

1 Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico,  
2 Virginia, held in the Board Room of the County Administration Building, Parham and  
3 Hungary Spring Roads at 7:00 p.m., on May 13, 1999, Display Notice having been published  
4 in the Richmond Times-Dispatch on Thursday, April 22, 1999, and Thursday, April 29, 1999.

5  
6 Members Present: Elizabeth G. Dwyer, C.P.C., Chairwoman, Tuckahoe  
7 Ernest B. Vanarsdall, C.P.C., Vice-Chairman Brookland  
8 C. W. Archer, C.P.C., Fairfield  
9 Mary L. Wade, Three Chopt  
10 Debra Quesinberry, Varina  
11 John R. Marlles, AICP, Secretary, Director of Planning  
12 James B. Donati, Jr., Board of Supervisors, Varina  
13

14 Others Present: Randall R. Silber, Assistant Director of Planning  
15 John Merrithew, AICP, Principal Planner  
16 Mark Bittner, County Planner  
17 Jo Ann Hunter, AICP, County Planner  
18 Judy Thomas, Recording Secretary  
19 Dwight Grissom, Director, Construction & Maintenance, Schools  
20

21 Ms. Dwyer - Tonight is our zoning night, and I would like to welcome each of  
22 you here who have come to witness a case or to participate in a case. We have members of the  
23 press. We usually like to recognize the press. Ms. Wagner in the rear. Any one else? Henrico  
24 County Line. Okay, Mr. Secretary, I believe everyone is here, except for Mr. Donati.

25  
26 Mrs. Quesinberry - He'll be late, but he'll be here.

27  
28 Ms. Dwyer - Okay. Well, let's proceed.  
29

30 Mr. Marlles - Madam Chairman, we do have a quorum. Before getting into  
31 requests for deferrals and withdrawals, I would like to ask Mr. Eric Lawrence to stand up. Mr.  
32 Lawrence is a new addition to the Planning staff. He was hired as a Planner III to replace Nancy  
33 Gardner, who is a very difficult person to replace. Prior to coming to Henrico County, Eric was  
34 with Frederick County for six years. His undergraduate degree is from Maryland, and his  
35 Masters in Urban and Regional Planning is from Virginia Commonwealth University. We're  
36 real pleased to have Eric. He will probably be appearing before you. I don't think tonight.

37  
38 Ms. Dwyer - Not tonight?

39  
40 Mr. Marlles - But probably starting next month with cases. And welcome, Eric.  
41

42 Ms. Dwyer - The Commission would like to welcome you also, Mr. Lawrence.  
43 We'll be putting you to work real soon, judging by the look of our agenda this evening.  
44

45 Mr. Marlles - We do have a number of request for deferrals and withdrawals for  
46 the 7:00 o'clock agenda, which Mr. Merrithew will cover.

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47  
48 Mr. John Merrithew, Principal Planner -Thank you, Mr. Secretary. Madam Chairman, we do  
49 have three deferral requests on the 7:00 o'clock agenda. The first request is in the Varina  
50 District on Page 1 of your agenda:

51  
52 **Deferred from the March 11, 1999 Meeting:**

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

59  
60 They have requested a deferral to June 10, 1999.

61  
62 Ms. Dwyer - Is there any one in the audience in opposition to the deferral of  
63 Case C-55C-98, the Southerlyn Case? No opposition to the deferral. Ready for a motion.

64  
65 Mrs. Quesinberry - I'd like to make a motion that Case C-55C-98 be deferred to the  
66 June 10<sup>th</sup> agenda.

67  
68 Mrs. Wade seconded the motion.

69  
70 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mrs. Wade. All  
71 those in favor say aye—all those opposed by saying nay. The vote is 5-0, (Mr. Donati absent).

72  
73 Mr. Vanarsdall - We would like to add, "at the applicant's request." When is it?

74  
75 Mr. Merrithew - June 10<sup>th</sup>. Thank you. The associated case with that, C-56C-98:

76  
77 **Deferred from the March 11, 1999 Meeting:**

78 **C-56C-98 James W. Theobald for Roy B. Amason:** Request to conditionally  
79 rezone from A-1 Agricultural District to R-1C, R-2AC and R-3AC One Family Residence  
80 Districts (Conditional), RTHC Residential Townhouse District (Conditional), R-5C and R-6C  
81 General Residence Districts (Conditional), O-2C Office District (Conditional), B-2C Business  
82 District (Conditional) and C-1 Conservation District, Parcels 240-A-17, 250-A-48, 49, and  
83 51A, and 260-A-28, containing 633.61 acres, generally located along the east line of Turner  
84 Road between New Market Road (Route 5) and Camp Holly Drive; along the north line of  
85 New Market Road (Route 5) from Turner Road to Camp Hill Road and from Kingsland Road  
86 to Long Bridge Road; along the northwest line of Long Bridge Road to its intersection with  
87 Yahley Mill Road and along the west side of Yahley Mill to the Virginia Power easement. A  
88 mixed use planned community is proposed. The applicant has proffered a maximum of 1,341  
89 residential units on the property. The uses will be controlled by proffered conditions and  
90 zoning ordinance regulations. The Land Use Plan recommends Prime Agriculture and  
91 Environmental Protection Area. The site is also in the Airport Safety Overlay District.

92

93 They have requested a deferral to June 10, 1999.  
94  
95 Ms. Dwyer - Is there any one in the audience in opposition to the deferral of C-  
96 56C-98 in the Varina District; also the Southerlyn Case? No opposition.  
97  
98 Mrs. Quesinberry - I'd like to move for deferral, at the applicant's request, for Case  
99 C-56C-98.  
100  
101 Mr. Vanarsdall seconded the motion.  
102  
103 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
104 All those in favor say aye—all those opposed by saying nay. The vote is 5-0, (Mr. Donati  
105 absent). The motion carries.  
106  
107 Mr. Merrithew - Thank you. On the same page, the same district, Varina District,  
108 C-21C-99.  
109  
110 **C-21C-99 Jay M. Weinberg for Dakota Associates:** Request to conditionally  
111 rezone from A-1 Agricultural District and RTH Residential Townhouse District to RTHC  
112 Residential Townhouse District (Conditional), Parcels 192-A-19 & 20, containing 20.017 acres,  
113 located on the west line of Midview Road approximately 400' south of its intersection with  
114 Darbytown Road. Residential townhomes for sale are proposed. The applicant has proffered a  
115 maximum of 130 residential units which yields a density of 6.49 units per acre. The Land Use  
116 Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre. This site is also  
117 in the Airport Safety Overlay District.  
118  
119 They also have a requested a deferral to June 10, 1999.  
120  
121 Ms. Dwyer - Is there any one in the audience in opposition to the deferral of  
122 Case C-21C-99 Dakota Associates? You're in opposition to deferring the case, ma'am? Okay.  
123 You need to come forward.  
124  
125 Mrs. Quesinberry - I'd like to hear the case.  
126  
127 Ms. Dwyer - You'd like to hear the case?  
128  
129 Mrs. Quesinberry - Yes. I would.  
130  
131 Ms. Dwyer - Would you like to hear this lady's opposition or go ahead and  
132 make a motion on the deferral?  
133  
134 Ms. Judith Mays Roberts - I'm Judith Mays Roberts. I'm a resident of Varina Station and  
135 President of the Homeowners Association. We would like to have the case heard this evening to  
136 know where the developer is with his plans so that, we, as residents, might be able to come to  
137 the table and do some negotiating. And we have talked about this. And so we would prefer to  
138 not have it deferred at this point, but to hear it.

139  
140 Ms. Dwyer - So, if we hear the case, then we will need to make a decision,  
141 tonight?  
142  
143 Ms. Roberts - That's correct.  
144  
145 Ms. Dwyer - I thought I understood you to say you wanted to negotiate further.  
146  
147 Mrs. Quesinberry - She's just opposing...  
148  
149 Ms. Dwyer - ...deferring at this point.  
150  
151 Ms. Mayes - That's correct.  
152  
153 Ms. Dwyer - Okay.  
154  
155 Ms. Mayes - Thank you.  
156  
157 Ms. Dwyer - Thank you, ma'am. Would you like to hear from the applicant?  
158  
159 Mrs. Quesinberry - I don't think its necessary.  
160  
161 Ms. Dwyer - Okay. Ready for a motion on the deferral.  
162  
163 Mrs. Quesinberry - I'd like to move to deny deferral for this case at this time and hear  
164 it on the regular agenda.  
165  
166 Mrs. Wade seconded the motion.  
167  
168 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mrs. Wade. All  
169 those in favor say aye—all those opposed by saying nay. The vote is 5-0, (Mr. Donati absent).  
170 The case will not be deferred this evening.  
171  
172 Mr. Merrithew - That is all the deferral requests I have on the 7:00 o'clock  
173 agenda. We do have three deferral requests on the 8:00 o'clock agenda, which I will  
174 announce, but won't take action on until 8:00 o'clock.  
175  
176 That would be the Jay Weinberg for Buckley-Shuler Properties - C-81C-98 in the Three Chopt  
177 District. All of these are in the Three Chopt District. C-34C-99 Jay Weinberg for Dongil  
178 Associates. And then, C-36C-99 Brian Marron for Tsimbos. They have all requested deferrals  
179 to June 10<sup>th</sup>. As you know, the Commission will vote at the 8:00 o'clock agenda for those.  
180 Thank you.  
181  
182 Ms. Dwyer - Thank you, Mr. Merrithew.  
183

184 **C-24-99** **Carter Properties:** Request to rezone from B-3 Business District to  
185 M-2 General Industrial District, Parcel 128-A-5, containing 3.44 acres, located on the west side  
186 of Mechanicsville Turnpike (U. S. Route 360) approximately 494' north of Barlow Street. An  
187 equipment/storage yard is proposed. The use will be controlled by zoning ordinance regulations.  
188 The Land Use Plan recommends Heavy Industry.

189  
190 Mr. Archer - Madam Chairman, if I may. I have a deferral that I have agreed  
191 to for the 7:00 o'clock agenda.

192  
193 Ms. Dwyer - Okay.

194  
195 Mr. Archer - C-24-99 Carter Properties. I've met with the applicant and he  
196 has agreed to re-file this as a conditional case. So, I agree to defer that at the Commission's  
197 request for one month to the June meeting.

198  
199 Mr. Vanarsdall - That's C-24-99?

200  
201 Mr. Archer - C-24-99 Carter Properties. So, I move for deferral of C-24-99 to  
202 June 10<sup>th</sup> meeting at the request of the Commission.

203  
204 Mr. Vanarsdall seconded the motion.

205  
206 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All  
207 those in favor of the deferral, say aye—all those opposed by saying nay. The vote is 5-0, (Mr.  
208 Donati absent). The motion carries.

209  
210 **C-21C-99** **Charles H. Rothenberg for Dakota Associates:** Request to  
211 conditionally rezone from A-1 Agricultural District and RTH Residential Townhouse District to  
212 RTHC Residential Townhouse District (Conditional), Parcels 192-A-19 & 20, containing 20.017  
213 acres, located on the west line of Midview Road approximately 400' south of its intersection with  
214 Darbytown Road. Residential townhomes for sale are proposed. The applicant has proffered a  
215 maximum of 130 residential units which yields a density of 6.49 units per acre. The Land Use  
216 Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre. This site is also  
217 in the Airport Safety Overlay District.

218  
219 Mr. Marlles - The staff presentation will be given by Mrs. Jo Ann Hunter.

220  
221 Ms. Dwyer - Thank you, Mr. Secretary. Is there any one in the audience in  
222 opposition to Case C-21C-99 Dakota Associates: We do have opposition. Mr. Secretary, if you  
223 would take a moment, at this time, to review the rules of the Commission for cases in which  
224 there is opposition.

225  
226 Mr. Marlles - The Commission's guidelines call for the applicant to have 10  
227 minutes to present his case. That does not include time in which he's answering questions from  
228 the Commission. The opponents will also have 10 minutes to present their views on a case.  
229 And, again, that does not include time in which the Commission is asking questions. For the

230 opponents, it's often a wise idea if you have someone who can serve as a spokesperson who can  
231 summarize the concerns. That makes the best use of the time.

232  
233 Ms. Jo Ann Hunter - Good evening, Madam Chairman, members of the Commission.  
234 This request is to rezone an 8-acre parcel from A-1 to RTHC and an 11-acre parcel from RTH to  
235 RTHC with conditions. The 11-acre parcel was zoned to RTH in 1971. The applicant is  
236 proposing to construct 130 townhouse units on the 20 acres. The applicant also has under  
237 contract the 35 acres to the rear which is currently zoned R-5.

238  
239 This request was deferred for 60 days to encourage the applicant to meet with the neighbors and  
240 improve the project. No new information for the rezoning case has been submitted. The  
241 applicant has submitted a conditional subdivision approval for the land that is currently zoned.  
242 That plan shows 386 townhouse units.

243  
244 That layout for the project would be different if this rezoning case was approved. However, the  
245 applicant has asked staff to process both applications simultaneously. Currently, there are 209  
246 acres in the Varina District that are vacant and currently zoned R-5, R-6, or RTH. This project  
247 represents about one fourth of that vacant land.

248  
249 The Land Use Plan recommends single family residential and this project would have a density  
250 considerably higher than the 2.4 units supported by the plan. There are numerous outstanding  
251 concerns with this project, including the rear of the homes facing Midview; the inconsistency of  
252 this project with the established development pattern; proposed road connections to Varina  
253 Station; the lack of commitment of design features, and no recreational amenities. Staff does not  
254 support this proposal. I'd be happy to answer any questions.

255  
256 Ms. Dwyer - Are that any questions by Commission members for Ms. Hunter?  
257 No questions. Thank you. Would the applicant come forward, please? Good evening.

258  
259 Mr. Walter Monahan - Madam Chairman, members of the Commission, I'm Walter  
260 Monahan, one of the applicants. What I really would like to address is not this specific plan, but  
261 what we would like to do. Things have changed. They didn't change fast enough in the 60 days  
262 that we could resubmit a new plan; also visit with the people who live in the area. That was our  
263 internal problems and we needed to straighten out some things; talk to various people. We also  
264 needed to come to an agreement with the present landowner, because we're the contract owner.  
265 And what we've done considerably changes what was submitted to you, and also considerably  
266 reduces overall density and what would be done with this property by us if we were to go ahead.

267  
268 So, what we would like to do, and I have a plan that has not been submitted. This is a rough one  
269 of it. What we would like to do is request not a 30-day deferral, but a 60-day deferral.

270  
271 During that time, we would get together with the residents of the area. We've already talked a  
272 little bit about that. We would do that. And there would be plenty of time thereafter for all of  
273 the people in the area to respond to their selves and to us and so forth. And if we were to visit  
274 this application again in July, that would be ample time. Everybody would have plenty of time  
275 to go over it. In the meantime, our schedule would be to re-submit a new plan to the County, to

276 the staff for you, and also we've requested a deferral on the preliminary as well. And that new  
277 plan would be the plan for both the Commission and for the preliminary as well. So, everybody  
278 is looking at the same plan, and it would include all of the property, not just the front. And  
279 that's what we'd like to do.

280  
281 And I do have some major changes that we really want to do, so I really don't want to address  
282 what you're looking at because the new plan has single family up front. So, its really quite a bit  
283 different. And, if you'd like to see it, I can show it to you. Like I said, its not in a final form,  
284 but will probably change a little bit. But, conceptually, and by the numbers, it is good.

285  
286 This plan shows that front 20 acres. That is the application area, to be 49 single family lots. It  
287 also shows the back to be toward the south, or the bottom of the page, and along the boundary  
288 with the single family to be attached units in groups of three, occasionally four. And those were  
289 the patio-type homes that we were originally showing for the front sections. And then toward  
290 the northwest in the remaining area, toward the upper part of the page, we're showing some  
291 townhouses. And the numbers at the bottom of the sheet, and it shows 302 total lots. All "For  
292 Sale" units. This is quite a bit different. Right, wrong, however you look at it, the original  
293 zoning; the present zoning, one can get 630 units on the total property, because of what it is  
294 zoned today, what it has been for a long time.

295  
296 So, what we would like to do is take this plan, but it in the final form, submit it to the County,  
297 and also go over, in detail, with the residents of the area, this plan. And, if we have 60 days to  
298 do this, I think we can very well accomplish this.

299  
300 Mrs. Quesinberry - Mr. Monahan.

301  
302 Mr. Monahan - Yes.

303  
304 Mrs. Quesinberry - When we met here 60 days ago, and we deferred this case at my  
305 request, you were not very amenable to working with citizens.

306  
307 Mr. Monahan - We had a different approach then. We think our approach has  
308 changed considerably. We've learned something. We've got much advice. We've looked at it  
309 again. And, we think this is just a much better way to go.

310  
311 Mrs. Quesinberry - Personal growth is a good thing.

312  
313 Mr. Monahan - It is. And I wish we could have come to this point earlier in this  
314 60-day period, but, frankly, it didn't happen until Monday evening.

315  
316 Mrs. Quesinberry - But, you probably can understand, you know, after deferring this  
317 case for 60 days, we were all hopeful that there would be some...

318  
319 Mr. Monahan - Absolutely.

320

321 Mrs. Quesinberry - ...negotiation and some consensus and some agreement on how this  
322 parcel could develop in this area. It's a very nice neighborhood.  
323  
324 Mr. Monahan - I can just tell you, if we do the deferral this evening, I can tell you,  
325 without a doubt, that will happen this time in the next 60 days.  
326  
327 Mrs. Quesinberry - Tell me a couple of other things while you're standing there? One  
328 is, the current POD that you had filed and staff is currently working on, you indicated that you  
329 wanted to defer that as well, was your plan.  
330  
331 Mr. Monahan - By deferring, what I mean is I want to substitute this for that.  
332  
333 Mrs. Quesinberry - That plan is far different from this plan.  
334  
335 Mr. Monahan - Right. Yes. It certainly is.  
336  
337 Mrs. Quesinberry - Why don't you just withdraw it.  
338  
339 Mr. Monahan - We could do it either way. We could just amend it, and, basically,  
340 that's what we'd be doing. Yes.  
341  
342 Mrs. Quesinberry - That's your intention.  
343  
344 Mr. Monahan - Whatever is the simplest way to do it. Yes.  
345  
346 Mrs. Quesinberry - Okay. Then, this is the plan that you'd like to work with the  
347 neighbors and get some consensus and...  
348  
349 Mr. Monahan - Yes.  
350  
351 Mrs. Quesinberry - Tell me why you need 60 days to do that, sir, when you've had 60  
352 days and didn't make much progress. Why would I think in the next 60 days that you would  
353 make some progress?  
354  
355 Mr. Monahan - You're simply going to have to take my word for it, I suppose.  
356 This needs a little more work. There are some things to comply with some contacts that came  
357 back from that other one; radius of road, this kind of thing. There are things that should be  
358 cleaned up on this. And I think there are some things a little bit better that can be done. The  
359 front section, I think, is fine. I think, in the back part, there are some things that can be kind of  
360 re-arranged, re done to make it better, but, basically, coming out the same way in terms of  
361 overall units. That will take a few days. Well, that will probably happen pretty quick; in the  
362 next few days, beginning of the week. Our engineering firm, TIMMONS, needs to take that and  
363 put it in its proper form and then submit it both to the Commission, staff/Commission and also is  
364 that tentative to re-submit that or substitute it, however that would work. And get it into the  
365 system for a little bit.  
366



367 We, then, would like to tentatively – I have been talking to Mrs. Roberts about is getting  
368 together in June, which, a few weeks goes by pretty fast. That would be plenty of time for  
369 people; us to schedule a specific time and place and people to be aware of it, and get there  
370 without having to be notified its going to happen three days from now, something like that.  
371 And, while, frankly, I live in Vermont and it's a little convenient for me that way too. But it  
372 gives it time, the plan to get around, to go through the process a bit; people be well aware of this  
373 meeting, and we do it. And then it would be plenty of time thereafter, a good month or so,  
374 where people could respond. We can respond to the residents. They can respond to us and to  
375 you all as well as far as what they think. So, I think it works. Thirty days I don't think is ample  
376 time.

377  
378 Mrs. Quesinberry - You don't think you can complete that process in 30 days?

379  
380 Mr. Monahan - I think that's pushing it.

381  
382 Mrs. Quesinberry - Do you think its unreasonable to come back in 30 days just to give  
383 us an idea how much progress has been made?

384  
385 Mr. Monahan - We can do that. If we agree to do this; if you agree to do this,  
386 then I talked to Mrs. Roberts about trying to schedule; I don't know when your next meeting is.  
387 I can tell you now, we're looking to do that if we can get together on it approximately June 14<sup>th</sup>  
388 or 15<sup>th</sup>. I don't know when your next meeting is.

389  
390 Mrs. Quesinberry - The next meeting is June 10<sup>th</sup>.

391  
392 Ms. Dwyer - Next zoning meeting. May I ask a quick question here.

393  
394 Mr. Monahan - Sure.

395  
396 Ms. Dwyer - The numbers that you have on your current plan indicate 302 total  
397 lots. That's not on the 20 acres. That's...

398  
399 Mr. Monahan - That's on the totality of the project, including all of the back.

400  
401 Ms. Dwyer - So, what's the acreage on this 302?

402  
403 Mr. Monahan - There's a total of 54.5 acres to the property. We wanted to put  
404 this together because there's doubt I know that people have. Well, what are they doing in the  
405 back? What are they doing in the back? So, we wanted to put it on one plan and, it crossed  
406 everybody's mind, put it all on one sheet and everybody is going to look at it. And any other  
407 plan, whatever, is null and void.

408  
409 Ms. Dwyer - Any other questions for Mr. Monahan by Commission members?

410  
411 Mrs. Quesinberry - I don't have any right now, but I might want to call him back.

412

413 Ms. Dwyer - You have almost five minutes left for rebuttal.  
414  
415 Mr. Monahan - Okay. I'll reserve the time, if I may. Thank you.  
416  
417 Ms. Dwyer - Thank you. Will the opposition come forward, please.  
418  
419 Mr. Bill Axselle - Madam Chairman, Bill Axselle, on behalf of Atlantic Homes.  
420 Atlantic Homes is the developer of the adjacent single family subdivision, Varina Station. A  
421 couple of comments, if I may. I would say to you, I think we all share the frustration that the  
422 matter was deferred 60 days and now, on the hearing date, we hear of an idea of a new plan.  
423 Moving beyond that, as we must, looking at the plan, I think it has some pluses. It has some  
424 things that may need some work. The plusses are, obviously, is that, now the idea is to work  
425 with the entire property out there; that is the property, the front and the back. And I think, from  
426 my client's perspective, is a good pattern to follow.  
427  
428 Second, I think the reduction in density is commendable. Whether it's at the appropriate level or  
429 not is something that needs to be determined.  
430  
431 Third, the area in the back which shows for the townhouses, there is some buffer there. We'd  
432 like to know what kind of buffer; what the townhouses will look like; and so forth. That's sort  
433 of a neutral factor. That's just lack of information.  
434  
435 I will tell you that we still would have very much concern with the fact that the road that's shown  
436 coming through Varina Station, and by these homes, it would still have access to the rear. And  
437 we would like to discuss with the applicant taking all the traffic from those townhouses and  
438 putting it out through his subdivision, rather than through ours, if you will. That's something we  
439 can address. I think overall, its an improvement. Tardy, but an improvement. I would suggest  
440 to you that, if appropriate you're going to defer it, you defer it for 30 days. I would not agree  
441 with the approach that the applicant mentioned. That is, get everything final, filing it with the  
442 County and then sitting down with the neighbors.  
443  
444 I suggest we can sit down next week. We can sit down and talk. We can look at this; work  
445 things out. And then I do recognize there's a lot that goes into filing a plan with the County. A  
446 lot of expense. I suggest its probably more appropriate to have those preliminary meetings with  
447 the neighbors now, then do the filings after you know you will be able to reach an agreement on  
448 what terms. And that would allow us to do the deferral for the 30 days. If it comes back, at that  
449 time, and we're making good progress and more time is needed just because of engineering and  
450 other procedural matters, then I think we address it at that time.  
451  
452 But, I think, to postpone it for 60 days, puts us back where we are now. So, I would hope that  
453 you would not approve the case as it is today. I would concur with the deferral, but I would  
454 suggest 30 days would be more appropriate.  
455  
456 Ms. Dwyer - Thank you, Mr. Axselle. Any questions for Mr. Axselle by  
457 Commission members? Thank you. Is there any other opposition?  
458

459 Ms. Judith Mayes Roberts - Again, I'm Judith Mayes Roberts located in Varina Station. I'd  
460 like to follow up. I confirm Mr. Axselle's statement. A part of what we're concerned about,  
461 Number 1, the residents have a history of being able to meet in a very few days. So, I don't  
462 think that Mr. Monahan has to worry about us giving notice, because we have a system for  
463 notifying our residents of meetings. That's Number 1.  
464

465 Number 2, we are very concerned about the streets. And, so I would like to follow up on Mr.  
466 Axselle's proposal that we would start the meetings right away. I would like to go on record as  
467 saying we are very, very disappointed as residents, that we did not hear from Dakota until  
468 Tuesday. And that was about 58 days, I would suspect, from the time we were here. So, we  
469 would like to be able to have something where we could see some progress; we could know what  
470 we're doing. We understand that growth is not something we can halt, but we can match it. So,  
471 we're looking forward to something to know we're moving forward in this process and to be  
472 able to do that right away. And Mrs. Quesinberry's statement about being able to come back in  
473 30 days and see what kind of progress is being made makes a lot of sense to me.  
474

475 We, in Varina, on Oakland Road, as well as Midview and Foxboro, are ready to come to the  
476 table. That is not a problem. Thank you.  
477

478 Ms. Dwyer - Any questions for Mrs. Roberts? Mr. Monahan, do you want to  
479 use your rebuttal time?  
480

481 Mr. Monahan - Just a couple things. If everybody would like to do it 30 days,  
482 that's fine too. As far as submitting a plan; not submitting a plan and just talking about it first,  
483 my only idea about submitting it is, it just kind of makes it a little more official for everybody,  
484 including residents, because then its not something, "Hey, its one thing one day, why did you  
485 change this or why did someone change that?" If it's actually a submission, it makes it a lot  
486 more official looking. I would kind of like to do that first, but we can do it either way.  
487

488 Mrs. Quesinberry - I don't think there's going to be a large time cap between the time  
489 of getting started meeting with the residents and filing a new plan, if that's what you're thinking  
490 about.  
491

492 Mr. Monahan - Right.

493 Mrs. Quesinberry - I think you're going to get a lot of information meeting with the  
494 residents. I think you'll be surprised just how cooperative they can be if you're willing to sit  
495 down, in good faith, and work with them.  
496

497 Mr. Monahan - They're certainly welcome.  
498

499 Mrs. Quesinberry - I think I told you 60 days ago, I was very disappointed with this  
500 case because, for all intents and purposes, it really was thrust upon this community in a very  
501 negative way. And that's just really unfortunate. I'm hopeful that you can turn it around and  
502 that you can work with the neighbors, the community, and come out with a project that really  
503 will be a value to this community and an asset to the community. That's something I think we

504 all would like to see happen. And that would be a “win-win” situation for everyone concerned.  
505 But there is some attitude adjustment that needs to go on.

506  
507 Mr. Monahan - We can, I’m sure, before we leave here, we can set up a time to  
508 get together.

509  
510 Mrs. Quesinberry - Okay.

511  
512 Mr. Monahan - So, we can start this off.

513  
514 Mrs. Quesinberry - Well, I wouldn’t oppose a 30-day deferral if you are willing to get  
515 in their good faith and work with these folks. Mrs. Roberts and the various neighborhood  
516 associations that she’s working with have really been diligent and worked very hard and are very  
517 concerned about this neighborhood. And, as you work with them, and you develop this new  
518 plan, because you’re going to, for all intents and purposes, withdraw your old plan, I really want  
519 you to be cognizant of the areas that were talked about; that staff talked about; that Mr. Axselle  
520 talked about; and that the residents talked about, in particular, giving consideration, as you put  
521 your plan together about the buffer that’s going to be necessary in this area, about the traffic  
522 flow, and about what you will do with either passive open space or recreational facilities for a  
523 community that’s going to have 300 plus units in it. I think those are going to be some of the  
524 key issues, not all the issues, but certainly things that you need to really be up front about, and  
525 work hard with these folks to come out with a really good project. So, I’m ready for a motion if  
526 we don’t have any other speakers.

527  
528 Ms. Dwyer - Thank you, Mr. Monahan. Ready for a motion?

529  
530 Mrs. Quesinberry - Yes. I’d like to move for a 30-day deferral, at the applicant’s  
531 request, for Case C-21C-99.

532  
533 Mr. Vanarsdall seconded the motion.

534  
535 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
536 All those in favor say aye—all those opposed by saying nay. The vote is 5-0. (Mr. Donati  
537 absent). The motion carries.

538 Mrs. Quesinberry - I would like to thank the residents. Thank you all for coming out  
539 tonight, and for your input, especially Mrs. Roberts. I’m sure you will keep me posted. And  
540 if not, I’ll see you in 30 days.

541  
542 **C-37C-99**                      **Everette A. Felts for Edwin Warren Prince: Request to rezone**  
543 **from B-1 Business District to R-3 One Family Residence District Parcel 164-5-5-3, containing**  
544 **12,278 square feet (70x 174), located on the east line of Raines Avenue approximately 150’**  
545 **south of its intersection with Williamsburg Road (Route 60). A single family residence is**  
546 **proposed. The R-3 District requires a minimum lot size of 11,000 square feet. The Land Use**  
547 **Plan recommends Commercial Arterial development. The property is also within the Airport**  
548 **Safety Overlay District.**

549

550 Mr. Marlles - The staff presentation will be by Mr. Mark Bittner.  
551  
552 Ms. Dwyer - Is there any one in the audience opposed to Case C-37-99 Everette  
553 Felts for Edwin Prince? There is no opposition. Mr. Bittner.  
554  
555 Mr. Mark Bittner, County Planner - Thank you, Ms. Dwyer. This request would rezone the lot  
556 at 6 Raines Avenue from B-1 Business to R-3 One Family Residential. A single family home  
557 currently occupied by a tenant, sits on the property. The applicant wants this rezoning because if  
558 this house were to burn down, the B-1 zoning would not allow another home to be built and  
559 would not allow continued use of the property for a residence. The applicant wishes to keep the  
560 property residential.  
561  
562 This property is designated Commercial Arterial on the 2010 Plan and it is envisioned as part of  
563 the Williamsburg Road commercial corridor through the Sandston section of the County. The  
564 adjacent property to the south is also zoned R-3 and contains an established residential  
565 neighborhood. The only business activity on Raines Avenue is at Williamsburg Road. This is a  
566 beauty salon on Lot 1 at the southeastern corner. All other uses on Raines Avenue appear to be  
567 residential, including both lots on either side of the property in question. This proposal is not  
568 consistent with the Commercial Arterial designation of the 2010 Plan. However, business uses  
569 do not appear to be desired development near the intersection of Raines and Williamsburg at this  
570 time. Because this rezoning would maintain the present character of this area, staff recommends  
571 approval. I'd be happy to answer any questions you may have.  
572  
573 Mr. Bittner - Are there questions for Mr. Bittner by Commission members?  
574  
575 Mrs. Wade - This isn't a conditional case is it?  
576  
577 Mr. Bittner - No. It's not.  
578  
579 Mrs. Wade - The agenda has a "C" on it.  
580  
581 Ms. Dwyer - Mrs. Quesinberry, would you like to hear from the applicant?  
582  
583 Mrs. Quesinberry - Yes.  
584  
585 Ms. Dwyer - Would the applicant come forward, please?  
586  
587 Mr. Everette Felts - I've always been told, maybe its time for me to keep my mouth  
588 shut since the staff is recommending approval. So, I don't know what else I can add to it. I'd  
589 be glad to answer any questions.  
590  
591 Ms. Dwyer - Could you introduce yourself, please?  
592  
593 Mr. Felts - Yes. I am Everette A. Felts for Mr. Edward A. Prince and Mr.  
594 Grubbs, the owners of the property.  
595

596 Mrs. Quesinberry - I just wanted to get you up, Mr. Felts.  
597  
598 Mr. Felts - Thank you, ma'am.  
599  
600 Mrs. Quesinberry - I'm ready for a motion.  
601  
602 Ms. Dwyer - Okay. There's no questions by Commission members then for  
603 Mr. Felts?  
604  
605 Mrs. Quesinberry - This is a piece of property that's really in a nice residential area  
606 and its three lots in from Williamsburg Road, which would be the commercial area if it was  
607 really and truly a commercial area. And its really not quite there yet. I'd like to move for the  
608 approval of the request for rezoning C-37-99 to R-3.  
609  
610 Mr. Vanarsdall seconded the motion.  
611  
612 Ms. Dwyer - Motion made by Mrs. Quesinberry, seconded by Mr. Vanarsdall.  
613 All those in favor say aye—all those opposed by saying nay. The vote is 5-0, (Mr. Donati  
614 absent). Motion to recommend approval to the Board is approved.  
615  
616 Mr. Felts - Thank you.  
617  
618 REASON: Acting on a motion by Mrs. Quesinberry, seconded by Mr.  
619 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend that the Board  
620 of Supervisors grant this request because it is reasonable; it is appropriate residential zoning at  
621 this location; and it would permit development of the land for residential use in an appropriate  
622 manner.  
623  
624 **C-38C-99** **Herbert E. Fitzgerald for Milhaus Corporation:** Request to amend  
625 proffered conditions accepted with rezoning case C-69C-94, on lots 21-6-B-1 through 5 and lot  
626 21-6-C-54 (Sheppards Way Subdivision), containing approximately 2.41 acres, located on the  
627 east side of Sheppards Way Drive between Thornberry Street (extended) and Fontaine Lane.  
628 The amendment is related to fence heights on the property. The Land Use Plan recommends  
629 Suburban Residential 1, 1.0 to 2.4 units net density per acre.  
630  
631 Mr. Marlles - Ms. Jo Ann Hunter is going to be giving the staff presentation.  
632  
633 Ms. Dwyer - Is there any one in the audience in opposition to Case C-38C-99  
634 Milhaus Corporation? No opposition. Thank you.  
635  
636 Ms. Hunter Thank you. This request is to amend the original proffers accepted  
637 with Case C-69C-94 to allow the construction of a "board-on-board" privacy fence not to exceed  
638 72 inches in height adjacent to six lots along the eastern boundary of Sheppards Way  
639 Subdivision.  
640

641 The existing proffers limit the fence height to 41 inches. A six-foot fence is requested to provide  
642 better screening for the adjoining residences located here (referring to slide) that would look into  
643 Sheppards Way Subdivision.

644  
645 A gate will be provided in the middle of each lot so that the homeowner can access the area  
646 behind the fence. The fence will be located 25 feet from the rear or side line because there is an  
647 existing private drive that would go along the rear of the lots. The rear yard setback in the R-2A  
648 District is 45 feet, so at the minimum, the applicant will have a 20-foot rear yard or side yard.  
649 Staff would recommend landscaping along the outside of the fence.

650  
651 If the rezoning is approved, the applicant will need to seek approval from the Planning  
652 Commission for an alternate fence height in the front yard for Lot 54 which is located here  
653 (referring to slide).

654  
655 A modification of this proffer to allow a six-foot high fence will help protect the privacy of the  
656 adjoining residences and should not have an impact on the quality of Sheppards Way  
657 Subdivision. Staff supports this proposal. I'd be happy to answer any questions.

658  
659 Ms. Dwyer - Are there any questions for Ms. Hunter? The private drive leads  
660 from where to where on the map?

661  
662 Ms. Hunter - It serves these residences here and it comes out to Mountain Road.

663  
664 Ms. Dwyer - What's the status of that? Is it just private property that serves one  
665 home?

666  
667 Ms. Hunter - The developer of the subdivision has been working with the  
668 property owner. There's been no progress at this date.

669  
670 Ms. Dwyer - Thank you. Any other questions. Would you like to hear from the  
671 applicant, Mr. Vanarsdall?

672  
673 Mr. Vanarsdall - No. I don't need to hear from him.

674  
675 Ms. Dwyer - Ready for a motion?

676  
677 Mr. Vanarsdall - I move C-38C-99 be recommended to the Board of Supervisors for  
678 approval, and also I would like recommend that we approve the alternate fence height on Lot  
679 No. 54 in Block C as in "Charlie" in accordance with the Land Use Plan, also Goals, Policies  
680 and Objectives.

681  
682 Mrs. Quesinberry seconded the motion.

683  
684 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mrs. Quesinberry.  
685 All those in favor say aye—all those opposed by saying nay. The vote is 5-0. (Mr. Donati  
686 absent). The motion carries.

687  
688 Ms. Hunter The alternate fence height would need to be advertised, so that  
689 would not be able to be acted upon in this motion.  
690  
691 Ms. Dwyer - Okay. Your motion stands, Mr. Vanarsdall.  
692  
693 Mr. Vanarsdall - Do we need a separate motion for that?  
694  
695 Ms. Dwyer - That's not before us tonight.  
696  
697 Ms. Hunter It would need to come back at another time, because it does need  
698 to be advertised.  
699  
700 Mr. Vanarsdall - All right.  
701  
702 Ms. Dwyer - So, that is not approved, then, by the way.  
703  
704 Ms. Hunter Correct.  
705  
706 Mr. Vanarsdall - Okay. Thank you.  
707  
708 Ms. Dwyer - Mr. Secretary, should we redo that motion?  
709  
710 Mr. Marlles - It wouldn't be a bad idea.  
711  
712 Ms. Dwyer - Okay. Let's do that just to be safe.  
713  
714 Mr. Vanarsdall - I'd like to amend my motion on C-38C-99 and recommend  
715 approval to the Board of Supervisors only for the case to allow the 72-inch privacy fence to be  
716 constructed on the property.  
717  
718 Mrs. Quesinberry - Second, again.  
719  
720 Ms. Dwyer - Okay. Motion by Mr. Vanarsdall, seconded by Mrs. Quesinberry.  
721 All those in favor of the motion say aye—all those opposed say nay. The vote is 5-0, (Mr.  
722 Donati absent). The motion carries.  
723  
724 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Quesinberry, the  
725 Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors  
726 accept the proffered conditions and grant the request because it is reasonable; and the proffered  
727 conditions will provide appropriate quality assurances not otherwise available.  
728  
729 P-6-99 David A. Hodges: Request for a provisional use permit under  
730 Sections 24-62.2(I) and 24-122.1 of Chapter 24 of the County Code to operate a billiard  
731 parlor, on part of Parcel 103-A-100B, containing 2,500 sq. ft., located at the southeast



732 intersection of Staples Mill Road and Park Lane (2125 Staples Mill Road). The site is zoned  
733 B-3 Business District.

734  
735 Mr. Marlles - Ms. Hunter will also be giving the staff report.

736  
737 Ms. Dwyer - Any opposition in the audience to P-6-99 David A Hodges. No  
738 opposition.

739  
740 Ms. Hunter - Thank you. The applicant is requesting to use the commercial  
741 space adjacent to an existing business to install eight pool tables. The County Code defines a  
742 billiard parlor as a business establishment or club, open to the public, in which three or more  
743 tables are maintained for the play of billiards or pool.

744  
745 The applicant is proposing to use the pool tables for instructional classes and pool leagues,  
746 including youth leagues. The owner is the only certified billiard instructor in the Richmond  
747 region. The lease area is located at the end of an existing shopping center, which is visible from  
748 Staples Mill Road. Existing businesses surround this request except for a residential subdivision  
749 immediately to the west.

750  
751 This use, if managed properly, is not expected to affect the area in an adverse manner. The  
752 business is proposed to be operated each day of the week with hours of operation until Midnight.  
753 The applicant is not requesting extended hours, or to serve alcohol on the premises. The  
754 applicant has an international business that crafts and repairs custom cue sticks. He is one of  
755 seven people in the world who handcrafts these custom sticks. The addition of the eight pool  
756 tables seems to be a logical extension of his current business. If the permit is recommended for  
757 approval, staff would recommend that conditions identified on Page 2 be included in the  
758 approval.

759  
760 Ms. Dwyer - Any questions by Commission members of Ms. Hunter?

761  
762 Mrs. Wade - Is the billiard parlor operating now?

763 Ms. Hunter The applicant does have the pool tables in there, but he is not  
764 operating at this time. He had leased the space, not realizing without serving alcohol that it  
765 would still be considered a billiard parlor. He has moved in the tables, but he's not operating  
766 them at this time.

767  
768 Mr. Vanarsdall - I believe he came to the County and asked permission to put them  
769 in there. He was not serving alcohol and they told him it was okay.

770  
771 Ms. Hunter There was some confusion. It was a confusion.

772  
773 Ms. Dwyer - Ms. Hunter, on Condition 5, it says, "The business shall consist  
774 of more than eight billiard tables" on our copy.

775  
776 Ms. Hunter It should say, "of no more." Thank you.

777

778 Ms. Dwyer - I suspected that. Any other questions? Would you like to hear  
779 from the applicant, Mr. Vanarsdall?

780  
781 Mr. Vanarsdall - Don't need to.

782  
783 Ms. Dwyer - Ready for a motion.

784  
785 Mr. Vanarsdall - Ms. Hunter and I went over there. I didn't realize this man was  
786 already in operation in making cue sticks. I've never seen anything as pretty. He sells them for  
787 \$5,000; sometimes \$30,000. He ships them all over the world. I didn't realize we had a  
788 business in the County like that.

789  
790 Mr. Archer - One cue stick?

791  
792 Mr. Vanarsdall - I can't believe it. It's a very nicely run business. In talking to  
793 him and looking at him, I don't believe there will ever be any trouble over there. He doesn't  
794 want alcohol and he's not going to even serve food. I recommend P-6-99 be recommended to  
795 the Board of Supervisors for approval. It seems to be in order to have it recommended, and its  
796 okay in accordance with the Goals, Objectives, and Policies of the Land Use Plan.

797  
798 Mr. Archer seconded the motion.

799  
800 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mr. Archer. All  
801 those in favor say aye—all those opposed by saying nay. The vote is 5-0, (Mr. Donati  
802 abstained). Approval recommended to the Board carries.

803  
804 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mr. Archer, the Planning  
805 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors grant the  
806 requested revocable provisional use permit, subject to the following conditions:

- 807  
808 1. This Use Permit shall apply to the 2,500 square feet of floor area that is currently being  
809 leased by the applicant.  
810  
811 2. Public entrance shall be provided through the front door of the building only.  
812  
813 3. Customers shall be required by the management to leave the premises, including parking area  
814 immediately after the close of business.  
815  
816 4. The interior of the business shall be visible from the parking lot.  
817  
818 5. The business shall consist of no more than eight (8) billiard tables.  
819  
820 6. Food service may be provided to patrons but alcohol shall not be served.  
821

822 7. The operation of the billiard parlor shall not cause loitering, criminal assaults or public  
823 nuisance in the area surrounding the business. Any increase in police incident reports or  
824 calls for service may cause the Board of Supervisors to revoke the Provisional Use Permit.  
825

826 The Planning Commission's recommendation was based on the fact that the Provisional Use  
827 Permit is reasonable; and when properly developed and regulated by the recommended special  
828 conditions, it would not be detrimental to the public health, safety, welfare and values in the  
829 area.  
830

831 **C-39C-99** Gloria L. Freye for Business Keypunch: Request to conditionally  
832 rezone from B-2 Business District to B-3C Business District (Conditional), Part of Parcel 82-A-  
833 27B, described as follows:  
834

835 Beginning at a point of intersection of the S. line of Greencourt Road and the E. line of Arcadia  
836 Street; thence N. 84° 08' 40" E., 523.49' to a point; thence S. 00° 03' 19" E., 10.05' to a point;  
837 thence S. 84° 08' 40" W., 511.11' to a point; thence S. 41° 44' 58" W., 18.39' to a point;  
838 thence N. 00° 11' 47" W., 22.51' to the point and place of beginning, 0.122 acre.  
839

840 Mr. Marlles - Ms. Jo Ann Hunter will be giving the staff presentation.  
841

842 Ms. Dwyer - Is there any one in the audience in opposition to Case C-39C-99  
843 Business Keypunch? No opposition. Ms. Hunter.  
844

845 Ms. Hunter The applicant is proposing to rezone a .541 acre parcel from B-2 to  
846 B-3C. The proposed use of the site is limited, by proffer, to a single office/warehouse where the  
847 warehouse area does not exceed 15,000 square feet. All materials would be stored inside an  
848 enclosed building. The requested rezoning would allow for expansion of an existing business  
849 called "Business Keypunch," which is a data processing operation. The proposed site is located  
850 on Staples Mill Road between Dumbarton Library and Little Texas Restaurant.  
851

852 The 2010 Land Use designation for the site is Commercial Arterial along the Staples Mill  
853 frontage and Commercial Concentration to the rear. B-3 zoning is consistent with this  
854 designation. The current B-2 zoning does not allow for warehousing or for 24-hour operation.  
855 The applicant is trying to rectify the problem of illegal storage in the rear yard by rezoning this  
856 property. In addition, the use does operate by three shifts, so 24-hour use is required.  
857

858 The applicant has submitted revised proffers, which have been handed out to you, and I'll review  
859 the changes. The revised proffers include signage limitation to the B-2 standards and limits the  
860 existing free-standing signs or any new free-standing signs to 10 feet. And also supplemental  
861 landscaping along Staples Mill Road has been proffered.  
862

863 The proffer that limits the use to an Office/Warehouse helps to control the intensity of the site  
864 and traffic generation should be minimal. However, the use could be further controlled by  
865 limiting the use of the office/warehouse for data processing operations or limiting the 24-hour

866 use to the office/warehouse. I believe the applicant may be able to expand on this further. They  
867 may be willing to make some revisions at that time.

