

1 Minutes of the regular monthly meeting of the Planning Commission of the  
2 County of Henrico, held in the County Administration Building in the Government  
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. Thursday,  
4 January 10, 2008. Display Notice having been published in the Richmond  
5 Times-Dispatch on December 20, 2007 and December 27, 2007.

6  
Members Present: Mr. E. Ray Jernigan, C.P.C., Chairperson (Varina)  
Mrs. Bonnie-Leigh Jones, Vice Chairperson (Tuckahoe)  
Mr. Tommy Branin, (Three Chopt)  
Mr. C. W. Archer, C.P.C. (Fairfield)  
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)  
Mr. Richard W. Glover (Brookland)  
Board of Supervisors Representative  
Mr. R. Joseph Emerson, Jr., Acting Director of Planning,  
Secretary

Also Present: Ms. Jean Moore, Principal Planner  
Mr. Benjamin Sehl, County Planner  
Mr. Livingston Lewis, County Planner  
Ms. Kim Vann, Police Division  
Ms. Diana B. Carver, Recording Secretary

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8 **Mr. Richard W. Glover, the Board of Supervisors' representative, abstains**  
9 **on all cases unless otherwise noted.**

10  
11 Mr. Branin - Good evening. I'd like to call the January 10, 2008  
12 Zoning meeting for Henrico County to order. There have been some changes up  
13 front to those attorneys and people that are at Planning Commission meetings on  
14 a regular basis. We have a new secretary, Joe Emerson, who has been  
15 promoted to Acting Director of Planning and we're excited to have Joe working  
16 with us. Joe's always worked with us, but now he's the Big Cheese. At the end  
17 of the row this evening, we have our new representative from the Board, Mr.  
18 Glover, who has been affiliated with Planning for a long time. I'm looking forward  
19 to work with Mr. Glover because of his experience and knowledge of both the  
20 County and Planning.

21  
22 Mr. Secretary, if you want to take over.

23  
24 Mr. Emerson - Yes, thank you, Mr. Chairman. As you know, this is  
25 our first meeting of the year, so this will be our re-organizational meeting. We will  
26 begin with the withdrawals and deferrals and Ms. Moore will present those.

27  
28 Ms. Moore - Thank you, Mr. Secretary. We do have a total of four.  
29 The first is on page 1 of your agenda in the Three Chopt District. It is case C-  
30 43C-07 and John W. Gibbs, Jr. is the applicant. The deferral is requested to the  
31 April 10, 2008 meeting.

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

**C-43C-07 Gibson Wright for John W. Gibbs, Jr.:** Request to conditionally rezone from R-2AC One-Family Residence District (Conditional) to R-3C One-Family Residence District (Conditional), Part of Parcel 739-774-4564, containing approximately 6.77 acres, located on the southeast line of Nuckols Road at its intersection with Lower Wyndham Court. The applicant proposes a single-family residential subdivision to construct 13 homes as part of the Grey Oaks development which has a proffered aggregate maximum density of 1.8 units per acre. The R-3 District allows a minimum lot size of 11,000 square feet and a maximum gross density of 3.96 units per acre. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre, and Environmental Protection Area.

Mr. Branin - Is anyone in opposition to the deferral of C-43C-07, Gibson Wright for John W. Gibbs, Jr.? No one? Then I'd like to move that C-43C-07, Gibson Wright for John W. Gibbs, Jr., be deferred to the April 10, 2008 meeting, per the applicant's request.

Mr. Jernigan - Second.

Mr. Branin - Motion was made by Mr. Branin, seconded by Mr. Jernigan. All in favor say aye. All opposed say no. The ayes have it; the motion carries.

At the request of the applicant, the Planning Commission deferred C-43C-07, Gibson Wright for John W. Gibbs, Jr. to its meeting on April 10, 2008.

Ms. Moore - The next case is C-61C-07, Centex Homes. The deferral is requested to the March 13, 2008 meeting.

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

**C-61C-07 James Theobald for Centex Homes:** Request to conditionally rezone from A-1 Agricultural District to RTHC Residential Townhouse District (Conditional) and B-2C Business District (Conditional), Parcels 738-767-5405, 738-766-9367, 739-766-3768 and 739-766-2504, containing approximately 32.99 acres (RTHC – 23.30 ac. and B-2C 9.69 ac.), located on the west line of Pouncey Tract Road between Kain Road and Bacova Drive. The applicant proposes condominiums, retail and office uses. The maximum density allowed in the RTH District is nine (9) units per acre. The uses will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre. The majority of the site is in the West Broad Street Overlay District.

77 Mr. Branin - Is anyone in opposition to the deferral of C-61C-07,  
78 James Theobald for Centex Homes? No one? Then I would like to move that C-  
79 61C-07, James Theobald for Centex Homes, be deferred to the March 13, 2008  
80 meeting, per the applicant's request.

81  
82 Mr. Vanarsdall - Second.

83  
84 Mr. Branin - Motion was made by Mr. Branin, seconded by Mr.  
85 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it; the motion  
86 carries.

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88 At the request of the applicant, the Planning Commission deferred C-61C-07,  
89 James Theobald for Centex Homes to its meeting on March 13, 2008.

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91 Ms. Moore - On page 2 of your agenda in the Brookland District is  
92 case C-64C-06, Wistar Creek, LLC. The deferral is requested to the March 13,  
93 2008 meeting.

94  
95 ***Deferred from the November 8, 2007 Meeting.***

96 **C-64C-06 Jennifer D. Mullen for Wistar Creek, LLC:** Request  
97 to conditionally rezone from R-3 One-Family Residence District to RTHC  
98 Residential Townhouse District (Conditional), Parcels 767-750-8298, 767-751-  
99 8651, 768-750-0490, 768-751-0638, 768-751-2435, 768-751-4119, and 768-751-  
100 1362 containing 24.46 acres, located on the south line of Wistar Road  
101 approximately 142 feet west of Walkenhut Drive. The applicant proposes a  
102 residential townhouse development with a maximum of 100 dwelling units, an  
103 equivalent density of 4.08 units per acre. The maximum density allowed in the  
104 RTH District is nine (9) units per acre. The use will be controlled by zoning  
105 ordinance regulations and proffered conditions. The Land Use Plan  
106 recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre, and  
107 Office.

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109 Mr. Branin - Is anyone in opposition to the deferral of C-64C-06,  
110 Jennifer D. Mullen for Wistar Creek, LLC? No one?

111  
112 Mr. Vanarsdall - Mr. Chairman, I move C-64C-06, Jennifer D. Mullen  
113 for Wistar Creek, LLC, be deferred to the March 13, 2008 meeting, per the  
114 applicant's request.

115  
116 Mr. Archer - Second.

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118 Mr. Branin - Motion was made by Mr. Vanarsdall, seconded by Mr.  
119 Archer. All in favor say aye. All opposed say no. The ayes have it; the motion  
120 carries.

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122 At the request of the applicant, the Planning Commission deferred C-64C-06,  
123 Jennifer D. Mullen for Wistar Creek, LLC, to its meeting on March 13, 2008.

124

125 Ms. Moore - On page 3 of your agenda in the Varina District is  
126 case C-63C-07, JSN Development, LLC. The deferral is requested to the  
127 February 14, 2008 meeting.

128

129 ***Deferred from the December 6, 2007 Meeting.***

130 **C-63C-07 Andrew M. Condlin for JSN Development, LLC:**

131 Request to conditionally rezone from A-1 Agricultural District to B-2C Business  
132 District (Conditional), Parcel 816-687-5307, containing 3.820 acres, located at  
133 the southeast intersection of Strath Road and New Market Road (State Route 5).  
134 The applicant proposes a pharmacy and office. The uses will be controlled by  
135 zoning ordinance regulations and proffered conditions. The Land Use Plan  
136 recommends Rural Residential, not exceeding 1.0 unit net density per acre. The  
137 site is in the Airport Safety Overlay District.

138

139 Mr. Branin - Is anyone in opposition to the deferral of C-63C-07,  
140 Andrew M. Condlin for JSN Development, LLC? No one?

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142 Mr. Jernigan - With that, Mr. Chairman, I'll move for deferral of case  
143 C-63C-07, Andrew M. Condlin for JSN Development, LLC, to February 14, 2008,  
144 by request of the applicant.

