

Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico, Virginia, held in the Board Room of the County Administration Building, Parham and Hungary Spring Roads at 7:00 p.m., on October 12, 2000, Display Notice having been published in the Richmond Times-Dispatch on Thursday, September 21, 2000, and Thursday, September 28, 2000.

Members Present: Ernest B. Vanarsdall, C.P.C., Chairman, Brookland  
C. W. Archer, C.P.C., Fairfield  
Allen J. Taylor, C.P.C., Three Chopt  
Elizabeth G. Dwyer, C.P.C., Tuckahoe  
Debra Quesinberry, Vice-Chairman, Varina  
Patricia S. O'Bannon, Board of Supervisors, Tuckahoe  
John R. Marlles, AICP, Secretary, Director of Planning

Others Present: Randall R. Silber, Assistant Director of Planning  
Elizabeth Via, Principal Planner, AICP  
Mark Bittner, County Planner  
Lee Householder, County Planner  
Jo Ann Hunter, County Planner, AICP  
Judy I. Thomas, Recording Secretary

Others Absent: Eric Lawrence, County Planner, AICP

Mr. Vanarsdall - Good evening. I'll turn the meeting over to our Secretary and Director of Planning, Mr. John Marlles.

Mr. Marlles - Good evening, Mr. Chairman, members of the Commission, ladies and gentlemen. We do have a full quorum tonight so that we can start business. The first item on the agenda is Requests for Withdrawals and Deferrals.

Before we get into that, though, Ms. Via, I want to you continue standing there. I am sorry to announce, members of the Commission, that we have received two letters of resignation. One from Mrs. Via, who is going back to her former employer in Prince William County as Division Chief over Current Planning and Zoning. Liz's last day with us will be October 27<sup>th</sup>. Obviously, in the time that Liz has been here, she has, you know, been a valuable member of the Planning Staff. I think we all have benefited by our short time with Mrs. Via, but she is moving on to a better opportunity. And, I'm sure, on behalf of the Commission, we wish you well in your new job in Prince William County. We refused to accept her letter or resignation as long as we could.

Mrs. Via - A week and a half, actually.

Mr. Vanarsdall - We're going to miss you, Liz.

Mr. Marlles - The second member of the staff that has resigned to take another opportunity is Eric Lawrence. Eric is not here with us tonight, but Eric is a Planner III. Eric is also going back to his former employer in Frederick County in northern Virginia. Eric will be serving as Zoning Administrator with Frederick County. So, we do have two very valuable staff members that

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we're losing. We are proceeding ahead with trying to find replacements, which will be very difficult to do, but we do wish them the best of luck.

Mrs. Quesinberry - Good luck, Liz.

Mr. Vanarsdall - It defies one thing you always hear in this part of the Country. No one ever goes to Northern Virginia. No one ever wants to be there. And just before Liz Via came with us, John Merrithew, who had her job, went back to Loudoun County. Now she's going back to Prince William.

Mr. Marlles - Eric going to Frederick.

Mr. Vanarsdall - As the Secretary said, Eric's going to Frederick. That's all in northern Virginia.

Mrs. Via - Who would have figured it.

Mr. Vanarsdall - So, we always knew somebody who lives there, because it is so crowded.

Mr. Archer - When's Eric's last day?

Mrs. Via - Eric's last day is actually tomorrow.

Mr. Archer - Oh. Is that right?

Mrs. Via - Yes sir.

Mr. Archer - I've got a meeting scheduled with him next Monday. I do.

Mrs. Via - Mr. Bittner will probably be taking it, because he's going to be taking a lot of Eric's cases. So, we'll check on that for you. I just want to thank the Secretary, the Chairman, and the Commission. Obviously, I'll miss Henrico County, and the people and the Commission here, and have enjoyed my tenure. Unfortunately, I just had an opportunity that was hard to resist. I'll be going at the end of the month. I thank you for your kind words.

Mr. Vanarsdall - We understand. You will be missed. Thank you.

Mr. Archer - Best wishes.

Mrs. Via - Thank you.

Mr. Marlles - Mrs. Via, would you like to proceed with the requests for withdrawals and deferrals?

Mrs. Via - Certainly, Mr. Secretary. This evening we have several requests for withdrawals and deferrals. The first case on Page 1 of your agenda, this is case C-52C-00.

**Deferred from the September 14, 2000 Meeting:**

**C-52C-00 Gloria L. Freye for Doswell Properties, Inc.:** Request to conditionally rezone from O-2 Office District to B-2C Business District (Conditional) and O-2C Office District (Conditional), Parcel 103-A-104, containing 1.721 acres, located at the southwest intersection of Staples Mill and Massie Roads. A fueling facility is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Commercial Concentration.

The applicant has withdrawn this case. For the sake of the audience, this means that this case will not be able to come back, or a substantially similar case will not be able to come back to the County for at least one year.

Continuing on in the Brookland District on Page 2 of your agenda.

**Deferred from the September 14, 2000 Meeting:**

**C-53C-00 Henry L. Wilton for Wilton Development Corp.:** Request to conditionally rezone from R-4 One Family Residence District to RTHC Residential Townhouse District (Conditional) and B-2C Business District (Conditional), Parcels 82-A-14 through 18 & 20 and Parcels 82-7-A-2 & 9, containing 28.4 acres, located on the west line of Staples Mill Road at its intersection with Dublin Street. Townhouses and business uses are proposed. The RTH District allows a density of 9 units per acre. The business use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Urban Residential, 3.4 to 6.8 units net density per acre.

The applicant has requested a deferral to November 9, 2000.

Mr. Vanarsdall - Is anyone in the audience in opposition to deferring this case, Henry L. Wilton for Wilton Development; C-53C? No opposition. I move that C-53C-00 be deferred to November 9<sup>th</sup> at the applicant's request.

Mr. Taylor seconded the motion.

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

Mrs. Via - Thank you, sir. The next case, also in the Brookland District, on Page 2 of your agenda is Case C-68C-00.

**C-68C-00 Cabell Evans for Virginia Lab Supply:** Request to conditionally rezone from O-2 Office District to M-1C Light Industrial District (Conditional), Parcel 94-A-6, containing 1.08 acres, located at the southwest intersection of Dumbarton and Byrdhill Roads (54 Byrdhill Road). An office/warehouse is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office.

The applicant has requested a deferral to November 9, 2000.

Mr. Vanarsdall - Anyone in the audience in opposition to this case; the deferment of it? I move that C-68C-00 be deferred, at the applicant's request, to November 9<sup>th</sup>.

Mrs. Quesinberry seconded the motion.

Mr. Vanarsdall - Motion made by Mr. Vanarsdall, seconded by Mrs. Quesinberry. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained). Next case.

Mrs. Via - Continuing on to the Three Chopt District at the bottom of your agenda on Page 2, Case C-41C-00.

**Deferred from July 13, 2000 Meeting:**

**C-41C-00 Rev. Rick McDaniels for Glen Allen Community Church:** Request to conditionally rezone from R-2C One Family Residence District (Conditional) to O-2C Office District (Conditional), Part of Parcel 9-A-20, containing approximately 1.571 acres, located on the south line of Nuckols Road at its intersection with Wyndham Park Drive. A bank branch is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre, and Environmental Protection Area.

The applicant has requested a deferral to April 12, 2001.

Mr. Vanarsdall - We're all the way out of this year. Any one in the audience in opposition to deferment of this case- C-41C-00? No opposition. Mr. Taylor.

Mr. Taylor - Mr. Chairman, I recommend that Case C-42C-00 Glen Allen Community Church be deferred until April 12<sup>th</sup> at the request of the applicant.

Mrs. Quesinberry seconded the motion.

Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Mrs. Quesinberry. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained).

Mrs. Via - Thank you. Continuing on, on Page 3 of your agenda, also in the Three Chopt District, P-12-00.

**Deferred from the September 14, 2000 Meeting:**

**P-12-00 Christopher King for Sprint PCS:** Request for a provisional use permit in accordance with Sections 24-95 (a) (3) and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a 120 foot cellular communications tower and antenna, on part of Parcel 49-9-A-3B, (North Carolina Furniture Company) containing 1,258 square feet, located on the

south side of West Broad Street (U. S. Route 250) approximately 250 feet east of its intersection with Pemberton Road. The site is zoned B-2C Business District (Conditional).

The applicant has requested a deferral to November 9, 2000.

Mr. Vanarsdall - Any one in the audience in opposition to Case P-12-00 Christopher King for Sprint? It's in the Three Chopt District. No opposition to that. Mr. Taylor.

Mr. Taylor - Mr. Chairman, I move that Case P-12-00 Sprint PCS be deferred until November 9<sup>th</sup> at the request of the applicant.

Mrs. Quesinberry seconded the motion.

Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Mrs. Quesinberry. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained).

Mrs. Via - Mr. Chairman, we did have one case that originally requested an Expedited Agenda this evening. However, there has been a small hitch in their plans. They would now like to change that request to a deferral. Going back to Page 1 of your agenda in the Brookland District. This is P-8-00.

**Deferred from the September 14, 2000 Meeting:**

**P-8-00 Heidi H. Parker for RCTC Wholesale Corp.:** Request for a provisional use permit in accordance with Sections 24-95(a)(3) and 24-122.1 of Chapter 24 of the County Code in order to extend the height of the existing tower, on part of Parcel 116-A-13, containing 4,200 square feet of leased area, located on the east line of Westmoreland Street approximately 400 feet south of its intersection with Jacques Street (2001 Westmoreland Street). The site is zoned M-1 Light Industrial District. The Land Use Plan recommends Heavy Industry.

They are requesting a deferral to November 9<sup>th</sup>.

Mr. Vanarsdall - Any one in opposition to P-8-00 Heidi Parker. This is a cell tower over on Westmoreland Street. No opposition. I move that P-8-00 Heidi H. Parker for RCTC Wholesale Corp. be deferred to November 9<sup>th</sup> at the applicant's request.

Mrs. Quesinberry seconded the motion.

Mr. Vanarsdall - Motion made by Mr. Vanarsdall, seconded by Mrs. Quesinberry. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained). Next case.

Mrs. Via - That concludes the agenda for Withdrawals and Deferrals tonight.

Mr. Vanarsdall - That will be your last time.

Mrs. Via - That will be my last time.

Mr. Vanarsdall - Thank you, Liz. Any applicant in the audience would like to defer a case or any Commissioner? No more. Mr. Secretary.

**C-67C-00 John G. "Chip" Dicks for HC One, L.P.:** Request to conditionally rezone from A-1 Agricultural District and R-4 One Family Residence District to R-5C General Residence District (Conditional), Parcels 162-A-31 and 38, described as follows:

Beginning at a point in the southern right-of-way line of Gay avenue approximately 800 feet from the intersection with said right-of-way line with the eastern right-of-way line of Miller Lane; thence from said point of beginning running along the southern right-of-way line of Gay Avenue N 54° E approximately 720 feet to a point; thence leaving said Gay Avenue turning and running S 10° E approximately 136 feet to a point; thence S 02° W approximately 475 feet to a point; thence turning and running S 72° E approximately 100 feet to the rear line of Lawndale Farms - Section 2 (P.B.33, Pg.5); thence turning and running along said subdivision in a southerly direction approximately 197 feet to the intersection of the centerline of a large drainage ditch with said subdivision line; thence turning and running along the centerline of said ditch, which forms the northern boundary of Lawndale Farms (P.B.26, Pg.151), in a southwesterly direction approximately 1,075 feet to the northwest corner of lot 11 - Lawndale Farms; thence turning and running along the west line of said lot 11, S 20° W approximately 238 feet to the southwest corner of Lot 11 being a point in the northern right-of-way line of Denison Road; thence turning and running along said right-of-way line N 71° W approximately 18 feet to a point; thence leaving said Denison Road turning and running N 20° E approximately 1,167 feet to a point; thence turning and running N 74° W approximately 71 feet to the point of beginning. the above described parcel contains 12.6 acres more or less.

Mr. Marlles - The first case is in the Varina District. It's Case C-67C-00. The staff report will be given by Mrs. Jo Ann Hunter.

Mr. Vanarsdall - Any one in the audience in opposition to this case? Any opposition, C-67C? Good evening, Mrs. Hunter.

Mrs. Jo Ann Hunter, County Planner - Good evening, Mr. Chairman, members of the Commission. This application would rezone approximately 12.5 acres from R-4 and A-1 to the R-5 District. The applicant is proposing a 116 unit multi-family development for seniors. The staff report indicated that this would be a density of 9.2 units per acre. However, flood plain acreage cannot be used towards the density calculation for a multi-family project. After recalculating the number, it is estimated that the density would be closer to 12 units per acre.

The 2010 Land Use Plan designates this property for Urban Residential, which recommends densities from 3.4 to 6.8 units per acre. The current R-4 zoning is consistent with the Land Use Plan.

There was a rezoning request for this property in 1998 for 150 apartment units. There was considerable opposition to that request and it was withdrawn by the applicant.

Lawndale Farms surrounds this property on the east and south. A 285-foot transmission line is to the west of the site and in the immediate vicinity, there are a considerable number of apartment units, as well as several vacant properties.

Staff is concerned with the precedent nature setting of this case, and that additional land zoned for multi-family will be precedent setting and impact the densities of adjacent vacant properties.

There is merit to the concept of apartments for the elderly. However, there is considerable vacant land in Varina that is currently zoned for multi-family and vacant. Staff encourages the applicant to explore other sites that are already zoned for this use.

The applicant has submitted proffers that addressed a number of staff's concerns. The proffers have been handed out to you. They should be in front of you on your desk.

Some of the positive elements of this case include: the age restriction, commitment to apply for C-1 zoning of the flood plain, lighting standards, mechanical equipment screening, finished masonry materials for trash enclosures, and limitation on construction hours. However, there are numbers of outstanding issues that the applicant has been unable to address.

