

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,
2 Virginia, held in the Board Room of the County Administration Building, Parham and Hungary
3 Spring Roads at 7:00 p.m., on January 11, 2001, Display Notice having been published in the
4 Richmond Times-Dispatch on Thursday, December 21, 2000, and Thursday, December 28, 2000.

5
6 Members Present: C. W. Archer, C.P.C., Chairperson, Fairfield
7 Elizabeth G. Dwyer, C.P.C., Vice-Chairperson, Tuckahoe
8 Ernest B. Vanarsdall, C.P.C., Brookland
9 Allen J. Taylor, C.P.C., Three Chopt
10 Ray Jernigan, Varina
11 David A. Kaechele, Board of Supervisors, Three Chopt
12 John R. Marlles, AICP, Secretary, Director of Planning
13

14 Others Present: Randall R. Silber, Assistant Director of Planning
15 Jo Ann Hunter, AICP, Acting Principal Planner
16 Mark Bittner, County Planner
17 Lee Householder, County Planner
18 Judy Thomas, Recording Secretary
19

20 Mr. Vanarsdall - Good evening, ladies and gentlemen. Welcome to the Henrico
21 County Planning Commission Meeting. This is our first meeting of 2001. I hope it won't be the
22 last. I appreciate you coming out tonight. I have a couple of announcements. I want to first
23 recognize Jeremy Redmon from the Richmond Times Dispatch on the front row here. I don't know
24 if anyone else in the media is here. I don't see them.

25
26 We have two new members beginning this meeting. On my far left is Mr. Dave Kaechele who is a
27 member of the Board of Supervisors, and has been for quite a number of years, a well known
28 person. The law requires that a member of the Board of Supervisors sit with the Planning
29 Commission. And they usually take a year's turn at a time. So, this year, 2001 is Dave's turn, and
30 Dave, it certainly is a pleasure to have you back with us again.

31
32 Mr. Dave Kaechele, Board of Supervisors Member - Thank you, Mr. Chairman. I'm pleased to be
33 back representing the Board for this calendar year. I've done this before. I know the important
34 function that this Commission provides to our County and to our citizens and to our developers.
35 I'm proud of the way this Board operates, because when you come here, whether you're a developer
36 or a citizen, you get a fair hearing. You can't always agree with our decisions because there's
37 usually two sides, but you can feel that you had your say, and were treated with respect and had a
38 fair hearing. And, so, I commend you for that, and are pleased to be back.

39
40 Mr. Vanarsdall - Thank you, Mr. Kaechele. And on my near right here is a new
41 member from Varina District, Mr. Ray Jernigan. Ray, it's a pleasure having you.

42
43 Mr. Ray Jernigan, Varina Planning Commission Member - Thank you. It's a pleasure being
44 here.
45

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46 Mr. Vanarsdall - Ray is a local businessman in Highland Springs and the Richmond
47 area, and has been for quite some time. I found out that he's also a Coast Guardsman. And we
48 already have one Coast Guardsman down on the end. That's Al Taylor. Now, we have two.

49
50 Ray is taking Debbie Quesinberry's place from the Varina District. Debbie travels quite a bit, and
51 she has hired two or three more employees, and it takes her out of town more often than it used to.
52 A lot of times she doesn't have much of a notice that she would be gone. So, it caused her to be
53 absent more than she wanted to be from the Commission. So, she resigned and Ray took her place.
54 He is appointed by Mr. Jim Donati, who is the Supervisor for Varina.

55
56 Then, with that said,...

57
58 Mr. Kaechele - Mr. Chairman, there's one other thing I neglected to mention. It has
59 been a tradition that the Board representative sitting on the Planning Commission does not vote on
60 every zoning issue that comes before this Commission, primarily, because these same cases come
61 back—This Commission makes a recommendation, and their decision comes before the Board of
62 Supervisors a month later. So, it's better not to have voted so you have more discretion when we
63 hear the case. So, that will be my position, Mr. Chairman, and Mr. Secretary, although I do reserve
64 the right to vote on special issues if there is a quorum needed or break a tie or some other reason.
65 Otherwise, I'll abstain.

66
67 Mr. Vanarsdall - Thank you. So noted. And on my left, next to Mr. Kaechele,
68 welcome back Mrs. Elizabeth Dwyer, from the Tuckahoe District.

69
70 Mrs. Dwyer - Thank you.

71
72 Mr. Vanarsdall - Welcome back, John Marlles, our Secretary, and Director of
73 Planning. And on the back row is the Assistant Director of Planning, Mr. Randy Silber. And then,
74 skipping over Ray, and going to Mr. Chris Archer. We welcome Chris back. He represents
75 Fairfield District. And then beyond Chris, we've already mentioned his name is Mr. Al Taylor, who
76 represents the Three Chopt District, and I represent the Brookland District. And for the next 15 to
77 20 minutes will be the Chairman, and then we will have election of a new Chairman and new Vice-
78 Chairman, and go on for another year.

79
80 So, with all that said, I'll turn it over to Mr. Marlles, our Secretary.

81
82 Mr. Marlles - Thank you, Mr. Chairman. Good evening, members of the
83 Commission, ladies and gentlemen, in the audience, this is the first meeting of the new year, as Mr.
84 Vanarsdall pointed out. It's also the first meeting of the official new millennium. So, I just wanted
85 to point that out. We do have a full Commission here tonight, so we can conduct business. The first
86 item of business on the agenda is the Requests for Withdrawals and Deferrals and that will be
87 handled by Mrs. Jo Ann Hunter.

88
89 Mrs. Jo Ann Hunter, Acting Principal Planner - Good evening, Mr. Chairman, members of the
90 Commission.

91

92 Mr. Vanarsdall - Welcome back to you.

93

94 Mrs. Hunter - Thank you, very much. We only have two requests for deferral this
95 evening. They're both on Page 3 of our agenda. The first one is in the Three Chopt District. It's
96 Case C-7C-01.

97

98 **C-7C-01 Curtis D. Gordon for West End Developers, L.L.C.:** Request to
99 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence District
100 (Conditional), Parcels 56-1-A-1 (Winngate Subdivision) and 56-A-4, containing 5.55 acres, located
101 on the north line of Church Road 200 feet west of its intersection with Abbey Lane. A residential
102 subdivision is proposed. The R-3 District allows a minimum lot size of 11,000 square feet. The
103 Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

104

105 The applicant requests a deferral to February 15, 2001.

106

107 Mr. Vanarsdall - Is there any one in the audience in opposition to the deferment of this
108 case. This case is Case C-7C-01? Any opposition? No opposition. Mr. Taylor.

109

110 Mr. Taylor - Mr. Chairman, I would move that Case C-7C-01 Curtis D. Gordon
111 for West End Developers be deferred until February 15th at the request of the applicant.

112

113 Mrs. Dwyer seconded the motion.

114

115 Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Mrs. Dwyer. All those in
116 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Kaechele abstained). Next
117 case.

118

119 Mrs. Hunter - The other deferral is in the Fairfield District on the bottom of Page 3.
120 It's an Amendment to the Major Thoroughfare Plan of the Comprehensive Plan. MTP-1-01.

121

122 **AMENDMENT TO THE MAJOR THOROUGHFARE PLAN OF THE**
123 **COMPREHENSIVE PLAN: MTP-1-01** – Proposed Deletion of Connecticut Avenue between
124 Brook Road and Telegraph Road.

125

126 We discussed this at the last Planning Commission meeting. The Commission had asked that the
127 Public Works Department look at a mini-traffic study for this area. Public Works indicated to us
128 they do not like to do traffic counts between December 15th and January 4th because they don't
129 believe they get accurate readings because of the holidays. So, they're now in the process of
130 beginning those traffic counts. They said they'll have that information for us for the February 15th
131 meeting. So, that's when we'd like to hear that case.

132

133 Mr. Vanarsdall - All right, thank you. Any one here in the audience here on behalf of
134 this Major Thoroughfare Plan? No opposition.

135

136 Mr. Archer - Mr. Chairman, I move deferral of MTP-1-01 to the February 15th
137 meeting.

138
139 Mr. Taylor seconded the motion.
140
141 Mr. Vanarsdall - Motion made by Mr. Archer, seconded by Mr. Taylor. All those in
142 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Kaechele abstained).
143
144 Do we have any expedited items, tonight?
145
146 Mrs. Hunter - No expedited agenda.
147
148 Mr. Vanarsdall - Okay. No expedited agenda. All right, thank you, Mrs. Hunter.
149 With that, Mr. Marlles, we'll trade seats.
150
151 Mr. Marlles - Thank you, Mr. Chairman. The next item on the agenda is the
152 election of Chairman. It does give me a great deal of pleasure to handle this portion of the agenda.
153 As I think Mr. Vanarsdall pointed out, the first meeting of each year, the Planning Commission
154 elects its chairman and vice-chairman for the coming year. At this time we will conduct this portion
155 of the meeting.
156
157 I'd like to open the floor for nominations for Chairman of the Planning Commission for 2001.
158
159 Mr. Vanarsdall - I nominate Chris Archer to lead us through 2001 as Chairman.
160
161 Mrs. Dwyer seconded the motion.
162
163 Mr. Marlles - We have moved and seconded that Mr. Archer serve as Chairman for
164 the Year 2001. Are there any other nominations? Do we have a motion to close nominations?
165
166 Mr. Vanarsdall - I move we close the nominations.
167
168 Mr. Marlles - Do we have a second?
169
170 Mr. Jernigan seconded the motion.
171
172 Mr. Marlles - We have a motion and a second to close nominations for Chairman.
173 All those in favor for Mr. Archer for Chairman of the Planning Commission for the Year 2001
174 signify by saying aye. I believe that is unanimous. Mr. Archer is elected Chairman of the Planning
175 Commission for the Year 2001. Congratulations, Mr. Archer. Mr. Archer, would you like to take
176 your chair now, or wait until the election of the Vice-Chairman.
177
178 Mr. Archer - Go ahead.
179
180 Mr. Marlles - That's fine. We'll now vote for the position of Vice-Chairman for
181 the Planning Commission for the coming year. Are there any nominations for Vice-Chairman?
182

183 Mr. Vanarsdall - I move that Mrs. Elizabeth Dwyer be nominated to be the Vice-
184 Chairman and lead us for 2001.
185
186 Mr. Marlles - Do we have a second?
187
188 Mr. Taylor - I'll second that.
189
190 Mr. Marlles - Mr. Taylor. Are there any other nominations from the floor? Do we
191 have a motion to close nominations?
192
193 Mr. Vanarsdall - I move nominations be closed.
194
195 Mr. Taylor seconded the motion.
196
197 Mr. Marlles - We have a motion that has been seconded that Mrs. Dwyer serve as
198 Vice-Chairman of the Commission for the Year 2001. All those in favor, signify by saying aye—all
199 those opposed by saying nay. I believe that, again, is unanimous. Congratulations, Mrs. Dwyer on
200 being elected Vice-Chair.
201
202 Mr. Archer - All right, are we ready?
203
204 Mr. Marlles - Yes sir.
205
206 Mr. Archer - Mr. Secretary, I had a few things I wanted to say, but Mr. Vanarsdall
207 already said them all. I would like to wish everybody a happy new year. I think officially you can
208 wish a happy new year until you get your W-2 form. And, with that, I'll turn the meeting back over
209 to our Secretary, Mr. Marlles.
210
211 Mr. Marlles - Mr. Chairman, the next item on the agenda is the adoption of any
212 new Planning Commission Rules and Regulations. Staff has no recommendations as far as any
213 changes to the existing Rules and Regulations. I have not heard from any Planning Commission
214 member that they have any recommendations. However, we can discuss that if there are any
215 suggestions at this point.
216 Mr. Archer - Is there any discussion on the Rules and Regulations?
217
218 Mr. Vanarsdall - If there are no changes, I move we adopt the Rules and Regulations
219 as presented.
220
221 Mr. Taylor seconded the motion.
222
223 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Taylor, that we adopt
224 the rules and regulations. All in favor let it be known by saying aye—all those opposed by saying
225 nay. The vote is 5-0 (Mr. Kaechele abstained). The Rules and Regulations are adopted and
226 unchanged, I believe?
227
228 Mr. Marlles - Yes sir.

229
230 Mrs. Dwyer - And these are the Rules dated April 5, 2000.

231
232 Mr. Marlles - Yes ma'am.

233
234 Mr. Archer - All right, next item, Mr. Secretary.

235
236 **Deferred from the November 9, 2000 Meeting:**
237 **C-36C-00 Gloria L. Freye for McDonald's Corp.:** Request to conditionally
238 rezone from R-3 One Family Residence District and B-1 Business District to O-2C Office District
239 (Conditional) and B-2C Business District (Conditional), Parcels 61-A-29, 30, and 31, described as
240 follows:

241
242 Parcel 1:
243 Beginning at a point in the northern right-of-way line for Parham Road, approximately 409' west of
244 the western right-of-way line of Staples Mill Road, and running in a clockwise direction
245 N.15°20'21"W., 289.74' to a point; thence N. 74°33'24" E., 145.89' to a point; thence S. 18°36'48"
246 E., 292.10' to a point in the southern right-of-way of Parham Road; thence along a curve to the left
247 having an arc length of 82.22', a radius of 1,959.86', and a chord bearing S. 69° 31'40"W., 82.21'
248 to a point; thence S. 74°38'51" W., 80.69' to the point of beginning, containing 45,831 Sq. ft., 1.05
249 acres more or less.

250
251 Parcel 2
252 Beginning at a point in the northern right-of-way line for Parham Road, approximately 246' west of
253 the western right-of-way line of Staples Mill Road, and running in a clockwise direction N.
254 18°36'48"W., 292.10' to a point; thence N. 74°33'24" E., 267.88' to a point on the western right-of-
255 way for Staples Mill Road; thence with the right-of-way for Staples Mill Road S. 10°50'09" E.,
256 4.33' to a point; thence S. 01°59' 43" E., 69.87' to a point; thence S. 16°01'00" E., 36.42' to a
257 point; thence S. 64°32'09" W., 8.25' to a point; thence S. 16°23'21" E., 11.11' to a point; thence N.
258 74°31' 10" E., 8.12' to a point; thence S. 15°42'59" E., 134.15' to a point; thence S. 31°53'21" W.,
259 38.40' to a point in the northern right-of-way for Parham Road; thence with the northern right-of-
260 way of Parham Road S. 71°31' 58" W., 135.94' to a point; thence S. 72°02'44" W.,45.01' to a
261 point; thence along a curve to the left having an arc length of 26.97', a radius of 1,959.86', and a
262 chord bearing S.71°07' 25" W., 26.97' to the point of beginning, containing 69,843 Sq. Ft., 1.60
263 acres more or less.

264
265 Mr. Marlles - The Staff report will be given by Mr. Mark Bittner.

266
267 Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to C-
268 36C-00. We do have opposition, Mr. Secretary. Before Mr. Bittner starts, would you like to just
269 state the rules now for opposition now so that we can move smoothly.

270
271 Mr. Marlles - Sure. Ladies and gentlemen, it is the policy of the Planning
272 Commission that when there is opposition to a case that the applicant be given 10 minutes to make
273 his presentation. That 10 minutes does not include any time answering questions from the

274 Commission. Usually, it's a good idea for the applicant to reserve some time for rebuttal to
275 questions.

276
277 The opponents are also given a total of 10 minutes to ask questions or to express their concerns
278 regarding the case. Again, any time spent answering questions is not included in that 10-minute
279 timeframe.

280
281 Mr. Archer - All right, thank you, Mr. Secretary. Mr. Bittner.

282
283 Mr. Mark Bittner, County Planner - Thank you, Mr. Chairman. The eastern portion of this site
284 would be zoned B-2C and house the proposed McDonalds. The western portion would be zoned O-
285 2C, and contain future office development.

286
287 The property in question is designated Office in the 2010 Plan. Staff feels this proposal is
288 inconsistent with the predominant Parham Road character, as well as the Office designation of the
289 property.

290
291 Staff has several comments on the submitted proffers. If the Planning Commission were to consider
292 this request to be acceptable, staff recommends that the following comments be addressed by the
293 applicant: Number 1 is landscaped areas.

294
295 The proffers have been amended to provide a 25-foot landscape buffer along Parham and Staples
296 Mill Road frontages of this property. These buffers were previously 30 feet in a previous form of
297 this application. The application should consider providing 30 feet instead of 25 feet on the
298 frontage buffers.

299
300 Issue 2 is the architectural treatment. A building elevation has been proffered, and you can see it
301 here (referring to slide). This is a building that they have proffered that's superimposed over a
302 picture of the corner of Parham and Staples Mill.

303
304 Staff feels that the building elevation could be modified to better complement the nearby office
305 developments. To that end, staff recommends that the applicant consider the following amendments
306 to the building elevation. And I'd also like to show you a building elevation, which we feel
307 incorporates these items that I'm going to now list.

308
309 This is the Burger King on Route 10, near the Chesterfield County Courthouse (referring to slide).
310 We suggest that the applicant have less glass and more brick on the exterior of their building, such
311 as this Burger King. We also suggest that the windows be accented with muntins which are thin
312 strips of wood on top of the glass panes. These are common in windows in colonial buildings.

313
314 We recommend that the roofline be heightened to create a two-story illusion. Again, in keeping
315 with the nearby office development, including the Courthouse Commons Office development just
316 down Parham Road. Also we recommend dormers and dormer windows be incorporated into the
317 raised roofline.

318

319 Issue 3 is the play area. This proffer states that, “Any children’s play area shall be located within
320 the building.” Staff continues to recommend that the applicant consider prohibiting a children’s
321 play area contained on many McDonalds sites. Play land areas are generally brightly colored and sit
322 in front of the building. If not designed properly, they can detract from the site’s aesthetics.

323
324 Our final issue has to deal with inter-parcel connection. I’ll go back to the Land Use Plan here. The
325 applicant has proffered that there will be no driveway connection from either the B-2 portion of the
326 site to the north, or the O-2 portion to the north.

327
328 Staff supports having no connection between the business property and the property to the north
329 which is recommended for office development. However, staff does feel the potential for
330 connection for the office portion of the property, with that property to the north, should be preserved
331 in the hopes that, perhaps, some day somebody might amass all this property in this area here
332 (referring to slide) and bring it together with this and create a nice coordinated office development
333 that would be accessed from both Parham or Staples Mill.

334
335 To summarize, this application is not consistent with the 2010 Plan, and staff cannot support it. If
336 the Planning Commission deems this proposal acceptable, staff recommends that the applicant
337 address the issues presented tonight. I’d be happy to answer any questions you may have.

338
339 Mr. Archer - Thank you, Mr. Bittner. Are there questions for Mr. Bittner from the
340 Commission?

341
342 Mrs. Dwyer - Mr. Bittner, I have one question. In your staff report, you mentioned
343 that on Parham Road west of Staples Mill in the area there are no properties designated for business
344 use. But, the Rite Aid would qualify as a business use, would it not, and that is...

345
346 Mr. Bittner - That is zoned and used, but it’s not designated on the Land Use Plan.

347
348 Mrs. Dwyer - Okay.

349
350 Mr. Bittner - The Rite Aid sits right here (referring to slide) on this corner and you
351 can see that property was designated for single-family residential.

352
353 Mrs. Dwyer - Okay. So, the Land Use Plan didn’t call for it, but it was zoned for
354 business nonetheless?

355
356 Mr. Taylor - Mr. Bittner, I’ve got a question with regard to your comment on the
357 play area. Could you clarify that? Your preference would be an indoor play area?

358
359 Mr. Bittner - Our preference would be to prohibit play areas. Maybe I can show
360 here (referring to slide). You see a play area on the front of this McDonalds, which is on Parham
361 near Three Chopt. The applicant has proffered any play area on the site would be indoors which
362 would help the aesthetics. Again, though, we think the best way is just to prohibit them altogether.
363 Probably, the most people going to this McDonald’s would be workers in the offices, including the

364 County complex here. I don't feel a play area would be necessary at this McDonalds, although the
365 applicant might differ with that.

366
367 Mr. Taylor - Thank you.

368
369 Mr. Archer - Okay. Any further questions of Mr. Bittner? Thank you, sir. Okay,
370 Ms. Freye.

371
372 Mrs. Gloria Freye - Yes sir. Good evening, Mr. Chairman, members of the Commission.
373 My name is Gloria Freye. I'm an attorney here on behalf of McDonalds. Also here representing
374 McDonalds, this evening, is Bill Savage.

375
376 I'd like to begin first by thanking Mr. Vanarsdall for working with us so patiently through this long
377 process when we filed. You can tell by the number of deferrals. We've had six deferrals. There are
378 a lot of issues involved in this and we've worked very hard. And I'd like to thank staff, as well, for
379 working with us.

380
381 This is a very different case before you this evening than the case that was applied for. When we
382 applied for this, the application actually showed the McDonalds fronting on Parham. And, a lot of
383 those concerns about the Office designation for the Land Use Plan arose in connection with that.
384 And the concern was that retail could creep down that corridor toward the Office development of
385 Courthouse Commons.

386
387 During the course of working with the staff, McDonalds was able to get the Shell station which is
388 on the corner under contract. That enabled us to move the McDonalds to the corner and have an
389 over one acre site that we could zone O-2 for the Office development to put that in place for the
390 future office development that staff would like to see along that corridor.

391
392 McDonalds has proffered a site layout, which I'd like to show you. One of the improvements in
393 proposing the McDonalds Restaurant on the corner, instead of the Shell station, the Shell station
394 actually has four access points right there at the corner very close to the intersection. By moving the
395 McDonalds to the corner, we can have proffered one access onto Staples Mill and one access onto
396 Parham. The other advantage is, with the access on Parham, we've made that a shared driveway so
397 that can serve the future office development as well.

398
399 Mr. Bittner did talk about our proffer of restricting vehicular traffic from the parcel to the north,
400 both through the office and the restaurant parcel. There's a lot of concern about the amount of
401 traffic that comes through there. And, not knowing what that development on the north might be in
402 the future, we feel like that's an issue that should be addressed in the future when we know what
403 that development's going to be.

404
405 We feel that the zoning that we're asking here is consistent with the zoning on the other corners. As
406 you pointed out, Mrs. Dwyer, we do have the Rite Aid across the street which is zoned B-2. If I'm
407 not mistaken, I think the Land Use Plan called for that to be Office before it was rezoned. There is
408 B-2 at the Burger King. And, of course, there is office on the other corner.

409

410 We feel that this zoning is much preferred over the unconditional B-1 zoning that is there now. We
411 are proffering much higher development standards than what would be permitted in the B-1 that
412 would come with that. We've also proffered out 11 of the B-2 uses which, in talking with the staff,
413 we did not feel would be appropriate uses at this site.

414
415 We've also proffered to set back the storm water management—the BMP, at least 75 feet from
416 Parham and to put in landscaping that would screen it.

417
418 We are proffering irrigated buffers of 25 feet. And Mr. Bittner has concern about that. The 25 feet
419 is the minimum. And there are only a couple of places where they only have the 25 feet. And you
420 can see the driveway on the corner and on either side of each access, we have 50, 75, 100 feet. So,
421 the 25 is a minimum. The rest of it is much larger. It's also much larger than what was proffered
422 with the Rite Aid across the street, which was only 25 as well.

423
424 The next issue that Mr. Bittner raised was the appearance of the building. When we were fronting
425 this property onto Parham, that aligned it with the Courthouse Commons Office building. And
426 there was a lot of concern about making it be compatible with that and future office uses.

427
428 So, McDonalds looked at that development and incorporated a lot of those features into the
429 elevation that you all had before you. I think all of you have color copies of it, or we could put it
430 back up. What we've done is we have incorporated the raised roof. We've added dental molding.
431 We've added gables in the roof. We've made the color scheme the same as those in Courthouse
432 Commons. We've actually found a brick that matches the red color that's used in Courthouse
433 Commons. We've minimized the amount of glass. We've used the dark paint for the color trim to
434 incorporate those features.

435
436 Mr. Archer - Mrs. Freye.

437
438 Mrs. Freye - Yes sir.

439
440 Mr. Archer - Excuse me. I believe we neglected to ask you if you wanted to
441 reserve some rebuttal time. You have between four and five minutes left.

442
443 Mrs. Freye - I think I'd like to reserve about two minutes.

444
445 Mr. Archer - We'll let you know.

446
447 Mrs. Freye - Thank you. So, we have proffered this elevation. We've also
448 proffered that, if there's a play area, not only would it be inside, but it would not be visible from
449 Parham. That would be designed that way and you could ensure that as you go through the POD
450 process.

451
452 We've limited the height of the freestanding sign here to 10 feet. It would be a five-foot sign on a
453 five-foot brick base. And, I think with a B-1, you could actually have a 25-foot tall sign. So, we've
454 improved that as well.

455

456 There are other proffers about lighting and screening, building height and loud speakers which are
457 in the case. I was not aware that there was any opposition. I mean, these many months, we had not
458 heard of any opposition. So, I'm a little surprised that there are folks here this evening. But, I am
459 interested in hearing what they have to say. And, hopefully, I'll be able to address that.

460
461 We do see this as an opportunity to replace an older development of unconditional B-1 with zoning
462 that has much higher development standards that are proffered. We feel this is a very stylish
463 McDonalds. It's very compatible with the future office use that staff would like to see on Parham.
464 It's very much in character with the development on the corners. And, for these reasons, we ask
465 that you recommend approval, and we'd be glad to answer any questions that you have.

466
467 Mr. Archer - Thank you, Mrs. Freye. Are there questions for Mrs. Freye from the
468 Commission?

469
470 Mr. Kaechele - Does the site plan show a drive-thru pick up I guess would be kind of
471 the north side of the building?

472
473 Mrs. Freye - Yes sir. The drive is on the backside of the property. If on Staples
474 Mill, it would be on the other side.

475
476 Mr. Vanarsdall - Mrs. Freye, I believe that Mr. Savage said, of course, I know we
477 were just talking about it, that we really weren't all that enthused about having a play area anyway.
478 That doesn't mean he won't do it, but I mean...

479
480 Mrs. Freye - We'd like to have the play area. I know that Mr. Bittner has made a
481 comment about that. Primarily, it would serve people traveling to and from work and office
482 employees, government workers. But, there's a large residential development further up Staples
483 Mill that's going to be developed; families with children in the Cross Creek development. And
484 there are a lot of people that like to have that facility for their children and their grandchildren. So,
485 we don't want to give up that option. We are willing to put it inside, scale it, and design it so that its
486 not visible and would not detract from the stylishness of this building.

487
488 Mr. Vanarsdall - It would be on the back, too.

489
490 Mrs. Freye - Yes sir.

491
492 Mrs. Dwyer - Would you then need to increase the square footage of the building,
493 as presented in the site plan if you were going to add or include a play area?

494
495 Mrs. Freye - No. It would fit within this building that we're showing you.

496
497 Mrs. Dwyer - This is the BMP that back L-shaped sort of light green (referring to
498 slide)?

499
500 Mrs. Freye - Yes.

501

502 Mrs. Dwyer - What would that look like? I know you said you'd landscape around
503 it. But will it be wet pond, dry pond?
504

505 Mrs. Freye - Probably a dry, and screened comparably to the way the Rite Aid one
506 is screened across the street. You hardly don't know its there.
507

508 Mrs. Dwyer - So, it will be grassy?
509

510 Mrs. Freye - Yes.
511

512 Mrs. Dwyer - A grassed in area, not concrete or...
513

514 Mrs. Freye - No.
515

516 Mr. Archer - Okay. Further questions for Mrs. Freye?
517

518 Mr. Taylor - I have one. What is the square footage of the footprint of the
519 building, roughly?
520 Mrs. Freye - I've forgotten. Approximately 4000.
521

522 Mr. Taylor - In thinking about a play area, what would you assure the area of that
523 play area would be as a fraction of the 4,000 or...
524

525 Mrs. Freye - About 400 square feet.
526

527 Mr. Taylor - So, that's roughly 10 percent?
528

529 Mr. Savage - Yes sir.
530

531 Mrs. Dwyer - Mrs. Freye, I think you addressed the question of the access from the
532 O-2 portion to the existing office that surrounds it. Thinking the proffers restricted that, and staff
533 suggested that not be restricted, is that an issue?
534

535 Mrs. Freye - We would prefer to have that restriction there. We don't know what
536 that development is going to be to the north. If the north does develop to office, that would be a
537 condition that could be easily amended at that time. We just don't know what's going to go there.
538 We're perfectly willing to accommodate office to the west of us, because we are zoned that way and
539 would like to see office go there. But, we don't know what's going to happen on the north side.
540

541 Mrs. Dwyer - But if you didn't restrict access from this office parcel, then in the
542 proffer you could still make a business decision not to make a connection.
543

544 Mrs. Freye - That's true, but there have been expressions of concern about the
545 amount of traffic that's on Parham. And, if you open up that access, we don't know what we are
546 opening it up to and we'd just as soon not do that at this time.
547

548 Mr. Vanarsdall - I think it might have been people coming through there trying to
549 duck the light who are going on down Parham east.

550
551 Mrs. Freye - But you do have medians both on Parham and Staples Mill. I know
552 that people will look for an opportunity to have cut through where ever they can.

553
554 Mr. Vanarsdall - Going west, excuse me.

555
556 Mr. Bittner - I'd just like to point out one thing on this access question. We're not
557 recommending that there has to be an access between this property and to the north. We're just
558 simply saying, the possibility should be preserved if office development were to occur on the north.
559 Then I think it makes a good idea to coordinate that with this new office development. I understand
560 the applicant's concern if something else goes there that's not compatible, then they probably
561 wouldn't want to connect to it. We're not requiring or suggesting they do that. We're just saying,
562 "Don't prevent it," at this point so that we're not restricted further down the road.

563 Mr. Vanarsdall - Thank you, Mark.

564
565 Mr. Archer - Thank you, Mr. Bittner.