145

146 Mr. Vanarsdall - Second.

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148 Mr. Branin - Motion was made by Mr. Jernigan, seconded by Mr.  
149 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it; the motion  
150 carries.

151

152 At the request of the applicant, the Planning Commission deferred C-63C-07,  
153 Andrew M. Condlin for JSN Development, LLC, to its meeting on February 14,  
154 2008.

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156 Ms. Moore - Mr. Secretary, that concludes my report.

157

158 Mr. Glover - Mr. Chairman.

159

160 Mr. Branin - Yes.

161

162 Mr. Glover - I'd like to inform the secretary and the Commission  
163 that because the zoning cases, and so forth come before the Board and come to  
164 us, I'll be abstaining from all cases in the future this year, unless I say differently  
165 on a case.

166

167 Mr. Branin - Well, Mr. Glover, thank you for that. We will be  
168 looking forward to you joining us, whether to vote or to give opinion.  
169  
170 Mr. Glover - Thank you.  
171  
172 Mr. Branin - Mr. Secretary?  
173  
174 Mr. Emerson - Mr. Chairman, the next item is request for expedited  
175 items. There are none tonight, which takes us to the next order of business,  
176 which is election of Chairman for the 2008 calendar year. I believe at this time  
177 the meeting is turned over to me for the election of the Chairman.  
178  
179 Mr. Branin - Yes it is.  
180  
181 Mr. Emerson - So, I will open the floor for nominations for Chairman  
182 for the 2008 calendar year.  
183  
184 Mr. Vanarsdall - Mr. Ray Jernigan I'll put before the group for this year.  
185  
186 Mr. Archer - I'll second that nomination, Mr. Secretary.  
187  
188 Mr. Emerson - Are there any other nominations? All in favor say aye.  
189 All opposed say no. The ayes have it; the motion carries. Mr. Jernigan will  
190 preside as Chairman for 2008. The next item of action is the election of the Vice  
191 Chairman for the 2008 calendar year. I'll open the floor for nominations for Vice  
192 Chairman.  
193  
194 Mr. Vanarsdall - I nominate Bonnie-Leigh Jones for Vice Chairman for  
195 this year.  
196  
197 Mr. Archer - Second.  
198  
199 Mr. Vanarsdall - To give Mr. Jernigan some help.  
200  
201 Mr. Emerson - We have a motion for Mrs. Bonnie-Leigh Jones as  
202 Vice Chairman, and a second. Are there any other nominations?  
203  
204 Mr. Archer - I move the nominations be closed.  
205  
206 Mr. Emerson - All in favor say aye. All opposed say no. The ayes  
207 have it; the motion carries. Mrs. Jones will reign as the Vice Chairman of the  
208 Commission for the 2008 calendar year. Mr Jernigan.  
209  
210 Mr. Jernigan - Mr. Branin, will you come down here, please sir?  
211  
212 Mr. Branin - Oh, goodness.

213  
214 Mr. Vanarsdall - Gift time, Mr. Branin. Speech time, too.  
215  
216 Mr. Jernigan - On behalf of the staff, and the Planning Commission,  
217 and everybody here, we want to thank you for your year of leadership. This is a  
218 small token of our appreciation. Thank you and it's a pleasure working with you,  
219 sir.  
220  
221 Mr. Vanarsdall - We don't usually give two gifts. What's that, two?  
222  
223 Mr. Branin - I'm a big guy. Well, I would like first to thank all my  
224 fellow Commissions for putting up with me, and helping me and guiding me  
225 through. I've only been on the Commission now for three years. This is now  
226 going on my fourth. The wisdom that I gained from you guys and Mrs. Jones has  
227 helped, I think, lead the County and definitely lead me hopefully in doing a good  
228 job as the past Chairman. As to Mr. Jernigan, good luck. I'll be at the end. If you  
229 need something, just let me know.  
230  
231 Mr. Jernigan - I appreciate that. Thank you.  
232  
233 Mr. Branin - Again, thank you.  
234  
235 Mr. Jernigan - I guess with that, we'll turn the meeting back over to  
236 Mr. Emerson.  
237  
238 Mr. Emerson - Thank you, Mr. Chairman. You are now moving into  
239 the portion of your agenda to hear the cases that remain. There are two cases  
240 remaining on your agenda, the first being C-40C-07. Before Mr. Sehl starts, I will  
241 note to you that Mr. Sehl has been the recipient of a promotion in the Planning  
242 Department. He has now moved into the Planner III slot formerly held by Mr. Lee  
243 Tyson.  
244  
245 Mr. Jernigan - Very good. Congratulations.  
246  
247 Mr. Sehl - Thank you, Mr. Chairman.  
248  
249 ***Deferred from the December 6, 2007 Meeting.***  
250 **C-40C-07** **Courtenay Fisher for Boushra and Edna Hanna**  
251 **and Donald and Shearin Whitehorn:** Request to conditionally rezone from A-1  
252 Agricultural District to R-2AC One-Family Residence District (Conditional), part of  
253 Parcels 742-773-4344 and 742-773-5604, containing 7.127 acres, located on the  
254 northeast line of Hames Lane approximately 1,550 feet north of its intersection  
255 with Shady Grove Road. The applicants propose a single-family residential  
256 development with a maximum of 12 lots, an equivalent density of 1.68 units per  
257 acre. The R-2A District allows a minimum lot size of 13,500 square feet and a  
258 maximum gross density of 3.23 units per acre. The use will be controlled by

259 zoning ordinance regulations and proffered conditions. The Land Use Plan  
260 recommends Rural Residential, not exceeding 1.0 unit net density per acre and  
261 Environmental Protection Area.

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263 Mr. Jernigan - With that, is there any opposition to case C-40C-07,  
264 Courtenay Fisher for Boushra and Edna Hanna and Donald and Shearin  
265 Whitehorn? We do have opposition. Mr. Emerson, would you explain how  
266 opposition works?

267

268 Mr. Emerson - Yes sir, Mr. Chairman. Following staff presentation,  
269 the applicant or their representative shall be allowed ten minutes to present  
270 testimony. A portion of that time can be saved for rebuttal of opposition  
271 statements. Following the applicant's presentation, the opposition will be allowed  
272 ten minutes to present testimony. Time may be waived by the Commission if they  
273 so desire, but the ten minutes for opposition is total, inclusive of all speakers.

274

275 Mr. Sehl - Thank you Mr. Chairman.

276

277 This request would rezone 7.13 acres from A-1 to R-2AC to permit a single-  
278 family residential development.

279

280 The 2010 Land Use Plan recommends Rural Residential and Environmental  
281 Protection Area uses for the subject site. Single-family use, as regulated by the  
282 proffered conditions submitted by the applicant, is consistent with this  
283 designation; however, the density proposed by the applicant is not entirely  
284 consistent with the Land Use Plan, but would be consistent with recent  
285 residential development adjacent to the subject site.

286

287 In order to ensure a quality development, the applicant has submitted proffered  
288 conditions committing to the following: Each home would have a two car garage,  
289 with 75% required to be rear or side loaded; all dwellings would have a minimum  
290 finished floor area of 2,800 square feet; no access would be permitted to Hames  
291 Lane from the subject properties; and no more than 12 homes, as shown on this  
292 proffered conceptual plan, would be permitted on the property.

293

294 These proffers are consistent with recent development immediately to the west in  
295 Hampshire South, which set the zoning pattern in this area, and should ensure a  
296 quality development.

297

298 It should be noted that concerns have been raised regarding wetlands and  
299 drainage by adjacent residents. The applicant has held several community  
300 meetings in an attempt to address these concerns. Any requirements relating to  
301 drainage and wetlands would be addressed during the subdivision process for  
302 this development. Staff encourages the applicant to continue their attempt to  
303 address these concerns regarding drainage and wetlands.

304

305 In conclusion, staff believes that the proposed development is appropriate at this  
306 location and the commitments provided by the applicant provide for a quality  
307 development in keeping with adjacent subdivisions. Staff does support this  
308 request. I'd be happy to answer any questions you might have. The applicant's  
309 representative is here as well.

