

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico held in the County Administration Building in the Government
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. May 9,
4 2013 Display Notice having been published in the Richmond Times-Dispatch on
5 April 22, 2013 and April 29, 2013.
6

Members Present: Mrs. Bonnie-Leigh Jones, C.P.C., Chairman (Tuckahoe)
Mr. Eric Leabough, C.P.C., Vice-Chairman (Varina)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Tommy Branin (Three Chopt)
Mr. Robert H. Witte, Jr. (Brookland)
Mr. R. Joseph Emerson, Jr., AICP,
Director of Planning, Secretary
Mr. Richard W. Glover,
Board of Supervisors' Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning,
Mr. James P. Strauss, PLA, Principal Planner
Mr. Seth Humphreys, County Planner
Mr. Benjamin Sehl, County Planner
Mr. Livingston Lewis, County Planner
Mrs. Lisa Blankinship, County Planner
Mr. John Cejka, Traffic Engineer
Ms. Kim Vann, Henrico Police
Ms. Sylvia Ray, Recording Secretary

7
8 **Mr. Richard W. Glover, the Board of Supervisors' representative, abstains**
9 **on all cases unless otherwise noted.**

10
11 Mrs. Jones - I'd like to call this meeting of the Planning
12 Commission for Henrico County to order. This is our May 9th Rezoning meeting. I
13 thank you all for being here. I would ask that you take your cell phones and either
14 turn them off or mute them so that they won't interrupt the proceedings. And as
15 you do that, would you please rise and pledge allegiance to the flag.
16

17 I do not believe there's anyone here tonight from the news media. If there is,
18 please say hello. No? We do have all our Planning Commissioners with us
19 tonight. We do have a quorum, so we can conduct business. I welcome Mr.
20 Glover from the Board of Supervisors, the Brookland District, who is the
21 representative to the Planning Commission for this year. We appreciate his being
22 here. I would like to tell you that on all cases that are brought before the
23 Commission, Mr. Glover will abstain, unless noted otherwise.
24

25 Mr. Glover - And the reason for that?
26

27 Mrs. Jones - The reason for that is because Mr. Glover will see
28 these cases at the Board level when they come forward to the Board of
29 Supervisors.

30

31 Mr. Glover - Thank you.

32

33 Mrs. Jones - You're welcome. All right. Our secretary is Mr.
34 Emerson. I will turn the meeting at this point over to him.

35

36 Mr. Emerson - Thank you, Madam Chair. The first item on your
37 agenda tonight are the requests for withdrawals and deferrals. You have one
38 withdrawal and one deferral, and those will be presented by Mr. Jim Strauss.

39

40 Mr. Strauss - Thank you, Mr. Secretary. We do have a request for
41 withdrawal this evening. It's in the Fairfield District and on page two of this
42 evening's agenda, it's a Provisional Use Permit, PUP2013-00010. The applicant
43 has withdrawn this case and no action is required by the Commission.

44

45 **PUP2013-00010 Carrie E. Coyner or Kristen D. Keatley for Haeja O.**
46 **Namkoong:** Request for a Provisional Use Permit under Sections 24-58.2(a),
47 24-120 and 24-122.1 of Chapter 24 of the County Code in order to allow 24 hour
48 operation of a proposed restaurant (Waffle House) on Parcel 787-746-0898
49 located on the west line of Chamberlayne Road (U.S. Route 301) approximately
50 850' north of Wilmer Avenue. The existing zoning is B-2 Business District. The
51 2026 Comprehensive Plan recommends Commercial Concentration.

52

53 Mrs. Jones - All right, thank you. Are there any other withdrawals?

54

55 Mr. Emerson - There are no other withdrawals, but the withdrawals
56 and deferrals are together.

57

58 Mr. Strauss - So moving on to the deferrals, we do have one
59 request for deferral this evening. It's in the Brookland District, page two of the
60 agenda. It's REZ2013-00007, Mr. Harry Snipes. The applicant is requesting a
61 deferral to the June 13th meeting.

62

63 **REZ2013-00007 Harry Snipes:** Request to conditionally rezone from
64 A-1 Agricultural District to R-3C One-Family Residence District (Conditional) on
65 part of Parcels 755-769-7664 and 755-769-3074 containing 11.16 acres located
66 between the west line of Springfield Road at its intersection with Jacobs Creek
67 Drive and the eastern terminus of Kimbermere Court. The applicant proposes a
68 single-family residential development. The R-3C District allows a minimum of
69 11,000 square feet and a maximum density of 3.96 units per acre. The use will
70 be controlled by zoning ordinance regulations and proffered conditions. The 2026
71 Comprehensive Plan recommends Suburban Residential 2, density should not
72 exceed 3.4 units per acre.

73 Mrs. Jones - Is there anyone with us tonight who is in opposition to
74 the REZ2013-00007, Harry Snipes? There are folks here in opposition. Are you
75 opposed to the deferral of this case? Anyone opposed to the deferral of this
76 case? Okay, there is no opposition to the deferral.

77

78 Mr. Witte - Madam Chair, I move for deferral for case REZ2013-
79 00007, Harry Snipes, at the request of the applicant, to the June 13th meeting.

80

81 Mr. Leabough - Second.

82

83 Mrs. Jones - Motion by Mr. Witte, second by Mr. Leabough. All in
84 favor say aye. All opposed say no. The ayes have it; the motion passes.

85

86 At the request of the applicant, the Planning Commission deferred REZ2013-
87 00007, Harry Snipes, to its meeting on June 13, 2013.

88

89 Mr. Emerson - Madam Chair, next on your agenda would be
90 requests for expedited items, and there are none this evening, leaving four cases
91 to be heard by the Commission. The first case on your regular agenda is
92 PUP2013-00003.

93

94 **(Deferred from the April 11, 2013 Meeting)**

95 **PUP2013-00003**

96 **Gloria L. Freye, Esquire for Richmond 20MHz, LLC**
97 **(nTelos):** Request for a Provisional Use Permit under Sections 24-95(a)(3), 24-
98 120 and 24-122.1 of Chapter 24 of the County Code in order to construct a 169'
99 telecommunications tower on part of Parcel 748-746-6665 located on the north
100 line of Quioccasin Road (State Route 157) approximately 650' north of its
101 intersection with Shane Road (Byrd Middle School). The existing zoning is A-1
102 Agricultural District. The 2026 Comprehensive Plan recommends Government.

102

103 Mr. Emerson - The staff report will be presented by Mr. Ben Sehl.

104

105 Mrs. Jones - I know the answer to this, but I need to ask. Are there
106 folks here who are in opposition to this case PUP2013-00003, Gloria L. Freye,
107 Esquire for Richmond 20MHz, LLC?

108

109 Male - [Speaking off microphone.] Yes ma'am.

110

111 Mrs. Jones - I knew that. Thank you. For that reason, I'm going to
112 ask our secretary to explain how we handle cases with opposition here at the
113 Planning Commission.

114

115 Mr. Emerson - Yes ma'am. The Commission does have regulations,
116 or rules, governing their public hearing process, and they are as follows. The
117 applicant is allowed ten minutes to present the request and time may be reserved
118 for responses to testimony. Opposition is allowed ten minutes to present its

119 concerns. That's cumulative. The Commission questions do not count into the
120 time limits for either party. The Commission may waive the limits for either party
121 at its discretion

122
123 Mrs. Jones - For those of you who haven't been to a Planning
124 Commission before, we'll have the staff report, and then we will hear from the
125 applicant. And at that point, you may come forward then and voice your
126 concerns. All right. Mr. Sehl, good evening.

127
128 Mr. Sehl - Thank you, Madam Chair.
129
130 This is a request for a Provisional Use Permit to construct a 169-foot-tall
131 monopole-style telecommunications tower and related equipment at Harry Flood
132 Byrd Middle School. The school property is located at 9400 Quiocassin Road and
133 is zoned A-1 Agricultural District.

134
135 Mrs. Jones - Excuse me. Mr. Sehl, can you bring that microphone
136 a little closer? Thank you.

137
138 Mr. Sehl - I apologize for that.

139
140 Mrs. Jones - Okay.

141
142 Mr. Sehl - The Zoning Ordinance allows telecommunication
143 towers to exceed 50 feet in height in an A-1 District with the approval of a
144 Provisional Use Permit. The Ordinance also requires telecommunications towers
145 to meet specific setbacks, and as required, the base of the proposed 169-foot
146 tower would comply with the 50-foot minimum setback to all property lines and
147 would be located at least 110 percent of the tower height away from any
148 residential property line.

149
150 The 2026 Comprehensive Plan recommends the site for Government uses. The
151 request is consistent with the goals and objectives of the 2026 Comprehensive
152 Plan regarding government uses as well as the telecommunication section of that
153 plan. The monopole design with internal antennas, opportunities for future co-
154 location, and the location of the proposed tower on County-owned property
155 comply with policies and objectives related to wireless communication facilities.
156 Additionally, staff believes the concerns raised by adjacent residents regarding
157 radio frequency emissions and visual impacts have been addressed by the
158 recommended conditions to the extent allowed under the FCC
159 Telecommunications Act of 1996.

160
161 The proposed tower would be a 165-foot "slick stick" monopole with 4-foot
162 lightning rod, as shown on this exhibit. The monopole tower would have
163 internally-mounted panel antennas and have co-location opportunities for other
164 wireless communications providers. The tower and associated ground equipment

165 would be located within a 50-by-50 lease area, which would be located in a
166 wooded area approximately 160 feet northeast of the middle school, as shown
167 here.

168
169 The ground equipment would consist of fully enclosed and secure equipment
170 cabinets. All necessary cables would be buried or enclosed within the equipment
171 cabinets or towers or provided in between those equipment cabinets. Access to
172 the lease area would be secured by an 8-foot-high double swing composite
173 board gate, as shown here.

174
175 The fence would also be screened by landscaping, and the placement of this
176 landscaping will be determined at the time of building permit application per
177 Condition 14.

178
179 The proposed conditions in the staff report are similar to those of previously
180 approved telecommunication towers in the County. Staff notes that two additional
181 conditions are proposed as indicated on the handout in front of you. These
182 conditions address concerns noted at the community meeting and in citizen
183 correspondence by requiring timely repairs should maintenance issues be
184 identified with the fence, as well as requiring the Pemberton Elementary School
185 principal be notified should tower maintenance be necessary during school
186 hours. Notification of the Byrd Middle School principal is already addressed in the
187 applicant's lease agreement with the School Board.

188
189 Overall, staff believes a properly regulated telecommunications tower would be
190 compatible with surrounding uses and consistent with the goals and
191 recommendations of the 2026 Comprehensive Plan. The siting and overall height
192 of the proposed tower is similar to others recently approved within the County
193 and would meet the applicant's stated coverage needs. For these reasons staff
194 supports this request.

195
196 I'd be happy to try and answer any questions you may have at this time.

197
198 Mrs. Jones - All right. Mr. Sehl, can you just go over those two
199 additional conditions which are specific to this site?

200
201 Mr. Sehl - Yes ma'am. As you'll recall, at the most recent
202 community meeting—I believe it was on April 29th—there were concerns noted
203 about the notification of Pemberton Elementary School. Had Condition 16 out of
204 order a little bit; I apologize for that.

205
206 Mrs. Jones - That's okay.

207
208 Mr. Sehl - And currently the lease agreement that the applicant
209 has executed with the School Board requires that they notify the principal of Byrd
210 Middle School, as the tower facility is located on the Byrd Middle School property

211 and is accessed through the Byrd Middle School property. However, given the
212 close proximity of Pemberton Elementary School, the residents in the area asked
213 that Pemberton be notified in a similar manner. So the applicant, rather than
214 modifying the lease agreement, staff has made an additional condition to that
215 effect.

216

217 Mrs. Jones - Okay. And that was a concern.

218

219 Mr. Sehl - Yes ma'am.

220

221 Mrs. Jones - Okay.

222

223 Mr. Sehl - Condition 15 has been added because some citizen
224 correspondence, as I noted in my presentation, sent some pictures from a
225 recently approved tower located elsewhere in the County where there were some
226 issues with the maintenance of the fence and the lock that was located on that
227 fence. So this is to provide extra enforcement possibilities for the County should
228 the County be made aware of such maintenance needs. Within ten days of the
229 notice of those needs, the applicant being made aware of them by the County,
230 they would commence repairs that are necessary. So that's to try and address
231 that specific issue.

232

233 Mrs. Jones - All right. Are there questions for Mr. Sehl?

234

235 Mr. Archer - Mr. Sehl, I notice that there is no array, that the
236 antenna would be internal.

237

238 Mr. Sehl - Yes sir.

239

240 Mr. Archer - If additional or co-locators are on this tower, can the
241 additional antennas also be internal?

242

243 Mr. Sehl - They're required to be internal, Mr. Archer.

244

245 Mr. Archer - Okay.

246

247 Mr. Sehl - The exhibit as shown here shows four possible array
248 locations within the 165-foot, with the 4-foot lightning rod. And then Condition 6
249 that was included both in your staff report and the handout in front of you
250 requires that such antennas be located inside the tower.

251

252 Mr. Archer - I was just sort of wondering if it was possible to put
253 that many inside the antenna.

254

255 Mr. Sehl - The applicant probably could answer that a little bit
256 further from a technical perspective. But as shown the exhibit, that would be
257 required per the conditions.

258

259 Mr. Archer - Okay.

260

261 Mr. Branin - Mr. Sehl, usually we see a balloon float of how it
262 would appear. Did they provide one of those?

263

264 Mr. Sehl - Staff has attended several balloon floats at this
265 location. They've moved to a couple of different locations. The most recent
266 balloon float was held I believe on April 27th or 25th, I believe. These are pictures
267 that staff took during the course of that balloon float.

