

Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico, Virginia, held in the Demonstration Kitchen of the Human Resources Building, Dixon Powers Drive, at 7:00 p.m., on January 15, 1998, Display Notice having been published in the Richmond Times-Dispatch on Thursday, December 25, 1997, and Thursday, January 1, 1998.

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

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

Others Present: John Merrithew, AICP, Principal Planner  
Mark Bittner, County Planner  
Nancy Gardner, AICP, County Planner  
Mikel Whitney, County Planner  
Lee Yolton, County Planner  
Judy Thomas, Office Assistant  
Dwight Grissom, Schools  
E. Todd Eure, Assistant Traffic Engineer, Public Works

Mr. Vanarsdall - Good evening, everybody. The Planning Commission will now come to order. Happy 1998 to everyone. This is our first meeting of the year. Tonight, in addition to hearing the cases, we will elect a new Chairman and Vice-Chairman, and then, we may have some opposition to a couple of our cases. We'd like to ask you to hold the time limit down. We give 10 minutes for the opposition and 10 minutes for the applicant. We'd like for you to please hold down the speeches and try not to make them repetitious and so forth. We want you to talk. We don't want to cut you off in the middle of a sentence; anything of that nature.

I was going to welcome Mr. Donati. Mr. Donati is a member of our Board of Supervisors. He will serve on the Planning Commission this year. The law says we have to have a member of the governing body sitting with us each year. Mr. Donati had a conflict; another meeting to go to. So, he will be with us next time.

I'd like to welcome back all the Planning Commissioners. Mrs. Wade, Mr. Zehler, Mr. Archer, Mrs. Dwyer. I'd like to welcome back the Acting Director, Mr. Silber, Mr. Merrithew, and all of the staff here. We, sitting up here, were reappointed last night by our supervisors, so we've got it made for another year. We have Wendy Wagner with the Times-Dispatch with us tonight. It used to be the News Leader and that went out. Glad to have you, Wendy.

Last time, I'll just bring to you up to date on a little incident. At the end of our last meeting, one of our citizens jumped out in the aisle and told us he had been sitting here for three hours and we had done a lousy job and that we didn't care for anyone. There were two reasons that I didn't take the hammer, as one of our members said, to him, was the main reason, I was kind of frozen and couldn't even get to it. We'd never had that before. The other reason was, I took the position, it was a public hearing and this was the way he got his feelings out.

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So, he wrote me a letter and asked me to share this with the other Commission members and I would like to read it. It says, "Dear Mr. Vanarsdall: This is a letter of apology for my actions and vindictive words to the Planning Commission and Board (sic) on the night of December 11, 1997. In reference to the Board's (sic) decision regarding Case C-87C-97, I stood and made remarks for which I am very sorry. I would appreciate it if you would express my regrets to the other Board (sic) members.

My wife has impressed on me how out of character my behavior was that night and I had no cause to make the remarks that I did."

So, we sincerely accept his apology. I want to put this in the record, Mr. Secretary. I will now turn the meeting over to our Secretary, Mr. Silber.

Mr. Randall Silber, Acting Director of Planning - Yes sir. Thank you, Mr. Chairman. The first item of business is the Call to Order. That has been taken care of. We do have five members, tonight, present. Mr. Donati is not here. We do have a quorum, so we can conduct business.

**ADOPTION OF PLANNING COMMISSION'S RULES AND REGULATIONS:**

The first item of business is adoption of the Planning Commission's Rules and Regulations, which we do on an annual basis, at the first meeting of the year. Mr. Merrithew is going to present those.

Mr. John Merrithew, Principal Planner - Thank you, Mr. Silber. Annually, the Commission reviews its Rules and Regulations. This year, you received in your packet, staff's recommended changes to the regulations, all of which, I would refer to as either technical or grammatical changes, and none of which have a substantive effect on the intent of the regulations. There are about six minor changes in all. Three of them are required because of the recodification of the State Code, referencing the Planning legislation. It is now 15.2; whereas last year it was Section 15.1 of the Code. And then the rest are minor changes.

I would, however like to refer you to Article III on Page 2 of the regulations regarding membership. Staff had suggested a change in the wording here, and after further review, is now suggesting that it not be changed. So, the changes that are shown for Article III, we would like to now suggest they not be made to the regulations. The language, we believe, is clearer the first time, and we mucked it up a little bit the second time around.

So, with that, I'd be glad to answer any questions. As I said, I don't believe any are these are substantive changes to the intent.

Mr. Vanarsdall - Mr. Merrithew, you changed it from six to five, because you were counting the Board member.

Mr. Merrithew - Correct.  
Mr. Vanarsdall - But the Board, like last night, does appoint one of their members.

Mr. Merrithew - That's correct. So, they do appoint six people.

Mr. Vanarsdall - So, technically, six would be right, wouldn't it?

Mr. Merrithew - That's correct.

Mr. Vanarsdall - So, we go back to the six. What was the reason we changed from 15.1 to 15.2?

Mr. Merrithew - The way the State, in recodifying the State Code, changed the numbers on us and we're now reflecting those new numbers.

Mr. Vanarsdall - I have one thing I want to bring to the attention of Mr. Silber. On Page 4, at the top of the page, I think it's Item 4, Paragraph 4, four is down at the bottom and continues on. On Page 4 at the top of the page, the next to the last sentence, it says, "A sign may be placed on the property requested for rezoning, change in proffers, previous rezoning case, or provisional use permit." At one time, we never did put signs on proffer changes. I think about three or four years ago, I asked that to be put in there. They did put it in there, but I noticed, many times, there's no signs on a proffer change.

Mr. Silber - Mr. Vanarsdall, there should be a sign on all proffer changes, as the rules indicate. If you find a circumstance...

Mr. Vanarsdall - It might be something you may want to check on, because a couple of times, they weren't on there. A proffer change is just like a rezoning case and people should be notified.

Mr. Silber - Yes sir. There should be a sign.

Mr. Vanarsdall - That's the only thing I have for mine. Anybody else have anything?

Ms. Dwyer - I had a question, Mr. Merrithew, on Article 7, Advice. It says, "No informal requests for advice will be officially considered." Is that meant just to apply to the Commission, or staff? It seems like we should elaborate on that a little bit to make it clearer.

Mr. Merrithew - I believe that is for the Commission, and the Commission's role in the process. I believe staff can respond to informal requests for advice.

Ms. Dwyer - So, maybe "by the Commission" at the end? Would that be helpful?

Mr. Merrithew - Yes ma'am.

Ms. Dwyer - I also had a thought and we don't need to act on this today, but on Paragraph 6 on Page 4 when we talk about, "revisions to proffered conditions that we receive in our packet is supposed to be received within 48 hours of our meeting and often we waive that. I think we should reconsider our policy of routinely waiving those. But aside from that, I think it would be helpful when people submit revised proffers if they indicate the language that is to be deleted by leaving it in, but striking it through, and underlining additional language so in considering the hundreds of pages that we have to read for a meeting, it would really be of assistance to me, and maybe to the others, to have that clearly marked when changes are made. So, I would just bring that to the attention of the other Commission members to see if you think that would be a helpful thing to include in Paragraph 6.

Mrs. Wade - Yes. Some of them do that now, but it is helpful.

Ms. Dwyer - Some people do. I believe I got some yesterday that didn't have that in it. At that late date, it's really hard to compare.

Mr. Vanarsdall - What was left out of it?

Ms. Dwyer - Nothing was left out. I'm just suggesting that we may add that when revised proffers are submitted that additional language and deleted language be clearly indicated on the revised proffers.

Mr. Silber - And you're not simply referring to the ones that were submitted within the 48-hour period, but just any revisions to proffered conditions after the original submission?

Ms. Dwyer - Yes.

Mr. Silber - Okay.

Mr. Vanarsdall - You're talking about the agenda, itself?

Mr. Silber - No. She's talking about any revision to proffered conditions would be resubmitted by the applicant with the blackline version, so it is clearly understood what the change is.

Mr. Vanarsdall - Anybody else have anything?

Mrs. Wade - Other than, I was glad to hear the emphasis on trying to keep with our time schedule and our time limits at our hearings. It is there for everybody. I think most people in most organizations understand that we have these time limits. For our zoning night meeting, in order to move things along, and especially agendas like we have tonight. We're fairer and it's more considerate of those at the bottom of the agenda, too.

Mr. Silber - Mr. Merrithew, I think there may be one other typo on Page 5. The State Code reference I think it should be 15.2 instead of 51.2.

Mr. Merrithew - Yes sir.

Mr. Vanarsdall - Any other changes by Commission members? Okay, we'll need a motion and a second to adopt the rules and regulations.

Mrs. Wade - I move that the Rules and Regulations, as of January 15<sup>th</sup>, presented be approved with Article 3 related to membership to remain as it currently is, so there'd be no change in that.

Mr. Merrithew - Incorporate Mrs. Dwyer's change in that as well?

Mrs. Wade - Which was what?

Mr. Silber - On Page 4, No. 6. Make the blackline proffer changes. She also suggested on Page 6, Article 7, adding "by the Planning Commission."

Mrs. Wade - Oh. Under Article 7? Was it a change on Page 4? You wanted that put in here? All right.

Ms. Dwyer - That was a suggestion.

Mrs. Wade - Should we require that, is what you're saying?

Mr. Vanarsdall - Do we have a second? We haven't finished.

Mrs. Wade - All right, with the changes that have been mentioned, then, I move that the Rules and Regulations be adopted.

Ms. Dwyer seconded the motion.

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

Mr. Silber - The next item of business would be the requests for deferrals and withdrawals. Mr. Merrithew.

**Deferred from the December 11, 1997 Meeting:**

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

Mr. Merrithew - Thank you, Mr. Silber. We do have just a few requests for deferrals this evening. They have requested a deferral to February 12, 1998.

Mr. Vanarsdall - Any one in the audience in opposition to this deferment? Any opposition to deferment of C-64C-97? No opposition. Entertain a motion.

Mr. Archer - Mr. Chairman, I move the deferment of C-64C-97 to the February 12<sup>th</sup> meeting, per the applicant's request.

Mr. Zehler seconded the motion.

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

**Deferred from the September 11, 1997 Meeting:**

**P-8-97 J. Thomas O'Brien, Jr. For Short Pump Investors, L.P.:** Request for approval of a provisional use permit in accordance with Sections 24-58.2(a)(d) and 24-122.1 of Chapter 24 of the County Code to permit outside dining and extended hours of

operation to 2:00 a.m. for proposed restaurants, on Parcels 36-A-19D (pt.), 21, 22, 23, and 24 located on the north line of W. Broad Street, 450' west of its intersection with Pouncey Tract Road. The site is zoned B-2C Business District (Conditional) and M-1 Light Industrial District. The site is also within the West Broad Street Overlay District.

Mr. Merrithew - They have requested a deferral until April 9, 1998.

Mr. Vanarsdall - Anyone in the audience in opposition to deferment of this? This is Case P-8-97. Any opposition? Entertain a motion.

Mrs. Wade - I understand they are working on their shopping center. I move that Case P-8-97 be deferred to the 9<sup>th</sup> of April at the applicant's request.

Mr. Archer seconded the motion.

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

**Deferred from the December 11, 1997 Meeting:**

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

Mr. Merrithew - The third request is the next case, again in the Three Chopt District - C-79C-97. They have requested a deferral until February 12, 1998.

Mr. Vanarsdall - February 12<sup>th</sup>. Any opposition to this case for deferment?

Mr. Robert O'Neill - I'm the President of Cross Keys Civic Association. I'm also here representing about 10 other community organizations out in the West End near this rezoning proposal. We've been in attendance of the past three meetings where this thing has been scheduled. We don't have a problem with rescheduling for the next hearing. However, we don't think there's anything that the developer or Mr. Weinberg, their attorney, is gong to be able to do that's going to change our opinion. We're adamantly opposed to it. But we'll be glad to wait until the next time to present our side of the case. We've tendered some letters, and if you don't have them, we encourage you to ask Mr. Merrithew to provide you copies of the letters that our organizations have provided. I think it outlines our stand pretty clearly. So, we just wanted to get it on record saying, we'd be glad to do whatever, but I don't think we need to meet with the developer, the attorney, again. I don't know what they're planning to do between now and the next meeting.

Mr. Vanarsdall - We have to have a public hearing on it regardless of how it turns out.

Mr. O'Neill - I understand.

Mr. Vanarsdall - Any other questions of Mr. O'Neill by Commission members?

Mrs. Wade - I know you all have met many times over the last several months. They seem to feel they want 30 more days to work on it. Actually, if they have some changes, I would assume that you would listen to anything substantive that they might...

Mr. O'Neill - Sure. No problem. We'll be glad to listen to anything they have.

Mrs. Wade - They tried to get the word around to all of your neighborhood. There are several here who didn't get the word. So, we hope to see those who are interested back next month.

Mr. O'Neill - That would be fine. Thank you.

Mr. Vanarsdall - Thank you, Mr. O'Neill, for letting us know that.

Mr. Merrithew - Mr. Chairman, that's all the deferrals I have for the 7:00 o'clock agenda. I would like...

Mr. Vanarsdall - We haven't voted on this.

Mr. Merrithew - Oh, I'm sorry.

Mr. Vanarsdall - We need a motion on C-79C-97.

Mrs. Wade - I move Case C-79C-97 be deferred to the 12<sup>th</sup> of February at the applicant's request.  
Mr. Zehler seconded the motion.

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

Mr. Merrithew - Mr. Chairman, that's all that I have on the 7:00 o'clock agenda. I would like to point out, on the 8:00 o'clock agenda, Case C-6C-98, which would be on Page 5 of your agenda in the Brookland District, Daniel Myers for JD Properties. This was a request to amend the proffers for the Laurel Park Shopping Center. That case has been withdrawn. I'll report that again at 8:00 o'clock.

Mr. Vanarsdall - Okay. We don't need to take any action on it, but we do need to wait until 8:00. That's the one that Mrs. Gardner told me about.

Mr. Silber, I would like to make note. I will not be here for the April 9<sup>th</sup> meeting. I will be going to the APA Convention and won't be back.

Mr. Silber - April 9<sup>th</sup>, okay.

Mr. Vanarsdall - I'd just like to let you know that, so if somebody else is going to be absent. I know last year we had a conflict and we moved the meeting, not because of me, but we were afraid we wouldn't have a quorum.

Mrs. Wade - I expect to be back on the 8<sup>th</sup>. Anybody has any cases that night, please talk about them early.

Mr. Silber - That maybe worth announcing. The National Conference of the American Planning Association will be held up in Boston. Several members of the Planning Commission will be attending that conference. I think the dates are the 4<sup>th</sup> to the 8<sup>th</sup> of April. Because Commission members will be out of town, it is that much more important that the applicants get with the Commission members in advance of that time.

Mr. Vanarsdall - You may want to tell the audience who hasn't been here before, this is temporary quarters and we're going to move back...

Mr. Silber - I'd be glad to. The quarters you're in, is not our normal meeting room, we are normally located in the Board Room or hearing room over in the Administration Building that is now undergoing renovation. It will be finished, hopefully, at the end of February. So, hopefully, our March meetings will be back in the main Board room. So, I appreciate you putting up with these accommodations. The sound system may not be perfect. We are trying to get by with what we have. I appreciate the inconvenience.

Mr. Vanarsdall - Now, we'll move on to the election of Chairman.

Mr. Silber - It gives me privilege to be able to handle this portion of the agenda. The first meeting of each year, the Planning Commission elects their Chairman and Vice-Chairman for the year. So, at this time, we will conduct this portion of the business. I would like to, at this time, open the floor from nominations for Chairman of the Planning Commission for 1998.

Mr. Vanarsdall - I move that Chairman for 1998 be Mr. Chris Archer.

Mrs. Wade seconded the motion.

Mr. Silber - We have a motion by Mr. Vanarsdall, and seconded by Mrs. Wade, to nominate Chris Archer for Chairman. Is there a motion to close the nominations?

Mr. Zehler - So move, Mr. Secretary.

Mr. Vanarsdall seconded the motion.

Mr. Silber - Moved and seconded that we close nominations. All in favor of Mr. Archer as the Chairman of the Planning Commission, please signify by saying aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

Mr. Vanarsdall - I'd like to place Mrs. Elizabeth Dwyer's name for Vice-Chairman for 1998.

Mrs. Wade seconded the motion.

Mr. Silber - Motion by Mr. Vanarsdall, seconded by Mrs. Wade.

Mr. Zehler - I move the nominations be closed, Mr. Secretary.

Mr. Silber - Close nominations.

Mrs. Wade seconded the motion.

Mr. Silber - Mrs. Dwyer as Vice-Chairman. All those in favor, signify by saying aye—all those opposed by saying nay. Mr. Donati absent. Hearing none, Mrs. Dwyer is Vice-Chairman.

Mr. Vanarsdall - I have briefed Mr. Archer on being Chairman. The only difference is, you can't nap.

Mr. Silber - Congratulations to both of you.

Mr. Archer - Thank you, Mr. Vanarsdall.

Mr. Silber - Okay, we move on to the next item on the agenda.

Mr. Archer - Certainly, we may. I would like to relay that one of my colleagues today referred to Mr. Vanarsdall as my campaign chairman.

**AMENDMENT TO THE MAJOR THOROUGHFARE ELEMENT OF THE COMPREHENSIVE PLAN:**

MTP-1-97. Delete Old Sellers Way and Chickahominy Bluffs Road.

Mr. Silber - Lee Yolton will be presenting that staff report.

Mr. Lee Yolton, County Planner - Good evening, Mr. Chairman, members of the Commission. This public hearing concerns a proposed amendment to the 2010 Major Thoroughfare Plan. The amendment was sponsored by the Planning Commission member from the Fairfield District.

A staff report was prepared on the proposed amendment and included in your packet for tonight's hearing. I would like to summarize what's contained in the staff report, and then try to answer any questions you may have about this matter.

The proposed amendment would delete two roads: Old Sellers Way and Chickahominy Bluffs Road from the Major Thoroughfare Plan. Both of these roads are designated Minor Collectors on the Thoroughfare Plan.

The intent of the Plan is to eventually connect these two roads to provide access between Diane Lane and Wilkinson Road, as illustrated on this slide. Both of these roads have been included on the Major Thoroughfare Plan since it was originally adopted in 1985.

Chickahominy Bluffs Road already exists. It was constructed in the mid-1970's as part of the Chickahominy Bluffs Subdivision and left as a stub street for future access to undeveloped property to the south.

In 1980, the Henrico County School Board acquired a 58-acre site for a middle school and an elementary school. There is one intervening parcel between the school site and the terminus of Chickahominy Bluffs Road. The intervening parcel is owned by the same family; the Lawrence's, that sold the 58 acres to the School Board. It's about 800 feet from the School Board property line to the end of the Chickahominy Bluffs Road.

When the deal was struck for the school site, the School Board agreed to dedicate right of way for a road along the northern property line of the school site. This road was named Old Sellers Way. It was eventually to connect the terminus of Chickahominy Bluffs Road.

The School Board agreed also that they would construct the entire length of the road along their property boundary, either when a school was constructed or when the Lawrence's developed the adjacent property. Although the Lawrence's property never developed, the School Board has now constructed the L. Douglas Wilder Middle School on its property. Therefore, the School Board is obligated by agreement to construct Old Sellers Way to the edge of their property line.

The School Board felt that, if they did construct Old Sellers Way, it could become a public nuisance. This is because the road would extend almost 1,400 feet past the entrance to the school and remain as a dead end street for the foreseeable future.

The County Attorney's Office asked the Lawrences if they would accept an escrow for the cost of the road construction past the school entrance. However, the Lawrences decided they would rather see that portion of the road vacated. Any consideration of the vacation of this right of way, however, needs to be preceded by a review of the Major Thoroughfare Plan to see whether it is still a viable and needed link in the County's roadway network. Thus, the School Board requested, and Mr. Archer agreed to sponsor this proposed amendment to the Major Thoroughfare Plan.

Mr. Chairman, as you know, any request to amend the Major Thoroughfare Plan is circulated among the various County agencies to see what the impact might be on the delivery of services to the residents. The proposal to delete these roads from the Major Thoroughfare Plan was reviewed by the Public Works engineers, the Divisions of Police and Fire, by Public Utilities engineers, and by planners in the Division of Parks and Recreation and the Schools planner. Comments from these agencies are included in your staff report.

Overall, the County staff reached the consensus that there would be no objection to deletion of Old Sellers Way and Chickahominy Bluffs Road from the Major Thoroughfare Plan. I should note that Chickahominy Bluffs Road is included in this request simply because it could no longer function as a minor collector road unless it is extended as shown on the Plan.

The bottom line is that, although the loop formed by Old Sellers Way and Chickahominy Bluffs Road would assist traffic circulation, it might result in some conflicts to the school traffic being routed through a single family neighborhood.

I should also note that the Richmond Capitals Professional Soccer Team has a lighted game field on the school property adjacent to the middle school. This could also add to the traffic.

Finally, if Old Sellers Way is constructed and is left as a dead end street, staff agrees that it could become a public nuisance. For these reasons, staff recommends approval of the proposed Major Thoroughfare Plan amendment to delete Chickahominy Bluffs Road and Old Sellers Way. I'd be happy to try to answer any questions you might have on this matter. I also think we have a member of the School Board staff, Mr. Dwight Grissom, here to answer any questions, if needed.

Mr. Archer - Thank you, Mr. Yolton. Any questions of Mr. Yolton by the Planning Commission members? Any questions of Mr. Dwight Grissom? Mr. Secretary, do we need to make a motion on this?

Mr. Silber - We should. It is a public hearing, so if anyone wants to speak.

Mr. Tom Henry - I've got a question. Are we saying, if we delete this, we will not see that loop?

Mr. Silber - What we're saying, this concept road is on the Plan; is on the County's adopted transportation plan called the Major Thoroughfare Plan. By it being removed from the Plan doesn't necessarily mean that it won't be constructed, but it's not required to be constructed. Parts of it can be constructed to facilitate development of adjacent properties, but it's not perceived to be needed to connect all the way through, as currently on the plan.

Mr. Henry - Because I live in Chickahominy Bluffs, and if that is continued through, it takes away the advantage we have. Chickahominy Bluffs is one way in; one way out...Like he was saying, if this was deleted, it takes us one step further away.

Mr. Archer - That's correct.

Mr. Silber - Yes sir. If that's a concern of yours, you may want to speak to that.

Mr. Yolton - Mr. Chairman, I do have a resolution prepared. Judy is making some copies right now, that would approve this Major Thoroughfare Plan Amendment if the Commission votes that way.

Mrs. Wade - There is plenty of access to the rest of the property over there that's not developed without this road?

Mr. Yolton - Yes ma'am. There's a stub street called, Westmeath Lane that could provide access to that area. Also, it does not preclude a residential street being stubbed at the end of Chickahominy Bluffs Road in the future. And also, there's access to Diane Lane.

As I mentioned, the proposed resolution would approve the removal of these two roads from the Major Thoroughfare Plan.

Mr. Archer - Is there any one else in the audience who would like to speak to this issue?

Mr. Tom Henry - Were there any signs posted on Chickahominy Bluffs Road, or Diane or Wilkinson Road indicating this is coming before the Planning Commission?

Mr. Silber - No sir.

Mr. Henry - Why not?

Mr. Yolton - It was advertised in the newspaper in accord with State Law.

Mr. Silber - We're recording the meetings. We'd like to have all the testimony from the microphone.

Mr. Archer - Give us your name and address.

Mr. Tom Henry, 8324 Fulham Court, Chickahominy Bluffs - I am First Vice-President of the North Chamberlayne Civic Association that is active in that area. My question is, "Were there any signs posted or were the folks living along Chickahominy Bluffs Drive notified of this change that was coming before the Planning Commission tonight?"

Mr. Silber - The answer to that question, no sir. There were no signs posted on Chickahominy Bluffs. That's not typical practice. It is advertised in the newspaper. If the Commission takes action on this tonight and forwards this to the Board of Supervisors, the Board would then take this matter up. We could, if you think there is some interest from the

neighborhood, we could notify any property owners along that road between now and the time the Board hears this case.

Mr. Henry - Yes. I would like to ask that, as well as I believe Bob Johnson who is the attorney for MCCA, would like to request that the Board notify the officer, i.e., the President of the North Chamberlayne Civic Association, any time proffer changes or rezoning changes occur. I believe that's something you will do; notify, just like you would folks living adjacent to property that is being rezoned or reproffered.

Mr. Silber - Yes. We can take down the name of the Association President or contact. We can contact that neighborhood when proffer changes or activities occur in the neighborhood.

Mr. Henry - Dr. Gordon Pryor is the President of the North Chamberlayne Civic Association.

Mr. Silber - Would you mind giving that information to one of my staff and we'll record that. We'd be glad to add that to our list.

Mr. Henry - Certainly. No problem. Thank you.

Mr. Archer - Is there any one else who would like to speak to this issue?

Mr. Silber - Can I ask one follow-up question, if I may? Do you think it may be best, under the circumstances, to contact Mr. Pryor and, perhaps, yourself, and you all get the word out to the community. By us contacting those immediately adjacent to the road may, obviously, not contact the ones that are beyond the first tier of lots. It may be more comprehensive for you all to contact the neighborhood. What's your view on that? It looks as though it might be about fifteen to twenty property owners along Chickahominy Bluffs Road.

Mr. Henry - Yes. I think both, because I believe it's going to be a significant impact to folks along Chickahominy Bluffs Road. Although, the reason I asked the other thing, the things happening on North Parham Road, for example, is not adjacent to anyone that is an officer in North Chamberlayne Civic Association. And, so, I say just do it for Chickahominy Bluffs. And something happens within our area of interest and you don't notify the President, we're not going to get the information.

Mr. Vanarsdall - Should Bob Johnson be notified, or you tell him about it?

Mr. Henry - Mr. Johnson is going to write you a letter, I believe, asking that. But since this came up, I think it's an excellent point to re-emphasize it and I will mention that to Bob Johnson, as well.

Mrs. Wade - What are the boundaries of the North Chamberlayne Civic Association?

Mr. Henry - Don't ask me that. I can't tell you that.

Mr. Vanarsdall - I can tell you. They don't have any, Mrs. Wade.

Mr. Henry - City of Richmond. There you go.

Mrs. Wade - I guess the point is, there is a limit to how much...

Ms. Dwyer - I guess, I'm wondering, Randy, to what you have agreed. While it is our policy to notify adjoining property owners for rezoning and proffer amendments, that's not what this is. So, I believe Randy said we complied in this case with what we normally do. So, are you asking that you be notified if anything happens anywhere? I guess I'm not clear what you've asked.

Mr. Henry - I would be glad to get you the boundaries of the North Chamberlayne Civic Association...

Ms. Dwyer - And you've asked that we notify folks about this particular case. But it sounded to me like you were asking us to always notify you if anything of interest to you happens. I'm not sure that we can always commit to doing that.

Mr. Silber - Ms. Dwyer, we do have a list. It is an informal list that we keep that lists those neighborhoods, or contact person within those neighborhoods so that if anything happens around that area, we do the best we can to send a letter to that neighborhood. It is not foolproof. We can't always guarantee it is going to be handled that way, but we do the best that we can. We probably have a list of about 15 neighborhoods that are on that list in the County.

Mrs. Wade - It's up to the neighborhoods to inform you when the leadership changes so they'll know who'll to send to.

Mr. Henry - We'll be glad to do that.

Mrs. Wade - Of course, we can pass it on, but sometimes it doesn't work.

Mr. Archer - Any more discussion on MTP-1-97? With that, I move we recommend approval of MTP-1-97.

Ms. Dwyer seconded the motion.

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

**Deferred from the December 16, 1997 Meeting:  
PLAN OF DEVELOPMENT, LANDSCAPE, & LIGHTING PLAN (Deferred from the December 16, 1997, Meeting)**

**POD-124-97  
First Union Bank  
Lakepointe at  
Innsbrook  
(POD-17-87 Rev.)**

**Bengston DeBell & Elkin, Ltd. for Dominion Bank of Richmond N.A.:** Request for approval of a revised plan of development and landscape and lighting plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code to construct an additional drive through lane; a drive through automated teller machine addition; and a 250 square foot building addition to an existing building. The 1.61 acre site is located on the west side of Cox Road, 506 feet north of West Broad Street (U.S. Route 250) on parcel 48-5-B-1D. The zoning is B-2C, Business District (Conditional). County water and sewer. (Three Chopt)

Mr. Archer - Is there any one here in opposition to POD-124-97 First Union Bank Lakepointe at Innsbrook? No opposition. Mr. Whitney.

Mr. Mikel Whitney, County Planner - Thank you, Mr. Chairman. Just to remind you, at the December POD meeting, at that time, the Traffic Engineer did not recommend approval of this Plan because the ATM drive-throughs on the easterly side of the building did not have the required stacking distance for cars there and there was a potential for traffic to be backed up on this site. We offered some suggestions to the applicant to make some changes, and this revised plan which has just been handed to you, reflects that change. What they have done, and maybe architectural drawings that are attached to the plan, will be a little more clear to you. The two ATM machines have been moved to the northerly end of the building. In this situation, the stacking distance would be 70 feet for each lane. It was a requirement for 100-feet, from the Traffic Engineer. He has looked at this plan, however, and agrees that the conditions on the site warrant this revision. And with that, staff can now recommend approval to this plan. With these annotations and the revised plan, and note the Traffic Engineer comment that I have added to that plan, and the standard conditions for developments of this type and the additional conditions are listed on your agenda.

Number 25, I might point out, is a condition that says if the ATM does create a problem with traffic circulation on the site that they would close the ATM facility and find a solution to the problem. I would take any questions you may have.

