

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,  
2 Virginia, held in the Board Room of the County Administration Building, Parham and  
3 Hungary Spring Roads at 6:00 p.m., on March 11, 1999, Display Notice having been  
4 published in the Richmond Times-Dispatch on Thursday, February 18, 1999, and Thursday,  
5 February 25, 1999.

6  
7 Members Present: Elizabeth G. Dwyer, C.P.C., Chairwoman, Tuckahoe  
8 Ernest B. Vanarsdall, C.P.C., Vice-Chairman Brookland  
9 C. W. Archer, C.P.C., Chairman, Fairfield  
10 Mary L. Wade, Three Chopt  
11 Debra Quesinberry, Varina  
12 James B. Donati, Jr., Board of Supervisors, Varina  
13 John R. Marlles, AICP, Secretary, Director of Planning,  
14

15 Others Present: Virgil R. Hazelett, P.E., County Manager  
16 Mark W. Light, Chief, Division of Fire  
17 Gerald M. McKenna, Director, Libraries  
18 Randall R. Silber, Assistant Director of Planning  
19 John Merrithew, AICP, Principal Planner  
20 Mark Bittner, AICP, County Planner  
21 Nancy Gardner, County Planner  
22 Jo Ann Hunter, AICP, AICP, County Planner  
23 Mikel Whitney, County Planner  
24 Judy Thomas, Recording Secretary  
25

26 Ms. Dwyer - The Planning Commission meeting will come to order. I believe  
27 the first item on our agenda is Capital Improvement. Mr. Secretary.  
28

29 Mr. John R. Marlles, Director of Planning - Thank you, Madam Chairman. The first item on  
30 the agenda is the County's Capital Improvements Program. This is a public hearing to consider  
31 the 5-year capital improvements program for fiscal years 1999-2000 through 2003-04. This  
32 evening, we have the County Manager, Mr. Virgil Hazelett, and other members of the County  
33 Manager's staff, as well as representatives from the Budget Office, and representatives from  
34 other County agencies and departments that have matters related to the CIP. This is a public  
35 hearing. Mr. Manager, I presume you'll be giving the presentation tonight?  
36

37 Mr. Virgil R. Hazelett, County Manager - Thank you, Mr. Marlles. Madam Chairman,  
38 members of the Planning Commission, as been indicated, each year, we bring forward to you the  
39 Capital Improvement Program for a 5-year period, as we converge on a date sometime in April  
40 which will be the proposed passage of the total budget by the Board of Supervisors.  
41

42 The 5-year program, which we sent to you in the month of February, and comes to you after  
43 some exhaustive efforts of planning and categorizing a number of improvements throughout the  
44 County, includes \$421.8 million over 5 years.  
45

46 However, there are sometimes that people, especially the citizens, believe that we are totally  
47 funding \$421.8 million if we approve this 5-year capital plan. In essence, we are not. As a part  
48 of the budgetary process, we are only going one year forward for that year which is the next  
49 budget year; the year of 1999-2000, which is \$55,296,399. If you would like to look at some of  
50 those projects, I believe each of you have the book before you, and if you'll turn to Roman  
51 Numeral No. 9, IX, you will see the summary page of those particular projects.

52

53 You will notice that is by departments. And you will see the total listing at the lower right hand  
54 corner of \$421.8 million. If you come to the left hand side of the page under "The Manager's  
55 Proposed FY-99-2000 budget, you see the \$55.296 million which is what we will be proposing,  
56 and what we hope will be approved by the Board of Supervisors, which would become effective  
57 July 1.

58

59 In our 5-year effort, which is the vision of Henrico County for the next 5 years in reference to  
60 Capital Improvements, it does include \$108.3 million for water and sewer. We did last year  
61 include in the Capital budget, the water plant itself. The bids will actually be open during the  
62 week of March 25<sup>th</sup>. So, it is not included in the effort this year.

63

64 Solid waste efforts of \$3.9 million which, of course, includes landfill projects which are  
65 necessary for Henrico County as we continue, as our population grows, and as there is a need to  
66 improve and expand our landfills and even close some portions of them as we move forward.

67

68 Drainage improvements; difficult projects throughout the County, with the 5 years again, totaling  
69 \$31.9 million.

70

71 Roadway improvements over the next 5 years of \$18.8 million.

72

73 Parks are projected at \$30.8 million.

74

75 Building projects over the next 5 years, through an exhaustive effort; \$197.5 million.

76

77 Something new, new to all of us, and that is the speed at which technology changes; not only in  
78 Henrico County, but in the world. Is we have also added technology improvement and  
79 equipment enhancements in our Capital Improvement effort. That totals \$6.2 million over the  
80 next 5 years.

81

82 All of that, of course, totaling up to the amount that you see on Page 9, being \$121 million.  
83 And, as I indicated over the first year period, which is the only period that we would consider  
84 funding, is the \$55.296 million.

85

86 If you turn to pages Roman Numeral 4 through 6, you will see that those projects are enumerated  
87 for you. That's the reason the entire staff is behind me in order to answer any questions that you  
88 may have considering all of those expenditures in the various departments.

89

90 The largest effort that we have before us, of course, is the continuation of the Capital  
91 Improvement Program for the Schools of Henrico County. That is a commitment that the School

92 Board, the Superintendent, the Henrico County Board of Supervisors, and myself, as County  
93 Manager, has made and are continuing to fund for these next five and even eight years. The  
94 population in the school system is increasing dramatically each year. There is a need to keep up  
95 with that, and it does carry a bulk of our proposed expenditures next year and over that five -  
96 year period, a very large sum of money.  
97

98 As you look at these projects, there is one particular project that was actually funded this year  
99 that is not included in your Capital Improvement Program and that is the new North Park  
100 Library, which is funded at \$4.2 million. It is shown elsewhere in the book. It was funded by  
101 the Board of Supervisors this year. Therefore, it does not appear. It is a committed project. It  
102 is underway with engineering and architectural effort and, hopefully, we will have it under  
103 construction during the latter part of 1999.  
104

105 With that, Madam Chairman, members of the Planning Commission, I would be glad to answer  
106 any questions. If you can stump the Manger, which everybody tries to do, and usually does, I  
107 have an entire staff back here, who, I can assure you, will be able to provide the answers. Mr.  
108 Marles has also promised me he wouldn't ask any questions that he couldn't answer himself,  
109 and I'll remind him of that.  
110

111 Ms. Dwyer - Thank you, Mr. Manager. Are there any questions of Mr.  
112 Hazelett by Commission members?  
113

114 Mr. Vanarsdall - Virgil, what was the figure on that library over on the north side?  
115

116 Mr. Hazelett - The Library is estimated at \$4.2 million, Mr. Vanarsdall.  
117

118 Ms. Dwyer - Is that the total cost for land acquisition, engineering and  
119 construction?  
120

121 Mr. Hazelett - Yes. The land was previously acquired. So, the \$4.2 million is  
122 the actual construction.  
123

124 Ms. Dwyer - I was wondering what was the status of the new Tuckahoe  
125 Library?  
126

127 Mr. Hazelett - The Tuckahoe Library, while it is in the 5-year CIP, is not  
128 included in this 1999-2000 appropriation. It is in the 2003-04, as I recall. No funding has been  
129 identified. Of course, no funding would be appropriated at this point in time. The estimated  
130 cost of that library, we already have the land available for that, is somewhere between, in  
131 today's dollars, of \$12 million to \$14 million.  
132

133 Ms. Dwyer - Mr. Manager, we have a number of cases, tonight, that we are  
134 reviewing for rezoning, and these involve single family homes in generally the northwestern  
135 quadrant of the County. And, I think that's the area of the County that's seeing tremendous  
136 growth in recent years. And part of our staff report indicates that, even with the schools that are  
137 planned with the kind of growth that we're seeing, that even those schools may not be adequate

138 to service the number pupils that we are going to be seeing in that period of time. It seems to me  
139 we're kind of in a difficult position to continue to approve residential lots and residential housing  
140 that we know is going to generate students that we are having difficulty providing space for. Is  
141 there anything that you think the Planning Commission should do to help alleviate that problem?  
142

143 Mr. Hazelett - I think that the same concern has been expressed by the Board of  
144 Supervisors. That is the increased density which is occurring in the County which is also  
145 bringing about more student population for our school system. I've often reminded the Board of  
146 Supervisors that is, as the quality of life, as conditions in Henrico County improve, the  
147 population increases. We must face this. I think the School system is adjusting its projections, if  
148 you will, not only to those birth rates in Henrico County, but also to the influx of people who are  
149 coming to Henrico County. It's a dramatic change. That's why you're seeing almost 1,000  
150 pupils a year increase. One thousand pupils a year, it's really rather easy to equate to at least  
151 one school a year.  
152

153 We're trying to keep up with that from an expenditure standpoint through bond issues; through  
154 Virginia Public School Authority, and even consideration of other funding alternatives. At this  
155 time, I think, as a total County, we are comfortable where we are, but as those increases  
156 continue, we're going to have to look at different ways and different things. Obviously, the  
157 emphases in that portion of the County is a new high school to open perhaps 2002. We've  
158 acquired the land. A new elementary school across the street from that which we acquiring the  
159 land; a new middle school. All of these things, of course, take time to build, but they are  
160 inevitable with our population increases. We simply have to look at them on a year-to-year  
161 basis. However, what the Planning Commission can do is difficult. That means to minimize  
162 densities. To be extremely careful and sensitive to the citizens which are present in the County,  
163 and to be very careful about creating quality effort and some people in the audience may not like  
164 that, but less dense efforts whenever possible, in order to insure the future that we have.  
165

166 Ms. Dwyer - How about holding in abeyance any rezoning cases?  
167

168 Mr. Hazelett - That's difficult, Madam Chairman, from a standpoint of creating a  
169 moratorium, because, I, quite frankly, don't think we are in a position to create such an effort.  
170 We can still provide services. No matter how crowded we believe they are, we are able to  
171 provide, not only the school services, but the other services that are necessary. So, it becomes  
172 difficult to, simply, close the door, put the latch on it. I think we have to slow it down where  
173 ever we can. Staff is looking at that, in addition to the Board of Supervisors, which, of course,  
174 you will be seeing more and more of. But, I think that's probably the only thing we can do. I  
175 don't think we have any way of stopping it. And, I'm not sure that we would want to totally  
176 stop it.  
177

178 Mrs. Wade - Is phasing a legitimate tool, then, for that?  
179

180 Mr. Hazelett - I think it is, Mrs. Wade. Again, we have to be very, very careful  
181 from the standpoint of once something is zoned, allowing the highest and best use of the  
182 property, that's being indicated as being the use, as long as the infrastructure is there, as long as

183 there is not an impact which we find unacceptable, then we almost have an obligation to allow  
184 that to occur.

185  
186 I think more emphasis on phasing; more emphasis on less density, is exactly what we have to do.  
187 And that's where we have to work with the development community to recognize that. While  
188 we do have a high quality of life, we must maintain it. Therefore, we must slow down the  
189 growth. We must control the growth. Henrico is known for controlled growth for that quality  
190 of life standard. But as it comes to us, as more people want to move here, that's what's hitting  
191 us.

192  
193 So, yes, I think you can phase it, but I think it has to be a cooperative effort between the  
194 development community, the Planning Commission, and the Board of Supervisors.

195  
196 Mrs. Wade - I didn't mean the land that was already zoned.

197  
198 Mr. Hazelett - The new development. Once we get past the zoning, that's where  
199 it becomes difficult. That's where it's, perhaps, cooperative effort.

200  
201 Mrs. Wade - No. I meant in the zoning process, I suppose. My question was  
202 going to be a little more specific, not far from what Ms. Dwyer said. In the northwestern area,  
203 the new elementary school needed by the fall of 2001. Do we anticipate that it will be ready?

204  
205 Mr. Hazelett - Did Mr. Edwards come in? They actually know the construction  
206 schedules.

207  
208 Doctor Mark Edwards, Superintendent of Schools - Actually, the construction schedule is going  
209 to be the Fall of 2000. That's what we're anticipating—2001. We accelerated the scheduled  
210 because of the need. We anticipate that we will have approximately seven modular classroom  
211 units at Shady Grove next year. So, in anticipation of that, we plan on having the school ready  
212 in the fall of 2000.

213  
214 Mrs. Wade - That will be full. It is already committed.

215  
216 Mr. Hazelett - With the General Assembly session that has just closed, and some  
217 of the information that we're receiving, there is an additional \$10 million being put toward  
218 school construction in Henrico County. \$5 million of that we'll be received in April. The other  
219 \$5 million shortly after July 1. We have committed to apply that to school construction in an  
220 effort to speed up some of these projects in the northwestern portion, rather than delay them in  
221 an effort to try to meet these pupil projections. That's where that revenue is coming from.

222  
223 Mrs. Wade - I understood that's where we're getting it from. Thank you.

224  
225 Mr. Archer - Mr. Hazelett, on Roman Numeral 11, Project No. 104 shows a  
226 land purchase of about \$195,000. Is that attached to the Administrative Office renovation right  
227 above it, Project 104 near the top?

228

229 Mr. Gerald M. McKenna, Director, Libraries - Sir, that's for additional land around the  
230 Fairfield Library.  
231  
232 Mr. Archer - Does that mean the library will be expanding? It says,  
233 "Renovation." Does that mean expansion also?  
234  
235 Mr. McKenna - We want to purchase land for expansion capabilities in the future.  
236  
237 Mr. Archer - But it's not something that's immediately planned, is that what  
238 you're saying?  
239  
240 Mr. McKenna - No. We're planning for the future.  
241  
242 Mr. Archer - Okay.  
243  
244 Mr. Hazelett - The Library, itself, Mr. Archer, is programmed to be in the  
245 vicinity of 12,000 square feet. Our footprint that we're using may be a little larger than that.  
246 But, we're looking at that aspect. I'm sorry. This is the Fairfield Library, itself, Jerry?  
247  
248 Mr. McKenna - Yes sir.  
249  
250 Mr. Hazelett - This is not the North Park, but the Fairfield Library for expansion  
251 of that?  
252  
253 Mr. McKenna - Yes sir.  
254  
255 Mr. Hazelett - As we make some changes, we have envisioned making some  
256 changes at the Fairfield Library that would need some expansion of land, and that is because we  
257 do anticipate possibly some relocation of administrative headquarters which would expand the  
258 library, itself, and, therefore, some more land would be needed for parking and so forth.  
259  
260 Mr. Archer - All right, thank you, sir.  
261  
262 Mr. Vanarsdall - The administrative headquarters of the Library?  
263  
264 Mr. Hazelett - Yes sir. The actual administrative headquarters, Mr. McKenna's  
265 and his staff is located at the Fairfield Library at this time.  
266  
267 Mr. Vanarsdall - I have a question. On Roman Numeral #10, Line 12, "Northern  
268 Area Elementary School". Where would that be? It just says, "land."  
269  
270 Mr. Hazelett - I'm not sure that actual site has been defined at this point in time,  
271 has it, Paul, the northern area elementary?  
272  
273 Mr. Paul Carper - My suspect is that is the property that was just zoned by the Board  
274 of Supervisors, which was the R-1 property of Bob Attack.

275  
276 Mr. Vanarsdall - That's what I was thinking. I know that was a possibility and the  
277 School Board had studied it for awhile.  
278  
279 Mr. Hazelett - They're still looking at it, Mr. Vanarsdall, but that appears to be a  
280 reasonable site, as indicated by the Superintendent to me. That land was set aside as a part of  
281 the zoning case, for the County to purchase.  
282  
283 Mr. Vanarsdall - Yes.  
284  
285 Mr. Hazelett - The 38 acres.  
286  
287 Mrs. Wade - I thought that was going to be a middle school?  
288  
289 Mr. Hazelett - Mrs. Wade, I think you're right. Paul, I'm not sure you've  
290 established a site for the elementary school.  
291  
292 Mr. Carper - We're in the process. We have investigated a site on Greenwood  
293 Road. The Mill Road site is the middle school.  
294  
295 Mr. Hazelett - I'm wrong on that.  
296  
297 Mr. Carper - (Comments unintelligible).  
298  
299 Mr. Vanarsdall - I didn't hear what he said.  
300  
301 Mr. Hazelett - He's looking at a piece of property off of Mill Road for the  
302 elementary. I had misled you, Mr. Vanarsdall and Mrs. Wade.  
303  
304 Mrs. Wade - It's the other way around.  
305  
306 Mr. Hazelett - The Attack case actually provided 38 acres for a middle school.  
307 The elementary school is anticipated to be off of Greenwood.  
308  
309 Ms. Dwyer - Mr. Attack, I think, promised this Commission that he would sell  
310 that land to the County real cheap. I think that was his exact words—"real cheap."  
311  
312 Mr. Hazelett - It's all relative, Madam Chairman--\$29,000 an acre and I think  
313 that's reasonable.  
314  
315 Mr. Vanarsdall - He said he was going to sell it to us for a song and then sing it to  
316 us.  
317  
318 Mr. Hazelett - It's a lot of people out there that like to hear those songs.  
319  
320 Mrs. Wade - That certainly beats the other middle school.

321  
322 Mr. Hazelett - We paid a lot more than that for acreage for schools lately.  
323  
324 Mr. Vanarsdall - I have another question for Mr. Hazelett, Madam Chairman.  
325  
326 Ms. Dwyer - Okay.  
327  
328 Mr. Vanarsdall - Where will Fire Station No. 21 be located in the Brookland  
329 District?  
330  
331 Mr. Hazelett - Fire Station No. 21 is located in the Fairfield District, and is up off  
332 of Francis Road.  
333  
334 Mr. Vanarsdall - It says, "Brookland District" here, Chief?  
335  
336 Mr. Light - That should reflect the Fairfield District. I believe that was the old  
337 Brookland District. When the land was originally donated that was in the Brookland District,  
338 and then it was changed. That was an oversight.  
339  
340 Mr. Vanarsdall - Thank you, Chief.  
341  
342 Mrs. Wade - We can't keep up either.  
343  
344 Mr. Hazelett - For the record, you stumped the Fire Chief and not the County  
345 Manager.  
346  
347 Ms. Dwyer - Were you finished, Mr. Vanarsdall?  
348  
349 Mr. Vanarsdall - I had one more question. Where would the Property Management  
350 Warehouse be located; the new building? Where is that going to be? Item No. 656.  
351  
352 Mr. Hazelett - On what page, Mr. Vanarsdall?  
353  
354 Mr. Vanarsdall - On the same page, Roman Numeral No. 10.  
355  
356 Mr. Hazelett - We have not established a location at this point in time. It would  
357 be funded presently in fiscal year 2003. We have not identified a location.  
358  
359 Mr. Vanarsdall - Okay. And then I have a question, one more, that I asked last  
360 year. Along with the Juvenile Court renovation, I noticed the land that I asked you about last  
361 year, back there, I noticed is "for sale" again, or maybe the sign has always been there, and  
362 everybody parks up on it as far as they can go without running into trees. Is there anyway we  
363 can get that for parking. It looks like the Juvenile Court is what's growing the fastest.  
364  
365 Mr. Hazelett - It is, Mr. Vanarsdall. There are some questions that we have to  
366 answer in reference to the total Court system before we know actually what we will do. And, I



367 think I would simply say, that there are differing opinions as to whether we should be acquiring  
368 land without an actual factual use of the property in the future. That has yet to be determined. I  
369 would agree with you. It would be my position that we should be able to acquire any piece of  
370 land adjacent to us at any time. However, that's taken off the tax roles. And, at this point, in  
371 time, we honestly don't know. We may be creating more courts and we might be reducing that  
372 particular number of courtrooms at that location in the future, but expanding others on this  
373 complex.

374  
375 Mr. Vanarsdall - You can't hardly get up the street when court's in. They park way  
376 down Hooper.

377  
378 Mr. Hazelett - The property has been for sale for over a year. We're aware of it.  
379 We have the value. That sets on the corner of my desk. I would like to acquire it.

380  
381 Mr. Vanarsdall - Okay. Thank you.

382  
383 Mrs. Quesinberry - Madam Chairman, I have a couple of questions for the Manager.  
384 Mr. Hazelett, I'm generally interested in utilities. I was wondering if you could just generally  
385 speak to the rate of the advancements of utilities coming into Varina.

386  
387 Mr. Hazelett - Utilities into the Varina area is a difficult aspect from the  
388 standpoint, Mrs. Quesinberry, that what is going to have to happen is a large development, that  
389 from my conversation, either fronts or brings utilities in a large way into Varina.

390  
391 The area of Varina is extremely flat. It is extremely expensive to provide utility infrastructure  
392 because of that. Water is expensive, but I don't think water is the problem. I think water can be  
393 and would be extended. The problem is actually one of sanitary sewer. And it has to be  
394 pumped so many times to get it to the location to where it goes into our transmission line, if you  
395 will.

396  
397 This, I think, is one of the major reasons for the hold up of development of Varina. I have  
398 often, in the past, told Mr. Donati that once it starts, it will be extremely difficult to hold back. I  
399 believe it will probably develop faster than the western portion of the County did. But until that  
400 sewer is actually initiated by a large development, it becomes difficult to develop, because its at  
401 different places in Varina. Once you get that major sewer effort there, I think that will just fall  
402 like dominos because it simply will be extended from time to time.

403  
404 We are also looking at, perhaps, some policy changes in reference to utilities that may assist the  
405 development in the future. And that is simply through an expenditure of public funds that we  
406 have, in the past, felt that should belong to the development community. We're not completely  
407 there. It's not been discussed with the Board of Supervisors. It is something that we have to  
408 look to in the future.

409  
410 But, in reality, every developer that comes to us simply says, "At this point, I cannot afford to  
411 pump the sewer that far. I cannot afford the cost of the pumping station." And those are the

412 dilemmas that create the type of development that we have. It's either close in or its of a  
413 residential nature.

414  
415 Obviously, White Oak, you know that the County fronted that. And, I think that we will recoup  
416 that and provide a benefit for Henrico County for many, many years to come. But I don't  
417 believe there is a developer anywhere probably in this Commonwealth who could have done that  
418 simply because of the cost of the front money to do that. We extended sewer 38,000 feet.

419  
420 Mrs. Quesinberry - One of the reasons that I'm asking, of course, is that we're very  
421 interested in the development that's in Varina now and on the way. It's a lot of land out there.  
422 I'm sure you've noticed. And just to kind of tag onto what Mrs. Dwyer was speaking to in the  
423 way of zoning and services.

424  
425 You may or may not know that I just started the Certified Planning Commissioners Program  
426 with Mike Chamber, and I know you're familiar with that. And one of the things that we were  
427 talking about last week was availability of services, be they schools, or utilities or roads directly  
428 tied to development. And there was a lot of discussion about what's been happening in  
429 Chesapeake, and the approach that they've taken in tying availability of services to zoning. And  
430 was I wondering if you were familiar at all with that? And I understand its never been tested in  
431 the courts, but it was just kind of an interesting concept, because it is something we're all really  
432 concerned with.

433  
434 Mr. Hazelett - It is an interesting concept of tying - yes, I am somewhat familiar  
435 with it.

436  
437 Mrs. Quesinberry - Did I stump you?

438  
439 Mr. Hazelett - No. The similarity between Chesapeake and Varina District is  
440 quite similar. It's extremely flat. There is a lot of pumping that would be necessary, especially  
441 for sewer. I believe that water an sewer are the infrastructure that are absolutely necessary for  
442 any type of development. By tying it to development or tying it to zoning, I think on one hand,  
443 and the initial reaction to that, it is acceptable. It does control growth. On the other hand, I  
444 think it can create some legal dilemmas and also some practical dilemmas. Because, in reality,  
445 we have to create an overall master plan, if you will. And I think that's how you're going to  
446 have to do this, and I don't know really what your position is, but my position is, there will be  
447 growth. The question of what type of growth. The question of how much growth. The question  
448 of quality; the standards of quality.

449 So, I think that there is going to be infrastructure there and I think that we have to plan for that.  
450 I hesitate to get into the aspect of utilities controlling zoning, or zoning controlling utilities,  
451 because it will go both ways. That's where we get into difficulty. That's where it has to be  
452 tested in court.

453  
454 We have the ability here in this County, at this point and time and probably for a short time in  
455 the future; short being ten, fifteen or twenty years, of being able to assist development with  
456 infrastructure. We just have to make that decision. We're not there yet. That's different than a  
457 lot of localities.

458  
459 In other words, we say the developer must pay. The developer must provide. That's different  
460 than a lot of places. And, we are there, and I think we'll be there. But, I think we need to look  
461 at some differences. And that's where we are. It's going to be an interesting next three or four  
462 years, I believe, in order to make those decisions and assist with the overall growth of Varina.  
463 Whether you're "pro growth," whether you're opposed to growth, I think that the issue, to me,  
464 is one of quality of growth.

465  
466 What is it that we want for Varina? What type of quality? What type of effort? And then if we  
467 can assist with that through the provision of infrastructure at a reasonable rate, then that,  
468 perhaps, is what we're going to have to do. Because, otherwise, to provide "front money: for  
469 that type of development is going to be extremely difficult. And then it becomes almost a  
470 demand effort, a cry from the development community. And then you're forced to accept  
471 something that's not acceptable in your mind or to the County at large.

472  
473 Mrs. Quesinberry - My last question is really easy. I just want to know where the next  
474 fire station is going to be in Varina and when you're going to put it up.

475  
476 Mr. Hazelett - To answer your second question first, at this point in time, it  
477 would have to be included in the Capital Improvement Program with a Revenue Source. The  
478 site of the next fire station is supposed to be on Strath Road? Oh, you stumped me, Mrs.  
479 Quesinberry.

480  
481 Mrs. Quesinberry - All right.

482  
483 Mr. Light - Darbytown and Yahley Mill.

484  
485 Mr. Hazelett - It's Darbytown and Yahley Mill, which is where we actually had  
486 to condemn property for it about two years ago, which would be Fire Station 18.

487  
488 Mrs. Quesinberry - Next year?

489  
490 Mr. Hazelett - Again, funding becomes the problem, Mrs. Quesinberry. We have  
491 not identified additional funding other than what we allocate through the general budget process.  
492 I anticipate that fire station will be there within the next two to three years. Yes ma'am.

493  
494 Mrs. Quesinberry - Thank you.

495  
496 Mrs. Wade - My memory may be faulty on this, but the issue of services related  
497 to zoning, it seems to me that Fairfax went through this many, many years ago where they said,  
498 "You know, we can't zone anymore until we get the services and the courts didn't take a very  
499 positive view of that."

500  
501 Mr. Hazelett - They did not take a very positive view, Mrs. Wade. However, not  
502 criticizing Fairfax, but the courts normally don't take a positive view of anything where Fairfax

503 is involved in court. And I think that goes along with the reputation and philosophy, but you are  
504 absolutely correct.

505  
506 Mrs. Wade - That it is shaky ground. We have been working on updating the  
507 Open Space Plan, and I see money in here for improving recreation facilities. Is there any in  
508 there for purchasing more at this time?

509  
510 Mr. Hazelett - We do not anticipate any purchases in this next year, Mrs. Wade.  
511 Again, as we look to the future and look to our revenue sources, I think, quite frankly, we will  
512 be looking to purchase property. In the western part of this County it's a very valuable  
513 commodity. And, if we are going to do any more parks in the western portion, we're going to  
514 have to purchase this property early. It's getting extremely expensive. And I think we probably  
515 should be on advance purchase even in the Varina District, simply because the value is going to  
516 escalate. Wherever we can do that and however we can do it, I think we should do that.

517  
518 Mrs. Wade - One more question not unrelated to that, actually. Do we have  
519 enough money in the budget to landscape our new building up at the corner of Shrader and  
520 Parham?

521  
522 Mr. Hazelett - We are doing that. Yes ma'am. As we move ahead, there will be  
523 some additional landscaping. We actually, much to my surprise, about a week ago, cut down the  
524 trees in the parking lot. We replaced the trees. We are improving the landscaping around the  
525 facility. So, yes ma'am, you will see that.

526  
527 Mrs. Wade - Because developers will say when we're talking to them about  
528 landscaping, "Well, look at your County building up there."

529  
530 Mr. Hazelett - We must do what we expect them to do.

531  
532 Mrs. Wade - Well, thank you.

533  
534 Ms. Dwyer - If I may follow up on Mrs. Wade's question which I was prepared  
535 to ask also about acquisition of land, we are in the process of working on our Open Space Plan.  
536 And this is really related to density which the school question was also related to. We hear a lot  
537 of concerns expressed by citizens that they're feeling overcrowded and that the land is being too  
538 densely developed as time goes on. And, they assume, because we have an Open Space Plan,  
539 that means we're going to have open spaces here and there, and we have to explain, all of us,  
540 that we have open space where the County decides to purchase open space. So, just to add  
541 another voice to that concern, that, as we see land as being developed at such a rapid rate, and its  
542 getting so expensive, I would like to see some resources dedicated to land acquisition, even if it  
543 had to be at the expense of other development of facilities on existing land. But, you know, just  
544 to get that land purchased up front as soon as possible. It seems imperative from where we sit.

545  
546 Mr. Hazelett - It is. And I think that's part of, as Mrs. Wade, had asked earlier.  
547 What could we do with phasing and so forth? One of the many things that you could do is  
548 emphasize with the development community the need for open space, the need for park land as a

549 part of their development, the need for those services; schools and so forth, which we've done  
550 extremely well in the past. But I think we also hit a cycle every once and awhile where we do  
551 have to push up that need, especially in recreation. The density question, we are tackling that  
552 question this year. But, by the same token, open space is a valuable commodity. We're going  
553 to have to commit to it I think in the future and we're going to have to acquire some land both  
554 north, south, east and west.

555  
556 Ms. Dwyer - Is there money for land acquisition in the future budget? You said  
557 there was none for...

558  
559 Mr. Hazelett - There is some land acquisition from a Recreation standpoint in the  
560 future years, Madam Chairman, and there will be additional aspects of that. If we were to  
561 identify a revenue source, if we were to identify the commitment on behalf of the citizens,  
562 perhaps, through a bond issue or something, we would actually look into addition to what's in  
563 the Capital Improvement Program to look at other alternatives. And I think Open Space will be  
564 one of those.

565  
566 Ms. Dwyer - Thank you. Any other questions of Mr. Hazelett?

567  
568 Mr. Vanarsdall - I have one final question and I didn't want Mr. Hazelett to go  
569 away disappointed. And I ask him this every year, so bear with me. Do you think the sound  
570 system is now up to par in this building, as we speak?

571  
572 Mr. Hazelett - I do, Mr. Vanarsdall. I think the dilemma that sometimes many  
573 people face up there is that you really don't hear what they hear down here. Your voice carries  
574 extremely well in the audience.

575  
576 From my standpoint, the most frustrating part of this entire room is exactly where I'm standing.  
577 It is to me, if I move to one side, over here, then you can't hear me and the audience can't hear  
578 me. If I weave and bob or talk close to the mike, then I create another dilemma. What you have  
579 to do and what we have to teach people to do is to stand right between the mikes and not move,  
580 because they are conical in shape in order to keep that volume up. This is the most frustrating  
581 part, whether we drop something from the ceiling, whether we drill it up from the floor, this has  
582 to be improved right here, because people cannot adjust to it because they don't really know  
583 what's going on.

