

Minutes of the regular monthly meeting of the Planning Commission of the County of Henrico, Virginia, held in the Board Room of the County Administration Building, Parham and Hungary Spring Roads at 7:00 p.m., on September 14, 2000, Display Notice having been published in the Richmond Times-Dispatch on Thursday, August 24, 2000, and Thursday, August 31, 2000.

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

Others Present: Randall R. Silber, Assistant Director of Planning
Elizabeth Via, Principal Planner, AICP
Mark Bittner, County Planner
Lee Householder, County Planner
Jo Ann Hunter, County Planner, AICP
Eric Lawrence, County Planner, AICP
Judy I. Thomas, Recording Secretary
Timothy Foster, Traffic Engineer, Department of Public Works

Mr. Vanarsdall - The Planning Commission will now come to order. We have several cases tonight and many of them deferred. I'll turn the meeting over to our Secretary, and Director of Planning, Mr. John Marlles. Mr. Marlles.

Mr. Marlles - Thank you, Mr. Chairman. Good evening, members of the Commission, ladies and gentlemen. First of all we do have a quorum, and can conduct business. Mrs. O'Bannon will maybe joining us later in the meeting. We do have a number of items on the agenda tonight. The first item is the Requests for Withdrawals and Deferrals. As the Chairman indicated, we do have quite a few deferrals tonight, so I'm going to ask Mrs. Liz Via to review those.

Mr. Vanarsdall - Good evening, Mrs. Liz Via.

Mrs. Elizabeth Via, Principal Planner - Good evening, Mr. Secretary, Mr. Chairman and members of the Commission. The first case this evening is in the Varina District on Page 1 of your agenda is C-25C-00.

Deferred from the June 15, 2000 Meeting:

C-25C-00 James W. Theobald for 7-Eleven Inc.: Request to conditionally rezone from A-1 Agricultural District to B-2C Business District (Conditional), Parcel 162-A-43A, containing approximately 5.06 acres, located at the southwest intersection of S. Laburnum and Gay Avenues. Community retail is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office. The site is also within the Airport Safety Overlay District.

Mrs. Via - The applicant has withdrawn this case on Page 1 of your agenda.

Mrs. Via - Moving into the Brookland District on Page 1 of your agenda, the first case for action this evening, C-36C-00.

Deferred from the August 10, 2000 Meeting:

C-36C-00 Gloria L. Freye for McDonald's Corp.: Request to conditionally rezone from R-3 One Family Residence District to O-2C Office District (Conditional) and B-2C Business District (Conditional), Parcels 61-A-2 and 31, containing 2.046 acres, located on the west line of Staples Mill Road approximately 160 feet north of Parham Road and on the north line of Parham Road approximately 170 feet west of Staples Mill Road (U. S. Route 33). A fast food restaurant with drive through is proposed. The use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office.

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

Mr. Vanarsdall - Anyone in the audience in opposition to deferring this case? This is McDonald's, Case C-36C-00 in the Brookland District. I move that C-36C-00 McDonald's Corp. be deferred until November 9, 2000 at the applicant's request.

Mrs. Quesinberry seconded the motion.

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

Mrs. Via - Turning to Page 2 of your agenda, the next case for deferral this evening, Case C-52C-00.

Deferred from the August 10, 2000 Meeting:

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

Mrs. Via - The applicant on this case has requested a deferral until October 12, 2000.

Mr. Vanarsdall - Anyone in the audience in opposition to deferment of this case? No opposition. I move C-52C-00 be deferred to October 12th at the applicant's request.

Mrs. Quesinberry seconded the motion.

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

Mrs. Via - Thank you. Also, continuing on Page 2 of your agenda, this next request is an amendment to your agenda, as well as to what the audience is seeing on the screen. P-8-00.

Deferred from the August 10, 2000 Meeting:

P-8-00 Heidi H. Parker for RCTC Wholesale Corp.: Request for a provisional use permit in accordance with Sections 24-95(a)(3) and 24-122.1 of Chapter 24 of the County Code in order to construct a 199 foot telecommunications tower and related equipment, on part of Parcel 116-A-13, containing 4,200 square feet of leased area, located on the east line of Westmoreland Street approximately 400 feet south of its intersection with Jacques Street (2001 Westmoreland Street). The site is zoned M-1 Light Industrial District. The Land Use Plan recommends Heavy Industry.

Mrs. Via - The applicant has requested a deferral to October 12, 2000.

Mr. Vanarsdall - Any one in the audience in opposition to this case? This is a telecommunications cell tower. No opposition. I move that P-8-00 be deferred to October 12th at the applicant's request.

Mrs. Quesinberry seconded the motion.

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

Mrs. Via - Thank you. Returning to your printed agenda, also on Page 2, the last case in this district, Case C-53C-00.

Deferred from the August 10, 2000 Meeting:

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

Mrs. Via - The applicant has requested a deferral to October 12, 2000.

Mr. Vanarsdall - Any one in opposition to this case. This is Case C-53C-00 Henry Wilton. It's on Staples Mill Road. No opposition. I move that C-53C-00 be deferred at the applicant's request to October 12th.

Mr. Taylor seconded the motion.

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

Mrs. Via - Thank you. That concludes the Requests for Deferrals and Withdrawals on your 7:00 o'clock agenda. There are two cases that have currently requested deferral for the 8:00 o'clock agenda.

In the Three Chopt District on Page 3 of your agenda, those will be C-49C-00 Tascon Group, and C-60C-00 MCI Worldcom. For the benefit of the audience, the Commission will have take action on these at 8:00 o'clock.

Mr. Vanarsdall - Thank you, Mrs. Via. I believe you have an Expedited Agenda item?

Mrs. Via - Yes sir. We have one expedited agenda item this evening on your 7:00 o'clock agenda. On Page 1 of your agenda, this is C-65C-00 in the Varina District.

C-65C-00 **Anna R. Pitt:** Request to conditionally rezone from R-4 One Family Residence District to R-5C General Residence District (Conditional), Parcel 146-2-C-34, containing 0.13 acre, located on the west line of Park Avenue approximately 260 feet north of its intersection with Bray Avenue. An adult day care facility is proposed. The R-5 District requires a minimum lot size of 3,000 to 5,625 square feet. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

Mrs. Via - The applicant has requested the expedited agenda for this case.

Mr. Vanarsdall - Any one here tonight in opposition to Case C-65C-00 in the Varina District? No opposition. Mrs. Quesinberry.

Mrs. Quesinberry - Mr. Chairman, I'd like to hear that case if I could.

Mr. Vanarsdall - All right. So, we will remove it from the Expedited Agenda and we'll hear it, in this case, No. 1 after the other thing.

Mrs. Via - Yes sir. This will be heard after the proposal to amend the Major Thoroughfare Plan.

Mr. Vanarsdall - It will be first on the agenda tonight.

Mrs. Via - There are no other requests for the expedited agenda this evening. That concludes that part of the agenda.

Mr. Vanarsdall - Thank you, Mrs. Via. Mr. Marlles.

**THREE CHOPT:
AMENDMENT TO THE MAJOR THOROUGHFARE PLAN OF THE
COMPREHENSIVE PLAN:
MTP-2-00 - Concept Road 10-2**

Amend the Major Thoroughfare Plan to remove Concept Road 10-2 in its entirety between Shady Grove Road and Concept Road 17-1.

Mr. Marlles - Mr. Chairman, the next item on the agenda is in the Three Chopt District. It is an amendment to the Major Thoroughfare Plan of the Comprehensive Plan. The Staff report will be given by Mr. Mark Bittner.

Mr. Vanarsdall - Good evening, Mr. Bittner.

Mr. Mark Bittner, County Planner - Thank you, Mr. Vanarsdall. Is the Commission ready?

Mr. Vanarsdall - Yes sir.

Mr. Bittner - This proposed amendment would delete Concept Road 10-2 from the Major Thoroughfare Plan in its entirety between Shady Grove Road and Concept Road 17-1. 10-2 is planned to provide access to and from travel destinations in the northwest end of the County, and to provide an alternative for traffic along Nuckols Road.

Elimination of this road is proposed because it would cross significant environmentally sensitive areas, and because proposed development in the area may provide an alternate road system that addresses future road connections in this vicinity.

Concept Road 10-2 is a Minor Collector on the Major Thoroughfare Plan. It runs through property currently under rezoning for single family residential development. And those are Cases C-39C-00 and C-40C-00.

As you may be aware, the Board of Supervisors approved C-40C-00 on Tuesday of this week, and C-39C-00 is scheduled to be heard by the Board on October 10th.

A road connection has been proffered between these two developments, and this would aid in distributing traffic between these neighborhoods.

A sensitive environmental area, including wetlands and floodplain areas lies west of the C-39C and C-40C sites. It's generally in this area right here (referring to slide). As you can see, Concept Road 10-2 runs through this area near its intersection with Concept Road 17-1. The deletion of 10-2 would lessen the overall impacts on this environmentally sensitive area.

The proposed deletion supports the Plan's goals to protect residential areas from encroachment by incompatible or inappropriate land uses and to protect sensitive environmental resources.

Although a major roadway might not be necessary, the staff would still encourage the interconnection of subdivisions to be developed in this area. These connections would provide access alternatives for future residents in the event of an emergency or some other unforeseen event. This is, in fact, a stated policy in the 2010 Land Use Plan. And, also, as I previously stated, there will be a road connection between C-39C and C-40C.

The Department of Public Works has voiced no objection to this proposal. The staff recommends approval of this amendment. I'd be happy to answer any questions you may have.

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

Ms. Dwyer - Mr. Bittner, can you tell me, I understand it may be wise to remove this because of the wetlands, but, of course, I see a lot of wetlands on this particular map. For instance, the Concept Road 17-1 also has to cross what looks like some streams. So, I guess what I'm wondering, is this a precedent that we're going to be setting where we're going to be removing roads because they cross stream beds or wetlands?

Mr. Bittner - No. I don't think it's a precedent. That is not the only reason we're recommending approval of this. When we examined this amendment, we looked at the area bordered by Nuckols here (referring to slide) and Shady Grove along here (referring to slide), Pouncey Tract and then the planned 17-1, and that's generally this quadrant right here.

Ms. Dwyer - Right.

Mr. Bittner - When we look at that versus major destinations in this area, including Wyndham, Interstate 295 and Short Pump, we did not see this area as being a through traffic place in the County. Meaning that if someone was coming from I-295 to Wyndham, they most likely would not go through here. They would stay on Nuckols. If they were coming from Short Pump to Wyndham, they would go up Pouncey Tract most likely.

So, we saw it becoming a destination area. It is designated for single-family residential development on our Land Use Plan. And we envision many single family homes being built in that quadrant which would make a destination place.

We felt, because of that, it was less vital or less important to have a major roadway to carry traffic through it. But, we still, of course, would anticipate roads and subdivisions in the future, and encourage the interconnection of those subdivisions for emergency access, and general convenience purposes as well.

Ms. Dwyer - I see your point in terms of this road not being necessary to be ferrying people from major points such as I-295 to Short Pump or Wyndham. I guess it was classified as a minor collector, is that right?

Mr. Bittner - Yes.

Ms. Dwyer - I don't have a problem with removing it if, you know, the experts say that it is important that we remove it for environmental reasons. I guess my question is, "What was the purpose for having the road there to begin with, and do we have other ways to compensate for the fact that this road and whatever purpose it was designed for, do we have any way to compensate for the removal of this road by other roads or other minor collectors in this quadrant that you pointed out earlier?"

Mr. Bittner - Well, as you can see, we're not compensating with another minor collector in the vicinity.

Ms. Dwyer - Right.

Mr. Bittner - But, again, we've already got a proffered road connection between two new subdivisions to be built in this area, and we're going to pursue those in the future as well. They would be able to move traffic in and around this area and get it out to the main roads for people to get to those major destinations.

As far as how it was established here in the first place, I might be able to show you better on this here (referring to slide). And, I'd also like to point out, we have Tim Foster from the Public Works Department as well. He might have a lot to add to it.

Ms. Dwyer - Okay.

Mr. Bittner - But right along this leg here is actually some right of way that was reserved. I can't recall the exact date, but it was reserved for Nuckols Road. And I think it was dedicated when the Bridlewood Subdivision was developed.

Ultimately, as you can see, Nuckols Road was built further to the north. So, we ended up with some right of way left over. And what we decided to do on the Major Thoroughfare Plan is to take advantage of it and label it as another concept road so that this area takes advantage of existing right of way. And then we simply drew a connection from Shady Grove over to this other concept road 17-1.

Ms. Dwyer - Is Old Nuckols Road also a minor collector?

Mr. Bittner - I'm not sure. I've got a copy of the Major Thoroughfare Plan. I can find out for you.

Ms. Dwyer - I guess my question is, "Is it the decision of the Department of Public Works that we do not need a minor collector or similar road in this area?"

Mr. Bittner - I'll let Mr. Foster say exactly, but I do know they have no objection to this amendment. Maybe you'd like to hear from Mr. Foster now?

Mr. Timothy Foster, Traffic Engineer, Department of Public Works - Ms. Dwyer, to reiterate what Mark just said, that was the old alignment of Nuckols Road, and what we anticipated to be a four-lane divided roadway. And when the Wyndham development came in, in the early nineties, the alignment was changed. And with the additional right of way that was there, we just left it, essentially, without really studying it at that point in time.

We do have several minor collector roads in the area. And what we felt was, when we get these requests we try to look at each one of them individually on their own merit. And, what we felt was, we had Old Nuckols Road, which is a connector road, which connects Shady Grove Road and Nuckols Road. We also have Shady Grove Road that goes to the south and connects into Pouncey Tract, and then we have Concept Road 17-1 that is opposite Wyndham.

Given the environmentally sensitive areas there, the crossing that we had to go through to get across that creek and the wetlands there, we felt that other roads in the area, as widened, would be sufficient to accommodate the traffic volumes we expect in that area, given the fact that we are mostly residential in that area.

I will say that, when the Wyndham development first came up, we were setting up Nuckols Road as a six-lane road because we had a lot of office and retail that were anticipated at that location. We don't have that any more. Most of that's already been rezoned out further to the east.

Therefore, we felt that we do have enough capacity out there with the road, and the fact that Nuckols Road is only about 1,800 feet separation of this road that we felt comfortable that we did not need it to connect in the 17-1. I think we do need 17-1, to connect in the center there. I think that road would be important.

The other thing I would like to say is, we have a lot of collector roads in the County that are not necessarily on the thoroughfare plan. A lot of roads that I would consider collector roads, that doesn't necessarily show up on the plan, but the nature of the design of the subdivision, they become collector roads in their own right. And, as long as we have the cross connections between the subdivisions, which I think is proffered in the ones that we have coming up, those roads themselves, serve as collector roads to collect the traffic to the major roadways, which will be Nuckols Road. In this area Shady Grove Road is a level up. To get it to Pouncey Tract Road would be the other major road in the area.