868  
869 The rezoning of this property will allow an existing business to remain at this site. In addition, it  
870 will rectify the problem of prohibited storage containers. With the limitation of the B-3 uses,  
871 there will be limited intensification of this site.

872  
873 Ms. Dwyer - Thank you, Ms. Hunter. Any questions by Commission members  
874 for Ms. Hunter.

875  
876 Mr. Vanarsdall - I would like to hear from the applicant.

877  
878 Ms. Dwyer - Would the applicant come forward, please?

879  
880 Ms. Gloria Freye - Good evening. My name is Gloria Freye. I am an attorney here  
881 on behalf of the applicant. Also, with me this evening, is Sarah Jenkins, who is the owner of  
882 Business Keypunch, and Russell Holland who is the owner of the land.

883  
884 Ms. Jenkins started this data entry business back in 1975, when they really did use keypunch  
885 technology. She moved her business to this location at Staples Mill about four and one half  
886 years ago. The technology has changed, and her business has grown. She now uses computers  
887 and scanners to process the data entry that she does.

888  
889 Her biggest client is Capital One. In one month she can process 7 million pieces of documents  
890 for them. She has other agency clients; other business clients who she does data entry for.

891  
892 She has a total of 70 to 75 employees, most of whom do not work on the site. At any given  
893 period of time, the most of the employees on the site would be ten to twelve.

894  
895 The hours where the most employees would be on the site are between 7:00 in the morning and  
896 8:00 at night. She does operate 24 hours. That's how much her business, and the demand of  
897 her customers have grown.

898  
899 To try to meet the demand of her business and her customers, she was using some cargo storage  
900 units in the back which are not permitted in B-2. She was working second and third shifts which  
901 was not permitted in B-2.

902  
903 So, to rectify that problem, she is asking for B-3 zoning, just for those reasons. And one of the  
904 concerns, in talking with Mr. Vanarsdall, which we talked some more about this evening is,  
905 what we'd like to do is amend the proffers to limit the use even further. So, that No. 1 Use  
906 proffer that you have in front of you would be amended and restated to say, "The only B-3 use  
907 permitted on the property shall be a single office/warehouse for data processing or similar  
908 business where the warehouse does not exceed 15,000 square feet, and all materials are stored  
909 within an enclosed building." And then add a sentence that says, "The only use permitted to  
910 have 24-hour operations shall be the data processing or similar office/warehouse." That, we  
911 think, would address the concern that an expanded B-2 would have an opportunity to operate 24

912 hours which is not the intent. And, we think, that this language would address that concern.  
913 And, we would like to submit that proffer along with the case this evening.

914  
915 Mr. Vanarsdall - We will have to waive the time limit on this tonight?

916  
917 Ms. Freye - Yes sir. If you would do that and accept that proffer, I think that  
918 would address...

919  
920 Mr. Vanarsdall - Under the circumstances, I don't mind recommending that to the  
921 other Commission members.

922  
923 Ms. Freye - Thank you.

924  
925 Mr. Vanarsdall - I feel better about the case since you did that.

926  
927 Ms. Freye - Yes sir. On the landscaping that Ms. Hunter alluded to, we did  
928 proffer a minimum. But, we've actually filed a conceptual landscape plan that shows a lot more  
929 landscaping than the minimum. We left it conceptual because we knew we were going to have  
930 to deal with that at POD when we look at where the engineered plans are, where the utilities are.  
931 We're actually proposing several beds of azaleas, borders that are lined with liriope, some  
932 rhododerdrans, and other screening and new fencing which will all show up on the POD that  
933 they submit with those details.

934  
935 The parking for this type use and for this size building requires 17 spaces and we're actually  
936 providing 21. The addition that's going to be added, its going to match the existing building  
937 with some other design features built in to dress up the building as well as the landscaping that  
938 will dress up the property.

939  
940 In summary, there is a legitimate need for the change in this zoning to keep this business in the  
941 County and keep it in this location. The zoning change will allow the storage area that she so  
942 badly needs and to meet the needs of her customers. It is consistent with the 2010 Land Use  
943 Plan for Commercial Arterial and Commercial Concentration in this area, particularly since the  
944 only B-3 use is going to be the business that she operates on the property.

945  
946 Allowing the single office/warehouse is actually going to have a positive impact on this property  
947 because the addition of the storage area will actually screen all the activity in the parking lot  
948 from the library next door. This business will also help to screen the library from the restaurant  
949 on the other side of the business, which has right much activity.

950  
951 For these reasons, we ask that you accept the proffer that we've given you this evening, and that  
952 you recommend approval of the case to the Board of Supervisors. I will be glad to answer  
953 questions.

954  
955 Ms. Dwyer - Thank you, Ms. Freye. Are there any questions for Ms. Freye by  
956 Commission members? No questions. And there was no opposition to this case. We're ready  
957 for a motion, Mr. Vanarsdall.

958  
959 Mr. Vanarsdall - Thank you, Ms. Freye. I want Sarah Jenkins and Russell Holland  
960 to understand my concern not to either one of you, personally. Now, Russell, I know you're in  
961 the business to lease and rent the place, and that's what you should do. I went over and met  
962 Sarah Jenkins, and she runs a good ship for a good company, Capital One. Sometimes, if we  
963 don't get the proffer worded in the beginning, sometimes we end up having a problem later. We  
964 get undesirable people renting something. Russell, you could even rent it to somebody that you  
965 thought was up and up and not turned out to be. So, that was my concern. Ms. Freye, I  
966 appreciate you changing this. We chased each other all day. I chased her more than she did me.  
967 And with that said, first of all, I have to waive the time limit. So, I recommend that we waive  
968 the time limit on the proffers.

969  
970 Mr. Archer seconded the motion.

971  
972 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mr. Archer to  
973 waive the time limits on the proffer. All those in favor say aye—all those opposed by saying  
974 nay. The vote is 5-0, (Mr. Donati abstained). The motion carries.

975  
976 Mr. Vanarsdall - And then on the case, I recommend Case C-39C-99, I  
977 recommend to the Board approval of this case. I want to read the change on the use. "The  
978 only B-3 use permitted on the property shall be a single office/warehouse for a data processing  
979 or a similar business, where the warehouse does not exceed 15,000 square feet, and all  
980 materials are stored within an enclosed building. The only use permitted to have 24-hour  
981 operation shall be the data processing or similar office/warehouse." This is signed by Ms.  
982 Freye, Attorney in Fact, dated today May 13, 1999. That's my motion.

983  
984 Mrs. Quesinberry seconded the motion.

985 Ms. Dwyer - Motion made by Mr. Vanarsdall, seconded by Mrs. Quesinberry.  
986 All those in favor say aye—all those opposed by saying nay. The vote is 5-0, (Mr. Donati  
987 abstained). To recommend to the Board carries.

988  
989 REASON: Acting on a motion by Mr. Vanarsdall, seconded by Mrs. Quesinberry, the  
990 Planning Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors  
991 accept the proffered conditions and grant the request because it conforms to the  
992 recommendations of the Land Use Plan; the employment use(s) support the County's economic  
993 development policies; and the proffered conditions should minimize the potential impacts on  
994 surrounding land uses.

995  
996  
997 Ms. Dwyer - Mr. Merrithew, were you going to talk to us about the 8:00  
998 o'clock agenda?

999  
1000 Mr. Merrithew - Yes ma'am. On the 8:00 agenda, we again have three deferral  
1001 requests. The first request is in the Three Chopt District, I believe its Page 4 of your agenda.

1002  
1003 **Deferred from the April 15, 1999 Meeting:**

1004 C-81C-98 (Revised) Jay M. Weinberg for Buckley Shuler Properties: Request to  
1005 conditionally rezone from A-1 Agricultural District and B-3 Business District to B-2C Business  
1006 District (Conditional) part of Parcels 46-A-19 and 19A, containing approximately 27.75 acres.  
1007 Two shopping centers are proposed. One would be located on the west side of John Rolfe  
1008 Parkway between W. Broad Street and realigned Three Chopt Road and the other would be  
1009 located on the north side of realigned Three Chopt Road between Pump Road and John Rolfe  
1010 Parkway. The uses will be controlled by proffered conditions and zoning ordinance  
1011 regulations. The Land Use Plan recommends Commercial Concentration and Office  
1012 development. The site is also in the W. Broad Street Overlay District.

1013  
1014 The request is for a deferral to June 10, 1999.

1015  
1016 Ms. Dwyer - I think we'll stop for a moment and let everyone come in. There  
1017 are seats down front if all of you would like to come on down and be seated. Is there any one  
1018 in the audience in opposition to the deferral of Case C-81C-98 Jay M. Weinberg for Buckley  
1019 Shuler Properties?

1020  
1021 Mr. Merrithew - Madam Chairman, the applicant would like to call the associated  
1022 case, the Dongil case at the same time. Is that okay?

1023  
1024 Ms. Dwyer - All right. That's fine.

1025  
1026 Mr. Merrithew - The second case requesting deferral this evening is again in the  
1027 Three Chopt District: C-34C-99.

1028

1029 **Deferred from the April 15, 1999 Meeting:**  
1030 **C-34C-99** Jay M. Weinberg for Dongil Associates, LLC: Request to  
1031 conditionally rezone from A-1 Agricultural District to R-6C General Residence District  
1032 (Conditional), part of Parcel 46-A-19, containing approximately 14.829 acres, located at the  
1033 southeast intersection of Three Chopt and Pump Roads. Condominiums and/or townhouses  
1034 and/or assisted living facility are proposed. The applicant has proffered a maximum density of  
1035 nine units per acre for townhouses and 12 units per acre for condominiums. The Land Use  
1036 Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

1037  
1038 They have requested a deferral to June 10, 1999.

1039  
1040 Ms. Dwyer - Is there any one in the audience in opposition to the deferral of  
1041 Case C-34C-99 Jay M. Weinberg for Dongil Associates, LLC.? No opposition to the deferral  
1042 of that case.

1043  
1044 Mrs. Wade - Before the applicant speaks, I would like to thank all of you for  
1045 being here. We appreciate your interest and concern in these zoning matters.

1046  
1047 Mr. Jay M. Weinberg - Madam Chairman, and members of the Commission, I am Jay  
1048 Weinberg and I represent Dongil Associates and also Buckley-Shuler, the applicants in these  
1049 two companion cases. Let me say, that over the past months since November, in fact, as last  
1050 Monday, Tuesday, Wednesday night and Thursday morning, I had continued to have a series  
1051 of meetings with many of the civic associations in this area, including, but not limited to the  
1052 Short Pump Civic Association, the Wellesley Government Affairs Committee, the Wythe  
1053 Trace Board of Directors, and the Short Pump Parent Teachers Association.

1054  
1055 I felt that during that course and as late as last Thursday, we had made significant progress,  
1056 although I certainly could not tell you we had reached a mutually acceptable conclusion on this  
1057 case. It was not until 8:30 Tuesday night I learned for the first time that the Short Pump PTA  
1058 would oppose the requests for deferrals on these cases this time around. It was not really until  
1059 about 3:30 this afternoon that I learned from the receipt of a written letter that there was no set  
1060 of proffered conditions that I could come up with that would induce them not to object to this  
1061 case. I have known from the very beginning that unless I could reconcile the differences or  
1062 find common ground with the Short Pump PTA and these other associations, that neither  
1063 Commissioner Mary Wade nor Supervisor David Kaechele would vote to approve this case.  
1064 So, having been made aware of that fact that there was no basic grounds to meet common  
1065 ground on it, I respectfully request that both of these cases be withdrawn.

1066  
1067 Ms. Dwyer - Thank you, Mr. Weinberg.

1068  
1069 Mrs. Wade - We thank you, too, Mr. Weinberg. I know how hard you've  
1070 worked with all the neighbors as you always do to get community in these matters.

1071  
1072 Ms. Dwyer - No action is required when an applicant decides to withdraw a  
1073 rezoning case. So, if you're all here for this case, it will not be heard because the case has  
1074 been withdrawn.



1075  
1076 Mr. Merrithew - We could point out, as well, once a case is withdrawn, a similar  
1077 case cannot be heard on the same property for a period of 12 months.  
1078  
1079 Mr. Vanarsdall - We do appreciate you coming.  
1080  
1081 Mr. Merrithew - Madam Chairman, I have one more exciting deferral. I believe  
1082 we're still in the Three Chopt District and on Page 5 of your agenda:  
1083  
1084 **C-36C-99** Brian R. Marron for Bill Tsimbos: Request to conditionally  
1085 rezone from R-3 One Family Residence District to B-1C Business District (Conditional),  
1086 Parcel 59-A-74, containing 0.446 acres, located on the east side of Skipwith Road  
1087 approximately 480' south of its intersection with W. Broad Street (U. S. Route 250). A beauty  
1088 salon and related uses are proposed. The use will be controlled by zoning ordinance  
1089 regulations and proffered conditions. The Land Use Plan recommends Office.  
1090  
1091 They have requested a deferral to June 10, 1999.  
1092  
1093 Ms. Dwyer - Is there anyone in the audience in opposition to the deferral of  
1094 Case C-36C-99 Brian R. Marron for Bill Tsimbos? No opposition. Ready for a motion.  
1095  
1096 Mrs. Wade - I move Case C-36C-99 be deferred to June 10<sup>th</sup> at the applicant's  
1097 request.  
1098  
1099 Mr. Vanarsdall seconded the motion.  
1100  
1101 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
1102 those in favor say aye—all those opposed by saying nay. The vote is 5-0, (Mr. Donati  
1103 abstained). The motion for deferral carries.  
1104  
1105 Mrs. Wade - I think maybe we need to talk some more about this case in the  
1106 meantime.  
1107  
1108 Ms. Dwyer - Is that it for the deferrals for the 8:00 o'clock agenda?  
1109  
1110 Mr. Merrithew - Yes ma'am. That's it for the deferrals on the 8:00 o'clock  
1111 agenda.  
1112  
1113 Ms. Dwyer - Do Commission members have deferrals? Okay. We'll move to  
1114 the next case on the agenda which I believe is the last case on the 7:00 o'clock agenda, Mr.  
1115 Secretary.  
1116  
1117 Mr. Merrithew - Your last case, the Carter case was deferred by Mr. Archer.  
1118  
1119 Ms. Dwyer - C-23C-99 is the next case.  
1120

1121 Mr. Merrithew - That's correct.

1122

1123 **Deferred from the April 15, 1999 Meeting:**

1124 **C-23C-99 Roy B. Amason:** Request to conditionally rezone from B-2  
1125 Business and O-3 Office Districts to RTHC Residential Townhouse District (Conditional), part  
1126 of Parcel 33-A-69A, described as follows:

1127

1128

Parcel A

1129 Beginning at a point located on the North West corner of the property running North  
1130 65°02'25" East 89.23 feet to a point; thence North 43°26'05" East 402.00 feet to a point;  
1131 thence South 01°24'30" West 220.41 feet to a point; thence North 88°35'30" West 96.87 feet  
1132 to a point; thence along a curve to the left radius of 21.50 feet a distance of 18.00 feet to a  
1133 point; thence South 43°26'05" West 23.90 feet to a point; thence along a curve to the left  
1134 radius of 69.50 feet a distance of 34.35 feet to a point; thence along a curve to the right radius  
1135 of 97.00 feet a distance of 95.98 feet to a point; thence along a non tangent curve to the right  
1136 radius 865.76 a distance of 124.89 feet to the Point of Beginning, containing 0.979 acres.

1137

1138

Parcel B

1139 Beginning at a point located on the South West corner of the property running North along a  
1140 curve radius 865.76 feet a distance of 181.93 feet to a point; thence along a non tangent curve  
1141 to the right radius 97.00 feet a distance of 95.98 feet to a point; thence along a curve to the  
1142 right radius 69.50 feet a distance of 34.35 feet to a point; thence North 43°26'05" East a  
1143 distance of 95.66 feet to a point; thence North 41°08'39" East a distance of 50.04 feet to a  
1144 point; thence North 43°26'05" East a distance of 23.90 feet to a point; thence along a curve to  
1145 the right radius 21.50 feet a distance of 18.00 feet to a point; thence South 83°35'30" East a  
1146 distance of 98.87 feet to a point; thence South 01°24'30" West 223.22 feet to a point to a  
1147 point; thence South 17°17'20" East 93.21 feet to a point to a point; thence South 72°42'40"  
1148 West 310.09 feet to the Point of Beginning, containing 1.986 acres.

1149

1150 Mr. Marlles - This case is "For Decision Only," and the staff presentation will  
1151 be by Mr. Merrithew.

1152

1153 Mr. Merrithew - Thank you, Mr. Secretary. First some housekeeping. The  
1154 proffers I handed out this evening, I believe, are the same ones that were handed out at the last  
1155 Planning Commission meeting, but unfortunately, only the first page of those proffers got in the  
1156 subsequent staff report; in my staff report anyway. So, I wanted to make sure you had the  
1157 complete set that was not included in the staff report.

1158

1159 Secondly, this case has been modified since its original proposal, and the screen in front of you  
1160 shows the realignment of the case. It shows the residential RTHC case being pulled back from  
1161 the northwestern boundary property line, leaving a strip of B-2 property between the townhouse  
1162 portion of the site and the Pittston property. It's approximately 75 feet give or take a few feet in  
1163 width at its narrowest point.

1164

1165 As I said, the case has been reduced from 2.9 acres to approximately 1.9 acres with the western  
1166 portion retained as B-2. The change reduces the number of units from 25 townhouses to 21,  
1167 with a density of about 10.6 dwellings per acre.  
1168

1169 The change allows the golf course access road to be relocated to the northern edge of the  
1170 townhouse property and not run through the townhouse property as it was originally proposed.  
1171 And we have a plan submitted by the applicant showing that change in the alignment of the road.  
1172 Thank you.  
1173

1174 The road was originally, or currently running through about the middle of the property. The  
1175 original proposal had it running through the middle of the townhouse development with  
1176 townhouses on either side. With this move to the northern edge of the site, we feel is a better  
1177 location for that access to the golf course and better suited for the development overall. The  
1178 change also addresses concerns that have been raised by the adjoining property owner, Pittston,  
1179 concerning the impact of this development on their property.  
1180

1181 Moving the RTH zoning closer to Pittston, which is zoned O-3, impacts the development  
1182 potential for hotels on that site. As you recall, a year or little better past, we amended the O-3  
1183 zoning ordinance to put in standards for the development of hotels in that district.  
1184

1185 The standard was one hotel for every 50 acres. And also that any hotel and accessory uses had  
1186 to be 300 feet away from property that was zoned or used as residential. By zoning a portion of  
1187 this site to RTH, we are, in fact, applying that 300 foot setback to the Pittston property. That,  
1188 potentially, has an impact on the future use of that site.  
1189

1190 The modification to this case, allowing the B-2 to remain adjacent to Pittston, does one important  
1191 thing. It allows the hotel to actually occur, if one is to occur. It allows it to occur on the  
1192 Pittston property. If the RTH went all the way to the Pittston property, it would disqualify that  
1193 site for a hotel use. And, by leaving the B-3, it now allows the hotel to occur on that site,  
1194 subject to the 300-foot setback. That's probably clear as mud, but it is an important impact on  
1195 that property.  
1196

1197 As before, staff feels that the RTHC zoning is a continuation of the Golf Villas at Cross Point  
1198 and a more realistic use of this B-2 property. Any B-2 use short of, perhaps, golf course related  
1199 uses probably would not have enough consumer traffic in the area to justify a business on the  
1200 site. So, we feel the extension of the townhouse development is reasonable and is more realistic.  
1201

1202 With the access issue addressed, and the golf course now proposing to accommodate all their  
1203 parking on site, staff feels the change in the plan is also appropriate.  
1204

1205 With regard to the proffers submitted, they provide for consistency with the golf course. They  
1206 limit the development to 21 units, which is a reduction from the original submittal. They require  
1207 compliance with the Plan that you see on the screen now. And they're submitting this as a  
1208 preliminary plan not as a final plan. And we believe that there are some issues that will have to  
1209 be addressed.  
1210

1211 They provide setbacks and landscaped easements along the Pittston property 10-feet wide along  
1212 the golf course are 10-foot wide, and 15-foot setbacks for the lots, and 25-foot setbacks for the  
1213 buildings along this edge of this access easement to the golf course. So, the buildings along this  
1214 edge are 25 feet off the easement and the lots are to be 10 feet off the easement.

1215  
1216 With one final point on the proffers. Virginia Center, Inc. listed in the proffers as having say in  
1217 the final landscaping and any fence construction that might be included on the site.

1218  
1219 Staff can support this request provided the applicant and the golf course reach agreement on the  
1220 proposed access location as its shown on the concept plan. And, also, with the understanding by  
1221 the applicant, future access to those townhouses is still something that should be discussed or  
1222 negotiated at the POD. You can see the access point for the townhouses is off the same road that  
1223 will serve the golf course.

1224  
1225 Staff is unclear, and would like to discuss more with the applicant, possible access for these  
1226 townhouses through the existing townhouse project. There may be some blockage there. There  
1227 may be a reason it cannot happen, but we believe its an issue that should be left open through the  
1228 POD process.

1229  
1230 Access through the existing townhouse project might provide a safer point of access for the  
1231 residents, and it might also provide a cleaner break between the commercial access to the golf  
1232 course and the residential units.

1233  
1234 Those two issues outstanding, we still feel it is a reasonable use of the property and can support  
1235 the applicant. I'd be glad to answer any questions.

1236  
1237 Ms. Dwyer - Any questions for Mr. Merrithew by Commission members?

1238  
1239 Mrs. Quesinberry - I just have one about, when you look at that plan, I know you said,  
1240 a preliminary plan?

1241  
1242 Mr. Merrithew - Yes ma'am.

1243  
1244 Mrs. Quesinberry - Units No. 21 and 20, they don't even having parking in front of  
1245 the units.

1246  
1247 Mr. Merrithew - They will have parking in the space to the east or south, I guess.  
1248 You raised another point on that. There are nine units shown on that stick of townhouses. The  
1249 Ordinance only allows eight, so they will have to do some redesign on that stick and move one of  
1250 those units some place else on the site. But it is a preliminary plan. It is something that is still  
1251 subject to final approval.

1252  
1253 Ms. Dwyer - Is this plan proffered?

1254  
1255 Mr. Merrithew - Yes ma'am. Proffer 7, as per Exhibit B, titled "Preliminary  
1256 Layout Plan," dated April 9, 1999.

1257  
1258 Ms. Dwyer - Your thought then was to eliminate access to the golf road and  
1259 have access only to the adjoining townhouse subdivision?  
1260  
1261 Mr. Merrithew - We'd like to leave that option open to explore when the POD  
1262 comes. It may be that Traffic has a concern about coming back through the existing  
1263 development. I'm not sure. It's not an issue that we have pursued to any great deal. It's a  
1264 question that has come up about why it has to be there and why not provide a cleaner separation  
1265 between the B-2 and the RTH.  
1266  
1267 Ms. Dwyer - How many points of access does the adjoining townhouse  
1268 development have?  
1269  
1270 Mr. Merrithew - I believe they have one point of access at this point.  
1271  
1272 Ms. Dwyer - And how many units?  
1273  
1274 Mr. Merrithew - That I don't know right off the top. Thirty-two units.  
1275  
1276 Ms. Dwyer - Any other questions for Mr. Merrithew by the Commission? No  
1277 questions. We did have an extensive hearing on this case last month and it was deferred to this  
1278 month's meeting "For Decision Only." Are we ready for a motion, Mr. Archer?  
1279  
1280 Mr. Archer - I believe so, Madam Chairman. Let me summarize, somewhat, if  
1281 I may. Last month we decided to bring this back for a decisive decision only. Since that time,  
1282 (comments unintelligible) Fahlberg of The LINKS Corp. so he understood and was clear on the  
1283 setback finding. I have wrote to him and I have also talked with him...I spoke with him today.  
1284  
1285 As Mr. Merrithew pointed out in the staff report, access to the golf course is a concern, because  
1286 the LINKS Corp does have an easement. And to what extent that easement might be moved,  
1287 may be something that has to be worked out with them. And I also shared his concern about  
1288 access to the proposed townhouses, and that would require a resolution also.  
1289  
1290 I do find it difficult, in my opinion, to see how this property would develop as commercial  
1291 property, just as Mr. Merrithew indicated. If it did, it would require at least some truck traffic  
1292 to service any commercial entity. You may recall trucks from Virginia Center Parkway was a  
1293 major point in a previous case...that was denied.  
1294  
1295 I believe that the addition of 21 single units to an already existing site would have no debilitating  
1296 effect on nearby property if the access issues can be addressed in a satisfactory manner. I also  
1297 point out, I don't know if this came up in the last meeting or not, that I do have a letter from the  
1298 residents of the community association. And I certainly don't feel that they should be ignored in  
1299 this, but they support this proposed project. And, of course, our recommendation, tonight, has  
1300 to be finally approved by the Board. So, there's another opportunity for both sides to be heard.  
1301

1302 But I think that this proposal is worthy of that opportunity, subject to the concerns that I have  
1303 mentioned, and I, therefore, move to recommend that the Board approve C-23C-99.

1304  
1305 Mr. Vanarsdall seconded the motion.

1306  
1307 Ms. Dwyer - Motion made by Mr. Archer, seconded by Mr. Vanarsdall. All  
1308 those in favor say aye—all those opposed by saying nay. The vote is 5-0, (Mr. Donati  
1309 abstained).

1310  
1311 REASON: Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning  
1312 Commission voted 5-0 (one abstention) to recommend that the Board of Supervisors accept the  
1313 proffered conditions and grant the request because it is appropriate residential zoning at this  
1314 location; and it reflects the type of residential growth in the area.

1315  
1316 **Deferred from the April 15, 1999 Meeting:**  
1317 **C-18C-99 James W. Theobald for H. H. Hunt Corporation: Request to**  
1318 **conditionally rezone from A-1 Agricultural District to R-3C One Family Residence District**  
1319 **(Conditional) and R-3AC One Family Residence District (Conditional), Parcels 11-A-3 & 4,**  
1320 **and Parcel 19-A-13, described as follows:**

1321  
1322 Etta M. Graser, et als - Rezone A-1 to R-3c  
1323 Beginning at a point on the south line of twin hickory lane, said point being 2,186.02' east of  
1324 the East line of Nuckols Road; thence from said point of beginning N 44° 58' 05" E, 984.01'  
1325 to the true point and place of beginning; thence from said true point and place of beginning N  
1326 44° 58' 05" E, 700' ± to a point in the centerline of the Chickahominy River; thence  
1327 following the meandering of the centerline of the Chickahominy River in a easterly direction  
1328 970' ± to a point; thence leaving the centerline of the Chickahominy River S 45° 42' W,  
1329 1,138' ± to a point; thence along a curve in a northwest direction to the right with a radius of  
1330 1,413.51' and a length of 603.07' to a point; thence N 36° 24' 35" W, 41.98' to the true point  
1331 and place of beginning containing 14.6 ± acres of land.

1332  
1333 Etta M. Graser, et als - Rezone A-1 to R-3AC  
1334 Beginning at a point on the south line of Twin Hickory Lane, said point being 2,186.02' east  
1335 of the East line of Nuckols Road; thence from said point of beginning N 44° 58' 05" E,  
1336 984.01' to a point; thence S 36° 24' 35" E, 41.98' to a point; thence along a curve to the left  
1337 with a radius of 1,413.51' and a length of 603.07' to a point; thence S 45° 42' W, 1,133.89'  
1338 to a point; thence N 43° 55' 08" W, 269.07' to a point; thence N 44° 01' 53" W, 355.50' to a  
1339 point on the south line of Twin Hickory Lane; thence continuing along the south line of Twin  
1340 hickory Lane N 45° 01' 46" E, 107.07' to the point and place of beginning containing 15.771  
1341 acres of land.

1342  
1343 John F. & R. M. Chappell - Rezone A-1 to R-3AC  
1344 Beginning at a point on the south line of Twin Hickory Lane; said point being 2,186.02' east  
1345 of the East line of Nuckols Road; thence from said point of beginning and continuing along the  
1346 South line of Twin Hickory Lane S 45° 01' 46" W, 107.07' to a point; thence leaving the  
1347 south line of Twin Hickory Lane S 44° 01' 53" E, 355.50' to a point; thence S 43° 55' 08" E,

1348 269.07' to the true point and place of beginning; thence from said true point and place of  
1349 beginning N 45° 42' E, 1,133.89' to a point; thence along a curve to the left in an easterly  
1350 direction with a radius of 1,413.51' and a length of 531.77' to a point; thence S 82° 24' 35"  
1351 E, 278.48' to a point; thence S 47° 34' 05" W, 501.55' to a point; thence S 46° 19' 05" W,  
1352 1,051.67' to a point; thence N 43° 55' 08" W, 661.06' to the true point and place of beginning  
1353 containing 20.098 acres of land.

1354  
1355 John F. & R. M. Chappell - Rezone A-1 to R-3C

1356 Beginning at a point on the South line of Twin Hickory Lane, said point being 2,186.02' east  
1357 of the east line of Nuckols Road; thence from said point of beginning and continuing along the  
1358 south line of Twin Hickory Lane S 45° 01' 46" E, 107.07' to a point; thence leaving the south  
1359 line of Twin Hickory Lane S 44° 01' 53" E, 355.50' to a point; thence S 43° 55' 08" E,  
1360 269.07' to a point; thence N 45° 42' E, 1,133.89' to the true point and place of beginning;  
1361 thence from said true point and place of beginning N 45° 42' E, 1,138' to a point in the  
1362 centerline of the Chickahominy River; thence along the meandering of the centerline of the  
1363 Chickahominy River in an easterly direction 1,553'  $\pm$  to a point; thence leaving the centerline  
1364 of the Chickahominy River S 47° 34' 05" W, 1,335'  $\pm$  to a point; thence N 82° 24' 35" W,  
1365 278.48' to a point; thence along a curve to the right with a radius of 1,413.51' and a length of  
1366 531.77' to the true point and place of beginning containing 24.3  $\pm$  acres of land.

1367  
1368 Arthur O. Houston - Rezone A-1 to R-3AC

1369 Beginning at a point on the north line of Opaca Lane, said point being 753.85' east of the east  
1370 line of Chappell Road; thence from said point of beginning and leaving the north line of Opaca  
1371 Lane N 47° 15' 01" W, 813.45' to a point; thence N 46° 19' 05" E, 244.14' to a point; thence  
1372 S 47° 22' 28" E, 967.22' to a point on the north line of Opaca Lane; thence continuing along  
1373 the north line of Opaca Lane S 77° 15' 29" W, 298.24' to the point and place of beginning  
1374 containing 5.000 acres of land.

1375  
1376 Mr. Marlles - Mr. Mark Bittner will be giving the staff presentation.

1377  
1378 Ms. Dwyer - Is there any one in the audience in opposition to Case C-18C-99  
1379 H. H. Hunt Corp.? We do have opposition. We will call on the opposition in a moment. Mr.  
1380 Bittner.

1381  
1382 Mr. Bittner - Thank you, Ms. Dwyer. I'd like to point out this application has  
1383 been revised since the previous meeting. The property that fronts on Opaca Lane has been  
1384 removed from this case. It is this property right here (referring to slide). That is no longer a  
1385 part of the rezoning application. Therefore, no property along Opaca Lane would be rezoned  
1386 as a result of this case. New proffers have also been submitted that include a phasing of  
1387 development provision. The applicant has proffered that no more than 70 Certificates of  
1388 Occupancy or CO's may be issued per year for this subdivision. The applicant is also now  
1389 requesting rezoning of property along this site's northwestern border. That is this property  
1390 here (referring to slide).

1391  
1392 This property is the subject of a separate rezoning case, but the applicant intends to develop all  
1393 of this property as one subdivision. A preliminary road layout has been submitted but it has not

1394 been proffered. This is the preliminary road layout here. It shows access coming from Twin  
1395 Hickory Lane and through the Wyndham Forest Subdivision. The applicant has also proffered  
1396 that Twin Hickory Lane will be improved to County standards from the property in question to  
1397 Nuckols Road.

1398  
1399 Staff has several concerns with this application: First is that this proposal involves a single  
1400 subdivision, but it is being processed under two rezoning applications which are scheduled to be  
1401 reviewed at different times by the Planning Commission. These cases should be brought under  
1402 one rezoning or, at the very least, processed at the same time.

1403  
1404 The applicant should also consider making the following items part of this application:

1405  
1406 One, that no more than 50 new lots will be built on this property until a second permanent point  
1407 of access is constructed; and, two, that Concept Road 10-1 which is somewhere along here  
1408 (referring to slide), we suggested the applicant provide construction of Concept Road 10-1 as  
1409 part of this application.

1410  
1411 Also, the phasing level of 70 CO's per year may not be an effective proffer. There are  
1412 concerns with school overcrowding and traffic congestion in this area. The purpose of a  
1413 phasing proffer would be to slow down development to allow public facilities to accommodate  
1414 new growth. Allowing 70 CO's per year would not appear to slow down development when  
1415 development levels in neighboring subdivisions are examined. During 1998, 54 CO's were  
1416 issued in Avery Green, 45 CO's were issued in Scots Glen, and only 4 CO's were issued in  
1417 Wyndham Forest. The applicant should consider decreasing the amount of CO's to be  
1418 permitted per year in this subdivision.

1419  
1420 In summary, the requested use, zoning, and proffers are compatible with the adjacent  
1421 development. However, there are still several outstanding issues. Because of these issues,  
1422 staff recommends deferral of this application. I'd be happy to answer any questions you may  
1423 have.

1424  
1425 Ms. Dwyer - Any questions for Mr. Bittner by Commission members? Mr.  
1426 Bittner, do you have a comment on the R-3 and the R-3A, division of the zoning there. Do  
1427 you think it should be consistent across all parcels?

1428  
1429 Mr. Bittner - We thought it was acceptable because it was not exactly  
1430 consistent, but mostly consistent with Wyndham Forest which is also a split-zoned subdivision.  
1431 I believe, I can't recall at the moment, but not R-3, or R-3A, but they are something similar.  
1432 They are R-4 and R-3. So, in actuality, the density proposed in these zoning districts will be a  
1433 little less than Wyndham Forest.

1434  
1435 Ms. Dwyer - Are there some amenities with the R-4 parcel? Is there  
1436 compensation for the density in that parcel in Wyndham Forest?

1437  
1438 Mr. Bittner - Not that I'm aware of.

1439



1440 Ms. Dwyer - Any other questions for Mr. Bittner? Would the applicant come  
1441 forward, please? Mr. Secretary, since we do have opposition, and the opposition may not  
1442 have been able to get a seat earlier when we talked about the Commission rules, I wondered if  
1443 you would review those again?  
1444

1445 Mr. Marlles - Sure. The Commission's policy, when there is opposition on a  
1446 case to allow for 10 minutes for the applicant to present his case. That 10 minutes does not  
1447 include any time in which he's responding to questions from the Commission. The opposition  
1448 is also provided 10 minutes under the same guideline. It is recommended, if possible, the  
1449 opposition has a spokesperson who can summarize the group's position. That makes more  
1450 effective use of time.  
1451

1452 Ms. Dwyer - Thank you. Would you like to reserve some time for rebuttal,  
1453 Mr. Theobald?  
1454

1455 Mr. James W. Theobald - I think three minutes will do, Ms. Dwyer. Madam Chairman,  
1456 ladies and gentlemen, my name is Jim Theobald, and I'm here this evening on behalf of H. H.  
1457 Hunt. This is a request to rezone approximately 80 acres at the end of Twin Hickory Lane  
1458 adjacent to the Chickahominy River from A to R-3 and R-3A, perfectly consistent with the  
1459 County's Land Use Plan designations.  
1460

1461 The proffered conditions in this case are consistent with Wyndham Forest and the other Hunt  
1462 communities. These proffers include a commitment to rezone the flood plain to a C-1  
1463 Conservation District category. We have proffered minimum house sizes of 1,800 square feet  
1464 in the R-3A category. Minimum house sizes of 1,850 square feet in the R-3 category. For  
1465 your information, the homes in this subdivision are expected to sell in excess of \$200,000. We  
1466 have proffered that there will be no stem-shaped flag lots, consistent with our other cases.  
1467 We've also agreed that no homes would front Concept Road 10-1. We've also provided a  
1468 phasing proffer in response to concerns about schools. I would like to say that such a proffer  
1469 is not necessarily designed to slow growth, but rather to give the school system an opportunity  
1470 to plan for growth up to certain levels.  
1471

1472 We've also agreed that there would be no CO's prior to September of the Year 2000 which is  
1473 the opening date of the new elementary school in Twin Hickory, the POD for which was  
1474 approved by the Board of Supervisors Tuesday evening.  
1475

1476 Based on a voice mail message from Mr. Bittner earlier this morning, and his comments this  
1477 evening with regard to a proffer regarding construction of our share of Concept Road 10-1  
1478 within the boundaries of our property, we are prepared to submit tonight, if you're prepared to  
1479 waive the time limit for proffers, that we would construct 10-1. It has always been our  
1480 intention to do so, consistent with our phases of development. I'm happy to turn those in this  
1481 evening, and also that we would not receive more than 50 Certificates of Occupancy until we  
1482 had a secondary means of access.  
1483

1484 We have capped our density at 200 homes on this 80-acre parcel. That provides us with a  
1485 gross density of 2.51 units per acre; a net density of 2.79 units per acre, well within the SR-2  
1486 designation range which is 2.4 to 3.4 in this area.

1487  
1488 As Mr. Bittner indicated, we had originally included a parcel of land that connected to Opaca  
1489 Lane. Mr. Schmidt met on two different occasions with residents of Opaca to discuss our  
1490 plans. They were not happy about the possibility of using Opaca as secondary or even  
1491 emergency access we had offered at one point. And, as a result, Hunt has agreed to acquire  
1492 the 10.5 acre parcel of land over here (referring to slide) included it as a new zoning request  
1493 which is pending with the County.

1494  
1495 Upon contracting for that parcel of land, a series of meetings occurred with the Public Works  
1496 Department to assure that we had a road access acceptable to Public Works which met all of  
1497 the County's requirements so that we could, in fact, withdraw this parcel of land and,  
1498 therefore, have no need to use Opaca whatsoever for emergency purposes or otherwise.

1499  
1500 We presented Public Works with four different possible alternatives for how to best access this  
1501 new development, and the conceptual plan that you see before you is the one that Mr. Tyler  
1502 and Mr. Schmidt, Mr. Thompson, Mr. Foster basically decided to support. It does provide us  
1503 with the two means of access, both down Twin Hickory Lane and through Wyndham Forest.

1504  
1505 Accordingly, we believe that we've addressed all of the issues that was put forth in the staff  
1506 report. We are consistent with the Land Use Plan in this area. We're familiar with the quality  
1507 development that H. H. Hunt has provided in this area of the County with consistent proffers.  
1508 With that, I would respectfully request your recommendation of approval to the Board of  
1509 Supervisors, and I'd be happy to answer any questions.

1510  
1511 Ms. Dwyer - Any questions for Mr. Theobald by Commission members?

1512  
1513 Mrs. Wade - Would you describe, briefly, then, the access points proposed for  
1514 the combined...?

1515  
1516 Mr. Theobald - Yes ma'am. We've agreed, by proffer, and again, these  
1517 agreements have long been in place with the County, but we've reiterated then again in our  
1518 condition, for Nuckols Road, up Twin Hickory, we will improve Twin Hickory within the 45-  
1519 foot right of way that we control up to the property. We'll have to do that with the first CO's  
1520 up in here.

1521  
1522 Mrs. Wade - It seems to me you have the proffer that says you're going to do  
1523 it, but it isn't indicated.

1524  
1525 Mr. Theobald - This road, right now, has already been dedicated.

1526  
1527 Mrs. Wade - But it doesn't say when you're going to do it.

1528

1529 Mr. Theobald - We'll have to do it with the first set of lots, I presume. Is that  
1530 correct? Yes. That's a nod. We can clarify that, Mrs. Wade. The access as Twin Hickory  
1531 goes in a northerly direction and enters the property will be able to access here to Twin  
1532 Hickory. We will also be able to access down through here, through Wyndham Forest and our  
1533 Wyndham Forest Drive ultimately back down to Nuckols. And, again, as you know from  
1534 prior cases, there are also connections that end up going out to Shady Grove Road and Concept  
1535 10-1 will also take you out there in the future. So, all of the traffic will be coming back  
1536 towards Twin Hickory and then being defused either through Wyndham Forest or down Twin  
1537 Hickory Lane.

1538  
1539 There are, from past cases, as you know, commitments to provide signalization and turning  
1540 lane improvement by the YMCA and by Hunt at that intersection as and when VDOT will let  
1541 us do it.

1542  
1543 Mrs. Wade - And when would improvements be made to 10-1 then?

1544  
1545 Mr. Theobald - Well, as we develop subdivisions adjacent to it, they will be  
1546 incorporated within our subdivision plats. If we do a section starting over here, for instance,  
1547 we would do this section. And, then, as we do sections adjacent to it, this becomes a part of  
1548 our subdivision, where, as you know, you've had a request to amend the Major Thoroughfare  
1549 Plan and the design standards of 10-1. 10-1 is not intended to continue beyond this point here  
1550 (referring to slide) towards the land fill. And, so you've had many discussions about 10-1 in  
1551 the last couple of months.

1552  
1553 Mrs. Wade - Apparently, there was some concern about drainage in this area.  
1554 Do you know anything about that?

1555  
1556 Mr. Theobald - The drainage issue was raised by Mrs. Edwards whose property  
1557 we're not purchasing. There is a draw. You can see the low area in here on which Mr. Tyler  
1558 is suggesting we might have the ability to provide a lake feature. But there is a draw that goes  
1559 to the Chickahominy here. And, at one point, we were discussing with Mr. Edwards how best  
1560 to handle the drainage that went back towards the rear of this property. Now, that we will be  
1561 developing that in concert with the subdivision, obviously, we will take care of that for our  
1562 own account.

1563  
1564 Mrs. Wade - And how would you respond to the staff's suggestion, request  
1565 that these two be considered for rezoning at the same time?

1566  
1567 Mr. Theobald - Well, that would be, I suppose, nice from a housekeeping  
1568 standpoint. These cases have been deferred twice already. This is, obviously, the bulk of the  
1569 property. We have tied the phasing proffers, etc., together by referencing the other case in  
1570 each of the two cases so they do act in concert with one another with regard to phasing as well  
1571 as the proffer to be submitted this evening with regard to 50 CO's until we have a secondary  
1572 access.

