

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 June 15, 2000, Display Notice having been published in the  
4 Richmond Times-Dispatch on Thursday, May 25, 2000, and Thursday, June 1, 2000.

5  
6 Members Present: Ernest B. Vanarsdall, C.P.C., Chairman, Brookland  
7 Debra Quesinberry, Vice-Chairman, Varina  
8 C. W. Archer, C.P.C., Fairfield  
9 Allen J. Taylor, Three Chopt  
10 Elizabeth G. Dwyer, C.P.C., Chairwoman, Tuckahoe  
11 Patricia S. O'Bannon, Board of Supervisors, Tuckahoe  
12 John R. Marlles, AICP, Secretary, Director of Planning  
13

14 Others Present: Randall R. Silber, Assistant Director of Planning  
15 Elizabeth S. Via, Principal Planner  
16 Mark Bittner, County Planner  
17 Lee Householder, County Planner  
18 Jo Ann Hunter, County Planner, AICP  
19 Eric Lawrence, County Planner, AICP  
20 E. Ted McGarry, County Planner  
21 Timothy Foster, Traffic Engineer, Department of Public Works  
22 Ann B. Cleary, Recording Secretary  
23

24 Mr. Vanarsdall - Good evening, ladies and gentlemen, the Planning Commission will  
25 now come to order. We welcome everybody. We have a few cases tonight, and one public  
26 hearing. So, we'll turn the meeting over to our Secretary, Mr. John Marlles.  
27

28 Mr. Marlles - Good evening, Mr. Chairman. We don't have any invited guests,  
29 actually. Members of the media. There is an item that is missing from the agenda. Requests for  
30 deferrals or withdrawals. Mrs. Via, are you going to present those, even though they are not on the  
31 agenda?  
32

33 Mrs. Via - Actually, they are on the agenda, sir. We were able to get new  
34 agendas out. Maybe not yours.  
35

36 Mr. Marlles - Okay.  
37

38 Mrs. Via - Yes, we do have requests for Withdrawals and Deferrals. And  
39 following that, we will take up the Expedited Agenda. At 7:00 o'clock, starting in the Three Chopt  
40 District, the first case that has been requested for deferral is Case C-38C-00.  
41

42 **C-38C-00 Conway C. Miller:** Request to amend proffered conditions accepted  
43 with rezoning cases C-79C-87, C-44C-82, C-26C-82, on Parcel 59-A-28, containing 12.71 acres,  
44 located on the south line of West Broad Street (U. S. Route 250) at its intersection with West End  
45 Drive. The amendment is related to the uses that will be permitted on the property. The Land Use  
46 Plan recommends Commercial Concentration.

47  
48 The applicant has requested a deferral to July 13, 2000. It's on Page 2 of your agenda.

49  
50 Mr. Vanarsdall - All right, any one in the audience in opposition to deferment of C-  
51 38C-00 Conway C. Miller in the Three Chopt District? Any opposition to this deferment? No  
52 opposition. Mr. Taylor.

53  
54 Mr. Taylor - Mr. Chairman, I recommend that Case C-38C-00 Conway C. Miller  
55 be deferred to July 13<sup>th</sup> at the request of the applicant.

56  
57 Mr. Archer seconded the motion.

58  
59 Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Mr. Archer. All those in  
60 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained).

61  
62 Mrs. Via - The second case, also in the Three Chopt District, is Case C-39C-00.

63  
64 **C-39C-00 Henry L. Wilton for Dickens Place LLC:** Request to conditionally  
65 rezone from A-1 Agricultural District, R-2C and R-2AC One Family Residence Districts  
66 (Conditional) to R-2C and R-2AC One Family Residence Districts (Conditional), R-5AC General  
67 Residence District (Conditional), and RTHC Residential Townhouse District (Conditional), Parcels  
68 10-A-12, 13, 14, 14A, 14B, 16, 17A, 17B and 17C, containing approximately 72 acres, located on  
69 the west line of Shady Grove Road approximately 150' north of its intersection with Old Nuckols  
70 Road, approximately 300' south of its intersection with Nuckols Road and on the south line of  
71 Nuckols Road approximately 500' west of its intersection with Shady Grove Road. Residential uses  
72 are proposed. The R-2 District requires a minimum lot size of 18,000 square feet. The R-2A  
73 District requires a minimum lot size of 13,500 square feet. The R-5A District requires a minimum  
74 lot size of 5,625 square feet. The RTH District limits maximum density to 9 units per acre. The  
75 Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre, and  
76 Environmental Protection Area.

77  
78 This is also on Page 2 of your agenda. The applicant has requested a deferral to July 13, 2000.

79  
80 Mr. Vanarsdall - This case is C-39C-00 Dickens Place. Any one in opposition to  
81 deferment for 30 days of this case? All right, Mr. Taylor, again.

82  
83 Mr. Taylor - Mr. Chairman, I would recommend that Case C-39C-00 Henry L.  
84 Wilton for Dickens Place be deferred to July 13<sup>th</sup>, at the request of the applicant.

85  
86 Mrs. Quesinberry seconded the motion.

87  
88 Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Mrs. Quesinberry. All  
89 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
90 abstained).

91  
92 Mrs. Via - The next case, also in the Three Chopt District, is Case C-40C-00.

93  
94 **C-40C-00** **William W. Johnson:** Request to conditionally rezone from A-1  
95 Agricultural District to R2AC One Family Residence District (Conditional), on Parcels 18-A-8, 9  
96 and 10-A-17D containing 15.25 acres, located on the west line of Shady Grove Road at its  
97 intersection with Old Nuckols Road. A residential subdivision is proposed. The R-2A District  
98 requires a minimum lot size of 13,500 square feet. The Land Use Plan recommends Suburban  
99 Residential 1, 1.0 to 2.4 units net density per acre, and Environmental Protection Area.

100  
101 This is also on Page 2 of your agenda. The applicant has requested a deferral to July 13, 2000.

102  
103 Mr. Vanarsdall - July 13<sup>th</sup>. Any one in the audience in opposition to this case, C-40C-  
104 00. This is a deferment. Mr. Taylor.

105  
106 Mr. Taylor - Mr. Chairman, I recommend that Case C-40C-00 William W.  
107 Johnson be deferred until July 13<sup>th</sup> at the request of the applicant.

108  
109 Ms. Dwyer seconded the motion.

110  
111 Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Ms. Dwyer. All those in  
112 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained).

113  
114 Mrs. Via - Thank you, sir. The next case, the last case in the Three Chopt  
115 District, also on Page 2 of your agenda is Case C-41C-00 Glen Allen Community Church.

116  
117 **C-41C-00** **Glen Allen Community Church:** Request to conditionally rezone  
118 from R-2C One Family Residence District (Conditional) to O-2C Office District (Conditional), Part  
119 of Parcel 9-A-20, containing approximately 1.571 acres, located on the south line of Nuckols Road  
120 at its intersection with Wyndham Park Drive. A bank branch is proposed. The use will be  
121 controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan  
122 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre, and Environmental  
123 Protection Area.

124  
125 The applicant has requested a deferral to July 13<sup>th</sup> 2,000.

126  
127 Mr. Vanarsdall - Any one in the audience in opposition to this case to be deferred?  
128 This case is C-41C-00 Glen Allen Community Church? No opposition. Again, Mr. Taylor.

129  
130 Mr. Taylor - Mr. Chairman, I would recommend that Case C-41C-00 Glen Allen  
131 Community Church be deferred to July 13, 2000 at the request of the applicant.

132 Ms. Dwyer seconded the motion.

133  
134 Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Ms. Dwyer. All those in  
135 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained).

136  
137 Any one objects to Mr. Taylor going home. He's deferred all of his cases. All right, Mrs. Via.

138

139 Mrs. Via - Thank you. Turning to Page 3, the next case for deferral is in the  
140 Varina District. This is Case C-73C-98.

141  
142 **Deferred from the March 9, 2000 Meeting**  
143 **C-73C-98 W. A. Robins, et al, Redford 131, L.C., Edward M. Luck, Gerald**  
144 **A. Crigger:** Request to conditionally rezone from A-1 Agricultural District to R-3AC General  
145 Residence District (Conditional) Parcels 197-A-21A, 21B (part), 21C and 22 (part), Parcels 197-1-  
146 1-6 (part), 7 and 7A, and Parcels 197-4-A-1, 2 and 3, containing 58.214 acres, located on the north  
147 line of Portugee Road (beginning in the Capes of Portugee subdivision) approximately 280' east of  
148 the intersection of Portugee Road and Memorial Drive and on the east line of Memorial Drive  
149 (beginning in the Gaulding and Orange subdivision) approximately 1890' north of the intersection  
150 of Portugee Road and Memorial Drive. A single family subdivision is proposed. The applicant has  
151 proffered a maximum density of 2.8 units per acre. The Land Use Plan recommends Rural  
152 Residential, not exceeding 1.0 unit net density per acre, and Environmental Protection Area. The  
153 site is also in the Airport Safety Overlay District.

154  
155 The applicant has requested a deferral to August 10, 2000. This is C-73C-98.

156  
157 Mr. Vanarsdall - Any one in the audience in opposition to this case in the Varina  
158 District – C-73C-98 W. A. Robins, et al, Redford. No opposition. Mrs. Quesinberry.

159  
160 Mrs. Quesinberry - Mr. Chairman, I'll recommend deferral of Case C-73C-98 W. A.  
161 Robins to the August 10<sup>th</sup> agenda at the applicant's request.

162  
163 Mr. Archer seconded the motion.

164  
165 Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Mr. Archer. All  
166 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
167 abstained).

168  
169 Mrs. Via - Thank you, sir. The last case for deferral this evening on the 7:00  
170 o'clock agenda is in Varina. This is Case C-25C-00, also on Page 3 of your agenda.

171  
172 **Deferred from the April 13, 2000 Meeting:**  
173 **C-25C-00 James W. Theobald for 7-Eleven Inc.:** Request to conditionally  
174 rezone from A-1 Agricultural District to B2C Business District (Conditional), Parcel 162-A-43A,  
175 containing approximately 5.06 acres, located at the southwest intersection of S. Laburnum and Gay  
176 Avenues. Community retail is proposed. The use will be controlled by proffered conditions and  
177 zoning ordinance regulations. The Land Use Plan recommends Office. The site is also within the  
178 Airport Safety Overlay District.

179  
180 The applicant has requested a deferral to September 14, 2000. This is Case C-25C-00.

181  
182 Mr. Vanarsdall - Any one in the audience in opposition to 7-Eleven C-25C-00, also in  
183 the Varina District to a deferment? No opposition to deferring. Mrs. Quesinberry.

184

185 Mrs. Quesinberry - Mr. Chairman, I'll recommend deferral of Case C-25C-00 James W.  
186 Theobald for 7-Eleven to the September 14<sup>th</sup> agenda at the applicant's request.

187  
188 Ms. Dwyer seconded the motion.

189  
190 Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Ms. Dwyer. All  
191 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
192 abstained). So, that takes care of the 7:00 o'clock agenda. Could you read the deferrals at 8:00  
193 o'clock, in case some one is here waiting for that?

194  
195 Mrs. Via - Yes sir. The items that we'll need to take up at 8:30 p.m. for  
196 deferrals on Page 4 of your agenda, C-36C-00 in the Brookland District. This is the McDonalds  
197 Corp.

198  
199 Mr. Vanarsdall - That's the only one?

200  
201 Mrs. Via - No sir. In the Fairfield District, C-65C-99. This is Steven & Dody  
202 Tribble and Charles W. Sanders. They've requested a deferral to July 13<sup>th</sup>, in Brookland and  
203 Fairfield.

204  
205 Mr. Vanarsdall - Thank you, Mrs. Via. We announce those for 8:00 o'clock items, but  
206 we cannot take any action on them until 8:00 o'clock. We just want to let you know in case  
207 someone is here. Thank you, Mrs. Via.

208  
209 Mrs. Via - Thank you, sir. Would you like for me to take the Expedited Agenda  
210 now?

211  
212 Mr. Vanarsdall - Go ahead.

213  
214

214 **PLAN OF DEVELOPMENT (Deferred from the May 24, 2000, Meeting)**  
**POD-36-00 Bay Design Group, P.C. for Colonial Mechanical Corporation - Ackley Avenue**  
**Colonial Mechanical Corporation - Ackley Avenue**  
**Corporation:** Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, 79,200 square foot sheet metal fabrication shop, a one-story 3,500 square foot service facility, a 28,500 square foot office and a two-story, 8,000 square foot office. The 16.65 acre site is located at the northeast terminus of Ackley Avenue approximately 1,300 feet north of its intersection with Parham Road on part of parcel 61-A-75. The zoning is M-1C, Light Industrial District (Conditional), M-1, Light Industrial District and C-1, Conservation District. County water and sewer. (Brookland)

215  
216 Mrs. Via - Thank you. We have two requests on the Expedited Agenda or  
217 Consent Items this evening. The first is on Page 1 of your agenda at 7:00 o'clock. This is the POD-  
218 36-00 Colonial Mechanical Corp. on Ackley Avenue by the Bay Design Group.

219  
220 Mr. Vanarsdall - Any one in the audience in opposition to POD-36-00 Colonial  
221 Mechanical Corp.? No opposition. You're in opposition? All right. We will address that when it  
222 comes up.

223  
224 **C-43C-00 Alan R. Kemp, Jr., AICP for Pendragon Development, LLC:**  
225 Request to amend proffered conditions accepted with rezoning case C-14C-93, on Parcel 238-A-38,  
226 containing 129.382 acres, located at the eastern terminus of Ruddy Duck Drive. The amendment is  
227 related to the buffer area. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units  
228 net density per acre. The site is also in the Airport Safety Overlay District.

229  
230 Mrs. Via - Okay. Thank you, sir. The next request for the Expedited Agenda is  
231 C-43C-00. This is in the Varina District on Page 3.

232  
233 Mr. Vanarsdall - Any one in the audience in opposition to this case, C-43C-00  
234 Pendragon Development, LLC? Mrs. Quesinberry.

235  
236 Mrs. Quesinberry - I will make a recommendation to recommend Case C-43C-00 on the  
237 Expedited Agenda.

238  
239 Mr. Vanarsdall - Recommend approval to the Board.

240  
241 Mr. Archer seconded the motion.

242  
243 Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Mr. Archer. All  
244 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
245 abstained).

246 Mrs. Via - Thank you, sir. That concludes the Expedited Agenda for the 7:00  
247 o'clock agenda.

248  
249 Mr. Vanarsdall - I think you have two on the other agenda, don't you? I don't think  
250 we need to announce that, do we?  
251

252 Mrs. Via - I'm sorry, Mr. Chairman. We have just been informed there is  
253 opposition on that last case. The audience members did not understand what was happening. We'll  
254 go ahead and hear that case.  
255

256 Mrs. Quesinberry - We'll hear C-43C-00. I'll make a motion that C-43C-00 in the  
257 Varina District be removed from the Expedited Agenda and we hear it in the order in which it  
258 appears on the agenda.  
259

260 Mr. Archer seconded the motion.  
261

262 Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Mrs. Quesinberry.  
263 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
264 abstained). That was C-43C-00.  
265

266 Mrs. Via - So, the POD will be heard first, Mr. Chairman, and then C-43C-00  
267 will be heard in the order that it is on the agenda on Page 3.  
268

269 **PLAN OF DEVELOPMENT (Deferred from the May 24, 2000, Meeting)**

**POD-36-00  
Colonial Mechanical  
Corporation - Ackley  
Avenue**

**Bay Design Group, P.C. for Colonial Mechanical Corporation:** Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a one-story, 79,200 square foot sheet metal fabrication shop, a one-story 3,500 square foot service facility, a 28,500 square foot office and a two-story, 8,000 square foot office. The 16.65 acre site is located at the northeast terminus of Ackley Avenue approximately 1,300 feet north of its intersection with Parham Road on part of parcel 61-A-75. The zoning is M-1C, Light Industrial District (Conditional), M-1, Light Industrial District and C-1, Conservation District. County water and sewer. (Brookland)

270  
271 Mr. Marlles - The staff report will be given by Mr. Ted McGarry.  
272

273 Mr. Vanarsdall - Good evening, Mr. McGarry.  
274

275 Mr. Ted McGarry, County Planner - Good evening, Mr. Chairman. Members of the Commission,  
276 ladies and gentlemen, staff is prepared to recommend approval of this to you, subject to the standard  
277 conditions and the Conditions 23 through 29. I'd be happy to answer any questions.  
278

279 Mr. Vanarsdall - Any questions for Mr. McGarry by Commission members? All  
280 right. Thank you, Mr. McGarry. We need to hear from the applicant now, Mr. Condlin.  
281

282 Mr. Andrew M. Condlin - Thank you, Mr. Chairman, members of the Commission, my name is  
283 Andrew Condlin from Williams, Mullen. I am here on behalf of Colonial Mechanical. I have here  
284 with me Kevin Humphrey from Baskerville, and Clay Blackley from Bay Design Group to help  
285 answer any questions you may have. I don't have any presentation, other than to say we concur  
286 with the conditions, and, obviously, the staff's recommendation for approval. We'll be happy to  
287 answer any questions you have at this time. Thank you.

288  
289 Mr. Vanarsdall - Thank you. We'll hear from the opposition. Come on down.

290  
291 Ms. Olivia Ellen Rice - Thank you for hearing me. I do have two, to me, very serious  
292 concerns. I'm Olivia Ellen Rice, 2418 Agra Drive. I've lived there for 48 years. This is the second  
293 lot off of the discussed land.

294  
295 My concern is for the integrity of our community. I know we are a community of very modest  
296 homes, but there is a need for these homes for young couples starting out, and for older couples  
297 downsizing. Our community has stayed relatively stable.

298  
299 My other concern is environmental. The creek coming down at the end of these streets drains a big  
300 area. Now, if they're going to cut down all of the trees, or, by far, a great percentage of the trees,  
301 and all those acres, when we have heavy rains, runoff is going to overburden this creek. This is  
302 what happened to North Carolina and Franklin County, Virginia in the fall. And areas that were in  
303 what was considered 500 year flood zone within a few hours, water came up to second floor  
304 windows. We can't mess with our environment.

305  
306 I believe that covers my concerns, basically. Thank you.

307  
308 Mr. Vanarsdall - Any questions of Ms. Rice? Thank you for your input, Ms. Rice. I  
309 think we can get a response from Mr. Condlin on that.

310  
311 Mr. Condlin - Yes sir, Mr. Vanarsdall. I would say that the two points, that,  
312 obviously, as to the stormwater, that will be taken care of by onsite stormwater management basins  
313 through the process of approval from the County. They have been accounted for the runoff.

314  
315 As far as, I guess, the concern for the fact to how close, you can see on this plan (referring to slide),  
316 that there is a C-1 zoned property between the residential and industrial. In this area the C-1 here  
317 with our building (referring to slide), and there's approximately 600 feet with the required buffers  
318 as set forth by the proffers. We've meet all the Code and proffer requirements and have, in fact, met  
319 with the neighbors, or at least scheduled a meeting with the neighbors and deferred from the last  
320 hearing to hear any concerns at the neighborhood meeting. No one, as you know, showed up at that  
321 meeting. I feel like we've done our duty to the neighborhood. And, quite honestly, these things are  
322 covered by the proffers, the Ordinance, and the conditions that are imposed on this case.

323  
324 Ms. Dwyer - Mr. Condlin, just for clarification, if you would point out on the map  
325 using dots where is Agra?

326  
327 Mr. Condlin - I believe Agra is right here (referring to slide).



328  
329 Ms. Dwyer - And then, also, if you could outline the part that will not be disturbed  
330 because its C-1? It's all that blackened in area (referring to slide)?  
331  
332 Mr. Condlin - Yes. Well, you can see the zoning line right here, ma'am. So, the C-  
333 1 area is right here, in that area. I guess it's the buffer here (referring to slide). The buffer's right  
334 here that's required, otherwise, by the proffers and the Ordinance requirement. It would be this  
335 entire area. It's 400 feet across and it's a 600 feet distance from this property line to where the  
336 building is located. It's 400 feet across in this buffer area right here.  
337  
338 Ms. Dwyer - Now, will any trees be disturbed in that area you just pointed out?  
339  
340 Mr. Condlin - Not that I'm aware of unless there's a requirement for  
341 supplementation. Of course, the C-1, there's no need for it, but there's a buffer that has to be placed  
342 in that.  
343  
344 Ms. Dwyer - Maybe Mr. McGarry could answer that. Are you familiar with that  
345 other case? I believe that was Mr. Wilton's case we heard not too long ago.  
346  
347 Mr. McGarry - The construction of the facility and the parking stay out of the  
348 transitional buffer, and, also, the flood plain area. So, you have a 400-foot piece of land there in  
349 width that's not going to be disturbed.  
350  
351 Mr. Vanarsdall - Any more questions?  
352  
353 Mr. Taylor - Mr. McGarry, can you trace the route of the stream through there? Is  
354 that possible to do?  
355  
356 Mr. McGarry - I believe it starts there and comes right down through the center  
357 (referring to slide). Of course, the dark color (referring to slide) has obliterated the red. And then it  
358 comes out again about there, and continues on down across Parham Road.  
359  
360 Mr. Taylor - I thought I saw a cross section across that stream somewhere in the  
361 drawings. Do you have that handy?  
362 Mr. McGarry - A cross section of...?  
363  
364 Mr. Taylor - The stream. It was on one of the drawings, I think.  
365  
366 Mr. Marlles - Mr. Taylor, I may be able to anticipate where you're going. The  
367 stream actually does go into the M-1C area. In addition to the C-1 District, which, of course, no  
368 trees would be cut down, you also have flood plain along that stream that would be undisturbed as  
369 well. So, you know, there is a considerable buffer there between the proposed development and  
370 Agra Road. That would be undisturbed.  
371  
372 Mr. Taylor - Thank you, Mr. Marlles. In fact, I don't see that stream would be  
373 disturbed anywhere along its entire traverse. Would that be correct?

374  
375 Mr. Marlles - Certainly, if staff can answer this, I would not expect it to be  
376 disturbed within the area that's dark on the slide.  
377  
378 Mr. McGarry - That's correct.  
379  
380 Mr. Vanarsdall - Any more questions? Yes ma'am.  
381  
382 Mrs. Sylvia Wright - I understood you to say that you had talked with residents; had made  
383 available information on meeting with residents?  
384  
385 Mr. Vanarsdall - Yes ma'am.  
386  
387 Mrs. Wright - None of us got any notice of any of this. There was one of my  
388 neighbors across the street who got one notice. Nobody else I have talked to got anything.  
389  
390 Mr. Vanarsdall - Mrs. Wright, Mrs. Linda Ardley got 30 some people's names.  
391  
392 Mrs. Wright - Right.  
393  
394 Mr. Vanarsdall - ...and so forth. And she knew about the meeting. We had the  
395 meeting and not one person showed up.  
396  
397 Mrs. Wright - Not that I know of. Are you talking about in February?  
398  
399 Mr. Vanarsdall - No ma'am. Last Tuesday night.  
400  
401 Mrs. Wright - I would have been there. I would have. Most of us in our  
402 subdivision didn't even know of this meeting. I have a map here that Linda got when she came  
403 down here from you. And this shows clearly future buildings that are encroaching. See right here  
404 (referring to rendering).  
405  
406 Mr. McGarry - This is a master plan for the rezoning, and it doesn't show any  
407 clearing in the flood plain.  
408  
409 Mrs. Wright - See right here. Right here, its right up to it.  
410  
411 Mr. McGarry - The plan before you is up here. This is not part of this proposal.  
412  
413 Mrs. Wright - Yes. But floodplain coming up surfacing all through here? I mean,  
414 you all are going to flood just like our homes are if this is not respected.  
415  
416 Mr. McGarry - Would you like to defer this a minute so I can meet with her out in  
417 the lobby and go over the plans?  
418  
419 Mr. Vanarsdall - Yes, please.

420  
421 Mr. Marlles - It might be a good idea.  
422  
423 Mr. Vanarsdall - Aren't you Linda?  
424  
425 Ms. Barbara Chappel - My name is Barbara Chappel. I live on the end of Agra Drive. And  
426 I was at the first meeting in November. It was two of us that was there. And I was told at the first  
427 meeting I went to that we're going to have 385 feet or a football field between my property and the  
428 woods where they were going to take over.  
429  
430 Mr. Vanarsdall - You live on Agra too?  
431  
432 Ms. Chappel - I live on the very end of Agra Drive.  
433  
434 Mr. Vanarsdall - I can give you some figures if you want them. The distance from the  
435 end of Agra Drive to the edge of the driveway of the parking lot is 360 feet.  
436  
437 Ms. Chappel - Okay.  
438  
439 Mr. Vanarsdall - The distance from the end of the drive for the first building is 478  
440 feet. What happened was, Linda Ardley had called someone and they told her it was 100 feet from  
441 her house. She's the second house.  
442  
443 Ms. Chappel - Right. She's next door to me. That's what I received.  
444  
445 Mr. Vanarsdall - Normally, we do not have community meetings for this type of  
446 project. This is the Plan of Development; after rezoning. And we always have community  
447 meetings for rezoning and not this. When she called me and told me about this and was upset about  
448 it, I asked Mr. Condlin would he ask the owner to defer the case and we have a community meeting.  
449 So, we had a meeting last Tuesday night at the Dumbarton Library. We had the owner of Colonial  
450 Mechanical. We had our County Attorney. We had Mr. Condlin. We had the Architect, Mr.  
451 Blackley, whose sitting back there. We had Mr. McGarry. We had seven or eight people and we  
452 waited around until 7:30 p.m. or passed it and no one showed up. So, that's what happened. We  
453 couldn't explain. We had all these figures to explain. The architect had his renderings and  
454 everything to explain it.  
455  
456 Ms. Chappel - Well, I was under the impression it was 9:00 o'clock Wednesday  
457 which I couldn't get off work to go.  
458  
459 Mr. Vanarsdall - This was a community meeting last Tuesday night at Dumbarton  
460 Library for you.  
461  
462 Ms. Chappel - No one notified us.  
463  
464 Mr. Vanarsdall - Linda Ardley went around the neighborhood and got 30 some names  
465 on a petition and told them there would be a meeting, and Mr. Condlin worked through her. So, I

466 apologize that you didn't get the word. And all the meeting was, was to inform you what was  
467 taking place, because the word had gotten out about a plant, and people were thinking about Phillip  
468 Morris or some big smoke stack or something. And we also ask them to put the fabrication plant  
469 away from the neighborhood. We asked him to close the doors. We have a condition on it to close  
470 the doors. Mr. McGarry had them turn the loading docks away from the neighborhood. So, we've  
471 done everything we can possibly do.

