

1 Minutes of the work session held at 5:30 p.m., October 13, 2011, to review and  
2 discuss a revision to the County's Zoning Ordinance to permit Places of Worship  
3 in additional Zoning Districts, and the regular monthly meeting of the Planning  
4 Commission of the County of Henrico held in the County Administration Building  
5 in the Government Center at Parham and Hungary Spring Roads, beginning at  
6 7:00 p.m. Thursday, October 13, 2011. Display Notice having been published in  
7 the Richmond Times-Dispatch on September 26, 2011 and October 3, 2011.  
8

Members Present: Mr. C. W. Archer, Chairman, C.P.C. (Fairfield)  
Mr. Tommy Branin, Vice Chairman (Three Chopt)  
Mr. E. Ray Jemigan, C.P.C. (Varina)  
Mrs. Bonnie-Leigh Jones, C.P.C. (Tuckahoe)  
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)  
Mr. R. Joseph Emerson, Jr., AICP,  
Director of Planning, Secretary  
Mrs. Patricia O'Bannon,  
Board of Supervisors' Representative

Also Present: Ms. Jean Moore, Assistant Director of Planning  
Mr. David O'Kelly, Assistant Director of Planning  
Mr. James P. Strauss, CLA, Principal Planner  
Mr. Benjamin Blankinship, AICP, Principal Planner  
Ms. Leslie News, CLA, Principal Planner  
Ms. Rosemary Deemer, AICP, County Planner  
Mr. Benjamin Sehl, County Planner  
Mr. Livingston Lewis, County Planner  
Mr. Roy Props, County Planner  
Ms. Lisa Taylor, County Planner  
Mr. Paul Gidley, County Planner  
Ms. Aimee Berndt, AICP, County Planner  
Mr. Michael Jennings, Traffic Engineer, Public Works  
Ms. Kim Vann, Henrico Police  
Ms. Sylvia Ray, Recording Secretary

9  
10 **Mrs. Patricia O'Bannon, the Board of Supervisors' representative, abstains**  
11 **on all cases unless otherwise noted.**  
12

13 Mr. Emerson - I just need to touch on a couple of things, Mr.  
14 Chairman. As you know, this is the Places of Worship work session that we  
15 scheduled at your last meeting. It is a continuation. We held a public hearing on  
16 this ordinance, and we felt that there was still work that was needed. I think we'll  
17 see as we get into the staff presentation that there may need to be additional  
18 work again in some of these areas.  
19

20 With that said, where we are we have—and Mr. Blankinship will be going over  
21 this for you. We have reviewed this ordinance. You have an ordinance that  
22 changes the name of "churches" within the Zoning Code to "places of worship."  
23 We also have added "places of worship" to additional zoning categories where it  
24 did not exist previously. What we will be going over with you tonight in addition to  
25 that will be some concerns we have regarding the area required for these types  
26 of uses. We also have quite a bit of information regarding parking that Ms. Berndt  
27 will present to you; she's done a lot of work on that. I think it will be revealing to  
28 you in many ways.

29  
30 I would ask during this meeting, and also, later on tonight—Fred and I have been  
31 discussing this as we've had some difficulty with the minutes. If you would speak  
32 up and try to speak towards the microphone so you can be audibly picked up so  
33 we can transcribe the minutes, that would be great.

34  
35 Mrs. O'Bannon - And if I can ask, I read where it said "inaudible." Do  
36 you want me to tell you what it was that I said?

37  
38 Mr. Emerson - If you can that would be great.

39  
40 Mrs. O'Bannon - In some places I don't know, but in some places I do  
41 know.

42  
43 Mr. Emerson - If you recall in those areas, absolutely, Mrs.  
44 O'Bannon, we would like to know.

45  
46 Mrs. O'Bannon - And it would be the approximate thing I was saying.  
47 Some of it didn't make sense; you're absolutely right. You know, they just caught  
48 half a sentence, so. Okay.

49  
50 Mr. Emerson - If we could try to speak up and speak towards the  
51 microphones that would be helpful.

52  
53 With that, I have nothing else to add, Mr. Chairman. If there's nothing from the  
54 Commission, Mr. Blankinship can begin the presentation.

55  
56 Mr. Blankinship - Good evening, Mr. Chairman, members of the  
57 Commission. You all know the purpose of this amendment is to bring our  
58 ordinance in compliance with the Religious Land Use and Institutionalized  
59 Persons Act; I won't belabor that. We've been over many of these changes  
60 before in work session and in public hearing. As Mr. Emerson mentioned,  
61 everywhere the term "church" is used, we're changing it to "places of worship."  
62 We're allowing places of worship as a matter of right in all of the zoning districts,  
63 and before you on the screen are those in which it is not allowed today but would  
64 be allowed under this amendment. And we're changing a few other points of  
65 language like "church spires" to make them more inclusive.

66 The changes that we have not really gone over in detail begin with the lot area  
67 and lot width requirement. The current lot area and width requirement in the  
68 Residential and A-1 Districts is three acres of lot area and 400 feet of lot width for  
69 a church. And that is different from any other assembly use. Now today not very  
70 many assembly uses are permitted in the R Districts, but they were in the past.  
71 So you'll see things like a VFW Hall or a Fraternal Order of Police, that sort of an  
72 assembly use that are sometimes located in residential districts. And they can  
73 still be located in agricultural districts by conditional use permit.

74  
75 In the agricultural districts we actually require two acres for those uses and three  
76 acres for a church. So as of today we are more restrictive on churches than we  
77 are on non-religious assembly uses. And of course that's one of the red flags  
78 under RLUIPA.

79  
80 So what we're proposing is to have the same requirements for all assembly uses.  
81 Where the table now refers to churches, at first we were changing it to places of  
82 worship. But instead we've changed it to assembly uses. And any assembly use  
83 in the district will have the same lot area, lot width, setback, height, and all those  
84 other development standards. In the R Districts we are recommending one acre  
85 of lot area and 150 feet of lot width. And in the A-1 District we are recommending  
86 two acres of lot area and 200 feet of lot width. And here's why.

87  
88 There are quite a few churches, as well as clubs and lodges and things, in the  
89 County that were built prior to 1960 in residential and agricultural areas, so  
90 they're non-conforming under today's ordinances. We're not worried about  
91 violations or anything like that, but they do give us some real live examples out in  
92 the County today of religious uses that are established on lots of less than three  
93 acres.

94  
95 Here is one illustration of a building where the lot area is one acre and 164 feet of  
96 width. The total building is 3,728 square feet according to the real estate records.  
97 The records did not show how much of that was used for assembly, but there are  
98 twenty-eight parking spaces provided, so I'm assuming it's about 2800 square  
99 feet of assembly area.

100  
101 Mrs. O'Bannon - Was that originally a single-family house? I don't  
102 know where this is.

103  
104 Mr. Blankinship - I don't believe so. This is at Staples Mill and  
105 Bethlehem. I believe it was originally built as a church building.

106  
107 Mrs. O'Bannon - It was built to be a church.

108  
109 Mr. Blankinship - Yes ma'am, as far as I know.

110

111 Mrs. Jones - Just so I'm clear, as we're talking about this would  
112 you give me the definition as proposed for assembly use?

113  
114 Mr. Blankinship - Well, we haven't actually proposed defining that term.  
115 It is defined in the Building Code, but it's defined fairly loosely there as any use  
116 that involves assembly of more than seventy-five people at a time. So I'm not  
117 sure exactly how helpful that is to us. Any use that would be reviewed under the  
118 Building Code as an assembly use I think is what we would use.

119  
120 Mr. Vanarsdall - Bethlehem Methodist.

121  
122 Mr. Blankinship - Yes sir.

123  
124 So we can see that for a fairly small building with a fairly small congregation,  
125 twenty-eight parking spaces, they really don't have any trouble fitting that  
126 development on a one-acre site. In fact, there's some undeveloped property  
127 there. Now it doesn't meet all the setbacks, so if we were starting new, we'd have  
128 the building positioned differently on the lot. But you can tell from looking at that  
129 that the lot size is not unreasonable.

130  
131 And here is a two-acre site, 245 feet in width. And this building is almost 8,500  
132 square feet, not counting an unfinished basement. It's actually almost 15,000  
133 square feet because it has an unfinished basement under it. We did count the  
134 parking there apparently based on the entire building, and they've provided  
135 eighty-six parking spaces. That's a two-acre lot and this building does meet the  
136 setbacks. You can see to allow a place of worship on a one- or two-acre lot is not  
137 an unreasonable thing.

138  
139 The question arose shouldn't we go with one acre in the Agricultural District as  
140 well. Our feeling on that is there are different regulations for the different zoning  
141 districts for a variety of reasons. One of them has to do with just keeping  
142 development in a proportional sort of a setting, so that when you go through a  
143 community you don't have everything spread out and then one lot where  
144 everything appears to be jammed together. So we do think it's important to keep  
145 the two acres in the Agricultural District.

146  
147 Mr. Vanarsdall - In the bottom pictures how did you arrive at eight-six  
148 parking spaces?

149  
150 Mr. Blankinship - I just counted them off that photograph.

151  
152 Mrs. O'Bannon - Don't you want to know why there are eighty-six  
153 required? With that much square footage would eighty-six—  
154

155 Mr. Blankinship - Yes. Some congregations choose to build more than  
156 the absolute minimum. I don't know what the minimum was when this was built.  
157 This is an older building. It's not one that we still had a POD on.

158

159 Mr. Emerson - We're going to get into parking calculations. We didn't  
160 check to see exactly what the parking calculation was. This is just a  
161 demonstration that a reasonably good size facility can exist on a two-acre lot. We  
162 wanted you to see that. And it does already.

163

164 Mr. Blankinship - So that is our recommendation for that section of the  
165 ordinance. In the R Districts it would be one acre, 150 feet of lot width. In the A-1  
166 District, two acres and 200 feet of lot width. And in the Office Districts, Business  
167 Districts, and Industrial Districts, for the most part there are no minimum lot sizes;  
168 it's whatever size building is built. So even if it's a storefront or one office space  
169 within an office building it would be a permitted use just as any other assembly  
170 use would be treated in those districts.

171

172 And now Aimee Berndt is going to present the research she did on the parking  
173 question.

174

175 Mr. Archer - Good afternoon, Ms. Berndt.

176

177 Ms. Berndt - Good evening. How are you doing?

178

179 So there have been a lot of questions about parking. Just to review our current  
180 requirement for religious uses, it's typically one space per four seats, fixed seats,  
181 applied only to the primary worship area. This excludes the accessory uses such  
182 as offices, classrooms, nurseries, kitchens. They are not parked under current  
183 code.

184

185 This is a typical floor plan. The areas in red are the actual seating areas of this  
186 two-story church. There are some other areas in this church that are classrooms,  
187 storage, and other uses.

188

189 If there are no fixed seats, under the requirements we will apply a 1-per-100  
190 assembly rate to the worship area only for the church. We still don't apply it to the  
191 classrooms and other accessory uses within the building. Other assembly uses  
192 under the same requirement would have to park their entire square footage. So if  
193 you have an assembly use such as a dance studio that has offices or a stadium  
194 that has ticket booths and a kitchen and a restaurant, you would have to park all  
195 of that under an assembly use, but not under religious use; you just do the  
196 worship area.

197

198 Now to demonstrate what 1 per 100 is, you can consider how many chairs you  
199 can fit into a 100-square-foot space. "Assembly" only addresses square footage,  
200 so you start looking into seat sizes. Your typical seat for sale is going to be

201 nineteen inches wide. Building code only requires eighteen inches per seat for  
202 bench seating. So you have a very small area for the bottom. And you can sit  
203 quite a few seats within a hundred square feet. For these calculations we got  
204 fifteen to eighteen seats within a hundred square feet easily, with leg room and  
205 aisles. If you fit those fifteen to eighteen within a hundred square feet, you would  
206 need four to five parking spaces because usually you're not going to have  
207 eighteen people in one parking space.

208  
209 So then we compared these two requirements, the one-per-four fixed-seat for  
210 religious use to the 1-per-100 square feet requirement for assembly. The  
211 assembly rate, again, is currently applied to skating rinks, stadiums, theaters,  
212 martial arts studios, which can be found in many different zoning areas. The  
213 assembly rate was applied. When we did the comparison, we applied assembly  
214 rate to the worship areas only of the religious use locations that we studied. And  
215 then compared that to the current requirement.

216  
217 When we looked at this, we yielded a result of there being one-third of the  
218 requirements as the fixed seat requirements. So when you apply the assembly  
219 rate, you had one-third what it would have been for the one-per-four seats—or  
220 one-third to one-half. So it's a much lesser requirement for the assembly rate  
221 than it is for the one-per-four seats under the religious-use parking ratio. So that  
222 means you need two to three times the required number of parking spaces if you  
223 apply the one-per-four seats.

224  
225 This is a chart that demonstrates those findings. This is twenty-one religious  
226 locations, including a Buddhist temple, that we have approved in the County. The  
227 upper line shows the parking required by the one-space-per-four-seats. The  
228 bottom line is the assembly-rate parking requirement. It's applied 1 per 100 to the  
229 worship area only. So therefore, we had to find the square footage of the worship  
230 area and apply that 1-per-100 to that, then compare. So you see there is typically  
231 two to three times as much required,

232  
233 Now the question is, is it possible to translate the one-per-four seats into a  
234 square-footage-based or floor-area-based ratio to be uniform for those that don't  
235 have fixed seats. And we calculated that the one-per-fifty, as applied to the  
236 worship area only, provides the closest comparison to the one-space-per-four-  
237 seats, all things the same.

238  
239 And this is the chart that shows how you can calculate the one-space-per-four-  
240 seats, then apply the one space for fifty square feet. You get a very close  
241 comparison with a couple of outliers.

242  
243 This is the graphic we saw before of the typical religious use layout. You have  
244 five areas of seating, two levels. And then applying the one-space-per-four-seats  
245 you have 274 spaces required. Then you start looking at the numbers based on  
246 floor area and you get the other numbers listed below. And the ones that came

247 closest were if you applied the 1-per-100 to the entire floor area of the use. That  
248 came close to the current requirement. Then again, the one-per-fifty applied to  
249 the worship area came a little less close, but still within the range. It gives you a  
250 little bit of a comparison of applying different ratios to the square footage for the  
251 seating.

252  
253 And this is just the breakdown of that particular footprint. It's a 28,000-square-  
254 foot building. The sanctuary area is 9,500 square feet of that. They've declared  
255 that many fixed seats—over a thousand—and provided well in addition to what  
256 we would require as a minimum. So they've almost doubled the amount of  
257 parking that would have been required under either of those scenarios.

258  
259 Moving forward there are a few things to consider with the parking ordinance.  
260 There is the option to make no changes to the religious use parking. There is  
261 also the option to go with the one per fifty. There's the 1 space per 100 applied to  
262 the entire building, or to just the religious uses, and then go back and apply  
263 parking ratios to the classrooms and the other accessory uses. And then there's  
264 the option to give them an option. They can meet the one-per-fifty for their  
265 worship area, or do the one-per-four-seats depending on their scenario,  
266 whichever is less, that gives them flexibility. And then also we could study more  
267 options for flexible shared parking. So these are just things to consider. Staff  
268 makes no recommendation on one particular one; just opening for discussion.

269  
270 Mr. Emerson - Mr. Chairman, what we decided to do after  
271 responding as you can see, I think, have disproportionate. We would bring it to  
272 the Commission and ask for your input. We deliberated it. We've been going  
273 back and forth. We wanted to know what your thoughts were before we came up  
274 with some sort of recommendation to you, and for the Board as well. And I  
275 wanted to give you an opportunity to discuss it, that and the lot size as well. I  
276 have spoken with the attorneys and they indicate we aren't in a terrible hurry. So  
277 one of my thoughts was after your discussion tonight—I do, again, want to hear  
278 your thoughts—that we possibly consider this so staff can go back and  
279 deliberate, and possibly bring something to you—I believe our next meeting is  
280 November the 10<sup>th</sup>. That would be after our RLUIPA training. And I don't know if  
281 that will change any of our thought process. But I certainly don't want to have to  
282 revisit anything that we can clean up now. That's sort of where I am. And I would  
283 like to know the thoughts of the Commission are in regards of what you've seen  
284 tonight.

285  
286 Mr. Archer - Mr. Secretary, based on the studies that you all have  
287 done, out of these options is there one that is considered to be better than the  
288 others?

289  
290 Mr. Emerson - Right now, no. I don't want to commit. There are  
291 parking issues at facilities that only provide the minimum. There are ways  
292 through shared parking, as we all know, that these issues are mitigated. Some

293 large facilities run bus service back and forth to parking lots that aren't in use on  
294 Sundays. And it depends on what day of the week that your particular function  
295 meets and where it's located. Certainly there are large impacts on the residential  
296 areas. In retail areas and more commercial areas there aren't as many impacts  
297 on the religions that meet on Sundays. On Wednesday nights it's more of an  
298 impact. A lot of what I'll call the traditional Sunday religions do have Wednesday  
299 evening functions. Some of these facilities, as you know, operate seven days a  
300 week. They have schools going on, they have daycare. There is a ton of stuff  
301 going on. Some of the not-as-traditional, I guess, some of the new religions in the  
302 United States have very different days. I guess Jehovah's Witness has always  
303 met on Saturday. And, as you know, the Islamic religions have their larger group  
304 meetings I believe on Fridays. And I don't know about some of the other  
305 religions. Parking becomes an interesting topic, I think, when you look at  
306 availability during different time frames of when these varying different groups  
307 meet.

308  
309 I don't know that there is any one correct solution. We did do some research of  
310 what other localities do. The results were interesting. Pretty much everybody is  
311 right in line with our one-space-for-four-fixed-seats. And they didn't have any  
312 published way on their websites, for the most part, of how they handled the non-  
313 fixed seating areas. So we called around and did a quick analysis, and we did get  
314 back some information, which was all across the board.

315  
316 Mr. Vanarsdall - One of the best counties I know of to check with is  
317 Fairfax.

318  
319 Mr. Emerson - Right. We did get some numbers from Fairfax.

320  
321 Mr. Vanarsdall - What I don't understand is number three.

322  
323 Mr. Emerson - They do it on building code maximum occupancy,  
324 which is not a higher number. They do one per four people based on building  
325 code max occupancy if they don't have fixed seats. If Fairfax has fixed seats they  
326 do it on one space per four seats.

327  
328 Mrs. Jones - But the occupancy is done on square footage.

329  
330 Mr. Emerson - The occupancy is a huge number.

331  
332 Mr. Vanarsdall - I can tell you now it's not working, Joe.

333  
334 Mr. Emerson - It's not?

335  
336 Mr. Vanarsdall - No. I was up there last Friday. I went to get a paper at  
337 7-Eleven and there wasn't room to park a bicycle anywhere in the shopping  
338 center. Around the corner was a Starbucks, and all the way back to McDonald's.

339 It's like that every Friday, because I asked the man in the store if something  
340 unusual was going on. The mosque is right beside it. He said no, they park like  
341 this all the time. They park in front of where the dumpster is supposed to be  
342 picked up. They do that because they have a big parking lot but it's just not big  
343 enough. It wasn't big enough when they built it.  
344

345 Mrs. Jones - A lot of that may be exactly what is driving the current  
346 application. There aren't but so many facilities within a metropolitan area and so  
347 it does draw a huge number of people.  
348

349 Mr. Vanarsdall - Number three. I don't understand why you wouldn't  
350 have to take in classrooms, meeting rooms, and then the multi-use room. I don't  
351 understand why you wouldn't.  
352

353 Mr. Emerson - Historically you haven't. If you remember the Third  
354 Presbyterian discussion, that was one of the big items in that discussion because  
355 we were not counting all the space in that facility.  
356

357 Mr. Vanarsdall - On Forest.  
358

359 Mrs. Jones - But if they have two worship services operating  
360 concurrently, one in the sanctuary and one in the fellowship hall, we really  
361 haven't addressed the problem, especially when they're nestled into a very tight  
362 residential community. Places of worship and residences have always been—  
363 and I hope always will be—a nice fit. No one has an argument with that. But we  
364 can't turn our head away from the fact that these are more in line with community  
365 centers than they are with our traditional ideas of churches.  
366

367 Mr. Branin - My question is what is the current ordinance for spots  
368 per occupancy?  
369

370 Mr. Emerson - We don't do it by occupancy. We do it by either 1 per  
371 100 on square footage, or we do it by fixed seats, one per four. I can give you an  
372 example.  
373

374 Mr. Branin - So we couldn't even go in that direction because we  
375 don't do anything currently.  
376

377 Mr. Emerson - The Building Code occupancy, we don't use that.  
378

379 Mr. Blankinship - The problem is you put in a couple more fire doors  
380 you might double your occupancy load. They're not as interested in how many  
381 people you have in the building as in how many people you can get out of the  
382 building.  
383

384 Mr. Emerson - The question is whether or not we key the parking  
385 based on occupancy. And if they put in another door, they raise the occupancy.  
386 Then proportionately the requirement for parking spaces would have to go up.  
387 But we have a recent one—and Leslie, if you'll help me out on this. We did the  
388 parking based on square footage and it came out to about sixteen parking  
389 spaces. Correct? But if we did it on occupancy wouldn't it be about fifty spaces?

390  
391 Ms. News - The Building Code occupancy was close to 200  
392 people in this building. But the square footage of the building itself was under  
393 1,300 square feet. So it would have only required thirteen parking spaces.

394  
395 Mr. Emerson - So if we used one to four at 200, it would be fifty,  
396 roughly, if we used it on number of people, which is what some of the other  
397 communities are doing. Now is that disproportionate, I don't know. Those are  
398 some questions as we deal with this, whether you decided you need to require  
399 more parking, less parking. We could make no changes, but I don't think that's  
400 an option because you do have disproportionate numbers and that's not an  
401 option.

402  
403 Mr. Branin - In a ten-by-ten area, which is a hundred square feet,  
404 basically you're saying a fold-up seat, which would be typical, you could fit  
405 eighteen spots.

406  
407 Ms. Berndt - Yes.

408  
409 Mr. Branin - Now if we reduce that to a five-by-five, theoretically  
410 you should be able to get nine.

411  
412 Ms. Berndt - That would be twenty-five square feet, right? Five  
413 times five?

414  
415 Mr. Branin - I'm sorry, fifty square feet.

416  
417 Ms. Berndt - Well, we'd have to look at it.

418  
419 Mr. Branin - You said fifty square feet, right? So it would be one  
420 per fifty square feet. Well if you fit eighteen seats into a hundred and  
421 [unintelligible] [0:26:17]\* nine seats into a fifty? So it's still one parking spot per  
422 nine seats as opposed to one per four, which is still a lot of people.

423  
424 Ms. Berndt - When you look at the particular example that I just put  
425 back up you will see that—well, you did the math. These red areas where the  
426 seating actually is, it's only fifty percent of the sanctuary area. So we've thrown in  
427 all the aisles, the platforms in the sanctuary, getting in and out. You typically are  
428 going to come up with fifty percent actual use for seating area while the rest is  
429 aisles and platforms.

430

431 Mr. Branin - Based on that same seating, if you're putting in fold-  
432 up chairs, you're still going to have to create the same size aisles for people to  
433 move in and out anyway.

434

435 Ms. Berndt - But a ten-by-ten is a very small snapshot of a very  
436 larger area. Not every ten-by-ten spot in that sanctuary is going to be that layout.  
437 And you're not going to put people on the platform.

438

439 Mr. Vanarsdall - Has the Fire Division had any input in this?

440

441 Mr. Emerson - We haven't talked with Fire yet. These are just  
442 numbers that we have worked up. We have not spoken with Public Works,  
443 Traffic, or Fire at the point. Those may be groups that we want to talk to before  
444 we come to some conclusions on this. I think possibly our Building people, too, to  
445 maybe bring into the discussion.

446

447 Mr. Archer - There are so many variables that we need to try to  
448 anticipate going forward; can't do anything about the ones that have already  
449 been built. When we do the seat count, does that take into consideration the  
450 choir loft? There are seats in the choir loft and the people who sit there have to  
451 drive to church to get there.

452

453 Ms. Berndt - In this scenario, no. Sometimes they don't show the  
454 choir loft seating as fixed seats.

455

456 Mr. Archer - There are some huge choir lofts that hold as many as  
457 a hundred people, maybe more.

458

459 Ms. Berndt - I think a lot of it we rely on voluntary information that's  
460 given to us by the applicant.

461

462 Mr. Branin - If we get the opportunity to clean this up, we need to  
463 [unintelligible] [0:28:49]\*. And if the County is comfortable with a one-to-four ratio,  
464 then we need to match that one-to-four ratio in square footage.

465

466 Ms. Berndt - So you're suggesting that it should be a square-  
467 footage based ratio.

468

469 [Two people talking overtop of each other; unintelligible.]

