

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,  
2 Virginia, held in the Board Room of the County Administration Building, Parham and  
3 Hungary Spring Roads at 4:00 p.m., on January 14, 1999, Display Notice having been  
4 published in the Richmond Times-Dispatch on Thursday, December 24, 1998, and Thursday,  
5 December 31, 1998.

6

7 Members Present: Elizabeth G. Dwyer, C.P.C., Chairwoman, Tuckahoe  
8 Ernest B. Vanarsdall, C.P.C., Vice-Chairman Brookland  
9 C. W. Archer, C.P.C., Chairman, Fairfield  
10 Mary L. Wade, Three Chopt  
11 David A. Zehler, C.P.C., Varina  
12 James B. Donati, Jr., Board of Supervisors, Varina  
13 John R. Marlles, AICP, Secretary, Director of Planning,  
14

15

16 Others Present: Randall R. Silber, Assistant Director of Planning  
17 John Merrithew, AICP, Principal Planner  
18 Mark Bittner, County Planner  
19 Nancy Gardner, County Planner  
20 Jo Ann Hunter, AICP, County Planner  
21 Kevin Wilhite, County Planner  
22 Judy Thomas, Recording Secretary

23

24 Mr. Archer - The Planning Commission will come to order. Good afternoon,  
25 everyone.

26

27 Mr. Vanarsdall - Good afternoon, Mr. Chairman.

28

29 Mr. Archer - Welcome to the 11 minute past 4:00 meeting of the Planning  
30 Commission. Is there any one present from the press? All right. I'll turn it over to our  
31 Secretary, Mr. Marlles, for requests for deferrals and withdrawals.

32

33 Mr. John Marlles - Thank you, very much, Mr. Chairman. Mr. Merrithew is going to  
34 review the list of deferrals and withdrawals this afternoon.

35

36 Mr. John Merrithew, Principal Planner - Thank you, Mr. Secretary. Mr. Chairman, we have  
37 several deferrals on all four hours of our agenda. The first, beginning in the Varina District on  
38 the 4:00 o'clock agenda, C-70C-98:

39

40 **C-70C-98** James W. Theobald for Payne 13, L.C. and Redford 131, L.C.:  
41 Request to conditionally rezone from A-1 Agricultural District to M-1C Light Industrial District  
42 (Conditional) and M-2C General Industrial District (Conditional), part of Parcels 186-A-23 and  
43 24 and part of Parcel 197-A-22, containing 103.793 acres (M-1C, 33.882 acres; M-2C, 69.92  
44 acres), located on the south line of Technology Boulevard approximately 0.25 miles east of its  
45 intersection with Memorial Drive. An industrial use is proposed. The use will be controlled by  
proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Rural

46 Residential, not exceeding 1.0 unit net density per acre, and Environmental Protection Area.  
47 The site is also in the Airport Safety Overlay District.

48  
49 They have requested a deferral until February 11, 1999.

50  
51 Mr. Archer - Is there any one here in opposition to the deferment of C-70C-98  
52 to what was it John; February?

53  
54 Mr. Merrithew - February 11<sup>th</sup>.

55  
56 Mr. Archer - February 11, 1999. No opposition. Is there a motion?

57  
58 Mrs. Quisenberry - Mr. Chairman, I'd like to move that we defer this case to February  
59 11, 1999.

60  
61 Ms. Dwyer seconded the motion.

62  
63 Mr. Vanarsdall - And add "at the applicant's request."

64  
65 Mrs. Quesinberry - Thank you. At the applicant's request.

66  
67 Mr. Archer - We've all been through that. Motion by Mrs. Quesinberry, and  
68 seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay. The  
69 vote is 5-0 (Mr. Donati abstained).

70  
71 Mr. Vanarsdall - Mrs. Quesinberry, the reason we do that is because they pay us a  
72 fee. If it's something we do, then the County doesn't get the fee.

73  
74 Mr. Merrithew - Thank you, Mr. Chairman. Mr. Chairman, the second case on  
75 the 4:00 o'clock agenda, C-71C-98.

76  
77 **C-71C-98 James W. Theobald for Payne 13, L.C. and Redford 131, L.C.:**  
78 Request to conditionally rezone from A-1 Agricultural District to M-1C Light Industrial  
79 District (Conditional), part of Parcels 186-A-22, 23 and 24, containing 26.104 acres, located  
80 on the north line of Technology Boulevard approximately 200' east of its intersection with  
81 Memorial Drive. An industrial use is proposed. The use will be controlled by proffered  
82 conditions and zoning ordinance regulations. The Land Use Plan recommends Rural  
83 Residential, not exceeding 1.0 unit net density per acre. The site is also in the Airport Safety  
84 Overlay District.

85  
86 They've also asked for a deferral until February 11<sup>th</sup>.

87  
88 Mr. Archer - Is there opposition to deferment of C-71C-98 to February 11<sup>th</sup>?  
89 No opposition. Mrs. Quesinberry.

90

91 Mrs. Quesinberry - Mr. Chairman, I'd like to move that we defer this case to  
92 February 11<sup>th</sup> at the applicant's request.

93  
94 Mr. Vanarsdall seconded the motion.

95  
96 Mr. Archer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
97 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
98 abstained).

99  
100 Mr. Merrithew - Mr. Chairman, the next case, C-72C-98:

101  
102 **C-72C-98 James W. Theobald for Bradley T. Marshall, et al:** Request to  
103 conditionally rezone from A-1 Agricultural District to M-1C Light Industrial District  
104 (Conditional) part of Parcel 186-A-22, containing 19.173 acres, located on the south line of  
105 Technology Boulevard approximately 100' east of its intersection with Memorial Drive and on  
106 the east line of Memorial Drive approximately 100' south of its intersection with Technology  
107 Boulevard. An industrial use with potential retail is proposed. The use will be controlled by  
108 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Rural  
109 Residential, not exceeding 1.0 unit net density per acre.

110  
111 They, too, have requested a deferral until February 11<sup>th</sup>.

112  
113 Mr. Archer - Is there opposition of deferment of C-72C-98 Bradley T. Marshall?  
114 Mrs. Quesinberry.

115  
116 Mrs. Quesinberry - Mr. Chairman, I'd like to move that we defer this case until  
117 February 11<sup>th</sup> at the applicant's request.

118  
119 Mr. Vanarsdall seconded the motion.

120  
121 Mr. Archer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
122 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
123 abstained).

124  
125 Mr. Merrithew - Thank you, Mr. Chairman. Next case, C-73C-98:

126  
127 **C-73C-98 James W. Theobald for W. A. Robins, et al, Redford 131, L.C.,**  
128 **Edward M. Luck, Gerald A. Crigger:** Request to conditionally rezone from A-1 Agricultural  
129 District to R-5AC General Residence District (Conditional) Parcels 197-A-21A, 21B (part),  
130 21C and 22 (part), Parcels 197-1-1-6 (part), 7 and 7A, and Parcels 197-4-A-1, 2 and 3,  
131 containing 58.214 acres, located on the north line of Portugee Road (beginning in the Capes of  
132 Portugee subdivision) approximately 280' east of the intersection of Portugee Road and  
133 Memorial Drive and on the east line of Memorial Drive (beginning in the Gaulding and Orange  
134 subdivision) approximately 1890' north of the intersection of Portugee Road and Memorial  
135 Drive. A zero lot line single family residential subdivision is proposed. The R-5A District  
136 permits densities up to 6.0 units gross density per acre. The Land Use Plan recommends Rural

137 Residential, not exceeding 1.0 unit net density per acre, and Environmental Protection Area.  
138 The site is also in the Airport Safety Overlay District.

139  
140 They, too, have requested a deferral until February 11, 1999.

141  
142 Mr. Archer - Is there opposition to deferment of C-73C-98? We have  
143 opposition to the deferral. Could you come up, sir, please. We need you up at the  
144 microphone to state your name and address.

145  
146 Mr. Mike Crigger - I live down in this area. How many times can he defer this? I'm  
147 not sure how the program runs. It got deferred once. And now its being deferred. How many  
148 times can they get a deferral?

149  
150 Mr. Archer - I don't know there's a definitive number of times, is it? There's  
151 no limits to the times the applicant can request a deferral. They have to pay a fee, I believe,  
152 every time he does.

153  
154 Mr. Crigger - Does he? It's kind of hard getting everyone together each time  
155 for one of these and coming down here at the last minute. Sometimes you can come together  
156 and sometimes you can't. It makes it extremely hard for us. That's all. That would be all  
157 right.

158  
159 Mr. Archer - Mr. Theobald will be in touch with you, sir, to give you some  
160 information on what may happen at the next time and you'll know whether or not to come.

161  
162 Mrs. Quesinberry - Can you see if Mr. Crigger would take my number, too, so he  
163 can call me.

164  
165 Mr. Archer - Also Mrs. Quesinberry.

166  
167 Mrs. Quesinberry - Here's a card, Mr. Crigger, if you want to come and pick it up.

168  
169 Mr. Archer - Okay, we still need a motion.

170  
171 Mrs. Quesinberry - Mr. Chairman, I'd like to move that we defer this case until  
172 February 11<sup>th</sup> at the applicant's request.

173  
174 Mr. Vanarsdall seconded the motion.

175  
176 Mr. Archer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
177 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
178 abstained).

179  
180 Mr. Merrithew - Mr. Chairman, that was C-73C-98 as I recall? Correct?  
181 Mr. Archer - Yes sir.

182

183 Mr. Merrithew - Thank you. The next case, C-55C-98.

184

185 **C-55C-98** James W. Theobald for Roy B. Amason: Request to conditionally  
186 rezone from A-1 Agricultural District to B-2C Business District (Conditional), Parcel 260-A-36,  
187 containing 3.87 acres, located at the northeast corner of the intersection of New Market Road  
188 (Route 5) and Long Bridge Road. A business use is proposed. The use will be controlled by  
189 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Prime  
190 Agriculture. The site is also in the Airport Safety Overlay District.

191

192 They've requested a deferral until February 11<sup>th</sup>.

193

194 Mr. Archer - Okay. Is there opposition to deferment of C-55C-98? No  
195 opposition. Mrs. Quesinberry,

196

197 Mrs. Quesinberry - Mr. Chairman, I'd like to move that we defer this case until  
198 February 11<sup>th</sup> at the applicant's request.

199

200 Ms. Dwyer seconded the motion.

201

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

205

206 Mr. Merrithew - Thank you, Mr. Chairman. The next case, C-56C-98.

207

208 **C-56C-98** James W. Theobald for Roy B. Amason: Request to conditionally  
209 rezone from A-1 Agricultural District to R-1C, R-2AC and R-3AC One Family Residence  
210 Districts (Conditional), RTHC Residential Townhouse District (Conditional), R-5C and R-6C  
211 General Residence Districts (Conditional), O-2C Office District (Conditional), B-2C Business  
212 District (Conditional) and C-1 Conservation District, Parcels 240-A-17, 250-A-48, 49, and  
213 51A, and 251-A-4A, and 260-A-28, containing 633.61 acres, generally located along the east  
214 line of Turner Road between New Market Road (Route 5) and Camp Holly Drive; along the  
215 north line of New Market Road (Route 5) from Turner Road to Camp Hill Road and from  
216 Kingsland Road to Long Bridge Road; along the northwest line of Long Bridge Road to its  
217 intersection with Yahley Mill Road and along the west side of Yahley Mill to the Virginia  
218 Power easement. A mixed use planned community is proposed. The R-1 District permits  
219 densities up to 1.74 units gross density per acre. The R-2A District permits densities up to  
220 3.23 units gross density per acre. The R-3A District permits densities up to 4.59 units gross  
221 density per acre. The RTH District permits densities up to 9.00 units gross density per acre.  
222 The R-5 District permits densities up 14.52 units gross density per acre. The R-6 District  
223 permits densities up to 19.80 units gross density per acre. The office and business uses will be  
224 controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan  
225 recommends Prime Agriculture and Environmental Protection Area. The site is also in the  
226 Airport Safety Overlay District.

227

228 Mr. Merrithew - They have requested a deferral until February 11, 1999.

229  
230 Mr. Archer - Is there opposition to deferment of C-56C-98? Mrs.  
231 Quesinberry.

232  
233 Mrs. Quesinberry - Mr. Chairman, I'd like to move that we defer this case until  
234 February 11<sup>th</sup> at the applicant's request.

235  
236 Ms. Dwyer seconded the motion.

237  
238 Mr. Archer - Motion made by Mrs. Quesinberry, seconded Ms. Dwyer. All  
239 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

240  
241 Mr. Merrithew - Thank you, Mr. Chairman.

242  
243 **Deferred from the December 10, 1998 Meeting:**  
244 **C-78C-98 James W Theobald for Laburnum Retail Center Associates, LLC:**  
245 Request to conditionally rezone from A-1 Agricultural District to B-2C Business District  
246 (Conditional), Parcel 214-A-36 and part of Parcel 214-A-45A, containing 5.951 acres, located  
247 on the west side of New Market Road (State Route 5) between S. Laburnum Avenue and  
248 Burning Tree Road. A convenience retail/office development is proposed. The use will be  
249 controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan  
250 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre and Environmental  
251 Protection Area. The site is also in the Airport Safety Overlay District.

252  
253 Mr. Merrithew - Thank you, Mr. Chairman. I would point out that C-78C-98  
254 James W Theobald for Laburnum Retail Center Associates, which was a request to rezone from  
255 A-1 Agricultural to B-2C Business District at the corner of Laburnum Avenue and Rout 5 and  
256 Burning Tree Road has been withdrawn by the applicant.

257  
258 Our next request for deferral is C-83C-98.

259  
260 **C-83C-98 Scott D. Stolte for Lifestyle Homes of Four Mile Run, L.L.C.:**  
261 Request to conditionally rezone from R-2AC One Family Residence District (Conditional) to R-  
262 3AC One Family Residence District (Conditional), Parcels 238-2-A-22 to 24, being part of Four  
263 Mile Run Subdivision Section A, Parcels 227-5-D-28, 29 and 100; 227-2-E-2 to 5 and 100; 238-  
264 2-C-12 to 34; 238-2-D-1 to 27; 238-2-E-1; and 238-2-G-1 to 23, being Four Mile Run  
265 Subdivision, Section B; part of Parcel 238-A-31 and Parcel 238-A-38, containing approximately  
266 89.00 acres, located approximately 550' east of the intersection of New Market Road (State  
267 Route 5) and Doran Road. A single family subdivision is proposed. The R-3A District permits  
268 up to 4.59 units gross density per acre. The Land Use Plan recommends Suburban Residential  
269 1, 1.0 to 2.4 units net density per acre, and Environmental Protection Area. The site is also in  
270 the Airport Safety Overlay District.

271  
272 They've requested a deferral to February 11, 1999.

273

274 Mr. Archer - Okay. Is there any one here opposed to the deferment of C-83C-  
275 98? Mrs. Quesinberry.  
276  
277 Mrs. Quesinberry - Mr. Chairman, I'd like to move that we defer this case until  
278 February 11<sup>th</sup> at the applicant's request.  
279  
280 Mr. Vanarsdall seconded the motion.  
281  
282 Mr. Archer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
283 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
284 abstained).  
285  
286 Mr. Vanarsdall - I don't guess it makes any difference. On the Board (referred to  
287 deferral list on the screen), it has it is in the Brookland District. It is in the Varina District.  
288  
289 Mr. Archer - It is in Varina, is it not?  
290  
291 Mr. Merrithew - It is in Varina, sir. Yes sir. It's in Varina on my agenda.  
292  
293 Mr. Archer - Next. Mr. Merrithew.  
294  
295 Mr. Merrithew - That's all of the deferrals I have for the 4:00 o'clock agenda, Mr.  
296 Chairman. I would like to point out on the rest of the deferrals that are on your screen and up  
297 on the wall here, the Buckley-Shuler Properties deferral in the Three Chopt District, they  
298 have, in fact, requested a deferral until March 11<sup>th</sup>, in case anybody is interested in that.  
299  
300 Unless, you'd like me too, I could run through it, otherwise, that's all I have.  
301  
302 Mr. Archer - Okay. Thank you, Mr. Merrithew. I was remiss in not  
303 introducing to those of you who may not know Mrs. Debra Quesinberry who is the new  
304 Planning Commissioner from the Varina District. Mrs. Quesinberry, I apologize.  
305  
306 Mrs. Quesinberry - Thai's quite all right, and good evening, everyone.  
307  
308 Mr. Archer - I think you've got the deferral part down by now.  
309  
310 Mrs. Quesinberry - This part, I know, how to do this. Anybody else wants to defer  
311 in Varina, do it now.  
312  
313 Mr. Archer - Okay. I think the next item on the agenda, Mr. Secretary, is the  
314 election of officers, is it not?  
315  
316 Mr. John Marlles - That is correct, Mr. Chairman.  
317  
318 Mr. Archer - All right. And for that portion of the program, I will turn my  
319 seat over to the Secretary.

320  
321 Mr. John Marlles, Secretary - It is a pleasure for me to be able to handle this portion of the  
322 meeting. For the citizens in the audience, the first meeting of the year is when the Planning  
323 Commission elects its Chairman and Vice-Chairman. So, at this point in the meeting, we will  
324 conduct the election. I'd like to open the floor for nominations for Chairman of the Planning  
325 Commission for 1999.  
326  
327 Mr. Vanarsdall - Mr. Secretary, I make a motion that we elect Mrs. Elizabeth  
328 Dwyer to take us down the road for 1999 to be Chairman.  
329  
330 Mrs. Wade - Second, if one's needed.  
331  
332 Mr. Marlles - Okay. We have a motion by Mr. Vanarsdall, and seconded by  
333 Mrs. Wade to nominate Mrs. Dwyer for Chairman. Is there a motion to close the nomination?  
334  
335 Mr. Vanarsdall - So move, Mr. Chairman.  
336  
337 Mr. Archer - Second.  
338  
339 Mr. Marlles - Mr. Archer seconded the motion. It's moved and seconded that  
340 we close nominations. All in favor of Mrs. Dwyer as Chairman of the Planning Commission,  
341 please signify by saying aye. All those opposed by saying nay. The vote is unanimous.  
342  
343 Is there a motion to nominate Vice-Chairman of the Commission.  
344  
345 Mrs. Wade - I'd like to nominate Mr. Ernest Vanarsdall for Vice-Chairman of  
346 the Commission.  
347  
348 Mr. Marlles - Is there a second?  
349  
350 Mr. Archer - I second that motion.  
351  
352 Mr. Marlles - Motion was made by Mrs. Wade to elect Mr. Vanarsdall for  
353 Vice-Chairman. That was seconded by Mr. Archer. All those in favor say aye—all those  
354 opposed by saying nay. Okay. Very good. I'd like to congratulate both of you, new  
355 Chairwoman and Vice-Chairman.  
356  
357 Ms. Dwyer - Is it time for my acceptance speech now? Mr. Merrithew said  
358 we've had so many deferrals, I could extend my 30-minute acceptance speech to an hour.  
359 Might as well settle in. Thank you very much. I appreciate the opportunity to serve in this  
360 capacity.  
361  
362 Mr. Vanarsdall - So do I. I thought for a minute we were combining them.  
363  
364 Ms. Dwyer - Then the women would really be taking over. Okay. We'll let's  
365 roll on to the next agenda item, Mr. Secretary.



366  
367 Mr. Marlles - The next item is the adoption of the Commission's rules and  
368 regulations. The staff has no changes to the Commission's rules and regulations to recommend  
369 at this time. However, we would like to have the opportunity to discuss possibly some  
370 recommendations dealing with changing the day of the Planning Commission POD meeting  
371 during dinner time, but other than that, we have no changes to recommend at this time.  
372  
373 Ms. Dwyer - Is there any discussion of the Rules and Regulations, any  
374 recommendations by Commission members for amendments to those rules?  
375  
376 Mr. Vanarsdall - Madam Chairman, if there is no discussion, I...  
377  
378 Ms. Dwyer - I had one comment.  
379  
380 Mr. Vanarsdall - Oh. I'm sorry.  
381  
382 Ms. Dwyer - Just waiting to see what you other folks had. I looked at the rules  
383 on Page 4, and it lists our order of business as Roll Call, and then Approval of Minutes, and  
384 Consideration of Deferrals and Withdrawals, and then Expedited POD.  
385  
386 It seems to me we normally have been putting off our review of minutes to the end of the  
387 meeting. Perhaps, we should just reorder that to reflect our current practice. That's Item B.  
388 And I assume that just could just become Item E, and all the other items move up on the  
389 listing. Small point, but if the Commission wants to continue that practice, it doesn't bore the  
390 audience quite a much. Usually, by the end of the meeting, we can discuss that take additional  
391 time.  
392  
393 Mr. Vanarsdall - I agree that they should be at the end, but also it says that it can  
394 be rearranged by the Chairman. So, any time you want to change something, you always have  
395 the prerogative. I think we should keep it at the end, personally. Is there anything wrong with  
396 us to move "B" to "E?" I mean making it the last item?  
397  
398 Mr. Archer - I guess we've had to change the order of all the rest of them  
399 coming down.  
400  
401 Ms. Dwyer - "B:" would become "E", "C" would become "B", "D" would  
402 become "E" and "E" would become "D."  
403  
404 Mr. Archer - I knew we would make it complicated.  
405  
406 Mr. Vanarsdall - Why don't we do that?  
407  
408 Mrs. Wade - Do we have an amendment to approve, or can we just move it  
409 with...  
410

411 Mr. Archer - I think we can, since it's the Chairman's prerogative anyway. If  
412 we didn't do anything...  
413  
414 Mrs. Wade - I mean, technically, do we have to amend these first before we -  
415 or can we just move it with this change?  
416  
417 Ms. Dwyer - Would any one like to make a motion to that effect?  
418  
419 Mr. Vanarsdall - What is that?  
420  
421 Ms. Dwyer - That we move Approval of Minutes to the end of...  
422  
423 Mr. Vanarsdall - I make a motion that we change Article 5 we move the B second,  
424 "Approval of Minutes" of previous meetings to last, taking it out of being second and put it  
425 down at the end.  
426  
427 Mrs. Wade - Second.  
428  
429 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mrs. Wade. All  
430 those in favor say aye—all those opposed by saying nay. The vote is passed. Do we have a  
431 motion on the Rules and Regulations.  
432  
433 Mrs. Wade - I move the Rules and Regulations be passed with the amendment.  
434  
435 Mr. Vanarsdall - Second.  
436  
437 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
438 in favor of accepting the Rules and Regulations as amended, all opposed. The motion carries.  
439 The Rules and Regulations are adopted. Next item.

440

441 SUBDIVISION

441 Sterling, Section B  
(January 1998 Plan)

Foster & Miller, P.C. for RCM and Associates, Inc. and Eljay Enterprises, Inc.: The 1.04-acre site is located along the north line of Sterlingwood Trace, approximately 425 feet east of Sterlingwood Trace on parcels 57-24-A, 16, 17 and 57-A-3A The zoning is R-2C, One-Family Residence District (Conditional) and A-1, Agricultural District. County water and sewer. (Tuckahoe) Lots

442

443 Mr. Marlls - Mr. Kevin Wilhite will present the staff report.

444

445 Mr. Kevin Wilhite, County Planner – Did you want to check for opposition? I don't think  
446 there should be any?

447

448 Ms. Dwyer - Is there any opposition to the Sterling Subdivision, Section B,  
449 January, 1998 Plan? No opposition.

450

451 Mr. Wilhite - A copy of the proposed subdivision was just handed out to you.  
452 Sterling is an existing 24-lot subdivision off of Church Road, which was recorded in May of  
453 1994. This proposal is for a re-subdivision of two lots within the boundaries of the subdivision  
454 in order to add a small piece of an adjacent parcel to the rear in order to create buildable areas  
455 on those subdivision lots. It also involves the shift of an existing drainage and utility easement  
456 to the rear of the new lot line. Staff can recommend approval of this revised subdivision, based  
457 on the annotation on the plan, and also standard conditions for approval.

458

459 Ms. Dwyer - Any questions of Mr. Wilhite by Commission members? No  
460 questions. With that, I move for the approval of Sterling Subdivision, Section B, January 1998  
461 Plan, subject to the annotations on the plans and standard conditions for subdivisions served by  
462 public utilities.

463

464 Mr. Vanarsdall - Second.

465

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

468

469 The Planning Commission granted conditional approval to Sterling, Section B, (January 1998  
470 Plan), subject to the standard conditions attached to these minutes.

471

472 C-1C-99 James D. Thornton for Genuine Parts Company: Request to  
473 conditionally rezone from B-3 Business District and M-1 Light Industrial District to B-3C  
474 Business District (Conditional), part of Parcel 162-9-3-36A, described as follows:

475

476 Beginning at a point a rod being the intersection of the southern line of Williamsburg Road, U.  
477 S. Route 60, (Row of variable width) and the eastern line of Klockner Drive (Row of 66');  
478 thence from said road and point of beginning along the southern line of Williamsburg Road,

479 U.S. Route 60, S. 85° 41' 50" E., 366.41' to a rod; thence S. 16° 21' 20" W., 225.00' to a  
480 rod; thence N. 85° 41' 50" W., 398.79' to a rod in the eastern line of Klockner Drive; thence  
481 along the eastern line of Klockner Drive N. 16° 21' 40" E., 192.64' to a rod; thence along the  
482 eastern line of Klockner Drive N. 55° 19' 55" E., 50.31' to a rod in the southern line of  
483 Williamsburg Road, U.S. Route 60, being the point and place of beginning, containing 2.003  
484 acres or 87, 231 square feet.

485  
486 Mr. Marlles - Ms. Jo Ann Hunter will be giving the staff report.

487  
488 Ms. Dwyer - Thank you. Is there any opposition to Case C-1C-99 Genuine  
489 Parts Company? Seeing no opposition, Ms. Hunter.

490  
491 Ms. Jo Ann Hunter Thank you, Madam Chairman. The front portion of this property  
492 is unconditionally zoned B-3, and the rear portion is unconditionally zoned M-1. The property is  
493 currently vacant and surrounding properties consist of generally retail and industrial uses. The  
494 proposed use for the site is a NAPA Auto Parts Store. An auto parts store is a permitted use in  
495 the B-3 District.

496  
497 NAPA applied and received a plan of development approval in June of 1998. In November of  
498 1998, NAPA requested reconsideration of the approved POD conditions. The applicant  
499 requested the removal of annotations relating to building materials and colors included in this  
500 approval.

501  
502 As part of the reconsideration of that request, the applicant agreed to provide landscaping in  
503 excess of Code requirements and agreed to file a conditional zoning case on the property that  
504 would prohibit some of the more intense B-3 zoning uses.

505  
506 At the POD meeting, the applicant committed to prohibiting the uses such as, "automobile  
507 service stations, boat sales, dance halls, car washes, rifle ranges, and permanent on-site  
508 collection facilities." All of the uses that the applicant committed to at the POD meeting have  
509 been included in the proffers.

510  
511 The Land Use Plan recommends Commercial Arterial for the property, and the B-3 zoning  
512 would be appropriate. The conditional rezoning of this property is an improvement from the  
513 existing unconditional B-3 and M-1 zonings. The prohibition of several intense uses will help to  
514 mitigate the visual and traffic impact of strip commercial development. Staff has no objection to  
515 this request. I'd be glad to answer any questions you may have.

516  
517 Mrs. Quesinberry - Are there any questions from Commission members? I have one,  
518 Ms. Hunter. For this case, were Nos. 9 and 11 amended so that this case would come back to  
519 the Commission? In other words, has there been a POD approved?

520  
521 Ms. Jo Ann Hunter - A POD has been approved for the property. The only other thing  
522 that will come back, and I believe it will come back to the Commission, is the landscaping plan.

523

524 Mrs. Quesinberry - That's what I wanted to hear. That's all I have.  
525

526 Ms. Dwyer - Was there any quantification of the extent to which landscaping  
527 would be enhanced above and beyond the ordinance requirements?  
528

529 Ms. Jo Ann Hunter There was some discussion from the minutes of the POD meeting.  
530 There was no "X" amount of extra trees or a set figure, but there was discussion that it would be  
531 reviewed before the Planning Commission, and that it would be in excess of the Code.  
532

533 Ms. Dwyer - Was there any discussion of including any sort of quantification of  
534 the proffers, themselves, that we would have some guidelines at POD time to know exactly what  
535 the applicant was committing to?  
536

537 Ms. Jo Ann Hunter - There was no commitment at the POD meeting for that. No.  
538

539 Ms. Dwyer - Would the applicant be willing to commit to that, or discuss that,  
540 at any rate, what their plans are for the enhanced landscaping?  
541

542 Mr. James Thornton - Madam Chairman, members of the Commission, my name is Jim  
543 Thornton. I'm here on behalf of Genuine Parts Company. I'd like to thank everyone for  
544 working together to move us up to the front of the agenda.  
545

546 As far as the landscaping plan, at the time that the changes to the Plan of Development were  
547 being negotiated, Genuine Parts offered to submit a landscaping plan at that time. It was felt by  
548 staff that was premature, that really before the site work was done on the site, and everyone  
549 knew what had survived the site work that reviewing a landscaping plan at that time would be  
550 premature. So, there hasn't been any specific landscaping planting done at this point.  
551

552 Ms. Dwyer - So, there's no commitment then in terms of the quantity of plant  
553 materials that will be...  
554

555 Mr. Thornton - No ma'am. Not at this time.  
556

557 Ms. Dwyer - Any other questions by Commission members? Thank you.  
558 Ready for a motion?  
559

560 Mrs. Quesinberry - Yes, Madam Chairman. I'd like to move that we recommend  
561 approval of this case.  
562

563 Mr. Vanarsdall seconded the motion.  
564

565 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall,  
566 All those in favor say aye—all those opposed by saying nay (Mr. Donati abstained). The  
567 motion is passed.  
568

569 Mrs. Quesinberry - Madam Chairman, I'd just like to add that this case does have  
570 some history of going back and forth. The applicant has been very cooperative in trying to, I  
571 think, go with the spirit of what we'd like to see on that corner. I don't have any doubt that  
572 they're going to work with us on the POD landscaping. So, thank you very much. I'll look  
573 forward to working with you when we get to that point. Thank you.  
574

575 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mr. Vanarsdall, the  
576 Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors  
577 accept the proffered conditions and grant the request because it reflects the Land Use Plan and  
578 future use and zoning of the area; it would not adversely affect the adjoining area if properly  
579 developed as proposed; and the proffered conditions would provide for a higher quality of  
580 development than would otherwise be possible.  
581

582 **P-31-98 AAT Communications Corporation:** Request for approval of  
583 obstruction lighting of a communication tower pursuant to the approved conditions of  
584 Provisional Use Permit P-31-98. This is a 159-foot communication tower located at the  
585 southwest corner of Route 5 and I-295 at the end of Fordson Farm Lane, on part of parcel 249-  
586 A-32. The tower was approved to a height of 199' on September 9, 1998 with no obstruction  
587 marking or lighting. This action requires approval by the Henrico County Planning  
588 Commission.  
589

590 Mr. Marlles - The tower was approved to a height of 199 feet in September  
591 with no obstruction marking or lighting. The applicant has now requested the tower be painted  
592 per the requirements of the FAA. Ms. Jo Ann Hunter will give the staff report.  
593

594 Ms. Dwyer - Was there any opposition to P-1-98 AAT Communications  
595 Corporation?  
596

597 Person from Audience - I'm asking as an adjacent landowner.  
598

599 Ms. Dwyer - Would you like to speak to the case, sir?  
600

601 Person from Audience - I would like to hear what they've got to say first.  
602

603 Ms. Dwyer - Thank you very much. We'll call on you in a moment. Ms.  
604 Hunter.  
605

606 Ms. Jo Ann Hunter This request is to add lighting to an approved lattice-style tower.  
607 The subject property is located in the southwest quadrant of Route 5 and Interstate 295. The  
608 subject tower was approved by the Planning Commission in August, and the Board of  
609 Supervisors in September. Condition No. 3 of the approved permit requires the applicant to  
610 obtain approval from the Planning Commission from lighting or painting of the tower. This  
611 request would require no action by the Board of Supervisors. The applicant, AAT, builds  
612 speculative communication towers.  
613

614 The tower was approved originally for a height of 199 feet. However, the Federal Aviation  
615 Administration has limited the height of the tower to 159 feet. Despite the height restrictions,  
616 the FAA will still require the tower to be lighted with a white strobe light during the day and a  
617 red steady burn light at night. These lights would be located at the center and at the top of the  
618 tower. The FAA is requiring the tower to be lighted because of its proximity to the approach  
619 zone of the airport.

620  
621 The proposed lighting would be a white strobe light during the day and a red burn at night.  
622 These lights would be shielded from the ground. The applicant has chosen to use a fresnel  
623 optic lens which is supposedly less obtrusive than other lighting for other towers. This type of  
624 lighting is designed to be shielded upwards to help the pilots as well as minimize the impact of  
625 the lighting on the ground.

626  
627 The closest existing tower is 2.5 miles from this site. AAT currently has commitments for two  
628 users on this tower. The applicant has indicated that any other tower in this general area  
629 would also need to be lighted regardless of the height of the tower. Staff has no objections to  
630 this request. I'd be happy to answer any questions.

631  
632 Ms. Dwyer - Any questions of Ms. Hunter by Commission members? Thank  
633 you. Would the applicant come forward, please?

634  
635 Ms. Gloria Freye - Good afternoon. My name is Gloria Freye. I'm an attorney here  
636 on behalf of AAT Communications. I also have Paul Peckens here with me to help answer  
637 questions about these Fresnal lenses because they are new. It is new technology and there are  
638 no towers lighted with these lenses in the area. The closest tower that has these lenses and is  
639 in operation is in Cuckoo, Virginia. There is one, however, that has been approved at  
640 Mechanicsville, close to the Windmill. We don't know when those lights are going to be  
641 activated. You know, possibly soon, but they're not activated now, so we don't have an  
642 opportunity to have a first hand viewing of those.

643  
644 The literature, I think, was included in your packets explains that these lenses are designed to  
645 operate more like a flashlight, so that you have a beam of light that's focused and you don't  
646 have light dissipating outward to down to the ground. It's not going to illuminate the ground  
647 or the roadways that are adjacent to this tower.

648  
649 One of the things that I want to make sure that the record shows is that we do not have to paint  
650 this tower. By restricting it to 159 feet, we do not have to do the aviation orange and white  
651 bands of paint on it. So, that was one of the things, in talking with the people in the  
652 community, nobody was in favor of that at all. That was going to make the tower stand out  
653 too much.

654  
655 As it is, this tower is in the most appropriate location in this area because its almost equidistant  
656 between Route 5 and Buffin Road. It's in the corner of a bean field next to I-295 so that it  
657 won't interfere with any future development in that area. And, in that location, it has the least  
658 visual impact on the roadways around there and on the residential development and on any  
659 commercial development that's anticipated for that interchange. Yet, its in a very good

660 location for collocation, even with the 159 feet height, we have commitments from two  
661 carriers. We can support up to five carriers, cellular and digital phone companies. And that  
662 wouldn't count any requests that we might receive from pagers or other type of companies that  
663 would want to have antennas on a facility there.

664  
665 The diagram that I have on the screen now, in that radius which is that area that needs to have  
666 wireless phone coverage, you have an "A" area, a "B" area, and a "C" area. As we  
667 understand the information that we've received from the ASA consultants and from the FAA,  
668 any tower of almost any height is going to need to be lighted in that area.

669  
670 In the "A" area, you could have a tower up to 159 feet without doing the marking if you do  
671 the dual lighting system that we're proposing. In the "B" area you could go from 160 up to  
672 about 299 feet. And then in the "C" area, you could go as high as 300 feet. Regardless of the  
673 height, you still have to do the lighting. When you look at all the locations that we considered  
674 when we were coming forward with this applicant, this was deemed to be the best in the minds  
675 of the carriers that need to get the coverage and then, also in the minds of the people that we  
676 worked with; the neighbors, the Varina Beautification Committee, and the people at Four Mile  
677 Baptist Creek Church which were across Route 5 from this site.

678  
679 We did receive a letter of no opposition from the Varina Beautification Committee. I don't  
680 know if you all have received that, but I'd be glad to read it. It's just about a paragraph long if  
681 you'd like for me to read that. Do you have that?

682  
683 Mrs. Quesinberry - I did receive it.

684  
685 Ms. Freye - But for the rest of the Commission?

686  
687 Mrs. Quesinberry - They might want to hear it.

688  
689 Ms. Freye - "Commissioner Debra E. Quesinberry: Dear Mrs. Quesinberry:  
690 The Varina Beautification Committee will not oppose the new request by AAT for a 159 foot  
691 lighted tower on the Osborne property near Route 5 and I-295. We did not oppose the original  
692 request for this tower at 199 feet as the location seemed the least obtrusive of all others  
693 available to the scenic byway. The FAA requirement of lights is detrimental to the visual  
694 aesthetics, however, the new technology fernal lens is an improvement over the standard  
695 brighter lights. If the FAA should, at a later time, require painting of the tower in bright  
696 colors, we would strongly oppose the tower with that change. Thank you for considering our  
697 opinions and your service to Varina in your new position as Planning Commissioner.  
698 Sincerely, Nelda Snyder for the Varina Beautification Committee." In working with the  
699 Varina Beautification Committee and Four Mile Baptist Church, we really have worked on this  
700 case for several months and tried to stay in close contact with them about every alternative we  
701 could come up with in order to get service to this area without being obtrusive and still trying  
702 to promote the county's goals of nonproliferation of towers. It's a lot more reasonable to  
703 approve this at 159 feet and allow five or more carriers to get on this carrier, than have a lot of  
704 smaller ones around that may end up having to be lighted anyway.

705



706 The literature that we have received has described this light as being very soft. The white  
707 strobe light during the day is 95-watt power. That's less than the lights in this room. The  
708 steady burn red that it would automatically convert to at night is at 125 watts. Again, they are  
709 designed not to direct light down to cars or houses or highways.

710  
711 We think that it's the best alternative for this area. We think that it will serve the area without  
712 having a detrimental impact. We'd like for you to approve it. We'd be glad to answer any  
713 questions that you have.

714  
715 Ms. Dwyer - Thank you, Ms. Freye. Are there any questions of Ms. Freye?

716  
717 Man from Audience - (Comments unintelligible).

718  
719 Ms. Dwyer - Sir, we'll have you come down in just a moment, if that's all  
720 right. I was asking for questions from the Commission members?

721  
722 Man from Audience - I'm sorry. I thought you meant from the audience...I didn't  
723 realize...

724  
725 Ms. Dwyer - Sir, when you speak, we'll have to ask you to come down to the  
726 podium. That's the only way we'll be able to make sure we'll hear you and record it.

727  
728 Ms. Freye - One thing that I could go ahead and respond to, is we did send  
729 out a letter to all the adjacent landowners; to Four Mile Baptist Creek Church and to Varina  
730 Beautification Committee. And I know the County, as well, sent out notices to adjacent  
731 landowners.

732  
733 Ms. Dwyer - Mrs. Quesinberry, you had a question?

734  
735 Mrs. Quesinberry - Yes. And this may be one that you've already answered in the  
736 past, Ms. Freye, but the difference between this lattice tower and having a monopole structure  
737 at the same spot would reduce the number of collocators? Is that correct?

738  
739 Ms. Freye - We could possibly do a monopole there, but the lattice structure  
740 would be stronger and could accommodate more weight and more carriers.

741  
742 Mrs. Quesinberry - Anything that goes in that area is going to end up having to be  
743 lighted?

744  
745 Ms. Freye - That is our understanding. Yes ma'am. Even if its lower than  
746 159, because I know that its further away from this site, but there is one that is going to go up  
747 at the end of Charles City Road is only 115 feet. And because of being in this Airport Safety  
748 Overlay District, it has to also be lighted. Now, that tower is up, but the lights aren't  
749 operational.

