

1 Minutes of the regular monthly meeting of the Planning Commission of Henrico, Virginia, held in
2 the Board Room of the County Administration Building, Parham and Hungary Spring Roads at
3 7:00 p.m. on June 13, 2002, Display Notice having been published in the Richmond Times-
4 Dispatch on May 23, 2002 and May 30, 2002.
5

6 Members Present: Allen J. Taylor, C.P.C., Three Chopt, Chairperson
7 Eugene Jernigan, C.P.C., Varina
8 Lisa Ware, Tuckahoe
9 Ernest B. Vanarsdall, C.P.C., Brookland
10 Frank J. Thornton, Board of Supervisors, Fairfield
11 John R. Marlles, AICP, Secretary, Director of Planning
12

13 Others Present: Randall R. Silber, Assistant Director of Planning
14 Joe Emerson, Principal Planner
15 Mark Bittner, County Planner
16 Thomas M. W. Coleman, County Planner
17 Lee Householder, County Planner
18 Paul Gidley, County Planner
19 Seth Humphreys, County Planner
20 Debra Ripley, Recording Secretary
21

22
23 Mr. Taylor - Good evening, ladies and gentlemen, and welcome to the June
24 Planning Meeting. We just convened from one meeting and will now start with this meeting and
25 I'll turn the meeting over to our Secretary, Director of Planning, Mr. Marlles.
26

27 Mr. Marlles - Thank you, Mr. Chairman. Good evening, Members of the
28 Planning Commission, ladies and gentlemen, Mr. Archer is not with us tonight, however we can
29 conduct business. The first item on the Agenda is Request for Withdrawals and Deferrals. We
30 do have a number of deferrals tonight; those requests will be presented my Mr. Emerson.
31

32 Mr. Emerson - Yes sir, Mr. Secretary, Mr. Chairman. The first withdrawal on
33 your Agenda tonight is case P-21-01, its on page 1 of your Agenda.
34

35 **P-21-01 Sprint PCS:** Request for a provisional use permit under Sections
36 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a 135'
37 communication tower and related equipment on part of Parcel 753-740-8228 (100-A-65) (8611
38 Henrico Avenue), containing 851 square feet, located at the southeast intersection of Henrico
39 Avenue and Ridge Road. The existing zoning is R-3 One Family Residence District. The Land Use
40 Plan recommends Government.
41

42 Since this is a withdrawal there is no action required by the Commission.
43

44 Mr. Taylor - Thank you, Mr. Emerson.
45

46 Mr. Emerson - That concludes the withdrawals. The next item on the Agenda is
47 for deferrals. The first deferral on your Agenda tonight is case C-30C-02, its on page 1 of your
48 Agenda.
49

50 **C-30C-02 James W. Theobald for HHHunt of North Carolina:**
51 Request to conditionally rezone from B-1C Business District (Conditional) to R-6C General
52 Residence District (Conditional), Parcel 745-751-3992 (67-A-14B), containing 5.48 acres, located
53 at the southeast intersection of Ridgefield Parkway and Flintwood Drive. An age-restricted

54 assisted living facility is proposed. (The R-6 District allows a maximum density of 19.8 units per
55 acre.) The use will be controlled by proffered conditions and zoning ordinance regulations. The
56 Land Use Plan recommends Commercial Concentration.

57
58 The deferral is requested to July 11, 2002.

59
60 Mr. Taylor - Is there anybody in the audience who is opposed to the deferral
61 of case C-30C-02? There being none.

62
63 Mrs. Ware - I move that C-30C-02 be deferred to the July 11th meeting at the
64 applicant's request.

65
66 Mr. Vanarsdall - Second.

67
68 Mr. Taylor - Motion made by Mrs. Ware, seconded by Mr. Vanarsdall to defer
69 case C-30C-02, for thirty days at the applicant's request. All in favor – aye. Any opposed? The
70 ayes have it, case C-30C-02 is deferred for thirty days. The vote is 4-0, Mr. Thornton abstained,
71 Mr. Archer absent.

72
73 At the applicant's request, the Planning Commission deferred C-30C-02; James W. Theobald for
74 HHHunt of North Carolina, to it's meeting on July 11, 2002. Mr. Thornton abstained.

75
76 Mr. Emerson - The next case on your Agenda, C-33C-02, Henry L. Wilton for
77 WILHOOK, LLC, page 3 of your Agenda.

78
79 **C-33C-02 Henry L. Wilton for WILHOOK, LLC:** Request to rezone from
80 B-3C Business District (Conditional) to R-3C One Family Residence District (Conditional) and B-3C
81 Business District (Conditional), Parcel 804-736-0481 (119-1-A-1D), containing 10.415 acres
82 (approximately 6.7 acres in R-3C; approximately 3.7 acres in B-3C), located at the northeast
83 intersection of Mechanicsville Turnpike and Neale Street (Maplewood Farm). Commercial and
84 single family residential developments are proposed. The uses will be controlled by proffered
85 conditions and zoning ordinance regulations. The R-3 District allows a minimum lot size of
86 11,000 square feet. The Land Use Plan recommends Commercial Concentration. The site is also
87 in the Airport Safety Overlay District.

88
89 The deferral is requested to July 11, 2002.

90
91 Mr. Vanarsdall - Is this C-33C-02?

92
93 Mr. Emerson - Yes sir, it's C-33C-02.

94
95 Mr. Taylor - Is there anyone in the audience who is opposed to the deferral
96 of case C-33C-02, to the July 11, 2002? No opposition.

97
98 Mr. Vanarsdall - Mr. Chairman, I move that C-33C-02, in the Fairfield District,
99 Henry L. Wilton for WILHOOK, LLC, be deferred at the applicants request to July 11th.

100
101 Mr. Jernigan - Second.

102
103 Mr. Taylor - Motion made by Mr. Vanarsdall, seconded by Mr. Jernigan to
104 defer case C-33C-02 to July 11, 2002. All in favor – aye. Any opposed? The ayes have it, case
105 C-33C-02 is deferred to July 11, 2002 meeting. The vote is 4-0, Mr. Thornton abstained, Mr.
106 Archer absent.

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At the applicant's request, the Planning Commission deferred C-33C-02, Henry L. Wilton for WILHOOK, LLC, to its meeting on July 11, 2002. Mr. Thornton abstained.

Mr. Emerson - Mr. Chairman, the next case is C-28C-02, Laraine Isaac for William D. Godsey, it's located on page 2 of your Agenda.

Deferred from May 9, 2002 Meeting:

C-28C-02 Laraine Isaac for William D. Godsey: Request to conditionally rezone from M-1 Light Industrial District to M-2C General Industrial District (Conditional) and C-1 Conservation District, part of Parcel 817-721-5981 (154-A-30C), containing 60.696 acres, located on the north line of Oakley's Lane approximately 94 feet east of Oakley's Place and 217 feet west of S. Holly Avenue. The use will be controlled by proffered conditions and zoning ordinance regulations. An industrial park including a contractor's equipment storage yard is proposed. The Land Use Plan recommends Planned Industry and Environmental Protection Area. The site is also in the Airport Safety Overlay District.

The deferral is requested to the July 11, 2002 Meeting.

Mr. Taylor - Thank you, very much. Is there anybody in the audience who is opposed to the deferral of case C-28C-02 to the July 11, 2002 meeting? No opposition.

Mr. Jernigan - Mr. Chairman, I make a motion to defer case C-28C-02 to the July 11th meeting by request of the applicant and also this is an administrative deferral, there will not be a fee. This is a problem that we had with Public Works and getting this case straight.

Mr. Vanarsdall - Second.

Mr. Taylor - Motion made by Mr. Jernigan, seconded by Mr. Vanarsdall to defer case C-28C-02, at the applicant's request to July 11, 2002. All in favor - aye. Any opposed? The ayes have it. Case C-28C-02 is deferred to the July 11, 2002 meeting. The vote is 4-0, Mr. Thornton abstained, Mr. Archer absent.

At the applicant's request, the Planning Commission deferred C-28C-02, Laraine Isaac for William D. Godsey, to its meeting on July 11, 2002. Mr. Thornton abstained.

Mr. Emerson - Mr. Chairman, the next case is P-7-02, located on page 2 of your Agenda.

Deferred from May 9, 2002 Meeting:

P-7-02 Jared Ledet for VoiceStream Wireless: Request for a provisional use permit under Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a telecommunications tower extendable to 199 feet and related equipment and also to install a temporary tower for 90 days, on part of Parcel 798-696-8886 (213-A-2), containing 10,000 square feet, located on the east side of Osborne Turnpike approximately 1,700 feet north of Sholey Road (7000 Osborne Turnpike). The existing zoning is A-1 Agricultural District. The Land Use Plan recommends Office.

The deferral is requested for July 11, 2002.

Mr. Taylor - Thank you, Mr. Emerson. Is there anybody in the audience who is opposed to the deferral of case P-7-02, VoiceStream Wireless, to July 11, 2002? No opposition, Mr. Jernigan.

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161 Mr. Jernigan - Mr. Chairman, I make a motion to defer case P-7-02 to the July
162 11th zoning meeting by request of the applicant.
163
164 Mr. Vanarsdall - Second.
165
166 Mr. Taylor - Motion made by Mr. Jernigan, seconded by Mr. Vanarsdall to
167 defer case P-7-02 to July 11, 2002 at the applicants request. All in favor – aye. All opposed.
168 There being no opposition case P-7-02 is deferred to July 11, 2002. The vote is 4-0, Mr.
169 Thornton abstained, Mr. Archer absent.
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171 At the applicant's request, the Planning Commission deferred P-7-02, Jared Ledet for
172 VoiceStream Wireless, to its meeting on July 11, 2002.
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174 Mr. Emerson - Mr. Chairman, the next case is C-26C-02, Andrew M. Condlin for
175 Dr. George Oley. It is located on page 4 of your Agenda.
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177 **C-26C-02** **Andrew M. Condlin for Dr. George Oley:** Request to
178 conditionally rezone from R-2 One Family Residence District to O-1C Office District (Conditional),
179 part of Parcel 754-747-5266 (79-A-71B), containing approximately 0.19 acre, located at the
180 southwest intersection of Michael Road and Fawn Lane (south line of Michael Road approximately
181 150 feet east of N. Parham Road). Additional parking for an existing dental office is proposed.
182 The use will be controlled by proffered conditions and zoning ordinance regulations. The Land
183 Use Plan recommends Office.
184
185 The deferral is requested to August 15, 2002.
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187 Mr. Taylor - Is there anybody in the audience who is opposed to the deferral
188 of case C-26C-02 to the August 15, 2002 meeting? There being no opposition for the deferral I
189 will move that case C-26C-02 be deferred to August 15th at the applicants request.
190
191 Mr. Jernigan - Second.
192
193 Mr. Taylor - Motion made by Mr. Taylor, seconded by Mr. Jernigan to defer
194 case C-26C-02 until August 15th at the applicants request. The vote is 4-0, Mr. Thornton
195 abstained, Mr. Archer absent.
196
197 At the applicant's request, the Planning Commission deferred C-26C-02, Andrew M. Condlin for
198 Dr. George Oley, to its meeting on August 15, 2002. Mr. Thornton abstained.
199
200 Mr. Emerson - Mr. Chairman, the next item, moving onto the Expedited
201 Agenda, is C-34C-02.
202
203 **C-34C-02** **Curtis D. Gordon:** Request to rezone from A-1 Agricultural
204 District to R-3C One Family Residence District (Conditional), Parcel 738-756-5709 (56-A-31),
205 containing 1.52 acres, located on the south line of Sunrise Road approximately 500 feet west of
206 Pump Road. A single-family subdivision is proposed. The use will be controlled by proffered
207 conditions and zoning ordinance regulations. The R-3 District allows a minimum lot size of
208 11,000 square feet. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net
209 density per acre.
210
211 Mr. Taylor - Is there anybody in the audience who is opposed to case C-34C-
212 02 on the Expedited Agenda?

213
214 Mr. Mariles - Yes sir, Mr. Chairman, there is someone.
215
216 Mr. Taylor - There is opposition to this one. We will go then to the next
217 case, which is case C-35-02. We will put case C-34C-02 back on the regular Agenda.
218
219 Mr. Emerson - Mr. Chairman, the next case, as you just stated is C-35-02.
220
221 **C-35-02 Foster & Miller for WTC, L.L.C.:** Request to rezone from R-
222 5AC General Residence District (Conditional) to C-1 Conservation District, part of Parcels 753-
223 755-9264 (58-3-C-4), 754-755-0161 (58-3-C-5), 754-755-1155 (58-3-C-6), 754-755-2250 (58-3-
224 C-7), 754-755-3446 (58-3-C-8), 754-755-2436 (58-3-C-9), and 754-755-2225 (58-3-C-10),
225 containing approximately 2.97 acres, located on the south line of Meadowview Road
226 approximately 300 feet east of Ceres Road (Andover Hills Subdivision). The Land Use Plan
227 recommends Suburban Residential 2, Multi-Family Residential, and Environmental Protection
228 Area.
229
230 Mr. Taylor - Is there anybody in the audience opposed to case C-35-02,
231 Foster & Miller for WTC, LLC on the Expedited Agenda. There being no opposition, I will move
232 approved of case C-35-02, Foster & Miller for WTC, LLC.
233
234 Mr. Vanarsdall - Second.
235
236 Mr. Taylor - Motion made by Mr. Taylor, seconded by Mr. Vanarsdall to
237 approve case C-35-02 on the Expedited Agenda. All in favor – aye. Any opposed? There being
238 no opposition case C-35-02 is approved on the Expedited Agenda. The vote is 4-0, Mr. Thornton
239 abstained, Mr. Archer absent.
240
241 The Planning Commission approved recommendation of approval of Case C-35-02, Foster & Miller
242 for WTC, LLC, to the Board of Supervisors.
243
244 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning
245 Commission voted 4-0 (one abstention and one absence) to recommend the Board of Supervisors
246 **grant** the request because it conforms to the recommendations of the Land Use Plan.
247
248 Mr. Emerson - Mr. Chairman, the next case is C-38-02, it is located on page 4
249 of your Agenda.
250
251 **C-38-02 Henry L. Wilton for Wilton Development Corp.:** Request to
252 rezone from R-2C and R-2AC One Family Residence Districts (Conditional) to C-1 Conservation
253 District, part of Parcels 741-775-7309 (10-1-2-10), 742-775-1763 (10-A-17C) and 740-774-1407
254 (17-A-9) (proposed Estate of Hampshire and Hampshire Subdivisions), containing approximately
255 3.81 acres, beginning approximately 444 feet northwest of the rear property line of Lot 18-1-1-9
256 (Bridlewood Subdivision). A conservation area is proposed. The Land Use Plan recommends
257 Environmental Protection Area.
258
259 Mr. Taylor - Is there anybody in the audience opposed to case C-38-02,
260 Henry L. Wilton for Wilton Development Corp. being heard on the Expedited Agenda? There
261 being no opposition I will move approval of case C-38-02, Henry L. Wilton for Wilton
262 Development Corporation on the Expedited Agenda.
263
264 Mr. Vanarsdall - Second.
265

266 Mr. Taylor - Motion made by Mr. Taylor, seconded by Mr. Vanarsdall to
267 approve case C-38-02 on the Expedited Agenda. The vote is 4-0, Mr. Thornton abstained, Mr.
268 Archer absent.

269
270 The Planning Commission approved recommendation of approval of Case C-38-02, Henry L.
271 Wilton for Wilton Development Corp., to the Board of Supervisors.

272
273 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning
274 Commission voted 4-0 (one abstention and one absence) to recommend the Board of Supervisors
275 **grant** the request because it conforms to the recommendations of the Land Use Plan and fulfills
276 the established proffered conditions governing the property.

277
278 Mr. Emerson - Mr. Chairman, the next case is P-10-02, it is located on page 4 of
279 your Agenda.

280
281 **P-10-02 Gloria L. Freye for 4M Communications, Inc.:** Request for a
282 provisional use permit under Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in
283 order to amend the conditions of case P-13-01 to reduce the number of towers to five (5) and to
284 permit the fifth tower to be 270 feet in height to allow for collocation, on part of Parcel 752-773-
285 6812 (19-A-31), containing approximately 12.4 acres, located west of the northern terminus of
286 Ford's Country Lane at the rear of the County Landfill (10600 Ford's Country Lane). The existing
287 zoning is A-1 Agricultural District. The Land Use Plan recommends Government and
288 Environmental Protection Area.

