

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,
2 Virginia, held in the Board Room of the County Administration Building, Parham and Hungary
3 Spring Roads at 7:00 p.m., on July 9, 1998, Display Notice having been published in the
4 Richmond Times-Dispatch on Thursday, June 18, 1998, and Thursday, June 25, 1998.

5
6 Members Present: C. W. Archer, C.P.C., Chairman, Fairfield
7 Elizabeth G. Dwyer, C.P.C., Vice-Chairman, Tuckahoe
8 Ernest B. Vanarsdall, C.P.C., Brookland
9 Mary L. Wade, Three Chopt
10 David A. Zehler, C.P.C., Varina
11 James B. Donati, Jr., Board of Supervisors, Varina
12 John R. Marlles, AICP, Director of Planning, Secretary

13
14 Others Present: Randall R. Silber, Secretary, Assistant Director of Planning
15 John Merrithew, AICP, Principal Planner
16 Mark Bittner, County Planner
17 Nancy Gardner, AICP, County Planner
18 Jo Ann Morgan Hunter, AICP, County Planner
19 Mikel Whitney, County Planner
20 Lee Yolton, County Planner
21 Judy Thomas, Recording Secretary

22
23 Mr. Archer - Welcome everyone. First, we'll take the requests for deferrals and
24 withdrawals. We'll go through the 8:00 o'clock portion also, so that those of you who may be
25 waiting for a case that might be deferred, won't have to stay so long if its not going to be heard.
26 And bearing in mind that these will be requests for deferrals, we can't actually say that they are,
27 but the chances are pretty good that they will be.

28
29 Mr. Vanarsdall - Mr. Chairman, that's mighty wishful thinking, if you think we have
30 a short night.

31
32 Mr. Archer - We owe it to ourselves. Okay. Then I will turn the meeting over to
33 our Secretary, Mr. John Marlles, Director of Planning. Mr. Marlles, sir.

34
35 Mr. John R. Marlles, Director of Planning - Thank you, Mr. Chairman. We do have a quorum
36 tonight. Also, we do want to remind our applicants that starting in August, revised proffered
37 conditions for conditional rezoning requests must be submitted to the County no later than 48
38 hours prior to the scheduled public hearing. Also, starting in August, that revisions to Plans of
39 Development, Subdivision Plans, Landscape Plans, and Lighting Plans must be submitted no
40 later than 4:00 p.m. on the Friday before the Tuesday Planning Commission meeting. Mr.
41 Merrithew, would you read the deferrals, please, for the evening?

42
43 Mr. John Merrithew, Principal Planner - Thank you, Mr. Secretary.

44
45 Mr. Archer - If you need to take a break, John, just do so when you get half
46 way through.

47
48 Mr. Merrithew - About half way through, I'll need a break. That's right. The first
49 deferral this evening is the Subdivision request on the first page of your agenda.

51 **SUBDIVISION (Deferred from the June 30, 1998, Meeting)**
52

**Effinger Drive
(June 1998 Plan)**

TIMMONS for Edward E. West, Jr. Et Als and Magnolia Development, LLC: The road extends westwardly from Mechanicsville Turnpike, approximately 1000 feet to its terminus and is located opposite St. Claire Lane on part of parcels 128-A-2, 3, 6, 7 and 8. The zoning is M-2, General Industrial District and B-3, Business District. (Fairfield) 0 Lot

53
54 They have requested a deferral until July 28, 1998. It is a technical request. They have not
55 gotten the required signatures at this time, so they can not go forward anyway. I don't know
56 whether you have to vote on that one or not.

57
58 Mr. Archer - I suppose we probably should anyway, John. I'll ask if there's any
59 one here in opposition to the deferment of Effinger Drive? I was curious where that name came
60 from.

61
62 Mr. Merrithew - I can't help you. The applicant indicated it was a family name.

63
64 Mr. Archer - Very good, then. There's no opposition. So, I move deferment of
65 Effinger Drive. Do we need to do this to the next POD meeting?

66
67 Mr. Merrithew - That was July 28th.

68
69 Mr. Archer - I move the deferment of Effinger Drive to the July 28 POD
70 meeting.

71
72 Mr. Vanarsdall seconded the motion.

73
74 Mr. Zehler - Per applicant's request, Mr. Chairman?

75
76 Mr. Archer - Per applicant's request. Thank you, Mr. Zehler. Motion made by
77 Mr. Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by
78 saying nay. The vote is 5-0 (Mr. Donati abstained).

79
80 The Planning Commission deferred Effinger Drive to its meeting on July 28, 1998.

81
82 Mr. Merrithew - Thank you, Mr. Chairman. On Page 2 of the agenda in the
83 Brookland District:

84
85 **Deferred from the April 9, 1998 Meeting:**
86 **C-7C-98** **Glenn R. Moore for Northgate Associates, LP:** Request to
87 conditionally rezone from O-2C Office District (Conditional) to B-2C Business District
88 (Conditional), Parcel 71-A-11, containing approximately 3.173 acres, located on the west side of
89 Staples Mill Road at Hermitage Road. Commercial retail development is proposed. The use will
90 be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan
91 recommends Office development.

92
93 That case has been withdrawn.
94

95 Mr. Archer - I'm sorry. What page was that, John.
96
97 Mr. Merrithew - Page 2, of your agenda, Brookland District – C-7C-98. Again, that
98 case has been withdrawn. There's no action required. Next to that case, C-36C-98, again, in the
99 Brookland District.

100
101 **Deferred from the June 11, 1998 Meeting:**

102 **C-36C-98 Gloria L. Freye for Sun Suites:** Request to amend proffered
103 conditions accepted with rezoning case C-11C-88, part of Parcel 59-A-12C, containing 1.988
104 acres, located on the east line of Homeview Drive approximately 640' north of W. Broad Street
105 (U.S. 250). Amendments to permitted uses are proposed. The site is zoned B-3C Business
106 District (Conditional). The Land Use Plan recommends Commercial Concentration.

107
108 They have requested a deferral to August 13, 1998.

109
110 Mr. Archer - Is there anyone here in opposition to the deferment of C-36C-98
111 Sun Suites? No opposition.

112
113 Mr. Vanarsdall - Mr. Chairman, I move C-36C-98 be deferred to August 13, 1998 at
114 the applicant's request.

115
116 Mr. Zehler seconded the motion.

117
118 Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Mr. Zehler. All
119 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
120 abstained).

121
122 Mr. Merrithew - The next case, P-21-98, also in the Brookland District.

123
124
125 **P-21-98 Ellen L. Vogel for Triton PCS, Inc.:** Request for a provisional use
126 permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in
127 order to construct, operate and maintain a communication tower up to 199' high and related
128 equipment and improvements, on part of Parcel 22-A-15, containing 2,500 sq. ft., located between
129 the northern terminus of Brookley Road and the southern side of RF&P Park (10820 Brookley
130 Road). The site is zoned A-1 Agricultural District.

131
132 They have requested a deferral to August 13, 1998.

133
134 Mr. Archer - Mr. Merrithew, before we go any further, I think I probably do need
135 to mention, at this point, that we do have quite a heavy agenda for that night. I think we need take
136 that into consideration when making the motion. In any event, is there any one here in opposition
137 to the deferment of P-21-98 Triton PCS, Inc.?

138 Mr. Vanarsdall - Mr. Chairman, I move P-21-98 be deferred to August 13, 1998 at
139 the applicant's request.

140
141 Ms. Dwyer seconded the motion.

142
143 Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Ms. Dwyer. All
144 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
145 abstained).

146
147 Mr. Merrithew - Thank you, Mr. Chairman. On the next page of your agenda and
148 still in the Brookland District:

149
150 **C-46C-98 Andrew M. Condlin for Alva E. Kimrey:** Request to conditionally
151 rezone from R-2A One Family Residence District to M-2C General Industrial District (Conditional),
152 Parcel 31-A-17 and part of Parcels 31-A-14 and 15, containing 4.818 acres, located 233' west of
153 Old Washington Highway approximately 30' north of its intersection with Cemetery Road. Storage
154 for an adjacent steel fabrication yard is proposed. The use will be controlled by proffered
155 conditions and zoning ordinance regulations. The Land Use Plan recommends Light Industry
156 development.

157
158 They have agreed to a deferral until September 10th. Let me put it that way.

159
160 Mr. Archer - Okay. Is there any one here in opposition to the deferment of C-
161 46C-98 to the September 10th meeting? There is no opposition.

162
163 Mr. Vanarsdall - Mr. Chairman, I move C-46C-98 be deferred to September 10th at
164 the applicant's request.

165
166 Ms. Dwyer seconded the motion.

167
168 Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Ms. Dwyer. All
169 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
170 abstained).

171
172 Mr. Merrithew - I'd like to thank the applicant for agreeing to September on that
173 deferral. In the Three Chopt District:

174
175 **Deferred from the March 12, 1998 Meeting:**
176 **C-84C-97 Robert M. Atack for Atack Waterfront L.L.C.:** Request to
177 conditionally rezone from A-1 Agricultural District to R-3AC One Family Residence District
178 (Conditional), Parcel 18-A-17 containing 6.82 acres located on the east line of Shady Grove
179 Road approximately 1,200' north of Hames Lane (5273 Shady Grove Road). A residential
180 subdivision is proposed. The R-3A District permits densities up to 4.58 units gross density per
181 acre. The Land Use Plan recommends Suburban Residential 2 development, 2.4 to 3.4 units
182 net density per acre, and Environmental Protection Area.

183
184 That request has been withdrawn. No action is required.

185
186 On the next page, P-8-97:

187
188 **Deferred from the April 9, 1998 Meeting:**
189 **P-8-97 J. Thomas O'Brien, Jr. for Short Pump Investors, L.P.:** Request
190 for approval of a provisional use permit in accordance with Sections 24-58.2(a)(d) and 24-122.1 of
191 Chapter 24 of the County Code to permit outside dining and extended hours of operation to 2:00
192 a.m. for proposed restaurants, on Parcels 36-A-19D (pt.), 21, 22, 23, and 24 located on the north
193 line of W. Broad Street, 450' west of its intersection with Pouncey Tract Road. The site is zoned
194 B-2C Business District (Conditional) and M-1 Light Industrial District. The site is also within the
195 West Broad Street Overlay District.

196

197 They have requested a deferral until August 13th. I would note that they are awaiting approval
198 of a POD which, I believe, has been delayed. If there's an opportunity to go to September, we
199 would encourage the applicant and the Commission to consider that.

200
201 Mrs. Wade - Actually, there was some mention of October.

202
203 Mr. Merrithew - We'll go as far as they will let us go.

204
205 Mr. Archer - Okay. Is there any one here who can speak to that deferral
206 request?

207
208 Mr. Merrithew - The applicant has agreed to go to September.

209
210 Mr. Archer - It will be the 10th, right?

211
212 Mrs. Wade - All right, I hope we get it worked out ahead, because I'm not going
213 to be here in September. That's another reason to go to October.

214
215 Mr. Archer - Okay, Mrs. Wade.

216
217 Mrs. Wade - September, now, you're talking about?

218
219 Mr. Merrithew - Yes ma'am.

220
221 Mrs. Wade - I move Case P-8-97 be deferred until the 10th of September at the
222 applicant's request.

223
224 Mr. Vanarsdall seconded the motion.

225
226 Mr. Archer - Motion made by Ms. Wade, seconded by Mr. Vanarsdall. All
227 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
228 abstained).

229
230 Mr. Merrithew - Thank you, Mr. Chairman. The next case, C-48C-98.

231
232 **C-48C-98 James W. Theobald for The Snyder-Hunt Corp.:** Request to
233 conditionally rezone from A-1 Agricultural District to R-2C, R-3C and R-4C One Family
234 Residence Districts (Conditional), RTHC Residential Townhouse District (Conditional), R-5C, R-
235 5AC and R-6C General Residence Districts (Conditional), O-2C Office District (Conditional), B-
236 2C and B-3C Business Districts (Conditional) and M-1C Light Industrial District (Conditional),
237 Parcels 18-A-11, 26-A-27A (pt), 30-32, 73, 27 (pt), 27-A-3A, 5A, 6, 7, 8, 9A, 11 and 10 (pt.), and
238 37-A-1,10,12 (pt.),13 (pt.), containing 426.452 acres located at the southeast corner of the
239 intersection of Shady Grove Road and Nuckols Road. A mixed use planned community is
240 proposed. The R-2 District permits densities up to 2.42 units gross density per acre. The R-3
241 District permits densities up to 3.96 units gross density per acre. The R-4 District permits
242 densities up to 5.45 units gross density per acre. The RTH District permits densities up to 9.0
243 units gross density per acre. The R-5 District permits densities up 14.52 units gross density per
244 acre. The R-5A District permits densities up to 6.0 units gross density per acre. The R-6
245 District permits densities up to 19.8 units gross density per acre. The office, business and
246 industrial uses will be controlled by proffered conditions and zoning ordinance regulations. The
247 Land Use Plan recommends Government, Environmental Protection Area, Light Industry, Urban

248 Residential 3.4 to 6.8 units net density per acre, Suburban Residential 2, 2.4 to 3.4 units net
249 density per acre, and Rural Residential, not exceeding 1.0 unit net density per acre.

250

251 They have requested a deferral until August 13th.

252

253 Mr. Archer - Is there any one here in opposition to the deferral of C-48C-98 to
254 the August 13th meeting? No opposition. Mrs. Wade.

255

256 Mrs. Wade - I move Case C-48C-98 be deferred to the 13th of August at the
257 applicant's request.

258

259 Mr. Vanarsdall seconded the motion.

260

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

264

265 Mr. Merrithew - Mr. Chairman, the next case, C-50C-98.

266

267 **C-50C-98 Brenda Hartless for CK Overlook Associates, LLC:** Request for
268 amendment of proffered conditions accepted with rezoning case C-88C-96, on Parcels 28-A-35A,
269 23 and parts of Parcels 28-A-24A, 35B, and 25, containing 11.398 acres, located between the
270 north line of Sadler Road and the southwest line of Nuckols Road, approximately 100' east of
271 Interstate 295. Amendments related to the buffer are proposed. The existing zoning is O-2C
272 Office District (Conditional).

273

274 They have requested a deferral until July 28th.

275

276 Ms. Dwyer - So, it would be the POD meeting?

277

278 Mr. Merrithew - The POD meeting, that's correct.

279

280 Ms. Dwyer - How is our agenda for that meeting?

281

282 Mr. Merrithew - I cannot tell you. I don't know.

283 Mr. Silber -

It's fairly heavy.

284

285 Ms. Dwyer - So is every agenda.

286

287 Mr. Merrithew - Michael said, it's fairly light compared to the zoning meeting.

288

289 Mr. Archer - At least it's in the daytime.

290

291 Ms. Dwyer - Will this be at the beginning of the agenda then; this zoning case?
292 Isn't that the way we always schedule those? Did you ask?

293

294 Mr. Archer - Yes. I did.

295

296 Ms. Dwyer - I move deferral of C-50C-98 Overlook Associates to our July 28th
297 meeting at the applicant's request.

298

299 Mr. Vanarsdall seconded the motion.
300

301 Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All
302 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
303 abstained).
304

305 Mr. Merrithew - Mr. Chairman, that is all the deferrals I have on the 7:00 o'clock
306 agenda. Would you like me to just name the deferrals request for the 8:00 o'clock agenda.
307

308 Mr. Archer - If you would, briefly. We'd appreciate it.
309

310 Mr. Merrithew - In the Varina District, P-17-98 Susan Stancil for Nextel
311 Communications has requested a deferral until August 13th. P-25-98 Heidi H. Parker for 360
312 Communications Company has requested a deferral to August 13th, and P-28-98 Ellen L. Vogel
313 for Triton PCS, Inc. has requested a deferral until August 13th.
314

315 Mr. Archer - Thank you, Mr. Merrithew. Okay. Mr. Secretary.
316

317 **PLAN OF DEVELOPMENT & SPECIAL EXCEPTION**
318 **(Deferred from the June 30, 1998, Meeting)**
319

POD-61-98 Holiday Inn Express - Mayland Park	Foster & Miller, P.C. for Circuit City Stores, Inc. and Innkeeper Hotels & Motels: Request for approval of a plan of development and special exception for a building in excess of three stories as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a four-story, 112 room hotel. The 1.8-acre site is located on the southwest corner of Gaskins Road and Mayland Drive on parcel 48-A-68B. The zoning is M-1C, Light Industrial District (Conditional). County water and sewer (Three Chopt)
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320
321
322 Mr. Archer - Thank you, Mr. Secretary. Is there any one in opposition to this
323 Plan of Development and Special Exception POD-61-98 Holiday Inn Express, Mayland Park.
324 Mr. Whitney.
325

326 Mr. Mikel Whitney, County Planner – This case was deferred from your June 30th meeting, as
327 the Secretary said. The reason being, we wanted to have a field meeting to have some more
328 examination of the site in regards to grading and clearing of trees. I apologize for not having
329 this in your packet. It was handed out to you. On the first sheet here is a revised plan that the
330 engineer has provided to us after the outcome of this meeting.
331

332 A couple of things on this I'll point out to you are clouded on the area of Mayland Drive. The
333 entrance along there has been adjusted so that it is now 100 feet away from the entrance that is
334 across the street on Mayland Drive. That was the recommendation of the Traffic Engineer.
335

336 Also, the building itself, being four stories, we were able to move it back five feet. This will
337 increase the landscaping area that will be in the front of the building. The other item that was
338 discussed was the grading along Mayland Drive. The engineer has adjusted some grades right
339 at the corner of the intersection there. We hope that we will have a larger tree save area along
340 there.