The biggest concern is the density of the project. The proposed density of 12 units per acre is double what the 2010 Land Use Plan recommends. The Urban Residential designation also encourages homeownership, and this is a rental community. Staff is also concerned with the layout. However, I believe the applicant is going to be showing you a new layout, tonight, that will address some of the concerns that we had about that. The applicant has also made some improvements to the buffer language. However, the applicant is only proffering a 35-foot buffer adjacent to Lawndale Farms, and a 35-foot buffer along Gay Avenue, but not from the ultimate right of way. The applicant has proffered a transitional buffer with 25-foot planting requirements within those buffers. Staff would recommend a larger buffer adjacent to single-family as well as a planted buffer along the VEPCO easement. Staff would also encourage additional brick other than the foundations and fencings, as proffered. Staff would recommend that the applicant also address the time of trash pick up, and should provide additional information on the recreational amenities.

In summary, the requested zoning is not consistent with the Land Use Plan. The applicant should look at land that is already zoned for this type of use. If the Commission believes that the need for, and the benefits of senior housing merit this case, then staff would recommend the applicant address staff's concerns of the outstanding issues, including density, buffers, and other items. I'd be happy to answer any questions.

Mr. Vanarsdall - Any questions by Commission members for Mrs. Hunter?

Mr. Archer - Mrs. Hunter, you may remember sometime ago we had a study, or something that indicated how much multi-family zoned land there already is that's sitting around. Do you remember?

Mrs. Hunter - Yes, there's 600 acres in the County that's zoned for multi-family that's currently vacant. A good percentage of that is in the Varina District.

Mr. Archer - Thank you.

Mrs. O'Bannon - If I recall, it was something like 9,000 units could be built in Varina?

Mrs. Hunter - That sounds about right.

Mrs. O'Bannon - Apartments or townhouses.

Mr. Marlles - I think it was closer to 10,000 apartment units could be developed at the maximum density. That's county-wide.

Mrs. O'Bannon - That's County-wide?

Mr. Marlles - Yes.

Mrs. O'Bannon - I'm sorry.

Mr. Vanarsdall - Any other questions by Commission members? Do you want to hear from the applicant, Mrs. Quesinberry?

Mrs. Quesinberry - Yes, I would.

Mr. Vanarsdall - Is the applicant here? I knew he was here. I talked to him earlier. I thought maybe you left.

Mr. Chip Dicks - Mr. Chairman, members of the Commission, my name is Chip Dicks, and I do represent the applicant. I'd like to, first of all, compliment the staff on the detailed work in the staff report, and identifying a number of issues that, quite frankly, in doing zoning cases for 20 years, you always learn something every time you do a zoning case. And I've certainly learned things in this case.

I would indicate to you, as Greg is putting up right now, this is not the normal kind of apartment community that you would see. And what we tried to do here is to develop something that would be a single-story product, something – I think copies of this are already in your package (referring to rendering).

One of the first things I did when I accepted representation from this client, which by the way is a Virginia Beach company, a Virginia Company, and they specialize in seniors apartment rental units. And, what I did, I went back and Jo Ann shared with me the history of the case, and the history of this property.

And, so, in looking at the property, and examining the property myself, you go out and look around and there's a significant established neighborhood, the Lawndale Farms Subdivision.

So, one of the first things we did was go out and talk to folks in Lawndale, since we heard about 75 individuals showing up at Mr. Wilton's application for apartments two years ago. And we found out that, what the local community was really concerned about was apartment communities that, perhaps, would, Number 1, generate a lot of family activity, a lot of traffic trips, a lot of two and three-story buildings; things that would, basically, interfere with the nature of their single-family community. So, what we designed here was a single-story product. And, as you see from the layout, (referring to slide), Don has established a series of single story buildings, all through out the community.

It's interesting that we had a citizens meeting of the Lawndale Civic Association on Monday night, and a number of people attended, we sent out letters. I had done previous citizen meetings in the neighborhoods. I had talked to people in the neighborhoods. And, we're not aware of a single person in the neighborhood who opposes the project.

In fact, a number of citizens at the meeting expressed support for the project. I don't know whether any one is here from the community tonight. They indicated that, if they came, they'd be happy to speak on behalf of the project.

So, I would indicate to you, that in terms of the neighborhood's feeling about what's appropriate for this particular parcel, the neighborhood is very much in support of single-story seniors-type housing.

When you compare what the Land Use Plan projects currently, you're talking roughly about, if you average the density range of 3.4 to 6.8, that would come out to 5.1 density per acre, or roughly 64 single family homes. The site could accommodate roughly 85 townhouses.

So, what we're talking about here is something that, if you follow the Land Use Plan, you would end up with arguably 85 townhouses, or 64 single-family homes. If you do the analysis, obviously, those homes are going to generate a lot of impact on the schools. These seniors homes generate zero impact on schools.

Also, in terms of vehicle trips, we went back and took a look at the Institute of Transportation Engineers. The Institute of Transportation Engineers indicates that for 64 single-family homes, the daily trip generation will be roughly 612. For 85 townhouses, it would be 688 trips a day. But, yet, for seniors, its roughly 320 trips a day.

So, the traffic intensity here is much less. I suggest to you that is much more compatible with a single-family neighborhood environment, and something that would certainly justify variance from the Land Use Plan, instead of 85 townhouses, 116 seniors units.

The second thing I would suggest to you is that, with respect to the setbacks, staff is suggesting in the staff report that there needs to be a 75-foot setback. What we've done is, we've been able to construct single-story apartments, single-story apartments and still maintain that 35-foot buffer.

And, we've talked about some extensive plantings and things in the proffers backing up to Lawndale. The citizens association and the folks that we've talked to in Lawndale are satisfied with

the buffers that we've offered. I think the trade off, and I discussed this with them both, Monday night and previously. They would rather have single stories than a larger buffer with multi-story buildings. So, I suggest to you, that, again, that's a justification for a variance in the request for the 75-foot buffer.

With respect to precedent, I'd say to you that the only precedent that's being established here is the fact that, when you have a seniors apartment community, when you have a need to house seniors in Varina District, if there's a future need to house seniors in Varina District, then, "Yes," there may be some limited precedent. But, I certainly don't view this, and I don't think this Commission should view this as any major precedent setting diversion from your land Use Plan.

What you're doing is you're looking at a parcel of property. You're looking at what the neighbors want. And, you're looking at a situation that just makes common sense, quite frankly, given the area and what can be developed there.

With respect to some of the other proffers, let me address one other issue the staff raised. Staff raised an issue with respect to the fact that there's other apartment-zoned land in Varina District. And, yes, that is true. What we've done is we've gone out through Joyner & Company. We've gone out on our own. We've examined those other parcels.

And the question is, when you have a seniors apartment community, and what you're really doing is taking a seniors community and putting it close to shopping centers; close to doctors' offices, close to dentists, close to other things that seniors want to do. Most of those other apartment tracts of land are not sufficient that they don't have those services close by. And, what we would suggest to you, that in terms of looking at all those other parcels, certainly, we did not ignore the fact that there is zoned property already for apartments.

Again, this is a different kind of apartment than any other kind of apartment that you would normally see coming down the pike. So, I would suggest to you, that this is a optimal site for a seniors apartment community. I would suggest to you that it might not be for a family apartment community, when there is plenty of other apartment-zoned land in Varina District that could meet the need for a family apartment community.

With respect to access, staff had raised a question about access. I think our revised site plan addresses that. There was some question about the Department of Public Works in how many units could access a single entrance. I think that's been addressed. And Jo Ann worked with our engineer, Greg Dodd to suggest some changes that might address that particular staff concern.

The other staff concerns, with respect to additional brick, what we've done here is, we've tried to build in enough amenity, and we proffered 30 percent brick. I think the staff request was for 40 percent brick. What we've been able to do is to go into, and, again, this is not a normal apartment community where what you're doing is you're putting a certain amount of brick at the base and then you're having "X" number of stories go up. We've got a whole lot of different building; single-story buildings all throughout the property. And, I suggest to you that the 30 percent brick is sufficient.

We can work on the trash pick-up time. I wasn't aware that was a concern. Most of the other staff concerns; in fact, all of them, to my knowledge that have been raised, we have addressed.

The recreational amenities; what we do, and in the narrative we've supplied with the case, on the second page, we outline a number of different things that this particular apartment community provides. What we do is we have a community services manager. What that person does is to facilitate, basically, whatever our seniors need. That includes health and wellness screening, delivered meals, a physical fitness program, bus trips to The Pottery and this kind of stuff, volunteer and employment opportunities. We also help make referral services for counseling, and chores and errands. We find that a lot of our seniors are very physically capable; can do just about anything. Whereas, a number of seniors, if they have a medical condition or if they go through a tough time, they might want meals. They might want some help and nursing assistance. They might want some home cleaning and those kinds of things. And what we do is try to facilitate those things.

We coordinate legal and financial seminars. We do a whole lot of things for our folks. We have a tot lot for the grandchildren that come and visit.

Some question came up in one of the citizen meetings about how long could a grandchild visit? The Virginia Housing Development Authority has a policy which this company follows on this management side of, basically, no more than 14 days in a given year, as a visitor.

Obviously, if there was a problem with a particular child under age 18, then the landlord would have the ability to be able to require the tenant to remove the child and not have the child come and visit.

This is an apartment community that's proposed to be funded through the tax credit program. The Tax Credit Program is a very great program that is sponsored through the Internal Revenue Service. It's distinguished and we've had detailed discussions with citizens. But I want to make sure that you understand, it is not a Section 8 project. That its not a subsidized project. What happens is, it computes annual income. And, for example, a \$25,000 annual income would qualify somebody to be able to live in a one-bedroom unit.

And, what happens is, for example, my mother lives in a facility not dissimilar to this in Hagerstown, Maryland. And, you know, the house is paid for, basically, there. In this case, though, she actually owns this particular life estate. She has a car that's paid for. She has stocks. She has retirement. She has this, that, and the other, but her annual income, itself, doesn't reach \$25,000 a year, and she would be eligible. It doesn't include the assets the person has. Because many seniors, and, in fact, hopefully, most seniors will have some degree of assets when they reach their stage of their lives.

So, this is a very, very good proposal. It meets a critical need in Varina District. Our studies have shown that our residents are going to come within a 5-mile radius of this particular community.

We've had discussions with citizen groups about the fact that they would like to participate in some of our voluntary activities; some of our bus trips and some of our activities in our community center. As long as we have space available, we made commitments to the Lawndale Homeowners

Association we would make our facilities available on an excess basis for any of their seniors who would like to participate in our activities.

So, we think we can be a good neighbor. We think we've addressed the need that needs to be met in Varina District. We also think we've designed a product that fits well with the single-family neighborhood. And we think that we've met most, if not all, of the issues that have been raised by staff, which I think is very good. So, I would urge your approval of this case. I'm happy to answer any questions. I'm happy to elaborate on anything that anyone would like me to speak to.

Mr. Vanarsdall - Any questions for Mr. Dicks by Commission members?

Mrs. Quesinberry - Mr. Dicks, can you talk a little about the age restriction; Proffer No. 3, for the proffers that were just given out tonight? One person who resides in the household must be at least 55 years of age. I'm just kind of curious about the enforcement, and also, if there are any limitations on how many adults could live in one of those units. For example, some of these units are two-bedroom units. With one person just being 55, how do you prevent cases where one person happens to be 55, but all the others are clearly not 55. And the intention here is really to have a community that serves seniors with limited incomes. How do you prevent some of that?

Mr. Dicks - I appreciate your question. First of all, the Federal Fair Housing Act and the Virginia Fair Housing Law provide that if you have one person in the household 55 and older, and no persons in the household are age 18, that you met the test of seniors housing under the Federal and State law. So, what we've done is, we've tailored this project exactly what the Fair Housing Law tells us we're supposed to do.

The second thing is, its our experience that, as a general rule, what happens is, you might have a husband, let's say, whose 57 or 58 and a wife whose 53. What we find is, that most of the time, that husband and wife end up getting a two-bedroom unit. And they end up using the second bedroom as a guest room or whatever. And there's nobody really occupying it.

In fact, in the apartment communities that we have in other areas of the state, Norfolk and Virginia Beach, we find out that roughly 90 to 95 percent are exactly that situation. It's a husband and wife, or when there's a one-bedroom situation, its usually a widow whose over age 55 whose husband has died.

And so that's the demographics generally of the population. It is true that, for example, if you had a husband who was 58 and a wife that was 53, and they had a 22-year old son, they would be eligible to live in this apartment community.

Now, the question is, its not a very exciting place to live for the 22 year old. And they're not going to be there but so much. But, if they were to cause a problem, what we do is, we have; the nice thing about a tax credit; apartment community for seniors, is this: First of all, the developer has to submit to a minimum of 15 years. The proposal here, by the bonding authority, is 30 years for this particular owner. So, this owner would have to own this apartment community for 30 years. So, its not like they would develop it and just walk off and leave it, or sell it to somebody else who wouldn't fulfill commitments.

The next thing is, that Ripley-Heatwole also has their own management company. And their management company manages over 1,000 units of housing. And, what they do, is they have professional managers. They know the Landlord/Tenant Act. They know the Fair Housing Act. And, you know, they've got a good lawyer, who wrote their leases. And, what they're able to do is they're able to enforce any provision, if it's a lease violation. We have quiet hours. We have supervision of grandchildren-type provisions. We have all kinds of provisions that the residents have to comply with, and they sign those leases when they move in. So, we have a much greater ability in a rental community to control the conduct of our residents and their guests or invitees than you do in a community where people own their homes; own their townhomes. So, I hope I've been responsive to your question. But, we're able to enforce this provision. First of all, this is Federal and State law. Second of all, we're able to enforce this provision effectively through our on-site manager, who actually lives on the premises.

Mr. Vanarsdall -                   What you're saying is, the example you gave, they had a 22-year old son. Suppose they both died and left it to him?

Mr. Dicks -                         He's not eligible to stay there, because one person in the household has to be at least 55.

Mr. Vanarsdall -                   Who would be policing that or monitoring that to know that he's not there?