289
290 Mr. Taylor - Is there anybody in the audience who is opposed to case P-10-
291 02 being heard on the Expedited Agenda? There being no opposition I'll move approval of case
292 P-10-02, Gloria Freye for 4M Communications be approved on the Expedited Agenda.

293
294 Mr. Vanarsdall - Second.

295
296 Mr. Taylor - Motion made by Mr. Taylor, seconded by Mr. Vanarsdall to
297 approve case P-10-02 on the Expedited Agenda. All in favor – aye. Any opposed? The ayes
298 have it. Case P-10-02 is approved on the Expedited Agenda. The vote is 4-0, Mr. Thornton
299 abstained, Mr. Archer absent.

300
301 The Planning Commission approved recommendation of approval of Provisional Use Permit P-10-
302 02, Gloria L. Freye for 4M Communications, Inc., to the Board of Supervisors.

303
304 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning
305 Commission voted 4-0 (one abstention and one absence) to recommend the Board of Supervisors
306 **grant** the request because it would reduce the previously approved number of towers from 8 to
307 5 while preserving the same number of collocation opportunities.

308
309 Mr. Emerson - Mr. Chairman, the next case is C-32-02. It is on page 3 of your
310 Agenda.

311
312 **C-32-02 Robert P. Baln:** Request to rezone from A-1 Agricultural District
313 and R-2AC One Family Residence District (Conditional) to C-1 Conservation District, part of
314 Parcels 759-771-4760 (20-A-14) and 759-770-1193 (20-A-15) (proposed Carrington Subdivision),
315 containing approximately 9.8 acres, located approximately 300 feet south of I-295 and 1,400 feet
316 west of Staples Mill Road (U.S. Route 33) and on the north line of Springfield Road approximately
317 1,100 feet west of Old Springfield Road and adjacent to the east property line of Hartley
318 Plantation Subdivision. The Land Use Plan recommends Environmental Protection Area.

319
320 Mr. Taylor - Is there anybody in the audience opposed to case C-32-02,
321 Robert P. Bain, being heard on the Expedited Agenda? No opposition to case C-32-02.
322
323 Mr. Vanarsdall - Mr. Chairman, I move that C-32-02, Robert P. Bain be
324 recommended to the Board of Supervisors for approval on the Expedited Agenda.
325
326 Mr. Jernigan - Second.
327
328 Mr. Taylor - Motion made by Mr. Vanarsdall, seconded by Mr. Jernigan to
329 approve case C-32-02 on the Expedited Agenda. All in favor – aye. Any opposed? There being
330 no opposition case C-32-02 is approved on the Expedited Agenda. The vote is 4-0, Mr. Thornton
331 abstained, Mr. Archer absent.
332
333 The Planning Commission approved recommendation of approval of Case C-32-02, Robert P.
334 Bain, to the Board of Supervisors. Mr. Thornton abstained.
335
336 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Jernigan, the Planning
337 Commission voted 4-0 (one abstention and one absence) to recommend the Board of Supervisors
338 **grant** the request because it conforms to the recommendations of the Land Use Plan.
339
340 Mr. Emerson - Mr. Chairman that completes the Withdrawals, Deferrals and
341 Expedited Items for tonight.
342
343 Mr. Taylor - Thank you, very much, Mr. Emerson.
344
345 Mr. Vanarsdall - Thank you, Mr. Emerson.
346
347 Mr. Taylor - Now we will go to the regular Agenda, Mr. Secretary.
348
349 Mr. Marles - Mr. Chairman, the first case on the regular Agenda is on page 1
350 of your Agenda.
351
352 **C-29C-02 James W. Theobald for Tricon Global Restaurants:**
353 Request to conditionally rezone from B-1 Business District to B-2C Business District (Conditional),
354 Parcel 751-741-5673 (100-A-32), containing approximately 0.945 acre, located at the northeast
355 intersection of Quail Lane and Patterson Avenue (State Route 6). A fast food restaurant with
356 drive through window is proposed. The use will be controlled by proffered conditions and zoning
357 ordinance regulations. The Land Use Plan recommends Commercial Concentration.
358
359 The staff report will be given by Mr. Mark Bittner.
360
361 Mr. Taylor - Is there any opposition to case C-29C-02? No opposition. Mr.
362 Bittner.
363
364 Mr. Bittner - Thank you, Mr. Taylor. This site contains an existing Kentucky
365 Fried Chicken fast food restaurant with a non-conforming drive-through window. The applicant
366 plans on demolishing this structure and building a new KFC/A&W fast food restaurant also with a
367 drive-through.
368
369 Non-conforming status is lost once a structure is demolished; therefore a rezoning to B-2C is
370 necessary. This site also contains the Virginia Forestry Association office building, which would
371 be demolished but would not be rebuilt.

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The original proffers submitted with this case have been revised and are being handed to you right now. These proffers have gone through several revisions in the last week. What has been handed to you tonight shows the changes that have been made to the original proffers contained in the staff report.

The latest proffers contain some positive new items including:

- A prohibition on use of the site as a sign printing shop or massage parlor;
- An 8-foot wall along the northern border of the site as well as a portion of the western border; this wall will have a color and texture pattern similar to the proposed building;
- The proffers now also include the provision of concealed-source lighting fixtures;
- A prohibition on outside speakers being heard beyond any border adjacent to residential property;
- A 25-foot buffer along the northern property line; and
- A prohibition on changeable message signs.

The applicant has also proffered a new building elevation; we have a picture of that right here (referring to slide). In staff's opinion, this is a much higher-quality design than the existing structure as well as the building elevation that was first proposed with this application.

This latest design shows a red brick building with burgundy trim. I would like to also point out that the applicant has supplied us with samples of these building materials right here (referring to rendering) and we can pass that around if you would like to take a closer look at it. This design includes an attractive color scheme and high-quality brick building material. Staff finds it to be acceptable.

With the revised proffers and new building elevation, the issues outlined in the staff report have been addressed. The time limit to accept these proffers would need to be waived because they were submitted earlier today.

Staff recommends approval of this application. I'd be happy to answer any questions you may have.

Mr. Taylor - Are there any questions for Mr. Bittner from the Commission?
No questions, Mrs. Ware any comments.

Mr. Jernigan - Covered all the bases.

Mr. Marles - Mr. Chairman, we will have to have a motion to waive the time limits first.

Mr. Taylor - Yes. I think Mr. Theobald would like to address the Commission.

Mr. James Theobald - Thank you, Mr. Chairman, Members of the Planning Commission, ladies and gentlemen, my name is Jim Theobald and I'm here this evening on behalf of KFC of America and Tricon. I have just a few comments.

425 First of all this is zoned B-1 unconditional currently and the drive through exist by virtue of a
426 special exception and a variance which was the method of obtaining a drive through facility when
427 this was originally zoned. But when you tear it down you are going to lose your ability to have
428 the drive through, so what we intend to do is to literally rebuild a brand new restaurant
429 essentially on the same footprint as the existing but having then potentially lost the ability to
430 have a drive through it was necessary to seek this B-2 zoning.

431
432 Mr. Bittner has actually described the various proffered conditions. There are a couple of things I
433 wanted to put on the record. Importantly as we go through the POD process we have discussed
434 with Mrs. Ware that we intend to provide enhanced landscaping, above the minimum landscaping
435 around the front and the side and we also have an existing sign with two poles which we intend
436 to enhance either through the use of a brick planter feature or landscaping and things that we
437 will be working through at the time of the POD and landscape plan. I did want to put that on the
438 record so that it would be part of this case.

439
440 I tell you that I have met with the adjacent property owner most affected at the rear; Mr. Paul
441 Kalimerakis has authorized me to tell you that he has no problems with this case. He appreciates
442 staff and Mrs. Ware working with us to provide this fence crate wall that will look like a brick wall
443 but enables us to wind it through the existing buffer and leave a fairly significantly stand of trees
444 that otherwise would have to had come down.

445
446 It is a well-proffered case. I think you will like the difference. It is a great redevelopment
447 opportunity and I'm happy to answer any questions.

448
449 Mr. Taylor - Are there any questions for Mr. Theobald from the Commission?

450
451 Mr. Vanarsdall - I don't have any questions, but I do have a comment. I want to
452 compliment or congratulate Mr. Theobald for making this look as attractive as it is. He helped, in
453 this particular one Mark Bittner did. We have 2 more in the County, 3 of them came in at the
454 same time. We have one in the Brookland District, one in Three Chopt... Mr. Michael Kennedy is
455 working on the one in Brookland and Kevin Wilhite is working on the one at Three Chopt.

456
457 While the company thought they were very attractive, we did not. Mr. Theobald worked hard
458 and all the rest of them worked hard together to make it as attractive as it is and I think it just
459 shows how you can get things done and make a better case.

460
461 Mr. Theobald - Thank you, sir.

462
463 Mr. Taylor - Thank you, Mr. Vanarsdall and thank you, Mr. Theobald. Are
464 there any other comments in support of this project?

465
466 Mrs. Ware - I believe I need to waive the time limits.

467
468 Mr. Taylor - I believe you do waive the time limits for the proffers.

469
470 Mr. Vanarsdall - Yes.

471
472 Mrs. Ware - I move to waive the time limits.

473
474 Mr. Taylor - Second. Motion made by Mrs. Ware, seconded by Mr. Taylor to
475 waive the time limits on the proffers. All in favor – aye. Any opposed? The ayes have it. The
476 time limit on the proffers are waived. The vote is 4-0, Mr. Thornton abstained, Mr. Archer
477 absent.

478
479 The Planning Commission voted to waive the time limits on Case C-29C-02, James. W. Theobald
480 for Tricon Global Restaurants.
481
482 Mrs. Ware - With that I move that C-29C-02 be approved to the Board of
483 Supervisors.
484
485 Mr. Vanarsdall - Second.
486
487 Mr. Taylor - Motion made by Mrs. Ware, seconded by Mr. Vanarsdall to
488 approve case C-29C-02, Tricon Global Restaurants. All in favor -aye. Any opposed? The ayes
489 have it. The motion is approved. Case C-29C-02 is passed. The vote is 4-0, Mr. Thornton
490 abstained, Mr. Archer absent.
491
492 The Planning Commission approved recommendation of approval of Case C-29C-02, James W.
493 Theobald for Tricon Global Restaurants, to the Board of Supervisors.
494
495 REASON: Acting on a motion by Ms. Ware, seconded by Mr. Vanarsdall, the Planning
496 Commission voted 4-0 (one abstention and one absence) to recommend the Board of Supervisors
497 **grant** the request because it would improve the aesthetics of the site by replacing the current
498 restaurant building with a more attractive building composed of high-quality building materials.
499
500 Mr. Theobald - Thank you, very much.
501
502 Mrs. Ware - Thank you.
503
504 Mr. Taylor - Thank you, Mr. Theobald.
505
506 Mrs. Ware - I look forward to following this through.
507
508 Mr. Taylor - The next case, Mr. Secretary is...
509
510 Mr. Marlles - Mr. Chairman, the next case is on page 2 of your Agenda.
511
512 **Deferred from April 11, 2002 Meeting:**
513 **C-58C-01** **Martin J. Bannister/Luke O. Bannister, Sr.:** Request to
514 amend proffered conditions accepted with rezoning case C-74C-98, on part of Parcel 805-725-
515 9880 (140-A-45), containing approximately 7.77 acres, located on the east line of Creighton Road
516 approximately 1,600 feet northeast of Caddie Lane. The amendment is related to Proffer 9,
517 home frontage on Creighton Road and landscape buffers. The Land Use Plan recommends
518 Suburban Residential 1, 1.0 to 2.4 units net density per acre, and Environmental Protection Area.
519 Part of the site is also in the Airport Safety Overlay District.
520
521 The staff report will be given by Mr. Lee Householder.
522
523 Mr. Taylor - Thank you, Mr. Householder. Is there anybody in opposition to
524 case C-58C-01? No opposition, sir.
525
526 Mr. Householder - Go ahead, Mr. Jernigan.
527
528 Mr. Jernigan - Did everything get signed okay?
529

530 Mr. Householder - Yes. I have just a quick review of that one proffer for
531 everyone's benefit.
532
533 Mr. Jernigan - Okay.
534
535 Mr. Householder - The issue in this case was the dedication of Concept Road 140-1.
536
537 Mr. Jernigan - Yes.
538
539 Mr. Householder - This was the alignment that was proffered and handled out to you
540 this evening. That addresses staffs concerns and we recommend approval of the case.
541
542 Mr. Jernigan - I'm not going to ask you to go through this case because
543 everybody up here knows it like the back of their hand.
544
545 Mr. Vanarsdall - Yes, it has been with us for quite awhile.
546
547 Mr. Householder - Yes, it has. Because we received this proffer this afternoon you
548 would need to waive the time limit.
549
550 Mr. Jernigan - All right. They signed off on dedicating the road at the time the
551 County needs it and I told them I would give them a turn-in off Creighton Road.
552
553 Mr. Householder - Yes sir.
554
555 Mr. Jernigan - Now where the subdivision language was in, that's gone.
556
557 Mr. Householder - That's right. It has been revised with the help of Mr. Condlin to
558 meet the needs of the County and the applicant in this instance.
559
560 Mr. Jernigan - Okay. For the record the map shown alternate alignment number
561 4, it will be Exhibit A. So with that I would make a motion to approve case C-58C-01.
562
563 Mr. Marles - Mr. Jernigan, you need to waive the time limits first.
564
565 Mr. Jernigan - Sorry, excuse me. I make a motion to waive the time limits on
566 case C-58C-01.
567
568 Mr. Vanarsdall - Second.
569
570 Mr. Taylor - Motion made by Mr. Jernigan, seconded by Mr. Vanarsdall to
571 waive the time limits for the proffers on case C-58C-01. All in favor – aye. Any opposed. The ayes
572 have it the time limits are waived. The vote is 4-0, Mr. Thornton abstained, Mr. Archer absent.
573
574 The Planning Commission voted to waive the time limits on Case C-58C-01, Martin J.
575 Bannister/Luke O. Bannister, Jr.
576
577 Mr. Jernigan - Mr. Chairman, I make a motion to approve zoning case C-58C-01
578 to be sent to the Board of Supervisors.
579
580 Mr. Vanarsdall - Second.
581

582 Mr. Taylor - Motion made by Mr. Jernigan, seconded by Mr. Vanarsdall to
583 approve case C-58C-01 and to be heard by the Board of Supervisors. All in favor – aye. Any
584 opposed. The ayes have it, case C-58C-01 is approved.
585

586 The Planning Commission approved recommendation of approval of Case C-58C-01, Martin J.
587 Bannister/Luke O. Bannister, Jr., to the Board of Supervisors.
588

589 REASON: Acting on a motion by Mr. Jernigan, seconded by Mr. Vanarsdall, the Planning
590 Commission voted 4-0 (one abstention and one absence) to recommend the Board of Supervisors
591 **grant** the request because it would permit development of the land for residential use in an
592 appropriate manner and it conforms with the objectives and intent of the County's Comprehensive
593 Plan.
594

595 Mr. Jernigan - Mr. Condlin, thank you for your help. Mr. Householder, thank
596 you.
597

598 Mr. Marles - Mr. Chairman, the next case is P-8-02.
599

600 **P-8-02 Jared Ledet for VoiceStream Wireless:** Request for a
601 provisional use permit under Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in
602 order to construct and operate a telecommunications tower extendable to 199' and related
603 equipment, on part of Parcel 819-683-7920 (249-A-28), containing 5,625 square feet, located at
604 the northwest intersection of Buffin Road and I-295. The existing zoning is A-1 Agricultural
605 District. The Land Use Plan recommends Office/Service. The site is also in the Airport Safety
606 Overlay District.
607

608 The staff report will be given by Mr. Tom Coleman.
609

610 Mr. Taylor - Is there anybody in the audience who is opposed to Provisional
611 Use Permit P-8-02? There is not opposition. Oh, there is opposition. I'm sorry ma'am, I didn't
612 see you there. We will get to you in a moment.
613