750

751 Ms. Dwyer - And when the lights are operational, they will be the new  
752 technology lights?  
753

754 Ms. Freye - I thought that they were, but I understand from Mr. Peckins that  
755 they are not the fresnal lenses. That they went after those fresnal lenses particularly for this  
756 tower. It's very new, and that's why you don't see them around here yet.  
757

758 Ms. Dwyer - Any other questions of Ms. Freye?  
759

760 Mr. Donati - Yes. I have a question. If the tower is below 100 feet, does it  
761 have to be lit?  
762

763 Ms. Freye - Below a 100 feet?  
764

765 Ms. Freye - I don't know. It may have to be just simply because of where it  
766 is. I don't know that. We were under the impression that any tower in that area would have to  
767 be lighted. I know at 115, it has to be lighted. If it's under 115, I don't know.  
768

769 Mr. Donati - I think, by right, you can install a tower below 100 feet, or 99  
770 feet, whatever it might be.  
771

772 Ms. Freye - By right, they could put up a 50-foot tower in that area without  
773 any kind of permit. But you could only go to 100 feet if it's industrial, and I think this is  
774 zoned A-1. The Land Use Plan calls for Office/Service development. But, at this point, I  
775 think it is still zoned A-1.  
776

777 Mr. Archer - Ms. Freye, what was the number of collocators you said could  
778 attached here?  
779

780 Ms. Freye - At 159 feet, you can get five cellular or PCS carriers and paging  
781 companies as well. So, that would cut down the requests for other carriers for towers in this  
782 area.  
783

784 Mr. Donati - How many were you going to put on that 100?  
785

786 Ms. Freye - At 199 feet, we were pushing for eight, but we know we can't do  
787 that without painting it. In that balancing act between non-proliferation of towers and not  
788 being obtrusive, we thought this was the best compromise, and this is what we worked out  
789 with the community.

790 Mr. Donati - Do you think they're going to make Virginia Power light all of  
791 these towers in the utilities easements here?  
792

793 Ms. Freye - One of the things we looked at in those carriers going into this  
794 area was to see if they could collocate on those Virginia Power lines. And apparently the  
795 elevation was either not right, the height wasn't right, or the strength wasn't right, which is  
796 why we needed a tower to be constructed. So, I don't know the answer to that.

797  
798 Ms. Dwyer - Any other questions?  
799  
800 Mr. Vanarsdall - I have one, Madam Chairman. I might have missed what you  
801 said, Gloria. Why didn't we know at the time of the approval?  
802  
803 Ms. Freye - The FAA takes an extremely—these applications are coming in  
804 from all over the Country just fast and furious. They have a huge backlog at the FAA. It  
805 takes the FAA four to six months to give us an answer when we file an application with them.  
806 What the carriers have done, the industry has gone out to consulting companies like the  
807 Aviation Systems. They have consultants and they advise these carriers about whether they're  
808 going to run into lighting problems or not. The consultants generally are more stringent than  
809 FAA. The consulting here, we were advised that they didn't think we would have to because  
810 we were far enough away from the airport that it would not be a problem. Then we started  
811 getting reports from the FAA saying, "You're far enough away, but you're in this approach  
812 zone and the alignment of where the planes come in could be distracting to a pilot." At first  
813 they said, "If you just lower it to 159 feet, you don't have to do anything; not paint or light."  
814 Then they reconsidered and came back and said, "Well, on the side of safety and caution, if  
815 you'll do the dual lighting system, you won't have to do the painting." As a matter of fact, we  
816 had withdrawn our application last time, because we thought if we lowered it to 159 feet, we  
817 renegotiated our contracts with the carriers. Took a hit on that, but anyway and kept those  
818 commitments and then they still came back and said, "On the side of safety, we want you to do  
819 the dual lighting system." That's when they went out and looked for the best lenses they could  
820 find with the softest lighting that would be acceptable with the dual lighting system and not  
821 have to do the painting.  
822  
823 Mr. Vanarsdall - So, you think this particular one, the location actually is what  
824 caused this?  
825  
826 Ms. Freye - It is, actually, the location.  
827  
828 Mr. Vanarsdall - If they have a four-month backlog, I think we have a problem  
829 here to approve towers, because the tower I have coming up at 7:00 o'clock, that's one of the  
830 questions the citizens asked. "How do we know that the FAA won't come along and hang a  
831 lantern on it?"  
832  
833 Ms. Freye - I think that the time that that's a concern, Mr. Vanarsdall, is  
834 when its in an Airport Safety Overlay District. We have always known that this is in an ASO  
835 District. We knew that from the beginning in the staff report. If you're not in an Airport  
836 Safety Overlay District, chances are, its just not a relevant question.  
837  
838 Mr. Vanarsdall - Chances are?  
839  
840 Ms. Freye - Well, it is not a relevant question or staff would be answering and  
841 explain that.  
842

843 Mr. Vanarsdall - You know, what I'm saying is...  
844  
845 Ms. Freye - Yes sir.  
846  
847 Mr. Vanarsdall - ...We have a file on each case. It should be in that file. Mr.  
848 Secretary, if you disagree with me, it should be in that file that there will be no light or painted  
849 or anything else before we sit here and approve or deny.  
850  
851 Ms. Freye - But that's the reason we developed that standard condition that, if  
852 that should happen, you'd have to bring it back to the Planning Commission and then you add  
853 that information in and you can consider it at that time which is why we're here. Exactly why  
854 we're here. That's why the tower has not gone forward because it has become an issue, and  
855 that's why we're back before you.  
856  
857 Ms. Dwyer - Presumably, we have an option now to say, "I'm sorry, this is  
858 not an acceptable tower with the lighting and we don't approve it." Then the tower would not  
859 be approved by us.  
860  
861 Ms. Freye - Absolutely, because a Provisional Use Permit is discretionary.  
862 We understand that. You have the authority to put conditions on it. What we're saying is, this  
863 is a growing area. It is a developing area. It's an important area in the County. It's important  
864 to get good wireless service there for future growth and development, and have this part of the  
865 County be in the 21<sup>st</sup> century with the rest of the County having the same technology available  
866 to it. And to do that, its going to be difficult in Airport Safety Overlay Districts. So, I guess  
867 the question is, if there's going to be an appropriate place out there, we think this is it. And to  
868 mitigate that, to get the best lenses on the market with the softest light to be able to  
869 accommodate that to have the least impact and still get the service. The closest house is the  
870 property owner. That's Ms. Ogburn. Her house is 372 feet from this.  
871  
872 We've also talked to the lady that lives real close to there, who frankly said, "The dusk to  
873 dawn light on the neighbors property was more disruptive to her than the soft lights at night  
874 would be, because the wattage is just so low—95 and 125." It really is not going to be  
875 distracting or disruptive to anyone in this location.  
876  
877 Mrs. Wade - Are there other cases that have this condition on them? It sounds  
878 familiar.  
879  
880 Ms. Freye - Every case has it. Yes ma'am. That's why the standard  
881 condition is there because the FAA is so backed up, you cannot get those reports in time to  
882 process the request, which is why they use these consultants to get them the best information  
883 that they can, knowing that the FAA is going to be the final word on it.  
884  
885 I would say that one thing you could think about doing is putting in a condition in, that if the  
886 lighting doesn't turn out to be as it is represented in the literature and there are complaints by  
887 the citizenry saying, "You know, that's much lighter than what we thought it was going to  
888 be." These permits are revocable. Now, that would scare my client to death because he will

889 have invested a lot of capital to put this up, only to have the permit revoked. But I think, if  
890 you're using the best technology that's available and wanting to get service to this area in the  
891 lease obtrusive way, I think this is the best there is.

892  
893 Mr. Donati - Madam Chairman, I have a question, probably for Mr. Marlles.  
894 Do we still have our legal counsel and consultant still on board?

895  
896 Mr. Marlles - We do, Mr. Donati.

897  
898 Mr. Donati - If we revoke the permit and you have to take your tower down,  
899 that's a pretty big issue.

900  
901 Ms. Freye - That would be very serious.

902  
903 Mr. Donati - I want to know if we can legally do that or not. I would like to  
904 know that.

905  
906 Ms. Dwyer - I assume it would be dependent on the conditions of the  
907 Provisional Use Permit, and that's why...

908  
909 Ms. Freye - And if they accept those conditions.

910  
911 Ms. Dwyer - Right.

912  
913 Ms. Freye - If they accept those conditions, and invest that money, that's the  
914 risk they are taking, because every Provisional Use Permit is revocable if you don't comply  
915 with the conditions.

916  
917 Ms. Dwyer - Do we have a list of all the conditions that apply to the case? I  
918 know Condition No. 3 is in our staff report. In effect, what we're doing here, Ms. Freye, is  
919 revoking our approval of the earlier case that was approving the tower at 199 feet, and in its  
920 place considering this tower at 159 feet with lighting.

921  
922 Ms. Freye - You would be amending your earlier permit to restrict the height  
923 to 159 feet, and with a condition that it use fresnal lenses with the lighting of 95 watts, dual  
924 lighting system of white strobe during the day and the steady burn red of 125 watts at night.

925 Ms. Dwyer - Is that a new condition?

926  
927 Ms. Freye - Well, actually, you could leave the other condition in there,  
928 because if that ever changed, if the FAA came back and said, "We've seen this in operation  
929 and we're still concerned about it." Then we'd have to come back again. At that point, you  
930 could revoke it as well.

931  
932 Ms. Dwyer - I just don't see a list of conditions that apply to this case, and I  
933 don't see any reference to the new type of lens.

934

935 Ms. Freye - Okay. I see. We don't have draft new conditions, is what you're  
936 saying.  
937

938 Ms. Dwyer - You could say the new conditions would require this new  
939 technology for the lenses?  
940

941 Ms. Freye - Yes. And that would be agreeable to the applicant. What we  
942 could do is work with Jo Ann to draft the language of that and submit that to you.  
943

944 Ms. Dwyer - I think what we're wondering now, is where to proceed from this  
945 point, given the fact that we are considering new conditions, but we don't have those new  
946 conditions submitted.  
947

948 Mr. Merrithew - For staff's clarification, I don't believe we are revoking the old  
949 permit, and accepting a new one. We are following the conditions of the old permit by coming  
950 back in to review the lighting and painting requests of the applicant. If they'd like to attach a  
951 letter to that approval explaining the equipment they will use, then I think we can include that  
952 in the Provisional Use Permit file and keep that on record that way.  
953

954 Ms. Dwyer - But, Mr. Merrithew, we are reducing the height that we are  
955 approving here. Is that correct...  
956

957 Mr. Merrithew - Well, that's not required and is not a part of the application. The  
958 original approval is up to 199 feet. It doesn't guarantee 199 feet.  
959

960 Ms. Dwyer - Okay.  
961

962 Ms. Freye - That's the maximum that they could have gone under your  
963 permit. They could go lower.  
964

965 Mr. Merrithew - That's simply County's policy of requesting that on each  
966 application. If they were to come in, and you wanted to reduce the height of that tower, I  
967 guess you could do that. You'd have to then apply for an amended Provisional Use Permit to  
968 do that, I believe, but its not necessary, because we're not requiring them to go to 199 feet in  
969 the first place.

970 Ms. Dwyer - We're here because Condition No. 3 has been activated?  
971

972 Ms. Freye - Yes ma'am.  
973

974 Mr. Merrithew - Exactly.  
975

976 Ms. Dwyer - What we want to clarify is, what are we doing here today? Are  
977 we amending the original Provisional Use Permit? And, if so, how are we doing that?  
978

979 Mr. Merrithew - I don't believe we are amending the original permit. We are  
980 simply acting on that condition. And, in acting on it, I think if they were to provide a letter

981 with the information on the equipment to go in the file with your approval of the lighting, if  
982 that were to occur,...

983

984 Ms. Dwyer - So, what would our motion be today, then? We already have a  
985 Provisional Use Permit that has been approved up to 199 feet. And today, we're being  
986 asked...

987

988 Mr. Merrithew - Simply to approve the lighting of that tower, pursuant to  
989 Condition No. 3.

990

991 Ms. Dwyer - That has the effect, it seems to me, amending the original  
992 approval to require certain lens? Or are you just saying...

993

994 Mr. Merrithew - You can make your motion subject to the use of whatever the  
995 equipment was described here tonight. How's that?

996

997 Ms. Freye - Providing that this type of technology is used, and it is not  
998 painted, and it is limited to 159 feet.

999

1000 Ms. Dwyer - Okay. So, we would need to include those items as part of the  
1001 motion?

1002

1003 Ms. Freye - Yes. Yes.

1004

1005 Mr. Merrithew - And we will include them in the file, the information exact and a  
1006 letter from the applicant as well.

1007

1008 Ms. Dwyer - So, reference to the type of lighting and...

1009

1010 Ms. Freye - And no paint.

1011

1012 Ms. Dwyer - ...And no paint. It will be a part of our motion on this.

1013

1014 Ms. Freye - And 159 feet.

1015 Ms. Dwyer - Is everyone clear on that? Are there any questions or Ms. Freye,  
1016 Mr. Merrithew, or anyone else?

1017

1018 Mrs. Wade - The report says, "P-31-98 Amended" at the top of it.

1019

1020 Ms. Dwyer - It does?

1021

1022 Ms. Freye - I didn't know exactly what to call it, because of the situation that  
1023 we were in. That's why I drafted it that way.

1024

1025 Mr. Merrithew - You're talking about the "Amended" on the front page?

1026

1027 Mr. Donati - Why don't you just leave it at 199 feet, and paint and light it?  
1028 You're going to have it lit anyway? You could have more users.

1029  
1030 Ms. Freye - Well, because painting is going to make it stand out more. And,  
1031 in working with the neighbors and the community at large, we don't want it to be that visible  
1032 from Route 5 or from Buffin Road.

1033  
1034 Mr. Donati - But it was going to be at 199 feet. It was going to be visible  
1035 anyway.

1036  
1037 Ms. Freye - It would be visible, but it wouldn't stand out the way the aviation  
1038 orange and the white would attract the eye; attract the attention there.

1039  
1040 Mr. Paul Peckens - My name is Paul Peckens. I'm with AAT Communications. In  
1041 this Zone A, because we're in a VFR pattern, I'm not a pilot so I can't go into that detail, but  
1042 the visual approach, we're limited to a maximum height of 159 feet for that tower. That's it.  
1043 FAA has cut us off. We could not go up to 199 feet if we wanted to.

1044  
1045 The restriction that FAA puts on us is that to be in this "A zone, you're allowed a maximum of  
1046 159 feet. And you either have to paint and light or do a dual lighting system, and not paint the  
1047 tower. So, that's why we're here today.

1048  
1049 Mr. Donati - How long have you been in this business?

1050  
1051 Mr. Peckens - I've only been in wireless for two years.

1052  
1053 Mr. Donati - But didn't you know that the FAA was going to require 159 feet?  
1054 Why did you ask for 199 feet to start with? You know what their requirements are, I would  
1055 think?

1056  
1057 Mr. Peckens - What happens is, just as Gloria said, there is anywhere from a  
1058 four to six month approval process for the FAA. So, we submit a request to the consultants, A  
1059 Aviation Systems Associates, based on a set of coordinates. We were using a mapping  
1060 program, a commercial grade mapping program that is not tied specifically like these set of  
1061 coordinates that we had to use to file with FAA. The first set of coordinates that we could go  
1062 up to 199 feet with no FAA restrictions. Once we did our Level 1A Certification, which is  
1063 what FAA requires, we submitted those to ASA again to get a preliminary read. They came  
1064 back with saying, "You can go 199 feet, but in turn, you're going to have to light and paint  
1065 that tower." And that's when we came to the County the second time. They also said if you  
1066 stay beneath the 159 foot threshold, you won't have to paint nor light.

1067  
1068 So, we withdrew that application. We're saying, we'll cut down to 159 feet. We'll be a good  
1069 neighbor and we'll just go up. FAA has the ability to impose the full restrictions on us. And  
1070 that's what they did. They said, "Any tower in this 'A' area, the max height is 159 feet, plus  
1071 the lighting and painting or the dual lighting system." And that's why we're here today.

1072



1073 Ms. Dwyer - So, does the FAA make a decision on a case by case basis?  
1074 That's what it sounds like. There are no fast and hard rules, that you can determine in  
1075 advance?

1076  
1077 Mr. Peckens - That's correct. Just as alluded to earlier, in some areas, we can  
1078 file with ASA and they're going to say, "You're fine. You're not in an approach pattern.  
1079 You can go to 199 feet unpainted and non-lit." We still, every time we put up a tower, have  
1080 to apply to FAA. We just know in certain areas that it would be, almost by right, but in other  
1081 areas, we know we're going to come under the full effect of the FAA.

1082  
1083 Ms. Dwyer - Any other questions?

1084  
1085 Mr. Donati - ....(comments unintelligible) FAA. At the 40 foot difference,  
1086 you can have a light and not have it painted? I mean, it's, I don't know. I guess they can do  
1087 what they want to.

1088  
1089 Ms. Dwyer - It sounds like big government to me.

1090  
1091 Ms. Freye - Well, it is. And I think that's part of our frustration, as well, in  
1092 trying to make representations to people in the community about what we're being advised,  
1093 and trying to have the least impact. I know I said that before, but we have tried everything.  
1094 We have looked at other locations. They either turned out to have a negative impact on  
1095 adjoining property owners or would have had a more negative impact on the community at  
1096 large, and was not acceptable to the community at large. I know that we haven't been able to  
1097 please everyone, but, with the work that we've done, I think we've done the best we can,  
1098 given the facts, the situation that we have to face. Yes. Mr. Donati.

1099  
1100 Mr. Donati - So, if there's another tower in that immediate vicinity, it's going  
1101 to be 159 feet, right?

1102  
1103 Ms. Freye - That's what I was saying when I put this up. Anything in the  
1104 "A," it has to stop at 159. Anything in the "B," can go taller. It can go 159 feet to 199 feet.  
1105 In the "C," it can go taller, but it's still going to have to be painted or lighted.

1106  
1107 And I would say, when you go taller like that, its going to have more of an impact on the  
1108 neighborhood because of being painted or lighted. So, if we keep it in the "A" zone, we still  
1109 can go to 159 feet, and still get five carriers with a lattice tower, and I think probably be able  
1110 to meet the need and the demands of the market without having a proliferation of towers  
1111 around there that may end up being lighted at any height.

1112  
1113 Mrs. Wade - The FAA may feel the same way about all these towers that we  
1114 do sometimes.

1115  
1116 Ms. Freye - About the County's towers? Yes ma'am. Because they're much  
1117 taller. But, I think, it's where they are makes the difference. It's the fact that each individual  
1118 situation that they're going to look at, just as Ms. Dwyer was saying. It's a case-by-case basis.

1119  
1120 Mrs. Wade - I mean the number of them that they have to deal with, just as we  
1121 do.  
1122  
1123 Ms. Freye - Oh. That's true.  
1124  
1125 Mr. Marlles - Ms. Freye, is there some maximum height below which the tower  
1126 would not have to be lighted in the "A" area?  
1127  
1128 Ms. Freye - That's what Mr. Donati was asking me. And I don't know. I  
1129 don't know the answer to that. We did not ask that. We were trying to get the height that we  
1130 could get to get the best collocation because, obviously, they want to be able to rent it to as  
1131 many carriers as they can and it would cut down on the proliferation of towers. So, we didn't  
1132 ask the other direction. If we go to 50 feet, would we have to light it, because 50 feet would  
1133 be useless to my client. So, they weren't looking at that end of it. That's why I can't answer  
1134 that question.  
1135  
1136 Mr. Donati - Madam Chairman, I have another question. Why wouldn't you  
1137 want to go ahead and put it across the road in "B" or "C" and go ahead and get it up tall...  
1138  
1139 Ms. Freye - Because of the opposition from the community.  
1140  
1141 Mr. Donati - Oh really? You know that for sure?  
1142  
1143 Ms. Freye - We've been told by the community that they would oppose  
1144 painting the tower and lighting, and a taller tower.  
1145  
1146 Mr. Donati - In "B" or "C," you've still got to paint it?  
1147  
1148 Ms. Freye - Yes sir. Either paint it and/or dual lighting system.  
1149  
1150 Mr. Donati - You have to submit another application to the FAA, right?  
1151  
1152 Ms. Freye - We'd have to do that and we'd have to come back for another  
1153 Provisional Use Permit. We've already been told we're going to get citizen community  
1154 opposition if we do that. Plus, we have two carriers that have been hanging out there wanting  
1155 to get on this tower. We haven't been able to deliver a tower for them to collocate on; Triton  
1156 and All-Tel. All-Tel and Triton have not been able to get antennas in this location because we  
1157 haven't been able to provide the tower because we're trying to work out these conditions.  
1158  
1159 Mr. Marlles - Ms. Freye, earlier I think you had said there had been some  
1160 contact or some effort to locate on an electrical transmission tower in the area?  
1161  
1162 Ms. Freye - As I understand from Triton and from All-Tel, that they had  
1163 looked at other options before coming to this application to collocate their antennas so they

1164 wouldn't have to go through this process. It didn't work for them for whatever reason, either  
1165 because of their radio frequency, elevations, or the strength of the existing structure.

1166  
1167 Mr. Marlles - Of course, that has been done successfully elsewhere in the  
1168 County. Ms. Hunter, do we know why the antenna cannot be located on the electrical  
1169 transmission towers? Does staff know?

1170  
1171 Ms. Freye - I'll go ahead. As I recall when I was out there, and I just  
1172 checked with Mr. Peckens, the lines that go across that property are of wood. I think they just  
1173 weren't strong enough. Is that what you were talking about?

1174  
1175 Ms. Jo Ann Hunter - If I recall correctly, they're only 50-feet tall. They're not your  
1176 standard 100-foot ones where most people are choosing to collocate on.

1177  
1178 Ms. Dwyer - Because I know of the ones in the Tuckahoe District that have  
1179 been used successfully.

1180  
1181 Mr. Donati - You don't mount them on the pole, do you? You have to put  
1182 your monopole up in between them?

1183  
1184 Ms. Freye - In between them. If you have a tower structure, but most of  
1185 those lines out there are just poles.

1186  
1187 Ms. Dwyer - I started to say that the ones in Tuckahoe are at an unusually high  
1188 elevation within the County, so that even though the towers may not be that tall...

1189  
1190 Ms. Freye - The supporting structure is not that tall. You've got the elevation  
1191 to get the antennas up where they need to be. That's why, every case, you're right, has to be  
1192 looked at individually.

1193 Ms. Dwyer - Are there any questions of either Ms. Hunter or Ms. Freye? I  
1194 believe there was opposition. Sir, if you'd like to come down and speak? Please identify  
1195 yourself for the record.

1196  
1197 Mr. Edward Moseley - Yes I will. My name is Edward Moseley. Madam Chairman,  
1198 ladies and gentlemen, I own the property in the "B" Section just north of Route 5 and New  
1199 Market Road. I would like the record to note, and I'd like to note also, that the tower  
1200 company; two tower companies have been in touch with me as to building a tower in "B"  
1201 section. One Company that is here today, AAT, decided to go to another location. I decided  
1202 to not deal with the first company. So, that being said, I'd like to say now that I am totally  
1203 confused. I spent the last few days trying to communicate with the FAA. Jo Ann gave me a  
1204 name and number of the individual in Jamaica, New York. I have not been able to be in touch  
1205 with him. I, personally, visited the office here in town. Received a very cordial greeting, and  
1206 up to now, nothing else.

1207  
1208 I am trying to find out only one question from the FAA. What is the height of the tower  
1209 before it has to be lighted? How tall can we build a tower before we light it? I've heard this

1210 tower in cases after case being debated. I think about the one in the cemetery in the west end.  
1211 I don't know what district it's in. But that went on for many meetings. Maybe this one will  
1212 do the same thing. I don't know. I understand that has been settled now. This tower is not  
1213 quite so tall.

1214  
1215 I hear that maybe five carriers on a 159 foot tower. Someone else says it may be two carriers.  
1216 I don't know. I do feel there's enough confusion here and enough unanswered questions that,  
1217 as a citizen, I would like to ask you, as a Board, to at least defer this matter until we can have  
1218 some answers that I could understand. Thank you.

1219  
1220 Ms. Dwyer - Thank you, Mr. Moseley. Are there any questions of Mr.  
1221 Moseley by Commission members?

1222  
1223 Mr. Archer - Mr. Moseley, you didn't indicate whether or not you object. Do  
1224 you object to the tower being there?

1225  
1226 Mr. Moseley - I do not object to the tower. When the tower was proposed at  
1227 199 feet, unpainted and unlit, I did not object. My objection is to the lighting and/or painting.

1228  
1229 Ms. Dwyer - Any other questions by...

1230  
1231 Mr. Vanarsdall - You say, "and/or any." If we could get rid of the light, do you  
1232 object to the paint?

1233  
1234 Mr. Moseley - Yes. I would object to the paint, sir.

1235  
1236 Mr. Vanarsdall - Okay. Thank you.

1237  
1238 Mrs. Quesinberry - Mr. Moseley, the lights is what you object to on the tower?

1239  
1240 Mr. Moseley - In this case, yes ma'am.

1241  
1242 Mrs. Quesinberry - I'm going to make an assumption. You haven't had a chance to  
1243 see the new technology that Mrs. Freye is talking about?

1244  
1245 Mr. Moseley - No ma'am, I have not, but I did have an opportunity to ask the  
1246 Accident Prevention Person, Mr. Mike Cook, with the FAA here in Richmond, if the light was  
1247 not bright enough, what would be done? He said there would be a brighter light placed there.

1248  
1249 Mrs. Quesinberry - That makes sense.

1250  
1251 Mr. Moseley - I don't want to have to come back and challenge someone  
1252 because the light is burning too bright. I don't have enough time left to do that. I'd like you  
1253 people help me understand what's going to happen here.

1254

1255 Ms. Dwyer - Thank you. Any other questions of Mr. Moseley? Thank you,  
1256 Mr. Moseley.  
1257  
1258 Mr. Moseley - Thank you.  
1259  
1260 Ms. Dwyer - Is there any other opposition, or anyone else who would like to  
1261 speak to the case?  
1262  
1263 Mrs. Wade - Does our consultant know about this new lighting?  
1264  
1265 Ms. Dwyer - That's a good question. Does our consultant know about this new  
1266 lighting?  
1267  
1268 Mr. Marlls - I do not believe this has been referred to our consultant for  
1269 review.  
1270  
1271 Mrs. Wade - Maybe he's seen it in other places.  
1272  
1273 Ms. Dwyer - Yes sir. Could you please state your name for the record.  
1274  
1275 Mr. Edward Broadnax Haskins - I own the house that's about 150 yards from where they want  
1276 to put this tower. Now, this whole phenomenon strains my credulity. The first phenomenon  
1277 that concerns me is for this lovely young lady to tell you that the lights are going to be 45 watts  
1278 and 150 watts. Now, we are supposed to believe that an airplane five miles away in a foggy  
1279 night can see a 45-watt light bulb. People called me. I don't know whether it was this  
1280 gentleman's company or not, but they called me and started talking to me about putting these  
1281 towers on my property. Well, this young lady said it beautifully.  
1282  
1283 These lights with these lenses will be less intrusive. I think they were her words. But "less  
1284 intrusive" relates to the word, "intrusion." The lights, of necessity, will be intrusive to  
1285 people.  
1286  
1287 Now, they started all this "Who struck John" with me about they wanted to put this great  
1288 tower up there, and I was going to get all this money. But it seems to me, that there are other  
1289 people on this earth, except myself, besides myself. I did not want that tower that people have  
1290 to live and have to have those lights. And believe you me, those lights are going to be bright  
1291 irrespective of the picture she paints.  
1292  
1293 Now, they started this thing that they wanted to build a 199-foot tower. Are we here to  
1294 understand that these people who are in the tower building business don't understand that  
1295 anytime they get around an airport, they've got to have lights? I submit to you your mature  
1296 consideration. They knew they were going to have to have lights when they first started this  
1297 talk about the tower. But the "Elephant got his nose in the tent." It got the tower proposition  
1298 approved. Now, they've got to have the lights. They knew they were going to have to have  
1299 them, I submit. I don't know. But you all are just as smart as I am.  
1300

1301 I did not want this thing on my property because I knew the people who were going to be  
1302 living around me, maybe not while I'm living. They rely. They don't rely. They capitalize  
1303 upon my ignorance. I have no more idea what one of these towers is than a "Man in the  
1304 Moon." They come in here with all of this stuff. Who knows what those things do? Who  
1305 knows how much they interfere with television's reception, other phone conversations, radio  
1306 reception? How do we know? They don't tell us anything. They come in here and tell you  
1307 what they want you to know.

1308  
1309 I submit to y'all, that if you y'all ask these people how many towers they've built around  
1310 airports that they know that they were going to have lights, I believe that they will tell you that  
1311 they did. This is an intrusive, damaging thing to any property around it, I submit. I think this  
1312 matter should be deferred. I ask you to do that, to defer this matter until you know the  
1313 answers to the questions that we have projected here today. Thank you so much.

1314  
1315 Ms. Dwyer - Thank you, Mr. Haskins. Are there any questions of Mr.  
1316 Haskins from Commission members? No questions. All right, we didn't establish our time  
1317 limits in the beginning, but I will allow Ms. Freye to have a minute for rebuttal.

1318  
1319 Ms. Freye - Okay. I would just like to answer some of the questions. First,  
1320 I'd like to correct. I didn't say 45. I said 95 watts for the white strobe light during the day.

1321  
1322 Ms. Dwyer - Ninety-five (95) watts?

1323  
1324 Ms. Freye - Ninety-five (95) watts, and I said 125 watts for the steady burn,  
1325 soft red light at night, just so the record will be clear on that. And, as an example of other  
1326 towers that are close to the airport that have not been lighted, PrimeCo has a 115-foot tower  
1327 close to the airport; at I-64 and I-295. It's not lighted. It does not have to be lighted. Nextel  
1328 has 150-foot tower next to the Holiday Inn near the Airport. It does not have to be lighted.

1329  
1330 Again, it goes back to what you said, Ms. Dwyer. It depends on where it is, the facts of the  
1331 situation. Every case has to be evaluated on its own merits, depending on those facts. So, to  
1332 make the statement that they knew or could have known, we knew that it had to be submitted.  
1333 We knew that it had to be considered, but other facts indicated that it didn't. When the FAA  
1334 decided on the side of caution, they came out with the decision that they did. It was in an  
1335 Airport Safety Overlay District. So, that we understand, and as did the Staff, and as did the  
1336 Planning Commission, and the Board when this was approved the first time.

1337  
1338 I think that if it would be helpful to the Commission that the client would be willing to do a  
1339 deferral if you want to take time to go look at that installation at Cockoo, Virginia, which is  
1340 the closest one that's operational. I think we would be willing to take a two-week deferral to  
1341 give time to do that. We could also take that time to ask the FAA what is the lowest height  
1342 that could be here without being painted or lighted. We're told that anything in that "A" zone,  
1343 anything in this whole circle (referring to slide), would have to be lighted or painted. Then it's  
1344 up to this height here, at the maximum height. And that was the answer we got. But if you'd  
1345 like further clarification on what is the lowest height, if there is any lower height that would

1346 not have to be lighted or painted, we would take that time to get that answer for you as well, if  
1347 you're inclined to do that.

1348  
1349 Mrs. Wade - Did you have the video that's mentioned?

1350  
1351 Ms. Freye - We do have the video, and I, personally, have not viewed it.  
1352 Staff has viewed it. And I think that concern from the staff was, that it was very hard to tell  
1353 which light was being compared to which and, you know, at this point, I think it may be more  
1354 confusing that helpful. But it's only a minute long. So, if you'd like to take the time to look at  
1355 it now, we could do that. One minute.

1356  
1357 Mr. Archer - Madam Chair, if we have it, it only takes a minute. We may as  
1358 well look at it. I don't know how much it will help, but it couldn't hurt anything.

1359  
1360 Ms. Freye - If people are already confused, I don't think you could make any  
1361 difference.

1362  
1363 Ms. Dwyer - I'm concerned that we'll get more confusion, rather than less at  
1364 this point. I'd be more inclined to take you up on your first offer; simply, because I know  
1365 from sitting up here, there are members up here that have some confusion and questions that  
1366 they'd like to get answers for. I think the two gentlemen that spoke have some concerns that  
1367 they'd like to get answers for, as well.

1368  
1369 There's some concern up here. I think that everyone realizes, as far as location goes, that it  
1370 looks like there's going to be some kind of a tower, but there's some real concern over the  
1371 lighting issue. And, as we start adding into this whole equation that the issues of height, you  
1372 know how high or how low do you go, it just multiplies other questions about then, "What  
1373 happens? Do you then end up with more towers in the same area? And if you do, do those  
1374 need to be lighted." And that just creates additional confusion in trying to weigh those issues.  
1375 So, I really would prefer to take you up on your first offer, rather than the second one, to view  
1376 the one minute video at this time.

1377  
1378 Ms. Freye - What we can do is to leave that video with the staff and make that  
1379 available for the Planning Commissioners to stop and look at it anytime they like. You know  
1380 Ms. Hunter would help with that, and go with the two-week deferral.

1381  
1382 Ms. Dwyer - If you don't mind, because we have so many questions and  
1383 people involved here, it really would be helpful if we could get 30 days. I realize that you've  
1384 been working on this awhile and you're really patient, but this is going to be, I think, a pretty  
1385 big issue in this area, when something finally does happen to make sure that we have all these  
1386 questions answered.

1387  
1388 Mr. Vanarsdall - You need to have it at the rezoning meeting. You're right; 30  
1389 days.

1390  
1391 Ms. Freye - We would accept the 30-day deferral.

1392  
1393 Ms. Dwyer - I really appreciate that. All right, the Commission is ready for a  
1394 motion, I think, on this case.  
1395  
1396 Mrs. Quesinberry - Madam Chairman, I would like to move that we accept the  
1397 applicant's offer to defer this for 30 days to February 11<sup>th</sup>. I really appreciate everybody's  
1398 patience on this to make sure that we are all very comfortable before we move ahead.  
1399  
1400 Mrs. Wade - She's got this figured out already.  
1401  
1402 Mr. Vanarsdall seconded the motion.  
1403  
1404 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall  
1405 to defer the case at the applicant's request to the February 11<sup>th</sup> meeting. All those in favor say  
1406 aye—all those opposed by saying nay.  
1407  
1408 Mrs. Wade - So, what are we going to do to find out more about this now in  
1409 the next month. Are we going out to Cockoo?  
1410  
1411 Ms. Dwyer - You're driving, Mrs. Wade. Did you say there's one in  
1412 Mechanicsville, that's almost operational, Ms. Freye?  
1413  
1414 Ms. Freye - Right. But it's not operational yet, and we can keep you posted  
1415 on that. If we find out that's lighted, it would be easier for me to drive there than to Cockoo,  
1416 as well.  
1417 Mr. Archer - You don't have any idea at all, Ms. Freye, when that might be  
1418 up?  
1419  
1420 Ms. Freye - That is not my client's tower. We just know, in talking to the  
1421 manufacturer, asked "Where have you sold these lenses in the area" and they gave us that  
1422 location, but it's not operational.  
1423  
1424 Mr. Archer - But the tower is there, and the lights are on it?  
1425  
1426 Ms. Freye - The tower is there, but the lights are not operational. I think the  
1427 interesting thing about that site, even if you just go look at it, is to see how tall it is and where  
1428 it is. It's right in the middle of downtown Mechanicsville. So, if you compare that as an  
1429 appropriate site, compared to this as an appropriate site, I think you'll see that this site is  
1430 definitely a better site than where its been used in other places.  
1431  
1432 Ms. Dwyer - All right, thank you, Ms. Freye.  
1433  
1434 Mrs. Quesinberry - Madam Chairman, could I ask Ms. Hunter one more question not  
1435 concerning the light? This is not concerning the light, Ms. Hunter. I just noticed on the  
1436 InterOffice Memorandum, the comments from Parks and Rec, I want you to indulge me as a  
1437 novice up here. Although the staff comments said there were no parks or recreational facilities



1438 historical or archeological impact for this tower, there is also the comment that the presence of  
1439 earthworks in the area may be a possibility. It doesn't say, "probability," but a "possibility,"  
1440 since there are remnants of the original Confederate line extending on the other side of I-295.  
1441 This concerns the Battle of New Market Heights which is pretty significant in this part of the  
1442 County. I'm just wondering, is that comment significant and does that need to be related to  
1443 conditions?

1444  
1445 Ms. Jo Ann Hunter - I did advise the applicant that we had gotten those comments  
1446 from the Parks and Rec. And the issue is that the property that the tower is located on which  
1447 is a 26-acre parcel, the earthworks that could be on that parcel. They are leasing a 50 foot by  
1448 50 foot area that is close to the interstate that probably has already received some disturbance  
1449 when the Interstate went through. Ms. Freye has contacted the owner of the property.

1450  
1451 Ms. Freye - Yes. I did talk to Ms. Ogburn about the Parks and Recreation's  
1452 desire to come on the property to do mapping and photographing, and gave them her name and  
1453 vice versa. She was perfectly amenable to having them come on the property; you not just the  
1454 50 x 50 area, but the whole property and to do mapping and photographing. She was willing  
1455 to do that. That message was given to Parks and Rec. I don't know whether they followed up  
1456 on it, but that is perfectly acceptable.

1457  
1458 Mrs. Quesinberry - And along that line, I guess my question is, if you'll indulge me  
1459 on this. During the course of construction, should something turn up that none of us could  
1460 foresee, are there conditions that say, the construction stops at that point, or if we get some  
1461 interpretation or...?

1462 Ms. Jo Ann Hunter - The first time that this was reviewed by Parks and Recreation was  
1463 in July when the original permit came in. They did not make these comments about the  
1464 earthworks. I'm not sure why they didn't pick it up at that time. So, the original permit has  
1465 no reference to having, arrangements for someone being on staff there while they're building  
1466 the foundation or anything. There's no commitments.

1467  
1468 Ms. Dwyer - Perhaps, this is an issue that could be pursued among the parties  
1469 in the intervening month before we have our next public hearing rather than continuing  
1470 discussion today.

1471  
1472 Ms. Jo Ann Hunter - Okay.

1473  
1474 Ms. Dwyer - Thank you. All right that concludes, I believe, our 4:00 o'clock  
1475 agenda which we thought would be...There's been a suggestion made, since we cannot proceed  
1476 with the 7:00 o'clock agenda at this time that we take up the approval of Minutes and some of  
1477 the other housekeeping details such as setting dates for hearings on Ordinance Amendments  
1478 and that sort of thing.

1479  
1480 Mr. Archer - Excellent suggestion.

1481  
1482 Ms. Dwyer - Right now. So.

