

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico, held in the County Administration Building in the Government
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. Thursday,
4 September 11, 2008. Display Notice having been published in the Richmond
5 Times-Dispatch on August 21, 2008 and August 28, 2008.

6
Members Present: Mr. E. Ray Jernigan, C.P.C., Chairperson (Varina)
Mrs. Bonnie-Leigh Jones, Vice Chairperson (Tuckahoe)
Mr. Tommy Branin, (Three Chopt)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Ernest B. Vanarsdall, C.P.C. (Brookland)
Mr. Richard W. Glover (Brookland)
Board of Supervisors Representative
Mr. R. Joseph Emerson, Jr., Director of Planning,
Secretary

Also Present: Ms. Jean Moore, Assistant Director of Planning
Mr. Dave O'Kelly, Assistant Director of Planning
Mr. Ben Blankinship, Principal Planner
Mr. Seth Humphreys, County Planner
Ms. Rosemary Deemer, County Planner
Mr. Benjamin Sehl, County Planner
Mr. Livingston Lewis, County Planner
Mr. Roy Props, County Planner
Mr. David Conmy, County Planner
Ms. Lisa Taylor, County Planner
Ms. Jamie Sherry, County Planner
Ms. Kim Vann, Police Division
Mr. Mike Jennings, Public Works
Ms. Sylvia Ray, Recording Secretary

7
8 **Mr. Richard W. Glover, the Board of Supervisors' representative, abstains**
9 **on all cases unless otherwise noted.**

10
11 Mr. Jernigan - Good evening, ladies and gentlemen. On behalf of the
12 Planning staff and the Planning Commission, we'd like to welcome you to our
13 public hearing tonight for zoning. Today is 9/11, and what we'll do, which we
14 don't normally do at these, is I would like for us to stand for the Pledge of
15 Allegiance to the flag tonight.

16
17 Thank you. All right. With that, I will turn the meeting over to Mr. Emerson, our
18 secretary.

19
20 Mr. Emerson - Thank you, Mr. Chairman. Before we move into the
21 agenda tonight, I would like to introduce you to our newest member of the
22 Planning staff. She is Mrs. Maureen Jamie Sherry, and if you'd stand up, Jamie.

23 She comes to us from the private sector. She was in business for herself for a
24 while, and prior to that, she worked with the City of Richmond. She holds a
25 Master's degree in Urban Planning from Virginia Commonwealth University, as
26 well as Bachelor's degree in Political Science, and an Associate degree in Legal
27 Administration. We welcome her here tonight, and I know all of you will enjoy
28 working with her.

29
30 Mr. Jernigan - Nice to have you on board. Also with us tonight is our
31 attending member from the Board of Supervisors, Mr. Glover. It's a pleasure to
32 have you with us, sir.

33
34 Mr. Glover - Thank you.

35
36 Mr. Emerson - Mr. Chairman, the first item on your agenda tonight
37 are the requests for withdrawals and deferrals. Those will be presented by Ms.
38 Jean Moore.

39
40 Mr. Jernigan - Are you going to do the public hearing first?

41
42 Mr. Emerson - Not until [inaudible]. We're okay to wait for [inaudible].

43
44 Mr. Jernigan - Okay.

45
46 Ms. Moore - Thank you. The first is on page 2 of your agenda, and
47 this is for a withdrawal. The case is C-30-08, and the applicant was Young Lee.
48 The site is located at the southwest line of Darbytown Road, approximately 370
49 feet south of its intersection with Shirleydale Avenue. This was a request to
50 rezone from R-4 One-Family Residence District to B-2 Business District. As I
51 stated, the applicant has withdrawn this case, so no action is needed by the
52 Commission tonight.

53
54 **(Withdrawn)**

55 **C-30-08** **Young Lee:** Request to rezone from R-4 One-
56 Family Residence District to B-2 Business District, Parcel 804-710-9593,
57 containing 0.81 acres, located on the southwest line of Darbytown Road
58 approximately 370 feet south of its intersection with Shirleydale Avenue. Uses
59 will be controlled by zoning ordinance regulations. The Land Use Plan
60 recommends Multi-Family Residential, 6.8 to 19.8 units net density per acre.

61
62 Ms. Moore: The first case for request for deferral is on page 2 of
63 your agenda, and it's P-16-08. The applicant is New Cingular Wireless PCS,
64 LLC. The site is located on the west line of Upham Drive, approximately 500 feet
65 north of its intersection with Wilkinson Road. The request is for a provisional use
66 permit in order to construct a 120-foot high internal array monopole
67 telecommunications tower and related equipment. The deferral is requested to
68 the October 9, 2008 meeting.

69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113

P-16-08 Gloria L. Freye for New Cingular Wireless PCS, LLC: Request for a Provisional Use Permit under Sections 24-95(a)(3), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to construct a 120' high internal array monopole telecommunications tower and related equipment, on part of Parcel 789-754-3978, located on the west line of Upham Drive approximately 500 feet north of its intersection with Wilkinson Road (Chamberlayne Farms Shopping Center). The existing zoning is B-2C Business District (Conditional). The Land Use Plan recommends Commercial Concentration.

Mr. Jernigan - Is there any opposition to deferral of case P-16-08, Gloria L. Freye for New Cingular Wireless PCS, LLC?

Female in audience - Yes.

Mr. Jernigan - Do you have opposition to the deferral? Mr. Archer?

Mr. Archer - This case has not been deferred as of yet, Mr. Chairman. It's a relatively new case, and I understand there have been changes made in the civic association since Monday of this week.

Mr. Dovi - May I come up?

Mr. Archer - Yes, sure, come on.

Mr. Vanarsdall - You're not much of a stranger to us, are you?

Mr. Dovi - I'm strange, but. The civic association—

Mr. Jernigan - Would you state your name for the record please?

Mr. Dovi - I'm sorry. I'm Chris Dovi. I'm not here as a representative of the media, I am here as a private citizen and a resident of 5910 Rois Road, which is within a mile of this location.

The civic association, yes, did vote up new leadership, and that was at the most recent meeting earlier this week. However, at that meeting, we also took a vote to oppose this, and that was a unanimous vote of a roomful of people representing a civic association with a membership of 3,000 people. We oppose this cell tower. This is a location that is inappropriate. It faces the road. There is no buffer between where it is, no treeline. You can see the location where it is, the proximity of the school. It would be clearly visible from Wilkinson Road, and it is in a shopping center that, frankly, has been allowed to get away with quite a bit of interesting things lately in terms of what's allowed in there. There is a daycare,

114 which is a lovely use, or reuse, I guess, repurposing of this old strip mall. There
115 is also right next door—and sharing a wall—a tattoo parlor.

116
117 This is a nice neighborhood. The entire area is a fine little neighborhood. It's
118 older home stock, but it's a lot of brick and block, and slate roofs. Although we've
119 had some change in leadership, the person who came and asked for the deferral,
120 who was a member of the association recently up as the vice president, was not
121 charged to speak for the association. In fact, she spoke without the association's
122 knowledge.

123
124 Mr. Archer - If I can respond to that, Mr. Chairman. Mr. Dovi, of
125 course you certainly know you have every right to oppose the case; however—

126
127 Mr. Dovi - Actually, I had to make sure I did have that. Ask Andy.

128
129 Mr. Archer - Based on the lack of information that I think the entire
130 neighborhood has because Ms. Frye has not really had an opportunity to meet
131 with all of you. Some of the people that she did meet with expressed no
132 opposition.

133
134 Mr. Dovi - Who did she meet with?

135
136 Mr. Archer - I have no idea; she'd have to tell you.

137
138 Mr. Dovi - She met on the telephone with our vice president,
139 who was the person who came and asked for the deferral originally. She'd also
140 previously spoken—or I guess representatives of AT&T, or Cingular, or whoever
141 this is, spoke with about five of us who went to the meeting that they had at the
142 school. Explained everything that they were planning. Then we took that
143 information back to the civic association, along with our own research, and my
144 knowledge, and some other people's knowledge, combined knowledge, and kind
145 of let folks know what was going on. We came out of that meeting with a
146 unanimous decision by the civic association to oppose this.

147
148 Mr. Archer - Understood. I guess what I'm saying is I think it is
149 proper, and would certainly be within the bounds of courtesy, to allow her to
150 make a presentation so that those new members or other members of the
151 neighborhood can have a chance to hear what her presentation is. We're not
152 approving it, the case itself.

153
154 Mr. Dovi - I know, but what happens with that is this becomes
155 something that—You, I think, are familiar with sort of the momentum of any
156 situation like this. There are people who are opposed to this, and people's lives
157 take over after a while. It's really easy as, I guess AT&T, who has a lot of time to
158 devote to this. I have two kids at home and I work a job. I have a lot less time to
159 spend on this. For them to ask for a deferral, and then hold some sort of a—In

160 fact, actually, it should be mentioned that for that initial meeting at the school, per
161 the usual, I guess, procedure, they sent out notices letting folks know about this
162 civic meeting at the school, and it went to five houses. That was, of course, the
163 homes that were directly adjacent to where this cell tower was proposed. That's
164 doesn't cut it. It was their fault that they didn't have this meeting that you're
165 speaking about.

166

167 Mr. Jernigan - Okay.

168

169 Mr. Dovi - They had their opportunity to inform the neighborhood
170 that they were interested in telling us about it, and they didn't.

171

172 Mr. Archer - Not to prolong this anymore than we have to, I think
173 Ms. Freye needs the opportunity to respond to that, and then we'll make a
174 decision on how we're going to proceed.

175

176 Mr. Dovi - Okay.

177

178 Mr. Archer - Thanks for coming up, though. Appreciate it. Ms.
179 Freye, could you come up and speak to this please?

180

181 Ms. Freye - Yes sir. Good evening, Mr. Chairman, members of the
182 Commission. My name is Gloria Freye. I'm the attorney from McGuireWoods
183 here on behalf of the applicant. This motion is for deferral. We're not here to
184 discuss the merits of the case at this point, until a decision is made on the
185 deferral. I guess the point that was made was that some of the neighbors would
186 like to go ahead and proceed. There was a recent development, change of
187 position. New folks are in play, and I've been in conversation with some of their
188 members, new members, and some of their old members, and have offered to do
189 the deferral so that we could have a second community meeting. I've also gone
190 to the extent of finding another place, and finding a date that would work prior to
191 the October 9th hearing that would give people two-weeks' notice to attend this
192 second meeting.

193

194 There, obviously, is misinformation being circulated because it is, for a fact, not
195 true that only five houses got notice. Every adjacent landowner, and additional
196 landowners, were given individual invitations, as well as the invitation being sent
197 to the North Chamberlayne Civic Association, who e-mailed it to their members.
198 To say that only five people got notice, or five property owners got notice is
199 totally inaccurate.

200

201 Mr. Archer - Okay. I think it would be the courteous thing to do,
202 and certainly not anything unusual for us to do to grant this deferral. I will move
203 to grant the deferral to the October 9, 2008 meeting at the applicant's request.

204

205 Mr. Vanarsdall - Second.

206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250

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

At the request of the applicant, the Planning Commission deferred P-16-08, Gloria L. Freye for New Cingular Wireless PCS, LLC, to its meeting on October 9, 2008.

Ms. Moore - The next is on page three of your agenda, and is in the Three Chopt District. It is case C-20C-08. The applicant is Patrick Sanderson. The site is located at the northeast intersection of Pouncey Tract Road and Twin Hickory Lake Drive. The request is to conditionally rezone from A-1 to O-2C Office District, where office condominiums and a bank are proposed. The deferral is requested to the October 9, 2008 meeting.

C-20C-08 Andrew M. Condlin for Patrick J. Sanderson:
Request to conditionally rezone from A-1 Agricultural District to O-2C Office District (Conditional), Parcels 740-766-3730, 740-766-2619, 740-766-6112, 740-765-3690, 739-766-9601 and 739-766-9016, containing 10.950 acres, located at the northeast intersection of Pouncey Tract Road (State Route 271) and Twin Hickory Lake Drive. The applicant proposes an office condominium park and bank. The uses will be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends Office, Urban Residential, 3.4 to 6.8 units net density per acre, and Environmental Protection Area. The site is in the West Broad Street Overlay District.

Mr. Jernigan - Is there any opposition to deferral of case C-20C-08, Andrew M. Condlin for Patrick J. Sanderson? There is no opposition.

Mr. Branin - Well then, Mr. Chairman, I would like to move that C-20C-08, Andrew M. Condlin for Patrick J. Sanderson be deferred to the October 9, 2008 meeting, per the applicant's request.

Mrs. Jones - Second.

Mr. Jernigan - Motion by Mr. Branin, seconded by Mrs. Jones. All in favor say aye. All opposed say no. The ayes have it; the motion passes.

At the request of the applicant, the Planning Commission deferred C-20C-08, Andrew M. Condlin for Patrick J. Sanderson, to its meeting on October 9, 2008.

Ms. Moore - Also on page three of your agenda is case C-33C-08. The applicant is Tom Ministri. The site is located at the southwest intersection of Quioccasin Road and Shane Road. This is a request to conditionally rezone from R-1 One-Family Residence District to O-2C Office District (Conditional). A

251 daycare and office are proposed. The deferral is requested to the October 9,
252 2008 meeting.

253

254 **C-33C-08** **Kristen D. Keatley for Tom Ministri:** Request to
255 conditionally rezone from R-3 One-Family Residence District to O-2C Office
256 District (Conditional), Parcels 749-745-1589, 749-745-2090, 749-745-2689, 749-
257 745-3289, 749-745-2479, 749-745-2474, 749-745-2469 and 749-745-2564,
258 containing 2.04 acres, located at the southwest intersection of Quioccasin Road
259 (State Route 157) and Shane Road. The applicant proposes a daycare and
260 office. The uses will be controlled by zoning ordinance regulations and proffered
261 conditions. The Land Use Plan recommends Office.

262

263 Mr. Jernigan - Is there any opposition to deferral of case C-33C-08,
264 Kristen D. Keatley for Tom Ministri? There is no opposition.

265

266 Mrs. Jones - I move for deferral of C-33C-08, Kristen D. Keatley for
267 Tom Ministri, to the October 9, 2008 meeting, at the request of the applicant.

268

269 Mr. Vanarsdall - Second.

270

271 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Vanarsdall.
272 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

273

274 At the request of the applicant, the Planning Commission deferred C-33C-08,
275 Kristen D. Keatley for Tom Ministri, to its meeting on October 9, 2008.

276

277 Ms. Moore - I just received another request tonight; it's on page
278 three of your agenda. It is C-26C-08. The applicant is Ethan and Elizabeth Krash.
279 This is located on the north line of Dublin Road approximately 250 feet east of its
280 intersection with Belfast Road. This request is to rezone from A-1 to R-3C
281 (Conditional) to develop six single-family homes. The deferral is requested to the
282 October 9, 2008 meeting.

283

284 **Deferred from the August 14, 2008 Meeting.**

285 **C-26C-08** **Andrew M. Condlin for Ethan and Elizabeth**
286 **Krash:** Request to conditionally rezone from A-1 Agricultural District to R-3C
287 One-Family Residence District (Conditional), Parcel 745-764-4296, containing
288 2.94 acres, located on the north line of Dublin Road approximately 250 feet east
289 of its intersection with Belfast Road. The applicant proposes up to 6 single-family
290 homes, an equivalent density of 2.04. The R-3 District allows a minimum lot size
291 of 11,000 square feet and a maximum gross density of 3.96 units per acre. The
292 use will be controlled by zoning ordinance regulations and proffered conditions.
293 The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net
294 density per acre.

295

296 Mr. Jernigan - Is there any opposition to deferral of case C-26C-08,
297 Andrew M. Condlin for Ethan and Elizabeth Krash? There is no opposition.

298
299 Mr. Branin - Mr. Chairman, I'm not going to move for deferral of
300 this; we're going to hear this one.

301
302 Mr. Jernigan - Okay.

303
304 Mr. Branin - If I may.

305
306 Mr. Jernigan - Yes sir, you may. That's your call.

307
308 Mr. Branin - So, I would like to request it be pulled off the request
309 for deferral.

310
311 Mr. Jernigan - We'll hear it in the order that it comes.

312
313 Mr. Emerson - Mr. Chairman, that completes your requests for
314 withdrawals and deferrals. The next item on your agenda is requests for
315 expedited items. You have two on that agenda tonight, and those will be
316 presented by Ms. Jean Moore.