268

269 Mr. Branin - That's off Pemberton?

270

271 Mr. Sehl - Yes sir, that's off of Pemberton. I'd be happy to run
272 through some of them, if you'd like.

273

274 Mr. Branin - Please, if you wouldn't mind.

275

276 Mr. Sehl - Okay. This is at the intersection of Pemberton and
277 Quioccasin. There's a DMV facility there, if you're familiar with that location. This
278 would be Pemberton Elementary School here. This is, again, a similar location.
279 This is from Quioccasin Road directly in front of I believe the bus loop to
280 Pemberton Elementary School. It's a little bit tougher to see from that location.
281 This is over at Farmington Drive. So on the other side of the Byrd site on
282 Quioccasin Road facing to the northeast. This is on the Byrd Middle School site
283 at the back of their parking lot facing almost due east. So the wood line is here.
284 The Byrd Middle School actual building is here, tennis courts. There's a County
285 fueling facility located at this location. And this is almost looking directly up the
286 bus drive into Byrd Middle School from Quioccasin. This is from the
287 neighborhood to the north. This is Tracy Court that loops around in this location
288 to the north of the subject site.

289

290 They were flying two balloons at this point because they were evaluating two
291 locations. This was the previous northern balloon. You can't quite see the balloon
292 back in here at the final location. And then this is once they moved it down and
293 they removed the second balloon. It's further back.

294

295 Mrs. Jones - Mr. Sehl, I think it's worth repeating because this is
296 not usual. This balloon float was done with two different locations as an
297 experiment to see how each was going to function in that area. Normally we don't
298 see two red balloons. If you could point out the one that has been discounted
299 versus the one that represents the site before us tonight.

300

301 Mr. Sehl - Yes ma'am. This one here as shown here, this shows
302 both balloons. The one where the cursor is over right now is the proposed
303 location.
304
305 Mrs. Jones - That's the proposed location.
306
307 Mr. Sehl - This was a previous location that was referenced in
308 your last staff report.
309
310 Mrs. Jones - And that was deemed too intrusive on the
311 neighborhood. Can you go back to the other ones?
312
313 Mr. Sehl - This is the one that was deemed too intrusive. It's
314 difficult to see. Let's see if I can find it. It's back in here.
315
316 Mrs. Jones - There it is, I think.
317
318 Mr. Leabough - That's the proposed.
319
320 Mr. Sehl - Right. And this one I don't—there you can see the
321 second balloon. So this was the one that was removed from consideration and
322 the one under consideration before you this evening. Four compass cardinal
323 points there of the location, the last being directly from the north.
324
325 Mrs. Jones - Other questions for Mr. Sehl?
326
327 Mr. Leabough - I have a question on Proffer 1, just a question about
328 what triggers the ninety-day period. It looks like if the communication tower, the
329 use is discontinued for 180 days, but I didn't notice any language that triggers the
330 ninety-day removal period.
331
332 Mr. Sehl - In this instance, I think there are a couple of factors
333 that would play into that. You'll see the second part of that condition discusses
334 us requesting the status of the tower. And they have to reply to us within a
335 certain point. Should we either be alerted by a citizen or something else that a
336 tower has ceased to function, then we could request that information from the
337 tower owner, and get a length of time of how long it's been inoperative. That at
338 that time would start that ninety-day clock that you referenced. I'm not aware of
339 any where that has taken place, so it's difficult to say exactly how that would
340 function. But in my mind that's how it would function, sir.
341
342 Mr. Leabough - Okay.
343
344 Mrs. Jones - The reason that that is in there is because when we
345 tried to have the big picture, we want to make sure that the landscape's not
346 dotted with towers that are not functioning. It's either for a purpose or it's gone.

347

348

Mr. Sehl - Yes ma'am.

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Mr. Leabough - I just wanted to make sure that there wasn't any uncertainty or un-clarity around when that ninety-day period began. Right now it only refers to if the tower is not used for a 180-day period. But it doesn't say that within ninety days after the 180th day it has to be removed.

Mrs. Jones - I think that that is the intent; however, the discovery of that or the confirmation of that may not be on 180, it may be on day 206. Therefore, you end up having a ninety-day period following that.

Mr. Emerson - Well hopefully it would begin at the end of 180 days, the way it's worded. That's the way I would interpret it. They would have 180 days. At the end of that 180 days, they have ninety days. Hopefully we would be aware of that. We have not had this situation yet, so I'm not sure exactly—as Mr. Sehl noted—how this would flow in the event someone quit using a tower.

Mr. Leabough - The only other question that I have relates to the new proffer, number fifteen. It says that maintenance shall commence within ten days, but it doesn't give a time frame for completion.

Mr. Sehl - A lot of it would depend—If the Commission wanted to consider an end date for that as well—

Mr. Leabough - In maybe thirty days or something like that.

Mr. Sehl - And that's certainly something that's possible—

Mr. Leabough - Because if they go out mobilizing, take a screw out, they've commenced. But that doesn't mean that they were complete.

Mr. Sehl - The hope would be that they would want to keep it maintained as well, obviously, but yes, that is something that could be included in the conditions.

Mr. Witte - I have one question. Do you have an approximate life expectancy period for this tower?

Mr. Sehl - I don't specifically, sir. That might be a question that the applicant could answer directly. The Provisional Use Permit is good for the tower at that height and the length of that, there's no sunset on the condition, the Provisional Use Permit itself. But no, I don't have a specific—what the—how often, or if, they have to be replaced on any greater frequency than, say, light poles.

393 Mr. Witte - Thank you.
394
395 Mr. Sehl - Yes sir.
396
397 Mrs. Jones - All right. Is that all the questions for Mr. Sehl?
398
399 Mr. Sehl - Thank you.
400
401 Mrs. Jones - Mr. Sehl, don't go too far. I'm sure we'll be calling you
402 back. All right. I'd like to hear from the applicant. I believe that it's important for
403 the applicant who is proposing this tower to go ahead and make their
404 presentation. I know that there are many people here who have questions. While
405 she's getting set up, I would just ask that those of you who are here in opposition,
406 just kind of think how you want to present your discussion points. And please try
407 not to repeat the same points so that we can discuss the total number. Okay?
408 Your name, please, for the record.
409
410 Ms. Freye - Good evening, Madam Chair, members of the
411 Commission. My name's Gloria Freye. I'm an attorney from McGuire Woods here
412 on behalf of nTelos. Also here this evening is Marc Cornell, representing nTelos.
413 And representing the school administration is Al Ciarochi.
414
415 I'd like to start by recognizing—
416
417 Mr. Emerson - Excuse Ms. Freye, would you like to reserve some
418 time of your ten minutes for rebuttal?
419
420 Ms. Freye - I'm a little concerned it's going to take me the full ten
421 minutes to get through, but I will reserve one minute.
422
423 I'd like to start by recognizing the time and effort, all the work that's been
424 invested by the citizens that are here this evening. The school representatives,
425 the staff, Mrs. Jones and Mrs. O'Bannon, in getting this case prepared to come
426 before you this evening. We've been working on this for quite some time. We did
427 have three community meetings. We had four balloon floats. And we had four
428 mailings to over 400 citizens each one of those times. As a result, the case that's
429 before you this evening is very much improved over the initial application, thanks
430 to all the input that we've received. The report from Mr. Sehl is very thorough, but
431 I would like to explain through some of my slides the need for the pole, the other
432 sites that were considered before getting a lease with the school, and showing
433 some photo simulations, Mr. Branin.
434
435 As Mr. Sehl explained, the request is a 169-foot-high telecommunications pole
436 consisting of a 165-foot pole with a 4-foot lightning rod. Most of you know that the
437 lightning rod is not visible, it's the pole. But you have to have the ultimate height
438 in the Provisional Use Permit.

439

440 nTelos needs this new facility to improve its network coverage and its capacity
441 for data services. Recently, the industry has realized that the demand for voice
442 communications has actually plateaued, whereas the demand for data services
443 has dramatically increased as people rely more and more on their smartphones.
444 They have more and more applications on that, and there's an app for
445 everything.

446

447 I do have some propagation maps that show what the existing situation is. And
448 the objective is to change as much of the yellow on this to green. The yellow is
449 outside vehicle coverage and the green is the indoor coverage with more reliable
450 service. So the arrow is right there. This would be the proposed site on Byrd
451 Middle School.

452

453 The next propagation map shows that the area around there has turned mainly to
454 green, giving the in-house service that they're looking for.

455

456 The next map is the area with the star that shows generally, where the search
457 area was for a new facility that would meet the need that they have. It's about a
458 half-mile search area that they looked in.

459

460 The normal process, and what nTelos did here, as every other site, is the first
461 thing they do is they look for an existing tower or a tall structure where they can
462 mount their antennas. That's important for a lot of reasons. Co-location would
463 save them money and time by not having to build a new facility. Co-location
464 would save them the cost, the time, and the uncertainty of going through a
465 zoning process. Co-location would also comply with the County's policy to avoid
466 the proliferation of towers.

467

468 nTelos researched four existing towers in this general area. Unfortunately, none
469 of them worked for various reasons. Either there wasn't space available, the
470 zoning of the pole restricted it to a single user, and two of the towers were just
471 too far away from the desired coverage area.

472

473 As there were no existing towers they could co-locate on, then they had to look
474 for new build sites. The first site that they looked at as a new build was the West
475 End Presbyterian Church, which is also on Quioccasin. nTelos worked with the
476 church and looked at several different locations on their property, but did not
477 really find one that the church was agreeable to, and so they weren't able to
478 agree on a lease.

479

480 The next site that they looked at was Fire Station 9, which is immediately across
481 the street on Quioccasin. The fire station was ruled out at the first go-round
482 because the site is very small, and that fire station is under a rebuild right now.
483 nTelos revisited Fire Station 9 later when we learned that the County had
484 acquired some adjacent properties for a recycling center. So we were hoping that

485 with additional land maybe we could find a site that would meet the setbacks on
486 the fire station property. Unfortunately, because of the improvements that the
487 County was making there, and because of the topo elevations on that property,
488 and because of the required setbacks, nTelos couldn't find any site on that
489 property that would meet the setbacks. So, we had to rule that out again for a
490 second time.

491

492 I listed those six sites for you that they did consider before coming to the school
493 property, this next map shows the surrounding locations of the antennas facility.
494 The red in the center would be this proposed site. The blue dots around it is
495 where nTelos already has antennas. The neighbors suggested that we look at
496 the water treatment plant property, which I believe is right around this area. But
497 you can see how close that would be to the facility that's there at the Interstate
498 64 interchange. It would be too close to that and outside the search area that
499 they were looking in. So we ruled that out as well.

500

501 So considering the County policy to locate telecommunication facilities on
502 County-owned property, nTelos did approach the School Board, negotiated with
503 them, and was able to enter a lease contingent upon the approval of a
504 Provisional Use Permit.

505

506 Mr. Sehl has shown you the site plan. This is actually the third location that was
507 considered for this property. The first site was at the corner of the tennis court in
508 this general area. Very much out in the open. No screening whatsoever. With the
509 visibility and the height of that proposed pole—it's in a lower area of the
510 property—that was deemed to be just too visible, too obtrusive. So the next
511 location we looked at was in the trees in this area. And that was the photo that
512 we just looked at where you had the two balloons floating. And it was too close to
513 these residences so that it was visible above the trees at that height. So we
514 shifted it again down to this location, closer to Quioccasin, farther from the
515 residences, and lowered the height. So during the course of this, the height has
516 changed from—it went from 194 to 184 to 169. At this proposed location, 169,
517 where it would meet all of the setback requirements.

518

519 These changes have provided the screening that's needed so that you would not
520 have any view that would be totally unobstructed. So you would have either
521 buildings or trees that would help obstruct the view of the pole.

522

523 Mr. Sehl did explain that this is a slick stick with all the antennas and cables
524 inside the pole, and that co-locators would have to co-locate inside as well. It
525 would be a flat gray steel color so that it wouldn't rust or need maintenance. It
526 would not require lighting, so there would be nothing to attract attention to it.

527

528 This is the map that Mr. Sehl showed you about where the photographs were
529 taken for the balloon float. These are photo simulations where we used a
530 computer to actually insert the pole at that height so you can see how it looks in

531 the skyline. This is the view from Farmington Drive and Quioccasin. This is the
532 view from across the street at the fire station. This is a few from Quioccasin and
533 Pemberton. This is a view from Pemberton Road. This is a view from Tracy
534 Court, the closest houses. Now this first one has an arrow that points to the
535 balloon. The next one shows that without the balloon and without the arrow how
536 the pole blends in with the trunks of the trees. This is another view along Tracy
537 Court, the closest house.

538

539 Mrs. Jones - Ms. Freye? I'm sorry. You are close to your time. You
540 have about a half a minute.

541

542 Ms. Freye - I was afraid of that.

543

544 Mrs. Jones - I would like to request that you go carefully through
545 these photo sims. I will request that. And then maybe you can go through the rest
546 of your presentation in a short time after that. But I think these photo simulations
547 are very important for the folks.

548

549 Ms. Freye - I'll slow down a little bit.

550

551 Mrs. Jones - Yes, yes.

552

553 Ms. Freye - Okay. So this is further down Tracy Court where
554 again, the balloon is in the trees with the red balloon and with the arrow pointing
555 to it. But when you do the photo simulation, you can see how the pole is
556 effectively screened by the trees.

557

558 This is another view from that neighborhood where we had the arrow and the
559 balloon, but with the photo—I don't think we did a photo simulation of the next
560 one because it really didn't show up at all. So this is closer. This is also Tracy
561 Court as it wraps around and is closer to the intersection to Della Drive.

562

563 So from all these photos in the neighborhood, you can see that it's not above the
564 trees, and it is screened by the trees so that you have an obstructed view of the
565 pole.

566

567 Mr. Branin - Ms. Freye, can I ask a question?

568

569 Ms. Freye - Mmm-hmm.

570

571 Mr. Branin - When were these taken?

572

573 Ms. Freye - These were taken in April. So the balloon float was
574 April 25th, I believe.

575

576 Mr. Branin - Okay.

577

578 Ms. Freye - I think the important thing to notice from these balloon
579 floats and photo sims is that from nowhere, either on the site or off the site, is
580 there an unobstructed view of the pole. It's either screened totally by trees or it's
581 screened in part by trees and buildings. Unlike the very first location that we had,
582 which was visible to just about everybody. So it is much improved.