472  
473 Also, they didn't think that Mr. Wilton kept his word by rezoning that piece that we call "C-1  
474 Conservation Area," where you don't build anything. He did. He had that rezoned shortly after; in  
475 fact, a few months ago. So, it is in real good shape. It's in a lot better shape than you think it is.

476  
477 Ms. Chappel - Okay. Thank you.

478  
479 Mr. Vanarsdall - Now, Mr. McGarry, or Mr. Condlin, or both of them will get  
480 together with you and then come on back and we'll talk about it.

481  
482 At this time this case was passed by.

483  
484 Mr. Vanarsdall - Okay, Mr. Secretary, do you want to go on to the next one?

485  
486 **WEST BROAD STREET/I-64 LAND USE STUDY:**

487 The Planning Commission will consider amendments to the 2010 Land Use Plan in the form of a  
488 new Recommended Land Use Plan for the West Broad Street/I-64 study area. The study area is  
489 generally comprised of the area bordered by West Broad Street, Three Chopt Road, Pump Road,  
490 and the Braeton Bay Apartments.

491  
492 Mr. Marles - Okay, Mr. Chairman, the next item on the agenda is actually a staff  
493 presentation on the West Broad Street-I-64 Land Use Study. The staff presentation will be given by  
494 Mr. Mark Bittner.

495  
496 Mr. Vanarsdall - This is a public hearing and any one who would like to speak about  
497 this is welcome to do so after Mr. Bittner explains it to us. Mr. Bittner, good evening.

498  
499 Mr. Mark Bittner, County Planner - Thank you, Mr. Vanarsdall. As you are aware, about the past  
500 year or so, the County has been undertaking a Land Use Study on this property in the Short Pump  
501 section of Henrico.

502  
503 The purpose was to compose the optimum Land Use Plan for the Study area that would most  
504 effectively balance the interest of property owners, residents and surrounding development. The  
505 reason the study was undertaken was because of the intense and rapid development on surrounding  
506 properties. Short Pump is a growing area of the County with many diverse land uses, including  
507 commercial, residential, and school uses. In short, this property was seen as being ripe for  
508 development. The County wanted to do all it could do to encourage quality.

509  
510 The study area is shown here (referring to slide). As you can see its bordered on the north by W.  
511 Broad. On the south by Three Chopt Road. On the west by Pump Road. On the east by the

512 Braeton Bay Apartments and the northeast corner is the interchange with Interstate 64, hence the  
513 name of the study.

514  
515 The study process included hiring consultants. In this case it was Higgins Associates and Jean  
516 Berry is here representing them tonight. During the summer and fall of last year, we had four  
517 community work shops at Short Pump Elementary School, and these were public citizen meetings.  
518 Also, we had several individual meetings with landowners in the study area.

519  
520 The staff and the consultant, together, took all the information, organized it, and analyzed it, and  
521 together composed a recommended Land Use Plan. That Plan was done in December of 1999.  
522 This is not the plan, though, we're presenting tonight, because we have made some changes which  
523 I'll cover in just a minute.

524  
525 But, basically, what we tried to achieve with this plan was to have some Office, with a combination  
526 retail along the frontage of Broad Street. Also, a large amount of Office here (referring to slide)  
527 adjacent to the existing Short Pump School and Park.

528  
529 And, because this W. Broad Street/Pump Road intersection has become so intense with commercial  
530 development, we thought it would make sense to relocate Short Pump Park and Elementary School  
531 to this area here along Three Chopt Road (referring to slide) where it would be adjacent to the new  
532 Pocahontas Middle School and away from that intense commercial intersection.

533  
534 However, after this plan was composed, the County entered into purchasing of this property here  
535 (referring to slide) with the intent of turning it into a park. And, of course, we realized that would  
536 affect this Plan markedly. So, we put the Study on hold until that sale was complete. And it was  
537 completed in April of this year. When that was done, we revised the Plan as is shown here  
538 (referring to slide). And I will go over quickly what those changes were. But in order to do that,  
539 I'm going to go over to our GIS system.

540  
541 What you see here, this is the previous plan from December of 1999. The pink represents Office  
542 Development. The red is Commercial. Purple is Schools, and so forth.

543  
544 The first revision, as I stated, was the County acquiring this property (referring to slide), with the  
545 intent of making it into a park. Since it is adjacent to the existing Short Pump Park, we simply  
546 labeled it as "Short Pump Park Expanded." This expanded park area would be about 53 acres in  
547 size.

548  
549 Now, of course, since we had this park area here next to the school, we felt it would make sense to  
550 just keep the school where it is instead of relocating it. So, that left us with this property over here  
551 (referring to slide) and what to do with it.

552  
553 We have now revised the Plan to recommend "Retirement Residential Development." We feel this  
554 would be a good transitional use from the Office and Commercial to the north, heading south  
555 towards that single-family development across Three Chopt Road.

556

557 Another revision we made involves this light green area here where we're recommending athletic  
558 fields and facilities for the Pocahontas Middle School. We're still recommending that it be used for  
559 those facilities. However, we're just cleaning the Plan up some by bringing it all under the school  
560 purple land use designation color.

561  
562 One final change we made was to show, these would be 35-foot street scape buffers required by the  
563 W. Broad Street Overlay District. This entire study area is within and subject to the standards of  
564 that Overlay District.

565  
566 I'd like to switch back here to the slide show. This is the actual recommended plan with the text  
567 and acreage figures on it. And I'll come back to that in just a minute. But the next steps that we'd  
568 have to undertake in this process would include any comments, questions, concerns from citizens  
569 tonight, as well as discussion and concerns from the Planning Commission. Of course, we would  
570 go to the Board of Supervisors with a work session. Ultimately, to the Board with a public hearing  
571 and citizens and landowners would be notified of that Board public hearing.

572  
573 With that, I conclude my presentation. I'd be happy to try and answer any questions you may have,  
574 as would Jean Berry, who's with Higgins and Associates, who is here tonight.

575  
576 Mr. Vanarsdall - All right, thank you. Any questions from Commission members for  
577 Mr. Bittner? Thank you, Mr. Bittner. As I said, this is a public hearing. We welcome anyone who  
578 would like to speak about it. Please identify yourself and proceed.

579  
580 Mr. David Ogburn - My name is David Ogburn. I live in Windsor Place West which is at  
581 the far right as you look at the map below the Retirement Residential 2. Actually, first I have a  
582 question. The access road is marked "Access to north only." Does that mean that only properties to  
583 the north of this road would be able to use this for access, and the retirement residential would not  
584 be able to use it for access, or is it the other way around?

585  
586 Mr. Vanarsdall - Mr. Bittner.

587  
588 Mr. Bittner - The intent is that that would only be direct access from this road to  
589 the north. The Pocahontas Middle School, Retirement Residential 2, we do not intend to have direct  
590 driveway access to the access road. The reason being that we wanted to create a physical separation  
591 from the Office and Commercial to the north with the Residential and School Uses to the south.

592  
593 Mr. Vanarsdall - Thank you.

594  
595 Mr. Ogburn - My primary concern is simply cut through traffic to my subdivision,  
596 which again, you can see coming into Three Chopt at the far end of the retirement residential  
597 property. So, the only access, then, that would be permitted to that retirement residential property  
598 would be off of Three Chopt Road. I guess one would like to understand better why the access road  
599 that's provided couldn't be used for that purpose to eliminate the possibility of cut through traffic  
600 through my subdivision to the retirement residential. And if that's not possible for some reason, if  
601 we could somehow limit access from Three Chopt Road to this property more towards the left end,

602 or, at least, somewhere between the middle of the two subdivisions that are shown. The other  
603 subdivision that's marked "single family residences," is Barrington.

604  
605 Ms. Dwyer - I'm wondering, sir, if there were access to this access road from the  
606 retirement residential whether that might encourage even more cut through traffic to and from and  
607 access road?  
608

609 Mr. Ogburn - Well, the only way that you would then, assuming John Rolfe is  
610 going to be built on through to get through to Church Road, then your natural access would, if you  
611 wanted to go where my subdivision would take you which would be Church Road, you would more  
612 naturally go down John Rolfe to get there. You wouldn't come down John Rolfe by Pocahontas  
613 down Three Chopt and then through my subdivision.  
614

615 Ms. Dwyer - Right. I think the intent is to prohibit access between Three Chopt  
616 and the access road, because there will be access between the access road and Broad Street through  
617 the hotel and conference center and possibly through the office complex. So, I guess that's what I  
618 alluded to.  
619

620 Mr. Ogburn - I misunderstood your comment.  
621

622 Ms. Dwyer - Right.  
623

624 Mr. Ogburn - I guess what I'm suggesting is the only access to retirement  
625 residential should be from the access road. Therefore, there would be no possibility of cut through  
626 traffic because there would be no access to retirement residential from Three Chopt Road. That  
627 was my proposal.  
628

629 Ms. Dwyer - I see.  
630

631 Mr. Archer - Ms. Dwyer, and Mr. Chairman, it seems like I remember from one of  
632 our work sessions the question came up about that access road. Didn't it also have to do something  
633 with commercial vehicle traffic that would be servicing the hotel and conference center and not  
634 being able to access. Didn't that come up?  
635

636 Mr. Vanarsdall - Yes, it did, Mr. Archer. Do you remember that, Mr. Marlles. It had  
637 something to do with even truck traffic.  
638

639 Mr. Archer - Yes. It seemed like the plan was trying to keep them away from the  
640 community.  
641

642 Mr. Vanarsdall - That's why they planned it that way.  
643

644 Mr. Marlles - Yes sir, Mr. Chairman, members of the Commission, I think, as a  
645 general goal, we do try to separate residential traffic from commercial and industrial and other more  
646 intensive uses as just a general planning goal principle.  
647

648 Mr. Ogburn - But, again, the result of that, in this case, would be encouraging cut  
649 through traffic both through Barrington and through my subdivision. And people have learned that  
650 our subdivision is a convenient cut through because the County left that piece of Three Chopt Road  
651 closed for approximately a year while they were laying the water pipes and sewer pipes to  
652 Pocahontas. So, when people came down Three Chopt, they had no choice but to turn left and go  
653 down Timsfordway, which runs through Windsor Place to get to Church Road.  
654

655 Mr. Marlles - And you feel they will still have that tendency once John Rolfe  
656 Parkway is...

657  
658 Mr. Ogburn - We continue to see significant cut through traffic. Again, providing  
659 more reason for people to cut through would simply increase that traffic.  
660

661 Ms. Dwyer - So another lynch pin to your argument is that John Rolfe needs to be  
662 constructed in order to pull some of that traffic out of your subdivision?  
663

664 Mr. Ogburn - Yes.

665  
666 Ms. Dwyer - That's another key element?  
667

668 Mr. Ogburn - Yes. And, again, I know its on the Plan, and I know its been on the  
669 Plan for a long time. Obviously, you're in a much better position to know, than I am, whether its  
670 ever going to be built or not.  
671

672 Mr. Taylor - Do we have anybody here who can speak to the John Rolf? Is there  
673 anybody here from roads? I'm sorry. Just as I looked around, I saw he was sitting here. I thought I  
674 answered my own question.  
675

676 Mr. Timothy Foster, Traffic Engineer - That's why I'm here, Mr. Taylor.  
677

678 Mr. Taylor - Thank you.  
679

680 Mr. Foster - As far as John Rolfe Parkway, we are designing plans for the final  
681 design from our public hearings we had last year. We expect, at this point in time, we do expect it  
682 to be built. We hope to be under construction I'd say within the next 36 months. We still have  
683 some work to do on the plans. But, we had extensive public meetings last year to get the final  
684 alignment, and those plans are being realized now.  
685

686 Mr. Vanarsdall - All right, thank you.  
687

688 Mr. Taylor - Thank you very much. Looking at this plan along the access road,  
689 your point would be that you would like to see the retirement area have some access through that  
690 access road to get on John Rolfe to either go up to Broad or down to Three Chopt?  
691

692 Mr. Ogburn - Yes sir. That's absolutely correct. And, again, the ladies' question a  
693 minute ago, that was absolutely correct. It would actually defeat my purpose to provide access to it



694 from the access road if you also provided access from Three Chopt Road, because, then I agree.  
695 You're simply encouraging cut through traffic to the hotel conference center, the office and the  
696 commercial. So, again, if you're going to open it up, it has to work together. Open the access road  
697 up, and eliminate access to Three Chopt Road from the residential retirement.

698  
699 Ms. Dwyer - And construct John Rolfe?  
700

701 Mr. Ogburn - And construct John Rolfe. Actually, even if you don't construct  
702 John Rolfe, if somebody's going down Church Road, the more natural way would be to come out,  
703 assume John Rolfe dead ends at Three Chopt, you could go down Three Chopt to Pump and go  
704 down Pump that way would be equally, if not more attractive, than cutting through my  
705 neighborhood.

706  
707 Mr. Taylor - Perhaps, Mrs. Barry can help us because I know we had talked about  
708 traffic. Would you like to provide, perhaps, some input on this issue just for the record?  
709

710 Mrs. Jeanne Berry - My name is Jeanne Berry, and I'm with Higgins and Gersteinmier;  
711 formally known as Higgins Associates. As I recall, our original intent for this property was not to  
712 line up any of the access points on Three Chopt with the neighborhood trying to again, prevent any  
713 type of cut through traffic between the neighborhoods and anything that goes on this parcel. I still  
714 feel its probably limiting the access too much only having the parcel being accessed from the access  
715 road as was suggested earlier.

716  
717 Ms. Dwyer - What would be the total acreage served only by the access road,  
718 then?  
719

720 Mrs. Barry - Mark, do you have that?  
721

722 Mr. Bittner - Yes. Under this plan it would serve the Office and Commercial 2  
723 and the hotel and conference center. I would have to do some quick adding in my head here; about  
724 90 acres or so to the north of the access road.  
725

726 Mrs. Barry - If I could interject here. You said, what would be provided access  
727 only to the access road? The other things have access to other roads. The only piece that would  
728 have access only to the access road would be the retirement residential. I can get to the office on  
729 Broad Street and John Rolf, and I can actually get to the school off of Three Chopt, today. I assume  
730 you're not planning (Comments unintelligible-microphone not working).  
731

732 Mr. Bittner - This plan recommends access to Retirement Residential 2 only from  
733 Three Chopt, not from the access road. With the intent being to discourage cut through traffic in the  
734 neighborhoods to the south. If someone is coming from say in this general area, looking to get to  
735 Interstate 64, it would be very inconvenient for them to go through Barrington or though Windsor  
736 Place West to get there. And that is because, once they get to Three Chopt, they've either got to  
737 turn left or right to get to the interstate. So, this plan is encouraging people to go up John Rolfe to  
738 Broad or possibly take the access road through these areas ultimately to get over to the interstate.  
739 It's designed precisely to keep traffic out of the single family neighborhoods.

740  
741 Mr. Taylor - Mark, looking at that, would the road distribution system within the  
742 retirement residential, could we arrange that so as to discourage cut through traffic with a series of  
743 different...  
744  
745 Mr. Bittner - Well, yes. And on this plan there would be no where to cut through  
746 to. That's the point. You'd have to come in and out on Three Chopt Road if you wanted to get to  
747 the Retirement Residential 2 area. You cannot go any further north if you were in that area.  
748  
749 Mr. Taylor - So, there wouldn't be no traffic from W. Broad Street that would be  
750 able to travel to Three Chopt?  
751  
752 Mr. Bittner - No. There would not.  
753  
754 Mr. Taylor - Okay. That's all I had, Mr. Chairman.  
755  
756 Ms. Kelly Darling - I live on Timsfordway in Windsor Place. And I agree with Mr.  
757 Ogburn. I have a two-year old and I am outside all the time with the cut through traffic all the time.  
758 It's gotten to the point that even my two-year old screams, "slow down." I would love to see the  
759 access to the residential retirement come off that access road. I do have one question on it. The  
760 residential retirement community, is that something that is definitely happening, or is that just a  
761 proposed thing, because someone else mentioned to me that there may be a one-story strip mall  
762 thing in there like a deli and a nail place or something like that?  
763  
764 So, are we going on this, assuming that this is definitely going to be a retirement community, or is  
765 there a possibility that its going to change to some kind of commercial?  
766  
767 Mr. Marlles - This is a recommended amendment to the Land Use Plan. That does  
768 not mean that there's a specific development that's going to come in here tomorrow and develop  
769 this either retirement residential or some other category. It provides a guideline for the Board and  
770 for the Planning Commission as to future land use. It's a conceptual land use plan, in fact. But, to  
771 answer your question, there's not, you know, a specific development project proposed for this site,  
772 pending.  
773  
774 Ms. Darling - Okay. I assume when that comes up, if something else were to come  
775 up, and say it was going to be commercial, we'd have another one of these...  
776  
777 Mr. Marlles - There are public hearing requirements for changes in zoning and  
778 notification of adjacent property owners and legal ads and signs that go on the property.  
779  
780 Ms. Darling - Okay.  
781  
782 Mr. Marlles - You should receive sufficient notification.  
783  
784 Ms. Darling - Okay. Great. Thank you.  
785

786 Mr. Vanarsdall - Thank you.  
787

788 Mr. Michael Stone - My name is Michael Stone. I live at 3837 Timsfordway in Windsor  
789 Place. I do also have some concerns about the traffic on Three Chopt. It's terrible right now getting  
790 in and out of our subdivision onto Three Chopt Road. At times its like Interstate 64 down there  
791 because the people at Wellesley are using it as an alternative to W. Broad Street to get from  
792 Interstate 64 into their homes. And I hope, as part of this whole process, eventually, something else  
793 will happen with Three Chopt to widen it. Right now, you've got two lanes at one end, four lanes at  
794 another and an old country road in between the two. It's extremely hazardous. But, also, on this  
795 retirement, whatever classification you give it, I do hope that whatever is placed on it is restrictive  
796 enough that we can't have a strip shopping center, or something like that to keep it from being  
797 commercialized. The retirement home sounds nice type of deal. The athletic complex with the  
798 school sounds find to me too, because one of my concerns on that property all along has been it  
799 either be a really large commercial complex; another Wal-Mart, Target Store, be developed right  
800 along Three Chopt, or that it be a million apartment complex go through there. So, I think the idea  
801 of the retirement thing sounds nice, but I am concerned about this state of Three Chopt Road, and  
802 again, about the amount of traffic that anything along there would generate. Thank you.  
803

804 Mr. Vanarsdall - Thank you, Mr. Stone. Any time any Commission members have a  
805 question, just hollow. Yes ma'am.  
806

807 Ms. Kathy Smith - I'm Kathy Smith. I live on Far Court in Windsor Place. I overlook  
808 all that property. And, to me, there's so many retirement homes already on Gaskins, I have six kids.  
809 People go down Three Chopt in the evening, late evening, like it's the Indianapolis 500 sometimes.  
810 You can hear the cars revving their engines and everything. I mean, what's wrong with just leaving  
811 some trees once in awhile? I mean everything does not have to be built up. And there's already  
812 three or four retirement homes on Gaskins on up. I mean, to me, old people should live with their  
813 children. You don't have to put them away somewhere. And it depreciates the value of our homes.  
814 I mean, we look at I-64 from our window. I mean, during the winter, I can see the trucks. I can  
815 hear the trucks going down I-64. And, I just think having everything so commercialized is unreal.  
816

817 Mr. Vanarsdall - Thank you.  
818

819 Mr. Marlles - Ma'am, I would point out that the County has acquired a fairly large  
820 portion of the property on the west side of John Rolfe for Short Pump Park expanded. I think that  
821 need has been recognized by the Board member and the County to save some of the trees and green  
822 space and open space in this area. So, that concern...  
823

824 Ms. Smith - If there's a retirement home, I'll just be seeing buildings from my  
825 house, and we are a residential area. That's all I'll be seeing.  
826

827 Mr. Marlles - I understand that.  
828

829 Ms. Smith - (Comments unintelligible-microphone not working).  
830  
831

831 Mr. Vanarsdall - So, you don't feel that's a good suggestion for land use as a  
832 retirement home?  
833  
834 Ms. Smith - Is there a retirement home? (Comments unintelligible-not at  
835 microphone).  
836  
837 Mr. Vanarsdall - What would you suggest should go there?  
838  
839 Ms. Smith - I don't know. But there are so many retirement homes. It's unreal.  
840  
841 Mr. Vanarsdall - I know it. It is. How many acres was the park, 34?  
842  
843 Mr. Marlles - Yes ma'am. You need to speak into the mike if you have additional  
844 comments.  
845  
846 Ms. Smith - What about another residential area; a nice one? I mean there's  
847 plenty of need. In Windsor Place, whenever a house is up for sale, I mean its just gone like that.  
848  
849 Mr. Vanarsdall - I think, Ms. Smith, you will find a retirement home would have a lot  
850 less traffic, and fewer cars, and vehicles than single family dwellings.  
851  
852 Ms. Smith - Yeah, but I mean, there's so many retirement homes already around  
853 where we're at. I mean there's an unbelievable amount. If you go down Gaskins, they're building  
854 one right now. They just finished building one. And then you have St. Mary's Woods. I mean  
855 within less than a mile. And I don't know what they're building across on the other side of the  
856 street from the new one that they're building. It might be another retirement home for all we know.  
857 They don't put the signs up that says what they're building until they'll practically finished. So.  
858  
859 Mr. Marlles - Part of that, ma'am, is because the population of the County is  
860 getting older, and we're already older relative to the surrounding jurisdictions.  
861  
862 Ms. Smith - Oh, I know.  
863  
864 Mr. Marlles - Part of it is based on the needs of the population and private market  
865 responding to the aging of the population.  
866  
867 Mr. Vanarsdall - We used to just have old buildings. Now, we have old people.  
868  
869 Ms. Smith - I'd love for my in laws or my parents to live with us. We've asked  
870 both of them to in a heartbeat. You know, it's a shame people don't respect their parents and put  
871 them away. I mean, they should enjoy them, because you don't have them that long.  
872  
873 Ms. Dwyer - This may not necessarily mean "nursing home." Retirement  
874 community may be an opportunity for people to downsize. So, you know, it may not necessarily be  
875 a nursing home. We have a number of housing facilities in Henrico that are just geared to people  
876 who want a smaller space; no maintenance of a yard and want to downsize their homes.

877  
878 Ms. Smith - But, when you say, “retirement home,” that is more like a retirement  
879 home. It’s not like a single family dwelling for people who want to downsize. There’s totally  
880 different... to both of them.

881  
882 Ms. Dwyer - This doesn’t define what kind of housing would be there, but it just  
883 states that a “retirement community use,” would be a good one there. I think, as Mr. Vanarsdall  
884 pointed out, probably because it would generate less traffic than a single family. Also, because  
885 single family might not want to be bumped up against a school, an office building, and a hotel  
886 complex center. So, that was viewed as a good residential transition between single-family homes  
887 and hotel. So, I think that’s the underlying basis for that designation.

888  
889 Ms. Smith - I’ve seen nice single-family homes where other people come in and  
890 take care of their yards and stuff like that. I mean, its unbelievable. I mean I moved here from  
891 Savannah, Georgia and they have some unbelievable places for older people that its not “a  
892 retirement home” and its not just for older people. I mean older people don’t want to be around  
893 older people all their life either. That’s what keeps them young is being around younger people.

894  
895 Mr. Vanarsdall - We do appreciate your opinion and your input. Thank you. Any one  
896 else?

897  
898 Mr. Bittner - I was getting ready to tell the audience exactly what Ms. Dwyer has  
899 said. We’re not necessarily recommending a senior citizen high rise. What that is meant to  
900 recommend is residential areas geared to older people who tend to not have children. They tend to  
901 have less traffic, less effect on surrounding neighborhoods. We have examples of this in Henrico;  
902 zero lot line single-family homes, apartments, townhomes. It could possibly be some sort of  
903 assisted living center, say, Manorhouse on Skipwith, but we’re not specifying it has to be that.  
904 We’re specifying it has to be geared towards older people with fewer or no children.

905  
906 Mr. Vanarsdall - Thank you, Mr. Bittner. Yes ma’am, good evening.

907  
908 Ms. Jeanette Guatona - Good evening, my name is Jeanette Guatona. I live in the  
909 Sherbrooke neighborhood. I have children who attend the Short Pump Elementary School. I’ll  
910 digress from what I was going to say about the retirement community is that before that ever gets  
911 changed as single-family residences, I’d like to have a study done on how many children would be  
912 influx to our schools again because we wouldn’t want to end up with trailers again. I thought the  
913 retirement community was a nice transition, but I understand a lot of her concerns.

914  
915 Mr. Vanarsdall - Good point.

916  
917 Ms. Guatona - I’m encouraged by the new plan, and how it looks, and all the  
918 considerations that has been made for the Short Pump Elementary School. We’d like to address the  
919 commercial area, Number 1, on your map. Has that ever come up to be rezoned something other  
920 than commercial? We had a recent incident at our school, an intruder coming where the Police were  
921 called in for it. And we still have a lot of concerns at the school about the safety of our children in  
922 that area. And I didn’t know there’d been any study done on making that not a commercial zone.