310

311 Mr. Jernigan - Are there any questions for Mr. Sehl from the  
312 Commission?

313

314 Mr. Branin - Mr. Sehl, we've had how many meeting on this?

315

316 Mr. Sehl - There were three community meetings, Mr. Branin.

317

318 Mr. Branin - Three? And large outcry and fears of currently wet  
319 backyards?

320

321 Mr. Sehl - Yes sir.

322

323 Mr. Branin - And staff still feels that this is appropriate.

324

325 Mr. Sehl - The Department of Public Works believe that the  
326 drainage system proposed by the applicant, which will require the normal  
327 process for drainage review through the subdivision process, could potentially  
328 help residents in the adjacent subdivision improve their drainage situation. Public  
329 Works has been aware of the concern and therefore will focus on it during the  
330 subdivision review process to ensure that the applicant meets all of our code  
331 requirements. It's a very thorough review process.

332

333 Mr. Branin - Okay.

334

335 Mrs. Jones - May I ask you a question? The buildable area that  
336 I'm looking on our monitors.

337

338 Mr. Sehl - Yes ma'am.

339

340 Mrs. Jones - Lot 9. Can you explain to me how that will work out?

341

342 Mr. Sehl - I believe the applicant's engineer is here as well, but  
343 essentially, they're proposing to impact those wetlands, as shown, and would be  
344 required to mitigate those wetlands to construct on that lot.

345

346 Mrs. Jones - Okay.

347

348 Mr. Branin - Mr. Sehl, in Hampshire South and Millrace, weren't  
349 some of those lots mitigated when those were under construction?

350



351 Mr. Sehl - I do believe that permits were obtained for  
352 encroachments into wetlands in those subdivisions, yes sir.

353

354 Mr. Branin - And in our community meetings, weren't those people  
355 dissatisfied or felt that there was injustice done with that neighborhood because  
356 of the wetland issues that they are currently facing every day?

357

358 Mr. Sehl - I can speak to this situation where the Corps of  
359 Engineers has gone out and they've actually issued a confirmation of the wetland  
360 delineation for this property. There have been different discussions regarding that  
361 confirmation. Those impacts are typically handled at the subdivision phase. At  
362 this time, we have not heard a large concern from the Department of Public  
363 Works that it can't be administered in its normal process.

364

365 Mr. Branin - Okay. Mr. Chairman, I'm going to want to hear from  
366 the applicant.

367

368 Mr. Jernigan - Okay.

369

370 Mr. Branin - And then we also have opposition after the  
371 presentation.

372

373 Mr. Jernigan - Are there any other questions for Mr. Sehl from the  
374 Commission?

375

376 Mr. Archer - I think I may have some, but I'll wait until the  
377 presentation is done, Mr. Chairman.

378

379 Mr. Jernigan - Okay. Could we hear from the applicant, please?

380

381 Mr. Axselle - Mr. Chairman, ladies and gentlemen, Bill Axselle. I'm  
382 here on behalf of the applicant. I would like to reserve five minutes of my time. I'll  
383 try to hit these issues in three different buckets, if you will.

384

385 This property was part of the Bridlewood Subdivision that was developed in 1983  
386 as lots that were 5- to 10-acre lots. Since 2000, there have been five different re-  
387 zonings in the area—two of which are identical to this—and all of them are going  
388 to R-2A. So, the land use of R-2A, which is being requested here, has been  
389 approved by the Commission and by the Board of Supervisors in five different  
390 cases over the last few years. So, I really don't think the question is the land use.  
391 The proffers that are before you, as staff indicated, assure a quality development.  
392 I handled one of their other cases and I will tell you that these proffers are  
393 tougher than those, and that's fairly typical and probably good as you go through.  
394 I will be glad to discuss the land use zoning aspect, but I think the real issues are  
395 two others.

396

397 One is that—and this deals with the water runoff, water situation on the  
398 properties of Millrace and Hampshire. The concerns have been—and I am a  
399 substitute for Mr. Condlin. I was not in the neighborhood meetings; Jennifer  
400 Mullen was, and she and Dan Caskie with Bay Design are here and can address  
401 those issues with a little more detail on rebuttal. One of the issues was that the  
402 rear of those lots and the rear of these lots do, in fact, drain in an area where  
403 there could be a pooling impact. The question was whether it would pool  
404 on the new lots or pool on the old lots. So, two commitments have been made by  
405 the applicant—and we state this knowing we're on the record and this is what  
406 we'll have to do at subdivision time. As Ben said, normally these issues are not  
407 addressed at zoning; they're addressed at the subdivision stage. But we tried to  
408 reach out and give certain assurances. We made two assurances in that respect,  
409 that the homes that will be built on this property of the zone will have all of their  
410 downpour areas connected underground to an underground utility. In other  
411 words, it will not just run off, it will go and be captured and taken off on the  
412 drainage utility system off the property and put in the normal system. That's  
413 helpful for these lots. But for the existing lots, we have made a commitment and  
414 have prepared a conceptual plan to that affect—that Mr. Caskie can get into—  
415 that we will collect the water that comes on our property from Millrace,  
416 Hampshire, Hampshire South. Whatever comes on there, we will collect that as  
417 well as the water on our property and direct it off the property through the same  
418 type of system, using swales and so forth. We say that, but the plan has to be  
419 formally designed and approved by the County. But the commitment is that for  
420 water runoff on existing lots and our lots, it will be taken care of and disposed of  
421 in a proper fashion as approved by the County during the subdivision phase.

422  
423 The second issue that has come up is wetland mitigation. As was indicated, it is  
424 fairly typical in these situations to have a wetland mitigation requirement. Again,  
425 while it's usually part of the subdivision phase, Bay Design has gone and worked,  
426 and the Army Corps of Engineers has done the wetland delineation. In other  
427 words, that's already been done and a letter has been obtained from the Army  
428 Corps of Engineers saying what the wetland delineations are. We will have to live  
429 with that. I understand that maybe some of the neighbors are not as comfortable  
430 with that, but I will tell you that we've gone through the process of doing the  
431 fieldwork and submitting it to the Army Corps of Engineers. They have done their  
432 work and they have approved it. So often the developers don't like the wetland  
433 delineation by the Army Corps of Engineers, but they have to live with it. I think  
434 we all have to live with it, quite frankly, whether it be developers or neighbors.

435  
436 That's part of our commitment on those, on what I think will be the two main  
437 issues, the second being the wetland mitigation and the other being the water  
438 runoff on existing lots. I'd like to reserve the rest of my time. If you have any  
439 technical engineering questions, I think Mr. Caskie is in a little better position  
440 than I to answer those when that time comes. Thank you.

441

442 Mr. Jernigan - Are there any questions for Mr. Axselle from the  
443 Commission? Did you want to hear from Mr. Caskie?  
444

445 Mr. Branin - I think we'll let Mr. Caskie hold off until the reserve  
446 time that Mr. Axselle has.  
447

448 Mr. Jernigan - Would you like to hear from the opposition, then?  
449

450 Mr. Branin - Absolutely.  
451

452 Mr. Jernigan - Ma'am, would you come down please? State your  
453 name for the record.  
454

455 Ms. Swart - Can I have someone hand these to you?  
456

457 Mr. Jernigan - Sure.  
458

459 Ms. Swart - First, good evening ladies and gentlemen. My name  
460 is Margie Swart and I live at 11069 Old Millrace Terrace, which is Lot 12 on the  
461 Millrace Concept Plan before you.  
462

463 I'm not new to this process, as I have attended and participated in many city  
464 council meetings and planning meetings in my previous town before moving to  
465 my current home in the far West End of Henrico County almost four years ago.  
466 So far, I'm delighted to see that these meetings appear to be a lot more civil than  
467 where I came from.  
468

469 Locally, I have attended numerous neighborhood meetings regarding different  
470 POD applications and other rezoning applications. Fortunately, they have all  
471 been withdrawn before they got to this stage. So, even though I'm a new face to  
472 most of you, I am not a new face to Mr. Branin, Mr. Sehl, or—I don't see Mr.  
473 Coleman.  
474

475 With that, I'll just move right on to the reasons why I think this application should  
476 be denied. Requirement Section 19-51, which is the Preliminary Plat  
477 Requirements, and Section 19-52, the Application for Approval of the Henrico  
478 County Code, have not been met. I have an exhibit to show why.  
479

480 Mr. Branin - Ben, can you also retain one of those and put it up on  
481 the screen?  
482

483 Ms. Swart - Section 19-52 states that the preliminary plat shall  
484 clearly show the following. Letter F: should clearly show any streams on the plat  
485 map. The picture attached to this exhibit is a stream that borders the rezoning  
486 application. The applicant titles it, *Non-Tidal Wetlands*. I think it should be more  
487 accurately described as a stream. Now, the County has designated this an

488 intermittent stream. I disagree with that as it does flow year round. My guess is  
489 the applicants would tell you that it does flow year round.

