

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico, held in the County Administration Building in the Government
3 Center at Parham and Hungary Springs Roads, beginning at 7:00 p.m. Thursday,
4 June 14, 2007. Display Notice having been published in the Richmond Times-
5 Dispatch on May 24, 2007 and May 31, 2007.

6

Members Present: Mr. E. Ray Jernigan, C.P.C., Acting Chairperson (Varina)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)
Mrs. Bonnie-Leigh Jones (Tuckahoe)
Mr. Frank J. Thornton (Fairfield)
Board of Supervisors Representative
Mr. Randall R. Silber, Director of Planning, Secretary

Members Absent: Mr. Tommy Branin, Chairperson (Three Chopt)

Also Present: Ralph J. Emerson, Jr., AICP, Assistant Director of Planning
Ms. Jean M. Moore, Principal Planner
Mr. Lee Tyson, County Planner
Mr. Seth Humphreys, County Planner
Ms. Rosemary Deemer, County Planner
Mr. Livingston Lewis, County Planner
Mr. Benjamin Sehl, County Planner
Ms. Sylvia Ray, Recording Secretary

7 **Mr. Frank J. Thornton, the Board of Supervisors' representative, abstains**
8 **on all cases unless otherwise noted.**

9

10 Mr. Jernigan - Good evening, ladies and gentlemen. On behalf of
11 the Planning Commission and the Planning staff, we'd like to welcome you to the
12 June 14, 2007 Planning Commission hearing. Mr. Branin, who is our chairman,
13 is not with us tonight; he couldn't be here. I'm the Vice Chairman and am taking
14 his place. With that, I will turn the meeting over to Mr. Silber, our secretary.

15

16 Mr. Silber - Thank you Mr. Chairman.

17

18 Mr. Jernigan - I'm sorry. First of all, we want to welcome Mr.
19 Thornton, our supervisor from the Fairfield District, who is sitting on the
20 Commission this year.

21

22 Mr. Silber - Thank you, Mr. Jernigan. As has been indicated, we
23 do have all members present this evening with the exception of Mr. Branin. First
24 on the agenda would be consideration of withdrawals and deferrals. We don't
25 have any withdrawals, but we do have several deferrals, so if we could hear
26 about those, Ms. Moore.

27 Ms. Moore - Okay. The first is on page 1 of your agenda. It's in the
28 Brookland District. It is C-10C-07. The deferral is requested to the August 9,
29 2007 meeting.

30

31 ***Deferred from the March 15, 2007 Meeting.***

32 **C-10C-07 David Johannas for Pied Venture LLC:**
33 Request to conditionally rezone from B-2 Business District to R-6C General
34 Residence District (Conditional), Parcel 772-737-7160, containing 2.874 acres,
35 located between the north line of Fitzhugh Avenue and the south line of Markel
36 Street, approximately 236 feet southeast of Byrd Avenue. The applicant
37 proposes residential condominiums. The R-6 District allows a maximum gross
38 density of 19.8 units per acre. The use will be controlled by zoning ordinance
39 regulations and proffered conditions. The Land Use Plan recommends Office
40 and Environmental Protection Area. The site is located within the Enterprise
41 Zone.

42

43 Mr. Jernigan - Is there any opposition to the deferral of C-10-07,
44 David Johannas for Pied Venture, LLC? There is no opposition.

45

46 Mr. Vanarsdall - Mr. Chairman, I move that C-10C-07, David Johannas
47 for Pied Venture, LLC, be deferred to August 9, 2007, at the applicant's request.

48

49 Mr. Archer - Second.

50

51 Mr. Jernigan - Motion made by Mr. Vanarsdall, seconded by Mr.
52 Archer. All in favor say aye. All opposed say no. The ayes have it, the motion
53 carries.

54

55 At the request of the applicant, the Planning Commission deferred C-10C-07,
56 David Johannas for Pied Venture, LLC to its meeting on August 9, 2007.

57

58 Ms. Moore - Also on page 1 of your agenda is C-64C-06, Wistar
59 Creek, LLC. The deferral is requested to the August 9, 2007 meeting.

60

61 ***Deferred from the May 10, 2007 Meeting.***

62 **C-64C-06 Jennifer D. Mullen for Wistar Creek, LLC:** Request
63 to conditionally rezone from R-3 One-Family Residence District to RTHC
64 Residential Townhouse District (Conditional), Parcels 767-750-8298, 767-751-
65 8651, 768-750-0490, 768-751-0638, 768-751-2435, 768-751-4119, and 768-751-
66 1362 containing 24.46 acres, located on the south line of Wistar Road
67 approximately 142 feet west of Walkenhut Drive. The applicant proposes a
68 residential townhouse development with a maximum of 130 dwelling units, an
69 equivalent density of 5.31 units per acre. The maximum density allowed in the
70 RTH District is nine units per acre. The use will be controlled by zoning
71 ordinance regulations and proffered conditions. The Land Use Plan

72 recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre and
73 Office.

74
75 Mr. Jernigan - Is there any opposition to the deferral of C-64C-06,
76 Jennifer D. Mullen for Wistar Creek, LLC? No opposition, Mr. Vanarsdall.

77
78 Mr. Vanarsdall - Mr. Chairman, I move that C-64C-06, Jennifer D.
79 Mullen for Wistar Creek, LLC, be deferred to August 9, 2007, at the applicant's
80 request.

81
82 Mrs. Jones - Second.

83
84 Mr. Jernigan - Motion made by Mr. Vanarsdall, seconded by Mrs.
85 Jones. All in favor say aye. All opposed say no. The ayes have it, the motion
86 carries.

87
88 At the request of the applicant, the Planning Commission deferred C-64C-06,
89 Jennifer D. Mullen for Wistar Creek, LLC, to its meeting on August 9, 2007.

90
91 Ms. Moore - Next is case C-20C-07, Meridian Manor, LLC. The
92 deferral is requested to the July 12, 2007, meeting.

93
94 ***Deferred from the May 10, 2007 Meeting.***
95 **C-20C-07 Meridian Manor, LLC:** Request to conditionally
96 rezone from O-3 Office District and O-3C Office District (Conditional) to R-6C
97 General Residence District (Conditional) and O-3C Office District (Conditional),
98 Parcels 763-756-4328, 763-755-1261 and 762-755-3882, containing
99 approximately 31.7 acres, located on the north line of E. Parham Road
100 approximately 510 feet west of Shrader Road and approximately 785 feet north
101 of West Broad Street (U.S. Route 250) on the east line of Hollybrook Avenue at
102 Lynn Avenue. The applicant proposes a gated community with up to 478
103 townhouse-style condominiums and multi-family apartments. The R-6 District
104 allows a maximum gross density of 19.8 units per acre. The uses will be
105 controlled by zoning ordinance regulations and proffered conditions. The Land
106 Use Plan recommends Office.

107
108 Mr. Jernigan - Is there any opposition to deferral of C-20C-07,
109 Meridian Manor, LLC? No opposition.

110
111 Mr. Vanarsdall - Mr. Chairman, I move that C-20C-07, Meridian Manor,
112 LLC, be deferred to July 12, 2007, at the applicant's request.

113
114 Mrs. Jones - Second.

115

116 Mr. Jernigan - Motion made by Mr. Vanarsdall, seconded by Mrs.
117 Jones. All in favor say aye. All opposed say no. The ayes have it, the motion
118 carries.

119
120 At the request of the applicant, the Planning Commission deferred C-20C-07,
121 Meridian Manor, LLC, to its meeting on July 12, 2007.

122
123 Ms. Moore - On page 2 of your agenda is case C-3C-07, The Tetra
124 Group One, LLC. The deferral is requested to the July 12, 2007, meeting.

125
126 ***Deferred from the May 10, 2007 Meeting.***

127 **C-3C-07 J. Thomas O'Brien for The Tetra Group One, LLC:** Request to
128 conditionally rezone from A-1 Agricultural District, R-3 One-Family Residence
129 District, R-5 General Residence District and B-3 Business District to R-3C One-
130 Family Residence District (Conditional), R-5C General Residence District
131 (Conditional), and B-3C Business District (Conditional), Parcels 836-714-2353,
132 835-714-7916, 836-712-7784, 835-713-1662 and 836-713-7564, containing
133 approximately 79.769 acres (R-3C – 9.654 ac; R-5C – 9.305 ac; and B-3C –
134 60.810 ac), located between the north line of E. Williamsburg Road (U.S. Route
135 60), the south line of Old Williamsburg Road, the east line of Dry Bridge Road
136 and the west line of Old Memorial Drive. The applicant proposes a mixture of
137 uses including a single-family development, age-restricted multi-family dwelling
138 units, and general business. The R-3 District allows a minimum lot size of
139 11,000 square feet and a maximum gross density of 3.96 units per acre. The R-
140 5 District allows a maximum gross density of 14.52 units per acre. The uses will
141 be controlled by zoning ordinance regulations and proffered conditions. The
142 Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density
143 per acre, Office and Environmental Protection Area. The site is in the Airport
144 Safety Overlay District.

145
146 Mr. Jernigan - Is there any opposition to the deferral of C-3C-07,
147 J. Thomas O'Brien for The Tetra Group One, LLC? There is no opposition. With
148 that, I will move for deferral of case C-3C-07, J. Thomas O'Brien for The Tetra
149 Group One, LLC, to July 12, 2007, by request of the applicant.

150
151 Mr. Vanarsdall - Second.

152
153 Mr. Jernigan - Motion made by Mr. Jernigan, seconded by Mr.
154 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it, the
155 motion carries.

156
157 At the request of the applicant, the Planning Commission deferred C-3C-07, J.
158 Thomas O'Brien for The Tetra Group One, LLC, to its meeting on July 12, 2007.

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160 Ms. Moore - Also on page 3 of your agenda is case P-8-07,
161 Richmond 20 MHZ, LLC. The deferral is requested to the July 12, 2007 meeting.

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P-8-07 Gloria L. Freye for Richmond 20 MHZ LLC: Request for a Provisional Use Permit under Sections 24-95(a), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to construct a telecommunications tower 157 feet in height on part of Parcel 829-712-4591, located on the west line of Beulah Road approximately 195 feet north of Treva Road. The existing zoning is R-3 One-Family Residence District. The Land Use Plan recommends OS/R Open Space Recreation.

Mr. Jernigan - Is there any opposition to the deferral of P-8-07, Gloria L. Freye for Richmond 20 MHZ, LLC? There is no opposition. With that, I will move for deferral of Provisional Use Permit P-8-07, Gloria L. Freye for Richmond 20 MHZ, LLC to the July 12, 2007 meeting by request of the applicant.

Mrs. Jones - Second.

Mr. Jernigan - Motion made by Mr. Jernigan, seconded by Mrs. Jones. All in favor say aye. All opposed say no. The ayes have it, the motion carries.

At the request of the applicant, the Planning Commission deferred P-8-07, Gloria L. Freye for Richmond 20 MHZ, LLC, to its meeting on July 12, 2007.

Ms. Moore - In the Fairfield District on page 3, we have case C-28C-07, Tetra Investment Group 14, LLC. Deferral is requested to the August 9, 2007 meeting.

C-28C-07 Tetra Investment Group 14 LLC: Request to conditionally rezone from R-6 General Residence District and B-3C Business District (Conditional) to O-1C Office District (Conditional), Parcel 784-746-3173, containing 1.182 acres, located on the north line of Brook Run Drive (private) at Cliffbrook Lane, approximately 830 feet west of Brook Road (U. S. Route 1). The applicant proposes an office building. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Commercial Concentration.

Mr. Jernigan - Is there any opposition to the deferral of C-28C-07, Tetra Investment Group 14, LLC? No opposition, Mr. Archer.

Mr. Archer - Mr. Chairman, I move for deferral of C-28C-07, Tetra Investment Group 14, LLC, to the August 9, 2007 meeting at the request of the applicant.

Mr. Vanarsdall - Second.

207 Mr. Jernigan - Motion made by Mr. Archer, seconded by Mr.
208 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it, the motion
209 passes.

210
211 At the request of the applicant, the Planning Commission deferred C-28C-07,
212 Tetra Investment Group 14, LLC, to its meeting on July 12, 2007.

213
214 Ms. Moore - On page 4 of your agenda are two companion cases
215 and I'll call them together. It is C-29C-07 and P-9-07. The deferral is requested
216 to the August 9, 2007 meeting.

217
218 **C-29C-07 Caroline L. Nadal for Creighton & Laburnum LLC:**
219 Request to conditionally rezone from A-1 Agricultural District, B-2C Business
220 District (Conditional) and M-1C Light Industrial District (Conditional) to B-2C
221 Business District (Conditional) and M-1C Light Industrial District (Conditional),
222 Parcels 807-730-9116, 808-730-6309, -4825, -3946, -3162, -2377 and -6227,
223 containing approximately 27.04 acres (B-2C 7.37 ac; M-1C 19.67 ac), located on
224 the northwest intersection of N. Laburnum Avenue and Creighton Road. The
225 applicant proposes retail and office/service uses. The uses will be controlled by
226 zoning ordinance regulations and proffered conditions. The Land Use Plan
227 recommends Office/Service, Suburban Residential 1, 1.0 to 2.4 units net density
228 per acre and Environmental Protection Area. The site is in the Airport Safety
229 Overlay District.

230
231 **P-9-07 Caroline L. Nadal for Creighton & Laburnum LLC:**
232 Request for a Provisional Use Permit under Sections 24-58.2(a), 24-120 and 24-
233 122.1 of Chapter 24 of the County Code in order to operate a 24-hour
234 convenience store with gas pumps, on Parcel 808-730-6309, and part of Parcels
235 808-730-4825, -6227, and 807-730-9116 located at the northwest intersection of
236 N. Laburnum Avenue and Creighton Road. The existing zoning is M-1C Light
237 Industrial District (Conditional) and B-2C Business District (Conditional). The site
238 is subject to pending rezoning case C-29C-07. The Land Use Plan recommends
239 Office/Service. The site is in the Airport Safety Overlay District.

240
241 Mr. Jernigan - Is there any opposition to deferral of case C-29C-07?
242 Okay. Then I guess we'll—

243
244 Mr. Silber - Is your opposition to the deferral or is your opposition
245 to the case itself?

246
247 Mr. Singh - [Off mike. Unintelligible.]

248
249 Mr. Silber - If you could, come on down to the microphone,
250 please.