614 Mr. Coleman - Do you want to explain the rules, after the presentation?
615

616 Mr. Taylor - Yes.
617

618 Mr. Coleman - VoiceStream Wireless is requesting approval to construct a
619 monopole style communications tower up to 199'. The tower would initially be constructed at
620 158' but could be extended to 199' to accommodate a future communications provider. This
621 application originally sought to construct a temporary tower. However, on May 23rd, the BZA
622 approved a CUP for a temporary tower, therefore the applicant no longer requires approval for a
623 temporary tower.
624

625 The subject property is zoned A-1 and contains approximately 22 acres. AAT Communications
626 operates a 165' tower on an adjacent parcel. The AAT tower was constructed in 1998. County
627 records indicate that several communications providers have collocated on the tower, and AAT
628 Communications and VoiceStream both indicated the existing tower cannot hold additional
629 equipment due to structural limitations. A request to add obstruction lighting to the AAT tower
630 was withdrawn in February 1999 after the Planning Commission recommended denial of that
631 request.
632

633 The applicant has requested approval to extend the tower to 199' to accommodate a future
634 communications provider. This would be consistent with the County's preference for extending
635 the height of existing towers to maximize collocation opportunities.
636

637 The comprehensive plan seeks to protect the character of Route 5 by discouraging towers within
638 1400' of this corridor. The proposed tower would be approximately 1500' away from Route 5.
639

640 The County strongly encourages collocating equipment on existing towers, however collocation on
641 the existing AAT Tower does not appear to be a viable option. The applicant has demonstrated the
642 need for equipment in this vicinity, and locating a second tower in close proximity to the existing
643 tower is preferable to introducing a tower into a new area elsewhere along I-295 or New Market
644 Road. Staff recommends approval of this application.
645

646 Should the Planning Commission recommend approval of this Provisional Use Permit for the
647 proposed tower, it is recommended the permit be granted subject to the conditions in the staff
648 report.
649

650 I would be happy to answer any questions.
651

652 Mr. Taylor - Are there any questions for Mr. Coleman from the Commission?
653

654 Mr. Jernigan - Mr. Coleman, what is the distance between the two towers?
655

656 Mr. Coleman - It's approximately 100'.
657

658 Mr. Taylor - Okay. Thank you, Mr. Coleman. Ma'am if you please...
659

660 Mr. Jernigan - First of all get VoiceStream...
661

662 Mr. Taylor - Okay. I'm sorry. Is the applicant here tonight?
663

664 Mr. Coleman - Did you want to explain the rules for the opposition?
665

666 Mr. Marlies - The policy of the Commission, ladies and gentlemen, when there
667 is opposition to a case is to grant the applicant a total of ten minutes to present his or her case.
668 That ten minutes does not include answering questions from the Commission. It is usually
669 advisable for the applicant to reserve a few minutes for rebuttal. The opposition also has a total
670 of ten minutes to present their case as well. Again, time answering questions from the
671 Commission does not count toward that ten-minute time frame.
672

673 Would you like to reserve two minutes sir; or some time?
674

675 Mr. Ledet - Yes sir, two minutes would be fine.
676

677 Mr. Taylor - Sir, would you please state your name for the record.
678

679 Mr. Jared Ledet - Sure, my name is Jared Ledet, representing VoiceStream
680 Wireless tonight. Before you, as Mr. Coleman indicated, VoiceStream has an application to
681 install a 150' monopole that would have the ability to be extended to a height of 199' for future
682 use and demands for collocations in the area.
683

684 For the audience tonight and for you also I have included copies of the presentation that we
685 have. On the second sheet (referring to slide) you will see that in Henrico County we have

686 installed 32 sites within the County, of which 29 are collocations. So its extreme effort and
687 emphasizes for VoiceStream to collocate on any existing structure and utilization when possible.
688 We have three rawland candidates that we are pursuing, of one is before you tonight.

689
690 One the third sheet (referring to slide)we will show you, the red circle indicates an area where
691 we are needing a site to provide coverage along, the main coverage objective for this site is
692 along I-295 and Route 5. As you can see the other circles in green (referring to slide) indicate
693 our surrounding sites, this being a major focal point for us given the major intersection of Route
694 5, the coverage along I-295.

695
696 The next slide you will see the layout that we have proposed on the parcel. As you can see we
697 have a distance from the center of our tower to the existing structure is 117'. We show a
698 distance from the center of the tower to existing buildings of 188' and 219', from center of tower.
699 We feel as though, as Mr. Coleman indicated, that locating a second tower in a close proximity to
700 existing structure is more preferable than introducing a new tower in a new area. So we tried to,
701 given that the dimensions and the property locations are such a large demand, we felt it was
702 more preferable to locate our tower in a close proximity to the existing structure.

703
704 The next slide shows our coverage map. Here is where the site will be located (referring to
705 slide), right in this general area and these are all existing sites around which show where we are
706 going to have adequate coverage. As you can see the white basically indicates an area where we
707 are lacking coverage and the next shows us at 150' what the coverage will do which will blend in
708 to the surrounding sites and provide adequate coverage along 295 and Route 5.

709
710 The last slide that I have indicates a photo simulation of what the tower, when initially installed,
711 will resemble a height of 153 over all feet in height and next to the existing tower which has
712 three carriers.

713
714 VoiceStream Wireless feels that it is consistent with the County's preference to extend the height
715 when feasible. So at our expense we are purchasing a tower in the height of 199'. Our coverage
716 objective and needs are only 150'. We feel that it is in the best interest of VoiceStream and the
717 County when feasible to extend a tower so we are enhancing the foundation and providing a
718 sound tower for future needs. The thing that, I guess, needs to be preference on this is that the
719 height of the tower initially would be installed at 153'. We are asking for 199' only if and that is
720 if it is needed, so this tower may remain at 153' for ten years or someone may need a coverage
721 objective in the area. Given that we are the last carrier in Virginia, this area will probably of
722 needs of just in fill or capacity needs and when carriers turn to a more capacity need there
723 height, I guess requirements are a lot lower than they are higher. So the likelihood of someone
724 really needing 199' is questionable, but we wanted to have the ability to do so. So the likelihood
725 of someone getting on the tower is fairly good, but it's a big if and nothing that we can solidify
726 that will happen.

727
728 We are 1500' away from Route 5, as indicated by Mr. Coleman. The available rack centers on
729 the tower that we have purchased for this site will be 195', 180', 165', and then 150', is where
730 our antennas will be located, which are 6' tall. So go up 3' gives you the overall height of 153'
731 for the tower.

732
733 I will be glad to answer any questions that you may have and we would appreciate a favorable
734 recommendation to the Board of Supervisors.

735
736 Mr. Taylor - Are there any questions for Mr. Ledet from the Commission?
737

738 Mr. Jernigan - Mr. Ledet, the two structures that are, one is 218' and the other,
739 which is 168'.
740
741 Mr. Ledet - The monopole, the distance to the...
742
743 Mr. Jernigan - The distance to the two structures.
744
745 Mr. Ledet - Yes sir. That distance is 188' and 219'.
746
747 Mr. Jernigan - They are the landowners.
748
749 Mr. Ledet - No sir. They are the adjacent landlord, Ms. Ogburn.
750
751 Mr. Jernigan - Okay.
752
753 Mr. Taylor - Any other questions for Mr. Ledet? Thank you, Mr. Ledet, I
754 appreciate that.
755
756 Mr. Ledet - Thank you.
757
758 Mr. Taylor - Now we will have the opportunity for the opposition to speak.
759 Ma'am, if you would come down to the microphone and state your name and the Secretary will
760 discuss the rules for your testimony.
761
762 Mr. Marlles - Ma'am, if you would for the record, would you state your name
763 and address.
764
765 Ms. Barbara Zayer - My name is Barbara Zayer.
766
767 Mr. Jernigan I'm sorry ma'am, I didn't...
768
769 Ms. Barbara Zayer - Barbara Zayer.
770
771 Mr. Jernigan - Zinger?
772
773 Ms. Zayer - Z A Y E R.
774
775 Mr. Jernigan - Okay. Thank you.
776
777 Mr. Marlles - Ma'am, you have ten minutes to present your case.
778
779 Ms. Zayer - Okay. I have some copies for you all. Who do I give those to,
780 so that you could...?
781
782 Mr. Marlles - Staff members.
783
784 Mr. Taylor - He will pass them out.
785
786 Mr. Jernigan - Ms. Zayer, are you the adjacent neighbor?
787
788 Ms. Zayer - Yes and I'm here also for my aunt who is unable to be here
789 because of her illness and I do have Power of Attorney for her.
790

791 Mr. Jernigan - Okay.
792
793 Mr. Vanarsdall - Do you live there?
794
795 Ms. Zayer - I live on the adjacent property, yes.
796
797 Mr. Jernigan - You are the 208...
798
799 Ms. Zayer - No, that is my aunt, which is Margaret Ogburn. The parcel that
800 is mine that pertains to this is this longer square piece right here (referring to rendering) that
801 comes up from Buffin Road. *It is like 3.03 acres, I think.*
802
803 Mr. Marles - Mr. Coleman, could you help show us on the map.
804
805 Ms. Zayer - These right here. This whole square (referring to slide), it's
806 divided there, so it is actually two parcels. Then my aunts house right there (referring to slide).
807
808 He has now depicted the, the first two dots that he has got there (referring to slide) are the two
809 parcels that I have and then the dot which is real close to that square (referring to slide), which
810 it should be on the square, is my aunt's home, that they talked about the 218'. I believe from
811 the home and 188' from the actually outside building. Now we did a rough estimate from the
812 edge of the yard and we got 45' to some of the pictures there (referring to slide) that show poles
813 with yellow tags on it, which I assume is suppose to be the proposed location of where the tower
814 would be. So from the side of the yard out there it is about 45' and that is approximate.
815
816 I guess what I want to do, is I need to ask some questions because we came out here to get
817 copies of the proposal and we did not receive a copy of the part that shows, the picture that
818 shows the drawing that shows from here to Gibbs Lane and there is a dotted line and I don't
819 know what that represents. Because when were here before about the temporary they would
820 talking about putting an access road parallel to where my parcels are on their side. So the
821 access road to this tower would go all the way up parallel to my property to where the tower is.
822 That was one of our concerns as to the location of the access road. I don't know by this
823 drawing, does that mean that it has now been moved down to where it would be parallel to
824 Gibbs Lane and would go over to the tower. So that was one of our concerns. I have a renter
825 there at part of the parcel and I don't know whether because of this invasion of her privacy, she
826 will want to get out of the lease and move. I don't know whether I would be able to; (a) re-
827 lease it or (b) either sell the property in the future.
828
829 And the other that would impact it is the front parcel, which now has corn on it, and it is part of
830 the field. That too has been zoned to build a house on, but if this access road that is put through
831 there lowers the value and my potential for selling in the future, that is a concern for my
832 husband and I for this parcel.
833
834 The other concern is my aunt. Where they are locating the site is right there adjacent to her
835 property at the closest point you could possibly get to her property, which is indicated as 188'
836 and also 218' to the house. Our concern is the location of it. I know they have asked for 199'. I
837 don't see in the information, and I borrowed this out of your book, I will be real honest because I
838 didn't have a copy of it. It talked about that this site as it was with the AAT property when they
839 came in and built a tower on my aunts. There was also the Airport Safety Overlay District Area
840 and I don't see that, that is addressed in this report. As if they are giving allowance to go up to
841 199', how does that impact that? It doesn't seem that the report is in on that yet. That would
842 be a major concern because of the markings that might need to be put on there and then the
843 light that might have to put on at that point and time.

844
845 What I have given you, I gave you some photos that we took and I gave you also a
846 corresponding map. I circled by number where those sites are located that we took a picture of.
847 I would imagine because VoiceStream does need a tower that that is something that you will
848 viably concern and may not concern our request in our letter not to even approve putting the
849 other tower there. But in case you do need to move forward with a tower, in view one that I
850 gave you a picture of, that the view that goes to Buffin Road parallel to my property where they
851 had indicated earlier that they were going to do the access road. And then on view two you can
852 see from Buffin Road facing east, that is the existing tower. So there tower would be a little bit
853 closer in to Buffin Road.

854
855 The other thing that we took a picture of is a little bit further down Buffin Road, which is all of
856 their property line. Which goes on down further to the southern part of their property, which is
857 real close to Buffin Road. As you can see I put two x marks. Those are two proposals that we
858 are asking as residents in this area, and people who have to live with this day after day and year
859 after year, is that the fact that it could be located down near the southern western part of the
860 property where (a) it would be closer to the road, you would have a shorter access road, you
861 would have less maintenance to be done to get to and from the tower, it would be closer for the
862 electrical people to come in there and there aren't any houses or any residential, and even across
863 the street on Buffin Road, that is currently owned by the State of Virginia. So there would be no
864 people that it would be effecting. The other x is if they can't move it down that far at least move
865 it to the most southern part of that part where the pink is (referring to rendering), move it
866 straight on down and get near 295 and further away from my aunt's parcel so that her land and
867 property and her privacy is not effected by this tower.

868
869 The other thing I wanted to point out is on the document it talks about this being located in the
870 northwest intersection of Buffin Road. But if you look at the map that is not the northwestern
871 section of that parcel. That is the northeastern most part of the parcel. Because the western
872 part would be over here (referring to slide) next to Buffin Road. And that is certainly east going
873 towards 295. So I don't know if that is something that is a problem. I see they have done a new
874 map, because the map that we got a copy from the Zoning Department still showed my father's
875 name as ownership. He has past away and I see they do have a new map, which shows the
876 parcels correct. So I'm assuming the names are shown correct on that too.

877
878 The other, our overall concern is the viability of the location for our privacy and the value of our
879 property. My aunt is 77 years old and she will be able to look out of her kitchen window and see
880 this tower. As you can see my the pictures that are depicted, 15 through 19, that is facing either
881 away from the home showing you where the yellow tags are right now and a few of things that
882 are sticking above the corn that is out there right now. It also shows you going back towards the
883 house.

884
885 Also we took a picture, number 20, of the existing AAT tower and also 21, which is the current
886 access road that goes to that tower. I know at some point and time, or at least last time when it
887 was temporary you asked about using that access road. I don't know whether that was ever
888 pursued or not. So those pictures are there so that you can see them.

889
890 In picture 7 through 12 it shows to you the house that is right there and again I don't know
891 where they have got the access road based on the information that is here. So that is another
892 concern that I have. That is the house that it would be effecting with that road going by it and
893 the traffic or whatever would be going through there. So that is why we ask that the possibility,
894 that is the Zoning Commission, that you allow them to look at these other two sites, see if these
895 other two sites are viable and then of course we would have no opposition if they were able to
896 move them to those locations.

897
898 I've given you two letters there, one letter is from my husband and myself and one is from my
899 aunt expressing our concerns about the property and the location of it. As I understood from the
900 last time when I was here at the temporary meeting I did not need to read through those
901 because you would take the opportunity to read those.
902
903 I think that covers everything that I need to cover. I do appreciate the opportunity to come here
904 and speak to you and I do trust that you will make the right decision because you do have the
905 power to make these decisions and review and make the determinations that are not only
906 appropriate for businesses for also appropriate for the adjacent property owners.
907
908 Thank you.
909
910 Mr. Jernigan - Ms. Zayer...
911
912 Ms. Zayer - Yes.
913
914 Mr. Jernigan - Before you go now. Did you call the County and express what
915 you felt.
916
917 Ms. Zayer - We came here last time in May when they had the temporary
918 and we did express it. We gave two letters at that point and time and we expressed our concern
919 about the temporary tower that was going to be located there. So we are back again to express
920 our concerns about the permanent tower. I just want to say that we did come out here and we
921 received all these many pages, I think there is about 30 of them here, and it doesn't include
922 some of the information that was in your green document. It doesn't even, and it said that it
923 was prepared May 24th, and I believe we came out here after that, when my husband came, and
924 this information wasn't provided to us. I just saw this tonight. So yes, we did express opposition
925 last time.
926
927 Mr. Vanarsdall - Who did you talk to Ms. Zayer?
928
929 Ms. Zayer - My husband was supposed to come and see... First of all we
930 saw, I believe it was Mr. Blankenship, on the time when we came in May when the temporary
931 was up for discussion. Then my husband, when he came out here, I showed him on this
932 document that Mr. Tom Coleman was the one on here to ask questions to. So as far as I know
933 that is who he saw, Mr. Coleman, that day.
934
935 Mr. Jernigan - Did you see anybody?
936
937 Mr. Vanarsdall - Thank you.
938
939 Mr. Marlles - Ma'am, I do have a question. On the map that is on the screen
940 that shows your aunt's house location.
941
942 Ms. Zayer - Yes sir.
943
944 Mr. Marlles - It shows the existing tower, is that existing tower on her
945 property.
946
947 Ms. Zayer - Yes sir.
948
949 Mr. Marlles - Okay. So she has an existing tower on her property already.