Ms. Dwyer - So, you don't see the need then, for say, a replacement for Concept Road 10-2, maybe in a more southerly direction to connect Concept Road 17-1 and Shady Grove?

Mr. Foster - I think, as we get with development in that area, as long as we have our subdivisions interconnected, I think it will serve the same purpose. Given the fact, the further away we get from this collector road, then the effect of another collector road doesn't really take the place of this one. It just adds a new one.

Ms. Dwyer - Right.

Mr. Foster - So, I think, as long as we get all the subdivisions connected and get some connected to the north as we get around to Shady Grove Road, we'll have a good traffic network in the area.

Ms. Dwyer - And it looks like this connects both to Nuckols and to Shady Grove, so there are two outlets from this particular neighborhood?

Mr. Foster - That's correct. Yes ma'am.

Ms. Dwyer - Does Concept Road 17-1 cross any environmentally sensitive areas?

Mr. Foster - That, I do not know. I don't really look at the environmental aspect of it. We do have lots of roads that do cross environmental areas. It's a matter of whether or not the road, itself, if we need the road, I think we'll built it, no matter whether or not. We look at the weight of the road being there, versus the environmental sensitive nature of the area. And we look at that balance. In this case we felt the balance leaned toward the environmental sensitive areas. We will have some that will probably go the other way. We have had some to go the other way. And, I can also say, I've stood up here many times being against taking roads off the Thoroughfare Plan more than I have arguing for taking them off the Thoroughfare Plan. So, we will always look at all those issues when we remove roads from thoroughfare plans.

Ms. Dwyer - So, in any event, it looks like 17-1 will be a significant road and one that we would need to keep on the Major Thoroughfare Plan?

Mr. Foster - Without further study, I would say, "yes." Obviously, there has not been further study. A lot of times, and Mr. Mariles can probably vouch for this, a lot of our thoroughfare roads we try to get some kind of idea of where they need to go, but there is not a lot of in depth study to those concept roads more or less. It's a line on the map. We have to shift the road back and forth.

Even if you look at this concept road we have here, we couldn't have went through the existing right of way because of where it was taking us to. We would have probably had to abandon that if we did build the road because we couldn't get the road to work through that existing right of way.

Ms. Dwyer - All right, thank you.

Mr. Vanarsdall - Thank you, Mr. Foster. Any other questions of Mr. Foster? Any other questions from the Commission members? Ladies and gentlemen, this is a public hearing, and any one who would like to speak, we invite you to come down. We're glad to hear from you. All right, Mr. Taylor.

Mr. Taylor - Mr. Chairman, just summing up what we have on this. I had discussed this with the various members of the staff. I think the primary reason for the removal of this road is the protection of the wetlands. And this will lessen the impact on the environmentally sensitive area. And it is not seen as an area now of through traffic.

The recent improvements in the Shady Grove Road area and the adequate roads in the area, what Public Works considers adequate roads in the area, and that development in the area will provide additional internal circulation as the subdivisions connect and their systems in the road net. Therefore, I move to amend the Major Thoroughfare Plan to remove Concept Road 10-2 in its entirety between Shady Grove Road, and Concept Road 17-1.

Mr. Archer seconded the motion.

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

Before we continue, I'd like to recognize Mr. Tom Lappas from the Henrico Leader. I just saw you come in. And anyone else from the press I don't think are here. Mrs. O'Bannon, I didn't see you come in. Good evening.

Mrs. O'Bannon - I apologize for being a little late. I was at a reception for the Forensic Nurses. These are the great nurses that work with our Police Department in solving cases here in the County.

Mr. Vanarsdall - You've had a long day.

Mrs. O'Bannon - It started at 6:00 o'clock this morning. I was supposed to have had a meeting with the President, but he didn't show.

Mr. Vanarsdall - The President?

Mrs. O'Bannon - Yes. In Washington, D.C. I am a Republican. I'll just put it that way.

Mr. Vanarsdall - All right. Mr. Marlles.

C-65C-00 **Anna R. Pitt:** Request to conditionally rezone from R-4 One Family Residence District to R-5C General Residence District (Conditional), Parcel 146-2-C-34, containing 0.13 acre, located on the west line of Park Avenue approximately 260 feet north of its intersection with Bray Avenue. An adult day care facility is proposed. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

Mr. Marlles - Thank you, Mr. Chairman. The next item on the agenda is Case C-65C-00. The staff report will be given by Mr. Lee Householder.

Mr. Vanarsdall - Any one in the audience in opposition to this case, C-65C-00? Good evening, Mr. Householder.

Mr. Lee Householder, County Planner - Thank you, Mr. Chairman, members of the Commission. The subject site is located at 508 Park Avenue. It's a lot within the Glen Echo Subdivision. An adult day care facility is proposed for an existing residential structure in this neighborhood.

The facility would serve elderly citizens over the age of 60. It is surrounded by R-4 property on all sides; not all sides. The property to the north is actually R-5C, which was rezoned in 1995 to allow a boarding house for the elderly.

At that time, there was considerable debate as to whether this use was appropriate for the community. But, the fact that the existing structure would remain with no modifications, and the fact that there was actually support from the surrounding community for this case, it was approved in January of 1996.

The R-5 District does not specifically mention adult day care as a permitted use, but it does allow for child care centers. Staff has determined that the adult day care use is similar to a child care center, and, therefore, would be permitted in the R-5 District. Staff met with the representative for the applicant before this case was filed and recommended the R-5 District as appropriate.

The 2010 Land Use Plan recommends Suburban Residential for the subject parcel. This request is not in conformance with our recommendation. However, the potential impacts are believed to be minimal because no new construction or modification of the existing structure is planned.

I have a photo of the house. And if you look at this photo here (referring to slide), it includes the boarding house would be on your right and the proposed location on your left.

The applicant has indicated that this facility will serve no more than 15 clients. The clients will have to meet criteria for income and age that is set by the State of Virginia and Medicaid. And at full capacity, this type of use would require three to four employees which is required by the State.

If the requested zoning is granted, the applicant will need to file for a variance to correct deficiencies in the front and side yards because of the R-5 District. Parking for this use is based on the amount of office or administrative space that is provided. The applicant has indicated that there will be very minimal office space, which will probably just consist of one small room within the structure. At this time the exact amount of space is not known. Staff is confident that the required parking will not exceed four spaces.

But, we did come up with an issue in the staff report that we felt there should be some parking provided. The applicant has amended their proffers which I have to hand out to you now to include language that says there will be three parking spaces provided on the site.

Overall, I have gotten a number of calls; approximately 20, in glowing support of Ms. Anna Pitt and the actual work that she does at the existing, I will call it a "boarding house" which is really an assisted living facility. So, they've all been in support of this request.

We feel like the care of the elderly in this residential subdivision would not have adverse impact on the present character of this neighborhood. Therefore, we recommend approval of this request. And, I'll take any questions that you may have.

Mrs. O'Bannon - I just have one I'd like to ask you. Is "adult day care" mentioned anywhere else in the Code or anywhere in the Code?

Mr. Householder - It is mentioned in B-1.

Mrs. O'Bannon - B-1?

Mr. Householder - Yes.

Mrs. O'Bannon - So it has to be B-1? As you know, we're looking into reviewing much, if not all the Code, is what I'd like to see because this is the type of service that I think is something that more and more people are looking for an adult day care.

Mr. Householder - Yes. I think it is something in the future we'll see a lot more of.

Mrs. O'Bannon - I think we're reviewing A-1 right now?

Mr. Marlles - And "Institutional" too.

Mrs. O'Bannon - Institutional?

Ms. Dwyer - Group homes are allowed in neighborhoods without any particular change in zoning. What's the difference between a group home and this?

Mr. Householder - Well, this is the adult day care.

Ms. Dwyer - Right. So, they're just there during the day.

Mr. Householder - They're not living there. The facility next to it, which we rezoned as a boarding house, could probably be considered a group home and it may not have required rezoning.

Ms. Dwyer - I ask just as a practical matter for zoning purposes, I'm wondering what difference it really makes whether its an adult day care or whether it's a group home taking care of multiple people 24 hours a day. I mean, it would seem to me, that would have, more, if anything, an impact on a neighborhood than the day care.

Mr. Householder - We talked about that, as staff, and went back and forth. When you're working with a protected class, which the elderly would be, would it really require rezoning? Could this fall within the group home realm? And we decided that, because it was most like a child care center, which was mentioned in R-5, that it consists of dropping someone off in the morning and picking them up. That was the difference.

Ms. Dwyer - I think I would like to reiterate what Mrs. O'Bannon said that this sounds like an area of not just adult day care. But looking at the whole spectrum of elderly care that we should address specifically in our Code, so that we're not squeezing it into classification that it doesn't particularly fit.

Mr. Marlles - Staff agrees.

Mrs. O'Bannon - Does this need to be brought up before the Board?

Mr. Marlles - Mrs. O'Bannon, I'm not sure it needs to be brought up before the Board.

Mrs. O'Bannon - Can it be recommended by the Planning Commission?

Mr. Marlles - It's certainly one of those items on a list of items that we need to look at in the current zoning ordinance. We are, as you know, in the process of updating the Land Use Plan. I think there's a natural progression there that we do need a major update to the Ordinance, following the update to the Land Use Plan. But, if there's a need to do it sooner, we can certainly do that.

Mrs. O'Bannon - Can you make a note of that?

Mr. Marlles - I'm doing it right now. Yes ma'am.

Ms. Dwyer - You mentioned several things in the staff report that the applicant had agreed to do such as put a cap on the number of clients, limit the hours of operation, and have a security system. I don't see those in the proffers. Is there a reason for that?

Mr. Householder - The reason was, in speaking with the applicant, was that the State was already requiring those things as part of their allowing them to do that use. So, we felt confident that, if they were required by the State to do it, following their guidelines, that it wasn't necessary.

Mrs. Quesinberry - That answered some of my questions. I had just two additional things I was concerned about, given the nature of this neighborhood, and the residential look of this neighborhood. And, one was, trash screening to make sure that we continued to have a residential look and feel here. I just made some assumption that the nature of the operation inside of this home now would generate a lot more than just a family living there. And, I would assume the applicant would need either larger containers or maybe a dumpster or something that would require some type of screening.

Mr. Archer - Good point.

Mr. Householder - I did discuss that with the applicant yesterday. And she agreed not in proffer form, but I think she's willing to proffer that she would screen it. Currently, at the house next door, they're using just your standard BFI oversize trash can to serve the residence in that facility. So, I don't think they would need anything more than a standard trash can, but they would need multiple ones that would need to be screened. So, I would agree.

Mrs. Quesinberry - That kind of occurred to me, too. I mean, most of us have those 90 gallon things we roll out to the curb, but we don't have 20 of them somewhere in our yard.

Mr. Householder - She said they use seven or eight next door. I would think four probably would suffice for this type of use.

Mrs. Quesinberry - As long as they're willing to address that, and they can do it before the Board, it would be fine with me. I want to make sure we don't end up with, you know, a whole field of trash cans. And I was also just a little bit concerned. In the staff report you talked about they're not planning to make any structural changes, but I would like to see something addressed. And I'm not sure how it would be worded, but I'm sure you can do your magic before the Board as well. But something that would assure that this structure maintains the residential look of the neighborhood, or be in conformance with the residential look of the neighborhood. I know you can wordsmith that, but I really would like to see that so that it doesn't turn into a more of a commercial looking type building.

Mr. Householder - Okay.

Mr. Vanarsdall - Did you hear from any of the neighbors at all?

Mr. Householder - I talked to many, many people. And I would think most of them were people whose parents or relatives were served by the boarding house. And they were calling in support of the fact that she does a great job and she runs an excellent business. And they were complimenting her on her business.

As far as residents, I didn't get addresses from everyone that called, so I wasn't sure who lived where, so I can't say for sure. But I didn't hear from anyone in opposition.

Mr. Vanarsdall - Did you hear from anybody Mrs. Quesinberry?

Mrs. Quesinberry - No. I didn't. And it really is a business that's needed.

Mr. Vanarsdall - Do you want to hear from the applicant?

Mrs. Quesinberry - I just wanted to make sure we kept the look.

Mrs. O'Bannon - And that's a question I have real quick. If you say its mentioned first in B-1, is it required for whatever reason, even in the "R" zoning to have ADA requirements?

Mr. Householder - And the applicant has met with our Building Inspectors. They've gone through the facility and given her an idea of what she needs to do. She does need to build a ramp.

Mrs. O'Bannon - Because the ADA stuff, obviously, in many residential neighborhoods. I have three houses in my neighborhood that have ramps out front. So, I mean, its not unheard of to make it less residential. I am just saying she has looked into that. That was one of the concerns I have in setting out certain zoning classifications is safety issues and things like that.

Ms. Dwyer - Is this owned by the same person who owns the facility next door?

Mr. Householder - Yes. She's here this evening.

Mr. Vanarsdall - Do you want to hear from the applicant?

Mrs. Quesinberry - I don't particularly need to hear from the applicant, but would any other of the Commission members like to? Okay. I'm ready for a motion.

Mr. Vanarsdall - Thank you, Mr. Householder.

Mrs. Quesinberry - Mr. Chairman, I'd like to recommend approval to the Board C-65C-00 Anna R. Pitt with the proffers that were delivered to us tonight and also with the understanding that the applicant will address the trash screening issue and trying to maintain the residential look of the building prior to the Board.

Ms. Dwyer - Mrs. Quesinberry, you might need to waive time limits.

Mrs. Quesinberry - Do we need to waive time limits? No, we don't. She got them in on time.

Ms. Dwyer - Okay.

Mr. Vanarsdall - 9/11.

Ms. Dwyer seconded the motion.

Mrs. Quesinberry - I thought you had a question.

Mr. Vanarsdall - No. Go ahead.

Mrs. Quesinberry - You have a second.

Mr. Archer - I'll second it. Did you get it already?

Mr. Taylor - It's already seconded.

Mr. Vanarsdall - Do you have a question now?

Mrs. Quesinberry - No.

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

Mrs. Quesinberry - No.

REASON: Acting on a motion by Mrs. Quesinberry, seconded by Ms. Dwyer, the Planning Commission voted 5-0, (one abstention) to recommend that the Board of Supervisors **grant** the request because it would not be expected to adversely affect the pattern of zoning and land use in the area; and it would provide for appropriate development.

Mr. Vanarsdall - All right, Mr. Marlles.

Mr. Marlles - The next case is in the Fairfield District. It was deferred from the August 10, 2000 Meeting.

