

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 15, 2009. Display Notice having been published in the Richmond  
5 Times-Dispatch on December 25, 2008 and January 1, 2009.  
6

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

Members Absent: James B. Donati, Jr. (Varina)  
Board of Supervisors Representative

Also Present: Ms. Jean Moore, AICP, Assistant Director of Planning  
Mr. James P. Strauss, CLA, Principal Planner  
Ms. Rosemary Deemer, AICP, County Planner  
Ms. Audrey Anderson, County Planner  
Mr. Livingston Lewis, County Planner  
Mr. Roy Props, County Planner  
Ms. Lisa Taylor, County Planner  
Mr. Benjamin Sehl, County Planner  
Ms. Jamie Sherry, County Planner  
Ms. Kim Vann, Police Division  
Mr. Mike Jennings, Traffic Engineer  
Ms. Sylvia Ray, Recording Secretary

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9 Mr. Jernigan - Good evening, ladies and gentlemen. On behalf of  
10 the Planning staff and the Planning Commission, we'd like to welcome you to our  
11 January 15, 2009 meeting for zoning. I'd like start off tonight with the Pledge of  
12 Allegiance to the Flag.

13

14 Okay. With that, I will turn the meeting over to our secretary, Mr. Emerson.

15

16 Mr. Emerson - Thank you, Mr. Chairman. I will note that the new  
17 appointment from the Board of Supervisors to the Planning Commission is Mr.  
18 Donati. Mr. Donati is not going to be with us tonight because he does have a  
19 conflict. I'm sure he will be joining us at the second meeting this month.

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21 With that, the next thing on our agenda is Requests for Withdrawals and  
22 Deferrals. Those will be presented by Mr. Jim Strauss.

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Mr. Strauss - Good evening.

Mr. Vanarsdall - Good evening, Mr. Strauss.

Mr. Strauss - Staff is aware of one request for deferral at the moment, and that deferral is in the Tuckahoe District. That's on page 2 of the agenda. This is the request for a Provisional Use Permit in order to construct a 102-foot high flagpole style monopole telecommunications tower and related equipment. The applicant requests a deferral to the February 12, 2009 meeting.

**Deferred from the December 11, 2008 Meeting.**

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

Mr. Jernigan - Would you repeat that again, because I'm not sure everybody heard you.

Mr. Strauss - Yes. The first deferral tonight is in the Tuckahoe District. It's on page 2 of the agenda. This is P-20-08, New Cingular Wireless. This is a request for a provisional use permit in order to construct a 102-foot high flagpole style monopole telecommunications tower and related equipment. The applicant requests a deferral to the February 12, 2009 meeting.

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

Mrs. Jones - I move that P-20-08, Gloria L. Freye for New Cingular Wireless PCS, LLC, be deferred to the February 12, 2009 meeting, per request of the applicant.

Mr. Vanarsdall - Second.

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

At the request of the applicant, the Planning Commission deferred P-20-08, Gloria L. Freye for New Cingular Wireless PCS, LLC to its meeting on February 12, 2009.

69 Mr. Jernigan - Are there any other deferrals from the Commission?  
70  
71 Mr. Branin - Mr. Chairman, I have one. I would like to defer P-19-  
72 08.  
73  
74 Mr. Vanarsdall - What page is that on, Mr. Branin?  
75  
76 Mr. Emerson - That's at the top of page 2, Mr. Vanarsdall.  
77  
78 Mr. Vanarsdall - Thank you.  
79

80 **Deferred from the December 11, 2008 Meeting.**

81 **P-19-08 Brian Revere for Towne Center West, LLC:**  
82 Request for a Provisional Use Permit under Sections 24-58.2(d), 24-58.2(a), 24-  
83 120 and 24-122.1 of the County Code in order to allow outside dining and  
84 extended hours of operation for a proposed restaurant in the Towne Center West  
85 Shoppes, on part of Parcel 735-764-7344, located approximately 660 feet north  
86 of W. Broad Street (U. S. Route 250) approximately 1,200 feet west of its  
87 intersection with N. Gayton Road. The existing zoning is B-2C Business District  
88 (Conditional). The Land Use Plan recommends Mixed Use Development. The  
89 site is in the West Broad Street Overlay District.  
90

91 Mr. Jernigan - Is there any opposition to deferral of P-19-08, Brian  
92 Revere for Towne Center West, LLC? There is no opposition.  
93

94 Mr. Branin - Mr. Chairman, I'd like to move that P-19-08, Brian  
95 Revere for Towne Center West, LLC, be deferred to the February 12, 2009  
96 meeting, per Commission request.  
97

98 Mr. Vanarsdall - Second.  
99

100 Mr. Jernigan - Motion by Mr. Branin, seconded by Mr. Vanarsdall.  
101 All in favor say aye. All opposed say no. The ayes have it; the motion passes.  
102

103 At the request of the Commission, the Planning Commission deferred P-19-08,  
104 Brian Revere for Towne Center West, LLC, to its meeting on February 12, 2009.  
105

106 Mr. Jernigan - Any others? Okay, Mr. Emerson.  
107

108 Mr. Emerson - Thank you, Mr. Chairman. That takes us to the next  
109 item, which is requests for Expedited Items on the Agenda. Those will be  
110 presented by Jim Strauss.  
111

112 Mr. Strauss - Staff is aware of one expedited case for approval  
113 tonight. It's in the Brookland District on page 3 of your agenda. This is case C-  
114 2C-09, WILVAL, LLC. This is a request to conditionally rezone from R-6C

115 General Residence District (Conditional) to R-5AC General Residence District  
116 (Conditional). Detached and semi-detached homes within the planned Riverview  
117 Green age-restricted development has been proposed, and staff is  
118 recommending approval.

119

120 **C-2C-09 Sandra Verna for WILVAL LLC:** Request to  
121 conditionally rezone from R-6C General Residence District (Conditional) to R-  
122 5AC General Residence District (Conditional), part of Parcel 777-773-0724,  
123 containing approximately 6.712 acres, located approximately 450 feet north of  
124 Greenwood Road at its intersection with Forest Trace Way. The applicant  
125 proposes detached and semi-detached homes within the planned Riverview  
126 Green age-restricted development. The total number of units would remain the  
127 same. The R-5A District allows a minimum lot size of 5,625 square feet and a  
128 maximum gross density of 6.0 units per acre. The use will be controlled by  
129 zoning ordinance regulations and proffered conditions. The Land Use Plan  
130 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

131

132 Mr. Jernigan - Is there any opposition to case C-2C-09, Sandra  
133 Verna for WILVAL, LLC? No opposition.

134

135 Mr. Vanarsdall - Is there anyone here in the audience for this case,  
136 maybe you have questions or something? All right. With that, I recommend C-2C-  
137 09, Sandra Verna for WILVAL, LLC, to the Board of Supervisors for approval.

138

139 Mr. Branin - Second.

140

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

143

144 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by  
145 Mr. Branin, the Planning Commission voted 5-0 (one absent) to recommend the  
146 Board of Supervisors **grant** the request because it would permit development of  
147 the land for residential use in an appropriate manner and the proffered conditions  
148 would provide for a higher quality of development than would otherwise be  
149 possible.

150

151 Mr. Emerson - Mr. Chairman that brings us to the next item, which is  
152 your organizational meeting and the election of Chairman for the 2009 calendar  
153 year is the next item on the agenda. At this time, I normally take over for the  
154 hearing of the election of Chairman, and then turn the meeting back over to the  
155 newly elected chairperson for the election of the Vice Chairman.

156

157 At this time, I'll open the floor for nominations for the election of Chair for the  
158 Planning Commission for the calendar year 2009.

159

160 Mr. Vanarsdall - I nominate Mrs. Jones to lead us down the path this  
161 year.  
162  
163 Mr. Jernigan - Do we have a second?  
164  
165 Mr. Branin - Second.  
166  
167 Mr. Jernigan - Any other nominations?  
168  
169 Mr. Archer - I move the nominations be closed.  
170  
171 Mr. Branin - Second.  
172  
173 Mr. Jernigan - We have a motion by Mr. Vanarsdall, and a second  
174 by Mr. Branin for Bonnie-Leigh Jones to be Chairman of the Planning  
175 Commission. All in favor say aye. All opposed say no. The ayes have it; the  
176 motion passes.  
177  
178 Mr. Emerson - Congratulations, Mrs. Jones.  
179  
180 Mrs. Jones - Thank you so much. As they say, that's the last  
181 applause. Shall we stay here and conduct the election for Vice Chair?  
182  
183 Mr. Emerson - Yes ma'am.  
184  
185 Mrs. Jones - All right. That will be the first order of business here. I  
186 would like to open the nominations for the Vice Chairman of the Planning  
187 Commission for calendar year 2009.  
188  
189 Mr. Archer - Madam Chair, I nominate Ernest Vanarsdall.  
190  
191 Mr. Branin - Second.  
192  
193 Mrs. Jones - We have a nomination for Ernest Vanarsdall for the  
194 Vice Chairman, and a second. Any other nominations? I declare the  
195 nominations closed. All in favor say aye. All opposed say no. The ayes have it;  
196 the motion passes.  
197  
198 Mr. Vanarsdall, congratulations.  
199  
200 Mr. Vanarsdall - I didn't vote no.  
201  
202 Mrs. Jones - All right. Let's shuffle our seats for one moment. Bear  
203 with us, please.  
204

205 Mr. Jernigan, could you come down here, please. As he winds his way down, I  
206 want to take a moment just to thank him for his Chairmanship this year. It has not  
207 been an easy year; I don't think any of them are. And I don't think this coming  
208 one will be any exception, so I'm looking for your good counsel in the year ahead  
209 as well. I thank you for all your efforts. It's been my privilege to be a Vice  
210 Chairman for you. I wanted to thank you on behalf of the Planning staff and the  
211 Planning Commission for the time and attention [inaudible]. Thank you.

212

213 Mr. Jernigan - [Unintelligible] everybody.

214 [Laughter and applause, but no discernable talking.]

215

216 Mr. Branin - They wouldn't let me, Ray. [Unintelligible] and I said I  
217 would give [unintelligible], and they wouldn't let me.

218

219 Mr. Vanarsdall - What was it?

220

221 Mr. Jernigan - [Unintelligible.]

222

223 I'd like to say that this is my second time as being Chairman. We have a very  
224 fine staff and Commission, and probably the greatest people [unintelligible].  
225 [Blank.] I appreciate [unintelligible] so much.

226

227 [Blank.]

228

229 Mr. Vanarsdall - Ray, you did a good job.

230

231 Mr. Jernigan - Thank you, Ernest. I'm not though yet, hold on.

232

233 Mrs. Jones - He couldn't believe there was anything more than a  
234 Red Lobster.

235

236 Mr. Jernigan - [Unintelligible] last year. Well, that's beautiful.

237

238 Mr. Vanarsdall - What is it?

239

240 Mr. Jernigan - It's a clock that has my name engraved on it. E. Ray  
241 Jernigan, Chairman, Planning Commission, Henrico County, 2008. Thank you so  
242 much.

243

244 Mr. Vanarsdall - I told you, you did a good job. The last time I— they  
245 gave me a necktie. To hang myself.

246

247 Mr. Branin - Mr. Jernigan, they just gave a gift certificate to  
248 McDonald's.

249

250 Mrs. Jones - Well, thank you again. I want to thank the  
251 Commission for the [unintelligible]. We've been wondering about this, and it's  
252 Madam Chairwoman, I guess. But I will go by anything that's polite and nice, so.  
253 I do want to thank you for the opportunity, and I look forward to a good year for  
254 the Planning Commission. Again, we are so grateful to the staff for all the work  
255 that they do for us, and also very grateful to the citizens. Looking out there at the  
256 numbers of you who have braved the cold to come on out and participate tonight  
257 is incredibly gratifying. I want to thank you whether you are in favor or not in  
258 favor; you're here. That's a very important part of how this County works. I thank  
259 you for the effort that you took.

260  
261 All right, folks, I guess we will move into our meeting. I will turn the meeting over  
262 to our secretary, Mr. Emerson.

263  
264 Mr. Emerson - Yes ma'am, Madam Chairman. We have five cases  
265 left to be heard.

266  
267 **Deferred from the December 11, 2008 Meeting.**

268 **P-7-08 Gregory S. Tully for Diamond Communications,**  
269 **LLC:** Request for a Provisional Use Permit under Sections 24-95(a)(3), 24-120  
270 and 24-122.1 of Chapter 24 of the County Code in order to construct a 134' high  
271 monopole telecommunications tower and related equipment, on part of Parcel  
272 804-702-0772, located on the north line of Midview Road approximately 1,075  
273 feet east of New Market Road (State Route 5). The existing zoning is R-3 One-  
274 Family Residence District. The Land Use Plan recommends Suburban  
275 Residential 1, 1.0 to 2.4 units net density per acre.

276  
277 Mrs. Jones - I'd like to ask if there anyone here in opposition to this  
278 case. All right, thank you. We'll have presentation by staff, and then we'll discuss  
279 the opposition.

280  
281 Mr. Sehl - Thank you, ma'am.

282  
283 Diamond Communications is requesting to construct a cell tower up to 134-feet in  
284 height at the Anirav Swim Club. The parcel is approximately 7.9 acres and is  
285 zoned R-3. Single-family residential developments are located to the south and  
286 east. Also to the south is property recently rezoned for a Tuckaway Day Care  
287 facility. To the west, between the subject site and Route 5, is the proposed North  
288 James Estates in this location.

289  
290 The tower and the affiliated ground equipment would be placed toward the center  
291 of the site and would meet all Code-required setbacks from adjacent properties.  
292 The ground equipment would be placed within a 2500 square-foot lease area.

293  
294 As shown on this elevation, the applicant proposes a 130-foot monopole with a  
295 lightning rod extending to the maximum of 134 feet in height. All antennas would

296 be placed within the monopole structure, and the facility would be accessed via  
297 an easement along the parcel's eastern edge.

298

299 The 2010 Land Use Plan recommends Suburban Residential 1 uses for the site.  
300 The 2010 Plan acknowledges the growing and changing need for communication  
301 services, and makes limited provision for towers around residential areas if other  
302 alternatives have been exhausted; however, the County's tower siting policies  
303 strongly discourage new towers in residential areas, and call for any such towers  
304 to have minimal visual impact. The applicant's request is not entirely consistent  
305 with these policies, and area residents have expressed opposition to this  
306 proposal.

307

308 Internally-mounted antennas would not be seen, and the structure's lower half  
309 would be obscured by trees; however, as shown by this picture taken during a  
310 recent balloon float, the tower's upper portion would extend well above  
311 surrounding trees, making it visible from several vantage points in the  
312 neighborhood, as well as from Route 5. In addition to discouraging new towers  
313 from locating in residential areas, the 2010 Plan also strongly discourages  
314 communication towers within 1,400 feet of Route 5 unless they use a suitable  
315 stealth design.

316

317 In addition to providing a "slick stick" tower design, the applicant is also  
318 proposing to wrap the portions of the tower above the tree line with a vinyl wrap  
319 containing a camouflage pattern, as shown here. Therefore, while the proposed  
320 tower would be located approximately 1,200 feet from New Market Road, the  
321 combination of stealth technologies could meet the intent of the siting policies  
322 regarding Route 5. However, staff does note that even with the stealth  
323 technologies proposed by the applicant, there is the potential for visual impact to  
324 the Route 5 corridor from the tower.

325

326 While the applicant has taken several steps to reduce the visual profile of the  
327 proposed tower, given the close proximity to residential areas, this proposal is  
328 not compatible with surrounding properties and could set a negative precedent  
329 for future tower requests. Staff does not support this request. If the Planning  
330 Commission deems this request appropriate, staff has prepared and distributed  
331 potential conditions for the proposed tower to you this evening. These conditions  
332 are generally consistent with those placed on other communication towers in the  
333 County, and address items such as maximum height, discontinuance of use,  
334 building permit applications, Federal Aviation Administration required lighting and  
335 marking, transfer of ownership, landscaping, and co-location opportunities.  
336 Condition 14 has been provided to address the vinyl wrap proposed by the  
337 applicant in this request.

338

339 This concludes my presentation. I will be happy to try to answer any questions  
340 you might have at this time.

341



342 Mrs. Jones - Does anyone have any questions for Mr. Sehl?  
343  
344 Mr. Jernigan - Mr. Sehl, Condition #14—which we discussed before  
345 the meeting—talked about changing that from having a certified person to go out  
346 and check to see if the wrap is holding up. I believe usually one of our inspectors  
347 can see that. It means we have the right to get them to go out there and fix it if  
348 there is a problem, so I just want to get that changed.  
349  
350 Mr. Sehl - Yes sir. The way the condition is crafted at this time,  
351 the Director of Planning can request that any repairs necessary to the vinyl wrap  
352 could be made within a certain timeframe, that's listed in the condition.  
353  
354 Mr. Jernigan - Exactly. All right. I know that by Code you can't  
355 support this case. When was the last time that the cell tower conditions were  
356 upgraded?  
357  
358 Mr. Sehl - In 2000, I believe.  
359  
360 Mr. Jernigan - It was the first time they came out, and they haven't  
361 been adjusted since.  
362  
363 Mr. Sehl - That was when the Comprehensive Plan was updated  
364 for the wireless technology element of the Comprehensive Plan.  
365  
366 Mr. Jernigan - So, technology has come a long way in the last eight  
367 years.  
368  
369 Mr. Sehl - Yes, there certainly is a different demand for those  
370 types of communications than there were at that time.  
371  
372 Mr. Jernigan - Okay. I don't have any more questions.  
373  
374 Mrs. Jones - I do have a quick question. Mr. Sehl, are there any  
375 illustrations here of the vinyl wrap actually on any structure?  
376  
377 Mr. Sehl - We have several pictures that have been provided by  
378 the applicant. Some of them are more where there was a treeline located where  
379 they started wrapping the facility, and then the tower is located here. The  
380 pictures with a similar camouflage to this request, which is intended to blend with  
381 the sky versus trees or other ground cover, are a little darker and a little bit more  
382 difficult to see, the pictures that were provided to us. This is the tower, and then  
383 this is what they wrapped it in. This is a little bit more difficult to see. There are  
384 some pictures that we found on the website. It's not a type of technology that the  
385 County has seen anywhere on a tower here.  
386

387 Mr. Jernigan - Madam Chairman, one thing. We have opposition to  
388 this case tonight. If we should have to extend over the ten minutes, can we have  
389 five extra?  
390  
391 Mrs. Jones - For opposition, as well as—  
392  
393 Mr. Jernigan - Well, from both sides, yes ma'am.  
394  
395 Mrs. Jones - Yes, I think that would be fine. If there are no more  
396 questions for Mr. Sehl, Mr. Secretary, could you talk about our rules for  
397 opposition in public hearings?  
398  
399 Mr. Emerson - Yes ma'am. The Commission rules and regulations  
400 regarding time limits in public hearings are as follows. The applicant is allowed  
401 ten minutes to present the request, and time may be reserved for responses to  
402 testimony. Opposition is allowed ten minutes to present its concerns.  
403 Commission questions do not count into the time limits, and the Commission may  
404 waive the limits for either party at its discretion.  
405  
406 Mrs. Jones - So, we added five minutes to each side.  
407  
408 Mr. Jernigan - Yes ma'am.  
409  
410 Mrs. Jones - Would you state your name?  
411  
412 Mr. Tully - Yes ma'am. Just making sure I have my presentation  
413 loaded up. Okay.  
414  
415 Mrs. Jones - Okay.  
416  
417 Mr. Tully - Good evening, ladies and gentlemen of the Planning  
418 Commission. Madam Chairwoman, Mr. Jernigan, good to see you again. And  
419 welcome to the additional members that I have not met. My name is Gregory S.  
420 Tully. My address is 7308 Coca-Cola Drive from Hanover, Maryland—long trip  
421 this evening. I'm here representing the interests of Diamond Communications,  
422 LLC, and peripherally, AT&T Wireless, nTelos, and Verizon, all of whom are  
423 supporting this application. In lieu of Mr. Sehl's excellent staff report, I'm going to  
424 go through these slides rather quickly, and then hand over my presentation to  
425 Ms. Gloria Freye.  
426  
427 The history associated with the development of this site is a long one. As such,  
428 I'm going to just touch on a few highlights. In the first community meeting that  
429 was held associated with this application was on June 23, 2008. At that time,  
430 Diamond proposed a 150-foot monopine telecommunication tower, somewhat  
431 different than the proposal you see before you this evening. That application met  
432 with some resistance from the community. During the next really ten months,

433 and two other community meetings, as well as five additional balloon tests, we  
434 worked on a proposal that would attempt to meet the concerns of the community,  
435 and attempt to come up with a compromise that would mitigate the visual impact  
436 without losing the service benefit of the site.