Mr. Dicks -                         Mr. Chairman, the on-site manager is responsible. What happens is, there's also something called, "Tax Credit Compliance." And there's a whole series of compliance regulatory processes that the management is subjected to. And there's quarterly, semi-annual, and annual inspection, and there's audits. The audits are done by the Virginia Housing Development Authority. They're done by Sun America, or whoever the equity partner is in the transaction. They're done by HUD potentially, or by the Federal authorities. There's all kinds of compliance requirements that are in place to make sure that management does what its supposed to.

What's at risk here is, the tax credits are sold to investors. And they use the tax credits. It's usually companies, institutional investors or retirement funds like Fund America. And, as a result, if you are not in compliance with the Federal regulations for running this particular property, which includes compliance with Proffer No. 3, then you lose potentially your tax credit, which would put everything at risk. So, there's a whole series of compliance audits to make sure that that's done. But the onsite manager would be the one whose responsible for enforcing that.

Mr. Vanarsdall -                   If it's 62 years of age and over, I think 20 percent can occupy under that age. What is it on the 55?

Mr. Dicks -                         In 55 and older, it has to be all the units 55 and older; one person 55 and older. It's not the 20 percent exemption like it is for the 62 and older.

Mr. Vanarsdall -                   Thank you.

Mrs. O'Bannon - What other locations has your company done this type of project?

Mr. Dicks - The company has done projects in Norfolk, and Virginia Beach, and also, I believe, in Newport News. Is that correct? One under contract in Newport News.

Mrs. O'Bannon - You haven't done one in like Gloucester County or areas like that?

Mr. Dicks - No.

Mrs. O'Bannon - Okay. Thank you.

Mr. Dicks - It must be one with a problem down there.

Mrs. O'Bannon - No.

Mr. Dicks - Okay.

Mrs. Quesinberry - The narrative attached to the staff report, is that considered a proffer in this case as well? It's not. So, just, for example, looking at general services and referral services.

Mr. Dicks - Yes.

Mrs. Quesinberry - Say that, those are the things that you generally provide and you've done in the past and that the management company is certainly interested in providing, there really isn't any guarantee that seniors would move into these apartments and have these services in place, or that these services would remain in place.

Mr. Dicks - The reason for that is, and let me just indicate to you why that is. Let's say that we attempt to have; well, I should pick an activity. We attempt to have an aerobics class, which is a wellness activity, and nobody comes. And we try to have a wellness activity again. And, this time we try Karate and nobody comes. And we try four or five different times, and, basically, we poll our residents and they tell us they're not interested in that activity. And, if we proffer that we will do that activity and for whatever reason our resident population doesn't chose to avail themselves of that opportunity, then, you know, where are we?

So, what we usually try to do is, you know, we're certainly willing to provide a proffer that says that we will provide a combination package of amenities that our residents request, including such services as these. But we're not prepared to make a commitment at this or any other community, quite frankly, that our residents will want us to do, you know, social activities, versus physical fitness versus, we may not have anybody that wants delivered meals.

One of the issues that came up at a seniors apartment community that I'm familiar with is, they said, "Well, we don't want this stuff. What we want is, we're active. We're 55, and we feel great. And what we want is we want a tennis court. Tear out that that tot lot and put in a tennis court." So, you know, it may be that, depending upon the actual residents that rent from us, we will tailor our program to what it is that our resident population tells us that they would like to have us provide.

But, I don't know how to make a commitment to you, you know, that we would do certain types of activities without putting ourselves in a box that, if somebody didn't want those activities in the future, we might be in non-compliance with the proffers with the zoning.

Mrs. Quesinberry -                   What kind of amenities do you have in this plan, aside from your meeting room?

Mr. Dicks -                               Well, what we have is, we have designed, and will design at time of Plan of Development, a system of sidewalks and walkways throughout the community. And, in addition, we have a community room. In the community room we usually have computers. We have other activities that are conducted in there. We have the types of things that our residents tell us that they want.

Usually, what happens is, we have, you know, coffee and drink machines and those kind of things that have become sort of a social center, because we have activities, the kind of activities that we've listed there on the narrative that we provide. So, those are the kinds of things that we provide.

In terms of amenities, I don't know whether you call patios. We have patios with landscaping on each of the units. The units, as I've described in the narrative, have living rooms, kitchens, walk-in closets, linen closets, handrails in the bathrooms, supplementary heat, emergency call system, large tilt out windows with screens, private entrance to each unit, generous storage and cabinet space. I mean, these are nice units; 758 square feet for one bedroom and 953 square feet for two bedrooms. So, they're nicely appointed units, and designed for people who have, quite frankly, a lot more than young people would have when they move into an apartment; people that have accumulated things over their lifetimes and need a place to store them.

Ms. Dwyer -                               You mentioned, sir, that there's a 30-percent brick commitment in the proffer.

Mr. Dicks -                               That's correct.

Ms. Dwyer -                               That includes foundations and fencing. Are you referring to walls around the patio or some other fencing?

Mr. Dicks -                               That's the fencing that we're referring to. The walls around the patio. That's correct.

Ms. Dwyer -                               And that would be the entrance to the unit through the patio?

Mr. Dicks -                               Yes.

Ms. Dwyer -                               I'm looking at the floor plan trying to find the front door. It looks like its coming through the patio and then...So, does that mean, then, that the wall or fencing

around the patio would be brick, and the foundations will be brick, and that takes care of the 30 percent commitment?

Mr. Dicks - That's exactly what we're saying.

Ms. Dwyer - Will it be a solid fence? A solid brick wall or...

Mr. Dicks - Yes. That's what's planned.

Ms. Dwyer - You know, ventilation holes or sometimes the brick, is offset so that you don't have a solid wall. Okay.

Mr. Dicks - Solid wall.

Mr. Vanarsdall - Any other questions by Commission members for Mr. Dicks?

Mrs. O'Bannon - I'd just like to mention, the one in Gloucester is exceptionally nice.

Mr. Dicks - Wonderful.

Mrs. O'Bannon - That's why I was asking. Some of the things that you have placed here are some of the things that I learned about the one in Gloucester is when it says, "Transportation."

Mr. Dicks - Yes.

Mrs. O'Bannon - What type of transportation is there? Just curious.

Mr. Dicks - We have a large 18 person passenger van.

Mrs. O'Bannon - Okay. And this is, in other words, for transportation to doctor's appointments, to the hospital, or to church and things like that. So, public transit isn't necessitated, necessarily?

Mr. Dicks - Public transit is not necessitated as a result. And what we try to do is organize as many group activities in that size group as we can, but we provide transportation to and from appointments and those kinds of things. On occasion, what we've done is rented a larger bus when we've made trips to The Pottery and that kind of stuff that some of the other apartment communities that the company has.

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

Mrs. O'Bannon - I know that's not a part of your construction standards, but I was just interested to know about that.

Mr. Dicks - As Ms. Joyner from Ripley-Heatwole indicated, the van does have the handicap wheelchair lift.

Ms. Dwyer - I'm looking at the elevation that you provided in our packet.

Mr. Dicks - Yes.

Ms. Dwyer - And it doesn't seem to show the brick wall. Is that just added as a later commitment? It looks like its maybe board-on-board-type fencing. I'm thinking that was an additional commitment that you made in the worded proffer.

Mr. Dicks - That is an additional commitment after the time the rendering was prepared.

Ms. Dwyer - I just wanted to clarify that.

Mr. Dicks - No problem. Thank you.

Mrs. Quesinberry - I want to go back to the buffers.

Mr. Dicks - Okay.

Mrs. Quesinberry - Both the buffer adjacent to Lawndale Farms and also the buffers along Gay Avenue.

Mr. Dicks - Yes.

Mrs. Quesinberry - The new proffers, tonight, mention the buffers along Lawndale that it would be such a manner to provide a visually screened area of the single-family independent living residences along the property line adjacent to Lawndale Farms. And then the buffers along Gay Avenue, talk about landscaped to an enhanced standard. I was just wondering if you could just include some language. "Enhanced Standard" is kind of vague, and I know sometimes we run into "visually screened" also. But, if you had some language in there that referred back to the buffers meeting the approval of the Planning Commission at the time of review of the landscape and lighting plan?

Mr. Dicks - That would be fine. I tracked the language out of the staff report and used the words that were in the staff report, hoping we could capture exactly what we were talking about. And, staff had suggested, "enhanced landscaping," and a buffer measured from the ultimate right of way.

I've talked to our engineer tonight, and we can, on Proffer 8 (c), add that this 35 feet in width would be from the ultimate right of way, which I know was a concern that was raised by staff. And, if you'd like, we've tried to tie the buffers along Lawndale Farms property line and also Gay Avenue to the transitional buffer 25 foot requirements. So, we have some specificity of what we were talking about. But, if you'd like that reviewed at the time of Plan of Development, that's fine.

Mrs. Quesinberry - And, the plan that you're showing tonight, I'm concerned that its such a dense development that you actually have room for adequate dumpsters in appropriate places. That's been a real tough issue with a lot of multi-family developments that we've looked at lately. Although that's something you would take up later, usually, not in a zoning case. What we're finding out is that, especially if you're asking for higher density than the Land Use Plan would support, that its probably a very appropriate question at a zoning meeting to ask, you know, "Are you too dense to really support the dumpsters and the locations of the dumpsters that you would need with this plan?"

Mr. Dicks - Our indication is that we can fit the dumpsters in. Greg Dot, our engineer is here. And, its our feeling that we can fit the dumpsters in. Obviously, what we've committed to in the proffers establishes a pretty high bar on design standards. And, it also requires screening and everything else that would be reviewed at the time of Plan of Development. And, we understand, that we cannot get all 116 units in there, and do the things that we've proffered to do. Then we're going to have to reduce the number of units that are in there, or not to do the project.

And, so we understand the high bar that we've committed to in the proffers. So, its our feeling and our understanding that we've got to plan to be able to do the trash enclosures and the HVAC units and mechanical equipment and to provide the appropriate screening as we've proffered to do.

Mr. Vanarsdall - How many apartments in there?

Mrs. Quesinberry - 116 units.

Mr. Vanarsdall - Any other questions for Mr. Dicks?

Mr. Dicks - It's 116 units, Mr. Chairman, versus the 85 townhouses that, I guess, the current zoning allows us to put on the property.

Mr. Vanarsdall - Thank you, Mr. Dicks. Mrs. Quesinberry.

Mrs. Quesinberry - I need to ask Mrs. Hunter one more question.

Mr. Vanarsdall - Help yourself.

Mrs. Quesinberry - Mrs. Hunter, one of the concerns I have with rezoning of a piece to a higher density in an area that otherwise we wouldn't consider doing that is, even if this plan looks good, and the developer is proposing a needed and quality project, what would happen if their plans fell through and they decided not to develop and this was rezoned to R-5C? What would we be in for, at that point?

Mrs. Hunter - They could then try to find a developer to develop exactly as they had proposed, or they could come in with an amendment of proffers. And then your density and issues are already in place except just looking at the quality of the project. But they would have to

come back through a public process if they wanted to change something that was committed to by this applicant.

Mrs. Quesinberry - So, even if this developer's plans fell through, the next applicant would have to do a senior project, regardless of what kind of funding they had, or where it came from.

Mrs. Hunter - The proffers run with the land.

Mrs. Quesinberry - And they would be subject to at least the new proffers that we're looking at tonight?

Mrs. Hunter - Right.

Mrs. Quesinberry - But, not necessarily, to the narrative that's attached to the staff report?

Mrs. Hunter - The narrative has no legal standing, just the accepted written proffers.

Ms. Dwyer - Mrs. Hunter, are you finished? Mrs. Quesinberry.

Mrs. Quesinberry - Yes.

Ms. Dwyer - This is zoned R-4. That must be single-family, not townhouses?

Mrs. Hunter - Yes.

Ms. Dwyer - So, the townhouse enters into the discussion how?

Mrs. Hunter - I believe he's picking that up from the Urban Residential designation of the Land Use Plan. You have townhouses in that designation. But, R-4 zoning just allows single family.

Mrs. Quesinberry - Mrs. Hunter, do you have any idea, currently, what this current zoning; how many single-family homes would go in there?

Mrs. Hunter - I can pull that out of the other file while you're discussing that. The floodplain on the property reduces the density considerably. I haven't calculated the number of townhouses, but, I believe, in the old case, they did list the number of single-family homes. While you're discussing the case, I can pull that for you.

Mrs. Quesinberry - Okay.

Mr. Vanarsdall - Do you want to wait a few minutes?

Mrs. Quesinberry - Yes. Let's just give her a few minutes to pull that.

Mrs. Hunter - We're estimating that the floodplain area is about three acres. With that, the R-4 zoning would allow about 35 single-family homes on that property.

Mrs. Quesinberry - Okay. Mr. Dicks, are you absolutely firm on 116 units for this project?

Mr. Dicks - We're interested in doing the project, and 116 units makes the project viable. If you said it had to be 110 units, we could probably reconfigure it and do it, but we couldn't reduce it by much and do that. You know, I guess, I went back and looked at the Land Use Plan. The Land Use Plan, you know, projects Urban Residential, and that's townhouses. And our calculation for 12 acres was 85 units.

And, so, we figured that because of the reduced number of daily trips, because of the lower impact on schools, because of the fact it was single story, all those different things, that we sort of met in some ways the spirit of the Land Use Plan. But, I mean, if there's a concern about; what number of units are you thinking about?

Mrs. Quesinberry - Well, I'm considering that, you know, with the zoning case where the zoning would allow for 35 single-family homes, and we're looking at actually zoning higher for multi-family in this case that the density and the number of units for what are we looking at here, 12 acres? Yes. A little over 12 acres is a lot higher than it otherwise would be. And, granted, if, in fact, it ends up seniors, for the most part, they reduce trips and they don't use schools and so forth. But 35 homes are not greatly impactful on schools either. So.

Mr. Dicks - Well, my thought is, again, Urban Residential, I think is a land use designation for this parcel. And, if I'm not mistaken, that means we could build townhomes there. And, in fact, the staff report makes reference to townhomes or whatever. Am I incorrect in that respect?