583

584 We did consider the effects of the location. It is our position, or we believe that
585 with the screening and the distances that are being provided with this location,
586 that there should be no negative impact on the values of homes. Interestingly,
587 the assessor's office in Henrico does not consider either the proximity to, or the
588 view of, telecommunication poles in their assessments. Actually, some realtors
589 have said to me that having reliable in-house service could be a good selling
590 point for the younger generation, which is coming to rely on their cell phones so
591 strongly as they do.

592

593 nTelos really did go above and beyond in its outreach to notify the residents and
594 to engage them in the review of this site. nTelos listened to the concerns. We
595 explained that the facility is in compliance with the RF emissions regulations, and
596 a compliance report is on file with this case.

597

598 The site was moved several times. There were several balloon floats. The height
599 was lowered several times. nTelos has worked very closely with the staff to come
600 up with conditions to address and mitigate the concerns that have been raised.
601 nTelos is agreeing to all of the conditions and would be very happy to agree to a
602 thirty-day period to correct any maintenance problems that are discovered.

603

604 The engagement of the citizens really has been a positive result here. It was one
605 of the neighbors that informed nTelos about a maintenance problem at the
606 Pouncey Tract installation in Mr. Branin's district. The gate had been vandalized
607 and not properly repaired. And it was one of the neighbors that brought that to
608 our attention. The workers are actually scheduled to be on that property in the
609 morning to correct that problem.

610

611 Mrs. Jones - Ms. Freye, could you summarize, as far as the time
612 goes?

613

614 Ms. Freye - Yes. Again, we thank the citizens, the Planning staff,
615 Mrs. Jones, for all the time and work you've put into this, helping us to work out
616 these issues and concerns and to come up with conditions. And we would ask
617 that you recommend approval with the revised conditions.

618

619 Mr. Witte - Excuse me. Ms. Freye, do you have any idea how
620 many cell phones are in Henrico County?

621

622 Ms. Freye - No sir, I do not.

623

624 Mr. Witte -

Okay.

625

626 Ms. Freye -

I don't even know how many towers.

627

628 Mr. Witte -

It's almost one per person, I think.

629

630 Ms. Freye -
631 much.

Yes. I wouldn't disagree, but maybe not quite that

632

633 Mr. Witte -

I know people that have children that have two of their own, plus one for almost everybody over the age of six.

635

636 Ms. Freye -
637 have some for personal use as well.

And there are folks that have some business and they

638

639 Mr. Witte -

Right.

640

641 Ms. Freye -

And there are folks who work from their homes a lot so that having reliable service is important on that front as well.

642

643 Mr. Witte -

All right. Thank you.

644

645 Mrs. Jones -

Ms. Freye, the question was asked earlier about life expectancies of towers. Are you aware of that?

646

647 Ms. Freye -

I do not know the answer to that. In talking with Mr. Ciarochi about light poles at stadiums, the schools' experience has been that those last for about thirty years. But I don't think that the structural analysis that we filed with this case addresses that. It addresses that the poles are designed to withstand ninety-miles-per-hour winds and that the foundation will support even with ice on the towers. The design of the poles is with a breakpoint so that forty feet down from the top of the pole there is a breakpoint that if in some catastrophic windstorm, tornado, hurricane, that that breakpoint would be affected, then the top of pole would be folded over onto itself. And with the cables being inside, that would help to hold it in place there against the base of the pole. So structurally it is going to be much more sound than the trees around it in the event of a very bad weather event.

648

649 Mrs. Jones -

Are there questions for Ms. Freye? Okay.

650

651 Ms. Freye -

Thank you.

652

653 Mrs. Jones -

Thank you. Again, don't go too far, please. We have talked so much about this case, all of us, that my questions have been answered. But I know my fellow Commissioners may be seeing this for the first time. Those

654

655

656

669 folks that are in opposition to this case, we would like to hear what you have to
670 say. So however you'd like to lead this off, when you come to the microphone,
671 would you please state your name for the record—these are recorded
672 proceedings—and let us know your address. And then please let us know the
673 comments that you'd like to make. Anybody?
674

675 Ms. Swanson - Good evening. My name is Kellie Swanson. I am a
676 mother of a child at Pemberton Elementary School. One of the things that I'd like
677 to ask you to take under consideration tonight is a couple things that were left off
678 of the site plan, as well as the presentation here tonight by nTelos, and that is the
679 fall zone. Currently, the track and the playground, as well as the bus loop, and
680 the partial part of Byrd Middle School is within the fall zone of this tower.
681 Currently County code says that it has to be within 110 percent of the tower's
682 height, and that's for residential and property lines and buildings. And I
683 understand that playgrounds, play equipment, track and field, schools in general,
684 have never been considered for fall zone regulations. However, I'd like to ask you
685 to make the decision that that could be a consideration when approving or
686 disapproving this provisional land use permit.
687

688 You can see on this plan that they have left the track and the playground of
689 Pemberton Elementary School off of the plan. The track is located right here.
690

691 Mrs. Jones - Ms. Swanson, I believe we do have a graphic that will
692 show that.
693

694 Ms. Swanson - Okay.
695

696 Mrs. Jones - Because we had it up for the presentation, if I recall.
697

698 Ms. Swanson - I think the aerial photograph shows it.
699

700 Mrs. Jones - Would you like to have that brought up?
701

702 Ms. Swanson - Sure, that would be great.
703

704 Mrs. Jones - There we go.
705

706 Ms. Swanson - So there you see the track. And you can do the quick
707 calculation. I think that we estimated that the fall zone should be approximately
708 186 feet, and the playground is located 130 feet from the tower. The edge of the
709 track is 120 feet from the center of the tower.
710

711 Mrs. Jones - I just had a question, so that you can clarify. The
712 equipment seen in the middle of the track is the playground.
713

714 Ms. Swanson - Yes. And I'm speaking of the actual edge of that play
715 equipment. Obviously it doesn't cover the entire thing. I think I calculated that it
716 goes about sixty feet into the playground, that you can see the little square on the
717 inside of the track. Right here.

718

719 So we've been over with nTelos a couple of things regarding the structure of the
720 tower. They argue that the tower is meant to collapse on itself and not fall over
721 and outward. But under the current codes of Henrico, it still requires a fall zone
722 for the residential property lines and buildings. So I would argue that this should
723 qualify under the same fall zone regulations. They also argue that towers don't
724 fall outward. However, since 2010 there's been over two dozen towers that have
725 fallen like trees and not collapsed on themselves. And those are typically due to
726 explosions of the fuel tanks that are located at the base of them to power
727 generators, which in this case they originally proposed a diesel fuel tank. And
728 they've changed that to a propane tank for the generator. And those explosions
729 are typically powerful in wooded areas, which this is. In one example, in
730 Michigan, there was one near a school. The base caught fire. It exploded. And
731 what caused the tower to fall over as opposed to collapse, was because the heat
732 was so intense at the base of the tower that it actually melted the mechanisms
733 attaching it to the ground so that it fell over. And it did so within twenty-five
734 minutes. And that wasn't because of a natural disaster or anything weather
735 related. They said that there had been previous maintenance done the evening
736 before—or the installation of a new carrier.

737

738 The only other thing that I would suggest was I was going to point out the section
739 in a Henrico Planning document that says that it is within the purview of local
740 government to regulate the manner in which structures are located in order to
741 protect the safety of its citizens. And these citizens are children. So I would ask
742 that you take that into consideration. Thank you for your time.

743

744 Mr. Witte - Excuse me. Ms. Swanson?

745

746 Ms. Swanson - Yes.

747

748 Mr. Witte - Sorry.

749

750 Ms. Swanson - That's okay.

751

752 Mr. Witte - How many towers did you say have fallen?

753

754 Ms. Swanson - From news media reports, media that has covered
755 reports, it's been over two dozen. To it was about twenty-seven towers that have
756 fallen since 2010. And that was as of the end of 2012.

757

758 Mr. Witte - Okay, thank you.

759

760 Ms. Swanson - I should clarify. Those were all sorts of towers; they
761 weren't just monopole towers. They were the—I don't know what they're called.
762
763 Mrs. Jones - Lattice work.
764
765 Ms. Swanson - Not the lattice ones.
766
767 Mrs. Jones - No?
768
769 Ms. Swanson - The monopoles with the protruding—
770
771 Mrs. Jones - Oh, with the antenna coming out.
772
773 Ms. Swanson - Yes.
774
775 Mr. Archer - Ms. Swanson, may I ask also? Are you in opposition
776 to the tower itself or are you more concerned about the fall zone?
777
778 Ms. Swanson - I'm in opposition to the location of the tower because
779 of mainly the fall zone. I think that's a huge concern. And also, as some others
780 will address tonight, the safety and security of the actual enclosure. The
781 enclosure surrounding the base of the tower presents numerous, numerous
782 safety concerns within such close, close proximity to a elementary school, which
783 some others will cover.
784
785 Mr. Archer - Thank you, ma'am.
786
787 Mr. Witte - Thank you.
788
789 Mrs. Jones - Any other questions for Ms. Swanson? Okay, thank
790 you.
791
792 Ms. Swanson - Okay. Thank you.
793
794 Ms. Schlosser - Hello, my name is Alexandra Scholsser. I'm a parent
795 of a seven-year-old at Pemberton. And actually, could I get these pictures over
796 here brought up, the three photographs? Thank you.
797
798 I'm not sure if you guys are aware, but you probably are, that Pemberton is a
799 bussing zone where they bring children with autism. My daughter has autism.
800 And there are about twenty students that currently go to Pemberton's autism
801 program. And you may remember a couple of years ago that a boy escaped, and
802 got lost for about a week, and was found in the gravel pit. His name is Robbie.
803 My daughter has a tendency to wander off. As the picture down here shows of
804 the young man climbing through the fence at the Short Pump Middle School
805 location of the tower, this is basically something my daughter would do. And I feel

806 like this poses a really big risk for these children. There are only six personal
807 attendants that cover the twenty children. So if they're out on the playground,
808 they wander off. If the gate is broken, like this one is, my daughter could get in
809 there and potentially get very hurt.

810

811 So that's my issue with opposing this, the location, because it is so close to the
812 Pemberton playground that my daughter plays on every day. So that's all I have
813 to say.

814

815 Mrs. Jones - Questions for Ms. Schlosser? Okay, thank you for
816 that. All right. Do we have others who'd like to talk?

817

818 Mr. Francesconi - Good evening. My name is John Francesconi, and I
819 am opposed to the construction of the tower. I have four main points I'd like to
820 make.

821

822 Number one has to do with the RF frequency. I know a few years ago there was
823 a statute or law passed that the tower cannot be denied for any health reasons,
824 but I believe at that time there wasn't enough proper research done medically as
825 to the impact of the RFs on humans and children. This tower is being built
826 between two schools. There are hundreds of children, teachers, and workers in
827 that area. And current research has been out there that says there is an impact
828 to children in particular to RF waves. So I feel that we have a moral obligation not
829 to have this tower built.

830

831 The second point I want to make is as far as I know there has not been in writing
832 from nTelos as to why they cannot use another tower in this instance or why they
833 cannot rent from another provider. So I haven't seen that document.

834

835 Third point is that this tower is going to be built on the Chesapeake Bay
836 Watershed. As far as I know, there has not been an EPA report provided yet.

837

838 And the fourth point I want to make is there doesn't seem to be any provision not
839 to increase the tower height, either the original tower that may be built there or
840 perhaps replaced by another tower. And that's all I have to say.

841

842 Mrs. Jones - All right. Are there questions from the Commission? I
843 think we can have all those points addressed by the applicant.

844

845 Mr. Francesconi - All right, thank you.

846

847 Mrs. Jones - How are we doing on time?

848

849 Mr. Emerson - You're up to 7:45.

850

851 Mrs. Jones - Okay. Mr. Saxby, come on.

852

853 Mr. Saxby - I'm Steve Saxby. I'm a licensed clinical psychologist.
854 Been in practice since about 1986 dealing mostly with children. John stole some
855 of my thunder. Bonnie knows what I've been focusing on in all of the meetings.

856

857 The research that nTelos—I do want to say thank you to nTelos. I think you guys
858 have worked as well as you could within the boundaries of what they had to do.
859 They've been very cooperative and polite. They have informed us of every step.
860 The School Board, as best I know, did not inform us of the first step. I don't
861 remember ever getting a letter from the School Board about possibly leasing the
862 property.

863

864 And nTelos has said, okay, WHO and other organizations have said there's no
865 problem. WHO in 2011 said oh no, wait a minute, it's now a Class 2 carcinogen.
866 It was re-classed by the radio frequency, electromagnetic fields as Class 2 B
867 carcinogens. Much of the research that's cited in the 1996 act or whatever was
868 done in the seventies and eighties. I brought you some more stuff. I said I'd try to
869 find some for you. I've got the summaries of a couple hundred studies pretty
870 much done since 2005. The 134 at the back is basically 2005 to 2013.

871

872 Nobody's got definitive answers. But there are so many questions about the
873 effects of low-level radiation on blood-brain barriers, on fetal development, the
874 effects on brains, and particular on young kids. I don't see the wisdom of putting
875 a cell tower close to an elementary school when we know brains are rapidly
876 developing, we don't know the effects of this. We've got a lot of questions about
877 it. Maybe this will be like cyclamates. Okay, you remember when they said okay,
878 cyclamates will cause cancer. And then a few years later they say well, yeah, if
879 you drink 700 Tabs a day for ten years you'll get cancer. Absolutely silly.

880

881 On the other hand, in '40s and '50s physicians would appear on TV and radio
882 and say oh, Camels are good for you. And they never said a word. The FDA said
883 thalidomide is safe. Found out they were wrong. Asbestos and lead. Okay for
884 gas; great for insulation. And they were wrong.

885

886 Do you guys and the School Board in twenty years want to be in the position to
887 say oh, we had access to the information, we did our best, but we were wrong.
888 That's the position of putting any cell tower near any elementary school, not just
889 this one. This baby, as I said to you in the last meeting, a done deal. We may not
890 be able to do anything about this. The lease is there. You guys may be the last
891 step; I don't know. But it's a question that's going to come up for the Board in the
892 future. It's a precedent. Do you really want to be putting unknown effects of cell
893 towers near elementary schools? And you guys have to answer that; I can't
894 answer for you.

