

1 Minutes of the regular monthly meeting of the Planning Commission of the County
2 of Henrico held in the County Administration Building in the Government Center at
3 Parham and Hungary Spring Roads, beginning at 7:00 p.m. May 14, 2015. Display
4 Notice having been published in the Richmond Times-Dispatch on April 27, 2015
5 and May 4, 2015.
6

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

Absent: Mrs. Patricia S. O'Bannon,
Board of Supervisors' Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning
Mr. James P. Strauss, PLA, Principal Planner
Ms. Leslie News, PLA, Principal Planner
Mr. Jason Hart, County Attorney
Ms. Rosemary D. Deemer, AICP, County Planner
Mr. Seth Humphreys, County Planner
Mr. Benjamin Sehl, County Planner
Ms. Christina Goggin, AICP, County Planner
Mr. Livingston Lewis, County Planner
Mr. John Cejka, County Traffic Engineer, Public Works
Mr. Thomas Wysong, Planning Intern
Ms. Sylvia Ray, Recording Secretary

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9 Mr. Witte - Good evening. I'd like to call to order the May 14, 2015,
10 meeting of the Planning Commission. This is our Zoning and Provisional Use
11 Permit meeting. I would ask that you turn off your cell phones or mute them. While
12 doing that, please stand with us for the Pledge of Allegiance.

13

14 Thank you. Do we have any media in the audience with us this evening? I see
15 none.

16

17 All members are present; we have a quorum. With that, I'd like to turn the meeting
18 over to our secretary, Mr. Emerson.

19

20 Mr. Emerson - Thank you, Mr. Chairman.

21

22 Mr. Chairman, we now move to the requests for withdrawals and deferrals. Those
23 will be presented by Mr. Jim Strauss.

24 Mr. Strauss - Thank you, Mr. Secretary. Mr. Chairman, staff is aware
25 of two deferrals requested this evening. The first one is in the Three Chopt District
26 on page 4 of the agenda. It's REZ2015-00008, Eagle Construction of VA, LLC.

27
28 **THREE CHOPT:**

29 **REZ2015-00008 Bay Companies, Inc. for Eagle Construction of VA,**
30 **LLC:** Request to rezone from A-1 Agricultural District and R-3 One Family
31 Residence District to R-5AC General Residence District (Conditional) Parcels 743-
32 755-9852 and 743-755-8828 containing 5.11 acres located on the east line of
33 Crown Grant Road at its intersection with Cedar Hill Court. The applicant proposes
34 16 single family detached homes on zero lot lines. The R-5A District allows a
35 maximum density of six (6) units per acre. The use will be controlled by zoning
36 ordinance regulations and proffered conditions. The 2026 Comprehensive Plan
37 recommends Suburban Residential 2, density should not exceed 3.4 units per
38 acre.

39
40 Mr. Witte - Do we have anyone in opposition to REZ2015-00008,
41 Bay Companies, Inc. for Eagle Construction of VA, LLC? I see none.

42
43 Mr. Branin - In that case, I move that REZ2015-00008, Bay
44 Companies, Inc. for Eagle Construction of VA, LLC, be deferred at the applicant's
45 request to the July 9, 2015 meeting.

46
47 Ms. Jones - Second.

48
49 Mr. Witte - We have a motion by Mr. Branin, a second by Ms.
50 Jones. All in favor say aye. All opposed say no. The ayes have it; the motion
51 passes.

52
53 At the request of the applicant, the Planning Commission deferred REZ2015-
54 00008, Bay Companies, Inc. for Eagle Construction of VA, LLC, to its meeting on
55 July 9, 2015.

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57 The second request for deferral is also in Three Chopt and on page 4 of the
58 agenda, it is REZ2015-00014, HHH Land, LLC.

59
60 **REZ2015-00014 James W. Theobald for HHH Land, LLC:** Request to rezone
61 from A-1 Agricultural District to R-5AC General Residence District (Conditional)
62 and RTHC Residential Townhouse District (Conditional) part of Parcel 749-771-
63 6494 containing 63.409 acres (44.203 acres proposed for R-5AC and 19.206 acres
64 proposed for RTHC) located on the east line of Nuckols Road approximately 800'
65 southeast of its intersection with Opaca Lane. The applicant proposes no more
66 than 130 single family detached homes on zero lot lines and no more than 130
67 attached townhomes. The R-5A District allows a maximum density of six (6) units
68 per acre and the RTH District allows a maximum density of nine (9) units per acre.
69 The uses will be controlled by zoning ordinance regulations and proffered

70 conditions. The 2026 Comprehensive Plan recommends Office and Environmental
71 Protection Area.

72

73 Mr. Witte - Do we have anyone in opposition to REZ2015-00014
74 James W. Theobald for HHH Land, LLC? I see none.

75

76 Mr. Branin - In that case, I move that REZ2015-00014, James W.
77 Theobald for HHH Land, LLC, be deferred at the applicant's request to the June
78 11, 2015 meeting.

79

80 Mr. Leabough - Second.

81

82 Mr. Witte - We have a motion by Mr. Branin, a second by Mr.
83 Leabough. All in favor say aye. All opposed say no. The ayes have it; the motion
84 passes.

85

86 At the request of the applicant, the Planning Commission deferred REZ2015-
87 00014, James W. Theobald for HHH Land, LLC, to its meeting on June 11, 2015.

88

89 Mr. Emerson - Mr. Chairman, if there are no deferrals from the
90 Commission, we've completed that item on your agenda. We will now move
91 forward with requests for expedited items, which there are none this evening. Now
92 we move into the cases to be heard, which there are five.

93

94 The first case on your agenda this evening is POD2014-00075. The staff report
95 will be presented by Ms. Christina Goggin, and she will be followed by the County
96 Attorney with some advice regarding Planning Commission jurisdiction and action
97 regarding plans of development.

98

99 *(Deferred from the March 12, 2015 Meeting)*

100 **PLAN OF DEVELOPMENT**

101

POD2014-00175
Family Dollar at 1276 New
Market Road - New
Market Road (State Route
5)

**Balzer and Associates, Inc. for Felts & Kilpatrick
Construction Company, Inc. and Twin Rivers
Capital, LLC:** Request for approval of a plan of
development, as required by Chapter 24, Section 24-
106 of the Henrico County Code, to construct a one-
story, 8,770 square-foot retail store. The 2.50-acre
site is located at the southeast corner of the
intersection of New Market Road (State Route 5) and
North James Estates Drive, on parcels 802-702-
9916, 802-702-8535, 802-702-8929, and 803-702-
1005. The zoning is B-1C, Business District
(Conditional). County water and sewer. **(Varina)**

102

103 Mr. Witte - Is there any opposition to POD2014-00175, Family
104 Dollar at 2076 New Market Road? We have opposition. Thank you. Ms. Goggin, if
105 you will proceed, and then Mr. Emerson can read the rules.

106

107 Ms. Goggin - Yes sir. Good evening. The developer, Twin Rivers
108 Capital, first requested deferral of the plan of development at the June 25, 2014,
109 Planning Commission hearing to hold a community meeting to discuss their
110 proposed retail development with concerned citizens. On March 2, 2015, Twin
111 Rivers Capital held an informational meeting for parties interested in the proposed
112 development. Various county and state agencies attended the meeting to answer
113 citizen questions and provide information on what is proposed.

114

115 The layout provides a proffered 100-foot building setback from the ultimate right of
116 way of New Market Road. A 40-foot-wide bermed landscaped strip planted to a
117 35-foot proffered transitional buffer will be provided between New Market Road
118 and the parking lot in this area here. A 20-foot proffered buffer planted to a 25-foot
119 transitional is located along North James Estates Drive, which is on this side here.
120 A 10-foot transitional buffer and an 8-foot-tall white vinyl fence are provided along
121 the northern property line adjacent to North James Estates subdivision, which are
122 these property lines up here.

123

124 The applicant has designed the plan to retain the existing mature trees adjacent to
125 the subdivision, and supplemental plantings will be added to meet the 10-foot
126 transitional buffer requirements. You can see where the existing trees are shown
127 behind the building.

128

129 The building provided is a colonial-style building with brick as the primary building
130 material with an architectural shingled roof and is in compliance with the
131 architectural proffers.

132

133 The Virginia Department of Transportation reviewed the plan and approved an
134 entrance waiver based on the fact that the site is comprised of four parcels, each
135 with their individual access rights. This can be seen a little bit better on the aerial.
136 VDOT determined that it was better to grant one full entrance access to serve all
137 four parcels. The entrance will be served by a tapered turn lane into the
138 development. A new sidewalk is provided along the frontage of the site.

139

140 The proposed development meets all the proffered conditions of C-22C-10, the
141 County code, and the technical requirements. Staff recommends approval subject
142 to annotations on the plan, the standard conditions for developments of this type,
143 and additional conditions 29 through 37.

144

145 County staff and the applicant's representative, Andy Conclin, are available to
146 answer any questions the Commission may have.

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148 Mr. Witte - Any questions by the Commission?

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Mr. Leabough - I have a couple of quick questions for Ms. Goggin. Ms. Goggin, one of the things that came up related to the Dollar General case was specific to native plantings. Has the applicant agreed to incorporate native plantings as a part of their landscape plan for this site?

Ms. Goggin - Yes sir. We had passed that information on to the landscape architect. They have already submitted a preliminary plan incorporating those. We have not completed our review at this time. But yes, they have agreed to work with us to provide native landscaping.

Mr. Leabough - Thank you. One other question. The alternate entrance and the waiver from VDOT, where would the alternate location for that entrance be if it were not onto Route 5? Potentially.

Ms. Goggin - It could be off of North James Estates Drive, which would push the traffic into the residential neighborhood.

Mr. Leabough - So the next possible or best location is where it is currently.

Ms. Goggin - Yes. Trying to keep the commercial traffic out of the residential traffic altogether.

Mr. Leabough - Okay. And you mentioned that this case does meet the technical requirements of the code, and it does meet the proffers that were previously approved with the 2011 rezoning case?

Ms. Goggin - Yes sir.

Mr. Leabough - Okay. I have no further questions for Ms. Goggin.

Mr. Witte - Any other questions?

Mr. Emerson - Mr. Chairman, we have Jason Hart, one of our assistant county attorneys with us this evening. I've asked him to come this evening to advise the Commission of their abilities in approving and disapproving plans of development in by-right zoning cases. He's kindly agreed to come and advise you of how the code governs your rights under these situations.

Mr. Witte - Welcome, Mr. Hart.

Mr. Hart - Thank you, Mr. Emerson, and thank you, Mr. Witte. I just want to speak briefly on the Planning Commission's actual role when it comes to reviewing POD applications.

195 The POD review is what's known as a ministerial review, which is in contrast to a
196 legislative review. Under a ministerial review, the Planning Commission's review
197 is limited to determining whether the POD meets the County code requirements,
198 which I believe Ms. Goggin already said it does. If the commission finds that the
199 code requirements are met, then the Commission has no choice but to grant the
200 POD.

201
202 I'll be happy to answer any other questions related to that.

203
204 Mr. Witte - Any questions?

205
206 Mr. Leabough - I have a question. This is different from a rezoning
207 case, correct?

208
209 Mr. Hart - Yes sir. In a rezoning context, it's what's called a
210 *legislative review*. You make a recommendation, which then goes on to the Board
211 of Supervisors. And since the Board of Supervisors is a legislative body, as long
212 as reasonable minds could differ or support the decision, then it will be upheld.
213 That's in contrast with here where it's a primarily a ministerial review. If the POD
214 meets the conditions of the County code, then the Commission must grant it or
215 approve it.

216
217 Mr. Leabough - Have you been advised by staff that it does meet the
218 technical requirements of the code?

219
220 Mr. Hart - Yes, I have been.

221
222 Mr. Leabough - Okay. There was also a question that was raised by the
223 community related to a stoplight at Midview and Route 5? Could we not approve
224 this case because there is no stoplight or they're not proposing a stoplight at
225 Midview and Route 5?

226
227 Mr. Hart - I can't speak to that specifically, but if the County code
228 requirements are met, then you do need to approve it.

229
230 Mr. Emerson - In this case, Mr. Leabough, VDOT is recommending
231 approval, as well as our own Department of Public Works without the signalization
232 of that particular intersection.

233
234 Mr. Leabough - So they're saying that the roadway can handle this use
235 as it's designed currently?

236
237 Mr. Emerson - Yes sir, they are. They've recommended approval.

238
239 Mr. Leabough - Okay. Thank you, sir.

240

241 Mr. Emerson - Mr. Hart, before you leave, would you also expand into
242 the ability of the Commission to consider other developments by the same property
243 owner in relation to this decision this evening?
244

245 Mr. Hart - Sure thing. To put it frankly, the Commission has no
246 ability to consider other developments by a property owner or by that same
247 developer when granting this. The PODs are viewed on their own merits and
248 limited singularly to that POD. Whatever the property owner or developer may have
249 done in the past or may be planning to do in the future has no bearing on the
250 Commission's ability or discretion to approve or deny this POD. Frankly, there is
251 no discretion in this case—or in any POD. If the POD meets the requirements of
252 the County code, then the Planning Commission is required by law to approve it.
253

254 Mr. Leabough - What would happen if we choose to deny this case?
255

256 Mr. Hart - If you choose to deny this case, there is a provision in
257 15.2-2209 whereby the applicant can petition to the Circuit Court for what's called
258 a *writ of mandamus*, which is essentially where the court orders the Commission
259 to approve it.
260

261 Mr. Leabough - Okay.
262

263 Mr. Branin - Mr. Hart, that happened the Three Chopt District, I
264 believe, two or three years ago where we voted against a subdivision based on a
265 policy that the County has, actually. Because of it not standing up legally, we had
266 to reverse our decision under state law.
267

268 Mr. Hart - And that does happen. There are Supreme Court
269 cases to that explicit effect.
270

271 Mr. Leabough - I have no further questions.
272

273 Mr. Witte - Any other questions? Thank you very much. Mr.
274 Emerson.
275

276 Mr. Emerson - Yes sir, Mr. Chairman. As you noted, there is
277 opposition to this item. Therefore, as we normally do, I will notify the audience of
278 the rules and regulations of the Planning Commission.
279

280 The Planning Commission does have guidelines that govern their public hearings
281 and they are as follows: The applicant is allowed ten minutes to present the
282 request, and time may be reserved for responses to testimony. Opposition is
283 allowed ten minutes to present its concerns. Commission questions do not count
284 into the time limits. The Commission may waive time limits for either party at its
285 discretion. The comments received must be directly related to the case under
286 consideration.