584 Mr. Vanarsdall - The last POD meeting, I believe it was, we had two ladies that sat  
585 all the way back where the gentlemen in the blue court and the white sweater are sitting. And  
586 they kept saying, "We can't hear." So, I believe the Chairman said, "Why don't you move down  
587 front?"

588  
589 Mrs. Wade - We all thought that.

590  
591 Mr. Hazelett - There are some things, Mr. Vanarsdall, that the sound system  
592 can't control. We continue to test it. To tell you one thing about the sound system, the sound  
593 system can be set, and is set, for the different volumes for the different Boards. We can set the  
594 level of all of those microphones for each of you, and at the same time, set them for the Board of

595 Supervisors, just simply change them over, because you all of have different ranges of voice.  
596 But we've tested it. We continue to test it in the back. We get very few complaints. Notice, I  
597 didn't say, "not any." We get very few complaints, and I agree with the Chairman. The thing  
598 to do is to ask those people to move forward.

599

600 Mr. Vanarsdall - Thank you.

601

602 Ms. Dwyer - Thank you for the tip.

603

604 Mr. Vanarsdall - I have no more questions.

605

606 Ms. Dwyer - Any more questions? Thank you, sir.

607

608 Mr. Hazelett - Thank you, Madam Chairman, members of the Planning  
609 Commission.

610

611 Ms. Dwyer - Thank you to your staff for being here this evening.

612

613 Mr. Archer - You are welcome to stay for the rest of the meeting if you like.  
614 We've got to move this Resolution, do we not?

615

616 Ms. Dwyer - Would someone like to make a motion to adopt the Resolution.

617

618 Mr. Vanarsdall - I move we adopt the Resolution on the Capital Improvement  
619 Program.

620

621 Mr. Archer seconded the motion.

622

623 Mrs. Wade - What are we voting on?

624

625 Mr. Archer - The Resolution.

626

627 Mrs. Wade - Oh. The CIP.

628

629 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mr. Archer. All  
630 those in favor say aye—all those opposed by saying nay. A unanimous aye vote.

631

632 Ms. Dwyer - Shall we do minutes?

633

634 The February 11, 1999 Rezoning Minutes and the December 15, 1998 POD Minutes were  
635 moved to the March 23, 1999 POD meeting agenda.

636

637 Mr. Merrithew - Madam Chairman, on Page 2 of your agenda in the Three Chopt  
638 District, the first deferral is deferred from the January 14, 1999 Meeting C-81C-98:

639

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

647  
648 They've requested a deferral to April 15<sup>th</sup>. They have amended the application and the deferral  
649 is necessary for re-advertising of the application. I believe a motion is necessary.

650  
651 Ms. Dwyer - Is there any opposition to the deferral of Case C-81C-98 Buckley  
652 Shuler Properties? No opposition to the deferral. Mrs. Wade.

653  
654 Mrs. Wade - I move Case C-81C-98 be deferred to the 15<sup>th</sup> of April at the  
655 applicant's request.

656  
657 Mr. Vanarsdall seconded the motion.

658  
659 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
660 those in favor of the deferral, say aye—all those opposed by saying nay (Mr. Donati  
661 abstained). The motion is carried.

662  
663 Mr. Merrithew - On the next page, still in the Three Chopt District:

664  
665 **Deferred from the February 11, 1999 Meeting:**

666 P-23-98 Gloria Freye for Triton PCS, Inc.: Request for approval of a  
667 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the  
668 County Code in order to construct, operate and maintain a communication tower up to 199' high  
669 and related equipment and improvements, on part of Parcel 47-A-59, containing 2,500 sq. ft.,  
670 east of Interstate 64 between Cox Road and Old Cox Road (3600 Old Cox Road). The site is  
671 zoned A-1 Agricultural District.

672  
673 They've requested a deferral to April 15<sup>th</sup>.

674 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of  
675 Case P-23-98 Triton PCS, Inc.? No opposition. Mrs. Wade.

676  
677 Mrs. Wade - I move P-23-98 the Triton tower case be deferred to the 15<sup>th</sup> of  
678 April at the applicant's request.

679  
680 Mr. Vanarsdall seconded the motion.

681  
682 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
683 those in favor of the deferral, say aye—all those opposed by saying nay (Mr. Donati  
684 abstained). The motion is carried.

685

686 Mr. Merrithew - Thank you. On the same page in the same district:  
687  
688 **Deferred from the February 11, 1999 Meeting:**  
689 **P-1-99 Glenn R. Moore for Allen Tire, Inc.:** Request for approval of a  
690 provisional use permit in accordance with Sections 24-58.2(c) and 24-122.1 of Chapter 24 of  
691 the County Code in order to operate an auto parts sales, service and installation facility, on  
692 part of Parcels 56-10-2S & 1B, containing 1.157 acres, located at the southeast corner of  
693 Lauderdale Drive and Rutgers Drives. The site is zoned B-2C Business District (Conditional).  
694  
695 That case has been withdrawn.  
696  
697 Mr. Archer - No action necessary.  
698  
699 Mr. Merrithew - No action necessary. That's correct. On the same Page still  
700 Three Chopt District, C-18C-99.  
701  
702 **C-18C-99 James W. Theobald for H. H. Hunt Corporation:** Request to  
703 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence District  
704 (Conditional) and R-3AC One Family Residence District (Conditional), Parcels 11-A-3 & 4,  
705 and Parcel 19-A-13, containing approximately 79.77 acres, located north of Chappell Road and  
706 adjacent to the Chickahominy River. Single family residences are proposed. The applicant  
707 has proffered a maximum of 200 residential units which yields a density of 2.51 units per acre.  
708 The Land Use Plan recommends Rural Residential, up to 1 unit net density per acre; Suburban  
709 Residential 2, 2.4 to 3.4 units net density per acre, Urban Residential 3.4 to 6.8 units net  
710 density per acre, and Environmental Protection Area.  
711  
712 They've requested a deferral to April 15<sup>th</sup>.  
713  
714 Mr. Vanarsdall - This is C-18?  
715  
716 Mr. Merrithew - Yes sir.  
717  
718 Mr. Vanarsdall - And not C-16 and C-17 don't go with it?  
719 Mr. Merrithew - No sir. Those two will proceed.  
720  
721 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of  
722 Case C-18C-99 H. H. Hunt Corporation?  
723  
724 Mrs. Wade - Or any one whose opposed to the deferral?  
725  
726 Ms. Dwyer - Or any one whose opposed to the deferral. No opposition.  
727  
728 Mrs. Wade - I move Case C-18C-99 be deferred to the April 15<sup>th</sup> hearing at the  
729 applicant's request.  
730  
731 Mr. Vanarsdall seconded the motion.



732  
733 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
734 those in favor of the deferral, say aye—all those opposed by saying nay (Mr. Donati  
735 abstained). The motion is carried.

736  
737 Mr. Merrithew - Thank you. In the Varina District, Page 4 of your agenda, C-  
738 55C-98.

739  
740 **Deferred from the February 11, 1999 Meeting:**  
741 **C-55C-98 James W. Theobald for Roy B. Amason:** Request to conditionally  
742 rezone from A-1 Agricultural District to B-2C Business District (Conditional), Parcel 260-A-36,  
743 containing 3.87 acres, located at the northeast corner of the intersection of New Market Road  
744 (Route 5) and Long Bridge Road. A business use is proposed. The use will be controlled by  
745 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Prime  
746 Agriculture. The site is also in the Airport Safety Overlay District.

747  
748 This is a small portion of the Southerlyn project. They've requested a deferral until May 13,  
749 1999.

750  
751 Ms. Dwyer - Is there any one in the audience in opposition to deferral of Case  
752 C-55C-98 Roy B. Amason?

753  
754 Mrs. Quesinberry - I move deferral of Case C-55C-98 at the applicant's request to  
755 May 13.

756  
757 Mr. Vanarsdall seconded the motion.

758  
759 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
760 All those in favor of the deferral, say aye—all those opposed by saying nay (Mr. Donati  
761 abstained). The motion carries.

762  
763 Mr. Merrithew - The next case C-56C-98 is the bulk of the Southerlyn project.

764 **Deferred from the February 11, 1999 Meeting:**  
765 **C-56C-98 James W. Theobald for Roy B. Amason:** Request to conditionally  
766 rezone from A-1 Agricultural District to R-1C, R-2AC and R-3AC One Family Residence  
767 Districts (Conditional), RTHC Residential Townhouse District (Conditional), R-5C and R-6C  
768 General Residence Districts (Conditional), O-2C Office District (Conditional), B-2C Business  
769 District (Conditional) and C-1 Conservation District, Parcels 240-A-17, 250-A-48, 49, and  
770 51A, and 251-A-4A, and 260-A-28, containing 633.61 acres, generally located along the east  
771 line of Turner Road between New Market Road (Route 5) and Camp Holly Drive; along the  
772 north line of New Market Road (Route 5) from Turner Road to Camp Hill Road and from  
773 Kingsland Road to Long Bridge Road; along the northwest line of Long Bridge Road to its  
774 intersection with Yahley Mill Road and along the west side of Yahley Mill to the Virginia  
775 Power easement. A mixed use planned community is proposed. The applicant has proffered a  
776 maximum of 1,341 residential units on the property. The uses will be controlled by proffered  
777 conditions and zoning ordinance regulations. The Land Use Plan recommends Prime

778 Agriculture and Environmental Protection Area. The site is also in the Airport Safety Overlay  
779 District.

780  
781 Mr. Merrithew - Southerlyn has requested a deferral to May 13, 1999.

782  
783 Ms. Dwyer - Is there any one in the audience in opposition to deferral of Case  
784 C-56C-98, the Southerlyn case? No opposition.

785  
786 Mrs. Quesinberry - I move deferral of Case C-56C-98 at the applicant's request to  
787 May 13th.

788  
789 Mrs. Wade seconded the motion.

790  
791 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mrs. Wade. All  
792 those in favor of the deferral, say aye—all those opposed by saying nay (Mr. Donati  
793 abstained). The motion carries.

794  
795 Mr. Merrithew - Thank you. Next page, still in the Varina District, C-83C-98.

796  
797 **Deferred from the February 11, 1999 Meeting:**  
798 **C-83C-98 Scott Stolte for Lifestyle Homes of Four Mile Run, L.L.C.:**  
799 Request to conditionally rezone from R-2AC One Family Residence District (Conditional) to  
800 R-3AC One Family Residence District (Conditional), Parcels 238-2-A-22 to 24, being part of  
801 Four Mile Run Subdivision Section A, Parcels 227-5-D-28, 29 and 100; 227-2-E-2 to 5 and  
802 100; 238-2-C-12 to 34; 238-2-D-1 to 27; 238-2-E-1; and 238-2-G-1 to 23, being Four Mile  
803 Run Subdivision, Section B; part of Parcel 238-A-31 and Parcel 238-A-38, containing  
804 approximately 194.129 acres, located approximately 550' east of the intersection of New  
805 Market Road (State Route 5) and Doran Road. A single family subdivision is proposed. The  
806 applicant has proffered the development shall not contain more than 432 dwellings. The Land  
807 Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre, and  
808 Environmental Protection Area. The site is also in the Airport Safety Overlay District.

809 Mr. Merrithew - They have requested a deferral to April 15<sup>th</sup>.

810  
811 Ms. Dwyer - Is there any one in the audience in opposition to deferral of Case  
812 C-83C-98 Lifestyle Homes of Four Mile Run? No opposition.

813  
814 Mrs. Quesinberry - I move deferral of Case C-83C-98 at the applicant's request to  
815 April 15.

816  
817 Mr. Vanarsdall seconded the motion.

818  
819 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
820 All those in favor of the deferral, say aye—all those opposed by saying nay (Mr. Donati  
821 abstained). The motion carries.

822

823 Mr. Merrithew - On the same page in the Varina District, this is not noted. This  
824 request came in today.

825  
826

827 **P-5-99** Gloria L. Freye for Triton PCS, Inc.: Request for approval of a  
828 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the  
829 County Code in order to construct, operate and maintain a wireless communication monopole  
830 tower up to 199', on part of Parcel 180-A-9, containing .05 acre, located on the west side of  
831 Osborne Turnpike approximately 50 feet south of Old Osborne Turnpike. The site is zoned A-  
832 1 Agricultural District.

833

834 They've requested a deferral until April 15<sup>th</sup>.

835

836 Ms. Dwyer - Is there any one in the audience in opposition to the deferral of P-  
837 5-99 Triton PCS, Inc.?

838

839 Mr. Lee R. Thompson, Jr. - I've been to several meetings that we've had.

840

841 Ms. Dwyer - Thank you, sir. I might ask you to speak at the podium, please.  
842 The trouble is, we cannot hear you in our recording devices if you speak from the audience.  
843 Thank you. Good evening. If you could state your name for the record, please, sir.

844

845 Mr. Lee R. Thompson - I've been to two meetings that we've had. And all of the ones  
846 that have been there I think are 100 percent against this thing. And we feel like there are a lot  
847 of other places more suited for this tower than the location that they are putting it on. And we  
848 feel like you can just go ahead and vote to turn it down, rather than proceeding to have it  
849 more. We suggested one place. Tarmac has got some property down there on Osborne  
850 Turnpike that's nothing where they mind gravel and they've dumped overly loaded trucks of  
851 concrete. I just feel like there are a lot of places they could put this tower a whole lot better  
852 than where they're looking at right now.

853

854 Mrs. Quesinberry - Madam Chairman, if we have opposition to the deferral, I'd be  
855 happy to hear the case.

856

857 Ms. Dwyer - You want to go ahead and hear the case?

858

859 Mrs. Quesinberry - Yes.

860

861 Ms. Dwyer - We can keep it on the agenda.

862

863 Ms. Dwyer - Would you state your name for the record, sir.

864

865 Mr. Thompson - I didn't hear you.

866

867 Ms. Dwyer - Would you state your name for the record?

868

869 Mr. Thompson - Lee R. Thompson, Jr.  
870  
871 Ms. Dwyer - Thank you, Mr. Thompson. Is there any one else who wanted to  
872 speak in opposition to the deferral? Did you want to hear from the applicant, Mrs.  
873 Quesinberry, or did you want to go ahead and vote on the request for deferral?  
874  
875 Mrs. Quesinberry - I need to make a motion that we not defer the case and hear the  
876 case.  
877  
878 Mrs. Wade - I don't think we need to do that.  
879  
880 Ms. Dwyer - I think we should then hear from the applicant for her request for  
881 the deferral because we heard from the opposition.  
882  
883 Ms. Gloria L. Freye - My name is Gloria Freye. I'm the attorney for the applicant.  
884 We have had two meetings with the neighborhood. The first meeting, we approached the  
885 neighborhood with just a traditional request for a monopole with the traditional array of  
886 antennas. That was not well received. So, we went back and did a balloon test, invited the  
887 neighborhood to view that. Did photo simulations showing what some stealth designs might  
888 look like; the flagpole or with the tree design. We did have another meeting with the  
889 community last night. That was not well received either.  
890  
891 At that meeting, the commitment that I made to the community was that I would ask for a 30-  
892 day deferral. The assurance that the neighborhood was looking for, at that point, is that the  
893 deferral would be granted if one was requested. I believe they left there believing that the  
894 deferral would occur.  
895  
896 Relying on that and in good faith, I advised my client that we would be making the request for  
897 the deferral. Delivered that request to the County today. I also advised the landowner that the  
898 case was being requested for deferral, that this was the wishes of the community.  
899 I also tried to contact all the adjacent landowners who were not at the meeting last night to  
900 advise them that the consensus of the group was not to go forward with the hearing, and to ask  
901 for the deferral.  
902  
903 I actually spoke with two people who were not able to attend the meeting last night, advising  
904 them that the deferral would be until April 15<sup>th</sup> if it was granted. They have relied on that and  
905 have not been able to attend relying on that.  
906  
907 We are not prepared to go forward with the case this evening. I don't have any of my  
908 exhibits. No one from the community called me to say that they had changed their mind about  
909 deferral. I don't believe staff is in a position to give a report on the stealth designs. The  
910 commitment that we made was that we would go back to the RF engineers with the possibility  
911 of splitting the cell and seeing if there were other alternatives that we could consider and that  
912 this case would be put on hold until we could report back to them with that information. So,  
913 we are not prepared to go forward at this time. We did rely on good faith with the  
914 commitment we had leaving the meeting last night. That is why we're in this situation.

915  
916 Ms. Dwyer - Thank you, Ms. Freye. Any questions for Ms. Freye?  
917  
918 Mr. Vanarsdall - Ms. Freye, was the Planning Commissioner involved in these  
919 meetings?  
920  
921 Ms. Freye - Yes sir.  
922  
923 Mr. Vanarsdall - Well, Madam Chairman, personally, I think it would be up to the  
924 Planning Commissioner what we do from the District.  
925  
926 Ms. Dwyer - Mrs. Quesinberry.  
927  
928 Mrs. Quesinberry - I'd like to hear the case. The citizens are here. I attended both  
929 of their meetings, so I was exposed to all of the information, including the renderings and the  
930 photos. I think there are quite a few citizens who came out here tonight, so I believe there's  
931 some strong feeling that they'd like to hear the case and say what they came to say. I just  
932 don't feel it would be a good thing to send them away and ask them to come back next month.  
933  
934 Mrs. Wade - Are these the same ones who were at the meeting last night?  
935  
936 Mrs. Quesinberry - They look real familiar.  
937  
938 Ms. Dwyer - All right, do we have a motion, then, on the deferral request?  
939  
940 Mrs. Quesinberry - I would like to make a motion that we deny the request for  
941 deferral and hear the case as scheduled.  
942  
943 Mr. Vanarsdall seconded the motion.  
944 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall,  
945 All those in favor say aye—all those opposed by saying nay. The vote is 4-1 (Mrs. Wade  
946 voted no and Mr. Donati abstained). The motion to deny the deferral request is passed. We  
947 will hear the case this evening as scheduled.  
948  
949 Mr. Merrithew - Madam Chairman, that is the last deferral request that I have on  
950 the 7:00 o'clock agenda. The 8:00 o'clock agenda is listed on the screen. If you'd like I'd run  
951 through those.  
952  
953 Ms. Dwyer - Yes. For informational purposes only, if you could review the  
954 8:00 o'clock agenda deferral requests.  
955  
956 Mr. Merrithew - The deferral requests for 8:00 o'clock include in the Brookland  
957 District P-32-98 Gloria Freye for Food Lion is a case that has been withdrawn. There is no  
958 action required. C-22C-99 Strange-Boston & Associates for Woodmen is a new deferral  
959 request. You don't have it noted on your agenda. They've requested a deferral until April  
960 15<sup>th</sup>. C-13C-99 Ralph L. Axselle for Wilton Development Corp. and P-4-99, these are the two

961 applications on Diane Lane at the intersection of the intersection of Diane Lane, Old Sellers  
962 Way and Wilkinson Road. They have requested a deferral until April 15<sup>th</sup>. And then, C-23C-  
963 99 Roy B Amason's request on Virginia Center Parkway at the Crossings Golf Course. They  
964 are requesting a deferral until April 15<sup>th</sup>. And if I could ask for your indulgence for one more  
965 second. We had an overabundance of applications for our next public hearing which will be in  
966 April. We notified some of the applicants that we would be considering it this evening. I  
967 wanted to see if any applicants representing April public hearing items are here at this point,  
968 because I had suggested we'd start at 7:00 and might discuss it at 7:00. I forgot that we  
969 normally do it at the end of the meeting. Okay. If you weren't notified, you're not on the  
970 bumped list. But if you're notified and you're on the bump list and you want to talk about it I  
971 hope we would talk about it now. But it does not appear I need to discuss it at this point.  
972 Thank you very much.

973

974 Ms. Dwyer -

Thank you, Mr. Merrithew.

975

976 **SUBDIVISION (Deferred from the February 23, 1999 Meeting)**

977

Twin Hickory  
Collector Roads  
(January 1999 Plan)

Youngblood, Tyler & Associates, P.C. for H.H. Hunt Corporation: The  
426.45-acre site is located on the terminus of Twin Hickory Road on parcels  
18-A-2, 39A, 55, 26-A-30, 31, 32, 27-A-3A, 4, 5A, 6, 7, 8, 9A, 11 and 37-  
A-1. The zoning is R-2C, One-Family Residence District (Conditional), R-  
2AC, One-Family Residence District (Conditional), R-3C, One-Family  
Residence District (Conditional), R-4C, One-Family Residence District  
(Conditional), R-5C, General Residence District (Conditional), R-6C,  
General Residence District (Conditional), RTHC-Residential Townhouse  
District (Conditional), O-1C, Office District (Conditional) and O/S-2C,  
Office Service District (Conditional). **(Three Chopt) 0 Lots**

978

979 Mr. Marlles -

Mr. Michael Whitney will be giving the staff report.

980 Ms. Dwyer -

Is there any opposition to the Twin Hickory Collector Road

981 Subdivision? No opposition. Mr. Whitney.

982

983 Mr. Mikel Whitney, County Planner - Thank you, Madam Chairman. In your packet,  
984 Commission members, you received a revised plan for this subdivision which is a creation of  
985 roads in Twin Hickory development. On that revised plan, I would point out to you that Roads  
986 AA and BB have been eliminated. As well, there is a phasing line now on the plan. The  
987 phasing line, its purpose being that there would be no development in Phase 2 of the project  
988 until there is a connection made to Pouncey Tract Road from Twin Hickory.

989

990 With that, staff is recommending approval of this plan, with the annotations, standard  
991 conditions for subdivisions, and additional Conditions 10 and 11. I will take any questions you  
992 may have.

993

994 Ms. Dwyer -

Any questions for Mr. Whitney by Commission members?

995

996 Mrs. Wade -

Well, we can phase about roads, but we don't phase about

997 schools.

998  
 999 Ms. Dwyer - No questions?  
 1000  
 1001 Ms. Dwyer - It's been worked out satisfactorily?  
 1002  
 1003 Mr. Whitney - I believe everything has been worked out satisfactorily.  
 1004  
 1005 Ms. Dwyer - Ready for a motion?  
 1006  
 1007 Mrs. Wade - Yes. I move Subdivision Twin Hickory Collector Roads, January  
 1008 1999 Plan be approved with the annotations, standard conditions for subdivisions served by  
 1009 public utilities and the additional conditions 10 and 11 on the agenda.  
 1010  
 1011 Mr. Vanarsdall - Second.  
 1012  
 1013 Ms. Dwyer - Motion by Mrs. Wade, seconded by Mr. Vanarsdall. All those in  
 1014 favor say aye—all those opposed by saying nay. The vote is carried.  
 1015  
 1016 The Planning Commission granted conditional approval to Twin Hickory Collector Roads,  
 1017 January 1999 Plan, subject to the standard conditions attached to these minutes, and the  
 1018 following additional conditions:  
 1019  
 1020 10. The limits and elevation of the 100 year frequency flood shall be conspicuously noted on  
 1021 the plat and construction plans and labeled "Limits of 100 Year Floodplain." Dedicate  
 1022 floodplain as a "Variable Width Drainage & Utility Easement."  
 1023 11. Any necessary off-site drainage easements must be obtained prior to final approval of  
 1024 the construction plans by the Department of Public Works.  
 1025

1026 **PLAN OF DEVELOPMENT (Deferred from the February 23, 1999, Meeting)**

**POD-114-98**  
**River Road Church - Baptist – Additions**  
**And Renovations**  
**Draper Aden Associates for River Road Church - Baptist:** Request for approval of a plan of development as required by Chapter 24, Section 24-106 of the Henrico County Code to construct a two-story, 16,000 square foot education building addition and related improvements to an existing church site. The 6.8-acre site is located at the intersection of River Road and Ridge Road on parcels 113-9-K2, 126-A-2 and 126-5-C-2. The zoning is R-1, One-Family Residence District. County water and sewer. (Tuckahoe)

1027  
 1028 Mr. Marlles - Mr. Whitney will also be giving the staff report.  
 1029  
 1030 Ms. Dwyer - Is there any one in the audience in opposition to the Plan of  
 1031 Development POD-114-98 River Road Church -Baptist – Additions and Renovations? There is  
 1032 opposition. Thank you, ma'am. We'll call on you in a moment. Thank you. Okay. Mr.  
 1033 Whitney.  
 1034

1035 Mr. Mikel Whitney, County Planner - Thank you, Madam Chairman. Staff is in a position  
1036 now to recommend approval of this plan. The last two issues; one being the drainage design.  
1037 The revised plan that was received by Public Works today was reviewed and they are now  
1038 recommending approval. The second issue, staff is recommending an additional condition on  
1039 this regarding the cooling tower. I'd like to read that into the record. I have copies for the  
1040 Commission if they'd like to see it. No. 29 would read, "The cooling tower screening wall  
1041 shall be acoustically lined on all sides. The plans and specifications shall be included with the  
1042 building permit application review and approval. If the screen wall and lining proves in  
1043 effective in reducing sound to an acceptable level, the Planning Commission retains the right to  
1044 review and direct alternative methods for noise attenuation." The purpose of this condition is  
1045 the design of the cooling tower and its location and proximity to the residential area. We're  
1046 not certain if it will be a problem for the neighbors. However, we believe that this condition  
1047 would satisfy a future need for changing the sound attenuation for the cooling tower if it  
1048 becomes a problem. With that, I will take any questions the Commission may have.

1049  
1050 Ms. Dwyer - Any questions for Mr. Whitney by Commission members?

1051  
1052 Mr. Archer - Mr. Whitney, in regard to the noise abatement, what are they,  
1053 motor sounds or something that come from...

1054  
1055 Mr. Whitney - Yes. It's a cooling tower. It's part of the mechanical system for  
1056 the air-conditioning.

1057  
1058 Mr. Archer - Okay. Thank you.

1059 Mrs. Wade - How tall is it? Do you know what the dimensions are?

1060  
1061 Mr. Whitney - The screen wall is 7-feet tall. So, the wall would be, I believe,  
1062 about three or four feet higher than the unit itself. The applicant is here and maybe can answer  
1063 more specific questions about that. I believe the screen wall is 7-feet high and the cooling unit  
1064 is below that.

1065  
1066 Mrs. Wade - Obviously, it's a lot smaller than the one at Cedarfield that we get  
1067 the complaints about.

1068  
1069 Mr. Whitney - Yes. It's much smaller than that.

1070  
1071 Mrs. Wade - I know they can be disturbing to neighbors.

1072  
1073 Mr. Whitney - Staff did look at the file of Cedarfield to see how it related to this  
1074 project.

1075  
1076 Ms. Dwyer - Any other questions of Mr. Whitney by Commission members?  
1077 No question. Would the applicant come forward, please. Thank you, Mr. Whitney.

1078  
1079 Mr. Whitney - Thank you, Madam Chairman.

1080



1081 Ms. Dwyer - Good evening. Could you state your name for the record,  
1082 please?

1083  
1084 Mr. Moore - Yes. Mr. R. C. Moore, Chairman, Building and Property  
1085 Council-River Road Church.

1086  
1087 Ms. Dwyer - Thank you, sir. Have you had a chance to look at the condition  
1088 that Mr. Whitney mentioned or just read into the record?

1089  
1090 Mr. Moore - Just moments ago. Yes.

1091  
1092 Ms. Dwyer - Okay. And is that agreeable to the Church?

1093  
1094 Mr. Moore - We would ask the Planning Commission and the staff if there was  
1095 some way to better quantify that. It leaves it very open ended for us. As you and I have  
1096 spoken on this subject before, there are no criteria that's available for you or I, either one, at  
1097 this point, to work from. We think that the modifications that were requested by the Planning  
1098 Staff, and in our conversations with you, that we thought that we had developed a revised  
1099 method of construction that would be acceptable. So, this comes to us, tonight, at the last  
1100 minute, without prior knowledge.

1101  
1102 Ms. Dwyer - I think the purpose of the condition, we had discussed placing the  
1103 tiles inside the wall that would be built. The question still is open as to whether it will be  
1104 effective. And we have no studies or assurances, I suppose, that this precise method of  
1105 attenuating the noise from the tower will actually work. So, this condition simply recognizes  
1106 that, and we may have to come back if it's a problem.

1107  
1108 If you're looking for a certain decibel level, is that what you're suggesting we should include  
1109 in the condition to have a quantitative standard?

1110  
1111 Mr. Moore - That would be very helpful to us. As I say, our present cooling  
1112 tower that this replaces is in an unprotected area and we have twice designed this as a brick  
1113 structure higher than the cooling tower itself. We worked with the manufacturer to provide us  
1114 with decibel ratings in effect 50-feet away, as I recall, the decibel ratings that we've shown  
1115 you.

1116  
1117 We tried to be cognizant of our responsibility to our neighbors and design this in a manner that  
1118 would not be offensive to anyone. I feel, you know, we're being asked, again, tonight, to  
1119 reconsider something that has been under consideration for some time. For that reason, and  
1120 the open ended nature of the comment being attached to this, we would ask for some  
1121 consideration to give us some reasonable parameter to work with here.

1122  
1123 Ms. Dwyer - As we've discussed, I have reviewed acoustical engineer reports  
1124 that were issued from other cases in which we've had in the County has received complaints on  
1125 noise. There is a standard that is apparently accepted by acoustical engineers for sound  
1126 standards. Apparently, studies have been done and these studies indicate that there are

1127 expected community reactions to certain dbl levels. And a dbl level of 45 at the property line  
1128 results in sporadic complaints. Dbl levels of less than 40 result in no community reaction  
1129 whatsoever.

1130  
1131 So, if you'd like to set that at 45 dbl at the property line, which, according to these standards,  
1132 result in sporadic complaints, but not in no reaction, then that would be acceptable, I think, for  
1133 this.

1134  
1135 Mr. Moore - I would think that would be appropriate, and, in a sense, try to  
1136 give us a standard from which to work.

1137  
1138 Ms. Dwyer - Okay. That's fine. Mr. Whitney, can we insert that standard  
1139 into this condition?

1140  
1141 Mrs. Wade - Where's the tower, now, Mr. Moore?

1142  
1143 Mr. Moore - We don't have a good picture here of the site, but its between two  
1144 buildings; the main sanctuary and the fellowship hall. It's virtually unprotected by a slat  
1145 wooden fence. The two buildings currently act as a sounding board, literally, to move the  
1146 sound away from the present cooling tower.

1147  
1148 Mrs. Wade - Does it run all of the time or most of the time?

1149 Mr. Moore - This cooling tower serves the sanctuary and the building is in use  
1150 a good bit, but not 24 hours a day.

1151  
1152 Mrs. Wade - That's off when the building is not in use? Is that what you're  
1153 saying? It wouldn't be running all night, basically?

1154  
1155 Mr. Moore - Mr. Whitney, could you point out the location of the cooling  
1156 tower on the map?