341
342 With that, I will take any questions that you may have at this time.
343
344 Mr. Archer - Okay. Thank you, Mr. Whitney. Are there questions for Mr.
345 Whitney by the Commission?
346
347 Mrs. Wade - The parking is combined with some of the rest of their...since we
348 don't know what the other uses are?
349
350 Mr. Whitney - There's not a shared parking situation until those other uses come
351 in on this site. Those would be reviewed under another Plan of Development.
352
353 Mrs. Wade - Because this is only for the hotel.
354
355 Mr. Whitney - The parking that is required for the hotel, they are providing on
356 their site.
357
358 Mrs. Wade - And this POD is just for that too?
359
360 Mr. Whitney - That's correct.
361
362 Mrs. Wade - They will be expected, after they grade and clear most of the site,
363 to seed the area that they're not building on.
364
365 Mr. Whitney - I'm sorry.
366
367 Mrs. Wade - I said, they'll be expected to seed the cleared area and stabilize it
368 in that way.
369
370 Mr. Whitney - The area of future development?
371
372 Mrs. Wade - Yes.
373
374 Mr. Whitney - Yes. They plan on building a pad for the future development on
375 the two proposed sites.
376
377 Mrs. Wade - Okay. Thank you. They have to make a brief case for a special
378 exception. I'm not sure why they covered it the last time.
379
380 Mr. Phillip Parker, Foster & Miller, P.C. - I represent Circuit City and Innkeeper Properties.
381 Regarding the request for the special exception, we pretty much covered most of that in our site
382 walk through. We've got this building set, basically, a story below the road side grade of
383 Gaskins Road. The ability to put a fourth story on this site has allowed us to gain the green
384 spaces that we've been striving to meet. If there are any other questions regarding that, we
385 could go further into that discussion if you would prefer. But we went through it on Friday pretty
386 well, I feel.
387
388 Mrs. Wade - That pretty well summarizes it anyway. We're weren't able to
389 accomplish any (unintelligible) in terms of changing the grading and saving trees, but there were
390 some adjustments made.
391

392 Mr. Parker - Yes ma'am. Well, we pulled the grades further away from the
393 roadway to allow for some tree save areas similar to the rest of Deep Run and Innsbrook that
394 we've got existing growth and hardwood growth along the roadways; the problem being the site
395 restrictions relative to grade.

396
397 Ms. Dwyer - The only additional green space that is acquired because of the
398 additional story is an extra five feet along the road?
399

400 Mr. Parker - Well, it's next to five feet along the road. It's also some green
401 space along the sides of the building and towards the rear we've added landscaping; median-
402 type islands through the site, as well, to help break up the site as it grows with this development.
403 We also have a tree save area out along Gaskins Road we've been able to accomplish as well,
404 right along the right of way and within the right of way as well.

405
406 Ms. Dwyer - Would that be in front of the hotel or in front of the future
407 development?
408

409 Mr. Parker - Both. That entire frontage.

410
411 Mr. Archer - Okay. Are there further questions? Mrs. Wade.

412
413 Mrs. Wade - I'll do the POD and then the Special Exception. I move POD-61-
414 98 Holiday Inn Express, with the revisions that appear on the plan as of today, I move that it be
415 approved, subject to...are all the annotations on the old plan or are some of those on the new
416 plan?
417

418 Mr. Whitney - Your revised plan includes a comment to see the staff plan for
419 comments. So, the annotated plan that was originally submitted would be included in your
420 motion.
421

422 Mrs. Wade - ...the revised plan with annotations, the standard conditions and
423 the following conditions; maybe we'd better bring the landscaping back here; No. 9 Amended
424 and Conditions 23 through 31.
425

426 Mr. Vanarsdall seconded the motion.
427

428 Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All
429 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
430 abstained).
431

432 The Planning Commission approved POD-61-98 Holiday Inn Express-Mayland Park, subject to
433 the standard conditions attached to these minutes and the following additional conditions:
434

435 12. **(AMENDED)** A detailed landscaping plan shall be submitted to the Planning Office for
436 review and Planning Commission approval prior to the issuance of any occupancy
437 permits.

438 13. The easements for drainage and utilities as shown on approved plans shall be granted
439 to the County in a form acceptable to the County Attorney prior to any occupancy
440 permits being issued.

441 14. The developer shall provide fire hydrants as required by the Department of Public
442 Utilities in its approval of the utility plans and contracts.

- 443 15. Any necessary off-site drainage easements must be obtained in a form acceptable to the
444 County Attorney prior to final approval of the construction plans by the Department of
445 Public Works.
- 446 16. Deviations from County standards for pavement, curb or curb and gutter design shall be
447 approved by the County Engineer prior to final approval of the construction plans by the
448 Department of Public Works.
- 449 17. The loading areas shall be subject to the requirements of Chapter 24, Section 24-97(b)
450 of the Henrico County Code.
- 451 18. Storm water retention, based on the 50-10 concept, shall be incorporated into the
452 drainage plans.
- 453 19. Insurance Services Office (ISO) calculations must be included with the utilities plans and
454 contracts and must be approved by the Department of Public Utilities prior to the
455 issuance of a building permit.
- 456 20. Approval of the construction plans by the Department of Public Works does not establish
457 the curb and gutter elevations along the Henrico County maintained right-of-way. The
458 elevations will be set by Henrico County.
- 459 21. Evidence of a joint ingress/egress and maintenance agreement must be submitted to the
460 Planning Office and approved prior to issuance of a certificate of occupancy for this
461 development.

462
463 Mrs. Wade - And for the special exception, as you said, it will be below the road
464 grade. They could fit a three-story one on there, under any circumstances. It's already M-1,
465 and should be fairly compatible with what's in the area. I move, therefore, that special exception
466 for the excess of three stories for POD-61-98 be approved.

467
468 Ms. Dwyer seconded the motion.

469
470 Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Dwyer. All those in
471 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

472
473 The Planning Commission approved special exception for POD-61-98, Holiday Inn Express –
474 Mayland Park.

475
476 Mrs. Wade - Thank you, Mr. Parker, for working with us.

477
478
479 **C-45C-98 Glenn R. Moore for Springfield Land Development Group:**
480 Request to amend proffered conditions accepted with rezoning case C-69C-87 on part of Parcel
481 49-A-41N, containing 2.705 acres, located on the north line of West Broad Street (U. S. Route
482 250) between Springfield Road and Springfield Road Relocated (Route 157). The current zoning
483 is B-3C, Business District (Conditional). The Land Use Plan recommends Commercial
484 Concentration development.

485
486 Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to C-
487 45C-98? No opposition. Ms. Gardner.

488
489 Ms. Nancy Gardner, County Planner - Good evening. This is a request to amend proffers
490 associated with C-69C-87 on the Haynes Jeep-Eagle site. There are three provisions that they
491 would like to amend.

492

493 First is to eliminate the requirement for a 75-foot buffer on Springfield Road. If you'll look at the
494 aerial photograph, Haynes Jeep occupies the lower part of the triangle in the middle of the
495 photograph, and the 75-foot buffer is on the western portion of the photograph. It's a little bit
496 unclear, but you can see the trees that are in that 75-foot buffer.
497

498 If that requirement for the 75-foot buffer is eliminated, then they would only be required to do the
499 10-foot landscape strip, which would be required at Plan of Development.
500

501 The second change that they would like to make is to allow free-standing buildings on the
502 property. This is a harmless amendment to proffers. I think that they planned to actually do a
503 connected building. So, this proffer may not really have any impact.
504

505 The third change that they want to make is to allow access onto Old Springfield Road. However,
506 in the very near future, old Springfield Road is going to be cul-de-saced. It's going to be cul-de-
507 saced very soon as part of the improvements to Springfield. Old Springfield will be cut off just
508 below the 7-Eleven property. So, that will not actually improve any access for the site. It's
509 acceptable, but it may not do any good, and the applicant may not chose to make that
510 improvement. I'd be happy to take any questions.
511

512 Mr. Archer - Thank you, Ms. Gardner. Are there questions for Ms. Gardner by
513 the Commission?
514

515 Mrs. Wade - Do you know how much buffer is in the front of this?
516

517 Ms. Gardner - In the very front? We could switch back to the photograph. There
518 is a varying amount of buffer. Unfortunately, that picture is not very clear. You can see it varies in
519 width. It's something like 30 to 40 feet along the frontage. You see that green area (referring to
520 slide).
521

522 Mrs. Wade - Is all that outside the right of way? Do you know?
523

524 Ms. Gardner - I would presume so, I'm sorry. I don't know for sure. I would
525 assume, at this point, that it is.
526

527 Ms. Dwyer - Are they suggesting the 75-foot buffer be eliminated along the
528 entire length of Springfield, or just for this portion; just for this parcel?
529

530 Ms. Gardner - Just for the parcel that's subject to this proffer amendment. So, it
531 would be that treed area in between the two driveways that you see on the photograph.
532

533 Mrs. Wade - That's the only part that has the 75?
534

535 Ms. Gardner - There is a line of trees there. And that would be eliminated.
536

537 Mrs. Wade - Do you know how much they have on the old Springfield side?
538

539 Ms. Gardner - That appears to be the minimum 10 feet.
540

541 Mrs. Wade - Ten feet there.
542

543 Ms. Gardner - Yes. A little scrub.

544
545 Ms. Dwyer - It seems to be a rather large difference between 75 feet and 10
546 feet. Were there any discussions of any in between...
547
548 Ms. Gardner - The applicant, to this point, has not been willing to go any further
549 beyond 10 feet. However, I would certainly support any move to move back to at least 25 feet, if
550 not more. That would be appropriate.
551
552 Mr. Archer - Okay. Further questions for Ms. Gardner?
553
554 Mr. Vanarsdall - I'd like to hear from the applicant, Mr. Chairman.
555
556 Mr. Archer - Is the applicant present? Mr. Moore.
557
558 Mr. Glenn Moore - I am an attorney, and I'm here this evening on behalf of Springfield
559 Land Development Group, the applicant in this case. As Ms. Gardner has stated, there are three
560 substantive changes proposed in this request for amendment to proffered conditions.
561
562 First relates to the access to old Springfield Road, which was not permitted under the terms of the
563 1987 zoning case. We would only have that access to old Springfield Road in the event that there
564 is a median in place in Springfield Road, which I believe there will be, that prevents south bound
565 traffic on Springfield Road and traffic leaving the property, which desire to make a left hand turn
566 on Springfield Road to go to Broad Street, if a median is placed in Springfield Road to prevent
567 those movements. Then we would like a building to put a driveway on old Springfield Road. We
568 think that the driveway could provide better traffic circulation on the site and an alternative for
569 leaving the site, rather than solely being required to exit the site on Broad Street.
570
571 I would point out to you that old Springfield Road already serves commercial traffic from Lowe's
572 and the 7-Eleven Store at the corner of Springfield and Huron Roads, so this is not going to be an
573 introduction of commercial traffic to this roadway.
574
575 Secondly, a new building on the property would not have to be an extension of the existing
576 Haynes Jeep Building. That's just really to provide flexibility. As you can see from this illustrative
577 site plan, the present plans actually extend the existing Haynes Jeep building onto this site.
578 However, if the plans were to change, the amendment to the proffers would allow some flexibility.
579
580 The third change to the proffers would allow Haynes Jeep to expand its parking and inventory
581 storage area into an existing 75-foot buffer along Springfield Road. That buffer was originally
582 established in 1987 in order to retain certain trees located in the buffer area. Haynes automobile
583 sales and service business continues to grow and additional inventory storage area is critical to
584 serve this growing business.
585
586 As you are aware, we had a proposal which was considered by the Planning Commission and the
587 Board a couple of months ago to establish an inventory storage area on a four-acre site at Huron
588 and Springfield. That request was denied. Accordingly, the need for the expansion of the parking
589 area into the 75-foot buffer area has become more important.
590
591 Efforts to make the subject buffer area an amenity to the dealership; that is the 75-foot buffer that
592 is there, have not been entirely successful. On a number of occasions, Haynes has placed picnic
593 tables and chairs within the buffer area for its customers and employees and those items have

594 been stolen. It should be noted, also, that no other nearby businesses have a 75-foot buffer along
595 Springfield Road.

596
597 We would submit that the expansion of the dealership improvements into the buffer area can be
598 accomplished without having an adverse effect off of the site. The Zoning Ordinance, as you
599 know, requires the establishment of significant plantings within the setback area between any
600 improvements on the property and Springfield Road.

601
602 In this instance, Haynes intends to follow the current pattern of planting Bradford Pears. You can't
603 see it on that plan, but if you're familiar at all with; maybe you noticed on the aerial photograph,
604 there's a line of Bradford Pears along Springfield Road, south of this site. It's their intent to
605 continue that pattern of planting the Bradford Pears in the setback area. It has proven to be an
606 attractive amenity along that perimeter of the property.

607
608 The surrounding area has changed significantly since 1987 when the 75-foot buffer area was
609 established. The existing Haynes Jeep facility has accomplished an attractive separation, affords
610 a parking area from Springfield Road with a landscape setback of approximately 10 feet which I've
611 just explained.

612
613 We would submit that, due to the change in circumstances with respect to development in the
614 area and the growth of the Haynes Jeep business, that a change has occurred which justifies the
615 requested amendment to proffered conditions. I'd be happy to answer any questions the Planning
616 Commission members may have.

617
618 Mr. Archer - Thank you, Mr. Moore. Are there questions for Mr. Moore by the
619 Commission?

620
621 Mrs. Wade - Where is the right-of-way line, now, related to the buffers? We
622 don't have the advantage of the schematic.

623
624 Mr. Moore - I believe that this plan reflects the new right-of-way line.

625
626 Mrs. Wade - Which is where? I mean, look on Broad Street, for instance.

627
628 Mr. Moore - Well, I think it reflects it on Broad Street. But the right-of-way line
629 has recently changed within the last three months on Springfield, because there's been a
630 condemnation to take some land to widen Springfield Road. I believe that the right-of-way line on
631 this plan does reflect the recent condemnation.

632
633 Mrs. Wade - Did it take some of the 10 feet? Is this what you're saying?

634
635 Mr. Moore - No. The 10 feet will have to be from the new right-of-way line. It
636 would take some of the 75 feet.

637
638 Mrs. Wade - Not on the new part. I mean on the old part.

639
640 Mr. Moore - No. I don't think it was a taking on that part. I'm pretty sure it was
641 not. I think the right-of-way was wide enough on that part of Springfield Road that they didn't
642 need to condemn any more land.

643

644 Mrs. Wade - Okay. Now, is the parking/storage area going to look something
645 like your schematic here?
646
647 Mr. Moore - That's the present plan. Yes.
648
649 Mrs. Wade - I was interested in the picnic tables and things. All I've seen in the
650 75-foot buffer has been cars and trucks. Nobody's told them.
651
652 Mr. Moore - Well, one thing about a 10-foot setback here, it's not wide enough
653 to put a car or truck in. But there will be trees planted there as well—Bradford Pears.
654
655 Ms. Dwyer - Is that proffered; the landscaped commitment?
656
657 Mr. Moore - Well, I have not proffered the Bradford Pears. That's what they
658 have in their existing buffer on the south side or to the left hand side of the driveway going
659 towards Broad Street. And that's what their intention is to continue that. It certainly has to be
660 landscaped in accordance with the landscape requirements in the Zoning Ordinance.
661
662 Mrs. Wade - Is there going to be a place provided under the new development
663 for unloading vehicles, because now, as everybody who's ever been by there has noticed, the
664 trucks are usually parked in Springfield.
665
666 Mr. Moore - One thing that could happen, they could go into the middle of that
667 new inventory storage area; unload vehicles, and then come back out. Really, that new entrance
668 on Old Springfield Road might facilitate the movement of those trucks through the property as
669 well.
670
671 Mrs. Wade - Then they could park on Old Springfield Road.
672
673 Mr. Moore - Old Springfield Road? Well, I suppose, to the extent they could
674 park on Springfield Road, they could do that now, but that wouldn't be the intention.
675
676 Mrs. Wade - And he owns all this buffer? What's the condition of the buffer on
677 Old Springfield, then?
678
679 Mr. Moore - The condition of it? I don't know the condition of it.
680
681 Mrs. Wade - And one sign. What kind of sign is he proposing on the new...?
682
683 Mr. Moore - We haven't requested any change in the proffers in respect to
684 signs.
685
686 Mrs. Wade - In the proffers other than that. Okay.
687
688 Ms. Dwyer - Mr. Moore, I think it was mentioned in the staff report that old
689 Springfield was supposed to have a cul-de-sac?
690
691 Mr. Moore - Yes ma'am.
692
693 Ms. Dwyer - Is that something that you would try to change, or do you think this
694 new entrance would be useful, even if its cul-de-saced?