Ms. Dwyer - My understanding, the Land Use Plan sets a category, a very broad category that may include several zoning classifications.

Mr. Dicks - Right.

Ms. Dwyer - And its kind of a guide for future rezoning. So, what that would mean is that the most that the Land Use Plan would recommend that the property be rezoned for would be townhouses. But, currently, all that's permitted with the existing zoning is single-family homes.

Mr. Dicks - I understand. I mean, when I look at the Urban Residential designation, and I see the staff report and it talks about encouraging single-family homes, townhouses, condominiums, and zero lot line homes, what that means to me is, I've got 12 acres, and I can do townhomes; can put roughly 85 on this tract of land.

Mr. Marlles - Mr. Dicks, just a point of clarification. Because you have approximately three acres of floodplain on this property, for the purposes of calculating the density for townhomes, you would not be able to use the full 12 acres. You would use approximately nine acres. It would be less than the 85 units.

Mr. Dicks - Sixty to sixty-five. Something in that range, potentially. So, I guess the question is, if the Land Use Plan contemplates 60 to 65 potential townhomes, and I guess you're talking about single family, you know, regular, "box" kind of houses, 35 of them, and the impact, what is an appropriate number of low impact, seniors rental units that fit this single-story-type profile?

Mrs. Quesinberry - Well, I think that's open for discussion because we're looking to rezone to a higher level here. You know, considering that there already exists a lot of multi-family zoning in the Varina area, and that this area probably would develop single family because that's what the current zoning allows for, and considering that there's already more than sufficient amount of multi-family zoning in Varina, it's unlikely that this would be rezoned for multi-family housing or townhouses, other than the fact that we're discussing that the particular project, and the only reason I'm even interested in the project...

Mr. Dicks - I understand.

Mrs. Quesinberry - ...that you're looking at, is because it's for seniors. And that we do recognize that we have a need to provide some housing for seniors, and provide it in some ways and in some areas that actually benefit seniors, as opposed to any other demographic group. And, that's what makes the project interesting and that's what brings us to this discussion. But, aside from that, I can tell you, we wouldn't even think about putting multi-family housing in that spot.

Mr. Dicks - I understand.

Mrs. Quesinberry - So.

Mr. Dicks - Is it a desire then, to defer the case and talk about, you know, the size of units, the number of units that you want to have and do that, or do you want to have a discussion here? How would you like to do it?

Mrs. Quesinberry - Well, what I'm asking you is, is that something that we can look and discuss further, because if 116 is the "make it or break it" for you. I understand the economics of it. If you absolutely cannot do this project unless you get 116 units on this property, then we just have to say, you know, "It's nice knowing you." But, if there's some negotiation room in there and you can make a project go for less than that, that's something I'd like to explore further at another time and place.

Mr. Dicks - Well, I would say to you that we'd be happy to have the discussion. I'm just a lawyer for the Company, and the company would, obviously, have to make the final decision on whether the economics would still work at whatever level you were contemplating. I would suggest to you that there's not much margin by the time you pay the land costs and do the

development and go through the bond transactions and so on, there's not that much margin to be able to reduce the number very much.

As I indicated, if you said it had to be 110, or, you know, whatever, something just short of 116, I think the company could probably address that. But, if its significantly lower than that, I think the answer is, it kills the deal.

Mrs. Quesinberry - Okay. Would you be willing to defer this case so that we could look at that, and see if we could come up with a density that would still allow your deal to go, but would assure some of the questions and quality that we're concerned with, with rezoning to a multi-family housing zoning district here?

Mr. Dicks - I'd be happy to do that. I think the Commission and you have certainly been very generous with your time, tonight, and we appreciate the full hearing of this project that we've had. And, what we'd like to be able to do, I guess, is to sit down with you and the staff and to finalize the proffers in a way that addresses every single issue that we could possibly address. We want you to be comfortable. Because, again, the whole idea is, this is a community that we feel fits in well with the neighborhood. The surrounding neighbors feel that way. And, what I'd like to try to do is to work with you and the staff, and with the Company to reach a consensus on how to proceed.

Mrs. Quesinberry - Okay. I'd like to make a motion that we defer this case to the next meeting at the applicant's request. And that's November 9<sup>th</sup>.

Ms. Dwyer seconded the motion.

Mr. Vanarsdall - Motion made by Mrs. Quesinberry, seconded by Ms. Dwyer. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained). Thank you, Mr. Dicks.

Mr. Dicks - Thank you very much. Mr. Secretary.

Mr. Marlles - Mr. Chairman, the next case is in the Fairfield District.

**Deferred from the September 14, 2000 Meeting:**

**C-58C-00 Garry Gallagher for Edge Development, L. L. C.:** Request to conditionally rezone from R-2A One Family Residence District to M-1C Light Industrial District (Conditional), Parcels 33-A-53 and 54, described as follows:

**Tract 1**

Beginning at a point on the northern boundary of the right of way line of Virginia Center Parkway, said point being 553.15 feet east of the intersection of the western boundary of the right of way line of U.S. Route No. 1 (Brook Road) and the northern boundary of the right of way line of Virginia Center Parkway. Thence leaving the northern boundary of the right of way line of Virginia Center Parkway in a northerly direction with five (5) courses and distances: (1) N 05°49'35" W 377.09 feet to a point; (2) Thence N 88°09'08" E 144.23 feet to a point; (3) Thence N 05°49'35" W 267.23 feet-

to a point; (4) Thence N 75°56'00" E 145.45 feet to a point; (5) Thence S 05°49'35" E 772.73 feet to a point on the northern boundary of the right of way line of Virginia Center Parkway. Thence with the northern boundary of the right of way line of Virginia Center Parkway in an westerly direction with four (4) courses and distances: (1) N 65°16'25" W 151.80 feet to a point; (2) Thence N 84°21'45" W 13.49 feet to a point; (3) Thence N 05°49'35" W 11.13 feet to a point; (4) Thence N 85°21'09" W 146.32 feet to a point, said point being the Point and Place of Beginning for Tract 1 and containing 3.652 acres.

Mr. Marlles - Mr. Mark Bittner will be giving the staff report.

Mr. Vanarsdall - Is there any one in the audience in opposition to this case? All right, thank you. We do have opposition, Mr. Gallagher. Mr. Bittner, good evening.

Mr. Mark Bittner, County Planner - Good evening. Thank you, Mr. Vanarsdall. The applicant intends on combining this site with the adjacent property to the west zoned M-1 and M-1C. The 2010 Plan recommends Office/Service on this site, which is inconsistent with the planned commercial development.

Because of this inconsistency, staff cannot fully support this proposal. Staff would prefer that this site develop as offices or Office/Service-type uses to maintain consistency with the Plan, and with adjacent property to the east; that being Technology Park. The preferred development pattern is to bring office-type uses forward toward Brook Road, instead of expanding retail uses eastward along Virginia Center Parkway. The applicant has amended the proffers to try and address this issue, and we just passed those out to you. They were handed in today, so you will need to waive the time limit, if you want to accept them.

The total building square footage devoted to retail use would be limited to 50 percent of the overall project. The fundamental issue of retail versus Office/Service development remains. But, the applicant has taken a positive step to limit the amount of retail development on this site.

Even though staff cannot fully recommend approval of this application, staff does support the action taken by the applicant to scale back the amount of retail development along Virginia Center Parkway.

That concludes my presentation. I'd be happy to answer any questions you may have.

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

Mr. Garry Gallagher - Mr. Chairman, members of the Commission, Garry Gallagher.

Mr. Vanarsdall - You have some opposition. Do you want to save some rebuttal time?

Mr. Gallagher - Yes. I'll make my presentation brief. We left the last meeting with some unexpected opposition, if you will. We've had two meetings with the neighborhood. Mr.

DeMartino, who represents Stonewall Glen, has been very helpful in handing out 200 fliers to as many houses as we could find in Stonewall Glen and the adjacent neighborhoods.

We've had 14 people show up at the first meeting, and 8 people show up at the second meeting. And, to my knowledge, with the exception of one or two folks who may be represented here this evening, we're not aware of a lot of opposition in the neighborhood at large.

We believe that the case is well proffered. It's well designed and well conceived, integrated project. It should be an asset to the overall community. We would welcome hearing from the folks and answering any questions that come out of the discussion.

Mr. Vanarsdall - Any questions for Mr. Gallagher by Commission members?

Mr. Archer - Mr. Gallagher, I may have some questions, but I'd like to hear from the opposition first.

Mr. Gallagher - All right, sir.

Mr. Vanarsdall - Mr. Secretary, do you want to explain the rules?

Mr. Marles - Yes sir. Ladies and gentlemen, it's the policy of the Commission when there is opposition on a rezoning case to give 10 minutes to the applicant to present his case, minus time saved for rebuttal, and also 10 minutes for the opposition. Generally, it's a good idea to have a spokesperson to make the most effective use of that 10 minutes. The 10 minutes does not include time responding to questions from the Commission. So, the opposition, at this point, has 10 minutes to voice their concerns.

Mr. Vanarsdall - Thank you. Who wants to be first? Good evening.

Mr. Bill McCadden - Good evening, sir. My name is Bill McCadden. I'm a homeowner in the Woodcliff Subdivision. I would like to extend my appreciation first to the Commission for the 30-day deferral, which you all granted on September 14<sup>th</sup>, thus allowing the homeowners in and around the Woodcliff Subdivision ample time to study the proposed rezoning of 3.652 acres on Virginia Center Parkway by its development and STI Properties, Inc.

We do appreciate the opportunity granted by Edge and STI on two occasions to brief a few homeowners. And, while Mr. Gallagher and Mrs. Shifflett were completely courteous and professional, our neighborhood cannot agree with any proposal to add any additional commercial business complex.

If, as previously stated, the one-family needs for housing are not feasible at this time, then why clutter our neighborhoods with light industrial. Just across U.S. 1 right now, a strip shopping center is under construction.

I understand that the proposed gasoline station service center is what you would say is a "done deal." I found this out this evening. It's in your master plan. That's ignorance on my part for not

doing my homework on that. But it still causes a traffic jam, as far as we're concerned. This area being only a .1 of a mile off of U.S. 1 when you turn headed north and you turn east, you're .1 of a mile before a left turn that same .1 of a mile, a right turn into the Marriott property.

We are informed that U.S. 1 will be widened to six lanes with a traffic signal. This will only increase gridlock trying to enter or exit Virginia Center Parkway and U.S. 1 now at peak travel periods. Just this morning, in talking to a homeowner, he told me he waits at traffic signals sometimes 8 to 12 minutes, and, on one occasion, even 20 minutes because of the gridlock.

By being surrounded, our homeowners feel victimized by corporations, big business, and urban sprawl. We seem to be forgotten as real estate tax paying homeowners whose dreams of a livable quality built home were shattered by major highways to our east, to our south, to our west, and as proposed, more traffic north at Virginia Center Parkway.

In addition, we will have the traffic congestion, the noise, the pollution to our environment. We're getting to the point where we will not be living. We will be just existing back there in the corner of what we refer to as "Cobb's Corner."

Our real estate taxes will increase. Our home values will decrease, and where does this leave homeowners; frustrated, angered, and being on the financial edge in the minus edge of our retirement. We fear that the envelopment of our cherished Woodcliff Subdivision jeopardizes our property. What will happen to the property surrounding Technology Park east? I don't know. Will rezoning be requested again? And will this be affected as far as homeowners are concerned? Will the owner of the recently purchased lots on the south side of Virginia Center Parkway just west of I-95 request a change in rezoning? We don't know.

Do we really need additional retail shops in this area? What happens when developers sell and pull up stakes? We just don't need to commercialize this area with the proposal before you. We are proud to be citizens of Henrico County. It's one of the best managed counties in the United States, including the tops in Virginia. We feel that we don't want to destroy this by completely commercializing our areas, enveloping our homes.

In conclusion, members of this Board (sic), I present the list, which contains 30 signatures of our homeowners of Woodcliff and homes adjacent who are opposed to this rezoning. We hope that their signatures of opposition will suffice in their absence. On behalf of the concerned citizens of homeowners, I thank you for allowing me to briefly explain our plight.

Mr. Vanarsdall - Any questions for Commission members?

Mr. Archer - Can you point out to us where your residence is, sir?

Mr. McCadden - Yes sir. I'm in the Woodcliff Subdivision.

Mr. Archer - Can someone help him with doing that on the map, please?

Mr. McCadden - I should be able to read a map, after 38 years in the military, but I'm trying to get my bearings here.

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

Mr. McCadden - I don't believe it is. We are located, if you turn right on Telegraph Road, or you turn south on Telegraph Road, sir, before you hit the bridge crossing I-95, you go down to a dead end. You make a left on Harmony Road, and I'm the last house in the corner. The ramp from I-95/295 going to Charlottesville, and we have I-95 and I-295, and this surrounds our complete area.

What we are really trying to say is, we would like some consideration as homeowners. I might add, we did not contact all of the homeowners on the adjacent property west of us, but we have talked to several of them who feel the way that we do.

Mr. Vanarsdall - What did you say about the homeowners yesterday?

Mr. McCadden - Sir?

Mr. Vanarsdall - You said something about the homeowners yesterday.

Mr. McCadden - I discussed it with homeowners yesterday and today.

Mr. Vanarsdall - All right.

Mr. McCadden - As has my contemporary who is assisting us with this.

Mr. Vanarsdall - Thank you.

Mr. Archer - So, I take it, then, Mr. McCadden, you say there are 38 signatures here on this petition?

Mr. McCadden - Yes sir.

Mr. Archer - And 8 people attended the meeting. So, that means the majority of the people did not attend?

Mr. McCadden - That's affirmative, sir. They did not. I prepared a packet, and circilized it to all of our members in our 22 or 24 homes within the area which includes a few homes just to the west of the Woodcliff Subdivision.

Mr. Vanarsdall - Any other questions? Thank you.

Mr. McCadden - Thank you. Thank you, gentlemen.

