

1 Minutes of the regular monthly meeting of the Planning Commission of Henrico, Virginia, held in
2 the Board Room of the County Administration Building, Parham and Hungary Spring Roads at
3 7:00 p.m. on August 15, 2002, Display Notice having been published in the Richmond Times-
4 Dispatch on July 25, 2002 and August 1, 2002.

5
6 Members Present: Mr. Allen Taylor, P.E., C.P.C., Chairperson, Three Chopt
7 Mr. E. Ray Jernigan, C.P.C., Vice Chairperson, Varina
8 Mr. C. W. Archer, C.P.C., Fairfield
9 Mr. Ernest B. Vanarsdall, C.P.C., Brookland
10 Mrs. Lisa D. Ware, Tuckahoe
11 Mr. Frank J. Thornton, Board of Supervisors, Fairfield
12 Mr. John R. Marlles, AICP, Secretary, Director of Planning
13

14 Others Present: Mr. Randall R. Silber, Assistant Director of Planning
15 Mr. Joe Emerson, Principal Planner
16 Mr. Lee Householder, County Planner
17 Mr. Mark Bittner, County Planner
18 Mr. Tom Coleman, County Planner
19 Mr. Paul Gidley, County Planner
20 Mr. Seth Humphreys, County Planner
21 Ms. Jean Moore, County Planner
22 Ms. Debra Ripley, Recording Secretary
23

24 Mr. Frank J. Thornton, the Board of Supervisors Representative, abstains on all cases unless
25 otherwise noted.

26
27 Mr. Taylor - I want to welcome everybody to the August Zoning Meeting and
28 we have a relatively full agenda tonight, and we want to welcome everybody here and look
29 forward to an interesting discussion and getting the agenda underway. And with that, I will
30 turn the program over to our Secretary, Mr. Marlles.

31
32 Mr. Archer - Mr. Chairman, before you begin, may I have just a moment
33 please?

34
35 Mr. Taylor - Yes, you may.

36
37 Mr. Archer - I would just like to take this opportunity to thank the Commission
38 and the staff members and all of the other people who performed so many acts of kindness at
39 the passing of my mother three weeks ago today. My family and I all appreciate it. It was very
40 uplifting and I can't thank you enough.

41
42 Mr. Taylor - Thank you very much.

43
44 Mr. Vanarsdall - You are very welcome, Mr. Archer.

45
46 Mr. Taylor - And with that we will turn the meeting over to Mr. Marlles, our
47 Secretary.
48

August 15, 2002

49 Mr. Marlles - Thank you, Mr. Chairman. Good evening members of the
50 Planning Commission. We do have a full quorum and we can conduct business. We do have, as
51 the Chairman mentioned, quite a few items on the agenda. We do have a number of
52 withdrawals and deferrals as well, and with that, I am going to ask Mr. Emerson if he would
53 review those.

54
55 Mr. Emerson - Yes, sir, Mr. Secretary. We have two withdrawals tonight.

56
57 **Deferred from July 11, 2002 Meeting:**
58 **P-7-02 Jared Ledet for VoiceStream Wireless:** Request for a
59 provisional use permit under Sections 24-95(a) and 24-122.1 of Chapter 24 of the County Code
60 in order to construct and operate a telecommunications tower extendable to 199 feet and
61 related equipment and also to install a temporary tower for 90 days, on part of Parcel 798-696-
62 8886 (213-A-2), containing 10,000 square feet, located on the east side of Osborne Turnpike
63 approximately 1,700 feet north of Sholey Road (7000 Osborne Turnpike). The existing zoning is
64 A-1 Agricultural District. The Land Use Plan recommends Office.

65
66 Mr. Taylor - Is there anybody in the audience who is opposed to withdrawing P-
67 7-02? No opposition.

68
69 Mr. Vanarsdall - I wouldn't be in opposition if I could find it.

70
71 Mr. Emerson - It is on Page 5 at the bottom.

72
73 Mr. Vanarsdall - Now we are with you, Mr. Emerson.

74
75 Mr. Emerson - The final agenda is page 6. You may still have the preliminary.
76 That might be where we are getting confused. The next withdrawal is C-46C-02. It is on Page 2
77 of the agenda.

78
79 **C-46C-02 Robert M. Atack:** Request to conditionally rezone from A-1
80 Agricultural District to RTHC Residential Townhouse District (Conditional), part of Parcel 776-
81 766-3112 (32-A-8), containing 1.075 acres, located approximately 180 feet east and 275 feet
82 south of the intersection of Woodman and Mountain Roads (10571 Woodman Road).
83 Residential townhouses for sale are proposed. The applicant proffers to develop no more than
84 7.2 units/acre. The use will be controlled by proffered conditions and zoning ordinance
85 regulations. The Land Use Plan recommends Office.

86
87 Mr. Vanarsdall - We don't need any action on these, do we?

88
89 Mr. Emerson - No, sir.

90
91 Mr. Taylor - Then I guess we will be able to go to our first case, Mr. Secretary.

92
93 Mr. Emerson - No, sir. We have a number of deferrals and several expedited
94 items.

95

96 **C-45C-02 Mountain–Woodman LLC:** Request to conditionally rezone from
97 A-1 Agricultural District to RTHC Residential Townhouse District (Conditional), part of Parcel
98 775-763-5984 (41-A-24), containing 0.420 acre, located approximately 700 feet east and 550
99 feet south of the intersection of Woodman and Mountain Roads. Additional property for an
100 adjoining future townhouse development is proposed. The applicant proffers to develop no
101 more than 7.2 units/acre. The use will be controlled by proffered conditions and zoning
102 ordinance regulations. The Land Use Plan recommends Open Space/Recreation.
103

104 Mr. Emerson - This is on page 2 of your agenda. The deferral is requested to
105 September 12, 2002. The request is to rezone from A-1, Agricultural District, to RTHC,
106 Residential Townhouse District.
107

108 Mr. Taylor - Is there anybody in the audience who is opposed to the deferral
109 of Case C-45C-02? No opposition. Then I will move that Case C-45C-02 be deferred to
110 September 12, 2002, at the applicant's request.
111

112 Mr. Archer - Second.
113

114 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Archer. All in
115 favor say aye. All opposed say no. The motion passes.
116

117 At the request of the applicant, the Planning Commission deferred Case C-45C-02, Mountain–
118 Woodman LLC, to its meeting on September 12, 2002.
119

120 Mr. Emerson - The next deferral is on page 3 of your agenda.
121

122 **SUBDIVISION (Deferred from the July 24, 2002, Meeting)**

The Park at Twin Hickory Collector Roads – Old Nuckols Road (July 2002 Plan)	Youngblood, Tyler & Associates, P.C. for HHHunt Corporation: The 8.44 acre site is located on the west side of Nuckols Road across from the intersection of Nuckols Road and Opaca Lane on part of parcels 745-768-7374, 745-769-6845, 5071, 6789, 746-770-0619, 1492, 4038, 745-770-0962, 747-771-2430 and 3965. The zoning is A-1, Agricultural District, RTHC, Residential Townhouse District (Conditional), O-3C, Office District (Conditional), R-5AC, General Residence District (Conditional) and R-6C, General Residence District (Conditional). County water and sewer. (Three Chopt) 0 Lots
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123
124 Mr. Emerson - The deferral is requested to September 25, 2002.
125

126 Mr. Taylor - Is there anybody in the audience who is opposed to the
127 subdivision for The Park at Twin Hickory? No opposition, Mr. Secretary. I will move The Park at
128 Twin Hickory Collector Roads – Old Nuckols Road (July 2002 Plan) be deferred until September
129 25, 2002, at the request of the applicant.
130

131 Mr. Jernigan - Second.
132

133 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Jernigan. All in
134 favor say aye. All opposed say no. The motion passes.

135
136 At the request of the applicant, the Planning Commission deferred Subdivision The Park at Twin
137 Hickory Collector Roads – Old Nuckols Road (July 2002 Plan), until September 25, 2002.
138

139 **Deferred from the June 13, 2002 Meeting:**

140 **C-26C-02 Andrew M. Condlin for Dr. George Oley:** Request to conditionally rezone
141 from R-2 One Family Residence District to O-1C Office District (Conditional), part of Parcel 754-
142 747-5266 (79-A-71B), containing approximately 0.19 acre, located at the southwest intersection
143 of Michael Road and Fawn Lane (south line of Michael Road approximately 150 feet east of N.
144 Parham Road). Additional parking for an existing dental office is proposed. The use will be
145 controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan
146 recommends Office.
147

148 Mr. Emerson - The deferral is requested to October 10, 2002.
149

150 Mr. Taylor - Is there anyone in the audience who is opposed to the deferral of
151 Case C-26C-02 to October 10, 2002. No opposition. I will move, therefore, that Case C-26C-02
152 be deferred until October 10, 2002, at the applicant's request.
153

154 Mr. Vanarsdall - Second.
155

156 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Vanarsdall to
157 defer Case C-26C-02. All in favor say aye. All opposed say no. The motion passes.
158

159 At the request of the applicant, the Planning Commission deferred Case C-26C-02, Andrew M.
160 Condlin for Dr. George Oley, to its meeting on October 10, 2002.
161

162 **Deferred from the July 11, 2002 Meeting:**

163 **C-11C-02 Webb L. Tyler for Parham Road Self-Storage, LLC:** Request to conditionally
164 rezone from A-1 Agricultural District to M-1C Light Industrial District (Conditional), Parcel 748-
165 770-8794 (19-A-27); 11140 Ford's Country Lane, containing 6.668 acres, located on the east
166 line of Ford's Country Lane approximately 440 feet east of its intersection with Nuckols Road
167 and New Wade Lane. A mini-storage facility is proposed. The use will be controlled by
168 proffered conditions and zoning ordinance regulations. The Land Use Plan recommends
169 Office/Service.
170

171 Mr. Emerson - The deferral is requested to September 12, 2002.
172

173 Mr. Taylor - Is there anyone in the audience who is opposed to the deferral of
174 Case C-11C-02 to September 12, 2002? There being no opposition, I will move that Case C-
175 11C-02 be deferred until September 12, 2002, at the applicant's request.
176

177 Mr. Jernigan - Second.
178

179 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Jernigan to defer
180 Case C-11C-02 to September 12. All in favor say aye. All opposed say no. The ayes have. The
181 motion passes.
182

183 At the applicant's request, the Planning Commission deferred Case C-11C-02, Webb L. Tyler for
184 Parham Road Self-Storage, LLC, to its meeting on September 12, 2002.

185

186 **Deferred from the July 11, 2002 Meeting:**

187 **C-36C-02** **Jim McVey:** Request to conditionally rezone from R-2 One Family
188 Residence District to O-1C Office District (Conditional), Parcel 754-747-3878 (79-A-70),
189 containing approximately 0.32 acre, located at the southeast intersection of Michael and
190 Parham Roads (8481 Michael Road). An office building is proposed. The use will be controlled
191 by proffered conditions and zoning ordinance regulations. The Land Use Plan recommends
192 Office.