695
696 Mr. Moore - I think the new entrance will still be used for cars. There is, I
697 believe, a median break at Old Springfield Road? Am I correct on that and Broad Street? I
698 believe there is. One thing can happen, cars heading south on Springfield that have to take a left
699 on Broad to get to the dealership...There's not a median break at Old Springfield?
700 Mrs. Wade - There may be, but if they're smart, they won't do it. I know that
701 many do it.
702
703 Mr. Moore - But it also would help with exiting traffic, it seems to me. It would
704 have to head back to Broad Street if it were cul-de-saced.
705
706 Mrs. Wade - I don't really see a big problem with that. Traffic you get there
707 would be coming from Lowes and the shopping center...to get to Broad.
708
709 Mr. Archer - Okay. Are there further questions for Mr. Moore? All right, Mrs.
710 Wade.
711
712 Mrs. Wade - Actually, Mr. Vanarsdall. It doesn't sound like it, but the motion is
713 made and I may be tilting at windmills. It won't be the first time. As many of you will recall, when
714 this was rezoned in the first place it was in Three Chopt and since was redistricted and is now in
715 Brookland. I realize Mr. Haynes needs more room. He certainly has been doing a booming
716 business at this location. The front and the side looks nice. The building looks nice. It has the
717 advantage of being further away from the residential and closer to Broad. However, I have been
718 sort of dreading this for 10 years, as far as the 75 feet and the trees were concerned.
719
720 At that time it was recommended by staff, and approved by the Commission, and concurred with
721 by the Board of Supervisors that the 75-foot buffer to save those trees be left. Not just as an
722 amenity for the car dealership, but for the whole community and the whole community north of
723 there which pretty much developed residential. It had been, prior to the back section rezoning for
724 the B-3C for the auto dealership, O-2 Office which was intended to be a transition between here
725 and the residential areas north of here. It has been a nursery. It seems an opportunity to be able
726 to preserve a few mature trees in this area and so soften what is a heavy commercial area here.
727
728 There was concern at that time for the side of Broad Street all the way east to Tuckernuck.
729 Although B-2 with few developmental constraints, it seemed like a good time to make that
730 improvement.
731
732 The 75 feet is unusual, but then very few have a minimum of 10 feet either. Most aren't located at
733 a highly visible corner quite like this.
734
735 I've been around on the other side of the property, and the 10-foot buffer around on that side has
736 not been maintained very well. There are old tires, not there, but next to the dumpster on the
737 property. Of course, further west of this, we are encouraging bigger buffers for some of our
738 commercial development. I really tried to convince myself that was the best thing to do, so I'm
739 going to vote against this.
740
741 Mr. Archer - Okay. Mr. Vanarsdall.
742
743 Mr. Vanarsdall - It seems that this is the only way that Haynes Jeep can expand,
744 because, as he pointed out, a few months ago, the Board denied crossing Huron. Of course, we
745 endorsed that before the Board did, and I recommended it be denied. This is right on the same

746 property. Since 10 years ago, we have a lot of commercial surrounding it that we didn't have at
747 that time. As Mr. Moore said, this is the only business along there that is required to have a 75-
748 foot buffer. So, with that, I recommend C-45C-98 be recommended to the Board of Supervisors
749 for approval.

750

751 Mr. Zehler seconded the motion.

752

753 Mr. Archer - Motion made by Mr. Vanarsdall, seconded by Mr. Zehler. All
754 those in favor say aye—all those opposed by saying nay. The vote is 4-1 (Mrs. Wade voted no,
755 and Mr. Donati abstained).

756

757 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Zehler, the Planning Commission
758 voted 4-1 (one no and one abstention) to recommend that the Board of Supervisors **accept the**
759 **proffered conditions and grant** the request because the request is reasonable; and it continues a
760 form of zoning consistent with the area.

761

762 **Deferred from the May 14, 1998 Meeting:**

763 **C-24C-98**

764 **Arthur McGurn:** Request to conditionally rezone from A-1
765 Agricultural District and R-2C One Family Residence District (Conditional) to R-5C General
766 Residence District (Conditional), Parcels 32-A-102N, 117 and 122, and Part of Parcel 32-A-
767 114A, containing 12.659 acres, located at the southeast corner of Francis Road and Virginia
768 Center Parkway. Multi-family development is proposed. The R-5 District permits densities up to
769 14.52 units gross density per acre. The Land Use Plan recommends Suburban Residential 2,
770 2.4 to 3.4 units net density per acre, and Government uses.

770

771 Mr. Archer - Is there any one here in opposition to C-24C-98 Arthur McGurn?
772 Thank you. Ms. Gardner.

773

774 Ms. Gardner - Good evening. This is a request to rezone property for apartment
775 use. The applicant has talked about making a variety of improvements to this case, but so far
776 we have very little to go on. All we know is the applicant does want the R-5C District. Of
777 course, this would allow a rather higher density on this property than is planned for it. As you
778 can see, it is planned for SR-2 Suburban Residential 2 which would be single family
779 development rather than apartments.

780

781 The applicant has, I believe, met with the citizens on this case. The applicant has not provided
782 anything since the initial submission to staff. So, at this point, although we see no merit in
783 apartments, I certainly cannot support approval at this time. I'd be happy to answer any
784 questions.

785

786 Mr. Archer - Thank you, Ms. Gardner. Has the applicant formally requested
787 deferral of this case?

788

789 Ms. Gardner - Yes. The applicant has requested deferral.

790

791 Mr. Archer - Does the Commission have any questions for Ms. Gardner? I
792 don't. Thank you, Ms. Gardner. Would the applicant come forward, please? Is Mr. McGurn
793 here?

794

795 Mr. Vanarsdall - I think he broke his elbow, Mr. Chairman.

796 Mr. Archer - He did break his elbow, Mr. Vanarsdall. There has been a
797 deferral request made. That's correct. We had talked about this to quite some degree
798 yesterday and I had an opportunity to talk with the owner. I've gotten I don't know how many
799 letters and phone calls concerning this case. But in speaking about it yesterday, Ms. Gardner
800 and I were having a little bit of tizzy trying to decide whether we should defer it. But I have
801 received some more information that I think is appropriate enough to this case that the owner
802 wants to have another meeting with the neighborhood to try and change some facts; I shouldn't
803 say facts, but some statements that have been made that he thinks may be in error.

804
805 I have cautioned both Mr. McGurn and the owner that there's a lot more to this than merely
806 lining up people who may be for or against this. The critical issue, I think, in this case besides
807 the issues that face the neighborhood, is an appropriate response to the second paragraph from
808 the bottom in Ms. Gardner's staff report. That reads, "This request is inconsistent with the 2010
809 Land Use Plan. The applicant has not demonstrated why multi-family residential development
810 is more appropriate than single family development at this location." I think that is paramount
811 that you keep that in front of you when you have this meeting with the neighborhood and when
812 this case comes back so that we can make a decision. I would also like to ask that the applicant
813 be sure to include the entire scope of the neighborhood and not just the people who are
814 immediately adjoining this property. And I will leave it up to him to decide when and where this
815 meeting is to be held to try and make sure that they include everyone in it. Hopefully, we can do
816 this within 30 days to have something ready to bring to you by the next meeting. If not, I'll talk to
817 him between now and then and, perhaps, it might be wiser to change this to 60 days. He did
818 request 30 days, Ms. Gardner?

819
820 Ms. Gardner - Let me check the file.

821
822 Mr. Randall Silber, Assistant Director of Planning - Yes. One month.

823
824 Mr. Archer - There's a lot that has to be done here. I've been assured by the
825 owner that there are a lot of people who are in support of this application. Of course, I've gotten
826 letters from those who are opposed to it. So, it will be interesting to see how this meeting does
827 develop, but I would encourage you to attend the meeting, as many of you as can, and listen to
828 all the facts. Let's see if we can come up with something that makes this worthwhile deferral.
829 So, with that, I move deferral of C-24C-98 for 30 days to the August 13, meeting, at the
830 applicant's request.

831
832 Mr. Vanarsdall seconded the motion.

833
834 Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All
835 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
836 abstained). Deferral is granted.

837
838 **C-47C-98 Joe Parker for Madison Development Co:** Request to
839 conditionally rezone from R-5 General Residence District to R-4AC One Family Residence
840 District (Conditional), on Parcel 147-16-A-100 and part of Parcel 147-A-103, described as
841 follows:

842
843 Beginning at a point on the S. line of Yates Lane, 138.82' east of the E. line of Wynfield Terrace;
844 thence along the S. line of Yates Lane around a curve having a radius of 455.18' and a length of
845 143.08'; thence N. 1° 01' 40" W., 50.00' to the N. line of Yates Lane; thence N. 17° 08' 00" E.,
846 274.74' to a point; thence S. 89° 43' 53" E., 195.82' to a point; thence along a ditch S. 21° 23' 51"

847 W., 188.91' to a point; thence continuing along the ditch S. 14° 48' 29" W., 97.00' to a point; thence
848 continuing along the ditch S. 33° 25' 16" W., 309.87' to a point; thence continuing along the ditch S.
849 47° 11' 54" W., 198.89' to a point; thence N. 1° 01' 40" W., 327.05' to the point and place of
850 beginning, containing 2.65 acres.

851
852 Mr. Archer - Is there any one here opposed to C-47C-98 Joe Parker for
853 Madison Development? No opposition. Ms. Jo Ann Morgan Hunter.

854
855 Ms. Jo Ann Morgan Hunter - Good evening. This request is to rezone 2.65 acres from R-4 to
856 R-4AC. If the rezoning is approved, the applicant is proposing to incorporate this land with the
857 adjacent property to the west that you can see on the slide labeled, "Wynfield Subdivision,
858 Section I." Wynfield Subdivision, Section I was rezoned to R-4AC in 1996 and has received
859 conditional subdivision approval for seven lots.

860
861 During the conditional subdivision approval and review, it was noted that the impervious
862 coverage area was greater than 16 percent, which would require a BMP facility. With the
863 inclusion of the additional land, if rezoned, then it would reduce the impervious area below 16
864 percent and a BMP facility would not be needed.

865
866 The applicant has proffered to limit the development to five lots. If combined with the other
867 parcel, it would be 12 lots on 5.5 acres. The request is consistent with the land use designation
868 of Suburban Residential 2. The applicant has proffered the exact same proffers that were
869 accepted with the 1996 rezoning request. Staff has no objections. I'd be happy to answer any
870 questions.

871
872 Mr. Archer - Thank you, Ms. Morgan-Hunter. Are there any questions for Ms.
873 Hunter by the Commission?

874
875 Mrs. Wade - This BMP thing, if I had nine acres I wanted to develop, I'd have to
876 put in a BMP, but if I provided it up into three acres or whatever, I wouldn't have to have any
877 BMP.

878
879 Ms. Morgan-Hunter - It's based on the impervious coverage. If it's greater than 16
880 percent, then you would need a BMP facility. With the additional land, it would increase the
881 area that's not impervious, so the BMP would not be required.

882
883 Mr. Archer - This came up before at a POD hearing. Anybody remember that?

884
885 Mrs. Wade - I'm refreshing my memory. It seems to be a lot of ways to get
886 around.

887
888 Mr. Archer - Okay. Are there further questions for Ms. Hunter? Thank you,
889 Ms. Hunter. I don't need to hear from the applicant, unless somebody else has questions. Any
890 questions by Commission members for the applicant? Okay. In that event, I move to
891 recommend approval for C-47C-98 Madison Development Company.

892
893 Ms. Dwyer seconded the motion.

894
895 Mr. Archer - Motion made by Mr. Archer, seconded by Ms. Dwyer. All those in
896 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

897
898 REASON: Acting on a motion by Mr. Archer, seconded by Ms. Dwyer, the Planning Commission
899 voted 5-0 to recommend that the Board of Supervisors accept the proffered conditions and grant
900 the request because it is reasonable; it is appropriate residential zoning at this location; and it
901 would permit development of the land for residential use in an appropriate manner.
902

903
904 **C-49C-98** **Glenn R. Moore for SJM of Richmond and Costen Floors, Inc.:**
905 Request to conditionally rezone from A-1 Agricultural District and O-2C Office District (Conditional)
906 to M-1C Light Industrial District (Conditional), Parcels 58-A-21C and 22, and part of Parcel 48-A-
907 70B, containing 7.18 acres, located on the north line of Mayland Drive between Stillman Parkway
908 and Pemberton Road. An office distribution use is proposed. The use will be controlled by
909 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office
910 development.
911

912 Mr. Archer - Is there any one here in opposition to C-49C-98 Glenn R. Moore for
913 SJM of Richmond and Costen Floors, Inc.? We do have opposition. Gee, I was hoping we'd get
914 to the 8:00 o'clock agenda by 8:00 o'clock.
915

916 Ms. Dwyer - Mr. Bittner, just for clarification, the proffers that we were just
917 handed, are they the same ones that were delivered to us?
918

919 Mr. Bittner - Yes. They are.
920

921 Ms. Dwyer - There are no changes then?
922

923 Mr. Bittner - No. No changes.
924

925 Mrs. Wade - Did they meet the deadline?
926

927 Mr. Bittner - Yes. The ones we handed out tonight do meet the 48-hour
928 deadline.
929

930 Mrs. Wade - Well, let's see, though, 4(a). I don't think it's on mine. In the margin
931 there on 4(a) on Page 2?
932

933 Mr. Bittner - What are you referring exactly to, Mrs. Wade?
934

935 Mrs. Wade - On Page 2 of the ones you just handed out, there are little notes in
936 the margin there.
937

938 Mr. Bittner - Okay. Just real quickly. When Mr. Moore brought those in, this
939 was on Monday or Tuesday, I believe. He added in that margin note right in front of me that day,
940 so it's part of the proffers. It meets the 48-hour deadline. It just simply lists two additional exhibits
941 which are included in the packet I handed out tonight for which the proffers would comply with.
942 Those exhibits show the actual building materials that would be used. Mr. Moore listed those to
943 be part of the proffers. I believe he must have not had the opportunity to list that in the packet that
944 he took to the Planning Commissioners directly.
945

946 Mrs. Wade - Thank you.
947

948 Mr. Archer - Okay. Mr. Bittner, you can continue.

948
949 Mr. Bittner - Thank you, Mr. Archer. The proposed uses for this site are offices,
950 a showroom and distribution area for the Costen Floors operation, as well as other selected light
951 industrial uses. Retail uses, other than the Costen showroom, would not be permitted.

952
953 As we just discussed, revised proffers have been submitted and handed out. These new proffers
954 address several of the issues listed in the staff report, including the provision of an 8,000 square
955 foot limit on retail space; a proffered site plan; proffered building elevations; and proffered building
956 materials of brick, masonry and glass, with all sides facing a public roadway being constructed
957 only of brick and glass. Even with these new proffers, however, several outstanding issues
958 remain. These include: 1. A driveway connection to Parcel 21 at the corner of Mayland Drive and
959 Pemberton Road. This has not been proffered. This connection would accommodate potential
960 future development on this corner. 2. A 60-foot buffer along Stillman Parkway is shown on the
961 site plan. However, a BMP facility could locate in this buffer. Aesthetics in this area are a prime
962 concern. The applicant should consider providing assurances that any BMP in this area shall be
963 landscaped and designed in an attractive manner. 3. A new entrance is shown onto Pemberton
964 Road.

965
966 VDOT has commented that this entrance could present some alarming traffic safety and control
967 problems. The applicant should consider prohibiting new entrances onto Pemberton.

968
969 4. The proffers limit lighting intensity along Mayland Drive to one-half foot candle. The applicant
970 should consider making this a standard along all boundaries of this site.

971
972 5. The existing Bell-Atlantic operation on this site could continue as is, without adhering to the
973 new proffers or covenants established for this property. Any other public utility use that might
974 locate on this portion of the site in the future would also not have to comply with these proffers or
975 covenants.

976
977 Any new use or alterations to the existing site should adhere to these proffers and covenants.
978 Only the existing Bell-Atlantic operation should be exempt. The applicant should consider making
979 this a part of the application.

980
981 In summary, this proposed use seems reasonable at this location. It is consistent with
982 development to the west; and would support the continued operation of a successful Henrico
983 County based business. However, some quality development controls are lacking. If the
984 applicant provides the items listed tonight, staff would not object to approval of this application. I'd
985 be happy to answer any questions you may have.

986
987 Mr. Archer - Thank you, Mr. Bittner. Are there questions for Mr. Bittner by the
988 Commission?

989
990 Mrs. Wade - Have you discussed these issues with the applicant?

991
992 Mr. Bittner - Yes. I have. He's prepared to respond to them, I believe.

993
994 Mrs. Wade - Thank you. I, and perhaps some of the neighbors, were a bit
995 surprised to see this case back here again this soon. What's the justification for this?

996
997 Mr. Bittner - The previous case, if you'll look up on the zoning map there. It
998 might be a little hard to see. The previous case that was denied, I believe in April of this year,

999 included Parcel 21C which is along Mayland Drive, right in the middle there; that little wedged
1000 shaped piece—21C. That was included in the previous case, not in this case. Therefore, it was
1001 ruled that this application was significantly different from the previous application which permitted
1002 the applicant to come in before a 12-month waiting period.

1003
1004 Ms. Dwyer - 21C is zoned what, Office?

1005
1006 Mr. Bittner - Yes. It is zoned O-2C.

1007
1008 Ms. Dwyer - So, what effect do you think the M-1 zoning of this site would have
1009 on the remaining 21C site? It's actually closer to the residents.

1010
1011 Mr. Bittner - I would suspect that 21C and 21 would probably develop similarly
1012 to what this request is for.

1013
1014 Mr. Zehler - So, all an applicant has to do, if he's denied, is just reduce his size
1015 of his property and he can come back for reapplication?

1016
1017 Mr. Bittner - In that case, it was ruled a significant difference. Yes. The
1018 reduction in acreage.

1019
1020 Mrs. Wade - We've just seen one example of creep here. The '85 proffers still
1021 apply on the O-2 as it stands now.

1022
1023 Mr. Silber - Mrs. Wade, maybe I can elaborate on that ruling, since that ruling
1024 was mine. The size of the property is one of the considerations. There's other things that went
1025 into making that consideration. Let me first say, in the past, our office has looked at these cases
1026 fairly comprehensively, but a reduction in the size of the property usually is a large consideration
1027 in whether it is substantially different. But also in this case, the previous case had a proffered
1028 condition that dealt with the layout of the property. They had come back in this case with a
1029 different layout, that, in my opinion was substantially different. They were combining some access
1030 points on Pemberton. The proximity of the buildings to the townhouse project across the street
1031 was different. In my opinion there was substantial differences in the layout of the property that
1032 caused it to be a substantially different case.

1033 Mrs. Wade - They were combining access points on Pemberton.

1034
1035 Mr. Silber - The layout that was shown to me when they had considered filing
1036 this case, again, combined access points on Pemberton. I believe, if I'm reading the layout
1037 properly that was handed to us tonight, it looks like they're combining it again.