1573

1574 And, so, we have legally tied these two together, but rather than to continue to defer this  
1575 matter, since this piece is but 10 acres of land, gives us another, I think, 32 lots. I believe, if  
1576 you so desire, we can, hopefully, act on the large piece this evening.  
1577

1578 Ms. Dwyer - Will this map that we're looking at, will this subdivision have a  
1579 separate identity from Wyndham Forest?  
1580

1581 Mr. Theobald - Is it going to be marketed as part of Wyndham Forest? Yes. It  
1582 is.  
1583

1584 Ms. Dwyer - Will it have any amenities for the residents?  
1585

1586 Mr. Theobald - It will not, on site, other than the normal small area parks and  
1587 areas that end up in all Hunt Subdivisions. But they have the ability to participate in the  
1588 Dominion Club recreational facilities as being part of Wyndham Forest as well as the WMCA  
1589 at the end of Twin Hickory Lane should they chose to join and the various public recreational  
1590 opportunities that, as you know, are coming to that area with the public park, and school  
1591 properties, etc.  
1592

1593 Ms. Dwyer - Will they be sidewalks in the subdivision?  
1594

1595 Mr. Theobald - They have a habit of connecting pedestrian access ways, so that  
1596 there is some internal circulation, but it would not be anticipated that every street be ringed  
1597 with sidewalks. No.  
1598

1599 Ms. Dwyer - So, there would be some sidewalks?  
1600

1601 Mr. Theobald - Some sidewalks with some connection with cul-de-sacs through  
1602 pedestrian access ways as and where that makes sense.  
1603

1604 Mrs. Wade - How about trails in the C-1 area?  
1605

1606 Mr. Theobald - There's some interesting opportunities, you know, along the  
1607 Chickahominy to do that and, obviously, as they have acquired property, it provides an  
1608 opportunity to do some programming for some nature trails, etc. We're very much involved in  
1609 that, currently, in Twin Hickory as we've identified the flood plains and have a programming  
1610 document for the flood plain areas in Twin Hickory. I think that's a neat concept and  
1611 something I'm sure they'd be happy to look at.  
1612

1613 I think their history would suggest they're not adverse to looking at things like that.  
1614

1615 Ms. Dwyer - Any other questions for Mr. Theobald? Mr. Theobald, let me  
1616 just ask you one more question about all of these cul-de-sacs. I'm wondering if we're building  
1617 in some heavy traffic loads on the two roads I'm looking, I guess, south of the Concept Road  
1618 10-1. I'm wondering if it wouldn't be wise to maybe connect some of these roads to Concept  
1619 Road 10-1 rather than having, say, that major cul-de-sac, the one that's to the east, rather than

1620 funneling all that traffic along, what amounts to maybe two spine roads? Have you considered  
1621 about having more access to Concept Road 10-1 and fewer cul-de-sacs?

1622  
1623 Mr. Theobald - I certainly haven't.

1624  
1625 Ms. Dwyer - The cul-de-sacs are popular, but it also tends in a confined  
1626 subdivision like this. That would be my concern.

1627  
1628 Mr. Theobald - Well, we seem to be in a period where, I know, Mr. Schmidt  
1629 provided the County, today, with a national survey that suggested that the Number 1 amenity  
1630 was quiet cul-de-saced streets. And for years, and years, and years in Henrico, that has been  
1631 the desired pattern of development. And, I believe, that it still is, certainly based on the  
1632 comments from some Commission members and staff members. There, at least, seems to be  
1633 some interest in exploring alternatives, I suppose, at this point. I still believe, however, that  
1634 the consumer would prefer to live on a cul-de-saced street rather than on a connecting street.  
1635 Personally, I think that's been borne out by both the studies and the marketing efforts that Hunt  
1636 has undertaken at Wyndham and Wellesley, for that matter.

1637  
1638 Ms. Dwyer - Well, we have some experience, at least, in the Tuckahoe District  
1639 of some neighborhoods that have cul-de-saced streets and then other spine roads that are not,  
1640 on which houses front, as well. And those spine roads tend to bear more than their share of  
1641 the traffic burden. And, that creates some undesirable living conditions for those residents.

1642  
1643 Mr. Theobald - I agree, but also I think the opportunity that you have here that  
1644 you haven't had in the Tuckahoe District where I live as well, is that, the development in the  
1645 Tuckahoe District tends to be on (gap in tape) parts of development.

1646  
1647 Mrs. Wade - Perhaps, there's nothing said about not having driveways from  
1648 houses directly to 10-1.

1649  
1650 Mr. Theobald - We said, "No houses shall front 10-1."  
1651 Mrs. Wade - Is that in there now?

1652  
1653 Mr. Theobald - Yes ma'am.

1654  
1655 Mrs. Wade - Oh. Okay.

1656  
1657 Mr. Theobald - It's already there, I believe. Proffer No. 10. That includes  
1658 driveways.

1659  
1660 Mrs. Wade - Oh. Okay. Thank you.

1661  
1662 Ms. Dwyer - Any other questions for Mr. Theobald? Thank you.

1663  
1664 Mr. Theobald - Thank you.

1665

1666 Ms. Dwyer - Would the opposition come forward now, please? Do we have  
1667 anyone who wanted to speak in opposition to the case? All those who might want to begin  
1668 coming forward so we'll be prepared to get to the podium.  
1669

1670 Mr. Ben Holloway - Good evening, Madam Chairman, and members of the  
1671 Commission. I'm Ben Holloway, resident of Opaca Lane. Perhaps, each of you have a copy  
1672 of my letter which was addressed to the Secretary. I will not repeat everything that this relates  
1673 to. However, my main concern to - Two. Number 1, as of this date, Nuckols Road has either  
1674 reached or surpassed the capacity of vehicles for which it was designed, in my opinion. It's  
1675 quite difficult to enter Nuckols Road from a side road without extreme caution, first of all, and  
1676 really a danger. Another issue of grave concern is our schools.  
1677

1678 According to the published reports, schools in our district are already at or near capacity. In  
1679 fact, it has been reported that trailers will be in place to be used as classrooms at Shady Grove  
1680 Elementary for the next school year. This is an alarming revelation inasmuch as the school is,  
1681 I believe, only six years old.  
1682

1683 How about teachers for the classrooms? It has been reported that there is a shortage of  
1684 qualified teachers. The aforementioned conditions should give us reason for pause. Recent  
1685 reports disclose that the planned Twin Hickory neighborhood will have approximately 1,400  
1686 homes. Wyndham Forest, 53 homes; Avery Green, 172 homes; and Scotts Glen, 76 homes.  
1687 In addition, the apartments known as Cameron at Wyndham continued to advertise vacancies.  
1688 And since my letter to you, ladies and gentlemen, further research has revealed that ground  
1689 breaking is just beginning for Courtland at Wyndham townhouses or condominiums.  
1690

1691 I don't know the number, but there's a new community west of Wyndham called "Westchase"  
1692 by Ryan. How many homes there? Cambridge, Nuckols Road at Pouncey Tract, how many?  
1693 Rezoning signs just west of Shady Grove Road and south of Nuckols. I suggest that we have  
1694 really been inundated with requests for rezoning in our community. I've been a resident there  
1695 since '51. I've seen it change from agricultural or rural to suburban and now, we're rapidly  
1696 reaching an urban community in my opinion. I'm not opposed to orderly growth or planned  
1697 development. But, I do think its time for us to pause and let the infrastructure; the services  
1698 that can be provided to accommodate for this additional rezoning. And, I respectfully ask that  
1699 you take these things into consideration, and I know you will. Perhaps a moratorium on all  
1700 rezoning would be appropriate. I thank you for your time.  
1701

1702 Ms. Dwyer - Thank you, Mr. Holloway. Any questions for Mr. Holloway by  
1703 Commission members?  
1704

1705 Mrs. Wade - Mr. Holloway.  
1706

1707 Mr. Holloway - Yes ma'am.  
1708

1709 Mrs. Wade - I know you called and left a message. I'm sorry I got kind of  
1710 busy the last couple of days and didn't get back to everybody.  
1711

1712 Mr. Holloway - That's all right.  
1713  
1714 Mrs. Wade - Where do your grandchildren live?  
1715  
1716 Mr. Holloway - My grandchildren live on Opaca Lane.  
1717  
1718 Mrs. Wade - Oh. Okay.  
1719  
1720 Mr. Holloway - And they are students. Two of them are students of the Shady  
1721 Grove Elementary School. As a grandparent, I'm concerned in that regard.  
1722  
1723 Mrs. Wade - Yes. There certainly has been a lot of growth in the area. And  
1724 you may recall when we moved in the fifties to the County that children were going half a day  
1725 at that time. Then the big boom subsided and they caught up. So, presumably, that's what  
1726 will develop here.  
1727  
1728 Mr. Holloway - I agree. I think, at least my experience having been a real estate  
1729 agent could understand, I'm not anti-development. Quite the contrary. But I think the growth  
1730 in our area in the corridor between Springfield Road and Pouncey Tract Road is  
1731 unprecedented. And I do believe that, you, as professionals, not I, as a citizen, but I have to  
1732 leave it to your good judgement. And I hope that you can realize the concerns of our people.  
1733 Not just the people on Opaca Lane, not the people on Nuckols Road, necessarily, but the  
1734 people who are now living in Wyndham and those who will be occupying new homes. They  
1735 will be faced with the same issues that I described.  
1736  
1737 Mrs. Wade - I understand that. Yet, they keep coming. And, I, of course,  
1738 have family in the area, too. Whenever I begin to feel, as you do, about the growth, I live not  
1739 far from here. I'm thankful though that there are job opportunities for the children and the  
1740 grandchildren here, available. This is all part and parcel of the same situation.  
1741 Mr. Holloway - I would urge anyone if they question my statement about the  
1742 traffic on Nuckols Road, just to attempt to get out on one of the lanes, shall we say 8:00  
1743 o'clock in the morning and 5:00 in the afternoon.  
1744  
1745 Mrs. Wade - Mr. Theobald was going to give you a way to get out at the light,  
1746 but you didn't want that. But, no, I know it's a problem and the cars go by there very fast too.  
1747 Thank you.  
1748  
1749 Mr. Holloway - Thank you.  
1750  
1751 Ms. Dwyer - Is there any one else wanting to speak in opposition?  
1752  
1753 Ms. Jennifer Lindsay - My name is Jennifer Lindsay. I also live on Opaca Lane. I  
1754 really want to ditto what Mr. Holloway has already said. I absolutely agree with him.  
1755  
1756 We are not necessarily opposed to the development of this area. We understand that is  
1757 something that is necessary for the continuing growth of the County. We are, however,

1758 concerned about the 1,700 homes that have already planned for the area that some of which  
1759 have started to having been built; most of which have not.

1760  
1761 The traffic on Nuckols Road is a major problem. There are major safety issues. There's  
1762 nowhere to walk. There's nowhere for bikes. We have a lot of bicyclists in that area. Its  
1763 dangerous for them.

1764  
1765 As relates to this specific zoning issue on the Chappell property, it does not appear to me, with  
1766 the information that's been presented tonight, that there is really anything that could be decided  
1767 right now. The original plan, which is what I'm looking at and what we got in our mail, was  
1768 for 79 acres, which included a 4-acre parcel known as the Houston Property. As we have just  
1769 been advised, that parcel has been dropped off-19-A-13. So, we're not looking at 88 acres  
1770 anymore. We're probably looking at 75. Originally required for that was emergency access  
1771 which does not exist right now. Everything is pending on the zoning of the Edwards property,  
1772 which, I would assume, is going to be heard next month. And, considering that one issue on  
1773 the Chappell property and its really not in a position right now I think to even be discussed,  
1774 especially considering the fact all the other growth that we have. We all have a responsibility  
1775 to try and maintain the quality of life, not only for the people that are currently living there,  
1776 but for the people that will be moving into that area. And considering all of the development  
1777 that's already gone on, and all the homes that will already be built, to approve additional  
1778 zoning and additional homes without a really iron clad plan as to what that's going to look like  
1779 and what the impact on the area is, I really don't think is a really good idea. Thank you.

1780  
1781 Ms. Dwyer - Could you spell your last name, please?

1782  
1783 Ms. Lindsey - Lindsey.

1784  
1785 Ms. Dwyer - Lindsey. Okay. Any questions for Ms. Lindsay by Commission  
1786 members? Is your concern about this particular parcel been one of density; too many houses;  
1787 or you'd like to see fewer houses; or is it an overall concern?

1788  
1789 Ms. Lindsey - Personally? I would like to see no more houses. I would really  
1790 prefer not to see any more houses, not for right now. We have already received for approved  
1791 zoning on hundreds and hundreds and hundreds of houses that have not been built. We all  
1792 have conceptual plans as to what that area is going to look like two years from now, but we  
1793 really don't know.

1794  
1795 There's not a lot of room for Nuckols Road to expand any wider than what it is right now in a  
1796 lot of areas. In some areas there is and a lot of areas, there's not. There's been a lot of  
1797 development in the Springfield area; The Village and The Woods and the Nuckols Road area  
1798 towards Springfield. The Nuckols Road area and Shady Grove, there's just a huge amount of  
1799 development already planned. And with the overcrowding of the schools, my daughter goes to  
1800 Henrico County Schools. She goes to Short Pump now. She'll go to Tucker next year. Those  
1801 schools are already overcrowded. They are seriously overcrowded and its really taxing the  
1802 ability, I think, for the County to provide, in a responsible manner, quality education in the  
1803 schools. I think with all the issues that we've got going on in schools right now, and the



1804 responsibility for those School Boards to keep our children safe, the last thing I think we need  
1805 to do is overtax those schools to the point where they're so overcrowded, we're using trailers.  
1806 I think, by doing that, we're affecting the ability of the school system to really keep our  
1807 children in a safe and controlled environment. And I am very concerned about that, as I know  
1808 anybody in this room would be. And I'm not saying we shouldn't do it. I'm just saying  
1809 maybe we ought to kick back just a little bit.

1810  
1811 Ms. Dwyer - Any questions?

1812  
1813 Mrs. Lindsey - Thank you. Any one else who would like to speak in opposition?

1814  
1815 Mr. Gill Vanderbush - I agree with everything that Mr. Holloway and Mrs. Lindsey  
1816 have said so far, but there's just a couple of little things that I wanted to add to it, or maybe,  
1817 perhaps, just emphasize a little bit.

1818  
1819 We are not only concerned with the density of the proposed Chappell development; Wyndham  
1820 Forest, but the density of the whole area. I mean, everything is so crowded out there right  
1821 now. And it is so dangerous to get out onto Nuckols Road from any of the side streets,  
1822 including getting out of Wyndham. I'm amazed there aren't more accidents there now.

1823  
1824 In my letter to the Commission, I mentioned that, by my check, the average speed that people  
1825 are going on Nuckols Road is not the posted 45. It's between 50 and 60. And there are many  
1826 areas where you cannot see when you're trying to get out from a side street adequately in  
1827 either direction, let alone the number of cars that are coming at you. You're talking about  
1828 having to wait there at intersections sometimes for as long as five minutes to get out. It's  
1829 ridiculous. There's too many cars out there right now.

1830 The other point that I wanted to emphasize was that the new Twin Hickory Elementary School.  
1831 From what I read in the newspaper, that if the development is allowed to continue the way that  
1832 it is, that elementary school will be overcrowded a year after its built. I think that's ridiculous.  
1833 If that's the case, why not plan to built it twice as big right now or plan on building another  
1834 one right behind it?

1835  
1836 I have a son whose going to go to Short Pump Middle. He's graduating from Shady Grove  
1837 Elementary and my daughter will begin kindergarten at Shady Grove Elementary School and,  
1838 more than likely, will have to go in a trailer. And, the people that will be moving into these  
1839 new communities, they don't even know it yet, but their kids are going to have to go school in  
1840 trailers. They are over crowded. That's all I want to say.

1841  
1842 Ms. Dwyer - Thank you. Any questions by Commission members? I believe  
1843 we did have someone here from the School Board or from the School Department if you have  
1844 any questions?

1845  
1846 Mrs. Wade - Yes.

1847  
1848 Ms. Dwyer - Please come forward.

1849

1850 Mrs. Wade - Yes. Please expand a bit on...  
1851  
1852 Mr. Dwight Grissom, Director, Construction & Maintenance, Schools - Good evening. I'm  
1853 Mr. Dwight Grissom, Director, Construction & Maintenance, Schools. I'd be glad to try and  
1854 answer any questions that Commission members may have.  
1855  
1856 Mrs. Wade - All right. You've heard the questions, more or less, in terms of  
1857 projections and plans to deal with these concerns.  
1858  
1859 Mr. Grissom - We have worked with the former Snyder-Hunt folks; current H.  
1860 H. Hunt when we built Shady Grove Elementary School. They donated that property to the  
1861 school system, and currently, two nights ago, as has already been mentioned, the Northwest  
1862 Elementary School Number 5 was approved by the Board of Supervisors for the POD. That  
1863 school will be under construction hopefully this summer, and open for Fall of 2000.  
1864  
1865 There will be probably six or seven trailers at Shady Grove this coming fall. In response to  
1866 the last gentleman that spoke, the School Board has a policy to try to limit our elementary  
1867 schools to 736 capacity. So, we don't think it's wise to build a large elementary school that  
1868 can be somewhat awesome to a youngster.  
1869  
1870 Our new policy on middle schools is 900. Our next high school will be a capacity of 1,800.  
1871 So, we certainly build a larger elementary school, but we just think that's something that's not  
1872 wise for our youngsters to have to deal with.  
1873  
1874 Ms. Dwyer - We have a new middle school coming...  
1875 Mr. Grissom - Yes ma'am. The new middle school that's under construction on  
1876 Three Chopt Relocated now, Pocahontas Middle School, will be opening January of 2000.  
1877 That will relieve the crowding at Byrd Middle School and Short Pump Middle School. Those  
1878 trailers that are there now will be removed in January, 2000.  
1879  
1880 One of the items on tonight's agenda for you to consider is a Substantial Accord for another  
1881 elementary school site. We have another middle school site off of Mill Road that the School  
1882 Board has purchased. Of course, we're working on the high school site, just across the road  
1883 from this development, down Twin Hickory. That will come on line in 2002.  
1884  
1885 Ms. Dwyer - Any other questions?  
1886  
1887 Mrs. Wade - So, basically, your plan for this all you need are the resources to  
1888 accomplish these goals, basically,...  
1889  
1890 Mr. Grissom - Yes ma'am. It takes money, and our Capital Budget is pretty  
1891 aggressive and we recognize the taxpayers have to pay for these schools. We know  
1892 infrastructure costs can be extensive. But we did work with H. H. Hunt, and we're sharing in  
1893 the infrastructure costs, in both the elementary and the high school with H. H. Hunt. And we  
1894 thought that was a "win-win" situation for both them and the school system and the taxpayers.  
1895

1896 Mrs. Quesinberry - Can I ask you a question? You may have mentioned this, and I  
1897 might have missed it. Directly in relation to this development, you heard the concerns of some  
1898 of these residents on the elementary level and with the trailers at Shady Grove. What do you  
1899 have on your plan and in your budget right now to address the elementary school issues with  
1900 this development if it went on line, and, in fact, phased in, as proposed?  
1901  
1902 Mr. Grissom - Zoning, and where children go is handled through the Research  
1903 and Planning Department of the School System. I take care of getting them built. They kind  
1904 of tell us where they'd like to see schools go.  
1905  
1906 Mrs. Quesinberry - Okay. So, you don't know if they really have anything dedicated  
1907 or proposed for this area?  
1908  
1909 Mr. Grissom - At this time, it would be premature for me to say, "Yes. We can  
1910 accommodate this growth." I don't even know if our people have had a chance to look at this  
1911 proposed development.  
1912  
1913 We do get those, and staff members could probably address that. We do get proposed  
1914 developments so we can respond how it impacts the School Division.  
1915  
1916 Ms. Dwyer - Well, there was School comments in our staff report.  
1917  
1918 Mr. Grissom - That came from Research and Planning.  
1919  
1920 Mrs. Quesinberry - Doesn't that just address the fact that the schools are  
1921 overcrowded?  
1922  
1923 Ms. Dwyer - Yes.  
1924  
1925 Mrs. Quesinberry - What I'm really asking is...  
1926  
1927 Mr. Grissom - Where do they go?  
1928  
1929 Mrs. Quesinberry - So, what now? And you don't have the answer to my question.  
1930  
1931 Mr. Grissom - No ma'am. That's a little bit out of my jurisdiction.  
1932  
1933 Mrs. Quesinberry - Thank you. I appreciate it.  
1934  
1935 Ms. Dwyer - Well, it does say, a new elementary, middle, and high school will  
1936 provide relief for those schools. However, as we know, dramatic growth is continuing.  
1937  
1938 Mrs. Wade - Is this an uncommon situation for a growing area, such as ours to  
1939 be in this bind where its hard to keep up? You can't build the roads ahead of the need. It's  
1940 hard to do the same with the schools.  
1941

1942 Mr. Grissom - Well, we certainly don't want to get behind the eight ball. The  
1943 County just south of us has 230 trailers in their school system. We have, I think, its 31. In  
1944 relationship, we're in good shape, but it doesn't take very long to get behind and its very  
1945 difficult to catch up.

1946

1947 Mrs. Wade - How many trailers did you have last year?

1948

1949 Mr. Grissom - Mrs. Wade, I'm sorry, I can't tell you. It was very close to the  
1950 same numbers because we've got seven at Springfield Park right now. Those seven will be  
1951 relieved with the new elementary school on Francistown Road that will open this fall. So,  
1952 we'll take those seven trailers and put them over at...

1953

1954 Mrs. Wade - So, that's where the new school is.

1955

1956 Mr. Grissom - Yes ma'am. We do have a new elementary coming on this fall.

1957

1958 Mrs. Wade - Now, this, I think, is a concern of all of us, and, yet, we, in a  
1959 way, I'm not trying to pass the buck, the Supervisors are "Where the Buck stops."

1960

1961 Mr. Grissom - Yes ma'am.

1962

1963 Mrs. Wade - I think, basically, in this regard. This is a good time to talk to  
1964 your Supervisor, School Board member about these things. If the situation's to change, we  
1965 need some direction I think from them. It's hard just to say, "Sorry. No more. You can't  
1966 build any more houses."

1967

1968 Mr. Grissom - Right. I think, certainly, there is some concern and we  
1969 understand that.

1970

1971 Mr. Archer - Mr. Grissom.

1972

1973 Mr. Grissom - Yes sir.

1974

1975 Mr. Archer - I don't know if its fair to ask you this, but I don't have anybody  
1976 else to ask. Given that there are several sites in the County that have trailers, some in pre-  
1977 development areas and some in areas that are already developed, is it the goal of the School  
1978 system to eliminate all trailers at some point in time?

1979

1980 Mr. Grissom - That would certainly be a goal. I don't know that I could stand  
1981 here and tell you, unequivocally, we'll ever reach that point where we have zero trailers.  
1982 Federal programs sometimes demand that you take a very small number of children and  
1983 occupy full size classrooms. So, you have to displace 25 children, 23 children for three or  
1984 four. You may ride by and don't see them being used, but maybe two hours out of the day and  
1985 sometimes that's the reason. It's not always the capacity. It's just because we've gone to so  
1986 many specialized programs to accommodate disabled, handicap, Federal mandates; those type  
1987 of things.

1988

1989 Mrs. Wade - Now, are all the schools in the older areas over capacity, or is it  
1990 more typical out further west?

1991

1992 Mr. Grissom - Well, Tucker, as you know, is going to be...  
1993

1994 Mrs. Wade - I mean elementary schools, basically.  
1995

1996 Mr. Grissom - Elementary? Fair Oaks has three trailers there.  
1997

1998 Mrs. Wade - I mean older areas in the west end?  
1999

2000 Mr. Grissom - West end?  
2001

2002 Mrs. Wade - They're not bursting at the seams, and yet, you're not able, as a  
2003 practical matter, to take the children and divide them up and spread them around. That  
2004 wouldn't be satisfactory at all. So, sometimes, these inequities...  
2005

2006 Mr. Grissom - And rezoning is always a controversial issue as you well know to  
2007 take children from Short Pump Elementary and send them to Gayton.  
2008

2009 Mrs. Wade - I doubt that anybody here would necessarily want that to happen  
2010 either.  
2011

2012 Mr. Grissom - Right.  
2013

2014 Mrs. Wade - It used to be they had Quonset huts and that sort of thing in the  
2015 boom period. Okay. Thank you.  
2016

2017 Ms. Dwyer - Any other questions? Thank you, sir.  
2018 Mr. Grissom - Thank you.  
2019

2020 Ms. Dwyer - Any one else to speak in opposition to this case?  
2021

2022 Ms. Renee Daush - I'm also a west end resident in this area that we are speaking  
2023 about, tonight. And, I'm going to speak extemporaneously. I didn't bring any notes. I  
2024 wanted to let you know that I had been in this area for about a year. My family and I relocated  
2025 to the west end from Marietta, Georgia. I will tell you that one of the main reasons that  
2026 pushed us out of the Georgia area was because of the poor planning and the public school  
2027 situation.  
2028

2029 I wanted to get back to this area, and we had planned to get back here. I was a graduate of  
2030 Short Pump Elementary, as well as a graduate of Tucker High School. And I was very, very  
2031 proud to be a Henrico County resident at that time, as well as a student. I had bragged, and  
2032 bragged to my family about how great the schools were in Henrico County, and was very

2033 proud to be a product of the schools. But, I must say, that I have grave concerns about the  
2034 development that is taking place in the west end.

2035  
2036 The school that my son was going to attend in the Kennasaugh, Georgia area had 27 trailers at  
2037 the high school. If you were to double the size of Godwin High School, that would have been  
2038 the school and he was going to attend. And my husband and I just said, "We're not going to  
2039 have this. This is just not a good situation for these kids."

2040  
2041 Number 1, when children are placed in trailers, they know that they're going to go to trailers,  
2042 they feel different than the rest of the school, especially at the elementary level. When they  
2043 get that little slip of paper in the mail that says, "You're going to be in Mrs. Smith's class and  
2044 you need to report to a trailer." They automatically, before the school year even starts, feel  
2045 like that they are not a part the spirit and what's going inside the building. It's not a good  
2046 situation.

2047  
2048 I have three boys. I have two that go to Shady Grove Elementary. And, I know that it was  
2049 probably the second or third month in the school year that my second grader got a letter from  
2050 the principal, very well written, saying, "Due to the overcrowding of the second grade class,  
2051 we're going to have to bring in another teacher and split the classroom." Now, these children  
2052 had already bonded, and they had already gotten their friends and its already two to three  
2053 months into the school year, and they receive this letter saying, "Now, we've got to come up  
2054 with another teacher, qualified teacher and split the class due to the development in the  
2055 Wyndham area."

2056  
2057 I am not against development. I have loved what has gone on from an attractive standpoint in  
2058 the west end, but I do think that it has to be done in the proper timing.

2059  
2060 In the Georgia area, there were developers that developed and developed and developed. And  
2061 there were no schools. And that's the reason why that this high school had 27 trailers. The  
2062 middle school had about 15 trailers, and the only negative thing I have heard about Short Pump  
2063 Middle School, is the fact that they actually need to police the hallways due to the over  
2064 crowding in the middle school so that the kids don't get shoved down the steps during the class  
2065 day.

2066  
2067 Now, if we are already at that point where we're having to police the hallways during the  
2068 exchange of classes, what is going to happen with what's being proposed here tonight and in  
2069 and around the area? It's just not a good situation for our children.

2070  
2071 Ms. Dwyer - Thank you, Mrs. Daush. Any questions of Mrs. Daush by  
2072 Commission members? I believe we are out of time for the opposition. I'll give you 30  
2073 seconds.

2074  
2075 Mr. Don Rogers - My name is Don Rogers. And nobody has addressed the issue of  
2076 the other schools that are currently adjacent to that already in the trailers. I grew up in a  
2077 military family and moved my entire life. My child, who is entering the fifth grade next year,  
2078 will be in his third school. We put up two playgrounds. He's been in two trailers. I disagree,

2079 respectfully, with your opinion that you cannot stop building, but you need to start building  
2080 schools based on everybody out here. That's my 30 seconds. Thank you.

2081  
2082 Ms. Dwyer - Thank you, sir.

2083  
2084 Mrs. Wade - Well, basically, that's what we're attempting to do. It's not  
2085 simple.

2086  
2087 Ms. Dwyer - Would you like some time, Mr. Theobald?

2088  
2089 Mr. Theobald - A few words on Nuckols Road. As you know, Nuckols Road, as  
2090 we know it, today, was constructed by Snyder-Hunt and Mr. Tyler and I, along with Schmitt,  
2091 have had the privilege of being involved in probably every aspect of the negotiating, design,  
2092 and planning for that road and most of what has occurred out there.

2093  
2094 Nuckols Road is, notwithstanding the number of cars and frustrations trying to get out from the  
2095 side streets in the morning, Nuckols Road is currently probably at about half of its capacity.  
2096 It's design capacity.

2097  
2098 Nuckols Road is designed to be widened to six lanes. The right of way is in place, and it is  
2099 able to be widened to six lanes, which, some day, will occur. The County won't tell you that's  
2100 going to occur tomorrow, based on the number of cars that's on it currently.

2101  
2102 The entrances into Nuckols Road are a challenge certain times a day. Snyder-Hunt, along with  
2103 the original Wyndham rezoning, has agreed with Public Works to provide signalization at a  
2104 number of locations. Various other entities, like the YMCA, etc., have also agreed to  
2105 contribute to that. But, as you know, until the traffic warrants, approved by VDOT, are in  
2106 place, they will not permit signals to occur.

2107  
2108 We believe that the signal at Twin Hickory and Nuckols Road best guess, based on advice  
2109 from the County and VDOT, is that signal can be expected within the next 12 to 18 months.  
2110 But understand that people don't build roads or traffic signals in advance of traffic. As the  
2111 traffic warrants, required by VDOT, that will ultimately cause those turning lane  
2112 improvements and signalization to occur. This will be one of the developments that will,  
2113 obviously, both contribute to traffic, but contribute to the warrants making that signalization,  
2114 obviously, a reality.

2115  
2116 With regard to schools, I guess we've heard a number of different things. I think Mr.  
2117 Grissom's comments about the County's involvement with Snyder-Hunt and H. H. Hunt over  
2118 the years is exactly right. I mean their involvement with schools is anything but recent. They  
2119 did donate the land without cost for Shady Grove Elementary.

2120  
2121 We've recently negotiated a complicated agreement to swap land with Short Pump Middle and  
2122 have provided a sharing of costs that Mr. Grissom referred to, for water, sewer, roads, and  
2123 BMPs for the Twin Hickory Elementary School. The high school, which we believe has  
2124 provided a benefit, in terms of infrastructure costs, and a savings to the school system of well

2125 over a million dollars. We've always provided infrastructure far beyond the need of just the  
2126 Hunt communities, as we have developed the various subdivisions out there.

2127  
2128 And we talked to Schools about these cases on a regular basis. We just don't go plan  
2129 subdivisions and then worry about schools later. We've got great schools. Henrico County  
2130 has great schools. You'd think we had horrible schools. We have wonderful schools. It's  
2131 probably Henrico County's single greatest achievement. That's why people move to Henrico  
2132 County. Witness some of the comments made at the podium this evening. It's, perhaps, the  
2133 bedrock of our community, and it attracts people and commerce. We don't want to tell people  
2134 not to send their kids to public schools, or don't have kids. And we don't have a moratorium  
2135 in place that says, "No more homes.:" In fact, what the School Board is saying, and was  
2136 confirmed to you, Mrs. Wade, in a conversation you had with the School official, as well as  
2137 conversations that Mr. Schmidt has, what the School Board is saying in their staff reports is  
2138 not that we ought to stop development, but, rather to continue to fund a planned, reasonable  
2139 expansion of the school system.

2140  
2141 The School system is prepared to keep up. And, I think we don't, perhaps, give enough credit  
2142 to the Board of Supervisors and to the School Board keeping up and providing us with a level  
2143 of educational experience that we have today.

2144  
2145 I will tell you that, in terms of having a plan for this property, or others in the area, we do  
2146 have a plan. It's called the, "2010 Plan." And this request is absolutely consistent with that  
2147 plan. Interestingly, the Plan calls for additional residential development and Office/Service  
2148 development over in this 100 acres that's undeveloped, does dead end into Opaca Lane. And,  
2149 you know, I suppose, at some point, that's going to be on the table with some developer who  
2150 will come in, consistent with the Land Use Plan again. So, these things aren't done in a  
2151 vacuum as, perhaps, some of the speakers would have you believe.

2152  
2153 The Chappell family has owned this property for decades and decades and decades. I think  
2154 they have a reasonable expectation that their property can be zoned, consistent with the Land  
2155 Use Plan. We've provided a well proffered case, consistent with other high quality Hunt  
2156 communities. This is a large-tract, planned development, not a striped-out development. And,  
2157 I believe, based on the foregoing, that I would respectfully request that you do recommend  
2158 approval of this case to the Board of Supervisors.

2159  
2160 Ms. Dwyer - Thank you, Mr. Theobald. Any questions of Mr. Theobald? I  
2161 have a question relating to staff's concerns. In one of staff's comments, which was that the  
2162 phasing, which, I believe was designed to address, to some extent, concerns about the school  
2163 system by limiting the number of occupancy permits that could be obtained on an annual basis.  
2164 Staff seems to think that the 70 housing unit cap is sufficient to accomplish that in that regard.  
2165 How would you respond to that concern?

2166  
2167 Mr. Theobald - Well, the comment that was made, was that it was not designed to  
2168 slow growth. As I said in my initial presentation, its not designed to slow growth. It's  
2169 designed to tell the School Board what to plan for in terms of future growth. I mean, they  
2170 didn't suggest that, you know that 65, or 50, or 40, or 30, or 20 would make the situation any



2171 better, in their opinion. I believe the genesis of the comment was one of slowing growth,  
2172 which I don't think is the issue nor appropriate. We're under the Land Use Plan designation  
2173 here.

2174  
2175 Ms. Dwyer - So, you would not be interested then in reducing that number?  
2176

2177 Mr. Theobald - What number makes sense? I don't know what the goal is?  
2178

2179 Ms. Dwyer - Well, how did you pick 70?  
2180

2181 Mr. Theobald - It seemed like a reasonable absorption based on prior experience  
2182 of other communities where we knew we could both market our property, get a return on our  
2183 investment; pay back our lender within those parameters.

2184  
2185 Ms. Dwyer - So you would not be interested in reducing that?  
2186 Mr. Theobald - Not unless somebody could tell me what the goal is. I feel like  
2187 I'm sort of doing it in a vacuum. I don't know that 60 makes the school system any better or  
2188 any worse, to be honest with you.

2189  
2190 Ms. Dwyer - The other question I think I asked earlier about sidewalks; as I  
2191 recall your response, it was, basically, we'll probably put some sidewalks in, but it wasn't...  
2192

2193 Mr. Theobald - I think there will be some pedestrian connections. And,  
2194 obviously, this is a conceptual road layout. We haven't designed the lots for the subdivisions.  
2195 The final wetlands haven't been delineated, and then we go about connecting the  
2196 neighborhoods. But, I didn't want to leave you with the impression that we'd have sidewalks  
2197 on both sides of all streets, because that was not our intent. We do believe in pedestrian  
2198 connections. I believe we proffered that. "Pedestrian bicycle access ways shall be provided at  
2199 the time of subdivision approval."  
2200

2201 Ms. Dwyer - So, at subdivision time you will, obviously,...  
2202

2203 Mr. Theobald - Oh. Absolutely.  
2204

2205 Ms. Dwyer - Any other questions by Commission members? Thank you, Mr.  
2206 Theobald.  
2207

2208 Mr. Theobald - Thank you.  
2209

2210 Mrs. Wade - Actually, I believe the County built a part of Nuckols, didn't  
2211 they? Yes. A joint effort. And, you're right, 14,000 to 15,000 there is considered by the  
2212 traffic people to be well below what a four-lane divided highway can hold. I live down near  
2213 Parham and we've got 30,000. I'm not saying that's a good thing, necessarily. Every time we  
2214 have a subdivision come up, we have these same issues. I don't know exactly how to deal with  
2215 them other than to say, "No more housing." And we've already, I think, agreed that we can't  
2216 do that. We should give our support, perhaps, to the Supervisors and the School Board as they

2217 try to keep up and solve these problems. I don't know how many of you have been involved in  
2218 any of these issues up to this point, but I would suggest – we won't waive the time limit  
2219 tonight for the proffers, but you have one coming on when you're going to do 10-1 and only  
2220 50 certificates of occupancy before you get a second access. And I don't see really any reason  
2221 why, other than it would be neater to put this case off until the other one comes up next month.  
2222 I don't see that it would be to your advantage not to do as you said you will and connect it  
2223 through here, after all everybody has been through to work that out. And, it does, as you  
2224 point out, come within the recommendations of the 2010 Plan as far as the density is  
2225 concerned. And you will have the adequate second access. And you won't have to go down to  
2226 Opaca, although they would have had access to the light that's coming at Twin Hickory had  
2227 that occurred. But, obviously, that wasn't very popular. As soon as the count is right, there  
2228 will be a light there at Twin Hickory. So, I would move, therefore, that Case C-18C-99 be  
2229 recommended for approval.

2230  
2231 Ms. Dwyer - Is there a second to C-18C-99?

2232  
2233 Mrs. Wade - If you all don't like this, what are your alternatives now? We  
2234 just don't build here?

2235  
2236 Mrs. Quesinberry - I actually think this is a health, safety, and welfare issue.

2237  
2238 Ms. Dwyer - I'll second the case.

2239  
2240 Mrs. Wade - This is a very popular area for schools. The fact that they're  
2241 crowded does seem to be discouraging people from moving into the area, because the houses  
2242 are selling very well and its very popular.

2243  
2244 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Ms. Dwyer. All those  
2245 in favor say aye—all those opposed by saying nay. The vote is 4 to 1 (Mrs. Quesinberry voted  
2246 and Mr. Donati abstained). The motion to recommend to the Board of Supervisors is  
2247 approved. This case will be coming up before the Board on June 9, 1999.

2248  
2249 Mrs. Wade - Election day is the 8<sup>th</sup>.

2250  
2251 Ms. Dwyer - For your information, for those who are interested in this case,  
2252 the Board of Supervisors makes the final decision on this zoning case. It will come up June  
2253 9<sup>th</sup>. So, you have an opportunity to speak to your Supervisor about that final decision at that  
2254 time. Thank you very much.

2255  
2256 REASON: Acting on a motion by Mrs. Wade, seconded by Ms. Dwyer, the Planning  
2257 Commission voted 4-1 (one no, one abstention) to recommend that the Board of Supervisors  
2258 accept the proffered conditions and grant the request because it is reasonable; it conforms to the  
2259 recommendations of the Land Use Plan; and it reflects the type of residential growth in the area.

2260  
2261 Deferred from the April 15, 1999 Meeting:

2262 C-25C-99 Andrew M. Condlin for F & P, LLC: Request to conditionally  
2263 rezone from R-3 One Family Residence District to O-1C Office District (Conditional), part of  
2264 Parcel 69-A-12 and Parcel 69-A-14, described as follows:  
2265

2266 BEGINNING at a point at the intersection of the west line of Parham Road and the north line  
2267 of Fordson Road; thence with the north line of Fordson Road N50° 22' 05" W, 50.00 feet to  
2268 the TRUE POINT OF BEGINNING; thence continuing along the north line of Fordson Road  
2269 N50° 22' 05" W, 285.09 feet to a point; thence with a curve to the right with a radius of 50.00  
2270 feet and a length of 78.51 feet to a point on the east line of Nesslewood Road; thence along the  
2271 east line of Nesslewood Road N39° 35' 55" E, 47.61 feet to a point; thence leaving  
2272 Nesslewood Road S73° 05' 40" E, 30.92 feet to a point; thence S08° 57' 07" W, 17.59 feet to  
2273 a point; thence S50° 27' 56" E, 347.62 feet to a point on the west line of Parham Road; thence  
2274 with the west line of Parham Road S39° 37' 55" W, 44.99 feet to a point; thence along a curve  
2275 to the right with a radius of 50.00 feet and a length of 78.54 feet to the POINT OF  
2276 BEGINNING; and containing a total of 0.820 acre of land.  
2277

2278 Mr. Marlles - Ms. Jo Ann Hunter will be giving the staff report.  
2279

2280 Ms. Dwyer - Is there any one in the audience in opposition to Case C-25C-99  
2281 Andrew M. Condlin for F & P, LLC.? We do have opposition. Thank you. We'll get to the  
2282 opposition in a moment.  
2283

2284 Mrs. Wade - At least he isn't proposing any school children.  
2285

2286 Ms. Hunter Thank you. Revised proffers have just been handed out on this  
2287 case. These proffers were submitted on Tuesday, so the time limit does not need to be waived.  
2288 The applicant has improved this case considerably since its original submission.  
2289

2290 The revised request is for O-1C zoning and the use is limited to office buildings or studios.  
2291 The Land Use Plan recommends the site for Office development along Parham Road and  
2292 Suburban Residential 2 for the rear of the property.  
2293

2294 The Land Use Plan also identifies this property as a Special Strategy Area. This designation  
2295 includes recommendations for coordinated development in terms of access, signage, circulation  
2296 and architecture.  
2297

2298 The requested rezoning at this site fails to incorporate a large grouping of parcels. The staff is  
2299 concerned that, if this property is developed in this manner, then it will encourage each  
2300 property to come in separately to be developed. The property does not meet the minimum  
2301 Code requirements of 100 foot width for Office development and would require a variance.  
2302

2303 Staff has concerns with recommending a property for rezoning that does not meet the minimum  
2304 standards. In 1993, when the O-1 zoning to the north was zoned, the neighborhood and  
2305 Planning Staff developed a concept sketch of how this area between Interstate 64 and Fordson  
2306 Road could be developed.

2307  
2308 The preferred alternative is on the screen right now and it shows Office development along  
2309 Parham Road with coordinated access points to Nettlewood Road and residential development  
2310 along Nettlewood.

2311  
2312 In March of this year, there has been a subdivision approved. It's called Nettlewood Seven,  
2313 which includes the seven lots on the end. The residential portion of this concept plan is  
2314 beginning to be developed.

2315  
2316 In order to try to address the concerns of Office development along Nettlewood and coordinate  
2317 development, the applicant has proffered a temporary access only to Fordson Road which  
2318 would be eliminated when adjacent properties are developed. However, to enforce this  
2319 proffer, staff believes that a cross access easement would be necessary.

2320  
2321 In addition, the applicant has also proffered a rear yard setback of 100 feet and 20 feet along  
2322 Nettlewood Road. However, the staff is still concerned that the site does not meet the  
2323 minimum lot size, and that better protection for the residences could be achieved if the  
2324 property was developed in a coordinated fashion.

2325  
2326 The zoning of this narrow property seems premature and is inconsistent with the Special  
2327 Strategy designation of the Land Use Plan. Staff does not support this proposal. I'd like to  
2328 answer any questions you may have.

2329  
2330 Ms. Dwyer - Thank you, Ms. Hunter. Any questions of Ms. Hunter? Thank  
2331 you so much. We may have some later. Would the applicant come forward, please.

2332  
2333 Mr. Andy Condlin - Good evening, Madam Chairman, members of the Planning  
2334 Commission. My name is Andy Condlin with Larry Shaia who is one of the members of F&P,  
2335 L.C. At least, I am a step ahead from last month where we have no secret proffers and  
2336 everything is in front of you at this point.

2337  
2338 As you know, this is almost a one-acre site at the corner of Fordson and Parham Roads. I  
2339 would appreciate the position that we've substantially revised our proffers in the case. We've  
2340 had, most recently, a meeting with the neighbors as well as some additional meetings prior to  
2341 that. They have been very receptive to listening to our proposal. Last month, we thought we  
2342 had something worked out, which, it turns out, that this month a number of the neighbors are  
2343 going to oppose the case.

2344  
2345 They have raised a number of concerns, and I believe we have tried to, as successfully address  
2346 all but just one or two items that they have a concern about which I will also go over.  
2347 Primarily, these are substantial proffers that we have provided on this Office proposal.

2348  
2349 We're limiting the permitted uses to offices and studios. No child care centers. We've got  
2350 buffers of 10 feet on either side of the property and 20 feet on the rear of the property along  
2351 Nettlewood.