Mr. Archer - Any questions of Mr. Whitney by Commission members?

Mrs. Wade - I was going to say, if there's no one else to speak, I'll move.

Ms. Dwyer - I was just wondering, what is the lack of stacking distance?

Mr. Whitney - It would be 30 feet short of the 100 feet per lane. They have 70 feet in each lane.

Mrs. Wade - They are adding another drive-thru teller and another ATM. There should be enough space to go around there, I think. If it backed up at all, it would be

mainly in their parking lot anyway and not out on a public road or even the shopping center road.

Mr. Archer - Any other questions? Ready for a motion, Mrs. Wade?

Mrs. Wade - I move POD-124-97 First Union Bank Lakepointe at Innsbrook (Revised Plan) be approved, subject to the annotations on the plan, standard conditions, and Conditions 23 through 27.

Mr. Vanarsdall seconded the motion.

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

The Planning Commission approved POD-124-97 First Union Bank Lakepointe at Innsbrook (POD-17-87 Rev.), subject to the standard conditions attached to these minutes and the following additional conditions:

23. The developer shall provide fire hydrants as required by the Department of Public Utilities in its approval of the utility plans and contracts.
24. Deviations from County standards for pavement, curb or curb and gutter design shall be approved by the County Engineer prior to final approval of the construction plans by the Department of Public Works.
25. In the event if any traffic backup which blocks traffic circulation on this site as a result of congestion caused by the drive-thru automated teller machine (ATM), the owner/occupant shall close the drive-thru ATM facilities until a solution can be designed to prevent traffic backup.
26. Insurance Services Office (ISO) calculations must be included with the utilities plans and contracts and must be approved by the Department of Public Utilities prior to the issuance of a building permit.
27. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the Planning Office and approved prior to the issuance of a certificate of occupancy for this development.

**FAIRFIELD:**

**Deferred from the December 11, 1997 Meeting:**

**C-90C-97 Ralph L. Axselle, Jr. or Andrew M. Condlin for General Investment & Development Co.:** Request to conditionally rezone from O-2C Office District (Conditional) and O/SC Office Service District (Conditional) to O-2C Office District (Conditional) and M-1C Light Industrial District (Conditional), Parcels 54-A-1A and 2, described as follows:

Parcel A:

Beginning at a point on the northern margin of Parham Road, 4047.38' north of U.S. Route 301, said point being the point and place of beginning; thence leaving the northern margin of Parham Road along said boundary line N. 28°29' 45" W., 150.29' to a point; thence 60° 00'00" W., 289.03; to a point; thence along a curve to the right having a radius of 3480.34', a length of 2357.33'; N. 78° 25' 15" E., a chord distance of 2312.53' to a point; thence along a curve to the right having a radius of 2317.33', a length of 17 +-'; S. 82° 12' 11" E., a chord distance of 17.23 +-'; thence running in a southerly direction along a 100 year flood plain as it meanders

382 +-‘ to a point; thence S. 06° 40’ 03” W., 45 +-‘; thence along the curve to the left having a radius of 1917.33’, a length of 40.31’; S. 81° 48’ 50” W., a chord distance of 40.31’ to a point; thence along a curve to the left having a radius of 3080.34’, a length of 1939.71’, S. 79° 32’ 38” W., a chord distance of 1907.82’ to a point on the northern margin of Parham Road, the point and place of beginning, containing 19.6 +- acres.

Parcel B:

Beginning at a point on the northern margin of Parham Road, 4047.38’ west of U.S. Route 301, at the southern corner of the boundary line between the lands of Park Central Ltd. Partnership and the lands of Robert B. Ball, Sr., thence along said boundary line N. 28° 29’ 45” W., 150.29’ to a point; thence N. 60° 00’ 00” W., 289.03’ to a point said point being the point and place of beginning; thence N. 60° 00’ 00” W., 40.97’ to a point; thence N. 31° 00’ 00” W., 380.00’ to a point; thence due north 380.00’ to a point; thence N. 24° 41’ 42” E., 30.00’ to a point; thence N. 36° 32’ 42” E., 1972 +-‘ to a point; thence running in a southeasterly direction along a 100 year flood plain as it meanders a distance of 2320 +-‘ to a point; thence along a curve to the left having a radius of 2317.33 +-‘, a length of 17 +-‘; N. 82° 12’ 11” E., a chord distance of 17.23’; thence along a curve to the left having a radius of 3480.34’, a length of 2357.33 +-‘; S. 78° 25’ 15” W., a chord distance of 2312.53’ to the point and place of beginning, containing 61.9 +- acres.

Mr. Archer - Is there any one here in opposition to C-90C-97? Mr. Henry, would you rather wait until the staff presentation, and then you can speak?

Mr. Henry - Yes sir.

Mr. Archer - Ms. Gardner.

Ms. Nancy Gardner, County Planner - You have received new proffers at your seats. You do have to waive the time limits to consider these new proffers.

Mr. Zehler - When were they submitted?

Ms. Gardner - Those were submitted today. In my presentation, I’m going to talk a little bit about the project now that’s approved on the property, give you a summary of the changes, and tell you of the staff recommendation, and then, finally, go into detail on the proffers that have most recently been submitted.

The property is currently zoned O-2C for 400 feet of depth along Parham Road, with the remainder zoned OS/C, which is the, by now, all too familiar Office/Service Conditional District. What characterizes the project now are those features of the Office/Service District. That would be a high quality mixed-use development, characterized by predominantly office and industrial uses, interior courtyards, very limited signs, and so forth.

To hit the highlights of the changes between the project that is approved now and what they are proposing, first, they will allow outside storage, which is not currently permitted. It would be subject to the M-1 conditions. It would have to be in an enclosed area and screened. And within this provision, this would allow fleet parking.

Secondly, the project would limit the “per building” minimum office requirements. As the Commission is well aware, the Office/Service District now requires a “per building” minimum office requirement. This would not come into play on this project.

Third, it would eliminate the interior courtyards that so characterize the Office/Service District. Rather, the loading areas would have to be screened in a manner approved by the Planning Commission.

Finally, it would eliminate the maximum percentage restrictions on some uses. I'll get into that in a little bit of detail. With these changes, staff can recommend approval.

Turning to the proffers that were just handed out, I'll hit on them briefly, one by one. I will emphasize what has changed compared to the project that is approved now. There's a commitment regarding the building materials. I will point out on this proffer that the applicant has reserved the right to ask for other building materials at the time of Planning Commission approval for POD. So, this is not completely a closed issue on the building materials.

Site coverage: The site coverage is limited to 70 percent on a single development site. This is comparable to what is approved now, although the 70 percent per development site is not a part of the current project.

The buffer area; there's going to be a landscaped buffer area of 125 feet along Parham Road. That is a part of the current project. This is the same proffer.

Moving on to Page 4, parking lot lighting will be limited to 20 feet within 300 feet of any agricultural or residential property. At one time the applicant had considered extending this limitation to the Parham Road frontage, but they have since eliminated that. That's why you see it crossed out. And in the Office/Service District, they were limited to the 20 feet.

There's a limitation on vehicular access. There's a limitation on HVAC equipment. There's a limitation on construction traffic. Proffer No. 8 is the loading dock proffer that I referred to earlier. The main difference is that the interior courtyard is eliminated. Rather the loading dock will be screened from public view from any public roads or any existing agricultural or residential property as approved by the Planning Commission.

You see a commitment for the spine road. This will most likely be Scott Road extending through the site.

Moving on to the uses. This is another important change. All of the uses allowed currently in the O/S District, that is currently allowed on the property, will be allowed on this project. Of course, in the O-2C area, the O-2C uses will be allowed. That would be primarily office uses. The main change on that area, which would be proposed to go to M-1, which you see on the slide. At the recommendation of staff, they are adding medical and dental offices in addition to clinics. They are adding, as an unrestricted use, laboratories and assembly, packaging, testing, and repair, but not manufacturing. Also, printing, publishing and engraving, which is first allowed in the B-3 District and is also allowed in the M-1 District will be allowed without limitation. I should have said before getting into the uses, certain uses will be allowed without limitation. There will be no percentage maximum. Those uses which I've mentioned will be allowed without limitation. There's a second category of uses that will be allowed up to a

maximum of 60 percent. The proffer addressing that comes a little bit later. Those so called restricted uses are the same as are allowed in the O/S District with the very similar restrictions.

There is a limitation on the amount of retail allowed in any individual building, with a maximum of 20 percent in a building or group of buildings of 50,000 square feet.

There are very similar development standards to the Office/Service District. There's a limitation on the negative impacts. Uses are to take place within an enclosed building, except for outside storage, as I mentioned, which would be subject to the M-1 requirements by having to take place in an enclosed area.

On Page 7 of the proffers, we get into the implementation mechanism for the two tiers of uses; the restricted versus the non-restricted. When they get to 30 percent of development, they have to demonstrate that no more than 80 percent of the site will be used for the restricted uses. The next phase, at 60 percent, they have to demonstrate no more than 70 percent for the restricted uses. And finally, at 100 percent, they, of course, have to demonstrate no more than 60 percent in the restricted uses.

Moreover, they've made a commitment to keep track of the uses themselves. They will have to work with us to submit the counts as they go along. They will have made a commitment to keep track on their own, as well.

Utility lines will be underground. Signs in the M-1 portion will be limited to O/S signs and O-2 signs, of course, will prevail in the O-2 portion. There will not be outside speakers or security alarms. They're committed to provide a traffic study, as requested by the Traffic Engineer. There will be restrictive covenants as required by the Office/Service District.

That completes the changes. As I said, staff can support approval. I would be happy to take any questions. It is quite a complex case.

Mrs. Wade - What's a monolithic-style sign?

Ms. Gardner - Good question. We used to request "monument" style signs. However, because of a particular circumstance when a monument-style sign was argued to be something other than what we took it to be, we decided that the preferred word would be "monolithic," which is being solid what we have typically characterized as a monument sign.

Mr. Vanarsdall - What kind of hours do we have on this?

Ms. Gardner - No limitation on the hours of operation.

Mr. Vanarsdall - Even though, it's conditioned, they don't limit the hours?

Ms. Gardner - They certainly could limit the hours. They have not.

Mr. Vanarsdall - That hasn't been addressed.

Mr. Zehler - You received these this afternoon?

Ms. Gardner - Right. On that account, I will say the applicant has been working very closely with staff, and I believe with Mr. Archer. They have been making adjustments to the proffers throughout the last week.

Mr. Archer - Also, I believe, Mr. Zehler, there was a meeting. Was it last night? With the North Chamberlayne Civic Association. We've been receiving proffers by the day on this one.

Mr. Vanarsdall - We have to waive the time limits on these proffers.

Mr. Archer - Yes.

Mr. Vanarsdall - There's no date on them. What date are we waiving?

Ms. Gardner - That was my oversight. They were received today. I beg your pardon.

Mr. Archer - Any other questions of Ms. Gardner by Commission members?  
Mr. Axselle.

Mr. Ralph L. Axselle - Mr. Chairman, ladies and gentlemen of the Commission, Bill Axselle, on behalf of General Investment Development Company. With me, tonight, is Andy Condlin of our office, Bob Carp, Vice-President with GID, and Mitch Adams of GID, who runs a comparable facility for them in Raleigh, North Carolina.

A couple of preliminary comments, and then I will be brief, because I think the staff has done an excellent job in summarizing the matter. We have had probably seven meetings with the North Chamberlayne Civic Association, almost as many with the staff, and with Mr. Archer. The proffers that were filed today made only a few changes that were agreed upon last night. So, we've been keeping everyone current. So, while the proffers are voluminous, they were not all dropped on anybody tonight. They were worked on over the last couple of months.

We want to thank the North Chamberlayne Civic Association, Mr. Archer, and the staff. We think that the resulting case is a very good case, and is consistent with good planning. The property is 82 acres on the north side of Parham Road; 61 acres of that are useable. The first 20 acres off of Parham Road would remain as O-2, as it is now, for a depth of 400 feet and so forth. And there are a very few changes in the O-2 zoning portion of the case. The property, in the rear, is now O/S and would be modified to M-1 to allow some of the flexibility to which Ms. Gardner made reference.

We had extensive negotiations with the North Chamberlayne Civic Association with the percentage of restricted and nonrestricted uses. We agreed on the 60/40 limitation. We agreed to certain benchmarks to ensure that we didn't develop 60 percent of the property as all industrial or all restricted, and then walk away and so, that's the reason for that. It's a little more elaborate than what you would normally see.

(All referring to rendering). The property, if I may, Andy, just very briefly, as you can see, this is all of what was a part of Park Central. When Park Central was zoned, it was over here, here, and another piece. And this is existing Park Central. The case right behind this, Gloria's case, is up in this area. But this is the property here. This will be a landscaped buffer - a 125 foot

buffer. We had originally talked about 50 feet, but it's 125. Like I said, this part of the case from here down, changes very, very little. It stays O-2. The uses back here are what would change from O/S to M-1. Keep in mind, you back up against Chickahominy River along here. This is the property here to here, which, I believe, are all probably planned either from the Land Use Plan for similar type of uses. So, there is no adjacent residential planned for the property.

With that, Mr. Chairman, in light of your agenda, I will stop and respond to any questions that you might have.

Mr. Archer - Mr. Axselle, I'm surprised it didn't come up before, but I guess that's why there's five of us up here. Mr. Vanarsdall's question about the hours of operation. Did that come up at any of your meetings?

Mr. Axselle - No. And I think it did not because the O/S, I do not believe, has the hourly restriction on it. In other words, the existing uses on the property, do not have any restrictions on the hourly uses and none were sought. And keep in mind, like I said, you're 400 feet back before you start. Up against the Chickahominy and the flood plain and over here, Park Central. That was the reason. I don't think anyone thought that was a particular problem.

Mrs. Wade - Most of your open space is, then, in the flood plain—a lot of it?

Mr. Axselle - Yes. Part of it is, for sure. For example, what Ms. Gardner did not mention is that we have added, in this case, that we will put a 25-foot buffer along the spine road. That's not a part of the original case.

Mrs. Wade - Is the spine road a public road?

Mr. Axselle - The spine road is a public road. It is on the Major Thoroughfare Plan, but it's what will probably be Scott Road extended. So, we've continued that, but we've added buffers along there which was not part of the current zoning.

Mrs. Wade - And what would "other aesthetically comparable finished materials" be, in the addition to brick, stone, or glass?

Mr. Axselle - That would only be something that y'all would determine that criteria.

Mr. Silber - Mr. Axselle, on Proffer 8, speaking to loading docks, it mentions that they would be screened from public view from any public street or any existing agriculturally or residentially-zoned property. When you're talking about any existing agricultural or residential property, would that be existing at the time of the acceptance of the zoning case, or at the time of development of the property?

Mr. Axselle - The latter. When you go to get your POD, if it's adjacent to agricultural or residential, you'll have to do the screening. In other words, the proffers live on. They don't just have the effective date as of today.

Mr. Silber - Okay. I'm not sure if that's entirely clear by the proffer, but as long as you...

Mr. Axselle - Well, we've got it on the record now, and I think that is the interpretation that's always placed on them.

Mr. Archer - Are there any more questions of Mr. Axselle?

Mr. Axselle - I do want to thank North Chamberlayne, Mr. Archer, and the Staff. It's a rather complicated case, but the desire was to try to provide the flexibility, but ensure the quality that everybody in the neighborhood wants and we want. Thank you.

Mr. Archer - Well, as Mr. Axselle said, this has been kind of complicated. There have been some complicated formulas that we have had to work out in here that speak to the ratio of development. Ms. Gardner said it even better than I could. But, in any event, there have been several meetings with the North Chamberlayne Civic Association Board of Directors and the body, at large. There were some other people who were notified actually closer to the property than North Chamberlayne Civic Association, particularly in the Northfield area. As of yesterday, we weren't quite home free with this, but as of last night, it seems as though we are. So, with that, Mr. Axselle, I guess I should mention to you the Board may want to bring up the issue of the hours of operation since it's in the record, but we won't make an issue of it tonight, since nobody else complained about it. So, first of all, I think we have to dispense with the time limit on the amended proffers. So, I move that the amended proffers, that were given today, be accepted.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall to accept the amended proffers. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent). Now, for C-90C-97. I move that C-90C-97, subject to the amended proffers that were given today, be recommended to the Board for approval.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall that C-90C-97 be recommended to the Board. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

REASON: Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **accept the proffered conditions and grant** the request because the proffered conditions should minimize the potential impacts on surrounding land uses; the employment use(s) support the County's economic development policies; and it would provide for appropriate development.

**Deferred from the December 11, 1997 Meeting:**

**C-91C-97 Gloria L. Freye and Harold K. Timmons for Joseph P. Marchetti, Jr.:** Request to conditionally rezone from O/SC Office Service (Conditional) to M-1C Light Industrial District (Conditional), part of Parcels 53-A-80B and 80D, described as follows:

Beginning at a point on the E. line of Park Central Drive 450.39' north of the intersection of the N. line of Parham Road and the E. line of Park Central Drive; thence N. 30° 59' 54" W., 136.00'

to a point; thence along a curve to the right with a radius of 701.30' and a length of 355.57' to a point; thence N. 1° 57' 54" W., 302.14' to a point; thence along a curve to the right with a radius of 1,430.20' and a length of 665.04' to a point; thence N. 24° 41' 31" E., 463.24' to a point; thence along a curve to the right with a radius of 35.00' and a length of 54.98' to a point; thence N. 24° 41' 31" E., 15' to a point; thence along the S. line of Scott Road S. 65° 18' 29" E., 905.01' to a point; thence leaving Scott Road S. 0° 00' 00" W., 380.00' to a point; thence S. 30° 51' 28" E., 379.06' to a point; thence S. 60° 00' 00" E., 40.98' to a point; thence N. 59° 00' 06" E., 1456.11' to a point, the point of beginning, containing 37.685 acres.

Beginning at the intersection of the N. line of Parham Road and the E. line of Park Central Drive; thence with the E. line of Park Central Drive the following courses: N. 89° 00' 06" W., 117.97' to a point; thence along a curve to the right with a radius of 119.00' and a length of 55.70' to a point; thence N. 35° 01' 29" W., 121.84' to a point; thence along a curve to the right with a radius of 970.00' and a length of 68.17' to a point; thence N. 30° 59' 54" W., 86.71' to a point; thence S. 59° 00' 06" E., 1456.11' to a point; thence S. 60° 00' 00" E., 289.02' to a point; thence S. 28° 29' 45" E., 150.29' to a point; thence with the N. line of Parham Road the following courses: along a curve to the left with a radius of 3,080.34' and a length of 134.54' to a point; thence S. 59° 00' 06" W., 1083.26' to a point; thence with the N. line of Parham Road S. 59° 00' 06" W., 388.10' to a point; thence S. 65° 50' 40" W., 100.72' to a point; thence S. 59° 00' 06" W., 142.25' to the point of beginning, containing 14.008 acres.

Mr. Archer - Is there any one in the audience in opposition to C-91C-97? Ms. Gardner.

Ms. Gardner - You received new proffers. Again, you have to waive the time limit. I understand that the applicant wants to make yet another minor modification to the proffers. I will let her discuss that.

This case, obviously, is to the immediate west of the case that we just heard. However, the two have two different applicants and they are completely separate cases. This case is a part of Park Central proper, as Mr. Axelle mentioned. The previous case was, at one time, a part of Park Central, but it is no longer.

You will notice one big difference is that this does not include the O-2C zoned property; the 400 feet along Parham Road. We are only talking about the property zoned O/SC. That is proposed to go to M-1.

Within the O/S zoning, the Office/Service zoning, as I mentioned in the previous case, the approved project is characterized by the standard Office/Service development standards, the interior courtyard, the high quality mixture of uses and the limitation on signs.

The main changes between the currently approved case and what is being proposed tonight is to eliminate the per building minimum office requirement that is now part of the Office/Service District. The applicant has removed a commitment to provide a traffic study, which had been a part of the previous case. The applicant is going to remove a restriction on some uses, which I will get into and, finally, allow outside storage within the limits of the M-1 District, and this too, would include the fleet parking.

Turning to the proffers, again, all of the uses allowed in the Office/Service District would be allowed in this proposal. There are a few additional changes. We have restricted use and

unrestricted uses. Within the unrestricted uses, in addition to those which are unrestricted in the Office/Service, we have the addition of repair, packaging, and assembling, and electronic and micro-processing repair. These would be allowed without limitation.

Then there are certain uses that are allowed restricted, a minimum of 60 percent and those are the same that would be allowed in the Office/Service District.

The development standards are the same as are in the Office/Service District. A limitation on impact; a commitment to do an interior courtyard; protections against danger to the health, safety and welfare or any material adverse impact. There's a limitation on retail and service facilities. Again, 20 percent within individual buildings or a group of buildings, at least 50,000 square feet.

The ratio enforcement is slightly different than in the previous case. Here, it's 50 percent. They are going to demonstrate full compliance with the restricted, unrestricted ratio. Site coverage will be limited to 65 percent. This is the same as in the previous case. There's a commitment regarding building materials; transitional buffer area. Additional language regarding loading docks, construction traffic. Again, office/service signs. A limitation on outside speakers. Again, staff recommends approval of the case, and I'd be happy to take any questions.

Mr. Archer - Thank you, Ms. Gardner. Any questions of Ms. Gardner?  
Mr. Vanarsdall - Ms. Gardner, what does it mean here on the last page; No. 3 of 3, Number 12. "No outside speakers shall be permitted on the property, except for intercom systems."

Ms. Gardner - Perhaps, the applicant could address that. I would take that to mean your standard intercom system.

Mr. Vanarsdall - Which wouldn't be outside.

Ms. Gardner - That's a good point. I can't answer it. Perhaps, the applicant can answer it.

Mr. Vanarsdall - I want to make sure, because sometimes we run into problems with that later.

Ms. Gardner - Yes. I missed that.

Mrs. Wade - What's the Office/Service provide for signs? I can't remember.

Ms. Gardner - The Office/Service, regarding signs, primarily allows simply an overall project sign. If you think of North Run, they have the entrance sign. It's very limited in height. I'm sorry I don't have the height limitation with me. But it's a very limited, very low monolithic style sign. When they're on a public road, typically, a lot of individual buildings have signs, although there are not individual tenants' signs.

Ms. Dwyer - I've got a question. Let me make sure I'm on the right copy here. Paragraph 4, "Development Standards." It says, "The development standards will be the same as for Office/Service which includes the requirement that loading areas..." As I read it, it

includes the requirement that loading areas be within an interior courtyard and yet No. 9, for loading docks, seems to say that, interior courtyards won't be provided, but the docks will be screened. Do you see a conflict there?

Ms. Gardner - The way I read No. 9, is it's additional language on top of the interior courtyard. Perhaps, nine is not necessary.

Ms. Dwyer - So, it will be the courtyard design that the Office/Service contemplates, but in addition to that, if there is any loading dock that you can see, then that will be screened also?

Mrs. Wade - Is this the master plan?

Ms. Gardner - Right. That's the master plan for the site, although that's not committed to.

Mrs. Wade - It not necessarily says, "screened loading docks."

Ms. Gardner - Right. Yes. That master plan is not fully up to date. They've actually submitted a new one. That was not submitted in conjunction with this case, but rather was submitted in conjunction with the Plan of Development that you are slated to see in February. They have addressed the screening of the loading dock areas.

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

Mrs. Wade - They submitted a POD?

Ms. Gardner - It is on your schedule for February.

Mrs. Wade - And it will have a BMP on it? I see it on here...

Ms. Gardner - I don't think that POD has a BMP on it, but I'm not sure.

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

Ms. Gloria Freye - Mr. Chairman, members of the Commission, my name is Gloria Freye. I'm an attorney here on behalf of Joe Marchetti and Tom Robinson. I do want to make sure that you have the most recent proffers. The change that was made today was on Page 2, Proffer 2 a and b which should read, "All uses shall be conducted..." And if yours says that, then you do have the most recent proffers. Okay.

Mr. Vanarsdall - What should it say?

Ms. Freye - "All uses shall be conducted..." Both 2 a and b should say that.

Ms. Gardner - I think they have this version.

Ms. Freye - Okay. This is what they need. (Distributed new copies of proffers to Commission members). Thank you, Ms. Gardner. Right now, Mr. Marchetti and Mr. Robinson own 38 acres on the east line of Park Central Drive. Just to orient you a little bit,

(referring to rendering), this is Parham and this is Park Central Drive. This is the POD that they have filed. This is the Office portion, which they don't own and don't control, but they do have an option to purchase this piece here. This case is only going to affect from this line up to Scott Road.

They have requested this rezoning to get some greater flexibility for Office/Service development in hopes of trying to attract Class A office users and flex building, flex users and, hopefully, the spin-off businesses that are going to come with the Motorola Semi-conductor plant.

In a nutshell, this case is really saying that we really want to keep the Office/Service uses; use the same Office/Service standards, the same Office/Service ratio that they have on their property; same hours. I think that question came up earlier from Mr. Vanarsdall, but nothing would change from those kind of development standards other than just the few changes that we've asked for, to build in the flexibility. As Ms. Gardner explained, that's to be able to have the clean labs, the research labs, the assembly operations, to be as unrestricted uses as opposed to restricted, and to be able to have outside storage if it's properly screened.

There have been two proffers added which say that we would make the signage as regulated in Office/Service. Again, to keep the zoning as much like the existing zoning as possible, and that we would not have outside speakers and alarm system. We did put intercom systems in because, in Office/Service, you are allowed to have a bank. Often times banks do have an intercom system for a drive-thru. That is allowed in Office/Service now. That's why we put that in there.

Mr. Vanarsdall - What you did have was, "No outside speakers shall be permitted except for intercom systems." That's still in there.

Ms. Freye - Right. The reason we put intercom systems in there is because, in Office/Service uses, you can have a bank with a drive-thru.

Mr. Vanarsdall - Oh. You were talking about that?

Ms. Freye - Yes sir.

Mr. Vanarsdall - That's not real loud at all.

Ms. Freye - No sir. It's conversational. And the intercom systems do come with volume controls.

Mr. Vanarsdall - Okay. Thank you.

Ms. Freye - Another difference, and I think Ms. Gardner explained this pretty well. In looking at the ratios between the restricted and unrestricted uses and how that would be enforced is that we would be providing a master plan that shows an estimate of what the total square footage of the property at buildout is going to be. And as we submit PODs, that calculation is going to be provided to the County about what percentage of development is Office and "restricted" and "unrestricted," I guess, is a better way to explain it. At 50 percent of the development of the property, we will have demonstrated that we have met that ratio, or else we wouldn't be able to go further until we had. So, that's a little simpler scenario than what you just heard.

We, too, have participated in several meetings with the neighbors and the residents. Many discussions with people that live along Scott Road, in Northfield and with the North Chamberlayne Civic Association, as well as the Garden City Civic Association, which is an association on Scott Road.

With the good help of Ms. Gardner, I believe that we have responded to all of the concerns. The one omission in that is that we have not proffered to do a Traffic Impact Study. That request was made by the staff, and echoed by the North Chamberlayne Civic Association. We don't really think it's appropriate for this 38 acres to be asked to do a traffic study for a couple of reasons:

This 38-acre parcel does not have any frontage on Parham. It's not going to have direct access on to it. Its direct access is on Park Central Drive. This development, that they're proposing, is not going to involve the creation or building of any new roads. It's not going to have new accesses that would require a traffic impact study. Furthermore, the staff report says that the previous traffic studies continue to be valid, and there's no indication that this development would have any adverse impact on the traffic situation or the roads that exist today. The other reason we don't think we need to do a traffic impact study is because there is already the required traffic impact study when Park Central is 50 percent developed and also GID which will be making new road improvements has already volunteered to do a traffic impact study. Anything that we would have to do would just be duplicative of that. So, that's why we were not willing to submit a traffic impact study.

We greatly appreciate the help of the North Chamberlayne Civic Association, the people along Scott Road that we talked with; especially Ms. Gardner, for working with us to develop the case the way we have. We think it's been responsive to the concerns, and we asked that you would waive the 48-hour rule and accept these proffers and recommend approval of this request.

Mr. Archer - Ms. Freye, since the staff report summary does indicate the traffic engineer's request for a traffic study, if we should advance this tonight to the Board, I am going to ask that the staff make the Board aware of the reasons for the request, and also for your reasons in thinking its not necessary so that we can resolve this between now and the time the Board meets on it. I didn't want to do that without you knowing it.

Ms. Freye - Okay. We appreciate that.

Mr. Archer - Any other questions of Ms. Freye?

Mr. Zehler - Ms. Freye, the case before you, the question came about as far as hours of operation. Do you have intention as far as hours of operation?

Ms. Freye - Mr. Zehler, we really don't. I mean this is basically trying to keep the Office/Service zoning in place and to have what Office/Service allows us to have and just build in some flexibility. We weren't really looking to make the case more restrictive. We're trying to build in flexibility.

Mr. Zehler - So, your intention is 24-hours a day, 7 days a week, 365 days of the year?

Ms. Freye - The intent is to be competitive with the other Office/Service development in the Park. And that's the Office/Service zoning that exists now and has existed since it was first zoned. Yes sir.

Mrs. Wade - Is there any buffer requirement, in addition to the transitional buffer area? What does that mean for Parham, for instance?

Ms. Freye - We don't have frontage on Parham, if I'm understanding.

Mrs. Wade - Well, that's what you keep saying, but, then why does the...I was just looking at the little plan, and it seems to look as if it goes out...

Ms. Freye - Ms. Wade, that's what I was saying. It's a little misleading, because the POD that's filed, does show frontage on Parham, but they don't own that yet. They just have an option on it. The zoning that we're asking for only affects from this line north, not this part (referring to rendering).