923  
924 Mr. Marlles - Ma'am, that area, I think you probably know this is already zoned  
925 commercial.  
926  
927 Ms. Guatona - I do.  
928  
929 Mr. Marlles - So, this study did not recommend any changes in zoning. I think we  
930 indicated that at the beginning of the planning process that we would not be doing that. Plus, the  
931 current property owner has certain rights to that existing zoning remaining the same. The answer to  
932 your question is, "No, we did not consider changing the existing zoning on that property."  
933  
934 Ms. Guatona - I understand there's commercial that's already built on the corner  
935 right behind the school. Those industries do not interfere per se with our school. There's no  
936 guarantee that the future of those industries will remain there. And, I didn't know if there's  
937 anything that could be done with zoning, what would be guaranteed in the future of the existing  
938 properties. But there's also a lot of undeveloped land that's abutting up to the school that was once  
939 considered Office in the before plans when they were going to behind the school, and you know we  
940 did the deal. Isn't there a possibility of getting it zoned Office for what's already not developed?  
941  
942 Ms. Dwyer - Does this plan reflect anything; looking at the commercial between  
943 Pump and John Rolfe along Broad, does that reflect the current zoning, that whole commercial  
944 section?  
945  
946 Mr. Marlles - Yes ma'am.  
947  
948 Ms. Dwyer - Okay.  
949  
950 Mr. Marlles - And I believe staff felt that commercial zoning in that location was  
951 reasonable, on the basis that there was already a precedent established; there was already existing  
952 commercial on a portion of that block fronting on W. Broad Street. The fact that there was already  
953 current zoning in place.  
954  
955 Ms. Guatona - There's so much commercial built up going on in our area. And with  
956 the recent incident at the school, it brought it to the forefront again the safety of our children at  
957 school. And to go ahead and to continue to develop commercial right around our school. I would  
958 just like to see it turned into something more restrictive.  
959  
960 Mr. Vanarsdall - Thank you.  
961  
962 Ms. Guatona - Thank you.  
963  
964 Mr. Vanarsdall - Yes sir.  
965  
966 Mr. Rich McKenney - My name is Rick McKenney. Actually, I'm a homeowner in the  
967 single-family residence on the left. Given the new plan, and I also have to tell the Commission, I'm  
968 tickled by the extension of the park. I think it's a great addition to our area and to the schools

969 adjacent to that area. But, I also wanted to talk about a retirement residential area, Number 1.  
970 Given the old plan, it seemed to make transitional sense. Given the new plan, and if you've driven  
971 down the Three Chopt Road, with the Parkway on your left, the community on the other side of the  
972 road doesn't seem to make as much sense. I guess that would bring that to the Commission to  
973 reconsider retirement residential area, especially, given the quirky nature of the property, itself. It  
974 will be adjacent to the park as well as to John Rolfe Parkway. I just wanted to bring up that point to  
975 consider changing that because that is one area that did not change in the Plan. If you could convert  
976 the old plan to the new plan. It seems to make more sense. I don't know if the County has  
977 considered to keep that park land on that area or consider something else, and it was mentioned  
978 single family homes. So, I'd just like to bring up those different points. That could remain a good  
979 area, especially, given that the other side of the road is now a parkway and it does travel up to the  
980 school as well. So, I'd make that point. Thank you.

981  
982 Mr. Vanarsdall - Thank you, Mr. McKenney. Any one else like to speak?

983  
984 Mr. Tom Liesfeld - I would.

985  
986 Mr. Vanarsdall - Yes sir. Come on down.

987  
988 Mr. Liesfeld - Ladies and gentlemen, I'm tom Liesfeld. I represent the Liesfeld  
989 family that owns a strong portion of the pink and yellow area there (referring to rendering) just off  
990 of Broad. We look at this as our IRA. A short background on the Liesfeld family, we moved to  
991 Short Pump in 1948 from northwest Henrico. Then, in the 50 plus years since, we have watched as  
992 urban Richmond moved westward on Broad. We've been aware of the soaring land prices, and  
993 ultimately the accompanying tax assessments. The painful new tax assessments.

994  
995 We have acquired since 1948, after deducting he most recent land condemnations, i.e. the new  
996 Three Chopt portion of the new Pocahontas Middle School, the new Three Chopt Road; a portion of  
997 that, and quiet strip on Broad. We have acquired, since 1948, after those condemnations being  
998 deducted, a \$2,000 year tax bill that almost equals \$80,000 for the study area.

999  
1000 As the new tax bills came in, the only solace that we had was an idea as the assessments increased,  
1001 so did the value of our property. To my knowledge, we have never been a thorn in the side of  
1002 Henrico County; objected to any of the assessments, or chewed on the ear of any of our elected  
1003 officials.

1004  
1005 Quite to the contrary, we have paid taxes on time; trying always to respect the County and its  
1006 officials. We've also tried to keep our property neat and clean, helping to support the integrity of  
1007 the Short Pump community.

1008  
1009 Recently, our community has been growing by leaps and bounds, as we're already attested to.  
1010 Broad has been widened to six lanes all the way to Goochland County. This has helped the traffic  
1011 and opened up the area to business. Over the past five years, we've been inundated with offers for  
1012 our property from every type of business; mainly the pink area (referring to plan) that fronts Broad.  
1013 But, mostly, everybody is interested in retail.

1014

1015 During the recent condemnations by the Henrico County and VDOT, I have been on the  
1016 negotiations with the principals and the appraisers on both sides. The appraisers have a key phrase  
1017 when coming up with the value of real estate--“The highest and best use.”  
1018

1019 We feel, as a family, the proposal, as it now stands, deprives us of that highest and best use zoning.  
1020 We feel ostracized for not selling our property in a prior year. If we had asked for a retail  
1021 commercial rezoning even three to five years ago on the Broad Street property, we think it would  
1022 have cleared without a hitch.  
1023

1024 An observation that I’ve made, everything west of the new John Rolfe Parkway, and its in the area  
1025 that the lady just before me spoke about, the commercial area just in front of Short Pump and all the  
1026 way up to Lauderdale on the south side of Broad is either retail or commercial.  
1027

1028 In our opinion, all the property east of John Rolfe to the I-64 Interchange should, therefore, to be  
1029 fair, should at least have a 500 foot depth of retail zoning and office exposure behind it. I  
1030 understand that since the final approval of the John Rolfe Parkway that a number of real estate  
1031 agents representing retail entities have flocked to the owners west of us to try and purchase land on  
1032 both Broad and John Rolfe.  
1033

1034 I understand that the price that is quoted by the owners that happen to be in this particular study  
1035 have been in the \$300,000 to \$500,000 per acre for the undeveloped retail space. That’s the going  
1036 price in our area. I feel empathy for the owners and hope they get their price.  
1037

1038 We submit that, with all the undevelopable space dedicated to setbacks and green areas, that our  
1039 property along Broad, and this is with the most important part of this that I’m to address tonight,  
1040 should not be down zoned, depriving us of the economic value of our IRA. We feel that we are  
1041 fully vested after 50 and a half years of residing in, and being good citizens of Henrico County.  
1042 Ladies and gentlemen, we respectfully object to the approval of this recommendation on Broad as it  
1043 now stands.

1044 One of the questions I have for Mark, and I noticed in one of the few of the other parts about the  
1045 new Three Chopt, the old Three Chopt lane that now exists and is open to the new Three Chopt  
1046 back to Broad, will it be vacant or will it be left intact?  
1047

1048 Mr. Vanarsdall - Mr. Bittner? Mr. Foster.

1049  
1050 Mr. Tim Foster - Just for the record, I’m Tim Foster, the Traffic Engineer. Under this  
1051 scenario, Three Chopt Road would be vacated and the properties combined to make one conducive  
1052 piece of property there.  
1053

1054 Mr. Vanarsdall - It would be vacated?  
1055

1056 Mr. Foster - Yes sir, so that we could have one; as you see where the office is, it  
1057 would be either to develop without the road splitting the piece of property in half. It would also take  
1058 the access away from Three Chopt Road.  
1059

1060 Mr. Vanarsdall - Thank you, Mr. Foster.



1061  
1062 Mr. Liesfeld - Mr. Chairman, we own both sides that Three Chopt Lane. That's  
1063 why I was questioning. The one thing that I do want to make sure that you get in the crux of my  
1064 speech here is the commercial property that you have listed now, the section of Commercial 2 right  
1065 up across from Target, that area, we feel, needs to be commercial from John Rolfe to the Short  
1066 Pump interchange, at least a 500-foot depth with the buffer of the Office on the backside.  
1067  
1068 Mr. Vanarsdall - John Rolfe Parkway on over?  
1069  
1070 Mr. Liesfeld - From John Rolfe all the way to the end of the green area (referring to  
1071 slide) where the arrow is now. The entrance to the I-64 Interchange.  
1072  
1073 Mrs. Quesinberry - So, you would want to put commercial in front of the hotel and  
1074 conference center along W. Broad Street?  
1075  
1076 Mr. Liesfeld - The way I understand it, the hotel and conference center is already  
1077 commercial. That would be commercial? Is that right?  
1078  
1079 Mrs. Quesinberry - Just put the hotel and conference center behind it?  
1080  
1081 Mr. Liesfeld - No. It would be red the way its drawn. I would be looking for a  
1082 500-foot strip from John Rolfe all the way down to the hotel and conference center being red also;  
1083 not just the Commercial 2 there in the pink area (referring to slide). Not doing away with the hotel  
1084 itself, but having it all red from – Right now, the interchange is where it starts, goes back to the  
1085 Brookfield, or Brookhollow, I think they call that road on the north side of Broad.  
1086  
1087 Mr. Vanarsdall - Okay.  
1088 Mr. Liesfeld - I think it would be totally unfair to the landowners there, of which we  
1089 are a major portion, that we don't get the retail; the 500 foot on Broad. Thank you for your time.  
1090  
1091 Mr. Vanarsdall - Thank you, Mr. Liesfeld. Any one else? Any one else like to  
1092 speak? Yes sir, good evening.  
1093  
1094 Mr. Jeff Leopold - Hi, I'm Jeff Leopold. I live in the Barrington Valley portion within  
1095 Barrington. I mainly have a response to the comments I just heard. Actually, I'm going to start  
1096 further back. I really appreciated what Mark Bittner and the Higgins Associates group did with us  
1097 in our four work shops last year. And what I liked about it, it felt like it, "What do all the  
1098 neighborhoods think of this? By the way, we're going back to the property owners as well." I  
1099 think, as Mark talked about when he started the presentation today, that happened. He kind of went  
1100 through and said that. "Yeah, this was the process that we talked to the residential owners, and we  
1101 also talked to property owners." So, I was a little bit concerned about what I just heard. First of all,  
1102 I don't know what 500 feet is. I don't know what 500 feet says, "Hey, we're red all the way to the  
1103 access road, or it its about the same width as the Commercial 2." I don't have a scale. I don't know  
1104 how much 500 feet is.  
1105  
1106 Mr. Liesfeld - I can give you the 500 foot rod if that would help.

1107  
1108 Mr. Leopold - It would help me a little bit.  
1109  
1110 Mr. Vanarsdall - That would help, Mr. Secretary.  
1111  
1112 Mr. Marlles - Okay.  
1113  
1114 Mr. Vanarsdall - Come on down, Mr. Liesfeld.  
1115  
1116 Mr. Liesfeld - The area right here (referring to slide), that area right there where my  
1117 father's house is right now, the barn and, etc., would be the 500 foot. This would be the area that  
1118 I'm looking at (referring to slide).  
1119  
1120 Mr. Leopold - My reaction is, that's a lot of red. And so, I guess I would say, if I  
1121 considered that what we've done, the staff has done so far and the Commission so far is to  
1122 compromise and take into account the interest of all the people, and at the end, really respect having  
1123 been here for 50 years and paying those kinds of assessments, that that counts for a lot. But it feels  
1124 like the equivalent of me at the end of day, you know what I'd really have the whole thing be park,  
1125 which I would. Of course, I'd rather the whole thing be a park, but that's not fair. There's a  
1126 compromise required, and I really like this whole picture. In other words it seems like everyone  
1127 wins. The property owners are getting may be not the highest and best use where density and  
1128 skyscrapers equals highest and best use, but I think good value for a 50-year investment, as the same  
1129 time preserving the value for the whole neighborhood. Thank you.  
1130  
1131 Mr. Vanarsdall - Thank you, very much. All right.  
1132  
1133 Ms. Jeanne Berry - Jeanne Berry with Higgins and Gersteimer. Just for the record, I'd  
1134 like to state that for those of you who were not able to attend the four public meetings we had last  
1135 summer, this, as well as, five to six other variations of land use plans were brought up to probably  
1136 75 to 100 people in attendance at each meeting. And different scenarios including different depths  
1137 of commercial were brought up. And they were unanimously opposed at these meetings. And just  
1138 like the gentleman expressed serious concern about depths of commercial, and I think what we tried  
1139 to do, the ultimate goal of this project was to find a compromise between the citizens and the  
1140 landowners. And the ultimate word here is "compromise."  
1141  
1142 Mr. Vanarsdall - Thank you. Any one else? All right. We got some very good  
1143 comments and very good suggestions.  
1144  
1145 Mr. Marlles - Mr. Chairman, members of the Commission, you have received  
1146 public input at tonight's meeting. Certainly, you have a number of options. You can make  
1147 modifications to the Plan. You can recommend the Plan as it is to the Board. You can defer action  
1148 on the plan in order to consider the comments that were presented tonight. But, those are the  
1149 options that you have for you. Staff is recommending approval of the Plan, and we would be glad  
1150 to answer any questions that the Commission has at this point.  
1151

1152 Mr. Vanarsdall - Any questions for Mr. Secretary by Commission members or any  
1153 discussion?

1154

1155 Mr. Archer - Mr. Secretary, I think it might be helpful to explain to those that have  
1156 questions about what the Land Use Plan actually means to maybe explain it in some fashion, so that  
1157 people don't go away with the idea that what's shown here has already been designated for a  
1158 particular use, but that its just a study, and I think you can probably do that better than I can.

1159

1160 Mr. Marlles - Yes sir. Mr. Archer, and again for the residents that are here, the  
1161 County's Comprehensive Plan consists of three elements: the Land Use Plan, which this would be  
1162 an amendment to; the Major Thoroughfare Plan, which shows future streets and highways in the  
1163 County; and the Parks, Recreation and Open Space Plan.

1164

1165 The Land Use Plan, in fact, all three of these plans serve as general guides. That's, essentially, what  
1166 they are. They provide guidelines to the Planning Commission and the Board when it comes to  
1167 future land use decisions.

1168

1169 If, for example, if this Plan Amendment were adopted, a property owner or developer approached  
1170 the County and applied for a rezoning of some portion of the study area, this plan would serve as a  
1171 guide to the Planning Commission and to the Board in considering that rezoning requests or that  
1172 development request in making a decision. It does not mean that there is a pending development on  
1173 any portion of this site ready to come in tomorrow. But, the Land Use Plan provides a long- range  
1174 guide to decision making for the Planning Commission and the Board of Supervisors.

1175 Mr. Vanarsdall - Thank you. All right, we need to talk about do we want to approve it  
1176 the way it is or come back for another meeting or how would the Commission like to do that? I'd  
1177 like to have a motion on it, or some discussion and a motion.

1178

1179 Mr. Taylor - Mr. Chairman, I worked on this project with a number of the people  
1180 in the community. We had four very well planned, well attended, carefully thought out meetings. I  
1181 thought that the public reaction to the meetings; the public comments, public participation was  
1182 excellent. I really want to complement Ms. Berry and the staff for the work that they've done on it.

1183

1184 I thought that the entire public meeting process was an exercise in gaining community support for  
1185 this. And, I think it represents a careful compromise between the retail area, the neighborhood  
1186 concerns, schools, green space, commercial space, office space, hotel space, environmental  
1187 protection areas. We even put a few retirement homes in there for people like myself who in a few  
1188 years are going to be looking to occupy it. Even though, I love my grandchildren, I think after about  
1189 five or six days, I'm ready to go home.

1190

1191 I really think that, overall, there is an excellent balance. We were sensitive first to the  
1192 environmental areas. And we've got an environmental protection area in there. And we've got a  
1193 large amount of space. And along the road, we were helped out by a considerable contribution of  
1194 park space from some very fine sources. And we now have, actually, all the west of John Rolfe  
1195 Parkway is Short Pump Park except for the commercial space on Broad Street. And as it stands  
1196 there, will be subject to all of the zoning, and I think there's adequate opportunity to control what  
1197 goes in there as we see it. But, for both Pocahontas Middle School and the Short Pump Elementary

1198 School, and the communities around there, that green space is precious in today's growing  
1199 economy. And, as you are all well aware, Short Pump is growing, growing fast, and its going to  
1200 continue to grow.

1201  
1202 So, there's green space that we can set aside now as a very important asset. There is adequate  
1203 space, we thought, for commercial activity. And approximately 40 percent or so of the space was  
1204 allocated to hotel and conference center, and office space. And they were picked, frankly, so they  
1205 were low impact, basically, on the adjacent communities, on adjacent schools and the residential  
1206 retirement.

1207  
1208 Combinations of space were looked at, where it should go, how much it should be, what it should  
1209 be adjacent to, and some of our concerns, and I think, for the most part, the meetings that I  
1210 participated in had very good concentration on all of the points that were raised, and then the  
1211 staff took it back and went over it. I think, overall, it was a very sensitively handled process,  
1212 with wide community involvement. And as I look at this, while everybody doesn't get  
1213 everything they wanted, most of us got most of what we want, and all of us are better served  
1214 having this office conference center, retirement, and middle school, green space, than we would  
1215 if this was a total commercial lot, and, therefore, Mr. Chairman, I would move that the Planning  
1216 Commission approve this concept as presented.

1217  
1218 Mr. Marlles - Mr. Taylor, that would be recommend approval to the Board of  
1219 Supervisors. And, I would say, for the citizens in the audience, that before the Board of  
1220 Supervisors adopts this amendment to the Land Use Plan they would also hold a public hearing,  
1221 similar to this, and take public comments. But, actually what the Planning Commission is doing  
1222 is making a recommendation to the Board of Supervisors that this plan amendment be adopted.

1223  
1224 Mr. Taylor - Then, Mr. Director, I will rephrase that, that we make  
1225 recommendation to the Board of Supervisors as it is.

1226  
1227 Mr. Vanarsdall - Do I have a second?

1228  
1229 Ms. Dwyer seconded the motion.

1230  
1231 Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Mrs. Dwyer. All those in  
1232 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained).

1233  
1234 Mr. Vanarsdall - Mr. Secretary, we have the case we had in the beginning of the  
1235 meeting, the POD case is now ready and Mr. McGarry will now present that.

1236  
1237 Mr. McGarry - Mr. Chairman, I will present the case. Mrs. Rice, her daughter,  
1238 and the neighbors are now satisfied. They are satisfied that the floodplain will be preserved as  
1239 was promised in the rezoning case, so they have withdrawn their opposition. Staff can now  
1240 recommend approval subject to the conditions on the plan, standard conditions and the additional  
1241 conditions Nos. 23 through 29.

1242

1243 Mr. Vanarsdall - Anyone on the Commission have any questions for Mr. McGarry  
1244 on this case? Thank you for going out there and taking care of this. I recommend POD-36-00,  
1245 Colonial Mechanical Corporation – Ackley Avenue, be approved with standard conditions for  
1246 developments of this type, the annotations on the plans, and conditions Nos. 23 through 29.

1247  
1248 Mrs. Quesinberry - Second.

1249  
1250 Mr. Vanarsdall - Motion made by Mr. Vanarsdall and seconded by Mrs.  
1251 Quesinberry. All in favor say aye. All opposed say nay. The motion passes.

1252  
1253 The Planning Commission approved POD-36-00, Colonial Mechanical Corporation – Ackley  
1254 Avenue, subject to the standard conditions for developments of this type and the following  
1255 additional conditions:

- 1256  
1257 23. The developer shall provide fire hydrants as required by the Department of Public Utilities  
1258 in its approval of the utility plans and contracts.  
1259 24. Any necessary off-site drainage easements must be obtained in a form acceptable to the  
1260 County Attorney prior to final approval of the construction plans by the Department of  
1261 Public Works.  
1262 25. Deviations from County standards for pavement, curb or curb and gutter design shall be  
1263 approved by the County Engineer prior to final approval of the construction plans by the  
1264 Department of Public Works.  
1265 26. Insurance Services Office (ISO) calculations must be included with the utilities plans and  
1266 contracts and must be approved by the Department of Public Utilities prior to the issuance of  
1267 a building permit.  
1268 27. Approval of the construction plans by the Department of Public Works does not establish  
1269 the curb and gutter elevations along the Henrico County maintained right-of-way. The  
1270 elevations will be set by Henrico County.  
1271 28. Dedication of the 316 foot portion of Ackley Avenue in front of the site shall be recorded  
1272 prior to the issuance of a certificate of occupancy.  
1273 29. All manufacturing and fabricating operations shall be conducted entirely within the enclosed  
1274 building and the loading doors and other exterior doors during such operation shall remain  
1275 closed.

1276  
1277 Mr. Vanarsdall - I think we should take the 8:30 p.m. cases. Mrs. Via.

1278  
1279 Ms. Via - Thank you, Mr. Chairman. You did request that we take both the  
1280 withdrawals and the deferrals for the 8:30 agenda and the expedited agenda for the 8:30 agenda.  
1281 Withdrawals and deferrals first?

1282  
1283 **Deferred from the May 11, 2000 Meeting**

1284 **C-36C-00 Gloria L. Freye for McDonald's Corp.:** Request to conditionally  
1285 rezone from R-3 One Family Residence District to O-2C Office District (Conditional) and B-2C  
1286 Business District (Conditional), Parcels 61-A-2 and 31, containing 2.046 acres, located on the west  
1287 line of Staples Mill Road approximately 160 feet north of Parham Road and on the north line of  
1288 Parham Road approximately 170 feet west of Staples Mill Road (U. S. Route 33). A fast food

1289 restaurant with drive through is proposed. The use will be controlled by proffered conditions and  
1290 zoning ordinance regulations. The Land Use Plan recommends Office.

1291  
1292 Ms. Via - The applicant has requested a deferral to July 13, 2000.

1293  
1294 Mr. Vanarsdall - Is anyone in the audience in opposition to the deferral of  
1295 McDonald's? I move that Case C-36C-00, McDonald's Corporation, be deferred to July 13, 2000,  
1296 at the applicant's request.

1297  
1298 Mr. Taylor seconded the motion.

1299  
1300 Mr. Vanarsdall - Motion made by Mr. Vanarsdall, seconded by Mr. Taylor. All those  
1301 in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained).

1302 **C-65C-99 Steven and Dody Tribble and Charles W. Sanders, Jr. and J.**  
1303 **Sanders:** Request to conditionally rezone from B-3C Business District (Conditional) and R-4 One  
1304 Family Residence District to B-3C Business District (Conditional), Parcels 52-A-55 and 56 and part  
1305 of Parcels 52-A-53 and 54A, containing 1.5706 acres, located on the west line of Mountain Road  
1306 approximately 275 feet north of its intersection with North Run Road. Any permitted B-1 use, B-3  
1307 Office/Warehouse and Overnight Respite Care for Adults are proposed. The use will be controlled  
1308 by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends  
1309 Commercial Arterial and Suburban Residential 2, 2.4 to 3.4 units net density per acre.

1310  
1311 Mrs. Via - The applicant has requested a deferral to July 13, 2000.

1312  
1313 Mr. Vanarsdall - Anyone in the audience in opposition to this case? Case C-65C-99,  
1314 Fairfield District. Mr. Archer.

1315  
1316 Mr. Archer - Mr. Chairman, I move deferral of Case C-65C-99, Steven and Dody  
1317 Tribble and Charles W. Sanders, Jr. and J. Sanders to the July 13, 2000 meeting, at the request of  
1318 the applicant.

1319  
1320 Mr. Taylor seconded the motion.

1321  
1322 Mr. Vanarsdall - Motion made by Mr. Archer, seconded by Mr. Taylor All those in  
1323 favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained).

1324  
1325 Ms. Via - Thank you, sir. That concludes the requests for withdrawals and  
1326 deferrals for the 8:30 p.m. agenda. You do have two items that have requested the expedited  
1327 agenda. These are both in the Tuckahoe District, Page 5.

1328  
1329 **C-42C-00 Martin P. Beifield & Ina Ginsberg:** Request to amend proffered  
1330 conditions accepted with rezoning case C-72C-89, on Parcel 99-14-A-1, containing 0.31 acre,  
1331 located at the northeast intersection of Gaslight Drive and Gaslight Court and the southeast  
1332 intersection of Derbyshire Road and Gaslight Drive in the Gaslight subdivision. The amendment is  
1333 related to a change in the roofing material. The Land Use Plan recommends Suburban Residential  
1334 1, 1.0 to 2.4 units net density per acre.

