zoning case?

Mr. Malcolm - Correct.

Mr. Moore - I really have nothing more to add, except one point I wanted to make. We did meet with representatives of the Elks on Tuesday night. I wanted to recognize Mr. Frank Kelly who is from the Elks Lodge is here with us this evening. So, they are going to be potentially impacted so we...That's all I have.

Mrs. Wade - And you and I had discussed what they had done about the windows. We weren't sure what that is, around the windows that you...

Mr. Moore - Yes. What is it? Can you explain it?

Mr. Malcolm - It will be (unintelligible) glass. It's just another type of glass that you cannot see through, just to increase the amount of glass look on the building.

Mrs. Wade - Because I think you said you made some change there. He wasn't sure exactly how you had changed from the original there. Okay. Thank you. No, actually, the access here is not ideal. I remember the discussion the last time we had a POD past this about all this going off this cul-de-sac up here. But, apparently, Public Works has approved this, at least, for the time being. So, it seems to be the only way to get there. Did you ever find out what the dashed line is that goes around the...

Mr. Moore - I was correct. This is interesting. The outside dashed line is the building setback. The inside dashed line is what would require a transitional buffer. It seems sort of silly that the buffer would be inside the building setback, but you can get a waiver from the buffer.

Mr. Zehler - Mr. Moore, you've put a lot of emphasis that you're going to build as well as the screening and buffering, but the proposed building that's being shown, it doesn't show much landscaping, treeing, on that side as well as you've done on the existing site. Can you address that?

Mr. Moore - Well, we have a POD on that site as well? Correct?

Mr. Malcolm - Yes.

Mr. Moore - Well, we'd have to come back for a landscape plan on that also.

Mr. Zehler - Do you have the space? I notice the property line is right on the buffer line in that corner? Up in that far corner?

Mr. Moore - Space for what?

Mr. Zehler - Is that natural right now? Is that treed? It's existing. It's going to be left there—the buffer? You're not showing any trees.

Mr. Moore - Yes. It is heavily wooded. This site is heavily wooded. They'll have to landscape this, I suppose. Whatever the zoning ordinance requires, they'll have to have there.

Mr. Zehler - How about the quality of the construction of the building?

Mr. Moore - The quality of the construction, it's a part of the POD you'll be seeing in March.

Mr. Zehler - Your proposed building is going to be the same as, or like architecturally your first building?

Mr. Malcolm - Right now, we don't have, obviously, a tenant. Ikon is not sure, exactly what they're going to do with that parcel. But the proffers do call for materials consistent with those in the Innsbrook development.

Mrs. Wade - Actually, I think Proffer 1 addresses both buildings in general.

Ms. Dwyer - Why was the word, "predominantly" added into the first proffer?

Mr. Moore - I didn't realize I had it. I normally use it. I would say, "in case your architectural design features", or something like that. It wouldn't be any argument about those not being brick.

Ms. Dwyer - I'm just curious, because I read this proffer as being very expansive and allowing virtually anything anyway. So, to add the word, "predominantly," I mean, that's fine. I just was curious about...

Mrs. Wade - Yes. What else?

Mr. Moore - The staff asked us to remove "metal," or something like that—"metal siding," "metal paneling."

Ms. Dwyer - Metal paneling.

Mr. Moore - We took that out. Ms. Dwyer, I would point out to you, that in all of Innsbrook there, the buildings you have there, there's absolutely no proffer relating to building material.

Ms. Dwyer - I think a lot of that is included in the Innsbrook conditions.

Mr. Moore - Well, they weren't required by the zoning.

Ms. Dwyer - But there was a single development. I mean just as a point of information, while it wasn't a part of the proffer, it was a part of the Innsbrook development standards that were...

Mr. Moore - Because we have to come through Innsbrook, here. You may be assured, we will not be able to get through Innsbrook unless they're satisfied with these buildings.

Mrs. Wade - No. That's what I was trying to tell Mr. Moore, today, about Innsbrook being different. Okay. We can't really finish the POD tonight, but I think since it won't interfere with their schedule, it would be helpful to have a couple more weeks. Having seen some of the plans in more detail, I would like to go out and look at the site with those in mind. Information has been a little slow coming to us about the case. So, you said you would be interested in deferring. Although I don't like to mix up zonings and POD's, I would think we could have this firmed up. The Planned Industrial implies a certain quality standard that may not exist on just regular industrial. I'm sure it will work out to their satisfaction, but we could defer this until the 24th of February.

Mr. Moore - That would be fine with us, if we can still be heard by the Board in March.

Mr. Silber - Mrs. Wade, what we'll do, we'll still advertise this for the March Board hearing. It will be on the POD meeting in two weeks and still make the Board meeting in March.

Mrs. Wade - Okay. So, I move then, that Case C-9C-98 be deferred until the 24th of February. I'll ask for the deferral.

Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Dwyer that C-9C-98 be deferred to the February 24, 1998 POD meeting, at your request. Is that right, Mrs. Wade?

Mrs. Wade - Yes sir. That's fine.

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

Mrs. Wade - That's really pretty soon, and I think Monday is a holiday for the County.

Mr. Moore - I'll get the proffer. I know what to do now.

Mrs. Wade - There were a couple things we discussed that aren't in here either, so...

Mr. Moore - I was going to go home tonight...

C-10C-98 Foster & Miller, P. C. for Paul Bradford Zubowsky: Request to amend proffered conditions accepted with rezoning case C-82C-90 on Parcel 79-A-15A, containing 1.361 acres and located on the north line of Quioccasin Road 201.69' east of Pemberton Road. The amendment would increase the size of the existing animal hospital or clinic. The site is zoned B-1C Business District (Conditional). The Land Use Plan recommends Office development.

Mr. Archer - Any one here in opposition to C-10C-98? No opposition. Mr. Bittner.

Mr. Bittner - Thank you, Mr. Archer. I'd like to point out we have some new proffers. We would not need to waive the time limit. They are dated the 5th of February. And with those new proffers, all of the issues outlined, which are two issues outlined by staff in the report, have been addressed to our satisfaction. They have proffered the new language regarding the roof line. This would be a two-story addition onto a one-story building. However, that second story would be a basement. Therefore, the addition would not extend beyond the existing roof line. That has, indeed, been proffered.

Also, it would not extend beyond the existing rear boundary of the parking area. You see the green building up there (referring to rendering). The new addition would be in the sort of cross hatched area right behind it. That area that you're pointing out right now would be future parking, if it is some day needed. Parking for a vet is based on the number of employees. The applicant does not plan on hiring any new doctors or employees, therefore, no new parking would be necessary. However, if he does bring on new people and needs new parking, he would put it in that area, and that has been proffered as well.

So, to summarize, staff feels this is a very minimal way to double the size of the building on this site. We recommend approval of this application.

Mr. Archer - Thank you, Mr. Bittner. Are there any questions by Mr. Bittner by Commission members?

Ms. Dwyer - Let's see, the materials, are they noted on the plat here, the site plan that's been provided? I know we discussed it, and the materials are going to be the same, but it just occurred to me we don't have that written anywhere.

Mr. Bittner - The materials would be governed by the existing proffers for the site, which includes brick, stone, glass, dryvit and stucco.

Ms. Dwyer - Okay.