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Mr. Witte - How would you like to proceed?

Mr. Leabough - I just want to make this statement. I know there are a lot of people here that are passionate and interested in this case. I just don't think that if everyone chose to get up and speak for five or ten minutes apiece that everyone's going to get their opportunity given the time limits that we have. So to the extent that you can make your comments, please don't repeat something that's already been stated. I don't know if there is a representative that has organized some talking points for the opposition. But to the effect that we can be more efficient in the use of that time, the better off we'll be, I think. I just want to caution you all that it's ten minutes that's allowed by the opposition, as well as the applicant, and there are a lot of people that want to speak. So please be respectful to others that would like to speak as well.

I think I'd like to hear from the opposition first, Mr. Chairman.

Mr. Witte - Would anyone who would like to speak in opposition please come forward.

Mr. Jackson - Good evening. Commissioners, members of the audience, any other departments from the County, my name is James W. Jackson III. I live in the North James Estates community that adjoins the property that is being considered by the POD. I have several points that I'd like to make, and these are the points that we have discussed before; we've had many meetings. And in May, we had a meeting, and we had almost 300 people present in opposition.

When we started this opposition in April of last year, I did not know how many subdivisions were actually in the area known as Varina or the Route 5 Coalition. If I'm not mistaken, almost everyone here either lives in North James Estates or along Route 5 or from the James River to the south all the way over to Creighton Road. If they go from the city of Richmond on Williamsburg Road, they go almost to New Kent County. From Rocketts Landing to the Charles City line, it is called Varina. Everyone that lives in that area, would you be so kind as to stand up? Just stand up to let them know that we're not just standing here by ourselves opposing this. These people that we didn't even know came out to support the North James Estates, and we have more or less become a part of the coalition of Route 5.

To the representatives of Twin Rivers Capital LLC, Balzer, Felts & Kilpatrick, also known as Edge Development, and most importantly my fellow constituents, Route 5 Coalition members, neighbors, and friends. Route 5, New Market Road, is a historic road. It used to run all of the traffic from the old capital in Williamsburg to the new capital in Richmond. It is a state-designated scenic route. The homes that are built there, some of them go back fifty or sixty years.

332 The newer homes, like ours, we have the modern view, and we want to be a part
333 of this community. What we are afraid of is that if you allow this out-of-state
334 organization to build an 8,200-square-foot in-and-out commercial development in
335 the driveway of the homes that some of us that retired from the military—having
336 served our country, served our community—teachers, doctors, we're retired. But
337 then there are people in our community that have children. And these children, this
338 is where those parents plan on raising their kids. They did not plan on having in
339 their front yards a cotton-picking Dollar Store. Why a Dollar Store in a residential
340 community? There is no explanation for that. Nowhere else in the County—the
341 western part or any other part of the County—does such a thing exist. All of the
342 Dollar Stores that I have seen throughout the County, they are in shopping centers
343 or they are in areas where they were built many, many, many years ago, and the
344 communities grew up around the Dollar Store. Never have I heard of someone
345 building in a community as beautiful as ours and sticking a warehouse on the
346 front of it. There is no way that anyone would have thought that.

347
348 When I first visited in that community in December of 2010, the builder and the
349 developer led me to believe that that space would be used primarily for a service-
350 oriented business such as a dental office, a doctor's office—something that would
351 serve the community, something that could be useful and bring support to the
352 community. No one ever told me or any of my other neighbors, as I have come to
353 learn, about the possibility that the developer would sell that property to someone
354 to build that there. We were told absolutely otherwise.

355
356 We were led to believe that this was going to be a part of the community. We have
357 since learned that in 2010, the developer came to you folks and got the zoning
358 changed. Interestingly enough, he had not dug a hole for any house. But he came
359 along and he got it changed. And he built the houses that we moved into.

360
361 Mr. Leabough - Mr. Jackson, I'm sorry to interrupt you, but it's been five
362 minutes. I'm not sure if you all have other people that would like to speak. I just
363 wanted to point out one thing. In 2011, the zoning was already there. They just
364 reconfigured the way the parcel laid. It wasn't rezoned in 2011. The B-1 zoning
365 dates back to 1959.

366
367 Mr. Jackson - Yes, I'm fully aware of that.

368
369 Mr. Leabough - Which would have allowed this use back in 1959.

370
371 Mr. Jackson - Yes. But Craig Kilpatrick in April of 2010 went and got
372 it changed once again.

373
374 Mr. Leabough - They reconfigured it.

375
376 Mr. Jackson - They reconfigured it. But my point is that he knew that
377 he was planning on building a community of fifty homes. And he knew at that time

378 those two properties were part of a parcel of land that his father had given to him
379 or that his father owned.

380

381 Mr. Emerson - Mr. Jackson, not to interrupt, but I do just want to follow
382 up on Mr. Leabough's comment. That is a cumulative ten minutes, and you are
383 past five. I just want to make sure that everyone in the group understands that.

384

385 Mr. Jackson - Okay.

386

387 Mr. Leabough - Are you planning to speak for the rest of the group or
388 are other folks planning to speak in opposition as well? You all can allocate your
389 time however you choose. I just want you all to be aware of the time limit.

390

391 Mr. Emerson - It is cumulative. I did stop the clock while we were
392 talking.

393

394 Mr. Witte - Is there anybody else in the audience who would like
395 to speak, to use part of this ten minutes? Please raise your hand so we're aware.
396 One, two, three, four.

397

398 Mr. Leabough - So we have about four other people that would like to
399 speak in opposition.

400

401 Mr. Witte - So they have about a minute a piece.

402

403 Mr. Jackson - That being the case, my plea to you is this. In order for
404 them to build that store, they have to drive into our community. They have to use
405 the roads that the developer has failed to complete. He has failed to meet the
406 surety bond that was given, that the County has. He has not met anything. Based
407 on that, I'm asking that you do not allow this project to go forward. Whether he
408 changed his name from Felts & Kilpatrick to Edge Development, we all know the
409 story of the old lady and the snake—changing your skin, a snake is still a snake.
410 Do not let them build. Thank you.

411

412 Mr. Branin - Mr. Jackson, let me make one comment to you and to
413 everyone, but to you primarily because you said there is nowhere else that a Dollar
414 General or a Dollar Store or this type of store has gone in. I represent the Three
415 Chopt District, which is out in the Short Pump area. Right when I was going into
416 college a Dollar General was built on Church Road and Three Chopt, right up
417 against a neighborhood when back then there was nothing out there. I understand
418 your point, but it's not completely accurate. It went on in the Three Chopt District
419 way back then as well.

420

421 Mr. Jackson - Thank you.

422

423 Mr. Witte - Thank you, Mr. Jackson.

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425 Mr. Leabough - Thank you, sir.

426

427 Ms. Davis - Good evening. I'm Joyce Davis, a resident of Henrico
428 County, the New Market Farms subdivision. I'm here to speak against this project.

429

430 This morning as I turned out of my subdivision, I looked down to the left and could
431 see the North James Estates in the distance. Watching the traffic, I sat thinking of
432 the changes this location would bring to members of my community. I considered
433 the current traffic pattern and the potential of increased traffic at nine or ten in the
434 morning resulting from the placement of the Family Dollar store. I envisioned that
435 this retail store would definitely generate increased traffic, would impact nearby
436 neighbors immensely, would increase traffic cut-through in the neighborhoods, and
437 would certainly impact the increased net time to cross New Market Road.

438

439 During my sixteen years in the area, there have been significant gains to transform
440 New Market Road to improve and promote business growth and sustainable
441 development. We've had gains to improve the pedestrian and bicycling
442 environment, significant housing development, and businesses to locate on this
443 corridor.

444

445 I recognize the benefits of a strong economic base and need for economic
446 development projects that provide a tax base and much needed resources for the
447 growth of the Varina District, the need for resources for our schools and the goal
448 to sustain the growth of this community. I also understand the spinoff effect of jobs,
449 resources for our students, and the convenience of travel to have a store located
450 nearby for seniors. But I also recognize the aesthetic impact and the need to
451 safeguard the impact on the direct community and the risk to the historic
452 preservation and fiber of New Market Road, a historic community not only in
453 Henrico County, but the Commonwealth of Virginia.

454

455 I personally feel this addition to the community counters all of the additions and
456 progress made in this area. Perhaps there is an alternative, another suitable
457 location. Perhaps consideration could be given to amend our policies or zoning
458 requirements.

459

460 I appreciate the opportunity to weigh in on this decision. Thank you for your
461 consideration of all of the comments as you deliberate on this important matter.
462 Thank you.

463

464 Mr. Witte - Thank you, Ms. Davis.

465

466 Ms. Jones - Can I ask a question?

467

468 Mr. Witte - Ms. Davis? We have a question, please.

469

470 Ms. Jones - I may not have understood you properly. One of your
471 biggest concerns was cut-through traffic.
472

473 Ms. Davis - Yes. Which is also one of the issues that the staffer
474 mentioned today, that if they consider certain alternatives to the traffic pattern, that
475 there might be.
476

477 Mr. Leabough - She was suggesting that they were looking at an
478 entrance. VDOT was asking them to put an entrance through the North James
479 Estates community. But specifically due to concerns raised by staff and others, as
480 myself and Reverend Nelson, they chose not to do it.
481

482 Ms. Davis - Actually, that wasn't my concern before even writing
483 my comments. When I look at that particular location, I'm thinking of the now-cut-
484 through that increases because people are traveling to the store. In many of those
485 neighborhoods, as you come from Darbytown Road, you can cut through the New
486 Market subdivision or Midview to come up. I'm looking at that as the increased
487 traffic, not necessarily only North James, because it's only the one entrance into
488 North James.
489

490 Ms. Jones - I just wanted to make sure you understood that this was
491 the in-and-out, the only entrance to the development.
492

493 Ms. Davis - No, I do understand that. I'm looking at the increased
494 travel in the neighborhood, which we already have because of housing
495 developments. And I'm looking at how it impacts the entire community.
496

497 Mr. Leabough - Thank you.
498

499 Ms. Davis - Thank you.
500

501 Mr. Witte - Thank you, ma'am.
502

503 Mr. Emerson - Mr. Chairman, you have about a minute and a half left
504 of the ten.
505

506 Mr. Leabough - Before you get started, Pete; I'm sorry, could we just
507 extend them another ten minutes, please? Would the other commissioners be okay
508 with that?
509

510 Mr. Branin - I second that.
511

512 Mr. Leabough - So you have eleven minutes.
513

514 Mr. Emerson - That will give you eleven minutes.
515

516 Mr. Witte - You have eleven minutes total for everybody.
517
518 Mr. Stubbs - All right. I'll be as brief as I can. Thank you. My name
519 is Pete Stubbs, and I live in the Midview Farms subdivision. I really have three
520 questions. First, the 2026 Plan that I believe the Planning Commission did—is that
521 correct? You all put that together, right?
522
523 Mr. Leabough - The County did.
524
525 Mr. Stubbs - All right, the County did that, right?
526
527 Mr. Leabough - Along with the citizens.
528
529 Mr. Stubbs - Okay. Along with the citizens. Okay. As a part of the
530 plan, if I read that correctly, it says that the zoning as it currently exists can be
531 reexamined based on the conditions that exist today versus zoning that occurred
532 in 1959. I'm pretty positive that in 1959 the people then had no vision of the
533 communities that are currently around where the proposed Family Dollar is looking
534 to build. In that 2026 Plan, it says that a feasibility study should be done to make
535 sure that the impact of such a business like Family Dollar—it needs to happen so
536 we can see whether—or so the County can see whether the effect of that business
537 is going to take away from the communities, the different possibilities of
538 development in a positive way. I guess the thing I'm asking is, is a feasibility study
539 possible before the actual approval of this POD?
540
541 Mr. Leabough - Could I answer that question real quick? So the 2026
542 Comprehensive Plan is a guide and a tool for future rezoning requests. That
543 doesn't mean that we can change or down-zone a property based on that. So the
544 zoning for B-1 is in place. The Comprehensive Plan is a tool for future rezoning
545 requests or future development. Correct me if I'm wrong, but we can't change the
546 zoning based on what it says in the Comprehensive Plan; it's just a guide for future
547 rezoning.
548
549 Mr. Emerson - It is a guide. It is for future rezoning primarily. State
550 code does allow for boards of supervisors to undertake overall county rezoning.
551 That's normally done at the time of an adoption of a zoning code, which was done
552 in Henrico County at the time. There is case law where boards of supervisors have
553 tried to down-zone properties of a higher intensity. In specific in the '90's, along I
554 believe it's Route 7 in Loudoun County near Dulles Airport. When the board
555 undertook that, they were sued by the property owners, and the General Assembly
556 stepped in and reversed their actions. So it's not something you normally do as to
557 step in and down-zone people's property. It's a "taking" under state code, and that
558 creates challenges. So we're constrained by state code, I guess is what I'm saying.
559
560 Mr. Stubbs - So regardless of what it says in the 2026 Plan as a
561 recommendation, anything that was done decades ago can still be in effect.