1335  
1336 Mr. Vanarsdall - Is anyone in the audience in opposition to C-42C-00? Anyone  
1337 here? All right, Ms. Dwyer.  
1338  
1339 Ms. Dwyer - Is Mr. Householder here? Do we have the proffers signed properly?  
1340 I just had to ask that. For the information of the Commission, there was a lot number that was left  
1341 out inadvertently in the original proffer. I move that the Commission recommend for approval to  
1342 the Board Case C-42C-00. I recommend that to the Board for approval.  
1343  
1344 Mrs. Quesinberry seconded the motion.  
1345 Mr. Vanarsdall - Motion made by Ms. Dwyer, seconded by Mrs. Quesinberry. All  
1346 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
1347 abstained).  
1348  
1349 REASON: Acting on a motion by Ms. Dwyer, seconded by Mrs. Quesinberry, the Planning  
1350 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors grant the  
1351 request because the changes do not greatly reduce the original intended purpose of the proffers;  
1352 and the proffers continue to assure a quality form of development with maximum protection  
1353 afforded the adjacent properties.  
1354  
1355 **P-5-00: Gloria L. Freye for Triton PCS, Inc:** Request for a provisional use  
1356 permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in  
1357 order to allow an existing temporary 85' wooden telecommunications pole to remain on part of  
1358 Parcel 89-A-44, containing 225 square feet, located at 1311 Gaskins Road. The site is zoned R-3  
1359 One Family Residence District.  
1360  
1361 Mrs. Via - This is on Page 5, in the Tuckahoe District.  
1362  
1363 Mr. Vanarsdall - Is anyone in the audience in opposition to this case, P-5-00, Gloria L.  
1364 Freye for Triton PCS, Inc.? All right. Ms. Dwyer.  
1365  
1366 Ms. Dwyer - Thank you. I recommend to the Commission that we recommend for  
1367 approval Case P-5-00 their request for a provisional use permit, including the three conditions that  
1368 are found on Page 3 of the staff report, with the understanding that there will be a fourth condition  
1369 added which will require the County Building Inspectors to review an application for a building  
1370 permit. The applicant has agreed to that and it has all been discussed and it is fine, so that will be  
1371 the fourth condition added between here and the Board.  
1372  
1373 Mrs. Quesinberry seconded the motion.  
1374  
1375 Mr. Vanarsdall - Motion made by Ms. Dwyer, seconded by Mrs. Quesinberry. All  
1376 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
1377 abstained).  
1378

1379 REASON: Acting on a motion by Ms. Dwyer, seconded by Mrs. Quesinberry, the Planning  
1380 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant the**  
1381 **requested revocable provisional use permit**, subject to the following conditions:  
1382

1383 1. If the use of the tower for communication purposes is discontinued, the tower and all related  
1384 structures shall be removed from the site within ninety (90) days.  
1385

1386 2. The applicant shall obtain approval from the Henrico County Planning Commission should the  
1387 FAA require the addition of standard obstruction marking and lighting (i.e. red lighting and orange  
1388 and white striping) to the tower. The applicant shall notify the Henrico County Planning Director  
1389 prior to making any changes to the tower.  
1390

1391 3. The applicant shall landscape the perimeter of the leased area in order to minimize the view of the  
1392 ground equipment. Landscaping shall be in accordance with the Landscape Plan by HDR  
1393 Engineering dated 3/27/00.  
1394

1395 4. Application for a building permit to review the permanent foundation must be made within ninety  
1396 days after the Provisional Use Permit is granted by the Board of Supervisors, unless an extension of  
1397 time is granted by the Director of Planning upon written request by the applicant.  
1398

1399 The Planning Commission's recommendation was based on the fact that the proposed tower at this  
1400 location was of adequate distance from the closest residential area; and it would not be expected to  
1401 adversely affect public safety, health or general welfare.  
1402

1403 Mrs. Via - Thank you, sir. That concludes the expedited agenda for this  
1404 evening.  
1405

1406 Mr. Vanarsdall - Thank you, Ms. Via. Mr. Secretary, before you start, we have a  
1407 celebrity among us. Ms. O'Bannon received an award for her work in combating domestic  
1408 violence, which was in the newspaper and many of you probably saw it. She will be in the "Good  
1409 Housekeeping" Magazine, or in profiles in "Good Housekeeping" Magazine, the July issue.  
1410 Congratulations, Ms. O'Bannon. Do you want to tell us about it?  
1411

1412 Ms. O'Bannon - Yes. I didn't seek this award nor did the Henrico Division of Police.  
1413 The constituents placed my name in, knowing the work that was done by the Henrico Division of  
1414 Police for the effort that has been put through since 1996 on developing a team effort to combat  
1415 domestic violence, a problem that we have here in Henrico, because the homicide rate and the  
1416 assault rates had dramatically gone up to the statistical evidence. The award is through the Ford  
1417 Foundation and Rutgers University, and it does appear in "Good Housekeeping" Magazine, and I  
1418 am very pleased that we will be awarded a \$2,500 grant as part of what goes along with it. It is real  
1419 nice boost for a great domestic violence team that we have established to combat the problems we  
1420 have here in the County. I think that is a really good "Thank You" to them for all of their hard work  
1421 and, although I am being honored, as I said before, I am just the one that brought them all together.  
1422 They were all doing an excellent job. This is a very cohesive and coordinated effort and I am real  
1423 pleased for that.  
1424



1425 Mr. Vanarsdall - That was very nice. Thank you. All right, Mr. Secretary.  
1426  
1427 **Deferred from the May 11, 2000 Meeting:**  
1428 **C-26C-00 Gail L. Sailes for Gail & James L. Sailes:** Request to conditionally  
1429 rezone from A-1 Agricultural District to R2C One Family Residence District (Conditional), Parcel  
1430 202-A-20A, described as follows:  
1431  
1432 Beginning at a point on the east line of New Market Rd. (St. Route 5), said point being located +/-  
1433 0.2 mile south of Midview Rd.; thence leaving New Market Rd. (parcel # 202 -A- 20A) N. 46° 51'  
1434 03" E, 676.59 feet to a point; thence S 43° 8' 57" E, 237.23 feet to the point; thence S 47° 02' 09"  
1435 W, 753.56 feet to a point on the east line of New Market Rd; thence along New Market Rd. N 24°  
1436 58' 57" W, 246.83 feet to the point and place of beginning, containing 3.87 acres.  
1437  
1438 Mr. Marlles - The staff report will be given by Mr. Mark Bittner.  
1439  
1440 Mr. Vanarsdall - Anyone in the audience in opposition to this case? This is Case C-  
1441 26C-00 in the Varina District. We have opposition. Thank you. Mr. Bittner.  
1442  
1443 Mr. Bittner - Thank you, Mr. Vanarsdall. I would like to just quickly point out  
1444 that this rezoning is asking for 2.87 acres not 3.87 acres. The proposed use is single-family  
1445 development, the applicants have stated that they intend to develop these lots as home sites for their  
1446 children. However, they would not be prohibited from selling these lots to non-family members.  
1447 The property is designated Suburban Residential 1 on the 2010 Plan with a suggested net density of  
1448 1.0 to 2.4 units per acre. The requested R-2 zoning is consistent with this designation. The  
1449 applicants have proffered that no lot will have direct driveway access to Route 5. This would limit  
1450 the number of new entrances on Route 5 to one, and help facilitate traffic flow and safety along this  
1451 road.  
1452  
1453 In summary, this proposal is consistent with the 2010 Land Use Plan in this area. It would also limit  
1454 new driveways onto Route 5 to aid traffic safety and flow. Staff recommends approval of this  
1455 application and I will be happy to answer any questions that you may have.  
1456  
1457 Mr. Vanarsdall - Any questions for Mr. Bittner by Commission members? All right.  
1458  
1459 Mr. Archer - Mr. Bittner, I have one question. Did the road remain a private road?  
1460  
1461 Mr. Bittner - Not necessarily; that has not been determined.  
1462  
1463 Mr. Archer - Okay.  
1464  
1465 Mrs. Quesinberry - Mr. Bittner, I know we have a couple of proffers here. No direct  
1466 drive or access to New Market Road, so it is just going to be one drive?  
1467  
1468 Mr. Bittner - Yes.  
1469

1470 Mrs. Quesinberry - And no more than four lots would be developed. But, do we have  
1471 any other proffers or any other conditions that would ensure the quality of the homes that are built  
1472 on those lots?  
1473

1474 Mr. Bittner - Those are the only proffers that we have.  
1475

1476 Mrs. Quesinberry - Have you had any discussions with the owner or the applicant about  
1477 foundations?  
1478

1479 Mr. Bittner - No. I don't believe we had that discussion with them.  
1480

1481 Mrs. Quesinberry - I know we had some concerns at the last meeting with the residents  
1482 around property that it be of high quality and also with the other concern, which was layout, which  
1483 is not what this rezoning is about. Do you know if the owners met with them?  
1484

1485 Mr. Bittner - I do know that we suggested that the owners meet with the  
1486 neighbors. I do believe they have talked with at least two. I would imagine probably more since the  
1487 last meeting. I don't know the details of those conversations, but I believe the applicants are here  
1488 tonight, as well as the neighbors.  
1489

1490 Mrs. Quesinberry - Okay. Thank you.  
1491

1492 Mr. Vanarsdall - All right. Any other questions for Mr. Bittner? Is the applicant here?  
1493 All right. Do you want to come on down. You have some opposition. Good evening.  
1494

1495 Ms. Gail Sailes - Good evening. My name is Gail Sailes and I am here with my  
1496 husband, James L. Sailes. First of all, I would like to apologize for our absence last month. My  
1497 husband and I serve a small community church, and on the afternoon of our scheduled meeting, we  
1498 had a death in the church community, church family. So many things were happening. We actually  
1499 forgot about the meeting. I apologize to the Commission and to my neighbors and all that have  
1500 helped us on this effort.  
1501

1502 Mr. Vanarsdall - Thank you for being so honest about it.  
1503

1504 Ms. Sailes - The effort here was brought about in our intent to divide this property  
1505 for one of our children, who is currently living in a house that is located on the site, who wants to  
1506 build for himself and his family.  
1507

1508 In a discussion, I found out that, in order to subdivide the property and in order to do anything, there  
1509 was a cost associated and that cost for dividing it for one child versus for all four was not that much,  
1510 and that is what led us into, therefore, going ahead and trying to get it done at one time for a sum of  
1511 money. We have no immediate plans except for the one son for building. That is why, I think  
1512 someone asked the question about foundation and layouts and all of that nature. We currently have  
1513 no plans whatsoever as far as doing that. But, what we are hoping to do by requesting, at this point  
1514 to have the property divided, was that we could take care of it with one petition. Be it right or  
1515 wrong, that is our intent and that is what prompted this.

1516  
1517 I understand that, in talking to several of our neighbors, and we have talked to most of them, I  
1518 believe, since that time and one of the major concerns was drainage. In that we do not have any  
1519 development, and I think that word kind of frightens a number of people with a modest community  
1520 that has been established for a while, and to receive a piece of paper saying “Your neighbors want to  
1521 develop or subdivide it.” You know, they envision Varina Station or some of the larger-type  
1522 subdivisions. The one son that currently lives in the house, that would like to build, is tied to  
1523 County sewer. When his home is built, the house that he is currently living in will be torn down, so  
1524 he would still be tied into the County sewer as far as the drainage concern for that one building that  
1525 is in the near future. I guess that is kind of where I will stop, and if you have questions, we will try  
1526 to address them from that point.

1527  
1528 Mr. Vanarsdall - All right.

1529  
1530 Mrs. Quesinberry - So, when you talked with the neighbors, did the neighbors have any  
1531 other questions about the houses that you proposed to build or assurances of quality in the future in  
1532 the development, because even though it is small, and it is four lots, it doesn't prevent you from  
1533 selling that property to others who may not be family members and don't have the interest in that  
1534 land and that community that you have. So, while the neighbors are generally concerned about  
1535 insuring that whatever is built will be high quality and, no matter who owns the property in the  
1536 future, that the interest of the neighborhood is preserved.

1537  
1538 Ms. Sailes - Absolutely, and I really respect that, and I understand that. We have  
1539 had this property some eight years. We have had a number of calls and inquiries from some  
1540 developers who were interested in just getting a tract of land and developing it. We have no  
1541 intention of doing that. Also, as I said, we serve the community as pastor and people, and we have  
1542 no interest in defacing or tearing down the community. From my understanding, the question,  
1543 primarily, has been on the drainage.

1544  
1545 Now, I realize that someone else could move in, but recommendation is not to cut yourself off by  
1546 saying, “We want it proffered only to our children,” because there could be a situation down the  
1547 road where the children would not want to build right there, and that is why we left it, to say that we  
1548 would not want to be restricted in writing, in proffers, that it would only have to go to a child.

1549  
1550 Mrs. Quesinberry - And I don't think anybody would expect you to do that. But,  
1551 considering that other than family members could own the property someday, would you not be  
1552 interested in just some of the basic proffers that we are kind of used to seeing on the Commission  
1553 when we have land that is subdivided that speak to the houses themselves, and the quality of the  
1554 houses, what the houses are made of? For examples, foundations, or if they are going to have paved  
1555 driveways, or anything that adds to the quality of the house in the ultimate neighborhood.

1556  
1557 Ms. Sailes - Yes, and I have to plead a limited amount of ignorance, even though  
1558 I must thank Mr. Bittner because he was quite helpful in explaining to me the procedure that is  
1559 involved. I understand that, based on the zoning for the property, we have to abide to certain  
1560 standards, and that would be required, if and when building took place. If there needs to be other  
1561 words added to the proffers, you know, certainly, we are quite willing to do whatever is necessary,

1562 but we thought that by virtue of abiding to the guidelines as set by the County for the rezoning that  
1563 would be in keeping with the high quality of our development.

1564

1565 Mrs. Quesinberry - I guess the easiest way to say that is that the threshold for meeting  
1566 the requirements for the County is pretty low, and, just for example, with four lots you could end up  
1567 with four different houses with different square footage and different building materials, and there  
1568 would be no real visual consistency or aesthetics to the looks of that little community and  
1569 neighborhood. I guess you see where I am going with that.

1570

1571 Ms. Sailes - I do.

1572

1573 Mr. Sailes - I am James Sailes. I hear where you are and I understand that.  
1574 Certainly, I even respect that, but I do wish that you would consider the fact that we are not in  
1575 the position of just putting any kind of structure there. And one of things that we do have, is that  
1576 we do have some control and communication with our children to the point that they, too, will  
1577 have to abide by standards that are acceptable to the community. Certainly, we are not in the  
1578 position of putting just anything there to get by. I'd like to think we are kind of persons who are  
1579 concerned with quality. So, whatever the requirement is, we are not looking at the basic  
1580 requirement, just for the purpose of getting or putting properties up.

1581

1582 Mrs. Quesinberry - I want you to understand that it is not my intention to ask these  
1583 questions to overburden what you are planning to do with your family. By your own admittance,  
1584 you are not sure when and if you will build on those other lots. And, you know, you don't live  
1585 forever, and families do sell off property. And, you know, at some point in time you may not be in  
1586 control, and your family may not be in control of the property. And then anybody would be able to  
1587 build anything as long as they met the basic low threshold standards in our ordinance. I just wanted  
1588 to put that out there for you to think about that. Because, even though you have the best of  
1589 intentions, I can tell you from experience that in here, with all of my colleagues, we have all had the  
1590 best of intentions at one time or another and proved wrong, simply because circumstances change,  
1591 and people change, and ownership changes. And unless you are very clear about what you intend to  
1592 do on your proffers and what you want and what you envision your subdivision to look like, then, it  
1593 may not necessarily come to pass.

1594

1595 Ms. Dwyer - Mrs. Quesinberry, it sounded as though the applicant is agreeable to  
1596 certain proffers if they just had some idea of what kinds of proffers the Commission might like to  
1597 see.

1598

1599 Mrs. Quesinberry - I'm thinking that maybe Mr. Bittner could help you with that at a  
1600 later time to make sure there is some consistency and some quality, without overburdening what  
1601 you are trying to do, understanding that you have got a family you are trying to provide for and  
1602 space for. Would that be agreeable to you?

1603

1604 Mrs. Sailes - Absolutely. Again, as we had not looked at it being immediate, I  
1605 think that is why a lot of those details were not filled in. But, if that is something that would be  
1606 more acceptable to the Commission, I have no problem with that.

1607

1608 Mrs. Quesinberry - Sure. That is no problem, because we can give you some things to  
1609 think about and some things you can add before it goes to the Board of Supervisors. It would just  
1610 give the neighbors a little more assurance that, should you not control the property any longer,  
1611 anybody who comes behind you would have the good intentions that you have.

1612  
1613 Mr. Archer - Can I just say one thing, Mrs. Quesinberry. Rev. and Mrs. Sailes,  
1614 typically, what Mrs. Quesinberry is saying that there are standards that are set by the zoning code  
1615 that are kind of low, and, typically, in a subdivision of this type and, this is just an example, you will  
1616 see things like no cantilevered chimneys, preferably no concrete slabs, and a certain amount of  
1617 finished floor space, and that means that if the property were not in your control and passed on, the  
1618 same proffers would apply regardless of who owned it. So, that is what Mrs. Quesinberry is saying.  
1619 It could change hands and once you left it, we wouldn't have any guarantee that those things would  
1620 be upheld. But, if you make those proffers, they run with the land forever, until somebody changes  
1621 it at another zoning hearing. So, that is, essentially, what all of that means.

1622  
1623 Mrs. Sailes - Okay. I understand, trying to push some flesh on that vision.

1624  
1625 Mrs. Quesinberry - Right. And it just ensures that your good intentions are carried out if  
1626 you are not able to do it, and it would have to run with the land and what you want to have happen  
1627 would have to happen.

1628  
1629 Mrs. Sailes - I think that might, I know that one of our neighbors will come  
1630 forward and speak for himself in just a moment, but they may also help, because we talked about  
1631 drainage, and I kept saying to the individual, "We are not looking at actually building right now."  
1632 So, what I think you are asking of us is to get an engineer or do something extensive work that  
1633 might be quite costly to develop a drainage plan right now, and to me it seems premature. I don't  
1634 know, but, hopefully, you can help me with that, as well, because if it is something that needs to be  
1635 put in writing that this will be adhered to at the time the development would happen, and we said we  
1636 'd be willing to meet that.

1637  
1638 Mrs. Quesinberry - We can talk about that drainage in a few minutes, too, if it is still a  
1639 question.

1640  
1641 Mrs. Sailes - Thank you.

1642  
1643 Mr. Vanarsdall - All right, do you want to come on over? Do you want to come  
1644 down? How are you doing this evening?

1645  
1646 Mr. Sydney Langford - My name is Sydney Langford and I live at 1340 New Market Road,  
1647 and I am somewhere close between the property and the (unintelligible) Center, what is now the  
1648 bank. Some questions is, I've got no objections to building houses and if we come with some  
1649 proffers on that, that is wonderful. Another thing is, I think, is that would maybe take care of the  
1650 drainage issue a lot is find out the location for any road that is going to be and adhere to County  
1651 standards, to be sure the road is built to County standards and, you know, maintained by the County.  
1652 And you're going to have to have proper drainage or the County will not be accepting the road at a  
1653 future date, so that may take care of a lot of the drainage thing, and have a proffer in there that the

1654 access road to the house would have to meet County standards. Because, if not, I think you still are  
1655 going to have a problem with drainage. And, I still don't know where this water is going to go to  
1656 this day. And I hate to just rush in and say, "Yeah, let's do an R-2 zoning;" when no one right now  
1657 has a clue how to manage the water. I know it is going to be later on a subdivision hearing, and I  
1658 will be honest with you myself, I don't know how they work. Do we participate, the property  
1659 owners around, at the subdivision hearing? Are they aware of all of the elevation, the lay of the  
1660 land, or if this land is sold can five individuals build five separate kinds, or is there not one master  
1661 mind over the whole development, like the bank was one master mind? But here, we can zone it  
1662 just now for one person to build and next year somebody else build, and the following year  
1663 somebody else build without working this drainage thing. We might be throwing water from A to B  
1664 to C to D to E, and we ain't got nothing but standing water. Somebody is going to get impounded.  
1665

1666 Mrs. Quesinberry - Mr. Langford, Mr. Marlles can probably explain this better, but let  
1667 me just help you with it. We don't usually take that up at the zoning hearing. What we do at zoning  
1668 is rezoning that would allow an applicant to build a number of houses that they would want to build  
1669 and no more. But, when they get to that subdivision part, some of those questions that you have, the  
1670 layout and where the water goes, those, that is the time when those are answered. And, if it is  
1671 shown that the water is not going anywhere, but sitting there, then it would impact how many  
1672 houses they actually could build and where they could set those houses. Even though we would  
1673 rezone this and say, for example, that they could subdivide this land and that they could have four  
1674 lots, it doesn't necessarily mean that there are four buildable lots when you get down to really  
1675 hashing out all of the issues that you are talking about. Mr. Marlles, do you want to jump in there?  
1676

1677 Mr. Marlles - I will be glad to. That is a very good description, Mrs. Quesinberry  
1678 of actually what happens. A detailed review as far as drainage does occur upon a subdivision  
1679 review. Our Public Works Department has engineers that do look at that issue and do work with the  
1680 developer to make sure that the drainage problem is handled. There are standards in place that the  
1681 County has adopted to hopefully ensure that drainage issues are taken care of as part of that  
1682 subdivision plan approval process.  
1683

1684 Mr. Langford - Right. Personally, I see this as an issue of drainage three to four  
1685 months of the year especially during the fall, because Route 5 has been known to flood, and you've  
1686 got two drainage easements, about 80 feet apart. And, that is, what I am saying is, if you build the  
1687 land up so you can build the houses, you might impact the adjoining property owners. I don't  
1688 know. That is a big concern.  
1689

1690 Mrs. Quesinberry - Well, I don't think that they would be in a position to impact you,  
1691 because that wouldn't - that would put them in a very precarious spot if they built something  
1692 impacting you, or making the drainage worse. It may not improve what happens on your property,  
1693 but if they built something that actually caused some kind of adverse condition on your property,  
1694 then they would certainly be responsible for that. So that is about, typically, what we see happen,  
1695 and that is what the subdivision process will bring out, if, in fact, they have those issues and they  
1696 need to move water from one place to another. That is where that engineer is going to come out and  
1697 show what they need to do. And, if they need to arrange their lots in a different way, then they  
1698 won't even have four buildable lots when all the dust settles and we see what happens on that  
1699 property.

1700  
1701 Mr. Langford - I reckon then what the main question is then before we say, for  
1702 example, she and I understand that she wants the child to be able to build on that lot immediately, so  
1703 really, though, to make sure that we do have buildable lot places to, for the water to go to, should it  
1704 not be that they would have to have the plan in place before the first house would be built?  
1705  
1706 Mrs. Quesinberry - They would have to go through this subdivision process, and then  
1707 they could start building at least on the first lot. That sounds like what they would like to do. And it  
1708 looks like they are going to wait a little bit on the other lots.  
1709  
1710 Mr. Langford - Yes, but the engineering would have to be done to make sure that the  
1711 whole subdivision...  
1712  
1713 Mrs. Quesinberry - It is a subdivision. Albeit small, it is a subdivision, so it would have  
1714 to meet all of the rules. If it was 200 houses or four houses. It is still a subdivision.  
1715  
1716 Mr. Langford - Okay..  
1717  
1718 Mrs. Quesinberry - Does that help you?  
1719  
1720 Mr. Langford - Yes. At least I know where to go to if I have a question.  
1721  
1722 Mrs. Quesinberry - Now, you had another question about the subdivision process and if  
1723 you could put input during that time. Did you want to say something about that, Mr. Marlles?  
1724  
1725 Mr. Marlles - Yes. Are you an adjacent property owner?  
1726  
1727 Mr. Langford - Yes, sir. Right next door to it.  
1728  
1729 Mr. Marlles - Okay. Then you will be notified when the subdivision is submitted,  
1730 assuming this zoning is approved.  
1731  
1732 Mr. Langford - Okay.  
1733 Mr. Marlles - You would have the opportunity to come in and review those plans  
1734 in the Planning Office. You would have the opportunity to ask questions and, you know, basically,  
1735 review what the standards are and how the drainage is going to be handled.  
1736  
1737 Mr. Langford - Like, when the bank built right on the other side of me, which is now  
1738 a Vet Hospital now. They went over the whole plan, the whole thing with me. They were very  
1739 good and I understood what was happening.  
1740  
1741 Mr. Marlles - We need to make sure, I believe you gave your name for the record.  
1742  
1743 Mr. Langford - William Langford, 1340 New Market Road.  
1744

1745 Mr. Marlles - Okay. We will make sure that you are notified when and if the  
1746 subdivision is submitted for approval.  
1747

1748 Mr. Langford - Okay. Thank you.  
1749

1750 Mr. Vanarsdall - Thank you.  
1751

1752 Mrs. Margaret Bigger - I am Margaret Bigger at 1364 on the other side of the property. And  
1753 like Mr. Langford, it has been misleading when you say you are trying to rezone to subdivide some  
1754 property. Now, nothing has been said about the one acre on the front part, where the house  
1755 originally is now. And they are going to put four lots or five lots on the 2.87 of an acre adjoining.  
1756 Me, being next door, I am still thinking like Mr. Langford about that drainage.  
1757

1758 Mrs. Quesinberry - I think the 1.4 acres of the front, I don't believe that is part of this  
1759 zoning case.  
1760

1761 Mrs. Bigger - At first it was.  
1762

1763 Mrs. Quesinberry - And this case is only going to be concerned with the 2.87 acres and  
1764 with...  
1765

1766 Mrs. Bigger - The 2.87, and they are on the back?  
1767

1768 Mrs. Quesinberry - Right, and they are only asking for four lots maximum.  
1769

1770 Mrs. Bigger - You know, the correspondence is misleading. It was a typographical  
1771 error and said 3.87 and five lots.  
1772

1773 Mrs. Quesinberry - That was the original...  
1774

1775 Mrs. Bigger - It said, the meeting for June 15<sup>th</sup>.  
1776 Mrs. Quesinberry - That isn't correct. You are right. This zoning is only about the 2.87  
1777 with four lots. They are proffering no more than four lots on this 2.87-acre piece. We are looking  
1778 at that right now on the screen.  
1779

1780 Mrs. Bigger - I did get a chance, and Mrs. Sailes did apologize, and came to see  
1781 me, and said she was only interested in dividing the land. And if that is the case, that is one thing.  
1782 But, when you are talking about putting a lot of homes, and as you said, the standards and so forth,  
1783 that is your question and who will do this? If it is going to be the same builder or what have you,  
1784 and with drainage running from Mr. Langford on the other side to Bigger.  
1785

1786 Mrs. Quesinberry - Mrs. Bigger, since you are on the other side, you should be notified  
1787 before the subdivision plan, too. Shouldn't she?  
1788



1789 Mr. Marlles - Yes, ma'am. If you leave your name and address, if we have your  
1790 name and address, we will make sure that you are notified. There will be a note put into the file and  
1791 we will make sure you are notified when the subdivision is submitted for review and approval.  
1792

1793 Mrs. Quesinberry - And at that time, Mrs. Bigger, like we were talking with Langford,  
1794 you will be able to see the plan and how the house is set on the lot, and the drainage issues will be  
1795 discussed or the remedy to move water that needs to take place. Okay? All right.  
1796

1797 Mr. Vanarsdall - Thank you.  
1798

1799 Mrs. Quesinberry - Sure, Mrs. Sailes. Come on down.  
1800

1801 Mrs. Sailes - For the sake of saving a little face in my neighborhood, for Mrs.  
1802 Bigger and others, just for the record, I'd like to say, once again, that I understand the procedure.  
1803 And you share with me what needs to be done on paper for a subdivision, but we have no plans  
1804 right now for a subdivision. It was just so we would have this on paper for the children at a future  
1805 date. I will definitely talk with Mr. Bittner and seek his guidance as far as putting those things that,  
1806 Mrs. Bigger, you don't have to worry about any kind of subdivision plan, I hope, in the near future,  
1807 because we don't have one. And I hope I am not making it any worse, but I am just being honest. I  
1808 think when Mrs. Bigger stood up and said it was misleading because you were sharing information  
1809 from me, with me, as far as aesthetics and houses and all of that kind of stuff and that should at least  
1810 be in writing in case someone would come in the future to build, and I respect that, and I will do  
1811 that, what you suggested. I do not have any plans for any building except for the one acre of land  
1812 that is going to remain agriculture or whatever it is zoned now. That is where our son is living, and  
1813 that is the only thing that will be looked at anytime in the future that I know of, to be built upon.  
1814

1815 Mrs. Quesinberry - And that acre that you are talking about, just to clear this up, is not a  
1816 part of this zoning case?  
1817

1818 Mrs. Bigger - No. No. It is not.  
1819

1820 Mrs. Quesinberry - Thank you very much.  
1821

1822 Mr. Vanarsdall - Thank you.  
1823

1824 Mrs. Quesinberry - Okay. I am ready for a motion. I'd like to recommend approval of  
1825 Case C-26C-00 and ask Mr. Bittner to get with Mrs. Sailes prior to the Board of Supervisors'  
1826 meeting and develop just some, help her develop some basic proffers concerning the quality of the  
1827 future homes on the maximum of four lots that will be allowed on this parcel, and just have those  
1828 ready prior to the Board meeting, if you would, Mr. Bittner. You said, yes? Okay. With that, I'd  
1829 like to recommend approval, Mr. Chairman, of C-26C-00.  
1830

1831 Mr. Taylor seconded the motion.  
1832

1833 Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Mr. Taylor. All  
1834 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O’Bannon  
1835 abstained).