Mr. Archer - Any further questions? Hear from the applicant, Ms. Dwyer?

Ms. Dwyer - Not unless the Commission members have a question.

Mr. Archer - All right.

Ms. Dwyer - No. Okay. Compared to the rest of our cases, tonight, this is going to be a short one. Mr. Zubowsky runs a tight ship. I've been out there and walked all around the building and its very well maintained; well landscaped. It's an attractive building. I think its an asset to our community and an asset to that particular area; Quiocasin Road. It's good to see that the business is successful and expanding. As I understand it, Mr. Zubowsky has met with the neighbors. There is no opposition to this case. I move the Commission recommend for approval C-10C-98.

Mr. Vanarsdall seconded the motion.

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

REASON: Acting on a motion by Ms. Dwyer, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the proffered conditions and grant the request because it was determined to be reasonable; the changes do not greatly reduce the original intended purpose of the proffers; and it is not expected to adversely impact surrounding land uses in the area.

C-11C-98 Henry L. Wilton for Wilton Development Corp.: Request to conditionally rezone from R-4 One Family Residence District to R-5C General Residence District (Conditional), part of Parcel 162-A-10A and Parcel 162-A-31, containing approximately 14.36 acres, located on the south side of Gay Avenue approximately 600' east of Millers Lane and also fronting on the north side of Denison Road at Altair Road. A multifamily apartment development is proposed. The R-5 District permits densities up to 14.52 units gross density per acre. The Land Use Plan recommends Urban Residential development, 3.4 to 6.8 units net density per acre. The site is also in the Airport Safety Overlay District.

Mr. Archer - Okay. Is there any one in the audience in opposition to C-11C-98? Thank you. Any one in the audience not in opposition? Ms. Gardner.

Ms. Gardner - The applicant is requesting the R-5C District for 14.4 acres to allow apartments. This site is planned for Urban Residential development, 3.4 to 6.8 dwellings per acre. Apartments are not contemplated in this Land Use designation. The proposed density of 10.4 dwellings per acre exceeds that density range.

You have received new proffers on the case. As you see, the applicant is contemplating 150 apartment units on the property. Exterior lighting would be limited to 20 feet in height. Materials would be limited to brick, vinyl, or aluminum siding, with foundations made of brick, the second part of this proffer being added.

Regarding the landscaped areas, there will be a 25-foot minimum buffer adjacent to lots in Lawndale Farm. It will be part of a common area maintained by the Association, not part of any residential lots. They are also talking about a 6-foot privacy fence. There will also be a landscaped natural buffer area 25 feet adjacent to Gay Avenue.

The applicant has restricted access to Altair, Dennison and Mulford Roads. These are the roads that go through the adjacent single family residential subdivision. Access would be limited to Gay Road.

Finally, regarding the BMP, although the applicant has not stated where it would be, the BMP shall contain a security fence. The type fence will be determined by the Planning Commission at the time of Plan of Development review. I should have said at the outset, these are new proffers. We do have to waive the time limits in order to consider these proffers.

If you take a look at the map, if you see the R-6 area, just to the west, you see in smaller letters, "C-65C-97." The applicant also has another application pending. The applicant owns this property, in addition to the long narrow property in between that site and the subject site. The applicant has discussed developing this as a whole property; as a single project. The applicant has argued that by rezoning the R-6 down from R-6 to R-5A, that reduction in units is going to be offset by the increase in units here.

Well, in fact, that R-6 property is also planned for Urban Residential development. That zoning is in excess of what's contemplated by the Land Use Plan. So, to swap units in that manner is

not entirely a valid argument. Also, on that middle portion, for your information, it is currently zoned R-4. It's 18 or 19 acres. Roughly eight acres, by my estimate, is consumed by that large Virginia Power easement. It's 285 feet wide.

Now, on the subject site, the applicant has discussed scaling back the area of the application, and you might think that would make it a little bit easier to take. But the applicant is considering still doing 150 units, yet now on something just over 10 acres. So, we're talking now about the possibility of 15 units per acre; less of an opportunity for open space; less of an opportunity for play areas; less of an opportunity for landscaping. The remaining acreage that would be removed from this case, because it would have to be removed from this case to allow single family, would be developed for 12 single-family lots. That would increase the yield on this acreage to 162 units.

The applicant will probably address whether he's actually going to scale back the rezoning case tonight. I don't know under what circumstances he plans to scale back the rezoning district, except to say that he wanted to see how the hearing went this evening. With that, I would say the staff cannot support the approval of this request. Apartments are not compatible with the Land Use Plan designation. I'd be happy to take any questions.

Mr. Archer - Thank you, Ms. Gardner. Any questions of Ms. Gardner?

Mr. Zehler - Based on the existing R-4, 14.3 acres, what's the net yield out of that?

Ms. Gardner - That would be something like 45 units.

Mr. Zehler - Forty-five (45)?

Ms. Gardner - Something like, yes. It's hard to say. I believe there's some wetlands on the area. We don't have that exact calculation. On that issue, there is a drainage problem in the area that you may hear about this evening. Of course, we don't discount rezoning requests because of drainage problems. It's something that we handle at a later stage of development. Of course, the applicant would not be allowed to make, by developing this property, would not be allowed to make the drainage situation any worse. He would have to demonstrate that the drainage situation is at least made no worse.

Mr. Archer - Any further questions of Ms. Gardner? Do you need to hear from the applicant, Mr. Zehler?

Mr. Zehler - Yes sir.

Mr. Silber - Mr. Wilton, you have 10 minutes to present this. Do you want to save any time for rebuttal.

Mr. Henry L. Wilton - Yes sir. Two minutes. Mr. Chairman, members of the Commission, tonight, I represent Wilton Development Corporation. First of all, let me preface this presentation with a statement that I told the people that I would make prior to presenting the case. We've had two meetings with the Lawndale Farms Subdivision people and all the adjacent neighbors. They do not want apartments. I will tell you that, and I think they'll tell you that. They've got plenty of reasons why they don't want apartments. I'm sure they'll be speaking to that matter.

But, now having said that, I'm here to convince you, that you should approve this rezoning request for up to 150 apartment homes. If I were discussing only the R-5 request, I would not be here tonight, but I'm looking to the larger picture.

I have acquired, or have under contract, approximately 33 acres which has been zoned for up to 38 units. The largest tract...since 1960, and 1971 over here which is the R-6. I believe that development has not taken place because the location and the current zoning densities and their uses, they need to be reallocated in order that the property be developed in a logical and a realistic way, given the roads, the topography, and the existing VEPCO power easement.

My plan consists of the three properties that are highlighted here (referring to rendering). The first piece of property that I actually own is the R-6 property, which I'll call the Miller's Lane property. The 6.279 acres of R-6 zoning is currently there. You could put 124 units on this property. Whether it agrees with the 2010 plan or whatever, it's there. It's currently zoned. It has come to the Planning Commission and I have requested that it be down zoned from 124 units to approximately 22 units, you see here before you. That will be heard with the Board of Supervisors on March 11th.

The Naumann tract consists of 17.2 acres currently zoned R-4 property. This is the Naumann tract (referring to rendering). It takes in the part of the area in blue which we have allocated for apartments. This entire tract is the Naumann tract. The current 17.2 acres, according to the County, you could rezone that property for 93.74 units.