950
951 Ms. Zayer - Yes sir.
952
953 Mr. Marlles - Okay.
954
955 Ms. Zayer - That is the AAT tower that they refer to and it is shown on your
956 map as the existing tower.
957
958 Mr. Jernigan - Okay. Now, how does she feel about looking at that tower?
959
960 Ms. Zayer - She is not happy with it at all.
961
962 Mr. Jernigan - But she leased the land.
963
964 Ms. Zayer - She leased hers, but of course in leasing it, she doesn't see it
965 from her house. It is moved over to the side in which she doesn't have to visually see it day in
966 and day out. And of course one thing to, if someone comes to you and offers you money and
967 you are a senior citizen with a limited income, that is going to be a very attractive offer.
968
969 Mr. Jernigan - Can I ask you this...
970
971 Ms. Zayer - Sure.
972
973 Mr. Jernigan - If this tower was on her property would she have okayed it?
974
975 Ms. Zayer - I would imaged she would have.
976
977 Mr. Jernigan - All right. Now the existing road, the service road that is in there
978 now, are you all, what is your situation on that Jared?
979
980 Mr. Ledet - That would require us to get an access agreement with Ms.
981 Ogburn through her property and then on to the parcel that we are proposing.
982
983 Mr. Jernigan - Because I rode down there yesterday and came up and went
984 back there and that road comes up between the garage and the house and turns left and makes
985 a u-turn, comes on back and goes to the tower. Then that other tower is a 100' up in the
986 cornfield.
987
988 Ms. Zayer - Yes. But even with using the access road, still the concern
989 would be that close to the east end of there parcel. That if they could move the tower to the
990 southern most point, if that was possible.
991
992 Mr. Jernigan - All right. I'm going to tell you how I feel. You struck a nerve
993 with me a few minutes ago when we got to discussing this. I would have like to have heard from
994 you. I wish somebody would have told you to call me because I like getting these things worked
995 out earlier. But if your aunt already has a tower that she has leased and it was okay to put that
996 tower up.
997
998 Ms. Zayer - Yes.
999
1000 Mr. Jernigan - If you can look at a tower that you are getting x amount of
1001 dollars for. Looking at a tower setting next to it that you are not getting x amount of dollars for
1002 is not going to be really that bad. I mean, she is use to looking at a tower anyway.

1003
1004 Ms. Zayer - Yes, but as I mentioned to you, she is right now restricted to the
1005 house unless we go up there and we go out somewhere and we get her out of the house. So the
1006 location of her windows and what she is going to be looking at has never been the tower that is
1007 existing even though I hear that what you are saying. It is the tower that is going to be directly
1008 behind where that tree is in the picture and its picture number...
1009
1010 Mr. Jernigan - I walked through the stakes.
1011
1012 Ms. Zayer - You saw them.
1013
1014 Mr. Jernigan - I went into the cornfield yesterday.
1015
1016 Ms. Zayer - Good, okay. Then you show where it was...
1017
1018 Mr. Jernigan - Yes.
1019
1020 Ms. Zayer - I really don't see where compensation in this instance is
1021 important. What is important now is the privacy of our property and the value of our property
1022 and the fact that it is only 218' from our house. That doesn't even include the four outer
1023 buildings that are out there that are closer to the tower. And it doesn't include, the fact that I
1024 brought up about the road that will go adjacent to my parcels that I have a home there now and
1025 a potential home there in the front section that could change the value of that with this access
1026 road going that way when there is plenty of room in this parcel to locate it elsewhere. It is not
1027 that you are restricted.
1028
1029 Mr. Jernigan - Well, I'll have to ask the VoiceStream representative about that
1030 because you just can't stick them anywhere.
1031
1032 Ms. Zayer - Sure.
1033
1034 Mr. Jernigan - But...
1035
1036 Ms. Zayer - But, see in our case, sir, you know, we live there and we have
1037 homes there. On this piece of parcel is totally agricultural. In fact when you saw the corn there
1038 yesterday, when you bring that road up there next to my parcel or even in the middle there, you
1039 are going to have to run, as I understood it from Dominion Virginia Power, is they were going to
1040 run the electrical underground. So that means to get in there and do the cultivating of the land,
1041 which part of my aunts and mine is cultivated next to this adjacent parcel, that could come up
1042 with some problems. So that is another issue.
1043
1044 Mr. Jernigan - Okay. That is all I have. Jared I do want to ask you something.
1045
1046 Mr. Taylor - Thank you, Ms. Zayer.
1047
1048 Mr. Jernigan - Thank you, Ms. Zayer.
1049
1050 Mr. Ledet - Yes sir.
1051
1052 Mr. Jernigan - How about a tower relocation? Have you got any wiggle room in
1053 there?
1054

1055 Mr. Ledet - The location was determined two-fold. One we were trying to
1056 get it in close proximity to the existing structure and the second would be per the landlord's
1057 request. Given the size of the property, putting it and locating it in the corner is the most
1058 feasible location for use of his property in the future. The big issue in regards to the access
1059 road, the access road will be 1200' from Buffin Road to the site, which is an extremely expensive
1060 for us to incur on top of an additional height requirements. The road from interstate 295 where
1061 we are building one would be probably 1/5th the size of that. The proposal and the layout that
1062 we have is from the A&E walk and design that we had with the landlord and with our A&E and
1063 engineering firms.
1064
1065 Mr. Jernigan - How long would it take you to get an agreement with the AAT,
1066 for use of the road.
1067
1068 Mr. Ledet - The actual access agreement would be with Ms. Ogburn. It
1069 would not be with AAT, if I'm correct by stating that because even with the access road that they
1070 have with AAT it goes up to their tower which would still have to go and get a separate access
1071 agreement onto, from where their road ends to the property line. I don't know what that
1072 distance is, maybe you know that from your visit to the site yesterday.
1073
1074 Mr. Jernigan - So if they'll consent..
1075
1076 Mr. Ledet - Let me state, the access road. It will be heavily traveled upon
1077 the time we commence on construction, which is about a 21-day time frame. After that we visit
1078 the site one time per month, which is at night.
1079
1080 Mr. Jernigan - Just like they do now.
1081
1082 Mr. Ledet - No one will ever know that we have been there unless they are
1083 up at 2 in the morning and happen to notice a truck going to our cell site. It will not be traveled
1084 upon, it is just a road that we need to provide our trucks and equipment to from the road to our
1085 site. The cost for us to build a road 1200' is extremely expensive compared to a road. Trust me,
1086 if we could we would build it at 300' as opposed to 1200', which is per the landlord's request and
1087 the agreement that we signed with him. That's why we have presented to you tonight.
1088
1089 Mr. Jernigan - You think there is a possibility. You can nod just yes or no
1090 because we can't hear you. Do you think there is a possibility you could work out an agreement
1091 with them for the service road.
1092
1093 Ms. Zayer - I think we can talk about it, yes.
1094
1095 Mr. Jernigan - Okay. I am concerned about one thing though. If we are going
1096 to 199', the County code requires 110% of the tower height and that puts it at 219' and that
1097 house is at 219', we are pushing the envelope there.
1098
1099 Mr. Ledet - Again, we have it to 199' just because that is the limit before the
1100 tower is required to be lite. The likelihood honestly, Mr. Jernigan, of someone wanting 199' in
1101 this area is very remote, but we would like to have the opportunity to have it there so someone
1102 does not have to come before you to request that height. Again, it is a big if even if someone is
1103 going to want to extend the tower even to 160' much less to 199'.
1104
1105 Mr. Jernigan - Okay. No you are at 153'.
1106
1107 Mr. Ledet - Yes sir.

1108
1109 Mr. Jernigan - You have one carrier above you.
1110
1111 Mr. Ledet - No sir, it will be just us on this tower initially.
1112
1113 Mr. Jernigan - Okay. The co-locators, one will be above and one will be down.
1114
1115 Mr. Ledet - There will be opportunity to go up...
1116
1117 Mr. Jernigan - What is the height of the co-locator above you?
1118
1119 Mr. Ledet - It would go, 150' is the lowest that we have on the tower that
1120 we have purchased. The next height would be 165' and then 180', then 195'. So they are like
1121 basically a 15' interval.
1122
1123 Mr. Jernigan - Okay. Thank you. We have got one more. Jane...
1124
1125 Mr. Ledet - The only other thing that I would like to mention as far as the
1126 distance. Our tower is showing at 217'. The distance basically from her house to the tower that
1127 is existing right now, just guessing is probably roughly 300'. So structures in close proximity
1128 already existing on her adjacent parcel. Concerns in regard to property value I think are
1129 somewhat remote given one is already in existence on there. Other than that the main thing that
1130 seems to be her major concern was the access road and it's just a road that would be on the
1131 property line. I agree with that. Her true concern is, you know, trucks running up and down the
1132 access road, that will not be a factor at all. I assure you. Once a month at night. That is our
1133 maintenance window to shut the site down when our customers, fewer customers are utilizing
1134 their phones.
1135
1136 Mr. Jernigan - Okay. Thank you, sir.
1137
1138 Mr. Ledet - All right.
1139
1140 Ms. Jane Koontz - My name is Jane Koontz, I live at 9184 Hoke Brady Road in the
1141 Varina District. I'm speaking tonight for Varina Beautification Committee, a group of concerned
1142 citizens in Varina who work to assure only quality development along historic scenic Route 5.
1143
1144 Reference to P-8-02 case, the Varina Beautification Committee does not oppose the site of the
1145 VoiceStream tower at 1500' from the Route 5 bi-way. However, sighting the tower directly
1146 behind the in place AAT tower. if possible, may have less of a visual impact from the bi-way and
1147 we are ultimately concerned about what is visible from the Route 5 bi-way. We do oppose any
1148 height over the 165' height of the AAT tower already there.
1149
1150 When driving Route 5 either east or west the AAT tower looms up between the tree buffers. A
1151 taller tower would be totally incompatible with a scenic by-way, our main concern. A tower taller
1152 than 165' would also have the probability of needing FAA required lighting or marking.
1153
1154 So please concern these concerns in order to protect this scenic and tourism potential of
1155 Henrico's scenic by-way. We would definitely oppose the tower ever becoming 199'.
1156
1157 Thank you for this consideration and this letter was written by Charles Finley, our President.
1158
1159 Mr. Taylor - Thank you, Ms. Koontz. If you could provide Mr. Coleman with a
1160 copy of that letter we will put it in the record.

1161
1162 Ms. Koontz - He has copies.
1163
1164 Mr. Taylor - Okay. Thank you, very much.
1165
1166 Ms. Koontz - Thank you, for listening.
1167
1168 Mr. Taylor - Is there anyone else in the audience who would like to express
1169 there opinion on case P-8-02.
1170
1171 Mr. Marlles - We are out of time. All right, Mr. Jernigan.
1172
1173 Mr. Jernigan - Mr. Chairman, I tell what I am going to do. Ms. Zayer, because
1174 there is already a tower there, I am going to ask for approval, but what I am going to do, I am
1175 going to ask for approval tonight and between the time from this meeting and it goes to the
1176 Board of Supervisors, I would like you all to get together and see if you can work up a deal on
1177 the service road, and I understand that seems to be one of the major problems here, the service
1178 road, and I think we can solve that pretty easily. But I will inform Mr. Donati before this case
1179 goes, and see if you all can work something out. Now, the fact that your aunt is drawing money
1180 on a tower there now, it is hard for me to turn down somebody else coming in. Even by your
1181 own admission, if the other tower was on her property, she would probably put it there. So, what
1182 I am going to do, I am going to limit it to 165 feet, because Code calls for 110%, and we are
1183 right on the number.
1184
1185 Mr. Ledet - What is exactly 150?
1186
1187 Mr. Jernigan - The County Code calls for any existing structure to be 110%
1188 away from the tower. Now if this was the landowner's house that was getting this, I would
1189 waive that, because they are plotting their own destiny. If something happens, then, you know,
1190 it was their tower and they were drawing money. But this is not their tower and it is right there,
1191 so I am going to limit it to 165 feet. So, Mr. Chairman, I make a motion to approve P-8-02, with
1192 a tower limit of 165 feet, to the Board of Supervisors.
1193
1194 Mr. Vanarsdall - Second.
1195
1196 Mr. Taylor - Motion made by Mr. Jernigan and seconded by Mr. Vanarsdall.
1197 All in favor say aye. All opposed say no. The ayes have it. The motion carries.
1198
1199 The Planning Commission approved P-8-02, Jared Ledet for VoiceStream Wireless, with the limit
1200 of the tower being 165 feet.
1201
1202 Mr. Jernigan - If you all will exchange phone numbers and see what you can
1203 work out, and I will talk to Mr. Donati.
1204
1205 REASON: Acting on a motion by Mr. Jernigan, seconded by Mr. Vanarsdall, the Planning
1206 Commission voted 4-0 (one abstention and one absence) to recommend the Board of Supervisors
1207 **grant** the request **with a tower height limit of 165'** because it is reasonable in light of the
1208 surrounding uses and the proposed tower at this height was of adequate distance from the
1209 closest residential area.
1210
1211 **P-9-02 Brian L. Buniva for Fox & Hound of Virginia, Inc.:** Request
1212 for a provisional use permit under Sections 24-64(h), 24-58.2(e), 24-62.2(i) and 24-122.1 of
1213 Chapter 24 of the County Code in order to open and operate a Bailey's Smokehouse & Tavern full

1214 service restaurant and billiard parlor. This request is to increase the number of pool tables from
1215 two to five, and to allow the billiard parlor to operate while the restaurant is open to the public,
1216 until 2:00 a.m., on part of Parcel 766-750-4380 (70-A-68), containing approximately 8,500
1217 square feet, located at the northeast intersection of W. Broad Street (U. S. Route 250) and
1218 Sunnybrook Road (7502 W. Broad Street, Unit #1 – Merchants Walk Shopping Center). The
1219 existing zoning is B-3 Business District. The Land Use Plan recommends Commercial
1220 Concentration.

1221
1222 Mr. Marles - The staff report will be given by Mr. Paul Gidley.

1223
1224 Mr. Taylor - Is there anybody in the audience opposed to P-9-02? No
1225 opposition. Mr. Gidley.

1226
1227 Mr. Gidley - Thank you, Mr. Secretary and Mr. Chairman and members of the
1228 Planning Commission. There are revisions to the suggested conditions that should have just
1229 been handed out. The case is P-9-02. It is a proposal to increase the number of pool tables at
1230 the former Blue Marlin Restaurant, now Bailey's Smokehouse, from two tables to five tables, and
1231 to allow the use until closing time, which is 2:00 a.m. The subject property is located in the
1232 Merchant's Walk Shopping Center on West Broad Street at its intersection with Sunnybrook Road.
1233 The property is zoned B-3 and so is the surrounding land. In the B-3 zoning district, you are
1234 entitled by right to have up to two pool tables. If you wish to go beyond the two pool tables,
1235 Code considers that to be a billiard parlor requiring a provisional use permit, thus the request
1236 tonight. Beyond this, even in the B-3 zoning district, billiard parlors are limited in their operation
1237 until 12 midnight. If you wish to exceed hours of operation past midnight, then you are required
1238 to get approval via a provisional use permit. Thus, tonight, there are actually two aspects to this
1239 provisional use permit request. One is to go from two pool tables up to five, and the second is to
1240 expand the hours from 12 midnight until 2:00 a.m. when the restaurant closes. The Land Use
1241 Plan recommends commercial concentration and this is in compliance with the Land Use Plan.
1242 While staff does not oppose additional pool tables or extended hours, we do want to make
1243 certain that the combination of additional pool tables, late hours and alcohol do not cause
1244 problems for adjacent properties. As a result, we have recommended several conditions that we
1245 would urge the Planning Commission to adopt if they choose to approve this Provisional Use
1246 Permit application. If I can, I will read over them: Condition No.1, which all of these are
1247 included in your staff report, states that there shall be no more than five billiard and/or pool
1248 tables permitted on the site. No. 2, the operator of this facility shall allow the Crime Prevention
1249 Unit of the Division of Police to conduct a security survey to identify potential security risks at the
1250 location and to recommend possible preventive measures. No. 3, the owner/operator shall install
1251 a security camera and video system designed by a security specialist. The security system shall
1252 be operational from 5:00 p.m. until all patrons leave the premises and include the following
1253 items:

- 1254
1255 a. Exterior surveillance cameras monitoring the entrances, parking areas, and
1256 any other areas deemed necessary by the Division of Police. Such security
1257 cameras shall provide clear imagery of the establishment's patrons and their
1258 vehicles.
1259 b. Tapes recording the activity and areas under surveillance shall be preserved
1260 for a period of one month. Authorized representatives of the Henrico County
1261 Division of Police or the Henrico County Planning Department shall have
1262 access to such tapes upon request.