1836  
1837 **REASON:** Acting on a motion by Mrs. Quesinberry, seconded by Mr. Taylor, the Planning  
1838 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors grant the  
1839 request because it conforms to the recommendations of the Land Use Plan; and it would permit  
1840 development of the land for residential use in an appropriate manner.

1841  
1842 **C-43C-00 Alan R. Kemp, Jr., AICP for Pendragon Development, LLC:**  
1843 Request to amend proffered conditions accepted with rezoning case C-14C-93, on Parcel 238-A-38,  
1844 containing 129.382 acres, located at the eastern terminus of Ruddy Duck Drive. The amendment is  
1845 related to the buffer area. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units  
1846 net density per acre. The site is also in the Airport Safety Overlay District.

1847  
1848 Mr. Vanarsdall - Is anyone in the audience in opposition to this case? No  
1849 opposition?

1850  
1851 Mrs. Quesinberry - I think the opposition left, didn’t they? No. Okay.

1852  
1853 Mr. Vanarsdall - Good evening, Ms. Hunter.

1854  
1855 Ms. Jo Ann Hunter, County Planner - Good evening, members of the Commission. The applicant  
1856 is requesting an amendment to proffers accepted with Case C-14C-93. The requested amendment  
1857 relates to the buffer from the Virginia Power easement. Proffer 10, accepted with Case C-14C-00,  
1858 required a 35-foot buffer for all lots and other property contiguous to the Virginia Power easement.  
1859 The applicant is proposing to delete the phrase “and other property” from the proffer. This will  
1860 allow the recreation area to encroach on the buffer area, but would not change the buffer  
1861 requirement for single-family lots. The Virginia Power easement is 225 feet wide, (referring to  
1862 slide). That area is the VEPCO easement and the 35 foot buffer runs along here (referring to slide).  
1863 By deleting the phrase “and other property,” it would allow the tennis court, which is located here  
1864 (referring to slide) to encroach into that buffer and a trellis open area here (referring to slide). The  
1865 applicant is also proposing to put their parking under the VEPCO easement which has received  
1866 approval from Virginia Power. The recreation area would serve just the residents of the Four Mile  
1867 Run Subdivision and surrounding neighborhood.  
1868 The applicant has indicated that the proffer amendment is required due to environmental constraints.  
1869 They can’t shift the tennis courts down in this area (referring to slide) because there are wetlands in  
1870 this area. The proposed amendment of buffer area is reasonable and staff does not believe it would  
1871 impact the overall quality of the development, and we recommend approval of the request.

1872  
1873 Mr. Vanarsdall - Any questions for Ms. Hunter?

1874  
1875 Ms. Dwyer - Ms. Hunter, by eliminating that language from the proffer, would  
1876 any other property be affected other than the single-family residential property?

1877

1878 Ms. Hunter - No. As you can see, the zoning impacts the area shaded with the  
1879 dashed line. The recreation area runs on this portion of the VEPCO easement. There are single-  
1880 family lots that would run along the rest of the property, so they would be required to maintain a 35-  
1881 foot buffer.

1882  
1883 Mr. Vanarsdall - Any more questions for Commission members? Thank you. Is the  
1884 applicant here?

1885  
1886 Mr. Joe Cross - Good evening, members of the Planning Commission. My name is  
1887 Joe Cross. I am with Pendragon Associates, the developer and applicant. My address is 710 North  
1888 Hamilton Street, Richmond, Virginia, and I think the staff made a reasonable presentation of what  
1889 we are asking for. It affects just the recreation area. It was occasioned and caused by our desire not  
1890 to impact wetlands. And, as a result, if we do not get it, the community will be left with one, not  
1891 two tennis courts, which we are giving to them. And they will be left with a pool that has a very,  
1892 very small deck area around it, which we feel would be not in the community's best interests. And  
1893 because there is no vegetation there to save to begin with, it was a tire dump. We pulled about 12  
1894 tandem loads of tires out of it to clean up the site. We feel that this is a definite addition to the  
1895 neighborhood, and a reasonable request. If you have any questions, I will be happy to answer them.

1896  
1897 Mr. Vanarsdall - You may want to save some time for rebuttal. You have some  
1898 opposition, Mr. Cross. We will now hear from the opposition. Good evening. How are you,  
1899 tonight?

1900  
1901 Mr. Thomas Cannon, Jr. - Just fine. My name is Thomas Cannon, Jr. and I live at 2916  
1902 Silvertail Court, which is three streets from Ruddy Duck Drive. And when we came here, we came  
1903 here because we received a notice of some amendments. However, we never knew what the  
1904 amendments were to, and so we didn't come down here to oppose it. We came down here just to  
1905 get information about what the original plan was in the beginning, and when we saw that this was  
1906 going to be expedited, we just wanted to get some information before this went ahead, without us  
1907 knowing what the original plan was.

1908  
1909 Mrs. Quesinberry - Mr. Cannon, are you okay with what you heard tonight? Do you feel  
1910 comfortable with that?

1911  
1912 Mr. Cannon - Sure. Since what was explained to us what the original plan was and  
1913 why this was going to be shifted, then I was perfectly okay. He knew exactly what was going on, so  
1914 it's kind of misleading when it was said that we were opposed. We weren't opposed to anything.  
1915 We just wanted to make sure we had information in hand before anything went ahead.

1916  
1917 Mrs. Quesinberry - Well, that is just fine. We just wanted to make sure that you get the  
1918 opportunity to speak to if you need to or want to. If you are not opposed, then I think we can  
1919 expedite now.

1920  
1921 Mr. Cannon - Okay. Sure. That is okay. Thank you.

1922  
1923 Mr. Vanarsdall - All right.

1924  
1925 Mrs. Quesinberry - All right, Mr. Chairman, I am ready. I'd like to move to recommend  
1926 Case C-43C-00 for the proffer changes to Proffer No. 10, as it states in the staff report to the Board  
1927 of Supervisors.  
1928  
1929 Mr. Archer seconded the motion.  
1930 Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Mr. Archer. All  
1931 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
1932 abstained).  
1933  
1934 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mr. Archer, the Planning  
1935 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the  
1936 request because the changes do not greatly reduce the original intended purpose of the proffers; and  
1937 it is not expected to adversely impact surrounding land uses in the area.  
1938  
1939 **C-44C-00** **Alvin S. Mistr, Jr.:** Request to amend proffered conditions accepted  
1940 with rezoning case C-25C-95, on Parcels 192-A-42B, 43, 43A, 192-12-A-1 thru 7, 20, 22, 26, 27;  
1941 Part of Parcels 192-12-A-21, 23 thru 25 containing approximately 13.8 acres, located on the south  
1942 line of Darbytown Road at Jahodi Lane. The amendment is related to the percentage of ranchers  
1943 allowed. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per  
1944 acre. The site is also in the Airport Safety Overlay District.  
1945  
1946 Mr. Marlles - The staff report will be given by Mrs. Elizabeth Via.  
1947  
1948 Mr. Vanarsdall - Is anyone in the audience in opposition to this case? No opposition.  
1949 Mrs. Via.  
1950  
1951 Mrs. Via - Thank you, Mr. Chairman, and Mr. Secretary and members of the  
1952 Commission. The applicant, in this case, is proposing to amend the proffers associated with the  
1953 Winding Wood Subdivision, which is currently under construction. The development shown here  
1954 on your screen is located along Darbytown Road north of Laburnum Avenue in the area highlighted  
1955 in the green. Approval of this amendment would delete a restriction on the property that limits the  
1956 development to no more than 25 percent ranch-style homes.  
1957  
1958 The site was zoned in 1995 to R-3C, General Residence Conditional, consistent with the 2010 Land  
1959 Use Plan designation of Suburban Residential. To date, Section A, which you can see (referring to  
1960 slide) which is platted up the top in the northern corner of the site, has been recorded and is under  
1961 construction, and Section B, which continues this road down to where the red dot is (referring to  
1962 slide). Section B was granted an extension of final approval until April 2001, but is not yet under  
1963 construction. At this time, three ranchers and four two-story homes have been built, and the  
1964 applicant has contracts pending for two more ranchers.  
1965  
1966 While there are no land use issues with this case, staff is concerned that a commitment was made to  
1967 the community and to the County at the time these proffers were offered. And, in particular, staff is  
1968 concerned about deleting the restriction on the number of ranch-style homes that can be built would  
1969 allow the developer to build a majority of the smaller sized homes.

1970  
1971 The proffer currently provides a minimum livable floor square footage of dwellings for two-story at  
1972 1,600 square feet; 1-1/2 story at 1,400 square feet, and the ranch-style, as I said, the smallest, at  
1973 1,200 square feet. Staff would prefer to retain the original proffers, or if the Planning Commission  
1974 believes this case has merit, we would like the applicant to consider raising the minimum square  
1975 footage of ranch-style to at least 1,300 or 1,350 square feet. I'll answer any questions that you  
1976 might have.

1977  
1978 Mr. Vanarsdall - Any questions by Commission members of Mrs. Via?

1979  
1980 Mrs. Via - I am sorry. I might add that we did receive one letter of opposition  
1981 from the Varina Beautification Committee strongly urging the Planning staff and the Commission  
1982 not to amend the proffers already agreed to, and I will pass this to Mrs. Quesinberry for her review.

1983  
1984 Mr. Vanarsdall - Thank you. Do you want to hear from the applicant, Mrs.  
1985 Quesinberry? If the applicant is here, would you please come on down.

1986  
1987 Mr. Mistr - I am Spud Mistr with Winding Woods requesting this proffer  
1988 change. As Mrs. Via has explained, we have five ranchers that are either built or under  
1989 construction; one of which we are getting ready to start. We can only build six. There are being  
1990 requests, as people come in looking for ranchers, and it is about 50-50 right now. That is the way I  
1991 would anticipate it, so we would like to have the right when we go into Section B to sell and build a  
1992 ranch house if somebody desired that. One of the reasons is that we have retired people living in  
1993 the subdivision. There will be eight families living there right now. There is only one child about  
1994 four years old, so most people have no need for three and four bedrooms, two-story homes.

1995  
1996 As far as the size of the houses, the houses were proffered at 1,200 square feet. And of all of the  
1997 ranchers we have under construction, the average square footage is 1489, with the smallest being  
1998 1,340 square feet. I am reluctant to proffer 1,300 square feet, because there might be a lot that we  
1999 would need to build 1,200 or 1,250 on. But, so far, I don't anticipate it being any substantially  
2000 different from the average we are seeing right now.

2001  
2002 The average square footage of all houses is 1,662, with the two-story being 1,878, so they are  
2003 averaging about 400 or less than 400 more than the ranchers. But, by the same token, the ranchers  
2004 are averaging the same price, sales price as the two-stories within a thousand dollars of them. So, I  
2005 don't think by putting in more ranchers we are reducing the quality of the subdivision. In fact, if  
2006 anything, these houses are more expensive per square foot for the ranchers and, in general, are nicer  
2007 houses, in my opinion. So, with that, I would request that you recommend this for approval.

2008  
2009 Mrs. Quesinberry - Mr. Mistr, I've got to tell you, you know the reason this proffer was  
2010 put in, originally, was the same reason that we see it so often. In cases where the community is very  
2011 concerned about small, boxy homes, and low square footage, they are really not great additions to  
2012 the community or the neighborhood. And, quite frankly, we have quite a lot of them in the Varina  
2013 area, and in Henrico County. So, there is not a real pressing need for that. And you have already  
2014 stated that the ranchers you have built, the average square footage is 1,489, but you are not even

2015 comfortable with proffering additional ranchers with additional square footage. So, what does the  
2016 community get for this?

2017  
2018 Mr. Mistr - The community gets the same thing that they are already getting; a  
2019 good quality home, and it is also. I would tell you, I have talked to the people who have, the  
2020 individual who wrote the letter, and two others, and one of the things they talked about in the letter  
2021 was the quality of the homes. But, of the three I talked to, none of them had even been to the  
2022 subdivision to see the houses that were in there. So, I thought it was strange that they chose to write  
2023 a letter to the Commission talking about the poor quality of the homes, when none of them had even  
2024 taken the time to go there and see them. I believe that we are giving more than the quality we  
2025 proffered originally, and substantially larger houses than we had proffered in the beginning.

2026  
2027 Mrs. Quesinberry - You have, for the ranchers that you have built, but that is really the  
2028 point, isn't it? You want to change a proffer that doesn't prevent you from building more?

2029  
2030 Mr. Mistr - Well, actually, I have found out that the houses that fit on the lots, we  
2031 need larger lots to have the ranchers. Some lots a rancher won't fit on. It is going to have to be a  
2032 two-story house, because of the widths of the houses. So, it is, I am just trying to satisfy the needs  
2033 of the people that come into the subdivision. We are not building a lower quality house. Ranchers  
2034 are larger.

2035  
2036 Mrs. Quesinberry - And I would agree that the ones you have built that average 1489  
2037 square feet are, but there is nothing that would prevent you from filling up a subdivision with  
2038 ranchers of 1,200 square feet. There is no protection.

2039  
2040 Mr. Mistr - In a worst case scenario, other than I live there and I am not going to  
2041 do that, because I haven't so far. I have done exactly what I represented to this Commission we'd  
2042 do when we started. And, you know, I was not real comfortable with the proffer about ranchers, nor  
2043 was the staff, because it is additional paper work for their unit to keep up with. And, you know, I  
2044 don't know if they said that to you, but they have said it to me, that the staff is uncomfortable with  
2045 proffers, in a great percentage of ranchers. But, in 1995, that was what you had to do to get it  
2046 approved.

2047  
2048 Mrs. Quesinberry - I understand. I don't have any more questions.

2049  
2050 Mr. Vanarsdall - All right. Any more questions from Commission members?

2051  
2052 Mr. Archer - Mr. Chairman, I was just looking at the staff summary, which  
2053 indicates that "In view of the minutes from the previous case, it showed that house size was an issue  
2054 to the community." I was just going to ask Mr. Mistr, "Have you met with anybody from the  
2055 community?"

2056  
2057 Mr. Mistr - I meet with the Varina Beautification Committee on July 6, which is  
2058 their next meeting. Now, I have also had to get all of the people in the subdivision to sign the  
2059 application, and I have met with all of them. And granted, size was an issue. But, it was agreed on  
2060 that we would have to have 1,200 square feet for ranchers, 1,600 for two-stories. Now, we have not

2061 built any 1-1/2 stories and I don't anticipate doing that. But all of the houses we have built are  
2062 substantially larger than what we said we would build. And, even if I were to build one 1,200  
2063 square foot rancher, we would still be above that. You know, it was suggested that I proffer no  
2064 more than two at 1,200 square feet. But, I think we are getting into an administrative nightmare to  
2065 do that. But, I do have one lot that I am concerned about that may be less than 1,300 square feet on  
2066 it.

2067  
2068 Ms. Dwyer - Mr. Mistr, when you are quoting the square footages of houses that  
2069 you have already built, is that finished floor area?

2070  
2071 Mr. Mistr - That is finished floor area and does not include garages.

2072  
2073 Ms. Dwyer - I would just add, Mrs. Quesinberry, that we accept a lot of proffers  
2074 these days, and usually these proffers are committed to by the applicant, and accepted by the  
2075 Commission, as a condition of the rezoning. And, absent a change in circumstances, I think we  
2076 should be very reluctant to amend a proffer.

2077  
2078 Mrs. Quesinberry - And I would agree.

2079  
2080 Mr. Mistr - Well, what would you like to do?

2081  
2082 Mrs. Quesinberry - Well, I just don't agree with an amended proffer, especially when  
2083 there is no protection that prevents a neighborhood of 1,200 square foot ranchers coming up in  
2084 Section B. I know you wouldn't do that, Spud, because I know you, but this is zoning, and it has  
2085 got to be on paper.

2086  
2087 Mr. Mistr - Would you like to have a different percentage?

2088  
2089 Mrs. Quesinberry - No. I tell you. I am ready to make a decision tonight, but I would  
2090 offer you the option of meeting with citizens and Varina Beautification. And, if you were so  
2091 inclined to defer it, I would consider that. But, I am not going to take up the Commission's time  
2092 and split hairs with you over what percentage of ranchers would be acceptable, because I think the  
2093 proffer speaks for itself.

2094  
2095 Mr. Mistr - Okay. Well, I am going to meet with them before the Board meeting  
2096 anyway. I mean before the Board of Supervisors.

2097  
2098 Mrs. Quesinberry - Would you like to defer this?

2099  
2100 Mr. Mistr - I can't do it to--When is the next time you can do it?

2101  
2102 Mrs. Quesinberry - We can do it at our next POD meeting, if that is okay with everyone,  
2103 and that is going to be June 28<sup>th</sup>.

2104  
2105 Mr. Mistr - I don't think they are going to meet again until July 6<sup>th</sup>.

2106

2107 Mrs. Quesinberry - Well, that would put you on the July 13<sup>th</sup> meeting.  
2108  
2109 Mr. Mistr - Well, I have a conflict with that.  
2110  
2111 Mrs. Quesinberry - That is my best offer.  
2112  
2113 Mr. Mistr - Okay. Well, I can still change the proffer before it goes to the Board.  
2114 Is that correct?  
2115  
2116 Mr. Marlles - Yes sir, you could. If the Commission took action tonight, you could  
2117 make a change to the proffer before the case is heard.  
2118  
2119 Mr. Mistr - Well, I will rather meet with them and work it out before we get to  
2120 the Board, if that is okay?  
2121  
2122 Mrs. Quesinberry - Okay. Fair enough. That is okay.  
2123  
2124 Mr. Mistr - Thanks.  
2125  
2126 Mrs. Quesinberry - I am ready for a motion, Mr. Chairman.  
2127  
2128 Mr. Vanarsdall - All right. Good.  
2129  
2130 Mrs. Quesinberry - I would like to move denial of Case C-44C-00, Alvin S. Mistr, and  
2131 recommend denial to the Board of Supervisors.  
2132  
2133 Mr. Archer seconded the motion.  
2134  
2135 Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Mr. Archer. All  
2136 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
2137 abstained).  
2138  
2139 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mr. Archer, the Planning  
2140 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **deny** the  
2141 request because the applicant failed to meet his burden to show that the requested changes are in  
2142 the best interests of the welfare and future of the community.  
2143  
2144 **C-45C-00 Glenn E. Ayers for Mark T. Motley:** Request to amend proffered  
2145 conditions accepted with rezoning case C-38C-89, on Parcel 165-A-12B, containing 45.64 acres,  
2146 located on the north line of Old Williamsburg Road at its intersection with Whiteside Road. The  
2147 amendment would allow a vehicle and equipment auction house. The Land Use Plan recommends  
2148 Planned Industrial. The site is also in the Airport Safety Overlay District.  
2149  
2150 Mr. Vanarsdall - All right, Mrs. Via. Is there anyone in the audience in opposition  
2151 to this case, Mark T. Motley? Case C-45C-00. No opposition.  
2152



2153 Mrs. Via - Thank you, Mr. Chairman, and members of the Commission. Mr.  
2154 Householder is passing out to you a concept plan that the applicant provided to us late last week, as  
2155 well as the original proffers that go with this case. I apologize. They should have been included in  
2156 the case report. I would like to go on the record right now stating that I miss Judy tremendously,  
2157 and I apologize for missing those proffers out of the case report. We are doing the best we can.  
2158

2159 Mr. Vanarsdall - We accept your apology.  
2160

2161 Mrs. Via - Thank you, sir. The applicant, in this case, is requesting to amend  
2162 the proffers associated with the undeveloped Seven Pines Industrial Park to allow the sale of motor  
2163 vehicles and trucks. The site is shown here on your screen outlined in the green (referring to slide)  
2164 and is located south of Interstate-64 at the top of the screen (referring to slide) north of Old  
2165 Williamsburg Road at the intersection. That is not marked on your screen, but Whiteside Road is  
2166 this area here, connecting Old Williamsburg Road to Williamsburg Road and Drybridge is to the  
2167 east of the site. The site is designated for Planned Industry, which does recommend well designed  
2168 and environmentally sensitive industrial parks. The site is, however, zoned M-1, which is not  
2169 consistent with the land use designation. However, the proffers associated with the original zoning  
2170 do provide for architectural building compatibility, buffers to the surrounding residential areas,  
2171 existing A-1 to the southwest, and the A-1 here to the east and other master plan elements.  
2172

2173 This site was zoned in 1990 as part of a 105-acre tract included roughly six different parcels for an  
2174 unspecified industrial park. The site was never developed, and 39 acres was rezoned back to  
2175 residential in 1997. That is this area up here (referring to slide) shown on the north corner of the  
2176 screen. The remaining undeveloped industrial acreage, including the subject site, is approximately  
2177 20 acres and includes this area here (referring to slide) west of the site and a small piece of land  
2178 located adjacent to I-64 in this area of the site. The site that we have in front of us equals  
2179 approximately 46 acres of the original rezoning and roughly, if I go back to the aerial, there is about  
2180 6 acres in this area here (referring to slide) that are actually wetlands and that would not be  
2181 developed. Thank you.  
2182

2183 The applicant, as I mentioned, is proposing an amendment in order to relocate the Richmond  
2184 Auction House to this site from its present location on W. Broad Street at the City-County line, and  
2185 I am going to let the applicant run through the specifics of the auction house operation. A staff  
2186 report did indicate a need for a concept plan, which has been passed out to you, in black and white,  
2187 and which is found in color on the screen (referring to slide), and also a need to update the existing  
2188 proffers. The concept plan, as I mentioned, is before you, and the applicant has agreed to resubmit  
2189 restated proffers between now and the Board of Supervisors meeting.  
2190

2191 Staff is generally satisfied with this plan. However, please note that it is not proffered. And, given  
2192 the extensive wetlands on the site, we may not want them to proffer a site plan since final  
2193 delineation and engineering may indicate a change to this layout. However, staff would like to see  
2194 some commitment here tonight from the applicant to the concept that locates the major elements.  
2195 Let me take you through that on the site plan. I will let the applicant go over the details.  
2196

2197 This area here (referring to slide) is the actual building where the indoor auction would occur. To  
2198 the front of the site shown in the black is the customer parking, if you will, vehicular parking here,

2199 trailer parking here. Vehicle auction and inventory area would be to the rear behind the building.  
2200 And this large area here, (referring to slide) the Richmond Auction House does auction heavy  
2201 equipment about every three to four month time period, depending on the size of the auction, and  
2202 that would be stored in this area here. These two sites that you see here (referring to slide) are  
2203 reserved for future development. The applicant could develop this themselves or spin this off to  
2204 another developer. With regard to the building in this location here, there are existing proffers that  
2205 would disallow any kind of untreated concrete, unfinished masonry, or, basically, a metal building  
2206 to go up. I will stop there and see if you have any questions on the land use. Otherwise, I will let  
2207 the applicant run through the details of their operation.

2208  
2209 Mr. Vanarsdall - Any questions for Mrs. Via? All right. Thank you, Mrs. Via. Mr.  
2210 Ayers.

2211  
2212 Mr. Glenn E. Ayres - Mr. Chairman and Mrs. Quesinberry, and Commissioners, my name  
2213 is Glenn Ayres, and I am an attorney with the law firm of Simon, Lafayette. And, it is my pleasure  
2214 tonight to be representing Mark T. Motley, owner of Motley's Auction, Inc., the contract purchaser  
2215 of this tract of land from the Seven Pines Limited Partnership.

2216  
2217 I would like to first tell the Commission a little bit about the auction business that Mr. Motley is in,  
2218 and explain the two different auctions that would be occurring here; the auto auction, the equipment  
2219 auction, and then also affirm the commitments that Mrs. Via spoke of earlier in her presentation.

2220  
2221 The Motley Auctions began business in this area in approximately 1997. It is located at 4400 W.  
2222 Broad Street. It also conducts equipment auctions at the Carter (unintelligible) property just across  
2223 the County line in Hanover. Mark Motley is the second generation member of his family to run the  
2224 auction business. He has taken the business from primarily a small estate and personal property  
2225 auction to the auto auction, large equipment auction, and even taking it to auction online for the new  
2226 Millennium. The company employs approximately 55 full and part-time personnel at its site in  
2227 Richmond and Henrico, and also at the leased space for the equipment auction in Hanover.

2228  
2229 Motley's Auctions paid approximately \$120,178.00 in state sales taxes last year, and \$36,624 in  
2230 local sales taxes. Motley Auctions is a good and valued corporate citizen of the County and we  
2231 would like to have them stay here in Henrico.

2232  
2233 The auto auction, itself, if you have not been to one, is held on a weekly basis. The auction, itself, is  
2234 conducted in an inside enclosure. There are two lanes similar to like a drive-through car wash. Cars  
2235 are driven by employees. The spectators or bidders are on the outside of the lane and the auction is  
2236 run by an auctioneer. The cars go through probably at the rate of about one every two or three  
2237 minutes. The auctions last approximately two to three hours, starting at Noon on Tuesday and  
2238 going until about 3:00 p.m., depending on the inventory. The auctions are restricted to 1) dealer  
2239 auction and 2) the general public auction. The equipment auctions are held four or five times a year  
2240 depending on the inventory. They are held outside a sound truck, (referring to slide), and this is a  
2241 picture of a most recent auction held on June 2, 2000 (referring to slide). And the sound truck  
2242 drives down the lanes. The equipment is parked on either side, and the crowd follows the sound  
2243 truck and the equipment is auctioned off. The equipment comes on to the site approximately three  
2244 or four days, before the auction, and are then removed two or three days afterward.