The Hutchinson property, which consists of 9.5 acres, and currently zoned R-4, is this property right here (referring to rendering). On that property you could get 51.78 units. If we review the area that's currently zoned and approved, approved zoning that we have here before you, you could have 269 units on this (unintelligible) acres. That's been zoned right today under the best development circumstances. That's what could be developed.

What I am proposing, tonight, is to put 22 single family homes, detached and attached, which, basically, we've already talked about here and is coming in before the Board. That was approved by the Planning Commission. These single family, attached, detached homes will be in the range of \$85,000 to \$110,000.

We will also, within this area, and it will be a part of the reduction of the R-5 over here, between this parcel and this parcel, we will have an additional 22 single family homes under the current R-4 zoning. These homes are retailing from \$100,000 to \$120,000 range.

Then, the rest of the property, we're requesting in here some how, some way, to put 150 apartment homes, for a total of 194 units on all 33 acres. We also propose a park consisting of a playground and jogging paths. You can see it is _____ already right here and right here, maintain it at our expense. If the County wants to take it over for a park, that's fine. Otherwise, we will maintain it, for not just our development area, but everybody's use of the area.

This represents, according to the plats I've passed out to you, a 28 percent reduction in the density that already is allowed; what you've already got zoned there, whether it agrees with the Plan or not. The density that is allowed under the current situation is 8.18 units per acre. What we propose is 5.88 units per acre with my plan. This is definitely below the 6.8 units,

which is the maximum density allowed under the Urban Residential designation per the Plan 2010.

To summarize, again, we're taking 8.18 acres and reducing the density, which the County wants, down to 5.88. I hope that will answer some of the questions in regard to the density.

In regard to the apartment homes, the renderings before you are computer generated. I have requested drawings from the architect to submit with the Plan next month, per the request of the Lawndale Civic Association Subdivision. I will be meeting again with the residents, of course, and review the plans and specs.

The total rents of these apartments are anywhere from \$675 to \$760, which will include all utilities. We envision a tenant mix of people working in the County, City; school teachers, policemen, hopefully, some White Oak personnel. We will have a pool and a clubhouse in conjunction with our park feature, that we've already discussed. This little area right there.

We've already reviewed the proffers. Unless anybody has any questions, I'll just move along. The staff has a couple of other comments.

In regard to the lighting proffer, it would have to be refurbished by the police in regard to illumination being adequate. We have no problem working with that.

The access, we originally planned to use Altair through the facility. After meeting with the people, obviously, they didn't like that idea. This would be Altair, which would be a second point of access for our apartments. The way we've allocated it now, this is the apartments. This is the BMP area. The pool and the clubhouse here. Again, the park. Single family. Again, future development of single family, whatever we move and shift according to the plan we finally work out (all referring to rendering).

So, we've, basically, restricted the access to an additional access on Gay Avenue or taking it across Millers Lane if we have to one way or the other. But we know we have to have a second point of access.

Drainage is a problem here. People will tell you, tonight, that they do have drainage problems. As Ms. Gardner said, we cannot make this situation any worse. In fact, on a 50-year flood storm, the water coming across this property would be reduced 25 percent. This is through the use of our proposed BMP. Our BMP, the question the other night, how deep it will be? It will be between six and seven feet deep, according to our engineer.

In regard to the schools, the roads, the public sewer and water, they are (unintelligible). They will be available with the development of the property.

In summation, basically, what I'm saying is, the R-5 case alone is not a good case. I think we all understand that. This case, this accumulation of three properties, redistributes existing zoning, zoning densities which you now have 8.88 units per acre to a density of 5.88. We also redistribute the locations of the single and multi-family which make this now a more viable site for the development, consisting of both multi-family and single family homes that will allow Henrico to offer obtainable housing for all. This is both rental.

Mr. Silber - Two minutes.

Mr. Wilton - If you have any questions, I'd be happy to answer them.

Mr. Archer - Thank you, Mr. Wilton. Any questions of Mr. Wilton by Commission members?

Mr. Zehler - Mr. Wilton, based on the signs I saw presented to us, tonight, it appears that the fear is the apartments. I don't think anyone here has any fear of residential, single-family homes, which, I'm sure they all live in. Based on your density numbers, you're showing on your 19.8 acres that is already presently zoned, can be built and can be developed, 124.32 units?

Mr. Wilton - Yes sir.

Mr. Zehler - In your request, you're showing 14.52 which is 150 units?

Mr. Wilton - Yes sir.

Mr. Zehler - So, based on the difference between those two numbers, I'm calculating approximately 26 more apartments, versus residential?

Mr. Wilton - Yes sir. I am asking for more multi-family. I'm reducing the amount of single family, again taking it from a maximum of 270 units, to 194 units.

Mr. Zehler - Has any thought or any consideration been done on your behalf as far as, rather than putting the row of apartments with the existing residential and making that existing residential, single family versus the apartments?

Mr. Wilton - That will probably be the discussion I will have with the people next. At the last meeting we had, we had 75 people. It was hard to get a consensus from anybody what was going on really. So, I asked the Association; the people to go ahead and put together an executive committee so that we could go ahead and meet with 10 people or so and maybe get an idea on how we could make the case better if we did shift the single family down. I'm hoping between now and the next meeting, that we'll be able to get together once, or twice, or three times, if necessary to go over those changes.

Mr. Zehler - Your apartments will not be for sale? They'll be for rent?

Mr. Wilton - Yes sir. We will be building the apartments. I'm doing the entire project. You've got one person to look to, here. I'm doing the attached-detached units up here (referring to rendering). I will be doing the single family here. Single family here, and we'll also be building and maintaining the apartments. We'll be responsible for everything. The apartments, we're looking at vinyl siding. We're looking at low maintenance types of things. We will be coming back, you know, with landscaping programs. Again, if it was something that I would be selling off, but the entire proposal, the entire project will be headed by myself.

Mr. Zehler - Is your recreational area going to be available for all single family residences, as well as the apartments or just for the apartments?

Mr. Wilton - It will be for everybody.

Mr. Zehler - That would include everybody in the complex as well as the complex across the street?

Mr. Wilton - Anybody that would go ahead and walk to the facility. We're not going to propose any parking to the facility. We'll keep it up. We're going to have jogging paths through here. Put a playground area here. Again, we'll maintain it. We have been in talks with the County as far as making a little pocket park there. We have no problem with doing that, too. This has been done with VEPCO before as far as doing this under the easement.

Ms. Dwyer - This is under the easement; this park?

Mr. Wilton - Yes ma'am.

Ms. Dwyer - Under the easement; the power lines?

Mr. Wilton - Well, the majority of the flood plain is right here. The power line is coming to right here...

Mr. Zehler - Is the swimming pool going to go there also, Mr. Wilton?

Mr. Wilton - No sir. We've moved the swimming pool over here...In the final design, it may, but I'm not sure. But right now, we'll put it over there.

Ms. Dwyer - The "future development." Why haven't you designated how you plan to use that?

Mr. Wilton - Because I really haven't had a chance to get on a "one-to-one" basis with the people or with some representatives with them. We've had 3.5 hours of meetings so far. The only thing we really all know is that they don't want apartments.