437

438 The concerns that were raised at that meeting, in order are the notification of the  
439 meeting itself, the justification of the site selection process, the protection of the  
440 natural buffer and the trees around the proposed tower, the visibility from Route  
441 5, proximity to homes, and lightning concerns. As far as notification goes, for the  
442 second and third community meetings we increased the number of notifications  
443 to every property owner within 1,500 feet to get a better sampling in the  
444 community response. As far as the site selection process, I'll go through that in  
445 just a moment. The protection of the natural buffer and the trees was dealt with  
446 by the entrance into a contract between the pool and Diamond to preserve all the  
447 tree cover around the tower such that it will not be removed. The visibility from  
448 Route 5 we dealt with in the lowering of the tower height from the 150 feet that I  
449 mentioned to 130 feet, and changing of the design from monopine to the slick-  
450 stick with the wrap as was mentioned. Proximity to homes, we are double the  
451 tower height, as we're 300 feet from the closest residential structure. Lightning,  
452 the tower is grounded by copper grounding in the ground, so that will not be an  
453 issue.

454

455 Alternate sites that we looked at. This is a tax map of the area with a number of  
456 different parcels identified. If you look at parcels two and nine, both parcels were  
457 examined and have been developed as residential properties. Parcels three and  
458 four are owned by the Vail family. The Vail family was not interested in leasing  
459 space for this development. Parcel number five is owned by the Vulcan  
460 Properties. The Vulcans were also approached and were not interested in a  
461 tower location on their parcel. Parcel seven and six, which are given some size,  
462 are also being developed for residential use. As you can see, Diamond did  
463 examine, and the carriers have, over a long period time, examined other  
464 possibilities for the location of this parcel, and we came back with Anirav  
465 because it was the best remaining spot.

466

467 What we have next I'm sure you've seen before in tower cases. These are our  
468 radio frequency propagation studies. As I mentioned, this application is  
469 supported by not one, not two, but three wireless service providers, all of whom  
470 have a similar need in this area. That need is for improved wireless coverage.  
471 That need is for improved in-building penetration, which is a new level of  
472 coverage that consumers are desiring wireless in their homes for use of their  
473 phones, and wireless Internet in their house; and capacity such that towers that  
474 have too many calls them at any one point need to be off-loaded, which is a little  
475 bit different than coverage. For Verizon Wireless, this is a propagation study  
476 without the proposed tower. The second map shows the increased green, good  
477 signal service within the target area. AT&T Wireless has also provided  
478 something similar. A different [unintelligible], the blue and the dark green.

479

480 Finally, this next series of displays are the photo simulations that were produced  
481 by Diamond as a result of the five different balloon tests that I spoke about. You  
482 saw the results of the balloon tests in Mr. Sehl's presentation. What we have  
483 here is a unipole tower at 130 feet digitally inserted into the pictures with the  
484 color paint scheme at the top. These views that you're going to see here are  
485 predominately from the Route 5 corridor, as well as the entrance to the pool. This  
486 file has some additional pictures from adjoining properties.

487

488 This is the first view from the entrance to the pool. There you will see behind the  
489 treeline of 60 or 70 feet, the top 30 or so feet of the telecommunications  
490 structure. As you can see in the diagram there, no external antennas, no  
491 triangular arrays. This is very cylindrical without any appurtenances off the tower.  
492 The next view is from the Route 5 corridor, address 1500 Midview Road. Again,  
493 you can see the top portion of the tower that is blended somewhat into the  
494 skyline.

495

496 The final shot I have here is an existing tower. This is not what we're proposing,  
497 but I offer it into the presentation as an example of how far the business and  
498 infrastructure development in wireless communication has evolved since the time  
499 this application has been filed. This is an existing tower owned by Alltel, also in  
500 the Route 5 corridor about two miles from the proposed site. As you can see,  
501 very, very different in its impact on the corridor. In general, it is a lattice-type  
502 tower with five triangular antenna arrays that are off a portion of the tower. Just  
503 as an example of where we have been in this business, and with this application,  
504 hopefully you can see where we were going with more community-friendly  
505 designs.

506

507 With that, I'm going to sit down and let Ms. Freye take over. Thank you.

508

509 Oh, one final thing. What I have here to submit to the Planning Commission is a  
510 petition that has been circulating at the pool with 215 names in support of the  
511 tower. Thank you.

512

513 Mrs. Jones - Thank you, Mr. Tully. Would you have any idea of  
514 how much time?

515

516 Mr. Emerson - Yes ma'am. I have approximately nine minutes. Mrs.  
517 Jones, I neglected to ask if you'd like to reserve some time.

518

519 Ms. Freye - Yes ma'am, if I can, I would reserve a minute. If I  
520 need all of it, I'll take it.

521

522 Good evening, Madam Chairwoman and members of the Commission. I'm glad  
523 to be here. My name is Gloria Freye. I'm an attorney with McGuireWoods on  
524 behalf of nTelos, who is the anchor tenant proposed on this facility. We

525 appreciate the thorough report that Mr. Sehl has given, and his explanation that  
526 staff cannot support this facility because it does not comply with all of the  
527 County's goals and objectives. I do note and recognize, as Mr. Jernigan has,  
528 that these telecommunication policies were adopted February 1, 2000, and a lot  
529 has changed in the wireless industry since then. As you can see from the image  
530 that was left on the screen, that's the kind of facility that those policies,  
531 guidelines, and regulations were drafted to regulate. Today's applications are  
532 shorter. You have stealth design monopoles, you have antennas concealed, and  
533 you have heights as low as they can be and still try to give the service objective.

534  
535 Now, all of these changes have been made in sensitivity to the residential  
536 neighborhoods that the companies are trying to serve. But even the current  
537 policy says that there needs to be a balance between the needs of an adequate  
538 telecommunication infrastructure, as well as sensitivity to residential  
539 communities. And so the question before you this evening is exactly that  
540 question of balance. Do the factors of this case—the low height, the concealed  
541 antennas, the sky camouflage wrap, the distance from Route 5, the distance from  
542 houses, the mature trees that screen it on property that's not developed  
543 residentially, it is a recreational facility—balance and mitigate the visual impact,  
544 and balance with the need that the citizens have for reliable wireless service to  
545 an estimated 2,245 customers? That's the estimate for nTelos, AT&T, and  
546 Verizon. They are trying to serve those customs in this area, customers who rely  
547 on their cell phones because they've given up their landlines, they need the  
548 phone service because they have businesses in their homes and they have  
549 customers that they need to stay in contact with, they want to stay in contact with  
550 their children because of after-school activities and other family members, and  
551 they may be a part of the 64% of the people in Henrico County who use wireless  
552 cell phones to make 911 calls.

553  
554 There are folks here this evening who support this application; there are also  
555 some folks who are opposed. It is impossible to please everyone; there are no  
556 perfect sites. It's not unusual for some people in our society to be impacted for  
557 the benefit of others. Nobody wants a fire station beside their house. They'll  
558 even object to schools near their homes. But these are necessities, and they are  
559 things that serve the public. Similarly, the public needs good reliable cell phone  
560 coverage, and this stealth design pole will have minimal impact.

561  
562 Unfortunately, this [unintelligible] is in residential, which is why the policies  
563 discourage that. But Henrico County has approved telecommunications on R-  
564 zoned land before. For example, the Fairfield Recreation Center on Beulah  
565 Road. That's also a neighborhood swim club. The facts there are very similar to  
566 this Anirav site. The property there was zoned residential like Anirav. The  
567 zoning around it was all Residential, like Anirav. The pole is a slick-stick design  
568 with the antennas concealed inside, like Anirav. It's surrounded by trees, like  
569 Anirav. And here that pole is 140 feet tall, whereas this one will be 130. To  
570 further mitigate the view, the applicant has agreed to provide the sky camouflage

571 wrap on the portion above the treeline. So, the question does come down to  
572 visual impact on residences. But the visibility of this pole at Anirav is no greater  
573 to the residents here than the visibility to the residents at the Masonic Lodge, or  
574 at Fairfield Recreation Center.

575

576 I'll try to get to the next part. Ben, how can I get to the next one?

577

578 What I'd like to do is to show you some slides. The visual on the left is the height  
579 of the tower above the homes on Treva Road, which was at Fairfield Rec. If you  
580 estimate that, it's about an inch. If you look at the house that's next to Masonic  
581 Lodge, it's a little higher. And this is the visibility of the height from the homes on  
582 Dan Street. This is the house at Dan Street and Anirav Lane. The balloon is  
583 where the arrow shows it, about the same distance above the treeline—actually  
584 less—than what I previously showed you. Here is a house on Dan Street with a  
585 view from the east. Again, about an inch from the treeline.

586

587 With these photographs, the visibility from the homes is either less than or no  
588 greater than what's already been approved by the County in residential areas.  
589 As for visibility from Route 5 and general public, there is a letter from the Varina  
590 Beautification Committee that has been submitted to the file where that  
591 committee does not oppose this facility, and says that it is passably acceptable.

592

593 The County goals call for adequate provision of telecommunication infrastructure  
594 that minimizes impacts on adjacent uses. This proposed facility does that.  
595 Another County goal is to ensure adequate provision of telecommunication  
596 infrastructure that will support economic growth and public safety. This facility  
597 promotes those goals, and we ask that you recommend approval.

598

599 We'll respond to questions, if you have them. We also have about five folks in  
600 support who would like to speak. Then, at the end, I would like the folks who are  
601 in support to stand. But we'll let the presenters go first.

602

603 Mr. Emerson - Ms. Freye, you have two minutes.

604

605 Ms. Freye - Thank you. Mr. Bergemann?

606

607 Mr. Bergemann - Madam Chairwomen and gentlemen, my name is  
608 George Bergemann. I'm a resident of 6907 Dan Street, directly across the street  
609 on the slide that's on the screen. Obviously, I can see the balloon as I walk in my  
610 front door and my side door. I had visited the tower that's currently in the swim  
611 club over on Beulah Road, which is a little higher than what this is proposed to  
612 be. I saw the American Legion, which was just recently completed. Personally, I  
613 do not have a problem from the standpoint of visibility where I live. I do have a  
614 problem when I use my cell phone and I'm dropped. Nothing's been mentioned  
615 about wireless laptops, but I was dropped four times in five hours this morning.  
616 You use a laptop and you get dropped because you don't have the proper—The

617 maximum bars I could get were three. I should be getting five with the tower. My  
618 home is strictly cell phones. My wife has Verizon, and I have SunCom She had  
619 a sickness problem—this has been about 2003, 2004—trying to call 911 on both  
620 cell phones and were dead. It was foggy that night. I had to go to 7-Eleven  
621 about a mile away and use a pay phone to call 911 for them to come and fetch  
622 my wife and take her to Chippenham. I am supporting this proposal. I see no  
623 reason from the standpoint of visibility what the problem is. Thank you for your  
624 time.

625

626 Mrs. Jones - Thank you, Mr. Bergemann. Questions? Excuse me.  
627 Ms. Freye, how many folks are coming up?

628

629 Ms. Freye - You have Stokes, this lady, and [inaudible].

630

631 Mrs. Jones - The time is up. I would be amenable to granting an  
632 extra few minutes, but folks need to summarize.

633

634 Mr. McCune - I'll summarize.

635

636 Mrs. Jones - Okay.

637

638 Mr. McCune - Madam Chairman, members of the Board, my name  
639 is Stokes McCune. I live at 1024 Oakland Road, which is at the corner of  
640 Oakland and New Market Road in Varina. I have changed cell service from  
641 nTelos to Verizon. I still have to sometimes stand on a chair in my home to pick  
642 up my Internet connection for my laptop for my business. I'm a business owner  
643 out of my home. My cell service has gotten a little bit better, but it was atrocious  
644 in that area from probably Oakland Road maybe a little bit further west, to past  
645 Herman Street. All calls are normally dropped in that area multiple times with my  
646 business, also with my wife. There are several elderly residents in the area, also  
647 folks with children. I restate that most people are moving toward cell phone  
648 service, and using cell phones now. And it is a public safety issue. So, I think it  
649 benefits the area and the neighborhood as a better impact for everyone there  
650 and all concerned. Thank you.

651

652 Mrs. Jones - Thank you. If any of the Commissioners have  
653 questions as these folks are talking, I hope you'll speak out.

654

655 Ms. Fenner - Good evening. My name is Connie Fenner. I'm an  
656 independent contactor; my husband is a local business owner. We live within  
657 one mile of where the tower is proposed. In today's economy, it's essential for us  
658 to be able to do business with clients at any time. Today, a business model  
659 of 9 to 5 is a thing of the past. Varina area business owners and residents need  
660 to be able to telecommunicate while inside their homes. As the mother of small  
661 children, I can tell you it is not feasible to stand outside and talk to a pediatrician  
662 at 1 a.m. in the morning. The current Varina cellular network cannot handle the

663 sophistication of today's technology. Cell phones are becoming a necessary tool  
664 for e-mail and Internet access. Applications are not accessible in our area for the  
665 Internet or e-mail. Even the best Verizon provider, which is the most expensive  
666 in the market, only works 65% to 70% of the time. That is not acceptable. The  
667 tower will expand the opportunities for area residents and business owners to  
668 achieve more affordable communications, expand our options for Internet that fits  
669 all our needs, and it'll offer us profitable relationships with our customers and  
670 clients with whom we need to communicate. Please give us the approval to move  
671 Varina's wireless communication into the 21<sup>st</sup> Century. Thank you.

672  
673 Mrs. Jones - Thank you, Ms. Fenner.

674  
675 Ms. Freye - Mrs. Jones, that finished up presenters, but I would  
676 the supporters that are here to just stand. Thank you.

677  
678 Mr. Jernigan - Ms. Freye, I have a question for you.

679  
680 Ms. Freye - Yes sir.

681  
682 Mr. Jernigan - I've never heard this from you before, but the  
683 combination of the four carriers, how many people does that service in this  
684 district?

685  
686 Ms. Freye - Yes sir. The estimate is 2,245 that would be served  
687 by this facility. Those are the existing customers that they would be servicing.  
688 There are also looking at the development of Tree Hill, which would be another  
689 2,000 residences that will be developed there that would be served as well.

690  
691 Mr. Jernigan - Okay. Thank you.

692  
693 Mrs. Jones - All right. We have opposition to this case. What I  
694 would suggest is if you would like to come and express your opposition, please  
695 come on down to the front row so it's easier to get back and forth to lectern. If  
696 you do come on up and speak in opposition, I would ask that you be concise with  
697 your comments, and try not to repeat something that's already been discussed  
698 so that we can understand all of your concerns. Okay? Somebody want to start  
699 off?

700  
701 Ms. Norman - Madam Chairwoman and members of the Planning  
702 Commission, my name is Joanne Norman. My husband and I live at 1516  
703 Midview Road. We've lived there for 41 years. We are located approximately  
704 180 feet from the Anirav club pool. We also own three properties on Dan Street,  
705 which is adjacent to the pool property. We greatly oppose this cell tower. All the  
706 guidelines from Henrico County have been pointed out, and that there is a large  
707 subdivision that will shortly bring even more homes, as North James Estates has  
708 been approved. This property is west of the pool property. Once this property is



709 developed, they'll be encircled on three sides by homeowners. Another guideline  
710 states that towers should not be built within 1,400 feet of State Route 5. It's a  
711 historical landmark. However, this proposal is only approximately 1,075 feet from  
712 Route 5.

713

714 Most recently, community meetings were held on December 8, 2008, and  
715 January 8, 2009. At these meetings, pictures were shown to reflect how the  
716 tower would be seen from some vantage points. These pictures were somewhat  
717 disturbing as to how the tower would truly appear. All pictures were from a great  
718 distance showing what seemed to be a tower was above a treeline. There were  
719 no more pictures showing a closeup of a tower with the fencing, utility sheds, and  
720 service roads.

721

722 I have no problem with advancing communication, and I welcome improvements  
723 in my neighborhood and community. But the problem is with the installation of  
724 this tower in a populated neighborhood, and in my backyard. Based on the  
725 proposal, this tower would be approximately 150 feet from our property line and  
726 the service road would run right along the property line. We were told that trees  
727 would provide a buffer; however, most of the trees in this area are pine trees, and  
728 tall pine trees only have foliage at the top, and do not provide the camouflage  
729 effect at the base. Also, during the installation of the tower, many trees would  
730 have to be removed. Therefore, this would delete the buffer zone, and when  
731 there is no foliage, it would make the view of the tower more visible.

732

733 I and my neighbors enjoy our yards and our homes. I'd hate to see years of hard  
734 work be downgraded by the construction of a cell tower, guide wires, supporting  
735 utility buildings, fencing, and a service road. We believe that a cell tower would  
736 reduce our property values as future homebuyers would hesitate to purchase a  
737 home with this tower in their backyard. During the community meetings, two  
738 people stated that their cell phones failed during their travels on Midview Road  
739 and Route 5. As I have stated, I live there, and have used my cell phone to call  
740 California and North Carolina, as I have family members that live there.  
741 Currently, there is a cell tower located on Laburnum Avenue approximately a  
742 mile and a half southeast of my home. I also live three miles east of the city, and  
743 I have experienced no problems with a cell phone, and I'm with Verizon.

744

745 Basically, the only persons in favor of this request are members of the Anirav  
746 Swim Club pool. They are not interested in the communication aspect, but for  
747 financial gain. The swim club only operates three months during the years, and  
748 the majority of the members do not live in the proposed area. I consider this a  
749 selfish proposal because it shows no regard for the effects it would have to the  
750 surrounding property owners.

751

752 At every meeting that we have attended, the property owners were met with a,  
753 "it's a done deal," no matter what was discussed. We were jeered, humiliated,  
754 and insulted. I, as a homeowner, want to protect my property and neighborhood

755 from being gobbled up by businesses, communication towers, and such. I ask  
756 you to think about it, how would you approach this situation if it came to your  
757 neighborhood or to your backyard. I hope the Planning Commission will listen to  
758 the opposition's voice of the surrounding neighborhood, and deny this request for  
759 a cell communication tower. Thank you for your time.

760

761 Mrs. Jones - Thank you, Ms. Norman. Questions?

762

763 Mr. Dabney - My name Dabney, Theodore Dabney. After I listened  
764 to the people talk at the last meeting on December the 11<sup>th</sup>, it was suggested that  
765 there would be a feasibility study done in reference to the 70-foot tower  
766 concerning the impact of the top of the tower in our residential area. In reference  
767 to the divider, as far as our house is concerned, my house is very close to this  
768 tower that they're going to put up. I've fought for this country, and I have been  
769 wounded very severely because of the fighting. Now, I have been in Henrico  
770 County, and I have lived there for over 30 years. And where I live in Henrico  
771 County, I've been there since 1970 in this community. It is a wireless community.  
772 Not wireless, but underground. Our telephone lines, and even the FiOS lines for  
773 communication. That line that is underground supporting life, machines that I'm  
774 hooked up at night because of the wounds I suffered in the war. Now, the  
775 structure of that is not consistent with the County's existing underground wiring.  
776 By putting this tower up above, I can see this tower right from my house. As far  
777 as this tower, and the energy, and the loss of the power for our cell phones and  
778 telephones and things, we don't have that, as my neighbor spoke. We don't  
779 have that in our area. And where they're getting that from, I don't know, as far as  
780 cell phones. We have had no problems as far as that is, as far as cell phones  
781 are concerned. We have no communication problems whatsoever in our  
782 community. I don't know why our community was selected for this specific thing.  
783 In our community, we have no problem as far as communication. If I had  
784 problems with communication, or a problem as far as power is concerned, I  
785 would be the first to stand up and tell you that because I'm clamped down to  
786 machines at night to keep me breathing and have communication in order to be  
787 able to communicate with people. As I say, I [unintelligible], and I'm plugged into  
788 this. This is a conspiracy; that's all this is. This is about money. I also have  
789 pictures, if you would like to look at what the trees look like.