Deferred from the August 10, 2000 Meeting:

C-29C-00 Roy B. Amason for Virginia Center, L. L. C.: Request to amend proffered conditions accepted with Rezoning Case C-38C-97, (zoned R-6C) on Parcel 44-A-1, containing 8.416 acres, located on the north line of Virginia Center Parkway, approximately 570 feet east of its intersection with Carriage Homes Way and 360 feet west of its intersection with Carriage Point Lane. The amendment would allow the development of 60 townhouse units instead of a 160 unit assisted care facility. The Land Use Plan recommends Office.

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

Mr. Vanarsdall - Any one in the audience in opposition to this case? All right. Mr. Householder again.

Mr. Householder - The subject request would amend and add to the proffers accepted with Rezoning Case C-38C-97 to allow for residential townhouse development. The subject property is currently zoned R-6. But, the existing proffers limit the property to an assisted care facility with a maximum density of 160 units.

This property was originally rezoned to R-6 in May of 1996 as a part of a much larger rezoning case, C-21C-96. This case totaled over 62 acres, and the property was rezoned to multi-family and office districts, in order to permit construction of a unified planned residential community.

In July of 1997, Case C-38C-97 amended 8.4 acres of the area with the red dot on the map (referring to slide), to increase the density of the assisted care facility by 10 units – from 150 to 160.

To the south and east of the subject property, the land is zoned A-1, as you can see on the map, and to the north and west, its zoned C-1. This aerial (referring to slide) gives you an idea of some of the surrounding land uses. You can see a golf course to the north and west and the north is woods. And these cleared areas are now developed. This aerial was taken in 1998.

In the past few years, there have been a variety of residential developments constructed near the subject property. These developments include the Links Apartments, the Cross Point Golf Villas, the Cross Point Fairway Homes, and the Cross Point Carriage Homes.

The primary issue of this amended proffer is the change from assisted care to residential townhouse. The original concept for this proposal submitted was a planned community with a variety of housing styles, which included an assisted living component, and a mix of owner and rental units.

The applicant has indicated that they are not able to market the assisted living concept as well as they anticipated. And, therefore, they feel that townhouses would be more appropriate, given the lack of interest in developing an assisted living facility at this site.

Staff feels that this assisted living component of the original proposal was a very strong one, and it would provide diversification for the community as a whole. However, the additional townhouses developed at this location we feel are reasonable, and would not greatly detract from the planned community goals.

Originally, in this process in April, the applicant had proffered 60 townhouse units and an exhibit that matched the existing Cross Pointe Homes. They have now amended their request to and proffered to match this rendering (referring to slide), and they have reduced their overall density to 52 townhomes which is a density of 6.2 acres overall, and proffered this rendering.

The proffers that I handed out to you, tonight, are the original C-38C proffers, which were not included in the staff report just for reference. The applicant has also proffered a layout. It's a larger building than the original, and this layout depicts how it would look, and this has been proffered.

Since the time of the staff report, staff has not gotten the chance to meet with the applicant, but we have come up with an additional proffer that we'd like to see in this case. And that is it gets to the road construction standards, which have been talked about greatly as of late. Once we have an opportunity to discuss this with the applicant, this could be addressed before the Board of Supervisors meeting.

I've had many phone conversations with members of the surrounding community. It's been a mixed bag of people for and against this proposal. We do have four letters on file; three opposed to the request and one in favor.

Overall, staff feels the proposed change from assisted care units to townhomes is reasonable because the proffered density and exhibits will help ensure quality development, and we recommend approval of this request. I'd be glad to take any questions you may have.

Mr. Vanarsdall - Any questions of Mr. Householder by Commission members? Mr. Marlles, don't you think we should explain the time limit to them?

Mr. Marlles - Yes sir.

Mr. Vanarsdall - To every one.

Mr. Marlles - Ladies and gentlemen, it is the policy of the Commission, when there is opposition on a rezoning case, to provide 10 minutes to the applicant to present the application, and 10 minutes to the opponents of the case. In the case of the applicant, he may want to reserve

some portion of his 10 minutes for rebuttal of the opposition. Time that is spent answering questions from the Commission members is not considered as part of that 10 minutes either for the applicant or for the opponents. Often, for the opponents, if there is a large number of people in opposition to a particular case, its probably better use of the time to try to designate some spokesperson or spokespersons to present the opposing views. You don't have to do that, but it has worked out to provide better use of the time. Mr. Chairman, I think that summarizes the policy of the Commission.

Mr. Vanarsdall - Very nicely. Would the applicant come down, please?

Mr. Archer - I don't think he heard you, Mr. Chairman.

Mr. Vanarsdall - Mr. Amason. I thought my mike was off.

Mr. Roy Amason - I am Roy Amason, the developer. I would like to defer most of my time to after the people have spoken. I think staff presented the case pretty much as it is. They mentioned the proffer be added, we would bring the roads to County standards. We've done that in all the other roads in that community. We have no objection to that at all. It just wasn't discussed, I think it is what it boiled down to. So, that will not be a problem between here and the Board of Supervisors.

I have met with the residents on this case, and there are mixed opinions on it at this stage of the game because of the changes that we made because we went to townhomes with garages and we reduced the density. All I can say to you is, I understand the concerns of people who will speak against this change in proffers, and I understand those who don't.

Mr. Archer and I have talked about it many times. It's one of those questions where you are going to have to make a decision. Ours, I will tell you, is not based on anything except of the fact that three years ago when we came in with this proffer, at the same time, and right after a lot of assisted care facilities came before this Board. And they all ran and they all built around Richmond mainly in the west end. And we've had six companies look at this site. All of them have come back with the same result is that there are too many right now in the Richmond area—too many beds, and that economically, this area doesn't handle the assisted care facility.

I think that's mainly because of all of the C-1 that is around this property because we back up to the Chickahominy swamp. So, when they do their studies, it skews the number of residents and the number of people that will be coming to an assisted care facility. It's crazy, but that's seems to be the way that is.

So, we've had literally six companies come in, do studies. And six companies came in and said, "The studies show us we can't put an assisted care facility here." So, we came up with, what we thought, was a reasonable alternative to try to listen to what the neighbors wanted even though we kept hearing from them that they did not want us to change it. We tried to listen to what would be an alternative is what we presented tonight. So, with that, I'll just have to let you make the best decision you can. Thank you.

Mr. Vanarsdall - Any questions of Mr. Amason?

Mr. Archer - Mr. Amason, would you just briefly explain, for the Commission, the changes that you made since the original townhouse proposal and the proposal that you have tonight.

Mr. Amason - Well, what we did mainly was, we reduced the density, Number 1. And, we, instead of building the same townhomes that we'd already built in the Golf Villas at the entrance of the subdivision, we have made another change in the subdivision, as a whole, from the beginning, in that we built, if my memory is right, townhomes in the front of the subdivision. And then there was a B-2 property that we own right next to it, and we came in, requested that be changed for 21 townhomes, which are, we are developing land. Quite frankly, well, I can't say all, about 90 percent of those units are under contract right now. We haven't even started building the unit yet.

But, we, in talking to the neighbors, they did not like the idea of having more of those townhomes in the neighborhood. So, we came back and we took the lots, reduced the density, made the townhome lots bigger, added garages, put bedrooms on the first floor. So, we've got a different type of townhome now. The townhome that we are proposing is similar to the townhomes that we are building, if I could see the map here (referring to slide), to the right, as you're looking at your screen. They are R-5C in the back which we call "carriage homes."

They are similar in that, those units have two car garages and bedrooms on the first floor. These have one-car garages and bedrooms on the first floor. These are 28-foot wide units, and those in the rear are 40-foot wide units. So, they're similar. They're the same kind of animal, but they're just not the same unit.

But we have made that change. Quite frankly, I think some of the concern is the mix. Some of the people we're looking forward to having an assisted care facility in their neighborhood. So was I. At the same time, one of the changes that we have made, is we have left a lot of open area in this project. We've increased the parking, because of our experience with the other golf villas. If you'll note, the parking is more than you require; considerably more, and the open area is considerable on this project.

We feel like, as opposed to having a large building, with a large parking lot for 160 units, quite frankly, that these units will blend more in with the woods, etc., that we've got there. A 160-unit care facility will be approximately a little more than half of the size of our apartment complex in the entrance of the project. We've built a 15-acre site up there with 288 units on it. So, on an 8-acre site with 160 units on it, its going to make an impact back there I think much stronger than this would. But, there are going to be concerns about waste. So, I think, did I answer your question, the changes that we made?

Mr. Archer - I wanted to make sure everybody else understood what your changes were. Let me ask you one more thing before you sit down, and maybe you haven't thought about this yet. What would the assisted living center have looked like in terms of how the buildings would be? Would there be more than one building? If so, how many?

Mr. Amason - That really would depend on the user. What we did, we came in for zoning. Staff requested of us we at least show something on the property to get an idea. We went over to Manorhouse and Bellgrade in Chesterfield and a friend of mine, Doug Woolfolk was building that and lent me the footprint. I literally placed it on the property to see how it would fit. That particular unit, though, was 104 units, and we kind of tried to blow it up.

Mr. Archer - One building?

Mr. Amason - One building. That's mainly what you see with assisted care, because they don't want people walking outside. Everything's inside; the dining rooms, etc. So, you have one building, you have one or more large parking lots, you know, around the building.

Ms. Dwyer - Mr. Amason, you mentioned that your parking exceeded the requirements. On Exhibit B it says what's required and what's provided is the same.

Mr. Amason - Maybe I'm mistaken. I thought we had more than what's required. I'm sorry. I don't have it up here. Let me get the map. You are correct. It was the one we did before that we had that. The reason this one isn't is because we put the garages in. You're right. I'm sorry. When we had the units that did not have garages, we had more parking spaces than were required. When we put these units on and they have garages, we had the outdoor spaces that are required, plus we had a garage. That was the confusion. Sorry.

Mr. Mike Doczi - We have three per unit, counting garages.

Mr. Amason - Henrico's staff does not count a garage as a parking space. So, that's the confusion. We count it as three parking spaces. They count it as two. We have two outside the house and one. But, I understand why. If you put apples in your garage, rather than a car, its not a parking space.

Ms. Dwyer - Exhibit A shows a driveway. Is that going to be provided in addition to the parking?

Mr. Amason - Yes. In addition to the parking.

Ms. Dwyer - Because they all have garages?

Mr. Amason - That's correct.

Mr. Vanarsdall - Any other questions for Mr. Amason? If not, thank you.

Mr. Amason - Did I save time for afterwards?

Mr. Marlles - Yes.

Mr. Vanarsdall - How much time do you want for rebuttal?

Mr. Marlles - You have 7 minutes and 40 seconds. So, you have plenty of time.

Mr. Amason - Thank you.

Mr. Vanarsdall - All right. Now, is the time for the opposition and whoever wants to be first, please come down. Please state your name.

Mr. Chris Tetzlaff - Hello, my name is Chris Tetzlaff. I am a resident of Cross Point. And I have a question to begin with before I begin. I have a packet, actually, for each member of the Commission, and a letter is attached to the front. And, if I could, in the effort of saving time, not read the letter to you. You may read it. I ask you to read it. And if you have any questions of it, it'll will just help us expedite time.

Mr. Taylor - Bring them right over here and we'll pass them down for you.

Mr. Tetzlaff - I trust you.

Mr. Marlles - Sir, could you give us your name again. I missed it when you stated it.

Mr. Tetzlaff - Christopher Tetzlaff.

Mr. Marlles - Okay.

Mr. Tetzlaff - Let me explain a little bit. What I've given you there is my personal comments. On Page 2 for my personal comments is a listing of Cross Point on parable changes that we've encountered over the past two years that I've been involved in the community. And, of course, many of those are more of the community-related, not the Planning Commission.

On Page 3, I'd definitely like to call your attention to the Cross Pointe history, the diversification. It is stated that this change will not greatly diversify, greatly detract from diversification of the community.

If you look at the original master plan, and what assets that it had at that time to the current developmental plan, we have lost the commercial retail service businesses were not able to be developed. Instead, we now have 57 townhomes instead of 36.

Where we're going today, we're hoping to have the assisted living also. But, with the proposed developmental changes, that will change our community into primarily a flagship townhouse community. That is not what we bought into. That is not what we were told we would have, or what the development would be when we came in when we invested our money. People are investing up to sums of over \$300,000 in homes there and they did not intend to invest in a community that was going to be primarily a flagship of townhomes.

I lived in Stonewall Manor for 10 years. We had much diversification of townhomes and I enjoyed the neighborhood. But the diversification of townhomes does nothing but still call it a townhouse community. And that's what I greatly oppose here.

The second part of the package that I gave you is 52 signatures of people who were not able to attend tonight for various reasons, but are asking you, as their Planning Commission, to deny this request. There's 52 people that are putting their trust into me and to you to deny this request.

And, thirdly, the third part of this package I think is very important. And that is what the developer advertised. The developer advertises to the world today, the whole world, that this community is not going to change.

If I bring your attention to the first paragraph of Page 1 of this Cross Pointe web site page, as it states: "As a resident of Cross Pointe, you do not have to worry about management and ownership changing and your property values fluctuating. A home investment in Cross Pointe is one of quality and confidence for years to come. Roy B. Amason and John P. Wright, the Developers of Cross Pointe thought of everything." That's what they've told us. That's what they promised us. We're asking him to hold his promise and we would appreciate him doing so.

My last point is that you might be aware of Sunrise Assisted Living. They recently built here in Richmond. They are open for business now. I'd say, I do not know, but they probably came into town at least two years ago; 1998 and started shopping around. Cross Pointe has existed since 1995. I spoke to a Shawn Ambrose, and a Brian Williams who are their project managers of development. They had not heard of Cross Pointe. I find it very hard to believe that they had not heard of Cross Pointe. They also told me that 8.4 acres is too much land for them to build an assisted living center on. They do not require that much.

So, there are some things that are questionable in regards to how well this assisted living search has gone on. We know that the growing population, the average age of the standard American is growing longer and longer, and we need assisted living. I can't think of a more serene area than to have assisted living by a golf course versus by Parham Road and Three Chopt.

If you all have any questions of me, I'd be happy to answer them at this time.

Mr. Vanarsdall - Any questions of Mr. Tetzlaff by Commission members?

Mr. Archer - Mr. Tetzlaff, I just want to raise one point in Mr. Amason's letter. He does state in his letter about changes. You don't have to worry about management and ownership changing, but he didn't mention anything else changing. I just thought I'd clarify that a little bit in case it wasn't clear to everyone.

Mr. Tetzlaff - That is true. He says, "management and ownership changes." I certainly didn't expect that, but it also gives the impression that you do not expect to have a change in the community; and a home investment in Cross Pointe is one of quality and confidence for years to come. So, I have lived in a townhouse community and the growth and the confidence of your investment in a townhouse does not exist. The townhouse is giving you a tax benefit.