1157  
1158 Mr. Whitney - This is the location of the cooling tower right here (referring to  
1159 slide).

1160  
1161 Mrs. Wade - The proposed one?

1162  
1163 Mr. Whitney - This is Ridge Road along here. It's near the road down in this  
1164 location.

1165  
1166 Mrs. Wade - Close to the neighborhood? How far away is the nearest house?  
1167 Do you know?

1168  
1169 Mr. Whitney - It's over 120 feet to the nearest residence.

1170  
1171 Ms. Dwyer - I have a recommended change, Mr. Whitney, to the condition  
1172 that you proposed that would include this 45 dbl. reading. In the third sentence, "If the screen

1173 wall lining proves ineffective in reducing sound to an acceptable level,” then we would insert,  
1174 “i.e. results in a dbl. level of 45 at the property line, then the Planning Commission retains...”  
1175 And then that would continue as proposed. In other words, we’re defining what is ineffective,  
1176 which I think the church has asked for some quantitative measure.

1177  
1178 Mr. Whitney - If it exceeds that level, then we would bring some action?

1179  
1180 Ms. Dwyer - Right.

1181  
1182 Mr. Whitney - 45 dbl?

1183  
1184 Ms. Dwyer - 45 dbl. And for the record, that’s from a textbook called,  
1185 “Public Reaction Sound Control.” The chart, itself, is a community reaction to noise and it’s  
1186 from “Sound Control and Thermal Insulation of Buildings” by Paul D. Close, which, I  
1187 understand, is an accepted text for acoustical engineers. And it also comes from the HUD  
1188 manual for public housing which includes noise standards for housing units as well.

1189  
1190 Mrs. Wade - Why does it have to be located where it is, Mr. Whitney?

1191  
1192 Ms. Dwyer - Could you answer that question for Mrs. Wade? Do you know?

1193  
1194 Mr. Moore - With our addition, the majority of our parking is on the north  
1195 side of the facility. The darkened area in the drawing, it will become the main entrance to the  
1196 Sunday school area, for the most part, the main entrance for all of our church members.  
1197 We’re trying to accommodate on the site the cooling tower, and also preserve the new entrance  
1198 to the facility.

1199  
1200 Ms. Dwyer - Are there any other questions for Mr. Moore by Commission  
1201 members? We thank you. We did have opposition. We’re ready for the opposition now.

1202  
1203 Ms. Ann Blunt - My name is Ann Blunt. I probably live the closest to this cooling  
1204 tower. I’m here representing several neighbors who couldn’t come. And, you’ve answered  
1205 some of my questions. We were hoping the cooling tower could be placed closer to Ridge  
1206 Road and maybe direct the noise to the intersection or where the traffic is making noise  
1207 anyway.

1208  
1209 I think they said it would be off at night, but the present cooling system is on at night, and it  
1210 pops on and off and hums and buzzes. It’s a little bit of a distraction. The neighborhood is so  
1211 tranquil that this cooling tower, we think, is going to present a little bit of a problem.

1212  
1213 Why did you choose 45 instead of 40 if there were sporadic complaints?

1214  
1215 Ms. Dwyer - Well, in speaking to a number of people about this 40, that is  
1216 usually low for expectations to expect a development to meet. So, that’s why I did 45.

1217

1218 Ms. Blunt - We also thought if there could be a flat position somewhere on  
1219 the roof that when we try to sleep on the second story of our houses, we wouldn't hear the  
1220 noise. That's where we think we're really going to get it.

1221  
1222 I have visited other churches, and unless this is really made more modern, it's a horrendous  
1223 noise.

1224  
1225 Ms. Dwyer - Thank you, Ms. Blunt. Could the applicant respond? Question 1  
1226 is, "Could the mechanical equipment be placed on the roof?" The second is, "Could it be  
1227 closer to Ridge Road?" Could we have someone respond to those questions?

1228  
1229 Mr. Moore - Would you repeat the questions. I think I understood.

1230  
1231 Ms. Dwyer - Okay. Ms. Blunt had two questions. One is, "Couldn't this  
1232 cooling tower be placed on the roof of the building?," was the first one. Maybe you could  
1233 respond to that first.

1234  
1235 Mr. Moore - The architect is here tonight, but, in our discussion with the  
1236 architect and the design of the buildings to be consistent with the style of the rest of the  
1237 facility. We have nearly 60,000 present square feet. We're adding 15,000, so we're trying to  
1238 keep this consistent with the style and type of structure that we have which is brick colonial.  
1239 And it was not feasible, given the design of the roof system that we had to use a mansard roof  
1240 as opposed to a standard slate roof which matches the rest of the facility. So, it would be  
1241 incompatible with the type of construction that we have.

1242  
1243 The other thing that relates to the second part of the question is the location. We were trying  
1244 to get it away from the new front door of the educational facility. We're also cognizant of the  
1245 fact that the chiller, the mechanical equipment that this will serve, is in the basement of our  
1246 main sanctuary and we're reaching sort of the outer limits in terms of what is practical for us  
1247 to pipe this. So, we were trying to use the judgement here in terms of the piping distances that  
1248 were involved. So, we have to pass under the new addition back to the main sanctuary sub-  
1249 basement to recirculate this water. I think we are at or near our distance capacity.

1250  
1251 You'll see that's centered in the parking lot, itself, and we thought that made reasonable  
1252 accommodations to all concerned, because we do have neighbors on the Ridge Road corridor  
1253 as well.

1254  
1255 Ms. Dwyer - What is the distance from the cooling tower to the western  
1256 property line?

1257  
1258 Mr. Moore - Ms. Dwyer, we checked that together once before, and I believe  
1259 it to be approximately 200 feet. I think we could measure that in just a moment, but its,  
1260 excuse me, 175 feet. I think you and I discussed that at about 175 feet to the west side  
1261 property line.

1262

1263 Mr. Vanarsdall - The two questions that you were asked you said, "No" to both of  
1264 them? Is that right?

1265  
1266 Mr. Moore - Yes sir.

1267  
1268 Ms. Dwyer - What options might there be to further attenuate the noise from  
1269 this. Are there mufflers available for the units, themselves? Is that an option?

1270  
1271 Mr. Moore - Yes. We didn't want the structure to be obnoxiously tall or  
1272 "chimney-like." In the consideration with our neighbors, we didn't want any of this machine  
1273 to show so that it is taller by over a foot than the size of the machine. Unfortunately, the  
1274 muffler fits on top of this machine, and it would protrude, substantially, above the line of this  
1275 wall that's been designed, which would probably require us, for aesthetic purposes, to consider  
1276 raising again the wall. So, it would be a double consideration if we do have to use a muffler.

1277  
1278 Ms. Dwyer - Could the height of this wall be increased at a later date if you  
1279 decided that was what you wanted to do?

1280  
1281 Mr. Moore - I would think it could. I mean, this deals with structural issues,  
1282 and foundation size and so forth, but I would assume that it could.

1283  
1284 Ms. Dwyer - So, is the design then, is your architect here who can answer  
1285 that? Would you come forward, please, sir. We're talking about the brick wall around the  
1286 cooling tower.

1287  
1288 Mr. Terry Cox, Cox & Associates, Architects - The cooling tower, the wall is set to be a foot  
1289 or so higher than it, with the notion that we're working against two things. One is, the flow of  
1290 air over the top of the units. And the manufacturer's concerned about shutting it off by  
1291 creating a too deep a slot around it. So, we're kind again, balanced in between. Physically,  
1292 you can add anything. I mean, it's only a matter of money, mixing mortar and steel.

1293  
1294 Ms. Dwyer - That's true.

1295  
1296 Mr. Cox - But, I think throughout this whole effort, we have been very  
1297 cognizant of this concern, because it came up fairly early. I think, using this sound block,  
1298 which was recommended by Bill Nance by Nance and Utley who is a professional engineer and  
1299 an acoustical engineer and has advised us on this project. So, it's like the muffler. The  
1300 muffler is probably, if I remember correctly, a \$15,000 to \$20,000 item. So, there are degrees  
1301 of concern when practicality plays a part and when its reasonable to ask the client to step  
1302 forward or not. So, I think we tried to find a balance all those concerned.

1303  
1304 Ms. Dwyer - I mean, I understand that's what we're assuming at this point to  
1305 be sufficient to attenuate the noise from the neighbors. My question was, there are different  
1306 ways to design walls, obviously, and if at a later date, it was determined by the Church that  
1307 they would like to increase the height of the wall, would that be a structural problem, given the  
1308 way this is designed?

1309  
1310 Mr. Cox - Like they were discussing earlier, you get information on the  
1311 equipment from the manufacturer, as if it wasn't screened, and then you create the wall to,  
1312 basically, stop horizontal noise moving directly from the equipment. Fans are blowing up.  
1313 But you can't get a true reading on from the information that we have without a very, very  
1314 elaborate study. The noise tends to go off at a 45 degree angle. These walls set up and create  
1315 this situation where its going up, and not horizontal. So we think that's another benefit to what  
1316 the acoustical walls do. In other words, they have slots in the block and they have a sound  
1317 baffle inside there. So, it helps absorb that sound and kill it just like you would build a block  
1318 wall between two rooms would be quieter than a sheet rock wall, for example. So, that's the  
1319 effort trying to break the sound going horizontal to the neighborhood.

1320  
1321 Ms. Dwyer - Any further questions by Commission members? Thank you, sir.  
1322 Okay, I'm ready to make a motion then on POD-114-98 River Road Baptist Church-Additions  
1323 and Renovations. We have worked with the church extensively on a number of issues,  
1324 particularly involving the drainage situation, both across the street and directly on site, and  
1325 some outfall drainage issues. And, I think we have finally worked through those to everyone's  
1326 satisfaction, which is very good news. The only other remaining issue was the question and  
1327 concern that there might be some noise from the cooling tower that would be offensive to the  
1328 neighbors. We have attempted to address that in Condition 29. The church has first agreed to  
1329 screen the cooling tower with a brick structure. And, secondly, to add acoustical lining inside  
1330 that wall to absorb the sound and to attenuate so that it will not be offensive to the neighbors.  
1331 We have added the condition saying that this must result in a level of 45 dbl reading at the  
1332 property line in order to be deemed an effective method for reducing the sound to an  
1333 acceptable level to the neighborhood. So, with that condition, I think this Commission has  
1334 gone a long way. The Church has gone a long way to address this issue as far as the neighbors  
1335 are concerned. So, with that, I move that the Commission approve POD-114-98 River Road  
1336 Baptist Church Addition and Renovation, including standard conditions for development of this  
1337 type and additional conditions 23 through 29, as amended.

1338  
1339 Mr. Vanarsdall - Second.

1340  
1341 Mrs. Wade - I have one more question I should have asked before. There's  
1342 the drainage off the parking lot across the street.

1343  
1344 Ms. Dwyer - The parking lot across the street? The changes that they  
1345 originally planned to make, they're not making, so there are no changes being made to that.

1346  
1347 Mrs. Wade - Because they have a problem there now.

1348  
1349 Ms. Dwyer - They were going to add some specialized concrete block, but they  
1350 have withdrawn that proposal.

1351  
1352 Mrs. Wade - Nothing is going to happen across the street.

1353

1354 Ms. Dwyer - Nothing is going to happen across the street. They're making no  
1355 changes.

1356  
1357 Mr. Vanarsdall - I seconded it.

1358  
1359 Ms. Dwyer - Any more questions, Mrs. Wade?

1360  
1361 Mrs. Wade - No. I just know somebody who lives across the street and has a  
1362 drainage problem.

1363  
1364 Ms. Dwyer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All  
1365 those in favor say aye—all those opposed by saying nay. The motion carries.

1366  
1367 The Planning Commission approved POD-114-98 River Road Baptist Church Addition and  
1368 Renovation, subject to the standard conditions attached to these minutes, and following  
1369 additional conditions:

1370

1371 23. The easements for drainage and utilities as shown on approved plans shall be granted to  
1372 the County in a form acceptable to the County Attorney prior to any occupancy permits  
1373 being issued.

1374 24. The developer shall provide fire hydrants as required by the Department of Public  
1375 Utilities in its approval of the utility plans and contracts.

1376 25. Any necessary off-site drainage easements must be obtained in a form acceptable to the  
1377 County Attorney prior to final approval of the construction plans by the Department of  
1378 Public Works.

1379 26. Deviations from County standards for pavement, curb or curb and gutter design shall be  
1380 approved by the County Engineer prior to final approval of the construction plans by  
1381 the Department of Public Works.

1382 27. Insurance Services Office (ISO) calculations must be included with the utilities plans and  
1383 contracts and must be approved by the Department of Public Utilities prior to the  
1384 issuance of a building permit.

1385 28. Approval of the construction plans by the Department of Public Works does not  
1386 establish the curb and gutter elevations along the Henrico County maintained right-of-  
1387 way. The elevations will be set by Henrico County.

1388 29. The cooling tower screening wall shall be acoustically lined on all sides. The plans and  
1389 specifications shall be included with the building permit application for review and  
1390 approval. If the screen wall and lining proves ineffective in reducing sound to an  
1391 acceptable level, i.e. results in a dBA level in excess of 45 at the property line, the  
1392 Planning Commission retains the right to review and direct alternative methods for  
1393 noise attenuation.

1394  
1395 **C-16C-99** James W. Theobald for H. H. Hunt Corporation: Request to  
1396 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence District  
1397 (Conditional), part of Parcel 10-A-7B, described as follows:  
1398

1399 BEGINNING at a rod found on the eastern right-of-way line of Shady Grove Road, which  
1400 point is ± 1150' from its intersection with the northern line of Nuckols Road, thence along the  
1401 eastern right-of-way line of Shady Grove Road N 46°18'52" E 191.83' to a point; thence N  
1402 46°39'34" E 102.36' to a point; thence along a curve to the right having a radius of 3047.74'  
1403 for a length of 221.98' to a point; thence N 50°49'57" E 194.51' to a point; thence along a  
1404 curve to the left having a radius of 5120.39' for a length of 301.97' to a point, said point being  
1405 the True Point of Beginning; thence along a curve to the left having a radius of 5120.39 for a  
1406 length of 37.77' to a point; thence N 47°01'51" E 106.80' to a point; thence along a curve to  
1407 the left having a radius of 741.20' for a length of 471.83' to a point in the centerline of the  
1408 Chickahominy River; thence along the meandering of the Chickahominy River in a  
1409 southeasterly direction ± 1530' to a point; thence S 28°00'00" E ± 27.4' to a point; thence S  
1410 03°56'53" W 35.00' to a point; thence S 83°56'53" W 66.00' to a point; thence S 12°36'40"  
1411 E 1053.57' to a rod found; thence N 82°08'31" W 227.20' to a rod found; thence N  
1412 77°37'09" W 296.18' to a point; thence N 16°56'13" E 371.32' to a point; thence along a  
1413 curve to the right having a radius of 335.00' for a length of 117.44' to a point; thence N  
1414 55°27'27" W 219.18' to a point; thence S 34°32'33" W 117.38' to a point; thence N  
1415 65°54'26" W 139.71' to a point; thence N 75°21'04" W 91.75' to a point; thence along a  
1416 curve to the right having a radius of 800.00' for a length of 522.89' to a point; thence N  
1417 42°45'53" W 252.37' to the True Point of Beginning, containing ± 25.403 acres.

1418

1419 All testimony hard under Case C-17C-99.

1420

1421 **C-17C-99** James W. Theobald for H. H. Hunt Corporation: Request to  
1422 conditionally rezone from A-1 Agricultural District to R-4C One Family Residence District  
1423 (Conditional), part of Parcel 10-A-7C, described as follows:

1424

1425 BEGINNING at a point in the centerline of a creek, which point is S 79°47'16" E 673.31'  
1426 from the eastern line of Concourse Boulevard, said point being the True Point of Beginning;  
1427 thence along the meandering of the creek in a northerly direction ± 808' to a point; thence S  
1428 12°36'40" E ± 359.0' to a point; thence S 8°06'00" E 394.00' to a point; thence N 79°47'16"  
1429 W ± 340.0' to the True Point of Beginning, containing ± 3.28 acres.

1430

1431 Ms. Dwyer - Is there any opposition to C-17C-99, H. H. Hunt Corporation?  
1432 No opposition. Mr. Bittner.

1433

1434 Mr. Bittner - Thank you, Ms. Dwyer. Since we are hearing them both at the  
1435 same time, I can give information on both cases, one right after the other. Let me go back to  
1436 C-16C-99. This case is an application to rezone the property for 45 single-family homes. The  
1437 proffered density is within the suggested Suburban Residential 2 density for this property,  
1438 which is 2.4 to 3.4 net units per acre. The proffered density is also compatible with the  
1439 adjacent Wyndham Forest and Shady Ridge subdivisions.

1440

1441 The applicant has proffered to rezone flood plain areas on this property to C-1. This would be  
1442 consistent with the Environmental Protection Area designated portion of the property. The  
1443 proffers submitted with this application are also consistent with proffers on the adjacent single-  
1444 family subdivision, and staff finds these proffers to be acceptable.



1445  
1446 The requested R-3C zoning is consistent with the zoning of Shady Ridge and with the portion  
1447 of Wyndham Forest adjacent to the property in question. A portion of Wyndham Forest to the  
1448 south is also zoned R-4C. This section of Wyndham Forest is under construction, but the  
1449 section adjacent to the property in question is not.

1450  
1451 The School Board has expressed concern with the amount of students that could be generated  
1452 by this proposal as well as other proposals in this area of the County. The School Board states  
1453 that these residential developments will more than fill any new schools that are planned in the  
1454 near future for this area. A major issue with this application is access. A preliminary layout  
1455 submitted by the applicant shows access coming from Shady Grove Road on the western  
1456 portion of the property. It also shows a stub road extending to the eastern border of the  
1457 property and aligning with the Lemoore Way cul-de-sac in Wyndham Forest. This is right  
1458 here at this area (referring to slide). Since the printing of the staff report, the applicant has  
1459 stated that he intends to establish a full road connection at this area between this site and  
1460 Wyndham Forest. Staff supports this idea and also recommends that a full road connection be  
1461 included in the proffers. In summary, for Case C-16C-99, the requested use, zoning and  
1462 proffers are consistent with adjacent development. However, a full road connection to the  
1463 adjacent subdivision has not been proffered. If this were to be submitted by the applicant, staff  
1464 could recommend approval of the application.

1465  
1466 I will move on now to C-17C-99, since we are hearing them at the same time. This is an  
1467 application for an addition to Wyndham Forest. It is approximately 3.28 acres in size. The  
1468 requested R-4C zoning is consistent with the zoning in Wyndham Forest adjacent to the  
1469 property in question. The property is gently rolling, mostly wooded, and is located at the end  
1470 of Alderidge Place in Wyndham Forest. A preliminary layout submitted by the applicant  
1471 shows this property could yield approximately seven new lots. There are flood plain areas  
1472 along the western border of the property, and the applicant has proffered to rezone these to C-1  
1473 at the County's request. This is consistent with other flood plain areas in Wyndham Forest.

1474  
1475 This property, along with property to the west, is designated Office on the 2010 Plan. The  
1476 flood plain area along the western border creates a physical barrier between this property and  
1477 property further to the west. Because of this, staff feels that it is logical for this property to  
1478 become a part of Wyndham Forest instead of an overall office development. The proffers  
1479 submitted with this proposal include items also proffered with Wyndham Forest and staff finds  
1480 these proffers to be acceptable. And, as on the previous case, the School Board did point out  
1481 their concern with potential school overcrowding based on rezoning in this area of the County.

1482  
1483 In summary, the requested use, zoning and proffers are consistent with the adjacent  
1484 development. Even though this property is designated Office on the 2010 Plan, the physical  
1485 barrier on this property makes residential development more logical than office development.  
1486 Staff recommends approval of application C-17C-99. And, with that, I will be happy to  
1487 answer any questions you have on either case.

1488  
1489 Ms. Dwyer - Thank you. Are there any questions for Mr. Bittner by  
1490 Commission members? Thank you. Mrs. Wade, would you like to hear from the applicant?

1491

1492 Mrs. Wade - Yes. Please.

1493

1494 Mr. James W. Theobald - Ladies and gentlemen, my name is Jim Theobald and I am here  
1495 this evening on behalf of the H. H. Hunt Corporation. As Mr. Bittner indicated, Case C-16C-  
1496 99 is a request to rezone approximately 25 acres from Agricultural to the R-3 classification,  
1497 consistent with surrounding zoning, and the little piece under C-17C-99, of approximately 3.2  
1498 acres is a request to rezone from Agricultural to an R-4 category, both consistent with your  
1499 Land Use Plan. This is sort of an overall map showing the relationship of the two parcels with  
1500 other existing and proposed developments in the area (referring to slide).

1501

1502 C-16C-99 lies between essentially Wyndham Forest, which is on the east, the subdivision  
1503 being developed by H. H. Hunt, and Shady Ridge subdivision, which is on the west line of  
1504 Shady Grove Road.

1505

1506 C-17C-99 is really a small leftover piece of land recently put under contract by H. H. Hunt. It  
1507 aligns the cul-de-sac in Wyndham Forest that you see here (referring to slide) and this allows  
1508 us to go over to existing flood plain and, basically, just extends out this cul-de-sac and  
1509 development approximately seven lots.

1510

1511 Our proffers are consistent with the Wyndham Forest cases previously approved by you and  
1512 the Board of Supervisors. These proffers include such things as a commitment to rezone the  
1513 flood plain, which does exist, on particularly the R-3 case, minimum house sizes of 1,850  
1514 square feet on the finished floor area of the R-3 portion, 1,700 square feet on the R-4 portion.

1515

1516 We have capped the development on the R-3 piece at 45 lots that results in a gross density of  
1517 1.77 units per acre and a net density of 2.59, both well within the SR-2 designation, which  
1518 ranges from 2.4 to 3.4 units per acre. They are actually just on a gross basis well within the  
1519 SR-1 designation. We do plan approximately seven lots.

1520

1521 There are some layouts attached to your staff reports on the little R-4 piece. That is in the  
1522 Land Use Plan for Office but can't practically be developed in any meaningful way with  
1523 potential office development. And, again, as to that portion, we are still well within the  
1524 suggested guidelines for the SR-2 district.

1525

1526 I'd like to talk about the school situation. It was obviously a major element of the staff report.  
1527 It was difficult for us to continue our dialogue with schools as, you know, H. H. Hunt has  
1528 been one of the areas most active in terms of working with the school system on a variety of  
1529 programs. I think our involvement and our record speaks for itself.

1530

1531 We donated land in Wyndham for Shady Grove Elementary and recently agreed to exchange  
1532 land as part of the Twin Hickory case, as well as significantly participating in the infrastructure  
1533 cost that will make the new proposed high school in Twin Hickory and the elementary school a  
1534 reality, sharing costs such as extension of roads, extension of sewer, extension of water lines,  
1535 all by agreement with the County as well as sharing in BMP matters on a regional basis. And

1536 we have coordinated with the school system our wetland studies and many of our  
1537 environmental studies.

1538  
1539 When the report came out, we wanted to make sure that we understood exactly what they were  
1540 saying, because it was worded, I thought, very carefully. It did not suggest that development  
1541 cease in this portion of Henrico County or any other portion, but I think that it was merely  
1542 meant to accentuate the very good job the School Board has done, along with the Board of  
1543 Supervisors, in providing the funding and the vision for where our schools are going, and in  
1544 our subsequent conversations with Mr. Crush at the School Board Office. He was quick to say  
1545 that they were not suggesting in their comments that development be stopped, but rather they  
1546 were prepared to keep up with the pace, assuming the continued support of the County and the  
1547 Board, and, in fact, they would be able to keep up.

1548  
1549 Our schools are probably our greatest asset in this County, as I said to you during your recent  
1550 work session. And, certainly, the concept of good schools is one that is absolutely imperative  
1551 to good quality development that I think you have seen with H. H. Hunt.

1552  
1553 There were a few facts that Mr. Crush made us aware of that do not appear in your staff report  
1554 that I think that help mitigate the impacts of this, and, of course, we have deferred the larger  
1555 case this evening to do a little more work on it.

1556  
1557 Tonight you are considering 45 acres on the R-3 piece and 7 on the R-4 piece. But, as you are  
1558 undoubtedly aware, there is a new elementary school planned in the I-295-Mountain Road  
1559 area. That school is expected to have a capacity of some 700 to 800 elementary school  
1560 students, and while that is currently officially programmed to be opened in September, 2004,  
1561 they are engaged in some planning to accelerate that school, if at all possible. Twin Hickory  
1562 Elementary, again, was advertised to be opened sometime in 2001.

1563  
1564 The current plan, which is certainly not secret, is to have a capacity of some 750 to 800  
1565 elementary school students, and to have that school open in September of 2000. These lots, at  
1566 the earliest, come on board in the summer or late summer of 2000, and will be very consistent  
1567 with that timetable. Apparently, there is also plans for the renovation of Moody Middle  
1568 School, beginning this July, I am told. And, while that school has a current capacity of some  
1569 550 students that will ultimately result in the capacity of some 1200 students, and that is  
1570 currently projected to be completed by June, 2002. The capacity of the new Twin Hickory  
1571 High School is now projected to be somewhere in the neighborhood of 1800 students, with that  
1572 facility being available to the public in 2002. Those were the comments received by Mr.  
1573 Crush.

1574  
1575 I would continue to point out that we are significantly under the Land Use Plan designation in  
1576 this area with this density and, certainly, I think, are a proponent of good schools, and feel  
1577 very fortunate to have been involved in the development of many of them in the area. I would  
1578 be more than happy to answer any questions, and I would very respectfully ask that you  
1579 recommend approval of this case to the Board of Supervisors.

1580

1581 Ms. Dwyer - Thank you, Mr. Theobald. Are there any questions of Mr.  
1582 Theobald by Commission members?  
1583  
1584 Mrs. Wade - I believe, as far as Moody is concerned, it probably holds more,  
1585 but they only have 500 there now.  
1586  
1587 Ms. Dwyer - It is at half capacity, and I believe the renovations are not  
1588 scheduled. When did you say they are supposed to start, this fall?  
1589  
1590 Mr. Theobald - In July, beginning this July, Moody Middle School.  
1591  
1592 Ms. Dwyer - I was under the impression from the C.I.P. Plan that we looked at  
1593 tonight that it would be about two years.  
1594  
1595 Mrs. Wade - I remember, when they deferred the renovations or something,  
1596 they did it with an understanding that they would have it at low capacity in the interim and that  
1597 is why they only have 500 there now. But, anyway, in the C-1, there is nothing but the access  
1598 and the usual conservation area uses. You are not planning any roads or anything in there, are  
1599 you, in the flood plain area?  
1600  
1601 Mr. Theobald - No, ma'am. It would not connect us anywhere.  
1602  
1603 Mrs. Wade - And would you just describe then your access; your road pattern  
1604 there.  
1605  
1606 Mr. Theobald - Sure. The comment that there is a full road access, and you  
1607 have, recently, in approving a tentative next door for that section of Wyndham Forest, which  
1608 had earlier, prior to this case being proposed, as an emergency access. And part of that  
1609 tentative, I am told by Mr. Schmidt and by Ann Tignor here this evening with Youngblood,  
1610 Tyler and Associates, that is not only a full access, but they were required to bond it all the  
1611 way out to Shady Grove Road. And so it will be a full access from Shady Grove back into  
1612 Wyndham Forest, and you will then be able to intersect with Wyndham Forest Drive, which  
1613 goes back down into Nuckols Road.  
1614  
1615 Mrs. Wade - Now, is that the Concept Road, or is this another road?  
1616  
1617 Mr. Theobald - No, ma'am. The Concept Road is not; you can see from this  
1618 drawing...  
1619  
1620 Mrs. Wade - All right. So there will be another road north of that, that will go  
1621 out to Shady Grove?  
1622  
1623 Mr. Theobald - Correct. You can see faintly through here. You can see the cul-  
1624 de-sac here as a part of Wyndham Forest, which will come out and connect with Wyndham  
1625 Forest Drive. I may not be going down the right trail here, but it ends up connecting back in  
1626 there to Nuckols Road. This is the bank and the FasMart, so Wyndham Forest Drive. This

1627 connection will go all the way up and end up in this cul-de-sac and then again on out (All  
1628 referring to slide)..

1629  
1630 Mrs. Wade - Go where? We are not going to wind up in the position that we  
1631 sometimes do with these roads that are supposed to go through and subdivisions have been  
1632 constructed along the way and people do not want the roads to go through.

1633  
1634 Mr. Theobald - Well, that certainly won't be a request of ours. I think, we have  
1635 contracted to purchase this land from the folks that own this, so they are fully aware of our  
1636 plans. I am not sure who would object to roads connecting. You are right, that we have  
1637 experienced that over the years. I don't believe as a result of any of the Hunt communities in  
1638 other parts of the County, but the fact that this will take us all back to an existing roadway  
1639 system that has been approved by you back into Nuckols Road or directly out to Shady Grove.

1640  
1641 Mrs. Wade - Would both of those Wyndham Forest cul-de-sacs go through the  
1642 one next to the R-4 case and then the one up further?

1643 Mr. Theobald - Right. You can see the conceptual layout.

1644  
1645 Mrs. Wade - They don't look like stub streets. They look like cul-de-sacs.

1646  
1647 Mr. Theobald - Well, it will just be extended, if you look at the layout attached to  
1648 your staff report.

1649  
1650 Mrs. Wade - Okay. Does the concept, well I suppose it is a little premature to  
1651 deal with that. That goes through some other; that property that is not committed yet?

1652  
1653 Mr. Theobald - Yes ma'am.

1654  
1655 Ms. Dwyer - Does the CFIP allocate monies for renovation of the Moody  
1656 Middle School in FY-2000-2001?

1657  
1658 Mr. Theobald - I will be happy to clarify. That was information that I had  
1659 received.

1660  
1661 Ms. Dwyer - If this were zoned, I am talking about C-16C-99, to R-2A instead  
1662 of R-3C, what difference would that make in the number of lots? Do you happen to have that  
1663 data?

1664 Mr. Theobald - Obviously not.

1665  
1666 Ms. Dwyer - Any other questions for Mr. Theobald?

1667  
1668 Mrs. Wade - I was checking my, looking for my proffer sheet here. We are  
1669 doing both of these at once. I just want to be sure. I don't think there is anything else we  
1670 haven't covered. That is all I have.

1671  
1672 Ms. Dwyer - Thank you. Are we ready for a motion?

1673  
1674 Mrs. Wade - All right, there wasn't anyone else here to speak on it, was there?  
1675 On C-16C-99, the 25 plus acres of R-3, I think it has been pretty well described and it does fit  
1676 into the Land Use Plan for Suburban and Residential, well under the maximum density there.  
1677 Presumably, the CIP is related to the Comprehensive Plan, but maybe the time gets a little  
1678 ahead of the other one, sometimes. Basically, the timing and the CIP is, not to pass on our  
1679 responsibility, but it is probably a decision that the Board needs to keep track of though, since  
1680 they handle the funds and we don't, so we can make a recommendation and they assess their  
1681 resources in that regard. The access has been taken care of, so I would move, therefore, that  
1682 Case C-16C-99 be recommended for approval.