Ms. Dwyer - Is there a landscaped buffer along the spine road; along Scott Road? The previous case, I think, had a 25-foot landscaped buffer.

Ms. Freye - We did not change the buffers that are in the existing zoning case. We wanted to keep the zoning case as it is, except for those changes that I just talked about, to build in the flexibility. So, we really aren't asking for a lot more. We are preserving the conditions that are on the property now.

Ms. Dwyer - So, there's no additional landscape buffer along Scott Road?

Ms. Freye - There's no change.

Ms. Dwyer - As in the other case we just heard had a 25-foot landscaped buffer. Would you clarify for me the conflict that I see between the "Development standard" paragraph and the "Loading Dock" paragraph, Nos. 4 and 9? Nine says, "Loading docks will be screened."

Ms. Freye - Nine also says, "Loading docks will be located to the rear of the building."

Ms. Dwyer - Right. And then, four says that, "Development standards for Office/Service will apply..." which includes the fact that, it says, "Buildings or structures with loading areas shall be designed with interior courtyards." That says, to me, that loading docks will be within interior courtyards. It doesn't seem like you contemplate that in Paragraph 9?

Ms. Freye - And we hadn't anticipated that. What section of the zoning ordinance are you referring to?

Mr. Silber - It's the same section, Ms. Freye, that you've quoted in Paragraph G.

Ms. Dwyer - 50.22 something (g) Development Standards. 50.22 is Development Standards. Then you quote that in Development Standards, Paragraph 4. 22

“a” through “d” and “f” through “l”. And “g” has loading areas. It seems, to me, require interior courtyards.

Ms. Freye - Literally, that’s correct. And I think what I should do is reword that so that we don’t have that discrepancy, but the idea was not to have to do courtyards...make sure that loading docks would be screened from the public right of way and would be behind the buildings. So, I can clarify that.

Ms. Dwyer - That’s not what Ms. Gardner said.

Mr. Zehler - I believe her statement was that No. 9 is possibly not deemed necessary. Maybe you can delete No. 9.

Ms. Dwyer - No. She’s saying, No. 9 is what applies, and the courtyard does not. They’re not doing courtyards. They’re screening. I understood Ms. Gardner to say that screening wasn’t necessary, because they were doing courtyards. So, your intent then is to not do the courtyards...

Ms. Freye - We would like to have the flexibility not to have to use a courtyard design, but instead be able to screen it properly and have them in the rear of the buildings.

Ms. Dwyer - They’re not maintaining that Office/Service development standard then?

Ms. Freye - To that extent. I guess that would be one of the things we should clarify in our proffers.

Mr. Silber - I think that does need clarifying, Ms. Freye. I read it the same way that Ms. Dwyer does. I think that you’d be required, the way its written, to provide the interior courtyards and then, in addition to that, screen it further by Proffer No. 9.

Mr. Zehler - Suppose, Mr. Silber, she deleted No. 4?

Mr. Silber - Well, Mr. Zehler, that deletes a lot of the development standards from Office/Service that I think we would be interested in seeing.

Ms. Freye - Yes. We would want to keep as well.

Mr. Archer - Ms. Freye, could you work on that to the extent that we can get it to be comparable with the previous case, with regard to screening of the dock?

Ms. Freye - Yes sir. I believe so.

Mr. Archer - Would that satisfy you, Ms. Dwyer, Commission members, if we got the screening to be comparable to the GID case, would that answer your questions?

Mrs. Wade - I suppose I remember. Some of these people do, too. These cases came up the first time and we were here until midnight working on this to be sure that the integrity of Parham Road would be maintained.

Mr. Archer - Nancy, can you help us with that? Do you remember what the screening proffer was on that previous case?

Mr. Vanarsdall - It's the very reason Office/Service was put over there to begin with because of the advantages of Office/Service gives to residential areas rather than "M" zoning.

Ms. Gardner - On the previous case, they eliminated the requirement for an interior courtyard. I'll read you their proffer. "Any loading dock serving the building on the property shall be screened from public view from any public roads or any agriculturally or residentially zoned property in a matter satisfactory to and approved by the Planning Commission at the time of POD review."

Ms. Dwyer - Of course, the other case did add landscaped buffers in addition to the transitional buffer that's required, which seems to me to mitigate that a little bit.

Mr. Archer - Thank you, Nancy.

Mrs. Wade - That's one of the reasons it went M-1.

Mr. Archer - Ms. Freye, there seems to be some concern about buffering along Scott Road. Would you be willing to address that?

Ms. Freye - We did not change the buffers that are already required on the property.

Mr. Archer - What was the original buffer?

Ms. Freye - What we provided was, that in the transitional buffer area, it's Number 8 on your proffers, that we would comply with the transitional buffer area, and not request any kind of waivers or development would clarify that, if that would be helpful.

Ms. Dwyer - Well, I raised the question because, it seems to me we are intensifying the use, but we're taking away some of the protections afforded by Office/Service, like the interior courtyard, and not compensating, you know, for instance, a buffer along a public roadway.

Ms. Freye - Well, we're really not intensifying the use. All we're doing is how you calculate that ratio. There's already a 60/40 ratio that's permitted on this property, even now. We're not building any new roads, such as the former case, where they are putting in additional landscaping because of that. We're not in that situation. So, that is the difference between our cases.

Ms. Dwyer - And there's no change in the use permitted? Is that what you're saying?

Ms. Freye - We have the same Office/Service uses that are already permitted.

Mr. Silber - Ms. Freye, the question was the Code requirement for transitional adjacent to Scott Road. The way I read the Code is, you would need to refer to the transitional buffer requirements of the landscape matrix. An M-1 adjacent to an A-1 requires a 50-foot transitional buffer. It does have alternative screening devices that can be offered in the form of landscaping, fencing or walls. But as long as the property on the other side of Scott Road is zoned A-1, you'd need to provide a 50-foot transitional buffer.

Ms. Freye - That's fine.

Mr. Silber - Okay.

Mr. Archer - And that is included in the Code anyway, right?

Ms. Freye - Yes.

Mr. Archer - So, we have to do it?

Mr. Silber - I think what is not addressed is any type of landscape buffering or screening, a landscape strip, if you will, along Park Central Drive. You're saying that...

Ms. Freye - That there's none required at this point. We have the same buffers that already exist. I mean, when we approached this case, it was not to come in with a new case. I'm going to take the existing case, assure the same quality, and just build in the same uses, just build in the flexibility so that we could attract some of the spin off businesses, and have a higher class development.

Mr. Silber - What I think we have to keep in mind is, on the other side of the street from you, it's zoned Office/Service. They are required to have a 25-foot landscape strip. You're zoning your property to M-1. You're going to be required to have the 25-feet. You're not proffering it, so I don't understand what type of landscaping strip you're committing to. I think, by Code, you would probably only be required to do 10 feet.

Ms. Freye - We have talked with the property owners on the west side of Park Central Drive. We have not had any concerns or issues raised by them. We've also had the POD submitted, and that issue, as far as I know, has not really come up.

Mr. Joe Marchetti - We have no problem with the 25-foot buffer, if that's what they want.

Ms. Freye - Mr. Joe Marchetti. Mr. Marchetti has indicated, if it would be helpful, that they have no problem with proffering that there would be a 25-foot landscaped buffer on Scott Road and on Park Central Drive.

Mr. Silber - Keep in mind, on Scott Road, 50 feet will be required by Code, so you're willing to commit to 25 feet on Park Central?

Ms. Freye - Yes.

Mr. Silber - Okay.

Mr. Archer - Well done.

Mr. Silber - With the permission of the Commission, I have one more question. In regards to Proffer No. 10, the construction traffic. It indicates that, "All construction traffic shall be restricted to Parham Road accesses and shall not use Scott Road in front of this tax parcel which adjoins property." The way I read that, it would be restricted to have all construction traffic to go out to Parham Road, not to Park Central Drive. Is that the intent or is the intent...

Ms. Freye - My understanding was, to get to Parham Road, we have to go onto Park Central Drive to get there, because we don't have direct access on Parham.

Mr. Silber - Then, I would suggest that proffer be amended because I think that says, "...restricted to Parham Road accesses."

Ms. Freye - "...to Parham Road access that's via Park Central Drive?" That's the only way we could get there.

Mr. Archer - That's the only access, is it not? Any more questions by Commission members?

Mr. Vanarsdall - Mr. Chairman, I'd like to ask Mr. Silber a question, just for my own curiosity. The buffering changed because the buffer in O/S is different from the regular buffering for the district, right?

Mr. Silber - Yes sir. That's correct.

Mr. Vanarsdall - Thank you. I have no more questions, Mr. Chairman.

Mr. Archer - Mr. Henry.

Mr. Tom Henry - Again, my name is Tom Henry. I'm with the North Chamberlayne Civic Association. I would ask if Doctor Pryor has anything to say in addition to me, please stop me. He's the President. He just came in. I feel like in the last two months, we've been through Planning and Rezoning 101, self-tutored, okay. I feel like I've gone through 102, tonight, and I appreciate the Commission's help in looking at some of these things. One of the things we did not address, which was brought up in our main meeting, was the limitation of hours in the way of what's going to be happening at night. Are there going to be trucks running that are going to be bothering people? So, I appreciate the Commission's concern about that. And if O/S does not permit 24-hour, 7-days, 365 days, I would like the Commission to take that into account when this is presented, or whenever it is put before the Board of Supervisors. I think it's an important part that we missed. I appreciate also the comments that were made on the building materials, which we sort of overlooked in our naiveté. And I would like to ask, what does the POD, where we say things like, "unless other comparable finished materials are specifically requested?" How closely does the Planning Commission look at that so they can't put up a "Butler-type" building and I don't think they will. I think we have a good rapport with these groups. It slipped by us. Is it in the O/S Code, per se, "unless otherwise," or is that an M-1 Code? Is there anyone can answer that? Mr. Silber?

Mr. Silber - You're referring to building materials?

Mr. Henry - Yes.

Mr. Silber - No. There is nothing in the O/S district code regulations that stipulate building materials. What they're imposing here would be further restrictions on top of the Zoning Ordinance regulations.

Mr. Henry - So, I guess what we're saying is, they've gone one step further, then?

Mr. Silber - Yes sir.

Mr. Zehler - Possibly, I could help you with that. The way that is written, "...permitted by the Planning Commission at time of POD review..." if your Commissioner in your district is not satisfied with the type of material and the quality of construction, the way that is written, he has a right to deny that case. So, he has a right to send them back to the drawing board and maybe come up with a more suitable quality building.

Mr. Henry - What we are trying to do is maintain the integrity of this neighborhood, which we are very pleased, very proud to live in, but we are seeing ourselves being asked to downgrade the zoning from time to time. In 1988, we went from Agricultural to O/S. Now, we're slipping back to M-1 with restrictions. What we want to say to the Planning Commission is, we want to make sure that this gets stopped at this point. We don't want to see Heavy Industrial being the next thing that people are asking for, because we know we have three other parcels out there that are going to be zoned within the next decade.

Mr. Vanarsdall - Mr. Henry, you said you went though Planning 101. The other way is the proffers on the rezoning state such and such and such and such and such. The Planning Commission is restricted to use those materials. If there's no proffers on the case, it's up to the Planning Commission. Then we try to get the best deal we can.

Mr. Henry - Then, "the comparable finished material," is comparing to brick, glass, whatever? Is that what we're saying?

Mr. Vanarsdall - Whatever, if it's not in the proffers of the rezoning case, it could be anything.

Mr. Henry - Thank you.

Mr. Archer - Thank you, Mr. Henry. Any other questions or comments? Well, needless to say, this case is not a companion case to the previous case, but the Civic Association and the Board did hear them probably together on many nights. I think they got to know each other quite well. I think we've been able to resolve the issues through last night that were of major concern to the North Chamberlayne Civic Association. Of course, we've been able to resolve some issues tonight that were concerns to the Commission members. I think I did mention in my previous comments that we would raise the issue of the traffic study prior to this going to the Board. So, with that, I move to waive the time limit on the proffers that were received today.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Ms. Zehler that we waive the time limits. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent). And as for C-91C-97, I move that C-91C-97 be recommended to the Board for approval.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Ms. Zehler that C-91C-97 be recommended to the Board for approval. Those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

REASON: Acting on a motion by Mr. Archer, seconded by Mr. Zehler, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **accept the proffered conditions and grant** the request because the employment use(s) support the County's economic development policies; the proffered conditions should minimize the potential impacts on surrounding land uses; and it would provide for appropriate development.

**C-1C-98 James W. Theobald for Security Capital Atlantic, Inc.:** Request to amend proffered conditions pertaining to building materials and accepted with rezoning case C-115C-88 on part of Parcel 33-A-8 and Parcel 33-A-9, containing approximately 6.3 acres, located at the northwest corner of Brook Road (U.S. Route 1) and Virginia Center Parkway. The site is zoned R-6C General Residence District (Conditional). The R-6 District permits densities up to 19.8 units gross density per acre. The Land Use Plan recommends Commercial Concentration and Multi-Family, 6.8 to 19.8 units net density per acre.

Mr. Archer - Is there any one here in opposition to C-91C-98 Security Capital Atlantic, Inc.? No opposition. Ms. Gardner.

Ms. Gardner - This is a request to amend one proffer on a 6.3 acre site. The site is zoned R-6C General Residence. This was originally part of a 176 acre development site that was zoned almost 10 years ago.

In 1993, some of the residential area to the west, you see part of it on the map, the R-5C area, had a proffer amendment identical to the one being proposed here to reduce the percentage of brick on the buildings. The only reason this parcel was excluded, it was thought, at the time, that this would be necessary for an interchange over Virginia Center Parkway and Brook Road. Since, that has been determined that will not be necessary and will not be constructed.

Currently, there is a requirement for two-thirds brick on residential buildings on this parcel. It will be reduced on two-story buildings to 50 percent; on three-story buildings to 33 percent. As I said, it's similar to what is to the west. Staff recommends approval.

Mr. Archer - Thank you, Mrs. Gardner. Any questions, anybody?

Ms. Dwyer - This says that the original proffer is deleted in its entirety, and yet, this particular provision is only supposed, as I understand it, to apply to a portion of the property that the original proffer applied to. Is that correct? Maybe I should ask Mr. Theobald.

Ms. Gardner - I think the intention, perhaps, this answers your question, that only 4C is deleted in its entirety to be substituted as stated here.

Ms. Dwyer - Did the original 4C apply to more than this particular parcel, though?

Ms. Gardner - No. The original 4C was as reads here. The Zoning Case C-115C-88, which this comes, is not in effect anymore. It has been amended.

Ms. Dwyer - I'm sorry. What did you just say?

Ms. Gardner - Rezoning Case C-115C-88, the rezoning case which is being amended tonight, is no longer in effect elsewhere. That was amended in 1993. This property was left out in 1993 because they thought they needed it for an interchange, so they didn't bother. In any case, it would only apply to this portion.

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

Mr. Jim Theobald - I'm here this evening on behalf of Security Capital Atlantic, the owners and developers of an apartment community known as Chesapeake at Virginia Center on Virginia Center Parkway. Security Capital also owns Cameron At Wyndham and Cameron Crossing at Three Chopt and Cox. This is a request to amend one proffered condition only on the 6.3 acre parcel of left over land that had been reserved for an interchange at Virginia Center Parkway on Route 1. VDOT and the County have determined there is no longer a need for this interchange.

This 6.3 acre parcel has been zoned R-6C since 1988, thus permitting the construction of multi-family dwellings subject to substantial proffered conditions. One of those conditions required 100 percent brick exteriors which condition was created prior to any development occurring at Virginia Center.

Two subsequent rezonings bear on this request. In 1993, Attack Properties purchased over 180 acres from Virginia Center which included the adjacent apartment site on which Security Capital is now building, and you see the outlines of the buildings just behind this property. Attack Properties, pursuant to Case C-56C-93, amended the 100 percent brick proffer to provide that the exterior wall surfaces of each one-story multi-family building constructed on the property would be all brick. Two stories would be constructed of a minimum of 50 percent brick, and three-story multi-family buildings would be constructed of a minimum of 33 percent brick, exclusive of doors and windows. We're seeking that same proffer amendment on this six acres, so Security Capital can continue building and incorporate it into the site that is currently under construction.

The site on the other side below there from Virginia Center Parkway, which is not owned by Security Capital, but rather Castle Development Corp. received in 1996 an even greater reduction in the percentage of brick, to 33 1/3 percent overall.

Incorporating the six acres that you see in red before you (referring to rendering), into our existing project permits a consistency of quality of design. It's a known product. You can drive out there and see it. It promotes the retention of green space and reduces the amount of curb cuts by being able to incorporate it into the larger site.

The site plan that we provided to staff as a courtesy, in which I believe was attached to your staff report, calls for a significant entrance feature, the retention of trees and green space along Virginia Center Parkway. We're, basically, able to utilize the internal road system that exists in the project that's currently under construction.

So, we're seeking to amend but just one condition. Many others continue under that original case, so as to guarantee quality developments which are those relating to buffering, density limitations, height limitations, setbacks, comparable architectural style, masonry fire walls and low profile signs.

Your staff has found this request to be reasonable and consistent, both with the Land Use Plan and the existing zoning. It's also consistent with the policy of the Land Use Plan to promote standards and specifications that ensure quality residential development, while providing acceptable alternatives for minimizing development expense. So, for the foregoing reasons, I would respectfully request that you recommend approval of this proffer amendment to the Board of Supervisors, and I'd be more than happy to answer any questions that you might have.

Mr. Archer - Any questions of Mr. Theobald by Commission members? Basically, what we're doing here is bringing this property into conformity with the adjacent property that has already been approved. As staff recommends approval, I think I can also. With that, I move to recommend approval for...

Mr. Silber - Excuse me. Did you see if there was any opposition?

Mr. Archer - I did ask. Yes.

Mr. Silber - Okay.

Mr. Archer - I'll ask again, though. Any opposition? There is none. I move to recommend approval of C-1C-98 Security Capital Atlantic, Inc. to the Board of Supervisors.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall for the approval of C-1C-98 Security Capital Atlantic, Inc. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

REASON: Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **accept the amended proffered condition imposed with C-115C-88** because the changes do not greatly reduce the original intended purpose of the proffers, and the proffers continue to assure a quality form of development with maximum protection afforded the adjacent properties.

**C-82C-97** **Gene B. Holman for Hearthside Builders:** Request to conditionally rezone from A-1 Agricultural District to O-2C Office District (Conditional), Parcel 56-A-45, described as follows:

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

Mr. Merrithew - Mr. Chairman, before you start with that case, may I simply announce on the 8:00 o'clock agenda in the Brookland District on Page 5 of your agenda:

**C-6C-98 Daniel A. Myers for JD Properties, L.P.:** Request to amend proffered conditions accepted with rezoning case C-70C-86 on Parcels 51-A-66, 70, 70N, 71, 72, 73 and 74, Laurel Park Shopping Center, containing approximately 17.1 acres, located at the northwest corner of Hungary and Woodman Roads. The amendment would allow overnight parking of trucks. The site is zoned B-2C Business District (Conditional). The Land Use Plan recommends Commercial Concentration.

Mr. Merrithew - This has been withdrawn. That's a case to amend the proffers that apply to the Laurel Park Shopping Center that would have allowed overnight parking of trucks. That case has been withdrawn. There are no other deferrals for the 8:00 o'clock agenda.

**(At this time C-82C-97 was resumed)**

Mr. Lee Yolton, County Planner - Mr. Chairman, members of the Commission, as mentioned, this is a request for rezoning from the A-1 Agricultural District to the O-2 Office District with proffered conditions. The site consists of one acre located on the north side of Church Road about 200 feet west of the intersection of Church Road and Lake Loreine Lane. The site currently is the location of an old single family home.

The staff report initially was prepared and a hearing advertised for the Planning Commission's meeting on December 11<sup>th</sup>. And just prior to the Planning Commission meeting in December, the applicant decided to amend the request to a conditional zoning request. Therefore, the case was deferred and readvertised for this evening. Most recent revisions to the proffers were received last week and these were placed before you. The Commission would not need to waive the time limit to accept the amended and restated proffers. I'll address the proffers in just a moment. This is the first public hearing we've had on this matter.

This property is at a strategic location insofar as it will be immediately adjacent to the intersection of Church and Pump Roads when the planned realignment of Pump Road takes place. Pump Road is being shifted about 500 feet from its present location, as part of the construction of John Rolfe Parkway. Pump Road will be reconstructed as an overpass over John Rolfe Parkway with a slip ramp for north bound traffic to merge onto John Rolfe Parkway. The Traffic Engineer indicated that the subject property might be impacted by the need for right of way for future Pump Road. But he was unable to say exactly how much, if any right of way would be needed.

To respond to the situation, the applicant has proposed a phased development approach with the proffered conditions. The first phase of the property development is prior to the realignment of Pump Road, or five years from the date of rezoning, whichever occurs first.

During this time, the applicant indicated he would convert the existing home to a real estate office and only make additions and modifications as needed to accommodate that use.

The second phase would be after Pump Road is realigned, or after five years, at which time the site could be completely redeveloped and used as permitted in the O-2 Office zoning district. Besides Office use, the O-2 District also would allow a child care center, a funeral home, or a bank. The proffered conditions that apply to the second phase of development indicate that any new buildings would be constructed primarily of brick, stone or dryvit and would not be over three stories tall.

As the staff report indicates, its not easy to determine a recommendation on this request. Office use is not recommended by the Land Use Plan at this location. However, Office use is recommended directly on the other side of future Pump Road. Future Pump Road, obviously, will be a heavily traveled road in this vicinity, and with the construction of an overpass along the western edge of this site, it's not clear that this property would be a desirable location for single family homes, as recommended by the Land Use Plan.

During the first phase of development of this property, there probably would be very little impact from its use as a real estate office. For the long term, however, redevelopment of the site is speculative and the proffered conditions are fairly minimal with regard to the site layout, architecture and building materials.

There is roughly about eight to ten acres of developable property between relocated Pump Road and Chapelwood Subdivision. This, generally, is the area that would be influenced by this request. The thought was that, perhaps, it would be better to approve Office use at this location rather than wait for the inevitable request for a filling station or a convenience store. In other words, it might set a good precedent for development of the neighboring parcel.

In conclusion, given all of the considerations involved, staff would not object to the approval of the request for rezoning to the O-2 District. With regard to the proffered conditions, the County Attorney feels they could be more specific as to when each phase takes effect. But that can be discussed with the applicant between now and the Board hearing. And then one other item I'd like to mention about the proffers is in regard to Proffer No. 1. The Acting Planning Director pointed this out the other day. It seems to indicate that the applicant would not be able take down any of the accessory buildings, like the garage and so forth that's on the site. So, we could work on the language which would allow the applicant to remove accessory buildings that are currently on the site as part of his real estate office. Mr. Chairman, with that, I'd be happy to try to answer any questions the Commission may have.

Mr. Archer - Thank you, Mr. Yolton. I think I neglected to ask if there is anyone here in opposition to this case. Is there someone? Thank you.

Mr. Yolton - Mr. Chairman, I'd like to read one other item. I received a letter from the Lake Loreine Homeowners Association that was in opposition to this request.

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

Ms. Dwyer - In your view, would O-1 be a better option for this site?

Mr. Yolton - It is designed to be more compatible with residential areas. The primary difference between O-1 and O-2 is that the O-1 District does not allow a bank. Otherwise, it is a low intensity type of zoning district that's designed to be compatible with residential areas.

Mr. Archer - We'll hear from the applicant.

Mr. Gene Holman - Thank you, ladies and gentlemen. I'm Gene Holman. I'm President and owner of Hearthside Builders as well as Commonwealth Properties. I own a small real estate company in the west end and also a residential home building company. I live in the area. I've been living in the area for the last 15 to 20 years. And my experience in the area, is I was the one who developed Pine Run, I sold Waterford, sold Glen Gary, Hardings Trace, Sherbrooke. I'm currently building in Keswick. This impacts me also. I don't want to see another service station in the area, to be frank about it. The intersection that we live at now is a horrible mess. What we're proposing is with the adjoining seven or eight acres; two acres of that right now is in pond.

From a residential standpoint, no homes are going to be built on this. I mean, it's not going to make any sense at all whatsoever from a residential home building presence. I wouldn't buy any lots, and I don't know of any builder who would buy any lots in those adjoining areas with these roads going through. We have a real tough time now with John Rolfe trying to sell homes, and build homes up against it. When Pump Road is expanded like this, it's going to leave everybody in lurches. What we're proposing to do is go in and set a precedent, just like we did with Pine Run and put some quality in the area. I'd be glad to answer any questions. I did not know about the Lake Loreine people. I talked to the Church Run people today. They called. As you can see, they're not here, and I don't believe the adjoining property owners are here. So, I think everybody is happy with it. I don't know what else to do. They say it is minimal as far as what we're planning for the future. I cannot plan anything or give you any more specifics, because the County has not made up their minds how much space I'm going to have left, once they take the road. That will all be addressed at Plan of Development. The site is going to dictate the amount of space that can be there. We don't know whether we're going to have a building right up against a ramp or not.

It appears, if we go in and redesign the building right now, we're going to have to spend a whole lot of money. We may have to bulldoze that building down, two to three, four, five years from now when the road is realigned. We could even lose the building, not knowing what the County is going to do. So, for me to say, what's going to happen five years from now, I can't do it. All I'm asking is to be allowed to have a chance to develop the property.

Mr. Vanarsdall - You say you live in the area?

Mr. Holman - I live in Keswick, which is just on the other side of Pump Road. I'm building there. My real estate company is in the west end, and I have a sizable investment, right now, over a \$one million in speculative homes in Keswick. And I live in Keswick, which is just across the road. I've got two service stations that are just. They're awful. Right there at that corner. I don't want to see that happen again, and this is a perfect site for B-3.

Mr. Zehler - Mr. Holman, you can do an office building of your nature for your real estate company in an O-1. Why are you requesting O-2?

Mr. Holman - I requested O-2 simply because I don't know the space I'm going to lose. In five years from now when the site gets developed, I feel like it would be a good location for a bank, or a day care center. I cannot do that in O-1.

Mr. Zehler - Why don't you request the O-1 so you can do your office now, and come back at a later date for your O-2?

Mr. Holman - If this makes sense now, why spend the money? I won't have to spend a ton of money remodeling the place.

Mr. Zehler - It makes sense to whom?

Mr. Holman - That's my statement. Not yours. I'm sorry. You can beat me on the golf course. Give me a break right now, okay.

Mr. Archer - Any other questions for Mr. Holman? Mr. Secretary, I believe we had some opposition?

Mr. Silber - Yes sir. We did.

Mr. Louis Mahrony - I did have some opposition. I prefer to make a statement rather than answer questions.

Mr. Silber - I probably should remind Mr. Holman that you do have 10 minutes. You've spent, Mr. Holman, about seven and one half minutes, so you would have rebuttal time, if you'd like. So, you do have 10 minutes, sir, to speak in opposition.

Mr. Mahrony - I'm a resident of the Barrington community which is less than .02 of a mile off from this site and located on Church Road. I'm here representing the Barrington Property Owners Association, which is a community of over 75 homes in existence right now, custom built homes, with ten to fifteen more homes being developed in the next two to three years. I serve on the Board of Directors of the Barrington Property Owners Association, and I'm speaking on their behalf.

We firmly oppose the rezoning request being made in this application, in that, we feel it does not agree with the County's adopted goals, objectives, and policies for the harmonious development of the area which we supported when it was put together. That is for R-2 zoning, I believe. We feel that development of this property for Office use would have a substantial detrimental effect on the values of the homes in our community, both during the period it might be used for a real estate office, or later as a bank, or nursery. We feel like the way the county plan has laid out the relocation of the proposed relocation of Pump Road along the John Rolfe Parkway is a natural buffer to stop the commercial and office development and put it on the corner where the service stations this gentleman referred to, are currently located and can continue to be located.

So, we want to make it a formal position of ours that we respectfully request that the application for zoning, other than is currently in the county plan, be denied. I'd be happy to answer any questions any member of the Commission may have.

Ms. Dwyer - One of the statements in the staff report, I believe the applicant stated is that with the new alignment of Pump Road, this may not be a suitable location for residential homes. Did your Board consider that?

Mr. Mahoney - We did to some degree, except for the fact that there is a home almost directly across Church Road from this property that's less than, I think, four years old. And this property looks right at it. Plus, there's an entrance to a housing development a block away from this home where the homes are right on Church Road, as are the homes in Barrington. John Rolfe Parkway and the Pump Road ramp would be just a natural buffer to stop the commercial and office development coming further down Church Road, in this area of Church Road, that right now, is strictly residential, except the old Jolly Green Nursery which has been there for 50 years. Thank you.

Mr. Archer - Any other questions of Mr. Mahoney? Mr. Holman, I think you have some time left.

Mr. Holman - I do not know how to answer Mr. Mahoney, other than the fact is, for 25 years I've dedicated my life to the real estate business and I think that everything that I've done in the west end of Henrico has pretty well spoken for itself on the quality of the development. If Mr. Mahoney is willing to buy the site from me and build a home there, I'm in the building business.

Mr. Mahoney - You own the property now?

Mr. Holman - No sir. It's under contract, subject to zoning.

Mr. Mahoney - You are required to buy it?

Mr. Holman - No. I'm not required to buy it. I'm not required to buy it. The home is presently owned by an estate. The money would go into the woman's estate. She is deceased.

Mrs. Wade - You do not own the property, is what you're saying?

Mr. Holman - I'm sorry?

Mrs. Wade - You signed the proffers. I just wondered...

Mr. Holman - I have "Attorney in Fact, " also for this.

Mrs. Wade - Okay.

