

Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico, Virginia, held in the Board Room of the County Administration Building, Parham and Hungary Spring Roads at 7:00 p.m., on May 14, 1998, Display Notice having been published in the Richmond Times-Dispatch on Thursday, April 23, 1998, and Thursday, April 30, 1998.

Members Present: C. W. Archer, C.P.C., Chairman, Fairfield
Elizabeth G. Dwyer, C.P.C., Vice-Chairman, Tuckahoe
Ernest B. Vanarsdall, C.P.C., Brookland
Mary L. Wade, Three Chopt
David A. Zehler, C.P.C., Varina
Randall R. Silber, Secretary, Assistant Director of Planning
James B. Donati, Jr., Board of Supervisors, Varina

Others Present: John Merrithew, AICP, Principal Planner
Mark Bittner, County Planner
Nancy Gardner, AICP, County Planner
Leslie News, County Planner
Lee Yolton, County Planner
Judy Thomas, Recording Secretary

Mr. Archer - We will get things started and we'll turn things over to our Acting Director, Mr. Randy Silber. Mr. Silber.

Mr. Randall Silber, Acting Director of Planning - Thank you, Mr. Chairman. I do have several announcements, if I may. We do have a quorum, tonight. All members of the Commission are here, so we can conduct business.

I would like to first, maybe, if possible, introduce someone to both the Planning Commission and to those who are here this evening. The County of Henrico has hired a new Director of Planning. I have been serving as the Director of Planning for about the last eight months. We do have a new Director. He is here tonight. I will be serving as Secretary, but I think soon he will be sitting in this chair. I look forward to that. So, John, if you could stand, please. We have John Marlles. He is here tonight. He came to us from the City of Roanoke. He was the Director of Planning in Roanoke for 11 years. He has a lot of skills and talents. We look forward to his working with the staff. He's been with us now for two weeks. So, he's growing accustomed to our style.

Mr. John Marlles - Thank you, Randy.

Mr. Archer - John, we'll miss Randy, but we're glad to have you.

Mr. Silber - Let me also announce that the Planning Commission does have a policy regarding the time period which persons are allowed to speak on a rezoning request. That policy is that the applicant is given 10 minutes to speak to his request for rezoning. He can save any portion of that 10 minutes for rebuttal. The opposition, likewise, is given a total of 10 minutes to speak. Any questions that are asked of you by the applicant or the opposition by the Planning Commission is not a part of that 10 minutes. It is separate time and is not subtracted. Finally, contrary to popular belief, we are not going to take a break tonight to watch Seinfeld on T.V. We're going straight through.

Ms. Dwyer - How about ER?

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Mr. Silber - Not ER either. So, with that, maybe we can get started. If we can have the requests for deferrals and withdrawals.

Mr. John Merrithew, Principal Planner - Thank you, Mr. Silber. We do have several requests for deferrals this evening. We do not have an 8:00 o'clock break in the agenda, so I will go through all the requests at this time.

On Page 2 of the agenda in the Tuckahoe District, Case C-31C-98.

C-31C-98 Ralph L. Axselle, Jr. or Andrew M. Condlin for Sigma Development: Request to conditionally rezone from A-1 Agricultural District to B-2C Business District (Conditional), part of Parcel 56-A-62, containing 7.956 acres, fronting on the south line of Church Road approximately 200' east of its intersection with Pump Road and on the east line of Pump Road 200' south of Church Road. Retail use is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Commercial Concentration.

The applicant requested a deferral until June 11, 1998.

Mr. Archer - Thank you, Mr. Merrithew. Is there any one here in opposition to the deferment of C-31C-98 Sigma Development? No opposition.

Ms. Dwyer - Mr. Chairman, I move that the Commission defer Case C-31C-98 Sigma Development, to our June 11, 1998 meeting at the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Merrithew - Thank you, Mr. Chairman. On the next page and in the Varina District, P-17-98.

P-17-98 Susan Stancil for Nextel Communications: Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a communication tower up to 120' high and related equipment and improvements, on part of Parcel 217-A-30, containing 2,500 sq. ft., located at 3622 Darbytown Court on the east side of Interstate 295. The site is zoned A-1 Agricultural District. The site is also in the ASO Airport Safety Overlay District.

They have requested a deferral to June 11th as well.

Mr. Archer - Okay. Is there any one here in opposition to the deferment of P-17-98 Susan Stancil for Nextel Communications? No opposition.

Mr. Zehler - Mr. Chairman, I have one question for staff. We're showing July 16th on our agendas. Is it June or July?

Mr. Merrithew - I have June 11th for P-17-98 on my agenda. Is the applicant here?

Mr. Zehler - With that, Mr. Chairman, I move P-17-98 be deferred to June 11th per the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Merrithew - The next case in the Fairfield District...

Deferred from the March 12, 1998 Meeting:

C-14C-98 James Thornton for Virginia Center, Inc.: Request to conditionally rezone from O-3C Office District (Conditional) to M-1C Light Industrial District (Conditional), part of Parcel 24-A-8D, containing approximately 61.74 acres, located on the east line of I-95 approximately 1,620' north of Virginia Center Parkway within the Virginia Center development. Light Industrial uses are proposed. The uses will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office development.

They have requested a deferral until August 13, 1998.

Mr. Archer - August 13th. Is there any one in opposition to the deferment of C-14C-98 Virginia Center, Inc.? Seeing none, I move the deferment of C-14C-98 to the August 13, 1998 meeting at the applicant's request.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Merrithew - In the Fairfield District, C-24C-98.

C-24C-98 Arthur McGurn: Request to conditionally rezone from A-1 Agricultural District and R-2C One Family Residence District (Conditional) to R-5C General Residence District (Conditional), Parcels 32-A-102N, 117 and 122, and Part of Parcel 32-A-114A, containing 12.659 acres, located at the southeast corner of Francis Road and Virginia Center Parkway. Multi-family development is proposed. The R-5 District permits densities up to 14.52 units gross density per acre. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre, and Government uses.

They have requested a deferral to July 9, 1998.

Mr. Archer - Okay. Thank you, Mr. Merrithew. Any one here in opposition to the deferment of C-24C-98 Arthur McGurn. I move the deferral of C-24C-98 for 60-days to the July 9, 1998 meeting.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). At the applicant's request.

Mr. Merrithew - Mr. Chairman, that's all the deferrals that I have at this time.

Mr. Archer - Thank you, Mr. Merrithew.

**Deferred from the April 28, 1998 Meeting:
LANDSCAPE PLAN**

**LP/POD-69-97
Mircotel Inn & Suites**

Huntjens Hospitality Corporation: Request for approval of a landscape plan, as required by Chapter 24, Sections 24-106 and 24-106.2 of the Henrico County Code. The 1.70 acre site is located on the north line of Audubon Drive, 600 feet east of Airport Drive (State Route 156) on parcel 163-A-21C. The zoning is B-3, Business District, M-1C, Light Industrial District (Conditional) and ASO (Airport Safety Overlay District) (Varina)

Mr. Archer - Is there any one here to speak in opposition to LP/POD-69-97 Mircotel Inn & Suites? No opposition. Ms. News.

Ms. Leslie News, County Planner - The applicant has submitted a revised plan incorporating additional landscaping into the Phase 1 Plan which meets the County's minimum requirements. He has also indicated additional plantings designated as Phase 2 to supplement the minimum requirements and has agreed to install these additional plantings within two years of the final Certificate of Occupancy.

Condition 5 on your agenda covers the installation of these plantings. Staff, therefore, can recommend approval of these revised plans.

Mr. Archer - Thank you, Ms. News. Mr. Zehler, do you need to hear from the applicant?

Mr. Zehler - No sir. I don't, Mr. Chairman.

Mr. Archer - All right.

Mr. Zehler - The applicant has graciously addressed my concerns. Therefore, I move that Case LP/POD-69-97 Mircotel Inn & Suites be approved, subject to the standards conditions for landscaping and the following additional condition No. 5.

Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Planning Commission approved LP/POD-69-97 Mircotel Inn & Suites, subject to the standard conditions attached to these minutes and the following additional condition:

curve to the right with a radius of 7702.44', and an arc length of 341.35, subtended by a chord of S. 54° 53' 38" E., a distance of 341.32' to a point; thence along a curve to the left with a radius of 7576.44', and an arc length of 130.44', subtended by a chord of S. 54° 07' 03" e, a distance of 130.43' to a point; thence leaving the north line of West Broad Street Road (U.S. Route 250), N. 33° 15' 25" E., a distance of 293.08' to a point; thence N. 45° 10' 35" E., a distance of 742.43' to a point; being the place and point of beginning; thence N. 21° 44' 48" E., a distance of 639.94' to a point on the south line of Interstate 64; thence along the south line of Interstate 64, S. 64° 55' 01" E., a distance of 1022.34' to a point; thence leaving the south line of Interstate 64, S. 29° 09' 44" W., a distance of 343.87' to a point; thence N. 64° 55' 01" W., a distance of 475.36' to a point; thence S. 43° 40' 55" W., a distance of 12.16' to a point; thence N. 64° 55' 01" W., a distance of 385.72' to the place and point of beginning; containing 10.891 acres.

Mr. Archer - Thank you, Mr. Silber. Is there any one here in opposition to C-27C-98 for Summit Properties Partnership, L.P.?

Mr. Rick Gregory - Mr. Chairman, I'm here on behalf of the adjacent property owners.

Mr. Archer - Okay. We'll hear from you. Any one else? Mr. Merrithew.

Mr. Merrithew - Thank you, Mr. Chairman. This is a proposal to rezone approximately 35 acres of land located on the northeast corner of Old Gayton Road and W. Broad Street. The rezoning has two pieces. The first is a residential component of rezoning to R-5C and R-6C General Residence Districts to permit up to 290 multi-family apartments on 20 acres next to I-64. That would be Parcels B & C that you see on the northern portions of the slide.

The second component is a B-3C Business District proposal to permit up to four retail commercial parcels, including a 15-acre automobile dealership and up to three smaller outparcels on the southern portion of the site; Parcel A that you see on the slide.

Adjacent development around this proposal is primarily residential or vacant land. There is a B-3C property rezoned immediately to the southwest and that is the Strange's Nursery. It is proffered to be used solely for a nursery at this time. The remaining surrounding zoning is A-1. As I said before, it is basically undeveloped.

There is a residential neighborhood on Old Three Chopt Road immediately to the west, a residential compound; a mix of older and new homes. One of the issues that staff is dealing with in this case is the protection of that particular neighborhood.

The area falls under the W. Broad Street Overlay District and adjoins a prime economic development site for Office development. It is, essentially, a gateway location to western Henrico.

The mix of residential and commercial development does support the Mixed-Use Land Use Plan for this area, and to that extent, does comply with the Plan.

The Department of Public Works has determined that the road network can accommodate this project. The applicant has agreed, by proffer, to dedicate and reserve right of way both for the alignment of North Gayton Road, as it is planned to extend across I-64, as well as an on ramp for east bound traffic getting onto I-64. They have agreed to reserve land for that interchange. The

reservation is to last for a period of five years or when the project is committed to and funding is committed to the project, whichever happens first.

Utilities are not close by for this project, however, they will be the responsibility of the developer and can be extended to this area. Schools anticipates an additional 47 students being generated by the residential component, and they can be accommodated in the existing facilities.

Staff's principal concerns with this case focus on the commercial component and the need to protect adjacent residents and improve the character of W. Broad Street at which is, essentially, as I said before, a gateway to the County. The residential component, I should point out, has included proffers related to design and amenities that have suggested that it will be a high quality residential development. The staff has few issues with that component of that project at this time.

Overall, staff feels the applicant has not adequately addressed the County's objectives for this corridor with regard to design. In effect, the applicant has been reluctant to be specific about construction materials, particularly for the planned outparcels, and has presented what is a standard or typical auto dealership franchise building layout.

Staff feels the site merits stronger commitment to quality design, including quality building materials, heavier landscaping, less out front parking, and coordinated and limited signs and other features that are not exhibited in the proffers as they stand today.

Of particular concern is the lack of information about potentially three outparcels on the site. I think I'd like to turn that machine on at this point to illustrate the concept plan that has been proffered (referring to document camera). As you can see in this drawing, the residential component is the heavily colored portion at the northern or top end of the drawing. The commercial component is to the south. You can see two white areas on the left of the drawing; right here, at this point (referring to an outparcel at the northeast corner of Old Gayton Road and W. Broad Street), as well as a potential for two outparcels right here in this area inside the road "crescent" connection.

At this point the proffers do not contain any significant information about what will happen on those sites and is vague with regard to the quality of design materials. Staff is concerned that those sites could be used for fast-food restaurants, convenience stores, gas stations, or other high profile uses without regard to the design and appearance of those uses.

With regard to the applicant's proffers handed out tonight, staff had raised a number of grammatical issues with them, and the applicant has addressed them. So, in fact, I have two sets of proffers to hand out tonight which, I think, may be a record. But I'm hesitating to hand out the second one, because they do address only grammatical changes to a great extent. I believe the District Commissioner received both sets? I don't want to confuse the Commission. My comments will speak primarily to the bigger issues of the proffers you have in your hand right now.

Mrs. Wade - Mr. Merrithew, now the latest I have is 5/13/98. Does he have something beyond that?

Mr. Merrithew - I have 5/14/98, time 16.11. Perhaps, I should hand it out to you? The difference between these two is, this one does not reflect the major changes that were made in the 5/13 copies so you can't tell where the changes were made.

Ms. Dwyer - So, should we be working from the 5/13 copy for the time being,
Mr. Merrithew?

Mr. Merrithew - I'd like to work from the 5/13, and then if we have time, go back to the 5/14, if there's any questions on them. Staff hasn't had a lot of time to review these latest changes. So, at best, I'm giving you a pretty cursory analysis. If they appear to be appropriate to you, then I'm sure we can continue to work on them as we proceed to the Board. Otherwise, I would like to suggest staff would like to have more time on the case.

With regard to the proffers...

Mrs. Wade - Is today the 14th? I just got these about 4:00 o'clock. I don't think I got these. But, anyway, go ahead.

Mr. Merrithew - I have to make sure I have the right ones. I want to hit on just a couple of highlights of the issues that we talked about. Again, Proffer 10 dealing with architectural treatment in a commercial area, as you can see refers to the dealership parcel. It does not refer to the outparcels. Despite knowing the dealership and the user for the site, the proffer continues to be vague, and leaves a wide range of finish materials that could be used on the building.

The concept plan that you see illustrated up on your screen now is, basically, a franchise building layout with all of the vehicle storage and display area being to the front between the building and the street, with the building pushed to the back of the site, and some storage to the rear of the building, between it and the apartments.

Staff had encouraged the applicant to consider different materials for this building as well as moving the building forward and making it more prominent on the site in an attempt to avoid the appearance of just a vast area of parking in front of another "big box" commercial user.

In Proffer 14, the applicant is proposing a series of lighting height standards ranging from 30-feet at the building, out to 20 feet at the edge of the property in order to reduce the intensity of the lighting at the edge of the property. Staff feels that, in this case, a consistent lighting standard of 20 feet would be appropriate. It would also be consistent with the residential component of the development, and give the overall project some sort of coordinated appearance.

We also feel that the lighting intensity that we have discussed with the applicant is too high and will have an impact on adjoining properties. We would like to encourage the applicant to put in additional buffering between them and the existing residents or some how lower the intensity even further up against the residential side, at least as long as residences are there.

You can see the other changes have been made to the case. I'm afraid I would have to continue searching through to find any points to make to you at this moment. I would be glad to answer any questions. Based on our review to date, the case does comply with our Land Use Plan, in terms of the use mix, however, we feel that it could be significantly improved with some more consideration given to the design of the site and the buildings on it. I would be glad to answer any questions.

Mr. Archer - Thank you, Mr. Merrithew. Are there questions for Mr. Merrithew by the Commission?

Mr. Zehler - Which set of proffers did you just review? 13?

Mr. Merrithew - You should have No. 1 on them; the 13th.

Mr. Zehler - Then why did you just give us 14?

Mr. Merrithew - I gave you 14 so you would have the latest version. It shows some grammatical changes that the District Commissioner and I had asked for last night.

Mr. Silber - Mr. Zehler, the 13th has the majority of the changes. That's why John used that because that has the majority of the underlined version.

Mr. Merrithew - And they are not highlighted on the 14th.
Mrs. Wade - All my notes are on the 13th one.

Mr. Merrithew - Right. I think the applicant would be able to run through these in more detail, perhaps, to indicate their intent.

Mr. Silber - John, what is the buffer that is proposed between the B-3 and the residential portion?

Mr. Merrithew - Along Gayton Road, it would be a 35-foot landscape buffer.

Mr. Silber - Between the B-3 and the R-5?

Mr. Merrithew - There is no buffer, per se. There is a landscaping strip. But most of the buffer between these two components of the project is on the residential property. The residential portion would prefer it that way, because then they have the control over the maintenance and (unintelligible) of that proffer.

Mr. Silber - Second question. Has the Department of Public Works reviewed the comments; Proffer No. 5 on the 5-year restriction for the reservation of the ramp?

Mr. Merrithew - They had reviewed a 10-year proposal and they have not reviewed the 5-year. Tim Foster is out of town today. He may have discussed it with the applicant, but I have not received his comment on it.

Ms. Dwyer - Mr. Silber, are you referring to reserving the ramp for a period of 10-years as opposed to 5-years?

Mr. Silber - I think that 5 years, to me, seems inadequate. I think it should be much longer. But I think that's a call that Public Works needs to make.

Mrs. Wade - The idea, of course, is the concern of the neighbors about the future of the area. They wanted some sort of time limit to the "threat," as it were, of the interchange at that corner.

Mr. Silber - Right. I understand that, Mrs. Wade, but I just think, although five years may sound like a long time now, in the scheme of interchange planning, sometimes that can be a very short period of time.

Mr. Archer - Okay. Any further questions for Mr. Merrithew?

Mrs. Wade - We'll deal with this for the time being.

Mr. Archer - Are we done with Mr. Merrithew? Any more questions? Thank you, sir. Mr. Weinberg.

Mr. Jay M. Weinberg - Mr. Chairman, before I get started, in view of the fact that there are two sets of lawyers; one representing the residential component, and another set representing the retail component, could we possibly extend the time to 15 minutes on this case and reserve one minute for rebuttal? Andy and I will share the presentation.

Mr. Archer - Is that possible, Mr. Secretary?

Mr. Silber - That's up to the Commission.

Mr. Archer - Commission members, any problem with that? Okay.

Mrs. Wade - The opposition will have the same length of time. I don't know whether there is any or not.

Ms. Dwyer - Yes. There is opposition.

Mrs. Wade - Oh. There is opposition?

Mr. Silber - Mr. Weinberg, did you say you wanted to reserve one minute?

Mr. Weinberg - One minute. Yes.

Mr. Silber - You're going to take half of your 15 minutes.

Mr. Weinberg - Andy and I will split it up. Mr. Chairman, and members of the Commission, I'm Jay Weinberg. And I and Penny Koch represent Summit Properties who are purchasing this 35 acres of property. Bill Axselle and Andy Condlin represent Ted Linhart, who wishes to relocate an automobile dealership to this site.

Very, basically, let me say before I'm chastised too much about not getting the proffers in any earlier, I got the staff comments to respond to this at 9:37 this morning. Having a client in Charlotte and Mr. Linhart, I honestly did the best I could. But I think they are more grammatical than substantive. I think we have addressed the substantive issues.

Very, basically, we would like to develop this parcel of land, as you can see (referring to slide), for 290 apartments. They certainly would qualify as luxury, by anyone's standard. A minimum of 75 detached garages. You have the three outparcels, and then you have the dealerships.

The current zoning is Agricultural and the request is for R-5C, and R-6C and B-3C. We believe that this request represents the highest and best use of this property for the following reasons:

First of all, it is at the intersection of two major traffic arteries; namely W. Broad Street and North Gayton Road, as proposed to be widened and extended beyond I-64 to cross over that and then with intended ramps and interchanges.

The Plan complies with the Goals, Objectives, and Policies of the Land Use Plan and the proposal with a combination of retail and residential use complies with the mixed-use intent of the Master Plan.

The rezoning and development of the property will result in the dedication of 1.9 acres of land to the County; all of that property right there along that green line (referring to slide), for the development of Gayton Road to a four-lane divided highway; two lanes of which, and curb and gutter of which my client is required to install. And also for the reservation of 2.7 acres; that triangle right there (referring to slide), for ramps going up to the interstate.

Let me say, while our request is 5 years for the State, County and the Federal Governments, to decide to build and commit the funds, they don't have to construct. And while 5 years may seem like a very short time for the professional staff, to Mrs. Pearson who lives right there (referring to slide), and who'll be wiped out by the interchange, 90-days is too long. Her home is under threat of condemnation. I think it is reasonable for these folks to say, "Let's give 5 years to make that decision." We're not saying it has to be built. The proffer says you have to commit the funds to do it, and then we would convey it to you at no charge.

This proposed development will, the staff says, generate less than half the school-age children that would be generated if this property were developed for single family.

The adjacent roadway network can clearly handle the traffic, as evidenced by the staff. For these reasons we would respectfully submit that it represents the highest and best use and will not adversely affect anyone's health, safety or welfare.

If rezoned, it will be developed in strict accordance with all of the proffered conditions; some 28 in number.

These proffers are divided into three sections. Those that apply to everything. Those that apply to the retail and those that apply to just the residential. I will go quickly through those which affect Summit, which is the residential, and let Andy do the rest. These apply to all of it.

No building shall exceed three stories. Utilities, basically, have to be underground. Trash receptacles have to be screened from public view at ground level at the boundaries of the property. Trash pick up cannot commence before 7:00 a.m. or after 8:00 p.m. Monday through Saturday.

We have provided for the road dedication. We have provided for the ramp reservation. And vehicular drives are restricted to no more than one vehicular access point on Broad Street, which is this one right here (referring to slide), and we proffered we will make available to this parcel access to that so that can be a joint access and you won't have to have multiple curb cuts on Broad Street. There is a maximum of three on North Gayton. Bear in mind, this one disappears if and when the ramp goes up (referring to slide). We will not be able to access at that point. So, you'll only have this one and this one.

The portions of the property shown as outparcels cannot have direct vehicular access to either Broad or North Gayton. Let me also say, with respect to the outparcels, we do not have a

precise user. We are willing to proffer that those two outparcels must be of brick construction or any other material approved by this Commission. If you don't make any changes, we have to build them brick. I'm more than happy to submit that. I'd now like to ask Andy Condlin if he'll come up and review those proffers which relate to the commercial or B-3 portion of the property.

Mrs. Wade - May I ask you one question, Mr. Weinberg? When you talk about materials, we have the rendering of the apartments, but there's no verbiage that they'll be a certain percent brick.

Mr. Weinberg - Where ever you see that British Brown, that's brick and I'll put that on each and every elevation.

Mrs. Wade - While you're adding information about brick on the outparcel, you might include that for the apartment building.

Mr. Weinberg - Sure. They'll be as shown there and that's brick and I'll mark it up on John's copy.

Mr. Andy Condlin - Good evening. My name is Andy Condlin with Bill Axelle. My portion of the presentation will primarily focus on the Business zoning. I'm representing Mr. and Mrs. Linhart. I will primarily focus on the dealership parcel, as Mr. Linhart will be purchasing from Summit the dealership parcel which includes only that portion for the dealership and its parking and not the outparcels. I will also cover the proffers with respect to both the dealership parcels and the outparcels; all of which is defined as Parcel A in your proffers. So, Parcel A, when you see it, defines both the dealership parcel and the outparcels.

I would like to make one correction. I think Mr. Merrithew said that the dealership parcel is in fact 15 acres. I believe the dealership parcel is, in fact, 8.6 acres, with the outparcels being approximately 1.092 acres, in the corner and the other larger piece being 2.9 or 4 acres.

Mr. Linhart (Dominion Chevrolet), of course, has been in Henrico County since 1960 at its current location for over 30 years. He's now looking for a new location to move west, as expansion for residential moves west and to get a better location. He has pursued other sites. He even had one picked out, and under contract. (Mr. Linhart) Talked with the Planning Staff and for those reasons of their objections, to the placement of his facility there, as well as some others (objections), he decided to look for some other sites on Broad Street. We've worked closely with the Planning Staff. I believe Mr. Linhart met with and talked to Randy Silber about a number of other locations; two of which we've made offers on. We've ended up with this location at the major intersection of Gayton and Broad.

Going through the proffers, I would like to explain somewhat of a Catch 22 that Mr. Linhart finds himself in, in that, once we get rezoning, we must then get approvals from GM, which has to approve this exterior layout and the exterior materials. We can do it previous to the POD. However, he's got a number of materials that we proffered as primary materials. We've limited them to only the face, "cast in place" architectural concrete, split-face block, stucco if applied to a masonry surface, the EFIS systems, glass or a combination thereof. I would propose that, it's a limited amount of material. I can show you on the exterior elevations which are shown on there (referring to slide) in kind of a fuzzy quality. But I've also got handouts for you, if that would be helpful. I don't know if you got those in your packets; the colored handouts of the exterior elevation. I know Mr. Winks, the Architect, who is here also has them.

Mrs. Wade - Now, are you identifying those materials on the elevations?

Mr. Condlin - Well, I can explain what we've got with the exterior materials. Just going through the proffer, we have proffered these exterior elevation plans. We have proffered that all buildings on Parcel A must be compatible with these. Of course, Jay has just proffered all brick on the outparcels.

As I stated, the primary material, we've also stated the accent material in the proffers that can be used. This particular facility, as we're showing here, you can see on the showroom elevation, the top elevation faces the southwest corner of this property at the corner of Gayton and Broad.

This will be a combination of; well actually, it has a front façade which we call a "Marque Facial Element," something similar to Best Products on Quioccasin Road. You can see that between the front façade and the front doors into the building, there are trees. There's an open space. It's more of a façade that's connected to the building, but very similar to what Best Products had on Quioccasin Road.

Again, what you see there is an open space with EIFS block shown on there. One of the things that they would like to propose is a masonry tissue panel that would qualify for an EIFS, but that's not something that's been necessarily approved. The EIFS, and Ted has a facility down in Southpark in Colonial Heights that has been approved by General Motors and there's a question of getting approval based on what we know we can use.

Again, it has the open space. The side that you can see; that's somewhat misleading in that that is, if you were immediately adjacent to the building from Gayton Road and the side would not be visible from Broad Street, but from Gayton Road. The rear portion actually drops down 30 to 35 feet below the front. So, he's got two levels, with just the very top, if at all, being able to be visible from Gayton Road.

This material, what we're showing on the lower portion, a split-face block with the upper portion being a vertical standing seam panel; and EIFS, again the masonry tissue or another material that is consistent with the proffers. That is what we're proposing for the side elevations that we show on there. Again, we proffered the side elevations. We proffered the material. We're ready to comply with those, once we know what we can go forward.

Mrs. Wade - So, the vertical part is "standing seam" is what you said?

Mr. Condlin - It can either be an EIFS, or what is described to me as a "vertical standing seam" panel that can be the masonry tissue or some other material, but it will look like that and they can make it look like block, similar to the front, but they thought with the variation in the look, that's what they came up with. Yes ma'am. But it can be EIFS or what they call "masonry tissue."

Ms. Dwyer - Could you explain "masonry tissue?"
Mr. Condlin - Ed, come on up. This is Edward Winks, the Architect.

Mr. Edward Winks - I'm the Architect. Mrs. Wade that is not something I would qualify as close to brick. Quite honestly, it's a new material that we don't know exactly what category to put it in. It is a cementitious product like a cast stone, except it comes in panels of various sizes scored in 1 x 2 scores. It is a superior product to the EIFS system. It is normally far more costly

than the EIFS system and we're a little leery to come out and try to specify that material because it's near impossible to describe. It has been used in a few dealerships up North. It is a very durable material made of something like a pre-cast concrete but a little thinner, and it also has some other materials in it. It's a composite material, in other words. We think, because it hasn't been used in this area, we will be able to get a pretty good price from the supplier and hopefully we can get this superior look. GM is really the problem here, getting their approval, and we don't know if they're going to approve it at this point either. So, we're kind of caught in the middle if you can sympathize with us.

Mrs. Wade - So, some of this is going to be different from the one down at Southpark?

Mr. Winks - Yes ma'am. It will be different if we use that material. It will be very different. I think it is a much more handsome material, and that's what we're trying for. We're here in the county. Mr. Linhart's been here since 1960. I've been here for a little while myself. We'd sure like to do the best we could, but we do have to negotiate a little bit with General Motors.

Mr. Vanarsdall - Mr. Winks, I didn't hear, what color is it?

Mr. Winks - We know one thing from General Motors, they're going to want something to be pretty light and the look of a light pre-cast concrete look.

Mr. Vanarsdall - Let me ask you a question. Are those trees going to be there that large, or did you just draw that in there just to make it pretty?

Mr. Winks - We are proposing literally to have trees and landscaping back in there. As was pointed out by Mr. Condlin, the southwest sun come right in on our primary elevation. This is also a sun screen. We think its going to be very effective and give a very nice effect with trees. I'm not aware that anybody has done that on a dealership.

Mr. Zehler - You said the masonry tissue comes in panels, like the concrete panel?

Mr. Winks - Yes.

Mrs. Wade - But, basically, white?

Mr. Winks - Otherwise, I would take exception to the staff's comment that, at least, to the dealership parcel, we have tried to limit the exterior material. We think we have a good plan. We have gone through, and if you'd like, I could go through the proffers, but given the number of cases and the time constraints, I think they're effective to provide a first class development on this property. I'd be happy at this time to answer any questions.

Ms. Dwyer - I've got a question about the zoning between the two parcels, between the residential and the dealership; the buffer, I mean. Do the buffers exceed what's required by the Ordinance?

Mr. Winks - Yes.

Ms. Dwyer - Where is that? I didn't see it on any of the latest proffers in the conceptual plan unless I just can't...

Mr. Weinberg - Summit is purchasing all of the property and is selling that to the dealership. You can see how far back these buildings are. Summit wants to put in its landscaping all on its property to make sure its apartments are buffered from the dealership.

Ms. Dwyer - Right. Where's the distance spelled out?

Mr. Weinberg - Well, I proffered this plan right here and I'm not sure what that scales off. My guess it is at least 50 feet, and maybe it's up to 65 feet or 75 feet through there. So, in addition, we're going to require them to have some buffering on their side or screening of some kind. We want to control our own destiny and have the bulk of it on our side.

Ms. Dwyer - It's not spelled out in the proffers and its not identified other than measuring to scale on this drawing.

Mr. Weinberg - That's correct. Well, let me say, the ordinance, itself, requires there to be a minimum buffer between the two different uses. I'm not sure. Is that 35 feet between Business and Residential?

Mr. Silber - I think it is 35 feet, Mr. Weinberg.

Mr. Weinberg - But we're going to far exceed that. I mean, that might be on what's on their side of the property, but we're going to have much on our side of the property.

Mrs. Wade - So, what are you going to do, then, to screen the body shop from the apartments?

Mr. Weinberg - Go ahead, Andy, if you want to answer that.

Mr. Condlin - Not only will the body shop be required to have all body shop and paint activities be in the interior of the building, parts and vehicles that are to be worked on for body shop or painted have to be screened within the building or a wall or a fence. I believe the Code allows landscaping. That's something that we have now proffered the landscaping. It has to be within the building, the wall or the fence.

Ms. Dwyer - I'm sorry. Were you finished with your questions, Mrs. Wade?

Mrs. Wade - Well, no.

Ms. Dwyer - You go ahead.

Mrs. Wade - I'll try, quickly. I was going to ask you how you respond to the staff's concern about A. the site design, and B. the buffer for the other neighbors who are already there, about the apartments?

Mr. Weinberg - I'd like to address the buffer for the other neighbors who are already there.

Mr. Condlin - I guess I won't do that, but I will address the site design issue. Again, I guess I think you're talking about the actual location of the building. Well, as you can

see on this, (referring to rendering), No. 1, this is a car dealership. A car dealership, like any retailer, is in the business of selling cars. They've got their inventory out front, which there is certainly adequate parking. He's got more than 600 parking spaces, approximately, set in this facility. Mr. Linhart currently has approximately 425 at his current location. Of that 600, about 175 surrounds the building which would be for customer parking, screening for those that are being served.

The value here is, it's not as if this is a retail facility with a "big box" in the back and just parking lot; an expanse of the pavement; at any given time with cars here and there. These are new cars or used cars that Mr. Linhart would be selling to be looking good. You can see on this plan that they're designed for specific areas. We have proffered that we have to, at the POD stage, set out a display and parking areas. Of course, we're got the required landscaping. We've also got the display area; that triangular area that's in front. To that extent, I would disagree that this whole location, necessarily, would be more attractive unlike what was termed, "the other retail user," just because the building brought more apartments around the area. I think we have made good use of the parking surrounding this building in looking at the configuration.

The other thing that's driving this is the topography of the land. As you go, as I said, from the front of the building to the rear, it's about a 30 to 35 foot drop; that being the crest where the building is. So, that is where most of your viewpoint is going to go. The property then will drop down towards the front. You'll have a change in elevation down toward Broad Street and then back up towards as you go to Gayton. It will go down and go back up, to get the current topography and the best we can get, based on our grading, which our grading plans haven't been finalized yet. But the highest visual point on the property will be front façade; the marquee façade that we propose at the front of the building. That's the natural topography to put that. I think Jay wanted to address the buffering issue, if you have more questions on that.

Mrs. Wade - As we came in, I mentioned that the plan I'd seen, I didn't see, or maybe it wasn't there, the display area at the landscape plan?

Mr. Condlin - It is my understanding, and maybe its contrary, based on what I expected that, just because we've shown some of the display area, we showed the display areas, because we remembered on a previous one, we didn't show any, and you said, "Well, what is this area?" Particularly the triangular piece, it was a display area. We've also got displays on the outside of the landscaping and parking on the front of Broad. Again, we have to, at POD time, I'd like to say, not proffering at this time, but that's where the display areas happen to be. But, according to the proffer, we have to, at the POD, designate at that time the display areas. It's not we're taking away and it's not within the landscaping area. It'll be slightly raised to curb level, but it's, it's own display area that's taken up otherwise what would be parking spaces.