2352

2353 The exterior appearance, in response to the neighbor's concern, have been revised so that it is  
2354 in keeping with the character of the existing neighborhood. Again, responding to the  
2355 neighbors, all HVAC systems will be screened. We've proffered about lighting, utility lines,  
2356 signage, trash, screening, parking lot cleaning, leaf blowing, trash pick up and building  
2357 location.

2358  
2359 The neighbors were very concerned with access. They understood we needed to access  
2360 Fordson Road to this property. And they worked very hard with us to allow that access and  
2361 asked us to limit that access only to our property.

2362  
2363 The staff, however, was concerned with the lack of coordinated development and wanted  
2364 access to be provided for all the property. Despite this fact, we tried to accomplish both with  
2365 the new Proffer No. 10. That proffer does say that access to Fordson Road is only for this  
2366 property. In addition, it also says that its temporary.

2367  
2368 Upon adequate development of the property next door, and a mutual access to Nesselwood,  
2369 access to Fordson Road will be closed. In addition the neighbors were concerned with the  
2370 amount of development. So, we limited the development to 7,500 square feet, which is on a  
2371 ratio to the other Upton case which is north of this site.

2372  
2373 In addition to the 20-foot buffer, we have also provided a 100-foot building setback. The  
2374 proposed residential provision only allows for 136 feet. So, we're only missing 30 feet back  
2375 there without the building. All in all, I hope you will agree that we have provided, I think, a  
2376 heavily proffered case with a lot of protection for the neighbors and surrounding area.

2377  
2378 The staff does agree that this property is suited for office and not residential. They voiced one  
2379 concern about allowing for coordinated development. I'm hopeful that this Proffer 10 would  
2380 address that issue together with the neighbors' concern of limiting access on Fordson.

2381  
2382 In addition, about allowing a larger tract, there are only four other properties available on this  
2383 block. It's not as if it is a long line of properties, as you can see. The Plan for the Upton case  
2384 provided for larger and fewer buildings, but still a similar square footage, and we're meeting  
2385 that ratio of the square footage of the number of buildings.

2386  
2387 I believe we have addressed all the issues of the staff and the neighbors, but for two issues:  
2388 Those two issues being consistency with the sketch plan; and whether the lot is too small to  
2389 develop sufficiently. Let me deal first with the lot configuration.

2390  
2391 As to the size of the lot, there's nothing I can do about the 95 feet. I'd love to proffer, 95  
2392 equals 100, but I can't do that, tonight, and I can't do it anytime. To say that is too small to  
2393 be developed efficiently, I have to disagree, at this point. If this were five feet wider, would  
2394 that mean that it would be developed more efficiently? If this were a B-1 case, does that mean  
2395 it would be developed more efficiently? The Code only requires 16,000 square feet. We have  
2396 2.5 times that. We have enough room for lot efficiency which can be addressed at the time of  
2397 POD.

2398

2399 As to that five feet, I would respectfully contend to this body that this is not the appropriate  
2400 forum to discuss that issue. We are here, tonight, to talk about the highest and best use of this  
2401 property with regard to the negative impact upon the health, safety, and welfare of the  
2402 community.

2403  
2404 To talk about compliance with Code standards, I can state to you, tonight, that despite that the  
2405 lot is 95 feet, and the Code requires 100 feet, we comply with the Code, because the Code  
2406 allows for, if you're not 100 feet, you have to prove hardship. I believe I can prove hardship.  
2407 That's a Code interpretation and that's an interpretation for the BZA to consider, not this body.  
2408 I don't have to be 100 feet if I can prove hardship, and I believe I can at the time of BZA, and  
2409 that's the appropriate forum for that issue. Before we can build a building we have to come  
2410 before you for a POD.

2411  
2412 In addition, we've created an extra step for ourselves. We have to go to the BZA. We don't  
2413 get BZA approval, we don't build the building. We don't get POD approval, we don't build  
2414 the building. It's just an extra step that is for the forum of the BZA to consider.

2415  
2416 Let me address the consistency with the sketch plan if you don't mind popping that on the  
2417 screen for me (referring to document camera). We, generally, are in favor of the Upton Plan.  
2418 We do appreciate the hard work and the concept, and we do support the concept of that plan.  
2419 However, we contend that this particular lot at the corner of Nesselwood and Fordson is not  
2420 appropriate to have residential at the corner.

2421  
2422 Our proposed plan would, instead, remove the access point that would have to be created at the  
2423 corner. It would remove the additional traffic that would be created at a house or two houses  
2424 at that position. It would provide sight lines at Fordson and Nesselwood, and would provide a  
2425 greater buffer and setback.

2426  
2427 What this plan calls for is a building up to 35-feet in height, with no buffer. We're providing  
2428 that there be no building, 100-foot building setback with a 20-foot natural and landscaped  
2429 buffer, a very mature area.

2430  
2431 I would propose that, in fact, the plan, tonight, that we're offering with all office with a 100-  
2432 foot setback, with a 20-foot buffer is a better scenario than that provided for and agreed with in  
2433 the Upton case. We were not part of the Upton case, and the 20-foot buffer, I contend, with  
2434 the 100-foot setback versus a 35-foot building with no buffers is a better case.

2435  
2436 The bottom line, we think the plan, as provided, tonight, provides better screening and is safer  
2437 for not only the people that would be a resident at that particular property right at the corner of  
2438 Nesselwood and Fordson, but all of the property owners. We are trying to be responsive to  
2439 both the neighbors and the County, the Upton Plan and the Land Use Plan. I simply feel, for  
2440 this lot, no residential is appropriate.

2441  
2442 In addition, I would say that this proposal is very consistent with the surrounding area. It's  
2443 very consistent with the Land Use Plan. And, with all due respect, I believe that the proposed  
2444 neighborhood plan created in the Upton case.

2445  
2446 Nettlewood, Fordson corner simply is not suited for residential. It's right at the corner, what  
2447 has been admitted by the neighbors as a high traffic, heavily traffic area.  
2448  
2449 We have met all jurisdictional prerequisites. I believe that following the Land Use Plan to the  
2450 letter in this case would be detrimental to the health, safety, and welfare. We have followed  
2451 the Goals, Objectives, and Policies for all the Code requirements. I would ask that you  
2452 recommend to the Board of Supervisors that this be approved. I'd like to reserve the rest of  
2453 my time for rebuttal, and answer any questions you may have.  
2454  
2455 Ms. Dwyer - Thank you, Mr. Condlin. Any questions for Mr. Condlin by  
2456 Commission members?  
2457  
2458 Mrs. Wade - Are you going to need a BMP on here, Mr. Condlin?  
2459  
2460 Mr. Condlin - Yes ma'am. There will be a BMP as part of the property.  
2461  
2462 Mrs. Wade - Which you anticipate being where?  
2463  
2464 Mr. Condlin - You know, we haven't done any drainage studies of the  
2465 topography of this property. And that's the other reason why maybe residential does not fit  
2466 within this area. It decreases substantially back towards the corner of Fordson and  
2467 Nettlewood. Where it would be, specifically, is not required. A maximum of a 7,500 square  
2468 foot building does not require a substantial BMP. It will be back in that corner within that  
2469 area.  
2470  
2471 Mrs. Wade - Probably in the buffer?  
2472  
2473 Mr. Condlin - Not necessarily. No ma'am. The 20-foot buffer is not  
2474 necessarily the lowest point on the property. We can't tell exactly where its going to be. They  
2475 haven't done those studies.  
2476  
2477 Mrs. Wade - The materials and the appearance, I haven't really understood this  
2478 since I saw this the first time. "Residential in character in keeping with the character of the  
2479 then existing neighborhood..."  
2480  
2481 Mr. Condlin - Well, I guess I mean, is the character of the neighborhood, if  
2482 they don't build for 15 years, and the character of the neighborhood changes, I don't want to  
2483 have to come back and try to figure out what the character is at the time of the proffers. As  
2484 that existing, when we come forward with the POD was the concept there.  
2485  
2486 Mrs. Wade - Oh, okay.  
2487  
2488 Mr. Condlin - I'll be happy to take that word out, if that's your desire, but it  
2489 made sense to me that, when we come forward with the POD, we have to, what exists at the  
2490 time of POD.

2491  
2492 Ms. Dwyer - Do you have a concept plan for the building and the BMP and the  
2493 parking would fit on this narrow lot?  
2494

2495 Mr. Condlin - Well, I've got a plan which I showed you last month that shows,  
2496 not necessarily the BMP, but shows how conceptually a building that, I believe, was about  
2497 5,000 square feet, that building with the required parking and the BMP being at the corner of  
2498 Fordson and Nesslewood. And with the 100-foot setback and the 20-foot buffer, all of that  
2499 will fit within that area. We need to, you know, squeeze the building down a little bit and  
2500 squeeze the parking. But, that's the concept.  
2501

2502 As you can see, as the adjacent property gets developed to the right, I guess that's to the north  
2503 or northeast, and can access Nesslewood Road. Obviously, Doctor Shaia owns property along  
2504 Nesslewood Road. That was one of the original concepts. As you know from last month, was  
2505 to develop that property all together and we just couldn't get the individual in the middle to  
2506 agree, for whatever reason. He's got his own plans and that's fine. That's his property. He  
2507 has a right to do that. We were able to do that to get access to Nesslewood, but without him,  
2508 we can't at this point.  
2509

2510 I mean, so it is conceptually feasible to get a building in at that point. It doesn't have to be  
2511 5,000. It can be 4,000 square feet. We're limited to a 25-foot height by Code. The house in  
2512 the back will be 35-foot high. As it stands right now, three 35-foot homes could be placed on  
2513 this property.  
2514

2515 Ms. Dwyer - What will the setback be from Parham?  
2516

2517 Mr. Condlin - Whatever the Code requires. The O-1, I think, is 40 feet.  
2518

2519 Ms. Hunter - O-1 is 40 feet.  
2520

2521 Mr. Condlin - And we've got a 10-foot proffered buffer up front on Parham  
2522 Road, which the Upton case does not have. Again, these are additional proffers that have gone  
2523 above and beyond what the Upton case provided. And, I believe our plan, for this particular  
2524 property, on the corner at Nesslewood and Fordson with a driveway, as you can see, if you put  
2525 a house on there, you'd be right at the corner. This plan provides a better scenario than the  
2526 Upton case. Certainly safer, in my opinion.  
2527

2528 Ms. Dwyer - Any other questions for Mr. Condlin?  
2529

2530 Mr. Archer - Mr. Condlin, the staff report indicates the staff does not support  
2531 this proposal as submitted. Have you explored with staff what changes might be made to  
2532 this...  
2533

2534 Mr. Condlin - Well, I can't say I specifically came out. I may have begged for  
2535 them to approve, but I didn't specifically come out and ask them. I believe we have addressed  
2536 or attempted to address, I think we have successfully addressed every issue but this 95-foot



2537 issue. That's why, with this coordinated development, we made Fordson a temporary to  
2538 provide access to the right. I can't do anything with the 95 feet. Again, being respectful to  
2539 the Planning Office, I don't think its proper for them to object tonight as to the width of the  
2540 property. I believe we have enough room to develop the property with a 4,000 square foot  
2541 building. We're twice the area. So, I think there's enough room. I think the time for them to  
2542 object is at the time of the BZA, at least make their report as to whether this is a hardship.  
2543 Again, that's a Code interpretation. I, of course, take the interpretation that we meet that  
2544 hardship. That's for me to prove to the BZA. That's my burden and I'm willing to take that  
2545 on.

2546  
2547 Ms. Dwyer - I guess it's a question, are you "putting the cart before the  
2548 horse," because, by rezoning it, are you creating your own hardship?

2549  
2550 Mr. Condlin - Are you creating your own hardship? Certainly, that's a case,  
2551 but there are cases out there that says that's not necessarily the scenario. I've got my case in  
2552 here somewhere, in researching for the BZA, that's not necessarily. That doesn't prevent, in  
2553 that particular case, I forget the exact scenario that came up in the Supreme Court that says  
2554 that does not prevent you from getting a variance, but in that particular case, they did create  
2555 their own hardship. Now, that I talk about it, a surveyor made the mistake. You see it all the  
2556 time getting approved at the BZA. But the surveyor made a mistake and the corner of the  
2557 house was in the setback. But they said, if the configuration of the property was different, that  
2558 it could be approved of the facts because of the configuration of the property. The survey had  
2559 nothing to do with the property.

2560  
2561 My arguments will be the configuration of this property, because without the ability to get the  
2562 adjacent landowner involved, there's no way we can get 95 feet. There's absolutely no way.

2563  
2564 It was a recommendation, and I agreed with the recommendation of the Planning Office. You  
2565 can't go before the BZA and ask for a variance for something we don't have. We didn't have  
2566 a need for a variance until we get a rezoning. So, we're caught in a "Catch 22" at that point.

2567  
2568 It's appropriate for Office. We can't get the people next door. We're willing to take the  
2569 chance, get it Office, never put a building on there if we can't convince the BZA. I've got one  
2570 shot. I'm willing to take that; my client's willing to take it. He's got the burden on me.

2571  
2572 Ms. Dwyer - You can't really say, "It's none of our business what the Code  
2573 says."

2574  
2575 Mr. Condlin - Absolutely not. I didn't mean to imply that. It's incorrect to say,  
2576 "Well, it's a 100-foot requirement. You've only got 95, therefore you don't meet the Code."  
2577 I was being somewhat dramatic by saying, "We meet the Code because the other avenue is if I  
2578 can prove a hardship. It's not your determination of whether I can prove a hardship, I don't  
2579 think, again, being of utmost respect. But I think it's the BZA.

2580  
2581 Mr. Marlles - Madam Chairman, I would like to ask Ms. Hunter if she would  
2582 address that issue.

2583  
2584 Ms. Hunter I would have to respectfully disagree with Mr. Condlin. I don't  
2585 believe that a rezoning of a piece of property creates a hardship. I think that's self-imposed.  
2586 And I do believe that it is appropriate to look at, when you're rezoning a property, that it  
2587 meets the minimum standards.

2588  
2589 Ms. Dwyer - Thank you.

2590  
2591 Mr. Condlin - If I may respond to that. Of course, that's a judicial  
2592 determination of the post of a legislator, not an interpretation of the Code and what the Code  
2593 allows. I mean we've agreed and disagree. I've never claimed to be reasonable, so...

2594  
2595 Ms. Dwyer - Any questions for Mr. Condlin?

2596  
2597 Mr. Condlin - Thank you.

2598  
2599 Ms. Dwyer - We did have opposition. Would the opposition come forward,  
2600 please, keeping in mind that we do have the 10-minute rule. Anyone else who would like to  
2601 speak in opposition, perhaps, could come forward so you would be ready to get to the podium.

2602  
2603 Ms. Paige Tucker - I represent Westbriar neighborhood, about 217 homes. I guess  
2604 the easiest thing would be to say, "Ditto" what the County said, the County Planner, but we do  
2605 have some comments we'd like to share.

2606  
2607 Mrs. Wade joined us on Monday. We had 37 people/families represented in our  
2608 neighborhood who came and met with the developers to discuss this plan. We have met with  
2609 them on a couple of other occasions.

2610  
2611 While the developers, we definitely give them credit. They have tried to work with us and  
2612 listened to our complaints and tried to come up with ways to improve the proffers and the  
2613 project. We voted at this meeting on Monday that we could not support this project.

2614  
2615 You've already heard about the '93 plan. It isn't up there any more (referring to slide), but this  
2616 is what I'm referring to, when this concept was developed in connection with the Upton  
2617 project.

2618  
2619 That plan calls for there to be zoning O-1C for two-thirds of the property that faces onto  
2620 Parham and residential property for the one-third that faces onto Nesslewood. We feel very  
2621 strongly that's a good plan. That's the way it should remain. By supporting the project, as  
2622 proposed, it deviates from this plan. We have great concern, that by deviating from it. I feel  
2623 this concept will be setting a precedent, then, in the future, other developers will say, "First  
2624 you said it was going to be residential. You gave into having Office zoned completely through  
2625 that strip, so what do you want and where's the precedent now?" We feel very strongly that  
2626 we need to object to this plan as it stands.

2627

2628 We also agree that the issue of it not being wide enough and not meeting what is expected by  
2629 Code is an issue at this point. I understand there are steps in which it can be addressed, but it  
2630 is a point. We do have concern about traffic congestion. Yes, the new proffer does address  
2631 having a short term access off of Fordson and then changing it to Nesslewood access.  
2632 However, how long is short term? When does that change? How that will change? Is this 10  
2633 years, 15 years, you know, we don't know. We are very concerned about the traffic issue  
2634 there. However, we feel that there is going to be more of a traffic issue putting an office  
2635 building there, than it would be putting several homes. It really cannot be compared.  
2636

2637 We have concern about the drainage issue. Because we haven't seen a very detailed plan, we  
2638 don't know what kind of BMP is going to be placed on this property. We have concerns, if it  
2639 is going to be a stagnant pond, or dry pond. What's it going to be? We haven't really gotten  
2640 those answers.

2641  
2642 Basically, our bottom line is that we just don't want to deviate from this plan. I won't say,  
2643 "hard to come by," but it was a good plan in '93 and we still believe it's a good plan now. I  
2644 understand the argument, somewhat, about not having a house on that corner. However, if the  
2645 property were wider, there would be more room to put a house. Right now, the strip, we feel,  
2646 is just too narrow to be developed in this way. I guess that's really about it. We just feel we  
2647 can't support it.  
2648

2649 Ms. Dwyer - Any questions for Mrs. Tucker by Commission members?  
2650

2651 Mr. Vanarsdall - It doesn't make any difference to you where the BMP went, you  
2652 still don't support it?  
2653

2654 Mrs. Tucker - No, because it's inconsistent with this plan.  
2655

2656 Mrs. Quesinberry - What would you like to see developed on this?  
2657

2658 Mrs. Tucker - On this particular strip, as it stands? Personally, I think we've  
2659 discussed this as a group. Personally, we don't see this is really wide enough for much of  
2660 anything.  
2661

2662 Mrs. Quesinberry - What's the landowner to do?  
2663

2664 Mrs. Tucker - They knew that when they purchased it. I guess the only thing  
2665 would be acceptable would be, keep it R-1 and develop - keep it residential. From what  
2666 they've told us, it's not enough space on this property to split it and do a house on the corner.  
2667 Basically, split it two-thirds and one-third. But it wouldn't be to their advantage to do that,  
2668 and there's not enough room. It seems like, basically, from what the County is saying, and  
2669 what we believe that piece of property is too narrow and I believe Ms. Hunter's words were,  
2670 "This rezoning is premature."  
2671

2672 Mr. Vanarsdall - Thank you.  
2673

2674 Ms. Dwyer - Any more questions for Mrs. Tucker? Thank you. Is there any  
2675 one else who would like to speak in opposition to the case? Mr. Condlin, I believe you have  
2676 some time for rebuttal. About 4 minutes.

2677  
2678 Mr. Condlin - I'll be all right. It's getting late. Many of the issues to do with  
2679 drainage, I think, I think is just periphery. It can be addressed at the time of POD. But for  
2680 five feet, I'd have one issue, when we hit the Plan. We're five feet off. As a matter of fact,  
2681 and I hope we didn't mislead folks, the type of building for the size of building of a 5,000  
2682 square foot building with the parking. Yes, we need more than the two-thirds office. We need  
2683 the additional one-third for the residential to the office to put the BMP area, basically. There's  
2684 no doubt that we could fit our property, according to this plan, a specific office building, a  
2685 small office building and a residence behind it. I would disagree with Page in that, if you look  
2686 at that plan, there's two lots at the corner; two lots. One lot is exactly as wide, I didn't go  
2687 through and measure, but I know less than 95 feet at that point or approximately at that point.  
2688 That is where the house is going. We're supposed to get two houses, plus an access for an  
2689 office; seven more access points, so another access point for the office, plus three more access  
2690 points.

2691  
2692 If they do follow the proposal, I guess I would contend, "Is it such a bad precedent." They're  
2693 already going to have, currently, seven access points on the left side, on the north side of  
2694 Nesselwood Road where it turns at that point.

2695  
2696 Under the proposed plan, they're looking at a five more access points, plus the office access  
2697 point - the two access points for both the office developments. Under our scenario, we would  
2698 have, obviously, two access points we retain for the office. We'd get rid of the remainder of  
2699 the residential. I think that's a benefit. I think that benefits everybody. We're not proposing  
2700 a greater increase in square footage. We took the same ratio of square footage that was  
2701 applied, that was allowed in the Upton case. Our plans, if you take them for each of the lots  
2702 and add them together, individually, will create no more office space. In addition, you gain  
2703 the benefit of 20-foot of buffer and 100-foot of setback. I don't think these are bad precedents  
2704 that we are setting.

2705  
2706 Regardless of that, if it is such a bad precedent with a 20-foot buffer and a 100-foot setback, I  
2707 do think that the precedent is, and I think I find myself here arguing precedent quite a bit  
2708 sometimes. Throw away all the proffers. I think we're different with this lot on the corner. I  
2709 don't think anyone should live at that corner, than if we go exactly with this plan. I think,  
2710 quite honestly, its better for the entire plan. Maybe not that entire corner, but I would propose  
2711 that entire corner of Nesselwood and Fordson, to be a setback area, to be a buffer area, to be a  
2712 green area to use for the BMPs. I don't think its appropriate for residential.

2713  
2714 This plan that they propose, like any plan, can be improved. I'm not saying we've got all the  
2715 answers. I'm just saying that the proposal that we're providing tonight, despite the fact that  
2716 we're missing five feet, I would again, respectfully, contend that the five feet is not necessary,  
2717 because we can prove a hardship, regardless of the fact that its "self-imposed" by the Zoning  
2718 Ordinance. The law does not prohibit us from gaining a variance, at that point, and does not  
2719 prevent the BZA from gaining that variance.

2720  
2721 As to the traffic congestion, I would point out, that with the additional access points shooting  
2722 on at Nesslewood Road with those driveways for those five additional houses that they've  
2723 proposed, I think is more of a traffic congestion and traffic problem for this area.

2724  
2725 The bottom line is, I think we've got a better plan, that benefits, at least, with this very parcel,  
2726 benefits for this parcel. We're not creating more square footage than if we had all the parcels  
2727 that are remaining together, according to this plan. I would ask that you recommend this for  
2728 approval to the Board of Supervisors.

2729  
2730 Ms. Dwyer - Thank you, Mr. Condlin. Any questions for Mr. Condlin?

2731  
2732 Mrs. Wade - Do you know how much frontage the parcel just next to this has,  
2733 Mr. Condlin?

2734  
2735 Mr. Condlin - It was hard to tell from the plans exactly which parcels made up  
2736 which areas. No. I don't know exactly. I do know that parcel does not access Nesslewood  
2737 Road. It does have access along Parham Road. I don't know if you know, Larry, how much  
2738 frontage that has; the Ferramosca parcel. If you put the tax map back on, if you don't mind.  
2739 So, much for not running over four minutes.

2740  
2741 Ms. Dwyer - Are you asking about Lot 13, Mrs. Wade?

2742  
2743 Mrs. Wade - Whatever that next one is, the adjacent parcel. Yes, 13.

2744  
2745 Mr. Condlin - It's an oddly shaped lot that flares out. They had an agreement  
2746 with the owner of Parcel 10 to develop all three of those parcels together. I've been in  
2747 situations where we've tried to develop around the property. It's not preferable, and that's  
2748 why we came in, tonight, with just this. Believe me, they tried. It's just they're not ready to  
2749 develop, not even in the immediate future, at any future time at this point. They just do not  
2750 want to developed at this point.

2751  
2752 Mrs. Wade - I didn't ask you that. I just wondered how much frontage it is.  
2753 Thank you.

2754  
2755 Mr. Condlin - Thank you.

2756  
2757 Ms. Dwyer - Thank you. Ready for a motion.

2758  
2759 Mrs. Wade - Well, this case has certainly gotten better as time has gone on.  
2760 They tried very hard to address the concerns of the neighborhood. I know we've had at least  
2761 one other case since I've been here, and possibly two, for Office on this corner; both of which  
2762 were denied for the shape and the lack of space on the site.

2763 What he says makes a lot of sense, in some ways. But in 1993, when the lots, up to the north  
2764 of this were rezoned, and the tentative plan, which really has no official authority, but it was  
2765 agreed upon by the planners and the neighborhood, and the other owners of the other parcels,

2766 at the time. It was agreed by everyone that this site should be developed in a coordinated  
2767 fashion. This is not a Special Strategy Area by accident. This area of Parham is very sensitive  
2768 for a number of reasons, because its surrounded by residential, for the most part, and also, due  
2769 to the traffic, that comes through there. And the Special Strategy designation implies a lot of  
2770 detail, does not apply to many other areas.

2771  
2772 I would intend to agree that if we, indeed, said that it was appropriate to put business on there,  
2773 that would imply certain things at the Board of Zoning Appeals level, I think.

2774  
2775 We don't have any firm concept plan. They don't know exactly what use. The traffic would  
2776 vary a lot, depending on what kind of office it is, and the traffic there is a problem.

2777  
2778 I would move, therefore, that, perhaps, this is still premature. The owners were aware of  
2779 these problems when they bought this site. And, especially in this special area, we should do  
2780 everything we can to conform to the requirements of the Ordinance. So, I move, therefore,  
2781 that Case C-25C-99 be recommended for denial.

2782  
2783 Mr. Vanarsdall seconded the motion.

2784  
2785 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
2786 those in favor of the motion, say aye—all those opposed by saying nay. The vote is 5-0, (Mr.  
2787 Donati abstained). Motion to recommend denial to the Board of Supervisors carries.

2788  
2789 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
2790 Commission voted 5-0 (one absent) to recommend that the Board of Supervisors deny the request  
2791 because it represents an increase in intensity which could influence future zoning and  
2792 development of adjacent properties; and the intensity of the business development will  
2793 detrimentally impact surrounding uses.

2794  
2795 Ms. Dwyer - Mr. Secretary, would you call the next case?

2796  
2797 Mr. Marlles - Madam Chairman, I have been negligent. I do want to introduce  
2798 another new member of the Comprehensive Planning Division. Lee Householder, would you  
2799 stand up for a second. Lee, although he's not a new member of the Planning Staff, he was  
2800 previously working for the Community Development Block Grant Division. He is a new  
2801 member of the Comprehensive Planning section. Lee's been with us, I think it's a little over  
2802 three years. Besides being well versed in the Block Grant Program, he has a lot of experience  
2803 and knowledge of neighborhood planning. We think he's going to be a good addition to the  
2804 Comprehensive Planning section. Thank you, Lee.

2805  
2806 **Deferred from the April 15, 1999 Meeting:**  
2807 **C-26C-99 Jack R. Wilson, III for Tidewater Quarries, Inc.:** Request to  
2808 amend proffered conditions accepted with rezoning case C-28C-91, on part of Parcels 20-A-1  
2809 and 2A, containing 9.25 acres, located west of Staples Mill Road on the north line of I-295.  
2810 The property is zoned M-2C General Industrial District (Conditional). The amendment is  
2811 related to the hours of operation. The Land Use Plan recommends Rural Residential, not  
2812 exceeding one unit net density per acre and Environmental Protection Area.

2813  
2814 Ms. Dwyer - Any one in the audience in opposition to C-26C-99 Jack R.  
2815 Wilson, III for Tidewater Quarries? We do have opposition. Was the opposition in the room  
2816 when we discussed the 10-minute rule, earlier? Yes. Okay, we won't review that again, then.  
2817 Mr. Bittner.

2818  
2819 Mr. Bittner - Thank you, Ms. Dwyer. This application would allow a concrete  
2820 mixing plant and asphalt mixing plant to operate during expanded hours at Tidewater Quarries,  
2821 Inc.

2822  
2823 The applicant is requesting hours of operation from 4:00 a.m. until 8:00 p.m. The concrete and  
2824 asphalt plants would not operate on Sundays.

2825  
2826 The hours of operation for the plants are currently restricted to 7:00 a.m. to 6:00 p.m. with no  
2827 operation permitted on Sundays. The applicant says that many construction projects, which  
2828 could be supplied with material from the concrete and asphalt plants, take place at night and  
2829 early in the morning. Because of the restricted hours, material cannot be supplied for these  
2830 projects, making these plants economically unfeasible.

2831  
2832 There is a single-family neighborhood approximately 400 feet across Staples Mill Road from the  
2833 entrance to the site. The Hartley Plantation Subdivision is also approximately 1,000 feet south of  
2834 the site across Interstate 295.

2835  
2836 Staff is concerned with the potential noise impact on surrounding property during early-morning  
2837 operating hours starting at 4:00 a.m. During the day, traffic from Staples Mill Road and  
2838 Interstate 295 helps to drown out noise from the quarry. This would not be present during early-  
2839 morning hours.

2840  
2841 Staff recommends that the proposed concrete and asphalt plants be allowed to begin operation no  
2842 earlier than 7:00 a.m. This would mirror the opening time for operation of the quarry and  
2843 crusher which are already on site. It is also what the proffers currently require. Staff feels that  
2844 the proposed 8:00 p.m. closing time is acceptable.

2845  
2846 An advantage to a 7:00 a.m. opening time is that it would allow operations on this quarry site to  
2847 be directly observed, so that noise impacts could be precisely determined. The proposed plants  
2848 could be operated, and the noise levels generated by them, could be accurately assessed. If it is  
2849 determined that the noise level is not significant, the applicant could then, perhaps, seek another  
2850 proffer amendment to stay open during expanded hours. Staff does not recommend that these

2851 plants be allowed to operate earlier than 7:00 a.m. I'd be happy to answer any questions you  
2852 may have.

2853  
2854 Ms. Dwyer - Any questions for Mr. Bittner? No questions. Thank you. Would  
2855 the applicant come forward, please?

2856  
2857 Mr. Jack R. Wilson, III - Good evening, Madam Chairman and members of the  
2858 Commission. I am Jack Wilson, an Attorney with Hunton & Williams, representing Tidewater  
2859 Quarries, this evening, your applicant. Tidewater Quarries is seeking to amend one of the  
2860 proffered conditions that applies to their facility located at the northwest quadrant of the  
2861 Interchange of I-295 and State Route 33. Tidewater Quarries refers to this as the "Springfield  
2862 Quarry."

2863  
2864 With me, tonight, from Tidewater Quarries are Johnny Glazebrook, who is the Vice-President  
2865 of Tidewater Quarries; Paul Saunders, who is the Superintendent of the Quarry; George  
2866 Hassenlop, who is President of the Concrete Materials Section.

2867  
2868 These gentlemen should be able to give a thorough description and answer any questions about  
2869 the quarry, including the stone mining and concrete mixing operation at the facility. I would like  
2870 to, given the opposition, reserve four minutes for rebuttal. Thank you.

2871  
2872 Although not many people are even aware of the Springfield quarry, it has, in fact, been  
2873 operating at this site for nearly 30 years. In 1970, the Henrico County Board of Zoning Appeals  
2874 first approved a special Use Permit for the quarry. And the Board of Zoning Appeals has  
2875 periodically renewed this permit, with the latest five-year renewal approved on January 28<sup>th</sup> of  
2876 this year. There was no opposition at the public hearing for its renewal, notwithstanding  
2877 significant notice that went out.

2878  
2879 As you might expect, the use permit for the quarry, itself, contains a number of regulatory  
2880 conditions. In fact, there are 25 conditions that regulate just about every aspect of the quarry  
2881 operations. The quarry operation is also closely regulated by the Commonwealth of Virginia  
2882 Division of Mineral Mining, the Department of Environmental Quality.

2883  
2884 Tidewater Quarries is the owner of the site which consists of a total of 205 acres. The mining  
2885 area, itself, consists of 89 acres, and the rest of that is left as a natural buffer to protect adjacent  
2886 properties.

2887  
2888 The quarry meets all the setback distance requirements specified by the County Ordinance. The  
2889 stone mining operation has been very successful at this location. In fact, Tidewater Quarries  
2890 received a \$3 million industrial development bonds from Henrico County to purchase the rock  
2891 crushing equipment that forms the basis of their business at this location.

2892  
2893 In 1991 Tidewater Quarries saw an opportunity to further develop the Springfield quarry by  
2894 locating a concrete mixing facility and an asphalt mixing plant on the quarry floor, which is  
2895 about 70 feet below the surrounding grade.

2896



2897 In August of 1991, the Board of Supervisors approved rezoning about nine acres of the property  
2898 to the M-2 Industrial District to allow further development of this site. And that is the district  
2899 that is on the display, the small segment that's pieced out in the middle of the overall quarry site.  
2900

2901 The 1991 rezoning included a number of proffered conditions. For instance, there can be only  
2902 one concrete mixing facility, and only one asphalt mixing facility located on the property.  
2903

2904 The proffers also control the location and the height of the facility, and the access to those  
2905 particular plants.  
2906

2907 The application before you, tonight, seeks to modify only one of those conditions. Proffer No. 8  
2908 controls the hours of operation for the concrete and the asphalt plants. Existing Proffer No. 8  
2909 states these facilities can operate from 7:00 a.m. to 6:00 p.m. Monday through Saturday. These  
2910 are the same hours of operation the quarry previously conducted at the stone quarry under the  
2911 old permit. However, during the last renewal process, the Board of Zoning Appeals enlarged  
2912 the stone shipping hours. Now, the quarry can ship from 6:00 a.m. to 8:00 p.m.  
2913

2914 The other difference between the proffer and the use permit conditions relate to national  
2915 holidays. And for consistencies sake, we proposed that the quarry would be closed all together  
2916 on national holidays.  
2917

2918 Although Tidewater Quarries would like, and originally requested, the restrictions on operations  
2919 of the concrete plant and the asphalt plant be removed entirely, the Planning Staff apparently had  
2920 some concern about a 24-hour operation or those two plants.  
2921

2922 In response to that concern, we modified our request so that, with the Board of Supervisors  
2923 approval, the facilities would operate between 4:00 a.m. in the morning and 8:00 p.m. in the  
2924 evening. In other words, the concrete mixing operation could commence two hours before the  
2925 shipping of stone from the facility and cease operating at the same time in the evening.  
2926

2927 Let me take just a minute to explain the importance of these hours to Tidewater Quarries. First,  
2928 it is important to note that the concrete mixing facility already is constructed; exists at the site,  
2929 and was built at a cost of around \$300,000 on the floor of the quarry. There is no asphalt  
2930 mixing plant located on the facility now. Mrs. Wade and Mr. Vanarsdall were kind enough to  
2931 visit the site this last month. I believe they have an understanding of the operation of the  
2932 concrete mixing facility.  
2933

2934 Try, as we might, at various points, we were unable to really hear any offsite noise from the  
2935 concrete mixing facility, itself. Keep in mind that during this time, the rock crusher was going  
2936 on. Obviously, there was no blasting going on while we were there, but the stone crusher was  
2937 going. We went off-site. You could not identify any sound coming from the concrete mixing  
2938 facility, itself.  
2939

2940 Just prior to the public hearing that was scheduled last month, we were advised that some of the  
2941 Hartley Plantation residents had requested further information about this case. And, so, based

2942 on that, we agreed to defer the case so that we could meet with our neighbors and explain the  
2943 concrete plant operations.

2944  
2945 On April 21<sup>st</sup>, we met with Mr. Hilliard, who is the President of Hartley Plantation Homeowners  
2946 Association and about a dozen or so neighbors. We fully explained our request and answered all  
2947 the questions that were asked of us that evening.

2948  
2949 We then conducted a tour of the entire quarry, and the concrete plant, and conducted a  
2950 demonstration of the concrete plant's operations. We then dispersed that entire group to various  
2951 sites within the quarry property to establish, again, the concrete plant noise could not be heard  
2952 while it was in operation.

2953  
2954 I believe I'm accurate when I state that no one from Hartley Plantation there that night had any  
2955 concerns directly related to the concrete plant or noise from the concrete plant. We couldn't  
2956 hear any noise from the concrete plant that evening, even while it was in operation.

2957  
2958 I understand that some of the Hartley Plantation residents, and, perhaps, other residents are here  
2959 this evening. From discussions with Mr. Hilliard, I believe their issues relate to the operations  
2960 of the quarry; blasting, the rock crusher, etc. Frankly, those issues are unrelated to this case.  
2961 But I wanted to assure you that Tidewater Quarries continues to work with the neighbors as this  
2962 development approaches this long existing quarry to try to alleviate whatever concerns that can  
2963 be alleviated with this operation. But we have to recognize that this is an operating quarry, and  
2964 crushing of stone and blasting is necessary.

2965  
2966 The bottom line is that the concrete plant cannot compete under the currently proffered  
2967 condition imposed on it. 7:00 o'clock in the morning, as a commencement of operations, does  
2968 not allow Tidewater Quarries to compete with other concrete plants in the area, either in  
2969 Hanover County, or elsewhere, that don't have any restrictions on them at all. So, Tidewater  
2970 Quarries is handicapped. It cannot operate its current concrete plant and make it economically  
2971 viable.

2972  
2973 So, the suggestion that we start at 7:00 o'clock, and see how it goes, will not work because we  
2974 could be doing that already. It's just not economically viable. Most of the jobs the contractor  
2975 will want the concrete on site well before 7:00 o'clock in the morning, especially, in the  
2976 summer months as they're trying to beat the heat and so forth. So, we need to start earlier  
2977 than 7:00 o'clock. We had asked that we go 24 hours and we've cut that back to 4:00 o'clock.  
2978 There will be very little truck traffic associated with this concrete plant.

2979  
2980 And because of the economic issues involved, we would just ask this Commission recommend  
2981 approval to the Board of Supervisors of our limited and reasonable request for additional  
2982 hours. Thank you.

2983  
2984 Ms. Dwyer - Any questions of Mr. Wilson?

2985  
2986 Mrs. Wade - How many times do they blast say in a month?

2987

2988 Mr. Wilson - Currently, I think, last year, it was about 42 to 45 blasts the  
2989 entire year. So, it is less than once a week. In general, the blasts from the quarry is done  
2990 around the Noon hour. The limitations under the use permit as to when the blasting can occur  
2991 and, I believe, it is between the hours of 9:00 in the morning and 5:00 in the evening, but most  
2992 of that's done around the Noon hour.  
2993  
2994 Mrs. Wade - And they have other plants; other locations?  
2995  
2996 Mr. Wilson - Tidewater Quarries has another facility in Richmond.  
2997  
2998 Mrs. Wade - On Creighton.  
2999  
3000 Person from Audience - We have a concrete plant on Creighton Road.  
3001  
3002 Mrs. Wade - Concrete plant on Creighton? They don't have anything in  
3003 Hanover or Goochland?  
3004  
3005 Person from Audience - Creighton Road is...  
3006  
3007 Mrs. Wade - Yes. I didn't think there was one on Creighton on this side.  
3008 Okay, I noticed you said that the others who do these things are on more outlying areas where  
3009 they don't have any regulations because they don't need any, probably, but... Okay, thank  
3010 you.  
3011  
3012 Mr. Vanarsdall - I just have a couple of comments. There are about 10 holidays a  
3013 year and I believe you close six of them? Four of them you don't close. And the other thing  
3014 is, I did visit there and it seems to be a very good shop. I see Saunders sitting here and it  
3015 seems like they run a very good shop. My concern then, and I posed this to George, was the  
3016 safety of trucks coming out on Staples Mill Road. Still is. If you're coming from Hanover  
3017 way, and you're running 55 or 60 mph and you don't know that intersection is there, or if you  
3018 know it, those trucks don't run over 5 mph when they come out of there so you have to get out  
3019 of the way.  
3020  
3021 The other thing was, those trucks are very noisy and you can't proffer, "There shall not be  
3022 noise." So, the only way you can keep the noise down, is by limiting the hours as Mark  
3023 Bittner stated. That's all the questions I have, Madam Chairman.  
3024  
3025 Ms. Dwyer - Just to summarize so I'm sure that I understand what you're  
3026 changing, you're not changing the hours for mining and crushing operations?  
3027  
3028 Mr. Wilson - That's correct. That's under the use permit so that we can't  
3029 address that here. That stays the same.  
3030  
3031 Ms. Dwyer - Blasting stays the same. Shipping stays the same. The only thing  
3032 that you're asking to change are the hours for the concrete mixing and asphalt paving?  
3033

3034 Mr. Wilson - Yes ma'am. In fact, there is no asphalt plant currently located on  
3035 the site. And, I suspect, even if we were to get the hours of 4:00 in the morning until 8:00 at  
3036 night that an asphalt plant still would not be economically viable, even with those hours. So,  
3037 its unlikely, although I couldn't be certain, that an asphalt plant would even be constructed if  
3038 we got those hours. So, what we're primarily focusing on is the concrete plant which is  
3039 currently located on the site.

3040

3041 Ms. Dwyer - These other noise producing and potential safety concerns really  
3042 are not being changed at all?

3043

3044 Mr. Wilson - None, whatsoever.

3045

3046 Ms. Dwyer - Or just the concrete mixing facility. And that 70 feet below  
3047 grade is in the quarry, you said?

3048

3049 Mr. Wilson - Yes ma'am.

3050

3051 Ms. Dwyer - Other than the mixing, the only other consequence would be the  
3052 trucks leaving the facility with concrete in them?

3053

3054 Mr. Wilson - And let me address that briefly, because that also goes to Mr.  
3055 Vanarsdall's issue. Currently, shipping of stone can commence at the quarry at 6:00 o'clock  
3056 in the morning. Approximately, 300 to 400 stone trucks per day leave the quarry between  
3057 6:00 in the morning and 8:00 in the evening. The concrete plant is expected to, perhaps,  
3058 generate, if its going well, 20 trucks a day. And, so, in those first few hours in the morning,  
3059 if we had six to eight trucks leaving between 4:00 in the morning and 6:00 in the morning, that  
3060 would be because the plant is really operating at peak efficiency with a big job. So, the truck  
3061 traffic increase is diminimous compared to the trucks that are already exiting the quarry under  
3062 the current use permit. So, there really isn't going to be really any significant increase in truck  
3063 traffic.

3064

3065 In fact, and I can't, you know, quantify this, exactly, but some of the stone trucks that are  
3066 leaving the site now would not be leaving the site because the stone that they would be  
3067 transporting offsite currently, would instead would be diverted to the concrete facility. So the  
3068 stone trucks leaving would actually decrease, as a result of the concrete facility coming on line.  
3069 So, there may not even be a net increase at all of truck traffic.

3070 Ms. Dwyer - The other point made by staff was that there are other facilities  
3071 that do not need these hours. Can you address why you do and they don't?

3072

3073 Mr. Wilson - Well, in the staff report, the issues that we had raised before is  
3074 that the plants that were observed by staff are not the same type of plants that we have. Those,  
3075 we believe, were a cement block manufacturing plant. And that's where you get the loud  
3076 speaker noise, the bells, the whistles, those type of things where its an active manufacturing  
3077 process. That's not what we have here. What we have is a process, basically, of loading the  
3078 materials onto the back of a concrete truck. It mixes on the way to the job site and then  
3079 deposits wet concrete. The sites that were observed by staff were molding cement blocks.

3080  
3081 We honestly don't really even need to go to 8:00 o'clock at night. I mean, if I could give up  
3082 the later hours in the evening to get the morning hours, I'd do that immediately. It's the early  
3083 morning hours that are essential for the concrete plant to work. The contractors want to get  
3084 out at the beginning of the day so they can pour their concrete; have the day for it to cure, and  
3085 be able to get their workers off the concrete site before its get too warm, especially in the  
3086 summer time. So, most of the concrete jobs are early morning jobs.

3087  
3088 Ms. Dwyer - Any other questions for Mr. Wilson?

3089  
3090 Mr. Vanarsdall - In 1991, I don't think you handled the case, but this proffer was  
3091 agreed to in 1991. But, as time went on, business picked up, and you need to change it. And  
3092 the same thing is going to happen if you get a bigger contract. You're going to put more  
3093 trucks on the road. That's business. I mean you don't have to argue that point.

3094  
3095 Mr. Wilson - The only point is to the 1991 condition. I don't know; again, I  
3096 didn't handle the case in 1991, talking with the folks from Tidewater Quarries here this  
3097 evening. I don't know, had it been thought through at that time what exactly the hours needed  
3098 to be. They just seemed to mirror, at that point, what the quarry's operation hours were. And  
3099 the plant was later built. And it turns out, its not economically viable to operate under those  
3100 hours. They've tried it. It doesn't work. So, that's why we're back tonight asking for a little  
3101 latitude so that we can make that quarter million dollar investment profitable.