470

471 Mr. Emerson - I sort of like maximum occupancy. One comforting  
472 thing I will tell everybody is when we did this research and we started looking at  
473 what other communities do, everybody had either one-to-four or one-to-five  
474 seats, it seems like. And then they weren't sure how they measured the rest of  
475 this. So we're not the only ones; we just happen to be one of the lucky ones that

476 gotten taken to task first. This is something we may be leading the way in a little  
477 bit in trying to find out how to resolve it.

478  
479 Mr. Branin - Based on your numbers, how many square feet would  
480 [unintelligible] [0:29:58]\* be?

481  
482 Ms. Berndt - I'm not going to get into reverse math right now. But  
483 based on our research the closest comparison to the current requirement of one  
484 space for four seats the closest number that matches that is one space per fifty  
485 square feet of worship area.

486  
487 Mr. Branin - If you based it on a four-by-four area that should  
488 cover it. If there are twenty-two inches, right, and you double twenty-two inches  
489 that's forty-four wide and—forty-four both ways, so you say forty-eight just  
490 because you wouldn't want forty-four inches; you'd take it up to forty-eight which  
491 will also give you a little legroom. So forty-eight inches, a four-by-four square fits  
492 four seats, theoretically.

493  
494 Ms. Berndt - But then back into seat-based.

495  
496 Mr. Jernigan - Sixteen square feet.

497  
498 Mrs. Jones - It seems to me if we are going to be looking as an  
499 overall goal to equalize the requirements for places of worship that we cannot  
500 calculate requirements two different ways. I know that that has traditionally been  
501 what we do, but I think we leave ourselves with the question still hanging, why  
502 are we imposing different standards for different religions. I understand why we  
503 have done this as a practical matter. But if we are now trying in an overarching  
504 way to make everything as equalized as we can, would it not be better to call all  
505 of these uses assembly uses, one standard, and not even differentiate in any  
506 way fixed versus non-fixed seating?

507  
508 Mrs. O'Bannon - I see up there River Road Baptist Church, their  
509 addition. They did not add fixed seats, but they did add a large auditorium that  
510 could have removable seats in it. Also with Third Presbyterian Church we  
511 brought up the fact that you could have a contemporary service in the fellowship  
512 hall while you're having one in the main sanctuary. I'm looking at several of these  
513 churches and you could do that in a lot of them. So I think that maybe the space  
514 per square footage would cover that better even if you had two services at the  
515 same time. I'm trying to get a handle on that as much as anything.

516  
517 Mr. Blankinship - My thought kind of follows off of that, which is other  
518 spaces in the building that are being used concurrently with the worship service  
519 like Sunday school classrooms. I know in a lot of churches people will come for  
520 Sunday school at the same time that other people are in a worship service. So  
521 you have more floor area that's being used concurrently even if you only have

522 one service going on. I'm not sure that we have discussed yet a way to address  
523 that.

524

525 Mr. Branin - Wouldn't it just be simpler to say assembly space,  
526 office space, or classroom space you have to provide one parking spot per  
527 twenty square feet? That's right there between four seats and five seats.

528

529 Mrs. O'Bannon - So you're going on the entire square footage of the  
530 building.

531

532 Mrs. Jones - Of the assembly area.

533

534 Mrs. O'Bannon - Just the assembly area?

535

536 Mr. Branin - Assembly, and office, and classroom, and anything  
537 that would be seated.

538

539 Mrs. Jones - Not kitchens, not bathrooms, not those kinds of  
540 things.

541

542 Mr. Branin - Not hallways. But usable square footage, meaning  
543 multi-person-occupied square footage.

544

545 Mr. Emerson - You have to be careful on some of that, too, because  
546 of the way we measure the square footage of buildings in general, and how it  
547 impacts other areas of the ordinance. It just gets complicated because we  
548 normally don't exclude a lot of the things that we just said we would exclude or  
549 should exclude in a normal calculation.

550

551 Mrs. Jones - But this is not a normal a calculation.

552

553 Mr. Emerson - No it's not, it's really not. A theater is an assembly  
554 use, a movie theater. We count that by fixed seats. And we have parking issues  
555 at movie theaters. So you have to be careful. I went in the same direction you  
556 did, Mrs. Jones, in terms of at one point why not just call everything assembly  
557 use.

558

559 Mrs. Jones - All places of worship.

560

561 Mr. Emerson - Assembly use and define it, and this is how assembly  
562 use will be treated.

563

564 Mrs. Jones - Assembly use for worship.

565

566 Mr. Emerson - Initially a place where I ended up was well, we're  
567 headed in this direction, let's just say it needs to be totally non-sectarian overall

568 assembly uses. But you create some other challenges when you go in that  
569 direction.

570

571 Mrs. Jones - Well I may not have explained this. I'm not saying  
572 assembly use as in theaters are the same as places of worship. I'm saying all  
573 places of worship—fixed seats, non-fixed seats, whatever—should be the same.

574

575 Mr. Emerson - I think we do need to do it probably on a—we need to  
576 measure it the same. We need to determine how we're going to do that. It seems  
577 to me that it should either be occupancy-based or square-footage-based  
578 because we do have different religions that don't have fixed seating.

579

580 Mrs. O'Bannon - They don't have fixed seating in some, yes.

581

582 Mr. Jernigan - Can I ask a question? One of the biggest churches in  
583 the area is not even on the chart. St. Paul's on Creighton Road. They have over  
584 10,000 members. They run three services. They have to have police there.  
585 Nobody will go down Creighton Road on Sunday. You don't go down there.  
586 They're having to use satellite lots. First of all, does anybody know a church that  
587 has enough parking?

588

589 Mrs. O'Bannon - Not really.

590

591 Mr. Jernigan - So what we're doing is definitely not working.

592

593 [Several people talking at the same time; unintelligible.]

594

595 Mr. Emerson - Wait a second on that. You have to think about the  
596 fact that churches, places of worship, are primarily used one specific day. The  
597 rest of the time period normally their parking is fine. So do you really want to  
598 create all that impervious area and all that extra expense to the development of a  
599 church for one day? Leslie and I were going through some articles she had  
600 today. Some of them argue that on the days of heavy uses, churches should be  
601 allowed to park on the grass and do all these different things. Coming from an  
602 environmental standpoint, stormwater runoff and all those things are better.  
603 You're not aesthetically paving over and ruining everything. There are a lot of  
604 things to consider.

605

606 Mrs. O'Bannon - Will they be required to follow the Chesapeake Bay  
607 Act rules? That can be expensive.

608

609 Mr. Emerson - The more area you require them to park the more  
610 onerous that gets because the more area you're making impervious.

611

612 Mrs. Jones - Which brings me to the question how shared parking  
613 can be part of this.

614

615 Mr. Emerson - Well it currently is, of course, as you remember from  
616 Third Presbyterian. They had some shared parking agreements, both formal and  
617 informal. They had some auxiliary parking approved by the Board of Zoning  
618 Appeals through a CUP.

619

620 Mr. Vanarsdall - Third Presbyterian, you couldn't even get in Forest  
621 Avenue because there were so many people on each side.

622

623 Mrs. O'Bannon - With Grove Avenue Baptist Church, they did buy  
624 some houses next door and expanded. But they also found that people don't like  
625 to park there because it seems to be too far away from the door. So then they  
626 end up parking right on the edge of the road because it's closer to get to the front  
627 door. The church is at one side of the property and the parking was further to the  
628 other side. And people just simply wouldn't park there; they'd just park across the  
629 street in non-parking areas, you know, on the grass. People who are the deacons  
630 or the people who come in early are asked to park at Beverly Hills Shopping  
631 Center. They bus them to the door. They're usually like the deacons or the  
632 teachers or whatever. They have certain groups they tell them to park there. So  
633 they accommodated a lot of the questions that we asked them.

634

635 Mr. Emerson - What about the denominations that are averse to  
636 driving on the Sabbath day.

637

638 Mr. Jernigan - That church may be used by another religion one day  
639 so it has to be built to code.

640

641 [Several people talking at the same time; unintelligible.]

642

643 Mr. Emerson - While we think we under park them, you have a lot of  
644 different variables to try to balance this.

645

646 Mr. Jernigan - Joe, what you're talking about, should we penalize  
647 them for the one day, which is Saturday morning, or Sunday morning. But  
648 another church that did an expansion is on Oakley's Lane and I'm trying to  
649 remember the name of it.

650

651 Mr. Emerson - I know the one you're talking about.

652

653 Mr. Jernigan - With the Grace expansion, they have the required  
654 amount of parking and they're jammed. Now they're parking on the street; they're  
655 parking everywhere. The police have been there, warning them and telling them  
656 they're going to haul the cars. So we went to Tim Foster. They bought the  
657 property behind them to get additional parking. It has a ditch running through it  
658 with a one-hundred-foot RPA, which they didn't check before. So they got turned

659 down for a deviation on the RPA. So now they're in the same situation. And that's  
660 every Sunday.

661  
662 Mrs. Jones - Clearly we don't provide enough for the days of use in  
663 our requirement.

664  
665 Mr. Vanarsdall - I'm glad that we are discussing this because this has  
666 been a problem not only now, but parking always. Ray, the first year you came  
667 on the Commission you had a problem with hospital parking.

668  
669 Mr. Archer - We need to look at this very carefully because, as you  
670 said, we already have a problem. We have to try to eliminate as much of it as we  
671 can going forward, and think about what churches do that are special. Like Ray  
672 was saying about St. Paul, that kind of died down a little bit because the newness  
673 had worn off the church. But the first few Sundays they were there, I mean, you  
674 wouldn't want to be caught dead near Creighton Road. People were complaining  
675 about their driveways being used and they were shuttling people from anywhere  
676 in the city that you could find that had open space. Now it's kind of calmed down  
677 a little bit, and they have a tremendous parking lot.

678  
679 There are special things that occur where sometimes a church will invite another  
680 congregation on a special day. Can you imagine St. Paul's inviting Faith  
681 Landmark?

682  
683 Mr. Vanarsdall - I was just thinking about Landmarks.

684  
685 Mr. Archer - They've had to park all the way up in Eastgate Mall.  
686 And those are the kinds of things we can't anticipate, but I think we need to be as  
687 large as we can going forward. If we don't, the problem is just going to continue.  
688 All churches like to grow.

689  
690 Mr. Vanarsdall - I think Joe said that it's almost seven days a week.

691  
692 Mrs. Jones - Oh sure it is.

693  
694 Mr. Vanarsdall - A lot of them have night services.

695  
696 Mrs. Jones - May I ask a question about this particular graph? And  
697 by the way, Aimee, thank you so much. These are the kinds of very stark  
698 statistics I was really hoping to see. Thank you very much for doing that.

699  
700 Mr. Vanarsdall - Thank you for bringing it up. I'm serious.

701  
702 Mrs. Jones - Making things more complicated, but at least we can  
703 see how complicated it is. The assembly rate that is represented in red, is that  
704 strictly on the worship areas?

705 Ms. Berndt - Yes.  
706  
707 Mrs. Jones - So in our third option here for one parking space per  
708 one hundred square feet for religious uses, that would not only just have the  
709 worship areas, but that would add classrooms, meeting rooms, Sunday school  
710 space, all that kind of thing, fellowship halls.  
711  
712 Ms. Berndt - This graph demonstrates that the assembly rate only  
713 provides roughly half of what we require now.  
714  
715 Mrs. Jones - Two to three times more—  
716  
717 Ms. Berndt - Yes.  
718  
719 Mrs. Jones - What I'm saying is if we pumped it up with  
720 classrooms, meeting rooms, all that kind of thing—  
721  
722 Ms. Berndt - And applied a level one per one hundred?  
723  
724 Mrs. Jones - Was that the other graphic?  
725  
726 Ms. Berndt - No. That was one that's applied to just the worship  
727 area.  
728  
729 Mrs. Jones - Okay.  
730  
731 Ms. Berndt - Those graphs were both just the worship area.  
732  
733 Mrs. Jones - Well on the third option in the end, we may actually  
734 get closer to the number of spaces we think we will need for practical purposes if  
735 we include that other space, and have it be a strictly square-footage computation.  
736  
737 Ms. Berndt - That would make it close. The only thing I would  
738 caution you about is that when you start adding in all the other uses such as  
739 classrooms and fellowship halls, some of the locations are going to have a  
740 disproportionate amount of those uses tacked onto the assembly area. So you're  
741 not going to get as much of a feel for what is actually there. You know what I  
742 mean? It's not going to be proportionate to the assembly area in all cases. Just  
743 adding it all in for all locations you start to deviate from capturing the actual need.  
744  
745 Mrs. Jones - Just for places of worship.  
746  
747 Ms. Berndt - Just for places of worship.  
748  
749 Mrs. Jones - I'm not explaining this correctly.  
750

751 Ms. Berndt - It could be close. That's a possibility.  
752  
753 Mrs. O'Bannon - Can I ask a question? You show two examples of  
754 religious facilities, places of worship. One was one acre and one was two acres.  
755 We now have the requirement of what, three acres?  
756  
757 Mr. Blankinship - Yes ma'am.  
758  
759 Mrs. O'Bannon - I know this isn't parking, but it gets to how much  
760 parking you can get on one acre or two acres, whatever. We now say three  
761 acres? Isn't that what it is?  
762  
763 Mr. Blankinship - Three acres in the Residential and Agricultural  
764 Districts.  
765  
766 Mrs. O'Bannon - With this being a two-acre facility and it's 8400 or  
767 8500 square feet, and you say that's sufficient parking, if we were to ask for this  
768 parking it would automatically be that they would have to purchase more land—is  
769 that it?—or build a smaller facility?  
770  
771 Mr. Blankinship - Or build a smaller building, yes.  
772  
773 Mrs. O'Bannon - I mean that's what I'm getting at. So our parking is  
774 impacting their cost. That's just something that we have to keep in mind, too. Are  
775 we going to leave the three-acre minimum as we have it today?  
776  
777 Mr. Blankinship - Our recommendation is no. Our recommendation is  
778 that we reduce it to one acre in the R District and two acres in the A-1 District.  
779  
780 Mrs. O'Bannon - Okay.  
781  
782 Mrs. Jones - That's being imposed equally.  
783  
784 Mr. Vanarsdall - I'll tell you one way we could find out about the  
785 existing parking is to visit some of these churches on Sunday to see how many  
786 people are in the street and how many are in the parking lot.  
787  
788 Mr. Emerson - I think you'll find very few that don't have parking  
789 challenges.  
790  
791 Mr. Archer - The other thing you can do, and what we probably  
792 should do, is we could study with that intention. If you go to a place that's over-  
793 parked, go inside and see how many people are sitting down and how many are  
794 standing around the wall. In most cases you'll probably find that everybody has a  
795 seat. I've been to very few church services where people are standing around the  
796 walls even though there isn't enough parking.

797 Mr. Vanarsdall - The Fire Marshal doesn't like to see people standing  
798 in the aisles.  
799  
800 Mr. Archer - And again I go back to if you have—and I don't know  
801 whether I clarified this or not. If we count choir lofts, those people have to get  
802 there. They have to drive and have a place to park also. So I guess the bottom  
803 line is this is a lot more complicated.  
804  
805 Mrs. O'Bannon - It gets back to square footage.  
806  
807 Mr. Branin - It goes back to people sitting and over-parked, right?  
808 In our calculation of one car is bringing four people, that's not happening. Your  
809 hundred choir people come in, how many choir people that are going to be there  
810 for two or three services bring their wife or their husband and two kids?  
811  
812 Mr. Archer - I hate to admit this, but everybody at my house drives  
813 to church on Sunday.  
814  
815 Mr. Jernigan - As Mr. Vanarsdall was talking earlier when we were  
816 talking about the hospitals, when we started first talking about it in 2003, most of  
817 our parking regulations are from the fifties. The hospital parking is one place per  
818 two beds. Nineteen fifty-two is when the ordinance was. That's the regulation. In  
819 1952 you only had one car in your family and everybody did go to the hospital.  
820 Now, everybody meets at the hospital, and if you have a family of five, you have  
821 five cars there. I know we have to get cracking on this, but all of them need some  
822 attention.  
823  
824 Mrs. O'Bannon - I think taking into consideration the square footage,  
825 and that does take into consideration a choir or choir loft, that sort of thing—well,  
826 I'll also say this, the choir can shrink or get bigger. Does every choir loft have  
827 seating, or do they use chairs, too?  
828  
829 Mr. Blankinship - In some the choir goes up for part of the service and  
830 then comes back and fills in other seats for part of the service.  
831  
832 Mrs. O'Bannon - So going with square footage, in my opinion, fits  
833 because it's the size of the lot that changed and the size of the building—I mean  
834 changes and all that. If you have two floors you get into the square footage too,  
835 because there could be a need for more parking. They always have like some  
836 sort of childcare thing while the service is going on. I mean I could go on and on.  
837 Stuff is always going on in the whole building.  
838  
839 Mr. Vanarsdall - Are we going to keep the same width?  
840  
841 Mr. Blankinship - As far as I know, nobody has mentioned that.  
842

843 Mr. Emerson - The dimension of the parking space? We wouldn't  
844 change that.

845

846 Mr. Vanarsdall - Vehicles are larger now than they used to be.

847

848 Mr. Branin - Actually now they're going down some.

849

850 Mr. Vanarsdall - I know all the developers won't like to hear about  
851 parking spaces being any wider. They got them down one time to where you  
852 almost couldn't get out of the car.

853

854 Mrs. Jones - The discussion about the requirement—two acres,  
855 one acre—what we're talking about with parking is not that we need less; it's that  
856 we need more. Unless there is going to be a real concentrated push to somehow  
857 have shuttle services and this kind of thing, a one-acre site is going to really be a  
858 challenge, even though it will be proportional and proper for a residential district.

859

860 Mr. Branin - Mrs. Jones, wouldn't it just take care of itself, though?  
861 If you can't park it, therefore it can't be built.

862

863 Mr. Emerson - Exactly.

864

865 Mr. Branin - It will take care of itself.

866

867 Mr. Emerson - It would have to be proportionate for the size of the  
868 lot.

869

870 Mr. Branin - It would create an issue, but the issue would in turn  
871 take care of itself.

872

873 Mrs. Jones - Are we putting an undue pressure on those places of  
874 worship that are looking for places to build?

875

876 Mr. Emerson - That, and then if you read the consent order and  
877 some of the other documents with it, one of the arguments of 1241 was the  
878 County's regulations created an expense situation regarding the acquisition of  
879 property, it was placing land out of the affordability range of that congregation.  
880 That obviously never went to court for a judge to rule on. I haven't seen that in  
881 the other information I've read. It's an interesting argument because I could  
882 argue the cost of things prohibit a lot of things from happening.

883

884 Mrs. Jones - I'm just saying.

885

886 Mr. Emerson - It's a legitimate question. I don't know that we have an  
887 answer for it.

888

889 Mrs. O'Bannon - That's why I was asking the question about three  
890 acres, two acres, and one acre because it didn't come up in the discussion.  
891 During the interviews I was asked what I had talked with them about. They had a  
892 very large drainage ditch that bisects the property. I did ask them specifically if  
893 they realized there was a drainage ditch in there and they may have to go to the  
894 DEQ and people like that and be told to fill it in. I told them I thought it was going  
895 to be very expensive, forty or fifty thousand dollars. Then I was asked if I talked  
896 that way with other religious institutions. The answer is absolutely yes.

897  
898 Mr. Vanarsdall - Who were you asking?

899  
900 Mrs. O'Bannon - That was the questioning from the Department of  
901 Justice people. My point there was we needed that space for parking. That's  
902 what I was thinking. And you don't want to dump water on your neighbors, which  
903 is secondary to what we're talking about here. That's why I got into the number of  
904 acres and asking you that. I think that's what Bonnie-Leigh is really asking, is  
905 can they not build a building that covers almost the entire acre and then just  
906 expect parking to be around. So we can limit them?

907  
908 Mr. Emerson - Oh absolute, yes ma'am.

909  
910 Mrs. O'Bannon - Okay, all right.

911  
912 Mr. Emerson - We have not been told we cannot require the lot sizes  
913 or—we're still within allowable area based on parking calculations, area. We just  
914 have to be consistent. The big thing is you have to treat assembly uses  
915 consistently. We're inconsistent on lot size.

916  
917 Mrs. Jones - When you say assembly uses, you're talking places of  
918 worship.

919  
920 Mr. Emerson - No, I'm talking about all—

921  
922 Mr. Blankinship - Any other assemblies.

923  
924 Mr. Emerson - I'm talking the VFWs. One of the problems with your  
925 lot sizes is an assembly use in an Agricultural zone is two acres currently; a  
926 place of worship is three acres. By bringing that to two acres we're becoming  
927 consistent with how we allow assembly uses. Same thing in Residential. We're  
928 going to have one acre across the board for assembly uses. The other categories  
929 don't have acreage requirements so they're not an issue. That's where we're  
930 trying to get. What we pointed out to you through the parking, or brought to the  
931 forefront, is that there is an inconsistency, but not necessarily in the direction that  
932 we've been just recently. There has been an undue burden placed on the  
933 Christian versus the non-Christian religions based on what we found in  
934 comparative analysis. That hasn't been a problem because obviously a lot of

935 those religions, just like a lot of the big box stores, we have minimum parking  
936 standards, then they come in and add what they think they need and they're  
937 always beyond those parking standards. Normally we don't have people backing  
938 out parking standards down to the bare minimum. When they do, they have  
939 problems. Mr. Jernigan has an example in Sandston, the bare minimum on a  
940 restaurant, and they have parking issues.

941  
942 We do need some sort of formula to calculate the required parking spaces. What  
943 came out of this discussion doesn't surprise me because I thought the  
944 Commission was concerned that we were under-parking churches based on the  
945 experiences we've had. The question now is what is the number. If one to four  
946 fixed seats wasn't working, then bringing the non-fixed seat number up to one to  
947 four isn't solving one of your concerns. It's addressing a concern of many, but it  
948 doesn't solve all of your concerns. Do we need to consider a higher ratio? Do we  
949 do it on maximum occupancy based on your Building Code? That would give you  
950 more spaces.

951  
952 Mr. Branin - And is that less hassle and a better legal stance?

953  
954 Mr. Emerson - Could be; I don't have the answer to that yet.

955  
956 Mr. Branin - You brought out a valid point that it isn't 1950. There  
957 are four cars for four seats. So then occupancy may be just generally the most  
958 legal, the most ethical, and the easiest to do.

959  
960 Mr. Emerson - Could be because they put an occupancy level on  
961 every room in the building.

962  
963 Mr. Jernigan - But what Ben said is you could change that number  
964 by having another fire door.

965  
966 Mr. Emerson - So then the parking goes up.

967  
968 Mr. Branin - If it's a hundred and they put in another door and now  
969 it's two hundred, well based on two hundred occupants you have to have one  
970 parking spot for three people....

971  
972 Mr. Emerson - When that Building Permit comes in for that building  
973 we'll have to pull the POD and say where are you going to find the extra parking  
974 spaces.

975  
976 Mrs. O'Bannon - You would do that for anyone, any assembly building?

977  
978 Mr. Emerson - We would have to begin doing that, yes.

979  
980 Mrs. O'Bannon - That's what I'm getting at.

981 Mr. Jernigan - That sounds good, but if the Fire Marshal comes in  
982 and tells you he wants you to have one more door, and they're going to have to  
983 plan what they're going to do, and then the occupancy rate goes up, doesn't  
984 mean the parking rate will go up? That can be a mess.

985

986 [Several people talking at the same time; unintelligible.]

987

988 Mr. Emerson - We're going to have to work on that.

989

990 Mr. Archer - Mr. Vanarsdall, we're getting ready to go. We've gone  
991 past the time that I think that we need to go downstairs. Is it the consensus of the  
992 Commission that we're not ready for this yet?

993

994 Mrs. Jones - I'm not ready, I can tell you, although I have a lot  
995 more to think about and statistics to work with. Thank you again.

996

997 Mr. Archer - And I would like to compliment both of you,  
998 particularly Ms. Berndt on this presentation.

999

1000 Ms. Berndt - Thank you.

1001

1002 Mr. Archer - I guess what we'll have to do is just table this and  
1003 bring it up again at another time.

1004

1005 Mr. Emerson - If you don't mind, I'd like for you to schedule a work  
1006 session to continue this on November 10<sup>th</sup> at 5:30. That will be after our RLUIPA  
1007 training. Staff will have had a chance to digest this a little bit more as well to give  
1008 you better guidance at that time.

1009

1010 Mr. Archer - I have a lot better guidance now than I did before I  
1011 came in here today.

1012

1013 Mrs. Jones - Thank you.

1014

1015 Mr. Archer - With that we will stand and go downstairs.

1016

1017 **WORK SESSION ADJOURNS IN ORDER TO RECONVENE FOR THE**  
1018 **REGULAR PUBLIC HEARING.**

1019

1020 **THE PLANNING COMMISSION RECONVENED AT 7:05 P.M.**

1021

1022 Mr. Archer - The Planning Commission will come to order. Good  
1023 evening everyone. Welcome to the October 13, 2011 Rezoning Meeting. With  
1024 that, let us stand and pledge allegiance to the Flag.