1483

1484 Mr. Vanarsdall - (Gap in tape) from the first agenda to today's agenda, the CIP  
1485 has been dropped. Are there no plans to have that?  
1486  
1487 Mr. Marlles - Mr. Vanarsdall, we were requested to defer that to the March  
1488 meeting of the Planning Commission by the County Manager's Office. That is still scheduled  
1489 for the Planning Commission review, but at their request, it has been pushed back.  
1490  
1491 Mr. Vanarsdall - It has been deferred to another agenda.  
1492  
1493 Ms. Dwyer - Let's move on then to the approval of the minutes of the October  
1494 15, 1998 Commission hearing. Are there any amendments to that, that the Commission  
1495 members would like to make to the attention of the record?  
1496  
1497 Mr. Archer - I have called in several changes to the December Minutes, but I  
1498 forgot to bring my October minutes. I didn't know we had to have those. But I think I'd  
1499 already read them by the last time we had supposed to have approved them.  
1500  
1501 Ms. Dwyer - Would you like to defer approval of the October Minutes. I don't  
1502 know that I have to, unless the other members need to.  
1503  
1504 Mrs. Wade - I couldn't find much in there to correct.  
1505  
1506 Mr. Archer - I think I had done mine last time, but somebody didn't bring it  
1507 and we didn't do it.  
1508  
1509 Ms. Dwyer - All right, let's go ahead and make a motion on the October 15<sup>th</sup>  
1510 minutes.  
1511  
1512 Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Wade, the October 15, 1998 Zoning  
1513 Minutes were approved as corrected.  
1514  
1515 Ms. Dwyer - How about the December 10, 1998 Minutes?  
1516  
1517 Mr. Archer - I had phoned in all my changes.  
1518  
1519 Mrs. Wade - I gave her mine.  
1520  
1521 Ms. Dwyer - I did as well.  
1522  
1523 Acting on a motion by Mr. Vanarsdall, seconded by Mr. Archer, the December 10, 1998  
1524 Zoning Minutes were approved as corrected.  
1525  
1526 Mr. Vanarsdall - May I ask?  
1527  
1528 Ms. Dwyer - Yes. You may ask.  
1529

1530 Mr. Vanarsdall - I have no problem with it, but do we have any suggestions how to  
1531 change the minutes or do we continue to call in. Does anybody have any suggestions how to  
1532 change it? Leave it like it is?  
1533  
1534 Ms. Dwyer - You want to change the way we handle the minutes?  
1535  
1536 Mr. Vanarsdall - No. I say I have no problem. I just wondered if somebody else  
1537 does?  
1538  
1539 Ms. Dwyer - Does anybody else have any ideas?  
1540  
1541 Mr. Vanarsdall - Do you like the way we're doing it now?  
1542  
1543 Mrs. Wade - Yes. They're fine.  
1544  
1545 Mr. Vanarsdall - Debra, when you read the minutes and you have any changes,  
1546 you call, Judy for this one and call Diana Carver for the POD. So, we're going to leave it like  
1547 this. Nobody had any problems with it.  
1548  
1549 Ms. Dwyer - That's the way we'll do it then. Okay. Next item.  
1550  
1551 Mr. Marlles - Madam Chairman, and members of the Commission, the next  
1552 item is a request to hold a public hearing to consider an amendment to the Zoning Ordinance,  
1553 actually Subdivision Ordinance, prohibiting flag lots. Ms. Hunter sent you a memo on  
1554 December 23<sup>rd</sup> that explains the background.  
1555  
1556 But to summarize this, staff has held a number of work sessions with the Board of Supervisors  
1557 to discuss, I guess you could say, recommendations, or strategies for improving the quality of  
1558 residential development in the County. There has been, I believe, a strong consensus  
1559 developed that we have experienced a number of problems with flag lots in subdivisions where  
1560 they have been used inappropriately. As a result of that interest on the part of the Board, the  
1561 staff is recommending that we move forward with holding a public hearing to consider this  
1562 proposed amendment. Ms. Hunter, I don't know if there's anything else you want to add to  
1563 that?  
1564  
1565 Ms. Jo Ann Hunter - Only that we would request that it be advertised for the January  
1566 26<sup>th</sup> Planning Commission meeting. We would like to schedule it for that meeting, because  
1567 that's when most of the engineers and developers are at the POD meeting. So, it would be  
1568 more beneficial to be at that meeting. And also to let you know that we have notified the  
1569 Homebuilders Association and 73 builders, engineers, interested parties.  
1570  
1571 Mr. Vanarsdall - Do you want to tell us what a "flag lot" is?  
1572  
1573 Ms. Jo Ann Hunter - I can show you.  
1574  
1575 Mr. Vanarsdall - It is shaped like a flag.

1576  
1577 Ms. Dwyer - We already have a work session on the Outside Storage issue  
1578 scheduled for the 26<sup>th</sup>. So, keep that in mind.  
1579  
1580 Ms. Jo Ann Hunter - We have a variety of types of flag lots to show you.  
1581  
1582 Mr. Vanarsdall - I know what it does, but I want a definition.  
1583  
1584 Ms. Dwyer - How does the Commission feel on January 26<sup>th</sup> the date for  
1585 having a public hearing on the flag lot amendment?  
1586  
1587 Mr. Archer - How's our agenda for that day? Do we know?  
1588  
1589 Ms. Dwyer - 26<sup>th</sup>. It's our next POD meeting. Our January POD meeting.  
1590 We already have a work session on Outside Storage as well. My understanding that this is a  
1591 fast track item.  
1592  
1593 Mr. Archer - Maybe we could do it early on the agenda—first on the agenda  
1594 maybe. If we advertise it, we can get rid of it.  
1595  
1596 Mrs. Wade - I'm going to have to leave that day at 2:15 p.m. though.  
1597  
1598 Mr. Marlles - Madam Chairman, we do expect a fair amount of interest from  
1599 the development community.  
1600  
1601 Ms. Dwyer - Well, it looks it might be a long day, then. What's our agenda?  
1602 Does anybody know?  
1603  
1604 Mrs. Wade - I have to leave at 2:15 p.m. I asked Mr. O'Kelly what's the  
1605 agenda. He assured me that was okay.  
1606  
1607 Ms. Dwyer - It's not too bad. It looks like we're going to be having lunch that  
1608 day.  
1609  
1610 Mr. Vanarsdall - It looks like it would be what?  
1611  
1612 Ms. Dwyer - It looks like we will be having lunch here on the 26<sup>th</sup>, would be  
1613 my guess. Can we set a time later in the day? Say 1:00 o'clock or 2:00 o'clock and people  
1614 don't have to come at 9:00 if they want to talk about flag lots, or do we want to do at the  
1615 beginning of the meeting?  
1616  
1617 Ms. Hunter - It's been advertised for 10:00 o'clock.  
1618  
1619 Ms. Dwyer - 10:00 o'clock already, so we don't really have a lot of choice on  
1620 that matter.  
1621

1622 Ms. Hunter - We can always pull the ad. It runs for two weeks.  
1623  
1624 Mr. Archer - Madam Chairman, as Mr. Marlles said, probably, most of the  
1625 interest is going to come from the development community. I don't think any citizens are  
1626 going in here and protect flag lots. I can't tell you from that how much time we might need.  
1627  
1628 Ms. Dwyer - Shall we just plan to hear it, then, at the end of our cases?  
1629  
1630 Mr. Archer - I don't think we'd be inconveniencing a lot of citizens if we did that.  
1631  
1632 Mr. Vanarsdall - What about "outside storage?"  
1633  
1634 Ms. Dwyer - Yes. We do have that. So, why don't we plan, then, to hear our  
1635 cases on the 26<sup>th</sup>, then hear the flag lots issue and then hear the outside storage issue? Flag lots  
1636 are probably more; we've already had a lot of discussion. Not that we'll resolve it on  
1637 Tuesday. What time on Tuesday? It's already been advertised for 10:00 o'clock, so we'll just  
1638 plan to do it.  
1639  
1640 Mr. Vanarsdall - So, we'll do it during the meeting in the morning.  
1641 Ms. Dwyer - Right.  
1642  
1643 Mrs. Wade - But we won't have any opportunity for discussion in the  
1644 meantime, then? I mean you're coming in for a hearing on that date?  
1645  
1646 Ms. Hunter - We will have an ordinance, yes.  
1647  
1648 Ms. Dwyer - Will we have copies of that in advance, then?  
1649  
1650 Ms. Hunter - Yes. It will be sent out in your POD packet.  
1651  
1652 Ms. Dwyer - All right, a motion on the recommendation by staff that we have  
1653 a public hearing on the flag lot issue on the January 26<sup>th</sup> meeting.  
1654  
1655 Mr. Archer - We're hearing it at 10:00 o'clock?  
1656  
1657 Ms. Dwyer - As soon as we finish our cases, no earlier than 10:00 o'clock  
1658 a.m.  
1659  
1660 Mr. Vanarsdall - So move.  
1661  
1662 Mr. Archer seconded the motion.  
1663  
1664 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mr. Archer. All  
1665 those in favor say aye—all those opposed by saying nay. The motion carries.  
1666  
1667 Mr. Vanarsdall - What did you say about the flag lots?

1668  
1669 Ms. Hunter - I have it up on the screen. Typically, what most people consider  
1670 the flag lots, you can see at the lower left in the corner, that it's actually shaped like a flag.  
1671 It's a 20-foot stem which is the requirement; at least 20 feet. It's usually designed around cul-  
1672 de-sacs so that they can get the maximum number of lots. They usually put the stem toward  
1673 the extra land to allow to get an additional lot to the rear.  
1674  
1675 There's also a cul-de-sac that you can see that are up in the top that's a 20-foot strip in  
1676 common. That's probably not as typical as the typical flag shape that you see at the bottom.  
1677  
1678 Mr. Vanarsdall - Thank you.  
1679  
1680 Mrs. Wade - But some of those around the cul-de-sacs may be flag lots too.  
1681 They don't have 50 feet? Is that it?  
1682  
1683 Ms. Dwyer - Next item.  
1684  
1685 Mr. Marlles - Madam Chairman, the next item is a Resolution to schedule a  
1686 public hearing on February 11, 1999 to consider a Major Thoroughfare Plan Amendment.  
1687 Ms. Hunter, why don't you just briefly explain what that is about?  
1688  
1689 Ms. Hunter - Thank you. This is a staff initiated 2010 Major Thoroughfare  
1690 Plan Amendment. The requested amendment would delete a portion of Concept Road 10-1  
1691 between Concept Road 19-1 and Springfield Road. This Concept Road was added to the Plan  
1692 in 1997. However, significant development has already occurred in this area. And, in  
1693 addition, the construction of this roadway would be extremely difficult due to the fact that it  
1694 would need to cross the sanitary landfill as well as Interstate 295. Staff has prepared a  
1695 resolution to authorize the staff to prepare a study and make a recommendation on this  
1696 amendment. It also directs staff to advertise a public hearing on this matter for February 11,  
1697 1999.  
1698  
1699 Mrs. Wade - It shouldn't take very long.  
1700  
1701 Ms. Dwyer - Sounds like a no brainer. So, that would be scheduled at our  
1702 Rezoning meeting on February 11<sup>th</sup>? The request is to advertise the Major Thoroughfare Plan  
1703 Amendment. Do I have a motion?  
1704  
1705 Mrs. Wade - I move that staff prepare a study and advertise for a public  
1706 hearing on this matter February 11<sup>th</sup>. Are we sure we want that on February 11<sup>th</sup>? This won't  
1707 take long. We've got a whole lot of other things.  
1708  
1709 Mr. Vanarsdall - What's the date?  
1710  
1711 Ms. Dwyer - February 11<sup>th</sup>, our zoning meeting.  
1712  
1713 Mr. Archer - We've got all these deferrals on February 11<sup>th</sup>.

1714  
1715 Mrs. Wade - Yes. I know we did.  
1716  
1717 Mr. Archer - ...that caused us to be here tonight.  
1718  
1719 Ms. Dwyer - Is there a second?  
1720  
1721 Mr. Vanarsdall seconded the motion.  
1722  
1723 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
1724 those in favor say aye—all those opposed by saying nay. The motion carries.  
1725  
1726 Mrs. Wade - There may be one person to speak. But, of course, the staff will  
1727 have to report. That will take a few minutes.  
1728  
1729 Ms. Dwyer - Staff will report and then we'll have a hearing on that, and take a  
1730 vote, or vote on the resolution at that time? All right, next item.  
1731  
1732 Mr. Marlles - The last item is a staff request that a work session be scheduled  
1733 on February 11<sup>th</sup> at 5:30 p.m. in the County Manager's Conference on the Williamsburg Road  
1734 Technology Boulevard Corridor Study. Mr. Merrithew.  
1735  
1736 Mr. Merrithew - I'd like to sell that as an opportunity to have another dinner on  
1737 the County. We have been working, basically, for the last year in Mr. Donati's District on the  
1738 Williamsburg Road/Technology Boulevard Corridor Study. We have a draft document  
1739 prepared by the consultant which I just received at the end of last week; the first of this week,  
1740 actually, and would like to present it to the Commission to bring you up to speed on where we  
1741 are. Staff is still undergoing a review of that draft. I will be talking with you, Mr. Donati and  
1742 Mrs. Quesinberry, probably individually or together to go over it yourselves. We'd like to  
1743 present it, as I said to you, let the Consultant come down and go through it with you.  
1744  
1745 Ms. Dwyer - How much time do you expect this will take?  
1746  
1747 Mr. Merrithew - Well, I expect with questions and answers that it will take an  
1748 hour or a little bit more. It's scheduled at 5:30. Hopefully, we start at quarter of 6:00 p.m.  
1749 and out by quarter of 7:00, would be my hope.  
1750  
1751 Ms. Dwyer - With dinner?  
1752  
1753 Mr. Merrithew - We'll let you eat while we talk.  
1754  
1755 Ms. Dwyer - So, this is really an introduction to the study?  
1756  
1757 Mr. Merrithew - For the Commission, that's right. Yes.  
1758  
1759 Ms. Dwyer - The study will be completed, or...

1760  
1761 Mr. Merrithew - Our schedule now is we'll make a presentation to the  
1762 Commission. We will probably go back out to another community meeting. We've had  
1763 several in the area. We'll probably go back out to present the draft to the citizens and take  
1764 some time for staff to review it – final review. Then it will come back to the Commission  
1765 again for approval and then to the Board for a work session and approval as well.  
1766  
1767 Ms. Dwyer - All right.  
1768  
1769 Mr. Merrithew - So, we're not asking for action on this date.  
1770  
1771 Ms. Dwyer - What would the Commission like to do?  
1772  
1773 Mr. Merrithew - I just realized why you're looking at me funny. It is a February  
1774 11<sup>th</sup> thing. Would you like to delay it?  
1775  
1776 Ms. Dwyer - Do we have a meeting scheduled with Angela Harper on January  
1777 22<sup>nd</sup>.  
1778  
1779 Mr. Merrithew - That Friday. That's correct.  
1780  
1781 Ms. Dwyer - Too much to combine, I guess.  
1782  
1783 Mr. Merrithew - I'm not sure I could get the consultants back down on the 22<sup>nd</sup>. I  
1784 think her presentation is going to take the whole time. It's going to take awhile.  
1785  
1786 Ms. Dwyer - We promise not to ask any questions.  
1787  
1788 Mr. Merrithew - Of Angela?  
1789  
1790 Ms. Dwyer - No. On the 11<sup>th</sup>, it looks like we're going to have a very heavy  
1791 night that night. What would the Commission like to do? Is there a motion on this work  
1792 session for the 11<sup>th</sup>?  
1793  
1794 Mr. Archer - We may as well do it and get it over with it.  
1795  
1796 Mr. Vanarsdall - All right. Let's do it.  
1797  
1798 Ms. Dwyer - Is that a motion, Mr. Archer?  
1799  
1800 Mr. Archer - Yes ma'am. You can consider that a motion.  
1801  
1802 Mr. Vanarsdall - And I second that motion.  
1803  
1804 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall, that  
1805 we set our work session for February 11<sup>th</sup> at 5:30 on the Williamsburg Road Technology



1806 Boulevard Corridor Study. All those in favor say aye—all those opposed by saying nay. The  
1807 vote carries.  
1808  
1809 Mrs. Wade - It seems to me there are not that many new cases.  
1810  
1811 Mr. Merrithew - There were seven new zoning cases for February and one Major  
1812 Thoroughfare Plan.  
1813  
1814 Mr. Merrithew - Brookland and Fairfield, I believe are clear. Varina did not have  
1815 any. Varina has all the deferred cases.  
1816  
1817 Mr. Vanarsdall - Varina might not have had any before, but they've got them now.  
1818 Mr. Merrithew - Well, based on our past records, we'll have 20 cases coming into  
1819 the night and probably hear about six of them.  
1820  
1821 Ms. Dwyer - You're scaring those people off, Mr. Merrithew. I don't know  
1822 what you're doing.  
1823  
1824 Mr. Marlles - Are you proposing that we start at 4:00 o'clock again?  
1825  
1826 Mr. Merrithew - No sir. I'm not. 5:30 p.m. is good.  
1827  
1828 Mrs. Wade - Do we have deferrals on the 7:00 o'clock agenda?  
1829  
1830 Mr. Merrithew - Yes ma'am, we do.  
1831  
1832 Mrs. Wade - It's not 7:00 o'clock yet, but...  
1833  
1834 Ms. Dwyer - Would you just like to review those, Mr. Merrithew, for our  
1835 information only?  
1836  
1837 Mrs. Wade - Where are we eating?  
1838  
1839 Mr. Merrithew - We're eating upstairs in the County Manager's Conference  
1840 Room. Do you want me to run through the deferrals?  
1841  
1842 Ms. Dwyer - All right, shall we retire to dinner?  
1843  
1844 **AT THIS TIME THE PLANNING COMMISSION SUSPENDED THEIR MEETING UNTIL**  
1845 **7:00 P.M.**  
1846  
1847 Ms. Dwyer - The Planning Commission will reconvene their meeting from our  
1848 earlier meeting. We broke for dinner and we're back. Welcome everyone. This is our zoning  
1849 meeting. We begin our 7:00 o'clock agenda. Mr. Secretary, would you like to call our first  
1850 case?  
1851

1852 Mr. Marlles - Would you like to cover the deferrals and withdrawals?  
1853  
1854 Mr. Merrithew - Thank you.  
1855  
1856 Ms. Dwyer - We'll do the deferrals and withdrawals first.  
1857  
1858 Mr. Merrithew - Thank you. On the 7:00 o'clock agenda, in the Brookland  
1859 District is first request is C-79C-98.

1860 **Deferred from the December 10, 1998 Meeting:**  
1861 **C-79C-98** Ralph L. Axselle, Jr. for Thomas B. Porterfield: Request to  
1862 conditionally rezone from O-2 Office District to B-3C Business District (Conditional), Parcel  
1863 103-A-104, containing 1.721 acres, located on the southwest corner of Staples Mill Road and  
1864 Massie Road. A fueling facility and commercial building are proposed. The use will be  
1865 controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan  
1866 recommends Commercial Concentration.

1867  
1868 They have withdrawn that case. They have not deferred it. They've withdrawn the case. No  
1869 action is required there.

1870  
1871 Now, on the same page of your agenda in the Fairfield District:

1872  
1873 **Deferred from the December 10, 1998 Meeting:**  
1874 **C-40C-98** Robert M. Atack for Atack Properties, Inc.: Request to  
1875 conditionally rezone from R-2C and R-2AC One Family Residence Districts (Conditional) to  
1876 RTH Residential Townhouse District (Conditional), part of Parcels 23-A-72A and 32-A-94,  
1877 containing 18.08 acres, located adjacent to the western terminus of proposed J.E.B. Stuart  
1878 Parkway and north of the terminus of Proposed Magnolia Ridge Drive. Townhomes or  
1879 condominiums for sale are proposed. The RTH District permits densities up to 9.0 units gross  
1880 density per acre. The Land Use Plan recommends Suburban Residential 1 development, 1.0 to  
1881 2.4 units net density per acre and Suburban Residential 2, 2.4 to 3.4 units net density per acre.

1882  
1883 They've requested a deferral until February 11, 1999.

1884  
1885 Ms. Dwyer - Thank you, Mr. Merrithew. Is there any opposition to the  
1886 deferral of Case C-40C-98 Robert Atack for Atack Properties? No opposition. Is there a  
1887 motion?

1888  
1889 Mr. Archer - Madam Chair, I move we defer C-40C-98 Atack Properties, Inc.  
1890 to the February 11, 1999 meeting at the applicant's request.

1891  
1892 Mr. Vanarsdall seconded the motion.

1893  
1894 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All  
1895 those in favor of deferral of C-40C-98, say aye—all those opposed by saying nay. The vote is  
1896 5-0 (Mr. Donati absent). The motion is carried.

1897  
1898 Mr. Merrithew - Thank you, Madam Chairman. The next case is in the Three  
1899 Chopt District.

1900  
1901 **Deferred from the December 10, 1998 Meeting:**  
1902 **P-23-98** Gloria Freye for Triton PCS, Inc.: Request for approval of a  
1903 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the  
1904 County Code in order to construct, operate and maintain a communication tower up to 199' high  
1905 and related equipment and improvements, on part of Parcel 47-A-59, containing 2,500 sq. ft.,

1906 east of Interstate 64 between Cox Road and Old Cox Road (3600 Old Cox Road). The site is  
1907 zoned A-1 Agricultural District.

1908  
1909 They've requested a deferral until February 11<sup>th</sup>.

1910  
1911 Ms. Dwyer - I'm sorry. Which case was that?

1912  
1913 Mr. Merrithew - It's in the Three Chopt District - P-23-98. It should be at the  
1914 bottom of Page 4.

1915  
1916 Ms. Dwyer - Okay. Thank you. Is there any opposition to the deferral of P-23-  
1917 98 Triton PCS? No opposition. Is there a motion?

1918  
1919 Mrs. Wade - As I understand it, they're still talking to the County about the  
1920 possibility of locating on the water tower. When that's finally resolved, it shouldn't take too  
1921 long. I move that P-23-98 be deferred to the 11<sup>th</sup> of February at the applicant's request.

1922  
1923 Mr. Archer seconded the motion.

1924  
1925 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
1926 those in favor, say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).  
1927 The motion is carried.

1928  
1929 Mr. Merrithew - Thank you, Madam Chairman. The next case on your agenda  
1930 still in the Three Chopt District:

1931  
1932 **Deferred from the December 10, 1998 Meeting:**

1933 **C-81C-98** Jay M. Weinberg for Buckley Shuler Properties: Request to  
1934 conditionally rezone from B-3 Business District and A-1 Agricultural District to B-2C Business  
1935 District (Conditional), part of Parcel 46-A-19, containing approximately 17.293 acres, located  
1936 on the southwest side of the intersection of W. Broad Street (U. S. Route 250) and John Rolfe  
1937 Parkway. A shopping center is proposed. The use will be controlled by proffered conditions  
1938 and zoning ordinance regulations. The Land Use Plan recommends Commercial Concentration  
1939 and Office. The site is also in the West Broad Street Overlay District.

1940  
1941 They have requested a deferral until March 11, 1999.

1942  
1943 Ms. Dwyer - Is there any opposition to the deferral of Case C-81C-98 Buckley  
1944 Shuler Properties? No opposition. Is there a motion?

1945  
1946 Mrs. Wade - I move Case C-81C-98 be deferred to the 11<sup>th</sup> of March at the  
1947 applicant's request.

1948  
1949 Mr. Vanarsdall seconded the motion.

1950 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
1951 those in favor, say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).  
1952 The motion is carried.

1953  
1954 Mr. Merrithew - Thank you, Madam Chairman. That is the last of the deferral  
1955 requests for the 7:00 o'clock agenda. I have only one request on the 8:00 o'clock agenda, and  
1956 that is for P-1-99 Glenn R. Moore for Allen Tire, Inc. A Provisional Use Permit request for  
1957 an auto parts, sales and service installation facility at the southeast corner of Lauderdale and  
1958 Rutgers Drives. They've asked for a deferral until February 11<sup>th</sup>. You will wait until 8:00  
1959 o'clock to vote on it.

1960  
1961 Ms. Dwyer - Thank you, Mr. Merrithew. As Mr. Merrithew mentioned,  
1962 that's for information only. We will act on that case at or after 8:00 o'clock. All right, Mr.  
1963 Secretary, shall we call the next case?

1964  
1965 **Deferred from the December 10, 1998 Meeting:**  
1966 **P-39-98** Gloria L. Freye for Triton PCS, Inc.: Request for approval of a  
1967 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the  
1968 County Code in order to construct, operate and maintain a communications tower up to 199'  
1969 high and related equipment and improvements on part of Parcel 94-A-8A, containing 2500 sq. ft.  
1970 located on the west side of Byrdhill Road approximately 1200' south of Dumbarton Road. The  
1971 site is zoned M-1 Light Industrial District.

1972  
1973 Mr. Marlles - Mr. Merrithew will be giving the staff report.

1974  
1975 Ms. Dwyer - Is there any opposition to P-39-98? There is opposition. Thank  
1976 you. We'll call on you later on in the meeting.

1977  
1978 Mr. Merrithew - Could I have my document handler move back to the Zoning Map,  
1979 please? This application is for a communication tower. The applicant has proposed a tower up  
1980 to 165 feet. It's located now on the west side of Byrdhill Drive on the property of Ducts  
1981 Unlimited. The original application came to us with a proposal to locate on the east side of  
1982 Byrdhill in a flood plain which staff adamantly opposed. They have moved it to a piece of  
1983 property which is zoned Industrial which is adjacent to CSX railway lines and which is currently  
1984 used for outside storage of automobiles within a fenced and gated area.

1985  
1986 The proposal satisfies the County policy of trying to avoid residentially zoned property by  
1987 locating in an industrial area. But, as you can see, it still is in close proximity to an existing  
1988 residential neighborhood, and, obviously, would still have some visual impact on that  
1989 neighborhood. It is also on the edge of a flood plain, Upham Creek, that runs just to the south  
1990 of the tower site. That discussion has resulted in us proposing some modified conditions of  
1991 approval to you if you chose to approve this case. They've just been handed out to you.

1992  
1993 The new location does comply with the tower setback requirements from both residential districts  
1994 and from property lines. As I said, it is in an industrial area, from that point of view, is in an  
1995 appropriate location.

1996  
1997 The conditions that are before you this evening, most are the standard conditions attached to  
1998 other tower locations with regard to the removal of the tower when its no longer being used.  
1999 The requirement that the building permit be applied for within a year of approval of the  
2000 Provisional Use Permit. Also, the requirement that they come back to the Planning Commission  
2001 as another tower builder did come to you this evening, comes back to the Planning Commission  
2002 in the event that the FAA Federal Aviation Administration requires that they light the tower or  
2003 paint the tower, put obstruction markings on the tower, they must come back to you in order to  
2004 get that lighting or painting approved. And at that point you have the opportunity to deny it, of  
2005 course, at which point the applicant can either construct the tower in such a way it does not have  
2006 to be lighted, or they must remove the tower.

2007  
2008 Condition #4 requires that if they disturb more than 2,500 square, they must comply with all  
2009 requirements of the County with regard to erosion control. We've added Condition No. 5  
2010 because of the proximity to the floodplain which simply states that, in any event, whether or not  
2011 Condition 4 applies, they will put erosion control measures around the perimeter of any disturbed  
2012 area associated with the tower as a means of protecting the floodplain.

2013  
2014 Condition #7 is our standard collocation requirement that they have a number of other users on  
2015 the tower. And then Condition #8 is something that was discussed by the applicant and that  
2016 seemed to have come out of discussions between the applicant and surrounding residents. That  
2017 the applicant shall landscape the perimeter of the automobile storage area in which the tower is  
2018 located along the frontage of Byrdhill Road and between Byrdhill Road and the gated entrance to  
2019 the storage area. That will provide some screening not only of the tower, but also of the  
2020 automobiles that are stored outside.

2021  
2022 In addition to that, the applicant will also landscape the perimeter of the tower site itself as a  
2023 means of screening the ground equipment. And, that, again, is a standard condition that we  
2024 apply.

2025  
2026 I have removed Condition 6 and a part of Condition 7, which would require that the tower be  
2027 constructed so that it could be extended to a height of 199 feet. That condition is a standard and  
2028 complies with the County policy of trying to get as much collocation on any tower as possible.  
2029 But, in this case, given neighborhood concerns about the visual impact of the tower, we have not  
2030 suggested that those conditions be included on this tower site. That, in fact, the tower would be  
2031 limited to a height of 165 feet.

2032  
2033 One thing that I've failed to point out, if you've seen the site, there is another tower just to the  
2034 north; the GTE tower, and that is 87 feet tall. That gives you some perspective as to the height  
2035 that's being proposed here which would be twice that height.

2036  
2037 If you have any questions, I would be glad to answer them.

2038 Ms. Dwyer - Thank you, Mr. Merrithew. Are there any questions by  
2039 Commission members?

2040  
2041 Mr. Vanarsdall - No. 6 being lined through is deleted, right?

2042  
2043 Mr. Merrithew - Correct. And that would eliminate the need for them to construct  
2044 it so it could go to 199 feet.  
2045  
2046 Mr. Vanarsdall - Has Mr. Drumheller and Ms. Chamberlayne seen these new  
2047 conditions?  
2048  
2049 Mr. Merrithew - I don't believe they have. No. I just created those this afternoon  
2050 in discussions with the applicant.  
2051  
2052 Mr. Vanarsdall - Do you have a copy?  
2053  
2054 Mr. Merrithew - I believe I have an extra copy I can give them.  
2055  
2056 Mr. Vanarsdall - Okay. I don't have any more questions.  
2057  
2058 Ms. Dwyer - No more questions by Commission members? Would the applicant  
2059 come forward, please? While the applicant is coming forward, I'll mention that the  
2060 Commission's practice is to permit each side in a case; the applicant, as well as the opposition,  
2061 to each have 10 minutes to make their presentations. That time does not include the time it takes  
2062 the Commission to ask a question and for that question to be answered. So, Mr. Secretary, will  
2063 keep track of the time. The applicant also has the right to reserve a period of time out of their 10  
2064 minutes for rebuttal, if they choose to do so.  
2065  
2066 Ms. Gloria Freye - Good evening. My name is Gloria Freye. I'm an attorney here on  
2067 behalf of the applicant, Triton PCS, Inc. I would like to reserve just two minutes in case I need  
2068 to answer any questions.  
2069  
2070 As John explained, Triton is asking for a 165-foot monopole tower in this area. The area that's  
2071 become necessary, and as he stated also, we do look for industrial or commercial areas that are  
2072 not near residential areas if we can avoid it. In this situation they've actually painted themselves  
2073 into a box because they have been so sensitive about the County's goals and objectives. Actually  
2074 what they've done, they've been able to locate antennas on top of the Imperial Plaza rooftop.  
2075 They've also gone on the rooftop of Monument Condo and used a stealth design there with  
2076 antennas. They've collocated on the WRVQ tower. Another connection site is at St. Joseph's  
2077 Villa where they were able to put antennas on the smokestack. And also they have utilized some  
2078 VDOT right of way, so that these other five sites, which are surrounding this, which are the  
2079 antennas they will need to transit to and from, leaving a hole in this area. And, because of that,  
2080 they're in a situation where they need to actually build a tower.  
2081  
2082 I think, as John said, they initially started on the other side of the road in the C-1 area, which  
2083 would have been very close to the houses, and very quickly realized that was not going to be  
2084 acceptable under any terms, and renegotiated with the owners of the Ducks Unlimited property  
2085 across the street to locate the tower in the rear of their vehicle storage yard, which is a fenced  
2086 area, as close to the back as we could get it.  
2087

2088 Before doing that, though, they contacted just about every landowner out there in that M-1 area  
2089 looking for a site that would be even further away from the houses as they could get it. And  
2090 even some of those might have had a greater impact on other residences further to the south.  
2091 We did provide a list of those and I'll go to a list of the other places that we contacted  
2092 unsuccessfully.

2093  
2094 We, at first, wanted to check out the GTE monopole. That was rejected because it is only 87  
2095 feet tall, and not engineered for collocation. We tried looking at the VEPCO transmission  
2096 tower near I-64 and it was rejected because of the radio frequency standards were not met.  
2097 We also looked at the VDOT property at I-64 and Staples Mill, and VDOT rejected that site.

2098  
2099 We went back to GTE and said, "Well, if we can't go on the 87-foot tower there, could we  
2100 lease other space there to maybe accommodate the GTE people on that tower?" That was  
2101 rejected by the owners.

2102  
2103 We looked at the Media One water tank and Media One declined. Brown Distributing  
2104 Company property, they were not interested. Cadmus Journal Services was not interested.  
2105 And then, B. W. Wilson Paper Company we also contacted, and could not work out an  
2106 arrangement with them either.

2107  
2108 I did send out letters. I have talked several times with various people in the community. The  
2109 President of Battery Park Civic Association, Mr. Church; I talked with him several times. He  
2110 and several of his people in his organization did go over to the property, both when it was on  
2111 the other side of the road, and this side of the road. And one of the things we've worked out  
2112 with them was to have the landscaping on the exterior of the storage yard in addition to the  
2113 landscaping around the base. They felt that this would not have an adverse impact on their  
2114 neighborhood, because their traffic into their neighborhood, before you come to this site, and  
2115 because their homes are no oriented toward this; they oriented away from the site. So, that  
2116 was the position that they took was they would not oppose this.

2117  
2118 We've had other discussions with other people who've raised questions. And its those  
2119 questions that generated these revised conditions that are before you to respond to any concerns  
2120 about silting. I believe its called "Upham Brook" that runs through that conservation area, and  
2121 to provide the landscaping, and to limit the height to 165 feet, which will still allow collocation  
2122 and serve any other need that might arise so there wouldn't be another tower or a taller tower  
2123 that would have to be located in this area. We are agreeable with the conditions, as presented  
2124 by the staff, and would be glad to answer any questions and ask that you recommend approval  
2125 of this.

2126  
2127 Ms. Dwyer - Thank you, Ms. Freye. Are there any questions by Commission  
2128 members? No questions. Thank you, Ms. Freye. I have a question of Mr. Merrithew. We  
2129 heard there's a GTE monopole nearby, but its too short to accommodate this particular  
2130 company. Did that company acquire that monopole and agree to allow collocation when that  
2131 pole was acquired? Do you happen to know?

2132



2133 Mr. Merrithew - I do not know whether they agreed to collocation. I'm not sure.  
2134 If we could flash back to the trip map (referring to slide) that might give us the information  
2135 there. There's no date listed on that. So, I'm afraid I can't tell you that right now. I'll have  
2136 to examine that.

2137  
2138 Ms. Dwyer - Thank you. All right, the opposition may come forward.  
2139 Anyone wishing to speak to the case or in opposition to the case. Please state your name for  
2140 the record.

2141  
2142 Ms. Sally Chamberlayne - I live at 2818 Kembler Road - Is there any way I can point to  
2143 the map?

2144  
2145 Ms. Dwyer - Could someone show Ms. Chamberlayne how to point to the  
2146 map.

2147  
2148 Ms. Chamberlayne - I didn't know if there was any way to do that. I'm a little  
2149 nervous, so if it shakes, you'll understand. Anyway, thank you for this opportunity to let me  
2150 let you know about this situation. What I'd like to point out is that this is Light Industrial here.  
2151 This is a neighborhood. I appreciate your patience. Anyway, this right here is Light  
2152 Industrial. It was put in before I moved to this area. What I'd like you to know, I did a rough  
2153 count. This is extremely conservative. This entire line of houses here, and down here, six  
2154 months out of the year gets to look at parked cars. We get to look at Light Industry and  
2155 parked cars. This area up in here, these houses have to look at a tower and very poorly  
2156 buffered areas over into this kind of ratty graveled area and railroad tracks. Now, they want to  
2157 add a 165 foot tower. All we're doing is making the situation worse. There are approximately  
2158 38 homes. That was a very, very conservative count of the homes that are affected by poor  
2159 zoning that takes from the neighborhood feel for this area. Now, we're going to have a 165-  
2160 foot tower hovering over us. On this map, this looks like a fairly long distance, but that tower  
2161 is much taller than any of those trees. Anybody driving down here through that conservation  
2162 area, this tower is going to hang over this neighborhood. And it's a great concern, because the  
2163 neighborhood feel is going to be destroyed even more. I think we need to work on making  
2164 things better. We're trying right now to restore Lakeside. We're working very hard to make  
2165 Lakeside better. Yet, at the same time, we're doing things like this that take away the  
2166 neighborhood feel.

2167  
2168 I think one of the big concerns is, the first place was chosen was right in a beautiful little green  
2169 woodsy area. There is actually the remains of an old rock bridge and nobody has mentioned  
2170 that one day I'll find out more about. But this was an environmental protection area. And it  
2171 would have been a horrendous site, and you all recognize that absolutely immediately. It  
2172 would have been in these people's backyard. But I almost get the feeling that, "Wow," the  
2173 feeling is that we didn't have to destroy that area, so this will look so much better in  
2174 comparison when, in fact, its just the better of two bad choices.

2175  
2176 I really appreciate Gloria Freye's working hard and improving the landscape for what we call  
2177 "an enclosed car area," which, to us, really looks like a junkyard. I mean, basically, it's a  
2178 junk yard. I kind of question why we have to trade landscaping for a 165-foot tower. It seems

2179 that, perhaps, we could just go ahead and landscape the junkyard without having to put a tower  
2180 above it.

2181  
2182 I really appreciate. I was very concerned. This does sit right above Upham Brook on a big  
2183 slope, and I'm glad to see that we're looking at the quality of our water. Upham Brook is silty  
2184 and very, very fast. And I've lived here three years, so I can see it every day.

2185  
2186 I'm really concerned about potential lighting and construction work on this tower. Nobody can  
2187 tell me that the FAA, for sure, is not going to ask us to do that. It seems to me that should be  
2188 a condition before we say, okay, to this tower, because its going to be bad enough to have 165  
2189 foot tower hovering this neighborhood. But painted all those colors and put lights on it, and  
2190 we'll really be unhappy. But the thing is, it seems from just my experience, once a tower is  
2191 approved, its really hard for you people to say, "No" and I don't mean that. That probably  
2192 came out wrong. That decision will have been made when lighting will be appropriate to that  
2193 decision, its hard to say no. Does that make sense? Do you want to ask me a question there,  
2194 because that did come out kind of wrong, but I think you get the message.

2195  
2196 Ms. Dwyer - Any questions? Okay. In fact we just had a case on the 4:00  
2197 o'clock agenda, which, when we approved it, it wasn't clear what the FAA would do, and then  
2198 it came back to us because the FAA did require lighting. So, we just saw that same issue  
2199 tonight.

2200  
2201 Ms. Chamberlayne - And how did that come out?

2202  
2203 Ms. Dwyer - We haven't decided yet.

2204  
2205 Ms. Chamberlayne - And I guess one thing that concerns me is, even though this isn't  
2206 near the airport, this is near the intersection of I-95, I-64 and Powhite. Helicopters come  
2207 through here several times a day, and that is something that needs to be considered, I believe.

2208  
2209 I really appreciate Triton's sensitivity throughout town hearing all of the wonderful things  
2210 they've done to try to disguise the towers. I would just love for them to be able to find one  
2211 more wonderful way so that our neighborhood isn't harmed by this. And, I know many people  
2212 aren't here. But the truth is, its really hard to find out about these issues unless you subscribe  
2213 to the Times Dispatch, quite honestly. I don't think a lot of people even know that this is an  
2214 issue here. It's not in an area where people drive a lot. The rezoning signs are very  
2215 confusing. They're moving back and forth. And I will tell you that, as of 3:00 o'clock this  
2216 afternoon, there was still a rezoning sign sitting on the east side of Byrdhill Road. As a  
2217 citizen, it makes it very hard to try to figure out what's going on.

2218  
2219 That pretty much ends my presentation. I know I'm a little nervous. I've never done this  
2220 before, but I'd just appreciate your listening. And Gloria Freye has been delightful to work  
2221 with. She's a delightful lady, even though I don't like her tower. Thank you.

2222  
2223 Ms. Dwyer - Thank you, Ms. Chamberlayne. Are there any questions by  
2224 Commission members of Ms. Chamberlayne?

2225  
2226 Mrs. Wade - Ms. Chamberlayne, you're saying there's a storage yard here of  
2227 some sort that's not screened?  
2228  
2229 Ms. Chamberlayne - Its not screened. In the summertime the honeysuckle sort of  
2230 screens it, but right now, you just see old cars and stuff in there. It's not very attractive at all.  
2231  
2232 Mrs. Wade - In M-1? It's maybe not allowed.  
2233  
2234 Ms. Dwyer - Any other questions by Commission members? Thank you, Ms.  
2235 Chamberlayne. Would any one else like to speak in opposition to this case?  
2236  
2237 Bill Drumheller - Madam Chair, distinguished members, my name is Bill  
2238 Drumheller. I appreciate the opportunity to talk with you. Sally is going to be a hard one to  
2239 follow, because she's delightful. Anyway, I have lived in the area for about 40 years or more.  
2240 Upham Creek runs through my backyard. In fact, I own a 300 foot strip of Upham Creek I  
2241 bought from the County. I really am concerned about what happens to the creek and to the  
2242 wetlands adjacent to the creek.  
2243  
2244 My principle concerns with regard to this project, one with the engineering aspect that I've  
2245 seen on the two drawings, which Ms. Chamberlayne allowed me to view. The Z-2 drawing  
2246 shows a number of details for fences and gates and roadway, but nothing with regard to the  
2247 foundation. I'm highly concerned that the structure of this magnitude is going to require a  
2248 rather extensive foundation, perhaps, even piles driven in this location because of the nature of  
2249 the soil there.  
2250  
2251 The other concern is the height of this. This thing is going to be as tall as a 17-story building.  
2252 It will dwarf anything nearby. Already, we have a number of things extending upward,  
2253 skyward, and I think our skyline is not going to benefit from anything as monstrous as this  
2254 sticking up in the air.  
2255  
2256 I'm also somewhat concerned about the proximity of the railroad tracks, because, although I no  
2257 longer work for the railroad, they work for me, and I don't want anything to happen to the  
2258 choo choo tracks over there.  
2259  
2260 With regard to the location of this thing is somewhat remote from my property, but it still  
2261 impinges, I think, on the operation in the creek area. I've lived there for 40 years, and I've  
2262 seen this creek; this Upham Branch, this creek. I've seen it as least twice as wide as this  
2263 room. As a matter of fact, it's been in my house about four times. I'm thoroughly familiar  
2264 with the creek and what it can do. I'm just saying to the County, I think it would be unwise to  
2265 permit this thing to go forward without a more extensive look at what they really are proposing  
2266 here, because I don't see anything with regard to the foundation that tells you anything. You  
2267 could have a disaster in this situation. So, I respectfully off my objection to the proposal.  
2268 Thank you kindly.  
2269

2270 Ms. Dwyer - Thank you, Mr. Drumheller. Are there any questions of Mr.  
2271 Drumheller by Commission members? No questions, Ms. Freye. You have 4.5 minutes.