The reason I moved to this community is one for equity appreciation, and more and townhouses. FAs you see a diversification change from 36 townhomes to 109 townhomes, that is greatly risking,

it is greatly risking my investment and the others who are putting very, very nice homes and very, very nice townhouses there also.

Mr. Archer - Okay. I understand. I just wanted to clarify that statement. I wasn't being argumentative.

Mr. Tetzlaff - I understand. I just took the opportunity to answer your question at great length.

Mr. Vanarsdall - Thank you.

Mr. Tetzlaff - You're welcome. Thank you all.

Mr. Vanarsdall - Anyone else?

Mr. Bob Shuffleton - I am a resident of Cross Pointe. I believe each of you have in your package a letter from me. And, briefly, I'm going to summarize this letter. I'm opposed to this change that Roy Amason wants to make because, when we bought into this community, we bought into a property that we felt was going to have assisted living. As a late friend of mine said that he bought a home in an area similar to Cross Pointe because when he got to the point where he could no longer live on his own and needed assistance, they move him on down to the assisted living area and from there they could carry him out on a slab. And, that's, basically, what we had in mind.

We as residents of the Cross Pointe area, Mr. Amason said that he was going to fix the ditch that runs across the road at Virginia Center Parkway. He just did that this week. And he has never kept the grounds cut in the unsold property. And if he doesn't do this, how can we anticipate that he's going to follow through and do what he says he's going to do?

He initially said that he was going to sell these homes between \$170,000 and \$190,000. Last time I talked to Roy, they were down to \$160,000. Now, members of the Planning Commission, let me ask you this? How would you like to be in a position where your home is devalued because of these townhouses at a lower rate than what your home is at? In my opinion we cannot believe what Mr. Amason is telling us. And I feel very, very strongly that we need to keep this area as proposed.

You know, I don't know whether you are aware of it or not. The realtors are having a great deal of trouble selling the current carriage houses, or, if you will, townhouses. How in the world does he anticipate selling additional townhouses if he can't sell the lots with the ones that he's got now? Thank you.

Mr. Vanarsdall - Any questions? Thank you.

Mr. Shuffleton - Questions?

Mr. Vanarsdall - No sir. Thank you. Do we have any more time?

Mr. Marlles - Yes sir. Two minutes and 50 seconds.

Mr. Andy Walters - My comments can be quite brief. I hope my informal dress doesn't offend of you dignified people.

I'm one of the first residents in the Cross Pointe Fairway Homes. I've been there for two years.

Mr. Vanarsdall - Could you state your name for us, please?

Mr. Walters - Andy Walters.

Mr. Vanarsdall - Okay. Thank you, Mr. Walters.

Mr. Walters - We're one of the first residents in the Cross Pointe Fairway Homes. We've been there for two years. And we located there after being told in elaborate detail what the community was going to be; what was to be included. It conveyed a quality of character for that community that appealed to us. So, we chose to move after 40 years in Bon Air. We sized down into a community that was really appealing. It had quality. This information was being conveyed from Roy Amason through the agents to us and to the other residents.

Since then, a number of things have not been done that were promised. A number of things have been done that shouldn't have been done. We were told, for instance, that there would be only side entry garages in the Fairway Homes. A number of those are under construction and a couple of them of are completed now with front entry garages. And this was a specific promise made to us as a part of the whole scene that this was going to be a really nice quality community.

Mr. Amason is asking for a change that, in effect, permits him to renege on a number of promises made to a number of trusting people. I ask that this request be denied.

Mr. Vanarsdall - Any questions for Mr. Walters? Thank you, Mr. Walters. Any one else? How much time do we have?

Mr. Marlles - Two minutes.

Mr. Vanarsdall - Two minutes. Two minutes time.

Mr. Alford Wells - Thank you for this opportunity. My name is Alford Wells. I am purchasing a home in the R-5C Carriage Pointe townhouses that Mr. Walters mentioned and Mr. Tetzlaff mentioned as not having been completed. They are being completed very, very slowly. And this is one of the reasons why we need to depart from the planned unit development that we originally had proposed for this area to build even more townhouses when you still have a lot of townhouses left to go. I guess a part of my fear is that, since I am paying approximately \$200,000 for the house that I'm purchasing, will the new townhouses be developed at a significantly lower price, and will Mr. Amason and his chosen builders choose to build on this lot first and leave me out there with four, or five, six, seven, eight others with nothing but weeds behind us and undeveloped property?

I'll be very brief about this. I sent a letter to Mr. Householder and to Mr. Archer. And in the points in my letter that have not come out I think in earlier comments are, I think that this is definitely going to increase the amount of traffic on this road. I can't believe that you're not going to have significantly more traffic with 52 townhouses than you would have with an assisted living facility where most of the people are going to have maybe a visitor on the weekend and you're going to have one food truck drive up and some other services. But, significantly less traffic up and down this one-way in, one-way out.

Mr. Archer, remember over at Chickahominy Bluffs where I live now. That was a big point for that area. You're going to increase traffic on a one-way in, one-way out development, and just to overthrow, basically, what the Planning Commission planned as a planned unit development four or five years ago. You're winding up with nothing but townhouses if this request is approved. And for these reasons I request that you deny this request for rezoning. Thank you. Are there questions?

Mr. Vanarsdall - Any questions? Thank you very much. We still have some time, don't we, Mr. Marlles?

Mr. Marlles - No sir. We're out of time.

Mr. Vanarsdall - Out of time, all right. Mr. Amason, time for rebuttal.

Mr. Amason - I do not have a whole lot to add. The residents and I have met. I do respect their opinions. I am aware of some of their concerns. I will tell you this. Traffic at Henrico County has, in recommending the approval of this change of proffer, has looked at the traffic and there is not a significant change in traffic. In fact, there is not an increase in traffic from the number of units we're proposing and the 160 assisted care. They have their own way of coming up with their numbers. But, most of time I argue with them. This time, I just sit back and say, "Okay." I will say this before you do make your comments. This has been a situation where the developer and the community has met "eye to eye" on numerous occasions and talked about this. It is not a hostile situation. It's a situation where I'm making a request, and that's it. If you turn it down, we're going ahead and see if we can't find another assisted care user like we've been doing. I think that's about it, actually, unless Mike's got something.

Mr. Mike Doczi - I was just told there was someone here to speak in favor of the project.

Mr. Amason - Yes. I guess you didn't ask for anybody who wanted to speak in favor, did you?

Ms. Dwyer - That comes out of your time, I think.

Mr. Amason - Oh, it does. Then, I've got somebody here who wants to speak in favor.

Mr. Marlles - You have plenty of time.

Mr. Troy Trimble - Good evening, ladies and gentlemen, my name is Troy Trimble. I am a resident in Cross Pointe. I'm here, tonight, on Mr. Amason's request to share my point of view concerning the rezoning proposal.

I've talked to a few others in the communities and, usually, when you're for something like this, you're apt to sit at home. And, honestly, I'd be home if I wasn't asked to be here tonight.

I shared my point of view with the Planning Commission staff dated 8/23/2000, after attending a community meeting where Mr. Amason and Mr. Doczi and others unveiled their redesigned structure.

Here's an excerpt from that letter that summarizes my view on this case. "I have lived in the Cross Point Subdivision for approximately two years, and I am an original owner of a Golf Villa townhouse. Like many others in the community, we'd like to see the developers stick to the original plan of an assisted living center on the property in question. However, I do understand the developer's predicament of not being able to find a taker for that project.

In my opinion, I feel the redesigned townhouses are a workable compromise between the residents and the developer. I originally felt the first design would have greatly detracted from the diversity of home styles in the Cross Pointe Subdivision. With the redesign, I now feel that this concern has been answered to my satisfaction.

I believe the redesigned townhouses will now add to the diversity of the community instead of detracting from it. In short, I will not oppose the rezoning of this property, given the redesign of the plans presented to me.

I can accept either the assisted living center or the redesigned townhouses for this property. However, since writing this letter, I am leaning away from the assisted living center due to the potential of frequent ambulance traffic and the unknown architectural design and footprint of this structure. I thank for your attention in this matter, and I ask you to make the best decision for all parties involved.

Mr. Vanarsdall - Any questions by Commission members? Thank you very much. I believe that brings us to the end, Mr. Archer.

Mr. Archer - I suppose it does, for everybody except me. Mr. Chairman, this case is not easy to make a decision on. It seems like everybody's right.

Mr. Vanarsdall - You're right.

Mr. Archer - Mr. Tutzlaff has certainly done a lot of work, a lot of leg work and has called everybody I think, except the Pope maybe. Well, I'm not sure. Did you?

Mr. Tutzlaff - No.

Mr. Archer - One thing that bothers me about this is that, since Mr. Amason made his redesign of the layout, I'm not certain all of the residents are aware of what the redesign looks

like. But, at the same time, you know, we have a petition here, and I just got through counting. I think we've got maybe 30 some houses represented. And, also, I've had phone calls and some letters from people who both support it and have been opposed to this development. In the last two or three days, I've probably had about two-thirds or more who were in favor or, as being opposed to it, although the number wasn't that large.

But, I guess the overriding factor here seems to be one, this is the one I hear the most, is that people feel like the original plan that was filed was one that they relied on when they bought their houses. And its hard to ignore that fact, and I guess they're entitled to feel that has to be carried out.

The staff supports the case. It's based on the fact that they don't feel that this would be that much of a change from what the assisted living was. I'm a little bit concerned of the fact if we got an assisted living component we don't really know what it would look like because we don't know who would be in it. But, at the same time, Mr. Amason, do you want to meet again?

Mr. Amason - (Comments unintelligible-not at microphone).

Mr. Archer - You have between now and time for the Board. Now, if there are some people who are not opposed to this, but in this particular case with all the folks that are in opposition, and relying on the fact that they relied on information they think was a little bit disingenuous if you change horses in the middle of the stream, then I don't have any choice in this matter but to recommend to the Board that we deny it.

Ms. Dwyer seconded the motion.

Mr. Vanarsdall - Motion made by Mr. Archer, seconded by Ms. Dwyer All those in favor say aye—all those opposed by saying nay. The vote is 5-0 (Mrs. O'Bannon abstained). Thank you. Thank everybody for coming, and thank those who participated.

REASON: Acting on a motion by Mr. Archer, seconded by Ms. Dwyer, the Planning Commission voted 5-0, (one abstention) to recommend that the Board of Supervisors **deny** the request because the applicant failed to meet his burden to show that the requested changes are in the best interests of the welfare and future of the community; and it would have a detrimental impact on the adjoining residential neighborhood.

Mr. Vanarsdall - Mr. Marlles, I believe we should take the 8:00 o'clock report now.

Mr. Marlles - The Via report.

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

Ms. Dwyer - It was recommended for denial to the Board of Supervisors. The Board will make the final decision.

Mr. Vanarsdall - That will come up 30 days from now, Mr. Marlles?

Mr. Marlles - That public hearing for the Board of Supervisors will be on October 10th. The Planning Commission makes a recommendation to the Board. The Board makes the final decision.

Person from Audience - Thank you.

Mr. Vanarsdall - Thank you. Mrs. Via.

Mrs. Via - Thank you, Mr. Chairman, members of the Planning Commission. You do have two items for the 8:00 o'clock p.m. agenda that the applicant is requesting a deferral. This is on Page 3 of your agenda. The first item is Case C-49C-00.

Deferred from the July 13, 2000 Meeting:

C-49C-00 James W. Theobald for Tascon Group, Inc.: Request to amend proffered conditions accepted with rezoning case C-45C-99, on Parcels 58-A-3, 6 and 6A and part of Parcels 58-A-4 and 5, containing approximately 38.3 acres, located on the north line of Three Chopt Road at its intersection with Pell Street. The amendment would allow a condominium development in place of a detached single family development and assisted living facility. The Land Use Plan recommends Urban Residential, 3.4 to 6.8 units per acre, and Environmental Protection Area.

The applicant has requested a deferral to March 15, 2001.

Mr. Vanarsdall - This is the first one we've had into another year...Any one in the audience in opposition to the deferment of C-49C-00 to March of next year? All right. No opposition. Mr. Taylor.

Mr. Taylor - Mr. Chairman, I move that Case C-49C-00 be deferred to March 15, 2001 at the request of the applicant.

Mrs. Quesinberry seconded the motion.

Mr. Marlles - Mr. Taylor, that meeting is actually on March 8th.

Mr. Taylor - Under the new calendar, I will revise the date and have the deferral requested to March 8, 2001.

Mr. Vanarsdall - I'm glad you caught that, Mr. Silber.

Mr. Taylor - March 8, 2001?

Mr. Marlles - Yes sir.

Mr. Taylor - Thank you.

Mrs. Quesinberry - There was a second.

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

Mrs. Via - The second case on the screen this evening is Case C-60C-00 also on Page 3 of your agenda.

Deferred from the August 10, 2000 Meeting:

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

The applicant on this case has requested a deferral to October 12, 2000.

Mr. Vanarsdall - That's C-60C-00?
Ms. Dwyer - Yes.

Mrs. Via - C-60C-00.

Mr. Vanarsdall - All right. Any one in the audience in opposition to this case. This is Case C-60C-00 MCI? No opposition. Mr. Taylor.

Mr. Taylor - Mr. Chairman, I move Case C-60C-00 be deferred until October 12, 2000 at the request of the applicant.

Ms. Dwyer seconded the motion.

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

Mrs. Via - That concludes the agenda for this evening.

Mr. Taylor - We have one more case P-12-00.

Mrs. Via - They've asked to come to the podium at the time their case is to be heard, unless we wanted to call them out of order.

Mr. Taylor - That's fine.

Mr. Vanarsdall - That's fine. All right, Mr. Secretary.

Mr. Marles - The next case is C-58C-00.

Deferred from the August 10, 2000 Meeting:

C-58C-00 Garry Gallagher for Edge Development, L. L. C.: Request to conditionally rezone from R-2A One Family Residence District to M-1C Light Industrial District (Conditional), Parcels 33-A-53 and 54, containing 3.652 acres, located on the north line of Virginia Center Parkway approximately 553 feet east of its intersection with Brook Road (U. S. Route 1). Commercial development is proposed. The use will be controlled by zoning ordinance regulations and proffered conditions. The Land Use Plan recommends Office/Service.

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

Mr. Vanarsdall - Good evening, Mr. Bittner, again.

Mr. Bittner - Thank you, Mr. Vanarsdall. The applicant intends on combining this site with the adjacent property to the west zoned M-1 and M-1C. The 2010 plan recommends Office/Service for this site, which is inconsistent with the planned commercial development. Because of this inconsistency, staff cannot support this proposal. Although commercial development cannot be prevented on the adjacent property fronting on Brook Road, staff would prefer that this site develop as offices or Office/Service type uses to maintain consistency with the 2010 Plan as well as with the adjacent property to the east which is Technology Park Center, which is in this area right here (referring to slide). The preferred land development pattern is to bring office-type uses forward toward Brook Road instead of expanding retail uses eastward along Virginia Center Parkway.