1683  
1684 Mr. Vanarsdall seconded the motion.

1685  
1686 Ms. Dwyer - Motion by Mrs. Wade and second by Mr. Vanarsdall. All in  
1687 favor say aye. All opposed say no. The vote was 5-0 (Mr. Donati abstained). The motion  
1688 carries.

1689  
1690 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
1691 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the  
1692 proffered conditions and grant the request, because it conforms to the recommendations of the  
1693 Land Use Plan; it is appropriate residential zoning at this location; and it would not adversely  
1694 affect the adjoining area if properly developed as proposed.

1695  
1696 Mrs. Wade - Case C-17C-99 is, as Mr. Theobald described, is really a  
1697 continuation of the Wyndham Forest Subdivision, and it is a little piece that would be hard to  
1698 connect, really, to anything else. But, still it fits into the density limit for the area. So, I  
1699 would move that that, also, C-17C-99, be recommended for approval also.

1700  
1701 Ms. Dwyer - Motion by Mrs. Wade and second by Mr. Vanarsdall. All in  
1702 favor say aye. All opposed say no. The vote was 5-0 (Mr. Donati abstained). The motion  
1703 carries.

1704  
1705 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
1706 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the  
1707 proffered conditions and grant the request, because it would not adversely affect the adjoining  
1708 area if properly developed as proposed; and it represents a logical continuation of the one-family  
1709 residential development which exists in the area.

1710  
1711 Mrs. Wade - There was a suggestion by Mr. Bittner about some of that road  
1712 situation should be proffered.

1713  
1714 Mr. Theobald - We recommend that.

1715  
1716 Mrs. Wade - Recommend that before it gets to the Board. I finished the  
1717 motion, but would you consider a proffer there? Thank you.

1718

1719 Ms. Dwyer - Could we go over the deferrals for the 8:00 p.m. agenda at this  
1720 time?

1721  
1722 **P-32-98 Gloria L. Freye for Food Lion, Inc.: Request for provisional use**  
1723 **permit in accordance with Sections 24-58-.2(a) and 24.122.1 of Chapter 24 of the County**  
1724 **Code in order to permit 24 hour operation on part of Parc3el 70-A-68, containing 45,000**  
1725 **square feet, located in Merchants Walk Shopping Center (7804 West Broad Street). The site is**  
1726 **zoned B-2 Business District.**

1727  
1728 Mr. Merrithew - On the 8:00 p.m. agenda, I would point out that in the Brookland  
1729 District, P-32-98, Gloria Freye for Food Lion, Inc., that is a case that has been withdrawn and  
1730 does not require action.

1731 **C-22C-99 Strange-Boston and Associates for Woodmen, L.C.: Request to**  
1732 **amend proffered conditions accepted with rezoning case C-51C-98, on Parcels 51-A-98 and**  
1733 **99, also known as 9010 Woodman Road, containing 3.919 acres, located on the west side of**  
1734 **Woodman Road, 200' north of Parham Road. The proposed amendment would permit an**  
1735 **adult day care. The current zoning is R-6C General Residence District (Conditional). The**  
1736 **Land Use Plan recommends Office development.**

1737  
1738 Mr. Merrithew - They have requested a deferral to April 15, 1999.

1739  
1740 Ms. Dwyer - Is there any one in the audience in opposition to the deferral of C-  
1741 22C-99, Strange-Boston and Associates for Woodmen, L.C.? No opposition to the deferral.

1742  
1743 Mr. Vanarsdall - Mr. Chairman, I move that C-22C-99 be deferred to April 15,  
1744 1999, at the applicant's request.

1745  
1746 Mr. Archer seconded the motion.

1747  
1748 Ms. Dwyer - Motion by Mr. Vanarsdall and second by Mr. Archer. All in  
1749 favor say aye. All opposed say no. The vote is 5-0 (Mr. Donati abstained). The motion for  
1750 deferral carries.

1751  
1752 **C-13C-99 Ralph L. Axselle for Wilton Development Corp.: Request to**  
1753 **conditionally rezone from A-1 Agricultural District and C-1 Conservation District to R-2C One**  
1754 **Family Residence District (Conditional) and C-1 Conservation District, Parcel 74-A-20,**  
1755 **containing approximately 162 acres, located at the northeast corner of the intersection of Diane**  
1756 **Lane, Old Sellers Way and Wilkinson Road. A single-family residential development is**  
1757 **proposed. The applicant has proffered a maximum density of 230 lots, which yields a density**  
1758 **of approximately 2.07 units per acre. The Land Use Plan recommends Suburban Residential**  
1759 **1, 1.0 to 2.4 units net density per acre.**

1760  
1761 Mr. Merrithew - They have requested a deferral until April 15, 1999.

1762

1763 Ms. Dwyer - Is there any one in the audience in opposition to C-13C-99, Ralph  
1764 L. Axselle for Wilton Development Corporation? No one in the audience in opposition to the  
1765 deferral for that case. All right.

1766  
1767 Mr. Archer - Madam Chairman, I move deferment of C-13C-99 to the April  
1768 15, 1999 meeting at the applicant's request.

1769  
1770 Mr. Vanarsdall seconded the motion.

1771  
1772 Ms. Dwyer - Motion by Mr. Archer and second by Mr. Vanarsdall. All in  
1773 favor of the motion for deferral say aye. All opposed say no. The vote is 5-0 (Mr. Donati  
1774 abstained.) The motion carries.

1775  
1776 **P-4-99** **Ralph L. Axselle for Wilton Development Corp.: Request for**  
1777 approval of a provisional use permit in accordance with Sections 24-12.1, 24-95 and 24-122.1  
1778 of Chapter 24 of the County Code in order to allow a controlled density subdivision in  
1779 conjunction with rezoning case C-13C-99 on Parcel 74-A-20, containing approximately 162  
1780 acres, located at the northeast corner of the intersection of Diane Lane, Old Sellers Way and  
1781 Wilkinson Road. The site is zoned A-1 Agricultural District and C-1 Conservation District.

1782  
1783 Mr. Merrithew - They have also requested deferral in this case to April 15, 1999.

1784  
1785 Ms. Dwyer - Is there anyone in opposition to the deferral of Case P-4-99,  
1786 Wilton Development Corporation? No opposition. Mr. Archer.

1787  
1788 Mr. Archer - I move deferral of P-4-99, Wilton Development Corporation, to  
1789 the April 15, 1999 meeting, at the applicant's request.

1790  
1791 Mr. Vanarsdall seconded the motion.

1792  
1793 Ms. Dwyer - Motion by Mr. Archer and second by Mr. Vanarsdall. All in  
1794 favor of the motion for deferral say aye. All opposed say no. The vote is 5-0 (Mr. Donati  
1795 abstained.) The motion carries.

1796  
1797 **C-23C-99** **Roy B. Amason: Request to conditionally rezone from B-2**  
1798 Business and O-3 Office Districts to RTHC Residential Townhouse District (Conditional), part  
1799 of parcel 33-A-69A, containing 2.965 acres, located on the north side of Virginia Center  
1800 Parkway, 1,200' east of Interstate 95. Residential townhouses for sale are proposed. The  
1801 applicant has proffered a maximum of 25 units, which yields a density of 8.43 units per acre.  
1802 The Land Use Plan recommends Office development.

1803  
1804 Mr. Merrithew - They have requested a deferral until April 15.

1805  
1806 Ms. Dwyer - Is there any one in the audience in opposition to the deferral of C-  
1807 23C-99? No opposition for deferral. Mr. Archer.

1808



1809 Mr. Archer - I move deferral of C-23C-99, Roy B. Amason, to the April 15,  
1810 1999 meeting at the applicant's request.

1811  
1812 Mr. Vanarsdall seconded the motion.

1813  
1814 Ms. Dwyer - Motion by Mr. Archer and second by Mr. Vanarsdall. All in  
1815 favor of the motion for deferral say aye. All opposed say no. The vote is 5-0 (Mr. Donati  
1816 abstained.) The motion carries.

1817  
1818 Mr. Merrithew - They are all of the deferrals that I have.

1819  
1820 **C-19C-99** Andrew M. Condlin for BAWIN, LLC: Request to conditionally  
1821 rezone from A-1 Agricultural District to R-2AC, R-3C and R-3AC One Family Residence  
1822 Districts (Conditional), part of Parcels 17-A-7A, 7B and 8, described as follows:

1823  
1824 R-2A

1825 BEGINNING at an iron rod, said point being the northwestern most comer of Parcel B, Part of  
1826 73-A2-5 currently know as 17-A-7B, as shown on the plat recorded in Plat Book 100, Page  
1827 177 in the County of Henrico, Virginia; THENCE along a non-tangent curve to the left, said  
1828 curve having a radius of 1197.92 feet, a length of 446.77 feet, a chord of 444.19 feet, and a  
1829 chord bearing of N 83° 09' 02" E to a concrete monument; THENCE S 72° 27' 17" W 75.05  
1830 feet to an iron rod; THENCE N 72° 27' 17" E 223.35 feet to a point; THENCE S 19° 31' 19"  
1831 E 528.60 feet to a point; THENCE S 22° 52' 07" W 86.82 feet to a point; THENCE S 78°  
1832 35' 24" E 45.23 feet to a point; THENCE S 04° 40' 17" E 226.01 feet to a point; THENCE S  
1833 18° 13' 17" W 350.32 feet to a point; THENCE S 42° 29' 35" E 341.33 feet to a point;  
1834 THENCE S 47° 30' 23" W 410.00 feet to a point; THENCE N 42° 29' 35" W 372.97 feet to  
1835 a point; THENCE S 47° 30' 14" W 80.46 to an iron rod; THENCE N 65° 54' 13"W 307.45  
1836 feet to an iron rod; THENCE N 39° 36' 35" W 150.07 feet to an iron rod; N 07° 53' 10" W  
1837 468.41 feet to an iron rod; THENCE N 70° 18' 55"W 198.21 feet to an iron rod; THENCE N  
1838 19° 18' 35" E 570.34 feet to said point of BEGINNING, containing 28.59 acres more or less.

1839  
1840 R-3

1841 COMMENCING at an iron rod, said point being the northwestern most comer of Parcel B,  
1842 Part of 73-A2-5 currently known as 17-A-7B, as shown on the plat recorded in Plat Book 100,  
1843 Page 177 in the County of Henrico, Virginia; THENCE along a non-tangent curve to the left,  
1844 said curve having a radius of 1197.92 feet, a length of 446.77 feet, a chord of 444.19 feet, and  
1845 a chord bearing of N 83° 09' 02" E to a concrete monument; THENCE S 72° 27' 17" W  
1846 75.05 feet to an iron rod; THENCE N 72° 27' 17" E 223.35 feet to a point of BEGINNING;  
1847 THENCE N 72° 27' 17" E 987.08 feet to a point; THENCE S 17° 32' 43" E 152.05 feet to a  
1848 point; THENCE S 65° 43' 52" W 112.58 feet to a point; THENCE S 08° 58' 32" W 322.75  
1849 feet to a point; THENCE S 11° 57' 45" E 615.99 feet to point; THENCE S 47° 30' 23" W  
1850 861.22 feet to a point; THENCE N 42° 29' 35" W 341.33 feet to a point, THENCE N 18 13'

1851 17" E 350.32 feet to a point; THENCE N 04° 40' 17" W 226.01 feet to a point; THENCE N  
1852 78° 35' 24" W 45.23 feet to a point; THENCE N 22° 52' 07" E 86.82 feet to a point;  
1853 THENCE N 19° 31' 19" W 528.60 feet to said point of BEGINNING, containing 23.57 acres  
1854 more or less.

1855  
1856 R-3A  
1857 COMMENCING at an iron rod, said point being the northwestern most corner of Parcel B,  
1858 Part of 73-A2-5 currently known as 17-A-7B, as shown on the plat recorded in Plat Book 100,  
1859 Page 177 in the County of Henrico, Virginia; THENCE along a non-tangent curve to the left,  
1860 said curve having a radius of 1197.92 feet, a length of 446.77 feet, a chord of 444.19 feet, and  
1861 a chord bearing of N 83° 09' 02" E to a concrete monument; THENCE S 72° 27' 17" W  
1862 75.05 feet to an iron rod; THENCE N 72° 27' 17" E 223.35 feet to a point; THENCE N 72°  
1863 27' 17" E 987.08 feet to the point of BEGINNING; THENCE N 72° 27' 17" E 91.25 feet to a  
1864 concrete monument; THENCE along a tangent curve to the left, said curve having a radius of  
1865 1689.02 feet, a length of 354.05 feet, a chord of 353.40 feet, and a chord bearing of N 66° 26'  
1866 58" E to a iron rod; THENCE N 77° 55' 25" E 107.16 feet to a concrete monument;  
1867 THENCE S 21° 05' 10" E 231.74 feet to an iron rod; THENCE S 25° 42' 00" E 39.81 feet to  
1868 an iron rod; THENCE S 25° 42' 00" E 389.58 feet to an iron rod; THENCE S 47° 30' 23" W  
1869 1037.24' to a point; THENCE N 11° 57' 45" W 615.99 feet to a point; THENCE N 08° 58'  
1870 32" E 322.75 feet to a point; THENCE N 65° 43' 52" E 112.58 feet to a point; THENCE N  
1871 17° 32' 43" W 152.05 feet to said point of BEGINNING, containing 15.40 acres more or less.

1872  
1873 Mr. Merrithew - Madam Chairman, you have received two sets of proffers. They  
1874 are noted as "First Amended and Second Amended." The first set of proffers does not require  
1875 waiving the time limits. The second set of amended proffers, which essentially change the  
1876 designation of one of the parcels, the zoning designation of one of the parcels and the lot size  
1877 designation, so a couple of changes we have been seeking, will require that you waive the time  
1878 limits. So, the second amended proffers require waiving the time limit.

1879  
1880 Ms. Dwyer - All right, and what we have just received is a black line copy and  
1881 a clean copy amended?

1882  
1883 Mr. Merrithew - No. You have received a black lined copy of the first amended  
1884 and a black lined copy of the second amended. I handed them both out. The second amended,  
1885 I guess, is the most current, and the one that you should be voting on if you choose to waive  
1886 the time limits, but it doesn't show the changes that were made in the first amended version.

1887  
1888 Mr. Vanarsdall - What is the date of this second proffer?

1889  
1890 Mr. Merrithew - The second is today's date. No, yesterday, the 10<sup>th</sup>. Is that clear  
1891 as mud now?

1892  
1893 Ms. Dwyer - So we need to...

1894  
1895 Mr. Merrithew - Waive the time limit. The only way to see all of the changes is to  
1896 look at all of the sets. That is correct. But, a vote would only be necessary on the second  
1897 amended set that we received yesterday.  
1898  
1899 Mrs. Wade - Did all of the Commissioners receive the second set yesterday in  
1900 the mail, or at the door?  
1901  
1902 Ms. Dwyer - Was that the second set then that was delivered?  
1903 Mr. Merrithew - Yes.  
1904  
1905 Ms. Dwyer - What is the date of the first amended proffers?  
1906  
1907 Mr. Merrithew - The 9<sup>th</sup>, Tuesday, which would be outside of the time limit.  
1908  
1909 Mr. Vanarsdall - Who makes these things up with no dates?  
1910  
1911 Ms. Dwyer - And 3/10/99 would be the date for the second?  
1912  
1913 Mr. Merrithew - Yes. That is correct. 3/10/99 for the second set. You can ask  
1914 the applicant about formatting.  
1915  
1916 Ms. Dwyer - Let me ask the audience about opposition before we start. Is  
1917 there any opposition to C-19C-99, Andrew M. Conclin for BAWIN, LLC? No opposition.  
1918 All right. Mr. Merrithew.  
1919  
1920 Mr. Merrithew - Thank you. This request is to rezone approximately 68 acres of  
1921 land located on the south side of Nuckols Road, just east of its intersection with Pouncey Tract  
1922 Road. I will immediately point out that the application has been changed, so that if you look at  
1923 the screen, Parcel A, which is the westernmost parcel, is now A-1 to R-2C, and Parcel B,  
1924 which is the center parcel, is A-1 to R-2AC, and Parcel C, which is the eastern parcel is A-1  
1925 to R-3C. They have dropped down a district in each one of those parcels.  
1926  
1927 Staff's concern throughout this application has been the proposal that it include R-3 and/or R-  
1928 3A zoning. The applicant, as they have engineered the site more and more throughout the  
1929 process, has been able to lower the category, the zoning districts, on all three parcels. The  
1930 area is currently zoned A-1. The area is planned Suburban Residential 1, with recommended  
1931 densities between 1 and 2.4 units per acre. The application, in looking at the density, comes in  
1932 at about 2.19 units per acre, towards the higher end of the plan density but within the SR 1  
1933 recommendation.  
1934  
1935 The surrounding development, if you have been through the area, is generally low density,  
1936 complying with A-1 district standards in a couple of the subdivisions; Cross Creek to the north  
1937 and then vacant land and A-1 subdivisions to the west and also to the southeast of the site.  
1938

1939 We have had two rezonings in the area, immediately adjacent to this project, R-2AC by  
1940 Dominion Land across the street and R-2C, I'm sorry, across the street, and then R-2AC by H.  
1941 H. Hunt a little bit to the east and just off of this drawing, to the east on Nuckols Road. So,  
1942 consistently we have A-1, R-2 and R-2AC zoning in the area, all compliant with the  
1943 Comprehensive Plan's recommended densities.

1944  
1945 There are a couple of policy issues I would like to refer to; that for one, being the fact that R-  
1946 3C zoning is being proposed on this site does not support the Plan designation even though the  
1947 density of the project is low, or is consistent with the plan. Typically the R-3 zoning district  
1948 itself, if approved, may set a precedent, may open a door to other R-3 applications. Now, the  
1949 applicant will suggest that, if they come in proffered as well as he has proffered, and we will  
1950 get to those in a minute, then that should not be a problem. However, staff's concern is that  
1951 we can not turn down an application based solely on the proffers, and we feel that R-3 can be  
1952 argued by another applicant, perhaps for higher density, permitted by the R-3 District, and,  
1953 therefore, we don't see a public benefit to approving R-3 in this area. The zoning is R-2 and  
1954 R-2A. The land use is 1.0 to 2.4 units per acre, and we believe that we can consistently and  
1955 should consistently hold to an R-2 or R-2A zoning on this property.

1956  
1957 We are also concerned about the development of this site in relation to the development of the  
1958 properties along this side of the property between Pouncey Tract and this applicant's property.  
1959 If that property cannot develop in conjunction with this site, or if stub roads or some other  
1960 means is not provided by this developer so that the adjoining properties can be developed  
1961 residentially, then the development pressure will be for commercial or retail development.  
1962 Staff does not support that, nor does the Comprehensive Plan support retail development.

1963  
1964 We feel that there should be stub roads provided from the applicant's site to the properties in  
1965 such a way that these properties can be redeveloped in the future for residential development  
1966 with their back toward Pouncey Tract Road, if you will. So, we have a design issue with  
1967 regard to the layout of this site relative to other properties and we have the issue of the R-3  
1968 zoning, which we feel is unnecessary.

1969  
1970 The County is also in the midst of rezoning residential standards because of the concerns of  
1971 over intensification of single-family developments. The proposal to go to R-3, typically,  
1972 means to maximize the number of lots on the property. And in this case, to compensate for  
1973 wetlands that exist on the property. That is, the only benefit will be to reduce the number of  
1974 lots.

1975  
1976 The applicant has indicated that by going to R-2 or R-2A, I believe they may lose four to five  
1977 lots in their overall proposal. They have proffered at this point, 148 lots in total, and they  
1978 might lose a few of those if they had to go to R-2A.

1979  
1980 The applicant has made some changes to the proffers which, of course, I have handed out this  
1981 evening, and I'd like to briefly run through those. As I mentioned, the district classifications  
1982 have become R-2, R-2A and R-3. They have proffered house sizes that are very substantial,  
1983 2,800 square feet in the R-2, 2,500 square feet in the R-2A, and 2,200 square feet of finished  
1984 floor area in the R-3 District. Those are comparable, and in some cases, exceed the proffers

1985 we have received on other cases in the area. The overall density is limited to 148 lots, and as I  
1986 said, that is about 2.19 units per acre. I am looking at the entire site.

1987  
1988 Proffer C is interesting in that it basically reflects the County Ordinance. I don't see the  
1989 necessity of this proffer with the exception that Parcel B, that is designated R-2A, they have an  
1990 85-foot minimum lot width, as opposed to the 80 feet required by the Ordinance. Similarly, in  
1991 the Proffer 1D, the minimum lot area, those lot areas reflect the Zoning Ordinance for each  
1992 district, so we are not receiving a proffer that is in excess of what the Ordinance would  
1993 normally require.

1994  
1995 The other proffers that you see are consistent with the approved cases in the area. The  
1996 foundation and chimneys are brick or dryvit. The planting easement of 25 feet along Nuckols  
1997 Road exceeds what we have gotten in other cases in the area. So it is a fairly substantial  
1998 planting strip. It is to be measured outside of the required rear yards or yards of the adjoining  
1999 single-family lots, and the fence. They are proposing a fence be built on the inside of that  
2000 buffer away from the street, which would allow landscaping between the fence and the street.  
2001 They propose an entrance feature; they proposed protective covenants, and in those covenants,  
2002 to address a number of issues, which we have seen either in covenants or in proffers before.  
2003 Asphalt driveways, no cantilevered chimneys or vents, accessory buildings on slabs, and of  
2004 similar materials, and maintenance of the common areas.

2005  
2006 So, the proffers are comparable to what we have accepted in previous cases in the area. So  
2007 from a design point of view, this is a very equitable case. The only issues staff has, going  
2008 back to repeat it again, is the R-3 District we think is out of place in this area. The area south  
2009 of Nuckols, west of Pouncey Tract, and north of Shady Grove is a low density enclave,  
2010 surrounded by a higher density mixed use development of Wyndham and other developments  
2011 and looking at the west end as a mixed-use community. This is a low density portion of it. It  
2012 has been planned that way. It has been held that way through previous zonings and we believe  
2013 it should be held that way now. With that, I will be glad to answer any questions on the case.

2014  
2015 Ms. Dwyer - Any questions of Mr. Merrithew by Commission members?

2016  
2017 Mr. Archer - Mr. Merrithew, just so I am sure, the R-3AC piece is the one that  
2018 was reduced to R-3.

2019  
2020 Mr. Merrithew - That is correct. R-3A went to R-3 and R-2A went to R-2.

2021  
2022 Mr. Archer - Okay. Thank you.

2023  
2024 Mrs. Wade - In proffer 1C, the one in which for the middle in which the R-3  
2025 has changed to R-2A, you mentioned it conforms to the County Ordinance. What is the  
2026 practical difference here then between the R-3 and the R-2A?

2027  
2028 Mr. Merrithew - By proffer the only difference is a five-foot width increase from  
2029 80 to 85 feet. Both the R-2A and the R-3 Districts require a minimum lot width of 80 feet. So  
2030 they have increased their R-2 to 85 and kept the R-3 at the ordinance required standard.

2031  
2032 Mrs. Wade - Was there submitted any kind of conceptual plan with the case?  
2033  
2034 Mr. Merrithew - There was nothing submitted, nothing proffered with the case,  
2035 but the applicant has shown us a concept plan.  
2036  
2037 Mrs. Wade - But it is not a part of the case?  
2038  
2039 Mr. Merrithew - It is not proffered. No.  
2040  
2041 Ms. Dwyer - Mr. Merrithew, I noticed that, even though the densities were  
2042 dropped slightly in each category, the overall number of lots has remained the same.  
2043  
2044 Mr. Merrithew - That is correct. The designation has changed. The overall  
2045 density has not changed and that will be his overall major argument on this case, that his  
2046 density is already very low.  
2047  
2048 Ms. Dwyer - And what is the rationale for having this increase in density as we  
2049 move eastward?  
2050  
2051 Mr. Merrithew - His rationale? It is increased as we move eastward. On the east  
2052 end of the property where he has the bulk of his wetlands area, then in an attempt to use the  
2053 buildable area amongst that wetlands, he has gone to smaller lot sizes in a higher district.  
2054  
2055 Ms. Dwyer - Were those wetlands zoned, C-1, or were they incorporated into  
2056 the lots or what?  
2057  
2058 Mr. Merrithew - They are not proposed to be zoned to C-1. You can see the  
2059 wetlands that run through there on the next map. We have not discussed with them going to  
2060 C-1 because I don't believe they are zoned that in the surrounding property. We don't have  
2061 that designation. They are not floodplain, as I recall. They are wetlands and not the actual  
2062 100-year floodplain.  
2063  
2064 Mrs. Wade - Yes. I think the applicant will explain that, but, originally, they  
2065 were talking about making it into some sort of common area; part of it along Nuckols Road.  
2066 And I think with the change in the designations that may not be the case, but they can tell us  
2067 that when they get up.  
2068  
2069 Ms. Dwyer - Any more questions for Mr. Merrithew? Thank you.  
2070  
2071 Mr. Vanarsdall - Are you recommending the case?  
2072  
2073 Mr. Merrithew - Mr. Vanarsdall, I can recommend the R-2 and the R-2A portions  
2074 of the case. I don't support the R-3 portion.  
2075

2076 Mr. Vanarsdall - Our goals and objectives are all right. But the Land Use Plan is  
2077 out of whack. Right?

2078  
2079 Mr. Merrithew - Well, from the Land Use Plan point of view, the density complies  
2080 with the SR-1, so I can't say it is out of whack with the SR-1 designation, the overall parcel.  
2081 The Land Use Plan has with it zoning categories that are intended to reflect the Suburban  
2082 Residential 1 categories, and the R-3 is not one of those categories. But more so than that, we  
2083 are concerned about the impact it might have on future zonings in the area.  
2084

2085 Ms. Dwyer - Is that density, in part, due to the fact that they are wetlands that  
2086 are not going to be developed?

2087  
2088 Mr. Merrithew - The R-3. Yes, ma'am. He is trying to compensate for the land  
2089 he has lost to the wetlands.

2090  
2091 Ms. Dwyer - I mean the overall density being within the SR-1? In part, that is  
2092 due to the fact that there is undeveloped property here. Part of this.  
2093

2094 Mr. Merrithew - I am not sure I understand it. He may be able to answer that. I  
2095 think they are going for larger lots where they can fit them in, because that is where the market  
2096 is, and that is where they know the County is in this area. I don't know that he necessarily is  
2097 going with the low density because of the wetlands. I don't know that. He may be able to  
2098 answer that better.  
2099

2100 Ms. Dwyer - Any more questions for Mr. Merrithew? We are ready for the  
2101 applicant to come forward.  
2102

2103 Mr. Andrew M. Condlin - I'm almost afraid to come up after that. My name is Andrew  
2104 Condlin and I am here on behalf of BAWIN, LLC. Madam Chair and members of the  
2105 Planning Commission, this is a case and obviously, we have discussed the case quite a bit with  
2106 Mr. Merrithew, and he seems to have gotten the better of all of my arguments before I got a  
2107 chance to give them out. So I have to come up with a couple extra as we go along. This  
2108 acreage, we have got a lot layout, which is one of the reasons that we had to ask for a waiver,  
2109 based on a reduction in each one of the classifications. Because, based on continuing wetland  
2110 studies as they come along and the lot layout, take a look at the number of lots we can get in,  
2111 that is how we came up with the classifications.  
2112

2113 Mrs. Wade - Now, this is different than the lot layout that I have?  
2114

2115 Mr. Condlin - Yes, ma'am. There has been, based on, as early, or as late as  
2116 two days ago, I guess, today being Thursday, as late as Tuesday afternoon, we were able to  
2117 determine that, if you remember. I will go into the crux of the case here, there was a common  
2118 area was deemed appropriate here and up in this area. And, as it turns out, this area has less  
2119 wetlands, based on continuing studies than originally thought, and more are in here. The  
2120 common area that I will be discussing, we anticipate to be in this area (referring to slide).  
2121 These three lots approximately, and you can see the odd shape of these lots, and part of these

2122 lots might go to a common area. And you can see the length of these lots back up to Nuckols  
2123 Road.

2124  
2125 Again, if you remember, there was about two acres of common area in that area. Just because  
2126 of the wetlands, we haven't been able to designate the specific common areas. But again, this  
2127 is a concept plan, which sets forth conceptually to where we think the lot layout will go,  
2128 subject to again, engineering, wetlands issues, topography, public works regulations. There  
2129 are no plans to designate anything C-1, and I, just to get into the case, I will take exception to  
2130 the fact of Mr. Merrithew's statements of the fact that we are trying to get in more lots because  
2131 of the wetlands. This product was originally a part of a planned community concept with three  
2132 distinct product areas. The R-3, the "C" product, the eastern-most product, was placed at a  
2133 higher density level, if you will, simply because we wanted to accommodate and have common  
2134 areas for use in common by all residents in their area.

2135  
2136 As you can see in this rendering, we can simply place all common areas as part of a lot, have  
2137 it maintained by the lot owners, and it has been Greg Windsor's and Bob Bawin's experience  
2138 that that has not been the best situation to allow for additional homeowner maintenance of areas  
2139 that could otherwise be common areas to be maintained by a strong homeowner's association.

2140  
2141 On Millstone, which is just behind Cross Creek, they have been very successful and that is  
2142 actually zoned R-2A, R-3 and R-3A. That is directly behind Cross Creek off of Nuckols  
2143 Road. So there isn't a situation here where we have tried to squeeze in more lots. It is a  
2144 situation where we tried to create, yes, smaller lots, to accommodate for greater common area,  
2145 which is the general concept of a planned community; different product ranges and distinct lot  
2146 sizes. And based on a comment, and based on this new rendering, we can go down to 143  
2147 units, or 143 lots, as opposed to 148, based on the new classification.

2148  
2149 If you so desire on the proffers, it is just a matter of changing that number. The, I am not  
2150 going to go through all of the various proffers that John seemed to, and, hopefully, you will  
2151 agree that these match or exceed most of the proffers within the existing area for residential  
2152 rezonings, specifically those on Nuckols Road.

2153  
2154 Part of an additional problem we have with the R-3 category, for the R-3 parcel category, in  
2155 this area there is an extremely low-lying area on the property. It is 10 to 15 feet below grade  
2156 on Nuckols Road. Again, based on their experience they have had a very difficult time selling  
2157 lots even more established communities along Nuckols Road. Quite frankly, people are not  
2158 going to be able to, or want to pay the costs necessary to achieve the desired classification that  
2159 the staff wants in order to, when they back up to Nuckols Road. There is just a market aspect,  
2160 something that they have experienced in the past.

2161  
2162 I will reiterate, and I think it is important to reiterate, some of what John has obviously heard  
2163 from me. The Land Use Plan does call for, and we fit within the Land Use Plan. We are an  
2164 R-2 density overall for the entire property. The average lot size for the entire property is 90  
2165 feet. We meet the R-2A classification, 14,500 square foot average lot area over the entire  
2166 area, which exceeds the R-2A lot area requirements.