193

194 Mr. Emerson - The deferral is requested to September 12, 2002.

195

196 Mr. Taylor - Is there anyone in the audience who is opposed to the deferral of
197 Case C-36C-02 to September 12? Then I will move that Case C-36C-02 be deferred until
198 September 12 at the applicant's request.

199

200 Mr. Jernigan - Second.

201

202 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Jernigan. All in
203 favor say aye. All opposed say no. The motion passes.

204

205 At the request of the applicant, the Planning Commission deferred Case C-36C-02, Jim McVey,
206 to its meeting on September 12, 2002.

207

208 **C-49C-02** **Jack R. Wilson, III:** Request to conditionally rezone from O-3C
209 Office District (Conditional) to B-2C Business District (Conditional), Parcel 749-761-3214 (48-5-
210 A-12A), containing 2.905 acres, located on the north line of Innslake Drive approximately 400
211 feet east of Cox Road (4051 Innslake Drive). A hotel/motel (signage) is proposed. The use will
212 be controlled by proffered conditions and zoning ordinance regulations. The Land Use Plan
213 recommends Office.

214

215 Mr. Emerson - The deferral is requested to September 12, 2002.

216

217 Mr. Taylor - Is there anyone in the audience who is opposed to the deferral of
218 Case C-49C-02 to September 12? No opposition, Mr. Secretary. Therefore, I will move that
219 Case C-49C-02 be deferred until September 12 at the applicant's request.

220

221 Mr. Vanarsdall - Second.

222

223 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Vanarsdall to
224 defer Case C-49C-02 to September 12, 2002. All in favor say aye. All opposed say no. The
225 motion passes.

226

227 At the request of the applicant, the Planning Commission deferred Case C-49C-02, Jack R.
228 Wilson, III, to its meeting on September 12, 2002.

229

230 **Deferred from the July 11, 2002 Meeting:**

231 **C-42C-02 Malachi M. Mills for Marchetti Property I, LLC:** Request to
232 conditionally rezone from R-2 One Family Residence District to O-2C Office District
233 (Conditional), Parcel 765-764-5100 (40-A-23; 10120 Staples Mill Road), containing 0.672 acre,
234 located on the west side of Staples Mill Road (U. S. Route 33) approximately 300 feet north of
235 Warren Road. An office development is proposed. The use will be controlled by proffered
236 conditions and zoning ordinance regulations. The Land Use Plan recommends Suburban
237 Residential 1, 1.0 to 2.4, units net density per acre.

238
239 Mr. Emerson - The deferral is requested to September 12, 2002.

240
241 Mr. Taylor - Is there anyone in the audience who is opposed to the deferral of
242 Case C-42C-02 to September 12, 2002? No opposition, Mr. Vanarsdall.

243
244 Mr. Vanarsdall - I see Mr. Condlin in the audience and I want to thank you for
245 deferring this, you and Bill Axselle. I think it will probably work out and if we can't then we will
246 go forward in another way. Thank you. I move that Case C-42C-02 be deferred to September
247 12, 2002 at the applicant's request.

248
249 Mr. Archer - Second, Mr. Chairman.

250
251 Mr. Taylor - Motion was made by Mr. Vanarsdall and seconded by Mr. Archer
252 to defer Case C-42C-02. All in favor say aye. All opposed say no. The motion passes.

253
254 At the applicant's request, the Planning Commission deferred Case C-42C-02, Malachi M. Mills
255 for Marchetti Property I, LLC, to its meeting on September 12, 2002.

256
257 Mr. Emerson - Mr. Chairman, that completes the withdrawal and deferral items.
258 We do have three items on the Expedited Agenda tonight.

259
260 **Deferred from the May 9, 2002 Meeting:**

261 **C-6C-02 Michael J. Kelly for L-C Corporation:** Request to amend
262 proffered conditions accepted with rezoning case C-14C-87, on Parcel 749-760-0500 (48-A-45)
263 (Universal Ford), containing 4.057 acres, located on the south line of West Broad Street (U. S.
264 Route 250) approximately 400 feet east of Cox Road. The amendment is related to eliminating
265 the buffer on the south line of the property. The existing zoning is B-3C, Business District
266 (Conditional). The Land Use Plan recommends Commercial Concentration.

267
268 Mr. Taylor - Is there anyone in the audience who is opposed to Case C-6C-02
269 being approved on the Expedited Agenda? No opposition. Therefore, I will move that Case C-
270 6C-02 be approved on the Expedited Agenda at the request of the applicant.

271
272 Mr. Vanarsdall - Second.

273
274 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Vanarsdall. All in
275 favor say aye. All opposed say no. The motion passes.

276

277 **REASON:** Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning
278 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the
279 request because it is not expected to adversely impact surrounding land uses in the area.
280

281 **Deferred from the May 9, 2002 Meeting:**

282 **C-7C-02 Michael J. Kelly for L-C Corporation:** Request to conditionally
283 rezone from A-1 Agricultural District to B-3C Business District (Conditional), part of Parcel 748-
284 759-9860 (48-A-44), containing 0.687 acre, located on the east line of Cox Road approximately
285 600 feet south of West Broad Street (U. S. Route 250). Automobile dealership parking and
286 accessory uses are proposed. The uses will be controlled by zoning ordinance regulations and
287 proffered conditions. The Land Use Plan recommends Commercial Concentration.
288

289 Mr. Taylor - Is there anyone in the audience who is opposed to the approval of
290 Case C-7C-02 on the Expedited Agenda? No opposition. Therefore, I will move approval of
291 Case C-7C-02 on the Expedited Agenda.
292

293 Mr. Vanarsdall - Second.
294

295 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Vanarsdall. All in
296 favor say aye. All opposed say no. The motion passes.
297

298 **REASON:** Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning
299 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the
300 request because it continues a form of zoning consistent with the area.
301

302 **C-48C-02 James W. Theobald for PF Colonnades West Corporation:**
303 Request to amend proffered conditions accepted with rezoning case C-22C-95, on Parcel 747-
304 759-8591 (48-A-47), containing 15.1102 acres, located at the southwest intersection of W.
305 Broad Street (U. S. Route 250) and Cox Road (10901 W. Broad Street). The amendment would
306 restate the proffer describing fast foods delivery uses and restaurants (Proffer 7. (15),
307 prohibited uses) to read, "Restaurants with drive through windows." The existing zoning is B-
308 2C Business District (Conditional). The Land Use Plan recommends Commercial Concentration.
309

310 Mr. Taylor - Is there anyone in the audience who is opposed to the approval of
311 Case C-48C-02 on the Expedited Agenda? No opposition. I will move approval of Case C-48C-
312 02 on the Expedited Agenda.
313

314 Mr. Vanarsdall - Second.
315

316 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Vanarsdall. All in
317 favor say aye. All opposed say no. The motion passes.
318

319 **REASON:** Acting on a motion by Mr. Taylor, seconded by Mr. Vanarsdall, the Planning
320 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the
321 request because it is compatible with the existing uses and zoning on the property and the
322 surrounding area, and it is consistent with the Goals, Objectives and Policies of the 2010 Land
323 Use Plan in that it is not expected to have any adverse effects on the area.
324

325 Mr. Emerson - Mr. Chairman, that completes the Expedited, Withdrawals and
326 Deferrals for tonight.

327
328 Mr. Taylor - Thank you very much, Joe. Now we go to the next case.
329

330 **Deferred from the July 11, 2002 Meeting:**

331 **C-43C-02 Andrew M. Condlin for Richmond International Raceway:**

332 Request to conditionally rezone from A-1 Agricultural District, C-1 Conservation District, and M-1
333 Light Industrial District to O-2C Office District (Conditional), C-1 Conservation District, and M-1
334 Light Industrial District, part of Parcel 796-747-9944 (86-A-2; 5900 Richmond-Henrico
335 Turnpike), containing approximately 57.084 acres, located along Upham Brook on the west line
336 of the CSX Railway and the Richmond-Henrico Turnpike approximately 900 feet south of the
337 Hanover-Henrico County Line and approximately 1,700 feet northeast of the Turnpike's
338 intersection with Azalea Avenue. Addition of property to the existing Richmond International
339 Raceway facility for various uses including parking is proposed. The O-2C uses will be
340 controlled by proffered conditions and zoning ordinance regulations. The M-1 uses will be
341 controlled by zoning ordinance regulations. The Land Use Plan recommends Planned Industry
342 and Environmental Protection Area.
343

344 Mr. Marlles - The staff report will be given by Mr. Mark Bittner.
345

346 Mr. Bittner - Mr. Marlles, I would like to point out that the second case is
347 related to this one, and perhaps we could hear them both at the same time.
348

349 Mr. Marlles - Thank you for pointing that out, Mr. Bittner. The second case,
350 which is a companion case, was also deferred from the July 11, 2002 meeting.
351

352 **Deferred from July 11, 2002 Meeting:**

353 **P-12-02 Andrew M. Condlin for Richmond International Raceway:**

354 Request for a provisional use permit under Sections 24-62.2(k) and 24-122.1 of Chapter 24 of
355 the County Code in order to allow for additional acreage to be added to the Richmond
356 International Raceway facility and to update the existing provisional use permit, on Parcels 797-
357 748-0583 (86-A-1), 796-747-9944 (86-A-2; 5900 Richmond-Henrico Turnpike), 799-745-7579
358 (86-A-4), 795-743-1283 (96-A-29A), 796-745-8505 (96-A-29B), 794-743-0840 (96-A-30A), 796-
359 740-2482 (96-A-42A) and 798-740-1078 (107-A-1A) containing approximately 783.03 acres.
360 The additional acreage is located along Upham Brook on the west line of the CSX Railway and
361 the Richmond-Henrico Turnpike approximately 900 feet south of the Hanover-Henrico County
362 Line and approximately 1,700 feet northeast of the Turnpike's intersection with Azalea Avenue.
363 The existing zoning is B-3, B-2, B-1, R-6, R-3, M-2, M-1, M-1C, A-1 and C-1. The Land Use Plan
364 recommends Commercial Concentration, Office, Office/Service, Light Industry, Planned Industry
365 and Environmental Protection Area.
366

367 Mr. Bittner - Thank you, Mr. Marlles.
368

369 Richmond International Raceway (RIR) is requesting expansion of the existing raceway facility by
370 providing an additional 75-acre parking area. This request would expand the master plan to an
371 overall total of 783.03 acres. The expanded parking area is located on the north side of
372 Richmond-Henrico Turnpike and is mostly wooded.

373
374 As a result of much discussion between the County and the applicant, both the proffers and the
375 Provisional Use Permit conditions have been revised. I would like to point out that the proffers
376 were revised just today, so we would need to waive the time limit in order to accept them. The
377 proffers now contain larger buffers, including a 45-foot buffer along Richmond-Henrico Turnpike
378 and a 25-foot buffer along the western border of the site. Previously these buffers were only 20'
379 in depth.

380
381 The PUP conditions have also been updated to reflect the increased buffers and to address other
382 outstanding issues:

383
384 Condition 6 has been revised to state that a phasing component will be provided that addresses
385 how and when a pedestrian movement plan will be implemented. This pedestrian movement
386 plan will include measures for safely and efficiently moving pedestrians across Richmond-
387 Henrico Turnpike to and from the raceway complex.