Ms. Dwyer - Once this is rezoned, you could add apartments to this "future development" area.

Mr. Wilton - Yes ma'am. But I need to have an ongoing line of communication...

Mr. Zehler - Is that your anticipation?

Mr. Wilton - That, or something better. I'm sure that you...

Mr. Zehler - Single family?

Mr. Wilton - As far as right here (referring to rendering)?

Mr. Zehler - Yes sir.

Mr. Wilton - Single family could be here. We could do single family down here, if that's what they wanted. But, again, this is something we would have to work out through discussion. You could move this and actually wrap it here; single family against them

so they'd be backed up to houses instead of apartments. I mean that's something that's open for discussion.

Mr. Zehler - Have you provided that proposal for these people out here?

Mr. Wilton - I haven't provided that proposal yet, because I haven't gotten with a group small enough to actually have an on-going conversation. It's only one sided. I felt like I was talking to one of my ex-wives. That's as far as I can say. They don't listen to me. They understand what I was talking about. I have two ex-wives.

Mr. Zehler - I think as time progresses, its going to get harder, Mr. Wilton. You can attract more bees with honey than you will with vinegar.

Mr. Wilton - I think we can meet and I think we can, obviously, make the case better. If, for some reason, it is finally passed, certainly, I do want to sit down and work with the people.

Ms. Dwyer - I guess my question is, you labeled this, "future development," but if this is rezoned, then you could clearly add apartments to this "future development" area, which would significantly change the numbers that you have submitted to us tonight.

Mr. Silber - Ms. Dwyer, I also think it's important that the Commission also realize, and Mr. Wilton needs to realize, that in the R-5 zoning district, you cannot do single family homes.

Mr. Wilton - That's why Ms. Gardner, basically, said that every request for multi-family will be reduced through this zoning process. We will actually request a reduction in that.

Ms. Dwyer - I'm sorry. I didn't understand what you said.

Mr. Wilton - I'm saying, I understand what Mr. Silber said, but I could not make that single family. I could not make that single family under the current zoning request which is R-5. What I'm saying is, after working with the people, if we decide to put single family here, we would leave that as R-4. We would, obviously, move the apartments up into this range against these, closer to the power line.

Ms. Dwyer - So, it sounds like you still - that this is a very fluid case. You still don't even know where you want the zoning lines to be in this case?

Mr. Wilton - I have some flexibility in order to give them some buffers. And that's, basically, what I'm working with.

Mrs. Wade - Has there ever been a multi-family case proposed for this section? Something about this looks familiar?

Mr. Wilton - About 10 years ago, I guess. As I said, some of the zoning has been in place for 38 years and its never been touched.

Mr. Archer - Okay. Any further questions of Mr. Wilton by Commission members? I believe we had someone wanted to speak for the opposition. Do you all have a designee?

Audience in Unison - Yes sir.

Mr. Silber - The opposition will be permitted a total of 10 minutes.

Mr. Lyle Browning - I'm here to speak on behalf of the Lawndale Farms Association. Ladies and gentlemen of the Planning Commission, with regard to the proposed Wilton Development to rezone all or part of three parcels of land adjoining Lawndale Farms Subdivision, we, the residents of the subdivision, have the following comments:

We are all (100% of neighborhood polled) unalterably opposed to the construction of apartments in any part of the three parcels and especially on the Hutchison parcel. In this District alone, there are over 500 acres of land zoned for multi-family use, none of which has been built yet. We do not need more.

We are in favor of single family residence construction, wherein the size of the residences to be built, is comparable in lot size, house square footage and scale with those of Lawndale Farms. Henrico County officials have voiced these concerns already. We agree. Three-story apartment complexes will dwarf the structures on Denison Road. Due to the terrain, apartments can be screened from the backs of yards, but not from our houses due to the height differential in the area.

We are totally opposed to any construction which will lower property values in our subdivision, as we believe the construction of apartments and very small houses will adversely affect our property values.

We are totally opposed to any vehicular or pedestrian access through our neighborhood, because we are a neighborhood, and we want to keep our sense of neighborhood, which cannot be maintained with a drastically increased traffic count. The safety of children and older people walking is a major concern. Mr. Wilton has stated that his development will not have access to Lawndale Farms via Altair, Denison or Mulford Roads. No access should be allowed, period.

We are concerned about the drainage issues which have not been properly addressed. Drainage patterns are now inadequate, and frequently cause backups of storm runoff and sewage. Increased housing density will only make the problem worse. Some of the proposed housing patterns lie squarely across the drainage path. We are concerned that the desire to shoehorn structures into a small space will result in further damage, not to mention the increase from the proposed apartments.

We are concerned about the effect of placing a park/playground under an existing Virginia Power power line. The effects of electromagnetic radiation are not definitely known. Further, the park/playground may serve as a magnet for noisy and unruly behavior.

We are concerned that potentially significant archaeological sites exist on the proposed development property. Site 44HE35 is located on the property. It is an Archaic Period site (8000 BC-2000 BC) and has not been evaluated for eligibility to the National Register of Historic Places. The status of "insignificant" is incorrect as listed on the Henrico County

handout sheet. The property should be surveyed by a qualified professional archaeologist to determine whether additional sites are present. All sites located should be evaluated.

Further, Lawndale Farms Subdivision may potentially be eligible for inclusion on the National Register of Historic Places as a National Registered District. The presence of large apartment structures is incompatible with the existing viewshed for such a district. The subdivision should be surveyed by a qualified professional architectural historian to determine whether the subdivision is eligible, and if so, a mitigation plan will need to be prepared.

We are concerned about the potential for an increase in the crime rate if apartments are built. Apartment dwellers are, by their nature, more transitory, and less liable to maintain pride of ownership. We are concerned about the increased noise levels, the dumpster problems associated with apartments; (trash scattered around the area and smells of garbage in the summer). The increased level of lighting required by the Police Division will be detrimental to the Lawndale Farms Subdivision by increasing out light at night.

We are concerned about the buy-in prices stated by Mr. Wilton. For the size of structure and lot, the prices appear inflated. By playing with statistics, including unusable land, Mr. Wilton seems to indicate that his high density housing plan is somehow allowable, but if the type of structure and projected housing costs are factored into the picture, the character of the neighborhood is affected negatively.

If this land is allowed to deviate from its current zoning, Mr. Wilton will make his money from it and disappear. The residents of Lawndale Farms Subdivision will see their property values go down. They will see increased traffic, increased crime, increased trash, increased drainage backups, and other problems. Mr. Wilton will see none of this, as he will not be affected by it in any way except positively in his wallet. The residents of Lawndale Farms will be affected by it, but negatively. We will be affected negatively by decreased property values. We'll have to live next to the development that Mr. Wilton intends to create when there are other alternatives which will work for all concerned. The county Supervisors are already indicating that zoning ordinance changes are under consideration anyway. Please do nothing that will result in the grandfathering of what will be unacceptable in a year anyway. We urge you to not allow a change in the zoning.

We have three other speakers to address certain issues of this. If there are any questions for me...

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

Mr. Silber - We have 5.5 minutes.