251

252 Mr. Jernigan - Sir, would you state your name for the record,
253 please?
254
255 Mr. Singh - My name is [unintelligible] Singh and I am the
256 property owner [unintelligible] Laburnum Avenue on the other side.
257
258 Mr. Silber - All right. Excuse me; can you spell your name for us,
259 please?
260
261 Mr. Singh - Last name is Singh, S-I-N-G-H.
262
263 Mr. Silber - Yes sir.
264
265 Mr. Singh - I am the property owner right across from Laburnum
266 Avenue on the other side. I don't have any problems for the retail piece, but I do
267 have a problem for the convenience store 24 hours, because I bought my site
268 like four years ago and spent \$100 million on my site. As for the traffic and the
269 public over there, I'm losing like \$50,000 per year on my site. If your office allows
270 them to build the convenience store and a gas station on the other side, it's going
271 to really affect me and I'm going to be bankrupt. We are three partners and all
272 the time we're going to be in big trouble. Henrico County does not permit any
273 convenience store to operate 24 hours in that area. They are requesting 24
274 hours. That's my request to not allow them to do that.
275
276 Mr. Jernigan - All right. You realize we're not voting on this to put it
277 there tonight. They want a deferral for another month. There's no vote to put it in
278 tonight. They have to talk about the case more. It's not ready to go. Have you
279 talked to these people?
280
281 Mr. Singh - No sir. I just understand when I see the letter.
282 Nobody told me what's going on. I don't know. I just read the letter that I
283 received at my site. Then I come down here to make my request.
284
285 Mr. Silber - The attorney who is representing this case is sitting
286 over here to my left. You might want to get with her and give her your name and
287 number and allow some opportunity for you all to meet to talk about this.
288
289 Mr. Singh - Okay.
290
291 Mr. Silber - What they're asking for is for this to be postponed or
292 delayed for one month.
293
294 Mr. Singh - Okay.
295
296 Mr. Jernigan - We're postponing this. That's what the vote's going to
297 be for.

298
299 Mr. Singh - Okay, sir.
300
301 Mr. Jernigan - Thank you, sir. All right. I'll start over again. Do we
302 have any opposition to case C-29C-07, Caroline L. Nadal for Creighton &
303 Laburnum, LLC and P-9-07, Caroline L. Nadal for Creighton & Laburnum LLC,
304 other than what has been noted? Okay. Mr. Archer?
305
306 Mr. Archer - All right. Do we require a second motion to combine
307 them?
308
309 Mr. Silber - Yes sir. [Unintelligible.]
310
311 Mr. Archer - Okay. Then I move for deferral of C-29C-07, Caroline
312 L. Nadal for Creighton & Laburnum, LLC to the August 9, 2007 meeting at the
313 applicant's request.
314
315 Mr. Vanarsdall - Second.
316
317 Mr. Jernigan - Motion made by Mr. Archer, seconded by Mr.
318 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it, the
319 motion passes.
320
321 At the request of the applicant, the Planning Commission deferred C-29C-07,
322 Caroline L. Nadal for Creighton & Laburnum, LLC, to its meeting on August 9,
323 2007.
324
325 Mr. Archer - I move for deferral of P-9-07, Caroline L. Nadal for
326 Creighton & Laburnum LLC to the August 9, 2007 meeting at the applicant's
327 request.
328
329 Mr. Vanarsdall - Second.
330
331 Mr. Jernigan - Motion made by Mr. Archer, seconded by Mr.
332 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it, the
333 motion passes.
334
335 At the request of the applicant, the Planning Commission deferred P-9-07,
336 Caroline L. Nadal for Creighton & Laburnum LLC, to its meeting on August 9,
337 2007.
338
339 Ms. Moore - Next is on page 4 of your agenda, C-30C-07, Lifestyle
340 Builders & Developers. The deferral is requested to the July 12, 2007 meeting.
341
342 **C-30C-07 Bay Design Group for Lifestyle Builders &**
343 **Developers:** Request to conditionally rezone from A-1 Agricultural District to R-

344 5C General Residence District (Conditional), Parcel 781-756-5920 and part of
345 Parcel 781-756-5960, containing 3.93 acres, located on the north line of
346 Darracott Road approximately 965 feet west of its intersection with Villa Park
347 Drive. The applicant proposes residential condominiums for sale. The use will
348 be controlled by zoning ordinance regulations and proffered conditions. The
349 Land Use Plan recommends Urban Residential, 3.4 to 6.8 units net density per
350 acre.

351

352 Mr. Jernigan - Is there any opposition to deferral of case C-30C-07,
353 Bay Design Group for Lifestyle Builders & Developers? No opposition.

354

355 Mr. Archer - Mr. Chairman, I move for deferral of C-30C-07, Bay
356 Design Group for Lifestyle Builders & Developers to the July 12, 2007 meeting at
357 the applicant's request.

358

359 Mrs. Jones - Second.

360

361 Mr. Jernigan - Motion made by Mr. Archer, seconded by Mrs. Jones.
362 All in favor say aye. All opposed say no. The ayes have it, the motion passes.

363

364 At the request of the applicant, the Planning Commission deferred C-30C-07,
365 Bay Design Group for Lifestyle Builders & Developers, to its meeting on July 12,
366 2007.

367

368 Ms. Moore - Next case is C-76C-05, George M. Urban. The
369 deferral is request to the July 12, 2007 meeting. The applicant intends to amend
370 the application for an office development.

371

372 ***Deferred from the November 9, 2006 Meeting.***

373

374 **C-76C-05 Robert Atack for George M. Urban:** Request to
375 conditionally rezone from A-1 Agricultural District to R-5C General Residence
376 District (Conditional), Parcels 747-770-3395 and 746-770-9777, containing 11.18
377 acres, located on the west line of Nuckols Road approximately 350 feet north of
378 New Wade Lane and between the south line of Hickory Park Drive and the north
379 line of New Wade Lane. The applicant proposes a residential development of no
380 more than 150 condominium units for sale. The R-5 District allows a density of
381 14.52 units per acre. The use will be controlled by zoning ordinance regulations
382 and proffered conditions. The Land Use Plan recommends Rural Residential,
383 Suburban Residential 2, (2.4 to 3.4 units net density per acre), and
384 Environmental Protection Area.

384

385 Mr. Jernigan - Is there any opposition to the deferral of case C-76C-
386 06, Robert Atack for George M. Urban? No opposition. With that, I will move for
387 deferral of C-76C-05, Robert Atack for George M. Urban, to the July 12, 2007
388 meeting by request of the applicant.

389

390 Mr. Vanarsdall - Second.

391

392 Mr. Jernigan - Motion made by Mr. Jernigan, seconded by Mr.
393 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it, the
394 motion passes.

395

396 At the request of the applicant, the Planning Commission deferred C-76C-05,
397 Robert Attack for George M. Urban to its meeting on July 12, 2007.

398

399 Ms. Moore - On page 5 of your agenda is C-7C-07, Farmer
400 Properties, Inc. The deferral is requested to the August 9, 2007 meeting.

401

402 ***Deferred from the May 10, 2007 Meeting.***

403 **C-7C-07 Andrew M. Condlin for Farmer Properties, Inc.:**

404 Request to conditionally rezone from A-1 Agricultural District to RTHC
405 Residential Townhouse District (Conditional), Parcel 747-773-6860, containing
406 5.204 acres, located on the southeast line of Twin Hickory Road, approximately
407 800 feet northeast of Nuckols Road. The applicant proposes a residential
408 townhouse development with a maximum of 28 units. The RTH District allows a
409 maximum density of nine units per acre. The use will be controlled by zoning
410 ordinance regulations and proffered conditions. The Land Use Plan recommends
411 Urban Residential, 3.4 to 6.8 net units per acre.

412

413 Mr. Jernigan - Is there any opposition to deferral of case C-7C-07,
414 Andrew M. Condlin for Farmer Properties, Inc.? No opposition. With that, I will
415 move for deferral of case C-7C-07, Andrew M. Condlin for Farmer Properties,
416 Inc., to August 9, 2007 by request of the applicant.

417

418 Mr. Vanarsdall - Second.

419

420 Mr. Jernigan - Motion made by Mr. Jernigan, seconded by Mr.
421 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it, the motion
422 passes.

423

424 At the request of the applicant, the Planning Commission deferred C-7C-07,
425 Andrew M. Condlin for Farmer Properties, Inc. to its meeting on August 9, 2007.

426

427 Ms. Moore - Also on page 5 is P-10-07, Richmond Strikers Soccer
428 Club, Inc. The deferral is requested to the July 12, 2007 meeting.

429

430 **P-10-07 Gloria L. Freye for Richmond Strikers Soccer**

431 **Club, Inc.:** Request for a Provisional Use Permit under Sections 24-95(a), 24-
432 120 and 24-122.1 of Chapter 24 of the County Code in order to construct a
433 telecommunications tower 157 feet in height, on part of Parcel 740-768-1098,
434 located on the east line of Pouncey Tract Road approximately 900 feet south of
435 Shady Grove Road. The existing zoning is A-1 Agricultural District. The Land

436 Use Plan recommends Open Space/Recreation and Environmental Protection
437 Area.

438
439 Mr. Jernigan - Is there any opposition to Provisional Use Permit P-
440 10-07, Gloria L. Freye for Richmond Strikers Soccer Club, Inc.? There is no
441 opposition. With that, I will move for deferral of P-10-07, Gloria L. Freye for
442 Richmond Strikers Soccer Club, Inc. to July 12, 2007 by request of the applicant.

443
444 Mrs. Jones - Second.

445
446 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mrs. Jones. All
447 in favor say aye. All opposed say no. The ayes have it, the motion passes.

448
449 At the request of the applicant, the Planning Commission deferred P-10-07,
450 Gloria L. Freye for Richmond Strikers Soccer Club, Inc. to its meeting on July 12,
451 2007.

452
453 Ms. Moore - Next is C-32-07, R & R Property Development, L.C.
454 Deferral is requested to the July 12, 2007 meeting.

455
456 **C-32-07 R + R Property Development, L.C.:** Request to
457 rezone from R-5C General Residence District (Conditional) to B-1 Business
458 District, part of Parcel 738-761-6025, containing approximately 0.15 acre, located
459 on the east line of Spring Oak Drive approximately 240 feet south of West Broad
460 Street (U. S. Route 250). The applicant proposes a 30-foot easement for an
461 access driveway to adjacent retail uses. The use will be controlled by zoning
462 ordinance regulations. The Land Use Plan recommends Multi-Family
463 Residential, 6.8 to 19.8 units net density per acre. The site is in the West Broad
464 Street Overlay District.

465
466 Mr. Jernigan - Is there any opposition to deferral of case C-32-07, R
467 + R Property Development, L.C.?

468
469 Mr. Vanarsdall - Did you say to the 12th of July?

470
471 Ms. Moore - Yes.

472
473 Mr. Silber - Yes.

474
475 Mr. Jernigan - With that, I will move for deferral of case C-32-07, R +
476 R Property Development, L.C. to July 12, 2007, by request of the applicant.

477
478 Mrs. Jones - Second.

479

480 Mr. Jernigan - Motion made by Mr. Jernigan, seconded by Mrs.
481 Jones. All in favor say aye. All opposed say no. The ayes have it, the motion
482 passes.

483

484 At the request of the applicant, the Planning Commission deferred C-32-07, R +
485 R Property Development, L.C., to its meeting on July 12, 2007.

486

487 Ms. Moore - The final request that we've received is in the
488 Tuckahoe District on page 6 of your agenda. It is C-21C-07, The Rebkee
489 Company. The deferral is requested to the July 12, 2007 meeting.

490

491 ***Deferred from the May 10, 2007 Meeting.***

492 **C-21C-07 The Rebkee Company:** Request to conditionally
493 rezone from B-2C and B-3C Business Districts (Conditional) to B-2C Business
494 District (Conditional), Parcels 738-742-5943, 738-742-6844 and 738-742-9542,
495 containing approximately 2.59 acres, located on the north line of Patterson
496 Avenue (State Route 6) between Careybrook and Lauderdale Drives. The
497 applicant proposes a CVS Pharmacy and other retail uses. The use will be
498 controlled by zoning ordinance regulations and proffered conditions. The Land
499 Use Plan recommends Commercial Concentration and Environmental Protection
500 Area.

501

502 Mr. Jernigan - Is there any opposition to the deferral of case C-21C-
503 07, The Rebkee Company? No opposition.

504

505 Mrs. Jones - I move for deferral of C-21C-07, The Rebkee
506 Company, to the July 12, 2007 meeting by request of the applicant.

507

508 Mr. Vanarsdall - Second.

509

510 Mr. Jernigan - Motion made by Mrs. Jones, seconded by Mr.
511 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it, the motion
512 passes.

513

514 At the request of the applicant, the Planning Commission deferred C-21C-07,
515 The Rebkee Company, to its meeting on July 12, 2007.

516

517 Mr. Jernigan - Thank you, Ms. Moore.

518

519 Mr. Silber - Any deferrals by Planning Commission members?
520 Next on the agenda would be requests for expedited items. These are items on
521 the agenda that are somewhat basic in nature. There are no outstanding issues
522 from staff's perspective and the Planning Commission member from that district
523 has been satisfied as far as issues associated with that rezoning request, so it 's
524 placed on an expedited agenda that does not require a full public hearing of that
525 item. If there is opposition to an item on the expedited agenda, it will be pulled

526 off the expedited agenda and heard in the full agenda. I believe we have five
527 items on the expedited agenda.

528

529 Ms. Moore - Yes, Mr. Secretary. The first is in the Brookland
530 District on page 2 of your agenda. It is case P-7-07, Brian Zachariasen. We've
531 received no opposition to this request.

532

533 **P-7-07 Brian Zachariasen:** Request for a Provisional Use
534 Permit under Sections 24-58.2(a), 24-120 and 24-122.1 of Chapter 24 of the
535 County Code in order to extend hours of operation beginning at 5:00 a.m. for
536 Gold's Gym in the Shops at Willow Lawn, on part of Parcel 773-736-6272,
537 located on the south line of West Broad Street (U.S. Route 250) approximately
538 460 feet east of Willow Lawn Drive. The existing zoning is B-2 Business District.
539 The Land Use Plan recommends Commercial Concentration and Office. The site
540 is in the Enterprise Zone.

541

542 Mr. Jernigan - Is there any opposition to Provisional Use Permit P-7-
543 07, Brian Zachariasen? There is no opposition.

544

545 Mr. Vanarsdall - Brian, are you here? Yeah, good to see you. I move
546 that P-7-07, Brian Zachariasen be recommended to the Board of Supervisors for
547 approval on the expedited agenda.

548

549 Mr. Archer - Second.

550

551 Mr. Jernigan - Motion by Mr. Vanarsdall, seconded by Mr. Archer. All
552 in favor say aye. All opposed say no. The ayes have it, the motion passes.

553

554 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by
555 Mr. Archer, the Planning Commission voted 4-0 (one absent, one abstention) to
556 recommend the Board of Supervisors grant the request because it is reasonable
557 in light of the surrounding uses and zoning, and would not be expected to
558 adversely affect public safety, health or general welfare.

559

560 Ms. Moore - The next is on page 3 of your agenda in the Varina
561 District. It is C-24-07, Rocky A. Ball. We've received no opposition on this
562 request.

563

564 **C-24-07 Rocky A. Ball:** Request to rezone from R-2A One
565 Family Residence District and C-1 Conservation District to R-2A One Family
566 Residence District, Parcel 855-698-9009, containing 5.044 acres, located on the
567 west line of Elko Road approximately 652 feet south of Portugee Road. The
568 applicant proposes the rezoning to accommodate an existing dwelling. The R-2A
569 District allows a minimum lot size of 13,500 square feet and a maximum gross
570 density of 3.23 units per acre. The use will be controlled by zoning ordinance

571 regulations. The Land Use Plan recommends Rural Residential, 1.0 unit net
572 density per acre, and Environmental Protection Area.