388
389 Condition 7 on page 2 of the packet we handed out to you just now has been revised to state
390 that right-of-way for Concept Road 85-1, which runs right through the middle of this property,
391 the right of way for this road shall be dedicated prior to final construction plan approval, or at
392 the request of the County. The revisions also state this dedication shall be by recordation of a
393 subdivision plat.

394
395 The proposed use is consistent with the 2010 Plan and with surrounding development. The
396 revised proffers provide increased buffers, and the new PUP conditions address issues relating
397 to pedestrian movement and the dedication of Concept Road 85-1. Staff recommends approval
398 of both applications. I would be happy to answer any questions you may have. And again, I
399 would like to point out the proffer time limit would need to be waived to accept this.

400
401 Mr. Taylor - Thank you, Mr. Bittner. Is there anyone in opposition to Case C-
402 43C-02 or P-12-02? No opposition.

403
404 Mr. Archer - Mr. Bittner, I have one question. In revised condition #7, at time
405 of final construction plan approval on such property, or at the request of the County, and that is
406 irrespective of any kind of time limit, at the request of the County?

407
408 Mr. Bittner - Yes. It means whenever we may request it. However, they are
409 moving forward and they are planning on doing all of this, and we don't plan on springing any
410 surprises on them.

411
412 Mr. Archer - OK. Very good.

413
414 Mr. Taylor - Any other questions for Mr. Bittner on the part of the
415 Commission? I guess, Mr. Archer, we are ready for a motion.

416
417 Mr. Archer - All right, Mr. Chairman.

418
419 Mr. Vanarsdall - Is there any opposition in this case?
420

421 Mr. Taylor - Not that I saw. Is there any opposition that I didn't see? No
422 opposition.

423
424 Mr. Archer - Well, it is always good for me to get more parking for the
425 raceway, particularly when it moves traffic away from the residential component out there. First
426 of all, I need to move to waive the proffers that were received today on C-43C-02.

427
428 Mr. Vanarsdall - Second.

429
430 Mr. Taylor - Motion made by Mr. Archer and seconded by Mr. Vanarsdall to
431 waive the time limits for the proffers. All in favor say aye. All opposed say no.

432
433 The Planning Commission waived the time limits on Case C-43C-02.

434
435 Mr. Archer - Then I move for approval of Case C-43C-02 with the new proffers
436 as stated.

437
438 Mr. Vanarsdall - Second.

439
440 Mr. Taylor - Motion made by Mr. Archer and seconded by Mr. Vanarsdall. All
441 in favor say aye. All opposed say no. The motion passes.

442
443 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning
444 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the
445 request because it continues a form of zoning consistent with the area and it would provide an
446 added service to the community.

447
448 Mr. Archer - I move to waive the time limits on the revised conditions received
449 with P-12-02.

450
451 Mr. Vanarsdall - Second.

452
453 Mr. Taylor - Motion made by Mr. Archer and seconded by Mr. Vanarsdall to
454 waive the time limits on Case P-12-02. All in favor say aye. All opposed say no. The motion
455 passes.

456
457 The Planning Commission waived the time limits for conditions on Case P-12-02.

458
459 Mr. Archer - All right. I move to recommend to the Board for approval P-12-02,
460 Richmond International Raceway.

461
462 Mr. Vanarsdall - I second that.

463
464 Mr. Taylor - Motion made by Mr. Archer and seconded by Mr. Vanarsdall. All
465 in favor say aye. All opposed say no. The motion passes.

466
467 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning
468 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the

469 request because it is reasonable in light of the surrounding uses and existing zoning on the
470 property and would provide an added service to the community.

471
472 **C-25C-02 James W. Theobald for Alvin S. "Spud" Mistr, Jr.:** Request to
473 conditionally rezone from A-1 Agricultural District to R-3C One Family Residence District
474 (Conditional) and RTHC Residential Townhouse District (Conditional), Parcels 784-759-7593
475 (53-A-26), 785-760-2106 (53-A-27), 785-759-8052 (53-A-28), and 785-759-0085 (53-5-A-1),
476 containing 30.05 acres (10.43 ac. in R-3C; 19.62 ac. in RTHC), located along the east line of
477 Telegraph Road approximately 800 feet north of Mountain Road and along I-95 approximately
478 1,100 feet north of Scott Road. Single family residences at a density of 2.97 units per acre and
479 172 town homes are proposed. The use will be controlled by proffered conditions and zoning
480 ordinance regulations. The Land Use Plan recommends Planned Industry.

481
482 Mr. Marlles - The staff report will be given by Mr. Lee Householder.

483
484 Mr. Taylor - Is there any opposition in the audience to case C-25C-02? No
485 opposition. Mr. Householder.

486
487 Mr. Householder - Thank you, Mr. Chairman, and members of the Commission.

488
489 As Mr. Marlles pointed out the property is located along the east line of Telegraph Road
490 approximately 800 feet north of Mountain Road and along I-95 (it is circled in yellow on this
491 aerial photography photo) approximately 1,100 north of Scott Road. The surrounding
492 development along this portion of Telegraph Road consists of large lot single-family residences
493 on the east side of Telegraph and a mini storage warehouse on the west side of Telegraph
494 Road. The subject site is mostly wooded and there is a small home on the eastern portion of
495 the property adjacent to Interstate 95.

496
497 In this case, the applicant is proposing to develop 172 townhouse units and single-family
498 residences at a maximum density of 2.97 units per acre. They have submitted a layout showing
499 31 single-family lots and proffered no more than 172 townhouses units on the remainder of the
500 property.

501
502 The County's 2010 Land Use Plan recommends the subject property for Planned Industry. The
503 proposed residential uses in this case do not comply with this designation. This proposal,
504 combined with other development inquires in the vicinity of this request, prompted the Planning
505 Office to conduct a small area land use study adjacent to Scott Road including the subject
506 property. This shown here is the recommended future land uses that would seek to insure high
507 quality developments for properties within the study area.

508
509 I will just quickly go over some of the concepts. It does include two concept roads seen here
510 and here (referring to rendering) to enhance access and act as gateways to what the County
511 considers to be prime economic development sites, which are colored pink on the screen. These
512 prime economic development areas are envisioned to be large-scale coordinated Office
513 developments with strict design and appearance standards. Additionally, the recommended
514 land use changes complement some of the current recommendations of the 2010 Land Use Plan
515 by reducing land use conflicts in the area. Staff feels these proposed land use changes reflect a
516 realistic and preferred development pattern for these properties within the study area. I would

517 also like to point out that these are just recommendations, and they are not actually adopted
518 land use. The study at the end recommends that the Board consider amending the current 2010
519 Land Use Plan. As far as the subject property goes, (I will zoom in this area), it remain
520 unchanged, (Planned Industry). However, the property directly to the north is recommended
521 to be changed from Urban Residential to Office and Office/Service. This would form a gateway
522 entrance through this Concept Road here (referring to rendering) to the properties further east
523 across I-95, (this pink property, referring to rendering). Staff feels the proposed change will
524 also act as a better land use transition from existing residential development to the north and to
525 the Planned Industry designation of the subject property.
526

527 In addition, we feel that there are other elements of this project that are not ideal for residential
528 development, including the proximity to commercial uses. On Brook Road, residential uses are
529 inappropriate in close proximity to areas of intense commercial activity.
530

531 Also, residential uses adjacent to Interstate 95 on the eastern edge, staff has concerns with
532 residential uses being placed adjacent to a busy interstate highway and, therefore, not a very good
533 arrangement for residential living.
534

535 And, the decreased tax revenue for the County, residential zoning in an area designated for
536 Planned Industry would not only reduce the potential taxes generated on the subject property,
537 but also place increased demand on County services.
538

539 In conclusion, overall, this request is not consistent with the recommendations of the 2010 Land
540 Use Plan as it is now nor is it consistent with the new recommendations of the Scott Road Small
541 Area Study, and it proposes residential uses in close proximity to intense commercial activity
542 and an interstate. Staff recommends denial of this request. I will answer any questions that
543 you may have.
544

545 Mr. Jernigan - Mr. Householder, I just have one question. Even before the Study
546 came out in the 2010 Land Use map, it was shown as Planned Industry then.
547

548 Mr. Householder - Correct. This map shows, right here (referring to rendering) is the
549 subject property in the dotted line, and the dotted line below the UR is where the Planned
550 Industry designation begins.
551

552 Mr. Jernigan - But it was in the old map even before the Study was planned?
553

554 Mr. Householder - Correct. The Study simply reaffirmed it, the existing
555 recommendation, and it also, this UofR area here, where the cursor is moving, the Study
556 recommends changing that to an Office/Service designation because the Concept Road comes
557 through. The Concept Road comes through here (referring to rendering) so the Office/Service
558 along that Concept Road would make a more attractive entrance to a larger economic
559 development potential.
560

561 Mr. Jernigan - Thank you.
562

563 Mr. Householder - You are welcome.
564

565 Mr. Taylor - Are there any other questions for Mr. Householder from members
566 of the Commission?
567

568 Mr. Archer - I have no questions, Mr. Chairman, but the applicant would like to
569 make a presentation.
570

571 Mr. Taylor - Well, let's hear it from the applicant, Mr. Mistr.
572

573 Mr. Spud Mistr - Ladies and gentlemen of the Commission and Mr. Secretary, I am
574 Spud Mistr, Foster and Miller, representing the applicant and the property owners. We filed
575 this request requesting RTH and R-3 zoning for single-family and townhouse development on
576 30-acres of property on Telegraph Road. Granted the Land Use Plan, the current approved
577 Land Use Plan, calls for Planned Industry. The land adjacent to it calls for Urban Residential.
578 The Small Area Study really bisects this property. A majority of the property is now
579 Office/Service and the property at the bottom is Planned Industry. So, Mr. Abernathy's
580 property, and by the way, Mr. Abernathy's son, Kevin, is with me, as well as Betty High, Mrs.
581 Goodman's daughter. Mrs. Goodman owns the property with the front along Telegraph Road
582 and Abernathy Construction owns the property in the back along I-95. We felt like this was the
583 highest and best use of the property at this time because it is adjacent to a residential area.
584 There is a tremendous amount of single-family residential to the north of this site between I-95
585 and Telegraph Road and up to 295. When this Small Area Study was done, the study area, the
586 area really in question seems to me to be I-95 to 301 and from Parham Road to 295. And now
587 this property between Telegraph Road and I-95 has been added into it. We talk about the
588 Concept Roads being a gateway to a prime economic development area, but if you look back at
589 the Concept Road, the prime access to this property is off of Parham Road. The property has
590 access to Parham and I-95 to 301 and 295. You can go up Route 1 to the interchange of 95
591 and 295, and it also has a bridge on Scott Road. I don't know why we would want to spend
592 millions of dollars building a bridge over 295, when we already have a bridge over 295, which is
593 Scott Road. Granted it is two lane, but I don't, nobody has explained how an access on Route 1
594 would be a gateway entrance to a prime economic development area of Henrico County. The
595 gateway entrance will be Parham Road, and I understand that when this property was looked at
596 previously by a large economic development client that it had been arranged to have a ramp
597 from and to Interstate 295, and if somebody was going to develop this area again of that
598 magnitude, I would think that that would be their prime access to it again. When you have
599 these prime economic development areas, you not only need Office/Service, you need
600 residential areas in close proximity to them, which provide upscale housing for the people that
601 work there, so they can get to work without tying up the highways and having long areas to
602 drive. After reading this Study, we met with the Economic Development people of Henrico
603 County and asked them what the opportunities for an office development on this property were,
604 and they said, "Well, if you build a building, maybe we can lease it to somebody." And, I said,
605 "But realistically, what is the opportunity?" Well for the next two years it is zero. None for the
606 next two years. Now, the sellers have a developer and builders to build these townhouses, and
607 single-family units right now, where they could sell their property. But as it is, this property is
608 being put on hold by the County, or so it appears, for some use in the future, which could be
609 two or three years, could be 15 or 20 years. Nobody really seems to know. The things that the
610 staff was concerned about was proximity to commercial uses. Well, directly across Telegraph
611 Road there is a mini-storage. When that mini storage was zoned, it was proffered to put a brick
612 wall up there to smooth the impact between this commercial development and the residential