790

791 Mrs. Jones - Thank you, Mr. Dabney.

792

793 Mr. Dabney - Thank you.

794

795 Ms. Turner - Good evening. My name Jean Turner. My husband  
796 and I are the closest neighbors to Anirav Swim Club. We are right at the corner  
797 where Anirav Lane goes back to the Anirav Swim Club. And, of course, we are  
798 opposed to the building of this monopole on the Anirav property. I'll try to  
799 condense it. We've talked a lot about the impact of a structure like this on a  
800 residential community. Then I want to also get into the fact that the Henrico

801 Planning Commission report dated April 29 of 2008 identified several points, one  
802 of which shows that this provisional permit for the pole is inconsistent with the  
803 goals, objectives, and policies set forth in the Land Use Plan. Some of these  
804 things are incompatible with surrounding land uses, visual impact, and areas  
805 zoned for residential use. Those are three things that were mentioned in the April  
806 2008 Planning Commission report.

807

808 Another thing that hasn't been talked about very much is the historical  
809 preservation point. That's another thing mentioned in the Land Use Plan, the  
810 proximity to scenic Route 5. I don't think we've addressed that fully yet. If we  
811 allow this to be constructed, we are not consistent with the plans for Route 5. If  
812 we allow that to continue on, little by little, gradually we're going to lose the  
813 character of scenic Route 5, and we will not be doing our generational duty.

814

815 One thing that will affect us probably more than anybody else is the increased  
816 use of Anirav Lane. Now, when Anirav Lane was gravel, it was quite dusty in dry  
817 weather. We put in a huge hedge to try to protect our yard from the regular traffic  
818 that goes in and out during the summer. So, it's going to be used all year now by  
819 several vehicles who are going to have to come and service this. Even if it's only  
820 three or four trucks, it's going to increase the use of Anirav Lane, which will affect  
821 our quality of live.

822

823 Years ago when the pool was proposed, before it was even built, the people who  
824 were planning the pool came to us and asked our permission to put that lane  
825 right there on the edge of our property, with the promise that it would only be  
826 used for pool business in the summer. And they've been real good with this; I'll  
827 have to say that. They've kept their word—up to now.

828

829 Then phone service. I agree with the resident that spoke that said they've had  
830 no problem with their phone service. We use cell phones. We use them on a  
831 regular basis, and they haven't failed us yet. So, I don't know what people are  
832 talking about with dropped calls.

833

834 There's another point I wanted to make, and Joanne touched on it a little bit. It's  
835 on representation of these committee members for the citizens. I've attended a  
836 couple of meetings in the last few months, and also attended a community  
837 meeting at Varina High School, in which the Diamond Corporation presented  
838 their material. Up to that time, I believe that the role of the County official was to  
839 solicit input from all citizens impacted by a new proposal before they made a  
840 decision. I expect officials to facilitate discussions between the various opinion  
841 holders in a neutral way without injecting their own personal opinions until the  
842 time came to actually make the final decision. That hasn't been my experience.  
843 Never. I've been to meetings. It was very apparent to me that everything had  
844 been discussed in advance, and decisions had been made before I even had a  
845 chance to express my opinion. So, I've been real disappointed with that. I would

846 like to see us get back to the part where County officials actually served the  
847 citizens, and not make decisions without the citizens' input.

848

849 We were discussing the daycare. That decision was already made before we  
850 had a chance to present our opinion.

851

852 In the discussion about the pole last week, the County officials were in favor of  
853 the pole construction, even argued with adjacent property owners who were  
854 insulted in a way that caused the citizens holding the opposite view to cheer and  
855 clap. I never been in a meeting before, a democratic meeting, where I had been  
856 [unintelligible] and opposing people cheered and clapped because of something  
857 that was expressed in opposition to my idea. So, I'm hoping that my negative  
858 impression will improve, and that our County decision-making process changes  
859 where this committee gives fair consideration to the residents and demonstrates  
860 this by voting no to the proposal under consideration tonight.

861

862 Mrs. Jones - Ma'am, I'm sorry, I didn't get your name. Would you  
863 mind—

864

865 Ms. Turner - Jean Turner.

866

867 Mrs. Jones - Thank you very much.

868

869 Mr. Jernigan - Ms. Turner, can I ask you something before you sit  
870 down, please? Get back up to the mike; we're taping. The cars that you're  
871 talking about, you realize that those cars will only be six cars a month that'll come  
872 in that pool, that comes down that road.

873

874 Ms. Turner - Right. I understand.

875

876 Mr. Jernigan - Well, they said the night at the meeting it may be  
877 twice a month, it may be once a month, but there's three carriers. So, we're  
878 looking at probably six cars in thirty days.

879

880 Ms. Turner - Right.

881

882 Mr. Jernigan - Okay.

883

884 Ms. Turner - Well, I guess we're just so overwhelmed with traffic on  
885 Midview Road that our little lane is also going to have more traffic. You can sit in  
886 the backyard, and you're not aware of Midview Road, the hundreds of cars now  
887 go by. So, now the little lane is going to have traffic on a regular basis.

888

889 Mr. Jernigan - I know that you don't think I've given you fair  
890 representation. You've made that clear to me. After our first meeting, and I told  
891 you all that I instructed Greg Tully to find another location for this tower, if I had

892 been in the bag like everybody thinks, why did I do that? I would have just went  
893 ahead and approved it. So, we did try to find another location for this. They went  
894 to Tarmac, they went to other properties. There's just nowhere else out there  
895 that is able to take the tower. That's the reason we had to defer this case for  
896 seven months for them to look into that.

897

898 Ms. Turner - I guess I was suspicious enough I thought you were  
899 deferring it so we would lose interest and quit coming to the meetings and voicing  
900 objections.

901

902 Mr. Jernigan - No, I don't do that. I instructed Mr. Tully to send out  
903 412 letters to the residents around there so that I could get everybody in there to  
904 get their opinion on this. We don't work that way. All of our Commissioners, we  
905 all have neighborhood meetings before any zoning case and every provisional  
906 use permit. Okay, thank you, ma'am.

907

908 Ms. Turner - Thank you.

909

910 Mrs. Jones - There are two minutes, I believe. Correct?

911

912 Mr. Emerson - I have approximately four.

913

914 Mrs. Jones - Okay.

915

916 Mr. Emerson - Because we added a couple of extra minutes.

917

918 Ms. Crisman Richardson - My name is Amanda Crisman Richardson, and I live  
919 at 1608 Midview Avenue.

920

921 Mr. Branin - Would you repeat your last name one more time?

922

923 Ms. Crisman Richardson - Crisman Richardson. I am a new resident to this little  
924 neighborhood. My husband and I have only lived in our house there for two  
925 years. Before that, we lived in the city, in the Museum District, as a matter of fact,  
926 where, basically, rezoning cases didn't come up because everything's set,  
927 everything's there. So, within the two years we've lived here, we've now been to  
928 two of these. This is interesting for me to be even a part of that. I am on the other  
929 end of the age spectrum. I, in fact, do not have a landline in my home. I have two  
930 young children, and my husband works for himself. Yet, I'm still opposed to this  
931 tower. The reason is the aesthetic mood it sets toward my neighborhood, and  
932 from Route 5. The aesthetic of having such an industrial looking structure right in  
933 the heart of where you live sets a precedent for anybody turning onto Midview  
934 Road, anybody going down Route 5 and the look we are trying to achieve.

935

936 Just down Midview, there's a subdivision called Midview Farms, owned by Ryan  
937 Homes. When we first moved, and we first looked at our home, those houses

938 were going for \$300,000. The sign today was in the 220's. So, there's already  
939 impact from what's going on that has nothing to do with an ugly tower sitting at  
940 the entrance to your road. And now you've added an ugly tower. That is a  
941 perception that buyers who might purchase your home are seeing. And that is  
942 the perception given to the neighborhood. Now, there are people from the pool  
943 who are here to support it. What would they do if this was their neighborhood?  
944 What would they do if this was their backyard? Would they be crying that they  
945 had dropped calls? There is coverage in this area. It's not a lack of coverage.  
946 It's not a rural area where you cannot get coverage at all. In fact, being a  
947 Verizon customer and living five doors down, I have five bars every time. And  
948 again, as I said, I don't have a landline. I get my Internet access through  
949 Comcast, through the cable. And then now in our neighborhood is FiOS. So,  
950 there is access in the area. There is not an absence of access in the area.

951  
952 Now, I can plainly see if there was, if you couldn't, if anything past Rocketts  
953 Landing you couldn't pick up a call, you couldn't receive calls, I could see maybe  
954 intruding on the neighborhood, and maybe breaking what these guidelines have  
955 been set for the greater good. It is going to benefit the greater good, because  
956 there is no access. There is, though. So, why break your guidelines when you  
957 are not benefiting anymore? You said [unintelligible] dropped call. So, they just  
958 happen [unintelligible] Verizon and charge it anyway. So, these are small issues  
959 that are being played out that we're [unintelligible]. We're living down Route 5 five  
960 minutes from downtown Richmond.

961  
962 That's what I have to say.

963  
964 Mrs. Jones - Thank you very much. You are right on the time limit.  
965 Thank you. Does anyone from the Commission have questions?

966  
967 Mr. Branin - I have two. Ma'am, I didn't get your name. I'm sorry.  
968 Yes. Are you a member of the pool?

969  
970 Mrs. Jones - I'm sorry. We're going to have to have you come to  
971 the microphone to speak. These meetings are recorded, and without you being  
972 at the microphone, it's inaudible.

973  
974 Ms. Fenner - I'm a long-term resident of Varina. I grew up I guess  
975 across Route 5, across the field, across Osborne from this area. When you grew  
976 up in that house, you had to stand outside to use the phone. Now I live, as the  
977 crow flies, one mile from there. I live off of Osborne.

978  
979 Mr. Branin - Thank you.

980  
981 Mrs. Jones - I'd like to know is there anyone here on the  
982 Beautification Committee?

983

984 Mr. Jernigan - They sent us a letter. Nelda didn't show up tonight.  
985  
986 Mrs. Jones - How would you like to proceed? Any questions, or  
987 should we go to the rebuttal?  
988  
989 Mr. Jernigan - I don't have any more questions. If Ms. Freye has  
990 rebuttal.  
991  
992 Mr. Vanarsdall - Mr. Jernigan, isn't this about one of the smallest  
993 towers the communication people use?  
994  
995 Mr. Jernigan - This is the minimum nTelos can work at. If this tower  
996 was to go any lower, one of the carriers would have to leave. This tower is 14  
997 feet shorter than—18 feet short than the one [unintelligible]. It's 21 inches at the  
998 top, and it's 48 inches at the bottom. It's all internal.  
999  
1000 Mrs. Jones - Ms. Freye, there is no time left; however, I do have  
1001 one or two questions. I would like you to answer very specifically the three or  
1002 four points that kept coming up in opposition. This includes the proximity to the  
1003 residences. I think people need to understand about that, about the aesthetics,  
1004 and how you would answer their questions, really, about their opposition.  
1005  
1006 Ms. Freye - All right, yes ma'am.  
1007  
1008 Mrs. Jones - In a very short time.  
1009  
1010 Ms. Freye - Yes ma'am. The way I would answer that is that the  
1011 closest house here is about 300 feet, which is similar to the distance of the facility  
1012 at the American Legion to the closest house. It's similar to the distances, the  
1013 proximity to poles in other residential areas such as the Masonic Lodge and  
1014 Fairfield Rec. It's actually a little closer at Fairfield Rec. These companies  
1015 approached this site knowing that there were challenges because of the fact that  
1016 it's zoned R, and because of the County's policy. But they approached it with  
1017 sensitivity. They recognized and tried to address each one of these policies as  
1018 best they could, and even went beyond what's ever been done in the County  
1019 before with that sky camouflage wrap. That's never even been tried in Virginia,  
1020 as far as we know. The photos that we saw are from a wrap tried in Essex,  
1021 Maryland. That was the best we could do. It's innovative. But I think it was  
1022 persuasive for Varina Beautification whose mission is really to protect historic  
1023 Route 5, and Varina, and the historic nature of it. While we didn't get a flat out  
1024 support from them, we got a passable, acceptable. They recognized all of the  
1025 things, all the changes that have been made to this to mitigate the visual impact.  
1026 They were accepting of that. They're not opposed to this. I think that they  
1027 recognize that there is a need, and how are we going to meet that need in a  
1028 residential area where there's a setback requirement of 1,400 feet. But it's not  
1029 just a setback of 1,400 feet. It's unless there's an acceptable stealth design. They

1030 see this as an acceptable stealth design. So, yes, they are setting a precedent,  
1031 but they're setting a precedent that minimizes the visual impact as best you can.  
1032 I think the applicant's done that here.

1033

1034 Mr. Vanarsdall - I have a question. Ms. Freye, what can the applicant  
1035 do that would about the buffer that Ms. Norman was talking about? She's right,  
1036 pine trees are not much of a buffer.

1037

1038 Ms. Freye - It's a densely wooded area, and you do get a lot of  
1039 foliage up a tree canopy, but you also have the depth of those woods. It's 147  
1040 feet to the closest property line with a residence. So, you have the benefit of  
1041 those woods. You're also going to have screening around the ground equipment  
1042 so that you're not going to see that. The pole is going to be blended in with the  
1043 linear shape of the treeline, and we're going to have the sky camouflage wrap  
1044 above the treeline. So, the camouflaging of the view of that pole from the bottom  
1045 to the top.

1046

1047 Mr. Vanarsdall - So, what you're saying is there are no plans for  
1048 putting any buffers back there.

1049

1050 Ms. Freye - You mean just supplement the trees? No sir, there's  
1051 no need to supplement the trees. It's a pretty densely wooded area.

1052

1053 Mr. Vanarsdall - She must know a little bit more about it than we do,  
1054 she lives there.

1055

1056 Ms. Freye - Well, sir, we respect her opinion, but the reason it was  
1057 sited where it was is so that there would be good tree coverage on all four sides,  
1058 and that the bottom of the pole, the visibility from that was not going to be an  
1059 issue.

1060

1061 Mr. Vanarsdall - Thank you.

1062

1063 Mr. Branin - Ms. Freye.

1064

1065 Ms. Freye - Yes sir.

1066

1067 Mr. Branin - Are there any guide wires?

1068

1069 Ms. Freye - No sir. This is self-supporting. It has a 20-foot  
1070 foundation.

1071

1072 Mr. Branin - There was a comment that there would be guide  
1073 wires, and I didn't see it on the—

1074

1075 Ms. Freye - No sir, there are none.



1076  
1077 Mr. Branin - Okay, thank you.  
1078  
1079 Mr. Archer - Madam Chair—Chairwoman. I'm sorry. I need to ask  
1080 a question and make an observation because all of us have to participate in this  
1081 decision. I've always been sort of intrigued. I'm looking at this picture that's in  
1082 front of us right now. I'm counting five wires that are running from some point to  
1083 another point. Does anybody know what utilities those wires carry? I guess  
1084 some are electricity, and maybe telephone lines?  
1085  
1086 Ms. Freye - Yes sir.  
1087  
1088 Mr. Archer - What about the big ones, the thick ones? I ask that  
1089 question because I'm always trying to figure out which side to come in on these  
1090 cases. In looking at those five utilities that are being carried on those wires, if we  
1091 were to approach the point in time where those five wires, or at least two or three  
1092 of them, would be replaced by a tower, it just appeals to me. I've been as neutral  
1093 on this as I can be, but I'd much rather have those wires disappear, and have  
1094 that one pole, than have to look at these wires that stretch the length of  
1095 practically every neighborhood that we go through.  
1096  
1097 Ms. Freye - Mr. Archer—  
1098  
1099 Mr. Archer - At a point in time there's this thing called the  
1100 phenomenon of habituation—you get used to it.  
1101  
1102 Ms. Freye - Yes sir. And as a matter of fact, Mr. Archer, one of  
1103 the ladies at our last community meeting made a very similar point. She does not  
1104 see the one pole in the least objectionable. What she find objectionable is the  
1105 power lines, the telephone lines, the telephone poles that run up and down Route  
1106 5, and are literally in people's front yards. So, she said compared to that, I don't  
1107 see that this is a negative impact.  
1108  
1109 Mr. Archer - I'm not saying that to try to say that I favor one side or  
1110 the other, but I'm just sort of thinking that it's some technological aspect in there.  
1111 Technology always moves forward. I would probably guess that at some point in  
1112 time, they may even do away with the monopole towers or any other kind of  
1113 towers, as soon as we can reach that point in time where there's some other way  
1114 of getting a signal. It's an observation that I've always been curious about.  
1115  
1116 Ms. Freye - Yes sir. There are others that share that observation  
1117 as well. Thank you.  
1118  
1119 Mrs. Jones - All right. Mr. Jernigan?  
1120

1121 Mr. Jernigan - Okay. Thank you, Mrs. Jones. First off, I want to say  
1122 that Ms. Norman came up—And as I apologized to them at the meeting the other  
1123 day, if I did offend anybody, I apologize. I want you do know what I said because  
1124 she said that I said it, but she didn't say what I said. I did ask the people in that  
1125 room if they wanted to be up with the rest of the world in technology or  
1126 telephone, or did they want to be in a dead zone. I did ask that question. I  
1127 apparently offended some people, to which I apologized. But I never got an  
1128 answer.  
1129  
1130 Ms. Crisman Richardson - [Off mike.] You got—  
1131  
1132 Mr. Jernigan - No, I had somebody tell me that I had insulted them,  
1133 but I never heard an answer about what—  
1134  
1135 Ms. Crisman Richardson - [Off mike – inaudible.]  
1136  
1137 Mr. Vanarsdall - You need to get up here.  
1138  
1139 Ms. Crisman Richardson - I'm trying, Mr. Jernigan, but over the rude members of  
1140 the pool, you didn't hear my answer. The community is not opposed to cell phone  
1141 towers, and there is not a dead zone right there in which this tower would cover.  
1142 That's simply not true. There is not an absence of coverage. There is coverage.  
1143  
1144 Mrs. Jones - We can't—We don't have any more time to discuss  
1145 this.  
1146  
1147 Female - I'm sorry. I'm sure [unintelligible] would say this is a  
1148 dead zone. That's simply not true.  
1149  
1150 Mr. Vanarsdall - I think Mr. Jernigan might be [unintelligible] that you  
1151 never answered his question.  
1152  
1153 Ms. Crisman Richardson - That was [unintelligible].  
1154  
1155 Mr. Jernigan - All right. We had three meetings on this. We always  
1156 have. As I explained earlier, we always have neighborhood meetings to try to let  
1157 the neighbors know what's going on, and have their input. I think that this case  
1158 has probably gone as far as it can go. I don't know if there's anything else that  
1159 the tower people can do. They started out with a monopine, which I'll agree with  
1160 you, I didn't like myself. And they needed to find something better, which they  
1161 have with cloaking that they came up with. I hadn't even seen that myself. All the  
1162 members of the Commission, one thing that we have to go by are the goals,  
1163 policies, and objectives of this County. One of them is communications. We  
1164 searched for other properties to try to find a better location, and we can't. The  
1165 number that was told me was right about 2,000 people that these things effect,  
1166 that the lines effect. Mr. Bergemann, you say there are no holes out there, but

1167 I've dropped off myself coming down Route 5, and I have Verizon. We have to  
1168 look out for the citizens of this County, and health, safety, and welfare is part of  
1169 that. I won't feel that I'm going to be doing a good job if we walk away from here  
1170 and have problems down the road. You have to remember you have Tree Hill  
1171 Farm that's going to be built in the future. It'll be approximately 2200 units there,  
1172 so I don't know how many phones are coming out there. The existing  
1173 communications we have now will only diminish. So, I've tried working this out to  
1174 satisfy everybody, but I can't. I'm going to make a motion to approve this tower.

1175  
1176 Mr. Vanarsdall - Second.

1177  
1178 Mr. Jernigan - I make a motion to approve P-7-08, Gregory S. Tully  
1179 for Diamond Communications, LLC, to send to the Board of Supervisors for their  
1180 approval.

1181  
1182 Mrs. Jones - Motion by Mr. Jernigan, second by Mr. Vanarsdall. All  
1183 in favor say aye. All opposed say no. The ayes have it; the motion passes.

1184  
1185 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.  
1186 Vanarsdall, the Planning Commission voted 5-0 (one absent) to recommend the  
1187 Board of Supervisors **grant** the request because it would provide added services  
1188 to the community and it would not be expected to adversely affect public safety,  
1189 health or general welfare.

1190  
1191 Mr. Emerson - That takes us to the next item on your agenda, which  
1192 is case C-37C-08, Caroline L. Peters for Metromont Corporation.