895

896 Mrs. Jones - May I ask you a quick question because we have
897 discussed, as you know. And I'll ask our secretary to just expound on this if you

898 would like. The licensing process is where the radio frequency discussion is
899 rightfully held. We, as a locality, cannot take that into our consideration.
900

901 Mr. Saxby - I understand that.
902

903 Mrs. Jones - But I am interested, as I have been all along, in what
904 you have. I'd like to ask you about this particular study in your hand. Is that
905 talking specifically about cell towers or is that talking about handheld cell
906 phones? Is it talking about microwaves in your kitchen? What is it specifically
907 talking about?
908

909 Mr. Saxby - I only have a couple of specific articles. What I have is
910 a summary of 134 articles that cover a broad range of stuff from basic research,
911 which does cover some of the stuff. And actually I went to ask Marc because I
912 don't know with this one—
913

914 Mrs. Jones - The reason I ask this is because we often have
915 studies that are accessed online that, as we we've seen throughout this whole
916 process, referencing cell phones versus tall cell towers.
917

918 Mr. Saxby - Frankly, the majority of the research that I've been
919 able to look at—and again, I'm no expert in this research by any stretch of the
920 imagination—is sure enough via cell phones and they deal with close proximity.
921 There is beginning to be research in just the general levels of exposure. That
922 research is just now beginning. There is just not much there. But what they are
923 finding—
924

925 Mrs. Jones - I'll call the applicant up to answer this question for
926 you.
927

928 Mr. Saxby - And intensity of .01 to .05 millitesla. Is that close
929 enough? Yeah. Okay, yeah. I don't know. It sounds small to me. I don't know
930 what that is. But it [unintelligible] [0:52:21]* DNA strand breaks in brain cells of a
931 rat. So what they did is they exposed the rats to whatever level this thing is, and
932 they found that oh, not good. You know, I mean that's really the simple way of
933 putting it. Again, I have not read the 134 studies. I haven't read all these other
934 studies. I haven't read all these other studies. The bulk of what I've come up with
935 is that we have more questions that we have answers.
936

937 Mrs. Jones - Okay.
938

939 Mr. Saxby - And again, the World Health Organization, which in
940 one report that was cited in 1996 or 1998, said there was no carcinogenic effect.
941 That was the best science at that time. But in 2011, the same organization says
942 no, wait a minute, there's a possible carcinogen.
943

944 Mrs. Jones - All right, I thank you for that.
945
946 Mr. Saxby - Yes sir?
947
948 Mrs. Jones - I'm sorry?
949
950 Mr. Witte - Go ahead.
951
952 Mrs. Jones - I was going to ask if there were any other questions
953 on any other subject.
954
955 Mr. Witte - I have one. My understanding of these waves is that
956 they travel to the cell phones.
957
958 Mr. Saxby - Absolutely.
959
960 Mr. Witte - So in essence what you're saying is if I use a cell
961 phone near my grandchildren I'm—
962
963 Mr. Saxby - They just don't travel—and again, a technical expert
964 is much better at this than I am. They don't just travel to your cell phone; they
965 travel through everything. As we're standing here now, they're traveling through
966 us.
967
968 Mr. Witte - So if you can use your cell phone through any carrier,
969 which is just about everywhere, you're exposed. That's my understanding. Is that
970 what you were saying?
971
972 Mr. Saxby - Yes. That's what the research is saying.
973
974 Mr. Witte - All the towers are covered by one or more carriers. So
975 in essence, Henrico County is covered.
976
977 Mr. Saxby - Yes, absolutely. And it's more than that. There's a
978 natural background of waves that are going through us all the time that come
979 from the sun, the stars, all over the place. What we're doing is concentrating
980 them here. Part of the issue for me is for—and this is not just personal
981 speculation; this is in the literature. For the past twenty, thirty years, psychology,
982 psychiatrists have said oh, you know, the incidents of things like autism, the
983 incidents of things like ADHD are increasing. But we don't know why. But they're
984 beginning to do some research on it.
985
986 Mr. Witte - But there's no proof that that's related.
987
988 Mr. Emerson - Madam Chair, this really isn't relevant because
989 federal law doesn't allow you to consider this. I understand your concerns, but as

990 far as the decision the Commission has to make tonight, the radio frequency
991 issue has been taken off the table by the federal government.
992

993 Mrs. Jones - Thank you for your interest in that, and you are
994 welcome to leave that with Ben.

995
996 Mr. Saxby - Do you want it?

997
998 Mrs. Jones - I would like you to leave it with Ben.
999

1000 Mr. Saxby - Okay.
1001

1002 Mrs. Jones - For the case file. And I thank you. We don't have very
1003 much time left, but I would be happy to have some added time because we did
1004 so for the applicant. How about another two minutes. Would that do it for you?
1005 Okay. Mr. Secretary? All right.
1006

1007 Mr. Emerson - Yes ma'am.
1008

1009 Ms. Krebs - Good evening, I'm Margaret Krebs. I live at 9613
1010 Tracy Court.
1011

1012 Mr. Branin - What was your last name?
1013

1014 Ms. Krebs - Krebs, K-r-e, b as in boy, s as in Sam.
1015

1016 Mr. Branin - I'm sorry. I've been struggling all night to hear from
1017 the microphone.
1018

1019 Ms. Krebs - Okay.
1020

1021 Mr. Branin - If you would turn it up a hair.
1022

1023 Ms. Krebs - I could probably do well without the microphone, but I
1024 don't want to blast your ears. Just a few things that I'd like to bring up, and I'll do
1025 this quickly. The assessed value of a property is not the same as the sales price,
1026 nor is it the same as days on the market. So using an assessed value I don't feel
1027 as a homeowner is an actual valid comparison.
1028

1029 One of the things we were asking about was whether it had been established that
1030 a co-location or replacement of existing towers is not feasible, one of the things
1031 that Ms. Freye brought up was that there was a tower that had zoning restricted
1032 to a single user. Why did they not just try and get that rezoned and then make it a
1033 multiple use, multiple carrier, co-locator location?
1034

1035 A couple of other quick questions. Were sites considered that were more
1036 consistent with the Comprehensive Plan? According to my reading of the
1037 Comprehensive Plan, towers are supposed to be located at the lowest possible
1038 point along a ridgeline, and that's clearly not the case with this location.

1039
1040 I did want to ensure that there was a limit to the number of co-locators. I believe
1041 it's four, but I just wanted to make sure. The third balloon float, the balloon was
1042 actually not floated in the actual location. We were told that it could not be flown
1043 up through the trees, although the previous balloon float, that had been done. So
1044 we didn't have a real balloon float to be able to look at, which I find a little bit
1045 disappointing.

1046
1047 The other thing that I wanted to say on behalf of our community. We are opposed
1048 to it, but if you choose to continue with it, we have a number of things we would
1049 like you to consider in terms of things we'd like you to ask for the applicant. I
1050 have them typed up, and we'd be happy to hand them to you. Highlights.
1051 Requiring a bond that would be held by the County for all costs related to the
1052 complete removal and dismantling from the site of all equipment and
1053 appurtenances. You can read it. Sound buffering. Sound test. How the landscape
1054 screening might look, what the fencing should look like. A requirement of no
1055 external lights. And if the FAA requires lighting or strobes, the tower height
1056 should be reduced accordingly. So these are things that we're just asking for.

1057
1058 Mr. Branin - Please, Mr. Sehl, would you get those and pass them
1059 to us?

1060
1061 Mrs. Jones - Are there questions for Ms. Krebs?
1062

1063 Mr. Branin - Ms. Krebs, you made our life easy. When you said
1064 there's a list, I got ready to write, and you said you had it typed. I said oh, thank
1065 goodness.

1066
1067 Ms. Krebs - Any other questions, because I know we have
1068 somebody else that would like to speak.

1069
1070 Mrs. Jones - Are there questions for Ms. Krebs? I did want to ask
1071 this. When you say that the landscape fencing shall be natural wood color not
1072 painted.

1073
1074 Ms. Krebs - Yes.

1075
1076 Mrs. Jones - Non-wood fencing, in my view, has color attached to it
1077 in some way. You're talking about a surface painting, right?
1078

1079 Ms. Krebs - My thought was not to have it painted because then
1080 that's going to require upkeep. So a composite of brown that would match with
1081 the wood.
1082
1083 Mrs. Jones - Got you, got you. Okay. All right. I'm looking at this
1084 very quickly. We'll ask the applicant, but the FAA will not require lighting.
1085
1086 Ms. Krebs - At the current height. Is there any—I think someone
1087 asked this, and forgive me if I'm repeating. Are there any limits on extending the
1088 height in the future? Is there any limitation?
1089
1090 Mr. Emerson - It could not be extended without going back through
1091 this process.
1092
1093 Ms. Krebs - Thank you.
1094
1095 Mr. Emerson - Beyond 169.
1096
1097 Ms. Krebs - Okay.
1098
1099 Mrs. Jones - This application is for that height only as a maximum.
1100
1101 Ms. Krebs - Yes ma'am.
1102
1103 Mrs. Jones - Other questions?
1104
1105 Mr. Archer - I think you had a question about a limit being on the
1106 number of co-locators?
1107
1108 Ms. Krebs - Yes sir.
1109
1110 Mr. Archer - And I believe that is the amount that would be
1111 technically feasible. You can't just put an unlimited number on because they
1112 might be too close to each other or maybe just would not work. But I don't know if
1113 there is an answer to the number, although I suppose we could specify a number
1114 and not exceed it, which kind of defeats the purpose.
1115
1116 Mrs. Jones - All right?
1117
1118 Ms. Krebs - Thank you.
1119
1120 Mrs. Jones - We have about a minute if someone else would like to
1121 come forward and talk.
1122
1123 Mr. Swanson - Hi. My name is Patrick Swanson. I'm also a parent of
1124 a first grader at Pemberton Elementary School. I also have a two-year-old son.

1125 So I stand to have children in Pemberton Elementary School for the next nine
1126 years.

1127

1128 As he's bringing the pictures up, that's one of the things that I want to discuss is
1129 regarding the safety and security regarding the enclosure around the base of the
1130 tower. At this point, as far as I've been made aware, there is absolutely zero
1131 precedence for any tower of this nature to be this close to an elementary school
1132 much less a playground at any school. There are many safety concerns for
1133 children playing or exercising only 100 to 150 feet away. My understanding is
1134 there will be an 8-foot-tall, 50-by-50-foot privacy fence surround the base of the
1135 tower. The fence will also be camouflaged by planting shrubbery and existing
1136 trees. It concerns me that this provides a hidden place for a criminal or pedophile
1137 to take cover to observe children playing on the playground, or worse, a
1138 shielded-from-view place to take a child. More commonly, the enclosure provides
1139 a hidden location on school property for loitering and mischief by children, teens,
1140 and others.

1141

1142 Speaking specifically to the pictures that I have up there, I think the things that
1143 you guys are adding in to make sure that they take care of these things in a
1144 timely manner are great. However, this, in my opinion, shows precedence by
1145 nTelos to not properly maintain their facilities. We were told at the community
1146 meeting several weeks ago that they maintain their stuff minimum two to three
1147 times a months. This has been monitored since February 29th and has remained
1148 exactly the same and additionally shows in the top photo the gate is broken and
1149 a chain was wrapped around it with locks. So that shows not only did they know
1150 about it, they were aware that it was broken, but they improperly made the repair.
1151 And to me, precedence shows that we cannot trust them at this time, in my
1152 opinion.

1153

1154 The potential danger inside the enclosure. We were also told that there was
1155 nothing inherently dangerous within the enclosure for the children. Again, the
1156 picture on the bottom, my bottom right, there are many exposed wires. I'm not an
1157 expert. I don't know what those wires are, but I would argue that to say it's not
1158 inherently dangerous inside for children is not a truthful statement.

1159

1160 Additionally, contract workers, technicians, nTelos employing the access tower,
1161 you know, we want to make sure that within the lease agreement, if this is
1162 accepted, that there are sexual background checks. We know who these folks
1163 are going onto the site. And again, that Pemberton is additionally notified in
1164 addition to Byrd.

1165

1166 Mrs. Jones - Questions for Mr. Swanson?

1167

1168 Mr. Archer - Mr. Swanson, these pictures aren't all that clear. Can
1169 you tell me what you're trying to depict here? What's the top picture showing?

1170

1171 Mr. Swanson - The top picture is—and I could give you the actual
1172 photo.
1173
1174 Mr. Archer - I can see it, but I'm just trying to figure out—
1175
1176 Mr. Swanson - The metal area that you see coming across is the
1177 gate. And if you look at their plan, it shows the locking mechanism and how
1178 secure that locking mechanism is supposed to be. That is a broken lock
1179 mechanism.
1180
1181 Mr. Archer - So the gap that I see between those two red whatever
1182 they are, is that a break in something?
1183
1184 Mr. Swanson - That is because the locking mechanism does not
1185 prevent the gate from moving at all. Because they put a chain at the top of it,
1186 what it allows is some swing in the gate. It won't open all the way because of the
1187 chain that's wrapped around the metal poles; however, in the bottom left you can
1188 see how a child can easily fit right through the gap.
1189
1190 Mr. Branin - Is that your child. Mr. Swanson?
1191
1192 Mr. Swanson - No it is not. No sir. These were photos that were
1193 given to me by another parent.
1194
1195 Mr. Branin - That parent's child.
1196
1197 Mr. Swanson - Yes.
1198
1199 Mrs. Jones - Other questions? All right. Mr. Swanson, I thank you.
1200 We have had many conversations about this.
1201
1202 Mr. Swanson - Thank you very much.
1203
1204 Mrs. Jones - Certainly. All right. I'd like the applicant to come
1205 forward and discuss the points that were raised.
1206
1207 Mr. Glover - Madam Chairman, may I hear the lady right there?
1208 She had something to say.
1209
1210 Mrs. Jones - I'm very sorry. I did not—thank you, Mr. Glover.
1211
1212 Mr. Glover - Yes ma'am.
1213
1214 Ms. Rice - My name is Diana Rice. I'm a property owner on Della
1215 Drive. I just have two things. Number one, the area where they're proposing to
1216 put this tower is an area where people do take their dogs, walk their dogs. Kids

1217 go up there and play. It is not an area that is not frequented by the neighborhood
1218 and whatever.