573

574 Mr. Jernigan - Is there any opposition to case C-24-07, Rocky A.
575 Ball? No opposition. With that, I will move for approval of case C-24-07, Rocky
576 A. Ball, on the expedited agenda.

577

578 Mr. Vanarsdall - Second.

579

580 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.
581 All in favor say aye. All opposed say no. The ayes have it, the motion passes.

582

583 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.
584 Vanarsdall, the Planning Commission voted 4-0 (one absent, one abstention) to
585 recommend the Board of Supervisors **grant** the request because it is reasonable,
586 it conforms to the recommendations of the land use plan, and the use is not
587 anticipated to adversely affect adjacent property.

588

589 Ms. Moore - On page 5 of your agenda in the Three Chopt District
590 is case P-16-06, Basilios Tsimbos.

591

592 ***Deferred from the March 15, 2007 Meeting.***

593 **P-16-06 Glenn Moore for Basilios E. Tsimbos:** Request for
594 a Provisional Use Permit under Sections 24-58.2(d), 24-120 and 24-122.1 of
595 Chapter 24 of the County Code in order to construct an outside dining area for a
596 proposed restaurant on Parcel 761-754-1383, located on the east line of Skipwith
597 Road approximately 350 feet south of West Broad Street (U. S. Route 250). The
598 existing zoning is B-2C Business District (Conditional). The Land Use Plan
599 recommends Commercial Arterial and Office.

600

601 Mr. Jernigan - Is there any opposition to P-16-06, Glenn Moore for
602 Basilios E. Tsimbos? There is no opposition. With that, I will move for approval
603 of P-16-06, Glenn Moore for Basilios E. Tsimbos on the expedited agenda.

604

605 Mr. Vanarsdall - Second.

606

607 Ms. Moore - Mr. Chairman, we do want to note for the record that
608 is with the revised conditions that you received today.

609

610 Mr. Jernigan - Okay. Thank you, Ms. Moore.

611

612 Mr. Vanarsdall - Second.

613

614 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.
615 All in favor say aye. All opposed say no. The ayes have it, the motion passes.

616

617 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.
618 Vanarsdall, the Planning Commission voted 4-0 (one absent, one abstention) to
619 recommend the Board of Supervisors **grant** the request because it is reasonable
620 and it would not be expected to adversely affect public safety, health or general
621 welfare.

622
623 Ms. Moore - Also on page 5 is C-31C-07, HCA Health Services of
624 Virginia, Incorporated.

625
626 **C-31C-07 Ralph Axselle, Jr. for HCA Health Services Of**
627 **Virginia, Inc.:** Request to conditionally rezone from R-6 General Residence
628 District to O-3C Office District (Conditional), part of Parcel 761-745-3004,
629 containing 4.41 acres, located on the Henrico Doctors Hospital Campus
630 approximately 575 feet south of Forest Avenue and 800 feet west of Skipwith
631 Road. The applicant proposes hospital and offices uses. The uses will be
632 controlled by zoning ordinance regulations and proffered conditions. The Land
633 Use Plan recommends Semi-Public.

634
635 Mr. Jernigan - Is there any opposition to case C-31C-07, Ralph
636 Axselle, Jr. for HCA Health Services of Virginia, Inc.? There is no opposition.
637 With that, I will move for approval of case C-31C-07, Ralph Axselle, Jr. for HCA
638 Health Services of Virginia, Inc. on the expedited agenda.

639
640 Mr. Vanarsdall - Second.

641
642 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.
643 All in favor say aye. All opposed say no. The ayes have it, the motion passes.

644
645 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.
646 Vanarsdall, the Planning Commission voted 4-0 (one absent, one abstention) to
647 recommend the Board of Supervisors **grant** the request because it is reasonable,
648 it would not be expected to adversely affect the pattern or zoning or land use in
649 the area, and the proffered conditions will assure a level of development
650 otherwise not possible.

651
652 Ms. Moore - Next is on page 6 of your agenda in the Tuckahoe
653 District. It is C-33C-07, Ann Michelle White. Staff has received no opposition to
654 this request.

655
656 **C-33C-07 Ann Michelle White:** Request to amend proffered
657 conditions accepted with Rezoning Case C-68C-90, on Parcel 755-737-4001,
658 located at the western terminus of Kingsthorpe Terrace in the Westham Manor
659 subdivision. The applicant proposes to delete Proffer 9 related to building
660 setback. All other proffers approved with the original rezoning case would
661 remain in effect. The existing zoning is R-3C One-Family Residence District

662 (Conditional). The Land Use Plan recommends Suburban Residential 2, 2.4 to
663 3.4 units net density per acre.

664

665 Mr. Jernigan - Is there any opposition case C-33C-07, Ann Michelle
666 White? No opposition.

667

668 Mrs. Jones - I move that case C-33C-07, Ann Michelle White be
669 recommended to the Board of Supervisors for approval on the expedited agenda.

670

671 Mr. Vanarsdall - Second.

672

673 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Vanarsdall.
674 All in favor say aye. All opposed say no. The ayes have it, the motion passes.

675

676 **REASON:** Acting on a motion by Mrs. Jones, seconded by Mr.
677 Vanarsdall, the Planning Commission voted 4-0 (one absent, one abstention) to
678 recommend the Board of Supervisors **grant** the request because the proffer
679 amendment does not greatly reduce the original intended purpose of the proffers
680 and is not anticipated to adversely affect adjacent property.

681

682 Ms. Moore - That concludes my report. Thank you.

683

684 Mr. Jernigan - Thank you, Ms. Moore.

685

686 Mr. Silber - With the conclusion of the deferrals and expedited
687 items, there's not that much left on the agenda. If I can refer to you page 2 of
688 your agenda for the first case this evening. This is in the Varina District. This
689 was deferred from the June 15, 2006 meeting.

690

691 ***Deferred from the June 15, 2006 Meeting.***

692 **P-6-06 Ann Leonard Harris:** Request for a Provisional Use
693 Permit under Sections 24-12.1(b) and 24-122.1 of Chapter 24 of the County
694 Code in order to operate a bed and breakfast inn on Parcel 802-699-4985,
695 located at the terminus of Equestrian Way in The Paddocks subdivision. The
696 existing zoning is R-3 One-Family Residence District. The Land Use Plan
697 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

698

699 Mr. Jernigan - Is there any opposition to case P-6-06, Ann Leonard
700 Harris? There is opposition. Okay. Ms. Deemer, how are you tonight?

701

702 Ms. Deemer - I'm fine, thank you. Good evening. As Mr. Silber said,
703 this request is to permit the operation of a bed and breakfast on the property
704 known as the Shaw House.

705

706 The subject site is zoned R-3 and is located approximately 500 feet east of
707 Osborne Turnpike. The property is surrounded on all sides by The Paddocks

708 subdivision, which is a large lot subdivision; that is, at least one acre per dwelling
709 site. The Shaw house is a federal-style, two-story dwelling listed in the Virginia
710 Department of Historic Resources survey and is also included in the County's
711 inventory of Early Architecture and Historic Places.

712
713 The 2010 Land Use Plan recommends Suburban Residential 1 for the site and
714 immediate surrounding area. With the recommended conditions, a bed and
715 breakfast within this single-family dwelling would be compatible with this
716 designation and with adjacent single-family uses.

717
718 The applicant has submitted exhibits detailing the schematics of the house and
719 caretaker's cottage. As proposed, the bed and breakfast would include three
720 guest suites. The main house would offer two suites (a two-bedroom and a one-
721 bedroom, each with a private bathroom), and the caretaker's cottage would offer
722 a one-bedroom suite with a kitchen and a private bathroom.

723
724 Staff has provided 15 conditions to regulate activities at this location. They
725 include: limiting the use of the property to a one-family dwelling and a bed and
726 breakfast; prohibiting the use of the property for weddings, meetings and other
727 receptions; limiting outdoor activities to between 8 a.m. and 10 p.m.; no more
728 than two meals a day shall be served to guests; and only one sign no larger than
729 12 square feet in size and no more than 6 feet in height.

730
731 The applicant has held two open houses to discuss her proposal with neighbors.
732 I believe there may be several people in opposition to this request. Staff has also
733 received correspondence from approximately 11 members of the community in
734 support of this request.

735
736 Properly regulated, staff believes this is an acceptable use and the proposed
737 conditions would mitigate potential conflicts with the adjacent neighborhood.
738 Staff recommends approval of this request subject to the conditions specified in
739 the staff report. That concludes my presentation. I'd be happy to answer any
740 questions you may have.

741
742 Mr. Jernigan - Are there any questions for Ms. Deemer from the
743 Commission? Thank you, ma'am. Yeah, you'll have a chance. You've got
744 questions for her?

745
746 [Person off mike] - Yes sir.

747
748 Mr. Jernigan - Okay. Well, when you get up, you'll be able to ask her
749 questions. We'll hear from them first and then the opposition gets to speak. All
750 right. Ms. Harris, would you like to speak?

751
752 Mr. Silber - It may be appropriate at this time to also explain the
753 Planning Commission's rules and regulations relative to the allotment of time.

754 The Planning Commission has ruled that in a case, the applicant is given 10
755 minutes to present their case. Some of that 10-minute period time can be saved
756 for rebuttal. Those in opposition are also given 10 minutes to oppose the
757 request, collectively. Any time the Planning Commission is asking questions of
758 either party, that's not taken away from your 10 minutes. At the conclusion of the
759 presentation by the applicant, the opposition will be given a chance to speak.
760 The Planning Commission can extend this period of time if they feel that
761 additional time should be given to both sides.

762

763 Ms Harris - Hi. Thank you, Mr. Jernigan.

764

765 Mr. Jernigan - Ann, state your name for the record.

766

767 Ms Harris - I'm Ann Leonard Harris, owner of 6799 Osborne
768 Turnpike. I purchased the home in July 2005 from the estate of Warren Shaw
769 and Mrs. Edith McGrath Shaw. Having known them for a period of more than 25
770 years, they had lived in the house for a period of about 55 years. I was a long-
771 time friend and frequent visitor of the property.

772

773 The house, as you know, is located at 6799 Osborne Turnpike. It's a two-story
774 federal-style brick farmhouse, circa 1853, with two clapboard additions to the
775 original structure. As people approach the property, they're greeted warmly by
776 the covered veranda porch and four white columns. The property is well known in
777 the area of Varina as the Shaw House. It's listed, as was noted earlier, in the
778 Virginia Department of Historic Resources due to its age and federal-style
779 architecture. It's also been included in the Henrico Inventory of Early
780 Architecture.

781

782 The house was believed, by Mr. Shaw, to have originally been built as a
783 foreman's home on a larger farm site and the property, he also believed, was
784 identified on Smith's 1852 map of Henrico County, which is displayed in the
785 home.

786

787 The property is sheltered under the shade of a wonderful towering red oak tree,
788 which by its girth, appears that it probably predates the home in age. The main
789 residence formally sat in the midst of a 35-acre tract with direct access to
790 Osborne Turnpike. However, Mr. Shaw subdivided the property and now the
791 property comprises about 6.67 acres and is surrounded by the subdivision The
792 Paddocks, Section A. Now it shares a common access to Osborne Turnpike via
793 Equestrian Way, a county-maintained public access road.

794

795 The federal-style brick farmhouse offers a warm, old world ambiance. The frame
796 additions feature heart pine, plank flooring, and old brick from the Rutledge family
797 farmhouse on Wiler Road that was built in 1835. The residence, its
798 appurtenances, and surrounding ground create a perfect setting in which to

799 operate a traditional bed and breakfast for tourists visiting Henrico and
800 Richmond.

801

802 As you can see on the floor plan, the original structure was originally a three-
803 bedroom farmhouse, and at some point, was opened so that it becomes one
804 grand entry hall and parlor. The dining room that's presently in existence was an
805 early kitchen. When Mr. Shaw added the 1977 addition, which is the new kitchen
806 and great room, he attached it to the original carriage house structure.

807

808 Features of the first floor include a heart pine fireplace as you come into the entry
809 foyer, and a wonderful warm parlor for sitting. The dining room has been
810 reconverted and is an excellent size to serve up to six guests for morning
811 breakfast. The backgammon room, again, displays the brick on the fireplace
812 from the Rutledge farmhouse, heart pine plank flooring on the floors, and has a
813 staircase that leads up to the rear bedroom where one of the guests would
814 frequent. So, the upstairs bedroom has its own separate stairway and bath.

815

816 Also on the second floor, the original structure in the front had three bedrooms;
817 however, the larger bedroom has been converted to be a bath and dressing
818 room, and the back bedroom has been converted to be a walk-in closet. What
819 the plans are is to install a wall in the middle center bedroom that would give the
820 innkeeper a private office space and would share the middle bedroom and the
821 front bedroom so that they could use the common Jack and Jill bath in the front
822 of the home. It would accommodate a family traveling with children, or two
823 people traveling together that wanted to sleep separately.

824

825 This is just a shot of the master bedroom that features a cannonball brass bed
826 and early Victorian furniture and a separate fireplace for people who might prefer
827 a fireplace in their bedroom.

828

829 The caretaker's cottage is a separate 900-square-foot building that was built by
830 the Shaw's in 2004 for their son to live in who would give care to them as they
831 were declining in health in their aging years of retirement. In addition to the
832 cottage and main residence, the Shaw House also has a four-stall stable, two
833 fenced paddock areas, an in-ground pool, and pool house. I would like to use
834 the cottage as an additional suite in the bed and breakfast. Because it is built on
835 a slab, it would also give me handicapped access for people who could not climb
836 the steps in the main house.

837

838 Henrico has only two other bed and breakfasts, as we noted earlier—the Virginia
839 Cliff Inn on Mountain Road, and Manikin Inn off Oakleys Lane—and they both
840 are, under their PUP permit, able to hold corporate functions. It is not my
841 intention to use my home for corporate functions and weddings, but merely as a
842 quaint bed and breakfast with two to three bedrooms. Other nearby B and B's
843 include Edgewood Plantation in Charles City, and Jasmine Plantation in New
844 Kent.

845

846 Residents with guests and tourists who stay in the Varina District are presently
847 limited to the use of current commercial chains that are located seven miles away
848 on the Williamsburg Road/Airport corridor, or in the downtown financial districts.
849 Approval for a B and B in Varina will offer our residents, travelers, and
850 developers of Wilton, Tree Hill and Rocketts Landing another option for overnight
851 stays for their buyers.

852

853 It's also significant that because of the Jamestown 2000 celebration, Henrico is
854 planning a key roll in that process and will have many tourists and travelers
855 traveling down historic Route 5 on the Jamestown Discovery Trail, and using our
856 bicycle route that the governor has designated along Route 5.

857

858 The proposal for the bed and breakfast is in keeping with the traditional B and B
859 model with only one to two rooms rented on average of 10 to 15 nights a month,
860 and over the weekends in its initial stages. I have no intention, as I said earlier,
861 of holding corporate functions or weddings there.

862

863 Again, I would like to use the caretaker's cottage as a part of the main house.
864 I'm a member of the Bed and Breakfast Association of Virginia. As an inspiring
865 innkeeper, I'm already getting inquiries about using the home as a bed and
866 breakfast from people coming to Richmond for other conventions and for the RIR
867 events. As soon as I have approval from this application, I will seek a business
868 license, and I have been in conversations with Mike Caldwell at the Virginia
869 Department of Health related to the public health criteria that I'll need to meet in
870 the kitchen area.