2245 For the equipment auction, there are just four to five auctions, at most, during the year,  
2246 approximately for a one-month period of time equipment is on site. The rest of the time the site is  
2247 vacant. It is not a storage yard and the equipment is not stored there permanently, but only just  
2248 before and just after the auction. Approximately several hundred people attend the auction  
2249 throughout the day. It is not like a movie theater whereas everyone is trying to come into the theater  
2250 at the same time. They are not trying to come into the auction at the same time, because a program  
2251 is published and people are interested in bidding on only certain types of items. So the crowds of  
2252 people are not concentrated at just one time during the day, but dispersed throughout the entire  
2253 auction time. The same holds true for the auto auction as well. That is dispersed throughout the  
2254 time.

2255  
2256 This is a depiction of an auto auction (referring to slide) being held inside, showing the crowds of  
2257 people. The cars are being driven down the lane, stopping before the auctioneer and auctioned off.  
2258 The cars are, typically, removed one or two days after. The lot for the auto auction is completely  
2259 screened and will be screened by the building. The entire property will also be surrounded by a  
2260 vinyl coated chain-link fence. The auto storage area for the cars will be paved. We are asking at the  
2261 site plan level, if we are fortunate enough to go forward, that that be grass and gravel; gravel for the  
2262 travel lane and grass for the area that the equipment would be kept on while it is being auctioned.  
2263

2264 We have met with the neighbors in the area on Monday evening and notified all of the neighbors by  
2265 mail. Two residents showed up; the representatives from the Varina Environmental Protection  
2266 Group and a neighbor across the street. The Environmental Protection Group was concerned about  
2267 the amount of trees and buffering, and we have committed that we will preserve as many trees as  
2268 possible, also, in the buffering area.  
2269

2270 As our site plan shows, (referring to slide), I would to run through this. There will be approximately  
2271 a 46-acre site. Motley's Auction will be using 21 acres and that comprises approximately 49  
2272 percent. The future pad site is approximately 7.5 percent and is 16 percent the green space, which  
2273 includes extensive wetlands is approximately 37 percent. The proffers, on this case, required a  
2274 minimum of 20 percent green space area, so we are exceeding that by 17 percent. We have  
2275 proposed four proffers dealing with signage that we will obey the signage ordinance. And, also, that  
2276 the signage on I-64 will be a monument-type sign advertising the Seven Pines Industrial Park and  
2277 the tenants within it. That the signage at Old Williamsburg Road would also be a monument-type  
2278 sign. That our sound amplification would not be a nuisance to the neighbors. That our fencing will  
2279 be vinyl chain-link coated. And that the storage limitation of being no vehicle or equipment being  
2280 on the property any longer than 60 days. We are also taking a further step of having a spill  
2281 prevention control and counter measure plan in effect, which component parts of that plan will be  
2282 inspection of the vehicle or equipment before it comes on to the property, rejection if there is any  
2283 possibility of spill from that vehicle, monitoring of the vehicle while it is on the property,  
2284 maintaining at the site pad as well as other spill-related equipment for cleanup. And, having, on  
2285 contract. an environmental firm who would come, in event of a spill, assess the extent of the spill,  
2286 and remove any spill soils, and do any other cleanup as necessary.

2287 In closing, Mr. Chairman, I believe that the use of this property by Mr. Motley and his group is a  
2288 reasonable use, is a very clean and environmentally friendly use of the property. It is of all the uses  
2289 that this property could be put to, it is probably one of the least disruptive to the neighborhood. We  
2290 would ask for your favorable consideration of this request.

2291  
2292 Mr. Vanarsdall - Any questions for Mr. Ayres by Commission members? All right,  
2293 thank you.  
2294  
2295 Ms. Dwyer - I do have a question, Mr. Chairman. I am looking at your sign and  
2296 your proffer. Could you explain what the purpose is of having the property being treated as a B-3  
2297 for the purpose of the signage and part of the property being treated as M-1?  
2298  
2299 Mr. Ayers - That was in the original proffer from 1989, I believe. The thinking  
2300 being that, Mrs. Via may want to help me out on this a little bit. But, as I understand it, it was that  
2301 that area being a gateway-type entrance into the County, of maintaining an aesthetically pleasing  
2302 signage and also not an overwhelming signage, and the entrance off of Old Williamsburg Road  
2303 being a little bit different.  
2304  
2305 Ms. Dwyer - Well, maybe staff can help me out on this, because these sign  
2306 ordinances are kind of difficult to compare. It is like apples and oranges. And, as I read the B-3 and  
2307 the M-1, it really is apples and oranges, because B-3 seems to allow 45 foot detached signs and M-1  
2308 allows a 35-foot detached sign. The advantage, as I looked at it, is that B-3 puts a limit on the  
2309 aggregate signage for the entire parcel, whereas M-1 does not. I am wondering how you would,  
2310 first of all, calculate B-3 on a part of the property when the B-3 limit signage in the aggregate, and  
2311 that seems to be the main advantage of the B-3 signage ordinance.  
2312  
2313 Mrs. Via - It would be. Our intent was to put the more restrictive up on I-64.  
2314 As you know, the many conversations we have had with the State, we are concerned about the view  
2315 from I-64 into these key areas. So, our intention is to put the more restrictive. It is my  
2316 understanding that it would be the entire site, the 46 acres, that would be the aggregate, and I need  
2317 to go back and maybe look at some of my calculations to respond to that. But, it was our intention  
2318 to put the more restrictive on I-64.  
2319  
2320 Ms. Dwyer - I am not sure that that does that, I guess, is my point. You might  
2321 want to go back and look at it again and make sure. I assumed that was the purpose, but as I got into  
2322 the details of the ordinance, I wasn't sure anymore.  
2323  
2324 Mrs. Via - We will confirm that with the zoning officer.  
2325  
2326 Ms. Dwyer - I guess my other question was just a general one. We tend to seek  
2327 monument-style signs. But, I am wondering what the advantage of a 45-foot monument sign would  
2328 be over some other type of sign.  
2329  
2330 Mrs. Via - Personally, I prefer a monument sign, aesthetically. The monument  
2331 sign is more anchored. It is more substantial than sometimes what you see is sort of floozy poles or  
2332 some type of up-in-the air sign that looks nice up on top but doesn't have the same substantial base  
2333 that a monument sign would have. That was the purpose of that language.  
2334

2335 Ms. Dwyer - I was just wondering. Is the 45-foot sign, maybe it would look  
2336 bigger or it would look more substantial as a monument sign as opposed to something else. Just a  
2337 thought. That is just going back and looking at the...

2338  
2339 Mrs. Via - I would add, also on the applicant's remarks, he mentioned  
2340 environmental management plan. That is currently not proffered. And that may be something that  
2341 we should consider as a proffer.

2342  
2343 Mr. Vanarsdall - Thank you.

2344  
2345 Mr. Ayers - There's one more point, the commitments that Mrs. Via spoke of that  
2346 the applicant is agreeable to, and we're putting these in the form of commitments on the record for  
2347 possible site plan consideration. That between now and the Board of Supervisors' meeting that the  
2348 applicant will be working with the staff on the rewording of all the proffers and incorporating the  
2349 new proffers. That use by Motley's Auction will be located toward the back of the site off of Old  
2350 Williamsburg Road. The intent being, that Old Williamsburg Road, the site fronting on  
2351 Williamsburg Road would be for future development, but would not be used by the auction  
2352 company or used for vehicle storage or use.

2353  
2354 That the vehicle storage will be, for the most part, screened by the buildings housing the auction  
2355 house. And they would be behind there.

2356  
2357 And that we will be working on the site plan to preserve as many trees as possible around the buffer  
2358 areas, and extensive wetlands that we have, and that we would only remove those that we would  
2359 have to remove as reasonable and as practical.

2360  
2361 As Mrs. Via said, we are still working on doing the engineering on the site plan. And because the  
2362 wetlands study that we're relying upon is approximately five years old, there may have been some  
2363 shifting. And, at this time, we would not be comfortable proffering a detailed site plan that we may  
2364 find later on wouldn't allow us to do much of anything there.

2365  
2366 Ms. Dwyer - Are you proffering any buffers along Williamsburg Road for the  
2367 future development; any additional buffers?

2368  
2369 Mr. Ayers - None, other than what is in the original proffered condition as well as  
2370 our tree line there.

2371  
2372 Ms. Dwyer - So, does that mean just the statutory minimum along Old  
2373 Williamsburg?

2374 Mr. Ayers - Yes ma'am. That is correct.

2375  
2376 Ms. Dwyer - It might be some opportunity for enhancing that.

2377  
2378 Mr. Ayers - The site is presently extremely wooded. As we are attempting to try  
2379 to maintain the wooded areas, and as the proffers call for, that we have to try to maintain them and  
2380 just only add to the buffered areas when the vegetation there dies off or becomes no longer living.

2381  
2382 Mr. Taylor - Mr. Ayers, under the pond, you have that proposed. What is there  
2383 now? Are there wetlands, or is this going to be a fabricated pond that you're going to install?  
2384  
2385 Mr. Ayers - The wetlands, Mr. Taylor, on the site plan are the dark green. That is  
2386 based on the wetlands survey that was done approximately five years ago by the engineering firm.  
2387 The pond is outside of the wetlands area. So, the pond is not taking any of the wetlands area. Now,  
2388 the pond is intended to be for stormwater management and does count toward our total green space  
2389 usage.  
2390  
2391 Mr. Taylor - What, sir, is your past experience with spills from the vehicles that  
2392 you have waiting auction?  
2393  
2394 Mr. Ayers - Motley's Auction has never had a spill in its history. So, there have  
2395 not been a reason for having a plan like this. We are doing this because of the sensitive area that we  
2396 are in.  
2397  
2398 Also, in the past, the areas that were where the equipment auction has been held, had been leased  
2399 property. It has not been owned by the auction house. So, from a standpoint of maintaining the  
2400 salability and marketability of the property without an environmental problem, we are very much in  
2401 favor of the spill prevention control measures. It is not something that is because of the experience  
2402 that Motley's has had in conducting the auctions. Only as a prospective measure because of being  
2403 so close to wetland areas and owning the property now, ourselves.  
2404  
2405 Mr. Taylor - So, in developing that pond, reasonably, you would construct the  
2406 pond and you would be able to...(end of tape)...  
2407  
2408 Mr. Ayers - It is shown on the concept plan. That is our intent to try to develop in  
2409 that fashion of having at least approximately a 35-foot area between the auction use and the pond  
2410 usage.  
2411  
2412 Mr. Taylor - Thank you.  
2413  
2414 Mr. Archer - Mr. Ayers, can you comment on the staff's concern about sound  
2415 amplification?  
2416  
2417 Mr. Ayers - Yes sir. The staff was concerned that our amplification would have  
2418 spill over effects onto the neighboring lots. The amplification that we used, and if I could go back  
2419 to the sound truck, the only amplification we used is that sound truck. It is speakers that are directed  
2420 toward the crowd so that the crowd can hear the bids and the auctioneer's voice. It is not  
2421 amplification that is mounted on poles all around the property. But, rather it moves as part of the  
2422 equipment auction.  
2423  
2424 Mrs. Via came to the auction on June 2<sup>nd</sup> and we were standing approximately 100 feet away from  
2425 the truck when it was being used and we could not hear the auctioneer's voice. It's really just for  
2426 the crowd right around the auctioned item. It is not a loud speaker system all over the property. It

2427 just goes from there. We're quite confident that where we are locating the equipment auction, the  
2428 sound will not be heard at the property lines.

2429

2430 Mr. Archer - So, you wouldn't have any problem with rewording to make the  
2431 condition read like she indicated?

2432

2433 Mr. Ayers - That there would be no sound at the property line?

2434

2435 Mr. Archer - Yes sir. Or not audible beyond the property line is what they would  
2436 like to see.

2437

2438 Mr. Ayers - We would not have a problem with that.

2439

2440 Mr. Archer - Okay. All right.

2441

2442 Mr. Vanarsdall - Any other questions for Mr. Ayers? Thank you, Mr. Ayers.

2443

2444 Mr. Ayers - Thank you, sir. Mr. Archer, you might remember that was the issue  
2445 with us at Holly Glen.

2446

2447 Mr. Archer - I do remember, sir. Quite well.

2448

2449 Mr. Ayers - Thank you. We didn't get that sound engineer on this one, but we  
2450 will if we need to.

2451

2452 Mr. Vanarsdall - It's probably what reminded him of it.

2453

2454 Mr. Ayers - Thank you, Mr. Vanarsdall.

2455

2456 Mr. Vanarsdall - Thank you, Mr. Ayers.

2457

2458 Mrs. Quesinberry - Before you sit down, Mr. Ayers, I just want to make sure I've been  
2459 writing madly here. I caught everything we just talked about. But, in effect, what you'd like to do  
2460 is to change on the original proffers, amend Proffer 6f to read as the staff report suggests,  
2461 "...showroom sales and service area, but not excluding truck stops..." And I'm not sure. Maybe  
2462 Mrs. Via can explain to me the next line in the appearance the B-3 use of sale. Is that part of the  
2463 proffer, or is that just explaining something?

2464

2465 Mrs. Via - That would be a part of the proffer.

2466

2467 Mrs. Quesinberry - Okay. And then, in addition, Mr. Ayers, you have additional proffers  
2468 that you would like to add one through four, including signage, sound amplification, which you will  
2469 make some changes, as Mr. Archer suggested, to include that sound is not audible at the property  
2470 line; fencing, and the storage of inventory. And, then, in addition, you're going to, and tell me if  
2471 I've got this wrong. That's why I'm running it down with you here. You're proffering an  
2472 environmental spill plan?

2473  
2474 Mr. Ayers - Yes ma'am.  
2475  
2476 Mrs. Quesinberry - You're also going to proffer that the vehicle auction is toward the  
2477 back of the site. And that the vehicle storage is screened by the buildings primarily; or vehicle  
2478 storage is primarily screened by buildings, and that you will do some tree preservation as much as  
2479 possible throughout the site?  
2480  
2481 Mr. Ayers - Throughout the site.  
2482  
2483 Mrs. Quesinberry - Did I capture everything or...?  
2484  
2485 Mr. Ayers - Yes ma'am.  
2486  
2487 Ms. Dwyer - Mrs. Quesinberry, do you think it would advisable to have a buffer  
2488 along Williamsburg Road that's conditioned to the minimum requirements?  
2489  
2490 Mrs. Quesinberry - What is the buffer that we have along Williamsburg Road? Is that  
2491 going to be 50 feet?  
2492  
2493 Ms. Dwyer - I believe it's the minimum required...  
2494  
2495 Mrs. Quesinberry - In the original buffers?  
2496  
2497 Mrs. Via - There is no proffer in the original proffers for Old Williamsburg  
2498 Road. The proffers speak to buffering the existing A1 and residentially zoned property. I don't  
2499 recall what the development standard for Old Williamsburg Road is at this time.  
2500  
2501 Mrs. Quesinberry - I was just on Old Williamsburg Road this morning, actually, after I  
2502 survived my trip out with Mrs. Leslie News. She took me out in the heat of the day to Audubon  
2503 Village. And you know what a nightmare that was. So, I went by Old Williamsburg Road just to  
2504 check one more time. And the property line along Old Williamsburg Road is really, really thick. I  
2505 don't know what you could add to that if you develop those sites, and you save the trees along that  
2506 road line. I don't what else you could stick in there except, if you wanted a deeper buffer.  
2507  
2508 Ms. Dwyer - Well, there'd be a tree save. Do we know what the buffer is now?  
2509 The minimum that's required? We don't know those?  
2510  
2511 Mrs. Via - We don't know what it is on Old Williamsburg Road. No. We've  
2512 got the transitional buffers, but we need to look up the development standards for the road.  
2513  
2514 Mrs. Quesinberry - Can you do that before the Board meeting and Mr. Harris...  
2515  
2516 Mrs. Via - Is there a width that the Planning Commission is interested in - 15,  
2517 25, 50 feet?  
2518



2519 Ms. Dwyer - Well, also, a statement that it would be undisturbed, other than access  
2520 roads. That sort of typical proffer language. It's up to Mrs. Quesinberry. I just think it would be  
2521 good to preserve those areas.  
2522

2523 Mrs. Quesinberry - Since its not in the original; if you could just address something with  
2524 preserving the trees along that Williamsburg Road buffer. That streetscape is really very dense and  
2525 beautiful, actually.  
2526

2527 Mr. Marlles - Mrs. Quesinberry, the transitional buffer requirement for that area is  
2528 50 feet. Now, it can be reduced by certain techniques.  
2529

2530 Mr. Vanarsdall - A fence or a wall.  
2531

2532 Mrs. Quesinberry - You're talking about with berming and other landscaping?  
2533

2534 Mr. Marlles - Right. Other types – a wall. That's another one of those techniques.  
2535

2536 Mr. Vanarsdall - With a wall, it can be reduced to 35 feet.  
2537

2538 Mrs. Quesinberry - Mr. Ayers, do you just want to agree to address that before the  
2539 Board, or do you have...  
2540

2541 Mr. Ayers - Mrs. Quesinberry, I would have a problem if its 50 feet.  
2542

2543 Mrs. Quesinberry - Yes. I realize that's quite a bit not knowing what you're going to be  
2544 developing in the future there. The intent, though, is really just to preserve that street scape and, you  
2545 know, what we were talking about up here. I don't think you heard us. Is actually you can reduce  
2546 that with various techniques; berming and landscaping and walls and that sort of thing. But, you  
2547 don't know, at this point in time, what would happen when that ultimately develops. So, I think  
2548 we're just looking for some language that would, since there is nothing in the original proffers, that  
2549 would address that there would be an adequate buffer and that there would be adequate screening  
2550 whether it is vegetation or berms or a wall, whatever is appropriate at the time that it develops.  
2551

2552 Mr. Ayers - Would not what the Old Williamsburg Road requires? I mean...  
2553

2554 Mrs. Via - I'm sorry. What was your comment?  
2555

2556 Mr. Ayers - I guess my problem is, when we put in the word, "adequate," we  
2557 enter into a definitional...  
2558

2559 Mrs. Quesinberry - I'm not suggesting that we put that word in. I'm just suggesting we  
2560 come up with some language before the Board...  
2561

2562 Mrs. Via - Let me ask maybe for the Planning Commission to direct the staff to  
2563 work with the applicant on that. The entire area is planned for industrial and office development. I  
2564 hesitate only because we may want to consider a more landscaped finished look eventually in that

2565 corridor instead of the natural pine and brush that's there now. And, so, I hesitate to tie the  
2566 applicant, at this time. But, I think that's something the applicant and I can work out between now  
2567 and the Board meeting, if it's the Planning Commission's desire for us to do that.  
2568

2569 Mrs. Quesinberry - Yes.

2570  
2571 Mrs. Via - Okay.

2572  
2573 Mrs. Quesinberry - We can fix you up. Don't worry.  
2574

2575 Mr. Ayers - I'm hoping I'm not taking on too much water.  
2576

2577 Mrs. Quesinberry - All right. That's all I have.  
2578

2579 Mr. Vanarsdall - All right. Entertain a motion then.  
2580

2581 Mrs. Quesinberry - Okay. Mr. Chairman, I'm going to move approval of Case C-45C-  
2582 00 Mark T. Motley with the amendment to Proffer 6f from the original proffers to the language as it  
2583 appears in the staff report; and with the additional proffers in the staff report 1 through 4, with the  
2584 understanding that the applicant is going to address sound amplification prior to the Board. And,  
2585 also, the applicant will address additional proffers around the environmental spill plan vehicle  
2586 auctions to occur toward the back of the site. Vehicle storage is screened primarily by buildings and  
2587 a tree preservation plan to preserve trees as much as possible throughout the site. And some  
2588 language that will at least address buffering along Williamsburg Road.  
2589

2590 Mr. Vanarsdall - All right. Do I have a second?  
2591

2592 Mr. Taylor seconded the motion.  
2593

2594 Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Mr. Taylor. All  
2595 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
2596 abstained).  
2597

2598 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mr. Taylor, the Planning  
2599 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors **grant** the  
2600 request because the proffers continue to assure a quality form of development with maximum  
2601 protection afforded the adjacent properties; and it is not expected to adversely impact surrounding  
2602 land uses in the area.  
2603

2604 Mrs. Quesinberry - Thank you all for your comments.  
2605

2606 **C-46C-00 Laraine Isaac for H. W. Owens, Inc.:** Request to conditionally  
2607 rezone from A-1 Agricultural District to R3C One Family Residence District (Conditional), Parcel  
2608 164-A-42, described as follows:  
2609

2610 Beginning at a point on the southwesterly corner of said parcel; thence N. 00° 55' 05" E., 516.94' to  
2611 a point; thence S. 76° 13' 30" E., 605.12' to a point; thence S. 09° 41' 30" W., 410.18' to a point;  
2612 thence N. 86° 34' 30" W., 527.89' to the point of beginning, containing 5.971 acres.

2613  
2614 Mr. Marles - The staff report will be given by Mr. Lee Householder.

2615  
2616 Mr. Vanarsdall - Any one in the audience in opposition to this case? This is H. W.  
2617 Owens, Inc. It is C-46C-00. Any opposition? No opposition. Good evening, Mr. Householder.

2618  
2619 Mr. Lee Householder, County Planner – Good evening, Mr. Chairman. This property lies at the  
2620 eastern terminus of Howard Street, as was just indicated. We have a nice graphic because we're in  
2621 the similar area of our last case. Since our graphics department made this, I'd like to take the  
2622 opportunity to show it to you to give you some bearings on where we've traveled. It's a 5.971 acre  
2623 site. It's currently A-1. They would request R-3 Single Family Residence District. The property to  
2624 the north and east, which is best shown in this area (referring to slide) is zoned R-4 by case C-9C-  
2625 97 to R-4C in May 1997. Currently, the Pinecreek Subdivision is proposed on this site, and it is  
2626 currently under review in the Planning Office.

2627  
2628 The requested zoning classification, R3C, allows a minimum lot size of 11,000 square feet and a  
2629 minimum lot width of 80 feet. The 2010 Land Use Plan designation is Urban Residential which  
2630 allows up to 6.8 net units per acre and also recommends this area Environmental Protection Area.

2631  
2632 The R-3 district permits densities up to 2.97 dwellings per acre. Therefore, the lower density  
2633 proposed in this request is consistent with the density requirements of the 2010 Land Use Plan.  
2634 Approximately 2 acres in the northwest corner of the subject property is within the floodplain and a  
2635 small area down here (referring to slide) is also within the flood plain.

2636  
2637 The County policy of the Land Use Plan encourages such areas to be zoned C-1, Conservation  
2638 District. The staff feels the applicant should revise this application to rezone all floodplain areas to  
2639 the C-1 Conservation District, or make a commitment to rezone prior to final subdivision approval.

2640  
2641 The applicant has also met with staff to discuss how this site will be developed. Staff was originally  
2642 concerned with regard to the considerable amount of floodplain on this parcel. And it appeared that  
2643 there would be limited development potential. The applicant has provided an exhibit that depicts an  
2644 idea of how this parcel may be developed but is not proffered. This property will be developed in  
2645 coordination with the R-4 property to the north and west.

2646  
2647 This layout shows 14 lots with two stub streets to properties to the north and east. These stub  
2648 connections would connect this property to the Pinecreek Subdivision, as I just said. This includes  
2649 Howard Street, which would be extended through the property to become the primary access to the  
2650 Pinecreek Subdivision.

2651  
2652 The applicant has proffered that all homes with slab foundations will be required to have brick  
2653 veneer and that foundations built using a crawl space foundation shall have exposed brick facing the  
2654 road which the dwelling faces. Although, staff's environmental concerns on this case, we feel that  
2655 the proffers should be changed to reflect crawl space foundations be required for this parcel. The

2656 applicant has expressed an interest in keeping the same proffers as the R-4C portion, so that there  
2657 wouldn't be conflict at the time of subdivision review. Staff feels this is minor, and the need for  
2658 crawl spaces would supercede this.

2659  
2660 Overall, the proposed single family residential use is consistent with the Urban Residential  
2661 recommendation of the 2010 Plan and the surrounding zoning of properties. Staff would like to see  
2662 the areas that are floodplain zoned to C-1 and a commitment to change the proffer regarding the  
2663 crawl space foundations. If that was done, we could recommend approval of this request. I'll take  
2664 any questions that you may have.

2665  
2666 Mr. Vanarsdall - Any questions from Mr. Householder by Commission members?  
2667 Thank you, Mr. Householder.

2668  
2669 Mr. Householder - Thank you.

2670  
2671 Mr. Vanarsdall - Do you want to hear from the applicant, Mrs. Quesinberry?

2672  
2673 Mrs. Quesinberry - Yes.

2674  
2675 Mr. Vanarsdall - She's already up. Ms. Isaac, how are you?

2676  
2677 Ms. Laraine Isaac - Good evening.

2678  
2679 Mrs. Quesinberry - I wondered if you survived your trip back to Indianapolis?

2680  
2681 Ms. Isaac - Oh, yes.

2682  
2683 Mrs. Quesinberry - I see you made it.

2684  
2685 Ms. Isaac - I drove back in rain the whole time. That was fun, too.

2686  
2687 Mr. Vanarsdall - Good.

2688  
2689 Ms. Isaac - My name is Laraine Isaac, with Engineering Design Associates.  
2690 Residential development is the only appropriate use of this property. The R-3 zoning will produce  
2691 larger lots than in the adjacent existing development to the west, and the proposed development to  
2692 the east.

2693  
2694 This property is being rezoned so that it can be developed as part of Pinecreek Subdivision. The  
2695 first phase of that development has been submitted to the Planning Office, and will be considered at  
2696 your next Planning Commission meeting.

2697  
2698 Because this property will be a part of Pine Creek, it makes sense that all the lots and lands in this  
2699 one subdivision be regulated by the same proffers. And we ask you to accept the proffers, as  
2700 submitted, and approve this rezoning.

2701

2702 Mrs. Quesinberry - Could you respond to staff's comment about the C-1 zoning, and also  
2703 crawl space foundations?

2704  
2705 Ms. Isaac - The developer of the property says that he will consider C-1, but at  
2706 this time, he will not proffer, as the adjacent R-4 property which in Pinecreek does not have a  
2707 proffer on it that requires the rezoning to C-1.

2708  
2709 As I understand, the issue with crawl spaces, the staff's report ties it to environmental concerns,  
2710 since there's so much flood plain. We have to have the buildable area, 11,000 square feet totally out  
2711 of flood plain. So, I don't understand the tie between crawl space and a lot of floodplain in the area.  
2712 Again, I'd like to point out that we think that, because there will be lots in both the R-4 area and the  
2713 R-3 area, we're going to have lots with two completely different proffered cases controlling them.  
2714 And that is one reason we're going with the original proffers on the R-4 case.