1219

1220 Another concern that I have that I haven't heard anybody mention anything
1221 about. I'm an insurance agent by trade, have been for thirty-five years, an
1222 insurance underwriter. I get request from people where Alltel, Sprint, whoever
1223 have asked to place a tower on their property. And the first thing they require is
1224 that that person who owns the property provide them with a certificate of
1225 insurance showing that there is coverage for this tower. Is Henrico County going
1226 to be picking up the liability for this tower?

1227

1228 Mrs. Jones - We can get that answered for you.

1229

1230 Ms. Rice - Yes ma'am.

1231

1232 Mrs. Jones - Is that all? Are there questions for Ms. Rice? Thank
1233 you. I did not see you sitting down there. All right.

1234

1235 Ms. Freye - I'm going to try to go through in order to some
1236 responses in general. Ms. Swanson referred to a fall zone. Actually, the code
1237 does require a setback. And this pole and the location of it does meet all of the
1238 required setbacks. What she refers to as a fall zone for the 186-rounded-up feet
1239 is complied with.

1240

1241 The comments about the security of the site. This is what I referred to in my
1242 comments, that we appreciated the fact that the neighbors did bring this to our
1243 attention so that we could get that addressed and addressed properly. Security is
1244 important, not only for the safety of children or people on adjacent properties, but
1245 also for the facility. These facilities are often the victims of thefts for copper that
1246 gets stolen out of these sties. And that's generally what they have occur. There
1247 have generally not been any reports about loitering or partying or vandalism for
1248 mischief. It's generally been because people have broken in to steal the copper.
1249 So we do appreciate the fact that we can make that right and have no problems
1250 agreeing to the condition that was suggested by the staff.

1251

1252 I can't say your name. Francesconi? Mr. Francesconi was talking about the
1253 writing about the other towers. That list of the alternate sites that were
1254 researched had been provided to the Planning Department and I believe is in
1255 their file. The facility will have to comply with all environmental regulations as far
1256 as the Chesapeake Bay Watershed is concerned. As was answered earlier, the
1257 tower cannot be replaced at a taller height without going through the zoning
1258 process.

1259

1260 About the health effects. We have explained to the citizens about the
1261 compliance. A NIER report has been filed and certified by professional engineers

1262 that this site would be in compliance with the RF emissions as regulated by the
1263 FCC.

1264

1265 Mr. Branin - Ms. Freye, can I back you up?

1266

1267 Ms. Freye - Yes sir.

1268

1269 Mr. Branin - I don't have which citizen it was that said it. They
1270 stated that nTelos says that nTelos checks their site locations twice a month. Is
1271 that correct?

1272

1273 Ms. Freye - I'll let Marc Cornell, who is representing nTelos as
1274 well, speak to their operations.

1275

1276 Mr. Cornell - Mr. Branin, under normal circumstances an operating
1277 site is visited maybe twice a month.

1278

1279 Mr. Branin - Let's not talk about under normal. You have a site.
1280 What they're telling us this evening is that they monitored it for two months, so
1281 that should have been eight visits. And in eight visits you guys couldn't manage
1282 to fix a fence?

1283

1284 Mr. Cornell - Apparently not.

1285

1286 Mr. Branin - Why?

1287

1288 Mr. Cornell - And apparently during that time one of the—

1289

1290 Mr. Branin - Why?

1291

1292 Mr. Cornell - I can't give an answer; I do not know. I only
1293 discovered this damage when the photos were sent to us. I immediately brought
1294 it to our operations group. They sent our construction and maintenance people
1295 out there. And they immediately scheduled the repair work to be completed.

1296

1297 Mr. Branin - Has it been completed?

1298

1299 Mr. Cornell - It's scheduled for completion tomorrow.

1300

1301 Mr. Branin - Okay.

1302

1303 Ms. Freye - Going further, the composite wood fence that's being
1304 recommended is what's shown on the site plan because of the low maintenance.
1305 nTelos is agreeable to a landscaping plan that will be the most effective in
1306 screening to the extend that the trees can be preserved and can be supplement
1307 where screening is necessary.

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The limit about co-location, I'm not sure I understood that comment. I think the County policy is to encourage co-location, as many co-locations as you can. nTelos has committed to engineer this pole to support the co-location of at least four installations of antennas so that you want to make this pole available to any carrier who has a need there so that you don't have a request for another tower in the neighborhood.

And I think, Mrs. Jones, you answered the question about that the FAA would not require lighting of this pole because of its height and because of its location.

The comment about not there not being inherently anything dangerous inside the compound. There are equipment cabinets that are enclosed. There are cables, but they are insulated. They are not live wires. There's nothing in there that could electrocute someone. When nTelos says there's really nothing inherently dangerous in there, I believe that. I've actually been in those facilities, and not had a problem, and don't see anything that would be inherently harmful.

The background checks for people being on the site is actually a requirement in the lease with the School Board, so that is already covered in the lease with the school.

Insurance is actually covered as well in the lease. I believe it's a two million dollar level, but there are different levels for different occurrences. But that is provided in the lease that it is the responsibility of nTelos to carry that liability. The certificates do have to be provided to the school as evidence of that.

Those were the comments that I made note of. Were there other questions that you wanted me to respond to?

Mrs. Jones - I'm—

Mr. Archer - Ms. Freye—I'm sorry; did you want—

Mrs. Jones - Go ahead.

Mr. Archer - In a previous cell tower case, I seem to remember you having some information about radio frequency and how much it is compared to something. I believe it had something to do with a baby monitor.

Ms. Freye - Yes sir.

Mr. Archer - Can you put that in laymen's terms so people can understand?

1353 Ms. Freye - When you think about RF emissions, there's a broad
1354 spectrum. At the high end is where you have x-rays. And there are medical
1355 professionals here who could probably speak to the intensity of that. At the lower
1356 end of the spectrum is you have things like garage door openers, baby monitors,
1357 microwave oven in your kitchen. The RF emissions that are emitted from the
1358 antennas at the tower, on top of the tower, are in the low range with the baby
1359 monitor, the garage door opener, the microwave oven. So you have ionizing and
1360 non-ionizing. And that's why we have an engineer study the installation, the
1361 facility, the antennas, and certify with a report to the County that this is
1362 compliance with the non-ionizing radiation. I'm not an RF engineer; I'm just
1363 repeating and reporting what the carriers provide to the County to address those
1364 health effects.

1365
1366 Mrs. Jones - I have a question. Clearly, security of the ground
1367 enclosure area is of utmost importance to a lot of the folks who are here. And the
1368 fact that there was a problem with the gate at the enclosure at Short Pump
1369 Middle has brought a face to that. Is there a procedure that we can work into our
1370 arrangement here so that any need of repair is immediately secured, and then
1371 repair and maintenance will continue on a prescribed time frame? In other words,
1372 I think what is alarming a number of the parents is the fact that a technician
1373 thought that a chain around one point was sufficient. And whether that is
1374 addressed through internal procedures through nTelos or whether that's
1375 something that we can write up here, I think we need to discuss that point so that
1376 there's an extra layer of security built into the procedural approach. I don't know
1377 what to suggest, but I want you to keep that in mind as this case possibly goes
1378 forward. There needs to be some provision for immediate security if a technician
1379 finds it's been compromised.

1380
1381 Ms. Freye - What I would commit, Mrs. Jones, is that in the interim
1382 between now and the Board of Supervisors that we will be working with the
1383 operations people about trying to come up with some language or a condition
1384 that would address that immediate correction.

1385
1386 Mrs. Jones - Especially around schools.

1387
1388 Ms. Freye - I don't have anything—

1389
1390 Mrs. Jones - That's important.

1391
1392 Ms. Freye - Yes ma'am. And I don't have anything to offer this
1393 evening, but I will work on that.

1394
1395 Mrs. Jones - Okay. Further questions for Ms. Freye?

1396
1397 Mr. Witte - I have one.

1398

1399 Mrs. Jones - Yes sir.
1400
1401 Mr. Witte - Because of my firefighting background, I have
1402 concerns about the twenty-seven towers that have fallen due to explosions or
1403 fires melting the tower. Is there a way to put a fire curtain, fire wall, whatever you
1404 want to call it, between the flammable products and the tower itself to divert any
1405 direct flame to the tower?
1406
1407 Ms. Freye - Mr. Witte, I don't know the answer to that, but I would
1408 be glad to look into it. I don't know what caused the explosions. I don't know if
1409 there were workers who were careless doing welding. You know, I'm just
1410 speculating, I'm guessing. I don't know if a vehicle ran into it and caused it to
1411 explode, if there was propane. I just don't know.
1412
1413 Mr. Witte - Yes. Well somebody testified, and I don't remember
1414 who, that it was the fire impinging that melted the pole that caused it to fall over.
1415
1416 Ms. Freye - To fall over.
1417
1418 Mr. Witte - That would be my concern. I don't know that it's
1419 feasible or realistic to request that, but it seems like it would be a very
1420 inexpensive way to prevent that.
1421
1422 Ms. Freye - It's worth looking into. One of the thoughts that
1423 occurred to me is maybe to see what measures are taken around the diesel
1424 generator that's at the fuel pump at the school. I mean, possibly we could
1425 replicate something that the school has done for its generator to protect it from
1426 exploding. I don't know.
1427
1428 Mr. Witte - We had, while I was there, a very large diesel
1429 generator at the fire station, and it was there for thirty-some years, and we never
1430 had an issue.
1431
1432 Ms. Freye - And nobody ran into it or caused any problem.
1433
1434 Mr. Witte - It never caught on fire.
1435
1436 Ms. Freye - Mmm-hmm. But, again, I would be glad to look into
1437 that, Mr. Witte.
1438
1439 Mr. Witte - Thank you.
1440
1441 Mrs. Jones - Further questions? I am going to just address one
1442 more thing that comes from the comments from the public that I'd like our
1443 secretary to help me with. I know this has taken a long time, but this has been a
1444 long case, and I felt it deserved the hearing that we're having tonight.

1445

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Mr. Secretary, a lot of the folks have talked about the fall zone. I know that in our community meetings, Ms. Freye has referenced the fall zone as a somewhat—I don't want to put words in your mouth—but I believe what you were trying to say was a somewhat antiquated part of the ordinance that you might like to see go away. It has not gone away. To date, it is what we work with. But there is a reason that that was in the ordinance, and I just thought maybe Mr. Secretary could give us a little bit more grounding in that term for the sake of the folks who are here tonight.

1455 Mr. Emerson -

1456

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Yes ma'am. Madam Chair, as we discussed this afternoon, the fall zone originally, and still is intended to protect, as Ms. Swanson, I think touched on, residential properties. Now that's at the time it's built. Once a tower goes up, there is nothing that prohibits somebody from building a residential dwelling inside of that fall zone. And we've had that occur. We also have these towers in many locations. Tuckahoe Little League, next to Short Pump Elementary School, I believe adjacent to a ball field at Short Pump Park. We do have the one that she had the photo of the base at Pouncey Tract Park that is in close proximity to a football field, bus loop, and other recreational amenities. There are several of these towers that are located within swim clubs. We haven't experienced any problems. We have towers that are directly adjacent to buildings, one that you probably pass every day—many of you do—that's directly adjacent to the North Carolina Company; it's done as a flagpole.

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So all these towers have occurred in close proximity to buildings, structures, playgrounds, areas of high activity. We even have them at Deep Run High School adjacent to the bleachers. So we haven't seen any problem. Originally, the primary purpose of fall zones, and it still is, is to protect residential properties because those are the ones that normally aren't necessarily built to a level that might withstand if one ever fell. We've never had one fall. They are designed to snap or break internally. Personally, I've never known of but one tower to come down, and it was a lattice-style tower that was secured by guy wires. A tractor-trailer was backing up, snapped the guy wire, and that tower—I was there when it happened. It fell straight down. So these towers are very well designed. The fall zone is an extra precaution for residential properties, and that is the extent that the County has pursued that.

1482 Mrs. Jones -

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1490

Thank you, Mr. Secretary. Are there any other questions from the Commission at all? No? Yes? All right. No cell tower case is easy. I have worked with all of you for many, many, many months. Actually, it's been almost a year since the very first discussion of the fact that nTelos was looking for a site. And that's when they were trying to find what might suit their needs. Before I make a motion, I do want to summarize some of my thoughts for those of you who are here that are both in favor and also are opposed to this case. I feel that after this has come to the Commission and we've had our presentations, and we've had our discussions and all that, and we're now at the

1491 point where a motion should be made, you really do deserve to know how I have
1492 analyzed this case at the end of the day, and what the reasons will be behind my
1493 motion. So I'm going to try to present this. It won't be too long, but it's important
1494 to me that I say this to you.

1495
1496 As you all know from the three community meetings we had, and the numerous
1497 balloon floats, and the three different proposed sites that this has been on the
1498 Byrd Middle School property, and the revised site plans that have gone with that,
1499 this case has been scrutinized from all angles. The case has changed
1500 significantly from its original submission. I think the input and the oversight of the
1501 neighbors and the staff certainly has been a great contributor to positive changes
1502 for this case as a whole. That being said, we live in a time when the expectation
1503 absolutely is that instant and excellent cell phone coverage anywhere we happen
1504 to be and the quick and efficient transfer of volumes of data is no longer the
1505 exception; that is considered the norm. And the public demands that level of
1506 service from their cell providers. And that demand drives, and will continue to
1507 drive, the need for new and more diverse locations for cell towers. This genie is
1508 not going back in the bottle. Technology will continue to increase those service
1509 pressures; they will not decrease them.