562
563 Mr. Emerson - Yes sir.
564
565 Mr. Branin - Most of the property—and there's still a very large
566 amount of property in Varina—starts off as A-1, agricultural. When the Board, the
567 commissioners, and staff all sit together and they start looking at the future and the
568 2026 Plan, in this instance, you're usually looking at A-1. And you're saying this
569 would be the best area for housing, this would be the best area of business. That's
570 A-1, because you know eventually at some point A-1 is going to be developed. The
571 issue that we run into County-wide is some piece of property was put in at some
572 way-past date—
573
574 Mr. Witte - 1959?
575
576 Mr. Branin - Like 1959. The frustrating part for us as
577 commissioners, and for the Board, is when we look at a piece surrounded by A-1
578 and there's one B-3 put in there, that's wide open. And usually in 1959, they didn't
579 put any conditions on them. None. So that means we have absolutely no authority,
580 the Board of Supervisors have no authority because legally that property is zoned
581 that now. Does that make sense?
582
583 Mr. Stubbs - No, it doesn't. It doesn't make any sense because what
584 you're saying to us, to anybody in the County—
585
586 Mr. Branin - The owner of the property can request to change the
587 zoning in any fashion he chooses. The County cannot request of him to change
588 his zoning because we would prefer it.
589
590 Male - [Off microphone.] He's grandfathered.
591
592 Mr. Branin - He's grandfathered out.
593
594 Mr. Stubbs - Understood. I guess the request, what I was asking—
595 and you've answered that. You asked me the question also did it make sense. I
596 can tell you that to most people in this room, no, it doesn't.
597
598 Mr. Branin - And to us up here it doesn't because we have no tool.
599
600 Mr. Stubbs - Well then we have to find a way to make a tool
601
602 Mr. Branin - I agree with that.
603
604 Mr. Stubbs - We have to find a way. And I don't know what the tool
605 is and who we have to go to beyond this gathering today.
606
607 Mr. Branin - It actually starts at state and fed.

608

609 Mr. Stubbs - And that's one of the concerns—where is the state?
610 We have to make that process happen because a Family Dollar in the middle of
611 these communities makes no sense. It doesn't. I gotcha, but it doesn't make any
612 sense. The number of people here today—and this is much smaller than what was
613 at the meeting with the developer and Family Dollar—they're all going to keep
614 telling you the same thing. We don't want it. It doesn't make sense. And there
615 should be a way to undo this. At some point, there has to be a process put in place
616 to make that happen.

617

618 Mr. Archer - Mr. Stubbs, before you sit down, sir. I don't think there
619 is a one of us sitting up here that is not feeling the passion that you and the
620 speakers that have preceded you have over this issue. We are hamstrung to the
621 extent that we can't make decisions that are arbitrary; we have to follow the guide
622 and we have to follow the law. I've been here nineteen years. I've never seen a
623 POD challenged that we've won. So we're in a situation where there's nothing that
624 I can think of that we can do that wouldn't break the law. And if we break the law
625 and it goes to court, we lose.

626

627 Mr. Jackson - When something doesn't make sense to you, it doesn't
628 make sense to the communities that are here—we're your constituency, and you're
629 saying well, we're in the position, but there's nothing we can do.

630

631 Mr. Witte - We have to protect the rights of the property owner
632 also.

633

634 Mr. Jackson - But the property owner doesn't care about us, and
635 we're in the community. He doesn't care about us. He doesn't care about North
636 James. And he doesn't care about the accidents that happen at that intersection.
637 He doesn't care about the fact that Family Dollar has as much crime as any
638 business I have ever heard of, but I don't want to go there tonight. Thank you.

639

640 Mr. Witte - Sir, in all fairness, I don't think you all care about him
641 either.

642

643 Mr. Leabough - How much time do we have, Mr. Secretary?

644

645 Mr. Emerson - We have nine minutes left.

646

647 Mr. Richardson - Good evening, my name is Charles Richardson. I live
648 at 1608 Midview Road, just around the corner from the proposed development.

649

650 A retail store at this location presents a number of potential negative impacts with
651 regard to traffic safety and congestion. Everyone who lives along this particular
652 stretch of the Route 5 corridor knows that the intersection of Route 5 and Midview
653 Road is already problematic in its present configuration. There is no traffic signal

654 at the location. There is only one westbound turning lane. And accidents are not
655 unusual.

656

657 Supervisor Nelson, in response to a nearby traffic fatality in late 2013, initiated a
658 series of traffic studies from VDOT—since Route 5 is a state-maintained road—on
659 a five-and-a-half-mile area of this corridor in the hope that safety measures could
660 be implemented to address residents' concerns. VDOT engineers found that,
661 quote, this section of Route 5 has overall crash and injury rates almost double the
662 statewide average for two-lane primary roads. The Midview Road entrance was
663 singled out for being particularly dangerous, and the installation of an eastbound
664 left turn lane was recommended to help mitigate the rear-end crash problem
665 identified at this location. Since January 2014, when the last of these studies was
666 submitted to the County, no funding by VDOT for this improvement has been made
667 and none appears to be on the immediate horizon.

668

669 In response to an e-mail inquiry from me in February, Mr. Jennings, the assistant
670 director of Public Works for Henrico, and formerly a traffic engineer, I believe,
671 estimated that a Family Dollar store in this location would generate 502 vehicles
672 per day. In addition, the Virginia Capital Trail has installed a bicycle crossing
673 around 100 feet from the Midview Road entrance, which is expected to generate,
674 in the words of the foundation director, Beth Weisbrod, quote, upwards of 400,000
675 visitors this first year, then quickly surpassing one million per year, unquote. Even
676 accounting for exaggerated estimates, we are looking at adding tens of thousands
677 of cyclists per month to what will essentially be a pedestrian crossing—no
678 stoplight—and adding an additional 10,000 or so retail customers per month to this
679 already dangerous intersection.

680

681 In addition, according to VDOT engineers, the spacing between the entrance to
682 the proposed store and the entrance to Midview Road, which they recommend
683 should be at 555 feet for traffic safety and congestion reasons, will only meet
684 Henrico's requirement of 250 feet. While it is perfectly understandable, as Mr.
685 Leabough mentioned before, that neither the County nor VDOT can deny access
686 to these parcels, the ultimate result of this is a completely sub-optimal design which
687 can only lead to increased congestion as other areas of this corridor inevitably
688 grow. While County and VDOT officials have suggested that Route 5 can handle
689 the additional traffic and that the Capital Trail—which will essentially serve as
690 another poorly spaced traffic entrance—will not affect this POD, VDOT's own
691 numbers, along with the common sense of all those who drive automobiles through
692 this intersection, suggest otherwise.

693

694 I encourage the County and the developer to reconsider building at this location
695 until the overall impact of the Capital Trail ridership can be accurately assessed
696 and until VDOT funding for the Midview turn lane can be acquired. Thank you.

697

698 Mr. Witte - Any questions? Thank you, sir. Is there anyone else to
699 speak in opposition?

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Mr. Emerson - Mr. Chairman, you have approximately six minutes left.

Ms. Hatcher - Thank you. Good evening.

Mr. Witte - Good evening.

Ms. Hatcher - My name is Angela Hatcher, and I live just a couple hundred feet from where the POD is being considered.

I want to take a moment to express how discouraged I am about this entire journey. I have heard every legal reason as to why this POD is going to pass. Unfortunately, there appears to be no one person or entity who can protect me as a homeowner from so many concerns that have been highlighted along this journey. The work that has been completed in our neighborhood is substandard, and the amount of protection that we have as homeowners is minimal.

Our neighborhood has been battling with Nolan Felts and Craig Kilpatrick since the first few homes were constructed in 2011. I would be shocked if Nolan Felts and Craig Kilpatrick completed the required work. Why? Because most human behaviors are conditioned and repeated. Their continuous interactions with North James Estates residents have been based on lies and unfulfilled promises. With this being the case, I lack total confidence that the job will be performed.

I appreciate receiving a copy of the letter that Mr. Emerson provided outlining the improvements that have been done since the March meeting. However, thirteen out of the seventeen items deal with Nolan Felts putting down a handful of dirt and grass seed to address concerns with SIPs. The way it is outlined in the letter gives it the appearance that a lot of the improvements have been performed, but they have not. The letter also highlights a drop inlet installation that was performed with the delusive appearance of quality. This was performed after the March meeting. Again, conditioned and repeated human behaviors. Ultimately, I believe that we as taxpayers are going to have to pay for their failures to be corrected.

There are a few things that I am confident of. I am confident that once the sale is completed of this property, that Nolan Felts and Craig Kilpatrick will take the money and apply it to another project. Why? Because Nolan Felts lacks discretion and had no problem in the past sharing with neighbors that they could not complete projects because they did not have the money and were waiting for checks to be cleared. Again, conditioned and repeated human behaviors.

I am also confident that Edge Development Partners will develop in Henrico County after they complete their developments in Richmond City and Hanover County. We won't see them coming because they no longer operate under the name Nolan Felts and Craig Kilpatrick; it will soon be a name of the past.

792

793 Ms. Hatcher - It's not comforting because we have a history with
794 them, a history that's different from anybody else's. They have consistently proved
795 that over and over and over. So what we do believe will happen, the property will
796 be sold, they will get the cash from this property, and it's done.

797

798 Mr. Leabough - But your neighborhood will be finished.

799

800 Ms. Hatcher - But whose money?

801

802 Mr. Leabough - With their money.

803

804 Ms. Hatcher - Their money?

805

806 Mr. Leabough - Yes. That's what the letter of credit is for.

807

808 Ms. Hatcher - But the cost of the letter of the credits is approximately
809 \$100,000, based on the figures?

810

811 Mr. Leabough - I'm not an expert on the letter of credit.

812

813 Ms. Hatcher - I'm just thinking of a recent e-mail, and that the cost,
814 for example, to repave our entire streets could possibly be hundreds of thousands.
815 I'm just looking at the differentiation in the cost to perform it. So then if the County
816 has to do it, that becomes taxpayer money.

817

818 Mr. Leabough - I don't think we're expecting the County to do any of
819 that. I think we're actually expecting the developer to live up to that.

820

821 Mr. Emerson - Right now we anticipate the developer will complete
822 the work as we discussed. If not, we will take his sureties and we will complete the
823 work. I don't believe it will be in the hundreds of thousands of dollars. We hope it's
824 within the parameters of the funds that we still hold.

825

826 Ms. Hatcher - Thank you.

827

828 [Distorted audio; unintelligible.] [0:44:51.0]*

829

830 Rev. Nelson - My name is Tyrone Nelson.

831

832 Mr. Witte - I think we know who you are.

833

834 Mr. Emerson - You have two minutes, sir.

835

836 Rev. Nelson - Two minutes? Mr. Chair, Mr. Emerson, Planning
837 Commission members, I guess you can file this as a comment in opposition

838 knowing that legally you pretty much don't have any other choice with the vote. But
839 I do want to go on record saying—and I want to make sure that this is catalogued.
840 A couple of things. First of all, just for the purpose of you guys, we started meetings
841 shortly thereafter, I think. Mr. Jackson spoke of April last year. As soon as we
842 started hearing about this, Mr. Leabough and myself, and a couple of the residents
843 from North James met at one of the resident's houses for several hours. It was
844 shortly thereafter I talked to the director of Public Works. They sent somebody out
845 to look at the roads. The process started there. Since then, the community held a
846 huge, huge meeting with a couple hundred persons there in opposition to the
847 Family Dollar.

848

849 Now, the County of Henrico is in a difficult position. I like what Mr. Archer said
850 earlier about being sensitive. I feel for these people. I don't live in North James,
851 but I, too, like them, don't see the need for another dollar store. We have one right
852 up the street. Dollar General actually beat Family Dollar to the punch. So there is
853 a dollar store two miles away. So there is not a need. But, on the other hand, that
854 property is zoned B-1C. Just because of our preference for what type of store
855 there, the struggle that we have is we can't legally stop a property owner selling
856 their piece of property to a developer. So that's the struggle and attention.

857

858 What's come out of this, the good thing—well, maybe not the good thing for those
859 who are here today. But I think the bigger picture is—Mr. Richardson gave some
860 history. We've been studying Route 5 for several years. Not just Midview and
861 Route 5, but we've called for studies at Buffin and Route 5, the Route 5 stretch
862 period, Osborne and Route 5.

863

864 The one thing I would ask—hopefully the energy, this synergy that comes from
865 North James and the Varina District is to turn attention as well to the Virginia
866 Department of Transportation. Route 5 is their responsibility. Numerous times I
867 have reached out to Jeff Kuttensch and others who are part of the VDOT family,
868 only to get back letters that all practically say the same thing, which is the Route 5
869 corridor doesn't need lights at intersections, etc.

870

871 There was a recommendation that came out of the study that was mentioned in
872 2013 that a turn lane into Midview was warranted, only to get a message last week
873 that the state did not fund that. If you want to do something tangible, Jeff Kuttensch,
874 VDOT. Reach out to your delegates The 70th district is Delegate McQuinn,
875 Senator McEachin, and ask them to help us get the attention that we need on
876 Route 5 when it comes to traffic.