1193  
1194 Mrs. Jones - Mr. Secretary, let's wait just a moment here. All right,  
1195 I think they're—

1196  
1197 Mr. Emerson - All ready?

1198  
1199 Mrs. Jones - Ready to go.

1200  
1201 Mr. Emerson - Yes ma'am.

1202  
1203  
1204 **Deferred from the December 11, 2008 Meeting**

1205 **C-37C-08 Caroline L. Peters for Metromont Corporation:**  
1206 Request to conditionally rezone from R-5AC General Residence District  
1207 (Conditional) to M-2C General Industrial District (Conditional), Parcels 806-710-  
1208 8061, 806-711-6674 and 807-711-0058, containing approximately 25.251 acres,  
1209 located on the northeast line of Darbytown Road at its intersection with Acton  
1210 Street, extending to the northeast to the eastern terminus of Oregon Avenue.  
1211 The applicant proposes office use with storage for industrial equipment. The use  
1212 will be controlled by zoning ordinance regulations and proffered conditions. The

1213 Land Use Plan recommends Heavy Industry and Suburban Residential 1, 1.0 to  
1214 2.4 units net density per acre.

1215

1216 Mrs. Jones - Is there opposition to case C-37C-08, Caroline L.  
1217 Peters for Metromont Corporation? We do have opposition. All right. Thank you,  
1218 Mr. Sehl.

1219

1220 Mr. Sehl - Thank you, ma'am.

1221

1222 This request was heard at the Commission's December 11, 2008 meeting. At  
1223 that time, staff noted concerns regarding permitted uses and architectural design  
1224 and materials. Since the December Planning Commission meeting, the applicant  
1225 has submitted revised proffers, which have been distributed to you this evening.  
1226 The revised proffers address the following. Additional potentially incompatible  
1227 uses have been prohibited. In addition, the applicant has prohibited any use on  
1228 the two northern parcels subject to this request from locating within 300 feet of  
1229 any residentially zoned property. Exterior building materials for new buildings,  
1230 excluding those permitted with the temporary use permit approved by the BZA  
1231 would be limited to brick, stone, split face block or EIFS. The modular units  
1232 previously permitted by the Board of Zoning Appeals be placed on brick  
1233 foundations and made permanent prior to the expiration of the temporary use  
1234 permit. And finally, the hours of operation for retail uses on the property would be  
1235 limited to 6 a.m. to midnight.

1236

1237 The revised proffers address staff concerns as noted in the staff report and at the  
1238 December 11, 2008 Planning Commission meeting. Staff notes that a proffer  
1239 requiring areas of the property located within the 100-year floodplain to be  
1240 rezoned C-1 has not been provided. Staff encourages the applicant to commit to  
1241 rezoning these areas in order to be fully consistent with the Environmental goals  
1242 and policies of the 2010 Plan.

1243

1244 Other than this concern regarding the future rezoning to C-1, the requested  
1245 zoning and use are consistent with the 2010 Land Use Plan's recommendation of  
1246 Heavy Industry for the majority of the site, and staff supports this request.

1247

1248 I would be happy to answer any questions you might have.

1249

1250 Mrs. Jones - Questions for Mr. Sehl?

1251

1252 Mr. Jernigan - Mr. Sehl, one thing that we had discussed prior, the  
1253 property on here which we talked about going to C-1 is actually not wetlands, it's  
1254 floodplain. Correct?

1255

1256 Mr. Sehl - Yes sir. The 2010 Plan recommends that areas within  
1257 the 100-year floodplain be rezoned to C-1 Conservation District.

1258

1259 Mr. Jernigan - That's 4 1/4 acres.  
1260  
1261 Mr. Sehl - I believe it's shown here, yes sir.  
1262  
1263 Mr. Jernigan - Okay. All right. Thank you, Mr. Sehl.  
1264  
1265 Mr. Sehl - Thank you.  
1266  
1267 Mrs. Jones - Mr. Jernigan, would you like to have the applicant  
1268 come forward?  
1269  
1270 Mr. Jernigan - Yes ma'am.  
1271  
1272 Ms. Peters - Good evening Madam Chairwoman, members of the  
1273 Commission. My name is Caroline Peters, and I am here on behalf of Metromont  
1274 Corporation. First, I'd like to reserve a couple of minutes for rebuttal. Secondly,  
1275 I'm going to take a few minutes of your time, and then I'm going to have a couple  
1276 of folks that live nearby speak in favor of our application.  
1277  
1278 I just want to make about four points for you this evening. Last month, we went  
1279 through the whole presentation and you all got a background of this case.  
1280 Metromont, as you know, operates a cement plant at 1650 Darbytown Road, and  
1281 this is the adjacent 25 acres which Metromont has acquired in order to build  
1282 some support facilities. This has actually been an industrial park since the  
1283 1940's. Metromont acquired it in 2007.  
1284  
1285 Mr. Sehl touched upon some of the new proffers that were provided. Of  
1286 paramount concern are the two northern parcels. These are currently residential,  
1287 and we need them zoned M-2 in order to provide the buffer for the rest of the  
1288 site. I just wanted to go over for you that the layers of protection that we have  
1289 provided for all of the neighbors in the surrounding community. First of all, per  
1290 staff's request, we have added a proffer that specifically provides that we will not  
1291 do any activity within 300 feet of these residences up here. Secondly, we've  
1292 provided a 100-foot buffer all the way around the property where it's adjacent to  
1293 residential.  
1294  
1295 Third, I also want to mention that the Code itself has protection built in. In one  
1296 and in two, it says there are buffers of 200 and 300 feet. So, this property is  
1297 challenging from a development perspective because when we take out 300 feet,  
1298 it doesn't leave a whole lot of space to do much with. Tack onto that the fact that  
1299 there are a lot of environmental challenges with this site—RPA's, floodplain—the  
1300 folks at Metromont are left with limited options  
1301  
1302 This is a list of proffers that we are offering; I will not go through them all.  
1303

1304 As my second point, I wanted to talk about the floodplain issue. If you look at this,  
1305 the big green blob in the middle represents the floodplain. It's about 4 1/4 acres.  
1306 It's at 25% of the 17-acre property to the south. Now, Metromont, in order to  
1307 support its existing operations, they're adding some office and recreational  
1308 facilities. They're adding a parking lot. The employees now park along Darbytown  
1309 Road into an area off of Darbytown Road. They also need an area for staging of  
1310 industrial materials. Specifically, they use tractor-trailers to off load raw  
1311 materials, and upload finished goods, and move them off of the property. Now,  
1312 we have proffered that we will not do—Originally, Metromont wanted to use these  
1313 northern properties for some of their staging and storage operations. We have  
1314 proffered that we will not do any of that up here. So, taking that out of the  
1315 floodplain with a proffer was going to severely limit their ability to do that. So,  
1316 they really need some of that area beside the floodplain for some staging  
1317 operations. Now, the floodplain, you would have to go through permitting in order  
1318 to construct in a floodplain, but the operations that they're talking about, they  
1319 would be able to do in a floodplain area. You add in a proffer, and—Metromont  
1320 is very limited as to what they can do in those floodplain areas—recreational  
1321 facilities, utility lines, stuff like that. That's about it. That's the reason that we did  
1322 not add that in.

1323

1324 Also, finally, I'd like to talk about the noise issue. We had opposition last month,  
1325 and I believe those folks are here again to speak in opposition to the case. Mr.  
1326 Brydn and Ms. Karlis, they live approximately seven lots back from our property,  
1327 from Metromont's property. They have complained that there is a good amount of  
1328 noise that prevents them from doing their daily activities. I have some folks here  
1329 tonight who would like to speak in favor of this, and they actually live about four  
1330 and five lots back. They're going to speak to some of the noise issues that  
1331 they've experienced.

1332

1333 When we had a community meeting several months ago, Metromont became  
1334 aware that there was some noise concern, and have actually gone out and taken  
1335 some measures to mitigate the noise. The one thing that they have done, and  
1336 just finished the other day, is they've planted 180 Leyland Cypress trees. We  
1337 have the location of those. You see my little green dots? These are where the  
1338 trees are planted. I'm corrected; they actually come along here as well. These  
1339 are 15-gallon Leyland Cypress trees, and they're about seven feet tall right now.  
1340 There are about 170 or 180 of them out there out now. Here are some pictures of  
1341 those trees. As you can see, there's a lot of vegetation that already exists out  
1342 there. That's along the pond that's to the east.

1343

1344 Another thing that Metromont did is the light that was turned towards the  
1345 residents, once they heard that complaint, they turned that around. Also, they  
1346 have a future plan to enclose the work bays where the noise is generating from.  
1347 What they're planning on doing is roofing the work bays, and then walling in the  
1348 area. That would be a huge noise barrier, and I think that as soon as they're able  
1349 to do that, they're going to.

1350

1351 I want to make one point, and that is that this noise is emanating from an  
1352 existing-zoned property. We are not currently planning on expanding the  
1353 industrial operation. In fact, we're very limited in how much we can do to all of  
1354 the buffers and setbacks that I previously described. Therefore, I think we've  
1355 done everything that we can reasonably do to mitigate the impact of this. We  
1356 have worked with the neighbors to take measures to mitigate the impact of the  
1357 plant. Keep in mind, this plant has been there for 60 years.

1358

1359 One final point I wanted to share is Metromont's been out there working in the  
1360 area to clean up what was a blighted piece of property, and I'll just show you.  
1361 This is an aerial.

1362

1363 Mr. Emerson - You are down to two minutes. And your speakers will  
1364 count into your time.

1365

1366 Ms. Peters - Okay. Just to show you very, very briefly. This is the  
1367 plant five years ago, and this is the plant—You can see all the debris. The  
1368 [unintelligible] off. They've been using waterlines to drain water onto their  
1369 property into their wetlands. They've done a lot of work to clean up this area.

1370

1371 I'm happy to answer any questions

1372

1373 Mrs. Jones - Before you leave, let me just ask a quick question.  
1374 The revised proffers. No uses shall be [blank section on tape] on the property?

1375

1376 Ms. Peters - I think your microphone was off.

1377

1378 Mrs. Jones - That would be a plus, but hold on here. I'm here, I'm  
1379 just not talking loud enough. When you were talking revised proffers about no  
1380 uses shall be permitted on the two northern parcels within 300 feet of any  
1381 residentially-zoned property, does that include the parking of equipment trailers?

1382

1383 Ms. Peters - Yes.

1384

1385 Mrs. Jones - Thank you.

1386

1387 Mr. Vanarsdall - Ms. Peters, I'll just mention [unintelligible]. You  
1388 duplicated C and K. "C" has a crematory, and then funeral home, mortuary or  
1389 crematory.

1390

1391 Ms. Peters - Oh, okay. We can certainly fix that between now and  
1392 the Board of Supervisors.

1393

1394 Mr. Vanarsdall - I'd use K.

1395

1396 Ms. Peters - Yes, we'll eliminate the previous, "crematory." Thank  
1397 you. Anybody else?  
1398  
1399 Mr. Emerson - Two minutes.  
1400  
1401 Mrs. Jones - Two minutes total for the comments from all of you.  
1402 But we'd like your names for the record.  
1403  
1404 Mr. Lanning - Madam Chairperson and members of the Board, my  
1405 name is Robert James Lanning. This is my wife, Linda. We've lived at 5305  
1406 Eanes Lane, the property just, I guess you'd say north of Metromont. We've  
1407 been there since 1976. With Southern Stone, there was plenty of noise. Then it  
1408 was Tarmac, and then Metromont. We don't have any problem with the noise; it  
1409 used to be a whole lot noisier. It's definitely a lot cleaner. You'd have to see the  
1410 place to see the improvement of all the concrete and stuff that they took out of  
1411 the thing. There was always broken up things they build bridges with and all, and  
1412 the tires and things, and cables and things that was out there. It's definitely an  
1413 improvement. They definitely made improvement. The trees, I believe once they  
1414 get grown up, you know. It takes a while for them to get grown up, but they'll be  
1415 a nice barrier I think. They put a fence up there. That's going to cut out a lot of  
1416 the people coming in there, and doing their little smoking pot or whatever they  
1417 do. They used to go down there and, you know, running all through there with  
1418 four-wheelers and making noise. You talk about noise, that thing was noisy. I  
1419 think this is going to help us a whole lot. That's just our opinion, and that's what  
1420 I'm here for. I think they're going to be real good neighbors. I think you should  
1421 give them a chance. It's going to put some people to work, I guess, and  
1422 hopefully be a good community, and be real good neighbors.  
1423  
1424 Mrs. Jones - Thank you.  
1425  
1426 Mr. Vanarsdall - Thank you.  
1427  
1428 Ms. Smith - Good evening. My name is Loretta, and this is my  
1429 husband, David Smith. We currently live at 5303 Eanes Lane. We're actually  
1430 right beside Robert. I just want to state that I've been there since 2001. I actually  
1431 hear the dump more than I actually do Metromont. They're actually more of a  
1432 nuisance and offense to the sound because they're higher up. One thing I do  
1433 want to mention is that they've actually filled with rocks a hole that is actually our  
1434 easement in the front. That's helped out a lot. Again, just great. I'm the one that  
1435 actually brought up the issue with the light; they took care of it the next day. So,  
1436 anything that we've actually brought up, they've actually addressed right away  
1437 and took care of. So, from everything that's been proposed so far, I don't see it  
1438 as a problem because they're actually going to put houses there, and because  
1439 we do have a lake that's right there in front of the house. That's been a problem  
1440 with a lot of people coming and going that don't actually live in our community.  
1441 They've actually been fishing. That's been a problem because there have been



1442 incidents. So, they actually going to fence in the area round the pond. We don't  
1443 want to lose access to that. I think that with them fencing in this area, and taking  
1444 over this particular vicinity is going to take out a lot of riffraff that comes in there  
1445 now. I think it's great.

1446  
1447 Mr. Smith - We really also believe that they have actually  
1448 addressed a lot of concerns as far as the noise issues, and the light. We actually  
1449 don't have any problems with it.

1450  
1451 Mrs. Jones - Thank you so much. All right.

1452  
1453 Mr. Jernigan - We do have opposition.

1454  
1455 Mrs. Jones - Those of you who'd like to speak in opposition.

1456  
1457 Mr. Brydn - Madam Chair, Commission members, I'll get right to  
1458 the point here.

1459  
1460 Mrs. Jones - Would you state your name, please?

1461  
1462 Mr. Brydn - Joseph Brydn. I live at 5301 Eanes Lane.

1463  
1464 Mrs. Jones - All right.

1465  
1466 Mr. Brydn - We are part of a class of residences that are  
1467 protected. We are R-4. I'm not [unintelligible] the 17 acres to the south,  
1468 [unintelligible] with 30 acres. [Unintelligible] them to R-4 and now they're M-2.  
1469 Turn the picture 180 degrees. [Unintelligible.] You see this little pond right here?  
1470 You see the big ponds? Right, correct. Well, in a conversation with Steve Yob at  
1471 BFI, he stated that he was having 47 acres of subdivision drain into those ponds  
1472 right there. You see the last pond here in the south—Yes. [Unintelligible] and  
1473 that little pond there. That was the only way out of those ponds with all that  
1474 drainage coming through. Metromont did away with those. So, our property now  
1475 still—Henrico had to put some pipes in. We still have water sitting on our  
1476 property. Those ponds are backed up. We've not had a hurricane or anything like  
1477 that since they did this, and we're [unintelligible]. Anyway, could you get to the  
1478 pictures, please?

1479  
1480 When they're all talking about the monopole being a sight for sore eyes? Why  
1481 don't you come down our way [unintelligible] trees? We saw trees from Route 60  
1482 and Williamsburg Road. That's over a mile away almost from this and you see  
1483 this. This first picture here, the first one you put right here. That's a batch plant  
1484 that they built. They built this in 2007 and 2008. They did no POD. They didn't  
1485 ask for your approval, they just up it up. And now [unintelligible]. So, let's see.  
1486 [Unintelligible]. This is what you see from my backyard. And this bottom picture?

1487 That's what we used to see. The treeline and trees [unintelligible] now. You  
1488 know, they showed here, too, the pictures [unintelligible].

1489  
1490 These pictures here are the night pictures. These people, they've been 24/6.  
1491 They took the day off. They have people working during the day, and  
1492 [unintelligible] pictures, BFI, and Cox is behind them making noise. And they're  
1493 [unintelligible]. And then two of them go home, Cox and Allied Waste go home at  
1494 6:00 in the evening, and they continue all through the night. So, we have no  
1495 breaks from their noise in their operation. This is what you see at night, and this  
1496 is the view [unintelligible]. And they [unintelligible] at night. Every time at night,  
1497 that's what you're over there looking at. We have no silence, we have no  
1498 [unintelligible]. You know what I'm saying? BFI, [unintelligible] here. I don't  
1499 understand exactly why the two northern parcels need to be rezoned because  
1500 I've given them the rights [unintelligible]. BFI put a nice green fence down. They  
1501 put up a silver fence that reflects in the sunlight. BFI put a green fence down in  
1502 front of our house.

1503  
1504 Can we get back to those pictures? Do you? Okay. You can see at the end of  
1505 my driveway, that I don't have 12-foot berm in front of my house. The  
1506 [unintelligible] use with BFI, to make sure [unintelligible]. And that's true they've  
1507 had a change of heart now, looking at all this industrial stuff why he's not  
1508 standing up and fighting for this himself, because he's fought for that pond to look  
1509 real nice and natural [unintelligible]. [Unintelligible] instead of his house. That  
1510 was his house and the fence. Now they're looking at an industrial complex here  
1511 that was a massive [unintelligible] setting with the [unintelligible] and the lighting  
1512 and everything else. And now they've all fenced out [unintelligible]. Neither one of  
1513 them are hearing the noise. They're finding themselves [unintelligible].  
1514 [Unintelligible] anymore. So, I don't know what to tell you about this. I mean, it  
1515 looks like even more to me that R-4 has been [unintelligible] my rights  
1516 [unintelligible]. Here we are, we're talking about cell phone towers. Try  
1517 [unintelligible] late at night when it's [unintelligible]. [Unintelligible] and see what  
1518 you see in those pictures, and Williamsburg Road. My house is about 700 feet  
1519 away. They built that batch plant' it shakes our home. It's an obnoxious to our  
1520 sight. They've destroyed the night. We have nothing but lights. We have no  
1521 [unintelligible]. [Unintelligible] with people yelling and screaming when they're  
1522 having their operations there. What I'm saying is that by building this batch plant  
1523 with no POD. [Unintelligible.]

1524  
1525 Mr. Branin - Okay. If you would get in line there. Mr. Sehl, you  
1526 might want to help with this. Show me where your house is compared to the  
1527 picture we're looking at.

1528  
1529 Mr. Brydn - Her picture might be better here that she had.

1530  
1531 Mr. Branin - Another thing, how long have you lived there?

1532

1533 Mr. Brydn - Since 1999. Ten years.  
1534  
1535 Mr. Branin - Ten years? Are you aware that Mr. Yob now works for  
1536 Henrico County?  
1537  
1538 Mr. Brydn - [Unintelligible] a friend of mine. We're right about  
1539 there. We are right up here. My picture back there, it might be better, but then  
1540 I—  
1541  
1542 Mr. Branin - I just want to know the general area, sir.  
1543  
1544 Mr. Brydn - Yes. Well, what happened is the back of this property  
1545 and the subject property—not the subject property, but the old property here, if  
1546 you could see, this is all woods and stuff. There was approximately a hundred  
1547 feet of trees here. I'm not going to argue that it was a mess and that they cleaned  
1548 it up. Then again, that's something, too. They disturbed more than 2,500 square  
1549 feet and plugged up the ponds without any [unintelligible] or asking the Army  
1550 Corp of Engineers, or you guys—anything at all. So, [unintelligible] and traps and  
1551 all this, and they can get a direct shot through this tiny bit of trees. It's blasting  
1552 off the hydraulics of these lakes, and shoots straight across. This is the Smith's  
1553 house. I'm not sure how the Lanning's are accepting this, but that's—Well,  
1554 people have their own opinions of [unintelligible]. And you know, we're  
1555 [unintelligible]. Two days ago, they [unintelligible] house for [unintelligible]. They  
1556 did it at night; they did it during the day. It's still hard to figure out, [unintelligible]  
1557 working at night. It's not really our house at all. [Unintelligible] this and that, but  
1558 [unintelligible] inside of my house, and short of a 12-foot berm being there with  
1559 Scotch pines on it, and Leyland Cypress and stuff like that. That's it. That's what  
1560 I'm asking, that you make sure that happens.  
1561  
1562 Mrs. Jones - Mr. Brydn, the trees that were planted to create a  
1563 barrier, it looks to me from where I think your home is that they will influence your  
1564 view.  
1565  
1566 Mr. Brydn - Leyland Cypress?  
1567  
1568 Mrs. Jones - Yes.  
1569  
1570 Mr. Brydn - Leyland Cypress? You think those will stop noise?  
1571  
1572 Mrs. Jones - Well, the trees—  
1573  
1574 Mr. Brydn - [Unintelligible.]  
1575  
1576 Mrs. Jones - [Unintelligible] our answer.  
1577  
1578 Mr. Brydn - Okay.