1510
1511 We, then, are left to evaluate and make decisions about how best to integrate the
1512 infrastructure of cell towers into our landscapes. We know full well no location is
1513 perfect. Developed and populated areas like the Tuckahoe District will find it
1514 more and more difficult to accommodate needed facilities as time goes on. All of
1515 us, including the applicant, and the neighbors, the Planning staff, the schools,
1516 and certainly myself, have struggled with the siting of this tower because we
1517 wanted to make it as good a project as it possibly could be.

1518
1519 I do commend the neighbors for your involvement. You've been very diligent.
1520 And I also thank nTelos. They have been very willing to keep searching for
1521 answers to all the issues that were raised. At the end of the day, here we are.

1522
1523 We are in somewhat new territory, and I want to touch on this. While cell towers
1524 have been constructed throughout the County for more than a decade, locating
1525 wireless facilities on school property is somewhat new. This does follow the
1526 general policy as stated in the Comprehensive Plan that public properties could
1527 be desirable locations for wireless towers if they're sited property and adhere to
1528 the requirements. So the first thought, and where this all started, was to put
1529 wireless technology on top of existing light poles at high school athletic fields. In
1530 fact, there are towers like that already in place; more are planned. The demand
1531 for services continues to rise, and with it the increase for the need for towers. So
1532 there will be requests for more wireless facilities on school properties as time
1533 goes on. And every single one will have to be evaluated for the specific situation
1534 on its own merits.

1535

1536 In this case, the schools agreed to a lease with the wireless provider. And it was
1537 up to this process through the Planning Commission, then to the Board of
1538 Supervisors, ultimately, to determine the advisability and suitability of a tower
1539 location here at Byrd Middle School, and how to best accommodate it.

1540

1541 Many alternate sites were investigated. Many options were discussed. What is
1542 before us tonight, in my opinion, is the best blend of everything that was
1543 considered. There have been great efforts to move this tower to a location on the
1544 property that offers as little visual impact as possible to the neighbors in adjacent
1545 areas. More visibility was pulled towards the major roads surrounding the
1546 schools. Thoughtful, strategically placed landscaping, in addition to the ground
1547 equipment enclosure, is usually welcomed by adjacent neighbors because it
1548 provides a tremendous help to mitigating the visual impact of the tower. As this
1549 case moves through the system, it may well be—as I've seen from Ms. Krebs's
1550 list of points to be discussed—that the one that offers the most security and the
1551 least visibility may not be the best choice for this location. So that is something
1552 that we can work with as this goes through. However, I do believe that there has
1553 been a real honest effort to blend this into the wooded area for the sake of the
1554 aesthetics and for the sake of the security of both people and the equipment. As
1555 we've seen, that isn't perfect. But I can assure you that there will be procedures
1556 in place to try to avoid a situation such as you have uncovered at Short Pump
1557 Middle. Should this go through for approval, those will have to be discussed.

1558

1559 This tower has a slick stick design. This is the safest design with no external
1560 antenna and the least intrusive profile for this tower. This does afford co-location
1561 opportunities for three or four additional users. If finding this site was difficult,
1562 finding three or four more sites in the area for additional freestanding towers
1563 would be nigh impossible. You neighbors have really helped to steer this
1564 process, but I realize the difficult situation you've been in as this case has gone
1565 through. Again, no site is perfect.

1566

1567 In the end, however, it is my view that our zoning requirements, the policies, as
1568 well as the vision and the goals and the objectives of the Comprehensive Plan,
1569 and good principles of land use, and siting, and design, have been followed. And
1570 they have brought us to this point.

1571

1572 We are charged with accommodating wireless technologies and facilities, and
1573 public demand for the services afforded by wireless technology will only increase.
1574 I realize my motion will not be supported by everyone involved in this case;
1575 however, I feel this case, in short, has been reworked and revised to its best
1576 conclusion. Therefore, I'm going to make a motion. And as you know, however
1577 this vote comes out, this case will move on to the Board of Supervisors, and
1578 there will be an opportunity to work with your supervisor as it moves to the
1579 hearing at that level.

1580

1581 I'm going to make a motion that PUP2013-00003, Gloria L. Freye, Esquire for
1582 Richmond 20 MHz, LLC (nTelos), be forwarded to the Board of Supervisors with
1583 a recommendation for approval with conditions 1 through 16 dated May 9, 2013.

1584
1585 Mr. Witte - Second.

1586
1587 Mrs. Jones - Hold on a moment. Why don't I do that now. I'm going
1588 to back up a moment. This is with conditions 1 through 16 with the following
1589 revision of #15. At the end of the sentences that are on the condition there will
1590 follow: Maintenance shall be completed within thirty days unless otherwise
1591 approved by the Director of Planning. So, it is with those revised conditions that I
1592 offer the motion.

1593
1594 Mr. Witte - Second.

1595
1596 Mrs. Jones - Motion by Mrs. Jones, seconded by Mr. Witte. All in
1597 favor say aye. All opposed say no. The ayes have it; the motion passes.

1598
1599 **REASON:** Acting on a motion by Mrs. Jones, seconded by Mr.
1600 Witte, the Planning Commission voted 5-0 (one abstention) to recommend the
1601 Board of Supervisors **grant** the request because it would provide added services
1602 to the community and when properly developed and regulated by the
1603 recommended special conditions, it would not be detrimental to the public health,
1604 safety, welfare and values in the area.

1605
1606 **PUP2013-00009 Rob Heavner for Jeremy Reaves:** Request for a
1607 Provisional Use Permit under Sections 24-58.2(a), 24-120 and 24-122.1 of
1608 Chapter 24 of the County Code in order to allow extended hours of operation
1609 until 1:00 a.m. for an existing restaurant (Cook-Out) on Parcel 754-743-5297
1610 located on the south line of Eastridge Road approximately 300' east of its
1611 intersection with N. Parham Road. The existing zoning is B-2 Business District.
1612 The 2026 Comprehensive Plan recommends Commercial Arterial. The site is
1613 located in the Enterprise Zone.

1614
1615 Mrs. Jones - Do we have anyone with us tonight in opposition to
1616 PUP2013-00009, Rob Heavner for Jeremy Reaves, for Cook-Out? Good
1617 evening.

1618
1619 Ms. Blankinship - Good evening. Thank you, Madam Chair.

1620
1621 This is a request for a Provisional Use Permit to allow extended hours of
1622 operation for an existing Cook-Out restaurant with drive-thru only service.

1623
1624 The subject site is zoned B-2 and is located on the south line of Eastridge Road
1625 approximately 300 feet east of its intersection with Parham Road. The 715-

1626 square-foot building was approved in 1993 via POD-82-93 for a Bullets
1627 restaurant. In 2011, Cook-Out began operation at the subject site.

1628
1629 The applicant has recently amended the application and is now requesting to
1630 extend hours of operation until 1 a.m. instead of 5 a.m. to 2 a.m., as stated in the
1631 staff report.

1632
1633 The 2026 Comprehensive Plan recommends the site for Commercial Arterial,
1634 which is consistent with the proposed use. This site is also part of the Regency
1635 Square Revitalization/Reinvestment Opportunity Area and the Enterprise Zone.
1636 The 2026 Comprehensive Plan recommends support of viable commercial uses
1637 in this area and encourages local incentives provided under the County's
1638 Enterprise Zone Program to foster redevelopment and improvement of existing
1639 businesses. This request could further these goals.

1640
1641 Overall, staff believes that if properly regulated, this request could be acceptable
1642 and would support the goals and recommendations of the 2026 Comprehensive
1643 Plan and the Enterprise Zone Program. Therefore, staff supports this request.
1644 Revised recommended conditions have been handed out to you this evening to
1645 reflect the change in the request for extended hours. Condition #13 has also
1646 been added to prohibit a dedicated walk-up window or walk-up service after
1647 midnight.

1648
1649 This concludes my presentation. I will be happy to answer any questions.

1650
1651 Mrs. Jones - Questions for Ms. Blankinship?

1652
1653 Mr. Witte - It's 6 a.m. to 1 a.m.

1654
1655 Ms. Blankinship - Yes sir.

1656
1657 Mr. Witte - Okay, thank you.

1658
1659 Mrs. Jones - We have had many questions asked and answered
1660 over the past few days. Thank you very much for your work on this. Any
1661 questions at all for staff? You've driven here for such a long way, come on up. I'd
1662 like to see the applicant for a minute. Could you state your name for the record,
1663 please?

1664
1665 Mr. Heavner - Good evening. I'm Rob Heavner. I'm the principal
1666 broker for Retail Advisors. I'm here to represent the Cook-Out Restaurants in
1667 their application. Madam Chair, members of the Planning Commission, I want to
1668 thank you for letting us present our need for this provisional use permit. Also,
1669 want to extend my gratitude to Mrs. Jones and Ms. O'Bannon for meeting with
1670 me, as well as the Planning staff, Ms. Blankinship and Mr. Sehl, the other day to
1671 discuss this application.

1672
1673 Currently, the restaurant closes at midnight. And depending on the daily or
1674 periodic cleaning, management and staff have noticed a lot of traffic that has
1675 rolled through the drive-thru after hours requesting service. And that is consistent
1676 seven days a week. Even after turning people away for business, we have
1677 noticed that there is a need in the area for fast-food service. And so we were
1678 requesting the 5 a.m. to 2 a.m. But after our meeting, I understand all the
1679 concerns for the Tuckahoe area, and we have revised our application till 1:00,
1680 depending on future plans for the area. But would like for you guys to consider
1681 the request for approval for a provisional use permit. And I'll take any questions.
1682
1683 Mrs. Jones - All right. Mr. Heavner, any questions for him?
1684
1685 Mr. Glover - Yes. Could you make sure you fix your speaker. As
1686 you go around the back side, you cannot understand the person that's talking to
1687 you from inside.
1688
1689 Mr. Heavner - Okay, I'll make note with that.
1690
1691 Mr. Glover - And I have one other request. When you ask for a hot
1692 dog with everything on it, don't put any lettuce on mine.
1693
1694 Mr. Heavner - Okay. Last time you asked for chili.
1695
1696 Mr. Glover - I wanted everything on it. But they put a sink on it,
1697 too, I think. It was a very good hot dog. When the little lady says something to
1698 you, you can't understand a word.
1699
1700 Mr. Heavner - I'll make sure we take care of that.
1701
1702 Mr. Glover - If you don't, I'm going to quit ordering hot dogs.
1703
1704 Mr. Heavner - Okay.
1705
1706 Mr. Leabough - I have a quick question since Mr. Glover was able to
1707 ask a question not specifically related to the case. We're still waiting for our
1708 Cook-Out in Varina. So I'd be pleased to find out when that will be moving
1709 forward.
1710
1711 Mr. Heavner - Actually, we take over that location at the end of this
1712 month.
1713
1714 Mr. Leabough - Great.
1715
1716 Mr. Heavner - And will start construction immediately thereafter.
1717

1718 Mr. Leabough - The community's excited, and thank you all for
 1719 coming to our area.
 1720

1721 Mr. Heavner - Thank you.
 1722

1723 Mrs. Jones - Well, Mr. Heavner, it was worthwhile bringing you up
 1724 here. You got some constructive ideas here. All right. The only reason I asked
 1725 you to come up was just to make sure that you have approved these changes in
 1726 the conditions, and we are on, and I want to wish you much success. I hope that
 1727 all the University of Richmond students are crowding the lanes for service
 1728 between 12 and 1.
 1729

1730 Mr. Heavner - Thank you.
 1731

1732 Mrs. Jones - I won't be there at that hour, but that's all right. Okay.
 1733 Thank you very much. Any other questions? If not, then I will make a motion. I
 1734 move that PUP2013-00009, Rob Heavner for Jeremy Reaves, be recommended
 1735 to the Board of Supervisors for approval with the revised recommended
 1736 conditions of May 9, 2013, numbers 1 through 13.
 1737

1738 Mr. Branin - Second.
 1739

1740 Mrs. Jones - Motion by Mrs. Jones, second by Mr. Branin. All in
 1741 favor say aye. All opposed say no. The ayes have it; the motion passes.
 1742

1743 **REASON:** Acting on a motion by Mrs. Jones, seconded by Mr.
 1744 Branin, the Planning Commission voted 5-0 (one abstention) to recommend the
 1745 Board of Supervisors **grant** the request because the conditions should minimize
 1746 the potential impacts on the surrounding land uses and it is reasonable in light of
 1747 the surrounding uses and existing zoning on the property.
 1748

1749 **(Deferred from the April 11, 2013 Meeting)**
 1750 **REZ2013-00005 James W. Theobald for Attack ME Tech Park**
 1751 **Partners LLC:** Request to amend proffered conditions accepted with Rezoning
 1752 Case C-60C-97 on part of Parcel 844-704-9230 located on the west line of
 1753 Techpark Place approximately 1,500' south of its intersection with Technology
 1754 Boulevard. The applicant proposes to amend Proffer 1 related to uses to allow
 1755 outside storage. The existing zoning is M-2C General Industrial District
 1756 (Conditional). The 2026 Comprehensive Plan recommends Office/Service.
 1757

1758 Mrs. Jones - Hello again, Mr. Sehl. Is anyone with us tonight in
 1759 opposition to REZ2013-0005, James W. Theobald for Attack ME Tech Park
 1760 Partners LLC? There is no opposition.
 1761

1762 Mr. Sehl - Thank you again, Madam Chair.
 1763

1764 As noted at your April 11th meeting, this is a request to amend proffer #1
1765 accepted with rezoning case C-60C-97 to allow certain principal uses in the M-2
1766 District to operate outdoors, provided certain screening requirements are met.
1767 Based on concerns noted by the Commission at their April 11th meeting, the
1768 applicant has reduced the scope of this request, meaning the amended proffer
1769 would only be applicable on 4.07 acres planned for development at this time,
1770 rather than the larger 64-acre site originally part of the request.

1771

1772 As noted previously, staff believes the enhanced buffering provided as part of
1773 this request, which includes an 8-foot landscaped and irrigated berm, would
1774 continue to ensure the high quality development envisioned in 1997. The revision
1775 would also allow flexibility for the proposed use on a small area of the site subject
1776 to the original request, although careful consideration would need to be given to
1777 any future requests to expand the proposed outdoor uses given the
1778 Commission's previously noted concerns. Overall, staff believes this request is
1779 reasonable given adjacent development trends, and recommends approval of the
1780 proposed proffer amendment.