The proffers contain several positive aspects. However, the fundamental issue of retail versus Office/Service remains. Actually, I'd like to point out, Jo Ann if you could hand those out. We've got some new proffers in just tonight. So, you would need to waive the time limit in order to accept those, and I will cover what is in those new proffers in just a moment.

But some of the positive aspects of the proffers include, use of the property for B-2 uses only. The prohibition of several negative uses; including gas stations, convenience stores, flea markets, gun shops, and auto parts stores, which was added tonight by the applicant.

Hours of operation for retail uses have been limited to the B-2 standards which is 6:00 a.m. to Midnight. Shoebox parking lot lighting has been proffered. It would also be limited to 20 feet in height.

B-2 signage standards have been proffered as well as adherence to Virginia Center covenants.

Also, the revised proffers we just handed out include the following new items: The revised language for the landscaped buffer along Virginia Center Parkway that addresses the comments in the staff report, a building height limitation of two stories or 40 feet, and a limitation of 10,000 square feet of any single retail use allowed in B-2.

Staff feels that these proffers do enhance this application. However, the proposed commercial development is not consistent with the Office/Service land use designation of this property. The

staff, therefore, cannot support it. Staff would prefer Office or Office/Service-type development consistent with the 2010 Plan and similar to that established at Technology Park. I'd be happy to answer any questions you may have.

Mr. Vanarsdall - Is any one in the audience in opposition to this case? Any opposition? All right, thank you. Any questions for Mr. Bittner by Commission members?

Ms. Dwyer - I assume they're not asking for B-2, because they want it to be standardized zoning for the other parcels that they want to be commercial?

Mr. Bittner - Right. They wanted it to match up with the M-1 next to it, so when we got to the POD stage we would not have any administrative problems of aligning different zonings, so there would be consistent setbacks and buffers and so forth. But, they would limit the uses on this area here (referring to slide) to those only allowed in the B-2 zoning district.

Ms. Dwyer - You could also rezone the M-1's to B-2?

Mr. Bittner - Yes, you could, and we actually suggested that to the applicant, but they chose not to.

Mr. Vanarsdall - Any other questions for Mr. Bittner? Thank you. Hear from the applicant.

Mr. Garry Gallagher, Edge Development - Garry Gallagher, with Edge Development. Mr. Chairman, members of the Board, this property, as mentioned, is a 3.65 acre piece along Virginia Center Parkway. It's sandwiched between existing Virginia Tech and Service Complex and some practically unproffered M-1 zoning that's been in existence for a long time out on Route 1.

We've listened to staff. We've paid attention to the concerns of the neighbors. And in deference to the location, the marketplace, the community at large, the comments of staff and just good sound responsible development, we've put together a plan that we believe incorporates a lot of the concerns of all of those entities.

What's not mentioned and is not proffered, but is, in fact, fact, is that we have incorporated the 11 acres that is zoned M-1 into an overall master development. That will be done by means of deed restrictions and covenants that are in place at Virginia Center already that tie this property to architectural requirements, landscaping requirements, height restrictions, use restrictions, and many other restrictions that aren't detailed in the proffers simply because they'd be redundant at that point.

The proffers, themselves, allow some retail use, yes, but limit it significantly in that it takes out all of the more obnoxious and intense uses. It limits the size and scale of any one user. And from a practical matter, the position of the property on Virginia Center Parkway behind the more intense M-1 zone, but B-2 controlled, and I didn't mention that. We've agreed internally by deed restriction and by development agreement with STI Properties, who developed the whole park, to limit the uses on the front property to B-2 uses, with the exception of one gas station along Route 1.

We've got, and Mark has a copy of this, the property is required to meet all the requirements of a master overlay that STI has placed on the property, called the "STI Properties Design Criteria." And this spells out everything, and the fact that all the buildings are to be primarily brick, four sided. They are to have hip roofs, four sides. It even defines the color of the brick, the color of the roof material. The fact that we can only do 8-foot signs as opposed to B-2 signs which are proffered, we have further over layed all restrictive covenants on ourselves.

Additional landscape buffers and things like the fact that the dumpster pads have to be built in the same material as the buildings. They have to have metal gates as opposed to wood gates. And a myriad of miniscule requirements that make for this property to be a very, very quality oriented endeavor.

We feel the overall impact by combining this property together, the overall impact would mitigate a lot of the concerns of the community and the neighborhood. Some of the items not mentioned were the fact that with this property development, Technology Park Drive is to be widened. There will be a signal at Technology Park Drive, which will become the reliever for the office park funneling traffic from the office park to the new light as opposed to out the back door and down Virginia Tech Parkway, which is where the traffic happens now, much to the chagrin of the neighbors. So, we feel that element mitigates a lot of frustration with regard to traffic.

The zoning on this subject case would be less intense, in terms of trucks than the O/S that is contemplated by the Plan. We're dedicating land, at the present time, to VDOT for widening of Route 1 which is slated to start next spring, which, again, relieves a lot of the traffic problems that are prevalent.

The wall and entry details that are out there today will be taken by the road widening, but it's the intent of SCI Virginia Center to replace the entry features with entry features similar to what is out there now with the Virginia Center called out and some walls, landscaping and pillars to create the gateway that everybody knows and loves and understands.

We feel that by controlling ourselves and planning a well thought out, well designed, well proffered, and architectural harmonious project that we will enhance the neighborhood, as opposed to what might have happened on uncontrolled M-1.

We are effectively down zoning 14 acres of property as opposed to impacting the neighborhood more. So, with that, we would hope that you'd look favorably upon the case, and vote for approval. Thank you.

Mr. Vanarsdall - Do you want to reserve some time for rebuttal.

Mr. Gallagher - Yes sir.

Mr. Vanarsdall - How much?

Mr. Gallagher - Two minutes.

Mr. Vanarsdall - Okay.

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

Mr. Archer - Let me add something, Mr. Chairman. I'd rather hear from the opposition first, if we may, unless somebody else has questions.

Mr. Vanarsdall - All right, thank you.

Mr. Gallagher - We have some people here in favor also that would probably like to speak, whatever time...

Mr. Archer - I think you've gotten...

Mr. Vanarsdall - Whoever wants to speak, come on down.

Mr. Tony DeMartino - My name is Tony DeMartino. I am the Stonewall Glen Homeowner resident. And we've had the opportunity to meet with the developers after the deferral from the last meeting to find out some more about this.

The presentation at our community meeting was largely a part of the overall plan here, not just zoning this once piece, but the overall concept of development on this corner. And, a lot of emphasis was placed on the restrictions that will be in place on the whole concert development rather than just this one land.

Residents had several concerns of the overall development. And, we realize it does extend beyond just this one parcel that is being rezoned. The first, being, there's not many folks that would like to have a service entrance going into the neighborhood as a gateway. That certainly is a part of this overall plan. The unfortunate thing is that the existing zoning would already allow that. While the Comp Plan does not, but the existing zoning does.

And what mitigates it is there is a developer willing to work with STI to develop something that would be less of an impact. If it is going to be a service station, it would be less of an impact. Again, that was probably one of the largest concerns about folks if you tell them that you're going to have a gas station entrance to your subdivision, there weren't very many people that were in favor of that. They realized there could be something far worse, giving the existing zoning.

The second concern, which was also on a grander scale, is all the traffic impact in this area. There has been a large amount of development; homes, a hotel that will soon be opening; recently rezoned business; office spaces on the other side of Virginia Center Parkway; homes further down Virginia Center Parkway. And the largest concern of this was this additional now impact of commercial zoning of commercial traffic at an already dangerous intersection.

We realize that the widening of Route 1 is beyond all of our control, and we're glad to finally hear that it is finally moving forward. So, hopefully, this will reduce that impact.

The third concern that folks had was the visual impact that this actual piece would have from the residential neighborhoods a little further down Virginia Center Parkway. By changing the zoning to what is planned, this could have had an impact on the neighbors as they drive down Virginia Center Parkway.

The proffers controlling building height to two stories or at 40 feet, as well as leaving existing buffers in place that are fairly wide, there was a good mitigating factor from the development plan.

These changes that were proposed in the proffers were received earlier this week and distributed to neighbors with information to contact either the developer or myself serving as a liaison, and we have not received any very specific concerns any different than these.

If there are any neighbors who may have those here, we would certainly like to give them some time to speak for that. I'd be glad to answer any questions, too.

Mr. Vanarsdall - Any questions by Commission members?

Ms. Dwyer - I just want to make sure I understand your position on this. At first, I thought maybe you were in favor of it because of the existing M-1. Is that accurate? It's better than what could be put on the existing M-1.

Mr. Gallagher - Correct.

Ms. Dwyer - Therefore, you were in favor of this.

Mr. Gallagher - Correct.

Ms. Dwyer - I guess my only thought about that is, I understand what you're saying. But, there's no commitment being made tonight regarding that M-1 in terms of binding proffers. The only proffers that are, you know, binding, is the result of the hearing here, tonight, is what's just relating to this specific property that's outlined.

Mr. Gallagher - Yes.

Ms. Dwyer - Not the M-1. So, technically, legally, even though, it may very well happen, and I'm not saying that it wouldn't, but I just want to make sure that we're clear about what...Sometimes we get hung up later on, in technical legal issues. So, I guess that would be my thought. My thought would be, if we're really going to develop this as "B," business property, and the neighbors are going to support it because they understand the problems that could be associated with existing M-1, my thought would be, as a planner would be, to rezone all of this to the standards that they plan to build to. In other words, to encompass all of this M-1, as well as this piece of property, submit the site plan that's before us, as evidence of what's going to be built, proffer that. And then you have uniform zoning that conforms to what the applicant is seeking, but it also guarantees the neighbors that that's what they'll get. Those are my thoughts.

Mr. Gallagher - From the neighbors' perspective, that certainly makes the most sense since the primary concern was what could be on that lot that this is actually being proffered as kind the best case scenario as it exists now. But, certainly, your suggestion would make a lot more sense from our perspective.

Mr. Vanarsdall - All right, thank you.

Mr. Marlles - Mr. Chairman, there are two minutes left. And I know the applicant did want to reserve some time for rebuttal. So, I make you aware of that.

Mr. Vanarsdall - Thank you. Yes sir. Come on down.

Mr. Ron Lowery - Thank you, sir. My name is Ron Lowery. I'm a property owner right immediately in the vicinity where this proposal is. I just want to voice my concerns about my privacy and the ingress and egress of the easement that I come off of Route 1 on.

My home is a residential home, and I've been there for 25 years. And when I purchased the property, the easement going to my house went beyond mine to two larger parcels and a smaller parcel, which was all residential, zoned agricultural at the time.

The easement was pretty much a prescriptive easement. But the original owner, a man named Mr. Chewning when I purchased the property, and the easement was intended for residential use only.

In the last 10 years or so, they developed the office park back behind me. I figure International did a very good job. At one time they tried to use that as a construction easement, and I had to hire an attorney and have it denied that they could use it that way.

This is my drive going to my home. And, from what I understand is being proposed, is up to my house is going to open for like office and use; that wants to use it come in and off of Route 1. Now, my house is going to be stuck back here and I don't feel its right that I have to share the easement with non-residential users. They propose to put office buildings right up against my property line. When Figgie did other construction back behind me, they offered 200 foot building lines and talked to them about protection and things as far as privacy goes. I've never been talked to on this proposal about any privacy whatsoever or what feelings I have. I'm just very concerned about privacy for me and my family and ingress and egress of the easement, if you know which one I'm talking about. It leads right back to the property's concerned.

Mr. Vanarsdall - Mr. Marlles, can you shed some light on that?

Ms. Dwyer - Is it 55?

Mr. Lowery - I guess it's 55 right here (referring to slide). The easement come right on out to Route 1.

Mrs. O'Bannon - According to this map, that's showing that as zoned. What is the zoning on this Parcel 55? That was the question I had.

Ms. Dwyer - R-2A.

Mr. Marlles - It's R-2A.

Mrs. O'Bannon - So, that one parcel there 55, is R-2A?

Mr. Marlles - Yes.

Mrs. O'Bannon - Okay.

Mr. Lowery - They've purchased this whole block all the way around me. My main concern is having to be isolated, like they propose to, where everybody that wants to come in and out of that easement will be allowed to. I don't feel it is right. Like it was potentially put in at the beginning, it was intended for residential use. I can show you in the past, you know, obviously, that's what it was for. There's homes beyond me. They've all been sold over the last 10 or 12 years or more. That's going to put me in a very bad way if I'm trying to dodge other people and people coming across the easement for me just to try to get to my residence.

I don't oppose the construction or rezoning as such, but I've been a resident, tomorrow, will be 50 years of Henrico County. I've been there for 25 or 26 years. I just want privacy for me and my family, especially, on that easement coming and going off of Route 1. I've even had people tell me they could re-route me back into the park, you know, but I don't feel its right. The County should have some concerns as far as I go.

Mr. Marlles - Sir, have you met with the applicant?

Mr. Lowery - We talked about purchasing my property. Terms could not be reached. Other than that, I pretty much feel like I'm being forced to accept all this traffic and everything else and buildings right up against me unless I sell to them. My property wasn't on the market. I've been there a long time, and I intend to be there a long time. I don't oppose their construction. Everything they've done has been great out there from the beginning when they moved into town. As far as their construction and quality goes, I have no problem with it. It's always been first class.

As far as communicating with me, personally, its been just problems for me over the years. They don't come to me, you know, and talk, "What can we do about the easement?" They're just kind of shoving it down my throat. "Either take this, you know, that's it." I feel the County should look on my behalf as long as I've been there.

Mr. Marlles - The Commission understands your concern. We will ask the applicant to address that concern during his rebuttal period.

Mr. Lowery - Thank you. If I was not right directly in the middle of this, I wouldn't be here. Like if I was on the other side of Virginia Center Parkway, whatever. This affects me immediately right where I'm at.

Mr. Marlles - Sure.

Mr. Lowery - They haven't, you know, addressed concerns about my privacy with me.

Mr. Marlles - Yes sir.

Mr. Vanarsdall - All right, thank you very much.

Mr. Archer - Mr. Lowery, before you sit down, Mr. Lowery, you don't intend to sell you property, ever?

Mr. Lowery - No. No. That's not it. What was offered to me, I cannot come close to reproducing it. I'm not in a position to give it to them just because they like it.

Mr. Archer - I understand.

Mr. Lowery - I've been there a long time.

Mr. Marlles - Sir, could I have your name again, please.

Mr. Lowery - Ronald Lowery. Thank you very much for your time.