3102  
3103 Ms. Dwyer - It would seem that being 70 feet below grade would make a big  
3104 difference in the noise factor? Can you quantify that in any way?

3105  
3106 Mr. Wilson - Well, again, only from anecdotal evidence where we actually put  
3107 the plant in operation. They put people at various spots inside the quarry property and ran the  
3108 concrete truck where we could hear it. And this is at various points within the quarry  
3109 operation. Down in the hole, obviously, sound to the extent its going anywhere, its going to  
3110 go up, and it is just not a loud operation. So, I can quantify that diminishment of the sound  
3111 from 70 feet in the ground, but its not a loud operation to begin with.

3112  
3113 Mr. Vanarsdall - I can tell you now, you can hear those trucks when they get on  
3114 the highway. They're not 70 feet below the ground. You can hear them for miles.

3115 Mr. Wilson - But many of those are not concrete trucks. Many of those are not  
3116 the trucks that would be coming—A concrete truck doesn't operate that way. I mean I guess  
3117 somebody explain the difference between a concrete truck and a stone truck and the 18-  
3118 wheelers that you hear on I-295. But a concrete truck is not as loud a truck as those that are  
3119 hitting their breaks as...

3120  
3121 Mr. Vanarsdall - A truck by any other name is still a truck.

3122  
3123 Mr. Wilson - It's not a Honda. I will concede that, but a concrete truck is not  
3124 as loud as some of the other trucks that you hear on that, because its I-295. It's a major  
3125 interstate. There's a lot of traffic that comes through there. Frankly, I think Tidewater

3126 Quarries gets pegged with noise that isn't Tidewater Quarries' noise. What this application  
3127 does is may be add 20 trucks a day to 400 that are already there.

3128  
3129 Ms. Dwyer - The concrete mixing process generates what kind of noise? I  
3130 guess I would imagine the mining and blasting and crushing would be the nosiest operation in  
3131 the quarry?

3132  
3133 Mr. Wilson - Correct. The blasting, by far, for a short period of time.

3134  
3135 Ms. Dwyer - Blasting, mining, crushing maybe in the descending order of  
3136 noise making?

3137  
3138 Mr. Wilson - Right.

3139  
3140 Ms. Dwyer - But the process that we're talking about, tonight, the concrete  
3141 mixing, how is that done and what kind of noise does that generate?

3142  
3143 Mr. Wilson - Essentially, the noise that you would hear, its not a sustained  
3144 process. What happens is, a truck backs up to the concrete facility and the two components  
3145 are added to the back of the truck. The loudest noise is just the truck revving up so that the  
3146 mixer can turn as its starting to load the material. Once a truck is loaded, it moves offsite.  
3147 And there is no noise until the next truck comes in to get loaded up.

3148  
3149 So, the materials drop down or go down a conveyor into the back of the truck. It mixes and  
3150 leaves the site. So, its not a sustained noise you get with the crusher, for example, that goes  
3151 pretty much continuously during the hours of operation.

3152  
3153 Ms. Dwyer - Are there any other questions of Mr. Wilson? Thank you. Three  
3154 minutes for rebuttal.

3155  
3156 Mr. Wilson - Thank you.

3157  
3158 Ms. Dwyer - Would the opposition come forward, please?

3159  
3160 Mr. Dick Hilliard - Hello, my name is Dick Hilliard. I represent Hartley Plantation,  
3161 which lies just across I-295 to the south of the quarry, as you can see on the map there. After  
3162 I became involved in this project, I realized that opposition to the quarry is extensive in our  
3163 neighborhood and extends far beyond Hartley Plantation. In fact, I've contacted a number of  
3164 residents in the near neighborhood and also over across the line on the other side of the quarry  
3165 in Hanover County. And, tonight, we have some guests from Hanover County, who are  
3166 interested in seeing how this thing turns out, because they have the same concerns that we do.

3167  
3168 The quarry impacts us in three ways: by blasting, by noisy machinery, and by truck traffic and  
3169 truck noise. And, although, its been pointed out that the current proffer doesn't really apply to  
3170 blasting, I would point out to you that we can't see little proffers when we look across the line  
3171 into the quarry. What we get is blasting, noise, and irritation. So, whether this applies to this

3172 particular instance, applies to blasting or not is irrelevant to the extent that the quarry is a  
3173 major nuisance in our neighborhood.

3174  
3175 I said that it affects us in three ways: blasting. The blasting has the impact of shaking the  
3176 house. It shakes the windows. It rattles the china, and, in fact, we've had cases where baby  
3177 sitters have called 911 because they'd thought there'd been some sort of explosion in the house  
3178 that they should report. So, this is, what you might call, "A bone rattling explosion."

3179  
3180 We do have reports of damage in the neighborhood. Cracked driveways, and ceramic tiles that  
3181 are cracked, but we can't prove that this comes from the blasting. But, its not often necessary  
3182 to prove that it does come from the blasting. You all know the real estate industry is based on  
3183 rumor as much as fact. And, once the community gets the reputation of having trouble with  
3184 blast damage, whether its true or not, it will affect our property values, and that concerns us.

3185  
3186 The second impact that they have on us is noisy machinery. This is, in particular, the crusher.  
3187 And this is rather like having your molars drilled by a dentist, as you listen to it all day. It's  
3188 irritating. It's a constant background noise in the neighborhood.

3189  
3190 And the third impact is the noise from trucks getting off and on Interstate I-295. They down  
3191 shift as they get off. The engine races, and you can hear them for quite a distance, certainly in  
3192 our neighborhood.

3193  
3194 These are the impacts. Our fear here is, if you increase the hours of operation, you will  
3195 increase the scope of the quarry operation and all of the impacts on us will be intensified. I  
3196 might point out one thing; that it takes aggregate to operate a concrete plant and it takes  
3197 aggregate to operate an asphalt plant. To us, that means more blasting in order to get that raw  
3198 material to operate those plants. The plants, themselves; the concrete plant and the asphalt  
3199 plants may be relatively quiet. In fact, I imagine that they are. But, it's the aggregate mining  
3200 that we're concerned about and the blasting.

3201  
3202 To address some of the particular points that Mr. Wilson raised, we did tour the facility and it  
3203 is an impressive facility. It's very well kept. But, I would point out that the tour began at  
3204 6:00 p.m., and lasted until about 7:00 p.m. And, as we dispersed in the neighborhood, you  
3205 couldn't distinguish the sound of the cement truck from the sounds of the other trucks on I-  
3206 295. But I would point out that this is between 6:00 and 7:00 p.m., not 4:00 a.m. as the  
3207 quarry proposes. I don't know about you, but I'm sound asleep at 4:00 a.m. I think one truck  
3208 would be sufficient to wake me.

3209  
3210 Also, they're competing plants that don't have the same restrictions. Well, other plants are  
3211 probably not located in residential neighborhoods like this one is. So, it's a matter of location,  
3212 rather than more compliant neighbors.

3213  
3214 I think, in general, we have a problem here that's brought on by having an industrial mining  
3215 operation in the middle of what is becoming, and will continue to become a residential area.  
3216 And I ask you to please bear with us and not increase the operating hours of the quarry. I  
3217 think we're all mature enough to know that we moved into these houses. The quarry's been

3218 operating a long time. And, we're willing to accept the current conditions. But we ask you  
3219 not to increase the neighborhood nuisance by extending the hours. Are there questions?

3220  
3221 Ms. Dwyer - Any questions by Commission members? No questions. Thank  
3222 you, sir. Any one else would like to speak in opposition?  
3223

3224 Mr. Don Rogers - My name is Don Rogers, and I stood before you folks two years  
3225 ago when this extension was granted for the current operations. And, at that particular time,  
3226 and its been well discussed, that some of the standards that are established over there are rather  
3227 significant, and open-ended, if you will. They'll admit to you that, currently, they blast at no  
3228 more than 10 percent of the allowable rate. And, we're talking about giving them the ability to  
3229 go to 100 percent of the maximum. I think we would have substantial damage in the  
3230 neighborhood. This applies, again, to the hours of operation. You're giving them a larger  
3231 block to operate, and I'd like to go back and revisit a couple of notes from a few years ago,  
3232 and ask, again, when were the standards established to allow the current set of circumstances?  
3233 Were they 25 years ago where they say they've been good neighbors, they have. But these  
3234 standards were long before you folks, or your body approved the development within 400  
3235 yards of the actual facility. So, I'm asking for you folks to go out on Staples Mill Road and  
3236 watch the traffic that turns in and out that does not have a single caution light or sign or speed  
3237 limit or "Truck Entering the Highway" notification. I'd like for you go and look, and possibly  
3238 find out why there is an auto body shop there that put in a glass repair facility just on the other  
3239 side of the County line. Exactly, from the County line there.  
3240

3241 I will tell you that the acceleration and deceleration is extremely loud. Being a tanker, myself,  
3242 in the Army, if you can imagine having that kind of activity, its like having tanks driving  
3243 through your back yard. That's 400 yards away from our neighborhood, and I think, Mr.  
3244 Wilson, if he has a \$400,000 home, he would be annoyed if somebody were approving the  
3245 operation of heavy trucks at 4:00 a.m. in the morning. Thank you. Any questions?  
3246

3247 Ms. Dwyer - Mr. Rogers, do you live in Hartley Plantation?

3248  
3249 Mr. Rogers - Yes, I do.

3250 Ms. Dwyer - Because, I guess our staff report says you're a 1,000 feet to the  
3251 south of the property on the other side of I-295? Is that right? You said 400?  
3252

3253 Mr. Rogers - Its 400 yards straight across the interstate.

3254  
3255 Ms. Dwyer - 400 yards, okay.  
3256

3257 Mr. Rogers - Yes. I stood here before as the representative of the  
3258 Homeowners Association as the President, as well, about these issues, asking these same  
3259 questions. I would like to share with you, as well, that during the last two years, it was told to  
3260 us, that, if there was any problems, document them, and what we received from your  
3261 organization, your body, is a number to the plant to talk to them about it. So, I think there's  
3262 some frustration over the last couple of years, in particular, that we're being referred right  
3263 back to the profit center; the folks that are making the financial decisions, and letting, and



3264 hoping that we will resolve our issues between neighbors. And that's just not happening, as  
3265 evident with the folks from Hanover here, tonight, as well.

3266  
3267 Ms. Dwyer - Are there any questions for Mr. Rogers?

3268  
3269 Mrs. Wade - You say you were here for the permitting stage?

3270  
3271 Mr. Rogers - Two years ago.

3272  
3273 Mrs. Wade - Okay, that would have been, I expect, the Board of Zoning  
3274 Appeals. You came in the daytime?

3275  
3276 Mr. Rogers - No. It was in the evening when there was an extension. Was it  
3277 the zoning?

3278  
3279 Person from Audience - ...it was 1991.

3280  
3281 Mrs. Wade - Well, in 1991, we had the zoning case that allowed the asphalt  
3282 plant, but two years, we wouldn't have been...

3283  
3284 Person from Audience - In 1994.

3285  
3286 Mrs. Wade - The Board of Zoning Appeals?

3287  
3288 Person from Audience - In 1994, we were at the Board of Zoning Appeals.

3289  
3290 Mr. Rogers - This originally came up in 1991?

3291  
3292 Mrs. Wade - Yes. You were here in 1991. I know, because I was down there  
3293 in 1991 in the quarry.

3294  
3295 Mr. Rogers - 1994 and 1999. It only comes up every five years.

3296  
3297 Mrs. Wade - That's the Board of Zoning Appeals that approves that permit.

3298  
3299 Mr. Rogers - I was speaking with you, and was in the capacity as an officer.  
3300 And I only moved in there in 1993. So, I'd have to go back and pull files.

3301  
3302 Mrs. Wade - Yes. They're the ones that put the UP-5-99 that was just  
3303 renewed here. That's what they do. We don't do permits for mining in a quarry.

3304  
3305 Person from Audience - He didn't live there when the previous case came up.

3306  
3307 Mrs. Wade - No. I assume most of you didn't. I forget when Hartley  
3308 Plantation was built.

3309

3310 Mr. Rogers - I was the third house in, in October 31, 1993. That was part of  
3311 my point is that, from y'all's perspective, I think y'all have done a great thing in terms of  
3312 working with us. I think that there's some responsibility on your part, to understand again,  
3313 going back to some of the other issues, tonight, that the growth that you've allowed. I was one  
3314 of the first folks there that had no idea there was a quarry there, because nobody notified us.  
3315 Nobody notified the developer. Nobody had any disclosure whatsoever.  
3316  
3317 Mrs. Wade - No. And its pretty well concealed.  
3318  
3319 Mr. Rogers - Yes. It was, but blasting isn't. And when you experience this  
3320 thing first hand...  
3321  
3322 Mrs. Wade - The realtor didn't tell you about this?  
3323  
3324 Mr. Rogers - Absolutely not. Absolutely not. Thank you.  
3325  
3326 Mrs. Wade - Thank you.  
3327  
3328 Mr. Mike Shaughnessy - I live in Hartley Plantation. One of the things I would like to  
3329 request of the Planning Commission is to defer any judgement, tonight. There are some folks  
3330 here who couldn't make it; folks who live 400 feet away from Tidewater Quarries. We sent  
3331 some folks to talk to them to find our how they're doing; how they're coping with the noise.  
3332 They couldn't make it tonight because they're scared of the dark. It's dangerous outside.  
3333 These are elderly folks who have to keep their front windows closed during the day because of  
3334 the dust caused by the truck traffic.  
3335  
3336 The other thing they did mention, as well, was the sound as the trucks go by, the dust. They  
3337 have to clean their house constantly.  
3338  
3339 The other thing I'd also like to point out, is Martin Marietta Aggregate. It's in Goochland  
3340 County also requested extended hours two years ago. I had the opportunity to speak to the  
3341 foreman of the site. About three weeks ago, they were turned down by the County. One of  
3342 the things they were requested to do was put in noise abatement equipment, as well. I would  
3343 suggest that maybe the staff contact them, as well, and find out their view of things. That's all  
3344 I have to say.  
3345  
3346 Mrs. Wade - Thank you.  
3347  
3348 Mr. Shaughnessy - Sure.  
3349  
3350 Mrs. Wade - Those people that you are describing live in Hanover, across  
3351 the...  
3352  
3353 Mr. Shaughnessy - Yes. These folks live very close. When our folks went there to  
3354 talk to them, they said, one of the things they were describing was the "chick, chick, chick."

3355 Our folks were thinking, "What is this; animals, chickens, or what?" It turns out the conveyor  
3356 belts from the crushers going on all day.

3357  
3358 If we do extend the hours, I think it would be nice to have someone come out and talk to them  
3359 to see what the impact is on them.

3360  
3361 Mrs. Wade - Of course, we wouldn't be extending crushing hours, you  
3362 understand. But the trucks, you would still be having trucks, I'm guessing?

3363  
3364 Mrs. Wade - Thank you. We appreciate you bringing their thoughts, but we  
3365 can't really defer.

3366  
3367 Ms. Joanna Pitts - I'm a homeowner in Hartley Plantation.

3368  
3369 Mrs. Wade - I feel as if I know all of you. I've talked to all of you all over the  
3370 telephone.

3371  
3372 Ms. Pitts - You have.

3373  
3374 Mrs. Wade - And, if I didn't, is because I ran out of time to call you back.

3375  
3376 Ms. Joanna Pitts - I'm a homeowner in Hartley Plantation. As the quarry had  
3377 discussed, I know that you feel there's no extra noise added, because the concrete plant, itself,  
3378 doesn't make noise and you asked them how the plant operates. My main concern is that, they  
3379 validated it by saying the trucks pull into the plant. They back up to the plant. They get the  
3380 concrete and they take off. When they back up, it's the beep noise. I know that's a safety  
3381 issue, and I know you think its no big deal, but I'm an operating room nurse, and a lot of times  
3382 I'm on call, and I get home at 2:00, 3:00, 4:00 in the morning and have to return to work at  
3383 7:00 a.m. When the trucks are backing up, if, by chance, it was at 4:00 a.m., back up, it  
3384 would sound like an alarm; beep, beep, beep. At that hour it sounds just like that. So, that is  
3385 my concern. I know that's a personal issue for me, but I know that other homeowners who are  
3386 up at that time in the morning. I don't like to see it go on at 7:00. I can tolerate it at 7:00.  
3387 That's normal working hours for people and I would expect that to happen. But I do have a  
3388 problem at 4:00 a.m. with the trucks backing up.

3389  
3390 And, also, as far as notification for some of the previous quarry issues, I never received one.  
3391 I'm probably the newest owner there. I didn't know the quarry even existed. So, I just make  
3392 a point. Thank you.

3393  
3394 Mrs. Wade - Thank you.

3395  
3396 Ms. Dwyer - We are out of time. I'll give you a minute.

3397  
3398 Mr. Tom Kalaich - Thank you. I appreciate it. I'm from Hanover County. My  
3399 name is Tom Kalaich. I'm a resident of Meade Subdivision. Meade Subdivision is a neighbor  
3400 of the quarry on the other side of the Chickahominy. And there are a couple questions I'd like

3401 to ask you all. It seems you all required the quarry probably to berm the side of their property  
3402 adjacent to I-295 to help prevent the sound from bothering the people in Hartley Plantation.  
3403 But, I sure can't tell you asked them to berm the side on the Hanover County line. And I'm  
3404 wondering if you all have contacted any of the people in Hanover County to address the  
3405 concerns that the Hanover residents have? And, I think it would be a real neighborly thing to  
3406 do to contact the people in Hanover, because we weren't made aware of this until someone  
3407 from Hartley Plantation happened to run into someone from our neighborhood. I learned of  
3408 this two days ago.

3409  
3410 And, so, Number 1, I'd like for you to prevent the operation of the quarry hours being  
3411 extended. And, if you can't do that, tonight, I'd like for you give us an opportunity to get  
3412 more information about this. Thank you.

3413  
3414 Ms. Dwyer - How many more people would like to speak?

3415  
3416 Mrs. Wade - Are you from Winterberry? Oh. I was going to ask if there was  
3417 anybody here from Winterberry.

3418  
3419 Ms. Dwyer - Sir, you cannot speak from the rear. We are recording this.  
3420 You need to be up front. I will allow 30 seconds per person, as long as you are not repetitive.

3421  
3422 Mr. Andrew Proctor - My name is Andrew Proctor from the Winterberry Subdivision,  
3423 adjacent to the Hartley Plantation on the south. I would just like to say we have same concerns  
3424 that the Hartley Plantation people have.

3425  
3426 Ms. Dwyer - Okay. Thank you.

3427  
3428 Mrs. Wade - You all can hear it in Winterberry?  
3429 Mr. Proctor - We can hear the blasts and we can hear the trucks. Yes, and its  
3430 134 homes in Winterberry.

3431  
3432 Ms. Dwyer - Sir, let me ask you a question, Mr. Proctor. Can you distinguish  
3433 the truck traffic noise from I-295 and the quarry truck traffic?

3434  
3435 Mr. Proctor - I would say that, during the day, I could not. At 4:00 a.m., I  
3436 guarantee, I could, because there is very little traffic on I-295 at 4:00 a.m. Thank you.

3437  
3438 Mr. Doug Woods - I live in Hartley, as well. I live directly across the street from  
3439 that. I live actually right there (referring to slide). And I do hear the beeping of the trucks. I  
3440 hear the rock crushers. I can assure you at 4:00 o'clock in the morning, I don't want to hear  
3441 those trucks. I can hear them backing up now. Obviously, I can't in the middle of the day,  
3442 but I can in the morning when I get up before the traffic starts.

3443  
3444 But, one other thing I'd like to add is, I do have a child. There's a lot of young children in  
3445 this area. I can guarantee you, a lot of us are going to get awakened from this noise that early  
3446 in the morning. And I built a house over 4,000 square feet five years ago in Hartley, as my

3447 dream home, which I plan on living there. I told my wife, the next time I move it's going to  
3448 be six feet under in my backyard and I don't want to have to speed that up and move  
3449 elsewhere. So, that's it. Thank you.

3450  
3451 Ms. Dwyer - I'm sorry. Could I have your last name again, sir, please?

3452  
3453 Mr. Wood - Woods.

3454  
3455 Ms. Dwyer - Woods?

3456  
3457 Mr. Wood - Yes.

3458  
3459 Ms. Dwyer - Was there someone else?

3460  
3461 Mr. Mark Smith - I will be extremely brief, too. My name is Mark Smith, and I  
3462 actually live in Hartley Plantation. And, I'm, actually, this house right here that actually butts  
3463 up to I-295. And I can actually hear the noise inside my house from I-295. And, I can assure  
3464 you, that at 4:00 o'clock in the morning, it is extremely quiet. And it picks up around rush  
3465 hour at 6:00 a.m., which is when they currently can operate trucks into the quarry. So, any  
3466 noise that would go in that quarry at 4:00 a.m., would, if you look at this, the interchange is  
3467 right here (referring to slide), very close to my house. They would need to decelerate and hit  
3468 the brakes and come off this interchange right here to go to the quarry; anybody on I-295. So,  
3469 that's going to be extremely disturbing to anybody that that's close to I-295.

3470  
3471 When we moved in there, they were not operating at 4:00 a.m. in the morning. And, they  
3472 built a concrete plant on that property in the early 1990's, knowing what their operating hours  
3473 were - 7:00 a.m. to 6:00 p.m., not 4:00 a.m. So, to grant them their request at this point,  
3474 after we've moved in, that would actually add noise to I-295 and affect the quality of our life  
3475 in this residential subdivision is, in my opinion, not appropriate.

3476  
3477 Mrs. Wade - Mr. Smith, staff has suggested a compromise of 7:00 to 8:00.  
3478 How do you feel about extending it?

3479  
3480 Mr. Smith - They even made a comment that they don't really want the  
3481 evening hours. So, I would recommend it would be 7:00 to 6:00, which is what the rock  
3482 quarry hours are right now. If they want the early morning hours, to me, when they were that  
3483 close to a residential subdivision to extend hours - We all know a business has to operate. We  
3484 all have jobs from businesses. But to interfere with the quality of life in your actual home  
3485 because you want to extend their hours to 4:00 a.m. in the morning, if they get 4:00 a.m., they  
3486 even admitted they wanted to come back and get 2:00 a.m. or Midnight or 24 hours. So, its  
3487 just going to exacerbate the problem and have continuous truck noise on I-295, when currently  
3488 its very quiet from 11:00 p.m. to 6:00 a.m., which is when I get my sleep. Noise does not  
3489 bother me. It picks up tremendously at 6:00 a.m. rush hour. It picks up again extremely and  
3490 its constant all day. It kind of dies down after rush hour. But the trucks, primarily, go away  
3491 at 10:00 p.m.

3492

3493 Mr. Silber - Mr. Smith, is the noise you hear from the trucks, is the truck  
3494 traffic on the interstate in the ramps, or is it noise you hear from the quarry site?

3495  
3496 Mr. Smith - Well, at 4:00 a.m., they're not operating at 4:00 a.m. I mean the  
3497 truck noise that I hear now is off of I-295 when I hear it. Like I said, in the wee hours of the  
3498 morning, there is no truck traffic. They're just not there, so I don't hear that.

3499  
3500 Mr. Silber - The truck traffic you hear now they claim is associated to the  
3501 quarry. Is that truck traffic you hear from the quarry site, or from the public right of way?

3502  
3503 Mr. Smith - I couldn't tell you. There's a lot of trucks that use I-295 to get to  
3504 the quarry. So, I'm sure that there are other trucks that use I-295 that don't go to the quarry.  
3505 But, as somebody said before, adding more trucks to the highway at 4:00 a.m., that's already  
3506 there, it's just more possible noise that can wake you up in the middle of the night.

3507  
3508 Mr. Silber - But I'm not sure if this body has the right, or even the Board of  
3509 Supervisors has the right to govern who uses the interstate highways at what hours. I mean, if  
3510 there are people using the interstate coming from different locations, I understand your point.

3511  
3512 Mr. Smith - That's not the point. The point is, by allowing them to increase  
3513 the operating hours, they will drive more noise into the neighborhood through truck traffic,  
3514 through operations in the quarry, themselves, and the combination of the two needs to be  
3515 considered.

3516  
3517 Person from Audience - (Comments unintelligible - not at microphone).

3518  
3519 Mr. Smith - Yes. You can hear truck noise and hear the backing up, beeping  
3520 noise. I can hear the crusher, as plain as day, inside my house. But I'm not sure that's the  
3521 issue that they're raising. But, by having these plants in there operating more, they will have  
3522 the crusher running at maximum capacity all the time that they can, which would be a lot more  
3523 noise as well.

3524  
3525 Ms. Dwyer - Is there someone else who wanted to speak, one last person?

3526  
3527 Mr. Allen Bittman - Thanks for your forbearance. I know its late and you guys have  
3528 a lot of things going on. My name is Allen Bittman. I'm also a resident of Hartley Plantation.  
3529 I'd like to point out that right now, their proffer statement would allow them to operate not  
3530 only the concrete plant and asphalt plant which does not currently exist. There's nothing that  
3531 says they can't build it and start building it as soon as they get the operating hours. It's a  
3532 supposition, but my guess is that's actually what they want to have there. You know they  
3533 made a big claim that the concrete trucks are quieter than the aggregate trucks. They don't  
3534 have big jack brakes and all they do is they sit there and they rev the engines. But the trucks  
3535 that pick up asphalt that would be providing all those to the plants and different places that use  
3536 that, are the big trucks that do make all the noise that would be a lot of additional traffic. And,  
3537 that would be an hour, you know, that would be very unpleasant to my family. I have three

3538 young children that, you know, need their rest as well. Our neighborhood is full of children.  
3539 Thank you. That's the extent of my comments if you have any questions.

3540  
3541 Ms. Dwyer - What was your last name again?

3542  
3543 Mr. Bittman - Bittman.

3544  
3545 Ms. Dwyer - I believe that they're already permitted to have an asphalt paving.

3546  
3547 Mr. Bittman - Yes ma'am, they are. But they're saying they can't do it right  
3548 now because of, its not economically feasible so they've never built one. They actually said  
3549 they probably wouldn't build it, themselves. They would actually contract it out to somebody  
3550 else; subcontract out, you know, their right to have the plant there.

3551  
3552 Ms. Dwyer - Thank you.

3553  
3554 Mr. Bittman - Thank you.

3555  
3556 Ms. Dwyer - Ready for rebuttal.

3557  
3558 Mr. Wilson - I'll be brief. Let me address some of the issues raised first by  
3559 Mr. Hilliard. And some of these comments were throughout those who spoke at the podium.  
3560 The issue with the blasting is, again, unrelated to this case. There are some rumors circulating  
3561 in the area that this application was actually to permit blasting 24 hours a day. If that was a  
3562 concern, I wanted to make sure that nobody leaves here, tonight, thinking that's the purpose of  
3563 this application.

3564 All this application addresses is the concrete plant, itself. It has nothing to do with the  
3565 crusher. It has nothing to do with blasting. It has nothing to do with changing the quarry  
3566 operations at all.

3567  
3568 Currently, the quarry is operating at full capacity. So, there is nothing more that can be  
3569 generated by way of noise from a crusher or blasting that is already being generated at the  
3570 quarry site. All that may happen, as a result of the concrete plant, as mentioned earlier, is  
3571 some of the traffic that is currently exiting the site with stone, will, instead, go to the concrete  
3572 plant instead.

3573  
3574 The other issue that I wanted to address is the truck traffic relating to the concrete plant, itself.  
3575 The current Proffer No. 1 permits and limits the number of trucks to be parked onsite to 10.  
3576 The concrete operations would begin in the morning with the trucks already onsite, so there  
3577 would be no trucks driving on to the site starting at 4:00 o'clock. Those trucks would already  
3578 be located at the site.

3579  
3580 What would happen in the morning starting at 4:00 o'clock if a job came in that required  
3581 starting at 4:00 o'clock, and most of them would likely be 5:00 to 6:00 timeframe. We just  
3582 need the flexibility in case a job requires an earlier start.

3583

3584 What would happen is the trucks are already staged on the quarry site. They're already there,  
3585 and the first one would probably start loading around 4:15 to 4:30, because it takes some time  
3586 to get the plant in operation before the first truck could even load. So what you would have is  
3587 a truck that is already located onsite, filling up with concrete and exiting.  
3588

3589 Between the hours of 4:00 and 6:00 o'clock, you would likely have fewer than 10 trucks  
3590 exiting the site. And none of them coming back because none of them would be able to leave  
3591 the site, unload the concrete and get back onsite within the two hours that would be permitted  
3592 between 4:00 and 6:00.  
3593

3594 So, the concern about truck traffic is just not a valid issue, given the operation of this facility  
3595 and the way the concrete plant would work; concrete trucks or Tidewater Quarry trucks  
3596 already located onsite starting in the morning. So, there isn't any increase in truck traffic,  
3597 significantly, as a result of this application.  
3598

3599 And, again, the one issue about the berming and Mr. Kalaich from Hanover County  
3600 mentioned, the quarry has been bermed around all sides, not just the side that faces Hartley  
3601 Plantation.  
3602

3603 Finally, one other issue. We had spoken with Mr. Harris, who is, actually, the closest  
3604 neighbor. Mr. Harris lives right at the gate over here (referring to slide). Mr. Harris lives  
3605 right here. He was advised, again, of the permit application. Advised of this application. Has  
3606 no concerns with the noise. Has no concerns with the operation. And, so some of the closest  
3607 neighbors to the facility recognize that its an operating quarry. It's got a concrete plant in  
3608 there that's economically viable and doesn't have any concerns.

3609 As far as the asphalt plant, itself, goes, again, there is no asphalt plant currently on site, as  
3610 Ms. Dwyer, you pointed out. We currently could build an asphalt plant. It could operate  
3611 currently under the current conditions between 7:00 in the morning and 6:00 in the evening.  
3612 That's not feasible. It's unlikely that it would be feasible, even if we would be permitted to  
3613 start at 4:00 o'clock in the morning. The primary focus of this application is to allow the  
3614 concrete plant, which is currently located on the site at a cost of \$250,000 to \$300,000, to be  
3615 able to generate some revenue for Tidewater Quarries. And, moving to 4:00 o'clock in the  
3616 morning is not going to impose any additional hardship on the surrounding neighbors. So, we  
3617 would, again, ask for your recommendation of approval. Thank you.  
3618

3619 Ms. Dwyer - Thank you, Mr. Wilson. Any questions for Mr. Wilson?  
3620

3621 Mrs. Wade - So, he's the only person you spoke to on the other side of the  
3622 quarry, because it seemed to me in 1991, and then, again, this time, I got the impression you  
3623 had talked to people on the Hanover side and they didn't have any problem, but that's not  
3624 what I'm hearing now.  
3625

3626 Mr. Wilson - There hadn't been any contact other than with Mr. Harris.  
3627

3628 Person from Audience - Mr. Early Wood, Overhill Farm Subdivision.  
3629



3630 Mrs. Wade - (Comments unintelligible).  
3631  
3632 Person from Audience - (Comments unintelligible).  
3633  
3634 Mr. Lee Yolton - Notification was sent to Hanover County.  
3635  
3636 Mr. Wilson - Notification was sent to Hanover County residents as well as on  
3637 the zoning case. In both cases that have come up in the last six months, Hanover County  
3638 residents were notified as well.  
3639  
3640 Ms. Dwyer - We notified adjacent Hanover County residents of this case?  
3641  
3642 Mr. Bittner - Yes. We did.  
3643  
3644 Ms. Dwyer - Okay. Well, that's good to know. We didn't leave them out.  
3645  
3646 Mrs. Wade - Neighborly.  
3647  
3648 Person from Audience - I never heard anything about it.  
3649  
3650 Ms. Dwyer - Are you an adjacent property owner?  
3651  
3652 Person from Audience - My property, specifically, does not abut the plant.  
3653  
3654 Ms. Dwyer - That's why you didn't...  
3655  
3656 Person from Audience - It abuts Hartley Plantation.  
3657  
3658 Mr. Bittner - If it's across some right of way such as Interstate 295, it is  
3659 considered abutting or adjacent to property, such as Hartley Plantation...  
3660  
3661 Ms. Dwyer - So, property across a right of way is considered abutting  
3662 property. Thank you for that edification, Mr. Bittner.  
3663  
3664 Person from Audience - May I make one quick comment? (Comments unintelligible).  
3665  
3666 Ms. Dwyer - all right. This is the last comment. Please summarize because  
3667 that comment was not picked up on our microphones. The comment was that the concrete  
3668 mixing facility would be audible at 4:00 a.m., whereas it may not be audible later in the day  
3669 when there are other competing noises that may drown out that. Would you address that  
3670 quickly?  
3671  
3672 Person from Audience - I will address that quickly. First of all, again, it is 70 feet down  
3673 in the ground. We did observe this site. We put the concrete plant in operation well after rush  
3674 hour the night the Hartley Plantation residents were there. And from locations within the  
3675 quarry site, you couldn't hear the concrete trucks revving up to mix the mixer. We were at

3676 points near the offices which, I gather, were right in here (referring to slide), which are out of  
3677 the pit, but still well within the quarry site. And, try as we might, with a couple of us standing  
3678 there, we could not hear the truck revving as it mixed the concrete.  
3679

3680 Ms. Dwyer - Thank you. Your point is well made. We will not hear any more  
3681 comments. Mrs. Wade, you're ready for a motion, I presume.  
3682

3683 Mrs. Wade - All right. Yes, staff and I tried to determine the noise level, but  
3684 we really couldn't tell much just from the few minutes at different times of the day and  
3685 evening. So, I've been interested, you know, in the comments of you who live near there.  
3686 And, we had, of course, some conflicts here, as we often do. Our growth of the suburbs are  
3687 moving out and the conflicting visa versa with other kinds of activities that have been long  
3688 what have been, basically, more agricultural areas. And, we have to realize that that's the  
3689 case. Also, the other conflict is with all aspects of our Land Use Plan that, we, you know,  
3690 encourage businesses. We encourage businesses to expand. On the other hand, we are  
3691 worried about the quality of life in our residential neighborhoods.  
3692

3693 Having said all of that, staff recommended, you know, that we say from 7:00 to 8:00. They  
3694 don't seem to need that, and that's not what their proposed proffer says any way. So, given  
3695 the proposed proffer that they have, I would move that Case C-26C-99 be recommended for  
3696 denial.  
3697

3698 Ms. Dwyer - Do I have a second?  
3699 Mr. Archer seconded the motion.  
3700

3701 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer. All those  
3702 in favor say aye—all those opposed by saying nay. The vote is 4-0, (Mrs. Quesinberry absent,  
3703 Mr. Donati absent). The motion to recommend denial is carried.  
3704

3705 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
3706 Commission voted 4-0 (one absent, one abstention) to recommend that the Board of Supervisors  
3707 **deny** the request because it would have a detrimental impact on the adjoining residential  
3708 neighborhood; and it would not be in the best interest of the health, safety, and welfare of  
3709 residents in the vicinity.  
3710

3711 **Deferred from the April 15, 1999 Meeting:**

3712 **C-28C-99 Henry L. Wilton for Shady Grove Associates:** Request to  
3713 conditionally rezone from O-2C Office District (Conditional) to RTHC Residential Townhouse  
3714 District (Conditional), Parcel 10-A-19, described as follows:  
3715

3716 Beginning at a point at the intersection of Shady Grove Road and Old Nuckols Road, said point  
3717 being on the eastern right-of-way line of said Shady Grove Road and the northern right-of-way  
3718 line of said Old Nuckols Road. Thence, with the eastern right-of-way of Shady Grove Road  
3719 N10-48-43E 447.96' to a point. Thence, N10-25-04E 371.55' to a point. Thence, on a curve to  
3720 the left with a radius of 2483.26' a central angle of 1-12-18 and a length of 52.22' to a point.  
3721 Thence, leaving said right-of-way S74-50-00E 535.53' to a point. Thence, S74-52-31E 112.29'

3722 to a point. Thence, with the land now or formerly John R. and P.S. Jones, S10-09-00W  
3723 395.08' to a point. Thence, N77-23-39W 39.27' to a point. Thence, with the land now or  
3724 formerly Security Capital Atlantic S10-08-35W 483.62' to a point in the northern right-of-way  
3725 of Old Nuckols Road. Thence, with said right-of-way N74-04-37W 617.29' to the point of  
3726 beginning. The parcel of land herein described is located in the Tuckahoe District of Henrico  
3727 County, Virginia and contains 12.63 acres and was compiled from available records.

3728  
3729 Mr. Marlls - Mr. Mark Bittner will be giving the staff report.

3730  
3731 Ms. Dwyer - Is there any one in the audience in opposition to Case C-28C-99  
3732 Henry L. Wilton for Shady Grove Associates? There is no opposition.

3733  
3734 Mr. Bittner - Thank you, Ms. Dwyer. This application would rezone 12 acres  
3735 from O-2 Office to RTHC Residential Townhouse for the development of townhouses or condos.  
3736 The requested use and zoning is not consistent with the Environmental Protection Area or Office  
3737 designations of this property.

3738  
3739 This property was rezoned to O-2C in 1990. At that time it was viewed as a "spin-off"  
3740 development of the Concourse at Wyndham Business Park. This business area is generally  
3741 around the intersection of Nuckols Road, Old Nuckols Road, and Wyndham Forest Drive.

3742  
3743 When Wyndham was first designed, the area around this proposed site was conceived as a  
3744 business and office development node. Despite the adjacent Camden Apartments to the east,  
3745 most of this area has been developing with business and office uses. Staff prefers to see this  
3746 trend continue.

3747  
3748 Staff is also concerned with the precedent of townhouse or condominium zoning on this parcel.  
3749 This request would reduce land available for economic development and increase the demand for  
3750 government services. Adjacent Parcels 20, 21, and 22, to the north, could see pressure to be  
3751 rezoned for townhouses or condominiums, further eroding the envisioned commercial  
3752 development for this area. Townhouse or condominium development could also increase  
3753 pressure to develop the surrounding residential property at a density higher than what is planned.

3754  
3755 Townhouses or condominiums in this area could serve as a transition between apartments to the  
3756 east and single-family development to the west. However, the planned concept of a commercial  
3757 node along Nuckols Road and low-density residential development in the surrounding areas could  
3758 be lost if this application is approved.

3759  
3760 The proffers submitted with this proposal; and I'd like to point out we have some new proffers  
3761 which we handed out tonight. We did receive those on Tuesday, so that did make the 48-hour  
3762 waiver of time limit.

3763  
3764 These proffers include limitations on access, a minimum unit size of 1,500 square feet, private  
3765 streets, and sidewalks. Staff has also encouraged the applicant to consider providing the  
3766 following a conceptual layout for the property; building elevations and designs, and development  
3767 standards, and amenities consistent with the proposed Residential Strategies, including 250

3768 square feet of recreational area per unit, and a minimum front, side and rear yard setback of 50  
3769 feet.

3770  
3771 The applicant has shown staff a conceptual layout plan that includes many of these suggested  
3772 items. However, this plan has not been proffered.

3773  
3774 I think we have that here. Let me check. This is the layout plan right here (referring to slide).

3775  
3776 In summary, the requested use and zoning is not consistent with the Environmental Protection  
3777 Area and Office designations of this property. It is also not consistent with the planned  
3778 commercial node around Nuckols Road, or the planned surrounding low-density residential  
3779 development. The proposed townhomes or condominiums could serve as a transitional use,  
3780 but they could also encourage an increase in the planned residential density of the area. There  
3781 are also items the applicant should consider providing to increase the quality of this proposal.  
3782 Staff does not recommend approval of this application. I'd be happy to answer any questions  
3783 you may have.

3784  
3785 Ms. Dwyer - Are there any questions for Mr. Bittner by Commission members?

3786  
3787 Mrs. Wade - You all got this Tuesday?

3788 Mr. Bittner - Yes.

3789  
3790 Mrs. Wade - I did not get one Tuesday, until tonight. And your reaction to the  
3791 proffers, you're still not satisfied?

3792  
3793 Mr. Bittner - They do not address all the comments that were made in the staff  
3794 report. No.

3795  
3796 Ms. Dwyer - Is the layout and building elevation, are they now proffered?

3797  
3798 Mr. Bittner - No. They are not.

3799 Ms. Dwyer - Any questions for Mr. Bittner? Thank you. Will the applicant  
3800 come forward, please?

3801  
3802 Mr. Henry L. Wilton - Madam Chairman, members of the Commission, for the record,  
3803 my name is Henry Wilton. I represent Wilton Development. I am the contract purchaser of the  
3804 12.63-acre parcel which is currently zoned O-2 and has been zoned O-2 Conditional for many  
3805 years, which we are requesting RTH Residential Townhouses for Sale.

3806  
3807 The staff report acknowledges that this area was originally planned to be developed Office, but  
3808 this overall plan has been affected by the development of a large apartment complex located next  
3809 to this site. I would also suggest that this site's location off of Nuckols Road lends itself more to  
3810 residential development versus an Office development.

3811

3812 The proposed residential development of no more than 68 units, which reflects a density of about  
3813 5.4 units per acre, is a better transition to the low density, single family developments that are  
3814 proposed across Shady Grove, and on Nuckols Road.

3815  
3816 I would submit that these single family buyers would rather view \$160,000 to \$200,000  
3817 townhouse; townhouse for sale, or condominium versus an office building, for which would  
3818 represent, in my opinion, a more intense use for the property.

3819  
3820 I understand the staff cannot support this case, as the Land Use Plan has designated this Office  
3821 Development. But, again, also note that the Plan has changed substantially with the apartment  
3822 development. And the use of a townhouse development as a transitional is now a logical option.

3823  
3824 Mr. Bittner did request of us a conceptual plan, which I gave him, and, basically, this plan  
3825 shows you the most dense application of this property, given a townhouse development. We  
3826 cannot proffer this conceptual layout. The reasons are, we don't have the final wetlands issues  
3827 resolved. The pond onsite will, actually probably have to be enlarged. But I wanted to give Mr.  
3828 Bittner something he could refer to. Again, this would be the most dense application for the  
3829 property. I wanted to show the County what could be developed here.

3830  
3831 We have, in the proffers, which I'll go through in a minute, we have proffered some of the  
3832 building materials, and such, to make sure that this is a quality product. We've also proffered  
3833 greenbelts that were requested of us. And, certainly, the actual POD will come before this very  
3834 body once the zoning is granted, if it is granted, at the Board of Supervisors.

3835  
3836 In regard to the proffers, which I did submit in some what of a timely fashion, the first seven  
3837 proffers remain the same in regard to access, right of way, the minimum square footage of 1,500  
3838 square feet, the architectural treatment, clearing limits, the road, obviously, being private in  
3839 character, sidewalks and so on.

3840  
3841 The density, Number 8, did change. Originally, we left it at six units per acre. We have now  
3842 reduced that to no more than 68 units again; 5.4 units density.

3843  
3844 We will, of course, have a homeowners' restrictive covenants. And, in that, we'll also have as  
3845 conditions of 25 dimensional shingle, brick and vinyl siding, hard surfaced driveways, and  
3846 garages as standard features.

3847  
3848 I have not proffered, again, the product, even though, you did see an illustration. The reason  
3849 being that the product hasn't been totally developed for this site yet. It will be a little different  
3850 than anything else that you've seen before. And, in each site, depending on where the location  
3851 is, it's going to be extremely expensive townhouses. Again, starting at \$160,000 going to  
3852 \$200,000. So, the final product hasn't been designed. We, obviously, proffered some building  
3853 materials to make sure you do have a quality product.

3854  
3855 At least 50 percent of the façade of each building will be brick. That will be before you when I  
3856 come back before you with a POD, if I am successful in the rezoning request. At that time I will

3857 have the exact pictures, exactly what you will get as far as the building. And each building will  
3858 have at least 50 percent on the front.

3859  
3860 We've also added to that proffer that any of the end units that face any parking areas, public or  
3861 private road, will also be brick. That was in addition to what we talked about before.

3862  
3863 Proffer No. 11 is for Mr. Jones. When we met with him, he is the adjacent property owner. He  
3864 has a 20-foot road coming in right there (referring to slide). It goes back in here. And this  
3865 proffer, basically, is our commitment to him to give him some landscaping, berming, whatever  
3866 this body feels necessary, when we come back before you. We've spoken to Mr. Jones. His  
3867 only access into his property is a 20-foot right of way right there. He did not get any buffering  
3868 from the apartment complex when they did their rezoning. And this is in there to assure that he  
3869 does have protection.