1579  
1580 Mrs. Jones - Will the trees be between you and the plant?  
1581  
1582 Mr. Brydn - Yes, they're between me and the plant. In 15 years,  
1583 they're going to be this high. What about now?  
1584  
1585 Mrs. Jones - Thank you very much. Any other persons?  
1586  
1587 Mr. Branin - They came down together, but those two speakers—  
1588  
1589 Mrs. Jones - I'm sorry.  
1590  
1591 Ms. Karlis - I'm Kellie Karlis.  
1592  
1593 Mrs. Jones - And she has?  
1594  
1595 Mr. Emerson - Three minutes.  
1596  
1597 Ms. Karlis - Okay. I will do this real quick.  
1598  
1599 Mrs. Jones - Thank you very much.  
1600  
1601 Ms. Karlis - They did say something about they weren't going to  
1602 use the lane. It's a private lane. It's owned and maintained by myself, Joe, and  
1603 the Lanning's. They just said that they're not going to use the lane to service the  
1604 property, but yet when they brought in the fencing company, and the Cypress,  
1605 they used the lane. It's a single lane with potholes. We [unintelligible]. We  
1606 maintain it. It's not [unintelligible] as a private lane in front of our house. It  
1607 [unintelligible] houses. [Unintelligible] maintain the property. It's not right. They  
1608 shouldn't be over here trespassing. They are going to have the trucks going into  
1609 that part, [unintelligible]. Right up here is a private road they have no access to. It  
1610 causes more work when it comes to spring. Who's paying for that?  
1611  
1612 Mr. Jernigan - Can I ask a question? Were these the people that put  
1613 in the trees? But Metromont's not using it.  
1614  
1615 Ms. Karlis - No, but I didn't think they were supposed to be using  
1616 the land to service their property. Why can't they come in another way?  
1617  
1618 Mr. Jernigan - Did they come in three or four times?  
1619  
1620 Ms. Karlis - Well, it's been going on since Saturday.  
1621  
1622 Mr. Jernigan - All right. So, when that's over, it's over.  
1623  
1624 Ms. Karlis - Hopefully.

1625  
1626 Mr. Jernigan - Okay. I mean, Metromont has told me themselves  
1627 they're not going to use your lane, but if the people who planted the trees came  
1628 there and did it, I don't know that they knew or told them not to. I don't know, I  
1629 guess that's the way they came in to put the trees in. That's not something that's  
1630 going to be ongoing.  
1631  
1632 Mr. Brydn, we tried working together on this thing. This plant's been here since  
1633 1946.  
1634  
1635 Mr. Brydn - I understand that, but that plant has [unintelligible] for  
1636 about 14 weeks. The previous plant was not up to scale, but they operated  
1637 [unintelligible].  
1638  
1639 Mr. Jernigan - And I'll agree.  
1640  
1641 Mr. Brydn - They built that batch plant with no POD. Know why  
1642 that was done? Because you would have said no.  
1643  
1644 Mr. Jernigan - They got their hand slapped for that and are getting  
1645 straight with it.  
1646  
1647 Mr. Brydn - They wouldn't have gotten it at all if they would have  
1648 asked for permission to start with. Instead, they just built it, and now they're  
1649 asking for forgiveness. I understand the system.  
1650  
1651 Mr. Jernigan - Well, their company was coming into a plant that was  
1652 in a disaster state.  
1653  
1654 Mr. Brydn - Exactly.  
1655  
1656 Mr. Jernigan - Do you agree with that?  
1657  
1658 Mr. Brydn - Yes.  
1659  
1660 Mr. Jernigan - Okay. Now, you bought a house in 1999 next to a  
1661 plant that's been there since 1946.  
1662  
1663 Mr. Brydn - And that didn't affect our house, though. We bought  
1664 out house. The reason we bought that house back there was because it was a  
1665 country setting five minutes from Shockoe Bottom. We are now losing the  
1666 country setting. So, what's next?  
1667  
1668 Mr. Jernigan - What I'm saying is it's an M-2 site. Anybody could  
1669 have bought it out and made it better than what it is, and that's what's happened.  
1670 They cleaned up the area around you, which, as you can see, was bad.

1671  
1672 Mr. Brydn - Just because they cleaned it up, doesn't mean I can  
1673 jump up and down, and [unintelligible], and shoot my gun off and stuff like that.  
1674 Do you know what I mean? So, yes, I give them a pat on the back for cleaning it.  
1675 But also they [unintelligible]. [Unintelligible] by [unintelligible] those cars. And  
1676 cars [unintelligible] all through those ponds on our property. Well, so,  
1677 [unintelligible] environment, and they have [unintelligible] because you did  
1678 something else to harm the environment. Which I'm not sure [unintelligible]  
1679 either, because [unintelligible] the Army Corp of Engineers, so they did violate  
1680 the wetland act. And also, they had a criminal investigation by Henrico County  
1681 themselves.  
1682  
1683 Mr. Jernigan - Do what now?  
1684  
1685 Mr. Brydn - They had a criminal investigation by Henrico County  
1686 themselves. So, back last year when they started this procedure with the  
1687 County, and Community Maintenance and other things, we were locked out from  
1688 getting any information from the County, and through the Freedom of Information  
1689 Act because they were under criminal investigation. And now they want your  
1690 approval. I think you should be a little tougher on them [unintelligible].  
1691  
1692 Mr. Jernigan - I need some clarification on that.  
1693  
1694 Mr. Brydn - [Unintelligible] true.  
1695  
1696 Mr. Emerson - I think I can clarify that, Madam Chair. This facility has  
1697 had some issues in regards to illegal clearing, and also on some construction  
1698 that occurred without the issuance of proper permits. There were investigations  
1699 into those matters, I don't know if I would say they were criminal investigations.  
1700 Unless the Commission chooses to extend it, you've used your time.  
1701  
1702 Mr. Jernigan - Can he have three minutes?  
1703  
1704 Mrs. Jones - Mr. Jernigan, if you'd like that, I'd certainly—  
1705  
1706 Mr. Jernigan - Yes, let's do it.  
1707  
1708 Mrs. Jones - —do that for you. Three minutes, if you'd like to  
1709 clarify.  
1710  
1711 Mr. Knight - Yes ma'am. My name is James Knight. I'm the vice  
1712 president and general manager of Metromont. If we could put the picture back up  
1713 that shows the lakes, I'd just like to address their concerns. I'll state the facts  
1714 [unintelligible]. The batch plant that he's talking about that we put up without a  
1715 permit, we actually have records. We went to the County. It is a piece of  
1716 equipment and did not require any permitting.

1717  
1718 Mrs. Jones - Excuse me. Mr. Knight? What did you want us to  
1719 see?  
1720  
1721 Mr. Knight - Yes, that's good.  
1722  
1723 Mrs. Jones - Okay.  
1724  
1725 Mr. Knight - I'll get to that in a minute. So, the batch plant was  
1726 proceeding to being put up, and there was a lawsuit filed by these two folks here.  
1727 The County came out, and then all of a sudden slapped us on the hand and said  
1728 you have to have a permit [unintelligible] a 300-foot buffer of our current property.  
1729 It's like 278 feet. We went over 20 feet. So, yes, we had our hand slapped, but  
1730 we probably didn't have to have a permit.  
1731  
1732 The little pond that he's referring to over there that we covered up, was actually  
1733 .2 acres. We did pay into the fund. We [unintelligible]. It was just a pond of water.  
1734 It was less than 30 feet by 40 feet.  
1735  
1736 The backing up of the water in the pond was actually permitted, inspected, and  
1737 has been signed off on by the County. The County are the ones that told us to  
1738 do it. It was their design. There are two 48-inch pipes that run—I can't point at  
1739 the picture from the podium—over to this current property we're trying to use. As  
1740 I understand it cannot physically, it's impossible to flood their property. They have  
1741 had flooding problems there. It's [unintelligible]. We have solved that problem  
1742 with some \$250,000 that the County permitted. We have not been under criminal  
1743 investigation. That is absolutely false. We bought this property [unintelligible].  
1744 The people that work there [unintelligible], and they have no part any longer.  
1745 They have no restrooms. They use port-a-lets. They have no break room facility.  
1746 They have no parking lot. They have nowhere to put their uniforms on. We  
1747 bought the property next door to get rid of a residential subdivision that was  
1748 planned because we would have had a bigger problem. We have done  
1749 everything on the current property we have per its zoning. We have no intentions  
1750 of putting any industrial stuff over there. Our parking lots, and office buildings,  
1751 break rooms. That property he's referring to is proffered off. I mean, we have like  
1752 50 feet, which you can't do anything. Nothing. We've proffered off all access  
1753 from Oregon Avenue. The road that they're referring to that they maintain, it is a  
1754 County easement road for the utility company. The power company actually  
1755 came in and [unintelligible] all those trees up. You can come see how they've  
1756 been cut for the power lines. I mean, we raised cain ourselves, I mean, so, that  
1757 the road they were referring to was a future road on the County map now. It's for  
1758 future growth. Thank you for your time.  
1759  
1760 Mr. Branin - I have one question.  
1761  
1762 Mr. Knight - Yes sir.

1763  
1764 Mr. Branin - Your batch plant, is it considered portable?  
1765  
1766 Mr. Knight - Yes sir, it is portable.  
1767  
1768 Mrs. Jones - Any more questions for Mr. Knight?  
1769  
1770 Mr. Jernigan - Okay. Mr. Brydn?  
1771  
1772 Mr. Brydn - One question. I'd like to know what your definition of  
1773 portable was. Does it mean it can be taken down and taken away within like two  
1774 days, two minutes, ten minutes?  
1775  
1776 Mr. Branin - In both the concrete industry and the asphalt industry,  
1777 for many years they had actual block and concrete formation, you know, with a  
1778 foundation, and built the plant up from that. The industry, what, 20 years ago, I  
1779 guess, 15 or 20 years ago started making portable batch plants that especially  
1780 they use mostly for road building. They can come in, set up a plant in about a  
1781 month's time, run it for as long as they need to, and literally break it down and  
1782 move off. So, it is considered portable. That's why I ask is it portable.  
1783  
1784 Mr. Brydn - It doesn't seem to be very portable.  
1785  
1786 Mr. Branin - Well, that may be, sir. From my clarification, I wanted  
1787 to know if it was portable.  
1788  
1789 Mr. Brydn - Well, [unintelligible] I'd like to address [unintelligible].  
1790  
1791 Mr. Branin - Thank you.  
1792  
1793 Mr. Brydn - I'm not going to get that chance, am I, here tonight.  
1794  
1795 Mr. Branin - I had one question.  
1796  
1797 Mr. Brydn - I understand.  
1798  
1799 Mr. Branin - And I received my answer.  
1800  
1801 Mr. Brydn - Okay, thank you.  
1802  
1803 Mrs. Jones - I think our official time is used.  
1804  
1805 Mr. Jernigan - Let me tell the Commission one thing. The property is  
1806 R-5AC, but in a previous life, it was M-2. If there was ever a zoning case, that  
1807 should have come back, and I probably made a mistake on. Everybody has one  
1808 that they would back up on. This would have been it. At the time that we rezoned



1809 that property, we had taken trips to other parts of the country, and saw some of  
1810 the new type housing going on. When these people originally came to me to  
1811 rezone this property, I wasn't satisfied at first. But after they showed me what  
1812 they were going to do, it ended up being a nice project. It had Georgia porches,  
1813 rear-loading garages, and everything. I guess I looked it over and thought it  
1814 would be good. I actually figured that the cinderblock plant at that time may just  
1815 go into demise. It was in such bad shape that I figured it just may close up. But  
1816 now we've had a company come in that's reputable, and has gone out and made  
1817 changes. The bathrooms are despicable. They were using portable and needed  
1818 portable, affordable, descent bathrooms, and they got their temporary use  
1819 permits from the BZA to do this while a POD is being filed, a zoning case and a  
1820 POD to make them permanent. This place has been there for 46 years, although  
1821 it does have more activity that it had before. But they can do that by right. We  
1822 can't control that they're busy. Some of the neighbors here, they're okay with it,  
1823 and I know that you all aren't. And you're a little farther away. They put the trees  
1824 in, and I know that you say—Those tress grow about a foot and a half a year. So,  
1825 it's going to take some time for them to get up. Mr. Knight just told me that he  
1826 does plan on enclosing that plant. It's a million-dollar project, and they can't do it  
1827 at this time. Hopefully, when the money becomes available, they will.

1828

1829 Mr. Brydn - We don't get to sleep at night until then.

1830

1831 Mr. Jernigan - Yes, you do.

1832

1833 Mr. Brydn - If we had another home.

1834

1835 Mr. Jernigan - It was there for years. That plant's been there for—

1836

1837 Mr. Brydn - Seventy years.

1838

1839 Mr. Jernigan - Well, but you weren't in it. You weren't in it in 1999.

1840

1841 Mr. Brydn - [Unintelligible.]

1842

1843 Mrs. Jones - We can't have a back and forth unless it's from the  
1844 podium, and I think at this point, Mr. Jernigan—

1845

1846 Mr. Jernigan - Yes. I'm going to make a motion. I'm going to move  
1847 for approval of C-37C-08, Caroline L. Peters for Metromont Corporation, to send  
1848 to the Board of Supervisors for their approval.

1849

1850 Mr. Branin - Second.

1851

1852 Mrs. Jones - Motion by Mr. Jernigan, seconded by Mr. Branin. All  
1853 in favor say aye. All opposed say no. The ayes have it; the motion passes.

1854

1855 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.  
1856 Branin, the Planning Commission voted 5-0 (one absent) to recommend the  
1857 Board of Supervisors **grant** the request because it would not adversely affect the  
1858 adjoining area if properly developed as proposed, it is reasonable in light of the  
1859 industrial zoning in the area, and the proffered conditions should minimize the  
1860 potential impacts on surrounding land uses.

1861

1862 [Discussion between Board members that is unintelligible.]

1863

1864 Mrs. Jones - Folks, we have a number of cases left on the agenda.  
1865 I think it would be beneficial to take a five-minute break, and then resume.

1866

1867 FIVE MINUTE BREAK

1868

1869 **The Planning Commission reconvened at 9:15 p.m.**

1870

1871 **P-1-09 Gloria L. Freye for Richmond 20 MHz LLC:**  
1872 Request for a Provisional Use Permit under Sections 24-95(a)(3), 24-120 and 24-  
1873 122.1 of Chapter 24 of the County Code in order to construct a 142' high  
1874 telecommunications tower and related equipment, on part of Parcel 740-768-  
1875 3309, located on the east line of Pouncey Tract Road (State Route 271)  
1876 approximately 380 feet north of its intersection with Kain Road (Pouncey Tract  
1877 Park). The existing zoning is A-1 Agricultural District. The Land Use Plan  
1878 recommends Open Space/Recreation and Environmental Protection Area.

1879

1880 Mrs. Jones - Hello, Mr. Lewis. Let me ask, is there opposition here  
1881 tonight to P-1-09, Gloria L. Freye for Richmond 20 MHz, LLC? Thank you very  
1882 much. We'll call on you in a moment. Lewis, go ahead.

1883

1884 Mr. Lewis - Thank you, Madam Chairwoman.

1885

1886 nTelos is requesting to construct a monopole-style communication tower up to  
1887 142 feet in height on Pouncey Tract Park. The 23-acre site is zoned A-1 and is  
1888 adjacent to the Richmond Strikers soccer complex to the north and Short Pump  
1889 Middle School to the south. In addition to several homes on the west side of  
1890 Pouncey Tract Road, several residential subdivisions are located in the area;  
1891 these include Turnberry to the north, Harvest Glen to the east, and Hickory  
1892 Woods to the south.

1893

1894 The 2010 Land Use Plan recommends Open Space/Recreation and  
1895 Environmental Protection Area for the property. These use designations are  
1896 consistent with the applicant's request.

1897

1898 As shown by this elevation, a tapered 140-foot monopole topped by a 2-foot  
1899 lightning rod is being proposed. All antennas would be concealed inside the

1900 structure, and ground equipment would be located in a 2,500-square-foot fenced  
1901 compound at the base of the tower.

1902  
1903 As illustrated by the applicant's site plan, the structure would be placed on the  
1904 park's densely wooded eastern section, accessible via the adjacent school bus  
1905 loop to the south. This location would meet all required setbacks and provide  
1906 screening for the bottom half of the tower. As demonstrated by the balloon floats  
1907 held by the applicant on December 16 and 17, the top half of the proposed  
1908 structure would extend approximately 80 feet above surrounding trees, making it  
1909 visible to varying degrees from surrounding residential properties and Pouncey  
1910 Tract Road.

1911  
1912 The 2010 Plan acknowledges the growing and changing need for wireless  
1913 communication services, and recommends new tower locations strike a balance  
1914 between providing adequate service to the community and protecting residential  
1915 character. To this end, the Plan makes some provision for placing a  
1916 communication tower near residential areas if its potential impacts are minimized.

1917  
1918 The proposed tower's monopole design and requested placement among mature  
1919 trees are two important aspects of this request which do help minimize its visual  
1920 impact and achieve consistency with the Wireless Element of the Comprehensive  
1921 Plan. However, information provided by the applicant to date has not fully  
1922 demonstrated that a maximum height of 142 feet constitutes the minimum height  
1923 needed. To further clarify this aspect of the request, the applicant is encouraged  
1924 to provide additional information regarding their anticipated coverage buildout for  
1925 the area and how an incremental reduction in the height of this proposed  
1926 structure would impact the buildout plan. The applicant's request is consistent  
1927 with the property's land use designation and is partially consistent with the 2010  
1928 Plan's guidance to minimize visual impact. For these reasons, staff believes the  
1929 site could be an acceptable location for a communication tower of the proposed  
1930 design; however, further justification of the proposed height is needed for staff to  
1931 fully support this request.

1932  
1933 This concludes my presentation. I will be happy to take any questions.

1934  
1935 Mrs. Jones - Are there questions for Mr. Lewis?

1936  
1937 Mr. Branin - Madam Chair, I don't think I have any for Mr. Lewis.  
1938 Even though there are only three people in the audience, in the past day, I've  
1939 had several e-mails that brought up questions that I'm going to need some  
1940 clarification on from the applicant, if at all possible, after any other  
1941 Commissioners have any questions for Mr. Lewis. But I'd like to hear from the  
1942 opposition first because they may voice some of the same questions I have from  
1943 the e-mails, if that's okay.