Mr. Vanarsdall - Thank you very much.

Mr. Marlles - Mr. Chairman, there are still a little over four minutes left for any other citizens who would like to speak in opposition to the case.

Mr. Vanarsdall - Anyone else like to speak? We're glad to have you. If not...

Mr. Bill McCaddin - Mr. Chairman, my name is Bill McCaddin. I live on Harmony Road, what used to be called Woodcliff. We have some concerns. I don't know whether its proper to ask for a deferral. This lady and gentleman here were very thorough in briefing us here about three or four weeks ago. I have no argument with them. It's just their presentation. However, we haven't been able because of the timing of summer vacations and school starting to really query our neighbors as to how they feel about this. I was just wondering if it is possible. I don't know whether its legal. I have not appeared before you before to get another deferral on this for another month or two where we can sit down and try to work these glitches out.

Mr. Vanarsdall - I believe that would be up to Mr. Archer to make that decision.

Mr. Archer - Yeah. And if the applicant is willing, but let's hear a little bit more, first, if we can, sir.

Mr. McCaddin - All right, sir. Now, from me?

Mr. Archer - Well, if you have anything else to say.

Mr. McCaddin - No sir, I do not.

Mr. Archer - I was just talking about...

Mr. McCaddin - I was just asking if we can defer it.

Mr. Vanarsdall - All right, thank you, Mr. McCaddin. Any one else like to speak?
We still have some time. Okay. All right, Mr. Gallagher.

Mr. Gallagher - I'll try to be specific to the points raised. First of all, to Ms. Dwyer's comment, regarding the zoning and the fact that its not proffered. There are, in fact, and I have Ms. Shifflett of SCI Properties who owns a good part of Virginia Center, who has developed the park and controls this property. She could attest to the fact, there are deed restrictions that limit the use of this property to B-2 as I have stated.

Although the zoning does call for M-1, we're willing to be bound by that. As far as I know STI Corporation is not going to let us out of it. So, it is a fact. Although we're not proffering a site plan, and although we're not here before you, tonight, to specifically rezone the 11 acres, we are bound to a design criteria manual which does have a site plan in it, and is a part of your file and is proffered. And, there are, in fact, deed restrictions on the property that control very many elements of this land, as a unit; 14.7 acres in toto.

Ms. Dwyer - Does that mean the neighbors need not be concerned that the balance of this property would be developed for M-1?

Mr. Gallagher - Absolutely. Absolutely. If you have any further questions, we can elaborate.

Secondly, to the easement Mr. Lowery spoke to, I've sat down with Mr. Lowery in his parlor and talked about, and showed him the site plan several months ago before we ever started and filed for this case. Yes, in an attempt to negotiate for his property. We haven't reached terms. And I haven't tried to bulldoze him over. But we've offered him a handsome sum. He's reluctant to do anything with the property. I must add, Mr. Lowery doesn't live in the house. He lives on Ms. Shifflett's property in a garage apartment over the old Haynes garage on the house that fronts on Route 1. And, although, he may intend to move back, he does not live there at present.

The easement also, I must point out, serves all of this property. And Virginia Center has equal easement rights to what Mr. Lowery has, and, the M-1 zoning that's in front enjoys those rights. So, to his point, the easement is in favor of everybody.

To his point about impact in traffic, as you can see in the site plan, we've kept the easement pretty much intact. We have no other choice, legally. And, the fact that it will be paved should be an amenity as opposed to a dirt road that's out there now.

I think that addressed the main concerns. Mr. Demartino mentioned, but he's the Vice-President, and the President of the Association are both here, have disseminated site plans, renderings, proffers, and letters that I've written outlining, in detail, the intent of this proposal. And he has not heard significant feedback from the neighborhood that he can speak to. If I can clarify anything else, I'm here to do so.

Mr. Vanarsdall - Any more questions of Mr. Gallagher?

Mr. Archer - Mr. Gallagher, or Mr. Lowery can answer if he wants to, what is the use of Mr. Lowery's property now? Mr. Lowery, would you rather answer that, if you're not residing there?

Mr. Lowery - Yes sir. I'd be happy to discuss this. I was separated here about back in 1993 and was going through a divorce situation. I had two houses. My wife and I sold one house, and I owned this property prior to getting married. So, through the divorce situation, I was forced to put it up for lease for awhile. That's the situation its in now. My intention is, in the very near future, to be moving back into that home as my primary residence.

Mr. Archer - Okay.

Mr. Lowery - Which it has been for 24 years.

Mr. Archer - You mentioned previously that you were told that the easement was for residential use only. Is that a legal fact, or is that just something you were told?

Mr. Lowery - I probably will maybe have to get an attorney to look into it. That was by the owner that told me that. It was Mr. Chewning. At the time when I first moved there, Mr. Chewning originally owned this farm. He retained about 16 acres. It was the Kricer Family that had about 10 acres. And there was a couple named Sherman who lived beside me that only had like a couple acres. And all of us were in agreement that it was, you know, prior to Mr. Chewning's death, it was for residential purposes only. Mrs. Haynes, or anybody, that lived in that property for as long as probably 30 years or more would probably state the same thing that had anything to do with that property. It was never intended for commercial-type traffic.

Mr. Archer - I guess what I'm asking is, beside the agreement that you all had, is there anything legally enforceable about making that for "residential purposes only?" I just need to know.

Mr. Lowery - I'd have to look into it to be sure. We figured the office park behind me, we discussed, and they, at the time, it was my understanding they had no intention of ever using it for commercial, you know, traffic or office/retail-type traffic. It is just now that they've purchased all of the property. Like I say, it was along Route 1, it was zoning. But on that drive it was always agricultural or residential zoning, much longer than I ever been there for the past 24 years, 25 or 26 years whatever.

Mr. Marlles - Mr. Lowery, maybe you said this, but how long has the property been vacant?

Mr. Lowery - Vacant? It's not vacant. I have it leased.

Mr. Marlles - You have it leased out. I'm sorry.

Mr. Lowery - They've approached me, there's some people who have been in there for a couple of years. They're moving out in the near future, and my intentions are to move back in there as my primary residence. But it's never been vacant.

But, like I say, as far, I think if the County went back, looked, researched that drive, it would only point to residential going back behind the Haynes house where I live. It was like that forever, as far as I know. It was originally a farm and they broke it up in to a few parcels. That was the only use. Up until now, they wanted to develop. Now, they want to change the use for office or retail or whatever. I don't have a problem with that around the area along Route 1 and all back near me, but I don't think I should be forced to use that easement for, you know. I don't think anybody here, if they were in my situation, would want that either. It's like saying, you are back behind all this stuff. You don't have any way of getting out by yourself, you know, onto the highway. I have to wait for everybody, you know, coming and going and dodging other people. I think, you know, its not fair to me if that's the case.

Just like, if you own some property, where your initial drive say 400 to 500 feet long, somebody come in there and want to come across your driveway from building to another. It's not just me detract from the offices and all. It would be just an open road for everybody and their brother wants to come in and out of that drive. It sure put me in a bad situation, I know that.

Mr. Archer - Okay. Thank you, Mr. Lowery. You've answered my question.

Mr. Vanarsdall - All right, Mr. Archer.

Mr. Archer - Anything else left?

Mr. Vanarsdall - Nothing else.

Ms. Dwyer - Mr. Archer.

Mr. Archer - Yes ma'am.

Ms. Dwyer - I just wanted to clarify one point, because we were talking about the M-1; the other M-1 property that's really kind of a part of this case, but not actually a part of the case. And the statement was made that it was covered by covenants, and there's an agreement or deed restriction that it will not be developed for the M-1, but will be limited to the B-2. And I guess the only difference in thinking about that, and proffering those same requirements or conditions is that, a deed restriction would not be enforceable in the same way that a proffer would be. So, there

would be advantages to having that property zoned B-1 and proffered according to what you want to do as opposed to having that merely as a deed restriction. Just as a point of information.

Mr. Archer - I appreciate that, Ms. Dwyer. I've always wondered why we don't zone land to conform to the uses that we want to use (unintelligible). But, I'll never figure that out, so don't worry about it. Any other comments or questions?

Mr. Vanarsdall - None. No sir.

Mr. Archer - Let me give the Commission a little bit of background, which doesn't go back too far. Mr. Bittner and I met yesterday with Mr. Gallagher and Ms. Shifflett. And I was kind of hoping we were working our way towards something. There have been things that have come up tonight that have shed some more light on this. And we were hoping, Mr. Bittner had indicated that he would talk with staff, and with the Assistant Director to try and see if we could somewhat alleviate the concerns that the applicant had, and Mr. Gallagher's words, "Leaning toward a soft no, if we said no." And, unfortunately, in this conversation with Mr. Silber and my further conversation today, that didn't happen. I was hoping for that, to be honest with you. And I am being honest with you.

And the staff report, tonight, didn't soften things that much at all. And there is still the concern that this is too radical of departure from what the Land Use Plan says. At the same time, I don't think any of us in here can argue the fact that the applicant and Ms. Shifflett have been very good in what they have developed so far at Virginia Center, and all of the land out there.

You know, at the same time, I don't think that does too much to immunize us from departing from the Plan. And, we've got the issue coming up tonight about the easement. Ms. Dwyer's questions about the deed restrictions that may or may not apply. So, I'm in a quandary. I don't know what to do, and, yet, I have to do something. Somebody did indicate tonight, one of the opposition members, Mr. Gallagher that they might want to ask for a deferral. Would you want to defer this to see if you can alleviate some of staff's concerns, or would you want us to move it along?

Mr. Gallagher - I'd be happy to defer one more time to see if we couldn't shed some better light on some of these issues. I certainly don't want other members of the Commission to think that we're trying to ram rod anything.

Mr. Archer - I was trying to be as nice as I could.

Mr. Gallagher - Mr. Lowery spoke to the easement. We can speak further to yourself and the rest of the Commission to clarify that.

Mr. Archer - Here's what I've got in mind. In looking at the issues that staff has raised, and some of the issues that have been raised here tonight, there's very little here, tonight, based in its present form that would support approval of the case. So, if I were to say that I moved approval, it would be more or less be arbitrary on my part. And, I'm really not interested in doing that. And, I would think if we went back and sat down and tried to hammer this thing out a little bit more that we can come a little bit closer to, you know, the classification we were talking about the retail and the office yesterday. We need to try to move toward trying to get that done.

Mr. Gallagher - Okay.

Mr. Archer - You know, I heard some concern here, tonight, about a service station being the entrance to a subdivision. That's something that has always been a concern of mine. I do need to say, in the applicant's behalf, that the service station that they're planning is top line, state of the art, with convenience store attached, I believe.

Mr. Gallagher - Right. And the cafe' and several other amenities.

Mr. Archer - You know, that's favorable. That, I think, is favorable to you. But, at the same time, you know, staff feels pretty adamant that we shouldn't do this. And, I think if we're going to do it, I would feel much more comfortable passing along to the Board feeling that they might want to approve it. But, I think, in order for us to do that, we need to work out some of these issues that are old issues, and some that have developed tonight. And, I'd rather do that, if you chose, instead of giving you a "soft no?"

Mr. Gallagher - I'm amenable to that. If that's how you stand, I respectfully request a 30-day deferral.

Mr. Archer - Okay. Are you in concert at all? Maybe you need some time to think about this with going back and revisiting Mr. Bittner's concerns as it pertains to how the uses are to apply on the site. I think it would help.

Mr. Gallagher - We'll be willing to sit down and hash out something that I hope you can get to a point where you can, as you say, "pass along a feeling positive re-enforcement" as opposed to ambivalence.

Mr. Archer - I appreciate that. Now, also, I feel like the neighbors need to have another meeting with you...

Mr. Gallagher - We can organize that.

Mr. Archer - ...the fact they have some concerns that haven't been addressed yet, so.

Mr. Gallagher - We can organize that.

Mr. Archer - Will you do that also?

Mr. Gallagher - Yes sir.

Mr. Archer - How far you want to go, next meeting?

Mr. Gallagher - Thirty (30) days. Certainly, no longer than that.

Mr. Archer - Okay.

Mr. Gallagher - To October 12th.

Mr. Archer - October 12th? All right, then, Mr. Chairman. With that, I will move deferral of C-58C-00 to October 12th meeting at the applicant's request.

Mr. Taylor seconded the motion.

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

Mr. Gallagher - Thank you, Mr. Chairman, members of the Board (sic).

Mr. Archer - You're welcome.

Mr. Marlles - Okay, Mr. Chairman, the next case is C-66C-00.

C-66C-00 Roy B. Amason: Request to conditionally rezone from A-1 Agricultural District and R-2C One Family Residence District (Conditional) to RTHC Residential Townhouse District (Conditional), Parcels 32-A-102N, 114A, 117, and 122, containing approximately 11.44 acres, located at the northeast intersection of Francis Road and Old Francis Road and along the south line of Francis Road at its intersection with Virginia Center Parkway. Residential townhomes for sale are proposed. The applicant proffers no more than sixty-six (66) residences to be constructed on the property. The Land Use Plan recommends Suburban Residential 2, 2.4 to 3.4 units net density per acre.

Mr. Marlles - The staff report will be given by Ms. Jo Ann Hunter.

Mr. Vanarsdall - Any one in the audience in opposition to Case C-66C-00? Any opposition? All right, Ms. Hunter?

Ms. Jo Ann Hunter - Thank you, Mr. Chairman. This application would rezone approximately 11.44 acres to RTHC Residential Townhouse District. The applicant is proposing 66 townhouse units for sale.

The majority of the property is currently zoned A-1. There is a small portion here (referring to slide), that's zoned R-2, which was zoned as part of the original Virginia Center Commons case. And there's an existing State right of way here (referring to slide) that is located on the property. That is, actually, just a paper street that was left over when they re-designed Virginia Center Parkway and Francis to intersect here (referring to slide). The site is surrounded on the north and east by apartment complexes and property to the south is zoned A-1, but it is developed for single family residences.

The Land Use Plan designates this property for Suburban Residential 2, 2.4 to 3.4 units per acre. The land use concept for this area of the County has been to have high density residential development along Route 1, and then have the densities reduced significantly as they head to the west.

Staff has determined that, although the density is higher than what's recommended in the Land Use Plan, the townhouses could be a good transitional use for this site because it would be difficult to market it for single-family residences with the apartments surrounding it on two sides.

There's considerable history to this parcel. There were many zoning cases. There was one in 1996, that was withdrawn, and then another zoning case in 1998 that was denied. Those cases had changes to them throughout their system when they were processed by the County. The applications ranged from 156 apartment units to 71 condominium units on 10 acres.

This project has a proposed density of 5.8. But, since staff has determined that townhouses are a good transitional use, we focused most of our concerns on the quality of this development. Staff identified several outstanding concerns in the staff report.