Mrs. Susan Bane - I'm a mother of six children. I'm also a housewife of 18 years. I'm also a minister. My house is at No. 10, right here, (referring to rendering). This is where we live adjacent to where the apartments will be going up. What I did, I was in charge of going over the crime rate and also the residential values of our homes. I called some appraisers up. I called a couple of appraisers up and I got their viewpoints on how apartments would affect our houses. They stated it wouldn't depreciate our houses, but it wouldn't allow them to appreciate in value at the rate of the other houses in the neighborhood. Let's take for an instance that we have a house on this street over here; make sure you can see it better (referring to rendering). Let's say we have a house. That's my house right here, which let's say, it's worth \$85,000 right now. We have an identical house on the other side of the street

over here with \$85,000 also. In five years down the road, the house on this side of the street could be worth \$90,000. Mine would be only worth \$86,000. I asked the appraiser, "When you say I didn't lose money", he said, "Not out of pocket.." I said, "Well, I just lost \$4,000 on my home because apartments were behind it." He said, "It affects the ones who are adjacent to it negatively in the fact it just doesn't raise as fast as the houses in the neighborhood." And, as you can see, it's self-explanatory, the crime comparisons. I went to the Police Department and I got quite a few crime reports. I brought them down into a way that you could see them easier on this piece of paper.

The Audubon area is where Laurel Pines is sitting right now. They are also three-story apartments and I have them color coded for the map in the map. You can see it. The green area is the Williamsburg Clayton (unintelligible). That's our Lawndale Farms area. The Millers—Gay Bedford area, that's where the apartments are on Lawndale Farms Apartments. Those apartments were built in 1964. The Laurel Pines Apartments were built in 1988.

As you will be able to see, as you go through the years, where the apartment complexes are at, the crime rate is more. Almost ten times more than, especially in the Laurel Pines Apartments, than what it is in the area of the houses. And in the Miller Gay where there are smaller apartments, only a very small set of apartments, it's only about twice as more. But it shows apartments definitely adversely affect the neighborhood a great deal. Thank you.

Mr. Archer - Would you repeat your name, please?

Mrs. Bane - Susan Bane.

Mr. Zehler - Susan, I noticed you took your time to do your crime comparisons. Did not you do Honeybee or Lakefield Mews?

Mrs. Bane - No. I just did the ones that were in our neighborhood, adjacent to the neighborhood. As you can see on the map, I sent down to Public Works and got a copy of the map made. As you can see...

Mr. Zehler - Wouldn't they be the closest apartments to this proposed rezoning case?

Mrs. Bane - Let me show you (referring to rendering). This is Gay right here. This is where he is proposing the apartments right here. The houses he's proposing right here. This is Gay. These are the small set of apartments and are up over here. That's the Lawndale Farms Apartments. This right here is the neighborhood that goes all the way down and adjoins my house right here.

Mr. Zehler - Isn't Honeybee right here, and Lakeview nearby?

Mrs. Bane - Yes. But that's not adjacent to our property. This right here, this is adjacent to this place. These are adjacent to this place. This is where all the area is happening in the neighborhood.

Mr. Zehler - These are the apartments...

Mrs. Bane - I could, if you want me to, I could also...

Mr. Zehler - I'll have the Police do it for me.

Mrs. Bane - Thank you.

Mr. Archer - Thank you, Mrs. Bane. Anybody have any questions of Mrs. Bane before she takes a seat? I don't think so, ma'am. Do we have any time left?

Mr. Silber - Yes sir. A little short of three minutes.

Ms. Karen Cleavenger - I had two handouts. Unfortunately, I don't have multiple copies of these. So, if you could share them. That's a topography map of the area. This, I'm not sure which gentlemen it was that brought up the issue of the single family, and the proposed zoning that he's going to. He handed this to the residents of our neighborhood, which clearly shows single family is what he's trying to do. He handed that out at the last meeting. Good evening. My name is Karen Cleavenger. I live in Lawndale Farms Subdivision. My home directly backs up to the apartment development that Mr. Wilton would like to put in.

I've lived in my home for approximately 20 years. And over those years, I've noticed various pieces of land around me having additional development put on them. Each time they added additional development, the drainage problem, within our neighborhood, got worse. The creeks overflowed, and there was more back up of that water.

When a heavy rain comes, the creeks can almost double in size. I spoke to the Department of Public Works and talked to them about this and asked them for a topography map to find out what the impact would be of this development. When you start adding on a hill like this that drains so clearly into both of these creeks, a development of this size with this much pavement, you need some kind of retention basin, is what I've been told. However, this retention basin he's put on his proposed plan is extremely large. It looks, or appears to me, like it might be able to fit four, five or maybe even six apartment buildings within that area. That's huge. It would be unsightly, and it, perhaps, could be dangerous to our children in the community, as well as the children that he's proposing to have in these apartments, for the families that are moving in there.

We've had two meetings with Mr. Wilton so far. And at each meeting I've asked if he could please give us some definite plans as to how to handle the drainage issues within our neighborhood. How he proposes to handle these problems. In both of them, he, basically, stated he cannot make the problem worse. However, he can give me any definite specifics. Only, this evening we heard what the depth might be of this detention basin. We can see on the plan how big it might be, but he won't tell us exactly how big it might be. He's not telling us exactly where the location would be, or even that he would have one. We assume the Planning Commission would require such. But we don't even know that.

As residents of this community, we feel we really must be given, and we feel we deserve, as owners of homes along these creeks, that we'll be directly impacted by additional flow of water to be given answers to these questions. We really don't want to have the rezoning approved and then find out that what he is planning for our neighborhood is going to impact us drastically.

I also want to mention the sewer issues. Henrico County is in the process of expanding the sewer lines throughout our neighborhood; almost doubling the size. What I've been told is that, the Department of Public Utilities has told me that when the development is complete, as

in when the sewer lines have been completed, then they will be able to handle this capacity. However, they even started that project and it may take a year or longer before it's done. If he gets the rezoning and then immediately starts putting up buildings, or very shortly thereafter, starts putting up buildings and wants to tap into the line, he's not going to be able to handle that capacity. We have manholes overflowing in our neighborhood. We have had homes that have had back up sewage come into them.

Mr. Silber - Try to wrap it up, if you could please.

Ms. Cleavenger - I guess I'm not sure exactly what to say, aside that's he's planning to add 194 more families into our area. And that's a lot for drainage. It's a lot for sewer. It's a lot more than the residents of our community want to handle. We don't want this rezoning, and I hope you'll listen to all of our concerns.

Mr. Archer - Thank you, Mrs. Cleavenger.

Man from Audience - Mr. Chairman, just say one thing. That's all. We went through the community...

Mr. Archer - Sir, you'll have to go to the mike. Please only take a second or two.

Man from Audience - Yes. I'll be a minute. We went through the community, and because of the couple of days its been raining, it was hard for myself and Corey to walk through the rain, but we did it. And we got 122 signatures. That's only a small portion of our community who don't want these apartments. We would love to give you a copy and go back get the rest of the people. Everybody wants to sign it. Nobody in our community wants this.

Mr. Archer - Okay. All right. Thank you.

Mr. Zehler - Mr. Chairman, I have one question for Mr. Browning, if he'll come up.

Mr. Archer - Mr. Browning.