317
318 Ms. Moore - Thank you. The first is on page one of your agenda in
319 the Brookland District. It is case P-14-08, New Cingular Wireless PCS, LLC. The
320 site is located on the north line of Impala Place approximately 350 feet west of its
321 intersection with Impala Drive. This is a request for a provisional use permit in
322 order to extend the height of an existing 150-foot high monopole
323 telecommunications tower to 169 feet.

324
325 **P-14-08 Gloria L. Freye for New Cingular Wireless PCS,**
326 **LLC:** Request for a Provisional Use Permit under Sections 24-95(a)(3), 24-120
327 and 24-122.1 of Chapter 24 of the County Code in order to extend the height of
328 an existing 150' high monopole telecommunications tower to 169', on part of
329 Parcel 774-749-4475, located on the north line of Impala Place approximately
330 350 feet west of its intersection with Impala Drive. The existing zoning is M-1
331 Light Industrial District. The Land Use Plan recommends Light Industry. The site
332 is in the Enterprise Zone.

333
334 Mr. Jernigan - Is there any opposition to case P-14-08, Gloria L.
335 Freye for New Cingular Wireless PCS, LLC? There is no opposition.

336
337 Mr. Vanarsdall - Mr. Chairman, I move P-14-08, Gloria L. Freye for
338 New Cingular Wireless PCS, LLC, be recommended on the expedited agenda to
339 the Board of Supervisors for approval.

340
341 Mrs. Jones - Second.

342
343 Mr. Jernigan - Motion by Mr. Vanarsdall, seconded by Mrs. Jones.
344 All in favor say aye. All opposed say no. The ayes have it; the motion passes.
345

346 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by
347 Mrs. Jones, the Planning Commission voted 5-0 (one abstention) to recommend
348 the Board of Supervisors **grant** the request because when properly developed
349 and regulated by the recommended special conditions, it would not be
350 detrimental to the public health, safety, welfare and values in the area and it
351 would provide added services to the community.

352
353 Mr. Glover - Mr. Chairman.

354
355 Mr. Jernigan - Yes sir.

356
357 Mr. Glover - I'm abstaining from all zoning cases simply because
358 all recommendations come to the Board of Supervisors for a final decision.

359
360 Mr. Jernigan - So noted. Thank you.

361
362 Ms. Moore - The next case is on page 2 of your agenda, and is in
363 the Fairfield District. The cast is C-32C-08. The applicant is Dominion Youth
364 Services. The site is located on the west line of Chamberlayne Road
365 approximately 225 feet north of its intersection with Wilmer Avenue. This is a
366 request to conditionally rezone from O-2 Office District to B-2C Business District
367 (Conditional). Classrooms within an existing building to teach pre-vocational
368 courses as part of the Dominion Youth Services are proposed.

369
370 **C-32C-08 Donovan Miller for Dominion Youth Services:**
371 Request to conditionally rezone from O-2 Office District to B-2C Business District
372 (Conditional), Parcel 787-746-0532, containing 2.93 acres, located on the west
373 line of Chamberlayne Road (U. S. Route 301) approximately 225 feet north of its
374 intersection with Wilmer Avenue. The applicant proposes to convert an existing
375 building to pre-vocational classroom space. The use will be controlled by zoning
376 ordinance regulations and proffered conditions. The Land Use Plan
377 recommends Office.

378
379 Mr. Jernigan - Is there any opposition to case C-32C-08, Donovan
380 Miller for Dominion Youth Services? There is no opposition, Mr. Archer.

381
382 Mr. Archer - Mr. Chairman, I move that case C-32C-08, Donovan
383 Miller for Dominion Youth Services, be moved to the Board of Supervisors with a
384 recommendation for approval.

385
386 Mr. Vanarsdall - Second.

387

388 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr. Vanarsdall. All
389 in favor say aye. All opposed say no. The ayes have it; the motion passes.
390

391 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr.
392 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
393 the Board of Supervisors **grant** the request because it would not be expected to
394 adversely affect the pattern of zoning and land use in the area and the proffered
395 conditions will provide appropriate quality assurances not otherwise available.
396

397 Ms. Moore - Thank you, Mr. Chairman.
398

399 Mr. Emerson - Mr. Chairman that takes us into the regular agenda.
400 You have four cases to hear tonight, along with one public hearing on an
401 ordinance amendment. That public hearing is the first item you will hear. It is to
402 amend and re-ordain Section 24-95 of the Code of the County of Henrico, titled
403 *Additional requirements, exceptions, and modifications*, concerning the approval
404 process for alternative fence heights.
405

406 You will recall that we did have a work session on this subject at your meeting on
407 August 12, 2008. That will be presented by Mr. Ben Blankinship.
408

409 Mr. Jernigan - Good evening, Mr. Blankinship.
410

411 Mr. Blankinship - Mr. Chairman, members of the Commission. The
412 purpose of this presentation is to discuss a proposed amendment to the Zoning
413 Ordinance concerning alternative fence heights.
414

415 The Zoning Ordinance limits the height of fences, walls, and hedges. Fences in
416 front yards are limited to 3 feet, 6 inches, except in planting strip easements,
417 where they are limited to 7 feet. That provision has been in the Zoning
418 Ordinance since 1960. Experience has shown that in most cases in a front yard,
419 a 3-foot 6-inch fence is tall enough. There are times, however, when a taller
420 fence may be necessary. In those cases, the Planning Commission may approve
421 an alternative fence height greater than 3 feet, 6 inches as part of a landscaping
422 plan. Over the past five years, the Planning Commission has reviewed an
423 average of four such requests per year.
424

425 In April, the Board of Supervisors held a work session on an alternative fence
426 height request at 2008 Fondulac Road. The Planning Commission had denied
427 the request for a taller fence, and the applicant appealed your decision to the
428 Board of Supervisors.
429

430 Now, any time authority is delegated to the Planning Commission, clear
431 guidelines are necessary for exercising that discretion. There should be objective
432 criteria for approving or denying an application. The current text of the Zoning
433 Ordinance is shown on this slide. It says that the Planning Commission may

434 approve an alternative fence height that does not adversely affect these five
435 criteria. That provides some guidance, but the concern was expressed at the
436 work session that perhaps it was not clear enough. As a result, the staff has
437 proposed the following amendment, which would give the Planning Commission
438 authority to approve alternative fence heights, but would provide additional
439 guidance when exercising that power. The main change is that if none of the five
440 criteria is found to be adversely affected, then the Commission shall approve the
441 request.

442
443 Our research has shown that over the past five years, the average height
444 approved for fences in the front yard has been 5 feet, 6 inches. In planting strip
445 easements, and in business office and industrial districts, alternative fence
446 heights would be limited to 10 feet. In residential districts where the code limits
447 the height to 3 feet 6 in the front yard, the proposed amendment would limit
448 alternative fence heights to 7 feet.

449
450 That's the complete text of the amendment, and I'd be happy to answer any
451 questions.

452
453 Mr. Jernigan - Are there any questions for Mr. Blankinship from the
454 Commission? This is a public hearing, so do we have anybody in the audience
455 that has any questions? Okay. We just need a motion to send it to the Board?
456

457 Mr. Emerson - Yes sir. You need a motion with a recommendation to
458 the Board of Supervisors.

459
460 Mr. Archer - Mr. Chairman, I move that the proposed amendment
461 be sent to the Board of Supervisors with a recommendation for approval.
462

463 Mr. Vanarsdall - Second.

464
465 Mr. Jernigan - Motion by Mr. Archer, seconded by Mr. Vanarsdall. All
466 in favor say aye. All opposed say no. The ayes have it; the motion passes.
467

468 Mr. Blankinship - Thank you, Mr. Chairman.

469
470 Mr. Jernigan - Thank you, Mr. Blankinship.

471
472 Mr. Emerson - Mr. Chairman, that takes you to the next item on your
473 agenda.
474

475 **P-15-08 James W. Theobald for Rebkee Partners**
476 **Powhatan, LLC:** Request for a Provisional Use Permit under Sections 24-
477 58.2(a), 24-120 and 24-122.1 of Chapter 24 of the County Code in order to
478 operate a retail drug store 24 hours per day, on part of Parcel 773-737-3077,
479 located at the southwest intersection of Willow Lawn Drive and W. Broad Street

480 (U. S. Route 250). The existing zoning is B-2 Business District. The Land Use
481 Plan recommends Office. The site is in the Enterprise Zone.

482

483 Mr. Jernigan - Do we have any opposition to case P-15-08, James
484 W. Theobald for Rebkee Partners Powhatan, LLC? There is no opposition. Good
485 evening, Mr. Humphreys.

486

487 Mr. Humphreys - Good evening, Mr. Chairman. Thank you very much.

488

489 Mr. Jernigan - You may proceed.

490

491 Mr. Humphreys - This request is to allow 24-hour operation for a retail
492 drug store at 5001 W. Broad Street. The existing CVS is zoned B-2 and is
493 surrounded by commercial and office uses. Businesses in B-2 districts are
494 allowed to operate from 6 a.m. until 12 midnight, and extended operation is
495 allowed with approval of a provisional use permit, which this request is for.

496

497 The 2010 Land Use Plan recommends Office uses for the site. This request
498 would be consistent with the existing commercial activities within the surrounding
499 area. The site is also located in the County's Enterprise Zone, which encourages
500 economic investment in the area.

501

502 Three previous requests for extended hours have been approved for tenants of
503 the Shops at Willow Lawn shopping center located just to the south of this
504 property, and other establishments in the general area currently operate during
505 extended hours in the B-3 and M-1 Zoning Districts.

506

507 Staff believes this current request to operate a retail drug store 24 hours per day
508 is substantially similar to the approved requests to operate under extended
509 hours, and is not expected to adversely impact adjacent properties subject to the
510 revised conditions which have just been handed out to you. These conditions
511 include, but are not limited to: within two months of the approval of this
512 provisional use permit, the owner and/or operator of the establishment and the
513 Crime Prevention Unit of the Division of Police shall conduct a security survey of
514 the location and store operations to identify potential security risks. The owner
515 and/or operator shall then implement the mutually agreed upon security
516 measures affecting the property; the owner and/or operator of the establishment
517 shall install and maintain a security camera and video system designed by a
518 security specialist which complies with the detailed conditions; in the event that
519 evidence such as police calls to the premises or complaints indicates the
520 extended hours of operation are having an adverse effect—such as increased
521 public nuisance, loitering, excessive noise outside the building, criminal assault,
522 traffic, etcetera—on the surrounding area, the Board of Supervisors may hold a
523 public hearing to consider revoking the provisional use permit; and at least one
524 uniformed security officer shall be on duty during the extended hours of
525 operation, midnight to 6 a.m. The security officer shall periodically monitor the

526 exterior of the premises as well as the interior for possible criminal activity. Any
527 security officer shall be an off-duty uniformed law enforcement officer.

528

529 Staff supports this request subject to the conditions as presented to you this
530 evening. This concludes my presentation and I would be happy to answer any
531 questions you may have.

532

533 Mr. Jernigan - Are there any questions for Mr. Humphreys from the
534 Commission?

535

536 Mr. Vanarsdall - I don't have anything because we've talked many
537 times.

538

539 Mr. Branin - Has Ms. Vann looked at this case?

540

541 Mr. Jernigan - Ms. Vann, would you come down for a second? I
542 want to ask you something that's a general question, nothing directly related to
543 this.

544

545 Mr. Vanarsdall - Thank you.

546

547 Ms. Vann - Good evening. Kim Vann with Henrico Police.

548

549 Mr. Jernigan - When they say they're going to install security
550 cameras, after they're installed, do you ever go by, or anybody from the police to
551 check the resolution of the pictures?

552

553 Ms. Vann - My understanding is oftentimes the community officer
554 for the area will drop by to introduce himself and take a look at it. I know that
555 when it's a required condition, the community inspector for that area will also go
556 out and do periodic checks to make sure they're keeping the tapes as long as
557 they're supposed to, or the digital images—that type of thing. There is occasion
558 that I've done that, but I'm not an expert on security cameras, so I try to not make
559 a comment one way or the other.

560

561 Mr. Jernigan - I know when the Shops at White Oak came through, I
562 specified that I wanted a camera in there good enough to tell if somebody shaved
563 that morning. When that case came around, it had been right after that child had
564 been abducted out in the Midwest, and the resolution on the camera was so
565 horrible that you couldn't pick it up. I just wanted to know if somebody was
566 checking on it.

567

568 Ms. Vann - Yes. Especially for the cases that are provisional use
569 permits, we do have a pretty good system going now.

570

571 Mr. Jernigan - Okay. Thank you so much.

572
573 Mr. Branin - Ms. Vann, could you help with these? I've never seen
574 this many conditions.
575
576 Ms. Vann - Yes sir. Part of the conditions fell in what's called the
577 security standards that we created with the Planning Office probably in 2000. It
578 seems like there's a trigger for that when there's a provisional use permit for
579 extension of hours, or outdoor dining, or a billiards parlor—that type of thing.
580 Certain conditions may trigger it if everybody feels like it's appropriate.
581
582 Mr. Branin - Have they had any problems out here.
583
584 Ms. Vann - Since they opened in January, there have been 17
585 total calls for service for incidents. We've had three robberies out there; two
586 were in the same evening—or I should say morning time, overnight. One was
587 early morning.
588
589 Mr. Branin - These are during regular business hours.
590
591 Ms. Vann - One was during the 12 a.m. to 6 a.m. timeframe.
592
593 Mr. Branin - What kind of patrols do we have in this area?
594
595 Ms. Vann - I couldn't tell you. I know that we try to make our
596 presence as much as possible, but I couldn't tell you.
597
598 Mr. Branin - What kind of powers do rental police security guys
599 have versus an off-duty police officer?
600
601 Ms. Vann - My understanding is an off-duty police officer or
602 deputy sheriff can make an arrest. Other than that, anybody serving as a
603 uniformed officer or private security would have to call the police, and contain the
604 person there until Henrico Police got there.
605
606 Mr. Branin - Which would you recommend is better, giving that this
607 has had robberies and so many incidents?
608
609 Ms. Vann - We always feel like a police officer or some type of
610 uniform is always a deterrent, as are many other things.
611
612 Mr. Branin - All right, just checking.
613
614 Mr. Jernigan - Thank you, Ms. Vann.
615
616 Mr. Vanarsdall - I don't need to hear from the applicant.
617

618 Mr. Jernigan - Sir?
619
620 Mr. Vanarsdall - I do not need to hear from the applicant.
621
622 Mr. Jernigan - Well, then you have it, Mr. Vanarsdall.
623
624 Mr. Vanarsdall - I want to thank Kim Vann from the Police Department,
625 and Captain Alberta—who couldn't be here tonight; is on the firing range—for
626 their help, and Mr. Humphreys for his help on this, and the attorney who handled
627 this, Mr. Theobald. I know he worked on this hard, and I appreciate that.
628
629 With that, Mr. Chairman, I recommend P-15-08, James W. Theobald for Rebkee
630 Partners Powhatan, LLC, be sent to the Board of Supervisors for approval with
631 conditions 1 through 7.
632
633 Mr. Archer - Second.
634
635 Mr. Jernigan - Motion by Mr. Vanarsdall, seconded by Mr. Archer. All
636 in favor say aye. All opposed say no. The ayes have it; the motion passes.
637
638 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by
639 Mr. Archer, the Planning Commission voted 5-0 (one abstention) to recommend
640 the Board of Supervisors **grant** the request because it is compatible with
641 surrounding uses and when properly developed and regulated by the special
642 conditions, it would not be detrimental to the public health, safety, welfare, and
643 values in the area.
644
645 **Deferred from the August 14, 2008 Meeting**
646 **C-25C-08 Kristen D. Keatley for Tuckaway Child**
647 **Development Center:** Request to conditionally rezone from R-2AC One-Family
648 Residence District (Conditional) and B-1C Business District (Conditional) to B-1C
649 Business District (Conditional), Parcels 803-701-8673 and 803-701-3978,
650 containing approximately 5.22 acres, located at the southeast intersection of New
651 Market Road (State Route 5) and Midview Road. The applicant proposes a
652 daycare. The use will be controlled by zoning ordinance regulations and
653 proffered conditions. The Land Use Plan recommends Suburban Residential 1,
654 1.0 to 2.4 units net density per acre, and Commercial Concentration.
655
656 Mr. Jernigan - Is there any opposition to case C-25C-08, Kristen D.
657 Keatley for Tuckaway Child Development Center? We do have opposition. Mr.
658 Emerson, would you explain our rules of opposition please?
659
660 Mr. Emerson - Yes sir. For the time limits for the public hearing
661 process, the applicant is allowed ten minutes to present the request, and time
662 may be reserved for responses to testimony. Opposition is allowed ten minutes

663 to present its concerns. Commission questions do not count into the time limits,
664 and the Commission may waive time limits for either party at its discretion.