The applicant has revised their proffers and addressed several of the staff's concerns. The revised proffers have been handed out to you tonight and shows significant improvement in the case.

The applicant has submitted a conceptual plan. Let me show you the new one that was submitted (referring to slide). Actually, let me show you the old one first. This was the original site plan submitted by the applicant. Staff was concerned with the long linear nature of the development, and it had so many of the homes backing up along Virginia Center and Francis, and, what the appearance of those would be when the owners eventually went in and put in their sheds and fences and things like that.

So, the applicant, to address staff's concerns, has revised the conceptual plan, and they've put in more cul-de-sacs here and here (referring to slide). They've changed the entrances further down Francis Road and then here. They've limited to just a few; these 9 homes here (referring to slide) that now back up to Francis Road. Staff considers this layout a big improvement from the previous one that was submitted.

Staff has also had concerns with the perimeter buffer of the project. The applicant has now proffered a transitional buffer 25-foot requirements for all boundary, and that the buffer shall be located from the ultimate right of way. This is important, because Francis Road is scheduled to be widened sometime next year. Staff does need further clarification on how this buffer will be treated and where the fence would be located and the applicant has also indicated that there would be a berm.

Staff has encouraged the applicant to address sidewalks and pedestrian circulation in the project. Staff would recommend deletion of Proffer No. 14, which commits the County to building sidewalks along Francis Road. Instead, the applicant should address pedestrian circulation within the project which would allow the residents to walk to residential amenities within the development and to the major roads.

In most high density projects, the applicant proffers a minimum of 40 percent of the principle buildings shall be brick. The applicant has proffered 40 percent of the front, and 40 percent of the sides with brick. This would be equivalent to about 20 percent of the project.

The proffered elevation shows a solid wall along all sides of the buildings. That would mean that all of these sides would have a brick solid mass wall. The staff has asked the applicant to consider re-designing the elevation so that there would either be some windows or some side entrances to the townhouses there so it would approve the appearance from Francis Road.

The applicant has also proffered parking lot lighting not to exceed 8-feet in height, and is to be residential in character. Staff believes this is a positive element in the community. However, the applicant should add a statement that higher lights may be installed to allow for security as determined as part of the lighting plan. The applicant has also addressed other staff's concerns, including pavement quality, and additional parking.

In summary, the requested zoning is not consistent with the Land Use Plan. However, townhouses could be a reasonable transitional use for this site. The applicant has significantly improved the case from its original submittal. However, there still are some minor outstanding concerns that will need to be addressed.

In summary, the concerns include, pedestrian access, building materials, lighting, elevations, and clarifications of buffers, berms and fencing. Staff would recommend a deferral of this request until these items can be addressed. I'd be happy to answer any questions.

Mr. Vanarsdall - So, all of the things that you called to his attention about half of them have been done?

Ms. Hunter I think he's addressed a good bit of them. Some of them he has attempted to address. They just weren't as clear as we would like them to be.

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

Ms. Dwyer - Ms. Hunter, you mentioned in the staff report that the 1998 layout was superior to this one. The new layout that the applicant has presented, tonight, would you still voice that opinion, or is it comparable to what the 1998 submittal was?

Ms. Hunter I think the positive benefit to this one, it does provide better protection to the residences to the south. He has proffered a 100-foot buffer along, not all of the residences to the south, but a majority of them. The one difference from the other case was that the units included garages. They were more of the wider carriage home appearances. So, that impacted the layout.

Mr. Vanarsdall - Any other questions for Ms. Hunter?

Ms. Dwyer - If people who lived here wanted to enjoy recreational amenities, such as a pool, is that available in this vicinity for them? Would they be eligible for another Magnolia Ridge Recreation Association or not?

Ms. Hunter The applicant is indicating yes, but I'll let him address that when he speaks.

Mr. Vanarsdall - All right, thank you, Ms. Hunter. There is no opposition to this case, do you want to hear from the applicant?

Mr. Archer - I think we need to, Mr. Chairman.

Mr. Vanarsdall - Mr. Amason.

Mr. Roy Amason - My name is Roy Amason, applying for zoning. I also have people here in support of the case. I'd like to give them time to speak also.

A couple things to address from the staff report, their concerns, No. 1, you asked, Mr. Chairman, whether I had to address about 50 percent of them. Staff said to me tonight that I had addressed about 85 percent of them. We were standing talking out front.

I was very desperately trying to speak to all of them, quite frankly. But, some of them have come up in just the last couple of days. So, it's been a matter of time to do so.

I think staff and I are in agreement on all of the things that they want; all of them they discussed with me tonight except one. And that was that they wanted me to proffer 40 percent of the units would be brick.

Our architectural plans and construction do not allow us to put brick on the backs of these units. It's been that way since these particular units have been built. So, we would have to redesign the whole product in order to adhere to that. They have bay windows, etc., on the back on the upstairs and downstairs, and siding doors, etc., and structurally, its impossibility or maybe I should say economically impossibility. In fact, it doesn't look very good because of it being all cut up.

The units that we have proffered here, and the rendering that we have proffered are the same units that we built in the golf villas, which, by the way, the County has praised us on and said we're a great community and look good. We worked with staff and the Planning Commissioner on those facings. We have brick on the fronts of those buildings and we have brick on the ends of those buildings. We literally sat down with staff and the Planning Commissioner and said, "Here's where we think brick ought to go." And they said, "No. Here's where we think brick ought to go." We all agreed and that's where we put the brick.

When we went over and looked at these units and we scaled it out, worked it out, it came out that 40 percent of our fronts were brick and 40 percent of our ends were brick. That's why we made the proffer to say exactly that. The numbers just happen to be 40 percent and 40 percent. But we have a good looking project over there, and we're proposing to build the same type of project.

Concerns that staff has, one is the height of the lighting. We don't have a great problem with that. Quite frankly, most of the time, Planning is for lower lights, and I am too. And, in this case, I don't know. But, we've proffered outdoor post lamps on these units. What we normally do is, we have a sidewalk that goes from the front door of the unit to the parking areas and to the sidewalk that runs around the parking areas, and we put in a street lamp – a residential street lamp.

the Board of Supervisors? That was my understanding. I think they have five issues that are very technical issues that I'm sure that we can agree on.

Mr. Archer - Sidewalk beside a sidewalk. It would be unique.

Mr. Amason - It would be unique. You could ride a tricycle on it. With that, I would like to take some of my time to answer any questions that you have, but also have some people that are here to support it, speak.

Mr. Archer - Mr. Amason, you indicated you really don't want to defer this again. And, for the benefit of the other Commission members, Mr. Amason and the staff hasn't been able to communicate for some reason for the last two days. I think probably if you had, we may have been able to resolve the things that we need to.

A couple things I might mention. In fact, the most serious issue that came up in all of the prior cases until now has to do with the standard that the County adopted, and we've had to, in many cases, since I've been on this Commission, having to do with density being lessened as we move away from Brook Road to the west. And we've adhered to that in cases, other than this one, that Mr. Amason was involved in. And, I think we've finally gotten to a point where this is a reasonable transition.

It started out, I think, at one time, with maybe almost 200 units in this case. Two years later, it came back and we started out with like 120 some, and we worked our way down to 78. I think there might be where some of the confusion comes in over, talking about the quality of the prior buildings. It probably came from the issue that there were too many of them. And, we didn't want to not be consistent in what we were doing in adhering to that proposition.

There are still some things in here that Mr. Amason has agreed tonight to work out, most of what we need to do. But there are still some things in here that staff has concerns about, and I think are workable. I get the feeling, Mr. Amason, that you're willing to do that?

Mr. Amason - There's no question about that.

Mr. Archer - The one thing I will speak to has to do with the 40 percent brick. I do know the units that you're talking about were something that you and I and Mr. McGarry worked out some time ago. It did turn out to be a nice looking product. You know, we can do one of two things here. If I can word this correctly, just to save some time. There's nobody here in opposition. Apparently, there are people in support. They do want to speak? Okay. Well, I'll shut up, until they speak then, Mr. Amason.

Mr. Amason - So, will I, unless you have other questions before they speak?

Mr. Archer - I don't, but I can wrap this up, I think. Okay, Mr. Chairman.

Mr. Vanarsdall - All right.

Mr. Amason - All right.

Mr. Vanarsdall - Who wants to speak first? How are you this evening?

Ms. Cindy Jo Daniel - Good evening. My name is Cindy Jo Daniel and I live at 1304 Old Francis Road. I'm one of the adjoining property owners to this project. The following comments represent the views of the group here tonight. At this time I would like to ask them to please stand so you can see who we're dealing with here. Thank you.

This is our third rezoning case concerning this piece of property. It's been a long and tiring process for everyone involved. But, we as a group of adjoining landowners had to focus on one thing. These rezoning cases could affect the most valuable investment that we all have. Therefore, we've been determined to do what was necessary to protect our investment. We've been meeting with Mr. Amason since May and working through many of these concerns. Most of them have been addressed through proffers. For those that couldn't, Mr. Amason has assured us he will handle them appropriately and the way we discussed handling them in the meetings. It's through these proffers and assurances that we believe this is a proposal that we can now accept.

All of us involved have made compromises to try to see that everyone would get some of what they wanted. We believe that we have ultimately achieved this goal. We will, however, continue to have a watchful eye to make sure that the builder adheres to the proffers and the conditions that Mr. Amason has agreed to. Thank you.

Mr. Archer - Thank you, Mrs. Daniel.

Ms. Daniel - Any questions? It's been a long road.

Ms. Dwyer - Are there significant issues that you have resolved that are not in the proffers?

Ms. Daniel - No. They were questions that weren't, I'll say, proffer-type materials, like the fence. You know, we're going to do the privacy fence. But determining exactly if its going to be a solid, solid one; if its going to have lattice on the top. You know, that's an example of things where he's assured us that we will continue to have input in that. You know, with the landscape plan, you know. Things that aren't proffered-type items. But we have worked long and hard. We're taking him at his word here.

Mr. Vanarsdall - Thank you.

Mr. Archer - Thank you, Ms. Daniels. I have children who have gone through college since we started on this. Anybody else want to speak to it?

Mr. Vanarsdall - Anyone else? All right.

Mr. Archer - Mr. Chairman, if I can try and wrap up here so we can save some time. There's a couple of ways we can do this. The issues that staff has that need to be put down on

paper and worked out with Mr. Amason I think can be done between now and the Board meeting. so, that we don't trip ourselves up, I can pass this along, by recommending denial with the stipulation that, if the staff's questions are handled and answered between now and the Board meeting, and I'll personally work with Mr. Thornton to make sure that he understands what the issue is. Would that be satisfactory? You don't like that? And you don't want to defer it?

Mr. Amason - I don't want to defer, obviously. I will defer as opposed to a denial. The main reasons I don't want to defer, all of these people have worked, like they just told you, and you know, for four years on this thing. We don't have issues with staff that we can't resolve. And, it is my understanding, we can add proffers. So, I don't know why we can't approve it, and I add proffers between now and Supervisors, and not take another 30 days with it? But, you may know better than I, but I've never wanted to go before the Board of Supervisors with a denial. That just seems kind of silly on my part. If that's my choices, then I'm going to ask for a deferral, but I do not want to ask for a deferral.

Mr. Archer - Let me ask the Director. Mr. Marlles, are you comfortable that we can get the proffers done between now and the Board? And, again, I can always let me Mr. Thornton know where we are and how the case is progressing?

Mr. Marlles - Mr. Archer, I think I would feel more comfortable with a deferral, knowing that we had time to, in fact, be able to work out all those issues.

Mrs. O'Bannon - I'll also say, at the Board meeting, we often hear cases that are listed as recommended for denial, and the Supervisors says, "This has had a lot of work, done a lot of changing on it, and they've dealt with it."

Mr. Archer - I'm just trying to accommodate everybody.

Mrs. O'Bannon - I know. But, I'm just saying that does happen a lot.

Mr. Amason - You have to make a decision on this the best way you think it will go forward. You can understand, as a developer out here, stand here, and you're saying, "Let's send this up there with a denial." It kind of goes against the grain. If that's what you think it's the best thing to do, then fine.

Mr. Archer - Well, to be honest with you, staff has requested deferral. And that's the easiest way. I would love to send it along to the Board with a glowing recommendation for approval. But there are issues that they would feel more comfortable trying to work out prior to us doing it. So, it looks like that's the way we're going to have to go.

Mr. Amason - Whichever way you think...

Mr. Archer - For all intents and purposes. There is one issue also that I might mention that is on Page 5 of the staff report has to do with, and I also received a letter; down stream sewage capacity. So, that's an issue that will come up between now and then. I don't know what effect it will have on the case.

Mr. Amason - I don't think its going to have an effect. We've been talking with the County about that, and had gotten indications that we do not have a problem. But, you can clarify that between now and then.

Mr. Archer - Well, Mr. Amason, to look at it in that regard, it looks like maybe we finally will have something done on this project. I guess its largely up to you from this point, but I think we're at a point where I feel satisfied that we can work it out between now and the Board. So, with that, I'm going to recommend deferral for 30 days. We'll work out all the issues and then we'll send it along with a glowing recommendation. So, my motion is to defer for 30 days.

Ms. Dwyer seconded the motion.

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

Mr. Archer - October 12th at the applicant's request.

Mr. Vanarsdall - Thank you. That's October 12th, right?

Mr. Marlles - Yes sir.

Mr. Vanarsdall - Last case. Thank you, Mr. Amason. Thank you for coming. Go ahead, Mr. Secretary.

Mr. Marlles - The next case is P-12-00.

P-12-00 Christopher King for Sprint PCS: Request for a provisional use permit in accordance with Sections 24-95 (a) (3) and 24-122.1 of Chapter 24 of the County Code in order to construct and operate a 120 foot cellular communications tower and antenna, on part of Parcel 49-9-A-3B, (North Carolina Furniture Company) containing 1,258 square feet, located on the south side of West Broad Street (U. S. Route 250) approximately 250 feet east of its intersection with Pemberton Road. The site is zoned B-2C Business District (Conditional).

Mr. Marlles - The staff report will be given by Mr. Eric Lawrence.

Mr. Vanarsdall - Any one in the audience in opposition to P-12-00? No opposition.
Mr. Lawrence.

Mr. Eric Lawrence, County Planner - Thank you, Mr. Chairman. I'm going to briefly show you where the property is. The applicant has requested a deferral, but they would like to express a couple words. The simple location, its on Broad Street in front of North Carolina Company Furniture. Pemberton Road is just to the west. Haynes Jeep Eagle is directly north of the property. With that said...

Mr. Vanarsdall - I would like to add, Lisa Murphy back there was the balloon holder last week. And Chris was her helper. I suggested they try to get the mechanism up on the balloon and wouldn't anybody have a problem with it, but it didn't go.