2272  
2273 Ms. Freye - Thank you. I don't need that much, hopefully. I want to thank  
2274 Ms. Chamberlayne and Mr. Drumheller and Mr. Church, as well, the people in the  
2275 neighborhood who have taken time out of their schedules to respond to my calls and letters and  
2276 given me their input. And it's really thanks to them for their questions that we were able to  
2277 look at these questions and come up with some revised conditions to address those concerns  
2278 and make this a better case.

2279  
2280 I do understand that there's general criticism about industrial zoning in this area. And I think  
2281 maybe they realize this, but, by right, 100-foot towers could be placed on every M-1 piece of  
2282 property out there without any permission from the County which is needed, which is how the  
2283 GTE 87-foot tower got there in the first place by right was because of the M-1 zoning. Of  
2284 course, that could happen with no benefit of collocation; no benefit of landscaping or design  
2285 control at all. So, in that regard, I think that the controls that we've built in on this request do  
2286 make it more reasonable and make it more friendly to the neighborhood.

2287  
2288 On the lighting, of course, we know that the FAA has preemption over that matter about  
2289 lighting. But it is not indicated at all in this location. It is in the Airport Safety Overlay  
2290 District. It is not even close to the 199 feet, which would require that.

2291  
2292 The comment about traffic helicopters, I'm sure they do fly over this area. They fly all over  
2293 the metropolitan area. They safely navigate around all kinds of towers, whether they are  
2294 lighted or not; much taller than this one without any problems.

2295  
2296 On the construction drawings, that's where you will find the details of the foundation  
2297 requirements where you actually drill and do pour the concrete that's needed in that. I've only  
2298 known of one situation where pile driving was needed in the County. That was on some  
2299 industrial-zoned property at the depot. Out of all the towers, I think that's the only one in the  
2300 County that ran into a situation like that because of the soil condition.

2301  
2302 On the proximity to the railroad, there isn't any risk of the tower falling onto the railroad.  
2303 They're designed to collapse at the break point to fold over on themselves. The cables run  
2304 inside the pole; another way to hold that broken part to itself so that it doesn't get uprooted like  
2305 a tree and cave all the way over. It is designed to break and fold on itself so there's no danger  
2306 of it interfering with the railroad. That was a concern of the landowner, as well, who stores  
2307 cars and equipment in that yard. He didn't want the risk of that either.

2308  
2309 I hope that answers the questions that were raised, and I'd be glad to respond to any other  
2310 questions that you all have.

2311  
2312 Ms. Dwyer - Thank you, Ms. Freye. Are there any questions by Commission  
2313 members?

2314

2315 Mr. Vanarsdall - In the beginning, when you filed the 199 feet, that was because  
2316 the County felt better about...

2317  
2318 Ms. Freye - Yes sir. And I understand that, because it's a two-fold question.  
2319 Is it an appropriate location and, if it is, you want the maximum collocation available. And  
2320 then you start to getting into weighing out and mitigating, you know, one interest versus the  
2321 other, getting it in the right location, mitigating it, putting the conditions in to have the least  
2322 impact on the surrounding properties as you can.

2323  
2324 And with the input of the neighbors, we think we have been able to do that to mitigate and  
2325 balance out the lower height, still promote collocation, still cut down on the non-proliferation  
2326 of towers, and build in protections that wouldn't otherwise be there for the neighborhood.

2327  
2328 Mr. Vanarsdall - Well, it's now at 165?

2329  
2330 Ms. Freye - Yes sir. It's all the permit would permit it. If it's approved,  
2331 that's all that it could be built to, but that would still allow collocation.

2332  
2333 Mr. Vanarsdall - Well, bear with me a minute. I have some questions that came  
2334 from one of the citizens. If we limit this tower to 165 feet, will another tower end up having  
2335 to be built nearby for collocation?

2336  
2337 Ms. Freye - I do not think so. Triton is the sixth carrier in this market. The  
2338 other carriers have established their networks for the most part. There may be an opportunity  
2339 for some other companies to come in the market. I think there are only three possibilities of  
2340 that. This would allow collocation for at least three, maybe four. That's if there was a need  
2341 there for those other carriers that would come into the market, they could be accommodated on  
2342 this site.

2343  
2344 Mr. Vanarsdall - And are we positive that the FAA will not require obstruction  
2345 marking or lighting?

2346  
2347 Ms. Freye - Well, Mr. Vanarsdall, that's where we can't give a guarantee  
2348 because the FAA has their standards. But with the condition, it's just highly unlikely that  
2349 would be indicated here. The facts don't suggest that all. But we do have that condition that if  
2350 for some unknown reason, the FAA would send us a letter and say, "We want obstruction  
2351 lighting and marking." We could not do that. We would have to come back to you and ask  
2352 for your approval of that which you have the discretion to decline.

2353  
2354 Mr. Vanarsdall - You have No. 3 on there. So, if this should happen, and you  
2355 have to come back to this body, we then have the right to...

2356  
2357 Ms. Freye - Yes sir. These permits are revocable.

2358

2359 Mr. Vanarsdall - Excuse me, Gloria. That was never proved at the last one. We  
2360 talked about it. If this is approved, and then FAA says you have to put lights on it, and  
2361 because we do have No. 3 condition and it has to come back to this body;  
2362

2363 Mr. Peckens - It has to come back to the Planning Commission.  
2364

2365 Mr. Vanarsdall - ...Can we then say to Triton, "Forget the whole tower?"  
2366

2367 Mr. Peckens - Mr. Donati actually asked that question. I believe the answer to  
2368 that is, "Yes. You could deny the whole tower."  
2369

2370 Mr. Vanarsdall - That's what I thought. And it would be awful to take it down,  
2371 but it could be done.  
2372

2373 Ms. Freye - Well, and because the Provisional Use Permit is granted on these  
2374 conditions.  
2375

2376 Ms. Dwyer - Would you have the tower built at that point, because you  
2377 wouldn't know whether you were required to have the lighting until you finished with the FAA  
2378 process?  
2379

2380 Ms. Freye - That is a business risk that the company elects to take. In this  
2381 case, they feel confident that that's okay.  
2382

2383 Mr. Vanarsdall - That's all the questions I have. Thank you.  
2384

2385 Ms. Dwyer - Any other questions by Commission members?  
2386

2387 Person from Audience - (Comments unintelligible.)  
2388

2389 Ms. Dwyer - Sir, could you come down to the microphone, please. We are  
2390 recording this and we can't hear you from the audience.  
2391

2392 Mr. Drumheller - Why could we not go to the FAA at this point in time rather than  
2393 wait until the tower has already been constructed? Because once its been constructed, as we  
2394 just heard, it probably won't get unconstructed. Why could you not obtain a ruling from the  
2395 FAA that they would not impose a lighting requirement on the tower?  
2396

2397 Mr. Vanarsdall - Ms. Freye, do you want to take that? One of the things, Bill, I  
2398 think is, that the FAA has certain guidelines and this is not in the airport area. That may be  
2399 the reason. Ms. Freye will let you know.  
2400

2401 Ms. Freye - Yes sir. When these companies locate these sites, they do go  
2402 ahead and file their requests with FAA. There is the backlog that I explained earlier in the  
2403 evening. It is four to six months. The companies have to make a business decision of whether  
2404 there's a problem, whether that's indicated, whether they can take the risk and go forward and

2405 get their service on the market. And, in this case, we just haven't gotten the answer back from  
2406 the FAA. There's just no indication that its going to need to be lighted or marked.

2407  
2408 Ms. Dwyer - Thank you, Ms. Freye. Are there any other questions by  
2409 Commission members? Mr. Vanarsdall.

2410  
2411 Mr. Vanarsdall - In the beginning, I went out and looked at where the tower was  
2412 supposed to go the first time and found out the sign was on the wrong side of the street. And  
2413 then I talked to the Planning Office and it was advertised wrong, and put on the wrong side.  
2414 And then we had to defer it and come back to it. Now, it went over to where it wants to go  
2415 now.

2416  
2417 The Triton people looked at eight locations. And, had a couple of these locations said,  
2418 "Yes,:" you'd be in more trouble with site and neighbors than you are now. The civic  
2419 association in Battery Park has no problem with this. They said they would like to have it  
2420 landscaped to cover up the junk and junk cars and foundation and so forth. And, so, I believe,  
2421 Ms.; Freye, Triton has agreed to all kinds of landscaping. Of course, you can't cover up the  
2422 165 feet.

2423  
2424 As I asked, and Ms. Freye responded, it was advertised 199 feet because the County requires  
2425 that for collocation. In this case we dropped it to 165 feet. Mr. Drumheller is concerned  
2426 about the foundation. I know Mr. Drumheller is a longtime engineer, and I certainly can't say  
2427 anything about the foundation, other than I wouldn't think it would be any danger of it going  
2428 over. I don't believe it will have any damage to Upham Creek.

2429  
2430 As far as the lights, I know that Ms. Chamberlayne has been concerned about the FAA lights.  
2431 As far as the lights are concerned, it somewhat concerns me that it seems like we are putting  
2432 the cart before the horse in some of these cases that have come up, in not being to get  
2433 something from FAA.

2434  
2435 I'd like to act on it in this manner. We have Condition No. 3 on this case which means that if  
2436 FAA does require lights and it has to come back to this body for approval, has to come back  
2437 under another Provisional Use Permit. So, I'm going to in my recommendation, I'm going to  
2438 incorporate that, Condition No. 3. Let's see how I can word this. I'm going to recommend  
2439 this to the Board for approval, and ask Mrs. Freye to find out between now and Board time,  
2440 even if you have to make a phone call, have to fax, whatever you have to do, E-mail, get an  
2441 answer from FAA on this before Board time. And then, if that's not possible, and even if they  
2442 tell you, "No. We don't require lights," and they later require it, then I would like to state in  
2443 here, if this comes back to this body, the Planning Commission, that we'll just "null and void"  
2444 the tower. I don't know whether that's ever been stated or not, but that's what I'd like to have  
2445 in my motion.

2446  
2447 I do believe you have looked in all of the places you could look. Staff has no problem with it.  
2448 You deleted Condition No. 6. So, I'm going to recommend to the Board of Supervisors for  
2449 approval.

2450

2451 Ms. Dwyer - Mr. Secretary, how shall we handle the revision to Paragraph 3?  
2452 Mr. Vanarsdall, did you want to say, "if lighted or marking were required, then this approval  
2453 would be..."  
2454  
2455 Mr. Vanarsdall - "...this approval is 'null and void.' In other words, it would be  
2456 no tower.  
2457  
2458 Mr. Merrithew - We can certainly reword that so that "There shall be no lighting  
2459 or striping of this tower," as a condition.  
2460  
2461 Ms. Dwyer - As a condition, okay. Staff can take care of that between now  
2462 and Board time?  
2463  
2464 Mr. Merrithew - Certainly. And, am I to understand, Mr. Vanarsdall, with regard  
2465 to the applicant determining what the FAA is going to require prior to take this case to the  
2466 Board? Is that what you're saying? If the FAA responds...  
2467  
2468 Mr. Vanarsdall - ...have this by Board time, or prior to Board approval.  
2469  
2470 Mr. Merrithew - Typically, it takes more than the four weeks that it would take  
2471 this case to get to the Board. The question is, if the condition is written so that there will be  
2472 no lighting, does it matter to you what the FAA says, if you can't build the tower if lighting is  
2473 required?  
2474  
2475 Ms. Dwyer - Does it matter when they say it, in other words?  
2476  
2477 Mr. Merrithew - Correct. If we condition it that there will be no lighting, then, is  
2478 there any need to wait for the FAA to respond since they cannot build the tower if lighting is  
2479 needed?  
2480  
2481 Mr. Vanarsdall - I don't guess it is.  
2482  
2483 Mr. Merrithew - Okay.  
2484 Ms. Dwyer - So, we're clear on that amendment?  
2485  
2486 Mr. Merrithew - If there's any lighting required, they are null and void this  
2487 application. They could not come back with a shorter tower to avoid the lights. They still  
2488 cannot come back with a shorter tower. If it's required at this height, they're going to have to  
2489 come back for a Provisional Use Permit for the tower.  
2490  
2491 Mr. Vanarsdall - Right. That's my motion.  
2492  
2493 Mr. Merrithew - I'm not even going to look at the applicant on that condition.  
2494  
2495 Ms. Dwyer - I'm not clear about - if they came in with a shorter tower that did  
2496 not require lighting or painting, would that be covered by this?



2497  
2498 Mr. Merrithew - I think Mr. Vanarsdall's intent is, if lighting is required at 165  
2499 feet on this tower, then this application is null and void.  
2500  
2501 Mr. Vanarsdall - Right.  
2502  
2503 Mr. Merrithew - Now, Randy is looking at me hard. He may have a different take  
2504 on it? Is that correct?  
2505  
2506 Mr. Vanarsdall - Let's have it, Randy.  
2507  
2508 Mr. Merrithew - Or do you wish to allow them to come in with a shorter tower on  
2509 the same site without lights?  
2510  
2511 Mr. Randall Silber, Assistant Director of Planning - Well, I wasn't looking at you hard, John,  
2512 but what the Planning Commission is saying is, if there's any painting or lighting of this tower  
2513 at this height, its not permitted period. If the applicant considers coming in with a shorter  
2514 tower, I think there could be consideration of a shorter tower. I don't think any consideration  
2515 should be given to the lighting or the painting of a tower at this location.  
2516  
2517 Mr. Vanarsdall - I'm saying, the request is 165 feet.  
2518  
2519 Mr. Merrithew - Right.  
2520  
2521 Mr. Vanarsdall - I'm saying, if a light or painting has to go on that 165 feet, then  
2522 forget the whole tower. If the tower comes in and its shorter in height, then that is another  
2523 case.  
2524  
2525 Ms. Dwyer - That's clear.  
2526  
2527 Mr. Merrithew - That's another Provisional Use Permit. Okay.  
2528  
2529 Ms. Dwyer - Right.  
2530  
2531 Mr. Merrithew - Okay.  
2532  
2533 Mr. Vanarsdall - We will address that at the same time.  
2534  
2535 Mr. Merrithew - Okay.  
2536  
2537 Mr. Vanarsdall - But I would like to say, I would think right now, if it comes in at  
2538 any height and has a light on it, it would be "null and void." No tower. In other words, I'd  
2539 like to change that. If they have to have it lighted and painted and make a lot of light, no tower  
2540 of any height.  
2541  
2542 Mr. Merrithew - Right.

2543  
2544 Mr. Vanarsdall - I realize they can put it at 100 feet without our permission, but  
2545 can't go over that.  
2546  
2547 Mr. Silber - Mr. Vanarsdall, you're saying, if they come in with a tower  
2548 that's not lit or painted at 120 feet, then you're saying it still has to go back through the  
2549 process?  
2550  
2551 Mr. Vanarsdall - In other words, if its going to be a light there on a tower, then  
2552 there will be no tower, period. Not from me or this Commission. Help me with the wording.  
2553 Maybe that doesn't make sense.  
2554  
2555 Mr. Silber - I think it goes back to John's first comment. That, as long as we  
2556 condition this, "There shall be no lighting or painting of this tower, period," doesn't address  
2557 the height of it. They are seeking approval for a certain height period. No lighting, no  
2558 painting. If they come in with something less than that, I don't understand the purpose for  
2559 requiring them to have another Provisional Use Permit, but maybe I'm missing something.  
2560  
2561 Ms. Dwyer - In other words, if the FAA requires lighting at 165 feet, and the  
2562 applicant says, "We'd like to build a 120 foot tower that has no lighting and no painting,"  
2563 should they be required to go through the process again, or could we say, "That's okay." As  
2564 long the as the criteria of no lighting and painting is met, could any tower be built up to 165  
2565 feet? Is that what you're suggesting.  
2566  
2567 Mr. Merrithew - Yes. I think that would be appropriate. The concern is the  
2568 lighting. And the concern is 165 feet. If something comes in shorter and no lights, then we  
2569 win both ways.  
2570  
2571 Mr. Vanarsdall - All right. Do it that way.  
2572  
2573 Mr. Merrithew - Okay. We'll work on the language.  
2574 Mr. Vanarsdall - Okay.  
2575  
2576 Ms. Dwyer - All right. Are we ready for a motion?  
2577  
2578 Mr. Vanarsdall - I did. I finished my motion.  
2579  
2580 Ms. Dwyer - You finished your motion.  
2581  
2582 Mr. Vanarsdall - I need a second.  
2583  
2584 Mrs. Quesinberry seconded the motion.  
2585  
2586 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mrs. Quesinberry.  
2587 All those in favor say aye—all those opposed by saying nay. The motion is carried.  
2588

2589 Mr. Vanarsdall - Thank you for coming.  
2590

2591 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Quesinberry, the Planning  
2592 Commission voted 5-0 (one absent) to recommend that the Board of Supervisors grant the  
2593 requested revocable provisional use permit, subject to the following conditions:  
2594

2595 1. If the use of the tower for communication purposes is discontinued for a period of 180 days,  
2596 the tower and all related structures shall be removed from the site within 90 days. Within ten  
2597 (10) business days after written request by the County, the owner of the tower shall provide  
2598 the County with written confirmation of the status of the tower, the number and identity of  
2599 users on the tower, available collocation space and such additional information as may be  
2600 reasonably requested.  
2601

2602 2. Application for a building permit to install the tower must be made within one year after the  
2603 Provisional Use Permit is granted by the Board of Supervisors, unless an extension is granted  
2604 by the Director of Planning upon written request by the applicant.  
2605

2606 3. The applicant shall not construct the tower to a height that requires obstruction painting or  
2607 lighting as determined by the Federal Aviation Authority or in any event install obstruction  
2608 marking or lighting on the tower. The tower shall not exceed a height of 165 feet.  
2609

2610 4. When site construction is to be initiated as a result of this Provisional Use Permit, the  
2611 applicant shall complete requirements prescribed by Chapter 10 of the Henrico County  
2612 Code. In particular, land disturbance of more than 2,500 square feet will require that  
2613 construction plans include a detailed drainage and erosion control plan prepared by a  
2614 professional engineer certified in the State of Virginia. Ten (10) sets of construction plans  
2615 shall be submitted to the Department of Public Works for approval.  
2616

2617 5. The applicant shall install erosion control measures around the perimeter of the disturbed  
2618 area associated with the tower to the satisfaction of the County Department of Public  
2619 Works where Condition 4 does not apply.  
2620

2621 6. The applicant agrees to allow collocation of at least 3 and as many additional users as  
2622 technically possible at this site in accordance with the provisions of the Letter of Intent to  
2623 Permit Collocation on Communications Tower, filed by the applicant with this request.  
2624

2625 7. The applicant shall landscape the perimeter of the automobile storage area along the  
2626 Byrdhill Road frontage and between Byrdhill Road and the gated entrance to the storage  
2627 area. The applicant shall also landscape the perimeter of the leased area to visually screen  
2628 the ground equipment associated with the tower.  
2629

2630 The Planning Commission's recommendation was based on the fact that the Provisional Use  
2631 Permit is reasonable in light of the surrounding uses and existing zoning on the property; and it  
2632 would provide added services to the community  
2633

2634 C-3-99 Windsor Enterprises, L. L. C.: Request to rezone from R-4 One  
2635 Family Residence District and C-1 Conservation District to R-4 One Family Residence District  
2636 and C-1 Conservation District, part of Parcel 73-A-18, containing 4.5 acres, located on the west  
2637 side of Interstate 95 approximately 335' south of Lakeside Boulevard. A single family  
2638 subdivision, recreation area and wetland mitigation area are proposed. The R-4 District permits  
2639 up to 5.45 units gross density per acre. The Land Use Plan recommends Environmental  
2640 Protection Area.

2641  
2642 Ms. Dwyer - Is there any opposition to C-3-99 Windsor Enterprises? Thank  
2643 you. We'll have you speak at a later point. Thank you very much. Ms. Gardner.  
2644

2645 Ms. Gardner - Good evening. This is a request to rezone a total of 4.5 acres; two  
2646 acres from the R-4 Residential District to C-1; 2.5 acres from C-1 to R-4. This would make the  
2647 zoning of the land consistent with what we know to be the floodplain area in this particular  
2648 portion of the County. (Referring to slide) You can see the zoning area of the large area of C-1.  
2649 And, in fact, you would be able to see on the picture a substantial lake area, I think if we could  
2650 call it up. I think that might be overstating it a little bit. But there is substantial wet area back  
2651 there, and there are some area wetlands. However, there is an upland area. That is where they  
2652 plan to build the residential subdivision.

2653  
2654 There are no conditions proposed on this case. Ordinarily, the staff would not support a case  
2655 without conditions. However, since this is, essentially, between two very closely situated areas  
2656 from R-4 to C-1, roughly equivalent areas, and this subdivision is not going to be directly  
2657 adjacent to any existing development, the impact should be fairly minimal. For that reason, staff  
2658 recommends approval, and I'd be happy to take any questions or get into any more detail.

2659  
2660 Ms. Dwyer - Are there questions of Ms. Gardner by Commission members?

2661  
2662 Mr. Archer - Ms. Gardner, does the rest of the Commission have the copies of  
2663 the letters we got today?

2664  
2665 Ms. Gardner - I do not believe so. No.

2666  
2667 Mrs. Wade - Where's the access for this?

2668  
2669 Mr. Archer - I got a letter today. I'd be happy to share mine with the rest of  
2670 you.

2671  
2672 Ms. Gardner - If I could answer that question; Lakeside Boulevard. There's a  
2673 right of way here against the property. Here's the upland area where the subdivision will take  
2674 place. As you can see here, there's a lake. On the picture you can see, that it is bright green.  
2675 To call it a lake, might be overstating.

2676  
2677 Ms. Dwyer - Is it a County road? What is the status of the right of way that will  
2678 give access to the property?

2679

2680 Ms. Gardner - That is only a right of way. That right of way was reserved,  
2681 according to the applicant, when the land was taken for Interstate 95 several decades ago, and  
2682 specifically intended for the access to this property. So, it is not now a County road, but I  
2683 assume that, as the property is developed, it would have to be made into a County road.

2684  
2685 Ms. Dwyer - It is owned by VDOT?

2686  
2687 Ms. Gardner - Right.

2688  
2689 Ms. Dwyer - So, VDOT, then would need to convey the property to the  
2690 County?

2691  
2692 Ms. Gardner - Presumably. I hadn't thought of that aspect of it, but, yes.  
2693 Perhaps, the applicant can answer in more detail on that. I don't know the answer.

2694  
2695 Ms. Dwyer - What's the status of the lake area? Is that owned by the applicant,  
2696 as well? Will that be a part of this development or?

2697  
2698 Ms. Gardner - That is owned by the applicant. It's not part of the rezoning  
2699 request, but it is an adjacent area. Perhaps the applicant can better address what he plans to do  
2700 with that. I understand, I don't think I would be telling a tale that he plans to market it as lake  
2701 front property. So.

2702  
2703 Ms. Dwyer - Are there any questions of Ms. Gardner? Thank you, Ms.  
2704 Gardner. We'll hear from the applicant.

2705  
2706 Mr. Archer - I believe we should.

2707  
2708 Ms. Dwyer - Again, the Commission's practice is to permit 10 minutes of  
2709 presentation time to the applicant and to the opposition. Time spent asking and answering  
2710 questions for the Commission are not included in that 10-minute time period. And you may  
2711 reserve time for rebuttal, if you prefer.

2712  
2713 Mr. Tim Rohrmoeser, QMT Engineering - I represent the applicant. The question regarding the  
2714 right of way, it, indeed, was a right of way. The deed of taking was completed in 1959. There  
2715 was an unrecorded subdivision at that time called Chamberlayne Hills. That was conceived  
2716 about 1953. It was the intention of the Highway Department to provide right-of-way access to  
2717 that subdivision at that time. They still retain deed to that right of way, and by the deed, have  
2718 granted access language, deed to access to the property.

2719  
2720 We don't have confirmation yet from the Highway Department that they're going to grant that to  
2721 the County, but there's every indication that they will. We don't have official confirmation of  
2722 that. But that was intended originally.

2723  
2724 Again, indeed, that is an upland area. Since the early fifties, it has been conceived for a  
2725 subdivision. The purpose of this case is to better configure the property to two floodplain areas

2726 that are delineated on that map, per the County's study that came about some decades later. The  
2727 applicant does desire to market available areas below the residential development, as wetland  
2728 mitigation sites. There is approximately seven acres there and possible regional BMP sites.  
2729

2730 Ms. Dwyer - I'm troubled by the access. Again, it may be that VDOT has  
2731 agreed to allow access through its deed, but I had experience with VDOT in another case in  
2732 which they were actually vacating right of way, and they had to vacate it before anyone could  
2733 purchase it. They said anyone could purchase it because they had an obligation to taxpayers to  
2734 get the highest, you know, amount of money they could for the property. And it was tied up for  
2735 a very long period of time. So, I guess I'm just a little concerned. Our staff report states that  
2736 access would be gained through the adjacent R-4 site and doesn't indicate that there would be,  
2737 you know, this VDOT kind of left over right of way. That's part one.  
2738

2739 Part two of my question is, "Who would be responsible for paving and then maintaining that  
2740 road, prior to the time VDOT does anything with it?"  
2741

2742 Mr. Greg Windsor - Ms. Dwyer, I'm Greg Windsor. That right of way was specific to  
2743 this piece of property. I can't unequivocally say that we won't have a problem. But I think  
2744 that's different than when the State has to auction it, or have a sealed bid, however they dispose  
2745 of it. They would landlock this piece if they were to do a sealed bid and I wasn't the bidder.  
2746 So, I don't know that they could do that.  
2747

2748 Mr. Archer - Mr. Windsor, would you be able to develop this at all without that  
2749 right of way?  
2750

2751 Mr. Windsor - "A right of way." If I could get a right of way.  
2752

2753 Mr. Archer - If it were not for this one, where...  
2754

2755 Mr. Windsor - If I couldn't get another one?  
2756

2757 Mr. Archer - Yeah. Where would another one go?  
2758

2759 Mr. Windsor - Well, if I were to buy some of the adjacent parcels enough to get at  
2760 least a 50-foot right of way from Lakeside Boulevard.  
2761

2762 Mrs. Wade - These aren't developed down here at the bottom? I mean there are  
2763 no houses? No. They're not.  
2764

2765 Mr. Windsor - Lakeside Boulevard is the closest houses which is the first street to  
2766 the north of the project.  
2767

2768 Mr. Archer - Mr. Windsor, I have one more question. In your letter to me, and  
2769 of course, in Ms. Gardner's remarks, we refer to "the lake" as what might be referred to as a  
2770 lake. What else might we refer to it as, if not a lake?  
2771

2772 Mr. Windsor - There's water there all the time. It's a lake. It's not a pretty lake.  
2773 It's often green. It's actually a retention basin. A lot of the upstream development enter here  
2774 and flow under I-95 at the southern point.  
2775

2776 Mr. Archer - As you propose to build, how far would your subdivision actually  
2777 be from where the water begins?  
2778

2779 Mr. Windsor - (Referring to slide), You see like a racetrack area?  
2780

2781 Mr. Archer - Yes.  
2782

2783 Mr. Windsor - If you go northwest all the way up to the first house, its  
2784 approximately, I'm just guesstimating from the previous studies, maybe 400, 500 feet. From the  
2785 bottom lake, it would be about 200 to 300 feet.  
2786

2787 Ms. Dwyer - Mr. Windsor, part 2 of my question about the access road, who's  
2788 going to build the road?  
2789

2790 Mr. Windsor - I would build the road?  
2791

2792 Ms. Dwyer - You would build the road.  
2793

2794 Mr. Windsor - And I would build it to County standards, have it accepted into the  
2795 system as I do all roads in Henrico.  
2796

2797 Ms. Dwyer - And did you say VDOT has deeded that right of way to you as the  
2798 owner of this property?  
2799

2800 Mr. Windsor - When VDOT built I-95, they severed this piece which was actually  
2801 part of the other side of I-95. They provided this right of way for this specific part that they  
2802 severed. It was the only way that anyone could get to it. So, maybe, perhaps, unlike that case, I  
2803 don't see how they can auction it off. It is my understanding that we can build over a State right  
2804 of way. I could be wrong.  
2805

2806 Ms. Dwyer - Well, if it's deeded, unless it's deeded to you, then it's been  
2807 deeded to that property?  
2808

2809 Mr. Windsor - No. I'm not making that representation. I don't know that. It was  
2810 provided for that property. I don't know if I'd use the word, "deeded." Maybe Mr. Silber  
2811 could shed some light on it. I don't know.  
2812

2813 Mr. Rohrmoeser - There were provisions in the deed allowing access to the property.  
2814 The Highway Department, at the time, had intended to construct a frontage road to allow access  
2815 to that specific piece of property. The language in the deed said the landholder had right to use  
2816 that frontage road to gain access to the property.  
2817

2818 Of course, again, in 1959. Now, their sympathies are, they want us to build a road to County  
2819 standards, and they said they'll try to work out the details of granting that to the County. There  
2820 hasn't been time to develop that.

2821  
2822 Ms. Dwyer - So, you've received an official letter?

2823  
2824 Mr. Rohrmoeser - We don't have official letters yet. They'll still trying to find  
2825 somebody at the Highway Department to work out the language...

2826  
2827 Ms. Dwyer - That part's familiar.

2828  
2829 Mr. Windsor - They've given some verbal assurances at this point.

2830  
2831 Ms. Dwyer - Who?

2832  
2833 Mr. Rohrmoeser - Thurston Boggs, at the central office.

2834  
2835 Mrs. Wade - Well, obviously, if you can't get there, you can't build houses in  
2836 there.

2837  
2838 Mr. Windsor - And it is R-4 today, a good portion of it. This is, basically, a one-  
2839 half increase in the R-4.

2840  
2841 Ms. Dwyer - Any other questions by Commission members?

2842 Mr. Archer - Madam Chairman, I don't have any other questions, but I'd rather  
2843 hear what the opposition has to say first, and then reserve the right to ask some more questions.

2844  
2845 Ms. Dwyer - Any one else wishing to speak to the case or in opposition to the  
2846 case, please come forward. Good evening. If you could state your name for the record, please?

2847  
2848 Mrs. Louise Lloyd - I live on Lakeside Boulevard on the south side, which my property  
2849 would back up to this. What we're concerned about is the water problem; whether it would back  
2850 up any more on our property or not. We were talking with the gentleman out in the lobby.  
2851 They were saying that they were going to control that.

2852  
2853 When we moved there in 1962, the property behind us was virtually dry until we had several  
2854 days of rain. Then it would settle there, and then it would drain off. But, of course, as the years  
2855 went on, they have built houses up above us, which was all wooded when we moved there. We  
2856 were about the fourth house up the hill as you go up to I-95. We're down at the dead end, and  
2857 then they built some houses up there. When they cut those trees and bushes and things, water  
2858 started, the more water going back there and started to having more problems. We've been up  
2859 to the County several times about it.

2860  
2861 That's our main concern. Our property runs from Lakeside Avenue toward the old Warwick,  
2862 which was never put in there. It's designated on the map. Then we own another 80 x 100 feet  
2863 on the other side of Warwick. Well, when the water gets in there, it covers that with water. So,



2864 that is unusable for us. We don't want any water on the 80 x 200 feet that we own, which runs  
2865 from Lakeside or Warwick. We don't want any water coming up on the back of that. That's  
2866 what our main concern was about this.

2867  
2868 Well, we didn't find out about this until yesterday. So, I imagine if the other homeowners knew  
2869 anything about it, then they would have been here and concerned. They probably wouldn't want  
2870 any more water up behind them either. So, that was our concern about that.

2871  
2872 Ms. Dwyer - Thank you, Mrs. Lloyd. Are there any questions by Mrs. Lloyd  
2873 by Commission members?

2874  
2875 Mr. Archer - Mrs. Lloyd, before you go, you did say you had discussed this  
2876 with the applicant as to how he intends to deal with the water?

2877  
2878 Mrs. Lloyd - Yes. He said he was going to control the water.

2879  
2880 Mr. Archer - Okay. I'll ask Mr. Windsor.

2881  
2882 Mrs. Lloyd - ...and it wouldn't back up anymore on us. They call it a lake now,  
2883 which it might look like one, but back then, it was all dry land when we moved. Like I said, the  
2884 only water on it was when you had a hard rain. It would sit there for awhile and then it would  
2885 drain on off. But the past few years we've had a little bit more problem. It's setting there a  
2886 little bit longer than it used to. It's not really like a lake. It's more like just a - It's not very  
2887 deep back there because some of the children went walking back in there.

2888  
2889 Mr. Archer - Do you know what has suddenly caused the water to start to pool  
2890 where it didn't used to?

2891  
2892 Mrs. Lloyd - Well, when the T.V. towers went back there, I mean the radio  
2893 towers went back there, and they built those back there, they dug some trenches around their  
2894 property and everything. They had it so it was draining off. Then it started to growing up. So,  
2895 we got in touch with the County about getting them to clean the drain ditches out. That's when  
2896 we found out; we always find out something too late. That's when we found out that had been  
2897 designated conservation area, and that the County - Anyway they couldn't clean those ditches  
2898 out anymore, that the water would just have to sit there to absorb, or done something. I don't  
2899 know. But this was like when they started to building the houses. Then, I think the County put  
2900 some drain system in up the hill up there and they brought it down to the end of Moss Side and  
2901 turn it loose back in there. You know the curbing, the manhole curbing drains that they put on  
2902 the side of the road. They put them back up on some of the hill. I asked one of the men, "Why  
2903 are they always getting something to keep water off their property, and then put it down on  
2904 ours?" One of the County men. But they brought that down there. That drain runs back down  
2905 in there. The only outlet to that is some culverts that goes under I-95. I guess they're just  
2906 putting too much water back in there, that it's not draining off as fast as it used to. The culverts  
2907 aren't big enough or something, that it just sits there.

2908

2909 Mr. Archer - So, in other words, this "lake" was just more or less created  
2910 because of water overflow?  
2911  
2912 Mrs. Lloyd - Yes sir.  
2913  
2914 Mr. Archer - And has it rendered your particular property unusable?  
2915  
2916 Mrs. Lloyd - The 80 x 100 foot behind us on the other side or Warwick is  
2917 unusable.  
2918  
2919 Mr. Archer - Did you use it for anything?  
2920  
2921 Mrs. Lloyd - No. I didn't use it for anything. But its unusable now if I wanted  
2922 to use it.  
2923  
2924 Mr. Archer - Is it mostly all under water now?  
2925  
2926 Mrs. Lloyd - Yes. Most of the time. Once in awhile it will dry up if we have a  
2927 dry spell like back in the summer before we didn't have much rain and everything. It will dry  
2928 up some.  
2929  
2930 Mr. Archer - And you feel additional building would increase the water  
2931 capacity?  
2932  
2933 Mrs. Lloyd - Well, that's what I was worried about. But then they were talking  
2934 to us out in the lobby, and they said that they was going to install things to control that. So.  
2935  
2936 Mr. Archer - Now, if we were able to do that, and control the water so that it  
2937 would not increase, would you still have an objection?  
2938  
2939 Mrs. Lloyd - If you can control it and keep it down, I wouldn't have any  
2940 objections. But I don't want any more water that's back there. I don't even want what's back  
2941 there, but I don't want anymore than what's back there.  
2942  
2943 Mr. Archer - And you indicated also that some of your neighbors have the same  
2944 problem, but they were not aware of this?  
2945  
2946 Mrs. Lloyd - Yes. Mr. Bent was supposed to come up here but he didn't make  
2947 it. I don't know why. But its other neighbors that the water comes up on their property.  
2948  
2949 Mr. Archer - Now, you live on the south side of Lakeside?  
2950  
2951 Mrs. Lloyd - Yes.  
2952  
2953 Mr. Archer - As you go up the hill to where the rezoning sign is, how far do you  
2954 live from the top of the hill?

2955  
2956 Mrs. Lloyd - We're at the dead end. You know where the dead end is to I-95.  
2957 We're the fourth house from the bottom of the hill as you go up the hill to the dead end.  
2958  
2959 Mr. Archer - But you're at the bottom of the hill?  
2960  
2961 Mrs. Lloyd - Yes. I'm at the bottom of the hill. I'm in the fourth house from  
2962 the hill. There's Mr. Beck, and the Wrights and Mr. Marsh and us starting from the bottom of  
2963 the hill that goes up to the dead end, on the south side where our property backs up.  
2964  
2965 Mr. Archer - I was just out there the other day. I'm familiar with it. They're  
2966 on Lakeside Boulevard.  
2967  
2968 Ms. Dwyer - You are closer to I-95?  
2969  
2970 Mrs. Lloyd - Where are we at on there (referring to slide)? Lakeside comes  
2971 down and then it goes up a hill and dead ends into I-95. I can't quite tell where the bottom of the  
2972 hill is there. We are the fourth house.  
2973  
2974 Mr. Archer - That one (referring to slide)?  
2975 Mrs. Lloyd - We're the fourth house there. It's a house up on the hill there.  
2976 It's a house up on this side of the hill. But I'm talking about right at the bottom of the hill, we're  
2977 the fourth house. There's only one other house on that side of the street as you go up the hill on  
2978 the right. But right at the bottom of the hill, like I said, it's...  
2979  
2980 Mrs. Wade - Actually, there are addresses on here (referring to slide). What's  
2981 your number.  
2982  
2983 Mrs. Lloyd - 411. I'm on the opposite of 412. I'm 411.  
2984  
2985 Mr. Archer - Okay. That's all I have unless some of the other Commissioners  
2986 have questions.  
2987  
2988 Ms. Dwyer - Any other questions by Commission members of Mrs. Lloyd.  
2989 Thank you very much.  
2990  
2991 Mr. Lloyd - One thing I'd like to add. The traffic now is going to be one way  
2992 in here and it's one way out. That street over there, Lakeside Boulevard, two cars going and  
2993 coming is all the street we've got over there. We got several, I guess, 15 or 20 kids in that one  
2994 block. And they don't mind standing out in the street. You know, you have to blow the horn at  
2995 them to make them get out of the street. I was concerned about the traffic, too, after they build  
2996 up there. It's going to be a lot of traffic through there, too. I don't know much we can do about  
2997 that.  
2998  
2999 Mr. Archer - I'm not sure I can answer that, sir. I think we're talking about like  
3000 20 to 30 houses. This wouldn't be creating a tremendous amount of traffic. The Traffic

3001 Engineer has indicated that the impact could be dealt with. I want to ask Mr. Windsor some  
3002 more questions about dealing with your water problem, first.

3003  
3004 Mr. Lloyd - Well, that was the main thing, anyway, about the water.

3005  
3006 Ms. Dwyer - Could you state your name for the record, please, sir.

3007  
3008 Mr. Lloyd - Lester Lloyd, husband to Louise.

3009  
3010 Mr. Archer - Thank you, Mr. Lloyd. Mr. Windsor, can you help us out here,  
3011 sir?

3012  
3013 Mr. Windsor - Yes.

3014  
3015 Mr. Archer - Can you be a little bit more specific as to what you plan to do  
3016 about taking care of the drainage so that we don't increase the amount of water, or would you  
3017 rather try to create a lake?

3018  
3019 Mr. Windsor - We're definitely uphill of that lake. I'm going to defer to my  
3020 engineer, because he speaks of the 50/10 retention. I'll let him speak to it. Again, we hope to  
3021 approach the County and have them consider a regional BMP. I know we're doing individual  
3022 BMPs in neighborhoods. That's one of the reasons that I purchased this piece. I would think  
3023 that would certainly slow the water down. I think the problem is probably the quantity and the  
3024 velocity, based on the pipes under I-95. And I think, if we are successful, I'm not very good at  
3025 the 50/10. You'll have to explain that relative to the 20 lots that I'm proposing.