1025

1026 Is there anyone present from the news media? If you're here and chose not to be  
1027 recognized, we welcome you. I'd also like to recognize Mrs. Patricia O'Bannon,  
1028 who serves on the Board of Supervisors from the Tuckahoe District and is the  
1029 representative this year on the Planning Commission.

1030 We have a pretty heavy agenda tonight, so I will turn things over to our secretary,  
1031 Mr. Joe Emerson.

1032  
1033 Mr. Emerson - Thank you, Mr. Chairman. As you're aware, and we'll  
1034 note for the audience, the Commission did hold a work session earlier this  
1035 evening beginning at 5:30 p.m. That was to review and discuss revisions to the  
1036 County Zoning Ordinances regarding places of worship in the Zoning Ordinance  
1037 and additional zoning districts and other types of regulations. The Commission  
1038 has continued their work session to November 10 at 5:30 to continue that  
1039 discussion.

1040  
1041 With that, Mr. Chairman, that takes us to the requests for withdrawals and  
1042 deferrals. Those will be presented by Mr. Jim Strauss.

1043  
1044 Mr. Archer - Good evening, Mr. Strauss. How are you, sir?

1045  
1046 Mr. Strauss - Good evening members of the Commission. The first  
1047 deferral request we have is in the Three Chopt District. It's on page one of the  
1048 agenda. It's case C-8C-11, Dalton Park Land Development. This is a request to  
1049 conditionally rezone from R-3C One-Family Residence District to RTHC  
1050 Residential Townhouse District, and from R-3 One-Family Residence District to  
1051 R-5AC General Residential District. The applicant is requesting a deferral to the  
1052 January 12, 2012 meeting.

1053  
1054 *(Deferred from the June 9, 2011 Meeting.)*

1055 **C-8C-11 Webb Tyler for Dalton Park Land Development**  
1056 **Company:** Request to conditionally rezone from R-3C One-Family Residence  
1057 District (Conditional) to RTHC Residential Townhouse District (Conditional) parts  
1058 of Parcels 743-763-3572, 743-764-4622, and -6363 containing 9.3 acres (Parcel  
1059 1) located on the east line of Interstate 295 approximately 630' west of the  
1060 southern terminus of Allenbend Road and from R-3C One-Family Residence  
1061 District (Conditional) to R-5AC General Residence District (Conditional) Parcels  
1062 743-763-8655, -3527, -9269, 744-764-5770, -5157, -4443, -3831, -3317, -2703,  
1063 744-763-2190, -1576 and parts of Parcels 743-763-3572, 743-764-4622, and -  
1064 6363 containing 36.7 acres (Parcels 2 and 3) located between the west line of  
1065 Belfast Road and the northeast intersection of Interstates 64 and 295. The RTH  
1066 District allows a maximum density of nine (9) units per acre. The R-5A District  
1067 allows a minimum lot size of 5,625 square feet and a maximum density of six (6)  
1068 units per acre. The uses will be controlled by zoning ordinance regulations and  
1069 proffered conditions. The 2026 Comprehensive Plan recommends Traditional  
1070 Neighborhood Development to support a mixture of residential, nonresidential  
1071 and open space uses with 60% of the land consisting of residential uses at a

1072 density not to exceed 12 units per acre; however, the site is also within the  
1073 Innsbrook Area Study which recommends a maximum density of 8 units per acre  
1074 for residential uses.

1075

1076 Mr. Archer - Is there anyone present who is opposed to the  
1077 deferral of case C-8C-11, Webb Tyler for Dalton Park Land Development? Mr.  
1078 Branin.

1079

1080 Mr. Branin - Mr. Chairman, I'd like to move that C-8C-11, Webb  
1081 Tyler for Dalton Park Land Development, be deferred to the January 12, 2012  
1082 meeting per the applicant's request.

1083

1084 Mr. Vanarsdall - Second.

1085

1086 Mr. Archer - Motion by Mr. Branin, seconded by Mr. Vanarsdall. All  
1087 in favor say aye. All opposed say no. The ayes have it; the motion passes.

1088

1089 At the request of the applicant, the Planning Commission deferred C-8C-11,  
1090 Webb Tyler for Dalton Park Land Development, to its meeting on January 12,  
1091 2012..

1092

1093 Mr. Strauss - The next request for deferral is on page three of the  
1094 agenda. It's in the Varina District, case C-11C-11, Osborne Glen, LLC. This is a  
1095 request to conditionally rezone from A-1 Agricultural District to R-5AC General  
1096 Residence District. The applicant is requesting a deferral to the November 10,  
1097 2011 meeting.

1098

1099 **C-11C-11 Steve Faris for Osborne Glen, LLC:** Request to  
1100 conditionally rezone from A-1 Agricultural District to R-5AC General Residence  
1101 District (Conditional) on part of Parcel 800-695-7559 containing approximately  
1102 32.2 acres located at the northwest intersection of Sholey Road and Osborne  
1103 Turnpike. The applicant proposes a zero-lot-line subdivision of no more than 100  
1104 lots. The R-5A District allows a minimum lot size of 5,625 square feet and a  
1105 maximum density of six (6) units per acre. The use will be controlled by zoning  
1106 ordinance regulations and proffered conditions. The 2026 Comprehensive Plan  
1107 recommends Traditional Neighborhood Development, Suburban Mixed-Use, and  
1108 Environmental Protection Area..

1109

1110 Mr. Archer - Is there anyone present who is opposed to the  
1111 deferment of C-11C-11, Steve Faris for Osborne Glen, LLC?

1112

1113 Mr. Jernigan - Mr. Chairman, with that I will move for deferral of case  
1114 C-11C-11, Steve Faris for Osborne Glen, LLC, to November 10, 2011, by request  
1115 of the applicant.

1116

1117 Mr. Vanarsdall - Second.

1118  
1119 Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.  
1120 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1121  
1122 Mr. Strauss - That completes the requests for deferrals this  
1123 evening.

1124  
1125 Mr. Archer - Okay. Thank you, Mr. Strauss.

1126  
1127 Mr. Emerson - Mr. Chairman, there are no requests for expedited  
1128 items, so that takes us to the first item on your agenda for public hearing this  
1129 evening, which appears on page two.

1130  
1131 **(Deferred from the September 15, 2011 Meeting.)**

1132 **C-9C-11 Andrew M. Condlin for Bacova, LLC:** Request to  
1133 conditionally rezone from A-1 Agricultural District to O-2C Office District  
1134 (Conditional), parts of Parcels 739-766-2504 and 739-765-0785 containing 6.439  
1135 acres (Tract A) located at the northwest intersection of Pouncey Tract Road  
1136 (State Route 271) and Bacova Drive; from A-1 Agricultural District to R-3C One-  
1137 Family Residence District (Conditional), Parcel 737-766-1902 and parts of  
1138 Parcels 738-765-2372, 736-766-7163, 739-766-2504, and 739-765-0785  
1139 containing 79.234 acres (Tracts B and C) located along the west line of Bacova  
1140 Drive approximately 675' west of its intersection with Pouncey Tract Road; from  
1141 A-1 Agricultural District to R-6C General Residence District (Conditional), Parcels  
1142 736-765-2998, 736-766-0319, 735-766-7333, 735-766-4550, 735-766-2261 and  
1143 parts of Parcels 736-766-7163 and 735-767-9459 containing 30.012 acres  
1144 (Tracts D and E) located at the eastern corner of the N. Gayton Road Extension  
1145 and Bacova Drive intersection; and from A-1 Agricultural District to R-5AC  
1146 General Residence District (Conditional), parts of Parcels 735-767-9459 and  
1147 736-768-5323 containing 19.481 acres (Tract F) located along the east line of the  
1148 N. Gayton Road Extension approximately 530' southwest of its intersection with  
1149 Kain Road. The applicant proposes office uses, and up to 135 single-family  
1150 dwellings, 45 zero-lot-line dwellings, and 430 multi-family residential units. The  
1151 uses will be controlled by zoning ordinance regulations and proffered conditions.  
1152 The R-3 District allows a minimum lot size of 11,000 square feet and a maximum  
1153 gross density of 3.96 units per acre. The R-5A District allows a minimum lot size  
1154 of 5,625 square feet and a maximum density of six (6) units per acre. The R-6  
1155 District allows a maximum gross density of 19.8 units per acre. The 2026  
1156 Comprehensive Plan recommends Suburban Residential 1, density should not  
1157 exceed 2.4 units per acre, Suburban Mixed-Use, density should not exceed 4.0  
1158 units per acre, Open Space/Recreation, and Environmental Protection Area. The  
1159 site is partially in the West Broad Street Overlay District. The staff report will be  
1160 presented by Mr. Livingston Lewis.

1161

1162 Mr. Archer - Is there any one present who is opposed to this case,  
1163 C-9C-11, Andrew M. Condlin for Bacova, LLC? We have opposition. Thank you.  
1164 Mr. Lewis, good evening, sir.

1165

1166 Mr. Lewis - Good evening, Mr. Chairman.

1167

1168 Mr. Branin - Mr. Chairman, before we proceed, for the record let it  
1169 be known that Mr. Jernigan has this case. I've abstained from it.

1170

1171 Mr. Archer - Alright, Mr. Jernigan? Duly noted, sir.

1172

1173 Mr. Lewis - Thank you, Mr. Chairman.

1174

1175 This is a request to rezone all or part of twelve A-1 zoned parcels totaling 135  
1176 acres between Pouncey Tract Road and the North Gayton Road Extension.  
1177 Interstate 64 is adjacent to the south, Colonial Trail Elementary School and the  
1178 Twin Hickory community are to the east, and a variety of large-lot single-family or  
1179 vacant A-1 properties surround the site to the north and west, with two to the  
1180 south. The applicant's proposal shows the site divided into six development  
1181 tracts for offices and up to 610 residential dwelling units of varying types.

1182

1183 The 2026 Comprehensive Plan recommends the majority of the site for Suburban  
1184 Mixed-Use—abbreviated SMX. The center of the site is designated for Open  
1185 Space/Recreation, and smaller portions are recommended for Environmental  
1186 Protection Area, and Suburban Residential 1.

1187

1188 The SMX designation is intended to allow a cohesive mixture of uses in terms of  
1189 general land use categories, and to provide some degree of flexibility in housing  
1190 types. Approximately eighty percent of SMX areas should be for residential,  
1191 fifteen percent for open space/recreation, and five percent for office, service, or  
1192 commercial use. More specifically within the residential areas, some  
1193 combination of attached and semi-detached single-family homes, townhouses,  
1194 condominiums, and zero-lot-line homes may be appropriate, all with a combined  
1195 aggregate gross residential density not to exceed four units per acre. Multi-  
1196 family dwellings are not specifically listed as part of the SMX designation.

1197

1198 Copies of the applicant's revised proffers dated October 6, 2011 have been  
1199 distributed to you along with proffered Exhibits 1 through 21. These documents  
1200 contain many changes from the versions in the staff report, so in the interest of  
1201 time I will summarize the proffers in their latest form rather than attempting to  
1202 reference all differences between versions.

1203

1204 Tract A. As shown on this proffered conceptual plan, Tract A would be zoned O-  
1205 2C and developed for general office use in a four-building configuration with  
1206 60,000 square feet of floor area, according to the applicant's un-proffered

1207 estimate. Access to the site is shown both on Pouncey Tract Road and on the  
1208 new east/west spine road the applicant would construct for the overall project.

1209

1210 Some of the proffered assurances for Tract A include:

1211

- 1212 • eighty-five percent brick exterior on all buildings;
- 1213 • prohibition of use as a payday loan business, funeral home, or bank  
1214 with more than one drive-thru;
- 1215 • an eight-foot height limitation on detached signage;
- 1216 • a provision to provide limited cross-access to the adjacent site to  
1217 the north; and
- 1218 • 35-, 25-, and 10-foot Transitional Buffers along the site's east,  
1219 south, and north perimeters, respectively.

1220

1221 These proffered character images are provided by the applicant to illustrate the  
1222 general building style proposed for Tract A, and are not meant to directly reflect  
1223 the extent to which particular design features or specific exterior materials would  
1224 be used.

1225

1226 Tracts B and C, located toward the center of the site, would be zoned R-3C to  
1227 accommodate 135 single-family homes. Three points of access are shown along  
1228 the spine road and one on Bacova Drive. Notable existing features in these  
1229 development areas include the pool, tennis courts, and playing fields of the  
1230 former Short Pump Recreation Center, a three-acre pond, high-voltage Dominion  
1231 power line easements, and several acres of 100-year floodplain. If the layout  
1232 shown here is implemented, the existing recreation facilities would be  
1233 demolished. Some of the proffers for Tracts B and C include:

1234

- 1235 • 2,500-square-foot minimum finished floor area per dwelling;
- 1236 • two-car attached or detached garage for each home (forty percent  
1237 side or rear-loaded);
- 1238 • crawlspace foundations with all brick or stone on visible surface  
1239 below the first floor level;
- 1240 • varying percentages for exterior building materials which result in a  
1241 minimum fifty-three percent brick coverage requirement for the  
1242 aggregate front façade area on the two tracts;
- 1243 • a Transitional Buffer 25 along the spine road and Bacova Drive;
- 1244 • a six-acre park area which includes a tot lot and three-acre pond;  
1245 and
- 1246 • a two-and-a-half acre recreation facility with a 5,000-square-foot  
1247 pool and 2,000-square-foot clubhouse, all of which would be:
  - 1248 - available to residents of Tracts B, C, and F;
  - 1249 - located on an unspecified site north of the spine road or on  
1250 Tract C or F; and
  - 1251 - provided no later than the issuance of the 100<sup>th</sup> Certificate of  
1252 Occupancy in the aggregate between Tracts B, C, and F.

1253 Tract F. The development's other one-family dwellings would be located on Tract  
1254 F in the far northern corner, where the applicant proposes R-5AC zoning for up to  
1255 forty-five detached zero-lot-line homes, accessed from both the spine road and  
1256 North Gayton. Items addressed in the Tract F proffers include:

- 1257
- 1258 • 1,750-square-foot minimum finished floor area per dwelling;
- 1259 • varying percentages for exterior building materials which result in a  
1260 minimum twenty percent brick coverage requirement for the  
1261 aggregate front façade area on the tract;
- 1262 • elevated slab foundation with a two-foot brick or stone above-grade  
1263 wrap, or a full brick or stone crawlspace foundation;
- 1264 • one-car garage for fifty percent of homes (no side or rear-load  
1265 percentage);
- 1266 • access to the same recreation amenities described for Tracts B and  
1267 C; and
- 1268 • perimeter buffers including a Transitional 25 along the spine road  
1269 and a Transitional 25 planted to a TB35 quantity along North  
1270 Gayton.

1271  
1272 As with the office images, these photos are proffered to illustrate the general  
1273 building style rather than the specific appearance of homes on Tracts B and C.  
1274 And these are the character images for the zero-lot-line homes on Tract F.

1275  
1276 On Tracts D and E—which you'll see not colored, but here in the southwestern  
1277 corner and at the corner of North Gayton and the spine road—the applicant  
1278 proposes R-6C zoning for an apartment community with a maximum of 430 units,  
1279 which would be a deviation from the 2026 Plan. In this location the apartments  
1280 would have a high degree of exposure to Interstate 64, North Gayton Road,  
1281 Bacova Drive, and the spine road; therefore, above all other uses in this request,  
1282 the apartments would be the most visible. With this in mind, it is critically  
1283 important that a variety of details be provided and the highest levels of quality be  
1284 applied to all aspects of the apartment community's development.

1285  
1286 The Tract E conceptual plan illustrates ninety-six units in a four-building layout at  
1287 the corner of the spine road and North Gayton. A water feature, playground  
1288 area, potential retaining wall, and two gated points of access are shown.

1289  
1290 A total of 324 units would be on Tract D at the corner of North Gayton and  
1291 Bacova Drive—all shown on this thirteen-building layout—along with a  
1292 clubhouse, fitness center, pool, two park areas, and other potential amenities.  
1293 Two gated points of access are shown here. The western access to North  
1294 Gayton crosses an eight-tenth-of-an-acre triangular parcel for which the applicant  
1295 has just recently reached an acquisition agreement. Paperwork was provided to  
1296 staff earlier today for inclusion of this piece in the request so it can be considered  
1297 in the Commission's recommendation this evening. However, staff has not been

1298 able to fully evaluate the potential impact of this addition on the proffers and all  
1299 other aspects of the case.

1300

1301 The latest apartment character images are similar to the versions in the staff  
1302 report, but additional side and rear perspectives have been included and exterior  
1303 material labels have been added. The typical 24-unit building front and Interstate  
1304 64 rear is illustrated here as three stories with brick and cement-board facades.  
1305 Code allows a maximum height of eighty feet, and the applicant has indicated  
1306 units would be accessed via controlled-entry, unconditioned interior corridors.  
1307 The entrance for those I believe is indicated in this location here, and here is  
1308 another, and so forth. This image represents the typical side elevation which may  
1309 face North Gayton Road.

1310

1311 And this page depicts the rear north-facing exterior of the four northernmost  
1312 buildings on Tract D. Adjacent slopes would allow inclusion of a basement level  
1313 in these buildings to offer one- and two-car garages. The proffers require a  
1314 minimum of forty-five total garages.

1315

1316 Exhibit 20 shows the typical unit layouts, and the proffers call for the following  
1317 mixture and minimum sizes:

1318

- 1319 • A maximum of forty percent 1-bedroom units (minimum 800 square  
1320 feet);
- 1321 • no limit on the percentage of two-bedroom units (minimum 900  
1322 square feet); and
- 1323 • a maximum of twenty-five percent 3-bedroom units (minimum 1,100  
1324 square feet).

1325

1326 Other items addressed in the Tracts D and E proffers include:

1327

- 1328 • Minimum thirty-five to forty-five percent brick or stone on exterior  
1329 walls;
- 1330 • a Transitional Buffer 35 along North Gayton Road, and a TB25  
1331 along the spine road and Bacova Drive;
- 1332 • sound suppression measures in interior and exterior walls;
- 1333 • a list of interior finish materials; and
- 1334 • amenities including a pool, 3,000-square-foot clubhouse, 1,000-  
1335 square-foot fitness center, and a playground—all required by the  
1336 100<sup>th</sup> Certificate of Occupancy for Tracts D and E.

1337

1338 In addition to the tract-specific information, the applicant has also provided  
1339 Proffers 1 through 12, accompanied by Exhibits 1 through 8, which govern  
1340 development-wide attributes including roads, sidewalks and trails, entrance  
1341 signage, and perimeter buffers. In addition to Exhibit 2 shown here with Bacova  
1342 Drive related details, a road improvement phasing plan is also proffered.

1343

1344 The highlighted areas on this plan correspond to the following information:

- 1345 • Phase 1 (the pink area far left) is prior to the first Certificate of  
1346 Occupancy on Tract E and includes:
  - 1347 - a four-lane, 600-foot western segment of the concept road;
  - 1348 - a third northbound lane on North Gayton from Bacova to the  
1349 concept road; and
  - 1350 - right and left turn lanes to access the concept road from North  
1351 Gayton
- 1352 • Phase 2 (blue) is prior to the first Certificate of Occupancy on Tract  
1353 A or the twentieth building permit on Tract B and includes:
  - 1354 - a four-lane, 850-foot eastern section of the concept road;
  - 1355 - a 400-foot realigned eastern section of Bacova Drive; and
  - 1356 - entrance and turn lane improvements for Colonial Trail  
1357 Elementary
- 1358 • Phase 3 in orange is a little bit hard to see, but it's this center  
1359 portion, the bottom portion there adjacent to the yellow. It is prior to  
1360 the sixth building permit on Tract C or the fortieth on Tract B and  
1361 includes the two southern lanes of the concept road to create a full  
1362 connection between North Gayton and Pouncey Tract
- 1363 • In order, the final three phases would provide:
  - 1364 - transition to a partially private Bacova Drive;
  - 1365 - construction of the two northern lanes of the concept road; and
  - 1366 - construction of the third North Gayton lane adjacent to Tract F  
1367 up to Kain Road.

1368  
1369  
1370 In its final form, the concept road would be 4,600 feet long with eighty feet of  
1371 right-of-way and four lanes divided by a fourteen-foot-wide landscaped median.

1372  
1373 Exhibit 6 provides a conceptual example of where the applicant currently  
1374 proposes sidewalks (purple) and an interior multi-use path (orange). The most  
1375 recent proffer language provides for five-foot sidewalks along both sides of the  
1376 spine road and four-foot sidewalks elsewhere. The interior path is proffered as  
1377 four feet wide with general hard surface material in some areas and undefined  
1378 material elsewhere.

1379  
1380 Exhibit 7 highlights the perimeter buffer locations and generally indicates the  
1381 areas where landscaping may be preserved or planted. This leads to Exhibits 8  
1382 and 21, which provide more detail regarding buffer appearance.

1383  
1384 The Exhibit 8 buffer design with street trees, a berm, six-foot wood board fence,  
1385 and two hedgerows would be applied to Pouncey Tract Road, Bacova Drive  
1386 East, most but not all of the spine road, and North Gayton along Tract F.

1388 Exhibit 21 replicates typical Transitional Buffer 35 requirements which would be  
1389 applied to the North Gayton frontage of Tracts D and E. A berm and fence are  
1390 not included here.

1391  
1392 Finally, the five pages of Exhibit 5 illustrate several perspectives of the stone and  
1393 brick monument-style signage proposed for the primary entrances at Pouncey  
1394 Tract and North Gayton, with similar smaller versions for the single-family  
1395 neighborhoods. The office and multi-family entrance signage is proffered to be of  
1396 a similar type to this but not necessarily tied to a specific exhibit.

1397  
1398 After reviewing the revised proffers and exhibits, staff has identified the following  
1399 items for further consideration by the applicant:

1400  
1401 Related to bike accommodations, pedestrian facilities, and roads:

- 1402
- 1403 • In support of the transportation goals of the 2026 Plan, consider
- 1404 designing for a ten-foot-wide, paved, multi-use path installed during
- 1405 construction of the south side of the concept road. But this should
- 1406 not be in lieu of a sidewalk on the concept road's north side,
- 1407 particularly along Tracts A and F, which should also be phased for
- 1408 installation as the concept road is constructed;
- 1409 • provide for installation timing, minimum five-foot width, and
- 1410 additional surface material details for the proposed interior trail
- 1411 network;
- 1412 • link the interior single-family sidewalks to specific proffer language
- 1413 to ensure installation of what is shown on Exhibit 6;
- 1414 • remove the requirement to provide private drive access for adjacent
- 1415 properties north of the concept road and replace this statement with
- 1416 a general provision for public access; and
- 1417 • clarify that North Gayton Road dedication would be for the
- 1418 "ultimate" right-of-way as has been proffered for Pouncey Tract.
- 1419

1420 Pertaining to landscaping, buffers, and streetscape:

- 1421
- 1422 • Ensure a unified, high-quality perimeter appearance by:
  - 1423 - adding proffer language which specifically references buffer
  - 1424 fencing and berming;
  - 1425 - applying a buffer exhibit to the north side of Tract E;
  - 1426 - clarifying the visual impact of the proposed retaining wall along
  - 1427 Tract E,
  - 1428 - including buffer fencing along Tracts D and E; and
  - 1429 - considering a different type of fence along the North Gayton,
  - 1430 Pouncey Tract, and concept road gateways. A more formal
  - 1431 fence design such as wrought iron style with columns would be
  - 1432 appropriate along North Gayton and Pouncey Tract.

- 1433 • amend Proffer 6 so Exhibit 8 buffer requirements do not
- 1434 unnecessarily apply to the north side of Tract A;
- 1435 • address individual private lot fence treatment to avoid potential
- 1436 conflicts with buffer fencing;
- 1437 • for single-family street trees, ensure they are planted a maximum of
- 1438 ten feet from the right-of-way and provide a measurable distance
- 1439 between trees;
- 1440 • provide more detailed proffer language and/or exhibits regarding
- 1441 interior landscaping for Tracts D and E to facilitate implementation
- 1442 of what is shown on the conceptual plans;
- 1443 • shift the dumpster enclosure from the Tract D buffer to a more
- 1444 interior location and consider a more durable, finished door material
- 1445 for all enclosures; and
- 1446 • provide for ornamental residential style exterior lighting for the
- 1447 apartments.
- 1448

1449 And, items related to building quality and appearance:

- 1450
- 1451 • Address treatment of steps, stoops and similar features for potential
- 1452 zero-lot-line homes built on crawlspace; and
- 1453 • remove the "as otherwise approved" language regarding Planning
- 1454 Commission approval of single-family exterior treatment given that
- 1455 the Commission does not review individual home elevations.
- 1456

1457 Also as a general note, with the recent addition of the triangular property to the  
1458 west end of Tract D, the applicant should ensure that all proffers applicable to  
1459 Tract D also relate correctly to the provision of buffers, road improvements,  
1460 entrance features, and other aspects.