Mr. Archer - Mrs. Wade, excuse me just a second, please. I need to explain to you (speaking to audience) that as long as the Commission is asking questions of the applicant, that amount of time is not included in the timeframe that he has. We can't ask questions and then cut off the time limit to do it.

Mr. Silber - There is two minutes, 10 seconds, left of their time, but as long as the Commission is asking questions, the clock's not running.

Mr. Archer - I'm sorry, Mrs. Wade, go ahead.

Mrs. Wade - No, I'm just concerned when you start displaying in the landscape islands, because you're got the whole frontage on Broad.

Mr. Condlin - If I may, we can proffer right now, despite the fact that we can get you a new layout that does show the display areas so that it will be dictated, that's what's written in the proffers now, that display areas will have to be shown, designated and approved at the time of POD as we've proffered. I can make the statement now, take away the display areas now and we can designate them at the time of POD exactly where they are, specifically. But, again, those display areas are not taking up landscaping, but are taking up parking and are shown to showcase those particular type of cars on that end. You know what's to be expected, and, again, that will be approved at POD.

Mrs. Wade - He's going to take care of the other buffers, materials and colors. You've changed No. 11. I've got the old ones here about the trucks.

Mr. Condlin - Yes ma'am. Two concerns were raised. One, we're not going to be selling tractor trailers here and two, the rental of trucks. I'd like to explain why the change came about. Mr. Linhart, at his current facility, has a deal with Enterprise. And for those people who bring their cars in for repair, Mr. Linhart pays for them a rental car. It's only for their use. We won't be renting trucks, and our new proffers certainly take that out. That's not open to the public. It's solely for the rental provision for the customers who come in. Otherwise, and what we've placed in the proffers now, we kind of thought what was occurring, how to define which trucks he would be selling. We tried to use gross weight or empty weight, which some of the staff was not happy with how we defined it, nor were we because Mr. Linhart sells, and I've got some extra brochures here, what we've used as a "Class 4" "Federal Class 4."

Mrs. Wade - What's the empty weight on this?

Mr. Condlin - It's under 10,000. What he has, if you can see, John, if you could actually, show the red cars. What he has, the larger trucks, he actually just sells the chassis. Someone, for example, who wants to put on, like a landscaper, to carry mulch; what's called a "mulch dumpster." An ambulance, for instance, they have to go someplace else to put the rear of the truck on for these larger Class 3 and 4 trucks which are shown on the bottom. That's what he would be selling is what you're looking at exactly there. Even the large pick up truck, the Class 2, or the Class 3 and 4 which is, again, just the chassis.

Mrs. Wade - What I'm trying to get away from is the possibility of rental, because you know you've got that corner down there that's uncommitted. We don't want it, I don't think, full of U-Haul's or Ryders.

Mr. Condlin - Well, we've committed that Parcel A may be only used for the sale, service, retail, repair of automobiles, vans, sport utilitys, and other similar passenger vehicles in the sales, service and repair of trucks up to this Class 4 classification. So, that would not rent trucks per se. He's not in the business even of renting trucks.

Mrs. Wade - Well, I realize he isn't, but we still have...

Mr. Condlin - Well, Parcel A is subject to these limitations. Otherwise, according to the proffers...

Mrs. Wade - I think we've probably spent a long enough time on that.

Mr. Condlin - Well, if it's not, there's no intent to have any B-3 uses on the corner, other than the sale of vehicles, if it's in conjunction with Mr. Linhart's ownership of that corner parcel. Again, any building on there would have to be, as Jay said, primarily brick with the accent materials approved.

Mrs. Wade - The building would be the problem in that case. For some reason you omitted on Page 4, it's the bottom of 13. You took out, "No vehicles shall be parked, stored in displayed areas." Is that someplace else?

Mr. Condlin - I'm sorry. I missed that one.

Mrs. Wade - The "storage of vehicles" paragraph.

Mr. Weinberg - That was put back in.

Mrs. Wade - Oh, in the next one.

Mr. Condlin - Yes. Again, I was referring to, "No vehicles shall be parked, stored, or displayed in areas not designed, constructed for such and so designated on POD approved in accordance with the appropriate code section."

Mr. Archer - Okay. Any further questions for Mr. Condlin?

Mr. Weinberg - If I could finish up with 1.5 of those 2.5 minutes? I won't go through the proffers on the apartments because, basically, I think staff finds that they are acceptable. I have put brick on the plan, Mrs. Wade.

Let me say that, we had a substantial number of lengthy meetings with the residents in this area in order to discuss the development of the properties of Summit and Mr. Linhart to discuss their concerns and to address them. We have actually entered in to a preliminary memorandum of understanding with these residents. On the basis, that, with that, this case could go forward, tonight, and, hopefully, the Board would act on it because of the critical time nature Mr. Linhart has to relocate his dealership.

We are awaiting three engineering studies that are supposed to be finished by May 30th, but we've worked with Mr. Rick Gentry, of McClarin, Ryan, Counsel for Chris Brown and his sister and his father, and their respective spouses. I think he is here to tell you that we have acted in good faith. We've made very substantial progress. We have an agreement in principal which needs to be documented and will be, before this case goes to the Board of Supervisors. And, if for any reason, we don't reach agreement, they would then reserve the right to object to it. But, I would prefer that he give you his version of that statement.

Again, I will finish up by saying, before Rick talks, is we comply with the Land Use Plan, the Goals, Policies, and Objectives. We are contributing 4.5 acres for the installation of the highway and ramps. We, in fact, we know this will be a quality development. You have tremendous discretion. For all of those reasons, we hope you would waive the time limit in the proffers and recommend approval to the Board.

Mrs. Wade - You were going to talk about the buffer on the Gayton side?

Mr. Weinberg - I'm sorry. Yes. As part of our agreement with the Brown family, we have not only agreed to have a dense buffer across there, but there is approximately a 1.2 acre triangular parcel—a left over parcel, after the County's take. We have agreed to do a landscaping plan for that parcel, and also agreed for landscaping in the immediate vicinity of their homes. Which by bringing the tree line close to their homes, what you put here is not going to block the view from their house. What you put next to their house will block it. That's where they prefer to do it. We're talking about Leland Cypresses. We do need the plan drawn, but I think we have a pretty good idea of exactly what that's going to be.

So, what we're concentrating the landscaping on, is on their side along their homes as opposed to on our side, where it would not be as effective. Bear in mind, you'll probably have about a 90-foot road in between.

Mrs. Wade - Is there a possibility that there will be a drainage structure down near Broad?

Mr. Weinberg - We've prohibited any kind of drainage structures, BMPs, or detention basins within the 300 feet, I believe, within any of those streets, just to Broad, okay. You're saying, no, there will not be drainage structures within that 35-foot buffer on either Gayton or Broad.

Mr. Archer - Okay. Any further questions of Mr. Weinberg?

Mr. Zehler - Mr. Chairman, I have a question of Mr. Condlin.

Mr. Archer - Mr. Condlin.

Mr. Zehler - I'm not familiar with your Federal Class 4 trucks. Let me ask you some questions and see if...

Mr. Condlin - Could I bring up Mr. Linhart who is more of an expert than I whose never owned a pick up truck.

Mr. Ted Linhart - Yes sir.

Mr. Zehler - Is a dump truck a Federal Class 4 truck?

Mr. Linhart - No. But let me be specific. If you take a pick up truck and you take the box off the back of it, you can install a flat body that landscaping companies use to do small amounts of landscaping, that will tip and dump material. Now, if that's by what you mean, yes, that's a dump truck. I think we're probably talking about things that are on construction sites, and we don't have a franchise to sell that.

Mr. Zehler - Talking about a tandem diesel?

Mr. Linhart - No sir. We don't have a franchise for that.

Mrs. Wade - But would they fit into this category, if you did have a franchise for that; the Class 4?

Mr. Linhart - You require a separate franchise agreement to sell Class 5 through 9 trucks and...Yes. I'm sorry. That requires a different franchise that I do not have. Steve Baher has that franchise.

Mrs. Wade - Yes. I understand that, but suppose there were a franchise for that, would it be allowed under this proffer on the site?

Mr. Zehler - Under a Federal Class 4 truck, is a tantum dump truck considered a Federal Class 4?

Mr. Linhart - No. It is larger. It's six or seven. Eight and nine are the tractors that pull semi's down the road. I think it's either a six or seven. That's a dump truck.

Mr. Zehler - What would you estimate the gross weight you could carry in a Federal Class 4 truck?

Mr. Linhart - The gross weight, I don't know. Empty weight, the chassises are 5,800, 6,000 pounds, 7,000 pounds empty. It really depends on what kind of body you put on them. I apologize. I don't know how big of body you can put on. Primarily, they're what wrecker companies buy what is called "rollback" that goes up under your car. That'll fit on one. The landscaping bodies, ambulances will fit on there; the ambulance body. A small maintenance truck that has handles on the side that open up to hold tools will fit on there.

Mr. Zehler - Would a diesel engine be classified in a Federal Class 4?

Mr. Linhart - Yes sir. We put diesel engines in pick up trucks. They're a Class 1 or cars.

Mr. Zehler - Thanks.

Mr. Linhart - Yes sir.

Mr. Archer - Thank you, sir.

Ms. Dwyer - I have a question about the parking in the townhouses. I noticed that garages are included in the townhouses. Are the garage spaces included as required parking in the County Ordinance or would be that be in addition to required parking?

Mr. Weinberg - Where they're attached across the back, they can count towards the County requirement. Where in the townhouses, as part of the townhouses, they're in excess. These are in excess of the County's requirements in case someone decides to enclose it for a den or something.

Mr. Archer - Okay. Any further questions? I think we had opposition. Do we not?

Mr. Rick Gregory - Mr. Chairman, my name is Rick Gregory. I'm with Theyor- Ryan. I'm here on behalf of three property owners located on the west of the proposed North Gayton Road. They're Mr. and Mrs. C. Carlton Brown and his two children who also have homes there. Mr. & Mrs. Chris Brown and Mr. and Mrs. Larry Pressel and they are here in the audience today.

The Brown's have a very unique situation where they moved to this property in 1976. Mr. Brown had a desire to have his family live adjacent to him and help to take care of him in his later years. Those years are now coming upon them and he understands that progress is happening, but he would certainly prefer that it not happen as soon as it does. But, I think that he understands that it is coming.

One of the situations here that we have is, as the staff suggests, they are residential; this new development is coming to them. So there are a number of concerns about quality of life, because they still intend to live there and take advantage of this unique situation of all three families can live adjacent to one another.

The quality of life issues that are some of the issues that this Commission has raised tonight; buffer issues, lighting issues, hours of operation is an issue that's very important to them; and also use. What type of uses can be there? This process has been a very quick one. We understand that the agenda that Mr. Linhart has, or what he has to get accomplished in order to get his operation going; we're not here today to oppose that. We think, as Mr. Weinberg said, all parties have been operating in good faith. We do have an understanding of some principles that we're working towards. Of course, we all know the devil is in the details. We're not at the details yet.

So, I think with that in mind, we're not here to oppose it, per se. But we are going to be working diligently in the next couple of weeks with the proponents of this and we would reserve our rights to oppose it or to approve it at the Board of Supervisors meeting.

Ms. Dwyer - So, you're saying, if I could summarize, is that you're still in the process of negotiating with the applicant in this case...

Mr. Gregory - Yes ma'am.

Ms. Dwyer - Those negotiations are not complete. So, your concerns are not, therefore, reflected in the proffers that we're asked to vote on today?

Mr. Gregory - Well, the proffers go part of the way. There will be a number of side agreements that need to be fleshed out in order to help preserve this. As I mentioned, the buffers that Mr. Weinberg has talked about in the proffers, they're not in here about what happens on the triangular piece of land. We're concerned about access across the triangular piece of land. These are all things that we do have the concepts down and we have an understanding of where we want to be. We're confident that we'll get there, but we're not there yet.

Mr. Archer - Thank you, Mr. Gregory. Are there questions for Mr. Gregory? All right, is there any further opposition? Hearing none, Mrs. Wade.

Mrs. Wade - Okay. There was no rebuttal. You don't need to.

Mr. Archer - Do you need more time, Mr. Weinberg, for rebuttal?

Mr. Silber - Twenty seconds of rebuttal time.

Mr. Weinberg - The only thing I can say is, we have a letter agreement setting out these principles, time schedules for completing them, and one of the inducements for us to do

many of these things was, in deference to Mr. Linhart, this would go forward tonight. I think they will tell you, if all of these things are implemented that are in our memorandum or letter of understanding, they will not object to this case.

If an engineering study turns up something different from what we anticipate, they reserve the right, and I understand that, at the Board. I think we're working together, and I have every confidence we'll get there, but we just need a few more weeks to do it. But, I hope you won't detain us, at least, Mr. Linhart.

Mr. Archer - Okay. Thank you, Mr. Weinberg. All right, Mrs. Wade.

Mrs. Wade - Do you want to take those parking displays off those landscape islands, or not add them on, on the conceptual plan that goes forward then? As you say, if you want to submit something at POD?

Mr. Condlin - I'll submit a layout without the landscape or display area shown on there so they can be approved at the time of POD as is indicated in the proffers.

Mrs. Wade - The ones up right at the building are not the problem so much as the ones around the parking lot, because the staff pointed out, all that parking lot in the front is not what we would like to see in the overlay.

I move we waive the time limits to accept the new proffers dated today.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). Motion on the case.

Mrs. Wade - I'm sure the neighbors have met with Mr. Kaechele at least once. I attended the meeting at which he was present, and his concerns about their concerns. So, I'm sure the Board is going to look at those seriously before they take this up next month. It is, as Mr. Merrithew pointed out, a mixed use. And although we have some reservations about the car dealership; and another site design would be more desirable in the area, but we've come a long way with it. I think it's appropriate enough for this area. I move Case C-27C-98 be recommended for approval.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall, All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the proffered conditions and grant the request because it conforms to the recommendations of the Land Use Plan; it continues a form of zoning consistent with the area; and the proffered conditions will provide appropriate quality assurances not otherwise available.

The latest site plan maintains a 25 to 35-foot buffer around the property. Limits the uses on the site to those permitted in the B-2 District, along with the mini-warehouse. The manager's home and office, proffered to be two-story, brick, residential character building at the front of this site. Where's the applicant? Do you have a layout design that we could show up on the Board? The site plan has changed from what you have in the packet to the extent that the buildings immediately touching the manager's office have been removed from the site in lieu of a retention pond being located there. Show me the whole plan, Mark. Bring it down a little bit more (referring to slide).

You can see the top side of the site plan, the neck of the property shows the manager's office and apartment towards the front. That is now proposed to be a two-story building, primarily brick, and residential in character.

Immediately to the right of that building towards moving into the site, you see the retention pond that replaced the first building or the building that would be closest to the interstate and closest to Broad Street—the storage building. So, with that change, we have an opportunity now to better block the view, or screen the view of the development from Broad Street and I-64.

The bay doors have all been proffered to be pointed in toward the interior of the site so what you will see from outside the site is a solid wall, essentially around the entire property. That should, basically, screen the activities and any odd colored bay doors, or storage bay doors on the inside shall be screened from view.

Where the case falls short is in the proposed construction materials. The proffered concept plan proposes primarily metal siding with some brick. The brick, as you can see (referring to slide), is the darker color along the elevation that you see at the bottom of the drawing. Then the metal siding would be the more gray appearing material between the patches of brick.

Brick is the prevalent and the preferred building material in this part of W. Broad Street. The development community, to date, and the developers of mini-warehouses that have been reviewed in recent years have consistently used brick as the principal material in their projects.

Staff feels that to waiver from that trend is a reduction in the quality of the project and a reduction in the character of W. Broad Street. So, staff is strongly encouraging the applicant to consider brick as the only, if not the principal material, on the structure itself.

Staff's second concern is a policy issue. As I said before, the site issues are pretty well addressed. It is a low traffic generator. It's a quiet use. The hours of operation are limited. So, it will not have an impact on adjoining development by itself. But what it does have an impact on is the development potential of this portion of the W. Broad Street corridor. You can see that there is a massive amount of A-1 property between I-64 and John Rolfe Parkway, and with the improvements to John Rolfe Parkway, and other roads in this area, the development potential, economic potential is significantly improved even beyond what it probably is today.

Staff's concern is that the piecemeal development of this area with a use such as a mini-warehouse may preclude the coordinated mixed-use development of surrounding and remaining A-1 tracts. So, the policy issue is whether this is, in fact, the highest and best use for this site, given the development potential around it. At this point, we do not believe this is the highest and best use, and we believe the B-3C zoning is more consistent with the mixed-use development proposal envisioned by the West Broad Street Overlay District and the County's plans. Those two

issues, the materials issue, and the policy issue, we feel should be addressed. If they are addressed to the Commission's satisfaction, the staff could certainly support a recommendation of approval. With that, I'd be glad to answer any questions.

Mr. Archer - Thank you, Mr. Merrithew. Are there questions for Mr. Merrithew?
No questions. Need to hear from the applicant? Mr. Weinberg.

Mr. Jay Weinberg - Mr. Chairman, I'm Jay Weinberg and I represent Stor-All, Mr. Larry Anderson, the principal of Stor-All is with us this evening. As John has indicated, it is a request to rezone approximately 6.9 acres of land from B-3 Conditional to M-1 for a Stor-All Mini-Storage. We have proffered the elevation and the layout plan.

Let me say that there is writing on that plan and I'd like to point out the three changes that we've made. One, Mrs. Wade, I have noted on the bottom that adds of four more panels of brick to the eastern wall of Building A and four more panels to the western wall of Building J. I think, at your suggestion, and we're happy to do that. They're the exterior walls and you'll get more of brick panels in there.

The second thing is a request that Mr. Stuart Siegal and his counsel have asked us to do. That is, to take these chimney-like ends (referring to rendering) of buildings, put one at the end of that building and one at the end of that building so that's what you could see from Broad Street. And also to leave this area in its natural state, and I've marked "natural" on top of that 35-foot treed area there.

Basically, we believe that this is the highest and best use of this property for the following reasons: No. 1, it does about the eastern ramp of Interstate 64. It seems like I'm getting caught in that on both ends of Broad Street, tonight. It has very limited vehicular access.

The mini-storage facility is the lowest generator of traffic. But I think what's most important, it's easy to say, you'd love for someone to come in and aggregate all of these parcels and put something else there, but right today, as that property is zoned and proffered, you can have a used car lot there. You can have an automobile and truck repair facility, just precisely the way its zoned today. I think, knowing the owners on the various sides of it, it is highly unlikely that this property is going to be aggregated.

The site is heavily wooded around its perimeters or boundaries and I think it does represent the highest and best use.

The proffered conditions are those that have been accepted in similar cases before. Mainly, both the elevation and the layout plan has been proffered. The only M-1 use that can be made is that mini-storage warehouse building that you see there. Thereafter, it drops down to only B-2 use. The lighting cannot exceed 10-feet in height. We're, incidentally, in the Broad Street Overlay District. It has to be cut to a security level at the close of business. HVAC has to be screened as do central trash receptacles. There can be no outside speaker or alarms unless required by law. From any mini-warehouse storage facility, all doors, except those for the office manager's apartment and office must face the interior of the site.

None of them can be seen from the exterior. Trash pick up is restricted from 8:00 a.m. to 6:00 p.m. Monday through Friday. No trash pick up on either Saturday or Sunday. The storage of certain materials is prohibited. Operating hours are from 7:00 a.m. to 9:00 p.m. Nor can any access be had to the mini-storage. It's a totally secure area before 7:00 a.m. to after 9:00 p.m.,

except in a case of a bona fide emergency. There is security. Not only is the site enclosed, but also there is a manager who lives on site. Twenty-four (24) hours a day, there's someone there.

All of the jurisdictional conditions precedent are present and complied with, including the Broad Street Overlay District. We don't believe it will adversely affect anyone's property values. We think what you'll see from Broad Street is the two-story home which you see right there (referring to slide). The first floor is an office and the top floor is the manager's apartment. Let me say I can go through the jurisdictional conditions precedent, but I believe it's self-evident that they are complied with, but I will if any member of the Commission has any questions. I'd be happy to answer any questions that anyone has.

Mrs. Wade - Well, one is, what are we going to say to the next mini-storage developer who comes in and doesn't want to use masonry; who wants to use metal?

Mr. Weinberg - Well, let me say this.

Mrs. Wade - What goes behind the metal?

Mr. Weinberg - Larry, what is behind the metal? Is that not steel studs or is it masonry? Steel behind the metal. Steel studs. Am I right? It's steel studs. Frankly, we think it is a good one. It's not this color, as you know. It's a gray, to blend in with the split face block. You know, we just zoned one a couple of weeks ago that's all split-face block and no brick.

Mr. Zehler - To address Mrs. Wade's question, I did notice you did take the time to do your apartment; the office, in the brick. Would it be feasible to take the surrounding front elevation, two side elevations and rear elevation, which would, basically, surround the confines of your project and do that in brick?

Mr. Weinberg - On that home, the sides and the rear are brick.

Mrs. Wade - He means all the way around.

Mr. Zehler - All the way around.

Mrs. Wade - "A," "B," and "M," and "J," on the outside.

Mr. Zehler - To those in brick, and then do inside of here as you deem...

Mr. Weinberg - I can check on that. Mrs. Wade asked us to add four more panels of brick on these walls of the buildings and we proffered that.

Mrs. Wade - Is that four or eight?

Mr. Weinberg - Well, four on each of two buildings, which is a total of eight.

Mrs. Wade - Well, I thought that's what you said.

Mr. Weinberg - That's what I've written up there.

Mrs. Wade - That wasn't what we discussed.

Mr. Weinberg - Four on Building A, and the front of Building J.

Mrs. Wade - But he's asking about the possibility of doing...

Mr. Zehler - You'd be doing the exterior, and, basically, it would leave the inside confine to do as you see fit.

Mr. Weinberg - Solid brick?

Mr. Zehler - Just like as you come up with your parking in the office.

Ms. Dwyer - Not all the walls. Just the perimeter walls.

Mr. Weinberg - Just your outside perimeter walls. I would assume then it would reduce the brick on the inside walls.

Mrs. Wade - Yes. We don't have any interior walls.

Mr. Silber - Mrs. Wade, while they're talking, I think one reason that would be preferred is, now that this development will more or less be stopping development in an eastern direction, that could develop residentially now. It's likely to be residential to the south. I think the west will be a visible edge. So, I think Mr. Zehler's point is well taken.

Mrs. Wade - As the staff said, there's been concern about this use at that location for reasons for future development.

Mr. Weinberg - Does that have all split-face block and no metal on the outside?

(Gap in tape).

Mr. Weinberg - ...and you've seen that combination of brick up the wall, so it's not an office. So, if it was all brick, or all split-face, or all vinyl siding, it would look quite boring. So, with the landscaping that's in front of it and with the brick panels, which we agreed to do more of, we're splitting up that wall so it's not monotonous. That's was the purpose we did that. It would be a little cost prohibitive for us. At least, I haven't looked into it any further, for us to do 100-percent brick on the property. The alternative would be to do all split-face, but then that changes the character. If you have split-face block, then you don't have this colonial-look with the chimneys. That's what we were trying to do is keep the residential character on the buildings here.

Mr. Zehler - But you did take the time to show your office and your apartment all four sides in brick, correct?

Mr. Henderson - Yes.

Mr. Zehler - That doesn't look too monotonous does it?

Mr. Henderson - It's much smaller, though. It's only 60 feet, rather than several hundred feet.

Mr. Archer - Thank you, Mr. Henderson.

Ms. Dwyer - Could you review for me, again, I don't see the buffers specified in the proffers. Could you review for me the buffers, particularly in light of Mr. Silber's comment, that the eastern property may be developed eventually for residential purposes. I'm having trouble reading this small print.

Mr. Weinberg - This buffer here is 36 and 35 feet. That buffer there is 25 feet to that wall. It's substantially more to this line. This is 60-feet instead of the (unintelligible) feet across the rear. This is 15-feet backing up to the neighbor...

Ms. Dwyer - The staff report indicated that a 50-foot buffer would be more appropriate along the eastern property line.

Mr. Weinberg - The reason you have 25-feet to there and it proffers 30 feet to there and 35 feet to there, is that you have a wall; you have a masonry wall; a masonry brick and metal wall. On this part, you know....that's intended to be a landscaped retention pond.

Mr. Zehler - What if we have to take another case, Mr. Weinberg, instead of using all block, you can have a cap every so often to break that what they call a "prison wall" effect. You can come off that wall and do all cinderblock and do maybe a split-face block maybe every so often to make it look like a column.

Mr. Weinberg - (Discussion not at microphone – unintelligible).

Mrs. Wade - Sixty (60) percent. That's around the outside. That's what the other is. What are the inside building "E," and "C," "D," "F," and "H?" They're all metal?

Mr. Weinberg - They're metal on the interior. Gray metal.

Mrs. Wade - Just metal on the interior. Okay. Then we need some kind of masonry then on the outside. And, perhaps, the color similar to what's here.

Mr. Weinberg - Yes. We've got all of the colors marked. It's that grayish color.

Mrs. Wade - Yeah, either in brick or split-face block on the outside walls. Then, that would help our problem with others who would come along, because I don't think we've had a mini-storage out of metal in a long, long time. In fact, I've been told, that will set the industry back 20 years.

Mr. Weinberg - I tell you what I'd like to do. I'd like to get you some photographs of where we've used it. If you don't like the looks of it, we'll switch it before we get to the Board of Supervisors.

Mrs. Wade - Well, why don't you put down "brick or split-block" and then if the Board likes the looks of it, they can switch it. You can switch it before it gets to the Board.

Mrs. Wade - All right. Split face block along the interior. Or split face block along the exterior where the plan currently shows metal.

Ms. Dwyer - Mr. Weinberg, what is the status of the remaining B-3 parcel that's excluded from this?

Mr. Weinberg - That is owned by Avis. They own the whole thing and they're selling us this piece.

Mrs. Wade - Okay, so you'll make the note about the split block on the outside, still with the color family that's exhibited here. As I understand it, the trash is going to be collected in one of the units, so there's no dumpster.

Mr. Weinberg - In one of the units, so there will be no outside storage bin.

Mr. Archer - Thank you, Mr. Weinberg. Are there further questions of Mr. Weinberg? I don't believe we had opposition. So, Mrs. Wade, we're ready.

Mrs. Wade - I share somewhat the concern of staff that this parcel being in the middle of all these things. There is still, of course, enough land around it to develop in a coordinated fashion. It certainly would have a low impact on the area and the traffic generation would be low. So, I move that Case C-28C-98 be recommended for approval.

Mr. Weinberg, I didn't think of. Excuse me. Hold that motion. Would you be willing to add on here, "prohibition of outdoor advertising signs?" No outdoor advertising signs on this parcel.

Mr. Weinberg - Certainly. You mean billboard signs?

Mrs. Wade - Yes.

Mr. Weinberg - Certainly. I couldn't have any of those in the Broad Street Overlay District anyway. But, I'm happy to add it.

Mr. Silber - Actually, Mr. Weinberg, that was checked last night, and corrected. You can have billboards in the West Broad Street Overlay District. You cannot have "attention getting devices" though.

Mr. Weinberg - I could have a billboard in the West Broad Street Overlay District, 10-feet above ground only?

Mr. Silber - It's not prohibited by...

Mr. Weinberg - We don't want them, and I'll rule it out because I don't believe you can only have a billboard that's only 10 feet off the ground. That's law in the West Broad Street Overlay District. Don't worry about it.

Mrs. Wade - Okay, so you're adding No. 13 now.

Mr. Weinberg - No billboards.

Mrs. Wade - Thank you. Almost forgot. Oh, then we'll have to waive the time limit for the proffers. I move that the time limit be waived to accept the additional proffer.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mrs. Wade - Okay. With the additional proffer commitments, I would move that Case C-28C-98 be recommended for approval.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Zehler, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the proffered conditions and grant the request because it is reasonable; it would not adversely affect the adjoining area if properly developed as proposed; and the proffered conditions would provide for a higher quality of development than would otherwise be possible.

C-29C-98 **Ralph L. Axelle, Jr. and Andrew M. Condlin for Forest City Development & Pruitt Associates:** Request to conditionally rezone from A-1 Agricultural District to B-3C Business District (Conditional), Parcels 36-A-26, 27, 28, 29, 30, 31, 32, 34A, 35A, 36, 37, 38 and pt. of Parcels 36-A-13 and 15, described as follows:

Commencing at a point found on the North line of West Broad Street, (U.S. Route 250) 410' west of the western line of Pouncey Tract Road; the point of beginning; thence along the northern line of West Broad Street (U.S. Route 250) North 76° 22' 43" West a distance of 136.98' to a point; thence North 27° 37' 44" West a distance of 57.15' to a point; thence North 13° 35' 16" East a distance of 10.47' to a point; thence North 76° 24' 44" West a distance of 10.62' to a point; thence North 13° 19' 19" East a distance of 86.18' to a point; thence North 76° 24' 44" West a distance of 50.05' to a point; thence South 13° 19' 19" West a distance of 94.89' to a point; thence North 76° 24' 44" West a distance of 10.33' to a point; thence South 13° 19' 19" West a distance of 9.80' to a point; thence South 56° 43' 21" West a distance of 64.22' to a point; thence North 76° 22' 43" West a distance of 558.02' to a point; thence North 13° 37' 17" East a distance of 22.33' to a point; thence North 76° 22' 43" West a distance of 23.83' to a point; thence South 13° 37' 17" West a distance of 22.33' to a point, thence North 76° 22' 43" West a distance of 388.62' to a point; thence along a curve to the right having a radius of 2801.78', a chord bearing of South 72° 19' 07" East, a chord of 396.73' and a length of 397.07' to a point; thence North 21° 44' 29" East a distance of 7.00' to a point; thence along a curve to the right having a radius of 2794.78', a chord bearing of South 66° 43' 07" East, a chord of 150.22' and a length of 150.24' to a point; thence South 24° 49' 17" West a distance of 7.00' to a point; thence along a curve to the right having a radius of 2801.78', a chord bearing of South 63° 22' 10" East, a chord of 176.91' and a length of 176.94' to a point; thence North 61° 33' 37" West a distance of 449.93' to a point, thence South 39° 33' 18" West a distance of 29.84' to a point; thence North 63° 40' 15" West, a distance of 7.80' to a point; thence North 38° 58' 31" East a distance of 30.14' to a point; thence North 61° 34' 54" West a distance of 179.76' to a point; thence North 61° 06' 57" West a distance of 123.82' to a point; thence North 61° 06' 57" West a distance of 209.98' to a point; thence North 61° 06' 58" West a distance of 253.60' to a point; thence North 61° 27' 36" West a distance of 342.61' to a point; thence North 38° 20' 37" East a distance of 480.69' to a point; thence North 39° 02' 12" East a distance of 571.51' to a point; thence North 38° 50' 59" East a distance of 907.40' to a point on the Western line running

parallel to interstate 64; thence South 70° 13' 44" East a distance of 487.35' to a point; thence South 70° 17' 20" east a distance of 676.30' to a point, thence South 70° 09' 37" East a distance of 1149.46' to a point; thence South 70° 04' 02" East a distance of 265.49' to a point; thence South 00° 54' 56" West a distance of 760.40' to a point; thence North 87° 58' 39" West a distance of 72.40' to a point; thence South 06° 30' 16" East a distance of 291.81' to a point; thence South 13° 44' 33" West a distance of 695.44' to a point; thence North 76° 33' 06" West a distance of 100.68' to a point; thence South 13° 43' 20" West a distance of 257.09' to a point on the Northern line of West broad street (u.s. route 250), the point and place of beginning, containing 147.20 acres.

Mr. Archer - Okay. Is there any one here in opposition to C-29C-98?

Mr. Zehler - Yes sir, Mr. Chairman. Several over here.

Mr. Archer - Okay. Thank you, sir. We'll get to you. Ms. Gardner.

Ms. Nancy Gardner, County Planner - This is a request to rezone 150 acres from the A-1 District to the B-3C District on the north side of W. Broad Street, west of Pouncey Tract Road opposite Lauderdale Drive. This is also in the West Broad Street Overlay District.

The request is being presented in order to facilitate a pedestrian oriented shopping center. I'm going to let the applicant describe this. Some of the proffers get into the pedestrian orientation of the proposed shopping center. The site is designated for a mixed use. The proposal is for not as much mixed use as we would like, but the applicant's assurances in the proffers do commit to a high quality of development.

I will only go over the highlights of the proffers. They are rather lengthy. We have gotten most of the typical quality proffers and I won't go over those that we most commonly see. I'll only hit the highlights.

Mrs. Wade - So, either you or the attorney go over the proffers, but not both of you.

Ms. Gardner - Yes. I'm going to go over the proffers.

Mrs. Wade - Unless Mr. Axelle has something to add. Thank you.

Ms. Gardner - There will be a 50-foot buffer along W. Broad Street with plantings installed as buildings are constructed. And that would be on the west and the east side of Broadview. Regarding the parcels along the frontage, within the first 300 feet, certain proffers apply.

East of Broadview Lane, buildings will be limited to 15,000 square feet west of Broadview Lane, they will be limited to 30,000 square feet. Also, regarding the outparcels, there will be no outdoor speakers and no loading docks. On the remainder of the site, other uses will be limited to 75-feet in height. I would point out, of course, this requires a special exception.

Outdoor lighting is limited to 30-feet in height, although the Planning Commission may approve a higher height at the time of Plan of Development approval.

Back to the overall project, the applicant has committed to no more than 70 percent site coverage. We had requested a slightly lower site coverage, but they kept the 70 percent. Pedestrian accessways will connect major project areas to outparcels and the sidewalk along Broad Street.

Chain-link fencing shall not be in view of W. Broad Street, and where necessary, will be dark green or black in color. This addresses one of the concerns raised by some of the nearby property owners.