Mr. Archer - Thank you, Mr. McCadden.

Mr. Vanarsdall - Who wants to be next? Yes sir. Come on down.

Mr. Ronald Lowery - Thank you, Mr. Chairman, members of the Commission. My name is Ronald Lowery. I was here last month in opposition to this.

Mr. Vanarsdall - Yes sir. Good evening to you.

Mr. Lowery - Since approximately a month ago, nothing has really much changed as far as my opposition. I still contend that the use of this easement that goes to my home has been strictly for the homeowners located on the south side of the drive. The north side of this drive was owned by Mr. Burhman, who owned a business there years ago. He was in agreement that they did not have use of this easement. Mrs. Haynes who lived on Route 1 running into the easement, a long time resident of Henrico, also knows that it was for the homeowners only. The people that I bought the home from, and the people who used to live beyond me where Technology Park currently is located all knew that the easement was for homeowners on the south side of the drive.

Since the last meeting, since it was deferred, is partly because of my opposition and that y'all had indicated maybe Mr. Gallagher would contact me and discuss our differences. He did contact me maybe about 24 hours ago. He called me yesterday evening. We have about a five-minute conversation, and really did not be able to agree on much. I would have thought he would have come to me sooner, and tried to, you know, spend some time. I appreciate him talking to other people who not even live jointly to the property, but I've had very little, less than probably a five minute conversation with him since the last meeting. I don't oppose construction per se. I think its fair, though, that if they are going to build, that they proffer in writing to not use the easement which leads to my driveway.

Each of you, I'm sure, have a home, and if you could place your home or your driveway back to maybe what it is, it might not be as long as mine. But imagine a service station or a bank, a McDonalds being developed out on the highway in front of you, and then office buildings behind that, and you had to contend with this coming down your drive every day, and not just seeing all of this traffic. That doesn't bother me, but sharing it, trying to just get to your home. As a resident of 50 years, I feel I should have some use as far as not everybody and their bother coming down the driveway everyday. It's never put there for a road. It's a private driveway leading to several residences on that side.

Mr. Archer - Mr. Lowery, you mentioned this at the last meeting. Have you been able to come up with any document or anything to substantiate the fact that this is "For Residential Use Only," and not an easement that just gives access to property?

Mr. Lowery - Since I didn't seem like I'd have any communication, I have talked to an attorney and he said, when he has time, he's going to look into the matter. I can produce people who have lived there. I've been there 25 years. I can have people sign sworn affidavits or maybe even appear stating the same that I say. It all originated out of a farm and over a period of time pieces were all sold as residential pieces. It was, I guess, a prescriptive-type easement over the years. The homeowners along that road over the years have shared property, let's say, maintenance

agreements as far as maintaining that road. The only ones that maintained it were the residents who lived on it.

Mr. Archer - Well, I'm asking the question.

Mr. Lowery - No. I don't have it.

Mr. Archer - Other than just the word of folks who live there, you know, I just wonder if there's anything that you could substantiate that with? If it's a private drive, it's a private drive. But if its an easement, its an easement.

Mr. Lowery - I'm stating this easement didn't derive from commercial property. It derived from agricultural and residential use. This is what it has been zoned forever, and that's what it is still zoned along through there is residential.

Mr. Archer - I understand that, but it doesn't really speak to the easement. Mr. Gallagher, do you have anything along that line? I'm not cutting you off, sir. I'm just trying to find out here.

Mr. Gallagher - I've had a legal opinion done by our attorneys which states that the easement runs in favor of the adjacent lands. The title company that had done the title work for Virginia Center has ensured that the access and the use of that easement. So, to the best of our knowledge, its to be construed as much an alleyway as it is anything else. We don't intend to block Mr. Lowery's access. We would reserve the easement as long as Mr. Lowery is there as a driveway. As you can see on the plan, we've done everything we can to separate it and keep it separate and apart from the rest of the activities. But we do have the full legal right to use the easement for any use that can be put on the land. The land is zoned for commercial-type activities.

In rebuttal to Mr. Lowery, there has been a lot of zoning actions that have gone on. This land is a remnant from the original farm that is now Virginia Center which is a 1,200 acre commercial development. And, from everything we can tell, it's a little snafu that this strip didn't get transferred with the parent tract to Virginia Center in the very beginning. That's our position on it.

Mr. Taylor - Mr. Gallagher, could you show on that map where that easement is, since we don't have another map available to us?

Mr. Gallagher - The easement runs up here to Mr. Lowery's house...runs right down that line to here (referring to slide).

Mr. Taylor - On that plan, that's going to remain some kind of road or a corridor?

Mr. Gallagher - We would reconstruct it as tantamount to a private road that would run back through our property. We would access it to the side. We show the parking spaces here that the engineer got a little carried away with. We won't have those on there.

Mr. Taylor - But that would be available to Mr. Lowery's use as well as for incidental use for properties in that area?

Mr. Gallagher - Right. Mr. Lowery has full easement rights and full rights under the law to keep that easement open for his use, and we don't intend to impede that. Thank you.

Mr. Archer - Thank you, Mr. Gallagher. Mr. Lowery, you can continue, sir.

Mr. Lowery - The only thing as far as my privacy and my protection and potential of problems of people coming to see family members and so forth, I can only ask that they proffer not to use the easement for commercial things and so forth. I'd like a written proffer stating that. I don't want to come home every day fighting, you know, I've seen the type of traffic this type of project can project, believe me. It's not going to be pretty as far as me being a homeowner situated in here without the privacy of that easement going to my home.

Mr. Vanarsdall - All right.

Mr. Gallagher - Thank you very much.

Mr. Archer - Thank you, Mr. Lowery.

Mr. Vanarsdall - We are out of time, aren't we, Mr. Secretary?

Mr. Marlles - Yes sir.

Mr. Archer - Was there someone else who wanted to speak? I did ask some questions.

Mr. Vanarsdall - I thought he was the last one. Any one else wants to speak on this case? No one else, okay.

Mr. Gallagher - There are some folks in favor that live in Stonewall Glen, including the lady that lives on the corner of Battlefield Drive which is the closest house to the property that are here to speak in favor.

Mr. Vanarsdall - All right.

Mr. Gallagher - Not necessarily speak, but I think, by a show of hands, they'll show representation.

Mr. Vanarsdall - Good. Okay.

Mr. Archer - Mr. Gallagher, while you're at the microphone, you had how many meetings? You had two meetings?

Mr. Gallagher - We've had two meetings to date. Yes sir.

Mr. Archer - And the folks who were opposed to it, did they attend either one of these two meetings?

Mr. Gallagher - We had some people who showed. The one lady, that's sitting beside of Mr. (unintelligible). I forget her name. I apologize. Mrs. Apple was there at the last meeting. We had some people that showed up opposed at the first meeting, and showed up at the second meeting and after we explained where we were, they changed a little bit, and have come out in favor.

Out of 100 fliers that we sent out and hand dropped in mailboxes, in all the subdivisions, we have about 24 homes that haven't directly contacted me to voice their opposition or have one-on-one discussions. So, we canvassed 100 homes that we're aware of, and we hear about 24 just at the last moment that are in opposition really to what I see is just overall growth and not necessarily this development.

Mr. Archer - Okay. Thank you, sir. Mr. Chairman, and Mr. Secretary, I really don't have any idea what to do with this, to be honest with you. And, I want to try and make sure Mr. McCadden, and the folks who are opposed to this, understand. Look at the map here (referring to slide). We're looking at a piece of property that is completely surrounded by M-1 property, which means that it is doubtful that it would ever develop as R-2, as residential property.

And, at the same time, I'm sensitive to what you're concerned about, as it pertains to your being there first. And you know what they say, "The guy that get there first, gets to make the rules." But, at the same time, I think Mr. Gallagher has made some steps in the right direction to try and at least bring this to the point that staff can see it has some positive aspects to it.

I was going to suggest, at one time, to maybe defer this and see if he could maybe change your way of thinking. Do you think that would be possible?

Mr. McCadden - Sir, I appreciate your comments. I think we could discuss it. I might add, sir, that some of those names on that list that I furnished you are from Stonewall Glen. Okay.

Mr. Archer - Do you understand what I'm saying. We really need to move this one way or the other.

Mr. Marlles - Would you come to the microphone just so we can pick it up for the purposes of the minutes?

Mr. Archer - I apologize. I should have asked you to.

Mr. McCadden - Yes sir. I think we can meet. I'm speaking for homeowners. This is not Bill McCadden. I'm speaking for homeowners. The feeling is very strong in our neighborhood. We're plank owners in Henrico County in that area. And we've been completely enveloped. We've got to put a stop to it, particularly from the traffic and the noise. And, I think if I go back to the homeowners, I'll get their consensus on this, and we'd be more than glad to meet with Mr. Gallagher and this Board.

Mr. Archer - Well, you know, I don't want to just have a meeting with you if the meeting is going to be totally fruitless. At the same time, you know, he has made a diligent effort to try and improve this to at least the standards that staff would like to see.

Mr. McCadden - I understand you, sir.

Mr. Archer - And, you know, I'm just looking at the map and all the surrounding properties here. There's not much else you can do with property that is enveloped by commercial property, except to develop it commercially. And I'm trying to be sensitive to Mr. Lowery's needs, and yours and also the applicant's, and it's difficult to be honest with you.

Mr. McCadden - May I add, Mr. Archer, that what is going to happen to the area that runs due east from the Technology Park all the way to the highway or all the way to where the real estate people are located? Things like that is what bothers us. Otherwise, we feel this cancer surrounding us and what are we're going to end up is being a little neighborhood down in the corner surrounded by highways and noise and commercial ventures? That's our concern, sir.

Mr. Archer - And I do understand that. I guess when I look at what's already here, the highways, and most of the commercial development is already here.

Mr. McCadden - Yes sir.

Mr. Archer - This is another parcel that's relative small that, in just looking at it on the map, it seems to fit in the place that it is. There's not much else that can be done there, except just to leave it as is. And, I realize that the entire world does not have to be developed, and I'm sure you understand that.

But, at the same time, you know, there are a lot of people here who did not attend the meeting. And, obviously, those people may not have had benefit of what Mr. Gallagher and Mrs. Shifflett had to say in terms of what they propose to develop. Go ahead.

Mr. McCadden - I circularized every member of our 22 homes in our area with the complete packet showing exactly what was to take place and what has taken place.

Mr. Archer - Oh, I understand. I'm saying Mr. Gallagher didn't have that opportunity to tell them, though. Do you feel that the people that you contacted, these 38 people would come to a meeting if he scheduled another one, in fairness to him?

Mr. McCadden - No sir, not 38.

Mr. Archer - Half?

Mr. McCadden - Give ample time, I could probably get half of them there. It's difficult on a weeknight. In fact, I had four or five people said they'd be here tonight. But for some reason, I don't know if there was a ballgame or what, but I don't know, they didn't show.

Mr. Archer - Mr. Gallagher, do you think an opportunity would afford you in any way in trying to resolve this?

Mr. Gallagher - The read I get, with all due respect, the read I get from Mr. McCadden is that they're just opposed to this owner developing at all. I'd like to point out, its zoned M-1. I mean, there could be warehousing. There could be bookstores. There could be tire manufacturing. There's a myriad of uses that can go on this corner with or without me standing here tonight. And, I'd like to believe that this about the softness use on this corner you could imagine out of all the uses that can go on M-1. And with as mercenary as the market seems to be these days, you know, there's an Alliance Equipment Building sitting out there vacant. We've had calls coming out of our ears for everything from trailer repair places to boat sales places, that kind of stuff.

And, I'd like just to suggest to these neighbors that this is what they could have gotten, versus what we're proposing. Maybe there's some room to convince them of that. I wish they had shown up at the first two meetings, because I think we were successful with a lot of the folks that did show up.

Mr. Archer - Well, I kind of think so, too. You know, I owe that to the fact that you converted some people.

Mr. Gallagher - And we are only talking about, as you mentioned, 3.6 acres. I mean the incremental difference in what this is going to mean in the scheme of what Mr. McCadden is talking about, which is a global issue out in that area. We're going to be a "drop in the bucket" technically. The Comp Plan here calls for O/S. I could have brought in a pure O/S proposal, which would have light industrial component to it; trucks, trailers, and so on, and probably wouldn't have had a whole lot of room for them to argue at all against that, because the Comp Plan calls for it. So, I don't mean to be argumentative, sir.

Mr. Archer - Well, you're not.

Mr. Gallagher - I'd be happy to have another meeting. But I think, in the scheme of things, you pointed out, it's a very small piece of infill property that, in and of itself, can't create a huge impact for these folks.

Mr. Archer - Well, let me also point out for the rest of the Commission members, I've also had phone calls from others who chose not to speak, but who also indicate the same thing. They feel that, given the quality of development that Mrs. Shifflett has intended here so far, and owing to the fact that something much worse could be here, they support what it is you want to do. And, you know, I'm caught between trying to be sensitive to everybody who feels a need to speak on this one way or the other, including Mr. Lowery. But, you know, we've deferred this thing since August, September, and now we're hearing it the third time. And, it appears as though we are at least trying to move in the right direction as far as staff is concerned in overcoming their objections.

I also would like to point out to Mr. McCadden, that there is another opportunity to discuss this because it has to come to the Board for approval. We only would be making a recommendation,

tonight, as to what we feel should occur. And, of course, I have the opportunity to talk with Mr. Thornton between now and then, also, to let him know how you feel about it and the folks who are opposed to it. But, there are folks who are opposed to it and there are folks who are for it. And, it appears, again, that some who chose not to come out and speak in opposition, but there are some who chose not to come out and speak for it either, but they are in favor of it.

So, with that, if I can get a second, I am going to somewhat reluctantly recommend that we approve this to the Board and you'll have another opportunity...

Mr. Marlles - Mr. Archer, it is necessary to waive the time limit on the proffers first.

Mr. Archer - I had that written down, and I forgot to say it. My first motion is to waive the time limit on the new proffers.