1944

1945 Mrs. Jones - Thank you, Mr. Lewis. Those of you who'd like to  
1946 speak in opposition to this case, if you would like to come forward, and one by  
1947 one come to the microphone. You've heard the rules and the time limits for  
1948 discussion. Ten minutes for each side, so decide who goes first.  
1949  
1950 Mr. Branin - Most important, I also need to know what  
1951 neighborhood.  
1952  
1953 Mr. Dube - Sure. My name is Todd Dube. I'm from the Parsons  
1954 Walk neighborhood. I'm actually a Board member for the homeowners'  
1955 association, representing over 1500 homes. I have just two points to make real  
1956 quick. One, I do not believe that our residents were fully notified of the balloon  
1957 test. I think they hit the specific homes that may be affected in the very adjacent  
1958 neighborhoods, but I don't think they fully vetted out and fully notified all of our  
1959 residents. We've had several residents mail our Board saying they were not  
1960 notified of the balloon test that was on the 16<sup>th</sup> and 17<sup>th</sup>.  
1961  
1962 My second point is that I believe this cell tower has bounced around our  
1963 neighborhood a few times by Deep Run, and now over here, and I believe it's  
1964 thus provided a lot of confusion on the residents. I believe originally at Deep Run  
1965 they had some interest on that.  
1966  
1967 Mr. Branin - I can address that. This cell tower was proposed in  
1968 Striker Park in three different locations. None of them were acceptable to Mr.  
1969 Kaechele, so the project was actually pulled. This is another location that they  
1970 came up with.  
1971  
1972 Mr. Dube - My only point is I believe the residents around Twin  
1973 Hickory are confused because I think there's a proposal for one potentially by  
1974 Deep Run. They're confused as to why there have been so many changes, or it's  
1975 changed a couple of times. I believe they have confusion. So, speaking from a  
1976 homeowners' association standpoint, I believe the residents have not been fully  
1977 communicated to whether they were affected prior or in any other case. Thanks.  
1978  
1979 Mrs. Jones - Someone else?  
1980  
1981 Mrs. Lantzy - My name is Patricia Lantzy. My address is 10801  
1982 Harvest Glen Lane. I am the house that will be closest to this proposed tower.  
1983 I'm already on record with lengthy comments that I sent to Livingston Lewis at  
1984 staff. I believe at least— don't know how many of the neighbors have also  
1985 weighed in this week. Mr. Branin indicated he had, what, 45 in the last several  
1986 days. I don't now whether that was an exaggeration or not.  
1987  
1988 Mr. Branin - A little bit—  
1989

1990 Mrs. Lantzy - I know that I've been copied on about six or eight of  
1991 those. And I've had phone calls from people as well. So, even though there may  
1992 have been quiet at the neighborhood meeting that was held on December 17,  
1993 there is significant opposition to this proposal. I would like to also say that we  
1994 appreciate—speaking for myself and my husband—the work that you all do, and  
1995 the work that staff does. We realize that it is very difficult, very time consuming,  
1996 and that you're not likely to please everyone, and you're probably lucky if you  
1997 please anyone on any given day.

1998  
1999 We also use cell phone service, so we appreciate the need for these things. We  
2000 are a community of rational, reasonable people almost to a one. We have very  
2001 few anti-business environmental whackos among us. So, we realize that these  
2002 things have to be constructed. Our point is that this is not the place to put it, that  
2003 since, as nTelos has indicated in the past, the dead zone that they're attempting  
2004 to serve is somewhat to the north and a bit to the west. That somewhere north  
2005 and west would be a more appropriate place to put this. Realizing that there are  
2006 a lot of residential neighborhoods in the area that might impair the ability to site  
2007 this thing, there still are other commercial areas that are being developed, clear-  
2008 cut every day along Pouncey Tract Road. That would be a more appropriate  
2009 place to site this, rather than in the woods next to my home.

2010  
2011 The concerns that have been expressed, and again that I believe have been  
2012 detailed to staff—I'm not going to belabor those points, but just to hit them briefly  
2013 are the loss of the number of trees. I understand that the applicant has come up  
2014 with a possible solution to that. It has not yet been—or not a solution, but a  
2015 mitigation. The Parks folks would have to approve this. Ms. Freye, I believe, is  
2016 going to talk with you all about that, but there still is concern about the intentional  
2017 destruction of woodlands. That is not felt to be consistent with the purpose of the  
2018 park. We have concerns, also, about the wetlands. Less about the wetlands per  
2019 se than about just the force of gravity that nobody can control. Water is going to  
2020 run off the middle school, it's going to run off the bus lanes, it's going to run down  
2021 the road into the wetlands, and then into Harvest Glen. We are ten feet lower  
2022 than the proposed site elevation. Nobody can do anything about that.

2023  
2024 The feeling amongst the neighborhood is that the tower is too high. A 142-foot  
2025 monopole, even as stealthy as they're hoping it would be nestled amongst trees  
2026 is just entirely too high, and will be out of character, entirely out of character with  
2027 the residential neighborhood.

2028  
2029 We also have concerns that have been expressed about adverse effect on the  
2030 trails, parties that might be held by kids in the roadway. I understand the  
2031 applicant's attempting to mitigate all of those things, but there is only so much  
2032 that they can do. Then everyone else has to live with the reality that is left  
2033 behind.

2034

2035 As you consider this, I thank you for taking all of those things into account. Don't  
2036 go by the two of us, and my husband who are here. There are others who care  
2037 as well as much.

2038  
2039 Mr. Branin - Mrs. Lantzy, I'd just like to make a comment. We don't  
2040 think that any of our residents—

2041  
2042 Mrs. Lantzy - Are environmental whackos.

2043  
2044 Mr. Branin - —or citizens are environmental whackos—

2045  
2046 Mrs. Lantzy - I know.

2047  
2048 Mr. Branin - —in the County of Henrico. Maybe in Chesterfield, or  
2049 maybe in the City of Richmond, but no resident of Henrico is—

2050  
2051 Mrs. Lantzy - The record does now reflect that, Mr. Branin.

2052  
2053 Mrs. Jones - Thank you. All right. Mr. Branin, would you like to  
2054 hear from the applicant now?

2055  
2056 Mr. Branin - I would.

2057  
2058 Mrs. Jones - All right.

2059  
2060 Mr. Branin - Mrs. Lantzy touched on some of the questions I had,  
2061 which I thought might come.

2062  
2063 Ms. Freye - Good evening Madam Chairwoman, members of the  
2064 Commission. My name is Gloria Freye. I am an attorney from McGuire Woods  
2065 here on behalf of nTelos and Marc Cornell, who is also here from nTelos as well.  
2066 I would like to reserve one minute for rebuttal.

2067  
2068 The Pouncey Tract Park site really is a good site for a telecommunications tower,  
2069 particularly here because it is 1100 feet off Pouncey Tract Road. It will be  
2070 surrounded by a mature stand of trees that are about 60 feet tall. Those trees are  
2071 in a heavily wooded, unused portion of the park. It is almost 600 feet from the  
2072 closest residence, and that entire distance would be wooded. There is a  
2073 condition recommended in the provisional use permit to preserve those trees.  
2074 The first map that I have on the screen does show the existing situation for  
2075 nTelos. The white area here signifies no coverage. The yellow area here is in-  
2076 vehicle coverage. The site for Pouncey Tract Park is actually down here below  
2077 Shady Grove Road. You do see some in-building coverage there, but you also  
2078 see some yellow there.

2079

2080 The next map is a propagation map that shows if this facility is approved, this  
2081 would all be good in-building coverage. It would even extend above Shady Grove  
2082 Road, and extend up along Pouncey Tract. It would turn most of that no-  
2083 coverage area into in-vehicle coverage. The search ring for this property is really  
2084 around this area. It does nothing to affect or to help this problem over here.  
2085 They're going to actually have to look for another tower over there to help with  
2086 that. I do have a search ring map that I could pass out to you. What that shows  
2087 you is that within that circle and outside that circle, there were 36 properties that  
2088 they investigated to try to find an appropriate site, a willing landlord, whether it  
2089 met the setbacks, what the zoning was, and whether it would meet the fall zone.  
2090 All of those properties were rejected for one reason or another. As Mr. Branin  
2091 has already told you, we tried looking at Striker Park. That site was just so open,  
2092 we weren't really able to find a location on that property that was acceptable.  
2093 That's why we started looking at the park site. Even though it's about a mile  
2094 south of where they'd really like to be, it does still give them very good coverage  
2095 at 140. If they can get this pole approved at that height, it would be worth their  
2096 investment.

2097  
2098 But for the reservations that staff has expressed about the pole height, their staff  
2099 report does say that this is suitable location for a stealth design monopole like is  
2100 being proposed here. Staff also says in their staff report that they recognize that  
2101 if you lower the height, you also reduce the opportunities for other carriers to co-  
2102 locate. There are seven licensed carries for wireless service now in the  
2103 Richmond market. At 140 feet, this pole could accommodate four of those  
2104 carriers. So far, two other carriers have already expressed interest in this pole.  
2105 Staff has already noted in their staff report that there are very few communication  
2106 towers north of the 295 and 64 interchange, and that co-location opportunities  
2107 here are very minimal. Yet, this area is pretty much zoned for residential  
2108 development. That development is going to happen, growth is going to occur,  
2109 and the demand for wireless service is going to grow also.

2110  
2111 Knowing how difficult it has been to find an appropriate site that complies with the  
2112 County's policies, this is really a very important site for this area of the County.  
2113 We think the County really needs to study it well and consider it, because you  
2114 need to balance the height concern that staff has expressed with the co-location  
2115 opportunities when you already know that they're very difficult to find here.  
2116 Whether the height is 70 feet or 80 feet above the trees, it really results in no  
2117 meaningful difference in the visibility. The view from the residential areas is going  
2118 to be the same whether it's 140 or 130, particularly to Turnberry because they  
2119 have all the open space between them and Striker's and the park. And the same  
2120 with Hickory Woods because they have all the open space across Short Pump  
2121 Middle School, between them and the park. So, reducing the height would  
2122 definitely diminish the coverage that nTelos could get. It's already south of where  
2123 they would really like to be, but there is nothing else available. Plus, if you lower  
2124 the height, you may lose the opportunity to accommodate four carriers and still  
2125 have no significant change in visibility.

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I do have some pictures from the balloon test. This is the view from Pouncey Tract Road. This is Short Pump Middle School. That's the tower, the proposed tower. You can see it's in line with the lights at the park. This is looking at the tower, which would be here above the treeline across Striker's field. This is from the church, which is at the corner of Shady Grove and Pouncey Tract. The pole would be there extended above that roofline. This is the view from Turnberry. This is a cul-de-sac and Turnberry. This is Striker's field along here. And then this would be the pole above the treeline. This is from Hickory Woods. This is the east end of Turning Branch Circle. You can see the pole above the roofline of the school in the background. I believe these are power lines that go through there for Dominion Virginia Power. The next one is also from Turning Branch Circle. This is the west end of that. It's kind of shaped like a dog bone. The green is the top of the school, and this would be the visibility there. This is Mrs. Lantzy's house. This was taken from the street. It's hard to see, but there is the red balloon right there in the middle of the woods. Just in fairness, we took that photograph from the street. Mrs. Lantzy actually sees it more visibly from the rear of her yard. She's reported to us that it would be more visible than that.

We did send letters to 72 adjacent and nearby landowners. The Hickory Woods people are not actually adjacent, but we sent letters to everyone on that street. Neither is Turnberry, but we sent letters to those adjacent, and we sent to those adjacent in Harvest Glen, as well as across Pouncey Tract Road. We also notified the Twin Hickory Homeowners' Association, called their president and notified them. We called the principal of the school, and we also called the president of the PTA.

As Mrs. Lantzy told you, at our meeting on the 17<sup>th</sup>, there were three people there. Mr. and Mrs. Lantzy, and Mr. Yowell. As a result of the comments and the discussion that we had there, nTelos did agree to do a brown vinyl solid fence to enclose the ground equipment. There was concern about traffic, people coming into the property from the school side. So, they did agree to put up a chain. The other discussion was raised about the loss of trees. What's on the screen now is a site plan that we just got in yesterday, but we have shown it with Mr. and Mrs. Lantzy. The proposal would be to change the proposed driveway from this curve, to shift it over to this side of the enclosure, and shift these supplemental plantings down, which would leave more trees between the driveway and their property. It would shift the pole maybe about 40 feet to the north, but it would have no change in visibility for Turnberry or for Hickory Woods. It might help a little bit with her visibility, but we're not so sure about that. What we would need to do is to get this plan, this realignment of the driveway approved by the park people. We don't think that would be a problem. But between now and the Board, we would be meeting with them to get them to approve that, and then we would submit a revised site plan showing it.



2171 In summary, there are no perfect cell tower sites, especially when they need to  
2172 be near the residences that they're trying to serve. Pouncey Tract Park is the  
2173 only location that they could come up with in the search ring that fits any of the  
2174 County's goals and policies. It's a compromise for them, but it does give them  
2175 good coverage, and they're willing to accept that 140 height, and make that  
2176 investment. They don't have any other alternatives, and the height is the lowest it  
2177 can go and still accommodate four carriers. The stealth design is gray, tapered  
2178 monopole with the antennas concealed inside. It minimizes the visibility. It  
2179 provides the coverage, and it does give the co-location opportunities. It is  
2180 consistent with the County's policy in that it's on A-1 zoned land. It's County-  
2181 owned land. It's in the tree coverage, and at 140, it promotes the County's goal  
2182 of reducing the number of towers for co-location.

2183

2184 We've reviewed the conditions, and we're in agreement with them. We'll be glad  
2185 to respond to questions.

2186

2187 Mrs. Jones - I'm sure you could tell I was about to say Ms. Freye's  
2188 time is up.

2189

2190 Ms. Freye - Time is up.

2191

2192 Mr. Branin - Ms. Freye, will this affect the trails?

2193

2194 Ms. Freye - No sir. When we met with the park folks out on the  
2195 property, it was with the expressed purpose of not interfering with any of the  
2196 park's operation, and staying out of the wetlands.

2197

2198 Mr. Branin - That takes care of two of my questions. The next one  
2199 was about the wetlands. This is a little bit to the north and west, if it does indeed  
2200 move?

2201

2202 Ms. Freye - It would shift the tower 40 feet to the north. It would  
2203 shift the driveway to the west.

2204

2205 Mr. Branin - Mrs. Lantzy, north and west. Just kidding.  
2206 Something. And we have supplemental plantings going in for the low line. We do  
2207 have it fenced in with a dark colored fence. I have another question in regards to  
2208 stealth technology that has been presented earlier this evening.

2209

2210 Ms. Freye - The sky camouflage wrap?

2211

2212 Mr. Branin - The sky camo. I would like to have that proposed on  
2213 this site as well, because if that technology does work, I would like to see it being  
2214 worked. We should have more than one site trying it out. So, would you be in  
2215 opposition to adding that onto your proposal?

2216

2217 Ms. Freye - No sir. The company would be willing to accept that,  
2218 the same condition that was being proposed for Anirav. They would accept that.  
2219  
2220 Mr. Branin - Okay. That's all the questions I have right this  
2221 second.  
2222  
2223 Mrs. Jones - Okay. Anybody else have questions?  
2224  
2225 Mr. Jernigan - I just want to make a statement, because I don't think  
2226 it came out earlier when they were showing the camouflage before. For those of  
2227 you who are left in the audience, that came from the Defense Department. That's  
2228 what the Air Force uses on the bottom of planes to make them disappear in the  
2229 sky. That makes it hard for the enemy to see. That's where that innovation came  
2230 from. 3M makes it, and these people went out and—As you were sitting here  
2231 through my prior case, trying to make the thing the best we could. That's what  
2232 that's used on is your Air Force planes. I just thought I'd add that in so  
2233 everybody knew where it came from.  
2234  
2235 Mrs. Jones - All right. I think if we have no more questions, Mr.  
2236 Branin.  
2237  
2238 Mr. Branin - I'm going to make my motion, and in that, prior to that,  
2239 I'm going to also make some requests of the applicant. With my motion, I would  
2240 like to know that you guys start tomorrow setting up a time for another  
2241 neighborhood meeting. I would also formally request of you that you make sure  
2242 that Twin Hickory is definitely notified by getting this gentleman's number, and  
2243 making sure that your people are aware of it and are present. I will be there so  
2244 we can actually get input. Unlike the person in the prior case who thought we  
2245 have pre-determined, we do not have pre-determined, and we rely on the input  
2246 from the neighborhoods. The notification and the date. Those are the only two  
2247 comments I have for you.  
2248  
2249 Madam Chair, I would like to make my motion now. I'd like to move that P-1-09,  
2250 Gloria L. Freye for Richmond 20 MHz, LLC, move forward to the Board of  
2251 Supervisors with a recommendation for approval.  
2252  
2253 Mr. Vanarsdall - Second.  
2254  
2255 Mr. Emerson - Mr. Branin, do you want to add the sky camouflage  
2256 condition to your motion?  
2257  
2258 Mr. Branin - I do. With that motion, the addition of the sky  
2259 camouflage, and also contingent on the repositioning of the tower and the road.  
2260  
2261 Mr. Vanarsdall - Second.  
2262

2263 Mr. Emerson - It can be done between now and the Board.  
2264  
2265 Mrs. Jones - All right. As far as your motion, we have a motion by  
2266 Mr. Branin, seconded by Mr. Vanarsdall. All in favor say aye. All opposed say  
2267 no. The ayes have it; the motion passes.  
2268  
2269 **REASON:** Acting on a motion by Mr. Branin, seconded by Mr.  
2270 Vanarsdall, the Planning Commission voted 5-0 (one absent) to recommend the  
2271 Board of Supervisors grant the request because it would provide added services  
2272 to the community and the suggested conditions should minimize the potential  
2273 impacts on surrounding land uses.  
2274  
2275 Thank you all very much. Mr. Secretary, before we move on to the next case,  
2276 which is C-1C-09, I would like to state for the record that I have a  
2277 representational conflict for this case, and that discussion of it will be handled by  
2278 our Vice Chairman, Mr. Vanarsdall.  
2279  
2280 Mr. Emerson - Thank you, Madam Chairwoman.  
2281  
2282 **C-1C-09 James W. Theobald for Kroger Limited**  
2283 **Partnership I:** Request to amend proffered conditions accepted with Rezoning  
2284 Case C-2C-03, on part of Parcel 754-744-6868, located on the north line of  
2285 Eastridge Road approximately 500 feet west of its intersection with Three Chopt  
2286 Road. The applicant proposes to amend Proffer 1 related to the conceptual plan  
2287 and elevations and Proffer 3 related to prohibited uses. The applicant proposes  
2288 an automotive fueling station. The existing zoning is B-2C Business District  
2289 (Conditional). The Land Use Plan recommends Commercial Concentration.  
2290  
2291 Mr. Vanarsdall - Any opposition to C-1C-09, James W. Theobald for  
2292 Kroger Limited Partnership I? We do have opposition. Thank you.  
2293  
2294 Ms. Anderson - Thank you, Mr. Secretary and Madam Chair. Thank  
2295 you.  
2296  
2297 As was stated, this case is a request to amend proffered conditions accepted  
2298 with rezoning case C-2C-03 in March of 2003. At that time, the property for the  
2299 Kroger grocery store was rezoned to B-2C so allow a grocery store with a drive-  
2300 thru pharmacy. This particular request for amendment is to develop a 10-pump  
2301 fueling center on the southwest corner of the property.  
2302  
2303 The Land Use Plan also recommends commercial concentration for this site, as  
2304 well as the surrounding properties are also primarily rezoned for commercial use.  
2305 They are developed for commercial use as well.  
2306  
2307 The applicant provided a concept plan. Let me get that on the screen here. The  
2308 concept plan shows the development that was initially proposed, but after the

2309 staff report was sent out, they did submit revised proffers to address the issues  
2310 that were outlined in the staff report. There were three conditions that we had  
2311 requested to make this a more suitable site for that particular location. One being  
2312 the staff had recommended that they consider a sloped roof for the canopy of the  
2313 fueling center because of the elevations in relationship to Eastridge Road. The  
2314 canopy would be highly visible from the road. They also addressed the other  
2315 concerns. It was questionable whether the refueling tankers would have  
2316 adequate access to this site because of questions about the turn radii for those  
2317 particular vehicles, and the circulation pattern on the site. Also, whether there  
2318 would be any conflict with customers accessing the site that were going to the  
2319 grocery store itself, if there would be adequate space for circulation without  
2320 conflicting with the refueling of the center.

2321  
2322 The other question related to whether there was adequate space on the site for  
2323 any vehicles that were waiting for gas, whether there would be space for queuing  
2324 and stacking of those vehicles if there was a line and they would have to wait to  
2325 get the gas.

2326  
2327 Those were the three main questions on the site. The applicant consequently did  
2328 address all of those concerns. I'm sorry. One other question was on the parking,  
2329 if the parking spaces that would have to be eliminated in order to develop the  
2330 fueling center, if there would be adequate parking remaining on the site. The  
2331 applicant provided information showing that they would be still exceeding their  
2332 required number of spaces for the site.

2333  
2334 In respect to all of that, staff has noted that the proposal would be consistent with  
2335 the Land Use Plan, it would be compatible with the majority of the surrounding  
2336 properties that are also zoned for commercial use. Staff recommends that this  
2337 proposal would be approved. Keep in mind also that the proposed construction  
2338 would be reviewed in more detail, should this request be approved, at the POD  
2339 review time.

2340  
2341 This concludes my presentation. If you have any questions on this, I will be  
2342 happy to answer your questions.

2343  
2344 Mr. Vanarsdalls - Any questions for Ms. Anderson by Commission  
2345 members?

2346  
2347 Mr. Branin - I have a couple. Ms. Anderson, the applicant did  
2348 submit, and the staff has signed off that there is adequate room for queuing and  
2349 waiting?