2167



2168 We originally had been talking averages of rightfully or wrongfully, we chose to disagree, but  
2169 we chose to delete those from the proffers based on the staff's comments and the concerns by  
2170 the staff with respect to average lot width and lot area. Of course, as John mentioned, the  
2171 Land Use Plan not only calls for density, but it also calls and discusses, I guess, the  
2172 classification where R-3 is not mentioned in the Suburban 1 classification.  
2173

2174 I would take exception that we average well below the density and classification level of R-2A,  
2175 but we do have an R-2 and R-2A and R-3 product. The R-3 product makes up less than 25  
2176 percent of the entire area. The R-2 and R-2A make up more than 25 percent of the entire area  
2177 that we are asking to be rezoned. I think that is significant given the goals and objectives, the  
2178 actual text of the Land Use Plan, which, of course, I am going to pick out the ones that are  
2179 especially favorable to me, but I will mention three that ask for consistency with the Land Use  
2180 Plan at the density level. John has admitted and we need that beyond question. It also  
2181 mentions large tract planned development. Similar and many of the mentioned cases are  
2182 smaller lot areas with a lot of wetlands in them that cannot be accommodated, or cannot  
2183 accommodate the larger tracts with allowance for common areas in a planned community with  
2184 a lot of features that this County finds so desirable to residents looking for, and an example, on  
2185 Millstone and all Wyndham, with a lot of features and a lot of benefits and amenities within  
2186 and off-site but leading to the facility.  
2187

2188 Finally, the Land Use Plan asks for opportunities for a wide variety of housing for all income  
2189 levels. I'm not going to stand up here and say that this subdivision alone, Berkley, will allow  
2190 for all income levels, but it does allow for mixed and allowance for other income levels.  
2191

2192 I will address the precedent level, the fact that we have R-3 conditional here, I do think, is a  
2193 precedent. I've been beaten up on the other side when I've come in many times and had  
2194 proffers saying, "Well you haven't met your proffers." I have also had issues where I have  
2195 not met the density, and I propose to you, if someone comes in, based on the topography issues  
2196 we have with the extremely low lying areas with the planned community, with the mix, with  
2197 the benefits we have within the proffers, and with common areas that are planned with this  
2198 property, that, yes, indeed, if they can meet our density levels and they can meet the proffers  
2199 and the standards, then maybe R-3 certainly is not a bad classification. Literally, in this case,  
2200 it is just a label. We are trying to be able to get a smaller lot area. Our lot width for R-3 and  
2201 R-2A are exactly the same. The lot area is slightly smaller. The smaller lot area is not to gain  
2202 more lots, but it is to gain more common area and more common area for all property owners.  
2203

2204 To address, well, maybe I will answer some questions you may have, but, generally, I don't  
2205 think anyone would disagree that the communities are attractive, are an asset to the County, an  
2206 asset to this area, and quite frankly, I expect within this area. This case compares extremely  
2207 well with all surrounding cases, but for, if you will, the R-3 classification, literally just a label.  
2208 I think there are extenuating circumstances. I think there are benefits that go to, that I have  
2209 already mentioned, that go to the allowance of that R-3 classification which I do not agree that  
2210 it is. I guess John ended up agreeing based on the density level that we do meet the Land Use  
2211 Plan requirements.  
2212

2213 As it stands, with an R-3, we do have the allowance and we will be able to place in a lot of  
2214 common areas for the property owners as a whole to make this a well-planned community. To  
2215 go down to an R-2A, you don't gain more lots, you simply lose common area, and that is the  
2216 critical juncture in this case as we go along. Those lots have just been made larger on this  
2217 rendering. We have not gotten any additional lots. The common areas will come back off of  
2218 the back lots and we will actually lose a few lots based on the wetland studies.  
2219

2220 I believe we have met all jurisdictional prerequisites both in the precedents offered by this case  
2221 and meeting the Land Use Plan designation for this area, as well as its goals, objectives and  
2222 policies. I ask that you recommend to the Board of Supervisors, for those reasons, that this  
2223 case go forward and be approved by the Board of Supervisors.  
2224

2225 Ms. Dwyer - Thank you, Mr. Condlin. Any questions of Mr. Condlin by  
2226 Commission members?  
2227

2228 Mr. Archer - There is a hatched circle in the southwest portion of your  
2229 illustration.  
2230

2231 Mr. Condlin - Yes, sir. There is about - what is 100 acres or 100 and some  
2232 acres that are just below this. There is a concept road that comes off from this area and goes  
2233 out to Pouncey Tract Road (referring to slide). That is the Pruitt property that is just below  
2234 this property. That really was just an idea that maybe at subdivision approval you would  
2235 rather have a cul-de-sac there, or would you rather have a stub road. You can see there are  
2236 other stub roads to accommodate three locations with two entrances off of Nuckols Road. I'll  
2237 get to it before you ask me, I guess, where John had mentioned why not just include these  
2238 along Pouncey Tract in this concept plan? I think there are a number of reasons.  
2239

2240 First and foremost, if that the sewer line, the ridge line for the sewer approximately runs along  
2241 there and those could not be placed in the same sewer that serves this property. They are well  
2242 established homes on this property ; nice brick ranchers that would exceed the land value based  
2243 on that, and I would take exception to the classification that just because that would be deemed  
2244 commercial, No. 1 we could stop that by showing stub roads going into our property. But  
2245 there are a number of cases throughout the County in both Pump and Ridgefield, that come to  
2246 mind, immediately, that, where houses exist and continue to exist along the main corridor with  
2247 the subdivisions behind them, I don't think that is quite fair to impose upon us at this time, if  
2248 that is something that is more of a tentative subdivision approval issue, as opposed to upon this  
2249 approval for the rezoning.  
2250

2251 Ms. Dwyer - Mr. Condlin, you mentioned the advantages of a planned  
2252 community and that, perhaps, offsets somewhat the concern the Commission may have, or  
2253 staff has, about the R-3 and its location. This is not like Wyndham where you have a golf  
2254 course and major amenities like that. What amenities, specifically, are you talking about?  
2255

2256 Mr. Condlin - There not only would be a planting strip with a setback, but there  
2257 would be improvements made on the edge of Nuckols Road. We had some other plans based  
2258 on, for Nuckols Road beyond that, and we heard, in no uncertain terms, that that was not

2259 deemed appropriate. The other amenities within the site itself, beyond the entrance feature,  
2260 would be in common areas, would be swing sets and playground areas; something similar that  
2261 we have done for the plan at Cedar Grove as well as park benches, picnic areas, walkways  
2262 within the common area...

2263

2264 Ms. Dwyer - Would there be sidewalks throughout?

2265

2266 Mr. Condlin - No, ma'am. There would not be sidewalks planned throughout  
2267 this.

2268

2269 Ms. Dwyer - Have any of these common areas, picnic areas, play areas been  
2270 proffered in any way?

2271

2272 Mr. Condlin - They have not been proffered simply because we were not able to  
2273 locate them. I can proffer that, based on what our wetland study is, at this point, that we can  
2274 have common areas. We can't designate how many common areas, but we can designate that  
2275 we can have play sets, picnic areas, and so forth.

2276

2277 Ms. Dwyer - And the play areas and picnic areas would be in the wetlands?

2278

2279 Mr. Condlin - Not entirely. And, technically, I don't believe that you can put  
2280 the, a lot of the swing sets, for example, I don't think you would want them to be placed in the  
2281 wetlands. There is certainly, as a part of the lot, you wouldn't be able to split up these lots  
2282 and there would be a large area down in this area for the play area, because about half of the  
2283 lots are in the wetlands as it flows up this way (referring to slide). The other half, the front  
2284 half, would be where the play area would be. You can't pave within the wetland areas, but  
2285 you can put walking trails, and you can put the picnic tables there, as I understand, within that,  
2286 and benches and that kind of thing.

2287

2288 Ms. Dwyer - Well, just in response, I think I am sure of staff's concern about  
2289 the R-3. We are all concerned about increasing density levels in the County and the  
2290 consequences to that and not having any proffers or any understanding, you know, of what is  
2291 designed to offset the higher density. It doesn't allay my concerns.

2292

2293 Mr. Condlin - Well, if I may, even if we went down to R-2A, I don't believe  
2294 the density of the three or four lots that we would lose, which I can proffer, the common areas,  
2295 the three or four lots we would lose based on that would be the same as if we went to R-2A. It  
2296 is just that it would no longer be common areas.

2297

2298 Again, it is a matter of the exact same thing. We are within the R-2 density level overall.  
2299 And, in the R-3 product, you can see the lots are, particularly in this area, the lots are made  
2300 bigger just to eat up the common area, that, otherwise, is requested by the staff. That would  
2301 be my response to that, and if that is your desire, I would be willing to proffer common areas  
2302 to be made a part of this in addition to what has already been proffered.

2303

2304 Mrs. Wade - Actually, that was to have been my first question. What elements  
2305 of a planned community, other than lot size and different houses are included in this, and you  
2306 have pretty well covered that now. Although, it certainly does not fall within the category of  
2307 the large development, because I had that section out of the Comprehensive Plan here recently  
2308 looking at it, and I didn't bring it tonight, but that includes a lot of different uses generally.  
2309

2310 Mr. Condlin - Sure. It can include mixed use, but within the residential goals, I  
2311 believe it just is called a large tract. I am not aware of a specific definition, but this is larger  
2312 than many of those cases that were cited and were recently approved with 28 and 43 lots. And  
2313 this is a proffer of 143 lots, tonight, and that is substantially larger. That allows for the mix of  
2314 the different classifications.  
2315

2316 Mrs. Wade - You mentioned something about Nuckols Road and something  
2317 being inappropriate, and I didn't quite understand that.  
2318

2319 Mr. Condlin - I think that I was talking specifically about this area, with the  
2320 low-lying area along Nuckols Road on the eastern part of the property. I am not sure that it  
2321 will be inappropriate, but it will be. It is based on the experience of my clients, that those are  
2322 very difficult to market and those are very difficult to sell if you've only got lots backing up to  
2323 Nuckols Road and you've certainly got lots backing up to Nuckols Road now in very desirable  
2324 subdivisions, but they can't sell, because people don't want them up to Nuckols Road.  
2325

2326 Mrs. Wade - I thought, perhaps, you were talking about Nuckols Road itself;  
2327 the median, and the discussions that have been going on for some months about the developers  
2328 in the area getting together to work on the medians, but I gather that it is out now.  
2329

2330 Mr. Condlin - Out? Yes, ma'am. I think it was quite clear what you heard at  
2331 the neighborhood meeting that they would much rather have a lower lot classification, because  
2332 we originally started as if you shifted everything up, we had R-2A, R-3 and R-3A product, and  
2333 it was made clear to us in no uncertain terms that we should shift that down and get rid of the  
2334 Nuckols Road median improvements. Because, quite frankly, the costs; it is not just the costs  
2335 of putting them in, but the costs from the homeowner's association and lot owner's association  
2336 to support the maintenance of that, the continuing maintenance of those median improvements,  
2337 which, based on a lower classification, that won't be able to be achieved.  
2338

2339 Mrs. Wade - What numbers are different that would affect us?  
2340

2341 Mr. Condlin - Just with respect to marketability and the market price that you  
2342 would be able to gain from this property. And based on that size of a lot, what that lot could  
2343 withstand with respect to homeowner's fees, for instance. You know, the homeowner's fees,  
2344 you can't escalate a lower classification to support it as much, but with the larger number of  
2345 lots, which we were able to get with the R-3A and R-2 products, that could support that type of  
2346 improvement.  
2347

2348 Mrs. Wade - Now suppose it was all R-2 something and R-2A? How many  
2349 lots...

2350  
2351 Mr. Condlin - I think we talked about somewhere around 136 to 138 lots for an  
2352 all R-2 product. And again, that would be without any improvements, without any common  
2353 area in the property.  
2354  
2355 Mrs. Wade - Because you will note it went out to the neighbors. It was our  
2356 understanding that those attending our meeting, and that was the neighborhood meeting the  
2357 other night, were more desirous of having larger lots and lower density, which you are not  
2358 accomplishing. You've got 148, all the way through, that and offering on-site amenities,  
2359 common areas and making Nuckols Road improvements.  
2360  
2361 Mr. Condlin - That is right. Well, we are making lots larger, particularly in the  
2362 "B" product, which, at the time of the meeting, was an R-3, and we got that down to an R-2A.  
2363  
2364 Mrs. Wade - Except possibly, you have identified some ones there that you  
2365 thought would not be as valuable; the low lots next to the highway. But it would seem  
2366 otherwise, if you have larger lots and larger houses, that you'd have more resources for a  
2367 homeowner's association. Maybe fewer lots, but...  
2368  
2369 Mr. Condlin - Well, I guess that is the point. It is few homes and few lots.  
2370 But, as this currently exists, we tried to plan this if we drop this C-product down to an R-2A,  
2371 from an R-3 to an R-2A, it would look a bit like this without any common area, substantially  
2372 similar to this, without any common area. And you know, the lot difference would be nominal  
2373 at that point, I believe.  
2374  
2375 Mrs. Wade - You could make it R-1A instead of R-2A, but I am not sure.  
2376 You know, I have this plan, concept plan that is dated, that I had secured last month, and there  
2377 is another one and it showed common areas. Now, this one does not.  
2378  
2379 Mr. Condlin - Well, there, again...  
2380  
2381 Mrs. Wade - At least they both have some stub streets on them, but there is  
2382 really nothing that guarantees the stub streets.  
2383  
2384 Mr. Condlin - I would be willing to proffer, based on the zoning classifications  
2385 that we have asked for, that there would be common area. The problem is, I can't define it,  
2386 because I can't talk to my client about specifically designating on here potential common areas,  
2387 but because of the wetlands and the continuing wetland studies. If you remember, Mrs. Wade,  
2388 we originally had common areas down here based on the original studies. And, as it turns out,  
2389 this is a lot smaller area than anticipated in the common areas based on the wetland study  
2390 would be moved in this area, based on these lots and with approximately these lots here  
2391 (referring to slide). So, again, I can proffer, tonight, that we will have common areas. And,  
2392 if it is your desire to not worry about the common areas itself, but that we would just have  
2393 them and we can't designate them at this time, that's more for subdivision...  
2394

2395 Mrs. Wade - Well, we are not making any more proffer changes tonight, I  
2396 don't believe, infrastructure-wise that you have anything here you have to do? Do you have a  
2397 major road to build or any school land or anything that comes out of this, or do you just have  
2398 your subdivision?  
2399  
2400 Mr. Condlin - Yes, ma'am.  
2401  
2402 Mrs. Wade - And the utilities are available to the area?  
2403  
2404 Mr. Condlin - I mean not directly.  
2405  
2406 Mrs. Wade - I mean, you don't have any pump station to build or anything?  
2407  
2408 Mr. Condlin - Yes, ma'am.  
2409  
2410 Mrs. Wade - Which accounts for some of the lower densities perhaps in the  
2411 other areas here, although across the street you've got the R-2 and the R-2A.  
2412  
2413 Mr. Condlin - Well, I mean, if what I am hearing, and, correct me, if I am  
2414 wrong. It is your concern, despite the fact that we'd be willing to proffer that there would be  
2415 common areas that we make the "C" property an R-2A even though it is only less than 25  
2416 percent of the total area, and would that satisfy your concerns, I guess, without a designation  
2417 of the...  
2418  
2419 Mrs. Wade - My concern is not just the density, but the lot width, and that  
2420 hasn't changed much.  
2421  
2422 Mr. Condlin - Well, yes, ma'am. There's no difference...  
2423  
2424 Mrs. Wade - They are longer, but they are not any wider in the front.  
2425  
2426 Mr. Condlin - Well, the Code did not require the difference between the R-3  
2427 and the R-2A either. It is simply a matter of lot area, which we are trying to accommodate the  
2428 common areas, and I can only tell you that, based on that, it is not an increase in the number  
2429 of lots. It is just the ability to place the common area within the lot area, which I can make a  
2430 commitment that we will do, tonight, either by proffer before the Supervisor's hearing, or if it  
2431 your desire...  
2432  
2433 Mrs. Wade - No. I, personally, am not that wedded to your common areas  
2434 here.  
2435  
2436 Mr. Condlin - Well, is that a situation where you'd like to change it to R-2A at  
2437 this point?  
2438  
2439 Mrs. Wade - I am a little concerned about the lots that are no bigger than 80  
2440 feet. But anyway, that is just my feeling on the subject. That is all I have. Thank you.

2441  
2442 Ms. Dwyer - Any other questions of Mr. Condlin by Commission members?  
2443  
2444 Ms. Quisenberry - Mr. Condlin, this plan is a little bit difficult for me because your  
2445 common area isn't defined. It seems to be a moving target, and, therefore, it seems to be a  
2446 premature plan.  
2447  
2448 Mr. Condlin - Well, this plan, itself, hasn't been proffered and this is as tight as  
2449 we can get it at this point. That is, quite frankly, why we go forward on the tentative  
2450 subdivision approval to be able to define at that time the common area, as the wetland studies  
2451 progress. The wetlands area is very difficult to define. They've been changing in the last  
2452 week; even as late as Tuesday, we've been able to move the common areas.  
2453  
2454 Ms. Dwyer - Any other questions? Mrs. Wade.  
2455  
2456 Mrs. Wade - No, I don't have any more questions.  
2457  
2458 Ms. Dwyer - There wasn't any opposition, but I will ask again. Is there any  
2459 opposition to BAWIN, LLC, C-19C-99? No opposition. Ready for a motion.  
2460  
2461 Mrs. Wade - I know they met a lot, certainly of the expectations, as Mr.  
2462 Merrithew pointed out of the Land Use Plan, but still I am not sure that it reflects what the  
2463 plan and the SR-1 is attempting to accomplish in this area. And, although he talks about  
2464 providing a variety of housing on this particular site, in the overall picture, there is not that  
2465 much variety presented here. As I mentioned, there isn't any infrastructure that he has to  
2466 participate in really, and some of the amenities, at least the median on Nuckols where they  
2467 were going to participate in with some of the other land owners and developers along here  
2468 apparently has gone out of the window along with the R-3 because until the last day or two, the  
2469 R-3 applied to the two sections on the east side. So, I think that, perhaps, there is still some  
2470 movement here that would be desirable in the wider lot and also the density has increased. We  
2471 have been expressing our school concerns, but that is not really considered here, and they've  
2472 got time to continue to work on this, but, tonight, I would move that Case C-19C-99 be  
2473 recommended for denial.  
2474  
2475 Mr. Vanarsdall seconded the motion.  
2476  
2477 Ms. Dwyer - Motion by Mrs. Wade and seconded by Mr. Vanarsdall. All in  
2478 favor of the motion for deferral say aye. All opposed say no. The vote is 5-0 (Mr. Donati  
2479 abstained.) The motion carries.  
2480  
2481 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
2482 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the  
2483 request because it would likely set an adverse zoning and land use precedent for the area; and it  
2484 represents an increase in intensity which could influence future zoning and development of  
2485 adjacent properties.  
2486

2487  
2488 C-20C-99 E. Delmonte Lewis for Continental Development: Request to  
2489 conditionally rezone from A-1 Agricultural District to R-2AC, One-Family Residence District  
2490 (Conditional), part of Parcel 216-A-51, described as follows:

2491  
2492 Beginning at a point in the east line of Doran Road, said point being 620' more or less south of  
2493 the intersection with the east line of Doran Road and the south line of Darbytown Road; thence  
2494 from said point of beginning along the east line of Doran Road S8°09'E, a distance of 325' to  
2495 a point; thence along a curve to the right having a radius of 2890', a distance of 316.09' to a  
2496 point; thence continuing along the east line of said road S 1°53'E, a distance of 230' to a  
2497 point; thence N88°07'E, a distance of 217.8' to a point; thence S1°53'E, a distance of 200' to  
2498 a point; thence S 88°07' W, a distance of 217.8' to a point in the east line of Doran Road;  
2499 thence along the east line of Doran Road S 1°53' E, a distance of 260' to a point; thence  
2500 N85°08'40"E, a distance of 1099.35' to a point; thence N4°08'20"W, a distance of 1080' to a  
2501 point in the south line of Darbytown Road; thence along the south line of Darbytown Road N  
2502 71°17' 50" W, a distance of 100'; thence N 18°42'10"E, a distance of 10'; thence N. 1° 50"  
2503 W, a distance of 457.22' to a point; thence along a curve to the right having a radius of  
2504 1175.92', a distance of 470' to a point; thence S 34°48'20" W, 1175.92', a distance of 325' to a  
2505 point in the east line of Doran Road and the point and place of beginning, containing 31.98  
2506 acres located in Varina District, Henrico County, Virginia.

2507  
2508 Ms. Dwyer - Is there anyone in the audience in opposition to C-20C-99, E.  
2509 Delmonte Lewis for Continental Development? There is opposition. Thank you. We will call  
2510 upon you later in the meeting. Ms. Hunter.

2511  
2512 Ms. Hunter - Thank you, Madam Chairman. This request is to rezone  
2513 approximately 32 acres from A-1 to R-2AC to permit 71 single-family residential lots.  
2514 Seventy-one lots does fall within the Land Use designation of SR-1 range of 1.0 to 2.4 units  
2515 per acre. The property is located across the street from Ward Elementary School. Properties  
2516 to the west are Whispering Pines, an R-2A subdivision that is currently being developed, and  
2517 Whitlock Estates, an A-1 subdivision. The properties to the east and the south are currently  
2518 undeveloped.

2519  
2520 The County's Major Thoroughfare Plan shows both Darbytown and Doran Road as a Major  
2521 Collector. The applicant has proffered to right of way dedication for the relocation of Doran  
2522 Road. There will be a remaining 1.1 acres when Doran Road is relocated, and the applicant  
2523 has indicated that, that area would be developed with the adjoining property.

2524  
2525 The applicant has proffered some quality design features including brick foundations, no  
2526 cantilevered chimneys, and restrictive covenants to include paved driveways and an  
2527 architectural control committee. The applicant has proffered that 50 percent of all garages  
2528 built on the property shall have rear or side entry. However, they have not indicated how  
2529 many homes will be constructed with garages. Therefore, this proffer is not very effective.  
2530 The applicant has also proffered a 25-foot buffer along both Darbytown and Doran Road. The  
2531 staff would recommend that any fencing within this buffer area be located on the lot side of the



2532 buffer instead of along the middle of the buffer as proposed. The residential request is  
2533 appropriate for this site and if the applicant can address the remaining quality concerns, the  
2534 staff would be able to support this request. I'd be happy to answer any questions.  
2535

2536 Ms. Dwyer - Any questions of Ms. Hunter by Commission members? No  
2537 questions. Thank you, Ms. Hunter. Would the applicant come forward, please?  
2538

2539 Mr. Delmonte Lewis - Madam Chairman, and members of the Planning Commission,  
2540 my name is Delmonte Lewis, and I am here tonight representing Richard November, who is in  
2541 the audience, who is the owner of Continental Development Corporation, the contract  
2542 purchaser of the property. The property really belongs to Mr. Sutton, who has lived there for  
2543 some time. As JoAnn mentioned, this request is to rezone 32 acres at the southeast corner of  
2544 Darbytown and Doran Roads to R-2AC Residential classification in order to develop a single-  
2545 family residential subdivision.  
2546

2547 I would like to mention a little bit more about the subdivisions next to us. To the west there  
2548 are two subdivisions, Whitlock Estates and Whispering Pines. Whitlock Estates was developed  
2549 before the sewer was available, so it was developed with one acre lots, plus. The houses in  
2550 there, with the exception of one large house, most of the houses in there have somewhere  
2551 between 1,400 and 1,500 square feet.  
2552

2553 In Whispering Pines, which is being developed now, it is a R-2A classification. The proffered  
2554 condition, relative to the house size, is 1,400 square feet for two-story, and 1,200 square feet  
2555 for the one-story.  
2556

2557 Four Mile Run is further to the south of us and is separated from this by also property that Mr.  
2558 Sutton owns. But I think it is important to mention what Four Mile Run is being developed as  
2559 (unintelligible). To be very fair with the Commission and the staff, all of the houses in Four  
2560 Mile Run must be 1,600 square feet, although 70 percent of them are proffered to be 2,000  
2561 square feet.  
2562

2563 We submit to you that R-2A conditional is the proper zoning for the subject property and  
2564 single-family residential is the highest and best use for the parcel of land in question for the  
2565 following reasons:  
2566

2567 1. It is consistent with the 2010 Land Use Plan. 2. Through Proffer No. 10, we assure the  
2568 compliance with the Land Use Plan requirement for SR-1 of no more than 2.4 units per acre.  
2569 The subject property is located within an expansion area. 3. Public Utilities are available and  
2570 sanitary sewer and water will be used in this development. 4. Through the 12 proffered  
2571 conditions we have submitted with this case, we assure the County and the Community that  
2572 this project will be a quality residential development that meets all of the goals and objectives  
2573 of the Land Use Plan.  
2574

2575 I would like to point out some more of the proffers. What we have proffered relative to square  
2576 footage is on the one-story, we have proffered 1,500 square feet of finished floor area. For the  
2577 two-story in the capes, we have proffered 1,800 square feet of finished floor are. And, I

2578 believe that JoAnn mentioned that there were no slab constructions going to be here. And,  
2579 also, adjacent to Doran and Darbytown Road, there will be only two-story, single-family  
2580 homes. That is also a proffered condition in our case.

2581  
2582 There will be restrictive covenants, as she mentioned, recorded with it. I think one of the  
2583 things she left out of the restrictive covenants is that we have mentioned in the proffer that  
2584 there will still be a consistency with the light posts and the mail boxes so that you won't have  
2585 one part developed one way and one another. You are looking at a consistency throughout this  
2586 whole subdivision to make it more aesthetically pleasing to the community.

2587  
2588 As far as the landscape buffer proffer, we have proffered 25 feet, which I have a diagram,  
2589 JoAnn, if you don't mind putting that up, please. And, she mentioned the concern she had  
2590 about the fence. And we certainly don't have any problem putting the fence adjacent to the lot,  
2591 or to the house side. And I'd like to point out one other thing; that this landscape plan we have  
2592 proffered must be approved by the County staff prior to any recordation of the subdivision. So  
2593 we are kind of left at the mercy of the County, and we feel comfortable with that, because we  
2594 think Henrico County is a beautiful County and I think it will continue to be that way. And we  
2595 have no problem proffering that they have the right to approve this and deny any recordation  
2596 until we get it exactly as it should be.

2597  
2598 We also have some pictures that would represent, and I would like to make these pictures a  
2599 part of the case, and they can be kept in the file, of homes we propose to construct in the  
2600 subdivision. Of the three builders who have committed to take down lots in this subdivision,  
2601 are builders who have been building typically in the Varina area. They are Scott Fleming,  
2602 Rodney McNew, and Rod Robins. These houses that you see on the screen are representative  
2603 of what they intend to build in there. And we would like that to be a part of the case, so that  
2604 when a building permit comes in, if it is not substantially similar to this type of house, then the  
2605 staff has a right to deny the building permit.

2606  
2607 I am prepared to answer any questions, but before I do that, I would certainly like to thank  
2608 JoAnn and the County staff for working with us on this. I would like to thank the supervisors  
2609 and Ms. Quisenberry for meeting with us, and I would also like to thank Dr. Nelson and Mrs.  
2610 Paschke, whom we met with, and the input that they had was very valuable to us. And we  
2611 hope, together, we can provide the Varina District with a subdivision that will be a quality  
2612 subdivision, and, I think, through the proffered conditions, we have stated that. If there are  
2613 not any questions, I would like to ask the Commission if they would recommend approval of  
2614 this to the Board.

2615  
2616 Ms. Dwyer - Are there any questions of Mr. Lewis by Commission members?  
2617 Ms. Quisenberry - Mr. Lewis, you proffered that 65 percent of the houses  
2618 constructed would be the two-story or the cape style. What is the square footage on the two-  
2619 story and on the cape style?

2620  
2621 Mr. Lewis - The two-story and cape are 1,800 square feet minimum.  
2622

2623 Ms. Quisenberry - And I noticed among the pictures that you have the two-story,  
2624 and I believe the cape, both come with or without a garage?

2625  
2626 Mr. Lewis - That is correct. Yes ma'am.

2627  
2628 Ms. Quisenberry - And I know you are going to proffer that at least 50 percent of  
2629 the garages will have a side or rear entry, but can you proffer how many houses would have a  
2630 garage?

2631  
2632 Mr. Lewis - We looked at that and talked about that with the builders. And,  
2633 at this time, we are not prepared to proffer that simply because they have indicated to us that  
2634 there may be some houses which do not have garages. We looked at some subdivisions in the  
2635 County and we saw some houses with garages and some houses without garages. We think  
2636 that, and in most of the cases we found with the garages, the cars were parked outside, so the  
2637 garage is for another purpose. But, at the present time, Ms. Quisenberry, we are not prepared  
2638 to proffer that, although I suspect that a great deal of the houses will be single-car garages.

2639  
2640 Ms. Quisenberry - I suspect a great deal of your houses will have garages as well,  
2641 because that is the way the market tends to go, but I am also concerned that we don't run into  
2642 some of the issues that we are running into in Four Mile Run. And I discussed some of those  
2643 with you. Can you give me an idea with your subdivision how many lots would accommodate,  
2644 for example, the two-story with a garage, and...

2645  
2646 Mr. Lewis - With rear entry or side entry?

2647  
2648 Ms. Quisenberry - Yes. In other words, if you built as many two-stories with a  
2649 garage on the side or the rear, assuming you had a lot of demand for that, would you ever have  
2650 to not be able to or deny one because the lot was too small. In other words, will all of your  
2651 lots accommodate the largest house you can build if you put that house on every single lot?

2652  
2653 Mr. Lewis - I can't say that is true, simply because we have not calculated all  
2654 of the lots and things like that. We have, in the last two or three days, looked at our  
2655 subdivision, our layout, and with the information we had, we have made all of the lots a  
2656 minimum of 90 feet wide, which is 10 feet greater than the ordinance calls for. And, with  
2657 that, we believe that we do have the ability to go in and direct into the rear or to the side. The  
2658 rear entry is much easier to get into, because you can back up and pull into the garage. But,  
2659 we have looked at that and we are certainly aware of Four Mile Run and what the problem is,  
2660 because we have discussed it with the owner and so that made us go back and look at our  
2661 subdivision plan again. Some of the lots that we have in there are 100 to 110 feet wide, which  
2662 certainly would accommodate any house we'd like to build there, so I would say, Ms.  
2663 Quisenberry, without any question, that 95 percent of our lots would accommodate the larger  
2664 house with a garage.

2665  
2666 Ms. Quisenberry - Can you just briefly talk a little bit about the portion of this  
2667 property that you are not developing that is for future development?