3026  
3027 But, I think if we're successful with the County on a regional BMP, it certainly would cure some  
3028 of the problem that's there. Certainly, slowing it down. Tim, would you like to...

3029  
3030 Mr. Rohrmoeser - Yes. In the staff report they note that this is going to be a 50/10  
3031 area for development, right from the onset. The developer does desire to market the additional  
3032 areas. As I said, we have approximately seven acres above the wetlands that we've delineated  
3033 for regional BMPs or wetlands. By their nature, we hope that the BMP also offers some  
3034 stormwater retention by their very nature.

3035  
3036 The wetland areas that is envisioned for providing mitigation, those areas now that are not  
3037 wetlands, some of that fill will have to be removed in order to provide a viable wetland. There,  
3038 again, increasing the basin quantity of the total basin, and, again, by its nature, contributing to a  
3039 lower flood levels in that area.

3040  
3041 Ms. Dwyer - So, when you create the regional BMP, then other developers  
3042 could purchase...

3043  
3044 Mr. Windsor - Or save it for myself. Maybe not in this watershed. We're  
3045 uncertain what the County's policy might be.

3046

3047 Ms. Dwyer - What would the BMP look like? Would it be wet all the time?  
3048 Mr. Rohrmoeser - No. The BMP that we have in mind would be a wet/dry cycle.  
3049 Again, I think the most promising right at the onset right now, are the wetland mitigation areas.  
3050 Again, because the County's policy on regional BMPs are a little vague right now. But we hope  
3051 we can work that out during the process of zoning.  
3052  
3053 Mr. Windsor - And I believe the wetland mitigation would help the existing water  
3054 problem.  
3055  
3056 Mr. Rohrmoeser - Again, make a viable wetland, at least, for the lower series  
3057 recurring storms, the two, the ten, the 25. We'll have to, basically, bench out some of that area  
3058 to viable wetlands. Of course, when the 100-year storm, its not going to help anybody, but...  
3059  
3060 Ms. Dwyer - How would this area change, looking at this from the  
3061 neighborhood perspective, how would it change once the regional BMP is created? What is the  
3062 engineering that you are going to do in the area?  
3063  
3064 Mr. Rohrmoeser - The topography rises quite abruptly from the 100-year flood plain  
3065 that's designated in that area. Given the nature of that topography there is not going to be  
3066 buildable, may be retained as wooded area. Just below that and just beyond the lot areas, that is  
3067 where we have this available seven acres. You probably wouldn't see much change in the  
3068 character. We still have a wet green swamp, basically, down there. Again, you might see more  
3069 delineated features in viable wetland areas. But, hopefully, the wetland areas would have to  
3070 blend and become part of that environment and just an extension of the environment.  
3071  
3072 Now, we can't combine BMPs and wetlands, at least, not yet, because of the jurisdictions.  
3073  
3074 Ms. Dwyer - Are there any other questions of the applicant by Commission  
3075 members?  
3076  
3077 Mr. Archer - Just a couple, Madam Chairman. I need to ask the Lloyds. You  
3078 don't need to come up. But do you have a neighborhood civic association?  
3079  
3080 Mrs. Lloyd - No.  
3081  
3082 Mr. Archer - Do you ever meet as a neighborhood?  
3083  
3084 Mrs. Lloyd - ...It's an old neighborhood. We don't have things like that.  
3085  
3086 Mr. Archer - Mr. Windsor, I got your letter this afternoon. And for the benefit  
3087 of my colleagues on the Commission and the others, Mr. Windsor and I had talked about some  
3088 things since there were no proffered conditions on this case that could be done to make sure the  
3089 neighborhood is one. If he builds it, it would be viable and would be one that would as attractive  
3090 or more attractive than the houses that are there. And, I think, by and large, in the letter that he  
3091 sent me, which Ms. Gardner has a copy of, he agreed to do that. There were some positive  
3092 things that he mentioned; one being that the lot sizes would be larger than those that are currently

3093 there. And he also had talked with some adjacent neighbors who indicated that this plot of land  
3094 is often used by neighborhood children for go carts and mini-bike racing and few people who  
3095 park there at night, and this could somewhat eradicate that problem. And I was pretty much  
3096 prepared to go forward with this, but I had not expected to hear any opposition. And, Mr.  
3097 Windsor, with all due respect, sir, I think it might be beneficial if we can get a group of Mr. and  
3098 Mrs. Lloyd's neighbors together and discuss what it is you plan to do to address what their  
3099 concerns are and others that they think in the neighborhood might have. They indicate they  
3100 don't object to it. You can overcome that part of it. It seems like we're kind of working against  
3101 the middle here, because you indicate you want to create a lake front property, and they don't  
3102 want a lake.

3103  
3104 Mr. Windsor - Well, it's my understanding, through engineering, that we would  
3105 retain the water that the 20 lots that I'm proposing, we would retain it onsite and no increase in  
3106 the lake. What's there is there. I don't intend to increase that.

3107  
3108 Mr. Archer - And I believe what you say, but I feel like we should do a little bit  
3109 more to satisfy the neighborhood and not have them to wonder about what's going to be there. I  
3110 think if we can meet with them and just be a little bit more specific of what it is you plan to do.  
3111 And in looking at the positive things that you indicated in the last paragraph of your letter about  
3112 doing away with some things that already exist there, then I think this neighborhood could co-  
3113 exist peacefully with the existing neighborhood. But, I really think we owe them that courtesy to  
3114 at least discuss it with them, and see if we can reach some agreement on it. Can you agree with  
3115 that?

3116  
3117 Mr. Windsor - Yes.

3118  
3119 Mr. Archer - I was hopeful. Would that suit you, Mr. and Mrs. Lloyd? Would  
3120 you be able to get your neighbors together in a meeting? Or at least you could satisfy  
3121 yourselves. Would you get with Mr. Windsor and arrange a time when he could meet with you?

3122  
3123 Mr. Windsor - I'll get in touch with them.

3124  
3125 Mr. Lloyd - There are several neighbors that are on the same side that we are  
3126 on. I know one neighbor over there; he's the one who told us...Water is behind their house too.

3127  
3128 Mr. Archer - But you can agree to meet with Mr. Windsor? Mr. Windsor, is  
3129 that suitable to you, sir?

3130  
3131 Mr. Windsor - Yes. I don't know what I can do with the existing water problem,  
3132 though.

3133  
3134 Mr. Archer - I'm not asking you to do anything with the existing water problem.  
3135 But I would like to make them feel comfortable you're not going to increase the water on their  
3136 property.

3137

3138 Mr. Windsor - That seems to be the issue and they had no objection, if I could  
3139 contain the water. I find myself going into a hornet's nest, like I've been in other projects with  
3140 downstream flooding that I try to explain my way out of and can't.  
3141  
3142 Mr. Archer - I think we can make the Lloyds understand that you're not trying  
3143 to alleviate what's already there, but that you're just not trying to increase the problem that they  
3144 already have. I think they can respect that. Is that true, Mrs. Lloyd? Then, sir, would you like  
3145 to defer this case. I will tell you, we have a heavy schedule for next month. I don't know what  
3146 timetable you're working on, but we've had already, tonight, how many eight or nine deferrals  
3147 to next month?  
3148  
3149 Ms. Dwyer - Perhaps, we could defer the case for "Decision Only" in February.  
3150 Would that be an option?  
3151  
3152 Mr. Archer - We could possibly do that and not have to have the hearing on it.  
3153 Mr. Windsor - Yes. That would be fine. I'd like to do that. That would let me  
3154 move forward.  
3155  
3156 Mr. Archer - We'll do one thing or the other in February. All right.  
3157  
3158 Ms. Dwyer - That would be February 11<sup>th</sup>.  
3159  
3160 Mr. Archer - February 11<sup>th</sup>. Then, it is my motion to defer this case For  
3161 Decision Only, at the applicant's request, to the February 11<sup>th</sup> meeting.  
3162  
3163 Mr. Vanarsdall seconded the motion.  
3164  
3165 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall C-3-  
3166 99 to our February 11<sup>th</sup> meeting. All those in favor say aye—all those opposed by saying nay.  
3167 The vote is carried.  
3168  
3169 Mr. Windsor - Thank you.  
3170  
3171 Mr. Archer - Thank you, Mr. Windsor.  
3172  
3173 Mr. Merrithew - Madam Chairman, if I could handle the 8:00 o'clock deferrals.  
3174 We have only one deferral on the 8:00 o'clock agenda. That is P-1-99.  
3175  
3176 **P-1-99** Glenn R. Moore for Allen Tire, Inc.: Request for approval of a  
3177 provisional use permit in accordance with Sections 24-58.2(c) and 24-122.1 of Chapter 24 of  
3178 the County Code in order to operate an auto parts sales, service and installation facility, on  
3179 part of Parcels 56-10-2S & 1B, containing 1.157 acres, located at the southeast corner of  
3180 Lauderdale Drive and Rutgers Drives. The site is zoned B-2C Business District (Conditional).  
3181  
3182 They've requested a deferral until February 11, 1999.  
3183

3184 Ms. Dwyer - Was there any opposition to the deferral of P-1-99 Allen Tire,  
3185 Inc.? No opposition. We're ready for a motion.

3186  
3187 Mrs. Wade - I move P-1-99 be deferred to the 11<sup>th</sup> of February at the  
3188 applicant's request.

3189  
3190 Mr. Vanarsdall seconded the motion.

3191  
3192 Mrs. Wade - I'm not sure just why.

3193  
3194 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
3195 those in favor say aye—all those opposed by saying nay. The motion is passed. Do we have a  
3196 motion on the Rules and Regulations. Are those all the deferrals?

3197  
3198 Mr. Merrithew - Yes ma'am. It is.

3199  
3200 Ms. Dwyer - Thank you, sir. We'll resume then with the last case on our 7:00  
3201 o'clock agenda.

3202  
3203 **C-4C-99 Gloria L. Freye for Fidelity Properties, Ltd.:** Request to  
3204 conditionally rezone from A-1 Agricultural District to R-3AC One Family Residence District  
3205 (Conditional), part of Parcels 27-A-26 & 44, described as follows:

3206  
3207 Beginning at a point on the west line of Sadler Road at the southern corner of the one acre  
3208 parcel owned by Lester G. & Esther P. Smith; thence southerly along the west line of Sadler  
3209 Road on a curve to the left with a radius of 1,158.01' for a length of 113.94' to a point; thence  
3210 continuing along the west line of Sadler Road in a southerly direction along a bearing South 7°  
3211 8' 30" East for a distance of 188.47' to a point; thence continuing along the west line of Sadler  
3212 Road along a curve to the right with a radius of 308.55' for a length of 184.98' to a point;  
3213 thence continuing along the west line of Sadler Road on a bearing of South 27° 12' 30" West  
3214 for a distance of 9.08' to a point; thence North 55° 28' 15" West for a distance of 610.63' to a  
3215 point; thence North 57° 23' 30" West for a distance of 355.30' to a point; thence North 24°  
3216 27' 30" East for a distance of 218.44' to a point; thence North 25° 37' 30" East for a distance  
3217 of 547.14' to a point; thence South 42° 30' 00" East for a distance of 485.94' to a point;  
3218 thence South 32° 21' 16" West for a distance of 207.69' to a point; thence South 17° 45' 40'  
3219 East, 204.22' to a point; thence South 86° 8' 45" East for a distance of 200.17' to the point  
3220 and place of beginning on the west line of Sadler Road, containing 10.873 acres .

3221  
3222 Mr. Marlles - Ms. Gardner will be giving the staff report.

3223  
3224 Ms. Dwyer - Is there any opposition to C-4C-99 Fidelity Properties, Ltd.? No  
3225 opposition. Ms. Gardner.

3226



3227 Ms. Gardner - Good evening. The applicant has submitted new proffers. She  
3228 handed them out to you before you convened this evening. If you don't see a copy there, let  
3229 me know. We do have additional copies. I need to point out that these were submitted late.  
3230 They did not abide by the 48-hour rule. The original signed copy came into the office this  
3231 afternoon, although we did receive a fax copy with most of the changes yesterday.  
3232

3233 Mrs. Wade - Excuse me. Did you all get...

3234  
3235 Ms. Gardner - Does any one else need a copy of the new proffers?

3236  
3237 Mrs. Wade - This was the kind of faint one that came yesterday. We got that.

3238  
3239 Ms. Dwyer - It wasn't a blacklined copy though?

3240  
3241 Mrs. Wade - No. It wasn't a blacklined copy.

3242  
3243 Ms. Gardner - The copy is being handed out right now, a blacklined copy. You  
3244 do have them. Excuse me. Okay.

3245  
3246 Ms. Dwyer - The blacklined copy wasn't faxed.

3247  
3248 Ms. Gardner - The applicant is proposing to develop 30 lots on 11 acres on  
3249 Sadler Road. This is just above the recommended density of 26 lots on this particular  
3250 property. It, therefore, is just over the limit of consistency with the Suburban 1 designation  
3251 which would allow 2.4 units per acre. They're proposing 2.7 units per acre.

3252  
3253 The minimum house size here is to be 1,700 square feet. This is the same minimum that was  
3254 proffered with the Cedars at Innsbrook. It is the subdivision that you see just to the east of this  
3255 property, although the typical size in The Cedars at Innsbrook is more like the 1,900 to 2,300  
3256 range. I didn't look at every single one, but I didn't find any below 1,900 at the The Cedars at  
3257 Innsbrook.

3258  
3259 The lot size is to be an average of 10,500 square feet. There is no minimum lot size. As you  
3260 might imagine, administering an average lot size could be a little tricky, particularly, if they  
3261 came in separate sections. Hopefully, this will come in as all one section and we can  
3262 determine right up front whether they meet that condition. They are proposing a 50-foot buffer  
3263 along Sadler Road. That's in addition to the house setback.

3264  
3265 One of the proffers that's been changed is, "No private driveway with access to Sadler Road."  
3266 The Traffic Engineer was not available when this proffer came in, so I don't know if that's  
3267 acceptable to the County or not. So, I will reserve comment on that. I'll allow the applicant  
3268 to make any additional comments on the proffers. I'm sure she'll want to go over them in  
3269 detail with you.

3270

3271 As I mentioned, in the beginning, staff would prefer to see slightly fewer house lots. Other  
3272 than that, this seems like a reasonable request, residential, on this property. Are there any  
3273 questions?  
3274

3275 Ms. Dwyer - Any questions for Ms. Gardner from Commission members? No  
3276 questions. Mrs. Wade, would you like to hear from the applicant?  
3277

3278 Mrs. Wade - Just briefly to go over the changes.  
3279

3280 Ms. Gloria Freye - Good evening. My name is Gloria Freye. I'm an attorney here  
3281 on behalf of the applicant; Fidelity Properties, Ltd. Also, here this evening is Webb Tyler,  
3282 one of the principles of Fidelity; and also the landowners, Mr. and Mrs. Smith are here this  
3283 evening.  
3284

3285 The applicant feels this is a reasonable request. It is in keeping with the R-3A zoning in the  
3286 area; the Cedars and Saddlers Woods. The density of this project is actually lower than the  
3287 other R-3A in this area. The Cedars is 3.02; Saddlerswoods is 2.88 and this one, as Ms.  
3288 Gardner reported, is 2.7.  
3289

3290 And when you talk about the density and the number of lots; the minimum size, when the  
3291 subdivision is presented to you, you'll be able to determine the number of lots and the  
3292 compliance with that. I do want to stress that it's a minimum. It may be that the density will  
3293 be improved, depending on, when this property is engineered, how many lots you actually can  
3294 end up with. And, so, that would be the minimum.  
3295

3296 We have submitted 15 proffers with this case. And, as Ms. Gardner reported, we did revise  
3297 them recently with blacklined changes. We are providing restrictive covenants. The minimum  
3298 house size; an average of 10,500 square feet for the lot with no more than 30 lots being  
3299 developed on the property. We revised the building materials proffer to provide that the  
3300 materials would be brick, stone, dryvit or vinyl siding or another material that the Planning  
3301 Commission might find acceptable, but in no event would there be masonite or block used in  
3302 these homes. The foundations would be constructed of brick or stone. Utilities would be  
3303 underground. The streets would be improved with curb and gutter and an asphalt, which is  
3304 something that we think adds to the quality of this development.  
3305

3306 The sign that identifies this community would be ground mounted and constructed of brick.  
3307 We have revised the buffer. The 15-foot landscape buffer would be in addition to the required  
3308 setback. And we have eliminated the language in the last sentence of No. 11 that the  
3309 accessways would generally run perpendicular. We looked at where the water lines would  
3310 come through there, and did not see that there'd be a problem or an exception would be needed  
3311 for that. So, we eliminated that prior language.  
3312

3313 The reason that we're saying that no more than one driveway would serve a residence is  
3314 because there's one piece of property in the very corner that is questionable whether it can be  
3315 developed. We think there are some wetlands there. If it turns out, after the engineering is  
3316 done, that a house could be located there, that would be one house that would need a driveway.

3317 But, other than that, that lot may not be able to be developed. We just don't know at this time.  
3318 And, of course, we'll be glad to receive any comments from the County from the Traffic  
3319 Engineers about that driveway.

3320  
3321 The house orientation, again, this was added because of that one lot that might need to have the  
3322 house oriented to Sadler Road.

3323  
3324 We also proffered that any fence that would be situated along Sadler Road would be no closer  
3325 than 8 feet.

3326  
3327 So, basically, that the substantive part of the proffers that we've put in there. And these  
3328 proffers either match or exceed the proffers that are on the R-3AC zonings in the surrounding  
3329 area.

3330 We have contacted all the adjacent landowners and have talked to many of them. We do not  
3331 know of any objections. In fact, the surrounding property owners are very excited about this  
3332 project. They feel comfortable with the rezoning. And they're particularly pleased that this  
3333 developer will be bringing sewer to this area which will actually improve the value of their  
3334 properties as well.

3335  
3336 We feel that the proffers assure that quality development will occur here, and that there will  
3337 not be an adverse impact on the surrounding properties or the community. And for these  
3338 reasons, we ask you to recommend approval of this zoning request. And, we'll be glad to  
3339 answer any questions that you have.

3340  
3341 Ms. Dwyer - Are there any questions of Ms. Freye by Commission members?

3342  
3343 Mrs. Wade - One comment, I believe, the staff made was about the stub streets  
3344 of the surrounding property.

3345  
3346 Ms. Freye - Yes ma'am. The surrounding properties all to the, I guess, the  
3347 northwest and to the south are all being served at this present time by private roads. At the  
3348 time that the site is engineered and he has a layout to submit at subdivision, he would be glad  
3349 to work with the County then about the possibility of putting a stub road in to adjacent  
3350 properties.

3351  
3352 Mrs. Wade - But currently none of the adjacent properties depend upon this  
3353 one for access?

3354  
3355 Ms. Freye - That's correct.

3356  
3357 Mrs. Wade - They're all a private road system then?

3358  
3359 Ms. Freye - Yes ma'am.

3360

3361 Mrs. Wade - Now, is it possible that by the time you have the final subdivision  
3362 layout that he would know about that extra corner with the wetlands so it maybe could be  
3363 incorporated into the...  
3364

3365 Ms. Freye - By the subdivision plan; yes ma'am.  
3366

3367 Mrs. Wade - I had asked you the question about the average, and you indicated  
3368 that the whole subdivision would be laid out at once so that it would be possible to figure out  
3369 the lot sizes.  
3370

3371 Ms. Freye - Yes ma'am.  
3372

3373 Mrs. Wade - That's all I have. Are there any questions?  
3374

3375 Ms. Dwyer - Any questions by Commission members? Thank you, Ms. Freye.  
3376 I have one question for Ms. Gardner. In the staff report you mentioned that Shady Grove and  
3377 Short Pump Middle, which would serve this subdivision, are already over capacity and, that,  
3378 as a result, there may need to be an adjustment to the CIP. What is staff's recommendation in  
3379 that regard?  
3380

3381 Ms. Gardner - I'm not sure I understand...  
3382

3383 Ms. Dwyer - What kind of adjustment is being recommended to the CIP?  
3384

3385 Ms. Gardner - Oh. Okay. I think that's implying that, if development continues  
3386 at the pace that it's going, likely another school will be necessary sooner rather than later.  
3387 Sooner than they had otherwise anticipated.  
3388

3389 Ms. Dwyer - So, in other words, the County's going to have to find money to  
3390 build a school in advance of its...  
3391

3392 Mrs. Wade - My impression is, it has the land for the new elementary school,  
3393 but not the money to build it, I think is an accurate description.  
3394

3395 Ms. Gardner - I think that's a fair statement.  
3396

3397 Ms. Dwyer - I guess, if I'm wondering if we don't have the money to build the  
3398 school, that we're already over capacity, what are the implications for continuing to approve  
3399 subdivisions in this area? Is there a point at which the Commission should say, "We need to  
3400 hold off on development until we can accommodate the school children."  
3401

3402 Ms. Gardner - You are broaching a new and important policy area. We have  
3403 not, up to this point, reached that point. I think the School Board is aware that the pace of  
3404 development is, of course, stressing their system. They have, not to this point, made  
3405 comments to us on our zoning cases that "enough is enough." We do send this over to the  
3406 School Board, and these comments came from the School Board; or the School staff, I should

3407 say. We do apprise them of all the rezoning cases. To this point they have not said, "Please  
3408 don't approve it, because we can't accommodate the children." They may well be approaching  
3409 that point. And that is an important dialogue that should take place as to "Can we  
3410 accommodate this development, particularly as regards to school children?"

3411  
3412 Mr. Silber - Mrs. Dwyer, maybe I can elaborate on that slightly, having sat  
3413 on the CIP Committee, as well as the Director of Planning. The Schools at this point, as  
3414 you're probably aware, have fallen somewhat behind in trying to keep up with the growing  
3415 enrollment. It is a fairly serious concern. I think what Nancy is saying, is that Schools, in the  
3416 past, have not taken the position of recommending against a rezoning case, because of schools.  
3417 But they are pointing out here that this is a concern. With increasing densities being proposed  
3418 and zoned, it does cause a situation that has had to be addressed fairly quickly as far as our  
3419 school situation is concerned.

3420 Ms. Dwyer - And how will that be addressed then?

3421  
3422 Mr. Silber - I don't know. It may end up being some form of additional  
3423 acquisition in moving up the construction phasing of schools in this area. I don't know.

3424  
3425 Ms. Dwyer - Was there any discussion of cash proffers? Because I know other  
3426 jurisdictions use these to help relieve some of the financial burden to the County for additional  
3427 schools to be developed?

3428  
3429 Mr. Silber - There was no discussion of cash proffers.

3430  
3431 Mrs. Wade - Looking at the School's thing again, when I read it the last time,  
3432 about the numbers here?

3433  
3434 Ms. Gardner - Yes.

3435  
3436 Mrs. Wade - Shady Grove membership, that's the elementary school, was 756  
3437 and the capacity was 690, but they were only six over capacity. Either my arithmetic is not  
3438 right. The same way down here with Short Pump Middle. The membership is 1498. There is  
3439 capacity is 1475 and they said they're 23 over capacity.

3440  
3441 Ms. Gardner - Well, shame on me. I didn't catch that their reflection there in  
3442 their comments. I just blindly copied it, I must admit. So, I'll make sure to get those numbers  
3443 correct before it gets to the Board.

3444  
3445 Mrs. Wade - I think the middle school looks right, but the other one is maybe  
3446 66, it should be.

3447  
3448 Ms. Dwyer - Any other questions?

3449  
3450 Mr. Vanarsdall - Ms. Gardner, can you recommend approval with the revised  
3451 proffers? I mean (comments unintelligible).

3452

3453 Ms. Gardner - I would prefer to see fewer houses. Other than that, I  
3454 recommend approval.

3455  
3456 Mrs. Wade - I was just saying, basically, what I've been heard to say before,  
3457 you get three more houses here and three more houses there. Then you need a new school.  
3458

3459 Ms. Gardner - But, of course, the other thing is, we're setting a precedent for  
3460 further R-3A development on this road. If it's approved here, there's really not much of a  
3461 basis to not approve it elsewhere. I certainly don't want to tie the hands of the Planning  
3462 Commission or the Board, but the precedent is being set for this pattern of development  
3463 throughout Sadler Road.  
3464

3465 Mrs. Wade - Although this particular one has what, 2.76 houses?

3466  
3467 Ms. Gardner - Yes. This is not a full R-3A. This is lower than your standard  
3468 R-3A, which is good.

3469  
3470 Ms. Dwyer - Thank you, Ms. Gardner.

3471  
3472 Mr. Vanarsdall - Madam Chairman, there wasn't any opposition to this case, was  
3473 it? While he's coming down, I'd like to add to what your question and what Mr. Silber said.  
3474 Not just only on this case, but the County, as well you all know, is very aware of the density  
3475 that we're approving. For that reason the Board is going to go through the process of reducing  
3476 a lot of categories, and this is going to be one of them. That would alleviate a little bit the  
3477 overgrowth.  
3478

3479 Mrs. Wade - The only concerns that I've heard from people in the area are  
3480 those with the nature of Sadler Road, itself, its ability to handle any more traffic.  
3481

3482 Mr. Dave Cummings - I am on the Board of The Cedars and, while my primary purpose  
3483 for being here tonight was not this case, we do have a comment. We don't object to the  
3484 rezoning, but the density issue does cause us some concern. I think you've raised an important  
3485 point, Ms. Dwyer about the school issue. Mrs. Wade just mentioned another point that had  
3486 not been mentioned prior to this point, and that is the road width. The density issue does raise  
3487 concern, because the road is simply not able to handle much traffic. It's a very narrow, barely  
3488 two lane; more like one and maybe one and a quarter lanes back in there. But if we can get  
3489 the density down to the 20 or 25 as opposed to the 30, that would certainly alleviate some of  
3490 those concerns.  
3491

3492 I did have one question. What was the average square footage of the house size that was  
3493 proposed?  
3494

3495 Mrs. Wade - Seventeen hundred (1,700) was the finished floor area was the  
3496 minimum proposed, which I think is probably the same as The Cedars are. Although, as a  
3497 practical matter, your houses are bigger.  
3498

3499 Mr. Cummings - I think that's less than what The Cedars is. It would also cause  
3500 us some concern, because we would like to see the integrity of that neighborhood area  
3501 preserved to have larger homes and better quality homes back in there, than the smaller homes.  
3502 There are some back in there now, some older homes. But to the extent there's new  
3503 development being proposed, we'd like to preserve the integrity of the neighborhood and the  
3504 whole Cedars development. We'd like to see larger minimum house sizes, as well as the lower  
3505 density.

3506  
3507 Mrs. Wade - Which is what we hear every time we have a subdivision come  
3508 up, because you know you've got a minimum proffered in your area, yet, the houses are  
3509 always bigger. And, so, it could happen the same thing could occur.

3510 Mr. Cummings - Well, the larger home size, coupled with the lower density to  
3511 alleviate the school issue, which we hadn't considered, but certainly the traffic issue, and just  
3512 accommodating the traffic back on that road could be quite precarious right now.

3513  
3514 Mrs. Wade - And the only way Sadler is going to get improved, is the way  
3515 most everything else does, is development occurs. They are going to be making improvements  
3516 on Sadler if they build this. They will be eliminating some of that curve that's there, which  
3517 will happen all along the road as it goes down.

3518  
3519 It seemed to me when I went down in there, that from about this area on north (referring to  
3520 slide), is in better shape than it is as you get south from here...

3521  
3522 Mr. Cummings - There's not much of that, though, from the corner of The Cedars  
3523 neighborhood all the way around. It's a very narrow road. It's windy. They're going to take  
3524 some of the curves out, perhaps, but the new development that's going in across from this one,  
3525 called "Sadler Woods," I think, they've widened the road right there to accommodate a turn in  
3526 to the new neighborhood. But Sadler Road, itself, is very narrow. And driving there, at best,  
3527 is very dangerous. And, anything that you can do to lower the density, and keep the traffic  
3528 down would be very important. A neighborhood like that is going to have kids in it. There  
3529 are already kids back there. The church is back there. We would hate to see the volume of  
3530 traffic, not only become a hassle for the homeowners, but a safety issue as well. I think that's  
3531 something that you just need to give some real consideration to and be sensitive to that issue.

3532  
3533 Ms. Dwyer - Thank you, Mr. Cummings. Is there any one who would like to  
3534 speak to this case? Mrs. Wade.

3535  
3536 Mrs. Wade - All right, most of the issues we've discussed are common to  
3537 many of our subdivision proposals. I would prefer, perhaps, to see R-3 here also. As I recall,  
3538 the one across the street was not recommended for approval by this Commission, because it  
3539 was R-3A. And then the Board went ahead and approved it. So, we don't get a whole lot of  
3540 direction at this point. As he said, they're working on amending some of their policies,  
3541 perhaps, and we will be getting more information on that later on. This would be less dense  
3542 than the others in the area.

3543

3544 What Mr. Cummings said is true about The Cedars. And, also, I know we hear often when  
3545 larger houses are built than the minimum proffers, that's what the next subdivision wants  
3546 naturally. There's no reason to think that what's coming here would not be comparable to I  
3547 think what else is built in the area because it would seem that's reasonable in terms of  
3548 marketing and general profitability.

3549  
3550 The Public Works people tell us that Sadler can handle the road. I went down there again.  
3551 I've been dealing with Sadler now for a long time. Its condition has been a concern for a long  
3552 time, but I think the road is a little better there from here north, as I said, than on down further  
3553 south. Again, the only way, probably, it will get improved is for development to occur along  
3554 there.

3555 The have agreed they will cooperate with stub streets to help the circulation as the subdivisions  
3556 develop.

3557  
3558 It is, of course, on the Plan for single family residential. So, I move, therefore, that – We  
3559 waive the time limits on the proffers? I hope you all are comfortable, you know, having seen  
3560 most of them yesterday. I accept the responsibility for some of them at the last minute. I've  
3561 got so many cases this month, it's hard to focus on all of them until the last minute sometimes,  
3562 and keep everything going at the right speed. So, I move that we waive the time limit on  
3563 accepting the amended proffers.

3564  
3565 Mr. Vanarsdall seconded the motion.

3566  
3567 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
3568 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).

3569  
3570 Mrs. Wade - I think most of you are familiar with most of the proffers that we  
3571 deal with these same issues so often ourselves. I, therefore, would move, with the amended  
3572 accepted proffers, that Case C-4C-99 be recommended to the Board for approval.

3573  
3574 Mr. Vanarsdall seconded the motion.

3575  
3576 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
3577 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).  
3578 The motion carries.

3579  
3580 REASON: Acting on a motion by Mrs.Wade, seconded by Mr. Vanarsdall, the Planning  
3581 Commission voted 5-0 (one absent) to recommend that the Board of Supervisors accept the  
3582 proffered conditions and grant the request because it would not be expected to adversely affect  
3583 the pattern of zoning and land use in the area; it would not adversely affect the adjoining area if  
3584 properly developed as proposed, and it continues a similar level of single family residential  
3585 zoning as currently exists in the area.

3586  
3587 Ms. Dwyer - Before we begin, I'd like to make an announcement. We  
3588 introduced our newest member on the Planning Commission at the beginning of our meeting  
3589 which happened to begin at 4:00 o'clock this afternoon. But I'd like to reintroduce, for those



3590 of you who didn't have the pleasure of being here at 4:00 o'clock, our newest member, Debra  
3591 Quesinberry, from the Varina District. We welcome her. She's getting her feet wet with quite  
3592 a few cases in the Varina area.

3593  
3594 Mrs. Quesinberry - Thank you, and good evening. I think most of you missed all the  
3595 excitement at 4:00 o'clock, so, we'll save some for next month.

3596  
3597 Ms. Dwyer - That's right. We'll have a big time in Varina. If you have a  
3598 chance, say hello, and welcome Mrs. Quesinberry to the County and to the County  
3599 government and to the Planning Commission. So, without further ado, let's proceed to the  
3600 8:00 o'clock agenda.

3601  
3602 **C-5C-99** Glenn R. Moore for Robert M. Atack: Request to conditionally  
3603 rezone from A-1 Agricultural District to O-2C Office District (Conditional), Parcels 28-A-36A  
3604 and 36B, containing approximately 2.7 acres, located on the north line of Sadler Road  
3605 approximately 150' east of relocated Sadler Road. Offices and a branch banking facility are  
3606 proposed. The use will be controlled by proffered conditions and zoning ordinance regulations.  
3607 The Land Use Plan recommends Office development.

3608  
3609 Mr. Marlles - Nancy Gardner will be giving the staff report.

3610  
3611 Ms. Dwyer - Is there any opposition to C-5C-99 Robert M. Atack, rezoning on  
3612 Sadler Road to O-2C Office (Conditional)? There is opposition. Thank you. We'll call on  
3613 you later on in the meeting. Ms. Gardner, please give the staff report.

3614  
3615 Ms. Gardner - This is a request to rezone 2.7 acres from A-1 to O-2C Office  
3616 District to allow an office building and a bank branch. The proffers are generally consistent  
3617 with Overlook. You might recall, that was the rezoning request just to the west that you dealt  
3618 with an amendment on just a few months ago.

3619  
3620 The proffers are generally consistent with the Overlook proffers, although some of those  
3621 proffers were much more restrictive because it was in much closer proximity to the residential.  
3622 As you can see, it's right across the street from a subdivision.

3623  
3624 For the most part, the applicant has addressed concerns raised in the staff report. I'll let the  
3625 applicant go over those proffers in detail. Since the initial review, the applicant has told me  
3626 that Public Works has reversed its position on access. In the staff report it states that the  
3627 Traffic Engineer will not support access onto Nuckols and that access should be by way of  
3628 Sadler. I understand from the applicant that Public Works has reversed their position. Now,  
3629 in the time that this came up, I haven't been able to get confirmation on that, but I will take the  
3630 applicant's word on it.

3631  
3632 Mrs. Wade - I have heard that from the Director of Public Works.

3633  
3634 Ms. Gardner - Okay. Very good. We can consider it confirmed then. We've  
3635 asked the applicant to look at developing this piece with the adjacent .7 of an acre. It's a tiny

3636 little sliver in here (referring to slide). This very small sliver in here which was a part of The  
3637 Overlook rezoning that I referred to just a moment ago.

3638  
3639 There have been many, many questions about this, so I'd like to take a moment to discuss the  
3640 status of that piece. We've determined that its undevelopable under the current proffers. That  
3641 is, this .7 of an acre, plus or minus. The proffers on the larger development site, on The  
3642 Overlook proffers limit development on the overall site to two buildings. Well, they've  
3643 already got two buildings in the works, so no building could go here. Also, access on this  
3644 entire development site is limited to Sadler Road is limited to one point right about in here  
3645 (referring to slide). Of course, this cannot take advantage of that entrance.

3646  
3647 Conceivably, it could get an entrance onto this road; this as unyet named road. We'll just call  
3648 it, "the road to the Post Office." That's how its referred to in those old proffers. But, I  
3649 seriously doubt that they have the minimum separation required from the intersection. This is  
3650 at absolutely most 150 feet. It doesn't look like it on this map. But, I believe they do have  
3651 150 feet of frontage. I don't think that they'll make that.

3652  
3653 So, this piece could possibly be developed for a parking lot in conjunction with the subject site  
3654 of the current rezoning. However, as I say, under the current proffers, it cannot be developed  
3655 independently.

3656  
3657 With that, I would say staff recommends approval. I'd be take any questions, or get into any  
3658 more detail.

3659  
3660 Ms. Dwyer - Are there any questions of Ms. Gardner by Commission  
3661 members? Thank you, Ms. Gardner.

3662  
3663 Mrs. Wade - Ms. Gardner, what is the maximum height allowed in O-2? Is it  
3664 45 feet without a special exception?

3665  
3666 Ms. Gardner - I believe that's correct. The maximum height is 45 feet.  
3667 Although with a special exception, you can go higher.

3668  
3669 Mrs. Wade - Thank you.

3670  
3671 Mr. Vanarsdall - I have a question on what you just gave us. Condition #11.

3672  
3673 Ms. Gardner - Oh yes. Thank you for mentioning that. We did have an  
3674 additional proffer, that I should have...

3675  
3676 Mr. Vanarsdall - It says that the cleaning operation will be limited to the hours of  
3677 7:00 a.m. to 7:00 p.m., Monday through Friday. Exterior trash pick up of the parking lot.  
3678 What happens on Saturday and Sunday?

3679  
3680 Ms. Gardner - The way I read that proffer, they would not be allowed to pick up  
3681 trash or clean the parking lot.

3682  
3683 Mr. Vanarsdall - On Saturday and Sunday?  
3684  
3685 Ms. Gardner - Saturday and Sunday.  
3686  
3687 Mr. Vanarsdall - It seems like it would be written like that.  
3688  
3689 Ms. Gardner - I'm sure the applicant could modify that to make that clearer.  
3690  
3691 Mr. Vanarsdall - You're leaving two days a week out. If they violated that and a  
3692 Conformance Officer went over there, we'll he would say, "There's nothing about Saturday  
3693 and Sunday on here."  
3694  
3695 Ms. Gardner - I'm sure the applicant would be glad to add a prohibition all  
3696 together and say, "Saturday and Sunday."  
3697  
3698 Mrs. Wade - I thought it was clear. Evidently, not.  
3699  
3700 Ms. Dwyer - Ms. Gardner, I was just looking at the Code in reference to that  
3701 height question. I believe, if the building is within a 100 feet of an "R" District, the height is  
3702 limited to 40 feet. I'm not sure where the buildings might be located on this parcel that would  
3703 be limited.  
3704  
3705 Ms. Gardner - That's true. This small property right here (referring to slide), is  
3706 zoned residential.  
3707  
3708 Ms. Dwyer - Right.  
3709  
3710 Ms. Gardner - So, perhaps, they would not even be able to get a special  
3711 exception. By Code, it would strictly be limited to 45 feet. They don't plan to go any taller  
3712 than that anyhow. This site is small enough, I don't think that they - Well, it would be very  
3713 tight to accommodate a taller building to accommodate all the parking that would be required,  
3714 and probably impractical.  
3715  
3716 Ms. Dwyer - Any other questions for Ms. Gardner?  
3717  
3718 Mrs. Wade - Did you say 40 or 45 within 100 feet?  
3719  
3720 Ms. Dwyer - As I read it, 45, unless it's within 100 feet of an "R" District.  
3721  
3722 Mrs. Wade - That's what I thought you said. Thank you.  
3723  
3724 Ms. Dwyer - Would the applicant come forward? Again, our 10-minute rule  
3725 for both the applicant and the opposition will be in effect for this case. That time does not  
3726 include time required for the Commission to ask questions and for those questions to be  
3727 answered. The applicant may wish to reserve a period of time out of his 10 minutes rebuttal.

3728  
3729 Mr. Glenn Moore - Yes ma'am, Ms. Dwyer. For the record, my name is Glenn  
3730 Moore. I am here on behalf of the applicant, Mr. Robert Atack, who, I believe, is also going  
3731 to address the Commission. I would like to reserve two minutes for rebuttal, if I could?

3732  
3733 Ms. Dwyer - Two minutes?  
3734 Mr. Moore - Yes. If rezoned as requested, the applicant, Mr. Atack, plans to  
3735 develop the property with a branch bank on the northern portion of the property in proximity  
3736 to Nuckols Road. I have a site plan which will demonstrate the way we hope to be able to  
3737 develop this property. The office building, the larger building, would abut the eastern  
3738 boundary. The east is at the bottom of this particular drawing. You see the north arrow.

3739  
3740 Mrs. Wade - That's not all your property?

3741  
3742 Mr. Moore - That's correct. The property on the western boundary; you can  
3743 see a property line. To the west of that property line is the property that Ms. Gardner was  
3744 discussing a minute ago is owned by Dominion Land & Development. It may be  
3745 undevelopable. But the balance of the property that you see, the branch bank in the upper left  
3746 hand corner, we hope, which would be one-story in height, and we contemplate a one-story  
3747 office building along the eastern boundary of the property, adjacent to where the Post Office  
3748 now, is.

3749  
3750 We contemplated this property will be developed as part of Innsbrook. Mr. Sidney Gunst of  
3751 the Innsbrook Corporation has agreed the property may be incorporated into Innsbrook. We  
3752 actually have a proffered condition which specifies that development will be subject to the  
3753 extensive development review requirements of the Innsbrook protective covenants. I call your  
3754 attention to Proffered Condition #9.