There will be vehicular access to the east and the west on the transportation proffers. They are working with the Traffic Engineer to come up with some improved language on transportation. The Traffic Engineer is confident that they've agreed in principal, although the language is not there yet. It will be, before the Board.

Many of the uses not consistent with the pedestrian-oriented center have been excluded although vehicle sales and rental are allowed on that rear portion of the property. That is not within the first 300 feet, but in the remainder. I won't read those out to you, but refer you to Proffer No. 22. Hours of operation for retail sales and food service only will be limited to 2:00 a.m.

There will be a minimum of 100,000 square feet of office use on the property. Given there's a likely 1.3 million square feet of development, this represents less than 10 percent. As I mentioned earlier, we had hoped that there would be more mixture of uses, but this is where we've come to.

Back to proffers that relate simply to the outparcels. First, there will be 10 percent parking lot landscaping and 65 percent site coverage. This is just on the outparcels.

Also, each outparcel will be a minimum of 1.5 acres. They will incorporate variety in size and layout of buildings. At the present time there is no cap on the maximum number of parcels, however, the applicant has agreed to place a cap.

I will also point out additional use restrictions on the outparcels. Here I'm reading from Proffer No. 37. There will be no seasonal outdoor sales. No outside storage or sales. There will be no more than one facility selling gasoline. That is, it will allow one facility selling gasoline.

Also, among the outparcels, theatres, bowling alleys, or billiard parlors. No outdoor recreation. No vehicles sales, rental and repair of tires and parts, including towing associated with body and paint shops. And finally, no restaurants with drive-through windows. This would most likely preclude any possibility of fast food restaurants.

Also, on the outparcels, dumpsters will not be visible from W. Broad Street and no outparcels will be built until the main shopping center is under construction. This will help to ensure that the architectural style on the main part of the property will be carried forward on the outparcels as opposed to the possibility of the outparcels setting the architectural style for the remainder of the site.

As I mentioned, the applicant has agreed, in principle, to commit to additional proffers regarding transportation and to put a cap on the number of outparcels. I feel that there is still room for improvement. Site coverage at 70 percent is somewhat high. We could have a higher mixture of uses, and we would have preferred to see a concept plan illustrating the proffers. However, even with the remaining issues, staff has gotten to a level of comfort with the case and can support approval. I'd be happy to take any questions, or get into any more detail with the proffers.

Mr. Archer - Thank you, Ms. Gardner. Are there questions for Ms. Gardner by any Commission members?

Ms. Dwyer - What is the cap that has been agreed to? You don't know?

Ms. Gardner - They have not stated a cap. This was a concern that was raised very early on, and then dropped, and we raised it again only this afternoon. So, they have not been able to come to a number.

Mr. Silber - Ms. Gardner, I think maybe the map can go back to the other slide. I think the subject property, we may have this shown incorrectly. I think it actually runs down the eastern side of the Hagen Drive properties.

Ms. Gardner - That's correct. Some of our map is incorrect and some of the acreage has been left off. It does include all of those parcels on the east side of Hagen Drive.

Mr. Silber - The acreage is correct? The acreage is 147.7?

Ms. Gardner - That's correct.

Mr. Archer - So, we just take that angle out on the right side of the slide? Is that what you're saying, some lots in there?

Mr. Silber - Yes. It just comes straight down at the back of those lots.

Mrs. Wade - Yeah. I assume that's getting wiped out?

Ms. Gardner - Hagen Drive?

Mrs. Wade - Yes. The houses are getting wiped out.

Mr. Archer - Okay. Further questions for Ms. Gardner?

Mrs. Wade - Oh. There was some comment about the traffic study in here. Have the Public Works people had a chance to...

Ms. Gardner - I don't believe they've finalized the language. If they have, they didn't tell me about it. But what they've discussed is doing is a two-phase traffic. Phase 1 to be done initially, and Phase 2 to be done subsequently.

Ms. Dwyer - The conceptual plan in our packet shows a parcel that is excluded from this development.

Mr. Silber - This has been purchased by them. They don't have a contract on the second part.

Ms. Dwyer - Mr. Silber has explained that has been purchased, and that's part of the development now.

Ms. Gardner - Yes. There may have been a map that showed what was originally an exclusion of one of the parcels. That's correct.

Mr. Zehler - On Page 13 if the additional restrictions, explain "c" for me.

Ms. Gardner - I'm sorry. Page 13, which proffer?

Mr. Zehler - "C." Actually, Page 14, under the "Additional Use Restriction."
Does that say, "No more than?"

Ms. Gardner - ...with a double negative. These are the uses that are excluded. So, you will not allow more than one facility selling gasoline. We have tinkered with this and I think we're in a good place with the wording.

Mr. Zehler - It says, "more than one facility selling gasoline?"

Ms. Gardner - Right. "the following uses shall not be permitted..." What is not permitted is more than one facility selling gasoline.

Mr. Silber - In other words, Mr. Zehler, they may only have one.

Ms. Gardner - Right.

Mr. Zehler - I don't agree with that. Maybe staff does.

Mr. Archer - Okay. Are there further questions for Ms. Gardner? If not, I believe we had someone to speak in opposition and someone to speak for. Mr. Axselle.

Mr. Bill Axselle - Mr. Chairman, ladies and gentlemen of the Commission, my name is Bill Axselle, and I'm here on behalf of the applicant, Pruitt Associates, who is Tommy Pruitt, a local developer, Ian Bacon with Forest City Development, a Cleveland based firm. It's a national developer that has over 7 billion square feet of commercial office and mixed-use under its management now. Stacey Burcin is the engineer, and Andy Conclin and I am working on this matter with them.

In 1996 the County did a West Broad Street Overlay District. One of its goals is, and I quote, "...to encourage well planned and coordinated large development..." This is 15 parcels; approximately 150 acres. It is, obviously, large tract development and its coordinated. I think it is well planned and well done in that respect. The West Broad Street Overlay District has six requirements. We meet and exceed all of those. It calls for a 35-foot buffer along Broad Street. We have a 50-foot buffer. It requires certain, and specifies the plantings. If you'll remember, the Broad Street Overlay District has very specific details about the plantings. We have proffered that we will, in fact, exceed those. There are about 35 guidelines that are not mandatory, and we have met, I think, about 30 of those guidelines. So, all of the requirements and all of the recommendations, with the exception of a couple that really don't apply, we have met. We have tried, basically, in putting this case together, to have two principles: One, the West Broad Street Overlay District, and to comply with that; and secondly, to the south of Broad Street, adjacent to Wellesley, recently was the Bon Secours case for a mixed-use development that the folks in Wellesley negotiated and worked with them. We have met or exceeded all of the requirements of the properties adjacent to Wellesley.

It is, as Ms. Gardner said, a mixed-use development. The pedestrian-oriented center. You can look at the middle of the yellow (referring to slide). We call this the "Easter Egg." It's a pedestrian oriented shopping center much like Reston Town Center. It is described verbally in some detail in Proffer No. 27; buildings close together, facing each other, limited or no vehicular access; very limited parking and so forth and so on. The Reston development will have outparcels and then development outside the ring road.

Let me just address a couple of points. It will be upscale retail in the pedestrian shopping center. I won't go into the details, but some of the tenants I think I can assure you that are in fact, upscale and national tenants. The buildings are well done. They'll be movie theatres and so forth.

We've also, with one of our principles, put a lot of attention on the area 300 feet off of Broad Street. I've got a list of about 15 things that we've done that have higher standards along Broad Street. The buildings are smaller than they are on the Bon Secours side. The height is lower. The parking lot lighting is the lowest on Broad Street, and so forth.

Let me address a couple of the points that, perhaps, was made reference to by Ms. Gardner. We have a site coverage of 70 percent on the property. The reason for that is, as you look along Broad Street, north of Broad, the site coverage allowed for Brookhollow is 75 percent; Wal-Mart is 70 percent; Short Pump Crossing on the south side does not have a particular limit. On the Bon Secours case, which is adjacent to Wellesley, has 70 percent. So, we thought 70 percent was the appropriate level.

Now, for the outparcels on Broad Street, each of them has to be 65 percent maximum coverage. The outparcels, in fact, will have more green space. The County requires 5 percent parking lot landscaping. We have 10 percent. A 35-foot buffer the County requires; we have 50 feet. And so we have provided a lot of landscaping.

If I could have Nancy to put up the next exhibit. This is the entrance that will be off of Lauderdale. We have taken, as you can see, Lauderdale Drive coming in. The top of this is what the entrance will look like. We have modeled this after what has been done in Wellesley. So, there will be water features on each side; fencing, walls, landscaping and everything. So, the main entrance, and this is Exhibit A, is shown there. The other entrances are the same type and they will also be proffered and we're committed to those. So, we think there's more than adequate open space.

Now, the mixed use, we have, in fact, committed to a minimum of 100,000 square feet of office use. So, we think there's a very good chance there will be a hotel conference center on the property eventually, but that is not yet something to which we can commit.

We are continuing to work with the staff and Mrs. Wade and the Wellesley folks. We have two particular items that we need to address, as Ms. Gardner said. A sort of renewed reinvigorated request to limit the number of outparcels was received this afternoon. We have, in fact, committed that we will, in fact, do that. But that's not something you do for a piece of property this large, quickly. So, we will, in fact, do that between the time of the Planning Commission and the Board of Supervisors.

A traffic study for the property has been done and has been reviewed by the County traffic folks. We have committed in proffer, I think it's No. 32, to do an additional traffic study when we get to the Phase 2 of development. The language is being modified now by Mr. Burcin and Mr. Priestas.

I told Ms. Gardner I would have a shorter presentation than her, so I don't think I made it, but that, real quickly is the overview of this property. I will tell you we have made extensively, and have had so many drafts of these proffers, the County Staff has done a great job. The Wellesley folks, with their Board, and their counsel, Mrs. Wade. We have never been beat up so nicely, but so effectively as they have. We come to you with what we think is a super case that's going to be a premier quality development for Henrico County. I'll be glad to respond to any questions.

Mr. Archer - Thank you, Mr. Axselle. Are there questions for Mr. Axselle?

Mr. Vanarsdall - Mr. Axselle, I have a question for you. We talked about this previously, and I have a couple of problems on the proffers that are restricted. And after talking to you and Tommy, this evening, I'm satisfied on one of them. I still have a problem with No. "D" as in "dog."

Mr. Axselle - Which Proffer number do you have? What was the number?

Mr. Vanarsdall - On Page 9 under "restricted proffers." It was proffer No. "D" like in "dog."

Mr. Axselle - Proffer 22D.

Mr. Silber - Proffer 22D.

Mr. Vanarsdall - Right. 22D, excuse me. "Gun shops, sales and repairs." The reason I'm bringing it up, I've talked to you about this before, but the reason I'm bringing it up and maybe Mr. Silber or someone can help us word this. Maybe I'm looking at it wrong, but it says, "Gun shops, sales and repairs except as gun sales and repairs shall be permitted in a store that sells sporting goods." Maybe I'm reading something in there. I know what the intent is. The intent is a sporting goods store sells rifles and pistols. I understand that, but are we leaving ourselves open? What do you think, Mr. Silber?

Mrs. Wade - Maybe you need "only" in there.

Mr. Archer - I feel that we could be a little more restrictive, because I mean you could do it in a store that sells basketballs.

Mr. Silber - Mr. Vanarsdall, I think, of course, you are leaving it open. I think the applicant is intending to do that. It would not be in the traditional single store that would be a gun store. This would be in a sporting goods store similar to Jumbo Sports that sells...

Mr. Vanarsdall - I understand that, but that's not what it says. It says its permitted in a store that sells sporting goods.

Mr. Axselle - Well, Mr. Silber has correctly stated what is the intent. I think that, perhaps, we can, before the Board, come up with language that incorporates this a little better. That's the only way we would ever have gun sales or repairs as part of an overall sporting goods store. But, I think we can find some better language.

Mr. Silber - Would you all object to simply removing that exception.

Mr. Axselle - Well, the problem is there are very upscale sporting goods stores like Gallions, and so forth, where people would come in a buy their guns, you know, among other

items, and would, in fact, want to have those sales and those repairs made there. What I think Mr. Vanarsdall's concern is, is a different one, if somebody could have a little hole in the wall and sell some sporting equipment and still qualify. That's not what we intend. I would prefer, Mr. Silber, if possible, not to delete that language at this time to try to find out a way we could modify it before the Board.

Mr. Silber - It is now stating that the store would be principally for sporting good items. Accessory to that would be the sale of sporting guns.

Mr. Axselle - We could do that.

Mr. Vanarsdall - Does normally a sporting goods store, like Target and K-Mart, do they normally work on the guns they sell? They don't normally repair them. I don't think they would.

Mr. Axselle - I don't think that they do. We're not going to have the Target and Wal-Mart stores in here, but probably like groups; Sports Authority, Gallion and so forth. If you would, we can come up with the language, I think, Mr. Vanarsdall. I'll put that on my list of things to do...

Mr. Silber - ...before it gets to the Board. Yes sir.

Mr. Vanarsdall - Ms. Gardner, will you help them word that? Thank you.

Ms. Dwyer - Mr. Axselle, Proffer 31 addresses the mixed use in that section outside as you call it the "Easter Egg." And I assume all of the proffers that appear to apply to the yellow portion on the map also apply to that exterior blue portion (referring to slide).

Mr. Axselle - Nos. 1 through 32 apply to everything on the property period. Thirty-three following only applies to the front 300 feet.

Ms. Dwyer - And that's approximately where on this 300 foot line is it?

Mr. Axselle - The 300-foot line is, basically, the road running parallel to Broad Street at the north end of the outparcel area. That's why we've used that as the designation.

Ms. Dwyer - But we're not any more specific, then, about what the future development will be outside of the pedestrian-oriented shopping center, other than it will have office? That's where the office will be located.

Mr. Axselle - As the case is filed, it did not commit to the mixed use. We proposed 100,000 square feet, inclusive of the hotel conference center. That was not found with favor. So, discussion resulted in this 100,000 square feet which would be office and there may be other non-retail uses too.

Ms. Dwyer - But it may also be retail in that portion?

Mr. Axselle - There may be retail. Around the ring road, there could be retail on this hotel conference center and so forth.

Mr. Archer - Okay. Are there further questions?

Mrs. Wade - This one thing about the buffers; the 10-feet on each side. Are those to be landscaped buffers? They don't specify on the east and west boundaries?

Mr. Axselle - That's Proffer 19, It says, "...landscaped and/or natural buffer area, etc., etc., etc.," The very start of No. 19. So, they would leave the landscape natural?

Mrs. Wade - I don't think there's much out there natural. And 19(a) you said you were working on...

Mr. Axselle - 19A was another item Mrs. Wade and I discussed. The question is in a nutshell, "How much of buffer is there along I-64 that is there that this property will have the benefit of?" So, we've committed with her and the staff that item will be revisited. It may be that this 15 feet is adequate. It may be we have to add more to it. Mr. Pruitt indicates he thinks its about 70 feet of trees there already on the State right of way, but we want to verify that and make sure the staff is satisfied with that.

Ms. Dwyer - Is the 10-foot buffer you mentioned a minute ago, is that against A-1 adjoining property?

Mr. Axselle - At this time, it would be. But I think everyone anticipates that this area will, in fact, be zoned commercial up and down eventually.

Ms. Dwyer - Because the ordinance would require a greater buffer.

Mr. Axselle - The Ordinance does allow the Director to allow a variance and waiver from there. This proffer would say, under any circumstances, with the waiver, it could still not go below 10 feet. That was the purpose of it.

Ms. Dwyer - I guess I'm wondering why we're proffering something that granted it may be changed in the future, but is it appropriate to proffer a smaller buffer than is required by ordinance?

Mr. Axselle - I think the purpose is, if we go and develop the property and the adjacent property is A-1, then we will have to comply with the current ordinance requirement regardless of what the proffers say. We then can request the Planning Director to allow us go less than that. We could not go less than 10 feet. So, it was in recognition of that. The County staff had, basically, asked us to have some development; some break between the adjacent development.

Mr. Archer - Okay. Any further questions? Thank you, Mr. Axselle. I think we had a proponent and an opponent. And in order to keep things in perspective, perhaps, we'll hear from the proponent first.

Mr. Silber - Yes. We have a total of 3 minutes left for those who want to speak in favor of the request.

Mr. Chris DeCapri - I'll be very quick. My name is Chris DeCapri. I live close to this project in the Foxhall Subdivision and I also own a business in Henrico County. I just want to talk briefly about it. We all know this 150 acres is going to be developed at some point in time. When you look at this type of development, I think it's the up-scale, first class image that we want. It seems, from what I found out, it seems to be going well with what's going on in the community.

It's not the Target; Kohl's, concrete buildings down there. You're going to have an up-scale image where you can take the kids and have an entertaining Saturday. You can go shopping. Go to the movies. I know when you have people living in neighborhoods sometimes, they speak out against these projects and I wanted to speak for it and say, I think, it's going to be developed across there. This seems like the type of first class development we should have. Also, from what I could find out, these are first-class developers who have done this type of project before, which would be a concern to me that someone does it properly and has the correct amount of money to know how to do it. Basically, that's all I wanted to say. I just wanted to tell you that and I appreciate it.

Mr. Silber - Could you spell your last name, please?

Mr. DeCapri - DECAPRI.

Mr. Silber - Thank you.

Mrs. Wade - You didn't have any problems with the previous case with the automobile dealership?

Mr. DeCapri - It's funny. I didn't come here for that, but I live very close to that too, and that was a little bit more concern. I just think what Mr. Pruitt has proposed on this property just takes it a whole up-scale level. I think it probably raised the bar for the next developers who are going to come out and develop land further out there. I'm real pleased to see this and I'm kind of concerned what happens to this property if this doesn't get approved. That's why I'm speaking tonight.

Mr. Zehler - What type of business do you have?

Mr. DeCapri - Capri Jewelers. Thank you for asking.

Mr. Zehler - Do you plan on leasing a location in this particular complex?

Mr. DeCapri - We're down the street from them right now. We've got about a 3-year lease left, but we'd love to be out somewhere further west. That would be great. I've not met Mr. Pruitt yet, but that would be great. Yes.

Mr. Archer - Thank you, Mr. DeCapri. Now, we had an opponent. Come on up, sir.

Mr. Silber - The opponents will also have 10 minutes total to speak to the request.

Mr. Malcolm Holly - Mr. Chairman, members of the Commission, I'm here tonight representing the residents of the Wellesley Homeowners Association. With respect to the proposed development, C-29C-98, we'd like to take this moment to thank Mr. Pruitt, his Associates and his Counsel and also the staff and Mrs. Wade for working with the residents of Wellesley in relationship to this development. We worked very many hours with the developers and the resolution and concerns raised by members of our communities, as Mr. Axelle has said. The concept of a pedestrian-oriented shopping center is one that we do support and we only have opposition to a few points that have also already been raised. We would hope as we work forward before this goes before the Board of Supervisors that these concerns could be resolved.

The first concern was raised related to mixed use. With a development of this magnitude, we have concerns a minimum of 100,000 gross square feet only represents 7.7 percent of the total maximum square footage, as mentioned by Ms. Gardner. Less mixed used within this development without having something more in the way of gross square footage would increase the volume of traffic to the development which is a major concern which leads us to the second concern.

The second concern is related to traffic and the impact on the surrounding area. We feel that the traffic study was presented and we do know the traffic study proposed in Phase 2 did not consider the impact of continued development between Broad Street and Patterson Avenue or of the proposed Motorola development on West Creek Parkway in Goochland County. Our concern is that Lauderdale Road will further develop as an access corridor with ever increasing volume up to this development that's planned, as development continues between Broad and Patterson Avenue, especially in light of some of the cases we've heard tonight with Case C-31C-98 and the redirection of Pump Road and Church. We have concern that redirection there will create more traffic onto Lauderdale and also with the approval of Case C-27C-98, and the construction of the proposed ramp onto I-64 east bound will cause even more traffic to utilize the Lauderdale corridor in trying to provide access onto I-64.

We're concerned about the number of lights. Currently there's a light at Pump and at Church Road on Lauderdale. This stretch, and I'm not exactly sure how long it is, is somewhat of a race track as people are trying to head to work and just daily usage there. We would ask that the Commission consider, not just the light at Three Chopt and Lauderdale, but also one at Park Terrace and Lauderdale as this intersection is used greatly by the residents of our community.

The third issue has already been responded to by Mr. Axselle and the developers and his applicant in that we have agreed to work together towards the cap on the maximum number of units towards the outparcels on Broad Street. Those were our three concerns. We appreciate your consideration of our points and concerns, and again, for working with Mr. Pruitt and his associates.

Ms. Dwyer - Would you expect that the John Rolfe Parkway would eventually help alleviate some of the traffic on Lauderdale and redirect it?

Mr. Holly - In the long run, it probably would, but until it's constructed, that would even more exacerbate the problem with traffic being redirected off of Pump back over to Lauderdale until it is completed.

Mr. Archer - Okay, any further questions of Mr. Holly? Thank you, sir. Any other rebuttal time required, sir?

Mr. Silber - There's two minutes.

Mr. Axselle - Only that I will indicate to you that we've got three or four items that we have indicated that we will continue to work on. We've had a very good, cooperative relationship, and we think that the remaining points can be adequately addressed before they get to the Board.

I think, for a project of this size and its magnitude, the fact that we've got a fairly limited number of remaining open issues is indicative of the quality of the development and the cooperative

relationship that we've had with the staff and the folks at Wellesley. So, we would hope that you would waive the time limit and recommend the case for approval.

Mr. Archer - Okay. Thank you, Mr. Axselle. All right, there being no further discussion, Mrs. Wade.

Mrs. Wade - So, we need to waive the time limit for yours. I thought I had it yesterday. Anyway. All right, this isn't perfect. And, as you say, you still have a few things you need to work with, and Mr. Holly indicated they'd be glad to discuss them with you. Although, it may not be perfect, but it's interesting and will add a lot of excitement to W. Broad and for that reason, I look forward to it. It's not really close enough to impact directly on the neighborhood, other than, as he pointed out, the increased traffic trying to get here. You'll work with the outparcels and you'll include landscaping in the two 10-foot buffers. And, let's see whether there was anything else. And there is not as much other kind of uses we'd like to see, but, perhaps, that will evolve as time goes on so some people can work closer at hand and enjoy the shopping opportunities at close range. It certainly does meet the expectations of 2010, as far as large parcels are concerned in developing in a coordinated development. So, I move that Case C-29C-98 be recommended...Did I waive them? I waive the time limit to accept the amended proffers.

Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mrs. Wade - And so with the amended proffers, then, I move that C-29C-98 be recommended for approval.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the proffered conditions and grant the request because it is appropriate business zoning in this area; the employment use(s) support the County's economic development policies; and the proffered conditions will provide appropriate quality assurances not otherwise available.

C-32C-98 Jay M. Weinberg for Gaskins Centre, L.C.: Request to conditionally rezone from R-2 One Family Residence District to R-3C One Family Residence District (Conditional), RTHC Residential Townhouse District (Conditional) and R-5C General Residence District (Conditional), Parcels 99-A-12, 41 and 42, described as follows:

Parcel A:

Beginning at a point, said point being the intersection of the south line of Patterson Avenue (Route 6) and the east line of Gaskins Road; thence from said point of beginning continuing along the south line of Patterson Avenue S. 86° 42' 12" E., a distance of 743.51' to a point; thence leaving Patterson Avenue S. 3° 17' 48" W., a distance of 175' to a point; thence S. 32° 04' 11" W., a distance of 87.00' to a point; thence S. 61° 28' 53" E., a distance of 142.98' to a point; thence along a curve to the right having a radius of 483.56'; a length of. 209.20' to a point;

thence along a curve to the left having a radius of 340', a length of 175.11' to a point; thence S. 7° 11' 08" W., a distance of 80.13' to a point; thence along a curve to the right having a radius of 201.21' a length of 296.00' to a point; thence along a curve to the left having a radius of 585.45' a length of 178.60' to a point; thence S. 73° 59' 42" W., a distance of 136.97' to a point; thence along a curve to the right having a radius of 165.0' a length of 262.49' to a point; thence N. 14° 51' 17" W., a distance of 85.18' to a point; thence along a curve to the left having a radius of 202', a length of 162.31' to a point; thence N. 60° 53' 31" W., a distance of 181.30' to a point in the east line of Gaskins Road; thence along the east line of Gaskins Road in a northerly direction along a curve to the left having a radius of 994.93', a length of 105.00' to a point; thence N. 27° 47' 45" E., a distance of 18.00' to a point; thence N. 33° 28' 40" E., a distance of 103.64' to a point; thence along a curve to the left having a radius of 933.47' and a length of 341.90' to a point; thence N. 36° 34' 33" E., a distance of 46.76' to the point and place of beginning, containing 17.381 acres.

Parcel B

Beginning a, point in the south line of Patterson Avenue (State Route 6), said point being 743.51' east of the intersection of the south line of Patterson Avenue with the east line of Gaskins Road; thence from said point of beginning along the south line of Patterson Avenue S. 86° 42' 12" E., a distance of 423.00' to a point; thence S. 63° 21' 47" E., a distance of 84.68' to a point; thence S. 22° 43' 20" W., a distance of 1,211.05' to a point; thence N. 64° 12' 10" W., a distance of 10.67' to a point; thence S. 26° 29' 18" W., a distance of 599.15' to a point; thence N. 65° 38' 15" W., a distance of 504.21' to a point; thence N. 25° 43' 44" E., a distance of 215' to a point; thence N. 31° 24' 04" W., a distance of 820.35' to a point in the east line of Gaskins Road; thence in a northerly direction along the east line of Gaskins Road along a curve to the left having a radius of 994.93', a length of 115' to a point; thence S. 60° 53' 31" E., a distance of 181.30' to a point; thence along a curve to the right having a radius of 202', a length of 162.31' to a point; thence S. 14° 51' 17" E., a distance of 85.18' to a point; thence along a curve to the left having a radius of 165.0' a length of 262.49, to a point; thence N. 73° 59' 42" E., a distance of 136.97' to a point; thence along a curve to the right having a radius of 585.45', a length of 178.60' to a point; thence along a curve to the left having a radius of 201.21', a length of 296.00' to a point; thence N. 7° 11' 08" E., a distance of 80.13' to a point; thence along a curve to the right having a radius of 340', a length of 175.11' to a point; thence along a curve to the left having a radius of 483.56', a length of 209.20' to a point; thence N. 61° 28' 53" W., a distance of 142.98' to a point; thence N. 32° 04' 11" E., a distance of 87.00' to a point; thence N. 3° 17' 48" E., a distance of 175' to a point in the south line of Patterson Avenue and to the point and place of beginning. said parcel containing 19.499 acres.

Parcel C

Beginning at a point in the east line of Gaskins Road, said point being 495.30' north of the intersection of the east line of Gaskins Road with the north line of Derbyshire Road; thence from said point of beginning along the east line of Gaskins Road in a northeasterly direction along a curve to the right having a radius of 914.93', a length of 112.47' to a point; thence along a curve to the left having a radius of 994.93', a length of 458.52' to a point; thence S. 31° 24' 04" E., a distance of 820.35' to a point; thence S. 25° 43' 44" W., a distance of 215' to a point; thence N. 36° 15' 08" W., a distance of 126.00' to a point; thence N. 59° 31' 27" W., a distance of 126.00' to a point; thence N. 82° 47' 56" W., a distance of 86.12' to a point; thence N. 72° 07' 26" W., a distance of 145.29' to a point; thence N. 29° 38' 09" W., a distance of 244.21' to a point; thence S. 62° 56' 08" W., a distance of 158.02' to a point; thence N. 31° 51' 53" W., a distance of

250.73' to a point in the east line of Gaskins Road and to the point and place of beginning, containing 7.714 acres.

Parcel D

Beginning at a point where the east line of Gaskins Road intersects the north line of Derbyshire Road; thence from said point of beginning along the east line of Gaskins Road in a northeasterly direction along a curve with a radius of 914.93', a length of 497.83' to a point; thence S. 31° 51' 53" E., a distance of 250.73' to a point; thence N. 62° 56' 08" E., a distance of 158.02' to a point; thence S. 29° 38' 09" E., a distance of 244.21' to a point; thence S. 72° 07' 26" E., a distance of 145.29' to a point; thence S. 82° 47' 56" E., a distance of 86.12' to a point; thence S. 59° 31' 27" E., a distance of 126.00' to a point; thence S. 36° 15' 08" E., a distance of 126.00' to a point; thence S. 25° 43' 44" W., a distance of 332.66' to a point in the north line of Derbyshire Road; thence along the north line of Derbyshire Road in a westerly direction along a curve to the left having a radius of 415.00', a length of 49.32' to a point; thence continuing along the north line of Derbyshire Road N. 64° 59' 55" W., a distance of 598.59' to a point; thence continuing along the north line of Derbyshire Road N. 25° 09' 43" e., a distance of 16.39' to a point; thence continuing along the north line of Derbyshire Road N. 64° 50' 17" W., a distance of 450.00' to a point; thence N. 18° 34' 08" W., a distance of 41.15' to the point and place of beginning, containing 10.154 acres.

Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to C-32C-98? Mr. Yolton.

Mr. Lee Yolton, County Planner - Mr. Chairman, members of the Commission, as mentioned, this is a request for rezoning of this site from the R-2 One Family Residence District to a combination of other residential zoning districts, with proffered conditions.

The applicant has asked to have this approximately 55-acre tract rezoned to a combination of R-3 for single family homes, R-5 for three to four story condominiums, and RTH for attached condominiums and townhouses. Revised proffers were received from the applicant today, and these are being handed out to you now. The Commission would need to waive the time limit for the amended and restated proffers. I will address the proffers in just a moment. This is the first public hearing that we've had on this matter.

As mentioned, the property consists of about 55 acres, generally at the southeast corner of Patterson Avenue and Gaskins Road. Derbyshire Road runs along the southern boundary of the property, and immediately to the east are the Sleepy Hollow and Westmoor Subdivisions.

The site has a long history of various development proposals. The Board of Supervisors denied a rezoning request for the development of this property in 1995. The current application is an outgrowth of negotiations with the adjoining neighborhood associations that began when the previous application was denied.

To address the issue of compatibility at this location, the applicants have submitted an array of proffered conditions that address just about every aspect of the proposed development, including building setbacks, access, landscaping, screening and buffering, exterior building materials, and others.

A conceptual site plan is proffered that illustrates how the site is proposed to be developed. I'll put that up on the screen now. The proffers have been revised to address the suggestions contained

in the staff report for this case, and to help clarify some of the language and terms used in the original proffers.

The County Attorney has reviewed the proposed proffers and finds that they would be acceptable if the Board of Supervisors so chooses.

The Land Use Plan designates this property for Suburban 1 Residential Development. As you know, that is single family homes at a net density of up to 2.4 units per acre. The Land Use Plan designation generally corresponds to the current zoning of the site which is R-2. Since the proffers limit the number of residential units at 220, the net density of this proposal is just at 4 units per acre. Although that is above the recommended density of the Land Use Plan, staff feels that this is a level that could be developed compatibly with the surrounding uses.

With the proffered conditions and conceptual plan for the property, staff feels the proposal does achieve a level of quality and compatibility that justifies approval of this request. So, Mr. Chairman, with that, I would be happy to try to answer any questions about this matter.

Mr. Archer - Thank you, Mr. Yolton. Are there questions for Mr. Yolton by Commission members?

Ms. Dwyer - Mr. Yolton, I have one question. One of the housing types is referred to as a "four-story condominium unit." It's my understanding that the four stories is not being approved at this time by the Commission. That would be a request made at the time of Plan of Development. It's a proposed four-story condominium development.

Mr. Yolton - They can go up to three stories by right in this zoning district. For the fourth story, they would have to get a Special Exception from the Planning Commission at the time of Plan of Development.

Mr. Archer - Any further questions for Mr. Yolton?

Mrs. Wade - Do you know what "cultured stone" is? Maybe they can tell us?

Mr. Yolton - No ma'am, I don't.

Mrs. Wade - It's the same thing as "perma stone."

Mr. Weinberg - Mr. Chairman, did we have anyone in opposition?

Mr. Archer - I didn't note anyone. No. Okay, before Mr. Weinberg begins his presentation, was there anyone in opposition to this case? Mr. Weinberg.

Mr. Jay M. Weinberg - Mr. Chairman, and members of the Commission, I'm Jay Weinberg, Monte Lewis, and Penny Koch and I represent Gaskins Centre. Wayne Chasson, Delmonte Lewis, , Architect and Engineers are with us this evening. This is a request for approximately 55 acres of land, all for mixed-use, owner-occupied residential development. No rental apartments are allowed on the property.

Your applicant, basically, is asking for 17.4 acres of RTH for development of 79 residential townhouses; 19.5 acres of RTH for 70 attached condominiums; 8.6 acres of R-5 for 48 condos for seniors; and 9.3 acres of R-3 for 23 single family detached homes for seniors.

Accordingly, the case is limited to 220 residential units for sale and, as I said, rental units are expressly prohibited, and it's a density of approximately four units per acre.

We submit that the request constitutes the highest and best use of the property and will not adversely affect the health, safety and welfare of the community, very quickly, for the following reasons:

One, the parcel is located at the intersection of two major arterial roadways; namely, Patterson and Gaskins. It is directly across Patterson from Business zoning and a shopping center, diagonally across Patterson from a cemetery, and across Gaskins from an office building and a proposed mid-rise condominium and Kings Crossing Apartments.

It complies with the Land Development Guide, which designates the area as "Developing" and it complies with the Goals, Objectives and Policies of the Plan.

The County's professional staff has indicated that there is adequate infrastructure; utilities, roads, schools, to support the development, and supports approval of this request as modified.

The requested rezoning has been reviewed for many months with the Neighborhoods United to Address Gaskins Centre, and with their constructive input, seven communities in close proximity to this property have indicated that they do not object to this case, subject to all of the proffered conditions.

Accordingly, we submit that this request constitutes the highest and best use of the property and will not adversely affect the health, safety and welfare of the community.

If rezoned as requested, Gaskins Centre will develop the property substantially in accordance with the layout plan that you see before you, and the proffered materials and elevations of various buildings.