1263
1264 No. 4, the owner/operator shall provide adequate lighting for the entrances, exits, and parking
1265 areas serving the use or location. Accurate lighting means lighting sufficient for clear visual and
1266 security camera surveillance.

1267
1268 No. 5, at least one uniformed security officer shall be on duty Friday and Saturday evenings, from
1269 9:00 p.m. until all patrons leave the premises. The security officer shall periodically monitor the
1270 exterior of the premises, as well as the interior for possible criminal activity. Security officer shall
1271 be either off-duty police officers or licensed security guards employed by a licensed security
1272 service company.
1273
1274 No. 6, the business shall not interfere with the visibility of the facility from Broad Street.
1275
1276 No. 7, which has been deleted, recommended picture windows be added where the pool tables
1277 are, to increase visibility, but again, that has been deleted.
1278
1279 No. 8, the outdoor dining areas shall close by 12 midnight Sunday through Thursday and by 2:00
1280 a.m. Saturday and Sunday morning, so what you are looking at then is in effect Friday nights and
1281 Saturday nights, but since it is 2:00 a.m., it is actually 2:00 a.m. Saturday and Sunday morning.
1282
1283 No. 9, the operator shall require customers to leave the premises and parking areas immediately
1284 after the close of business.
1285
1286 And finally, No. 10, the owner/operator shall not permit loitering, criminal assaults, or public
1287 nuisances on the premises during the extended hours of operation.
1288
1289 Many of these recommended conditions are from the security standards that were prepared by
1290 the Planning Office and the Police Department in the year 2000 to deal with extended hours of
1291 operation. With these conditions, staff can recommend approval of this request. Are there any
1292 questions that I can answer tonight?
1293
1294 Mr. Taylor - Any questions from the Commission?
1295
1296 Ms. Ware - Have there been a lot of complaints concerning the outdoor
1297 dining area, noise coming from it?
1298
1299 Mr. Gidley - Evidently when, I believe it was Houlihan's that was there
1300 earlier, which was pre-Blue Marlin, they did have outdoor dining and the local supervisor did
1301 receive calls of complaint from neighbors nearby, saying that they could hear the outdoor dining
1302 and it was disturbing them, and according to him, he went over there and, in fact, could hear the
1303 patrons even in the neighborhood, so that is a concern.
1304
1305 Ms. Ware - And they currently have outdoor dining?
1306
1307 Mr. Gidley - Yes, ma'am, they do.
1308
1309 Mr. Jernigan - Can I ask you something?
1310
1311 Mr. Gidley - Sure.
1312
1313 Mr. Jernigan - The owner or operator shall not permit loitering or criminal
1314 assaults. I mean how do you stop a criminal assault? It is just in the wording.
1315
1316 Mr. Gidley - Yes, sir.
1317
1318 Mr. Jernigan - I mean, you can't prevent a criminal assault.
1319

1320 Mr. Gidley - I think it has to do with the overall security on the property,
1321 providing a situation where your business is managed appropriately, which discourages this.
1322 Obviously, anyone can't guarantee that there won't be a criminal assault or anything, but I think
1323 it is put in there to show that if, for some reason, there was a problem and it did get out of hand
1324 and the use was causing problems, that it would give the County the right to come back and
1325 revisit the issue.
1326
1327 Mr. Jernigan- But for the safety sake of the owner, I think we ought to strike
1328 that because putting it in here as a proffer that "the owner or operator shall not permit a criminal
1329 assault." If somebody gets assaulted and comes back and sues him because it was in here, I
1330 don't think that would be right. I think you need to strike that, Mr. Secretary.
1331
1332 Mr. Taylor- Mr. Jernigan, what if we modify it to say "the owner shall not
1333 permit public nuisances on the premises during the extended hours of operation" and just drop
1334 out that complicated wording of criminal assaults? I think the point is to not permit loitering or
1335 public nuisances.
1336
1337 Mr. Gidley - I would tend to sympathize with you. This wording came from
1338 an earlier case, but I think it meets the point.
1339
1340 Mr. Marlles - Mr. Jernigan, if it helps, this is wording that has been worked
1341 out with the County Attorney's office and I think it is really intended to be preventative so that if
1342 there are problems in the future, or if we have an owner that allows this type of situation to
1343 continue, Provisional Use Permits are revocable, so if we have a management that is willing to
1344 tolerate this type of problem on the site, it gives the County the ability to revoke the Provisional
1345 Use Permit, so it really is intended to protect the County from operator's of these businesses that
1346 may not be policing them or tolerating behavior that is not suitable for the site. But it has been
1347 worked out with the County Attorney's office, and staff would recommend it.
1348
1349 Mr. Jernigan - All right. Well, Mr. Secretary, I was just looking at it from the
1350 owner's situation, because it is condition in here, and I mean I wouldn't want some attorney
1351 coming back and say, "Hey, you let it happen."
1352
1353 Mr. Marlles - The issue with these types of uses is that we are granting
1354 authority here that extends beyond what the current requirements currently allow, so if there is a
1355 problem with this, it gives us the ability to police it, and if we take that condition away, then if we
1356 get say an unresponsive management or business entity in there that isn't managing the
1357 business properly, then we will have one more tool to be able to control the situation, and we are
1358 particularly concerned about the impact on the surrounding community and adjacent property
1359 owners for these types of conditions. But I understand your perspective.
1360
1361 Mr. Jernigan - OK.
1362
1363 Mr. Marlles - We are trying to protect the surrounding community and you are
1364 trying to protect the business owner. That is the difference.
1365
1366 Mr. Jernigan - I was just saying that the owner or the operator doesn't have
1367 control, just like in a shopping mall, if somebody gets attacked in the parking lot. You can't hold,
1368 you can't control the people.
1369
1370 Mr. Marlles - It does sometimes, believe it or not. Sometimes the cooperation
1371 that business owners give to the police who have to enforce these types of requirements is just

1372 not what it should be, so it is really to protect the surrounding community and adjacent property
1373 owners from undesirable activity.
1374
1375 Mr. Taylor - It might be best to leave it the way that it is, and ask the County
1376 Attorney to take a look at it.
1377
1378 Mr. Vanarsdall - Did the County Attorney help draw it up?
1379
1380 Mr. Marlles - Yes, they have.
1381
1382 Mr. Vanarsdall - The County Attorney worded it, and that is exactly the way that
1383 he worded it.
1384
1385 Mr. Marlles - Yes.
1386
1387 Mr. Taylor - My tendency would be to just leave it.
1388
1389 Mr. Jernigan - That is all I have.
1390
1391 Mr. Taylor - OK. Thank you very much.
1392
1393 Mr. Vanarsdall - The reason I haven't asked a lot of questions is that we just had
1394 a meeting for an hour or two today, Mr. Gidley, Mr. Silber, the attorney who is going to speak
1395 next, Mr. Buniva, and another attorney, Robert Graves, a former Chairman of the Alcoholic
1396 Beverages Control Board, and that is the reason I don't have anything to ask. We have
1397 discussed all of that. But I want you to ask anything that you want to.
1398
1399 Mr. Jernigan - That is the only question that I had.
1400
1401 Mr. Taylor - Are there any other questions then for Mr. Gidley? Thank you,
1402 sir. Good presentation. And I guess we will hear from the Counsel for the case. Sir, if you
1403 would, please state your name for the record.
1404
1405 Mr. Brian Buniva - Mr. Chairman and members of the Commission, my name is
1406 Brian Buniva. I am with the law firm of LeClair Ryan and I represent Fox and Hound of Virginia,
1407 Inc., and to my right is Mr. David Burton, who is the General manager of the restaurant trading
1408 under the name, "Bailey's Smokehouse and Tavern." Mr. Vanarsdall is indeed correct. We met
1409 first on May 21 for a couple of hours, and then we met today for a couple of hours, and in
1410 between I met with Mr. Gidley for at least an hour last week as well, trying to work out these
1411 conditions. I'd like to pass on two things. Unfortunately I only have one copy each, but pass it
1412 around. It was part of the original application. One is the menu for the restaurant, which is
1413 currently operating. It opened on May 22, and the second are photographs that I filed with the
1414 actual application, but show the prototype of the restaurant. Bailey's is actually owned by a
1415 parent corporation, called Total Entertainment Corporation out of Wichita, Kansas. It operates in
1416 19 states and has - this will be the 48th facility. Part of its motif, if you will, is to have a
1417 restaurant, tavern type atmosphere, with a sports motif. There are televisions throughout the
1418 facility, and one of the side lights, if you will, is to provide an opportunity for patrons to get up
1419 and move around, and to engage in some light physical activity, such as playing pool. In this
1420 situation, under the B-3 zoning, Bailey's can operate and does operate until 2:00 in the morning.
1421 It can operate by right; it normally doesn't have outdoor dining, but in fact this facility already
1422 had outdoor dining, and it has adapted itself to it, until 2:00 in the morning. It doesn't have any
1423 pool tables there now, although it could, by right, have two pool tables. And the reason they
1424 didn't want to have two pool tables was frankly, it looked a little silly to have two pool tables

1425 there right now. It probably would not provide enough entertainment opportunity for its
1426 customers. But the reason I passed out the menu, and the reason I passed out the pictures; I
1427 don't know if you've seen it. It is just about five minutes from here, is I wanted you to get a
1428 sense of what kind of an operation this is. I ate lunch there today. It was pretty good. I can
1429 recommend the grilled chicken breast. It is pretty upscale. The photos that you see are
1430 representative of what is there. There are some things, though, that have been imposed as
1431 conditions here that have never been imposed upon any Bailey's operation any place in the
1432 country. Now you say, "We are different and we know what we are doing here, and I agree, but
1433 I would ask you, as you look at the proposed conditions, or at least some of them, and I will
1434 identify the ones in particular. Ask yourselves, "Do three more pool tables playing for two more
1435 hours create the impact that justifies that kind of a condition. And I think that if you look at it
1436 that way, the answer is clearly no. Right now, the facility is open until 2:00 in the morning.
1437 People don't get a break from drinking and eating by playing pool and there are no security
1438 cameras. Right now, people can eat and drink until 2:00 in the morning, don't play pool, and
1439 don't have to have extra lighting. Right now people can eat and drink until 2:00 a.m., don't play
1440 pool and don't have a security officer on the premises. Right now people can eat and drink at
1441 2:00 a.m. outside on the patio, don't play pool, and don't have any restrictions on sitting outside.
1442 So the question really is, do these conditions, now that all this is permitted by right. Do these
1443 conditions relate to the use that is being requested? And the fact of the matter is that when
1444 people are playing pool, they are drinking less. It is hard to hold a queue stick and drink. Maybe
1445 you can balance it on your nose, but it is pretty tough. So, I kind of got a feeling that you've got
1446 Robert Preston in the "Music Man" coming to town to save us from pool. This is not a pool
1447 parlor. I know by law you define it as a pool parlor, because it is more than two, but it really
1448 isn't. It is side adjunct. It is a very minor piece of it. And I just question whether you want to, in
1449 fact, impose all conditions to take away things that you do by right, are allowed by right, simply
1450 because you want another couple of pool tables there.

1451
1452 Getting to the specific conditions, I have been back and forth with the, not just the low-level
1453 function, but the President of the company over some of these conditions, and I'll cut through
1454 the chase about the discussions we have had. One, two and three, and three was a toughie,
1455 because they don't have security cameras outside in any other facility in the country, but one,
1456 two and three, we talked about it and are acceptable to the Company, as is No. 4. In fact the
1457 lighting, they are currently already in the process of trying to; they've got a bid out to hopefully
1458 get another lighting stand out on the Broad Street side, and put the auxiliary lighting, spot lights
1459 that you have in Merchants Walk on the nearest stand, and I think that will take care of it.
1460 We've also arranged, we haven't set the date, but we have already made arrangements with Kim
1461 Vann and the Police Department to have the security analysis. We certainly might be able to
1462 learn something that we hadn't considered before, and we will be glad to do that. Of these 10
1463 conditions, though the one that I think troubles us the most because it really, in the Company's
1464 viewpoint, takes away from the type of operation that they believe they have now, and I think
1465 they do have, is the requirement for a uniformed police officer on site. You walk into a quality
1466 restaurant and you don't see a uniformed police officer. You go into a dance place. You see
1467 uniformed police officers. And why is that? Because the combination of dancing, drinking and so
1468 on might lead to more of an outbreak than a facility that can seat, what is it, about 270 people all
1469 told, and have five pool tables. It is just a different character of operation, so I am going to ask
1470 you to strike No. 5, which is the requirement for the uniformed police officers, and if you strike
1471 No. 5, we are, when we talked today, the suggestion was made of putting in No. 5 and No. 8
1472 dealing with the outdoor dining, which again can go to 2:00 a.m. right now by right, that we
1473 would voluntarily restrict that to 12:00 midnight when the officer wasn't around was the
1474 suggestion to us, and then it would go to 2:00 a.m. when the officer was around. What we
1475 suggest, if you strike No. 5, is we will just close it down at midnight on that patio area. I do
1476 want to say something. Houlihan's was a different place than Bailey's Smokehouse and Tavern.
1477 Houlihan's did allow dancing. Houlihan's did allow loud music. The major attraction to this place

1478 is to be able to watch a sporting event. There are two televisions outside and there is piped in
1479 music. Now that, last night's game. I wasn't there, but last night's game, my guess is the music,
1480 if it was outside at all was very low, because people were interested in watching the ball game,
1481 the Lakers and the Nets repeat. So, that is what we would ask that you do, and ask that you
1482 recognize that this is an upscale restaurant, over \$1 million dollars has been invested to take a
1483 shell of the building that was an eyesore, and turn it into a pretty fine place of commercial
1484 operation on West Broad Street. The other thing that I will say is that across the street is Three
1485 Chopt. Less than a quarter of a mile west in Three Chopt, you have a billiard parlor that goes to
1486 4:00 a.m. that has 27 pool tables, that doesn't have security, that doesn't have a security officer.
1487 The fact of the matter is that you always have the power to bring this case back, if you've got a
1488 problem, and believe me, my client doesn't want a problem probably more than you don't want it
1489 to have a problem, because if it has a problem, it is a publicly traded company, and in its annual
1490 report goes those problems, if they are material. I was looking at the annual report today and
1491 there is a lawsuit from an employee that was fired, and because that lawsuit was filed, that is in
1492 the annual report by SEC Regulations, so they don't want to get in trouble with anybody. This is
1493 their first operation in Virginia, and they intend to do it right. I have Mr. Dave Burton here with
1494 me, not so much to make a presentation, but he has operated in many other places as well, and
1495 he knows a heck of a lot more about the company and the ins and outs of the operation than I
1496 do. I can tell you that five pool tables is the fewest number that they have at any place in the
1497 company. That is not so much because of the conditions as much as it is just the configuration
1498 of this particular restaurant, but from their standpoint, it is a pretty small operation. Any
1499 questions, I will do my best.

1500
1501 Mr. Taylor - Is there any opposition? No opposition.