Mr. Holman - If you look at the overall picture of the area, and you have to live there, and I'm sure Mr. Mahoney is aware of this. That property right there, from a real estate standpoint, is not going to be developed as residential. I don't, from a real estate agent, know of anybody I could sell a home to there. They not would want to live right on the ramp of the road realigned. We can't sell homes against John Rolfe Parkway right now. I wouldn't want to live right against a ramp. I don't believe you would, Mr. Mahoney. I don't know what else to say, other than the fact, the property is a lot more suitable to be developed into Office, and I think Mr. Yolton has expressed an interest in seeing that it go that way. I think the Planners

feel that way. It makes more sense than to sit here and try to think its going to generate residential real estate. It's not going to do that.

Mr. Archer - Any other questions of Mr. Holman?

Mrs. Wade - Since these were submitted on the 7<sup>th</sup>, we don't need to waive the time limits.

Mr. Holman - Mrs. Wade, one more thing, those were done with the approval of the County Attorney. The language was there, Mr. Yolton.

Mrs. Wade - He recommended better phraseology, is what I understand.

Mr. Holman - Yes. The phraseology was the main thing. We've tried to cooperate fully with the County in what they feel is best for the area. It's going to be a financial drain for four or five years to wait to develop the property. But in the best interests of the County, and I live in the area, I'm willing to do that.

Mr. Silber - Mr. Holman, from a technical standpoint, Proffer 1, the way I read that, you would be allowed to make modifications or additions to existing buildings on the property. It would not allow you to remove anything. So, if that's your intent, that's fine.

Mr. Holman - This is true. I've got to go in and completely gut the inside of the area and to remodel the inside so we can even turn it into office space. I don't want to take those big trees down, for one thing. If I start into development, it's going to cost me a whole lot of money to do that until the road is in place. It's probably just not the proper thing to do until that time.

Mr. Silber - Are there any outbuildings or structures?

Mr. Holman - There is a garage there and there's also a shed behind it.

Mr. Silber - Okay. But what I'm saying is, this proffer would not allow you to remove those other structures.

Mr. Holman - I'm aware of that.

Mr. Silber - Somewhere on the site you will need parking.

Mr. Holman - There's a wide enough area, when you come in, to park the cars. They won't be there on any kind of regular basis. Those are just early in the morning to probably 4:00 or 5:00 o'clock at night. Occasionally, I work in the office to 9:00, 10:00, 11:00 o'clock at night, but it's not much different than being at home.

Mr. Silber - So you can work around those existing structures?

Mr. Holman - We have plenty of parking area as it exists right now. I prefer not to shed anymore water or anything else at the present time. I don't want to create any more parking places, is what I'm trying to tell you. I can work around those structures without removing them and leave the site intact until the road comes in.

Mr. Archer - Any more questions? Is there a motion, Mrs. Wade?

Mrs. Wade - Yes. I think there is. I'm sorry you didn't call me, again, Mr. Holman, since our first early discussion on this. I believe Mrs. Dwyer and Mr. Zehler asked a question that I would have, too. You answered. Why not O-1 in this location, which is supposed to be more of a transition and compatible with the single family residential area? This location, this corner at Pump and Church, in its evolution from what was a little country cross roads to a busy suburban intersection has not been a particularly graceful transition with a lot of mixed uses around there. So, I think we need to try to look at it in overall connection with the new road and do a little better with our planning in the future. If you convert this, and come back when the road is finished, we'd have a better idea about what's going on there, as well as some more assurances with the number of issues we look at with offices that you haven't mentioned at all in your proffers, about signs and lights and that sort of thing. The Land Use Plan, of course, recommends single family here. I wouldn't be surprised if there's more land available in this vicinity that could, perhaps, be planned better, which is another goal of our Land Use Plan is to plan larger site development when we can. I know the people in the neighborhood would like to see this remain residential. I wouldn't have a problem with your converting this into your real estate office at O-1 for the time being. But I don't feel I can recommend the O-2 at this time to the Board of Supervisors. Therefore, I would move...

Mr. Holman - Mrs. Wade, excuse me. I can live with the O-1 right now. I'm just trying to avoid having to come back here four or five years from now and somebody coming to the east of me and coming back in with some request that I don't know is going to really work well with the neighborhood. I'm just trying to protect later on.

Mrs. Wade - We don't have an O-1 case unless you want to defer it and work on that some more or we can...

Mr. Holman - I can defer it. I'm just under time constraints of contractual obligations. I don't have a problem with that. I can lose the property, but I don't have a problem with that.

Mrs. Wade - Well, we, of course, can act on it tonight and go onto the Board with our recommendation one way or the other and you can work on it in that period, so.

Mr. Holman - I'll be glad to work on it in that period. I mean if the Board does not feel that O-2 is proper at the time now, I mean I can live with O-1. I'm just trying to avoid coming back here three or four years from now and trying to set a precedent for the area.

Mrs. Wade - I'm trying to do the motion here, Mr. Holman. Unless you are asking for a deferral from us, I'll go ahead and move.

Mr. Holman - I'll ask for deferral. I'll ask for deferral and see if we can get it worked out.

Mrs. Wade - Work on it some more. Because you've heard the concerns of the Commission on some of the...

Mr. Holman - I understand. I'm aware of the concerns and I live in the neighborhood. I mean I don't want to see anything else happen to that corner.

Mrs. Wade - No. I understand and I would be surprised if anybody actually got approved for a gas station on a convenience store on that corner. It may come as a surprise, but...

Mr. Holman - I was surprised, too, when I had to come out and seek what I can do.

Mrs. Wade - If you want a deferral, then, until the 12<sup>th</sup> of February?

Mr. Holman - I guess, if I have, too, yes ma'am.

Mrs. Wade - Well, no, you don't have to.

Mr. Holman - I'll take it.

Mrs. Wade - I move that C-82C-97 be deferred until the 12<sup>th</sup> of February at the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall that C-82C-97 be deferred to February 12, 1998. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

**C-2C-98 James W. Theobald for HBR Associates:** Request to conditionally rezone from A-1 Agricultural District to B-1C Business District (Conditional) and O-2C Office District (Conditional), Parcels 48-A-15A, 16 and 17, described as follows:

O-2C Parcel:

Beginning at a point on the western right-of-way line of Springfield Road at the northeast corner of Tax Parcel No. 48-A-15A and the southeast corner of Tax Parcel 3 8-A-30D, which point is the True Point of Beginning; thence along the western right-of-way line of Springfield Road S. 11° 34' 53" E., 21.19' to a point; thence S. 11° 05' 03" E., 140.09' to a point; thence S. 06° 46' 53" E., 160.99' to a point; thence S. 13° 24' 08" E., 39.99' to a point, which point is the southeast corner of Tax Parcel No. 48-A-16; thence leaving the western right-of-way line of Springfield Road S. 76° 58' 25" W., 192.71' to a point at the southwest corner of Tax Parcel No. 48-A-16; thence N. 13° 01' 35" W., 180.54' to a point; thence S. 76° 58' 25" W., 74.00' to a point; thence N. 13° 01' 35" W., 153.85' to a point; thence N. 74° 37' 55" E., 289.48' to the True Point of Beginning, containing 1.967 acres.

B-1C Parcel:

Beginning at a point on the western right-of-way line of Springfield Road at the northeast corner of Tax Parcel No. 48-A-15A and the southeast corner of Tax Parcel 38-A-30D, thence along the western right-of-way line of Springfield Road S.11° 34' 53" E., 21.19' to a point; thence S. 11° 05' 03" E., 140.09' to a point; thence S. 06° 46' 53" E., 160.99' to a point; thence

S. 13° 24' 08" E., 39.99' to a point, which point is the southeast corner of Tax Parcel No. 48-A-16 and which point is the True Point of Beginning; thence S. 13° 24' 08" E., 170.01' to a point; thence leaving the western right-of-way line of Springfield Road S. 69° 32' 48" W., 195.46' to a point; thence N. 13° 01' 35" W., 195.27' to a point; thence N. 76° 58' 25" E., 192.71' to the True Point of Beginning, containing .784 acres.

Mr. Mark Bittner, County Planner - I'd like to point out that the applicant has submitted some new proffers, that we're handing out to you right now. That would include an elevation of the proposed veterinarian clinic as well as the proposed layout for the vet clinic but not the entire site. The time limit would have to be waived on these proffers in order to accept them tonight.

**Testimony on Case C-2C-97 was suspended.**

**Testimony was resumed on C-82C-97.**

Mr. Mahoney - Mr. Chairman, can I ask you a question, why was this deferred from the last application? Does that mean they're coming back with the same application...

Mr. Silber - At this point, we do not know. The application, as filed, has been deferred to the February 12<sup>th</sup> meeting. I think, at this point, Mr. Holman, I think will be working with staff, and, perhaps, the Commission member from that District, to see if he can amend the request to improve on it.

Mrs. Wade - In fact, I would suggest to him that he contact those of you who had expressed an interest. I guess he's gone now, so he could be abreast of any discussions in the meantime and, perhaps, everybody can come to an amenable agreement in the meantime.

Mr. Vanarsdall - Mr. Mahoney, it comes up again on the 12<sup>th</sup> of February, at this meeting. Whatever action we take, it will go to the Board and come up in March. I suspect he wants to put it back to O-1 rather than O-2, which is not as many uses and more of a neighborhood use.

Mrs. Wade - If you wanted to continue to question that, you would, of course, have to come back, or send someone else.

**Testimony on Case C-2C-98 was resumed.**

Mr. Archer - Mr. Bittner, we didn't forget you.

Mr. Bittner - This application would rezone three parcels on the west side of Springfield Road to B-1C and O-2C. The southern most parcel would be rezoned to B-1C for a veterinary clinic. The other two parcels would be rezoned to O-2C. Business zoning is required for the Vet clinic. Although it is required to have business zoning, it would not have as much negative impact on adjoining property as a typical commercial retail use. The zoning ordinance requires that all operations take place within a completely enclosed soundproof building so as not to produce objectionable noise, odors, or vermin beyond it's walls. Also, no outside cages, pens, or kennels would be permitted with the vet clinic. Other than the site in

question, all property within the vicinity of Springfield and Gaskins Roads is residential in both zoning and land use designation.

A previous application for an office development was filed on this property, and they were going to do what we termed "a residential or village-type" office development. This application for a small animal hospital would incorporate a residential-type look for the vet clinic in the elevations shown. The applicant has also proffered residential style for the remaining office development, although we do not have elevations for that.

Now, these new proffers do address several concerns outlined by staff in its report, but not all of them. I'll outline those real quickly. In terms of the residential building styles, I said they did proffer that. We talked a little bit today about how they could, perhaps, put more detail perhaps in terms of proffering an overall square footage allowed and then proffering a square footage for an individual building; thereby ensuring a village-type or multiple building colonial look. No numbers for square footage have been proffered.

Also, no buffers have been proffered along the western and northern borders. The zoning ordinance, in this case, would require a 10 foot transitional buffer. Also, staff suggested that employment agencies and child care centers be proffered out, but those have not been taken out. The reason for that, we felt they might generate a bit more traffic than the proposed uses. This is a fairly high traffic intersection, and it is very residential as well.

So, although this proposal is not really consistent with the Office designation of the property, it would limit possible negative impacts of the proposed use and prohibit most commercial activity.

If the issues outlined in this report, mainly those additional proffer items I just suggested were to be proffered, we could fully recommend approval of this application. I'd be happy to answer any questions you may have.

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

Mrs. Wade - The O-2, of course, would allow, or even any kind of "O," will allow a clinic for human beings—medical office buildings.

Mr. Bittner - Yes. Medical offices would be permitted.

Mr. Archer - Any other questions? While Mr. Theobald is coming, is there opposition to this case? I'm sorry. I forgot to ask, again. To speak in opposition, ma'am. Anybody else? Mr. Theobald.

Mr. Silber - Mr. Theobald, how much of your time would you like to save for rebuttal?

Mr. Jim Theobald - I have a very brief presentation. I don't think I will be close to using my time at all. I'll reserve three minutes. Mr. Chairman, ladies and gentlemen, my name is Jim Theobald and I'm here this evening on behalf of HBR Associates, the owners of a 2.75 acre parcel of land at the northwest corner of Gaskins and Springfield, adjacent to Champions Point Apartments. This request is to rezone .784 acre parcel closest to the intersection to B-1 for a veterinarians office which site is proffered in all other respects to permit only certain O-2

uses, and to rezone the remaining 1.967 acres to an O-2 classification, again, subject to substantial proffered conditions.

The County's Land Use Plan suggested office development is the appropriate use for this tract. I believe that we are consistent with that. The veterinarian's use is, obviously, an office use. If the facility were for humans, as previously stated, it would only require O-1 zoning, but the Ordinance requires us to seek B-1 for the veterinarian. Veterinarian is not permitted to having any outdoor runs or kennels and no boarding of animals, subject to the restrictions outlined by Mr. Bittner.

The remainder of the tract is being zoned O-2. We've proffered a reduced height of parking lot lighting. We've proffered the conceptual elevations, and a site plan for the veterinarian's office that you see before you. We've proffered residential-style materials for the potential other buildings on the site. We've limited the hours of trash pick up. We've reduced the number of potential access points. We've restricted the detached signage, and we've precluded additional uses, such as banks and funeral homes.

This really is the perfect transitional zoning for this location. I've had many requests for retail uses at this location over the years, and finally, this request seems to fit. The veterinarian's office building, 3,200 square feet in size. It's generally of brick construction and proposed to be of a design that you see before you.

For your information, the improvements to Springfield Road, in the intersection, are expected to begin in the Spring of 1998, very shortly, and will be completed sometime in 1999. The development of this very small site will have little impact on those road conditions, whether or not that road is approved.

We have contacted members of some civic associations in that area that we have previously dealt with. Your staff, I believe, has found this request to, overall, be reasonable and at least consistent with the goals and objectives of the Land Use Plan.

For all of those reasons, I would respectfully request that you waive the time limit for submission of proffers and recommend approval of this case to the Board of Supervisors. I'd be more than happy to answer any questions that you might have.

Mr. Vanarsdall - Are you going to proffer out elephants, horses, zebras, and things?

Mr. Theobald - The B-1 would only let you do a small animal hospital, Mr. Vanarsdall. Very small horses.

Mrs. Wade - If the architectural drawing were in color, what color would it be,  
Mr. Theobald?

Mr. Theobald - The idea is to have it complementary with the apartments behind, which is some Hunter Green trim and a similar earthen color of brick. The idea is to blend into that residential community that's behind it.

Mrs. Wade - By "earthen color brick," I forget what color they are.

Mr. Theobald - That brick has a little bit of a pinkish tint and actually some black and some brown, I think, hues that run through it. It's not the yellow brick that you and I have discussed previously, Mrs. Wade, nor is it a deep red/red type of brick.

Mrs. Wade - You have a 40-foot setback now from the rear? Do you know how far from the property line the closest apartment is?

Mr. Theobald - No. I honestly don't know. When I was out there riding around, you can see it depicted on the map there. There was a fair space and then it looked to be a large row of red tip planted all along that rear. If you'll notice, go up to the corner (referring to rendering), this apartment does not go all the way to Gaskins, but the apartments on that little corner which is not developed. There's also between the back of this property and the apartment building is where the apartments located their retention basin. So, there's a fair distance in there.

Just a little perspective, from what you see, from here to here (referring to rendering), is about 190 feet. The entirety of the site is fairly shallow for a building site based on all the land that was acquired by VDOT for the road project.

Mrs. Wade - I see from the front buffer, you've eliminated possibly the drainage structures?

Mr. Theobald - Yes ma'am. We've determined that today, based on your inquiry, Mrs. Wade, that the topography of this site, basically, slopes in this direction, front/ back this way. To the extent we need BMPs and retention, they would be able to be on the back of those lots. There couldn't even be a possibility that we could utilize the existing drainage basin for the apartments to the extent that the capacity was engineered into that originally. We can negotiate that with the owners of the apartments.

Mr. Archer - Any other questions of Mr. Theobald by Commission members?

Mr. Theobald - Thank you.

Mr. Archer - Ma'am, would you like to come down and speak?

Ms. Betty Schexnayder - Good evening. I live in Greensprings, which is the newest development. If you'll look at the back of the property, there is a basic dirt road, now gravel. Woodberry Subdivision is currently under development. It doesn't have any residents of the 39 houses that are going to be built there. Just beyond the "R" (referring to slide), my house sits there. I would be, at night, I can see the lights on the back of Champion Club Apartments. That is, basically, my biggest concern with this particular development is that the O-2C zoning would allow them to go up three stories high. That, I would be able to see, in addition to the 20-foot lighting that they're proposing. I have spoken with Mr. Theobald's secretary. Her name is Denise. She e-mailed me the current set of proffers that was submitted yesterday. In there I don't see any limitations on the height any further than the three-story that is in the zoning. The 20-foot lighting on a three-story building would impact the mostly residential around there. There's the apartments and that subdivision to be developed would be all residential. I would like to see them, in the proffers, make it where this doesn't go up anymore than 35-feet high with a little bit more attention to the residential area in looks. I'm also concerned about Springfield Road when it is widened. The nearest cutover through median

that is proposed, as far as the plans that I have, is right in front of Greensprings Subdivision. There isn't going to be one any closer to the intersection than that. The access to these particular sites would only be from Springfield Road. There would not be any access from Gaskins or even going towards Nuckols on Springfield, unless you turned around in front of the subdivision.

As far as how they're handling the traffic and how much traffic is involved, that has yet to be discussed. They keep talking about the veterinary clinic being residential in looks, but they haven't addressed the office buildings that are going in back of it either. I'm sure the office buildings, they want to go up a little bit higher than the veterinary clinic, and I don't exactly know what the materials would be used for that are. I think that needs to be addressed before this is changed. I don't know if the O-1 zoning would give it a little bit more residential appeal for transition there, but there is no other retail or office use in that area currently.

Mr. Theobald - A few brief remarks. Please remember, this is only 2.7 acres of land. This is not a big office park by any stretch of the imagination. Seven-tenths of that are being utilized for a veterinarian's office, which is 3,200 square feet in size, smaller than some homes. I've provided you with a site plan to show you how this, basically, lays out. With regard to the lighting, if you'll look at Proffer No. 4, you'll note we have tried to provide the usual protections in that 20-feet in height is about the shortest number of poles without having to replicate poles every five or six feet, because we've also proffered that the light is from a concealed source of light like a shoe box-type fixture so that it doesn't spread light over. That's been proffered.

It says that, "The lighting fixture shall be of low intensity and positioned in a manner as to minimize the impact of such lighting on any adjacent property. Light fixtures shall be of the type that conceals the direct source of light. Exterior lighting must be reduced to security levels after hours of operation." Obviously, she is much closer to these three-story apartment buildings in here. I don't know what kind of wall-pack lights they have on there. But, basically, we've tried to address those issues by both limiting the amount of lighting. Reducing it to a security level. Providing for a concealed source of light.

With regard to the height of those buildings, while the O-2 District would technically allow you to go three stories or 45-feet in height, because we are within 100 feet of an "R" district, literally on every side of this property, and because of the very shallow nature of the site, there's nowhere you can build a building on the site where you get to use all 45 feet. The ordinance provides you can go no more than 40 feet if you're within a 100 feet of an "R" district. So, even if these could go three-stories, which is highly questionable in that when you look at the ordinance, and you look at the front yard setbacks with 40 and 50 feet, depending upon Office versus the B-1 in the back, and you look at 25, to 35, 45 feet of front yard setback in the front, you end up with a fairly small pad site on which to build.

I'm not sure, if you went three stories, that you could provide for the parking. So, I think the physical limitations and the ordinance requirements are going to have a significant impact on what you end up with on this site. In terms of the residential nature, obviously, we don't know who the users are, whether it could be one or two residential-style buildings. So, what we've done, as always, we have proffered consistency of architectural materials.

We have added a proffer, as suggested by staff, that these other buildings would be residential in nature with the pitched roofs, etc. So, we've really tried very hard, with what we

have to work with, to assure that these really would not have an adverse impact. Remember, that they're in your plan as a transitional use, office, for a reason. That's because you're looking at the three-story apartments, basically, behind it and apartments on the other side, moving into a more residential-type area.

What's developed on this site will likely end up being less dense than some of the housing that is in that immediate vicinity. So, the idea is residential in scale. You've seen what's been designed in terms of the building that we know about. We've tried to provide every proffer that Mrs. Wade and Mr. Bittner and I could come up with to try to provide some guarantees as to the remainder. So, this really is a very small site, and I hope that we have sufficiently addressed some of those potential issues.

Mrs. Wade - Mr. Theobald and I have discussed this size issue several times in the past two or three days. But, you're saying it isn't going to be that tall. Why don't you just say, its not going to be over 35, because we know that's not necessarily just 35. But if you have a pitched roof, it could be taller than that anyway.

Mr. Theobald - It could go up to 40 feet, potentially. That's right. Until...

Mrs. Wade - So, why don't you just say that and give everybody a comfort level.

Mr. Theobald - No greater than three stories or 40 feet in height.

Mrs. Wade - Or 35 feet.

Mr. Theobald - I'm not sure you can build three stories in 35 feet.

Mrs. Wade - Well, not with a peak roof, I suppose.

Mr. Theobald - Well, typically, in commercial construction, you're looking at a potential, by the time you put in your HVAC space above your ceiling tiles, you're looking at 13 feet. It can be lower, but as a rule, you're looking at about a 13 foot space. So, if you're really going to do a true three-story building, you know you might be at 39 feet. I'm not sure you could get it to work there with the parking, but that potential exists. That would be consistent with your plan.

Mr. Archer - Any other questions for Mr. Theobald?

Mr. Silber - The opposition has seven more minutes, so you still have some more time to talk.

Mrs. Schexnayder - First of all, what is the difference between going 15 feet with the lighting and going 20 feet?

Mr. Theobald - More poles.

Mrs. Wade - Excuse me, would you repeat that, please?

Mrs. Schexnayder - I'm suggesting that he go 15 feet with the lighting rather than 20 feet.

Mrs. Wade - Oh. Well, talk to us please.

Mrs. Schexnayder - My first question to him is, with the 20-foot lighting, I think there would be a less of an impact on the surrounding areas, if it would go 15 feet. I don't know what security level lighting at night means. I don't know what that means as far as dimming it, or exactly how bright that would be. My goal is to keep it under the tree levels so that it's not as visible at night by surrounding areas.

The second question, is why O-2C instead of O-1?

Mr. Theobald - Okay. Fair questions.

Mr. Silber - Mr. Theobald, you have a minute and a half left.

Mr. Theobald - That doesn't count when they ask me questions, does it? I'm sure Mrs. Wade meant to ask me those very same questions.

Mr. Zehler - How come it's not O-1 instead of O-2?

Mr. Theobald - Yes sir, Mr. Zehler. Thank you for asking that question. The setbacks are more restrictive in O-1 than O-2. For instance, if you look at this site and you apply the setbacks, this is the B-1 piece, of course, but they're even more restrictive, believe it or not, in the Office. In the O-2 you have a 35-foot front yard. Here you're looking at a 25-foot front yard. But the difference between O-1 and O-2, in an O-2, you have a 35-foot front yard and in an O-1, you have a 40-foot front yard. Rear yard in O-2, you have a 35-foot rear yard and in an O-1 you have a 40 foot rear. The State has taken so much land off this site, and it's so skinny, to lose another 10 feet in here, by the time you got your parking, as you can see, we've got by applying the rear here and the front yard here, and just a double bay row of parking and access drive. We've only got a 3,200 square foot building in here. So, because of the shallowness of the site, based on the take, the setbacks for O-2 enable us to get it in there.

With regard to lighting, I would note that the lighting in the parking lot here, where we're all parking, the 20-feet in height, but if 15-feet would give you some additional comfort, we could do 15 feet, and we're happy to do that.

Mr. Archer - Mr. Theobald, would you explain to Ms. Schexnayder what is meant by "security level lighting?"

Mr. Theobald - We have the ability to turn these down to a point where, and the Police like to have input on here, but we do have the ability through a reostat-type mechanism where, rather than providing the full amount of light albeit that is even screened, we can turn it down to a level where it still provides safety, in terms of cars would be still spotted if they tried to park or loiter there. It wouldn't be on to the full extent that they would be say, at 7:00 o'clock at night. They can be set to be reduced at any hour that you set it. Certainly, the idea would not be to throw any light over in that direction, but really provide merely what was safe.

The one other point that you raised on the median was a good point. We've been having discussion with VDOT about the possibility of putting a median cut, if we pay for it and we do the work toward the end.

Mrs. Schexnayder -                      Toward the end?

Mr. Theobald -                      Toward the end. I think it would be somewhere in here (referring to rendering). I don't know what they would leave back of this way. But it's possible, although not certain, that we could have a median break in here so that we could do this. It is down closer to this corner. We would have a right in, right out once we got all of these distances approved. Then we'd have cross access easements.

Ms. Dwyer -                      Mr. Theobald, did I understand you to say there was no intent to put a three-story office building on the O-2 parcel?

Mr. Theobald -                      No. I didn't say that. I didn't say that at all. I doubt seriously, when you finish with your engineering, that if you go three stories in there, you could get all of your parking, but I honestly don't know that until we have a user and we get on the site. But, I did want to point out that it is not the 45 feet permitted in the O-2, but, rather due to the proximity to residential, it's about 40 feet, which I presume is less than the apartments next door, but I didn't measure them, so...

Mrs. Wade -                      But, still, that's 40 feet plus whatever is up in that peak.

Mr. Theobald -                      Well, as you know, it's measured to the mean of the triangle up in there if you do that, so that would be a max.

Mrs. Wade -                      So, as a practical matter, it could be 45 feet to the ridge. So, more.

Mr. Theobald -                      I suppose that's possible.

Mrs. Wade -                      Are you, then, about to amend your proffer to say, 15 feet for light poles?

Mr. Theobald -                      Yes ma'am.

Mrs. Wade -                      Now, you mentioned parking lot lighting. Will not any light on the site be "concealed source?"

Mr. Theobald -                      Yes. We would not anticipate having any "wall pack" type.

Mrs. Wade -                      Unless you had possibly with a sign with the ground mounted...

Mr. Theobald -                      Right. The possibility of lighting a sign, once you see the sign package with a spot. I'm happy to initial that change whoever has the official proffers.

Mrs. Wade -                      Are you going to have a dumpster on this plan somewhere, Mr. Theobald? Dumpster on this plan? I know that's a POD issue, but there's no reference to the screening or anything is there? These trash receptacles, okay, will be screened from public view.

Mr. Theobald - Just for the record, Mrs. Wade, just so we're clear, at POD time, you'll note, while we've proffered this conceptual site plan, and it is showing some buffering in between here, we do intend to connect these driveways in order to facilitate these two access points that you and I discussed.

Mrs. Wade - I understand that, but it isn't going to be through the buffer, except perpendicular?

Mr. Theobald - Right.

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

Mr. Theobald - Thank you.

Mr. Archer - All right. Are we ready for a motion?

Mrs. Wade - We have to waive the time limit for accepting the amended proffers which, are, basically, fine tuning the others. I move that the time limit be waived.

Mr. Zehler seconded the motion.

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

Mrs. Wade - Okay. The Land Use Plan, of course, does provide for Office in this location. This is the only B-1 use that's being requested, so I feel, in that regard, that it doesn't set a precedent, necessarily, for any other undeveloped land in the immediate area. We sort of rather implied that, if a medical clinic could go there, an animal clinic, as far as impact is concerned, is not that different. They have proffered their architectural and their site plan, and allowed that there won't be business, by anything that would have a drive-thru window to complicate the already busy traffic situation in that area. And things will be residential in nature.

I share the concern that we all seem to about the size of the building, three-story. I don't know that's, as you said, there are bound to be limited quite a bit by the constraints of the site. But, perhaps, the Board member can convince him, with Ms. Mrs. Schexnayder's help to be a little more firm about the height of the building by the time he gets to the Board. I, therefore, move that Case C-2C-98 be recommended for approval, with that recommendation, additionally that they will make some concessions regarding the height of the buildings on the O-2.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Zehler to recommend approval of C-2C-98. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

Mr. Silber - This, by the way, will be going to the Board of Supervisors at their meeting, the second Wednesday. I believe it's February 11<sup>th</sup> at 7:00 o'clock.

REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Zehler, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **accept the proffered conditions and grant** the request because it is reasonable; it would not be expected to adversely affect the pattern of zoning and land use in the area; and it is appropriate residential zoning at this location.

**C-3C-98 Jay M. Weinberg for Short Pump Associates LLC:** Request to conditionally rezone from A-1 Agricultural District to M-1C Light Industrial District (Conditional), part of Parcels 36-A-13 and 15 and Parcels 36-A 16 and 17, described as follows:

Beginning at a point on the southern right-of-way line of Interstate 64 at its intersection with the western right-of-way line of Pouncey Tract Road, which point is the True Point of Beginning; thence along Pouncey Tract Road S 18° 27' 02" E., 82.71' to a point; thence S. 04° 25' 52" E., 1.63' to a point; thence leaving Pouncey Tract Road N. 78° 03' 33" W., 208.16' to a point; thence S. 01° 50' 33" E., 150.00' to a point; thence S. 78° 03' 33" E., 215.22' to a point on the western right-of-way line of Pouncey Tract Road; thence S 04° 25' 52" E., 148.15' to a point; thence N. 89° 10' 30" W., 35.15' to a point; thence S. 04° 25' 52" E., 206.80' to a point; thence leaving Pouncey Tract Road N. 83° 21' 00" W., 628.76' to a point; thence N. 06° 39' 00" E., 760.40' to a point on the southern right-of-way line of Interstate 64; thence S. 64° 19' 58" E., 561.57' to the True Point of Beginning, containing 8.277 acres.