1038
1039 Mr. Bittner - Right. Actually, I talked about that issue with the applicant today.
1040 The way I saw it, I mistakenly looked at it and saw two driveways. Mr. Moore said, "No. We plan
1041 on combining those." But I wanted to make sure we talked about that issue tonight, and Mr.
1042 Moore is going to respond to it as soon as he gets up here.

1043
1044 Mrs. Wade - There's been no updated comment from VDOT on this...

1045
1046 Mr. Bittner - No. There has not. We have tried to contact them, but they haven't
1047 returned our calls.

1048
1049 Mrs. Wade - ...which was pretty negative before.

1050
1051 Mr. Bittner - Right. The comment I refer to was made back in April, or during the
1052 previous application on this property by VDOT. But my suspicion is their comment would not
1053 change, because I don't see that the situation relative to Pemberton; the existing traffic and flow of
1054 traffic on Pemberton has changed at all.
1055
1056 Mrs. Wade - There is no provision for any cross access to the other property?
1057
1058 Mr. Bittner - No. There is not. Either Parcel 21 or 21C for that matter.
1059
1060 Ms. Dwyer - The Bell-Atlantic parcel is zoned A-1?
1061
1062 Mr. Bittner - Yes.
1063
1064 Ms. Dwyer - How did that happen? It's an Office use.
1065
1066 Mrs. Wade - Okay. It's always been there.
1067
1068 Ms. Dwyer - It's always been there.
1069
1070 Mr. Bittner - It's a telephone switching station, which, at this point in time, is
1071 permitted with a special exception in A-1. However, I believe at the time it was established, that
1072 was not a requirement.
1073
1074 Mrs. Wade - You had concerns about the future of the Bell-Atlantic parcel? Has
1075 that been addressed?
1076
1077 Mr. Bittner - Not to staff's satisfaction.
1078
1079 Mrs. Wade - Thank you.
1080
1081 Mr. Archer - Okay. Any further questions? Then, I suppose we need to hear
1082 from the applicant. Mr. Moore. We did have opposition, I believe, did we not?
1083
1084 Mr. Glenn Moore - Good evening, Mr. Chairman, members of the Commission. My
1085 name is Glenn Moore. I'm an attorney and I'm here this evening on behalf of SJM of Richmond
1086 and Costen Floors, the applicant, with respect to this case which is similar in some respects and,
1087 yet, we would submit, significantly different from the case we considered some months ago.
1088
1089 That case was denied, in part, because the inclusion of the property, which is identified on the
1090 zoning sheet as Parcel 21C, that acre and a half parcel, together with the one-acre parcel at the
1091 corner of Pemberton and Mayland are not included in the case and will remain zoned O-2
1092 conditional, if this case is approved or whether this case is approved or not, and will be developed
1093 pursuant to that zoning. We certainly anticipate that at this time. Consequently, all the property
1094 across from Pemberton Green will remain zoned O-2C Conditional.
1095
1096 The proffers in this case have some similarities to the proffers considered in Zoning Case C-83C-
1097 97 but there are quite a number of differences. They include a revised site plan which, I believe,
1098 you all have received. You have it before you there. That's significantly different from the site
1099 plan considered in the earlier case and that is proffered.
1100

1101 The architecture of the buildings has changed. We believe the currently proposed architecture is
1102 more in keeping with development in the nearby Deep Run Business Center.

1103
1104 The materials and appearance of the buildings are proffered. There was a question about the two
1105 exhibits that are referenced on the proffers that you received tonight that were not included in the
1106 packet sent to the Planning Commission. I just received those Tuesday morning, and was able to
1107 meet with Mr. Bittner and submit them as part of the proffers filed, but I apologize for not having
1108 submitted them to you. But I believe you have them before you tonight. The drawing suggests
1109 brick and glass and that's what the labels on the drawings definitely confirm.

1110
1111 The proffers specify that retail sales may be only conducted from 8,000 square feet of floor area
1112 devoted to the sale of flooring and related items which must be oriented to the Stillman Parkway
1113 and not to Mayland Drive or Pemberton Green. And that also was a change from the previous
1114 case.

1115
1116 As indicated a few months ago, in connection with the earlier case, approval of this case will allow
1117 Costen Floors to relocate to the subject site and remain as a significant employer and taxpayer
1118 within Henrico County. The proffers assure that the development of the entire parcel will be
1119 undertaken in a quality manner, and also the proffers place operational controls for future users of
1120 the property.

1121
1122 In addition, development of the property, pursuant to the requested rezoning, should have less
1123 impact on area traffic than development pursuant to its existing zoning. There's less square
1124 footage is likely to be developed on the property. And Office/Service uses can be expected to
1125 generate less traffic than Office development. The request is consistent with other zoning in the
1126 area, as there is, as you can see from the slide, significant M-1 conditional zoning on the west line
1127 of Stillman Parkway and on the south line of Mayland Drive across from the site.

1128
1129 In discussing the case with Mrs. Wade, she asked that we consider limiting the intensity of lighting
1130 at boundaries of the property to a maximum of one-half foot candle as we had done on Mayland
1131 Drive. That was really a carry over from the previous case.

1132
1133 I will amend, assuming this case goes forward, after tonight, I will amend the proffer to include a
1134 limitation on all abutting roadways and on the northern boundary of the property, abutting along
1135 that entire northern boundary of the parcel. However, my client has asked me to indicate to you
1136 that they are a little concerned, after having talked to their insurance carrier about a potential
1137 liability and also safety issues relating to the lack of lighting. So, if we find that there are safety
1138 problems arising from that lighting limitation, particularly in the back, we could be coming back to
1139 you. I hope that won't be necessary, but I wanted to point that out to you.

1140
1141 A couple of other issues that have been discussed, Mr. Bittner discussed with me, that we will
1142 commit to tonight and that we will proffer the BMP along Stillman Parkway. First of all, we are not
1143 absolutely sure that will be a BMP. We think that it will be. We will proffer that area will be
1144 landscaped in a manner approved by the Planning Commission at the time of landscape plan
1145 review. So, that will give this Commission the opportunity to review and consider and discuss
1146 appropriate landscaping for that area.

1147
1148 Secondly, with respect to access to Pemberton Road, we have discussed this matter with Bell-
1149 Atlantic. We will not add a new access to Pemberton Road. If there is access provided to this site
1150 from Pemberton Road, it will either be by way of the existing access serving the Bell-Atlantic site,
1151 or a new access, which will also provide access for Bell-Atlantic, in effect, a relocated access on

1152 Pemberton Road serving both parcels. There will be a maximum of one access to Pemberton
1153 Road. We will proffer that.

1154
1155 We would submit that all jurisdictional prerequisites for the Planning Commission to recommend
1156 approval of the request are satisfied. For the foregoing reasons, we ask that you recommend
1157 approval of this request to the Board of Supervisors, subject to the amended and restated
1158 proffered conditions. I'll be happy to answer questions the Planning Commission members may
1159 have.

1160
1161 Mr. Archer - Thank you, Mr. Moore. Are there questions for Mr. Moore by the
1162 Commission?

1163
1164 Mrs. Wade - I think Mr. Bittner raised some issues that expressly related to the
1165 Bell-Atlantic parcel; the future use, covenants, and...

1166
1167 Mr. Moore - Well, my intention with the Bell-Atlantic parcel is, and Mr. Bittner
1168 and I were just discussing this, this afternoon. But my understanding is, and I can't tell you I've
1169 researched it thoroughly, and I tried to do it before I came here tonight, and I couldn't find the
1170 answer. But my understanding is that public utility companies are not subject to the Zoning
1171 Ordinance. So, what I'm trying to say, when this is used by some user other than a public utility
1172 company, that user will have to comply with the proffers. I'm happy to reword that in a manner
1173 that picks up the actual limitations that are under State law, but I'm not sure what they are. That's
1174 my intention. We will clarify that before this goes to the Board. Is that a response to your
1175 question, Mrs. Wade?

1176
1177 Mrs. Wade - If what you say is the case, yes.

1178
1179 Mr. Moore - And certain of the proffers, actually, for example, the architecture
1180 proffer is intended, if they did an addition even now is intended to be applicable.

1181
1182 Mrs. Wade - If they were going to add on, setback rules and things like that
1183 would not apply, because they're a utility?

1184
1185 Mr. Moore - I don't know the answer to that, Mrs. Wade. All I'm saying is, a
1186 number of these conditions relating to lighting, trash location; all those things would be applicable
1187 if this were ever sold to a non-utility user. I mean they've been there for a number of years.
1188 They've operated a certain way. I think they want to be able to continue operating in that manner.
1189 That's also the intent of the proffer as well.

1190
1191 Mr. Bittner - I have one thing to add, if I could, about the question of public
1192 utilities. The question whether those are governed by our Zoning Ordinance regulations, I
1193 discussed that with the Zoning Administrator today. We are in agreement. We feel that they are.
1194 Section 24-12c of the zoning ordinance requires not only telephone switching stations, but several
1195 other public utility uses to get a Special Exception for the A-1 District, as well as all the "R"
1196 districts. So, we feel that, based on that, at least, public utilities such as this, such as anything for
1197 Virginia Natural Gas or Virginia Power or even County sewer and water stations would have to
1198 adhere to zoning ordinance regulations and proffered conditions.

1199
1200 Ms. Dwyer - Mr. Moore, I understand that Parcel 21C has been removed from
1201 the case. But I guess, to me, that puts even more pressure on parcel 21C at some later date to

1202 be rezoned to something certainly more intensive than the "O" use, if they're essentially
1203 surrounded by M-1. Does your client also own Parcel 21?
1204
1205 Mr. Moore - Well, my client is contract purchaser of all of that land.
1206
1207 Ms. Dwyer - That's the most sensitive part, because it's right across from...
1208
1209 Mr. Moore - It is sensitive, but there was just a zoning case denied on it a few
1210 months ago, too. So, I mean that certainly sends a clear message...
1211
1212 Mrs. Wade - What there was on this piece...
1213
1214 Mr. Moore - That's true. But that, was, I believe, my feeling was that was denied
1215 primarily because of opposition from the Pemberton Green Owners Association. This case is
1216 more remote from Pemberton Green; the property that's included in this case.
1217
1218 Mrs. Wade - Now, there was certainly opposition. Have you been to the
1219 Pemberton Green Association; described what you are going to do, and discussed this with them?
1220 I don't know when you got the staff report. I didn't hear from you until Tuesday, and I think that's
1221 after Mr. Bittner called you. And then along came the proffers, and so there really hasn't been a
1222 lot of time to talk about this. It certainly has merit that the other one didn't have that possibly you
1223 could sell...
1224
1225 Mr. Moore - I received the site plan and the architectural drawings the middle of
1226 last week, because Friday was a holiday. On Tuesday, I met with Mr. Gillikin. I think I got the
1227 drawings on Tuesday or Wednesday. I met with Mr. Gillikin Thursday morning, and gave him
1228 copies of the colored drawings. I gave him a copy of the staff report, and I gave him a copy of the
1229 proffers. I summarized the changes. He is the President of the Association. I have also spoken
1230 briefly with two other Board members. They are both there tonight. I'm sure they can comment
1231 on the contact that I've had.
1232
1233 I've told Mr. Gillikin also. That was not the first contact I had with him. I called him right after I
1234 filed the case to tell him that we had filed the case that I would get with him when I had things to
1235 show him. I regret that we didn't have those exhibits sooner, but as soon as I had them, I
1236 certainly made them available to him as President of the Association.
1237
1238 Mrs. Wade - Well, you know how Associations work?
1239
1240 Mr. Moore - Well, I think they have a three-person board.
1241
1242 Mrs. Wade - Let me get back to the case. Now, under the current zoning for the
1243 property, is there not a site coverage maximum?
1244
1245 Mr. Moore - I don't believe so.
1246
1247 Mrs. Wade - It's not 65 percent with the existing proffers?
1248
1249 Mr. Moore - I wouldn't swear that there is not. I don't remember that there is. Is
1250 it?
1251

1252 Mrs. Wade - I dug out my old one. I believe I saw that. We'd have to go back to
1253 the original case—the Office case which, of course, was all part of West Park and the
1254 metamorphosis.
1255
1256 Mr. Moore - I don't have those proffers with me, but it could have been.
1257
1258 Mrs. Wade - Whose SJM of Richmond?
1259
1260 Mr. Moore - It is an entity in which John Nolte is the principal and Ralph Costen.
1261 The intent is that Ralph would own Building No. 1, and John's company would own Building No. 2,
1262 and the possible expansion area would probably be for Costen Floors. As I've said, Costen
1263 Floors operation would be oriented to Stillman Parkway. The side of the building would face
1264 Mayland Drive. I might also point out, that side which is a brick wall will be landscaped as shown
1265 on the site plan.
1266
1267 Mrs. Wade - What do you mean by "decorative masonry?"
1268
1269 Mr. Moore - "Decorative masonry," split-face block. It would have to be painted.
1270 Mrs. Wade - "Decorative masonry or split-face block," something other than...
1271
1272 Mr. Moore - That would be an example. It would be a block unit, I guess, similar
1273 to what you have in the Deep Run Business Center. It could be that and in Gaskins Place. You
1274 have that on the back of that building that backs up to the oil change facility. That's a painted
1275 block. It could be like that.
1276
1277 Mrs. Wade - "Painted block," you're using those terms? Decorative masonry is
1278 not painted, I don't think. Anyway. Thank you. That's why I thought we would clarify some of
1279 these terms, because we have different ideas about what they are. The attorney is always
1280 pointing out the fact that it's hard sometimes to apply these things when the buildings come
1281 around. Okay. That's all I have. Thank you.
1282
1283 Mr. Archer - Okay. Are there further questions for Mr. Moore by the other
1284 Commission members? I think we had some opposition. Opposition?
1285
1286 Mr. Chris Parcell - I'm the Vice-President of the Pemberton Green Homeowners
1287 Association. I guess, first off, I'd like to pass out a letter. I'm not going to read it from Southern
1288 Health, again, just stating opposition to the project. I'll summarize it. It's mainly due to the
1289 delivery trucks and tractor-trailer deliveries that will be made into the rear entrance along Stillman,
1290 which, I believe, is in fairly close proximity to the rear entrance of the Westpark Shopping Center.
1291 That area is heavily congested now during the day, as is, you know with constant traffic coming
1292 through. That would just make it worse.
1293
1294 Southern Health, and I know Mr. Moore has argued this before, although they're zoned M-1
1295 Conditional, they are being used as an office building without significant changes to the buildings.
1296 That's what it's going to remain. The cost per square foot that Southern Health feels this building
1297 would be built with is usually of a lower cost than an office building just because of the buildout on
1298 the inside. They feel that's going to hurt their property values, should they have to sell. They are
1299 near capacity now as far as employees. They can't squeeze many more inside the building.
1300
1301 I'm not going into everything that he said at the last one. I just, I guess, question the decision that
1302 this is significantly different. I know, personally, I didn't have problems with the site plan or the

1303 building layout. It was the use, in general, the retail aspect of the building. We worked hard with
1304 Mr. Moore to get a building that we could agree on, for the most part, but it was just the
1305 showroom; the Costen Floors aspect of the building that I personally disagreed with. That's really
1306 all I've got to say that hasn't been said in the past.

1307
1308 Ms. Dwyer - One of the statements in the Southern Health letter states that an
1309 entrance on Mayland Drive across from Pemberton Green would be the least disruptive place for
1310 an entrance. Would you agree with that?

1311
1312 Mr. Parcell - I mean I know I wouldn't want another entrance from my
1313 townhouse, but if you add more traffic going into the Bell-Atlantic entrance, if they are relocated
1314 right past the Ukrops on the other side, that's going to put more traffic. If you put an entrance
1315 along Stillman for delivery traffic, and I believe in the proffers it says, "signage would redirect
1316 trucks around into that entrance." That's going to cause heavier traffic. Further west, along
1317 Mayland, there's a sharp turn coming out of Southern Health that the building that's being
1318 constructed now. Their entrance is directly across from that. Nobody obeys the 35 mph speed
1319 limit anyway. The more traffic with the larger vehicles going through there, somebody is going to
1320 be seriously injured. An entrance located further down would be, I think, the least disruptive.

1321
1322 Ms. Dwyer - I assume your Association would not want an entrance there?

1323
1324 Mr. Parcell - Right. I mean there's really no perfect place for it. But, you know, I
1325 think along Pemberton, along Stillman, you know, I think where the proposed entrance is now is
1326 okay. It's right in a curve. It's not the best, your know, even though they're not asking to rezone,
1327 what is it, 21C. It's inevitable that is they get this one through. That one is going through to M-1
1328 conditional and there's going to be another entrance that may not necessarily access that parcel,
1329 but the one on the corner of Pemberton and Mayland. I think it's too many roads. Much more
1330 traffic coming through there for that type of business. I walk down that road every day, so I know
1331 what the traffic is like.

1332
1333 Mr. Archer - Are there any further questions? Okay. Was there further
1334 opposition?

1335
1336 Ms. Sue Purvis - Good evening, Mr. Chairman, and members of the Commission, I'm
1337 Sue Purvis, and I own a townhouse at 9910 Whitney Circle in Pemberton Green. And I'm the
1338 Secretary/Treasurer for our Association and have been on the Board and owned a unit since
1339 1989.

1340
1341 Our concerns and objectives are basically the same as when we discussed this case back in the
1342 Spring. In the Spring this Commission recommended denial of the case mainly because the M-1
1343 zoning, and its associated uses, I guess, simply were not compatible with our residential
1344 community.

1345
1346 On a positive note, I will say that the architecture of the building, from a quality perspective, has
1347 improved. However, I am more convinced that this type of development would adversely affect
1348 our property values as homeowners. As Chris said, we are also concerned, very concerned
1349 about the traffic, especially the commercial truck traffic. Trucks and children just simply do not
1350 mix.