665
666 Mr. Jernigan - Thank you. Ms. Deemer, how are you tonight?

667
668 Ms. Deemer - Just fine, thank you.

669
670 Good evening members of the Commission. The subject site is zoned B-1C and
671 R-2AC and is located at the southeast intersection of Midview Road and New
672 Market Road. The site is currently vacant, but was approved for a seven-lot
673 residential subdivision, and a small, one-acre daycare via rezoning case C-34C-
674 03. The applicant is proposing to rezone the entire 5.22 acres to accommodate a
675 12,000-square-foot daycare.

676
677 The 2010 Land Use Plan recommends Suburban Residential 1 and Commercial
678 Concentration for the site. The area designated for commercial use would
679 expand under this rezoning; however, the applicant has proffered that the only
680 use permitted would be the daycare.

681
682 The applicant held a community meeting on July 29th to discuss the rezoning
683 request with nearby property owners. In response to residents' concerns, the
684 applicant has submitted revised proffers dated today that include an architectural
685 elevation, fence detail, and a revised concept plan.

686
687 Similar to the previously-approved case, the applicant is proffering a 100-foot
688 setback from New Market Road, a 40-foot-wide buffer along New Market Road,
689 and no direct access to and from New Market Road.

690
691 In addition, the applicant is proffering that any building constructed on the
692 property will be of brick, and be of colonial-style architecture similar in color and
693 theme to the veterinary clinic at 1320 New Market Road.

694
695 By limiting the use of the site to a daycare facility and providing proffers to ensure
696 compatibility with surrounding properties, staff can support this request. That
697 concludes my presentation, and I'd be happy to answer any questions you may
698 have.

699
700 Mr. Jernigan - Are there any questions for Ms. Deemer from the
701 Commission? Thank you, ma'am. Would the applicant come down, please?

702
703 Ms. Keatley - Good evening, Mr. Chairman, members of the
704 Commission. For the record, my name is Kristen Keatley, and I work for Balzer
705 and Associates. I'm here tonight on behalf of our client, Tuckaway Childhood
706 Development Center, who is requesting a rezoning to allow for their seventh
707 facility in the Richmond area.

708

709 Some of the highlights of this project include not only the proffered design
710 considerations such as buffers and landscaping, and limitations on signage,
711 lighting, and nuisance noises, but we've committed to the layout, the fencing, and
712 the architectural exhibits that are part of this application. I would also like to point
713 out that with the development of this project, we will be improving Midview Road
714 to include the realignment of the intersection with New Market Road, as it's
715 shown on this concept plan on the screen.

716

717 As with any case, this has brought up some questions and concerns from the
718 neighbors, and citizen's groups that are out in Varina—the Varina Beautification
719 Committee, to be exact. We would like to thank Mr. Jernigan and the staff in
720 helping to address all the concerns of those involved, and hope that the changes
721 that we've made to this case reflect our commitment to provide the community
722 with a quality development, and a better alternative for their childcare needs.

723

724 I feel that we have provided the County with a good case, and I look to you for a
725 favorable recommendation to the Board. However, should the need arise, I would
726 like to reserve the ability to come back up and rebut whatever the issues are that
727 arise.

728

729 I would like you to know, too, that our owners are here tonight, as well as the
730 architect and engineer, and one of the directors from the center, if there are any
731 questions for them.

732

733 If you have any further questions of me, I'll be happy to answer them.

734

735 Mr. Jernigan - I want you to know I know Mr. Nelson met with you
736 all, and said you had a very productive meeting. We can see the reflection in the
737 proffers, and in the way that you're basing it off—What used to be a bank, is now
738 the veterinarian office, which is the Colonial style. The only thing that I know that
739 I did discuss with Mr. Nelson that probably is not in here was the window
740 mullions, which I was expressing to you earlier. They have mullions in the
741 windows that are between the glass, and then they have them that are
742 removable. If they are the removable type, the only thing I wanted to do is when
743 they clean the windows, put them back up. Other than that, that's about the only
744 issue that I had on here, and I'm sure that we can clear that up.

745

746 Ms. Keatley - I certainly hope that we can address that at time of
747 POD. I do believe the end of that architectural condition leaves in there the ability
748 for the Planning Commission to reject any portions of the architectural that you
749 all don't like.

750

751 Mr. Jernigan - All right. Are there any questions for Ms. Keatley?

752

753 Mrs. Jones - Yes. I just want to clarify. The fencing that we saw in
754 the example, where will that fence be?

755
756 Ms. Keatley - I believe the intent is to have that scalloped fencing
757 the whole way around the play yard. The additional portion of that proffer speaks
758 to having pillars of a certain size spaced out between that, so that'll allow for,
759 say, three or four scalloped panels, and then a substantial pillar.
760
761 Mrs. Jones - Can you point to the play yard?
762
763 Ms. Keatley - Point to the what?
764
765 Mrs. Jones - The play yard? You say it's going around the play
766 yard?
767
768 Mr. Jernigan - The play area.
769
770 Ms. Keatley - It's almost the entire boundary of this whole piece.
771
772 Mrs. Jones - That's what I was wondering. This is right at your
773 property line?
774
775 Ms. Keatley - Okay, there we go.
776
777 Mrs. Jones - Okay. So, it's going to go all the way around there?
778
779 Ms. Keatley - Yes, and it comes back down Midview, and then
780 jumps back to the building. That's why we added the additional, what I call an
781 architectural, element to the fence along the street frontages, so you don't have a
782 vast piece of white.
783
784 Mrs. Jones - That's what I was thinking, the vastness of the white
785 on very visible portions of the property.
786
787 Ms. Keatley - Right.
788
789 Mr. Jernigan - Okay. Any more questions for Ms. Keatley? All right,
790 thank you. We do have opposition, so would the first person like to come down,
791 please? State your name for the record.
792
793 Mr. Turner - I'm Larry Turner. I live at 1508 Midview Road. Mr.
794 Chairman, and members of the Commission. Several years ago when we met, I
795 remember coming to this room and also seeing one of the supervisors here. Our
796 community at that time spent a lot of time in disposing of the Messier property,
797 which is the land in question. In fact, we've been here twice; this is the third time.
798 I hope we don't have to come again.
799

800 My opposition to this—and I speak for at least three families—has to do with the
801 zoning of the business. When you talk about the County Plan, and it refers to
802 what is going to be allowed, or at least what you think will be allowed, on the
803 corner of Midview and Route 5, the corner of that intersection to me means
804 corner. What you're doing in here, or what you're being asked to do, is to come
805 off Route 5 onto Midview, and you'll be coming east, and you'll come to my
806 property, which is about 1200 feet from Route 5. Now, in my estimation of that,
807 that's not really the corner of Midview and Route 5.

808

809 I, along with the two or three of us, we're concerned that once this corner is
810 zoned for business, regardless of what it's zoned for, it's awful hard to change it.
811 I think that there are many aspects, good aspects to the childcare center, and I
812 have expressed those in our community meetings. One of the real problems we
813 have now, and it's going to get worse, is the traffic. The Planning Commission
814 has said in its memo to us that the Public Works Department will be able to say
815 that it will be handled okay on Midview, it will be handled okay on Route 5. But
816 two days ago, I watched the school bus trying to get off Midview Road onto
817 Route 5 at approximately 8:00 in the morning. I timed it; it took five minutes for
818 that school bus to even get an opening to go south toward Varina High School,
819 and John Rolfe Middle School.

820

821 Now, according also to Ms. Deemer, I think, in her memo—and I hope I quote
822 this correctly—no up-to-date traffic count for the school of approximately 200 kids
823 has been done on Midview or either Route 5. Now, I stand to be corrected if
824 that's true. Now, I'm not against childcare. Those of you who know me know
825 that I taught school in Henrico for 23 years. I taught at Varina High and I taught at
826 John Rolfe Middle School. Therefore, I'm not opposed to that, but I feel like that
827 we're moving very quickly into something here that accurate figures haven't been
828 given.

829

830 We have a little history about Varina. Those of you who are here, have been
831 here long enough to know that the State Department of Transportation doesn't
832 give us a stoplight until someone gets killed. It's happened on Laburnum Avenue
833 at Darbytown Road; it's happened on Route 5 where it crosses Laburnum.
834 There's a stoplight now at Laburnum and Route 5, but once the traffic moves
835 west toward Richmond going to that job, it's continuous traffic. Those of us who
836 oppose this are concerned about this. The childcare people are saying that
837 maybe they can help us get a light. Mr. Jernigan said this is a State problem, if I
838 quoted him correctly. Therefore, that's a concern.

839

840 The other concern that some of us have—and I speak real slowly, so somebody
841 hold their hand up if I'm approaching my 10 minutes. The other problem we have
842 is the size of this building. I live there with a ranch-style house. There are two
843 more right next to me the same size. My house is about three or four bedrooms;
844 it's a normal size. Then you're going to come, and move, and put a school—I call
845 it a small school—into that five acres of land with playgrounds and fences and so

846 forth, and it comes to 150 feet of my property. I'm concerned about traffic. I'm
847 concerned about that huge building as it relates to the construction of our
848 community.

849
850 Then, you know, there's an empty field right there on the corner of Route 5 that's
851 dying for some business to get into. It can mushroom on us, so I would say that
852 this is an area that we are concerned about.

853
854 One other area we're concerned about—and maybe someone can correct this for
855 us. When we talk about moving or realigning Midview Road to the right angle for
856 Route 5, that's a great idea. Somewhere in these proffers I read, and I read it
857 very clearly, that when the childcare center deeds the property to the County to
858 make that amendment to it, the relocation of it, they have 30 years, according to
859 that. If they do not make that amendment, that correction, the property reverts to
860 its owners.

861
862 I think there are some questions that need to be clarified, and those are some
863 concerns that I have at this point. I thank you for the opportunity to express them.

864
865 Mr. Jernigan - Mr. Turner, that's a dispensation clause that you're
866 speaking of, the 30 years. If the County doesn't take that and realign that road,
867 the developer is going to realign it. That property is going to be dedicated to the
868 County.

869
870 Mr. Turner - I understand that, but there's no time limit, that's what
871 I'm saying. The young lady that came up a few minutes ago who was
872 representing the childcare center made that point clear. What she did not say,
873 and even when I read the proffers, it said unless this is done within 30 years, the
874 land goes back to the previous owner.

875
876 Mr. Jernigan - I'm going to clear that up for you.

877
878 Mr. Turner - You're saying to me that before this building is
879 opened or children can go there, that the road is going to be completed and so
880 forth?

881
882 Mr. Jernigan - It's in the project now. I'm going to get Mr. Jennings
883 up here, who is with our Public Works Department, to clarify this a little bit. I'm
884 not saying that the building won't be under construction and all, but I would say
885 this road should be done within a year. I do want to discuss one thing with you
886 about the deaths at intersections.

887
888 Mr. Turner - Okay.

889
890 Mr. Jernigan - That is a Varina rumor about three people having to
891 get killed before they put up a stoplight. I heard that for years before I came in

892 here, but believe me, it's a criteria from VDOT for a traffic count when they put a
893 stoplight up, and also a request of doing a study on it.

894

895 Mr. Turner - Well, excuse me for butting into your conversation,
896 but I've been in the community since 1966, and I know—and I was pastor of Four
897 Mile Creek Baptist Church before going into teaching—that we have accident
898 after accident on Route 5 and Laburnum. I know we had them on Laburnum and
899 Darbytown. We had people in the community saying give us a light. As far as the
900 rumor is concerned, I agree with you that people use it that way. What the reality
901 of it is, there were some deaths that occurred before the lights came.

902

903 Mr. Jernigan - That is true. The same with Gay Avenue and Masonic
904 Lane. Mr. Donati definitely went after VDOT to put a light up there because he
905 felt we needed it, and we got it. Are there any questions from the Commission?

906

907 Mrs. Jones - Mr. Turner, I may not have understood exactly what
908 you were saying, but I thought you were expressing some concerns about the
909 other uses of this property with the change of zoning. I'm sure you know this, but
910 I just wanted to reiterate that this is for daycare use only.

911

912 Mr. Turner - Mr. Jernigan assured us in the community meeting
913 that if—For instance, the childcare is developed and they do well for a few years,
914 and then all at once they decide that the business is not here for us and they
915 decide to go out of business. Then we are left with that zoning, we are left with
916 the building, and we are left with other types of businesses that would come right
917 in. On a personal basis, it's 150 feet from my property.

918

919 Mr. Jernigan - No, they can't. They've proffered that this will be
920 strictly a daycare center.

921

922 Mr. Turner - I understand that.

923

924 Mr. Jernigan - Even if they go out of business. A proffer goes with
925 the land forever. If for some reason Tuckaway was to go out of business, and
926 somebody else wanted to buy that building, they would have to come back to this
927 Commission, just as we are right now, to change that proffer.

928

929 Mr. Turner - I understand that, but my point is the building is going
930 to be there, and it might not be a childcare center. It might be another type of
931 business. It's a fear of those of us who have a piece of property and live there
932 that we are concerned about that.

933

934 Mr. Jernigan - That's what I'm trying to reassure you that there
935 wouldn't be anything else there but a daycare center. If these people were to go
936 out, another daycare center may come in there, but you can't put any other
937 business in there.

938
939 Mr. Turner - We understand that.
940
941 Mr. Jernigan - Okay.
942
943 Mr. Turner - Thank you.
944
945 Mr. Jernigan - Okay, thank you, Mr. Turner.
946
947 Mr. Turner - There may be some others of our group.
948
949 Mr. Jernigan - Okay. I want you all to realize, too, because you were
950 here in '03, that this property—except for the R-2AC property—was already
951 zoned and had a standing POD for a daycare center.
952
953 Mr. Turner - Yes, and we agree with that one.
954
955 Mr. Jernigan - They took this additional land for facilities for the
956 children, plus I think two swimming pools that they wanted to put in. That's the
957 reason that they had the additional property.
958
959 Mr. Turner - Well, do something about the traffic.
960
961 Mr. Jernigan - Mr. Turner, anytime you have something, you're going
962 to have traffic, and that I can't control. It's better than having more housing in
963 there, because this traffic kind of rolls in in the morning, and rolls out at night, and
964 you don't have a whole lot in between. I appreciate you coming out tonight.
965
966 Mr. Turner - Thank you.
967
968 Mr. Jernigan - Thank you. Mr. Jennings, could you come up please?
969
970 Mr. Jennings - Good evening. I'm Mike Jennings, Traffic Engineer for
971 Henrico County. Yes, Mr. Jernigan.
972
973 Mr. Jernigan - Please clear this up for me. I know that this is going to
974 be taken care of, but what's the normal procedure for road improvements, time
975 limits along with the development?
976
977 Mr. Jennings - With this case, it will be done with the POD when it
978 comes in, and they will not get their Certificate of Occupancy without doing those
979 road improvements. I guess it depends on when construction starts when they
980 would actually do it, but it would be along with the construction of this building,
981 the realignment of that road.
982

983 Mr. Jernigan - Okay. All right, thank you, sir. Any other questions?
984 So, Mr. Turner, that answers that. This road will have to be completed before
985 they can get their Certificate of Occupancy and open for business. Okay, thank
986 you, sir. Any comments?

987
988 Ladies and gentlemen, we've been working on this for a little while. This property
989 was already zoned previously. I think Tuckaway has done a nice job to meet
990 with the rest of the neighborhood and Varina Beautification to bring this building
991 up to the standards—and Mr. Nelson, I appreciate your work on this—that we
992 need for Varina. I think this fits. Mr. Turner is right, it is a big facility, and it
993 houses a lot of kids, but it's going to be a nice facility for our children. At this
994 point, I'm feeling okay with it.

995
996 With that, I move for approval of case C-25C-08, Kristen D. Keatley for Tuckaway
997 Child Development Center. Excuse me, I need to waive the time limits first. I
998 make a motion to waive the time limits on case C-25C-08, Kristen D. Keatley for
999 Tuckaway Child Development Center.

1000

1001 Mr. Branin - Second.

1002

1003 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Branin. All
1004 in favor say aye. All opposed say no. The ayes have it; the motion passes.

1005

1006 I make a motion to approve case C-25C-08, Kristen D. Keatley for Tuckaway
1007 Child Development Center, and send it to the Board of Supervisors for their
1008 approval.

1009

1010 Mr. Branin - Second.

1011

1012 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Branin. All
1013 in favor say aye. All opposed say no. The ayes have it; the motion passes.