871

872 Historically, B and B's in the United States, 75% of them are operated in an old
873 home such as the Shaw House. Tourists who travel to B and B's, typically prefer
874 them over a commercial hotel in that the room is more of a sterile environment.
875 They're typically middle-aged, well-educated, with moderately high incomes, and
876 they're business professionals. Two-thirds of the travelers are couples and 82%
877 of them are married. They're mostly empty nesters or newlyweds. As you can
878 see by the statistics, their ages range from 30 to 60, for the most part. Thirty-one
879 percent of them have college degrees; another third have advanced graduate
880 degrees. Forty-five percent of them have incomes greater than \$50,000 a year.

881

882 The innkeeper plans to install motion-sensitive floodlighting in the driveway areas
883 to alert the owner of arrivals. All guest entrances will be lighted according to
884 security and safety guidelines recommended by the Henrico Police Department.
885 Guests with weekend tourism packages will not be given keys to the residence,
886 but will be instructed on the time the doors are locked and how to gain access
887 after hours. Guest reservations will come primarily through personal and
888 professional organizations, and the Bed and Breakfast Club of Virginia. I plan to
889 advertise through that website, to network with the developers of Wilton, Tree Hill
890 Farm and Rocketts Landing to have prospective buyers stay at the B and B, and

891 to promote tourism offering weekend packages that include Meadow Farm,
892 Wilton, the Poe Shrine, St. John's Church, a selection of Richmond museums,
893 and other nearby tourist attractions. I plan to use my personal affiliations with
894 organizations such as the Lions Club International, the General Federation of
895 Women's Clubs, the Clinical Laboratory Management Association, Siamese
896 Fraternity, MCV Foundation, RIR, and the Virginia Steeple Chase, to name a
897 few.

898

899 Again, just to reiterate, the sales projections over the next five years are modest,
900 anticipating one to two rooms per night on weekends. In years after, once I get
901 to 2013 and then retired, I anticipate having an increase in weekday traffic. The
902 maximum number of guests anticipated per night are two to four. The owner
903 estimates that the number of vehicles entering the property to be one to two cars
904 a day for a total of 10 to 15 nights. Bed and breakfast guests typically only make
905 two trips a day—one out in the morning for site seeing, and one out in the
906 evening for dinner.

907

908 As a minority single business woman over the age of 55, the owner hopes to
909 demonstrate to the County that over the next five to seven years, while
910 renovations are underway, that the income generated from the B and B guests
911 will support the renovations needed to preserve the historic property and will
912 allow the operation to become profitable during that same period. Then by 2013,
913 when the owner reaches age 66 and retires, she'll have a full-time job as an
914 innkeeper.

915

916 Thank you.

917

918 Mr. Jernigan - Are there any questions for Ms. Harris from the
919 Commission?

920

921 Mr. Vanarsdall - Ms. Harris, to your knowledge, is there any regulation
922 as to how long an uninterrupted duration of a stay can be in a bed and breakfast,
923 or is there no limit at all?

924

925 Ms. Harris - It's my understanding that bed and breakfast guests
926 do typically come to an area like they would a hotel and that they might stay for
927 two to three days, over a weekend, or maybe for a period of a week. But that's
928 the typical duration of the stay.

929

930 Mr. Vanarsdall - But there's no mandate that says that you—

931

932 Ms. Harris - Not that I'm aware of.

933

934 Mr. Vanarsdall - Okay. Mr. Archer, I think that came up when we had
935 the one out in Glen Allen. I think that's probably what made me remember.
936 Clifton Inn. Seems to me like there was some condition. I'm not sure about that.

937
938 Mrs. Jones - Do you currently have boarders?
939
940 Ms. Harris - I do have a boarder. He pays me month-to-month.
941
942 Mrs. Jones - Okay. Do you have experience as an innkeeper? I'm
943 just curious.
944
945 Ms. Harris - I do not have experience, although I have lots of
946 experience with hospitality. I'm a member of a lot of organizations and this has
947 been a personal dream of mine for quite some time. I have signed up for some
948 graduate classes that UVA offers, as well as through the Bed and Breakfast
949 Association. So, it's just through working with other people, friends that I know
950 like the Bolwares who own Edgewood, that I have the knowledge of inn keeping.
951
952 Mr. Vanarsdall - Are you going to have weddings?
953
954 Ms. Harris - No sir, I do not plan to have weddings.
955
956 Mr. Vanarsdall - I don't plan to get married, I just wondered.
957
958 Mrs. Jones - I'm sure your wife is happy to hear that.
959
960 Ms. Harris - I believe weddings would take a larger staff than a
961 single innkeeper could accommodate.
962
963 Mrs. Jones - Thank you.
964
965 Ms. Harris - Thank you.
966
967 Mr. Jernigan - Thank you.
968
969 Mr. Silber - Staff has just pointed out that our zoning ordinance
970 limits the stays to no more than two weeks.
971
972 Mr. Vanarsdall - I knew there was a limitation on it, but I didn't know
973 what it was.
974
975 Mr. Jernigan - Thank you, Ms. Harris. Okay, we have opposition.
976 Who would like to be the first person to speak?
977
978 Ms. Roane - I am Mrs. Denise Roane and I'm a member of the
979 Paddock Subdivision. I reside at 1217 Jockey Trace. I'll be speaking on behalf of
980 our neighbors tonight, along with Mr. Hans Lohmar, who is the president of our
981 homeowners' association.
982

983 Mr. Jernigan - Okay.

984

985 Ms. Roane - It is our distinct honor to have been chosen by our
986 neighbors to present these concerns to you. We have several concerns tonight
987 as it relates to the operation of a bed and breakfast in our neighborhood. While
988 we are confident that Ms. Harris has good intentions, her proposal is neither
989 conducive to, nor congruent with, the desires of the residents of The Paddocks.
990 This is evidenced by the fact that the overwhelming majority of the residents are
991 not in favor of a Provisional Use Permit being granted. To validate this fact, we'd
992 like to ask the residents who are able to be with us tonight to stand. We have a
993 petition that we'd also like to present. I'm not sure who has it. Mr. Stokes has our
994 petition.

995

996 Though valiant attempts have been made to address and modify the proposal
997 based on our concerns, we assert tonight that the only way in which this proposal
998 could be modified to our satisfaction is if it were withdrawn. We are strongly
999 opposed to the operation of any commercial business in our residential
1000 neighborhood. Mr. Lohmar and I will be presenting several tiers or categories of
1001 concern tonight. The categories of concern have been developed during several
1002 extensive meetings of all of the residents of The Paddocks who are in opposition
1003 to the request that is before you tonight.

1004

1005 Our concerns fall into the following categories: safety, community, legal, and
1006 quality of life. First and foremost, The Paddocks is a residential neighborhood.
1007 The subdivision is designed and intended for local traffic. Jockey Trace and
1008 Jockey Court both terminate in cul-de-sacs. These roads are not designed or
1009 intended for the high-use traffic that a commercial business will bring. Should the
1010 Shaw Home be placed on an official tour registry for the County, additional traffic
1011 beyond what the staff report estimates as 20 trips per day for the operation of a B
1012 and B will be realized. The staff report states that this request will support County
1013 efforts to promote heritage tourism. The Paddocks is a neighborhood; it is not a
1014 tourist attraction.

1015

1016 The residents of The Paddocks are taxpayers and we vote. With all due respect,
1017 we are quite disturbed by what we perceive to be a failure on the County's part to
1018 at least maintain the appearance of neutrality. While it appears that the
1019 employees of the Planning Office have been working closely in advising Ms.
1020 Harris at every turn, no one from the County has reciprocated that same level of
1021 service to those who are in opposition. We feel as though we are an afterthought
1022 of both the County and Ms. Harris. We have been advised that a community
1023 meeting has been held with all Provisional Use Permit requests. A careful review
1024 of the timeline in fact reveals that no community meeting was even planned until
1025 the County realized that there was overwhelming opposition to this request.

1026

1027 We want to emphasize that this is not a personal attack on Ms. Harris.
1028 Nonetheless, we must raise our concerns regarding the great insensitivity and

1029 poor judgment that has already been demonstrated, as evidenced by the initial
1030 iconography she planned to use on her signage. The second logo. This is the
1031 original logo. The second logo we contest is no better. We'd like to call
1032 everyone's attention to the use of the Confederate flag and then the lamplighter
1033 on the second logo. While Ms. Harris has apologized and stated that she would
1034 change the initial logo—and that has been done—we are left just to wonder what
1035 else will be done that may offend the residents of the neighborhood or attract an
1036 undesirable element into our beloved community.

1037

1038 When the property of Mr. and Mrs. Shaw was initially developed, their intent was
1039 to protect both their property and the property of the homeowners. This is
1040 evidenced by the covenants and restrictions that were filed with the clerk's office
1041 in 1997. These covenants and restrictions run for a term of 30 years and state
1042 that no lot shall be used except for residential purposes. The covenants and
1043 restrictions do not exclude the Shaw property. In fact, the Shaw property is
1044 shown on the plat of The Paddock subdivision and the County's own notification
1045 to us indicates that the Shaw home is in The Paddocks.

1046

1047 Consulting attorneys have indicated that there is a strong argument for the
1048 existence of an implied reciprocal negative easement, which exists when a
1049 common grantor, Mr. Shaw, develops land and pursues a course of conduct
1050 which indicates an intention to execute a general scheme or plan of improvement
1051 for the benefit of himself and purchasers, and then he, Mr. Shaw, incorporates
1052 restrictions and covenants into the deeds of the purchasers. The purchasers
1053 thereby acquire an implication, an equitable right, to enforce similar restrictions
1054 against the lots that have been retained or subsequently sold without restriction
1055 to the purchaser.

1056

1057 Finally, Ms. Harris attempts to compare her request to the only other two
1058 Provisional Use Permits granted in Henrico County for the operation of a bed and
1059 breakfast. Manikin and the Virginia Cliff Inn are drastically and distinctly different.
1060 Neither of these businesses is located in a residential neighborhood. Instead,
1061 both are located on primary roads, causing little to no inconvenience, risk to
1062 safety, or impingement upon the quality of life of the residents and children that
1063 live in these areas.

1064

1065 Mr. Lohmar will speak about our remaining concerns.

1066

1067 Mr. Vanarsdall - Thank you.

1068

1069 Mr. Jernigan - Thank you.

1070

1071 Mr. Lohmar - I would like to thank you for allowing us to gather
1072 together as a community and present our opposition. We greatly appreciate that
1073 as citizens of Henrico.

1074

1075 I'd also like to point out again that this is not an attack on Ms. Harris or even the
1076 historic property. We are very proud to have historic property in the central piece
1077 of our neighborhood and support its upkeep and recognize that's something that
1078 benefits the entire community. We are not in support at all of the need to have a
1079 business in order to do this. There are several ways to take care of a well-
1080 established property, and it is not a requirement that a bed and breakfast is
1081 operated, or any business is operated within this property to make that happen.
1082

1083 Mr. Jernigan - Would you repeat your name again?

1084
1085 Mr. Lohmar - Yes. My name is Hans Lohmar.

1086
1087 Mr. Wright - Okay.

1088
1089 Mr. Lohmar - I'm at 1201 Jockey Trace. I'm the gentleman who
1090 spoke to this same organization a year ago on the same subject.
1091

1092 Mr. Jernigan - All right. Thank you, Hans.
1093

1094 Mr. Lohmar - What I'm going to speak to tonight are some of the
1095 other aspects or categories that Denise has already referenced. I'm going to
1096 speak to how our community is concerned that allowing a business of any kind
1097 would negatively impact our small neighborhood in the following categories:
1098 quality of life, personal safety of community members, and community vision.
1099

1100 Starting with quality of life. Let me paint the picture of our small neighborhood. If
1101 you take a look at your monitors—and I'm assuming you all have monitors in
1102 front of you as well—you can see right there in the middle, highlighted in red, we
1103 do, in fact, see the property. The rectangle around it is The Paddocks
1104 subdivision. As everyone has stated, she is enveloped completely by our
1105 neighborhood. Hence, she is a part of our community and we embrace her as
1106 part of the community. As everyone stated, it's a quiet, serene, private
1107 neighborhood consisting of one road in and two cul-de-sacs back to back. It's a
1108 low traffic, low speed community. There are no through roads for traffic. There
1109 are only 16 houses in the community, including Ms. Harris. As stated previously
1110 by Ms. Deemer, the smallest acreage is one acre, with Ms. Harris' the largest at
1111 6.67, and most of the plots over two acres.
1112

1113 The roads that you see are built without sidewalks or bike paths to accommodate
1114 pedestrian or fitness traffic. The residents of our community enjoy knowing that
1115 there is a consistent and minimal pattern of traffic in the neighborhood. As a
1116 result, the community and its children run, walk, ride bikes, play basketball, and
1117 exercise safely in the streets. Parents have the unique privilege of feeling safe in
1118 allowing their children to go from house to house, knowing that everyone in the
1119 neighborhood knows everyone else and that we all watch out for each other.
1120

1121 The proposed business has demonstrated that it has no concept of embracing or
1122 improving the community in which it desires to turn a profit. The proposed
1123 business has also demonstrated that it has no concept of community
1124 responsibility. There's been no give to the take.

1125

1126 The safety concerns we have are very simple. The residents and particularly the
1127 children of The Paddocks must be kept safe. We're all concerned about the risk
1128 of additional and unfamiliar traffic that would come with a business operating in
1129 the center of our community. We've heard Ms. Harris' estimates of how the
1130 people who would visit the bed and breakfast would travel back and forth, but
1131 there's also a further implied amount of traffic that comes with operating a
1132 business—delivering business supplies, additional trash, everything that goes
1133 with operating somewhere where you accommodate people to stay.

1134

1135 We're also concerned that any business in the community will attract a certain
1136 crime element into the area. The more traffic, the kinds of traffic, the more
1137 unknown people, the better chance there is of crime. An interesting statistic was
1138 shown earlier in Ms. Harris' documentation where she showed that 41% of the
1139 people who, on average, would visit a bed and breakfast were ages 30 through
1140 39, of medium income, and well educated. That is very close to the statistics of
1141 people who are sex offenders and child molesters.

1142

1143 [Voices off mike.]

1144

1145 Mr. Lohmar - It's just a fact. The overwhelming majority of
1146 neighbors in this subdivision are opposed to granting a Provisional Use Permit
1147 that would allow any business to operate in this residential neighborhood. As part
1148 of our community vision, this is something that we deem. All the residents of The
1149 Paddocks have a dream of living in a quiet residential neighborhood and have
1150 worked to fulfill the dream, and continue to work hard to provide that dream to
1151 our families without infringing on our neighbors or the community vision by
1152 operating a business in this small community. As households, we all face
1153 financial challenges, but that doesn't mean that we should steal from the vision of
1154 our community to meet those challenges.

1155

1156 I've got a couple questions, also, along the lines of what Ms. Deemer presented.
1157 I'm unfamiliar with Ms. Deemer; I don't think anyone other than perhaps Ann
1158 knew her. Will you introduce yourself and let us know who you are?