1351
1352 The revised proffers do address issues such as delivery times, trash collection, exterior storage,
1353 and maximum warehouse square footage. However, we believe that the County officials time that

1354 would be required to enforce these issues is probably excessive and is also realistically
1355 impossible to enforce all of these types of issues. We might also point out, in M-1 development,
1356 there is conceivably a 24-hour operation.

1357
1358 This plan also, as was presented right now, provides for absolutely no buffer between our
1359 townhouses and these buildings. The proposed M-1 zoning lines of this case are very
1360 strategically laid out on paper so that they do not touch our RTH zoning. Well, I think we both
1361 know that this line is a line that appears on paper, but in the real world, the line really isn't going to
1362 be there, and when we come walking out of our front doors, we're going to see the development
1363 whether that M-1/O-2 line is there or not.

1364 For the record, we also want to state, that since the originally proposed M-1 development was
1365 denied by the Board I believe back in March, we have not had any formal meetings or discussions
1366 that have taken place between our community and the developer. As a Board member, being a
1367 holiday weekend, I didn't receive any of this information until Monday evening. What this says to
1368 me is that, obviously...concerns and our efforts to preserve our residential community.

1369
1370 On paper, the M-1 zoning line, although it doesn't touch our RTH Residential zoning, we do
1371 believe it still has all the negative effects of M-1 zoning and we would feel them.

1372
1373 I guess the bottom line, as we see it, when you get up on Sunday morning and go out front and
1374 pick up your Sunday paper and look around, is this really what you want to see when you're
1375 standing in your front yard? I don't want to see it. My neighbors don't want to see it. And I don't
1376 believe that you want to see it. In the Spring when you denied the case, and we ask that you do
1377 the same thing, tonight, and recommend denial of this case to the Board. Thanks for your time.

1378
1379 Mr. Archer - Thank you, Ms. Purvis. Are there questions of Ms. Purvis by the
1380 Commission?

1381
1382 Mrs. Wade - Do you think there would be anything to be gained by you all talking
1383 to the applicant?

1384
1385 Ms. Purvis - We were not involved in the layout of this plan. It was just
1386 presented to us. I don't know there's—the bottom line, it's M-1. It's residential and they don't mix.
1387 That's a pretty strong footing that we're going to stand on right now.

1388
1389 Mr. Archer - Okay. Further questions of Ms. Purvis? Thank you, ma'am. Okay,
1390 Mrs. Wade, do you need to hear from Mr. Moore again?

1391
1392 Mrs. Wade - I assume he has rebuttal.

1393
1394 Mr. Archer - Mr. Moore.

1395
1396 Mr. Moore - I'll try to address a few of the comments, Mr. Chairman. With
1397 respect to Southern Health's opposition, to delivery trucks and their concern about traffic, again,
1398 I'll repeat what I said earlier. This would generate less traffic than office development on this
1399 property. I think that any traffic engineer will tell you that's likely to occur.

1400
1401 Mr. Costen, with respect to the tractor trailers coming to the site, he probably has two tractor
1402 trailers a week making deliveries to his site. So, I don't think tractor trailer traffic is going to be a
1403 significant concern at this site. It's particularly for Southern Health. Again, Southern Health has a
1404 piece of land undeveloped immediately adjacent to them which is also immediately adjacent to the

1405 townhouse community. It's between the two sites. It's zoned M-1. It doesn't have nearly the
1406 controls with respect to architecture, uses, delivery times; things of that nature, that this particular
1407 case has. I met with a representative of Southern Health, but I'm really not sure I understand their
1408 opposition. Furthermore, immediately across the street from Southern Health is you have
1409 Gaskins Centre which is precisely the type of development that we're talking about here. It
1410 doesn't seem to me that's bothered them one bit. So, I really don't understand their opposition.

1411
1412 With respect to the showroom, Mr. Parcell pointed out he objected to the showroom. First of all,
1413 as you know, its very limited. Furthermore, it's not oriented to Stillman Parkway, and its further
1414 away from Pemberton Green residents. I think that's clearly an indication that we are aware of
1415 their concerns and did want to get that away from them.

1416
1417 Ms. Purvis said the M-1 is not compatible with the residential community. You've got immediately
1418 south of Pemberton Green, you have an R-4A zoned development. Beneath that R-4AC backs
1419 up to M-1C zoning, some of which is developed, some of which is undeveloped. It seems with the
1420 property controls, that has worked very well.

1421
1422 We eliminated some uses, or one particular use; the computer operation that Mr. Parcell
1423 mentioned in discussion on the last case, because of the possibility of 24-hour operation. We also
1424 got rid of any possibility of outside storage. Everything is, basically, going to be done inside the
1425 building. So, whether not a lawyer, doctor, or somebody working in a warehouse is inside, it
1426 seems to me it shouldn't make any difference.

1427
1428 Also, with respect to the buffering separating this property, there is a 25-foot buffer on Mayland
1429 Drive proffered as part of the O-2 zoning case. I will say that we certainly are very interested in
1430 the concerns of the neighbors. We had extensive meetings with them in connection with the
1431 previous case, and made numerous changes to the proffers in an effort to address their concerns,
1432 which we weren't ever able to satisfy them. But, I can assure you, most of those limitations in the
1433 proffers are a result of comments made, and concerns expressed, in those meetings.

1434
1435 The office development will occur across from Pemberton Green. That's the zoning that was in
1436 place when Pemberton Green was developed. That's the development that the residents should
1437 expect to see in the future. I'll be happy to answer any other questions that Commission
1438 members may have.

1439
1440 Mr. Archer - Mr. Moore, Ms. Purvis raised the question about M-1 being
1441 conducive to 24-hour operation. Did you have any condition that spoke to that issue?

1442
1443 Mr. Moore - Actually, as Mrs. Wade just said, O-2 conditional also allows 24-
1444 hour operation. You know I don't remember this being an issue before, except for the fact we did
1445 get rid of the use where you had the computer, I guess something like Capital One has with shifts
1446 changing all the time. There was a concern there may be shifts changing at 3:00 in the morning.
1447 So, we have eliminated that use, because we could understand the concern for that. But the type
1448 of use that we have here, even if you had 24-hour operation, which I don't anticipate, why it would
1449 matter. It's all inside. I don't see where it would be a problem. But that's not to say that we
1450 wouldn't consider something. We really were never asked to consider anything more specific that
1451 I can remember concerning that.

1452
1453 Mr. Archer - I was asking merely in response to her question to see if you had a
1454 response to that.

1455

1456 Mr. Moore - Well, I would think, clearly, with respect to the retail, we could limit
1457 that. We don't intend to have a 24-hour retail operation. We could limit Mr. Costen's showroom
1458 operation to something that would be consistent with normal retail.
1459
1460 Mr. Archer - Okay. Further questions for Mr. Moore?
1461
1462 Mrs. Wade - One more thing about the buffer. How much buffer are you
1463 providing here on the west end? I don't see it addressed any place in the proffers. We think the
1464 BMP is going to go there. But it seemed to me the other previous case you had...
1465
1466 Mr. Moore - It was at least 50 feet. I think somebody said 60 feet. I would say
1467 it's at least 50. But, again, the reason that it's 50 feet, it's across the street from M-1 zoning and
1468 B-2 zoning, the reason that it's 50 feet or 60 feet, whatever it is. That's what will be needed to
1469 accommodate the BMP, we believe.
1470
1471 Mrs. Wade - And how about the little strip along Mayland there behind that? It's
1472 a little hard to tell about that.
1473
1474 Mr. Moore - It's not proffered. That's not proffered.
1475
1476 Mrs. Wade - Of course, some of that is going to be visible from the townhouses,
1477 or would be visible from the townhouses.
1478
1479 Mr. Moore - It will be visible, but you will have landscaping and also office
1480 development. You're not going to have buildings blocking the whole thing. I'll concede that. But,
1481 clearly, you're going to have further separation from the M-1 buildings than you would under the
1482 previous plan.
1483
1484 Mrs. Wade - It's a little hard to visualize development on the rest of it given the
1485 plan you've got for the back part. But anyway. Okay. That's all for right now for me.
1486
1487 Mr. Archer - Any other Commission members have questions of Mr. Moore? All
1488 right, Mrs. Wade.
1489
1490 Mrs. Wade - I need more time to think about this. I didn't get these proffers until
1491 Tuesday. My second Wednesday is always a full day. I'm still a little surprised, especially with all
1492 of the meetings you had with the neighbors before that, you've come back with another plan that
1493 you're trying to sell, that you didn't get with them. I think we've heard their main concerns.
1494 According to them, there doesn't seem to be any way to do this that's going to satisfy their
1495 concerns. But, I would like to take two weeks anyway to take the new proffers in hand and go out
1496 there on the site for my own edification. We've heard the neighbors concerns. It will be a daytime
1497 meeting. So, you know, if you can't come, we'll understand. You can send a representative or
1498 you could write a note or something if you have any further thoughts that maybe you'll be hearing
1499 more from Mr. Moore in the meantime. There are some proffers that, apparently need to be
1500 cleaned up that he's already mentioned that he could do in that time, along with some of my
1501 concerns and the staff's also. So, I would move that Case C-49C-98 be deferred to the 28th of
1502 July.
1503
1504 Mr. Vanarsdall seconded the motion.
1505

1506 Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall to defer
1507 to the 28th of July. All those in favor say aye—all those opposed by saying nay. The vote is 5-0
1508 (Mr. Donati abstained).
1509
1510 Mr. Merrithew - Mr. Chairman, I wonder if I could do the deferrals for the 8:00
1511 o'clock agenda and then if there's anybody waiting who has a case.
1512
1513 Mr. Archer - Yes. Let's do that. Mr. Merrithew.
1514
1515 Mr. Merrithew - Thank you, Mr. Chairman. In the Varina District:
1516
1517 **Deferred from the June 11, 1998 Meeting:**
1518 **P-17-98 Susan Stancil for Nextel Communications:** Request for approval
1519 of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of
1520 the County Code in order to construct and operate a communication tower up to 199' high and
1521 related equipment and improvements, on part of Parcel 217-A-30, containing 2,500 sq. ft., located
1522 at 3622 Darbytown Court on the east side of Interstate 295. The site is zoned A-1 Agricultural
1523 District. The site is also in the ASO Airport Safety Overlay District.
1524
1525 They have requested a deferral until August 13, 1998.
1526
1527 Mr. Archer - Is any one here in opposition to deferment of P-17-98 Susan Stancil
1528 for Nextel Communications?
1529
1530 Mr. Zehler - Mr. Chairman, I move that Case P-17-98 be deferred to August 13th
1531 per applicant's request.
1532
1533 Mr. Vanarsdall seconded the motion.
1534
1535 Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All
1536 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
1537 abstained).
1538
1539 Mr. Zehler - There's a good possibility, Mr. Chairman, that case will be
1540 withdrawn.
1541
1542 Mr. Archer - Is there?
1543
1544 Mr. Zehler - Yes. It's a very good possibility.
1545
1546 Mr. Archer - Thank you, sir. It might help a little bit.
1547
1548 Mr. Merrithew - The next case, P-25-98.

1549
1550 **P-25-98 Heidi H. Parker for 360 Communications Company:** Request for
1551 approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of
1552 Chapter 24 of the County Code in order to construct, operate and maintain a communication
1553 tower up to 199' high and related equipment and improvements, on part of Parcel 249-A-30,
1554 containing 4,200 sq. ft., located on the east line of Buffin Road, approximately 1200' northwest of
1555 Interstate 295. The site is zoned A-1 Agricultural District.

1556
1557 This request for deferral is to August 13th.

1558
1559 Mr. Archer - Is any one here in opposition to the deferment of P-25-98 Heidi H.
1560 Parker for 360 Communications Company?

1561
1562 Mr. Zehler - Mr. Chairman, I move that Case P-25-98 be deferred to August 13th
1563 per applicant's request.

1564
1565 Mr. Vanarsdall seconded the motion.

1566
1567 Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All
1568 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
1569 abstained).

1570
1571 Mr. Zehler - That case, likewise, will possibly be withdrawn, Mr. Chairman.

1572
1573 Mr. Archer - Okay. We probably could say August 13th/14th? All right, Mr.
1574 Merrithew.

1575
1576 Mr. Merrithew - Mr. Chairman, the last deferral that I have this evening is P-28-98,
1577 still in the Varina District.

1578
1579 **P-28-98 Ellen L. Vogel for Triton PCS, Inc.:** Request for approval of a
1580 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the
1581 County Code in order to construct, operate and maintain a communication tower up to 199' high
1582 and related equipment and improvements, on part of Parcels 142-13-B-9 and 11, containing 2,500
1583 sq. ft., located on the southwest line of Nine Mile Road, approximately 100' west of Battery
1584 Avenue (St. Johns Catholic Church property, 813 W. Nine Mile Road). The site is zoned R-2A
1585 and R-4 One-Family Residence Districts.

1586
1587 They have requested a deferral until August 13th.

1588
1589 Mr. Archer - Is any one here in opposition to the deferment of P-28-98 Ellen L.
1590 Vogel for Triton PCS, Inc.? Mr. Zehler.

1591
1592 Mr. Zehler - Mr. Chairman, I move that Case P-28-98 be deferred to August 13th
1593 per applicant's request.

1594
1595 Mr. Vanarsdall seconded the motion.

1596
1597 Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All
1598 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
1599 abstained).

1600
1601 Mr. Merrithew - Thank you, Mr. Chairman.
1602

1603 **Deferred from the June 11, 1998 Meeting:**

1604 **C-33C-98 Phyllis J. Moorefield:** Request to conditionally rezone from R-2A
1605 One Family Residence District to R-2AC One Family Residence District (Conditional), Parcels 79-
1606 A-22, 23 and 24, described as follows:

1607
1608 PARCEL 1: ALL that certain lot, or parcel of land in Tuckahoe District, Henrico County, Virginia,
1609 situated at the western end of Tuckaway Lane and west of Three Chopt Road, with the
1610 improvements thereon and appurtenances thereto belonging, containing 11.13 acres and being
1611 more particularly described as follows:

1612
1613 Beginning at a point in the southwest line of a ten foot road for the common use of the property
1614 and other lands adjoining said road, which point is the center line of a ten foot road in common
1615 for the use of this land and that adjoining on the southeast; thence following the center of said
1616 last mentioned road S. 1° 51' 15" W. 27.56 feet to a point; thence S. 30° 15' 15" W. 36.60 feet to
1617 a point; thence S. 65° 17' 15" W. 53.00 feet to a point; thence S. 54° 52' 15" W. 46.52 feet to a
1618 rod; thence N. 89° 20' 30" W. 173.50 feet to a rod; thence S. 10° 53' W. 354.00 feet to a rod;
1619 thence N. 80° 36' 15" W. 246.04 feet to a rod; thence N. 79° 01' 15" W. 565.65 feet to a rod;
1620 thence North 78° 27' 50" W. 150 feet to a rod; thence North 10° 13' W. 92.86 feet to a rod;
1621 thence North 55° 12' E. 451.42 feet to a rod; thence South 34° 57' 50" E. 191.85 feet to a rod;
1622 thence North 55° 02' 10" E. 711.15 feet to a rod on the southwest line of the 10 foot road in
1623 common above mentioned; and thence S. 37° 19' 45" E. along the southwest line of said road
1624 410.05 feet to the point and place of beginning. Further reference is made to a plat made by A.
1625 G. Harocopos & Associates, P. C., Certified Land Surveyor and Consultant, dated September
1626 30, 1977, recorded in Plat Book 67, Plat #5, Clerk's Office, Circuit Court, Henrico County,
1627 Virginia.

1628
1629 Being the same real estate conveyed to Linwood W. Moorefield and Phyllis J. Moorefield, his
1630 wife, by deed from First & Merchants National Bank and Lenora M. Grigg, Surviving Trustees
1631 under the Will of John Edward Grigg, deceased, dated October 6, 1977, recorded October 7,
1632 1977, Clerk's Office, Circuit Court, Henrico County, Virginia, in Deed Book 1731, page 760.

1633
1634 PARCEL 2: ALL that certain piece or parcel of land together with improvements thereon and
1635 appurtenances thereunto belonging, lying in Tuckahoe District of the County of Henrico,
1636 Virginia, and as shown on a plat of survey entitled "2.10 Acres of Land Located on the Western
1637 Line of a 10' Road in Common and North of Tuckaway Lane, Henrico County, Virginia,,," made
1638 by A. G. Harocopos and Associates, P. C., dated August 25, 1983, recorded with the hereinafter
1639 mentioned deed, to which plat reference is hereby made for a more particular description of the
1640 property.

1641 Being the same real estate conveyed to Linwood W. Moorefield and Phyllis J. Moorefield,
1642 husband and wife, by deed from Horace T. Lucas, Jr., Trustee, dated August 26, 1983,
1643 recorded August 30, 1983, Clerk's Office, Circuit Court, Henrico County, Virginia, in Deed Book
1644 1886, page 990.