Mrs. Quesinberry seconded the motion.

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

Mr. Archer - My second motion is to recommend approval of C-58C-00 to the Board. Mrs. Quesinberry seconded the motion.

Mr. Vanarsdall - Motion made by Mr. Archer, seconded by Mrs. Quesinberry. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained). Thank you.

Mr. Gallagher - Thank you, Mr. Chairman. Thank you members of the Board (sic). I might add, I'll be happy to have a meeting between now and the Supervisors also.

Mr. McCadden - Thank you, ladies and gentlemen, very much.

REASON: Acting on a motion by Mr. Archer, seconded by Mrs. Quesinberry, the Planning Commission voted to recommend that the Board of Supervisors **grant** the request because the proffered conditions will assure a level of development otherwise not possible; and it would provide for appropriate development.

Mr. Vanarsdall - Mr. Secretary, will you call the next case, please?

Mr. Marlles - Yes sir. The next case is also in the Fairfield District. It is Case C-66C-00.

**Deferred from the September 14, 2000 Meeting:**

**C-66C-00 Roy B. Amason:** Request to conditionally rezone from A-1 Agricultural District and R-2C One Family Residence District (Conditional) to RTHC Residential Townhouse District (Conditional), Parcels 32-A-102N, 114A, 117, and 122, containing

approximately 11.44 acres, located at the northeast intersection of Francis Road and Old Francis Road and along the south line of Francis Road at its intersection with Virginia Center Parkway. Residential townhomes for sale are proposed. The applicant proffers no more than sixty-six (66) residences to be constructed on the property. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre. **Staff – Jo Ann Hunter.**

#### Parcel A

Beginning at a point located on the South Right of Way line of Virginia Center Parkway on the eastern corner of the parcel running South 74° 20' 00 W, 162.62 feet to a point; thence along a non-tangent curve to the north with a radius of 330.00 feet a distance of 45.64'; thence North 24°09'54" East 33.04 feet to a point; thence along a curve to the east with a radius of 30.00 feet a distance of 44.97 feet; thence along a reverse curve to the East with a radius of 770.00 feet a distance of 130.86 feet to the Point of Beginning.

#### Parcel C

Beginning at a point located on the South Right of Way line of Virginia Center Parkway on the eastern corner of the parcel running South 00°49'28" East 580.63 feet to a point; thence South 89° 11'41" West 705.32 feet to a point thence; South 00°49'29" East 25.00 feet to a point thence; South 89° 10'31" West 320.00 feet to a point thence; South 00°49'29" East 168.36 feet to a point thence; South 88°59'31" West 185.07 feet to a point thence; North 29°51'40" East 219.64 feet to a point thence; South 58°51'17" East 13.00 feet to a point thence; North 31 °08'43" East 98.47 feet to a point thence; along a curve to the East with a radius of 929.43 feet a distance of 497.31' thence; North 74°34'25" East 21.77 feet to a point thence; North 74°34'25" East 606.14 feet to a point thence; North 74°34'25" East 68.56 feet to the Point of Beginning.

The staff report will be given by Mrs. Jo Ann Hunter.

Mr. Vanarsdall - Is there any opposition to this case in the audience? No opposition.  
Mrs. Hunter.

Mrs. Hunter - Thank you, Mr. Chairman. This application would rezone approximately 11.5 acres to RTHC Residential Townhouse District. The applicant is proposing 66 townhouse units for sale. There was considerable discussion of this case at the September Commission meeting. Since that time, the applicant has made a number of revisions to improve this case.

Staff originally had concerns about the layout of the site. And the applicant revised it so that there would be less backs of the units facing Virginia Center Parkway and Francis Road. Now, due to the number of side units facing those roads, we asked the applicant to look at that.

He has proffered that the end units would have windows, or other architectural features to break up the visual mass. The applicant has also revised their proffers to include landscaped buffers along Francis and Virginia Center Parkway, which would be measured from the ultimate right of way. They would also meet the transitional buffer 25-foot planting requirements. The applicant is proposing to keep the existing three-rail white fence along the road and to provide a berm behind the fence.

The applicant has also addressed staff's concerns regarding lighting, pavement quality, and parking. The applicant has shown on the site plan sidewalks and pathways. And staff has asked the applicant to include the pedestrian access in the written proffers. That's the only change that is on the proffers that have been handed out to you this evening, and the time limit would need to be waived, but I would recommend that, since it was something that staff requested.

The only remaining outstanding issue is building materials. In most high density projects, the applicant proffers a minimum of 40 percent of the principle buildings be brick. The applicant has proffered 40 percent of the fronts and 40 percent of the sides to be brick. Staff would recommend 40 percent for the entire project.

In summary, the requested zoning is not consistent with the Land Use Plan. However, townhouses could be a reasonable transitional use. The density of 5.8 is consistent with our concept of having higher density along Route 1, and densities decrease as you move to the west.

The applicant has significantly improved the case from the original submittal, and staff is now in a position to support this case.

Mr. Vanarsdall - Any questions for Mrs. Hunter by Commission members?

Mr. Archer - Mrs. Hunter, did we resolve the issue about pedestrian circulation, I believe is the way you worded it?

Mrs. Hunter - Yes. If you could look on the conceptual plan. The applicant is showing; its kind of hard to see, but they're showing a pedestrian pathway here that connects up to the road here, (referring to slide) and goes down into their gazebo area here. And then along the road here, you'll see a darker line, that that's where they're proposing sidewalks. So, they are providing a very good pedestrian circulation system.

Mr. Archer - Okay.

Mr. Vanarsdall - I believe you said we have to waive the time limits?

Mrs. Hunter - We do. Yes.

Mr. Vanarsdall - Mr. Archer, do you want to hear from the applicant?

Mr. Archer - I don't think its necessary, unless he feels there is something that he just has to add.

Mr. Vanarsdall - I think he's been asked all the questions we could possibly ask throughout this, hadn't he?

Mr. Archer - Mr. Chairman, I think we're finally moving in the right direction on this. I think this is the third zoning case we've had here in the last four years concerning this. One of the major concerns we've had...making sure we were consistent in decreasing the density as we

move westward away from Brook Road. I think we finally addressed that issue. And, with the new proffers, I believe it is probably...So, with that, I move we waive the time limits on the proffers received today.

Mrs. Quesinberry seconded the motion.

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

Mr. Archer - The neighborhood was here at the last meeting and they spoke in favor of this case. So, with that, I move approval of C-66C-00 and recommend approval to the Board.

Mr. Vanarsdall - Motion made by Mr. Archer, seconded by Mrs. Quesinberry. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained). Next case, Mr. Secretary.

REASON: Acting on a motion by Mr. Archer, seconded by Mrs. Quesinberry, the Planning Commission voted to recommend that the Board of Supervisors **grant** the request because it is appropriate residential zoning at this location; and the proffered conditions will provide appropriate quality assurances not otherwise available.

Mr. Marlles - The next case is in the Three Chopt District. It was deferred from the September 14<sup>th</sup> meeting. It's Case C-60C-00.

**Deferred from the September 14, 2000 Meeting:**

**C-60C-00 Andrew Condlin or Patrick Sanderson for MCI WorldCom:**  
Request to amend proffered conditions accepted with rezoning case C-30C-93 (zoned R-3C) on Parcel 29-A-50, containing 1.584 acres, located on the west line of Francistown Road approximately 150 feet north of its intersection with Castle Point Drive. The amendment is related to the front yard setback and non clearing area on the property. The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net density per acre.

Mr. Marlles - The staff report will be given by Mr. Lee Householder.

Mr. Vanarsdall - Is any one in the audience in opposition to this case? All right. Thank you. Mr. Householder, good evening.

Mr. Lee Householder, County Planner - Good evening, Mr. Chairman, members of the Commission. The subject request would amend the proffers, accepted with rezoning Case C-30C-93 to allow for the expansion of MCI Worldcom telecommunications facility.

The subject property is zoned R-3, but the existing proffers prevent the adjacent facility from developing or encroaching onto the subject property. The property lies on the west line of Francistown Road.

The zoning of the surrounding property to the north is A-1, with a Suburban Residential 1 land use designation. To the south is the Mount Vernon Baptist Church, also zoned A-1. To the west is the existing Worldcom facility zoned A-1, and to the east, across Francistown Road, is the Coal Pit Community Center and the CastlePointe Subdivision, a combination of A-1 and R-3.

MCI telecommunications switching facility is currently located on this adjacent parcel, right there (referring to slide). It's considered a public utility facility, which is a conditional use in the A-1 and R-3 Districts. The Conditional Use Permit will have to be granted by the Board of Zoning Appeals before this site could be expanded onto the adjacent site.

The applicant is requesting this amendment to allow them to expand. It's necessary, because voice data and other telecommunications demand that have come up in the past few years has really increased the role of this facility. And it serves long distance for not only the Richmond area, but for most of the State of Virginia and some of the mid-Atlantic area.

Staff has worked closely with the applicant and members of the surrounding community before to resolve concerns with the original conditional use permits and the original expansions on this property. Most of the concerns at that time were noise that was produced by generators on the site. As a result of working with community and staff, the generators were moved indoors and sound suppression system, like sound suppression walls were installed.

Staff did tour the facility with the applicant, and was pleased to see that many of these suppression measures were really working well. We feel that sound generated by this facility is adequately contained and no longer an issue.

The applicant in this case, in order to expand, must revise Proffers 3 and 4 of Case C-30C-93. The proposed amendments were designed to ensure public utility facilities and other structures can encroach front yard setbacks, which is mentioned in Proffer 3, and non-clearing area, which is Proffer 4. The applicant has indicated that the facility will need to be 74 feet from the existing right of way in Proffer 3. This change is reflected in the new proffers that were handed out to you this evening. The mention of residential dwellings were changed to merely buildings to accommodate for the expansion.

Presently, this parcel does act as a buffer to distance the facility from Francistown Road. Staff was concerned that this expansion would eliminate this buffer and the non-clearing area would be disturbed by the proposal. Staff recommended heavy landscaping along Francistown Road to enhance the appearance of the development. The applicant has addressed these concerns also in Proffer 3, which includes that heavy landscaping that would require a landscaping plan to be reviewed by the Planning Commission.

Staff had additional concerns about the appearance of the building when viewed from Francistown, the applicant has addressed this by providing that a 10-foot berm will be provided on a 4 to 1 slope,

and that any fencing in this area will be at least 53 feet from Francistown Road, and will be of a dark, either green or black color to try and blend in with the landscaping that is proposed.

The proffers submitted to you this evening reflect a great deal of work between staff and the applicant that we did to ensure the quality of this development on this site.

Originally, in our meetings, we did express concerns that the exterior materials and architectural treatment would be a necessary way to make the expansion blend in with the existing community. But, as our discussions progressed, we thought it more necessary that landscaping and a 10-foot berm would, in fact, hide the structure and would be more appropriate. As a result Proffer 8 was deleted in the proffers that were handed out to you this evening.

The site is designated on the 2010 Land Use Plan for Suburban Residential 1. Staff feels that residential uses at this location would not be appropriate, considering it is a very small tract that fronts on a collector road. Therefore, staff feels that a telecommunications switching facility is a reasonable use for this site.

The proffers submitted will ensure development on this site will not detract from surrounding residential communities and, therefore, we recommend approval of this request. I'll take any questions that you may have. I'll also add that these proffers were received today, so the time limit would need to be waived in this case.

Mr. Vanarsdall - Any questions for Mr. Householder?

Mr. Taylor - Mr. Householder, in the proffer, Proffer 3, (b)(4), the wording is, "Any chain link fence located within 100 feet of Francistown Road shall not be galvanized and shall be dark green or black in color." I have had some discussion on the nature of that fence, and I would like to broaden that so that the fence can consider other methodologies of chain link. Can we amend the proffers that way?

Mr. Householder - We can, if the applicant is willing to accept that. He just indicated that he will address that in his presentation.

Mr. Taylor - For the moment to give us a little bit of architectural freedom, I would ask that we just eliminate "chain-link" at the moment, and leave the fence to be defined.

Mr. Householder - Okay.

Mr. Taylor - Thank you.

Mr. Vanarsdall - Any other questions? All right, we'll hear from the applicant. Thank you, Mr. Householder. Good evening, Mr. Condlin.

Mr. Andrew Condlin - Good evening, Mr. Chairman, members of the Commission. My name is Andrew Condlin. I have with me Sarah Baldwin from my office. Also Claire Cunningham

from MCI; Frank Cutchens from the architectural firm; Jimmy Dutra, from the contractor, and from Timmons, locally, we have Monty Loving, Roger Rodriguez and Lugigi Marnardi.

MCI, as Mr. Householder has explained, operates a telephone switching station at this site, serving all of Virginia and parts of West Virginia. In other words, all long distance calls made, not just by telephone, but also internet, pager from the MCI service come through this facility. They handle approximately a million calls a day, and its only getting larger, because as the population increases, and people have more lines into their homes to cover faxes, to cover internet, and to cover telephones, the demand for these services increases. And this handles everything in Virginia and parts of West Virginia.

This property, to give you a little history, was first developed in early 1980's. This location; the second phase part there that you see there (referring to slide) was finally finished. It began in 1998 and finished last year. The proposed building that we're looking at is at this area right here, (referring to slide), this darker area that we've shown on there.

What we've done in the past, and as Mr. Householder explained, you can see the existing chilling towers that are located at these two locations (referring to slide). They were moved from the rear of the property over to this location, and a number of sound suppression systems. In excess of \$900,000 was spent in this area, to reduce the sound which was really unbearable for the residents, at the request of and part of the expansion, to a level that has to be 50 decibels or below.

We are now requesting, as part of our final Plan of Development, because this is zoned R-3C, and it has existing proffers, we wanted to actually put our buildings together, in other words, touch our buildings. The existing proffers require a 25-foot area behind on the property that's located that starts right here and runs across there (referring to slide).

To put the buildings together, we can then take advantage of the existing cooling towers that are located outside in the existing infrastructure in the area. If they were separated, in order to put the same facility, we'd have to build them again, that new infrastructure. It would be doubling or redundant for that purpose.