Mr. Zehler - Mr. Browning, as a representative for the Lawndale Farms Homeowners Association, there appears there's a lot of questions that are unanswered here tonight. Would you and your Association entertain the thought of having another meeting with Mr. Wilton getting an answer to these questions, if I, myself, meet with Mr. Wilton first? I have done a lot of writing tonight and I have a lot of questions also. I think, basically, they're all the same questions that you're going to have. If you'll take the opportunity to meet with him one more time and give him the opportunity to address all your issues, and then come back in front of us at our next meeting and see if you're satisfied at that point? And if you're not, we won't hear this case again. All we'll do is ask you to come forward and see if all the issues have been addressed, and if you and your Association are satisfied. If not, likewise, let us know, and a decision will be made at that time.

Mr. Browning - I think we're adamantly opposed to the apartments.

(Dissension from audience).

Mr. Zehler - I'm asking the question and he's your representative.

Mr. Browning - I think the consensus of our group is that we are adamantly opposed to apartments in any way shape or form. If the apartment complex is still part of the issue, then we are still drastically opposed to it.

Mr. Zehler - Keep in mind, under today's present zoning, that you can get 124 units across the street.

Mr. Browning - If it's single family housing?

Mr. Zehler - No. Apartments. It's already zoned. No conditions.

Mr. Browning - Under R-4?

Mr. Zehler - In the R-5.

Mr. Browning - Across the street? We're concerned here.

Mr. Zehler - I understand that, but what you have to understand is, based on the zoning today...

Mr. Browning - Yes.

Mr. Zehler - That piece of property is zoned for 124 units with no assurances and no guarantees as far as the quality. So, if this case is denied, and he's already got a request in to reduce that, he can go back and withdraw his case and put 124 apartments there; no assurances of quality. We have no guarantees. Is that what you all are agreeing to?

Mr. Browning - I think so, yes.

Mr. Zehler - Would you like to sit down and talk to Mr. Wilton and get some assurances on qualities and guarantees on the new phase?

Mr. Browning - Well, if Mr. Wilton is willing to eliminate the apartments on the Hutchinson property, then we will. If not, we're not. I think it's that simple.

Mr. Zehler - So, it appears there's a light there. I think both parties respect that, one, you ought to consider that the parcel across the street is already zoned and ready to go. That would concern me and I know it concerns Mr. Donati because we've talked about it. We have no assurances of any quality. With this particular case, he'd be down zoning the other case. We will have a say so as far as the quality that we're going to get, where right now, we don't have any say so. That concerns us. I think another meeting of the minds, and I think you all really need to consider that, because it's easy to sit here and say, "Let them build them." But I think we ought to be concerned not only with this piece of property, that piece that's sitting there. They can be built. At least with Mr. Wilton, we'll get some assurances whether it be in proffered conditions that we don't have now of maybe a better quality project. He might even be willing to come in and buffer that whole project with additional residential, which would buffer you, which would increase your property values and help you also. Mr. Wilton has heard the cries, tonight, and he understands. We've been this far, and everybody's concerned. I think it would be a good opportunity with one more meeting of the minds.

Mr. Browning - I personally have no problem with having another meeting. If you don't want to have that, then we won't, but I think it would be useful to have one and see what we can do with this. We've lost nothing. When are we talking about having another meeting?

Mr. Zehler - I would recommend a 30-day deferral at the request of Mr. Wilton to make the deferral. And in the meantime, keep also in mind, in the meantime, I'm going to have a meeting with Mr. Wilton before you do.

Mr. Browning - We're lost nothing but 30 days. I don't think that's too much of a big deal. Is that agreeable?

Audience in Unison - We're agreeable with that.

Mr. Browning - We'll agree with that. Thank you.

Mr. Zehler - Thank you.

Mr. Archer - Mr. Wilton.

Mr. Wilton - Of course, I'll request the deferral. I'm not going to rebut at this time. It's just that, leading back to the discussion, what can be built there now? And again, how many units? 270 units. All the R-4 that's zoned right now, you could have single family homes, 900 square feet, cinder block foundations. You've got no protection at all. Hopefully, when we come back, we could put some single family here. Then you'll have houses with brick foundations and things like that. Right now, this is unprotected R-4 zoning. This, obviously, as Mr. Zehler said, is available for 127 units also. I want to meet with the people and I want to make this case as good as I can. If you want to meet outside, we'll pick a date and we'll get back to the Sheraton and we'll have a bigger room this time and we'll get together and see if we can knock out some better proffers and move away along single family. Okay.

Mr. Zehler - Mr. Wilton, would you like to defer this case for 30 days? It would put it to the March 12th meeting?

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall that this case be deferred to the March 12, 1998 meeting at the applicant's request. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Wilton - Thank you.

Mr. Zehler - Thank y'all very much.

P-7-98 Charles H. Rothenberg and James W. Theobald for Sprint PCS: Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct and maintain a communications tower up to 165' high and related equipment and improvements on part of Parcel 206-A-41, containing 1,571 sq. ft., located at the southeast corner of Old Crow Lane and Charles City Road. The site is zoned A-1 Agricultural District and Airport Safety Overlay District.

Mr. Archer - Is there any one in the audience in opposition to P-7-98? Mr. Bittner.

Mr. Bittner - Thank you, Mr. Archer. Access to the site would be accomplished by construction of a 12-foot wide graveled access drive from Old Crow Lane. The application includes an investigation of whether other towers within the coverage area would be feasible for collocation. In this case, the applicant has stated that collocation opportunities are non-existent in the area. The next closest tower is approximately 2.8 miles away. In general, the requested use is expected to have minimal impacts on adjacent property. The staff recommends approval, subject to the conditions listed in the staff report. I'd be happy to answer any questions you have.

Mr. Archer - Thank you, Mr. Bittner. Are there any questions of Mr. Bittner by the Commission.

Mr. Donati - What's the construction of the tower, monopole?

Mr. Bittner - Monopole.

Mr. Donati - How many users?

Mr. Bittner - Only one, at the moment, I believe.

Mrs. Wade - How many can you get on a 165-foot monopole?

Mr. Archer - We'll go ahead and officially hear from the applicant.

Mr. Chuck Rothenberg - Mr. Chairman, ladies and gentlemen, I'm here on behalf of Sprint. I'd be happy to give a presentation or simply answer your questions.

Mr. Zehler - Just simply answer the questions.

Mr. Rothenberg - This monopole will accommodate both Sprint and we've gotten a letter expressing interest from Triton to also collocate on the tower. So, we have two. Let me just point out that, while we are requesting a provisional use permit for a 160-foot monopole, the FAA requirements we heard recently would limit the height of this tower to about 120 feet because of the proximity to the airport.

Mr. Zehler - Based on 120 feet, how many users would you be able to get out of that?

Mr. Rothenberg - Sprint and one other.

Mr. Zehler - So, it would be the person applying, plus one other user?

Mr. Rothenberg - Yes sir.

Mr. Zehler - Do you want to put that into your condition No. 6?

Mr. Rothenberg - Yes sir. I do have a revision to Condition No. 6 which will provide that the applicant agrees to the collocation of up to one additional user at this site in

accordance with the provisions of the Letter of Intent to permit collocation of communication towers filed by the applicant with this request.

Mr. Zehler - Did you get that, Mr. Secretary?

Mr. Silber - I think they have a copy.