2350  
2351 Ms. Anderson - Yes.

2352  
2353 Mr. Branin - There is adequate room for turning radius?

2354

2355 Ms. Anderson - That's correct as well.  
2356  
2357 Mr. Branin - And there is sufficient parking?  
2358  
2359 Ms. Anderson - For the purposes of this report, yes. At this time, with  
2360 the information they have provided, we have noted that is what appears with the  
2361 information that they have provided.  
2362  
2363 Mr. Branin - Thank you, ma'am.  
2364  
2365 Ms. Anderson - All right.  
2366  
2367 Mr. Vanarsdall - Thank you, Ms. Anderson.  
2368  
2369 Ms. Anderson - Thank you.  
2370  
2371 Mr. Vanarsdall - Mr. Branin, do you want to hear from the applicant  
2372 first?  
2373  
2374 Mr. Branin - I'd rather hear from opposition first, if I may, sir.  
2375  
2376 Mr. Vanarsdall - All right. We'll take the opposition. You all come on  
2377 down, decide who wants to be first. Each one of you want to speak, or do you  
2378 want just one person? Mr. Secretary, you want to explain the rules, the ten-  
2379 minute rule?  
2380  
2381 Mr. Emerson - The public hearing time limits of the Commission.  
2382 Again, the applicant is allowed ten minutes to present the request. Time may be  
2383 reserved for responses to testimony. The opposition is allowed ten minutes to  
2384 present its concerns. Commission questions do not count into the time limits, and  
2385 the Commission may waive the time limits for either party at its discretion. The  
2386 opposition has ten minutes in total.  
2387  
2388 Mr. Vanarsdall - State your name, please.  
2389  
2390 Mr. Medford. - Richard Medford. The opposition would be based on  
2391 the fact that there are six other gas stations within a half-mile radius of the  
2392 proposed site. One of them being right at the top of the hill. Another one being  
2393 right around the corner. There is also a 12-pump site that was just approved, and  
2394 is operational within the last 30 to 60 days at a wholesale club that sells to the  
2395 retail public without membership card. That would be one of the questions that  
2396 we have.  
2397  
2398 In addition to this, there is no new housing development to spur additional growth  
2399 within this area. In other words, you're looking at the proposed site to be  
2400 funneling off the current traffic that's there for the six vendors that are currently

2401 selling fuel. You would have a major deflection of traffic from those sites to do  
2402 that.

2403

2404 I think one of the biggest things that back in 2003, with this being zoned B-2C, it  
2405 was prohibited for a fueling center, and now we're going back and trying to get  
2406 that reestablished. This brings up some issues. I don't know if anybody's brought  
2407 this to anybody's question or not with Henrico Fire, as far as finding out if that is,  
2408 in fact, a good spot to put a gas station, down the hill, buried back in behind a  
2409 hotel, another gas station at the top of the hill, as well as some drainage areas  
2410 that run along that that run behind the grocery store and along those areas. I  
2411 don't know if anybody's addressed that, or even asked that question, if that is an  
2412 issue there.

2413

2414 I think the biggest thing is the replication of service that we've talked about. I do  
2415 appreciate your time.

2416

2417 Mr. Branin - I live in the neighborhood. Where do you live in the  
2418 neighborhood?

2419

2420 Mr. Medford - I actually do business with the Chevron there, and I  
2421 live in Henrico County right up the street here.

2422

2423 Mr. Branin - Do business in what fashion?

2424

2425 Mr. Medford - I provide the air and vacuum machines there.  
2426 Anything else?

2427

2428 Mr. Vanarsdall - Any other questions? Thank you, sir.

2429

2430 Mr. Medford - Thanks.

2431

2432 Mr. Vanarsdall - Anybody else? Good evening.

2433

2434 Mr. Mac - I am Pritipal Mac, and I own the Chevron gas station  
2435 right next to Kroger.

2436

2437 Mr. Vanarsdall - I didn't get your name. Excuse me.

2438

2439 Mr. Mac - The reason why I'm here is, first, I didn't have any  
2440 notice, or was contacted by anybody. Just I saw a sign yesterday over there, and  
2441 I called the County and found it out. The County guy told me at reception that  
2442 there's a meeting tomorrow. So, I was not able to prepare myself for this.

2443

2444 Secondly, there are no new things coming up, no new business, no new traffic.  
2445 There is limited traffic on the road even if somebody puts in a gas station. Then  
2446 tomorrow, Westbury will come and say we want to put a gas station, and there

2447 will be a line of gas stations on the road from this end to that end. Even the  
2448 Westbury Pharmacy, which developed a new site over there, they remodeled it;  
2449 is still empty. There's not that much business over there. So, I don't think there is  
2450 necessity of a new gas station.

2451  
2452 Secondly, it will create a fire danger also, if all the stations are together. Right  
2453 behind me is a Shell station. Here, next to that service, is mine. Then they will be  
2454 right by my station. It will not hardly be more than 300 feet from my property line.  
2455 I don't think this should be allowed. I was informed that it was prohibited out  
2456 there. And if it was prohibited earlier, there should be some reason. We would  
2457 like to know those reasons, why it was prohibited earlier, when they initially built  
2458 up.

2459  
2460 And secondly, one of the guys this morning came to my store. He was telling  
2461 that Kroger was trying to buy your property, but they were not able to buy it. If  
2462 that property was a property, and it was laying there for 3 1/2 years, and after  
2463 that, we developed the property, now Kroger wants to open a gas station, which  
2464 was prohibited earlier. This will create a traffic problem on the road. They don't  
2465 have right access on the road; they'll have to go deep in, and then they have to  
2466 turn around. There will be more chances of accidents. If somebody is in a hurry,  
2467 it will definitely make an accident, and we did not have any notice. If we had  
2468 notice, I would have some more things I can show the County.

2469  
2470 Mr. Vanarsdall - Have you finished?  
2471  
2472 Mr. Mac - Yes, I have finished.  
2473  
2474 Mr. Vanarsdall - I didn't mean to interrupt you. We didn't get your  
2475 name or the spelling of it. We have to have that for the record.

2476  
2477 Mr. Mac - It's P as in Paul-r-i-t as in Tom-i-p-a-l. Pritipal Last  
2478 name is Mac—M-ac

2479  
2480 Mr. Vanarsdall - Thank you very much. Thank you for speaking.

2481  
2482 Mr. Bagga - Hello, greetings. My name is Steve Bagga—B-a-g-g-  
2483 a. To save time, I have similar concerns, and definitely I would like to know—I  
2484 mean, you have heard the arguments; mine are the same. The only thing is I  
2485 would definitely like to know why was it prohibited earlier, and why are we trying  
2486 to take the prohibition away. What has changed? And I would like to reiterate that  
2487 part where the entrance to the parking lot for Kroger is not very easy.  
2488 Technically, it may be correct, that they're saying there is enough room, or is  
2489 there enough room for the big trucks to turn. But the way they will turn will create  
2490 extreme slow movement of the truck and the traffic itself. When the truck is  
2491 entering that from the highway or the road, it will definitely slow down the whole  
2492 traffic pattern. I would like the County to consider that very carefully before

2493 allowing that to happen. And, of course, they may be required to have a minimum  
2494 number of parking spots, but that does not mean that this will not reduce the  
2495 parking spots quite a bit, but a considerable amount. A ten-station fueling center  
2496 would require a lot of maneuvering, and turning in and out, and the parking will  
2497 be reduced. I understand that our nation is growing day by day. More and more  
2498 cars are being put on the road. So, parking should be increased instead of being  
2499 reduced. That's all I have to say. Thank you.

2500

2501 Mr. Vanarsdall - Any questions by Commission members? Thank you,  
2502 sir.

2503

2504 Mr. Bagga - You're welcome. Excuse me. We need to really  
2505 consider all of these things before allowing anybody to do things that were first  
2506 prohibited. Thank you.

2507

2508 Mr. Vanarsdall - Anyone else? Did you want to speak?

2509

2510 Mr. Emerson - Mr. Vanarsdall, that does complete their time.

2511

2512 Mr. Vanarsdall - Okay. All right.

2513

2514 Mr. Branin - I would like to hear from the applicant.

2515

2516 Mr. Vanarsdall - All right. Good evening, Mr. Theobald.

2517

2518 Mr. Theobald - Good evening, Mr. Vanarsdall, members of the  
2519 Commission. My name is Jim Theobald, and I'm here this evening on behalf of  
2520 Kroger. About six years ago, I also participated in the rezoning of the Kroger site,  
2521 as you know. It was a former Ridge Cinema site, which had been closed for  
2522 some time. Kroger purchased that site, invested some \$8 million, and built just a  
2523 beautiful building there, which gave additional life into all of that retail area that  
2524 you see. The origin of the prohibition against gas, you all may remember Mr.  
2525 Branin's predecessor, Mr. Taylor. As we were nearing the end of the process, Mr.  
2526 Taylor had a number of helpful suggestions, one of which was would you agree  
2527 to eliminate gas. At the time, Kroger didn't sell gas at its locations in the  
2528 Richmond area, and we said okay, because we didn't think at that point that that  
2529 would be part of the operation.

2530

2531 As you know, the world has changed, and many, many places are offering the  
2532 sale of fuel. What grocery stores in particular have found is that it's an enormous  
2533 help to their customers. They are able to accomplish two things on site without  
2534 getting back on the roads—buying groceries and also buying fuel. They're also  
2535 able to offer, like many of the grocery stores now, discounts to their customers,  
2536 although it is open to the general public who shop there. It's an additional  
2537 marketing feature for the benefit of their customers. That is the genius.

2538



2539 I would like to say that we've documented the ability for trucks to come in and  
2540 out. Keep in mind that this site gets many, many food delivery tractor-trailers on  
2541 a daily basis. Most of those will come off Three Chopt Road to unload. Actually,  
2542 our turning radius for the fuel trucks works whether they come in off Eastridge  
2543 Road or Three Chopt Road.

2544  
2545 With regard to parking, the fueling center will displace approximately 81 spaces,  
2546 but 36 additional spaces are being created, for a net loss of 45. The bottom line  
2547 is there are 290 spaces required on this site, and we will provide 318 spaces in  
2548 total. We have provided upgrade elevations with the bricks on the columns.  
2549 We've agreed to provide a Mansard roof treatment around the top. The colors  
2550 are to be harmonious and compliment the building.

2551  
2552 I will say that not only did the County send out their official notices to all adjacent  
2553 property owners, but we also sent out notices a week ago to all the adjacent  
2554 property owners, including, as listed by the County tax records, to Mac  
2555 Petroleum, Pemberton, Crossing Court, 3312 Pemberton Crossing in Henrico.  
2556 So, notice was provided to all.

2557  
2558 I truly appreciate the comments about competition. That seems to be at the root  
2559 of the objections. I wish I were the only zoning lawyer in Richmond, but I'm not.  
2560 Again, this is primarily a convenience for the customers of Kroger. I think it  
2561 meets all of the goals and objectives of your Land Use Plan, and certainly is  
2562 consistent with area zoning, in as much as there are other fueling facilities in the  
2563 near vicinity.

2564  
2565 So, I'd be happy to answer any questions. Respectfully, I ask that you  
2566 recommend approval of this request to the Board of Supervisors.

2567  
2568 Mr. Vanarsdall - Any questions for Mr. Theobald by Commission  
2569 members?

2570  
2571 Mr. Branin - I do, Mr. Theobald, but I'm going to ask Mr. Jennings  
2572 to come up real quick before I ask Mr. Theobald this question.

2573  
2574 Mr. Vanarsdall - I didn't ask you. Did you want to speak? Okay. I'm  
2575 sorry.

2576  
2577 Mr. Jennings - Good evening. I'm Mike Jennings, the Traffic  
2578 Engineer for Henrico County.

2579  
2580 Mr. Vanarsdall - Good evening, Mr. Jennings.

2581  
2582 Mr. Branin - Mr. Jennings, how are you this evening?

2583  
2584 Mr. Jennings - Good, thanks. How are you, Mr. Branin?

2585  
2586 Mr. Branin - Does County Traffic have any questions or concerns  
2587 about turning vehicles off of Eastridge into this shopping center?  
2588  
2589 Mr. Jennings - No sir. Basically, as Mr. Theobald said—Basically,  
2590 this is an exhibit that they provided for us, saying that it would function exactly  
2591 like the delivery trucks do now. The only modification that they will need to do is  
2592 they have to modify that one island internally. It'll accommodate the trucks, and it  
2593 will be no different than what it handles now.  
2594  
2595 Mr. Branin - Okay, thank you.  
2596  
2597 Mr. Jennings - I'm not aware of any problems with the deliveries  
2598 now.  
2599  
2600 Mr. Branin - If there was, we could always make the  
2601 recommendation that it come off of Three Chopt. Mr. Mac, may I ask you a  
2602 question, sir? Your lot is quite tight. I know, because I fuel up there on a regular  
2603 basis. Do you have issues with the trucks getting into your lot?  
2604  
2605 Mr. Mac - No.  
2606  
2607 Mr. Branin - Okay, thank you. Mr. Theobald, I was going to  
2608 recommend that we possibly bring the trucks in by way of Three Chopt, like some  
2609 of the delivery trucks come in to Kroger, but Traffic doesn't have an issue with it.  
2610 So, I would like the proffer to be changed, that if a problem arises, we can  
2611 reroute those vehicles through the Three Chopt entrance.  
2612  
2613 Mr. Theobald - Sure, we can do that. I think we can direct our  
2614 delivery guys to use that entrance, much like, I think, we had directed our food  
2615 deliveries—  
2616  
2617 Mr. Branin - Food delivery, correct.  
2618  
2619 Mr. Theobald - —through that. I'm happy to do that. You may want to  
2620 weigh whether it's an enforcement issue in terms of putting in the proffer, but I  
2621 would yield to your suggestion on that.  
2622  
2623 Mr. Branin - I still think it should be a proffer. If the problem does  
2624 arise, then we will—  
2625  
2626 Mr. Theobald - Sure, we can do that.  
2627  
2628 Mr. Vanarsdall - He wants to speak one time. Go ahead. Thank you.  
2629

2630 Mr. Bagga - There is a major difference between trucks—smaller  
2631 trucks especially—bringing in food and a large tanker bringing in explosive fuel.  
2632 Please consider that. Even one life lost—  
2633

2634 Mr. Branin - Mr. Baga, I am considering that, absolutely. But being  
2635 a 30-year resident of this neighborhood, and knowing how tight—I mean, he’s the  
2636 best example. If a truck can get in there, then I don’t think there’s going to be an  
2637 issue with him getting into the Kroger. If it does arise, we’ve provided for them to  
2638 come off Three Chopt.  
2639

2640 Mr. Bagga - If you follow the arrow, right here is the road. The  
2641 trucks will have to go from here. Now, traffic is coming this way. They can  
2642 quickly get onto this property, but here, they have to make a tight turn and follow  
2643 this pathway to get inside. There are many spots on the way to the fueling station  
2644 where there’s a chance of somebody not paying attention, if the child is in the  
2645 car, or on a cell phone—somebody could hit that truck, a fuel truck.  
2646

2647 Mr. Branin - You’re saying that on the actual Kroger property.  
2648

2649 Mr. Bagga - Yes, or entering the Kroger property from the  
2650 highway.  
2651

2652 Mr. Branin - We could make the same case on any truck that’s  
2653 entering—  
2654

2655 Mr. Bagga - True.  
2656

2657 Mr. Branin - —the next door neighbor, which is—  
2658

2659 Mr. Bagga - True, true. But why increase the chances twice as  
2660 much on the same spot?  
2661

2662 Mr. Branin - Okay, thank you, sir.  
2663

2664 Mr. Vanarsdall - Thank you. All right.  
2665

2666 Mr. Branin - I have no further questions.  
2667

2668 Mr. Vanarsdall - No further questions. I’d like to entertain a motion.  
2669 Just take a minute. We don’t usually do this.  
2670

2671 Mr. Mac - Like Mr. Theobald told you, the Kroger spent \$8  
2672 million. At the time when I bought the property, it was a piece of junk. I had to  
2673 spend a million dollars to bring it up according the County’s specifications. If I  
2674 would have been given notice earlier, I would have brought the pictures of what it  
2675 was earlier when we bought it, and what it is now. We brought the neighborhood

2676 up, not down. We added beauty to the road. When we took up the property, the  
2677 position of the property, there were around 700 bottles of beer, which we threw  
2678 away in the trash. People used to drink beer there because the property was  
2679 shut down.

2680

2681 Mr. Branin - No one has any question you have done one fantastic  
2682 job. I can remember your case. I can remember you having opposition to having  
2683 an apartment above, which I approved for you. You've done an excellent job with  
2684 your property. I 100% agree with you, sir. Thank you.

2685

2686 Mr. Vanarsdall - Thank you. Mr. Branin, we need a motion.

2687

2688 Mr. Branin - Okay. Mr. Chair, I move for approval of C-1C-09,  
2689 James W. Theobald for Kroger Limited Partnership I, with the additional of the  
2690 possible changing of the delivery route, and the new addition of the changing of  
2691 the roof, and all other changes that have been previously put in.

2692

2693 Mr. Jernigan - Second.

2694

2695 Mr. Vanarsdall - Motion by Mr. Branin, seconded by Mr. Jernigan. All  
2696 in favor say aye. All opposed say no. The ayes have it; the motion passes.

2697

2698 **REASON:** Acting on a motion by Mr. Branin, seconded by Mr.  
2699 Jernigan, the Planning Commission voted 4-0 (one abstention, one absent) to  
2700 recommend the Board of Supervisors **grant** the request because it conforms to  
2701 the recommendations of the Land Use Plan and it would not adversely affect the  
2702 adjoining area if developed as proposed.

2703

2704 Mrs. Jones - I abstain.

2705

2706 Mr. Vanarsdall - I'll turn it back over to you, Madam Chair.

2707

2708 Mrs. Jones - Thank you, Mr. Vanarsdall.

2709

2710 **C-4C-09 Joe Vilseck for Arthur S. McGurn:** Request to  
2711 rezone 0.09 acres from B-2C Business District (Conditional) to C-1 Conservation  
2712 District and conditionally rezone 0.18 acres from C-1 Conservation District to B-  
2713 2C Business District (Conditional), part of Parcel 770-767-7982, located at the  
2714 northeast intersection of Mountain Road and John Cussons Drive. The  
2715 applicant proposes a conservation area and extension of office development.  
2716 The uses will be controlled by zoning ordinance regulations and proffered  
2717 conditions. The Land Use Plan recommends Commercial Concentration and  
2718 Environmental Protection Area.

2719

2720 Mr. Vanarsdall - Anyone in the audience in opposition to C-4C-09, Joe  
2721 Vilseck for Arthur S. McGurn? All right, Ms. Sherry.

2722  
2723  
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2767

Ms. Sherry - Thank you, Mr. Vice Chairman, Madam Chair.

The subject property is part of a larger 3.67-acre parcel which was rezoned to B-2C and C-1 via case C-72C-88 for an office development and case C-11-99 for a conservation district, respectively. The proffered conditions associated with this application are identical to those accepted in the 1988 rezoning case. No changes were made to the proffers in order to maintain continuity for the overall site.

Proffer 1 accepted with case C-72C-88 required the applicant to rezone the portion of the property within the 100-year floodplain to C-1, Conservation District. Case C-11-99 rezoned the portion of the property that was within the 100-year floodplain to C-1, Conservation District; however, the applicant has completed a floodplain study that will result in a revision to the floodplain and is the basis for this request.

The applicant obtained approval for a plan of development, on November 19, 2008 to construct the Glen Allen Professional Park, consisting of three office buildings. Tonight's case will work towards fulfilling the conditions for the plan of development.

Proffers on the site require the applicant to place a 10-foot buffer abutting the 100-year floodplain, and provide a 20-foot landscaped buffer along Mountain Road. The proffers also address signage, permitted uses, hours of operation, architecture and building height.

The 2010 Land Use Plan recommends Environmental Protection Area and Commercial Concentration for the subject site. This request is consistent with the 2010 Land Use Plan's designations and would fulfill the proffered conditions accepted with C-72C-88. Staff supports this request.

This concludes my presentation. I would be happy to answer any of your questions.

Mrs. Jones - Thank you so much. Questions from the Commission? Mr. Vanarsdall, how would you like to proceed?