3755  
3756 If you remember the zoning map that you saw of the property, it is across Nuckols Road from  
3757 Innsbrook North. It has property within Innsbrook on its eastern boundary and across Sadler  
3758 Road to the south. Those properties are zoned O-2 and O-3. The property across Nuckols  
3759 Road is zoned M-1, although it is developed for office purposes.

3760  
3761 As the staff report indicates, the Land Use Plan recommends this site for office development  
3762 which is consistent with the request. The staff has found that the request complies with both  
3763 the Land Use Plan recommendation, the Land Development Guide, and Goals, Objectives and  
3764 Policies of the County's Comprehensive Plan.

3765  
3766 The issue with respect to access to Nuckols Road has already been addressed and I will not go  
3767 over that any further. Except to say that we think that access to Nuckols Road will be  
3768 beneficial to the neighborhood, as well, because that means all our traffic from this  
3769 development will have to be funneled out to Sadler Road.

3770  
3771 We have added a proffered condition with respect to hours of trash pick up and parking lot  
3772 cleaning. Mr. Vanarsdall, the intent of that proffer was that those activities would be limited  
3773 to 7:00 a.m. to 7:00 p.m., Monday through Friday. Therefore, nothing before 7:00 a.m. or

3774 after 7:00 p.m. on Monday through Friday, or any time Saturday and Sunday; and I'll be  
3775 happy to clarify that language, so there's no misunderstanding on that.

3776  
3777 Mr. Vanarsdall - Thank you, Glenn.

3778  
3779 Mr. Moore - Yes sir. I'll be happy to do that. I would point out that this  
3780 property, the proposal, is consistent with the adjacent development. We had some discussion  
3781 in the last case about more money is needed for schools in the County. I would point out to  
3782 you that Office development is probably the most positive tax generator of any type of  
3783 development you can have. And, further, that the A-1 zoning of this property is clearly  
3784 inappropriate at this time.

3785  
3786 Approval of this request will also allow the current owners, Mr. and Mrs. Taylor, who live on  
3787 this property, to move from the Nuckols Road area to an area which is probably more  
3788 appropriate for residential environment.

3789  
3790 We submit that the request applies with all the applicable jurisdictional requirements for  
3791 recommending its approval to the Board. And, accordingly, we request that you recommend  
3792 the request to the Board of Supervisors to allow its development in a manner consistent with  
3793 development of the surrounding area. I'll be happy to answer any questions, the Commission  
3794 may have. I think Mr. Atack would also like to address the Commission.

3795  
3796 Ms. Dwyer - Thank you, Mr. Moore. Are there any questions for Mr. Moore  
3797 by Commission members?

3798  
3799 Mrs. Wade - The buffers are included here. You've got building setbacks.

3800  
3801 Mr. Moore - We have a 25-foot building setback.

3802  
3803 Mrs. Wade - This is not a part of the case; I mean the conceptual plan here?

3804  
3805 Mr. Moore - Well, the proffers will require 25 feet.

3806  
3807 Mrs. Wade - No. I was just looking at the plan.

3808  
3809 Mr. Moore - We have no building within 50 feet of the right-of-way of Sadler  
3810 Road, and no parking lot within 25 feet of the right-of-way of Sadler Road. Those areas have  
3811 to be landscaped in accordance with the requirements of the zoning ordinance.

3812  
3813 Mrs. Wade - I questioned the building height, and you've got rooftop  
3814 equipment. And, is that going to be 45-foot building plus 10 feet of HVAC on top of that? It  
3815 could be a 55-foot building, the way the County measures, depending on your roofline.

3816  
3817 Mr. Moore - No building constructed on the property shall exceed 45-feet in  
3818 height. As someone has pointed out, that is the limit in the O-2 District, in any event, unless

3819 you apply for a special exception. I think what this proffer does, it eliminates the possibility  
3820 that we could ask for the special exception.

3821  
3822 Let me try to answer your question. I had not really thought about that issue. I would think  
3823 that, the condition does say that it will not exceed 10-feet above the roof line, and that such  
3824 items will be screened from public view at the property line as approved at Plan of  
3825 Development review. Could we modify that condition to say that the total would be 45,  
3826 including the screening?

3827  
3828 Ms. Dwyer - Are you planning to put a three-story building here, or?  
3829

3830 Mr. Moore - Actually, what we're planning to do; this proffer is somewhat  
3831 consistent, I think, with the proffers that you have in The Overlook. When we filed this case,  
3832 we, basically, looked at proffers on surrounding properties to try to find those that we felt  
3833 were appropriate for this piece of land and use those.

3834  
3835 What we actually contemplate, if we develop the property in this manner, is two, one-story  
3836 buildings. If we don't develop the property; if we don't have the bank branch, we contemplate  
3837 a two-story office building. We really don't contemplate three-stories at all.

3838  
3839 Ms. Dwyer - This 45 feet is usually associated with a three-story building.

3840  
3841 Mr. Moore - I'm sorry?

3842  
3843 Ms. Dwyer - The 45 feet is usually associated with a three-story building.

3844  
3845 Mr. Moore - That's true. Now, that's what the proffer says now. You asked  
3846 me what we're planning to do. And what we're planning to do, and we could modify our  
3847 proffers to address this; to put this control in place, is to limit it to two stories. A maximum of  
3848 say two stories or 40 feet.

3849  
3850 Mrs. Wade - Most of these concerns you have heard within this last week. So,  
3851 I'm not quite sure why we are talking about modifying proffers tonight. Let me ask you this,  
3852 what is the site coverage ratio on Overlook?

3853  
3854 Mr. Moore - I think it's 50 percent.

3855  
3856 Mrs. Wade - Fifty (50) percent? And this is supposed to be associated with  
3857 Innsbrook?

3858  
3859 Mr. Moore - That's correct.

3860  
3861 Mrs. Wade - What would the Innsbrook percentage be for this size building?  
3862

3863 Mr. Moore - In general, you have very little O-2 zoned property in Innsbrook  
3864 that has this site coverage ratio applicable to it. The Post Office does, but I don't think the  
3865 Post Office had to adhere to those because it is a United States Government building.  
3866  
3867 You do, in Innsbrook, for O-3 zoned land, it would be a 57 percent site coverage ratio. But,  
3868 I'd like to point out, that we have a piece of land to the west of this, which we don't own, but  
3869 certainly, you can't see the boundary there. It's undevelopable. And, as a practical matter, it  
3870 increases the amount of open space that benefits the area.  
3871  
3872 Mrs. Wade - Of course, there's nothing to stop the owner from, you know,  
3873 taking everything down off of it and just leaving a bare place. Now, uses in O-2, you have  
3874 professional offices, bank, and day care, allowed generally?  
3875  
3876 Mr. Moore - That's correct.  
3877  
3878 Mrs. Wade - There seems to me there's a sidewalk in front of this right now,  
3879 or maybe its property down further along Nuckols?  
3880  
3881 Mr. Moore - I don't think the owners have put a sidewalk in there.  
3882  
3883 Mrs. Wade - Not on this parcel, no. There's a sidewalk; is it east of there?  
3884 There's a sidewalk along here somewhere because I was thinking some of it might have to  
3885 come out, if you were going to put...Are you sure there's no sidewalk along there, because if  
3886 you had a Nuckols access with a right turn lane, it seemed to me that some of it would have to  
3887 come out, but I...  
3888  
3889 Mr. Gunst - I don't think there is any sidewalk.  
3890  
3891 Mrs. Wade - On this side of Nuckols, somewhere there's a sidewalk. Now,  
3892 maybe it's not on this parcel, but, perhaps, somebody else can address that. Okay. That's all  
3893 I've got at present if anybody else does.  
3894  
3895 Ms. Dwyer - Does The Overlook permit dryvit as a building material?  
3896  
3897 Mr. Moore - Let me see. I've got their proffers. What is that building that's  
3898 out there?  
3899  
3900 Mrs. Wade - It has a lot less than 70 percent glass, I'm sure of that.  
3901  
3902 Mr. Bob Attack - Excuse me, Ms. Dwyer, if I may comment. My name is Bob  
3903 Attack. I am the applicant. I think the important thing, and Mary brought up a very good  
3904 point with regard to site coverage. The site coverage, for instance, does meet the requirements  
3905 of Innsbrook in which we would be agreeable to succumb in actuality to all their requirements  
3906 which are quite extensive. As well, our property, as you know, directly across from already  
3907 currently zoned Office property where The Overlook property was immediately across from  
3908 residentially zoned property.

3909  
3910 Ms. Dwyer - Yes. The reason I asked the question, I believe the comment was  
3911 made that these proffers were designed to conform to The Overlook.  
3912  
3913 Mr. Atack - Yes ma'am. They're meant to conform to that, and actually  
3914 compliment that as well.  
3915  
3916 Mr. Moore - Let me respond to that. I'm glancing at these proffers quickly,  
3917 and the only thing I see about building materials in these proffers, is that, "There will be no  
3918 building constructed on the property shall have mirrored or high reflective glass on the exterior  
3919 walls." I see it right here. Hang on a second.  
3920  
3921 Mrs. Wade - "No exterior walls shall contain more than 70 percent glass."  
3922  
3923 Mr. Moore - Right.  
3924  
3925 Mrs. Wade - And all be similar, compatible, and so forth.  
3926  
3927 Mr. Moore - It says, "stucco, dryvit, or exposed aggregate concrete."  
3928  
3929 Ms. Dwyer - In Proffer No. 9, who is the declarant referred to in that proffer?  
3930  
3931 Mr. Moore - The declarant was the Innsbrook Corporation. They can assign  
3932 that duty to a successor or assign. I think, actually, Mr. Gunst is here and can address that,  
3933 but I think that is going to pass to the Innsbrook owner's association, if it hasn't already done  
3934 so.  
3935  
3936 Mr. Sidney Gunst - Good evening. I'm Sidney Gunst, President of Innsbrook  
3937 Corporation. We have turned the operation of enforcement of protective covenants several  
3938 years ago to the Owner's Association which has a Board of Directors of mainly people with the  
3939 various companies out at Innsbrook. It's a very active Owner's Association. They do a  
3940 terrific job of seeing things are maintained once they're built. And I think you can see the  
3941 difference when you ride through the project. That's what Bob would be subjecting himself to  
3942 would be the those standards. And, any subsequent owner, the covenants are of record, and  
3943 those enforcement provisions are upheld actively.  
3944  
3945 Mrs. Wade - Mr. Gunst, for a building this size, and they're talking so far  
3946 21,000 square feet, what kind of site coverage would you have in Innsbrook?  
3947  
3948 Mr. Gunst - The site coverage ratio in Innsbrook in O-3 areas go from 57  
3949 percent to either 62 or 63 percent. When we looked at this, we felt, because of the one-story  
3950 nature, the actual generation of square footage was less than 10,000 square feet per acre. In  
3951 the O-3 areas, we're generating 15,000 to 16,000 square feet per acre. That green space ratio  
3952 that we came up with back in 1979 dealt with much higher density development, even with the  
3953 greater green space. So, we're generating less office here; 62 percent. And, furthermore,  
3954 what's interesting is the right of way here is 25 feet behind the pavement of right of way,



3955 which is unique. We don't have that in Innsbrook, a public right of way, and also the Gibson  
3956 Wright parcel. We feel like it is consistent and does fit in. Many areas in Innsbrook do not  
3957 have any site coverage ratios. This area we felt, 62 percent for a one-story O-2 zoning would  
3958 be appropriate. That was our position when we engineered and looked at all the details.

3959  
3960 Ms. Dwyer - So, will the developer, then, commit to a single story?

3961  
3962 Mr. Gunst - He'd like to commit to two stories. His objective is to go with  
3963 his proposed bank use and one story. He certainly would commit to two stories; certainly  
3964 commit to 40 feet. No subsequent special uses to go up higher than that. It's surrounded on  
3965 three sides by Innsbrook. It's diagonal to the residential. If that's answering your question.

3966  
3967 Mr. Attack - Excuse me, Ms. Dwyer. I would just mention this as an aside.  
3968 We have been very active in the development of Innsbrook. We intend actually to be the  
3969 owner/occupant of this property, which, I think adds another degree of commitment on our  
3970 part. We intend to move our offices into the one-story building. So, Glenn if you'd like...

3971  
3972 Mr. Moore - We had a proffer we were considering, and these questions that  
3973 have come up tonight about this issue. I think we'll go ahead and submit this proffer. Let me  
3974 read it to you, Ms. Dwyer. It may respond to some of the questions you've raised. Also, to  
3975 you, Mrs. Wade. What we will proffer is this, "No branch of a financial institution shall be  
3976 located within 200 feet of the southern boundary of the property." This will assure that it will  
3977 be in the area we're showing, rather than closer to Sadler Road. Now, if we have a branch of  
3978 a financial institution, "...No building constructed on the property shall exceed the lesser of  
3979 one story or 30 feet in height." Essentially, it's a one-story building. Both buildings will be  
3980 one story. If there is no branch of a financial institution constructed on the property, then any  
3981 building constructed on the property will be the lesser of two stories or 40 feet. We can file  
3982 that.

3983  
3984 Mrs. Wade - When did you submit this application for this case, Mr. Moore?

3985  
3986 Mr. Moore - Before the filing deadline.

3987  
3988 Mrs. Wade - When was that? Do you know?

3989  
3990 Mr. Moore - Probably the end of November. It was the end of November.

3991  
3992 Mrs. Wade - Let's see, the proffers were December 3<sup>rd</sup> which is six weeks  
3993 ago. All right. Thank you.

3994  
3995 Ms. Dwyer - Any other questions of the applicant by Commission members?

3996  
3997 Mr. Attack - I would only make a comment, Ms. Dwyer, with regard to this  
3998 two-story, or one-story, the reason we've come up with this, this evening, in discussion with  
3999 the residents, there's a desire on their part for a one-story building. Then, if we're able to  
4000 have a bank branch, we are willing to proffer a one-story building. If we aren't able to have a

4001 bank branch, we're willing just to proffer a two-story building. That's sort of the dynamics of  
4002 where that came from.

4003  
4004 Ms. Dwyer - Thank you, Mr. Attack. Any other questions? Is there any  
4005 opposition? You can come forward now. We do have a 10-minute limit according to the rules  
4006 of the Planning Commission. So, we have representatives of neighbors. That usually works  
4007 most efficiently. Again, any time that is used by the Commission to ask a question and any  
4008 time to be used to answer that question will not be included in your 10 minutes.

4009  
4010 Mr. Glen Young, President, Saddlebrook Homeowners Association - If I start to approach  
4011 about three minutes, I'd appreciate if you would just flag me down at that point. For those of  
4012 you who are not familiar with us, we are the Saddlebrook community which is located adjacent  
4013 to Sadler Road, immediately to the south and west of this property.

4014  
4015 I have to qualify our statement earlier to say that, at this point, I can't say whether we are  
4016 opposed or for it, in that we have been given an overwhelming amount of paper here at the 11<sup>th</sup>  
4017 hour. Tonight, we have had two more proffers that have been thrown out here.

4018  
4019 As of this evening, I've known of the case for five days. Mary Barker has known about it  
4020 about three more days. She is located not directly across, but about as close as you can get  
4021 and one house away.

4022  
4023 One of the frustrations I guess we've had is that Mr. Attack had filed these proffers on  
4024 December 3<sup>rd</sup> and its taken about a month or so for this information to get over to us. So, we,  
4025 basically, have not been able to properly just talk with our residents and find out where they  
4026 stand. Just inform them of what the situation is, show them proffers, show them site plans.  
4027 I'm not sure of the exact number, but I think we estimate in between 120 to 140 homes in that  
4028 area. It's a lot of folks that we have to consider. And, at this point, they have no idea of  
4029 what's coming.

4030  
4031 So, what I would like to request is that we could just get a deferral for the rezoning, so that we  
4032 can pull the homeowner's association together, just kind of collect all of the information; the  
4033 final information, present that to our homeowners, and try to come back with a more informed  
4034 and articulated idea of what's acceptable and what's not and try to work with Mr. Attack on  
4035 this property.

4036  
4037 And, Number 2, I would also like to request that Mr. Attack schedule a public meeting in the  
4038 immediate area of Innsbrook, and present his plan to the residents of Sadler Road, and answer  
4039 any questions. And, if this could occur on an evening less than 10 days prior to this case being  
4040 reheard, it would be very helpful. Thank you.

4041  
4042 Ms. Dwyer - Thank you, Mr. Young. Any questions of Mr. Young by the  
4043 Commission members? No questions. Thank you.

4044  
4045 Ms. Mary Barker - Good evening. My name is Mary Barker. And, as Glen has  
4046 said, I own the property which is not directly kitty corner, but one property removed. My

4047 property does butt up against Sadler Road. My parents property is across the street. I've also  
4048 been asked by Jim Walters, who is the property directly across, to represent his interest  
4049 tonight, because he could not be here.

4050  
4051 We have, as Glen alluded, had very little time in the eight days that I've known about the  
4052 rezoning case, and had contact with Mr. Atack. We've had three meetings. Sidney Gunst has  
4053 been to my house in the evening. He's been by my work. He's dropped stuff off tonight. It's  
4054 a lot of information, as Glen has alluded.

4055  
4056 We haven't compared it against what we've looked at. For instance, we're talking about the  
4057 zoning. We're looking at things being comparable. Well, it seems like we've picked in this  
4058 case "the best of the best." We have a 60-foot setback or a 60-foot buffer zone on The  
4059 Overlook property, for instance.

4060  
4061 They don't come out on Sadler Road. They come out on new Sadler. There was a light put  
4062 into place. It should keep it from going by the property. The "right in" "right out" on  
4063 Nuckols Road will create a small amount of traffic, but it won't create enough to make a  
4064 difference for those who are going to come down and go to the light. We haven't had time to  
4065 consider what would best shield the residents. How do we work with this new situation? An  
4066 ATM generates a lot of light. It also requires, I would imagine, that the parking lot lights  
4067 would remain on so that people who are trying to get from the ATM down to Sadler Road and  
4068 around do so safely. Which means that, when this is a clear-cut property, you know the  
4069 residents are going to be affected by this. We ask for a four-week deferral, particularly on  
4070 behalf of the property owners adjacent, to be able to sift through the data, work through the  
4071 issues, come up with what, we feel, would be a proposal that everybody could live with.  
4072 We're not opposed to development. We know it's coming. But, we have to co-exist with that.  
4073 We need the opportunity to find out exactly how we do, do that. So, I thank you for your  
4074 time, tonight. I ask for you to consider this deferral.

4075  
4076 Ms. Dwyer - Thank you, Ms. Barker. Are there questions of Ms. Barker by  
4077 Commission members? Thank you.

4078  
4079 Mr. Dave Cummings - My name is Dave Comings with The Cedars land. Mary had  
4080 articulated very well some of the concerns we have. I would like to refresh your memory  
4081 about the bad experience The Cedars and Saddlebrook had with The Overlook property. That  
4082 case went on for years, and we were subject to all kind of shenanigans. I apologize for the  
4083 time that Ms. Dwyer had to put in on that. But, because of that, because its just now coming  
4084 to completion, there still are some concerns. Most of the neighbors are very concerned about  
4085 what's happening.

4086  
4087 Neighbors recognize development is coming. We just want to ensure that the zoning and  
4088 development is done in the best possible way. Until we've had a chance to review it and  
4089 assimilate the information, it's tough for us to say we approve or disapprove. We just want  
4090 time to consider it.

4091

4092 Somebody said the zoning of A-1 was inappropriate. Well, Innsbrook is a place to live, work  
4093 and play. Now, there's no place to play. Perhaps, there's an opportunity for a park or other  
4094 common area there. I don't know. But that might be one consideration.

4095  
4096 The zoning request is for an O-2. Perhaps, an O-1 would be more appropriate, given the  
4097 location and the size of the property. This small piece of the west side of the property is a  
4098 great question. It's tough to know who owns it. What can be done there? What should be  
4099 done there? Should it be considered in this property? Perhaps, it should. Perhaps, this makes  
4100 the most sense. It looks nice and it may be the best possible thing that can be done. We just  
4101 don't know.

4102  
4103 You've heard that the County supports this. They recognize that development is coming and,  
4104 this, I think, evidently, meets with the Land Use Plan and plans for development. We do want  
4105 this developed in the best possible way. We'd like to, again, preserve the integrity of the area.  
4106 We'd like you to be sensitive to the issues that the residents have: the traffic, the lighting, the  
4107 access with other development; congestion in the area; intrusion and so forth. We just want to  
4108 make sure that, after we learned our lesson on The Overlook, we want to take time to do this  
4109 right. Make sure the proffers are what they should be so that we can all be happy when this  
4110 project is done. If Mr. Attack moves his offices in here, he'll be a neighbor of ours. We'd  
4111 like to have a good relationship going forward.

4112  
4113 So, again, we're not asking for denial. We just would like some time to consider a deferral. I  
4114 understand your agenda next month is quite heavy, but, be that as it may, they are only two of  
4115 us in the neighborhood of 100 homes in The Cedars that knew anything about this tonight.  
4116 And, I learned about it Tuesday of this week.

4117  
4118 So, that's what we're asking for; some time to consider it. Make sure that we're comfortable  
4119 and make sure that the neighbors understand what's going on. Other concerns that you've  
4120 raised tonight should be considered in the proffers. This would give us some time to  
4121 appropriately consider those and make sure we can bring a consensus proposal to you next  
4122 month.

4123  
4124 Ms. Dwyer - Thank you, Mr. Cummings. Are there any questions of Mr.  
4125 Cummings by Commission members?

4126  
4127 Mr. Vanarsdall - Yes. You say this is the first you've heard of it tonight?

4128  
4129 Mr. Cummings - Tuesday.

4130  
4131 Mr. Vanarsdall - Wasn't there a blue and white sign on the property?

4132  
4133 Mr. Cummings - Right. We were aware of the rezoning issue, but the first we  
4134 heard of the proffers, and what were the plans was Tuesday of this week; two days ago.

4135  
4136 Mr. Vanarsdall - Okay.

4137

4138 Mr. Cummings - I understand they were filed some time ago. We've had six  
4139 weeks now, but we were not aware of what was going on until Tuesday.

4140  
4141 Mr. Vanarsdall - Thank you.

4142  
4143 Ms. Dwyer - Any other questions? Thank you, Mr. Cummings. Any one else  
4144 to speak in opposition to the case? Would the applicant like time for rebuttal?

4145  
4146 Mr. Moore - I'll just make a couple comments in response to the statements  
4147 that have just been made. First of all, regardless of what you all do this evening, I want to  
4148 assure this Commission, I know you probably don't need this assurance. Whatever action is  
4149 taken, we will be happy to meet with the neighbors to discuss this case between now and the  
4150 next meeting that's held to consider this case. At the very least, it will be the Board meeting in  
4151 February. And that would certainly give us time to work on these conditions some more.

4152  
4153 I want to remind you, I think if you look at the zoning map, and read the staff report, this case  
4154 is, in general, supported by the staff. Certainly, it appears to be appropriate to me, given the  
4155 zoning that surrounds the property. And the proffers that we've submitted, I think, are  
4156 consistent with proffers; not 100 percent consistent, but they are consistent, in many ways,  
4157 with proffers on other property in the area.

4158  
4159 When you compare this property to The Overlook, I think you have to remember, The  
4160 Overlook is 12.5 acres, and 130,000 square feet of Office, where this is 2.7 acres, and 23,000  
4161 to 24,000 square feet of development.

4162  
4163 As far as parking lot lighting, Ms. Barker mentioned that, that's controlled by the proffered  
4164 conditions in terms of what is required there. I don't know of any O-1 in this area that would  
4165 suggest that O-1 is appropriate at this particular location.

4166  
4167 As suggested by Mr. Comings, the property directly across the street from the residential  
4168 development; The Cedars and Saddlebrook is O-2. I don't know why that O-1 wouldn't be  
4169 appropriate here.

4170  
4171 We certainly want to protect the integrity of the area. We want to remind the Commission that  
4172 Innsbrook was an ally of the residential communities in dealing with The Overbrook issue.  
4173 And, I also want to say, that I think its in the interest of the community to have this property  
4174 developed in a manner that it can be incorporated into Innsbrook. There's certainly some  
4175 benefits to having that protection in place. So, you know, if this case isn't successful, I don't  
4176 know that's going to occur with another case. That's something for us to take into  
4177 consideration. I'm going to let Mr. Attack make the final comment.

4178 Mr. Attack - I would just like to comment on something that I find to be a  
4179 most precarious situation, Ms. Dwyer. I followed from just the sidelines, so to speak, your  
4180 efforts in The Overlook case. And, it was a tremendous effort on your part. I was here by  
4181 coincidence when Wayne Lowery came to this podium and affirmed your commitment in The  
4182 Overlook case. And precariousness of this situation is that these neighbors who have concerns  
4183 and are requesting a deferral, I've never not been willing to defer a property. It is almost

4184 sacrilegious of me to make this statement. But, I think it requires an explanation on why we  
4185 would beg a decision this evening. That is this. In all due respect, these neighbors have very  
4186 good concerns. Their homes are their single largest investments. It is what their economics  
4187 and emotions of their life is tied to. My home is that way with me and my family. Their  
4188 request for further information, I think, is more than fair. Their request for more meetings, I  
4189 think, is more than fair. I am sincerely sorry that we weren't able to meet with them sooner,  
4190 and give them adequate information. I think that they represent a great number of people. It's  
4191 incumbent upon them, or certainly, incumbent upon them to try to reiterate or articulate as to  
4192 how they see the development of the area to go.

4193  
4194 The precariousness of this, Madam Chairman, and members of the Planning Commission is  
4195 this: this property owner who owns this property, and his wife, and his children, who we did  
4196 not suggest to come this evening, has economic considerations that require us to make a  
4197 business decision that doesn't give us the luxury of a lot of time.

4198  
4199 I say its almost sacrilegious. I apologize and hope that it's not misinterpreted. We feel so  
4200 comfortable and confident that we can satisfy Henrico County, because we have enjoyed a  
4201 relationship in this County, and we understand this area so much. We intend to be an  
4202 owner/occupant. We're not buying this strictly for speculation. We're not trying to flip the  
4203 property, that; I apologize for saying this. We would rather have denial than a deferral,  
4204 because we feel that if we can't work it out, to the satisfaction of the Board within the next  
4205 four weeks, with these residents and their constituents, that we would suffer that consequence.  
4206 And, therefore, I make a plea to you to hear this case for a deferral, would cause a hardship on  
4207 the property owner. In my 25 years in the business, I have never been in such a precarious  
4208 situation with the property owner. We did not ask him to attend. And the residents have been  
4209 very fair. Their analytical approach of this problem is very fair. I'm sorry it happened during  
4210 The Overlook. I developed The Cedars at Innsbrook. I opposed the zoning case. I opposed  
4211 the Saddlebrook zoning case when the developer went in and wanted to lower the square  
4212 footage.

4213  
4214 As I've only opposed two zoning cases in my life, and that was one of them. That request on  
4215 the development was denied. I understand my time is up. I am concerned. I believe that this  
4216 could be heard tonight, that we will satisfy the residents concerns by the time it goes to the  
4217 Board of Supervisors. Thank you.

4218  
4219 Ms. Dwyer - Thank you, Mr. Attack. Are there any questions of Mr. Attack by  
4220 Commission members?

4221  
4222 Mrs. Wade - No. Except we've heard the case, tonight, Mr. Attack. What  
4223 you're asking is a decision on it?

4224  
4225 Mr. Attack - Yes ma'am. If we weren't in such a precarious situation, Mrs.  
4226 Wade, we would have deferred the case, in all due respect, for the request.

4227  
4228 Mrs. Wade - Yes. I haven't heard anything from the residents that sounded  
4229 unreasonable to me. I forget when I first heard about this. It was, obviously, sometime before

4230 Christmas. The first thing I said was to whom whichever one of you who called, "Be sure to  
4231 talk to the people in the subdivisions over there, because they are very sensitive about rezoning  
4232 in this area. And, although, I don't think they're going to object to Office on there, they  
4233 should deserve the courtesy, at least, of seeing what it is you're proposing." And as they point  
4234 out, you know, its been sort of chaotic the last few days; this last week with a lot of running  
4235 around, and meetings and so forth. I've had some trouble keeping up with it myself. I think  
4236 what you're asking about sending it on with a denial from this group, in the interest of time, is  
4237 probably not the best way to do planning. I'm certainly not comfortable with that process.  
4238

4239 A number of these points we've even talked about in the last week, but I hadn't seen any  
4240 change. And, you're here, tonight, with some more proffers.

4241  
4242 And I think the Comprehensive Plan is correct for here. If that were the only criteria, it would  
4243 be pretty cut and dried everywhere, but this is a legislative process. It's a reason for that. We  
4244 can go to our elected representatives with all of the information that we can gather, and with  
4245 the input from the people before some kind of decision is made. Our general practice, as the  
4246 neighborhood's know, is to be considerate of their concerns, and meet and share information  
4247 with them. So, I would move that C-5C-99 be deferred until the 11<sup>th</sup> of February.

4248  
4249 Ms. Dwyer - Is there a second?

4250  
4251 Mr. Archer seconded the motion.

4252  
4253 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer. All those  
4254 in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).  
4255 Motion is carried for C-5C-99 for deferral to February 11<sup>th</sup>.

4256  
4257 **P-2-99 Gloria L. Freye for PrimeCo Personal Communications: Request**  
4258 **for approval of a provisional use permit in accordance with Sections 24-95(a)(3), 24-120 and**  
4259 **24-122.1 of Chapter 24 of the County Code in order to extend the height of an existing 100'**  
4260 **communication tower monopole up to 145', on part of Parcel 58-6-2, containing 324 sq. ft.,**  
4261 **located at the southern terminus of Mayland Court (3500 Mayland Court). The site is zoned**  
4262 **M-1C Light Industrial District.**

4263  
4264 Mr. Marlles - Mr. Mark Bittner will be giving the staff report.

4265  
4266 Ms. Dwyer - Is there any opposition to P-2-99 PrimeCo Personal  
4267 Communications? No opposition to this. Mr. Bittner.

4268  
4269 Mr. Bittner - Thank you, Ms. Dwyer. The tower is located at the end of  
4270 Mayland Court. (Referring to slide) This is Mayland Court in the Deep Run Business Center.  
4271 The tower sits right about there behind this office suite. The Woodside single family  
4272 neighborhood is adjacent to the southeast. You can see this tower from both Bryson's Drive  
4273 and Woodside and St. Pages Lane.  
4274

4275 The leased area is approximately 160 feet from the closest residential property line in  
4276 Woodside. The tower is required to have a setback of at least 110 percent of the tower height  
4277 from the nearest residentially-zoned property. The maximum height that could be achieved at  
4278 this location is the requested 145 feet.

4279  
4280 Staff has inquired about the possibility of locating this tower elsewhere to the west so that it  
4281 would be further removed from the Woodside neighborhood. The applicant has stated that  
4282 moving this tower elsewhere on this particular site, meaning this group of offices right in here  
4283 (referring to slide), would decrease the amount of parking spaces. That's because the property  
4284 line, basically, follows the parking lot. And if you were to move the tower elsewhere on the  
4285 site, you have to take out a few parking spaces in order to accommodate it.

4286  
4287 Mrs. Wade - They wouldn't have the required amount, or they just wouldn't  
4288 have enough for their purposes?

4289  
4290 Mr. Bittner - They would still have enough parking, but they would lose some  
4291 of the spaces they already have if they moved the tower elsewhere on this particular parcel.

4292  
4293 Mrs. Wade - But they have more than the minimum required now by the  
4294 Zoning Ordinance?

4295  
4296 Mr. Bittner - Yes. Staff concurs with the statement by the applicant.  
4297 However, there is other vacant property in the Deep Run Business Center, further to the west.  
4298 All this vacant wooded area out here (referring to slide). There's also potential for locating  
4299 this tower in the interchange of I-64 and Gaskins Road, which is down in this area right here.

4300  
4301 Staff recommends that the applicant consider locating a new taller tower on property further  
4302 away from Woodside. This would lessen the visual impact of the tower on the neighborhood.  
4303 It would also allow a greater tower height, and with it more collocation opportunities, because  
4304 the residential setback requirements would be less stringent. If a taller tower were located to  
4305 the west, the existing tower near the Woodside neighborhood could also be removed.

4306  
4307 Should the Planning Commission decide to recommend approval of this Provisional Use  
4308 Permit, it is recommended that the requested permit be subject to the conditions in the staff  
4309 report. I'd be happy to answer any questions you may have.

4310  
4311 Mrs. Wade - Where in here, exactly, is that black spot?

4312  
4313 Mr. Bittner - Right there is the existing tower which they want to heighten  
4314 from 100 feet to 145 feet.

4315  
4316 Mrs. Wade - And how far is that from the nearest house?  
4317 Mr. Bittner - It's about 160 feet from the nearest residential property line. And  
4318 then the setback, I'm not exactly sure what it is, but I'm going to guess 35 feet. It's probably  
4319 about 195 feet to the closest house.

4320



4321 Ms. Dwyer - Are there any other questions for Mr. Bittner from the  
4322 Commission? No questions. Mrs. Wade, would you like to hear from the applicant?

4323  
4324 Mrs. Wade - Yes. I would like to hear the response to his comments, please.

4325  
4326 Ms. Gloria Freye - Good evening. My name is Gloria Freye. I'm an attorney here  
4327 on behalf of the applicant, Primeco Personal Communications. Mark Cornell, with PrimeCo is  
4328 also here with me this evening.

4329  
4330 Mrs. Wade - I have gotten calls from several people who are concerned about  
4331 this. They don't seem to be here.

4332  
4333 Ms. Freye - PrimeCo needs to extend the height of this tower to cure some  
4334 serious service problems that they have in this area. It's a very busy area with the interstate,  
4335 the business development in this area, and also, with the residential development in the area  
4336 that they're trying to serve.

4337  
4338 If they can extend the height of this tower by 45 feet, it will fill that service hole. It will  
4339 improve the quality of the service, and it will eliminate the need for having another tower  
4340 somewhere else in this portion of the County.

4341  
4342 We recognize that the existing tower is visible to the nearby homes. What we would suggest is  
4343 that we have a condition, if the tower can be extended to have two additional conditions on the  
4344 Provisional Use Permit, which would, instead of having the usual standard array of antennas  
4345 where you have the platform and the panel antennas on three sides, is that you require the  
4346 antennas to be flush mounted so that you lower the profile of the tower and the antennas to  
4347 make it less obtrusive. That would improve the appearance of the existing tower. And  
4348 allowing it to be extended would also allow a collocation opportunity that's not there. It would  
4349 also eliminate the need for another tower in that area, not only by PrimeCo, but by some other  
4350 carrier in the industry.

4351  
4352 PrimeCo did investigate the other land that Mr. Bittner referred to. No sites were available,  
4353 either from VDOT, or other landowners in the Deep Run Business Park. And, also, talking to  
4354 the existing landowner where the tower is, he was not willing to give up any of his parking  
4355 spaces to allow this to be shifted further away.

4356  
4357 We appreciate any consideration that you can give to this request. We feel that, if you can  
4358 approve the extension, putting the condition on it that they be flush mounted antennas, even for  
4359 a co-locator. And also, you could put the condition in at this time, it would not be lighted.

4360  
4361 I think that you could build in some protections that the neighborhood doesn't have at this  
4362 point, and improve the situation. We do appreciate your consideration, and we'll be glad to  
4363 answer any questions that you have.

4364  
4365 Ms. Dwyer - Thank you, Ms. Freye. Are there any questions of Ms. Freye by  
4366 the Commission?

4367  
4368 Mrs. Wade - I recall, this site is somewhat higher than the residential?  
4369  
4370 Ms. Freye - Yes ma'am, it is. I think the fence is about eight feet. There's  
4371 an 8-foot board fence, and large evergreen trees along that fence on their side of the fence that  
4372 do help to screen it.  
4373  
4374 One of the property owners I talked to, told me that he bought this property, knowing the  
4375 tower was there, knowing it was visible, and did not think it had an impact, you know, on his  
4376 decision to buy the house. I think, that if we can improve the appearance; give it a lower  
4377 profile, that would improve the existing situation, and promote the County's goal of not having  
4378 additional towers.  
4379  
4380 Ms. Dwyer - How many people are located on the tower now?  
4381  
4382 Ms. Freye - Just PrimeCo is on it right now. With that height, we could  
4383 accommodate one other carrier. And they could also be required to have flush mounted  
4384 antennas to give it the lower profile.  
4385  
4386 Mrs. Wade - I'm trying to visualize. Those are the ones that go...  
4387  
4388 Ms. Freye - ...straight up the side. They're not extended out from the  
4389 antenna.  
4390  
4391 Mrs. Wade - No platform?  
4392  
4393 Ms. Freye - No platform. Correct.  
4394  
4395 Mrs. Wade - Even though its close, it isn't highly visible, now, but another 45  
4396 feet, people are concerned about it.  
4397  
4398 Ms. Freye - And that's why, in talking with the company, that it's more  
4399 visible, then what else can they do to mitigate that? It took some work by the radio frequency  
4400 engineers to decide if the flush mount antennas would correct the service problems that they're  
4401 having. And, they think that it will make it an improvement for them, and it would be an  
4402 acceptable condition to PrimeCo to do that.  
4403  
4404 Ms. Dwyer - Will the tower have to be removed and rebuilt, or can it be added  
4405 to?  
4406 Ms. Freye - I believe it can be added to, that the foundation is already strong  
4407 enough to support an extension. So, it would stay exactly where it is, and an extension would  
4408 just be put on top of it.  
4409  
4410 Ms. Dwyer - Any other questions by the Commission?  
4411  
4412 Mr. Archer - Ms. Freye, did you say two more users?

4413  
4414 Ms. Freye - One more.  
4415  
4416 Mr. Archer - One more user?  
4417  
4418 Ms. Freye - ...at that height where it is.  
4419  
4420 Mr. Archer - I guess I was just reading in Item 6 of the staff report which  
4421 indicated that the "Applicant shall allow the collocation of at least three?"  
4422  
4423 Ms. Freye - We could not accommodate that.  
4424  
4425 Mr. Archer - I just wanted to clarify that.  
4426  
4427 Ms. Freye - I appreciate your pointing that out, Mr. Archer. I had not  
4428 focused on that.  
4429  
4430 Mrs. Wade - Except for your one there at Cox, we really don't have any  
4431 others pending in this area right now for towers?  
4432  
4433 Ms. Freye - That's correct. And they even looked as far away as that site to  
4434 see if that site might help them if that got approved. But it won't solve this problem, and will  
4435 create other problems elsewhere. So, that wasn't a feasible alternative for them either.  
4436  
4437 Mrs. Wade - Have you met with people, or just talked...  
4438  
4439 Ms. Freye - No. We have not met with people. We have offered to meet  
4440 with them. We did send letters, not only to the adjacent. We sent letters to everybody on  
4441 Bryson, to everybody on St. Pages Lane, both those cul-de-sacs. We sent letters; and I have  
4442 tried to call everybody that was adjacent. And could not talk with everybody. I did leave  
4443 messages. I was able to talk to some people. They did raise the concerns about the visibility,  
4444 and that's when we had the discussion with the company about, "How can you make it less  
4445 visible than it is now, by doing the flush mounted, instead of the standard array?"  
4446  
4447 Mrs. Wade - This is, of course, is fairly close to residential. We haven't had a  
4448 balloon showing in a long time. That would be applicable here in terms of...  
4449  
4450 Ms. Freye - ...of meeting with the neighborhood? We'd be glad to consider  
4451 that. I mean, we've talked to the neighbors.  
4452  
4453 Mrs. Wade - To see how tall it would be and then maybe bring some photos of  
4454 some differences in the antenna and so forth?  
4455  
4456 Ms. Freye - In talking with the neighbors, the only request I got was for a  
4457 market study. And I did make that available and the gentleman didn't pick it up. So, I mean,

4458 we are willing to work with the neighborhood. We'd be glad to do that if there's an interest on  
4459 their part to do that.

4460  
4461 Mrs. Wade - Well, I don't know about the neighborhood, but given the change  
4462 in the shape of the antennas, I would like to go down in there again. When I went, I was  
4463 looking more at the houses that are directly adjacent, you know, to it, rather than those, you  
4464 said you heard from who were a little bit maybe facing it.

4465  
4466 Ms. Freye - Yes.