3870  
3871 And, then, again, the buffer along Shady Grove Road which was a request by the County.

3872  
3873 The staff report states that the road network can handle the traffic generation of this  
3874 development. Our request further agrees with the Land Use guide.

3875  
3876 In regard to the Schools, our marketing has shown that the homebuyer will be young  
3877 professionals or empty nesters and should not adversely affect the schools, which, obviously,  
3878 have been talked about a lot here.

3879  
3880 Townhouses, in general, the less expensive ones, usually, they will have children in them, but  
3881 they're usually pre-school children. When the children get older, they move to a single family  
3882 home when they can afford it.

3883  
3884 In this particular case, they're going to be high-end townhouses, \$160,000 to \$200,000. We  
3885 don't foresee a lot of children coming into these, especially small children. We see more of the  
3886 "empty nester" market. People who have lived in Wyndham in the larger houses, but want to  
3887 stay in the area, but want to go ahead and move into a smaller unit, but a quality unit.

3888  
3889 For these reasons we would respectfully request approval of this case. If you have any  
3890 questions, I'd be happy to answer them.

3891  
3892 Ms. Dwyer - Any questions for Mr. Wilton by Commission members?

3893  
3894 Mrs. Wade - Did you just say, "It conforms to the Land Use Plan?" It doesn't  
3895 because it...

3896  
3897 Mr. Wilton - It conforms to the Land Development Guide.

3898  
3899 Mrs. Wade - Oh. Okay.

3900  
3901 Mr. Vanarsdall - What is the date of these proffers?

3902

3903 Mr. Wilton - The original proffers, 1-8...  
3904  
3905 Mr. Merrithew - May 11<sup>th</sup>.  
3906  
3907 Mr. Vanarsdall - Thank you.  
3908  
3909 Ms. Dwyer - I guess my concern, Mr. Wilton, is that, you know, we've had a  
3910 lot of discussions about density in the County, and I would echo staff's concern about having this  
3911 density at this location would further erode the low density residential plan for the surrounding  
3912 undeveloped property.  
3913  
3914 Mr. Wilton - I realize that could...  
3915  
3916 Ms. Dwyer - ...that concern.  
3917  
3918 Mr. Wilton - I realize the plan for the property immediately across on Shady  
3919 Grove and also on Nuckols, they're looking at R-2 and R-2A zoning for that area. We are  
3920 adjacent, obviously, to a large apartment complex, with a substantial amount of density. We're  
3921 limiting our density to 5.4 units per acre, which in the RTH zoning, you can have up to 9 units  
3922 per acre. We're adjacent to probably around 15 or 16 units per acre.  
3923  
3924 Mrs. Wade - That apartment complex, as I recall, had a site plan, and, you  
3925 know, renderings in the case.  
3926  
3927 Mr. Wilton - Yes ma'am.  
3928  
3929 Mrs. Wade - So, if we're going to deviate from the Land Use Plan, we need to  
3930 be careful about the details.  
3931  
3932 Mr. Wilton - Yes ma'am.  
3933  
3934 Mrs. Wade - Actually, I've had a lot of information thrown at me, today, and  
3935 didn't get these until this evening. I don't know whether, and we haven't done this in a long  
3936 time, but could we put it off for two weeks, so we could have more time, and talk about and  
3937 firm up, and maybe we can address some of the staff's concerns.  
3938  
3939 Mr. Wilton - That would be fine. I'd be happy to request a two-week deferral.  
3940  
3941 Mrs. Wade - ...in the meantime. So, don't wait until the day before...  
3942  
3943 Mr. Wilton - Yes ma'am. I won't.  
3944  
3945 Mrs. Wade - To do it. What the 25<sup>th</sup> of May.  
3946  
3947 Ms. Dwyer - When is our POD meeting?  
3948

3949 Mr. Archer - The 26<sup>th</sup>, I believe.  
3950  
3951 Mrs. Wade - 26<sup>th</sup>, I'm sorry. Wednesday.  
3952  
3953 Mr. Wilton - Okay.  
3954  
3955 Mrs. Wade - That's right, for the first time.  
3956  
3957 Ms. Dwyer - Ready for a motion then?  
3958  
3959 Mrs. Wade - Did we have any opposition?  
3960  
3961 Ms. Dwyer - I called. There was none.  
3962  
3963 Mrs. Wade - Okay. I move, therefore, that Case C-28C-99 be deferred until the  
3964 26<sup>th</sup> of May at the applicant's request.  
3965  
3966 Mr. Archer seconded the motion.  
3967  
3968 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer to defer  
3969 the case to May 26th.. All those in favor say aye—all those opposed by saying nay. The vote  
3970 is 4-0 (Mrs. Quesinberry absent, Mr. Donati abstained). The motion carries.  
3971  
3972 Mr. Wilton - Thank you.  
3973  
3974 Mrs. Wade - Work on the proffers.  
3975  
3976 Mr. Wilton - Yes ma'am.  
3977  
3978 Ms. Dwyer - Shall we call the next two cases together, or...  
3979 Mr. Merrithew - Staff and I discussed calling this case by itself and then C-32C-  
3980 and C-33C-99 together—C-32C-99 and C-33C-99 being two R-2AC's.  
3981  
3982 Mrs. Wade - Yes. Don't call them all together.  
3983  
3984 **Deferred from the April 15, 1999 Meeting:**  
3985 **C-31C-99 James W. Theobald for Duma & Associates, L. C.:** Request to  
3986 conditionally rezone from A-1 Agricultural District and O-3C Office District (Conditional) to  
3987 R-5AC General Residence District (Conditional), Parcel 20-A-29A, described as follows:  
3988  
3989 Beginning at a point 1134.00' west of the western line of Staples Mill Road on the northern  
3990 line of relocated Springfield Road ; thence N. 76° 03' 00" E., 241.07' to point; thence N. 68°  
3991 42' 45" E., 258.88' to a point; thence S. 46° 38' 13" E., 39.28' to a point; thence N. 76° 03'  
3992 00" E., 376.96' to a point on a curve ; thence along said curve to the left having a radius of  
3993 1392.39', and an arc length of 173.45' to a point; thence N. 15° 16' 25" E., 89.09' to the



3994 western line of Staples Mill Road; thence N. 27° 40' 39", 349.50' to a point; thence N. 27°  
3995 11' 51" W., 751.32' to a point on a curve; thence along said curve to the right, having a  
3996 radius of 2044.86', arc length of 319.52' and a chord bearing and chord distance of N. 22° 52'  
3997 25" W., 319.20' to a point; thence N. 15° 17' 30" W., 114.50' to a point; thence N. 45° 19'  
3998 00" W., 79.43' to a point; thence N. 85° 40' 50" W., 100.82' to a point on the southern line  
3999 of Old Springfield Road; thence S. 56° 22' 40" W., 49.30' to a point; thence N. 33° 37' 20"  
4000 W., 10.00' to a point; thence along a curve to the left having a radius of 3826.03', arc length  
4001 of 100.39' and chord bearing and chord distance of S. 57° 07' 48" W., 100.38' to a point;  
4002 thence S. 57° 52' 54" W., 55.02' to a point on a curve; thence along said curve to the left  
4003 having a radius of 1356.52', arc length of 363.77' to a point; thence S. 42° 31' 01" W.,  
4004 263.35' to a point; thence S. 19° 39' 21" E., 269.26' to a point; thence S. 26° 36' 58" W.,  
4005 56.67' to a point; thence S. 06° 02' 00" W., 88.72' to a point; thence S. 27° 15' 05" E.,  
4006 76.96' to a point; thence N. 66° 06' 30" E., 14.57' to a point; thence S. 45° 13' 00" E.,  
4007 126.80' to a point; thence S. 19° 39' 21" E., 228.00' to a point; thence S. 13° 23' 09",  
4008 526.61' to the point of beginning, containing 35.184 acres, more or less.

4009  
4010 Mr. Marlles - John Merrithew will be doing the staff presentation.

4011  
4012 Ms. Dwyer - Is there any one in the audience in opposition to Case C-31C-99  
4013 Duma and Associates? We do have opposition. Thank you. Mr. Merrithew.

4014  
4015 Mr. Merrithew - Thank you, Madam Chairman. This is a proposal to rezone  
4016 approximately 35 acres from A-1 and O-3C land to R-5AC General Residence District. The  
4017 purpose of the rezoning is to permit development of an age-restricted, single family subdivision  
4018 of about 120 units. The site is situated on the west side of Staples Mill Road, between  
4019 Springfield and I-295. You can see its surrounded by R-2AC, R-3C, A-1, and there's R-2AC  
4020 proposed to the north of this site, adjacent to I-295, and you'll hear those cases later on this  
4021 evening.

4022  
4023 Let me explain the site as well. The site is open, with mature trees spread throughout. A  
4024 plantation house and barn sit on the site. Both are used as conference facilities currently. There  
4025 are two large ponds on the site. So, it is cleared, except for the mature trees, and relatively flat,  
4026 and there are really no encumbrances to the development of the property, as proposed.

4027  
4028 The Comprehensive Plan calls for Suburban Residential 1 development with densities between  
4029 1.0 and 2.4 net units per acre. The application, at it's proposed density, does not comply with  
4030 this Land Use Plan designation. It complies with the residential use, but the density is higher  
4031 than what is supported by the Plan.

4032  
4033 However, County goals for residential development seek to provide housing for all residents and  
4034 provide a variety of housing types to encourage home ownership, compatibility with existing  
4035 residences, and quality design.

4036  
4037 The applicant has met with residents at least once. They may have had subsequent meetings to  
4038 the one I attended, and they've had a good turnout and a good discussion of issues. And, there is

4039 concern about the impact of this proposal, the density, the number of units, and the types of units  
4040 they are; they being on small lots. There is concern about the compatibility with the surrounding  
4041 neighborhood.

4042  
4043 This case does not comply with the Land Use designation, but the residential development can be  
4044 considered compatible with surrounding development. It has a number of benefits that we  
4045 normally associate with lower density uses. Those, specifically, would be because its' age  
4046 restricted, either zero or very few children in the project, so lower school costs; lower traffic,  
4047 particularly peak hour traffic on the roads. And, certainly, lower demand for other types of  
4048 government services.

4049  
4050 The site is, as you've seen in the staff report, intends to use the existing estate house, if you will,  
4051 on the site as a recreation facility with a pool and so on. So, they will have onsite amenities, to a  
4052 degree, for the residents.

4053  
4054 The applicant has submitted amended proffers, which were handed out this evening. I wrote on  
4055 those that they were submitted on May 7<sup>th</sup>. So, they do not require that the time limit be waived.  
4056 Those proffers address a number of issues that staff raised before. However, staff still has a  
4057 concern about the overall design of the proposal. We say it has benefits associated with the low  
4058 density development and imply that it might be supportable in this case.

4059  
4060 We think, in order to go against the Plan designation, there should be a serious step towards  
4061 quality design; a quality product in the area. The applicant has made efforts in that direction, but  
4062 we feel they should go further.

4063  
4064 However, in going through the proffers, you'll note they are proposing a 15-foot buffer, adjacent  
4065 to the road frontage around them, as well as along the western side of the site, which backs up to  
4066 properties existing down this line (referring to slide). They have proposed a certain degree of  
4067 landscape material with plants, and evergreen trees in that buffer.

4068  
4069 Staff feels, and based on the D. O. Allen case, which is another age-restricted case on the south  
4070 end of Francistown Road, that, that buffer should be widened and should be more substantial.  
4071 The D. O. Allen case, I believe, proffered 20 and 25-foot buffers. This case is down to 15.

4072  
4073 The applicant has provided for 60 percent of each residential buildings to be of brick, and has  
4074 provided other material qualifications in that proffer to suggest quality materials. And that  
4075 proffer does match D. O. Allen in terms of the other materials being proposed.

4076  
4077 The applicant has also increased their minimum finished floor area from 1,200 square feet to  
4078 1,500 square feet, and proffered a total square footage, this would be adding the garage to the  
4079 total, up to 1,700 square feet per unit.

4080  
4081 The other changes: the applicant has agreed to provide sidewalks, as shown on the plan. And to  
4082 the best of my ability in looking at the plan, it looks like the sidewalks are down both sides of the  
4083 street on all streets in that case. You can't read it there.

4084

4085 Finally, the applicant has proffered a site plan, and elevations, which show up better on your  
4086 copies than they do on the screen. The layout of the subdivision has improved a little bit since  
4087 the original proposal. They eliminated, I believe, one or two cul-de-sacs. They connected the  
4088 streets so the people living in the neighborhood can walk around the neighborhood. It supports  
4089 interaction.

4090  
4091 One of the things that we feel is missing in this particular design is more of an effort to connect  
4092 the ponds and the recreation space with trails or sidewalks, or what have you, and make them  
4093 accessible to the community. Right now, the properties back up to the ponds, and there's no  
4094 common area around those ponds that would be useable to the residents in the area, other than  
4095 the ones who back up to it. But we feel that's a key part of the design that could improve the  
4096 current design.

4097  
4098 Staff's position is that this project offers the benefits of low density development, and, therefore,  
4099 from a policy point of view, is supportable. We do think there are improvements to the  
4100 landscaping, the perimeter buffering, the onsite common open space, or the lack of it at this  
4101 point. It would need to be addressed before we could really suggest that we ignore the Plan  
4102 designation and go with the higher density proposal. With that, I'd be glad to answer any  
4103 questions.

4104  
4105 Ms. Dwyer - Any questions for Mr. Merrithew?

4106  
4107 Mrs. Wade - Now, the 15-foot buffer is not in addition to the setback. What  
4108 would be the rear setback in this...

4109  
4110 Mr. Merrithew - I'd have to look that up. I don't have that right here.

4111  
4112 Mrs. Wade - Anybody know, offhand? While he looks that up, I'll ask you  
4113 another question.

4114  
4115 Mr. Merrithew - Go ahead.

4116  
4117 Mrs. Wade - The age restriction in Proffer 7, what does the law provide?

4118  
4119 Mr. Merrithew - The law provides a couple of categories for the age restriction.  
4120 One is that one person in 80 percent of the households has to be 55 years of age or older. I think  
4121 there's another category where the age would be 62 years. But the minimum age, I guess,  
4122 would be 55 in 80 percent of the homes. So, 20 percent of the homes could have younger  
4123 families in them.

4124  
4125 Mrs. Wade - I don't know why they think people 55 aren't going to be driving  
4126 the cars a lot. Those I know who live in these communities are doing a lot of running around.

4127  
4128 Mr. Merrithew - Yes. We see them on the roads every day.

4129  
4130 Mr. Merrithew - What I was suggesting is that the peak hour traffic volumes...

4131  
4132 Mrs. Wade - 55 year old drivers; not 85.  
4133  
4134 Mr. Merrithew - I was suggesting that the peak hour volume, which is the number  
4135 of people necessarily getting up at 6:00 or 8:00 in the morning or coming home at 5:00 in the  
4136 evening is, perhaps, lower by this type of project, not necessarily the overall traffic is lower. I  
4137 know what you're saying. They're more active and there are more of them out there.  
4138  
4139 Mr. Silber - Mrs. Wade, the rear yard setback would be 35 feet. I guess the  
4140 way this proffer reads, Mr. Merrithew, this would be 15 feet outside of the 35 foot...?  
4141  
4142 Mr. Merrithew - I believe that's the intent of the proffer. Yes.  
4143 Mrs. Wade - It doesn't say that.  
4144  
4145 Ms. Dwyer - We'll check that.  
4146  
4147 Mrs. Wade - I don't see that.  
4148  
4149 Ms. Dwyer - It doesn't appear to say that.  
4150  
4151 Mrs. Wade - We'll ask the applicant.  
4152  
4153 Mr. Merrithew - You'll have to ask the applicant if that was the intent.  
4154  
4155 Ms. Dwyer - Mr. Merrithew, I guess Old Springfield, which presently does not  
4156 go through Staples Mill, is it possible for a road in that alignment to meet Staples Mill? I'm  
4157 really asking that question as it relates to the two parcels that we're going to be looking at  
4158 tonight.  
4159  
4160 Mr. Merrithew - Could it be extended to Staples Mill?  
4161  
4162 Ms. Dwyer - Staff's suggestion was that the single-family homes have access to  
4163 Staples Mill through this parcel. I was wondering if there's any other way to do it, or is that the  
4164 only way?  
4165  
4166 Mr. Merrithew - You cannot extend this road towards Staples Mill, because Staples  
4167 Mill, at this point, is limited or controlled access because of the interchange.  
4168  
4169 Ms. Dwyer - Right. I assumed that was true...  
4170  
4171 Mr. Merrithew - That's my understanding that there's no way to get a break there.  
4172  
4173 Ms. Dwyer - So, the only way to obtain access to Staples Mill from the single-  
4174 family development would be through this parcel?  
4175

4176 Mr. Merrithew - Right. It would be across like this (referring to slide). And I  
4177 understand the situation, and probably the residents in the age-restricted community don't want  
4178 that traffic coming through there. But, from a traffic flow point of view, it certainly takes more  
4179 load off of Springfield and Francistown. It's not something that I would go insisting upon,  
4180 because I think the Traffic Engineer has agreed that there is an opportunity for a second access  
4181 onto Springfield, and they're satisfied with that. It was a suggestion as a means of keeping  
4182 traffic off of Springfield and out of the neighborhood.  
4183  
4184 Mr. Vanarsdall - Mr. Merrithew, can you park on both sides of the street?  
4185  
4186 Mr. Merrithew - It depends on how wide the street is.  
4187  
4188 Mr. Vanarsdall - That's what I'm asking. Is the street going to be wide enough on  
4189 both sides?  
4190  
4191 Mr. Merrithew - I don't know what the width of that street would be. I don't think  
4192 they have any intent for using it for parking. You're talking about in the age restricted  
4193 community? I don't know what the width of the streets would be.  
4194  
4195 Ms. Dwyer - Well, there are requirements, though, that parking spaces are  
4196 provided onsite?  
4197  
4198 Mr. Merrithew - Yes.  
4199  
4200 Mr. Vanarsdall - Parking spaces will be for people who live there, but it won't be  
4201 for guests and visitors.  
4202  
4203 Mr. Merrithew - And there's also a proffered garage; either a one or two-car garage  
4204 on each site, as well.  
4205  
4206 Ms. Dwyer - But, I believe, in past experience, teaches us that's not necessarily  
4207 going to stay garage space. Sometimes, in the past, we've counted on that for housing a vehicle  
4208 and then turn it into a den or bedroom or something and then that's lost.  
4209  
4210 Mr. Vanarsdall - What point in time could I find that answer out?  
4211  
4212 Mr. Merrithew - The applicant probably has more detail on the actual details of their  
4213 plan and they can probably tell you that this evening.  
4214  
4215 Ms. Dwyer - Are the existing homes along Springfield zoned A-1, the ones that  
4216 are adjacent to this parcel?  
4217  
4218 Mr. Merrithew - I believe there's A-1 immediately behind this. Well, there's R-3  
4219 across the road. Yes. They are A-1 immediately along Springfield that back up to this site.  
4220  
4221 Ms. Dwyer - So, those are, presumably, one acre lots?

4222  
4223 Mr. Merrithew - Yes. R-3 is the Echo Lake, Bob Atack zoned across the street.  
4224  
4225 Mrs. Wade - They don't have water and sewer, do they, the houses behind  
4226 there?  
4227  
4228 Mr. Merrithew - No. The water and sewer is further down Francestown Road.  
4229  
4230 Ms. Dwyer - Are there any other questions for Mr. Merrithew? All right, will  
4231 the applicant come forward, please? Good evening.  
4232  
4233 Mr. James W. Theobald - Good evening. Good morning. I'd like to reserve three minutes  
4234 of my time, if I might, please. Madam Chairman, Ladies and Gentlemen, my name is Jim  
4235 Theobald, and I'm here this evening on behalf of Duma and Associates. We're requesting the  
4236 rezoning of 35 acres of land from A-1 and O-3C Office designation to R-5AC General  
4237 Residence District, for the construction of an upscale, age-restricted community for empty-  
4238 nesters. This property, recently used as a corporate retreat facility by Robins, is at the highly  
4239 impacted intersection of Interstate 295 and Staples Mill Road.  
4240  
4241 This request would permit the development of a highly restricted, single family detached  
4242 dwelling community for active seniors who are seeking a maintenance-free environment. This  
4243 product is much needed in this area of Henrico County. The site plan, that you see before  
4244 you, provides an internal focus for this community, the visual separation from the roads and  
4245 neighboring communities that surround it.  
4246  
4247 The focal point of the community will be the existing Hartley House which, along with its pool  
4248 and grounds, is to be dedicated to the homeowners association for both active and passive  
4249 recreation. A pedestrian system has been proffered, insuring internal circulation, within the  
4250 site. We do intend to provide access to the ponds. It's not shown on here (referring to plan),  
4251 but when we come back with a POD, we do intend to provide access to those ponds. There  
4252 has been some question raised as to whether those trails should actually go around the pond,  
4253 which may bother surrounding property owners, but we do intend to access those areas. We  
4254 have proffered that those homes will be a minimum of 1,500 square feet of finished floor area  
4255 in size, plus a one or two car garage. We anticipate the prices for the homes are will be  
4256 between \$175,000 and \$200,000.  
4257  
4258 We have provided some of the most detailed proffered conditions of any case of this type.  
4259 While we were initially asked to pattern our conditions after the D. O. Allen case, which  
4260 you've heard mentioned, which you approved just down the road at Hungary and Francistown  
4261 Roads just over a year ago, we have greatly exceeded those standards.  
4262  
4263 We have committed to retain the beautiful Leyland Cypress along Staples Mill Road, and  
4264 provide evergreen plantings of a minimum of six to eight feet in height being planted no  
4265 further apart than eight feet on center, around the entire balance of the Property. Once again,  
4266 the desire is to create a sense of community and exclusivity within the site, itself.  
4267

4268 We have proffered that 60 percent of the exterior walls of all homes must be brick. We have  
4269 also proffered that any accessory buildings must be of the same architecture and materials as  
4270 that of the home.

4271  
4272 While the roads will be private, we have proffered that they must be built to County specs.  
4273 We have proffered street lighting that can't exceed 15 feet in height, and that light being  
4274 projected from a concealed source of light.

4275  
4276 Our plan does show sidewalks on both sides of the internal road system.

4277  
4278 We have further restricted the use of the Hartley House to being utilized as a recreational  
4279 facility for the benefit of the homeowners, as well as for a temporary sales and marketing  
4280 office for the sale of homes within the development.

4281  
4282 Significantly, we have provided an age restriction proffer consistent with the provisions of the  
4283 Virginia Fair Housing Law.

4284  
4285 We have agreed that our restrictive covenants will prohibit the storage of recreational vehicles  
4286 and boats unless they are in enclosed garages.

4287  
4288 Those covenants also require paved driveways. They provide for an architectural review  
4289 committee to approve the design, material and colors of all homes, and require sodded, and  
4290 irrigated yards along with a standard mailbox design.

4291  
4292 We have also provided you with three prototype elevations, in your packages, to demonstrate  
4293 the architectural theme of the homes, which elevations have been proffered along with the  
4294 conceptual plan that's before you.

4295  
4296 We have prohibited direct access to Springfield, Old Springfield and Staples Mill Roads. We  
4297 have also provided for common fencing themes to the extent that any backyards are desired to  
4298 be walled or fenced.

4299  
4300 Not only have we listed the acceptable materials, but we have specifically precluded any chain-  
4301 link fence, wooden stockade-type fences, or any unfinished or painted cinderblock walls in the  
4302 backs of those homes.

4303  
4304 I mentioned the D. O. Allen project earlier, and I want to stress the significance of that case  
4305 and its parallels with this one, because, as you see when John pulls the map back a little bit at  
4306 the top (referring to slide) being the subject site before you this evening, the bottom site being  
4307 the D. O. Allen site, just a stone's throw away.

4308  
4309 That 23 acres was zoned Agricultural, originally, not partially O-3, as ours is, and the Land  
4310 Use Plan designation for the D. O. Allen parcel was the same Suburban Residential 1 as our  
4311 piece.

4312

4313 The Board of Supervisors approved the D. O. Allen case in October of 1997, and that project  
4314 is currently under construction.

4315  
4316 Let's just take a minute. I want to show you the difference between the two cases. I've got  
4317 copies of these if you'd like to read these in person, instead of on the screen.

4318  
4319 The Land Use Plan designations for both were SR-1. The request is the same-R-5A. The  
4320 density, by proffer of the D. O. Allen case, was 4.5 units per acre. Our plan at 120 units is a  
4321 density of 3.4 units per acre.

4322  
4323 Their materials are consistent, but they have no minimum percentage of brick. Ours is 60  
4324 percent brick. The same sod, irrigation, paved driveways, same roof treatment, same garage  
4325 treatment.

4326  
4327 Minimum square footage; D. O. Allen 1,100 square feet; ours 1,500. Private roads, we have  
4328 lighting the same. Recreational facilities has to be provided in each. Of course, we are using  
4329 the Hartley House.

4330  
4331 Age Restricted; both are the same uses proffered to be the same.

4332  
4333 Minimum Lot Size: D. O. Allen case 6,000 square foot lots; our case requires 7,000 square  
4334 foot lots.

4335  
4336 Homeowners Association in both. Sidewalks in both. Any restriction on fence or wall  
4337 materials, no, in D. O. Allen; yes, in ours. Elevations proffered, yes, in both. The site plan,  
4338 D. O. Allen did not proffer a site plan, and we are. And let me just show you. You've heard  
4339 some comments about the site, but let me show you what was approved in the D. O. Allen  
4340 case. You'll see a remarkable similarity.

4341  
4342 A loop-road type system, with cul-de-sacs and a fairly linear alignment of lots. I don't know if  
4343 they were prepared by the same engineer or not, but they certainly look very similar. These  
4344 are the comparison of the elevations, the colored ones being our case; the black and white ones  
4345 being the D. O. Allen case.

4346  
4347 And the D. O. Allen project is a quality development, and the Board of Supervisors,  
4348 obviously, thought so and have approved it. And, so, I'm not taking anything away from the  
4349 D. O. Allen case. But, what I'm suggesting that this request exceeds the standards set by that  
4350 in a very significant fashion, very close down the street, and we're merely asking that we be  
4351 treated similarly and fairly.

4352  
4353 We do think there is a need for this type of housing in Henrico County. And this represents a  
4354 very desirable group of residents for the County. Similar age-restricted, owner-occupied  
4355 developments have experienced a residence profile where over 60 percent of the residents are  
4356 retired with an additional 10 percent being semi-retired.

4357



4358 At The Villas at Virginia Center, which is an empty-nester, owner-occupied condominium  
4359 project, 70 percent of the households own only one car. There's no school-age children in that  
4360 community. The result, as Mr. Merrithew suggested, is fewer demands on County services,  
4361 virtually no negative impact on our schools, and significantly less traffic, particularly in the  
4362 peak hours.

4363  
4364 Ms. Dwyer - Excuse me, Mr. Theobald. You've used 7 minutes.

4365  
4366 Mr. Theobald - Give me another 30 seconds, and we'll roll the dice a little here.

4367  
4368 At The Villas, nearly one-third of the units are occupied by only one person. And, again, the  
4369 profile of the residents in these communities are individuals who come from surrounding  
4370 neighborhoods who desire to stay in familiar surroundings, but without the maintenance  
4371 obligations of a large home or lot. So, this is a group of residents that, I think, Henrico  
4372 County should continue to encourage to remain in our County for those foregoing reasons.

4373  
4374 I think we have responded, in significant fashion, to the questions about the quality of the  
4375 development. I do think the Staff has indicated that the request does meet many of the goals  
4376 and objectives of your Land Use Plan by offering the benefits of low density housing with  
4377 dramatically reduced impacts on County infrastructure.

4378 For all of the foregoing reasons, I would, respectfully, request that you recommend approval  
4379 of this case to the Board of Supervisors, and I'll be happy to answer any questions.

4380  
4381 Ms. Dwyer - Thank you, Mr. Theobald. Any questions by Commission  
4382 members?

4383  
4384 Mr. Vanarsdall - Mr. Theobald, I'm surprised you compared this with the D. O.  
4385 Allen case. I never heard you say that before, except in the layout and so forth. The  
4386 difference in the D. O. Allen case; a very big difference is a lot of open land around this  
4387 waiting to be developed, as you know, waiting to see what this is.

4388  
4389 D. O. Allen was sandwiched in between the church and, there was no expansion space there.  
4390 And this corner of Springfield and Staples Mill should be a much more special project, than D.  
4391 O. Allen ever thought about being. I just thought I'd add that. I hadn't heard you say that  
4392 before. Thank you.

4393  
4394 Mrs. Wade - I was going to ask you if you'd been to look at the two sites? Do  
4395 they look alike to you—the Hungary site and the Hartley site? No, to answer.

4396  
4397 Mr. Theobald - They don't look alike, but I think that there are...

4398  
4399 Mrs. Wade - They don't look alike is what my point is.

4400  
4401 Mr. Theobald - They don't look alike, but, at the same time, this particular site is  
4402 impacted by Staples Mill Road, and its proximity with Interstate 295, and, obviously, it has  
4403 some very nice neighborhoods around it. And, this is a very nice neighborhood designed to

4404 provide that internal focus. So, I believe we have exceeded the D. O. Allen standards and  
4405 we've done so for a reason, and we've done so at the requests of many individuals who've had  
4406 input on this case. And, so...

4407  
4408 Mrs. Wade - I didn't mean to imply there's anything wrong with the area  
4409 around D. O. Allen. It's just that the topography and everything is different.

4410  
4411 Did you answer the question about the setback? I mean the buffer.

4412  
4413 Mr. Theobald - There's a 35-foot setback. There's a 10-foot transitional buffer  
4414 required by Ordinance. And, there's 15 feet of property is a part of the lot. It is not inclusive  
4415 of the rear yard setback.

4416  
4417 Ms. Dwyer - How does those three logistics...

4418  
4419 Mr. Theobald - Well, you'll have your lot line and you'll have a 10-foot required  
4420 buffer which, we've increased to 15 feet, and then an additional 20 feet to the rear of the  
4421 house. So, 35-foot setback.

4422  
4423 Keep in mind that those lots that they abut, those lots, if you don't mind taking us back to the  
4424 zoning map (referring to slide), those lots were part of the property at one time, owned by Mr.  
4425 Wilton, and the lots that were peeled off along there I believe were for family members, and  
4426 those lots are some 300 feet deep. So, those are football-sized in depth.

4427  
4428 Ms. Dwyer - So, to summarize, there's a 35-foot rear yard setback...

4429  
4430 Mr. Theobald - ...rear yard setback.

4431 Ms. Dwyer - And that 15-foot buffer is entirely within that 35 feet?

4432  
4433 Mr. Theobald - That's correct.

4434  
4435 Ms. Dwyer - So, it's not in addition to the rear?

4436  
4437 Mr. Theobald - It is not.

4438  
4439 Mrs. Wade - Now, are these to be condos? What is the arrangement?

4440  
4441 Mr. Theobald - No ma'am. These are owner/occupied, single family detached.

4442  
4443 Ms. Dwyer - Zero lot line?

4444  
4445 Mr. Theobald - Zero lot line; the R-5.

4446  
4447 Mrs. Wade - Was there something in here about maintenance in the overall?

4448  
4449 Mr. Theobald - I believe its in the restrictive covenants...

4450  
4451 Mrs. Wade - Okay.  
4452  
4453 Mr. Theobald - ...These are, basically, maintenance-free exteriors, maintenance  
4454 free yards, etc.  
4455  
4456 Mrs. Wade - There's no such thing as a maintenance-free yard, Mr. Theobald.  
4457 And trash, what kind of facility provision?  
4458 Mr. Theobald - I don't know whether the trash pick up is included in your  
4459 monthly association fees or not? I'm not sure.  
4460  
4461 Ms. Dwyer - No dumpsters?  
4462  
4463 Mr. Theobald - No. It would just be like your house and my house.  
4464  
4465 Mrs. Wade - Okay.  
4466  
4467 Ms. Dwyer - What about staff's interest, and I think this is extremely important  
4468 in this location. It's proximity to Echo Lake Park. Their suggestion is that, not only this  
4469 parcel, but the other single family parcels, have some sort of pedestrian connection to the park.  
4470  
4471 We talk a lot about making facilities accessible by means other than the automobile, and this  
4472 would seem to provide a golden opportunity to provide that, but I don't see that provision  
4473 being made.  
4474  
4475 Mr. Theobald - When you see the larger maps that we'll be dealing with, you'll  
4476 see how the floodplain, basically, is over on the other side of the two parcels you'll be  
4477 considering in a moment that connects down to Echo Park. And we don't have any problem  
4478 providing, at the time of tentatives, for pedestrian access through there. That's no problem.  
4479  
4480 Ms. Dwyer - From this parcel through that parcel?  
4481  
4482 Mr. Theobald - Well, here, from this parcel. There are sidewalks all around.  
4483 Literally, you'd have to walk over Old Springfield Road into the next subdivision to get down  
4484 into that system.  
4485  
4486 Ms. Dwyer - I don't see a connection between this parcel and any other parcel.  
4487  
4488 Mr. Theobald - Well, you have Old Springfield Road that physically separate the  
4489 two. That road, you know, will remain.  
4490  
4491 Ms. Dwyer - Right. There's no access from this parcel to actually...  
4492  
4493 Mr. Theobald - I mean, you could walk. You'd likely be able to walk, but what  
4494 you'd have to do, literally, you'd either have to walk back down here and along Springfield to

4495 get over to this park, or you'd have to walk through the subdivision streets over here to get to  
4496 the floodplain and then on down that way.

4497  
4498 Ms. Dwyer - It doesn't look like you're providing for that. I guess you could  
4499 walk out Staples Mill Road and all around...

4500  
4501 Mr. Theobald - Well, its not adjacent. I mean, they're just physically not  
4502 adjacent. I don't know how to connect them, other than how I've described.

4503 Mr. Silber - Mr. Theobald, did you say you would connect them by pedestrian  
4504 access?

4505  
4506 Mr. Theobald - What you'll have an opportunity to do is, you'd be able to walk  
4507 in this next subdivision which you'll see...

4508  
4509 Mr. Silber - So, Mrs. Dwyer, he is saying they'd be connected by way of a  
4510 pedestrian trail. The plan does not show that.

4511  
4512 Mr. Theobald - There's no reason in the world why you cannot connect those  
4513 pedestrian access, but when you get into the other subdivision, then you'll be walking,  
4514 presumably through subdivision roads over to the floodplain to get access to the trails down at  
4515 Echo Lake Park.

4516  
4517 Ms. Dwyer - I think, what staff is contemplating, and I would agree that, there  
4518 should be some direct effort, and specific effort, to coordinate pedestrian access from this  
4519 parcel through the other parcel to Echo Lake Park. If this is going to be a gated community, I  
4520 would presume there might be fencing, and landscaping around the perimeter would prohibit  
4521 pedestrian access out of the parcel, other than directly onto Staples Mill Road. It looks like  
4522 lots line this whole portion.

4523  
4524 Mr. Theobald - Lots line down here at the bottom.

4525  
4526 Ms. Dwyer - You'd have to walk through someone's yard to get that access.

4527  
4528 Mr. Theobald - What you would need to do is, at the time of POD is, I mean,  
4529 this is a preliminary engineer's plat. You'd have to provide for pedestrian access over in one  
4530 of the areas over here if you wanted to get back out over here. I don't think that's particularly  
4531 difficult.

4532  
4533 Ms. Dwyer - I don't think it would be difficult. I also think it needs to be  
4534 memorialized in the proffers, before we get to POD.

4535  
4536 Mrs. Wade - This isn't going to have a fence all the way around it? This isn't  
4537 going to be fenced in?

4538  
4539 Mr. Theobald - What we had talked about is, right now, there's Leland Cypress  
4540 in sort of a split-rail fence along the front here. We wanted to continue the plantings and,

4541 perhaps, that split-rail fence feature. But, there's no reason why you can't, you know, put a  
4542 pedestrian access way through there.

4543  
4544 Mrs. Wade - That will come up again with the next case.

4545  
4546 Mr. Theobald - Sure.

4547  
4548 Ms. Dwyer - And, will the streets be wide enough to park on?  
4549

4550 Mr. Theobald - Well, the streets are standard 24-foot Henrico County width. A  
4551 car is about 6.5 feet wide. So, you can park on one side of the street, readily, and you can  
4552 park on both sides, if you're really over up on the curbs, so you can get one car through. But  
4553 they are standard subdivision width streets, per County standards. I don't want to mislead  
4554 you. It's not desirable to park on both sides of the street. But you can get another vehicle  
4555 through on a 24-foot section. These all have garages and driveways. So, there is certainly no  
4556 need for the residents to park in the streets. And, I don't believe this type of community is the  
4557 type that usually converts their garages to, you know, family rooms. So.  
4558

4559 Mr. Archer - Mr. Theobald, I believe the Fire Department restricts a minimum  
4560 width that streets have to be in order to allow fire equipment, before cars can park on both  
4561 sides, but I'm not exactly sure what the minimum width is. I think it is a little bit more than  
4562 24 feet, though. I think it is.  
4563

4564 Mr. Theobald - I'm not sure about the Fire Department requirement.

4565  
4566 Mr. Vanarsdall - Well, a residential street, its 44, isn't it?  
4567

4568 Mr. Archer - I believe it is 44 for both side parking.  
4569

4570 Mr. Theobald - For both sides?  
4571

4572 Mr. Archer - For both sides parking. Yes. John, do you have any thoughts on  
4573 it?  
4574

4575 Mr. Merrithew - It's 44 feet for both sides; 40 feet down the one side.  
4576

4577 Mr. Archer - Down the one side.  
4578

4579 Mrs. Wade - Twenty-four (24) is pretty narrow. Is there any opposition?  
4580

4581 Ms. Dwyer - Is there any opposition to this case? Yes. There was opposition.  
4582 Any more questions for Mr. Theobald?  
4583

4584 Mr. Archer - Mr. Theobald, I had one more question. In regard to  
4585 implementing and enforcing the age restriction of 55 or older, apparently one member of 80  
4586 percent of the households has to be 55 years or older.

4587  
4588 Mr. Theobald - Right.  
4589  
4590 Mr. Archer - Of course, now, once the household is established, and that  
4591 person is no longer there, you can't take the house away. So, obviously, the person simply has  
4592 to be there at the time the household is established, but does the person have to be an owner of  
4593 the household?  
4594  
4595 Mr. Theobald - Well, technically speaking, you have to have at least one person  
4596 55 years of age residing in the house. And the way the communities control that is you also  
4597 place the provision in the restrictive covenants, and a homeowners association, when the house  
4598 is sold, the identity and the age of the buyers are run through the homeowners association.  
4599  
4600 When this question was raised at our neighborhood meeting, I did check with Mr. Cassalari at  
4601 the Virginia Fair Housing Office, who was kind enough to put the inquiry on his Fair Housing  
4602 Chat Room, and I also ran it by the Chief Federal Administrator, Judge Heifets. It was the  
4603 opinion of those responding to the inquiry, that by placing such a requirement in the restrictive  
4604 covenants added additional enforceability, and that was how these communities had treated,  
4605 and no one was aware of where that had become a problem.  
4606  
4607 Mr. Archer - Okay. But does the person have to be a registered owner of the  
4608 house, or simply...  
4609  
4610 Mr. Theobald - No. I wouldn't think so. I think the title could be in one  
4611 spouse's name, and the other spouse could be the person who is the 55 years or older person.  
4612 Thank you.  
4613  
4614 Ms. Dwyer - Would the opposition come forward, please?  
4615  
4616 Mr. Scott Brannon - Good morning. My name is Scott Brannon. I live at 5950  
4617 Springfield Road. The property is to the rear of the Hartley House Plantation. My house is  
4618 behind the pond. I have seven rear yards facing my house.  
4619  
4620 My wife and I built our house in 1985, and we've enjoyed having Mr. Robins as a neighbor  
4621 for 14 years. My wife and I, along with Mr. Malone, Mr. Bain, and Mr. Theobald met on  
4622 April 12<sup>th</sup>, along with the other neighbors, and adjoining property owners to discuss this  
4623 proposal.  
4624  
4625 The neighbors have met twice since that time on our own, and we have not met with the  
4626 applicant since. Tonight, I represent the adjoining property owners, and we ask that you deny  
4627 this case.  
4628  
4629 We feel that 120 homes that are proposed are entirely too dense. The County Land Use Plan  
4630 calls for Low Density. Also, we feel the square footage is entirely too small. Within a two to  
4631 three mile radius of this property, there are homes with the average square footage of

4632 approximately 3,500 square feet of finished floor space, and as high as 6,800 square feet of  
4633 finished floor space.

4634  
4635 We do not feel that a community of homes with 1,500 square feet is appropriate for this  
4636 property. There are many differences between this development and the D. O. Allen one.  
4637 One major one, other than the one that Mr. Vanarsdall mentioned, was it's not surrounded by  
4638 half acre, acre lots, with 3,500 to 6,800 square foot homes on them.

4639  
4640 When we met with the applicant, we had many questions. The legal ramifications of age  
4641 restrictions; how would it be enforced now and in the years to come? What research has been  
4642 done to show that this product would sell in this area? If not, how would we guarantee that it  
4643 would remain age restricted? There are many other communities around that are age  
4644 restricted; Cedarfield, Magnolia Ridge, Glenside Drive, Wyndham that are not in this same  
4645 predicament that we're in.

4646  
4647 How would Hartley House, itself, be used and maintained? This house is 25 years old. The  
4648 monthly maintenance fees that the residents would have to pay would be enormous to have to  
4649 maintain and keep this home up.

4650  
4651 Are water retention ponds required? And, if so, where would they be located? How secure  
4652 are the dams that surround the pond, especially the rear one. The stress of the water coming  
4653 into—the runoff water has overflowed that pond before. And we fear that with these additional  
4654 homes, black topped driveways, roads, that it would create more problems in the future.  
4655 What experience has the applicant had in developing a retirement community and marketing a  
4656 retirement community? Who would the builder be for this project? What are the restrictive  
4657 covenants? Why are there no common areas shown? There are numerous large mature trees  
4658 on the property. What's going to happen to those?

4659  
4660 As you can see, we have many unanswered questions and many concerns. It seems that every  
4661 two or three years, a new proposal for this property comes up. Many never make it as far as the  
4662 Planning Commission hearings, but we, as neighbors, have to endure the upsetting task of  
4663 listening and discussing and worrying about all sorts of proposals.

4664  
4665 At our last neighborhood meeting, it was brought up, "What is the best use for this property?"  
4666 It was unanimous is continue its development as Hartley Plantation is. It is overwhelmingly  
4667 supported by adjoining property owners, as well as property owners across the street and  
4668 surrounding neighborhoods.

4669  
4670 The question arose, "What should be done with Hartley House?" Should it remain as it is used  
4671 now as a corporate retreat, or it could be used, as it's intent was, a single family home? Of  
4672 course, we would like to see that property stay just as it is. However, we do realize that change  
4673 is inevitable, and we want to insure that when that change does come, that it is for the good of  
4674 the community and for the adjoining property owners.

4675  
4676 As you can see from the number of people who are here at 12:35 in the morning, there is quite a  
4677 bit of opposition to this case. There would be others, but due to a school night, and there are

4678 some elderly people that are across on Staples Mill Road who are opposed, who just could not  
4679 come out this late hour. I'd be glad to answer any of your questions.

4680  
4681 Ms. Dwyer - Any questions for Mr. Brannon? Thank you, sir.

4682 Mr. Brannon - Thank you.

4683  
4684 Mr. Archer - Mr. Brannon, I have one question. You mentioned houses within  
4685 two or three miles being affected by smaller square footages?

4686  
4687 Mr. Brannon - Yes sir.

4688  
4689 Mr. Archer - Do you think that's a good statement, "within two or three miles?"