613 area to the east of Telegraph Road. A mini-storage in my opinion is not an intense commercial
614 development. In fact, it is one of the least intense that I think you can have. On residential
615 areas adjacent to 295, which staff has concerns over, I would point out if you drive 295 or I-95
616 or 64 that there is a lot of residential development along these corridors. And I point out on
617 295, you have Hunton Estates, Hartley Plantation, Winterberry, Summerberry and numerous
618 other single-family and multi-family developments, and these are \$300,000 and \$400,000
619 houses, so it hasn't affected the ability to sell those homes along 295, and I don't think it would
620 affect or impair the ability to sell them along 95.

621
622 The third item of the staff was decreased tax revenue, that having residential zoning would
623 decrease the potential taxes to be generated from the County. However, residential zoning
624 would generate an increase in the tax base. An office zoning that may not come around for 10
625 or 15 years generate zero taxes for the County. So, how long does this sit vacant in order to
626 overcome this concern about decreased tax revenue. Then they were saying that the request
627 would also place burdens on the County services that would set an unwanted precedent for
628 residential development in the area. Now there is already a lot of residential development in
629 the areas you can see by this map (referring to rendering). But it is also interesting that when
630 you read the Public Service and Site Considerations, the traffic engineer said the existing
631 roadways could handle this development. The drainage engineer and environmental engineer
632 said that there were no concerns other than normal for this development. Public Utilities stated
633 that the water and sewer are available within 100 feet of this property. The schools can
634 accommodate the projected new students from this development. Public Safety being fire and
635 police, recommended, and had no objections to this development other than the standard
636 concerns that they had for every development. Recreation and Parks said there were no
637 impacts. So every department in the County has taken no objection or recommended approval,
638 other than the Planning Staff, and that is based on the 2010 Land Use Plan and the Small Area
639 Study that was just completed. So, I am not sure where this objection from the Planning Staff
640 came from, but we feel like this is a good use for this property, and would request that you
641 recommend approval to the Board of Supervisors. Now, Mrs. High is here tonight and her
642 mother, who owns this property, is in Arizona and is not able to attend, but she would like to
643 address you for about a minute, if that is OK.

644
645 Mr. Vanarsdall - Spud, let me ask you a question. You say that Industrial
646 Development Authority, you went to them?

647
648 Mr. Mistr - I met with them yesterday.

649
650 Mr. Vanarsdall - Had you ever – before you filed the case, did you meet with Mr.
651 Archer?

652
653 Mr. Mistr - No. I spoke with him.

654
655 Mr. Vanarsdall - Did you meet with Mr. Thornton?

656
657 Mr. Mistr - I spoke with him, also. I told him we were thinking about
658 requesting development, and he had some concerns about Telegraph Road, about the roadway
659 itself, and said he would look at it when we filed the case, and I did talk to members of the

660 staff before we filed this case, and there was, the objections at that point in time were not
661 nearly as severe as they are now.
662

663 Mr. Vanarsdall - Well, they usually are not, because there are a lot of details to be
664 worked out.
665

666 Mr. Mistr - I understand that, and I pointed out one other thing about
667 Economic Development.
668

669 Mr. Vanarsdall - You did your homework. I just wanted to know if you had
670 touched base with them.
671

672 Mr. Mistr - Well, I did. I didn't sit down and meet with anybody, but I think I
673 talked to everybody that we are supposed to. And I would also point out that in Park Central
674 and in Windsor Business Park, north of Parham Road, that all of those office buildings are full of
675 vacancy signs and for rent signs right now, because I was there this afternoon.
676

677 Mr. Vanarsdall - And I've had the Industrial Development Authority recommend
678 something before, and as far as traffic, I've never seen a road yet that they didn't say wouldn't
679 handle it.
680

681 Mr. Mistr - This wasn't Economic Development. This was Traffic Engineer that
682 said that the road was OK.
683

684 Mr. Vanarsdall - I've never seen the Traffic Engineer yet turn one down. Yes, that
685 road can handle it. Not but a million vehicles on it today, and they can handle a million more
686 tomorrow.
687

688 Mr. Mistr - Well, that may be true, but this is 1,385 trips, which is not out of
689 the ordinary.
690

691 Mr. Vanarsdall - I don't have any more questions, Mr. Chairman.
692

693 Mr. Marlles - Mr. Mistr, do you think that the County should not plan for more
694 than a two-year time frame?
695

696 Mr. Mistr - No, I think you should plan for it, and I think it is a good plan. It
697 is a great text book plan, but we develop things on supply and demand and need, and use is
698 not just what we all think we would like it to be. It is great to have a plan. I agree. It is a
699 good plan. I don't agree with the bridge over 95. I don't think that is a good plan, but the rest
700 of it is pretty good.
701

702 Mr. Marlles - I guess I would suggest that the reason the County has such a
703 strong economic base is we have taken measures to protect that prime economic development
704 sites and I think that was what staff is essentially trying to do here.
705

706 Mr. Mistr - OK. I am not questioning any motives. I am just not necessarily
707 agreeing with them.

708
709 Mr. Jernigan - Mr. Chairman, did you ask if there was any opposition on this
710 case?
711
712 Mr. Taylor - I believe I did and there was no opposition to this case. I will ask
713 again. Is there any opposition to this particular case, C-25C-02?
714
715 Mr. Mistr - And I would like to come down here every time we have a case
716 with no opposition and a staff report as good as this one.
717
718 Mr. Vanarsdall - I will add that we are not here for opposition. The Planning
719 Commission is not a political, not supposed to be. We don't answer to the ballot box, so we
720 don't, we sometimes have to look you in the eye and oppose it, even if you are not opposed.
721
722 Mr. Taylor - Ma'am, if you would for the record, would you please state your
723 name.
724
725 Ms. Elizabeth
726 Goodman High - Yes, I am Elizabeth Goodman High. I am the daughter of Bernelle
727 Goodman who is one of the owners of this property. Thank you for letting me speak. Both my
728 Mom and I are life-long residents of Henrico County. The property being discussed has been in
729 our family for generations and we always knew that there was a likelihood that we would have
730 to sell it to take care of Mom. Unfortunately, that likelihood became a reality. Mom is 86. She
731 was stricken with cancer in 2001 and a left-side massive stroke in January of this year, which
732 left her disabled both physically and in her speech. This property constitutes the bulk of her
733 assets. We have a contract to sell the property to a developer, who in turn has builders in
734 agreement to build. We have had absolutely no interest in this property from potential
735 commercial buyers. By denying our request for rezoning, the County is essentially prohibiting
736 us from selling the property. My family and I have great respect for the County and its plan for
737 the future from both a growth and revenue standpoint. However, this property is on the west
738 side of 95 from the primary area of Planned Development. We are offering a win-win situation,
739 using peripheral property for residential development, which will enhance the County's revenue
740 in the near term and provide a bedroom community for the commercial development when it
741 occurs. My request to you tonight is to please consider seriously our rezoning requests for the
742 sake of my mother and as a revenue consideration for the County. Thank you.
743
744 Mr. Taylor - Thank you Ms. High.
745
746 Mr. Vanarsdall - Do you live in that area?
747
748 Ms. High - I live over off of Dickens, not too far.
749
750 Mr. Vanarsdall - All right. Thank you.
751
752 Mr. Taylor - Are there any other people in the audience that would like to
753 speak on this issue? Sir, if you would, please come down to the podium and state your name
754 for the record, and we would enjoy hearing your comments.
755

756 Mr. Kevin Abernathy - My name is Kevin Abernathy and I am the son of Bobby
757 Abernathy. We own the bottom half of this property. I just want to say, like it has been said,
758 that we have a purchaser. We have somebody that is interested in the land. There has been no
759 interest since we have owned the land to develop it. My family has lived in Henrico County a
760 long time. The land was originally bought with the intentions of moving our company there. It
761 never happened. It just didn't go through. Now we have a developer, somebody ready to buy,
762 and we'd like for you to approve it. That is all I have to say.
763

764 Mr. Jernigan - I have a question for you, sir.
765

766 Mr. Abernathy - Yes, sir.
767

768 Mr. Jernigan - Did you all put this property out for sale or were you approached
769 by a developer?
770

771 Mr. Abernathy - We were approached. I believe we were approached. I don't
772 know the details of that.
773

774 Mr. Jernigan - So you haven't tried to sell it on the open market? You were just
775 approached by a developer?
776

777 Mr. Abernathy - Yes.
778

779 Mr. Taylor - Mr. Abernathy, I have a question. When you say the lower
780 segment, which, that is just...
781

782 Mr. Abernathy - I can show you. It is that part – 16-1/2 acres approximately on
783 this bottom (referring to rendering).
784

785 Mr. Taylor - Over the years, has there been any industrial interest, or
786 commercial interest in that property?
787

788 Mr. Abernathy - No, none that I have know of, that my father has expressed to me
789 in the last couple of days in speaking about this.
790

791 Mr. Taylor - No commercial ventures, wanting it for storage or construction?
792

793 Mr. Abernathy - Well, he has wanted to move his business there from where we
794 are currently located, but he decided, he withdrew that decision.
795

796 Mr. Taylor - Why did he withdraw? Was he concerned, too, about the
797 marketability of that area or the usability of that area?
798

799 Mr. Abernathy - I believe his concerns were, and he felt that the conditions that
800 would have been placed on him were too restrictive for moving, so he felt it would be better to
801 stay where we are currently.
802