1159

1160 Ms. Deemer - [Off mike.] I'm Rosemary Deemer and I'm a planner
1161 with the County.

1162

1163 Mr. Lohmar - I'm sorry, but we've never had the opportunity to
1164 meet. We've never had a discussion with you.

1165

1166 Mr. Jernigan - Hans, listen. When staff has these applications come
1167 in, they sit down and analyze all the zoning cases we have. They come up with a
1168 decision yea or nay on all of them. When I have neighborhood meetings, then I
1169 have someone from staff that's there and we'll sit through a meeting together.
1170 Staff does their job, and a very good job, too. They give to the Planning
1171 Commission what they feel is right. They either recommend deferral, denial, or
1172 approval.

1173
1174 Mr. Lohmar - Yes sir, I understand that. That's why I was
1175 disappointment in not having been—Our community hasn't had the input to you
1176 other than this opposition. It would have been nice if we had an earlier buy-in
1177 along the subject. We haven't had the opportunity for that.

1178
1179 Mr. Vanarsdall - Let me interject. They don't tell us how to vote; they
1180 give us all the means that we need to know how to vote.

1181
1182 Mr. Lohmar - Yes sir.

1183
1184 Mr. Vanarsdall - We also don't make a decision. We recommend it
1185 goes to the Board of Supervisors and they make the final decision.

1186
1187 Mr. Lohmar - Understood. Yes sir.

1188
1189 The other question I had is Ms. Deemer mentioned there are 11 people in the
1190 area in support of the bed and breakfast. May I ask who these people are? I
1191 would suggest to you that there are not 11 members of The Paddocks
1192 community who are in support of that. It is a bit of a misleading figure.

1193
1194 Mr. Jernigan - Thank you.

1195
1196 Ms. Deemer - We received through e-mail, telephone
1197 correspondence, and letters both in the Planning Department and also through
1198 the Board office. One letter is from a resident in Richmond. One was
1199 unidentified. Seven were within the Varina District, two of which live two blocks
1200 away and the other five live within Varina. Two additional people called in to the
1201 Board office in support and they were in the Brookland District.

1202
1203 Mr. Jernigan - Okay. Thank you, Rosemary. Hans, do you want to
1204 be up for the questions? You're the spokesman.

1205
1206 Mr. Lohmar - Do you mean questions for me?

1207
1208 Mr. Jernigan - Well, just so we can talk about this.

1209
1210 Mr. Lohmar - Sure, absolutely. I'm happy to represent.

1211

1212 Mr. Silber - Let me just also point out, as maybe a point of
1213 clarification, about the process of how this works, because I think it's important
1214 that the community understand that there are really no sides here that should be
1215 taken. When an application is filed, the County Administration evaluates the
1216 application. My staff gets it and receives input from the various departments and
1217 agencies. We then make a determination based on the County's Long-Range
1218 Comprehensive Plan, its Land Use Plan, its transportation network. We have
1219 input from the different departments, schools, traffic, etcetera. A recommendation
1220 is then made to this body, which is the Planning Commission. The Planning
1221 Commission then holds a public hearing and makes a recommendation to the
1222 Board of Supervisors. They will then hold a public hearing and make the final
1223 decision. Often what happens is, after an application is filed and staff prepares a
1224 staff report that goes out to the Commission two weeks before the hearing, that is
1225 usually when neighborhoods are involved in the process through the notification
1226 process. By state law, we have to notify adjacent property owners. It's in that
1227 time, usually, that there's interaction between the applicant and the
1228 neighborhood. Your involvement or lack of involvement by my staff is not—
1229 We're more than happy to talk to you about any issues. We have phones, we
1230 have communication through computers and all the other means. We are here to
1231 answer questions and to assist.

1232

1233 Mr. Lohmar - Thank you. I really appreciate that. I wish that we
1234 had been more involved with it. Please understand our viewpoint when we see
1235 Ms. Deemer saying, "I've got 11 people that are recommending that this happen
1236 and are in support of it," and these people neither live within the community nor
1237 have had any discussion with the community. You can see where we might feel
1238 slighted, because we just weren't involved with people who are not a member of
1239 the community or are even involved.

1240

1241 Mr. Silber - Sure.

1242

1243 Mr. Lohmar - I hope you can understand that.

1244

1245 Mr. Silber - Okay, sure. Thank you.

1246

1247 Mr. Lohmar - I'd also like to point out, too, that—

1248

1249 Mr. Vanarsdall - I understand that.

1250

1251 Mr. Lohmar - —we love the fact that Ms. Harris takes such great
1252 care of that house. We fully support its historical condition, the upkeep of that.
1253 It's a beautiful home; it deserves to be kept up, such as any of our homes
1254 deserve to be kept up. All of the neighbors in the neighborhood take pride in their
1255 home, and should. We're not opposed to that. We're not opposed to historical
1256 preservation. We're not opposed to Ms. Harris. We're not opposed to anything of
1257 that nature. Those are great humanistic qualities, qualities we desire in our

1258 community. A Provisional Use Permit changes the fabric of the community,
1259 changes us from a residential area, hence the need for the Provisional Use
1260 Permit. It changes the fabric of what happens in our neighborhood. It changes
1261 the culture we all bought into.

1262
1263 Many of the families you see represented here bought into this neighborhood
1264 from Mr. Shaw with the understanding that this would always be a residential
1265 area, with no understanding this would be anything but, with the understanding
1266 that [unintelligible] cozy corner of Henrico County in the Varina District with a
1267 generous parcel of land with a place for your children to play, places for your
1268 animals and pets, places for you to exercise. A place where you can feel safe.
1269 It's very unique in the Varina District and in Henrico County. You can see from
1270 the plan, you can see it from representation. You can see from our passion
1271 about how unique that is and we would like to preserve that uniqueness.

1272
1273 Mr. Jernigan - All right. Let me ask you this. For these, you have to
1274 get a Provisional Use Permit, but you don't have to have any rezoning. You don't
1275 have to have a business zoning to do this. Why do you think that is?

1276
1277 Mr. Lohmar - I don't think that we need a business zone
1278 [unintelligible].

1279
1280 Mr. Jernigan - Why do you think that the County would require a
1281 Provisional Use Permit?

1282
1283 Mr. Lohmar - Why would I think they would for businesses in
1284 general?

1285
1286 Mr. Jernigan - Well, no, not for businesses. What I'm saying, this
1287 property can still be zoned R, which you can have a business in it.

1288
1289 Mr. Lohmar - Yes sir.

1290
1291 Mr. Jernigan - It's because it is such low impact that you don't want
1292 to rezone something for the future that would be in a subdivision. Now, in case
1293 you don't know, Provisional Use Permits are revocable. Whenever one is passed
1294 by the Board, if down the road—One came through for outside dining. If at some
1295 time that gets to be a pain or is uncontrollable and you have problems with it, the
1296 Board of Supervisors can revoke it.

1297
1298 Mr. Lohmar - Yes sir.

1299
1300 Mr. Jernigan - So, that goes along with all Provisional Use Permits.
1301 The reason they don't have B zoning is because of the low impact. A bed and
1302 breakfast is traditionally still residential in character.

1303

1304 Mr. Lohmar - Yes sir. Thank you for taking the time to explain that.
1305 We do have a good understanding of that. One of our concerns is that in that
1306 scenario, we then become essentially a police organization that polices the
1307 trespasses against our community. That's not something desirable for us. We
1308 have a neighborhood watch program to watch out for each other, but we're not
1309 interested in having to police an operating business. That's something we
1310 haven't signed up for. That's something that impedes on our liberties and rights.

1311
1312 Mr. Jernigan - All right. The next thing, we're talking about traffic.
1313 Now, I'm sure that you all saw in the paper that Ms. Harris sent out that she can
1314 have two full-time tenants—

1315
1316 Mr. Lohmar - Yes sir.

1317
1318 Mr. Jernigan - —that are there seven days a week, or she can have
1319 two more houses in there, which is going to generate 20 more trips a day.

1320
1321 Mr. Lohmar - The thing about that is those people will not imply
1322 additional non-residential business traffic any more than any of our residents
1323 do—trash services, things of this nature. However, they are also residents of the
1324 community. Someone who rents a room in a community, even from a month-to-
1325 month lease, becomes a member of that community, isn't just a guest in that
1326 community, someone who would contribute, or we would certainly hope so.
1327 We're not opposed to the development of other plots within. She has a very
1328 generous parcel there and it's completely within her right to develop those. We
1329 are not against that at all. We would welcome two more families in our
1330 community. That's not an issue either. We have no issue with that.

1331
1332 Mr. Jernigan - Since this case came back around, I looked at a
1333 whole lot more things and I found out there are a whole lot more bed and
1334 breakfasts out there than I thought. I've never stayed at one personally. If I
1335 travel, I stay at a hotel. In Lexington, which is one of the heaviest concentration,
1336 in Albemarle County, Charlottesville, there are a lot of bed and breakfasts in
1337 residential areas.

1338
1339 Mr. Lohmar - Yes.

1340
1341 Mr. Jernigan - All up and down the East Coast, especially up in New
1342 England, there are a lot of bed and breakfasts.

1343
1344 Mr. Lohmar - Yes sir. I grant you that that is interesting; however,
1345 it's not relevant to our community.

1346
1347 Mr. Jernigan - What I'm saying is this is an 1853 home. This has the
1348 same criteria as the homes that I've looked into before. It's a historical site and
1349 wants to be preserved and it is on the register.

1350
1351 Mr. Lohmar - Yes sir. And should be preserved.
1352
1353 Mr. Jernigan - I'm going to go back to the flag when it came out last
1354 time. I don't blame you all for being upset and I told Ms. Harris that. She didn't
1355 mean to do that, but it did come. Well, let's face it, the Civil War was fought here.
1356 We can't change that.
1357
1358 Mr. Lohmar - Indeed it was.
1359
1360 Mr. Jernigan - It happened. She brought that out and I told her that
1361 was a bad call. When the light holder came out, I didn't even know what that was;
1362 she didn't either. But I quickly found out from a friend of mine. So, that's gone. I
1363 think that she has tried to—We've gone with—the pineapple now is her logo.
1364 There's nothing in there about the Confederate flag, there's nothing in there
1365 about the light holder.
1366
1367 Mr. Lohmar - Excuse me, did you say "we have"?
1368
1369 Mr. Jernigan - She has.
1370
1371 Mr. Lohmar - Oh, pardon me.
1372
1373 Mr. Jernigan - She's using the pineapple as her logo. Am I correct?
1374
1375 Mr. Lohmar - Yes sir, she is.
1376
1377 Mr. Jernigan - Okay.
1378
1379 Mr. Lohmar - That is, in our minds, yet another example of how her
1380 desires are incongruent with the desires and culture of the community. There is
1381 the first example of how even prior to having a business in the community, the
1382 community had to take action to police her actions. We had to step up and say
1383 you don't know who you live with, you don't know your community. You're putting
1384 your business needs first. I support business [unintelligible], small business. We
1385 all support small business and historic business in Henrico County. We are all
1386 residents of this County and the historical nature of the County is attractive to us.
1387 Having that house in the center of our community was attractive to us. We
1388 bought into that concept. We bought into, "Look at this. There is history in your
1389 front yard, right out your front door." When I lived in the City of Richmond, I could
1390 see St. John's Church from my living room window. I loved that. That's a great
1391 thing. That doesn't mean that she needs to infringe on our rights to support that
1392 vision.
1393
1394 Mr. Jernigan - Let me ask you something, then. Why do you think
1395 the rest of the bed and breakfasts all up and down the East Coast and all—

1396
1397 Ms. Roane - I don't know why. It impacts our neighborhood.
1398
1399 Mr. Jernigan - It seems to be that I don't hear any—I don't travel to
1400 all these other places, but it seems to be something that's kind of standard all
1401 over. Do we need to be different here?
1402
1403 Mr. Lohmar - You're speaking in great generalizations. Granted.
1404 You are speaking in great generalizations. You're also speaking to aspects or
1405 concepts that you admit that you don't frequent, that you're not really a
1406 participant in.
1407
1408 Mr. Jernigan - No, but I've looked at the statistics on it.
1409
1410 Mr. Lohmar - We're not against bed and breakfasts in general;
1411 we're against a Provisional Use Permit for that bed and breakfast in our
1412 community. We're not against the concept.
1413
1414 Mr. Jernigan - Mrs. Jones, did you want to say something?
1415
1416 Mrs. Jones - May I ask a few questions? I'm trying to make sure I
1417 understand your reasons for opposition.
1418
1419 Mr. Lohmar - Yes ma'am.
1420
1421 Mrs. Jones - Let me just clarify. I have, by the way, been to your
1422 neighborhood three times. We all take a look at properties that come in front of
1423 this Commission because we all vote on these and need to understand the
1424 context. It's a beautiful neighborhood.
1425
1426 Mr. Lohmar - Thank you.
1427
1428 Mrs. Jones - Yes, I was the little white car turning around in the cul-
1429 de-sacs there. I wanted to tell you that, obviously, the first thing you see when
1430 you come into the neighborhood is the historic home. There is no less impactful
1431 way for people to get from the main road to the home than right down the
1432 entrance road. When I drove your neighborhood, I didn't envision that there
1433 would be people coming to impact the cul-de-sacs. That was the first thing.
1434
1435 Secondly, I'm sure there are families. A school bus had some kids getting off, so
1436 I know there are families there. If Ms. Harris had a number of family members
1437 with her, the traffic impacts would be, I venture to say, even more than for
1438 boarders. So, I considered that. The insensitivity of the logo, the surrender point.
1439 I have a feeling this got off to a bad start right from the get-go, and I'm sorry to
1440 hear that because sometimes those feelings are very, very difficult to overcome.