I think there are some 30 plus proffered conditions. And rather than go through each one of those, I think they've been reviewed very carefully with the neighborhood; with the professional staff; with the County Attorneys, and with Mrs. Dwyer. I will simply highlight what they touch on, but if any one has a specific question, I'll be more than happy to go through it.

There is basically a 100-foot setback from Patterson and Gaskins, except for the seniors. Access to the property is limited to Patterson and Gaskins with no access from Derbyshire, Lakewater or Avalon. Specific buffers are provided along all of the perimeters of the property. Any fence built on the single family for senior lots must be built on the inside of the buffers. The number of units is restricted to 220. The sizes of the buildings are restricted so that single family dwellings for seniors must have a minimum of 2,000 square feet. Attached condominiums, 2,000 square feet. Interior residential townhouses, 1,600. End or exterior units, 1,800, and 1,200 square feet for condominium units for seniors. Garages, decks and balconies are not included in these finished floor area calculations.

Exterior architectural treatment is specifically addressed, as is building materials. Irrigation systems are required. Covenants and restrictions must contain detailed provisions for the number of leases subsequently occurring after construction and for all types of units and for providing for violations.

No lot developed on the property shall have a driveway providing direct vehicular access to Derbyshire or Gaskins. Gravel driveways are prohibited. Substantially the same material shall be used for driveways within any single housing type.

Utilities, basically, must be underground. Meter boxes and junction boxes must be hidden from view off site. The four-story condominium for seniors will be "For Sale" units only. They cannot be used for congregate living, nursing, convalescent homes, or Homes for the Aged.

The lakes must be designed under all attendant circumstances to meet the BMP requirements.

The use of motorized vehicles on the lakes is expressly prohibited.

Construction access traffic will be restricted to Patterson or Gaskins. The hours of construction are limited from 7:00 a.m. to 7:00 p.m. Monday through Saturday.

There shall be no burning on the property, except to provide warmth for workpeople using drums not exceeding 55 gallons.

Parking lot lighting is limited to 20-feet in height—shoe-box type; half a foot candle at the boundaries.

Retention of trees to the extent reasonably practicable; they must be retained.

The townhouses for sale cannot have more than six units in any one building.

The conceptual master plan is proffered by Clower & Associates.

There is an adjustment provision of up to 25 percent to meet market conditions. However, they can never be less than 23 single-family homes, nor more than 220 units on the property.

Ms. Dwyer - Did you say 25 percent, or 20?

Mr. Weinberg - Twenty (20) percent.

Ms. Dwyer - Twenty (20) percent.

Mr. Weinberg - Use of the recreational facilities on the property is limited to residents of the property and residents of the proposed mid-rise across the street and their respective guests.

Dumpsters on the property have to be screened from public view at ground level. The dumpster enclosures must be constructed of either brick or split-face block. We've eliminated E.I.F.S, or other materials that would be approved by the Commission.

For purposes of these proffers, when we use the term, "For Seniors," it expressly means that at least one person who is 55 years of age or older occupies each dwelling unit unless otherwise prohibited by applicable law, administrative ruling or regulations.

We further provided that the unenforceability, elimination of any proffer, or a portion of a proffer will have no affect on any other balance of that proffer or the other proffers which will be rigidly enforced.

We believe that these proffered conditions not only assure a high quality of development and a needed residential community, but it gives assurances to staff, to neighbors, and the Planning Commission that the development on the property will be, as represented to the citizens, because we have filed the building elevations and made them a part of the proffered conditions on this request. And given the Planning Commission the right to determine the supplemental plantings and bufferings and choices of materials in many, many instances.

We have, over the past year plus, worked with Gaskins Center; Mr. Wayne Chassen has, in meeting with staff and various neighbors, with County Attorneys, and the neighbors truly sensitized us to their concerns and we have been able, I believe, to address the issues which they have raised.

This original request was substantially more. I believe the current request is an excellent example of mutual cooperation and constructive input to produce a quality project in a neighborhood.

We submit to the Commission that this is a parcel of land whose time has finally come and whose development should occur at this time. We've had an opportunity to develop it in a manner which reflects the communities' input and requirements, and gives the area residents assurances that what will be constructed there will be quality development by a financially responsible developer who can carry out the plan.

I have to make one change in Proffers No. 4 and No. 5. I have to insert the word "non perpendicular" in front of the word "utility easements" in two places. Otherwise, we would not be able to get into the property.

I have reviewed that with Ms. Verna and Mr. Wright and they understand. It's acceptable to them, also to Commissioner Dwyer.

All of the jurisdictional conditions precedent are complied with for the Planning Commission to waive the time limits and recommend the case to the Board of Supervisors. For all of these reasons, Mr. Chairman, and members of the Commission, I would respectfully request that you waive the time limits and recommend the case for approval. I'll be happy to answer any questions.

Mr. Archer - Thank you, Mr. Weinberg. Are there questions by the Commission for Mr. Weinberg?

Ms. Dwyer - Mr. Weinberg, do you have any idea how the development might be phased on the property?

Mr. Weinberg - I have a preliminary phasing plan, if I can get my fingers on it. (Not at microphone)...but that's basically how it would progress...

Ms. Dwyer - Is that my copy?

Mr. Weinberg - Certainly.

Ms. Dwyer - Thank you. It might be something the neighbors would be interested in having a copy of, too, to anticipate the development. And I assume that staff has received a copy of the elevations which were revised to indicate the commitment to materials?
Mr. Weinberg - Yes ma'am.

Ms. Dwyer - Okay. Thank you. I just wanted to make sure of that. Okay. What is the range of the value of these properties; the selling price? Can you give me some information on that?

Mr. Weinberg - ...I'm happy to leave that with you. I would rather not file that with the case.

Ms. Dwyer - Okay. So, would you object to my stating what the range is? The residential townhouses will range from approximately \$175,000 to \$225,000. Attached, \$200,000 to \$275,000. Mid-rise condos for seniors, \$150,000 to \$175,000; and single family houses, \$250,000 to \$350,000. Thank you very much. I have no more questions.

Mr. Archer - Okay. Any further questions. I don't think we had any opposition, Ms. Dwyer. I don't think we do.

Ms. Dwyer - Are we ready for a motion?

Mrs. Wade - Do you know what "cultured stone" is, Mr. Weinberg?

Ms. Dwyer - Mrs. Wade has a question.

Mrs. Wade - "Cultured stone?" What is "cultured stone?"

Mr. Weinberg - I'm hoping it's an architecturally finished material. It is a form of stone that's not natural. It's a manufactured form of stone. Am I correct on that, Gary, or Mr. Winks?

Mr. Winks - Yes. They use real stone and then they make a pattern. And then they match their colors...

Mrs. Wade - It's like that hotel at Paragon. It's a facing, basically.

Mr. Winks - This far away, you can't tell it's not stone.

Mrs. Wade - Thank you.

Mr. Archer - Thank you, Mr. Weinberg.

Mr. Vanarsdall - Mr. Weinberg, it's quite a difference tonight than the last time, isn't it?

Mr. Weinberg - Yes sir. I much prefer...

Mr. Vanarsdall - You weren't smiling like that the last time when you left.

Mr. Weinberg - It never feels good to lose.

Mr. Vanarsdall - Congratulations.

Ms. Dwyer - Any more questions by Commission members? I'm Vice-Chairman. I had to take over.

Mr. Archer - We're ready.

Mrs. Wade - We have to waive.

Ms. Dwyer - I move that we waive the time limits for this case.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion by Ms. Dwyer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). Ready for a motion.

Ms. Dwyer - This has been a case that's been going on longer than I've been a Planning Commissioner. It's a very important site in the Tuckahoe District, and I think that these proffers, thanks to the neighbors who have worked diligently over the past many months, and thanks to the owners who have worked cooperatively with them to offer these proffers. I'd like to mentioned the neighborhoods who have worked so diligently under the rubic of the Neighborhoods United to Address Gaskins Centre. They are: Derbyshire Civic Association, Gaslight, Georges Bluff, Mooreland Commons, Sleepy Hollow Forest, and Westmoor Subdivisions. The significant development issues that were of a concern to the neighbors have been addressed by these proffers. And I won't go into those into detail. They have already been reviewed for the benefit of those present and the Commission. The proffers ensure quality design at this highly visible and important site and I believe this type of development is appropriate at this location. So, based on that, I move that the Commission approve Case C-32C-98.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Ms. Dwyer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Vanarsdall - I want to correct that, if you don't mind. We recommend to the Board.

Ms. Dwyer - ...recommend to the Board.

Mr. Archer - We'll get it right. All in favor say aye-- all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Weinberg - Thank you very much.

REASON: Acting on a motion by Ms. Dwyer, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the proffered conditions and grant the request because it is appropriate residential zoning at this location; it is not expected to have a precedent setting effect on the zoning in the area; it would

permit infill development with the proper connection for roads and other public facilities; and the proffered conditions would provide for a higher quality of development than would otherwise be possible.

Mr. Silber - Before I call the next case, staff has reminded me I didn't introduce all the new staff we have in the Planning Office, tonight. So, I wanted to introduce one more staff members that's new on my staff. This is JoAnn Morgan. JoAnn, if you could stand for us? JoAnn is a County Planner II in our Comprehensive Planning Section. She comes to us from Ashland, Virginia. She was a planner in Ashland. Before that, she was employed by the Hanover Planning Office. So, she comes to us. She will be working on zoning cases, and other projects in the Comp Planning. So, you will probably see her this time next month presenting cases. She may leave a little early tonight because she has something going on this weekend. She's getting married on Saturday. Of course, she can leave before this meeting's over if she would like.

Mr. Archer - Welcome, Ms. Morgan.

Deferred from the April 9, 1998 Meeting;

C-67C-97 **Scott D. Stolte for Pendragon Development Company:** Request to conditionally rezone from A-1 Agricultural District to R-2AC One Family Residence District (Conditional), Parcel 238-A-31, described as follows:

Commencing at the Point of Beginning, thence N.74° 47' 47" W., 327.39'; thence N. 03° 47' 17" E., 59.30'; thence S. 87° 17' 04" W., 333.07'; thence S. 86° 50' 43" W., 105.64'; thence N. 77° 12' 13" W., 1256.44'; thence N. 28° 37' 22" E., 1141.49'; thence N. 38° 10' 51" E., 528.00'; thence S. 78° 12' 25" E., 2402.14'; thence S. 28° 18' 27" W., 13.36'; thence S. 32° 53' 56" W., 399.91'; thence S. 37° 27' 36" W., 200.75'; thence S. 32° 53' 31" W., 564.88'; thence S. 30° 09' 45" W., 335.00'; thence S. 38° 47' 53" W., 169.74'; thence N. 78° 53' 39" W., 334.67'; thence N. 30° 00' 28" E., 13.16' to the point of beginning, containing 86.31 acres, more or less.

Mr. Archer - Thank you, Mr. Secretary. Is any one here in opposition to C-67C-97? Opposition, sir. We'll get to you. Thank you. Mark.

Mr. Mark Bittner, County Planner - Thank you Mr. Archer. As you know, this case has been around quite a while, actually. It would become an expansion of the Four Mile Run Subdivision which is currently under development. We've got some new proffers in, and you would need to waive the time limit on those. I'll just go over the changes that I've highlighted in those for you.

On Proffer 1 there is a minimum house size of 1,600 square feet. They have further proffered that at least 70 percent of all homes shall be at least 2,000 square feet. That 2,000 figure has been increased from what it was recently, which was 1,800 square feet.

Moving down to Page 3, Proffer No. 14. That says, "No certificates of occupancy shall be issued until Doran Road has been constructed." They had a phrase in there previously saying that no homes would be sold until access was constructed. They've taken that out, because we felt that would just be impossible for the staff to enforce.

No. 15, you'll notice a note "See 5/13/98." If you flip over to the fourth page, that's gone through a couple of revisions in the last couple of days. They're now proffering, the applicant is, they will do

a sidewalk plan for Four Mile Run. That would be subject to approval by Henrico County. That will be done at the time of tentative subdivision plan or subdivision approval.

Mr. Zehler - Mark, would you go back to No. 14. What did you say about Doran Road access?

Mr. Bittner - Yes. They're proffering there will not be any CO's issued for any house on the property until they have constructed an access to Doran Road. The proffer also previously included a statement saying they would not sell any homes until access to Doran Road was constructed. Staff felt there was just no way for the County to enforce that provision. So, at our suggestion, they did remove the phrase regarding sales of homes.

Mr. Zehler - So, once you exceed 50 homes, the 51st home you can sell, but you can't move in? What are you saying? This is their second point of access after they hit the magic No. 50.

Mr. Bittner - Right. They can't have any CO's on any homes until they have built an access to Doran Road, which would be a second point of access for Four Mile Run. Previously, they had also said they weren't going to sell any homes until that second access is built. We just felt that there's no way the County could enforce that. We suggested it be stricken.

Mr. Zehler - So, they can sell homes. Will CO's be issued?

Mr. Bittner - CO's are issued before a home can be sold.

Mr. Zehler - So, how will you control a second point of access, or not?

Mr. Bittner - We couldn't. That was the point. That's why we wanted to take that provision out. We can control the CO issue. We won't give a CO on any house to be built there until that second access is built.

Mr. Zehler - That was the magic thing I wanted to hear you say. That you will control it once they get to the magic number of 51, then you will step in and say, "You will have to have a second point of access."

Mr. Bittner - We have a number attached to it, actually. For any house built on this 86 acres, they can't get a CO for any one them until a second point of access is built to Doran.

I believe I just also covered No. 15. So, if you could flip back to Page 3, down to No. 17. Establishment of an Architectural Review Board. Previously, they cited citizens by their name within the proffers and we felt that was not a good practice, and at our suggestion, they removed citizen names. They simply said they will establish this architectural review board.

No. 18, you need to refer to Page 4. This is at the suggestion of adjacent property owners who wanted to see an alternative or an enhanced type of house design incorporating side and rear loading garages.

The applicant has proffered that 50 percent of all homes to be built on this 86 acres will have side or rear loading garages on them.

Staff feels that this is consistent with the Land Use Plan designation. It is also consistent with the established or developing Four Mile Run Subdivision. For those reasons, staff recommends approval of this case. I'd be happy to answer any questions you may have.

Mr. Archer - Thank you, Mr. Bittner. Are there questions for Mr. Bittner by the Commission?

Mr. Zehler - Mr. Chairman, I believe we have heard the testimony on this case. This case was deferred because there were four outstanding issues that the applicant was sent back to the drawing board to address. At this particular point in time, I'd like to have the applicant come forward and see if he will address those outstanding issues.

Mr. Archer - All right, is the applicant present?

Mr. Silber - Mr. Zehler, may I ask Mr. Bittner a question? On Proffer 15 where it speaks to the sidewalk, the second sentence says, "A sidewalk will be installed, subject to a site plan to be reviewed and approved by Henrico County at or prior to time to tentative site plan approval."

Mr. Zehler - I noticed you said, "Planning Commission."

Mr. Silber - My question is, are we talking about the sidewalk being installed prior to tentative approval, or are we talking about the sidewalk plan being approved prior to...?

Mr. Bittner - Reading this language, I would say it says they actually have to put that sidewalk in before they get approval, which I think would be impossible. So, maybe I think we need to rephrase that.

Mr. Silber - I would think it would be acceptable to rephrase this to say that the Plan needs to be approved prior to conditional subdivision approval. The sidewalk needs to be installed by a certain date, or a certain period. I would suggest maybe prior to the issuance of the first certificate of occupancy for a dwelling in this subdivision.

Mr. Zehler - Mr. Chairman, I think it would be appropriate to have the applicant address it and find out what his intentions are.

Mr. Archer - Okay. Would the applicant come forward, please.

Mr. Scott Stolte - Good evening, Mr. Chairman, members of the Commission, my name is Scott Stolte, representing Pendragon Development Company, the applicant, who is also represented here this evening by Mr. Pace Fonville, who is a principle of that company.

It was really my intent tonight to review the changes in the proffers with you. Mark has gone over a number of those. So, for the most part, I'd like to point out a few things that Mark did not address, and then answer the questions that you may have.

I will state that we have gone from our last meeting, our square footage requirement for 1,800. We have upped that to 2,000 square feet of livable space. Mark had gone over that. At our last meeting there was some concern about the trees being preserved within the buffer areas. We have amended those restrictions to show that the trees will be preserved by recorded restrictive covenants requiring the preservation. Those restrictions have been recorded.

At our last meeting we had some concern with who would serve on the Architectural Control Committee. We have resolved those issues and the particular individuals have actually been appointed to the committee. Mr. Zehler and I have spoken earlier this evening about a few concerns that there may be as to how long those people will serve, and we're prepared to make some proffers with respect to that this evening.

Lastly, we have the fact that 50 percent of the homes on the subject property would be side or rear entry garages.

I've also been asked by some of the citizens to state some things that we have agreed to, however, I can't proffer them because they relate to the zoning of the already existing subdivision. But my clients have conceded that they will have 20 percent of the homes to be built in Section B of the subdivision have rear or side entry garages. However, exceptions may be made in case of where the construction of these garages are not physically possible or feasible under the current zoning or lot configurations. That 30 percent of the homes to be built in Section C of the Subdivision will have side or rear entry garages.

Mr. Archer - All right, are there questions for Mr. Stolte?

Mr. Zehler - Just hearing our discussion, what is your intention on your Proffer 15?

Mr. Stolte - It is our intent that at the time of submission of the site plan, we would also submit a plan for the sidewalk to be approved at that point. It was not my intent that at that time it would be installed.

Mr. Zehler - Mr. Secretary, how can we reword that to satisfy...

Mr. Silber - I think it needs to be reworded. It needs to be made clearer. Perhaps, that can be worked on between now and the Board meeting.

Mr. Stolte - I'll get with Mr. Bittner on that.

Mr. Silber - Make sure we tie down the period in which the sidewalk needs to be installed. I would suggest before the first CO. I also had, Mr. Zehler, I guess, if I can address Mr. Stolte, a question on No. 18. Perhaps as a comment. You again are speaking to a percentage of homes to be completed or having rear entry garages. This ends up being a real enforcement problem for us, but it can be easily clarified, I think. If you could add another sentence between now and the Board meeting that says something along the lines that, "Upon the request of Henrico County, the developer will provide a count of homes with garages." to document compliance with this proffer. So, that each time a building permit comes in, we don't have to go back and pull all the previous permits to determine whether compliance has been met. We can just ask the developer every once in awhile to give us a count.

Mr. Stolte - We'd be more than happy to do that. I think we've already made plans to do that with respect to square footage requirements of the homes to be built. We can use that same language to accomplish that.

Ms. Dwyer - What is meant in terms of the sidewalk that, "It will connect along the main thoroughfare?" Can you look at the map and explain to me.

Mr. Stolte - Yes ma'am. There's already going to be a sidewalk installed from the entrance of the subdivision that will run the entire length of the main road through the subdivision.

Ms. Dwyer - From Route 5 in. Is that...

Mr. Stolte - From Route 5 to Doran Road. We then need to connect this new section with sidewalk to that sidewalk, so pedestrians will have access throughout the subdivision.

Ms. Dwyer - So, there will be one main sidewalk connecting to the other main sidewalk. There will be two main sidewalks throughout the subdivision. Not a sidewalk on each street, is what I'm trying to clarify?

Mr. Stolte - That correct. Yes ma'am.

Mr. Archer - Okay. Are there further questions?

Mr. Zehler - There were two outstanding issues and I know they were two concerns of the Church. You might like to address them. We had discussed them on numerous occasions. In fact, I talked to Mr. Fonville this morning, and I was with the engineer last night at 6:00 o'clock.

Please, if you will, brief the Commission what's being done as far as the handicap ramp and the fire hydrant, basically, in the middle of the street.

Mr. Stolte - Yes sir. One of the concerns of the Four Mile Creek Baptist Church is, in the previous zoning case, the applicants had committed to doing some work for the Church. One of those items was the installation of a handicap ramp. The ramp has been installed. However, there are some problems with respect to its slope. The ramp was removed this afternoon and is going to be repoured tomorrow. We believe that will address that issue and be reinspected by the County.

Mr. Zehler - With handrails?

Mr. Stolte - They're supposed to be put on. And then the next issue involved a fire hydrant at the entrance to the subdivision on Doran Road. At the corner of where the church is, there's a decorative fence there at this point which is beyond the fire hydrant. There were some concerns that vehicular traffic might, at some point, come in contact with that fire hydrant. We have agreed to have a curb installed to prevent the cars from leaving the road and having contact with the fire hydrant.

Mr. Zehler - That work will be done prior to?

Mr. Stolte - Prior to coming before the Board next month.

Mr. Zehler - Coming to Mr. Donati. I have no other questions, Mr. Chairman.

Mr. Archer - Okay. Thank you, Mr. Zehler. Any other Commission members have questions?

Mr. Stolte - Mr. Fonville asked me to state that I indicate to you all that the handicap ramp would be repoured tomorrow. It is scheduled tomorrow, however, we all know how contractors are at times. There's a possibility that pouring may not happen until the first of next week. But, clearly before we come before the Board in June.

Mr. Archer - Okay. Thank you, sir. I believe we had someone who wanted to speak. Come right up, sir.

Mr. Henry Nelson - I want to thank Mr. Zehler, Mr. Donati, Mr. Fonville, and Mr. Stolte for working with us at Four Mile Creek Baptist Church. My name is Henry Nelson. I want to thank Mr. Zehler, especially, because he went over several of the things that I wanted to be sure were in the record tonight. And I really appreciate his being onsite and working with us on those areas. I just wanted to say that, the church at this point, is really encouraged by what the developers are willing to do. We're very appreciative of it. We look forward to working with them in the future. We are very appreciative of the things they have proffered. We think they're going to add to the quality of this subdivision, and that it will certainly be a better place as a result of the work this group has done to influence that, and they've done to implement that.

We would as a Church, however, want to make sure that things do continue, that Mr. Zehler alluded to, that we really work on these between now and Board time. We are looking forward to that being done. Our seniors are wanting to get into the building. This is certainly something we will monitor and will get back with _____.

We'd also like to be sure, if we can, Architectural Review Committee, although it has committed to meet in June, could meet before we go before the Board and look at those plans that we have for the side and rear entry garages. We'd like to see where they're going to be located. As far as the model, we understand that's going to be in Section B. We're just looking forward to all kinds of articulation on that issue before that happens.

Again, we're very appreciative. We think that these things that have been included are going to be positive. As long as its done, according to what we've heard tonight, I don't think the Church would do any more than underscore that they would not oppose this subdivision as proffered and as amended. Thank you.

Mr. Archer - Thank you.

Mr. Vanarsdall - Did you state your name?

Mr. Nelson - I did, but I'll reiterate it – Henry Nelson.

Mr. Archer - Thank you, Mr. Nelson. Any further questions by anybody?

Mr. Zehler - I have one question for the applicant. Mr. Nelson just reiterated as far as having a meeting with the review committee prior to the Board meeting, is that possible?

Mr. Stolte - Yes. It is.

Mr. Zehler - I have no other questions, Mr. Chairman.

Mr. Archer - Thank you. Anybody else have questions? We're ready, Mr. Zehler.

Mr. Zehler - Mr. Chairman, Mr. Nelson did enlighten us that this has been a process. It has been probably going on close to two years now. I can understand and appreciate their concerns. We did have a lengthy meeting with the applicant and the developer. As I would say, a lot of "dirty laundry" was aired, and it was a very good meeting. It was a prosperous meeting. The church, I think the biggest point they got over was to feel the necessity or their need for these items that have been neglected over the period of a year to get done. I think it has finally hit home because we're starting to see work being done and these items are taken care of.

We did have concerns we worked out. The project has been going as far from November, 1997, this case has been deferred. So, it is a proven factor if you work long enough, you work your differences out. In this particular case, I feel like we've worked it out and it will be a good project.. So, with that, Mr. Chairman, I move we waive the time limit.

Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Zehler - With that, Mr. Chairman, I move that Case C-67C-97 be recommended to the Board for approval, and also will remind in my motion that these things will be completed before they get to the Board.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Ms. Dwyer, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the proffered conditions and grant the request because it is appropriate residential zoning at this location; it is not expected to have a precedent setting effect on the zoning in the area; it would permit infill development with the proper connection for roads and other public facilities; and the proffered conditions would provide for a higher quality of development than would otherwise be possible.

C-34C-98 Dean E. Hawkins, ASLA for Hotel Holdings Associates and P&T Associates II: Request for amendment of proffered conditions accepted with rezoning case C-67C-89, on part of Parcel 163-A-19D, containing 3.0 acres, located on the west line of Trampton Road approximately 120' north of its intersection with Audubon Drive. Amendments related to the use of the site and height restrictions are proposed. The existing zoning is M-1C Light Industrial District (Conditional). The site is also in the Airport Safety Overlay District.

Mr. Archer - Thank you. Is there any one here in opposition to C-34C-98? No opposition. Mr. Bittner.

Mr. Bittner - Thank you, Mr. Chairman. This would be an application for a hotel at the intersection of Airport Drive and Interstate 64. This would not be an extended stay hotel, which is what the adjacent property to the west is. This would be a specific hotel for

business travelers or day travelers. I must apologize. The staff report actually has the wrong proffers. It has the proffers for the adjacent case—C-35C-98. Both of these cases are almost exactly alike, however. So, in terms of substance, you've seen pretty much what the actual proffers are.

We did get in some new proffers today, which I'm going to cover right now. You would have to waive the time limit to accept these proffers. You'll notice they are dated the 12th. However, they were written today. So, that date was wrong. They were actually submitted today on the 14th.

Let me just go over really quickly what they have now submitted in terms of proffers. No. 11, previously they had said it would be the greater of three stories or 45 feet. They are now stating, simply, it will be no more than 45-feet in height. The reason for that is, they are including an elevation. If you could switch that over for me, John (referring to slide). This is an elevation that they're now proffering with the case. It would be a four-story building. However, its height would not exceed 45 feet. The tallest point of that building which is on the far right, is about 44 feet in height.

Moving down a little bit further in the proffers, No. 16. They are now simply stating they have proffered the elevation, along with the site plan, which has been included in the packet we have handed out to you. Finally, the new No. 17, simply stating it would not be an extended stay hotel that would house families of more than two people in a room. There will be no playground equipment to accommodate children or anything of that nature.

Staff feels, and what we wanted to do with this case, and the adjacent case, which, of course, we'll get to next, but they're both for hotels. They're both in the same area. We wanted to try and match them up as much as possible. We feel we've done that. We feel these new proffers address the concerns outlined in the staff report. We recommend approval. I'd be happy to answer any questions you may have at this point.

Mr. Archer - Thank you, Mr. Bittner. Are there questions by Commission members for Mr. Bittner?

Mr. Vanarsdall - Yes sir, Mr. Chairman. Mr. Bittner, what is the material in this rendering? What is the building material on the top three floors? Dryvit?

Mr. Bittner - I'll let the applicant address that. Mr. Dean Hawkins, the applicant, is here to answer that.

Mr. Dean E. Hawkins - I am representing the applicant. I'll just take your questions. I hope this will be a simple review. The bottom area is brick and the top area is dryvit or something similar to that at this time.

Mr. Vanarsdall - Is this a pattern "a Sleep Inn" is going to continue to follow? I just saw one...

Mr. Hawkins - Well, the other Sleep In that I have done before was totally dryvit in different color tones. But we're proffering to use some masonry in this instance at the lower level.

Mr. Vanarsdall - I just saw one that was down in South Carolina that was all brick, and it was a Sleep Inn around here.

Mr. Hawkins - Well, the architectural package that I have received from them shows their hotels completely made of dryvit.

Mr. Vanarsdall - They don't make any exception to mix the brick into it?

Mr. Hawkins - Well, I think they could. I think they may have to here with what we're proposing.

Mr. Vanarsdall - Okay. Thank you. I don't have any more questions, Mr. Chairman.

Mr. Archer - Okay. Any further questions?

Mr. Zehler - Mr. Hawkins, we seem to have a problem, sir.

Mr. Hawkins - What's that?

Mr. Zehler - The site plan that was just presented to us is totally different than the one you presented to me.

Mr. Hawkins - How is that?

Mr. Zehler - We had discussed three stories. This is four stories. This is not the one in our original meeting you presented to me. Is it not?

Mr. Hawkins - That is correct. That is my initial submission was for three stories. And the discussion we had, mainly, was based on height. I've changed it to a flat roof. So, we are mostly at 40 feet for the main body of the hotel, except for that tower which houses the elevator. I'm showing that 44 feet. So, the main body of my flat roof is right at 40 feet.

Mr. Zehler - That was not included in our discussion, sir. I have a problem with this. I can not approve this. We need to defer this case for 30 days. If you'd like to continue on, we'd be glad to hear it.

Mr. Hawkins - So, is it the four floors?

Mr. Zehler - It's not the same site plan you presented to me. It's not the same thing we've discussed and this is the first I've seen of it—four stories. It's not all brick like we discussed. It's totally different from what you presented to me, sir. If you'd like to continue on, we'd be glad to continue on. I don't think you're going to like the end results. I'll make the decision yours.

Mr. Vanarsdall - We also need a special exception for four stories.

Mr. Hawkins - Yes. I'm aware of that, but it is a separate issue.

Mr. Vanarsdall - Not really.

Mr. Zehler - We haven't addressed the first one yet. And that's the site plan.

Mr. Hawkins - I'd be glad to meet with you and to discuss the issue.

Mr. Zehler - Would you like to defer this case for 30 days?

Mr. Hawkins - At your request. Yes sir.

Mr. Zehler - Not my request. It's going to be yours. You've got the problem.
Not me.

Mr. Hawkins - Well, I'll be glad to defer it for 30 days.

Mr. Zehler - Thank you. Mr. Chairman, I move that Case C-34C-98 be deferred for 30 days, per applicant's request to June 11th. Is that correct, Mr. Secretary?

Mr. Silber - Yes sir.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Zehler - Please give me a call. We'll get together.

Mr. Hawkins - Certainly.

C-35C-98 James W. Theobald for Hotel Holdings Associates and P&T Associates II: Request for amendment of proffered conditions accepted with rezoning case C-67C-89, on part of Parcel 163-A-19D, containing 3.066 acres, located on the east line of Airport Drive (State Route 156) approximately 320' north of its intersection with Audubon Drive. Amendments related to the use of the site and height restrictions are proposed. The existing zoning is M-1C Light Industrial District (Conditional). The site is also in the Airport Safety Overlay District.

Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to Case C-35C-98? No opposition. Mr. Bittner.

Mr. Bittner - Thank you, Mr. Archer. This is right next door to the previous case. This for a hotel that is designed to be an extended stay hotel. They have submitted new proffers. However, they were more than 48-hours ago. Therefore, you do not need to waive the time limit on those. I've highlighted the changes in these proffers for you and I'll go over them very quickly.

They have decreased the proposed height. Previously, they said the greater of three stories or 45 feet. They've reduced the latter figure to 40 feet. They have also added the phrase that the hotel shall not be considered a retail use. That will aid in the interpretation of the proffers; prevent confusion in the future. They have proffered an elevation and a site plan which is attached to the latest proffers that we just gave you. I'll let them cover those in detail. We'll get a picture of that up in just a second, too, once I'm off the podium here. No. 17 proffer, they have stated, "There shall be no facilities designed for children and that no room will be able to house more than two people at any one time. No one can stay more than 12 consecutive weeks." That's to try to keep it from turning into a permanent residence as opposed to an extended stay hotel. Finally, Proffer

No. 18, there is an existing BMP on the property and they proffer that they will place landscaping around it and try to enhance its appearance.

Staff feels that these proffer changes address all of the concerns addressed in our staff report and we recommend approval. I'd be happy to answer any questions you may have.

Mr. Archer - Thank you, Mr. Bittner. Any questions for Mr. Bittner by Commission members?

Mr. Vanarsdall - Yes sir. I guess this goes to the applicant, too. What is the material in this one—dryvit at the top and brick at the bottom or is that some kind of something else, other than brick?

Mr. Bittner - I'll let the applicant address that.

Mrs. Wade - Mr. Bittner, just one second. On No. 17, couldn't there be a problem with enforcing whose going to stay and how long? If you have your child with you, you're out of luck. There's "no room at the inn," and all of that.

Mr. Silber - I think, Mrs. Wade, especially the part that deals with the number of occupants per room. I have some concerns with that, I guess. A family of four would not be able to check into the motel.

Mr. Zehler - They'd have to have two rooms.

Mrs. Wade - Okay. Let the motel police it.

Mr. Archer - Mr. Theobald.

Mr. Zehler - I have a question for Mr. Secretary or staff.

Mr. Silber - Yes sir.

Mr. Zehler - I have looked at the definition in the Code of "hotel and motel" and I have a problem with it. The problem is, Mr. Silber, the Director of Planning, or Acting Director of Planning, I would like for you to tell me what your definition or how you would understand this to read, "Hotel, motel, motor lodge and motor hotel – A building, or a group of attached or detached buildings containing a combination of three or more lodging or dwelling units intended primarily for rental or lease to transients by the day or week, as distinguished from multiple family dwellings, in which rentals or leases are for longer periods and occupancy by residents rather than for transients." The problem I'm having is, coming to the determination of transients by the day or the week? Now, can you lease a room for 52-weeks? Is that the intent the way this was written?

Mr. Silber - Mr. Zehler, I think that definition is, I think, somewhat antiquated, because with the extended stay hotels, now, they're often rented for more than a week. We have been flexible in the interpretation that we've allowed occupancy beyond that period of time. However, it's not intended to be a place of multi-family dwellings. That's where we draw the line. It's not supposed to be an apartment complex.

Mr. Zehler - Wouldn't that reflect on the length of stay?

Mr. Silber - I think, potentially, it could. Yes sir.

Mr. Zehler - Somebody had questioned the proffered condition. Mr. Theobald and I have been discussing it at length, as well as the County Attorney, involved on the wording of that proffered condition.