490

491 The second reason I think you should deny this, if you're not convinced because  
492 of the first one, is the Army Corps of Engineers has documented that they believe  
493 a mistake may have been made in the wetland delineation confirmation letter,  
494 and that they need to make another site visit to address the possible error. I  
495 have the e-mails from the Army Corps of Engineers that clearly state that after  
496 the date that the confirmation letter was sent out that there is quite possibly a  
497 mistake on this map. There are three pages there. The first two explain why she  
498 thinks she may have made a mistake with the designation. The third one was  
499 yesterday morning and states that she has not made the return visit to the site to  
500 review her first study.

501

502 The wetland delineation map that was submitted to the Army Corp of Engineers  
503 was misrepresentative of the wetland boundaries that were surveyed, flagged,  
504 and recorded as documented on the concept map dated August 16, 2007 and  
505 the compiled plat showing the subject properties dated August 10, 2007. The  
506 concept map that you have before you is a second map, concept map that was  
507 done by Bay Design. As you will see on the first one that was done, there are  
508 wetlands delineated on the map that aren't present on the map that is currently  
509 submitted with their application. Please compare the Bay Design conceptual plat  
510 dated August 16<sup>th</sup>, that clearly shows additional wetlands on the site, as does  
511 another survey map from Bay Designs that shows the entire two properties.

512

513 The third sheet is the map that was submitted for the wetland delineation permit  
514 or confirmation. As you will see, the wetlands that were surveyed and confirmed  
515 by the applicant's own engineering firm were not designated on the map that was  
516 submitted to confirm the wetlands on the site.

517

518 The application is not in compliance with the Chesapeake Bay Act and Federal  
519 Clean Water Act. What this picture shows on this exhibit is the first picture  
520 shows the big 15-foot concrete culvert with the four pipes that the perennial  
521 stream—in my estimation—flows into this pond that's on the adjacent property. If  
522 you go to the tab, the purple tab on here under the Chesapeake Bay Act—non-  
523 tidal wetlands associated with lakes, ponds, and other impoundments—either  
524 way you look at it—whether you want to call it a perennial stream or not—both  
525 require a 100-foot buffer on not just the pond, but also the stream and the  
526 wetlands.

527

528 Through previous leapfrog zoning, Hampshire now consists of more than 250  
529 homes. Sidewalks, trails, open space, tot lots, or other neighborhood amenities  
530 simply do not exist. This is a larger view of all the Hampshire neighborhoods that  
531 I don't believe you received on the application. This neighborhood just keeps  
532 going and going and going. It currently has over 250 homes and you can't find  
533 an open space or a common space in the whole neighborhood. Hampshire—I'm

534 sorry. In Millrace, we have 35 homes and we have more so-called common  
535 space—even though it's all wetland swamp, it's designated common area—than  
536 those entire 250 homes.

537

538 This rezoning would have a negative impact on drainage in the Millrace  
539 neighborhood. The wetland impact areas would create isolated wetland areas on  
540 lots in Millrace and Hampshire, impeding much of the nature surface runoff.  
541 What I'd like you to look at on this exhibit—I love this map. Someone at the  
542 County did this for me. Didn't do it *for* me but helped me out with it. That shows  
543 a better relationship to the pond and the stream.

544

545 Now, the applicant had mentioned that this is exactly like other rezoning requests  
546 and we all know no two rezoning requests are exact and identical. I believe it's  
547 mentioned somewhere in the application that the stream was used as a boundary  
548 for the other rezoning requests, but if you will notice where my note is, notice the  
549 buffer on the other lots. That stream has—Well, you can see I don't know how far  
550 it is, a couple hundred feet, a hundred feet, fifty feet; I don't know what it is. But  
551 the lots with that rezoning are farther away from the stream. I also highlighted  
552 my lot where I am in Millrace. If you see, the whole back portion of my lot is  
553 designated wetlands. If this rezoning request is approved, the applicant is  
554 suggesting that they will impact the wetlands right there at the corner of my  
555 property. It will create a mess. I have a pretty good streambed, if you will, that  
556 runs through there when we get some heavy rain.

557

558 Mr. Emerson - Ms. Swart, you are over your 10 minutes.

559

560 Ms. Swart - Okay. I have one more argument, but I hope I don't  
561 need it.

562

563 Mr. Branin - I'd like to request that Ms. Swart have another two  
564 minutes.

565

566 Mr. Jernigan - Okay.

567

568 Ms. Swart - Thank you. The final reason that I don't believe you  
569 should grant this request is impacting wetlands to place a home has proved  
570 detrimental to at least one adjacent property owner. A lawsuit with the builder  
571 was initiated, and other time-consuming and costly measures were needed to fix  
572 problems created by such a large wetland impact. I have an exhibit for that, if  
573 you'd like to see that.

574

575 Mr. Branin - What was the exhibit again, please?

576

577 Ms. Swart - The exhibit for that is a home inspection sheet that  
578 was done on a lot that's adjacent not to the Hanna property, but to the Whitehorn  
579 property. I must say—I counted them the other day. There are probably at least

580 a handful of Millrace lots that back up to the Whitehorn property that all have  
581 wetlands on the back. They're farther up on the Whitehorn property, but  
582 nonetheless, they are properties that have been rezoned. This inspection sheet  
583 talks about the standing water. Based on your photograph, there is standing  
584 water very close to the house. In conclusion, there is a major problem with water  
585 at the back of the house which is adjacent, abuts this property that's requesting  
586 rezoning. This water may cause settlement of the foundation and rotting of the  
587 floor framing. The drainage issues should have been corrected before a permit  
588 was issued to build this house. Extensive work will now be needed to control the  
589 water at the back of the property. It is essential that drainage work be completed  
590 in order to prevent settlement of the house foundation.

591  
592 Real quickly. I had seven of these pictures and I don't know if you can see it  
593 from here, but this is a home that my husband and I owned 10, 12 years ago.  
594 This was three years after we had lived in this home. We didn't experience any  
595 water or drainage problems in our home until an adjacent development was built.  
596 After three years, we had quite a bit of damage to our basement. Fortunately for  
597 us, the developer realized some mistakes were made. They came in and put a  
598 whole new French drain system around our home. Insurance paid for, of course  
599 took care of the damage to our finished basement, but I still had the headaches  
600 and the time that something like this caused. I tell you that just so you will see  
601 and hear why I took so much time and money, and I'm so passionate about this  
602 case. Thank you.

603  
604 Mr. Jernigan - Mr. Sehl, could we see those photographs?

605  
606 Mr. Branin - Mr. Sehl, I'm going to ask a question that, Ms. Swart,  
607 you may know as well. The County has just received from the Corps the new  
608 floodplain map. Are you familiar with it?

609  
610 Ms. Swart - I know it's just down off Barnsley a little bit that is a C-  
611 1.

612  
613 Mr. Branin - My question was—and I may need help from Mr. Sehl  
614 or Ms. Moore—in this proposed rezoning is there any floodplain, and if there is, is  
615 there any floodplain that actually touches the wetlands? Mr. Sehl?

616  
617 Mr. Sehl - Mr. Branin, I have not pulled up the map since the  
618 floodplain maps were adopted. I could get that answer for you, but I don't have  
619 that right now. I don't believe so.

620  
621 Mr. Branin - Okay.

622  
623 Ms. Swart - The floodplain is off this map, but it is contiguous with  
624 this stream and the wetlands.