1461  
1462 In summary, staff believes this request has positive aspects and would add  
1463 important infrastructure to the area. In addition, the applicant has provided a  
1464 number of assurances to help define the development, ensure quality, and  
1465 mitigate potential impacts. However, some important details remain pending,  
1466 including any potential revisions required by the piece added to Tract D. For  
1467 these reasons, staff recommends deferral to allow more time to address  
1468 remaining issues and evaluate recent changes.

1469  
1470 This concludes my presentation. I will be happy to take any questions.

1471  
1472 Mr. Archer - Thank you, Mr. Lewis. Are there questions for Mr.  
1473 Lewis from the Commission members?

1474  
1475 Mrs. Jones - I have a question.

1476  
1477 Mr. Branin - Mrs. Jones?

1478

1479 Mr. Jernigan - Go ahead first.  
1480  
1481 Mrs. Jones - Mr. Lewis, I just wanted to ask, with Suburban Mixed-  
1482 Use—which is recommended for the majority of this site—multi-family is not  
1483 included in the residential uses, and we just finished having our Comprehensive  
1484 Plan discussion. Can you tell me the reason why multi-family was not considered  
1485 as an acceptable use within Suburban Mixed-Use?  
1486  
1487 Mr. Lewis - To be honest, personally no. I think what we're  
1488 looking for is certainly the highest of quality multi-family use. Given the specific  
1489 location of this property—being adjacent to an interstate and given the  
1490 environmental constraints—it's possible that multi-family use, given the right  
1491 mitigations, could be appropriate in this location.  
1492  
1493 Mrs. Jones - So the density was not raised as one of your  
1494 remaining concerns? I didn't hear that as a concern when you summarized the  
1495 things that you felt needed to be worked on.  
1496  
1497 Mr. Lewis - I think it's still an issue.  
1498  
1499 Mr. Emerson - Mrs. Jones, if I could assist in answering that  
1500 question. Suburban Mixed-Use is intended to be primarily detached single-family  
1501 style neighborhoods. However, again, as Mr. Lewis noted, on this particular  
1502 property there are certain environmental features, along with the interstate, that  
1503 create a section of the property that really is not suitable for that traditional  
1504 detached single-family, and lends itself more to multi-family. So in this particular  
1505 instance you have to I guess rely on the fact that the Comprehensive Plan is a  
1506 guide and not necessarily a hard-and-fast rule. It seems to make more sense for  
1507 multi-family in that one portion of this property. Therefore it does push the density  
1508 calculation a little bit higher than SMX would allow for, but then again you have a  
1509 particular situation with that section on this property that this is a more  
1510 appropriate use. That's what balances it out.  
1511  
1512 Mrs. Jones - Okay, thank you.  
1513  
1514 Mr. Archer - Any further questions from the Commission?  
1515  
1516 Mr. Vanarsdall - Mr. Lewis, any proffers about porches or stoops?  
1517  
1518 Mr. Lewis - There are, yes sir. For the most part that issue is  
1519 covered throughout the development. It may have just been a semantic oversight  
1520 that it doesn't apply to the crawlspace possibility in Tract F.  
1521  
1522 Mr. Vanarsdall - It appears that we have brick porches and brick  
1523 stoops. Is there anything in there about that?  
1524

1525 Mr. Lewis - That is ensured virtually across all of Tracts B and C  
1526 for the single-family. It's only Tract F where that still remains a pending issue.  
1527

1528 Mr. Jernigan - Mr. Lewis, it looks like from the list you have, there  
1529 are a few things to be addressed. One thing I want to ask is on Tract F, the R-  
1530 5AC, it said that they could be on raised slabs.  
1531

1532 Mr. Lewis - Correct, yes sir.  
1533

1534 Mr. Jernigan - What is the height of that slab again?  
1535

1536 Mr. Lewis - It's not specified. But if it is on a raised slab the brick  
1537 wrap on the outside would be two feet.  
1538

1539 Mr. Jernigan - What did you say about the garages on those?  
1540

1541 Mr. Lewis - The garages on Tract F, one-car garage for fifty  
1542 percent of homes. They don't have a side- or rear-load percentage, probably  
1543 given the width of the proposed lots.  
1544

1545 Mr. Jernigan - Most of them will be detached?  
1546

1547 Mr. Lewis - I would say probably yes, but that has not been  
1548 specified.  
1549

1550 Mr. Jernigan - Is there anything front-load?  
1551

1552 Mr. Lewis - No sir.  
1553

1554 Mr. Jernigan - They cannot be front-load?  
1555

1556 Mr. Lewis - Oh, no, it does not say that they cannot be front-  
1557 loaded, no sir.  
1558

1559 Mr. Vanarsdall - All of them will end up front-loaded.  
1560

1561 Mr. Jernigan - On the apartments we talked about sound  
1562 suppression, but you didn't give a factor.  
1563

1564 Mr. Lewis - Fifty. Interior walls and exterior walls.  
1565

1566 Mr. Jernigan - Against the interstate also?  
1567

1568 Mr. Lewis - Correct. Insulated doors, and I believe windows will  
1569 be thirty-two. Sound transmission coefficient rating of thirty-two.  
1570

1571 Mr. Jernigan - All right. I've got a few more questions but we do  
1572 have opposition, I think what I would like to do before Mr. Condlin is hear from  
1573 the opposition so he can address the issues. I know he's going to have a pretty  
1574 lengthy presentation.

1575  
1576 Mr. Archer - Those persons who are in opposition, if you would  
1577 come forward please and state your name for the record; you can come in any  
1578 order. Mr. Secretary will give the rules for opposition to a case, and everybody  
1579 will have an equal time. Go ahead, Mr. Secretary.

1580  
1581 Mr. Emerson - Yes sir, Mr. Chairman, the Planning Commission  
1582 rules regarding public hearings. The applicant is allowed ten minutes to present  
1583 the request. Opposition is allowed ten minutes to present its concerns, and that's  
1584 cumulative. Commission questions do not count into time limits, and the  
1585 Commission may waive time limits for either party at its discretion.

1586  
1587 Mr. Archer - Come right up, ma'am.

1588  
1589 Ms. Powell - My name is Sarah Powell. Good evening. I appreciate  
1590 the opportunity to speak. I always say this. I've been to several meetings. I  
1591 moved to Short Pump when it wasn't cool to live in Short Pump, about thirty-two  
1592 years ago. I can remember one time I came to either this meeting or the Board of  
1593 Supervisors, and they were starting to change Short Pump. I remember the  
1594 Board—whichever it was—said no, we didn't want to be Fairfax County. Then  
1595 they all snickered. Well that's what's happened to us.

1596  
1597 We moved to the country out there, and the people that have lived out there have  
1598 lived there forever. We don't want it to change, and you all know that. We know  
1599 it's coming, but to put apartments in that area to me is just saying—I hate to say  
1600 this—screw the County, screw the Land Use Plan, let's just try and put up high-  
1601 rise buildings. They want to make us like Downtown Short Pump with the—I  
1602 always call it the Warehouse District, you know, that huge complex that's so out  
1603 of place for Downtown Short Pump, across from Target.

1604  
1605 To put three-story apartments or whatever those are out here is to me ludicrous. I  
1606 think this is one of the last areas we have that is semi-wild, and I think we ought  
1607 to preserve it. We need to preserve the trees, we need to preserve the wildlife,  
1608 we need to have something besides a house on every square foot of land in  
1609 Henrico County. But basically I am most opposed to the apartments. We don't  
1610 want apartments; we don't need apartments. You can look on the other side of  
1611 Broad Street or the interstate and there are all kinds of apartments. We don't  
1612 need more apartments. I think this should really be considered.

1613  
1614 And for once in our lives I think we should say stick to the Land Use Plan; that's  
1615 what we have it for. We spend I don't know how many thousands of dollars every  
1616 so many years to draw it, and then the developers come in and they ask for what

1617 they want. Well what do the people that drew this up want? We want to semi  
1618 follow it. And I think Henrico is at fault, in a way, in kowtowing to every developer  
1619 that comes through. I don't know what hold they've got on the County, but for  
1620 thirty-five years or—well, I've lived in the County for forty years. And I've become  
1621 more suspicious because basically it's—and I don't know who these developers  
1622 are, but they're just running over us and we're allowing it to happen. I think we  
1623 ought to take a good, long look at it.

1624

1625 So thank you very much.

1626

1627 Mr. Jernigan - Thank you, ma'am.

1628

1629 Mr. Archer - Any questions for Ms. Powell from the Commission?

1630

1631 Mr. Vanarsdall - I don't have a question, but I'll just answer something  
1632 that you said. The developer doesn't have to have any hold on the County to  
1633 develop according to the law. Everyone who owns property has the right to  
1634 develop it the way they see fit.

1635

1636 Ms. Powell - Right.

1637

1638 Mr. Vanarsdall - Provided it's within the law. It's our job, the Board's  
1639 job, and the job of everyone who works here to see that it is legal.

1640

1641 Ms. Powell - Well it's legal, but I think when we draw these plans—  
1642 I know they're a guideline. But you know as well as I do everybody wants to  
1643 make every penny they can off of every piece of land.

1644

1645 Mr. Vanarsdall - The number one reason people are in business is to  
1646 make a profit.

1647

1648 Ms. Powell - I know.

1649

1650 Mr. Vanarsdall - I understand where you're coming from.

1651

1652 Ms. Powell - The people count.

1653

1654 Mr. Vanarsdall - Thank you.

1655

1656 Mr. Jernigan - Thank you, ma'am.

1657

1658 Ms. Hamilton - My name is Karen Hamilton; I've been here before.

1659

1660 Mr. Archer - Good evening, Ms. Hamilton. Just to remind you, you  
1661 have about four minutes left.

1662

1663 Ms. Hamilton - Okay. Mr. Jernigan, [Vanarsdall] you sound a lot like  
1664 David Kaechele because you said that the person has a right to do with their land  
1665 what they want. Well why does that not apply to Emily Leake Waller? She  
1666 wanted to live on her land; she didn't want a road put through it. That's a  
1667 hypothetical question; don't answer it because we don't have time for that. We  
1668 don't have time for your comments; I've only got four minutes left, so I'm going be  
1669 as quick as I can about this.

1670  
1671 You're wrong, because Emily Leake Waller wanted to stay on her land, and  
1672 you're saying the developer has a right but Emily didn't? She was the fourth  
1673 generation to live on her land. There are many people who didn't want to give up  
1674 their land for this road. And the most reprehensible part of this plan is that  
1675 Henrico County took land from long-time taxpayers under the guise of needing to  
1676 extend Gayton Road for the existing traffic, not future traffic, not what you're  
1677 doing here. But you said, "Oh, we already need this road." So I believe you knew  
1678 about this proposal before you took away all the land from the people on Kain,  
1679 Bacova, and Shady Grove Roads.

1680  
1681 I'm disappointed, too, in Andrew Condlin, wherever he is tonight, because he  
1682 didn't see the conflict in representing Bacova, LLC and Ms. Waller. I see a  
1683 terrible conflict in that; that's reprehensible. He didn't defend Emily Leake in my  
1684 opinion because he knew that this development was going to come through. He  
1685 knew that this development would benefit from Emily Leake losing her land. I  
1686 have a petition against development between Kain and Bacova. I have over 160  
1687 signatures I spent hours walking through the neighborhood getting them because  
1688 not everybody is home every minute of the day. Sometimes I had to go back and  
1689 back and back. But I want to know what is the magic number of signatures that I  
1690 need to make you see that traffic is bad out there, and we don't need any more  
1691 development.

1692  
1693 We have empty shopping centers; we have empty homes; and we have empty  
1694 apartments. We don't need apartments anywhere, not anywhere. When you were  
1695 saying the Pledge of Allegiance tonight, each of you said, "under God," which  
1696 acknowledges that you're supposed to be under a higher authority. And yet God  
1697 developed the plants, and He created the animals and the birds before He  
1698 created humans. He said that we were supposed to subdue the earth and have  
1699 respect for the plants and the animals. But you guys don't.

1700  
1701 The Federal Migratory Bird Act is a law that is nearly 100 years old, and I've  
1702 been here before and talked to you about this before, but I'll talk about it again  
1703 tonight. This law is nearly 100 years old and it says that you cannot tear down a  
1704 tree when there is a bird's nest with eggs or chicks inside it. And yet you  
1705 disregard this law. You let developers clear-cut the land and, you all know, each  
1706 of you knows that birds nest in the spring and summer. You knew that since you  
1707 were little kids. But you disregard that. And furthermore, the biologist who gave  
1708 his approval for this plan, who gave the green light, he told me he took a brief

1709 walk on the property and said—"Okay". You cannot go on a piece of property in  
1710 October, November, and December, when you know it's not nesting season, and  
1711 look for nests and go, "Well they're not here." Of course they're not there. The  
1712 point of this law is—the law's all about timing. This law is about time. It says you  
1713 cannot destroy a bird's nest. That means, because—owls and Great Blue  
1714 Herons nest beginning late January, and the season continues on up until  
1715 September when Goldfinches are nesting through September. That means that's  
1716 a long time period. I realize that, that you cannot be clear-cutting trees and  
1717 tearing down trees; I realize that. But it's time for us to stop construction. Why  
1718 don't we do some renovation? We have plenty of empty shopping centers. If you  
1719 want to put up apartments, hey, take an empty shopping center and make it an  
1720 apartment complex.

1721  
1722 Not everyone and everything has to live in Short Pump. Please don't allow this  
1723 thing tonight. Tell me, tell me, how many signatures do I need to make you guys  
1724 see that we don't need this development? It is a blight upon the earth, and it is in  
1725 conflict, as Sally [Sarah] said, with the Comprehensive Plan. What was the point  
1726 of the Comprehensive Plan? Was that just busy work for your guys to have  
1727 something to do while they were sitting at their desks when they had nothing else  
1728 to do? You said "comprehensive." What does that word mean to all of you? It  
1729 means we said no, we're not going to put up apartments. You said you were not  
1730 going to, and now you're going to allow it just because a developer wants to do  
1731 that, because you said he has the right to do with his land what he wants. But  
1732 they don't, because you didn't allow that with Emily Leake Waller, or Annie Fair,  
1733 or David Hepler and his wife. You took away land from people that wanted to  
1734 stay on it for a long time and who had been on their land for decades, paying  
1735 your taxes, your salaries.

1736  
1737 There is something really rotten in Denmark and I'm going to find out what it is  
1738 one of these days. But I can tell you that the biologist who gave the green light  
1739 for this is not a true biologist, in my opinion. Even in Los Angeles, thirty miles  
1740 outside of Los Angeles they found a very rare reptile that hadn't been seen, that  
1741 they thought was extinct, because someone looked. The biologists in the State of  
1742 Virginia, and especially in Henrico County, don't actually look. Birds nest inside  
1743 cavities in trees, so you have to actually actively look. And you can't just go  
1744 through taking a brief walk. It takes a lot of time sometimes to find the birds;  
1745 they're shy, many of them. You know, you just can't go tearing down trees.

1746  
1747 And okay, so maybe I'm out of time here, but I'm not out of line. Tell me, what's  
1748 the magic number of signatures I need to make you deny this request?

1749  
1750 Mr. Vanarsdall - Ms. Hamilton, let me ask you a question and I'll tell  
1751 you —there is no magic number of signatures. This is why we have a public  
1752 hearing, exactly so you can voice your opinion and we can give you ours. Thirty  
1753 days from tonight the Board will be here and they'll do the same thing. That's why  
1754 we have such a good system.

1755  
1756 Ms. Hamilton - It's a rotten system.  
1757  
1758 Mr. Vanarsdall - And it's the best you can get. Those people  
1759 recommend, and we take it and we recommend to the Board. We don't legislate;  
1760 the Board legislates. Couldn't be any better system. Now, who did you say  
1761 couldn't cut down a tree with a bird's nest in it?  
1762  
1763 Ms. Hamilton - It's called the Federal Migratory Bird Treaty Act. The  
1764 law is older than you are, Mr. Jernigan [Vanarsdall]. It's nearly a hundred years  
1765 old. It's a treaty between the United States and Mexico, and there's also a treaty  
1766 between the United States and Canada. There are treaties between nearly every  
1767 nation in the world and they all say the same thing because birds migrate  
1768 between one nation and another. You can buy the land, sure, they own the land.  
1769 But they don't own the wildlife, and I'm trying to make you see that.  
1770  
1771 Box turtles bury their eggs in the spring. All these big pieces of equipment that  
1772 they have, that just come plowing through the earth and they destroy the nest. I  
1773 think box turtles should be on the endangered species list.  
1774  
1775 Mr. Vanarsdall - Ma'am, you've made your point and we appreciate  
1776 that. We appreciate you voicing your opinion.  
1777  
1778 Ms. Hamilton - Which one of you wants the petition that I have here?  
1779  
1780 Mr. Vanarsdall - We have the name tags mixed up.  
1781  
1782 Mr. Jernigan - Can I clear up something for you? I'm Mr. Jernigan;  
1783 this is Mr. Vanarsdall. I don't want you to get us mixed up.  
1784  
1785 Mr. Emerson - Evidently we've got the name tags mixed up.  
1786  
1787 Ms. Hamilton - That's not my fault.  
1788  
1789 Mr. Vanarsdall - I was not insulted because you called me him. so  
1790 don't worry about it.  
1791  
1792 Ms. Hamilton - But you see, I can read.  
1793  
1794 Mr. Jernigan - You did good.  
1795  
1796 Ms. Hamilton - Because you made this little mistake here tonight  
1797 you're making fun of this, but this is very serious topic.  
1798  
1799 Mr. Vanarsdall - I didn't make fun of anything you said.  
1800

1801 Ms. Hamilton - This is very serious. I'm telling you that for a long time  
1802 you've been allowing developers to clear-cut trees. And you know, every one of  
1803 you knows that birds nest in spring and summer. But you don't ever say to  
1804 yourselves that the biologist gave his okay and something is wrong with that.  
1805 None of you ever really care about nature. I don't know how much each of you  
1806 makes, but I know one thing, you make enough that you should give this more  
1807 serious consideration. And you may think tonight that because I'm wearing a  
1808 Winnie the Pooh shirt that this is a laughable joke to me; it's not. Did you know  
1809 that there was actually a real Hundred Acre Wood? A. A. Milne wrote about those  
1810 creatures for his son, and told him those stories, but a Hundred Acre Wood really  
1811 existed until about twelve years ago when they tore it down to build a shopping  
1812 center, which they didn't need.  
1813

1814 Mr. Archer - Ms. Hamilton, excuse me, but your time is up.  
1815

1816 Mr. Jernigan - Thank you, Ms. Hamilton.  
1817

1818 Mr. Vanarsdall - Thank you.  
1819

1820 Mr. Emerson - Mr. Chairman, I would like to note for the record that  
1821 in this area the County did recently acquire 200 acres, of which over a hundred of  
1822 those acres are currently planned for a passive park with a recreation center. So  
1823 there are preservation efforts going on in this area to preserve some of the very  
1824 features that Ms. Hamilton is concerned about.  
1825

1826 Mr. Archer - Thank you, Mr. Secretary. That is worth noting. Mr.  
1827 Jernigan, I assume you want to hear from the applicant?  
1828

1829 Mr. Jernigan - Yes.  
1830

1831 Mr. Vanarsdall - Good evening, Mr. Condlin.  
1832

1833 Mr. Archer - Good evening Mr. Condlin. How are you, sir?  
1834

1835 Mr. Condlin - Good evening, members of the Commission. Mr.  
1836 Emerson, thank you for having me. Andy Condlin from Williams Mullen here on  
1837 behalf of Bacova, LLC. We have a host of folks with us including Bob Babcock,  
1838 Brian Revere from the Breeden Company, Andrew Browning, and Randy Kemp,  
1839 and many others. I'll start from the back to answer some of the questions. First  
1840 and foremost—  
1841

1842 Mr. Emerson - Mr. Condlin, do you have a slideshow?  
1843

1844 Mr. Condlin - I don't believe I do, do I?  
1845

1846 Mr. Emerson - It's just been pulled up by our friends in the booth.

1847  
1848 Mr. Condlin - I don't have a slideshow. I'd have difficulty following  
1849 this one. I have that picture and that's all I have. I let Mr. Lewis take care of all  
1850 the facts and slideshow. He did such a good job I'm not even going to go into all  
1851 those details.

1852  
1853 I thought I would address a couple of items first. I don't have a lot left to say; I  
1854 think Mr. Lewis covered it all.

1855  
1856 Mr. Archer - Mr. Condlin, did you want to reserve any part of your  
1857 ten minutes for rebuttal?

1858  
1859 Mr. Condlin - I think the opposition has already spoken, so if you  
1860 don't mind I'll just go ahead and go forward at this point.

1861  
1862 I'm not going to give credence to the conflict; this is not the forum for that. I'll be  
1863 happy to answer any questions; we've already cleared that through the Virginia  
1864 State Bar.

1865  
1866 With respect to the case itself, we are going to comply with all laws, rules, and  
1867 regulations; we're required to do that by local, state, and federal application. And  
1868 so there's no doubt that regardless of whatever has been cited, we're not going  
1869 to be violating any. And if we are, we are going to be subject to the remedies that  
1870 are at hand for the government entity at that point.

1871  
1872 Finally, with respect to North Gayton Road and some of the comments that have  
1873 been made. The only real detail I may go through is the traffic improvements. We  
1874 are providing for a number of traffic improvements beyond that which is part of  
1875 the North Gayton Road project, including adding to the North Gayton Road the  
1876 additional lanes that Mr. Lewis has already covered.

1877  
1878 And, finally, with respect to the apartments I will cover that as part of my  
1879 presentation as to the appropriateness of those, in addition to being in  
1880 compliance with the Suburban Mixed-Use designation in the Comprehensive  
1881 Plan.

1882  
1883 I would like to point out from a more general statement that in almost all respects  
1884 this property itself is defined by its proximity. It's defined by its proximity to I-64,  
1885 to North Gayton Road, and Pouncey Tract Road. Those two roads particularly  
1886 are two bookends that demand an attention to quality and detail. All along, the  
1887 zoning categories for the County's plans for North Gayton Road are looking for  
1888 both the quality and detail, and historically along Pouncey Tract Road.

1889  
1890 But we're also defined by the concept road, which is the road that runs between  
1891 North Gayton Road and Pouncey Tract Road. This is probably the primary  
1892 infrastructure and feature that is going to look almost exactly like Twin Hickory

1893 Lake Drive. It's a fantastic amenity that provides not only for traffic, but also for  
1894 pedestrian. And I'm going to talk a little bit about the one significant change to the  
1895 proffers that are in front of you. We're also defined by the Colonial Trail School  
1896 that sits here, as well as the significant wetlands that are being protected by this  
1897 plan, as well as the referenced County tract that Mr. Emerson just referenced  
1898 across the way—200 acres. All of these go to the quality and the detail that  
1899 you're looking at in part of the defined plan from this standpoint.

1900

1901 A case of this size, as you can see from the staff report—quite frankly, this may  
1902 be the largest staff report I've ever—it's measured not in pages but in pounds at  
1903 this point. It really covers all the detail. The concern about the detail I can assure  
1904 you has been covered in this case and will continue to be covered as we  
1905 progress through this.

1906

1907 Mr. Lewis went through a lot of clean-up items, and I think we're right there. I'm  
1908 only going to comment on two items. Of all the items that he commented on—  
1909 and we just recently received that list from the back-and-forth—we're going to be  
1910 able to comply with all of those; we're very confident we can. We just need to sit  
1911 down with staff and take a little bit more time, and we will be able to clean up all  
1912 of those items, except for two exceptions, which I think are pretty easy to cover.

1913

1914 Finally as part of the general overview, the significant features, I can't even do  
1915 justice to that. I may have to turn to Mr. Lewis with respect to any specific factual  
1916 or proffer questions. We are defined by two different recreation facilities, and  
1917 details of quality, I have over sixty-two proffers and over twenty-one exhibits that  
1918 are defined for this project, including the multi-family design, which I think is  
1919 something different that we haven't seen in Henrico County with the quality that  
1920 they're providing for on this very significant gateway to North Gayton and to this  
1921 quadrant.

1922

1923 But it's not just a benefit to the residents in this case; it's a benefit to the County. I  
1924 think this zoning case in and of itself is a benefit to the County by being able to  
1925 have a more comprehensive zoning and comprehensive plan from the standpoint  
1926 of providing for a lot of amenities for the benefit of not only this community, but  
1927 the surrounding network. There is an incredible amount of infrastructure that's  
1928 related to this. This concept road is a sixty-foot-wide concept road. The utilities  
1929 that are being brought a distance to come into this area will help with the school  
1930 and the future plans for the county's tract as well.

1931

1932 This also helps from the standpoint of some of the conflicts related to the  
1933 condemnation, but also setting the bar. I would say to you that the bar has been  
1934 set higher in this case than any case in the area, including Twin Hickory,  
1935 Wyndham, and Wellesley, that the details we provided and the quality we  
1936 provided for the control of this County has now set the precedent from the  
1937 standpoint of what happens north of here. I think that's a very significant impact  
1938 that it will have on the surrounding development when and if it comes.