1441 What I'd like to ask is that we try to put that aside, if it's been resolved, which it
1442 seems, from what I've heard, that it has been.
1443
1444 You mentioned you know there's a lot of cost to a historic home. You know she's
1445 attempting to bring some money to this venture because it is costly, but you said
1446 there are other ways to do that.
1447
1448 Mr. Lohmar - Yes ma'am.
1449
1450 Mrs. Jones - Could you tell me what those other ways are?
1451
1452 Mr. Lohmar - I can read to you from her suggestions. She has
1453 presented the neighborhood with a brochure that lists her options.
1454
1455 Mrs. Jones - Right. I've read those. I thought you had other ideas.
1456
1457 Mr. Lohmar - Well, no ma'am. I think she's got good ideas. I think
1458 she herself has good ideas on how she can help support that historic home.
1459
1460 Mrs. Jones - So, the boarders or subdividing the property.
1461
1462 Mr. Lohmar - The boarders or subdividing the property are fine
1463 ideas in our minds. If you look at the way it's laid out, the subdivision of the
1464 property would most likely happen on the larger portion, the grassy field as she
1465 has laid out in her plan.
1466
1467 Mrs. Jones - Okay.
1468
1469 Mr. Lohmar - Adding two homes to that property wouldn't degrade
1470 the neighborhood in any way. It would bring in two new families to the
1471 community. We're not opposed to that in any way. We're a family community.
1472 The boarders? Similar concept. It would preserve her parcel of land even more,
1473 which is nice. At the same time, you're bringing in people who are members of
1474 the community or have the potential to be. Guests who come in, even for an
1475 extended stay, will not embrace the community or be a member of the
1476 community in the same way. We're not opposed to those concepts at all.
1477
1478 Mrs. Jones - Well, there are obviously pros and cons, and that's
1479 what we're here to weigh.
1480
1481 Mr. Lohmar - I'd also like to speak to—You mentioned there is one
1482 direct route into the neighborhood. That's the same route we all take. You're
1483 absolutely right. Everyone in our neighborhood takes that route. When you go
1484 through that and venture appropriately to the right around the centerpiece, what
1485 would be a circle if it was, in fact, a circle, traffic circle around it, then you are

1486 within the traffic flow of both cul-de-sacs, and within the walking and fitness path
1487 of the children and the residents of the neighborhood.
1488
1489 Mrs. Jones - Mmm-hmm.
1490
1491 Mr. Lohmar - So, it doesn't bypass the neighborhood in any way; it
1492 goes right to the heart of it.
1493
1494 Mrs. Jones - You mentioned also that there's been no give and
1495 take with the community, that you felt this has been a very disjointed process. I
1496 thought I understood that there were open houses or meetings that Ms. Harris
1497 has hosted. Is that correct? And have you all gotten together and tried to
1498 hammer out a compromise here?
1499
1500 Mr. Lohmar - [Unintelligible.]
1501
1502 Mrs. Jones - Have you attended open houses with Ms. Harris?
1503
1504 Mr. Lohmar - No ma'am. None of us has attended, to my
1505 knowledge. She has offered two open houses. We've also had community
1506 meetings that we invited her to.
1507
1508 Mrs. Jones - Nobody comes to anybody's?
1509
1510 Mr. Lohmar - Oh, we come to the community meetings.
1511
1512 Ms. Roane - We had one community meeting last year and then
1513 she's had, I think, two open houses since then.
1514
1515 Mrs. Jones - Nobody went?
1516
1517 Ms. Roane - No.
1518
1519 Mrs. Jones - Why was that?
1520
1521 Mr. Lohmar - We're not interested in one-sided communication;
1522 we're interested in dialogue. The way she presents herself through her verbiage
1523 and brochures is that she is pushing information to us, not trying to dialogue.
1524
1525 Mrs. Jones - Folks, it seems to me it's hard to have a dialogue if
1526 you're not together.
1527
1528 Mr. Lohmar - I agree.
1529
1530 [Person off mike] - You're the one that didn't come.
1531

1532 Mrs. Jones - Thank you.
1533
1534 Mr. Thornton - Mr Chairman?
1535
1536 Mr. Archer - I'm sorry, go ahead.
1537
1538 Mr. Thornton - May I ask a question?
1539
1540 Mr. Jernigan - Mr. Thornton?
1541
1542 Mr. Thornton - I wanted to ask a few questions about this because I
1543 am very concerned about insensitivities and how things are done. I've been
1544 listening as closely as I can with this particular case. It's just my opinion that
1545 probably things just didn't go right in the beginning. Probably what happened is
1546 that has influenced. The case itself, if it were to come to the Board, probably is in
1547 good shape. So then the question is, at this level, how do we rectify or ameliorate
1548 some of the issues that you have. I think I heard something very significant a few
1549 minutes ago. I always think resolution is one of the better ways to resolve things.
1550 I think both groups have to be ambassadors. I can sense the insensitivity, how
1551 many it has hurt, but I did also hear, though, we have not had that face-to-face
1552 dialogue. It seems to me one of the processes of a mediation is you've got to
1553 face the persons one-to-one, if that is possible, to voice your concerns where no
1554 one talks down to the other person, but listens. I don't know whether or not the
1555 two groups have done that.
1556
1557 Mr. Lohmar - Denise, were you at the meeting when Ann Harris
1558 attended? Can you speak to—
1559
1560 Ms. Roane - Mr. Jernigan was there and we had a meeting
1561 between the neighbors and Ms. Harris. I think it got off to a very rocky start. I
1562 don't know how else to explain our concerns or how else to explain to the
1563 members here tonight that this is a neighborhood. This home is surrounded by
1564 other homes. I'm not here to defend why I feel the way I feel. I do not want a bed
1565 and breakfast operating in my neighborhood. I would simply ask you if you lived
1566 there, would you want a bed and breakfast in your neighborhood? The majority
1567 of the people who surround this property do not want this in their neighborhood.
1568
1569 Mr. Vanarsdall - It's still unclear to me. If you all had a meeting with
1570 everyone and this is [unintelligible]—Has Ms. Harris had a meeting with you and
1571 all of you came? We have community meetings all the time. We had one this
1572 past Monday here in my district. Have you had a meeting?
1573
1574 Ms. Roane - We did and we did not come to any agreement.
1575
1576 Mr. Vanarsdall - Mr. Jernigan had the meeting, right?
1577

1578 Ms. Roane - Mmm?
1579
1580 Mr. Jernigan - Yes sir.
1581
1582 Mr. Vanarsdall - Mr. Jernigan had the meeting.
1583
1584 Ms. Roane - Yes he was.
1585
1586 Mrs. Jones - Was that recently, after the discussion of the logo?
1587
1588 Mr. Vanarsdall - It was the first time.
1589
1590 Mrs. Jones - So, has there been a meeting—
1591
1592 Ms. Roane - It was after the—It was the meeting where the new
1593 logo of the lamplighter was presented.
1594
1595 Mr. Lohmar - Then after that, two neighborhood association
1596 meetings ago, Ms. Harris [unintelligible] had our meeting that night. I wasn't able
1597 to attend that evening, so I can't speak to the conversation, but if there is anyone
1598 who is interested in speaking to that?
1599
1600 Mr. Vanarsdall - That's usually where things are—
1601
1602 Mr. Lohmar - Pardon me?
1603
1604 Ms. Deemer - Do you want me to explain the process? I thought,
1605 perhaps, staff could give—They had—When the staff—When this was initially
1606 presented last year, there was a community meeting that Mr. Jernigan and Tom,
1607 who is no longer with us, attended.
1608
1609 Mrs. Jones - Coleman.
1610
1611 Ms. Deemer - Right. There have been subsequent open houses
1612 sponsored by Ms. Harris. There was one, two, a Sunday ago, the previous
1613 Sunday. She hosted that meeting last Sunday and there was, apparently, from
1614 what I understand, no one there from The Paddocks subdivision. There were
1615 some other people who did come and attend. That meeting was held last
1616 Sunday. No one from The Paddocks subdivision attended that or the previous
1617 open house that she had.
1618
1619 Mr. Vanarsdall - You satisfied me. I knew Mr. Jernigan had a meeting,
1620 but did everyone go or?
1621
1622 [Person off mike] - Yes we did.
1623

1624 Mr. Vanarsdall - When we have our meetings, we solve the problems
1625 in those community meetings. I keep wondering why this problem hasn't been
1626 solved or if you all have been talking to, been preaching to the choir and nobody
1627 was listening.

1628
1629 Mr. Lohmar - I think I understand the answer, sir. Let me see if I
1630 can explain it in a way so we can all get to the same point. Mr. Thornton and
1631 other people have recognized that there was tension at the beginning, that there
1632 was an event. There was the event [unintelligible] with the logos, which everyone
1633 in the community found offensive, with perhaps the exception of Ann Harris. That
1634 event is an indicator of the root cause of the problem. It is a symptom; it is not
1635 the root. A community is a system. It is a system designed to work together
1636 where people are equals, where people come together and form a community.
1637 When a system encounters a problem and they can determine the root cause of
1638 the problem, they can then work to resolution of the root cause of the problem.
1639 The root cause of the problem, and what all of this stems from, is that the
1640 owner/operator of the proposed business doesn't have any sense of community
1641 with the community and isn't sensitive to our concerns. That is clearly evidenced
1642 in the use of the Confederate flag within her original brochure. Now, that is one
1643 symptom.

1644
1645 Our concern and ongoing concern with that is when you have someone who is in
1646 a position to further offend the community, further rob the liberties of the
1647 community, further slight the community through her own path, through her own
1648 decisions without input, without discussion, without dialogue of colleagues, at that
1649 point, you no longer have a business that can operate within the realm of the
1650 community without the community policing the business. At that point, while she
1651 is profiting, it is to our detriment to have to take on the role of policing the
1652 business and looking for how to go about resolving these ongoing issues. I think
1653 we're seeing the chip of the iceberg here. I think what we're seeing is even
1654 before the business has established itself, that the owner is not able to identify
1655 what's best for the community and that there is no formal or even less than
1656 formal way for us to get together and talk about that. Or for that matter, is there
1657 a need for the community to have to have a business only to police it? We don't
1658 need a business. We don't need it, we don't want it. As a neighborhood, we
1659 don't want it; as a community, we don't it. As a system, it envelopes and creates
1660 problems for us.

1661
1662 Mr. Archer - Mr. Chairman, can I just make a comment?

1663
1664 Mr. Jernigan - Yes sir.

1665
1666 Mr. Archer - I guess I've been here 10 years or more. This is one
1667 of the most difficult decisions that I think any of us up here have had to make
1668 because a lot of it is based on what I perceive to be some real deep passions on
1669 both sides of this issue. Looking at the fact that we've had bed and breakfasts

1670 before that we have had to vote on one way or the other, I don't think I've ever
1671 seen this level of opposition to the ones that we've done, even though the uses in
1672 the other bed and breakfasts are far heavier than the uses that have been
1673 presented with this one. Have you all had a chance to read the conditions that
1674 came with this?

1675

1676 Mr. Lohmar - Yes sir, they're posted on the County website.

1677

1678 Mr. Archer - The things that cannot be done?

1679

1680 Mr. Lohmar - Yes sir, they're posted on the County website.

1681

1682 Mr. Archer - It seems to be a very limited use as such. I'm not
1683 saying that to favor one side or the other, but this Commission does have to vote
1684 and make a decision. In a lot of instances, unless there's some compelling
1685 reason not to, we have to establish and follow some sort of precedent. One of the
1686 rules in our by-laws says we can't be arbitrary or capricious.

1687

1688 Mr. Lohmar - Yes sir.

1689

1690 Mr. Archer - So we can't just sit here and see who has the most
1691 guns and then make a decision based on that. I'm thinking that based on the fact
1692 that you all have really not had an opportunity to sit down and face each other in
1693 a more cohesive and friendly fashion, it still needs to be done.

1694

1695 Mr. Lohmar - Yes sir. I would say you made a very strong point
1696 there. This is the first time you've encountered such passionate opposition.

1697

1698 Mr. Archer - Oh, we've had passion. We have passion every
1699 week.

1700

1701 Mr. Lohmar - That in itself is precedent-setting. I think that's fair to
1702 say. I think we have the opportunity, perhaps for the first time, to set a new
1703 precedent to say this isn't necessarily the way things have to work. Just because
1704 it was done this way in the past under different conditions in the same
1705 generalization, those rules and laws don't necessarily apply with the same
1706 precedents to the current situation.

1707

1708 Mr. Archer - I guess what I'm trying to say, sir, is that we have to
1709 have a reason as to why we vote to make a recommendation to the Board of
1710 Supervisors. The reason has to be a salient reason, one that we can hang our
1711 hat on and is based on much more than passion. Based on the fact that you all
1712 have not really had a good, serious meeting face to face, it's difficult to make a
1713 decision based on just two opposing sides, one wanting one thing and one
1714 wanting another. We also have to respect the rights of the property owner to
1715 bring a case. That is not new. It's something that's been done before. We don't

1716 have a lot of bed and breakfasts in Henrico, but we do have a couple. I just feel
1717 like that meeting needs to be held. That's personally what I feel.
1718
1719 Mr. Lohmar - I don't think we're opposed to that in any way. I would
1720 submit to you that, unfortunately, I think the meeting would have the same results
1721 that would get you back here a year from now.
1722
1723 Mr. Jernigan - Thank you. The first neighborhood meeting did not
1724 go good.
1725
1726 Mr. Archer - I can understand that.
1727
1728 Mr. Jernigan - You can kind of tell that.
1729
1730 Mrs. Jones - That's clear.
1731
1732 Mr. Jernigan - I don't think if we had another one that anything is
1733 going to change.
1734
1735 Ms. Roane - Has anyone besides Mrs. Jones, if I may ask, been
1736 out to our neighborhood? And Mr. Jernigan. Has anybody else been out there?
1737
1738 Mr. Archer - I know the neighborhood, ma'am.
1739
1740 Ms. Roane - Okay.
1741
1742 [Person off mike] - We've been out there.
1743
1744 Ms. Roane - Yeah, but we live there. Respectfully, we'd like to say
1745 we live there. We are the ones who are directly impacted by this. Directly.
1746
1747 Mr. Jernigan - All right.
1748
1749 [Person off mike] - [Unintelligible] for more than 30 years.
1750
1751 Mr. Lohmar - Yes sir. We're talking about our neighborhood, not the
1752 district.
1753
1754 Mr. Jernigan - Okay. All right, all right. Did you have a closing
1755 statement, Hans?
1756
1757 Mr. Lohmar - I think we've said all we need to say, and I thank you
1758 for your time and letting us elaborate as long as we have.
1759
1760 Mr. Archer - Mr. Chairman, let's make sure that everybody
1761 understands that when we vote on this tonight, whether we vote to defer it or to

1762 recommend it or to not recommend it, the final say on this will be at the Board of
1763 Supervisor's meeting. Our recommendation can be dealt with any way the Board
1764 chooses to.

1765

1766 Mr. Jernigan - Ms. Harris, did you have any closing comments?

1767

1768 Ms. Harris - I do. Again, I made a bad choice in judgment when I
1769 first developed my plan for the bed and breakfast, and I have apologized to them
1770 publicly and I will again tonight. I have redesigned my literature to meet their
1771 need. Regarding their concerns for safety, I do have a letter from the Bed and
1772 Breakfast Association that in the 10 years as a precedent, they've never had any
1773 criminal violent crime that's been traced to a guest in a bed and breakfast in the
1774 state of Virginia. I have letters if you'd like a copy of that. Also, in terms of the
1775 other options in the letter that I shared with you that I gave to them, I invited them
1776 to an open house a year ago, and again this year to try to have them come and
1777 talk with me about their concerns, and to learn some of mine.

1778

1779 Option 1 for me is to run a bed and breakfast in the home. The reason I prefer
1780 that option is for my personal safety, I have people who make reservations and it
1781 gives me a chance to make sure who they are, and I have the income prepaid
1782 ahead of time. I do not give keys to the people and when I go on vacation, I can
1783 secure my home and go away and not have guests. If I take boarders in, I have
1784 two boarders in my home who have keys. They come and go as they wish.
1785 When I go on vacation, I have to leave my home in their charge. Yes, they are
1786 permanent residents of the neighborhood, but yes, they will create more traffic
1787 than would their counterpart as a bed and breakfast guest. So, maybe that's
1788 selfish on my part, from that standpoint.