803 Mr. Taylor - Are there any other questions for Mr. Abernathy?

804
805 Mr. Mistr - Could I add a comment to that? The Abernathy property runs all
806 along 95. The Goodman property does not touch 95. And Abernathy does not have access to
807 Telegraph Road, without going through another property. Now, in 1993 Mr. Abernathy filed a
808 zoning case for M-1C to put his construction company here, and he withdrew the case before it
809 was denied, but one of the reasons was that his access would be through Scott Road and
810 through paper streets of these single-family subdivisions that is recorded just north of Scott
811 Road.
812
813 Mr. Vanarsdall - Do you want anything else from him, Mr. Chairman?
814
815 Mr. Taylor - No. My question was on that parcel. That is parcel that is
816 longitudinal or parallel to 95?
817
818 Mr. Abernathy - Yes, sir.
819
820 Mr. Taylor - That is your parcel? And there is no access to that, according to
821 Mr. Mistr. Is that correct?
822
823 Mr. Abernathy - I believe the access is off of Scott Road, just a drive-way access.
824
825 Mr. Taylor - Basically every parcel that is around that is pretty much all
826 commercial, is it not?
827
828 Mr. Abernathy - I believe that it is Planned Industry. Excuse me, sir. It is
829 Agricultural.
830
831 Mr. Taylor - That is Agricultural now, all of it?
832
833 Mr. Abernathy - Yes.
834
835 Mr. Taylor - I don't have any more questions. Any more questions from the
836 Commission?
837
838 Mr. Jernigan - Thank you, sir.
839
840 Mr. Archer - Are you ready, Mr. Chairman?
841
842 Mr. Taylor - Yes, sir. Go ahead.
843
844 Mr. Archer - As Mr. Mistr stated so eloquently in his presentation, we don't
845 know what the time table would be for proposed development of this property. He chose to
846 think it might be later rather than sooner, but it could be the other way around. And, also, I
847 would like to state that the support departments who give us information that support the
848 staff's request to either support or not support these things are not really recommendations.
849 They make available to us information that would alert us to problems that might arise should
850 we have the opportunity to rezone property from one thing to another. We certainly have no
851 interest or any reason to just, for no salient reason deny the rezoning of land, but it appears in

852 looking at the overall report that was prepared by staff that the reasons against this request do
853 far outweigh potential non-development. You know, this piece of land was at one time looked
854 at by an applicant. Who was it, Mr. Secretary? Capitol One? And it is a very nice area and it is
855 one that the County quite naturally would like to hold onto for another future potential
856 development of the same type. And for that reason, even though I am very much in sympathy
857 with Mr. Abernathy and Mrs. High, I can't see that the reasons would override the objection
858 that staff has made, and perhaps when this gets to the Board, and you get the opportunity to
859 present this again, the argument might shift in the other direction. But based on the staff's
860 report, it is my recommendation that we deny this request and I so move.

861
862 Mr. Vanarsdall - I second that.

863
864 Mr. Taylor - Motion made by Mr. Archer and seconded by Mr. Vanarsdall to
865 deny Case C-25C-02. All in favor say aye. All opposed say no. The motion passes.

866
867 Mr. Vanarsdall - Mr. Secretary, you might want to tell him when it comes before
868 the Board.

869
870 Mr. Taylor - The vote is unanimous not to approve Case C-25C-02.

871
872 Mr. Marles - Mr. Vanarsdall, this item will come before the Board on September
873 10, 2002, on the evening of September 10.

874
875 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning
876 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **deny** the
877 request because it does not conform to the recommendation of the Land Use Plan nor the
878 Plan's Goals, Objectives and Policies and it would likely set an adverse zoning and land use
879 precedent for the area.

880
881 **C-44C-02 Roy Rogers Industries, Inc.:** Request to conditionally rezone
882 from R-1C One Family Residence District (Conditional) to R-5C General Residence District
883 (Conditional), Parcel 808-731-7728 (129-A-53D), containing 10.328 acres, located at the
884 southeast intersection of N. Laburnum Avenue and Watts Lane and on the west line of Harvie
885 Road approximately 1,300 feet north of Creighton Road (1401 N. Laburnum Avenue).
886 Residential townhouses for sale are proposed. The applicant proffers to develop no more than
887 one hundred (100) units. The use will be controlled by proffered conditions and zoning
888 ordinance regulations. The Land Use Plan recommends Office. The site is also in the Airport
889 Safety Overlay District.

890
891 Mr. Taylor - Is there anyone in the audience opposed to Case C-44C-02? Duly
892 noted. We are not going to listen to that number of people who are opposed. Are there a few
893 designated spokesmen for the opposition? There are. We will call you, ma'am, when we get to
894 it. We will ask the opposition to step forward at that particular time.

895
896 Mr. Vanarsdall - Unless you all have a large community, there is nobody left there
897 tonight, is it?

898
899 Mr. Taylor - Mr. Bittner, go ahead with the case.

900
901 Mr. Bittner - Thank you, Mr. Taylor. With quality development and landscape
902 plans, this townhouse development could be compatible with the adjacent residential uses and
903 could provide a favorable transition area between the existing single-family residences to the
904 east and multi-family apartments to the north. The proffers have been revised and handed out
905 to you just now. However, they still do not provide the desired level of quality.

906
907 The major revisions to the proffers include the following:

908
909 The minimum house size has been increased to 1,440 square feet of finished floor area.

910
911 The number of units has been decreased to 88, which equals a density of 8.5 units per acre.

912
913 Two-story townhouse units have been proffered. This would prevent the site from being
914 developed as an apartment complex.

915
916 At least 25% of the units shall have a minimum of 50% brick on the front facade. This
917 equals an overall brick percentage of 12.5%.

918
919 A 20-foot buffer has been proffered along the eastern boundary. This buffer would not be
920 in addition to required setbacks.

921
922 Provision of recreational amenities such as a tot lot, playground, or picnic area has also
923 been proffered.

924
925 Even with these revisions, staff still has several concerns with this application:

926
927 The proffered density of 8.5 units per acre is above staff's recommended density of six
928 (6) units per acre. This lower density would more closely match recent townhouse
929 rezonings in the County.

930
931 The proffered exterior brick percentage of 12.5% is very low. Staff continues to
932 recommend exterior building materials be at least 50% brick and the side of any
933 building facing a road or driveway be 100% brick.

934
935 Recent townhouse developments in the County have provided garages for individual
936 units. This is generally considered to be a high-quality feature. However, the revised
937 proffers do not include garages.

938
939 Staff recommends a minimum 35-foot buffer between the proposed development and
940 the existing single-family residences to the east and a minimum 35-foot landscaped
941 buffer along Laburnum Avenue. A 20-foot buffer has been provided along the eastern
942 border, but no specific buffer has been proffered along Laburnum Avenue.

943
944 Staff believes a residential townhouse development could be a compatible and beneficial use for
945 this site. However, the applicant has not submitted proffers that insure the desired level of
946 quality; therefore, staff cannot support the project as proposed.

947

948 I would be happy to answer any questions you may have.
949
950 Mr. Vanarsdall - Did you say that it is not in accordance with the Land Use?
951
952 Mr. Bittner - It is not in accordance with designated use of Office, which I do
953 believe is in the Land Use Plan.
954
955 Mr. Vanarsdall - It doesn't meet the goals, objectives and policies of the County,
956 either.
957
958 Mr. Bittner - No. It does not, mainly through the area of quality. As you may
959 recall, this is also a part of the Creighton Road Corridor Study Area, which has its own list of
960 recommended design guidelines to include things like brick, varying in architectural design and so
961 forth. They have proffered various designs between units, but as I said, the brick percentage is
962 very low, compared to some other townhouse rezonings in the County.
963
964 Mr. Vanarsdall - If you pointed out all of these things to the applicant, what was the
965 reason he could not improve it? Why wouldn't he go up on 50%?
966
967 Mr. Bittner - I think I would prefer to have the applicant address that question.
968
969 Mr. Vanarsdall - OK. Thank you.
970
971 Mr. Jernigan - Mr. Bittner, did you say this showed O on the Land Use Map?
972
973 Mr. Bittner - Yes, I do believe it is recommended. Yes, it is Office on the Land
974 Use Map.
975
976 Mr. Jernigan - That is what I thought you said.
977
978 Mr. Vanarsdall - This application is not consistent with this designation.
979
980 Mr. Taylor - Any other questions from the Commission? I guess we will hear
981 from the applicant.
982
983 Mr. Marlles - Mr. Chairman, as the applicant is approaching the podium, I would
984 review the rules and policy of the Commission when there is opposition to a case. It is the policy
985 of the Commission to grant 10 minutes to the applicant to make his presentation. That 10
986 minutes does include the time for any rebuttal, so Mr. Theobald, if you would like to reserve some
987 time we can do that. For the opposition, there is a total of 10 minutes that is also granted to the
988 opponents to a case to present their concerns. I do have a clock and I do keep track of it. Would
989 you like to reserve some time for rebuttal?
990
991 Mr. Theobald - Two minutes, please. Mr. Chairman, ladies and gentlemen, my
992 name is Jim Theobald and I am here this evening on behalf of Roy Rogers Industries, Inc. and
993 the Metropolitan African-American Baptist Church, and in the interest of balance and fairness, I
994 would, with your permission, ask the supporters of this request to please stand, Mr. Chairman, if
995 that is all right with you.

996
997 Mr. Taylor - Would the supporters please rise? A large body of supporters and
998 a large body of people opposed. Lots of interest in the community, obviously.
999

1000 Mr. Theobald - Mr. Chairman, this is a request to rezone approximately ten acres
1001 on Laburnum Avenue north of Creighton Road, next to the King's Point Apartments. This
1002 property was zoned for the church, which is hopefully selling the parcel in order to seek some
1003 relief from debt associated with its acquisition of it, which has become a significant burden for the
1004 church. Your applicant proposes constructing 88 quality town homes to meet the growing
1005 demand of Henrico County for reasonably priced home ownership opportunities. The initial
1006 purchasers will be offered a variety of elevations and options and two of those purchasers will
1007 include additional brick on the exteriors. We have revised our proffers, which have been handed
1008 out to you this evening in attempting to meet some of the concerns expressed by staff. You will
1009 note that all foundations are to be constructed of brick, all utilities underground. We have
1010 significantly increased the minimum square footage of our town homes to 1,440 sq. ft. of finished
1011 floor area. The interior design of these homes is for a three-bedroom town home. We have
1012 provided both controls on shimmy design. We have provided for protective covenants
1013 significantly. We have said that we would not have direct access to Laburnum Avenue, but rather
1014 using Watts Lane for access. By the way, we have, at the request of the County, we will be
1015 completing the construction of Watts Lane through to Harvie Road. We have proffered a fence
1016 and landscaping along Laburnum Avenue. We have not provided specificity with that at the
1017 moment. There is a BMP that is likely going to be required across the better part of the front,
1018 which will need to be landscaped, but I am not sure how much room we will have between the
1019 right of way and the BMP for just landscaping, and thus the reason that that is a bit vague at this
1020 point. We originally proffered that the density of the project would be some 100 units. We have
1021 lowered that number to 88 units in order to better set forth the intent of the developer. We have
1022 added Proffer #9, suggesting that all units will be owner occupied from the initial purchasers, and
1023 such units would be of two-story townhouse design. This was an attempt to assure that
1024 apartments would not be developed on this parcel. We have agreed to vary our architecture and
1025 our design to provide some interesting and different facades. You will see in the language that it
1026 will be no more than eight units in a building, no more than two units in a building can have the
1027 same elevation, and if two units do have the same elevation, they cannot be developed next door
1028 to one another. We also provide for varying colors of siding, varying window designs, varying
1029 doorway designs and setback among the individual units to provide some visual relief.
1030