1014

1015 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.
1016 Branin, the Planning Commission voted 5-0 (one abstention) to recommend the
1017 Board of Supervisors grant the request because it provides for appropriate
1018 development and the proffered conditions should minimize the potential impacts
1019 on surrounding land uses.

1020

1021 Thank you all so much for coming out.

1022

1023 **C-31C-08 James F. Shepherd for UCP Limited Partnership:**
1024 Request to conditionally rezone from B-1 Business District to RTHC Residential
1025 Townhouse District (Conditional), part of Parcel 832-714-1636, containing 7.46
1026 acres, located on the south line of E. Williamsburg Road (U.S. Route 60) at the
1027 northern terminus of Whiteside Road. The applicant proposes a residential
1028 townhouse development with a maximum of 45 units, an equivalent density of

1029 6.03 units per acre. The maximum density allowed in the RTH District is nine (9)
1030 units per acre. The use will be controlled by zoning ordinance regulations and
1031 proffered conditions. The Land Use Plan recommends Office. The site is in the
1032 Airport Safety Overlay District.

1033

1034 Mr. Jernigan - Is there any opposition to case C-31C-08, James F.
1035 Shepherd for UCP Limited Partnership? We do have opposition. Mr. Sehl, good
1036 evening.

1037

1038 Mr. Sehl - Good evening, Mr. Chairman.

1039

1040 Mr. Jernigan - How are you?

1041

1042 Mr. Sehl - I'm fine, thank you.

1043

1044 Mr. Jernigan - You may proceed, sir.

1045

1046 Mr. Sehl - Thank you. The applicant is proposing to rezone 7.46
1047 acres of a larger 7.84-acre site for the development of 45 townhouses, an
1048 equivalent density of 6.03 units per acre. A portion of the subject site would
1049 remain zoned B-1 to allow for access to B-1 zoned property located at the interior
1050 of the subject site, which has not been included with this request.

1051

1052 The 2010 Land Use Plan recommends Office for the subject property. This
1053 request is not consistent with this designation, but because of access restrictions
1054 to Williamsburg Road, and adjacent zoning patterns, residential development
1055 could be appropriate if properly designed and regulated.

1056

1057 The applicant has proffered a concept plan, which shows how the site would be
1058 developed. Access points would be provided to Whiteside Road and an
1059 unnamed state-maintained frontage road to the west. Interior roads would be
1060 private, and the applicant has provided a proffer committing to constructing those
1061 roads to County standards. The applicant has submitted revised proffers, dated
1062 September 9th and distributed to you this evening, which address many of the
1063 concerns outlined in the staff report. Major aspects of the proffers include: a
1064 minimum of 55% of the units would contain brick fronts; the units would be
1065 consistent with the proffered architectural elevations shown here, and would be a
1066 minimum of 1583 square feet; a 20-foot buffer would be provided along the
1067 western boundary of the property and 10-foot buffers would be provided along
1068 Williamsburg Road and the southern and eastern property lines; townhouse units
1069 would contain sprinklers for fire protection; front and side yard areas would be
1070 sodded and irrigated; entrance signage would be consistent with the proffered
1071 sign exhibit; and sidewalks would be provided along one side of all interior
1072 roadways.

1073

1074 The revised proffers address many of the concerns noted in the staff report, but
1075 staff continues to note concerns about the joint access to the adjacent property
1076 located at the interior of the site, which would remain zoned B-1.

1077

1078 Staff believes including the adjacent property in this request would provide for a
1079 more cohesive development and would eliminate potential use conflicts in the
1080 future. If the property is unable to be incorporated with this development, staff
1081 believes the access to the remaining B-1 zoned property should be completely
1082 separated from the residential development, and not run through the parking lot to
1083 be used by future residents.

1084

1085 Staff believes residential uses could be appropriate for the site, and if the
1086 applicant were able to include the adjacent property in the request, or reduce
1087 future potential use conflicts by providing separate access to the remaining B-1
1088 zoned property located to the interior of the site, staff could support this request.

1089

1090 This concludes my presentation. I would be happy to try and answer any
1091 questions you might have.

1092

1093 Mr. Jernigan - Are there any questions for Mr. Sehl from the
1094 Commission? All right. Mr. Sehl, I know when you e-mailed this to me the other
1095 night, when we were talking about the road. I don't really see that much
1096 difference from what we had.

1097

1098 Mr. Sehl - The previous version, the version that was distributed
1099 to you this evening, has this area here, which is the hammerhead that the
1100 applicant plans to include. Therefore, there would be a turnaround area without
1101 being able to go straight into the remaining B-1 zoned property located here.
1102 Previously, this went straight in without this turnaround here.

1103

1104 Mr. Jernigan - Okay. We're caught in a little bit of a spot here
1105 because I don't like where the B-1 has to come through to get in here either.
1106 Unfortunately, Williamsburg Road is a limited access highway, and we can't
1107 come off Route 60 and go directly in. Before I spoke with the developer, and
1108 thought that maybe we could have the driveway coming in like it is now, but
1109 maybe have a 12-foot private driveway that just comes off and goes into the B-1.
1110 I guess this will work here. It's just a tough situation altogether.

1111

1112 Mr. Branin - Mr. Chairman, this is a conceptual, right?

1113

1114 Mr. Jernigan - Yes sir.

1115

1116 Mr. Branin - You'll have another opportunity to work on this.

1117

1118 Mr. Jernigan - Oh, yes, we're going to have some more opportunity
1119 to work on it, but what we've looked at, there's no other way. We can't build a

1120 road to come into the B-1 just for one person to use. That's a little cost-prohibitive
1121 there. Okay. I'd like to hear from the applicant, please.

1122

1123 Mr. Jones - Good evening, Mr. Chairman, members of the
1124 Commission. My name is Russell Jones. I'm here tonight representing UCP
1125 Limited Partnership.

1126

1127 To address your concerns, with the construction of 295 and Route 60
1128 interchange, the limited access was placed on this property by the State of
1129 Virginia. We would love to be putting offices in there, or some other type of
1130 business, but limited access really prevents it from being used at all that way. It's
1131 really very limited.

1132

1133 We tried to develop a quality residential development that would work in this
1134 community. The staff recommendations for the proffers we've tried to meet, and
1135 go beyond what they've asked for. The zoning line between the B-1 and the
1136 proposed RTHC zoning was drawn to give access for Mrs. Phelps' property. Her
1137 property has been used as a single-family home, and it is still being used as a
1138 single-family home. We can't predict the future, but more than likely, her
1139 property will continue that way because it also has limited access.

1140

1141 I would like to have had that property included in this, and be rezoned to
1142 residential, but the Phelps' are not really in a position, from what I've talked to
1143 them about, to be able to do that.

1144

1145 So, I think what we're proposing is a good transition, and still in the future it will
1146 continue to be single-family. It's not going to be a restaurant. It's probably not
1147 going to be a dentist office, or a lawyers' office. If it were, it would not have that
1148 much of an impact on the residential development. There would be very few
1149 people coming and going. It doesn't make good sense to build another road into
1150 it for that one house. My landscape architect is here, and he can go over some
1151 of the problems with putting another road in, if you'd like to hear that. Mr.
1152 Shepherd?

1153

1154 Mr. Shepherd - Mr. Chairman, members of the Commission, my
1155 name is Jimmy Shepherd. I'm a landscape architect and private consultant. I did
1156 the layout for this proposed development. One of the main things I tried to do in
1157 this development was to provide a lot of open space. All of these areas you see
1158 in here are existing trees, and those would remain. Another design feature is that
1159 all the units back up to this green space. None of the units would face out into the
1160 road, or back up to adjacent properties. This really allows for a quality
1161 development, and a really nice neighborhood. We feel if a road is required, a
1162 single access road to Mrs. Phelps' property, that a lot of that open space would
1163 be lost, and this layout would be jeopardized. It wouldn't be the quality
1164 development that we're proposing. Thank you.

1165

1166 Mr. Jernigan - Reading through the proffers on sod and irrigation,
1167 you're showing the front and side yard, but what about the backyard, because
1168 this is to all be maintained by the HOA, correct?
1169

1170 Mr. Shepherd - We did not include the backyards since the backyards
1171 are fenced. It would be the front and side. It would be those public areas, and
1172 would be maintained by the homeowners' association.
1173

1174 Mr. Jernigan - There's not that much rear area, as most of that is
1175 wooded, but you do have a rear yard.
1176

1177 Mr. Shepherd - Yes, there is a rear yard. Maybe it's difficult to see on
1178 this plan, but these units do call for a 12 by 12 deck on the second floor that
1179 would be, of course, in the rear of the units. That would allow for more outdoor
1180 space.
1181

1182 Mr. Jernigan - Depending on how things go tonight, we're going to
1183 have to discuss this. I also noticed one other thing. On the brick content, I think
1184 we will bump that to 60%.
1185

1186 Mr. Jones - Mr. Jernigan, I do remember a conversation we had
1187 about 60% brick. We're certainly willing to do that, if that's what you think would
1188 help bring it up to a more quality development.
1189

1190 Mr. Jernigan - I think the development looks good now, but we had
1191 discussed that, and you said you would do that. I figured that was just missed in
1192 the proffers.
1193

1194 Mr. Jones - Sir, we're willing to do 60% brick, absolutely.
1195

1196 Mr. Jernigan - All right. Any questions from the Commission for
1197 these gentlemen?
1198

1199 Mrs. Jones - The other points that were covered in the staff report,
1200 I'm trying very quickly to look through here and see if they're all addressed.
1201

1202 Mr. Jones - Yes ma'am, take your time.
1203

1204 Mrs. Jones - Have they all been addressed?
1205

1206 Mr. Jones - Yes ma'am, I think so. Take your time. There may be
1207 some others that we have overlooked.
1208

1209 Mrs. Jones - You need to be a speed-reader sometimes up here.
1210

1211 Mr. Jones - It's difficult, I know. We spent two years working on
1212 this, so obviously we're still trying to get it perfected.
1213
1214 Mr. Jernigan - We do have opposition.
1215
1216 Mr. Jones - Thank you, Mr. Jernigan.
1217
1218 Mrs. Jones - Thank you.
1219
1220 Mr. Jernigan - We do have opposition, if you all would like to come
1221 down now. Please state your name for the record please.
1222
1223 Mr. Hicks - Good evening. My name is Scott Hicks. I'm here
1224 speaking on behalf of the residents of the B-1 zoned property. I understand it's
1225 being referred to that consistently, and it's not inaccurate, but I think the
1226 important thing to remember here is that it is a residence, and it has been a
1227 residence since construction 80 years ago. It's a historic residence, but more
1228 importantly, it's a residence that is being used now, and there is more than just
1229 one person there. I'm actually Phyllis Phelps' grandson. My parents would be
1230 here as well. They live there, as well as my two youngest brothers.
1231 Unfortunately, they couldn't make it, and I was asked to step in and speak for
1232 them.
1233
1234 I've heard the applicant speak a lot about the quality of the development here,
1235 and particularly about how something like an access road specifically for the
1236 property, for 807 East Williamsburg Road, would compromise the quality of the
1237 development. I can only answer that I think without an access road you're
1238 compromising the quality of life for the people who live there.
1239
1240 My family didn't ask for any of this to be zoned anything other than residential,
1241 and certainly not for multi-family residential around it. The entire project,
1242 obviously, will have significant impact on their enjoyment of their own property
1243 here. There has been a significant buffer on all sides for 25 years since my
1244 grandmother bought this piece of property. Again, that's compromised
1245 significantly by what they're trying to do here. Unfortunately, the applicants didn't
1246 really start off on a very good note with my family because they failed—I'm sure it
1247 was an oversight—to notify us of the first meeting that was held. I think other
1248 folks who are on Whiteside Road were notified of a public meeting that they held
1249 at the library. I guess it was a couple months ago. Unfortunately, I came late to
1250 the party. Neither the family that lives there, nor the family that lives next door in
1251 the rental house that's on the property was notified by mail. It only came to their
1252 attention that something was going to be done, or something was in the works
1253 through one of the neighbors who actually had been notified, who would really
1254 not be affected by this development happening anyway.
1255

1256 I also noted that there is a proposed buffer in construction, I suppose, between
1257 the construction on the development parcel and the property on the west side. I
1258 don't recall reading anything about a buffer between this development and the
1259 actual property that's right in the middle of it. I think there's a big privacy issue
1260 here. There are going to be hundreds of people living here, and basically right
1261 on top of this family that's lived there for 25 years, and had hoped to live there
1262 much longer.

1263

1264 Myself and my family, we all oppose, obviously, any sort of development like this
1265 around there, and certainly not without some concessions. Obviously, another
1266 huge consideration is we feel it's going to be a devaluation of the property. If I'm
1267 correct, Mr. Jones may have contacted my family to make an offer for this piece
1268 of property sometime earlier this year. If I'm correct, the offer was significantly
1269 below the tax assessed value of the property. He can dispute that if he likes; I
1270 only have the information that I was given. Again, I haven't been as directly
1271 involved with this as my parents have, but if they decided to really encroach upon
1272 my family's enjoyment of this property, the replacement value of it is certainly
1273 considerably higher than the actual tax assessed value. Once these homes are
1274 built, it's going to be devalued further. If they should decide to sell this property,
1275 who would want to buy it?

1276

1277 Mr. Branin - Mr. Hicks, can I ask you a question?

1278

1279 Mr. Hicks - Certainly.

1280

1281 Mr. Branin - I thought I heard you say your grandparents or your
1282 family owned all of this land that's being developed.

1283

1284 Mr. Hicks - No, no, no. My grandmother owns only the piece
1285 that's the B-1 in the center that's not being development. I'm sorry if I've been
1286 unclear on that.

1287

1288 Mr. Branin - Okay. I thought you said that they sold all the rest of
1289 that land.

1290

1291 Mr. Hicks - No, they did not. I think it was in 1982 that my
1292 grandmother bought just the piece of property that you see there that's not being
1293 developed. That's the only piece that she bought.

1294

1295 Mr. Jernigan - She bought this property in 1982?

1296

1297 Mr. Hicks - I believe it was 1982. I was about 12, I would say.

1298

1299 Mr. Jernigan - When was this property zoned?

1300

1301 Mr. Hicks - Pardon me?

1302
1303 Mr. Jernigan - When was this property zoned?
1304
1305 Mr. Hicks - Zoned as B-1? Again, I've done most of my research
1306 on this today, and I'm not entirely sure. I'm almost certain it's been some time
1307 since then, and it wasn't, again, at the request of my grandparents.
1308
1309 Mr. Jernigan - Mr. Sehl?
1310
1311 Mr. Sehl - Mr. Jernigan, the property was actually rezoned in
1312 1969 in the anticipation of Route 60 being realigned through that section outside
1313 of Sandston. The property was transferred to the Phelps in 1981.
1314
1315 Mr. Jernigan - So, the [unintelligible] had it.
1316
1317 Mr. Sehl - It was transferred.
1318
1319 Mr. Jernigan - So, it was rezoned in 1969. Okay.
1320
1321 Mr. Hicks - My apologies again. Most of my research has taken
1322 place today in preparation for this, so. Obviously, we have a number of concerns
1323 about this, and we don't think that, certainly, enough has been done, or enough
1324 has been offered by the developers to compensate for the loss of enjoyment of
1325 the property. Again, not even a privacy fence has been offered.
1326
1327 We very much oppose this development.
1328
1329 Mr. Jernigan - Let me ask you this. You said nobody was notified of
1330 this, but wasn't your grandmother given a packet of the designs and everything?
1331
1332 Mr. Hicks - Of this meeting. I'm sorry again if I was unclear. The
1333 developers held a meeting a couple of months again. I think it was in the—
1334
1335 Mr. Jernigan - Sandston Library.
1336
1337 Mr. Hicks - Yes. No, nothing was ever mailed or given to my
1338 family, or Kathy, who rents the house next door on the development parcel, and
1339 has rented that house for how long, Kathy?
1340
1341 Mr. Jernigan - She didn't receive a packet that showed what was
1342 going on?
1343
1344 Mr. Hicks - No notification was given to my family or her at all.
1345 She learned about it I believe from one of the neighbors that lives on Whiteside.
1346
1347 Ms. Wright - [Off mike.] [Inaudible.]