1789

1790 The last option to subdivide, even though they say they would welcome the
1791 people—I'm glad to know they embrace me as a neighbor, but as much as I
1792 offended them on the front end, the fact that they haven't accepted my invitations
1793 to come to my home—I've been there for two years and other than Mr. Downey
1794 and a few that attended my first open house, most of them haven't come to visit
1795 me, so I don't feel embraced either. I agree with you. Maybe we need
1796 mediation. I'm not sure it will change the outcome. A bed and breakfast would
1797 afford the opportunity for me to have guests in my home and have them in a safe
1798 environment that I feel safer with than having full-time boarders in my home.

1799

1800 Mr. Jernigan - Okay. Thank you.

1801

1802 Ms. Harris - Thank you.

1803

1804 Mr. Jernigan - All right.

1805

1806 [Person off mike] - Can I say something?

1807

1808 Mr. Jernigan - Sir—
1809
1810 [Person off mike] - I'll be brief.
1811
1812 Mr. Jernigan - No, I'll tell you, we've had enough. The opposition
1813 had a little bit more time, but I think we need—
1814
1815 [Person off mike] - I'm not going to be on either side.
1816
1817 Mr. Jernigan - We need to bring this to a vote. Thank you anyway.
1818 [Whispered.] Do you think I'm [unintelligible]?
1819
1820 Mr. Silber - That's fine.
1821
1822 Mr. Jernigan - All right. Mr. Lohmar is speaking of the passion and I
1823 know this has been an upset for everybody. I truly hope that the residents there
1824 don't actually think that when Ms. Harris first came out with the logo that she was
1825 trying to offend anybody. She told me, "I didn't know." The Civil War was fought
1826 there, the surrender tree is right down the street and she was going along with a
1827 theme. She just had some bad choices because she didn't know any better.
1828 She's tried to rectify that with the logo that she has now.
1829
1830 I wish everybody here could get along a little better on this application because it
1831 would make it a whole lot easier for this Commission. This house is an 1853
1832 house and we have these bed and breakfasts all over the country. I don't know
1833 that I want to make this situation in Henrico different, being as this was such an
1834 area of history through the war times. All these homes are beautiful. You can
1835 have two more neighbors in there and I know you all are sitting there saying that
1836 you'd rather have two more neighbors, but I don't really think that you want that.
1837 Plus, it's going to take that property and slice it up, what is a nice colonial style
1838 home.
1839
1840 As Mr. Archer said, what we do is make a recommendation to the Board of
1841 Supervisors. As this point, I'm going to have to recommend approval of P-6-06,
1842 Ann Leonard Harris, and send it to the Board for their decision. Do we have a
1843 second? We have to have a second to vote on it. All right.
1844
1845 Mr. Silber - If there's no second, then we need to see if there is a
1846 motion to the contrary.
1847
1848 Mr. Jernigan - All right. Is there a motion to deny it? Well, we have
1849 to send something to the Board.
1850
1851 Mr. Archer - In that event, I move to deny.
1852

1853 Mr. Jernigan - We have a motion by Mr. Archer. Do we have a
1854 second?
1855
1856 Mrs. Jones - I will make a motion if it's appropriate at this point.
1857
1858 Mr. Silber - My Robert's Rules of Order expert behind me said
1859 that you can vote without a second.
1860
1861 Mr. Jernigan - You can?
1862
1863 Mr. Silber - Yes. So, if there is a motion to approve—This may not
1864 necessarily resolve things, but if there is a motion on the floor to approve, then
1865 we need to take a vote on that motion.
1866
1867 Mr. Jernigan - All right. Mr. Jernigan made a motion to approve.
1868 There is no second.
1869
1870 Mr. Vanarsdall - Now we need a motion to deny and I think you just did
1871 that, didn't you, Mr. Archer?
1872
1873 Mr. Archer - I did, and I did for the process, just for the purpose of
1874 just trying to move this so we can get it to the Board of Supervisors.
1875
1876 Mr. Vanarsdall - I'll second that.
1877
1878 Mr. Archer - I'd rather abstain, if you want to know the truth about
1879 it.
1880
1881 Mr. Vanarsdall - All right. I second that motion.
1882
1883 Mrs. Jones - Excuse me, there's a motion to approve on the floor.
1884
1885 Mr. Silber - There's a motion to approve. I think that needs to be
1886 voted on.
1887
1888 Mrs. Jones - Yes. The motion is to approve.
1889
1890 Mr. Vanarsdall - I made a motion to deny it.
1891
1892 [Person off mike] - [Unintelligible.]
1893
1894 Mr. Archer - We're getting ready to do that, sir.
1895
1896 Mr. Silber - All right.
1897
1898 [Many people talking at once.]

1899
1900 Mrs. Jones - We must vote on the motion to approve.
1901
1902 Mr. Vanarsdall - I know. We must have a second. We didn't get a
1903 second for the approval, so we need to turn around and make a motion to deny it
1904 and have a second for that.
1905
1906 Mr. Jernigan - We have a motion to deny and we have a second.
1907 Mr. Archer made the motion and Mr. Vanarsdall seconded it. All in favor of
1908 denial, say aye. All opposed say no.
1909
1910 Mr. Silber - So, the vote was three—The motion was to deny—
1911
1912 Mrs. Jones - Excuse me. What happened to the motion to
1913 approve?
1914
1915 Mr. Silber - The motion—
1916
1917 [Many people talking at once.]
1918
1919 Mr. Jernigan - I didn't get a second.
1920
1921 Mr. Silber - Hang on, hang on. Please, please, hang on a second.
1922 This is out of the ordinary. There was a motion originally to approve and there
1923 was no second.
1924
1925 Mrs. Jones - Correct.
1926
1927 [Person off mike] - [Unintelligible.]
1928
1929 Mr. Silber - There was then a motion to deny. The second motion
1930 takes precedence. So, there was a motion to deny.
1931
1932 Mr. Vanarsdall - We don't need you telling us how to do this. He's the
1933 secretary of the Planning Commission. We know what we're doing up here.
1934
1935 [Person off mike] - [Unintelligible.]
1936
1937 Mr. Silber - There was a motion—
1938
1939 Mr. Vanarsdall - Go ahead, Mr. Secretary. Go ahead.
1940
1941 [Person off mike] - Excuse me, but your parliamentarian said that you
1942 had the option to vote before the second motion.
1943
1944 Mr. Silber - And sir, he then corrected me.

1945

1946 Mr. Jernigan - He was corrected on that.

1947

1948 Mr. Silber - There was a motion to approve originally; there was

1949 no second.

1950

1951 Mr. Jernigan - I was under the impression there had to be a second.

1952 I had been told that before, but it's not, he checked the laws.

1953

1954 Mr. Silber - There was a motion to deny, which takes precedence,

1955 and there is a motion to deny. Is there a second to the motion to deny?

1956

1957 Mr. Vanarsdall - I second it.

1958

1959 Mr. Silber - It was a motion made by Mr. Archer and seconded by

1960 Mr. Vanarsdall. So, we need to vote on that motion. All those in favor of the

1961 motion to deny?

1962

1963 Mr. Vanarsdall - We already said that.

1964

1965 Mr. Silber - I need to see a vote. Mr. Archer voted in favor of that

1966 motion?

1967

1968 Mr. Archer - Yes.

1969

1970 Mr. Silber - Mr. Vanarsdall voted in favor.

1971

1972 Mr. Vanarsdall - Right.

1973

1974 Mr. Silber - Mrs. Jones?

1975

1976 Mrs. Jones - No.

1977

1978 Mr. Silber - So, against that motion.

1979

1980 Mrs. Jones - Correct.

1981

1982 Mr. Silber - And Mr. Jernigan voted against that motion. So, it was

1983 two/two. Mr. Thornton?

1984

1985 Mr. Thornton - Do I have to use my privilege?

1986

1987 Mr. Silber - You do not have to. The Board of Supervisor's

1988 member who sits on the Planning Commission typically abstains because they

1989 will be hearing this again at the Board level. The motion is two to two. Mr.

1990 Thornton, it is up to you whether you want to vote or not. You do not have to
1991 vote. If you wish to vote, you may, but that's entirely up to you.

1992
1993 Mr. Thornton - Let me say, I rarely vote on these things because it
1994 will be coming to us. This is a case that I really think needs to go back to the
1995 table. I think it needs to go back and each needs to show constraint when they
1996 talk to each other, but it doesn't look like we're there yet. So, I'm going to have to
1997 say, then, that Mr. Chairman—Do I have the right?

1998
1999 Mr. Silber - You have the right to vote or you have the right to
2000 abstain.

2001
2002 Mr. Thornton - Okay. My position is I don't think this case is ready,
2003 so I have to say I vote for denial.

2004
2005 Mr. Jernigan - Are you casting that vote, Mr. Thornton?

2006
2007 Mr. Thornton - Yes.

2008
2009 Mr. Jernigan - Okay. The vote is 3 to 2. The case fails.

2010
2011 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr.
2012 Vanarsdall, the Planning Commission voted 3-2 (one absent) to recommend the
2013 Board of Supervisors **deny** the request because the operation of the bed and
2014 breakfast would have potential impacts on the surrounding established
2015 subdivision.

2016
2017 Mr. Silber - This matter will come up before the Board of
2018 Supervisors at their meeting on July 14th, I believe. Let me confirm that date.
2019 That would be July 10th at 7 p.m. Let's move on to the next case. If you could
2020 quickly move from the auditorium, we'll go on to the next case. Okay, the next
2021 request this evening is on page 3 of your agenda, C-26C-07, Gloria Freye for B &
2022 B Properties, LLC.

2023
2024 **C-26C-07 Gloria L. Freye for B & B Properties LLC:** Request
2025 to amend proffered conditions accepted with Rezoning Case C-43C-92, on
2026 Parcel 809-713-6877, located on the south line of E. Williamsburg (U.S. Route
2027 60) approximately 1,030 feet east of its intersection with Charles City Road and
2028 Brittles Lane. The applicant proposes to amend Proffers 2, 3 and 4 related to
2029 use restrictions, fencing and buffers, and add a new proffer related to
2030 freestanding, ground-mounted signage. The existing zoning is M-2C General
2031 Industrial District (Conditional). The Land Use Plan recommends Commercial
2032 Concentration. The site is in the Airport Safety Overlay District and the
2033 Enterprise Zone.

2034
2035 Mr. Jernigan - Livingston, how are you tonight?

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Mr. Lewis - Just fine, sir, thank you. Good evening.

This is a request to amend proffers approved with Rezoning Case C-43C-92 to both remedy a buffer-related zoning enforcement action and accommodate a proposed expansion of Cranemasters' operations on this site. The 9.6 acre Williamsburg Road property is zoned M-2C, but proffered use restrictions limit activities to B-3 uses and three specific M-2 uses integral to the company's heavy equipment storage and maintenance operations.

The 2010 Land Use Plan recommends Commercial Concentration for the site, which is also located in the County's Enterprise Zone to encourage investment in the area. These designations acknowledge the property's economic importance and are consistent with the existing use.

Revised proffers dated June 13, 2007, in addition to new diagrams, have been submitted and adequately address staff's concerns detailed in the staff report. As shown on this site plan, the applicant wishes to construct an additional office and maintenance building and install an equipment fueling area. The additional office and maintenance building would be located there. Their fueling area would be located right there. To permit the proposed fueling facility, the applicant is requesting to amend Proffer #2(c) to allow 30,000 gallons of above ground inflammable fuel storage as opposed to the 10,000 gallons of underground storage currently allowed. Code would require the new fuel storage tank to be a minimum of 600 feet from any residential district.

The applicant has provided this diagram to illustrate the fuel tank location would meet the 600-foot distance requirement.

In response to being cited for encroachment on portions of the proffered 30-foot natural buffer, the applicant is requesting to amend Proffer #4. The change proposes reducing several sections of the 30-foot buffer to a minimum width of 16-feet planted to a Transitional Buffer 25 standard or equivalent as illustrated on this un-proffered diagram from the recent POD filing. It should be noted, a buffer deviation would need to be approved during plan of development in order to allow this width reduction. In conjunction with the buffer amendment, a proposed change to Proffer #3 would increase the required minimum fence height around the property from 6 feet to 8 feet. This reflects commitment to maintaining the height of the existing board fence.

Lastly, the applicant also proposes adding one new proffer related to signage. This new Proffer #11 would commit to any freestanding sign being of ground-mounted monument style, no greater than 54 square feet in area, and a maximum of 6 feet in height. This graphic is not proffered, but it is an example of the proposed sign.

2082 These collective requests would allow a reasonable expansion of services on the
2083 Cranemasters site which would be in keeping with the goals of the Enterprise
2084 Zone to encourage investment in the area. The location of the fueling station is
2085 not anticipated to have adverse effects on surrounding uses, and a buffer width
2086 reduction in the locations described may be acceptable with the additional
2087 landscaping. For these reasons, staff supports this request.
2088

2089 This concludes my presentation. I will be happy to take any questions. Time
2090 limits would need to be waived for the proffers.
2091

2092 Mr. Jernigan - They do need to be waived?
2093

2094 Mr. Lewis - Yes sir.
2095

2096 Mr. Jernigan - Okay. Are there any questions for Mr. Lewis from the
2097 Commission?
2098

2099 Mrs. Jones - Did I understand that this is proffered or un-proffered?
2100

2101 Mr. Lewis - The Exhibit A concept plan. Is that the landscape
2102 plan?
2103

2104 Mrs. Jones - This is Exhibit A.
2105

2106 Mr. Lewis - Yes, Exhibit A is proffered, yes.
2107

2108 Mr. Jernigan - Any more questions? Thank you, Livingston. Ms.
2109 Freye, would you come down please?
2110

2111 Ms. Freye - Good evening Mr. Chairman, members of the
2112 Commission. My name is Gloria Freye. I'm here on behalf of the applicant. I do
2113 want to take a minute just to thank Mr. Atkinson, the Zoning Enforcement Officer,
2114 who worked with us, the Planning folks that worked with us, and the folks that
2115 worked with us on the plan of development. We all needed to come together to
2116 work these problems out and staff did a great job of helping us look at each and
2117 every one of these issues and to see how it could be resolved. We do appreciate
2118 that very much.
2119

2120 This does put Cranemasters in a position to expand their building. The zoning
2121 was done back in 1992. The precipitating thing for their request to amend the
2122 zoning is that they had proffered in '92 to put their fuel storage underground.
2123 That was done at the time of zoning. They didn't own the property then. They got
2124 it zoned. They closed on the property and discovered that there was
2125 underground water contamination and soil contamination from a fuel leak from an
2126 adjacent service station, so when it came time to do this expansion they thought,

2127 we don't want to go underground, we don't want to disturb that soil. That really
2128 necessitated coming in and asking for the amendment.

2129

2130 The thing that's helpful as far as the appropriateness of this is that they are
2131 zoned M-2, but except for their storage yard, they're basically a B-3 kind of use,
2132 which is the kind of uses that are around them. M-2 does allow above ground
2133 storage up to 80,000 gallons. They are not that scale operation and don't need
2134 that. What they're proffering and what they're asking for is the above ground up
2135 to the 30, which is the M-1 level. For those reasons, they were able to bring the
2136 case forward to ask for that relief to amend that proffer and then to correct these
2137 other problems at the same time.