1031 There has been a lot of discussion about brick and I am sure there will be more this evening. We
1032 initially thought that these units might be all siding. We have agreed that at least 25% of the
1033 units, or two out of the eight in a row, would have a minimum of 50% brick. It is not quite
1034 accurate to suggest that that is 12-1/2% brick across. It certainly results in 12-1/2% brick if you
1035 look at the whole façade, but essentially two out of the eight units would be a minimum of 50%
1036 brick.
1037

1038 The buffer in the back, there is basically no required buffer under your ordinance in this zoning
1039 classification, I don't believe, up against the adjacent property. None the less, we have provided
1040 a 20-foot buffer and you will see from the aerial that there is a stand of trees back along that rear
1041 property line. We have also agreed to provide some recreational amenities, such as tot lots, a
1042 playground, and picnic area, which will be shown on our subdivision plan or plan of development.
1043

1044 To acknowledge the comment made by staff about a conceptual plan that we furnished to them,
1045 we are in a project that is somewhat linear in nature and we have begun the redesign process to
1046 address that, and that was, I think, a commitment made verbally to staff that we would attempt
1047 to provide a more curve-linear design with our final design. I would suggest to you that this is a
1048 significant opportunity to encourage and promote home ownership and provide a logical transition
1049 from the multi-family development that is next door to the single-family detached dwellings
1050 nearby. It will certainly be a big boost to the church and I believe compatible with surrounding
1051 development. I think it is also consistent with the County's desire to promote home ownership for
1052 first-time home buyers, which has become a significant challenge in Henrico County, given the
1053 elimination of some of the smaller lot categories in our zoning ordinance. As you see, ladies and
1054 gentlemen, there is a significant amount of support for this request in the audience. There are, I
1055 know, some speakers who wish to address you in support, and I will save the balance of my
1056 comments for rebuttal, but I would be happy to answer any questions.

1057
1058 Mr. Taylor - Are there any questions from the Commission on this?

1059
1060 Mr. Archer - Mr. Theobald, I have one question that I think has some relevance.
1061 Of the people who stood in support, how many live adjacent to this property? Wait, I did not ask
1062 for applause, I really just wanted to know.

1063
1064 Mr. Theobald - Perhaps in the immediate area, I mean adjacent to the property is
1065 but four or five property owners.

1066
1067 Mr. Archer - I am assuming that the people who were opposed to it lived near
1068 it, and I was just trying to find out where. I didn't want applause or anything like that. I just
1069 need to know.

1070
1071 Mr. Theobald - Did you get your answer?

1072
1073 Mr. Archer - I did. Yes. Thank you.

1074
1075 Mr. Taylor - Thank you, Mr. Theobald. Now, let me go back and address the
1076 speakers who are opposed to this. Speakers in favor? Shall we do that first? May I see the
1077 hands of the people who are in favor of this project? Now may I see the hands of the people
1078 who are going to speak in favor of this project. There are three who hands are up, and as
1079 discussed before, as Secretary Marlles said, you have 10 minutes collectively. Now there are still
1080 three hands up.

1081
1082 Mr. Marlles - Mr. Chairman, Mr. Theobald reserved two minutes for rebuttal. So
1083 there is actually two minutes of the original 10 minutes left for speakers in favor. You have four
1084 minutes remaining, and two of those minutes are reserved for rebuttal, which leaves two minutes
1085 for anyone else who would like to speak in favor of it.

1086
1087 Mr. Taylor - And that means we have how much for the people in favor of it?
1088 Two minutes. Well, we have two people then. Would you please come forward and one at a
1089 time, and we will give you both a minute each, and ask you to talk convincingly and quickly. And
1090 with that, if you would, please give us your name for the record.

1091

1092 Ms. Pearl Anderson - Good evening, and thank you for the opportunity. My name is
1093 Pearl Anderson and I am a resident of the River Bluffs Subdivision. I wear several hats here
1094 tonight. Professionally over the last 10 years I have been in the housing business. I worked for
1095 Virginia Housing as an executive and I am now a consultant with my own company specializing in
1096 providing home ownership opportunities for first-time home buyers, as well as home buyer
1097 education. I also help raise money for organizations who have a commitment to first-time home
1098 buyers. As a resident of this community, I am particularly interested in seeing the opportunities
1099 for home ownership extend to first-time home buyers. I do not believe that such a development
1100 would hurt our community. I have a commitment to the community. I have been there for over
1101 10 years and I plan to stay. I just recently refinanced my house, so I plan to stay for a while. So,
1102 while I certainly do understand some concerns, as a resident and as an owner I also believe there
1103 are some opportunities to extend home ownership to others and I believe our community would
1104 be an excellent place to do so. Thank you for the opportunity to speak to you tonight, and, of
1105 course, the third hat I wear is being a member of the Metropolitan African American Baptist
1106 Church. Thank you.

1107
1108 Mr. Taylor - Thank you, Ms. Anderson. And sir, if you would give your name
1109 and Mr. Marles will give you your time limit.

1110
1111 Mr. Gordon Anderson - Thank you. My name is Gordon Anderson and for the record, I
1112 might say, that there is no relationship between myself and the previous speaker, Pearl Anderson.
1113 Ladies and gentlemen of the Commission, I am a resident of Maplewood Farms Subdivision,
1114 which is relatively close to the property in question. Basically, the only thing that I want to say to
1115 the Commission at this point is that I am in favor of the rezoning request, primarily because I
1116 know it will give first-time home owners or home owners or potential home owners the
1117 opportunity to own their first home. I don't see that there will be any opposition or I can't
1118 understand why there would be any opposition to that desire on the part of our struggling youth
1119 that are out there today. Basically I am for it, and I just want to go on record that I plan to be
1120 there for a number of years, and I don't see that there should be any conflict with my desire to
1121 be there nor the desires of those that want to start in a decent home. Thank you.

1122
1123 Mr. Taylor - Thank you, Mr. Anderson. And now if the opposition... We are out
1124 of time, but if you can be brief.

1125
1126 Ms. Waylan Clark - I will be very brief. My name is Waylan Clark and I also am a
1127 resident of Arbor Road Court right off of Laburnum Avenue. And also in being a first-time home
1128 buyer, myself, and I have been in the area now for almost 10 years and I, too, have just
1129 refinanced my home. I plan to be there for some time to come. And I see this as an opportunity
1130 for a first-time home buyer and I am real thrilled about the opportunity for myself and for new
1131 residents. Thank you.

1132
1133 Mr. Taylor - Thank you, ma'am. Mr. Secretary, I guess we are down to those in
1134 opposition, and...

1135
1136 Mr. Jernigan - Mr. Chairman, I have one thing. Let me ask this. Do people that
1137 are for this, how many of you live within 1,000 feet of this property? OK. Thank you.

1138

1139 Mr. Taylor - Now let me go back again and I would like to canvass the
1140 opposition to get the number of speakers. If I could, just may I have a show of hands of people
1141 who are opposed to the project who would like to speak. I count...are there any designated
1142 spokesmen? This lady is one. Do we have another? Let's do three. And yourself, and you, sir.
1143 We will have three speakers, so typically we will give you between three and four minutes if you
1144 could make it. If you would approach the microphone, please give us your name for the record.
1145

1146 Ms. Maria Stubbins - Good evening. My name is Marie Stubbins and I a resident of
1147 Harvie Road. I have lived there for approximately nine years. I would like to state that I was a
1148 first-time home buyer and I found it to be a wonderful area to move to. I also would like to point
1149 out on this map that right down here (referring to rendering) where you see all of these dirt
1150 roads, that is approximately 150 single-family homes right now, with many more being built. We
1151 understand that our area is growing, but we don't see it moving in a commercial way. We also
1152 don't see it moving in a way that promotes apartments and town homes as sorts of residences.
1153 What we see there are single-family homes. Our home values appreciated as all of the new
1154 building has come into our area and we look at town homes that are currently in our area that are
1155 selling for approximately half of what our homes sell for. We also see a lot of crime in our area.
1156 Right along in here (referring to rendering) this area has been proffered for 20 years, that nothing
1157 outside of a single-family home be requested for that area, and we watch people walk through
1158 the woods from King's Point Apartments right over there to purchase drugs from parked cars, and
1159 we currently call the police. We probably call them on a daily basis sometimes, and what we see
1160 happening is when you bring in a lower income area, we see that increasing. We also watch the,
1161 I know many people told me they watch the drug dealers come down into their cul-de-sac and
1162 they watch the people walk over and purchase drugs. So, what we see in our area is a property
1163 devaluing. We see an increase in traffic on Harvie Road. Harvie Road has not painted any lines.
1164 It is a very tiny little road, and what would be happening is all traffic would come off of Harvie
1165 onto Watts Lane to go into that proposed area, and we also see happening in the future an
1166 increase in the number of apartments in this proffered area right here (referring to rendering).
1167 That time will be coming up in 2008, and we can foresee them coming in and asking to develop
1168 that, as well, and with town homes already there, I can't see what would stop them. What we
1169 propose in the area are single-family homes, because that is what is being built there, and that is
1170 what is there currently. Thank you.
1171

1172 Mr. Taylor - Thank you, Ms. Stubbins. Sir, if you would please, come up and
1173 identify yourself for the record.
1174

1175 Mr. Alvis Oldham - Good evening, I am Alvin Oldham and I live at 3715 Pinoak Road, a
1176 little house right across the field up there. You can see it on your map. I have lived here since I
1177 was five years old. My parents lived here and I came back from the Army and from college and
1178 took care of them. It is a very quiet community. We would like to keep it that way. If I had my
1179 druthers, we would stay an agricultural community, with just a few little houses around. No. That
1180 is not possible. But we would like to continue to have at least single-family detached houses
1181 along this stretch of Henrico County. Harvie Road, as the lady said before, is a very narrow road.
1182 It is not going to be able to stand a lot of traffic. The only access out, right now, would be
1183 through Creighton Road, which is a four-lane highway with a lot of traffic running to 295, or at
1184 the other end we've got another four-lane section of Harvie Road, which has just been completed
1185 this last year. At that intersection, if you look off to your left, it sits up on top of a hill. The way
1186 they built the road is that you have a blind spot for about 150 yards below that intersection. So,

1187 you can't see traffic coming. Another 88 houses with an access to Laburnum Avenue will bring
1188 traffic and potential real accident problems at Creighton Road and at the other end of the little
1189 section of Harvie Road. Thank you.

1190
1191 Mr. Taylor - Thank you, Mr. Oldham. And now, sir, if you would give your name.
1192 You have the remainder of 10 minutes, which Mr. Marles will tell us is.

1193
1194 Mr. Marles - You have almost six minutes left.