4467  
4468 Mrs. Wade - ...to satisfy myself about the situation. Could you do that in two  
4469 weeks?

4470  
4471 Ms. Freye - That would be fine.

4472  
4473 Mrs. Wade - Since there's nobody here about this, so we wouldn't working a  
4474 hardship on people having the daytime meeting, I don't think.

4475  
4476 Ms. Freye - We would be agreeable to that.

4477  
4478 Mrs. Wade - Would you request it?

4479  
4480 Ms. Freye - We would agree to a two-week deferral so that we could do a  
4481 balloon test and meet with the neighborhood.

4482  
4483 Mrs. Wade - Well, all right, you want to do the whole...Yes. For that, I don't  
4484 know whether two weeks would be time enough. I was thinking about going myself. But, it  
4485 might be.

4486  
4487 Ms. Freye - We would be willing to accept a 30-day deferral, if that would  
4488 give us more time. That would be acceptable.

4489  
4490 Mrs. Wade - Let's try two weeks.

4491  
4492 Ms. Freye - I know that you really have a lot of cases...

4493  
4494 Mrs. Wade - Let's not defer it to the 11<sup>th</sup> of February, if we can help it. So,  
4495 the 26<sup>th</sup> of January. Maybe we could go out there and then decide whether, fairly soon,  
4496 obviously.

4497  
4498 Ms. Freye - We'll set that up right away.

4499  
4500 Mrs. Wade - Whether it would be any point in getting the neighbors involved  
4501 again. As I say, the only ones from whom I've heard, of course, have been opposed to it,  
4502 basically.

4503

4504 Ms. Freye - I understand. I think if we can present this condition to them, I  
4505 think, at least, its worth exploring that it would make a difference that it would lower the  
4506 profile, and actually improve the existing situation.

4507  
4508 Mrs. Wade - You've talked to everybody around there about the possibility of  
4509 locating this or a taller one...

4510  
4511 Ms. Freye - I was not able to make an offer to the people when I talked to  
4512 them because it was only today that the radio frequency engineers were able to say that they  
4513 could go with the flush mounted antennas. I have not had an opportunity to present that to  
4514 them.

4515  
4516 Mrs. Wade - I mean the other industrial-type of property in the area? Have  
4517 you talked to the others, and nobody else had any site that was available?

4518  
4519 Ms. Freye - ...available. Either not available, or would not solve the service  
4520 problem.

4521  
4522 Mrs. Wade - Because nobody here wants it and nobody over on Byrdhill wants  
4523 it either in the industrial areas?

4524  
4525 Ms. Freye - You're right. I know.

4526  
4527 Mrs. Wade - Maybe you're not trying hard enough.

4528  
4529 Ms. Freye - I am trying. I dare say they will say I'm trying as well.

4530  
4531 (Gap in tape)

4532  
4533 **C-6-99** Jack R. Wilson, III, for West Manor Homes: Request to rezone  
4534 from R-3 One Family Residence District to R-4A One Family Residence District, Parcels 92-7-  
4535 17-25 thru 43; 92-7-15-63 thru 82; and 92-7-13-103 thru 122 being part of Crestview  
4536 Subdivision Section A; 92-7-2-1,2; 92-7-3-3 thru 10; 92-7-4-11 thru 18; 92-7-5-19 thru 40; and  
4537 92-7-11-41 thru 58 being part of Crestview Subdivision Section B; and 92-7-11-1 thru 16; 92-7-  
4538 10-17 thru 51 and A; 92-7-6-52 thru 72 and B and C; 92-7-7-73 thru 78; 92-7-8-83 thru 101 and  
4539 D; and 92-7-9-79, thru 82,102 thru 124 and E being part of Crestview Subdivision Section C,  
4540 containing approximately 45 acres, located on the north side of Horse Pen Road generally  
4541 between Harvard Road and Charles Street. A single family residential subdivision is proposed.  
4542 The R-4A District permits up to 5.62 units per gross acre. The Land Use Plan recommends  
4543 Urban Residential, 3.4 to 6.8 units net density per acre.

4544  
4545 All testimony heard under C-9-99.

4546  
4547 **C-7-99** Jack R. Wilson, III, for West Manor Homes: Request to rezone  
4548 from R-3 One Family Residence District to R-5 General Residence District, Parcels 102-9-D-1  
4549 through 14, containing 2.63 acres, located at the northeast intersection of Charles Street and

4550 Horse Pen Road. Apartments are proposed. The R-5 District permits up to 14.52 units per  
4551 gross acre. The Land Use Plan recommends Urban Residential, 3.4 to 6.8 units net density per  
4552 acre.

4553  
4554 All testimony heard under C-9-99.

4555  
4556 **C-8-99** Jack R. Wilson, III, for West Manor Homes: Request to rezone  
4557 from B-2 Business District to R-5 General Residence District, Parcel 102-9-B-1, containing 2.73  
4558 acres, located on the north line of Horsepen Road at its intersections with Dartmouth Avenue and  
4559 Betty Lane (Crestview Shopping Center). Apartments are proposed. The R-5 District permits up  
4560 to 14.52 units per gross acre. The Land Use Plan recommends Commercial Concentration.

4561  
4562 All testimony heard under C-9-99.

4563  
4564 **C-9-99** Jack R. Wilson, III, for West Manor Homes: Request to rezone  
4565 from B-2 Business District to R-5 General Residence District, Parcels 102-9-H-1 and 2,  
4566 containing 2.73 acres, located on the north line of Horsepen Road at its intersections with Betty  
4567 Lane and Catawba Lane (Crestview Shopping Center). Apartments are proposed. The R-5  
4568 District permits up to 14.52 units per gross acre. The Land Use Plan recommends Commercial  
4569 Concentration.

4570  
4571 (Gap in tape).

4572  
4573 Mr. Jack R. Wilson - ...to take those houses down. Those would actually be in the first  
4574 phase to take those houses down, along with the multi-family that is currently existing behind  
4575 those 14. To eliminate those houses in Phase 1, which is also in the single family component  
4576 here.

4577  
4578 Mrs. Wade - Whose going to build those houses that we saw? Do the  
4579 Gumminick's build, or do they just develop?

4580  
4581 Mr. Wilson - Pardon me?

4582  
4583 Mrs. Wade - Whose building the house you showed us renderings of?

4584 Mr. Wilson - Whose the builder itself?

4585  
4586 Mrs. Wade - The Gumminick's don't build the houses, do they?

4587  
4588 Mr. Wilson - It's going to be a custom builder, John Robertson, who has a  
4589 construction management agreement with the Gummenicks.

4590  
4591 Mrs. Wade - John Robertson is going to be involved with this? John Robertson  
4592 is going to be involved with building the houses? Oh. Okay.

4593  
4594 Ms. Dwyer - Mr. Wilson, you mentioned that there were CDBG funds that are  
4595 being used and I've heard estimates ranging from \$1.6 million to \$2.6 million. As far as you

4596 can estimate, the ultimate public investment in this project would be \$2.6 million, as Mr.  
4597 Merrithew indicated?

4598  
4599 Mr. Wilson - Well, what we understand, at this point, \$925,000, approximately,  
4600 has been committed. The range now, the last we understood, was approximately a total of \$1.6  
4601 million. So, an addition \$700,000 Block Grant money may be available. Our understanding is a  
4602 total of \$1.6 million in public funding.

4603  
4604 Ms. Dwyer - Mr. Merrithew's estimate was \$2.6 million?

4605  
4606 Mr. Wilson - \$2.6 million.

4607  
4608 Mr. Merrithew - That's with the original study.

4609  
4610 Ms. Dwyer - And that does not include any tax benefits derived from this  
4611 project?

4612  
4613 Mr. Wilson - That's correct.

4614  
4615 Ms. Dwyer - And there are tax benefits derived?

4616  
4617 Mr. Wilson - These will all turn over to single family ownership, including the  
4618 increased values of these homes as well.

4619  
4620 Ms. Dwyer - I mean to the Gummenick property owners. Are there any  
4621 (unintelligible) to that?

4622  
4623 Mr. Wilson - No.

4624  
4625 Ms. Dwyer - I certainly applaud any efforts to improve this property, but I must  
4626 say that we deal every day with many reputable and credible developers in the County, and that  
4627 does not relieve them of our expectation that there would be proffers to accompany their cases,  
4628 particularly, in this case when there is potentially \$2.6 million of public money invested in the  
4629 project. If it is, indeed, a public/private partnership, it seems that this public body expects, and I  
4630 think should have assurances of proffers. In the world of zoning and planning and plan of  
4631 development, a promise that is in a proffer doesn't exist for us. I suppose that doesn't really  
4632 need a response. I'm just, you know, surprised that, you know, that so many representations  
4633 have been made. We have elevations. We have site plans. We have homeowners associations,  
4634 sidewalks, streetscapes, street plans, phasing. None of this is proffered, and we're accustomed  
4635 to seeing it proffered from very reputable, very respectable, very credible developers.

4636  
4637 Mr. Wilson - I understand that.

4638  
4639 Ms. Dwyer - I just made that statement to get it out of the way.

4640

4641 Mr. Wilson - One of the issues there, of course, is the fact, one of the reasons,  
4642 obviously, is the precedent-setting nature for proffers and so forth. I view those more on sort of  
4643 the green space. What we're doing here is a revitalization, and there's already a track record.  
4644 The Gummenicks have put in \$8.5 million of their own money into revitalizing the University  
4645 Village Apartments. That shows a commitment to this overall plan. Clearing, they're not going  
4646 to invest \$8.5 million in here, and not do anything consistent with that here or do anything that  
4647 would hinder the sale of these houses here. The commitment that was raised in the staff report, I  
4648 think, was best evidenced by the fact that they've already put their money in here, and they're  
4649 already planning to spend their money along Charles to get this project off and running in the  
4650 spring. In fact, the first relocations would begin in the middle of March.

4651  
4652 Ms. Dwyer - There is a net increase of rental units of 256. Is that the correct  
4653 number?

4654  
4655 Mr. Wilson - The actual increase in multi-family would be 170 multi-family  
4656 units additional. In fact, the rental units is a 77 decrease.

4657  
4658 Ms. Dwyer - I'm looking at multi-family.

4659  
4660 Mr. Wilson - Multi-family would be 170 more than exists now.

4661  
4662 Ms. Dwyer - Where did I get 256?

4663  
4664 Mr. Wilson - That the number of new units that will be in these two parcels  
4665 here.

4666  
4667 Ms. Dwyer - The number of new multi-family units?

4668  
4669 Mr. Wilson - Right.

4670  
4671 Ms. Dwyer - So, we're eliminating some multi-family units?

4672  
4673 Mr. Wilson - Eighty-six (86).

4674 Ms. Dwyer - Where are they being eliminated?

4675  
4676 Mr. Wilson - There are 72 of them here (referring to slide), and there were 14 of  
4677 them, and I didn't mention this. The Gummenicks are in the process of turning over a parcel up  
4678 here to the School Board, and they're already removed, I think, 13 units up there. They've  
4679 already been taken down. And that property is being deeded over to the School Board now. So,  
4680 that would account for the difference. There will be some old ones removed from here and then  
4681 rebuilt.

4682  
4683 Ms. Dwyer - And Mr. Merrithew alluded that there are some requirement in the  
4684 CDBG funding that requires home ownership. You seem to nod your head. Could you  
4685 elaborate on that?

4686



4687 Mr. Wilson - These are to be sold as affordable housing. That's why I  
4688 mentioned that \$115,000 to \$130,000 price range is what is projected now. From what I  
4689 understand, there's not a specific rigid formula, but that \$130,000 maximum price range is well  
4690 within what the Community Block Grant for affordable housing would be.  
4691  
4692 Ms. Dwyer - It is requirement that these be sold?  
4693  
4694 Person from Audience - I don't know that there are firm requirements of the Block Grant  
4695 that the units be made available for sale, but that is the understanding that we have in the terms  
4696 of the Block Grant. There is not a written agreement, or a written criteria that I'm aware of.  
4697  
4698 Mr. Vanarsdall - We need to get him on the mike, Jack.  
4699  
4700 Mr. Wilson - I can repeat that. There is no requirement under the Community  
4701 Block Grant that these houses be sold. There's no written agreement that says, "< < < In return  
4702 for \$125,000 of Community Block Grant money, that you, in turn, will rehab those houses and  
4703 sell them." That is what the plan is, though, and that's already been presented. Again, a broker  
4704 has already been retained to start the marketing of that. The plan is to rehabilitate and sell  
4705 everyone of those houses in there.  
4706  
4707 Mr. Vanarsdall - Is this tied to income?  
4708  
4709 Mr. Wilson - The...?  
4710  
4711 Mr. Vanarsdall - ...the person's income.  
4712  
4713 Mr. Wilson - The price of the house?  
4714  
4715 Mr. Vanarsdall - Is it tied to income or subsidized?  
4716  
4717 Mr. Merrithew - They calculate affordability based on the average income for the  
4718 County, and what that income can pay for.  
4719 Mr. Vanarsdall - Is that what you call, "subsidized housing?"  
4720  
4721 Mr. Merrithew - No sir. It's just a question of calculating the affordable of housing,  
4722 not subsidizing it.  
4723  
4724 Mr. Vanarsdall - That's what I thought.  
4725  
4726 Mr. Merrithew - I apologize, Ms. Dwyer, if I said that there was an arrangement  
4727 about requiring a sale of a specific number of units. There is not. There is an agreement,  
4728 understanding, that, at least some of the units would be sold in the affordable price range.  
4729  
4730 Ms. Dwyer - A handshake?  
4731

4732 Mr. Merrithew - Right. A handshake between the CDBG people and these people.  
4733 The CDBG money is going to utilities and so on, and is not funding a part of the project which  
4734 would mandate affordable housing sales.

4735  
4736 Ms. Dwyer - Thank you. That clarifies it. Are there any other questions of Mr.  
4737 Wilson by Commission members?

4738  
4739 Mr. Archer - Mr. Wilson, has there any consideration been given to what would  
4740 happen to the people who would be displaced when the reconstruction begins?

4741  
4742 Mr. Wilson - Yes. That was one of the subjects that was addressed during the  
4743 tenant meeting that I mentioned. We had approximately 150 tenants there.

4744  
4745 The Plan is, again, this will be done in phases. People who are being asked to vacant the single  
4746 family homes, pursuant to their lease provisions, will be given a \$250 allowance to help them  
4747 move. They will also, since these houses are going to be torn down, given their full security  
4748 deposit back plus interest, so that they'll have the money available to move.

4749  
4750 The thought is that, with the turnover in the single family homes from a historical perspective,  
4751 some of these people will be able to relocate further back into the subdivision, itself, since this is  
4752 being done in phases, or into other University Village Apartments or elsewhere.

4753  
4754 Additionally, there's all kinds of information that's going to be provided to these tenants when  
4755 they get the notice that their lease has been terminated, or the lease term ends, to provide other  
4756 resources for alternative housing.

4757  
4758 Finally, in the event, that there are those who, with even all of this assistance that is being  
4759 provided, are unable to locate additional housing, there's already been coordination with some  
4760 civic organizations and churches in the area who have said, they, too, would like to come in and  
4761 help in the event that occurs.

4762  
4763 One of the things that's worth noting on that, though, is, when University Village went through  
4764 its rehabilitation program, that, in fact, the rentals there were approximately \$350 to \$380.  
4765 These are in about the \$500 a month range, a little bit higher rentals. When they went through  
4766 the University Village rehabilitation, they had very few problems of anybody not being able to  
4767 find alternative housing.

4768  
4769 We are hopeful that experience will carry over into the single family homes. But to be careful  
4770 and cautious, we have a program in place to provide funding so that people can get in and  
4771 provide hookups into other Gummenick owned properties. If they've been responsible tenants in  
4772 the past, no new credit application will be required; things like that.

4773  
4774 So, all of that has been thought out at the beginning, and, we again, provide it to people, once  
4775 they get notice that their lease has come to an end. And the thought is that there won't be a large  
4776 exodus at any one time, since this is being phased in over a period of likely three years. So, the  
4777 absorption should not be a problem.

4778  
4779 Mrs. Wade - They've been asked that question several times.  
4780  
4781 Mr. Wilson - I think that may have been the first question.  
4782  
4783 Ms. Dwyer - Any other questions by Commission members?  
4784  
4785 Mrs. Wade - Because its home to a lot of people.  
4786  
4787 Mr. Wilson - Exactly.  
4788  
4789 Ms. Dwyer - Any other questions of Mr. Wilson. Thank you, Mr. Wilson.  
4790 We'll let you have your two minutes. Fifteen, but you did cover four cases, so, we're more or  
4791 less happy... All right, I believe there was opposition.  
4792  
4793 Mrs. Wade - And there's nobody else here to express an opinion on this,  
4794 opposed or otherwise?  
4795  
4796 Mr. Joey Bowling - I don't know if this is opposition or concern. I'm Joey Bowling  
4797 and I'm here for my father-in-law, who Mr. Merrithew alluded. He was one of the phone  
4798 callers because he lives in the old Pine Acres Subdivision on Mallory Drive. He's very  
4799 concerned that the applicant has not committed to the proposal or the concept, not that he objects  
4800 to the proposal, but the lack of commitment to the proposal.  
4801  
4802 Having seen what happened to his neighborhood years back, the old Pine Acres neighborhood,  
4803 that concern is magnified. My concern, of his concern then, corresponds to what Mr.  
4804 Merrithew said about the unconditional character of the proposal.  
4805  
4806 Ms. Dwyer - Thank you, Mr. Bowling. Does any one have any questions of  
4807 Mr. Bowling? No questions. Thank you, sir. Mr. Wilson, rebuttal?  
4808 Mr. Wilson - I don't think I need to add anything. The commitment has already  
4809 been shown to the long term viability of this project. They've already invested several million  
4810 dollars. They have \$7 million on the drawing board in the future. So, I think the commitment  
4811 has been shown to this project in the long term viability of it. Thank you.  
4812  
4813 Ms. Dwyer - Thank you, sir.  
4814  
4815 Mrs. Wade - I think in almost any kind of community, it's the maintenance over  
4816 the long haul that really is the determinate, and there's no way you can proffer that, as a matter  
4817 of fact.  
4818  
4819 Ms. Dwyer - Any other questions of anyone? Mrs. Wade.  
4820  
4821 Mr. Vanarsdall - Right back here.  
4822

4823 Ms. Dwyer - I'm sorry. Ma'am, would you like to come forward, please? If  
4824 you speak at all, you have to be at the microphone.  
4825  
4826 Mr. Vanarsdall - This is all being electronically recorded, so we need your voice.  
4827  
4828 Ms. Dwyer - If you could state your name please?  
4829  
4830 Ms. Gail Davis - I am a homeowner on Horsepen Road. It's right across the street  
4831 almost from the West End Antique Mart. I would like to know, are these apartments going to  
4832 devalue the price of my home for resale?  
4833  
4834 Ms. Dwyer - Perhaps, Mr. Wilson would like to respond to that.  
4835  
4836 Mr. Wilson - Actually, not. It will actually, if anything, probably improve the  
4837 value of your property. That parcel would become far more valuable, as multi-family. Plus the  
4838 improvements along Horsepen, itself, with the trees, and so forth, will just approve the overall  
4839 appearance of Horsepen. So, I think it could nothing but improve. I can't represent that it  
4840 won't, but that would be my expectation.  
4841  
4842 Mrs. Wade - The plans that they're showing us now have the townhouse units  
4843 facing Horsepen rather than backing up. So, it should be an improvement, hopefully. We are  
4844 very concerned with Horsepen.  
4845  
4846 Ms. Davis - Does this mean, when you say that you're going to rezone, does it  
4847 mean that, it wouldn't have anything to do with commercial rezoning?  
4848  
4849 Mr. Wilson - Just the opposite of what it is now. B-2 will be converted into the  
4850 multi-family R-5, so the commercial property that is currently there on that one parcel, will be  
4851 eliminated. The Antique Mart, for example, will be gone when the multi-family comes in.  
4852  
4853 Mrs. Wade - No more nightspots.  
4854  
4855 Ms. Davis - Okay.  
4856  
4857 Mrs. Wade - Hopefully, more trees.  
4858  
4859 Ms. Dwyer - Thank you, Ms. Davis. Anyone else? Okay. Please come  
4860 forward?  
4861  
4862 Mrs. Quesinberry - Madam Chair?  
4863  
4864 Ms. Dwyer - Yes.  
4865  
4866 Mrs. Quesinberry - I don't know if this is a motion or not, but before there's a  
4867 decision on this case, would it be appropriate to ask for a 10-minute recess?  
4868

4869 Ms. Dwyer - Yes. We can take a recess. If we can get the testimony  
4870 completed. I'd like to do that first. Yes sir.  
4871  
4872 Mr. Keith Wallace - I live on Horsepen.  
4873  
4874 Ms. Dwyer - Keith Wallace?  
4875  
4876 Mr. Wallace - Right. And I'm concerned, in between Charles Street, and I think  
4877 Harvard, is that going to be done in single family homes? I know there's going to be apartments  
4878 across from the antique mall. I live close to the...  
4879  
4880 Ms. Dwyer - Could we have the site plan, maybe, on the board, please? I  
4881 thought we were finished with the opposition?  
4882  
4883 Mr. Wallace - It's no opposition.  
4884  
4885 Mrs. Wade - Well, they're looking for more information. This is a major  
4886 project here that affects a lot of people.  
4887  
4888 Ms. Dwyer - Mr. Merrithew, perhaps, you could show...  
4889  
4890 Mrs. Wade - He probably didn't include the Horsepen neighbors across the  
4891 street.  
4892  
4893 Mr. Wallace - I live across the street and I'm concerned. If I understood  
4894 correctly, it is going to be single family homes put in that stretch. Those will stay single family  
4895 homes. I see.  
4896  
4897 This may not be the proper place, but I'm also concerned, if the road is going to be widened,  
4898 and will I lose part of my front yard, as a result of this project? I don't know if you have any  
4899 knowledge, or what the plan is?  
4900  
4901 Ms. Dwyer - Mr. Merrithew, can you respond to that?  
4902  
4903 Mr. Merrithew - I'll let Delmonte speak to that. He's worked with the County.  
4904  
4905 Mr. Delmonte Lewis - For the record, my name is Delmonte Lewis. I have talked with  
4906 Lee Priestas about this. The County, at the present time, has American Engineers looking at a  
4907 feasibility study for the widening of Horsepen. That is as far as they have gone. They have not  
4908 completed that study, but Lee Priestas did indicate to me that there would be some widening, but  
4909 not a great deal, as far as taking a lot of property. He could tell me whether which side of the  
4910 road it would be coming off of at this time, because they had not finished the study, but it is in  
4911 progress. And Lee told me he should have it in about two to three months.  
4912  
4913 Ms. Dwyer - Thank you, Mr. Lewis.  
4914

4915 Mr. Wallace - That is a concern of mine. I don't have a great deal of front yard  
4916 space. I recently bought the house, and if I think it will devalue my property, if you  
4917 start...Parts of my yard are only 27 feet from the road.  
4918  
4919 Mrs. Wade - I think the road is going to be improved even if this project were  
4920 not on the books.  
4921  
4922 Mr. Wallace - Is that the case?  
4923  
4924 Mrs. Wade - ...because that area there...  
4925  
4926 Mr. Wallace - I didn't know if this was what was driving the road widening or  
4927 whether...  
4928  
4929 Mrs. Wade - I don't have that impression, but I haven't been involved in the  
4930 road discussions with them.  
4931  
4932 Mr. Vanarsdall - A lot of your front yard belongs to the County anyway.  
4933  
4934 Mr. Wallace - Six and a half feet, I understand.  
4935  
4936 Mrs. Wade - They're tearing up on the other side. It would make better sense to  
4937 take it off over there, wouldn't it?  
4938  
4939 Mr. Wallace - Yes. Exactly. I've looked at the right-of-way line and it is 6.5  
4940 feet that could be claimed of my front yard.  
4941  
4942 Mrs. Wade - Well, we hope not.  
4943  
4944 Mr. Wallace - It kind of makes me sick to think about losing that much of my  
4945 front yard, but I don't think its anything that can be prevented. If the road needs to be widened,  
4946 I'm sure that the good of the people is more important than my particular front yard.  
4947  
4948 Mrs. Wade - You might call Public Works and ask them to keep you up to date  
4949 on it.  
4950  
4951 Mr. Wallace - Okay. I'll do that. Yes. That was the only concerns that I had;  
4952 would they be single family homes, and would the road be widened? I'll take up the road  
4953 widening with the... Which section of the County would I talk to about that?  
4954  
4955 Mr. Merrithew - You should call Lee Priestas.  
4956  
4957 Ms. Dwyer - They're in the phone book. All right, is there any one else who  
4958 would like to speak to the case? How much time do we have? Please come forward, sir?  
4959  
4960 Mrs. Wade - They've been sitting here a long time.

4961  
4962 Ms. Dwyer - Yes. They have.  
4963  
4964 Mr. Jimmy Gwalthmey - I live on Horsepen Road. As the gentleman before me, I have  
4965 concerns about Horsepen Road widening also. But, I have a question for you, sir. We live right  
4966 across from the Mediterranean Bakery. I believe you're going to put up apartments right there.  
4967 How close are the apartments going to be to Horsepen Road, and will people that live there, will  
4968 they be parking on Horsepen Road, or will they be parking in the apartments, or what?  
4969  
4970 Mrs. Wade - Thank you. He can tell you. They're not going to be on the road.  
4971  
4972 Ms. Dwyer - So, the questions is, how close will the apartments be to the  
4973 roadway, and where will the parking be for the multi-family that's going to be replacing the  
4974 commercial area?  
4975  
4976 Mr. Gwalthmey - Pardon me. I didn't hear your question.  
4977  
4978 Ms. Dwyer - The question is, tell me if I'm wrong, sir. The question is,  
4979 regarding the multi-family that's going to be placed in the area that's now commercial, which  
4980 will be the Mediterranean Bakery in that vicinity, how close will those townhouses be to the  
4981 road, and where will the parking be for those townhouses? We don't know the answer to that  
4982 because we don't have proffers.  
4983  
4984 Mr. Wallace - Ma'am?  
4985  
4986 Ms. Dwyer - Representations again made by the developer.  
4987 Mrs. Wade - What he is showing us, tonight.  
4988  
4989 Mr. Wilson - A 25-foot buffer and then 35-feet back from that is what will be  
4990 done. The parking will be to the rear. All the parking will be to the rear. The townhouse units  
4991 will actually face Horsepen. The fronts of the townhouse apartments will be facing Horsepen,  
4992 with parking to the rear. What you'll see, from apparently where you live, sir, is trees, and then  
4993 the fronts of the townhouses, and you saw earlier what the elevation will look like for those.  
4994  
4995 Mr. Wallace - Will it be approximately the same distance as a block down that's a  
4996 part of the University...  
4997  
4998 Mr. Wilson - Yes. It will be consistent with that which is the uncolored area in  
4999 between those two. That's the University Village and what you'll see is consistent with what's  
5000 there now.  
5001  
5002 Mrs. Wade - And, if it turns out that it's very different from this, we don't want  
5003 to see any of these gentlemen here ever again.  
5004  
5005 Mr. Wilson - You won't see me here.  
5006

5007 Ms. Dwyer - I think what Mrs. Wade is saying is that, normally, when  
5008 developers often; I would say when developers make representations to this body, they put those  
5009 in writing, and attach them to the case and it becomes a part of the rezoning case. The  
5010 representations that are being made here tonight are not in writing. They're not made a part of  
5011 this case. Therefore, they cannot be enforced by the County. They are promises being made by  
5012 the developers here tonight. That holds true for everything that has been said.  
5013  
5014 Sometimes neighbors come to the County expecting enforcement of certain things. So, we just  
5015 want to be clear about what is and what is not enforceable by the County.  
5016  
5017 Mrs. Wade - And whatever we do tonight, this comes up before the Board of  
5018 Supervisors next month. So, if you're not happy with what we do, you can talk to your  
5019 Supervisor in the meantime.  
5020  
5021 Mr. Wilson - Well, that follows just like I said before. Horsepen Road, will it  
5022 be widened? Also, I didn't hear anything about traffic. Is it going to generate more traffic?  
5023  
5024 Mrs. Wade - What did the Traffic man say?  
5025  
5026 Mr. Merrithew - Traffic says it won't be any significant changes in traffic volume.  
5027 "We don't expect a significant change in traffic volume, due these zoning changes, since most of  
5028 this is an existing development. The project will generate an estimated 2,500 trips per day,  
5029 which is about a third of what's already using Horsepen Road; 6,000 trips per day."  
5030  
5031 Mrs. Wade - Actually, they say getting rid of the B-2 here should decrease the  
5032 traffic potential. Now, I don't know how much traffic is in the B-2 that's there, but it has  
5033 potential to generate that amount.  
5034  
5035 Mr. Vanarsdall - I can't ever remember when we had a case that traffic didn't say  
5036 the road wouldn't take it.  
5037  
5038 Mrs. Wade - I know. That's true.  
5039  
5040 Mr. Vanarsdall - I can't ever remember one.  
5041  
5042 Mrs. Wade - They're very optimistic.  
5043  
5044 Mr. Wallace - Thank you.  
5045  
5046 Ms. Dwyer - Are there any more questions by the Commission, or is there any  
5047 more opposition to the case, or any one wants to speak to the case? We have exhausted all  
5048 questions and opposition. Would you like further rebuttal time, Mr. Wilson?  
5049  
5050 Mr. Wilson - No. Ms. Dwyer, but if there are any other questions, I'd be more  
5051 than happy to answer them.  
5052



5053 Ms. Dwyer - Okay. Since we kind of had another round of opposition, I thought  
5054 I'd give you that opportunity, in fairness.  
5055  
5056 Mr. Wilson - Thank you.  
5057  
5058 Ms. Dwyer - If there are no more questions...  
5059  
5060 Mrs. Wade - I was going to say, did Mrs. Quesinberry...?  
5061  
5062 Ms. Dwyer - She wanted to recess, but we've decided not to do that. We're  
5063 going to go ahead and vote on the case. We're ready for a motion, Mrs. Wade, on the first case,  
5064 C-6-99.  
5065  
5066 Mrs. Wade - Some of what I'm going to say will apply to all of them, the fact  
5067 that there aren't any proffers and the precedent setting potential. As far as the precedent  
5068 setting is concerned, I don't think we have any other situations around here that resemble this  
5069 in terms of the size of the proposal, and the location and the infill area. The fact that they have  
5070 already started much of the work. What they've done so far looks nice, and it certainly  
5071 doesn't make sense that they would risk that by doing something less, I had a certain amount of  
5072 discomfort, also, with the fact there aren't any proffers, since practically every case I've dealt  
5073 with, since I've been here, have been conditional cases. It has a lot of potential.  
5074  
5075 As far as the first case is concerned, as they say, it is bringing the one-family into conformance  
5076 with what's there. And it should provide a number of affordable units for people who would  
5077 like to be homeowners. If, indeed, Mr. Robertson is going to be involved, I would look with  
5078 favor upon that certainly.  
5079  
5080 Yes, it would be better if we had some proffers here, but I feel a comfort level with certainly  
5081 the single family part. I move, therefore, that C-6-99 be recommended for approval.  
5082  
5083 Ms. Dwyer - Is there a second? Motion by Mrs. Wade, is there a second?  
5084  
5085 Mrs. Wade - I had told you that the rest of them may not be comfortable with  
5086 this situation.  
5087  
5088 Ms. Dwyer - There being no second, we are advised; please correct me if I'm  
5089 wrong. If there is no second, then the County Attorney's Office prefers that a counter motion  
5090 be made and that be voted on so that an affirmative vote is presented to the Board of  
5091 Supervisors. Is there an alternative motion?  
5092  
5093 Mrs. Wade - Some one else needs to make an alternative motion.  
5094  
5095 Ms. Dwyer - Some one else needs to make an alternative motion at this point.  
5096  
5097 Mr. Vanarsdall - I'll second it to get it on the floor if you want me to. I'll second  
5098 it.

5099  
5100 Ms. Dwyer - Motion by Mrs. Wade, seconded by Mr. Vanarsdall. All those in  
5101 favor of the motion say aye—all those opposed by saying nay. The vote is one aye (Mrs.  
5102 Wade), and four nays, (Mr. Vanarsdall, Mr. Archer, Ms. Dwyer, and Mrs. Quesinberry, Mr.  
5103 Donati absent). The motion fails to pass. So, are we still on the same vote.  
5104  
5105 Mr. Silber - I'm assuming there was only one voting in the affirmative?  
5106  
5107 Mrs. Wade - So the recommendation is for denial.  
5108  
5109 Mr. Silber - It needs to be another motion.  
5110  
5111 Ms. Dwyer - So, we need a motion for denial then.  
5112  
5113 Mr. Vanarsdall - This is just on C-6-99? Is that what it is?  
5114  
5115 Ms. Dwyer - Yes.  
5116  
5117 Mr. Vanarsdall - I make a motion that C-6-99 be recommended to the Board of  
5118 Supervisors for denial.  
5119  
5120 Mrs. Quesinberry seconded the motion.  
5121  
5122 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mrs. Quesinberry.  
5123 All those in favor say aye—all those opposed by saying nay. The vote is 4-1 (Mrs. Wade  
5124 voted no, Mr. Donati absent). The motion carries to recommend denial to the Board of  
5125 Supervisors for Case C-6-99.  
5126  
5127 Mrs. Wade - Okay. It would be helpful next time if someone would make  
5128 some comment about the motion.  
5129  
5130 Ms. Dwyer - ...about the motion. Okay.  
5131  
5132 Mrs. Wade - Please. It's not required, I suppose...  
5133  
5134 REASON: Acting on a motion Mr. Vanarsdall, seconded by Mrs. Quesinberry, the Planning  
5135 Commission voted 4-1 (one nay, one absent) to recommend that the Board of Supervisors deny  
5136 the request because the applicant failed to meet his burden to show that the requested changes are  
5137 in the best interests of the welfare and future of the community; and the applicant failed to  
5138 adequately address issues related to design and compatibility with surrounding uses.  
5139  
5140 Ms. Dwyer - Okay. Ready for a motion on Case C-7-99.  
5141  
5142 Mrs. Wade - Okay, in this case, they want 14 houses that are along Horsepen.  
5143 And changing that R-5 to be consistent with what else is. Now, some of this is already; this is  
5144 R-3 now, because some of this is already...We haven't gotten to that yet—R-5 conditioned. I

5145 really can't add much to what, you know, we've heard from the applicant in terms here. I  
5146 don't know of anything I could say that would sell this case without the proffers to the other  
5147 members, although this one, well no. Anyway, I move that Case C-7-99 be recommended for  
5148 approval.

5149  
5150 Ms. Dwyer - Motion by Mrs. Wade. Is there a second?

5151  
5152 Mr. Vanarsdall - I'll second it again, to get it on the floor.

5153  
5154 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
5155 those in favor say aye—all those opposed by saying nay. The vote 4-1 against the motion.  
5156 Mrs. Wade, voted aye. Ms. Dwyer, Mrs. Quesinberry, Mr. Archer and Mr. Vanarsdall voted  
5157 against the motion, Mr. Donati absent.

5158  
5159 Mr. Vanarsdall - Before we go any further with this, Madam Chairman, I would  
5160 like to tell the group here that I inquired when this came on our preliminary agenda, not on the  
5161 regular agenda, I called Mr. Merrithew. I've talked to Lee Yolton. I could not understand  
5162 why you would file a case this large unconditioned. Is this not something that came up? It  
5163 couldn't be a surprise to y'all. We've never had Carlton Wilton, who is the biggest builder in  
5164 the world around here to ever come with an unconditioned case. I say, "never,; maybe he has,  
5165 but we've had others. I applaud what you're trying to do. I think whoever said it would be an  
5166 improvement is (unintelligible word), and would certainly be an improvement. But I don't see  
5167 how you can expect us to sit here and recommend to the Board of Supervisors something with  
5168 absolutely no conditions, and nothing we can enforce. Nothing we can do about it, if it doesn't  
5169 go like you said it did. And you could sell the property tomorrow, after its approved. I hope  
5170 you just understand our situation here. It's not good planning. That's what we're here for.

5171  
5172 And other cases of this size, we have many meetings with each one of us, a couple of us at a  
5173 time. When we did Libbie Place on Libby for C. F. Sauer. C. F. Saucer does a lot of  
5174 building. They didn't ask for anything unconditioned. Philip Rome had each one of us sit  
5175 down at a table with plans, and we ask questions, and we all knew what we were doing. This  
5176 just came up, just like a routine zoning. It was years ago before 1978. I wanted to say that. I  
5177 think I'm speaking for the entire Commission.

5178  
5179 Ms. Dwyer - That was very well said, Mr. Vanarsdall.

5180  
5181 Mr. Vanarsdall - Thank you.

5182  
5183 Mr. Archer - Madam Chairman, if I might interject just a moment too.  
5184 Overall, it seems to me that this project is one that could possibly be a huge improvement for  
5185 this area.

5186  
5187 Mr. Vanarsdall - It could that.

5188  
5189 Mr. Archer - And I really hate to go against the wisdom of Mrs. Wade, who  
5190 sees fit to vote for this.

5191  
5192 Mr. Vanarsdall - Me too.  
5193  
5194 Mr. Archer - But I think we all feel the same level of comfort with an  
5195 unproffered case. And not just for this one, but also the precedent we may be setting for the  
5196 future. I say that because I don't want to give the impression that I'm totally against this case,  
5197 because its not my cases, because I'm not.  
5198  
5199 Mr. Vanarsdall - I'm not either.  
5200  
5201 Mr. Archer - I really don't feel comfortable passing it along to the Board with  
5202 no conditions. I just wanted to explain that.  
5203  
5204 Mrs. Wade - I give up. I recommend that C-8-99 be recommended for denial.  
5205  
5206 Ms. Dwyer - Let's work on C-7-99, first. I don't think we have had an  
5207 affirmative motion.  
5208  
5209 Mrs. Wade - I thought we had already voted on that. Oh okay.  
5210 Ms. Dwyer - We voted not to approve it. Now, we need an affirmative motion  
5211 on C-7-99. Do I have a motion?  
5212  
5213 Mr. Vanarsdall - Go ahead, Mr. Archer.  
5214  
5215 Mr. Archer - I move for denial of C-7-99.  
5216  
5217 Ms. Dwyer - Is there a second?  
5218  
5219 Mr. Archer - Recommend denial, I should say.  
5220  
5221 Mr. Vanarsdall seconded the motion.  
5222  
5223 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All  
5224 those in favor say aye—all those opposed by saying nay. The motion carries to recommend  
5225 denial of Case C-7-99.  
5226  
5227 REASON: Acting on a motion Mr. Archer, seconded by Mr. Vanarsdall, the Planning  
5228 Commission voted 5-0 (one absent) to recommend that the Board of Supervisors deny the request  
5229 because the applicant failed to meet his burden to show that the requested changes are in the best  
5230 interests of the welfare and future of the community; and the applicant failed to adequately  
5231 address issues related to design and compatibility with surrounding uses.  
5232  
5233 Case C-8-99. Do I have a motion?  
5234  
5235 Mrs. Wade - Okay. I move that Case C-8-99 be recommended for denial also.  
5236

5237 Mr. Archer seconded the motion.

5238

5239 Ms. Dwyer - Motion by Mrs. Wade, seconded by Mr. Archer. All those in  
5240 favor say aye-- all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent). The  
5241 motion carries to recommend Case C-8-99 to the Board of Supervisors for denial. Case C-9-  
5242 99. Do I have a motion?

5243

5244 REASON: Acting on a motion Mrs. Wade, seconded by Mr. Archer, the Planning Commission  
5245 voted 5-0 (one absent) to recommend that the Board of Supervisors **deny** the request because the  
5246 applicant failed to meet his burden to show that the requested changes are in the best interests of  
5247 the welfare and future of the community; it does not conform to the recommendation of the Land  
5248 Use Plan nor the Plan's goals, objectives and policies; and the applicant failed to adequately  
5249 address issues related to design and compatibility with surrounding uses.

5250

5251 Mrs. Wade - I move Case C-9-99 be recommended for denial.

5252

5253 Mr. Vanarsdall seconded the motion.

5254

5255 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
5256 those in favor say aye-- all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).  
5257 The motion carries to recommend Case C-9-99 to the Board of Supervisors for denial.