2715  
2716 Mrs. Quesinberry - So, the proffers we're looking at here are the original proffers that are  
2717 with the R-4 case?

2718  
2719 Ms. Isaac - Those are the proffers that are applicable to this piece of property  
2720 from the adjacent R-4 zoning, which was done in 1997. And I believe the only proffer that was  
2721 made on the R-4 case was a 25-foot landscaped buffer strip along Interstate 64. And, since we're  
2722 not adjacent to it, that was the only proffer that was deleted from the case. All other proffers are the  
2723 same as the R-4 piece.

2724  
2725 Mrs. Quesinberry - With this case and the R-4 case, I really don't see that the foundation  
2726 issue is going to be such a burden if its different from the R-4 case. You seem to think if its  
2727 different from the R-4 case that somehow...

2728  
2729 Ms. Isaac - I just think that for those lots that are split in two different zoning  
2730 classifications, I have two sets of proffers on top...

2731  
2732 Mrs. Quesinberry - I see what you're saying. Like Lot 8 and Lot 9.

2733  
2734 Ms. Isaac - The drawing that's before you is just that. It's a drawing. The  
2735 engineering has not been completed. What has been completed, the area at the eastern end of  
2736 Howard Street, which is really Phase 1 of Pinecreek, the subdivision we're bringing in is for a total  
2737 of 30 lots in the R-4. Two of those lots are in this area that we are requesting be rezoned tonight.  
2738 We hope to end up with a 50-lot subdivision, which is the maximum allowed with one point of  
2739 access. Of those 50 lots we hope that 14 lots would be in this R-3 area. The remaining lots would  
2740 all be in the R-4.

2741  
2742 Mrs. Quesinberry - Could you just explain again why you're reluctant to rezone the C-1  
2743 areas?

2744  
2745 Ms. Isaac - One, again, it changes the proffers; two different sets of proffers in  
2746 one subdivision. As I said, the developer is willing to consider it, but does not want to be made to

2747 do it. Even though its minor in many ways, to the County staff, it can be an expensive effort, and its  
2748 time consuming. I believe those are his biggest objections to it.

2749  
2750 Mr. Marlles - Mrs. Quesinberry, it is a policy of the Comprehensive Plan that we  
2751 do try to get floodplain areas in C-1 zoning as a way of preserving those areas.

2752  
2753 Mrs. Quesinberry - Well, you know what I'd like to do. I think I'd like to defer this case  
2754 and see if we can get the applicant to consider that again. I haven't spoken with the applicant, and  
2755 haven't had any calls from them about that. That is something that we really try to do.

2756  
2757 Ms. Isaac - I know your position.

2758  
2759 Mrs. Quesinberry - And I know you're trying to represent the applicant, and you only  
2760 have a certain amount of latitude to do that. So, if we can't move in that direction, I'd like to try to  
2761 see if we can.

2762 Ms. Isaac - Speaking for my client, I think he'd like to see the case go forward.

2763  
2764 Mrs. Quesinberry - So, would you like to defer the case?

2765  
2766 Ms. Isaac - I think I'd like a motion taken tonight.

2767  
2768 Mrs. Quesinberry - Okay. Well, I'd like to make a motion then, Mr. Chairman.

2769  
2770 Mr. Vanarsdall - All right. Go ahead.

2771  
2772 Mrs. Quesinberry - I'd like to move for denial of Case G-46C-00. I think that there's  
2773 some opportunity here to do a better job with a couple of the staff's issues. Certainly, the  
2774 Conservation areas is one of the major ones, and I think there's an opportunity that we could take  
2775 care of that with some discussion around that. And, certainly, there are some others with crawl  
2776 space and so forth. And, I also think that, even though this subdivision is going to ultimately end up  
2777 with two different zoning districts, its still a manageable thing to meet those things. And, I would  
2778 be willing to defer it, but the applicant would like to move ahead. So, it kind of puts me in a  
2779 position where I have to recommend a denial because I don't feel like I can move forward with this.  
2780 It doesn't serve the community with these questions unanswered, and it doesn't adequately protect  
2781 the health, safety, and welfare of the constituents in this County.

2782  
2783 Ms. Dwyer seconded the motion.

2784  
2785 Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Ms. Dwyer. All  
2786 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
2787 abstained).

2788  
2789 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Ms. Dwyer, the Planning  
2790 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the  
2791 request because it did not address the unique environmental aspects of the site; and it failed to

2792 include the proffered conditions deemed necessary to lessen the impact of residential zoning on the  
2793 area, nor address the quality aspects of the development.

2794  
2795 **C-47C-00 James W. Theobald for Payne 13, L.C. and Redford 131, L.C.:**  
2796 Request to conditionally rezone from A-1 Agricultural District to M-1C Light Industrial District  
2797 (Conditional), part of Parcels 186-A-23 and 24, and 197-A-22A, described as follows:

2798  
2799 Beginning at a point on the southern right-of-way line of Technology Boulevard, which point is  
2800 0.25 ± miles east of the centerline of Memorial Drive; said point being the True Point of Beginning;  
2801 thence along the southern right of way line of Technology Boulevard S 44°15'31" E 251.91' to a  
2802 point; thence S 44°15'30" E 759.82' to a point; thence along a curve to the left having a radius of  
2803 2,050.00' for a length of 242.58' to a point; thence leaving the southern right-of-way line of  
2804 Technology Boulevard S 22°05'03" W 100.43' to a point; thence S 27°24'48" W 187.02' to a point;  
2805 thence S 27°18'18" W 468.92' to a point; thence S 15°42'42" W 352.42' to a point; thence S  
2806 25°25'58" W 282.51' to a point; thence S 19°29'06" W 283.55' to a point; thence S 23°22'32" W  
2807 924.06' to a point; thence S 18°23'14" W 134.98' to a point; thence N 77°27'22" W 632.11' to a  
2808 point; thence N 66°09'43" E 73.11' to a point in the centerline of a creek; thence meandering in a  
2809 northerly direction in the centerline of a creek 826.7'± to a point; thence N 33°05'37" W 1401.33'  
2810 to a point; thence N 05°32'30" E 359.73' to a point; thence N 00°12'18" E 322.94' to a point;  
2811 thence N 04°38'22" E 180.86' to a point; thence N 20°53'08" W 205.94' to a point; thence N  
2812 11°52'38" W 197.92' to a point; thence N 82°11'15" E 360.97' to a point; thence N 84°18'16" E  
2813 799.10' to a point; thence S 89°54'35" E 181.84' to a point on the southern right-of-way line of  
2814 Technology Boulevard, said point being the True Point of Beginning, containing 103.802 acres.

2815  
2816 Mr. Marlles - The staff report will be given by Mr. Eric Lawrence.

2817  
2818 Mr. Vanarsdall - Any one in the audience in opposition to this case – C-47C-00? All  
2819 right, Mr. Lawrence. Good evening.

2820  
2821 Mr. Eric Lawrence, County Planning - Good evening. Thank you, Mr. Chairman. This request  
2822 would rezone 103 acres from A1 to M-1C, enabling light industry and office uses. The site is  
2823 located along Technology Boulevard, just northwest of the White Oak Technology Park. You can  
2824 see on the map (referring to slide), located just northwest. The land between the proposed site and  
2825 the industrial facility is currently zoned M-2C. That was rezoned in 1997.

2826  
2827 This proposal is inconsistent with the 2010 Land Use Plan's Rural Residential and Environmental  
2828 Protection Area designation for the site. But the existing industrially zoned land may suggest that  
2829 industrial land is more appropriate than residential. Additionally, the draft Williamsburg Road /  
2830 Technology Boulevard study indicates the site would be appropriate for light industrial and office  
2831 uses.

2832  
2833 The current proposal would complement the adjacent 110 acres of M-2C which was rezoned in  
2834 1997 and has been referred to as the White Oak Business Center and the large White Oak  
2835 Technology Park. The Technology Park is intended for larger users, generally single users  
2836 requiring more than 100 acres. This current proposal would possibly service these larger users.

2837

2838 There are currently two pending rezoning applications for parcels just southwest here, if you will, is  
2839 a residential case which was on your agenda this evening and has been requested for a deferral.  
2840 And, I might add, that they revised the application this afternoon to request O-3C. They are  
2841 requesting O-3C to the bottom left (referring to slide), and we received a new application just north  
2842 of this site, up here (referring to slide), for O-3C also.

2843  
2844 Along those lines, the applicant will present this evening a conceptual layout, which would tie this  
2845 general area together; the four sites, the existing M-2, tonight's current rezoning, and then the two  
2846 O-3 sites I just mentioned.

2847  
2848 That's important, because one of staff's comments was to coordinate the development of the  
2849 adjoining properties. So, we'll see that layout later on this evening.

2850  
2851 The zoning is currently inconsistent with the 2010 Land Use Plan's Rural Residential and  
2852 Environmental Protection Area designations. But, with the existing industrially zoned land in the  
2853 area, staff feels this is a natural transition. Going from the M-2 here to the M-1 is a naturally  
2854 transitional way of lessening the impact.

2855  
2856 This site was the subject of a rezoning request last year, which split the property; 70 acres of M-2  
2857 and 30 acres of M-1. It was ultimately denied by the Board of Supervisors. I would point out that  
2858 the Planning Commission did recommend approval last year of that case.

2859  
2860 The subject site's proximity to the adjacent industrially zoned properties makes it a good candidate  
2861 for the requested zoning. Staff believes the standards similar to those used by the adjacent sites  
2862 would be appropriate. It is important to maintain the high quality development standards associated  
2863 with both the Technology Park, and the Business Centre to the eastern side of the site. Staff  
2864 strongly recommends that this request be consistent with those standards, and, accordingly, the  
2865 applicant has made attempts to submit proffers which are generally consistent with the adjoining  
2866 properties.

2867  
2868 Staff continues to be concerned that this proposal does not provide the same amount of open space  
2869 as the adjacent properties. The adjacent properties have 40 percent proffered. This has 40 percent,  
2870 (referring to the existing M-2 site) and the Technology Park, through the covenants achieves a 40-  
2871 percent open space, yet the application this evening has proffered only 30 percent. Staff feels that  
2872 40 percent is necessary to be consistent with the adjoining properties.

2873  
2874 So, it's the two conditions, the open space concern, and the coordinated development pattern are the  
2875 two outstanding issues staff would have.

2876  
2877 In summary, staff feels this request for 103 acres of M-1C is appropriate, and if the open space and  
2878 coordinated concerns are adequately addressed, staff could support this application.

2879  
2880 I would be happy to answer any questions you may have, and Mr. Theobald is here this evening to  
2881 represent the applicant.

2882  
2883 Mr. Vanarsdall - All right, any questions for Mr. Lawrence?



2884  
2885 Mrs. Quesinberry - Mr. Lawrence, I just want to make sure we understand on the  
2886 coordination issue that you have, that's coordination with the adjoining sites?  
2887  
2888 Mr. Lawrence - The intent of staff's comments is that these things should tie together.  
2889 Instead of having a bunch of separate roads hitting Memorial Drive or Portugee, let's get a  
2890 coordinated road system – infrastructure system together. I'd like the applicant to address how he  
2891 intends to achieve that.  
2892  
2893 Mrs. Quesinberry - Okay. That's fine.  
2894  
2895 Mr. Lawrence - Thank you.  
2896  
2897 Mr. Vanarsdall - Any other questions for Mr. Lawrence? Thank you.  
2898  
2899 Mr. Lawrence - Thank you.  
2900  
2901 Mr. Vanarsdall - Good evening, Mr. Theobald.  
2902  
2903 Mr. James W. Theobald - Good evening, Mr. Vanarsdall, members of the Commission. My name  
2904 is Jim Theobald, and I'm here this evening on behalf of Payne 13, L.C. and Redford 131, L.C. Mr.  
2905 Richard Cogan, the Manager of those two limited liability companies is here with me this evening.  
2906  
2907 This is a request to rezone approximately 103 acres to an M-1 conditional category on the south line  
2908 of Technology Boulevard, as Mr. Lawrence pointed out, that being adjacent to the related M-2  
2909 zoning, accomplished some three years ago, and the M-2 zoning that is unconditional associated  
2910 with White Oak Technology Park.  
2911  
2912 The County, I believe, was very farsighted in working with the State to provide White Oak  
2913 Technology Park. As you've heard, the rationale was to attract large economic development users.  
2914 I think a commitment was made to the private sector that White Oak Technology Park, given its use  
2915 of public funds for the provision of infrastructure, really would be used for those larger economic  
2916 development opportunities, and that those users who might support, or accessory uses to White Oak  
2917 might locate elsewhere. And the County was, I believe, very wise in providing the necessary  
2918 funding in working with the State to provide Technology Boulevard and the extension of water and  
2919 sewer in that area.  
2920  
2921 This request, then, provides land for those users who might support what has happened, and what  
2922 may happen anew out at White Oak. We have attempted to be consistent with the White Oak  
2923 standards and have negotiated many of our proffers with the engineers and facility managers with  
2924 Motorola Semens, such as the no smoke, no vibration, and nor burning, etc., proffers that you see  
2925 before you.  
2926  
2927 Our proffers do limit uses. They provide safeguards for the White Oak operations. Setbacks,  
2928 buffers, open space requirements, aesthetic guarantees, limitations on signage, and a master plan.  
2929 And, as Mr. Lawrence indicated, we are coordinating the development of this piece with our

2930 neighbors and meet with them regularly.

2931

2932 The plan before you on the screen (referring to slide) is one that was submitted today with the two  
2933 revised cases. I'll just orient you, Technology Boulevard here, White Oak, being in this area. The  
2934 original M-2 zoning is, basically, this piece over here and, of course, was rezoned some three years  
2935 ago. The request this evening is really this piece, the 103 acres, in here.

2936 We have amended what had been a pending R-3A case on the Robins parcel over here. Today, we  
2937 have amended that case for an O-3 conditional use to provide, I think, a very nice transition between  
2938 the M-2, the M-1, O-3, and then these very deep lots along Memorial Drive.

2939

2940 Similarly, we have re-filed a case on a land owned by the Marshalls, again, to the same O-3  
2941 conditional standards, and we have provided this master plan with those cases. This was not filed,  
2942 and the case before you this evening, because we received it today. It will be filed between now and  
2943 the Board. You have your own master plan in the file that, basically, shows these potential road  
2944 connections. It did not show this one. Knowing I wouldn't get this plan until today, I added a  
2945 proffer in the case before you this evening that commits to cross-access as one of the last proffers on  
2946 the list.

2947

2948 So, we have developed, in conjunction with one another, an internal access road. These access  
2949 points have been discussed, and previously approved on a tentative basis. Obviously, we're not a  
2950 POD, but by Mr. Foster and the Transportation Department. This is an existing median (referring to  
2951 slide) on Technology Boulevard. This space then complies with the County's guidelines in that  
2952 regard. There are also proffers in the recently submitted Robins and Marshall cases that similarly  
2953 commit to cross-access before the approval of any POD.

2954

2955 Basically, this request is consistent, I think, with the various alternate land use strategies that you're  
2956 considering and have considered as part of the Williamsburg Road Technology Boulevard Corridor  
2957 Study. That study, I think, builds on the good work the County has done at White Oak, and  
2958 suggests uses ranging from industrial to mixed uses to provide support for these large users that are  
2959 being attracted to White Oak, and to provide the necessary services for support for those people who  
2960 live in the area.

2961

2962 And, so, I believe the request is consistent with the various goals, objectives, and policies of your  
2963 Land Use Plan, by providing for increased employment opportunities, an increase in your tax base  
2964 without providing an additional burden on County infrastructure, and by promoting balanced  
2965 growth with the transition of uses.

2966

2967 The users who will support these large manufacturers at White Oak do not want to wait for sites to  
2968 be zoned I think as supported by your Economic Development Office. So, its very important for us  
2969 provide the necessary vendors to support in advance of some of the hoped for expansion for White  
2970 Oak if the County vision for White Oak is to ultimately be fulfilled. And, accordingly, I believe this  
2971 is an important economic development initiative and I would respectfully request you recommend  
2972 approval of this case to the Board of Supervisors.

2973

2974 I'd be more than happy to answer any questions that you might have.

2975

2976 Mr. Vanarsdall - Any questions of Mr. Theobald by Commission members?  
2977  
2978 Ms. Dwyer - Mr. Theobald, one of the comments by staff was that the proffers met  
2979 the White Oak standards except for, and they made a list, some of which I think you have revised...  
2980  
2981 Mr. Theobald - Yes ma'am.  
2982  
2983 Ms. Dwyer - ...in your current set of proffers. I didn't see a revision relating to  
2984 open space.  
2985  
2986 Mr. Theobald - Yes, Ms. Dwyer. The open space requirement, not by proffer, mind  
2987 you, but by restrictive covenants that are readily amendable, and the White Oak Technology Park is  
2988 40 percent.  
2989  
2990 Of course, keep in mind that the White Oak Industrial Park was land owned by the State. Nobody  
2991 really had to pay for that land, and it was heavily impacted by wetlands intermittent and parental  
2992 streams with resulting Chesapeake Bay implications. And, so, it was certainly easy, both from the  
2993 land costs, which was zero, and the impacts of the environmental features to commit to do 40  
2994 percent. Keep in mind, those aren't by proffer, but by covenants. And, if you've read those  
2995 covenants, you know that they're not terrifically hard to amend if White Oak wakes up tomorrow  
2996 morning and decides to do that.  
2997  
2998 On the original case that we rezoned M-2, we had a similar situation in that we had fairly extensive  
2999 wetlands along this border with White Oak. And, frankly, we were able to set aside 40 percent in  
3000 open space because of the wetlands feature.  
3001  
3002 The 103 acres before you this evening has very slight wetlands impact. There may be some fingers  
3003 along this common boundary with the Robins piece, and a little in back. But, frankly, for light  
3004 industrial uses that tend to go out instead of up, unlike an office building, setting aside 40 percent  
3005 when you don't have those environmental features to, basically, help you with that percentage is a  
3006 real burden. And, I think you would, perhaps, not be efficiently using a resource for the County in  
3007 terms of land available for industrial development next to White Oak. And so, we would be  
3008 prepared, and have had some discussions with staff about increasing that to 35 percent. And, if you  
3009 would find that acceptable, I would be happy to make that change this evening.  
3010  
3011 Mr. Vanarsdall - Any more questions for Mr. Theobald?  
3012  
3013 Mr. Theobald - Thank you.  
3014  
3015 Mr. Vanarsdall - Thank you, Mr. Theobald. All right, no other questions, we'll  
3016 entertain a motion, Mrs. Quesinberry.  
3017  
3018 Mrs. Quesinberry - I don't know if you remember this case when it came up the last  
3019 time, but part of it was M-1 and part of it was M-2, but this is a considerable improvement. And  
3020 with the applicant's willingness to file a master plan prior to the Board, and the fact that this Plan  
3021 complements the adjacent M-2, and the conceptual layout is coordinating with the adjacent

3022 property, and agreement to increase their open space to 35 percent, I can recommend approval of  
3023 Case C-47C-00 with the proffers received 6/13/00, and the applicant's agreement to increase the  
3024 open space to 35 percent, and to file the master plan prior to the Board.  
3025

3026 Ms. Dwyer seconded the motion.  
3027

3028 Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Ms. Dwyer. All  
3029 those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon  
3030 abstained).  
3031

3032 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Ms. Dwyer, the Planning  
3033 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors grant the  
3034 request because it is reasonable in light of the industrial zoning in the area; the proffered conditions  
3035 will assure a level of development otherwise not possible; and it continues a form of zoning  
3036 consistent with the area.  
3037

3038 Mr. Vanarsdall - Why don't we knock the minutes out?  
3039

3040 Mrs. Quesinberry - I have one more agenda item I'd like to bring up, Mr. Chairman.  
3041

3042 Mr. Vanarsdall - Okay. Let's do the minutes. Has everybody read them?  
3043

3044 Ms. Dwyer - Yes.  
3045

3046 Mr. Archer - Oh, yeah.  
3047

3048 Ms. Dwyer - No changes.  
3049

3050 Mr. Vanarsdall - Anybody want to make a motion?  
3051

3052 Acting on a motion by Mr. Taylor, seconded by Mrs. Dwyer, the zoning minutes of May 11, 2000  
3053 were approved.  
3054

3055 Mrs. Quesinberry - My last item of the evening. Thank you, Mr. Chairman. I would  
3056 like to bring up once again a discussion about a motion to direct the staff to schedule a public  
3057 hearing concerning changes to the Zoning Ordinance or Amendments to the Zoning Ordinance  
3058 of 25-52(g). We have discussed this, at length, at previous meetings several times now. And, as  
3059 you all may know, your biggest concern at our last discussion was that there was an appeal of the  
3060 Director of Planning's determination letter in front of the Board of Zoning Appeals. That is no  
3061 longer the case, and, in fact, at this time, there is no action in front of the BZA. And, as a  
3062 condition, we did promise the citizens that we would schedule a public hearing, and we would  
3063 allow public comment, and we would consider changes or amendments to the Zoning Ordinance  
3064 24-52(g).  
3065

3066 And so, at this time, I would like to ask the Commission to consider that, and to direct the staff to  
3067 do such things. And it is my intention that we would look at that language, discuss it, and,

3068 hopefully, come to some kind of a vote to make whatever changes, if any, that we decide on.  
3069 And I think we have looked at language changes, and I don't know if we have any in our packet.  
3070 Mrs. Via, did you do any?

3071  
3072 Mrs. Via - This is the Ordinance Amendment that was passed out to you,  
3073 previously, when it was originally advertised. It merely strikes the word, "fairgrounds" from that  
3074 section of the Code.

3075  
3076 Mrs. Quesinberry - And this was a suggestion of mine, as one discussion point on this  
3077 language. And I know from speaking with other Commission members, there may be some  
3078 interest in just clarifying fairgrounds as it stands in that ordinance. And, in other words, just  
3079 adding a clarifying word either before "fairgrounds" or after "fairgrounds." So, I would really  
3080 like to request that, if this Commission will agree to a public hearing, that we advertise it in such  
3081 a way that we can consider this language, or consider an alternative, that would be acceptable to  
3082 the Commission at that time that would clarify this language.

3083  
3084 In other words, I don't want to get into a long extended process. I think we could probably do  
3085 this fairly efficiently. And I just want to make sure that we advertise it appropriately, so that we  
3086 can consider this language, or some other clarifying language that we deem appropriate.

3087  
3088 Ms. Dwyer - Normally, Mrs. Quesinberry, when we have an Ordinance  
3089 Amendment, we have staff look at it, and lawyers look at it, and see, "Well, does this effect other  
3090 Code sections?" Or, rarely does one change affect only that one section. And usually staff does  
3091 some sort of an analysis. Are you expecting that would happen here with this proposal or?

3092  
3093 Mrs. Quesinberry - I am expecting that they would have this proposal looked at by  
3094 staff, or by the County Attorneys, and any other clarifying language that we might think would  
3095 be appropriate.

3096  
3097 Ms. Dwyer - So, you want some type of staff analysis presented to us about  
3098 that?

3099  
3100 Mrs. Quesinberry Right.

3101  
3102 Ms. Dwyer - Okay.

3103  
3104 Mrs. Quesinberry - Right. In public, at the public hearing at that time. But, what I  
3105 wanted to really stress was, I wanted us to be able to have some options that we could vote on at  
3106 that time, so that the advertising was done in such a way that we wouldn't have to then again  
3107 schedule another work session or schedule another hearing, if we could settle it, in one public  
3108 hearing, because I think it is going to be pretty simple.

3109  
3110 Ms. Dwyer - Usually, we have a work session to discuss any issues that might  
3111 be there, or, as you say, if we are going to be looking at striking "fairgrounds," or just, perhaps,  
3112 defining fairgrounds. Those are alternative options that seems to me might lend themselves to a  
3113 work session prior to a vote on a final product.

3114  
3115 Mrs. Quesinberry - Well, just let me say two things about that. One is that it has been  
3116 discussed extensively by staff. So, therefore, I think that it is going to be a relatively  
3117 straightforward process for staff to put something in front of us that we could vote on. I think  
3118 they are going to know all sides of it by then, because we have had a lot of discussion about this.  
3119 There was the BZA Hearing and, so, I think there has just been a lot of information and there is a  
3120 lot of information about, you know, what a change in the Ordinance would mean or bring. But,  
3121 if you are interested in a work session prior to a public hearing where we would vote, I would  
3122 suggest that we schedule a work session prior to the next time that we could do a public hearing.

3123  
3124 Ms. Dwyer - Well, we'd have to advertise a work session, too, though.

3125  
3126 Mrs. Quesinberry - Yes. You see, my concern is that we have really put the citizens off  
3127 for a long time. And, it really hasn't, and it doesn't serve a purpose to extend this any longer.  
3128 And, in the interest of serving the public and protecting the health, welfare and safety of our  
3129 constituents, and I might add, doing our job, I would like to be able to have a public hearing and  
3130 consider amendments to this ordinance and be able to vote on something if we actually can agree  
3131 on some change at that time without having to extend into further public hearings or other work  
3132 sessions. I just don't think this is going to require a work session. It is not like the Broad Street  
3133 Plan that we just did. It is really just a very plain, straightforward paragraph that I am just asking  
3134 for clarification. I am not really looking to change the application of this. I am just looking to  
3135 clarify this.

3136  
3137 Mr. Vanarsdall - Well, I think you are right. We don't need the staff to do anything.  
3138 I think we have discussed this enough and at quite some length. I think where we left off was  
3139 that, when BZA made a decision, we would do something. I don't think that, if you want to be  
3140 technical about it, I don't believe BZA made a decision. I think the only decision BZA made  
3141 was not to defer the case to give Tom Tokarz, the Assistant County Attorney, a chance for  
3142 rebuttal, if that is what you call it.

3143  
3144 So, I think that is where we are, tonight. And I'd like to have some discussion from the rest of  
3145 the Commission. Any more from Ms. Dwyer on this?

3146  
3147 Mr. Archer - Mr. Chairman, according to an article I read in the paper, Mr.  
3148 Marles is to issue another letter to replace the letter that was withdrawn at the BZA Hearing.  
3149 So, I guess my question is, if Mr. Marles' letter is replaced, will there be another appeal, or do  
3150 we know that?