1348
1349 Mr. Branin - She has to come up.
1350
1351 Mr. Hicks - Okay, thanks.
1352
1353 Mr. Jernigan - Ma'am, could you come down and state that for the
1354 record please? State your name for the record.
1355
1356 Ms. Wright - Hi, my name is Kathy Wright, and I live at 805 East
1357 Williamsburg Road as a tenant of the proposed property. Mrs. Hicks did receive
1358 a copy of the plans that were sent by Mr. Shepherd, but there was not notification
1359 of a public meeting that was being held at the Sandston Library.
1360
1361 Mr. Jernigan - I know that discussion came up the night that I was
1362 there.
1363
1364 Ms. Wright - That's right.
1365
1366 Mr. Jernigan - You did receive all of the paperwork on it, and knew
1367 what was going on, but didn't know about the night of the meeting.
1368
1369 Ms. Wright - That's right. Mrs. Hicks had a copy of the proposed
1370 drawing, but neither of us knew of the public meeting. It was learned from a
1371 neighbor down the road.
1372
1373 Mr. Jernigan - Thank you, Ms. Wright. All right, Mr. Hicks, did you
1374 have anything else to say?
1375
1376 Mr. Hicks - I think that's it, thank you.
1377
1378 Mr. Jernigan - All right. Are there any questions for Mr. Hicks from
1379 the Commission? All right. Did the other ladies want to speak? Okay. Would you
1380 come down please?
1381
1382 Ms. Sharpe - Good evening. I'm Ann Sharpe and I'm the owner of
1383 the adjacent parcel to the south of this property, and the co-owner of the adjacent
1384 parcel to the west. Basically, I'm looking at this property line here. It fronts an
1385 open field that is being used for agriculture. This property line to the west also
1386 adjoins the property.
1387
1388 I have several concerns about this proposal, and my first concern was about the
1389 35-foot buffer that was in the application that I received. Here tonight, I hear talk
1390 of a 20-foot buffer. Not being happy with 35, I'm definitely not happy with 20.
1391 Thirty-five feet on that drawing looks like a solid block. Thirty-five feet is 11-2/3's
1392 yards. That's ten yards for a first down in football. Think about a football field, the
1393 ten-yard lines. That's what we're talking about. How many trees wide is that?

1394 Thirty-five might sound big to you, but 35 feet is not a big distance, and it's not
1395 going to be solid like it looks up there on that drawing. No buffer is planned on
1396 the southern boundary in the information that I received earlier this week. I'm
1397 concerned about this one. Therefore, I request that a six-foot privacy fence be
1398 maintained by the developer or the homeowners' association on the west line,
1399 and across here. Otherwise, our fields will become an extended play area, and
1400 we'll continue to have trash that will be coming from that area that now is all solid
1401 wooded.

1402
1403 I'm also concerned about the retention basin. The best I can figure out, that must
1404 be this area right here. My copy's too small to really read clearly. This is a
1405 natural low area. I would like for someone to ensure that all of the drainage
1406 created by the concrete in this area, that that water runoff is going to be
1407 maintained on that property. Otherwise, my property right here is going to be the
1408 recipient of it.

1409
1410 I am concerned about the quality of construction. When reading the proposed
1411 building materials for the exterior walls, I came upon something called E-I-F-S,
1412 along with brick, wood, and vinyl. Not knowing what that was, I looked it up and
1413 did a little research. It is a lightweight synthetic wall cladding with a stucco look. I
1414 also found out that it has been proved to be unsatisfactory due to water leakage,
1415 and a lack of fire resistance inherent in the materials. Now, I'm not an expert in
1416 building materials, but when I read that, that sends up a red flag. What kind of
1417 quality construction are we looking at if you're going to propose a development
1418 and you put that in your original proffers? How will this property look in 25
1419 years? How is it going to hold up in 50 years? Who's going to be maintaining
1420 the development?

1421
1422 Another concern is the western access to the development. I have always
1423 understood that the present road is a service road created for access to two
1424 single-family homes after Williamsburg Road became limited access. The
1425 addresses of the property are currently Williamsburg Road, as a service road has
1426 no name. Will that be changed? Will the road need to be rebuilt for the increase
1427 in traffic?

1428
1429 I do not see a need for rezoning from B-1 Business District. Currently, an office
1430 complex is being built on the northwestern corner of the intersection of
1431 Williamsburg Road and Whiteside Road. Obviously, they plan on that being
1432 successful, so I don't see why this property likewise could not be developed into
1433 an office complex. I think it would be a lot better neighbor.

1434
1435 I hope that you will consider our concerns.

1436
1437 What are the buffer zones as they stand now? What I have is different from what
1438 I thought I heard.

1439

1440 Mr. Jernigan - I'm sorry. I didn't hear your question.
1441
1442 Ms. Sharpe - What are the buffer zones in the paperwork that you
1443 have tonight versus what I received last week?
1444
1445 Mr. Jernigan - Oh, let me see here.
1446
1447 Mr. Emerson - Mr. Sehl can respond to that.
1448
1449 Mr. Sehl - Yes sir, Mr. Secretary. The current buffers were
1450 amended on the most recent proffers on September 9th to provide for a 20-foot
1451 buffer along the western boundary line. That is reduced from 35 feet, as Ms.
1452 Sharpe said. The rest of the perimeter of the property along Williamsburg Road,
1453 and then along the southern and southeast property line will be a 10-foot
1454 transitional buffer, or a 10-foot buffer planted to a transitional buffer 10 standard.
1455
1456 Mr. Jernigan - All right. I didn't know that we had reduced that.
1457
1458 Mrs. Jones - Why?
1459
1460 Mr. Jernigan - Well, we'll get to that in a second. First of all, let's get
1461 to the EIFS. That's standard procedure in all cases that we have.
1462
1463 Ms. Sharpe - What's that?
1464
1465 Mr. Jernigan - Energy Insulation Finishing Systems. That's what it is.
1466 It does have that stucco finish to it, but to my knowledge—and Mr. Jones, you
1467 can correct me if I'm wrong—there is no EIFS on these. It's all brick and forty-
1468 two thousand five—
1469
1470 Ms. Sharpe - That was in the proffers that I received.
1471
1472 Mr. Jernigan - Right. That's in all proffers. In every case that comes
1473 through, that's in there. He's using just brick and vinyl.
1474
1475 Mr. Sehl - Mr. Jernigan, the most recent version of the proffers
1476 also did strike EIFS as a permitted building material.
1477
1478 Mr. Jernigan - Sir?
1479
1480 Mr. Sehl - In the proffers before you this evening, EIFS was
1481 struck as a permitted building material.
1482
1483 Mr. Jernigan - Okay, it's been removed. On the wall, you want a six-
1484 foot fence? Normally, we don't buffer people from people, and it's going from R
1485 to A, which next door to you is an open field.

1486
1487 Ms. Sharpe - The open field is my field.
1488
1489 Mr. Jernigan - Yes ma'am. Even if there was housing there, we don't
1490 normally put walls up between people.
1491
1492 Ms. Sharpe - We have a privacy fence behind those apartments,
1493 and that's the only way we've been able to maintain the farmland. We still have
1494 to deal with trash, and we still have to deal with a hole in the fence where they
1495 walk across the property to cut through, which I can't really blame them, because
1496 otherwise they'd have to walk all the way around.
1497
1498 Mr. Vanarsdall - A wooden fence?
1499
1500 Ms. Sharpe - There's a six-foot wooden fence along this line.
1501
1502 Mr. Vanarsdall - Always will be a hole in it.
1503
1504 Ms. Sharpe - Right here. The kids from here walk—they have a
1505 little path from here across here. I have to give it to them, they stick right to the
1506 line here and they walk up, and then they walk up this driveway to the service
1507 road. There is going to be an issue with this service road because, I mean, that is
1508 basically a service road. I don't know. I guess that's somebody else's problem.
1509
1510 Mr. Jernigan - Well, we'll find out. Mr. Jennings is with us again. I'm
1511 going to call on him to come up here again.
1512
1513 Mr. Vanarsdall - I'm glad you came tonight, Mr. Jennings.
1514
1515 Mr. Jernigan - Good evening.
1516
1517 Mr. Jennings - That's an interesting question, because I actually
1518 raised that with Mr. Jones about a year ago because it's a VDOT service road. It
1519 was existing back when Williamsburg Road was realigned and improved. I
1520 brought that question up with Mr. Jones when talking about this case, him
1521 showing that as a second point of access, which I encouraged. But I wasn't sure
1522 about the right to use that road, and what would be needed. I think it's gravel, as
1523 she said. I'm not 100% sure.
1524
1525 Mr. Jernigan - So, it's not a County paper street, it is—
1526
1527 Mr. Jennings - No.
1528
1529 Mr. Jernigan - —VDOT—
1530

1531 Mr. Jennings - It is a VDOT service road. It is within the right-of-way
1532 for Route 60. It's not a separate right-of-way from Route 60. I don't know the
1533 details of it. I have not talked to VDOT in regards to this road, but I did question it
1534 when Mr. Jones and I met.
1535
1536 Mr. Jernigan - All right. Stand there for a minute. Mr. Shepherd. I
1537 know we discussed this second road before. Do you have to have this? You
1538 have less than 50 units. By code, you don't have to have a second point of
1539 access.
1540
1541 Mr. Shepherd - That's true. I think this could be handled in the POD
1542 process. We could check with VDOT and see if we could use that road. If not,
1543 then we do only need one point of access with 45 units.
1544
1545 Mr. Jernigan - I don't guess you want to pave that road, do you?
1546
1547 Mr. Shepherd - That would be up to the developer.
1548
1549 Mr. Jernigan - I can tell you right now he doesn't want pave that.
1550 Okay. So, you can function with one point of access.
1551
1552 Mr. Jennings - Technically, no, because that would put the end of
1553 Whiteside Drive over our limit. Out of their development, it would put additional
1554 units on the existing Whiteside Road.
1555
1556 Mr. Jernigan - Okay.
1557
1558 Mr. Jennings - Based on that, they would need a second point of
1559 access. Individually their unit doesn't require it, but overall—See how many
1560 houses are being served by Whiteside Road? So, it does require the second
1561 point of access overall, per our Public Works policy.
1562
1563 Mr. Jernigan - Okay. Thank you, sir. Was there anybody else? I
1564 guess so.
1565
1566 Ms. Mason – Good evening. My name is Andrea Mason. I am the
1567 daughter of the other co-owner of the adjacent property to the west. My mother is
1568 elderly and is not able to be here tonight, so I'd like to speak for her.
1569
1570 First of all, I would like to say also that the first public meeting that was held at
1571 the Sandston Public Library, she was never informed of any of this. We received
1572 no information on this. We've received no literature whatsoever about any of the
1573 development whatsoever. If it had not been for my cousin looking into this matter,
1574 which she did receive—she's the other co-owner and just spoke a minute ago.
1575

1576 Mr. Jernigan - Let me clear something up. What's your mother's
1577 name?
1578
1579 Ms. Mason - Lillian Pollard.
1580
1581 Mr. Jernigan - Does she live in the rental house?
1582
1583 Ms. Mason - No, she lives in Highland Springs. We are the co-
1584 owners of the property to the west.
1585
1586 Mr. Jernigan - Okay.
1587
1588 Ms. Mason - It's the Taylor property, originally. Many of the things
1589 that have just been discussed were my concerns also. I would like to emphasize
1590 about the fencing that Ms. Sharpe just talked to you about. The adjacent property
1591 of the housing development, the apartment development, the County did approve
1592 for fencing to be placed in that development, and that does adjoin this property.
1593 We feel that it's very imperative that if we are to maintain the integrity of our
1594 property with the agricultural develop that's going on on our property, we do need
1595 the fencing to be placed there by this development.
1596
1597 We're very concerned about the drainage to the property, how it will affect us. In
1598 the information I have, it does not seem to be addressed that much. I'm sure that
1599 there is probably more detailed information than we've received, but we are very
1600 concerned about how the drainage will be handled at the back of the property.
1601 There appears to be a retention basin right at the back of the property in the
1602 design that we have. I would be concerned about the depth of the retention
1603 basin, whether there is going to be fencing around it. There are apartment
1604 complexes, a housing development with children in the area. Just wondered
1605 what safety precautions would be taken as far as this retention basin is
1606 concerned.
1607
1608 Again, access by this service road we are very much concerned about, and you
1609 addressed that issue. I would like to emphasize that this is a gravel road. It is not
1610 maintained very well at all. Periodically, they come in and put more gravel down,
1611 but it is for two single-family dwellings. From the information we've received, they
1612 are projecting 326 vehicles a day using an access coming in and out of this
1613 development. This road really does need to be looked at very seriously as far as
1614 how they're going to handle it, if they're going to have a second access onto this
1615 road.
1616
1617 These are basically my concerns, and I thank you for your time.
1618
1619 Mr. Vanarsdall - Thank you.
1620

1621 Mr. Jernigan - There was something I wanted to ask you, but I'm
1622 trying to remember what it was now.
1623

1624 Ms. Mason - Okay.
1625

1626 Mr. Jernigan - Oh. The retention pond is regulated by Public Works.
1627 The engineers have to prove the water calculations as to what will be retained in
1628 there. By code, they can't put water on your property.
1629

1630 Ms. Mason - Okay. There will be fencing around that area?
1631

1632 Mr. Jernigan - That will be determined by Public Works, and at the
1633 time of POD.
1634

1635 Ms. Mason - Thank you.
1636

1637 Mr. Jernigan - Are there any questions from the Commission? All
1638 right, thank you.
1639

1640 I want to tell all of you that this is a tough piece of property, and I understand the
1641 position that you're in with the B-1, which I don't know why this property was ever
1642 rezoned B-1. Mr. Sehl has said it was because of the increase when Route 60
1643 came through there to hopefully sell it off for retail property. Unfortunately, Route
1644 60 is limited access. I don't like it because it really messes up things all the way
1645 from Seven Pines to Route 156. It's limited access all the way down, and it
1646 makes it tough for the area.
1647

1648 Mr. Jones owns this property, and I don't know that I can hold him hostage until
1649 something happens with the B-1. Now, as far as the money that you all have
1650 discussed about what the property is worth, I don't know. I'm sure if it's zoned B-
1651 1, the property is based at more than it would be as residential property. I don't
1652 see any clear solution. If I turn this down, I don't feel like I'm being fair to Mr.
1653 Jones, but yet I understand that you all have a problem here. What I'm going to
1654 do is recommend approval and send it to the Board of Supervisors, and let them
1655 see what they want to do. Mr. Jones, do you want to say something?
1656

1657 Mr. Jones - Mr. Chairman, these people are my neighbors. I want
1658 to get along with my neighbors. I want the neighbors to support this project. I'd
1659 like clear up a couple of things first. I believe Ms. Mason and Ms. Sharpe are
1660 one in the same. You all are both co-owners of the same property?
1661

1662 Ms. Sharpe - [Off mike.] We co-own the property to the west. I own
1663 the property to the south.
1664

1665 Mr. Jones - You own it by yourself.
1666

1667 Female - [Off mike.] [Inaudible.]
1668
1669 Mr. Jones - All right. You all are R-3 right now, I believe, but
1670 you're using it as agricultural, which is residential possibly in the future. They just
1671 haven't gotten it—
1672
1673 Mr. Jernigan - It is R-3.
1674
1675 Mr. Jones - It is R-3. It's all residential neighbors. The one thing
1676 that this brings to them is home ownership, not apartments. There is a big
1677 difference. The apartments are a negative for this project, as well as for them.
1678 The apartments can have an impact. If you look at the way we laid out the
1679 homes, when you go into your home, you're coming into the driveway, you're
1680 going inside, and you're looking out onto a wooded area out of your kitchen and
1681 out of your backdoor and your deck. You're not facing the apartments. We
1682 thought about that.
1683
1684 The other part is with Karen Hicks and her son, and Mrs. Phelps—and Mrs.
1685 Phelps owns the property. She's elderly. Her grandson will probably verify this,
1686 because I have not met Mrs. Phelps. I tried to call and meet her back in January.
1687 I talked to Karen Hicks, who was very nice. She came to the meeting in August,
1688 although at that meeting, she had not received notice from us. Her address got
1689 confused because I own the property all the way around her. Now, the lady who
1690 came and informed her about it is my tenant right here. She did not receive
1691 notice because she's my tenant. I'm not going to send notice to myself; the State
1692 Code doesn't require that I do that. I had called Mrs. Hicks, and I had told her
1693 that I would not be able to purchase her parcel back; it was too expensive; it did
1694 not work, that she would have to continue to live there as residential, and what
1695 we were putting in was residential. Mrs. Hicks told me that when her mother
1696 passed away, her intent was to relocate her family to King William. Is that
1697 correct?
1698
1699 Mr. Hicks - [Off mike.] No.
1700
1701 Mr. Jones - King—
1702
1703 Mr. Hicks - [Off mike.] Yes, that's where we're talking about
1704 [inaudible].
1705
1706 Mr. Jones - King William. Well, her intentions have changed then
1707 since she's spoken to me. She was probably going to move away when her
1708 mother passed away. Her father had died. So, there was no reason to try to not
1709 let her know what was going on. I called her again prior to the meeting. I have
1710 sent her e-mails, and I have sent her a copy, the most recent copy of the layout
1711 the day before yesterday. I want to keep her informed, just as I do the other
1712 neighbors. I want them to support this project. Change is always hard when you

1713 get in these situations. It's been open. Nothing's been happening for 25 years.
1714 We're not creating sprawl here. This is good, urban development. This is
1715 sensible development. In the long run, they will all like each other. The houses
1716 are laid out so on the western boundary, no one is facing the boundary. There
1717 are three houses facing to the south. That's all Mrs. Sharp will see. If she's
1718 sitting in a trailer out in that field, she'll look and see three houses. That's a
1719 limited view, and it's a pretty view. She's seeing the front of the houses that are
1720 brick. If you ask me to go to 60%, I'm willing to do it. This is not a project that's
1721 being forced down someone's throat. This is a project that works, and is good for
1722 the Sandston community. It's expensive. It upgrades the community. I hope that
1723 as change comes about, that the neighbors will see that. Thank you for your
1724 time.