Mr. Silber - Right. I don't have a problem, or have less of a problem with limiting the stay to a certain period of time. I think, if we received a complain, and in fact, some one was in there and had been living there for six months, or maybe a year, I think we can go in and bring compliance to that situation. I'd have, I guess, greater concern with trying to keep track of how many people may be in a room.

Mr. Vanarsdall - Whose going to enforce it is what you're saying?

Mr. Silber - Yes sir. But the period of time, Mr. Zehler, I think that's something that can be proffered not to exceed a certain period time. I think if we found that there was a complaint, we found someone was residing there, it is obvious that we could bring compliance.

Mr. Zehler - That's all I have, Mr. Chairman.

Mr. Archer - Okay, so you're suggesting, Mr. Secretary, that a proffer be added, and that would be, essentially, complaint driven?

Mr. Silber - No. from my perspective, the proffer is fine, with the exception of the sentence that deals with the number of occupants. I think if that proffer is accepted by the Board, it would just be a difficult one to enforce. I'm not saying its illegal. But I think just that one sentence that I have some concerns with.

Mr. Archer - Okay.

Mr. Zehler - Something's better than nothing?

Mr. Silber - Maybe, I'd be curious to find out if there's been discussion with our County Attorney, I'd like to may be know what that discussion entailed.

Mr. Zehler - I'm sure the applicant can address that, because there have been numerous conversations with the County Attorney.

Mr. Vanarsdall - Mr. Secretary, you have a problem where it says, "No guests shall be permitted to occupy the same room in excess of 12 consecutive weeks?" Is that what you said?

Mr. Silber - I don't necessarily have a problem with that. No sir.

Mr. Vanarsdall - "No room shall be occupied with more than two people." Who in the world is going to find out how many people are in one room?

Mr. Zehler - The proprietor; the guy renting the room.

Mr. Silber - We send the Commission member from Brookland to check that out.

Mr. Vanarsdall - The Attorney who is now President of the American Planning Association says that if you can't police it, don't pass it. I never forgot that.

Mr. Silber - Good point.

Mr. Vanarsdall - And you're certainly not going to be able to police that. I guess it's just put in there, like "waiving a carrot in front of a rabbit."

Mr. Silber - I think Mr. Zehler's concern is, that there are situations in the County where we have some of our hotels where people are moving in and actually residing there. They have families that are moving in, using it as a place of normal residence.

Mr. Vanarsdall - We've got one on Broad Street.

Mr. Silber - That's correct. It's not intended to be used that way. I think he's trying to deal with that. Is that correct, Mr. Zehler?

Mr. Zehler - We have another one right up the street that that's happening. It's not a very good site. We have children playing in the street—seven cars in the parking lots; campers, and it's been made pretty much a personal residence. We've experienced it and I don't want to see us get it into it again is my concern, and Mr. Theobald and I have discussed it.

Mr. Archer - Okay, are we ready for Mr. Theobald? Sir.

Mr. James Theobald - Thank you, Mr. Chairman. Ladies and gentlemen, my name is Jim Theobald. I'm here this evening on behalf of Extended Stay America which is a New York Stock Exchange Company and we're seeking to amend proffered conditions of a three-acre parcel of land in order to permit the construction of a hotel on an M-1 parcel of land that permits everything but a hotel.

The original 1989 zoning, with which I was also associated with, rezoned a much larger tract of land to an M-1 District which permitted all light industrial uses, as well as up to 80,000 square feet of unrestricted B-3 uses. The only use prohibited out of all of the M-1 and B-3 uses was a hotel, which, quite candidly, resulted from the Airport's desire to have a hotel on their property. This was prior to the Airport Hilton having been constructed, I believe. And I think Mr. Donati can confirm that the current Airport master plan now, primarily, reflects additional users that are really related to the airport's cargo capabilities and distribution.

Extended Stay American is one of the leaders in the extended stay motel industry. They have recently acquired the Studio Plus chain which includes the facility behind Sears Homelife on W. Broad Street. They've constructed a new facility near Paragon Place at Glenside and Broad. They're already strong corporate citizens of Henrico County, having invested over \$10 million in our County, with a proven track record with a quality operation.

The extended stay industry really represents a very specialized niche in the overall lodging market. It offers business and personal travelers affordable, high quality lodging for extended periods of time.

Most frequent guests are self-employed business travelers. They're engineers and consultants on extended assignment. They're employees in training programs. They're retirees on vacation or people visiting families; individuals relocating; families repairing a home.

For your information, the average salary of our guests nationwide is \$77,000 per year. Some guests stay for multiple weeks with rooms also being rented on a daily basis. They offer suites and certain business-related services, but do not have a restaurant, lounge or meeting facilities, such as you might find in a full service hotel.

These hotels are company-owned. They are not franchise operations. I know Mr. Zehler has had some concerns that these could become more residential in nature with people storing boats and enrolling their kids in the school system. We've been working very closely with Mr. Zehler, as well as with Mr. Rapisarda, the County Attorney. We've tried to craft a proffer in an attempt to address that issue. We've attempted to limit the overall stay of the guests to no more than 12 consecutive weeks; prohibit more than two people from occupying a room; and prohibit playground-type amenities that might promote families staying with children. This was not a difficult proffer to agree to. These are things that we do in any event.

We've also provided significant aesthetic guarantees that do not exist in the currently underlying M-1 case by proffering the conceptual site plan and the elevations before you.

The staff has found this request to be reasonable in light of the existing zoning, and the surrounding uses. I respectfully suggest to you that this request, as proffered, represents a significant advance over what might be developed on the property tomorrow, as a matter of right.

For the foregoing reasons, I would respectfully request that you recommend approval of this case to the Board of Supervisors. I'd be more than happy to answer any questions that you might have.

Mr. Archer - Thank you, Mr. Theobald. Are there questions of Mr. Theobald from the Commission members?

Mr. Vanarsdall - Yes sir. Mr. Theobald, what is the material on this?

Mr. Theobald - We have brick at the base, and E.I.F.S on up with asphalt shingle roof. You see the elevations before you.

Mr. Vanarsdall - Is this dryvit in the front?

Mr. Theobald - It's an E.I.F.S-type material.

Mr. Vanarsdall - This came from Florida, because you've got palm trees in the rendering. The other thing is, how much do the rooms rent for per week?

Mr. Theobald - The average; \$256.

Mr. Vanarsdall - Thank you. I don't have any more questions.

Mr. Archer - Okay. Any further questions?

Mrs. Wade - Mr. Theobald, "No building or any portion thereof constructed on the property..." does that include the tower can exceed the greater of three stories or 40 feet?

Mr. Theobald - It does include the tower. Yes ma'am. It does.

Mrs. Wade - So, you consider that a part of the building?

Mr. Theobald - Excuse me?

Mrs. Wade - So, you consider that a part of the building?

Mr. Theobald - Yes ma'am. I have not carved out, as we do sometimes, architectural features, etc.

Mr. Zehler - Mr. Theobald, we had discussed the brick, and I just realized we were defining 4(b).

Mr. Theobald - Yes sir.

Mr. Zehler - My understanding when we discussed, from here down would be brick?

Mr. Theobald - That will be brick, sir.

Mr. Zehler - It is?

Mr. Theobald - Yes sir.

Mr. Zehler - It looks taller than four feet.

Mr. Theobald - It likely is taller, but I'm happy to either amend that language and that area shown will be brick.

Mr. Zehler - We can say at the base, being the first level?

Mr. Theobald - That is the first level. Correct.

Mr. Zehler - I have no other questions, Mr. Chairman.

Mr. Archer - Thank you, Mr. Zehler.

Mr. Silber - I have one question, Mr. Theobald.

Mr. Theobald - Yes sir.

Mr. Silber - We've been looking at Airport Drive as sort of a gateway into the community, especially from the Airport's perspective. I notice that you have a 10-foot buffer along Airport Drive before you get to your parking. Is there an easement that runs through there, or would that be an area that would be plantable?

Mr. Theobald - Would you put up the site plan, please? I'm not aware of an easement running up through that area. I'm not honestly sure. We've got the BMP feature in the front there. We have talked to Mr. Zehler about extensive landscaping on the site which is a part of the Extended Stay America Corporate philosophy.

Mr. Silber - I think that was an issue recently for the convenience store just to the south; Rennie's. I believe there was an easement that ran along Airport Drive that hampered our ability to be able to plant in there. I realize this is just a conceptual plan and that can be improved upon. That can be something we would be looking at time of POD.

Mr. Theobald - What sort of easement was it?

Mr. Zehler - Would you repeat that, Mr. Silber?

Mr. Silber - I don't recall at this point.

Mr. Zehler - It runs parallel with Airport Drive?

Mr. Silber - Yes sir. I believe that was the case. We were trying to get additional plantings along there. We couldn't because of an easement. In this case, they're just showing 10 feet. If that's encumbered by an easement, we would, perhaps, not be able to plant in that strip.

Mr. Theobald - We will certainly have to try to address and take a look at that.

Mr. Silber - Take a look at that when you do your POD.

Mr. Zehler - You might want to, instead of 10 feet, in addition to the easement if deemed necessary.

Mr. Theobald - Yes. We'll certainly take a look at what that easement is. Obviously, the visual appearance that we are proffering here is certainly more predicable than the M-1 zoning that you currently enjoy there.

Mr. Zehler - We also did discuss a nice entrance at Audubon?

Mr. Theobald - That's correct.

Mr. Zehler - With multi-use zoning.

Mr. Theobald - We are going to try to find a way to make sure we can get everybody on there with a directional sign so they know how to access off of Audubon.

Mr. Archer - All right, any further questions? Was there opposition?

Mr. Zehler - No.

Mr. Archer - I don't believe so. Okay. Mr. Zehler.

Mr. Theobald - Thank you.

Mr. Archer - Thank you, Mr. Theobald.

Mr. Zehler - I did have numerous questions in reference to the first fact of the extended stay. That concerned me when I first met with Mr. Theobald. Then, at the same time I checked with the Code, I checked with the County Attorney and I questioned that. But, basically,

in essence, Mr. Theobald had gotten with the County Attorney. They had worded a proffer that the County Attorney felt comfortable with. Of course, staff doesn't feel comfortable with it and I understand. If you can get with staff between now and the Board and try and clean those up, as well as the easement. I've worked with Mr. Theobald vigorously on this. He's come a long way. It's three stories; the site plan that he presented to me in our original meeting. With that, I move that Case C-35C-98 be recommended to the Board for approval.

Ms. Dwyer seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mr. Zehler, seconded by Ms. Dwyer, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the amended proffered conditions imposed with C- 67C-89 because the changes do not greatly reduce the original intended purpose of the proffers; the change in business use is consistent with the Land Use Plan recommendations; and it is not expected to adversely impact surrounding land uses in the area.

P-16-98 Gloria L. Freye for AAT Communications Corporation: Request for approval of a provisional use permit in accordance with Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a communication tower up to 95' high designed for collocation of wireless communication antenna and ground shelters, on part of Parcel 206-A-42, containing 4,245 sq. ft., located at the northwest corner of the intersection of Charles City Road and Interstate 295. The site is zoned A-1 Agricultural District. The site is also in the Airport Safety Overlay District.

Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to P-16-98? Mr. Bittner.

Mr. Bittner - Thank you, Mr. Chairman. In addition to this tower case, on the south side, across Charles City Road, we have another tower application; P-7-98, on the Board of Supervisors agenda in June. This site is approximately 700 feet away. However, the applicant for P-7-98 has verbally stated they plan to withdraw that case. They have not submitted an official withdrawal letter, but both, earlier this week, and tonight, the applicant has indicated they plan to withdraw P-7-98. So, that would leave us with only one tower application in this area. And, as you know from reading the staff report, our concern was not north versus south side of Charles City Road, it was one versus two. Now, we only have one tower application. Staff is more comfortable with that.

Despite the limited height of towers in this area because of the proximity of the airport, you can still do co-location on this tower. The applicant is proposing a 95-foot tall tower. And to the best of our ability, we have determined that the FAA would not allow it to go any higher than that. We have contacted a consulting firm that was retained by the applicant, ASA, who is staffed by FAA employees, they tell me. So, we feel very strongly, at this point, the FAA won't let it go above 95 feet.

However, in the event that that is not totally correct, we have alternative language for the Provisional Use Permit, which I'll put in front of you right now, and I'll go over the changes. On Condition 6, we're now recommending the addition of the phrase, "at least three co-locators at a minimum." We did that to remain consistent with other conditions on other pups for towers. We also added the line, "as necessary to ensure compliance with this condition, the applicant shall

permit the tower height to be extended." We added Condition 7. As I said, the tower could probably go no higher than 95 feet. However, if conditions some day change, for whatever reason, FAA regs change or the airport is realigned or the runway is realigned, or something like that, the applicant has offered to construct the tower so that it could be easily heightened to a height of 115 feet. That result would be one more co-location opportunity, if we got that extra 20 feet, according to the applicant.

Staff is also concerned that we would maybe create a ceiling in terms of height for this tower. So, we just want to be very sure that, if possible, we could go up to 150, 160, or 199. Someday, that would be possible. So, we've added a final line in that condition stating that "This condition shall not prevent the tower from someday being extended to a height greater than 115 feet if technically possible." With that, we recommend approval of this application, subject, as I said, to P-7-98 being withdrawn. The applicant has indicated verbally that they plan to do that. I'd be happy to answer any questions you may have at this time.

Mr. Archer - Okay. Thank you, Mr. Bittner. Are there questions by Commission members for Mr. Bittner?

Mr. Zehler - Mark, on No.7, this application is for up to 95 feet.

Mr. Bittner - Correct.

Mr. Zehler - In the event they want to extend it an additional 15 to 20 feet, the way this is worded they have to come back before us for an additional Provisional Use Permit?

Mr. Bittner - I believe so. May be we can check the file real quick just to be sure?

Mr. Zehler - The applicant is shaking her head. That's all I needed to know. That's what I was looking for.

Ms. Dwyer - Do we not obtain any official documentation from the FAA about height limitations for towers?

Mr. Bittner No. We don't. What we have is a report filed by ASA Aviation Systems Associates, I believe; Consultants, retained by AAT. It's gets a bit confusing, I know, to do a study of what the FAA regs would be in this area. I, myself, have not tried to contact FAA, because, I, truthfully, would not know where to begin to get to the FAA. So, I worked with ASA Consultants, who, as I said, themselves all used to work for the FAA.

Ms. Dwyer - This has not received any official documentation from the FAA about...

Mr. Bittner - I have not seen any official FAA documentation. No.

Ms. Dwyer - So, you just rely on the applicant to represent to us what the FAA requires?

Mr. Bittner - In this case, we're relying more on the applicant's consultant, who, as I said, we feel, at this point, is the best source of information.

Mr. Zehler - If I may, Mr. Chairman, the applicant across the street on Old Crow will be withdrawing his application because he did submit the FAA. FAA would only approve up to 65 feet at that location. That is the reason he is going to withdraw the application.

Mr. Archer - Is that P-7-98?

Mr. Zehler - It's the one coming before the Board in June off of old Crow. That will be withdrawn. Based on that fact, and we have included it in our proffered conditions, that subject to FAA approval, I deem it's the owner and the applicant's responsibility to work that situation out. I don't see how it won't go across one side of the road; but, yet, it will for another one, but it appears the applicant feels they can jump that hurdle. That's a hurdle they're going to have to jump. I'd work with the applicant on this, especially on Proffer 6 to get additional users. They know how we feel about that. This is what we are encouraging. There is no opposition to the case, Mr. Chairman. So, with that, I move that P-16-98 be recommended to the Board for approval with the seven conditions submitted tonight.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Zehler, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mr. Zehler, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors grant the requested revocable provisional use permit, subject to the following conditions:

1. If the use of the tower for communication purposes is discontinued, the tower and all related structures shall be removed from the site within ninety (90) days.
2. Application for a building permit to install the tower must be made within one year after the Provisional Use Permit is granted by the Board of Supervisors, unless an extension of time is granted by the Director of Planning upon written request by the applicant.
3. The applicant shall obtain approval from the Henrico County Planning Commission should the FAA require the addition of standard obstruction marking and lighting to the tower (i.e., red lighting, and orange and white striping). The applicant shall notify the Henrico County Planning Director prior to making any changes to the original galvanized finish of the tower.
4. When site construction is initiated, the applicant shall complete requirements prescribed by Chapter 10 of the Henrico County Code. In particular, land disturbance of more than 2,500 square feet will require that construction plans include a detailed drainage and erosion control plan prepared by a professional engineer certified in the State of Virginia. Ten (10) sets of the construction plans shall be submitted to the Department of Public Works for approval.
5. A landscaping plan for the purpose of screening the base of the tower from view of public streets, shall be submitted to the Planning Office for approval prior to the issuance of a building permit for the tower. The Director of Planning may waive the enforcement of this condition if it is deemed unnecessary.
6. The applicant agrees to allow the collocation of at least 3 and as many additional users

as technically possible at this site in accordance with the provisions of the Letter of Intent to Permit Co-location on Communications Tower filed by the applicant with this request. If necessary to ensure compliance with this condition, the applicant shall permit the tower height to be extended.

7. The tower shall be designed and constructed so that it may someday be extended to a height of 115 feet. Any extension over 95 feet shall require a provisional use permit. This condition shall not prevent the tower from someday being extended to a height greater than 115 feet, if technically possible.

The Planning Commission recommendation was based on its finding that the Provisional Use Permit is reasonable; it would provide added services to the community; and when properly developed and regulated by the recommended special conditions, it would not be detrimental to the public health, safety, welfare and values in the area.

Mr. Archer - The next case on the agenda is C-8C-98, which is somewhat of a companion case to C-23C-98. And in between those two is C-15C-98. Since I would imagine that the people who want to listen to C-8C-98, would also want to hear C-23C-98, rather than split those two, we're going to move C-15C-98, and we'll hear the other two cases.

Deferred from the April 9, 1998 Meeting:

C-15C-98 **Clement Tingley for Easy Living Corporation:** Request to conditionally rezone from A-1 Agricultural District to R-4AC One Family Residence District Conditional, Parcels 85-A-2, 3 and 5, containing approximately 31.0 acres, located on the north line of North Road at its intersection with Edgefield Court and Edgefield Street. A single family residential subdivision is proposed. The R-4A District permits densities up to 5.62 units gross density per acre. The Land Use Plan recommends Urban Residential development, 3.4 to 6.8 units net density per acre.

Mr. Archer - Thank you, Mr. Secretary. Is there any one here in opposition to C-15C-98? We'll get to you. Mr. Merrithew.

Mr. Merrithew - Thank you, Mr. Chairman. This proposal would permit, if approved, up to 87 single family detached homes on 31 acres of property, providing a density of approximately 2.8 units per acre. As you know, from the previous hearing, it's located on the north side of North Road, adjacent to a single family subdivision to the south; multi-family apartments on the west; and the historic site to the east.

The existing single family neighborhood is a collection of varying home sizes, types, and quality of housing. The Comprehensive Plan recommends for this site Urban Residential Development which is proposing densities ranging from 3.4 to 6.8 net units per acre. The proposed zoning is consistent with the Comprehensive Plan.

The site is zoned A-1, and the homes immediately south on North Road are also zoned A-1. The remainder of the single family development in the area is zoned either R-3 or R-4.

The major issues raised with this case at the last hearing have to do, primarily, with the density of the project and the quality of the project. Staff is also concerned about protecting the Farm, and the concentration of traffic on Tamiami Avenue.

There have been several meetings between the residents and the applicant. I do not believe that you can say that they reached a compromise solution to this case. We have also met with the applicant on several occasions to work on proffers. This week, the applicant did submit, in fact, you will have to waive the time limits on his latest proffers; a set of proffers, which staff feels addresses a number of our concerns. I'd like to run through those proffers, if I could.

You will recall from the first hearing that the applicant had originally proposed and proffered a minimum house size of 1,000 square feet. The updated proffers provide that a minimum of 50 percent of the homes shall be two-story homes containing at least 1,500 square feet of finished livable floor space. No more than 18 homes shall be less than 1,200 square feet. All homes shall have a minimum of 1,100 square feet of finished livable floor area.

We feel the proffered minimum of 50 percent of the homes being two stories at 1,500 square feet is a significant improvement to this case.

You'll see also that the applicant has proposed that all exposed portions of the foundations shall be brick. The minimum height of that exposed foundation will be 16 inches. This was an attempt to address the issue of slab construction versus crawl space construction. We could not encourage the applicant enough to use crawl space construction over the entire project. He has proffered some crawl space construction. Where he proposes slab, he will elevate the houses at least 16 inches, which will give the appearance of crawl space. At least a more substantive foundation, if you will, and get the house off of the ground so that the entrance and so on is elevated, which we feel is an interesting design solution to that discussion.

Under No. 2(d), the lots abutting North Road shall be constructed with crawl space construction so that we will have higher quality houses, if you will, along North Road. The crawl space construction shall be offered as an option during marketing of all the units in the project so that if somebody does want that improved quality, will be able to get it.

No. 3, the overall density of the project remains at 2.8 units per acre or 87 lots. The preliminary drawings we have seen with the applicant, we feel the number will be less; maybe seven, but there's need for flexibility there. Again, we feel that density is appropriate in this situation.

The lots abutting the eastern property line, which would be up against the property, would have a 20-foot wide buffer adjacent to the eastern property line; and no living tree over 4 inches would be cut within that buffer. That buffer would be outside the required rear yard of the lots. So, in effect, we are moving those lots 20 feet away from .

The restrictive covenants would prescribe that the buffer would be maintained and protect the quality of that buffer. That's an increase of 10 feet or doubling of the original proffered buffer along the property line.

He has proffered that no lots will face North Road. Lots that do abut North Road, and primarily that would be side yard areas in some preliminary drawings, although several lots will back to it at the cul-de-sac. The lots that do abut North Road will have a 10-foot vegetative buffer planted with evergreen trees. That buffer, as well, will be outside of the required side or rear yard of those properties to provide a screen between this development and the existing development to the south.

Finally, the applicant shall provide for two entrances to North Road. His intent is to provide one closer to Tamiami Road, and then one further to the west near Edgefield. So, he has addressed

staff's concerns about concentrated traffic. We feel he has improved the quality of the structures that he is proposing to increase the floor area, and otherwise improve the project from where it started.

As we said earlier, this project is in compliance with the Comprehensive Plan. We feel the zoning is comparable and compatible with the surrounding development. At this point, staff can support a recommendation of approval. I'd be glad to answer any questions.

Mr. Archer - Thank you, Mr. Merrithew. Are there questions for Mr. Merrithew by the Commission?

Mr. Vanarsdall - Mr. Merrithew, "All homes shall have a minimum of 1,100 square feet." What zoning is that?

Mr. Merrithew - Eleven hundred (1,100) square feet is about an R-2, I believe.

Mr. Vanarsdall - This couldn't be R-2.

Mr. Merrithew - I was taking a shot at it, Mr. Vanarsdall. I had one in six chances on that one.

Mr. Silber - He's not too far off. He's a good guesser. That's an R-3.

Mr. Vanarsdall - R-3. All right. Thank you.

Mr. Archer - Any further questions?

Ms. Dwyer - It appears that the 20-foot buffer along the eastern property line is, of course, in addition to the setback. Yes. In addition. So this will be maintained by the individual lot owners as part of their property, but the 10-feet along North, will not be. Is that correct?

Mr. Merrithew - No. The 10 feet, I believe, intended to be maintained as part of each individual lot, as well.

Ms. Dwyer - Well, it says it will be restrictive covenants require maintenance and replacement by the Homeowners Association.

Mr. Merrithew - Both of those buffers include the term that the restrictive covenants will require the maintenance or prohibit the removal of the evergreen trees. The restrictive covenants will prevent the individual homeowner from removing the trees.

Mr. Archer - Removing the vegetation.

Mr. Merrithew - But the property will, in fact, be individually owned.

Ms. Dwyer - But under Paragraph C it says, "The restrictive covenants shall prohibit the removal and require maintenance and replacement by the homeowners association."

Mr. Merrithew - Oh. I see what you're saying. That is a difference. Yes.

Ms. Dwyer - So, I guess I want to be real clear about who owns the buffer and whose responsible for maintaining it.

Mr. Merrithew - In our discussions, the buffer would be individually owned by the lot owners. The applicant may speak to the intent of this. I think that was just to make sure somebody was there to replace the trees if they died, and not necessarily put the burden on the individual homeowner. But, he may be able to speak to that better.

Mr. Archer - Okay. Any further questions of Mr. Merrithew? Thank you, sir. We'll hear from the applicant. Mr. Tingley.

Mr. Silber - Mr. Tingley, there is opposition to your case. If you would like, you could save some of your 10-minutes of rebuttal. If so, how much of the time would you like to save?

Mr. Kim Tingley - I guess I'd like to save five minutes. See how it goes.

Mr. Silber - Okay.

Mr. Tingley - You know, this piece of land is a piece of land that time's kind of forgotten. It's kind of how I feel about this case, tonight, after hearing everything else that's going on. The development in Henrico County has taken on place to the north and taken on to the east and to the west. This is an infill parcel. When you're working on an infill parcel, quite frequently, there are people who have become vested in a vacant property. They see it as a park or a place that they spend time. They don't like change. The change that I'm bringing; and it could be debatable. I think it will "raise the bar" in the neighborhood in terms of what's there today. Could we show those photographs? And, perhaps, encourage some improvement on some of the existing homes. I intend to take down one of the existing homes, because I wouldn't be able to maintain it and maintain the driveway on North Road.

And, as Mr. Merrithew has said, Montrose is located in this area and it is certainly a gem in the County. I think that its valuable. It's someone whose very interested in the property has chosen to try and keep it and maintain it and preserve it.

Then on the other end of North Road, there's another very large home that's over 3,000 square feet. But, by and large, the homes on North Road, itself, are, well not counting those two larger homes, they average 1,403 square feet. Twenty (20) percent of them are less than 1,000 square feet. About 80 percent of them have all or partial block foundations and about 60 percent of them have concrete floor systems.

The next closest road to this is Hickory Tree Court. And the average size of the homes on Hickory Tree Court, the average size is 1,285 square feet and 25 percent are less than 1,000 square feet.

Wilmer Avenue is the next closest cross street, and Tamiami and Edgefield. The average home size is 1,144 square feet; and 20 percent are less than 1,000 square feet.

I don't want to belabor the point, but what I'm trying to say is, I think that the proffers that we've made, and I certainly appreciate the effort that your staff went into in convincing me that this is what would be appropriate for this area, have significantly raised the bar and will help improve the overall quality of the area.

The neighborhood did express concern about traffic. I've tried to address that concern by proffering a condition that would, hopefully, cause the traffic leaving the community to be divided on two roads, rather than being concentrated on one. But I think, you know, in addition to that, you need to put it in context.

According to the Planning Department, in 1996, there was a population of 2,901 in the area. There were 1,293 households. Forty-three (43) households lived in single family homes and 890 lived in apartments.

I'm proposing to add a maximum of 87 units to this. This represents a 6.6 percent increase in the number of households. And, presumably, a 6.6 increase in the amount of traffic. Yes, it's going to have an impact, but I don't think it's going to be an overwhelming impact. Again, what we're proposing is consistent with the Land Use Plan. It's at the lower end of the density suggested by the Land Use Plan. I think that the proffers that we have made will help buffer the community from the community I propose to develop. I respectfully request your favorable consideration of this rezoning.

Now, I have a couple of people here to speak briefly. Mr. Gregory.

Mr. Vanarsdall - I have a question for you? Do you live anywhere near this property?

Mr. Tingley - No sir.

Mr. Vanarsdall - Okay.

Mr. Silber - Mr. Tingley, I just want to let you know, you have 5.5 minutes left. You wanted to save 5 minutes. That's where you're at.

Mr. Stephen Gregory - I'm one of the co-owners of one of the pieces of property here. My family bought that property back in 1960. In 1995 my mother died and left that property to my brother and I. We want to sell this property. It's been on the market for two years. We haven't been able to sell the property. We've not had any offers. Nobody has approached us in the area about buying the property. So, we'd just like the consideration to sell the property. We think this fits the land use. We appreciate it. Thank you.

Mr. Vanarsdall - So, you're selling the property?

Mr. Gregory - A part of the property. Yes sir.

Mr. Vanarsdall - You don't have any interest in the property other than selling it?

Mr. Gregory - We want to sell the property at this point. Right.

Ms. Dwyer - May I ask a question of Mr. Tingley?

Mr. Archer - Sure. Mr. Tingley.

Ms. Dwyer - In the staff report, it mentions that your density would support an R-4 or an R-3 zoning designation. Is there any reason why you haven't applied under R-3 or R-4, and why you're applying under R-4A?

Mr. Tingley - There are a couple of reasons. The existing subdivisions in the area, what I have proposed is consistent with the lot sizes elsewhere in the area. Now, the opposition will tell you that there are some people who have accumulated more than one parcel. But, a lot of those parcels can still be sold off. Some of them are being sold off and there are houses being built out there today.

The second reason is that, not all of the property is as useable as other parts of the property. Some of it has steep slopes, and I would rather preserve those steep slopes, rather than try and build on them. They provide a buffer from the wetlands to the north. They also provide a buffer from the apartments to the east.

Ms. Dwyer - Will that be common area, then?

Mr. Tingley - It would be my intent for it to be put in common area. There would probably be a BMP pond in there if I can't figure out a way to opt out.

Ms. Dwyer - That common area would be maintained by the homeowners association?

Mr. Tingley - By the Homeowners Association. Yes ma'am.

Ms. Dwyer - So, in other words, your lot configurations might be smaller, even though the density matches an R-3 or an R-4? Your setbacks might not?

Mr. Tingley - It's, basically, the lot width and lot area.

Mr. Zehler - Have you sat down a drawing as far as the R-3 is concerned? What's your net yield? Do you know that?

Mr. Tingley - No. I have not looked at R-3. I can show you what I sketched up for the R-4A.

Mr. Zehler - So, you really don't know the difference of your net yield between the R-4A and the R-3? How many lots would you lose if you went to the R-3.

Mr. Tingley - No. I have not made that determination.

Mr. Archer - Mr. Tingley, do you have that sketch?

Mr. Tingley - I have it in just a minute if I can put my hands on it.

Ms. Dwyer - While he's looking for that, could I ask Mr. Merrithew a question? You mentioned in the staff report, too, that historic Montrose needed to be protected. Is it protected by these proffers in any way?

Mr. Merrithew - Well, the protection offered by these proffers is twice the protection that was offered with the original proffers. He had originally proposed a 10-foot buffer, and this is a 20-foot buffer outside the required rear yard. So, we feel it is an improvement.

Ms. Dwyer - Okay. So, it's the buffer that you were looking for?

Mr. Merrithew - That buffer is the protection. There could be better ways of protecting it. It seems to be reasonable protection; residential against residential.

Mr. Tingley - May I address that also, Ms. Dwyer? The existing homes in the area on the south side of North Road; those existing homes will be closer to the Montrose property than any of the homes that I would propose to build. Here's that sketch that you were asking for, Mr. Archer.

Mr. Archer - Yes. I see it, Mr. Tingley. Would you point out so that the other Commission members and the audience would know where North Road runs along on this sketch?

Mr. Merrithew - This would be North Road.

Mr. Archer - Can everybody see that?

Mr. Tingley - It's oriented so that north is pointed up.

Mr. Archer - Okay.

Mr. Merrithew - This would be Tamiami down here.

Mr. Tingley - And then to the right is Montrose.

Mr. Zehler - North Road, does that go into a cul-de-sac?

Mr. Archer - No. I don't guess it will.

Mr. Tingley - On the east, it is in a cul-de-sac called Edgefield Court. On the west, it just becomes a dirt road.

Mr. Zehler - So, actually North Road goes nowhere.

Mr. Tingley - North Road goes nowhere. That's correct.

Mr. Archer - It comes down to Montrose and then that's where it ends. A part of it is a dirt road.

Mr. Zehler - Your main point of access would be through Tamiami Road?

Mr. Tingley - Edgefield Road is on the left hand side. Can you show Edgefield Road?

Mr. Merrithew - Edgefield Road is approximately here.

Mr. Zehler - So, basically, you have two points of access there?

Mr. Zehler - Yes sir. That's all I have.

Mr. Archer - Mr. Tingley, if I may ask you a question. The last time we met we talked about increasing the number of two-story homes, and you agreed to up that minimum from

20 to 50 percent which would be 44.5. We also agreed that all of the homes that would abut on North Road would be built on foundations and crawl spaces. Would you also be willing to state that the majority of those homes on North Road would be two-story?

Mr. Tingley - Yes sir.

Mr. Archer - Thanks. You're showing, I believe, seven houses that you possibly that would abut North Road? Am I reading that correctly?

Mr. Tingley - Yes sir.

Mr. Archer - So, that we could say, that, at least a minimum of four those, possibly, all of them, but a minimum of four would be two story?

Mr. Tingley - Yes sir.

Mr. Archer - Okay. Thank you.

Mr. Silber - Mr. Tingley, as I stated earlier tonight, when we were on the verge of accepting a proffered condition that requires us to review building permits and have to go back and have to review other building permits which is in Proffer 1. We would strongly encourage you to consider another element that says, "Upon the request of Henrico County, the applicant must provide documentation of compliance with this proffer." In any point in time we may ask how many two stories have you build? How many homes have at least 1,200 square feet? So, that's not something we have to always go back and check. It would be incumbent upon you to provide that information.

Mr. Archer - Are you in agreement with that, sir?

Mr. Tingley - Is that a question or a statement?

Mr. Silber - We would like to work with you to get that taken care of.

Mr. Tingley - I'm sure we could work it out, Mr. Silber.

Mr. Silber - Okay. Also, under Proffer 2c, the way I read that which says, "All driveways installed with initial construction on the lot shall be paved." It then goes on to say, "The restrictive covenants shall prescribe that all driveways located in front of the front plane of the house shall be paved." I read that to mean that the driveway would have to be paved before you get a CO on that house. So, when our inspectors go out to inspect and issue a CO, that lot would have to have a paved driveway before you get a CO on the house.

Mr. Tingley - That's correct. Clearly, you have pointed out some word smiting does need to be done on that proffer, and I'll see to it that it's done before the Board meeting.