2138

2139 We'll be glad to answer any questions.

2140

2141 Mr. Jernigan - Are there any questions for Ms. Freye from the
2142 Commission?

2143

2144 Ms. Freye - Mr. Jernigan, we did send letters to each of the
2145 adjacent landowners. I did get two phone calls. One was from the
2146 Commonwealth of Virginia that has the library storage facility in the back. They
2147 understood that nothing was changing as far as their perspective or their buffer
2148 or their fencing or their visibility. I also got a call from someone on the north side
2149 of Williamsburg Road. I explained to them that their view, their perspective
2150 would not be impacted at all. These changes are internal to the site and they'll be
2151 thoroughly screened. Actually, the other adjacent property owner that's going to
2152 benefit the most is the Southern States because of correcting the buffer problem
2153 and supplementing that landscaping. So, that'll be an improvement.

2154

2155 Mr. Jernigan - Thank you, ma'am. All right. Well, Cranemasters,
2156 when they first came out, I remember talking to Mr. Donati about it. The Board
2157 went ahead and approved it and it was an M-1 in a regular B district.
2158 Cranemasters has been a good neighbor. They keep their properties up. I feel
2159 that everything they've done here is going to help this site. One thing, when you
2160 have an above ground storage tank, you don't have to worry about LUST. That's
2161 Leaking Underground Storage Tanks. The EPA came out with that. They call it
2162 LUST.

2163

2164 Mrs. Jones - I'm glad you clarified that.

2165

2166 Mr. Jernigan - So, anyway, I had to clear that up. You don't have
2167 that problem. First of all, I'd like to waive the time limits on case C-26C-07, Gloria
2168 L. Freye for B & B Properties, LLC.

2169

2170

2171 Mr. Archer - Second.

2172

2173 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Archer. All
2174 in favor say aye. All opposed say no. The ayes have it, the motion passes. With
2175 that, I'll move for approval of case C-26C-07, Gloria L. Freye for B & B
2176 Properties, LLC, to be sent to the Board for their approval.

2177
2178 Mr. Archer - Second.

2179
2180 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Archer. All
2181 in favor say aye. All opposed say no. The ayes have it, the motion passes.

2182
2183 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.
2184 Archer, the Planning Commission voted 4-0 (one absent, one abstention) to
2185 recommend the Board of Supervisors **grant** the request because it was
2186 determined to be reasonable and the proffers continue to assure a quality form of
2187 development.

2188
2189 Mr. Silber - The next request is C-27C-07, WWLP Development,
2190 LLC.

2191
2192 **C-27C-07 WWLP Development, LLC:** Request to conditionally
2193 rezone from A-1 Agricultural District to R-2AC One Family Residence District
2194 (Conditional), Parcel 807-702-3149, containing 3.66 acres, located on the north
2195 line of Midview Road approximately 160 feet west of N. Midview Road. The
2196 applicant proposes a single-family residential subdivision of no more than six lots.
2197 The R-2A District allows a minimum lot size of 13,500 square feet and a
2198 maximum gross density of 3.23 units per acre. The use will be controlled by
2199 zoning ordinance regulations and proffered conditions. The Land Use Plan
2200 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

2201
2202 Mr. Jernigan - Mr. Tyson, how are you tonight?

2203
2204 Mr. Tyson - Fine, thank you. Mr. Chairman, Mr. Thornton, and
2205 members of the Commission, this is a request to rezone a 3.66-acre parcel
2206 located on the north line of Midview Road from A-1 to R-2AC to permit a single-
2207 family subdivision containing a total of seven lots. Six new lots would be created
2208 and one existing house would remain as part of the subdivision. The property is
2209 bordered by the Midview Farms community, which is zoned R-2AC, to the west.
2210 The Varina Station subdivision is to the north and northeast, and A-1 zoning is to
2211 the south.

2212 The request is consistent with the 2010 Land Use Plan's Suburban Residential 1
2213 designation, which recommends 1 to 2.4 units per acre. The applicant has
2214 submitted an un-proffered conceptual plan showing the proposed layout of the
2215 community.

2216

2217 Among the proffered conditions presented with the case are that 75% of the
2218 homes would have a minimum of 2,000 square feet of finished floor area and the
2219 remaining homes would have a minimum finished floor area of 1,950 square feet
2220 All houses would have two-car garages.

2221
2222 Staff encourages the applicant to commit to an unobstructed interior space for
2223 garage interiors and also encourages side or rear loaded garages and decorative
2224 or articulated doors for front loaded garages.

2225
2226 At least 40% of the homes would have a minimum of 30% brick or stone front
2227 finish. Other materials for construction would include Dryvit, vinyl siding,
2228 hardiplank or equivalent. The owner would dedicate the right-of-way needed for
2229 any expansion of Midview Road and would escrow funds to widen Midview Road.
2230 Any wet pond BMP would be aerated. Roll-face curb and gutter would be
2231 installed along interior streets, as would two street trees for each lot frontage.
2232 Any homes constructed on the lots adjacent to Midview Road, which would be
2233 lots 2, 1, and 6 under this plan, would face Midview Road.

2234
2235 Overall, staff is supportive of the proposed R-2AC District for this property. It is
2236 consistent with the 2010 Land Use Plan's recommendation. However, staff
2237 believes there is an unresolved issue in addition to the ones outlined earlier. The
2238 applicant has proffered a landscaped buffer and entrance feature along the
2239 Midview frontage and clarification is needed as to whether that buffer would be
2240 part of the individual lots or common areas maintained by a Homeowners'
2241 Association. With only six lots, consideration should be given to whether that
2242 small number of homes and the ability of such a small HOA would effectively be
2243 able to maintain common areas. If those remaining issues could be addressed,
2244 staff could be more supportive of the request. The applicant is here tonight to
2245 answer any questions you might have.

2246
2247 Mr. Jernigan - Lee, you said the entrance feature, whether that's
2248 going to be HOA?

2249
2250 Mr. Tyson - Yes. It's not shown on the conceptual plan. They've
2251 proffered an entrance feature. Essentially, it looks as if it will have to be located
2252 on someone's lot.

2253
2254 Mr. Jernigan - Okay. The second issue, which is one that's come up
2255 before, has been on the garage, and we're talking the interior design. I don't
2256 know that every case we've had, had that proffered in there. I know what the
2257 intent is, to keep them from putting all the HVAC equipment and everything else
2258 in there so that even though it's a two-car garage, you can only fit one car in it.

2259
2260 Mr. Tyson - Yes.

2261

2262 Mr. Jernigan - I don't know that any cases that have come through
2263 lately had that proffer in there.

2264

2265 Mr. Tyson - There was one in the Varina District. I specifically
2266 looked in that district. The Durran Road case of Mr. Mosley's did have a
2267 commitment to an interior dimension for a garage, and we have seen it in other
2268 districts, but not all the time.

2269

2270 Mr. Jernigan - Okay. All right. The other thing you mentioned was
2271 the front-loaded garage doors, if they would be decorative.

2272

2273 Mr. Tyson - Yes.

2274

2275 Mr. Jernigan - Okay. Does anybody have any questions for Mr.
2276 Tyson?

2277

2278 Mrs. Jones - Front-loaded garages, decorative as well as
2279 recessed?

2280

2281 Mr. Tyson - They haven't committed to either. We generally look
2282 for recessed garages if they are going to be front-loaded.

2283

2284 Mr. Jernigan - In the Midview proffers, which were that they would
2285 build similar to Oakland Chase, was that in there on the garages?

2286

2287 Mr. Tyson - I don't know the answer to that question. I don't
2288 recall.

2289

2290 Mr. Jernigan - Okay. Any more questions of Mr. Tyson? All right.
2291 Spud, could you come on up please?

2292

2293 Mr. Mistr - Mr. Chairman, members of the Commission, I'm Spud
2294 Mistr representing the applicant in this case. We're in agreement with the staff.
2295 I think one of the issues we're running into is who is going to actually build these
2296 houses. I'm negotiating with the same builder that did Midview Farms. If they are
2297 the builder, we will incorporate that into Midview Farms with that homeowners'
2298 association, and add those proffers in. If it's someone else, we will probably not
2299 have a homeowners' association for just six lots. Hopefully, in about a week, I
2300 will have a better idea on who that's going to be. I think right now it's going to be
2301 a separate subdivision, in which case, we would have an entrance feature and it
2302 would be on somebody's lot. It would not be as elaborate as Midview Farms. It
2303 would probably be 2 by 2 columns somewhat like what we're doing at Hunters
2304 Knoll down on the Bradbury Road in that A-1 subdivision.

2305

2306 In Midview Farms, the garages are not recessed. I don't mind adding a proffer
2307 that will be decorative. Hopefully, before we get to the Board of Supervisors,

2308 we'll have the builder identified. Because I don't want to proffer something that
2309 would create a problem for a particular builder.

2310
2311 Mr. Jernigan - You're all right with a decorative door.

2312
2313 Mr. Mistr - I'm all right with a decorative door. I haven't seen a
2314 proffer on the clear space on the garage. I know what the staff is concerned
2315 about. If there is some proffer that we could put in without creating some
2316 enforcement issue for the County, we'd certainly be willing to look at that.

2317
2318 Mr. Jernigan - This has come up before, but it doesn't come up on
2319 every case. I think staff has been concerned about it. Maybe we should have
2320 something that says if you have a two-car garage, you have to be able to get two
2321 cars in it. What happens is, they put the equipment in and stick it way out in the
2322 garage and you can't get in there.

2323
2324 Mr. Mistr - You would reasonably think you could get two cars in
2325 it. I don't know which builders are aware that this problem is being created. I'm
2326 not sure how we should best address this problem.

2327
2328 Mr. Jernigan - I don't believe we've had any in the Varina District.
2329 Let's say this, between now and the Board of Supervisors, we can work out some
2330 language—

2331
2332 Mr. Mistr - Yes.

2333
2334 Mr. Jernigan - —that'll guarantee that the garages will be big enough
2335 to facilitate two cars and have a decorative door, those that are front-loading.

2336
2337 Mr. Mistr - Yes.

2338
2339 Mr. Jernigan - Okay.

2340
2341 Mrs. Jones - I have a question.

2342
2343 Mr. Jernigan - Yes ma'am.

2344
2345 Mrs. Jones - I feel really comfortable knowing that what I'm voting
2346 on is what's going to happen. Why is that you choose not to proffer the site plan?

2347
2348 Mr. Mistr - Ryan Homes in particular is building in Midview
2349 Farms. They said they would be willing to buy three lots fronting on Midview and
2350 maybe even four lots fronting on Midview with no cul-de-sac, but we haven't
2351 been able to work out the economics of doing that. If we could work it out, we
2352 would consider doing a plan of that nature with no cul-de-sac. So far, I haven't

2353 been able to negotiate that. I don't want to proffer that layout and then have to
2354 come back and un-proffer it if we don't put six lots in.
2355
2356 Mr. Jernigan - If it's six lots.
2357
2358 Mr. Mistr - That's the layout it will be.
2359
2360 Mr. Jernigan - What you're saying is that there could be less lots
2361 than what there are now—
2362
2363 Mr. Mistr - Yes.
2364
2365 Mr. Jernigan - —and they would all front—
2366
2367 Mr. Mistr - They would all front Midview and have the same
2368 restrictions as all the other lots that are in Midview.
2369
2370 Mrs. Jones - If you ended up with just the three new lots plus the
2371 existing home along Midview, would you consider that also then needing an
2372 entrance feature?
2373
2374 Mr. Mistr - If we don't have any cul-de-sac, there wouldn't be an
2375 entrance feature.
2376
2377 Mrs. Jones - This could look a lot different by the time we're
2378 finished with it.
2379
2380 Mr. Jernigan - Well, yeah, but it's a decrease and not an increase.
2381
2382 Mrs. Jones - Sure.
2383
2384 Mr. Mistr - Whether that would be better or worse, I'm not—
2385
2386 Mrs. Jones - I just wanted to understand where this stood.
2387
2388 Mr. Jernigan - Actually, if they go for that, that would probably be the
2389 best thing to just have four fronting the road and not have the cul-de-sac.
2390
2391 Mr. Silber - Mrs. Jones, when there are more alternatives and
2392 design options available, I think staff likes to see layouts that we can sort of have
2393 an understanding off. In this particular case, there are not a lot of options here as
2394 to how this can be designed.
2395
2396 Mrs. Jones - I know.
2397

2398 Mr. Silber - You're either going to get a cul-de-sac with six lots or
2399 probably three or four lots all fronting on Midview. In this particular case,
2400 because there are already many lots in Midview, I don't see that necessarily
2401 being a problem.
2402

2403 Mrs. Jones - I'm just—
2404

2405 Mr. Silber - It would be nice to have it proffered. I don't see, in
2406 this case, that being a big issue.
2407

2408 Mrs. Jones - Okay.
2409

2410 Mr. Jernigan - Economically for the developer, if you've got to put
2411 the road in with a cul-de-sac and just two more lots, it may be just as cheap to
2412 have the four fronting.
2413

2414 Mr. Mistr - It's close.
2415

2416 Mr. Jernigan - Okay. Are there any more questions for Mr. Mistr?
2417 Thank you, Spud. All right. Thank you for bringing that up, Mrs. Jones, but I
2418 think—
2419

2420 Mrs. Jones - I was just wondering.
2421

2422 Mr. Jernigan - Well, his explanation is actually better. But I know as
2423 developers do, when they turn a case in, they maximize it to what they can. It's
2424 always easier to go down, but not to go up. All right. With that, I will move for
2425 approval of case C-27C-07, WWLP Development, LLC to send to the Board for
2426 their approval.
2427

2428 Mr. Vanarsdall - Second.
2429

2430 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.
2431 All in favor say aye. All opposed say no. The ayes have it, the motion is passed.
2432

2433 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.
2434 Vanarsdall, the Planning Commission voted 4-0 (one absent, one abstention) to
2435 recommend the Board of Supervisors **grant** the request because it conforms to
2436 the recommendations of the Land Use Plan, it is appropriate residential zoning at
2437 this location, and the proffered conditions will assure a level of development
2438 otherwise not possible.
2439

2440 Mr. Silber - The only remaining item on your agenda for this
2441 evening would be consideration of the minutes from May 10, 2007.
2442

2443 Mr. Jernigan - Are there any corrections to the minutes?

2444
2445 Mrs. Jones - I wasn't here.
2446
2447 Mr. Jernigan - All right. Do we have a motion?
2448
2449 Mr. Vanarsdall - I so move for approval.
2450
2451 Mr. Archer - Then I second.
2452
2453 Mr. Jernigan - Motion by Mr. Vanarsdall, seconded by Mr. Archer to
2454 approve the minutes. All in favor say aye. All opposed say no. The ayes have it,
2455 the motion passes. Any other business?
2456
2457 Mrs. Jones - One abstention.
2458
2459 Mr. Jernigan - If there is no other discussion, this meeting is closed.
2460
2461 The meeting was adjourned at 8:57 p.m.
2462
2463
2464
2465
2466
2467

Randall R. Silber, Secretary
2468
2469
2470
2471
2472
2473
2474

E. Ray Jernigan, Acting Chairman