Mr. Zehler - The piece of property this proposed tower is going on, is this coming off a large tract of land? I'm seeing all of this A-1. Does the same property owner own this whole parcel?

Mr. Rothenberg - I think that this site is, Mark, is about four acres.

Mr. Bittner - I'm not sure (comments unintelligible).

Mr. Zehler - I see your Old Crow Lane and I see your tower site. Is this one whole parcel that we're looking at all zoned A-1, or is it parcels between that and I-295?

Mr. Silber - All that property is zoned A-1.

Mr. Zehler - Is it all one parcel, is my question.

Mr. Silber - I believe it's all one parcel that runs from Charles City...

Mr. Donati - Who's the property owner?

Mr. Rothenberg - Seay.

Mr. Donati - Has the FAA told you whether its got to be lit or not for 120 feet?

Mr. Rothenberg - We don't believe the FAA is going to require lighting or striping of any sort. We'll try to make it as pretty as possible.

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

Mr. Archer - Mr. Zehler, I need to ask a question, and I don't know who can answer this. If we condition this case so we can allow two users on the tower, what happens if the technology changes in the coming years and we find out that more users can actually be accommodated on a shorter tower. Does this preclude us from being able to add more if we could? It may never happen, but let's say that it did happen?

Mr. Rothenberg - That's a good question. Sprint has been very proactive in searching out other providers who are interested in collocating. As a matter of fact, whenever Sprint files an application for one of these communication sites, if they can't find an existing structure to collocate on, they immediately send out a letter to all the other providers in the area notifying them that we have filed a case, and invite them to collocate if the site will satisfy their coverage requirement.

Mr. Archer - And I understand that for this particular case. I guess what I'm asking, let's say, five years from now, you find out that a shorter tower will accommodate four users, instead of two. Are we, by accepting this condition like this, precluding ourselves from

being able to add any more, if we could? Not that we couldn't, but, or that we will ever be able to, but...

Mr. Henry Waller, Sprint PCS - The standards for the structural capacity of a pole or of any tower are set by the American National Standards Institute ANSI. If we design to those standards, as far as the wind loading and the capacity of the tower, if those standards were to change to become less restrictive, then the structural capacity of the pole could support more users. Does that...

Mr. Zehler - What assurances are we going to have, then, in the future you're stipulating today that you're going to allow you and another user and technology changes five years from now saying that, instead of two, now we can do five. What assurances are we going to have that you're going to say to us, "We'd be willing to co-share and allow three more to join in?"

Mr. Waller - Currently, we're proffering that we're designing capable of supporting that many users. We're designing for a total of 12 antennas for each array. One array, then another array below it. If the standards change...

Mr. Rothenberg - I think it's awful difficult for a company to design a tower that's going to accommodate technological changes, because the standards right now that Sprint is using to design the towers, we know what the other providers are using for their antennas. We can say, "Yeah, this tower will accommodate that." But it's awfully hard to anticipate what all of those changes will be in the future. I think, as a practical matter, Sprint is going to be very interested in allowing other collocators, because it provides them with an opportunity to recapture the capital that they've invested in the tower.

Mr. Archer - And I'm not doubting that they are. I guess what I'm trying to get at is, I don't want us to get into a position that we lock ourselves into only being able to allow one, one service if it becomes possible to have more in the future. We say, "You can have only two on this pole.", then that's all we can have. Maybe we could change the wording a little bit to say, "a minimum of two or whatever." Staff, I see you back and forth, Randy. How is that worded? Are you comfortable with the way its worded?

Mr. Silber - Well, its not real clear in my mind. It says, "The applicant agrees to allow the collocation of up to one additional user." I can see where Mr. Archer is coming from. That could be a problem in limiting it to just two users. But at the same time if we say, "at least one or a minimum of one," then doesn't that force them to accept any number? I'm not sure if they're willing to do that?

Ms. Dwyer - As a practical matter, you know if nobody else can use it, other than one person, then nobody will.

Mr. Silber - Well, then why have any number? Why not just say, "The applicant will be willing to accept collocation."

Ms. Dwyer - Well, if you say, "at least one," then you know there will be at least one person that they will allow there, but you're not limiting yourself if something changes and you can have more. Practical reality will set the limit then.

I was going to ask a question on a different topic. Are we done with this one?

Mr. Archer - Are we agreed that we can change this wording to make that...

Mr. Zehler - That's a question we need to have answered.

Mr. Rothenberg - Well, let me first say, that this type of language was requested on some pervious cases, so that we confirm for you that we would design the tower to accommodate up to "X" amount. You wanted comfort that we would design the tower to accommodate up to a certain amount of collocators. So this language is designed to accomplish that.

Mr. Zehler - Let me ask you this, suppose we were to add another paraphrase in there saying, "In the event technology changes and it is permissible to do an additional up to" and stipulate a number, you would agree to collocate also?

Ms. Dwyer - This doesn't say anything about design. This just says you agree to allow collocation of a minimum of one additional user.

Mr. Archer - Which leaves it open for more.

Mr. Waller - The practical effect of that language is we design it to those specs.

Ms. Dwyer - For at least that.

Mr. Waller - Those specs for one additional user, however, many. The other questions, if we're talking about the standards changing...

Mr. Zehler - If they are more restrictive, you'll be able just to use it yourself the way that phrase is written; you and one other user.

Ms. Dwyer - Yes. But if its more restrictive and they don't have space for another, they've committed to allow for at least another. Suppose you just say, "design to allow collocation?" I mean, you don't specify any number.

Mr. Silber - I think we used to have that condition and we were trying to encourage it more, so we were putting these numbers in there that they would be willing to accept a certain number, sort of obligating to accept a certain number.

Mr. Archer - I think if we use the word, "minimum," then we know we can have at least one more. As I was just telling Randy, remember years ago, satellite dishes were what, eight feet around? Now, they're small. The same thing could happen with this technology and you might find you could get three or four small antennas on one pole. If we make this language so that we just say just one, then that means we can't do that, unless we go back and change something else in the future. We're just seeing so many of these things coming now. You know the whole landscape will be dotted with antennas. I'm just trying to preclude us from adding more than one when there's a possibility we might be able to do more. It may not ever happen. I don't know, but there's a possibility that it could. If we say, just one, then we're stuck with one and that's it on this location. So, I'm not really asking you to change anything, except to provide for the future that may occur, that would use more than one.

Mr. Waller - Just to amplify. Our standard corporate practice, the pole is going to be over engineered, quite frankly. We design for 12 antennas per rad. The standard practice of right now is for PCS providers such as PrimeCo and ourselves to have six antennas. The cellular folks have nine. We're designing for 12. That's the corporate practice that we're bringing to it. I don't know what other carriers are doing. I can just speak for what we're doing. So, we're over engineering it to begin with.

Mr. Archer - Okay. So, you're not adverse to doing this then?

Mr. Waller - No sir.

Mr. Archer - Okay.

Mr. Waller - No sir. We want to do something which makes sense at this particular time.

Mr. Archer - I understand.

Mr. Waller - One additional user, with a total of two users makes sense.

Mr. Archer - Okay.