877

878 Also, there is a bigger conversation that is starting and will continue with you guys'
879 help about what the Route 5 corridor will look like, overlay districts, in consideration
880 of the things that will happen for the whole corridor.

881

882 I'll end with this. Nicole Anderson Ellis last week wrote a piece that ended up in
883 *Style Weekly*. I think she brought attention to what I really think is the bigger
884 challenge.
885

886 I know that it becomes hard to believe that local government can't fix everything or
887 do everything. But I think our attorney stood up tonight, and I'm sure he'll come
888 back again and restate it, and Mr. Leabough needs him to, that legally we cannot
889 deny this case; they're only in a ministerial position. But the bigger picture is why
890 locate a business in a community that does not want you there. I think that is the
891 bigger question that the developer at Twin Rivers has to answer clearly that the
892 Varina District is saying we don't want the Family Dollar. I think residents, I think
893 the best way to show that you don't want it is to not spend your money there.
894

895 If it is approved, which seemingly you really don't have any other choice, then the
896 best way to make Family Dollar go away is keep your dollars in your pocket. Thank
897 you.
898

899 Mr. Witte - Thank you, sir.
900

901 Mr. Branin - Mr. Chairman, can I expand on Reverend Nelson's
902 comment?
903

904 Mr. Witte - Please.
905

906 Mr. Branin - To the community in regards to Route 5 and VDOT and
907 traffic, we had an intersection that we were having major issues on that was a state
908 road. Much like Reverend Nelson just did, I gave the delegate's name and the
909 senator of that area, and actually gave the cell phone numbers of the delegate and
910 senator in that area and asked the people that I represent in my district to reach
911 out to them profusely to help with getting that traffic issue resolved—and we did.
912 So my advice to you all is to—it is an election year. Reach out to your delegate
913 and your senator and get them involved in your community. If you need the traffic
914 resolved, that is absolutely the best way on a state route.
915

916 Mr. Witte - Any others that haven't spoken?
917

918 Mr. Leabough - I think we are done with the time, sir.
919

920 Mr. Witte - Okay. Mr. Leabough.
921

922 Mr. Leabough - I'd like to hear from the applicant, please.
923

924 Mr. Witte - Would the applicant come forward, please.
925

926 Mr. Condlin - Mr. Chairman, members of the Commission, good
927 evening. My name is Andy Condlin. I'm here with Chris Shust of Balzer

928 representing Twin Rivers Capital. Joe Berman is also here on behalf of Twin Rivers
929 Capital. Here regarding the property on New Market Road for the 8770-square-
930 foot building that we've been talking about.

931

932 A couple of points, and I do want to emphasize a little bit more about the property
933 already being zoned B-1 (Unconditional). It started off in the 1930s, but then in
934 1959, it was actually zoned to B-1 under the comprehensive zoning. That property
935 and this entire area were zoned for business and residential came in. This
936 property, if you look at the zoning map, as has already been discussed, was B-1C.
937 We went back and looked at the minutes. We read the staff reports. There was a
938 lot of concern by staff and the number of times that the applicant at that—not
939 having represented them, I had to come up to speed. Took a look at that case, and
940 specially asked for and focused on reducing the impact of the commercial property
941 on the residents. Concerned about focusing on the appearance of this commercial
942 property. Again, in 2010, this was unconditional. They were just trying to square
943 off the property to make it a little—from the standpoint of what the area of the
944 property—no greater area, but just the configuration of the property. Then
945 ultimately trying to reduce the impacts on the residential.

946

947 There was a whole lot of discussion with respect to what was accomplished with
948 respect to those items. If you take a look at the proffers, there's not only limitation
949 of uses and the other typical things, but there are specific elevations called for,
950 which we comply with, regarding a colonial style building that's all brick, specific
951 requirements that Ms. Goggin has already gone over regarding specific buffers in
952 order to protect the community in the area.

953

954 Obviously, right behind this property is North James Estates. That developer is not
955 my client. That developer is not the applicant in this case. That developer will not
956 be involved in any way in the construction of this building. Quite frankly, we
957 completely understand the frustration. We know the County and the residents are
958 working together with that developer to try to right what's going on out there, and
959 that there are significant problems that still need to be corrected. But this property
960 is not part of that subdivision. As a commercial property, it was not considered part
961 of that subdivision, therefore not subject to—and we will not be using Felts &
962 Kirkpatrick in any way with respect to the development of this property.

963

964 This request tonight is for a POD approval only. The question becomes for you
965 does it meet the applicable laws and regulations as Mr. Hart has already set forth,
966 including the County Zoning Ordinance, and the proffers. Quite frankly, we've gone
967 above and behind. Based on comments of the County, based on concerns by the
968 neighbors, we've actually gone beyond what the code and proffers require, such
969 as, for example, increasing the fence height behind the property, creating a barrier
970 along the entire rear property so that there is no pedestrian cut-through. We've
971 already talked about the vehicular access not having any access. Construction-
972 only access off of New Market Road, as well after construction during its operation.
973 We've changed the dumpster location. We've reduced the size of the dumpster.

974 We've moved it closer to the building and provided double screening around the
975 dumpster. Again, above and beyond what's otherwise required. We originally had
976 for loading purposes a drive that went behind the property near the residential
977 area. We've moved that away from the residents so that we've eliminated, again,
978 that impact from loading from that standpoint.

979
980 Another significant item is stormwater. There is a stormwater easement that runs
981 through the residential subdivision. We are not using that easement. That
982 easement and the stormwater facilities were designed to accommodate the
983 stormwater off of this property. Because of stormwater problems in that
984 subdivision, we're actually rerouting the stormwater and handling it all on site,
985 bringing it into the public road so that it actually never goes into the residential
986 subdivision lots, through that easement.

987
988 Finally, we do have a sidewalk on New Market Road that we're building for
989 pedestrian connectivity. That's one of the big reasons that we look at from the
990 standpoint—again, not representing Family Dollar specifically; they are going to be
991 a tenant. Of course, we're building this for them. But one of the reasons that they
992 were interested in this is because they do want to—and they get a lot of business
993 within a mile or two. And they look at the marketplace and try to bring pedestrian
994 traffic into their sites.

995
996 I know there have been concerns voiced about the Comprehensive Plan being
997 somewhat different. There are specifically cases and state law that say you cannot
998 consider the Comprehensive Plan. That, as you have already stated, is a guide.
999 There are also points about increased traffic. Again, I point out that the County
1000 traffic engineers and VDOT have approved this. Mr. Butler stood up during the
1001 community meeting and actually referenced that there would be twenty-eight
1002 vehicles from this site during the peak hours that could be accommodated by New
1003 Market Road. We understand there are traffic problems, but this could be
1004 accommodated otherwise.

1005
1006 With that, I would just point out again that we believe we've met all jurisdictional
1007 prerequisites. Once an applicant and POD request has complied—and we have
1008 complied and gone above and beyond all requirements of the ordinance—that you
1009 have to, at that point, approve. We would ask that you follow staff's
1010 recommendation. I would suggest to you that we have met all jurisdictional
1011 prerequisites. I will be happy to answer any questions at this time. Thank you.

1012
1013 Mr. Witte - Any questions from the Commission?

1014
1015 Ms. Jones - Would you refresh my memory? What are the hours of
1016 this store?

1017

1018 Mr. Condlin - I'll have to go on memory on that. I know that they were
1019 planning on closing no later than 9 p.m. They open up around 9 p.m. [sic] as well.
1020 I think the hours were from 9 to 9, if I remember during the community meeting.

1021

1022 Ms. Jones - Is this a franchise of the national company? They're not
1023 franchised?

1024

1025 Mr. Condlin - No, this would be part of the national company and
1026 under their umbrella. They're not franchising this particular store.

1027

1028 Ms. Jones - And did I understand you to say—I must have
1029 misunderstood—Felts & Kilpatrick is not involved in any way with this?

1030

1031 Mr. Condlin - They are the property owner. My client is under
1032 contract to purchase the property. My client will be doing the development, and
1033 they've done a number of developments throughout the Richmond region. They
1034 handle everything on their own. So they would be purchasing it from that
1035 developer, that landowner. Then they will have nothing to do otherwise with this
1036 development—*they* being Felts & Kilpatrick or Edge Development or anyone for
1037 that matter.

1038

1039 Ms. Jones - The property—in your opinion, after having had so
1040 much interaction with the folks in the neighborhood—is it as buffered from the
1041 neighborhood as is possible to do on site so that they are not disturbed by lights
1042 and activity and—

1043

1044 Female - [Off microphone.] Robbery [?].

1045

1046 Mr. Condlin - If you take a look at the zoning case, there are two
1047 considerations. One is the historic nature of Route 5. They took a look at both the
1048 buffers and the elevations. It's pretty substantial. Quite frankly, a good looking
1049 building from a standpoint. It's going to be timely for whoever you are, colonial, all
1050 brick.

1051

1052 From the standpoint of the buffers and the protection of the residents, that was a
1053 major concern of the staff and of the Planning Commission and Board of
1054 Supervisors during that original zoning case. So certainly we've met or exceeded
1055 all of those, including some of the landscaping that we've already talked about that
1056 was mentioned about the native species. We have a 40-foot buffer with a berm
1057 and a 100-foot setback off of New Market Road. That starts to squeeze your site
1058 a little bit. That was important for the overall community to have. But in addition to
1059 that, we have 20-foot buffers with transitional buffers 25, as well as 10-foot buffers
1060 with a fence. When people talk about crime and statistics, Family Dollar is no
1061 different, no greater or no less than your typical retail store. We've look at the crime
1062 statistics within the County of Henrico. Quite frankly, we're looking at no access,
1063 vehicular or pedestrian, because of the fence line that we have running along the

1064 rear of the property. And that was specifically put in there to address the concerns
1065 of cut-through walking folks that are going back and forth. And putting in sidewalks
1066 to encourage that along New Market Road.
1067

1068 And of course lighting is already addressed in the proffers as well for the residential
1069 scale and of course in the code itself. There is no overflow of lighting.
1070

1071 Mr. Leabough - Mr. Condlin, I'm going on record here. I've called in a
1072 number of grass complaints for the site.
1073

1074 Mr. Condlin - Yes sir.
1075

1076 Mr. Leabough - I found out tonight that one of the parcels to the east of
1077 the Family Dollar site—
1078

1079 Mr. Condlin - Between us and Midview.
1080

1081 Mr. Leabough - —is not owned by Felts & Kilpatrick. Is that correct?
1082

1083 Mr. Condlin - That is correct, yes sir.
1084

1085 Mr. Leabough - Mr. Emerson, do you mind following up with the owner
1086 for that parcel and make sure that grass gets cut?
1087

1088 Mr. Emerson - Absolutely.
1089

1090 Mr. Leabough - Okay. Thank you, sir.
1091

1092 Mr. Condlin - I know there have been a number of complaints about
1093 this parcel that we followed up on.
1094

1095 Mr. Leabough - I called those in as well.
1096

1097 Mr. Condlin - I received those recorded—
1098

1099 Mr. Leabough - I'm sure others in the community have called as well.
1100

1101 Mr. Condlin - Yes sir. And we forwarded and jumped on those as fast
1102 as possible.
1103

1104 Mr. Leabough - That's part of being a good neighbor. It's ridiculous that
1105 that grass had gotten to the point that it's gotten. And it shouldn't take the
1106 community calling to make Felts & Kilpatrick aware that they need to mow their
1107 lawn.
1108

1109 Mr. Condlin - Yes sir.

1110
1111 Mr. Leabough - Is the applicant here? Is the owner of Family Dollar or
1112 the developer here tonight?
1113
1114 Mr. Condlin - Well, we don't have—we didn't have a Family Dollar
1115 representative, but yes, we have a representative of Twin Rivers.
1116
1117 Mr. Leabough - Well Twin Rivers. Someone's here representing the
1118 applicant.
1119
1120 Mr. Condlin - Yes.
1121
1122 Mr. Leabough - Okay. I'd just like to bring to their attention what being
1123 a good neighbor is all about. I know that they don't own the property currently, but
1124 some of the mistakes that Felts & Kilpatrick have made—I just hope they're not
1125 another Felts & Kilpatrick.
1126
1127 Traffic was raised. Native plantings.
1128
1129 Mr. Condlin - Yes sir.
1130
1131 Mr. Leabough - So you believe that you've complied with all the
1132 proffers—
1133
1134 Mr. Condlin - Yes sir.
1135
1136 Mr. Leabough - —and met the technical requirements of the code?
1137
1138 Mr. Condlin - And then some, yes. Sir.
1139
1140 Mr. Leabough - Okay. But you do recognize that there is high
1141 opposition and people that vow not to shop at the store?
1142
1143 Mr. Condlin - Well, if you remember in the community meeting, that
1144 was voiced loud and clear. We met afterwards a number of times with—quite
1145 frankly, Family Dollar is the one that has to take a look at that and the concerns,
1146 and they understood that. They believe that their market is—they're going to be
1147 able to prove to folks that they're a good neighbor. They're also going to prove to
1148 folks within the community that they're an important part of the community, and
1149 they still want to go forward, yes sir. They think they're going to be successful.
1150
1151 Mr. Leabough - So they still think the market is there despite the fact
1152 that we had a standing-room-only meeting on a number of occasions.
1153