1195
1196 Mr. Boland - Mr. Marles, I ask to keep two minutes remaining to add a rebuttal
1197 for our group. So if you can cut me off before the end.

1198
1199 Mr. Marles - Sir, the opponents do not have a rebuttal period. Only the
1200 applicant has a rebuttal period on the policy of the Commission. You do have six minutes left.

1201
1202 Mr. Boland - My name is Eugene Boland and for the record where the cursor is
1203 setting is my house (referring to rendering), so I am abutting directly against on the east end of
1204 this property. I would like to say first of all that I am not a life-long resident of Henrico County. I
1205 moved here two years ago to attend school, your fine establishment at Virginia Commonwealth
1206 University, to pursue a doctoral degree. The reason I am living on the east side of Henrico
1207 County is exactly what you see here, single-family one-acre lots. That is what we were looking
1208 for when we were moving here. When we bought the property, under the understanding that a
1209 church was being built behind us, we didn't know that this residential group, this group right here
1210 (referring to rendering) was on approximately 1/4-acre lots and single-family houses, and we felt
1211 that that would be a complement to our single-family one-acre lots right here, or in this case, a
1212 three-acre lot, and what I would like to say is, first of all, since that is what did bring me to the
1213 area, differing with the proposed Land Use here with the town homes. First of all, if you look just
1214 from observation, by living in the area, what I find is the smaller single-family homes in the area
1215 are not owner-occupied. I do understand from the plan the original sale will go to owner-
1216 occupied, but I can almost guarantee you that a small townhouse in this area will become rental
1217 property. This area is filled with rental property as it is right now, and with rental property brings
1218 a lower standard of living. Not that people that rent don't care about their property, but in a
1219 general sense, there is a little bit loss in pride in ownership, especially when you have a density
1220 approaching 8-1/2 units per acre. Another thing that I would like to say is that with the church I
1221 understand that there is probably financial hardship with the church trying to unload this
1222 property. However, I travel Harvie Road and Laburnum Avenue each and every day and I have
1223 yet to see a sign go up saying that this land was for sale. There may have been a sign that I
1224 missed, but I am just saying that I don't believe there has been a significant effort in selling this
1225 property. As far as their plan to bring all the traffic out onto Harvie Road, as the previous speaker
1226 mentioned, Harvie Road isn't even wide enough to be painted right now. You know, you are
1227 touching the gravel on both sides, passing a car on this road, and adding 88 units as well as what
1228 is not on this photograph is, as the Commission is aware, that this area to right about where I am
1229 moving the cursor now, has been clear cut an additional eight acres to expand this subdivision
1230 and this subdivision does have a road that dumps right here in front of my property. So there is
1231 an access to this subdivision now that is dumping onto Harvie Road and now they are proposing
1232 another access on Watts Lane dumping onto a quiet two-lane, not even two-lane, 1-1/2-lane
1233 practically road. I understand that roads can be widened, but that is not what we were looking
1234 for when we were buying in this area, and, I believe, most of the people here in opposition with

1235 me felt the same way, whether a life-long resident or first-time buyers in the area. In our case,
1236 we have some other members in opposition that would like a chance to speak, so I want to thank
1237 the Board (sic) for its time and thank you very much.

1238
1239 Mr. Taylor - Thank you, Mr. Boland.

1240
1241 Ms. Julian Moore - Hi. My name is Julian Moore and I live off of Harvie Road, and as
1242 has been mentioned, that road is a 1-1/2-lane road. My driveway dumps into that 1-1/2-lane
1243 road and I do believe that the amount of traffic that is going to be added to Harvie Road, with
1244 such a subdivision, is going to be significant. I don't understand why they wouldn't make a
1245 subdivision off of Laburnum Road, which is a major four-lane road, rather than bringing it off of a
1246 1-1/2-lane road. The area is mostly, was previously agricultural, mostly one-acre lots. It has
1247 been developed with a subdivision on one side of the property. There is another subdivision being
1248 developed, kind of on the north side, all single-family homes, half an acre to 1/4 -acre lots. I think
1249 a townhouse development here is not going to be helpful, especially the townhouse development
1250 is right against the apartments. If you want to put a townhouse development here, put it
1251 someplace else, away from the apartments. Spread it out so that there are single-family
1252 residences around the apartments and then the townhouse is slightly down the road. I don't
1253 think you are doing yourself any favors by making the townhouse basically just a slightly
1254 improved apartment complex. I have a real issue with making the townhouses so little brick. I
1255 think most of the houses in the area are mostly brick, and so that is going to be very different
1256 looking from the other homes in the area, and it is really going to stand out. Thank you.

1257
1258 Mr. Taylor - Thank you. Mr. Marlles says you are fine, you're fine.

1259
1260 Mr. Carl Overton - My name is Carl Overton. I am from the Mitchell Tree Subdivision.
1261 We are neighbors to the people across here on Harvie Road. Not to long ago, a few years back,
1262 there was the big to do along Creighton Road about its development. One of the biggest
1263 arguments going at the time was that not too many residential homes could go up, for the simple
1264 reason that they would overload Creighton Road, a four-lane highway. OK. Now, you are
1265 stacking people up in a small area in what amounts to multiple dwellings, and there seems to be
1266 no objection. This is not right. It is not right. Now this property, we championed it. The case of
1267 Rev. Cooper and the church to acquire that property, we wished him well then and we still wish
1268 him well. We hope that he can resolve this problem that he has as far as unloading his property,
1269 but we who live here still want to maintain the quality of the homes that are going up in the area,
1270 and it cannot be maintained if they start putting in low-quality multiple dwellings. I want to thank
1271 you very much for allowing me to speak.

1272
1273 Mr. Taylor - Thank you. I think, Mr. Marlles, that this is all. Is there anybody
1274 who would like to speak for the opposition? We have a minute and a half, so we must be brief
1275 and we must be on time. But you do have a minute and a half. And if you would, when you
1276 come to the podium, sir, please give your name for the record.

1277
1278 Mr. Donald Summit - Hi. My name is Donald Summit. I have probably been a resident of
1279 Henrico for about one week. I used to live in Henrico when I was much younger, and I really
1280 enjoyed the County and I moved back to this community because it was a quiet community, a
1281 nice community, and the houses in the area were very, very good quality. I would really be upset
1282 to see apartments and town homes go in here. I think it would be a devaluation of the property

1283 and a detriment to the community. I would not have bought that house if I thought that
1284 apartments were going to be built on this road. Thank you very much for your time. That is all I
1285 want to say.

1286
1287 Mr. Taylor - Thank you. We still have some more time, so I would expect there
1288 are one or two more speakers. Someone else want to speak? Sir, if you would, please identify
1289 yourself for the record.

1290
1291 Mr. J. R. Stubbins - I am J. R. Stubbins. I will be very brief. I do live on the property
1292 that is just north of the buffer, right where the words "Harvie Road" are written, there is a small
1293 treed buffer area right there, and that was mentioned before. My home is right against it, and I
1294 can see dealers pull into these little dirt roads that are in that buffer right now. They are little dirt
1295 paths. They are beaten down with their cars. They pull in and I witness people from those
1296 apartments right now walk over there, exchange drugs. I call the police on them, of course, and it
1297 happens all the time, but I have never seen a resident of Harvie Road or any neighbors of mine
1298 walk over to those cars to buy drugs. They come from those apartments right there, and I do not
1299 see how, you can call them condos or whatever you want, it is going to be, whatever you want to
1300 call it, they are half the price of a house. The mortgage is cheap. They can pay for rent there or
1301 they can pay a cheap mortgage there, and it is lower income housing any way you cut it, and that
1302 is where they are coming from. Thank you for your time.

1303
1304 Mr. Taylor - Thank you, Mr. Stubbins. That, ladies and gentlemen, concludes
1305 the amount of time that we have. So, we have two minutes rebuttal for Mr. Theobald. Mr.
1306 Theobald.

1307
1308 Mr. Theobald - Mr. Chairman, I would like to emphasize that this is not a request
1309 to rezone this property for apartments. It is a request to rezone it for town homes. There is no
1310 relationship between the existing apartment project for the developers of that and the developers
1311 of this piece. In fact, there has been a real estate sign advertising this property for sale since
1312 November of 2001. For some reason, there seems to be a perception that all of this traffic is
1313 going on to Harvie Road as opposed to Laburnum Avenue. Watts Lane, you will see where it is
1314 written Watts Lane, is improved back part way and the County will require us to improve it all of
1315 the way in order to provide adequate safety vehicle entrances for the property. Laburnum
1316 Avenue has 25,000 cars a day on it. Adding 88 town homes, I don't think, is going to stress the
1317 system. I manage to drive Harvie Road today. Didn't get run off the road. That seems to be a
1318 two-lane road as opposed to a lane and a half. I don't know why people wouldn't use Laburnum
1319 Avenue. There is a median break right there at Watts Lane.

1320
1321 You know, I guess first-time home buyers are lower income by definition. I guess if they were,
1322 had purchased a home before, perhaps they wouldn't need one and they would not be lower
1323 income, and I will suggest to you if we don't provide home ownership opportunities to people of
1324 modest incomes then you do nothing to guarantee that you will have additional rental property
1325 developed, so I honestly believe that it is in the County's interest and all of our interests to
1326 promote home ownership for people with the wherewithal to buy and own a home and purchase
1327 all of the things that goes into those homes. Quality doesn't always equate with purchase price.
1328 I really don't think this debate ought to be about the amount of brick. It really ought to be about
1329 people. Those are my comments. I'd be happy to answer any additional questions you might
1330 have.