Mr. Archer - Is there any one in the audience in opposition to C-3C-98, Short Pump Associates? No opposition. Mr. Yolton.

Mr. Yolton - Mr. Chairman, members of the Commission, as mentioned, this is a rezoning request from the A-1 Agricultural District to the M-1 Light Industrial District, with proffered conditions. The site consists of a little over eight acres, located at the southwest corner of Pouncey Tract Road and I-64. The property currently is the location of three older single family homes.

Since the time, initially, the staff report was prepared, the applicant submitted revisions to the proffers dated January 7, 1998. These were received last week, and included in the packet mailed to the Commissioners. The Commission would not need to waive the time limit to accept the amended and restated proffers. I'll address the proffers in just a moment. This is the first public hearing we've had on this matter.

The proposed use, at this location, is a self-service storage facility, or a mini-storage warehouse, as they're sometimes called. Along with the revisions to the proffers, the applicant prepared a conceptual layout plan of the property, as well as architectural renderings of the buildings proposed to be constructed. These have been proffered in a typical way that allows some flexibility in design, as these plans are submitted for Plan of Development approval.

From the layout plan, it is evident that the proposed mini-storage warehouse takes up roughly half of the site, leaving room for additional development.

Proffer No. 2, addresses some of the potential uses that might occur on the remainder of the property. This proffer states that uses permitted in the B-2 District are an option, with the exception of the list of nine types of uses that have been proffered out.

Ms. Dwyer - What's the date on the revised proffers?

Mr. Yolton - January 7<sup>th</sup>.

Ms. Dwyer - I don't have those. Do you have them?

Mrs. Wade - Mine says, January 13<sup>th</sup>.

Ms. Dwyer - I just have the December 1<sup>st</sup>, so mine aren't matching what you're referring to.

Mrs. Wade - Well, it says, "January 7<sup>th</sup> that they wrote them. I think I got them on the 13<sup>th</sup>. I don't know when Mr. Yolton got them. I don't have any rendering. The applicant said they were taken to the County, but none of us seem to have any.

Mr. Vanarsdall - I got a whole bunch of mail, but I didn't get that.

Mrs. Wade - It didn't come in any of the packets, so we'll have to wait for him to show us...Oh. He has it up there. I've got the proffers, but I don't have this. I have seen this at the meeting with the applicant, but we didn't get it in our packet. Considering it's proffered, it would be nice to have something.

Mr. Vanarsdall - We could take a break while somebody runs them off.

Mr. Yolton - That was my mistake. I thought they were mailed to the Commission. Now, I realize that we needed to hand them out at the meeting.

Mrs. Wade - That's why you got 10, Mr. Yolton, or however many Mr. Weinberg sent. Okay. Here, Mr. Silber, you can have this copy back. Thank you.

Mr. Yolton - Looking at the layout plan that was just handed out, of the site, it should be evident that the proposed mini-storage warehouse takes up roughly half of the site, leaving room for additional development. Proffer No. 2 addresses some of the potential uses that might occur on the remainder of the property. This proffer states that uses permitted in the B-2 Business District are an option, with the exception of the list of nine types of uses that have been proffered out. The proffers eliminate B-3 uses from consideration, and amongst the list of nine B-2 uses that have been proffered out, perhaps, most significant is there could be no filling station of convenience store developed on this property. A good guess might be that there would be a restaurant built here.

As noted in the staff report, in general, the request for M-1 zoning to permit a mini-storage warehouse is a reasonable use of this property. In essence, this tract of land is squeezed behind a new shopping and entertainment center on the south side, and the Interstate highway on the north side.

The Land Use Plan designates this area for Mixed Use Development, and the site is subject to design guidelines contained in the West Broad Street Overlay District. There are some additional considerations, however, that play a certain role in making sure that this site develops appropriately and conforms to the County goals and objectives for orderly growth

and development. Most notably, as shown on the layout plan, and on the slide, there is an additional parcel that consists of about three-quarters of an acre that is not part of this zoning request. The parcel is the home of Mr. and Mrs. Sandridge, who I've spoken to on several occasions about this rezoning request. The subject site virtually surrounds their home on three sides. Obviously, it would have a significant impact on any current or future use of this property.

After speaking with the Sandridges, I know that their property is up for sale and, in all likelihood it would be redeveloped for a commercial-type use. I advised the Sandridges that they should contact the applicants of this case and try to reach an agreement for the purchase of their property so that it could be included in this rezoning request.

The problem is that none of the property in this vicinity can be accessed directly from Pouncey Tract Road, because the ramp leading to the bridge over I-64 precludes direct access. Instead, the Sandridges and their neighbors have been provided a narrow access drive, called Sandcastle Road, that parallels Pouncey Tract Road and allows them access at the entrance of the shopping center. Both Pouncey Tract Road and Sandcastle Road are state owned right of way.

As shown on the layout plan, the applicants for the rezoning are obligated to continue to provide access to the Sandridges home across the subject property. There's a 15-foot ingress/egress easement shown on the layout plan for this purpose. Although, this is adequate for a residence, as mentioned, the property is likely to redevelop for a commercial use, in which case, the 15-foot easement does not provide adequate access. I should note that, with regard to access, the applicants plan to widen existing Sandcastle Road to commercial standards and to reconfigure the shopping center entrance to accommodate the vehicles turning into the mini-storage warehouse site. When the shopping center was developed, a wide commercial-type drive was constructed beside the American Family Fitness Center, which was supposed to provide access to this property. This provides a much safer, much better means of access to the subject property, and it would be preferable to Sandcastle Road.

As I understand it, however, the applicants could not reach an agreement with the shopping center owner to allow them access by this means. I discussed this with the County Traffic Engineer who agreed that access ideally should be adjacent to the American Family Fitness Center. He further stated that, as long as the proposed use is for a mini-storage warehouse, which is a low trip generating use, he would not object to the access from Sandcastle Road. Since this proposal leaves half the site available for some other type of commercial use, I'm not sure that the Traffic Engineer still feels comfortable with the proposed access situation. Because of the situation regarding the Sandridge property, I was prepared, this evening, to recommend to the Commission that this case not be approved.

Early today, however, I received a call from the applicant's representative, Mr. Weinberg, and Mr. Weinberg's news was they had reached an agreement to purchase the Sandridge property, and that they would be requesting a rezoning by our next filing deadline. This is good news, and eliminates one of the essential land use concerns about this case.

Therefore, to conclude, in the staff's opinion, the request for rezoning to the M-1 District at this location is reasonable, and the proposed mini-storage warehouse would not be objectionable. For the remainder of the property, a future B-2 Business use also would be appropriate, although the type of use that will occur at this point is speculative.

The access situation is not ideal, although I don't believe that is sufficient reason to deny the requested rezoning of this property. I should note that the Assistant Traffic Engineer, Mr. Eure, is here tonight and will be able to speak to this matter.

Given all of the considerations involved, the staff would not object to the approval of Case C-3C-98. So, Mr. Chairman, with that, I'd be happy to answer any questions.

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

Mrs. Wade - So, with the new information, you're comfortable with the request, is what you're saying?

Mr. Yolton - Yes ma'am. Although, like I said, it would be better if they could use that drive along the American Family Fitness Center.

Mrs. Wade - Perhaps, Mr. Eure would comment on the access situation.

Mr. Todd Eure, Assistant Traffic Engineer - With respect to the access, as Mr. Yolton said, we would certainly prefer the access be through the shopping center adjacent to the American Family Fitness Center. However, since that agreement was not able to be worked out with the owner, the Public Works Department did agree, along with VDOT, that the access could be along the service road, that parallels Pouncey Tract Road, which is labeled Sandcastle Drive. That access is acceptable for the mini-warehouse usage which is a very low traffic generator. However, with the remainder of the property, if that is developed, we would certainly highly recommend access be provided through the other driveway, instead of entirely through that access road, which is approximately 66 feet from Pouncey Tract Road.

Mr. Silber - Mr. Eure, have you seen the site layout for this property?

Mr. Eure - No.

Mrs. Wade - Perhaps, Mr. Weinberg can shed more light on the access for us.

Mr. Jay M. Weinberg - I represent Short Pump Associates. Mr. Jerry Levy is the principal. Let me reserve two minutes, in case someone changes their mind. This is a request to rezone this 8.27 acres from Agricultural to M-1 in order to develop a mini-storage facility. We submit that this case is not only subject to the proffered conditions, but also to the West Broad Street Overlay District. We did, on January 7, submit 12 copies of the proffers and the plans for distribution to all members of the Commission. Also, I did advise Mr. Yolton this afternoon that we had reached agreement to acquire this parcel of land. Hence, I consider all references to that irrelevant in the presentation, because we have agreed to buy it and we've agreed to submit a case to zone it consistent with the case that I'm presenting to you this evening, assuming this case is recommended by the Commission.

As you can see, this property abuts Interstate 64 across its entire northern border. It abuts M-1 Industrial unconditional zoning, but developed with two very large buildings. It is directly across Pouncey Tract Road from B-3, at which, I believe, will be a Lowe's or a similar type of store. It is also, probably, Pouncey Tract, at that point, will be about 30 feet above this site.

We think that, because of the limited access to the site, a mini-storage warehouse storage facility represents an ideal use because of its low traffic intensity. Your applicant has spent over four months working with the Virginia Department of Transportation to obtain suitable access along Sandcastle Drive and another two months with BeFit, Inc., the adjoining property owner, to obtain the necessary right-of-way easement, as well as the construction easement, and the subordination to its deed of trust, to grant both of these easements to provide access off of Pouncey Tract Road, which has been approved by the Traffic Engineer, Mr. Foster, with whom we've worked, I would say, on at least five different meetings. So, I'm shocked that there is any reservation about our ability to access this property with the kinds of traffic that we have for the development of a mini-storage warehouse or other limited B-2 uses.

The subject site, as I said, will be well below the grade. Therefore, the proffered conditions have been amended and restated, and your applicant has agreed, to purchase the missing lot in order to address the issues raised by staff in its report to you.

For all of these reasons, we would respectfully submit that this, in fact, represents the highest and best use of this property and will not, and can't conceivably adversely affect any of the surrounding properties.

Basically, the proffered conditions can very briefly be summarized as follows, and I'm going to come back to the architectural proffer because I have an amendment on that which I discussed with Mrs. Wade at about 4:00 o'clock today to take care of the issue that she had raised and I was sensitized to the first time. But other than that proffer, which I'll come back to, we have restricted the use. The only M-1 use we can make of this property is for a mini-storage warehouse facility, with an accessory office and dwelling unit for the manager who will live on site for security purposes, and certain B-2 uses. And we've eliminated the nine so called "bad" B-2 uses.

Lighting cannot exceed 10-feet in height and, accordingly, should have no adverse impact upon surrounding property. HVAC has to be screened from public view at ground level. Central trash receptacles, likewise, have to be screened. No outside loud speakers can be permitted on the property. Trash pick up from the property is limited to the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. There can be no trash pick ups on Saturday or Sunday. Operating hours are limited from 7:00 a.m. to 9:00 p.m. They cannot access the mini-storage units before 7:00 a.m. or after 9:00 p.m., except in the case of a bona fide emergency. As I said, for security, there is a couple generally living onsite.

All of the requirements of the Broad Street Overlay District will be complied with. Penny, Would you be good enough to distribute an amendment of Proffer No. 1 on architecture. It looks foreboding, but I can tell you what we've added to it. Basically, what we have said is, these exterior walls will be of split face block. Anything within 50 feet of Pouncey Tract, and that same proffer is gong to apply on this piece right here (referring to rendering), has to also be split-face block. If we build anything other than this mini-storage, this is what we intend to build is mini-storage on this site. You have the standard proffer that we always use, that lists specific materials such as: face brick, split-face block, natural stone, hardiplank, dryvit, stucco, vinyl or glass, or an equivalent permanent architecturally finished material, unless different architectural treatments or materials are specifically approved. We go on to say that, if its not the mini-storage, "No building developed within that portion of the property, labeled 'future development on Exhibit B' shall be covered with or have exposed to view, any sheet or

corrugated aluminum, or metal, exposed aggregate concrete, unpainted or unfinished concrete masonry units, asbestos, etc.” That was to bring the architectural proffer into conformity, in accordance with my discussions with Mrs. Wade on the subject.

Let me say, in the interest of time, that I believe this is an ideal use of this property because you’ve got industrial zoning here, the interstate here, B-3 zoning here, and you’re certainly going to have “B” zoning ultimately in the rear of the property (all referring to rendering). I would say that I believe that all of the conditions precedent for this case to be recommended to the Board of Supervisors by the Planning Commission, and waive the time limits on the proffers, are complied with, but I’ll be happy if there are any question about jurisdictional issues, to discuss those with you.

Mrs. Wade - Does this new proffer, now, allow painted or finished concrete masonry units?

Mr. Weinberg - No. It does not. Split-face block. I’m sorry. Yes, it does, Mrs. Wade. The hidden portion on the interior, you would have...

Mrs. Wade - Yes. I understand that for the mini-storage, but the other buildings?

Mr. Weinberg - No. It doesn’t, unless you specifically allow it at that time. Notice it says, “No building developed within the portion of the property, labeled “future development, “ I’m reading now, 1, 2 3, 4, 5, lines up from the bottom. “No building developed within that portion of the property labeled ‘future development’ on Exhibit B shall be covered with, or have exposed to view, any sheet, corrugated aluminum or metal, exposed aggregate concrete, unpainted or unfinished concrete masonry units or asbestos, unless otherwise specifically requested and approved by the Commission.” I would say, “painted or unpainted,” and I’m happy to make that change.

Mr. Vanarsdall - Mr. Weinberg, you’re going to have regular doors on this, just like any mini-storage, aren’t you?

Mr. Weinberg - Right, sir.

Mr. Vanarsdall - What color will those doors be?

Mr. Weinberg - I think they’re all cream colored. The color coding is on this exhibit which is filed with the case. Colonial cream split face blocks, and colonial cream painted concrete blocks. There is a cedar tan color asphalt shingle roof. Jerry, am I correct, when we say the walls, we mean the doors are cream color also?

Mr. Jerry Levy - If you want the doors cream color, we’ll paint them cream color.

Mr. Weinberg - You just got it, Mr. Vanarsdall. Cream colored door. He said, if you’d like them cream colored, that’s what they’ll be.

Mr. Vanarsdall - Well, the reason I asked the question, Jerry, is because some of the mini-storages turn out to look pretty nice and this is going to be one of them. But then they will slap a door, like the cream color, and then they’ll put a blue door or something and it

stands out like a sore thumb. It can be a lot nicer. I don't understand why the doors of a mini-storage have to be a different color. Thank you.

Mr. Weinberg - And this is a secluded site. No matter what color, you're not going to see it offsite. It wouldn't make any difference.

Mr. Vanarsdall - I like a man you can get along with, Jerry.

Mr. Silber - Mr. Weinberg, if I'm reading this proffer you just handed us, correctly, you're amending portions of the Exhibit A, that was provided to us? Okay.

Mr. Weinberg - Yes. Because Exhibit A says that the split face block would only go 100 feet down here (referring to rendering), and we're saying it goes all the way down there.

Mr. Silber - Would it not be better between now and the Board meeting to..

Mr. Weinberg - Amend that? I'll get that rewritten.

Mr. Silber - I think it may just be a little less confusing.

Mr. Weinberg - We could cut that proffer by two-thirds. I'll label the doors "cream," too.

Mrs. Wade - I thought all the outside wall was supposed to be split block and only the internally...

Mr. Weinberg - That's correct. Not the manager's office, of course. But, all of these end walls, anything built in here. With regard to this wall right here, I spoke with Tommy Pruitt, tonight. I asked him if he had any objection to this being painted cream cinder block. He said, "If there is enough buffer, I don't care. I'd like to see your plan." I said, "I will show it to you, because we're cooperating on this BMP, and if you don't like what you see, we'll either put in more trees, or that, too, will be split-face block."

Mrs. Wade - So, but this does not require it to be split-face block, currently?

Mr. Weinberg - Not along that rear wall, not at this time. But before it gets to the Board, that will be determined. Everywhere else is split-face block...

Mrs. Wade - Yes. It would seem more even. It should be, at least, with a finish on it instead of just painted.

Mr. Weinberg - I'm sorry.

Mrs. Wade - It would seem, if that's to be concrete block, that it should have a finish on it and not...

Mr. Weinberg - Well, it says it's going to be painted.

Mrs. Wade - Well, I know, but something more than just paint.

Mr. Weinberg - A smooth finish? I know what you mean.

Mrs. Wade - Since we don't know what's going back there.

Mr. Weinberg - Well, that's right. I have a hunch that what Tommy is saying is, "If my wall backs up to your wall, it doesn't make a bit of difference." He'll be submitting a zoning case to you over the next couple of weeks. So, we're meeting next week in regard to the joint utilization of a joint BMP between these two parcels, as well as whether he wants more buffering, or he's going to back a wall up to, in which case, if he has a wall against this wall, it makes no sense, other than to paint it the same color.

Mr. Archer - Any further questions of Mr. Weinberg?

Mr. Silber - I have one additional question. Mr. Weinberg, you said, I believe, that you had had many discussions with the Traffic Engineer regarding the use of the property and the access. Was it explained with the Traffic Engineer that the property would be partially used for mini-storage and partially used for commercial use?

Mr. Weinberg - Well, we went over this plan right here, and it said, "Future Development." And we discussed the fact that mini-storage is a very low intensity traffic use and any other use on there, would have to be a low intensity use. We discussed what could possibly go there, like storage of new car inventory vehicles, or something, where there's no in and out traffic. Yes. He was aware.

We believe that it's going to be for mini-storage. It's nine acres. It could be you build Section 2 and you may have a remnant piece left over, but I don't see this as a heavy traffic retail site.

Mr. Silber - You see it as being very feasible that the balance of the site will be developed as mini-storage as well?

Mr. Weinberg - I think substantially all of it will be developed for that. But, it may not. Let me say this, you say, "Well, why don't you restrict it?" If I restrict it to a mini-storage, I've destroyed any ability to finance this project.

Mr. Silber - No. I recognize that, but I think there are still some business uses; for example, a fast food restaurant could locate down there. Maybe they wouldn't desire to, but they could, by the proffers, generating quite a bit more traffic than a mini-storage, and I'm not sure that's been contemplated by the Traffic Engineer. I don't know.

Mr. Weinberg - That's the purpose of a Plan of Development. If I can't handle the traffic, I don't get my Plan of Development. I honestly can't tell you what's going to go there now. I know that we are realistic enough, and we've discussed many times, that it would be a low traffic generator; a low traffic use. I thought I put in there what I was asked to do, frankly, but...

Mrs. Wade - Yes. Well, I know, obviously,...

Mr. Weinberg - They are the things that I can't put there.

Mrs. Wade - I thought the same thing, it's not on the list, but this includes auto repairs, you said, body shops, or gasoline filling stations. We have learned that there's a distinction here that you can have auto repairs that are not necessarily body shops, or a gasoline filling station. We've just been through that with another situation. And because auto repairs are not named, specifically, they are allowed to go into this location.

Mr. Weinberg - I'm happy to rule out automobile repair shops. I've ruled out body shops. I've ruled out gasoline filling stations. I'm happy to rule out automobile body shops.

Mrs. Wade - Repairs?

Mr. Weinberg - Repair shops.

Mrs. Wade - And fast food? You put fast food.

Mr. Weinberg - I'm not willing to rule that out, Mrs. Wade, because there are a number of restaurants going on the adjoining parcel. I don't foresee that as a likelihood, but please remember, every time you narrow my list of potentials, you increase my interest rate and my points. You reduce the ability to finance the project, no matter how unlikely it might be.

Mrs. Wade - Yes. I understand that. But we have some responsibility for circulation and access here.

Mr. Weinberg - Well, that's what a POD is for. If I can't meet the Traffic Engineer's test, I'm going to get turned down, and I know it.

Mrs. Wade - The Traffic Engineer doesn't necessarily deal quite that much with internal circulation as related to the public roads, but...

Mr. Weinberg - This is a case, as I say, that I've discussed with VDOT for four months. I've discussed off and on with Mr. Foster. (Referring to rendering); Notice this, this probably doesn't strike you first, but you'll notice how these buildings are separated. We tried very hard to get access through this way. Okay? Unfortunately, this was permitted to be a private road. It's further permitted to stop here, even though it goes around the back of this building for fire code purposes. We agreed with VDOT, if ever they were to widen Pouncey Tract Road from the proposed four lanes, to six lanes, and they didn't want to put in a retaining wall, they just wanted a toe slope from 30 feet in the air, so that they took away this property from us, then they would condemn this property in exchange. In consideration of that, we agreed not to block this access here. But, you know...

Mrs. Wade - I'm not sure, well anyway, how to justify condemning that property, but I don't know that much about how they work.

Mr. Weinberg - They can justify it because it's cheaper for them to condemn this piece then it is to condemn all that. If they take away our access, they condemn it all. That's an accommodation to VDOT. Do you see what I'm saying?

Mrs. Wade - Do you have something that you can include with the case, that indicates this is what VDOT has said they'll do under those circumstances?

Mr. Weinberg - I'd be happy to write you a letter. I'd be happy to share my file with you. It's about that thick (indicates three inches).

Mr. Archer - Any other questions of Mr. Weinberg?

Mrs. Wade - VDOT changes their mind sometimes. You can't depend too much on VDOT. We've spent long enough on this. Okay.

Mr. Archer - All right, Mrs. Wade.

Mrs. Wade - You were going to change then, in No. 1, to add the rest of it to eliminate concrete masonry units, not counting the mini-storage.

Mr. Weinberg - I'm sorry. What did you say, Mrs. Wade?

Mrs. Wade - I said, you said you were going to change No. 1 in order to eliminate the concrete masonry units on the additional buildings, not the mini-storage...

Mr. Weinberg - I've eliminated...Let me show you this. (Referring to rendering), painted or unpainted or unfinished concrete masonry units. Okay?

Mrs. Wade - Which still allows "finished concrete masonry units."

Mr. Weinberg - That's correct. It only allows "finished," if you permit it.

Mrs. Wade - No. That's not what it says, but anyway, okay.

Mr. Silber - I think, Mr. Weinberg, you also agreed that you would work between now and the Board meeting to clarify some of the matters relative to the complication of the exhibit and this proffer.

Mr. Weinberg - What I propose to do is get those materials onto the Exhibit B. I'll redo that Proffer No. 1. I'll pass it by you, Mrs. Wade, before it goes to the Board.

Mrs. Wade - Good. That would be helpful. Okay. We do have to waive for No. 1, here.

Mr. Zehler - Yes. He just changed No. 1.

Mrs. Wade - Well, the whole thing is dated today.

Mr. Zehler - You've got to waive the time limits.

Mrs. Wade - Yes. I move the time limit be waived to accept this amended No. 1 proffer that we got this evening.

Mr. Zehler seconded the motion.

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

Mrs. Wade - And you were going to add, “auto repairs” to your list there. Has he added it? Yes. All right, well, certainly, the mini-storage seems like a reasonable use for this rather strangely located parcel. Of course, it’s in the Broad Street Overlay District that we have to remember, which is recommended “mixed use,” and has many design requirements and other requirements in terms of development that I won’t go into now. But it’s one reason there are not more things listed in the proffers, because they are covered by the Overlay District, including the setback. I think it means horizontal setback and not vertical from the highway. I think the changes he’s made seem to have satisfied staff in this matter. I’m still not sure how this access is going to work out, but maybe you can explain it to the Supervisor better. Also, you indicated you would work on No. 1 to clarify that, somewhat, regarding the elevation, site plans and materials so forth. So, anyway, I move that Case C-3C-98 be recommended for approval.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall, that C-3C-98 be recommended to the Board for approval. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **accept the proffered conditions and grant** the request because it is reasonable; it would provide for appropriate development; and it continues a form of zoning consistent with the area.

**P-1-98 Charles H. Rothenberg and James W. Theobald for Sprint PCS:** Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct a 195’ high communications tower and related equipment on part of Parcel 36-A-18C, containing 2,500 sq. ft., located at the northeast corner of I-64 and Pouncey Tract Road. The site is zoned M-1C Light Industrial District (Conditional) and West Broad Street Overlay District.

Mr. Archer - Is there any one in the audience in opposition to P-1-98? Mr. Yolton.

Mrs. Wade - Mr. Yolton, you seemed satisfied with this, given the conditions on here? Did they intend to change any condition tonight, I believe?

Mr. Yolton - The applicant indicated that they would provide a voluntary revision to one of our suggested conditions that would allow, I think it’s three additional users on this particular tower. We have no opposition to the location of the tower.

Mrs. Wade - So, that would be five, or is it Number six?

Mr. Yolton - I believe it’s Number six.

Mrs. Wade - Three additional users. Okay. That sounds right, Mr. Rothenberg?

Mr. Charles Rothenberg - Yes ma'am.

Mrs. Wade - I think that's all we need to know about this. And there's nobody here objecting, is there, to P-1-98, the tower near Pouncey Tract and the Interstate?

Mr. Archer - No one indicated any objection.

Mrs. Wade - If the applicant will just indicate that he agrees with all of these conditions. That should suffice. Just that you read the conditions, including No. 6, and you are in accord, otherwise, you don't need to present the whole thing.

Mr. Chuck Rothenberg - Mr. Chairman, ladies and gentlemen, I'm here on behalf of Sprint. Mr. Yolton is handing you the revised suggested Condition No. 6, which I discussed with both Mr. Zehler and Mrs. Wade. It simply confirms Sprint's intent to allow multiple collocators on the tower.

Mrs. Wade - Which we are trying to encourage. Thank you.

Mr. Rothenberg - We do accept the conditions, and the modified Condition No. 6.

Ms. Dwyer - May I ask just one quick question? At what height would the lowest user be on this tower?

Mr. Rothenberg - Typically, the antennas are spaced between 10 and 15 feet apart. And most users, because the tree line is going to affect the propagation of the users antennae, are going to be above 100 feet. It depends on the radio frequency requirements of that user and what coverage area they are trying to get.

Ms. Dwyer - We've had problems with other towers. People can't collocate on them because the upper regions of the tower are being used. So, you are sure that this is tall enough for at least four users? Is that what you're saying?

Mr. Rothenberg - Well, its tall enough and it's being constructed to allow up to a total of four users. But, again, whether or not a particular user can use the 160 foot slot, it depends on what coverage area they are trying to get to.

Mr. Zehler - Whether they can use it or not, you're still going to make it available?

Mr. Rothenberg - Yes sir.

Mr. Zehler - Okay.

Mrs. Wade - I think when we first started approving these, and some of them were not as tall as we seem to be getting now, we didn't know there were going to be so many applicants until quite recently. So, now we have to decide, in some cases, whether we want to

go to taller towers to allow more people, and, hopefully, fewer towers. All right, anyway, ready for a motion?

Mr. Archer - We're ready.

Mrs. Wade - All right, I move that P-1-98 be approved subject to the Conditions 1 through 6 as they appear on the agenda and the added one we got tonight.

Ms. Dwyer seconded the motion.

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

REASON: Acting on a motion by Mrs. Wade, seconded by Ms. Dwyer, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **grant the requested revocable provisional use permit**, subject to the following conditions:

1. If the use of the tower for communication purposes is discontinued, the tower and all related structures shall be removed from the site within ninety (90) days.
2. Application for a building permit to install the tower must be made within one year after the Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time is granted by the Director of Planning upon written request by the applicant.
3. The applicant shall obtain approval from the Henrico County Planning Commission should the FAA require the addition of standard obstruction marking and lighting (i.e. red lighting and orange and white striping) to the tower. The applicant shall notify the Henrico County Planning Director prior to making any changes to the original galvanized finish of the tower.
4. When site construction will be initiated as a result of this Provisional Use Permit, the applicant shall complete requirements prescribed by Chapter 10 of the Henrico County Code. In particular, land disturbance of more than 2,500 square feet will require that construction plans include a detailed drainage and erosion control plan prepared by a professional engineer certified in the State of Virginia. Ten (10) sets of the construction plans shall be submitted to the Department of Public Works for approval.
5. The applicant agrees to allow the collocation of up to 3 additional users at this site in accordance with the provisions of the Letter of Intent to Permit Co-Location on Communications Tower filed by the applicant with this request.

The Planning Commission recommendation was based on its finding that the Provisional Use Permit it is reasonable; it would provide added services to the community; and it would not be expected to adversely affect public safety, health or general welfare.

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

Beginning at a rod on the west line of Skipwith Road a distance of 684.10' from the south line of Parham Road, as widened, thence along the west line of Skipwith Road S. 4° 29' 49" E., 338.85' to a rod, thence N. 86° 01' 40" W., 666.27' to a rod, thence N. 28° 29' 15" E., 54.70' to a rod; thence N. 1° 10' 40" W., a 405.49 to a point, thence S. 85° 57' 52" E., 75.31' to a point, thence S. 1° 10' 40" E., 116.16' to a point, thence S. 85° 57' 52" E., 154.08' to a stone, thence S. 85° 39' 30" E., 390.25' to the place and point of beginning, containing 5.042 acres.

Mr. Archer - Any one in the audience in opposition to C-4C-98? Any one else? Mr. Bittner.

Mr. Bittner - Thank you, Mr. Chairman. We just passed out some proffers we received today, so the time limit would need to be waived for you to accept them. I'll just jump right into what the concerns were outlined by staff in its report. First off, relative to the Westshire Apartments, there was concern that, the proposal as it was, would have rendered that inconsistent with the Zoning Ordinance. That's no longer the case. They have sufficient acreage left over on Westshire Apartments, even after taking off the piece they want to for this development. They have also adjusted the part that they would take. They removed a strip about 13-feet wide so they would be able to have the required 25-foot setback for the Westshire Apartments. So, there are no problems relative to the Westshire Apartments at this time.