1154 Mr. Condlin - Yes sir. If you remember, the representatives were
1155 there, and that's why we asked them to be at that meeting, so that they could hear
1156 the voice of the community.
1157
1158 Mr. Leabough - Okay. I have no further questions.
1159
1160 Mr. Witte - Any other comments from the Commission?
1161
1162 Mr. Archer - I have a comment I'd like to make, Mr. Chairman.
1163
1164 Mr. Witte - Mr. Archer.
1165
1166 Mr. Archer - In my almost twenty years sitting here, one right after
1167 the other, I can't say I've ever seen a case that has such a passion as this one.
1168 And, it's a dilemma for all of us because every year in January, we all take an oath
1169 of office. That oath is that we will uphold the law and uphold the Constitution of the
1170 Commonwealth of Virginia. And of course that leaves the federal law. The County
1171 attorney has sent a representative here tonight who has stood and explained the
1172 legality of the process that has been undergone. And staff has explained it to the
1173 point that I don't know that there's anything else that can be said. I just want that
1174 information to be out so that everybody can understand that we have to do what
1175 we have to do. I hope that in some way this can be resolved to the satisfaction of
1176 the community, because I think the community at large is probably the people who
1177 are the most affected by this. I'll leave it at that.
1178
1179 Mr. Witte - Mr. Leabough, we have a gentleman in the back.
1180
1181 Mr. Leabough - We've already extended—
1182
1183 Mr. Jackson - [Off microphone.] I have a question that I would like to
1184 ask. If Twin Rivers is going to develop—
1185
1186 Mr. Leabough - Come on down.
1187
1188 Mr. Witte - Come on down, Mr. Jackson.
1189
1190 Mr. Jackson - If the developer, Twin Rivers—
1191
1192 Mr. Leabough - Could you state your name for the record?
1193
1194 Mr. Jackson - My name is James Jackson.
1195
1196 Mr. Leabough - Thank you.
1197
1198 Mr. Branin - Mr. Jackson, we have to do it because it's recorded.
1199

1200 Mr. Jackson - I understand. The developer of the Family Dollar store
1201 is not going to be Felts & Kilpatrick. The developer is going to be Twin Rivers. They
1202 don't own the property yet. They didn't put in the POD to have this thing done. That
1203 to me says that whoever is going to do this development and you don't own the
1204 property, how can you stand here and say that you're going to do this, and we the
1205 citizens are standing and saying we don't want this. So if the person that owns it
1206 is not going to develop it and it's not going to be developed until after he sells it,
1207 that's got to give us something that we can say we don't want this. The people that
1208 are going to develop it don't own it.

1209

1210 Mr. Emerson - Mr. Jackson, the process many times is that an
1211 applicant does not own the property. They become the contract purchaser, and
1212 then that contract is contingent upon entitlements of the property such as in this
1213 case the plan of development. And once the plan of development is approved, then
1214 they close on the property. They have a power of attorney, and a contractual
1215 agreement is the way it's normally set up. Many, many applications pass through
1216 this body that way.

1217

1218 Mr. Jackson - It seems to me that then that might give you something
1219 you can say hey. I really don't understand—and I don't think anyone else in here
1220 understands—how there can be—I know for a fact in this country the one thing
1221 that is constant is change. There has to be a way that this can be changed. I don't
1222 own the property, but I say I'm going to build something on the property, and I put
1223 in a POD to build something on a property I don't own.

1224

1225 Mr. Emerson - Right.

1226

1227 Mr. Jackson - How is that possible?

1228

1229 Mr. Emerson - Maybe you could understand it better if I explain it this
1230 way. Let's not worry about the ownership of the property; let's look at the zoning
1231 of the property. There are certain rights that go with that property regardless of
1232 who owns it based on the zoning of the property per the Code of Virginia and then
1233 Henrico County subsequently. So the property holds certain development rights.
1234 In this case, this property actually has held B-1 development rights back to 1933,
1235 according to the research I have in my file. It's on the 1959 maps, but we found
1236 records back to 1933. It's had many subsequent owners, but it's always had those
1237 B-1 development rights. So a plan of development has been filed on that property
1238 to exercise those development rights under—I'm sorry; I said B-1, B-2 zoning in
1239 order to allow the development of the property. So therefore the rights are with the
1240 property not necessarily with the owner, if that makes sense.

1241

1242 Just as your property had residential zoning on it in a very similar pattern, North
1243 James Estates was residentially zoned unconditional many, many years ago at the
1244 same time this property gained its commercial status. And that property changed
1245 hands many times. It went from one owner to Hamlin Hornes to Felts & Kilpatrick.

1246 And then Ryan Homes bought the individual lots that they subsequently sold
1247 homes to you and others that chose to purchase them. So it's a land rights' type
1248 of thing much more so than possibly an individual ownership type of issue.
1249

1250 I know that doesn't probably make any difference in the minds of how the
1251 community feels about a Family Dollar. But that, essentially, is how it works.
1252

1253 Mr. Jackson - Okay. Thank you.
1254

1255 Mr. Witte - Thank you, sir. All right, Mr. Leabough, the floor is
1256 yours.
1257

1258 Mr. Leabough - Let me just start by saying this. This has probably been
1259 one of the toughest PODs I think that I've seen in my tenure on the Planning
1260 Commission. I want to go on record by stating that when the rezoning in 2011 took
1261 place, I was not appointed to the Commission, nor was Rev. Nelson on the Board
1262 of Supervisors. But I can say I have been involved in the Varina District prior to
1263 being appointment to the Planning Commission. I remember being the lone
1264 community member at many meetings where cases were coming before the
1265 Commission and the Board. So I feel like I'm one of you all. I know you may not
1266 agree with me tonight, but I am.
1267

1268 I opposed—I didn't oppose. I requested that additional traffic measures be made
1269 at that intersection because you all remember how dangerous it was before. There
1270 was a single entrance in and out. I also had concerns—which we deal with a lot—
1271 as it relates to the cell tower that's just behind your community. I challenge anyone
1272 to go pull the minutes; I was there. I was also at the hearings for the landfill when
1273 there were four or five of us. So I applaud you all for coming out and rallying around
1274 this cause. What we don't have a lot of times is public participation in community
1275 or County business.
1276

1277 If you Google "Family Dollar Stores," there are tons of results. You're not alone.
1278 There are other communities that are doing this. But we're not alone in terms of
1279 where dollars stores are located. I know you all disagree. But drive to Short Pump
1280 Towne Center; there's a Dollar Tree across the street in that development. Drive
1281 to Church Road. Drive to Hanover County up 301; there's a Dollar General store.
1282 Dollar Generals are proliferating in a way that seems extreme, but it happens
1283 everywhere, not just in Varina.
1284

1285 What we don't want—regardless of whether this is an allowed use or not—is
1286 sprawl. And we want high-quality development in our community. I think this gives
1287 us an opportunity to have the support that we need. I remember being the only one
1288 in the room in a community meeting asking developers to step up and raise the
1289 bar. There is another case that's down the street. I can tell you, when I kept asking
1290 for additional quality measures, the community looked at me like "I think
1291 everything's okay."

1292
1293 Signage—Family Dollar is a big issue. We do not want your typical cookie-cutter
1294 signage. And that goes for any business that locates along the Route 5 corridor.
1295 We want high-quality development.

1296
1297 Let me tell you what we have done, because there have been a number of personal
1298 attacks that are not fair to the people that are appointed and elected. We have
1299 gone above and beyond the call of duty. We have met with Senator McEachin.
1300 We've met with VDOT. We sent letters to elected officials at the state level. We
1301 met with VDOT again. I raised the issue about the Capital Trail crossing at the
1302 community meeting that Rev. Nelson held before anybody knew it because I drive
1303 that road, I live in that community. I live right off of Midview Road just like many of
1304 you. That road is dangerous; we acknowledge that. That intersection is dangerous
1305 so, for all those remaining in the room, I hope the folks at VDOT hear this. Getting
1306 out at the intersection in the morning is dangerous. Putting a Capital Trail crossing
1307 at that intersection is dangerous. I agree; I don't disagree.

1308
1309 What we have done also is—if you look at the elevation, this will be one of the
1310 nicest Family Dollars I've ever seen. We pushed for high quality with their building
1311 design. Pull up any other Family Dollar store, go to any other Family Dollar store,
1312 it will look much different. As the developer stated, the use is close, the building is
1313 close to those homes. But the reason for that is back in 2011, there was a group
1314 of constituents that came to a community meeting that asked that it be pushed
1315 back 100 feet from the roadway, pushing that store closer to the homes.

1316
1317 I'm struggling with this case, but I have the law that I have to abide by. I can't break
1318 the law. We may not agree with the speed limit in our neighborhoods. That doesn't
1319 mean we can exceed it. We have to follow the law. So if we want to fight this, don't
1320 shop there. Drive them out of business. But to say we can break the law because
1321 we don't agree with it is not right. It's just not the American way, it's not.

1322
1323 So with that, I must do what I have a responsibility to do because you appointed
1324 me to be fair and to operate with integrity. If I do that because of what you all asked
1325 me to do, I have to do that with others. And I'm not doing that. I'm doing what I
1326 have a moral responsibility to do. I thought about it. With that, and with every
1327 rezoning case, you all think there are winners and losers. There are always people
1328 that agree with the decision and disagree with the decision. That's just the fact of
1329 the matter.

1330
1331 I don't want Family Dollar there as well. I go on record. But I have a responsibility
1332 to do what the law tells me to do. So with that, I move that POD2014-00175, Family
1333 Dollar at 2076 New Market Road, be approved subject to annotations on the plans,
1334 standard conditions for developments of this type, and conditions 29 through 37
1335 as noted in the agenda.

1336
1337 Mr. Brarin - Second.

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Mr. Emerson - Mr. Chairman, before you call the question, I would like to correct a statement I made when speaking to Mr. Jackson. I said B-1, then I corrected myself to B-2. The property is B-1C, so I was mistaken when I said B-2. Thank you.

Mr. Witte - Thank you. We have a motion by Mr. Leabough, a second by Mr. Branin. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

The Planning Commission approved the plan of development for POD2014-00175, Family Dollar at 1276 New Market Road (State Route 5), subject to the annotations on the plans, the standard conditions attached to these minutes for developments of this type, and the following additional conditions:

29. The right-of-way for widening of New Market Road (State Route 5) as shown on approved plans shall be dedicated to the County prior to any occupancy permits being issued. The right-of-way dedication plat and any other required information shall be submitted to the County Real Property Agent at least sixty (60) days prior to requesting occupancy permits.
30. The entrances and drainage facilities on New Market Road (State Route 5) shall be approved by the Virginia Department of Transportation and the County.
31. A notice of completion form, certifying that the requirements of the Virginia Department of Transportation entrances permit have been completed, shall be submitted to the Department of Planning prior to any occupancy permits being issued.
32. A concrete sidewalk meeting VDOT standards shall be provided along the east side of New Market Road (State Route 5).
33. Outside storage shall not be permitted.
34. The proffers approved as a part of zoning case C-22C-10 shall be incorporated in this approval.
35. The loading areas shall be subject to the requirements of Chapter 24, Section 24-97(b) of the Henrico County Code.
36. Approval of the construction plans by the Department of Public Works does not establish the curb and gutter elevations along the Virginia Department of Transportation maintained right-of-way. The elevations will be set by the contractor and approved by the Virginia Department of Transportation.
37. The location of all existing and proposed utility and mechanical equipment (including HVAC units, electric meters, junctions and accessory boxes, transformers, and generators) shall be identified on the landscape plan. All building mounted equipment shall be painted to match the building, and all equipment shall be screened by such measures as determined appropriate by the Director of Planning or the Planning Commission at the time of plan approval.

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Mr. Witte - We're going to take five minutes. My apologies.

[Commission takes a five-minute break.]

Mr. Witte - We will reconvene. It's 8:39, Mr. Emerson.

Mr. Emerson - Yes sir, Mr. Chairman. We will continue on page 3 with your regular agenda for REZ2015-00011, Harry Snipes. The staff report will be presented by Mr. Livingston Lewis.

REZ2015-00011 Harry Snipes: Request to amend proffered conditions accepted with rezoning case C-14C-06 on Parcel 759-765-0133 located on the south line of Nuckols Road at its intersection with Francistown Road. The applicant proposes to amend proffers to increase the density from 36 to 37 lots, decrease the minimum interior width of garages from 24' to 21', and require 50% of all homes to have side or rear loaded garages. The existing zoning is R-3C One-Family Residence District (Conditional). The 2026 Comprehensive Plan recommends Suburban Residential 2, density should not exceed 3.4 units per acre.

Mr. Witte - Is there anyone in opposition to REZ2015-00011, Harry Snipes? I see none. Mr. Lewis.

Mr. Lewis - Thank you Mr. Chairman, members of the Commission.

This request is to amend proffered conditions approved with rezoning case C-14C-06 pertaining to development density and garages. The subject property at 4940 Francistown Road is zoned R-3C One-Family Residence District (Conditional) and is designated Suburban Residential 2 in the 2026 Comprehensive Plan.

Single-family subdivisions surround the site in all directions: The Timbers, The Ponds at Dandridge Farm, Reids Pointe, and Hungary Creek. Duncroft/Castle Point Park is also to the east across Francistown Road.

The 2006 rezoning of the property approved thirty-six dwelling lots. The applicant wishes to amend Proffers #1 and #4 to add one additional lot where a water retention pond had been planned but is no longer needed. On the revised conceptual plan here, it's actually the space defined by Lot 28 where the cursor is. This would result in a minimal increase in gross density, from 2.49 to 2.56 units per acre, which is still well within the range recommended by the site's SR2 designation.