1645
1646 Beginning at a rod at the end of Lyndonway Drive and being a point marking the western line of
1647 a 10 foot road in common. Thence along the western line of 10 foot road in common S 37° 38'
1648 55" E 190.05 feet to a rod. Thence S 55° 02' 10" W a distance of 483.65 feet to a rod. Thence N

1649 34° 57' 50" W 191.20 feet to a rod in the south line of Lot 6, Block Q, Section 9, Pinedale Farms.
1650 Thence along the southern line of Lots 6, 5, 4, 3 & 1 of Block Q, N 55° 12' 00" E 474.75 feet to a
1651 point and place of beginning containing 2.10 acres more or less.
1652

1653 Mr. Archer - Is there any one here in opposition to C-33C-98 Phyllis J.
1654 Moorefield? We have opposition. We'll get to you, sir.
1655

1656 Ms. Jo Ann Morgan Hunter - This case was deferred at our June Planning Commission meeting
1657 in order for the applicant to revise the requested rezoning from A-1C to R-2AC as recommended
1658 by the staff.
1659

1660 The property is completely surrounded by single family and multi-family development and has
1661 access from a narrow private road. New proffers have been handed out this evening. No content
1662 change has been made, but just the language has been clarified. The proffers state that no more
1663 than three dwellings may be permitted on the three tax parcels that the applicant owns.
1664

1665 The rezoning is being requested because the applicant was advised by the Assessors Office that
1666 if the property had a proffer that limited the development potential, it could reduce her real estate
1667 assessment. This assessment is currently being based on the full development potential of the
1668 property.
1669

1670 The staff does have some concerns with rezoning to adjust for tax purposes. There's concern
1671 that it could be precedent setting. There are other alternatives that are available to the applicant
1672 in which she can pursue to reduce her tax assessment.
1673

1674 Two of the alternatives include the Elderly Tax Program and the Land Use Program which would
1675 assess the land on the use value, rather than market value. On the other hand, there are
1676 residents to the west, which is Pinedale Subdivision, and they are very concerned that if this
1677 property were to be developed, then Lyndonway Drive would be extended. Approval of the
1678 request, as proffered, would eliminate the need for any extension of Lyndonway Drive for access
1679 purposes.
1680

1681 If the Commission determines that the zoning process is an appropriate measure to reduce the
1682 real estate assessment, then the staff would not object to this proposal. I'd be happy to answer
1683 any questions.
1684

1685 Mr. Archer - Thank you, Ms. Hunter. Are there questions for Ms. Hunter from
1686 the Commission? Do you need to hear from the applicant?
1687

1688 Ms. Dwyer - Just for a minute.
1689

1690 Mr. Archer - All right, is the applicant present?
1691

1692 Ms. Dwyer - Mrs. Moorefield.
1693

1694 Mrs. Phyllis Moorefield - Good evening.
1695

1696 Ms. Dwyer - I have just one clarification. It's your intent to have only three
1697 dwellings on the total of the three parcels, that's correct, and not three dwellings on each of the
1698 parcels?
1699

1700 Mrs. Moorefield - Yes.
1701
1702 Ms. Dwyer - I might recommend to clarify that point if we could say, "No more
1703 than three dwellings may be permitted in the aggregate of Tax Parcels..." Add that language, "the
1704 aggregate of" before tax parcels to make it clear that we are talking about the sum total of the
1705 three parcels. Is that acceptable?
1706
1707 Mrs. Moorefield - Yes. That is.
1708
1709 Ms. Dwyer - Thank you.
1710
1711 Mrs. Moorefield - You're welcome.
1712
1713 Mr. Archer - Thank you, Mrs. Moorefield. I believe we had some opposition.
1714 Come on down, sir, and state your name for the record, please.
1715
1716 Mr. Barry Yaffe - I'm a resident of Pinedale Farms. This property backs up to our
1717 property. The clarification on the number of residents permitted was something I was not sure
1718 about before, so that does help some. But we are concerned about the entrance to the parcels.
1719 Right now, there is one very narrow road going into that. If, at some time, in the future, residences
1720 are actually built there; possibly more residences in the future, the road would not be large
1721 enough to carry the traffic. Other roads might have to be entered into which might affect our quiet
1722 neighborhood of Pinedale Farms. Unfortunately, I'm not familiar with this venue. It's my first
1723 time here, but we are very concerned about the roadways going into it and the number of
1724 residences that might ultimately, if this gets started, might ultimately wind up on this property.
1725 Thank you.
1726
1727 Ms. Dwyer - What is it about this zoning case that you're in opposition to, or
1728 are you just here to voice concerns in general about the road system?
1729
1730 Mr. Yaffe - I'm here to voice concerns – Right now there are no residences on
1731 this land right now. If they start construction of residences, that's going to change the makeup
1732 of the area behind my Pinedale Farms area. I'm also concerned about road access to the area.
1733
1734 Ms. Dwyer - Let me just say, I believe there are two dwellings on these parcels
1735 now. This would permit only three. According to the zoning, many more than that could be
1736 added. If this were not rezoned, let's see, how many? About two to three per acre roughly?
1737 About 26. So, with no rezoning, you could have 26 lots, theoretically, on this parcel. But with
1738 this zoning, you could only have three.
1739
1740 Mr. Yaffe - Okay. I didn't have that information.
1741
1742 Ms. Dwyer - So, we're reducing from a potential of 26 lots down to three. I
1743 think there's some problems with wetlands and that kind of thing. You probably couldn't actually
1744 get 26 on there. But what she's doing is committing that they are zoning this so there could be
1745 only a maximum of three houses on this whole parcel of land.
1746
1747 Mr. Yaffe - I now understand that. So, I guess my only concern now is the
1748 roadway entrances to the property.
1749
1750 Ms. Dwyer - I can't imagine that this changes anything.

1751
1752 Mr. Yaffe - I'm just concerned, if anything is done in that area where
1753 residences are built, I'm concerned with the current roadways being able to handle even a few
1754 more residences there.
1755
1756 Ms. Dwyer - You're talking about Tuckaway Lane?
1757
1758 Mr. Yaffe - Yes.
1759
1760 Ms. Dwyer - So your concern is with potential future development, but now you
1761 understand this case doesn't involve that?
1762
1763 Mr. Yaffe - I'm concerned about what might happen in the future. Right.
1764
1765 Ms. Dwyer - All right. Thank you. Could I have your last name again, sir. I
1766 didn't catch that.
1767
1768 Mr. Yaffe - Yaffe.
1769
1770 Mr. Archer - Oh. I spelled it right. Did you need to hear from Mrs. Moorefield
1771 again?
1772
1773 Ms. Dwyer - I think there may have been...
1774
1775 Mr. James L. Jenkins - I don't think there's any other opposition. For the record, I'm
1776 James L. Jenkins. For a number of years I've represented the Pinedale Farms Civic
1777 Association, as their legal officer. Obviously, Mr. Yaffe has expressed concerns here,
1778 concerning the road network. I'm here to support Mrs. Moorefield's request. Obviously, she's
1779 asking to go to a zoning classification that would restrict the number of units. As is pointed out
1780 in the staff report, this would eliminate any need for the extension of Lyndonway Drive. That's
1781 something that the Pinedale Farms community worked very hard on with the staff in a whole
1782 special study of how the road network would work in that area. So, the Pinedale Farms
1783 community, overall, will support this, with the changes that have been made, as an appropriate
1784 rezoning for the property. At the same time I think it is a good exercise, that all the people who
1785 were here at the last meeting, let the Commission know that we still have a concern over any
1786 suggestion in the future, particularly as the Library's plans start to be formulated, for the
1787 connection of Lyndonway Drive to any of the streets outside of Pinedale. Thank you.
1788
1789 Mr. Archer - Thank you, sir. All right, Ms. Dwyer.
1790
1791 Ms. Dwyer - I'm not sure that I'm prepared to agree that rezoning is an
1792 appropriate way to reduce one's tax liability. I want to make it clear that I'm not in agreement
1793 with that. However, this rezoning case may, in fact, accomplish that purpose for the owner, but I
1794 think it also really affords the surrounding neighborhood more protection than they have now.
1795 Right now, there could be a number of dwellings built on this property as a matter or right which
1796 could potentially open up questions of access to the property that are of a concern to the
1797 Pinedale Farms neighborhood.
1798
1799 This limits development on the property to three dwellings. There are already two dwellings.
1800 The most this could add, obviously, one more home, which I don't think would overburden
1801 Tuckaway Lane, even though it is a very narrow and small roadway.

1802
1803 So, I think another benefit really is to the surrounding community that we are limiting the number
1804 of houses on this parcel. And, if anyone in the future were ever to come in and purchase this
1805 property and want to develop it more fully, they would have to have the property rezoned again.
1806 And at that point, the neighbors could come in and express their view points and would have
1807 more say, I guess, in the development standards for any new neighborhood developed on that
1808 property. So, I think it is a benefit to all concerned. So, I move that the Commission
1809 recommend approval of C-33C-98.

1810
1811 Mr. Zehler seconded the motion.

1812
1813 Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Zehler. All those in
1814 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

1815
1816 REASON: Acting on a motion by Ms. Dwyer, seconded by Mr. Zehler, the Planning Commission
1817 voted 5-0 to recommend that the Board of Supervisors **accept the proffered conditions and**
1818 **grant** the request because it conforms to the recommendations of the Land Use Plan; it conforms
1819 with the objectives and intent of the County's Comprehensive Plan; and it continues a similar level
1820 of single family residential zoning as currently exists in the area.

1821
1822 Mrs. Wade - She's going to change the proffers before next time?

1823
1824 Ms. Dwyer - That's a good point, Mrs. Wade. Yes. She'll change the proffer
1825 between now and the Board and initial it. Okay.

1826
1827 Mrs. Wade - Add "the aggregate."

1828
1829 Ms. Dwyer - Add "the aggregate of," yes.

1830
1831 **P-24-98 James W. Theobald and Charles H. Rothenberg for Sprint PCS,**
1832 **Inc.:** Request for approval of a provisional use permit in accordance with Sections 24-95(a) and
1833 24-122.1 of Chapter 24 of the County Code in order to construct, operate and maintain a
1834 communication tower up to 199' high and related equipment and improvements, on part of Parcel
1835 66-A-4A, containing 2,500 sq. ft., located on the Tuckahoe Little League property, approximately
1836 1200' east of Copperas Lane. The site is zoned A-1 Agricultural District.

1837
1838 Mr. Merrithew - Thank you, Mr. Secretary. This is a request from Sprint to erect a
1839 communications tower at the Tuckahoe Little League Sports facility. Did I cut you off, Mr.
1840 Chairman?

1841
1842 Mr. Archer - I was just going to ask if there was anybody here in opposition. We
1843 have none. Go right ahead, sir.

1844
1845 Mr. Merrithew - The sports facility is located just north of Ridgefield Parkway, west
1846 of John Rolfe Parkway. It is approximately 65 acres in size. It is cleared and there are numerous
1847 ball fields, including lighted ball fields throughout the site.

1848
1849 The perimeter of the site is wooded. I'll take a second and find the document camera. You see
1850 the ball field facility. Ridgefield is running across the bottom left corner. The arrow is indicating
1851 the approximate location of the tower facility. The white building there is the concession stand as
1852 you drive towards the center of the site.

1853
1854 The perimeter of the site is wooded. There is a large wooded area separating the tower from the
1855 homes to the north. However, I would point out that this wooded area is planned for development
1856 as additional ball fields. The approved plan for those additional ball fields will leave a 100-foot
1857 wide natural buffer along that northern, and the portion of the western property line that you see in
1858 that wooded rectangle. The sports facility is surrounded by single family homes. As I mentioned,
1859 the tower location is next to the concession stand. It is 650 feet from the closest residential
1860 property. That would be from the properties to the south. I would note also, that along that
1861 southern property, there is a smaller buffer. There are mature large trees, but there are fewer of
1862 them.

1863
1864 The applicant has requested a 160-foot tower and equipment compound in a 2,500 square foot
1865 leased area. The equipment compound would be enclosed by a chain-link fence. The applicant
1866 has also provided information, the required evidence, to indicate that there are no acceptable co-
1867 location opportunities in the immediate area.

1868
1869 I would point out they have looked at the potential Colombian Center tower. That tower has just
1870 recently been strengthened to accommodate another user. The only available space on that
1871 tower is apparently lower than what is acceptable to Sprint. In discussions with them about
1872 replacing that tower with another structure on the site, I believe the indication is that it cannot meet
1873 the County's setback requirements to do that. However, that is a question I would pass on to the
1874 applicant if there's some additional concern in that area.

1875
1876 They've also provided additional data to illustrate how this site compares to locating, not only at
1877 the Colombian Center, but at other elevations and other areas around this site, and how that
1878 would fit into their network. We have information, but it has not been passed onto our radio
1879 frequency consultant at this point, so I do not have the benefit of his review of that information.

1880
1881 Staff feels that the application is reasonable in this location for several reasons. The tower should
1882 not interfere with the use of the sports facility. As you can see, its next to the concession stand,
1883 away from play areas. The areas to the north, and slightly to the east, is a parking lot and
1884 maintenance facility. So, there should not be any interference with the way the site is used now.

1885
1886 The tower will not impact area transportation, utilities, schools or other public services. As you
1887 have noted in the staff report, there really is very little impact on roads and utilities and so on.

1888
1889 The tower should have little visual impact on surrounding residences because the distance from
1890 the homes and the perimeter buffer. Because the perimeter buffer is so close to the homes it
1891 should, in fact, block a larger portion of the tower than if the trees were immediately around the
1892 tower site, itself. So, that should be a benefit. I also point out that there are lighted fields on this
1893 facility that probably will have a bigger impact on the surrounding homes than this tower which, as
1894 you know, is not lit and cannot be lit unless it comes back to you for approval. It should have a
1895 lesser impact that way.

1896
1897 The applicant has agreed to co-location on this site providing at least three additional users and
1898 as many as technically feasible, and agreed to design the tower to go higher, if needed, to
1899 accommodate the other co-locators; the other carriers.

1900
1901 I believe I've done it for the second month in a row. I started out without handing out some
1902 revised conditions. We have some minor condition revisions proposed to you tonight. I'll just give
1903 it two minutes to get to you. The revisions are underlined on the sheet. A couple are grammatical

1904 or a clarification, and a couple are substitutive. Most of the conditions are typical of the tower
1905 applications, but I'll just point out on the key points.

1906
1907 Condition No. 1, we've clarified, as you know, in most tower cases, we state that if the use of the
1908 tower for communication purposes is discontinued, then it must be removed. But we did not state
1909 for what period of time it has to be discontinued. And the County Attorney, in a previous case,
1910 has recommended that we recommend a time limit, or set a time of discontinued use as a
1911 measure, so then we can instruct the applicant to remove it, and set a standard for everybody to
1912 meet. We have set 180 days. If it is not used for 180 days, then they can be instructed to remove
1913 the tower within 90 days, subsequent to notice.

1914
1915 Condition 2 provides for the submittal of a building permit within a year of approval of this
1916 Provisional Use Permit.

1917
1918 Condition 3 provides for the tower applicant to come back to the County if the FAA should require
1919 lighting or striping or odd coloring of the tower.

1920
1921 Condition 4 requires the applicant to come in for a Plan of Development if they intend to disturb
1922 more than 2,500 square feet.

1923
1924 Then Condition 5 is what we've added to require that the applicant design and construct a tower
1925 to reach a height of 199 feet, if that height is needed to accommodate the co-locators on the
1926 tower. He is not required to fill that height immediately. We may never see 199 feet, but it will be
1927 designed to reach that height if its necessary for the co-locators.

1928
1929 Condition 6 is the standard condition allowing or requiring co-location of three and as many as
1930 technically possible co-locators. We've added a sentence at the end of that just to clarify that if its
1931 necessary for let's say the fourth carrier. If they come in and say its too low, or there's no space
1932 on that tower, then this applicant is required to allow the tower height to be increased for that
1933 fourth carrier to locate on.

1934
1935 Then, finally we clarified in Condition No. 7 that the landscaping around the base of this tower is
1936 intended to screen the ground equipment, and not intended to do anything to screen the tower. I
1937 don't think that it possibly could.

1938
1939 If this case is approved, we would recommend those conditions be attached and applied to it.
1940 With that, I'd be glad to answer any questions.

1941
1942 Mr. Archer - Thank you, Mr. Merrithew. Are there questions for Mr. Merrithew by
1943 the Commission?

1944
1945 Mr. Zehler - John, in previous cases, we've never stipulated once a tower has
1946 been discontinued period of 180 days. That seems rather long. What encouraged that? I know a
1947 previous wording was that if a communication tower was discontinued period?