Mr. Zehler - How about 2(d), Mr. Tingley? I'm having a problem with that. It seems like "The lots abutting North Avenue shall be constructed with crawl space construction. Then the crawl space construction shall be offered as an option as an option during the marketing of the community." I don't see where that sentence is really necessary.

Mr. Archer - I think what he's saying here, Mr. Zehler, what we're trying to determine here is that, no home on North Road will be without a crawl space, but that all of the remaining homes to be built, would have that as an option to the buyer.

Mr. Zehler - Okay.

Mr. Archer - We didn't state that too well.

Mr. Zehler - You need to work on that also.

Mr. Archer - Okay. Any further questions for Mr. Tingley? Thank you, sir. I believe we have a representative for the opposition.

Mr. Vanarsdall - Mr. Chairman, I have a question for Mr. Secretary. This paper that was handed out to us, this can't be an official document. There's no date on it and there's no signature.

Mr. Silber - That's a very good point.

Mr. Merrithew - We received that by E-mail and included it in time to be copied and handed out. We have received, this evening, the official signed version and it is in the file.

Mr. Vanarsdall - We need to waive the proffers?

Mr. Merrithew - We do need to waive the proffers on this. That's correct.

Mr. Vanarsdall - It would be the 14th.

Mr. Merrithew - That's correct.

Mr. Vanarsdall - Thank you.

Mr. Archer - Mr. Gregory.

Mr. Gregory - Yes sir.

Mr. Archer - Good to see, you, sir.

Mr. Roger Gregory - I guess it's a good late evening. Mr. Chairman, members of the Commission, my name is Roger Gregory, and I represent members of the community. There are a lot of people here in opposition and I'm just going to take eight minutes and leave two minutes; I know one person wants to speak and, perhaps, others.

I listen, and I'm glad I'm here tonight, although it's long, but I heard many of the presentations in the other districts, so I know we have a lot of concern about what designs and what aesthetics exist; storage bins, storage places, and walls and hours and those things. So, I know there would be a lot of concern for a residential area. I find it to be quite interesting and very arrogant that the development here is the only project I heard tonight which starts off convincing you to recommend his project by tearing the community down.

Everything was, "Oh. This is good enough for them. This is fit for them." Pointed out two homes, very nice homes, but not the homes that are larger or whatever, not Montrose, but again, a

negative. I didn't hear that anywhere else tonight but from Mr. Tingley. The arrogance and good point in terms of what you have before you, E-mailed here. That's wasn't discussed with the community, this last thing.

As to the staff, with all respect to them, something that started out with a lot of promises, certainly ended up flat because it didn't tell you a very important part. This is not the highest and best use for this property. It does adversely impact the health, welfare, and safety of the community. I can't think of anything more important, not children. The staff wrote it in the report, but didn't mention it, tonight. More crowding of Laburnum Elementary. Now, watch your touch screen outside here where it was boosting about your nationally acclaimed school system. It's rightfully so. You have a lot of successes. But Laburnum Elementary, these are statistics that were presented by the School, and staff knows it. This is going to cause overcrowding of the school system that already at Laburnum the statistics in terms of economic deprivation. The population at Laburnum Elementary is 74 percent; fall in that category. County-wide, only 25 percent. Three times as likely to be economically deprived children. The success rate on the passing of the comprehensive test scores for County-wide is 73 percent. This school, 40 percent. Two and half time likely to have a single parent home. The point is, already these children who need more, already statistically in terms of academic "at risk," this project adds to overcrowding. How can that be in the best interests of the health and safety and welfare of this community. And these people here, I guess Mr. Tingley hoped that they would wear out and leave, but they are here. They were more here. I want them to raise their hands over here in opposition to this. Raise your hands. A community. Why should this community have any less. I heard other projects; 2,000 square feet minimum. Here "slab construction." Here's historic Montrose property, a working farm, horses and cattle that have no protection. If you start with nothing and now you're going to do a little bit, that's an improvement. That is improvement. But when you start with nothing, and build to the minimum standards and now, you're saying, "I'm going to do a little more?" What have you added? Nothing. When is Fairfield going to be treated like the other districts in terms of aesthetically. Nothing is. Arrogance is to e-mail something here; the community, I mean, almost universally against it. School system overcrowded. At risk Laburnum. You're not going to build any more schools. Your 2010 Plan does talk about Urban Residential Development. But it says it must be transitional. How do you transition to having projects like this; low quality. You notice there's no conceptual plan before you. Everyone else put it up on the screen what it is going to look like. Instead, he tears down the community and says, "This is what's here. This is okay. This is fit for this community. I'll give you a conceptual plan of what its going to look like." Nothing of the aesthetics that other communities have and insist upon. I appreciate the questions that came from the other district members in terms of very important questions. I just can't understand how this poor quality, no conceptual plan, that this is fit and this is in the best interest.

It doesn't protect the farm at all. Furthermore, again, the staff didn't mention it tonight for your Historic Advisory Committee recommending protection for Montrose and for the civil war fortifications. We believe that it would be premature to recommend this. We believe that there are fortifications on this property that need to be protected on the north bluffs. Why would this Commission recommend now to do that before even looking into that, and seeing what it really takes. First he said "10." Now he says, "20." That means there's protection for Montrose? Not at all. This is a working farm. And you transition when the County is ready to absorb. It's not ready to absorb it when you can't even accommodate these children. The case is only 26 children. But look at the school already statistics. These are your statistics. Look at it in terms of that. Why add more to children who need the most; who need the most protection by getting the least from a project that has nothing on the board, but, instead, tears down the community. These people are here. And, another thing, too, again, and it's already a touchy issue. But these kind of projects do not add to the diversities of the neighborhood. A lot of people have been here a long time. They've reared children here and they want to stay here and they love their property. "This is

okay for Fairfield.” You begin to see and you begin to redouble the same type of statistics you see at Laburnum. That’s not right. It is not right.

When I listen to Mr. Tingley, it reminds me a line from Man of LaMancha. “Facts are the enemies of truth.” They are. If these are facts, those proffers are nothing more than a last ditch effort to add nothing. Slab, small, no aesthetic qualities, no creativity, no love, no concern, no appreciation for history, for people, for children. How can that be the highest and best use? How can that even speak to that? Yet, it would adversely impact every standard and term in land use. It doesn’t meet any of them. If it did, if he had something to show you that was quality, that looked good, that respected the community, you would see it up there. Instead he starts by showing you a few homes and says, “Look., I’m going to tear these people’s community down. I’m going to tell you it’s fit for them, whatever I put up.” You know what’s going to happen? You get in there. You start building, you build, down, down, down. Whatever economically I can sell? Whatever I can sell? And that’s not right for any community, particularly one where your own statistics show you that this school needs help, and you’re going to overcrowd it more? Traffic. You have churches there...It’s just unfathomable. Unfathomable. And I know what your concerns are, because I sat here and listened these hours in the other districts of what your concerns were. They were beautiful concerns. They were always in terms of the man who spoke. He said, “That’s going to bring value to my community. That’s going to bring up lift. That’s going to do that.” That’s the kind of head nod shake. This doesn’t add anything, and you haven’t seen anything.

Mr. Silber - Mr. Gregory.

Mr. Gregory - Thank you, very much.

Mrs. Wade - May I ask Mr. Gregory a question?

Mr. Zehler - I’d like to ask him one, sir.

Mrs. Wade - How would more expensive houses help the children?

Mr. Gregory - Well, what it would do is, well, not expensive. We’re talking about acres; at least a half-acre per home. It would cut down on the density. The density, that’s the key.

Mrs. Wade - Of course, that density is not so different from a lot of other places in the County. In fact, it’s lower than a lot of places in the County.

Mr. Gregory - As a matter of fact, if you look at your statistics at Three Chopt, and you look at the ones in Tuckahoe, you wouldn’t have these kind of statistics at Laburnum Elementary, because the same statistics you brag about in terms of your “Nationally Acclaimed School System” are not being met there. So, my point is, why add a burden? What is the compelling thing about this project that would make you add a burden to those kids who already need help? That’s what I’m saying. What’s compelling? You haven’t seen anything? What’s the conceptual plan; nothing--slab. Are we that hungry in Fairfield for slab homes and these small homes that we need to sacrifice for our children? That’s my point. What is the compelling thing, when you’ve got a historical site that needs protection. You’ve got children who need protection. You have all of these things, all of these things that you take off that are negative. I haven’t seen anyone yet tell me “piece de resistance” that the County needs this. The community doesn’t want it. Nobody wants it, but Mr. Tingley. We understand that.

But in proper terms for the County, I just don't see what it is. Like I said, I listened to what your concerns were in other projects tonight. I mean they were towers, storage bins to make sure they had the right siding on them. I'm not making fun of that, but I'm saying, that's very important. I'm not in Fairfield with children... That's what I'm saying. What is so compelling about this when you haven't one conceptual drawing that says this is going to speak to the spirit of uplift of people who already feel beset upon. You know that. We all know that. One party count is another party count. And the only way it is going to merge together, everybody feels that everything about it.

I live in Richmond. I'm very proud of your County. This is a very wealthy County. It is doing very well. But you know, yourselves, you begin to see this, where do you live in Henrico, as opposed to Henrico? I'm saying that you have to stop the tide in terms of someone just thought, and Mr. Tingley thought, perhaps, that there wouldn't be concerned citizens here; that he could just not give you a conceptual plan and do that. But people are here and they listen and they're here and concerned. I hope that you won't recommend this plan, because you're not recommending for the betterment of people and tools and statistics that will adversely impact the health, safety, welfare and I can't think of anything more precious in our American system than our children. You look at the statistics. I have it here and this is your County records. Nothing the community made up. Your own statistics as to how overcrowded it is. You have nothing compelling about it. Nothing that looks good, sounds good, and doesn't meet the smell test about anything that's aesthetically or wholesome or good that this community wants because nobody wants it. That's what I'm saying, Mrs. Wade. Thank you, very much.

Mr. Archer - Mr. Gregory, before you sit down, let me, first of all, I'd just like to say, I'm sorry that the relationship between the community and Mr. Tingley got off to such a bad start because you can almost feel the animosity in the air. But a couple of points that I'd like to clear up. This is just in the interest of fairness, because it is our job to try and be fair to both sides of the argument.

In the interest of overcrowding of schools, every time we approve any subdivision, it has an impact on schools. The County School Board budget has just been approved. I forget the figure, but I do know that there are several million dollars that have been allocated to the construction of new schools. We, generally, as a rule, don't try to hold a developer responsible for what we can provide in terms of things like schools and education.

I don't know what has been shown to you in terms of a development plan. I don't know if you've even seen one. Have you shown them a conceptual plan at all, Mr. Tingley? Have they seen any pictures of those houses?

Mr. Gregory - You mean that little grid that he showed up here?

Mr. Archer - No. No. I'm talking his product; his house pictures.

Mr. Tingley - I had these photographs at the last community meeting. I don't know if many people stopped to look at them. But this represents another community that I worked on... These pictures were taken in sequence going down the road, just following around the cul-de-sac and everything, so that these are, market-driven home selections. These photographs were at the last public meeting.

Mr. Archer - Did everybody examine those?

Mr. Gregory - You know what the code word is, "Market Driven." What he's just showed you. This is a panoply of what I have built before, but it's no promise what he's going to build here. The key word is, "market driven." He will get what the market says. If I can build it, fine. If I can't, I won't." That's what I'm saying. Unless there's some insistence at this level, you don't know what you're going to get. That's why that was not presented as a conceptual plan for this community.

That's just like a developer telling you, "Well, trust me, this is what I built some place else. I have built this in Sea Island, Georgia. I built this in Palm Beach, California. But I have done." But what are you going to build here? That has not been done. It can't be done. And it won't be done unless someone insists upon it.

Mr. Archer - Mr. Gregory, let me just say this, and again, I'm just saying this in the interest of fairness, because I'm trying to some kind of a way to fight through the animosity that has been built up here. We do have to bring this to a conclusion.

Mr. Gregory - It's nothing personal. I don't know Mr. Tingley at all.

Mr. Archer - It might not be personal animosity, but I think we all up here can feel it. I just want to say that some of the things that you talked about, we have to approach them from fairness. Mr. Merrithew indicated he e-mailed his proffers. He really faxed the proffers. That's not an unusual thing for us. We've had probably faxed proffers on every case that we've had up here tonight. It wasn't e-mailed. It was faxed. In fact, I received a copy of it yesterday. We had an opportunity to meet with Mr. Tingley on Tuesday. So, we've only been able to do whatever we've been able to do in the span of two days. Of course, I apologize for not having it closer to the time, we may have met before with you tonight.

Mr. Gregory - It was deferred twice.

Mr. Archer - And that's the reason why.

In talking about the things that he builds, the only thing that we ever have from any contractor that we can go on is we do have some semblance of what he has built before and the type of homes that he markets.

Staff and I have tried to make an effort with Mr. Tingley to make sure that he upgraded all of the things that he said to you in his last letter to you of what he would build. I think we did that to a large degree.

We talk about things like concrete slabs. I'm sure you know there are a number of homes in the existing community that have concrete slabs. That's certainly not a degradation of concrete slabs. Mr. Tingley likes to refer to them as "floor systems."

Also, with regard to the foundations. I have driven through that community extensively. A large majority of the houses do not have brick foundations. They have cinderblock foundations. Many of them are painted. But, in his case, he has proffered to have brick foundations. Brick foundations, generally, on slab are eight inches. He has proffered to make his 16 inches. So, he has, in all fairness, made a significant effort to try and improve what he did show you the last time that you all talked.

Obviously, we either ignored him, or we haven't gotten close at all to resolve any of what we're trying to do here. We have always considered the rights of both sides when we make a zoning case. We have a person here who has land who wants to sell. We're going to say to him that you can never sell this land unless you put something there that the people in the community agree for you to have? I don't think it would be fair to do that.

And in terms of the zoning that is contemplated for this particular location in the Land Use Plan, this Plan is well within what the zoning would allow. Now, I don't know how we could convince anybody of what product Mr. Tingley would sell? But I don't think that we should treat him any differently than we do any other developers that are here that come before us.

Also, I want to say that, you know, this is for my constituents in Fairfield. We don't intend to let Fairfield be any less than any other part of Henrico County. You know there are some things that have already happened in Fairfield. Fairfield is a large district in terms of people. We can't hold anybody else responsible for what has already occurred. We can't hold Mr. Tingley responsible for the fact that Laburnum Elementary School is already over crowded. So, you know, there are some things that we have to give him in fairness so that we can make a decision, not based on emotion, but based on whatever the pertinent facts are to this case and how he plans to address them.

I just want to say that because, again, I want to say it in the interest of fairness, and just not beat up on Mr. Tingley. I know you don't intend to do that.

Mr. Gregory - What's your take in terms of addressing the historical protection of Montrose and the Civil War...?

Mr. Archer - Well, staff and I went over that; Mr. Merrithew, Mr. Tingley and I, to quite some degree on Tuesday. That was the reason why the additional buffering, which is all treed, wooded buffering was put in next to Montrose, and why the stipulation was made that none of those trees could ever be cut. It was also; the community would be designed so that all of those houses would back up to Montrose; and none of them would face Montrose. There would be no street between Montrose and the houses on the back side down Tamiami. There's not a lot more that you could do to buffer it except just to say, "Well, we won't build anything next to it."

Ms. Dwyer - If I may make a comment, too, Mr. Gregory. You mentioned the issue of transition. One of the things that we always look at in a zoning case is what's surrounding the property. I've driven through it also, and there's R-5 multi-family in a large section adjacent to this piece of property. So, going from a multi-family to single family to Montrose would be a very good transition in terms of land use. Because you're reducing the density, going from multi-family to single family, presumably home ownership versus apartments. So, that would be viewed as an optimal transition between those two land uses. And the R-4A is not the highest density, by any means, on this zoning map as I look at it. In fact, the densities are actually much lower in the R-3 range. So, I just wanted to point that out because you were concerned about transitions. We're always concerned about that, too, on the Commission. And this appears to be, as I look at the zoning map, a good transition.

Mr. Archer - Mr. Gregory, I have one more question and then we'll do something with this. You indicated that the houses; it seems to me the biggest concern would be the quality of the houses that would be built here? Is that what concerns you?

Mr. Gregory - The quality of the people moving in. A higher priced house would bring a better quality person.

Mr. Archer - I understand, sir, but we try not to make decisions based on quality of persons, because we don't have any idea of what that might be. What I would like to say to Mr. Gregory. You know, if you look at what's offered first, and contrast with what he has proffered tonight, I can't help but say that he's made significant strides in trying to get to where we need to be. The major concern seems to be the quality of houses in the neighborhood. You know, I had hoped that we were going to be able to reach a decision on this, tonight, because I'm really tied of deferring it to be honest with you and probably shouldn't. But I would like, if you think it's reasonable, for you and myself and Mr. Tingley and staff to get together and look at the houses; the houses he proposes to build and see if that would, in some way, satisfy what it is you're trying to accomplish.

Mr. Gregory - Well, I certainly welcome it. The thing, again, as I said, in the staff report, it started with so much promise, and it fell in terms of presentation. But, I think it sent a very powerful...tonight. It says, "Because of the viability of the existing neighborhood, it says, "marginal." While that new construction cannot simply reflect what is already on the ground, staff feels the design issues raised above effect more than visual aesthetics for the neighborhood, but also its long term viability as a marketable residential community? What is it saying in terms of all the things you talked about Fairfield and "water under the dam" and things that Mr. Tingley...No. I quote what you said. You said that, Things have already occurred." Those kind of things. Perhaps, what I thought the staff was trying to raise the bar to, now let's begin to look at how we can stem the tide. You know exactly what I mean, the clustering that has occurred. "Okay, now this community seems to be going a certain way. I think I can do this by not even giving you a conceptual plan? I can come in and give the bear standards; concrete slab." You say, it's an improvement? That's like someone hitting you in the head with a hammer, and they stop. It does feel good that they stop. I don't think I'd be thanking them. They still hit you in the head with a hammer.

Mr. Archer - I understand, sir.

Mr. Gregory - It started so low. I mean that's tactics. You start so low, and then you say, "I gave you something. Look what I gave you." You gave nothing. Because if you had something proud to give, conceptually, and I don't believe. I saw what you passed tonight. I looked at a plan and I saw the square footage that was required and how the communities work together. I didn't hear one project tonight where someone said, "Oh yeah, this came in today at 4:00 o'clock?"

Mr. Archer - You didn't?

Mr. Gregory - Let me finish. Let me finish, now. A lot of them came and you had to amend your rules. I heard that. But I didn't hear any come in where there were previous objections. What I heard was, "We worked with the community and we found some way to deal with things." Instead, what you're saying, we're supposed to be jumping up and down and happy because a person started with nothing, and heat something up. I understand. They may be satisfied in terms of Mr. Tingley doesn't have to live here. His children don't have to go to school here. These people here invested in their homes. They live here. To me, that ought to mean something. You mean you think they're just here because they want to stay out until 11:00 o'clock at night just because they don't like Mr. Tingley? My point is that, the point is, it's a people thing. The welfare of people. Of people. I'm saying what is the compelling thing about here? You said, being fair. I haven't heard anything fair about anything for the community. I'm going to be accused of beating up Mr. Tingley. I haven't heard anything fair at all to the community.

Mr. Archer - Mr. Gregory, I hate to interrupt you, but we've got several more cases tonight. I'm getting ready to make a decision.

Mr. Gregory - I'm finished.

Mr. Archer - I need to address a point you just made. The point that you made had to do with something that Mr. Merrithew wrote in his report about not just coming up to the standards of the community or something like. That was literally done, not in an effort to have Mr. Tingley meet the standards of the community. We wanted him to exceed it. That's why he stated that in that report, so that Mr. Tingley couldn't say, "Well, what I had is just as good as what's over here." We wanted him to be able exceed what's over there. I certainly hope you understand that my interest is always trying to find what's in the best interests...I'm just as interested in these people as you are. But you have to understand that, as a Commission, we have to give Mr. Tingley time to present his case and make a recommendation as to whether or not to go to the Board. We have to do that. That's why we are here. We do that for everybody that comes here. What I'm going to suggest is that Mr. Tingley, we're going to have to defer this one more time and this time it will be at my request. But I would like to meet with you and Mr. Gregory as soon as we possibly can, so you can see what the conceptual plan is that he has to offer. If the biggest concern of the community is that we address the standards of quality, then that would be your decision to decide whether or not we've done that. Because I guess what we're saying is that Mr. Tingley can't meet that standard, but perhaps somebody else can come in and do it. I think we have to give him the same opportunity to do that as we would anybody else. So, with that I move deferral of this case for how are we looking at July?

Mr. Silber - June or July?

Mr. Archer - I'm sorry, June.

Mr. Silber - June 11th.

Mr. Archer - To June 11th. Can you meet with us, Mr. Gregory?

Mr. Atkins - Mr. Chairman, would you make sure that Mr. Tingley puts handbills out to all of the community. There are about five civic associations. I never did get one notice. I live in that community. I can tell you the vacant houses in that community.

Mr. Archer - Mr. Atkins, I understand it. It's really not his responsibility to put the handbills out, but we need to wrap this up. I'm telling you now that we're going to meet with Mr. Gregory and Mr. Tingley. There will be no handbills for that meeting, but the next meeting on this case will be on June 11th.

Mr. Atkins - You mean, Mr. Tingley is not going to meet with the community, just going to meet with...

Mr. Archer - Is Mr. Gregory your representative for the community, sir?

Mr. Atkins - Yes.

Mr. Archer - Okay. And I don't mind if some other members of the community would be there, but we've already had, I believe, two meeting with the community and they were

entirely fruitless. So, I think at this point in time, we need to meet with Mr. Gregory and a couple more representatives. If you'd like to be along, sir.

Mr. Atkins - Please. Because I live in that community. Those 1,100 square foot houses...I can...

Mr. Archer - I understand, sir. That's my motion.

Mr. Vanarsdall - I second the motion. But before we have the vote, I'm going to ask Mr. Gregory something. Mr. Gregory, weren't you concerned about the density?

Mr. Gregory - I was. I am.

Mr. Vanarsdall - So, we're talking about fewer houses and that will take care of some of the problems and schools.

Mr. Gregory - It certainly would.

Mr. Vanarsdall - Okay. Thank you.

Mr. Silber - Mr. Tingley, you have put together a very rough layout on the property. If this zoning does go through, you will have to, obviously, do something more detailed. Can you, perhaps, between now and the time Mr. Archer meets with you and Mr. Gregory, can you begin to put together something a little bit more definitive so the community has a better idea as to what your intentions are?

Mr. Vanarsdall - I second the motion, Mr. Chairman.

Mr. Archer - You can answer his question, Mr. Tingley.

Mr. Tingley - Mr. Silber, I wish I could say that it were that simple. That's done based on the aerial topography and the aerial topography is pretty critical on this. I will be happy to meet with the County Traffic Engineer, because one of the concerns that your staff raised was the access between Tamiami and Edgefield and where the entrance road would be. I'd be happy to have that meeting and see if I can't refine the conceptual plan a little bit. But, until, I have the rezoning, it's tough to really get the topography tied down. Does that; I mean I'll give you that...

Mr. Silber - I understand that. I just think, in fairness to the community, I think that you can begin to put something a little bit more on paper. Meet with Public Works and get what you need from them. Perhaps, you need an engineer to tie down some of the topes and start to pen to paper and get something a little more definitive. That's my recommendation. I'm not talking about detailed engineering, but I think something a little bit more definitive than what you've provided so far would be helpful.

Mr. Tingley - Yes sir.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Ms. Charlene Elliott - I'm sorry. I really need to please ask you to just hear me.

Mr. Archer - Ma'am, I'm sorry. But we have several more cases. All of these people have been waiting.

Ms. Charlene Elliott - I understand that and it's not my fault. But I would like you to please, please hear me. Just take a minute.

Mr. Archer - We'll give you one minute.

Ms. Elliott - Thank you, very much. One...

Mr. Silber - Could we have your name, please?

Mr. Archer - Ma'am, we need your name and address for the record.

Ms. Elliott - I'm sorry. My name is Charlene Elliott. I live at 5320 Tamiami Avenue.

Mr. Archer - Go ahead, Ms. Elliott.

Ms. Elliott - There's 87 homes currently in the Chamberlayne Estates; the area affected by this. Fifty (50) of those homes are on 15,000 square feet lots or larger. Now, he can tell you that they're going to build, sell their lots. My house sits square in the middle of two lots. There's no way of picking up my house and selling one, and keeping another. The square footage of my home, and half of the people here, is 1,800 square feet or larger. Yes, we have small homes in our neighborhood. But we are a community. We are a people. Would you allow this in your neighborhood? Would you allow this size lots in your neighborhood? How can you, in fairness say, its okay for our community, but its not okay for yours. Yes. I will speed up. My point is, 7,700 square feet, are tiny little lots crammed together; transition homes where people move in and out constantly. Instead of us having a secure neighborhood, we're going to have a transient neighborhood. That is unfair to the Fairfield District. I sat here and heard, brick homes here, 2,000 square feet, just like everybody else. That man who was over here in the corner, forgive me, I don't know his name. He has a 3,900 square foot home, brick. The person directly across the street from him has 3,900 square foot home, brick. The people who live across the street from me, 2,400 square foot home, brick. Granted, I have a smaller one compared to them. I have 1,800 square feet, brick. I'm not opposing Mr. Tingley as an individual. I'm fighting for the quality of my neighborhood. That's all I'm fighting for.

Mr. Archer - Thank you. I have to stop you now. I'm sorry. Thank you. Next case, Mr. Secretary.

Mr. Silber - Going back to the top of Page 4, the next request is a deferred case from the April 9, 1998 meeting.

Deferred from the April 9, 1998 Meeting:

C-8C-98 James Thornton for Virginia Center, Inc.: Request to conditionally rezone from R-2A One Family Residence District to O-3C Office District (Conditional), Part of Parcels 33-A-46 & 47, described as follows:

Beginning at the intersection of the eastern line of U.S. Route 1 and the southern line of Virginia Center Parkway; thence along the line of Virginia Center Parkway the following courses and

distances: N. 42° 28' 45" 65.43 feet to a point; thence N. 86° 02' 57" E. 314.85 feet to a point; thence along the arc of a curve to the right with a radius of 904.93 feet, a distance of 517.78 feet to a point; thence S. 61° 10' 03" E. 453.76 feet to a point; thence S. 23' 34' 34" E. 56.09 feet to a point which is the intersection of the southern line of Virginia Center Parkway and the western line of Battlefield Road; thence along the line of Battlefield Road S. 25° 19' 41" W. 71.80 feet to a point; thence continuing along the line of Battlefield Road along the arc of a curve to the left with a radius of 597.96 feet, a distance of 66.15 feet to a point corner with the lands of Womack; thence N. 4° 35' 32" W. 64.11 feet to a point marked by an axle; thence S. 81° 13' 45" W. 515.54 feet to a point; thence S. 12° 38' 59" E. 196.97 feet to a point; thence S. 66° 00' 27" W. 107.09 feet to a point; thence S. 81° 13' 45" W. 331.10 feet, more or less, to a point on the line between existing B-3 Zoning and existing R2-A Zoning (the "Zoning Line"); thence, along the Zoning Line, N. 5° 47' 19" W. a distance of 730.00 feet to a point; thence, leaving the Zoning Line, S. 86° 02' 57" W. a distance of 250.00 feet, more or less, to a point in the easterly right-of-way line of U.S. Route 1, thence N. 5° 47' 19" W. a distance of 35.54 feet to tie point an place of beginning, containing 11.78 acres.

- Mr. Archer - Is there anyone here in opposition? Are we on C-8C-98?
- Mr. Silber - Yes.
- Mr. Archer - I'm sorry. Any one here in opposition to C-8C-98? Thank you, sir.
Mr. Yolton.
- Mr. Silber - We're on C-8C-98.
- Mr. Yolton - Mr. Chairman, members of the Commission.
- Mr. Archer - Mr. Yolton.
- Mr. Yolton - We've gone through the preliminaries, haven't we?
- Mr. Silber - Yes. You're on, Lee.
- Mr. Yolton - This is a request for a rezoning of this site from the R-2A One Family Residence District to the O-3 Office District, with proffered conditions. Revised proffers were received from the applicant today at 4:15 p.m., and these are being handed out to you now.
- Mr. Archer - Were they E-mailed?
- Mr. Yolton - The Commission would need to waive the time limit to accept the amended and restated proffers. I'll address the proffers in just a moment. This case has been deferred, at the applicant's request, on several previous occasions, so this is the first public hearing we've had on this matter.

The property consists of 11.8 acres owned by Virginia Center, Inc., generally at the southeast corner of Brook Road and Virginia Center Parkway in the Fairfield Magisterial District.

This case has gone through some extensive revisions since it was initially filed. At this point in time, it is for a rezoning of only that portion of the property zoned R-2A. The proposal is to construct offices. And the Land Use Plan does recommend Office use for this site. I should note

that the 7.7 acre tract immediately adjacent to this property also is a pending case for Office zoning scheduled on tonight's agenda. That would be the next case. The adjoining case is called the "Womack property."

As you can see from the staff map, the south side of Virginia Center Parkway is currently developed as mostly single family homes. This includes the Battlefield Acres Subdivision and the Stonewall Glen Subdivision. The only exception is the Bundle of Joy Child Care Center located at the end of Francis Road, next to Route 1. Therefore, one of the important aspects of this case is to try to ensure that it will be compatible with the surrounding neighborhoods to the south and east.

To the address the issue of compatibility, the applicants have had several meetings with the residents in this area. They have submitted an array of proffered conditions regarding building setbacks, access, landscaping, screening and buffering, exterior building materials, and others.

Its important to note that the property would be developed under the restrictive covenants that apply within Virginia Center. The restrictive covenants control a variety of things such as architecture, signs, landscaping and so forth. In general, this helps to ensure the high quality of development that is characteristic of Virginia Center.

The proffers have been revised to address nearly all of the suggestions contained in the staff report on this case. At this point, there are only a couple of concerns about this request. Virginia Center is marketing this site so there's no specific site layout or elevations available for what might eventually be built. The applicants have indicated that a total of 120,000 square feet of office space is being contemplated for this site. They've indicated that they need the flexibility to build a four-story building, which is why the request is for the O-3 District, versus an O-2 request.

Staff feels that the site can accommodate 120,000 square feet. However, a proffered condition to that effect would provide some assurance that there would be an appropriate amount of open space on the site, when developed. I believe, based on a brief conversation earlier this evening, that the applicants have a proffered condition to address this concern.

Also, staff would prefer that the lighting fixtures mentioned in Proffer No. 5b would be limited to 20 feet, rather than 25 feet.

Staff has worked closely with these two adjacent zoning requests to try and ensure that the development of these two sites would be coordinated. To that end, Virginia Center has proffered that there will be an access easement across their property available for use by the adjacent office park.

The two parties have also agreed on restrictive covenants that will ensure a comparable quality of development appropriate for the Virginia Center area. Short of a combined Plan of Development for the properties, the staff feels that the proffered conditions on the two cases will help to ensure a coordinated approach to development of these two sites.

In conclusion, staff feels the request could be improved with a little lower lighting standards, and a cap on the total square footage of office to be built. Otherwise, the request is reasonable. It is in conformance with the Land Use Plan recommendation. There is adequate existing and planned infrastructure to support the development. And it is coordinated to a satisfactory degree with the adjacent property. So, overall, staff would not object to the approval of this request. Mr. Chairman, I'd be happy to try to answer any questions the Commission may have.

Mr. Archer - Thank you, Mr. Yolton. Are there questions for Mr. Yolton by the Commission?

Mr. Silber - I have one quick question. Maybe the applicant can answer this. On Proffer 4a, Lee, where they talk about a 15-foot landscaped area along Virginia Center Parkway, the proffer permits the running of utility easements through that area. I don't see that it says in a perpendicular fashion. If it's run parallel, wouldn't that wipe out all of the landscape strip?

Mr. Yolton - That is something that they certainly might want to consider that, if there are any easements with that buffer area, they would generally be perpendicular to the buffer area. I think that is kind of a standard term that is used in this type of proffer.

Mr. Silber - Perhaps, they can address that.

Mr. Archer - Okay. Any further questions? Thank you, Mr. Yolton. Mr. Thornton.

Mr. James Thornton - Mr. Chairman, ladies and gentlemen, my name is Jim Thornton. I am here, tonight, with Daphne Shifflett, who is Development Director for Virginia Center, Inc., and with Jerry Firstman, who is the President of Figgie Properties, which is the parent corporation of Virginia Center.

Virginia Center is the developer of the Virginia Center Office and Corporate Park at Route 1 and Virginia Center Parkway in Glen Allen. Virginia Center has a 50-year commitment of long term quality development of office and industrial buildings in this location.

If you look at the materials I've handed to you, you'll see pictures of the Pittston Headquarters, the Technology Park, the Maintenance Warehouse, and the Bergen-Brunswick Building; all examples of the type and quality of development that Virginia Center has brought to the County in this location.

The proposal, tonight, concerns 11.75 acres at the corner of Virginia Center Parkway and Route 1. The preliminary engineering on this site, based on the approved traffic study for the entire Virginia Center development, and on an analysis of the space needs for parking and for detention areas, indicates that the property will support about 120,000 square feet of office space.

The preliminary site plan that you're looking at here (referring to slide), shows development in two 60,000 square foot office buildings; each of them with a 20,000 square foot footprint and a three-story height. But, as Virginia Center has gone into the market, the more significant users; the type of big corporate users that Virginia Center would like to attract to this development, and that the County would like to attract, are looking for a bigger footprint in an office building. They're looking for a 30,000 square footprint, so that they can consolidate more of their people on a single floor of an office building. So, the case before you gives Virginia Center the flexibility to go up to four stories of that 30,000 square foot footprint to meet that need.