1939 As I said, I'm not going to go through all the detail and I do want to be able to  
1940 answer questions. One of the major changes I did want to reference was that  
1941 with respect to the concerns on the pedestrian, we will commit—and will put this  
1942 in writing—and provide for the ten-foot multi-use path along the southern line of  
1943 the concept road. That's a significant benefit that benefits not just this community  
1944 but those east and west to get to the park. We understand the importance of that  
1945 and the benefit it has to us and the County. That will be done as requested as the  
1946 concept road is built. Mr. Lewis went through the phasing plan, so as each phase  
1947 goes in, we will build the adjacent ten-foot-wide pedestrian access. I think that's a  
1948 significant item.

1949  
1950 We will also provide for a five-foot sidewalk on the north side of the concept road  
1951 along Tract A, as it exists along Tract A when Tract A is developed, and along  
1952 Tract F as Tract F is developed. The intervening area that would go from Tract A  
1953 to Tract F on the north side, we would like to keep that for future development as  
1954 this occurs, development on here, that they would build that as they need there.  
1955 We certainly provide for the east/west access movement for the pedestrians by  
1956 the ten-foot sidewalk, so we think that's significant.

1957  
1958 We also would like to make one change. There was an exhibit, and I could find it,  
1959 that generally calls for the various interior pedestrian access ways with trails. Not  
1960 the sidewalks within the residential, but the trails. We'd like to leave that detail to  
1961 the Planning Commission at the time of POD or subdivision, as the case may be,  
1962 so we can better define those as we come forward to where those would be. We  
1963 will ask for that to be natural material, not for a hard surface because any biking  
1964 would happen on the ten-foot multi-use path; that's what it's for. It is a cost  
1965 savings, but it's also more of a natural material that would help, I think, be  
1966 consistent with the surrounding properties.

1967  
1968 The only other, I think, objection I had to the County staff request was access to  
1969 the north through this future development area, access to the concept road. It's a  
1970 simple request and really I'm going to leave it up to the Planning Commission,  
1971 ultimately to the Board of Supervisors. We do think that there is some benefit to  
1972 allowing for some access to some of these residents that live here to access the  
1973 concept road. But we did not want to guarantee access to future development,  
1974 depending upon having control of the quality. Certainly from a large-scale  
1975 development we could understand the benefit. To the extent that we're talking  
1976 smaller scale, there are a lot of homes that are in this area and that's one of the  
1977 things we're concerned about. There's not as much quality and having cut-  
1978 through traffic. So that's a concern we have, but we understand the County's  
1979 position, the staff's position. Really, if it's a significant item, we'll be able to  
1980 comply with that. But that's just a request on our part.

1981  
1982 The proffers in Proffer 4 detail all of the different road improvements that we've  
1983 provided for, which have been significant along North Gayton, building the  
1984 concept road. Also Bacova Drive, which is at this location and this location. And

1985 then we think also significantly the intersection of current Bacova Drive along  
1986 Colonial Trail Elementary, with the improvements along Pouncey Tract. It's a  
1987 poor performing intersection, and we hope with the improvements that we've  
1988 provided for it will provide for a much better traffic flow to Colonial Trail, and  
1989 certainly along the concept road. We're actually going to be doing some  
1990 dedicating and a lot of construction of improvements including curb and gutter,  
1991 and the storm sewer, etcetera, from that area. We think this is a major  
1992 improvement to the area and will help benefit.

1993

1994 I will say that the concern with respect to the traffic, our traffic report has been  
1995 reviewed and has been deemed acceptable by the County traffic engineers with  
1996 the improvements that we're providing for, which have also been reviewed and  
1997 accepted by the traffic engineer. They can certainly speak to that.

1998

1999 With respect to the multi-family, the only other comment I would add, other than  
2000 the fact that it's a question of quality, the quality that we provided here with the  
2001 elevations I think, again, goes beyond anything else you've seen, particularly as  
2002 has been talked about with the proximity to the environmental features and I-64,  
2003 but also with respect to the density, the Suburban Mixed-Use. It does talk about  
2004 residential. We do think this is appropriate. When we talk about the density, we're  
2005 at 4.5 as a cap and it calls for 4.0. Again, it's a guide, as Mr. Emerson pointed  
2006 out. That's not a significant variance from that standpoint. I would also point out  
2007 that in this corridor we're about ninety-five to ninety-seven percent occupation in  
2008 the apartments. They've got about a 3 to 5 percent vacancy. There is a need. It's  
2009 a different housing opportunity. And as long as it complies with the quality that  
2010 you're getting, and otherwise taken care of with respect to the traffic, we do think  
2011 it's appropriate at this point.

2012

2013 The staff report—and I'm not going to read it—lists about three-quarters to a  
2014 page of where it complies with and meets the goals of the County's  
2015 Comprehensive Plan. We think there are significant applications of the  
2016 Comprehensive Plan that we are complying with, the provisions of the  
2017 Comprehensive Plan in this case.

2018

2019 Finally, it would be remiss if I didn't acknowledge that primarily Mr. Lewis, but  
2020 obviously Ms. Moore and Mr. Emerson have spent an unbelievable amount of  
2021 time on this case. Regardless of what I would call intense discussions, and  
2022 sometimes argumentative objections, they've kept it very professional. And I do  
2023 want to acknowledge that I very much appreciate that from that standpoint. But  
2024 that's gone a long way to helping this case at this point.

2025

2026 We believe we have met all jurisdictional prerequisites. We are consistent with  
2027 the Comprehensive Plan. We would ask that you recommend this to the Board of  
2028 Supervisors. We understand there's a concern; we have a few items to comply  
2029 with. We would ask for a deferral of only two weeks, if that's possible, to be able  
2030 to—I think we can meet these. There are a lot of small minor items, literally

2031 parenthetical and otherwise, things we can comply with. But we'd like to be able  
2032 to just take a couple weeks, finish this up and move forward.

2033  
2034 With that I'll be happy to answer any questions that you have and I appreciate  
2035 your time.

2036  
2037 Mr. Archer - Thank you, Mr. Condlin. Are there questions from the  
2038 Commission?

2039  
2040 Mr. Jernigan - Mr. Condlin, that's a good idea. I was going to tell you  
2041 we're going to have to have a couple of weeks. We get all of our cases and we  
2042 read them over. I received this case today. Mr. Branin is going to have to abstain,  
2043 so he's turned it over to me. Mr. Lewis had quite a few things he needs to  
2044 discuss. The proffers were turned in at three o'clock this afternoon.

2045  
2046 Mr. Condlin - Well no, we actually provided those I think on  
2047 Thursday. What we filed at three o'clock this afternoon was a Tract D, which is  
2048 this small portion right here. That's property that's owned by the County. We  
2049 finally came up with an agreement to be able to have that considered by the  
2050 Planning Commission and be able to have it as part of this case, which makes  
2051 sense because it's .75 acres. But point taken. You can see the list of proffers; we  
2052 got those in on Thursday late, so it was really Friday.

2053  
2054 Mr. Jernigan - I apologize; it was a portion of them. Okay. Well if you  
2055 would like a deferral, I will give it to you.

2056  
2057 Mr. Condlin - All right, yes sir. I would love to have staff say they've  
2058 met everything and they're the best applicant I've ever seen.

2059  
2060 Mr. Jernigan - I did want to hear the case tonight, and I wanted to  
2061 hear the opposition that was here to see how much it was.

2062  
2063 Mrs. Jones - Before we take any action, may I just ask him two or  
2064 three very quick things? This is a big case, and it's a lot for us to absorb when  
2065 we're handed this as the meeting is starting. If you've already said this, excuse  
2066 me. Was there talk at one point in one of the staff reports about a perimeter bike  
2067 path in addition to the multi-modal? Did I pick that up incorrectly?

2068  
2069 Mr. Condlin - I don't know if staff can answer that, but there is a ten-  
2070 foot path on the west side of Gayton Road. We're providing for sidewalks on our  
2071 side of Gayton Road. And then, of course, we have our ten-foot path on the  
2072 south side, which is one of the amendments I have to make. And then we also  
2073 have sidewalks on the north side within the development, pedestrian trails. So  
2074 I'm not sure if—

2075  
2076 Mrs. Jones - There's nothing on the southern property line.

2077  
2078 Mr. Condlin - The southern property line being along Bacova?  
2079  
2080 Mrs. Jones - Yes.  
2081  
2082 Mr. Condlin - There are some sidewalks, but I don't think—  
2083  
2084 Mrs. Jones - Sidewalks but not a bike—okay.  
2085  
2086 Mr. Lewis - Mrs. Jones, I think the reference may be, as Mr.  
2087 Condlin stated, to the path that the County is installing on the western edge of  
2088 North Gayton. The idea is to create a true bike/pedestrian network. Yes ma'am.  
2089  
2090 Mrs. Jones - Okay. This is important. This is an important piece of  
2091 property. There's been a lot of work done on it and I'm amazed at the progress,  
2092 quite frankly. The apartments were a concern of mine because of the density. I  
2093 do believe there is a tremendous amount of quality that has come into this since  
2094 we last were chatting about it. I would ask is this site plan pretty well set so that  
2095 the density is not going to change?  
2096  
2097 Mr. Condlin - The density won't change; it's part of those revisions.  
2098 We're only going to be amending the proffers with respect to the comments  
2099 made by staff.  
2100  
2101 Mrs. Jones - Would your client perhaps entertain noise  
2102 suppression that was a little higher?  
2103  
2104 Mr. Condlin - We can look at that; we can talk to staff about that. I  
2105 think staff is comfortable with where it is, particularly along 64 and having the  
2106 additional sound suppression. That's certainly consistent with, if not exceeding  
2107 some of the other successful apartment complexes in the area.  
2108  
2109 Mrs. Jones - That is a challenge. Sixty-four is probably the biggest  
2110 challenge that we'll have, so I would maybe encourage you to think about those  
2111 particular folks with an extra layer of protection. And in reference to the non-  
2112 residential uses, has there been a proffering-out of movable message signs  
2113 somewhere along here?  
2114  
2115 Mr. Condlin - Yes, we have that in the proffers with respect to the  
2116 type of movable type signs on the office park and we can't have that in any other.  
2117  
2118 Mrs. Jones - Do you have any idea of timing for this?  
2119  
2120 Mr. Condlin - Hopefully tomorrow. No. Obviously the apartments  
2121 are a critical item; there's more of a need. The idea would be as we phase this,  
2122 we would probably start with the apartment development first. And then with the

2123 residential, given the market, we would start with that second, almost  
2124 simultaneously, but as the market allows for it and the sale of the lots. We would  
2125 do a lot of the development in both Tracts B and C from the standpoint of the  
2126 infrastructure and be able to put that in, because that serves the entire area.  
2127 Once you go through the pain of the infrastructure, obviously you want to start  
2128 moving things as quickly as possible.

2129  
2130 Mrs. Jones - So you're thinking of the apartments as the first  
2131 residential even before the non-residential components?

2132  
2133 Mr. Condlin - The location of this road was set from the standpoint  
2134 of the County wanting to have an east/west corridor, but also serving the County  
2135 tract that I think will host a park and a school over there. That made it a challenge  
2136 for this property, but also this property as well, which is the office park. The office  
2137 market is extremely slow right now and has been for quite some time. So the  
2138 idea is that would be completely market-driven with the infrastructure available to  
2139 put in there. That's protected in that area. We have the buffers obviously. But  
2140 what to do along Pouncey Tract, is that appropriate for residential. If we can get a  
2141 user to come in here, we think it's real beneficial. You've seen that at Twin  
2142 Hickory. They've been real successful with theirs. We see that with all the benefit  
2143 of the walking areas and the walking trails that we have, that that'll help benefit  
2144 from the office and help encourage that.

2145  
2146 But the bottom line is it's going to be about a year, I would think, before we get  
2147 going with buildings up by the time we get done with all of our approvals and our  
2148 infrastructure and then be able to open any of the buildings.

2149  
2150 Mrs. Jones - Those are a few things. Thank you.

2151  
2152 Mr. Archer - All right. Anything further for Mr. Condlin?

2153  
2154 Mr. Jernigan - Mrs. Jones, did hit on one thing on sound  
2155 suppression. Normally I believe in previous cases we've had sound suppression  
2156 fifty-five backed up to an interstate.

2157  
2158 Mr. Archer - It generally is fifty-five.

2159  
2160 Mr. Condlin - We'll look at that.

2161  
2162 Mr. Jernigan - We need to look at that.

2163  
2164 Mr. Vanarsdall - That was one of my questions.

2165  
2166 Mr. Condlin - All right.

2167  
2168 Mr. Vanarsdall - Did you have a community meeting on this?

2169  
2170 Mr. Condlin - Yes sir, yes sir.  
2171  
2172 Mr. Vanarsdall - Opposition?  
2173  
2174 Mr. Condlin - I can't remember if they were there or not; I don't  
2175 have my list. We had thirty people there.  
2176  
2177 Mr. Vanarsdall - I was going to ask about the fifty instead of the fifty-  
2178 four or fifty-five sound suppression.  
2179  
2180 Mr. Condlin - Right.  
2181  
2182 Mr. Vanarsdall - I notice that porches and stoops are not singled out  
2183 as to whether they would be brick or—  
2184  
2185 Mr. Condlin - Well they are in the Tracts B and C.  
2186  
2187 Mr. Vanarsdall - In here.  
2188  
2189 Mr. Condlin - But on the R-5A for the crawl—that was the first time,  
2190 They may have made that comment and I might have missed it before. But that's  
2191 something we can comply with and that's one of the changes we're going to  
2192 make.  
2193  
2194 Mr. Vanarsdall - This 25-year warranty on the roof material, is that  
2195 standard? It's fifty years on commercial, isn't it?  
2196  
2197 Mr. Condlin - It's a minimum of twenty-five. That's usually what I  
2198 see, yes sir.  
2199  
2200 Mr. Vanarsdall - The last question is I guess you know, and everyone  
2201 else knows, that Henrico County has more apartments than any county  
2202 surrounding it, including Richmond. Seems like 430 is a lot of apartments. Is  
2203 there a big demand for apartments now since the downturn?  
2204  
2205 Mr. Condlin - Yes. The apartments in West Broad Village I know  
2206 are doing very well, in the upper nineties. Literally across the street from  
2207 Reflections at West Creek, which Breeden is developing, same thing in the upper  
2208 nineties. So yes, there is a demand. Obviously as it becomes more difficult to buy  
2209 for ownership housing, this is a good opportunity. But I would say that number  
2210 wasn't just driven by how many can fit in there, quite frankly. It was also driven by  
2211 the need for the infrastructure that we're putting in. And, quite frankly, looking at  
2212 a different type of apartment complex, not your typical garden style with interior  
2213 hallways, and providing for the brick and the quality. It has to pay for itself. It is  
2214 true we're in it to make money, but these are expensive and they have to, and

2215 that's how you do it. We do think that the impact of these proffers allows for the  
2216 quality. We're not setting a precedent because the precedent here is—We're  
2217 along I-64. We have infrastructure otherwise that has to be brought here, and  
2218 with the environmental features that we have on the property.

2219  
2220 This is a very unique area. We thought that this was appropriate given the  
2221 concept road, Gayton Road, I-64, and the environmental. If someone else can  
2222 show all of that with the infrastructure that we're providing, that would potentially  
2223 make sense. But that's where we came up with the number.

2224  
2225 Mr. Vanarsdall - I don't have any more questions, Mr. Chairman.

2226  
2227 Mr. Archer - Thank you, Mr. Vanarsdall. Anyone else?

2228  
2229 Mr. Jernigan - Mr. Condlin, are the multi-family sprinkled?

2230  
2231 Mr. Condlin - I think they have to be by code. Yes. I'm getting a nod  
2232 yes, so I'm going to answer yes to that one.

2233  
2234 Mr. Jernigan - Okay. Well listen, I'm going to request a deferral for  
2235 this for two weeks.

2236  
2237 Mr. Condlin - Until the POD meeting?

2238  
2239 Mr. Jernigan - Yes sir.

2240  
2241 Mr. Condlin - That would be great. I appreciate it; thank you.

2242  
2243 Mr. Jernigan - Mr. Chairman, with that I would like to move for  
2244 deferral of case C-9C-11, Andrew M. Condlin for Bacova, LLC, to October 26,  
2245 2011, by request of the applicant.

2246  
2247 Mrs. Jones - Second.

2248  
2249 Mr. Archer - Motion by Mr. Jernigan, seconded by Mrs. Jones for  
2250 deferral. All in favor say aye. All opposed say no. The ayes have it; the motion  
2251 passes.

2252  
2253 Mr. Branin - I abstain from the vote.

2254  
2255 At the request of the applicant, the Planning Commission deferred C-9C-11,  
2256 Andrew M. Condlin for Bacova, LLC, to its meeting on October 26, 2011.

2257  
2258 **(Deferred from the July 14, 2011 Meeting.)**

2259 **C-6C-11 Brian Mitchell for J & B Realty, LLC:** Request to  
2260 conditionally rezone from A-1 Agricultural District to R-5AC General Residence

2261 District (Conditional) Parcel 843-701-2778 containing approximately 24.4 acres,  
2262 located along the south line of Portugee Road approximately 2,300 feet east of  
2263 its intersection with Memorial Drive. The applicant proposes a zero-lot-line  
2264 residential development. The R-5A District allows a minimum lot size of 5,625  
2265 square feet and a maximum density of six (6) units per acre. The use will be  
2266 controlled by zoning ordinance regulations and proffered conditions. The 2026  
2267 Comprehensive Plan recommends Office and Environmental Protection Area.  
2268 The staff report will be presented by Mr. Livingston Lewis.

2269  
2270 Mr. Archer - Thank you, Mr. Secretary. Is there any opposition to  
2271 case C-6C-11, Brian Mitchell for J & B Realty, LLC? We have opposition; thank  
2272 you. All right, go ahead Mr. Lewis, if you would.

2273  
2274 Mr. Lewis - Thank you Mr. Chairman.

2275  
2276 This is a request to rezone a 24.4-acre parcel on the south line of Portugee Road  
2277 from A-1 to R-5AC to allow construction of a zero-lot-line residential subdivision.  
2278 The 2026 Plan recommends Office and Environmental Protection Area for the  
2279 subject property, which is adjacent to a pair of the County's largest and most  
2280 important Prime Economic Development Sites—White Oak Technology Park to  
2281 the east, and White Oak Business Centre to the north. Both of these sites have  
2282 M-2 zoning, and are designated on the 2026 Plan for Planned Industry and  
2283 Office/Service uses, respectively.

2284  
2285 The applicant has submitted proffers dated May 9, 2011. Proffer 3-E mentions  
2286 these two conceptual layouts, which illustrate plans to build a sixty-unit  
2287 subdivision with a fifty-foot-wide buffer along Portugee Road, and a common  
2288 open space in one of two potential locations. These layouts reflect a density of  
2289 2.46 units per acre; however, it should be noted, a maximum density has not  
2290 been proffered, so the applicant could build up to six units per acre which would  
2291 be 146 units as allowed by the R-5A code.

2292  
2293 Proffer 3-B requires homes be constructed in conformance with some of the  
2294 architectural elevations shown on these two exhibits; however, the applicant  
2295 could choose to discard all but two of the styles shown and still achieve the non-  
2296 similarity requirement in Proffer 3-C.

2297  
2298 Other proffers commit to the following:

- 2299  
2300 • a minimum lot width of sixty feet;  
2301 • minimum home sizes ranging from 1,650 to 2,000 square feet;  
2302 • aggregate minimum of twenty-five percent brick or stone on front  
2303 building facades development-wide;  
2304 • thirty-year dimensional shingles; and  
2305 • a minimum seventy-five percent of units with an attached or  
2306 detached garage.

2307

2308

Additional proffer topics involve building, driveway, and road materials, cantilevered features, entrance signage, utilities, covenants, sidewalks, lighting, and other items.

2310

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2324

Staff has identified several major issues with this request, primarily its inconsistency with the 2026 Comprehensive Plan and incompatibility with adjacent industrial-zoned properties. While the impacts from industrial uses such as noise, smell, light, dust, heavy truck traffic, and extended hours of operation can sometimes be partially mitigated, it is difficult for adjacent residential and industrial uses to coexist without one being disproportionately affected. For instance, code disallows various M-1 and M-2 uses within 200 to 600 feet of any residential district. This would retroactively place development restrictions on up to twenty-five acres of the adjacent economic development sites. This impact would be lessened by a westward shift in the eastern boundary of the residential zoning request; however, this would not alleviate the overall economic development concern of having a residential neighborhood in this location.

2325

2326

2327

2328

2329

2330

The experience of the Economic Development Authority has been that an industrial site's marketability is severely reduced by having a residential subdivision next door. Companies simply will not knowingly take on the risk of future costs and operational restrictions resulting from potential nuisance complaints.

2331

2332

2333

2334

2335

2336

2337

Secondly, another important component of industrial economic development is the provision of quality sites for new office and support services nearby. The loss of the subject property to residential use would reduce the potential for unified office development in the area and erode efforts to maintain the sixty-five percent / thirty-five percent residential-to-commercial ratio the County strives to maintain for fiscal balance.

2338

2339

2340

2341

2342

2343

2344

2345

2346

This request also raises a third major issue, which is the concern of setting a precedent encouraging leap-frog development. As residential developments of higher than recommended densities are constructed in outlying locations farther from core service areas, County resources and services become increasingly strained over time. The Traditional Neighborhood Development designation west of Memorial Drive is meant to accommodate much of the residential growth in the area, keeping it buffered from most industrial uses and closer to existing services.

2347

2348

2349

2350

Even if this request were consistent with the 2026 Plan, it is not in keeping with other similar developments throughout the County due to a variety of issues not adequately addressed in the proffers. These include the following:

2351

2352

- maximum density;
- percentage and distribution of front-elevation brick or stone;

- 2353 • garage clear-space dimensions and recessing;
- 2354 • buffer irrigation and minimum planting quantity;
- 2355 • character and amenities of the proposed open space;
- 2356 • fencing quality and appearance, particularly along the rear of lots
- 2357 facing Portugee Road;
- 2358 • foundation plantings, street trees, and sodded / irrigated front and
- 2359 side yards;
- 2360 • external wall sound suppression measures adjacent to existing or
- 2361 anticipated noise sources;
- 2362 • road, curb, and gutter construction standards; and
- 2363 • entrance feature materials, height, and lighting, among other topics.
- 2364

2365 The areas identified for future Office, Service, and Industrial uses should be  
2366 viewed as limited resources, protected and reserved for revenue-generating  
2367 businesses that help maintain the economic health of the County. Residential  
2368 use of the subject parcel would reduce the marketability of surrounding industrial  
2369 properties, remove a large site from consideration for future office development,  
2370 and set a precedent for an inappropriate residential growth pattern in the area.  
2371 For these reasons, staff does not support this request and recommends denial.

2372  
2373 This concludes my presentation. I will be happy to take any questions.

2374  
2375 Mr. Archer - Thank you, Mr. Lewis. Are there questions from the  
2376 Commission? Do you want to hear from the applicant or do you want to hear  
2377 from the opposition first?

2378  
2379 Mr. Jernigan - Let me hear from the applicant first on this.

2380  
2381 Mr. Archer - Would the applicant come forward, please? State  
2382 your name and affiliation for the record, sir, if you would.

2383  
2384 Mr. Mitchell - It's Brian Mitchell with Townes Site Engineering. I'm  
2385 here representing the applicant, J & B Realty. And Jim Morris, who is one of the  
2386 partners in that entity, is here as well.

2387  
2388 Thank you, members of the Commission, for having me this evening to speak to  
2389 this, Mr. Lewis certainly covered a lot of the proposed application. I just wanted to  
2390 touch on some highlights of it and inform you of some other issues.

2391  
2392 I guess one of the first things I wanted to point out is the applicant actually  
2393 purchased the property in 2006. At that time, the 2010 Land Use Plan—which I  
2394 have up on the screen in front of you and you can see this is where the  
2395 subdivision is located—had the property as a Suburban Residential 2  
2396 classification, which we thought was appropriate for providing a transition from  
2397 the existing single-family to the planned industrial area. Certainly now the  
2398 Comprehensive Plan shows Office for this area, which is a higher and more

2399 intense use adjacent to this existing single-family and transitioning over to this  
2400 planned industrial.

2401

2402 The elevations that we provided in our proffered elevations are craftsman  
2403 bungalow cottage-style type elevations, as far as what we're proposing to build  
2404 trying to keep the quality to the standards of Henrico County. Also an entrance  
2405 feature. This is one of the proffered items, a brick pier entrance with some split  
2406 railing and then a nice entrance sign with some landscaping on it as well to try to  
2407 make it a designated entrance into the subdivision.

2408

2409 Another point that I wanted to add to the presentation that Livingston did, which  
2410 certainly was very thorough, is just the location and proximity to the planned  
2411 industrial next door. What you see on the screen in front of you is the existing  
2412 single-family. The proposed subdivision, the planned industrial is over in this  
2413 area. And it's separated by Ephraim's Branch, which has a 100-year FEMA  
2414 floodplain on it.