566
567 Mr. Taylor - I have one more question with regard to the issue of traffic flow,
568 particularly, with the opportunity with cut through traffic. Would it be possible, or have you
569 considered doing what is done on the other side of the street where there is a right turn lane from
570 Staples Mill to Parham, both what would be I guess the north side and the south side?

571
572 In this particular diagram, if you could find a space in there to round that corner so that the right turn
573 lane would be able to continue to turn right at the red light, would that solve the cut through
574 problem? Would that be possible in the design?

575
576 Mrs. Freye - It might do that, Mr. Taylor, but our concern is the safety. And in
577 talking with the County traffic engineers, they don't want the possibility of collisions of people
578 thinking they've got a through lane when people are turning in. And, so that's why we designed it
579 according to the input that we got from the County traffic engineers to design it the way we did with
580 the accesses as far away from the intersection as we could, but as turn lanes, not a through lane.

581
582 Mr. Taylor - I can appreciate that. Thank you.

583
584 Mr. Archer - Okay. Any further questions? Thank you, Mrs. Freye. I believe we
585 had some opposition. Would you like to come down now please and state your name?

586
587 Mr. Chris Lhuillier, Burger King - I'm just a supervisor at the Burger King across the road. Sorry
588 about you not hearing about the rebuttals until now. I didn't know until about a week ago. Just one
589 question. Understanding outside of the heavy traffic flow and a lot of the accidents occurring on the
590 corner, I understand why McDonalds wants to build. With all of the office buildings in the area, it
591 is a good opportunity to make a lot of money. But just a question of building another McDonald's
592 1.1 miles away from one right down the road? That's the only question I had, being exactly 1.1
593 miles away from the McDonalds on Staples Mill. That's it.

594
595 Mr. Archer - Okay. Any questions from the Commission? Thank you, sir. Was
596 there any one else? All right, that's all the opposition. Any rebuttal to that, Mrs. Freye?
597
598 Mr. Marlles - Mrs. Freye, you have three minutes.
599
600 Mrs. Freye - I just wanted to say, we really think that the design and the layout
601 that we're proffering makes a safer development there than the Shell Station that's there that had
602 four accesses very close to the intersection, a lot of opportunities for conflicts. Now, we've
603 followed the recommendations of the County traffic engineer. Moved the accesses back. Doing
604 shared accesses. Getting it down to two, where potentially there would have been five. So, we
605 really think that with the layout that we've proffered, it's a much safer situation and would address
606 that safety concern that the Burger King representative stated.
607
608 Mr. Archer - Mrs. Freye, before you sit down, do you have any specific answer
609 that you'd like to give to the staff's report under Sub-paragraph 3, the Summary? It's on the second
610 page of the staff report, the first paragraph.
611
612 Mrs. Freye - In Section 3, the last paragraph?
613
614 Mr. Archer - Summary of Staff Report Comments, right on the second page of the
615 staff report. He ends by saying, "For these reasons, the staff cannot support this application."
616
617 Mr. Vanarsdall - What page are you on?
618
619 Mr. Archer - Page 2.
620
621 Mrs. Freye - When this property shows up on the Land Use Plan as an Office
622 designation, there's existing B-1 development there now that's older development that doesn't meet
623 any of today's standards. If I'm not mistaken, the precedent is there for Rite Aid which is on the
624 other corner, which was also designated for Office, but was rezoned B-2 I guess about two years
625 ago, if it was that long.
626
627 While, I think that Office could possibly go on that corner, my response is that this is very much in
628 character with what is on the rest of those corners. And, that its often very good planning to have
629 this type of retail use on a corner at an intersection. And, then you make the transition into Office.
630 This is a use that's going to be supportive of Office and government employees in the area. It's
631 going to be a very attractive building. It's across the street from a restaurant. It's across the street
632 from a bank. It's across the street from a Rite Aid.
633
634 So, while the Land Use Plan showed Office, I don't think this is an inappropriate request. I think
635 it's a very appropriate request. And I think it's a great improvement over what's there now and
636 what could go there by right without any conditions at all.
637
638 Mrs. Dwyer - So, what you're saying is, although its designated as Office on the
639 Land Use Plan, its an existing B-1 use.

640
641 Mrs. Freye - Yes.
642
643 Mrs. Dwyer - So, there's already a business use there, in spite of the Land Use
644 Plan?
645
646 Mrs. Freye - In spite of the designation. And in deference to the Land Use Plan,
647 we are zoning over one acre as O-2 zoning, which is consistent with the Plan, and sets the
648 foundation for the Office development that staff would like to see, whereas, right now, that adjacent
649 property is zoned "R."
650
651 Mrs. Dwyer - So, in a sense, you're really guaranteeing that the transition from this
652 corner, as you travel down Parham, will be Office use; and your adjacent parcel to be office?
653
654 Mrs. Freye - Yes ma'am. So, while we may not be entirely totally consistent with
655 it, we're promoting the intent of the Land Use Plan.
656
657 Mr. Archer - Thank you, Mrs. Freye. All right, any further questions from
658 anyone? All right, Mr. Vanarsdall.
659
660 Mr. Vanarsdall - I'll start out by asking the question, the young man asked about, the
661 McDonalds one mile and one tenth. There's a Burger King across the street. We don't know why
662 these fast foods or banks; we don't know why they put things close together. The only thing I can
663 think that the retail area at this intersection would be different from the retail area down the road, the
664 one mile. That's the only thing I can think of.
665
666 When this case was first filed by Mrs. Freye, I didn't think much of it because they were trying to
667 put it behind the service station, and, as Mark pointed out, in the wrong area. And, so then they
668 worked on it, and that was the reason for so many deferments. Mark and Mrs. Freye and all of us
669 worked together on it and tried to get it improved. And, finally, they went to Mr. Quarles, of the oil
670 company, who owns this service station and asked him, would he sell it, and he did. Then they
671 turned around and said, to keep as close to the Land Use Plan as we can. We will zone the part
672 behind the service station. So, that will be zoned office between the Courthouse Commons up the
673 street and down here.
674
675 Now, this building on this corner fits very well with this intersection. Across the street is Burger
676 King. Opposite that is First Union Bank, and across from First Union Bank is the new Rite Aid
677 drug store. So, this is, I feel, in a very fitting place for this retail. And, then, like I said, the back of
678 it will be the office.
679
680 This does not have any effect on the school system and the roads can handle it. And so, I'd like to
681 recommend this to the Board of Supervisors for approval. So, I make a motion that C-36C-00 be
682 recommended to the Board for approval.
683
684 Mrs. Dwyer seconded the motion.
685

686 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mrs. Dwyer. All in favor let
687 it be known by saying aye—all those opposed by saying nay. The vote is 5-0 (Mr. Kaechele
688 abstained). The recommendation is made for approval.
689

690 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Dwyer, the Planning
691 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the
692 request because the proffered conditions would provide for a higher quality of development than
693 would otherwise be possible, the proposed business use would be an improvement over the current
694 business on the site, and the office zoning establishes a preferred land use pattern consistent with
695 the Land Use Plan.
696

697 **Deferred from the December 7, 2000 Meeting:**

698 **C-53C-00 Henry L. Wilton for Wilton Development Corp.:** Request to
699 conditionally rezone from R-4 One Family Residence District to RTHC Residential Townhouse
700 District (Conditional), R-5C General Residence District (Conditional) and O-2C Office District
701 (Conditional), Parcels 82-A-14 through 18 & 20 and Parcels 82-7-A-2 & 9, described as follows:
702

703 Beginning at a point on the Western right-of-way line of Staples Mill Road, said point being located
704 approximately 1000 feet North of the intersection of said Staples Mill Road and Glenside Drive and
705 is on the northern right-of-way of Dublin Street. Thence departing the said right-of-way of said
706 Staples Mill Road along the northern right-of-way of said Dublin Street, South 76°-01'-35" West
707 266.04 Feet to a point. Thence crossing said Dublin Street and along the land now or formerly of
708 SCK Inc., South 13°-58'-25" East 180.00 Feet to a point on the Northern side of a 16 foot alley.
709 Thence along the northern side of the said 16 foot alley, South 76°-01'-35" West 450.00 Feet to a
710 point. Thence departing the said alley along the land now or formerly of Hugh T. Ball, North 13°-
711 58'-25" West 150.00 Feet to a point on the southern right-of-way line of Dublin Street. Thence
712 along the southern right-of-way of said Dublin Street, South 76°-01'-35" West 72.98 Feet to a point.
713 Thence crossing said Dublin Street and along the land now or formerly of the County of Henrico,
714 North 08°-04'-10" West 50.48 Feet to a point. Thence along the land now or formerly of the said
715 County of Henrico the following courses and distances: South 76°-44'-10" West 244.51 Feet to a
716 point. Thence South 83°-41'-30" West 65.72 Feet to a point. Thence South 83°-52'-53" West
717 174.43 Feet to a point. Thence South 06°-18'-30" East 614.18 Feet to a point in the Northern right-
718 of-way of Glenside Drive. Thence along the Northern right-of-way of said Glenside Drive, North
719 87°-37'-00" West 308.86 Feet to a point, Thence departing the said right-of-way of Glenside Drive
720 along the land now or formerly of Helen M. Holland the following courses and distances: North
721 06°-18'-30" West 102.17 Feet to a point. Thence South 84°-41'-30" West 67.46 Feet to a point.
722 Thence. North 06°-18'-30" West 549.08 Feet to a point. Thence North 84°-41'-10" East 46.90' to a
723 point. Thence North 06°-18'-30" West 525.09 Feet to a point in the Southern right-of-way of Tatum
724 Boulevard. Thence along the Southern right-of-way of said Tatum Boulevard the following courses
725 and distances: North 81°-45'-13" East 252.56 Feet to a point. Thence North 81°-45'-30" East
726 537.95 Feet to a point. Thence North 08°-04'-10" West 26.05 Feet to a point. Thence North 83°-
727 38'-05" East 681.45 Feet to a point in the Western right-of-way of Staples Mill Road. Thence
728 along the Western right-of-way of said Staples Mill Road on a curve to the right with a radius of
729 1067.92 Feet, a central angle of 2-27-13 and an arc length of 45.73 Feet to a point. Thence
730 continuing along the right-of-way of said Staples Mill Road, South 18°-17'-25" East 515.76 Feet

731 to the point of beginning and containing approximately 28.4 acres.
732
733 Mr. Marlles - The staff report will be given by Mr. Lee Householder.
734
735 Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to C-
736 53C-00? Mr. Householder.
737
738 Mr. Lee Householder, County Planner - Thank you, Mr. Chairman. In December of 2000, the
739 applicant requested a mixed use development that included a townhouse development, assisted
740 living development, and office development. At that time, staff and members of the Planning
741 Commission had a number of concerns and the case was deferred to this meeting.
742
743 The applicant has since revised their proffers to address most of the concerns identified at the last
744 meeting. One of the most prominent concerns at the meeting was access.
745
746 The applicant has submitted a new concept plan that was, hopefully, delivered to the Planning
747 Commission for tonight's meeting. And it shows a secondary access on this site coming from
748 Crockett Street here (referring to slide) and then running up there.
749
750 The initial concern at the earlier Planning Commission meeting was access proposed for the
751 townhouse site that would come directly through office and assisted living.
752
753 The applicant has also addressed a concern with accessing the site with relationship to the
754 AMTRAK station would be over here (referring to slide). And in Proffer No. 46, they have
755 proffered joint access to align with that AMTRAK entrance.
756
757 In order to reconfigure this access for the site, the applicant had slightly amended the acreage in the
758 case. The RTHC area on this case has been revised from 17.7 to 17.5 acres. The R-5 parcel went
759 from 5.7 to 5.1, and the O-2C parcel went from 5 acres to 5.8.
760
761 Other changes that were made by the applicant includes language that addresses utilities and the
762 proffered landscaped buffers. Boats, trailers, and campers were added to Proffer 14.
763
764 The applicant in Proffer 17A has committed to incorporate a BMP as a water feature if, in fact, the
765 BMP is determined to be a wet BMP at POD time.
766
767 Proffers 25 and 34 were revised to clarify the use of brick. It originally said, "primarily brick." The
768 applicant is now proffering all brick except the windows and doors. Proffer 33(a), there was a
769 concern about the setback of the office to Staples Mill. They've proffered a 50-foot setback from
770 Staples Mill. And Proffer 41 deals with illumination of the sign for the office piece.
771
772 Also, I'd like to note that the proffers delivered to you before tonight's meeting included
773 illumination for the sign on the R-5 piece. Staff discussed with the applicant why we wanted
774 illumination on residential signage. They've since amended that proffer and it was in time and
775 that's what was handed out to you tonight. And they corrected a typo in Proffer 46 which refers to
776 O-3C as opposed to O-2C and that's not on what you were given tonight, but they've changed that.

777
778 Overall, staff's concerns with this do still have to do with the recreational areas shown on the site
779 plan and the overall design of the RTHC portion. We do feel like the applicant has made great
780 strides in the case and we're content that these issues can be revisited again at the time of Plan of
781 Development review. Therefore, staff recommends approval of this request. I'll answer any
782 questions that you may have.
783
784 Mr. Archer - Thank you, Mr. Householder. Are there any questions from the
785 Commission?
786
787 Mrs. Dwyer - This is to follow up on the access discussion from last month. Is
788 there a connection between the townhouse and assisted living or townhouse and office use?
789
790 Mr. Householder - If the R-5C portion of the property is developed as assisted living, it
791 will have access. They've proffered that it will access through the office piece. And they've
792 proffered that in two years, if they're not able to find an assisted living use, then they will go by the
793 RTHC proffers which they will be able to share the secondary access point if it is developed as
794 townhouses.
795
796 Mrs. Dwyer - So, the Crockett Street access is to the townhouse development only?
797
798 Mr. Householder - It's a secondary access to townhouses. Any office of assisted living
799 will access from Staples Mill.
800
801 Mrs. Dwyer - Unless the assisted living is developed as townhouses, and then that
802 would share the Crockett Street access, but also Glenside?
803
804 Mr. Householder - Correct. And it would not be coordinated with the office piece.
805
806 Mrs. Dwyer - So, there's no access to that rear street?
807
808 Mr. Householder - This street here (referring to slide)?
809
810 Mrs. Dwyer - Yes.
811
812 Mr. Householder - This street were discussed and it was determined that it might not be
813 the best access point. This kind of showed up as better because this still allowed traffic to possibly
814 travel through the site in that manner.
815
816 Mrs. Dwyer - Right.
817
818 Mr. Householder - And it wouldn't make sense to back tract up through here and
819 around. So, once you get to this point on Staples Mill, you'll probably go to the corner (all
820 referring to slide).
821 Mrs. Dwyer - Right. Regarding staff's concern about sufficient open space and
822 recreational area, I guess I'm wondering, while the location of that may be determined at POD,

823 there's not the actual ground to put it on. Then there's not going to be a lot of maneuverability at
824 POD time. So, what are your thoughts about existing recreational and open space on the townhouse
825 development?

826
827 Mr. Householder - We feel that it could be increased. There is potential, but the
828 applicant would probably lose a set of units. And, considering the strikes that have been made in
829 the case, we are willing to see if we could fight for that at POD time at this point.

830
831 Mrs. Dwyer - Is this site plan proffered?

832
833 Mr. Householder - Yes. It is. It's proffered as a concept plan in Proffer 31.

834
835 Mrs. Dwyer - Refresh my memory about the recreational and open space.

836
837 Mr. Householder - We were hoping for about 1.8 acres. They're showing about 1.3.

838
839 Mrs. Dwyer - Excuse me. Is that in the center?

840
841 Mr. Householder - Yes. That would be in this area (referring to slide), and it does
842 include a structure. So, this area is where their recreation would be. Our overall concern was with
843 design. If you could maybe change the design, you could find other pockets of recreation
844 throughout the community. And, knowing that the potential for this property to be developed in the
845 future, you'll still end up with very little room for additional recreation on the site. This case has
846 come a long way, I will add, since it was originally filed. In June, there was a large portion of B-3
847 on the front end of the property. So the applicant has made many changes to address staff's many,
848 many concerns that we had.

849
850 Mr. Archer - Okay. Are there further questions?

851
852 Mr. Vanarsdall - Mr. Chairman, I have a question.

853
854 Mr. Archer - Go ahead, Mr. Vanarsdall.

855
856 Mr. Vanarsdall - And this would be up to all the Commissioners. Do we want to hear
857 Mr. Wilton's presentation again?

858
859 Mr. Archer - Mr. Wilton voted no.

860
861 Mrs. Dwyer - We might want to ask him a question, but I don't need to hear his
862 presentation again.

863
864 Mr. Vanarsdall - We've had more proffers on this case than we've had on all of them I
865 think since I've been here.

866
867 Mr. Archer - Mr. Wilton, if you could be available for a few questions, sir?

868

869 Mr. Wilton - Yes sir. I'd be happy to.
870
871 Mr. Vanarsdall - Have you ever been put on standby?
872
873 Mr. Wilton - All the time.
874
875 Mrs. Dwyer - I'm just questioning the recreational/open space area that you have
876 planned. If you could describe that and, perhaps, talk about whether you could provide some more.
877
878 Mr. Wilton - This plan is not set in stone. The proffer reads, basically, it can be
879 revised when I come back to you at the time of POD hearing.
880
881 Mrs. Dwyer - Right.
882
883 Mr. Wilton - At that point, we'll actually be in a better position to talk about, if
884 we're going to have a wet BMP, Number 1, for a water feature. And, as far as looking at trying to
885 go ahead and have some area reserved for recreation, what we had discussed with the staff, and Mr.
886 Vanarsdall was, basically, to take it to this point (referring to slide), and, again, arrange it and work
887 with, obviously, this body and the staff when we come up during the POD review.
888
889 We did go ahead and put larger units here (referring to slide); a minimum 1,700 square foot unit
890 instead of having smaller units which we might be able to move them around a little bit better. We
891 also committed to an 1,800 square foot community center, larger than we usually go or consider
892 1,400 square foot. We talked about what should be at this location, but we're not in a position right
893 now to finish up at POD. But, again, I will work with y'all to arrive at some recreation. I don't
894 know that I can give the full complement per the new guidelines, but I will certainly work towards
895 that.
896
897 The other main point of the last discussion we had with this body was, again, that access. I just
898 wanted to clarify one thing that Mr. Householder said. The access that we now have from Crockett,
899 that access actually will be available to the assisted living too. And, the reason being, the assisted
900 living could come in through the main entrance, but then we would want another access, because the
901 assisted living come out because there's a light right there at Crockett. So, that would make it a lot
902 easier and safer for them to come out. So, that access is available for the assisted living along with
903 coming out for the multi-family project.
904
905 The other point of clarification is that, I'm not going to wait two years and go develop multi-family
906 in the assisted living. My plan is to develop it assisted living. If, for some reason, I cannot find an
907 assisted living user, I just said I wanted to have the option to develop townhouses in there. I do not
908 plan to take the townhouse development that way. I plan to go ahead and do assisted living if I can
909 find a user on it. Those are points of clarification.
910
911 Mrs. Dwyer - But, even though its not likely, a person could come from Staples
912 Mill through the office, through the assisted living to Crockett?
913

914 Mr. Wilton - Right, and then take a right and weave their way through the
915 townhouse development. No. I wouldn't think they would do that. No. We're making it very
916 difficult for that.

917

918 Mrs. Dwyer - You can discourage that with your design as well. I'm still
919 concerned about the open space.

920

921 Mr. Wilton - Yes ma'am, I know you are, and I will be back before this body and I
922 hope...

923

924 Mrs. Dwyer - What's the number of units you're looking to...

925

926 Mr. Wilton - There are approximately 100 units right here (referring to slide). It's
927 6.05, around 6 units per acre. And the density allowed, I think, on the Land Use Plan is 6.8.

928

929 Mrs. Dwyer - What kind of open space do you think you might be able to provide
930 at POD?

931

932 Mr. Wilton - I don't know because I don't know where the BMP is going to be. If
933 the BMP is going to be a wet pond, certainly, that's going to go ahead and give me some open space
934 with some, you know, benches and maybe a gazebo and so on. But, again, until I arrive at that
935 point, I really can't tell you. But I will work with you. We have quite a number of townhouse
936 developments underway right now. Actually, three of them within in the County in Planning or
937 through zoning right now. I believe I can go ahead and come close to giving a good recreational
938 area. Each facility, depending on the age of the person that you're trying to market to, should go
939 ahead and require less or more recreational area and different types of recreational area.

940

941 Mrs. Dwyer - Are you marketing this to a particular age group?

942

943 Mr. Wilton - This is going to be, as far as I'm concerned, and Ryan, whose going
944 to be the builder, these will be \$160,000 townhouses, a minimum of 1,700 square feet, all of them
945 with garages and probably marketed to the "empty nester" individual. How much recreational area
946 does he want? Supposedly, they would want a nice meeting area, not necessarily a large pool.
947 They would like a nice meeting room, a card room. That would be this market. Some of the other
948 ones we're going to, we're, obviously, going to more of the yuppie audience, which is a little
949 smaller unit, more open space, more walking trails. You saw that last month at the property I bought
950 through Liesfeld property.

951

952 Mrs. Dwyer - So, would you be willing to give up some of your units to get a little
953 extra green space?

954

955 Mr. Wilton - If I thought the individual in these units would be using that green
956 space, yes. And, certainly, that's why there are guidelines, and we get to go ahead and discuss it
957 with staff and come back before this body again.

958

959 Mr. Taylor - Mr. Wilton, what are your intentions with that vacant property to the
960 west? Do you have any expectations that might be included at some future time?
961

962 Mr. Wilton - Yes sir. We've been trying to purchase that property. And, I think,
963 ultimately we will. We have two access points to that property, and I would expect in the next year
964 or so, we should be able to do - We've talked to the lady that owns it. Hopefully, she'll entertain
965 our offer within the next year or so. She's not ready to sell right now. But, we have laid it out so we
966 could go ahead and develop townhouses in there.
967

968 Mr. Taylor - In furtherance to Commissioner Dwyer's comments, along Tatum
969 Boulevard, while you're not using it now, for you to assemble that additional western parcel, would
970 it not be quite reasonable to open up Tatum Boulevard, a back entrance, and then even, perhaps,
971 from Glenside Drive? What are your plans?
972

973 Mr. Wilton - We met with the County on that and the access coming out to
974 Crockett gives us a signalized access point, which is a lot safer. The other part is, some of that right
975 of way is not there any more from what I understand. It's been purchased by individual
976 homeowners. That would be additional area that you could assemble and that would be an
977 opportunity for you to take care of Commissioner Dwyer's recreational area.
978

979 Mr. Wilton - Put it over there? I don't know. But, again, I'll have a plan back
980 before this body, and, hopefully, you'll be happy with it.
981

982 Mr. Archer - Its on the record. Okay, any further questions for Mr. Wilton? There
983 was no opposition, I believe. All right, Mr. Vanarsdall.
984

985 Mr. Vanarsdall - One of the things that came up last time and I do want to thank the
986 Commission for getting in on this last time, because we were able to kind of fine tune it. Here
987 again, almost like the other case, Mr. Householder worked with Mr. Wilton, and Sandy Verna who
988 works for Mr. Wilton. And he kept on deferring it until he got it like he wanted it, or should be.
989 One of the things came up last time was the sidewalk on Staples Mill Road. I thought that there was
990 a sidewalk in front of the drugstore along there. Its funny how you pass; you look but you don't see.
991 There's a sidewalk all the way from the drugstore, from the CVS branch on Bremner Boulevard all
992 the way down Staples Mill Road. It turns and goes up Glenside Drive all the way past Carriage Hill
993 senior citizens place. So, we don't have to worry about an outside sidewalk. And, Mr. Wilton's
994 going to put sidewalks inside.
995

996 I think this is a very good, excellent use of this property. I never thought I'd see these woods
997 disappear. At one time there was talk that the train station would go there, not the train station's
998 that's there, but the metropolitan what do they call it; the new transportation center which is going
999 downtown and should be in the city. That's where they are in every other city in the world. So,
1000 with that, also, he's going to put a fence around this, so this will be a gated community, or almost
1001 gated. And I'm glad we were able to work out the Crockett Street secondary access rather than to
1002 come off Staples Mill. We don't want anything on Staples Mill, and this came up before, that you
1003 could come down and go all the way and come out on Glenside and duck the area. The entrance

1004 will be like a boulevard entrance off of Glenside and will have brick columns and so forth and be
1005 very landscaped. With that, I recommend C-53C-00 to the Board of Supervisors for approval.

1006
1007 Mr. Taylor seconded the motion.

1008
1009 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Taylor. All in favor let
1010 it be known by saying aye—all those opposed by saying nay. The vote is 5-0 (Mr. Kaechele
1011 abstained). Thank you, Mr. Wilton. Mr. Secretary.

1012
1013 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Dwyer, the Planning
1014 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the
1015 request because the proffered conditions would provide for a higher quality of development than
1016 would otherwise be possible, the proposed business use would be an improvement over the current
1017 business on the site, and the office zoning establishes a preferred land use pattern consistent with
1018 the Land Use Plan.

1019
1020 **C-1C-01 Robert M. Atack for Staples Mill, L.C.:** Request to conditionally
1021 rezone from R-2 One Family Residence District and R-6C General Residence District
1022 (Conditional) to O-2C Office District (Conditional), Parcel 40-A-6 and part of Parcel 40-A-1A,
1023 described as follows:

1024
1025 **Cross ridge**

1026 **Tract 8-E**

1027 Beginning at a point on the southern boundary of the right of way line of Staples Mill Road, said
1028 point being 2053.17 feet north of the intersection of the southern boundary of the right of way line
1029 Staples Mill Road and the northern boundary of the right of way line of Lanceor Drive extended.
1030 Thence leaving the southern boundary of the right of way line of Staples Mill Road in a westerly
1031 direction with four (4) courses and distances: (1) Along a circular curve to the right having a radius
1032 of 30.00 feet, a delta angle of 90°00'00" and an arc length of 47.12 feet to a point; (2) Thence S
1033 56°14'19" W 424.98 feet to a point; (3) Thence N 32°05'49" W 298.31 feet to a point; (4) Thence N
1034 56°10'39" E 451.00 feet to a point on the southern boundary of the right of way line of Staples Mill
1035 Road; Thence with the southern boundary of the right of way line of Staples Mill Road in a
1036 southeasterly direction; S 33°45'41" E 268.77 feet to a point, said point being the Point and Place of
1037 Beginning for Tract 8-E and containing 3.100 acres.

1038
1039 **Tract 9**

1040 Beginning at a point on the southern boundary of the right of way line of Staples Mill Road, said
1041 point being 2334.94 feet north of the intersection of the southern boundary of the right of way line
1042 Staples Mill Road and the northern boundary of the right of way line of Lanceor Drive extended;
1043 Thence leaving the southern boundary of the right of way line of Staples Mill Road in a westerly
1044 direction with three (3) courses and distances: (1) S 56°10'39" W 188.00 feet to a point; (2) Thence
1045 N 33°49'21" W 100.00 feet to a point; (3) N 56°10'39" E 188.00 feet to a point on the southern
1046 boundary of the right of way line of Staples Mill Road; Thence with the southern boundary of the
1047 right of way line of Staples Mill Road in a southeasterly direction; S 33°49'21" E 100.00 feet to a
1048 point, said point being the Point and Place of Beginning for Tract 9 and containing 0.432 acres.

1049

1050 Mr. Marlles - The staff report will be given by Mr. Householder.
1051
1052 Mr. Archer - Thank you, Mr. Marlles. Is there any one here who is in opposition
1053 to C-1C-01? Mr. Householder.
1054
1055 Mr. Householder - Thank you, Mr. Chairman. The proposed use of this site is an office
1056 for a religious organization. The subject property is located on the west line of Staples Mill Road,
1057 approximately 800 feet north of its intersection with Old Courtney Road. It has 368 feet of road
1058 frontage on Staples Mill Road.
1059
1060 The land surrounding this request is mostly a part of a large zoning proposal that came up in June
1061 2000 called Cross Ridge. Three hundred seventy four (374) acres was rezoned for a mixed use
1062 community including single-family residential, retirement community and office uses—Case C-
1063 17C-00. Recently, Plan of Development approval has been granted for the Cross Ridge multi-use
1064 facility, which is here (referring to slide). The proposed Cross Ridge Parkway and a couple of
1065 POD's here, and here (referring to slide), are the very beginnings of this development. The primary
1066 access to this development will be from this proposed Cross Ridge Parkway.
1067
1068 The 2010 Land Use Plan recommends Suburban Residential 1 for this property. But this site is
1069 probably no longer desirable for residential development at this location because its on a major road
1070 and because its proximity to this large mixed used community. Therefore, an office use may be an
1071 appropriate transition between Staples Mill and the residential rezoning behind.
1072
1073 Staff feels that a low intensity office use will act as a buffer between these developments and
1074 Staples Mill Road. Although, this O-1C is not consistent with Suburban Residential 1, staff does
1075 feel it's a logical use of the property.
1076
1077 The applicant has proffered many elements that will help ensure quality on this site. They include
1078 building materials of either 90 percent brick or dryvit. A 30-foot landscaped area adjacent to
1079 Staples Mill Road, underground utilities, screening of trash receptacles and mechanical equipment.
1080
1081 In addition, the applicant has proffered use proffers regarding no child care centers or funeral
1082 homes. These will help integrate the proposed use with the surrounding Cross Ridge Development
1083 and minimize the potential adverse impacts on the property and the nearby residential development.
1084
1085 Also, these proffers that were submitted are very similar to the proffers approved with C-17C-00 for
1086 the Office portion. They've also proffered prohibit access from Staples Mill Road, and, instead will
1087 come in off this Cross Ridge property.
1088
1089 Overall, staff feels this is an appropriate use for this site. The applicant has submitted proffers that
1090 help minimize potential impacts on surrounding properties. And, in particular, the landscaped area
1091 along Staples Mill Road and the quality building materials and the prohibited direct vehicular
1092 access. Therefore, staff recommends approval of this request. I'd be happy to take any questions
1093 that you may have.
1094
1095 Mr. Archer - Are there any questions of Mr. Householder from the Commission?