1725

1726 Mr. Jernigan - Any questions from the Commission?

1727

1728 Mrs. Jones - I have one concern. Since the second point of access
1729 is an important element of this, and since that's a VDOT situation, is there
1730 enough time for this? Should this case move on, between now and the Board is
1731 a mighty limited amount of time to get that straight.

1732

1733 Mr. Jernigan - What will happen, then, is they'll have to defer it if it's
1734 not straight then.

1735

1736 Mrs. Jones - That's an essential part of this case.

1737

1738 Mr. Jones - Mrs. Jones, I'm sorry. I meant to address that issue.
1739 Whiteside Road on the right-hand side also stops. The County does not have
1740 control or ownership of it—that circle up there on the right. That's State property.
1741 On the left side, it's the same situation. When I contacted the State, the State is
1742 probably going to make the improvements to the service road. They would not
1743 put it in writing to me, but when I spoke with them at length several times, that's
1744 what they indicated. Now, Mr. Jennings will come up here and tell you that you
1745 don't own that other circle. So, whatever's going in on the other side can
1746 certainly come in on both sides. It really is to everyone's advantage. If Mrs.
1747 Sharpe's property and Mrs. Mason's property, if they ever pass away and their
1748 children decide they want to cash in, that road is going to be an important access
1749 for them, unless they want to create their own. I'm inclined to think they'd
1750 probably like to go along with what's there. If we can continue on this process of
1751 having both accesses, it will really benefit everybody, including the Phelps' in the
1752 B-1 portion.

1753

1754 Mrs. Jones - My only thought was that if this does not come about,
1755 you're going to be left with very limited options if you can't get permission, or if it
1756 can't be worked to the satisfaction of everybody.

1757

1758 Mr. Jernigan - Mr. Jones, you're going to have to get that straight
1759 before it comes to the Board. If it's not straight by the time it comes to the Board,
1760 you'll have to defer to the Board.
1761
1762 Mr. Jones - By getting it straight, you want me to bring something
1763 in writing from the State or?
1764
1765 Mr. Jernigan - We need something positive that we can pass along
1766 to Mr. Jennings.
1767
1768 Mr. Jones - The State is going to tell me that budget concerns
1769 are—But I will try to get something. I will get something that—
1770
1771 Mr. Jernigan - Well, by County code, Mr. Jennings is right. You have
1772 to have two accesses. Actually, on multi-family, it's 80 units, but we do have
1773 more than 80 units right now with yours coming in. It's 50 on single-family; it's 80
1774 on multi-family for two points of access. When you add in the units on Whiteside
1775 Road, it would put it over the 80.
1776
1777 Mr. Jones - The existing units are what you're talking about.
1778
1779 Mr. Jernigan - Sir?
1780
1781 Mr. Jones - The existing units.
1782
1783 Mr. Jernigan - Yes sir.
1784
1785 Mr. Jones - Right.
1786
1787 Mr. Jernigan - I know your project is only 45 units, but they look at
1788 the access road. They have to count the units coming down that road to get to
1789 you also.
1790
1791 Mr. Jones - Right.
1792
1793 Mr. Jernigan - Unfortunately, we had to change that a while ago.
1794 Some people would go in and build 49 houses, and then they'd extend the street
1795 on, and build another 49 houses. What happened is you end with 300 homes on
1796 one point of access. That's the reason that we have to be a little—
1797
1798 Mr. Jones - The State may be willing to give Henrico County that
1799 land, the access on both sides.
1800
1801 Mr. Jernigan - Mr. Jennings will take it now.
1802

1803 Mr. Jones - I think Mr. Jennings probably would take it. I don't
1804 know if Mr. Jennings would take it because there needs to be some money in his
1805 budget to improve it. So, I'm not sure. We will find out.

1806
1807 Mr. Emerson - I would think we expect the developer to improve it. I
1808 would anticipate that.

1809
1810 Mr. Jones - Yes sir, I anticipated that, but I wanted to put it off as
1811 long as I could.

1812
1813 Mr. Jernigan - All right. Any other questions from the Commission?
1814 With that, I'm going to move for approval of C-31C-08, James F. Shepherd for
1815 UCP Limited Partnership, to send to the Board of Supervisors for their approval.

1816
1817 Mr. Vanarsdall - Second.

1818
1819 Mr. Jernigan - Motion by Mr. Jernigan, seconded by Mr. Vanarsdall.
1820 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

1821
1822 **REASON:** Acting on a motion by Mr. Jernigan, seconded by Mr.
1823 Vanarsdall, the Planning Commission voted 5-0 (one abstention) to recommend
1824 the Board of Supervisors grant the request because it is appropriate residential
1825 zoning at this location and the proffered conditions will assure a level of
1826 development not otherwise possible.

1827
1828 **Deferred from the August 14, 2008 Meeting.**

1829 **C-26C-08 Andrew M. Condlin for Ethan and Elizabeth**
1830 **Krash:** Request to conditionally rezone from A-1 Agricultural District to R-3C
1831 One-Family Residence District (Conditional), Parcel 745-764-4296, containing
1832 2.94 acres, located on the north line of Dublin Road approximately 250 feet east
1833 of its intersection with Belfast Road. The applicant proposes up to 6 single-family
1834 homes, an equivalent density of 2.04. The R-3 District allows a minimum lot size
1835 of 11,000 square feet and a maximum gross density of 3.96 units per acre. The
1836 use will be controlled by zoning ordinance regulations and proffered conditions.
1837 The Land Use Plan recommends Suburban Residential 1, 1.0 to 2.4 units net
1838 density per acre.

1839
1840 Mr. Jernigan - Good evening, Mr. Props.

1841
1842 Mr. Props - Good evening. Mr. Chairman, members of the
1843 Commission.

1844
1845 This request is to rezone a 2.94-acre parcel from A-1 Agricultural District to R-3C
1846 One-Family Residence District (Conditional). Located on the north line of Dublin
1847 Road, the applicants propose to develop a six-lot, single-family subdivision.

1848

1849 Located in the McDonald's Small Farm subdivision, this area was once an
1850 expansive, large-lot, A-1 subdivision. Since 2001, a series of rezoning and
1851 subdivision applications have been approved to rezone sections of McDonald's
1852 Small Farm and other nearby acreage parcels to R-3C. Large acreage parcels
1853 are located to the east and are zoned A-1.

1854

1855 The applicants submitted revised proffers dated September 8th that include a
1856 proffered conceptual plan, a house size of 2,850 square feet, a minimum lot
1857 width of 85 feet, two-car garages with a minimum of 50% being side or rear entry,
1858 and 50% of the houses to have 100% brick or stone fronts. These proffered
1859 features are similar to proffers accepted with adjacent re-zonings.

1860

1861 The 2010 Land Use Plan recommends Suburban Residential 1 on the site and a
1862 single-family use would be consistent with this designation. Staff does have
1863 concerns with the piecemeal nature of the proposed development. Recently
1864 approved subdivisions in the area were developed from larger combined
1865 acreage, allowing for bigger lots, useable common area, and an inter-connected
1866 road network. In addition, due to the small development area and the presence
1867 of wetlands on the site, staff is concerned about the density and overall
1868 compatibility with surrounding subdivisions, and consideration should be given to
1869 incorporating adjacent properties.

1870

1871 In addition, the proffered conceptual plan indicates a reserve area, and it is
1872 unclear who will own and maintain this land. The Department of Public Works
1873 has expressed concern about this reserved area and recommended its removal.

1874

1875 The applicants held two community meetings, and have attempted to address
1876 neighborhood concerns regarding density, site design, and overall compatibility.
1877 Staff believes this could be an appropriate request, if the applicant can address
1878 the outstanding issues.

1879

1880 This concludes my presentation; I would be happy to answer any questions.

1881

1882 Mr. Jernigan - I apologize. I didn't ask if there was any opposition to
1883 this case. Do we have opposition? Okay, we do have opposition. Are there any
1884 questions of Mr. Props?

1885

1886 Mr. Branin - I'm not going to ask any yet.

1887

1888 Mr. Jernigan - Okay. Would you like to hear from the applicant?

1889

1890 Mr. Branin - Yes.

1891

1892 Mr. Jernigan - Okay.

1893

1894 Mr. Condlin - As long as you don't try to attempt too much on the
1895 technology; I just have one exhibit.

1896
1897 Mr. Jernigan - Would you like to tell us who you are?
1898

1899 Mr. Condlin - Yes, I'll get to that. I was making my jokes first; I'm
1900 sorry. Andy Condlin from Williams Mullen here on behalf of Mr. and Mrs. Krash,
1901 who are not with us tonight. But I do have with me Stacy Burcin from McKinney
1902 and Company.

1903
1904 Just to mess things up a little, I think we'll go back to this one, if I may, just right
1905 here to start with. This is, obviously, an infill site, that if I can go to the zoning
1906 map, you can see what's happening around us. We're actually surrounded on
1907 two sides by existing subdivisions—over here and over here—on the third side by
1908 Dublin Road, and on the fourth side by a wetlands area, which is really the
1909 reserve area, which is why we show it there; no other reason. I'll address that in
1910 a little bit. We do think that this is a unique site. It's an infill site. I think it's critical
1911 to understand why it's an infill site because of the wetlands that are around here,
1912 going by this side of the property. I'm going to address how we've tried to
1913 accommodate that, and how that limits this development from that standpoint.

1914
1915 One of the first things I'll say is that Mr. Props did say that we are similar to
1916 proffers around us. We actually looked at the other subdivisions that surround us
1917 in this area, went through them line-by-line, and compared ourselves to them.
1918 We meet them plus. One of the concerns is, for example house sizes. Currently,
1919 the house sizes are proffered to 2,200 square feet; we proffered 2,850 to rise up
1920 to the level of what's actually been built out there, both to the minimums and to
1921 the general averages. While not meeting those specifically, we've certainly gone
1922 well above and beyond those proffer sizes for the house sizes. We've also,
1923 obviously proffered things like brick fronts, the sidewalks, the curb and gutter, the
1924 garages. We went through line-by-line, so we feel like we've matched. Quite
1925 frankly, I think staff has done that as well. I don't think there are any specific
1926 proffers that have been proffered in the surrounding cases that we haven't met
1927 either.

1928
1929 Mr. Props did mention we had an initial neighborhood meeting. To say folks were
1930 concerned would be an understatement. It was a very difficult case for the
1931 neighbors, and rightfully so for us as well. A lot of frustration. We worked pretty
1932 hard with a lot of folks that were in the room. Talked one-on-one with a number of
1933 folks. Had a second meeting. I've tried to accommodate, or at least address all
1934 the concerns, and I believe we have.

1935
1936 I do have one critical point to discuss with you, which is the reason we brought
1937 this case at this time. It does seem a little odd. It is an infill site, but really the real
1938 reason is—and the best way to describe it is by using this. This is Oglethorpe
1939 Park. Same developers who have developed all around here, have also rezoned

1940 this. They currently have 15 feet on our property going in the wetlands area—
1941 maybe I can go to the concept plan to show that. They have 15 feet in our area,
1942 and 15 feet on the adjacent lot. So, 30 feet wide for a storm sewer easement
1943 that they need to get from Oglethorpe in order to serve theirs. They also need to
1944 connect a sanitary sewer easement, which I believe is a total of 30 feet for the
1945 easement, plus slope and construction easements about 50 feet wide that would
1946 go along entirely on this adjacent piece.

1947

1948 I think this is critical to understanding why we brought the case now. Quite
1949 frankly, it was proposed to us by the developer of Oglethorpe, which is down
1950 here, that it would be cheaper for them and easier for them to go on our property
1951 in order to avoid the wetlands area—I will go back to the zoning map. You can
1952 see this wetlands area as it comes across. That actually goes quite a bit on this
1953 property here. They're going to be having to do a lot of mitigation within the
1954 wetlands, so it's easier for them to go onto our property. They actually have plans
1955 filed in the County currently to do this. They're ready to go, and they're going to
1956 clear this. This is a very well-treed area. All this area would be cleared.

1957

1958 Our point, ultimately, is that as we were asked by that developer, that we would
1959 actually be clearing this for a road. They'll be clearing that. We'd have twice the
1960 cleared areas. Plus, their plan shows that the utility actually doesn't go along our
1961 property line. We'd have to build a second parallel utility line in order to serve this
1962 area because they don't put it right to the property line for the sanitary sewer. It
1963 would actually be helpful to everybody. It would be cheaper for them because
1964 they don't have to pay as much wetlands mitigation. It would be better for the
1965 neighbors because there would be fewer trees cleared. It would be better for us
1966 because we'd have the actual utilities going onto our property. We thought that
1967 would be a win-win. We, of course, didn't want to grant the utility easement until
1968 we knew where the road was going. We can't tell you where the road's going
1969 until we do the zoning, until we know how many lots we're going to get, and
1970 where the road would be located.

1971

1972 So, it's really a chicken-and-the-egg at this standpoint. That's really why we
1973 brought the case at this point. If this case doesn't go through, if we can't come to
1974 an agreement, they will build this in any case, and at a future time, this property
1975 area will be developed. It's just that it will have to be served by separate utilities,
1976 and obviously served by different road systems. We'll go from there.

1977

1978 I'd like to address some of the questions that have been raised by staff, quite
1979 frankly. I'm a little confused. I have to be honest. Don't always agree with staff,
1980 but I understand where they're coming from. I don't understand where they're
1981 coming from. Density, in this case, is at 2.04. The Land Use Plan in the County
1982 calls for up to 2.4 units an acre. We're square with that. The surrounding
1983 properties are at 2.2. We have four subdivisions around us. They are proffered
1984 at 2.2, 2.2, 2.2, and 1.94. We're at 2.04. We're right within the range, smack dab
1985 in the density areas.

1986

1987 I was told that we'd be cramming in. They're concerned about the density
1988 because of the wetland. We did a quick little six-lot—how do I turn this. Since I
1989 turned 40, I can't do anything. There's a rotate thing here somewhere. There we
1990 go. I don't know if this one's going to be it. We did a six-lot study of the area.
1991 Since we have six lots, we thought it was fair to compare ourselves to six lots. In
1992 this, you'll actually see that in the six-lot study—this being Dublin Terrace (our
1993 proposal), Crawford Park, and Oglethorpe Park—our lots are very, very similar,
1994 and actually are larger, on average, than these two subsets of six lots. The
1995 smallest lot in this area is 11,475. That's our smallest lot. The smallest lot in this
1996 one is 11,454, slightly less than ours, but pretty much the same. We took the six
1997 lots and averaged them out. We're actually at a greater average than both of
1998 these. You can see they have Dublin Road. They have these lots here. We
1999 have these lots. Crawford Park actually exceeds it. It's a little bit bigger because
2000 they have two cul-de-sac lots you can see at 17,000 and 23,000, where we only
2001 have one.