With respect to the proffers, what we've presented; and we did submit proffers. And, then given some of the requests made in the last few days, we tried to respond as follows:

We asked for a, first there's a 75-foot setback from residential. We've proffered to put in a 74-foot building setback. Technically, our building sets 74.6 something feet. For the second provision, and correct me, and this applies for any non-residential development. In other words if any residential ever came on here, this particular provision wouldn't apply.

I wanted to show you, and I think it's a little important, that we're proposing a 10-foot berm running from the existing grade of Francistown Road at a 4 to 1 or flatter slope. This is the existing, if you're sitting in a car going along Francistown Road, this is what the facility would look like without the berm.

The foot of the building or the floor level of the building is approximately seven to eight feet below road level existing. The building is about 20 feet tall. As you look here at the second picture down below, by adding a 10-foot berm; increasing to a 10-foot berm, with the 7-foot below, there's about 3 to 4 feet of the actual building showing behind the berm, and then, of course, landscaping and plantings will be placed on top of the berm on top of that.

The landscaping that we're proposing in 3-B(ii), that provides for, we have to come back before the Planning Commission for approval of our landscaping plan. We're kind of in an unusual situation in that we have to go before the BZA for their Conditional Use Permit, which they will approve and look at, and approve the engineering issues with respect to, and similar to what a POD is being required, as they did in the other phases. But, we would have to come back to you for the landscaping plan. And, that landscaping would have to be installed prior to any final Certificate of Occupancy. My concern was, not just limiting it to a Certificate of Occupancy, because, as you know, sometimes the weather is not correct for planting. It's not the right time of the year. This way, we can get a temporary CO, condition upon plantings during the appropriate time period.

Again, that would have to be put in before we received a final CO and could be made a condition of a temporary CO. We would also have to put in underground irrigation.

If I would, Mr. Taylor, to answer your question. The Item 4 has been crossed out. We actually replaced that Item 4 with, if you flip over to the second page, Item D which is on the second page. It says, "Any fence must be located..." And it's a little bit hard to see, but "located 53 feet from Francistown Road." That line is right here (referring to slide). We wanted to be able to place a security fence right directly behind this landscaping right here, which is 53 feet from Francistown Road. Our concern is, with a building that houses some critical, including 911 calls, and critical to business facility. We don't want people walking up on top of the berm, pulling themselves up about three feet, and walking on our roof. We don't want them up there. And that's why we feel like we have to have a security fence around there.

And the type of fencing has not been specified. I think, by this proffer, we're saying that any fence on the property must be located 53 feet from Francistown Road. It's Item D on Page 2. And then it says, "If it is a chain-link fence, for that chain-link fence between 53 and 100 feet from Francistown Road, it must be the dark green, or the black, it can't be galvanized in color." So, that's not tying us into a chain-link fence. And, again, I think we will be able to show, with the landscaping renderings at the time of the landscaping plan to again be approved by you, at the time by the Planning Commission. We can show how that will look with different types of fencing, and work with you at that time.

Item C, which I skipped over to address the fencing with you, has to do with the side of the property that addresses the residential site. Again, it would be consistent with landscaping that's currently along that southern property line, and, again, as part of that landscaping plan to be approved by the Planning Commission.

We have placed within that Proffer 4 the non-clearing area for the 25 feet. That last sentence says that the proffers shall not apply to any non-residential development, including this, which is a public utility structure.

And, finally, given that we're only three to four feet above a berm which is hidden by landscaping, and some sort of fencing, we didn't want to get into, and didn't feel we needed to, and I think staff agrees to proffer exterior materials.

We've worked very closely with Mr. Vanarsdall and Mr. Taylor, and Mr. Glover in this case and we believe its appropriate at this time. We request that you follow staff's recommendation and recommend this to the Board of Supervisors. I'll be happy to answer any questions. Of course, we have the folks here to answer any questions at this time.

Mr. Vanarsdall - Any questions for Mr. Condlin by Commission members? I had a question, but I don't know what it was. I forgot it.

Mr. Condlin - I can answer that one. I'm good at those.

Mr. Vanarsdall - That was an easy one.

Mr. Condlin - That's a given.

Mr. Vanarsdall - Do you want some rebuttal time?

Mr. Condlin - Whatever I have left. I don't think I'll need too much.

Mr. Vanarsdall - Thank you, Mr. Condlin. Do you want to come on down, please.  
Good evening.

Mrs. Peggy Callin - Good evening. My name is Peggy Callin. I live at 5228 Timberhollow Place which my back yard is adjacent to the end of MCI's property. Well, specifically, one concern I have is I'd like to see sidewalks built on that side of Francistown. Right now, they're on the other side, but they're not on our side. And, I want to be sure that there is enough space available for sidewalks to be built if and when that does occur, I'd like to be. And, also, I'm concerned if the road ever needs to be widened, will there be enough room. With so many new subdivisions going up, I'm not sure that they're leaving space for that.

So, those are my specific concerns. In general, I'm opposed to it for many reasons. We've lived in that house for 9 years now. We thoroughly enjoyed the neighborhood and all of our friends. And it's a great family place to live, with the exception of MCI. It's been an extreme nuisance to us since we have lived there.

Originally, on that other plan, there were the two beige buildings and then that brick colored building that's proposed to be built. Originally, when we moved there, there was the one beige building. You know, two years ago, they doubled their building in size and now they're again trying to add a third more on. And, it is a residential area. You know, many, many young children.

We've had to fight MCI about the noise for years. My children are now four and five. At that time, they were one and two. They were having nightmares about the noise. And I had to move them out of their bedroom, to a bedroom further away from the chillers. And, I understand, that's over now,

but I just don't trust that this won't led to more problems; more noise, more traffic, more, you know, inability to walk in the road, or inability to put sidewalks up.

It just seems like its an increasing problem. You know we get one battle solved and then we get another letter saying, "Oh, we want to do this." You know, like I said, it's a residential area, and I think all of the residents need to be considered.

I spoke to several neighbors today who also feel the way I do. They didn't receive any letter, and weren't aware of this meeting tonight and were unable to come on the spur of the moment. But I know there is opposition in The Timbers. These people came in late, but I assume they came in opposition to the MCI plans.

Mr. Vanarsdall - They had a community meeting I think.

Mrs. Callin - Yes. And my husband was there.

Mr. Vanarsdall - I thought you were there, too.

Mrs. Callin - No. I wasn't. I was at home with the kids. Now, its my turn tonight, and he is home with them.

Mr. Vanarsdall - Hardly, no one was there.

Mrs. Callin - Well, you know, a lot of people, the letters are only going out to the homeowners that are adjacent to the MCI property. But, there's a whole subdivision of people who are, like one property away, two properties away who aren't even aware of this.

Mr. Vanarsdall - Every home across the street got a notice, and none of them came.

Mrs. Callin - Okay. Well, that's not my subdivision.

Mr. Vanarsdall - It was very disappointing that no one did show up.

Mrs. Callin - We're directly behind on the same side of the street.

Mr. Vanarsdall - Right.

Mrs. Callin - I know the letter only went out to the adjacent property owners. So, there are a lot of property owners who aren't adjacent, but it does directly affect them.

Mr. Vanarsdall - We'll let Mr. Condlin address your issues and appreciate it.

Mrs. Callin - Thank you.

Mr. Taylor - Thank you, Mrs. Callin.

Mr. Vanarsdall - Any questions by Commission members? I'm sorry.

Mr. Taylor - I had a question, but I think I'll wait until after Mr. Condlin speaks.

Mr. Vanarsdall - All right.

Mr. Condlin - I didn't know if any other opposition wanted to speak. That's what they're whispering to be back here.

Mr. Taylor - That is a good point. Is there anybody else in opposition? Then, I think, Mr. Condlin, you're free to speak?

Mr. Condlin - If you could put that lose map up there, I could address it. As you said, Mr. Vanarsdall, we actually had two meetings. The first one we notified folks adjacent to and across the street. We sent out about 40 notices, and we had two people show up at the facility. At the second meeting that we had, and we're looking for the map now. But, we sent out over 225 notices by mail by ourselves. Across the street, along the sides, and if we could show it to you, we could show, that, you know, we drew a big circle and hit all the subdivisions and went back in all the subdivisions pretty far. Do you have it? You can see, these are all the folks that we notified with our facility located right there, and we did have attendance by these folks. The family was represented there with our facility right here. And, so we notified, you can see where we marked. We did a pretty extensive notification of folks at the request of Mr. Glover, Mr. Vanarsdall, and Mr. Taylor.

But, beyond that, I do want to answer some of the questions. You can see this is kind of a blow-up of our area (referring to slide). And you can see this area, I'm told there's 10 feet of County property before our berm starts and goes up. We've been requested, and we've agreed to put within that 75-foot area, a 10-foot high berm at 4 to 1. We're using a lot of our area, as a matter of fact, we will be able to discuss this, bringing it right up to the building and using the building wall as a retaining wall for that 10-foot high berm to accentuate and to help, I guess, what, essentially, is a commercial building in a residential area. I can't disagree with that.

But, I think by the landscaping plan that we've proposed, that will be approved by you. But there is room for the sidewalk along the right of way. There's a 10-foot right of way. And there isn't, according to our review of the six-year plan from the County, any plans for the road widening in this area. But, certainly, there's that 10-foot area, and more could be taken. But, this doesn't show the berm (referring to slide), but you can see some of the landscaping. It will, in essence, hide the facility which you don't achieve under the current plan, and this can accentuate the area.

I appreciate, and I agree, that the noise, I think, has been taken care of. There may be some instances where there could be a low hum, but I've gone out there on a number of occasions. I think we've agreed, the noise in the past, was unbearable. MCI recognized that fact, and MCI, in order to expand, made, as part of their expansion, putting in these new facilities with the sound barrier systems.

As for the traffic, the facility will have no more employees than it currently has. It's the beauty of it. It's amazing to see the old facility that was built in the early eighties, versus the new facility.

The same amount can be handled in a third of less room with a third of a less people. It is amazing. They've got about any given shift, have as much as 15 people there. The facility has employees there 24 hours a day, 7 days a week, every day of the year. Sometimes its as small as two or three during the late hours. Sometimes its as much as up to 15. Again, this won't impact traffic. I would dare say, if this would develop residential, probably would have. And I didn't do an analysis, but given a quick take of the amount of area in this whole property, would have less traffic than if it were developed residentially within this area and on Francistown Road.

This property is part of the phasing that was planned and was upgraded or speeded up because of the demand, and the huge increase in demand for the telephone lines and the services and the voice data that goes over the telephone lines. I was trying to respond to that.

This property services the entire areas we've described, and there isn't any more room to expand. This is it. This is the last phase. This is the last plan of the phase, of the phasing plans that they have. They bought this property with the understanding that they may have to pop and build this particular facility. Again, I'll be happy to answer any specific questions at this time that I might not have addressed.

Mr. Archer - In reference to the questions, is it Collins?

Mrs. Callen - Callen.

Mr. Condlin - Callen.

Mr. Archer - Mrs. Callen raised, one, I think you addressed having to do with noise abatement. Will this facility tend to take the noise away from or move it closer to her or what?

Mr. Condlin - I won't do anything to the noise for or against, from what I understand at this point. What I understand how the facility, and I know the engineers hate it when I try to be an engineer. But, the way I understand the facility, these telephone switching devices run so hot that they have to have some really impressive cooling units underneath. And what the water does is, after it goes through the units, it goes into those towers that were on that beige layout; those towers that are out there. That cools it down. And I'm going to say, and I know I'm not right, like 10 degrees, and then it goes down inside the facility. There's yet another, what they called a "chiller," which cools it down another 10 degrees and then the water runs back through the system. The system is so extensive that, you know, it has every other floor panel has an air-conditioning grate for it to come up and to help cool the units.

In addition to the other noise generation, there was a back-up generator that had to actually be employed this last January during the Super Bowl during our ice storm. I keep time by sporting events, and I apologize for that. I think we all remember that storm, a snow storm that came through. They, actually, had to employ a generator in the back up battery system.

Again, all of those facilities have been placed, and they spent close to a million dollars; little over \$900,000. And I would say that the Planning Commission, we checked before the last hearing. I

can't say we checked in the last 30 days, has not received any noise. And this would do nothing to increase the noise. And I can't stand here and legitimately say we decrease the noise by this landscaping. It depends on where you're standing, quite honestly.

By getting rid of that 25 foot "no clear area" that's in the proffers now, and take advantage of the existing infrastructure, the things I just described and use those, and again, it won't make any more noise.

Mr. Archer - And the other piece was, you mentioned, "sidewalks?"

Mr. Condlin - Yes sir.

Mr. Archer - And I think you've indicated there's a 10-foot County-owned strip for the sidewalk?

Mr. Condlin - Yes. I think that what they've got showing here, the roadway is right there, and in the right of way, again, I can't seem to work this (referring to slide pen), but you can see the first line is where the pavement stops. The second line, where that green area is, where the right of way extends, there's a 10-foot area there where a sidewalk could be placed. There is a sidewalk on the other side of the street. I think their concern is that the school down the road, is just a little bit down the road, is on the same side as MCI and the school. It seems kind of ridiculous to cross the road. It's a fairly busy road to walk down and then cross back again.

Mr. Archer - Okay. That's all I have. Thank you.

Mr. Taylor - While we're talking about landscaping, and going back to the comment that Mrs. Callen made, is there landscaping now existing behind the building between the building and the adjacent residential area? Do we know that there is?

Mr. Condlin - This shows, if I can get my bearings, (referring to slide), there is some landscaping. You can see there is an existing buffer that goes along, this doesn't show on the dark property, runs along this area. I think Mrs. Callen lives in either this house, or this house back here.

Mrs. Callen - The last one.

Mr. Condlin - The last one right here.

Mr. Taylor - That one right there, Mrs. Callen?

Mr. Archer - That I hit with the dot, and I finally got this thing to work (referring to slide pen).