1096 None. Thank you, sir. Mr. Atack. Mr. Atack has a slight case of laryngitis.
1097
1098 Mr. Bob Atack - Thank you, Mr. Chairman. My voice is not nearly as strong as it
1099 used to be. For the record, my name is Bob Atack and I'm President of Atack Properties. And I
1100 appreciate, Mr. Chairman, you and the Planning Commission allowing me to present this case this
1101 evening.
1102
1103 As Mr. Householder said, staff does recommend approval of this, and I would also acknowledge
1104 and appreciate the significant contingency of the residents in the audience this evening who, in the
1105 back of our area here, live in the adjoining Courtney Subdivision. And I think they're probably
1106 interested in what was originally planned that would go along their adjoining property line is now
1107 being located to this current location. And, I'll be glad to answer any questions, and I'll defer that
1108 time for questions, sir.
1109
1110 Mr. Archer - All right, thank you, Mr. Atack. Are there questions?
1111
1112 Mr. Taylor - I have one, then, if there aren't any. Mr. Atack, do you have a site
1113 plan of the church on the site in the plan view?
1114
1115 Mr. Atack - No sir, I do not. We're not reflecting a site plan at this time, Mr.
1116 Taylor. Actually, this will be their office buildings, and it will be the office for the Bishop of the
1117 Methodist Church. A site plan has not been completed at this time.
1118
1119 Mr. Taylor - Sir, am I looking at, the screen is just a little fuzzy as to which
1120 elevation. Which one of these two facades will face on Cross Ridge Parkway? The longer one?
1121
1122 Mr. Atack - The more horizontal exterior, sir, that shows the cross with the flame
1123 in it. That would face Staples Mill, sir.
1124
1125 Mr. Taylor - That's on Staples Mill?
1126
1127 Mr. Atack - Yes sir.
1128
1129 Mr. Taylor - And, then the other one would be along Cross Ridge?
1130
1131 Mr. Atack - That is correct.
1132
1133 Mr. Taylor - Okay. Thank you.
1134
1135 Mr. Archer - All right, any further questions? All right, Mr. Vanarsdall.
1136
1137 Mr. Vanarsdall - I've been very glad to take part in the United Methodist Church
1138 Conference Headquarters. They have been on Broad Street for many years. And I think this is a
1139 very good location for them. It fits in with the excellent Cross Ridge project that's being done there.
1140 I believe that Mr. Jim Branston from the United Methodist Church is back in the audience as Bob
1141 mentioned. We're glad to have you. With that, I would recommend that C-1C-01 be recommended

1142 to the Board of Supervisors for approval.

1143

1144 Mrs. Dwyer seconded the motion.

1145

1146 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mrs. Dwyer. All in favor let
1147 it be known by saying aye—all those opposed by saying nay. The vote is 5-0 (Mr. Kaechele
1148 abstained). The motion is carried. Thank you, Mr. Attack.

1149

1150 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Dwyer, the Planning
1151 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the
1152 request because it is reasonable; the proffered conditions assure an improved quality of
1153 development; and it is not expected to have a precedent setting effect on the zoning in the area.

1154

1155 **C-2C-01 Gloria L. Freye for Fidelity Properties, Ltd.:** Request to
1156 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence District
1157 (Conditional) and C-1 Conservation District, Parcels 27-A-32, 34, and 35 and Parcel 37-A-14,
1158 described as follows:

1159

1160 **Parcel 1**

1161 Beginning at a point in the centerline of Wonder Road, said point being 421.98'± north of the
1162 north line of Sadler Road; thence from said point of beginning S 64° 08' 40" W, 1017.87' to a
1163 point; thence N 50° 15' 15" W, 43.98'± to the true point and place of beginning being the East
1164 line of a 100 year flood plain; thence from said true point and Place of beginning N 50° 15' 15"
1165 W, 422.40' +- to a point; thence N 47° 11' 55" W, 114.94' to a point; thence N 41° 30' 45" E,
1166 330. 12'± to a point on the east line of a 100 year flood plain; thence following the meandering
1167 of the 100 year flood plain in a south direction 545.05' to the true point and place of beginning
1168 containing 2.103± acres.

1169

1170 **Parcel 2**

1171 Beginning at a point in the centerline of wonder road, said Point being 421.98'± north of Sadler
1172 Road; thence from said point of beginning and leaving the centerline of Wonder Road S 64° 08'
1173 40" W, 1017.87' to a point; thence N 50° 15' 15" W, 43.98' to a point on the east line of a 100
1174 year flood plain; thence following the meandering of the east line of a 100 year flood plain in a
1175 north direction 545.05'± to a point; thence N 41° 30' 45" E, 911.8'± to a point in the centerline
1176 of Wonder Road; thence leaving the centerline of Wonder Road N 21° 29' 15" E, 355.21' to a
1177 point; thence S 68° 30' 47" E, 339.95' to a point; thence S 20° 56' 15" W, 513.03' to a point in
1178 the centerline of Wonder Road; Thence continuing along the centerline of Wonder Road S 22°
1179 27' 17" E, 662.68' to the point and place of beginning containing 22.809 acres.

1180

1181 Mr. Marlles - The staff report will be given by Mrs. Hunter.

1182

1183 Mr. Archer - Thank you, Mr. Marlles.

1184

1185 Mrs. Hunter - Mr. Secretary, if it is acceptable to the Commission, we could also
1186 call Cases C-3C-01 and C-4C-01. They are three cases that are all related. We can hear them at the
1187 same time.

1188
1189 **(All testimony heard under Case C-4C-01).**
1190
1191 Mr. Taylor - Mr. Chairman, I would recommend we take that approach at the
1192 request of the applicant.
1193
1194 Mr. Archer - Everybody in agreement? That would be fine, Mrs. Hunter.
1195
1196 Mr. Archer - Before you move on, is there any one here in opposition to C-2C-01?
1197
1198 Mr. Marlles - We have opposition, Mr. Chairman.
1199
1200 Mr. Archer - Okay. Thank you.
1201
1202 Mrs. Hunter - The Secretary does need to read the cases.
1203

1204 **C-3C-01 Gloria L. Freye for Fidelity Properties, Ltd.:** Request to
1205 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence District
1206 (Conditional), Parcel 27-A-43, described as follows:
1207

1208 Beginning at a point 610.6' +- northwest of Sadler Road; thence from said point of beginning S. 18°
1209 54' 05" W., 125.48' to a point; thence N. 62° 56' 20" W., 354.96' to a point; thence N. 18° 39' 13"
1210 E., 123.95' to a point' thence S. 63° 11' 47" E., 355.28' to the point and place of beginning,
1211 containing 1.006 acres.
1212

1213 **(All testimony heard under Case C-4C-01).**
1214

1215 **C-4C-01 Gloria L. Freye for Fidelity Properties, Ltd.:** Request to
1216 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence District
1217 (Conditional) and C-1 Conservation District, Parcel 27-A-33 and Part of Parcels 27-A-12B and 13,
1218 described as follows:
1219

1220 Parcel 1: A-1 to R-3C

1221 Beginning at a point in the centerline of Wonder Road, said point being 1498.38' +- north of Sadler
1222 Road; thence from said point of beginning and leaving the centerline of Wonder Road S. 41°30'45"
1223 W., 1077' +- to the true point and place of beginning; thence from said true point and place of
1224 beginning S. 41°30'45" W., 195' +- to a point; thence N. 47°11'55" W., 832' to a point; thence N.
1225 47°26'50" W., 102' +- to a point on the W. line of a 100 year flood plain; thence following the
1226 meandering of the W. line of the 100 year flood plain in an east and south direction 1293.05' to the
1227 true point and place of beginning, containing 6.945 +- acres of land.
1228

1229 Parcel 2: A-1 to C-1

1230 Beginning at a point in the centerline of Wonder Road, said point being 1498.38' +- north of Sadler
1231 Road; thence from said point of beginning and leaving the centerline of Wonder Road S. 41°30'45"
1232 W., 912' +- to the true point and place of beginning being the eastern line of a 100 year flood plain
1233 S. 41°30'45" W., 165' +- to a point on the western line of a 100 year flood plain; thence following

1234 the meandering of the 100 year flood plain in a north and west direction 1293.05' +- to a point;
1235 thence N. 47°26'50" W., 176' +- to a point on the S. line of Interstate Route 295; thence following
1236 the S. line of Interstate Route 295 in an east direction along a curve to the right with a radius of
1237 11,309' and a length of 617' +- to a point on the E. line of a 100 year flood plain; thence leaving the
1238 S. line of Interstate Route 295 in a south direction 1209.87' +- to the true point and place of
1239 beginning, containing 6.09 +- acres of land.

1240
1241 Parcel 3: A-1 to R-3C

1242 Beginning at a point in the centerline of Wonder Road, said point being 1498.38' +- north of Sadler
1243 Road; thence from said point of beginning and leaving the centerline of Wonder Road S. 41°30'45"
1244 W., 912' +- to a point on the E. line of a 100 year flood plain; thence continuing along the E. line of
1245 a 100 year flood plain in a north direction 1209.87' +- to a point on the S. line of Interstate Route
1246 295; thence continuing along the S. line of Interstate Route 295 in an east direction along a curve to
1247 the right with a radius of 11,309.00' and a length of 1221' +- to a point; thence leaving the S. line of
1248 Interstate Route 295; S. 20°22'32" W., 803.00' to a point in the centerline of Wonder Road; thence
1249 continuing along the centerline of Wonder Road S. 69°44' 58" E., 526.00' to the point and place of
1250 beginning, containing 17.67 +- acres of land.

1251
1252 Mrs. Hunter - Thank you, Mr. Secretary. Good evening. These three rezoning
1253 requests combined request R-3 zoning for approximately 41.5 acres and C-1 zoning for
1254 approximately 8 acres.

1255
1256 A portion of the property is located here (referring to slide) west of the floodplain which consists of
1257 approximately 7 acres. It has been withdrawn from this request. The applicant has been granted
1258 previous rezonings in this area. They received R-3A zoning here, and R-3C zoning here (referring
1259 to slide). Overall, the applicant has 89 approved lots in this area. And this zoning request would
1260 allow an additional 107 lots.

1261
1262 The applicant has been working with staff to improve the case. Revised proffers have been handed
1263 out to you tonight. There's a conceptual plan on the property. With these revised proffers, there
1264 have been several improvements to the case.

1265
1266 Some of them that I'd like to point out to you is the applicant has proffered sidewalks along Wonder
1267 Road located here all the way up to this area here (referring to slide). They've also proffered
1268 sidewalks on this side of Sadler Road just for the area that they own. They don't own these two
1269 properties. And then there will be sidewalks, although its not proffered, because its off site, but
1270 they're also planning to put sidewalks on this side of Wonder Road also.

1271
1272 The applicant has also proffered pedestrian access ways through their C-1 property. There are some
1273 significant environmental features on the property. This large green swath (referring to slide) on the
1274 left hand corner is a 100-year flood plain. The applicant said that they would put pedestrian trails
1275 within that area. And, then there's also a park area here in the center that will also have a pedestrian
1276 trail through it and then the sidewalk leading up to it.

1277
1278 The applicant has also proffered a 20-foot buffer along here (referring to slide) in which they've
1279 agreed to retain all the mature trees greater than four inches in caliper.

1280
1281 The two parks, this green area (referring to slide) totals approximately about 5.5 acres. And the
1282 applicant has also proffered sound suppression for these lots adjacent to Interstate 295 for all lots
1283 within 300 feet.

1284
1285 Staff believes these items are significant improvements to the case. However, there are still two
1286 remaining outstanding issues. The outstanding issues include the R-3 zoning for the entire site, and
1287 the phasing of the development.

1288
1289 Residential development of the site is reasonable. However, staff is concerned that the zoning is not
1290 consistent with Suburban Residential 1 designation of the Land Use Plan. The request could be
1291 precedent setting in nature and could impact a considerable amount of vacant land in the Sadler
1292 Road corridor.

1293
1294 Staff believes zoning should be reduced as you move south. That precedent has already been
1295 established with the previous rezoning requests with this area being R-3A. Zoning here is R-3
1296 (referring to slide). Staff believes that everything on this side of Wonder Road would be
1297 appropriate for R-3, but believes that the area between Wonder here and the 100-year flood plain
1298 here should be zoned R-2A (referring to slide).

1299
1300 With the portion of the property being dropped out of the case located here (referring to slide), staff
1301 believes it becomes even more important for this area to be R-2A because staff is concerned that, as
1302 development begins to creep to the west, and includes the Small McDonalds Farm, that this whole
1303 Sadler Road corridor could be developed under R-3.

1304
1305 The applicant has tried to address staff's concerns regarding this by proffering a maximum density
1306 of 2.2 units per acre. And they've also proffered that lots here along this floodplain would have a
1307 lot width of 85 feet, and an average lot size of 12,000 square feet. The R-2A District has a
1308 minimum lot size of 13,500.

1309
1310 Staff also raised concerns that the phasing of the project, due to the condition of Sadler Road; Sadler
1311 Road is proposed to be widened and to have some of the curves taken out of it. However, this is not
1312 scheduled to occur until 2004 based on the County's CIP.

1313
1314 The applicant has proffered that they would not get building permits for more than 50 lots after
1315 February 1, 2002 and the remainder of the property by February 2003. Staff is concerned, if the
1316 applicant is able to get all their necessary approvals, it will be close to 2001 and questions whether it
1317 would be an adequate phasing proffer.

1318
1319 While significant progress has been made on the case, staff cannot support the R-3 zoning for the
1320 entire project, and would recommend R-2A zoning for the area west of Wonder Road. Staff cannot
1321 support the zoning request at this time. I'd be happy to answer any questions you may have.

1322
1323 Mr. Archer - Thank you, Mrs. Hunter. Any questions from the Commission?
1324

1325 Mrs. Dwyer - Mrs. Hunter, your rationale for the reduced density as we move
1326 down Sadler Road, is that because of the SR-1 designation on the Plan, or is it because you don't
1327 want to see the R-3 all along the Sadler Road corridor? Maybe its both of those?
1328

1329 Mrs. Hunter - It's both of those. One thing has occurred since the rezoning of the
1330 R-3A portion located here (referring to slide). Since that time, the Board of Supervisors has
1331 eliminated the R-3A, R-4, and R-4A Districts. If you look at our Comprehensive Plan, the R-3
1332 zoning is more compatible with the SR-2 designation now, and really is the only district for the SR-
1333 2 where this is designated SR-1.
1334

1335 The other problem, or concern that we've had, is for large houses on small lots. And then the final
1336 concern would be the precedent-setting nature. The applicant had originally included this piece
1337 (referring to slide) in the project. It is believed there could be a crossing that could occur there. So,
1338 we believe as land becomes more valuable in the west end, Small McDonalds Farm, which is right
1339 now an A-1 Subdivision, you can see portions of it here (referring to slide). We believe that people
1340 will begin going in an buying up individual lots and trying to put some development—properties
1341 together. And staff is concerned that the whole corridor could go R-3 when the road can't handle it.
1342 The schools can't handle it and the services just aren't there.
1343

1344 Mrs. Dwyer - I remember last year we had the meeting with the Board and,
1345 apparently the Utilities Department, Schools, all rely on the Plan to determine capacity for sewer
1346 and water and need for schools. So, as we deviate from the Plan, we run the risk of, I guess,
1347 overtaxing all those utilities and other systems that the County needs to provide fire and police
1348 protection.
1349

1350 Mrs. Hunter - That's correct.
1351

1352 Mrs. Dwyer - What do you mean by sound suppression? What is meant by that for
1353 a single-family home?
1354

1355 Mrs. Hunter - Right now, the way the applicant has proffered it, it is very vague.
1356 I've had several conversations with Gloria Freye, the Attorney. She has been working diligently on
1357 this proffer. She's contacted our Building Inspections Office. She's contacted a builder in looking
1358 at ways to quantify that. And that is one issue. And I told her she and I could continue to work on
1359 before it gets to the Board level. But, that does need to be quantified.
1360

1361 Mr. Kaechele - Is that for the Case C-4C-01 only?
1362

1363 Mrs. Hunter - Correct. It would be the lots adjacent to the interstate.
1364 Mr. Kaechele - What proffer are you referring to, because I was looking for that?
1365 It's not building materials.
1366

1367 Mrs. Hunter - It would be No. 15 on the last case. There's three rezoning cases.
1368 One says C-4C Liesfeld and its No. 15 in that case.
1369

1370 Mrs. Dwyer - So, it sounds like it might be something in the building materials,
1371 extra insulation or something.
1372
1373 Mr. Kaechele - Extra insulation they use around airports. Okay.
1374
1375 Mr. Archer - Okay. Are there further questions for Mrs. Hunter?
1376
1377 Mrs. Dwyer - You're concern about phasing has to do with the widening of Sadler
1378 Road and the ability of Sadler Road to accommodate this number of homes before this is rebuilt?
1379
1380 Mrs. Hunter - Yes ma'am.
1381
1382 Mr. Taylor - Do we have any year phase plan for the widening of Sadler Road,
1383 totally, or a portion, thereof—a commensurate plan for the development so they are side by side?
1384 Sadler Road can contain "X" cars now. A year or two from now, Sadler Road will be improved
1385 and/or this will be equal to the added capacity? So, we can see, or keep in phase, the capacity of the
1386 road and the load on it? Do we have anything?
1387
1388 Mrs. Hunter - The County has been increasingly concerned with the capacity along
1389 Sadler Road as the development has increased in this one. This has been moved up in our CIP. It's
1390 currently in the CIP for this year for design. 2003 is right-of-way acquisition and Year 2004 for
1391 construction.
1392
1393 Mrs. Dwyer - So, what, specifically, would you recommend as far as a proffer,
1394 then?
1395
1396 Mrs. Hunter - In my staff report, I had indicated that, because they had 89 approved
1397 lots, we would recommend no more than 36 lots before widening of Sadler Road or 2004,
1398 whichever came first.
1399
1400 Mr. Taylor - We could phase the construction, or ask the contractor/the developer
1401 to phase the construction.
1402
1403 Mrs. Hunter - There definitely is a middle ground between that and what the
1404 applicant is offering that we could consider.
1405
1406 Mr. Taylor - Do you think we know enough about the capacity of the road to be
1407 able to expertly articulate that expansion?
1408 Mrs. Hunter - I think we would need to check with the Traffic Engineer on that.
1409
1410 Mr. Taylor - We have our traffic engineer here?
1411
1412 Mrs. Hunter - He's not here tonight, no.
1413
1414 Mr. Taylor - We'll ask Mr. Tyler that question.
1415

1416 Mr. Archer - Mrs. Hunter, on Page 2 of the C-3C case, I believe it is, right above
1417 where you talk about the 30 lots, the end of that preceding paragraph says, "...This request is
1418 piecemeal in nature and should not be zoned until it is known how access can be provided..." Has
1419 anything been forthcoming as to how that's to be dealt with?

1420
1421 Mrs. Hunter - This case is a little unusual because it doesn't have access. It's this
1422 island here (referring to slide). The applicant owns the property here, and is proposing -It may
1423 show on their conceptual plan a little bit better (referring to slide). The applicant has been working
1424 to purchase the rest of these properties. This is the R-3. This is the case we're talking about here.
1425 This is the C-3 case there. As you can see, the applicant does not have any access to that site. They
1426 have indicated that they need to get it zoned in order to be able to get the financing from the bank.
1427 And, that's their reasoning for requesting the zoning now. And they are working diligently to try to
1428 get those other properties so that it can be accessed. While it is premature, it's an understanding that
1429 it could not develop until they could get adequate access.

1430
1431 Mr. Archer - Thank you. Any further questions?

1432
1433 Mrs. Dwyer - This may have been changed in the new proffers, but I was looking
1434 on that same case; Streets Improvements. It says, "The streets shall be constructed of asphalt..."
1435 Don't we typically state that, if we state anything at all, that the streets will be constructed...

1436
1437 Mrs. Hunter - They did revise that in their proffers. It now says, "...The streets of
1438 the subdivision shall be constructed of asphalt. The portion of any street where a lot fronts the street
1439 shall be designed with curb and gutter." So, that is a change in the proffers.

1440
1441 Mrs. Dwyer - Isn't it required to meet a certain County standard? Is that, typically,
1442 what we say, "That internal streets will be built to the County standards as required...?" This is just
1443 a little different wording than I'm used to seeing.

1444
1445 Mrs. Hunter - It's acceptable either way. They still have to meet the County
1446 standard.

1447
1448 Mrs. Dwyer - No matter what they say in the proffer?

1449
1450 Mrs. Hunter - Right.

1451
1452 Mr. Archer - Okay. Anything else? Thank you, Mrs. Hunter. All right, we'll hear
1453 from the applicant now. Mrs. Freye.

1454
1455 Mrs. Gloria Freye - Good evening, Mr. Chairman, members of the Commission, I am
1456 Gloria Freye. I'm an attorney here on behalf of Fidelity Properties. The partners of Fidelity
1457 Properties; Webb Tyler, and Ned Massie are also here this evening with me.

1458
1459 Mr. Marlles - Mrs. Freye, would you like to leave some time for rebuttal.

1460

1461 Mrs. Freye - Yes sir, two minutes. As Mrs. Hunter explained, these three cases
1462 are companion cases, which I will also discuss generally, but point out differences as we go along.
1463 These three cases would continue the residential community that has been approved in three
1464 previous rezonings. The first was Sadler Green, which was the R-3AC zoning in early 1999. The
1465 second and third cases were for R-3A and R-3 in early 2000 for Sadler Green, and there are two
1466 sections. There is Section A and Section B.

1467
1468 Fidelity has worked this past year with a lot of diligence to assemble eight other parcels on either
1469 side of Wonder Road to be able to continue to develop this community. The properties that they
1470 have acquired do go on both sides of Wonder Road, which, at this point, is just a dirt road, not
1471 improved at all, and then over to the creek and McDonalds Small Farms.

1472
1473 Fidelity is asking for the R-3 zoning to continue the last zoning that was approved along Wonder
1474 Road in the previous case. Wonder Road, while it is going to be a 24-foot wide asphalt paved ditch
1475 section road, it is actually a residential street. It's not a barrier that would require a transition. It's
1476 actually a connection between these communities. It ties them together. And, for that reason, it is
1477 logical that there would be R-3 zoning on both sides of that residential street.

1478
1479 The 2010 Land Use Plan recommends a density of up to 2.4. And that is reported in the Staff
1480 Report. We are proffering an aggregate density of 2.2 for these two cases.

1481
1482 Additionally, as Mrs. Hunter explained, we are proffering larger lots, 85-foot wide and a minimum
1483 average of 12,000 square feet along the floodplain area that she pointed out.

1484
1485 We really want you to look at this rezoning in the context of the larger development, the larger
1486 community that we're trying to develop here. The density, which has been an issue with the staff,
1487 and is tied to their concern about the R-3 zoning has continually been reduced as we go closer
1488 toward McDonalds Small Farms.

1489
1490 In Sadler Green, which was the R-3A zoning, we had a 2.91 density. Then in Section A of the next
1491 case, we moved to 2.58. In Section B, it went even lower to 2.43. You come into the property
1492 that's right at the entrance of these cases, which is a part of this case, but that cul-de-saced area,
1493 that's 1.7. You move up to the other section, toward the interstate, the density is actually 1.9. You
1494 come to the other part closer to Sadler Road on this section, and its 2.13. That's why we can say
1495 that we can proffer the overall aggregate of these three cases of 2.2. And you can see, that, even
1496 though we still have the R-3 designation that we had in the last case, which is consistent with what
1497 we're asking here, we're continually reducing that density. And it is consistent with what the Land
1498 Use Plan recommends which is up to 2.4.

1499
1500 So, we feel that it is appropriate to continue the R-3, particularly, because this land is adjacent to an
1501 interstate. You often find higher density residential development along interstates of R-5, R-6. We
1502 are continuing the single-family character of this area. Not only of the development that Fidelity
1503 Properties is doing, but with the other development in the area, Sadler Woods, and other
1504 developments along Sadler Road.

1505

1506 So, this is a continuation of zoning that has been approved, and development that the county has
1507 endorsed in the past. It's going to be connected with internal streets and accesses, open space. And
1508 we are proffering the same minimum house sizes, quality-building materials that were approved in
1509 the other cases. So, you can see that we're just building on the community that has already been
1510 approved.

1511
1512 Like the other cases, we have agreed to do a phasing, which was not in the original proffers that we
1513 submitted. But, in working with staff and recognizing that they do have a concern about Sadler
1514 Road and the timing of that improvement, we are willing to proffer the 50 lots after the February 1,
1515 2002 date.

1516
1517 For the lots that are next to the interstate, we have proffered a 35-foot setback, in addition to the
1518 sound proofing measures that we were just speaking of.

1519
1520 In this part of the community, we are providing the trails and the sidewalks, the internal pedestrian
1521 access that Mrs. Hunter walked you through. And, as she explained, we are providing designated
1522 parkland as well.

1523
1524 If you look at this whole piece of property, if you add the open space, the buffers, the floodplain, the
1525 green area that you see there (referring to slide) for this whole community, it's really going to add
1526 up to more than 13 acres of land as amenities for these residents.

1527
1528 I would like to show you some photographs of the property as it exists today. I don't know how
1529 clearly you can see those. This is a very nicely wooded piece of property, except for one area closer
1530 to the interstate where you have a construction debris site, that's not very attractive.

1531
1532 But, you can see that this area is desperately in need of suburban renewal. You see on these
1533 properties construction debris, abandoned trucks, abandoned cars, abandoned deteriorated houses,
1534 and buildings left over from a sawmill operation. There are old tires. There are oil drums and tanks
1535 that need to be removed. We do have some environmental concerns on this property that we are
1536 addressing. There is just trash that people have gone down that country lane and dumped on this
1537 property.

1538
1539 So, there is a lot that needs to be cleaned up. We recognize the challenge there. It was a challenge
1540 to get this assemblage put together. But, we feel that, with the approval of these cases and the
1541 rezonings that we're asking you for, and with the quality proffers that we're putting in, that Fidelity
1542 can turn what you see here on those pictures into a very nice community with nice amenities for
1543 residents and homes that are going to be in the \$250,000 to \$325,000 range.

1544
1545 We did show you the layout of how we think this property can be developed. We feel that's the
1546 best plan that we've been able to come up with. I don't know that any other developer could do as
1547 nice a job as what Fidelity has put together for you for this zoning and to support it. So, for these
1548 reasons, we ask that you waive the 48-hour rule and accept the proffers that we submitted today and
1549 that you recommend approval of this case. And we'll be glad to answer questions.

1550
1551 Mr. Archer - Thank you, Mrs. Freye. Are there questions from the Commission?

1552
1553 Mr. Taylor - What I would like to ask, Mr. Chairman, is if we could take a little
1554 bit of effort and see if we can clarify the focus of those pictures. And, if we could, that's as best we
1555 can get. But, what I'd like to do, it's different, because I've walked virtually every square area of
1556 this site. And my career in the Coast Guard, I've seen some as bad, but never one that was much
1557 worse. And I would maybe ask Mr. Tyler if he would just like to characterized remediation work
1558 that has to be done on this site. And I do want to point out that you missed one feature, Ms. Freye,
1559 and that was the three derelict boats.

1560
1561 Mrs. Freye - Oh, I forgot about McHale's Navy.

1562
1563 Mr. Taylor - You forgot to mention the boats.

1564
1565 Mrs. Freye - Yes sir. I'm sorry. There is a picture of a boat in there, and that's just
1566 one of them. I didn't put all of them in there.

1567
1568 Mr. Taylor - And a major factor of this is just going to try to get up to the site and
1569 get it cleaned. And it's going to be a significant effort. Mr. Tyler, would you address the gathering,
1570 please?

1571
1572 Mr. Webb Tyler - For the record, my name is Webb Tyler. I'm the Secretary/Treasurer
1573 of Fidelity Properties, Ltd. Mr. Massie is the President. There is 40,000 cubic yards of material that
1574 is construction debris material. It is not hazardous material, but it is broken concrete, blasted rock,
1575 undercut material, has to be removed from the site that has been placed on this site over a period of
1576 years as a result of construction operations by the present owner, Mr. Liesfeld, who is in the
1577 construction site business. This property, in addition to that 40,000 yards of material being
1578 removed, also has several homes on it that have been condemned. But, the County has decided they
1579 do not want to force the destruction of those condemned homes. Our firm has already eliminated
1580 three of those homes that were condemned, after we had owned the property. We are proposing to
1581 condemn, or to remove also four additional homes if this case is approved.

1582
1583 As far as the sawmill and the boats, Mr. Taylor was referring to, again, that is construction debris
1584 and sawmill operations that also needs to be removed from the land. I would suggest to you that,
1585 what we are proposing, revitalizes the area, and rejuvenates the area, which I believe is what good
1586 development should do. And to raise the standard and to raise the bar by, not only cleaning it up,
1587 but also adding to the appreciated values.

1588
1589 If you'll notice, all along small McDonald Farms right here, but that whole green border there
1590 (referring to slide), on the left here of your screen is a C-1 floodplain. Small McDonalds Farms is
1591 on the other side to the left of your screen. It is my contention that we have left a buffer of 150 to
1592 300 feet wide there that's both floodplain and wetlands, that will include natural trails that protects
1593 this community and does not establish whatever occurs in Small McDonald Farms in the future.
1594 What we're doing here is on the other side of that floodplain.

1595
1596 The question of the interstate is another factor, I think one needs to think of as far as a challenge.
1597

1598 And then lastly, of course, just the mere fact of assembling what is now a total of 17 parcels
1599 between the 9 that's been previously assembled and the 8 that's before you tonight, it certainly
1600 makes for a much more coordinated planning. I'd be glad to answer any other questions you may
1601 have.