2668

2669 Mr. Lewis - That consists of approximately 10 acres down there. And the  
2670 proffer of no more than 71 lots includes that piece of property, because it is a part of the case.  
2671 But the reason for that is that, if we did not have that 10 acres, we would have to build a BMP.  
2672 A BMP is not a very attractive thing to have in a subdivision in our opinion. So, what Mr.  
2673 November decided to do, in this particular case, is to buy the extra 10 acres so that he would  
2674 not have to put a BMP in. Now, that 10 acres cannot be served by public sewer at this time.  
2675 At some future time, when sewer comes along the creek way down below that, true, this  
2676 property might be, would be able to be developed. And, at that time, it would have to be  
2677 either a BMP established on this property or in conjunction with the other certain properties to  
2678 the south. But, really, the reason for him agreeing to purchase this, was to stay away from  
2679 having to build a BMP, and it cannot be sewered at this time. And I have no idea. The  
2680 County couldn't give me a time frame on when utilities would be available.

2681  
2682 Ms. Quisenberry - We talked a little bit about that at our  
2683

2684 Mr. Lewis - But that's the true reason for buying the property, because, as  
2685 you know, we have problems with BMP's. I've been on the committee with the County staff  
2686 trying to beautify them. It's almost impossible to do. It's a requirement that we're required to  
2687 do.  
2688

2689 Mrs. Quesinberry - Mr. Lewis, you know that one of the other issues with this  
2690 subdivision, just because of the layout with Darbytown Road on one side and Doran on the  
2691 other, is the buffer issue. And, tonight, is not the night to hammer out every trees and where  
2692 it goes, and be counting leaves and branches. I know you've proffered in that buffer is going  
2693 to have to be approved by staff, and its going to have to be right.  
2694

2695 I just wanted to discuss that back and forth with us again, because I think we're in agreement  
2696 on that. That's going to be a tough issue and that's going to have to be right. And it's going  
2697 to have to look good, because you've got visual effects from both sides. It's right across from  
2698 the school. It just needs to , I think, set a precedent in that area as a subdivision and the way  
2699 its laid out and how it looks. And I know that you agree with that.  
2700

2701 That's exactly what we intend to do. And, really, that's why we made it a condition or a  
2702 proffer that staff would have to approve this. And, I sincerely mean that. I sincerely mean, I  
2703 want the staff to take a good hard look at it because we want this to be a show place for Varina  
2704 and a place for Varina that you can say, "Look at this subdivision. We want your subdivision  
2705 to look like that." And, certainly, we're going to put more emphasis on the landscaping along  
2706 those two roads than we normally would, simply, because there's nothing there now. It's an  
2707 open field.  
2708

2709 Mrs. Quesinberry - Right. It is. That's why it is going to be a little bit difficult.  
2710 Just so we all know we're not there yet, but that's going to be a little "nip and tuck" as we try  
2711 to get that looking good.  
2712

2713 Mr. Lewis - Yes. We discussed that at some length with Doctor Nelson. We  
2714 even discussed with him the possibility of fronting the houses on Darbytown Road. And, Mr.

2715 November and I went out and looked at the subdivision that had that. We're really not  
2716 convinced, or, at this time, we cannot say, "Yes. We will front the houses there." It has  
2717 some concerns relative to fire protection, we think. Relative to whose going to maintain the  
2718 driveway, and this sort of thing. But, I can say without any question, we intend to develop  
2719 that landscaping so that I think the County will be proud of it.

2720

2721 Ms. Dwyer - Mr. Lewis, you mentioned that 10 feet of the buffer would  
2722 contain landscaping. Is that the 10-feet closest to the road, or would it be 10 in the middle, or  
2723 10 closest to the houses? How would that work?

2724

2725 Mr. Lewis - It's 10 feet away from the road. And let me explain why that is.  
2726 This proffer is copied directly from a proffer that we used in Summerwood, which is along  
2727 Pump Road.

2728

2729 The cable companies want to put their cables adjacent to a major road. We don't want them to  
2730 interfere with a buffer. We don't want them to pass through that buffer unless they pass  
2731 through it in a perpendicular fashion. So, that's why we stated in the proffer that they can only  
2732 pass through that 10 feet that I show on the screen next to the houses in a perpendicular  
2733 fashion. So, that's where the 10 feet will be.

2734

2735 Although, if there's not, we certainly will berm, landscape the entire 25 feet if there's no  
2736 utility necessary. If the utility is necessary, we intend to force them to go as close to the road  
2737 right of way as we possibly can, which we've been successful in doing in the past.

2738

2739 Ms. Dwyer - And the fence will be where?

2740

2741 Mr. Lewis - The County's concern with the fence not being closer to the road  
2742 than absolutely possible because of the bowling alley effect that we have in other parts of the  
2743 County. So, we've agreed to put the fence on the back side of the buffer closest to the house.

2744

2745 Ms. Dwyer - On the property?

2746

2747 Mr. Lewis - Yes ma'am.

2748

2749 Ms. Dwyer - What kind of fence are you expecting to have?

2750

2751 Mr. Lewis - We have looked at several fences and the most attractive one that  
2752 we think would be a fence with a scalloped design, salt treated, wood, that would be 4-feet in  
2753 height. And that would be landscaping in front of it between the fence and the street to break  
2754 up the monotony of the fence just continuously running through there. And, the fence, will  
2755 more than likely be on the berm, so it would give you an effect of more than four feet.

2756

2757 But we looked at some fences higher than that, and it gives you the "stockade" feeling that  
2758 you're locked in and it just didn't give a good feeling of good landscaped quality, in our  
2759 opinion.

2760

2761 Mrs. Wade - Did I hear you say, "90 foot lots at some point."  
2762  
2763 Mr. Lewis - Yes ma'am.  
2764  
2765 Mrs. Wade - They're all going to be at least...What did you say about the 90-  
2766 foot lots? It's been awhile.  
2767  
2768 Mr. Lewis - What we have done, Mrs. Wade, is we have, in the last couple of  
2769 days, we have looked at our subdivision, knowing the concern of being able to back load in  
2770 these larger houses. We have looked at our subdivision and we have been able to make almost  
2771 all of the lots at least 90 feet wide. Some of them are wider than that. Some of them will be  
2772 kind of "pie shaped," which will be even 100 to 110 feet, when you get back 40 feet from the  
2773 street or 45 feet from the street.  
2774  
2775 Ms. Dwyer - Are you going to proffer the 90 foot?  
2776  
2777 Mr. Lewis - No ma'am. We're not proffering that.  
2778  
2779 Ms. Dwyer - Is there a reason for that?  
2780  
2781 Mr. Lewis - We haven't completed our preliminary plan, yet. And that  
2782 preliminary plan, as I see it, Mrs. Dwyer, comes back to this Commission. And, if I proffer a  
2783 plan or a segment of the plan, I just feel like its taking away the opportunity to do some real  
2784 good design on it. But, I can say that we have looked at that. When you see the plan, you're  
2785 going to see more 90-foot lots than anything on there.  
2786  
2787 Ms. Dwyer - What about R-2 zoning? We're looking at density issues now and  
2788 it seems in the Varina area, particularly where there is more land available than maybe there is  
2789 in other areas of the County that less dense zoning be appropriate.  
2790  
2791 Mr. Lewis - Well, in the last case that you all talked about, we are R-2A  
2792 simply because that's what's all around us. Regardless of what you say, you know you still  
2793 have competition you have to deal with. And, with an R-2 lot, you know, it just goes beyond  
2794 what we have thought about as far as the economics of it. But everything around us is R-2A.  
2795  
2796 Ms. Dwyer - And A-1.  
2797  
2798 Mr. Lewis - Well, the development with A-1 was done prior to the benefit of  
2799 having utilities. So, they had to have a one-acre lot because they're on septic tank and well.  
2800  
2801 Ms. Dwyer - You have sewer and water?  
2802  
2803 Mr. Lewis - Yes ma'am. Whispering Pines has sewer and water, too. You'll  
2804 see that those lots are R-2A and smaller lots than the adjacent subdivision to them which is A-  
2805 1.  
2806

2807 Mrs. Quesinberry - Mr. Lewis, the proffered number of houses falls in the 1.0 to 2.4  
2808 unit range which falls within the Land Use Plan recommendation of 1.0 to 2.4 units, but can  
2809 you tell us on which end of that range you are?  
2810  
2811 Mr. Lewis - It's 2.2,  
2812  
2813 Mrs. Quesinberry - `2.2?  
2814  
2815 Mr. Lewis - 2.2, yes ma'am.  
2816  
2817 Ms. Dwyer - Any more questions?  
2818  
2819 Mr. Donati - Yes. I have one. Mr. Lewis, there has been some concerns from  
2820 some citizens that live in the immediate area about the drainage from this piece of property. Is  
2821 the outfall to the south of the property?  
2822  
2823 Mr. Lewis - South, yes sir. And we have talked to Tommy Pruitt, who owns  
2824 the land to the east of us. If we do, and we have done some preliminary looking at the  
2825 drainage. If, in fact, we need to go across his property for drainage, he's agreed to grant us an  
2826 easement for that. We have had Public Works out there looked at the property. But all of our  
2827 property drains away from Darbytown Road to the south.  
2828  
2829 Ms. Dwyer - Any other questions for Mr. Lewis? No questions. Thank you,  
2830 sir.  
2831  
2832 Mr. Lewis - Thank you.  
2833  
2834 Ms. Dwyer - We did have opposition. Would the opposition come forward,  
2835 please.  
2836  
2837 Ms. Marilyn Paschke - I'm President of Varina Environmental Protection Group. We  
2838 have quite a few problems with this subdivison. As you know, we're going from an  
2839 agricultural community into a developed area. And, some of these things stand out like a  
2840 "sore thumb" to us. So, we would like the best that there could be, and minimize the  
2841 developed look in stead of heightening the developed look.  
2842  
2843 The main thing we have the problem with this is the density. Actually, they are only going to  
2844 develop the 22 acres now. And that density is going to figure at 2.32 acres. If you add in the  
2845 10 acres, it's true, and you have 71 lots on it, that will end up being 2.2. But we don't know  
2846 when that's going to be done.  
2847  
2848 This development is going to take place entirely in a soy bean field except for one house spot.  
2849 And where there was probably 35 bushels of soybeans yield to the acre last year. Next year,  
2850 there might be 2.3 houses yield to the acre. So, this is a great change, as you can see.  
2851

2852 I don't think we've tried to make this blend into the surrounding community at all. And, I  
2853 think we do have to consider the people that do live there now. And I think if we can  
2854 minimize this in any way, reducing the density would help a great deal.

2855  
2856 This is on the high side of 1 to 2.4. And it is very, very visible. When we had the pictures of  
2857 the houses up there, they all had trees. Quite a few had a slope. This is very flat land. As you  
2858 can hear, there were concerns about drainage.

2859  
2860 So, I think, as it stands now, as uncertain as the plan is, I think it should be denied at this  
2861 point. I think its premature. I think it needs better planning to blend into the community.  
2862 And we do realize that there are a lot of subdivisions going up in this area right now. But, if  
2863 we're considering each one on a case-by-case basis, I think we can make the criteria as high as  
2864 possible for the surrounding community. Thank you.

2865  
2866 Ms. Dwyer - Thank you. Any questions for Mrs. Paschke? Questions?  
2867 Thank you very much. Yes sir.

2868  
2869 Mr. Mike McCabe - Madam Chairwoman and Planning Commission, my name is  
2870 Mike McCabe and I represent the Varina Beautification Committee. And do not support this  
2871 proposal as it is presently presented. The square footage proffered, we would like to see that  
2872 proffered from 2,000 square feet for single stories, and 2,200 square feet for two-story homes.

2873  
2874 As Mr. Lewis stated, 70 percent of the homes in Four Mile Run, which is also a new  
2875 subdivision right up the road, and which this could be most commonly compared to, they are  
2876 2,000 square feet, that 70 percent number.

2877  
2878 We also would like to see the rear of the homes no face Doran or Darbytown Roads. We feel  
2879 this profile is unsightly and reflects a poor quality example for future development. On New  
2880 Market Road, Old Colony Estates is a fairly new subdivision within the last 10 years. The  
2881 homes right on Route 5 were turned so that they face Route 5 and it didn't take away from the  
2882 view of the people in the community.

2883  
2884 We also, since this neighborhood is offering no proposed amenities, we suggest the density be  
2885 2.0 units per acre. Right across Darbytown Road, from the neighborhood on Darbytown  
2886 Road, is Ward Elementary which is a new elementary school within the last five years.

2887  
2888 We feel the neighborhood should have sidewalks since these children will be walking to Ward  
2889 Elementary School for their protection. We concur that the homes located on Doran and  
2890 Darbytown Roads should be two story.

2891  
2892 As proposed, per proffer, no cantilevered chimneys will be allowed. This should also include  
2893 the new chimneys with gas units would not be cantilevered also.

2894  
2895 This subdivision will set an example for adjacent land, which is already zoned for a future  
2896 subdivision, and we would like to see this done tastefully. Also, Mr. Lewis had stated that the



2897 berm that they were building they had great concerns to make this a nice berm. We have a  
2898 concern that in doing that, they've only proffered in the minimum County requirements.

2899  
2900 Also, we stated a four foot scalloped fence. I would imagine that 4 foot is the top of the  
2901 scallop. The bottom of the scallop is usually another foot lower, which would be 3 foot and  
2902 that is what your kitchen counter height is in your homes. Thank you.

2903  
2904 Ms. Dwyer - Are there any questions for Mr. McCabe by Commission  
2905 members?

2906  
2907 Mrs. Wade - About the school, Mr. McCabe?

2908  
2909 Mr. McCabe - Yes ma'am.

2910  
2911 Mrs. Wade - How far is this from the school?

2912  
2913 Mr. McCabe - Right across the road, ma'am.

2914  
2915 Mrs. Wade - Are the children out there now walking across the road?

2916  
2917 Mr. McCabe - No ma'am, because there's no developments like this.

2918  
2919 Mrs. Wade - Oh.

2920  
2921 Mr. McCabe - This is my first time up here, so bear with me. Let me see if I  
2922 can figure this out for you.

2923  
2924 Mrs. Wade - It used to be children walked across busy streets and they had  
2925 school guards, but...

2926  
2927 Mr. McCabe - Darbytown Road is 55 mph.

2928  
2929 Mrs. Wade - I don't think that happens much anymore. I doubt that they'll be  
2930 walking across there.

2931  
2932 Mr. McCabe - Let me see, Doran is right here (referring to slide).

2933  
2934 Mrs. Wade - Although the rule was, if it was within a mile of the school, they  
2935 were supposed to have sidewalks.

2936  
2937 Mr. McCabe - Right. Are there any other questions?

2938  
2939 Ms. Dwyer - Thank you.

2940  
2941 Mr. McCabe - Thank you.

2942

2943 Mr. Mark Merit - Good evening. Thank you for letting me talk. I live.  
2944  
2945 Ms. Dwyer - Would you state your name for the record?  
2946  
2947 Mr. Merit - My name is Mark Merit. My family and I own a house two  
2948 properties down from this proposed area. I like that soybean field. Some of my neighbors  
2949 have cows. We moved from the fan to get away from it all. And "yikes," between Four Mile  
2950 Run and Whispering Pines and now this proposed, its going right back to where be moved  
2951 away from.  
2952  
2953 My concern, Doran Road is very narrow, skinny road, with no center stripe. There are a lot  
2954 of companies in the area that use dump trucks to get gravel out of the ground. And Doran  
2955 Road is full of dump trucks.  
2956  
2957 There's no center stripe. At night, its dangerous, and the rush hour is dangerous passing  
2958 those dump trucks. And all these houses and all these people are coming up that road, and I  
2959 don't think there are any plans to widen that road that I know of. I know that the intersection  
2960 is being proposed to be straightened out. You cannot make a right turn from Doran Road onto  
2961 Darbytown in even a big pick up truck without crossing over into the on coming lane. These  
2962 dump trucks, there's no way they can do that.  
2963  
2964 Again, it's a 55 mph speed limit in front of this school, the same as I-95. We're talking about  
2965 putting homes along this 55 mph. speed limit in front of an elementary school with access from  
2966 this development onto Darbytown with no light? It's crazy. And people don't always adhere  
2967 to this 25 mph lights in the mornings when school's in session.  
2968  
2969 Just yesterday, my wife was passed by a dump truck on double yellow on this same curve that  
2970 we're talking about putting homes, potential children, 55 mph speed limit. I think this is  
2971 getting way ahead of itself. The roads need to be changed; things like this, before we start  
2972 talking about putting bunches of homes in here that are exiting onto these roads.  
2973  
2974 I wish you would think about that. Thank you.  
2975  
2976 Ms. Dwyer - Thank you, Mr. Merit? Any questions of Mr. Merit by  
2977 Commission members? Thank you, sir. Is there anyone else in opposition to C-20C-99? No  
2978 other opposition? Mr. Lewis, would you like to have some time for rebuttal? It's my error. I  
2979 didn't keep track of the time limits.  
2980  
2981 Mr. Lewis - I'm not going to take that much time, Ms. Dwyer. Just a couple  
2982 comments. About the direct vent fireplace, that's in the proffers that, that cannot be  
2983 cantilevered. It's in Proffer No. 2. It says, "All chimneys or direct vent fireplaces shall have  
2984 foundations." So, that's in the proffered condition.  
2985  
2986 The other thing I would like to take issue with, I don't see that this is premature. Whispering  
2987 Pines was approved not too long ago, and they're continuing to develop. Of course, Four Mile

2988 Run is developing. And we have complied with every element of the Land Use Plan in this  
2989 zoning case.

2990  
2991 The questions before you, of course, is "What is the highest and best use of this property?"  
2992 We feel that its residential, single family, R-2A classification. I thank you.

2993  
2994 Ms. Dwyer - Thank you.

2995  
2996 Mrs. Quesinberry - Mr. Lewis, before you sit down.

2997  
2998 Mr. Lewis - Yes ma'am. Yes.

2999  
3000 Mrs. Quesinberry - Can you address the issue that was raised concerning sidewalks to  
3001 walk out of the neighborhood and walk across the street to the school?

3002  
3003 Mr. Lewis - Yes ma'am. We met with Public Works and with the Planning  
3004 Staff relative to this piece of property. In fact, we submitted a plan just to get some  
3005 comments. It was a review process that they allow us to do without giving us any approval.

3006  
3007 One of the things that they insisted upon was that a sidewalk be built along Darbytown Road  
3008 from our entrance up to the entrance to the school, which we have agreed to do, and that will  
3009 allow the children to walk along the sidewalk and come to an intersection that can be  
3010 controlled by a school guard. I'm not sure how the children get from Whispering Pines or  
3011 how they will get, but we have made provisions for that in our plan. And the policy of the  
3012 County states that along a major thoroughfare that you're developing, you must put a sidewalk  
3013 if you're within one mile of the school. And we intend to do that.

3014  
3015 Ms. Dwyer - Thank you, Mr. Lewis. Any other questions for Mr. Lewis?  
3016 Thank you, sir. Ready for a motion, Mrs. Quesinberry?

3017  
3018 Mrs. Quesinberry - Yes. This development does meet with the Land Use  
3019 recommendations for Residential and I believe it would, in any case, develop into a residential  
3020 development. Although, there are some things that I would like to see that are not here; for  
3021 example, the number of garages proffered, and a few more architectural variations on the  
3022 houses. In total, this represents, especially compared to some of the other plans that we've  
3023 looked at, this does represent a quality development, and it meets with the Land Use  
3024 recommendation, and the developer had agreed to go far beyond what would normally be  
3025 required to buffer this development in a way that will make it blend and fit into the  
3026 surrounding area. And so, for those reasons, I'd like to make a motion that we recommend  
3027 approval of this case, C-20C-99.

3028  
3029 Ms. Dwyer - Motion by Mrs. Quesinberry. Is there a second?

3030  
3031 Mrs. Wade seconded the motion.

3032

3033 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mrs. Wade. All  
3034 those in favor say aye—all those opposed by saying nay. The vote was 5-0 (Mr. Donati  
3035 abstained). The motion carries.

3036  
3037 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mrs. Wade, the Planning  
3038 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the  
3039 proffered conditions and grant the request because it conforms to the recommendations of the  
3040 Land Use Plan; it is appropriate residential zoning at this location; and it would not adversely  
3041 affect the adjoining area if properly developed as proposed.

3042  
3043 **C-21C-99** Jay M. Weinberg for Dakota Associates: Request to conditionally  
3044 rezone from A-1 Agricultural District and RTH Residential Townhouse District to RTHC  
3045 Residential Townhouse District (Conditional), Parcels 192-A-19 & 20, containing 20.017 acres,  
3046 located on the west line of Midview Road approximately 400' south of its intersection with  
3047 Darbytown Road. Residential townhomes for sale are proposed. The applicant has proffered a  
3048 maximum of 130 residential units which yields a density of 6.49 units per acre. The Land Use  
3049 Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre. This site is also  
3050 in the Airport Safety Overlay District.

3051  
3052 Mr. Marlles - Ms. Jo Ann Hunter will be giving the staff report.

3053  
3054 Ms. Dwyer - Is there any opposition to C-21C-99 Dakota Associates? There is  
3055 opposition. Okay.

3056  
3057 Person from Audience - I'd like to speak.

3058  
3059 Ms. Dwyer - Okay. We'll get to the opposition in a moment, sir. Let me state  
3060 the rules of the Commission; the policy of the Commission regarding cases in which there is  
3061 opposition. Our regular policy is to permit 10 minutes for the applicant to make his case and  
3062 10 minutes for the opposition to state their case. This time period does not include the time  
3063 that it takes for the Commission to ask questions and for those questions to be answered by the  
3064 opposition or by the applicant. So, normally, even with the 10 minute limitation, the case  
3065 could take 45 minutes to an hour or even longer. So, it sounds like it may not be a long period  
3066 of time, but usually with the questions and the time it takes to answer those, the 10 minutes  
3067 does expand considerably. So, I neglected to impose those time limits on the last case.  
3068 Although I think the case probably took the same amount of time if we had imposed those  
3069 limits, but we need to be more diligent about that from now on. So, just for everyone's  
3070 information. Okay. Ms. Hunter.

3071  
3072 Ms. Jo Ann Hunter Thank you. This request is to rezone an 8-acre parcel from A-1  
3073 to RTHC an 11 acre parcel from RTH to RTHC. Eleven acres was rezoned to RTH in 1971.  
3074 The applicant is proposing to construct 130 townhouse units. This number is a result of the  
3075 maximum density of the existing RTH property—105 units, plus an additional 25 units, based  
3076 on the density of the A-1 property being rezoned to R-3. The maximum density supported by  
3077 the Land Use Plan for the 8 acres currently zoned A-1 would be 19 units instead of the 25  
3078 units.

3079  
3080 The applicant has indicated that rezoning of this additional 8 acres provide a better design  
3081 project than the already zoned 11 acres. There are an additional 34.5 acres to the rear of the  
3082 property that you can see here (referring to slide) which the applicant also has under contract  
3083 and proposes for development. This acreage would allow 414 townhouses or up to 500  
3084 apartments.

3085  
3086 The Land Use Plan recommends single family residential. This project would have a density  
3087 that is significantly higher than the 2.4 dwelling units currently supported by the Plan. This  
3088 property is adjacent to Midview Woods Subdivision and Varina Station.

3089  
3090 Both of these subdivisions have homes that front Midview Road. All of these homes along  
3091 here (referring to slide) front Midview as well as the homes down in Varina Station. The  
3092 applicant has submitted a proffered conceptual plan which shows the rear of the townhouses  
3093 adjacent to Midview Road so those houses that front would then be looking at the rear of the  
3094 townhouses.

3095  
3096 Staff is concerned with the design of this project would not be consistent with the established  
3097 development pattern of the existing neighborhood. The applicant has proffered an elevation for  
3098 this request. However, the applicant has not committed to quality design features including  
3099 brick foundations.

3100  
3101 The applicant does commit to garages for all units, paved driveways, as well as a minimum  
3102 square footage of 1,200 square feet per unit. No recreational amenities and limited open space  
3103 is planned for the project.

3104  
3105 Although the rezoning of this property would only increase the density of this proposed project  
3106 by 25 units based on the 105 units that could be built by right, the staff has concerns with the  
3107 number of outstanding quality issues. The staff would encourage the applicant to continue to  
3108 work with the staff as a neighborhood in order to improve this project. Staff does not support  
3109 the proposal as submitted. I'd be glad to answer any questions.

3110  
3111 Ms. Dwyer - Thank you, Ms. Hunter. Are there any questions for Ms. Hunter  
3112 by Commission members? No questions. Would the applicant come forward, please. Would  
3113 you like to reserve some time for rebuttal?

3114  
3115 Mr. Chuck Rothenberg - -A half hour? How about three minutes, please? Madam Chair,  
3116 members of the Commission, my name is Chuck Rothenberg. I'm here tonight on behalf of  
3117 Dakota Associates. This is a request to add proffered conditions to 12 acres, zoned since  
3118 1971, for townhomes with no conditions and to rezone approximately eight acres of adjacent  
3119 land to RTH with conditions. The 20-acre site is located on the west side of Midview, south of  
3120 Darbytown Road. The property to the north is a mix of A-1 and unconditional B-3 shown on  
3121 the Land Use Plan for Commercial Concentration.

3122

3123 Varina Station is zoned R-3C located to the south and homes on the east line of Midview are  
3124 zoned R-3C. As Ms. Hunter pointed out, about 34 acres to the west, which Dakota Associates  
3125 also controls is zoned unconditional R-5.  
3126

3127 We believe that this request is an opportunity to improve the quality of the development that's  
3128 permitted by the current unconditional RTH zoning. We have proffered that no more than 130  
3129 homes will be developed on the 20 acres. And, as Ms. Hunter explained, that number is  
3130 generated by taking the property that's zoned A-1, about eight acres, and assuming that we  
3131 rezone that to R-3 consistent with Varina Station, and the existing zoning, RTH, which would  
3132 permit 105 units, as its currently zoned.  
3133

3134 This next plan is the proffered layout plan. We did make one change to this, which I'd like to  
3135 point out. In the proffers, we talk about buffer areas along the perimeter of the site and those  
3136 have been designated here, here, here, here, along the Varina Station boundary line.  
3137

3138 We've proffered a 1,200 square foot minimum for each home. The proffered layout plan also  
3139 shows that, except for one cluster of four homes, all of the other homes are grouped into  
3140 clusters of three homes. The result is that two-thirds of the homes are end units, with larger  
3141 lots, that can easily accommodate larger units with one or two-car garages. Each home is  
3142 required to have at least one garage.  
3143

3144 We've also proffered that driveways must be constructed of an impervious material, not  
3145 gravel. Utilities must be located underground, and the main entrance of the community must  
3146 be landscaped or improved with a distinguishing architectural feature. Could we show the  
3147 color elevation (referring to slide)?  
3148

3149 We've proffered this elevation, which incorporates a number of quality architectural features;  
3150 reverse gables, varied rooflines, porches, half round windows indicative of homes more  
3151 residential in character than what we would normally expect a townhouse.  
3152

3153 There is adequate capacity in the schools and the road and utility systems to accommodate this  
3154 request. We met with the neighbors last Monday to explain this proposal and had very frank  
3155 dialogue with them. While we may disagree as to the appropriateness of this request, I  
3156 appreciate their attendance at the meeting. We believe that this request will crate a much more  
3157 attractive and higher quality development than that permitted under the existing zoning. We  
3158 respectfully request that you recommend approval to the Board. I'd be happy to answer any  
3159 questions.  
3160

3161 Ms. Dwyer - Any questions for Mr. Rothenberg from Commission members?  
3162

3163 Mrs. Quesinberry - Mr. Rothenberg, is there some reason that you cannot bring up  
3164 this R-5 parcel at the same time as the rest of this case and come up with a comprehensive plan  
3165 that could be considered by the neighbors at this time?  
3166

3167 Mr. Rothenberg - Well, at this point, the development plans for the R-5 are not  
3168 settled. However, the developer is prepared to move forward with the RTH.

3169  
3170 Mrs. Quesinberry - Maybe the developer would consider deferring this case until the  
3171 plans are settled with the R-5?  
3172  
3173 Mr. Rothenberg - Mrs. Quesinberry, we've discussed this before. And, after  
3174 discussing it extensively with my client, I believe that the case, as currently submitted, is in its  
3175 best form.  
3176  
3177 Mrs. Quesinberry - Thank you.  
3178  
3179 Mrs. Wade - Whose your client, Mr. Rothenberg?  
3180  
3181 Mr. Rothenberg - Dakota Associates.  
3182  
3183 Mrs. Wade - Which is who?  
3184  
3185 Mr. Rothenberg - Walter Monahan is here in the audience.  
3186  
3187 Mrs. Wade - Thank you.  
3188  
3189 Mr. Archer - Mr. Rothenberg, did you say your client owned or controlled the  
3190 R-5 piece?  
3191  
3192 Mr. Rothenberg - It's under contract.  
3193  
3194 Mr. Archer - Oh. Okay.  
3195  
3196 Ms. Dwyer - Mr. Rothenberg, we have, obviously, some unconditional RTH.  
3197 We also have A-1. I'm wondering why you couldn't look for some sort of a happy medium  
3198 between the two to rezone the entire portion of these two parcels, instead of raising the A-1 all  
3199 the way up to RTHC, why not propose some, for example, single family, somewhere in  
3200 between A-1 and RTH?  
3201  
3202 Mr. Rothenberg - Well, certainly, that is the proposal that, at some time in the  
3203 future, would be submitted, if the property, as its currently zoned RTH is developed. That A-  
3204 1 property would then be between RTH unconditional and the R-3C for Varina Station.  
3205  
3206 Ms. Dwyer - My questions is, since you're combining these two, and you have  
3207 an old RTH that, I think, we can all objectively say is not appropriate for development in this  
3208 area, and seek to also include A-1, why not look for a happy medium in between the two  
3209 rather than raising the A-1 to the maximum level of the RTH?  
3210  
3211 Mr. Rothenberg - Well, let me first respond to the point about the RTH being  
3212 inappropriate. It is on an area adjacent to Commercial Concentration in the Land Use Plan. It  
3213 has been there for 30 years, and other developments have come up around that. So, its not a  
3214 surprise. It's been on the books for quite a long time.