Mr. Taylor - Mrs. Callen, has the landscaping helped the noise in the present configuration?

Mrs. Callen - The landscaping hasn't really improved the noise diminishing. They moved their chilling unit. It was right practically in our backyard. And that's when the noise was an extreme nuisance, and that's since been moved to the front of their building. But, as long as we're talking about landscaping, I would love to see more.

When we moved there, there was nothing but woods behind us. You know, we watched them just completely bulldoze the woods behind us and now there's a chain-linked fence up right on our, you know, within an inch of our property line; no woods, an eyesore.

As long as I'm up here, one more question, nighttime lighting. Will there be any nighttime lighting? In the past spotlights have been a real nuisance and a real problem, because we've had to call several times to get them to change where the lighting was because it was shining in our house.

Mr. Condlin - I believe they did adjust those.

Mrs. Callen - They did. But, I'm concerned that there may be new lighting with the new building?

Mr. Condlin - I'll call Jamey. Jamey, if you could come up here. It would be more of a security level issue.

Mr. Jamey Dutra - I'm Jamey Dutra. I work with Beers Construction Company. We're design, build contractors for the project, and there will be some lighting by code. I believe we're required to have exit lighting at the door at the exit, right?

Mr. Taylor - And that lighting does not exist now?

Mr. Dutra - Don't worry. I build better than that.

Mrs. O'Bannon - I think the request has to do with landscaping that's not really adjacent to this portion of the building. You were talking about...

Mr. Condlin - If I could address that. We're talking about the landscaping back here (referring to slide).

Mrs. O'Bannon - Right.

Mr. Condlin - There is a requirement for a access to the retention area at the back from here. So, there has to be some means to get down there. Is that right?

Unknown Person - There is also fire access required to the back here. Some of this landscaping has been planted in the back, and it may not be mature yet. We're certainly willing to accommodate the landscaping plan whatever we can put in that will assist with that shielding the property. That's not an issue.

Mr. Condlin - If I may. That was part of the conditional use permit for both of these buildings. That was looked at and approved by the BZA; not to say it was right or wrong. It was approved at that time. I don't think we can proffer that would bring this back. But, I think that we can commit that we can take a look, to the extent before we file our landscape plan. We can take a look, you know, look at the landscaping, and, potentially, offer a landscaping plan for the entire property at that point to the extent that we find that we're deficient. Again, we're not amending any proffers on that back piece. I can't proffer that, tonight, but I can commit that we can take a look at that. If desired, we can make that part of the landscaping plan. We tried to make this as full landscaping as we could allow, given the access requirements to get back to the BMP, given the grades and everything. So.

Mr. Taylor - Well, please let us make that a part of the plan and also make special efforts to talk to Mrs. Callen to see what we can do as we go forward with this plan.

Mr. Condlin - Yes. And see what we can do, specifically, for landscaping.

Mrs. O'Bannon - And as you know, these minutes are verbatim.

Mr. Condlin - I hate to read them sometimes. Yes ma'am.

Mr. Taylor - Are there any other comments?

Mr. Vanarsdall - Any more questions for Mr. Condlin? Thank you. Yes sir, good evening.

Mr. Oscar Thomas - Good evening, every one.

Mr. Marlles - Your name, sir.

Mr. Thomas - Mr. Conlley says that...

Mr. Marlles - Sir, could you give your name and address, just for the minutes?

Mr. Thomas - Okay. My name is Oscar Thomas. I'm with the Brown family. We have the property adjacent to MCI. Conlley?

Mr. Condlin - Mr. Condlin.

Mr. Thomas - Mr. Condlin said that the existing chillers, let me see if I can have any luck with this pen, here; due to growing demand will service all of this. If this demand continues to grow, will there be a need for another chiller or a cooling system, and where will it go?

Mr. Condlin - I can address that. The existing demand I was talking about was requiring the additional property, which we show here in the dark area. These outside cooling towers, when they were built, were built with specifications with the understanding that we were building and planned for this particular phase. So, if we fill up this entire site with the computer

telephone switching devices, and fill out to the maximum this entire facility, we would still only need these two cooling towers. We would not need any more cooling towers on our property. So, again, if the demand increases beyond what we have here, MCI has a couple of choices which is either expand over to your property, if you sell the property, or reduce the area that's serviced by this facility, and built another facility somewhere, probably in western Virginia area to create a smaller service area, or to find another facility to work that out. This is it for the property. So, these two cooling towers will be...

Mrs. O'Bannon - Mr. Brown, do you hear a lot of noise from the cooling towers? I'm just interested in our well they are insulated? We were told they did some soundproofing.

Mr. Brown - We're not living in that particular area. But the neighbors from the last meeting I went to, said it was quite a bit of noise until they moved the chillers or cooling towers.

Mrs. O'Bannon - Yes sir. They tell us they've put a lot of insulation or soundproofing around them. I was just interested to know how well its working. So.

Mr. Brown - Well, this young lady here maybe can answer that a little better than I can.

Mrs. O'Bannon - Okay. Thank you.

Mr. Vanarsdall - Mr. Taylor.

Mr. Taylor - Thank you, Mr. Chairman. This particular project...

Mr. Vanarsdall - You have to waive the time limit on the proffers, if you want to.

Mr. Taylor - May I make a few remarks first? Mr. Chairman, may I make a few comments, first?

Mr. Vanarsdall - Sure. Do whatever you want to.

Mr. Taylor - Well, in view of the fact there's a Virginia Tech game, we want to watch the clock. But, I would like to say that this project has involved Mr. Glover, Mr. Vanarsdall, and myself and all of the staff at MCI and Mr. Conclin, and we have had several meetings with the neighborhood people. And I want to thank everybody who participated in those proceedings for the time and the energy that you placed in them. And, I think the outcome has been as good as we can hope with what we all recognize is an institutional type corporation entity in a residential area. It's just, that's the way it grew and it has grown. And, I think that MCI has been trying to be a good neighbor over the years, and, particularly, this last evolution in the nature and character of the changes. And, I will hold them responsible for all of the proffers that they've made, and, I know that they'll comply. And, with that, Mr. Chairman, I would move to waive the time requirements for Proffers 3 and 4 for Case C-60C-00.

Mrs. Quesinberry seconded the motion.

Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Mrs. Quesinberry. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained).

Mr. Taylor - And, also, Mr. Chairman, I would move approval of Case C-60C-00 MCI WorldCom as proffered and amended.

Mrs. Quesinberry seconded the motion.

Ms. Dwyer - May I ask a question before we move? Do we need to amend Proffer 8, as well?

Mr. Taylor - I believe we do.

Mr. Vanarsdall - Eight has been deleted.

Mr. Taylor - Proffer 8 has been deleted.

Ms. Dwyer - Okay.

Mr. Taylor - So, Proffers 3 and 4 are all that we have. So, we're correct.

Ms. Dwyer - Sorry.

Mr. Taylor - I'll make again the motion for approval of Case C-60C-00 MCI WorldCom.

Ms. Dwyer seconded the motion.

Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Mrs. Dwyer. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained). Thank you all. All of you are going in different directions. I hope you have a good trip. All right, Mr. Secretary.

REASON: Acting on a motion by Mr. Taylor, seconded by Mrs. Dwyer, the Planning Commission voted to recommend that the Board of Supervisors **grant** the request because the proffers continue to assure a quality form of development with maximum protection afforded the adjacent properties.

Mr. Marlles - Okay, Mr. Chairman, the next case is C-70C-00.

**C-70C-00 Jordan Consulting Engineers for Deborah Hungerford:** Request to conditionally rezone from A-1 Agricultural District and R-2C One Family Residence District (Conditional) to R-5C General Residence District (Conditional), part of Parcels 10-A-12 and 13, described as follows:

Parcel I

Beginning at a point on the southern boundary of the right of way line of Nuckols Road, said point being 496.37 feet west of the intersection of the southern boundary of the right of way line of Nuckols Road and the western boundary of the right of way line of Shady Grove Road. Thence leaving the southern boundary of the right of way line of Nuckols Road in a westerly direction with two (2) courses and distances: (1) S 18°04'45" W, 164.05 feet to a point; (2) Thence N 57°00'45" W 15.82 feet to a point, said point being the Actual Point and Place of Beginning for Parcel 1. Thence in an easterly direction with three (3) courses and distances; (1) S 57°00'45" E 129.38 feet to a point; (2) Thence N 71°51'21" W 87.75 feet to a point; (3) Thence N 36°35'30" W 64.43 feet to a point, said point being the Point and Place of Beginning for Parcel 1 and containing 0.037 acre.

Parcel 2

Beginning at a point on the southern boundary of the right of way line of Nuckols Road, said point being 496.37 feet west of the intersection of the southern boundary of the right of way line of Nuckols Road and the western boundary of the right of way line of Shady Grove Road. Thence leaving the southern boundary of the right of way line of Nuckols Road in a westerly direction with three (3) courses and distances: (1) S 18°04'45" W 164.05 feet. to a point; (2) Thence N 57°00'45" W 252.95 feet to a point; (3) Thence N 18°04'45" E 110.96 feet to a point on the southern boundary of the right of way line of Nuckols Road. Thence with the southern boundary of the right of way line of Shady Grove Grove in an easterly direction with two (2) courses and distances; (1) S 71°55'15" E 244.43 feet to a point; (2) Thence S 18°04'45" W 12.00 feet to a point, said point being the Point and Place of Beginning for Parcel 2 and containing 0.805 acre.

The staff report will be given by Mr. Mark Bittner.

Mr. Vanarsdall - Any one in the audience in opposition to this case?

Mr. Bittner - Any one in the audience?

Mr. Vanarsdall - Is there any one in the audience? No opposition. Mr. Bittner.

Mr. Bittner - Thank you, Mr. Chairman. I'll make this brief, but I do want to cover quickly the proffers that we got in. They were brought in yesterday, so we would need to waive the time limit in order to accept them. What these proffers do is simply reference the existing proffers on the existing day care center just to the east. And they, simply, attach themselves to those proffers.

There is one exception dealing with a buffer along Nuckols Road. They're proffering a 25-foot buffer. The existing site has a 30-foot buffer. However, they are also proffering that the buffer to be established on the new section will be consistent with this site plan, which is part of the staff report.

We feel that the buffer shown here is acceptable because it maintains a consistent line and width, with what's already been established on the site. So, staff is, therefore, now recommending approval of this application. I'd be happy to answer any questions you may have.

Mr. Vanarsdall - Any questions for Mr. Bittner? Thank you, Mr. Bittner. Mr. Taylor, do you want to hear...

Mr. Taylor - Mr. Bittner, as you said, the new proffers that we have right here, they're handwritten. You referred to as proffers. I only see there's Proffer 1.

Mr. Bittner - Well, yes. That's correct. There's one proffer.

Mr. Taylor - We'd have to waive one proffer. And this was the greenbelt that was described in here that you refer to.

Mr. Bittner - Correct. The second paragraph of the proffer towards the bottom. That makes the exception.

Mr. Taylor - And, I'm correct, that this really just rationalizes kind of the plat and allows the existing day care to expand? And it picks up a little piece of the EPA, and there's no one in opposition. I've had no comments, no calls.

Mr. Bittner - Neither have I.

Mr. Taylor - Then, Mr. Chairman, I would move to waive Proffer 1, dated October 11, 2000 in Case 70C-00.

Mr. Archer seconded the motion.

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

Mr. Taylor - And, Mr. Chairman, then with that...

Mr. Vanarsdall - Well, Mr. Taylor, before you say that, did you want to hear from the applicant?

Mr. Taylor - No. I don't think, in this case, we should do that, unless she's here in the audience or he's in the audience. That not being the case, I think we'll proceed. I will move approval of Case C-70C-00 Deborah Hungerford as proffered.

Ms. Dwyer seconded the motion.

Mr. Vanarsdall - Motion made by Mr. Taylor, seconded by Mrs. Quesinberry. All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained). Thank you all. All of you are going in different directions. I hope you have a good trip.

REASON: Acting on a motion by Mr. Taylor, seconded by Mrs. Quesinberry, the Planning Commission voted to recommend that the Board of Supervisors **grant** the request because it

continues a form of zoning consistent with the area; and it would provide for appropriate development.

Mr. Vanarsdall - That is the end of the day for the cases. Now, we'll take the minutes if anybody has reviewed them, edited them, read them, corrected.

Mr. Archer - Mr. Chairman, I found an error, but I don't remember where it was.

Acting on a motion by Mrs. Quesinberry, seconded by Mr. Taylor, the September 14, 2000 zoning minutes were approved as corrected:

Page 13, Line 539 - The last word should be "if" instead of "of".

Mr. Vanarsdall - And, now, Mr. Secretary, do you want to explain what we're doing now?

Mr. Marlles - Yes sir. We have one item of unfinished business, Mr. Chairman, having to do with finalizing our meeting schedule for 2001. I believe there was a proposal to have only one meeting in the month of August. We did have some discussion at the end of our last meeting. And staff is requesting the Commission do take action. We do have to finalize this. We are running out of time.

Mr. Vanarsdall - What this means is, we would have one meeting in August of 2001. We would drop the POD meeting, which would be held on Wednesday, August 22<sup>nd</sup>. We wouldn't have one August 22<sup>nd</sup> next year. We'd only have August 9<sup>th</sup>, and we could all have a holiday.

Mrs. Quesinberry - We need a motion?

Mr. Vanarsdall - We need a motion and a second. You what to make a happy motion.

Mrs. Quesinberry - If I can make a motion, I'm feeling very strongly, Mr. Archer is going to second this that the Commission forego the August 22<sup>nd</sup> meeting and agree to meet only once in August, that being August 9<sup>th</sup>, the year 2001.

Mr. Archer - I will herewith second that motion.

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

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

The Commission, having no further business, adjourned its meeting at 9:50 p.m. on October 12, 2000.

Ernest B. Vanarsdall, C.P.C., Chairman

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John R. Marles, AICP, Secretary

**Last revised December 5, 2000.**