4690  
4691 Mr. Brannon - My home is 6,200 square feet. My next door neighbor's home is  
4692 6,800 square feet. Hartley Plantation, they have homes starting at 3,500. We have one resident  
4693 who said his home was 4,000 square feet. There's homes across Staples Mill Road that are  
4694 3,500 square feet. I think, when you come in and build 120 homes, 1,500 square feet, I think it  
4695 would impact the value of your property.

4696  
4697 Mr. Archer - Okay. Thank you.

4698  
4699 Mr. Brannon - Thank you.

4700  
4701 Mr. Don Rollen, 5920 Springfield Road - Good morning, Madam Chairman and members of  
4702 the Planning Commission. My name is Don Rollen. I live at 5920 Springfield Road. My home  
4703 faces on Springfield and the corner of Old Springfield. My property backs up to the Hartley  
4704 House property.

4705  
4706 I'll try to be brief and not redundant in what my neighbor, Mr. Brannon, already presented to  
4707 you, which I am in total agreement. I would first like to commend the Planning Commission on  
4708 its vision the last few years, and thus far, the development of this unique area of Henrico.

4709  
4710 You have allowed it to grow into a family community with large lots, homes such as in Meadow  
4711 Farms, Fox Springs, Chickahominy Branch, and, especially our neighbors in Hartley Plantation.  
4712 I am asking the Planning Commission to strongly consider R-2 zoning of the Hartley property.

4713  
4714 This would be acceptable, with certain proffers in place. This would then allow Hartley  
4715 Plantation to extend and be compatible with our homes on Springfield Road.

4716  
4717 Ms. Dwyer - Thank you, sir. Any questions by Commission members? Thank  
4718 you very much. Any one else?

4719  
4720 Mr. Harry Ziegler, Vice-President of Hartley Plantation's Homeowners Association - Madam  
4721 Chairman, members of the Commission, good morning. I am Harry Ziegler and I am the Vice-  
4722 President of Hartley Plantation's Homeowners Association. And I am here, it is this morning  
4723 now, and should I say, "We are here this morning." And we have a great contingency. I'm very



4724 proud that we're here in large numbers, as you see, for support. We're here to present  
4725 opposition as it relates to the rezoning, not only of this piece of property, but you'll see, as I go  
4726 on, looking at three different parcels, our recommendation.

4727 Certainly, inasmuch as our work demonstrates what we do, our homes, our families, our  
4728 communities, really define who we are. So, when we come home, after a long day, or whatever  
4729 we're involved in, we're proud to come home to Hartley Plantation and we want to protect our  
4730 investment, because, outside of our children's education, certainly, our homes are our greatest  
4731 asset. So, that's one of the other reasons we're here this evening.

4732  
4733 I want to let you know that we have taken great responsibility, and we have taken that  
4734 responsibility and great care. We have met on seven different occasions in which this proposal  
4735 has come forward to our attention, as well as, one occasion where we met with the builders, as  
4736 well as, Mr. Theobald which we appreciate.

4737  
4738 There seems to be a common thread throughout all our meetings. And that common thread was  
4739 that, "Why should we settle for a product lesser than Hartley, and that, although we understand  
4740 growth is important, we support that." We don't want to be that contingency that says, "We  
4741 don't want to do this." We want to offer a solution. And we want a partner with the  
4742 Commission, a partner with Madam Chairman, to make sure that we all can live in harmony  
4743 with the product that we've come up with.

4744  
4745 On Monday of this week, May 10<sup>th</sup>, Hartley Plantation homeowners met and, by an  
4746 overwhelming majority, voted to ask that the integrity of the Hartley Plantation product continue  
4747 throughout the parcels requested this evening and be rezoned to an R-2 product. There's a lot of  
4748 support for that. When you look on the opposite side of the road, that product is an R-2 product.  
4749 One of the added properties, that's currently R-3, is proposed to be rezoned at the Board meeting  
4750 in June to an R-2 product. It really would create a lot of continuity for the whole stretch of road  
4751 there.

4752  
4753 And, also, when you look at D. O. Allen, I think there's a significant difference, and when you  
4754 look at the home values surrounding the property. And that's what we're really trying to protect  
4755 to make sure that the values that we currently have will not go away.

4756  
4757 And, I guess one of the things I heard, too, was the concern, and this particular property would  
4758 be how to get to Echo Lake? Would there be any provision or any way to get there? Living in  
4759 Hartley and knowing what that flood plain was like and knowing what waters do when it does  
4760 rain. It's been dry recently, but it would be pretty difficult, certainly, to get across there. And,  
4761 certainly, you have to cross the road no matter what you do. And, I wouldn't like the idea of  
4762 having senior citizens crossing the road. It's a very dangerous road. I won't let my son go  
4763 across the road on his bike, because of the curves and all of the accidents and the traffic.

4764  
4765 Really, I believe, if we look at the R-2 provision, and keeping the lot sizes larger, the homes  
4766 nicer, and since Hartley sort of starts continuity and continues through that, I think not only  
4767 Hartley Plantation homeowners, but also surrounding neighbors have agreed, that this is  
4768 something we could support as an alternative, and partner with everyone could make sure that  
4769 happens. Thank you.

4770  
4771 Ms. Dwyer - Thank you, sir. Are there any questions of Mr. Ziegler?  
4772 Mrs. Wade - I think he's speaking of R-2, as he knows it. Would you describe  
4773 the requirements for R-2, as they are in the Ordinance; the straight R-2?  
4774  
4775 Mr. Ziegler - Right. And, if I'm incorrect on that.  
4776  
4777 Mr. Merrithew - You want me to just run through the lot size?  
4778  
4779 Mrs. Wade - Yes.  
4780  
4781 Mr. Merrithew - 18,000 square feet; 100-foot minimum lot width; 45-foot front  
4782 yard depth; 15 feet, minimum side yard; 35 feet, combined side yards, and a 45-foot rear yard,  
4783 with a 1,500 square foot minimum finished floor area.  
4784  
4785 Mrs. Wade - Thank you.  
4786  
4787 Ms. Dwyer - Is there any other opposition? I believe we just ran out of time,  
4788 didn't we? Is there any one else, other than this speaker, who would like to speak to this case?  
4789 We are out of time, but I'll give you a minute.  
4790  
4791 Mr. Don Rogers - Okay. I was quick last time. Thank you, ma'am.  
4792  
4793 Ms. Dwyer - You seem to be bringing up the rear.  
4794  
4795 Mr. Rogers - My name is Don Rogers, again, Hartley Plantation. And, within  
4796 the last two years, we have been asked at Hartley Plantation to work with other developers.  
4797 And, I think that Mrs. Wade can attest to the fact that we were able to provide a transitional  
4798 type of effect with the Summerberry Subdivision moving in next to us which we collectively, as  
4799 an homeowners association, came together to approve a deviation. And that was to go from R-1  
4800 to an R-3, not having a transition as called for in the standards.  
4801  
4802 What we're asking is that we still, because we did that once, doesn't that mean that we've  
4803 opened up Pandora's Box that now everything is an exception that comes before you. There was  
4804 an issue of the Wetlands Act. That still is a major issue on this property here that nobody has  
4805 addressed. There was a major issue that was addressed in our neighborhood, as we built. And  
4806 we want the standards to be consistent from one neighborhood to the other.  
4807  
4808 The second to the last issue is the safety. Nobody has said anything about the number of actual  
4809 driveways or the number of accesses within a quarter mile span in the most dangerous road in  
4810 the County in western Henrico. That has not been addressed at all.  
4811  
4812 In a very short stretch, just beyond what you can see on the map up there, there's been  
4813 driveways, in addition to entrances to the subdivisions that have blind spots.  
4814

4815 And, one last thing, the sewage capacity hasn't been addressed here. The one offer was to put a  
4816 sump pump down in the wetlands into the creek area. We just don't feel that there has been  
4817 adequate consideration of some of the major factors we were asked, ourselves, to be mindful of  
4818 in working with you in the past. Thank you.

4819 Ms. Dwyer - Mr. Theobald,

4821  
4822 Mr. Theobald - I really don't have much to add, Madam Chairman. I would just  
4823 reiterate that this is a special site, but we think we have provided a special project for a very  
4824 desirable group of residents.

4825  
4826 We will need to put a pump station down in the flood plain on the other side of Old Springfield  
4827 in order to provide public sewer to this project, and to parcels that you'll be considering in a  
4828 moment. When Hartley Plantation was originally constructed, there was not sewer available to  
4829 that subdivision. So, that is correct. We will need to put a pump station down into that  
4830 floodplain. But, I hope you will favorably consider the case. I think we have tried to provide a  
4831 very quality product for a very quality group of residents. So, I think the County ought to be  
4832 attracting. I think this project can exist in harmony with neighborhoods that are around for all  
4833 the reasons stated in my prior presentation. Thank you.

4834  
4835 Mrs. Wade - Mr. Theobald, there are 120 units on a single point of access. No.  
4836 No. There's access out to Staples Mill and access out to Springfield on the plan.

4837  
4838 Ms. Dwyer - Access to Springfield? Oh. I see. Thank you. Any other  
4839 questions for Mr. Theobald? Ready for a motion?

4840  
4841 Mrs. Wade - Yes, this has certainly done a lot to enhance the quality of this  
4842 proposal. The details, as he points out, compare a lot with the Allen case, but the site, as we  
4843 said, is quite different. There certainly is a need for this type of housing I've been saying and  
4844 others have too, for years. We need more one-story kinds of housing in the County. And it's  
4845 gradually beginning to come. And we believe in providing a variety of housing.

4846  
4847 However, if you're going to go against the Land Use Plan in this area, you need to consider  
4848 carefully not just the quality, but the design. I think, in a way here, we're doing well enough  
4849 that we can afford luxury of doing something special now and then. And take advantage of the  
4850 natural features that this site has. It's much admired by everybody who goes by. Everybody  
4851 knows where it is, and enjoys passing it. And they're not saying they don't want anything on  
4852 here. But, the natural features, the topography, and the pines and the trees, and I don't see much  
4853 here in the way of preserving the trees. Because there have been more in the open area, they  
4854 have been able to get to be nice big trees, not old woods trees that a lot of us have in our yards.  
4855 It just has a "park-like" look.

4856  
4857 Although, I would agree, that there's a need and they've done a lot to enhance the quality, it's a  
4858 design and the layout that concern me, I suppose, most. And I've been in and looked at  
4859 retirement-types of communities. And probably over in Stoney Point. I need to go back there.  
4860 Waynesboro, Winston-Salem, even in Wyndham, Virginia Center; a lot of different kinds of

4861 units, but I don't think they're laid out in rows. There is more creativity in the way they're laid  
4862 out. I just think a lot more could be done here. Maybe they could recoup their costs and, what  
4863 not, with, you know, fewer and larger, because you've got a smaller unit with smaller lots over  
4864 on D. O. Allen. You might want to offer a variety of type over here that would be, in some  
4865 ways, more compatible with this area.

4866  
4867 So, therefore, in this case of C-31C-99, I move that we recommend it for denial.

4868  
4869 Mr. Vanarsdall seconded the motion.

4870  
4871 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
4872 those in favor say aye—all those opposed by saying nay. The vote is 4-0 (Mrs. Quesinberry  
4873 absent, Mr. Donati abstained). The motion for denial carries.

4874  
4875 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
4876 Commission voted 5-0 (one absent) to recommend that the Board of Supervisors deny the request  
4877 because it does not conform to the recommendation of the Land Use Plan nor the Plan's goals,  
4878 objectives and policies, and it represents an increase in intensity which could influence future  
4879 zoning and development of adjacent properties.

4880  
4881 Mr. Marlles - Mr. Theobald, is it my understanding that C-32C-99 and C-33C-99  
4882 will be heard together?

4883  
4884 Mr. Theobald - Please.

4885  
4886 **Deferred from the April 15, 1999 Meeting:**

4887 **C-32C-99** James W. Theobald for Duma & Associates, L. C.: Request to  
4888 conditionally rezone from A-1 Agricultural District and R-2C One Family Residence District  
4889 (Conditional) to R-2AC One Family Residence District (Conditional), Parcel 20-A-12 and part of  
4890 Parcels 20-A-14 and 14NR, described as follows:

4891  
4892 BEGINNING at a point of intersection on the western line of Staples Mill Road and on the  
4893 southern line of Interstate Route 295; thence along and following State Route 295 N 76° 59'  
4894 23" W 700.05 feet to a point; thence departing Route 295 S 39° 34' 16" E 488.36 feet to a  
4895 point; thence S 86° 23' 40" W 224.80 feet to a point; thence N 12° 31' 20" W 400.10 feet to  
4896 a point on State Route 295; thence along and following said Route 295 N 74° 57' 58" W  
4897 687.14 feet to a point; thence S 85° 29' 47" W 300.00 +/- to a point on a 100 year flood-  
4898 plain; thence along and following said flood-plain S 03° 54' 59" E 880.67 feet as it meanders  
4899 to a point on the southern line of Tax Parcel 20-A-14; thence S 79° 06' 54" E 311.00 +/- feet  
4900 to a point; thence S 81° 24' 50" E 326.08 feet to a point; thence S 84° 32' 45" E 268.03 feet  
4901 to a point; thence S 82° 37' 14" E 376.20 feet to a point of non-tangent curve; thence along  
4902 said curve to the right, having a radius of 1663.00 feet, arc length of 255.29 feet, chord  
4903 bearing and chord distance of N 47° 25' 08" E 255.04 feet to a point; thence N 51° 49' 00" E  
4904 40.24 feet to a point; thence N 49° 37' 12" E 132.32 feet to a point; thence N 23° 46' 25" W  
4905 140.40 feet to a point; thence N 69° 44' 18" E 169.18 feet to a point on the western line of  
4906 Staples Mill Road; thence along and following said Staples Mill Road N 19° 30' 27" W 109.38

4907 feet to a point; thence N 21° 38' 36" W 187.33 feet to the point of beginning, containing  
4908 38.152 acres, more or less.

4909

4910 (All testimony hard under C-33C-99).

4911

4912 Deferred from the April 15, 1999 Meeting:

4913 C-33C-99

4914 James W. Theobald for Robert P. Bain: Request to conditionally  
4915 rezone from A-1 Agricultural District and C-1 Conservation District to R-2AC One Family  
4916 Residence District (Conditional), Parcel 20-A-15, described as follows:

4916

4917 BEGINNING at a point on the northern right-of-way line of Springfield Road State Route 157  
4918 at its intersection with Old Springfield Road, thence along the northern right-of-way line of  
4919 Springfield Road State Route 157 N 80°08'48" W 267.97' to a point; thence along a curve to  
4920 the left having a radius of 2257.46' for a length of 185.14' to a point; thence along a curve to  
4921 the right having a radius of 2795.78' for a length of 130.51' to a point; thence N 82°10'15" W  
4922 78.32' to a point; thence along a curve to the right having a radius of 1804.37' for a length of  
4923 261.85' to a point; thence N 73°51'21" W 197.12' to a point; thence along a curve to the left  
4924 having a radius of 1001.28' for a length of 176.92' to a point; thence N 83°58'47" W 122.81'  
4925 to a point; thence along a curve to the left having a radius of 276.11' for a length of 80.22' to  
4926 a point; thence along a curve to the left having a radius of 196.00' for a length of 80.54' to a  
4927 point; thence leaving the northern right-of-way line of Springfield Road State Route 157 N  
4928 82°58'23" W 153.72' to a rod found; thence N 16°40'11" E 778.80' to a rod found; thence S  
4929 74°33'23" E 696.43' to a rod in the centerline of a creek; thence along the meandering of such  
4930 creek in an easterly direction 370' ± to a point; thence S 81°24'50" E 326.08' to the  
4931 centerline of a creek; thence along the meandering of such creek in an easterly direction 750'  
4932 ± to a point on the western right-of-way line of Old Springfield Road; thence along the  
4933 western right-of-way line of Old Springfield Road along a curve to the left having a radius of  
4934 801.17' for a length of 109.6' to a point; thence S 36°32'11" W 629.62' to a point; thence  
4935 along a curve to the right having a radius of 45.00' for a length of 49.73' to the point of  
4936 beginning, containing 28/71 acres.

4937

4938 Mr. Merrithew - Thank you, Mr. Secretary. These two cases are close to being  
4939 twins. They are both 30 acres. They are both proposing R-2AC. C-32C-99 is a case which  
4940 immediately abuts Interstate I-295 at the off ramp and Staples Mill, on its east end. The site is  
4941 approximately 30 acres, would yield up to between 60 and 70 lots. The site is currently zoned  
4942 A-1. It is planned for Suburban Residential 1, as was the previous case.

4943

4944 The applicant, at this point, the R-2A zoning district is consistent with the recommended  
4945 densities of the Plan. So, in this particular case, the proposed use and density conform to the  
4946 Comprehensive Plan.

4947

4948 The proposed subdivision, we feel, is also consistent with surrounding development, in that it is  
4949 single family, detached up against single-family detached. I would point out that, with Hartley  
4950 Plantation here to the west, there is a substantial flood plain area separating the developable  
4951 portions of this property and C-33. So, it is separated from Hartley Plantation by the flood  
4952 plain.

4953  
4954 The applicant's second revised proffers are dated May 6<sup>th</sup>. They were handed out this evening,  
4955 provided for a minimum of 2,000 square feet of finished floor area with lot widths of 85 feet,  
4956 which is five feet larger than the minimum required by Ordinance. It provides for protective  
4957 covenants, brick foundations, and a 25-foot buffer along I-295. That's been increased a couple  
4958 of times since the original submittal. Hartley Plantation has a 20-foot buffer proposed. In this  
4959 case, they've increased that to 25 feet. And, in this case, again, it does not appear that buffer is  
4960 outside the required yard. So, it is still within the yards. In this case it will be the rear yards  
4961 abutting the I-295 ramp.

4962  
4963 Staff, with regard to the buffer, continues to have a concern that its not substantial. I think a 20  
4964 or 25-foot buffer is inconsequential, and I think we've heard this evening, does not deter any  
4965 noise or reduce the noise impact from the highway. It probably, for the most part, does not  
4966 reduce the visual impact as well.

4967  
4968 There are a couple of issues associated with this property. A major one is this piece of property  
4969 right here, that "donut hole" is not part of the application. And, at this point in time, from the  
4970 concept plans that we have been provided with, has not been addressed by the design of the  
4971 application. We feel that it needs to be incorporated, at least, stub roads running up to it so that,  
4972 at some point in the future, it can be resubdivided and included with the rest of the subdivision.  
4973 As it stands now, it would stand on its own with an easement to Old Springfield Road.

4974  
4975 The second issue is one we touched on before which is the second point of access. In order to  
4976 exceed 50 lots, this property will have to have a second point of access. The Planning Staff has  
4977 suggested it would be good to put them out onto Staples Mill Road. However, Transportation  
4978 staff has discussed with them the ability to provide a second point of access through C-33C down  
4979 to Springfield Road. The Planning Staff is not going to go against Transportation Engineers.  
4980 So, we're willing to go along with, although we still think our idea was better.

4981  
4982 Finally, as the Chair has mentioned earlier, there is an opportunity with this project and the other  
4983 two projects, to make use of either the natural drainage ways or sidewalks along the street to  
4984 provide pedestrian access to Echo Lake. I believe, at one point, during the discussion of the  
4985 Open Space Plan, the idea was that, within a certain distance of our parks, we should have better  
4986 sidewalks or trail access to make it easier for people to get to the park, notwithstanding that we  
4987 would have to overcome some issues with crossing streets and so on. So, we think that is also  
4988 an opportunity that's being missed thus far with the application. Although, I think I heard the  
4989 applicant state that they could, perhaps, address that.

4990  
4991 If the applicant can address the issue of the donut hole in this case; if they would take the step to  
4992 improve the pedestrian access to Echo Lake Park; and if they have resolved the issues of a  
4993 second point of access to Springfield Road, then I believe staff can support this application,  
4994 because it is in conformance with the Plan and it is consistent with the development that has  
4995 occurred in the surrounding area. I'd be glad to answer any questions.

4996 Ms. Dwyer - Any questions for Mr. Merrithew? Thank you.

4997  
4998 Mr. Merrithew - Thank you.

4999  
5000 Ms. Dwyer - I don't believe I asked if there was any opposition to this case. I  
5001 didn't. There is opposition. Why don't you speak to both cases? What do you think, Mrs.  
5002 Wade? Would you like to hear Mr. Merrithew's comments on both cases, or...It might save us a  
5003 little time...  
5004  
5005 Mr. Merrithew - They are not that dissimilar.  
5006  
5007 Mrs. Wade - Well, there are some differences, but...And then, we assume, the  
5008 opposition will address both at the same time, too, I suppose? That's fine. We'll do both.  
5009  
5010 Mr. Merrithew - The second case, C-33C-99, as I said before, is another case of  
5011 about 30 acres, R-2AC. Again, there's flood plain along the east end of the site separating it  
5012 from Hartley Plantation. There's R-3C zoning across the street, which, I should point out, is  
5013 coming forward for rezoning, to bring that down to R-2C.  
5014  
5015 Mrs. Wade - What is it you say now?  
5016  
5017 Mr. Merrithew - The Attack case across the road which is R-3, it was mentioned  
5018 earlier, it would come forward in June. It is not yet submitted, so it will not be in June. But,  
5019 nonetheless, there's R-2, R-2C on those sides, and R-3 and R-4 in the general vicinity of the  
5020 project anyway.  
5021  
5022 The key difference here is that this project has a lot of frontage along Springfield Road. And the  
5023 applicant has addressed that by providing for larger lots along Springfield Road; 18,000 square  
5024 feet, as opposed to the 13,500 that is the minimum. They are providing a buffer along  
5025 Springfield Road to screen those lots a little more.  
5026  
5027 Let's see if I can get to the buffer (referring to slide). Yes; a 25-foot buffer along Springfield  
5028 Road.  
5029  
5030 Mrs. Wade - Yes. It's exclusive of the...The top of the next page.  
5031  
5032 Mr. Merrithew - That's right. Exclusive of the rear yard, so it is in addition to the  
5033 rear yard.  
5034  
5035 In this particular case, the applicant has proffered a 2,200 square foot finished floor area. In the  
5036 previous case, the applicant had proffered a 2,000 square foot finished floor area. And those are  
5037 the major differences between the two proposals.  
5038  
5039 The applicant's revised proffers in Case C-33 address staff's design concerns. Again, we still  
5040 have the opportunity for access to Echo Lake. If they address the Traffic Engineer's concerns,  
5041 staff feels that the project is both consistent with the comprehensive plan and consistent with  
5042 development in the area, and can recommend approval. I'd be glad to answer questions now on  
5043 either one of those cases.  
5044

5045 Ms. Dwyer - Any questions for Mr. Merrithew?  
5046  
5047 Mrs. Wade - Somewhere I have a note about 34 lots on this case.  
5048  
5049 Mr. Merrithew - I have not had a plat submitted on this case to tell me the number.  
5050 The applicant, I'm sure, has done some design work and they can probably speak to that.  
5051  
5052 Ms. Dwyer - There's some commitment to develop these two in a coordinated  
5053 fashion?  
5054  
5055 Mr. Merrithew - I believe there's a commitment now for shared access to  
5056 Springfield Road, and they will both be using Old Springfield Road as their other point of  
5057 access. But, there's no other link, as far as I'm aware, between them. There's, in fact, a creek  
5058 running between them that separates them.  
5059  
5060 Mrs. Wade - Oh. There is?  
5061  
5062 Ms. Dwyer - Will the individual lot owners whose rear yards abut Springfield  
5063 Road, will they be able to put fences in the buffer?  
5064  
5065 Mr. Merrithew - There is a berm proposed, with plantings. The proffer does not  
5066 address fences specifically.  
5067  
5068 Ms. Dwyer - It might be a good idea to specify...  
5069  
5070 Mr. Merrithew - And it is outside their rear yard.  
5071  
5072 Mrs. Wade - Actually, I've got that note, too, on C-33C.  
5073  
5074 Mrs. Wade - Or if there's a fence, you know, its some feet behind the curb.  
5075  
5076 Mr. Merrithew - ...as being inside and being limited. I believe the applicant had a  
5077 very good fence proffer on C-31, which mentioned the materials and so on. That might be  
5078 applicable in this case, as well.  
5079  
5080 Ms. Dwyer - It is equally important to have landscaping between the road and  
5081 the fence. Have the fence inside the...(comments unintelligible). Any other questions for Mr.  
5082 Merrithew about either case?  
5083  
5084 Mrs. Wade - I have a few for Mr. Theobald.  
5085  
5086 Ms. Dwyer - Thank you, Mr. Merrithew. Would the applicant come forward,  
5087 please. And we're doing both cases at one time.  
5088  
5089 Mr. James W. Theobald - May I reserve three minutes, Madam Chairman.  
5090



5091 Ms. Dwyer - We're doing two cases here.  
5092  
5093 Mr. Theobald - That will be enough. I think three minutes will be fine. My  
5094 presentation is very brief.  
5095  
5096 Ms. Dwyer - It's getting shorter by the minute.  
5097  
5098 Mr. Theobald - Madam Chairman, Ladies and Gentlemen, for the record, my  
5099 name is Jim Theobald. I'm here on behalf of Duma & Associates, Inc. and Robert P. Bain,  
5100 together, requesting rezoning from A-1 and R-2 to R-2AC on approximately 60 acres of land  
5101 consistent with the Land Use Plan designation for Suburban Residential 1, in this area.  
5102  
5103 The Duma request comprises some 30 acres of land adjacent to Interstate I-295 and Old  
5104 Springfield Road. The Bain request represents approximately 29 acres between Springfield Road  
5105 and the Duma property.  
5106  
5107 The Duma plan, being the one on the top left on your screen in green, shows 67 lots on 30 acres  
5108 for a density of 2.2 units per acre; well within the SR-1 limits. In that case we've proffered  
5109 minimum lot widths of 85 feet, which are in excess of the 80-foot lot widths that are otherwise  
5110 required in the R-2A District.  
5111  
5112 All other proffers are essentially identical to the Hartley Plantation proffers, that being the  
5113 subdivision to the west on the other side of that significant flood plain, including a proffer  
5114 requiring a minimum finished floor area for all homes of 2,000 square feet. That is the same  
5115 proffer that exists on Hartley Plantation.  
5116  
5117 The buffer along the off-ramp to I-295 does slightly exceed that proffered with the Hartley  
5118 Plantation case, thus, requiring a minimum of 25-feet of buffer, which buffer has to be  
5119 supplemented with additional plantings to provide additional screening.  
5120  
5121 The Bain property contains significantly more flood plain than the Duma parcel, and results in  
5122 some 39 lots being developed on 29 acres with a density of approximately 1.4 units per acre.  
5123 Essentially, the C-1 area that would be adjacent to the Duma piece up top (referring to slide) has  
5124 already been zoned C-1, courtesy of a prior case. And Mr. Bain's case includes flood plain that,  
5125 has yet to be rezoned to C-1, nonetheless, still within the SR-1 designation.  
5126  
5127 These proffers are, basically, identical to Duma, except Mr. Bain has proffered a minimum  
5128 square footage of 2,200 square feet of finished floor area, and that there'll be no direct access to  
5129 Springfield Road. The access point is to come out onto Old Springfield Road.  
5130  
5131 And, significantly, he has proffered a 25-foot buffer area along Springfield Road. And, that  
5132 buffer is exclusive of rear yard requirements in which he's committed to construct a berm that  
5133 will also include additional plantings. In a prior conversation I had with Mr. Bain, he did agree  
5134 that any fencing would be on the inside of the berm, as opposed to the road side of the berm. So,  
5135 you'll have berm plantings, and then to the extent any rear yard would want to be fenced, only  
5136 then the fence.

5137  
5138 Ms. Dwyer - May I ask you a question?  
5139  
5140 Mr. Theobald - Yes ma'am.  
5141  
5142 Ms. Dwyer - Before you move that, John, (referring to plan), the non-colored  
5143 version is C-33C?  
5144  
5145 Mr. Theobald - That's Mr. Bain's property, correct.  
5146  
5147 Ms. Dwyer - The roads don't seem to match up.  
5148  
5149 Mr. Theobald - There are different scales.  
5150  
5151 Mrs. Wade - One has a stub street...  
5152  
5153 Mr. Theobald - After we met with Public Works, we agreed we'd have to make  
5154 the connection to those subdivisions. These are not proffered plan, either. They are illustrative  
5155 so you can see how the layouts might look. But we would connect the two, through a stub road  
5156 here in one of these cul-de-sacs, and access points back out to Old Springfield for each.  
5157  
5158 Ms. Dwyer - So, how many access points to Old Springfield?  
5159  
5160 Mr. Theobald - Two.  
5161  
5162 Ms. Dwyer - Two.?  
5163  
5164 Mrs. Wade - You, obviously, have to make some provision for what the  
5165 winter...  
5166  
5167 Mr. Theobald - They have an easement that's depicted on here. Obviously, they'd  
5168 be able to use our road network, if they choose. What we've done design-wise, is pull this cul-  
5169 de-sac, bending towards here (referring to slide).  
5170  
5171 My understanding is, Duma has approached the property owner here to purchase that parcel, but  
5172 they were not going to sell. So, we could pull this cul-de-sac back in here and re-subdivide these  
5173 lots, as and when, rather than provide a stub street to there, presently, but that would be their  
5174 plan. Okay?  
5175  
5176 As you see from the zoning map that's come up on your screen; if we can pull back, John, some  
5177 how and try to get the full scope of it here. This R-2A request is not only consistent with the  
5178 Land Use Plan, but also with historical development in the area. I've colored the R-4 zoning in  
5179 green, which is up to the right and down a little bit below; I've indicated all the R-3 area in pink;  
5180 the R-2A areas in yellow; and the flood plain in blue. And, of course, this includes the R-5A  
5181 case that we just finished. And, this would be the request presently, these two parcels dividing  
5182 right here.

5183  
5184 Again, these parcels are a significant distance across the flood plain from the homes of Hartley  
5185 Plantation and are across the street from the R-3 case, which, now I understand, someone may  
5186 pursue to become an R-2 case. Nonetheless, that R-3 case, was approved some six, seven  
5187 months ago.

5188  
5189 Proffered conditions, we believe, insure quality development such as exists in Hartley Plantation.  
5190 And, given these to requests, conformity with the Land Use Plan, conformity with proffers  
5191 submitted, and approved in other cases, and patterns of development in the area, I believe that  
5192 the foregoing does comply with all the jurisdictional requirements necessary for you to  
5193 recommend approval of this case to the Board of Supervisors, and I'd be happy to answer any  
5194 questions.

5195  
5196 Ms. Dwyer - Any questions for Mr. Theobald?

5197  
5198 Mrs. Wade - We talked about trails. It seemed to me, in previous discussions,  
5199 you all were going to do something about trails?

5200  
5201 Mr. Theobald - I've spoken with Mr. Malone and Mr. Bain, and they do believe  
5202 that, when we come in for our tentatives, there's opportunities to connect through this flood plain  
5203 area over to the park.

5204  
5205 Mrs. Wade - Now, where are we now with the water and sewer? One of them  
5206 is proffered.

5207  
5208 Mr. Theobald - I guess, in the Bain case, public utilities were proffered, although I  
5209 think it would be required under this zoning category anyhow. They weren't technically  
5210 proffered in the Malone case, but certainly can be, if desired. And, they can only be constructed  
5211 if there's public sewer. And, it will necessitate a pump station in the flood plain area. That is  
5212 not a treatment facility. That is merely a pumping facility.

5213  
5214 Ms. Dwyer - Why is the 25-foot buffer in Proffer No. 8 for Case C-32C-99, not  
5215 in addition to the rear yard setback? It seems to me, it needs to be, given its purpose is to  
5216 protect the homeowner from noise of I-295?

5217  
5218 Mr. Theobald - I think the concern was just given the flood plain up there, and a  
5219 potential narrowing of the lot area up there. We just weren't sure what the impact of that would  
5220 be, if we sat aside 25 to 30 feet excluding the rear yard on our ability to achieve lots up in that  
5221 area. The question was asked, and the answer was, it was a part of the lot.

5222  
5223 Mrs. Wade - We would much prefer to see 40 feet, or something.

5224  
5225 Mr. Theobald - I thought you were a 25, a minimum?

5226

5227 Mrs. Wade - No. I wasn't happy at 25. I would still maintain, and the Hartley  
5228 Plantation people who live near the interstate would agree, that more buffer, the better, I would  
5229 think between - It seems to me it would enhance the value of the lots to increase the buffer.

5230  
5231 Ms. Dwyer - Any other questions for Mr. Theobald? Thank you, Mr.  
5232 Theobald. Would the opposition come forward?

5233  
5234 Mrs. Wade - Yes. One of you could come and summarize would be helpful, but  
5235 its okay...

5236  
5237 Mr. Harry Siegler - Well, we may have to have two of us. Commission members,  
5238 really to reiterate, but also to say that, it seems to me that we're at a juncture that its an  
5239 important time to plan for something better. And, that's really, again, when we met on seven or  
5240 eight occasions. We have the beautiful property beginning there, a beautiful park. We have the  
5241 greatest economy we've had in who knows when. Interest rates are low. The market is doing  
5242 great.

5243  
5244 If we've not going to build a better product now, when? Why not look now. Let's go to some  
5245 bigger lots, bigger square footages. With 100-foot lots on R-2, at least it will leave enough room  
5246 for the garages to be in the back or the side, versus the front. Eighty-five (85) foot lots, a lot of  
5247 times, you can't get all the garages are going to be on the front.

5248  
5249 So, it just seems to us that it's a great time to step up, build a better product. There's certainly a  
5250 market for it. The product across the street from us, one, a few weeks ago, sold for \$282,000.  
5251 So the market for \$300,000-\$400,000 homes is right there. And it would create a lot of  
5252 harmony in the community. It would give us some continuity from Hartley, all the way up to  
5253 Staples Mill and Old Springfield area.

5254  
5255 And, we're also concerned about having a pumping station, even in the flood plain, on the  
5256 Hartley side. It could take away from the situation. So, maybe, by having the R-2 property, and  
5257 the 100-foot lots, it may have sewer, and not have the pumping station. So, we see that as,  
5258 perhaps, an added benefit as well.

5259  
5260 I don't see any downsides for the builder, really. The builder should come back with just a better  
5261 product. So, that's pretty much what we would like to see as a better product. It's not that  
5262 much difference. They're not that far apart. So, it's sort of like you have a product. Then you  
5263 have something else and then you have something else, and then you have something else.

5264  
5265 So, if we could continue with this, it shouldn't put much burden on the builder. I feel like the  
5266 builder is going to build, even if we approve this or not. I think Mr. Bain will probably build  
5267 anyway some nicer homes in that area. So, that's what we're requesting to continue the R-2  
5268 theme and to ask for a little better product. Thank you.

5269  
5270 Ms. Dwyer - Would you repeat your name, for the record, please?

5271  
5272 Mr. Siegler - It's Harry Siegler.

5273  
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Ms. Dwyer - Any questions for Mr. Siegler?

Mr. Scott Brannon - Madam Chairman, members of the Planning Commission, my name is Scott Brannon. I don't want to repeat anything that Mr. Siegler did. I echo his thoughts 100 percent. We would just like to see the theme of Hartley continued.

We fear, with having narrow lots, is like you see in so many subdivisions. Every third house looks just alike, except the front door is a different color. You ride through Hartley Plantation; there are no two homes in there alike. Every one of them is different, and that's what's so unique about Hartley, and that's what we would like to see continued right down Springfield Road. Thank you.

Ms. Dwyer - Any one else to speak in opposition? Mr. Theobald, would you like to take some rebuttal time?

Mr. Theobald - Well, there must be a lot of fear out there, because there's a lot of pink on this map that's R-3. In fact, Hartley is really the exception out there. This piece of property doesn't just relate to Hartley. It relates to its surroundings. It relates to Interstate 295. It relates to this interchange. It relates to Staples Mill Road. It relates to a ton of R-3 and R-4 down in this area. The R-2A classification, I don't know of many instances where we're transitioned down in density towards a major intersection with an interstate highway. This piece, as proffered, is consistent with your Land Use Plan, and I believe these folks are very much entitled to your recommendation of approval of this case. Thank you very much.

Ms. Dwyer - Any questions for Mr. Theobald? No questions. Mrs. Wade.

Mrs. Wade - I'm just concerned about the issue about the "pink," and the fact, we probably do know that a lot of that pink will be R-2 in the coming months. I know you keep that in mind anyway. But, when I see all that "pink," (referring to slide), a lot of that may be R-2. I still believe that it's very well all the way from Hartley out to the Staples Mill could be R-2 and no R-3 at all.

Ms. Dwyer - You mean the pink on that corner of the road?

Mrs. Wade - The Attack property, well, I know we can say, "Well, it hasn't been done." We do know, for all practical purposes, it will be R-2.

Ms. Dwyer - Mr. Theobald, did you want to respond?

Mrs. Wade - No. I don't subscribe to the fact that all that pink on there means that everything else has to be pink too. To the contrary, you'd rather have a better selection and more choice. And, I would rather see the R-2, also, but I'm not inclined to insist upon it. I'll do one case at a time here. C-32C-99, they both meet the requirements of the Land Use Plan, in terms of density. They have a lot of things to be said on their behalf.

5318 As I say, if I had my preference, actually, I'd say R-2 for both of them. But, as far as the C-  
5319 32C case is concerned, I also would prefer more buffer by the interstate. So, I would move this,  
5320 with, perhaps, something for the Board to think about between now and the Board hearing, those  
5321 two things. And you all can come back and in the meantime talk to your Supervisor about your  
5322 concerns and desires here. But, I would move that Case C-32C-99 be recommended for  
5323 approval.

5324  
5325 Mr. Vanarsdall seconded the motion.

5326  
5327 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Vanarsdall. All  
5328 those in favor of the motion, say aye—all those opposed by saying nay. The vote is 5-0 (Mr.  
5329 Donati absent). The motion to recommend approval carries.

5330  
5331 Mrs. Wade - I think it definitely would be improved as R-2, but I just don't  
5332 feel we can impose that here.

5333  
5334 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
5335 Commission voted 4-0 (one absent, one abstention) to recommend that the Board of Supervisors  
5336 accept the proffered conditions and grant the request because it conforms to the  
5337 recommendations of the Land Use Plan; and it is appropriate residential zoning at this location.

5338  
5339 Mrs. Wade - The same thing for C-33C-99. It's going to have the larger lots  
5340 which are closer to your Hartley Plantation situation. But it also meets a lot of the goals of the  
5341 Land Use Plan. So, I move that C-33C-99 be recommended for approval also.

5342  
5343 Mr. Archer seconded the motion.

5344  
5345 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer. All those  
5346 in favor of the motion, say aye—all those opposed by saying nay. The vote is 5-0 (Mr. Donati  
5347 absent). The motion to recommend approval carries.

5348  
5349 Mr. Theobald - Thank you.

5350  
5351 Mr. Vanarsdall - I'd like to tell ya'll, this comes up before the Board on the 9<sup>th</sup> of  
5352 June. So, I would be sure and be there, if I were you.

5353  
5354 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
5355 Commission voted 4-0 (one absent, one abstention) to recommend that the Board of Supervisors  
5356 accept the proffered conditions and grant the request because it conforms to the  
5357 recommendations of the Land Use Plan; and it is appropriate residential zoning at this location.

5358  
5359  
5360 C-35C-99 Richard H. Youngblood for Francis Run Associates, L. C.:  
5361 Request to conditionally rezone from A-1 Agricultural District to R-3AC One Family  
5362 Residence District (Conditional), Parcels 39-A-7, 9, 11, and 26, described as follows:

PARCEL 1

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Beginning at a point on the east line of Reids Pointe Key, said point being S. 14° 44' 25" W., 152.09' from the South line extended of Reids Pointe Road; thence S 71° 15' 35" E, 284.93' to a point; thence N 18° 02' 16" E, 290.06' to a point; thence S 71° 16' 00" E, 828.33' to a point on the west line of Francistown Road; thence continuing along the west line of Francistown Road S 18° 52' 00" W, 106.46' to a point; thence leaving the west line of Francistown Road N 71° 07' 30" W, 279.79' to a point; thence S 18° 46' 00" W, 150.00' to a point; thence S 71° 07' 30" E, 279.53' to a point on the west line of Francistown Road; thence continuing along the west line of Francistown Road S 18° 52' 00" W, 431.23' to a point; thence leaving the west line of Francistown Road N 71° 15' 40" W, 282.41' to a point; thence S 18° 44' 20" W, 153.89' to a point on the north line of Thomasville Lane; thence continuing along the north line of Thomasville Lane N 71° 47' 00" W, 538.86' to a point; thence along the west line of Thomasville Lane S 16° 14' 55" W, 127.47' to a point; thence leaving the west line of Thomasville Lane N 64° 30' 15" W, 341.62' to a point; thence N 17° 39' 20" E, 343.81' to a point; thence S 71° 16' 23" E, 43.23' to a point; thence N 17° 39' 20" E, 299.82' to a point; thence S 71° 15' 35" E, 15.72' to the point and place of beginning containing 18.854 acres of Land.

Mr. Marlles - The presentation will be by Mark Bittner.

Ms. Dwyer - Good morning, Mark. Is there any opposition to C-35C-99 Francis Run Associates? No opposition.

Mr. Archer - I think Mr. Theobald is.

Mrs. Wade - One of the other people who left had some concerns about the R-3A down here.

Ms. Dwyer - Did the Hartley people get tired?

Mrs. Wade - Yes. They had concerns about the R-3A here.

Ms. Dwyer - No opposition. Mr. Bittner.

Mr. Bittner - Thank you, Ms. Dwyer. The applicant has proffered a density of 2.5 net units per acre 47 lots. However, he had submitted a conceptual plan, but not proffered it that shows 45 lots.

The requested R-3AC zoning is not consistent with the zoning of the nearby Reids Pointe and Duncroft Subdivisions, which are zoned R-3.

5405 Staff feels that R-2A zoning would be most appropriate, because it would be consistent with the  
5406 Suburban Residential 1 (SR1) designation of this property. R-3 zoning could, perhaps, be  
5407 acceptable if a density consistent with SR1 were proffered.  
5408

5409 A major issue with this application is access. The conceptual layout plan, submitted by the  
5410 applicant; again this is not a proffered plan, shows access coming from Francistown Road. It  
5411 also shows a stub road extending to the northern and southern borders of the property. Stub  
5412 road connections are critical to the vacant property to the north. However, the applicant has  
5413 not guaranteed provision of stub roads through the proffers.  
5414

5415 There is also a stub road in the adjacent Reids Point Subdivision that touches the northwestern  
5416 border of the property in question. The configuration of this property would not allow a road  
5417 connection to be constructed at this time. However, this subdivision should be designed so that  
5418 a road connection could someday be established to Reids Point if additional property to the  
5419 west were rezoned.  
5420

5421 In summary, the requested use is consistent with adjacent development, but the requested  
5422 zoning, and submitted proffers, should be amended to make this application more compatible  
5423 with surrounding subdivisions. If the applicant could address these concerns, staff could  
5424 recommend approval of this application. I'd be happy to answer any questions you may have.  
5425

5426 Ms. Dwyer - So, you're not recommending this for approval because of the  
5427 density?  
5428

5429 Mr. Bittner - The requested zoning, the density, and also, there are a couple of  
5430 items we'd like to see, perhaps, put in the proffers.  
5431

5432 Mrs. Wade - Stub streets and...  
5433

5434 Mr. Bittner - Yes.  
5435

5436 Ms. Dwyer - Any questions for Mr. Bittner by Commission members. No  
5437 questions. Would the applicant come forward, please.  
5438

5439 Mr. Richard H. Youngblood - Madam Chairman, and members of the Commission, I am  
5440 Richard Youngblood. I'm also a principle in Francis Run Associates. We feel that this case is  
5441 consistent with the Land Use Plan, in that all the R-3 properties that surround it were  
5442 developed using the controlled density provisions in the Ordinance. And, therefore, the lots in  
5443 Reids Pointe, they are approximately 60 feet wide. It does have a density of 2.25 there, but all  
5444 the properties have densities; the lowest one is one which I'm principal in also, which is  
5445 Francis Marron that's across the street. It has a density of 2.55.  
5446

5447 The conceptual plan, which we didn't proffer, shows 45 lots. And that's all we really feel that  
5448 we could get on the property. And, with 45 lots, we would meet the density requirements for  
5449 the SR-1 provision in the Land Use Plan which would give us 2.4 lots to the acre. We would



5450 be willing to amend our proffer, where we said we wouldn't have more than 47 lots, to 45, if  
5451 you would waive the time limit.