Mrs. Wade - Is everything that's highlighted been changed?

Mr. Bittner - Yes. Those are new proffers that have been submitted by the applicant. Parcel 91, which is on the slide, is the R-6C zoned parcel on the north side of the property which was, at one point, going to be part of a development for an assisted living center on that property, as well as the property in question. They are not taking part, this time around. The R-6 property has chosen not to sell their property to this developer. The ideal situation, staff feels though, would be to bring that property into this. I know the applicant has contacted the owner of that property, but he still says, no. We feel taking that property, as opposed to cutting off a piece of the Westshire Apartments, would be the best situation.

The proffers that have been submitted do address a number of the concerns outlined by staff in their report. Among those include, the proffered building style, which is shown right here (referring to slide). This is the proffered building style which the applicant has submitted with the application. One slide back is the proffered site plan. On that drawing, Skipwith Road is on the bottom side of the property with an entrance going into it; one building, a large green area to the rear.

I'd like to point out that these new proffers would include a number on the living units, which is 87. That doesn't mean beds, necessarily. There can be living units for married people. The applicant has told me that would end up with, I believe, 103 total beds, but they'll qualify that when they get up here, I'm sure. Also, they have proffered the site shall have no more than 55,000 square feet of space. The size of the building that's shown on there is 54,000. They've given themselves a little bit of room to maneuver.

The staff feels that these proffers are substantial and mitigate most impacts on the surrounding property, however, given the circumstances of the case, staff cannot recommend approval. That's because our ideal situation would be to bring in Parcel 91, instead of leaving

it out there floating, so to speak, for future type development, instead of chopping off a little piece of Westshire Apartments. With that, I'd be happy to answer any questions you may have at this time.

Mr. Archer - Mr. Bittner, our copies are not signed and dated. Were these received today?

Mr. Bittner They were received. We do have a signed copy - a pink copy. That was done sort of under the gun, tonight, by the applicant.

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

Mrs. Wade - Mr. Bittner, the Land Use Plan recommendation here is Suburban Residential for the bulk of this?

Mr. Bittner Yes ma'am. This is in conflict with that designation.

Mrs. Wade - How many trips do the traffic people say is - Now, wait a minute, I haven't finished the question, yet? ...generated by single family development, per house?

Mr. Bittner - Single family development, typically, one house generates 10 trips per day. We estimate that this site could generate about 15 new lots. You're talking about 150 trips which is exactly what the traffic engineer estimated for this development as well, 150 trips per day.

Mr. Vanarsdall - What's the date of these proffers?

Mr. Bittner Today, I believe.

Mr. Vanarsdall - There's no date on them.

Mr. Bittner - We have an official pink copy in the file. As I said, that was done rather quickly by the applicant here tonight.

Mr. Vanarsdall - These are dated today, the 15<sup>th</sup>?

Mr. Bittner - Do you have the file there, handy, Judy?

Ms. Judy Thomas - Which file?

Mr. Bittner - C-4C-98. There should be some proffers there. Yes. They're here. A pink copy signed and dated today. Thank you.

Mr. Archer - Any other questions of Mr. Bittner? We'll hear from the applicant.  
Mr. Axselle.

Mr. Silber - Mr. Axselle, would you like to save any time for rebuttal?

Mr. Ralph L. Axselle - Three minutes. Mr. Chairman, ladies and gentlemen of the Commission, I'm here on behalf of Manor House, a retirement center with Mark Hurth, who is the Vice-President of Development for Manor House. Manor House is a firm located in

Henrico County that develops assisted living facilities. And what is proposed for this site is an 87-residential unit assisted living facility. The property, in question, as you know, is on Skipwith Road on what was Flynn's Nursery and Mr. Flynn is here. In 1990, the Planning Commission and the Board of Supervisors zoned this property to allow a life care facility, the R-6 zoning that we seek today, and that proposal did not go forward and Mr. Flynn zoned the property back. So, what we're seeking tonight, is the same zoning that was approved by the Board in 1990. I think you'll see in a moment, it's actually a much better case in many respects.

I'm going to pass out to you three sets of pictures. The sets are the same. If you could share those. What they illustrate to you is the building, and it's a courtyard, as you can see. The front of the building is here. That's shown and then the courtyard, and then there's an area enclosed, outside area, if you will. All of those are shown in the pictures. I think you'll see it's a rather nice and a well done facility.

I will also tell you that Mr. Small is here as an attorney who will speak in opposition and will indicate some concerns that he has. If I may approach you, I would like to illustrate this, if I may, because it is very important. This is the property in question (referring to rendering). We've had three communications in a meeting with all the adjoining and adjacent property owners. We've communicated with them. We have invited them to visit the facility at Ironbridge Road this is comparable to. We have communicated with them on another occasion. We invited them to a meeting that Mrs. Wade came to, and the people who were there asked questions. They asked us to make some changes, but did not voice any objections. So, we have a petition that I'm going to submit to you that is signed by each of these adjoining and adjacent property owners indicating that they have no opposition, and support the case.

This one is not signed by Mr. Canada. That's the R-6 property that Mark Bittner made reference. I would agree with Mark that it would be ideal if we could incorporate it into this. I will tell you, however, that we paid a certain amount per acre for this property. We have offered him twice that for his, less than an acre, and he has declined to participate. We renewed the offer after we saw the staff report. So, it would be ideal, but we can not deal in that respect.

So, the point is I want to make to you is that these people, while Mr. Small will speak to you, those people have all indicated, by the petition that they are not opposed to the case.

Unknown person - Mr. Axselle, I own the property...I did not sign your petition.

Mr. Axselle - No sir. I did not point your name out, I don't believe.

Unknown person - You said, "All adjacent property owners..."

Mr. Axselle - I don't want to engage in a debate, but I was pointing out, and you maybe did not have the benefit, I was pointing out the names of the people who had signed in the "green." What I said, we had communicated with all the adjacent and adjoining property owners. So, I'm glad you clarified that. I would submit this petition to the staff.

When Mr. Small's involvement became apparent, we contacted him on three different occasions. I asked for an opportunity to meet with him. I asked for an opportunity to speak to a meeting he had and did not get a call back.

But, let me walk you through the proffers why I think you'll see this is a well proffered case. The building that you see is what we've proffered. That's what we said we were going to do. We've proffered that it will be brick on the first floor and EIFS on the second floor. We've limited the size of the building. And the conceptual plan we've committed to. We've agreed with the neighbor here that we're going to install a fence, as well as a 35-foot buffer. This plan we have now added in the buffers that we will now have a 35-foot buffer here (referring to rendering).

I would like to point out to you that the height of the building be restricted to 35 feet, which is the same maximum height you can have in an R-3 zoning. So, our building will not be any taller than what could be in a home in an R-3 zoning.

The old case, previously, could be two or three stories in the rear. Parking lot lighting, HVAC. We have a buffer along Skipwith Road of 50 feet. The case that was approved earlier was 25 feet. We have a building setback of 100 feet.

If you went by the County Ordinance, the County Ordinance would require a transitional buffer of 10 feet. The previous case approved 25 feet. We have 35 feet. So, the County's transitional buffer requirement is 10 feet. We have 35 feet. We have a 35-foot buffer going all the way around, and then the new one that was added by the new Proffer 10, back in this area (referring to rendering).

Building setback; we've added a 100-foot setback here. We've added the buffers cannot be interrupted by BMPs. There is a whole new Paragraph 10 is the one I made reference to and so forth.

Signage: The sign could be according to ordinance - 15 feet tall. We've limited that to six feet tall.

Why would the neighbors; these people who live right next to the property here, prefer a quiet residential assisted living facility? As Mrs. Wade's question prompted, you can get 15 homes on this property. Ten trips per home, is 150 trips per day. This facility, according to the county, will generate 150 trips a day. So, it has no traffic impact. If you put 15 lots on here, then, obviously, in typical subdivision fashion, lots abutting lots, do not require any buffer whatsoever. So, you would have 15 lots backing up with no buffers, where here, we have a 35-foot buffer all the way around.

If you have a subdivision in here (referring to rendering), it is somewhat reasonable to expect that one or two of these stub roads may be accessed into the property. We have put a provision in there that these properties shall have no access into the property. One minute.

Mr. Silber - No. You're into your rebuttal time now. Seven minutes are up.

Mr. Axelle - Seven minutes are up? Okay. We would, in closing, say to you that I think this is consistent with what was done in 1990. It's actually a less height, more

buffer, and a better use. It is supported by those people who have indicated to you. We hope you would approve the case. Thank you.

Mrs. Wade - Mr. Axselle, are there any houses around there that are 35-feet tall?

Mr. Axselle - I do not know. I doubt that there is. The point I may have said, there could be under the Zoning Ordinance. The 35 feet is what a home may be. We're actually at about 32 feet.

Mr. Archer - Any other questions?

Mr. Vanarsdall - Mr. Axselle, do the people who live next door to it, do they understand that this is a different zoning from what they have been living in and this could be the beginning of the end of the neighborhood? Do they understand that?

Mr. Axselle - No sir. They don't understand that, because that's not the case. In other words, these people who have signed the petitions, recognize that what they're being asked to approve is an assisted living facility; fairly modest size. It's residential use. It's quiet. The only people who come there, these people in assisted living, as you know, are people who are not in a position to drive. Out of the 87 units, we think we'd have two or three people who drive. So, it is a very quiet use. I think those who signed the petition, if I may speak for them which is always difficult, but I think they knew exactly. Because we had, like I said, the meetings with them and the communications with them. I could not concur that this would start the end of any neighborhood, because we, in fact, think it is an enhancement of the neighborhood.

Mr. Archer - Any other questions of Mr. Axselle?

Mr. Axselle - Thank you.

Mr. Archer - We'll now hear from the opposition.

Mr. Daniel Small - Mr. Chairman, honorable members of the Commission, fellow citizens, Mr. Axselle, my name is Daniel Small. I am an attorney, but I'm not here as an attorney. I'm here as a nearby property owner. I'm here representing three people who signed the petition I asked them to sign, plus my signature, makes four. Where am I to turn this in?

Mr. Silber - Over here. Thank you.

Mr. Small - As Mr. Axselle quite properly stated, a week ago I called a meeting and I distributed notices around the neighborhood and told people that I was going to be speaking in opposition. And I asked them if they wanted to join me to come to that meeting. Approximately eight people came to the meeting. Some of them indicated they were in favor of the rezoning. Some of them indicated they were opposed to it.

My reasons for opposing it, after talking with the people who came to that meeting, are as follows:

No. 1, the staff is against it. Very seldom do I see a zoning case where you can come in with the staff opposed to the rezoning. The second, the Land Use Plan calls for low density residential. It is not compatible with the nursing home. Therefore, the Land Use Plan is opposed to this proposed rezoning. The third, is that the traffic that we have that we have greatly discussed. Get the first slide back up where we had the original. The one in red. We see the property to the far right as Skipwith Road. If all of the traffic came out on Skipwith Road, we would, indeed, have 150 estimated trips per day whether we have 15 single family homes or this nursing home. If, in fact, the property were developed single family so that we had three cul-de-sacs, then we could have only approximately one-third of that emptying onto Skipwith Road.

I can appreciate the people to the left or the west side preferring a nursing home because there would be no traffic in their neighborhood. I certainly appreciate their feelings in that regard. But I feel that the people who live on Skipwith Road should be given consideration as well.

If this zoning were approved, I would suggest that several things are going to happen: One, County residents, or people who are moving into the County will not be able to pay attention to the Land Use Plan and the zoning and say, "This is vacant property and we know what's going to be done with the property because the County has a plan for it." If this plan is violated, why have the Plan at all. The second thing is, what about the people who are interested in retaining this property in the whole neighborhood being R-3? What is wrong with single family development? This property is an ideal site in a sense that it is not an unusual shape. We hear many times about unusual shaped property. We cannot develop it single family. We have to put something else on there. This is ideal for single family development. I would suggest that the highest and best use of this property is single family development.

Many of the concerns that the neighbors had at my meeting a week ago involved through traffic. Would there be a through street from Skipwith to the west side, permitting traffic to go through there and turn that into "Grand Central Station" so to speak? I have suggested to them, and I'm suggesting to the Commission, tonight, that development would be possible without any permitted through streets. That would alleviate a lot of those concerns that we would have.

The next is, if there is 150 additional cars on Skipwith Road, will it have to be widened? Will it have to be widened to two or three lanes? When will it have to be widened? We don't know that. I think we should try to retain this neighborhood as much as possible in its present character as R-3 single family development. It is a great neighborhood. I used to live there. My children still live, basically, across the street. I would like to see it retained R-3. The highest and best use of this property is R-3. I ask you to retain R-3 zoning. Thank you. Questions?

Man from Audience - I have one question. When was the last time he lived at that house? When we says he lived...

Mr. Small - Approximately 1988.

Man from Audience - I know you've been gone a long time. Maybe longer than that, because I lived right behind you.

Mr. Archer - Pardon me. Sir, you have to come up the mike if you want to speak. We understand.

Man from Audience - I want to say, he doesn't live there.

Mr. Archer - Any other questions of Mr. Small by Commission members?

Mr. Silber - There still remains a little over five minutes if there's any other opposition who wants to speak.

Mr. Small - Thank you.

Mr. Silber - Mr. Axselle, you have three minutes.

Mr. Axselle - Well, I would hope, and zoning is certainly not a popularity contest, but I certainly hope that you would take into consideration that, after a lot of communications, meetings, inviting them to go and visit our facility on which this will be very comparable, that these 10 adjoining and adjacent property owners have indicated to you their support of this case. I think that's important. These are people who live next to the property. Mr. Small presents to you a petition of four people and himself, a non-resident.

The staff, I suggest to you, is bound by the Land Use Plan, as far as their recommendation. But I think the staff has also indicated to you that the proffers are substantial, is, I believe, the words they used, and they mitigate most of the issues that would come forth.

Mr. Small, unfortunately, has a lack of information, referred to it as a nursing home. It's not a nursing home. It's an assisted living facility.

The 150 trips on Skipwith, keep in mind, that your County Traffic Engineer has indicated that the road network can certainly handle that. Skipwith Road handles about 7,000 trips a day, and I don't think you'll need to widen Skipwith Road.

An R-3 use, I suggest to you, would actually have more of an impact. I suggest to you that this is, in fact, we propose a good transitional use between the apartments and the single family residential use. Keep in mind that these people who live around, who I pointed out to you, they recognize the benefit of a 35-foot buffer. They recognize the benefit of a 100-foot building setback. They recognize the restraints and the benefits of the restraints on lighting and access and other protections there for you.

It's rare that you can come as an applicant before you and say, "We're proposing to change a use and we have the support of the people who are near us." I suggest to you that they know best, in that respect. I think they should, in fact, be given credence. An R-6 zoning is, in fact, a residential use zoning. Think about the assisted living facilities you've been to. Are they noisy? Are they loud? Is there a lot of traffic? What activities that go on there would be offensive to anyone? None. It's real quiet. Very few people come in and out. When they do, it's gradual, over time. The activities are shut down very early in the evening, obviously, except for a few visitors and employees shifts.

So, I suggest to you that this is a very good and reasonable use. This is the type of facility we need to encourage in Henrico County. These facilities are needed for more and more family

members. I would suggest to you that this is an ideal location. I hope you would recommend this case for approval, as it can be approved, as it was approved in 1990. Thank you.

Mrs. Wade - Mr. Axselle, you're not getting the other lot. What have you done about the land that you need? It seems to me every other day, I hear a different report.

Mr. Axselle - We're required to have five acres under the County Zoning Ordinance. We have about 5.04. So, with that, however, we were too close to the Westshire Apartments, and we would have made their building non-conforming, because of the setback. So, we have amended the case, and so, now we have 5.02 acres. We had, as Mr. Bittner, said that is not an issue.

The three issues the staff raised were that, which Mr. Bittner says has gone away. The fact that we should try to include this property that is already zoned R-6. What we are seeking is already here in the neighborhood.

Mrs. Wade - That's all right. You answered my question. Thank you. What's in the 35-foot buffer in the back there?

Mr. Axselle - (Referring to rendering) This buffer is to be a natural buffer with supplemental landscaping.

Mrs. Wade - What's there now, Mr. Axselle? Is that not in the power line easement?

Mr. Axselle - Yes. (All referring to rendering). There's about a 75-foot power line easement here. But right along here, actually in this part of it, it is very, very, very dense. As a matter of fact, Mr. Musselwhite, who lives here, was the one who asked us to ensure that was going to stay because it is as tall as this room. It's very large. Now, when you get down here, quite frankly, it is not as thick. We've added that that will be natural with supplemental landscaping that is determined by the Planning Commission. The neighbors back here, actually told me they were afraid we were going to come in and take out, which is a very heavy buffer. Otherwise, we've got this buffer here, plus a fence that we're going to add here.

Mrs. Wade - Thank you. I'm sorry to cut you off, but we are running kind of late here, as the other people would attest. Thank you.

Mr. Axselle - Thank you.

Mr. Archer - Any other questions? Mrs. Wade.

Mrs. Wade - There's certainly much to commend this case and they've done a lot of good work with their proffers and their buffers and so forth. And, certainly, there's a need, obviously, for assisted living facilities. We're getting a lot of cases that relate to them. The last case, though, with which I'm most familiar is on six acre over there at Michaels and Parham. It's much more compatible with the residential area around it than this facility. I know this is a nice facility. I've been over there. I've seen the one on the south side. It's quite impressive and also imposing. The case, prior to this on this site, also had more of a residential-type of flavor.

So, at the moment, I would like to put this off for 30 days. We heard it tonight. We won't hear it again. Nobody needs to come back if they don't want to. It would give me, frankly, more time to think about that. It is some change from the Land Use Plan. I think we need to consider that very carefully. So, I would move that the decision on this case C-4C-98 be deferred until February, at my request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall that C-4C-98 be deferred to February 12<sup>th</sup> zoning meeting at Mrs. Wade's request for a decision only. No more testimony.

Mrs. Wade - No more testimony, unless there's some drastic proffer change or something which I'm not really expecting.

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

#### **TUCKAHOE:**

**P-5-98 James W. Theobald for YMCA of Greater Richmond, Tuckahoe Branch:** Request for approval of a provisional use permit in accordance with Sections 24-96(3) and 24-122.1 of Chapter 24 of the County Code to permit the YMCA to use 50 substitute parking spaces on Parcel 100-A-2, containing approximately 8.69 acres, being the Welbourne Church at 920 Maybeury Drive. The church site is zoned R-2A One Family Residence District and the Land Use Plan recommends Semi-Public uses.

Mr. Archer - Any body here in opposition to P-5-98? Ms. Gardner.

Ms. Gardner - You've received new conditions at your seats. I'll get to those in a moment. The YMCA is requesting substitute parking on the nearby Welbourne Church property. They meet the Code requirements for substitute parking. They've demonstrated they're doing the best that they can to address the safety concerns. The substitution is to refer to a plan which has been handed out to you. It was not available at the time of the Staff Report. As such, staff can recommend approval, and I'd be happy to answer any questions.

Ms. Dwyer - Ms. Gardner, do you have all the requisite letters and everything that you need relating to the Church's agreement?

Ms. Gardner - Yes.

Mr. Archer - Mr. Theobald.

Mr. Jim Theobald - Mr. Chairman, ladies and gentlemen, I'll try to be brief. I'm here this evening on behalf of the Tuckahoe Branch of the Greater Richmond YMCA. With me, tonight, are Kay Lambert, the Executive Director, and Ken Lance from Welbourne United Methodist Church. We're here to correct a technical deficiency in our available parking after months of working with a special committee of present and past board members, such as myself, along with Angela Harper and Mrs. O'Bannon. We are requesting a Provisional Use Permit for substitute parking of up to 50 spaces at Welbourne United Methodist Church which

is just around the corner from the “Y.” The “Y” with its many varied programs for the positive development of our community really defies an analogy to the Zoning Ordinance use categories when it comes to required parking.

So, after we engaged our own traffic engineer, and provided staff with some empirical data from our National YMCA, Ms. Harper concluded and offered, in writing that the appropriate number of required spaces for this facility is 376. We currently provide 347 spaces. Although, we’ve never really run out of spaces, we find we’re in need of 29 additional spaces to be in compliance. And a proposed addition to the “Y” next year will generate the need for 20 more spaces. Thus, we have gained permission from Welbourne United Methodist for some 50 substitute parking spaces.

As you have heard earlier, we have met all of the jurisdictional requirements. We do have a fleet of vans that are available to shuttle all employees to and from the substitute parking spaces, as needed. All of our employees cars would utilize the required decals. This will not have a detrimental effect on any residential neighborhoods, as the church, as you know, is on the corner of Patterson and Maybeury; with Maybeury Elementary School being directly across the street.

We’ve confirmed with the Church that during our time of greatest parking need, that potentially between 5:00 and 8:00 p.m., Monday through Friday, no scheduled church activities will generally conflict with utilization of those spaces. A copy of our letter agreement with the Church has been presented to the Staff for the file.

Given the Semi-Public nature of the church use, the location of the substitute parking at Welbourne, it is appropriate; not in conflict with the intent of the Land Use Plan. I believe the public health, safety, morals, and general welfare is really only enhanced by this request.

This will allow us to meet the requirements of the County. We initiated this process in order to bring us into compliance. And for your information, we do continue to explore additional solutions to future parking needs. I want to say we sincerely appreciate the time that Ms. Harper, Mrs. O’Bannon and Mr. Wilhite, from the staff, has spent with us in trying to accommodate us so we can continue to fulfill our mission. I’d be happy to answer any questions.

Ms. Dwyer - Did you want to change the last word in the first condition to “use,” instead of “access?”

Mr. Theobald - Yes ma’am. I would. That being so, you’re really only going to need this parking at very, very limited times. I didn’t want to have a condition that, basically, said we had to have vans over there every night of the week when we weren’t even using them in the project for the parking. So that change would be appreciated.

Ms. Dwyer - I don’t have any other questions.

Mr. Archer - Any further questions?

Mrs. Wade - Suppose somebody say parked over there and wanted to walk to the “Y.” Is there some safe way to get on foot?

Mr. Theobald - There's a way to get there through the elementary school property. The elementary school property is lit. It's not a way that we would recommend. You do go behind some woods, over to the back parking lot of the "Y." That lot would only be needed if we're having some sort of special events, in which case, we notify staff through voice mail, through memos, to park over there. We have a van literally sitting over there at the Church site with another van for the "Y." They have walkie talkies to communicate. When one van leaves, the other goes over. So, we know when that lot is going to be used. Mrs. Wade, we do provide that service.

Ms. Dwyer - So, with the two vans and with the walkie talkies, there shouldn't be a time when there's more than a minute or two without a van at the church parking lot waiting for passengers?

Mr. Theobald - Right. If our employees have been asked to park over there, they know that shuttle service is in effect, so they would have no reason not to wait the minute that it takes to literally go around the corner there.

Ms. Dwyer - And the parking is for employees only?

Mr. Theobald - That's correct.

Mrs. Wade - Okay. That wasn't clear.

Mr. Theobald - That's required by the ordinance.

Mr. Silber - Yes. It is.

Mr. Theobald - Substitute parking only for employees.

Mr. Archer - Any further questions? Ms. Dwyer.

Ms. Dwyer - Well, I've met with the folks at the "Y," and I know that Angela Harper and Pat O'Bannon have worked long and hard to try to find a long term solution, as well as answer some of these short term problems related to parking at the "Y." So, I know that search for the long term solution will continue. But in the interim, this seems to be the best solution that will allow the "Y" to comply with the technical parking requirements of the County and also to add an addition, I believe it's the adventure gym everyone is looking forward to, at the "Y." So, I've reviewed the ordinance and it appears that request is in compliance with Section 24-96 relating to substitute parking. So, on that basis, I move that P-5-98 be recommended to the Board for approval, with the substitute Conditions 1, 2, and 3 that were submitted tonight, changing the word, "access," to the word, "use" in the first paragraph.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall that P-5-98 be recommended and advanced to the Board for approval. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

REASON: Acting on a motion by Ms. Dwyer, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **grant the requested revocable provisional use permit**, subject to the following conditions:

1. The hours of access to the substitute parking area shall be limited to 5:00 p.m. to 8:00 p.m., Monday through Friday. The YMCA shall operate a shuttle service continuously during hours of use.
2. Use of the substitute parking area shall be limited to the employees of the Tuckahoe YMCA.
3. The substitute parking area shall be limited to 50 spaces in the area generally shown on the plan "Survey for Welbourne United Methodist Church," prepared by Landmark Surveyors, dated April 24, 1989.

The Planning Commission recommendation was based on its finding that the Provisional Use Permit it is reasonable, and when properly developed and regulated by the recommended special conditions, it would not be detrimental to the public health, safety, welfare and values in the area.

**Deferred from the December 11, 1997 Meeting:**

**C-85C-97 Engineering Design Associates for Godsey & Son, Inc.:** Request to conditionally rezone from M-1C Light Industrial District (Conditional) to M-2C General Industrial District (Conditional) part of Parcel 194-A-53, described as follows:

Beginning at a point on the S. line of Charles City Road, approximately 0.6 miles east of Monahan Road; thence along the S. line of Charles City Road, S. 47° 30' 00" E., 425.00'; thence leaving the S. line of Charles City Road, S. 42° 30' 00" W., 159.46'; thence along a curve to the left having a radius of 275.00'; 79.88'; thence S. 25° 51' 23" W., 361.66'; thence S. 74° 51' 18" W., 111.54'; thence S. 41° 52' 40" W., 151.60'; thence S. 60° 37' 38" W., 99.05'; thence N. 64° 08' 37" W., 167.50'; thence N. 25° 51' 23" E., 1015.19' to the point of beginning, containing 7.165 acres.

Mr. Archer - This is C-85C-97 Godsey & Son, Inc. Is there anyone here in opposition to C-85C-97? Mr. Merrithew.

Mr. Merrithew - Thank you, Mr. Chairman. This is a case that has been deferred. It is a proposal to rezone about seven acres from M-1C to M-2C, to allow a contractors equipment storage and repair maintenance facility. Staff's original concerns had to do with the design of the site, proffered buffers, and other matters related to the specifics of the site.

This area is planned for industrial development, specifically, Planned Industrial which denotes a campus-styled industrial-park style development pattern. We had envisioned with the original M-1C rezoning of the larger 35-acre tract that that's what would occur here. Apparently, and the applicant may be able to speak to this, there are difficulties with an extensive amount of wetlands on the property that probably will preclude campus-style industrial development on this large tract. This proposal for M-2 is probably a heavier industrial than what is envisioned in the Planned Industry, but is still a reasonable use in this area, given the type of industrial development that has occurred on the eastern side.

You've received proffers that we received today. The time limit will have to be waived. These proffers address a lot of staff's concerns that we raised at the first meeting. I'll just quickly run through those.

The buffer; in addition to providing a 50-foot buffer which is agreeing to meet the Ordinance requirement for this use adjacent to the A-1 property to the west, they've improved this proffer by providing for the maintenance of the buffer and providing for the supplemental planting, if and when they have to remove diseased plants and so on and so forth.

In Proffer 2, they've greatly improved the limitation on uses. Previously, there were a number of heavier industrial uses that could still occur on the site, in addition to the storage maintenance facility. They have limited that further by allowing only M-1 Light Industrial uses with the exception of the contractor's storage yard. I feel that is a major improvement in terms of what could occur and a good step towards the intent of the Planned Industrial designation in the area.

Proffer 4 slightly modified that proffer to indicate that the metal will be used for accent panels and trim materials or appropriate trim materials.

Proffer 6. They've limited trash pick up to 7:00 a.m. to 7:00 p.m. Previously, it was 6:00 a.m. to 7:00 p.m. Now, it's 7:00 a.m. to 7:00 p.m.

Parking lot lighting has been reduced from a 30-foot standard to a 25-foot standard.

On the second page, Proffer 10, we did not ask for a proffer of barbed wire, but this proffer was modified to provide for a six-foot fence topped with three strands of barbed wire. I won't speak to that. The applicant can speak to that and explain where that came from.

Proffer 11 is a separation of the original proffer speaking specifically to the screening between Charles City Road and the site, providing for an 8-foot high fence constructed of materials compatible with the building, and again, approved by the Commission at the time of Plan of Development approval.

Proffer 13, a dedication of right of way just simply provides for the improvement of Charles City Road when it's undertaken by the County.

And, finally, one of staff's concerns was the type of activities occurring outside, and the applicant has responded by providing for the repair of equipment to be conducted inside a building.

Those proffers, basically, address the bulk of the staff's concerns about the site and its development. There is still the transportation issue of Charles City Road not being, at this point, ready to accommodate an extensive amount of heavy traffic. It is planned for improvement, of course, on the Thoroughfare Plan. It will eventually be designed to accommodate heavy traffic. So, any other industrial uses out here will have to see some improvement at that road.

They have provided for the right-of-way dedication, and so on, and improvements along their frontage as we've seen in other cases.

Staff feels that the use is, perhaps, pushing the envelop for Planned Industrial, but it is an appropriate industrial use, given the zoning surrounding it, the uses surrounding it, and the Plan designation surrounding it. With that, I'd be glad to answer any questions.

Mr. Archer - Are there any questions of Mr. Merrithew? Mrs. Dwyer.

Ms. Dwyer - The M-2 that is a little bit to the west, does that have a very restricted use?

Mr. Merrithew - That was restricted to a trucking or transportation-related use. So, it is restricted to one or two uses along that line.