1948
1949 Mr. Merrithew - That's right. The previous wording didn't have a length of time to
1950 measure in order to implement this condition. The County Attorney had felt that we should
1951 stipulate that there's a certain length of time that it has to be discontinued. In a parallel situation,
1952 in a non-conforming use situation, the State Code requires that if a non-conforming use is
1953 discontinued for a period, I believe of two years, then it cannot be restarted or renewed or what
1954 have you. A similar measurement of time has to be applied to this, according to the County

1955 Attorney, in order to give the applicant or the tower operator a chance to bring down his
1956 equipment for two or three days if it had to be repaired, or something happened to the tower and it
1957 had to be repaired or modified or what have you. Technically, we could come in and say, "You're
1958 down for two days or one day or whatever, you have to bring the tower down." He felt that would
1959 be a hard condition to enforce. So, we suggested a timeframe. The 180 days is an arbitrary
1960 number. It's a number we devised that we thought was fair to both us and to the applicant. Give
1961 him six months in case something happened to repair the tower.
1962
1963 Mr. Zehler - And on top of that, they have an additional 90 days, so you're
1964 looking at a vacant tower sitting there for 9 months?
1965
1966 Mr. Merrithew - That's right. Now, as I said, it is a number that we selected for no
1967 technical or legal reason and could be changed.
1968
1969 Mr. Zehler - When we originally did this, though, we had stipulated that once it is
1970 discontinued, then they have 90 days to remove it.
1971
1972 Mr. Merrithew - That's right, but we didn't say how long it had to be discontinued for.
1973
1974 Mr. Zehler - Discontinued period. Why have you got to stipulate any time limit
1975 how long it; once it's discontinued, it's discontinued. It stopped. They're not using it. Why have
1976 you got to stipulate...
1977
1978 Mr. Merrithew - But if they have to tear it down for six weeks to take a tower down,
1979 you know, potentially somebody could argue that's discontinued for that six weeks.
1980
1981 Mr. Zehler - Okay. Put an exception in there for service and repairs.
1982
1983 Mr. Merrithew - Well, we could change the wording if you wish. The County
1984 Attorney suggested this was the easiest way, because it parallels that non-conforming condition in
1985 the County Code.
1986
1987 Mr. Zehler - With the amount of towers we've got, I just hate to see us having a
1988 tower sitting vacant for 9 months. Basically, the way this was written, that's...
1989
1990 Mr. Merrithew - Or, perhaps, the easiest solution would be for 60 days or whatever
1991 timeframe you want to put on it. Maybe shorten that time length.
1992
1993 Ms. Dwyer - Well, maybe that's something we should reserve. The County
1994 Attorney has recommended 180 days. I would like to stick with that with this case.
1995
1996 Mr. Merrithew - Well, he's not recommending 180 days.
1997
1998 Ms. Dwyer - Okay.
1999
2000 Mr. Merrithew - He's recommending we put a time in there. He did not state 180
2001 days.
2002
2003 Ms. Dwyer - This might be something that the Board could consider in their
2004 upcoming work session on towers. A specific time.
2005

2006 Mr. Merrithew - That's a good suggestion.
2007
2008 Ms. Dwyer - I'm not sure what's reasonable.
2009
2010 Mr. Donati - How do you know when its vacant?
2011
2012 Mr. Zehler - How do you know what?
2013
2014 Mr. Merrithew - When its actually discontinued?
2015
2016 Mr. Zehler - Your telephone won't work.
2017
2018 Mr. Donati - That's a good question.
2019
2020 Mr. Zehler - We won't know.
2021
2022 Mr. Donati - I know. I mean so...
2023
2024 Mr. Merrithew - Its one of those enforcement by complaint or enforcement by
2025 driving by and seeing its no longer used, I guess; than, from that point measuring the time that
2026 they're allowed to have it discontinued.
2027
2028 Mrs. Wade - You can't tell by driving by.
2029
2030 Mr. Merrithew - That's a very good point. I haven't worked that issue out yet.
2031
2032 Ms. Dwyer - Another agenda item for the work session. Mr. Merrithew, I think
2033 you sent me a copy of the BZA conditional use permit that was recently reheard. That does
2034 require a buffer of 100 feet along all property lines for any new construction. So, I'm assuming
2035 that all this wonderful wooded area that we see along the northern and western boundaries will
2036 remain (referring to slide). At least 100 feet of that natural buffer will remain on the site.
2037
2038 Mr. Merrithew - One hundred (100) feet will remain on the site. Just to give you a
2039 sense of scale, the tower arrow (referring to slide) I think is 1,200 feet from the northern property
2040 line.
2041
2042 Ms. Dwyer - Because I know some of those trees are going to be cleared for ball
2043 fields, but we will still have a 100-foot buffer there.
2044
2045 Mr. Merrithew - A 100 foot buffer along the northern line and down the western line
2046 where that grove exists now. That's right.
2047
2048 Ms. Dwyer - And then it also provides for supplemental landscaping in the areas
2049 where there is an existing treed buffer.
2050
2051 Mr. Merrithew - That's correct. They have to augment the existing trees.
2052
2053 Ms. Dwyer - Was this advertised as a 199-foot case or 160 foot case?
2054
2055 Mr. Merrithew - It was advertised at 199 feet in the second ad.
2056

2057 Ms. Dwyer - Okay. I believe it was advertised both at 199, but we had to change
2058 some other cases for the second ad to go to 199. I believe this may have been one of them.
2059
2060 Ms. Dwyer - Okay. And then, the reason the staff report says 165, that's what
2061 they intend to build at this time is 165 feet?
2062
2063 Mr. Merrithew - That's what they intend to build. That's what they requested.
2064
2065 Ms. Dwyer - Okay. But on our agenda it does say a 199-foot tower case?
2066
2067 Mr. Merrithew - That's right.
2068
2069 Ms. Dwyer - Okay. Thank you.
2070
2071 Mr. Archer - Okay, further questions of Mr. Merrithew by the Commission?
2072
2073 Mr. Zehler - John, we have done numerous studies on towers, and I have read
2074 some information where I was wondering if you and the applicant had discussed this in your
2075 meetings; going off of existing light poles? Was any discussion made as far as rather than
2076 constructing a new tower, take the existing light pole 90 feet and go off of that? Was there any
2077 discussion?
2078
2079 Mr. Merrithew - There was discussion of that. In the material they submitted to me,
2080 Sprint indicated their willingness to do that. I contacted the Tuckahoe Little League Association,
2081 and they are the ones who are opposed to giving up one of their light towers and allowing the
2082 lights to be put on the tower that Sprint would construct. They were concerned, Number 1, from
2083 maintenance reasons and Number 2, for an ownership reason. They wanted to maintain
2084 ownership of the lights that they used at their fields. So, Sprint has indicated a willingness. The
2085 Association is not supporting that idea.
2086
2087 Mr. Archer - Okay. Further questions of Mr. Merrithew? Thank you, sir. Do you
2088 need to hear from the applicant?
2089
2090 Ms. Dwyer - Yes.
2091
2092 Mr. Archer - Okay. Will the applicant come forward, please? Mr. Rothenberg.
2093
2094 Mr. Chuck Rothenberg - Mr. Chairman, members of the Commission, my name is Chuck
2095 Rothenberg. I'm here tonight on behalf of Sprint. Would you like just a very brief...
2096
2097 Ms. Dwyer - Yes. I don't want to prolong this. I did want to ask you to review
2098 what other sites you have looked at as potential sites for this tower and why this one is one that
2099 you determined is most acceptable?
2100
2101 Mr. Rothenberg - Let me just throw this up on the projector here. We had, as you
2102 know, Ms. Dwyer, looked at a couple different sites. The Colombian Center site is right here
2103 (referring to slide). We have looked at this site. There's an existing tower there. We had
2104 proposed building a new tower; a monopole there at 160 feet. There's a much broader map. This
2105 is the Colombian Center here. Here's Tuckahoe Little League. Ridgefield Parkway. John Rolfe
2106 extending through this way. We looked at the Colombian Center and met with some opposition
2107 as to that site. As you can tell, that site is much smaller than the 65-acre Tuckahoe Little League

2108 site. We would have met barely our setback requirements for a 160-foot tower on the Colombian
2109 Center site.

2110
2111 The Tuckahoe site is a 65-acre site. It's a rare opportunity, in a highly developed area of the
2112 district, to install a tower that is 650 feet on one side and 1,200 feet on the other side away from
2113 any residential homes. So, those were, from a land use perspective, the rationale toward going to
2114 the Tuckahoe Little League.

2115 In addition to that, these are the (unintelligible), No, actually these are the RF plats that are
2116 generated by Sprint's RF engineers; radio frequency engineers, to show the forward path analysis
2117 of proposed towers. And, if I can remember where we are, this is the Tuckahoe site right in the
2118 middle. This is Patterson extending along this way. This is the Westhampton Cemetery. I
2119 believe these are three VEPCO co-locations here. Pouncey Tract-I-64 is over here. This is
2120 actually in Goochland. I believe this is also in Goochland; this site. That's a co-location on a site
2121 in Goochland.

2122
2123 As you can see, the Tuckahoe Little League fills in a huge gap between these towers. This plan
2124 shows the Colombian Center at, I believe, 85 feet. What you can see from this, while there's
2125 coverage in this area, basically, the same coverage that's afforded by the Little League, there's
2126 very poor coverage extending out west. We generated this at 85 feet because they believe that's
2127 the approximately available location on the existing Colombian tower, ignoring for a minute, that
2128 tower is completely, structurally full. It's already been revamped twice in order to allow the last
2129 couple of users to go on there. So, that was the rationale towards going towards the Tuckahoe
2130 Little League.

2131
2132 Ms. Dwyer - And other sites that you looked at?

2133
2134 Mr. Rothenberg - Well, we also looked at the Gayton Crossing Shopping Center. It's
2135 not on here. It was a site off of Gayton and Quioccasin. It's over here. It wasn't nearly as far
2136 away from residential properties as the Tuckahoe Little League. We have not nearly the setbacks
2137 on that. We also has some RF problem issues with the site over here and losing more coverage
2138 over in this area (referring to slide).

2139
2140 Mrs. Wade - You said Gayton Crossing just now?

2141
2142 Mr. Rothenberg - Gayton Crossing. Isn't that the shopping center on...

2143
2144 Ms. Dwyer - Gayton Centre.

2145
2146 Mr. Rothenberg - Okay. Gayton Centre. Quioccasin and...

2147
2148 Ms. Dwyer - No.

2149
2150 Mrs. Wade - Well, yes.

2151
2152 Ms. Dwyer - I don't think you were looking at Quioccasin.

2153
2154 Mrs. Wade - Ridgefield. It's down on Ridgefield I think is where you were
2155 looking.

2156
2157 Mr. Rothenberg - Okay. Yes. We did look over at this site, but again, we had similar
2158 setback issues. There's really no room behind the shopping center. On this site along the front is

2159 entirely open. I suppose, Ms. Dwyer, we didn't let you know that we had looked at that site.
2160 Those were primarily the sites that we looked at.
2161
2162 As you can see, its pretty clear when you look at this map, the Tuckahoe Little League is the best
2163 alternative from a land use perspective for locating this tower.
2164 Ms. Dwyer - And you're in agreement that you intend to build the tower at 160
2165 feet, but agree to build it to accommodate lengthening of the tower to 199. Is that correct?
2166
2167 Mr. Rothenberg - Yes ma'am.
2168
2169 Ms. Dwyer - Okay. And you'll agree to extend the tower if other users have a
2170 need for that to co-locate?
2171
2172 Mr. Rothenberg - Yes ma'am.
2173
2174 Ms. Dwyer - That's all I have.
2175
2176 Mr. Archer - Okay. Any further questions for Mr. Rothenberg? All right, Ms.
2177 Dwyer. There was no opposition, was there?
2178
2179 Ms. Dwyer - No.
2180
2181 Mr. Archer - Okay. All right.
2182
2183 Ms. Dwyer - As Mr. Rothenberg indicated, this is a 65-acre parcel in the middle
2184 of a highly developed and highly residentially developed area. It is very difficult to find a site that
2185 is acceptable for a tower. This seems to be the best site around. It seems to be clear from just
2186 looking at the map, and looking at density of development around this site.
2187
2188 Mrs. Wade - There was no one to speak in opposition?
2189
2190 Ms. Dwyer - Did we call for opposition?
2191
2192 Mr. Archer - Yes. We did. There was none that I saw.
2193
2194 Ms. Dwyer - Okay.
2195
2196 Mrs. Wade - Excuse me.
2197
2198 Ms. Dwyer - Okay. The tower is going to be located sort of in the middle of this
2199 65-acre parcel, 600 feet away from the nearest residential property line; 1,200 feet from other
2200 property lines. So, it provides a great deal of setback in distance between residences and the
2201 tower. Another advantage is the 100-foot buffer that's required by the Board of Zoning Appeals in
2202 the conditional use permit, which requires the preservation of existing treed buffers around the
2203 perimeter of the property. The conditional use permit also requires supplemental planting to be
2204 provided where trees are thin along that perimeter. So, I think that does provide another visual
2205 buffer for the neighbors who do adjoin this Tuckahoe League facility. Also, as Mr. Merrithew
2206 indicated, this tower will not interfere in any way with the recreational purposes of this site. So, for
2207 those reasons,...

2208
2209 Mr. Archer - Ms. Dwyer, may I interrupt you for just one moment?

2210
2211 Ms. Dwyer - Yes.
2212 Mr. Archer - Before your motion, let me ask again, if there's any opposition.
2213
2214 Ms. Dwyer - There was opposition.
2215
2216 Mr. Archer - I missed you. I apologize.
2217
2218 Ms. Dwyer - Okay. Come forward, then.
2219
2220 Mr. Archer - I apologize, ma'am. I didn't see you back there.
2221
2222 Ms. Karen Nance - My name is Karen Nance. The first when I heard anything about
2223 this was when I received the written notice that there was going to be a meeting regarding this
2224 issue. So, I have a lot of questions. I have a lot of information that I need. I can tell you if you're
2225 wondering if you'll be able to tell if its operational or not. All you have to do is look out of my
2226 kitchen window. You will be able to tell. I mean they say its going to be, I guess, you know, 700
2227 to 800 feet from my home; but a 200-foot tower that close to your home is really close. I don't
2228 know what it's going to look like. I look at the houses and I look at the trees from the map that we
2229 saw overhead. I noticed that where the arrow was, there are no trees as a buffer that leads to the
2230 area of the driveway which our backyard backs right up to the driveway of the Tuckahoe Little
2231 League. And so, I'm concerned because I haven't been provided with any information until this
2232 evening and until this meeting really just started again after we picked back up. And I don't know
2233 how informed the other neighbors have been as well if we haven't gotten the information and
2234 people really haven't been informed of what all of the plans area and how everything is supposed
2235 to work out. How can we vote on this without fair notice to everybody? So.
2236
2237 Ms. Dwyer - I think that you may not have been to a meeting that we did have
2238 for the neighborhood, and it was attended by a number of neighbors in May, I believe. I attended
2239 that meeting also. We had all the information that was here tonight was available.
2240
2241 Ms. Nance - But how were people notified, because I didn't receive notification of
2242 that?
2243
2244 Ms. Dwyer - (Comments unintelligible.)
2245
2246 Ms. Nance - But I didn't receive any.
2247
2248 Ms. Dwyer - ...a notice for that meeting.
2249
2250 Ms. Nance - No. I didn't. So, if I didn't receive a notice, because, I mean we
2251 certainly would have been there had we received it like we've come here this evening. So, if I
2252 didn't receive it, how many other people didn't receive it?
2253
2254 Ms. Dwyer - One thing I will mention is that what the Commission does tonight is
2255 make a recommendation to the Board of Supervisors. The Board makes the final decision in
2256 these cases. So, there will be approximately a 30-day period between what we do tonight and the
2257 Board hearing. And during that time, I'm sure that the Sprint representatives will be available to
2258 answer any questions that you may have about the case.
2259 Ms. Nance - Okay.
2260

2261 Ms. Dwyer - And they may even want to have another meeting between now
2262 and the Board to make sure they've captured everybody. Okay. Thank you for speaking.
2263
2264 Ms. Nance - Thank you.
2265
2266 Mr. Archer - Thank you, ma'am. Again, I apologize for not seeing you back
2267 there. Okay, Ms. Dwyer. I apologize to you too.
2268
2269 Ms. Dwyer - That's all right. I'm sorry we didn't see your hand earlier, Ms.
2270 Nance. I think that if you haven't received information, there are, obviously, a lot of questions that
2271 need to be answered. I think those can be answered between now and the time of the Board of
2272 Supervisors, because it is the Board who makes the final decision. But for the reasons that I have
2273 just outlined and reviewed, I think that this site, given what is available, particularly in the
2274 Tuckahoe District, is a relatively good site. It is one of the least objectionable sites available to us.
2275 So, I move that we recommend for approval P-24-98 including the revised conditions that were
2276 handed out today, dated July 9, 1998. I also want to clarify that this is an approval for up to 199
2277 feet, although they only plan to build it for 160. Should I add that as a condition, Mr. Secretary, or
2278 is that clear from the advertisement and from the discussion this evening?
2279
2280 Mr. Marlles - I believe it is clear.
2281
2282 Mr. Vanarsdall seconded the motion.
2283
2284 Ms. Dwyer - We'll go with that.
2285
2286 Mr. Archer - Did you second, Mr. Vanarsdall?
2287
2288 Mr. Vanarsdall - Yes sir.
2289
2290 Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All
2291 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
2292 abstained).
2293
2294 Ms. Dwyer - If I might suggest that the Sprint representatives please meet with
2295 Ms. Nance and get her phone number and arrange to meet with her about this between now and
2296 the Board. Thank you.
2297
2298 Mr. Archer - Mrs. Nance, that Board meeting will be on August 12th.
2299
2300 REASON: Acting on a motion by Ms. Dwyer, seconded by Mr. Vanarsdall, the Planning Commission
2301 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant the requested**
2302 **revocable provisional use permit**, subject to the following conditions:
2303
2304 1. If the use of the tower for communication purposes is discontinued, the tower and all
2305 related structures shall be removed from the site within 90 days.
2306 2. Application for a building permit to install the tower must be made within one year after the
2307 Provisional Use Permit is granted by the Board of Supervisors, unless an extension is
2308 granted by the Director of Planning upon written request by the applicant.
2309
2310 3. The applicant shall obtain approval from the Henrico County Planning Commission should
2311 the FAA require the addition of standard obstruction marking and lighting (i.e. red lighting)

2312 and orange and white striping) to the tower. The applicant shall notify the Henrico County
2313 Planning Director prior to making any changes to the original galvanized finish of the
2314 tower.

2315
2316 4. When site construction is to be initiated as a result of this Provisional Use Permit, the
2317 applicant shall complete requirements prescribed by Chapter 10 of the Henrico County
2318 Code. In particular, land disturbance of more than 2,500 square feet will require that
2319 construction plans include a detailed drainage and erosion control plan prepared by a
2320 professional engineer certified in the State of Virginia. Ten (10) sets of construction plans
2321 shall be submitted to the Department of Public Works for approval.

2322
2323 5. The proposed tower and foundation shall be designed and constructed to permit the
2324 extension of the tower up to approximately 199 feet.

2325
2326 6. The applicant shall construct the tower and foundation to allow co-location of at least three
2327 and as many additional users at this site as technically feasible in accordance with the
2328 provisions of the Letter of Intent to Permit Co-location on Communications Tower, filed by
2329 the applicant with this request. If necessary to ensure compliance with this condition, the
2330 applicant shall permit the tower height to be extended to 199 feet.

2331
2332 7. The applicant shall landscape the perimeter of the leased area in order to minimize the
2333 view of the ground equipment. A landscaping plan shall be submitted to the Planning
2334 Office for approval prior to issuance of a building permit. The Director of Planning may
2335 waive this requirement for safety reasons or if additional landscaping is deemed
2336 unnecessary.