2002

2003 So, I'm little confused to say that we're more dense or we're too dense, because,
2004 quite frankly, the wetlands have absolutely nothing to do with it. This road would
2005 go here, and we have just as big lots. They're 85 feet wide. They're just as big of
2006 an area. The wetlands have nothing to do with the density. The wetlands are
2007 there, causing us to be, quite frankly, isolated from the rest of the property that
2008 surrounds us. To be quite frank, I would say that I'm a little surprised when they
2009 talk about providing for comprehensive development. This property should have
2010 been developed and designed with this property right here, but we can't now.
2011 We're right here. One of the concerns that was raised by one of the neighbors is
2012 you're backing up to other lots. Well, you can see that's common. We have
2013 backing-up to lots right here. The same thing in all the other locations that we
2014 have, quite frankly, where lots back up to the others. I don't think that's a
2015 concern. The problem, quite frankly, that someone raised with respect to the
2016 wetlands was, well, have a comprehensive development. Bottom line is, with this
2017 wetland area here, we can't connect to this area. If we were to connect to these
2018 other subdivision lots that are A-1, that are the large lots, we can't put a road
2019 across the wetlands. It would be a critical mitigation issue, it would be very
2020 costly, and I don't think the Army Corps would allow it. The County itself says we
2021 don't want wetlands on the front yard. So, I can't put lots on the other side of
2022 here. If I take this road and put it over here, I can't put our lots over here. This is
2023 the only way it could be developed. Now, we could put a road crossing the
2024 wetlands area, but this same road, in order to come across the wetlands would
2025 end up having to come out on Dublin Road.

2026

2027 Finally, I show that there are roads available for further subdivision. I don't think
2028 we're setting a bad precedent. I think we're a unique property because of the
2029 wetlands on our side. This same property over here would be able to be
2030 connected to these roads, as they've been stubbed in. They're not in the proffers
2031 now, but I'm willing to proffer—I have some language if you'd like to go over it—

2032 to say that we would provide a stub road, a connection, a dedication of right-of-
2033 way as requested by the County upon development of these other areas. So, that
2034 would do away with having an isolated piece of property. If they want to pay for
2035 the wetlands mitigation, and if they get approved from the Army Corps of
2036 Engineers, then we will dedicate that land to the County, and allow them to use it
2037 so that they can connect to this road somewhere and make that same connection
2038 that we're being asked to connect to the others. That will provide a more
2039 comprehensive development, and make those interconnections of road networks.
2040 That was something that we just came up with and looked at. We, quite frankly,
2041 don't want to take the risk, and don't think we would get Army Corps approval,
2042 but if someone else can, then we can allow for that comprehensive development
2043 through all these properties. I think that's very beneficial.

2044
2045 I think we've met the house size requirements. I will say one other thing. Staff
2046 was concerned. I made a commitment, but I haven't put it in writing. We
2047 excepted out an existing home there from the 2,850 sq. ft. We're going to take
2048 that out, take out that exception. That home will have to come down, that
2049 existing home that's 2,200 square feet. We would have to adjust that proffer. I
2050 told that to Mr. Props, that I would make that commitment. Since he didn't raise
2051 it, I thought I'd least give him that.

2052
2053 I know this is a difficult case; all infill zoning cases are. It's been frustrating for
2054 the landowners. Between a rock and a hard place, or more likely, between a
2055 subdivision and a wetland. This is where he is. This is his only resolution. We've
2056 tried to the best we can to make this look like a part of the surrounding
2057 subdivisions. We think this is a win-win situation, given the utility situation, to be
2058 able to help save this area, save these trees, put utilities on here, save the other
2059 developer money, as well as help us with our utilities. We met the lot size
2060 requirements of the surrounding zonings. We meet the Land Use Plan density
2061 recommendations. We match the density of the surrounding subdivisions. We
2062 match the lot sizes. We're not cramming lots in here. We're just as big as all the
2063 lots around us, and we're providing for other access. I'll commit to you that we
2064 can provide—and I'll put together a proffer to provide for access to the properties
2065 to the east, upon the County's request. If the County requests it, we'll dedicate
2066 that land necessary for a right-of-way to get connected to our proposed road.

2067
2068 As to that reserve area, it'll either be common area, or it will be part of Lot 6—Lot
2069 6 being in this area. This is the wetlands area. We called it a reserve area. Quite
2070 frankly, I didn't notice that it was a concern until we read this last staff report. I
2071 don't know what else to call it. We'll call it part of Lot 6, if that will make everyone
2072 feel better, but that's obviously the area in which we'll have the access road
2073 come across.

2074
2075 I feel like we've matched and exceed all of the standards in the surrounding
2076 properties. We've met the requirements of the Land Use Plan. We're in a very
2077 difficult situation with the wetlands area, so I would have to propose to you that

2078 we've met all jurisdictional prerequisites for approval. I would ask that you
2079 recommend approval to the Board of Supervisors. I've covered a lot. There are a
2080 lot of issues, given the wetlands here, but again, I think given the situation that
2081 this is an appropriate use, and an appropriate subdivision for this property.

2082
2083 Mr. Jernigan - Are there any questions for Mr. Condlin from the
2084 Commission? Okay. Would you like to hear from the opposition now? All right.
2085 Folks, you who are in opposition can come on down. Good evening. Would you
2086 state your name for the record please?

2087
2088 Mr. Russo - Good evening, yes. My name is John Russo. This is
2089 my wife, Debbie. We are residents of 4605 Brookmere Drive in the Crawford
2090 Park subdivision. Mr. Chairman, members of the Commission, good evening.
2091 Thank you for hearing us.

2092
2093 In regard to the six-home subdivision on the Krash's presently agriculturally-
2094 zoned property, myself, my wife, and a group of a few other concerned neighbors
2095 in the Crawford Park and Sadler Grove subdivisions wholeheartedly object to the
2096 development of any houses on our neighboring property. We strongly oppose
2097 the granting of the zoning change that will allow this to happen. We present the
2098 following concerns.

2099
2100 The high density of the smaller-sized homes that are planned on such a small
2101 parcel of property—six on 2.8 acres—is neither going to enhance or improve our
2102 property values. In fact, in our opinion, it'll bring down the values for our property.
2103 It will also bring down the prestige of our community, and lessen the desirability
2104 of our homes on the resale market.

2105
2106 In terms of nature, it will remove and destroy the natural landscape that we all
2107 coveted when we bought these lots from the Tomac Corporation and the sales
2108 agents. We all purchased these homes and lots in good faith with a firm
2109 understanding from the developer and his representatives that all of the property
2110 to the rear and sides of ours was wetlands and could not be developed. Many of
2111 us paid a premium for these lots based on that understanding. To come in now
2112 and undo that would clearly violate the premise of how or why we bought. We
2113 strongly value that natural landscape, both aesthetically and from an ecological
2114 conservation standpoint.

2115
2116 Also, many of us spent additional money enhancing our backyards due to the
2117 privacy in a way that we would not have if we would have known there were
2118 going to be houses there. Clearly, this will forever change the privacy that we
2119 now enjoy with our families.

2120
2121 Current market. There's a glut of resale housing on the market in our area.
2122 Supply is clearly ahead of demand. The secondary or resale market is almost
2123 non-existent. Empirical data will support that very few resales are selling in this

2124 area. Most contracts of sale that have been executed are by large builders like
2125 Tomac, Eagle, and others who have dropped their prices drastically to move a
2126 backlog of inventory. Into this market, this proposal is going to add more homes.
2127 How are we to compete with that as homeowners? Certainly, more new housing
2128 like the Krash's proposal will make it even harder for us to resell our homes. It
2129 will also continue to drop our price.

2130

2131 Negotiation of proffers. If this proposal is to be adopted against our wishes, then
2132 at the very least the proposed proffers, even with their latest enhancements,
2133 need to be modified yet again to bring size, quality, and design of these homes
2134 up to the standard of our adjacent neighborhood of Crawford Park. The look and
2135 aesthetics should also be up to the standards of Crawford Park. I have some
2136 suggested proffers. In terms of the density of the number of homes planned,
2137 which is six, we suggest going to four. Minimum house size of 2850 to 3500.
2138 Basing these on the actual specifications of the Crawford Park subdivision that I
2139 live in, and that, overwhelming, the bulk of this new proposed neighborhood will
2140 touch. We are 3800 actual square feet on average size in Crawford Park.
2141 Minimum lot width was proffered at 85 feet. We suggest 105 feet. Lot size was
2142 11,000 square feet. We recommend 12,000 square feet or better. Stone fronts
2143 were proffered at 50%. We are 100% in Crawford Park. We suggest that this be
2144 the same. Natural buffers. There has been a recent proposal of 10 feet; we
2145 would ask for 25. One of the ladies earlier this evening said a length of 10 yards.
2146 We're asking for less than 10 yards. Minimum number of trees per yard is two.
2147 We would ask for at least five trees to be given per yard. They show a minimum
2148 size tree of 2.5 inches; we request 5 inches. It would take approximately 20 to
2149 30 years to replace trees of the size that are being removed. Small caliper trees
2150 just do not make the grade with respect to our privacy or the landscape.

2151

2152 Intentions and precedence. This house was on the market for approximately
2153 one year prior to the Krash's purchase of it. It was clearly bought, in our opinion,
2154 not with the intention of residential usage, but for commercial purposes in
2155 development. If this proposal is granted, it will allow an undesirable precedent to
2156 be set, perhaps the opening of a Pandora's box. What is to stop any other
2157 neighbor on Dublin Road, or in the McDonald Farm subdivision to apply for the
2158 same zoning change? We could potentially have a series of small, strip
2159 subdivisions with individual entrepreneurs creating a choppy landscape. That
2160 certainly is not in anyone's best interest, including Henrico County. When Mr.
2161 Condlin said they were between a rock and a hard place, I would like to point out
2162 that it was their choice to buy that property, and that's why I mention that, in our
2163 opinion, it was the intention to develop that and never to use it for residential use.
2164 So, they have created the situation that they find themselves in now, which is a
2165 difficult one.

2166

2167 Lastly, concerns regarding completion of the project. Mr. Krash is an individual
2168 entrepreneur. He could run out of money, even with surety bonds. Look at
2169 Crawford Park itself. You'd look no further than where we live, where you can

2170 look at the Covington subdivision. There are still many open lots, many un-built
2171 lots. Spec houses are still unsold. Even with the best of intentions and with
2172 proper funding at the outset, and insurance bonding, subdivisions often do not
2173 turn out as planned due to changing economic and market factors. This will be
2174 right in our backyard.

2175

2176 In closing, speaking for myself, my wife, and some other concerned neighbors,
2177 we strongly object to this proposal. It's clearly not in our best interests of our
2178 property values, or our quality of life. We strongly urge the Henrico County
2179 Planning Commission to support us in this action. I thank you for your time.

2180

2181 Mr. Jernigan - Any questions for Mr. Russo from the Commission?

2182

2183 Mr. Archer - Mr. Russo, in arriving at the average home size of
2184 3841, I believe it is, do you know what the largest and the smallest square
2185 footages are?

2186

2187 Mr. Russo - I do not know that.

2188

2189 Mr. Archer - Okay.

2190

2191 Mr. Russo - It came out in one of the meetings at the school that
2192 that was the size. I had asked that question in one of the civic meetings.

2193

2194 Mr. Archer - Okay.

2195

2196 Mr. Branin - Mr. Archer, I think Mr. Props may have that for you.

2197

2198 Mr. Jernigan - Mr. Russo, I have a question. When you bought your
2199 house, this was a real estate agent that told you that this property would never be
2200 developed.

2201

2202 Mr. Russo - It was the agent for the builder and the developer, and
2203 many other neighbors besides myself. That was brought out in the earlier
2204 meetings as well. All of us, in fact, on that street, on that side of Brookmere
2205 Drive. All stated that at the meetings.

2206

2207 Mr. Jernigan - We hear this, not just in your case, but quite a bit,
2208 where the agents fluff it up a little bit.

2209

2210 Mr. Russo - Sure.

2211

2212 Mr. Branin - I wouldn't even refer to it as fluffing.

2213

2214 Mr. Jernigan - Well, I'm being nice.

2215

2216 Mr. Branin - I would say they blatantly lied.
2217
2218 Mr. Jernigan - I was being extremely nice when I say it that way.
2219 Anyway. I thank you so much.
2220
2221 Mr. Russo - Thank you for hearing us.
2222
2223 Mr. Branin - Mr. Props, can you help answer Mr. Archer's
2224 question?
2225
2226 Mr. Archer - Do you have that, Mr. Props?
2227
2228 Mr. Props - Yes sir, I do. In Crawford Park, the range is 2,888 sq.
2229 ft. up to 4,356 sq. ft.
2230
2231 Mr. Archer - Okay.
2232
2233 Mr. Props - Sadler Place is 2,922 sq. ft. up to 4,266 sq. ft. Sadler
2234 Grove is 2,684 sq. ft. up to 4,460 sq. ft. I may add, too, that in a lot of homes in
2235 each of those subdivisions that this is finished floor area. There are a lot of
2236 unfinished floor space areas in these homes as well.
2237
2238 Mr. Archer - Okay.
2239
2240 Mr. Vanarsdall - I'm sorry, Roy, what did you say Crawford Park is?
2241
2242 Mr. Props - In Crawford, the range was 2,888 sq. ft. up to 4,356
2243 sq. ft. The average, just taking all the homes and averaging them came to 3,841
2244 sq. ft.
2245
2246 Mr. Vanarsdall - Thank you.
2247
2248 Mr. Archer - Thank you, Mr. Props.
2249
2250 Mr. Jernigan - The proffer was 2,800 sq. ft..
2251
2252 Mr. Props - Twenty-eight fifty (2,850).
2253
2254 Mr. Jernigan - Twenty-eight fifty (2,850). All right, sir, how are you?
2255
2256 Mr. Aparicio - I'm doing great. How are you? I'm Sergio Aparicio. I
2257 live at 4812 Greenbrooke Drive. We're kind of in agreement with Mr. Russo
2258 there, and a lot of the things he said, but I do want to point out that on the other
2259 side of—I know the gentleman over there focused on the lot sizes on Crawford
2260 Park, but the lot sizes on the Sadler Grove side are larger than Crawford Park.
2261 The other thing is, one of my concerns is as these subdivisions are coming up on

2262 Dublin Road, Dublin Road is a circle right now. It has two feeds going in. If you
2263 know, it's Ireland and Scotland Road that feeds it. From the other side, it's
2264 basically Sadler Place, which is the entrance to Sadler Grove subdivision. Right
2265 now, without all the construction that's going on, we're seeing a huge amount of
2266 traffic going through that one intersection. I do know there's future development
2267 on Sadler Road that will come at some point. As you see more and more of
2268 these houses, Crawford Park popping up, and then we see Oglethorpe, my
2269 concern is the infrastructure, how much of this traffic is going to be coming
2270 through our neighborhoods right now. Today, I almost got into an argument with
2271 a gentleman who flew through a stop sign in front of my house with kids on the
2272 street, who lives on Dublin Road. His argument was, "Well, I've lived here 40
2273 years, and basically, I can do whatever I want." There is more and more traffic
2274 going through there on a day-to-day basis.

2275
2276 Mr. Branin - That couldn't have happened in Henrico County.

2277
2278 Mr. Aparicio - It probably resulted from the [unintelligible].

2279
2280 Mr. Branin - Not in the Three Chopt District.

2281
2282 Mr. Aparicio - Just one of the things that was left out is the
2283 infrastructure. I'm concerned that Dublin Road can't support this type of traffic.
2284 My friend and I walk on Dublin Road, and it's narrow now. With just us walking on
2285 it, traffic goes through there—it's not built for two lanes right now. So, if
2286 consideration could be made there to make sure that it's widened, you know.
2287 That is a concern of mine. Again, we agree with mostly everything that John
2288 Russo said about the numbers of houses. Being that this is my house right
2289 here—well, I don't know if this works. Does it work? Yes. This one right here.
2290 Right now, I enjoy looking at a lot of trees in the back of my house; so does Mr.
2291 Mike Starr and Mr. Robins right here. One of the things we like to look at is, if this
2292 does get approved, is that we can maintain a little bit of some of the trees here,
2293 and this cul-de-sac can be reconsidered. I think they're considering that right
2294 now, maybe reducing that to maybe just a dead end type of street where you
2295 won't have to cut down as many trees.

2296
2297 Mr. Jernigan - You can't do that.

2298
2299 Mr. Aparicio - I didn't know what. Those are our concerns. Thank
2300 you.

2301
2302 Mr. Jernigan - Any questions for Mr. Aparicio from the Commission?

2303 Okay, thank you.

2304
2305 Mr. Archer - I see he just renewed his USGA membership.

2306
2307 Mr. Jernigan - Do we have one more? Okay.