1602
1603 Mr. Archer - Thank you, Mr. Tyler. Are there questions?
1604

1605 Mrs. Dwyer - I have a question about Wonder Road. On the map, it doesn't appear
1606 that this case includes property that gives you access to Sadler. Do you own the other property?
1607

1608 Mr. Tyler - Yes ma'am. We do. That was previously approved by the
1609 Commission. That is this area that has Sadler Road access and the horseshoe 8 lots in there. That
1610 case was R-3 and was previously approved approximately a year and a quarter ago. And we
1611 proffered with that case to take that bad curve out of Sadler Road and put in a T-formed intersection
1612 there.

1613
1614 Mrs. Dwyer - So, your access is through the other development where the dot is
1615 (referring to slide)?
1616

1617 Mr. Tyler - That's the second access, ma'am.

1618
1619 Mrs. Dwyer - Okay, and the first access...

1620
1621 Mr. Tyler - ...is from Sadler Road down here (referring to slide).
1622

1623 Mrs. Dwyer - Further down?
1624

1625 Mr. Tyler - Yes ma'am.

1626
1627 Mrs. Dwyer - At that point. Okay. And that's where the T-intersection is going to
1628 be installed?
1629

1630 Mr. Tyler - Yes ma'am.
1631

1632 Mr. Taylor - Would you discuss, sir, your timetable for development and number
1633 of units relative for road construction for 2003 and 2004? One of the concerns that, I think,
1634 everybody is going to have is, along Sadler Road, the question of volumetric capacity looms large.
1635 By 2003, would you be adding to that load, or would you be a little bit delayed in that construction
1636 so the two peaks won't concur?
1637

1638 Mr. Tyler - To respond to that, I'd like to read the last sentence of the first
1639 paragraph under Major Thoroughfare and Transportation from each of the three Staff Reports. It
1640 says, ..."The adjacent roadway network could accommodate the additional traffic volumes." Let
1641 me say that one more time. ..."The adjacent roadway network could accommodate the additional
1642 traffic volumes."
1643

1644 I don't deny that Sadler Road needs to be improved. All right. I think everyone has known that.
1645 We have, to date, contributed funds to that improvement. We have to date granted additional right
1646 of way. We have to date proffered the T intersection and are totally responsible for the taking out of
1647 that bad curve on Sadler Road.

1648
1649 As of this moment, we have no occupancies of any homes in Sadler Green, Sadler Glen, or,
1650 obviously, in any of the cases before you. Those cases were approved a year and a half to two years
1651 ago. It is our position that the earliest that we would be able to have the recordation of the
1652 subdivision plat would be a year from now on the first phase. It would take us another year to year
1653 and a half to build the homes in that area. But our builders will not even start construction of homes
1654 until they can be assured that they can get an occupancy permit. That is why we have addressed the
1655 proffer in the manner that it is set up. In fact, the reality is, the occupancies will not likely occur
1656 until probably at least six to twelve months on average from the time that we've set it as far as the
1657 recordations.

1658
1659 So, Mr. Taylor, the actual occupancies and traffic on that road will likely be even a year after the
1660 proffered conditions. But the builders won't purchase the lots from us until such time as they can
1661 get an occupancy permit, or be assured that 6 months to 12 months down the road, they can get an
1662 occupancy permit. So, it's a natural lag in the system that I'm saying to you.

1663
1664 As far as supporting Sadler Road, I have always supported improvements to Sadler Road and
1665 continue to do so, both verbally, as well as financially, as well as land wise, sir.

1666
1667 Mr. Taylor - So, the short answer would be, you feel that road building capacity
1668 would be apace with construction...

1669
1670 Mr. Tyler - Yes sir. I believe so. That's reflected in our phasing proffer.

1671
1672 Mr. Taylor - Thank you very much for your comments.

1673
1674 Mr. Archer - Thank you, Mr. Tyler.

1675
1676 Mr. Tyler - Thank you.

1677
1678 Mr. Archer - Okay. I believe we had opposition.

1679
1680 Mr. Marlles - Yes, we do, Mr. Chairman.

1681
1682 Mr. Archer - Would the opposition come forward, please, and state your name for
1683 the record.

1684
1685 Ms. Christina King - Hi, my name is Christina King. I live off Wonder Road. My address
1686 is 11311 Wonder Lane. I don't know if I'm opposing. I'm not real good with the technical words.
1687 I will have approximately four to five backyards in my front yard. And my primary concern is
1688 privacy, whether it would be a privacy fence or, I mean that's the only route that I can see other than

1689 large trees of some sort. But, my biggest concern, I don't know if you can see this is I can put it
1690 over there (referring to slide).

1691
1692 This is a copy of my plat when I built my house (referring to slide). My house is a single-story
1693 house on almost 300 square feet. It's a beautiful home, which will be complemented as you can see
1694 the pictures they have showed you around there. I don't know how to point to these things on here,
1695 but, if you look to the left of your screen, right here is my house (referring to slide). Right here is
1696 my right of way off of Wonder Road. This is all wooded. This lot up here is all wooded. The one
1697 right here is all wooded. It's got a "C" on it. And, of course, over here, which is where they plan to
1698 build the subdivision is all wooded right now. And, of course, I bought the second lot when Mrs.
1699 Garrett offered it to me in 1990 for the privacy, being the second lot. Right here is my front yard
1700 with a porch and a little volleyball net. But, when I looked and I spoke to Mr. Massie about the
1701 different things that bothered me, my main concern was the privacy for me that I didn't see garbage
1702 in people's backyards. You know actually a lot of kids probably playing out back like they would
1703 in a subdivision in my front yard, because they don't know boundaries. I asked for a fence along
1704 my property where he would be building, and this area right here, because if they have houses all
1705 down here, well, me, sitting right here, I can, obviously, see all that and will have to deal with
1706 people probably walking through here not knowing that its my land or where boundaries are. It's all
1707 wooded. Everything is wooded except for my lot, which is clear from this area (referring to slide)
1708 about here forward it is cleared. And I propose to put a private building for my own personal use, a
1709 garage right where the little dot here. My main concern is privacy for me, my family, my son's well
1710 being.

1711 Mr. Archer - I'm sorry. What size garage did you say?

1712
1713 Ms. King - It won't be a garage. It's a building approximately the size of a 8-car
1714 garage.

1715
1716 Mr. Archer - Eight (8)-car garage, okay. I thought that was what you said.

1717
1718 Mr. Taylor - Would it be possible to orient us as to the location of that on the site
1719 plan and then we'll ask the developer for his comments? I think I know that house.

1720
1721 Mrs. Hunter - It is located right there.

1722
1723 Mr. Taylor - That's right back towards the woodland or towards the wetlands.
1724 Does that define it; that house right adjacent to that property line?

1725
1726 Mr. Tyler - Yes.

1727
1728 Ms. King - Lot 6 is really where it would be, right around there.

1729
1730 Mr. Taylor - Your concern there is either a tree save program or a fence or some
1731 means to retain your privacy?

1732
1733 Ms. King - From everybody else's backyard being in my front yard.

1734

1735 Mrs. Dwyer - So, the stub street is leading to your property, too?
1736
1737 Ms. King - Yes. They have stubbed out the road there, which I am grateful for.
1738
1739 Mr. Archer - Ma'am, is the right of way you just described, is that a paved right of
1740 way or...
1741
1742 Ms. King - My right of way is not paved. It's graveled; actually needing to be
1743 graveled again. It's very pretty. We've lined it with large cedar trees, evergreen trees along the
1744 whole drive. It's a very nice drive.
1745
1746 Mr. Taylor - Mr. Tyler.
1747
1748 Mr. Kaechele - Is that a stub road coming into her property as well?
1749
1750 Mr. Tyler - Yes sir. It is, per her request.
1751
1752 Mr. Kaechele - Oh, okay.
1753
1754 Mr. Tyler - My associate, Mr. Massie, has had conversations with her as far as
1755 what we can do for her on multiple occasions, along with conference calls with her attorney today,
1756 and her and has faxed letters indicating financial considerations that we can do regarding helping
1757 her pay for the fencing. We did not feel that we could go onto her property to build the fence. We
1758 did indicate a willingness to contribute to that expense. And, unfortunately, we are at different
1759 levels of contribution thought processes.
1760
1761 Mr. Kaechele - What is the size of your lot in terms of acreage? You have a
1762 common border of several feet, I guess?
1763
1764 Ms. King - The side, which they're building on, is 536.96 feet.
1765
1766 Mr. Kaechele - Okay.
1767
1768 Ms. King - And then the front L, I would like at least partially fenced is 202.64
1769 feet.
1770
1771 Mr. Kaechele - And your acreage is approximately?
1772
1773 Ms. King - 2.77 acres.
1774
1775 Mr. Kaechele - And the access road to your lot line, is that for your convenience?
1776
1777 Ms. King - Yes. I had asked when I was driving by and noticed they were;
1778 actually, I was here when they were rezoning what they've already built down Sadler Road.
1779 They've already started constructing on. And I had asked one of the workers there if they could
1780 contact somebody. Contact me or give me a name or number because, like that building I told you I

1781 was going to build myself, if they could somehow work it, or if they were going to put any kind of
1782 change in there, if it could benefit me at the same time. It doesn't hurt to ask. And he did do that,
1783 which I am very grateful for. And I'm glad that I see it now, so when I do build my building, I'll
1784 know where to put it.

1785
1786 He did speak with me and my attorney and I spoke today. Eddie Cantor received the papers today
1787 from them from a conversation he said he had had over a week ago with Mr. Massie requesting
1788 about primarily my fence, the fence to keep my area private from the other areas. And he has it
1789 written stating that, it was not feasible to do the whole side of the property there. And I told Eddie
1790 today that I was very strong, I felt very strongly about the privacy that I did not want four or five
1791 people's backyards in my front yard without some kind of fence or something there. And he stated
1792 it made enough sense to him that he requests the same thing, that what I requested was not out of the
1793 ordinary.

1794
1795 Of course, Mr. Massie called me back today and stated that he offered to give me up to \$2000.00 for
1796 the fence. And I called to get prices on it. And my father, who built my home for me, which now
1797 he is a retired builder, hangs cabinets for Home Depot. Well, he, obviously, does not want to dig
1798 holes to put the fence in. But, he gave me a price of \$6,000.00 for the surrounding fence and
1799 supplies. Well, they thought that was too high. And he told me that the main reason he didn't want
1800 to do it, is he didn't want to have to deal with the wrong color, the fencing not being to my liking.
1801 After 22 years being in this business, he has run into a lot of problems with things like that on other
1802 people's property. And it wasn't to their specifications what they wanted. And I stated, "Well, why
1803 don't I just have it done and then you pay the bill, then I deal with the people doing it." where they
1804 don't have to hands on worry about it if its specifically right. I'll ask for maybe a white fence?"

1805
1806 Now, a vinyl or a PVC fencing, which I do not have to upkeep, and the only reason I ask for it to be
1807 on my property is because when these lots are sold, that person owns that part of the fence and they
1808 can take it down. They can paint it green. They can do whatever they want with it. And that's the
1809 only reason I asked for it to be on my property. And that way I know that I will be given privacy for
1810 as long as I'm there, which I plan to be there for as long as I live.

1811
1812 Mr. Archer - Was there any one else in opposition? Okay. Ma'am, we're down to
1813 about three and one-half to four minutes of time. Unless there are questions from some of the
1814 Commission members, we do need to hear from others.

1815
1816 Ms. King - That's all I ask that I can have the privacy.

1817
1818 Mr. Archer - Thank you, ma'am.

1819
1820 Ms. King - Thank you.

1821
1822 Mr. William Flippen - Good evening. My name is William Flippen and I live on Thorncroft
1823 Drive, just off of Sadler Road. Now, this road they keep talking about is a one-lane dirt road full of
1824 potholes that they're going to make into a four-lane road. They've already built 32 houses right
1825 across the street from where this property is. The people have already bought them, moved in, and
1826 have added traffic to Sadler Road.

1827
1828 Now, they're telling you they're going to build, y'all say 30. And, when this fellow got up, he said
1829 50. So, I don't know how many houses they plan on building before you do something with Sadler
1830 Road. But, Sadler Road cannot take any more traffic with school buses. With the children on Sadler
1831 Road now, you can't hardly pass one in a curve or something out there.

1832
1833 I'm not opposed to them building a subdivision. I'm opposed to them building more houses and
1834 putting more traffic on Sadler Road before you improve Sadler Road. Now, they're willing to
1835 donate some property they own, but there are people who have been living on Sadler Road. I've
1836 been out there almost 40 years right off of Sadler on Thorncroft. And when I moved on Thorncroft,
1837 it was a dirt road. These people have asked time and time again for the County to improve Sadler
1838 Road before you put any more traffic on it.

1839
1840 St. Anthony's Church has a nursery. And if you come down Thorncroft Drive in the morning about
1841 7:00 o'clock, you just about get run over with ladies and men bringing kids and dropping them off
1842 at St. Anthony's Church. The same thing in the afternoon when they're leaving.

1843
1844 Like I said, I'm still not opposed to anything they're building. They don't need to build anything
1845 else until they improve Sadler Road. They're talking about McDonald's Farms, these people are
1846 already over there talking to people in McDonald Farms about buying some of their property. I
1847 know a couple of people live over there. I mean it's not like, "If we ever do this?" They're already
1848 talking about it. So, we're not sitting down here tonight talking about maybe we would get 30
1849 houses built. We're talking about they're going to have 100 houses built if you let them, and the
1850 traffic will be on Sadler Road. And then you're going to have more school buses, and this type of
1851 thing out there to deal with. Like I said, if you'd like to come out there one morning about 7:00
1852 o'clock, you'll deal with school buses, stop. And now with the construction that's going on in these
1853 houses they're building down there now, I went down there the other day, they're digging up the
1854 road. You've got to stop. They've got a man in the middle of the road. They've diverted you
1855 through the new subdivision they're building to try to get the sewer or whatever they're running
1856 across the road. And on the north end of Sadler Road, they've got a little bridge there. You can't
1857 widen it unless you build a whole new bridge. You can't widen that road there.

1858
1859 Now, coming back towards Broad Street, it's a lot of curves in there you've got to take out. Now, I
1860 don't know the people who live on Sadler Road wants to give us any property. Taxpayers around
1861 here somewhere is going to have to pay for that property. If you're paying big money for this
1862 subdivision, and you start of buying up peoples' homes and stuff so you can straighten out Sadler
1863 Road so these people can get to these homes, somebody's got to pay for this.

1864
1865 Now, as a taxpayer, I don't think I should have to pay to get Sadler Road straightened out because
1866 somebody else wants to build more houses. They want to build this road from Broad Street all the
1867 way back to Nuckols Road. That's fine. They can build all the houses they want to, but I don't
1868 think the taxpayers of Henrico County should be the ones that's asked to pay for this road. If you
1869 want to build the houses, have access to the house. I mean, I went out there with a dirt road, and the
1870 County didn't even want to pave the road for us. We had to give concessions to Innsbrook before
1871 we could even get the dirt road we had paved. So, I mean, I'm not opposed to any building. But, if
1872 you're going to build all these homes, and each home has over two cars. Most of them have at least

1873 two cars. And you're going to have two trips out in the morning and two trips back in the evening.
1874 And, like I said, Sadler Road can't take the traffic its got now.

1875
1876 The only thing I ever hear from the County, "Well, we've got a traffic counter out here." Well, that
1877 don't stop the traffic or help it anyway. I've seen it out there the other day. It's counting traffic, but
1878 it's a lot of traffic on Sadler Road. Thank you.

1879
1880 Mr. Archer - Thank you, Mr. Flippen. Any questions for Mr. Flippen before he
1881 takes his seat?

1882
1883 Mr. Taylor - No. I want to go back to the statements of Mr. Flippen, if I could,
1884 and ask the Director, since there's no one here from Roads, tonight, do we have a good picture of
1885 how the capacity of those roads will be enhanced over the next five years?

1886
1887 Mr. Marlles - I think, Mr. Taylor, the fact, as Mrs. Hunter pointed out, that there is
1888 a plan within the CIP to actually make improvements to Sadler Road, indicates that the Traffic
1889 Engineer and the Public Works Department has looked at it. So, I'm sure those types of studies
1890 have been done. However, as she indicated, there isn't a representative here from Public Works to
1891 address that, unless, Mrs. Hunter, you can shed some light on that.

1892
1893 Mrs. Hunter - The Public Works Department did ask and put in their comments
1894 that, given the alignment and width of Sadler Road, consideration should be given to phasing part of
1895 this development to coincide with the widening. So, that is a direct recommendation from the
1896 Public Works Department.

1897
1898 Mr. Taylor - And I think that really is a reasonable recommendation. One, I think
1899 Mr. Tyler will be able to work with, with his construction schedule if the construction in that is
1900 2004, and his properties start to come on line at that time. It would seem that the phasing of
1901 construction and the build up of traffic is going to be commensurate. Heads are nodding. So, I
1902 guess the answer to that is, we will keep the construction in phase.

1903
1904 Mrs. Hunter - Based on their phasing proffer, they could get building permits for all
1905 lots prior to 2004, based on what they have proffered.

1906
1907 Mr. Taylor - Yes. But, I have heard that the schedule is going to be more
1908 protracted than that. What I'm trying to do is to see if this is a real problem, or an imagined
1909 problem.

1910
1911 Mrs. Dwyer - It sounds like staff is suggesting the proffer be changed so that it's
1912 not possible to get all of the building permits prior to the time the road is improved. Is that correct,
1913 Mrs. Hunter?

1914
1915 Mrs. Hunter - A natural phasing proffer.

1916
1917 Mrs. Dwyer - Right. So, I think staff is suggesting the phasing proffer be amended.
1918 So, that's one option.

1919

1920 Mr. Taylor - That's a good option. Should we do that now, or should we do that
 1921 later, or could we make a motion that the proffer for traffic be amended?
 1922

1923 Mr. Archer - The applicant has to volunteer the proffer.
 1924

1925 Mr. Taylor - The applicant has to volunteer that.
 1926

1927 Mrs. Freye - Mr. Taylor, what I'd like to ask is, could we work on that proffer
 1928 between now and the Board hearing? We have had many discussions with staff about that. We'll
 1929 continue to look at that and the timing. Everyone recognizes, as the traffic engineer, we rely on the
 1930 professionals that the volume is not the problem. It's the design of Sadler Road. And we know the
 1931 County recognizes that, has known it for some time, and is addressing that and, actually, has it on
 1932 the CIP Plan now to get the development more in sync with the plans the County has. We'd be glad
 1933 to work on that proffer between now and the Board, and ask that you let us go forward with the
 1934 opportunity to do that.
 1935

1936 Mr. Taylor - That's acceptable to me.
 1937

1938 Mr. Archer - Mr. Taylor, I need to ask, was there anybody else in opposition to the
 1939 case?
 1940

1941 Mr. Taylor - I have a few comments that I'd like to make, because this is a very
 1942 difficult case. It's been protracted and caused a great deal of study on the part of the staff. We
 1943 spent a lot of hours looking at the site. And to quote some of the figures going over the site. I can't
 1944 attest to the 40,000 cubic yards of material that's over there that has to be moved. Pictures
 1945 adequately denote that, particularly, the damaged buildings. Frankly, just looking at it, as a part of
 1946 Henrico County, stuns my imagination. Because, until I walked it with Mr. Tyler, I had no idea that
 1947 that type of environmental conditions existed. And I was happy to share the opportunity to go
 1948 around with it, but I do think that it needs to be re-mediated and cleaned up and the buildings
 1949 removed and the environmental clean up undertaken. I think that can be done.
 1950

1951 I think, with regard to sound suppression over there, the proximity of the property to I-295 will
 1952 require either sound suppression or orient the buildings so they do not have a flat surface facing the
 1953 road, and they've got some degree of reflectance to them.
 1954

1955 With regard to the wetlands conservation restoration that the developer has offered, I was able to
 1956 look over the wetlands and they are very active and they're very pretty. The developer has assured
 1957 that he's going to rebuild those. And I think with some nature trails in there, and the housing
 1958 clusters, that's really going to be a very attractive feature.
 1959

1960 I want to go onto the density, which comes out to be about 2.2 units per acre. And that would meet
 1961 the R-2 standards. I don't see that as a problem. The roads being 2003 and 2004, being phased with
 1962 the construction start, I'm convinced that we can control traffic. And I think the developer's
 1963 acquisition efforts have been rather diligent when you recognize all of the parcels that they have
 1964 worked so diligently to assemble. Assembling those 17 parcels sounds easy because the number of

1965 17 is not a very big number. But, some of those properties date back to the late 1800's, and just
1966 finding title was a little frustrating. And I applaud the efforts and the parklands and trails.

1967
1968 Now, to get down to the numbers in terms of density, in the wetlands, the developer has proffered
1969 an R-3, 85-foot wide lots with 12,500 square feet. The staff is trying to seek R-2A with 85, and
1970 13,500. So, there's a difference between two views of 1,000 square feet per housing lot. And the
1971 remainder of the site, which is not adjacent to the wetlands, the developer is requesting R-3 and 80-
1972 foot widths, 11,000 square foot, and the staff is requesting R-3, 85-foot wide and 12,000 square feet.

1973
1974 Mrs. Dwyer - I'm sorry, could you repeat what you said, Mr. Taylor. I wasn't clear
1975 on that.

1976
1977 Mr. Taylor - Let me go through the whole thing from the remainder of the site.
1978 The developer is requesting R-3. He is requesting 80-foot widths. He is requesting 11,000 square
1979 feet. That is slightly below the R-3 or in the R-3 range. The staff is requesting R-3, 85-foot widths,
1980 and 12,000 square feet. So, the delta there between the staff and the developer is 1,000 square foot.

1981
1982 And when I look at this, in all honesty, and I see what they have to go through to make these lots, I
1983 feel it's an adequate remuneration in exchange for all of their hard efforts. I am going to
1984 recommend the R-3 as requested.

1985
1986 Mr. Archer - Mr. Taylor, I'd just like to ask one question, if I can, of staff. Mrs.
1987 Hunter, in your summaries of all three of these cases, the common thread is that if access can be
1988 addressed, staff would recommend R-2 on C-04, and on C-03, I believe you said, "Should not be
1989 zoned until its known how access can be provided". And on C-01C, it says, "...If access can be
1990 addressed, would recommend R-2."

1991
1992 In light of all that Mr. Taylor has said, which makes a lot of sense, but how do you feel about...

1993
1994 Mrs. Hunter - What staff's recommendation is, is that we're saying everything east
1995 of Wonder Road is appropriate for R-3 zoning. That would be a portion of C-4C-01. And, then,
1996 also, the island over here, C-3-01. What staff is recommending between Wonder and the
1997 floodplain, this area here (referring to slide), is R-2A. What the applicant has proffered is that they
1998 would keep it R-3 zoning, but have 85 foot lot widths. It was 12,000 square foot average. The
1999 applicant has indicated to me that they've changed that now to 12,500 square feet. So, that's what
2000 they're offering. But, what we are recommending is R-2A, between Wonder and the floodplain.
2001 Does that clear it up?

2002
2003 Mrs. Dwyer - May I ask a question? I understood Ms. Freye to say, in terms of
2004 density, that the aggregate density met what was intended by the Land Use Plan. How do you
2005 respond to that statement?

2006
2007 Mrs. Hunter - It meets it, but there are so many environmental impacts on the
2008 property, you have the 100-year flood plain. You have considerable wetlands. If you took those
2009 out of the property, the density would be about 2.6. But, because you can look at that as net
2010 acreage, with including all that, that has helped to reduce the density, and they have given us the

2011 benefits of using that as parks and putting pedestrian trails through that. So, they're going to use
2012 that as an amenity of the project.

2013
2014 Mrs. Dwyer - So, when the statement is made that the "Aggregate density of the
2015 project meets the Land Use Plan..." it is only because the undevelopable land is included in that
2016 calculation?

2017
2018 Mrs. Hunter - Yes.

2019
2020 Mrs. Dwyer - If you eliminate the undevelopable land, then it does not meet the
2021 Land Use Plan recommendation for that?

2022
2023 Mrs. Hunter - It's higher than the 2.4.

2024
2025 Mr. Archer - And how much higher do you think it would be?

2026
2027 Mrs. Hunter - My quick calculations would be 2.6, but I wouldn't swear to it.

2028
2029 Mr. Vanarsdall - 2.6?

2030
2031 Mrs. Hunter - Approximately.

2032
2033 Mr. Archer - All right, thank you, Mrs. Hunter. Any further questions?

2034
2035 Mr. Kaechele - Can I have a clarification? The only deviation from R-3 is the lots
2036 along the floodplain?

2037
2038 Mrs. Hunter - Correct.

2039
2040 Mr. Kaechele - So, everything; and that's 85 feet – 12,000 square feet?

2041
2042 Mrs. Hunter - The applicant has just changed that. It's an average lot size of
2043 12,500 square feet, and that's an average.

2044
2045 Mr. Kaechele - 85-foot width? Everything else...

2046
2047 Mrs. Hunter - Those are for all the lots adjacent to the 100-year flood plain.
2048 Everything else is straight R-3.

2049
2050 Mr. Kaechele - Okay. Another question I had on the traffic. While these cases are
2051 written separately, I guess the traffic is consolidated?

2052
2053 Mrs. Hunter - They consolidated their comments. Yes.

2054
2055 Mr. Kaechele - It's 1,360 trips for the whole...

2056

2057 Mrs. Hunter - For the entire project.
2058
2059 Mr. Kaechele - Current count?
2060
2061 Mrs. Hunter - Yes.
2062
2063 Mr. Kaechele - Thank you.
2064
2065 Mrs. Hunter - And that would be reduced a little bit now that they took 7 acres out
2066 of the site. Remember this portion on the opposite side of the floodplain? It has come out, so that
2067 will reduce it slightly.
2068
2069 Mr. Kaechele - Okay.
2070
2071 Mr. Vanarsdall - Mrs. Hunter, 12,500 fits between R-3 and R-2A, so that's almost like
2072 an R-3A, isn't it?
2073
2074 Mrs. Hunter - We no longer have R-3A, but it is right there in the middle. The R-
2075 2A is a lot size of 13,500, with an 80-foot lot width.
2076
2077 Mr. Vanarsdall - R-3 is 13,500.
2078
2079 Mrs. Hunter - R-3 is also an 80-foot lot width, and 11,000 square feet.
2080
2081 Mr. Vanarsdall - I know we don't have any more R-3A's, but that's about where it
2082 fits.
2083
2084 Mrs. Hunter - It's the mid-point.
2085
2086 Mrs. Dwyer - If I could just ask one more question just to get it straight in my mind
2087 on this density issue. The issue in your staff report was not just whether they might technically
2088 meet the Land Use Plan if we include all the undevelopable land in the calculation, but also the fact
2089 that this is a significant case in terms of its precedent setting value, because there is a tremendous
2090 amount of vacant land along the remainder of Sadler Road. And, if this continues to be R-3...
2091
2092 Mrs. Hunter - We would be concerned the entire corridor would go. Yes.
2093
2094 Mrs. Dwyer - The remainder of Sadler. And the natural boundary, in staff's view,
2095 is Wonder Road, and the floodplain area?
2096
2097 Mrs. Hunter - Yes.
2098 Mrs. Dwyer - Those are two boundaries that have been set aside as ways to step
2099 down the density?
2100
2101 Mrs. Hunter - Those are the way we identified them. Right.
2102

2103 Mrs. Dwyer - Okay. Thank you.
2104
2105 Mrs. Hunter - Thank you.
2106
2107 Mr. Archer - All right, any more questions? Thank you, Mrs. Hunter.
2108
2109 Mrs. Hunter - Thank you.
2110
2111 Mr. Archer - Okay. There is no other opposition, then, Mr. Taylor.
2112
2113 Mr. Taylor - Looking at everything, I still feel that this project is...
2114
2115 Mrs. Hunter - Sorry to interrupt. I just want to remind you the time limits would
2116 need to be waived, if you're going to consider them.
2117
2118 Mr. Archer - Thank you, Mrs. Hunter.
2119
2120 Mr. Kaechele - Are we addressing a motion on individual zoning cases?
2121
2122 Mr. Marlles - It will require an individual motion, Mr. Chairman.
2123
2124 Mr. Vanarsdall - Have to.
2125
2126 Mr. Marlles - On each case.
2127
2128 Mr. Taylor - On each case?
2129
2130 Mr. Vanarsdall - We have to do that.
2131
2132 Mr. Taylor - So, with all of that said, first I will move for the waiver of time limits
2133 for the proffers.
2134
2135 Mr. Vanarsdall - Is that a motion?
2136
2137 Mr. Taylor - I move approval of the waiver of time limits for Case C-2C-00.
2138
2139 Mr. Vanarsdall seconded the motion.
2140
2141 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Vanarsdall, for approval of
2142 waiving the time limits. All in favor, let it be known by saying aye—all those opposed by saying
2143 nay. The vote is 5-0 (Mr. Kaechele abstained). That carries. Mr. Taylor.
2144
2145 Mr. Taylor - Now, I will move for approval of Case C-2C-01 as presented, Gloria
2146 L. Freye for Fidelity Properties, Ltd.
2147

2148 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Vanarsdall. All in favor let
2149 it be known by saying aye—all those opposed by saying nay. The vote is 3-2 (Mr. Mrs. Dwyer, and
2150 Mr. Archer voted no, Kaechele abstained). Okay, Mr. Taylor, next case.
2151
2152 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning
2153 Commission voted 3 ayes, 2 nays (one abstention) to recommend that the Board of Supervisors
2154 **grant** the request because it reflects the type of residential growth in the area.
2155
2156 Mr. Taylor - Next, Mr. Chairman, I'll move for approval of waiver of time limits
2157 of Case C-3C-01 Gloria L. Freye for Fidelity Properties.
2158
2159 Mr. Vanarsdall - That's the time limit?
2160
2161 Mrs. Dwyer seconded the motion.
2162
2163 Mr. Archer - Motion by Mr. Taylor, seconded by Mrs. Dwyer. All in favor let it
2164 be known by saying aye—all those opposed by saying nay. The vote is 5-0 (Mr. Kaechele
2165 abstained). The motion carries. Next case, Mr. Taylor.
2166
2167 Mr. Archer - Does the time limits apply?
2168
2169 Mr. Marlles - I assume, Mr. Taylor, your motion referred to the proffers in all three
2170 cases; the waiver of the time limit?
2171
2172 Mr. Taylor - Unless we have to do it for each one.
2173
2174 Mr. Marlles - It probably would be better to do it for each one.
2175
2176 Mr. Taylor - All right, then I will continue the motion.
2177
2178 Mrs. Dwyer - Sorry.
2179
2180 Mr. Taylor - I move approval of waiver of time limits for Case C-4C-01 Gloria L.
2181 Freye for Fidelity Properties.
2182
2183 Mrs. Dwyer - That's what I seconded.
2184
2185 Mr. Archer - All right. Motion by Mr. Taylor, seconded by Mrs. Dwyer that the
2186 time limits be waived for the proffers on C-3C-01. All in favor let it be known by saying aye—all
2187 those opposed by saying nay. The vote is 5-0 (Mr. Kaechele abstained). The motion carries. Next
2188 case, Mr. Taylor.
2189
2190 Mr. Taylor - And, now, Mr. Chairman, I will move approval of Case C-4C-01
2191 Gloria L. Freye for Fidelity Properties, Ltd.
2192
2193 Mr. Archer - Was that C-3C-01?