2337
2338 The Planning Commission recommendation was based on its finding that the Provisional Use Permit
2339 is reasonable; it would provide added services to the community; when properly developed and
2340 regulated by the recommended special conditions, it would not be detrimental to the public health,
2341 safety, welfare and values in the area.

2342
2343 **P-26-98 James W. Theobald and Charles H. Rothenberg for SprintCom,**
2344 **Inc:** Request for approval of a provisional use permit in accordance with Sections 24-95(a) and
2345 24-122.1 of Chapter 24 of the County Code in order to construct, operate and maintain a
2346 communication tower up to 199' high and related equipment and improvements, on part of Parcel
2347 171-A-25A, containing 2,500 sq. ft., located on the northeast line of Darbytown Road,
2348 approximately 350' southeast of Acton Street. The site is zoned M-2 General Industrial District.

2349
2350 Mr. Archer - Is there any one here in opposition to P-26-98? I'm sure I didn't see
2351 any. Ms. Hunter.

2352 Ms. Jo Ann Morgan Hunter - This is a request to build a 197-foot lattice tower and related
2353 communication equipment. The applicant is proposing to lease 2,500 square feet from the
2354 existing 31-acre parcel which is owned by Concrete Structures which is a concrete manufacturing
2355 plant. Currently, there is a 198-foot tower on this property which is owned by GTE. The applicant
2356 has looked at this tower and determined that co-location opportunities do not exist. So, they're
2357 proposing to construct a new tower 60 feet from the existing tower.

2358
2359 From a land use perspective, this appears to be a suitable tower location. The property is zoned
2360 M-2 and developed industrially. The entire surrounding area has future Land Use Plan
2361 designation of Heavy Industrial and the proposed tower would be approximately 1,500 feet from
2362 the nearest residential property.

2363
2364 The tower is not anticipated to have a negative impact on adjacent uses or property values. The
2365 tower height of 197 feet would allow for future co-location opportunities in the future. The Staff
2366 would recommend approval with the following changes: I'd recommend that we revise Condition
2367 No. 1 the same as was in the last tower case for consistency purposes and add in, "if the tower is
2368 discontinued for 180 days." And then on No. 5, there's a typo. "Additionally," needs to be
2369 changed to "additional". I'd be happy to answer any questions.
2370
2371 Mr. Archer - Thank you, Ms. Hunter. Are there questions of Ms. Hunter by the
2372 Commission?
2373
2374 Mr. Zehler - No questions, Mr. Chairman.
2375
2376 Mr. Archer - Do we need to hear from the applicant?
2377
2378 Mr. Zehler - Don't need to hear from the applicant.
2379
2380 Mr. Archer - All right, Mr. Zehler.
2381
2382 Mr. Zehler - I'll go along with everything that staff says. I have a problem with
2383 No. 1, the 180 days. I think that's entirely too long. I would like to shorten that to 30 days, if I
2384 may, along with giving them the 90 days to be removed. That's approximately four months
2385 according to my calculations. I think that's sufficient time.
2386
2387 Mr. Archer - Okay.
2388
2389 Mr. Zehler - So, with that, Mr. Chairman, I move that case P-26-98 be approved,
2390 subject to the...
2391
2392 Person from Audience - Comments unintelligible.
2393
2394 Mr. Archer - Having to do with the discontinuation. Is that what you're saying?
2395
2396 Person from Audience - I'm sorry for interrupting.
2397
2398 Mr. Archer - That's all right. Maybe we need to make a distinction between "shut
2399 down for repair", and being "discontinued"; the use being discontinued.
2400
2401 Mr. Zehler - I don't understand why it's all of a sudden become an issue that you
2402 have to stipulate how many days its going to be discontinued. If it's discontinued, it's
2403 discontinued. That means you've stopped use. So, I don't see why you have to stipulate the
2404 days. Now, if you're going to stipulate if its discontinued for necessary repairs, you can give them
2405 30 days for discontinuing. But I don't understand why this, all of a sudden, has become an issue.
2406
2407 Mr. Archer - Well, you know, in my mind, I have a distinction between being shut
2408 down for repairs and being discontinued. I view discontinued as simply meaning you're not going
2409 to use it anymore. "Abandoned" is a good word, I suppose. So, maybe we just need to find a way
2410 to make that distinction between closed for repairs and actually discontinuing it.
2411
2412 Mr. Zehler - Well, I think we could sit here for the next few seconds and come
2413 up with a sentence, if you could leave, "if the use of the tower for communication purposes is

2414 discontinued". Then in the event necessary repairs are needed to be made, it could be
2415 discontinued use for 30 days for those said repairs." Something to that nature, and then keep on
2416 going.

2417
2418 Mr. Rothenberg - Would you agree to, "discontinued for necessary repairs," and then
2419 come up with the appropriate timeframe? Would that work for you? "Discontinued other than for
2420 necessary repairs?"

2421
2422 Mr. Zehler - Do we need to stipulate a time limit in the necessary repairs?
2423

2424 Mr. Merrithew - Mr. Chairman, I didn't expect the concern about this that I'm seeing
2425 tonight, and I want to suggest this was brought up by the County Attorney. You mentioned
2426 earlier, Mr. Zehler, that maybe this is one of those issues that the Board, in its work session on
2427 this matter, should look into and establish some sort of language if the County Attorney feels that
2428 its necessary. Perhaps, we should go back to the original language, at this point, and leave it to
2429 the Board to decide if there has to be a time limit attached to it; in which case, then you're simply
2430 saying, "discontinued," I think, period. And let the Board set a time and clarify what's necessary,
2431 because I know you will be invited to all the Board work sessions and that can be brought out at
2432 that time. And I might suggest, Ms. Dwyer, that if she's uncomfortable with it, we could do the
2433 same thing between now and the Board with the language on your case and have everything
2434 settled at the Board and let them decide.

2435
2436 Mrs. Wade - Suppose the tower were sold from one company to another and
2437 they turned it off for an interim period? You know there are all kinds of possibilities.
2438

2439 Mr. Merrithew - There are possibilities it could be down for several months, or
2440 several weeks, or several days. But it is one of those conditions that's going to be very hard to
2441 enforce. Unless the antenna arrays come down. How are we going to know its no longer being
2442 used?
2443

2444 Mr. Zehler - I think staff, listening to the comments from the Commission,
2445 tonight, is aware of it. It is an issue...
2446

2447 Mr. Merrithew - Absolutely.
2448

2449 Mr. Zehler - I will agree with you, John. Let's continue on, and approve the case
2450 the way it was written, and then let it be known, and Mr. Donati is here tonight to pass it onto the
2451 Board members that we did have concerns as far as stipulating the time. It was the feeling at that
2452 time that what was stipulated was deemed too long.
2453

2454 Mr. Merrithew - So, pass it forward as its written, tonight, and let them worry about
2455 it, or take out the timeframe?
2456

2457 Mr. Zehler - I'd rather approve my case tonight the way its written and not add
2458 the time.
2459

2460 Mr. Merrithew - Oh. Okay.
2461

2462 Mr. Zehler - I think that's what you just recommended. Let's leave it alone and
2463 we've got 30 days to get to the Board and we can address those issues and let the Board
2464 member let the Board know our concerns.

2465
2466 Mr. Merrithew - I don't think the applicant has a problem with that because its, at
2467 this point, reducing a burden on them now.
2468
2469 Mr. Archer - The two we've had have just been case-by-case anyway, so we
2470 haven't set a precedent, and we haven't established a policy. So, I would think its safe to do that.
2471
2472 Mr. Zehler - That's why I'd like to address the issue, now, because I don't want
2473 to see us set that policy. We've got numerous of them.
2474
2475 Mr. Archer - All right.
2476
2477 Mr. Vanarsdall - I second the motion.
2478
2479 Mr. Zehler - So, with that, we will add those conditions. The only change we'll
2480 have in the condition was the verbiage in No. 5, doing away with "additionally" to "additional."
2481
2482 Mr. Archer - Okay. You second that, Mr. Vanarsdall?
2483
2484 Mr. Vanarsdall - Second.
2485
2486 Mr. Archer - All right, motion made by Mr. Zehler, seconded by Mr. Vanarsdall.
2487 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
2488 abstained).
2489
2490 REASON: Acting on a motion by Ms. Dwyer, seconded by Mr. Vanarsdall, the Planning Commission
2491 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant the requested**
2492 **revocable provisional use permit**, subject to the following conditions:
2493
2494 1. If the use of the tower for communication purposes is discontinued, the tower and all
2495 related structures shall be removed from the site within ninety (90) days.
2496
2497 2. Application for a building permit to install the tower must be made within one year after the
2498 Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time
2499 is granted by the Director of Planning upon written request by the applicant.
2500
2501 3. The applicant shall obtain approval from the Henrico County Planning Commission should
2502 the FAA require the addition of standard obstruction marking and lighting (i.e. red lighting
2503 and orange and white striping) to the tower. The applicant shall notify the Henrico County
2504 Planning Director prior to making any changes to the original galvanized finish of the
2505 tower.
2506
2507 4. When site construction is initiated as a result of this Provisional Use Permit, the applicant
2508 shall complete requirements prescribed by Chapter 10 of the Henrico County Code. In
2509 particular, land disturbance of more than 2,500 square feet will require that construction
2510 plans include a detailed drainage and erosion control plan prepared by a professional
2511 engineer certified in the State of Virginia. Ten (10) sets of the construction plans shall be
2512 submitted to the Department of Public Works for approval.
2513

2514 5. The applicant shall allow the co-location of at least three (3) and as many additional users
2515 as technically possible at this site in accordance with the provisions of the Letter of Intent
2516 to Permit Co-Location on Communications Tower filed by the applicant with this request.
2517

2518 The Planning Commission recommendation was based on its finding that the Provisional Use Permit
2519 is reasonable; it would provide added services to the community; when properly developed and
2520 regulated by the recommended special conditions, it would not be detrimental to the public health,
2521 safety, welfare and values in the area.
2522

2523 **P-27-98 Ellen L. Vogel for Triton PCS, Inc.:** Request for approval of a
2524 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the
2525 County Code in order to construct, operate and maintain a communication tower up to 199' high
2526 and related equipment and improvements, on part of Parcel 140-A-53, containing 2,500 sq. ft.,
2527 located on the west line of Laburnum Avenue, approximately 900' south of Creighton Road. The
2528 site is zoned A-1 Agricultural District. The site is also in the Airport Safety Overlay District.
2529

2530 Mr. Archer - Okay. Is there anyone here in opposition to P-27-98 Ellen L. Vogel
2531 for Triton PCS, Inc.? Ms. Hunter.
2532

2533 Ms. Jo Ann Morgan Hunter - Thank you. This is another request for a lattice-style tower. There
2534 has been a revised site plan submitted since you have received your report. The site plan that
2535 was submitted with the application showed the tower location pushed all the way up close to
2536 Laburnum Avenue. Staff met with the applicant and discussed some concerns with that tower
2537 location. So, they moved it back. At one time they had moved it all the way back to the site.
2538 There was some concern that was getting a little bit closer to some residences. So, this was the
2539 agreed upon site that the staff recommended.
2540

2541 The applicant had looked at other co-location opportunities in the area. The Fairfield Library,
2542 which is located across from this site, does have an existing tower. However, that tower is at a
2543 height of 150 feet, and it cannot accommodate any additional users.
2544

2545 There's also Virginia Power lines that are adjacent to this site. The applicant has reviewed those,
2546 and determined that the height is too low to obtain adequate coverage.
2547

2548 The site is located within the Airport Safety Overlay District. The applicant had a consultant
2549 review the request to determine what would be the maximum height based on FAA regulations
2550 that the tower could be built. The applicant showed a 160-foot tower, but the consultant has
2551 determined that the tower could be constructed at a height of 170 feet, which would allow for other
2552 co-location opportunities.
2553

2554 The site is considered to be reasonable because it is thickly wooded, and the Land Use Plan
2555 recommends non-residential development throughout the immediate area. Staff would
2556 recommend approval with conditions in the staff report. I'd be happy to answer any questions.
2557

2558 Mr. Archer - Thank you, Ms. Hunter. Are there questions for Ms. Hunter by the
2559 Commission?
2560

2561 Mr. Zehler - Mr. Chairman, if I may, Mr. Donati and I had a meeting with the
2562 applicant. As stated in the staff report, we had concerns of the closeness of Laburnum Avenue
2563 and the size of the lot. The applicant was gracious enough to go back and make considerations.
2564 In the meantime, not knowing there was a property owner that was concerned being a little bit too

2565 close, of which this most recent plan that we have is suitable not only to the neighborhood, but as
2566 far as I'm concerned, far enough away from Laburnum Avenue that it will not affect the
2567 neighborhood. So, with that, I move that Case P-27-98 be approved, subject to the six conditions
2568 that are written in front of us, as well as looking between now and the Board for the new verbiage.

2569 Mr. Vanarsdall - Second.

2571 Mr. Archer - All right, motion made by Mr. Zehler, seconded by Mr. Vanarsdall.
2572 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati
2573 abstained).
2574

2575 Mr. Zehler - Made your presentation easy, didn't it? I just want to forewarn
2576 you, they're not always that easy.
2577

2578 REASON: Acting on a motion by Mr. Zehler, seconded by Mr. Vanarsdall, the Planning Commission
2579 voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant the requested**
2580 **revocable provisional use permit**, subject to the following conditions:
2581

- 2582 1. If the use of the tower for communication purposes is discontinued, the tower and all
2583 related structures shall be removed from the site within ninety (90) days.
2584
- 2585 2. Application for a building permit to install the tower must be made within one year after the
2586 Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time
2587 is granted by the Director of Planning upon written request by the applicant.
2588
- 2589 3. The applicant shall obtain approval from the Henrico County Planning Commission should
2590 the FAA require the addition of standard obstruction marking and lighting (i.e. red lighting
2591 and orange and white striping) to the tower. The applicant shall notify the Henrico County
2592 Planning Director prior to making any changes to the original galvanized finish of the
2593 tower.
2594
- 2595 4. When site construction will be initiated as a result of this Provisional Use Permit, the
2596 applicant shall complete requirements prescribed by Chapter 10 of the Henrico County
2597 Code. In particular, land disturbance of more than 2,500 square feet will require that
2598 construction plans include a detailed drainage and erosion control plan prepared by a
2599 professional engineer certified in the State of Virginia. Ten (10) sets of the construction
2600 plans shall be submitted to the Department of Public Works for approval.
2601
- 2602 5. The applicant shall allow the co-location of at least 3, and as many additional users as
2603 technically possible at this site in accordance with the provisions of the Letter of Intent to
2604 Permit Co-Location on Communications Tower, filed by the applicant with this request.
2605
- 2606 6. A landscaping plan for the purpose of screening the base of the tower from view shall be
2607 submitted to the Planning Office for approval prior to the issuance of a building permit for
2608 the tower. The Director of Planning may waive the enforcement of this condition if it is
2609 deemed unnecessary.
2610

2611 The Planning Commission recommendation was based on its finding that the Provisional Use Permit
2612 is reasonable; when properly developed and regulated by the recommended special conditions, it
2613 would not be detrimental to the public health, safety, welfare and values in the area; and the
2614 proposed tower at this location was of adequate distance from the closest residential area.
2615

2616 Mr. Archer - The Secretary has a couple of announcements.
2617
2618 Mr. Marllles - Mr. Chairman, members of the Commission, just two
2619 announcements. One, I would like to acknowledge that this is Mr. Donati's birthday. Is that
2620 correct? I will not tell his age out of respect. Secondly, I would like to make the Commission
2621 aware that staff is planning on briefing the Commission at your next meeting on July 28th
2622 regarding cellular towers.
2623
2624 The Commission was inadvertently not invited to the first work session with the Board. We
2625 would, however, like to take this opportunity on the 28th to bring the Commission up to speed on
2626 some of the changes that are being discussed regarding cellular towers.
2627 Also, as either Mr. Silber or the Chairman mentioned, the Commission will be invited to a work
2628 session with the Board of Supervisors. That has not been scheduled, but will probably also be
2629 in that last week of July. So, I just wanted to make the Commission aware of that.
2630
2631 Mr. Archer - Thank you, Mr. Secretary. Do we have any more agenda items?
2632
2633 Mr. Zehler - Were there some minutes; had one set?
2634
2635 Mr. Archer - The May 14th minutes need to be approved.
2636
2637 Ms. Dwyer - I have no changes.
2638
2639 Mr. Archer - I had some changes and I didn't call them in.
2640
2641 Mr. Zehler - I called mine in, Mr. Chairman.
2642
2643 Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the May 14th Zoning Minutes were
2644 approved as corrected:
2645
2646 Page 63, Line 3011 - Mr. Zehler's statement should read as follows: We had discussed three
2647 stories. This is four stories. This is not the one in our original meeting you presented to me. Is
2648 it not?
2649 Page 65, 3127 - Mr. Zehler's statement should read as follows: I would like for you
2650 to tell me...
2651 Page 89, Line 4296 - Should state: Is that what concerns you?
2652 Page 90, Line 4361 - Statement should be attributed to Mr. Archer not Mr. Gregory.
2653 Page 91, Line 4369 - Should state, We have to give Mr. Tingley: time to present his
2654 case...
2655 Page 119, Line 5757 - Line 5757 -Should state, but for the sake of the fact...
2656
2657 Mr. Silber - I didn't get the motion on the second of the minutes.
2658
2659 Mr. Archer - Mr. Zehler and Ms. Dwyer.
2660
2661 Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Planning Commission adjourned
2662 its meeting at 10:00 p.m. on July 9, 1998.
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C. W. Archer, C.P.C., Chairman

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2671

John R. Marles, AICP, Secretary

Last revised August 10, 1998.