5258

5259 REASON: Acting on a motion Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
5260 Commission voted 5-0 (one absent) to recommend that the Board of Supervisors **deny** the request  
5261 because the applicant failed to meet his burden to show that the requested changes are in the best  
5262 interests of the welfare and future of the community; it does not conform to the recommendation  
5263 of the Land Use Plan nor the Plan's goals, objectives and policies; and the applicant failed to  
5264 adequately address issues related to design and compatibility with surrounding uses.

5265

5266 Mrs. Wade - And it will go to the Board, I guess it's a Tuesday next time, isn't  
5267 it? Wednesday.

5268

5269 Mr. Merrithew - Wednesday. That's correct. The 9<sup>th</sup>.

5270

5271 Mrs. Wade - The 9<sup>th</sup> of February.

5272

5273 Mr. Vanarsdall - One more to go.

5274

5275 Ms. Dwyer - Mr. Secretary, next case.

5276

5277 **C-10C-99 Charles H. Rothenberg for Cobblestone Properties of Virginia:**  
5278 Request to conditionally rezone from RTHC Residential Townhouse District (Conditional) to  
5279 R-6C General Residence District (Conditional), part of Parcel 58-A-35B, described as follows:

5280

5281 Beginning at a point on the western right-of-way line of Gaskins Road which is the southeast  
5282 corner of Tax Parcel No. 58-A-48C and the northeast corner of Tax Parcel No. 58-A-35B;

5283 thence along the western right-of-way line of Gaskins Road along a curve to the left having a  
5284 radius of 3859.72' for a length of 1117.57' to a highway stone; thence leaving the right-of-way  
5285 line of Gaskins Road N 62°50'47" W 37.16' to a point; thence N 20°24'44" E 741.30' to a  
5286 point; thence N 27°21'33" E 88.02' to a point; thence N 20°05'11" W 101.96' to a point;  
5287 thence N 35°18'03" E 48.38' to a point; thence N 23°47'41" W 145.18' to a point; thence N  
5288 11°08'21" E 164.25' to a point; thence N 48°09'13" E 99.20' to a point; thence N 27°11'34"  
5289 E 216.13' to a point; thence N 43°22'34" E 103.02' to a point; thence N 10°32'20" W 211.11'  
5290 to a point; thence N 16°18'44" W 149.24' to a point; thence N 4°01'08" W 183.66' to a point;  
5291 thence N 30°31'42" E 76.87' to a point; thence S 9°46'48" E 394.24' to a pipe; thence N  
5292 69°58'50" E 491.12' to a rod on the southern right-of-way line of Three Chopt Road; thence  
5293 along the southern right-of-way line of Three Chopt Road S 24°32'54" E 90.07' to a rod;  
5294 thence leaving the southern right-of-way line of Three Chopt Road S 55°09'51" W 558.85' to  
5295 a rod; thence S 9°46'48" E 627.28' to the Point of Beginning, containing approximately 9.95  
5296 acres.

5297 Mr. Marlls - Mr. Mark Bittner will be giving the staff presentation.

5298  
5299 Ms. Dwyer - Is there any opposition to Case C-10C-99? There is opposition.

5300 Mr. Bittner, please.

5301  
5302 Mr. Bittner - Thank you, Ms. Dwyer. Revised proffers have been submitted  
5303 by the applicant today. I believe you all have copies of those. If you don't, we have some  
5304 extra copies here we can give to you.

5305  
5306 I'd like to point out what we've got up here on the screen. This is a conceptual layout plan  
5307 that was submitted by the applicant. It's not a proffered plan, but it was given to us by the  
5308 applicant. And to orient you, on the right side of the screen is Three Chopt Road here;  
5309 Gaskins Road right along here; and this is the property in question generally. It stretches out  
5310 to Three Chopt. This is the potential site for the new building and parking area.

5311  
5312 The proffers address several of the issues outlined in the staff report. These include the  
5313 following:

5314  
5315 Screening the four sides of trash enclosures with a gate. Limiting lighting to 20 feet in height.  
5316 Proffering a building elevation showing a brick building. Limiting the building height to the  
5317 lesser of 35 feet or two stories. Limiting the size of the building to 48 living units. Limiting  
5318 access to Gaskins Road only. Limiting attached signage to 10 feet in height.

5319  
5320 The property is mainly wooded with flood plain property along its western border. That area  
5321 is right along here (referring to slide) on the conceptual layout plan.

5322  
5323 This flood plain is zoned RTHC and was previously part of the property in question. Staff  
5324 would prefer this area to be zoned C-1, because of its Environmental Protection designation on  
5325 the 2010 Plan. This flood plain area is now owned by Virginia United Methodist Homes who  
5326 also own the adjacent Cedarfield Complex.

5327

5328 Staff has encouraged the applicant to explore acquisition of this flood plain area for rezoning to  
5329 C-1. The applicant has stated this area is not part of his purchase contract. The applicant has  
5330 stated in his proffers, however, that any flood plain on his property will be rezoned to C-1 at  
5331 the request of the County. At this time, the extent of this flood plain area on the applicant's  
5332 property is not known.

5333  
5334 Even though the adjacent parcel of land is a flood plain, development potential still exists. The  
5335 best way to protect this environmentally sensitive property is to zone it to C-1. That does not  
5336 appear to be possible with this application, however. It should be noted that if Cedarfield  
5337 wanted to some day expand onto this flood plain area, a rezoning would be required from  
5338 RTHC to R-6C. This would afford another opportunity to seek protection of this flood plain  
5339 area.

5340  
5341 Staff is also concerned with the leg of the property extending to Three Chopt Road. That's in  
5342 this area right here (referring to slide). If this were to be built on, it could prevent the  
5343 opportunity for future coordinated development on the adjacent properties along the Three  
5344 Chopt Road frontage. This is an area that's mainly vacant. It has a few scattered single family  
5345 homes on it. It is designated for Urban Residential development. Our hope is that, perhaps,  
5346 some day, all of it can be brought in together in a single coordinated development. We don't  
5347 want to see anything occurring here that could disrupt that potential.

5348  
5349 The applicant has proffered that no access to Three Chopt Road would be constructed. Staff  
5350 supports this, and also suggests that the applicant proffer to develop according to the  
5351 conceptual layout plan, which shows this leg of property remaining in its natural state. This  
5352 would preserve the opportunity for future coordinated development on this property along  
5353 Three Chopt Road.

5354  
5355 The next issue that's outstanding was the buffer issue along Gaskins Road. Staff has  
5356 recommended a 50-foot buffer along here. The applicant, at this point, has proffered a 35-foot  
5357 buffer. But, tonight, he has informed me that he is willing to up that to 50 feet in this area  
5358 (referring to slide) and reduce it or keep it at 35 only in this area that would be  
5359 encroached...I'll let the applicant get into the details of this new proffer. I've managed to get a  
5360 glance at it, and I thought it looked pretty good, and I think we could probably work out the  
5361 final language between now and the Board. But staff is in a position to support the proffer  
5362 showing a 50-foot buffer from the driveway south along Gaskins. That would probably be  
5363 three-quarters to four-fifths of the Gaskins Road frontage of this property.

5364  
5365 In summary, the requested use and zoning are consistent with adjacent development, and the  
5366 submitted proffers are consistent with proffers on similar cases. Adult care facilities typically  
5367 have less of an impact than regular multi-family development, especially regarding schools and  
5368 transportation.

5369  
5370 Staff would prefer C-1 zoning on the adjacent flood plain, but it does not appear possible at  
5371 this time. Staff would also prefer that the conceptual layout plan be proffered. And, as I just  
5372 said, staff would support the discussed 50-foot buffer. But since there are a couple of

5373 outstanding items, staff could recommend approval of this application if they were to be  
5374 submitted. I'm happy to answer any questions that you may have at this time.

5375  
5376 Ms. Dwyer - Mr. Bittner, the applicant has committed to rezone to C-1 the  
5377 flood plain on its property?

5378  
5379 Mr. Bittner - Correct.

5380  
5381 Ms. Dwyer - The property you're talking about that you would like to see  
5382 zoned C-1, but it is not being zoned, in this case, is property this applicant does not own?  
5383 What authority do we have to tell an applicant to rezone property they don't own?

5384  
5385 Mr. Bittner - I don't think we have any authority to tell them to do it. We can  
5386 certainly suggest it. Let me pull the map up here so we can know exactly what we're talking  
5387 about. Again, I don't think we have any authority to tell them to do it. Again, we can suggest  
5388 it. However, in this case, its, basically, under the control of Cedarfield.

5389  
5390 Ms. Dwyer - Right.

5391  
5392 Mr. Bittner - And, as I stated, if Cedarfield some day wanted to expand into it,  
5393 they would have to rezone it. They could not build on it today.

5394  
5395 Ms. Dwyer - Right. And I would like to see that zoned C-1, too, but I'm hard  
5396 pressed to suggest that this applicant do that, since they don't have ownership and control over  
5397 the property. That's my point on that. Thank you.

5398  
5399 Mrs. Wade - Whose Cobblestone?

5400  
5401 Mr. Bittner - They're the applicant. I'll let Mr. Rothenberg explain precisely  
5402 who they are.

5403  
5404 Mrs. Wade - Is access provided to Gaskins under the current zoning here?

5405  
5406 Ms. Dwyer - Any other questions of Mr. Bittner?

5407  
5408 Mr. Vanarsdall - I have one. Mark, you and I worked on this case down at  
5409 Woodman and Parham, and we looked at the proffers on Beth Sholom and talked about Sunrise  
5410 Cottages. Is that Proffer No. 2, is that a satisfactory restriction on what can be done with the  
5411 property? Is that similar to what we had?

5412  
5413 Mr. Bittner - Yes. It is very similar. What the applicant intends with this  
5414 property is actually a nursing home, based on our zoning ordinance definition, because each  
5415 unit would not have its own kitchen. But, this limits...

5416  
5417 Mr. Vanarsdall - Sunrise was assisted living?

5418



5419 Mr. Bittner - And Woodman Road was assisted living as well.  
5420  
5421 Mrs. Wade - They don't have their own kitchens either.  
5422  
5423 Mr. Vanarsdall - So, you're okay by no apartment development? That's good.  
5424  
5425 Mr. Bittner - Yes. I think that proffer is satisfactory.  
5426  
5427 Mr. Vanarsdall - Thank you.  
5428  
5429 Ms. Dwyer - Any other questions of Mr. Bittner by Commission members?  
5430 Thank you, Mr. Bittner.  
5431  
5432 Mrs. Wade - Sunrise has got one big mess on Michaels Road.  
5433  
5434 Ms. Dwyer - We do have opposition, so the applicant will come forward and  
5435 we will limit you to 10 minutes, excluding questions and answers by the Commission.  
5436  
5437 Mr. Chuck Rothenberg - Thank you. May I reserve two minutes, please? Madam Chair,  
5438 members of the Commission, my name is Chuck Rothenberg. I'm here on behalf of the  
5439 applicant. This is a request to rezone from RTH to R-6, with substantial conditions, 9.95 acres  
5440 on the southwest corner of Gaskins and Three Chopt Roads.  
5441  
5442 The subject property is located east of Cedarfield and across Gaskins from the County's  
5443 proposed water treatment plant. We believe that this request will be a substantial improvement  
5444 over the existing townhouse zoning, and will provide an important service to the community.  
5445  
5446 The proffers submitted with this case, which have evolved over the past few weeks, following  
5447 a number of discussions with Ms. Dwyer, staff and neighborhood representatives, will ensure a  
5448 quality project.  
5449  
5450 A few days ago, you all received the revised proffers, which reflect the following:  
5451  
5452 No apartments may be developed on the property, other than the assisted living facility, which  
5453 is limited to 48 units. Access to Three Chopt is prohibited unless required by the County or  
5454 State. The building will be constructed primarily of brick. We've proffered the architectural  
5455 elevations, attached as Exhibit A to the proffers. The height of the building will not exceed  
5456 two stories. Parking lot lighting has been reduced from 25 to 20 feet. Detached signage has  
5457 been reduced from 15 to 10 feet. We've proffered a 35-foot buffer along Gaskins. Through  
5458 some conversations I've had with Ms. Dwyer over the past few hours, we've agreed to extend  
5459 that buffer to 50 feet along, basically, this area (referring to slide) all the way down to the  
5460 southern property line, and maintain the 35-foot buffer for 150 feet up along the northern  
5461 property line along Gaskins. So, this will be 35 feet, basically, from the northern property line  
5462 down to the entrance road, and then 50 feet for the balance of the property, I suppose, 600 feet  
5463 or so.  
5464

5465 We've agreed to rezone the flood plain on the property to C-1, following POD approval. At  
5466 Ms. Dwyer's request, we made some technical changes to the proffers which were faxed or  
5467 delivered to all of you yesterday.

5468  
5469 We believe that this request is consistent with other uses in the area, including Cedarfield to  
5470 the west and the Marriott project further down Gaskins. There's adequate capacity in the road  
5471 and utility system to accommodate the request. It will reduce the demand on the County  
5472 schools and roads, and add to the tax base. We respectfully ask that you waive the time limit  
5473 for the revised proffers, and recommend approval to the Board. I'd be happy to answer any  
5474 questions.

5475  
5476 Ms. Dwyer - Are there any questions of Mr. Rothenberg by the Commission  
5477 members?

5478  
5479 Mrs. Wade - Is all you're going to build are 48-residential assisted living units?

5480  
5481 Mr. Rothenberg - You can see on here, these are, basically, two wings of the  
5482 property where the residential units will be (referring to slide). This is the central  
5483 administrative and common area. The dining room will be in there, the recreational facility.

5484  
5485 Mrs. Wade - But, "nursing homes, convalescent homes, or homes for the  
5486 aged" are allowed, but you're not building any of them? You're just building assisted living?

5487  
5488 Mr. Rothenberg - Right. It's going to be, basically, a geriatric nursing home.

5489  
5490 Mrs. Wade - Well, is it a nursing home, or an assisted living?

5491  
5492 Mr. Rothenberg - It's going to be licensed as an assisted living facility, but the  
5493 service they will provide, there's a little inconsistency between how the State defines what its  
5494 licensed as and how the Henrico County Zoning Ordinance addresses it. It will provide  
5495 geriatric services; initial stages of Alzheimer's care.

5496  
5497 Mr. Bittner - One point of clarification, Mrs. Wade. I informed Mr.  
5498 Rothenberg, that under our Zoning Ordinance, it would be considered a nursing home. I have  
5499 a concern with that proffer you were just speaking of, because it does say, "assisted living." I  
5500 simply told Mr. Rothenberg, he probably should take out the term, "assisted living," so there's  
5501 no confusion. Again, under our zoning ordinance, this would be a nursing home, because each  
5502 unit would not have its own kitchen.

5503  
5504 Ms. Dwyer - So, could we eliminate the term, "assisted living facilities" in  
5505 Proffer No. 2?

5506  
5507 Mrs. Wade - So, anything that doesn't have kitchen facilities in the rooms is  
5508 considered a nursing home?

5509

5510 Mr. Bittner - Well, not anything, but if it's a home for the aged, its caring for  
5511 people that need assistance of some kind. And all they have in their own space is simply a  
5512 bedroom, without a means for them to live on their own if they choose, then it would be  
5513 considered a nursing home.

5514  
5515 Mrs. Wade - That doesn't sound like what I always heard what a nursing home  
5516 was. Nursing home implies acute care, at least some acute care, but anyway...

5517  
5518 Mr. Merrithew - (Comments unintelligible.)

5519  
5520 Mrs. Wade - Yes. I gather, but our Ordinance doesn't define assisted living. I  
5521 think we already concluded it needs some looking at. I'm sure the insurance companies would  
5522 have a different idea about it.

5523  
5524 Ms. Dwyer - So, for the purpose of our Zoning Ordinance, Mr. Rothenberg,  
5525 you're going to take out the term, "assisted living facility" since it is causing some confusion?  
5526 Did I understand you to say you needed that in there for state regulatory purposes?

5527  
5528 Mr. Rothenberg - That's the way its licensed by the state. I'm a little  
5529 uncomfortable taking it out, if we need; I'd be happy to work with Mark after the hearing if  
5530 we need to somehow describe that so that's its clear that kitchens aren't in those rooms. I'm  
5531 happy to do that. That's the defining...

5532  
5533 Ms. Dwyer - Is that a big concern? That's, of course, why we have the "no  
5534 apartment" statement in there?

5535  
5536 Mr. Rothenberg - Absolutely.

5537  
5538 Ms. Dwyer - I know there's an inconsistency between State regulations and the  
5539 County ordinance, which does make it confusing for everyone. Well, if it's all right with you,  
5540 Mrs. Wade, I'm going to go ahead and leave that in there, because it is technically licensed as  
5541 an assisted living facility by the State.

5542  
5543 Mrs. Wade - But does that mean there won't be any of any other kind of units  
5544 there?

5545  
5546 Mr. Bittner - The concern, if you leave the term, "residential assisted living"  
5547 in there, you would limit that to 48 units, but if a nursing home, as Mrs. Wade said, or some  
5548 other type of home for the aged went in, it might not necessarily be limited to 48 units. They  
5549 could, perhaps, go above and beyond that. That was my reason for trying to get that phrase  
5550 taken out.

5551  
5552 Ms. Dwyer - Oh. I see. Well, so then, maybe we need to remove "assisted  
5553 living" in Proffer No. 9 and just say, "...No more than 48 units shall be constructed on the  
5554 property?" That sounds like that would resolve all the conflict.

5555

5556 Mr. Rothenberg - That's fine.  
5557  
5558 Ms. Dwyer - Instead of 48 residential assisted living units, we would say, "No  
5559 more than 48 units shall be constructed on the property." Is that all right with you, Mr.  
5560 Rothenberg?  
5561  
5562 Mr. Rothenberg - That's fine.  
5563 Ms. Dwyer - Okay. In my understanding on the buffer increasing to 50 feet,  
5564 but that will begin at the entrance and there will be no more than a 100-foot span along  
5565 Gaskins Road that is 35 feet?  
5566  
5567 Mr. Rothenberg - It's 150 feet. Okay. But, that's correct.  
5568  
5569 Ms. Dwyer - It says, "up to 150 feet, " or is it set at 150?  
5570  
5571 Mr. Rothenberg - Well, what we can do is provide that it would be up to the  
5572 entrance onto Gaskins, but not to exceed 150 feet?  
5573  
5574 Ms. Dwyer - That was my intent. Yes.  
5575  
5576 Mrs. Wade - Who did you say Cobblestone is?  
5577  
5578 Mr. Rothenberg - Cobblestone is actually the general partner of the partnership that  
5579 owns the property.  
5580  
5581 Mrs. Wade - Mr. Cobblestone; Mr. Green?  
5582  
5583 Mr. Rothenberg - I think its William Green, L.P. is the actual property owner.  
5584  
5585 Mrs. Wade - Do they have office facilities here, or is this in town?  
5586  
5587 Mr. Rothenberg - That's the property owner. The contract purchaser is South  
5588 Gaskins Limited Liability Company.  
5589  
5590 Mrs. Wade - South Gaskins Limited Liability Company?  
5591  
5592 Mr. Rothenberg - Right.  
5593  
5594 Mrs. Wade - Which is who?  
5595  
5596 Mr. Rothenberg - Which is Dr. Chaudary, who has a facility on Ironbridge Road,  
5597 which is almost identical to this project in design.  
5598  
5599 Ms. Dwyer - Are there any other questions of Mr. Rothenberg?  
5600  
5601 Mrs. Wade - What was his last name; Doctor...

5602  
5603 Mr. Rothenberg - Chaudary.  
5604  
5605 Mrs. Wade - How do you spell that?  
5606  
5607 Mr. Rothenberg - Chaudary.  
5608 Person from Audience - (Comments unintelligible.)  
5609  
5610 Mr. Rothenberg - I don't know. It seems like the water plant would be on the other  
5611 side of Gaskins. Something's telling me that's where they would be.  
5612  
5613 Person from Audience - (Comments unintelligible.)  
5614  
5615 Mr. Rothenberg - Otherwise, I don't know. And I have Junie West here tonight.  
5616 He is shaking his head. He doesn't know either.  
5617  
5618 Mrs. Wade - Isn't it going off the right hand lane and they're going to have to  
5619 close a part of Gaskins?  
5620  
5621 Person from Audience - (Comments unintelligible.)  
5622  
5623 Ms. Dwyer - The southern tip? Good question, Mr. Silber.  
5624  
5625 Mrs. Wade - Yes. I've heard horror stories about having to close some of  
5626 Gaskins while they're...  
5627  
5628 Ms. Dwyer - Are there any other questions of Mr. Rothenberg? Okay. There  
5629 was opposition.  
5630  
5631 Mr. David Kovach - Good evening. I still get to say Good evening, barely, and  
5632 hopefully, I'll be done before tomorrow. My name is David Kovach. I'm representing the  
5633 Cross Keys Civic Association. And, prior to coming, tonight, I've had discussions with five  
5634 other representatives of neighborhood groups in the general area. We all got together last year  
5635 when the Summit rezoning was in. That pretty much coalesced us to work together on  
5636 projects.  
5637  
5638 I just quickly want to give thanks to Mark Bittner for supplying a lot of information to me, and  
5639 answer my questions. To Jeff Perry in Public Works to explain to me how they deal with the  
5640 Chesapeake Bay Protection areas, and to Chuck Rothenberg, who provided letters to us to let  
5641 everybody know what was going on. Provided his sketch plan. So, its been a very supportive  
5642 and compatible exchange of information.  
5643  
5644 I want to commend you and your stamina. I think my brain started to go brain dead a short  
5645 time ago. I hope you can follow what I'm going to talk about, because I'm going to talk about  
5646 this site, but also some larger issues.  
5647

5648 Our position is that we are not opposed to the use. Actually, the use is much more appropriate  
5649 than what was previously proposed on the property a decade ago. And we are not seeking a  
5650 continuation, and we are not seeking a denial. But, we do have grave concerns about the  
5651 intensity of development; the ability of this site to be able to accommodate the project, as its  
5652 been described, and to be able to comply with your environmental element and its policies, and  
5653 with Section 22-06.3 of your Comprehensive Plan, which is your Chesapeake Bay protection  
5654 regulations. That code section is of your zoning code.

5655  
5656 I wanted to come tonight to take this opportunity to address you, and identify our concern with  
5657 the site, because we will come back during the Plan of Development review process. We did  
5658 not want to come before you, at that point in time, and say, "Gee, we have all of these things,  
5659 and you're saying, why didn't we know about this earlier?" So, we really just want to put this  
5660 out so that you know what we're going to come back and talk about.

5661  
5662 On the surface, when we got the notice, it says, "Forty-eight rooms with 96 beds, single-story  
5663 structure on 9.95 acres." I mean how could that possibly go wrong? It sounds like it should  
5664 fit and an easy design program. But, when you saw that site plan that they have, and also, you  
5665 can just tell from this, that this is a very irregularly shaped site. And, basically, 40 percent of  
5666 the 9.9 acres can't be built upon just because of its shape. Of the remaining 60 percent, about  
5667 half of it has slopes which are in excess of 10 percent. There's a drainage that comes right off  
5668 of Gaskins down through the site, which has water running in it as we speak, today. And,  
5669 also, there's an undefined Resource Protection area which encroaches onto the property.

5670  
5671 The site plan, which was provided as a sketch, is comprised of a center building, two wings –  
5672 single story structure with a central facility, which is great on a flat piece of property. But,  
5673 when you put it on a sloping piece of property, you begin to have problems, particularly when  
5674 the slopes, at least the topo, show to exceed greater than 12 percent. And when you look at  
5675 the elevations on the driveway, you've got more than a 20-foot separation from the north end  
5676 to the south end. That means a lot of grading or retention walls, or something of this sort on  
5677 the property.

5678  
5679 And I think when we start to look at it, we're going to find, to accommodate the site plan, as  
5680 shown, it would mean encroachment to the RPA and, Jeff tells me that's not going to be  
5681 allowed, so that means, probably some other floor plan, or some creative relocation on the site  
5682 or going to two stories. Or, another option is, reduction of the overall intensity of the site.

5683  
5684 So, now that we're saying these are some things that we see that might occur as we go through  
5685 the development review process on the property. I want to make some larger comments—  
5686 broader comments.

5687  
5688 A year ago, we were involved with that Summit rezoning case which is just up the road on  
5689 Three Chopt. And, at that time, it was withdrawn after four continuances. We provided quite  
5690 a bit information; asked quite a few questions about the same sort of things that we're talking  
5691 about today. We wrote a letter back then. I want to read parts of three paragraphs of that  
5692 letter. "...We note that, within the Land Use element of the Plan, under the description of  
5693 Environmental classification, it says that 'environmental goals, objectives and policies in

5694 Section 6 should guide development and rezoning for these areas...’ Thus, we are quite  
5695 perplexed and amazed at the minimal information and analysis which your Department staff  
5696 report contained relative to this portion of the County’s Comprehensive Plan. In particular, we  
5697 are dismayed that there were no comments relative to the environmental element and the  
5698 provisions pertaining to the Environmental Protection Area designation, which is afforded to  
5699 the property....”

5700  
5701 In another part, we said, “...We also know that policy for an environmental element provides  
5702 that environmentally sensitive land, such as flood plains, wetlands, steep slopes, woodlands,  
5703 and natural habitat areas which should be protected from disruption are to be delineated  
5704 through on-site assessments and maps. We would not expect the landowner to do such  
5705 mapping when they are doing a rezone, which is consistent with the Land Use Plan. However,  
5706 when the rezoning is inconsistent, which is not the case here, or when there’s a sketch plan  
5707 which shows the scheme of development, which may have a substantial impact on these  
5708 resources, then it is imperative that the mapping of environmentally sensitive lands occur.

5709  
5710 Also the characteristics of this site, a parental stream, designated wetlands, adjacent steep  
5711 slopes, all dictate that, that policy be adhered to...”

5712  
5713 The other point that I wanted to quote from that letter, of a different case, but very applicable  
5714 to here is that the staff report contains the observation, “...normal environmental restrictions  
5715 require measures, including water quality measures apply...” We take issue with that  
5716 statement based upon the special designations that have been applied to this property.

5717  
5718 Now, I wanted to read that from a year ago staff report when we raised those issues because  
5719 those same things could be read and said about today’s case. The same situations apply on the  
5720 property, and likewise, were just made. When you look at the staff report and see those things  
5721 aren’t brought up at this point in time.

5722  
5723 This non-inclusion of the Objectives and Policies from Pages 124 and 125 of your  
5724 Environmental Element of your Comprehensive Plan, we think, is not good planning. Look on  
5725 Page 3 of your staff report under Section 5. It says, “...Comprehensive Plan Analysis.” It  
5726 talks about Land Use recommendations, Land Development Guide, Goals, Objectives and  
5727 Policies.” But all of those environmental features that I measured that identified are on this  
5728 property. They will affect the development potential of the property and how its developed.  
5729 And, yet they’re not mentioned in the staff report.

5730  
5731 Also, on Page 4, under “Drainage,” the staff report says, “...Normal site development  
5732 requirements apply.” This same rote language that comes out of a word processor shows up  
5733 on other reports; when, indeed, you’ve got severe drainage problems down in Deep Run Park.  
5734 You’re on deep slopes here. You’re doing (unintelligible) and grading. And, you again, have  
5735 a drainage that comes out from under Gaskins and goes through this site right now, in addition  
5736 to the creek which is adjacent to it.

5737  
5738 And, finally, under “Topography and Land Use Characteristics,” the statement says, I’ll just  
5739 read it, “...There are no known physiographic conditions or circumstances that would prevent

5740 the envisioned development from being realized...” I think that’s incorrect. If I’m wrong at  
5741 Plan of Development time, “Sorry everybody.” But I don’t think I’m going to be very wrong  
5742 at all.

5743 I just bring this up, by not having that information in your staff reports, you’re not getting a  
5744 full picture of what may occur. And, I’m not saying that those things seem to come up and be  
5745 hammered. They just have to be acknowledged and know that they’re going to be hammered in  
5746 that kind of development review. It’s really putting everybody on notice. Chuck’s on notice  
5747 that I’m going to be there if this is what we’re going to talk about. And, if we come to  
5748 disagreements on these items in front of you, you’re going to know, you’re forewarned of  
5749 them coming up.

5750  
5751 And, of course, if this was a controversial case, I think you’re sitting there with citizens  
5752 banging you with this information, where you should certainly have it beforehand. And the  
5753 citizens would feel much more comfortable knowing that you have it and they can support  
5754 what’s in the staff report, as opposed to feeling they have to provide that information.

5755  
5756 So, I want to thank you for this opportunity. We have gone into the next day. I hope that  
5757 what I have said is being taken as constructive criticism. I don’t mean to get on anybody’s  
5758 case or be disparaging to anyone. I do have one concern with the proffers on No. 13 and I  
5759 think I just have to make a statement, and that will be sufficient. I take it at face value. This  
5760 is the one that talks about the flood plain and defined what can be done in it. But it, in no  
5761 way, can be construed as exception or the direction to staff to accommodate an exception to  
5762 Section 22-106.3, which is your Chesapeake Bay Preservation Ordinance.

5763  
5764 I want to also just make a comment, that the Chesapeake Bay Preservation areas are composed  
5765 of two parts: your Resource Protection Area and your Resource Management Area. The  
5766 policies in your Plan talk about the two of them together; whereas, in practice, it may be that  
5767 there’s only a focus on the Resource Protection Area. So, this site, at least half of it, is totality  
5768 of a Chesapeake Bay Protection Area. Sometime, when we’re not brain dead, maybe you want  
5769 to have a work session and go over what all these things mean and how to apply, and I can  
5770 learn more how historically you’ve applied those in your work.

5771  
5772 So, thank you very much. If you have any questions, I’ll respond.

5773  
5774 Ms. Dwyer - I just have two comments to make. I’m not totally brain dead at  
5775 this point. One is, I did have a question about Proffer No. 13, and I did review it with Mr.  
5776 Rothenberg. My concern was, I didn’t want this to be construed, in any way, as attempting to  
5777 supercede any applicable law or regulation, including the Chesapeake Bay Act. And I  
5778 discussed it with the County Attorney, in general terms. He didn’t actually have a copy of  
5779 this. And he said, “Well, of course, no proffer could supercede those regulations or the  
5780 County Ordinance...” So, I feel confident that is the case here. I just was also concerned  
5781 about this language. So, I’ll just point that out that I agree with it and did follow up on this in  
5782 that way.

5783  
5784 The second comment is one that I’m not sure how to respond to. It appears that you’re saying  
5785 that we’re not getting enough information in our staff reports about the environmental



5786 concerns, or the environmental sensitivities; special unique environmental characteristics of  
5787 properties. That we seem to get fairly standard language that appears to say, "Well, this will  
5788 be handled a little later in the normal course of business." And, correct me if that's not what  
5789 you're saying. I'm trying to just summarize it in laymen's terms.

5790  
5791 Mr. Kovach - That's close enough.

5792  
5793 Ms. Dwyer - So, you're suggesting that we should give special attention to the  
5794 environmental component of the Comprehensive Plan, in particular?

5795  
5796 Mr. Kovach - Again, I don't know exactly how things work in Henrico County,  
5797 but since you're the Planning Commission, and you get the reports and you have to act on it, I  
5798 would recommend that you suggest to your staff, that when there is a Resource Protection  
5799 Area adjacent to or Chesapeake Bay Preservation Area on a piece of property that, indeed, that  
5800 goes under the Comprehensive Plan analysis that the appropriate policies are pulled out. And,  
5801 the fact that, depending on the intensity of development whether this is seen as a potential  
5802 limitation on intensity or not.

5803  
5804 Ms. Dwyer - And that there be more detailed analysis of those.

5805  
5806 Mr. Kovach - And you just don't accept performatory stuff from Drainage or  
5807 whoever gives you that stuff. Hey,...

5808  
5809 Ms. Dwyer - It sounds like that's something we need to discuss with the  
5810 Planning Department. Perhaps, that bears some looking into. We could delve into the  
5811 environmental component of particular sites, where there is, say, a Resource Protection Area  
5812 or Chesapeake Bay area and look at that in more detail. So, I thank you for your comments.

5813  
5814 Mr. Kovach - Thank you very much.

5815  
5816 Ms. Dwyer - Any other questions of Mr. Kovach by members of the Planning  
5817 Commission?

5818  
5819 Mrs. Wade - Some of this RTH is still left under previous ownership? I guess  
5820 it wasn't for you so much, Mr. Kovach.

5821  
5822 Mr. Bittner - Back in 1988,...

5823  
5824 Mrs. Wade - This body looked at it with concern back in 1988.

5825  
5826 Mr. Bittner - In 1988, all of this RTH was rezoned as part of the townhouses.  
5827 That was never built.

5828  
5829 Mrs. Wade - It wasn't all usable, because some of the best property, it seemed  
5830 to me, was office. But anyway...

5831

5832 Mr. Bittner - At some point between then, and now, this property split in to  
5833 and this half was sold to (unintelligible). Now, Mr. Rothenberg and his client is coming in  
5834 with the rest of the property.  
5835

5836 Mrs. Wade - Now. I remember now. Cedarfield did most of it. Thank you.  
5837

5838 Ms. Dwyer - Are there any other questions by Commission members?  
5839

5840 Mrs. Wade - Does the district line go down through here, somewhere?  
5841

5842 Ms. Dwyer - Just on the other side of the creek.  
5843

5844 Mr. Bittner - Right on the border.  
5845

5846 Mrs. Wade - This whole RTH is on the other side. Your side. Now, there  
5847 was concern about this when it was zoned the first time; the flood plain and the access.  
5848

5849 Mr. Bittner - Yes. Staff recommended C-1 zoning back in 1988 as well.  
5850 Unfortunately, it didn't come about.  
5851

5852 Ms. Dwyer - Any further questions of Mr. Bittner or Mr. Rothenberg or Mr.  
5853 Kovach by Commission members? All right, this does appear to be a good use. It's an  
5854 improvement, in my view, over the old RTH zoning. Everyone seems to be in agreement with  
5855 that. It will be an improvement in terms of traffic volumes, improvement in terms of school  
5856 overcrowding. It is consistent with the adjoining Cedarfield use which makes it, again, a good  
5857 use for this particular area. The floodplain on this property will be rezoned to C-1, which I  
5858 think is about all we can ask of this particular applicant. I'm not sure I'm comfortable asking  
5859 him to rezone property he doesn't own, at this point. There are a few amendments to the  
5860 proffers which were received within the 48-hour prohibition for receiving proffer amendments.  
5861 So, I will move, first of all to waive the time limits for proffer changes. Again, we don't have  
5862 substitutive changes here, except for that 50-foot proffer which we were negotiating even  
5863 tonight. So, I will make an exception to the 48-hour rule. So, I move that we waive the time  
5864 limits for these proffers.  
5865

5866 Mr. Vanarsdall seconded the motion.  
5867

5868 Ms. Dwyer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All  
5869 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).  
5870 The time limits are waived. As far as the proffers are concerned, we are removing the term,  
5871 "residential assisted living" from Proffer No. 9. Mr. Rothenberg has agreed to that and I'm  
5872 certain that will appear in the Board's copy. I also have additional language, increasing the  
5873 buffer area along Gaskins Road to the south of the entry drive and defined in terms of feet  
5874 along Gaskins Road not to exceed 150 feet for the 35 foot buffer. Everything else is 50 feet.  
5875 So, I appreciate your accommodation on that. That having been said, I move that the  
5876 Commission recommend to the Board approval of Case C-10C-99 Cobblestone Properties.  
5877 Mr. Vanarsdall seconded the motion.

5878  
5879 Ms. Dwyer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All  
5880 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati absent).  
5881  
5882 REASON: Acting on a motion Ms. Dwyer, seconded by Mr. Vanarsdall, the Planning  
5883 Commission voted 5-0 (one absent) to recommend that the Board of Supervisors accept the  
5884 proffered condition and grant the request because it is reasonable; it would not be expected to  
5885 adversely affect the pattern of zoning and land use in the area; and it reflects the type of  
5886 residential growth in the area  
5887  
5888 Ms. Dwyer - Before everyone leaves, Randy has a question for us. We made a  
5889 decision earlier to hear Williamsburg Road Technology Boulevard staff's presentation on the  
5890 11<sup>th</sup> which is a very heavy agenda. So, Randy has recommended that we, in lieu of that, have  
5891 that work session now. No.  
5892  
5893 Mr. Merrithew - Because its not Randy's project.  
5894  
5895 Ms. Dwyer - ...on Friday, the 22<sup>nd</sup> of this month when we already have a work  
5896 session scheduled with Angela on the Development Timetables.  
5897  
5898 Mr. Archer - What time is that work session?  
5899  
5900 Mr. Merrithew - Let me have a Plan B. If they cannot make it the 22<sup>nd</sup>, we'll go  
5901 to the next zoning meeting; the one after February 11<sup>th</sup>? Either the POD or the Zoning  
5902 Meeting after the 11<sup>th</sup>. January 22<sup>nd</sup> or the POD meeting in February, or the Zoning Meeting  
5903 in March, is alternatives if they can't make the 22<sup>nd</sup>.  
5904  
5905 Ms. Dwyer - If who can't make?  
5906  
5907 Mr. Merrithew - The consultant.  
5908  
5909 Ms. Dwyer - We discussed this earlier. You said, you didn't think the  
5910 consultants could come, right? Never mind.  
5911  
5912 Mr. Merrithew - It's short notice and I'll check with them.  
5913  
5914 Ms. Dwyer - So, what do we do?  
5915  
5916 Mr. Archer - What's wrong with the 22<sup>nd</sup>?  
5917  
5918 Mr. Merrithew - Well, as a matter of fact, I would actually prefer to extend  
5919 beyond February 11<sup>th</sup> since it is a short turnaround. I haven't circulated the plans to anybody  
5920 yet, and it is a complex document. I don't know why, but it is. If I could extend it beyond  
5921 February 11<sup>th</sup> to either the POD meeting in February or the Zoning Meeting in March, I'd  
5922 appreciate that.  
5923

5924 Mrs. Wade - Assuming we're not changing the dates until May?  
5925

5926 Mr. Archer - POD is on the 23<sup>rd</sup> in February.  
5927

5928 Ms. Dwyer - We don't have any other work sessions on the 23<sup>rd</sup>?  
5929

5930 Mr. Archer - I don't think so.  
5931

5932 Ms. Dwyer - I don't have any.  
5933

5934 Mr. Archer - As of this moment.  
5935

5936 Ms. Dwyer - Why don't we do that then? We will have a work session on the  
5937 23<sup>rd</sup> on the Williamsburg Road Technology Boulevard Study.  
5938

5939 Mr. Merrithew - There went dinner. Well, we'll bring you lunch on this one.  
5940

5941 Mr. Silber - If you want to start the meeting at 7:00, we'll start at 7:00.  
5942

5943 Ms. Dwyer - On the 11<sup>th</sup>? I think its scary to start at 7:00 after what we just  
5944 went through.  
5945

5946 Mr. Archer - Well, you know, if we have to, we'll have some deferrals.  
5947

5948 Mr. Merrithew - We started with 28 for tonight, and ended up with 13 or 14 and  
5949 still went to... I don't know how we gained.  
5950

5951 Ms. Dwyer - We're not going to get anymore, are we?  
5952

5953 Mr. Merrithew - We don't know how many were deferred prior to last month;  
5954 carried over to February.  
5955

5956 Mr. Archer - What did we just move to the 23<sup>rd</sup>; the Williamsburg Road Study?  
5957

5958 Ms. Dwyer - What does the Commission want to do? When do we want to  
5959 meet on the 11<sup>th</sup>? We just have the Major Thoroughfare Plan.  
5960

5961 Mrs. Wade - I don't think it will be a problem. I think one person may come  
5962 to speak.  
5963

5964 Ms. Dwyer - 6:00 o'clock on the 11<sup>th</sup>. The 23<sup>rd</sup> of this month, we're having a  
5965 work session.  
5966

5966 Mr. Archer - All right, what time is that going to be?  
5967

5968 Ms. Dwyer - The work session, it's going to be after our POD meeting. Is that  
5969 it? Anything else?

5970  
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There being no further business, acting on a motion by Ms. Dwyer, seconded by Mr. Archer, the Planning Commission adjourned its meeting at 12:15 a.m. on January 15, 1999.

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Elizabeth G. Dwyer, C.P.C., Chairwoman

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John R. Marlles, AICP, Secretary