1502
1503 Mr. Vanarsdall - Mr. Chairman, I began by saying that I had Mr. Buniva's report
1504 that he sent to all of you all. On the second page, he says Bailey's is far from a pool hall image.
1505 And I certainly do agree with that. I told him that today. My wife and I went in there before
1506 they ever opened, and they were hiring people. We didn't go in there to get a job. We went in
1507 there to see what it looked like. It is a very nice place, very pretty, very upscale. They have
1508 televisions all around the place at sport's bar height. And they have never, Bailey's Smokehouse
1509 has never been in question or on the spot for anything as far as we're concerned. As far as I am
1510 concerned, it is an upscale place. We had a rule long before Bailey's was ever heard of. The
1511 County, the County fathers, the Board and Randy Silber could elaborate more on this, because he
1512 was involved in it, and some of the others. We had people sticking pool tables everywhere in
1513 places they did not need to be, didn't make any difference if it was a restaurant, a beer joint, an
1514 uptown place, or whatever it was. So they made a ruling, and if you want over two pool tables,
1515 you have to get a Provisional Use Permit, a PUP, and this is no different than anything else, other
1516 than it is a different name and a different grade than some of them. In the Brookland District,
1517 the district that I represent, we are very big on closed circuit television and on security, and Mr.
1518 Buniva, I was not going to mention that, but Mr. Buniva mentioned "The Playing Field" across the
1519 highway, across Broad Street, and I am going to say something that would sound like a cop out,
1520 but that is another district, and I don't look at it as another district. I represent the entire
1521 county. I have here the report from 1996 and none of us on the Planning Commission, I was
1522 here, Chris Archer was here, and none of us voted for "The Playing Field" to be open 24 hours a
1523 day, seven days a week. We did not like it. It went up to the Board with no recommendation
1524 and the Board approved it. So we did not like it. We knew someday it would come back to
1525 haunt us. We couldn't see why Richmond needed that. They haven't had a great deal of trouble
1526 there, but the thing that concerns me the most, in that entire area, is drunkenness. One time
1527 there was 72 drunk cases, 36, and so today when we were talking, Mr. Buniva why you needed
1528 this and why you needed that, and I said we need it because of the product. It is just like a
1529 bank needs security. They need vaults. They need cameras. And they need security guards
1530 because their product is money. This product is alcohol. You are not going to have any trouble

1531 with somebody shooting pool until 2:00 a.m. drinking Pepsi Cola, but you may have it drinking
1532 beer and liquor. I am not trying to be hard on them, we had a very good meeting, very cordial
1533 and nice meeting today, and we started out, the staff presented what the staff wanted. We
1534 compromised. First of all, Mr. Buniva did not want any cameras whatsoever, because he had
1535 been told that outside cameras deteriorate and there is a lot of maintenance to them, and you
1536 have to replace them. Well, I would think you'd probably have to replace the pool stick and the
1537 pool tables, and the glasses and dishes and the chairs and the counters and everything in the
1538 place. People do not steal these cameras. They are over 8 feet tall. They are in a big housing.
1539 The camera is this big and the housing is this big. The sunlight keeps out of it, the snow and the
1540 rain, and all of the elements, and when the sun rises, the lens on it squints like your eyeball. So,
1541 we are not concerned about that. We just feel like that gives you coverage. So we compromised.
1542 I told him I was very strong on the closed circuit television-video system, so then he wanted us
1543 to delete No. 7, which says that we wanted to add two picture windows in the wall. We very
1544 gladly deleted that. I could not see going to the expense of putting two picture windows in the
1545 wall. The police report has already said that there is a lot of visibility there. Now, "The Playing
1546 Field" is in a storefront, as wide as this building, and the police, the condition on that was, or the
1547 understanding with the police from the man and his wife who run it was that they would always
1548 have the draperies open, and the police could sit in their parking lot and see in there at 12:00,
1549 2:00, 9:00, any time that they want to. So I asked Mr. Buniva if he'd like to put that same
1550 window in the wall over here at Bailey's and he said, "Certainly not." So, I would not want him
1551 to, so we deleted that one. No. 5, staff recommended a uniformed security officer, seven days a
1552 week. We compromised on that. Mr. Silber suggested that we have it only on Friday and
1553 Saturday evening, so we made an exception there. No. 8, outdoor dining area, staff had that it
1554 would close at 10:00 p.m. This goes back to when Houlihan's was there and they had music
1555 outside. If you can believe this, you could hear it all the way across Schrader Road, in the
1556 woods, through the woods. Bailey's is certainly not going to have anything that would even
1557 resemble that. So, we compromised on that, and said they could stay open until midnight Sunday
1558 through Thursday, and when the security officer is on duty, on Friday and Saturday night, until
1559 2:00 a.m. So, we kind of give and take on it. I said to Mr. Buniva, and I will let you all know
1560 this, they have gone to a lot of expense. The zoning is already in place, B-3, as he explained, is
1561 already there. They have gone to a lot of expense. They have gone to a lot of expense with
1562 tables, chairs, furniture, hiring people, getting the license, getting everything checked out. They
1563 have not spent a nickel on security. Not a nickel. They have spent nothing to protect me or you
1564 if you go into the place, and that is where my job comes in. So, that is what these cameras and
1565 these uniformed people do. We all know that they are not going to have any trouble; we hope
1566 they don't. "The Playing Field" didn't think they were going to have any trouble either, but they
1567 have. So, I just wanted to explain that, so that the Commission would understand, and tonight,
1568 after our meeting this afternoon, Mr. Buniva came and brought me this addendum or whatever it
1569 is, that Paul passed out, and I can do one of two things. I can either recommend approval with
1570 the original, or I can recommend denial to the Board of Supervisors. I don't feel justified in
1571 recommending denial, because we are not that far off. We have just one thing, and I think that
1572 can be worked out between now and Board.

1573
1574 Mr. Taylor - Mr. Vanarsdall, what is that one thing? The uniformed security
1575 officer?

1576
1577 Mr. Vanarsdall - It is No. 5 and that also affects No. 8.

1578
1579 Mr. Taylor - Now, in listening to Mr. Buniva on the uniformed security officer,
1580 I recognize the issue for security. Have you considered with Mr. Buniva a possible compromise
1581 of just having a security officer who is not in uniform, because I do know...
1582

1583 Mr. Vanarsdall - I have not and I don't want to work that out. There is no
1584 compromise to that. That is what the School System wanted to do, and wanted to put police in
1585 and make the kids behave, and they wanted them to wear blue jeans and a tee shirt. Nobody
1586 would even know he was on the premises. So, we want him in uniform. We want you to know
1587 that if you want to throw beer cans all over that parking lot, you'd better think twice. And I can
1588 understand their position. I went in Wal-Mart and saw one and felt funny, and I wasn't doing
1589 anything. A State trooper passes you on the highway, if he is in that marked car, you will take
1590 your foot off the foot feed, and if he is in a plain car, you will probably run along right beside him
1591 until you see his uniform, see his hat. So, having said all of this, Mr. Buniva, I want to thank you
1592 for the meeting we had today, and it was very cordial, with Paul and Randy, and I hope you
1593 understand it. So, I recommend approval to the Board of Supervisors of P-9-02, with the
1594 following conditions: No. 1, No. 2, No. 3, which is part A and B, No. 4, No. 5. No. 5 says "At
1595 least one uniformed security officer shall be on duty Friday and Saturday evenings from 9:00
1596 p.m. until all patrons leave the premises. The security officer shall periodically monitor the
1597 exterior of the premises, as well as the interior for possible criminal activity. The security officer
1598 shall either be an off-duty police officer or a licensed security guard" employed by a licensed
1599 security service company, and No. 6 and No. 7. I'd like to delete that and not have the picture
1600 windows in the wall, No. 8. I would like to keep No. 8 where it says "Outdoor dining area shall
1601 close at 12 midnight Sunday through Thursday, and by 2:00 a.m. Saturday and Sunday
1602 mornings, with the security officer on duty." I would like to approve No. 9 and No. 10, and these
1603 conditions are in accordance with the Land Use Plans, the Goals and Objectives and Policies for
1604 the Health, Safety and Welfare of the citizens. That is the end of my motion.

1605
1606 Mr. Jernigan - I will second Mr. Vanarsdall's motion.

1607
1608 Mr. Taylor - All right. Motion made by Mr. Vanarsdall and seconded by Mr.
1609 Jernigan. All in favor say aye. All opposed say no. The ayes have it. The motion is approved.

1610
1611 The Planning Commission approved P-9-02, Brian L. Buniva for Fox & Hound of Virginia, Inc.

1612
1613 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Jernigan, the Planning
1614 Commission voted 4-0 (one abstention and one absence) to recommend the Board of Supervisors
1615 **grant** the request because when properly regulated by the recommended special conditions, it
1616 would not be detrimental to the public health, safety, welfare, and values in the area.

1617
1618 Mr. Vanarsdall - Thank you all for coming.

1619
1620 **AT THIS TIME THE COMMISSION TOOK A 10-MINUTE BREAK.**

1621
1622 **THE COMMISSION RECONVENED.**

1623
1624 Mr. Taylor - Thank you very much, and I will turn the
1625 meeting over to Mr. Marles.

1626
1627 **C-49C-00** Henry L. Wilton: Request to amend proffered conditions
1628 accepted with rezoning case C-45C-99, on Parcels 748-756-8078 (58-A-3), 749-756-6440 (6) and
1629 749-756-6859 (6A) and part of Parcels 749-755-4576 (58-A-4) and 749-755-6396 (5), containing
1630 approximately 38.3 acres, located on the north line of Three Chopt Road at its intersection with
1631 Pell Street. The amendment would allow a seventy-five (75) unit townhouse development in
1632 place of a detached single-family development. The property is zoned R-6C General Residence
1633 District (Conditional). The Land Use Plan recommends Urban Residential, 3.4 to 6.8 units per
1634 acre, and Environmental Protection Area.

1635

1636 Mr. Marlies - The staff report will be given by Mr. Lee Householder.
1637
1638 Mr. Taylor - Is there anybody in opposition to Case C-49C-00? Two. Thank
1639 you very much. Oh, four. Mr. Householder.
1640
1641 Mr. Householder - Thank you, Mr. Chairman, and members of the Commission. As
1642 you remember, we talked about this case at great length at the May 9, 2002 meeting. Since that
1643 meeting, the applicant has held a meeting with concerned citizen's in the community on June 4,
1644 2002 and as a result of that meeting, they submitted revised proffers on June 7, 2002 that were
1645 handed out to you this evening. They attempt to address more community concerns. The most
1646 significant changes to the proffers include a revised site plan which is mainly in this area here
1647 (referring to rendering) and these are potential access points to be determined which one would
1648 best suit the site (referring to rendering), and the Traffic Engineer at the time of plan of
1649 development. Other changes include a 150' setback for the assisted living facility that is
1650 proposed on this property and a 75-foot buffer that would be in front of this facility along Three
1651 Chopt Road. They have also decreased the height of this assisted living facility to a two-story
1652 structure.
1653
1654 Overall, staff feels that the proposed amendment to allow residential townhouses and assisted
1655 living residences is consistent with the Urban Residential designation of the 2010 Land Use Plan
1656 and the zoning of surrounding properties. The applicant has also submitted proffers that staff
1657 feels will ensure a quality development on the site. Staff recommends approval of this request.
1658 Some of the issues that we have talked about for this case are largely POD issues remaining that
1659 the citizens have some concerns with Public Works issues, that our Planning staff feels can only be
1660 addressed at the time, of plan of development. I will answer any questions that you may have.
1661
1662 Mr. Taylor - Mr. Householder, what are some of the POD issues that are still in
1663 contention?
1664
1665 Mr. Householder - I think mostly with regard to wetlands and stream designations on
1666 the property. There is some debate between whether they are perennial or intermittent streams
1667 and Public Works has come down with a position that the one stream in question is actually an
1668 intermittent stream and not perennial. So, therefore, it does not require the additional buffering.
1669 It is not something we typically would discuss in detail at rezoning time. The other primary issue
1670 would be traffic and which access point would be best, either across here at Cedarfield Parkway, or
1671 here at Pell Street, and in the meeting we had with the community, the Traffic Engineer, Tim
1672 Foster, was there, and it was largely a discussion of traffic concerns and access at that meeting.
1673 Some of the points were resolved and some we had to leave for a time when site design came in
1674 for review. But I think those are primarily the concerns, and a BMP or possibly a location of a BMP
1675 would also be another issue that I see in this case.
1676
1677 Mr. Taylor - I think as I remember, at Deep Run Baptist Church, the traffic
1678 issues or the location across from Cedarfield offered certain advantages, and then the one offered
1679 the other one, Pell Street, offered certain other advantages. It was really indeterminate at this
1680 point in time as to which one was perhaps the most satisfactory, but basically both of them, as I
1681 remember the discussion, meet the minimums in terms of Tim Foster's view.
1682
1683 Mr. Householder - Correct, and that is why it was just dashed in to this concept plan
1684 so this didn't require the project to choose one or the other at this stage.
1685
1686 Mr. Taylor - Again, this would be relatively easy to resolve as a POD issue.
1687
1688 Mr. Householder - I would hope. Yes.

1689
1690 Mr. Taylor - All right, thank you. Anything else?
1691
1692 Mr. Householder - No. That is all I have.
1693
1694 Mr. Taylor - Any questions on behalf of the Commission?
1695
1696 Ms. Ware - I just want to make sure that on the staff report the density
1697 reflects the two-story.
1698
1699 Mr. Householder - It still does. What they have done with their proffers is instead of
1700 just having a general density for the entire property, they have, at the request of some citizens,
1701 pinned it down to 100 beds in the assisted living facility and 75 townhouse units. So, instead of
1702 having an overall density of 4.7 for the whole property, they just have done the density in terms of
1703 units, 100 units of assisted, plus 75 townhouses equates to about 4.56 units per acre, so it is
1704 slightly lower than the last time this case was before you. But there is less debate in density now,
1705 because it is firm and the unit count is what regulates the density now.
1706
1707 Ms. Ware - OK, with the assisted living.
1708
1709 Mr. Householder - Correct. With 100 beds, so the height of the building doesn't have
1710 any relationship to the density.
1711
1712 Mr. Taylor - Thank you, Mr. Householder.
1713
1714 Mr. Householder - Thank you.
1715
1716 Mr. Taylor - Do we want to hear from the applicant?
1717
1718 Ms. Sandra Verna - I hope so. My name is Sandra Verna and I am here on behalf of
1719 Wilton Development and also here tonight with me is Mark Petoski. Planning Staff recommended
1720 approval of this case based on the proffers that were submitted to you at the last Planning
1721 Commission meeting with the addition of the reduction of the number of townhouses to 75. After
1722 meeting with the neighborhood again, we added additional proffers to address their concerns as
1723 they had mentioned. In addition to the ones we had mentioned, we also added proffers that
1724 preserved all of the trees within the wetlands except for roads, utilities, signage or walkways, which
1725 are standard. We preserved the trees with a four-inch diameter or greater within the buffer areas.
1726 We reduced the hours of construction to between 6:30 a.m. and 7:30 p.m. and the hours of
1727 blasting, if necessary, to between 9:00 a.m. to 3:00 p.m. The Care Matrix case proffered 6.8 units
1728 per acre and a four-story assisted living care facility. The site plan was not proffered. Therefore,
1729 you can only go by the proffered conditions of the case, which stated, and I quote, "The overall
1730 residential net density shall not exceed 6.8 units per acre. The number of single-family
1731 independent living residences shall not exceed 85 units, and the balance of the count shall be
1732 assisted living beds contained in a single structure." That balance could be as many as 260
1733 assisted living units. We have proffered a two-story facility, and only 100 assisted living units. That
1734 original proffered building was four stories. This will be a quality development, similar to the
1735 Townes of Shady Grove that we are currently developing for Ryan Homes on Shady Grove Road.
1736 Additional sound proofing has been provided for the units parallel to Interstate 64. Current sales of
1737 the Townes at Shady Grove are averaging in the low \$200,000s. For these reasons, I respectfully
1738 request the Planning Commission approve this request. Any questions?
1739
1740 Mr. Taylor - Any questions on behalf of the Commission?
1741