The applicant also proposes changing Proffer #9 to reduce minimum garage width from 24 feet to 21 feet, allow detached garages, and add a requirement stating 50

1430 percent of all garages must be side or rear loaded. The recently revised May 11th
1431 proffers distributed this evening further require that any detached garage be
1432 constructed with the same exterior materials as the home it serves.

1433
1434 Development of a single-family neighborhood on the site is consistent with the
1435 2026 Plan. The proposed amendments do not suggest a different type of use, and
1436 most of the previously approved assurances would remain intact. Therefore, the
1437 intent of the original proffers and overall quality and compatibility of the
1438 development would not be lessened. For these reasons, staff believes the
1439 proposed changes are reasonable and supports this request.

1440
1441 This concludes my presentation. I am happy to answer any questions.

1442
1443 Mr. Witte - Any questions by the Commission?

1444
1445 Mr. Leabough - I think there was an item in the staff report related to
1446 the exterior materials for the garages. I guess that has been addressed?

1447
1448 Mr. Lewis - It has been.

1449
1450 Mr. Leabough - Thank you. No further questions.

1451
1452 Mr. Witte - Thank you, Mr. Lewis. Mr. Snipes.

1453
1454 Mr. Snipes - I'm Harry Snipes, and I'm here to amend these proffers.
1455 Number 4, as he stated, we're going to remove the detention pond and pick up
1456 that extra lot. The garages, I've asked to reduce the size of the garages to, in my
1457 opinion, keep them more in line with what's been built in the area. We went to 21
1458 instead of 24 and 20. The standard in the industry is 20-by-20. In working with
1459 some builders, this is a pretty high-proffered condition, so the prices of the houses
1460 are going to be pretty substantial. I've sat down with some builders trying to get
1461 their house product to fit on here without doing a lot of modification to the home,
1462 and this is what we came up with, the 21-by-20 width that we could work with. This
1463 is not to say that that's the—this will be the minimum. Some people will ask for a
1464 three-car garage, and those houses will be accommodated. We wanted to be able
1465 to have the flexibility to put any type of product that the buyer would want on a lot,
1466 so that's what we felt like was the minimum.

1467
1468 Mr. Witte - Does anyone have a question?

1469
1470 Mr. Witte - I have a comment. As we discussed earlier, if you take
1471 an average size vehicle that's about seven feet wide and you put two of them in a
1472 twenty-foot garage, that leaves you six feet. My car door opens three feet. I don't
1473 get in and out if two—the two inside doors are going to hit about a foot out from
1474 each other.

1475

1476 Mr. Snipes - I understand your argument, but I would like to think
1477 that in America the buying public that's going to spend \$500,000 or better for one
1478 of these houses can make that decision how big they want that garage. We've set
1479 a minimum standard for this garage. They can build all they want. And I did a
1480 detached garage to kind of give the person room to build a bigger house. I just felt
1481 like this is the minimum that we can live with. And I understand your concern, but
1482 to me, trying to get to the maximum square footage on a garage and not the
1483 minimum. I would think that maybe somebody that had a BMW—I mean a Beetle,
1484 that they can get two of them in a garage.
1485

1486 Mr. Witte - That's my issue. If you can't get two vehicles in and get
1487 in and out of them, you shouldn't build a two-car garage.
1488

1489 Mr. Snipes - Well why don't we just define that as a garage that's
1490 21-by-20 and not define it as a two-car garage?
1491

1492 Mr. Witte - So you put a single eight-foot door—8-by-8 door on it?
1493

1494 Mr. Snipes - Well, no it—I guess my point is I'm trying to get the
1495 buyer to decide what they want and not the staff here to make that decision for
1496 somebody. Spending \$550,000 for a house and they can't build what they want.
1497 That's what I'm trying to get at.
1498

1499 Mr. Witte - The staff isn't making the decision.
1500

1501 Mr. Snipes - I understand. But you're not buying the thirty-seven
1502 houses in this subdivision either. There are other people that have other criteria
1503 for themselves.
1504

1505 Mr. Witte - I agree 100 percent.
1506

1507 Mr. Leabough - You—never mind; I'm leaving that alone.
1508

1509 Mr. Snipes - I'm just trying to argue that we asked for a minimum
1510 square footage on this garage. We just did one on Springfield Road that was the
1511 same size, so I'm not asking for any more than we just did a year ago.
1512

1513 Mr. Witte - Sir, I'd like to think we improve on future developments
1514 instead of remaining stale or going backwards. The only way I can recommend this
1515 to the Board with a recommendation for approval is if you're going to make the
1516 garages fit two cars.
1517

1518 Mr. Leabough - What I think Mr. Witte is saying is that he's looking at
1519 the buyer and trying to protect the buyer's interest. If they buy a two-car garage
1520 then they expect that two cars can actually fit in them comfortably. I think that he's

1521 going in the right direction. And you are asking for a rezoning request. And none
 1522 of us are buying any lots in that community.
 1523

1524 Mr. Snipes - The property is already zoned. Okay? So I'm asking to
 1525 amend—
 1526

1527 Mr. Leabough - I mean amend the proffers; I'm sorry.
 1528

1529 Mr. Snipes - I'm trying to amend this proffer to make it more
 1530 compatible with the zoning case. When you go into these garages, and then you
 1531 set these standards, and then all of a sudden you have to build—it's not that it's
 1532 an inferior product there. You set one standard, and then all of a sudden the buyer
 1533 doesn't really want that. Then what am I going to do with him? Well, you can't build
 1534 that here. I'm trying to leave flexibility for everybody to have a chance to build what
 1535 they want. What do you think the size should be?
 1536

1537 Mr. Witte - I think it should be ideally 24-by-24, but 24-by-21 or 22,
 1538 preferably 22, is much more relevant. Twenty-four foot width is pretty much a
 1539 minimum. If you check my record for properties in the Brookland District, they are
 1540 almost all twenty-four.
 1541

1542 Mr. Snipes - Well we just did that one on Springfield Road, and I
 1543 don't think it was this big.
 1544

1545 Mr. Witte - Almost all. If you're going to put in that price house,
 1546 people deserve to get a two-car garage that they can put two vehicles in and get
 1547 in and out of in that price house. Or don't call it a two-car garage and put one eight-
 1548 foot door on there. That's the only way I can make my recommendation is twenty-
 1549 four foot widths, twenty-foot depth minimum. Clear space.
 1550

1551 Mr. Snipes - Well, I'll have to take a deferment, because I need to
 1552 talk to the builders about what they can put on these lots.
 1553

1554 Mr. Witte - I'm fine with that.
 1555

1556 Mr. Snipes - Okay. Thank you.
 1557

1558 Mr. Branin - Mr. Snipes, are you requesting a deferral?
 1559

1560 Mr. Snipes - I am.
 1561

1562 Mr. Branin - Okay.
 1563

1564 Mr. Witte - Anybody have any questions?
 1565

1566 Mr. Archer - To what date, Mr. Snipes?

1567
1568 Mr. Snipes - I'd like to go to the next month's meeting. I don't have
1569 a calendar, so I don't know what it is.
1570
1571 Mr. Emerson - It's June the 11th.
1572
1573 Mr. Witte - With that, I move that REZ2015-00011, Harry Snipes,
1574 be deferred to the June 11, 2015 meeting at the request of the applicant.
1575
1576 Mr. Archer - Second.
1577
1578 Mr. Witte - All in favor say aye. All opposed say no. The ayes have
1579 it; the motion passes.
1580
1581 At the request of the applicant, the Planning Commission deferred REZ2015-
1582 00011, Harry Snipes, to its meeting on June 11, 2015.
1583
1584 Mr. Emerson - And the second was?
1585
1586 Mr. Witte - Oh, I'm sorry.
1587
1588 Mr. Emerson - That's okay. You have Mr. Archer or Mr. Branin?
1589
1590 Mr. Witte - Mr. Archer was the second. Okay.
1591
1592 Mr. Archer - Yes.
1593
1594 Mr. Emerson - Mr. Chairman, we now move on to the next item on
1595 your agenda, which also appears on page 3. It is REZ2015-00012, George B. Duke
1596 for Greenwood Road, LLC. The staff report will be presented by Mr. Ben Sehl.
1597
1598 **REZ2015-00012 George B. Duke for Greenwood Road, LLC:**
1599 Request to rezone from A-1 Agricultural District to R-1AC One-Family Residence
1600 District (Conditional) Parcels 768-778-6296 and 769-778-3901 containing 55.459
1601 acres located on the west line of Greenwood Road between the south bank of the
1602 Chickahominy River and the north line of Appling Road. The applicant proposes a
1603 residential development of no more than 50 single family homes. The R-1A District
1604 allows a minimum lot area of 21,500 square feet and a gross density of 2.03 units
1605 per acre. The use will be controlled by zoning ordinance regulations and proffered
1606 conditions. The 2026 Comprehensive Plan recommends Rural Residential and
1607 Environmental Protection Area.
1608
1609 Mr. Witte - Is there anyone in opposition to REZ2015-00012,
1610 George B. Duke for Greenwood Road, LLC? We have opposition. Mr. Sehl.
1611
1612 Mr. Sehl - Thank you, Mr. Chairman.

1613

1614 The applicant is requesting R-1AC zoning for a single-family subdivision off
1615 Greenwood Road. The subject property is located just east of Swanson Mill Run,
1616 a subdivision currently under development and also zoned R-1AC. Proffers
1617 submitted with this request are largely consistent with C-62C-04, which rezoned
1618 Swanson Mill Run. Revised proffers were received Tuesday and handed out to
1619 you tonight. And there's also a kind of recent change to the conceptual plan, which
1620 I'll describe a little bit more as we go along.

1621

1622 This was the concept plan. A copy of this was provided to you and has been
1623 revised since the staff report was issued. This concept plan was proffered in
1624 addition to the proffered maximum density of fifty homes. This plan shows how the
1625 site would be accessed via Greenwood Road in this location. Access was
1626 previously proposed via Appling Road in this location, and the relocation of this
1627 entrance was a major topic of conversation at the community meeting held on April
1628 16th. In addition to the proffered conceptual plan, the applicant has provided a
1629 number of commitments to quality for the proposed development and includes
1630 features such as:

1631

- 1632 • brick or stone foundations;
- 1633 • a minimum finished floor area of 3,000 square feet;
- 1634 • a minimum of 50 percent of the homes to have brick or stone front
1635 elevations;
- 1636 • attached two car garages with each home, all of which will be side or
1637 rear loaded;
- 1638 • front stoops and steps to be constructed of brick;
- 1639 • hard surface driveways; and
- 1640 • the area within the 100-year floodplain would be rezoned to C-1.

1641

1642 Additionally, the applicant has proffered three exhibits showing the location and
1643 general appearance of the proposed entrance feature located in these areas—
1644 along the main entrance and then one also in this area here—additional detail for
1645 those entrances.

1646

1647 The 2026 Comprehensive Plan designates the majority of the site for Rural
1648 Residential, with a recommended density of no more than one unit per acre. The
1649 proposed density of .9 units per acre would be consistent with this designation.
1650 This request would also be consistent with the pattern of development in the area
1651 and the level of quality being provided in Swanson Mill Run.

1652

1653 One thing that I would note with the conceptual plan is the applicant has provided
1654 a revision just this evening, which was also provided to you, that relocates this
1655 private access drive—located generally in this area—out towards Greenwood
1656 Road. Still on the back side of the required 25-foot enhanced setback along there,
1657 and that access drive will be on the back side of that enhanced setback. But that

1658 is a slight change from what was provided earlier this week. So you have two
1659 versions in your packet to you tonight.

1660
1661 This was a point of concern in the staff report. While the proposed development
1662 could be appropriate at the location, staff did identify a number of items that could
1663 be addressed. The revised proffers address the majority of these items, but staff
1664 does continue to note some concerning the private access drive, and would
1665 encourage the applicant to explore options to serve those lots by public road. They
1666 do have public road frontage, so subdivision and zoning ordinance requirements
1667 would be met. I did want to note that change.

1668
1669 Absent that change, staff does feel that the request is consistent with the
1670 Comprehensive Plan designation, the level of quality provided with other recent
1671 rezonings in the area, and the pattern of development in this area of the County. If
1672 the applicant could address that specific issue regarding the private access drive,
1673 staff could fully support this request. I'd be happy to try to answer any questions
1674 you have at this time.

1675
1676 Mr. Witte - Any questions by the Commission for Mr. Sehl?

1677
1678 Ms. Jones - The common area, is there anything that will be
1679 required regarding maintenance for that common area?

1680
1681 Mr. Sehl - The applicant has provided a proffer regarding the
1682 maintenance of the access drive. There will be a homeowners association
1683 committed to that. The maintenance of the common area and the access drive will
1684 be provided for by the homeowners association. The applicant can maybe speak
1685 a little bit more about how they plan to structure the homeowners association.
1686 There are several areas that have some common area—at the entrance because
1687 they have the entrance feature, and then these other common areas.

1688
1689 Ms. Jones - All right. Well, with fifty houses, it's enough, I guess, to
1690 absorb a little common cost, but it's always a little scary. This private roadway
1691 agreement was really my biggest concern about this. Okay. Maybe he can speak
1692 to that.

1693
1694 Mr. Sehl - And it's something, as you'll note in the case previous
1695 to this that had similar access drives with a smaller subdivision, they seemed to
1696 have been able to absorb that cost. Staff's biggest concern is making sure that the
1697 construction methods for those private roadways—which the applicant revised the
1698 proffers to commit to those standards in the version handed to you tonight to
1699 ensure that the maintenance costs aren't overly burdensome on the future
1700 homeowners.