625

626 Mr. Branin - But these properties are not—  
627  
628 Ms. Swart - No, they are not.  
629  
630 Mr. Branin - —actually in—  
631  
632 Ms. Swart - These properties are not in the floodplain.  
633  
634 Mr. Branin - Okay, thank you.  
635  
636 Mr. Glover - Is this considered wetlands or a floodplain?  
637  
638 Mr. Emerson - I believe that's wetlands, Mr. Glover.  
639  
640 Mr. Glover - There is no floodplain attached to this?  
641  
642 Mr. Emerson - According to our review from Public Works, I don't  
643 recall any floodplain.  
644  
645 Ms. Swart - According to my talks with the Chesapeake Bay  
646 people at CBLAD, the document I gave you that's a number of pages that should  
647 be included with the 100-foot buffer, a vegetated buffer and be left as-is, many  
648 counties, including Henrico, were not applying the rules and the regulations and  
649 the guidelines properly. That's why they came up with this document on I believe  
650 it's dated July 17<sup>th</sup>. My first initial with them was back at that time and he said,  
651 "You know, I just came from a meeting with Henrico County and we went over  
652 these guidelines and procedures."  
653  
654 Mr. Jernigan - Mr. Branin, do you have any more questions?  
655  
656 Mr. Branin - Not for Ms. Swart. Ms. Swart, thank you so much for  
657 your presentation.  
658  
659 Mr. Jernigan - Are there any more questions for Ms. Swart?  
660  
661 Mr. Archer - Ms. Swart, could you tell us, in Exhibit 4, does that  
662 condition exist all the time?  
663  
664 Ms. Swart - This one? All the time.  
665  
666 Mr. Archer - That was not following a rain or anything.  
667  
668 Ms. Swart - No, this was just taken on Saturday, January 5<sup>th</sup>, as  
669 were—All the pictures that you have were taken since I received open—or you  
670 call it—I called it "open records" where I used to live. A FOIA was forwarded to  
671 me from Army Corps on Friday, and because of that, I went out and took some

672 pictures. Actually, I do have some pictures of wetlands, the green signs. The  
673 tape is still up that shows wetlands where they mysteriously disappeared on this  
674 most recent plat that's in front of you. I don't know if you noticed how they show  
675 on the first plat that I gave you dated August 16<sup>th</sup>. I actually have pictures with the  
676 green signs and the tape. I don't know where they went. What I see what  
677 happened is because they weren't included on the application to the Army Corps,  
678 when she came out she didn't walk that portion. She said she drove up Hames  
679 Lane to the Hanna property and walked the property down, but never went to  
680 Peavey Street. She said, "Looks like I need to come out to Peavey Street and  
681 access the property through that street." But of course they're coming out to  
682 confirm wetlands that are delineated on a map. Those wetlands weren't shown  
683 on the applicant's map.

684  
685 Then back to the August 15<sup>th</sup> map we had a neighborhood meeting and  
686 expressed all these concerns about wetlands, and water, and drainage, and then  
687 what do they do? They come back with this most recent map and put a house on  
688 Lot 9 and impact—I mean if a plat's going to be approved, my recommendation is  
689 to at least approve the first one. It's a better situation. Then you're not plugging  
690 up and isolating my wetlands by impacting what would be on Lot 6. I just don't  
691 understand why they came back with the map that they did.

692  
693 If you get the 100-foot buffers and the now 45-foot buffers that are now Henrico  
694 ordinance, which I understand was changed because of the problems in Millrace.  
695 Outside of my home, I have wetlands 10 feet outside of my bedroom window.  
696 Unless these wetlands went somewhere, all these houses wouldn't be able to be  
697 placed and built back there. I am just so disheartened. I'm just very saddened  
698 that unless someone who's so passionate takes the time and the energy to  
699 research this finds it out.

700  
701 Mr. Jernigan - Ms. Swart, I want to thank you for your presentation.  
702 Are there any questions for Ms. Swart?

703  
704 Mr. Archer - What was your address, Mr. Swart? I'm sorry.

705  
706 Ms. Swart - I'm at 11069 Old Millrace. It's Lot 12.

707  
708 Mr. Jernigan - Thank you, ma'am.

709  
710 Ms. Swart - You're welcome. Thank you.

711  
712 Mr. Jernigan - Mr. Branin, who do you want to hear from?

713  
714 Mr. Branin - I would say we could hear from Mr. Axselle, but I'm  
715 sure he's going to refer a lot of those to Mr. Caskie.

716  
717 Mr. Jernigan - I'm sure.



718

719 Mr. Branin - So, why don't we ask them both to come down and  
720 we'll hear what they have to see. Ms. Swart, thank you again.

721

722 Mr. Axselle - I don't know why you all thought I would defer to Mr.  
723 Caskie.

724

725 Mr. Branin - When I looked up and remembered that it was you  
726 here, I said no, no, no, we need to bring them both down.

727

728 Ms. Axselle - A couple of comments and then I will ask Dan to  
729 address the more specific. Ms. Swart should not apologize for her passion. It's  
730 her property and she should be diligent on this. We try to be diligent, too. A  
731 couple of areas of disagreement, of course. We don't see any violation of  
732 Chesapeake Bay. We do think the designation the County has given is  
733 appropriate. But most importantly I think her real issue is the floodplain and  
734 whether the floodplain designation was done right. I haven't seen the exhibit, but  
735 I accept her word that the Army Corps of Engineers may have made a mistake  
736 and they want to look at it. And they should. We have no objection to that. They  
737 should look at it and determine it. We will have to accept it; she'll have to accept  
738 it. The fact is that—two things. One, this is appropriate land use, appropriate  
739 zoning. It's the same zoning that they have on all of their property, the adjacent  
740 property. Two, we'll have to comply with all the County, and State, and Federal  
741 requirements when it comes to wetlands, floodplains, and those types of things.  
742 That's normally done at a subdivision stage. I think her passion will, in fact,  
743 ensure that you—has heightened the County's awareness and our awareness.  
744 We've been heightened in our awareness. We try to do these things. But it will  
745 have to continue on as we go through the latter stages of this phase. With that, I  
746 would ask Dan maybe to address some specifics from her comments.

747

748 Mr. Caskie - Good evening. I'm Dan Caskie with Bay Design  
749 Group. Should I just go through the laundry list that I wrote down, or do you have  
750 questions of me?

751

752 Mr. Branin - Mr. Jernigan, I'm sure he has a laundry list, so I don't  
753 have any questions.

754

755 Mr. Jernigan - All right, let's hear it, Dan.

756

757 Mr. Caskie - Okay. There seem to be a revolving questions  
758 regarding the wetlands and how we established those. Typically, what we do,  
759 and what has been used for a number of the neighborhood meetings, was one of  
760 our early sketches. We take that from the County GIS. We use the County topo  
761 and we ballpark wetlands kind of as a worst case before many of our wetlands  
762 folks go out there. We do our layouts based on that. That's what was used with  
763 one of the original neighborhood meetings and that was the sketch that you saw

764 up there with the wetlands that run up the side next to Peavey Street. Sometime  
765 during that process, we saw that the wetlands were coming into question and  
766 that they were pretty tight, so we decided to go ahead—the developer actually  
767 decided to go ahead and have our person flag the wetlands and get the Corps  
768 out there. What she does is she goes and flags, does borings, puts flags on the  
769 trees, and sends all of this information, a packet, to the Corps, and the Corps  
770 assigns somebody. It was Elaine Holley. Elaine then set up a meeting with our  
771 girl, Katie Perkins, and she and Katie went out there and walked the property.  
772 Actually, Elaine added some wetlands to the property, added some wetlands to  
773 the flagging that Katie had done.

774  
775 To say that the Corps rep didn't really look at the property I think is inaccurate.  
776 The property is bounded by privacy fencing on three sides, and then we have the  
777 wetlands down at the bottom. It's very easy. It's only a 10 or whatever, 10- or  
778 12-acre parcel, however large it is. It's very easy to figure out where you are on  
779 the property and it only takes about 20 minutes or so to walk it. It's not like  
780 they're out in the middle of a 200-acre parcel. Elaine Holley is pretty savvy about  
781 missing wetlands. She doesn't typically miss those. We have a confirmation, a  
782 Corps confirmation. We believe it's correct and that's what we go with. Until we  
783 hear something differently, that's what we go with.