1742 Ms. Verna - I didn't add anything that I said last time.
1743
1744 Mr. Taylor - Would you like to save some time for rebuttal?
1745
1746 Ms. Verna - Yes.
1747
1748 Mr. Taylor - All right, thank you. Would Mr. Petoski like to speak or...
1749
1750 Mr. Petoski - I don't have anything.
1751
1752 Mr. Taylor - OK. Fine. Let us hear from the opposition. Mr. Kovacs.
1753
1754 Mr. David Kovacs - Hello. My name is David Kovacs. You've seen me here before. I
1755 am really here for Duncan and Cammy Mills tonight. They had an engagement down in Chester
1756 and they were not able to get back in time. Lee has a letter that he is passing out. I just want to
1757 highlight it and first give thanks to the Commission for continuance the last time around, and
1758 having the next community meeting that was very well attended. I just wanted to emphasize from
1759 his letter, he says, "We, Cammy and Duncan, expressed during the June 4 meeting Deep Run
1760 Manor as opposed to mixed-use development, such as the one proposed by Wilton Real Estate.
1761 We continue to support the currently proffered development proposed by Care Matrix that would
1762 allow for totally age-restricted community." In his next paragraph, he says, "While we do not feel
1763 we can support the development plan offered by Wilton, it would be much more palatable if the
1764 community was developed as a total townhouse concept, without any assisted living care units.
1765 This proposal would then, at least, offer high class, unified townhouse development along Three
1766 Chopt Road. We firmly believe that adding the residential living units, assisted living units, will
1767 detract from an otherwise non age-restricted community and negatively impact upon property sales
1768 in that area as a whole. If the Planning Commission approves the additional proffers as requested
1769 by Wilton Real Estate over the desires of the current residents, we do not want to face another
1770 hearing a few years down the road. We can easily foresee Wilton or another developer attempting
1771 to change the assisted living units to a three or four-story building. We'd support any measures to
1772 stop that for happening. We thank you for your time and assistance."
1773
1774 Other residents from Deep Run Manor and Three Chopt, who are more directly affected than what
1775 I am will also be addressing that issue.
1776
1777 Mr. Taylor - Thank you, Mr. Kovacs.
1778
1779 Mr. Marles - Yes, sir. Would you state your name and address, please.
1780
1781 Mr. George Wilcox - Yes. My name is George Wilcox. For the last 21 years I have had
1782 a distinct privilege to live at 3302 Pell Street, along with my family. We have enjoyed over that
1783 period of time the pleasure of seeing deer and other wild life roam through the area and enjoy
1784 certainly the wetlands, which are close by, and at that time certainly not threatened. I am also
1785 here to support the letter written by Mr. Mills, who really serves as a lead spokesman for the Deep
1786 Run Manor Family. More specifically, we did support, might I say I supported the Care Matrix plan,
1787 and that was supported at the opposition in some measures to others in the area. Care Matrix did
1788 opt to change their plan and move the assisted living unit closer to Interstate 64. This plan is an
1789 attempt to go back and reverse what actually happened and the community agreed upon
1790 previously. We are very concerned that if this plan were approved that they could, in fact, place up
1791 to a four-story unit right in my front yard. I've supported in the Care Matrix window placing the
1792 properties over against 64 and continue to believe that that is the best location. The second major
1793 concern is certainly the passage way. Living on that corner, I would like to continue to be able to
1794 opt to turn left or right out of my driveway. When Mr. Foster shared comments during the meeting

1795 on June 4, he indicated that that was certainly an option, and while that decision won't be made
1796 tonight, we would want to speak to the need that, not only would I be able to continue to make a
1797 right or a left out of Pell Street, that the communities and arteries that also use that passage way
1798 would not be further restricted by having to go down to Cox Road or come out and make a u-turn
1799 in order to pursue their route of choice. Those are my major points, and I certainly appreciate the
1800 extent, or limited extent, to which the Wilton Realty Corporation heard our concerns on June 4, but
1801 we are still concerned that their reluctance to follow the Care Matrix plan of placing the assisted
1802 living unit over against 64 will at some point in the near future come back to haunt us. We would
1803 also certainly like to get this plan in a more restricted nature went forward, that the buffer against
1804 Three Chopt be maintained, that the natural wooded area and tree front not be disturbed, and that
1805 the maximum footage be maintained in that area. We would most pleased if the development
1806 remained totally a restricted community and to consider the fact that Cedarfield, Marriott and a
1807 number of other properties in that area provide assisted living facilities, and, in fact, there is one
1808 down on Three Chopt at the corner of Three Chopt and that escapes me. That is currently Gaskins.
1809 Thanks, that is currently closed. We don't believe there is a unique need at this time for an
1810 additional assisted living facility to be placed in that area. I certainly appreciate your concern for
1811 the development of the property and would hope that you would assist us in maintaining a high
1812 quality standard of living in that far West End area of Henrico County. Thank you very much.
1813

1814 Mr. Taylor - Thank you, Mr. Wilcox. I believe there were several other
1815 neighbors that wanted to speak. If you would, sir, please come down to the podium and state your
1816 name for the record.
1817

1818 Mr. Richard Solari - My name is Richard Solari and I live 10805 Three Chopt Road. I
1819 have been here before, a number of times. How many times have we been here? Twelve or 13
1820 times now, for the different hearings and deferrals associated with this piece of property, and quite
1821 frankly, I don't have anything new for you tonight. You heard it all before and I hope you were
1822 listening then. I am opposed to this development with this set of revised proffers for the reasons
1823 you have heard time and time again, for the reasons you have heard put forth by a couple of my
1824 neighbors here tonight, the hellish traffic situation on Three Chopt Road, the location of the
1825 assisted living facility, the abandonment of the age restriction, the total lack of environmental
1826 sensitivity associated with this proposal. Mr. Taylor, you were at the June 4th meeting yourself. I
1827 appreciate you being there with us and you heard all of the community opposition to it there. As I
1828 said, I am opposed to it. All of my neighbors, without exception, are opposed to it. You heard
1829 from two other adjacent subdivisions that are opposed to it. No one, other than the applicant, has
1830 ever spoken in favor of it, so I just wanted to ask of you sitting up there tonight to pause for just a
1831 moment before you vote on this and ask yourself: Who do you represent as you sit up there? Do
1832 you represent the numerous residents of Three Chopt District and, in turn, the residents of all of
1833 Henrico County, or are you going to represent the interests of one developer and one attorney? I
1834 again urge you to vote to deny this proposal tonight. Thank you.
1835

1836 Mr. Taylor - Thank you, Mr. Solari. Now I have a question for you. I was at
1837 that same meeting you were at, and I really heard a lot of support for this project. I did not hear
1838 that much opposition. I felt that the applicant explained it. There was some discussion about it.
1839 But I didn't hear any vehement opposition.
1840

1841 Mr. Solari - I most certainly heard opposition. We have some other people
1842 who were at that meeting, and there was most definitely opposition to it, not just by me and Mr.
1843 Kovacs but others. Do you have any documents? And I have certainly never seen or heard anyone
1844 at these meetings speaking in favor of it.
1845

1846 Mr. Taylor - Well, sir, what I heard is opposition to any development there. I
1847 didn't hear - I heard very little of that. The people were concerned. They went all the way back to

1848 the Care Matrix and said they wished that Care Matrix was the development of choice, and when
1849 that came up the first time, it was, we discussed that. We discussed that and the first time I think
1850 was in the year 2000.

1851
1852 Mr. Solari - Yes. I am well aware of when it was discussed. And one thing
1853 that I have tried to make clear to you all. I thought you all understood. What we have here
1854 tonight, this is marked different from the Care Matrix proposal. That is what Mr. Wilcox was just
1855 discussing. The assisted living facility was not right there. It was in the far northwest corner of the
1856 property along 64. The Care Matrix proposal had major restrictions associated with it. That has
1857 been deleted from this proposal. It is not the same proposal.

1858
1859 Mr. Taylor - It is not the same proposal, but I do recognize the fact that it was
1860 a proposal. It is the proposal that was there to be developed. I mean, the deer and the wild life is
1861 still there; everything is pretty much all the same. The nature of the Care Matrix project, which we
1862 disapproved, has changed into another project using townhouses. With regard to the roads, Mr.
1863 Foster was at that meeting and I thought that he adequately discussed the capacity of those roads.
1864 I know that there were significant decisions long after I left, but I heard no vigorous opposition to
1865 the roads. He explained that Three Chopt Road would be widened. There would be extra
1866 entrances adjacent to either Cedarfield or Pell, there would be another one that would be further
1867 up the hill, but that Three Chopt Road would be widened along its entire length and would be
1868 adequate to handle the traffic.

1869
1870 Mr. Solari - Three Chopt Road is going to be widened. That is correct. It is
1871 going to be widened probably twice, once associated with this development, and once again when
1872 the County gets around to doing it again. That does nothing to change the fact that this increases
1873 the traffic flow dramatically on Three Chopt Road. Again, specifically associated with one of the
1874 proffered conditions that got thrown out and that is the age restriction. This was age restricted,
1875 you know, retired folks would live there and you wouldn't have that increase in the rush hour
1876 traffic. You wouldn't have school-age children, etc. With that age requirement gone, you've got to
1877 expect that to be part of the residents in this community.

1878
1879 Mr. Taylor - You do realize, though, Mr. Solari, that there is an age-restricted
1880 group that is going to be included in there with the assisted care facility.

1881
1882 Mr. Solari - The assisted living facility may or may not have an age restriction
1883 associated with it.

1884
1885 Mr. Taylor - Well...

1886
1887 Mr. Solari - Right now it is not there at all. They are just reserving five acres
1888 for that, and we get to deal with that again later. So, I don't think you can say one way or the
1889 other that there is or there isn't, but as far as the townhouses that are definitely a part of the
1890 proposal now, there is no age restriction, and there was one before, and that is a marked
1891 difference between this proposal and the Care Matrix.

1892
1893 Mr. Taylor - I will let the applicant address that one. Is that all you have, sir?

1894
1895 Mr. Solari - Yes.

1896
1897 Mr. Taylor - Thank you very much for your comments. I appreciate that. I
1898 believe that there was one other person. No other opposition? Would the applicant like to rebut?

1899
1900 Mr. Marlles - You have eight minutes.

1901
1902 Ms. Verna - OK. We have met with the community. We met with the
1903 community twice. I am a little confused about the community's support for Care Matrix, and then
1904 they look at our development and say they are totally opposed to it. The big difference between
1905 our development and the Care Matrix site is Care Matrix has 85 age-restricted single independent
1906 living units. We have 75 townhouse units. The Ryan Homes. The models that have been
1907 developed, the majority of the people or at least 50% of the people that live in those homes are
1908 over the age of 50, and one in ten have children. So, this isn't the type of development that
1909 attracts a lot of young single couples that are going to have a lot of children. One of the benefits of
1910 having an age-restricted type of development and one of the benefits of the Care Matrix site was,
1911 of course, the traffic generation, a low traffic generation, and our site has been evaluated
1912 regardless of the mix of age with the townhouse development, and it has been stated time and
1913 time again that our development is not going to make the traffic any worse on Three Chopt. So,
1914 that is no longer an issue. The other issue, I do understand these people have been here many
1915 times before. This is the first time that Mr. Wilton has actually put in a proposal on this site. I
1916 think the difference between Wilton Development and the other people that have come before you
1917 is Mr. Wilton does not buy property to sit on it, to just let time pass. He buys property to develop
1918 it, so what he has proffered in this case, he has proffered that we will have a natural buffer area.
1919 He has proffered that there is an age restriction on the assisted living care facility. He has
1920 proffered that the assisted living care facility will only be two stories. He has proffered that facility
1921 will be 50% brick; not the front but the entire facility. He has proffered that the architectural
1922 character of that facility will blend into the residential areas that surrounds it. We would not be
1923 proposing \$200,000 plus town homes next to a facility that we thought would devalue the property
1924 and the town homes that live there, so for those reason, I feel this case is very compatible with the
1925 area. It is very compatible with the property and it is actually an improvement over the Care Matrix
1926 site, and for those reasons, I respectfully request that the Planning Commission approve this case.
1927
1928 Mr. Taylor - Thank you, Ms. Verna. Are there any more questions on behalf of
1929 the Commission? Is Mr. Householder here? Mr. Householder, I know that Mr. Foster is not here
1930 tonight, but on the issue of traffic, I distinctly remember that to be an issue and I think that the
1931 traffic would be no worse is probably the key condition there.
1932
1933 Mr. Householder - My understanding with Mr. Foster's position on this is that the
1934 traffic situation is bad right now, and the increase in traffic, this will certainly increase traffic, but it
1935 is already a bad situation and you won't really notice the additional trips that are generated by this
1936 request. In the future, there are road improvements planned, not only on Three Chopt, but other
1937 parts of the western part of the County that we feel will alleviate this part of this area. It is not
1938 going to happen in the next year or two, but down the road most trips will probably function
1939 toward the west on Three Chopt as opposed to heading east and then onto Gaskins and 64, and he
1940 feels like this will be alleviated in time. And that this development will not have an adverse impact.
1941
1942 Mr. Taylor - Let me go on to the issue of the Care Matrix versus age-restricted
1943 two story. As I look at those two, I really don't see in the discussion a compelling difference
1944 between the two. They look to me to be virtually, in terms of traffic generation and conditions, and
1945 I guess visual impact, equivalent.
1946
1947 Mr. Householder - Well, the major difference in the assisted living facility and the
1948 Care Matrix proposal was supposed to go up against 64. It was a proffer, and that over 600 foot
1949 setback was proffered in that case. In this proposal that is pushing the assisted living back toward
1950 Three Chopt, but they have also provided additional setback and buffering in the case. We have a
1951 lot more proffered information in this request than we did in the previous one.
1952

1953 Mr. Taylor - And I think with the townhouses backing against 64, we have a
1954 precedent in a previous case that we could require additional soundproofing in the development of
1955 those if a study would show that that would be a problem. Is that correct?
1956

1957 Mr. Householder - They have proffered additional soundproofing for the units here,
1958 and they have also, in a design sense, at least minimized the amount of units that are against 64
1959 with making them perpendicular to the right of way as opposed to lining four units backyards
1960 against it. There is a little bit of minimization through design, and there is a proffer for additional
1961 soundproofing. Highways generate a significant amount of noise, how much affect that will have is
1962 yet to be seen.
1963

1964 Mr. Taylor - And Mr. Solari, I believe spoke to the wildlife there. As I looked
1965 over the proposal, there is no impact on the wetland areas, and I don't understand why the deer
1966 and the other wildlife wouldn't be able to exist as they do now, because I think that they were, the
1967 structures were well away from the buffers, were they not?
1968

1969 Mr. Householder - I am not an expert on where the deer would stay. I would
1970 imagine you disturb land, that is obviously going to disturb wild life, but they have minimized the
1971 impact upon the environmentally sensitive areas with this proposal.
1972

1973 Mr. Taylor - For the most part, the other issues that you have heard tonight,
1974 they were a few that we still need to resolve. We've got the basics on traffic and on some of the
1975 trees and the wetlands and the four-inch diameter of trees being left standing, but I think those are
1976 all POD issues.
1977

1978 Mr. Householder - And some of those things have been proffered to ensure that they
1979 will and to help the POD staff in reviewing this request.
1980

1981 Mr. Taylor - And there is a natural buffer in there? Could you address this
1982 issue of the intermittent stream, or is this just a discussion between professionals?
1983

1984 Mr. Householder - My understanding of it is that Mr. Perry has visited the site,
1985 determined the stream to be dry. He has been asked to re-evaluate his position. He has
1986 determined that his position from before will remain, and in addition, he made a determination and
1987 then he made another visit to the site and it was dry on the second visit. So, I really feel like Public
1988 Works is firm in their position on the stream designation.
1989

1990 Mr. Taylor - All right. Thank you very much.
1991

1992 Mr. Jernigan - Mr. Householder, you were at the last meeting?
1993

1994 Mr. Householder - Yes. I was.
1995

1996 Mr. Jernigan - What would you say was the general feeling of the people there?
1997

1998 Mr. Householder - I think there was an air of cooperation to the sense that I don't
1999 think anyone really wants to see development on this property, but they were voicing the concerns
2000 that they have with this specific proposal, and it was mainly a traffic oriented meeting, and Mr.
2001 Foster was doing most of the talking, so the focus of that meeting was largely on the widening of
2002 *Three Chopt and the impact of traffic generation*. I don't think there was anyone who actually said
2003 they were in support of the request, but I came away with the feeling that there were some issues;
2004 the placement of the assisted living facility was a primary issue at that meeting, and they have
2005 increased the setback.