2194
2195 Mr. Taylor - C-4C-01. Gloria L. Freye for Fidelity Properties.
2196
2197 Mr. Vanarsdall - We never have done C-3C-01 yet.
2198
2199 Mr. Archer - We didn't do C-3C yet. We did C-2C-01 first.
2200
2201 Mr. Kaechele - Do them in order.
2202
2203 Mr. Archer - I don't guess they have to go in order, but...
2204
2205 Mr. Vanarsdall - All right, you want C-4C-01 this time or C-3C-01?
2206
2207 Mr. Archer - C-4C-01.
2208
2209 Mr. Taylor - I thought we did C-3C-01.
2210
2211 Mr. Marlles - You started to, Mr. Taylor, and we had to go back and waive the
2212 time limits.
2213
2214 Mr. Taylor - All right, we need to waive approval for time limits?
2215
2216 Mr. Marlles - No. No. We've done that.
2217
2218 Mr. Taylor - Okay, then I will move approval of Case C-3C-01 Gloria L. Freye
2219 for Fidelity Properties.
2220
2221 Mr. Vanarsdall seconded the motion.
2222
2223 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Vanarsdall for approval of
2224 C-3C-01. All in favor let it be known by saying aye—all those opposed by saying nay. The vote is
2225 5-0 (Mr. Kaechele abstained).
2226
2227 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning
2228 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the
2229 request because it reflects the type of residential growth in the area.
2230
2231 Mr. Archer - We'll go to C-4C-01. Time limits first, I suppose.
2232
2233 Mr. Taylor - Mr. Chairman, I will do the time limits for Case C-4C-01 and waive
2234 the time limits for Gloria L. Freye for Fidelity Properties, Ltd.
2235
2236 Mr. Vanarsdall seconded the motion.
2237

2238 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Vanarsdall. All in favor let
2239 it be known by saying aye—all those opposed by saying nay. The vote is 5-0 (Mr. Kaechele
2240 abstained). The time limits are waived. Now, C-4C-01.

2241
2242 Mr. Taylor - And, finally, Mr. Chairman, I will move approval of Case C-4C-01
2243 Gloria L. Freye for Fidelity Properties, Ltd.

2244
2245 Mr. Vanarsdall seconded the motion.

2246
2247 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Vanarsdall. All in favor let
2248 it be known by saying aye—all those opposed by saying nay. The vote is 3-2 (Mrs. Dwyer and Mr.
2249 Archer voted no, Mr. Kaechele abstained). That vote is 3-2, Mr. Chairman. The motion carries.
2250 Thank you, everybody.

2251
2252 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning
2253 Commission voted 3 ayes, 2 nays (one abstention) to recommend that the Board of Supervisors
2254 **grant** the request because it reflects the type of residential growth in the area.

2255
2256 **C-5C-01 David S. Cohn for First Union National Bank:** Request to
2257 conditionally rezone from A-1 Agricultural District, B-2C Business District (Conditional) and B-3
2258 Business District to B-1C and B-2C Business District (Conditional), Parcel 36-A-50 and part of
2259 Parcel 36-A-49A,
2260 described as follows:

2261
2262 **Parcel 1**
2263 Beginning at a Point of Beginning on the southerly right-of-way line of West Broad Street, which
2264 Point of Beginning is arrived at by the following two courses and distances from the intersection of
2265 the southerly right-of-way line of West Broad Street with the centerline of a 30-foot right of way for
2266 a private road as approved by Henrico County Planning Commission Plan of Development #43-00:
2267 along the southerly right-of-way line of West Broad Street, South 78° 39' 48" East, 66.88 feet to a
2268 point; thence, continuing along the southerly right-of-way line of West Broad Street, South 79° 52'
2269 28' East, 137.37 feet to the Point of Beginning; thence, along the southerly right-of-way line of West
2270 Broad Street; South 05° 43' 21" East, 339.94 feet to a point; thence, continuing along the southerly
2271 right-of-way line of West Broad Street; South 36° 26' 50" West, 13.29 feet to a point; thence,
2272 continuing along the southerly right-of-way line of West Broad Street; South 05° 43' 40" East, 91.57
2273 feet to a point; thence, leaving the southerly right-of-way line of West Broad Street, South 31° 20'
2274 08" West, 258.46 feet to a point; thence, South 62° 55' 18" East 127.55 feet to a point on the
2275 westerly right-of-way line of Spring Oak Drive; thence, with the westerly right-of-way line of
2276 Spring Oak Drive, 49.73 feet along a curve to the left whose radius is 50.00 feet, whose delta is 56°
2277 59' 06", whose chord distance is 47.70 feet, and whose chord bearing is South 22° 20' 24" West;
2278 thence, leaving the westerly right-of-way line of Spring Oak Drive, North 71° 18' 46" West, 350.57
2279 feet to a point; thence, North 76° 18' 50" West, 196.99 feet to a point on the westerly line of Parcel
2280 3; thence, with Parcel 3, North 80° 43' 44" East, 160.61 feet to a point to a point common to Parcels
2281 1, 2, and 3; thence, leaving Parcel 3, and with Parcel 2, North 80° 43' 44" East, 154.30 feet to the
2282 Point of Beginning.

2284 **Parcel 2**

2285 Beginning at a Point of Beginning on the southerly right-of-way line of West Broad Street, which
2286 point is South 78° 39' 48" East, 66.88 feet from the intersection of the southerly right-of-way line of
2287 West Broad Street with the centerline of a 30-foot right of way for a private road as approved by
2288 Henrico County Planning Commission Plan of Development #43-00, thence, with the southerly
2289 right-of-way line of West Broad Street, South 79° 52' 28" East, 137.37 feet to a point common to
2290 Parcels 1 and 2 on the southerly right-of-way line of West Broad Street; thence, leaving the
2291 southerly right-of-way line of West Broad Street, and with Parcel 1, South 80° 43' 44" West,
2292 154.30 feet to a point common to Parcels 1, 2, and 3; thence, leaving Parcel 1 and with Parcel 3,
2293 North 79° 43' 24" West, 88.60 feet to a point; thence, with Parcel 3, South 28° 39' 54" West, 12.64
2294 feet to a point thence, with Parcel 3, North 79° 42' 08" West, 25.30 feet to a point; thence, with
2295 Parcel 3, North 28° 45' 08" East, 12.65 feet to a point thence, with Parcel 3, North 79° 42' 59"
2296 West, 23.31 feet to a point; thence, with Parcel 3, North 28° 41' 29" West, 153.34 feet to the Point
2297 of Beginning.

2298

2299 **Parcel 3**

2300 Beginning at a Point of Beginning at the intersection of the southerly right-of-way line of West
2301 Broad Street with the centerline of a 30-foot right of way for a private road as approved by Henrico
2302 County Planning Commission Plan of Development #43-00; thence, with the southerly right-of-
2303 way line of West Broad Street, South 78° 39' 48" East, 66.88 feet to a point; thence, leaving the
2304 southerly right-of-way line of West Broad Street, and with Parcel 2, South 28° 41' 29" West,
2305 153.34 feet to a point; thence with Parcel 2, South 79° 42' 59" East, 23.31 feet to a point; thence
2306 with Parcel 2, South 28° 45' 08" West, 12.65 feet to a point; thence with Parcel 2, South 79° 42'
2307 08" East, 25.30 feet to a point; thence with Parcel 2, North 28° 39' 54" East, 12.64 feet to a point;
2308 thence with Parcel 2, South 79° 43' 24" East, 88.60 feet to a point common to Parcels 1, 2, and 3;
2309 thence with Parcel 1, S 80° 43' 44" West, 160.61 feet to a point; thence leaving Parcel 1, South 80°
2310 37' 53" West, 14.11 feet to a point; thence North 09° 03' 30" West, 232.55 feet, to a point; thence,
2311 with the centerline of the aforesaid 30-foot right of way for a private road, 44.15 feet along a curve
2312 to the left whose radius is 100 feet, whose delta is 25° 17' 54", and whose tangent is 22.44 feet, to a
2313 point; thence, continuing along the aforesaid centerline, 14.86 feet along a curve to the left whose
2314 radius is 100 feet, whose tangent is 7.44 feet, and whose chord distance is 14.85 feet, to a point;
2315 thence, continuing along the aforesaid centerline, North 77° 33' 59" East, 72.01 feet to a point;
2316 thence, continuing along the aforesaid centerline, North 80° 42' 25" East, 159.21 feet to a point;
2317 thence, continuing along the aforesaid centerline, 17.46 feet along a curve to the left whose radius is
2318 100 feet, whose delta is 10° 00' 22", whose chord length is 17.44 feet, and whose tangent is 8.75 feet,
2319 to a point; thence, continuing along the aforesaid centerline, North 89° 17' 14" East, 42.08 feet to
2320 the Point of Beginning.

2321

2322 Mr. Marles - The staff report will be given by Mr. Mark Bittner.

2323

2324 Mr. Archer - Thank you, Mr. Secretary. Any one here in opposition to C-5C-01.
2325 Didn't see any. Mr. Bittner.

2326

2327 Mr. Bittner - Thank you, Mr. Chairman. This proposal includes a 35-foot W.
2328 Broad Street landscaped buffer that is consistent with the Crown Petroleum site to the east and with
2329 the West Broad Street Overlay District. This property does lie within the overlay district.

2330
2331 The western portion of the property, this area right in here (referring to slide), has a 50-foot buffer
2332 required as part of the previous rezonings. Those previous cases also require 50-foot buffers along
2333 the Lauderdale Drive and Three Chopt Road. Fifty-foot buffers have also been proffered along W.
2334 Broad Street in the Short Pump Town Center project to the north.

2335
2336 The applicant states the property in question cannot be developed with a 50-foot buffer, because the
2337 site is too narrow to accommodate the required parking and setbacks. The applicant has modified
2338 the proffers to state the buffer will be increased to 50 feet at its western edge. And you can see on
2339 this layout here (referring to slide), Broad Street is on the top side of the drawing. The western edge
2340 of the buffer is to the left. And you can see how it begins to taper outward as it gets towards the
2341 western edge.

2342
2343 Staff, however, prefers to see a full 50-foot buffer provided along the entire W. Broad Street
2344 frontage of this property. This would be consistent with buffers to the north, south, and west.

2345
2346 The amended proffers address all the other issues outlined in the staff report, but it does not address
2347 staff's recommendation for a 50-foot buffer. I'd also like to point out that those proffers were
2348 submitted today. The time limit waiver would be required to accept them.

2349
2350 In summary, the proposed use is consistent with the mixed-use designation of this property. And, if
2351 the applicant were to amend the applicant to include a 50-foot buffer along W. Broad Street, staff
2352 could recommend approval. I'd be happy to answer any questions you may have.

2353
2354 Mr. Archer - Thank you, Mr. Bittner. Are there questions by the Commission for
2355 Mr. Bittner?

2356
2357 Mr. Taylor - Do we have a copy of what they submitted today?
2358 Mr. Bittner - Yes. We do.

2359
2360 Mr. Taylor - Were they in our package?

2361
2362 Mr. Bittner - We just handed those out.

2363
2364 Mrs. Dwyer - Mr. Bittner, may I ask a question while Mr. Taylor is reading? You
2365 mentioned that this is a mixed-use development. And these are both "B" uses. So, could you
2366 elaborate on that, because the next one, there's a concern that it is not a mixed use on the other
2367 parcel. If you could just elaborate on that concept.

2368
2369 Mr. Bittner - Let me just go to the Land Use Plan map here (referring to slide).

2370
2371 Mrs. Dwyer - The other case, I think.

2372
2373 Mr. Bittner - You can see, the property in question is here (referring to slide). The
2374 people who are developing this property are also involved with the development of this property to
2375 the west zoned B-2C, and this O-3C property down here. So, maybe I need to clarify my statement

2376 a little bit. When this is taken with all the other plan of development in this quadrant, it does meet
2377 the mixed-use designation on the Land Use Plan. Maybe this particular parcel, itself, is all business,
2378 but this whole development area would be mixed use.

2379
2380 Mrs. Dwyer - Okay, because in the next case, C-6C-01, you did make a statement
2381 that, when that case is taken in context of the vicinity around it, that it was part of parcel of the
2382 overall mixed-use development. Okay.

2383
2384 Mr. Vanarsdall - If you went in there and couldn't find a seat, could you stand up and
2385 eat? It says, "a sit down restaurant."

2386
2387 Mr. Bittner - I don't know if that meets the health code or not.

2388
2389 Mr. Archer - Any further questions? Mr. Taylor, did you have a question?

2390
2391 Mr. Taylor - The amended proffered conditions are a little different than I thought
2392 they were. This is Item 25, amended as today?

2393
2394 Mr. Bittner - Yes sir.

2395
2396 Mr. Taylor - And that goes to 41 feet in width on Parcel 3? Where is Parcel 3?

2397
2398 Mr. Bittner - Let me go back to the colored document camera. Those buffer
2399 proffers reflect what you see on this drawing (referring to slide) right here.

2400
2401 Mr. Taylor - This is new as of today?

2402 Mr. Bittner - Yes. The applicant has labeled the proposed development as three
2403 separate parcels. Parcel 1 is the larger parcel that would have the restaurant. Parcel 2 is the smallest
2404 parcel, which is towards the left upper hand corner. And then Parcel 3 is the remainder of the
2405 property. Two and three together would be the First Union Bank development. So, when they're
2406 referencing their buffer and running across Parcel 3 and Parcel 2, it's in the left upper lefthand
2407 corner of this drawing.

2408
2409 Mr. Taylor - And that buffer on the west side flares out to 50 feet?

2410
2411 Mr. Bittner - Yes.

2412
2413 Mr. Taylor - What is the light green area adjacent to the buffer? Is that additional
2414 grassy area (referring to slide)?

2415
2416 Mr. Bittner - Just a general landscaping area. Parking lot islands and so forth.

2417
2418 Mr. Taylor - Will the buffer have vegetation or berms?

2419
2420 Mr. Bittner - Yes. Their proffer states that it would be "landscaped and/or natural
2421 buffer areas and/or berms." If you see them on the first page of the proffers under No. 2, they

2422 haven't submitted an actual landscape plan. That would be done at the POD stage. But, they have
2423 said there will be landscaping material and/or berms in this buffer. And, then, of course, the details
2424 could be worked out with the Commission at the POD stage.

2425
2426 Mr. Taylor - Now, 35 feet does meet the West Broad Street Overlay requirement,
2427 does it not?

2428
2429 Mr. Bittner - Yes, it does.

2430
2431 Mr. Taylor - Do we have any foundation drawings in section or in profile?

2432
2433 Mr. Bittner - We do have some drawings, although they are not proffered
2434 drawings, but they do have some pictures.

2435
2436 Mr. Taylor - Perhaps, Mr. Cohn would want to wait until he gets to his
2437 presentation. I have no further questions.

2438
2439 Mrs. Dwyer - On the new proffers that we just received tonight, Proffer 2A(2)(i)
2440 says, "If approved by the Planning Commission, the following buffer will be provided..." What
2441 does that mean?" Does that mean at POD?

2442
2443 Mr. Bittner - The buffers that they proffered would actually be less than what is
2444 required by the Transitional Buffer Ordinance. Their plan was to provide an alternative with a wall,
2445 I believe, to use that buffer. However, in order to get that, the Planning Commission has to approve
2446 that at POD stage.

2447
2448 Mrs. Dwyer - Okay. I understand the context now.

2449
2450 Mr. Archer - Mr. Bittner, the operation hours are the same in B-1 and B-2, aren't
2451 they, or are they?

2452
2453 Mr. Bittner - I believe they proffered on the B-2 portion to make it B-1 hours. I'm
2454 not positive.

2455
2456 Mr. Archer - Is it the same? I'm not sure - 6:00 a.m. to 12:00 Midnight, the hours
2457 of operation in B-1 and B-2? Are they the same?

2458
2459 Mr. Bittner - Are you talking B-1 versus B-2?

2460
2461 Mr. Archer - Yes.

2462
2463 Mr. Bittner - B-1 hours of operation are 6:00 a.m. to Midnight. B-2 is the same,
2464 but you can get a Provisional Use Permit in B-2 to extend those hours. You cannot in B-1.

2465
2466 Mr. Archer - Thank you.

2467

2468 Mr. Archer - Now, in Proffer 7, you had recommended the Lauderdale and Three
2469 Chopt reference be eliminated. Has that been done?
2470
2471 Mr. Bittner - Yes. It has been. This language the applicant put in, maybe they can
2472 explain it a little bit better. Let me show you again on the drawing (referring to slide). This
2473 development would be connected to development taking place to the west, where the Virginia
2474 Credit Union is. And there is another office building approved recently. They would all be inter-
2475 connected so that you could get from this property to Lauderdale or to Three Chopt, although not
2476 directly. So, the applicant wanted to preserve and make it clear in the proffers that you could get to
2477 those other roads to this property, not just Broad Street.
2478
2479 Mrs. Dwyer - Have they done that? I'm trying to sit here and understand the ins
2480 and outs of this ordinance...
2481
2482 Mr. Bittner - Yes. They've removed any specific reference to Lauderdale Drive
2483 and Three Chopt Road. But, they've also again stated the plan is to connect it to development that
2484 does touch Three Chopt and Lauderdale. Maybe you can see it a little bit better on this (referring to
2485 slide).
2486
2487 Mrs. Dwyer - I understand what you're saying. I just didn't see the reference to
2488 Lauderdale in here, but I'm good.
2489 Mr. Bittner - Right. Yes. They've taken that out...
2490
2491 Mrs. Dwyer - The other question I had, in several places, they state that gravel shall
2492 not be a primary landscaping material. Is that still in there? Yes.
2493
2494 Mr. Bittner - I believe so.
2495
2496 Mrs. Dwyer - Does that mean gravel will be used as a landscaping material in some
2497 non-primary way?
2498
2499 Mr. Bittner - In my view, yes. It means you could use gravel. It couldn't be the
2500 most prominent aspect of any landscaped area. These proffers mirror proffers that have been
2501 adopted on the property to the west, which was originally rezoned by Bon Secours. I think that was
2502 in 1996. And, now, Wellesley Associates has taken some of that property over and is developing it.
2503
2504 Mrs. Dwyer - We generally try to stay away from gravel as a landscaping material.
2505
2506 Mr. Bittner - Yes, we do.
2507
2508 Mrs. Dwyer - One last question. Proffer 21 says, "No retail business, which
2509 exceeds 25,000 square feet of floor area.. No retail building shall be located on Parcel 1, which
2510 exceeds 30,000..." It sounds like they're making a distinction between the retail business and the
2511 retail building, and I wasn't clear on that distinction.
2512

2513 Mr. Bittner - Let me take a closer look at it. The applicant should probably
2514 expand on that some more, but I think what they're just saying is, the building could be a little bit
2515 bigger than the actual retail area for accessory offices, HVAC equipment and so forth.

2516
2517 Mrs. Dwyer - Okay.

2518
2519 Mr. Archer - All right, further questions for Mr. Bittner? Thank you, sir. Would
2520 the applicant come forward, please.

2521
2522 Mr. David Cohn - Thank you, my name is David Cohn. Mr. Bittner, could you put
2523 back up the conceptual site plan? Okay. Thank you very much. I'd like to address your comment
2524 because this is a rather unusual situation.

2525
2526 We have got a number of things that you have addressed; the road, the gravel, and some of these
2527 other factors, the retail, because we were really trying to be good guys here. Let me tell you what's
2528 happening.

2529
2530 There's three ownership parcels. That's why its put up like this. Ownership Parcel 1 is on the right.
2531 Ownership Parcel 2 is that little rectangle over on the left towards the top, and Ownership Parcel 3
2532 wraps around it. The reason is, the property right now is owned by three separate property owners.

2533
2534 The parcels that are 2 and 3 over on the left are already under proffers. What we were trying to do
2535 is create a harmonious integrated architectural development. Over on the right, you see an area
2536 that's just to the right of a Crown Central Petroleum property, and that, itself, has proffers.

2537
2538 So, to create harmony among all these parcels so they fit together, what we did, is we adopted
2539 proffers that are on both sides of us trying to reconcile some inconsistencies in languages on both
2540 sides. That's how we ended up with the proffers what we have.

2541
2542 The second thing you'll notice is we're actually down zoning property. B-3 down to B-1 on Parcel
2543 1 on the right. And, even though Parcels 2 and 3 remain B-2, if you look at the use restrictions, as a
2544 practical matter, they're down to B-1. And the use we're going to put on those two parts which is
2545 First Union Financial Center is a B-1 use.

2546
2547 So, when you see words like, "the gravel," we don't intend to have any gravel for landscaping. It's
2548 just we're trying to be consistent with what's on the east of us and on the right of us. If "primary"
2549 bothers you, we'd be glad to take it out.

2550
2551 The second thing that's going on here is, we worked very closely with the County's traffic engineers
2552 and Department of Transportation, and, also, to be consistent with West Broad Street Overlay
2553 District you're in.

2554
2555 And the bottom line, when you take those all together, is we tried to do everything possible to avoid
2556 a curb cut onto West Broad Street, because your objective is have properties in this area serviced by
2557 private roads that are directing traffic to signalized intersections. And, as a consequence of what the
2558 County wanted, what we did is commit to build this private road along the southern boundary.

2559
2560 Another advantage of the County to our doing that is, it puts properties that are to the west of us,
2561 this is in what's the Wellesley Center development, in a position by using our private road to have
2562 access to Springoak Drive to have a signalized intersection. So, that's how we got to the private
2563 road across the southern portion.

2564
2565 And, to address how we got to the need for a 35-foot buffer on W. Broad Street, if you look at the
2566 various constraints we're trying to work around to be, literally, the "good guys" with the County,
2567 put in that road there to have the buffers all around. To do this is an absolute first-class
2568 development. What you see is we get squeezed into an incredibly narrow developable parcel.

2569
2570 So, what we tried to do is, make this quality, what we want. I can't over-emphasize quality,
2571 because that's what First Union wants here. First Union recognizes that this is a gateway for the
2572 Short Pump Town Centre right across the street. This is a very important part of development of
2573 W. Broad Street. So, "quality" is the operative word here. And to get this quality development
2574 with developable property we have to work with the buffers.

2575
2576 Along W. Broad Street we've proffered the 35 feet of buffer. And, as you get to the western end of
2577 it, we do have it taper out to be 50 feet. And on the other side of Springoak Drive, it will connect
2578 where the buffer is 50 feet.

2579
2580 If you look to the east of us, though, the buffers are 35 feet down W. Broad Street. They're 35 feet
2581 on the Crown Petroleum property. On the other side of Springoak Drive, you've got another
2582 zoning case coming up where a 35-foot buffer is proffered.

2583
2584 We think a logical transition point to go from 35 feet to 55 feet is at our western boundary line,
2585 where there is, in fact, a private road. When those 50-foot buffers were proffered years ago, they
2586 were done so by Bon Secours when they had a much, much deeper property than we have the
2587 ability to work with here. And, in fact, if you look at the 35-foot buffer, as a percentage of our
2588 depth of property, compared to the 50-foot buffer as a percentage of the depth of the properties to
2589 the west of us, we have a far, far greater percentage of buffer.

2590
2591 One other point I'd like to emphasize is, what we're focusing here is the quality of the buffer. And
2592 the idea of the buffer is by berming and by landscaping. We intend to make this buffer look like
2593 the buffers that are in front of Innsbrook along W. Broad Street; CarMax along W. Broad Street.
2594 This is not the proper forum to commit to that. That will be at the Plan of Development stage.
2595 But, that is our objective, and we have had that objective in Charlotte.

2596
2597 So, the only issue in this case is the buffer. We've been working with the staff and Mr. Taylor.
2598 There's no opposition to the case. The only question is the 35-foot buffer. We think by the
2599 landscaping of the transition we've done, and the nature of the uses we're going to put on, which is
2600 a financial center. By sit-down restaurant, we mean quality restaurant. This is not fast food. I
2601 don't know if somebody would be standing up. The idea is this is a quality restaurant that we're
2602 talking about. I'd be delighted to answer any questions.

2603
2604 Mr. Archer - Thank you, Mr. Cohn. Are there questions?