3215  
3216 Mrs. Quesinberry - Mr. Rothenberg, could I just ask you for a clarification there?  
3217 When you say, "a concentration of commercial development," are you referring to the almost  
3218 three acres of B-3 at the corner of Bickerstaff and Darbytown?  
3219  
3220 Mr. Rothenberg - Yes. That is shown as Commercial Concentration on the Land  
3221 Use Plan. Yes ma'am.  
3222  
3223 Mrs. Quesinberry - That three acres is your concentrated commercial, you're  
3224 referring to?  
3225  
3226 Mr. Rothenberg - It's designated as "Commercial Concentration" on the Land Use  
3227 Plan.  
3228  
3229 Mrs. Quesinberry - Can we agree that is more likely to development in say, a  
3230 convenience store, than a mall?  
3231  
3232 Mr. Rothenberg - I think it would be tough to fit a mall on.  
3233  
3234 Mrs. Quesinberry - Thank you. Continue.  
3235  
3236 Mr. Rothenberg - I think the reason for this request is driven by two factors: one,  
3237 since the property is already zoned for RTH, the purchase price that my client is being asked  
3238 to pay is based on the density that would be derived from that. My client would certainly  
3239 appreciate the opportunity to develop this project in accordance with the standard that he's  
3240 comfortable with, and that's the project that we're proposing and that we've proffered.  
3241  
3242 The A-1 certainly could go R-3 or RTH, from a land use perspective. I think there's an  
3243 argument both ways.  
3244  
3245 Mrs. Quesinberry - Thank you.  
3246  
3247 Ms. Dwyer - Any other questions for Mr. Rothenberg? Okay. You have three  
3248 minutes reserved for rebuttal. We'll now hear from the opposition.  
3249  
3250 Mr. Samuel Roberts - Madam Chairwoman and members of the Commission, my name  
3251 is Samuel Roberts. I live at 6305 Varina Station Drive in Varina. Along with my neighbors  
3252 in Midview Associates and Foxboro Downs, I am in opposition to this proposal.  
3253  
3254 There is, if you will, a burden of history in this case. While the current zoning designation  
3255 reflects and agreement reached in 1971, prevalent and current wisdom as expressed by our  
3256 neighbors, as well as the staff of the Planning Commission, would suggest that the proposed  
3257 change and the plans of the developer are unwise, inappropriate and unacceptable.  
3258  
3259 This is a case of the sins of the father reaching into the present generation. And we repudiate  
3260 it. The proposed change and the development do not meet the criteria that even the County has



3261 set. I have, in particular reference, to the following: "Will the change adversely affect or  
3262 impede the flow of normal traffic?" Yes. The proposed plan will do exactly that. The Plan  
3263 calls for an entrance into the townhouse development via Champagne Way, now one of the  
3264 streets in our subdivision.

3265  
3266 The flow of traffic that entrance would be forced to bear would be outrageously high, as  
3267 compared to the traffic conditions we now enjoy. "Will the change adversely affect the value  
3268 of surrounding property?" The answer again is, unfortunately, "Yes." The introduction of  
3269 townhouses so near to an area devoted solely to single family residences cannot help but  
3270 depress the values of the latter.

3271  
3272 Even more troublesome is the prospect of the construction of rental apartments on the area  
3273 zoned as R-5 to the west of our subdivision, and on which Dakota Associates already has  
3274 options for development.

3275  
3276 "Is the change in conflict with the Land Use Plan?" The answer is again, "Yes." The Land  
3277 Use Plan of Henrico County calls for this area to be Residential Suburban, single family  
3278 houses with a density of 1.0 to 2.4 units per acre. We affirmed this plan and this criterion.  
3279 Townhouses, certainly not apartments, do not meet that criteria.

3280  
3281 Finally, there is an ethical issue related to this case. It's how all of us residents, homeowners,  
3282 developers, and the original owner of the land adjudicate justice as we seek to live together in  
3283 community. The proposed plan does not balance equitably the interest of the owner of the  
3284 land, the developer and the present homeowners in the area. We have made sacrifices in terms  
3285 of personal preparedness to enter the job market and professions in order to purchase and  
3286 maintain homes, as an investment and a source of personal pride. These investments and the  
3287 integrity of our sense of well being is put at risk.

3288  
3289 The owner/seller of vast tracts of land has already been developed in Varina has already reaped  
3290 handsomely profits from these ventures. It could be argued the continued valuation of his  
3291 holdings has already been enhanced by the fact that we homeowners have shown a good faith  
3292 interest in his enterprise by indeed buying in this area.

3293  
3294 For the owner and the developer to now introduce this plan would jeopardize the quality of life  
3295 of homeowners who are stake holders in this entire area is not only inappropriate, it is callous,  
3296 unthinking, and grossly unfair.

3297  
3298 We are not only homeowners in this area, we are stake holders in the present economic and  
3299 social landscape of Henrico County. We are stakeholders in the future of this County as well.  
3300 Our desire is that the entire contiguous area to our homes be designated as a zone  
3301 commensurate with the quality of homes we presently enjoy and own, and into which we are  
3302 putting so much effort in our tax dollars and for which we remain vigilant as voters. We  
3303 remain opposed to this plan.

3304

3305 But we're persuaded that further discussions and negotiations might help us all reach  
3306 acceptable agreements by which the interest of all parties might be adjudicated; owner,  
3307 developer, and homeowners.  
3308

3309 To this end we propose a deferral of at least 30 days for the following reasons: One, full  
3310 community discussions should be facilitated. We have not had that chance. The developer  
3311 complied only minimally with the requirements of the law of contacting only those  
3312 homeowners immediately contiguous to the proposed development. Only by our chance  
3313 hearing of the plan and our subsequent hard work of alerting our association were we able to  
3314 even get a group of people at Antioch Church on Monday night of this week. More persons  
3315 desire to join the conversation.  
3316

3317 Ms. Dwyer - Excuse me, sir. You've used up six minutes of the 10. I just  
3318 wanted to let you know.  
3319

3320 Mr. Roberts - Just one more. Time is needed for a full frank and complete  
3321 comprehensive plan that was alluded to earlier. That is to say destiny of the R-5 designation.  
3322 We trust you'll look favorably on our request and on our cause. Thank you very much.  
3323

3324 Ms. Dwyer - Thank you, sir. Any questions for Mr. Roberts by Commission  
3325 members? Thanks.  
3326

3327 Mr. Mark Persinger - Thanks for the opportunity to speak. My name is Mark  
3328 Persinger. I am the President of the Midview Woods Neighborhood Watch. First, I'd like to  
3329 take a second and thank Doctor Roberts for his impassioned speech. I think he pretty much  
3330 said it all. But I did want to speak on behalf of Midview Woods in support of Doctor Roberts  
3331 against this proposition, but also in support of a deferral of a decision. I think I would be  
3332 preaching to the choir to reiterate the negative aspects of this particular proposal. I don't think  
3333 there's anybody in this room, except the developer and his representative who thinks this is  
3334 actually a good idea.  
3335

3336 What we are faced with here is an ultimatum. In plain words, as opposed to frilly language,  
3337 what the developer has said is, this proposal is better than what you're going to get if you don't  
3338 approve this change. And, I don't know about you, but I don't like to be backed into a corner  
3339 and I don't like to be told that, "If you don't like this, wait until you see what we'll put up if  
3340 you don't approve this." And that's essentially the message that we were given on Monday  
3341 night at Antioch Baptist Church.  
3342

3343 So, I would ask that you give some additional time to organize ourselves, quite frankly, to  
3344 approach the owner of this property, and any other person we can approach to try to persuade  
3345 them to the foolishness of this development in this location. Varina is a beautiful place as is  
3346 Henrico County. It is developing in the right direction, and this is a "U-turn" in the wrong  
3347 direction. Thank you.  
3348

3349 Ms. Dwyer - Thank you, Mr. Persinger. Any questions of Mr. Persinger?  
3350

3351 Mr. Vanarsdall - Yes. You realize that whatever we do tonight you have 30 days  
3352 from now before it becomes before the Board of Supervisors. You have a lot of time to  
3353 organize.

3354  
3355 Mr. Persinger - I was not personally aware of that. But I can tell you that any  
3356 time you can grant us additional to that would be helpful, because we just found about this  
3357 about four days ago.

3358  
3359 Ms. Dwyer - Thank you, sir. Any other questions? Thank you very much.  
3360 Any one else?

3361  
3362 Mr. Mike McCabe - Planning Commission, Madam Chairman, Mr. Mike McCabe  
3363 with the Varina Beautification Committee. We voted to support the staff's position on this.  
3364 The proposal is not in keeping with the Land Use Plan. The unknown quantities regarding the  
3365 future impact of this project and the number of units and the drain on County services does not  
3366 merit support for its passage. Thank you.

3367  
3368 Ms. Dwyer - Thank you, sir. Is there any one else who would like to speak in  
3369 opposition or ask Mr. McCabe any questions? No other opposition. No questions. We'll hear  
3370 the rebuttal now. Mr. Rothenberg.

3371  
3372 Mr. Rothenberg - Let me respond to a few issues. One, the impact on traffic. Of  
3373 course, the staff report indicates that the road have adequate capacity to handle this project. I  
3374 understand the concern about the impact on value, and that is exactly why the developer took  
3375 this opportunity to bring forward a case that would not only, obviously, create a business  
3376 opportunity for them, but also substantially improve the quality of the townhomes to be built  
3377 on the property. Just in rough numbers, the price range for a similar project in Smithfield that  
3378 this developer is currently engaged in for these units is in the \$107,000 to \$123,000 range.  
3379 We think something comparable here would occur as well. If the property is developed  
3380 according to its existing zoning, I think it will be substantially less than that, probably \$20,000  
3381 or so a unit. I don't think the developer has any hard feelings with the neighbors. I don't  
3382 think there's any sense that we're trying to shove this down anybody's throat. I think it is an  
3383 opportunity to improve on the existing zoning. It was there a long time before Dakota  
3384 Associates came to this area. The zoning's been in place for 30 years. And it is a piece of  
3385 property that the owner for the past 30 years has been paying taxes to the County based on  
3386 RTH and R-5 designations. Now, I imagine that the owner feels like there is some entitlement  
3387 to development the property in accordance with that zoning.

3388  
3389 Let me do this, I do have a breakdown just to show where the improvements are in this case. I  
3390 think I can finish this in a minute and 30 seconds. (Referring to slide). This is just a  
3391 comparison of the existing zoning and the requested zoning. The number of homes is,  
3392 obviously, the same, assuming, of course, that we rezone that A-1 property to R-3, consistent  
3393 with Varina Station. We're still keeping the density at 130 units.

3394

3395 The current density on the RTH property would be about nine units per acre. By incorporating  
3396 the additional eight acres, we reduce that down to 6.5 units per acre, which provides larger lots  
3397 and allows for bigger homes.  
3398

3399 The layout on the initial plan that was shown, based on the existing zoning, would generate  
3400 three to eight townhomes per building to give that townhome look. And with the proposal,  
3401 we've submitted the concept plan that shows 3 to 4. I believe there's one instance of 4 units in  
3402 one building; typically, three carriage-home type units per building.  
3403

3404 The lot frontage, by ordinance, is 19 feet. Our concept plan shows 30 to 50 feet. The lot size,  
3405 under the ordinance, is about 1,600 square feet. We're doubling or tripling that on these lots.  
3406 The minimum townhouse size, there's no requirement by ordinance. We have proffered 1,200  
3407 square feet. The architecture is not addressed by ordinance. We've proffered elevations that  
3408 look very residential. Driveways are not required to be paved under the Ordinance. We have  
3409 proffered that they will be. Garages are not required under the ordinance. We're requiring  
3410 one or two-car garages. Tree preservation is not a requirement. We have proffered we will  
3411 save trees out of the buildable areas exceeding six inches in caliber. There is no requirement  
3412 for any type of entrance feature in the ordinance. We've agreed to landscape or install an  
3413 architectural feature at the entrance. Utility lines are permitted overhead by ordinance. We've  
3414 proffered that they'd be underground. There's no requirement for protective covenants. And,  
3415 we've agreed to adopt a set of covenants that will ensure the proper maintenance of the  
3416 property. We have added buffers on the layout plan that are not required by the Ordinance.  
3417

3418 So, again, I think this really is an opportunity to improve the existing zoning. I realize that it  
3419 is not up to what everybody's expectation is for the property, but I think its an improvement.  
3420 Thank you.

3421 Ms. Dwyer - Thank you, Mr. Rothenberg. Any questions of Mr. Rothenberg?  
3422

3423 Mr. Vanarsdall - Yes, Mr. Rothenberg, who owns the 35 acres just below that?  
3424 Do you know?  
3425

3426 Mr. Rothenberg - I believe that's actually one of the corporations shown in the  
3427 proffers, Mr. Vanarsdall. They are James River Lumber Company, Glendale Homes, and  
3428 Trimmer Lumber Company. I'm not sure which ones owns that...  
3429

3430 Mr. Vanarsdall - So, they own the R-5, too?  
3431

3432 Mr. Rothenberg - I'm not sure which one of those companies owns the R-5, but of  
3433 those three companies, they own all 54 acres that Dakota Associates currently has under  
3434 contract.  
3435

3436 Mr. Archer - Mr. Rothenberg, before you sit down, what specifically can you  
3437 offer to challenge the staff's assertion in Item 3 about inconsistency with the Land Use Plan  
3438 and incompatible to the surrounding neighborhood?  
3439

3440 Mr. Rothenberg - Well, certainly there are lots of developments that have  
3441 townhome components adjacent to single family detached. The Land Use Plan was, obviously,  
3442 updated after this 1971 zoning went into effect. That does not disturb the fact that the property  
3443 is zoned RTH, and R-5.

3444  
3445 Ms. Dwyer - Any other questions of Mr. Rothenberg?

3446  
3447 Mrs. Wade - But the RTH currently exists were developed under the middle  
3448 column here, there would be no homeowner's association or anything to maintain...

3449  
3450 Mr. Rothenberg - For the townhomes?

3451  
3452 Mrs. Wade - Yes.

3453  
3454 Mr. Rothenberg - I haven't discussed that with my client. There's no requirement  
3455 under the Ordinance that there would be. But, if I have one more minute, let me show you a  
3456 concept plan of the R-5 property and the RTH which has, by no means, finalized. This was an  
3457 earlier version of the RTH. But since people are interested about the R-5, which can be  
3458 developed for apartments, townhomes, or a combination of those, this is some indication of  
3459 what it could look like. This is, by no means, a definite plan. But, there is an area for a BMP  
3460 back here (referring to slide) which will need to be developed in this substantial amount of  
3461 open space to accommodate drainage from both the RTH property and the R-5. And,  
3462 obviously, there are different areas shown for open space and recreational areas on the R-5  
3463 property. But, we certainly don't want to be perceived as hiding anything or holding anything  
3464 back. Currently, the property is zoned R-5, and this is one potential way that it could be  
3465 developed. Thank you.

3466 Mrs. Quesinberry - Don't go away, Mr. Rothenberg. I'm not really quite sure where  
3467 to start. So, I'll just begin. You know on your previous slide where you're comparing  
3468 existing zoning to the plan that you propose, I really would just like to point out to you again  
3469 that existing zoning is the bare bones minimum. Certainly no developer strives to reach that  
3470 low level. When you come in a compare existing zoning to your current plan, there really  
3471 isn't a case to be made for an improvement on this.

3472  
3473 We're really talking about here a situation where you have unconditional zoning that occurred  
3474 almost 30 years ago. And there's a real difference between a situation where you could do  
3475 something, and a situation where you could do the right thing. I would just like you to know  
3476 that I'm just deeply disappointed. I just cannot express the depths of my disappointment that  
3477 your developer has not worked better and faithfully with the citizens that live in this area. This  
3478 area has grown up to be a very pristine single family neighborhood. It's stable. It's attractive.  
3479 There's hard working families in there that are working and raising their children and  
3480 contributing to this community. And this is a rural residential area. This is a country road.  
3481 That's the feel, and that's the environment that you're coming into. I just don't see an  
3482 improvement in the plan that you offer. And, in addition, because these two pieces; this RTH  
3483 piece that we're looking at tonight, and the adjacent R-5 piece that we're really not looking at,  
3484 because its not a part of your plan, these are two pieces in this particular neighborhood that  
3485 would impact this neighborhood more than anything else that could happen in that

3486 neighborhood. And the right thing to do would be to acknowledge that, that zoning is  
3487 inappropriate. It's wrong. Maybe it was right when it happened. I doubt that very seriously.  
3488 We could probably talk all night about why it was zoned, and when it was zoned, and why it  
3489 was zoned that way. But the zoning is wrong. And it's especially wrong for the times right  
3490 now.

3491  
3492 I think as individuals and as developers and as companies and as human beings on this planet,  
3493 we have the responsibility to do the very best that we can for ourselves and our neighbors and  
3494 our community. This plan just doesn't speak to that. I wish that you would consider deferring  
3495 this case and, in good faith, working with the neighbors in this area. They are trying to get  
3496 organized. They are trying to identify all the people in the different neighborhoods. They are  
3497 very interested and very concerned.

3498  
3499 They are also not opposed to development. On the contrary. They understand that it is  
3500 coming to these parcels. They'd like to be part of that. They'd like it to be consistent with their  
3501 neighborhoods. I don't think that's an outrageous position on their part. And, I would just  
3502 like for you to know here, tonight, that I'm disappointed that I don't see the kind of good faith  
3503 effort on your part, and I don't mean you personally, I mean "you" in the global sense  
3504 representing the developer and the owner, and so forth. I don't see that on your part to work  
3505 with them in the way that I think they'd like to work with you.

3506  
3507 Mr. Rothenberg - Well, as we discussed before, clearly, we'd not be having this  
3508 discussion if this property were zoned A-1. And, clearly, there'd be an opportunity to make  
3509 some other significant improvements to a case like this.

3510  
3511 Mrs. Quesinberry - Absolutely. But, again, we're looking at two pieces of property  
3512 that were zoned almost 30 years ago, and they don't fit today. It's not your fault. It's not my  
3513 fault. It's not their fault. We all understand business. We understand that developer's make  
3514 money. That's what they do. That's not a dirty word. We all make money. All in some kind  
3515 of business or other. But, the other side of that coin is, that we all have to be responsible  
3516 citizens as well. And, as such, we have to consider the neighborhood and the environment that  
3517 we're in making that money.

3518  
3519 Nobody wants to deprive that landowner or that developer of their American share of the  
3520 profit, frankly. But, we would like to see it developed in a way that would be consistent with  
3521 that neighborhood and not detract from that neighborhood in any way. I just don't see that as  
3522 an unreasonable position.

3523  
3524 I really wish that you would defer this case and work with these neighbors because I really  
3525 believe that you can come out of a good faith effort with a plan that all can live with and be  
3526 proud of. Help me out here?

3527  
3528 Mr. Rothenberg - Would that involve or require the R-5 be submitted as part of a  
3529 comprehensive zoning?

3530

3531 Mrs. Quesinberry - I think that would be a good idea. I'm glad that you've suggested  
3532 that.

3533  
3534 Mr. Rothenberg - If I could just have one minute to speak with Mr. Monahan.

3535  
3536 Mr. Walter Monahan - Ladies and gentlemen of the Commission, my name is Walter  
3537 Monahan. Let me just ask you a question. We'd be more than glad to meet with the people in  
3538 the neighborhood who live there in a normal situation. In this situation, it's a little bit  
3539 different. We have contracted to buy the property, based on the zoning that is there, and  
3540 priced accordingly for that zoning. Admittedly, it would not go from A-1 to these kind of  
3541 zonings today. There's no question about that. It was done a long time ago. Is it right? Is it  
3542 inappropriate? It is wrong? You know, maybe it's a matter of opinion. We were looking for  
3543 multi-family land at the time we came upon this. It was attractive to us for that reason.

3544  
3545 You can also make the case that, as mixed use developments are done all the time, done in  
3546 Henrico County; they're done everywhere else. You can have different kinds of housing that  
3547 are adjacent to one another. And it works. And I don't see any reason why it can't work  
3548 here. But, if the goal here is to get together and we end up with an R-3 or something instead  
3549 of the R-5 for the rest of the property, that's not going to work for us. It's not going to work  
3550 for us because that wasn't our purpose in purchasing the property in the first place. You  
3551 know, I mean there's nothing wrong with discussing the thing and talking about it, but I don't  
3552 see that happening, frankly.

3553  
3554 Mrs. Quesinberry - Well, I think it would depend on what you discuss and what you  
3555 ultimately end up with on that R-5. It can remain R-5 and you can built a lot less than 500  
3556 apartments.

3557  
3558 Mr. Monahan - True. And it may well be that. At this point...

3559  
3560 Mrs. Quesinberry - But you don't know that until we bring it up and discuss it.

3561  
3562 Mr. Monahan - Frankly, I don't either. We've kind of said, we want to  
3563 concentrate on the front first. And the back, it could be a combination of things. It could be  
3564 some townhouses there. It maybe apartments. It could be more, something like we're  
3565 proposing; we honestly don't know. And, I don't think...

3566  
3567 Mrs. Quesinberry - Maybe this case is a little premature?

3568  
3569 Mr. Monahan - Well, in the short term, we're just not prepared, but us to decide  
3570 what should be on the R-5, how it should be split up. I think it will be split up into different  
3571 things. We just don't know. But the front seems much more...

3572  
3573 Mrs. Quesinberry - Do you not know because you're not going to do that? You're  
3574 going to sell it? Or do you not know, because you just haven't developed the plan?

3575

3576 Mr. Monahan - We will be the master developer of it. Whether or not we will  
3577 build all of it, I can't say that either. We may go into a joint venture-type of thing. We may  
3578 build some of it and other people may, because it's a pretty good sized area back there.  
3579

3580 Mrs. Wade - How big is the R-5?  
3581

3582 Mr. Monahan - It's 34.5 acres. And it seems, would start; it starts where  
3583 Midview is. It seems much more logical to figure out the front first, and the way, historically,  
3584 I'm not sure just how that happened. We've got this RTH for the 11 plus acres, and then  
3585 there's the strip of A-1 that's kind of odd in the first place. And, it just seemed to us that it  
3586 was a better thing to try to use the basic density that's there and combine them and put  
3587 something else that what we're proposing as housing is much more akin to a single-family type  
3588 house and a townhouse project that one typically would see. We thought that would be an  
3589 appropriate thing to do on the front that gives us the access road to the back and then kind of  
3590 address the back as we go along to what it should be.  
3591

3592 Yeah. It's a lot of units. There's no question about that in the total of the property. And, as  
3593 far as being a quality type of development, it absolutely behooves us to make it a quality  
3594 development, or you're just, basically, just "shooting yourself in the foot" anyway in  
3595 something like this. Because it's going to take a long term type of development here to build  
3596 all of this out.  
3597

3598 Mrs. Wade - Who owns the R-5 now?

3599 Mr. Monahan - We have it under contract.  
3600

3601 Mrs. Wade - I understand that, but who owns it?  
3602

3603 Mr. Monahan - Its three different companies, actually.  
3604

3605 Mrs. Wade - Oh. It's those names on...  
3606

3607 Mr. Monahan - Mentioned earlier.  
3608

3609 Mr. Vanarsdall - What did you say, Mr. Monahan? You would defer it or  
3610 consider it or not?  
3611

3612 Mr. Monahan - I'm sorry. I missed your question.  
3613

3614 Mr. Vanarsdall - What did you just tell us? You would defer it and consider it, or  
3615 what?  
3616

3617 Mr. Monahan - I would, frankly, pass it on, in whatever form you chose to. IN  
3618 the meantime, I have no problem us meeting with the people around it as well. But, I know  
3619 what you all are saying. I know what the people are thinking. That is to address this whole  
3620 property with the R-5. As I say, we're just not prepared to talk about the thing in the totality  
3621 of it in an intelligent way, because, I, myself, I couldn't tell everyone else that's here, that I



3622 can tell you about the back which makes me appear a little stupid about it. But that's where we  
3623 are, today, on the 34 acres. We just don't honestly know.  
3624  
3625 Mrs. Wade - You're buying the eight acres of A-1 also?  
3626  
3627 Mr. Monahan - Yes.  
3628  
3629 Mrs. Quesinberry - I'm almost ready.  
3630  
3631 Ms. Dwyer - Ready for a motion?  
3632  
3633 Mrs. Quesinberry - Just about.  
3634  
3635 Mr. Archer - Mr. Monahan, sir, if I may ask you. You're saying the three  
3636 parcels that are defined here are the ones that are owned by three separate owners or just the  
3637 R-5 portion?  
3638  
3639 Mr. Monahan - Legally, there are three separate ownerships.  
3640  
3641 Mr. Archer - Of all three of the parcels; the A-1, the RTH, and the R-5?  
3642  
3643 Mr. Rothenberg - I think there's actually three.  
3644 Mrs. Wade - They own different parcels?  
3645  
3646 Mr. Monahan - They are different parcels. They're done that way. Actually,  
3647 yes.  
3648  
3649 Ms. Dwyer - Ready for a motion?  
3650  
3651 Mrs. Quesinberry - I'm just about ready for a motion. I'm getting a clarification on a  
3652 timeline question, if you can bear with me for just a minute. I'd like to make a motion to defer  
3653 this case for 60 days, Case No. C-21C-99 Dakota Associates.  
3654  
3655 Mr. Archer seconded the motion.  
3656  
3657 Ms. Dwyer - What is the date on that? It would be May.  
3658  
3659 Mr. Merrithew - May 13<sup>th</sup>.  
3660  
3661 Mrs. Quesinberry - Thank you.  
3662  
3663 Ms. Dwyer - I assume you've checked and that's within our statutory time?  
3664  
3665 Mrs. Quesinberry - Yes ma'am.  
3666

3667 Ms. Dwyer - Fine. Okay. All right. The motion by Mrs. Quesinberry for  
3668 deferral to May 13, seconded by Mr. Vanarsdall. All those in favor say aye—all those  
3669 opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). Motion for deferral is  
3670 carried.

3671  
3672 **P-5-99** Gloria L. Freye for Triton PCS, Inc.: Request for approval of a  
3673 provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the  
3674 County Code in order to construct, operate and maintain a wireless communication monopole  
3675 tower up to 199', on part of Parcel 180-A-9, containing .05 acre, located on the west side of  
3676 Osborne Turnpike approximately 50 feet south of Old Osborne Turnpike. The site is zoned A-  
3677 1 Agricultural District.

3678  
3679 Mr. Marlles - The staff presentation will be given by Ms. Jo Ann Hunter.

3680  
3681 Ms. Dwyer - Is there any opposition to P-5-99 Triton PCS, Inc.? Ms. Hunter.

3682  
3683 Ms. Jo Ann Hunter - Thank you. The request is to construct a 199-foot  
3684 telecommunications tower located on the west side of Osborne Turnpike. The proposed tower  
3685 is located approximately 550 feet from Route 5. As part of the Route 5 Overlay Guidelines,  
3686 the County recommended no towers within 1,000 feet of the center line of Route 5. The  
3687 property adjacent to the west of this site is known as Tree Hill Farm and is on the National  
3688 Register of Historic Places.

3689 The boundaries of this designation were drawn to incorporate the scenic open lands of that  
3690 plantation. These open lands are visible from downtown Richmond and form the urban area's  
3691 only remaining rural backdrop. The nomination form for Tree Hill Farms designation states  
3692 that, "The open space is especially critical to the historical and scenic integrity of this  
3693 significant area."

3694  
3695 The staff is concerned with the high visibility of the tower location. Although the tower has  
3696 tall cedars along the frontage, the remainder of the property is mainly open. In addition, based  
3697 on the topography of the area, the tower would be very visible to surrounding neighborhoods.

3698  
3699 The applicant has been making attempts to try and improve this tower request. The applicant  
3700 just yesterday late afternoon had submitted pictures of a 150-foot tree tower with a brown  
3701 tower with, I believe, the material was plastic type leaves to try shield the tower.

3702  
3703 The problem with that is that the site is, basically, open. So, a tree tower in the middle of an  
3704 open field may not be the best alternative. The applicant and I have discussed other possible  
3705 stealth technologies such as a hay silo or a fire tower or some other things that may be more  
3706 appropriate in an agricultural setting. And the applicant is looking into those alternatives.

3707  
3708 The applicant has indicated this is a very small search ring and alternative sites are very  
3709 limited. There is a VEPCO easement that runs along the rear of the property. However, the  
3710 applicant has indicated that the height would not meet their desired coverage.

3711

3712 The staff would continue to encourage the applicant to look for an alternative site or to look at  
3713 the possibility of two shorter towers in more appropriate locations in order to achieve some  
3714 coverage. At this time, the staff is not able to support this proposal and would encourage  
3715 continued searching for additional information and alternative sites.

3716  
3717 Ms. Dwyer - Thank you, Ms. Hunter. Any questions of Ms. Hunter?

3718  
3719 Mr. Archer - I did have one question. You mentioned one alternative would be  
3720 to use two shorter towers?

3721  
3722 Ms. Hunter - Yes.

3723  
3724 Mr. Archer - What would be the minimum; I guess maybe the applicant would  
3725 have the answer; the minimum useful height on the shorter tower?

3726  
3727 Ms. Hunter - The applicant had done the tree tower. I talked to her, at that  
3728 time, about reducing it to say 100 feet or so, that it would be a little more compatible with  
3729 most of the trees in this area are say, 90 feet tall. And the applicant had indicated that 100 feet  
3730 would not work. Also, they had indicated that the lower height did not work on the VEPCO  
3731 easement. What we have asked is maybe they look at locating on two of the shorter locations  
3732 that maybe with that, it would provide their desired coverage, and I believe that applicant was  
3733 going to check with that with her RF engineer.

3734 Mr. Archer - Okay.

3735  
3736 Ms. Dwyer - Would the applicant come forward, please?

3737  
3738 Ms. Gloria Freye - Good evening, Madam Chair and members of the Commission.  
3739 My name is Gloria Freye. I'm an attorney here on behalf of the applicant, Triton PCS. For  
3740 the first time in my practice, I'm here asking you not to make a decision on the case that's  
3741 before you this evening. The case before you this evening is for a 199-foot standard monopole  
3742 which the applicant has already committed to the neighborhood that they would not pursue and  
3743 seeing that as not being appropriate for this site.

3744  
3745 The other thing that the applicant has committed to the neighborhood, when we went back to  
3746 the community with the idea of lowering it to 150 to proposing some kind of stealth design that  
3747 would be more acceptable and still allow for collocation, recognizing the tensions in this area,  
3748 as far as the historic value, scenic views of the river, and even of the highway, itself, how  
3749 could we accomplish our goal providing service with as minimal impact on the community as  
3750 possible?

3751  
3752 So, we tried to throw out every idea that we could think of. We solicited ideas from the  
3753 neighbors, themselves. We even asked them for suggestions of properties that we could  
3754 possibly consider, either for one tower to serve this area, or shorter multiple towers that would  
3755 work.

3756

3757 One of the things that I wanted to show you is that this is an extremely small search ring.  
3758 Actually, the dot that you see in the center of this map is, basically, where the Elmore property  
3759 is. You can see where Route 5 comes in like this and this is Oakland coming in like that. This  
3760 is New Osborne Turnpike back here.

3761  
3762 So, you can see, in this area, you have homes. You have some established homes that have  
3763 been there for a long time. The view toward the river, there is some industrial-zoned property  
3764 down along the river, but that was not available. We tried to contact that landowner several  
3765 times.

3766  
3767 We, actually, have already investigated 10 properties in this area, looking for property that  
3768 did not have a house on it. They are very precious few. The other thing I'd like to show  
3769 you is the propagation map.

3770  
3771 Ms. Dwyer - Ms. Freye, before you take this map off, this is the search ring?

3772  
3773 Ms. Freye - Yes ma'am.

3774  
3775 Ms. Dwyer - So, does this mean you're only searching the homes within this  
3776 area?