3151  
3152 Mrs. Quesinberry - Well, Mr. Archer, there really is no telling if there would be  
3153 another appeal. But, if we schedule a public hearing and consider language; amendments to this  
3154 language, which is our job, not the BZA's job, even if there were an appeal, and that is strictly  
3155 conjecture on everybody's part, we could actually clarify this language and send it to the Board,  
3156 prior to any appeal being filed with the BZA. If we, in fact, set a public hearing and took some  
3157 action on this, if we advertised it, and set a public hearing and took some action on this at our  
3158 next meeting on July 13th.

3159

3160 Mr. Archer - Well, the only reason that I mentioned that is, because on the two  
3161 prior occasions that we voted not to have this meeting prior to a decision by the BZA, if the letter  
3162 is replaced and there is another appeal, then we end up right back where we started.  
3163

3164 Mrs. Quesinberry - Which is why I'm suggesting that we advertise, and we have our  
3165 public hearing on July 13 and we make some determination. Because, if we do, then, we would  
3166 actually clarify this language, I think, to everyone's satisfaction, prior to any appeal that might  
3167 occur before the next BZA meeting. And, I would just like to point out, also, that at the last BZA  
3168 meeting, they were ready to act on the case. I think they wanted to and were ready to, and it was  
3169 the County that withdrew the letter. And they could do that over and over, too. I mean we could  
3170 get into a vicious cycle, which really gets me back to, it is the job of the Planning Commission to  
3171 amend zoning ordinance language. That is what we do. Whether it is initiated with the Board  
3172 and comes to us or whether we initiate it ourselves, this is the only place it can be done, right  
3173 here with this body. It is not the BZA's job to amend language, or clarify language. It is our job.  
3174 And, what I am saying is, that if we advertise this and we, in fact, do this public hearing, and  
3175 come to any kind of an agreement that there should be a change or not a change, or whatever  
3176 action we take, if we take it on July 13, then, that is prior to any time that a party could, or would  
3177 file an appeal to the BZA. In other words, we would have our business done prior to anything  
3178 else that would come before the BZA.  
3179

3180 Mr. Marlles - Mr. Chairman, if I could, I would like to clarify one point. I know  
3181 it has been discussed previously. I think Mrs. Quesinberry is correct that, from a strictly legal  
3182 standpoint, the Planning Commission can consider an amendment to the ordinance while the  
3183 Board of Zoning Appeals is considering an appeal of the decision of the Director. Having said  
3184 that, I am not sure, though, that is necessarily the best policy.  
3185

3186 Under the State Code and under the County's Ordinance, which reflects the State Code, there is a  
3187 process that is set out for administering and interpreting the Zoning Ordinance. There is also a  
3188 process that is set out for appealing decisions of the administrator of the Ordinance. I guess the  
3189 concern that staff has here is that we have a process in place that is working and I think an  
3190 attempt to have a hearing is really, in a sense, interfering in the operation of the process that we  
3191 have in place. Again, that is spelled out in the State Code.  
3192

3193 But, I do want to clarify the point that has been made that, strictly speaking, legally, the  
3194 Commission can consider an appeal, or it can consider an amendment to the Ordinance while the  
3195 BZA is reviewing an appeal of a decision. Again, I would certainly raise it as a policy concern,  
3196 though, in terms of the way the process should work and is designed to work under the State  
3197 Code.  
3198

3199 Mrs. Quesinberry - But, I want to point out that we don't have any business before the  
3200 BZA at this time.  
3201

3202 Mr. Marlles - That is right.  
3203

3204 Mrs. Quesinberry - And, if, we, in fact, again, set a public hearing and take any action  
3205 on this particular ordinance, that action would take place prior to, again, assuming there is any  
3206 business to go before the BZA, our business would be done prior to that.  
3207

3208 Mr. Vanarsdall - Mr. Archer, wasn't your question, was your question about a  
3209 letter? What did you say about that?  
3210

3211 Mr. Archer - Yes. I guess what I am trying to find out here is, you know, I  
3212 understand that Mr. Marlles intends to do another letter.  
3213

3214 Mrs. Quesinberry - Yes. He does. Let me speak to that for just a minute. Because...  
3215

3216 Mr. Archer - Go ahead while I think.  
3217

3218 Mrs. Quesinberry - Because he has stated that publicly and that is a fact that he is  
3219 going to be writing another determination letter at the request of the ARE business. And, let me  
3220 just point out to you that, the Board of Supervisors member from Varina, Mr. Donati, and  
3221 myself, met with Mr. Marlles on Tuesday of this week and asked him if he would delay writing  
3222 that letter because the State Code does allow him 90 days before he has to write a determination  
3223 letter after he is requested to do so. We asked him to delay it, because there is no hurry. Nobody  
3224 is dead or dying here.  
3225

3226 And, as he said, to let this process run its most appropriate course, which would be to allow this  
3227 Planning Commission to have a public hearing and to consider if there needs to be some  
3228 clarification to this particular ordinance. He can do that if he wants to, and he told the Board of  
3229 Supervisor member from Varina; the man who is elected by each and every person that he  
3230 represents from that magisterial district, and those people are the people most closely going to  
3231 be impacted by anything that takes place in that magisterial district, that he did not want to do  
3232 that. So, it is his choice, if he, in fact, issues a determination letter anytime within the next 90  
3233 days. So, that is his choice. He doesn't have to do that, and I just want you all to understand  
3234 that, because the process for considering changes to the Zoning Ordinance lies with this body,  
3235 and that is the appropriate process.

3236 If there is some clarification that needs to be made, and, I might add, that I am one of the people  
3237 that believes this language is very clear here, and what it says, but there are people in  
3238 administration, and Mr. Marlles is one of them, that doesn't think so. That is his opinion, and he  
3239 is not infallible and neither am I. But, there are many wise people that have differing opinions  
3240 on this. So, if, in fact, this language needs to be clarified, this is the body that needs to do it.  
3241

3242 Ms. Dwyer - Mrs. Quesinberry, I guess I am trying to sort out all of the  
3243 processes, and all of the issues here, because there are multiple layers of issues in this case and I  
3244 think that it is really difficult for us to get a handle on it because this is an out of the ordinary  
3245 issue for the Planning Commission to deal with.  
3246

3247 But let me just say that, when we say that this proposed ordinance is to clarify, this particular  
3248 ordinance amendment would clarify the situation, to me, it is the BZA that is clarifying and  
3249 interpreting the existing ordinance. What we are being asked to do with the Ordinance



3250 Amendment is to completely eliminate what it is that is the subject of discussion. So, we are not  
3251 really clarifying anything. We are completely eliminating the issue by that Ordinance  
3252 Amendment.

3253  
3254 Mrs. Quesinberry - That would be one avenue we could take. That is true.

3255  
3256 Ms. Dwyer - And going back to the work session, I haven't decided in my own  
3257 mind how I want this to end up. I would like to hear what are the options. Do we need to clarify  
3258 the Ordinance? Do we need to eliminate this provision from the Ordinance entirely? And those  
3259 are two separate questions that I haven't heard discussions from staff about at length, because I  
3260 have not been involved in the BZA and the hearing. I know you, and probably Mr. Marlles, are  
3261 very intimately aware with every detail of those issues. I am not familiar with them as you are.  
3262 So, I guess I don't have a problem with the Commission proceeding along a separate track from  
3263 the BZA. But, I do want to say that, even if we set a hearing for next month, I am not sure that I  
3264 would be ready, at that point, to make a decision.

3265  
3266 Mrs. Quesinberry - Well, you know, Mrs. Dwyer, I really would just like to set a  
3267 hearing so that, all the things you are talking about are very true, and they need to be discussed.  
3268 And, I think every member of this Commission really needs to understand, very well, some of  
3269 these issues, because they can be very complex, or they can be very, very simple. I am in the  
3270 camp of believing they really are very simple. But, we can't even discuss them, really, with this  
3271 group, unless we set a public hearing and bring them forward so that everybody understands  
3272 exactly what the issues are and we can make some kind of determination if we need to change  
3273 language or not change language, clarify language, or just what we need to do. But, it is clear  
3274 that there is an issue, and that something that does need to be, or some action does need to be  
3275 taken in the way of a public hearing to bring this out, even if the results of that hearing are that  
3276 we take no further action. There needs to be a public hearing to bring some of these things out  
3277 just because, obviously, there is a lot of differing opinion.

3278 Mr. Taylor - But wouldn't you feel the BZA would be the appropriate avenue to  
3279 do that?

3280  
3281 Mrs. Quesinberry - No, because anything that needs to be changed in this language has  
3282 to be initiated with this body, or it has to be initiated with the Board and come to this body,  
3283 because the Board of Supervisors only acts on approving or disapproving changes. They don't  
3284 actually make the changes, I guess, is the best way to say that.

3285  
3286 Mr. Vanarsdall - Why don't we ask Mr. Marlles what the status of the letter is?  
3287 Now, first of all, let me say that I believe you said that there is nothing before the BZA now?

3288  
3289 Mrs. Quesinberry - No.

3290  
3291 Mr. Vanarsdall - Okay. And we don't need to keep on dwelling about what BZA  
3292 does and what we do and what the Board does. We know what we do does not interfere with the  
3293 BZA. We know that they don't interfere with us or the Board. We know that all are appointed  
3294 by different bodies. We don't need to keep on dwelling on that. We have one point here. And if  
3295 you want me to read it again, I will read it. "Until the first meeting after the BZA makes their

3296 decision.” Here it is. If they don’t make a decision until July, then we don’t have a meeting. If  
3297 they don’t make a decision until August, or if they make it on May 25, then we would do a  
3298 meeting as soon after as we could.

3299  
3300 Mr. Silber came forward and explained that, so they did not make a decision. The only decision  
3301 they made was not to, like I said before. So, now, we are back to square one where we were  
3302 before. Now, if there is nothing before BZA now, then the status of Mr. Marlles’ letter is  
3303 somewhere. Where is that?

3304  
3305 Mr. Marlles - Mr. Chairman.

3306  
3307 Mr. Vanarsdall - So, that will soon be before the BZA.

3308  
3309 Mr. Marlles - Let me explain exactly where we are at. Following the BZA, the  
3310 rescinding of my first zoning conformance letter, I would add the BZA did not make a decision  
3311 on the merits of the case. When I withdrew my zoning conformance letter, essentially, that  
3312 ended the discussion.

3313  
3314 Shortly after that meeting, ARE did request another zoning conformance letter. I have been  
3315 actively working on that letter. I anticipate that that letter will be issued in not the next several  
3316 weeks, but, in, hopefully, a matter of days. I would also add that on May 30<sup>th</sup>, that I asked both  
3317 the applicant’s attorney, ARE’s attorney, as well as the Attorney, Mr. Montgomery, who was  
3318 representing at least some of the citizens here, for additional information. I asked for that  
3319 information to be submitted by June 9. So, I gave, I feel, both sides equal time to provide me  
3320 with additional information. I feel like this matter has been going on for a number of months, as  
3321 Mrs. Quesinberry noted, or for some time. I gave both sides additional opportunity to provide  
3322 me with information. So, I do feel like I have sufficient information to be able to issue a new  
3323 zoning conformance letter. And I do intend on issuing that letter for zoning conformance in the  
3324 very near future.

3325  
3326 Let me add another point. I do think that there is a very high probability that either ARE or the  
3327 citizens that are opposed to the Fairgrounds will file an appeal. Either party, I think, we have to  
3328 recognize there is a very high probability of that occurring. So, that this matter, very likely will  
3329 end up back at the Board of Zoning Appeals.

3330  
3331 Mr. Vanarsdall - Now, how long does the opposition have to appeal?

3332  
3333 Mr. Marlles - Thirty (30) days.

3334  
3335 Mr. Vanarsdall - Your new decision?

3336  
3337 Mr. Marlles - Thirty (30) days.

3338  
3339 Mr. Vanarsdall - Thirty (30) days from the time you give it to them?

3340  
3341 Mr. Marlles - I issued that letter. Yes, sir.

3342  
3343 Mr. Vanarsdall - You send it to?  
3344  
3345 Mr. Marlles - I will send that letter to ARE, and I will certainly copy any  
3346 individual, or Mr. Montgomery.  
3347  
3348 Mr. Vanarsdall - You will send a copy to Mr. Montgomery?  
3349  
3350 Mr. Marlles - Yes, sir.  
3351  
3352 Mr. Vanarsdall - And they have 30 days to appeal it?  
3353  
3354 Mr. Marlles - Yes sir.  
3355  
3356 Mr. Archer - Or anytime in between?  
3357  
3358 Mr. Marlles - Yes sir.  
3359  
3360 Mr. Vanarsdall - Or anytime in between. Sometimes it doesn't take 30 days.  
3361  
3362 Mr. Marlles - That's correct. It could be less than 30 days, but they have up to  
3363 30 days.  
3364  
3365 Mr. Archer - Well, Mr. Secretary, Mr. Chairman, you know, I am wondering  
3366 about the urgency of having to have this meeting, but I would be willing to compromise to the  
3367 extent that I could support a motion that we could have a hearing as soon as it could be legally  
3368 advertised if there is no appeal. And, if there is an appeal, then as soon as the decision is made,  
3369 as we said before.  
3370  
3371 But, if there is no appeal, then, you know, I think what we said when we made the original  
3372 motion was that as soon as a decision is made, we will have the public hearing. So, if there is no  
3373 decision to make, then I could support that we have a hearing as soon as we can legally advertise  
3374 it. But, if there is an appeal, then, I think we are right back where we started and we should have  
3375 a decision from the BZA on the appeal, and then go forward. But then again, as soon as we can  
3376 legally advertise it. If there is no appeal...  
3377  
3378 Mr. Vanarsdall - What happens if there is an appeal?  
3379  
3380 Mr. Archer - If there is an appeal, then, it is just like the last two meetings that  
3381 we discussed this, we will wait until the decision is made. But there may not be one. There  
3382 could be one, or there may not be one. That would at least speed the process up.  
3383  
3384 Mrs. Quesinberry - I think Mr. Archer is right because there is, right at this time, there  
3385 is no determination letter and there is no appeal in front of the BZA. And, even when Mr.  
3386 Marlles issues a determination letter, whenever that is, you are really making an assumption  
3387 when you say that one party or another is going to appeal it. You don't really know that until

3388 that happens. And, I think that we should go forward and set our public hearing, because really  
3389 we don't have anything before the BZA right now. There is no reason that we shouldn't set a  
3390 public hearing, so that we can get all of this stuff out in the open, in public, and discuss it, and  
3391 decide if there is any other action that we want to take.

3392  
3393 Mr. Vanarsdall - Stop right here. We have heard from Ms. Dwyer. You've heard  
3394 from me. You've heard from Mr. Archer, and Mr. Taylor, and I haven't heard from you.

3395  
3396 Lady in the Audience - So, I would respectfully ask that you please hear from me.

3397  
3398 Mr. Vanarsdall - This is not a public hearing. Hold on. I just want to tell you. We  
3399 have resolutions all of the time, and we never have the public involved. In fact, we don't even  
3400 have people come to hear the resolution.

3401  
3402 Lady in the Audience - It is obvious that you don't want to hear from the public!

3403  
3404 Mr. Vanarsdall - This is not a public hearing. We do not need to hear any input from  
3405 you. We are trying to solve this among us. So, I just respectfully just tell you that. We don't  
3406 need that. We don't have the public involved in our resolutions. This is up to us. So, Mr.  
3407 Taylor, I would like to hear from you.

3408 Mr. Archer - Mr. Chairman, before Mr. Taylor speaks, can I just clarify one  
3409 thing? I want to make sure what I said was clear. I am assuming that Mr. Marles' letter is  
3410 forthcoming, fairly soon, and that is why I said, if his letter is submitted and there is no appeal of  
3411 that letter, then we go ahead and have this hearing as soon as we can legally advertise it.

3412  
3413 Mr. Vanarsdall - Can you put that in a motion because we have already had more...

3414  
3415 Mr. Archer - And, if there is an appeal, then the motion would be the same as  
3416 the motion we had prior to now.

3417  
3418 Mr. Marles - Mr. Archer, could I also ask for clarification on that? That would  
3419 mean that there would be no scheduling of a public hearing during that 30-day period when it is  
3420 possible to file an appeal.

3421  
3422 Mrs. Quesinberry - And, I would not agree to that.

3423  
3424 Mr. Archer - And, it could be less than 30 days. It is just, as soon as your letter  
3425 is submitted, whoever wants to appeal it has what, 30 days to make..? But, they don't have to  
3426 take 30 days. I guess they could read the letter and make a decision almost immediately.

3427  
3428 Mr. Marles - And, I guess what I am suggesting is, I don't think it would be,  
3429 what is the word I am looking for, consistent with your intent, then, for this Commission to  
3430 schedule a public hearing prior to an expiration of that 30-day appeal period from the time my  
3431 letter is issued. Do you understand what I am saying?

3432  
3433 Mr. Archer - I think I do.

3434  
3435 Mr. Marlles - Okay. If it is your intent that this body not have a public hearing...  
3436  
3437 Mr. Archer - Until your letter is submitted.  
3438  
3439 Mr. Marlles - ...until my letter is submitted, based on whether or not an appeal is  
3440 filed, we are not going to know until the end of that 30-day period whether, in fact, an appeal is  
3441 going to be filed in that 30-day period.  
3442  
3443 Mr. Archer - Unless somebody tells us they're not going to appeal. And we  
3444 don't know that that will happen.  
3445  
3446 Mrs. Quesinberry - I would suggest that we set a public hearing for July 13<sup>th</sup>, and  
3447 considering Mr. Archer's concerns, advertise it in such a way that we are going to have a public  
3448 hearing on July 13, but if there is any action in front of the BZA prior to that time, then we  
3449 would postpone it until that issue was resolved. So, as long as we don't have any appeals in  
3450 front of the BZA, prior to the 13<sup>th</sup> of July, we could go ahead and have our public hearing.  
3451  
3452 Mr. Marlles - Mr. Chairman and members of the Commission, it still will be  
3453 based on that 30-day period from when the letter is going to be issued. I don't see how the  
3454 Commission can schedule a public hearing now, not knowing when that letter is going to be  
3455 issued and when that 30-day period is going to start.  
3456  
3457 Mrs. Quesinberry - Let me just see if I can clear this up for you. Mr. Marlles has told  
3458 us that he intends to issue a letter of determination, that is, speaking to a very specific case, the  
3459 ARE case, and what they can and cannot do in the A-1 zoning that they currently are looking at.  
3460 That's one issue. He hasn't issued the letter yet, and when he does issue the letter, there may or  
3461 may not be, at some point in time, an appeal.  
3462  
3463 We can't address that tonight. I am asking for a public hearing that has nothing to do with Mr.  
3464 Marlles' letter. I am asking for a public hearing to look at this language in this particular zoning  
3465 ordinance. This is not a case. This is language. And I am asking to have a public hearing to  
3466 look at this language and to decide at that time, on July 13, if we want to take some action on this  
3467 language or not.  
3468  
3469 Mr. Vanarsdall - Why don't you make that a motion? Make it a motion that is what  
3470 you want to do. Go ahead.  
3471  
3472 Mrs. Quesinberry - All right.  
3473  
3474 Mr. Vanarsdall - We don't need to keep on driving a good horse.  
3475  
3476 Mrs. Quesinberry - I'd like to make a motion that this Commission direct the staff to  
3477 advertise and set forth a public hearing for our next meeting on July 13<sup>th</sup>, at which time we will  
3478 discuss amendment language to the Zoning Ordinance 24-52(g), and will be looking to staff to  
3479 bring us some background information and some suggestions, if any, and we'll hear comments

3480 from the public at that time. And, at that meeting, we may decide to take further action or no  
3481 action.

3482  
3483 Mr. Vanarsdall - Are you writing this down?

3484  
3485 Mr. Marlles - I am trying.

3486  
3487 Mr. Vanarsdall - Do you take shorthand?

3488  
3489 Mrs. Quesinberry - And to meet Mr. Archer's concerns, if, during this time period,  
3490 between now when the public hearing is advertised, and when it should take place on July 13th,  
3491 if there is any appeal action in front of the BZA that concerns this particular zoning ordinance,  
3492 then we will agree to postpone our meeting until the BZA has an opportunity to take their action.

3493  
3494 Mr. Archer - Can I speak to the motion?

3495  
3496 Mrs. Quesinberry - Yes.

3497  
3498 Mr. Archer - Well, the one problem with that is, the 13<sup>th</sup> is two days shy of  
3499 being 30 days. So one side or the other could wait until the 29<sup>th</sup> day and file and then we would  
3500 be right back where we started.

3501  
3502 Mrs. Quesinberry - But, if there is no appeal when we have a meeting then it is really a  
3503 moot point, because there was no appeal, then we can have our public hearing for discussion.

3504  
3505 Mr. Vanarsdall - All right, so are you finished with your motion?

3506  
3507 Mrs. Quesinberry - Yes.

3508  
3509 Mr. Vanarsdall - Any discussion on this motion? The BZA has still not made a  
3510 decision.

3511  
3512 Mrs. Quesinberry - They don't have anything to make a decision on, sir.

3513  
3514 Mr. Vanarsdall - And I am not going to read this again. That will be the third time I  
3515 have read it. All of you have it in the minutes. You know what it was last time. It is public  
3516 record. So...

3517  
3518 Mr. Marlles - Mr. Chairman, I will say that I think Mr. Archer more articulately  
3519 voiced staff's concern with the date of the hearing.

3520  
3521 Mr. Vanarsdall - Then, I don't think we should set a date, so. Anyway, a motion has  
3522 been made, and we need a second.

3523  
3524 Ms. Dwyer - Mr. Marlles, could you repeat what you have written down there?

3525

3526 Mr. Marlles - I was afraid you were going to ask that. Okay.  
3527  
3528 Mr. Vanarsdall - If we can read it.  
3529  
3530 Mr. Marlles - These are the main elements of the motion. Correct me, if I am  
3531 wrong. To schedule a public hearing on July 13th at which time the Commission will discuss  
3532 proposed changes to the pertinent section of the Ordinance, as well as any background  
3533 information or suggestions by staff, to that language. To meet Mr. Archer's concern, if there is  
3534 any appeal action before July 13th, then, that public hearing can be postponed.  
3535  
3536 Ms. Dwyer - So, if the letter is issued before the 13<sup>th</sup> and someone appeals  
3537 before the 13<sup>th</sup>, we will not have a hearing on the 13<sup>th</sup>?  
3538  
3539 Mrs. Quesinberry - If there is any action before the BZA, we will not have a hearing.  
3540  
3541 Ms. Dwyer - Okay. Second.  
3542  
3543 Mr. Randall R. Silber, Assistant Director of Planning - May I add something.  
3544  
3545 Mr. Vanarsdall - Motion made by Mrs. Quesinberry and second by Ms. Dwyer. All  
3546 in favor say aye. All opposed. Mr. Secretary, do you want to poll the votes for the record. The  
3547 motion is not carried.  
3548  
3549 Mr. Marlles - Sure.  
3550  
3551 Mr. Taylor I vote no.  
3552  
3553 Mr. Archer No, Mr. Secretary.  
3554  
3555 Mrs. Quesinberry Yes  
3556  
3557 Mr. Vanarsdall No  
3558  
3559 Ms. Dwyer Yes  
3560  
3561 Mr. Marlles - It is defeated on a 3-2 vote.  
3562  
3563 Mr. Vanarsdall - All right now, do you want to make another motion, or let it go at  
3564 that?  
3565  
3566 Mr. Taylor - Mr. Chairman, I would make the same motion that I made before.  
3567 And that is, a motion that this issue is a fundamental issue and it should go before the BZA and  
3568 be reviewed by the BZA in all its detail. And until the BZA has it, has reviewed it, has made a  
3569 decision on it, we should not go forward with this issue.  
3570

3571 Mrs. Quesinberry - I would think we need to bring this to a close. But, I would just  
3572 like to make a couple of comments. And, that is, that we do not have an issue before the BZA  
3573 right now. And, there is no reason not to have a public hearing on Zoning language amendments  
3574 because that is our job, and that is what we should do when there is any kind of issues about  
3575 Zoning language. It is our Ordinance and our job to manage this Ordinance.  
3576

3577 Obviously, there are questions and issues and we should do our job. There is nothing before the  
3578 BZA right now. There is no reason not to schedule a public hearing on this particular language  
3579 for the public, to get these issues out in the light of day, and to make any kind of determination at  
3580 that time that we felt is appropriate. Right now, this Commission is in a mindset that they are  
3581 thinking there is going to be some kind of hypothetical action or amendments before the BZA  
3582 that do not exist at this time. And we don't know if they will exist before July 13<sup>th</sup> or any other  
3583 time. We don't know. That is a lot of guess work because, frankly, we don't know what kind of  
3584 determination that Mr. Marlles is going to make. And that whole issue is completely separate  
3585 from any issue that has to do with this language and, if, in fact, we, in the course of our duties  
3586 and our responsibilities, deem that we need to make some changes to this language.  
3587

3588 So, I am really disappointed, and really, quite frankly, a little confounded, because I don't  
3589 understand why the public is not due a public hearing on some language, and the public's  
3590 ordinance, that we are supposed to manage and it is our job to do that. I think this Commission  
3591 has failed to protect the health, safety and welfare of the constituents of this County, and that is  
3592 really a sad thing.  
3593

3594 Mr. Vanarsdall - Is that a motion you made, Mr. Taylor?

3595 Mr. Taylor - Yes sir.

3596 Mr. Vanarsdall - Is there any second to the motion?

3597  
3598  
3599  
3600 Ms. Dwyer - Wait a minute. Doesn't the last motion you made, doesn't that still  
3601 hold until the BZA makes a determination? So, that is still in existence. That is still functioning.  
3602

3603 Mr. Marlles - That is correct.

3604  
3605 Ms. Dwyer - So, there is no need to make another motion on the same thing.  
3606

3607 Mr. Vanarsdall - We don't need another one.  
3608

3609 Ms. Quesinberry - And, once again, for the record, I would like for the record to show  
3610 that the Commission failed to take action, and there is no amendment or any business before the  
3611 BZA that concerns any of this matter. And the Commission failed to take action, tonight, on this  
3612 issue that affects the citizens of the County.  
3613

3614 Mr. Vanarsdall - All right. Any more business to come before the Commission. If  
3615 not, the Commission is adjourned.  
3616



3616  
3617 There being no further business, the Commission adjourned its meeting at 12:00 Midnight on  
3618 June 15, 2000.

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3621  
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Ernest B. Vanarsdall, C.P.C., Chairman

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John R. Marlles, AICP, Secretary

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**Last revised August 16, 2000.**