1781

1782 That concludes my presentation and I'd be happy to try to answer any questions
1783 you might have.

1784

1785 Mrs. Jones - Questions for Mr. Sehl?

1786

1787 Mr. Leabough - So the site that we're talking about, Mr. Sehl, is 4.07
1788 acres?

1789

1790 Mr. Sehl - Yes sir.

1791

1792 Mr. Leabough - And the building there that we see to the north is the
1793 postal facility?

1794

1795 Mr. Sehl - Yes sir.

1796

1797 Mr. Leabough - Okay. All righty. I don't have any other questions.

1798

1799 Mrs. Jones - You had some concerns from last time, but they have
1800 been explained and you're fine.

1801

1802 Mr. Leabough - Yes. And I don't think we need to hear from the
1803 applicant. We didn't have anyone in opposition, did we?

1804

1805 Mrs. Jones - No, we did not.

1806

1807 Mr. Leabough - Considering that the uses for outside storage are
1808 limited, there are adequate screening measures with the eight-foot berm and the
1809 Transitional Buffer 35, the reduction in the acreage from 64 to 4.07, and then the

1810 location behind the postal facility and away from Technology Boulevard, those
1811 were my main concerns. I would like to go on record that any future cases for
1812 amending the proffer, we really need to take a look at that. That was part of why I
1813 thought we needed more time to work on this. And I'd like to thank the applicant
1814 and staff for working through this to really focus on the 4.07 acres, which we
1815 know who the user is for that. And I'm glad that they can move forward with that.
1816 But the original intent of the rezoning case we really need to stick to that. I think
1817 there is a vision that we don't want to lose sight of for this area.

1818
1819 So for that reason, I'd like to move REZ2013-0005, James W. Theobald for Attack
1820 ME Tech Park Partners LLC, go forward to the Board of Supervisors with a
1821 recommendation for approval to amend Proffer 1 as noted in the agenda for the
1822 4.07 acres.

1823
1824 Mr. Branin - Second.

1825
1826 Mrs. Jones - Motion by Mr. Leabough, second by Mr. Branin. All in
1827 favor say aye. All opposed say no. The ayes have it; the motion passes.

1828
1829 **REASON:** Acting on a motion by Mr. Leabough, seconded by
1830 Mr. Branin, the Planning Commission voted 5-0 (one abstention) to recommend
1831 the Board of Supervisors **grant** the request because the changes do not greatly
1832 reduce the original intended purpose of the proffers, the change in use is
1833 compatible with surrounding development, and the proffers continue to assure a
1834 quality form of development with maximum protection afforded the adjacent
1835 properties.

1836
1837 **REZ2013-00008 Nate Van Epp or Mark Kukoski for Eagle**
1838 **Construction of Va., LLC:** Request to amend proffered conditions accepted
1839 with Rezoning Case C-7C-07 on Parcel 747-773-6860 located on the southeast
1840 line of Twin Hickory Road approximately 790' east of Nuckols Road. The
1841 applicant proposes to amend Proffer 3 related to architectural treatment. The
1842 existing zoning is RTHC Residential Townhouse District (Conditional). The 2026
1843 Comprehensive Plan recommends Urban Residential, density should not exceed
1844 6.8 units per acre.

1845
1846 Mrs. Jones - Is there anyone here in opposition to REZ2013-
1847 00008, Nate Van Epp or Mark Kukoski for Eagle Construction of Va., LLC?

1848
1849 Mr. Rosenberg - [Speaking off microphone.] It's not opposition, it's
1850 more clarification on the architectural guidelines.

1851
1852 Mrs. Jones - Okay. Hold on a moment. We'll get to you. We have
1853 two. All right. Thank you very much. We'll call you up in a minute. Good evening,
1854 Mr. Lewis.

1855

1856 Mr. Lewis - Thank you, Madam Chair.

1857

1858 This is a request to amend Proffer numbers 2 and 3 of rezoning case C-7C-07
1859 related to the fencing and architectural treatment of townhomes to be constructed
1860 at 5412 Twin Hickory Road. The 2026 Comprehensive Plan recommends Urban
1861 Residential for the site which is surrounded by a variety of residential and non-
1862 residential zoning.

1863

1864 In 2008, the subject property was rezoned to RTHC to allow construction of up to
1865 thirty townhomes in a six-building configuration. Without a specific architectural
1866 theme, the applicant for the original case committed to all-brick exteriors in
1867 Proffer #3 as a way to ensure a general level of quality. Physical development
1868 never materialized under the originally approved concept.

1869

1870 This request proposes constructing the same number of townhomes according to
1871 the conditions of the 2007 case, with two exceptions. New language in Proffer #2
1872 would prohibit chain link and stockade fencing. Changes proposed for Proffer #3
1873 would add stone, stone veneer, fiber-cement siding (you may have heard it
1874 referred to as HardiePlank) and decorative shake to the list of allowed exterior
1875 materials in order to accommodate a specific craftsman-style design shown on
1876 this and two other proffered exhibits. These illustrations include a variety of
1877 materials, colors, and architectural features (wrap-around porches, side-entry
1878 porticos, carriage-style garage doors, decorative piers, balconies, façade/roof
1879 offsets), all of which would help differentiate individual units and enhance the
1880 development's overall visual appeal.

1881

1882 Brick is a desirable building material, but achieving a unique architectural
1883 appearance from one townhome to another could be challenging if brick were the
1884 only material used. The proposed exterior materials and building elevations in
1885 this request provide more insight into the overall appearance of the proposed
1886 development while maintaining the focus on quality intended by the original
1887 zoning case. The proposed development remains consistent with the 2026 Plan's
1888 designation and would be compatible with surrounding uses. For these reasons,
1889 staff supports this request.

1890

1891 This concludes my presentation. I am happy to answer any questions you may
1892 have.

1893

1894 Mrs. Jones - Questions for Mr. Lewis? All right. Mr. Branin.

1895

1896 Mr. Branin - I would prefer, Madam Chair, if I may, to hear from
1897 opposition before we hear from the applicant simply so the applicant can address
1898 it in a more expedited fashion.

1899

1900 Mrs. Jones - Certainly. As the folks who wish to speak in
1901 opposition make their way down, Mr. Secretary, would you just review how we
1902 handle opposition to cases?
1903

1904 Mr. Emerson - Sure, Madam Chair. Again, the Commission does
1905 have rules and regulations governing public hearings. The applicant is allowed
1906 ten minutes to present the request. Time may be reserved for responses to
1907 testimony. Opposition is allowed ten minutes to present its concerns.
1908 Commission questions do not count into the time limits. The Commission may
1909 waive the time limits for either party at its discretion.
1910

1911 Mr. Rosenberg - My name is Eric Rosenberg. I live on Sumner Court in
1912 the Wyndham Forest subdivision. I'm the president of the board of directors for
1913 the homeowners' association. Yesterday I sent a letter to Mr. Lewis regarding the
1914 use of these stone veneers and the—what was the other term called?
1915

1916 Mr. Branin - HardiePlank?
1917

1918 Mr. Rosenberg - The HardiePlank, yes. We commend them for
1919 changing up the fence and everything. And I think all the proffers suit us just fine.
1920 It's just that we wish to maintain the continuity of our neighborhood. Preston
1921 Square right across the street is all brick. Wyndham Forest itself, which consists
1922 of River's Edge, Chappell Ridge, and Wyndham Forest all in one subdivision are
1923 a combination of brick foundations with vinyl siding or brick front. I believe there's
1924 only one home in Wyndham Forest that is all brick. Stable Hill and Martin's
1925 Ridge, which also adjoin our property, are also constructed of the same type of
1926 building material. It's not that we're in opposition of these materials; I think we're
1927 just trying to reduce the amount of use of them to keep with that natural look.
1928 We've requested a percent factor of about 20 percent, if that were possible.
1929

1930 Most of us in the Wyndham Forest subdivision went through an architectural
1931 committee. Each house had to be selected to ensure that there were no two brick
1932 homes set next to each other or black shutters and black shutters or all of those
1933 decorative techniques. So that's basically what we're asking for is about 20
1934 percent use. And we're willing to work with that. We just don't want all of that
1935 going on in that subdivision.
1936

1937 Mr. Branin - Mr. Rosenberg, can you show me where your house
1938 is?
1939

1940 Mr. Rosenberg - I'm on Sumner Court, which is like right here on this
1941 road.
1942

1943 Mr. Branin - Okay. And you're the president of?
1944

1945 Mr. Rosenberg - Of the homeowners association, which is Wyndham
1946 Forest, Chappell Ridge, and River's Edge.
1947
1948 Mr. Branin - Okay. And you're speaking for the entire association.
1949
1950 Mr. Rosenberg - Yes, right. I represent the board.
1951
1952 Mr. Branin - Are you speaking—that's a difference.
1953
1954 Mr. Rosenberg - Okay.
1955
1956 Mr. Branin - That's great. I'm on the Commission. She's the
1957 chairman, but she's not speaking for me most of the time. Okay?
1958
1959 Mr. Rosenberg - Okay.
1960
1961 Mr. Branin - Are you speaking for your entire association?
1962
1963 Mr. Rosenberg - No I'm not.
1964
1965 Mr. Branin - Okay. So you're here representing yourself.
1966
1967 Mr. Rosenberg - Myself, along with several other members of the
1968 board, which do not at this point represent—
1969
1970 Mr. Branin - All right. I just wanted to get clarification of that.
1971
1972 Mr. Rosenberg - Sure.
1973
1974 Mr. Branin - Because if it's the whole association, I would defer
1975 this out and we would have a meeting with the adjoining property owners.
1976
1977 Mr. Rosenberg - Okay.
1978
1979 Mr. Branin - I just wanted to get clarification if you were
1980 representing the whole association or yourself. Okay. Thank you.
1981
1982 Mrs. Jones - May I ask a question?
1983
1984 Mr. Branin - You're the chairman.
1985
1986 Mrs. Jones - I just wanted to take my turn. Mr. Rosenberg, it
1987 sounded like you have your architectural committee in place to make sure that
1988 there is differentiation of styles and finishes, and there is some diversity as you
1989 look down your street. You don't want everything to be one blank canvas.
1990

1991 Mr. Rosenberg - Right.
1992
1993 Mrs. Jones - And then treated exactly the same way. So I was just
1994 curious. I know that across the street there's a very, very similar look to every
1995 single building there. This looks like it speaks more to the diverse styles that you
1996 say you prefer. So I'm confused.
1997
1998 Mr. Rosenberg - I think the piece of information that I'm missing at this
1999 point is are they pre-built homes or are the homeowners that are contracting for
2000 them going to be able to make their own style choices for exteriors. And if so, is
2001 there a control process that would prohibit two HardiePlank homes going up next
2002 to each other. And then future people going oh, I really like that look, and now
2003 you've got a string of five or six in that one row. That's what we're trying to
2004 prevent.
2005
2006 Mrs. Jones - Well again, that's kind of a different approach than
2007 what I thought you were trying to say, which is that you didn't like these
2008 materials.
2009
2010 Mr. Rosenberg - We're just not as familiar. It ultimately doesn't fit in
2011 with the rest of our community. However, you know, it's not a sticking point with
2012 us. It's just that we just want to make sure that that little piece of our community
2013 isn't represented like it has been in Preston Square, which is all brick. It would be
2014 nice to have a little more diversity there. But it was not the case.
2015
2016 Mr. Branin - Which is the intent in this product that is coming here,
2017 and those specks are changing. Mr. Rosenberg, are they going to be joining your
2018 association?
2019
2020 Mr. Rosenberg - Not to my knowledge, no.
2021
2022 Mr. Branin - Okay.
2023
2024 Mr. Leabough - I'm confused, too, Madam Chair. I'm looking at these
2025 elevations. None of the architectural—the elevations don't look the same. There
2026 is a lot of architectural variance. There are different colors. You have the use of
2027 stone at the bottom. You have porches—or balconies, I should say—on some.
2028 So even though they look like they have either the cedar shake or the
2029 HardiePlank or the stone, they look different; they don't look the same.
2030
2031 Mr. Rosenberg - Okay. If indeed that is the plan, then we're
2032 comfortable with that. But we weren't certain of what—if Eagle has an
2033 architectural committee, if there would be an HOA or an outside agency that
2034 would be voting on these matters. Or is it going to look exactly like the picture
2035 that I saw, that you all saw?
2036

2037 Mr. Branin - We'll definitely address that with the applicant. And
2038 the "we" you're referring to is not the association.
2039

2040 Mr. Rosenberg - And I apologize.
2041

2042 Mr. Branin - It's yourself and a couple others.
2043

2044 Mr. Rosenberg - It's a couple of others that make up the board, yes.
2045

2046 Mr. Branin - Okay. You're scaring me.
2047

2048 Mr. Rosenberg - I'm sorry.
2049

2050 Mr. Branin - You are absolutely scaring me. I'm figuring this whole
2051 homeowners association—
2052

2053 Mr. Rosenberg - No.
2054

2055 Mr. Branin - —is going to barbecue me because they're against
2056 this.
2057

2058 Mr. Rosenberg - No, no. Not the case.
2059

2060 Mr. Branin - Okay.
2061

2062 Mr. Glover - It's that kind of thing that causes people to lose their
2063 hair.
2064

2065 Mr. Branin - In the last Wellesley case, you see what happened.
2066 Just because some of us are old and still have hair...
2067

2068 Mrs. Jones - Would you like to hear from the applicant, Mr. Branin?
2069

2070 Mr. Branin - Yes. Right now.
2071

2072 Mr. Witte - You have one more.
2073

2074 Mrs. Jones - Oh, excuse me. Absolutely. I was just trying very hard
2075 to move this along. Thank you. If you could state your name for the record,
2076 please.
2077