Mr. Vanarsdall - I don't need to hear from the applicant. I just want to say it was 1988 when this was all done. The POD has already been approved. McGurn wanted to put three buildings on there. One of the footprints touched into the C-1 Conservation, so this is really kind of reverse zoning. It's a sliver of land on each side. It doesn't change anything else. If anybody has any questions, I'll be glad to answer them. All this is doing is shifting C-1 into B-2, and the B-2 into C-1. Back in 1988, it wasn't a mistake; the line just wasn't drawn properly.

2768 Mrs. Jones - Is this a result of the floodplain map?  
2769  
2770 Mr. Vanarsdall - Yes.  
2771  
2772 Mrs. Jones - Okay. All right, Mr. Vanarsdall.  
2773  
2774 Mr. Vanarsdall - I will start out by saying staff recommends this. The  
2775 request is consistent with the 2010 Land Use Plan. It's also consistent with the  
2776 goals, objectives, and policies of the 2010 Land Use Plan. I recommend C-4C-  
2777 09, Joe Vilseck for Arthur S. McGurn, to be approved by the Board of  
2778 Supervisors.  
2779  
2780 Mr. Branin - Second.  
2781  
2782 Mrs. Jones - Motion by Mr. Vanarsdall, seconded by Mr. Branin.  
2783 All in favor say aye. All opposed say no. The ayes have it; the motion passes.  
2784  
2785 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by  
2786 Mr. Branin, the Planning Commission voted 5-0 (one absent) to recommend the  
2787 Board of Supervisors **grant** the request because it conforms to the  
2788 recommendations of the Land Use Plan and it would not adversely affect the  
2789 adjoining area if developed as proposed.  
2790  
2791 Mr. Emerson - Madam Chairwoman, that brings us to the next item  
2792 on the agenda, which is a discussion item. It does regard the Capital  
2793 Improvement Program. As you'll recall, every year in February, the manager  
2794 visits with the Planning Commission, and we conduct a public hearing on the  
2795 Capital Improvement Plan, and make a recommendation regarding the Capital  
2796 Improvement Plan. The Commission has been requested to schedule that public  
2797 hearing for the CIP this year in February on the 12<sup>th</sup> at 6 p.m. If that's in keeping  
2798 with the wishes and desires of the Commission, I would request a motion  
2799 confirming the scheduling of that date for the public hearing on the CIP.  
2800  
2801 Mr. Archer - Mr. Secretary, I move we adopt the considered date.  
2802  
2803 Mr. Branin - Second.  
2804  
2805 Mrs. Jones - Motion by Mr. Archer, seconded by Mr. Branin to  
2806 confirm—  
2807  
2808 Mr. Archer - February 12<sup>th</sup>.  
2809  
2810 Mrs. Jones - —February 12<sup>th</sup> at 6:00 for the public hearing to  
2811 consider the 2009 through 2010—excuse me—2009-10 through 2013 Capital  
2812 Improvement—fourteen. That's really quite a mouthful.  
2813

2814 Mr. Emerson - Yes ma'am, it is.  
2815  
2816 Mrs. Jones - Consider the Capital Improvement Program before  
2817 us.  
2818  
2819 Mr. Emerson - There you go.  
2820  
2821 Mrs. Jones - All in favor say aye. All opposed say no. The ayes  
2822 have it; the motion passes. The time is set.  
2823  
2824 Mr. Emerson - Madam Chairman, we have one other discussion  
2825 item. Ms. Moore is handing some documents out to you now. We have several  
2826 things to discuss with you regarding your upcoming public hearing on January  
2827 the 22<sup>nd</sup> for the 2026 Comprehensive Plan. One of the items being the rules and  
2828 procedures, which we began discussion of at our last work session. Also, some  
2829 meetings and some information that we have received from the public since the  
2830 Comments Manual was sent to you since our last work session. Ms. Rosemary  
2831 Deemer, our Comp Plan project manager, will present that information to you.  
2832  
2833 Ms. Deemer - Good evening, Madam Chairwoman and  
2834 Commissioners. It's good to be back presenting. As Mr. Emerson indicated, you  
2835 have been provided with a packet of information related to the Comprehensive  
2836 Plan, and our upcoming public hearing. On the top of the packet, you will have  
2837 received the rules and procedures that we have drafted for your review. As we  
2838 are hoping for some significant public input next Thursday evening, we felt that it  
2839 would be appropriate to establish some guidelines for the receiving of public  
2840 comment. As you know, the meeting will be held at 6:00 next Thursday evening  
2841 here. We are suggesting that the Commission establish the purpose of the  
2842 meeting for the public, and also to let them know that the Commission and staff  
2843 will not be responding to comments posed by speakers. If the Commission has  
2844 questions for the speakers, that, obviously, will be part of the public process. If  
2845 there are just simple questions that a speaker might have, or someone in the  
2846 audience might have, simply identifying what their parcel is designated, we'd like  
2847 to be able to let them know at the beginning of the meeting that staff will be  
2848 available out in the lobby with maps and computers, so if that's all someone  
2849 needs to ask, we can actually address that for them, and they don't actually have  
2850 to sit and wait for their turn.  
2851  
2852 As with a normal public hearing, all the input received will be recorded and  
2853 transcribed. Staff, in reviewing the minutes, will then be able to identify specific  
2854 topics or items that have come up that need to be addressed with the  
2855 Commission at a future work session  
2856  
2857 We thought it would be appropriate to address with you this evening time limits  
2858 for the speakers. We have had a few contacts from the public about this  
2859 opportunity for public input. We would like the Commission to at least consider

2860 establishing a time limit for the amount of time that a speaker would be able to  
2861 offer their input. Obviously, you may set that this evening, or if you would prefer  
2862 to wait until next Thursday. I think we would like to have that done this evening.

2863  
2864 Mr. Emerson - I do believe we would request the Commission set  
2865 that time this evening so we could communicate it to the public that has been  
2866 requesting it. Of course, you may adjust it like you did tonight. This would run  
2867 very similarly to your normal time limits. If we get a room full of people, you're  
2868 going to want to try to keep everybody to—just to be respectful to everybody in  
2869 the room—to a set time limit, plus to make best use of your time. If you only  
2870 have a handful of people, you may very well waive the time limit. Just in order for  
2871 us to be able to give the public information regarding what your current  
2872 guidelines are. Just like the rules and regulations that we have for public  
2873 hearings and things of that nature now, we would like to have some guidance  
2874 from you.

2875  
2876 The other thing I guess I would reemphasize, as Rosemary has noted, is this will  
2877 be—There will not be a full-blown public presentation again on the plan. The  
2878 Plan is out there. It's anticipated the people have availed themselves of it. They  
2879 should come in informed of the Plan. As I spoke to the Chairwoman earlier this  
2880 week—I don't know if any of you have ever seen a hearing at the State  
2881 Corporation Commission, where the judge essentially walks in, reads the number  
2882 on the docket, says okay, I'm taking input. They don't respond; they listen. All  
2883 the input's recorded. They go back, have their consideration, and then come out  
2884 with their decision at a later date. In the same regard, this hearing is very similar  
2885 in the fact that you're going to receive input from the public on the document. You  
2886 may question them in terms of trying to clarify what their points are, but unlike as  
2887 we do in a public hearing setting on a rezoning where we'll try to resolve or  
2888 answer questions, we won't really try to respond at that time. We're going to  
2889 record everything, then we'll come back to you with all those comments  
2890 recorded. If they're very specific in district, we may sit down with you one-on-one  
2891 again prior to coming back to a work session, to discuss with you individually this  
2892 was a specific question, and how do you feel about. This is how the plan  
2893 addresses it now. Do you feel we should change this, or do you feel it should  
2894 stay as it is? These are not things we're going to try to interact with the public at  
2895 that time.

2896  
2897 If we do have the question, somebody walks up and says, "What is my property  
2898 designated," we will have staff in the lobby. We'll have our information that we  
2899 had at the open houses. You'll be able to direct them, "We have staff in the back  
2900 of the room. They may be able to answer that question for you." If not, we'll  
2901 record it and, again, follow the same format. But we do need to try to get this  
2902 information set forth tonight.

2903  
2904 Mrs. Jones - We did have discussion of this. I know all of you who  
2905 read the minutes refreshed yourself on this, as we did have discussion of this at



2906 the last Commission meeting. We were talking about potentially two minutes as a  
2907 limit, but if there are crowds of—I'd like nothing better than to have 100 people  
2908 wanting to make comments, hopefully all of them positive, about the  
2909 Comprehensive Plan. Realistically, my guess is we're not going to have 100  
2910 people, we're going to have 20 maybe. Do you think?

2911  
2912 Mr. Jernigan - No, that's all right.

2913  
2914 Mrs. Jones - All right. My suggestion would be that we find a  
2915 number like two minutes that seems reasonable.

2916  
2917 Mr. Archer - Madam Chairman, I also think we should probably  
2918 think about setting an adjournment time maybe first before we determine any  
2919 time limit. Two minutes is the figure I had in mind. The public tends to get bored  
2920 when meetings go too long. Folks on the back end of the meeting I don't feel are  
2921 served as well as those who speak first. So, if you make the meeting too long,  
2922 and people start yawning, some of them get up and walk out. And I don't blame  
2923 them.

2924  
2925 Mr. Branin - That's true.

2926  
2927 Mrs. Jones - Your point is well taken.

2928  
2929 Mr. Archer - I'm thinking maybe 90 minutes or two hours. We do  
2930 have the option of being able to schedule another one.

2931  
2932 Mr. Emerson - I think if you have a room full of people, you may  
2933 want—That's why we have on here do you want to consider an adjournment time  
2934 up front. Is the meeting going to be two hours, is it going to be an hour, three  
2935 hours—whatever your desire is. But there is that point where you reach  
2936 saturation. The public either can't stay—They need to know the meeting's going  
2937 to end there, and you will continue it if there are still people to be heard. At that  
2938 time, we'll determine a date. Maybe you should think about that date between  
2939 now and possibly—Well, no, the POD meeting doesn't fall until after the 22<sup>nd</sup>.  
2940 We'll have to think about that, and maybe come up with some dates in mind that  
2941 we might continue a public hearing to if we had to.

2942  
2943 Mr. Archer - I'm thinking if we set an adjournment time, and we get  
2944 down near the end and there's just a few people left, we can always extend it.

2945  
2946 Mr. Jernigan - Exactly.

2947  
2948 Mr. Archer - We have the right to adjust it. I think if we don't set an  
2949 adjourn time, which is a good thing to do, then everybody will think that we're just  
2950 here all night and we can talk as long as we want.

2951

2952 Mrs. Jones - Do you have a suggestion for an adjournment?  
2953  
2954 Mr. Archer - I'm thinking 90 minutes, but, you know, maybe two  
2955 hours would be better. I don't know. We could make it 8:00, 7:30 or 8:00.  
2956  
2957 Mr. Jernigan - I'm thinking two hours would be plenty.  
2958  
2959 Mr. Archer - Okay.  
2960  
2961 Mrs. Jones - All right, well—  
2962  
2963 Mr. Archer - If it finishes early, we don't have a problem.  
2964  
2965 Mr. Jernigan - Yes. If it finishes early, we're okay.  
2966  
2967 Mrs. Jones - Six p.m. to eight p.m.? And two minutes for the  
2968 speakers, but we will certainly, obviously, be reactive as we see them.  
2969  
2970 Ms. Deemer - We will have someone signing people in to speak.  
2971 So, while you are listening to the presentation by Mr. Dale, we will count the total  
2972 number of people who have signed in and requested to offer public comment,  
2973 and provide that to the Secretary. If you're having difficulty identifying how many  
2974 people—Some people may just come with a spouse, or some coworkers, or a  
2975 friend, but we will be able to identify how many people have requested to actually  
2976 speak before the Commission.  
2977  
2978 Mrs. Jones - I have a few questions. One is that you mentioned  
2979 there will be staff in the lobby to answer pretty perfunctory questions. Will that be  
2980 all during the two-hour discussion time?  
2981  
2982 Mr. Emerson - Yes ma'am.  
2983  
2984 Mrs. Jones - Okay. So, it's not just at the end of the meeting.  
2985  
2986 Mr. Emerson - No ma'am.  
2987  
2988 Mrs. Jones - It's all through the meeting.  
2989  
2990 Mr. Emerson - Just in the event we do get that question. Again, I  
2991 think for other people who are here to provide you comment, the purpose of the  
2992 open houses were to answer those types of questions. So, if you do get that,  
2993 versus slowing down your process, you can say, "That's a very good question.  
2994 We have staff in the lobby that can help you with that."  
2995  
2996 Mr. Branin - Mr. Secretary and Madam Chair, can Mr. Archer and I  
2997 work the outside rooms?

2998  
2999 Mrs. Jones - No.  
3000  
3001 Mr. Branin - Just checking.  
3002  
3003 Mrs. Jones - No, you may not.  
3004  
3005 Mr. Branin - Nice try.  
3006  
3007 Mrs. Jones - The second question I have, Ms. Deemer, the  
3008 introductory comments about the purpose of the meeting, the format of the  
3009 meeting, and the way in which it will proceed, are those made by myself, by you,  
3010 or by our Secretary?  
3011  
3012 Mr. Emerson - You and I can talk about that. We'll get this into a  
3013 more formal format. You and I, we'll figure that out. You won't need to do it; I can  
3014 do it. If you want to do it, I'm perfectly fine with that.  
3015  
3016 Mrs. Jones - Mr. Dale is also going to be part of this?  
3017  
3018 Ms. Deemer - Yes ma'am. He will make the actual presentation prior  
3019 to you all accepting the public input.  
3020  
3021 Mrs. Jones - That will probably be similar to the discussion we had  
3022 at our last meeting out at—  
3023  
3024 Ms. Deemer - At Glen Echo. It will probably be a bit shorter just  
3025 because we're trying to package it up. As the secretary indicated, the Plan has  
3026 been available online, at the County libraries, and—  
3027  
3028 Mrs. Jones - Right. I know everybody's ready to get out of here,  
3029 but I think this is very effective. I actually noticed it very quickly without the  
3030 special mailing. I've received my special, personalized notice. Has everyone  
3031 else? We talk about people not getting notice all the time.  
3032  
3033 Mr. Emerson - Did it come directly to you?  
3034  
3035 Mr. Branin - Pardon?  
3036  
3037 Mrs. Jones - Did you get your personal notice to the public  
3038 hearings?  
3039  
3040 Mr. Branin - Yes.  
3041  
3042 Mrs. Jones - You did? All right. There we go. I wanted to  
3043 commend—

3044  
3045 Mr. Branin - Have you—  
3046  
3047 Mrs. Jones - I think you've covered as much of the bases as can  
3048 be covered.  
3049  
3050 Ms. Deemer - We did send out over—  
3051  
3052 Mr. Jernigan - I'll have to wait to make sure my wife didn't throw it  
3053 away.  
3054  
3055 Mr. Branin - She probably did.  
3056  
3057 Mr. Jernigan - I'm telling you. I have to catch it, because she thinks,  
3058 you know. Usually if it has Henrico County on it, I do get it. I want to add  
3059 something about the Comp Plan, because we discussed this. I won't be long.  
3060 We had discussed changes to the Comp Plan about cell towers. As you can see  
3061 what I had to listen to—what we listened to tonight. It's tough for staff, even  
3062 though you know you've done all you can do, to have to sit up there and say that  
3063 you recommend denial. Joe, when do you want to—Are they going to come up  
3064 with something for us?  
3065  
3066 Mr. Emerson - We're working on that right now. What we had  
3067 planned on doing—Of course, we have our public hearing. After we get our  
3068 public input, we have to go back and compile that. We're going to have you  
3069 schedule a work session to go over that. We thought when we got to the work  
3070 session, we would also have our work completed on any potential revisions to  
3071 that section of the Comp Plan, along with any other recommendations we may  
3072 have. We would schedule that work session and do all that at once.  
3073  
3074 Mr. Jernigan - Okay.  
3075  
3076 Mr. Emerson - Once you get to the recommendation stage, we would  
3077 come back with the work session that you talked about regarding how to use the  
3078 plan, and also how to use the goals, objectives, and policies, and things of that  
3079 nature.  
3080  
3081 Mr. Jernigan - That was the second thing I wanted to bring up,  
3082 because we had discussed goals, objectives, and policies before. I thought we  
3083 were going to sit down and talk about that. Mr. Vanarsdall is leaving us, but  
3084 that's one that he definitely wanted.  
3085  
3086 Mr. Branin - Mr. Vanarsdall has to get up at 2:30 and drive 12  
3087 hours, so that's why he left.  
3088

3089 Mr. Emerson - We want to do that work session as soon as we can,  
3090 but it seems almost futile to do it on the 2010 Plan, when the 2026 Plan is so  
3091 close to adoption. But you want to get the 2026 Plan done so we don't go over  
3092 something that changes in terms of how to use it. That's kind of been the  
3093 chicken-or-the-egg type question in regards of when to schedule that work  
3094 session.

3095  
3096 Mrs. Jones - You would anticipate it would be soon.

3097  
3098 Mr. Emerson - I would anticipate the work session after—

3099  
3100 Mrs. Jones - Within a month after the adoption?

3101  
3102 Mr. Emerson - After the adoption, yes. Within a month after the  
3103 adoption we'll be more than prepared to do that, yes ma'am.

3104  
3105 Mrs. Jones - All right.

3106  
3107 Mr. Emerson - Just to summarize this real quick, Rosemary. Before  
3108 you move into this, let's make sure we're clear. We'll go ahead, turn what we  
3109 have in bullet points in front of us into a little more formalized document. You  
3110 and I will go over that, Madam Chairwoman. Two minutes on the public  
3111 hearings, and adjournment at 8:00.

3112  
3113 Ms. Deemer - The remainder of the information that is provided in  
3114 your packet, there is a summary for you. Basically, what this information is, is  
3115 providing you with comments that we have received since the General  
3116 Comments Manual was formalized. These comments have come in either via e-  
3117 mail or via postal service. These are either requests for changes in land use  
3118 designation, MTP requested changes, or perhaps simply changes to the Comp  
3119 Plan in general. So, we felt that you should have this information. Especially as  
3120 public input is next week, there is a possibility that some of this may come up.  
3121 You will notice that where appropriate, staff responses to either the individual or  
3122 the group have been provided. You may be able to review that information as  
3123 well.

3124  
3125 Mr. Emerson - I would ask that you pay close attention to some of  
3126 this information. Staff did meet with some of the representatives of Envision  
3127 Henrico from the Varina section of the County. They did provide staff with some  
3128 written comments from their Smart Growth consultant that reviewed the Plan. We  
3129 have responded to them. You may want to read through that. As Ms. Deemer  
3130 noted, we do have other comments that we have received, and some  
3131 recommendations that some Planning Commissioners have asked us to look at  
3132 based on some recent changes in their districts, some possible land use  
3133 changes. That will come up again in the work session, but since we do have that

3134 information available, we wanted to make it available to you prior to the public  
3135 hearing.

3136  
3137 Mrs. Jones - Any further questions or comments?

3138  
3139 Mr. Branin - On this subject?

3140  
3141 Mrs. Jones - Pardon?

3142  
3143 Mr. Branin - On this subject?

3144  
3145 Mrs. Jones - Yes. For Ms. Deemer.

3146  
3147 Mr. Emerson - Madam Chairman, if that closes that out, I know it is  
3148 getting late, and these lights are very bright up here. The next item on our  
3149 agenda is approval of the minutes for the December 11, 2008 work session and  
3150 the December 11, 2008 regular meeting.

3151  
3152 Mrs. Jones - Are there any corrections or additions to the minutes  
3153 of either the work session or the Planning Commission meeting.

3154  
3155 Mr. Archer - I have none.

3156  
3157 Mrs. Jones - I have none either. I move approval of the minutes of  
3158 the December 11, 2008 work session, as well as the regular monthly meeting of  
3159 the Commission on December 11, 2008.

3160  
3161 Mr. Archer - I'll second your motion, Madam Chair.

3162  
3163 Mrs. Jones - Motion by Mrs. Jones, seconded by Mr. Archer. All in  
3164 favor say aye. All opposed say no. The ayes have it; the motion passes.

3165  
3166 I'll entertain a motion for adjournment.

3167  
3168 Mr. Archer - So moved.

3169  
3170 Mrs. Jones - Done.

3171  
3172  
3173 The meeting adjourned at 10:37 p.m.

3174

3175

3176

3177

3178

3179

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Mr. R. Joseph Emerson, Jr., Secretary

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3182  
3183  
3184

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Mrs. Bonnie-Leigh Jones, Chairperson