5452  
5453 Our other proffers speak primarily to the residences which are to be built on the property,  
5454 which are minimum square footage of the finished floor, and foundations, and no cantilevered  
5455 chimneys. And then our proffer dealt with access. We had requested that one access be  
5456 allowed to Francistown Road.

5457 There's an existing driveway, that was constructed with the rebuilding of Francistown Road.  
5458 It's right in this area (referring to slide). If we would cut a lot off of a residue off of a bush  
5459 hog tract, then we would like to have access to Francistown Road there. Any questions?

5460  
5461 Ms. Dwyer - You mentioned that the zoning for Reids Pointe was R-3, but the  
5462 lots were smaller, because it was controlled density?

5463  
5464 Mr. Youngblood - Yes ma'am.

5465  
5466 Ms. Dwyer - Maybe I don't understand controlled density, but I guess I'm  
5467 thinking that...

5468  
5469 Mr. Youngblood - It allows you to reduce the size of the lot.

5470  
5471 Ms. Dwyer - For some compensatory reason.

5472  
5473 Mr. Youngblood - Right.

5474  
5475 Ms. Dwyer - Compensating.

5476  
5477 Mr. Youngblood - We're doing the same thing. We're providing approximately 13  
5478 percent of our property as common area, because we'd like to retain the two ponds that exists  
5479 on the property. And there's a greenery, if you can see on that plan, that actually goes  
5480 between the two roadways, and from one of the roadways to the lower pond. But, we're not  
5481 asking for credit, because we don't have 20 acres, and can't ask for it. But, we have about 13  
5482 percent of the property; a little over two acres that would be common area. So, it's a similar  
5483 type development. We just don't get a credit for reducing the size of the lots.

5484  
5485 We actually had proposed a proffer of where we would, I think it was 75 percent of the lots  
5486 would be 75 feet in width, rather than the 70-foot in the R-3A, but we were asked not to bring  
5487 that proffer. And, so we took it out. But, the plan before you, shows you that 75 percent of  
5488 them are 75 feet in width. Any other questions?

5489  
5490 Mrs. Wade - Well, of course, we talked about the fact, that the homeowners  
5491 are going to have to maintain the ponds.

5492  
5493 Mr. Youngblood - Yes ma'am. But we would have an engineering study done on  
5494 the dams to make sure that they're stable and wouldn't require any work, so that it would limit  
5495 the liability of the homeowner's association.

5496  
5497 Mrs. Wade - Have you considered some kind of planting strip along  
5498 Francistown?  
5499  
5500 Mr. Youngblood - Yes ma'am. But we thought that would come during the  
5501 subdivision approval. We had to do one across the street on Francis Manor. We have a 25-  
5502 foot landscape strip. And, I would assume, the two lots that would back up to Francistown  
5503 Road would also have to have a landscape strip.  
5504  
5505 Mrs. Wade - Well, why don't you change our lot number and add something  
5506 about the planting strip maybe, and make some comment about how you're going to protect  
5507 those trees and come back on the 26<sup>th</sup> of May? Okay.  
5508  
5509 Mr. Youngblood - All right. You want me to put a landscaped strip...  
5510  
5511 Mrs. Wade - And include something about the stub streets. Firm that up and  
5512 then come back.  
5513  
5514 Mr. Youngblood - We can provide a little piece along the back here where the street  
5515 comes out of Reids Pointe could connect and eventually connect to that 50-foot strip that's a  
5516 private road right now. But, if you look at the flood plain, and what's to the west of here, the  
5517 only thing that can be developed is that one house that's behind here. So, I'm not sure any  
5518 more access out that way will do any good.  
5519  
5520 Mrs. Wade - But then, even then, this is just a conceptual plan. So, you've got  
5521 two stubs on here. You might mention those.  
5522  
5523 Mr. Youngblood - Oh. Okay.  
5524  
5525 Mrs. Wade - And come back on the 26<sup>th</sup> of May. Is that okay?  
5526  
5527 Mr. Youngblood - Yes ma'am.  
5528  
5529 Mrs. Wade - All right.  
5530 Ms. Dwyer - We need a motion for deferral.  
5531  
5532 Mrs. Wade - I move that Case C-35C-99 be deferred until the 26<sup>th</sup> of May for  
5533 the purpose of working on the proffers.  
5534  
5535 Ms. Dwyer - At the applicant's request?  
5536  
5537 Mrs. Wade - No. I'll do this.  
5538  
5539 Ms. Dwyer - The Commission's request.  
5540  
5541 Mr. Archer seconded the motion.

5542  
5543 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer to defer to  
5544 May 26th. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mr.  
5545 Donati abstained). The motion carries.

5546  
5547 Mr. Marlles - Madam Chairman, I believe the next two cases are also companion  
5548 cases.

5549  
5550 **C-40C-99 James W. Theobald for The H. H. Hunt Corporation:** Request to  
5551 conditionally rezone from R-2AC and R-3C One Family Residence Districts (Conditional) to  
5552 R-2AC One Family Residence District (Conditional), part of Parcel 27-A-3A, described as  
5553 follows:

5554  
5555 BEGINNING at a point on the southern right-of-way line of Proposed Twin Hickory Road  
5556 approximately 0.5 mile east of its intersection with Pouncey Tract Road, said point being the  
5557 True Point of Beginning; thence along the southern right-of-way line of Proposed Twin  
5558 Hickory Drive along a curve to the right having a radius of 13,979.17' for a length of 151.59'  
5559 to a point; thence S 89°28'30" E 149.96' to a point; thence along a curve to the right having a  
5560 radius of 13,969.17' for a length of 145.09' to a point; thence N 83°53'48" E 143.35' to a  
5561 point; thence along a curve to the right having a radius of 13,979.17' for a length of 197.67' to  
5562 a point; thence N 89°00'00" E 120'± to a point in the centerline of a creek; thence leaving the  
5563 southern right-of-way line of Proposed Twin Hickory Road and meandering along the  
5564 centerline of the creek in an southerly direction 757'± to a point; thence S 65°25'00" W  
5565 119.91'± to a point; thence S 80°00'00" W 287.48' to a point; thence S 14°00'00" W  
5566 188.00' to a point; thence S 50°20'00" W 165.59' to a point; thence S 45°00'00" E 190.00' to  
5567 a point; thence S 44°33'00" W 55.00' to a point; thence N 36°36'00" W 100.00' to a point;  
5568 thence N 84°28'00" W 587.00' to a point; thence N 11°47'00" E 171.00' to a point; thence N  
5569 46°41'00" E 176.00' to a point; thence N 27°37'00" W 268.00' to a point; thence N  
5570 00°10'00" E 80.00' to a point; thence N 49°10'00" W 60.95' to a point; thence N 06°29'30"  
5571 E 409.25' to the Point and of Beginning, containing 21.574 acres.

5572  
5573 All testimony heard under P-7-99.

5574  
5575 **P-7-99 James W. Theobald for The H. H. Hunt Corporation:** Request for  
5576 a provisional use permit under Sections 24-95(q) and 24-122.1 of Chapter 24 of the County  
5577 Code to permit controlled density development on a portion of a mixed use planned  
5578 development, on part of Parcel 27-A-3A, containing 21.574 acres, located south of Twin  
5579 Hickory Road Extended at its proposed intersection with Shady Grove Road. A residential  
5580 subdivision of 50 lots is proposed. The site is zoned R-3C One Family Residence District  
5581 (Conditional) and R-2AC One Family Residence District (Conditional).

5582 Mr. Marlles - Mr. Merrithew will be giving the staff presentation.

5583  
5584 Mr. Merrithew - Thank you.

5585  
5586 Ms. Dwyer - Good morning, Mr. Merrithew.

5587

5588 Mr. Merrithew - Good morning.

5589

5590 Ms. Dwyer - Is there any one in opposition to Case C-40C-99 or P-7-99 H. H.  
5591 Hunt Corporation? No opposition.

5592

5593 Mr. Merrithew - I don't have a whole lot to add to the staff report. I would point  
5594 out that this property; the 21 acres is purportedly a part of the larger Twin Hickory development.  
5595 The proposal to rezone to R-2AC is, essentially, done to provide a change to the proffers that  
5596 were approved with the original case. That change simply allows the applicant to seek a  
5597 controlled density subdivision on the site.

5598

5599 So, the rezoning to R-2A, staff does not feel has any impact on the density of the project, or any  
5600 significant impact at all on the project, and we can support the rezoning application.

5601

5602 Now, the purpose of that rezoning is to allow them to then come in with this Provisional Use  
5603 Permit to develop a controlled density subdivision. I think the situation is, that the applicant felt  
5604 if they could get 50 lots on this site when they originally were looking at it and then discovered,  
5605 with the wetlands, that they could not get those 50 lots, under the conventional R-2A and R-3,  
5606 zoning so they came back with a controlled density, which allows them lot sizes of 10,000  
5607 square feet, and smaller width, of course. Therefore, they could fit 50 lots in and around the  
5608 wetlands area of the property.

5609

5610 The proposal, that you see before you, is a conventional cul-de-sac development. However, the  
5611 Zoning Ordinance, and I'm sure we emphasized this point in some of the other zoning cases, the  
5612 Zoning Ordinance has some design criteria, or approval criteria, if you will, for controlled  
5613 density development, including originality and ingenuity in the overall design; improved living  
5614 environments; the preservation of public and private open space; the preservation of trees and  
5615 appropriate landscaping; economical subdivision design and providing suitable land for public  
5616 uses. And, overall, staff feels that this proposed design does not meet those objectives, and  
5617 needs to be reworked.

5618

5619 One of the major issues for us was to make sure that there was a vehicular connection between  
5620 this subdivision and the rest of Twin Hickory. That's to try to make it a part of the Twin  
5621 Hickory development. At this point, this design does not include that connection, although, I  
5622 understand, that, this evening, there's been discussion of providing that connection from this cul-  
5623 de-sac northward from here (referring to slide), up into this property which is not yet part of  
5624 Twin Hickory, but which, I believe, they intend to purchase. They can speak to that a little bit  
5625 later on this evening.

5626

5627 They have provided a significant amount of pedestrian connections. There's pedestrian  
5628 connections here (referring to slide). This, I think, required 20 percent open space area,  
5629 essentially is back here. Pedestrian connections do go into other parts of Twin Hickory, and also  
5630 come down the front of the property along the proposed Twin Hickory Road connection here.

5631

5632 I want to switch to the latest version of the plan, which is on the big board, and show you some  
5633 changes they have provided.

5634  
5635 Number 1, they have converted the tot lot into a picnic area, in their common open space area,  
5636 back here. Number 2, they are providing a connection across these wetlands to the school,  
5637 which is immediately to the east of the site. Number 3, they're providing, rather than a trail  
5638 along the common area, they're now providing a sidewalk. I'm not sure what the significance of  
5639 that difference is, but they're now classifying that as a sidewalk.

5640  
5641 They've expanded the park land to provide a minimum of a half acre outside of the wetlands.  
5642 They've replaced the tot lot with a picnic area. They have not yet shown the connection, but as I  
5643 mentioned earlier, they are still now proposing a connection to the west, and the property they  
5644 intend to purchase and to incorporate into the Twin Hickory design.

5645  
5646 With those changes, and with the commitment from the applicant that they will provide the  
5647 vehicular access to the rest of the property, staff could support the Provisional Use Permit for the  
5648 controlled density subdivision.

5649  
5650 You'll see that we included conditions with our recommendation. One, that we use the  
5651 applicant's concept plan, and I'll have to revise that to show the latest version, provided that, that  
5652 concept plan shows the road connection; provided that the applicant field checks and marks all  
5653 trees over six inches in caliper and set those trees outside the building envelopes and driveways,  
5654 and so on, and streets, for preservation during construction of the project.

5655  
5656 Also, that the applicant look at providing some centrally located common open space that could  
5657 serve as a focal point for the community. And that the applicant provide sidewalk connections  
5658 along the internal streets, connecting the trails that they've already shown.

5659  
5660 They have a trail connection here (referring to slide), and a trail connection here that's straight.  
5661 Our suggestion was that the sidewalks be connected through here, perhaps, connect the internal  
5662 streets so people don't have to walk in the street to get down to these trails. That was our idea  
5663 behind that proposed condition.

5664 The other item that I feel is important is something that we saw in the Duma cases is that, rather  
5665 than a development of cul-de-sacs, that we interconnect these streets somehow and create a  
5666 interconnected street network for this, or a loop network, if you will, for this subdivision so that  
5667 people can walk around the subdivision, rather than in and out of each of the cul-de-sacs. That's  
5668 just a difference in design opinion from the studies that have been referred to earlier this  
5669 evening.

5670  
5671 The cul-de-sacs are not providing security. They're not necessary in this size of development,  
5672 and we think there's a better street layout that could be had here. But, nonetheless, the project  
5673 can conform to the density, and Comprehensive Plan, with the connection to the rest of the  
5674 project, addresses our major issue, and we can support it with those conditions. I'd be glad to  
5675 answer questions.

5676  
5677 Mrs. Wade - Do they need a landscape strip along the main street; Twin  
5678 Hickory there?

5679

5680 Mr. Merrithew - Along Twin Hickory? Do they need a landscape strip?  
5681  
5682 Mrs. Wade - Yes. Well, they show it on this green one.  
5683  
5684 Mr. Merrithew - The original proffers, according to Jim, call for a landscape strip  
5685 along the road.  
5686  
5687 Mrs. Wade - Oh. Okay.  
5688  
5689 Mr. Silber - I think there's a 25 or 30-foot landscape strip.  
5690  
5691 Mr. Merrithew - I'm trying to see if I have it here in the proffer.  
5692  
5693 Mrs. Wade - Are these cul-de-sacs big enough for a school bus to turn around?  
5694 Mr. Merrithew - Th applicant will have to tell you that. I don't know what the  
5695 diameter of those cul-de-sacs is. That was one issue we discussed, whether a school bus would  
5696 even come into that neighborhood, or whether they would expect to pick up the kids right off of  
5697 Twin Hickory.  
5698  
5699 Mrs. Wade - Yes. I know. The 50 foot radius, is that big enough for a school  
5700 bus?  
5701  
5702 Mr. Silber - I don't know the answer to that. I don't know if Dwight does or  
5703 not, but, Mary, if they make a connection to the west...  
5704  
5705 Mrs. Wade - If they make a connection...  
5706  
5707 Mr. Silber - ...then that wouldn't be an issue.  
5708  
5709 Mrs. Wade - That's true. Yes. I had that question before.  
5710  
5711 Ms. Dwyer - School buses don't like to back up.  
5712  
5713 Mrs. Wade - I know.  
5714  
5715 Mr. Silber - I think, typically, Mrs. Wade, they would not go into this  
5716 subdivision. They would not go into a subdivision that has no outlets. It's just all cul-de-sacs  
5717 like this, there's no way to loop around, they would not back out.  
5718  
5719 Mrs. Wade - Well, that's true.  
5720  
5721 Ms. Dwyer - We have that problem at Westham Village. Kids had to walk a  
5722 fairly long distance. Mr. Merrithew, it seems that you still have a lot of reservations about this  
5723 case, to be going from not recommending it, to recommending it?  
5724

5725 Mr. Merrithew - Well, I believe there's a better way to approach the Zoning  
5726 Ordinance's criteria of originality and ingenuity and design. This doesn't do that.  
5727

5728 Ms. Dwyer - We just heard in the last case, the argument was made, we should  
5729 increase the density, because the adjoining neighborhood, although it is R-3 is controlled density  
5730 and so it has an increased density. Therefore, this should be R-3A. So, I'm concerned that, that  
5731 you know, it seems to me the purpose of controlled density is to allow a deviation in the setbacks  
5732 and yard requirements...  
5733

5734 Mr. Merrithew - In return for a 20 percent open space.  
5735

5736 Ms. Dwyer - ...in return for something unique, special, creative or ingenious, I  
5737 guess.  
5738

5739 Mr. Merrithew - That's right.  
5740

5741 Ms. Dwyer - You're saying, this hasn't been done. It looks like a regular cul-  
5742 de-sac subdivision, unrelated to the rest of Twin Hickory, and that may be partially addressed by  
5743 the vehicular connection, but, otherwise, you've just kind of been given some wetlands along the  
5744 perimeter in exchange for the increase in density.  
5745

5746 Mr. Merrithew - I think that's the bottom line. Yes. I agree with that.  
5747

5748 Mrs. Wade - I always thought that increasing the density was the whole purpose  
5749 in controlled density.  
5750

5751 Ms. Dwyer - That's what it appears to be. I guess it's impractical.  
5752

5753 Mrs. Wade - Well, it usually is.  
5754 Mr. Silber - Well, the intent of the Ordinance, with controlled density, is that  
5755 you don't have greater density. What you have is the same density, but you have smaller lots,  
5756 and you have open space. So, on a previous case, they really should not be using controlled  
5757 density to argue an R-3A case.  
5758

5759 Ms. Dwyer - But they did.  
5760

5761 Mr. Silber - That was in error and I don't think that should be the reason to be  
5762 considering R-3A.  
5763

5764 Mr. Merrithew - Right.  
5765

5766 Mr. Silber - I think, in a situation like this, I think what the applicant has  
5767 reminded me of is that, although the layout may look as though its fairly traditional, the area  
5768 they have designated as a park plan, open area, would be used by, not only this subdivision, but  
5769 the adjoining subdivisions, with pedestrian connections so it becomes sort of a focal point for the  
5770 surrounding subdivisions. Not just this one, but the surrounding subdivisions, and that would all

5771 be maintained by all the surrounding subdivisions. It would all be maintained by the Twin  
5772 Hickory development, not just Autumn Woods.

5773  
5774 Ms. Dwyer - But the density is, in fact, increased, as a result of this rezoning?

5775  
5776 Mr. Merrithew - The proffer allows for an increase in density from 2.2 to 2.5.

5777  
5778 Mr. Silber - That is true.

5779  
5780 Ms. Dwyer - Increases six lots.

5781  
5782 Mr. Merrithew - Six lots. And, given the wetlands, you have to believe that they're  
5783 getting more lots, in reality, than what they could have gotten with the R-2A and R-3.

5784  
5785 Ms. Dwyer - Because the wetlands would have limited...

5786  
5787 Mr. Merrithew - Right. The lot widths are wider and so on.

5788  
5789 Mrs. Wade - Yes. Looking at this reminds me of a thought I had this morning  
5790 when I looked at the agenda for the Board of Zoning Appeals. Seventy-five percent of them are  
5791 variances to add on, enclose, or whatever. Most of those, I think, were in Three Chopt  
5792 somewhere.

5793  
5794 Ms. Dwyer - Because the lots are too small to allow...

5795  
5796 Mrs. Wade - There were quite a few in Wyndham, as I recall. So, you know,  
5797 there's been concern about that.

5798  
5799 Ms. Dwyer - Any questions for Mr. Merrithew? Thank you. Would the  
5800 applicant come forward, please?

5801  
5802 Mr. Merrithew - It was 2.2 units up to 2.5, not 5 to 7.

5803  
5804 Mr. James W. Theobald - Madam Chairman, ladies and gentlemen, I am Jim Theobald, and  
5805 I'm here on behalf of H. H. Hunt. And we are seeking amendments to the Twin Hickory  
5806 rezoning in order to create the community of Autumn Wood.

5807  
5808 This is a request to rezone 21.5 acres from R-2A and R-3 to R-2A. An additional request for a  
5809 Provisional Use Permit for controlled density, and a proffer amendment which would  
5810 accomplish, basically, in the R-2A context, would allow a density but only in the R-2A area,  
5811 should the Board ultimately approve the controlled density to go from 2.2 to 2.5 units per acre.  
5812 And the lot widths in R-2A, but, again, only in the context of an approved controlled density  
5813 scenario to go from 85 feet to an average of 75 feet minimum being required under that district.  
5814 It would normally be 70 feet.

5815



5816 All other of the Twin Hickory proffers remain, including the minimum square footage of  
5817 finished floor area of 2,200 square feet on these lots. There is no overall increase in Twin  
5818 Hickory density cap. So, why are we doing this? Well, you've heard illusions to wetlands.  
5819 And, initially, we thought there were no wetlands on this site.

5820  
5821 I think, initially, the County thought they had very few wetlands on their high school and park  
5822 site. But, as we learned together, using the same consultant, and now using a different  
5823 consultant, that we have literally four times the amount of wetlands than we all believed we had  
5824 initially. And, yes, this is an effort to try to get back some of the lots that we thought we had  
5825 initially.

5826  
5827 We thought we could have achieved around 54 lots in this area, and we're now, through the  
5828 controlled density provisions, trying to get back to 50, while providing for the park and open  
5829 space requirements required under the Controlled Density.

5830  
5831 Keep in mind, on the plan you see before you, (referring to slide), and this is a colored version  
5832 of the earlier one. This does not include some of the refinements that Webb made earlier today,  
5833 in terms of increasing the width of the open space area, but this one's a little easier to see the  
5834 demarcations.

5835  
5836 None of these cul-de-sacs has more than 12 or 13 lots within it. We've provided extra side yard  
5837 widths all along this main entrance street. The Ordinance would require a minimum of 14 feet,  
5838 and we've provided 20, with some street trees in here, as well. None of those houses face that  
5839 main entrance road either.

5840  
5841 The park area, shown in here for picnic areas (referring to slide), wetland habitats, etc., we have  
5842 been engaged in some park programming internally at H. H. Hunt. We think there's  
5843 opportunities here, as Mr. Silber suggested, and we'll see on a larger scale plan, in a moment,  
5844 how this relates to, basically, at least two other subdivisions. So, it is really a central focus of a  
5845 larger segment of the community. It can also be used by the elementary school. And we have  
5846 ideas for programming in there for such things as different kinds of bird feeders to attract  
5847 different types of birds, plaques to designate the types of wetland habitat or animals that might be  
5848 found in that area, and lots of ideas that we are sharing with Schools.

5849  
5850 We're really only at 2.13 units per acre. Again, the Land Use Plan in this area for SR-2  
5851 suggests 2.4 to 3.4. Again, we are within the Twin Hickory cap. And we do think that this  
5852 request meets the controlled density requirements for originality and ingenuity, and overall site  
5853 design. I guess, perhaps, that's "in the eye of the beholder." And, I'm here to tell you that Mr.  
5854 Tyler believes this reflects all these requirements, and does promote an improved living  
5855 environment, preservation of open space to further the environmental and scenic purposes set  
5856 forth in the ordinance. It does promote a more economical subdivision design. That's without  
5857 apology. Protection of flood plain, protection of water quality, tree preservation, suitable land  
5858 for recreational areas, it is easily accessible, and I believe does encourage a use of the wetlands  
5859 in the floodplain within this common area.

5860

5861 We do meet the minimum requirements for the controlled density provisions. We also, I  
5862 believe, have satisfied the jurisdictional requirements for a Provisional Use Permit in that its  
5863 locations is appropriate and not in conflict with the intent of the Land Use Plan. Public health,  
5864 safety, morals and general welfare will not be adversely impacted. Adequate utilities will be  
5865 provided for the controlled density subdivision. And we believe it will not detract from the  
5866 surrounding property values, but may, in fact, enhance them.

5867  
5868 Some conditions have been set forth in your staff report. I have provided Mrs. Wade with sort  
5869 of a retyped version of that. I do have some extras, if you would like.

5870  
5871 Mrs. Wade - What happened to the road connection?

5872  
5873 Mr. Theobald - That one came up about 10 minutes ago. What I would propose  
5874 with regard to the Provisional Use Permit conditions, should you decide to recommend approval  
5875 of them, is that the first one, the date would be amended from April 1<sup>st</sup>, and become April 13<sup>th</sup>.  
5876 We are agreeable to a road connection. It has been suggested that Condition No. 2 be deleted,  
5877 provided that we are talking about, Autumn Way Drive. A condition that would include a road  
5878 connection at the end of the western terminus of Autumn Way Drive. That would be acceptable  
5879 to us. Autumnwood Way. The western cul-de-sac of Autumnwood Way.

5880  
5881 Ms. Dwyer - Would you show us where the cul-de-sac would be connected to  
5882 the other...

5883  
5884 Mr. Theobald - The controlled density subdivision is in here (referring to slide).  
5885 Here's the park area and this is the cul-de-sac off of Autumnwood Way that would be extended  
5886 over to property that is currently under contract negotiation, and we believe that we will be the  
5887 successful contract purchaser of this piece. And, that will enable us to connect down into the  
5888 existing portion of Twin Hickory. So, it's the western terminus of Autumnwood Way. And  
5889 Condition #2, we'd be happy to have that provide that.

5890  
5891 Proposed Condition No. 3 is one that we do not believe works in terms of trees 6 inches in  
5892 caliper. What Snyder-Hunt and H. H. Hunt have done since the inception of Wellesley and  
5893 Wyndham, is they have a new construction committee. It's required under the restrictive  
5894 covenants. That committee must have an inspection, on site, with the builder before any  
5895 construction can begin, and all the tree safe areas are marked. That determination is made on a  
5896 "lot-by-lot" ad hoc basis. What you really don't have the ability to do, you don't have the  
5897 ability to have "one size fits all" here with all the utility companies requiring utility connections  
5898 in front yards. Your drainage areas, etc., saving every tree on the lot, outside the buildable  
5899 area, 6 inches in caliper just is not practical. So, I would suggest to you, as in the other H. H.  
5900 Hunt developments that we are as interested in doing that, but on an ad hoc lot-by-lot  
5901 determination. I would respectfully ask that you delete Condition No. 3.

5902  
5903 Existing Condition No. 4, which is No. 2 on my version. I was just trying to clarify that we'll  
5904 provide centrally located recreational areas, as shown on the exhibit plan, at least half acre in  
5905 size. So, that, basically, what I'm saying is our park is this park referenced here rather than one  
5906 to be determined in the future in another location within this subdivision.

5907  
5908 And, lastly, in regard to pedestrian connections, I have just reworded that a bit to help provide  
5909 pedestrian connections to the proposed elementary school and to adjacent subdivisions. I don't  
5910 know offhand, have we already committed to the sidewalks as part of some other tentative that's  
5911 been approved on Twin Hickory, or do we need to add that in there, because we do intend to  
5912 provide the sidewalks along Twin Hickory?  
5913  
5914 Mr. Webb Tyler - To my knowledge, we have not provided that in the previous  
5915 proffers...  
5916  
5917 Mr. Theobald - Okay. So, we can add here, "The applicant shall provide  
5918 pedestrian connections to the proposed elementary school and to adjacent subdivisions, and along  
5919 Twin Hickory." And, with that, I'd be happy to answer any questions. We respectfully request  
5920 the revisions to these conditions, that you recommend approval of this to the Board.  
5921  
5922 Mrs. Wade - The road connections are not included?  
5923  
5924 Mr. Theobald - I would be happy to have you recommend a condition that required  
5925 a road connection at the western terminus of Audumwood Way. It's, basically, the plan here  
5926 that you see, Mrs. Wade.  
5927  
5928 Ms. Dwyer - Is there some plan proffered?  
5929  
5930 Mr. Theobald - Well, "yes," and "no." As you know, you had to submit the  
5931 concept plan with your Provisional Use Permit application. So, the controlled density plan has  
5932 been filed. What you're seeing here, absent the pink, reflects the controlled density request  
5933 before you, and tentatives, I believe, have been submitted to the County already. So, you're  
5934 looking at things that are already into the County.  
5935  
5936 Mr. Merrithew - The condition would be that we approve this subject to that plan  
5937 with the changes that have been listed here.  
5938  
5939 Mr. Theobald - Correct.  
5940  
5941 Mr. Silber - Mrs. Dwyer, the subdivision plan that is before you in the form of  
5942 a Provisional Use Permit, is what you're approving. So, it is a fairly detailed plan. That's the  
5943 Provisional Use Permit.  
5944  
5945 Ms. Dwyer - And the written condition ensures the road connection?  
5946  
5947 Mrs. Wade - What's this No. 2? "At least a half acre in size." Don't you have  
5948 to have 20 percent?  
5949  
5950 Mr. Theobald - Well, the half acre, is an amount that has to be out of wetland.  
5951  
5952 Mrs. Wade - Oh.

5953  
5954 Mr. Theobald - We do have that.  
5955  
5956 Mrs. Wade - Because that's not very big.  
5957  
5958 Mr. Theobald - We have .8 acres out?  
5959  
5960 Mr. Silber - Mr. Theobald.  
5961  
5962 Mr. Theobald - Yes. Mr. Silber.  
5963  
5964 Mr. Silber - Address the density issue. I'm not real clear; 2.2 to 2.5?  
5965  
5966 Mr. Theobald - Well, the original Twin Hickory zoning case in R-2A said no more  
5967 than 2.2. Okay. We're a little over that once we go to the controlled density.  
5968  
5969 Mr. Silber - I thought you had made a statement that you just wanted to get  
5970 what you thought you had before in the number of lots?  
5971  
5972 Mr. Theobald - And we haven't achieved that. We're taking a small piece of R-3  
5973 and rezoning it to R-2A, as part of the request, as well. I'm not sure I've answered your  
5974 question.  
5975  
5976 Ms. Dwyer - They didn't realize that they had the wetlands that they had.  
5977  
5978 Mr. Silber - I realize that. But, you thought you had 54 lots. Wetlands came  
5979 into play. You had something less than that. Now, you're trying to get it back up to 54?  
5980  
5981 Mr. Theobald - To 50.  
5982  
5983 Mrs. Wade - Fifty. He said 50.  
5984  
5985 Mr. Silber - And that density from 2.2 to 2.5, I guess, is reflective of a part of  
5986 the property?  
5987  
5988 Mr. Theobald - Right. I'm going from the 2.2 to, basically, 2.31. Yes. I'm  
5989 going slightly more dense.  
5990  
5991 Ms. Dwyer - Would this be allowed in Hanover? I have been reading a little bit  
5992 about... I've been dying to ask that question all night. Sorry. No.  
5993  
5994 Mr. Theobald - It's less than 25 acres per lot.  
5995  
5996 Ms. Dwyer - That's the first clue.  
5997  
5998 Mr. Theobald - I really just don't know.

5999  
6000 Mr. Silber - Mrs. Dwyer, I think it is safe to say this would not come close to  
6001 working in Hanover.  
6002  
6003 Mrs. Wade - They don't have controlled density.  
6004  
6005 Ms. Dwyer - They do have controlled density.  
6006  
6007 Mrs. Wade - Any more questions? You all ready?  
6008  
6009 Mr. Theobald - Thank you.  
6010  
6011 Ms. Dwyer - No more questions. No opposition. Ready for a motion?  
6012  
6013 Mrs. Wade - Everything Mr. Merrithew said is right, actually. It does conform  
6014 with the density requirements. Of course, the proffers on the regular zoning case are still the  
6015 same. So, I would move Case C-40C-99 be recommended for approval.  
6016  
6017 Mr. Archer seconded the motion.  
6018  
6019 Ms. Dwyer - Motion made by Mrs. Wade, seconded by Mr. Archer. All those  
6020 in favor of the motion, say aye—all those opposed by saying nay. The vote is 4-0 (Mrs.  
6021 Quesinberry and Mr. Donati absent). The motion is carried.  
6022  
6023 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Archer, the Planning  
6024 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors accept the  
6025 proffered conditions and grant the request because it conforms to the recommendations of the  
6026 Land Use Plan; it is appropriate residential zoning at this location; and it would not adversely  
6027 affect the adjoining area if properly developed as proposed.  
6028  
6029 Mrs. Wade - And on P-7-99, actually, they will have fewer lots, and have met  
6030 all the requirements for the controlled density. And there are four conditions, including road  
6031 connection at the western terminus of Autumnwood Way. Five.  
6032  
6033 Mr. Merrithew - Road connections and sidewalks on Twin Hickory.  
6034  
6035 Mrs. Wade - We added that to three, didn't we? Add, "along Twin Hickory" to  
6036 the No. 3. That will be five conditions. So, I move that P-7-99 be recommended for approval.  
6037  
6038 Ms. Dwyer - Could you just review briefly which four we are talking about?  
6039  
6040 Mrs. Wade - Well, this white sheet, with three amended to add, "along Twin  
6041 Hickory," and then four, "...road connections at the western terminus of Autumnwood Way..."  
6042  
6043 Ms. Dwyer - And is "only sidewalks" added along Twin Hickory and nowhere  
6044 else?

6045  
6046 Mrs. Wade - Well, pedestrian connections.  
6047  
6048 Mr. Theobald - Pedestrian connections...  
6049  
6050 Mrs. Wade - Which could be sidewalks.  
6051  
6052 Mr. Theobald - It's shown on the plans. If you're concerned with the  
6053 interconnections.  
6054  
6055 Mrs. Wade - Because all those to adjacent subdivisions won't necessarily be  
6056 sidewalks. Some of them will be just trails.  
6057  
6058 Ms. Dwyer - Is there a second?  
6059  
6060 Mr. Vanarsdall seconded the motion.  
6061  
6062 Ms. Dwyer - Were you finished, Mrs. Wade.  
6063  
6064 Mrs. Wade - Yes.  
6065  
6066 Ms. Dwyer - Motion by Mrs. Wade, seconded by Mr. Vanarsdall on Case P-7-  
6067 99. All those in favor of the motion, say aye—all those opposed by saying nay. The vote is 4-  
6068 0 (Mrs. Quesinberry and Mr. Donati absent). The motion is carried.  
6069  
6070 Mr. Theobald - Thank you. And good night.  
6071  
6072 REASON: Acting on a motion by Mrs. Wade, seconded by Mr. Vanarsdall, the Planning  
6073 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors grant the  
6074 requested revocable provisional use permit, subject to the following conditions:  
6075  
6076 1. The project shall comply with the submitted Exhibit Plan, dated April 9, 1999 and revised  
6077 May 13, 1999 by Youngblood, Tyler & Associates except for the following:  
6078  
6079 2. The applicant shall provide a centrally located recreation area as shown on the Tentative  
6080 Plan at least one-half acre in size that will serve as a focal point for the community.  
6081  
6082 3. The applicant shall provide pedestrian connections to the proposed elementary school and  
6083 to adjacent subdivisions including sidewalks along Twin Hickory Road.  
6084  
6085 4. The applicant shall extend Autumnwood Way to the north to connect with adjoining  
6086 development.  
6087  
6088 The Planning Commission's recommendation was based on the fact that the Provisional Use  
6089 Permit is reasonable and consistent with surrounding residential development. Conditions will  
6090 assure high quality development.

6091  
6092 C-41C-99 Mohsen Sean Pardis for Fred and Joy Mangels: Request to  
6093 amend proffered conditions accepted with rezoning case C-42C-94, on Parcel 66-23-B-76,  
6094 containing 0.33 acre, located in the Keswick subdivision on the east line of Hawkesbury Ct.  
6095 approximately 320' north of its intersection with Nettlesome Ct (2527 Hawkesbury Ct.). The  
6096 amendment is related to the proffered setback from John Rolfe Parkway. The Land Use Plan  
6097 recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

6098  
6099 Mr. Marlles - Mr. John Merrithew will be giving the staff presentation.

6100  
6101 Mr. Merrithew - The time limit will have to be waived on this proffer.

6102  
6103 Ms. Dwyer - No substitutive change. It's just to clarify...Is there any one in  
6104 opposition to C-41C-99? No opposition. Mr. Merrithew.

6105  
6106 Mr. Merrithew - The house in this proposal exists. It was built 1.8 feet too close to  
6107 John Rolfe Parkway, effectively reducing the 25-foot buffer to 23 feet, 4 inches. The mistake  
6108 was made by the builder. It was shown that way on the building permit. Staff did not catch the  
6109 mistake at the building permit stage. I just want you to know it's not all his fault.

6110  
6111 The proffer is amended to simply acknowledge that the house is one foot, 8 inches closer to John  
6112 Rolfe Parkway, and simply reduces the buffer from 25 feet to 23.4 feet for that specific lot. If  
6113 there's any questions, I'd like to answer them. Staff doesn't have a problem with this. The only  
6114 alternative is to have them relocate the house.

6115  
6116 Mr. Archer - But, wouldn't it be simpler to relocate the parkway?

6117  
6118 Mr. Merrithew - It might be a better chance of that happening. Yes.

6119  
6120 Ms. Dwyer - And the proffer change was something I requested to clarify the  
6121 language. It doesn't change it in substance.

6122  
6123 Mrs. Wade - I'll take your word for it.

6124  
6125 Ms. Dwyer - Any questions of Mr. Merrithew? All right, I move the time limits  
6126 be waived for the proffers for Case C-41C-99.

6127  
6128 Mr. Vanarsdall seconded the motion.

6129  
6130 Ms. Dwyer - Motion by Ms. Dwyer, seconded by Mr. Vanarsdall. All those in  
6131 favor of the motion, say aye—all those opposed by saying nay. The vote is 4-0 (Mrs.  
6132 Quesinberry and Mr. Donati absent). The motion is carried.

6133  
6134 Ms. Dwyer - I move that we recommend to the Board Case C-41C-99 be  
6135 approved. It's a matter of a one foot, 8 inch error, on both part of the builder and the County.

6136 It is not visible or noticeable. I understand the backyard will (unintelligible). So, it's a good  
6137 idea.

6138  
6139 Mr. Vanarsdall seconded the motion.

6140  
6141 Ms. Dwyer - Motion by Ms. Dwyer, seconded by Mr. Vanarsdall. All those in  
6142 favor of the motion, say aye—all those opposed by saying nay. The vote is 4-0 (Mrs.  
6143 Quesinberry and Mr. Donati absent). The motion carries.

6144  
6145 REASON: Acting on a motion by Ms. Dwyer, seconded by Mr. Vanarsdall, the Planning  
6146 Commission voted 4-0 (two absent) to recommend that the Board of Supervisors accept the  
6147 amended proffered condition and grant the request because it is reasonable; it conforms to the  
6148 recommendations of the Land Use Plan; and it is not expected to have a precedent setting effect  
6149 on the zoning in the area.

6150  
6151  
6152 RESOLUTION: Northwest Elementary School #6 Site – Substantially in Accord with the  
6153 County of Henrico Comprehensive Plan.

6154  
6155 Mr. Merrithew - This is a short presentation by Mr. Bittner.  
6156 Mr. Bittner - I'm willing to waive my presentation.

6157  
6158 Mrs. Wade - They did raise more questions about access and things than they  
6159 usually do in these reports, I noticed.

6160  
6161 Ms. Dwyer - Good morning, Mr. Bittner.

6162  
6163 Mr. Bittner - Good morning. I'll make this short. We did find this to be  
6164 substantially in accord. Although, in the report, as Mrs. Wade alluded to, we pointed out some  
6165 concerns, the fact that this is so close to the interstate interchange. So, careful site design will be  
6166 needed to make sure there are no problems generated with that.

6167  
6168 We are also a little bit concerned about property to the east of this site between the interstate and  
6169 itself. There could be pressure, perhaps, for it to go commercial, in the future, when Woodman  
6170 Road is extended to the north, and eventually out to Route 1 and Virginia Center Commons  
6171 Mall.

6172  
6173 But, again, staff would like to reiterate, we did find this to be substantially in accord with the  
6174 Comprehensive Plan. I'd be happy to answer any questions you may have.

6175  
6176 Ms. Dwyer - Any questions of Mr. Bittner?

6177  
6178 Mrs. Wade - Well, put the school there and that will keep it from becoming  
6179 commercial.

6180  
6181 Mrs. Wade - Yes.



6182  
6183 Ms. Dwyer - All right, any questions for Mr. Bittner or any one else? No  
6184 questions? Ready for a motion?  
6185  
6186 Mr. Vanarsdall - I move that we adopt the Resolution that Northwest Elementary  
6187 School No. 6 site, Greenwood Road, substantially in accord with the Comprehensive Plan, today  
6188 the 13<sup>th</sup> of May, 1999.  
6189  
6190 Mrs. Wade seconded the motion.  
6191  
6192 Ms. Dwyer - Motion by Mr. Vanarsdall, seconded by Mrs. Wade. All those in  
6193 favor of the motion, say aye—all those opposed by saying nay. The vote is 4-0 (Mrs.  
6194 Quesinberry and Mr. Donati absent). The motion carries.  
6195  
6196 Mr. Vanarsdall - There was a discussion on the 10<sup>th</sup>, I guess, about what time to  
6197 have the hearing.  
6198  
6199 Ms. Dwyer - To have the public hearing on the Open Space Plan. What do you  
6200 think?  
6201 Mr. Archer - If it goes like it did, tonight, we could have it at 2:30 in the  
6202 morning.  
6203  
6204 Mr. Merrithew - We have five new cases. You deferred maybe four cases to the  
6205 10<sup>th</sup>. So you only have 9 cases. Ten cases.  
6206  
6207 Ms. Dwyer - How many did we have tonight?  
6208  
6209 Mr. Archer - Twenty-four, initially, I believe.  
6210  
6211 Ms. Dwyer - It should be a breeze.  
6212  
6213 Mr. Merrithew - Those cases are not controversial, that I know of.  
6214  
6215 Mr. Vanarsdall - If we started it at 6:00 o'clock, would that be too early?  
6216  
6217 Mr. Merrithew - No. We could go with 6:00 o'clock.  
6218  
6219 Ms. Dwyer - You think we need to start at 6:00 p.m.?  
6220  
6221 Mrs. Wade - What is it that we're going to talk about?  
6222  
6223 Mr. Merrithew - This is the public hearing for the Open Space Plan.  
6224  
6225 Ms. Dwyer - Have the public hearing on the Parks and Recreation Open Space  
6226 Plan.  
6227

6228 Mrs. Wade - Not many people came, I gather.  
6229  
6230 Mr. Archer - We don't have many cases. Maybe we could start at our regular  
6231 time.  
6232  
6233 Mr. Vanarsdall - If that's all we have is ten.  
6234  
6235 Mr. Merrithew - I anticipate staff maybe doing a 20 minute presentation. Very  
6236 brief. You've all heard it already, so we won't go through the whole thing again.  
6237  
6238 Mr. Silber - What do you think of starting the public hearing on the Open Space  
6239 at 7:00, and zoning cases at 7:30 p.m.?  
6240  
6241 Mr. Vanarsdall - Yes. That would be all right.  
6242  
6243 Mr. Merrithew - That's fine. I don't expect a lot of public comment on the Open  
6244 Space Plan.  
6245  
6246 Mr. Silber - We can advertise zoning starting at 7:30 p.m.  
6247  
6248 Ms. Dwyer - 7:00 o'clock for Open Space, and 7:30 for zoning.  
6249  
6250 Mr. Merrithew - You probably won't have an 8:00 o'clock agenda. We'll probably  
6251 just have a 7:00 and 7:30 agenda.  
6252  
6253 Mr. Vanarsdall - I can't believe we don't have any more cases than that.  
6254  
6255 Ms. Dwyer - Well, we paid our dues tonight. We need a motion for the Open  
6256 Space Plan.  
6257  
6258 Mr. Vanarsdall - I move we hold the public hearing on June 10, 1999 at 7:00  
6259 o'clock p.m.  
6260  
6261 Mr. Archer seconded the motion.  
6262  
6263 Ms. Dwyer - Motion by Mr. Vanarsdall, seconded by Mr. Archer. All those in  
6264 favor of the motion, say aye—all those opposed by saying nay. The vote is 4-0 (Mrs.  
6265 Quesinberry and Mr. Donati absent). The motion carries.  
6266  
6267 Acting on the motion by Mrs. Wade, seconded by Mr. Vanarsdall, the March 11, 1999 Zoning  
6268 Minutes were approved as corrected.  
6269  
6270 Acting on the motion by Mr. Vanarsdall, seconded by Mr. Archer, the April 15, 1999 Zoning  
6271 Minutes were approved as corrected.  
6272

6273 There being no further business, acting on a motion by Mr. Vanarsdall, seconded by Mr.  
6274 Archer, the Planning Commission adjourned its meeting at 2:22 a.m. on May 14, 1999.

6275

6276

6277

6278

6279

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Elizabeth G. Dwyer, C.P.C., Chairwoman

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6282

6283

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John R. Marles, AICP, Secretary

6284