Mr. Steve Romind - Good evening, Mr. Chairman, members of the Planning Commission, I'm Steve Romind. I'm an attorney with Huff, Poole, and Mahoney. We represent Spring PCS this evening in application P-12-00. I want to thank the staff, Mr. Lawrence, and Commissioner Taylor for their comments and recommendations on this application.

We are requesting a deferral to the 10/12/2000 meeting. We would like to note a few things. First, Sprint has supplemented its application with additional materials which Mr. Lawrence will be providing to you, which includes letters on availability and some photos simulations.

Secondly, I should also note that, although, this use is acceptable in this commercial area, Sprint has voluntarily agreed to a more expensive flagpole construction to lessen any visual impact. Despite our belief that the decreased height of 120 feet in the flagpole design lessens the impact of a standard monopole with an antenna arrays, after meeting with Mr. Taylor and Mr. Lawrence, Sprint has agreed to defer this application in order to explore the availability and the feasibility of an adjacent site, which is deemed more appropriate. I thank you for your consideration and time this evening. If you have any questions, I'd be glad to try to answer them.

Mr. Vanarsdall - Any questions by Commission members? All right, Mr. Taylor.

Mr. Taylor - Mr. Chairman, I just want to make a few comments while Mr. Romane and Ms. Murphy are here and Chris, because all of the staff looked at this. It is our joint opinion that the location of a tower in front of North Carolina Furniture is not really an attractive alternative. And, in looking at the different alternatives, we have found out that there are two towers involved in this. One is planned for this site, but there's another one planned for Deep Run Park sometime in the future.

After we looked at this and we recognized that Henrico County is building a water treatment plant quite close to Deep Run Park, and there are some difficulties with a site in Deep Run Park, and there was a possibility, perhaps – I say, “perhaps,” because it in the area of science here and radio frequency control, of actually collocating two towers and the possibility of using a Henrico County site at the water tower. At that site we probably can get extra height. We may avoid a tower. We may be able to avoid several towers by collocating. So, there is, effectively, an immense amount of highly technical study by the people who are expert in electromagnetic propagation and radio frequency allocation and control before we can really adequately address the differences that we have from site to site, the economics and the benefits to everybody. So, I believe it is in everybody's best interests if we defer this project for a period. And, I would move that P-12-00 be deferred at the request of the applicant until October 12, 2000.

Ms. Dwyer seconded the motion.

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

Mr. Archer - That was a mouthful, Mr. Taylor.
Mr. Archer - That was electronic magnetic propagation. Did you get that?

Mrs. Quesinberry - Judy, in case you didn't hear it. Got that?

Mr. Vanarsdall - Mr. Secretary, do you want to take the minutes of the meeting
schedule?

Ms. Dwyer - I had a question before we do the minutes?

Mr. Vanarsdall - I just wanted to ask for an update on the status of the multi-family
ordinance.

Mr. Marlles - Ms. Dwyer, I am not sure when that work session has been set. I
have received a pending item list from the County Manager's Office indicating that it is a priority
item. However, I have not received any information on the date for that work session being set. I
will certainly follow up with the County Manager's Office and try to find out when it is
contemplated.

Mr. Vanarsdall - What you gave us, it was about fourth down the line, wasn't it?

Mr. Marlles - There were certain items that were identified as higher priority, I
think, in the correspondence.

Ms. Dwyer - From you to the County Manager?

Mr. Marlles - From the County Manager to the Board, in the letter that went out to
the Board. He gave his recommendation, and then asked the Board members for input, as I recall.

Ms. Dwyer - Okay. And what was the input that he got?

Mr. Marlles - I haven't heard.

Ms. Dwyer - So, this is being done by letter, as opposed to an agenda item at a
meeting to set a work session?

Mr. Marlles - It's done by the County Manager, based on the input that he's
received from the Board members.

Ms. Dwyer - Does that mean the Board doesn't want to set a work session in a
meeting? They want to do it by written correspondence?

Mr. Marlles - I don't believe the actual work sessions are set at Board meetings. I
believe they are set by the County Manager. In this case he wrote a letter because there are a
number of items that are on that pending items list. He sent a letter to the Board voicing what his

priority was and asking input from the Board. But, as far as what direction or input he got from the Board, that's what I was saying, I do not know.

Ms. Dwyer - Did the Board receive the letter before the most recent Board meeting?

Mr. Marlles - Yes ma'am.

Mrs. O'Bannon - Yes.

Ms. Dwyer - So, it was not brought up at the last Board meeting, then? No input was requested at that time when everybody would be together and everybody could make a decision about when to set the work session? Well, I mean that is a little discouraging, because it sounds like it could be a in another black hole.

Mrs. O'Bannon - I thought the work session date was set at the September 26th meeting. I thought there was a work session set for September 26th and that it would be heard by the Board on October 10th?

Mr. Marlles - On Multi-family?

Mrs. O'Bannon - Yes.

Mr. Marlles - Maybe I missed that. I'm not sure I saw that.

Mrs. O'Bannon - Well, that was what I was told it would be heard before the end of October.

Ms. Dwyer - You were told at the Board meeting?

Mrs. O'Bannon - No. By the County Manager. That it would be a work session at the end of September and we'd hear it by the end of October.

Mr. Marlles - I am not sure I have heard that, that's what I'm saying.

Mrs. O'Bannon - Well, because I specifically asked that. That was a conversation before the last Board meeting.

Ms. Dwyer - Could you confirm that, maybe, with the County Manager for Mrs. O'Bannon and me, and the Commission as a whole?

Mr. Marlles - Mrs. O'Bannon, I want to make sure I understood you correctly. Your understanding with your discussion with the Manager was it would be a work session before the end of September...

Mrs. O'Bannon - Yes.

Mr. Marlles - And a public hearing possibly in October?

Mrs. O'Bannon - Yes.

Mr. Marlles - Okay. I will follow up on that.

Mrs. O'Bannon - Barring any major changes, discussions, it would be pretty much decided. The change would be confirmed by the end of October.

Mr. Vanarsdall - All right, what else have you got?

Ms. Dwyer - The calendar.

Mr. Marlles - The next item is the proposed calendar for 2001. Mr. Chairman, there was a staff proposal that was passed out at the last meeting. There was discussion on several of those meeting dates. Staff has received input from several Planning Commission members and has revised this schedule; the major change being the month of the APA Conference in March, I believe. Staff is recommending that the meeting be held on March 8th to avoid that conflict with the APA Conference or returning from the APA Conference. Mr. Silber, do you have some changes?

Mr. Randall R. Silber, Assistant Director of Planning - That's why I was here, tonight, was to present this calendar.

Ms. Dwyer - Poor thing, you've waited this long.

Mr. Silber - I have no other comments. Any questions? Now, the only change to the 2001 Calendar would be the one date.

Mr. Vanarsdall - I say, what about November, December, and March, we know about it?

Mr. Silber - Yes. There was consideration of changing some dates in November and December. We considered that, and decided to recommend keeping them the way they are, or were on the previous calendar. It avoids Thanksgiving and stays away from Christmas. There will be no back to back Planning Commission meetings whereby you have a POD meeting and the next day you have a zoning meeting. The meetings may just be a week apart. We have avoided those holiday dates. So, the only date that's changed here would be the March Planning Commission date. So, we're changing it from the 15th to the 8th.

Ms. Dwyer - It looks good.

Mr. Archer - Mr. Chairman, can I make a suggestion that I make every year?

Mr. Vanarsdall - I have a note right here.

Mr. Archer - You do? Why can't we have one day off?

Mr. Vanarsdall - August, he's going to ask you...go to the Manager about this.

Mr. Archer - I would like to see us maybe not have a POD meeting in August.

Mr. Marlles - I hear what you're saying.

Mr. Vanarsdall - We'd not like to have one in August is what he's saying.

Mr. Archer - I think it would lessen the burden on a lot of people, including the staff and us, because that would be one day they wouldn't have to prepare for.

Mr. Vanarsdall - Would you be the one to take that to the Manager?

Mr. Marlles - I would certainly be glad to as long as they don't shoot the messenger.

Mrs. Quesinberry - Could we send the Manager a petition and we all sign it, tonight, or something?

Mr. Vanarsdall - We don't want to put anything in writing. We want him to go in person.

Mr. Archer - I know that sound lighthearted, but, I guess, would it really cause that much of a hardship if we just took one day a year?

Mr. Vanarsdall - Mr. Archer, do you want to put that in the form of a motion?

Mrs. Quesinberry - Yes.

Ms. Dwyer - Maybe we should just institute a "skip" day.

Mr. Marlles - Senior skip day?

Ms. Dwyer - A Commission skip day?

Mr. Vanarsdall - Anyway, you know what he's talking about?

Mr. Marlles - Yes sir.

Mr. Archer - I mean, do the other Commission members think its worthy of consideration?

Mrs. Quesinberry - I do.

Mr. Marlles - If the Commission will have a corresponding cut in salary, I'm sure the Manager will be willing to...

Mrs. Quesinberry - Well, that would be all right with me.

Mr. Archer - We make so little that wouldn't hurt very much.

Mr. Vanarsdall - Is that all right, Mr. Taylor?

Mr. Taylor - It would be hard to miss all this fun.

Mr. Vanarsdall - Mrs. Quesinberry?

Mrs. Quesinberry - I'm in favor.

Mr. Vanarsdall - Ms. Dwyer?

Ms. Dwyer - Of what?

Mr. Vanarsdall - Of what he's saying of one meeting in August?

Ms. Dwyer - One meeting in August. That sounds good.

Mr. Marlles - Mr. Chairman, it appears to be the consensus of the Commission that they would like to consider dropping the meeting in August. Certainly, the Board does do that. I would certainly be willing to convey that to the County Manager. If there's a serious concern, then, certainly I will get back to the Commission members, and let you know to reconsider that.

Mrs. Quesinberry - Okay.

Mr. Silber - The rezoning staff behind me is pushing and lobbying for the rezoning meeting to be cancelled.

Mr. Archer - Well, we can do one of each.

Mr. Silber - The POD staff is not here to defend themselves.

Mr. Vanarsdall - Now, if everyone is in agreement with this 2001 Meeting schedule, I'll need a motion and a second.

Ms. Dwyer - I move we accept it.

Mrs. Quesinberry seconded the motion.

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

Acting on a motion by Ms. Dwyer, seconded by Mrs. Quesinberry, the Rezoning Minutes for August 10, 2000 were approved as amended.

Mr. Vanarsdall - Any one else have anything? Mr. Marlles, I see you do.

Mr. Marlles - Mr. Chairman, I just have a couple of quick reminders. Hopefully, all the Planning Commission members have received one of these yellow fliers announcing a Community Design Seminar that's scheduled on Thursday, September 21st, 8:30 a.m. to 12:00 Noon at J. Sargeant Reynolds at their Corporate Training Center. This is something's that's been a cooperative effort. Ms. Hunter has put a considerable amount of time and effort ensuring that this is going to be a quality program. It was done in conjunction with the Chesterfield County Planning Office, Hanover County Planning Office, the Homebuilders Association of Richmond, and the Urban Land Institute. Hopefully, this is going to be the first of a number of similar seminars on current development issues. Ms. Hunter, am I leaving anything out at all? Staff is certainly encouraging Commission members and Board members to attend. We do hope to have representatives from the County Administration; certainly from the Planning Staff will be attending. So, we'd like to see some of you there.

Mr. Vanarsdall - Thank you.

Mr. Taylor - Mr. Director, are we going to have the means of just a major list of everybody who wants to go to this? Just raise our hand, and you're going to take care of the administrative details like signing us up and paying the bill?

Ms. Hunter - The registration deadline is tomorrow.

Mr. Vanarsdall - Tomorrow?

Ms. Hunter - In case anybody is interested, please let me know by tomorrow and we'll take care of all the administrative and costs and everything.

Mr. Marlles - You just need to let us know now.

Ms. Hunter - It is just a morning session. It's only about three hours. It won't take up too much time.

Mr. Vanarsdall - Is this September...

Mr. Taylor - We just raise our hand?

Ms. Hunter - It's next Thursday from 8:30 to 12:00. We'll sign you up, Mr. Taylor.

Mr. Vanarsdall - You did work diligently on it, Ms. Hunter?

Mr. Vanarsdall - Excuse me. I didn't hear you. I'm sorry.

Mr. Vanarsdall - He said you did work diligently on it? Put my name down.

Mr. Archer - I'll have to let you know tomorrow. I just don't know.

Mr. Marlles - Mr. Taylor, am I assuming that you're going to be attending?

Mr. Taylor - Yes sir, and I'm filling it out right now.

Mr. Marlles - Mr. Archer, you're going to let us know tomorrow?

Mr. Archer - Yes.

Mr. Marlles - Mrs. Quesinberry.

Mrs. Quesinberry - I've got to let you know.

Mr. Marlles - Mr. Vanarsdall.

Mr. Vanarsdall - Yes.

Mr. Marlles - Ms. Dwyer.

Ms. Dwyer - I have a conflict.

Mr. Marlles - Conflict? Mrs. O'Bannon.

Mrs. O'Bannon - I will be in Annapolis debating the effectiveness of BMPs.

Mr. Vanarsdall - What time should I report, 8:00 o'clock? Are you going to have coffee and donuts.

Ms. Hunter - Breakfast at 8:30?

Mr. Marlles - Breakfast at 8:30.

Mr. Marlles - Mr. Chairman, hopefully, the Commission received one of the pink fliers which is an announcement on the new web site [www.Henrico Code Dev. Site.Com](http://www.HenricoCodeDev.Site.Com). This is a new web site that is being put on the internet to service not just developers, but also citizens, Planning Commission members and staff. It will become operational on Monday.

Mr. Householder, on our staff, was involved as part of the team that helped develop this web site. Ms. Harper actually coordinated that team. If you really like the web sites, this is really something that's worth visiting. We think we did a really good job. Lee, what do you want to add?

Mr. Householder - I worked diligently.

Mr. Vanarsdall - We wanted to know if you worked diligently on that.

Mr. Householder - I'm going to be on the next POD agenda in last September to present it to the Commission – the web site.

Mrs. O'Bannon - Oh good.

Mr. Marlles - Do a demonstration?

Mr. Vanarsdall - I saw where you were our team representative. I'm glad to know that.

Mr. Archer - Do you have a chat room on there, Lee?

Mr. Householder - Not yet. We could start one, though.

Mrs. O'Bannon - It's very efficient, quick, fast, simple, effective.

Mr. Vanarsdall - Does anyone have anything else?

The Commission, having no further business, acting on a motion by Mr. Archer, seconded by Mrs. Quesinberry, the Planning Commission adjourned its meeting on September 14, 2000 at 10:05 p.m.

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

John R. Marlles, AICP, Secretary

Last Amended: October 20, 2000.