2415

2416 One thing that I thought was important to point out is this planned industrial area  
2417 next door. Industrial parks when they're developed—and we've done a number of  
2418 them—typically that development is on the flat area of the property. It's rare that  
2419 an industrial park will go down the type of steep embankment that is located  
2420 adjacent to Ephraim's Branch. Typically those industrial parks are warehouse-  
2421 type facilities or areas that require large parking or truck paved areas. It's rare  
2422 that from a mass grading standpoint you end up going down those types of steep  
2423 slopes. So what I thought would be appropriate to present this evening is just  
2424 designate where that top-of-bank is on the planned industrial property. This is  
2425 just a blowup of that as well.

2426

2427 What we've done is we've designated that top-of-bank again, and then the  
2428 floodplain in the red. And we've drawn in the actual homes as well, where they  
2429 would be located on the proposed subdivision layouts that were presented, then  
2430 delineating what that actual distance is from that top-of-bank to the rear of those  
2431 homes just so you could get a feeling for the natural buffer that exists between  
2432 the proposed subdivision and the planned industrial. You can see it's running  
2433 anywhere from 425 to 475 feet in distance from top-of-bank. I think that's  
2434 important. That natural buffer exists. I don't see it getting destroyed with the  
2435 development of the planned industrial to where, once again, the industrial park  
2436 would end up going down a steep slope. That's just something I wanted you to  
2437 consider in hearing this case.

2438

2439 That's really it for what I wanted to talk about this evening. We certainly had a  
2440 community meeting; that was back in March of this year; two residents came.  
2441 Adjacent neighbors came to that meeting and certainly voiced their concern. This  
2442 is our first meeting at the Planning Commission to present our application. We're  
2443 certainly open to any further neighbor concerns, or suggestions that the  
2444 Commission may have. With that I'll end my presentation.

2445  
2446 Mr. Archer - Thank you. Just as a reminder, there is opposition.  
2447 And you do have about four and a half minutes left for rebuttal time. The time that  
2448 we ask questions is not included against that. So are there questions for Mr.  
2449 Mitchell from the Commission?  
2450  
2451 Mr. Branin - I'm baffled by one of Mr. Mitchell's statements. Would  
2452 you restate your point about industrial parks not being built where?  
2453  
2454 Mr. Mitchell - The point that I was making is when an industrial park  
2455 is developed, from a grading standpoint typically it is graded out on the flatter  
2456 portion of the existing topography. If you were to build a warehouse on that piece  
2457 of property with surrounding pavement and parking associated with it, it's rare  
2458 that you would actually go down that slope and put in an additional parking area.  
2459 To mass grade that out, it's generally not cost effective to do that.  
2460  
2461 Mr. Branin - This is your opinion?  
2462  
2463 Mr. Mitchell - That's my opinion.  
2464  
2465 Mr. Branin - Based on?  
2466  
2467 Mr. Mitchell - Having done a number of industrial sites.  
2468  
2469 Mr. Branin - For how many years?  
2470  
2471 Mr. Mitchell - Fifteen.  
2472  
2473 Mr. Branin - Thank you.  
2474  
2475 Mr. Archer - Anything further from the Commission?  
2476  
2477 Mr. Jernigan - Mr. Mitchell, I want to say you and Mr. Morris have  
2478 been great to work with on this. We first started in March and I think I let you  
2479 know that I wasn't crazy about the site when we went in there, but it's my job to  
2480 get in there and work with you all and see what we can do. So we've deferred  
2481 this case a few times. You all did step up to the plate with quite a few things. But  
2482 I just think it's the wrong site. I can't change my mind. It may hamper some  
2483 economic development, and that was my concern from the get-go. It doesn't  
2484 really matter whether it's 120 units or 90 units. I just think it's the wrong spot, and  
2485 I can't change that so we're not going to be able to do anything. But I appreciate  
2486 working with you on it.  
2487  
2488 Mr. Chairman, I'm not going to have to hear from the opposition.  
2489  
2490 Mr. Archer - Okay.

2491  
2492 Mr. Jernigan - I'm going to recommend that case C-6C-11, Brian  
2493 Mitchell for J & B Realty, LLC, be denied.

2494  
2495 Mr. Branin - Second.

2496  
2497 Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Branin for  
2498 denial. All in favor say aye. All opposed say no. The ayes have it; the motion  
2499 passes.

2500  
2501 Thank you, Mr. Mitchell.

2502  
2503 **REASON:** Acting on a motion by Mr. Jernigan seconded by Mr.  
2504 Branin, the Planning Commission voted 5-0 (one abstention) to recommend the  
2505 Board of Supervisors deny the request because it would likely set an adverse  
2506 zoning and land use precedent for the area and it does not conform to the  
2507 recommendation of the Land Use Plan or the Plan's goals, objectives, and  
2508 policies.

2509  
2510 **(Deferred from the September 15, 2011 Meeting.)**  
2511 **P-11-11 Andrew M. Condlin for Michael J. Carroll:** Request  
2512 for a Provisional Use Permit required under proffered condition #9 accepted with  
2513 C-60C-06 to allow twenty-four (24) hour operation of a convenience store with  
2514 gas pumps (Wawa) on Parcel 816-712-7504 located at the northeast intersection  
2515 of S. Laburnum Avenue and Eubank Road. The existing zoning is B-3C Business  
2516 District (Conditional). The site is located in the Airport Safety Overlay District.  
2517 The staff report will be presented by Mr. Roy Props.

2518  
2519 Mr. Archer - Is there anyone present who is in opposition to this  
2520 Provisional Use Permit (P-11-11) case? We do have opposition. Thank you; we'll  
2521 get to you. Good evening, Mr. Props.

2522  
2523 Mr. Props - Good evening, sir. Mr. Chairman, members of the  
2524 Commission, as you recall, this item was presented at your August 11 public  
2525 hearing. At that meeting staff presented a number of concerns of this case:

2526  
2527 Little has changed since the last report and to recap, our main issues include the  
2528 following:

- 2529  
2530
- 2531 • A 24-hour operation would be intrusive and disruptive to the  
adjacent residential neighborhood;
  - 2532 • set a precedent for future extended-hour requests in the area;
  - 2533 • negatively influence area development;
  - 2534 • increase Police Calls-for-Service; and

2535 • remove a condition accepted with case C-60C-06 intended to  
2536 protect the Robinwood neighborhood from the impacts of intense  
2537 by-right uses.

2538

2539 Mitigating the impacts associated with late-night noise, traffic and spill-over  
2540 lighting would be difficult and beyond the scope of this case. For those reasons,  
2541 staff does not support this request. While the Planning Commission has  
2542 approved the applicant's Plan of Development, staff believes approval of this  
2543 request for 24-hour operation is not appropriate. Should the Planning  
2544 Commission deem this request acceptable, conditions have been included in  
2545 Section IV of the staff report.

2546

2547 This concludes my presentation and I would be glad to answer any questions.

2548

2549 Mr. Archer - Thank you, sir. Are there questions from the  
2550 Commission?

2551

2552 Mr. Jernigan - Mr. Props, what do you think the distance from that  
2553 site back to the first residence is? A few blocks, correct?

2554

2555 Mr. Props - It's a lot width on Robins. Are you talking about from  
2556 Robins—

2557

2558 Mr. Jernigan - From the site. From the Wawa site to the first  
2559 residence.

2560

2561 Mr. Props - Probably a couple hundred feet. The depth of a lot in  
2562 there from Robins here going back to the residential area. I haven't scaled it, but  
2563 it's the depth of a lot in there.

2564

2565 Mrs. Jones - I have a question. Mr. Props, the vacant lots which  
2566 are across Robins from the subject site, those are wooded parcels. Do you know  
2567 of any plans to develop those, or are they owned by one person or other people  
2568 or?

2569

2570 Mr. Props - As I remember, there are multiple owners and I'm not  
2571 aware of any plans at this time to develop that area.

2572

2573 Mrs. Jones - Okay.

2574

2575 Mr. Vanarsdall - None of that is evergreen either, is it?

2576

2577 Mr. Props - No sir, not to my recollection. It is mixed vegetation  
2578 and they have trees.

2579

2580 Mrs. Jones - The nearest 24-hour, currently operating convenience  
2581 store is what, .2 miles or?  
2582  
2583 Mr. Props - Probably at the most. It's that Exxon there at the  
2584 corner of Williamsburg and Laburnum.  
2585  
2586 Mrs. Jones - With gas.  
2587  
2588 Mr. Props - With gas.  
2589  
2590 Mrs. Jones - Thank you.  
2591  
2592 Mr. Archer - Anything further?  
2593  
2594 Mr. Jernigan - Mr. Chairman, I don't have any more questions.  
2595 Thank you, Mr. Props.  
2596  
2597 Mr. Archer - Mr. Jernigan, do you want to hear from the applicant  
2598 or the opposition?  
2599  
2600 Mr. Jernigan - I want to hear from the applicant.  
2601  
2602 Mr. Archer - Good evening again, Mr. Condlin.  
2603  
2604 Mr. Condlin - Good evening, again. I apologize. I have a chart here  
2605 regarding the calls. I have a hard copy of it also. If you want to put it on the  
2606 screen some other time, I've got that available. I have a hard copy of the calls  
2607 that I can refer to, and I think we have—  
2608  
2609 Mr. Emerson - We should be able to get that put on the screen. Mr.  
2610 Strauss, could you take that back to the control booth and see if they can put that  
2611 on the screen for us? Thank you.  
2612  
2613 Mr. Condlin - In the meantime, do you have the zoning map that we  
2614 asked about? All right, thank you. Okay. Mr. Chairman, members of the  
2615 Commission, my name is Andy Condlin. I'm here with Tom Kinter and Jim Kinter,  
2616 but also Ted Iobst of Wawa, who can speak to items regarding operations of the  
2617 Wawa and specifics that you might have with respect to that.  
2618  
2619 I do want to point out that with this particular property, which is adjacent to a  
2620 bank, half of the property would be sharing the access, and the other half—  
2621  
2622 Mr. Archer - Mr. Condlin, excuse me. I forgot to ask you if you  
2623 wanted to reserve time.  
2624

2625 Mr. Condlin - I'll reserve two minutes. This was zoned in 2006,  
2626 zoned for B-3 Conditional. The use is permitted today. It's not a question of the  
2627 use itself, in fact that has already been pointed out with the POD. But the  
2628 convenience store and the fueling station use is permitted. The question tonight  
2629 is midnight to six a.m., the extended hours. Currently we can obviously operate  
2630 from six a.m. to midnight. But one of the things that people often forget is that  
2631 currently from twelve midnight to six a.m. under B-2 when our hours are, we can  
2632 receive deliveries, we can stock shelves, we can prepare food, we can cook, we  
2633 can continue our operations; we just can't be open to the public. It's important to  
2634 note that deliveries are continuing to occur, and other activity can continue to  
2635 occur in this case.

2636  
2637 In fact, when we asked for B-3 in 2006, we didn't limit ourselves to hours. In fact,  
2638 when we made application there was a reason we made application for B-3. But  
2639 as we went through the neighborhood meetings and the community meetings,  
2640 there was a concern that without knowing exactly what the use was, there was a  
2641 concern to allow the 24-hour use. Fair enough, we said. We wanted to go ahead  
2642 and limit that, to come back at a later time. I have copies of the minutes, but Lee  
2643 Tyson, who presented the case at the time, was talking about some of the  
2644 restrictions that were placed on the property and said hours of operation—this  
2645 was to the Planning Commission that are in the minutes—"Hours of operation for  
2646 any uses would be set forth in the B-2 District, six a.m. to twelve a.m. The  
2647 applicant could apply for a PUP to permit extended hours." The reason he said  
2648 that is because we were insistent that we could come back at a later time when  
2649 we had a user that we felt was a quality user for that purpose.

2650  
2651 So it wasn't a question at this point of bait-and-switch. It wasn't a question of  
2652 change of circumstances or whether this is warranted or not. It's a question of the  
2653 user and the potential impact in this case.

2654  
2655 Mr. Props had pointed out a couple of points with respect to the concerns that  
2656 they had. The first being that from the standpoint of the lighting. I would point out  
2657 overall that the building has been positioned so it acts as a screen. I don't know if  
2658 from the POD you remember, but the majority of the light is between the building  
2659 itself and Laburnum Avenue. The building is taller than the canopy, and sources  
2660 of illumination are within the canopy and site lights, which were not exposed. And  
2661 obviously as part our site plan, photometric plans are required. We've enhanced  
2662 through this request the 25-foot buffer along Robins Road.

2663  
2664 With respect to noise, obviously the building will block noise from the fueling  
2665 canopy. But also no speakers will play music. There are speakers, but they're  
2666 required by law. And fuel trucks, by law, are required to shut off when delivering  
2667 fuel. So again, we don't think that the lighting and the noise are a concern. They  
2668 have been blocked based on the location of the building.

2669

2670 The other concern raised was traffic. The concern here is not traffic itself, but the  
2671 additional traffic between twelve midnight and six a.m. That's what we're really  
2672 talking about. I don't think I have to tell you that obviously there are going to be  
2673 fewer cars on the road; there are fewer cars generally between twelve midnight  
2674 and six a.m. Any cars here we feel—it's just anecdotal evidence based on the  
2675 operations—will be able to use Laburnum and Williamsburg because they are  
2676 much better free flowing, less backup. Robins Road runs back here. You can see  
2677 this entire property is zoned B-3 Unconditional. You asked the location of the  
2678 closest 24-hour use? Maybe not today, which is currently up at this location at  
2679 Williamsburg and Laburnum at the two gas stations with the Woodfin Oil fueling  
2680 facility right here. All this area right here across on Robins Road is currently  
2681 zoned B-3. Anybody that's coming down Williamsburg certainly could flow down  
2682 Laburnum Avenue. If they do happen to be, and they know enough to go down  
2683 Robins Road, there are few residents in that area already dealing with B-3 across  
2684 the street. And there would be very few cars at that point. We don't think that it's  
2685 going to be a significant issue. Wawa can control its delivery trucks and the route  
2686 they take from the standpoint of not using Robins Road and staying to Laburnum  
2687 Avenue.

2688  
2689 Finally I'll point to the safety issue. I do have to take a strong difference from  
2690 staff's standpoint that they talk about in the staff report when they deal with  
2691 percentages. I point this out to show the two gas stations that were referenced in  
2692 the staff report. In the last thirty months between the hours of midnight and six  
2693 a.m., the Exxon had four calls. That was twelve percent versus thirty-eight  
2694 percent of the calls between six p.m. and twelve a.m. The 7-Eleven at White Oak  
2695 Village in thirty months received sixteen calls. Again, these are the extended  
2696 hours that we're requesting. More of the calls happened between six p.m. and  
2697 twelve a.m. If you take the two together, that's twenty calls in thirty months in  
2698 two stations between those hours. We don't think that's a significant safety issue.  
2699 And as Ms. Vann pointed out the last time—if I'd asked her and written her script,  
2700 I couldn't have written a better script—a call doesn't necessarily mean a crime.  
2701 They want to encourage that.

2702  
2703 And quite frankly, with respect to Wawa, it's part of their management  
2704 requirements for zero tolerance. This is something that is very good for the  
2705 community to make sure that there's not something going on. We would also  
2706 propose to you if you shut down at midnight, that's fewer eyes that are on the  
2707 area. It's already allowed for today, going to midnight. There are fewer safety  
2708 purposes. And quite frankly, from some of the folks that we've talked to, when  
2709 you do shut down at midnight, if something is going to happen, they know when  
2710 you shut down, versus having someone there, and having eyes on the street,  
2711 and being able to make those calls, which should be a negative, quite frankly. It  
2712 should be a positive to be able to encourage people to come out to call the  
2713 police.

2714

2715 There is obviously interest in this site from the standpoint that it is zoned B-3 and  
2716 it can be operated for a convenience store today by right. We feel that Wawa is  
2717 the best user in this case because of their operations, because of their work with  
2718 the police. We don't have any problems with the suggestions in the staff report  
2719 with respect to how the police have recommended the various items. We will and  
2720 have complied with them; Ms. Vann spoke to that as well. There are obviously  
2721 some local operators that are fine with operating until midnight; they don't have  
2722 the same management style, they don't have the same control. We think that's  
2723 actually a negative compared to Wawa. The problem with those, again, is the  
2724 track record and not having in eyes on the property itself.

2725  
2726 In conclusion, I would say that we've had two neighborhood meetings. I missed  
2727 the second one, but I know Mr. Jernigan was there and our client was there.  
2728 They can certainly speak to that. There was a lot of discussion; it was a two-  
2729 hour-plus meeting. There was a vote on that where there were a number of  
2730 comments. People seemed to be generally more in favor. We received a letter  
2731 that I believe went to Mr. Jernigan and Mr. Emerson from one of the local  
2732 commercial associations on behalf of the Byrd Business Center saying that they  
2733 support this, that it's good for the area. We do not think that this is an intrusive  
2734 use given the permissions that are happening today. It's a question of closing  
2735 down and a question of the operator.

2736  
2737 We ask that you do recommend approval, but I would ask that we take a look at  
2738 the last two conditions in the staff report, if you're so inclined. I do want to state  
2739 for the record that the two last conditions in the staff report—Conditions #11 and  
2740 #12. Eleven talked about external building walls and the type of materials. The  
2741 POD has already been approved. Redundant. I don't think it's actually applicable.

2742  
2743 And the second thing is with respect to deliveries. That is something we would  
2744 object to, not having deliveries between twelve midnight and six a.m. We  
2745 currently can under B-2. By going to twenty-four hours, to those extended hours,  
2746 I'm not sure it makes sense to add that restriction because we currently can. But  
2747 also that inhibits the operation pretty significantly because as you get ready for  
2748 the peak hours in the morning you want to be able to have your deliveries at five  
2749 a.m. Again, we can control the route and we can control the noise by shutting the  
2750 trucks down. That's a pretty significant operational item to be able to be ready to  
2751 go. Currently we could do that, and we don't think that that's an appropriate  
2752 prohibition. And it has not been a prohibition on the 7-Eleven that received a PUP  
2753 or the Exxon that received a PUP.

2754  
2755 With that I think we've met all of our requirements for the Provisional Use Permit.  
2756 I'll be happy to answer any questions. Again, we have a representative from  
2757 Wawa.

2758  
2759 Mr. Vanarsdall - I have one question. Who did you say would control  
2760 those trucks at five a.m.?

2761  
2762 Mr. Condlin - Certainly Wawa can control its trucks.  
2763  
2764 Mr. Vanarsdall - I think you've heard me say this before. One time in  
2765 California at an American Planning Association meeting we had two attorneys  
2766 giving a class. One of them used to be the president of APA. He said if you can't  
2767 police it, don't pass it. It would be impossible to police that.  
2768  
2769 Mr. Condlin - I don't think it's an appropriate condition for that  
2770 purpose, the delivery trucks. But certainly Wawa, who has their own trucks  
2771 delivering, can control their own trucks.  
2772  
2773 Mr. Vanarsdall - And the other thing. I'll have to start with a personal  
2774 experience. We had one of these self-serve gas stations, twenty-four hours. It  
2775 was very popular for a couple of years three or four years ago. I had one in my  
2776 district and everybody in the neighborhood was against it because it was in our  
2777 neighborhood. I was assured by the developer that this was for panel body  
2778 trucks, a pickup truck. Maybe every now and then a tractor-trailer might find it.  
2779 They had already built one over on in Mr. Archer's area, Brook Road next to  
2780 Waffle House. I went over at six o'clock in the morning, got in the window—and  
2781 ate breakfast of course—and watched them. The first five or six or seven trucks  
2782 were all tractor-trailers. Very few panel; very few pickups. I'm just throwing that  
2783 out there. You're handling Wawa now, so don't be deceived by what you see  
2784 somewhere else.  
2785  
2786 Mr. Condlin - That's absolutely right. And if I'm hearing you right,  
2787 that was an unmanned facility, a self-serve, which is similar to the Woodfin facility  
2788 up here at the corner of Williamsburg. They're primarily geared toward  
2789 commercial.  
2790  
2791 Mr. Vanarsdall - We on the Commission denied that and it never  
2792 reached the Board.  
2793  
2794 Mr. Condlin - In that case that's a different facility because this is  
2795 not for commercial.  
2796  
2797 Mr. Vanarsdall - The point is, don't believe just because you are out  
2798 here at a 7-Eleven at eleven o'clock tonight and see one vehicle, don't believe  
2799 that's all that's ever there.  
2800  
2801 Mr. Condlin - I agree with that. That's hard to dictate. And I don't  
2802 think we're saying that. My point on that chart was number of calls, that it's been  
2803 said by staff that significant calls will occur right in this neighborhood, and we're  
2804 talking four in thirty months at one of the stores. And, you know, 7-Eleven is a  
2805 little bit more. We do say and I have the numbers for Airport Drive; that's an

2806 entirely different Wawa. That receives a lot more traffic, a lot more items. That's  
 2807 what that was about, not about how many vehicles are going to be visiting.  
 2808

2809 Mr. Vanarsdall - One thing for sure, you won't have any traffic there  
 2810 until it's built.  
 2811

2812 Mrs. Jones - Mr. Condlin, could you just tell me again your  
 2813 comments about the #11 proffer? I didn't hear what you were saying.  
 2814

2815 Mr. Condlin - Number 11 talks about external building walls, to use  
 2816 building materials of high quality, substantial uniform appearance as determined  
 2817 by the Director of Planning. Since this has already been approved by the  
 2818 Planning Commission at POD, and exterior walls have already been approved,  
 2819 I'm not sure that's applicable anymore.  
 2820

2821 Mrs. Jones - It's not that it's inapplicable; it's just in the wrong  
 2822 order.  
 2823

2824 Mr. Condlin - Yes. I guess. It's already been approved by the  
 2825 Planning Commission at POD.  
 2826

2827 Mrs. Jones - I do have some questions for you, but what I would  
 2828 rather do, so don't disappear, is after some of the other folks have their  
 2829 comments—I have a few.  
 2830

2831 Mr. Condlin - Absolutely. Thank you.  
 2832

2833 Mr. Vanarsdall - Is Mrs. Morgan here tonight?  
 2834

2835 Mr. Jernigan - Yes, she's here.  
 2836

2837 Mr. Vanarsdall - In Mrs. Morgan's letter she thinks that the hours were  
 2838 restricted in 2006 by us, the Commission and the Board. That's not true, is it?  
 2839 There are no proffers on the case.  
 2840

2841 Mr. Condlin - Well there are proffers on the case that limit it to B-2  
 2842 hours.  
 2843

2844 Mr. Vanarsdall - But it doesn't say that.  
 2845

2846 Mr. Jernigan - But they put the B-2 conditions which limited it. But it  
 2847 has in the minutes that they would come back and request a Provisional Use  
 2848 Permit.  
 2849

2850 Mr. Condlin - That was addressed during the neighborhood  
2851 meeting. I won't say it was a fight, but that was an issue during the neighborhood  
2852 meetings where there was a concern because they didn't know who it was.  
2853

2854 Mr. Vanarsdall - It doesn't mean anything.  
2855

2856 Mr. Jernigan - Mr. Condlin, in reference to Mr. Vanarsdall and his  
2857 experience, does this site have diesel fuel?  
2858

2859 Mr. Condlin - Yes, Yes sir.  
2860

2861 Mr. Jernigan - You are going to have diesel fuel at this site?  
2862

2863 Mr. Condlin - Does the applicant want to come on up?  
2864

2865 Mr. lobst - Good evening. My name is Ted lobst. I'm with Wawa  
2866 Incorporated. So to answer the question, we are proposing to have diesel fuel.  
2867 We have been adding that to all of our locations as we're moving forward, and  
2868 we're actually going back and retrofitting the majority of our existing locations  
2869 where permitted. That's basically just evolved into another offer. The diesel fuel  
2870 is not for tractor-trailers, it's for the vehicles, you know, the pickup trucks, the  
2871 contractor equipment that uses diesel, and those types of things.  
2872

2873 Mr. Vanarsdall - Would you turn away a tractor-trailer if it came in?  
2874

2875 Mr. lobst - Pardon?  
2876

2877 Mr. Vanarsdall - Would you refuse to have one refilled if a tractor-  
2878 trailer came in there?  
2879

2880 Mr. lobst - In the diesel fueling business there are actually two  
2881 types of nozzles. One which works on the saddle tanks on tractor-trailers, which  
2882 is a large nozzle. There is a small nozzle that fits in passenger vehicles and  
2883 smaller vehicles like that. We only provide the smaller one.  
2884

2885 Mr. Jernigan - But you can use the smaller one on a big truck.  
2886

2887 Mr. lobst - They wouldn't come into us. I actually worked in the  
2888 truck stop industry for four years several years ago. The way they purchase their  
2889 fuel typically is at TAs of the world, at the Pilot's of the world. And they buy it  
2890 through what's called a COMcheck because their companies give them that.  
2891 We're not even capable of accepting that payment.  
2892