Ms. Dwyer - So, that's kind of an M-1, with a couple of M-2 uses permitted?

Mr. Merrithew - No. It's more specific to the use they wanted to do, which is the truck terminal-type use. I have the file. I can look that up for you.

Ms. Dwyer - The problem with an M-2, the M-2 is on the map and it sets a precedent. So, you're concerned about the Plan?

Mr. Merrithew - That is a concern, but there is M-2 zoning there, obviously, and there's M-2 to the north side and heavy industrial planned for the north side of Charles City Road. So, it's likely if it's a precedent towards Heavy Industrial, it would occur in that area anyway with or without this site.

Mr. Zehler - You can't see it on the map, but as you come further down Charles City Road, there's a lot of existing "M" zoning.

Mr. Merrithew - I think I said to the east, and there's some to the west, too.

Mr. Zehler - The railroad track come in and it backs up to the railroad tracks.

Mr. Archer - Any other questions? Hear from the applicant.

Mr. Bob Nelson - Mr. Chairman, and members of the Planning Commission, my name is Bob Nelson, and I represent the applicant in this matter before you. There are a couple of things I would just like to bring to your attention. First, a little bit of history of this request. This request is made by Godsey & Son, which is an excavating and utility contractor. Godsey & Son now has an office also on Charles City Road, a little to the west of this just on the other side of Laburnum Avenue. They've outgrown their office there and they need a little bit larger quarters. About three years ago, Doug Godsey and another gentleman bought this piece of property, and, at that time, had it zoned M-1. Now, Doug would like to move his office to the property which is already owns. So, that is why the request is being made.

Also, several points that Mr. Merrithew made in his presentation was one of which he mentioned; traffic. I really think this is a good use for the site for several reasons: One, it has very low traffic. In the office, there are probably five people at work and he has a mechanic or so in the shop. So, it doesn't have a lot of people coming to this site.

Also, his equipment, hopefully, if you're in the construction business, the equipment is out on jobs working, not at the yard. The equipment does not normally come to this site and his people normally go to the job. At times the equipment would come to the site is only when its broken down or be when it's not in use.

Other factors in this area, there are actually two airport approach zones that cross Charles City Road, just to the west of this site. I also, at one time, had an office with a contractor's yard also just west on the other side of the road from here. Quite frankly, it's a pretty noisy location. So, a number of businesses is probably not suitable to be there from the airport noise.

Also, this area is not served by public utilities. So, in order for somebody to use this property, they have to have a very low intensity of people coming to the site, because it must be served by a septic tank. We have approved a site on here for the septic tank.

So, I submit to you, for these reasons, I feel this is a very appropriate use and it's really been the traditional use of this section of Charles City Road. The only real businesses in here are similar businesses. I had a similar business on the other side of Charles City Road several years ago. The airport bought that property from me.

That M-2C zone there, (referring to slide), actually, I don't think its a trucking operation. It's an electrical contractor. That is a similar use. Across the road from this, Claude B. Allen, who is a mechanical contractor, who has had an office and a little yard there for many years exists now. Just to the east of this, there was a facility built by Jack Hammond, who is a masonry contractor for his business. Now, that is also an M-2 zone and that is Norman Keystone which is a supplier of large steel pipe. This use is compatible, and is what the other uses are in this section of road.

For these reasons I feel the request is justified, and I would request that this Commission recommend approval. Thank you.

Mr. Vanarsdall - I have a question of Mr. Nelson, Mr. Chairman.

Mr. Archer - Go ahead, Mr. Vanarsdall.

Mr. Vanarsdall - What is he going to keep in there that needs three strands of barbed wire? What is he trying to keep out? Who is he trying to keep out?

Mr. Nelson - It was suggested to me that we may not be specific enough in describing the fence that goes around the site. That is the typical type of fence that's around industrial facilities. It's a six-foot high chain link fence and it has three strands of barbed wire at the top. Some people call a seven-foot fence.

Mr. Vanarsdall - Like that up in Mecklenberg, I think.

Mr. Nelson - I think theirs are razor wire, Mr. Vanarsdall.

Mr. Archer - Any other questions?

Mr. Zehler - Mr. Nelson, in your opinion, is a "decorative block," a cinder block?

Mr. Nelson - Well, I don't think there are any cinder blocks left. All of those are members of the concrete block family. They haven't made cinder blocks for right many years.

Mr. Zehler - So, they're still going to make it cinder block?

Mr. Nelson - I don't believe they make them around Richmond. They may make them somewhere else, but they are generally concrete blocks now, as opposed to cinder blocks.

Mr. Zehler - Is a concrete block a decorative block?

Mr. Nelson - Yes. A concrete block would be a decorative block.

Mr. Zehler - And is it your anticipation of building the building out of a concrete block?

Mr. Nelson - Most likely, the front would be a decorative concrete block.

Mr. Zehler - Split face?

Mr. Nelson - Split face or fluted, a member of the decorated block family.

Mr. Zehler - So, basically, what you're saying, it's a split-face block. It wouldn't be a concrete block. What is your intention?

Mr. Nelson - My intention is to build the building out of something that is compatible with our proffer. I have not done the elevation of the building which I told Mr. Lehmann that we will do and supply before we go to the Board of Supervisors. I think it's a very good chance that we would suggest that we use a decorative block which would be a split face block or a fluted block in the front of the building.

Mr. Zehler - That's all I wanted to know.

Mr. Nelson - Okay.

Mr. Silber - Mr. Nelson, the reference in the same proffer to "metal accent panels," are those metal panels intended to be for accent purposes?

Mr. Nelson - If they're on the front of the building.

Mr. Silber - What's meant by "metal accent panels?"

Mr. Nelson - Again, Mr. Silber, sometimes I think I've been criticized for not being specific enough. If we have a front of a building that is split-face block or whatever it may be dryvit, etc., you still need to, at times, have metal flashings at the roofs or you have metals bands that give color. I was trying to be inclusive in that proffer of anything we might do so that when we went through a POD, it wasn't said we didn't have it included in here.

Mr. Silber - Sure. Okay.

Mr. Archer - Okay. Any further questions of Mr. Nelson?

Mr. Zehler - Mr. Chairman, there is no opposition to this case. I have spent...unfortunately Mr. Lehmann is not in our department anymore. He has been transferred to a different department. We worked with Mr. Lehmann on this case, and we had spent numerous times with Mr. Nelson. It started out as a borderline case, but working with Mr. Nelson, I feel like we made this a good case. My big concern was the traffic. Of course, I had a meeting with Mr. Donati. We discussed it. Mr. Godsey now presently is on Charles City Road. Charles City Road is a County road that he has the right to use to put his equipment on just like you and I do. So, we can't prevent from using the existing road. I did have that concern. Of course, Mr. Donati reminded me of that. Mr. Godsey does get in his equipment on a daily basis and goes right down Charles City Road right past this site to his job site. So, he does have the right to use those roads. It is a location that's secluded, With the proffered conditions that have been presented, we have a good setback. We've got it well screened and I think it will make a good project. So, with that, I move that Case C-85C-97 be recommended to the Board for approval.

Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer that C-85C-97 be recommended to the Board for approval. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

Mrs. Wade - We need to waive.

Mr. Archer - We have to waive the time limits?

Mr. Zehler - Let's go ahead and finish this and we'll waive the time limits. Waive the time limits. We'll do that first.  
Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer that we waive the time limits. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

Mrs. Wade - We need to do that before we vote on the case.

Mr. Zehler - We did that. Now, we can vote on the case, Mr. Chairman.

Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer that C-85C-97 be recommended to the Board for approval. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

REASON: Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **accept the proffered conditions and grant** the request because it is reasonable, it would not be

expected to adversely affect the pattern of zoning and land use in the area, and it conforms to the recommendations of the Land Use Plan.

**Deferred from the December 11, 1997 Meeting:**

**C-86C-97 Gloria L. Freye for Exxon Company, USA:** Request to conditionally rezone from A-1 Agricultural District to B-2C Business District (Conditional), Parcel 237-A-114, described as follows:

Beginning at a rod set on the E. line of Strath Road, marked P.O.B., said point being the intersection of the e. line of Strath Road and the S. line of State Route No. 5 (New Market Road); thence along the said S. line of State Route No. 5 (New Market Road) the following six courses N. 53° 51' 31" E., 58.39' to a rod set; thence S. 65° 99' 02" E., 67.00' to a rod set; thence N. 24° 59' 58" E., 5.00' to a rod set; thence S. 65° 00' 02" E., 356.47' to a rod found; thence along a curve to the left having a radius of 5765.00' and a length of 213.30' to a rod set; thence S. 66° 49' 02" E., 119.30' to a rod set; thence leaving the said S. line of State Route No. 5 (New Market Road), S. 89° 76' 36" W., 562.84' to a rod found; thence S. 6° 53' 04" W., 469.90' to a rod found; thence N. 80° 04' 33" W., 54.10' to a rod found on the E. line of Strath Road; thence along said E. line of Strath Road N. 5° 02' 34" W., 740.96' to the point and place of beginning, containing 3.823 acres; 166.514 square feet.

Mr. Archer - Thank you, Mr. Secretary. C-86C-97 Exxon Company, USA. Any body here in opposition to C-86C-97. We have opposition in the back. Thank you, sir. Mr. Bittner.

Mr. Bittner - Thank you, Mr. Chairman. As you just noticed, Ms. Freye passed out some brand new proffers; literally less than an hour old, I believe. So, I'll ask you to please bear with me. I'll try to cover them as best I can, although Ms. Freye has some elevation drawings and so forth to show you. So, I won't take that away from her. But on No. 1 on the Conceptual Site Plan, they've removed the word, "generally" to sort of tie down the site plan that they've showed us to this point. That is, indeed, what they will develop. I'd like to point out, that site plan shows three entrances onto Route 5. We have already told the applicant, we doubt they'll get three. I doubt they'll probably get two. Most likely, they'll only get one. Of course, that will ultimately be decided by VDOT.

The second proffer, in terms of the architectural design, they again have removed the word, "generally" to tie it down some more. Ms. Freye will show you a building elevation, I'm sure, in a few minutes.

Under No. 3, the building materials, they have removed some building materials; precast concrete, and I believe stucco. I'm not positive, but we can check on that. They have not stated for certain whether they would do a brick building. They still, perhaps, could do a vinyl sided building. The C & F Bank, as an example, is vinyl sided. But they have indicated most likely, they would do brick construction.

On the building limitation, which is Proffer No. 5, they have also redone, going back to Proffer No. 2, that references Proffer 5 to state that this additional building would be the same architectural style as the main convenience store building.

No. 6, they have reworded 6A. to now state that there will be a 50-foot landscaped buffer along Route 5, other than certain areas for driveway crossings, utility crossings, etc. Those are shown very clearly on the site plan, which we'll have here for you in just a few minutes. So, that it's tied down pretty closely, although not exactly, but pretty closely where there will be a 50-foot buffer, and in some areas, even more than 50 feet versus a thinner buffer or a driveway crossing.

Regarding fencing, which is Proffer 8, that is concerned mainly with the adjacent property owned by the Hartons and the Hedgecocks. That, we feel, is strengthened by 8C which, when it comes to fencing protection for those property owners, it gives those property owners the ultimate right to agree to whether its acceptable or not. We feel that's a strong proffer.

Going down to "Prohibited Uses," which is No. 12, they've added some more uses to be prohibited, including communication towers, taxidermist, bait and tackle shops, and also retail and wholesale seafood shops.

Signage, which is No. 17. Monument signs, although you may want to change that to monolithic, I'm not sure. What they are saying, won't be more than 10 feet in height. So, I think that would rule out potential 100-foot monumental signs which we've seen before.

Now, as I point out in the staff report, this site is designated on our Land Use Plan for Rural Residential Development. It does back up next to a single family development. However, staff feels that the likelihood of this becoming residential, itself, is small. However, since it does back up next to a residential neighborhood, we feel the ideal use would be a small office; a lawyer's office, real estate office, etc. However, I would like to point out that the applicant has strived very hard to try and meet the concerns of the neighbors and the concerns of the Varina Beautification Committee, and has tried to meet the intent of the Route 5 Design Guidelines, which, of course, are not yet finalized, but is a project we have been working on diligently for the past few months.

So, although, we cannot recommend approval, I would like to point out the positive aspects of the case. With that, I'd be happy to answer any questions that you may have on this application.

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

Mrs. Wade - They could still have say, tires, and oil cans on display outside?

Mr. Bittner - There would be no outside storage permitted under the new proffers.

Mrs. Wade - But displayed?

Mr. Bittner - Displays would be permitted? Okay. Yes. They would.

Mr. Archer - Any further questions? Ms. Freye.

Ms. Gloria Freye - Thank you. My name is Gloria Freye. I'm an attorney here on behalf of Exxon, the applicant. And also here with us this evening is Steve Rhoades, with

Exxon, Chris Henderson, who is with Trammell-Crow, the Developer, and Junie West, our Engineer. So, they'll hope to answer questions that you all might have.

Mr. Vanarsdall - Ms. Freye, you do have some opposition back there.

Ms. Freye - Yes sir.

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

Ms. Freye - Maybe two minutes. I think one of the first things I'd like to say is, please note the unique shape of this property as an arrow head. And, we approached this property, knowing that it had some unique challenges and some conflicting tensions that we're going to try to balance. That is the attitude that we approached this with, is that...

Mrs. Wade - Have the people here seen this? (Referring to rendering).

Ms. Freye - I think everybody has seen it. They helped design it. It is a unique piece of property that has its development challenges, and also because we wanted to be, No. 1, sensitive to the adjoining property owners that this development would back up to, and No. 2, be sensitive to the fact that this property is located on Route 5 which is a Scenic Byway and has historic significance as well. So, from the beginning, we have gone to the adjacent landowners and to the Varina Beautification Committee to talk with them about what we'd like to do there; get their input. I think we've ended up with a case that's a lot different than what we started with. I think that it's one that everyone, well not everyone; a lot of people could be happy with.

We tried also to keep in mind the Route 5 Overlay Standards. We know they haven't been officially adopted, or if they will even be adopted, but we knew that was important to a lot of people in the community. So, we tried to meet those wherever we could. In fact, we've actually been able to exceed them, in some instances.

I think, probably, the first thing that I should go through...Mark did a really good job of going through the proffers, so I won't go through that again, unless you have questions about them. Would it be okay for me to go over and talk in front of the site plan? Could everyone hear me?

One of the things that looks a little complicated on the proffers is the fence. One of the things that we tried to do was build in protections so that the fence could serve as a barrier in certain sections and as a visual screen in others. These are huge lengths of property lines that these people have. So, we have proffered, I'll call them the "tails of the arrow," would stay undisturbed from here up to about here, and from here over to about here, and from here over to about here; so, that we'd have fencing in this area. What we have proffered is, at the time of POD, we'll have a specific plan that shows you which sections are going to be 8 foot; which sections are going to be 6 foot, and where the landscaping is going to be, provides the most effective protection for the neighbors. The reason for the 8-foot sections is there was concern that someone might be able to jump a 6-foot fence.

We have also worded it the way we have because, at this point, we're not sure where the BMP, if we need a BMP, where it might be. We suspect, if it is needed on this site, that if we can't use another one in the area, that it might be in this area. So, we worded it so that this fence could be located out this way or around this way or in some other configuration and still

protect the back of Mr. Hedgecock's property, and provide the fence around the BMP if that's necessary. We really think the BMP can probably just be a gradual recession that can be landscaped and not disturb this area any more than we would have to.

We have tried to orient all the site development up toward the corner, away from the backs of the houses, as best we can with the accesses up here and the activity up here. We have proffered the 50-foot landscaped buffer. We'd actually exceed it in these areas and these areas. And this area, we won't, because of where we have to put the underground storage tanks, there will be an encroachment there. But when you look at this property and with this impervious surface, you actually have 70 percent of this property is going to remain green. That's a pretty phenomenal accomplishment with this. It keeps the commercial activity up here. There is commercial development on all three corners. I think that, with the elevations that the neighbors have helped us design, this is going to probably be the best looking business in the area. We are proffering this with the case, and we're also proffering the site plan.

Ms. Dwyer - Gloria, what is the second building to our right, to the right of the car wash?

Ms. Freye - This is a speculative building. There's not a user planned for it. Because we couldn't tell the neighbors who or what type of business might be there, we've put some restrictions on it. We've limited it to 2,000 square feet max. We said it could only be one story. We've said that it can't have drives or entrances or parking in the rear. It has to face New Market Road. And we have proffered out uses that the neighbors would find objectionable. And some of the ones that we wrote in tonight were other things that had occurred to them this evening that we were willing to proffer out.

Ms. Dwyer - Could that be a fast food restaurant like a McDonald's or a Burger King or something?

Ms. Freye - It could be a sit-down restaurant.

Ms. Dwyer - Without the drive through. No drive through anywhere?

Ms. Freye - The gas/convenience store is going to have a quick service- type restaurant inside.

Ms. Dwyer - But no drive-through?

Ms. Freye - No drive through. Well, you drive through the car wash.

Ms. Dwyer - Well, yes. Okay. That goes without saying.

Ms. Freye - I think it's one of those situations where we haven't been able to make everybody perfectly 100 percent satisfied, but I think, with the competing interests and the variety of people that we've dealt with, we've had lots of meetings. The neighborhood has worked their hearts out on this. Even at an inconvenient time of the year over the holidays, they were there meeting with us and working on this case. They stuck it out this evening and helped us work through it to this point, as well.

I think that, with the proffers that we put in, I think this is consistent with commercial development at the intersection. I think it really defines a good quality development on there, and I think it will be an asset to the community, and not have a negative impact, really, in any way. I think we have built in good protections for the neighborhood. I would ask that you would waive your 48-hour rule, and accept these proffers, and recommend approval. I'll be glad to answer any questions.

Mr. Zehler - Gloria, I know we've discussed, on numerous occasions, maybe for the Commission's sake, if you could explain the outside storage. What is your anticipation there?

Ms. Freye - At this point, the way the proffers were worded, we will have no outside storage. What we have said is, some outside display would be allowed. And that would be allowed during the time that the store hours is in operation, when its open. So, that if we had a display out during the day when the store closes, the display goes back inside. And we've also proffered that we would not have ice machines, candy, soda and snack machines in front of the store. That was one of the requests that we got from someone in the neighborhood.

Ms. Dwyer - Where's that in your proffers?

Mr. Zehler - It's in the beginning of outside displays. There is no ice, soda, candy, snack machines permitted in front of the building. I would give you a number, but I don't have one.

Ms. Freye - I know. I apologize. We copied those here.

Ms. Dwyer - Your architecturals show primarily brick walls, but your proffer doesn't seem to read that way.

Ms. Freye - We're going to submit this rendering as the building we're going to build, and it does show brick. The reason the proffer has (unintelligible) materials in it, is because we don't know about this building. But we did take out the wood, and we did take out the precut concrete, which was a concern; that this building could possibly end up being a wood building. So, that has been removed.

Mrs. Wade - Would it be similar style?

Ms. Freye - Yes. We have that in the proffers that it would be colonial in design and compatible with materials.

Mrs. Wade - What about "attention getting" devices...

Ms. Freye - I imagine, for grand opening, they'd probably like to have that. But that would be the only thing I can imagine that could be used for would just be at the grand opening.

Mrs. Wade - They could have it for four times a year for 10 days or whatever it is.

Mr. Zehler - Could you explain the communications systems?

Ms. Freye - We have proffered that there would not be any loud speakers on the property. There was some concern about what's the difference between a speaker and an intercom system? That's why we said, "no loud speakers," or anything that would broadcast or transmit over a large area. We did say that did not preclude intercom systems. These days, there are facilities where some one inside the store can communicate with someone at the pump. A lot of pumps are automated. Sometimes people get in trouble. If they see there's a problem, they can communicate with someone in the store.

The other thing is that, when you drive into the car wash, there's a little machine, not all of them have voice, but some of them do, that says, "Please enter your code number now and drive through." There was some concern about how loud that would be. So, we proffered it would come equipped with volume control, so that would not be loud. It would really be at a conversational level with the machine.

Mrs. Wade - How many free standing signs do you think you'll have? You will probably have two on the corner here; the two streets.

Ms. Freye - It's a huge amount of frontage that they have. They're proposing one there, and we were just going to look at the zoning ordinance and see what that would permit and deal with that at that time. But that's what's being shown on the site plan now.

Mr. Vanarsdall - Ms. Freye, what kind of restaurant is this going to be?

Ms. Freye - It's called a (unintelligible) "restaurant." It's inside. It's like a fresh deli where you have a microwave. It's like pre-prepared food. You warm them up and you can eat them there or take them to your car.

Mr. Vanarsdall - So, it is not a Burger King...

Ms. Freye - No sir.

Mr. Vanarsdall - They're going to more drive-up business than anything else? Take-out?

Ms. Freye - Probably so.

Mr. Vanarsdall - It says, "fast food restaurant with a drive through located in a single building."

Ms. Freye - That was in the first staff report and that was dropped a long time ago.

Mr. Vanarsdall - That was scratched?

Mr. Bittner - I have to apologize for that. When the first report came out, they deferred at the first meeting. It came back to this meeting...No new material was submitted by the applicant. (Comments unintelligible.)

Mr. Vanarsdall - Okay. That's good.

Mr. Bittner - (Comments unintelligible.)

Mr. Vanarsdall - All right. No problem. I see. Thank you.

Mr. Silber - Ms. Freye, will the car wash building be attached to the principal building?

Ms. Freye - No. It's detached. The neighbors did ask that we try to move as far away from the back of the houses as possible. In doing that, we also angled it so that noise would come out toward Route 5 where it would be dissipated out this way towards this way, not into the backs of their houses, entering or leaving the car wash. So, we angled it and put it between these buildings. We've put the vacuum cleaners right up here in this area and, of course, there will be landscaping around that.

Ms. Dwyer - What's the distance between the buildings and the property lines and the residents?

Ms. Freye - Probably the distance from the car wash to this property line, I'm guessing is about 55 feet. Does that sound right, Junie? From here to the property line, about 55 feet?

Mr. Junie West - Yes.

Ms. Freye - To this house, the distance is 202 feet and to this house is 247 feet.

Mrs. Wade - Which is Proffer 5? These don't have any numbers.

Ms. Freye - I'm sorry. No. 5 is building limitations on Page 2.

Mr. Archer - Any other questions of Ms. Freye?

Mr. Zehler - Hours of operation? I don't see anything here that stipulates hours of operation. You're going to abide by what's allowed in the B-2?

Ms. Freye - Yes sir. What's allowed in the B-2 for the gas/convenience store and that facility, but the car wash hours are restricted.

Mr. Vanarsdall - What are the hours of the convenience store?

Ms. Freye - I think from 6:00 in the morning until Midnight. We also restricted the hours that the dumpsters could be serviced, as well.

Mrs. Wade - And you can put drainage (unintelligible) in the landscaping strips?

Ms. Freye - If need be, yes ma'am.

Mr. Archer - Any other questions? Thank you, Ms. Freye. We did have some opposition. Come up, sir, and state your name, please.

Mr. Silber - If I may, let me just remind you, there are to be a total of 10 minutes for all of those speaking in opposition. There will be a total of 10 for everyone.

Mr. Glen Rudicill - I've lived in Henrico County for 30 years. I've been employed by the Henrico County School Board for all of those 30 years and continue to do so on a part time basis, today. I currently live at 2603 Redwing Lane in the area that we're talking about. I moved from the Williamsburg Road area, Coxson Road, specifically, 11 years ago to get away from all of the commercial development.

Since moving, as Ms. Freye said, the three corners right adjacent to our property have been developed, a FasMart, a Cardinal Drug Store, a bank and a Food Lion is under construction, all within a stone's throw of our homes. I just wonder where it's going to end? Right now, every house in this area is residential. We've met with the lawyers before Christmas and the Exxon representatives on three different occasions about a convenience store with fuel pumps. That was the letter that I got. We learned at the first meeting that it also included a fast food drive through and a car wash, surprise.

At meeting No. 2, they consented to do away with the fast food drive through. At meeting No. 3, they appeared to be cooperative and accommodating. Why wouldn't they be? They're going to stand to make a lot of money from this business on the corner.

At the same time I feel like its a big infringement on my home and my peace of mind. The lawyers are doing their job. I give them credit for that. But once their job is done, they're gone. The facility will be there. They won't have to contend with all the negatives that go with this type of business. But we will, every day. Every day from 6:00 a.m. to Midnight for the convenience store and gas pumps and every day from 7:00 in the morning until 10:00 at night with the car wash. Would anybody want to live next to this? I don't think so. I don't want it, and I don't think I need it.

If allowed to go through with the planning, we will have two convenience stores and a Food Lion all within a stone's throw of our property. One point two tenths mile up the road, a country store. Four point two miles, there are two more convenience stores. I don't want to see a Mechanicsville Pike or Midlothian Turnpike or even Nine Mile corridor in our residential area. I think it's going to be even more of a major impact on traffic. More congestion. We already have a problem getting onto Route 5 in the morning and evenings, when people are going to work and getting off from work.

Tractor trailers are a threat to anybody who uses Route 5 or New Market Road. This type of traffic, tractor trailer traffic has to increase to service a Food Lion and all these businesses on the corners. This creates, to me, a scenario of a major accident. We have two elementary schools in the area within a block or two, and all of those exit and enter onto New Market Road.

I feel like noise pollution. We have air traffic, approach to Richmond International Airport over our residential area. We have a fire station, which I'm happy to have. We have a recreation field with a PA system that goes from spring until fall. We have trucks hauling sand and gravel and dirt down Strath Road right adjacent to the property. We have construction noise from

Food Lion going on right now. We have Route 5 traffic noise. We can hear I-295 noise. Added noise associated with this type of business is going to create more of a problem, plus the trash pick up.

I'm concerned about rodents. We don't want to create a condition that invites rats. I already had one problem with a rat in my yard this summer. I feel like they came from the businesses that were already established.

I'm concerned about water pollution. We're on wells and septic tanks.

I'm concerned about underground gas tanks. They do leak. I know there are provisions to try to avoid all of this, but with leaks and spills do happen.

I'm concerned about the potential for increased crime in our area. More business you have, the more potential. FasMart has been robbed. The other convenience stores at the other end of the corridor have been robbed. We don't need that.

Mosquitoes are a problem in our area anyway, but I just feel like these holding ponds or drainage ponds, or whatever they want to call them and water runoff is just going to create more places for those to breed. I moved away to get away from these things, only to find the same thing happening.

My wife and I, we're not rich people. We've invested quite a bit into our home to make it comfortable, attractive, and maintenance free. I'm concerned about property values decreasing because of the business there that's so close. I do feel like moving would be an extreme hardship on me at my age.

In my 37 years as a high school teacher and 44 years as a high school coach, I always prided myself in being fair with the people I work with and being fair with my students. That's all I ask of this Board (sic). Be fair. I'd like to live by the golden rule. Do unto others as you would have them do unto you. Place yourself in my shoes. Look through these eyes from my perspective.

I would support office buildings or something that had normal working hours. I will not support Exxon in its request, nor the rezoning. I do support my neighbors, though. Whatever they deem to be in their best interests, I'm not going to hold them back. I just wanted to voice my opinion. I don't need any rebuttal or anything like that. Thank you.

Mr. Zehler - Mr. Rudicill, I have a question.

Mr. Rudicill - Yes sir.

Mr. Zehler - When you need bread and milk and cigarettes and gas and ice and sodas, where do you go to get it? You commented earlier about the FasMart and Carltons and Amoco.

Mr. Rudicill - I generally will go to Carlton's Country Store. It's 1.2 miles to get my bread or whatever. I very seldom ever frequent FasMart. I have no reason to. They're high.

Mr. Zehler - But you do your shopping close to home?

Mr. Rudicill - We do our shopping at Ukrops over on Laburnum, our major shopping, and we do our pickups at Carltons.

Mr. Zehler - You did mention that your house is right across from the fire company, I believe?

Mr. Rudicill - The back of it.

Mr. Zehler - When those fire engines go out, do they bother you at all insofar as the noise factor is concerned? Do you hear them?

Mr. Rudicill - Yes sir. But I'm glad to hear them, because I know they serve the community. They are there to help the community. If I need them, I'd be more than happy that they were there. I tolerate those kinds of noises, because they help the people in the community. Any other questions?

Mr. Zehler - No. That's fine.

Mrs. Wade - Which house is his?

Mr. Silber - I'm not sure. Is it this one right here (referring to plat)?

Mr. Zehler - That one. Is there anybody else to speak?

Ms. Freye - I just wanted to say that Coach Rudicill has been one of those neighbors who has been, I think, to every meeting and has been very open with us and talked with us and listened to us. He's been very patient with us. I think he's been a good neighbor. He's been hospitable to us and he has been a good neighbor to his other neighbors. I think that his concerns are legitimate concerns and I don't discount them at all. But I think that with the protections that we've built in, with the proffers that we've built in that are going to run with the land, with the fact that we're proffering these architectural and these signed plans, the fact that we're committing to work with the neighbors about what kind of fence, where it should be, all through the POD stage. I think that it builds in assurances that the neighborhood doesn't have right now. I think it does resolve the question about what's going to happen on that corner property maybe once and for all, so it doesn't have to be concerned about what's going to be there. So, I think, hopefully, his concerns will be addressed and that the protections are there to protect the neighbors, and I think that will not have a negative impact on the property values. With the investment that this company is putting into this, I think it will actually enhance the property values around there.

Mrs. Wade - Ms. Freye, what kind of lighting are they planning for the canopy - under the canopy? You mentioned parking lot lighting in here.

Ms. Freye - Generally, the lights are recessed and shine directly downward. Is that what you're asking?

Mrs. Wade - Basically. They can vary.