2605
2606 Mr. Taylor - The first question that I have, on the east side of the property along
2607 Broad, there's a little trapezoidal jog. Is that a feature, or is that some...
2608
2609 Mr. Cohn - The buffer follows the property line.
2610
2611 Mr. Taylor - Oh, okay.
2612
2613 Mr. Cohn - And that's just the way the property line goes.
2614
2615 Mr. Taylor - Now, in that one, is the curve on the outside or I guess it would be
2616 the north side? That's a straight curve across Broad Street, is it not, connecting to the next adjacent
2617 site, which...
2618
2619 Mr. Cohn - Next to Crown Petroleum property?
2620
2621 Mr. Taylor - I guess what I'm asking is, that's to be landscaped in there and that
2622 widens the landscaping, does it not?
2623
2624 Mr. Cohn - I apologize. Is this where you're talking about, in here (referring to
2625 slide)?
2626
2627 Mr. Taylor - That little jog that's against Broad Street?
2628
2629 Mr. Cohn - Up here (referring to slide)?
2630
2631 Mr. Taylor - That is not actually going to be a jog in the landscaping?
2632
2633 Mr. Cohn - Is that the correct answer?
2634
2635 Person from Audience - Not that I know of.
2636
2637 Mr. Cohn - No. There will not be a jog in the landscaping.
2638
2639 Mr. Taylor - The landscaping will continue on up into the next site along Broad
2640 Street?
2641
2642 Mr. Cohn - Yes sir.
2643
2644 Mr. Taylor - We had discussed, and we will discuss again at the POD stage the
2645 nature of that, because it is my intention from the western edge of the property to unify that berm
2646 all the way through your segment and we're going to hear the next case, we hope to carry it on
2647 through their site too, right up through Short Pump Crossing.
2648

2649 Mr. Cohn - First Union is not only the developer here, First Union is going to be
2650 the user of this financial center, and its got a very high stake to make sure this is done in a very
2651 high quality way. So, we're very supportive of your concept of the landscaping here.
2652

2653 Mr. Taylor - Thank you.
2654

2655 Mr. Cohn - Any further questions?
2656

2657 Mr. Kaechele - I'm not sure I understand Parcels 2 and 3. They are put together for
2658 one building or one property?
2659 Mr. Cohn - When we're through with this consolidation of the parcels, there
2660 will be two developable parcels. And right here (referring to slide), but there's a line here
2661 approximately. You see Development Parcel 1, Development Parcel 2, Development Parcel 2 will
2662 be the financial center. Development Parcel 1 will be the restaurant (referring to slide).
2663

2664 Mr. Kaechele - You show proffers for 2 and 3, I guess, parcels?
2665

2666 Mr. Cohn - Well, the reason we had to do that, is because they are three separate
2667 parcels and they right now are under separate zoning.
2668

2669 Mr. Kaechele - Okay. So, what's the site coverage for Parcel 2? Is that shown
2670 anywhere?
2671

2672 Mr. Cohn - As far as the percentage of the site that will be covered by building?
2673

2674 Mr. Kaechele - Yes.
2675

2676 Mr. Cohn - The total square footage of the building is 4,600 square feet, and the
2677 total property size is just over 2.46 acres. Just one second, please.
2678

2679 Mr. Kaechele - Well, I don't know if you can figure that out. But, you show 70
2680 percent for Parcel 1, and I was concerned about what the percent was for the other two.
2681

2682 Mr. Cohn - Of course, all of that is addressed in the Plan of Development. As I
2683 look at the financial center, we can show you elevations of it. This is not designed to be a high
2684 density of use.
2685

2686 Mr. Kaechele - So, the site coverage will probably be less than Parcel 1 is what
2687 you're saying, because it's proffered for 70 percent for Parcel 1, I believe?
2688

2689 Mr. Cohn - Which proffer are you referring to? Excuse me.
2690

2691 Mr. Kaechele - No. 4. "No more than 70 percent of Parcel 1 in the aggregate may
2692 be covered by buildings, parking areas and driveways."
2693

2694 Mr. Cohn - Again, where that proffer percentage came from is by taking the
2695 proffers on Wellesley Center to the west and continuing them across our property with the idea of
2696 having this all developed in an integrated, uniform way.
2697

2698 Mr. Kaechele - Right.
2699

2700 Mr. Cohn - We don't have any intent to have any particular percentage to be
2701 developed. Of course, that will be addressed in Plan of Development. But, that is what the
2702 proffers are on Wellesley Center right now.
2703

2704 Mr. Kaechele - What you're saying, Parcel 3 will be less than 70 percent coverage?
2705

2706 Mr. Cohn - We know what Parcel 2 will be developed as because that's a fixed
2707 use right now. That is the First Union Financial Center.
2708

2709 I'd like to address one more point just so there's no confusion. Mr. Taylor made reference to a
2710 41.05 distance depth of buffer from Broad Street. It's right a common line between Parcels 2 and
2711 3. What it is the buffer starting tapering. It becomes wider and wider. And the buffer is 35 feet
2712 about halfway across Parcel 2. And, then it widens and it crosses the property line of 2 and 3. At
2713 that point, its 41 plus feet. And, then, it continues widening where its 50 feet at the western
2714 property line. That's why you see that distance in there.
2715

2716 Mr. Taylor - Mr. Cohn, if I might, I'd like to ask one more question.
2717

2718 Mr. Cohn - Yes sir.
2719

2720 Mr. Taylor - And that is, in Development Parcel 1, you've got the future
2721 restaurant cited at 6,238 square feet and it is right adjacent to the buffer or close to Broad Street.
2722 Usually, at this stage of the game or this stage of the planning process, we don't necessarily cite the
2723 building there. So, if we looked at this at the POD stage, and it were our choice that we would
2724 move that building back on that site, would that be acceptable to you?
2725

2726 Mr. Cohn - Absolutely. It would be acceptable. This is nothing but a
2727 conceptual site plan.
2728

2729 Mr. Taylor - Just an architectural block.
2730

2731 Mr. Cohn - Right. Just to give you a sense of how it could be developed. It's
2732 all subject to your requirements at POD.
2733

2734 Mr. Taylor - I just wanted to make that clear that we wouldn't be constrained to
2735 up it there after we conclude this meeting.
2736

2737 Mr. Cohn - Not at all. This is conceptual only.
2738

2739 Mr. Archer - Okay. Further questions?

2740
2741 Mr. Taylor - No sir.
2742
2743 Mr. Cohn - Thank you very much.
2744
2745 Mr. Taylor - Motion's in order?
2746
2747 Mr. Archer - Yes sir.
2748
2749 Mr. Taylor - First, Mr. Chairman, I would move to waive the time limit for the
2750 proffers.
2751
2752 Mr. Jernigan seconded the motion.
2753
2754 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Jernigan, that we waive the
2755 time limit on the proffers. All in favor let it be known by saying aye—all those opposed by saying
2756 nay. The vote is 5-0 (Mr. Kaechele abstained). Now, the case, Mr. Taylor.
2757
2758 Mr. Taylor - Mr. Chairman, I would move approval of Case C-5C-01 David S.
2759 Cohn for First Union National Bank.
2760
2761 Mr. Jernigan seconded the motion.
2762
2763 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Jernigan. All in favor let it
2764 be known by saying aye—all those opposed by saying nay. The vote is 5-0 (Mr. Kaechele
2765 abstained). All right, Mr. Secretary, next case.
2766
2767 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Jernigan, the Planning Commission
2768 voted 5-0, (one abstention) to recommend that the Board of Supervisors **grant** the request because it
2769 conforms to the recommendations of the Land Use Plan; and it is appropriate business zoning in
2770 this area.
2771
2772 **C-6C-01 James W. Theobald for WSG Development Company/For Eyes:**
2773 Request to conditionally rezone from A-1 Agricultural District and R-5C General Residence District
2774 (Conditional) to B-1C Business District (Conditional), Parcels 36-A-51 and 54, described as
2775 follows:
2776
2777 Beginning at a point where the E. line of Spring Oaks Drive extended meets the S. line of Broad
2778 Street Road, State Route U.S. 250 extended; thence S. 76° 21' 55" E., a distance of 34.40' to a
2779 point being the point of beginning; thence S. 76° 21' 55" E., a distance of 111.14' to a found rod;
2780 thence S. 20° 30' 00" W., a distance of 187.21' to a found rod; thence S. 66° 04' 52" W., a
2781 distance of 83.89' to a rod to be set; thence N. 59° 38' 29" W., a distance of 94.52' to a rod to be
2782 set; thence along the E. line of Spring Oaks Drive along a curve to the left having a delta angle of
2783 03° 16' 55", a radius of 625.00', a length of 35.80', a chord bearing of N. 28° 42' 59" E., and a
2784 chord distance of 35.80' to point; thence continuing along the E. line of Spring Oaks Drive along a
2785 curve to the right having a delta angle of 04° 07' 15", a radius of 793.07', a length of 57.04', a

2786 chord bearing of N. 29° 08' 09" E., and a chord distance of 57.03' to a point; thence continuing
2787 along the E. side of Spring Oaks Drive along a curve to the left having a delta angle of 14° 59' 05",
2788 a radius of 202.00', a length of 52.83', a chord bearing of N. 23° 42' 14" E., and a chord distance
2789 of 52.68' to a point; thence continuing along the E. line of Spring Oaks Drive along a curve to the
2790 left having a delta angle of 03° 27' 08", a radius of 633.50', a length of 38.17', a chord bearing of
2791 N. 14° 29' 07" E., and a chord distance of 38.16' to a point; thence N. 12° 45' 33" E., a distance of
2792 4.43' to a point; thence N. 66° 24' 43" E., a distance of 42.70' to a point, being the point of
2793 beginning, containing 0.710 acres or 30,931 square feet of land.

2794
2795 Mr. Marlles - The staff report will be given by Mr. Mark Bittner.

2796
2797 Mr. Archer - Thank you, Mr. Secretary, is there any one present that's opposed to
2798 C-6C-01? I see opposition. Thank you. We'll get to you. All right, Mr. Bittner.

2799
2800 Mr. Bittner - Thank you, Mr. Archer. A conceptual layout plan has been
2801 proffered showing a building of approximately 5,200 square feet in size. Let me see if I can find
2802 that graphic (referring to slide).

2803
2804 Access would be achieved via Springoak Drive. And the applicant has also proffered no access to
2805 W. Broad Street.

2806
2807 Twenty-five (25) foot buffers would be required along the R-5C property to the east and south.
2808 However, the conceptual plan shows buffers between 10 and 15 feet in these areas. These buffers
2809 may be reduced under 25 feet if appropriate alternatives, such as a brick wall, are supplied. Staff
2810 does not object to the potential reduction of these buffers if the adjacent sites are developed for
2811 non-residential purposes. Apartment development, not single-family is planned to the south, and
2812 property to the east, Parcels 52 and 53 have a potential to develop as retail or office uses.

2813
2814 Let me go back to the zoning map. You can see Parcels 52 and 53 here to the east (referring to
2815 slide). The owner of these two parcels has submitted a letter to staff outlining his concerns with
2816 this proposal.

2817
2818 At one point, this owner was considering adding his property to this rezoning. But, he, eventually,
2819 declined. His concerns are important, because coordinated development in this corridor is
2820 encouraged.

2821
2822 The concerns of the adjacent property owner include maintaining the full required 25-foot buffer
2823 along his property line and planning for access between these two sites. Staff feels these concerns
2824 are valid, although most of the requested information would be submitted at POD stage. Staff
2825 supports the concern of finding access between the two sites in question. And let me go back
2826 again to the site plan. This is Broad Street on the bottom side (referring to slide). You can see the
2827 applicant has planned sort of a notched area here in the parking lot with the idea being that some
2828 day, perhaps, that could be extended into a parking area or a development here on adjacent Parcels
2829 52 and 53.

2830

2831 Staff, however, does not support maintaining a full 25-foot buffer between these two sites. Staff
2832 would prefer that these sites be rezoned under one coordinated development. In the absence of
2833 that, the subject property should be proffered and developed to accommodate potential coordinated
2834 development in the future. The proffered conceptual plan would achieve this. The applicant has
2835 also verbally expressed his desire to provide this.

2836
2837 If a significant buffer were preserved between the two sites in question, opportunities for
2838 coordinated development could be lost. A larger buffer could ultimately separate development on
2839 these two sites, which could lead to another potential curb cut onto W. Broad Street. The number
2840 of entrances onto W. Broad should be limited. Staff supports preserving the possibility of reducing
2841 the required 25-foot buffer along the R-5C property to the east.

2842
2843 In summary, the proposed use is a logical zoning pattern, given the surrounding zoning. The
2844 applicant has also amended the proffers to address staff's comments. Therefore, staff recommends
2845 approval. I'd be happy to answer any questions you may have.

2846
2847 Mr. Archer - Thank you, Mr. Bittner. Are there questions of Mr. Bittner from the
2848 Commission?

2849
2850 Mr. Taylor - Mr. Bittner, we've talked about the 25-foot buffer. That's the same
2851 buffer as the bank has? This is 25. This shortens up from 35, to 25 at Springoak Drive. It's in the
2852 Broad Street Overlay District?

2853
2854 Mr. Bittner - The buffer I was referring to would be the buffer along this border
2855 right here (referring to slide).

2856
2857 Mr. Taylor - Along that border between this property and the Haithcock
2858 property?

2859
2860 Mr. Bittner - Correct. The Ordinance would require 25 feet. However, the
2861 applicant is planning on reducing that, and we support that possibility, because, as I said, we'd like
2862 to, perhaps, see the properties develop together. And if you create a separation between the two of
2863 them, that could lead to disjointed development, and, as I said, perhaps, another curb cut onto Broad
2864 Street, which is what we want to avoid.

2865
2866 Mr. Taylor - I do agree with that.

2867
2868 Mr. Archer - All right, Mr. Taylor, any further questions?

2869
2870 Mr. Kaechele - Did you say the staff was comfortable with the proffers now?

2871
2872 Mr. Bittner - Yes, we are. We are recommending approval.

2873
2874 Mr. Kaechele - Where is the access to that other parcel?

2875

2876 Mr. Bittner - The potential plan would provide here (referring to slide). They
2877 wouldn't extend the parking lot all the way to the property line. But, it is planned for a potential
2878 connection to, in this case, this is the Haithcock property right here (referring to slide). This was
2879 Broad Street at the bottom, so this would be the front parking lot.

2880
2881 Mr. Kaechele - Staff is comfortable that, that can be a connected drive through?

2882
2883 Mr. Bittner - Yes, we are.

2884
2885 Mr. Archer - Okay. Any further questions? Hear from the applicant, Mr.
2886 Theobald. Mr. Theobald, you will need to reserved some time?

2887
2888 Mr. James W. Theobald - Two minutes, Mr. Chairman. Thank you. Mr. Chairman, ladies and
2889 gentlemen, my name is Jim Theobald. I'm here this evening on behalf of H. H. Hunt and WSG
2890 Development Company and For Eyes. With me is Jim Leach, who is the Vice-President of WSG
2891 Development Company. This parcel represents the last piece of land that H. H. Hunt assembled as
2892 part of the original Wellesley assemblage. And, some of you may recall that this piece of land was
2893 actually included in the Crown case on the other side of Springoak Drive a few years ago, but we
2894 ended up dropping this portion out that case because it was recommended that we not pursue
2895 zoning until such time as we could demonstrate the user of the property and how it might be
2896 developed.

2897
2898 This .7 of an acre site will be developed and owned by WSG for a For Eyes optical facility, with
2899 possibly one or two small additional tenants. And, since we only need B-1 zoning for this
2900 contemplated use, this request is significantly less intense than almost all the commercial zoning in
2901 the area. And, given that the site is also a part of the West Broad Street Overlay District, my job in
2902 proffering this case had largely been done in advance. Nonetheless, we have precluded direct
2903 access to W. Broad Street. There are no curb cuts shown on this plan. And there is a specific
2904 proffer consistent with your policy. And, instead, providing an access to Springoak Drive, which
2905 aligns with the entrance to the Crown Station. And this plan has been reviewed and preliminarily
2906 approved by Public Works as to that alignment.

2907
2908 We have also limited the height of lighting; limited our hours of trash pick up, and have proffered
2909 the conceptual plan that is before you, as well as our building elevations. These elevations are
2910 designed to be consistent with the Short Pump Crossing elevations, in terms of architectural design.
2911 That was the goal expressed by staff, with which we agreed. This drawing was colored up before
2912 we added the proffer pledging that our colors would be complementary also with Short Pump
2913 Crossing. And, so, the roof color would be toned down or possibly changed. But, what has been
2914 proffered with the case was the actual blue line drawing, so we're not locking anybody in here to
2915 these colors.

2916 We do intend, as you see up here (referring to slide), you see a front elevation at the top, obviously,
2917 facing Broad Street. You see a right side elevation. I would like to clarify that the left side
2918 elevation is the same as the right side elevation. These same materials, essentially, go all the way
2919 around the building. If we could go back to the site plan, I'd appreciate it (referring to slide).

2920

2921 We have had numerous discussions with the Haithcock's, our neighbors next door, and their
2922 attorney, Mr. Bill Axselle. WSG has been negotiating with the Haithcocks on and off since June
2923 or through their representatives to ground lease their two acres of land, which is currently zoned for
2924 multi-family development. Ground leasing is their preference, not ours. We would much rather
2925 purchase the site, but have also been willing to enter into a ground lease to adhere to their desires.
2926 And, we're nearly there on those negotiations. We're not quite there, but I want to assure you that,
2927 whether or not we ultimately get there, we have designed this facility so as to not negatively impact
2928 any future adjacent development that we might do, if our deal is successful, or if they end up,
2929 developing it themselves or possibly with Mr. Pruitt, who owns the property to the east; that
2930 property being sold to Mr. Pruitt by the Haithcocks.

2931
2932 We have allowed for the possibility of joint access, as has been pointed out to you. We do have the
2933 ability to connect there, and done nothing to preclude. There was not a proffer in this case like you
2934 heard earlier on the McDonalds case. We're just interested in knowing who the user is going to be,
2935 if, in fact, it's not us.

2936
2937 We have shared our plans with the Wellesley Homeowners Association, and are unaware of any
2938 opposition from that group.

2939
2940 This may well be the most modest request made on the W. Broad Street corridor, being a B-1
2941 request. It's well planned. It's well designed. It absolutely has the potential to coordinate quality
2942 development with the next door parcel, as and when that becomes possible. And with that, ladies
2943 and gentlemen, I would respectfully request that you recommend approval of this case to the Board
2944 of Supervisors. And, I'm more than happy to answer any questions.

2945
2946 Mr. Archer - Thank you, Mr. Theobald. Are there questions for Mr. Theobald
2947 from the Commission?

2948
2949 Mr. Kaechele - If the parcel to the east develops separately, the connection would
2950 still be through that parking lot?

2951
2952 Mr. Theobald - It could be through the parking lot, Mr. Kaechele, if, for instance,
2953 we're not able to conclude our negotiations with the Haithcocks, and they desire to build a Burger
2954 King or a McDonalds there, then, frankly, we would not be too eager to have the drive through
2955 traffic cut through our parking field and have to make the jog out to Springoak.

2956
2957 Mr. Kaechele - Right.

2958
2959 Mr. Theobald - Sir?

2960
2961 Mr. Kaechele - That wouldn't work...

2962
2963 Mr. Theobald - No. Nor if our negotiations were not consummated and they
2964 continued their discussions with Mr. Pruitt on the east, I would not be too excited about connecting
2965 Short Pump Crossing as a cut through to get back to the apartments. But, its my hope that what
2966 will be developed will be coordinated, and, absolutely, if its of the same type of intensity of use

2967 being a low intensity use as this, we would welcome cross access and we happy to talk about cross
2968 parking as well. It would make sense.
2969
2970 Mrs. Dwyer - But, there's no provision in the proffers addressing that?
2971
2972 Mr. Theobald - I'm unable to commit to do that, unless I know what they want to
2973 do, Mrs. Dwyer.
2974
2975 Mrs. Dwyer - Just a thought, you might want to take this gravel proffer out unless
2976 you're really planning on using gravel.
2977
2978 Mr. Theobald - I was interested in your comment on that earlier. And, as a little
2979 historical background, when we were doing the Crown case, the West Broad Street Overlay
2980 District had not yet been adopted, but it was in draft form. And, as we worked with the Wellesley
2981 residents, who were also represented by Mr. Axselle, at that point, they wanted many, what are
2982 now the guidelines included in our proffers. And, so that's why you see it in there. We were
2983 trying to be as consistent, on behalf of the Wellesley residents as possible. But, I agree with you.
2984 It looks very odd in there as a material.
2985
2986 Mr. Archer - Okay.
2987
2988 Mr. Theobald - Low maintenance.
2989
2990 Mrs. Dwyer - Weeds growing up in there.
2991
2992 Mr. Archer - Any further questions? Go ahead.
2993
2994 Mr. Taylor - I have several, if I might. The east side of that building will face the
2995 Haithcock property?
2996
2997 Mr. Theobald - Correct.
2998
2999 Mr. Taylor - Could you show us, please, what the elevation of that looks like
3000 from your drawing? Do you have that?
3001
3002 Mr. Theobald - It will be the exact; it says, "right side elevation" at the bottom
3003 (referring to slide). We don't have one that says, "left side." That's it.
3004
3005 Mr. Taylor - That's it? Okay. And, then going back to the plan view, the setback
3006 between the back of that building and the Haithcock property line...
3007
3008 Mr. Theobald - This is currently showing about 13 to 15 feet, which contemplates
3009 our anticipated request in reducing the transitional buffer. But, the required buffer is 10 feet, with
3010 an additional 15 feet courtesy of the West Broad Street Overlay District. We do intend to ask for
3011 that reduction at the time of POD. That's, obviously, something that will be up to your discretion.
3012 We've drawn it showing it, but, obviously, I can't get there from here through the rezoning. But, as

3013 you heard from staff, it does seem to make sense. So, currently, you're seeing about a 13 to 15
3014 foot strip between the property line and the face of that building next to Haithcock.

3015
3016 Mr. Taylor - Basically, though, that would be consistent with the Overlay
3017 District, you would enhance that?

3018
3019 Mr. Theobald - The Overlay District would, in and of itself, without reduction
3020 require 25 feet. We do have the ability to reduce it down to 13 feet, if you consider that brick
3021 façade over there to be a screening wall, and the same across the back. If you did something to
3022 supplement the buffer or fence, etc, you could reduce the required buffer.

3023
3024 Mr. Taylor - Visually, it would be advantageous to us, of course, if we could
3025 develop a buffer and work with the Haithcock family to extend that buffer...

3026
3027 Mr. Theobald - Obviously, if their property is zoned for business uses, the buffers
3028 go away. And, so, whether we develop it or they develop it or someone else develops it, there
3029 would be no buffer requirement between those two sites.

3030
3031 Mr. Taylor - Along Broad Street there would be.

3032
3033 Mr. Theobald - Along Broad Street there's a 35 feet required West Broad Street
3034 Overlay District buffer that is not being reduced. No. We're meeting the full impact of the West
3035 Broad Street Overlay District.

3036
3037 Mr. Taylor - And that's going to be, basically, similar, I would hope to the F&M
3038 Bank.

3039
3040 Mr. Theobald - We've talked about that, Mr. Taylor. And it's our intent at the time
3041 we do our landscape plan to see if we can't weave some things in there as we're discussing it to
3042 make that look consistent along Broad Street.

3043
3044 Mr. Taylor - I would enjoy that. I have no further questions.
3045 Mr. Archer - Anybody else?

3046
3047 Mr. Theobald - Thank you.

3048
3049 Mr. Archer - Thank you, Mr. Theobald. And, we have opposition, and that would
3050 be Mr. Axselle, I suppose?

3051
3052 Mr. Ralph L. Axselle - Mr. Chairman, and members of the Commission, my name is Bill
3053 Axselle. I'm here on behalf of the Haithcock family. And with me, tonight, are Mr. & Mrs.
3054 Raymond Haithcock, their son, Raymond, Jr., and their son, William. These folks have lived in
3055 this area since 1949, and, as you've heard, they are the adjacent property owners.

3056
3057 Their position is simple. They recognize this property before you, tonight, is going to be
3058 developed for retail. They recognize that their property is likely to be developed for retail. They

3059 recognize that a “B” zoning on Broad Street is not unreasonable. But, a zoning case has really two
3060 elements, as you well know. One is, “What’s the appropriate land use?” And second, “What are
3061 the appropriate development conditions?”
3062

3063 This case does not have appropriate development conditions. Most of your time, and rightfully so,
3064 is normally spent on proffers, and making sure the proffers and the development conditions are
3065 appropriate. That has not happened in this case. So, thus, they are opposed to the case until those
3066 development conditions are met. I would ask you to defeat the measure or, as is done frequently
3067 when development conditions are not right, defer it to allow the parties to resolve their differences.
3068 My involvement has been fairly recent. Mr. Theobald and I, as always, have very good
3069 communications. We just haven’t reached an agreement.
3070

3071 I want to address a couple of things, because there is just a lot of misunderstandings about the
3072 Haithcock’s position on a couple of things. Before doing that, I want to tell you the real premise of
3073 this entire case. This is why I am disappointed at the staff has not listened to what they have said.
3074 This is what the staff said, “Staff would prefer that these sites be rezoned under one coordinated
3075 development.” In the absence of that, which is the situation we have here, the subject property
3076 should be proffered and developed to accommodate potential coordinated development in the
3077 future. That is not what we have here, today. When we conclude this discussion, you will see
3078 there is no potential coordination guaranteed and assured by this case.
3079

3080 Now, here’s the situation. First, the Haithcock’s never declined to participate in this zoning case. I
3081 was not involved until the last 7 to 10 days, but they indicated to me that they were never invited
3082 and asked to join this particular zoning case. And, thus, they did not, and declined to join the
3083 zoning case has been indicated to you.
3084

3085 It’s been said, they’re too late coming forward with their concerns. Mr. Theobald expressed them
3086 earlier. William Haithcock, on behalf of the family, wrote a letter to the County on December 14th
3087 addressing many of the concerns that I’ll express to you tonight. They’ve not been addressed in
3088 the succeeding month. And, in the last 10 days, when I’ve been involved, these same concerns
3089 have been expressed and have not been addressed. And, even if we were for the first time, tonight,
3090 quite frankly, its never too late in our process to consider legitimate concerns.
3091

3092 The Haithcock’s have been in this area since 1949, over 50 years. They’re not developers.
3093 They’re not experienced and sophisticated from the development standpoint. And, so, that’s maybe a
3094 handicap sometimes. But that’s where we collectively, perhaps, have to be even more diligent.
3095 But, what they do have is the right to make sure that they are adequately considered when you go
3096 to develop property adjacent to them.
3097

3098 We have been told that a lot of the concerns expressed to you can be handled at the Plan of
3099 Development stage. That is not the case. You’ll see why in a moment. It’s just not the case.
3100

3101 At the Plan of Development stage, your actions are administrative. There’s certain standards in the
3102 Code that if the developer meets, you have to grant the approval. Now, fortunately, in Henrico,
3103 usually, there’s a lot of give and take, and these kind of things get worked out. But, push comes to
3104 shove at a POD, if a developer says, “I meet the criteria. I meet the proffers. Give me my POD,”

3105 its an administrative action and you should approve it. That's why in each of these cases the
3106 proffers are so important, because they become development standards. And, what's not in the
3107 proffers is not enforceable. Good intentions is just not enforceable.
3108

3109 And, so, I suggest to you that there are four concerns of which you need to be aware. And I ask
3110 you in each instance, do these concerns relate to a coordinated development? At the end of this,
3111 can you say, "We are really going to approve a case that assures there will be a coordinated
3112 development?"

3113
3114 Our first concern has been that we did not know, and did not have a firm commitment that the side
3115 of the building facing the Haithcock's would be the same as on the Springoak side. Mr. Theobald
3116 has addressed that. It is not addressed in the proffers. It's not required by the proffers. But, his
3117 statement to you, we accept is something that will be binding on the developer at the POD stage.
3118 But, until tonight, no such commitment had been made.

3119
3120 The second issue is, and still unresolved, is the sewer. Right above this property, which would be
3121 south of the subject property, is a manhole. H. H. Hunt, and this property owner, has the right to
3122 use that sewer. They can run that sewer from their property. They've declined, at this point, to
3123 make any commitment that, that sewer can be extended to the Haithcock property.
3124

3125 We have suggested to them that we could run that sewer line over to their property, to our property,
3126 at our expense, or the extra cost it would cost to run the sewer to our property, and they've
3127 declined. So, how are we going to get sewer? There's no coordinated development as it relates to
3128 the sewer.

3129
3130 So, we would strongly, strongly suggest a real coordinated development, which the staff stated
3131 intent, would require that there be coordination of the sewer. We will not have sewer without their
3132 permission.

3133
3134 Mrs. Dwyer - Excuse me, Mr. Axselle. Who did you say owns the property?

3135
3136 Mr. Axselle - The H. H. Hunt folks own the property. The applicant, before you,
3137 WSG is the contract purchaser. The property behind it, on which the sewer manhole is located, is
3138 owned in another entity. There is a contractual right for this subject property to use that.

3139
3140 When H. H. Hunt owned it all, they very properly secured this remaining piece of property, this .7,
3141 the right to bring the sewer over to this .7 of the property. And, what I'm saying is, it could be
3142 easily extended right along the back of this property, over to our property. It wouldn't affect their
3143 development at all. We put it in at the onset, pay for our part of it. That's not required by this.

3144
3145 Mr. Taylor - May I ask a question at this point? What are they doing for sewage
3146 now?

3147
3148 Mr. Axselle - Pardon?

3149
3150 Mr. Taylor - Are they connected to a County sewer at the present time?

3151
3152 Mr. Axselle - No sir. It's not.
3153
3154 Mr. Taylor - Septic system?
3155
3156 Mr. Axselle - It's a septic system. It's a small home at this point. Now, a third
3157 issue...
3158
3159 Mr. Kaechele - Could you tell us the approximate location of that manhole?
3160
3161 Mr. Axselle - Let me get oriented here.
3162
3163 Mr. Kaechele - Well, maybe if you'd go back to the site plan.
3164
3165 Mr. Axselle - This is the subject property. This is the Haithcock property. This is
3166 the manhole at this point. And so what could happen is the sewer could come in any fashion and
3167 share both properties (referring to slide).
3168
3169 Mr. Theobald - It's on the easement, too. No. Go up and go across.
3170
3171 Mr. Axselle - This is how they will access the property. The point I would make
3172 is there is not a coordinated development of the sewer. If you could put the conceptual plan up
3173 (referring to slide), and let me address the third issue. And that is, the access issue.
3174
3175 Let me read you this from the staff report. "Staff supports the concern for providing access
3176 between the two sites in question. The Plan shows a potential future driveway connection with the
3177 property to the east. Staff would prefer that the proffers also clearly state that the site will be
3178 designed to accommodate a future connection to the R-5C property to the east."
3179
3180 Mr. Theobald was very candid with you, when he said that this is a potential access. There's no
3181 assurance that this access will be provided. This is solely at the discretion of their developer. And,
3182 as he illustrated, if there was a McDonald's or Burger King, they wouldn't want that access. So, its
3183 strictly at their discretion. Where is the coordination? I suggest to you that you're leaving the
3184 Haithcock's without any ability to get to Springoak.
3185
3186 Thank about the case you just heard; the First Union case. What did they do? Three or four
3187 different parcels. They had a private road along the rear. They assured everybody access out to
3188 Springoak. That's what should be done here. First Union had looked at the Haithcock and this
3189 property at one point in time. They had a plan that would do exactly that. They, obviously,
3190 decided on the other side of there to go forward. But, we do not have any right, under this plan, to
3191 have access through their property, other than at their discretion. And, look where the access may
3192 be? This little thing through the parking lot.
3193
3194 Now, is that the proper way to have a coordinated access? This is .7 of an acre. The Haithcock
3195 parcel is about 2.2 acres. You're going to take the development from the 2.2 acres and put it
3196 through the parking lot in that fashion. I just suggest to you, that is not good planning. I suggest to

3197 you that the matter should be deferred to allow the access to be established at the rear, as First
3198 Union had planned for this property before, and as First Union provided in the case that you just
3199 heard.

3200
3201 The fourth concern, the BMP. The developer of this property has acquired credits for the BMP
3202 that would allow them to use the BMP at Wellesley. We think they should be at our expense used
3203 for both pieces of property. They have acquired enough for both pieces of property.

3204
3205 So, in summary, is there really a coordinated access? Is there a really a coordinated sewer. Is there
3206 really a coordinated BMP? I suggest to you there is not. And that's the goal that we all want.
3207 We're not opposed to the land use of B-1. We are opposed to being, in effect, shut out with a non-
3208 coordinated development. We can say its coordinated, but I think you can see the three key ways it
3209 is, in fact, not coordinated. And its not put in the proffers. It's not put in the zoning case. It will
3210 not be enforceable at the POD stage.

3211
3212 Mr. Archer - Thank you, Mr. Axselle. Are there questions for Mr. Axselle from
3213 the Commission?

3214
3215 Mr. Vanarsdall - You say, you're suggesting a deferment?

3216
3217 Mr. Axselle - Yes sir. I think that would be appropriate so that these issues can be
3218 addressed. My client has authorized me to hire an engineer, because I believe that some of these
3219 things, it would be helpful to have the benefit of our engineer, and their engineer, as well as the
3220 public policy. I think there are some engineering considerations. We hear a lot of cases here. A
3221 number of them, tonight, have been mentioned with a number of deferrals. I don't think, Mr.
3222 Theobald would probably have a different opinion, but I don't think a 30-day deferral would hurt
3223 anything, and actually would enhance the quality of development in the Broad Street area.

3224
3225 Mr. Vanarsdall - You just need a 30-day deferral?

3226
3227 Mr. Taylor - What would your game plan be in that 30-day period to reach a
3228 resolution of the issue?

3229
3230 Mr. Axselle - Basically, to first engage the engineer to advise as the other side,
3231 their engineers on the sewer, on the BMP, and on the access to come up with a plan that is, in fact,
3232 fulfillment of the coordination, rather than this plan. That would be the first thing.