Now, we've had several meetings with representatives of the neighborhood, and concerns have been raised about that fourth story. So, what Virginia Center has done to try and address that need is to offer, and you'll see this in Proffer 1, a 200-foot setback from Battlefield Road. As you look at the surrounding property, the only property that's residential use, or is likely to be

developed for residential use, is located to the east of this property, across Battlefield Road. So, any building above two stories will be set back at least 200 feet from Battlefield Road. Virginia Center has also proffered 75-feet of green space at Battlefield Road to further protect the Stonewall Glen residents across Battlefield Road.

Now, one of the goals of the staff throughout this process has been to try and get Virginia Center and Mr. Womack to do a better job coordinating their two developments. Virginia Center and Mr. Womack and representatives have worked together over the last few weeks to try to come to an agreement on that.

We have reached an agreement on various aspects of a coordinated development. The most important of which you'll see in Proffer 3, which is a cross-access between the two properties.

Virginia Center has committed to grant an easement at the time of the initial plan of development approval for Virginia Center's property; an easement for the Womack property across the Virginia Center property to Virginia Center Parkway.

The reason for that timing is, Virginia Center wants to be sure that its site is properly engineered so that when that road is located, that it won't inhibit the future development of Figgie property; won't result in sloppy placement of buildings, unnecessary cut and fill, and similar problems. So, that is the reason behind the timing of granting that easement.

The other condition to granting the easement, and use of the easement, is that the connector from the access easement over to Battlefield Road will be put into place before that easement can be used. The reason for that is primarily for the protection of the neighborhood. Virginia Center has a concern that its tenants not have the temptation or the incentive to cut down through Mr. Womack's property to Francis Road, and then drive through the neighborhood to get to Battlefield or to Telegraph Roads.

So, with that agreement in place, the County is assured, at full development of the two sites; the Virginia Center site, and the Womack site, that there will be a coordinated cross-access arrangement between the two sites.

The proffers also address several other things. Mr. Yolton mentioned most of them. The limitation on the square footage was something that was raised with us this evening, and hadn't been raised as an issue before. And, at this time, since the engineering on the site is so preliminary, Virginia Center is willing to proffer that the property won't be developed in excess of 150,000 square feet, unless traffic studies are first performed showing no degradation in the service of the surrounding roadways.

It may be that, given the current traffic situation, the traffic reports that are in place now, that development up to that level may not be possible. But at this time, we're not in a position to commit to a lower square footage than that.

As far as the perpendicular cuts through the landscape area, Virginia Center has no objection to that and we'll be happy to add that to the proffers.

Mr. Yolton also mentioned the lighting fixtures. We have proffered a 25-foot height limit. But we've also proffered a maximum illumination at the property boundary line. So, given the topography of the site, the buildings on the site will almost certainly be quite far away from the residences. And that, combined with the limitation on the illumination at the boundary lines

should be protection against any type of side glare. The type of lights have already been proffered.

Probably the most important proffer is No. 8 which brings this property under the Virginia Center restrictive covenants. It's those restrictive covenants and Virginia Center's exercise under their rights that have brought the quality development that you've seen out of Virginia Center over the years. And it's that type of long term commitment that has caused the County to designate Virginia Center as one of its prime economic development sites.

According to the Comprehensive Plan, preservation of prime economic development sites is critical for maintaining balanced growth in the County. And the Comprehensive Plan gives several strategies to meet that goal. Linking jobs and housing. Making sure that people live close to where they work to cut down on commutes, cut down on sprawl. This project meets that requirement.

Encouraging large mixed-use development. Taking advantage of the developer that will take a large block of land and look at the big picture. Taking advantage of the developer that will look at the long term. Taking advantage of the Virginia Centers of the County.

In short, this is the right use for this property. It's in the right place. It provides a good transition from the more intense uses on Route 1 to the residential across Battlefield Road. It's what the Comprehensive Plan says the County wants, where it says the County wants it.

We respectfully urge that you waive the time limit on the proffers and that you recommend approval of this case. I do apologize for the lateness of this last set of proffers. The substance of these proffers hasn't changed for several days. We've been trying to get Mr. Tokarz comfortable with the wording on a couple of them. I'd like to save any time I have left for rebuttal. I'd be glad to answer any questions.

Mr. Silber - One minute.

Mr. Thornton - Okay.

Mr. Archer - Thank you, Mr. Thornton. Are there questions of Mr. Thornton by the Commission?

Mr. Vanarsdall - Mr. Chairman, did we have any opposition to this case?

Mr. Archer - Yes, we did. We had one gentleman.

Mr. Vanarsdall - Thank you.

Mr. Archer - Mr. Thornton, with regard to the height of the lights, is that a burning issue? I'm being facetious.

Mr. Thornton - Not really. We just felt that, given the distance and the additional proffer limiting the illumination at the boundaries of the property, that those proffers would protect the neighborhood.

Mr. Archer - Mr. Yolton, can you give us an indication as to why you feel more comfortable with 20 feet than 25 feet?

Mr. Yolton - Well, as we'll learn in the next case that's coming up, the applicants on the adjacent property have proffered a 20-foot level for their lighting standards. So, for the sake of consistency, which is kind of what we've been trying to do with these two projects, I thought it would be appropriate if they also limited their height of their lights to 20 feet. That was, essentially, the reason.

Mr. Archer - Good reason, Mr. Thornton, I think, don't you.

Mr. Thornton - Yes. We do. We think it's a good reason. ...It sounds good to us.

Mr. Archer - Thank you so much. Are there other questions by Commission members? Mr. Secretary, I think he did mention that he would be willing to proffer, I forget whether he said perpendicular or parallel for the easement?

Mr. Silber - I think I heard that.

Ms. Dwyer - One question I had has to do with the screening of the refuse container. Could that be an E.I.F.S. enclosure? Under your restrictive covenants, I don't see anything relating to materials that would limit that.

Mr. Thornton - As far as, you were talking about the screening. It conceivably could be. It says, "Such enclosures shall be constructed of materials which are the same or complementary to the primary material." Would you like to limit materials on that?

Ms. Dwyer - Well, I think, generally it's a good idea not to have the E.I.F.S. material as the material used for the dumpster enclosure, because it could be easily cracked and chipped and have holes poked in it. So, something more substantial I think is appropriate for that.

Mr. Thornton - Okay. We have no objection to that change.

Ms. Archer - Thank you, Ms. Dwyer. Any other questions? I believe we had someone who wanted to speak in opposition. Come on up, sir, please. State your name.

Mr. Tony DeMartino - I am a resident of the Stonewall Glen Subdivision that is adjacent to the parcel of land being discussed. I'm one of the many residents who participated in several meetings with Virginia Center. I'd like to start by saying thank you to the staff, counsel, and Virginia Center for taking into account the concerns of the residents in the area. Several meetings have taken place and have been very productive in revising these proffers. The residents are now very aware of the County's Land Use Plan for this area to serve as an Office buffer between Route 1 and the residential area. Particularly bothersome to residents, especially those of new homes in the area, is the fact that we were led to believe that these were originally planned for residential development at the time we purchased our homes. While the meetings regarding Office development have been productive, the residents do still have outstanding concerns regarding rezoning from R-2A to O-3, with O-2 usage. There are additional issues regarding the following case, C-23C-98, that do relate to this case as well.

A significant number of residents who live adjacent to this property, in the Stonewall Glen Subdivision do not enjoy the prospects of a four-story, 65-foot office building looming on this parcel. With the development of this land and the adjacent parcel, including an access road, a

four-story building becomes readily visible from residential property as it would be located near the peak topography of the site. All plans presented at the meetings indicated thus far, three-story buildings with a height of 50 feet, much less visible from residential areas, given the proposed buffers and adjacent buildings that will be constructed.

While a four-story building may be more marketable, at this time, there is no four-story building of 65-foot height within Virginia Center, including Virginia Center Commons Mall.

Another issue pending is traffic along adjacent roads; specifically, Route 1 and Virginia Center Parkway. We'll address other roads when we discuss the next case. These roads currently experience significant back up, specifically on Route 1 from Virginia Center Parkway to the I-295 off ramp, and west bound on Virginia Center Parkway. The additional traffic associated with building in this area does raise concerns regarding when improvements will be made to these roads and when the traffic and access to residential areas will be addressed.

Looking at an office building when you expect to see a residence is a bitter pill to swallow. In this case a first-class office development is much preferred to large apartment buildings, and we appreciate the opportunity to express that and appreciate the fact that Virginia Center has listened to our requests. Thank you.

Mr. Archer - Mr. DeMartino, before you leave, I've heard from several of the residents out there with regard to being told when you bought your residences that the area would be residential, even though the Land Use Plan stipulated that it was designated Office. Who exactly was telling you that?

Mr. DeMartino - Teal Building was who we purchased our homes within Stonewall Glen.

Mr. Archer - And they were assuring you...

Mr. DeMartino - They said that the land was to be developed as residential. At that point, I can only presume that they were basing that it was zoned residential at that time.

Mr. Archer - Okay. Thank you.

Mr. Silber - Perhaps, also for your information, when a plan of development comes forward, they will be required to submit more details to you on how the property across the street can be treated. There is a large landscape strip in there, and a Landscape Plan would be required, too. So, we would encourage you to participate in that process.

Mr. DeMartino - For this case, as well as the following case, they've made that very aware to us. I think there's a number of residents looking forward to that.

Mr. Archer - And I also would like to commend you and your community for the way you participated in this. We've had a lot of meetings on this. You've done well.

Mr. DeMartino - Thank you.

Mr. Archer - Thank you. Any other questions? Is there rebuttal, sir? Good morning, by the way.

Mr. Silber - He has one minute.

Mr. Thornton - Very quickly, I definitely reciprocate Mr. DeMartino's sentiment that the meetings have been very cordial, very civil, and we appreciate the way the neighbors have gone through this process with us.

The one issue on height, I think Mr. DeMartino is correct. If you have a building that's looming over you, that's a problem. But just because the building is four stories, doesn't mean it's looming over you, if it's set far enough back. And that's where we think the 200-foot setback comes in.

The Zoning Ordinance requires a building above 45 feet next to residential to be set back 100 feet, and an additional 6 feet for every 10 feet of height. So, in other words, an additional 12 feet in this case. We're setting this back an additional 100 feet. So, we feel we have gone the extra yard to try and reduce the impact of the taller building on the adjoining residences.

Mr. Archer - Okay. Are there any further questions? I guess we're ready for me. I've heard from several people who resided in the area over the past few weeks concerning meetings that have been held with the two projects, I guess I should say. The major issues that have come up seem to be the ones that always come up. Having to do with traffic, and in this particular case, also having to do with drainage, which I understand that you don't really have that much to do with it at this point. The other was the four-story building. I've had some calls from people, today, who were concerned about the four-story building, but not overly concerned about it. They were commendable to you for the way they've been treated in the past dealings.

I think it's an issue that we probably do need to research a little bit further. I guess what we'll do with it is, I'll make our representative on the Board aware of the fact that it is a concern. But I don't think I would let that stop me from recommending. So, it is my motion to recommend approval to the Board of C-8C-98. I'm sorry. If we'd gone a few more minutes, we wouldn't have had to waive the time limits.

I move to waive time limits on the proffers.

Mr. Zehler seconded by the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). As I was saying, I will let Mr. Thornton know, so that he can share that with the Board, about the concern on the four stories, but in any event, I move recommendation of C-8C-98 with the restated and reconditioned proffers as stated tonight.

Mr. Archer - Motion made by Mr. Archer, seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mr. Archer, seconded by Ms. Dwyer, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the proffered conditions and grant the request because it is reasonable; it reflects the Land Use Plan and future use and zoning of the area; and the proffered conditions will provide appropriate quality assurances not otherwise available.

Deferred from the April 9, 1998 Meeting:

C-23C-98 **Ralph L. Axselle, Jr. and Andrew M. Condlin for Andrew & Kelley Mulcunry & Milton E. & Brenda S. Womack:** Request to conditionally rezone from R-2A One Family Residence District to O-2C Office District (Conditional), Parcels 33-A-41 and 41A, described as follows:

Parcel 33-A-41A

Beginning at a monument on the west line of Battlefield Road at the NW corner of the intersection of Battlefield Road and Old Francis Road; then S. 41° 40'57" W. for 39° .30' to a rod; then S. 84° 32' 38" W. for 148.96' to a iron pin; then N. 4° 01' 02" W. for 391.15' to a rod; then S. 84° 46' 41" W., for 200' to an iron pin; then S. 4° 15' 54" E., for 175.46' to a rod; then S. 84° 32' 45" W., for 100.1' to an iron pin; then S. 3° 50' 51" E., for 216.51' to a rod; then S. 84° 32' 38" W. for 3.82' to a rod; then clockwise along an arc with a radius of 477.1' for 135.03' to a rod; then N. 79° 15' 50" W., for 102.30' to a rod; then N 15' 13"E for 129.8'to a rod; then N O' 44' 11" E., for 45.93' to a rod; then S. 87' 31'57" W., for 137.41' to a rod; then N. O° 44' 11" E., for 210.08' to a monument; then N. 87° 30' 30" E., for 284.55' to a rod; then N. 72° 13' 39" E. for 107.09' to a rod; then N. 6° 24' 51" W. for 196.97' to a rod; then N. 87° 33' 18" E., for 515.54' to a rod; then S. 1° 44' 01 " W., for 64.29' to a rod; then along the west line of Battlefield Road in a counterclockwise direction along an arc with a radius of 597.96' for 246.19' to a monument; then S. 1° 42' 41" W. for 289.14' to the point of beginning; said parcel containing 7.247 Acres more or less.

Parcel 33-A-41

Beginning at a point on the north line of Old Francis Road 106.26' west of its intersection with the west line of Bundle of Joy Lane; then N. 15° 15' 13" E. for 129.83'; then N. O° 44' 11" E. for 45.93'; then S. 87° 31' 57" W. for 137.41'; then S. O° 44' 11" W. for 145.48'; then S. 79° 15' 50" E. for 106.26' to the point of beginning; said parcel containing 0.459 Acre more or less.

Mr. Archer - Is there any one here in opposition to C-23C-98? Okay. Thank you. Mr. Bittner.

Mr. Bittner Thank you, Mr. Chairman. I'll just reiterate what Mr. Yolton said a few minutes ago. Staff's preference with this and the adjacent case have been to have it come under one rezoning umbrella.

Also, with this case, you'll notice those three parcels that are kind of surrounded by the red area (referring to slide), which are not part of the case. Staff would prefer those to be involved as well. We have just not been able to achieve that. You can't force people to want to rezone their property.

So, we've done the next best thing. We tried to create adjacent office developments that are consistent, compatible with one another. We've done that through a couple of avenues. One is, establishment of covenants. Virginia Center has a set of covenants, I'll refer to this case as the "Womack Case." Womack has literally taken Virginia Center's Covenants and taken them word for word, with a few minor changes that pertain to their specific property.

There are two substantial differences. I'll just outline those here quickly. For Virginia Center, any storage of material or equipment must be done within an enclosed building. For Womack, they

would have to have storage done within an enclosure. Basically, the difference meaning Virginia Center has to provide a roof over it, and Womack would not.

The second difference between the two sets of covenants, Virginia Center cannot have temporary buildings on their property. Temporary buildings are trailers, tents, shacks, and so forth not related to construction activities.

On the Womack covenants, they would be allowed to have these temporary trailers, tents, and shacks, and so forth.

The second way that we tried to coordinate as best we can in these cases is with the access issue. Womack has proffered that they will provide, prior to receiving a "CO" or Certificate of Occupancy, that they will grant an access easement to the adjacent property, so that we can coordinate access between the two developments.

Before I go any further, I forgot to mention, we do have new proffers, tonight. And the time limit would need to be waived. They came in earlier today.

On the access issue, specifically, to the Womack property, they are: No. 1, proffering no access or direct access to Old Francis Road. They are planning on having an access to Bundle of Joy Lane; the idea being that future workers in this office development may want to take their children to the Bundle of Joy Daycare Center.

However, staff is concerned that could, perhaps, become the primary access to this property; thereby, sending traffic through the adjacent neighborhood to get to it. So, to alleviate that, the applicant has proffered that they will construct an access to Battlefield Road prior constructing the access to Bundle of Joy Lane. Thereby, insuring the primary access, we feel, would be from Battlefield, because you would have to make two more turns to get out to Bundle of Joy as opposed to Battlefield.

Just real quickly, let me check here, there are two deficiencies with the proffers outlined in the staff report and I'll just touch on those quickly. Under Proffer 2, staff suggested there be buffering; some type of visual protection along these three properties that aren't a part of the case. The applicant has not proffered anything beyond what the Code would require, which is a 10-foot transitional buffer.

Staff also suggested that open space be maximized. The applicant has not proffered any specific percentage of open space. However, they have proffered 40-foot landscape buffers along Battlefield Road and Old Francis Road.

Staff and the applicants for both of these cases have worked hard to try to coordinate them as best as we can. Even though it's not the ideal situation, we feel we've taken it about as far as we can. At this point, staff would not object to approval of this case. I'd be happy to answer any questions you may have.

Mr. Archer - Thank you, Mr. Bittner. Are there questions for Mr. Bittner by the Commission?

Ms. Dwyer - Do we have a limitation on the number of buildings square footage?

Mr. Bittner - No. We do not.

Ms. Dwyer - Do we have any conceptual layout plan?

Mr. Bittner - No.

Ms. Dwyer - I didn't see one. I guess I asked that. I'm particularly concerned, given the shape of this parcel, which looks more like a jigsaw puzzle piece than a parcel that is appropriate to be developed for a large office building. And without a conceptual plan, or anything, it seems like it might be a premature case. You didn't address the shape of the property. That really stands out to me, in your staff report. So, I was wondering how concerned you were about that?

Mr. Bittner - Well, we agree. As I said, the ideal situation on all this property in that quadrant bordered by those four roadways is to be under one case, or development proposal which just hasn't happened in this case. We are concerned that development; the layout of this property could be difficult; would be awkward so to speak. We just can't bring those other three properties in it. Mr. Womack, of course, wants to move forward. They have proffered some buffering along the neighborhood. We suggested along those three parcels in the middle there, but Mr. Womack has declined on that.

Ms. Dwyer - How would you get to that section on the west? I guess you'd go through that narrow piece there (referring to slide).

Mr. Bittner - Well, perhaps, but, as we've said, there are access easements being proffered between the two developments that they're going to try and coordinate.

Ms. Dwyer - So, it might come from the Virginia Center property? Good. Okay.

Mr. Archer - Any further questions for Mr. Bittner?

Mr. Vanarsdall - I have the same question I usually have. Where did these proffers come from and what's the date of them?

Mr. Bittner - That's a blackline version. The official version is in the file. I just gave you these so you'd have something easier to look at up there. The date is today. They came from Andy Condlin.

Mr. Vanarsdall - Dated today?

Mr. Bittner - Yes sir.

Mr. Vanarsdall - I suggest you all watch the dates on these things. The date's important, particularly dealing with legal matters. Thank you.

Mr. Archer - Actually, the date was yesterday, now. Mr. Bittner, what was your concern about the need for improvement of buffering on the three sides, I believe you said? What would you recommend?

Mr. Bittner - We recommended the same buffer that was along Old Francis and Battlefield Roads. It was a 40-foot landscaped buffer designed to visually buffer the adjacent residential areas. These properties are residential.

Mr. Archer -

Okay. Any further questions? Thank you, Mark. Mr. Condlin.

Mr. Andy Condlin -

Mr. Chairman, members of the Commission, my name is Andy Condlin. Bill Axselle is not a part of this case. I apparently lasted longer than he did, so. I've got, and if I may, I don't know whether it's the preference that I just showed on the camera. I've got some handouts if you want. I'm not going to call it a conceptual layout. I would please caution, it does show the Virginia Center property; the B-3 property, the new layout for the Virginia Center property. I think we received that at our last neighborhood meeting, which I think it was Monday or Tuesday. It wasn't in time for our architect to take a look at and change. So, the Virginia Center access, their layout is a little different, but we still wanted to get the feel for the overall development of these two properties.

You can see that there's a road that runs, Ms. Dwyer, from Bundle of Joy Lane. It's our 50-foot easement for the adjacent properties; the White's and the Hall's, otherwise running from Bundle of Joy Lane out to Battlefield Road. That would be the primary access for that western site.

To start, and also, I've got Mr. Womack here with me. I would like to commend the neighbors. Everyone and Virginia Center and the staff, everyone has worked very hard to provide a consistent development. I think, we've achieved that between Virginia Center and Mr. Womack's property.

We've had multiple meetings with the neighbors, including two overall neighborhood groups. All in all, I think what we've proffered here is a first-class office development, guaranteed by the proffers to diminish the impact on the surrounding properties; including a 40-foot buffer surrounding Battlefield and Old Francis. Sixty-five (65)-foot building setbacks at the request of the neighbors. Two-story height limitations; joint access; other limitations on access and other proffers commonly expected of first-class, quality office developments.

The neighbors I don't believe have any significant concerns or any concerns, for that matter, with the specific proffers, the specific details of the case, itself. I believe their concerns, as you've heard them, relate to the existing, potential drainage and traffic problems. Otherwise, their concerns are with the office use. I believe, and I would like to correct Mr. Bittner on one aspect. I think he said that we proffered that we would build the Battlefield Road access.

Our agreement with Virginia Center is, and I'm going to summarize here, but, basically, if they need it for their development, if its required by the County for a second point of access, that they may need otherwise, that they have the right to build it. They can build it to any point they want, but before we can get on the property, I mean the road can already be there by the time we get to the property and build any office buildings.

Also, to address another point, as to why we're coming in now, because it seemed premature. One of the concerns, of course, both of these were listed in the Land Use Plan for Office Development. One of the concerns in the Goals and Objectives is to have a large scale tract development and a transition in use of both properties. We felt that we would lose the ability; and I don't want to use, to have leverage on Virginia Center, to provide access to Mr. Womack and to provide use for their BMP's which they also agreed to allow us to have mutual development of the properties unless we also went with the rezoning now and impacted on their rezoning to show that we could rezone the properties together.

We approached the Whites and Halls. They have not expressed concerns to us. I don't know if they've expressed concerns to anyone else about this development. They're elderly. They

have no interest in changing their way of life. They have some concerns about rezoning their property Office. They didn't want to be involved in that. That's where we stand today with the knowledge that, again, they haven't objected and being able to develop with, and obtain the benefits of the development with Virginia Center in common with them.

What you see on your screens before you is just again, a best guess, based on the studies that have been done now, what our architect has shown on there is three small buildings that would be separate buildings that are, again, limited to two-story in height because of the request of the neighbors.

I think, as you know, this property borders on B-3, and, of course, residential. I think it now will, hopefully, be O-3 on the other property. This is an O-2 request and it's a classic transition between B-3 unconditional heavy business zoning and residential. The classic transition is an office use. I think we've got this transition here. We're setting the precedent now for this particular property.

The Land Use Plan calls for Office. Staff agrees that it is an appropriate use. I do believe this is the highest and best use. With this transition and with the development of Virginia Center, it will provide the highest and best use of this property. It's consistent with the Land Use Plan, the Land Development Guide, the Goals and Objectives. I would respectfully request that you waive the time limits for the proffers, which, I might add. I forgot one point was that, again, these were not substantive changes. I needed to take more English classes. I think Mark took more than I did. We talked about some of the languages of those changes, but substantively they're all the same. So, I would request that you recommend this for approval to the Board of Supervisors.

Ms. Dwyer - So, you're not proffering this as a conceptual plan with the case?

Mr. Condlin - No ma'am. There hasn't been enough work done, quite frankly. Mr. Womack, at some point, down the road, might develop one of these buildings, but he's also waiting for the White's and the Hall's to bring in. Because, as you can see, the corner of Battlefield and Old Francis, we debated whether we even wanted to show a building on there. The architect said, "Yes." There's not going to be, but you can see that property he doesn't own, and that's really not where he'd be looking. Any development I think would be on the other side of the 50-foot easement, or on the western parcel which I think is large enough. The architects told us they can put approximately between 25,000 and 35,000 square foot buildings. More like 25,000 and 30,000 shown on there.

Ms. Dwyer - Did you proffer no parking within the building setbacks between Old Francis and the buildings?

Mr. Condlin - No ma'am.

Ms. Dwyer - So, you could have parking within that building setback outside of the buffer?

Mr. Condlin - Yes ma'am.

Mr. Archer - Mr. Condlin, somebody mentioned earlier a limitation on the square feet in the building?

Mr. Condlin - Yes sir.

Mr. Archer - Have you considered it?

Mr. Condlin - That's never been brought up. I will be happy to try to address that with our architect and engineer. I know that we could proffer something. I just can't stand here and tell you what that number would be, because I haven't talked to Mr. Womack. It's never been brought up as an issue on our case.

Mr. Silber - Mr. Archer, is your concern, in asking that question, the actual square footage or is it the height of the building, or is it ground coverage?

Mr. Archer - Well, I understand that it wouldn't be any more than two-stories. I was just concerned about how big of a building we're talking about at some point.

Mr. Condlin - I mean, you know all the requirements – the green space requirements. Otherwise, and the landscaping. You've got the 40-foot down there. I mean with the parking requirement for an office development, there's only; and what he's tried to do is build a maximum amount here. The number he's showing is 56,000. It's got to be around that number somewhere.

Mr. Archer - I do understand you've got to make it fit.

Mr. Condlin - Yes. You've got a lot of requirements. They try to juggle this. Our architect, I told him to whip this up yesterday to make the changes. This is the numbers he came up with. I don't know how exact they are. Again, I can't stand here and say what the number will be, but I'd be happy to address that before the Board of Supervisors meeting.

Mr. Silber - Another way of addressing it, though, unless it is in the proffers, but I don't see it, is to have a percentage open on the site. Get the minimum coverage, if you will.

Mr. Archer - Mr. Condlin, what about the issue that Mr. Bittner raised in terms of preferring some improvement on the buffering? Is that something you can address now? That and the issue with open space?

Mr. Condlin - Well, I can address it, but not to your satisfaction. I would say the open space requirement was the same issue and with the buffer. We had considered combining buffers around and had talked about, and I think I had planned on that, around the White's and the Hall's. But we've added the 40-foot and 65-foot setbacks. Again, the property, with the expected use and the resulting no objection from the White's and Hall's with what we have provided, and that, you can only fit so much. It's a small piece of property, regardless of whether it's like a jigsaw puzzle or not. It's a small square footage. There's only so much space. We didn't think we'd have that great of an impact on the White's and the Hall's.

Mr. Archer - Okay. Any body else have questions? Thank you, Mr. Condlin. I believe we had some opposition. Come right up.

Ms. Phyllis Lee - Good evening, or morning, or whatever it is to Mr. Chairman and the ladies and gentlemen of the Commission. We would like to request to have our time to 12 minutes, if we could. Is that okay?

Mr. Archer - Why?

Ms. Lee - Because it's late. My name is Phyllis Lee. I'm a real estate agent. They have asked me to give a professional opinion and I wanted to limit my time to two or three minutes and then give them their 10, since they are the actual homeowners.

Mr. Archer - Okay. That's fine.

Ms. Lee - I was asked by Mr. and Mrs. Clifford to give a professional opinion on whether or not this proposed use of the property directly across from them would adversely affect their property. I sell both commercial and residential real estate. So, I will speak from that venue.

In this particular case, where this property is located, you have homes where people had originally purchased them because it was a sleepy area of Henrico County. You all know that. Many people who have their homes there have been there for years. They have been very familiar with having wildlife, birds and quiet. Well, growth has to occur and growth did occur in the northwestern corridor.

However, what we have to look at in real estate is whether or not the Cliffords and these other folks are going to be able to sell their properties and offer that same quiet enjoyment to potential buyers of their property. The answer would be, "No."

As a broker of commercial and residential real estate, when you have a property where you have commercial or a business-type use, whether it is office/service or retail office, is better than retail, but still, it is part of the business machine. You have the opposite side of the road; residential. You have two adverse parties automatically.

The business machine is looking for business; energy, noise, excitement. That's part of why we make money in our economy. The residential buyer, or the residential person who is trying to have quiet enjoyment of their home, is looking to get away from the madness. You look to do that when you go home. They want to kick their feet up.

I would invite you and any one else in this room to simply go out that door and look across the courtyard. There's a two-story building. It's brick. But, look at it. It's about 65 feet give or take from the door of this building. Would you like to be in your living room and looking across at that? I think not. It matters not that the proffers suggest that there will be 20 feet light and half candles and trash being moved at certain times. That matters not. Because when you come home, you're still looking across the street at what you see when you look across the courtyard.

I have a written statement that will end what I have to say concerning this. I'd like to read that now. "These folks, the Clifford's subject property which is located at 915 Francis Road directly across from his proposal offers approximately 3,000 square feet. It has a unique layout and architecture that make it a property that would be much appreciated by a discriminating buyer who is seeking a property that offers the charm and the grace of a bygone era, since this house was constructed in 1924 and then moved to the site. One would only need to visit the site. One would only need to visit the property and its charm is apparent. This is a property that truly fits the description of "Home Sweet Home." And when the Cliffords sought their dream home, they found it at 915 Francis Road. The area has changed in the past six years, and many of the wonderful attributes of the area, such as the native wildlife, flowers and plants are gone. But the

feeling of home is still there. This is obvious since there's new construction with the Links, Stonewall Glen, and the amount of apartment homes in the area. Growth is good, but if it is the right kind of growth.

The wildlife in the area had no say when the shopping mall and other developments, including some of the residential developments displaced these native residents, changing their 'home' forever. However, to commit this same lack of regard for homeowners in the area is a real tragedy. Many of the homeowners on Francis Road are elderly and would have a very hard time replacing their current residences should they elect to sell their property.

Since most homebuyers today work with an agent, most would not buy 'home of supposed quiet enjoyment' directly across from or even on the same street of a one-story, two-story, three or four-story office building.

The additional traffic in the area, I've heard some glowing remarks about access roads. Well, you know as well as I do, that if you're late going somewhere, you're going to look for a short cut. Unless the County of Henrico is willing to put money to have a 24-7 police officer there, checking everybody coming down Francis Road and saying to them, "Are you coming from the daycare center or are you coming from the office park?," I don't think anyone can say that an access road is going to, by any means, keep heavy traffic from Francis Road.

A lot of the residents there still take neighborhood strolls. Needless to say, the executive late for a business meeting may not be sensitive to the fact that his office building is situated just there in a neighborhood.

Finally, economically, these homeowners will be greatly impacted. Enough with the emotion. Since their properties would now be directly across the street from a commercial office building, the selling price would be adversely affected. Why? Well, privacy, cars, traffic, pollution, etc. The list goes on. Today, buyers are not going to pay top dollar for property with these types of potential problems. So, residentially, the County, by going forward with this action, would be directly or indirectly taking money out of pocket of the citizens.

As a realtor of residential and commercial properties, I can assure you, this action would adversely impact the residents of Francis Road. The two, commercial and residential properties very rarely find common ground economically, particularly on a seesaw when you have one side that's commercial; one side that's residential when the very buyers in their agendas are in direct opposition to one another.

We are listening to the noise of the business machine. That's good. Okay. But, with the residential buyers who is looking to call home, home, they're not interested in the noise, folks. They just want a little peace and quiet. This is highly unlikely when you have an office business across the street. Besides, if these two property types could co-mingle so well together, we would not have a zoning panel to oversee these things in the first place. Think about it."

Ms. Clifford - Well, I guess it's good morning. My name is Gloria Clifford, and my husband and I are here tonight because our property is directly across the street from the proposed possible future building. We have lived in this home for six years. We have two children. We have lost one of our children while living in this home.

There are memories that no other home in this world would ever give us, in the loss of our daughter. There are gardens we planted together. There is no way any home could duplicate

from what I'm seeing, that there's nothing that the individual has any right to say about it. I mean we can stand here and say, "We don't like it." But it looks like it's going to go anyway.

Mr. Archer - Thank you, Mr. Clifford. Are there any questions from any one from the Commission members? Mr. Condlin, I think you have some rebuttal time.

Mr. Silber - Three minutes.

Mr. Condlin - I'll make it quick, unless you have any questions. The height limits on these are limited to two-stories or 30 feet in height, which is actually less than what you'd put on residential on this property. The access, I know we've talked about it, but I know, again, we cannot access Old Francis Road, which is not a big deal because we can ultimately access Bundle of Joy Lane which is a public right of way that leads to Old Francis Road. But we can't access Bundle of Joy Lane until the access is provided to obtain access as a primary access out of Battlefield Road. Just logic would dictate that. Yes, traffic is going to impact on them whether it be residential, office or otherwise. But, at least, we're making the effort, as best we can, to what's termed a "collector road.." and Battlefield Road. We've been put on notice by the traffic engineer's report that improvements are going to have to be made to Battlefield Road. Mr. Womack is prepared to assist with the traffic problems as best he can. Otherwise, Public Works says that the traffic can be accommodated that would be generated by this facility.

I don't need to tell you all, I know commercial is not residential. A lot of people think that. This is Office. It's an office building. You all know what an office building is. Not too many people out there right now, I don't think this is a loud area. Office is a good transition between unconditional B-3 and other residential zoning, certainly next to an office development that is proposed for Virginia Center when the two can work together to help alleviate some of the access problems. That is all I have unless you have any questions.

Mr. Archer - Mr. Condlin.

Mr. Condlin - Yes sir.

Mr. Archer - Do you think you could improve in any way on the buffering across from the residential area?

Mr. Condlin - The 40 foot?

Mr. Archer - The 40 foot, and a 65-foot setback?

Mr. Condlin - I mean I could talk to our clients about it. I think 40-feet; I didn't bring any statistics to look to see which office developments have provided 40 foot buffers. I think that's pretty substantial, considering. You all, Randy, might know better than I which ones have. Again, I think, for this type of office development, with the two-story height limitation, we're going to be proffering some sort of square footage limitation to the property overall. If the staff requires I need the particular section, I think a 40-foot buffer is pretty substantial. We've talked about that. We feel like most of the neighborhoods are pleased with that, both on Battlefield and Old Francis.

Mr. Silber - I think it depends on the circumstances, Mr. Condlin. One that comes to mind right now is one that we're dealing with, "The Overlook" off of Sadler Road, which is similar in that it's an office development. Across the street is residences; single-family

homes. I believe, in that case, that buffer is, I guess Mary Wade and Elizabeth Dwyer know, 65 to 75 feet?