2893 Mr. Branin - But you didn't answer the question.  
2894

2895 Mr. Jernigan - You put a new wrinkle in this tonight because I didn't  
2896 know there was any diesel fuel here. I thought this was just gasoline.  
2897

2898 Mr. Branin - Mr. Jernigan, may I ask something? You didn't  
2899 answer the question. Mr. Jernigan said, "So you can't use that small nozzle on a  
2900 tractor-trailer?"  
2901

2902 Mr. lobst - You could because it would fit in the larger opening in  
2903 the saddle tanks; however, tractor-trailers would not come on our site to fuel.  
2904 That's just the nature of what they do. They want to stay near the interstate at  
2905 locations that accept tractor-trailers like the TAs, like the Pilot's that are right at  
2906 the interchange of I-95, 64, places like that.  
2907

2908 Mr. Branin - Can I ask a question or a for-instance? If there is  
2909 someone right around the corner from you that's a construction company that  
2910 has tractor-trailers, lowboys—you can pick any, Simon's Hauling—and they  
2911 decided they needed fuel quickly because they're low, are you saying they're not  
2912 going to come into you? Because they're not going to use a COMcheck.  
2913

2914 Mr. lobst- Our intention is not to fuel that type of customer  
2915 period.  
2916

2917 Mr. Branin - But you said that they wouldn't come in to you. Are  
2918 you going to refuse them if they pull in?  
2919

2920 Mr. lobst - On locations where we have added diesel we have  
2921 put signs where no tractor-trailers are allowed. We actually put signage up to  
2922 prohibit them from entering our lot except for our own deliveries. And even our  
2923 own delivery vehicles do not fuel up where we have diesel.  
2924

2925 Mr. Branin - Those signs will be on this location?  
2926

2927 Mr. lobst - We could do that if you would so like, yes.  
2928

2929 Mr. Vanarsdall - While you're here, let me ask you a question. First of  
2930 all I like Wawa. I use the one down the street. Even when I'm going out of town  
2931 I'll stop there to get gas, I'll get coffee, I use the ATM and the restroom. Very  
2932 nice. Sometimes I get something to eat. But it's like Walmart; there are certain  
2933 places for them. What I want to ask you, have you all thought about doing  
2934 something different between midnight and six a.m.? I mean you're not going to  
2935 turn out the lights, but have you thought about any kind of easing on  
2936 neighborhoods? Maybe don't play the music under the canopy there, have  
2937 somebody holler out, "Are you on #2?"  
2938

2939 Mr. lobst - Sure.  
2940

2941 Mr. Vanarsdall - Dim the lights? Have you ever thought of adopting  
2942 something like that? Since you're going to have more of these.  
2943  
2944 Mr. Iobst - As part of our standard operations in areas like this—  
2945 actually, in the town I live in, one that I permitted and—  
2946  
2947 Mr. Vanarsdall - Where do you live?  
2948  
2949 Mr. Iobst - Southeastern Pennsylvania. We built one that actually  
2950 abuts right to the rear yard of residential uses, single-family homes. What we do  
2951 there is similar to what we're proposing here, where we even have a larger  
2952 buffer. But the speakers that we have to communicate, they're off and they're  
2953 only initialized by whoever may need help or may need instruction at the pump.  
2954 We're obligated by the State as part of our fueling operation to have two-way  
2955 communication so that if there is an emergency they can hit the speaker box and  
2956 we have two-way communication. But what we don't do at night anymore is we  
2957 don't identify them, you know, welcome to Wawa; begin fueling on pump  
2958 number—whatever the number is. We don't do that at night in respect for the  
2959 neighborhood.  
2960  
2961 We talked a little bit about the deliveries. When our delivery trucks come in it's a  
2962 proprietary delivery truck. They are instructed how they are to enter the lot, how  
2963 they're to exit the lot, turn the vehicle off while they're making their delivery. The  
2964 fuel trucks by law have to turn their engines off.  
2965  
2966 Mr. Vanarsdall - Those people on the site know when the delivery  
2967 truck is coming?  
2968  
2969 Mr. Iobst - Yes they do. They get a schedule of the delivery  
2970 vehicles. The fuel truck is triggered by the fuel level; there are floats in the fuel  
2971 tanks. When that is triggered, there is also notification that goes off in the  
2972 manager's office that says your fuel has been ordered; it's an automatic process  
2973 for that. But the other deliveries—the produce and the milk and the dairy  
2974 products—those are scheduled deliveries; they're on a route.  
2975  
2976 Mr. Vanarsdall - I don't have any more questions.  
2977  
2978 Mr. Archer - Any further questions from the Commission for the  
2979 applicant?  
2980  
2981 Mr. Jernigan - Mr. Condlin?  
2982  
2983 Mr. Condlin - Yes sir.  
2984

2985 Mr. Jernigan - This is a new wrinkle in here because Wawa's  
2986 generally don't have diesel. Now I didn't know they were making changes in their  
2987 merchandising program.

2988

2989 Mr. Condlin - Is the concern the truck tractor-trailers? I know, as Mr.  
2990 Vanarsdall pointed out, you can't control everything. But you can put signage up  
2991 and require it otherwise. There are a number of vehicles that still have diesel that  
2992 are passenger vehicles.

2993

2994 Mr. Jernigan - You may want to entertain a deferral.

2995

2996 Mr. Condlin - All right; I can hear that.

2997

2998 Mr. Jernigan - We're going to have to talk about this.

2999

3000 Mr. Condlin - Okay.

3001

3002 Mr. Jernigan - Airport Drive and these other ones don't have diesel  
3003 and this was on that premise. We need to talk about this.

3004

3005 Mr. Condlin - All right.

3006

3007 Mr. Jernigan - You want a deferral?

3008

3009 Mr. Condlin - I'll let you do it, if you don't mind.

3010

3011 Mr. Jernigan - Okay. Mr. Chairman, I would like to defer case P-11-  
3012 11, to November 10, 2011, by request of the Commission.

3013

3014 Mr. Branin - Second.

3015

3016 Mr. Archer - Motion by Mr. Jernigan, seconded by Mr. Branin for  
3017 deferral. All in favor say aye. All opposed say no. The ayes have it; the motion  
3018 passes.

3019

3020 At the request of the Commission, the Planning Commission deferred P-11-11,  
3021 Andrew M. Condlin for Michael J. Carroll, to its meeting on November 10, 2011.

3022

3023 **C-16C-11 Edward B. Kidd for Sauer Properties, Inc.:**

1024 Request to conditionally rezone from O-2C Office District (Conditional) to R-2AC  
1025 One-Family Residence District (Conditional) part of Parcel 784-766-6082  
1026 containing 1.018 acres located at the northwest intersection of Francis Road and  
1027 Battlefield Road and on the north line of Francis Road approximately 500 feet  
1028 west of its intersection with Battlefield Road and from R-2A One-Family  
1029 Residence District, O-2C Office District (Conditional), and O-3C Office District  
1030 (Conditional) to B-3C Business District (Conditional) part of Parcels 784-766-

3031 6082, 784-766-7982, 784-766-6565, 784-766-7467, and 784-767-4440  
3032 containing approximately 18.58 acres located at the southeast intersection of  
3033 Brook Road (U.S. Route 1) and Virginia Center Parkway. The applicant proposes  
3034 retail and residential uses. The uses will be controlled by zoning ordinance  
3035 regulations and proffered conditions. The 2026 Comprehensive Plan  
3036 recommends Commercial Arterial and Office. The report will be presented by  
3037 Ms. Lisa Taylor.

3038  
3039 Mr. Archer - Is there anyone here in opposition to this case, C-  
3040 16C-11, Edward B. Kidd for Sauer Properties, Incorporated? We'll get to you, sir.  
3041 Thank you, Ms. Taylor.

3042  
3043 Ms. Taylor - Thank you, Mr. Chairman. Good evening. Members of  
3044 the Commission, this is a request to rezone approximately 19.6 acres at the  
3045 southeast intersection of Brook Road and Virginia Center Parkway from O-3C, O-  
3046 2C, and R-2A to B-3C and R-2AC for retail, restaurant, and residential uses.

3047  
3048 The 2026 Comprehensive Plan designations for the subject properties are  
3049 Commercial Arterial for the northern portion of the site and Office for the southern  
3050 section. The proposed zoning and use is consistent with the Plan's  
3051 recommended land use of Commercial Arterial but is not entirely consistent with  
3052 the site's Office designation.

3053  
3054 While not definitive, the applicant proposes to construct a fitness center and an  
3055 anchor retail store along with outparcels for potential restaurants or other retail.  
3056 Single-family homes are proposed along the north side of Francis Road. There  
3057 are established single-family neighborhoods to the south and east of the site, and  
3058 the applicant has submitted proffers to mitigate potential impacts and provide a  
3059 number of quality assurances. These include limiting uses to those allowed in the  
3060 B-2 District, except for outdoor dining; limiting the hours and days of servicing  
3061 dumpsters and parking lot cleaning; prohibiting outside speaker systems from  
3062 being audible from any residential district; limiting the hours for outdoor dining;  
3063 and providing landscaped buffers along the north, east, and south perimeter of  
3064 the retail uses, including a seventy-five-foot buffer adjacent to Battlefield Road

3065  
3066 For the proposed R-2A section of the request, the applicant has committed to  
3067 providing brick or stone foundations, paved driveways, and a livable floor area of  
3068 not less than 1,600 square feet, which is generally consistent with the average  
3069 square footage of homes in the area, which is approximately 1,800 square feet.

3070  
3071 The applicant held four community meetings to discuss the plans for the overall  
3072 development. A major concern raised by neighbors was increased traffic the  
3073 proposed development would bring. The applicant was required to submit a  
3074 traffic impact analysis with VDOT's Chapter 527 regulations. The County's Traffic  
3075 Engineering Division and VDOT have provided comments as referenced in the

3076 staff report. The applicant has provided a detailed proffer committing to  
3077 improvements deemed necessary as part of the traffic impact analysis.  
3078

3079 The staff report included comments requesting additional information regarding  
3080 building design and parking area landscaping for pedestrian connections. The  
3081 revised proffers you just received address these issues in the following manner:  
3082

- 3083 • Proffer #1 enhances quality assurances for architectural treatment  
3084 of buildings on the B-3 property;
- 3085 • Proffer #3 provides a revised concept plan, shown here, that would  
3086 appear to improve vehicular circulation with an additional landscape  
3087 island; and
- 3088 • Proffer #9 is revised such that lighting poles and standards will be  
3089 mounted on permanent footings and foundations.  
3090

3091 The applicant also proposes to develop a small park at the northwest corner of  
3092 Battlefield and Francis Roads. This, however, is contingent upon the park being  
3093 conveyed and maintained by Stonewall Glenn Virginia Center Property Owners  
3094 Association. If so, the applicant would install the park and affiliated equipment. If  
3095 an agreement is not made, then this area would be constructed as single-family.  
3096

3097 The revised proffers further commit to mitigating impact on adjacent property  
3098 owners while the revised concept plan would appear to improve vehicular  
3099 circulation. Staff encourages the applicant to continue to explore ways to  
3100 enhance pedestrian access throughout the proposed development.  
3101

3102 Since the majority of this request is consistent with the 2026 Comprehensive  
3103 Plan, is compatible with adjacent commercial uses, and as proffered with  
3104 adjacent single-family residences, staff supports this request.  
3105

3106 Since revised proffers were just received today, time limits will need to be  
3107 waived. This concludes my presentation; I will be happy to answer any questions.  
3108

3109 Mr. Archer - Are there questions from the Commission for Ms.  
3110 Taylor? Ms. Taylor, to your knowledge is there anyone here representing  
3111 Stonewall Glenn or Virginia Center? Yes, Stonewall Glenn? Okay, thank you so  
3112 much.  
3113

3114 Mrs. Jones - I was looking over the proffer about the park. Would  
3115 you just run over that real quickly?  
3116

3117 Ms. Taylor - The park is going to be a private agreement between  
3118 the applicant and the Stonewall Glenn Homeowners Association, and it's going to  
3119 be provided by the applicant and if it's maintained, it will be given to Stonewall  
3120 Glenn and will be maintained by Stonewall Glenn. And if it's not, it will be given  
3121 back to the applicant to be developed as single-family resident homes.

3122  
3123 Mrs. Jones - Is it your sense that the neighborhood is enthused  
3124 about the park and this will be—  
3125  
3126 Ms. Taylor - Oh, yes.  
3127  
3128 Mrs. Jones - Okay.  
3129  
3130 Ms. Taylor - And I don't know if the applicant would like to talk  
3131 about that?  
3132  
3133 Mr. Archer - That was essentially why I asked if there was  
3134 somebody here representing Stonewall Glenn. Perhaps you could nod and tell  
3135 me, ma'am, do you know if your association is in favor of the park? You are?  
3136  
3137 Female - [Off microphone.] Yes.  
3138  
3139 Mr. Archer - Okay. Thank you so much. That's what I needed to  
3140 know, and I think Mrs. Jones wanted to know also.  
3141  
3142 Mrs. Jones - I would think so, but I just needed to have  
3143 confirmation.  
3144  
3145 Mr. Archer - Pardon me, ma'am? Could you come down, please,  
3146 and speak into the microphone so we can get that on the record? I apologize for  
3147 not asking you to do that before.  
3148  
3149 Mrs. Jones - We record these proceedings. I'm sorry, I should have  
3150 asked.  
3151  
3152 Mr. Archer - And I should have, too.  
3153  
3154 Ms. Brown - Good evening, ladies and gentlemen. My name is  
3155 Michelle Brown and I'm representing Stonewall Glenn, Phase 1 and 2.  
3156  
3157 Mr. Archer - You would state for the record that you are in support  
3158 of the park. Is that correct?  
3159  
3160 Ms. Brown - Absolutely.  
3161  
3162 Mr. Archer - Thank you.  
3163  
3164 Ms. Brown - Thank you. Brown—B-r-o-w-n.  
3165  
3166 Mr. Branin - You are in favor. You've stated you're in favor and  
3167 you are going to agree to the maintenance, so it will be built?

3168

3169 Ms. Brown - Absolutely. It's a nice offer and I applaud them to  
3170 actually even offer this idea for our neighborhood, since we don't have a  
3171 community pool or a community park.

3172

3173 Mr. Archer - Thank you so much, Ms. Brown.

3174

3175 Ms. Brown - Thank you.

3176

3177 Mr. Archer - I don't have any more questions, so I guess I do need  
3178 to hear from the applicant. Mr. Kidd, we do have opposition, a gentleman in the  
3179 back, so you may want to reserve some time.

3180

3181 Mr. Kidd - Yes sir. I'm going to be relatively brief, but we will  
3182 reserve five minutes.

3183

3184 Mr. Archer - Okay, fine.

3185

3186 Mr. Kidd - Good evening, Mr. Chairman, members of the  
3187 Commission. My name is Ed Kidd. I'm here tonight representing the applicant,  
3188 Sauer Properties Incorporated. Just for your information, Sauer Properties is a  
3189 wholly-owned subsidiary of the C. F. Sauer Company, which is a family-owned  
3190 business. It's been around here for about 120 years. They own a number of real  
3191 estate developments, and they develop them for long-term holds.

3192

3193 Based on the staff's recommendation and the results of the neighborhood  
3194 meetings that I'm going to share with you, I'm going to be brief in these  
3195 comments. I'll just save most of the time to respond to the one gentleman here  
3196 who has raised his hand stating opposition.

3197

3198 This case originates from Sauer Properties' desire to develop the property for its  
3199 highest and best use as a retail project, as is now generally recognized by the  
3200 County's Comprehensive Plan, as staff has indicated. The majority of this  
3201 property was rezoned in 1988 for office uses in two separate zoning cases.  
3202 Sauer acquired about two-thirds of the property in 2002, and shortly thereafter  
3203 began planning for development of the property. They quickly concluded that the  
3204 property was not best suited for office uses, but could not move forward before  
3205 now because they determined that the best plan for the property required the  
3206 assemblage of additional parcels to go down to Francis Road, which was not part  
3207 of that 2002 acquisition. It took longer than expected to complete that  
3208 assemblage, but it has been completed recently, and Sauer Properties is now  
3209 ready to move forward with its development of this property.

3210

3211 I want to emphasize that Sauer Properties has worked closely with the  
3212 community and County staff to explain the project to all who are interested, and  
3213 develop meaningful proffers that will ensure a quality project. We held four

3214 separate community meetings since the application was filed, each of which was  
3215 attended by members of the County staff. Two of those meetings occurred after  
3216 the date of the staff report for the case. The mailing list was very broad to ensure  
3217 that everyone with an interest in the case had an opportunity to attend, hear  
3218 about the plans, ask questions, and express any concerns. As a whole, the  
3219 community is very supportive of the case. There were questions. And as Lisa  
3220 indicated, the majority of those related to traffic in the area. But subject to the  
3221 gentleman here tonight, we were able to answer all questions to the reasonable  
3222 satisfaction to those participating in the meetings.

3223

3224 A number of features were added to the proffers in response to citizen input,  
3225 including provisions relating to sidewalks, signage, screenings, and as you've  
3226 heard, plans for a neighborhood park at the intersection of Battlefield Road and  
3227 Francis Road. Many other features were added in response to staff input, which  
3228 did its usual good job, and in my opinion left no stone unturned.

3229

3230 With regard to the public park, and the questions about the conditional nature of  
3231 the proffer, we have already drafted a proposed agreement and shared it with  
3232 Aaron Mason, who is the president of the Stonewall Glenn Association. He was  
3233 not able to be here tonight, it appears, but he has already responded positively,  
3234 indicating that he has reviewed the agreement and that he will have a formal  
3235 meeting of the rest of his Board to approve it, but that he saw no issues with it.  
3236 We don't think that's a problem.

3237

3238 The reason that's important is because somebody has to own the park. We  
3239 recently thought that perhaps it could be a public park. You know, build it and  
3240 then dedicate it to the County. But staff consulted with Parks and Rec and they  
3241 concluded that it really didn't fit the profile for a County-maintained park. So that  
3242 moved us to Plan B to work with this neighborhood association. I feel very  
3243 confident that that's going to come forward. Blanch has indicated the association  
3244 and the neighbors are very enthusiastic about that.

3245

3246 With respect to the staff comments regarding the pedestrian circulation within the  
3247 property, the proffered conceptual plan includes basically as much detail on that  
3248 point as the applicant is in a position to commit to at this point. Staff is pleased  
3249 with what we've done. I think they would always encourage us to do more. The  
3250 reason we can't do more at this point is that the parking requirements of the  
3251 anticipated anchor users wouldn't leave sufficient area for the fairly elaborate  
3252 plan suggested by staff. Basically we'd lose too much parking. But we have  
3253 advised the staff that this can be further evaluated as more details are known in  
3254 connection with the POD process.

3255

3256 On behalf of the applicant, I ask that the Commission vote to recommend  
3257 approval of the application and proffered conditions as submitted. I'll be glad to  
3258 answer any questions you have, and I will respond to any issues that this  
3259 gentleman may have.

3260  
3261 Mr. Vanarsdall - I don't have a question, but I do have a statement. If  
3262 Brad Sauer is behind it, he's going to do what he tells you. We go way back.  
3263  
3264 Mrs. Jones - The hours. The fitness center. What do you anticipate  
3265 the hours to be?  
3266  
3267 Mr. Kidd - Twenty-four hours. What is anticipated here is an  
3268 American Family Fitness Center, so a fairly large facility, high quality. Do it right.  
3269  
3270 Mrs. Jones - And that was the motive behind the request for B-3?  
3271  
3272 Mr. Kidd - I'm not exactly sure. When I became involved with the  
3273 case that was where it sat. I think we proffered down the uses to B-2.  
3274  
3275 Mrs. Jones - How about the hours for retail and other things there?  
3276  
3277 Mr. Kidd - We have proffered hours on retail except for the  
3278 fitness center. Other hours are limited.  
3279  
3280 Mrs. Jones - I just wanted to check.  
3281  
3282 Mr. Kidd - Yes ma'am.  
3283  
3284 Mr. Archer - Any further questions for Mr. Kidd? Thank you, sir.  
3285 Stay nearby. We had opposition. Sir, would you come up, please, and state your  
3286 name for the record?  
3287  
3288 Mr. Newman - My name is Jonathan Newman.  
3289  
3290 Mr. Archer - Excuse me, sir, I didn't get your last name.  
3291  
3292 Mr. Newman - Newman—N-e-w-m-a-n. I live on Taylors Crossing.  
3293 The back of my home overlooks the property that is proposed to be developed. I  
3294 have attended meetings that were provided by Sauer's; I appreciate that.  
3295  
3296 I've voiced concerns about traffic and I've voiced concerns about access to  
3297 Battlefield Road from this 24-hour development, bringing both foot and car traffic  
3298 into our residential neighborhood accessed directly onto Battlefield Road which is  
3299 already quite congested with the childcare facility that uses Battlefield Road as  
3300 an access.  
3301  
3302 I understand that development is necessary. I looked into the zoning regulations  
3303 before buying a house approximately one year ago, and was satisfied that a  
3304 doctor's office and small commercial-type buildings would be a good neighbor to  
3305 have, so to speak. Seeing that this is now requesting to be rezoned for a 24-hour

3306 fitness center brings a different twist to the situation, again, in quote/unquote, my  
3307 backyard. I was told that the County protects residential areas and those property  
3308 owners. I hope that you will continue to take that into consideration, to limit  
3309 access onto Battlefield. That is a significant concern of mine, that a large amount  
3310 of car traffic will be exiting right adjacent to my property.

3311  
3312 I do applaud the Sauer's company for volunteering to put in a community access  
3313 park, as that will certainly serve the community and children.

3314  
3315 I would ask that you would choose to decline this rezoning due to its impact on  
3316 the residential community at large. Thank you.

3317  
3318 Mr. Archer - Thank you. Are there questions for Mr. Newman?  
3319 Thank you for coming, sir. We appreciate it.

3320  
3321 Mr. Kidd, it would be apparent that the 24-hour feature of this would be mostly  
3322 attributed to the fitness center. Could you describe for us and the Commission  
3323 members what steps have been taken to either buffer or in some way screen the  
3324 traffic from the adjacent neighbors?

3325  
3326 Mr. Kidd - First of all, along Battlefield Road there is a 75-foot  
3327 landscape buffer and a specific landscape plan was included for that within the  
3328 proffers. There's also a requirement that the building setback be farther than that.  
3329 I believe it says a hundred feet. But we've also proffered the site plan here.  
3330 Again, this is a 75-foot buffer. The building setback in the proffers is greater, but  
3331 again, this concept plan has been proffered. So as a practical matter, the  
3332 distance would actually be anticipated to be greater.

3333  
3334 Addressing a couple of the things that Mr. Newman made reference to. He talked  
3335 about traffic through the neighborhood for the daycare center. Part of this  
3336 development, as worked out with the owner of the daycare center, is to provide  
3337 an access that would come off of Virginia Center Parkway, a right turn in, to be  
3338 able to go back and forth to the daycare center. So traffic that now goes to the  
3339 daycare center that goes down Battlefield, down Francis, and then has to reverse  
3340 that to exit, will now be able to go through the subject property that's being  
3341 requested for rezoning which should actually relieve traffic within the residential  
3342 area. I believe that, again, the folks that have been at these community meetings  
3343 accept that, and from their experience believe that's going to be the case. That  
3344 doesn't mean that there isn't going to be any traffic associated with this on  
3345 Battlefield Road, but clearly the primary entrances and exits for this property are  
3346 going to be the main entrance here on Virginia Center Parkway, which would be  
3347 a signalized intersection. There will be some potential for relief. Some employees  
3348 who are parking in the back of the building may go there. Those who know the  
3349 shortcuts and so forth, they could do some of that. But I don't think the traffic is  
3350 expected to be significantly heavier, and it really would generally only be going

3351 from Virginia Center Parkway to this entrance and not continuing through the  
3352 neighborhood as the traffic does today associated with the daycare center.

3353

3354 Mr. Newman mentioned that he checked the zoning, but he didn't, I guess, check  
3355 the details of it. He talked about small offices. The zoning for this under the Office  
3356 category allows for four-story office buildings, which I don't think are particularly  
3357 small. We have generally had a limit of two stories, which is really there for the  
3358 fitness center facility. Most of the rest of this would be expected to be one-story  
3359 buildings. Also if Mr. Newman had checked with the Comprehensive Plan, he would  
3360 have seen that it's not all Office anymore under that Comprehensive Plan.

3361

3362 So I believe that while his questions are legitimate as a neighbor, I believe that  
3363 the proffers and the plan mitigates against those things. This is a good, high-  
3364 quality project. The majority of the neighbors are clearly supportive. And I think  
3365 Michelle Brown, if you need her to affirm that in terms of her experiences or the  
3366 staff who attended these meetings, I think they would be able to affirm that. And  
3367 again, not to lessen Mr. Newman's questions or concerns, but to really say he's  
3368 in the minority.