1701
1702 Mr. Witte - Any other questions? Would the opposition step
1703 forward please? State your name please.

1704
1705 Mr. Jacobs - Jake Jacobs. I live on Appling Road. It's going to be
1706 right across the street from the proposed subdivision. I'd like to see, once again,
1707 the two entrances a little bit slower. It had the color chart up there.
1708
1709 Mr. Witte - Mr. Sehl will help you with that.
1710
1711 Mr. Sehl - There's only one entrance into the subdivision at this
1712 location.
1713
1714 Mr. Jacobs - Where is Appling Road on here?
1715
1716 Mr. Sehl - Its right along this area here, sir. They previously had
1717 shown an entrance that extended out there. That road has now been stopped.
1718
1719 Mr. Jacobs - So where is the entrance now, on Greenwood? Right
1720 here. All right. And that's the only entrance. What's the private road you were
1721 talking about?
1722
1723 Mr. Sehl - It would serve these lots here down Greenwood Road
1724 closer to the river.
1725
1726 Mr. Jacobs - That's going to be on the interior of the property.
1727
1728 Mr. Sehl - On the interior of the site. They would still have to come
1729 through the subdivision to access it. They wouldn't have individual driveways onto
1730 Greenwood Road.
1731
1732 Mr. Jacobs - Okay, all right. Of course our heart's concern is we're
1733 going to lose our pristineness, but you can't stop progress. Swanson Mill went in
1734 on the other side of our home. When you first come in down that little long road
1735 and you make that turn, they obliterated the tree line there. The people's backyards
1736 that had full serenity and privacy before are now just exposed to all the traffic in
1737 Swanson Mill. I was hoping these gentlemen would leave a buffer between our
1738 subdivision on Appling, which is the most affected road by the new subdivision, so
1739 we don't have to suffer what they suffered in Swanson Mill. And they may have
1740 addressed this, but I'd like to hear that if it's for sure. I know the more houses you
1741 put in, the more profitability you have and the more tax revenue and so forth and
1742 so on. But that's one of our main concerns.
1743
1744 Ms. Jones - Where is your home, sir?
1745
1746 Mr. Jacobs - Our home is on Appling Road.
1747
1748 Ms. Jones - Can you put the cursor up there?
1749

1750 Mr. Jacobs - I'm sorry?
1751
1752 Ms. Jones - Can you show me where, please?
1753
1754 Mr. Jacobs - Okay. I'm right at the end of Appling.
1755
1756 Mr. Sehl - There's Colfax and there's Appling.
1757
1758 Mr. Jacobs - I'm right there at the corner.
1759
1760 Mr. Sehl - This one here?
1761
1762 Mr. Jacobs - Yes.
1763
1764 Mr. Sehl - Okay. This one here, Ms. Jones.
1765
1766 Ms. Jones - Okay.
1767
1768 Mr. Jacobs - I'm right there.
1769
1770 Mr. Witte - The original entrance was going right across from his
1771 house.
1772
1773 Ms. Jones - I'm sorry?
1774
1775 Mr. Witte - The original entrance to—
1776
1777 Mr. Jacobs - Well actually a little bit up from my house.
1778
1779 Ms. Jones - Right.
1780
1781 Mr. Jacobs - But anyway, if we had not addressed this with Mr. Witte
1782 before that they're going to be bringing water down Appling Road not sewer, just
1783 water, and us being grandfathered in there—I'm on well and septic—when I go to
1784 sell my home down the road, I don't want to have to be required to hook into their
1785 well [sic] and septic. From what I understand, that's not an obligation that we have
1786 to do.
1787
1788 Mr. Witte - Mr. Sehl, can you answer his other question?
1789
1790 Mr. Sehl - Regarding the buffering?
1791
1792 Mr. Witte - Buffering, please.
1793
1794 Mr. Sehl - Appling Road is also a minor collector on the County's
1795 Major Thoroughfare Plan, at least this section down toward Colfax because it

1796 actually goes over towards Mill Road there. So they have the same enhanced
1797 setback requirement there that they do along Greenwood Road, so there will be
1798 an additional 25-foot setback. The applicant can maybe speak to what their intent
1799 would be within there. I would imagine they would leave it undisturbed except to
1800 the extent that a future homeowner might choose to trim the trees. There is that
1801 enhanced setback requirement along Appling, the same as it is along Greenwood.
1802

1803 Mr. Jacobs - Is that waterline going to have a fire hydrant inside of
1804 our subdivision since it's coming down our street?
1805

1806 Mr. Sehl - I might leave that to the applicant to discuss because
1807 they've had the detailed discussions with the Public Utilities Department, and they
1808 can maybe answer that question.
1809

1810 Mr. Witte - All right. Mr. Jacob's, we'll see if we can get some other
1811 questions answered for you.
1812

1813 Mr. Jacobs - Okay. Appreciate it.
1814

1815 Mr. Witte - Would the applicant come down, please.
1816

1817 Mr. Duke - Good evening, Mr. Chairman, members of the
1818 Commission, ladies and gentlemen, thank you for hearing our case tonight. My
1819 name is Brian Duke. I'm with Duke Development. I am the applicant. We are a
1820 family-owned business. We live in the area. We live right around the corner from
1821 the proposed neighborhood. We would very much like to see this be a quality
1822 development that complements the area. And we believe the proffers we have set
1823 forth achieve that goal. I'd like to speak to Mr. Jacobs's comments or concerns.
1824

1825 Number one, we did hear the community's concerns on the traffic coming onto
1826 Appling Road. We have addressed that by eliminating that access there and
1827 making the only access on Greenwood Road. In reference to the 25-foot buffer
1828 that we would be required to do as part of the subdivision ordinance, we would do
1829 that anyway. We think the best way to handle that is rather than cutting all the trees
1830 that are existing, which there is old-growth trees in that area, and planting smaller
1831 trees, we think that our plan would actually create more buffering by supplementing
1832 the trees that are there with additional landscaping. If you look on the drawing
1833 that's on your screen, that was done by a landscape architect. The dark green
1834 areas there along Appling Road show that we are adding additional evergreens
1835 and shrubs in there, especially in the area where our cul-de-sac ends before it gets
1836 to Appling Road there. There's additional buffering and plantings provided in that
1837 area to help address Mr. Jacobs's concern.
1838

1839 Mr. Witte - Are you satisfied?
1840

1841 Mr. Jacobs - Okay.

1842
1843 Mr. Witte - Thank you. Any other questions for Mr. Duke?
1844
1845 Mr. Leabough - I have a question regarding the access road. I'm trying
1846 to wrap my head around that.
1847
1848 Mr. Duke - I'm sorry; can you be more specific? You mean why we
1849 have a—
1850
1851 Mr. Leabough - Why would you just not extend the roadway down to
1852 those other lots?
1853
1854 Mr. Duke - There is substantial creek in that area, and we would
1855 like to preserve that creek and leave it there instead of building a public road over
1856 top of it. And so the way to do that is to access it with a—we're still building it to
1857 the public road standards with curb and gutter, asphalt, and stone depth, but
1858 wouldn't be required to have the fifty feet of width. So we can still get the road in
1859 there and leave the creek, if that makes sense.
1860
1861 Mr. Leabough - How does the maintenance get handled?
1862
1863 Mr. Duke - Yes, I'm sorry. I'm glad you brought that up. We talked
1864 about this with several of the builders. It's been the general consensus that to have
1865 a good, strong HOA, you have to have good HOA documents, which we do in all
1866 of our communities. We believe that for four lots, which that's the number of lots
1867 being served here, 11 through 14—lot 10 is actually served by the cul-de-sac
1868 there—that the association will be required to maintain, as a whole. The dues will
1869 be one number and they will maintain—they will be required to maintain that private
1870 road as a whole instead of allocating just to those four lots, if that makes sense.
1871
1872 Mr. Leabough - What happens if the HOA ceases to exist, which
1873 happens. I mean it's not uncommon. So who takes care of that road?
1874
1875 Mr. Duke - That's a valid question.
1876
1877 Mr. Witte - We have a neighborhood, Shepherds Way, that has
1878 two private roads with four houses on each side. It's very attractive; it's very well
1879 screened, very well maintained. Get lots of good comments about it. It's a buffer
1880 for the homeowners from Mountain Road.
1881
1882 Mr. Leabough - How many homes are in the HOA?
1883
1884 Mr. Witte - Seventy?
1885
1886 Mr. Emerson - Probably.
1887

1888 Mr. Leabough - So it's still pretty small.
1889
1890 Mr. Witte - Yes. But it's very well liked in the Glen Allen area—the
1891 old Glen Allen area. The Brookland Glen Allen area.
1892
1893 Mr. Leabough - I know which Glen Allen area you're referring to.
1894
1895 Mr. Witte - Yes sir. I have a couple questions for you. First, let's
1896 talk about fire hydrants. Are you aware of any fire hydrants going in?
1897
1898 Mr. Duke - I can't speak to the exact number, but I do know yes,
1899 there are fire hydrants, at least two.
1900
1901 Mr. Witte - Okay. The landscaping, supplemental landscaping
1902 along Appling and Greenwood Roads, are your intentions to have that similar to
1903 what's in Shepherds Way, except that you're not going to clear-cut the trees?
1904
1905 Mr. Duke - Yes, that's correct.
1906
1907 Mr. Witte - So it will be a good buffer?
1908
1909 Mr. Duke - Yes sir.
1910
1911 Mr. Witte - All right. Now the big dog. Let's talk garages. You have
1912 interior minimum dimensions of 20 feet wide and 18 feet deep. My vehicle doesn't
1913 fit. Two of my vehicles won't work. Are you opposed to 24 feet wide and 20 feet
1914 deep?
1915
1916 Mr. Duke - Yes, I think we can do that. We can accommodate that.
1917
1918 Mr. Witte - You can accommodate that?
1919
1920 Mr. Duke - Maybe that's a poor choice of words. I think with the
1921 quality of the homes that are being built here, that contrary to what we were saying
1922 earlier, I think if it gives the homeowner some extra room in their garage, I don't
1923 see that as a deterrent to—
1924
1925 Mr. Witte - Okay. Well we're going to add that—you're going to
1926 add that to the proffers?
1927
1928 Mr. Duke - Yes.
1929
1930 Mr. Witte - So part of nineteen will be 24 wide by 20 feet deep
1931 clear.
1932
1933 Mr. Duke - Yes sir.

1934
1935 Mr. Witte - Okay.
1936
1937 Mr. Emerson - So that change would occur prior to the Board meeting,
1938 correct?
1939
1940 Mr. Witte - Yes. And if somebody wants to have two VWs in there
1941 and lots of extra room, that's good for them.
1942
1943 Mr. Duke - Yes sir.
1944
1945 Mr. Witte - All right, I have no questions. Any other questions by
1946 the Commission?
1947
1948 Mr. Archer - You know Ford might bring back the Expedition.
1949
1950 Mr. Witte - Okay. With that, I move that REZ2015-00012, George
1951 B. Duke for Greenwood Road. LLC, move to the Board of Supervisors as
1952 presented and agreed to with a recommendation of approval.
1953
1954 Mr. Archer - I second your motion.
1955
1956 Mr. Witte - We have a motion by Mr. Witte, a second by Mr.
1957 Archer. All in favor say aye. All opposed say no. The ayes have it; the motion
1958 passes.
1959
1960 **REASON -** Acting on a motion by Mr. Witte, seconded by Mr.
1961 Archer, the Planning Commission voted 5-0 (one absent) to recommend the Board
1962 of Supervisors grant the request because it conforms to the recommendations of
1963 the Comprehensive Plan, would permit development of the land for residential use
1964 in an appropriate manner, and the proffered conditions will assure a level of
1965 development otherwise not possible.
1966
1967 Mr. Emerson - Mr. Chairman, we now move on to the next case, which
1968 also appears on page 3 at the bottom—PUP2015-00005, Gloria Freye, Esquire for
1969 FM RVA, LLC. The staff report will be presented by Mr. Sehl. I believe Ms.
1970 Blankinship is in Blacksburg seeing her daughter graduate this weekend.
1971
1972 **PUP2015-00005 Gloria Freye, Esq. for FM RVA LLC:** Request for a
1973 Provisional Use Permit under Sections 24-58.2(d), 24-120, and 24-122.1 of the
1974 County Code in order to allow outdoor dining for an existing restaurant (Family
1975 Meal) in Willow Lawn Shopping Center, on part of Parcel 773-736-2198, located
1976 approximately 825' south of the intersection of W. Broad Street (U.S. Route 250)
1977 and Willow Lawn Drive. The existing zoning is B-2 Business District. The 2026
1978 Comprehensive Plan recommends Commercial Concentration. The site is located
1979 in the Enterprise Zone.

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Mr. Witte - Is there any opposition to PUP2015-00005, Gloria Freye, Esquire, for FM RVA LLC? I see none. Mr. Sehl.

Mr. Sehl - Thank you again, Mr. Chairman.

This is a Provisional Use Permit request to allow outdoor dining for Family Meal, a new restaurant in The Shops at Willow Lawn. The proposed location is zoned B-2 Business District, as are all other portions of the shopping center except for a southern access drive out towards Monument Avenue. The site is part of the Enterprise Zone, and the 2026 Comprehensive Plan recommends Commercial Concentration.

As illustrated in Exhibit A, the proposed outdoor dining area would be located along the southern exterior wall of the tenant space on an existing sidewalk and concrete pad. It would be no more than 1,000 square feet and accommodate approximately eighteen four-top tables for a total of seventy-two seats.