Mr. Zehler - We want to cooperate and work with the industry. I think we have, in the past, but we're starting to be concerned, because the towers are just getting out of hand. We're having a lot of concerns, especially in Varina. I mean I saw our requests for next month, and there are six towers next month throughout the whole County. I mean it's just getting out of hand. We need to do something to try, and you need to help us, to be able to facilitate. It's going to become a point in time where we're going to say, "Guys, we've done all we can do now. No more towers." It's going to take cooperation on your behalf and cooperation on our behalf. I think we've really been cooperative with you all in the past, but it's coming to the point where we're scratching our heads, saying we need to do something.

Mr. Waller - One of my concerns, although I think it is a very progressive practice of the County, is that when we collocate, all it requires is a building permit. Y'all never see that. That's invisible to you. Now, I'm not asking for a provisional use permit or collocation. Don't get me wrong, but that's something that sort of passes you by.

Any time I'd be more than happy to sit down; I have a map here with me, of our grid for Henrico County. We can explain it site by site what we're planning on collocating and the towers we planning on erecting. There's no way, under the existing collocation opportunities that are out there right now, that we can design Henrico and not build a tower. We're going to have to build a tower. We'd like to keep that to a minimum. I want to keep that to a minimum. In those cases where I have to build a tower, we're already offering up collocation. I think everyone we've had through the Planning Commission, every single tower, has had a collocator on it, already, by the time it gets to you. Like I said, I'd be happy to sit down with any of you individually, or collectively, and what have you, and show you the grid and our plans.

Mrs. Wade - How's the fee determined. Say, you ran out, do you negotiate on a case-by-case or site-by-site basis? If I wanted to collocate on your tower, obviously, you charge.

Mr. Waller - Of the six carriers that I know to be operating in the central Virginia area, I have agreements in place with five of them. So, those agreements will set the parameters; economic, legal terms of conditions around which we collocate. The only thing we really have to work out on a site-by-site basis, is the engineering problems; getting close enough that we can get the height, but not so close that we'll interfere.

Mrs. Wade - Because if you were trying to discourage collocators, you could raise the fee so high that they would not take it.

Mr. Waller - Right. But my hands are tied, because those economics are set by national agreements.

Mr. Zehler - I understand the market is using them for a bargaining tool against each other. In other words, I've got a site. If you want to collocate on my site, we'll charge you "X amount of dollars but you have to provide me with a site. Is that true?

Mr. Waller - There is one carrier in the market, although that's not their stated practice in recent months, that's what they've done historically. Recently, they have said they are changing the "one for one" trade-type policy.

Mr. Zehler - Is it Sprint's practice to do that?

Mr. Waller - If they do it to us...

Mr. Zehler - If you do me, I'm going to do you.

Ms. Dwyer - I was told recently that more than one company could locate on a given antenna. Is that true?

Mr. Zehler - They were hoping you weren't going to ask that question. I can see the look in his eyes.

Mr. Rothenberg - It's five after 11:00. I know it's late. I'm happy to respond to that question.

Ms. Dwyer - Is it true? Just a "yes" or "no." How about that?

Mr. Waller - No. It's not true. Not for PCS.

Ms. Dwyer - But for cellular?

Mr. Waller - Without getting into too much, the only hybrid combiners that we can find are "transmit only". They are "broadcast-type" antennas.

Ms. Dwyer - Oh. Okay. This was a TV person who told me that. So, maybe that's why...

Mr. Waller - Was it WTVR?

Ms. Dwyer - No. It was somebody else, but it was a person whose an engineer and works in the television industry. Why aren't they using sharing an antenna? I said, "Well, no one has ever said they could do that, I assume, because there has to be distance between..." No. He said, "because the frequencies are different so they can share an antenna." But you're saying, it's "transmission only"? They can't receive?

Mr. Waller - You can have a hybrid combiner to transmit two different frequencies, but you can't do it to receive. There's not a mass marketed hybrid combiner. Somebody may have invented one. We haven't been able to find a record of it. I spent a good deal of time last night trying to track it down.

Ms. Dwyer - It's five after 11:00. I'll accept that until further.

Mr. Zehler - Have we got that condition worded to where we're satisfied with it?

Mr. Archer - I think we do.

Mrs. Wade - Every time we have a tower, we have another question.

Mr. Zehler - Are we satisfied with that, Randy?

Mr. Silber - I think so. Yes sir.

Mr. Zehler - Is that an additional condition, or is that going to be Condition 6?

Mr. Silber - This would replace No. 6 as it is in the staff report.

Mr. Donati - Are there still provisions in the Code that if technology changes, that there's a certain amount of time that these towers will have to come down?

Mr. Silber - It's in the conditions. In each one of these PUPS that are approved, has that condition. I believe it's Condition No. 1. It's Condition No. 1, Mr. Donati.

Mr. Zehler - I just want to clarify something, you just happened to be here when the thought occurred to me. But, I think this is something that, we, as a Commission, need to be aware of, and probably the industry does, too, as time goes by, because we don't know what technology may bring. If we lock ourselves into "X" amount of towers, we say, "Okay, only two people can go on here," then we're stuck with that. If the technology does change, and you find out that more users can go on shorter towers, at least, we're not locked into that statement. So, I think it's something that we probably need to be aware of going forward. And the requests will keep coming.

Mr. Archer - Yes. Like we said, six next month. That's it for me. Mr. Zehler.

Mr. Zehler - I move that P-7-98 be recommended to the Board of Supervisors for approval with the six conditions as rewritten.

Mr. Silber - With revised No. 6?

Mr. Zehler - With revised No. 6.

Mr. Vanarsdall seconded the motion.

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

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

1. If the use of the tower for communication purposes is discontinued, the tower and all related structures shall be removed from the site within ninety (90) days.
2. Application for a building permit to install the tower must be made within one year after the Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time is granted by the Director of Planning upon written request by the applicant.
3. The applicant shall obtain approval from the Henrico County Planning Commission should the FAA require the addition of standard obstruction marking and lighting to the tower (i.e., red lighting, and orange and white striping). The applicant shall notify the Henrico County Planning Director prior to making any changes to the original galvanized finish of the tower.
4. When site construction is initiated, the applicant shall complete requirements prescribed by Chapter 10 of the Henrico County Code. In particular, land disturbance of more than 2,500 square feet will require that construction plans include a detailed drainage and erosion control plan prepared by a professional engineer certified in the State of Virginia. Ten (10) sets of the construction plans shall be submitted to the Department of Public Works for approval.
5. A landscaping plan for the purpose of screening the base of the tower from view of public streets, shall be submitted to the Planning Office for approval prior to the issuance of a building permit for the tower. The Director of Planning may waive the enforcement of this condition if it is deemed unnecessary.
6. The applicant agrees to allow the collocation of a minimum of one (1) additional user at this site in accordance with the provisions of the Letter of Intent to Permit Collocation on Communications Tower filed by the applicant with this request.

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

Mr. Silber - We have no minutes, tonight.

Mr. Zehler - What minutes? We just got them.

Mr. Silber - I said, we have no minutes to act on, unless you'd like to act on them. I think they're perfect. Judy tells me they are.

There being no further business, acting on a motion by Mr. Vanarsdall, seconded by Ms. Dwyer, the Planning Commission adjourned its meeting at 11:10 p.m. on February 12, 1998.

C. W. Archer, C.P.C., Chairman,

Randall R. Silber, Acting Secretary

Last revised March 26, 1998.