784  
785 The wetlands that are shown on this exhibit are field located wetlands. It's a field  
786 boundary. All the lots are computed so it's a lot tighter than you typically even  
787 see, at zoning time anyway. There was a question regarding whether or not this  
788 was an RPA. It's not an RPA. The RPA stops on a subdivision, I checked the  
789 subdivision plats. It stops down on Millrace Creek at Hampshire Section 3. It  
790 does not come up. It doesn't come up through Hampshire 4. It simply doesn't  
791 continue up the stream. It's not around the pond. This is not an RPA wetland.  
792 Robin Wilder has been out there and determined the same.

793  
794 There was a question regarding open and common space. There actually is quite  
795 a bit of open and open common space in the Hampshire's and Estates of the  
796 Hampshire. We did those subdivisions, so I happen to know that. Also, we have  
797 a fair amount of common area in this subdivision, considering the number of lots  
798 that we have.

799  
800 Let's see, the drainage issue. All of the lots in Millrace and Hampshire South  
801 drain towards us and Hampshire. Actually, we gave Mr. Branin a quick drainage  
802 map of how we felt like we could adequately handle the drainage. We intend on  
803 picking up their drainage, and really it's the drainage coming from these folks'  
804 lots. It's coming from their houses. It's actually coming from the roads, the  
805 house, the roof drains, when they backwash their pools—all of that water is  
806 coming down towards our property. We intend on picking that up with swales  
807 and actually a pipe system with inlets that runs along the perimeter of Millrace  
808 and Hampshire. We believe that along Hampshire South, we can handle that  
809 with some swales, but if we need an additional inlet or two back there, we can do

810 that. One of the reasons that Millrace has drainage problems is because they did  
811 not run any hard-pipe system back there. They just graded it all to us and let it  
812 go. We intend on fixing that out of necessity, because we don't want all of our  
813 folks being flooded as well.

814  
815 She made a comment about one of the adjacent lots in Millrace having  
816 foundation problems. Actually, that lot I believe she's talking about, there were  
817 two or three lots right there that are on top of where a large sediment pond was.  
818 It could be that they didn't compact that thing correctly.

819  
820 I guess that's everything that I had written down. Are there any questions? I'll be  
821 happy to answer anything.

822

823 Mr. Branin - Mr. Chairman, I have a couple.

824

825 Mrs. Jones - And I have a couple.

826

827 Mr. Branin - Dan, Robin Hamlin came out?

828

829 Mr. Caskie - Robin Wilder.

830

831 Mr. Branin - Wilder rather? Isn't there a scale that they do that it's  
832 so many points?

833

834 Mr. Caskie - There is, there is. I'm not an RPA expert, but I do  
835 know that it's extremely unusual to have an RPA downstream, and then no RPA,  
836 and then an RPA above that, which is what would be the case if she determined  
837 that there was an RPA on us. There is no RPA on the pond downstream or  
838 anything as you go all the way down. Actually, it's 100 feet off Millrace Creek  
839 and that's it. It doesn't come up this. There's a swale that runs all the way up to  
840 us, a drainage relief that runs from us all the way down to Millrace Creek. The  
841 RPA does not follow that up towards us. It stops 100 feet up the swale.

842

843 Mr. Branin - Okay.

844

845 Mr. Caskie - I have the subdivision plats, copies of those here, if  
846 you want to see those.

847

848 Mr. Branin - All right. I have no further questions.

849

850 Mrs. Jones - I have a few, if you don't mind.

851 Mr. Caskie - Sure.  
852  
853 Mrs. Jones - Dan, I honestly almost feel as if I'm listening to a  
854 debate here. I'm trying to absorb the information I'm getting in a lot of this. I've  
855 heard that the representative has not been out to the site and needs to have  
856 more time to evaluate for the Corps. You're telling me it's all done, and there's  
857 an approval letter, and it's a finished thing.  
858  
859 Mr. Caskie - We do have an approval letter and Ben has a copy of  
860 that.  
861  
862 Mrs. Jones - Looking at these e-mails, is there not an intention for  
863 Elaine Holley to go back out and re-walk the site?  
864  
865 Mr. Caskie - She does intend to come out there and look at a  
866 specific area.  
867  
868 Mrs. Jones - So we really don't have the bottom line yet.  
869  
870 Mr. Caskie - Maybe not.  
871  
872 Mrs. Jones - That's one thing. Secondly, the RPA, and you're  
873 talking about the 100-foot buffer with that. Upstream from that. Obviously,  
874 skipping around with having it, not having it, and then having it doesn't make a lot  
875 of sense, but it could be related to topography, could it not?  
876  
877 Mr. Caskie - Typically it isn't. I have never seen an RPA start and  
878 stop like that.  
879  
880 Mrs. Jones - Well clearly I'm not an engineer, that's why I'm asking  
881 you.  
882  
883 Mr. Caskie - And I'm not an expert on RPA's. I'm certain it may  
884 have happened, but it's pretty clear that the RPA—if it was around the pond, then  
885 I think it may be a—  
886  
887 Mrs. Jones - And Ms. Holley can make that determination, right?  
888  
889 Mr. Caskie - Excuse me?  
890  
891 Mrs. Jones - Ms. Holley would be the one to—  
892  
893 Mr. Caskie - No, Robin, Robin Wilder. That RPA is actually County  
894 controlled.  
895

896 Mrs. Jones - Okay. The common area. Again, I'm hearing from  
897 Ms. Swart that there are no common areas that really function as common areas  
898 because of the wetlands' qualities that are a part of these areas. You're telling  
899 me there are many and you've been involved with creating them. I'm just telling  
900 you the conflict I'm having here.

901  
902 Mr. Caskie - I understand.

903  
904 Mrs. Jones - The swale issue. Over in a project in my district, a  
905 swale was the solution for an area with difficult drainage. I want to know how you  
906 plan to handle this, because in that particular case, the swale as created by the  
907 developer has yet to meet the expectations of the County. The little inlets are  
908 sometimes difficult to keep in operating order and free of debris, and this kind of  
909 thing. Here, the entire system is really going to be very dependent on a smooth  
910 operation here along this property line. How can you create that so that it will  
911 work well and continue to work well?

912  
913 Mr. Caskie - Well, there are minimum slopes that the County  
914 requires on these swales. If you flatten the swales out more than what their  
915 minimum slopes are, you have to do a paved ditch. So, they do have minimum  
916 slopes and I don't know if the one that you're talking about, if they maintained  
917 those minimums or not. If you don't, you end up getting standing water and it  
918 doesn't typically flow. There is quite a bit of fall across this, from one side of this  
919 property to the other, so I feel like we can get the slope that we need to get the  
920 water to run through, which is at least 2% on swales. Also, we're going to add  
921 two or three inlets and these are going to be large yard inlets. They're not going  
922 to be the small plastic. They're going to be VDOT size inlets. A four-by-four inlet  
923 is what it's going to be.

924  
925 Mrs. Jones - Maintained by the property owners?

926  
927 Mr. Caskie - Those will actually be public inlets, I believe. I believe  
928 those will be handling public water.

929  
930 Mrs. Jones - Okay. Again, the problem foundation, you're telling  
931 me it's probably due to one cause and then, of course, there's speculation it  
932 might be due to another cause. I don't know. I'm listening to both of you and,  
933 again, I have no way to judge.

934  
935 Mr. Caskie - Really, all of the homebuilders that we're dealing with  
936 these days are getting geotechs to do some borings and make recommendations  
937 on their foundations before they build them because of past problems that other  
938 folks have had. They're not risking it anymore.

939  
940 Mrs. Jones - The very last comment I have, basically, is just a  
941 comment as to why we are getting into all of this at rezoning, as opposed to

942 having this be part of the subdivision discussion. I think there is a very important  
943 reason why, in my mind at least, and I wanted to let you know why I think it's  
944 important. The zoning density allowed on this property will be the first  
945 consideration for the eventual build-out here of this development. If we're going  
946 to allow the number of lots that are being proposed here, we need to be prepared  
947 to know what those impacts are. Fewer lots might mean fewer impacts. There  
948 are all kinds of things to consider and that's why it's within our purview now to  
949 discuss this, in my view.