2308

2309 Mr. Starr - I didn't want to take up a lot of time. My name is Mike
2310 Starr. I am Mr. Aparicio's neighbor to his right. We own the property directly at
2311 the bottom of where the cul-de-sac would end. My primary concern, in addition to
2312 what Mr. Russo has said, is really the runoff of all the water that comes off Dublin
2313 Road. I have tons of pictures here. I was out last week when we had the big
2314 storm, and the water just floods down there. Now, I know, granted, yes, you
2315 might want to put a drainage area in there, but we also have drainage that comes
2316 from the other side that comes into that there, and runs right across my
2317 backyard. We do have wetland areas back there that I'm very concerned will be
2318 eliminated. It's just a ton of water that comes in the back, and it only has to be
2319 an inch of rain for us to have a bunch of water back there. That's really what I'm
2320 concerned about. What you don't see right here is this whole area goes downhill.
2321 So, everything that comes down Dublin Road flows right down where the
2322 proposed road is going to go. That's my one main concern. I didn't really want
2323 to bring anything formal tonight. I was hoping for another meeting later on, a
2324 delay for the next meeting where we would bring in our president of our
2325 homeowners' association. Apparently, we own part of the land in the back there,
2326 a common area. We were going to address that, the concerns from the
2327 homeowners' association the next time through. I just wanted to mention that for
2328 tonight. I know there is very limited time. Thank you for your time.

2329

2330 Mr. Jernigan - Thank you, sir.

2331

2332 Male - [Off mike.] Can I ask one more thing? A gentleman
2333 mentioned that there's another [comes to mike] something approved that is
2334 running on this property. Can somebody give us some more detail on that one?
2335 We're not familiar with that proposal and how that one affects us.

2336

2337 Mr. Jernigan - I see Mr. Burcin is coming to podium.

2338

2339 Mr. Burcin - Greetings. My name is Stacy Burcin and I'm here on
2340 behalf of Ethan and Elizabeth Krash. I do have a plan here. It's a plan that's been
2341 at various neighborhood meetings. It's not our plan. It's the plan that's been filed
2342 with Henrico County. It is for Oglethorpe Park. It shows what they're going to do
2343 with draining their water and their sewer, if we don't work a deal out to get it onto
2344 our site. [Off mike.] It's like [inaudible]. [Came back to mike.] I took it off the
2345 board so it would be easier to see. Sorry about the delay there. We have been
2346 discussing this with the gentleman from Oglethorpe Park who approached me
2347 months ago, and suggested a way to look at our drainage and our sanitary in a
2348 more comprehensive manner with the development that's going on, and also to
2349 help him out with the issue that he has in. He does not have adequate outfall to
2350 handle the drainage on his site. He has 70 acres of drainage that goes to Dublin
2351 Road. It's underneath Dublin Road, and then falls into this valley, if you will,
2352 behind these gentlemen's houses, and adjacent to us. There is a 10-foot
2353 drainage easement on our property line that he can use. If you look to the first

2354 yellow solid line that's immediately on our property, that is a piece of elliptical
2355 pipe about 350 feet long, 33' by 54' thick. It is being proposed to take all of his
2356 drainage along our property line. Next to that on this property line is the sanitary
2357 sewer that he intends to construct along the adjacent neighbor's property, and
2358 work around here.

2359

2360 I did ask him why are we doing this, why didn't he work with this property before.
2361 The previous owner before Mr. Krash bought it from a Mr. Baumgartner. Mr.
2362 Baumgartner and the developer of this adjacent property couldn't see eye-to-eye.
2363 We're a new face. We said, well, we'll see eye-to-eye. Let's figure out a way to
2364 make this happen. That's kind of what's driving this whole boat. People talk
2365 about the economy being bad, that it's not a good time for selling houses. I
2366 absolutely agree. We had no intention to sell houses, but we're not in the
2367 position to grant an easement for future development on our property unless we
2368 have an idea that the zoning's going to be there. It doesn't do us any good, and
2369 actually hurts our property, if we grant it to them and we don't have the
2370 subdivision. There is also some risk involved. There is about at least three-
2371 quarters of an acre of wetland impacts that the adjacent developer would have to
2372 endure, and he's asked us to move it over. You see these dashed lines moved
2373 over to the left. Those are where he was going to put it. That's ultimately where
2374 our road's going to be. So, again, it's like Andy indicated, we'll do one clear swath
2375 that's going to be our ultimate road location, and we'll put the storm and
2376 sanitation there.

2377

2378 There are still issues. Yes, we still have to work stuff out with the Corps. I had a
2379 very long meeting today with the Department of Public Works. Fortunately, it
2380 went well. I think we came out of that with a good understanding that can
2381 actually make it work. There are still some risks, and between us two gentlemen,
2382 we need to figure out how to make this work. The end result is you get one set of
2383 infrastructure, and you save some trees, and you save some wetlands. That's
2384 kind of where that goes. This is the plan that the gentleman's referring to. Again,
2385 it's not my plan; it's from the engineer across the street.

2386

2387 Mr. Branin - Mr. Burcin, can I ask you a question?

2388

2389 Mr. Burcin - Certainly.

2390

2391 Mr. Branin - With this map that you have here, can you show me
2392 that position of the current house?

2393

2394 Mr. Burcin - Yes. Mr. Krash's house?

2395

2396 Mr. Branin - Yes.

2397

2398 Mr. Burcin - Yes. It is approximately—

2399

2400 Mr. Branin - You're going to have to go over.
2401
2402 Mr. Burcin - [Off mike.] [Inaudible] in there. Now, the [came back
2403 to mike] intent with that house is to either tear it down in its entirety—but the first
2404 goal is to take it, jack it up, move it, move it onto one of the proposed lots. We
2405 have found that that looks like a feasible solution. Now, I understand there was
2406 some proffered height differences in the area. This one is 2200 square feet;
2407 we've proffered larger. We have agreed that, yes, once we move it onto the new
2408 lot, we'll have to make it bigger. We'll finish the third floor, or do the things like
2409 other houses have done in the area to bump the square footage up.
2410
2411 Mr. Branin - How old is that house?
2412
2413 Mr. Burcin - I don't know. I don't have that particular information.
2414 I think it's in the eighties, but I don't know that for a fact. I think, currently, the
2415 cost that we're looking at to jack it up and move it onto a new lot is about \$20,000
2416 to \$40,000, so it's still a feasible thing to do to move it on site.
2417
2418 Mr. Branin - All right. Mr. Condlin. Do you have some comments?
2419 You are out of time, but I'll be happy to request some more time for you, sir,
2420 because I know you have more comments.
2421
2422 Mr. Condlin - Well, as usual, I only wanted to limit my comments to
2423 rebuttal of a couple of points.
2424
2425 Mr. Branin - So, the answer would be yes?
2426
2427 Mr. Condlin - Okay, yes.
2428
2429 Mr. Branin - Thank you. Mr. Chairman, would you give Mr.
2430 Condlin a couple more minutes?
2431
2432 Mr. Jernigan - Yes sir.
2433
2434 Mr. Condlin - I promise to be brief.
2435
2436 Mr. Jernigan - I'll give you five minutes Mr. Condlin?
2437
2438 Mr. Condlin - I don't even need that.
2439
2440 Mr. Jernigan - I'll give you three. How about that?
2441
2442 Mr. Condlin - All right. One of the reasons we asked for a deferral
2443 was because we did have a number of property owners in the surrounding area
2444 that support the case. Whenever I have that, I like to use it, but it's back-to-

2445 school night, and they aren't here. We have a letter in the file from some of the
2446 neighbors that do support this case.

2447

2448 A couple of points. Again, I stress our density is less than or almost exactly
2449 equal. This density is the same as the Land Use Plan calls for, so our density is
2450 no different. The one thing I will point out is that the suggested proffers that were
2451 made, quite frankly, you heard the square footages of the homes. We proffered
2452 2850, but the minimum house sizes are 2888, 2922, and 2684. That's with a
2453 proffer of 2200. You always build larger, and I understand those are the
2454 minimums. There are quite a few larger homes in here, and we think the same
2455 thing, obviously, would happen here. Ask us to put in 105-foot-wide lots when
2456 everything around us is proffered and built to 85 I think is a little unfair. I will
2457 disagree—I've always been proven wrong, but the proffers actually don't call for
2458 100% on 100% of the homes in the adjacent subdivision. I'm looking at the
2459 proffers now, and it's the exact same as ours—a minimum of 50% of the homes
2460 shall have brick or stone fronts. That's what that says.

2461

2462 Again, we've tried to hit the precedent of the quality of both what was built and
2463 what was proffered, as well as try to accommodate. The one thing that I do think
2464 rings through is the concern about having a single-lot subdivision as the line that
2465 goes down it. I do think that this is not setting a bad precedent for that because
2466 we are in a very unique situation given the wetlands, given the fact that we can't
2467 join with the other property, and given that we are willing to give an access road if
2468 they can work it out, figure out how to convince the Army Corps of Engineers,
2469 and make it all work. I think we really have tried to resolve all the issues.

2470

2471 I think I was under five minutes. I'll conclude at that.

2472

2473 Mrs. Jones - I just thought of a question. You're going to have six
2474 homes, potentially, in this subdivision, and yet you're going to have a lot of area
2475 that's open, and it's going to at least need to be tended in some way. That's a
2476 fairly difficult thing for just a small number of homes, isn't it?

2477

2478 Mr. Condlin - That's why we thought it would either be with one lot,
2479 or quite frankly, we would just work with the adjacent homeowner—it's just
2480 wetlands anyway—and give it to them if they want, so that they can go right up to
2481 our property line. Really, I didn't know what else to do with it because we want to
2482 keep our road. The Army Corps says you have to avoid and minimize impacts on
2483 wetlands, so that's why we're moving our road away from there. That's wetlands.
2484 There's nothing I can do about that. We could put a road overtop of it, but it's
2485 going to cost that much more, and it's really adverse to the policies of both the
2486 County and the U.S. Army Corps of Engineers.

2487

2488 Mr. Branin - Mr. Condlin, how much acreage would it be—or Mr.
2489 Burcin, you might be answer this one. How much is the total acreage of
2490 wetland?

2491
2492 Mr. Burcin - [Off mike.] [Inaudible.] Total number of acres for the
2493 wetlands, I haven't looked at that for a while. As far as that little strip, one of the
2494 things that we're doing is we set it that way because the developer of Oglethorpe
2495 Park has a larger homeowners' association, has lots of common areas. He has
2496 agreed as part of this swap, you know, where he could put his easement on our
2497 land and he gets to minimize his wetland impacts, he wants us to take it over as
2498 an option. That's why I have set that strip of land separate from Lot 6. If he
2499 decides he doesn't want it, fine, it can legally be part of Lot 6; it won't be an
2500 orphan lot. So, to answer Mrs. Jones' question about how do you get a
2501 homeowners' association of six people to keep up with this common area—we
2502 know you can't. You're trying to avoid homeowners' associations for small
2503 developments. That's how we're going to address it. We'll give it to somebody
2504 else who has the means to take care of it, or we'll just put it as our lot and it won't
2505 be common area anymore.
2506
2507 Mr. Condlin - That reserve is about .36 acre.
2508
2509 Mr. Burcin - .36 acre.
2510
2511 Mr. Condlin - The wetland is more than that.
2512
2513 Mr. Burcin - That's on the plans as .36 acre. The wetland area
2514 is—I think it's right around .4 acre. It's a substantial savings for the impacts from
2515 the adjacent developer. He had to impact .74 acres on his.
2516
2517 Mr. Branin - I'm sure Mr. Krash also is aware that if this isn't
2518 improved, he has every right whatsoever to still sell that easement to the
2519 adjoining developer.
2520
2521 Mr. Condlin - That's true. It's a question of where to place it so that
2522 you can actually use the property for the future. That's the problem. That's why
2523 we're here, quite frankly. He's not going to build for a while. It's going to be two
2524 or three years plus before the market comes back, before we get all the
2525 approvals necessary. He would just as soon wait anyway, but this is the right
2526 time to benefit everybody, he thought.
2527
2528 Mr. Branin - Again, if this isn't approved, Mr. Krash can certainly
2529 sell to the developer exactly where he would want that easement to go.
2530
2531 Mr. Condlin - I would respectfully disagree in that it would be very
2532 difficult for him because he doesn't know what's going to be approved there, as
2533 to how many lots and what the road design would be, and it's best to put the
2534 utilities where the road would go. If you don't know where the road's going,
2535 you've basically designed it, but we don't have the zoning for it, you know, to tell
2536 us how many lots we're going to get. That's why we're doing the zoning now.

2537
2538 Mr. Branin - He could do a pretty good guess, Mr. Condlin.
2539
2540 Mr. Condlin - I don't know. I'm not an engineer; I'm just telling you
2541 what I know.
2542
2543 Mr. Branin - Okay. Do you guys have any other questions?
2544
2545 Mr. Jernigan - Any questions for Mr. Condlin from the Commission?
2546
2547 Mr. Branin - Mr. Condlin, you're aware that the previous owner of
2548 this came to the County, and had a proposal of four lots that was turned down,
2549 correct?
2550
2551 Mr. Condlin - When you say turned down, we talked to that
2552 previous owner. He told us a different story, but you were there, so I don't know.
2553 That's my understanding, that they came forward—
2554
2555 Mr. Branin - Let me rephrase that, Mr. Condlin. It was strongly
2556 advised to him not to proceed forward because it would probably be denied.
2557 Does that sound better?
2558
2559 Mr. Condlin - That sounds a whole lot better, yes. I think that's
2560 good.
2561
2562 Mr. Branin - Okay. It was never formally applied for. Okay. I just
2563 wanted to make sure you knew that.
2564
2565 You guys have done a great job in trying to come forward and meet the
2566 standards, and have come a long way. Anytime you have infill, it is difficult, at
2567 best, because of surrounding areas, and precedents that you may be setting, and
2568 with this one, concerns with environmental, concerns with wetlands. You guys
2569 have had a lot of hurdles.
2570
2571 In regards to the opposition, ladies and gentlemen, like you heard, we cannot
2572 help what real estate agents sell you lip service on. We hear it every day. I
2573 apologize for that. As for your property being devalued, I don't know of much in
2574 Henrico County that loses its value, for what that's worth.
2575
2576 This is a recommendation; it's not a final decision. As Mr. Condlin will tell you,
2577 cases that I have recommended denial in the past have gone forward and were
2578 approved. With that, Mr. Chairman, I'd like to move that this case, C-26C-08,
2579 Andrew M. Condlin for Ethan and Elizabeth Krash, move forward with a
2580 recommendation of denial.
2581
2582 Mr. Archer - Second.

2583
2584 Mr. Jernigan - Motion by Mr. Branin, seconded by Mr. Archer for
2585 denial on case C-26C-08, Andrew M. Condlin for Ethan and Elizabeth Krash. All
2586 in favor say aye. All opposed say no. The ayes have it; the motion passes.

2587
2588 The vote was as follows:

2589
2590 Mr. Jernigan - Yes
2591 Mrs. Jones - No
2592 Mr. Archer - Yes
2593 Mr. Branin - Yes
2594 Mr. Vanarsdall - Yes

2595
2596 **REASON:** Acting on a motion by Mr. Branin, seconded by Mr.
2597 Archer, the Planning Commission voted 4-1 (one abstention) to recommend the
2598 Board of Supervisors **deny** the request because it would introduce and promote
2599 piece meal development, limit future road connectivity and create limited design
2600 and layouts for adjacent property in the future.

2601
2602 Mr. Emerson - Mr. Chairman, that takes us to the final item left on
2603 your agenda, or the next to the final item, the approval of the minutes of August
2604 14th, regular meeting, and your work session.

2605
2606 Mrs. Jones - I move approval of the minutes of the August 14,
2607 2008 meeting.

2608
2609 Mr. Vanarsdall - Second.

2610
2611 Mr. Jernigan - Motion by Mrs. Jones, seconded by Mr. Vanarsdall to
2612 approve the minutes of August 14, 2008. All in favor say aye. All opposed say
2613 no. The ayes have it; the motion passes.

2614
2615 Mr. Emerson - Now to your final item, your motion to adjourn.

2616
2617 Mr. Jernigan - Oh, I thought you had something else.

2618
2619 Mrs. Jones - Do we need to approve the minutes of the work
2620 session?

2621
2622 Mr. Emerson - I think you're fine approving it with a blanket motion to
2623 approve the minutes from the 14th.

2624
2625 Mr. Archer - Mr. Chairman, I will move for immediate adjournment.

2626
2627 Mr. Jernigan - Meeting's adjourned.

2628

2629 The meeting was adjourned at 9:28 p.m.

2630

2631

2632

2633

2634

2635

2636

Mr. R. Joseph Emerson, Jr., Secretary

2637

2638

2639

2640

2641

2642

Mr. E. Ray Jernigan, Chairman