2078 Ms. Larimore - My bedtime's in five minutes, so we're going to make
2079 this quick.
2080

2081 Mrs. Jones - Oh, okay.
2082

2083 Ms. Laramore - My name is Joanna Laramore. I live at 12029 Wheat
 2084 Ridge Court. I am the adjoining property to this. I'm in the corner right here.
 2085
 2086 Mr. Branin - You've been there for a long time because you were
 2087 here—
 2088
 2089 Ms. Laramore - No, I have not. We moved in 2008, so most of the
 2090 rezoning previously was 2007 or previous to that. But we are most impacted by
 2091 not only our location, but the easements that exist into our property. So we are
 2092 highly in favor of the architectural review and the design. And I say "we,"
 2093 meaning my husband...and the probably six people on my court that I ran by
 2094 today and said, "What do you think?" We were not approached by the HOA in
 2095 any way or means to ask. So that was a decision clearly by them, that letter sent.
 2096
 2097 We appreciate that the developers have chosen something different; Preston
 2098 Square is not very attractive, if you've been by it. The reorientation of the homes
 2099 and the layout is much better for us. We no longer looker at the back of a unit; we
 2100 look at sides. So we're very appreciative again of them. The only concerns that
 2101 we have are drainage. Kind of the middle of property is the hill. The drainage
 2102 comes right into our yard. We're hoping that the improvements made in the
 2103 property will also improve the drainage issues that we experience.
 2104
 2105 And then other items as we're going to have, obviously, folks in our yard. They
 2106 take consideration we have a child and dog. Make them short. Replace what's
 2107 there at quality or better. And we, as the homeowner there, are looking forward to
 2108 it. The piece of property is kind of falling apart at the moment, and we want to
 2109 work with the County and the developer to have a successful project.
 2110
 2111 Mr. Branin - Thank you.
 2112
 2113 Ms. Laramore - Thank you.
 2114
 2115 Mr. Branin - Is there anyone else? No? Okay. May I hear from the
 2116 applicant?
 2117
 2118 Mrs. Jones - Absolutely. Would the applicant come down, please?
 2119
 2120 Mr. Van Epp - I'm Nate Van Epp with Eagle Construction.
 2121
 2122 Mr. Branin - Would you repeat your name, please?
 2123
 2124 Mr. Van Epp - Nate Van Epp. I would certainly like to address the
 2125 two questions that I heard fielded. One would be the question about the
 2126 elevations and the ability to regulate the differences in elevation. Absolutely the
 2127 intent is to see as what's shown. It is our intent for each building to be pre-
 2128 scripted so the homeowner will not—to your question earlier—have the choice to

2129 alter from the strip elevation that will be presented up front. So that will be done
2130 prior. In fact, we intend to preselect colors, as well as the porches and the
2131 locations of those porches and the stoops.

2132
2133 Mr. Branin - Mr. Lewis, can you pull up the elevation for me,
2134 please?

2135
2136 Mr. Lewis - This is the front elevation.

2137
2138 Mr. Van Epp - So, the only difference would be the location of where
2139 each physical unit is located within each building, so there would be variations
2140 among buildings. But there will be a variety—and I believe the proffer speaks to
2141 this. We have a variety of elevation styles within each building. And again, a
2142 variety of colors.

2143
2144 Mr. Branin - Okay. Mr. Van Epp, so I'm to understand that if
2145 Mr. Emerson here bought the unit on the end that has beige HardiePlank, a little
2146 bit of the cedar shake and stone, and I moved in next door to him because I think
2147 he's a great guy, and got the unit right next to him, I could not say you know, I
2148 really like the look of his, and do the same.

2149
2150 Mr. Van Epp - Correct. Especially since that end unit is actually a
2151 different unit. These are a 32-foot-wide unit, where these are 24. But yes. The
2152 specifics of how it's done—there will probably be a mechanism. In many cases, it
2153 won't be quite that you have to have this unit. In many cases, I've seen where
2154 you have an option of A or B, but it's done in a way that no matter what anybody
2155 chooses there would still be a consistent look. So there's a little bit of flexibility
2156 built in, but it won't deviate from having that variety across the units, if that makes
2157 sense.

2158
2159 Mr. Branin - And the other question?

2160
2161 Mrs. Jones - I was going to say, are these prebuilt or are they sold
2162 and then built?

2163
2164 Mr. Van Epp - We would probably sell—the first unit would probably
2165 be built speculatively, so that first building. I think Eagle's a little different than
2166 most builders in that we do build for inventory. So a lot of them would be built
2167 prior to all the units being sold.

2168
2169 Mr. Branin - That's the same format you're doing in West Broad,
2170 correct?

2171
2172 Mr. Van Epp - Absolutely. For example. West Broad Village, at any
2173 time we have lots of inventory homes.

2174

2175 Mr. Leabough - Can you say that again?
 2176
 2177 Mr. Van Epp - In West Broad Village, at any given time we have
 2178 what we call showcase homes available at all times. They're already built so that
 2179 people can—we don't typically build out all the options within the home, but you
 2180 start building the construction.
 2181
 2182 Mr. Leabough - But you wouldn't build the end unit and then come
 2183 back and build the rest.
 2184
 2185 Mr. Van Epp - Oh, no, no, no.
 2186
 2187 Mr. Leabough - You build the whole building.
 2188
 2189 Mr. Van Epp - Yes. We would just start the building.
 2190
 2191 Mr. Leabough - I just wanted to make sure I understood correctly.
 2192
 2193 Mr. Branin - They may build the slab and start the build-out.
 2194
 2195 Mr. Van Epp - Yes. For example, we might have this end unit in this
 2196 building sold, but we would construct the entire building.
 2197
 2198 Mr. Leabough - Exactly. That makes more sense to me now.
 2199
 2200 Mr. Van Epp - One other quick thing I wanted to address because
 2201 this did show up in the letter given to staff. There's a question on the long-term
 2202 durability of fiber-cement or HardiePlank. HardiePlank, obviously, is the trade
 2203 name. I did bring a sample of what we intend to use. It's actually a CertainTeed
 2204 product. It's a very good quality product. I'm sure the Board knows very well the
 2205 difference between vinyl and fiber-cement. But one thing that is important I think
 2206 to note is that over the years, fiber-cement has really improved in quality. Before,
 2207 a lot of times what would happen is that you would have the fiber-cement up, and
 2208 you'd have to prime it and then paint it. And so some people—I think the letter
 2209 addresses some maintenance questions. But this particular product has a fifty-
 2210 year warranty. And it's also pre-primed and pre-painted. And there's a fifteen-
 2211 year warranty as well on the color. So this is intended to last a long time if they're
 2212 willing to warranty for fifteen years.
 2213
 2214 And here's an example. There is quite a nice selection of colors. We think it will—
 2215 that's one of the hallmarks of this Craftsman style's ability to use colors. Again,
 2216 that would differentiate from what's across the street.
 2217
 2218 Mr. Branin - Mr. Van Epp, would you address—not to move you
 2219 along, but I'm going to move you along. Would you address the possible issue
 2220 with drainage?

2221
2222 Mr. Van Epp - Yes. I actually brought some plans too—I spoke with
2223 Joanna earlier this morning. Ms. Laramore's house is right here. And as she
2224 spoke about there is an existing easement for drainage, it is our belief that our
2225 design will actually improve her drainage of her house. Essentially what's
2226 happening right now, this is a high point right here. And all this area is sheet
2227 flowing to her backyard. It is fairly flat right now. Instead what will happen is we
2228 will collect all this drainage and it will be piped under. And then it will outfall into
2229 her existing drainage inlet. So it's our believe that it'll improve the overall
2230 drainage for the area. And, in fact, we invited Ms. Laramore and anybody else
2231 who would like to meet with us and our engineers to address any specific
2232 concerns.
2233
2234 Mr. Branin - Ms. Laramore, is that satisfactory?
2235
2236 Ms. Laramore - [Speaking off microphone.] My dad is a land inspector
2237 for Fairfax County, so he gave me a whole bunch of things to—
2238
2239 Mr. Branin - Ma'am, you'll have to come back down to the
2240 microphone and state your name for the record, please.
2241
2242 Ms. Laramore - Joanna Laramore. One thing he mentioned, they talk
2243 about that area in the center. Right here is a parking area and there's an
2244 underground BMP that connects to this, our easement, and then the sewer that
2245 sits actually—or the grate that sits in the property. Sorry, give me one second.
2246 The development will affect the intercepting the flow of the increased water, the
2247 water that we have now. We hope the maximum amount of impervious areas will
2248 be intercepted and directed into the planned BMP device to be detained and
2249 released through a pipe storm drain system and not into an infiltration system
2250 that may exasperate [sic] the drainage conditions on our lot. If that is what you
2251 guys are doing, then—
2252
2253 Mr. Branin - Yes. What your father is referring to is there are two
2254 different types of stormwater systems, basically. There is detention and retention.
2255 Detention will hold it and put it right into the sewer system—collect it and put it in
2256 a sewer system. Retention will hold it, let it filter out. And what Fairfax County
2257 and many other municipalities are finding out is when you have the retention,
2258 over a period of time it backs up, the filtration becomes minimal, and it ends up
2259 creating a problem, not solving a problem. But that's not how this is designed. It's
2260 actually designed to go straight into the stormwater system.
2261
2262 Ms. Laramore - Yes, that's the only—I think if that's the case, then
2263 we're happy.
2264
2265 Mrs. Jones - Okay.
2266

2267 Mr. Branin - I think I'm almost finished with you, sir. In regards to
2268 Ms. Laramore, in regards to her neighborhood, and in regards to her road, the
2269 original condition with the case states that hours of exterior construction including
2270 operations of bulldozers and other earth-moving equipment shall be between 7
2271 a.m. and 7 p.m. Monday through Saturday, except in emergencies or where
2272 unusual circumstances require extending the specific hours in order to complete
2273 work such as concrete pours or utility connections. Good neighbors.
2274

2275 Mr. Van Epp - Absolutely.
2276

2277 Mr. Branin - Most important thing, good neighbors. And I just want
2278 to have you hear me loud and clear, good neighbors.
2279

2280 Mr. Van Epp - We'll do that.
2281

2282 Mr. Branin - No 2:00 in the mornings.
2283

2284 Mr. Van Epp - No 2:00 in the morning.
2285

2286 Mr. Branin - No dumpster banging. Okay. All right. I don't have any
2287 other questions.
2288

2289 Mrs. Jones - Questions? All right. Mr. Branin?
2290

2291 Mr. Branin - Okay. Madam Chair, I would like to move that
2292 REZ2013-00008, Nate Van Epp or Mark Kukoski for Eagle Construction of Va.,
2293 LLC, move forward to the Board of Supervisors with a recommendation for
2294 approval.
2295

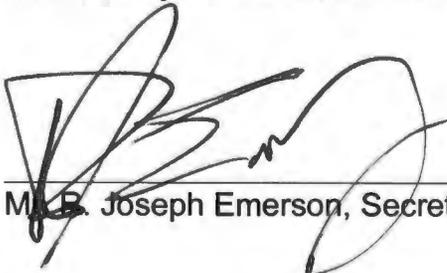
2296 Mr. Archer - Second.
2297

2298 Mrs. Jones - Motion by Mr. Branin, second by Mr. Archer. All in
2299 favor say aye. All opposed say no. The ayes have it; the motion passes.
2300

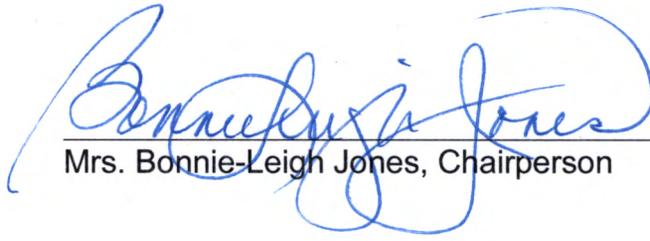
2301 **REASON:** Acting on a motion by Mr. Branin, seconded by Mr.
2302 Archer, the Planning Commission voted 5-0 (one abstention) to recommend the
2303 Board of Supervisors **grant** the request because the proffer continues to assure
2304 a quality form of development and the changes do not reduce the original
2305 intended purpose of the proffers.
2306

2307 Mr. Emerson - Madam Chair, the next item on your agenda would be
2308 the consideration of approval of the minutes of your April 11, 2013 meeting. You
2309 did have an errata sheet placed at your seat this evening that staff had gathered
2310 your changes. Those will be incorporated into the minutes. And of course if the
2311 Commission has any other changes and/or corrections, we certainly would be
2312 happy to hear about those.

2313
2314 Mrs. Jones - Okay.
2315
2316 Mr. Leabough - Madam Chair, I move approval of the April 11, 2013
2317 minutes subject to the errata sheet as distributed at the meeting today.
2318
2319 Mr. Branin - Second.
2320
2321 Mrs. Jones - Motion by Mr. Leabough, second by Mr. Branin for
2322 approval of the minutes as corrected. All in favor say aye. All opposed say no.
2323 The ayes have it; the motion passes.
2324
2325 Mr. Secretary, before I ask you whether you have anything more—is Ben Sehl
2326 still down there?
2327
2328 Mr. Branin - He split.
2329
2330 Mrs. Jones - Well, I do want the Commission to know. I neglected
2331 to thank him as I should have. This case with the cell tower began with Justin
2332 Doyle on staff. And then he moved on to a different position, and Ben came in
2333 and was a tremendous help to me. And I do think him for that. Mr. Strauss, if you
2334 could pass that along to him, that I belatedly thanked him for everything that he
2335 did to help me through.
2336
2337 All right. Mr. Secretary, is there anything more for the Commission?
2338
2339 Mr. Emerson - Madam Chair, I have nothing more for the
2340 Commission this evening.
2341
2342 Mrs. Jones - Anything else from any of the other Commissioners?
2343
2344 Mr. Archer - Madam Chair, there being nothing further, I move for
2345 adjournment.
2346
2347 Mr. Leabough - Second.
2348
2349 Mrs. Jones - I have a motion. I have a second by Mr. Leabough. All
2350 in favor say aye. All opposed say no. The ayes have it; the motion passes. The
2351 meeting is adjourned.
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Mr. B. Joseph Emerson, Secretary



Mrs. Bonnie-Leigh Jones, Chairperson

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