950

951 Mr. Caskie - Sure.

952

953 Mr. Jernigan - Dan, the approval letter that you had is from the  
954 Corps?

955

956 Mr. Caskie - Yes sir.

957

958 Mr. Jernigan - What's the date on that? Elaine Holley hasn't been  
959 back out there. They're aware—

960

961 Mr. Caskie - She has not been back out there. She said that she  
962 was going to come back in 30 days or so. That was maybe 15 or 20 days ago.

963

964 Mr. Jernigan - But they still gave you an approval letter knowing that  
965 she had made these comments?

966

967 Mr. Caskie - She gave us a Corps confirmation and then the  
968 adjacent neighbor called I guess Elaine Holley and questioned her about it.  
969 Then, for some reason, Elaine decided she was going to come back out there.

970

971 Mr. Jernigan - Okay. So the approval letter is dated prior to her—

972

973 Mr. Caskie - That's correct.

974

975 Mr. Archer - Mr. Caskie, I have one question because I'm just  
976 terrible at reading topo maps. You indicated a while ago that the drainage would  
977 flow towards your project.

978

979 Mr. Caskie - The drainage does flow towards our project.

980

981 Mr. Archer - Okay. In looking at the zoning map, it appears that the  
982 drainage, the normal drainage flows from northeast to southwest. Is that about  
983 right?

984

985 Mr. Caskie - That's correct.

986

987 Mr. Archer - Okay.

988  
989 Mr. Caskie - Pretty much straight to the back of their lots is they  
990 way they've graded all of their lots.  
991  
992 Mr. Vanarsdall - In this photograph here, does that look like it might  
993 almost be stopped up?  
994  
995 Mr. Caskie - Isn't that the pond?  
996  
997 Mr. Archer - Yes, I think so.  
998  
999 Mr. Caskie - There's a downstream pond. It's directly downstream  
1000 of us.  
1001  
1002 Mr. Jernigan - Are you okay? Are there any other questions for Mr.  
1003 Caskie from the Commission?  
1004  
1005 Mr. Branin - I have none, Mr. Chairman. I'm ready when you are.  
1006  
1007 Mr. Jernigan - Okay. Thank you, Dan.  
1008  
1009 Mr. Branin - Ladies and gentleman that are in the audience from  
1010 the neighborhood adjacent, you know that the decision that will be made at this  
1011 hearing is not a decision that is acted upon, it's a recommendation that goes  
1012 forward to the Board of Supervisors. The Board of Supervisors make the final  
1013 decision on zoning. Okay? If for some reason this case did go forward to them  
1014 and was approved by them, it would then go to POD, which is when a lot of these  
1015 issues, as Mr. Axselle and as Dan both stated, are usually handled, in  
1016 subdivision and POD. I requested a lot of this information up front because of my  
1017 concerns in regards to your neighborhood, what the quality of this development  
1018 would be, and what the results of this development would be on both your  
1019 neighborhood and the people that are moving in blindly in the future. We say real  
1020 estate agents do a very good job notifying people, but a lot of times they don't,  
1021 which a lot of people in Millrace told me. They had no idea how wet it was until  
1022 they actually moved in. With that in mind, I'm going to move for denial of this  
1023 case, which will allow and motivate, I'm sure, Mr. Axselle and Dan to get the  
1024 Army Corps out there to prove your point. It is a recommendation for denial, and  
1025 it will give you all an opportunity to get your information together or satisfy the  
1026 neighborhood's information in that time period before it gets to the Board of  
1027 Supervisors. You may have a different outcome at the Board of Supervisors.  
1028 Mr. Chairman, I move for denial of C-40C-07, Courtenay Fisher for Boushra and  
1029 Edna Hanna and Donald and Shearin Whitehorn.  
1030  
1031 Mr. Jernigan - Do we have a second?  
1032  
1033 Mrs. Jones - Second.

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Mr. Jernigan - Motion for denial made by Mr. Branin, seconded by Mrs. Jones. All in favor say aye. All opposed say no. The ayes have it; the motion carries. The case is denied.

**REASON:** Acting on a motion by Mr. Branin, seconded by Mrs. Jones, the Planning Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **deny** the request because the proposed density and layout would have potential adverse impacts to drainage, wetlands and other natural areas.

**P-1-08 Charles H. Rothenberg for Bon Secours - Richmond Health System:** Request for a Provisional Use Permit under Sections 24-55(c), and 24-122.1 of Chapter 24 of the County Code to permit the conversion of a 30,000 square-foot retail building (formerly Ukrop’s supermarket) to medical offices. A Provisional Use Permit is required to permit an office building exceeding 15,000 square-feet of floor area in a B-1 District. The site is located on part of Parcel 745-742-8604, on the north line of Patterson Avenue (State Route 6), approximately 412 feet east of its intersection with N. Gaskins and Gaskins Roads. The existing zoning is B-1 Business District. The Land Use Plan recommends Commercial Concentration and Environmental Protection Area.

Mr. Jernigan - Is there any opposition to P-1-08, Charles H. Rothenberg for Bon Secours – Richmond Health Systems? There is no opposition. Mr. Sehl?

Mr. Sehl - Thank you, Mr. Chairman.

This is a request for a Provisional Use Permit to allow the conversion of a currently vacant grocery store into a medical office facility. The B-1 Business District requires a Provisional Use Permit for office buildings over 15,000 square feet in size. You have just received revised conditions, which incorporate one change since the issuance of the staff report.

The subject property is zoned B-1 and was previously occupied by a Ukrop’s grocery store. An aquarium store currently operates in a leased tenant space in the western portion of the building. This tenant would remain. Bon Secours is planning to lease the remaining building to operate as a medical office facility.

The medical office facilities, consisting of approximately 23,000 square feet, would be developed consistent with this layout plan which shows the internal breakdown of office space. The applicant is proposing a general practice physician’s office, an express care facility, an imaging laboratory, and a timeshare facility for physician visits.



1080 The applicant submitted this architectural elevation which shows the proposed  
1081 improvements to the façade of the building. The existing building would be  
1082 altered to provide for the courtyard shown on this elevation. Additional  
1083 architectural enhancements would also be provided.  
1084

1085 The existing structure, under the zoning regulation for shopping centers in the B-  
1086 1 District, could operate as a retail facility with no additional approvals. The  
1087 proposed use is anticipated to be less intense, and impacts to adjacent  
1088 properties should not increase with this request. Additionally, the re-use of the  
1089 vacant building and the proposed exterior improvements would provide services  
1090 not otherwise available in this area of the County.  
1091

1092 Staff recommends this request be approved, subject to conditions 1 through 9 as  
1093 provided to you this evening. Staff notes that condition number three has been  
1094 amended to further describe the condition's intent regarding landscaping and  
1095 lighting plans in order to address the concerns of adjacent residents.  
1096

1097 This concludes my presentation, and I would be happy to try to answer any  
1098 questions you might have at this time. The applicant's representative is also  
1099 available.  
1100

1101 Mr. Jernigan - Okay. Are there any questions for Mr. Sehl from the  
1102 Commission?  
1103

1104 Mrs. Jones - I have no questions for Mr. Sehl. Are there time limits  
1105 involved with the revised conditions?  
1106

1107 Mr. Sehl - No.  
1108

1109 Mrs. Jones - No, not at all. Okay.  
1110

1111 Mr. Jernigan - Mrs. Jones, would you like to hear from the applicant?  
1112

1113 Mrs. Jones - I would like him to come forward for a moment and  
1114 discuss with me a few things.  
1115

1116 Mr. Rothenberg - Mr. Chairman, members of the Commission, my  
1117 name is Chuck Rothenberg. Good evening.  
1118

1119 Mr. Branin - Good evening, Charles.  
1120

1121 Mr. Rothenberg - Chuck Rothenberg is fine, or call me Charles. I'll  
1122 answer to both.  
1123

1124 Mrs. Jones - Good evening, Mr. Rothenberg. I just wanted to  
1125 confirm that you have reviewed these revised conditions and these are all of the  
1126 things that we have discussed in terms of neighborhood input.  
1127

1128 Mr. Rothenberg - Yes ma'am. We reviewed those conditions and those  
1129 are acceptable to Bon Secours. We want to thank the residents who showed up  
1130 for our community meeting, and you, Mrs. Jones, and the staff for their input and  
1131 guidance as well.  
1132