The outdoor dining area would be enclosed by the fencing illustrated here in Exhibit C. This is a new exhibit and a change from the original fencing referenced in the staff report. The applicant would like to enclose the outdoor dining area with a black, aluminum picket fence approximately forty-eight inches in height. This type of fencing would be consistent with other outdoor dining enclosures in the area at Willow Lawn. On the handout just distributed, Condition #10 has been revised to reflect the change in the fencing type and also to correct a typographical error.

Properly regulated, staff believes the proposed outdoor dining would be consistent with the Commercial Concentration designation for Willow Lawn, will be compatible with surrounding uses, and will further support economic revitalization goals in the area.

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

Mr. Witte - Are there any questions by the Commission?

Ms. Jones - No.

Mr. Witte - Would the applicant come forward, please.

Ms. Dunlap - Good evening, Mr. Chairman and members of the Commission. I'm Patricia Dunlap, an attorney with McGuire Woods, here with my colleague, Gloria Freye, and also Hilda Staples, the owner of the Family Meal. I'm here on behalf of Family Meal and Federal Realty Investment Trust.

2025 For the record, Family Meal has reviewed and accepts the amended conditions
2026 recommended by staff. Letters were sent to all adjacent landowners. In response,
2027 I received an enthusiastic phone call from Pettus LeCompte, who supports this
2028 PUP. I also received an e-mail from Patrick Crenshaw, who owns four properties
2029 adjacent to Willow Lawn. He's also very much in support. As far as I know, there's
2030 no opposition to this case.

2031

2032 Hilda and her partner, who was a Top Chef runner-up, are very excited to be in
2033 Willow Lawn and a part of the Richmond dining community.

2034

2035 Mr. Sehl's done a great job presenting the details, but if you have any questions,
2036 I'm happy to answer them.

2037

2038 Mr. Witte - I have a question. Why type of cuisine?

2039

2040 Ms. Dunlap - It's an upscale American classic cuisine. So you'll find
2041 everything—

2042

2043 Mr. Witte - Buffalo?

2044

2045 Ms. Dunlap - I don't think there's any buffalo, but there's fried
2046 chicken there that you're going to want to have on Friday night.

2047

2048 Mr. Witte - All right. So it's not anything unusual.

2049

2050 Ms. Dunlap - Well, they'll take deviled eggs and present them in
2051 ways you haven't had them before, for instance.

2052

2053 Mr. Witte - Are they edible?

2054

2055 Ms. Dunlap - Oh yes.

2056

2057 Mr. Witte - Okay.

2058

2059 Ms. Dunlap - Deviled eggs with bacon.

2060

2061 Mr. Witte - All right. Any other questions?

2062

2063 Mr. Archer - Excuse me. Mr. LeCompte, Pettus LeCompte, is he
2064 with Straus, Itzkowitz, and LeCompte?

2065

2066 Ms. Dunlap - I'm not sure; he didn't say. We talked very briefly. He
2067 just wanted me to know that he was very supportive. He's excited, actually.

2068

2069 Mr. Witte - Do you know Fred Itzkowitz?

2070

2071 Mr. Archer - Yes, I do. I know Pettus LeCompte too.
2072
2073 Mr. Witte - I have no further questions. How about you, Mr.
2074 Leabough?
2075
2076 Mr. Leabough - I was just letting you know that we have plenty of room
2077 for restaurants in Varina. When you all choose to expand, welcome.
2078
2079 Ms. Dunlap - We'll work on that.
2080
2081 Mr. Witte - The Brookland District, we deserve it. All right. With
2082 that, I move that PUP2015-00005, Gloria Freye, Esquire, for FM RVA LLC, move
2083 to the Board of Supervisors as presented with a recommendation for approval.
2084
2085 Mr. Archer - Second.
2086
2087 Mr. Witte - We have a motion by Mr. Witte, a second by Mr.
2088 Archer. All in favor say aye. All opposed say no. The ayes have it; the motion
2089 passes.
2090
2091 **REASON -** Acting on a motion by Mr. Witte, seconded by Mr.
2092 Archer, the Planning Commission voted 5-0 (one absent) to recommend the Board
2093 of Supervisors **grant** the request because the conditions should minimize the
2094 potential impacts on surrounding land uses and it is reasonable in light of the
2095 surrounding uses and existing zoning on the property.
2096
2097 Mr. Emerson - Mr. Chairman, we now move on to page 4 of your
2098 agenda for REZ2015-00013, Bruce Hulcher for Oak Knoll, LLC. The staff report
2099 will be presented by Ms. Rosemary Deemer.
2100
2101 **REZ2015-00013** **Bruce Hulcher for Oak Knoll, LLC:** Request to
2102 conditionally rezone from R-2A One-Family Residence District to R-3C One-Family
2103 Residence District (Conditional) Parcels 777-760-6526 and 777-759-6295
2104 containing 13.126 acres located on the north line of Hungary Road at its
2105 intersection with Lydell Drive. The applicant proposes a residential development
2106 of no more than 32 single family homes. The R-3 District allows a minimum lot area
2107 of 11,000 square feet and a gross density of 3.96 units per acre. The use will be
2108 controlled by zoning ordinance regulations and proffered conditions. The 2026
2109 Comprehensive Plan recommends Suburban Residential 2, density should not
2110 exceed 3.4 units per acre.
2111
2112 Mr. Witte - Is there any opposition to REZ2015-00013, Bruce
2113 Hulcher for Oak Knoll, LLC? I see none.
2114
2115 Ms. Deemer - Mr. Chairman, members of the Commission, this
2116 request is to rezone 13.126 acres from R-2A One-Family Residence District to R-

2117 3C One-Family Residence District (Conditional) to allow the development of no
2118 more than thirty-two single-family homes.

2119 Zoning in the area is a mix of one-family residence districts. The subject site was
2120 zoned R-2A with the comprehensive rezoning in 1960. Woodman Terrace and
2121 North Run Terrace to the north and west are zoned R-3, while Cedar Grove to the
2122 east is a mix of R-3C and R-3AC. North Run Hills to the south is zoned R-2.

2123

2124 The Comprehensive Plan designates the site for Suburban Residential 2 with a
2125 density not exceeding 3.4 units per acre. The applicant is proposing a 32-unit
2126 development of single-family homes, which is a density of 2.43 units per acre,
2127 making it consistent with the Comprehensive Plan. Revised proffers, dated May
2128 12, 2015, which have been provided to you this evening, are similar to those
2129 accepted with the Cedar Grove subdivision and address:

2130

- 2131 • assurances of a specific allotment of homes meeting three different
- 2132 finished square footage minimums;
- 2133 • garages would be provided for at least sixteen of the homes;
- 2134 • exterior materials to include vinyl, brick, stone or concrete board; and
- 2135 • other topics related to garage clear space, chimneys, cantilevering,
- 2136 driveways, foundation plantings, and construction hours.

2137

2138 The applicant's revised proffers address items in the staff report to include a
2139 sidewalk along one side of Concept Road A and consistent fencing material for
2140 those lots adjacent to Hungary Road.

2141

2142 Staff is supportive of the request as it conforms to the 2026 Comprehensive Plan
2143 designation and is consistent with the single-family residential development
2144 pattern in the area. That concludes my presentation, and I'd be happy to answer
2145 any of your questions.

2146

2147 Mr. Witte - Any questions by the Commission? Mr. Archer, how
2148 would you like to proceed?

2149

2150 Mr. Archer - I think I would like to hear from the applicant so that
2151 you all can ask some questions.

2152

2153 Mr. Witte - Would you like me to ask about garages?

2154

2155 Mr. Archer - No.

2156

2157 Mr. McGurn - Mr. Chairman, members of the Commission, I'm Arthur
2158 McGurn. I'm the applicant of this rezoning. Not to be repetitive of Ms. Deemer, but
2159 I'd like to raise a couple of points that she also brought out.

2160

2161 We're seeking to rezone to R-3C. We have proffered conditions that speak to
2162 architectural style, size of homes, garages, material, that type of thing. They are

2163 very similar to the proffers that were proffered with the Cedar Grove zoning case,
2164 which would be to our right or to the east of our entrance.

2165

2166 We have worked with the residents of North Run Terrace, two of which are here,
2167 to address our plan as far as traffic concerns, traffic from our neighborhood into
2168 theirs. I think we've addressed their concern with the plan that we presented. As
2169 Ms. Deemer said, the R-3 zoning allows for a density of 3.4 acres per unit. Our
2170 density would be less than that at 2.43. So as proffered and proposed, we feel like
2171 we've met the spirit and intent of the Comprehensive Plan, and I would ask that
2172 you consider this favorably and vote yes on the rezoning.

2173

2174 My engineer, Bruce Hulcher, is here if you have any technical questions, which I'm
2175 not qualified to answer. He could do that. And we thank you for your time.

2176

2177 Mr. Archer - Mr. McGurn, you and I discussed the addition of the
2178 sidewalk. Would you explain to the rest of the Commission members what we
2179 agreed to do on that?

2180

2181 Mr. McGurn - Yes. What we agreed to, our main road that comes in
2182 off of Hungary Road, which goes all the way to the top, which is the triangular piece
2183 and ends in a cul-de-sac, we've agreed to build to County standard a sidewalk on
2184 one side or the other of that main road from Hungary Road to the end of that road.

2185

2186 Mr. Archer - Thank you, sir. Everybody understand it?

2187

2188 Ms. Jones - Mmm-hmm.

2189

2190 Mr. Archer - Okay.

2191

2192 Mr. Witte - Any other questions?

2193

2194 Mr. Archer - No. I think the only other thing that I do need to mention
2195 because I need to mention Mr. Strauss and his expertise in doing this. The initial
2196 concern about this was Palmer Drive ends in a stub road, and the residents didn't
2197 want that stub road to continue through the neighborhood. Based on the size and
2198 the way this property is shaped, it would have been just about impossible to do
2199 anyway. Mr. Strauss did come up with an alternate plan. I don't know if it was the
2200 one that was used or not, but at least it ended the discussion on that portion of it.
2201 So I want to thank him for that. All right. I don't have any more questions unless
2202 someone else does.

2203

2204 Mr. Witte - Mr. McGurn, you said there was somebody here who
2205 wanted to speak?

2206

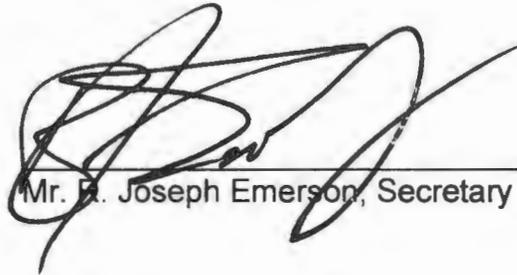
2207 Mr. McGurn - No. I was just referencing the two residents from North
2208 Run Terrace, the neighbors next door that we had worked with on that traffic plan.

2209 I don't believe they're opposed to this. They're here to I think make sure that the
2210 plan as proposed with the cul-de-sacs is what gets approved in the rezoning.
2211
2212 Mr. Archer - They're been very patient. You all are welcome to
2213 come up and speak, if you want to. Okay, that's all I have.
2214
2215 Mr. Witte - All right. Mr. Archer.
2216
2217 Mr. Archer - All right, Mr. Chairman. With that, I will move for
2218 approval of REZ2015-00013, Bruce Hulcher for Oak Knoll, LLC, and send it to the
2219 Board with that recommendation.
2220
2221 Ms. Jones - Second.
2222
2223 Mr. Witte - We have a motion by Mr. Archer, a second by Ms.
2224 Jones. All in favor say aye. All opposed say no. The ayes have it; the motion
2225 passes.
2226
2227 **REASON -** Acting on a motion by Mr. Archer, seconded by Mrs.
2228 Jones, the Planning Commission voted 5-0 (one absent) to recommend the Board
2229 of Supervisors **grant** the request because it conforms to the recommendation of
2230 the 2026 Comprehensive Plan and it represents a logical continuation of the one-
2231 family residential development which exists in the area.
2232
2233 Mr. Emerson - Mr. Chairman, the next item on your agenda also
2234 appears on page 4, and that is the consideration of the approval of your minutes
2235 from your April 9, 2015 Planning Commission meeting. You also have an errata
2236 sheet that was at your seat this evening and I believe may have been distributed
2237 to you earlier as well.
2238
2239 Mr. Witte - Are there any additions to the errata sheet?
2240
2241 Mr. Leabough - If there are no additions, I move that the minutes be
2242 approved as presented with the notations on the errata sheet.
2243
2244 Mr. Branin - Second.
2245
2246 Mr. Witte - We have a motion by Mr. Leabough, a second by Mr.
2247 Branin. All in favor say aye. All opposed say no. The ayes have it; the motion
2248 passes.
2249
2250 Mr. Emerson - Mr. Chairman, I have nothing further for the
2251 Commission this evening.
2252
2253 Mr. Archer - There being nothing further, I move for immediate
2254 adjournment.

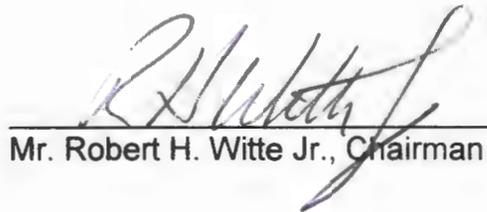
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Mr. Branin -
Mr. Witte -

Second.
Thank you, sir.



Mr. R. Joseph Emerson, Secretary



Mr. Robert H. Witte Jr., Chairman