3233
3234 As, Mr. Theobald indicated, we have had discussions regarding a permanent resolution. We've not
3235 yet reached an agreement. And we're in a dilemma that, obviously, he wants to go forward. He
3236 doesn't want to defer his case just on the potential that we can reach an agreement. On the other
3237 hand, the Haithcock's understandably don't want to sit silent and do nothing if they're not able to
3238 reach an agreement. We're down to one point, but it's a fairly big point. And that's not really your
3239 concern, but, most respectfully, I think your concern is, "What's the best thing from a land use and
3240 planning standpoint?"

3241
3242 Mr. Archer - Go ahead, Mr. Taylor.

3243
3244 Mr. Taylor - Well, I think inevitably Mr. Haithcock's property, which is now
3245 residential, would be redeveloped consistent with the architectural scheme we would hope between
3246 Pump and Lauderdale. And, I think a planned development would enhance his property and
3247 enhance the value of the For Eyes property.
3248

3249 But, in that period of time of a month, there has to be some activity towards a coalescing of
3250 destinies here. And its been awhile with no contact. What guarantees or what plan would you
3251 provide if we were to give a deferral to get active agreement and some kind of plan in the works?
3252

3253 Mr. Axselle - Let me first off, I was contacted on Saturday over the New Year's
3254 holiday. On Tuesday, talked to Mr. Bittner. On Wednesday met with Mr. Theobald. And then we
3255 went on from there, and that was about 10 days ago or so. So, we've moved fairly quickly. I
3256 cannot speak as to what took place before. I have concluded, though no fault of the developer and
3257 no fault of Mr. Haithcock, because they're dealing with some intermediaries that have not been as
3258 good a discussion as there had been. Mr. Theobald and I have talked openly and candidly and
3259 nothing said by either one of us tonight is a particular surprise. So, the plan would be to continue
3260 that, but also should provide specific engineering information that will have them allow and allow
3261 the County to judge these coordination issues.
3262

3263 Mr. Taylor - Certainly, I think specific engineering issues will help the
3264 coordination. But, if there's not a willingness on both parties to get this to coalesce and its been
3265 several years now that we've watched development come from Lauderdale marching right up.
3266 And, tonight, interesting enough, we have three cases which fall into place from Lauderdale
3267 towards Pump, one, two, three and they were right up to the Haithcock property. If there's
3268 assurance that within a month if we defer this and we go ahead, what guarantees do we have that
3269 we'll have some resolution?
3270

3271 Mr. Axselle - We will come back to you, having shared with each other, and with
3272 the County staff that this is what's possible and what's not possible. And, then, if we can reach an
3273 agreement, great. If we can't, then you'll have to make a policy decision at that point in time as to
3274 who is being unreasonable. And, that's something you, unfortunately, probably have to do more
3275 frequently than you would like. But, I cannot speak to any delays before, but we have moved
3276 expeditiously since the recent involvement and we continue to do so. I make that commitment to
3277 you. I can't commit that there would be a resolution. It would be up to the respective clients.
3278

3279 Mr. Taylor - Well, what I think needs to be done, there needs to be a good faith
3280 and honest effort, if we grant that...

3281 Mr. Axselle - So, absolutely.

3283 Mr. Taylor - ...to work together to resolve this thing, because this thing has gone
3284 on now, for several years, basically, with that property. And, I think they've had adequate time,
3285 the Haithcock family, what they want to do and make a commitment and work with the developers
3286 around them, or work with the staff to see if we can get a resolution of it.
3287

3288 Mr. Axselle - I'm tempted to say that they have, for the first, time very good
3289 counsel. It would be inaccurate, but a self-serving statement too.
3290

3291 Mr. Taylor - Well, I admire the counsel, barrister, I really do, but there must be
3292 the will to go forward is what I'm inferring.
3293

3294 Mr. Axselle - This is what I have suggested as the resolution, the game plan is
3295 with prior approval. They understand that's part of the commitment they're making.
3296

3297 Mr. Taylor - That prior approval would be to work diligently with whomever,
3298 over the period of a month, to bring back a resolution at the end of the month.
3299 Mr. Axselle - Yes sir.
3300

3301 Mr. Archer - Okay. Any more questions of Mr. Axselle?
3302

3303 Mr. Taylor - May we hear from counsel?
3304

3305 Mr. Archer - Mr. Theobald, I think you have two minutes reserved.
3306

3307 Mr. Theobald - Well, Mr. Axselle is right. This is a land use matter. And, as such,
3308 the issues he's raised are irrelevant. Those are POD matters. I don't think it takes a new pair of
3309 glasses to understand what's going on here tonight in terms of where we are in our negotiations.
3310 The Haithcocks were so concerned about engineering issues. They could have bought the property
3311 from Hunt. They've had 25 years as they've lived there to explore these engineering issues. I'm
3312 not sure why we should feel apologetic for trying to plan a quality development on a .7 acre site,
3313 B-1 zoning on Broad Street so that it works for us, while not precluding that it can also work for
3314 them.
3315

3316 Let's look at some of the things that they've said. Sewer, could you put the plan back up, Mark
3317 (referring to slide)? We bought our sewer. We bought our right to connect to sewer. Okay. And,
3318 as Mr. Axselle showed you, its 50-feet of the back. That sewer easement continued on down. Mr.
3319 Haithcock can connect through the apartments. He can connect through the shopping center site,
3320 and he can connect through our site. Does he want to connect through our site for free? We paid
3321 to connect. We've offered to grant easements to Mr. Haithcock, if he's willing to compensate us
3322 for it. But that's not what you've heard. What you've heard, "You have to provide us with sewer,
3323 or you're not doing your job." You've heard that "We have to provide you with access." You
3324 know, what a great gig. We've got to give them access. We don't even know what their use is.
3325 We're in the middle of trying to negotiate a ground lease, and somehow we now owe them sewer
3326 and we owe them access, but we don't know the use. They've got two acres; frontage all along
3327 Broad Street, and they connect to the Pruitt site. I have .7 of an acre, but I owe them access.
3328

3329 BMPs: I paid BMP credits. Bought them from Hunt to get into the lake at Wellesley. I connect in
3330 Springoak Drive, right behind the property into a public stormwater system. I have provided, taken
3331 the responsibility to pay for and provide for my stormwater. They have the exact same ability.
3332 They have the available credits to purchase from Hunt. They have the same ability to get into a
3333 system where ever they chose, but, no, they want it from me. That's not right. To delay this case

3334 for 30 days is nothing more than a squeeze play. You've got 30 days between now and the Board.
3335 We're happy to keep working on these things. These are no land use issues. These are not part of
3336 your consideration or a B-1 case on Broad Street. This is the most modest request that you've
3337 seen. It's across from hundreds of thousands of square feet of M-1-zoned land for Short Pump
3338 Town Centre. It's across from a million square feet proposed commercial for Short Pump
3339 Crossing, that Mr. Pruitt or the Forest City development. Why this is so controversial, you really
3340 need to ask yourself.

3341
3342 Mr. Taylor - One last question. How long would it take, do you feel, to work
3343 together to work out the little details that are yet to be worked out?
3344

3345 Mr. Theobald - We have one issue remaining on the ground lease, which I indicated
3346 yesterday morning to Mr. Axselle. I understand it has not yet been communicated to his clients, as
3347 he has been tied up. We have one issue on a ground lease. But, that's really irrelevant. You all
3348 should not go anywhere near these negotiations. You know what you - You just need to look at it
3349 as a land use case; a B-1 case on Broad Street.

3350
3351 Mr. Archer - Okay. Thank you.

3352
3353 Mr. Theobald - If one issue's resolved, the whole thing goes away. If not...

3354
3355 Mr. Archer - Mr. Taylor.

3356
3357 Mr. Taylor - Well, I think the Haithcock's are very fortunate they are in a
3358 position that they are in. Although there are some minor difficulties I think in consummating an
3359 agreement, I'm really confident that working in good faith, and I would enjoy them being a part of
3360 it to keep everybody working that this can be worked out and soon. So, I am going to move
3361 approval of Case C-6C-01 James W. Theobald for WSG Development Company/For Eyes.

3362
3363 Mr. Archer - Do I hear a second?

3364
3365 Mr. Vanarsdall - Is that a motion?

3366
3367 Mr. Taylor - I move approval of Case C-6C-01.

3368
3369 Mr. Jernigan - Mr. Taylor.

3370
3371 Mr. Taylor - Yes sir.

3372
3373 Mr. Jernigan - I've got a question. Excuse my throat. Going back to the beginning
3374 of this, Mr. Theobald, you said they pulled out of negotiations about rezoning, that they were
3375 offered?

3376
3377 Mr. Theobald - No sir. That was Mr. Bittner's comment that they declined to go
3378 forward. I'm not really aware of any of that. Apparently, they didn't want to pay the increased
3379 real estate taxes associated with the rezoning, all of which, you know, is really irrelevant. If they

3380 want to zone it now, we can put them together. We need to go forward. They could have rezoned
3381 along the way. They could have bought it from Hunt. The property's been on the market for years.
3382 Does that answer your question?

3383
3384 Mr. Jernigan - They didn't want to pay the taxes?

3385
3386 Mr. Theobald - I can't say that. I was really not part of that discussion. I'm not sure
3387 its wholly relevant. Perhaps, you can shed more light on this.

3388
3389 Mr. Bittner - I've got a little information to add to that. Before this case was ever
3390 submitted, I met with Mr. Theobald and Mr. Leach, and they showed me a plan that included the
3391 Haithcock property. When the case actually came in, it was only this smaller piece. So, maybe I
3392 mistakenly assumed that the Haithcock's were in it and they decided to pull out. But, at one point,
3393 their development did include the Haithcock property.

3394
3395 Mr. Jernigan - So, its an assumption?

3396
3397 Mr. Theobald - I think that, perhaps, Mr. Bittner's statement was not wholly correct.
3398 We were negotiating with them, but when those negotiations didn't go anywhere, we needed to
3399 proceed because of our contract with Hunt.

3400
3401 Mr. Vanarsdall - Mr. Bittner, can I ask you a question? On Page 2 down at the
3402 bottom of the second paragraph, it says, "If the applicant were to address these items, staff could
3403 recommend approval." Has the applicant addressed all these items?

3404
3405 Mr. Bittner - Yes. He has addressed them.

3406
3407 Mr. Vanarsdall - Okay. Thank you.

3408
3409 Mrs. Dwyer - And, let me just follow up. The only concern you had about the
3410 coordinated development had to do with the elevations, and none of these other issues such as, the
3411 access question?

3412
3413 Mr. Bittner - Well, we think the access question has been addressed by their
3414 conceptual plan, which shows an area where there could be a future connection to the Haithcock
3415 property.

3416
3417 Mrs. Dwyer - But there's no commitment?

3418
3419 Mr. Bittner - No. There is no commitment. And I can understand Mr.
3420 Theobald's concern. He doesn't know what ultimate use may develop, so maybe they will not
3421 want to connect some day. I respect that. I would love to see these two people get together and
3422 come up with a single plan and bring it back to us. I don't know whether that will happen or not.

3423
3424 Mrs. Dwyer - So, staff is not suggesting that there be a commitment to provide
3425 access?

3426
3427 Mr. Bittner - There's a commitment to preserve the possibility. And they've done
3428 that with the conceptual plan. That is a proffered conceptual plan.
3429 Mrs. Dwyer - I'm not suggesting that they have to, either. I'm just saying, in my
3430 view, they have not committed to provide access. They haven't prohibited it, is all they've done.
3431 So, staff is satisfied with that is really my question.
3432
3433 Mr. Bittner - Yes.
3434
3435 Mrs. Dwyer - Okay.
3436
3437 Mr. Jernigan - Mr. Bittner, I'm new here. How long has this; Has this discussion
3438 been going on for years?
3439
3440 Mr. Bittner - I couldn't tell you. I know I've been talking about it for about the
3441 past 4 months or so maybe. But, you know, what's gone on since 1949, I couldn't tell you.
3442
3443 Mr. Kaechele - Mr. Bittner, when you say staff has accepted these, does that include
3444 Public Works? Have they looked at this?
3445
3446 Mr. Bittner - Public Works has looked at the conceptual plan and they have no
3447 objections to it.
3448
3449 Mrs. Dwyer - So, the bottom line is, there will be access from the Haithcock
3450 property. There will be a curb cut to Broad Street if these parties don't resolve their differences
3451 and the Haithcock's want to develop?
3452
3453 Mr. Bittner - Correct. If there's no agreement between these two, then, perhaps,
3454 the Haithcock's could develop on their own and come onto Broad, or, perhaps, they could work
3455 something out with Short Pump Crossing; Tommy Pruitt.
3456
3457 Mr. Taylor - If I may add just a bit to that. I have talked to Mr. Pruitt, and have
3458 visited the site, which would be the east side of the site, which is adjacent to Short Pump Crossing,
3459 directly across from Franco's. And, it's relatively easy, and acceptable to Tommy Pruitt to put an
3460 entrance, if necessary, right into his property. So, the site would not be locked out from access
3461 from a road, or not from Broad Street. They would be able to go either east with Mr. Pruitt or west
3462 with this For Eyes project.
3463
3464 Mrs. Dwyer - Is that any prohibition against a curb cut to Broad Street from the
3465 Haithcock property?
3466
3467 Mr. Taylor - No.
3468
3469 Mr. Bittner - Not to my knowledge. No.
3470
3471 Mr. Taylor - Not at the present moment.

3472
3473 Mrs. Dwyer - So, it's not landlocked? Even though the access, I understand Mr.
3474 Theobald's statement, but we often do look at access questions and adjoining property, joint access
3475 and that sort of thing.
3476
3477 Mr. Bittner - They're not landlocked. They have frontage on Broad Street. You
3478 know, from a planning perspective, we're trying to limit driveways onto Broad Street.
3479
3480 Mrs. Dwyer - But, if push comes to shove, they could always access to Broad from
3481 their site?
3482
3483 Mr. Bittner - Yes.
3484
3485 Mr. Archer - Okay.
3486
3487 Mr. Taylor - Whichever way they do it, it's a very valuable piece of property and
3488 it would fit really nicely into the development scheme.
3489
3490 Mr. Archer - All right. So, does that answer your question, Mr. Jernigan?
3491
3492 Mr. Jernigan - Access off of Broad, too, was my concern. You cleared that up.
3493
3494 Mr. Archer - Okay.
3495
3496 Mr. Taylor - Shall I make my motion again?
3497
3498 Mr. Archer - It's on the floor. We heard it. We just need a second, if there is to
3499 be one. Is there a second?
3500
3501 Person from Audience - May I say something?
3502
3503 Mr. Axelle - They've concluded things now.
3504
3505 Mr. Archer - Is there a second?
3506
3507 Mrs. Dwyer seconded the motion.
3508
3509 Mr. Archer - Motion by Mr. Taylor, seconded by Mrs. Dwyer. All in favor let it
3510 be known by saying aye—all those opposed by saying nay. The vote is 5-0 (Mr. Kaechele
3511 abstained). The motion is carried. Mr. Secretary, when will this case come before the Board?
3512
3513 Mr. Kaechele - It would be February 13th.
3514
3515 Mr. Archer - 13th?
3516
3517 Mr. Marlles - Yes sir.

3518
3519 Mr. Archer - It will be heard by the Board of Supervisors on February 13th. A
3520 night meeting?

3521
3522 Mr. Marlles - Yes sir. 7:00 o'clock.

3523
3524 REASON: Acting on a motion by Mr. Taylor, seconded by Mrs. Dwyer, the Planning Commission
3525 voted 5-0, (one abstention) to recommend that the Board of Supervisors **grant** the request because it
3526 continues a form of zoning consistent with the area.

3527
3528 **C-8C-01 Michael Tumnillo:** Request to conditionally rezone from A-1
3529 Agricultural District to R-3C One Family Residence District (Conditional), Parcel 56-A-13A,
3530 described as follows:

3531
3532 Commencing at a point where the W. line of Clary Preston Drive meets the N. line of Church Road;
3533 thence N. 83° 08' 07" W., a distance of 16.71' to a point being the point of beginning; thence N. 83°
3534 08' 07" W., a distance of 328.29' to a point; thence N. 07° 13' 00" E., a distance of 306.55' to a
3535 point; thence S. 83° 01' 52" E., a distance of 345.00' to a point; thence S. 07° 13' 00" W., a distance
3536 of 282.44' to a point; thence along a curve to the right having a delta angle of 70° 38' 03", a radius
3537 of 25.00' a length of 30.82', a chord bearing of S. 42° 32' 02" W., and a chord distance of 28.91' to
3538 a point, being the point of beginning, containing 2.423 acres of 105,453 square feet of land.

3539
3540 Mr. Marlles - The staff report will be by Mr. Lee Householder.

3541
3542 Mr. Archer - Is there any one here who is opposed to C-8C-01? We have
3543 opposition. Okay, we'll get to you. Mr. Householder.

3544
3545 Mr. Householder - Thank you, Mr. Chairman. The property is located at the northwest
3546 intersection of Church Road and Clary Preston Drive. There is currently a residential structure
3547 located on this parcel, and the applicant has indicated the structure will be removed, and new homes
3548 will be constructed on the site.

3549
3550 To quickly go over some of the surrounding uses. Here is the Coventry Subdivision, zoned R-4C.
3551 To the east you have two small single-family homes. Across Church Road, we've got the Tuckahoe
3552 Farms, A-1, and then we have the Retriever Ridge Subdivision, R-3AC. The requested zoning
3553 classification of this case is R-3C. This allows a minimum lot size of 11,000 square feet, and a
3554 minimum lot width of 80 feet.

3555
3556 The 2010 designation for this property is Suburban Residential 2, which is a 2.4 to 3.4 unit per acre
3557 density. The R-3 District would permit up to a 3.96 dwellings units per acre. And the applicant has
3558 proffered in Proffer No. 5 to develop 8 lots on the property, which would equate to 3.3 units per
3559 acre. Although this is at the upper end of the density range of the Land Use recommendation, staff
3560 feels this is reasonable, considering the zoning of these adjacent subdivisions.

3561
3562 The applicant has proffered a number of features that will help ensure quality development on this
3563 site. These would include a minimum house size between 1,800 and 2,000 square feet, brick

3564 foundations, and chimneys, 44-foot rights of way, and they would prohibit any direct access from a
3565 lot to Church Road.

3566
3567 The applicant has also submitted a preliminary layout that would show how this could potentially be
3568 developed. It has not been proffered, and is shown as an exhibit. It also shows the proffered stub
3569 street to the property to the west.

3570
3571 Originally, staff had concerns about the adjacent properties to the west, and how they would be
3572 developed and whether or not they could potentially be landlocked. The applicant has offered a few
3573 schematic layouts that show how this could potentially happen from a stub street that already exists
3574 further west here on Lockton Drive (referring to slide). That's one example of how that property
3575 could be incorporated. They've also given us two other examples from that same side and then one
3576 example from this side. So, staff's concerns about landlocking property have been addressed by
3577 these schematic layouts. Staff was also concerned about a 25-foot landscaped buffer being placed
3578 along Church Road. The applicant has since added this proffer No. 9, which addresses staff's
3579 concerns.

3580
3581 One oversight in the proffer, which was discussed with the applicant this evening was that, this
3582 buffer should be in addition to required setbacks. And it's not specified. The applicant has
3583 indicated they would be willing to make that change between now and the Board and tonight, if
3584 need be.

3585
3586 In addition, the applicant has addressed some concerns of the neighborhoods, to my knowledge,
3587 which include the minimum square footage of the ranch-style homes in the original proffers, and
3588 they've eliminated that. Their intention is not to build ranch-style homes.

3589
3590 Also, its understood, the Coventry Subdivision would like this subdivision to become part of what is
3591 already Coventry, and, hopefully, go under their covenants, and just kind of mix right into what
3592 their development already looks like. And, that would include building colonial-style homes. The
3593 applicant has indicated they would like to do this, but has not proffered to.

3594
3595 Overall, this proposal is consistent with the recommendation of the 2010 Land Use Plan, and staff
3596 feels a single family use is reasonable considering surrounding properties that have been developed
3597 and zoned single family. The applicant has addressed staff's concerns, and, we, therefore,
3598 recommend approval of this request. And, I'll answer any questions that you may have.

3599
3600 Mr. Archer - Thank you, Mr. Householder. Are there questions by the
3601 Commission?

3602 Mr. Taylor - I had a question, I guess, with regard to the proffer of this
3603 development be incorporated into Coventry. I noticed there's no proffer yet. Is it proffered tonight?

3604
3605 Mr. Householder - No. That has is not committed to in proffer form, yet.

3606
3607 Mr. Taylor - It hasn't been? No intention of doing it tonight?

3608

3609 Mr. Householder - That would be a question for the applicant. The applicant and the
3610 community could work that out themselves at the time of subdivision development, but it might be a
3611 worthwhile proffer to have.
3612

3613 Mr. Taylor - Okay.
3614

3615 Mr. Archer - Go ahead, Mr. Taylor. Did you have another question?
3616

3617 Mr. Taylor - No sir. Do we want to hear from the applicant?
3618

3619 Mrs. Dwyer - May I just ask one quick question, which is just a general one. In all
3620 of these cases, tonight, we've had a statement that staff is very concerned about the long-term
3621 impact on schools for these developments. I'm just curious, what is it – 8 lots, how they get a
3622 student yield of only 5? Do you know the formula that Schools use? That seems low to me. In a
3623 single-family such as this, I would expect much higher student yield.
3624

3625 Mr. Householder - I agree. That does sound low. And I don't know enough about their
3626 computation figures to really answer that well, other than, they seem to vary. I haven't noticed a
3627 consistent pattern; so I think they look at a lot of factors in making that decision. And what factors
3628 in this case that they were, I'm not quite sure.
3629

3630 Mrs. Dwyer - Just antedotal information that I have would suggest it would be
3631 much higher.
3632

3633 Mr. Householder - Thinking just in laymen's terms, you would think maybe double that
3634 for 8 houses, maybe? But, they know a lot more about the demographics and family make-up, so I
3635 would have to go with their recommendation.
3636

3637 Mrs. Dwyer - Next time, they're here I'll quiz them on that.
3638

3639 Mr. Householder - Well, I'd be glad to bring before the Commission a better
3640 understanding of that.
3641

3642 Mrs. Dwyer - Okay. Thank you.
3643

3644 Mr. Archer - I'll remember to remind you of that.
3645 Mrs. Dwyer - Okay.
3646

3647 Mr. Archer - Any other questions? All right, thank you, Mr. Householder. Would
3648 the applicant come forward, please?
3649

3650 Mr. Michael Tummillo - Good evening, Mr. Chairman, and members of the Commission. I'm
3651 Michael Tummillo, and, basically, I'm here to address any questions that any of the neighborhood
3652 property owners might have.
3653

3654 Mr. Archer - Do you care to make any presentation? You do have the right to
3655 reserve some time for rebuttal.

3656
3657 Mr. Tummillo - Yes. If I could reserve some time for rebuttal.

3658
3659 Mr. Archer - You have 10 minutes for your presentation and the opposition has 10
3660 minutes, and of your 10 minutes you can reserve some time to answer that.

3661
3662 Mr. Tummillo - I feel that, what we propose for this land use is reasonable, and
3663 within the surrounding and adjacent properties. We feel that it will, you know, just enhance what's
3664 there at this time. And, I do intend to start construction as quickly as possible to minimize any
3665 impact that neighbors might realize versus noise, dust, and things like that. Thank you.

3666
3667 Mr. Archer - Any questions for Mr. Tummillo before he takes his seat?

3668
3669 Mr. Taylor - I have several, if I might, because I'm familiar with the site. And, of
3670 course, I want to apologize for missing the meeting that you had with the community. I had
3671 constant community meetings this week, and I was called by Mr. Spradlin, and he said that he
3672 would meet with you in my absence, but I would like to be at the next meeting, if I might.

3673
3674 There are a couple of questions that I had, and I would just simply like the answer. One of my
3675 questions was that this would match the existing houses in the Clary Preston area in terms of
3676 architectural character...

3677
3678 Mr. Tummillo - Colonial houses.

3679
3680 Mr. Taylor - Of similar size? Well, I think these were proffered as between 1,800,
3681 one and a half story and 2,000 square two story. Is that the size of the buildings in the area right
3682 adjacent to the property?

3683
3684 Mr. Tummillo - To the best of my knowledge, that is the same proffer language in
3685 Coventry.

3686
3687 Mr. Taylor - Would you be willing to match the existing houses in character, and
3688 nature to the extent that it would become effectively a seamless addition to Coventry Subdivision?

3689 Mr. Tummillo - As far as colonial, yes.

3690
3691 Mr. Taylor - Yes. We would have to work that out with the community, because
3692 we had a similar meeting with the people that are a little bit further down Church this week. And,
3693 one of the conditions we had, as a stubbed addition, as I understand it is going to be incorporated
3694 within your development. We would want that incorporation to be effectively seamless.

3695
3696 Mr. Tummillo - Okay.

3697
3698 Mr. Taylor - Both in the nature of the product and the style of the product and the
3699 size of the product, so it would become one monolithic entity. And, if they were going to annex

3700 that, they would keep the same name, which is Coventry, I guess, for everybody. You would be
3701 willing to do that is what I'm asking?
3702
3703 Mr. Tummillo - I'm not sure what the sizes of the houses are in there, actually.
3704
3705 Mr. Taylor - Well, we can get that. They're in that same neighborhood.
3706
3707 Mr. Tummillo - If they're in that same neighborhood, the answer is yes.
3708
3709 Mr. Taylor - Okay. Great. And then the other thing is...
3710
3711 Person from Audience - (Comments unintelligible-not at microphone).
3712
3713 Mr. Tummillo - Some houses may be that size, or larger.
3714
3715 Person from Audience - They're all two-story.
3716
3717 Mr. Taylor - They're all two story, and maybe what we can do is the same thing
3718 we did with your neighbors. We wanted to make it seamless, and we actually worked out the
3719 arrangement at the Church the other night. I guess we'll hear from the other people, and you can
3720 save your time.
3721
3722 Mr. Tummillo - Okay. Thank you.
3723
3724 Mr. Archer - Thank you, Mr. Tummillo. Some one from the opposition who
3725 wishes to speak, please come forward.
3726
3727 Mr. Taylor - Is Mr. Spradlin here? Yeah.
3728
3729 Mr. Doug Spradlin - We finally meet.
3730
3731 Mr. Taylor - We do.
3732 Mr. Spradlin - I'm doing fine. Thank you.
3733
3734 Mr. Taylor - Welcome aboard.
3735
3736 Mr. Spradlin - Well, a little late, but I'm glad to be here. My name is Doug
3737 Spradlin. I live in the Coventry Subdivision. Mr. Tummillo and Mr. Taylor and I have discussed
3738 this issue, in reference to the planned subdivision. What we are concerned about, as a community,
3739 are a few things. First of all dealing with the scale of our lots that we have now, which is
3740 approximately 15,000 square feet versus what he's trying to have is 11,000 square feet, and backing
3741 up to our – These are our homes right here (referring to slide). And this is the back of the lots that
3742 he's planning to construct.
3743
3744 So, what we're asking is, dealing with the size of the lots that Mike is proposing, if you're putting
3745 these homes on 11,000 square foot lots, are the homes to fill the majority of this lot with no yard? Is

3746 the home going to be on top of the pre-existing lots that are there now creating no space or a buffer,
3747 or call it what you like, from say my lot versus the new lot that he's proposing to bring in?
3748
3749 Mrs. Dwyer - May I ask you a question at this juncture?
3750
3751 Mr. Spradlin - Yes ma'am.
3752
3753 Mrs. Dwyer - As I read his plan, his backyards will be adjacent to your backyards.
3754 So, its backyard of a residential lot adjacent to the backyard of another residential lot.
3755
3756 Mr. Spradlin - It will butt up against, in other words, my house is here (referring to
3757 slide). And his lot will be coming to here.
3758
3759 Mrs. Dwyer - Its' backyard to backyard in residential lots.
3760
3761 Mr. Spradlin - Okay.
3762
3763 Lady from Audience - Could we put that larger plat up there?
3764
3765 Mr. Spradlin - Thank you. Again, dealing with Lot 4 and Lot 5, who are my
3766 neighbors, dealing with Lots 6 and 5 of what he's planning to build. I'm dealing with this right here
3767 (referring to slide). Will that butt right up against to Lot 5, and if so, I'm dealing with 11,000 square
3768 foot lot that he's proposing, which is the size of this lot. Is that home going to be, let's say, right
3769 there with no yard?
3770
3771 Mrs. Dwyer - In fact, I just looked it up as you were talking about square footage.
3772 So, I can tell you what the rear yard setback is. The staff will correct me if I'm wrong.
3773
3774 Mr. Taylor - Forty feet.
3775
3776 Mrs. Dwyer - Forty feet. Yes.
3777
3778 Mr. Spradlin - Again, I'm not asking a question. I'm just going to say something.
3779 What's you're saying, from here to here is 40 feet from my property line versus the new property
3780 line minimum? No.
3781
3782 Mrs. Dwyer - From the property line to the house on Lot 5 must be 40 feet.
3783
3784 Mr. Spradlin - Say that again. I don't understand.
3785
3786 Mrs. Dwyer - From the property line to the house is a minimum of 40 feet. And
3787 that's required. In your zoning, which I believe is R-4, is that right?
3788
3789 Mr. Spradlin - Yes ma'am.
3790

3791 Mrs. Dwyer - It's 35 feet. So, your house is only required to be 35 feet from the
3792 rear property line. His is required to be 40 feet, because his is a less dense zoning than your
3793 subdivision.

3794
3795 Mr. Spradlin - Okay. So, if there are a line of trees as a buffer there, which there are
3796 now, can that remain as a buffer, in reference to the pre-existing homes and the trees that are there?
3797 In other words, not taking them down, so that I don't want to say and we don't have to look at the
3798 homes, because the homes is not the issue. It's just a matter of what has been there and what we
3799 have been accustomed to. So, again, the tree issue is one thing of leaving them up and not taking
3800 them all down.