1133 Mrs. Jones - The general timeframes for this I just wanted to  
1134 confirm. We're hoping that this could be accomplished this year. Is that what you  
1135 think?  
1136

1137 Mr. Rothenberg - The goal would be to have it up and running by the  
1138 end of this year. That's a bit of a challenge, but that would be the goal.  
1139

1140 Mrs. Jones - I certainly won't drag this out because I think we've  
1141 had wonderful reception from the neighborhood. I think they're very happy with  
1142 the use the redevelopment will bring. This is something that is certainly going to  
1143 be well used, I think, in this part of the West End. It fills a real need. Plus, Bon  
1144 Secours has offered a very attractive plan. I do want to tell you that I have had  
1145 several calls from people in the area saying how excited they were when they  
1146 heard that this was coming along. All of this makes my job really easy. Your  
1147 cooperation, your client's cooperation has led to what I hope will be a very nice  
1148 project.  
1149

1150 I know Kim Vann will be happy to hear this. The only thing that we might talk  
1151 about a little bit later is how to make that back parking lot as beneficial a situation  
1152 as we can with lighting and after-hours situations. I am quite pleased with the  
1153 layout and quite pleased with the project. Thank you for working with us.  
1154

1155 Mr. Rothenberg - Thank you.  
1156

1157 Mr. Jernigan - Are there any other questions for Mr. Rothenberg  
1158 from the Commission? There was no opposition, Mrs. Jones.  
1159

1160 Mrs. Jones - There was not, as a matter of fact. I would like to  
1161 move that P-1-08, Charles H. Rothenberg for Bon Secours - Richmond Health  
1162 Systems, be forwarded to the Board of Supervisors with a recommendation for  
1163 approval.  
1164

1165 Mr. Emerson - With conditions as suggested?  
1166

1167 Mrs. Jones - Yes sir.  
1168

1169 Mr. Vanarsdall - Second.

1170  
1171 Mrs. Jones - Revised conditions dated January 9, 2008.  
1172  
1173 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Vanarsdall.  
1174 All in favor say aye. All opposed say no. The ayes have it; the motion passes.  
1175  
1176 **REASON:** Acting on a motion by Mrs. Jones, seconded by Mr.  
1177 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend  
1178 the Board of Supervisors **grant** the request because it is reasonable in light of  
1179 the existing zoning on the property, would provide added services to the  
1180 community, and when properly regulated by the recommended conditions, it  
1181 would not be expected to adversely affect the public health, safety, welfare and  
1182 values in the area.  
1183  
1184 Mr. Jernigan - Mr. Secretary?  
1185  
1186 Mr. Emerson - Yes sir, Mr. Chairman. Mr. Chairman, the next items  
1187 on your agenda are two discussion items, one noting that the Capital  
1188 Improvement Program will be on your February agenda, and that the  
1189 Commission needs to schedule your meeting at 6 p.m. because the Manager  
1190 and his staff do come and present that document to the Commission. Our  
1191 proposal is that you would schedule at your next meeting a public hearing to  
1192 consider the FY 2008-2009 through FY 2012-2013 Capital Improvement Program  
1193 for February 14<sup>th</sup> at 6 p.m.  
1194  
1195 Mr. Vanarsdall - Mr. Secretary, does that include dinner at 5:00?  
1196  
1197 Mr. Emerson - We can work that out if you'd like that, yes sir.  
1198  
1199 Mr. Vanarsdall - We're going to put you through a test now.  
1200  
1201 Mr. Emerson - We can work that out for you, if you'd like that.  
1202  
1203 Mrs. Jones - You do realize this is Valentine's Day.  
1204  
1205 Mr. Emerson - I understand, yes. We certainly can provide dinner for  
1206 you if you'd like to come in at 5:30.  
1207  
1208 Mr. Vanarsdall - Do you need a motion to do the 6:00?  
1209  
1210 Mr. Emerson - Yes sir, we do.  
1211  
1212 Mr. Vanarsdall - All right. I move that on February 14, 2008, we set the  
1213 time of 6 p.m. for the Capital Improvement Program, the CIP presentation, and  
1214 the dinner at 5:00.  
1215

1216 Mr. Branin - Second.  
1217  
1218 Mr. Jernigan - Motion by Mr. Vanarsdall, seconded by Mr. Branin. All  
1219 in favor say aye. All opposed say no. The ayes have it; the motion passes.  
1220  
1221 Mr. Emerson - Mr. Chairman, I know that Regina Hill in my office has  
1222 been in contact with each of you regarding our next work session with the Board  
1223 of Supervisors regarding Chapters 11 and 12 of the Comprehensive Plan, as well  
1224 as the next steps in the process of reviewing that document with the public. We  
1225 did plan on doing that with the Board on January 22<sup>nd</sup>. At this time, I do not know  
1226 what time that will fall on their work session agenda. We will get that time to you  
1227 within the next week, as soon as I hear from the clerk of the Board. But it will be  
1228 on the afternoon of the 22<sup>nd</sup>. There are several items to be heard or to be  
1229 discussed in the work session with the Board that evening I believe. If I'm not  
1230 mistaken, the work session will start around 4:30. I'm not sure where we'll fall  
1231 between 4:30 and 6:30.  
1232  
1233 Mrs. Jones - Okay.  
1234  
1235 Mr. Jernigan - Okay.  
1236  
1237 Mr. Emerson - But I will let you know that as soon as we're aware.  
1238  
1239 Mr. Jernigan - All right. Are there any changes to the minutes of  
1240 December the 6<sup>th</sup>?  
1241  
1242 Mrs. Jones - I move for approval of the minutes.  
1243  
1244 Mr. Archer - I second said motion.  
1245  
1246 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Archer to  
1247 approve the minutes of December 6, 2007. All in favor say aye. All opposed say  
1248 no. The ayes have it; the motion carries. Is there any other business from the  
1249 Commission? With that, I will move for adjournment.  
1250  
1251 Mr. Emerson - Mr. Chairman, if I could.  
1252  
1253 Mr. Vanarsdall - I second your adjournment.  
1254  
1255 Mr. Emerson - One second before you adjourn. We were discussing  
1256 the APA Conference prior to the meeting. We have received informational  
1257 brochures regarding the upcoming meeting. It does run, I believe, from April 27<sup>th</sup>  
1258 through May 1<sup>st</sup>. If any of you wish to attend, we do need to know soon because  
1259 those rooms will go quickly at the conference hotel. I have requested a block of  
1260 five or six rooms be reserved for us to hold them while we're in this decision  
1261 making time.

1262  
1263 Mr. Branin - What were those dates again, Mr. Secretary?  
1264  
1265 Mr. Emerson - April 27<sup>th</sup>.  
1266  
1267 Mr. Vanarsdall - I'm going to shock everybody. I'm not going this year.  
1268  
1269 Mr. Jernigan - Well, they'll probably cancel it.  
1270  
1271 Mr. Vanarsdall - I have enough expense with a wedding coming up for  
1272 my son, and going to it, and all that.  
1273  
1274 Mr. Emerson - Mr. Chairman, with that, if anybody does wish to go to  
1275 the APA conference, please let us know. I would, again, just like to thank you for  
1276 the opportunity to serve you in this capacity, and thank you for bearing with me  
1277 tonight.  
1278  
1279 Mr. Jernigan - You did very well.  
1280  
1281 Mr. Archer - You did a good job, Mr. Secretary.  
1282  
1283 Mr. Jernigan - You did very well, Mr. Secretary.  
1284  
1285 Mr. Vanarsdall - Yes.  
1286  
1287 Mr. Emerson - Thank you.  
1288  
1289 Mr. Jernigan - All right. If there is no other business, I'll move for a  
1290 motion.  
1291  
1292 Mrs. Jones - I move we adjourn.  
1293  
1294 Mr. Archer - Second.  
1295  
1296 Mr. Jernigan - We have a motion by Mrs. Jones, and a second by  
1297 Mr. Archer. All in favor say aye. All opposed say no. The ayes have it; the motion  
1298 carries.  
1299  
1300 The meeting was adjourned at 8:16 p.m.  
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1307 R. Joseph Emerson, Jr., Acting Secretary

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E. Ray Jernigan, Chairman