Mr. Silber - It's not proffered to do that, is it, Ms. Freye?

Ms. Freye - No. I don't think so, but that's the way we have represented it.

Mr. Silber - I'm some distance away from the elevation, but it looks as though they're projecting below the base of the canopy. I think that's the concern.

Ms. Freye - We were trying to work with the neighbors that they would not be directed outward. They would be directed downward so that we could get a half foot candle at the property lines. So, whatever we have to do to design the lights to accomplish that standard, is what we'll do.

Mr. Zehler - Mr. Secretary, is there a code requirement as far as that canopy and lighting is concerned?

Mr. Silber - No sir. Just from general practice, we try to get the canopies recessed so they actually do not project down below. There's a large difference when you travel to a site with a canopy when they're projecting below. You can see it from quite a distance. When they're recessed, they have a tendency illuminating directly below would be our recommendation.

Mr. Zehler - We have wattage requirements on free standing lights. Why don't we have wattage requirements on the canopies?

Mr. Silber - I don't know. I think, perhaps, the staff suited best to address that question is not here tonight. We do have site lighting standards, and this has come up before in some other convenience stores. We have addressed the intensity of lighting under and around canopies. I'm not addressing that right now, inasmuch as I'm addressing the visibility of canopy lighting from some distance off.

Ms. Freye - Mr. Zehler, we'd be glad to proffer that they would be recessed. That's what we represented to the neighborhood and we'd be glad to proffer that.

Mr. Zehler - I don't think the recess is a big problem. I know I'm familiar with the gasoline market. The owners like well lit properties because of the security reasons and the customers feel safe and secure. It appears in today's society, you're starting to see the glow effect instead of just the regular lit effect. You're starting to see them light them up like football fields. Some of them, if you notice in some of the newer locations, you'll see that effect. They're getting out of hand as far as the wattage. I think that's one of the concerns that we have, especially with this location being close to the residential as it is. We might want to look at something as far as wattage. What type of wattage that you're looking at.

Ms. Freye - Is that something that we can address with a lighting plan that's filed at the POD?

Mr. Zehler - Mr. Secretary.

Mr. Silber - I think we can address the intensity of the lighting at the time of the lighting plan. Yes. I still have concerns with the projection of light below the canopy.

Ms. Freye - Like I say, we would be willing to proffer that it would be recessed, and deal with the wattage with the lighting plan at POD.

Mr. Zehler - I will pass those concerns onto Mr. Donati before he makes a decision, so he will be aware of it all.

Ms. Freye - Thank you.

Mr. Silber - Ms. Freye, I also ask you on your first proffer where you're proffering the attached conceptual plan. I do have some concern that we have not had a chance to review this plan, or have other agencies review this plan. You're showing a number of access points. Mr. Bittner mentioned this in his presentation. This has become a growing concern of the County Manager's Office, as well, about proffered conditions with site layouts that have access and circulation issues that haven't always been reviewed and evaluated closely by staff. You may want to give some consideration to adding to that proffer something about the access, not at this point, addressing the access issues. We may want to say, "This is the attached concept plan that's being proffered, with the exception of the points of access as illustrated on this plan."

Ms. Freye - Well, I guess, Mr. Silber, I don't really understand why that's an issue, because we understand, if you'd put down what you'd like to have, is one thing. But, we understand that's a conceptual plan and it's going to be subject to change as we go through the POD process when those issues are going to be decided. Accepting this plan with this as a proffer that's conceptual is not agreeing to give us three accesses. There's nothing that indicates that. We're just showing that, if we got that, that was the configuration that we would envision. We know that we have to work with staff and VDOT about what accesses are actually going to be provided.

Mr. Silber - Then, perhaps, your statement to the record now would be a reflection of your willingness to evaluate that at some later point.

Ms. Freye - Yes sir.

Mr. Zehler - Mr. Secretary, I think they realize by the time Public Works gets done with them, they won't have that. It's, basically, a wish list, at this moment, and I think they're willing to accept the fact that they know changes are going to be made.

Mr. Silber - Okay. We've just recently been questioned quite heavily by the County Manager's staff about accepting concept plans that have access issues that later become a major problem. Sometimes the development community feels as though some promises were committed at the time of zoning, relative to access, that the County later is trying to change. So, as long as the applicant is publicly stating, for the record, that the number of access points here, basically, mean very little. That will be negotiated later. Then I can live with that.

Mr. Archer - All right, Mr. Secretary. Any further questions of Ms. Freye?

Mr. Zehler - Anybody else like to speak for or against the case?

Ms. Nelda Snider, Varina Beautification Committee - We'd like to offer a few comments. Before we do, may I have an absolute verification that, in the new proffer, this building, in brick, as shown, is definitely going to be the building?

Ms. Freye - Yes.

Ms. Snider - Wonderful. That was a concern to us. It was very important to us to have the architectural - a very fine example for us on Route 5. Our other major concern was the 50-foot buffer along Route 5. That seems to have been satisfied with minor intrusions. In light of these new proffers, we feel that this site is appropriate for this project. I'll make it short.

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

Mr. Silber - I had one question, if I could. The way I'm reading the 50-foot proffer is that you said they have minor intrusions. In this case I'm reading that they are allowing for dumpsters and storage tanks to be in the 50-foot...

Ms. Snider - The storage tanks are underground. They have a cement pad over them. We had hoped they could be landscaped over top with just the opening for filling. But I understand that can't be done. It might be worked out later that they would have some kind of lovely pots or removable things full of flowers that could be put there. We feel we can live with that in order to have the 50-foot landscaped buffer most of the way across and the storage tanks would be the worse place. We're assuming there will be only one driveway entrance and one tanker entrance to get to those fuel tanks to fill them. The dumpster is on Strath Road and it looks to be well shielded. It would be bricked in and matching split-face block. So, we find that acceptable. We're very happy the efforts that the developer and Ms. Freye have gone to in order to bring this so far from where it was at the beginning to where they really did take in the concerns of our Committee and the neighbors.

Mr. Archer - Thank you, Ms. Snider.

Ms. Snider - Thank you.

Mr. Archer - Any one else?

Man from Audience - Does she live in that neighborhood, sir?

Mr. Archer - I don't know.

Man from Audience - How could she live with it if she doesn't live in the neighborhood?

Ms. Snider - I don't live in the neighborhood.

Man from Audience - I do.

Mr. Archer - first. Mr. Zehler, I believe we need a motion to waive the time limits,

Mr. Zehler - I move we waive the time limit on the restated proffers.

Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer, that we waive the time limits. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent). Mr. Zehler.

Mr. Zehler - It's a unique situation, Mr. Chairman. In my travels, I talk to a lot of the citizens of Varina and I'm hearing, basically, a lot of the same things, "Why can't we get services to service our community and be close to our community and stay in our community? Why have I got to go to Southpark? Why have I got to go eight to ten miles down the road to do my shopping? This is a good example of the quality, I feel, that we are looking for in Varina. We have a lot of citizens here that are concerned. They're here to 12:30 a.m. quarter of 1:00 a.m. tonight. They feel that it's the same project. It's a good project. It's going to benefit our community. It's an additional service. I know a lot of you Commission members can't understand. This is the first car wash we've got in Varina. We haven't had a car wash. It's hard for y'all to believe. I'm talking about Varina, Route 5, in the Varina corridor. Downtown Varina. It's a unique situation and I feel like it's another service that's going to be able to serve us that we won't have to go ten or twelve miles to be able to have these services. It's a first class, quality...I've been in the service station business for 20 years. I've never seen another service station like this one. I think it's going to be a tribute to the community. I hope that everybody here tonight feels the same way, and I think we're all looking forward to it because it is a first class quality project.

We've got the setbacks. We've got the buffers. We're going to get the landscaping. I just think it's what we are all looking for and I think everybody here tonight feels the same way, other than Mr. Rudicil. I'm sorry about that, but as you said, "Beauty is in the eyes of the beholder." We all have our own set of eyes and we look at things in a different way. With that, I move that Case C-86C-97 be recommended to the Board for approval.

Mrs. Wade seconded the motion.

Mr. Archer - Motion made by Ms. Zehler, seconded by Mrs. Wade C-86C-97 Exxon Company, U.S.A. be recommended to the Board for approval. All those in favor say aye—all those opposed by saying nay. The vote is 4-1 (Ms. Dwyer voted no and Mr. Donati was absent).

Mr. Zehler - Thank you very much for coming. I appreciate it.

REASON: Acting on a motion by Mr. Zehler, seconded by Mrs. Wade, the Planning Commission voted 4-1 (one no and one absent) to recommend that the Board of Supervisors **accept the proffered conditions and grant** the request because it is appropriate business zoning in this area; it conforms to the recommendations of the Land Use Plan; and it is reasonable.

**P-2-98 Charles H. Rothenberg or James W. Theobald for Sprint PCS:** Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct a 195' high communications tower and related equipment on part of Parcel 277-A-7, containing 1,380 sq. ft., located at the southeast

corner of I-295 and Varina Road. The site is zoned A-1 Agricultural District and Airport Safety Overlay District.

Mr. Archer - P-2-98 Sprint PCS: Is there any one here in opposition to P-2-98? Mr. Yolton.

Mr. Yolton - Mr. Chairman, I'll try to be very brief. This tower proposal meets all the jurisdictional requirements in terms of setbacks and so forth. It is located next to an existing tower. The existing tower cannot accommodate this particular use because it's not high enough. And to make a long story short, the staff would not be opposed to the approval of this tower, subject to the conditions.

We have a change to one of our conditions, exactly like the other change that we had on the tower. That would be, that the applicant has agreed to the collocation of up to three additional users on this particular tower. With that, we would recommend approval.

Mr. Archer - Thank you, Mr. Yolton. Any questions of Mr. Yolton? No questions. No opposition. Mr. Zehler.

Mr. Zehler - I need Mr. Rothenberg just one time because we're going to work on that Condition 6 again.

Mr. Chuck Rothenberg - Mr. Chairman, members of the Commission, my name is Chuck Rothenberg and I'm here on behalf of Sprint. I'd be happy to give a presentation if you think that would be necessary or appropriate.

Mr. Zehler - If you will just explain No. 6, what we just received.

Mr. Rothenberg - The purpose of suggested Condition No. 6 is to confirm, for the County, Sprint's intent to admit up to three additional users on this tower.

Mr. Zehler - No more questions, Mr. Chairman.

Mr. Archer - Any questions by any other members of the Commission?

Mrs. Wade - So, you can put three more on a 150 foot tower, but only three more on a 195 foot tower?

Mr. Rothenberg - I'm sorry?

Mrs. Wade - You can never put more than four on? I mean this tower is 45 feet taller than the last tower that you were putting maybe four on.

Ms. Dwyer - I think it was three.

Mrs. Wade - Three more?

Ms. Dwyer - Three total.

Mrs. Wade - Three, all together. The other one was three and not four, total.

Mr. Rothenberg - That was a total of four.

Ms. Dwyer - Was it? Oh. The other one tonight. I'm sorry.

Mrs. Wade - Except this is 45-feet taller. I just wondered why you know you're putting on a 150-foot tower and four on 195-foot tower?

Mr. Silber - Mr. Rothenberg, how tall was the other tower?

Mr. Rothenberg - The other tower was also 190 feet, plus a 5-foot lightning rod.  
The same height.

Mrs. Wade - The other one we did tonight?

Mr. Rothenberg - Yes ma'am.

Mrs. Wade - Oh. I was thinking it was 150?

Ms. Dwyer - The other tower at this location was 150 feet.

Mr. Archer - The one's that's already there.

Mr. Zehler - It's there. It is at 150 feet.

Mr. Zehler - Somewhere, in one of the staff reports, it mentioned, "What if we had a 250-foot tower and how many could we get on that?" Did anyone suggest that?

Mr. Yolton - I think that was brought up at the last Commission meeting. One of the technical experts said that the height of the tower for this new PCS system is not that important because the propagation of the signal only covers a certain distance. So, really, I think what he said, and I'm just trying to paraphrase what he said, was that a 250 foot tower wouldn't necessarily be of any benefit to them.

Mr. Zehler - There is such thing as you can get the tower too high, and the signal is no good at the same time. They've got a certain level they've got to get in.

Mr. Yolton - The other thing I could mention is, once they go over 200 feet, they get into some FAA regulations about lighting and painting and so forth. So, they like to keep them under 200 feet.

Mr. Archer - Okay. Any other questions? Mr. Secretary, do we need to do anything to this Amended No. 6 in terms of waiving?

Mr. Zehler - It's not a proffer. Add it to the conditions. I'll take care of that,  
Mr. Chairman, in my motion.

Mr. Archer - All right. Mr. Zehler.

Mr. Zehler - I'm not really strong against this case, only because I don't want us to feel like we're setting precedents, putting a tower beside a tower. But if you had to put a tower beside a tower, I feel like this would be the location to put it because it's secluded. It's not going to interfere with anybody. It's not going to infringe on anybody's property rights. I have been working with the applicant and he's pretty much addressed my concerns. I just would like it to be known. I just hope we're not setting a precedence here that all of these tower companies think they're going to come back and put a tower beside a tower, because there's a right place for these towers. Fortunately, in this situation, it's the right location. So, with that, I move we recommend P-2-98 to the Board of Supervisors for approval with the six conditions and the revised new No. 6 condition that we were just given.

Mrs. Wade seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mrs. Wade that P-2-98 Sprint PCS be recommended to the Board for approval. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati was absent).

REASON: Acting on a motion by Mr. Zehler, seconded by Mrs. Wade, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **grant the requested revocable provisional use permit**, subject to the following conditions:

1. If the use of the tower for communication purposes is discontinued, the tower and all related structures shall be removed from the site within ninety (90) days.
2. Application for a building permit to install the tower must be made within one year after the Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time is granted by the Director of Planning upon written request by the applicant.
3. The applicant shall obtain approval from the Henrico County Planning Commission should the FAA require the addition of standard obstruction marking and lighting (i.e. red lighting and orange and white striping) to the tower. The applicant shall notify the Henrico County Planning Director prior to making any changes to the original galvanized finish of the tower.
4. When site construction is initiated, the applicant shall complete requirements prescribed by Chapter 10 of the Henrico County Code. In particular, land disturbance of more than 2,500 square feet will require that construction plans include a detailed drainage and erosion control plan prepared by a professional engineer certified in the State of Virginia. Ten (10) sets of the construction plans shall be submitted to the Department of Public Works for approval.
5. A landscaping plan for the purpose of screening the base of the tower from view shall be submitted to the Planning Office for approval prior to the issuance of a building permit for the tower. The Director of Planning may waive the enforcement of this condition if it is deemed unnecessary.
6. The applicant agrees to allow the collocation of up to 3 additional users at this site in accordance with the provisions of the Letter of Intent to Permit Collocation on Communications Tower filed by the applicant with this request.

7. The operation of the business shall not cause loitering, criminal assaults, or public nuisance or unsafe conditions in the area surrounding the business.

The Planning Commission recommendation was based on its finding that the Provisional Use Permit it is reasonable; it would provide added services to the community; and it would not be expected to adversely affect public safety, health or general welfare.

**P-3-98 Charles H. Rothenberg or James W. Theobald for Sprint PCS:**  
Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct a 190' high communications tower and related equipment on part of Parcel 165-A-74NR, containing 2,440 sq. ft., located at the southeast corner of Drybridge Road and Drybridge Court. The site is zoned M-1C Light Industrial District (Conditional) and Airport Safety Overlay District.

Mr. Yolton - Mr. Chairman, members of the Commission, the staff feels that this also is an appropriate location for a tower. It is in an industrial area. It would not affect any of the adjacent property. It meets all the jurisdictional requirements, in terms of setbacks and so forth. I understand that Mr. Rothenberg is willing to offer the same revised condition on this case, so that three additional users would be permitted on this tower. Oh, we've got a change. Two additional users on this particular tower.

Mr. Zehler - I think Mr. Rothenberg can explain the reason for this.

Mr. Yolton - He's going to have to, because I don't know.

Mr. Archer - While Mr. Rothenberg is coming, is there any opposition to this case? Mr. Rothenberg.

Mr. Charles Rothenberg - Mr. Chairman, ladies and gentlemen, Chuck Rothenberg for Sprint. The purpose behind limiting the additional collocators to two on this site is because Sprint has already received notice from their consultants that the FAA will very likely limit this tower to 170 feet. That's going to curtail the collocation possibilities.

Mr. Archer - Any questions of Mr. Rothenberg? Mr. Zehler.

Mr. Zehler - I had concerns about this one also, but I drove down there. I knew there was some residential, and I wanted to find out exactly where it was. On the map it's between the interstate and the railroad tracks. There is a good line of trees for a good buffer there, as well as a railroad track. So, I kind of relieved myself as far as riding down there and taking a look at it. So, therefore, I felt like there wasn't a problem. It is well screened from the residents there. As you can see, (referring to rendering), the M-1 property that it's on, it's a newly developed piece of property, which I see the owners are here tonight. I'm sure he's not going to do anything that is going to be detrimental to his property and his property values. So, with that, I move that P-3-98 be recommended to the Board for approval.

Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer that P-3-98 Sprint PCS be recommended to the Board for approval. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

REASON: Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **grant the requested revocable provisional use permit**, subject to the following conditions:

1. If the use of the tower for communication purposes is discontinued , the tower and all related structures shall be removed from the site within ninety (90) days.
2. Application for a building permit to install the tower must be made within one year after the Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time is granted by the Director of Planning upon written request by the applicant.
3. The applicant shall obtain approval from the Henrico County Planning Commission should the FAA require the addition of standard obstruction marking and lighting to the tower (i.e., red lighting, and orange and white striping). The applicant shall notify the Henrico County Planning Director prior to making any changes to the original galvanized finish of the tower.
4. When site construction is initiated, the applicant shall complete requirements prescribed by Chapter 10 of the Henrico County Code. In particular, land disturbance of more than 2,500 square feet will require that construction plans include a detailed drainage and erosion control plan prepared by a professional engineer certified in the State of Virginia. Ten (10) sets of the construction plans shall be submitted to the Department of Public Works for approval.
5. A landscaping plan for the purpose of screening the base of the tower from view of public streets, shall be submitted to the Planning Office for approval prior to the issuance of a building permit for the tower. The Director of Planning may waive the enforcement of this condition if it is deemed unnecessary.
6. The applicant agrees to allow the collocation of up to 2 additional users at this site in accordance with the provisions of the Letter of Intent to Permit Collocation on Communications Tower filed by the applicant with this request.

The Planning Commission recommendation was based on its finding that the Provisional Use Permit it is reasonable; it would provide added services to the community; and it would not be expected to adversely affect public safety, health or general welfare.

**C-5-98 Rob Hargett for Oaklawn Plaza, Inc.:** Request to rezone from A-1 Agricultural District to B-3 Business District, part of Parcel 172-A-22, described as follows:

Beginning at a point on a line 73.08' west of the western line of S. Laburnum Avenue, thence S. 76° 00' 17" W., 42.62' to a point; thence N. 89° 06' 40" W., 105.20' to a point; thence N. 53' 20" E., 46.08' to a point ;thence S. 75° 36' 58" E., 150.55' to the place and point of beginning, containing .08 acre.

Mr. Archer -  
this case?

C-5-98 Oaklawn Plaza, anybody in the audience in opposition to

Mr. Zehler - Mr. Chairman, do you need to give a report on this. This is strictly a housekeeping case. How this happened the way it happened, nobody seems to know, but this parcel has been used for Aunt Sarah's Pancake House. It was previously a service station. It's been a commercial use for years. Just some how, some way this little strip, whether it was through Bill Talley Ford or through this, years ago, was just overlooked and was not zoned. So, it is strictly housekeeping. It's to provide for additional parking, and a good possibility that CVS is going to come in and demolish that building and put a drive-through in there. So, we will see a POD on that in the future. So, with that, I move that C-5-98 be recommended to the Board for approval.

Mrs. Wade seconded the motion.

Mr. Archer - Moved by Mr. Zehler, seconded by Mrs. Wade that C-5-98 Oaklawn Plaza, Inc. be recommended to the Board for approval. All those in favor say aye— all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

REASON: Acting on a motion by Mr. Zehler, seconded by Mrs. Wade, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **grant** the request because it reflects the Land Use Plan and future use and zoning of the area; it continues a form of zoning consistent with the area; and it would provide for appropriate development.

**P-4-98 James W. Theobald for Mulligan's Sport Grille:** Request for a provisional use permit in accordance with Sections 24-58.2(a) and 24-122.1 of Chapter 24 of the County Code to extend hours of operation until 2:00 a.m. daily for a restaurant on Parcel 70-A-21B, containing 2.029 acres, located on the south line of proposed Shrader Road 890' west of the intersection of Shrader and Hungary Spring Roads. The site is zoned B-3C Business District (Conditional).

Mr. Bittner - I have one thing to add. I won't made a long presentation.

Mr. Archer - Is there any opposition? No opposition.

Mr. Bittner - The only thing I'd like to add is, in addition to the six conditions we're recommending in the report, we are also recommending the addition of Condition 7, which would read, "The operation of the business shall not cause loitering, criminal assaults, or public nuisance or unsafe conditions in the area surrounding the business." With that, I'd be happy to answer any questions you have.

Mr. Archer - Are there any questions for Mr. Bittner? Is the applicant present?

Mr. Zehler - Do we need to hear from him?

Mr. Archer - I don't know.

Mr. Zehler - Mr. Vanarsdall, are you awake? Has he got his hearing aid up?

Mr. Vanarsdall - I don't think we need to hear from him. Thank you anyway. Thank you, Mr. Silber. I didn't have any problem with this case when it came up last August.

Everybody on the Commission voted for it, so it must not have had any. It was denied by the Board, and then the Board asked for it to come back to us. It has been strengthened somewhat. It's security until 2:00 o'clock every time the restaurant is open. We have not dropped anything. We added that Condition No. 7. Also, we didn't put it in the conditions, or proffers, but the Planning Staff will provide the Board of Supervisors with a six-month report of police calls. Also, Mulligans dropped the idea of a third pool table. So, they do not come under a billiard parlor. So, we did not have to amend the proffer that was on the original 1988 zoning case. So, with that, I recommend to the Board of Supervisors that P-4-98 be approved.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Ms. Zehler that P-4-98 Mulligan's Sports Grille be recommended to the Board for approval. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Zehler, the Planning Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **grant the requested revocable provisional use permit**, subject to the following conditions:

1. Administrative approval of a landscaping plan, an additional parking lot lighting plan, and a surveillance/security plan, all in accordance with County ordinances and policies, shall be obtained for this site prior to a Certificate of Occupancy being obtained.
2. The business shall not be permitted to operate beyond 2:00 a.m. daily.
3. Customers shall be required by management to leave the premises, including parking areas, immediately after the close of business.
4. The interior and exterior of the business shall contain a security camera and video system. The applicant shall consult with the Police Department when formulating the plan for this security system. The security plan shall include the following items:
  - a. Interior and exterior surveillance cameras in operation from 6:00 p.m. until the last employee leaves the premises nightly.
  - b. Tapes recording activities observed by the surveillance cameras preserved for a period of six (6) months. Authorized representatives of the Henrico County Police Department or the Henrico County Planning Department shall have access to such tapes upon request.
5. At least two (2) uniformed security officers shall be on duty from 9:00 p.m. until the close of business and their duties shall include monitoring activity in the parking area. These security officers shall either be off duty police officers or licensed security guards employed by a licensed security service company.
6. No dumpster service shall take place between the hours of 9:00 p.m. and 7:00 a.m.
7. The operation of the business shall not cause loitering, criminal assaults or public nuisance or unsafe conditions in the area surrounding the business.

Mr. Vanarsdall - Sorry, about the late hour, Mark. Thank you, Mr. Silber.

Mr. Silber - The next item on the agenda is to set a public hearing on the Capital Improvements Program. It would be for February 12, 1998. They're on a fairly strict time schedule. So, we would hope that the Commission would set this as a public hearing. If you will recall, we did this; it wasn't that long ago. We did it back I believe last July or August. We will be doing it again. This is when we invite the various department heads and the County Manager comes and briefs us on the CIP program.

Ms. Dwyer - Do we do it every year?

Mr. Silber - We do it once a year.

Mr. Zehler - What kind of case load do we have in February?

Ms. Dwyer - It doesn't look that bad.

Mr. Silber - It's more reasonable than tonight.

Mr. Merrithew - Seven new ones, and probably five deferrals from a couple months ago.

Mrs. Wade - Could we do it early so that the staff people could just stay after work and then go home?

Mr. Archer - You'd have to coordinate that with the Manager's Office.

Mr. Zehler - If it's in February, we won't be in the new room. We'll be here.

Mr. Silber - We'll still be here. The last time we did this was at a POD meeting.

Mr. Zehler - In the morning.

Mrs. Wade - We usually do it in the daytime.

Ms. Dwyer - Maybe we should just meet earlier? Is that what you're suggesting?

Mrs. Wade - Yes, basically.

Mr. Zehler - Is that open to the public?

Mr. Silber - It is a public hearing. It's open to the public; an advertised public hearing. The dilemma is, we really don't think it would last longer than 30 to 45 minutes maybe. If we hold it like at 5:00, we'd be waiting around until 7:00. We could do it at 6:00. The staff would still have to hang around.

Mrs. Wade - Well, surely some of them are still here?

Ms. Dwyer - It would be better than hanging around until 7:00 p.m.

Mr. Merrithew - Sure, early. We're still here at 6:00.

Mr. Zehler - It's not going to take that long. We don't have that much caseload. We can just go ahead and do it at 7:00 o'clock.

Mrs. Wade - Okay.

Mr. Zehler - Just do it at 7:00.

Ms. Dwyer - You say, there's not much caseload, but you know when you say that...

Mr. Zehler - I've got two cases. I just popped through five in 20 minutes. So, I'm ready to go.

Ms. Dwyer - Two of them were towers. One of them was an old parking lot.

Mr. Silber - Would you like to do it at 6:30 p.m.?

Mr. Archer - 6:30, Dave, would that work?

Mr. Zehler - I have no problem. I'll do it anytime you want to do it.

Mr. Archer - Let's do 6:30 p.m.

Mrs. Wade - You all throw these times around. That's why I got confused.

Mr. Vanarsdall - Does that mean we get a sandwich?

Mr. Zehler - Not here. I don't want to do that. I don't want everybody watch me eat.

Mr. Silber - 6:30 p.m. Do we have a motion?

Mr. Zehler - So move, Mr. Chairman.  
Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer, that we have the Capital Improvements Program hearing February 12, 1998 at 6:30 p.m.. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

Mr. Zehler - Mr. Chairman, I move we take the December 11<sup>th</sup> minutes, and let's defer them until our next meeting, because we didn't get them until the last minute.

Mr. Silber - I understand.

Mr. Zehler - Mine was left at the doorstep night before last.

Mr. Silber - One month.

Mr. Zehler - I called in my corrections. I did mine. Can we do it at our next meeting, at POD?

Mr. Silber - Zoning Meeting.

Mr. Zehler - Let's do it at POD. We can have it ready by POD?

Mrs. Wade - Oh, sure.

Mr. Zehler - POD will be fine.

Mrs. Wade - I got half way through.

Mr. Vanarsdall - CIP is at 6:30 p.m.?

Mr. Silber - 6:30 p.m. on the 12<sup>th</sup>. You're deferring the December 11<sup>th</sup> minutes to the January 27, 1998 POD meeting.

Two other announcements if I could. I'll try to be brief. One is, there was a comment about the absence of Jim Lehmann tonight. Someone saw that he was still listed on the staff report. We made a slight reorganization in the Office. We're trying to deal with some of our technology automation needs in the office. So, we had a retirement. Elle Beebe retiring recently. She was one of our Planning technicians. So, it was a good opportunity to reclassify that position to a Planner position. We transferred Jim into that, so he's going to be doing automation things; special projects stuff. He is now in the Code Administration Division with Allen Webb. So, he now has actually served in three divisions. So, we will be filling that position. So, we currently have a vacant Planner II position in Comp Planning.

Mr. Zehler - Shall I apply for it? I think I'm qualified.

Mr. Silber - Absolutely. Go for it. The other announcement I wanted to make is a reminder, the 21<sup>st</sup> of January, we have a 6:30 work session on the Office/Service II Ordinance amendment.

Mrs. Wade - That's where I got the 6:30 p.m. Okay.

Mr. Zehler - The eastern government center.

Mr. Silber - Glen Echo Building.

Mr. Zehler - We've got the 7:00 o'clock Nine Mile Road Study?

Mr. Silber - Next Wednesday, the 21<sup>st</sup>.

Mr. Vanarsdall - We'll, go to Nine Mile Road.

Mr. Silber - That's right. Then at 7:00 o'clock, we do the public hearing on Nine Mile Road. So, I strongly encourage you to be prompt, because at 6:30 p.m., we need to move right into the work session.

Mr. Vanarsdall - 6:30 is going to be down there?

Mr. Silber - 6:30 is down there.

Mrs. Wade - I wrote 6:30, too, and everybody kept saying 7:00 o'clock.

Mr. Silber - 6:30 is the work session; 7:00 o'clock is the advertised public hearing.

Mr. Zehler - What's the work session for?

Mr. Silber - Office/Service II.

Mr. Zehler - Office/Service II.

Ms. Dwyer - You've got a meeting on that, too.

Mr. Zehler - I'm getting something every month on that.

Mr. Archer - If there's no further business, it's 12:59 a.m. I'd like for us to get out of there before 1:00 o'clock.

Acting on a motion by Mr. Vanarsdall, seconded by Mr. Archer, the Planning Commission adjourned its meeting at 12:59 a.m. on January 16, 1998.

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

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Randall R. Silber, Acting Secretary