2006
2007 Mr. Vanarsdall - Mr. Householder, you are recommending it tonight, aren't you?
2008
2009 Mr. Householder - Correct.
2010
2011 Mr. Vanarsdall - So, all of these things can be worked out if Mr. Taylor
2012 recommends it to the Board; all these things can be worked out at Board time, can't it?
2013
2014 Mr. Householder - If there are any additional issues that could be worked out, yes.
2015
2016 Mr. Vanarsdall - We have been working on it since July 13, 2000.
2017
2018 Mr. Householder - Yes, almost two years. But it was a different proposal.
2019
2020 Mr. Vanarsdall - I don't think you are ever going to get all of the things on it.
2021
2022 Mr. Taylor - Well, I think, sir, we have been very careful with this one. I will
2023 say that.
2024
2025 Mr. Vanarsdall - I don't think you are ever going to get it where everybody can be
2026 satisfied, and you ought to send it on to the Board and let them handle it.
2027
2028 Mr. Taylor - Thank you, Mr. Householder.
2029
2030 Mr. Householder - You are welcome.
2031
2032 Mr. Taylor - Well, that Mr. Vanarsdall is an issue if we want to develop this at
2033 all or just leave it. But I think Mr. Kaechele and I met with the group and we discussed at great
2034 length the traffic along Three Chopt Road, which is a busy road. There is just no question about it.
2035 The County has large scale traffic improvement plans over the near future and over the next
2036 several years will implement them. I think Mr. Kovacs is right with the placement of the assisted
2037 care. The assisted that Care Matrix had was a prominent part, as is the present concept, and it is a
2038 question of how to best locate it. Mr. Wilton feels by putting the townhouses in the back of the
2039 site, for him it has the best use, and he feels either one of the two will work. I am satisfied with his
2040 record of performance, so I think I must defer to the developer for that one. And with the
2041 townhouse nature, I believe that the townhouses that are planned in there are upscale, fine units,
2042 and it will be a credit to the community, and the trees, the amenities that exist there now,
2043 particularly with the wetlands and the streams, I think, are really areas to develop around, but I
2044 think it will be a very attractive environment for development. So, with that, I am going to
2045 recommend approval of Case C-49C-00.
2046
2047 Mr. Vanarsdall - I second that.
2048
2049 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Vanarsdall to
2050 approve Case C-49C-00. All in favor say aye. All opposed say no. The motion passes.
2051
2052 The Planning Commission approved recommendation of approval of Case C-49C-00, Henry L.
2053 Wilton, to the Board of Supervisors.
2054
2055 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning Commission
2056 voted 4-0 (one abstention and one absence) to recommend the Board of Supervisors **grant** the
2057 request because it conforms to the Urban Residential recommendation of the Land Use Plan and

2058 the proffered conditions would provide for a higher quality of development than would otherwise be
2059 possible.

2060

2061 **C-34C-02 Curtis D. Gordon:** Request to rezone from A-1 Agricultural District to R-3C One
2062 Family Residence District (Conditional), Parcel 738-756-5709 (56-A-31), containing 1.52 acres,
2063 located on the south line of Sunrise Road approximately 500 feet west of Pump Road. A single
2064 family subdivision is proposed. The use will be controlled by proffered conditions and zoning
2065 ordinance regulations. The R-3 District allows a minimum lot size of 11,000 square feet. The
2066 Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

2067

2068 Mr. Marllles - The staff report will be given by Mr. Tom Coleman.

2069

2070 Mr. Taylor - Good evening, Mr. Coleman.

2071

2072 Mr. Coleman - Thank you, Mr. Chairman. This request would rezone a 1.52 acre
2073 parcel from A-1 to R-3C. The proposed single-family residential use is consistent with the
2074 surrounding area, and the proffers submitted with this application provide assurances of quality
2075 development consistent with recently approved applications for nearby parcels

2076

2077 The applicant also controls two (2) adjacent parcels to the east. A 1.33-acre parcel was rezoned
2078 to R-3AC in 1992 and received an approved conditional subdivision. A 1.615 acre was rezoned to R-
2079 3C in 2001. To date, no development activity has occurred on these parcels.

2080

2081 The applicant submitted proffers requiring brick foundations, requiring chimneys to have a brick
2082 veneer, and prohibiting cantilevered chimneys. The proffers also increase the minimum house size
2083 to 1,500 square feet for two-story dwellings and 1,200 square feet for one-story dwellings. These
2084 proffers are consistent with the proffers approved last year with Case C-43C-01.

2085

2086 The requested zoning change is consistent with the surrounding area and the 2010 Land Use Plan.
2087 Staff recommends approval and I will be happy to answer any questions.

2088

2089 Mr. Taylor - Are there any questions from members of the Commission? No
2090 questions? Is the applicant here? Mr. Gordon. If you would, please.

2091

2092 Mr. Curtis Gordon - Members of the Commission, my name is Curtis Gordon and I am
2093 here on behalf of Western Developers, which I both represent and am the principal of. I would like
2094 to save some time in rebuttal, and I will be very brief in my opening remarks. This property is, as
2095 Mr. Coleman indicated, continuous to a parcel, which was rezoned just last year and will be
2096 developed in conformity with that. This parcel, I think, is uniquely suited for that purpose. And I
2097 grew up in Short Pump. The entire West End is now far different than I remember it being, and it is
2098 important, I think, to develop a uniform pattern, and that is what we are attempting to do here. I
2099 will be happy to answer any questions any of the members have. Thank you.

2100

2101 Mr. Taylor - All right, thank you very much, Mr. Gordon. From the opposition,
2102 if you would please state your name and...

2103

2104 Ms. Sharon Schwartz - My name is Sharon Schwartz and I live at 11915 Sunrise Road. I
2105 am the property adjacent to Ms. Forbe's property. I appreciate the opportunity to speak to you all
2106 tonight, and I am here basically to ask for your help. Coventry was built on the other side of me
2107 about 10 years ago. Since Coventry was built, I have nothing but aggravation from the children and
2108 adults trespassing on my property. Adults clean their yards and streets and throw and dump the
2109 trash on my property. I have an acre field behind my property and it is open. They see that and
2110 they immediately think that is a playground or park. They bring their dogs over there and they just

2111 turn them loose and let them run at will. When I go out there and remind these people that this is
2112 private property, they become very angry with me. When I try to talk to the adults about their
2113 children coming over there, and I don't want them to get hurt on my property, I am told to leave
2114 their children alone. I have put up "No Trespassing" signs to no avail. The kids tear them down
2115 and continue to trespass. I have now placed "No Trespassing" signs very high in the trees where
2116 the kids can't reach them, and a Henrico Police Officer told me to do this, and I have also placed a
2117 wooden "No Trespassing" sign in my back field. I've had to call the police several times to deal
2118 with these trespassers. Basically all I want is, I just want these people to give me the same respect
2119 for my privacy and my property as I am giving them. For these reasons, I would like for the
2120 developer of this property here next to me to either construct a privacy fence or provide some type
2121 of buffer between me and that property facing the entire length of my property, and I feel like if
2122 that is already there when these people move in, they won't be so eager to come over on my back
2123 field and play, and that's all I am here for.

2124
2125 Mr. Taylor - Thank you, Ms. Schwartz. Let me talk to Mr. Gordon, if I may,
2126 because I really, I may need your help, because I am not exactly sure where the fence goes or
2127 where the parcel goes, and maybe I should just simply leave this to you, because this seems to me
2128 like a housekeeping issue, and it is not an objection to your plan. It is an invitation to work
2129 together with Ms. Schwartz and Mr. Schwartz and see what we can do, and for the most part, it is
2130 County enforcement activity and police activity to get things cleaned up. Now if there is a fence in
2131 there that you could help with after you take a look at it, and as I say, I am not exactly sure where
2132 the dump is, but I think Mr. Gordon that maybe you and I could go over there and take a look and
2133 come up with a reasonable resolution of this.

2134
2135 Mr. Gordon - The only observation I would have is there is currently a chain-link
2136 fence between the existing house, which I anticipate will remain after some refurbishing, and Ms.
2137 Schwartz' property, and Ms. Schwartz has behind her a large open field, which I believe a chain-link
2138 fence runs the entire length of her property. It is hard to tell, because after it passes the - some
2139 number of feet - 15-20 feet behind the property, it becomes overgrown with a very dense natural
2140 barrier. So, while I can empathize with Ms. Schwartz and the problem she is having with property
2141 behind her, because there is no barrier, there really is already a barrier here and there is an
2142 existing house, which I think will stay, which has a chain-link fence, where the house in the future
2143 behind there will be one house if you go to her property, already has now, at least in this kind of
2144 season when it is green, a very thick natural buffer.

2145
2146 Mr. Thornton - Gentlemen.

2147
2148 Mr. Taylor - Yes, sir, Mr. Thornton.

2149
2150 Mr. Thornton - May I ask, I can't tell where Ms. Schwartz' house is, according to
2151 this. Would someone point it out please? OK. Thank you very much.

2152
2153 Mr. Taylor - If I might just expand on what Mr. Thornton asked, where is the
2154 debris field that everybody is dumping? Is that in the A-1 portion.

2155
2156 Ms. Schwartz - OK. Now, behind my property there is a drainage ditch.

2157
2158 Mr. Taylor - Behind your property on the Coventry side?

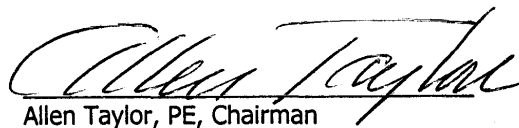
2159
2160 Ms. Schwartz - No. Behind it.

2161
2162 Mr. Taylor - OK. That is in the agricultural area that is right behind your house
2163 to the south, and people are dumping in that A-1 field. It is a wooded area.

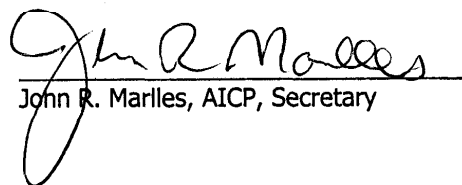
2164
2165 Mr. Schwartz - In the wooded area, there are tires and all of that kind of stuff.
2166 We go back there and clean it up.
2167
2168 Mr. Taylor - Well, I believe that is really, if you could bear with me, that is kind
2169 of a housekeeping thing and enforcement issue, and I would be happy, personally, as your
2170 Planning Commissioner, to work with Mr. Gordon and with the County to do what we can via a
2171 housekeeping issue, a police issue, or a development issue.
2172
2173 Mr. Vanarsdall - Let me see if I understand it. You want to build a house on it, Mr.
2174 Gordon, right?
2175
2176 Mr. Gordon - There is one house, there, existing. And behind the existing
2177 house would be one other lot. There will be a total of four lots.
2178
2179 Mr. Vanarsdall - What are you going to do with the property next to her?
2180
2181 Mr. Gordon - There is an existing house there and behind that will be another
2182 house.
2183
2184 Mr. Vanarsdall - Behind that house will be another house. You are going to build
2185 two houses on one lot?
2186
2187 Mr. Gordon - I anticipate, I anticipate the existing house will remain, after some
2188 refurbishing. I anticipate that. I cannot promise that.
2189
2190 Mr. Vanarsdall - You can't build two houses on one lot, can you?
2191
2192 Mr. Gordon - No, sir. There are four lots total, and we can think of them as one
2193 right behind the other.
2194
2195 Mr. Vanarsdall - OK.
2196
2197 Mr. Gordon - Next to Ms. Schwartz...
2198
2199 Mr. Vanarsdall - Oh, I see it here. All she is asking for you to do is put up a
2200 privacy fence. This is not a police issue. It is not a County issue. You don't have to do anything,
2201 because the property is zoned the same as yours, but it would be a goodwill issue. It is as simple
2202 as that.
2203
2204 Mr. Gordon - Yes, sir. I understand that, but there is a fence right now between
2205 the existing house, which I think will remain, and Ms. Schwartz' house.
2206
2207 Mr. Vanarsdall - What I am saying is, all she is asking you to do is to put up a
2208 privacy fence.
2209
2210 Mr. Gordon - And I will be happy to discuss that with her. I will be more than
2211 happy to.
2212
2213 Mr. Vanarsdall - It is not a County issue. It is not a Public Works issue. It is not a
2214 police issue. It is nobody's issue. It is between you all two. And we are just asking you to do it to
2215 keep peace in the family.
2216

2217 Mr. Gordon - I will be more than happy to meet with her. I will give her my
2218 card tonight, and I will be more than happy to discuss that with her.
2219
2220 Mr. Taylor - And I would be willing to assist. So with that, I will move for
2221 approval of Case C-34C-02, Curtis Gordon.
2222
2223 Mr. Vanarsdall - Motion made by Mr. Taylor and seconded by Mr. Vanarsdall. All in
2224 favor say aye. All opposed say no. The motion passes.
2225
2226 The Planning Commission approved recommendation of approval of Case C-34C-02, Curtis D.
2227 Gordon, to the Board of Supervisors.
2228
2229 REASON: Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning
2230 Commission voted 4-0 (one abstention and one absence) to recommend the Board of Supervisors
2231 **grant** the request because it is appropriate residential zoning at this location.
2232
2233 Mr. Jernigan - I know this is over, but can I say one thing. How much of that
2234 area is wooded? We are looking at your house. Is all this area back here wooded (referring to
2235 rendering).
2236
2237 Mr. Schwartz - No, sir. That is largely an open field, but then it goes into the
2238 woods, sir, and it goes back to this spot.
2239
2240 Mr. Jernigan - Do they dump on the cleared property or just in the woods?
2241
2242 Mr. Schwartz - Well, they come on the cleared property with dogs and all that
2243 stuff, and we called the police department and they ran them off, but this cleared field. You go
2244 back so far and it is woods. Our property runs back in the woods, and then Ms. Clay's joins it in the
2245 back.
2246
2247 Mr. Taylor - Would you please take my card and give me a call.
2248
2249 Mr. Jernigan - What I was just wondering, and this is just a suggestion, rather
2250 than a fence, if that area was all cleaned of all the woods...I was just wondering, maybe you'd have
2251 less people throwing trash in there.
2252
2253 Mr. Vanarsdall - Yes, I see what Ray is saying.
2254
2255 Mr. Jernigan - You know, if it was a nice and clean and had grass and all on it,
2256 people may be reluctant to come over and throw things. I know the problem with woods. They
2257 throw them in my woods. That was just a thought.
2258
2259 Mr. Taylor - If it looks like a dump, people will dump.
2260
2261 Mr. Schwartz - No. I keep it clean. Grass cut and all. It looks like a golf course.
2262
2263 Mr. Jernigan - We will work it out.
2264
2265 Mr. Vanarsdall - Thank you very much.
2266
2267 Mr. Taylor - Mr. Secretary, I think that is pretty much it except for the
2268 approval of the minutes.
2269

2270 Mr. Marles - For the May 9 meeting. Yes, sir.
2271
2272 Mr. Taylor - Do we have any changes to the minutes of the May 9th meeting?
2273
2274 Mr. Vanarsdall - I move approval.
2275
2276 Mr. Jernigan - Second.
2277
2278 Mr. Taylor - Motion made by Mr. Vanarsdall and seconded by Mr. Jernigan to
2279 approve the minutes of the May 9, 2002 meeting. All in favor say aye. All opposed say no. The
2280 motion passes and the minutes are approved.
2281
2282 Do we have a motion to adjourn?
2283
2284 Mr. Vanarsdall - I make a motion to adjourn.
2285
2286 Mr. Taylor - Second. We had a motion to adjourn and a second by Mr. Taylor.
2287 All in favor say aye. All opposed say no. The meeting is adjourned.
2288
2289
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2301



Allen Taylor, PE, Chairman



John R. Marles, AICP, Secretary