3369

3370 Mrs. Jones - I have a question. I am unfortunately not all that  
3371 familiar with—did you say American Family?

3372

3373 Mr. Kidd - Yes ma'am.

3374

3375 Mrs. Jones - I don't know whether you are, or if there is someone  
3376 here from the company, but I needed to ask about the relative size of this  
3377 particular building, and the number of members, and what kind of use is  
3378 expected based on other fitness centers for the twelve-to-six hours,

3379

3380 Mr. Kidd - Tred Spratley is here. He's a real estate broker who  
3381 has been working with American Family. I was going to be able to answer some  
3382 of those questions.

3383

3384 Mrs. Jones - I'm not trying to give you a test. I'm just trying to get a  
3385 feel for the amount of traffic we're talking about.

3386

3387 Mr. Kidd - I'll let Mr. Spratley address that.

3388

3389 Mr. Spratley - Good evening.

3390

3391 Mrs. Jones - Hi there. May I direct that question to you?

3392

3393 Mr. Archer - Would you state your name, please?

3394

3395 Mr. Spratley - I'm Tred Spratley and I represent American Family  
3396 Fitness. Although I'm not prepared for their exact hours and operations in full, I  
3397 do have a good handle on how they operate in the community.  
3398  
3399 Mrs. Jones - I guess I was trying to find out whether this is a  
3400 heavily-used facility in other areas between twelve and six.  
3401  
3402 Mr. Spratley - Right. It's minimal. We can give you the hours—  
3403  
3404 Mrs. Jones - I don't know what that means.  
3405  
3406 Mr. Spratley - Right. First of all, on weekends they close down—if  
3407 you look at the website it will say what it is. They close like at ten or eleven  
3408 o'clock on Friday night, open up like six or seven on Saturday. Saturday they  
3409 close like at eight or nine. Sundays they open up six or seven, and close at nine  
3410 or ten.  
3411  
3412 Mrs. Jones - Excuse me, I thought this was a 24-hour operation?  
3413  
3414 Mr. Spratley - It is, but on the weekends they close it down at night.  
3415 And it's on their website. So at Short Pump Town Center they have an 80,000-  
3416 square-foot, two-level center. The one that this is modeling after is a newer one  
3417 that's been built over on Midlothian Turnpike at Woolridge about a year and a  
3418 half ago. Membership of this size club would range from 8,000 members to  
3419 maybe 11,000 range. They are a very good steward of the community in many  
3420 ways, giving back. And they have seven locations currently. They've been  
3421 around since 1987, I believe.  
3422  
3423 Mrs. Jones - So you're saying that they may have folks there all  
3424 through the night on weekdays but not on weekends?  
3425  
3426 Mr. Spratley - Who comes between eleven o'clock at night and six in  
3427 the morning are people like policemen, rescue people, nurses, doctors—people  
3428 who are working different shifts. It's not a very large group of people. They  
3429 maintain things and clean things at night. We can give you more exact details on  
3430 that.  
3431  
3432 Mrs. Jones - I just was trying to get a handle on it; thank you.  
3433  
3434 Mr. Archer - Any further questions?  
3435  
3436 Mr. Branin - I'd like to make a comment to that that may help a  
3437 little. The gentleman wasn't really aware of American Family, I guess. I have  
3438 been in the Short Pump American Family at four o'clock and five o'clock in the  
3439 morning. There may be eight or ten of us, tops.  
3440

3441 Mrs. Jones - The first thing is, I'm impressed. Mr. Branin, that  
3442 you're there a that hour.

3443  
3444 Mr. Jernigan - Mrs. Jones, he was lost.

3445  
3446 Mrs. O'Bannon - I will say at the Tuckahoe Family Y at five a.m. there's  
3447 a crowd.

3448  
3449 Mr. Branin - Starting about 5:30, 6:00 at American Family it jumps  
3450 up to seventy or eighty people, and then it increases as the morning goes on. But  
3451 at four o'clock in the morning when I've actually been there before there were like  
3452 six of us in the whole place.

3453  
3454 Mr. Archer - All right, any further comments? All right, then, I  
3455 guess I need to sum this up. First of all I would like to recognize and commend all  
3456 of the people who have participated in the community meetings, most especially  
3457 Ms. Taylor and Mr. Strauss who were very diligent at being at all of them. Mr.  
3458 Newman, thank you for your participation and for your stewardship over your  
3459 community.

3460  
3461 Those of us who have been on the Commission long enough to recognize when  
3462 development started in this area might remember that to the east of this property  
3463 was an area that was designated as prime development land. We began to  
3464 develop that shortly after I came on in 1996, 1997. And most of what has gone  
3465 back there has been exemplary. And I think that the effort that is being made in  
3466 this case is to keep the property in that same condition.

3467  
3468 The latest proffer revisions have been the result of an ongoing effort between  
3469 staff and Mr. Kidd and Mr. Sauer to try to make this case better as we go along. I  
3470 was sort of delighted to see that Mrs. Brown and her neighborhood have  
3471 accepted the park because I think that would be a great and immediate asset for  
3472 the entire community.

3473  
3474 I would like to encourage Mr. Kidd and Mr. Sauer to continue working with staff  
3475 with their concerns about pedestrian traffic and ways to get through that area  
3476 because I think that would make it even better, particularly by the time it gets to  
3477 the Board.

3478  
3479 Mr. Jennings, you can just sit there; I'm not going to make you come up. But I did  
3480 want you to know that I had talked to Mr. Jennings because there were some  
3481 concerns about traffic. He has assured us that the traffic situation, as it is to  
3482 evolve, is proffered. It would be the safest and the most convenient way that  
3483 traffic could be handled in that area. He has agreed with me on that issue.

3484  
3485 Other than that, I think that this would be a nice use for this property. Thirteen  
3486 years ago Mr. Thornton and I got involved with the building of an office building

3487 that never got built. So this has sort of been sitting since, and I think there are  
3488 things here that could be of convenience, and certainly be an attribute to the  
3489 citizens who reside in that area. So with that and without further ado, I would like  
3490 to make a motion that we recommend this to the Board. I do have to waive the  
3491 time limits on the proffers that were submitted, so I'll do that first. I move to waive  
3492 the time limits.

3493  
3494 Mr. Vanarsdall - I'll second that.

3495  
3496 Mr. Archer - Motion by Mr. Archer, seconded by Mr. Vanarsdall to  
3497 waive the time limits. All in favor say aye. All opposed say no. The ayes have it;  
3498 the motion passes.

3499  
3500 With that, I will move to recommend approval to the Board of Supervisors for this  
3501 case, C-16C-11, Edward B. Kidd for Sauer Properties Incorporated.

3502  
3503 Mr. Vanarsdall - Second again.

3504  
3505 Mr. Archer - Motion by Mr. Archer, and seconded by Mr.  
3506 Vanarsdall. All in favor say aye. All opposed say no. The ayes have it; the motion  
3507 passes.

3508  
3509 **REASON:** Acting on a motion by Mr. Archer seconded by Mr.  
3510 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend  
3511 the Board of Supervisors grant the request because it is reasonable in light of  
3512 the commercial zoning in the area and the proffered conditions will provide  
3513 quality assurances and should minimize the potential impacts on surrounding  
3514 land uses.

3515  
3516 Mr. Secretary, before we go to the next item do you want to take a break for  
3517 about five minutes? We'll resume at about 9:35.

3518  
3519 **THE PLANNING COMMISSION RECONVENED AT 9:45 P.M.**

3520  
3521 Mr. Archer - The Planning Commission will reconvene.

3522  
3523 **RESOLUTION:** **SIA-002-11 – Varina Area Library Site;** Substantially  
3524 in Accord with the 2026 Comprehensive Plan (Varina District).

3525  
3526 Mr. Archer - Good evening, sir.

3527  
3528 Mr. Props - Good evening. Mr. Chairman, members of the  
3529 Commission, at the request of County Libraries, the Planning Department  
3530 conducted a Substantially In Accord Study to determine whether a proposed site  
3531 for a Varina Area Library along New Market Road is substantially in conformance  
3532 with the County's adopted Comprehensive Plan.

3533

3534 Located in the Varina Magisterial District, the proposed site consists of a single  
3535 parcel generally bounded by Pocahontas Parkway to the north, rural residential  
3536 and floodplain along the south, New Market Road to the east, and the  
3537 Pocahontas Parkway/Laburnum Avenue interchange to the west.

3538

3539 The site is zoned A-1 and the proposed area library is permitted by right. The  
3540 22.11-acre parcel exceeds the one-acre minimum lot requirement for a County-  
3541 owned public library and would provide ample room to accommodate required  
3542 yards and setbacks.

3543

3544 The subject property is recommended for Office and Environmental Protection  
3545 Area in the 2026 Comprehensive Plan. The provision of infrastructure  
3546 improvements, including library facilities, are generally compatible and  
3547 appropriate with this land use recommendation and is also consistent with  
3548 several goals, objectives, and policies of the 2026 Comprehensive Plan. These  
3549 include:

3550

- 3551 • Closely coordinating development with plans for expansion of  
3552 public services and infrastructure; and
- 3553 • identifying the need for new public services and facilities based on  
3554 projected growth in coordination with the Future Land Use Map.

3555

3556 Through proper design, the proposed library facility would be compatible with  
3557 current and recommended land uses, meet the demands of this growth area of  
3558 the County and fulfill the goals, objectives and policies of the 2026  
3559 Comprehensive Plan. Staff recommends the Planning Commission find the  
3560 proposed Varina Area Library site substantially in accord with the Henrico County  
3561 2026 Comprehensive Plan.

3562

3563 This concludes my presentation and I would be glad to answer any questions.

3564

3565 Mr. Archer - Thank you, Mr. Props. Are there questions from the  
3566 Commission? Comments from the Commission? Questions or comments from  
3567 the audience?

3568

3569 Mr. Emerson - Mr. Chairman, if the Commission is so inclined, I can  
3570 read into the record the resolution for a motion of approval recommending this to  
3571 be found substantially in accord by the Board of Supervisors.

3572

3573 Mr. Archer - Okay. I think we're so inclined, Mr. Secretary.

3574

3575 Mr. Emerson - SIA-002-11, Varina Area Library Site, Substantially in  
3576 Accord with the Comprehensive Plan. Whereas Section 15.2-2232(a) of the  
3577 Code of Virginia requires the Planning Commission to review and to consider  
3578 whether the general or approximate location, character, and extent of major

3579 public facilities are substantially in accord with the County's Comprehensive  
3580 Plan; and whereas the Planning Commission has reviewed the proposed Varina  
3581 Area Library Site for conformance with the County's 2026 Comprehensive Plan;  
3582 and whereas a report dated September 15, 2011, presented by Planning staff to  
3583 the Planning Commission found the proposed use would not be in conflict with,  
3584 or a significant departure from the adopted plan; and whereas the Planning  
3585 Commission has reviewed the staff recommendations and finds the proposed  
3586 Varina Area Library site will further the goals, objectives, and policies of the  
3587 Comprehensive Plan that identify the need for new public services and facilities  
3588 based on projected and planned growth in accordance with the 2026 Future Land  
3589 Use Map; and whereas the Planning Commission finds the proposed use of this  
3590 site for the Varina Area Library would be compatible with the adjacent  
3591 developments and existing and future residential developments in the larger  
3592 vicinity; now therefore be it resolved the Henrico County Planning Commission  
3593 finds the proposed Varina Area Library site substantially in accord with the  
3594 County's Comprehensive Plan.

3595  
3596 Mr. Archer - Thank you, Mr. Secretary. What is the pleasure of the  
3597 Commission?

3598  
3599 Mrs. Jones - I move the resolution.

3600  
3601 Mr. Branin - Second.

3602  
3603 Mr. Archer - Motion by Mrs. Jones, seconded by Mr. Branin. All in  
3604 favor of the motion say aye. All opposed say no. The ayes have it; the resolution  
3605 passes.

3606  
3607 Mr. Jernigan - For your information on that, there is a 4,400-square-  
3608 foot brick home on there with a basement. Slate roof. I believe, Mrs. O'Bannon,  
3609 there was a million and a half dollars allotted for that project and they bought that  
3610 for seven fifty, (\$750,000) including the house.

3611  
3612 Mrs. Jones - How big is this house?

3613  
3614 Mr. Jernigan - Forty-four hundred square feet, two-story. And that  
3615 doesn't include the basement. They're going to retain the house. It's a brick  
3616 home. That will be used as a facility also.

3617  
3618 Mr. Branin - Mr. Jernigan, there is also what appears to be a lake  
3619 or a pond on the property?

3620  
3621 Mr. Jernigan - Yes. There was a small house out there that the  
3622 groundskeeper lived in.

3623

3624 Mr. Branin - Mr. Secretary, has this already been approved on the  
3625 CIP?

3626  
3627 Mr. Emerson - I believe it is part of the 2005 Bond Issue, so funding  
3628 is in place for it, and it is on the CIP.

3629  
3630 Mr. Branin - Good. So it should go in soon.

3631  
3632 Mr. Emerson - Well, the design work will start within the next year.

3633  
3634 Mr. Branin - Fantastic.

3635  
3636 Mr. Archer - All right, Mr. Secretary, moving right along.

3637  
3638 Mr. Emerson - Mr. Chairman, the next item on your agenda also  
3639 appears at the bottom of page three.

3640  
3641 **RESOLUTION: SIA-003-11 - 10785 & 10791 Old Washington**  
3642 **Highway:** Substantially in Accord with the 2026 County Comprehensive Plan  
3643 (Brookland District). The staff report will be presented by Ms. Rosemary  
3644 Deemer.

3645  
3646 Mr. Archer - Good evening, Ms. Deemer.

3647  
3648 Ms. Deemer - Good evening, Mr. Chairman, members of the  
3649 Commission.

3650  
3651 At the request of the Division of Real Property, the Planning Department  
3652 conducted a Substantially In Accord Study to determine whether two properties  
3653 proposed for public and government uses associated with the Cultural Arts  
3654 Center at Glen Allen and Walkerton Tavern are substantially in conformance with  
3655 the County's adopted Comprehensive Plan.

3656  
3657 Located in the Brookland Magisterial District, the proposed site consists of two  
3658 parcels generally bounded by Peace Lane to the north, the Cultural Arts Center  
3659 to the south and east, and Old Washington Highway to the west. The site is  
3660 zoned R-2A, One Family Residence District and County-owned or leased  
3661 buildings are permitted by right.

3662  
3663 The subject property is recommended for Suburban Residential 1 in the 2026  
3664 Comprehensive Plan. While no definitive use has been determined for the  
3665 properties at this time, they are desirably located adjacent to County holdings  
3666 associated with the Cultural Arts Center and the Walkerton Tavern and would  
3667 provide the county opportunities for additional recreational or support uses  
3668 adjacent to the Cultural Arts Center and Walkerton. It is not foreseen to have  
3669 adverse impacts on surrounding uses.

3670

3671 After reviewing the subject properties in the context of existing and  
3672 recommended land uses, the transportation system, and other site  
3673 characteristics and considerations, staff concludes the proposed use of the site  
3674 for public or government uses presents no apparent conflict with the intent of the  
3675 adopted Plan and deems it to be substantially in accord with the goals, objectives  
3676 and policies of the Henrico County 2026 Comprehensive Plan.

3677

3678 This concludes my presentation and I'd be happy to answer any questions.

3679

3680 Mr. Archer - Thank you, Ms. Deemer. Are there questions?

3681

3682 Mr. Vanarsdall - I will add that there is a 1930-something service  
3683 station down the road that's historical. Also part of the hotel that used to be in  
3684 Glen Allen is on the corner of Washington Highway. That is a very historical  
3685 corridor. Mr. Secretary, do you want to read that, a short version?

3686

3687 Mr. Emerson - I can read it into the record for you, Mr. Vanarsdall.

3688

3689 Mr. Archer - Go right ahead, Mr. Secretary.

3690

3691 Mr. Emerson - SIA-003-11, 10785 and 10791, Old Washington  
3692 Highway Site, Substantially in Accord with the Comprehensive Plan. Whereas  
3693 Section 15.2-2232(a) of the Code of Virginia requires the Planning Commission  
3694 to review and to consider whether the general or approximate location, character,  
3695 and extent of major public facilities are substantially in accord with the County's  
3696 Comprehensive Plan; and whereas the Planning Commission has reviewed the  
3697 proposed 10785 and 10791 Old Washington Highway site for conformance with  
3698 the County's 2026 Comprehensive Plan; and whereas a report dated October 5,  
3699 2011, presented by Planning staff to the Planning Commission found the  
3700 proposed use would not be in conflict with, or a significant departure from the  
3701 adopted plan; and whereas the Planning Commission has reviewed the staff  
3702 recommendations and finds the proposed public/government use will further the  
3703 goals, objectives, and policies of the Comprehensive Plan that identify the need  
3704 for new public services and facilities based on the projected and planned growth  
3705 in accordance with the 2026 Future Land Use Map; and whereas the Planning  
3706 Commission finds the proposed use of this site for public/government use would  
3707 be compatible with the adjacent developments and existing and future residential  
3708 developments in the larger vicinity; now therefore be it resolved the Henrico  
3709 County Planning Commission finds the proposed 10785 and 10791 Old  
3710 Washington Highway site substantially in accord with the County's  
3711 Comprehensive Plan.

3712

3713 Mr. Archer - Thank you, Mr. Secretary. What is the pleasure of the  
3714 Commission?

3715

3716 Mr. Vanarsdall - I move for approval.  
3717  
3718 Mr. Jernigan - Second.  
3719  
3720 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Jernigan.  
3721 All in favor of the motion say aye. All opposed say no. The ayes have it; the  
3722 resolution passes.  
3723  
3724 Mr. Emerson - Mr. Chairman, that takes us to the next item on your  
3725 agenda, which will be the consideration of the approval of the minutes from the  
3726 September 15, 2011 Planning Commission meeting.  
3727  
3728 Mr. Archer - All right. Are there corrections? In fact I have a couple  
3729 myself.  
3730  
3731 Mrs. O'Bannon - I have some, too.  
3732  
3733 Mr. Archer - Line 208 on page 6. I think I said, "some other  
3734 descriptive feature," not "description." And page 31, line 1371. I think I said,  
3735 "Public Works," instead of "Public Words." Are there others?  
3736  
3737 Mr. Jernigan - I have page 4, line 131. It should be "weigh" not  
3738 "weight."  
3739  
3740 Mr. Archer - Mrs. O'Bannon, did you have something?  
3741  
3742 Mrs. O'Bannon - Yes, I have some. Mine are ones that are saying,  
3743 "unintelligible," "overlapping conversation," and things like that. I can reconstruct  
3744 what I was saying.  
3745  
3746 I think the first one is on line 464 on page 11. I don't know exactly how I started it,  
3747 but it's at the former Westbury Shopping Center, advising not to take it back to  
3748 the property line. I'm not sure how much of that I said ahead of time, but it might  
3749 hit a buried casket. In other words, at the former Westbury Shopping Center what  
3750 I was talking about was they were building towards the back, and I advised them  
3751 not to get too close to the graveyards because they might hit a buried casket.  
3752  
3753 Mr. Archer - Okay.  
3754  
3755 Mrs. O'Bannon - On 473, some churches I know of have built "it" into  
3756 the sides, so add the word "it" and that's a columbarium, that's what I was  
3757 referring to. On the next page on line 487. I'm trying to figure out, the memorial  
3758 garden and that's was a columbarium is. And enclosed it with a wall. And Mr.  
3759 Blankinship said memorial garden. But this place, and I'm not sure what I said  
3760 there. But on 486 some churches have established themselves—and I'm not  
3761 sure how I should write this but, "asking right smack dab within a neighborhood"

3762 is part of what I said. What I'm saying is sometimes they're asking us to be right  
3763 smack dab in the middle of a neighborhood. I'm sure that was part of what I was  
3764 saying there, but I'm not sure exactly how to rewrite that. Something like places  
3765 of worship are asking to be right smack dab in a neighborhood. Maybe that's the  
3766 best way to put that. On the same page on line 516 or 517. If it says Office, then  
3767 it would have a parking lot. An Office zoning at least probably would have a  
3768 sufficient number of parking places. I'm following that because I know that's what  
3769 I was—oh, Page 645 it says, "Well you didn't put it four feet away from like an  
3770 explosive..." it says "paint cans." Propane tank. I read that and I went no, I'm  
3771 sure I said something like propane tank not paint cans.

3772  
3773 Mr. Archer - Fair enough.

3774  
3775 Mrs. O'Bannon - Let's see, on 691. And I'm not sure exactly what I said  
3776 as a quote, but when I said they could just pave the whole lot and have it wash  
3777 off in people's yards, I think maybe that's probably—let's see. I don't know  
3778 exactly what I said there. I was referring to drainage regulations or drainage. And  
3779 unfortunately, churches or religious institutions could just pave the whole lot and  
3780 have it wash off, meaning they wouldn't have to consider underground drainage.  
3781 So it has to do with drainage regulations. I don't know exactly how to word that,  
3782 but that's what that was about. They will pave the whole lot and not put in  
3783 underground BMPs or refer to any drainage concerns that are everyday concerns  
3784 of their adjacent property owners.

3785  
3786 And the same thing on 781: It had to do, again, with the drainage issue.  
3787 Inaudible, voice too low.

3788  
3789 Okay. And then on 963 and 964, the line, they have a small parking lot but they—  
3790 I would say they are required to—it says two days to walk. But they are required  
3791 on worship days to walk. Probably more reconstructing what I said there.

3792  
3793 On line 1013, I don't know what that was. On 1012 it says, "I'll never forget this  
3794 minister." We're going to do God's work here. I'm like okay." [Inaudible;  
3795 mumbling]. It ballooned across the room? I'm sorry; that's not what I said. I'm  
3796 trying to figure that out. It didn't balloon across the room. I read this and I can't  
3797 believe I said that. I really don't know what that means, except that it boomed  
3798 across the room. Maybe I said that it boomed across the room, his voice boomed  
3799 across the room? That may be what I said, his voice boomed across the room.

3800  
3801 Mr. Archer - All right.

3802  
3803 Mrs. O'Bannon - Wait a minute, let me see.

3804  
3805 Mr. Archer - Oh, you have more, Mrs. O'Bannon? Go ahead.

3806

3807 Mrs. O'Bannon - I think that's about it. I tried to reconstruct. Knowing  
3808 what I was talking about I tried to reconstruct the language.  
3809

3810 Mr. Archer - These corrections look like scripture almost, don't  
3811 they.  
3812

3813 Mrs. O'Bannon - And I apologize for being so—it appears that I'm  
3814 pretty inarticulate.  
3815

3816 Mr. Archer - The first time I saw mine, I thought it was the Book of  
3817 Inaudible, Chapter 45, verse 450.  
3818

3819 Mrs. O'Bannon - Oh dear. The group's getting a little giddy.  
3820

3821 Mr. Archer - We've been here too long.  
3822

3823 Mr. Branin - Mr. Chairman, I have three quick ones.  
3824

3825 Mr. Vanarsdall - I believe you set a record, Mrs. O'Bannon.  
3826

3827 Mrs. O'Bannon - Apparently I was mumbling.  
3828

3829 Mr. Archer - All right, Mr. Branin has some.  
3830

3831 Mr. Branin - I know, everybody's sitting down. Page 21, 896. The  
3832 statement was, "We should be fair and we can be fair in both directions."  
3833

3834 Mr. Vanarsdall - So you read these.  
3835

3836 Mr. Branin - Just tonight while Mrs. O'Bannon was doing her  
3837 corrections. Page 21, 917, "When you look at it, base it on what the size of a  
3838 folding chair is," which actually we found they did. And page 23, 1001, Mr. Tokarz  
3839 is familiar with St. Bridget's when they have St. Mary's. What I said was he's  
3840 familiar with St. Bridget's. St. Mary's and St. Bridget's at Christmas and Easter,  
3841 the gym then becomes a place of worship running consecutively. So the "when  
3842 you have," needs to be stricken. And "now" needs to be stricken, and then put  
3843 "in" in its place. That's it; that's all I have.  
3844

3845 Mr. Archer - Anyone else? Is there anything else to be brought  
3846 before this Commission?  
3847

3848 Mr. Vanarsdall - If not, I move that we accept the minutes of  
3849 September 15, 2011, as corrected.  
3850

3851 Mr. Jernigan - Second.  
3852

3853 Mr. Archer - Motion by Mr. Vanarsdall, seconded by Mr. Jernigan  
3854 to approve the minutes as corrected. We don't need a vote; the minutes are  
3855 approved as corrected.

3856  
3857 Mr. Emerson - Mr. Chairman, I have nothing else to bring in front of  
3858 the Commission this evening.

3859  
3860 Mr. Archer - Okay. With that I declare this meeting adjourned at  
3861 10:04 p.m.

3862  
3863 The meeting adjourned at 10:04 p.m.

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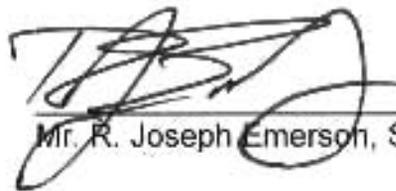
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Mr. R. Joseph Emerson, Secretary



Mr. C. W. Archer, Chairperson