3777  
3778 Ms. Freye - No ma'am.

3779 Ms. Dwyer - This is where you need the tower to be located in order to serve  
3780 the...

3781  
3782 Ms. Freye - To fill the hole and that's what I'm just going to show you on this  
3783 propagation map. You can see the three green areas (referring to slide) are where Triton has  
3784 its other antennas. They are located near the Varina High School on an AAT tower. They  
3785 were able to collocate there. They were also able to collocate in the City on the top of a  
3786 building at 25<sup>th</sup> Street. And they've also collocated at a Sprint tower at Concrete Structures.  
3787 So, those antennas, you can see that along Route 5, this area (referring to slide), has no  
3788 coverage.

3789  
3790 With the next propagation map with an antenna site at that fourth location in this area, we will  
3791 be able to have that coverage all along Route 5. So, it will serve that whole area. Of course,  
3792 that is one of the things that the carriers need in their licenses that require them to have this as  
3793 seamless coverage as they can possibly get in their network.

3794  
3795 What I would like to do, considering that we had talked with the neighbors just last night about  
3796 the idea of splitting the cell. That's something that carriers will resist because its so expensive.  
3797 Every site, every tower, every installation is hundreds of thousands of dollars, and so they try  
3798 to find one site that will do the best job for them and one site that will allow for collocation.  
3799 That doesn't always work. And that was the message that came back from the community last  
3800 night is that, we were asked to see if we could split the cell with shorter towers and find  
3801 something that would work instead of this property.

3802

3803 One of the things that I talked with the radio frequency engineer about today (gap in tape) the  
3804 area. Do a drive test with the existing antennas, looking at the area that we need to cover and  
3805 seeing if there would be a possibility. This is what's shown in this picture is the cedars that are  
3806 in front of the Elmore property. That van is actually on Route 5 in front of this property.  
3807

3808 At 150 feet, with the tree design, you can see how that looks with the cedars. But that's 550  
3809 feet away. What I suggested to the RF engineer today was, what would happen if we lower  
3810 that, keep the tree design, tuck it inside those trees, in that tree line, and then look for a  
3811 shorter tower somewhere else? Possibly another stand of trees where another tree tower could  
3812 be done, because we're still going to need to serve Route 5.  
3813

3814 So, the engineer has committed to me that he will be out there Monday morning doing his  
3815 drive test. We would like the opportunity to check this out. There may be a possibility that  
3816 we can use the Elmore site in this fashion. There may not be. The report may come back to  
3817 me that, "Sorry, neat idea, but it's not going to work."  
3818

3819 If that's the situation, then this case would probably be withdrawn. If that is a possibility, we  
3820 would like the opportunity to share that with the community, get their feedback and maybe  
3821 even make other adjustments if need be, until we can try to find something that's going to be  
3822 acceptable.

3823 I think that, with all the tower cases, that the members of the Commission have worked on in  
3824 the last three years, I think you can appreciate the difficulty of trying to find sites that are  
3825 going to serve the area with as little impact as possible.  
3826

3827 But, here you have a developer and applicant who is willing to take the time, go back to the  
3828 drawing board as many times as necessary to try to come up with something that might be  
3829 acceptable.  
3830

3831 I think what I'd like to do is ask, since all these people have been here all evening waiting for  
3832 an opportunity to speak, what I would like to ask is if you allow them to do that, but then also  
3833 allow the hearing to be continued so that I would have an opportunity to come back either in  
3834 two weeks at your next hearing, or even the next month, that I can give you a report from my  
3835 radio frequency engineer about whether there's any opportunity to improve this case.  
3836

3837 Then, what you would be making a decision on would be an amended case, or you wouldn't be  
3838 making any decision at all because it would be withdrawn. That's the request that I have this  
3839 evening.  
3840

3841 Ms. Dwyer - Thank you, Ms. Freye. Any questions of Ms. Freye by  
3842 Commission members?  
3843

3844 Mrs. Quesinberry - Ms. Freye, what is the impact or what are the consequences if  
3845 your company doesn't get a tower in that location?  
3846

3847 Ms. Freye - Well, aside from the business implications, I don't know what the  
3848 implications are going to be for the licensure. It will definitely affect their ability to launch  
3849 their network in the spring.  
3850

3851 Mrs. Quesinberry - But wouldn't the network still work, but there would be just that  
3852 "hole" there?  
3853

3854 Ms. Freye - It would be that huge hole.  
3855

3856 Mrs. Quesinberry - Not, "huge," Ms. Freye,  
3857

3858 Ms. Freye - Well, it would be huge in their network. When you see an area  
3859 that large of people not being served when everybody around them is being served, it is a  
3860 problem for the consumer. I think this may be one of the first digital companies that's really  
3861 trying to make a commitment to serve the Varina District. They're already committed to go as  
3862 far down as I-95 on an existing tower down there. They have worked so hard to find  
3863 opportunities to collocate and to minimize the need to build other towers.  
3864

3865 Here, they're saying, "Just give us an opportunity to see if we can find something that will  
3866 work. We can't make guarantees". We're just asking for the opportunity to give you all the  
3867 information that you need to make an informed decision.

3868 Ms. Dwyer - So, does the "hole" mean that if you're on your phone in your  
3869 car driving down Route 5, that the call will be lost?  
3870

3871 Ms. Freye - It will be lost.  
3872

3873 Mr. Donati - Like today, Ms. Freye.  
3874

3875 Ms. Freye - Yes. When I was talking to Mr. Donati and the phone dropped.  
3876

3877 Mrs. Quesinberry - Were you on Route 5?  
3878

3879 Mr. Donati - On Parham.  
3880

3881 Mrs. Quesinberry - Let the record show, that's the west end.  
3882

3883 Ms. Freye - Well, it happened on Route 5. It happened to me when I tried to  
3884 call home. So, I appreciate your consideration. I think that this is a reasonable solution. It  
3885 lets the neighbors have their opportunity to speak. They've sat here all evening. They deserve  
3886 that opportunity and I wouldn't want to deny that at all. But I would also ask for the  
3887 opportunity for the applicant to come back with another piece of information so that you can  
3888 either make an informed decision on an amended application, or we can withdraw it all  
3889 together and that will resolve the whole issue.  
3890

3891 Ms. Dwyer - Any more questions for Ms. Freye? Thank you. Would the  
3892 opposition come forward.

3893  
3894 Mr. Mike McCabe, Varina Beautification Committee - Members of the Planning  
3895 Commission...  
3896  
3897 Ms. Dwyer - You're busy tonight.  
3898  
3899 Mrs. Quesinberry - Mr. McCabe, you are the new member so they're making you  
3900 come to the meeting and stay all night? Is that how it works?  
3901  
3902 Mr. McCabe - I'm hoping I'm getting better each time I come up here.  
3903  
3904 Mrs. Quesinberry - That's what I thought. I just wanted to make that clear.  
3905  
3906 Mr. McCabe - You passed it the first time. We got a deferral the second time,  
3907 so...  
3908  
3909 Mrs. Quesinberry - So, Doctor Nelson, are you going to keep him? Does he pass,  
3910 Dr. Nelson? Okay.  
3911  
3912 Mr. McCabe - We are opposed to any tower that is within 1,500 feet of Route 5.  
3913 This one is 500 feet, so its one third of what the committee has set its standards to. But, as  
3914 stated and as proposed, you can see this tower driving east and west. I don't know if you  
3915 know this area, but if you visualize leaving main street, you cross the last set of railroad  
3916 tracks, coming out of the city past the train yard and you start up the hill. There's all this  
3917 beautiful country side and you're overlooking the river. Coming the other way, its one of the  
3918 best views of Richmond. At nighttime it is real nice. It's where they're proposing this tower.  
3919 I have a cell phone. I need it in my business and there's holes all throughout Varina. I realize  
3920 that, and I accept that. I wish coverage was better, but to take a scenic byway, especially  
3921 when you're leaving Richmond, I can talk to people all over the country. Richmond, Virginia,  
3922 we live between Richmond and Williamsburg, the plantations and Route 5. Everybody knows  
3923 that road. When you leave Richmond, that's going to be the first commercial thing you see.  
3924  
3925 We all know they're unattractive. We need them. Again, I need it for my day-to-day  
3926 business, but I just don't think, and the Committee feels the same way, that this is the place for  
3927 it.  
3928  
3929 Mr. Vanarsdall - Have you ever lost a call?  
3930  
3931 Mr. McCabe - I do not have their service, but, yes sir. Like they're talking  
3932 about going to I-295. I-295 is, in my eyes, half way through Varina.  
3933  
3934 Mr. Vanarsdall - Let me ask you a question. You heard what Ms. Freye just  
3935 suggested about the two towers or to get together with you. Are you in agreement with any of  
3936 that?  
3937

3938 Mr. McCabe - Two towers on that site, no. But in the general vicinity, sure.  
3939 Every site she mentioned is not along Route 5. I think there's other sites that can be found.

3940  
3941 Mr. Vanarsdall - Thank you.

3942  
3943 Ms. Dwyer - Any other questions for Mr. McCabe?

3944  
3945 Ms. Brenda Myers- Madam Chairman and members of the Commission, my name is  
3946 Brenda Myers. I live right here. I'm a new member to Varina, not like my neighbors who've  
3947 been there several decades.

3948  
3949 When I bought this property, I bought it because of the scenic beauty of the area, the  
3950 exclusiveness of it. I feel safe there. I'm a business woman. I'm out of town a lot. I never  
3951 fear when I leave my home that anything is going to happen to it. That's because of the nature  
3952 of the surroundings. I believe my neighbors feel the same way.

3953  
3954 Currently, living in this spot, and where this tower is to be located, there is no access to it; no  
3955 public access. That means that they're going to have to establish an access to come in, build it  
3956 and maintain it. In doing that, they bring a risk to our neighborhood. But I'm sure some of  
3957 my other neighbors will discuss this.

3958  
3959 Right here, where I'm pointing now (referring to slide) is where my house sits, and I have a  
3960 view of the City...I bought the house because I had a Florida room, very private. I sit there  
3961 every evening and watch the sun set as do my neighbors. This tower would be in my direct  
3962 line of view. It would cause me to have to privatize my house. I also believe it would  
3963 decrease my property value.

3964  
3965 On this piece of property here, the Elmore piece of property, Mr. Elmore does not live in that  
3966 neighborhood. He would, I believe, sit that tower there would create a precedent. If one  
3967 tower is there, what would prevent another company from coming in who wanted to launch  
3968 another tower? I mean it would be a disruptive element in this area. I mean coupled with the  
3969 scenic view of driving down Route 5. I see the tour buses coming by my house on weekends.  
3970 Even some days when I'm just out and about. I'm not sure. And it says, "Scenic Tour." I  
3971 don't think that's part of what we want people seeing as a "Scenic Tour." Even with the  
3972 representation of a tree tower, it was so obtrusive that it did not blend in with any kind of tree  
3973 I've ever seen. I don't know if Ms. Freye - Do you have a copy of what it will look like as a  
3974 tree?

3975  
3976 I think, at some point in time, all of you should see that because its not the pines. It's not the  
3977 oaks. It's not the spruces that are in that neighborhood.

3978  
3979 I had a couple of other things, and then I want to turn it over to some of my neighbors.

3980  
3981 One of the things that has happened already, and when I looked at the pictures that Ms. Freye  
3982 brought to the meeting last night, I realized that she could not have had some of those pictures



3983 if they had not come on my property and taken them. So, already I have my privacy intruded  
3984 upon.

3985  
3986 A couple of weeks ago at 7:00 o'clock in the morning, while I was having my morning coffee,  
3987 I looked out in my driveway and I think all of our driveways are very private on the west side  
3988 of Route 5 because they're acre or more lots. There's usually no more than one house to one  
3989 or two acres. So, it's not like there are a lot of people driving in our driveway or by our  
3990 driveway. I don't live on a public street except for Route 5. So, my drive is, to me, my  
3991 private area.

3992  
3993 I looked out at 7:00 o'clock in the morning, and Ms. Freye, and she admitted this, and a  
3994 companion were out heisting a balloon because they have no way to get to this property. So,  
3995 they're going to have impede upon all of us at some point in time to get there to create it, to  
3996 survey it, to do anything, because there is no public access to that lot.

3997  
3998 Ms. Dwyer - Thank you, Ms. Myers. Any questions for Ms. Myers? Next.

3999  
4000 Mr. Dick Gibbons - I'm a certified landscape architect. My 35 years of professional  
4001 experience, basically, involved the development of master plans for natural and park resources,  
4002 evaluation of roads and rivers for their scenic, historic and cultural and natural qualities and  
4003 also the development and coordination and preparation of environmental impact statements and  
4004 reports. So, I am familiar with the types of impacts that we look at when we look at projects  
4005 such as this nature.

4006  
4007 My wife and I live within view of this tower. We live right around the corner from the project  
4008 site. We support the staff report, which, basically, found that the tower was incompatible with  
4009 the community values.

4010  
4011 The tower is incompatible with the country road character of the highway which we have  
4012 worked hard in Varina to preserve and protect since it was designated in 1976. It will be a  
4013 major intrusion on the agricultural and residential values of the landscape around the tower and  
4014 in the community near the tower.

4015  
4016 The tower will be visible for about a mile east and west of the site. It will be visible from  
4017 Richmond, as I pointed out. It will be visible from the river.

4018  
4019 We now are a neighborhood which, basically, is known for its proximity to the valley—Tree  
4020 Hill Farm or to the river. And what we will become known as "a neighborhood next to the  
4021 tower," as now Varina High School is now known as "the high school next to the tower," and  
4022 Hatcher Street is the area where the tower is below Fulton Hill and Powhatan Hill. I don't  
4023 think that's where we want to be identified.

4024  
4025 I think its important to mention that the scenic values and the cultural values of Route 5 need to  
4026 be protected. And this is especially true with the Jamestown celebration that's going to take  
4027 place beginning in the year 2007 and running through the year 2019. Route 5 will be the route  
4028 people will take from Jamestown to the new market, Richmond, if, in fact, it is not cluttered,

4029 and if, in fact, it is maintained as a country road, and the character and the values of the road  
4030 are, in fact, protected.

4031  
4032 The merchants along Route 5 will benefit economically from that. If it becomes a Route 1, if  
4033 it becomes a Route 60, if it becomes a Route 60, or Broad Street, most people are going to get  
4034 on the Interstate 64, bypass Charles City County; bypass Henrico County and go to the New  
4035 Market, Richmond without spending any money really along Route 5. So, I think it becomes  
4036 an economic issue that has to be addressed.

4037  
4038 The tower reflects one intrusion which can be avoided. And, I might add, whether it looks  
4039 like a tree, or whether it looks like a spear, or whether it looks like a silo, or a weathervane, it  
4040 is still a major negative impact in the landscape. I think there's an expression, "You can't  
4041 make a silk purse out of a sow's ear." Well, this sort of falls into that category.

4042  
4043 My wife and I are opposed to this. We support the community and the staff in their opposition  
4044 to this tower. We would like not to see the property rezoned. I have petitions from our  
4045 neighbors on Long Street and in the immediate area of the tower, which reflect that opposition.  
4046 Thank you for the opportunity to provide you with this information.

4047  
4048 Ms. Dwyer - Any questions for Mr. Gibbons? Thank you, sir.

4049  
4050 Mr. Ed- Moseley - I'm speaking to you tonight on behalf of Julian B. Garber, who  
4051 owns the property just south of the Elmore property. Mr. Garber is not well, and not able to  
4052 be here tonight.

4053  
4054 Mr. Garber has written a letter to each of you. I've given you a copy of this letter. I will not  
4055 take the time to read this, but I would like to state that, in his letter, he states his opposition to  
4056 the tower and his support of his neighbors who are opposed to the tower. Thank you.

4057  
4058 Ms. Dwyer - Thank you, sir. I believe we all have copies of Mr. Garber's  
4059 letter.

4060  
4061 Mr. Moseley - And that letter will be written into your record?

4062  
4063 Ms. Dwyer - It will be included into the official record for this case.

4064  
4065 Mr. Moseley - Thank you.

4066  
4067 Ms. Dwyer - Any questions for Mr. Moseley about Mr. Garber's letter?  
4068 Thank you, sir. Any one else who would like to speak to the case? Okay. Would the  
4069 applicant like to come forward and use some rebuttal time?

4070  
4071 Ms. Freye - Yes ma'am. Just a comment. I think that it is evident from the  
4072 comments that have been made by the neighbors is what they're speaking to is what's in the  
4073 application before we've had these meetings, before the staff has had an opportunity to look at  
4074 the other alternatives. It seems we've already said we will not do. What we're asking now is

4075 for the opportunity to continue this hearing so that we can come back with either an amended  
4076 application that shows something that may be acceptable for your consideration, or if we  
4077 cannot split the cell and find something that truly would be a stealth design, as staff has  
4078 suggested, and the tree with the site that we were looking at, really turned out to be like a  
4079 lonesome pine.

4080  
4081 But if we can find a way to do a shorter tower, tuck it into the cedars or other trees, either on  
4082 this property or maybe some other, then we end up with withdrawing this. But, if we have the  
4083 opportunity to see what we can do, that what we're asking you to do is to continue the hearing  
4084 and delay your decision until we have all the information before you so that you can make an  
4085 informed decision. Thank you.

4086  
4087 Ms. Dwyer - Thank you, Ms. Freye. Any questions for Ms. Freye? Ready  
4088 for a motion, Mrs. Quesinberry?

4089  
4090 Mrs. Quesinberry - Yes. Ms. Freye, I'd just really like to thank you for the diligent  
4091 work that you've done on this, and other cases. I just want to you know that I really  
4092 appreciate how hard you work with the citizens and in the community trying to find  
4093 compromises and situations where the community can function and enjoy their environment  
4094 without any more intrusion than is absolutely necessary. And, many times, you've gone above  
4095 and beyond your diligence, looking for those areas where we can all find compromise and  
4096 serve the community and serve the business community as well.

4097  
4098 I think everybody knew that going into this case that this was going to be one of the, if not the  
4099 most, challenging cases. Obviously, it's a case that, because of the historical significance of  
4100 the area, the landscaping, the scenic quality; all of those things certainly add into this. The  
4101 residential area is 500 feet off the road. There are just so many challenges approaching this.  
4102 It has made it difficult from the beginning. And, both, you and the neighbors, I think in good  
4103 faith, worked as hard as you could. The neighbors that are sitting here tonight, for the benefit  
4104 of the Planning Commission, dutifully met twice with the applicant. And, I believe, since I  
4105 attended those meetings, they went in open minded. Certainly, they were not interested in an  
4106 intrusion into their neighborhood, but they really did go in open minded and they were looking  
4107 at what was available, what was going to happen, how would this look. They considered  
4108 options. They looked at pictures. They've looked at the balloon test. I think they did  
4109 everything that a good citizen should do in a neighborhood by being involved and getting  
4110 involved and getting themselves informed and really looking. So, I wanted to commend them,  
4111 too.

4112  
4113 In addition, they all stayed awake tonight. I don't know if I did, but they did. And they're  
4114 wide awake right now. So, they did real well. I'm going to let them leave early so I don't get  
4115 in the middle of that traffic jam going back to Varina.

4116  
4117 This has really just been a challenge, but one of the things that I can say from being involved  
4118 with it from the beginning is that although everybody had tried very, very hard on both sides  
4119 and considered all the alternatives and the stealth and everything that was available, and what

4120 would work and what wouldn't work, I don't see this case moving forward because I just don't  
4121 see it getting better.

4122  
4123 I know some of you shared with me when I first joined this Commission that "You can't make  
4124 a bad case good." You can take a good case and make it better, but you just can't take a bad  
4125 case and make it good. This, I think, is going to fall into one of those categories. No matter  
4126 what we do or how we move this thing. You know, the proposal is for 150 foot now. Even if  
4127 we can drop it down lower in this particular spot, and even if we could move it forward and  
4128 tuck it in the trees, if we turned it inside out, I just don't think its going to work in this spot on  
4129 this particular landscape and in this location.

4130  
4131 So, having said that, I would like to make a motion to recommend denial for P-5-99,

4132  
4133 Mr. Vanarsdall seconded the motion.

4134  
4135 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
4136 All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
4137 abstained). The motion carries.

4138  
4139 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mr. Vanarsdall, the Planning  
4140 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the  
4141 requested revocable provisional use permit.

4142  
4143 **C-87C-97** **Randall S. Jensen:** Request to conditionally rezone from B-1  
4144 Business District to B-2C Business District (Conditional), Parcel 51-10-1-21 (Laurel Dell  
4145 Subdivision), containing 0.32 acre located on the south line of Hungary Road, approximately  
4146 150' west of Woodman Road (2305 Hungary Road). An indoor recreation facility/model race  
4147 track is proposed. The use will be controlled by proffered conditions and zoning ordinance  
4148 regulations. The Land Use Plan recommends Commercial Concentration.

4149  
4150 Mr. Marlles - The staff presentation will be by Mr. Merrithew.

4151  
4152 Mr. Merrithew - Thank you, Madam Chairman.

4153  
4154 Ms. Dwyer - Is there any opposition to Case C-87C-97 Randall S. Jensen? No  
4155 opposition.

4156  
4157 Mr. Merrithew - This is a request that the Commission and the Board both  
4158 considered back in 1997. What the proposal is, an existing building on the south side of  
4159 Hungary Road, just west of Woodman Road. The applicant is proposing to rezone the building  
4160 and the site from B-1 to B-2C, in order to operate a slot car model racing facility - a  
4161 recreational facility, if you will, in a part of the building.

4162  
4163 The issue arose in the last case that the building, itself, is nonconforming. It does not have the  
4164 sufficient rear yard; sufficient transitional buffer to the rear against what is R-3 zoning to the  
4165 south of this site, and it does not have sufficient parking.

4166  
4167 At the time, the Commission recommended denial of the case for those reasons that it was non-  
4168 conforming. The Board of Supervisors initially recommended denial, and then upon  
4169 reconsideration, asked that it go back to the Planning Commission.

4170  
4171 We have, for various reasons, not considered this case for over a year. And that directly or  
4172 indirectly gave us the opportunity to track the number of calls for service by Police to the site  
4173 and so on. And there have been none.

4174  
4175 The site has operated since 1997 without incident and without complaint from the surrounding  
4176 neighborhood. That, to us, is an indication that it is compatible. So, we wanted to go back  
4177 and look at ways that we could resolve the non-conformities. The applicant, in the proffers,  
4178 that were handed out to you, tonight, has agreed to deal with the transitional buffer  
4179 nonconformity. And I would point out that the transitional buffer is something that can, I want  
4180 to say "be waived," or modified by the Director of Planning.

4181  
4182 But they have proposed to install a fence. If you can see the drawing on your screen, the race  
4183 track facility would be to the eastern side of the building, the little "L" at the rear of the  
4184 building. He would fence across that "L" the same fence that is now extending across the rear  
4185 of the adjoining property to the east, in that way, technically, screening the B-2 portion of the  
4186 building from the alley to the rear.

4187  
4188 I should have mentioned that earlier. There is a alley running across the rear of this property.  
4189 We had discussed putting a fence on the other side of the alley, and, perhaps, closing the alley,  
4190 giving him more land area to the rear. But, there are neighbors who use that alley for access.  
4191 They, in fact, go to Hungary Road through that alley and through the parking lot of this  
4192 building.

4193  
4194 That being the case, we decided that, perhaps, a fence along his side of the alley, screening at  
4195 least the rear door and the oil tank and so on, would be of benefit to the neighbors and address,  
4196 somewhat, the transitional buffer need.

4197  
4198 Secondly, the applicant has eight fewer parking spaces than the current ordinance requires.  
4199 And, we felt that it would be necessary to somehow provide sufficient parking, and ask that he  
4200 seek agreements with adjoining property owners to provide the additional parking. He has, in  
4201 just the past couple of days, succeeded in getting a written agreement with the Laurel Park  
4202 Shopping Center, or a user within the Laurel Park Shopping Center to share parking spaces  
4203 over there as needed. It's not the most ideal situation, but he also has a non-written agreement  
4204 with the beauty school next door to share parking spaces. They will not, for one reason or  
4205 another, put it in writing, but they have verbally commented to the applicant, as well as Mr.  
4206 Vanarsdall, that they're willing to provide parking.

4207  
4208 With the written agreement being, technically, a solution and the oral agreement being the real  
4209 solution, because there is sufficient parking for both uses next door, we feel that parking issue  
4210 may be resolved.

4211

4212 And then, finally, the new Proffer No. 7, commits the applicant to no structural changes that  
4213 would relate to the B-2 use in the building other than normal maintenance or routine  
4214 maintenance to the building. We feel that by not allowing any exterior changes to the building  
4215 and no structural changes to the building, that we are, indeed, minimizing or containing the  
4216 impact to that as might occur with a B-1 use and no more.

4217  
4218 With those proffers, the fence, the parking, and no structural changes, we feel that this case  
4219 has merit. With the fact that its operated so long without incident, it is compatible with the  
4220 neighborhood the use of an existing building. It maintains the viability of an existing building.  
4221 I believe, at this point, we can recommend in favor of approval.

4222  
4223 Ms. Dwyer - Thank you, Mr. Merrithew. Any questions for Mr. Merrithew?  
4224 Mr. Marlles - Mr. Merrithew, just a point of clarification. By policy, Requests  
4225 for Modifications of the Transitional Buffer are referred to the Planning Commission, even  
4226 though the Code does give that authority to the Director.

4227  
4228 Mr. Merrithew - My mistake. But it is something that is waiveable.

4229  
4230 Mr. Marlles - That's correct.

4231  
4232 Ms. Dwyer - Any questions for Mr. Merrithew? No questions. Would you  
4233 like to hear from the applicant, Mr. Vanarsdall?

4234  
4235 Mr. Vanarsdall - I wouldn't. No. This case began when Mr. Jensen went over to  
4236 the County and told him what he wanted to do and they gave him full authority to do that and  
4237 then two months later, we found out that he couldn't do what he wanted to do under the B-1  
4238 zoning. So, this is what started all of this.

4239  
4240 Mr. Jensen has really run a nice place since then. As John pointed out, there has been no  
4241 service calls from Police whatsoever. The other day I called the people who manage the  
4242 property, and they had the landlady call me and Mr. Merrithew and Mr. Jensen and I met with  
4243 the landlady. I asked her, would she do something with the building and the parking lot, and  
4244 she's going to resurface the parking lot and paint the building. So, we have made some  
4245 headway there.

4246  
4247 We walked where the fence would be. Mr. Jensen is going to put the fence up. I talked to the  
4248 beauty school next door, to Richard Garthright who is the owner. And he said he didn't have  
4249 any problem whatsoever with Mr. Jensen using his parking spaces, because he's closed when  
4250 Mr. Jensen is open, but he would not put it in writing. He just didn't do that. I even talked  
4251 about an "at will" lease where you could just tell him in the afternoon, "You can't park over  
4252 here anymore." And he said, "No. I can't do that." So, having said that, I recommend this  
4253 for approval to the Board. It meets the Land Use Plan, the Goals, Objectives, and Policies,  
4254 and I think it will be compatible to what's there. I appreciate your patience, Mr. Jensen.

4255  
4256 Mr. Jensen - Thank you.

4257

4258 Mrs. Wade - Do we need to waive the time limit?  
4259  
4260 Mr. Merrithew - Yes ma'am.  
4261  
4262 Mr. Vanarsdall - Yes. That's right. Thank you, Mrs. Wade. Under the  
4263 circumstances, we have to waive the time limit on the proffers which I'm making a motion  
4264 now to do that.  
4265  
4266 Mr. Archer seconded the motion.  
4267  
4268 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mr. Archer to  
4269 waive time limits for the amended proffers submitted today. All those in favor say aye—all  
4270 those opposed by saying nay (Mr. Donati abstained).  
4271  
4272 Mr. Vanarsdall - I recommend C-87C-97 to the Board of Supervisors for approval.  
4273  
4274 Mr. Archer seconded the motion.  
4275  
4276 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mr. Archer to  
4277 recommend for approval Case C-87C-97. All those in favor say aye—all those opposed by  
4278 saying nay (Mr. Donati abstained).  
4279  
4280 Mr. Vanarsdall - Thank you, and good night.  
4281  
4282 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mrs. Wade, the Planning  
4283 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the  
4284 proffered conditions and grant the request because it is reasonable; it would not adversely affect  
4285 the adjoining area if properly developed as proposed; and the business use is compatible with  
4286 surrounding development.  
4287  
4288  
4289 Mr. Merrithew - Madam Chairman, we received 14 new applications for April.  
4290 Your bylaws require that you only accept nine. They're all rezonings. Your bylaws require  
4291 that you only accept nine of them, unless you chose to waive that limit.  
4292  
4293 Ms. Dwyer - How many deferrals did we have to April, tonight?  
4294  
4295 Mr. Merrithew - I've got nine deferrals, plus nine new cases which is a pretty full  
4296 load. I am down one staff person for sure and one who is a short timer, lame duck  
4297  
4298 Mrs. Wade - Does that include an old deferral in my pile at home that says  
4299 May.  
4300  
4301 Mr. Merrithew - We're going to April. I think I've counted everything we have in  
4302 April.  
4303

4304 Mrs. Wade - Yes. I have an April one at home that was deferred from some  
4305 other time.  
4306  
4307 Mr. Merrithew - That would be C-81, perhaps, or C-83? In any event we're  
4308 recommending stay with nine.  
4309  
4310 Ms. Dwyer - What's the Commission's opinion on this? Shall we stay with the  
4311 nine, particularly in light if the view of the number of deferrals we have to April.  
4312  
4313 Mr. Merrithew - Madam Chairman, we'd like 10.  
4314  
4315 Ms. Dwyer - Ten? Ten what?  
4316  
4317 Mr. Merrithew - We'd like to take 10 cases forward, not nine.  
4318  
4319 Mrs. Quesinberry - What happens to the rest, just get backlogged?  
4320  
4321 Mr. Merrithew - They go to May. You don't need a motion. We'll go with 10.  
4322  
4323 Mr. Marlles - I'm not sure all of the Planning Commission members are aware  
4324 of your most recent news on one of your staff members. You might want to tell them what's  
4325 going on.  
4326  
4327 Ms. Dwyer - Well, I wasn't going to say anything because she is not here this  
4328 evening, but Nancy Gardner is leaving the office to pursue a PHD degree in Economics at  
4329 either American or Georgetown University.  
4330  
4331 Ms. Dwyer - I don't think that's a smart thing for her to do.  
4332  
4333 Mr. Merrithew - Well, I've been trying to tell her that. I hope you call her and tell  
4334 her that.  
4335  
4336 Mrs. Wade - We don't approve of that at all.  
4337  
4338 There being no further business, the meeting was adjourned at 12:05 a.m. on March 12, 1999.  
4339  
4340  
4341  
4342  
4343  
4344 

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Elizabeth G. Dwyer, C.P.C., Chairwoman  
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4347  
4348  
4349 

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John R. Marlles, AICP, Secretary



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4351  
4352