Ms. Dwyer - The buffer? The buffer is 70 feet.

Mr. Silber - Seventy (70) feet.
Ms. Dwyer - And then the setback is probably at least 200 feet.

Mrs. Wade - It's up closer to the road.

Ms. Dwyer - It's back up against Nuckols Road.

Mrs. Wade - It's three or four stories.

Ms. Dwyer - It's a very tall building. It's huge building. It's much taller than this.

Mr. Silber - Right.

Mr. Condlin - There's also a utility easement. I forget what kind of easement, but actually not quite perpendicular, but it takes a pretty good swath through that area was one of the concerns in that case, if I remember. I won't tell you which side I was on in that case.

Ms. Dwyer - Let's not open that "can of worms."

Mr. Silber - But I do think 40 feet in this circumstance is...

Mr. Condlin - I agree. ...Like we did the GID case. In the Office/Service we had a 125-foot buffer. That's not unheard of. That was across Parham Road. But, I'm just saying, the regular buffer, I don't believe and I don't want to mislead you and say, "Yeah, we'll look at that." We've looked at it quite a while. We worked with a small working group. Of course, we didn't ask for any commitments saying, "Well, give you this." Again, it's just my perception that most of the small working group were pleased with, and I don't think they would argue with the details of the 40-foot buffer.

Mr. Silber - I think a lot of it depends on how you treat the buffer. I think 40 feet is minimal. I think it could be greater and I think it could be treated in a fashion, either with a large berm or berm and landscaping, so you really do protect the neighborhood.

Ms. Dwyer - Also, you are allowing the potential for parking between the building and the buffer. So, even though you have a 65-foot setback, you've got cars bumping up against that 40-foot buffer, then that makes a big difference, too.

Mr. Condlin - We could, and I'll commit to proffering, particularly with the building that is the western portion, there can be no parking between the setback and the building, you know so the building will be on the setback. If that's a primary concern on Old Francis.

Ms. Dwyer - If you waited, would you have a better idea of exactly how you might design the site?

Mr. Condlin - If we waited, there's no immediate plans. I mean it's a number of years. What prompted this was, they were both set up for, in the Land Use Plan, for the Office and the concern for access. Virginia Center had access across our property. We felt like we couldn't have a zoning case unless we were able to access Virginia Center Parkway and provide access relief. The way we felt we had the most leverage was in the zoning case and bringing the two together. I literally feel, and I know Mr. Archer felt in the middle sometimes. But, I know I can honestly say I don't think that would occur unless the fact that we brought the zoning case now.

Mr. Archer - Well, Mr. Condlin, I guess what concerns me is that, the staff report mentioned the need to improve the buffering. And, of course, the Cliffords, who spoke out tonight, certainly have shown an indication that something needs to be done. Without having any kind of plan in place right now, we just feel kind of naked sitting here without having any concept at all of what might occur on here. Maybe we can help the situation some by putting some of these things in place.

Mr. Condlin - Sure.

Mr. Archer - ... prior to your building concept.

Mr. Condlin - Is most of your concern on that western portion, I guess? Mr. Womack says we can bring the buffer to the setback line on that portion of the building, so we're not going to be able to put anything in there anyway. He can't put parking in there. We could bring that to the 65 foot.

Mr. Archer - Can you tell us what that equates to in feet?

Mr. Condlin - I'm sorry?

Mr. Archer - Can you tell us what that equates to?

Mr. Condlin - The setback is 65. We would be bringing the buffer back to that line.

Mr. Archer - Okay. So, you're willing to proffer that, then?

Mr. Condlin - Yes sir.

Mr. Archer - Any Commission members have other questions?

Mr. Condlin - And that would, if I may, I asked the question. I guess I didn't get a feedback. It would only be on the western...It wouldn't be on the Battlefield Road?

Mr. Archer - I think that the western side; the side that's adjacent to the residential area is what we're concerned about.

Mr. Condlin - Well, it's all adjacent to residential, I guess.

Mr. Silber - I guess I'm talking about two sides.

Mr. Archer - We're talking about may be more than one side then.

Mr. Condlin - If I may, Battlefield Road, we marked for the residents. Along Battlefield Road, there's a particular crest of a hill that's pretty intense. We marked for them the 45-foot buffer actually goes well beyond – It goes beyond the crest of the hill that provides along Battlefield Road that would be parallel with that. We feel like the topography on that side of the land would provide enough of the buffer for those folks who are across Battlefield, particularly with the improvements we'd have to make.

Mr. Archer - Is there any way that you can think of that you can enhance it? Do you have something in mind that you might be doing to enhance the buffer?

Mr. Condlin - Do you mean by berms?

Mr. Archer - Berms, plantings and so forth?

Mr. Condlin - I think we proffered enhanced landscaping in those areas in the 45-foot, what otherwise that's beyond the Code. I know that there's been some concern with the language of what's enhanced over, I guess, the minimum standards required by the Ordinance otherwise.

Mr. Archer - Does that answer your questions, Mr. Secretary? If you're not satisfied, tell me.

Mr. Silber - Did I hear him say 45-feet along Battlefield and 65-feet along...

Ms. Dwyer - Is that an addition to building setback, buffer in addition to building setback?

Mr. Condlin - Well, our building setback now is 65 feet, so we would take away the building setback, because that eaten up by the buffer.

Ms. Dwyer - Sometimes we proffer that buffers are in addition to building setback is what you're saying?

Mr. Silber - I think, in this case, he's simply saying that they would move the building setback requirement, so they would provide a 65-foot buffer area. The building could be at the edge of that 65 feet. It's not in addition to.

Mrs. Clifford - Battlefield Road right now has trees all around it. It's a crest. The road runs in the middle and the hillsides are up. On one side of Stonewall Glen is where the new houses have been built. The other side is Mr. Womack's property. There are woods there. They will have a natural buffer right now. On Francis Road where we are, especially, there are two trees on this property that may be are 20 feet tall. There is nothing in between. What could be put there that would give us privacy. We will have no privacy. There are no trees, unless they can bring in 20-foot trees and plant them across Francis Road. There is no way that we, as residents, are going to have privacy.

The neighbors on this street, as this gentleman was saying, he said they were in agreement. They're not in agreement. They're not in agreement with this. It's not just us. The other people are not in agreement with this whole rezoning issue.

Mr. Archer - Mr. Condlin, can you respond to that, please?

Mr. Condlin - Yes sir, I would agree that along Battlefield Road is a heavily wooded area. You can barely walk through it. And I have tried to walk through it. On Old Francis, I would agree. There is a house there now. It's a front lawn. I would state that the 65 feet, now that we've committed to proffering it, would be appropriate in this area.

As to the adjacent neighbors, I can only tell you; again, I represent, of at least what I thought, from the meetings both from the working group which most of the representatives, including some of the folks on Old Francis Road were, had asked for, and seemed happy with and voiced no objection to the 40-foot setback at the time of the proffers as we've submitted them. I mean I can only represent that there was no objection. Again, we never asked for a commitment to say, "Please give us support." We asked for details. I think we have a very well proffered case here, as well as a proffered case as we could get.

Mr. Silber - I would think, Mr. Archer, the late hour and the difficulty of not knowing exactly whose at what position, I think the staff is even challenged here by coming up with the appropriate distance. I would think if you want this case to go forward with the other case that was heard before it, we may want to come up with our best guess and continue to work on this before it goes to the Board of Supervisors.

I would think that, on the Francis Road side, where the visibility is greater, you would want to have to a greater buffer there. I would think you would also want to have a berm that would do a much better job of screening the parking and the building and on top of the berm or landscaped as a part of the berm, would be additional plantings.

On the Battlefield Road side, I am aware that is more wooded. You do have some elevation of topo that may provide some additional screening and protection. Of course, there may be someone here that would like to speak also as far as to that distance. But I think 45 feet there would be more appropriate. But, I'd like to reserve the right to look at this closer between now and the Board of Supervisors.

Mr. Condlin - I'll be happy to commit to provide, as we said, the enhanced landscaping, to provide the details of the landscaping. Trying to get you comfortable, and I'll say trying to get the neighbors comfortable, but I don't think, no matter what, I don't think its going to occur. I think their issue is with the use, as opposed to these particular issues. I don't think we're going to satisfy that. Again, I would say that no one seemed to object and no one seemed to bring up; and there were some people who had some zoning experience in the working group, that the buffer wasn't big enough; that it wasn't going to be landscaped well enough. I think the majority of the neighborhood and the surrounding area. It's such a late hour and I know people have left, otherwise, did not like the use but didn't seem to object to the particularities of this case.

Mrs. Wade - O-1, of course, in the Ordinance, it's provided to be more compatible with single-family residential than O-2. Sometimes other things are done about residential buildings and decreased site coverage and I don't really see that here.

Mr. Condlin - No ma'am. I don't have the Ordinance in front of me and I can't speak to the allowed uses. But, we have limited it to two-stories in height. We have, I think, put some substantial proffers in about the buffers, and the setbacks and about the use of the property, about the access. I don't think we would gain any different benefit from an O-1 versus an O-2. Off the top of my head, I don't know the O-1 Ordinance requirements.

Mr. Archer - Any further questions?

Ms. Lee - Mr. Condlin is saying, "the neighbors." There are two neighborhoods over there; Stonewall Glen; two sections. The new section that is going up at Virginia Center Parkway and at Battlefield, and the original section which you can see behind the Bundle of Joy. Those neighbors, yes. They looked at some of the proffers and came up with some exceptions. But the neighbors who are in Battlefield Acres, where the Cliftons live and half of the people who were elderly who had to leave tonight because they could not stay for this meeting. They are directly in front of this proposed office building, are not for this at all.

I heard him say that Mr. and Mrs. White and Mr. and Mrs. Hall, I believe it is, that they are for this. They are not for this. I have heard through hearsay that folks say, "Well, we'll just wait on them to get the property." These are elderly people. What is this "wait on" talking about? Wait on for the people to get tired? Wait on for people to die? I don't know and I don't care. But I cannot let go to record that the Battlefield Acre residents are in full majority agreed with this proposal. They do not.

They seem to support that building, that one, that one, those two, that one, that one, and that one (referring to slide), even though they don't like that either. But they do understand growth. But those buildings, as you can see, off of Route 1, Virginia Center Parkway and even off of Battlefield because of the natural thick woods and what not there, are not as impacting, even though it is impacting to a point.

That one sitting right there in the middle is going to impact at least three to four houses immediately and will impact the whole street. Because right now, the neighbors can't walk on that street in the morning, dropping off the kids, and at 5:00 o'clock because parents are rushing so they don't have to pay extra money. Adding an office space directly in front of those people, just for the sole advantage of Mr. Womack to take the advantage of Figgie. Figgie is a big elephant. You can hide behind a big elephant. But these folks are the little elephants. They don't have Figgie to hide behind. I encourage you; and I applaud you as Henrico citizens, yourself, to think about what I said. Go out that door and look across the courtyard and imagine what these people are seeing. Decide whether or not you want to let Figgie Corporation join Mr. Womack to get together to do this, because this is going to be a tragedy that the County is going to have to live with.

These are your citizens. They've been here for 30 years, some of these people. One man out there said his wife had a heart attack and he couldn't even stay here. He had no business being here from his wife in the first place. So, no, the neighbors don't agree with this. I don't think they have a problem with any of this other stuff. But that building right here (referring to slide), does not need to be smack dab in a residential setting. Pretend you're a bird and go up and look down and you will say to the bird, "Why am I seeing an office building smack dab in between houses on four sides?"

Mr. Archer - Thank you, Ms. Lee.

Mr. Condlin - I know it's late. I apologize. But I feel like I need to respond to that. I made a point of never saying, "They support." I made a point of never saying that they voice no objections. We talked, specifically, and presented a plan to the Whites and Halls. I may have said, but never intended to say they support it, nor did I ever say, Old Francis.

I will say the small working group, which had, what, 10 people from the neighborhoods, which Mr. DeMartino was a part of. I never said he supported it, but they were included, families from Old Francis Road. The meeting we had Monday night, also included most of the families on Old Francis Road. This is the first I've – I know they didn't support the Office use, necessarily, but, you know, again, the details; I never said they supported it. I just thought I'd clear up the record.

I can only say, again, that this is an Office use making a transition. We're making an effort to protect those. But, again, an office use is not a commercial use. It is an office use and I think its appropriate for this area. It is consistent with the Land Use Plan.

Mr. Archer - Thank you, Mr. Condlin. I think we probably heard enough discussion on this tonight. Prior to now, I have been aware of the small working group that has been talking to me, anyway, and giving me information concerning this project. We had a hard time; I shouldn't say a hard time; had some difficulty getting the two sides in this case to work together. We did want to bring this together as one case.

I have talked with Mrs. Clifford some time ago. Sometime ago you called me. I'm very sympathetic to what your situation is. I have to defer also to the Secretary's warning that, there's a lot that has been heard here tonight that needs to be taken under advisement between now and the time this goes to the Board. I wish this were easy, but its not. But, in any event, we had tried to bring these two cases along together. I think they still need to be handled that way, but I will caution you, Mr. Condlin and Mr. Womack. This is probably going to be a very hard sell between now and the time it gets to the Board. You probably will need quite a bit of tweeking. But for the sake of the fact that there have been so many meetings held and we finally got the two companion cases together so that we could try and move this forward, including the Secretary's reservations, I will move to advance this to the Board with the admonition that it will probably be difficult to get. I'm sorry. I have to waive the time limits. I move we waive the time limits on the proffers.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). I also move to recommend C-23C-98 with the aforementioned reservations to the Board.

Mr. Zehler seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 3-2 (Mesdames Wade and Dwyer voted no.) This will come before the Board, when, Mr. Secretary?

Mr. Silber - June 10th at 7:00 p.m.

Mr. Archer - Mrs. Lee, will you be prepared to make a presentation at that time? That's when the Board will meet.

Mrs. Lee - Yes. I will.

Mr. Archer - Okay. Good.

REASON: Acting on a motion by Mr. Archer, seconded by Mr. Zehler, the Planning Commission voted 3-2 (two noes and one abstention) to recommend that the Board of Supervisors accept

At this point, staff is recommending or can support approval subject to certain conditions. Those conditions, basically, limiting the size to 10 pool tables; allowing food service, but not alcohol on the site; screening the exterior trash containers from view of the adjoining residential streets; two other conditions related to public safety. That would be the visibility of the business; the inside of the business from the street for police purposes. Meeting with the police to talk about crime prevention techniques. Requiring that customers leave the premises immediately upon closing. And stipulating what has always been a fact that, if they increase crime, loitering or what have you, increase problems in the area, that their Provisional Use Permit can be revoked. With those conditions, staff could support a recommendation of approval.

Mr. Archer - Mr. Merrithew, on Condition No. 4, it says, "No window facing Lakeside Avenue and providing visibility into the business shall not be permanently covered." Shouldn't we eliminate the word, "not" in there?

Mr. Merrithew - Yes.

Mr. Archer - Okay. It kind of negated itself, didn't it. Any questions for Mr. Merrithew?

Mr. Zehler - Is there sufficient parking?

Mr. Merrithew - That is a question I have asked the applicant to determine, and I have not gotten a response back. They do have parking down the side and at the rear. They haven't gotten an actual count. They are going to restripe the parking lot. So, at this point, I can't answer that question.

Mr. Archer - No further questions?

Mr. Zehler - What would be required in a billiard parlor situation like this?

Mr. Merrithew - Well, there's no specific number for billiard parlors. They, I believe, are going to ask for a written determination because, by first blush, we would consider them the same as a dance hall, or what have you, with no fixed seating and that would be one space per 100 square feet, which is pretty substantial. But I believe they're going to submit a request for a written determination on that.

Mr. Zehler - Being that close to the residential neighborhood, I wouldn't want to see a burden put on the residents.

Mr. Merrithew - Parking on the neighborhood streets and so on. There will be no parking on Dumbarton or Lakeside.

Mr. Archer - Okay. Mr. Moore.

Mr. Moore - Yes sir. Mr. Chairman, members of the Commission, my name is Glenn Moore. I'm here with Mr. William Payne, who is the operator of the Lakeside Cue Lounge, and has operated for several years.

As Mr. Merrithew as stated, this is really just an attempt to relocate an existing business. It has to relocate because the space in which the billiard parlor is being operated is being removed for a Rite Aid Drug Store. He's lost his lease and he's got to move. He's found this space. He's going

to be leasing from David and Bobby Axelle, who own a service station a few doors away from this site. They own the building and are very familiar with Mr. Payne; his operation and are happy to lease the space to him.

So, what you're, basically, going to have is a billiard parlor that's been operating as a matter of right for a number of years that now has to obtain a Provisional Use Permit because of the change in the law in the early nineties. So, instead of just having the relocation of a billiard parlor, you have one that will be operated pursuant to the conditions that are imposed in connection with the Provisional Use Permit, and also the Provisional Use Permit is revocable. So, you have, I think in terms of protecting the community and the neighborhood and everyone involved, are in much better control over any potential problems with the Cue Lounge, but actually hasn't presented any problems. At least, from the standpoint of the Police in any event.

Let me try to address the questions; yes, about parking, Mr. Zehler. We've had a layout done by the architect. And I might also point out, again, that he's leasing this. So, we had to work through the landlord's architect. The landlord's architect has had a parking layout done and Public Works has looked at it. It looks like they can get about 24 spaces on the property when they restripe it. They'd have to angle the parking and it would have to be one-way coming in off of Lakeside going back towards that alley. They would have to improve the alley. There are a few things that would have to be done for that to work, but Public Works has indicated, preliminarily, that it can be done, and that 24 spaces can be provided.

There is a self-service laundry that's already in the building, and they would need approximately four spaces. So, that would leave about 20 spaces for the billiard parlor. As I read the Zoning Ordinance, you need one space per every 100 square feet of area devoted to the playing of billiards. The same thing is true of a dance hall. It's one per 100 square feet of area devoted to the dance floor.

It seems to me that excludes the area where you walk in and pay and your lounge—your restrooms and areas like that. So, basically, if that interpretation is correct, that means that he could have about 2,000 square feet devoted to the actual playing of billiards, and have sufficient parking. I think the important thing to remember here is that, we will have to obtain a Certificate of Occupancy for this use. In order to obtain that Certificate of Occupancy, we have to satisfy the Building Department that we have sufficient parking.

Mr. Zehler - How big is the building?

Mr. Moore - It's about 5,000 square feet.

Mr. Zehler - Well, you've only got what a third of an acre?

Mr. Moore - I can show you a layout.

Mr. Zehler - An acre is 210 feet by 210 feet. You've got 70 feet by 70 feet.

Mr. Moore - It's rectangular.

Mrs. Wade - Is this the parking lot, now?

Mr. Moore - Is there a parking lot there now?

Mrs. Wade - Here now?

Mr. Moore - Yes. Most of its paved.

Mrs. Wade - That's not part of Franco's parking is it?

Mr. Moore - This is a couple of blocks from Francos.

Mrs. Wade - When Franco enlarged there, they had to get some parking off site in order to meet their parking needs. It's up in the next block.

Mr. Moore - I think, with this layout, we won't need to get any parking off site. I think, actually, there's some probably available off site on the immediately adjacent parcel. But I don't think its going to be an issue. But, I do know, in order to get the CO, we have to satisfy the people who issue the CO that we have sufficient parking. Is that a fair statement?

Mr. Silber - I think we can deal with that at a later time.

Mr. Moore - I can present more, if you like, but I think, in this instance, I'll respond to questions. I will say that we had asked Mr. Payne to obtain; I've got some petitions here in support of this if you all would like to see that.

Mr. Archer - All the pool players.

Mr. Moore - Actually, I also have a note here which is also solicited by a woman that operated a beauty parlor next door for 17 years. "I couldn't have had a more respectable neighbor."

Mr. Archer - Okay. Any further questions for Mr. Moore? I don't think we had any opposition. I've been by this operation. Actually, I just sat outside for a while just to observe what was going on. I've been by there at more than one time of day. Essentially, what this means is, we're taking a business and moving it from one side of the street to the other. The fact that there's no alcohol served, and the fact that the crime in this area seems to be very low, and they close at 12:00 o'clock. I don't think it would be wise for us to take a community business that has been in existence for quite some time and close it. So, being that there are certain built in safeguards concerning this matter, my motion is to recommend approval of P-18-98.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

REASON: Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors grant the requested revocable provisional use permit, subject to the following conditions:

1. The business shall consist of no more than 10 billiards tables.
2. Food service may be provided to patrons but alcohol shall not be served.
3. The applicant shall screen any exterior trash containers from view of the street and the adjoining residence.

Mr. Archer - Thank you, Ms. Gardner. Are there any questions by Commission members for Ms. Gardner?

Ms. Dwyer - I'm trying to visualize how the car dealership would be separated from the restaurant, or would it just kind of all look like one operation?

Ms. Gardner - The applicant has given us a hand drawing of the property. I'm glad that you asked about that. It's not very clear on what you've got, but you see the main restaurant there and there is a dashed in area. That's the banquet room. It has a separate entrance on that side of the building.

For your information, Mechanicsville Turnpike is on the left on this drawing, as you look at the top of the page, you're going towards Richmond. As you go towards the bottom, you going towards Hanover.

Mr. Zehler - Is this an existing restaurant now?

Ms. Gardner - This is an existing restaurant. He wants to add a car dealership to the rear of the property. It's a very unusual mixture of uses.

Mr. Zehler - Where's the street?

Ms. Gardner - On the left. That's Mechanicsville Turnpike. The residential is on the right side of the paper.

Ms. Dwyer - So, there would be certain spots designated for used vehicles and then inside there would be...

Ms. Gardner - That's right. That "UV" is for used vehicles.

Ms. Dwyer - And then inside a portion of the building would be the sales office?

Ms. Gardner - That's right. The banquet room would be converted to a sales office. I've advised the applicant they would have to demonstrate to us that they have enough parking, both for the restaurant and for the car dealership, prior to occupancy.

Ms. Dwyer - So, you'd have two signs on the same building? That kind of thing – a sign for the restaurant and a sign for the dealership.

Ms. Gardner - Presumably, yes. Although, of course, in the B-3 the total face signage is limited to the amount of frontage and they don't have a great deal of frontage. I'm sorry. I don't know how much it is.

Mrs. Wade - I don't know whether there's a fence there or not. Oh yeah, it says there's a fence. A section of the fence is missing.

Ms. Gardner - It's probably a 35-foot buffer between B-3 and residential. Although, because it's an existing property and they wouldn't have to go through a full POD, we wouldn't be enforcing it. There is an existing fence.

Mr. Archer -
from the applicant.

All right, any further questions for Ms. Gardner? Okay. We'll hear

Mr. Yuen Y. Chin - Good evening, Mr. Chairman, and the Honorable Commissioners, ladies and gentlemen, my name is Chin and my brother, Ming, we are here to present the case and, hopefully, can address some of the concerns that you may have.

First of all, I want to emphasize, this is not a typical car dealership. We were in the restaurant business for 28 years. Since 1970, the Chin Yung Restaurant has been located successfully on Mechanicsville Turnpike, right next to Laburnum. We not only serve good food, but we also offer good services. I have been a very good citizen in Henrico County for many years. I own Chinese Express Restaurants throughout the Richmond Metropolitan area. My father and my brother own the Chin Yung Restaurant. But the fact is, the restaurant has not done so well in the last five years. We have new restaurants like Applebee's and Ukrops and different type of, not only the restaurants, but also the supermarkets that take a lot of business away from the typical "Mom & Pop" restaurant. Not only competing with the Chinese restaurant in the surrounding area, but the people taking food home and a lot more take out orders. The dining room is not really a place to be in business nowadays unless you open up a bar joint or maybe like Applebees that you serve cocktails. Unfortunately, we specialize in food sales, not liquor, so a lot of our dining room area is becoming very unusable, especially before 6:00 o'clock.

Yes, I want to apologize to Ms. Gardner. Some of the concerns were not addressed earlier. The operation of the hours; we're going to limit them to 6:00 p.m. Monday through Saturday. Because after 6:00 o'clock, the restaurant may get busy, but before 6:00 o'clock, we'd be surprised maybe five automobiles in the parking lot as a customer.

So, there is no conflict of the usage of the parking lot at any time. That, as you can see, is a common sense to offer to you. Just from a business point of view, there would be no conflict of operating hours to the fact that people do not show up at restaurants until after 6:00 p.m.

Secondly, I heard the concern about the signage. Please remember, we have a restaurant right next to the automobile dealership. But this is not a typical dealership that has 30, 40, 50 cars. We are only limited to 10 cars and two or three of them are employees cars which is required by the County. Okay. So, on the lot, we probably have eight or nine cars maximum at one time for sale. I doubt any people travel 10 or 15 miles to come to look at the automobiles because they don't have a lot of selection.

The reason that we want to have that automobile is because we feel like we can sell the cars and bring it in for our own employees, our relatives and friends. So, we are not a typical display dealership like most other dealerships that have 40 automobiles; 10 maybe the low grade; 15 of them medium grade, and then about 5 or 10 of them upper grade. We only have a few selected models in order for us to keep our customers to continuously coming to our restaurant. We want to keep up our reputation. So, we have to keep good automobiles on lot if there's any.

There will be no deliveries because we would physically drive the car to the lot. So, there would be minimum impact to the general area.

Mr. Dunn, a personal friend of mine, he had some concern about the development of this co-use. I have explained it to him that we are going to limit the amount of the automobiles on the site that's in the unused area, basically. If you go by that restaurant any time and you're welcome to check it out seven days a week a matter of fact. The parking lot, basically, is no usage at all. We are trying to offer this young gentleman an opportunity to make a better living

so they can continue to pay their taxes and continue to pay their notes on their piece of property.

I'm sorry that we had to bring this in front of you ladies and gentlemen, because once again, I go back to saying beginning sentences to survive. We just have found a way to match my usage of that restaurant which is over built. But by using that specific area and, remember we're not hiring any outside people to promote the dealership. We just try to find a way to sell an automobile and enhance the economic role but without obstructing the intensive use of the property.

We upgrade, yes, from B-2 to B-3C. Please remember this is just for a small portion of the property. It's not going to affect parking. It is not affecting the other neighbors. And honorables, please allow this opportunity and recommend this move forward to be approved. Yes, I'm late. I apologize for that. But the old Chinese restaurant saying, "First customer pays the light bills. The last one puts the money in your pocket." So, I didn't want to be late. I'm here because it gives me the opportunity to wish you have a good night. Thank you very much.

Mr. Vanarsdall - Mr. Chin, were you any kin to Tommy Chin?

Mr. Chin - He's my brother. At one time years ago, I opened up a restaurant on W. Broad Street called the Greet Wall of China. The Governor came because my first name is Thick Chin and he thought I was Tommy's son. My father worked with Tommy for many years at Joy Garden. I saw him last week. He's still doing well.

Mr. Vanarsdall - Joy Garden is still there.

Mr. Chin - He's still there, but he sold his restaurant about 12 years ago.

Mr. Vanarsdall - So, he was your father?

Mr. Chin - He was my father's employer. People thought he was my father because we have the same initial "T" as a first name. My first name is Thick Chin, so I try to hide the double chin. Anyone has a chin has thick chin, so I always tell people my first name is "T." Thank you very much for the opportunity. I certainly hope that you can support this, knowing that this is not the typical dealership. We just try to upgrade it a little bit so that we can utilize our people's connection to sell a few cars so that he can make a living and continue to pay the rent and carry on as a business. I thank you for your support. If there's any problems, any proffer that you see is needed to address the concerns to the citizens, the planners or Henrico County, we don't mind to be there to support and proffer to your satisfaction. Thank you once again.

Mr. Archer - Are there any questions of Mr. Chin by Commission members?
Don't leave yet, sir. No questions. Mr. Chin, I think you and I discussed this one time.

Mr. Chin - Well, my brother did.

Mr. Archer - Is that who it was?

Mr. Chin - Yes sir.

Mr. Archer - Okay. I can appreciate very much what you're trying to do.

Mr. Chin - Thank you.

Mr. Archer - And I need to say for the benefit of the other Commission members that right across the street from here, of course, we've been, for some time, trying to revitalize this area. That shopping center is being rebuilt. There's a Walgreens Store going in. They're going to rebuild the Family Dollar Store. I think there's going to be Video Store and maybe one more use. This is something that is much needed, I think, to revitalize the area, because that's a major intersection in Henrico that's very heavily traveled. To be honest with you, there are actually four used car dealerships within about six blocks. There's Davis Motor Company down the street. There's one across the street from it. Then there's a, I can't think of the name of it, but there are two down across from the – where the Big Lots Store is. I think your restaurant is a very fine restaurant. I've eaten in your restaurant.

Mr. Chin - Thank you.

Mr. Archer - But to be honest with you, with the number of used car lots that are already in that area; the fact that there are residences in the rear. There is new construction across the street. The cars that need to be tested somewhere. That is a very heavily traveled area and a very busy intersection. In my opinion I don't think it's a good use. And I really think it would actually detract from your restaurant. And the Board may see this differently. And you will have an opportunity to present your case before the Board on June 10th, I believe it is. I have too much difficulty in trying to recommend this for approval. So, my motion at this time, would be to recommend denial of your application.

Mr. Chin - Well, if you don't mind to offer me another five minutes for rebuttal, since you are the opposition.

Mr. Archer - No. I'm not in opposition.

Mr. Chin - Well, I feel that way. You don't mind to offer me another five minutes to address that concern. You know the economy. You know Mechanicsville Turnpike. I see very positive growth. I own 62 acres commercial land in Hanover County where Creighton Road comes to Mechanicsville Turnpike. I certainly can understand what the traffic impact is to your area. I've dealt with the Hanover Planning Commission and also Mr. John Hodges, on a daily basis, for many years. But the fact is, please remember the hours of operation. We are not opened up 24-hours a day. Since there's another four or five areas of automobile dealerships within walking distance, to add another eight automobiles, definitely is less than two to three percent of total retail used cars. Also, please remember, this is not a typical automobile dealership to compete with others. Most of the cars are presold before we bring them in. So, you know, instead of getting a license to see the car, we have only two or three cars at one time. But we have to get the license from DMV for up to 10 automobiles with the proffer in order for us to get the licensing in order to get the right to operate the dealership. So, please remember, we aren't trying to have a typical dealership in the general area, ladies and gentlemen. We are only going to have a small reputable dealership, mostly cars are presold, to sit on the lot. People maybe test drive it at that time. Most of the time we take it to them. Please forgive me to say that, but don't tell me, the people that don't have a license to drive the automobile and test their skill and DMV is not open. I mean you know, people driving the cars, they are skilled and licensed citizens. They have a right to test the car at any time anywhere. Because of that reason, Commissioner, the denial of this request I don't think is fair to the citizens.

Mr. Archer - Mr. Chin, I trust and believe in everything that you said.

Mr. Chin - Thank you.

Mr. Archer - But I still I don't think this is a good use for this area. And, again, our decision is not the final one. We simply make a recommendation to the Board. And they may see it entirely differently from me. But, based on the staff report, and the information that I have, and my personal observation, I just don't think this is a good use. Again, my motion is to recommend denial.

Mr. Zehler - Second, Mr. Chairman.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained). Mr. Chin, this case will come up on the 10th of June in this room, so you need to present....

Mr. Chin - In the meantime, if there's any recommendation maybe changing, you know some hours, or anything else, we have done most everything that the staff had recommended for us to do. Are there any additional recommendations from the staff that may be able to change this situation?

Mr. Archer - The staff would be glad to handle it.

Mr. Silber - You may want to get in touch with staff, maybe get in touch with Mr. Thornton, the Board member from the District. That comes up on the 10th of June.

Mr. Chin - Thanks very much. You have a good night.

REASON: Acting on a motion by Mr. Archer, seconded by Mr. Zehler, the Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors deny the request because it would likely set an adverse zoning and land use precedent for the area; it represents an increase in intensity which could influence future zoning and development of adjacent properties; and it would not represent sound zoning or logical land use practices.

Mr. Silber - The last item this evening, before we get to the minutes, that is, would be a discussion item. I think Lee Yolton will speak to this, but this is an initiation of Major Thoroughfare Plan MTP-1-98. This will initiate the study. This is in the Fairfield District. It's been requested by Mr. Thornton.

Mr. Yolton - We have a resolution that we're asking the Planning Commission to approve, tonight. I hope you got it in your packets. It would initiate this Major Thoroughfare Plan Study. I am not making any recommendation at this time. But we will do a study and come back to you on June 11th, at an advertised public hearing. Make the recommendation to you about the substitution of East Cedar Fork Road for Old Cedar Fork Road on the Major Thoroughfare Plan. At that time I'll have all kinds of staff comments from Public Works and Public Utilities and so forth and make a recommendation. This is just to initiate the Major Thoroughfare Plan and give us permission to advertise it for June 11th.

Mr. Silber - June the 11th?

Mr. Yolton - Yes.
Mr. Zehler - Do we need to make a motion on this?

Mr. Yolton - There is a resolution that I've prepared on this.

Mr. Silber - The resolution should be in your packet.

Mr. Zehler - I make a motion.

Mr. Vanarsdall seconded the motion.

Mr. Archer - Motion made by Mr. Archer, seconded by Mr. Zehler. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati abstained).

Mr. Silber - The last item would be the approval of the minutes. We have two sets of minutes.

Acting on a motion by Mr. Archer, seconded by Mr. Zehler, the Zoning Minutes of April 9, 1998 were approved as corrected:

Page 25, Line 1188 - The vote was 3 to 1 Mr. Zehler voted no.

Acting on a motion by Mr. Archer, seconded by Mrs. Wade, the Plan of Development Minutes of January 27, 1998 were approved as corrected:

Page 1, Line 26 - Should say, "pretty lengthy."

Acting on a motion by Mr. Vanarsdall, seconded by Mr. Zehler, the Planning Commission adjourned its meeting at 1:45 a.m. on May 15, 1998.

C. W. Archer, C.P.C., Chairman

Randall R. Silber, Acting Secretary

Last revised July 14, 1998.