3801
3802 Mr. Taylor - Well, normally, the developer is noting that treed lots are more
3803 attractive and sell at a high price than non-treed lots. They are prone to leave the trees up, except
3804 where they represent some kind of a hazard, or barrier to the houses. So, we can ask that directly to
3805 Mr. Tummillo.

3806
3807 Mr. Spradlin - And one other follow up. Say they will stay, and somebody buys Lot
3808 5, and there's four trees on that lot, and they purchase this, are they allowed to cut the trees down, or
3809 can there be something in writing stating this could be some type of buffer by leaving these trees up
3810 without removing them?

3811
3812 Mr. Taylor - On Mr. Tummillo's Lot 5?

3813
3814 Mr. Spradlin - Well, yes.

3815
3816 Mr. Taylor - We could ask him to establish a buffer of trees somewhere along
3817 there. He can proffer that if he wants.

3818
3819 Mr. Archer - May I interject for just one second? I think, as a matter of principle,
3820 we don't normally require buffers between residential from residential.

3821
3822 Mr. Spradlin - You do not?

3823
3824 Mr. Archer - No.

3825
3826 Mrs. Dwyer - And, its difficult, as you can understand, as a practical matter to limit
3827 what you can do with their own backyard.

3828
3829 Mr. Spradlin - I understand.

3830
3831 Mrs. Dwyer - I mean you might not want that limitation placed on you and what
3832 you can do in your back yard.

3833
3834 Mr. Spradlin - But, I guess, my point is that, where we're concerned, as already
3835 been there for 10 years, are we going to have a house in our backyard? That's what...

3836

3837 Mr. Kaechele - Do you have any trees in your back yard?
3838
3839 Mr. Spradlin - Yes, I do.
3840
3841 Mr. Kaechele - Well, you'll keep those. I think the other property owners have a
3842 right to remove trees.
3843
3844 Mr. Spradlin - Okay.
3845
3846 Mr. Archer - Mr. Marlles was just explaining to me that the developer can proffer
3847 that, but even that puts a hardship on the person who buys a property.
3848
3849 Mr. Spradlin - Yes sir.
3850
3851 Mr. Taylor - Having gone through this, I understand if we do that, the proffer
3852 doesn't pass on to the occupant of the house, is that correct, Mr. Director?
3853
3854 Mr. Marlles - No sir. A proffer does run with the land.
3855
3856 Mr. Taylor - It does run with the land. Commissioner Dwyer infers that it
3857 requires, if your house was proffered with a tree save area, you couldn't chop down those trees.
3858
3859 Mrs. Dwyer - Well, it depends on how the proffer is worded. It may be that the
3860 developer commits to preserve to the extent...
3861
3862 Mr. Spradlin - Well, that was my question as far as requesting that. You know if
3863 that could be, the term you used, "proffer," if Mike would say, "Okay, I'm going to leave those.
3864 We're not going to touch those at all." And let that be part of this new development that's coming
3865 into; again, help us out.
3866
3867 Mr. Taylor - I think what we're saying, he could, but it really wouldn't be terribly
3868 enforceable, but you had it while you had it.
3869
3870 Mr. Spradlin - Okay.
3871
3872 Mr. Taylor - If you had it forever, that would be good. If someone came in and
3873 didn't like trees, you may not.
3874
3875 Mr. Spradlin - Right. The next thing, we want to make sure that Mike said that he
3876 would only put in two-story colonials. Does that also exclude cape cod homes, because there's only
3877 one cape cod home in the Coventry Subdivision, and, again, dealing with the architectural part of
3878 the surroundings, this is something that we, you know, would not want.
3879
3880 Mr. Taylor - He can proffer that right now.
3881
3882 Mr. Spradlin - Okay.

3883
3884 Mrs. Dwyer - Well, and a proffer is a voluntary commitment made.
3885
3886 Mr. Spradlin - Oh. I know. And Mike and I have discussed the issues, and I'll be
3887 up front with everybody and with Mr. Taylor. We have all communicated really well on this.
3888
3889 One other quick thing. Dealing where this road is coming in, my question is, dealing with the
3890 sewage and the drop inlet as far as the water running say towards our property versus staying in that
3891 road area, I mean, how would that affect the runoff of the excess water or what have you?
3892
3893 Mr. Marlles - Sir, drainage is an issue that the Public Works Department would
3894 review. It wouldn't necessarily be the Planning Commission. But, I think you can be assured that
3895 the County does have standards and design engineers who review those types of issues.
3896
3897 Mr. Spradlin - Yes sir. Okay. As far as part of being of our subdivision, I did
3898 discuss it with Mike dealing with the Coventry sign that is the entrance of Coventry. We would like
3899 it to be part of our subdivision. And that if that could take place, our sign on Church Road is the
3900 only sign on that whole area that is not lit. Again, in reference to where do you turn into Coventry.
3901 Because if you're going to put another road there, it is a school area as far as where the buses pick
3902 up our kids and so forth and so on. So, we are concerned a little bit about that. And, also, with the
3903 traffic where they cut through Clary Preston going to Sunrise. It's extremely heavy. They use that
3904 as a cut through off of Church Road.
3905
3906 And another thing we were going to propose is a way, I know you can't answer this, but a four-way
3907 stop sign at the intersection of Marnelan and Clary Preston to try to slow some of this traffic down,
3908 because its going to be 121 more vehicles, I think, once this develops. I think that's what it said in
3909 here, per day coming through once this subdivision goes up.
3910
3911 Mr. Marlles - Again, sir, the traffic question is something that would not be
3912 addressed by the Commission. However, I can tell you that it's the policy of the County not to
3913 encourage four-way stop signs as a way of slowing down traffic.
3914
3915 Mr. Spradlin - Okay.
3916
3917 Mr. Marlles - So, that is an issue, you know, you can pursue with the County's
3918 Traffic Engineer the concern of the neighborhood.
3919
3920 Mr. Spradlin - Right.
3921
3922 Mr. Marlles - But, it is not particularly relevant to our discussion.
3923
3924 Mr. Spradlin - Yes sir. That's really about all I have to say. I appreciate your time.
3925
3926 Mr. Archer - Thank you, Mr. Spradlin.
3927

3928 Mr. Taylor - Thank you, Mr. Spradlin. I apologize to you again that I wasn't able
3929 to get to your meeting. But, we will have another meeting and I will be there.
3930
3931 Mr. Spradlin - Okay.
3932
3933 Ms. Terry Bernstein - My husband and I live on Lot 1, which we will be affected the most
3934 from this. I'd like to know where they're going to put the sewer lines? Do we know that yet?
3935
3936 Mr. Taylor - Mr. Tummillo, do you know where the sewer lines are going to go
3937 yet?
3938
3939 Mr. Tummillo - They're going to come off of Clary Preston Street straight up the
3940 middle.
3941
3942 Ms. Bernstein - So, the sewer lines will go on this new road that you're going to put
3943 in?
3944
3945 Mr. Taylor - Under the new road.
3946
3947 Ms. Bernstein - Under the new road? And that's where you're going to put your
3948 sewer lines in, your drop inlet and your storm sewer?
3949 Mr. Tummillo - Yes.
3950
3951 Ms. Bernstein - And along with the sewer line? They won't hook up to our lot?
3952
3953 Mr. Tummillo - You mean the personal line that goes to your house?
3954
3955 Ms. Bernstein - Myself or Lots 4 and 5 which are affected the most?
3956
3957 Mr. Tummillo - Right there is the hook up (referring to slide). I think right around
3958 there is the hook up.
3959
3960 Ms. Bernstein - Okay. Now, the trees that Doug was talking about across Lot 1, if
3961 someone buys that, obviously, someone is going to buy Lots 7 and 8, 5 and 6, and its their option to
3962 do what they want with that property at that time. I would like a fence to be put up. One, it will
3963 help in any drainage that's coming off, and I know we're all very tired.
3964
3965 Mr. Taylor - You mean a fence between Lots 5, 6, and 7 and your subdivision?
3966
3967 Ms. Bernstein - That is correct.
3968
3969 Mr. Taylor - That's back to Mr. Tummillo.
3970
3971 Mr. Tummillo - You know, after listening to the concern about making this
3972 subdivision uniform and flowing with the surrounding, I would, you know, imagine a fence would
3973 not be in agreement with that.

3974
3975 Mr. Taylor - That becomes a matter of opinion, I guess.
3976
3977 Ms. Bernstein - I think we've all said we want fences, do we not?
3978
3979 Mr. Taylor - We're here, tonight, if I just may interject, we want to approve the
3980 concept of zoning. As we get a little further, we have another phase, which is Plan of Development.
3981 And we will see a Plan of Development where all of this detail will be able to be reviewed by the
3982 staff.
3983
3984 Ms. Bernstein - But you will already have approved it. Can we not table until we get
3985 some of this settled?
3986
3987 Mr. Taylor - Well, we could, and we might, but...
3988
3989 Ms. Bernstein - I realize its late, and its really no one's fault that we're this late.
3990
3991 Mr. Taylor - If you would trust the County, and staff...
3992
3993 People from Audience - No. Absolutely not.
3994
3995 Mr. Taylor - All right, then we'll sit here, and we'll work it out.
3996
3997 Mr. Archer - You can speak, but you'll have to come up to the mike.
3998
3999 Man from Audience - I guess, Mr. Taylor, where we're concerned, as well as Terry is, once
4000 the zoning is passed, as you're saying and we assume, but we don't want it that way. We want
4001 something concrete. You know, Mike has told me, that he won't build ranch homes. We want
4002 something in writing.
4003
4004 Mr. Taylor - Let me just do this. We can postpone this for 30 days at my option
4005 so we can get this all resolved. And what I would do in the interest of the hour, and to keep
4006 everybody happy so that you know what will be happen and I can be a part of it, I would like to
4007 move to defer this case for 30 days at my option, in which case we'll work with the community.
4008 We'll work with the developer and we'll bring this back the next time. Would you like to do that?
4009
4010 Ms. Bernstein - What date would that be?
4011
4012 Mr. Taylor - The first Thursday in February.
4013
4014 Mr. Vanarsdall - The 15th.
4015
4016 Mr. Taylor - And that gives us time to work out the details that you're looking for
4017 and give the opportunity to assure that this will happen the way you want it to.
4018
4019 Mr. Spradlin - So, in other words, we would see it in writing?

4020
4021 Mr. Taylor - And we will work with Mr. Tummillo to get every one of your issues
4022 out and talk to him and get it, basically, lined so it is ready to go to the next stage. We normally do
4023 that at the POD stage, not the zoning stage. We can do it now, to alleviate your worries, this will
4024 come out wrong. If that's agreeable to you.
4025
4026 Mr. Vanarsdall - That's the 15th.
4027
4028 Ms. Bernstein - What day are we, the 15th. That's the third Thursday.
4029
4030 Mr. Archer - It's our regular zoning meeting night.
4031
4032 Ms. Bernstein - Is that correct, the 15th?
4033
4034 Mr. Vanarsdall - It's the 15th of February.
4035
4036 Ms. Bernstein - If we're going to do that, defer this to the 15th, could you have some
4037 plan so that we could look at that: homes and see what you're going to put there, and if 8 can really
4038 fit in that small amount of space and the logistics.
4039
4040 Mr. Taylor - The lots there are larger than the lots in your area, which is R-4.
4041
4042 People from Audience - No. They're not. Ours are much bigger.
4043
4044 Mrs. Dwyer - The minimum requirement for your... You're zoned R-4, sir. The
4045 minimum requirement for R-4 is much smaller than the minimum requirement for R-3, which is
4046 what he's putting in. So, he's putting in a larger lot and zoning than what your neighborhood is
4047 zoned for. Now, your builder may have put larger lots than the minimum required, and I don't
4048 know the answer to that, but is what he's saying. This is actually a less dense zoning than what you
4049 have in yours, because you have an R-4. This is an R-3.
4050
4051 Ms. Bernstein - And I understand what you're saying. But, even if you look at it,
4052 some of them on here have certainly a lot more land to lot ratio than this currently is.
4053
4054 Mrs. Dwyer - It's hard to tell from this. I mean, I look and I see the lots look wider
4055 in the new subdivision, as opposed to the lots in your subdivision, which appear to be narrower. So,
4056 that's an example of what would be allowed in an R-4 as opposed to an R-3. So, actually, his
4057 zoning is higher, zoning, if you will, a less dense zoning than what you have.
4058
4059 If I could just make a statement.
4060
4061 Mr. Spradlin - Sure.
4062
4063 Mrs. Dwyer - You mentioned things in writing.
4064
4065 Mr. Spradlin - Right.

4066
4067 Mrs. Dwyer - What was handed out tonight are proffers. These are promises that
4068 become part of the case. They run with the land, so it's a legally enforceable promise. So, that's
4069 what has been done already by the developer. Now, that's not on your agenda. That may be what
4070 you may you want to talk about in your meeting. So, when you talk about something in writing,
4071 there is already something in writing that talks about some of the promises that have been made.

4072
4073 The other thing that I would like to say is that, when the Secretary made the statement that we
4074 typically don't buffer one residential development from another because it's the same use. So, its
4075 not, typically, viewed as an incompatibility to have the back yard of one home adjacent to the back
4076 yard of another home. So, I just wanted to make that statement.

4077
4078 Ms. Bernstein - And I understand that, but I think our concern is the neighborhood is
4079 already established. Enduring the dust and possibly any roll down will come into, you know, two
4080 and one half of my lots and two of the others. And to help, maybe, protect that, by putting up a
4081 fence. We won't be able to open our windows for the dust and the dirt and the noise. And it'll be a
4082 lot of dirt on our homes that we'll have to get cleaned afterwards. Do you think that's funny? I
4083 don't. I just feel that maybe that will help buffer some of that. But, I realize when I mentioned trees
4084 earlier, it was maybe sort of help some of that. But, in realizing after the fact after Mr. Tummillo
4085 sells the lots, it really doesn't become his problem. I don't want to say problem, but issue. And it
4086 becomes ours or the person who builds. And we have a nice cohesive neighborhood and we
4087 certainly wouldn't want anything when someone moves in to be a damper right in the forefront. So,
4088 if we could have something; it doesn't have to a 10-foot fence. It certainly could be something
4089 that...

4090
4091 Mr. Kaechele - The developer could have some restrictive covenants that maybe
4092 cover tree preservation, which puts the responsibility on the owner, rather than a buffer.

4093
4094 Ms. Bernstein - And I understand that. I don't disagree with that. But, I think it
4095 would certainly make us feel better if we did get some sort of permanency, because a tree is
4096 certainly not permanent. Anyone who moves into the house; I mean, you know, 10 years ago; 11
4097 years ago when I moved there, and Mrs. Puffenbarger were there, certainly had an agreement.
4098 Now, that agreement will be gone with the sale of this property.

4099
4100 Mr. Kaechele - Restrictive covenants can require that trees in excess of 12 inches or
4101 whatever diameter you want to save are preserved unless the neighborhood agrees to take them
4102 down. That's contained in some restrictive covenants. That's not a buffer. And that's something
4103 the County doesn't have to enforce. It's neighborhood enforceable.

4104
4105 Ms. Bernstein - Right. And I understand that. I also understand, that if you live in a
4106 neighborhood, some things get enforced and some things get overlooked and not enforced. Some
4107 people agree and some people don't agree.

4108
4109 Mr. Kaechele - Well, that's probably the only way you can do it, because the County
4110 can't enforce tree cutting.

4111

4112 Ms. Bernstein - No. But the County can possibly help assist us in getting some help
4113 or getting a fence or maybe in discussion when we're in discussion.
4114
4115 Mr. Kaechele - ...put that up the fence and the trees.
4116
4117 Mr. Archer - Ma'am, that's what Mr. Taylor is trying to say. If you all have an
4118 opportunity to meet and discuss these things, and he can let you know the legal ways that we can go
4119 about doing what you're trying to accomplish. There are certain things that we can't do here. As
4120 Mr. Kaechele mentioned, covenants are pretty strict. Restrictive covenants are pretty strict, because
4121 they run with the Association. And they stay with the property forever, I suppose, until they
4122 change. We'll they're not changed. And they are in writing. So, you know, its not just an
4123 agreement that's made between somebody. That runs with the land, much like a proffer, but not
4124 exactly the same.
4125
4126 Ms. Bernstein - I know.
4127
4128 Mr. Archer - That's probably the best we're going to be able to do.
4129
4130 Ms. Bernstein - Well, may be we can all come to an agreement.
4131
4132 Mr. Archer - I think you can. Let's give it a shot.
4133
4134 Mr. Vanarsdall - You can work it out. Tell him what you'd like to have and see what
4135 he agrees to.
4136
4137 Ms. Bernstein - Okay.
4138
4139 Mr. Archer - Okay.
4140
4141 Ms. Bernstein - So, we'll table it until the 15th?
4142
4143 Mr. Archer - Mr. Taylor will need to make a motion.
4144
4145 Mr. Taylor - I will make a motion.
4146
4147 Ms. Bernstein - Thank you.
4148
4149 Mr. Taylor - And I will move deferral of Case C-8C-01 Anne J. Foster for
4150 Michael Tummillo for one month at the request of the Commissioner.
4151
4152 Mr. Vanarsdall seconded the motion.
4153
4154 Mr. Archer - Motion by Mr. Taylor, seconded by Mr. Vanarsdall. All in favor let
4155 it be known by saying aye—all those opposed by saying nay. The vote is 5-0 (Mr. Kaechele
4156 abstained). Deferral is granted.
4157

4158 Mr. Kaechele - This is the clarification of one month. It is the 15th.
4159
4160 Mr. Archer - 15th of February.
4161
4162 Mr. Taylor - Until next meeting.
4163
4164 Mr. Vanarsdall - February 15th at 7:00 o'clock.
4165
4166 Man from Audience - Could we be on the front of the calendar instead of the end?
4167
4168 Mr. Archer - It might work out that way.
4169
4170 Mr. Taylor - Our meetings are usually a lot shorter.
4171
4172 Mr. Vanarsdall - Do you want to be first next time? Mr. Taylor, did you hear that?
4173
4174 Mr. Archer - If you all can work it out, we'll put it on the expedited agenda.
4175
4176 Mr. Vanarsdall - Good night, Joe.
4177
4178 Mr. Archer - Mr. Secretary, do we have another case?
4179
4180 Mr. Marlles - One more case.
4181
4182 **C-9C-01 Ron Green for Millrace, L.C.:** Request to conditionally rezone
4183 from A-1 Agricultural District to R-2C One Family Residence District (Conditional), Parcel 18-A-
4184 6, described as follows:
4185
4186 Commencing at a rod found in the western line of Shady Grove Road cornering with property now
4187 or formerly in the name of Challenor and Major B. Harris and Joyce B. Harris, and from said point
4188 of beginning thence north 47 degrees 30' west a distance of 400' to a rod; thence south 42 degrees
4189 30' west a distance of 20' to a rod; thence north 45 degrees 38' west a distance of 385' to a rod;
4190 thence north 30 degrees 38' east a distance of 65.9' to a point; thence north 40 degrees 56' east a
4191 distance of 80.5' to rod "found"; thence south 46 degrees 08' east a distance of 211.5' to a rod in
4192 stump; thence south 40 degrees 8' east a distance of 257.8' to a dogwood; thence south 54 degrees
4193 45' 50" east a distance of 308.15' to a rod in the western line of Shady Grove Road; thence south 26
4194 degrees 40' west and fronting on the western line of Shady Grove Road a distance of 127.25' to the
4195 point of beginning.
4196
4197 Mr. Marlles - The Staff Report will be given by Mr. Mark Bittner.
4198
4199 Mr. Archer - Is anyone here in opposition?
4200
4201 Mr. Vanarsdall - There's nobody left but Ron Green.
4202
4203 Mr. Archer - All right, Mr. Bittner.

4204
4205 Mr. Taylor - Is there anybody here that's going to present the case? Is anybody
4206 here for the case?
4207
4208 Mr. Archer - Go ahead, Mr. Bittner. We'll go with what we've got.
4209
4210 Mr. Bittner - Millrace, which this would be an expansion of, has conditional
4211 approval for 35 lots. It does not have final subdivision approval. A preliminary subdivision plat has
4212 been submitted and it shows the back half of the property would become a part of Millrace. The
4213 front half would not be developed.
4214
4215 The applicant has submitted additional information, which I was unaware of at the time of writing
4216 the staff report, concerning the front half. There's a house on that front half which is only two years
4217 old. It was built in 1998. The owner lives there and intends on staying there for the foreseeable
4218 future, and, basically, not becoming part of Millrace, staying on Shady Grove Road. In effect, the
4219 house will remain as is after development of Millrace.
4220
4221 The proffers have been amended, and we just handed those out to you, tonight, to mirror the
4222 proffers of the first section of Millrace, and one additional proffer has been added. That's Proffer 9
4223 that exempts the existing house from any of the proffered conditions, and staff does not object to
4224 this.
4225
4226 The proffer would require that if for any reason that house were to be abandoned and they decided
4227 to make it part of Millrace, then, at that point, that portion of the property would be subject to the
4228 Millrace proffers.
4229
4230 I'd also like to point out that we're still kind of tightening up the language of Proffer 9 with the
4231 applicant. Although I think it's a fairly simple matter, it can be handled between now and the Board
4232 of Supervisors meeting.
4233
4234 This site is also adjacent to Parcels 18-A-4 and 18-A-5 which are these two properties right here
4235 (referring to slide). They front on Shady Grove Road. These properties total approximately four
4236 acres, and each contains a single-family home that was built in the 1940's. There is potential for
4237 these properties to be someday rezoned for additional single-family development. The staff would
4238 prefer that these parcels connect to Millrace if they were to ever develop.
4239
4240 A new entrance onto Shady Grove Road should not be constructed to serve those properties.
4241 Entrances onto Shady Grove should be limited in this area to the planned entrance for Millrace to
4242 the south, and the Hampshire Subdivision to the north, across from Old Nuckols Road. And I'll
4243 show you that right here (referring to slide). This is the subject rezoning property right here. This is
4244 the new Hampshire South Subdivision that's received approval. That was a Bill Johnson zoning
4245 case, C-40C-00 that came through here a couple months ago.
4246
4247 Now, the properties I was just talking about earlier, Parcels 4 and 5 are off site of the proposed
4248 rezoning. Therefore, a connection proffer could not be placed on them with this case.
4249

4250 Staff is encouraging the applicant to plan for this scenario during the subdivision review of Millrace.
4251
4252 In summary, the proposed zoning is consistent with the Suburban Residential 1 designation of the
4253 property. And the applicant has also addressed the issues listed in the staff report. Therefore, staff
4254 recommends approval. I'd be happy to answer any questions you may have.
4255
4256 Mr. Archer - Mr. Bittner, so the proffers that we received now have addressed the
4257 concerns that you had in your summary?
4258
4259 Mr. Bittner - Yes, they have.
4260
4261 Mr. Archer - Okay. Thank you.
4262
4263 Mr. Taylor - And you agree with them as written?
4264
4265 Mr. Bittner - Yes, except, as I said, we're still sort of tweaking Proffer 9. We're
4266 not changing any of the substance. But, I think we can fix that between now and the Board of
4267 Supervisors.
4268
4269 Mrs. Dwyer - Are these the exact proffers for Millrace?
4270
4271 Mr. Bittner - All except Proffer 9, yes.
4272
4273 Mrs. Dwyer - Proffer 9. Yes. And Proffer 9 where it says, "If the house is raised
4274 or removed, the property shall become subject to the proffers..." It's possible that the property
4275 would not become part of Millrace, and then you wouldn't want the proffers to apply, which, I
4276 guess, you're getting at, when you say...
4277
4278 Mr. Bittner - Actually, the applicant brought that up to me today.
4279
4280 Mrs. Dwyer - Right.
4281
4282 Mr. Bittner - If some reason someone wanted to take that house down and then
4283 build an even bigger house, they would be precluded from doing that under this proffer.
4284
4285 Mrs. Dwyer - So, you would want to take that out, I assume?
4286
4287 Mr. Bittner - Yes.
4288
4289 Mrs. Dwyer - And just say, "If any portion becomes a part of Millrace, then that
4290 portion shall be subject to proffers..."
4291
4292 Mr. Bittner - Exactly.
4293
4294 Mr. Archer - Okay. Any other questions for Mr. Bittner? Ms. Hunter, are you the
4295 applicant? Will the applicant come forward?

4296 Mr. Ron Green - Mr. Chairman, Commission members, Ron Green, Balzer &
4297 Associates representing the applicant. When we started into the development of Millrace, just to
4298 give you a little background, the property owner there, we were going to those folks by virtue of
4299 having to get, you know, a sewer extended through the Wilton Hampshire through these guys. And
4300 they brought up the possibility of the applicant purchasing the back half of their property and maybe
4301 filling the gap between the two subdivisions. It sounded like a good idea and we met with staff and
4302 said that, you know, as long as we can work out some details, we don't have a problem with that,
4303 therefore, filing the zoning case here.

4304
4305 Initially, we had thought about incorporating the same proffers. But, then with the situation with the
4306 existing residence, we felt like we need to limit those proffers so we're not subject to the existing
4307 house, or the house not subject to those proffers. Then if all the all old proffers and the added
4308 proffer, which we've agreed to, which eliminates that particular existing house from being part of
4309 the proffers.

4310
4311 At this point, I think, you know, we're in agreement with staff. Staff has recommended that we,
4312 through our development of this Millrace Subdivision, try to work some access to those existing
4313 parcels, which, I'm not sure, not having been involved, or not being into all the engineering aspects,
4314 if, in fact, between now and the time we get Board approval, we will do what we can to try to
4315 provide or reserve an access to those parcels. But, I'm not sure without, you know, due to the
4316 limitations with wetlands and things like that, that we will, in fact, be able to. But, we get into the
4317 engineering of this and find out we can work it out with staff, some of the constraints with regard to
4318 policies and building roads, we can provide the area, we'll certainly entertain that.

4319
4320 Mrs. Dwyer - Just one question. This residence, 5338 Shady Grove, originally
4321 included this entire parcel that we're talking about today?

4322
4323 Mr. Green - Yes.

4324
4325 Mrs. Dwyer - So, in Proffer No. 9, you might want to specify the new parcel that
4326 you're talking about, refer to that residence, define it some how in terms of acreage or a plat or
4327 something.

4328
4329 Mr. Green - We can do that. I think Mr. Bittner had, basically, said plus or minus
4330 400 feet for the existing, which is about that area, but we can actually limit it to a define line.

4331
4332 Mrs. Dwyer - Where you say, "The residence is 140 feet from Shady Grove
4333 Road...", you really want the land to be exempted from the proffers?

4334
4335 Mr. Green - We can do that.

4336
4337 Mrs. Dwyer - I'm just suggesting that you define that new parcel in some way.

4338
4339 Mr. Green - And we can do that.

4340
4341 Mr. Archer - Just use a plat, I suppose.

4342
4343 Mrs. Dwyer - The plat, or description; legal description or acreage.
4344
4345 Mr. Taylor - Mr. Green, this property, I believe, abuts Bridlewood?
4346
4347 Mr. Green - The subject property?
4348
4349 Mr. Taylor - That is Mr. Johnson's property next to you in the R-2A?
4350
4351 Mr. Green - Yes.
4352
4353 Mr. Taylor - In looking at this, it looks convenient to just do that, I want you to be
4354 aware there are efforts to subdivide the back part of Bridlewood property, and I want an assurance
4355 that this isn't an effort to zone this property such that you can drive a road through...
4356
4357 Mr. Green - No sir. We just want to incorporate it as part of a lot within Millrace.
4358
4359 Mr. Taylor - That's more benign than my thoughts would be, we're going to put a
4360 road there, because that would disenfranchise some people. I wanted to make sure there was no
4361 motive to do that. With that, Mr. Chairman, I'll move approval of C-9C-01 Ron Green for Millrace,
4362 L.C.
4363
4364 Mr. Jernigan seconded the motion.
4365
4366 Mr. Archer - Motion by Mr. Taylor seconded by Mr. Jernigan, that we adopted the
4367 rules and regulations. All in favor let it be known by saying aye—all those opposed by saying nay.
4368 The vote is 5-0 (Mr. Kaechele abstained). The motion is carried.
4369
4370 **DISCUSSION: Set Public Hearing for Capital Improvement Program 01-02 to 05-06 for**
4371 **February 15, 2001 (6:15 p.m.).**
4372
4373 Mr. Archer - Okay, Mr. Secretary, where are we?
4374
4375 Mr. Marles - Okay, Mr. Chairman, before we get to the approval of minutes, this
4376 is the time of year that we are usually asked to schedule a public hearing to consider the Capital
4377 Improvement Program. This is for the 5-year period from fiscal year 2001-02 to 2005-06. The
4378 request is that we schedule that public hearing February 15th at 6:15 p.m.
4379
4380 Mr. Vanarsdall - I make a motion that we do that.
4381
4382 Mr. Taylor seconded the motion.
4383
4384 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Jernigan, that we accept
4385 the 6:15 public hearing on February 15th. All in favor let it be known by saying aye—all those
4386 opposed by saying nay. The vote is 5-0 (Mr. Kaechele abstained). The motion is carried. What
4387 else have we got, Mr. Secretary?

4388 Acting on a motion by Mr. Vanarsdall, seconded by Mr. Taylor, the Zoning Minutes of November
4389 9, 2000 were approved.

4390
4391 Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Zoning Minutes of December
4392 7, 2000 were approved as corrected:

4393
4394 Page 65, Line 2375 – Should say, “...or waste their property.”

4395
4396 There being no further business, acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the
4397 Planning Commission adjourned its meeting at 12:00 a.m. on January 11, 2001.

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Chris W. Archer, C.P.C., Chairman

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4407

4408

4409

John R. Marlles, AICP, Secretary