1331
1332 Mr. Vanarsdall - Mr. Theobald, I will ask you a question I started out and asked
1333 Mark Bittner. He referred me to the applicant. I don't understand why the applicant wouldn't
1334 build a better mousetrap after reading this report, and you usually are good at working with an
1335 applicant to get them to see the light. There must be a reason. It must be the costs and if it is
1336 too much, he should walk away from it and let somebody else challenge it.
1337
1338 Mr. Theobald - Well, as you know, Mr. Vanarsdall, the decision to develop property
1339 and borrow money and pay the debt service on that money is viewed in terms of your ability to
1340 get a reasonable rate of return commensurate with the risk, and in identifying that piece of
1341 property, you have to examine the market in the area and decide the price at which you can
1342 market the homes and in a way that it doesn't take 20 years to sell. So, it is a process whereby
1343 you arrive at a level of...
1344
1345 Mr. Vanarsdall - Well, he knew these people were living there when he bought the
1346 property or when he filed the case. All these people have been living there a long time. I don't
1347 have any more questions.
1348
1349 Mr. Taylor - Are there any other questions or comments from the Commission?
1350 Thank you, Mr. Theobald. We appreciate those comments. Mr. Archer.
1351
1352 Mr. Archer - Is there any time left for me?
1353
1354 Mr. Taylor - There is always time for you.
1355
1356 Mr. Archer - I would just like to start out by saying that just listening to the
1357 comments here tonight and I didn't speak, I just listened. There has been a lot of misinformation
1358 about this project from the beginning, and if you listened to what the staff report said, this was
1359 not, the staff report was not about anything at all except design and quality of this project. A lot
1360 of people spoke about quality and first-time home buyers, but I support first-time home buyers
1361 anyway that I can. I at one time was a first-time home buyer. I don't know how you describe
1362 low-income people. My wife says I am a low-income person. And you know, it is also, I think,
1363 wrong and absolutely absurd to assume that people who live in townhouses or even in
1364 apartments are the only people who buy drugs, and just because they live there they buy drugs.
1365 That is not true. You know, rich people can afford more drugs than low-income people. And a
1366 better quality, too, I suppose. But the whole crux of this matter is not about a small townhouse
1367 complex. What we and staff talked about consistently has had to do with the quality of what is
1368 being built here, and maybe there are some people who, if they came up to the level of quality
1369 that we would want and would expect, could not afford these townhouses as a first-time home
1370 buyer. But that is not anybody's responsibility to be able to make available to anyone what a first-
1371 time homebuyer might buy. First-time homebuyers might have enough money to buy something
1372 that is quite expensive, and others would not. So, none of those reasons will go into what I think
1373 the decision that I will ask for tonight, or in the staff's recommending against what was proposed.
1374 There were things that were asked for that we could not get. We talked about having a certain
1375 percentage of brick, which we played around with the demands for a little bit, and as Mr.
1376 Theobald said it might not come out to be exactly true, but 25% or 50% is 12%, and that doesn't
1377 have a lot to do with anything, but there were a lot of design issues and other components of the

1378 staff report that we don't seem to be able to get. And Mr. Theobald, you are standing, I assume
1379 you want to say something.

1380
1381 Mr. Theobald - Well, Mr. Archer, I was speaking with Mr. Rogers and apropos of
1382 Mr. Vanarsdall's comment, if you think it would be beneficial, I am happy to redouble my efforts.
1383 I have been involved in this case for probably just two weeks, and if you think it would be helpful,
1384 I would be willing to make another effort to try to address some of those issues additionally, and
1385 would be prepared to ask for a 30-day deferral in an effort to try to do that.

1386
1387 Mr. Archer - Well, I tell you, Mr. Theobald, you and I discussed this today as to
1388 where we might go with that, and what I am really surprised about tonight is the last time we
1389 met we knew of no known opposition to this case. In fact, there were people who called me who
1390 were in support of it, and who have since called me and said that they had withdrawn their
1391 support, and I don't know for what reason, to be honest with you. But, in view of the folks who
1392 have shown up here tonight, even though again I will admit that a lot of the information that you
1393 all have is incorrect, I think what I would do tonight is to move to recommend denial and
1394 between now and the time the Board meets, if you all think you can come up with something that
1395 would entice the Board of Supervisors to change that, then the opportunity certainly exists, and
1396 we can save ourselves another 30 days of having to go through this again. So, my
1397 recommendation to the Board would be denial.

1398
1399 Mr. Vanarsdall - I second that.

1400
1401 Mr. Archer - And Mr. Chairman can tell you when that next meeting is going to
1402 be.

1403
1404 Mr. Taylor - Motion made by Mr. Archer and seconded by Mr. Vanarsdall. All in
1405 favor say aye. All opposed say no. The motion passes.

1406
1407 **REASON:** Acting on a motion by Mr. Archer, seconded by Mr. Vanarsdall, the Planning
1408 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **deny** the
1409 request because conflicts with the adopted Land Use Plan and it failed to include the proffered
1410 conditions deemed necessary to provide the appropriate quality assurances.

1411
1412 Mr. Marlles - Mr. Chairman, if I could, for the citizens in the audience, the
1413 Planning Commission's decision tonight is a recommendation to the Board of Supervisors. This
1414 matter will come up at the Board of Supervisors meeting on September 10. The Board does make
1415 the final decision. And that meeting is at 7:00 p.m. here in this room.

1416
1417 **THE PLANNING COMMISSION TOOK A FIVE-MINUTE RECESS.**

1418
1419 **THE PLANNING COMMISSION RECONVENED.**

1420
1421 Mr. Taylor - Mr. Marlles is a little bit under the weather, so Mr. Silber is going to
1422 act as Secretary for the remainder of the meeting.

1423
1424 **C-13C-02 James W. Theobald for HHHunt Corporation:** Request to
1425 conditionally rezone from A-1 Agricultural District and RTHC Residential Townhouse District

1426 (Conditional) to O-3C Office District (Conditional), RTHC Residential Townhouse District
1427 (Conditional), R-5AC General Residence District (Conditional) and R-6C General Residence
1428 (Conditional) Parcels 747-771-2430 (18-A-35), 747-771-4048 (36), 747-771-3965 (37), 746-
1429 770-1492 (38), 745-770-0962 (39A), 746-770-0619 (56), 745-769-6789 (56A), 746-770-4038
1430 (57), 746-769-3486 (57A), and Parcels 745-768-7374 (27-A-14B), 745-769-5071 (15), 745-769-
1431 6845 (15A), 745-769-0926 (15B) and 746-769-3767 (49), containing approximately 120 acres,
1432 located along the north and west lines of New Wade Lane and Nuckols Road. A residential and
1433 office development is proposed. The use will be controlled by proffered conditions and zoning
1434 ordinance regulations. The Land Use Plan recommends Rural Residential, not exceeding 1.0
1435 unit net density per acre, Suburban Residential 2, 2.4 to 3.4 units net density per acre, Open
1436 Space/Recreation, and Environmental Protection Area.

1437
1438 Mr. Taylor - Is there anyone here tonight in opposition to Case C-13C-02? All
1439 right, so we will reserve some time at the end. Go ahead.

1440
1441 Mr. Bittner - Thank you, Mr. Chairman. This application has been revised from
1442 what is shown in the staff report. The display slide shows a summary of these changes.
1443 Several of these changes are very positive. The major revisions to this application include the
1444 following:

1445
1446 The amount of proposed single-family development has been increased to 24.7 acres. This is
1447 shown as Parcel 2, zoned R-5AC, adjacent to the Saddleridge neighborhood. The proffers also
1448 now state that all homes on this parcel shall have brick fronts as well as a 2-car garage.

1449
1450 The detached condominiums planned for Parcel 3 have also been amended. Their minimum unit
1451 size has been increased to 1,750 square feet and each unit will now include a 2-car garage.

1452
1453 RTHC Parcel 1 adjacent to Interstate 295 has also been upgraded. Half of these units will be at
1454 least 1,700 square feet in size with the remaining units being at least 1,500 square feet in size.
1455 The brick percentage on the front has been increased to 75%; any rear side of a unit facing
1456 Hickory Bend Drive or Hickory Park Drive will be 100% brick; and each unit will have a 1-car
1457 garage.

1458
1459 R-6C Parcel 5 will also have the same standards if developed as townhouses or condominiums. If
1460 developed as an assisted living center, it will be at least 50% brick on all sides, limited to 3 stories
1461 in height, and limited to 2 stories in height within 250' of Hickory Bend Drive.

1462
1463 The height of structures within the O-3C parcels has also been limited to 2 stories within 250' of
1464 Hickory Bend Drive. The maximum height will be 5 stories and hotels will not be permitted on
1465 these properties.

1466
1467 It should also be noted the applicant has stated his intention to add all of the residential parcels
1468 to the Twin Hickory Homeowners Association.

1469
1470 As stated before, these changes are very positive and improve the quality of this application. The
1471 applicant has addressed most of the issues raised in the staff report, although staff continues to
1472 encourage the applicant to consider wider lots with side and rear-loading garages on the single-
1473 family R-5AC Parcel 2.

1474
1475 With the revisions made to the proffers, staff can recommend approval of this application. I'd
1476 be happy to answer any questions you may have.
1477
1478 Mr. Taylor - Thank you, Mr. Bittner. Are there any questions from the
1479 Commission?
1480
1481 Mr. Bittner - I believe we just handed out the latest proffers to you. I
1482 apologize for not getting them to you before the start of my presentation.
1483
1484 Mr. Taylor - All right. Thank you. Is Mr. Theobald going to present the case?
1485 Mr. Theobald.
1486
1487 Mr. Silber - Mr. Theobald, since there is opposition, the 10-minute rule will
1488 apply. Would you like to reserve some of your time for rebuttal?
1489
1490 Mr. Theobald - I think two minutes would probably suffice, Mr. Silber.
1491
1492 Mr. Theobald - Mr. Chairman, ladies and gentlemen, my name is Jim Theobald
1493 and I am here this evening on behalf of HHHunt. This is a request to rezone 120 acres of land
1494 to be a part of the award-winning community of Twin Hickory. Some three years ago the Board
1495 approved a request to rezone 426 acres of land to create Twin Hickory. What was and is most
1496 significant about Twin Hickory is its true mixed-use nature in the middle of an abundance of the
1497 private and public amenities. It is a community where people live, work and play. The original
1498 Twin Hickory zoning included single-family attached homes, condominiums, town homes,
1499 retirement living, apartments, day care and even light industrial uses, which was later amended
1500 to single-family detached housing. The result is the fastest selling community in perhaps all of
1501 Henrico County. Over the past many years we have met with County staff to advise them of
1502 our plans in land assemblage and planning and development in this area. We looked for land
1503 uses that were logical and transitional, uses that acknowledged some of the physical limitations
1504 of the land, the area along 295 that had been quarried, used as a borrow pit for the
1505 construction of 295, and also to be responsive to market conditions. The County did a small
1506 area plan study and we essentially withheld our request from being advertised until that study
1507 was finished. We have amended what we intended to do only after further meetings with staff,
1508 and believe that we are now consistent with that small area plan study. Mr. Bittner has
1509 explained the proffered conditions to you. I will merely summarize. We provided green belts
1510 along the major roadways as we have consistently with Wyndham and Twin Hickory and
1511 provided for conservation area rezoning, where applicable, provided for pedestrian and bicycle
1512 access ways and a master plan showing that at the time of our first subdivision or POD
1513 approval. We agreed to do median landscaping and portions of Nuckols Road adjacent to our
1514 property, and also within in any landscaped median areas on the internal roads. The RTH
1515 property in this quadrant, known as Parcel 3, in your case is an extension of Belmont Park. It is
1516 actually proffered significantly to higher standards than it was proffered for Belmont Park, but it
1517 has essentially been proffered to replicate Belmont Park, and those are single-family detached
1518 condominiums.
1519
1520 Moving down, we amended our case again to bring it in further conformance with the small
1521 area plan and combined what was Parcel 2, 2B, 2A and a portion of what was Parcel 3 into

1522 single-family detached homes in the R-5 area and provided significant additional quality
1523 guarantees. As we moved toward I-295, we get a little more traditional town house product,
1524 but again, significant proffered conditions relating with percentage of brick, garages, square
1525 footage, architectural design, etc. The R-6 piece is hoped to become an assisted living facility.
1526 Since that category also allows town homes and condominiums, we have added the same
1527 guarantees of quality design as are attendant to the RTHC up against 295. The free portion of
1528 the property is where we see office uses expanding into this quadrant. You are seeing all of the
1529 land that we have currently been able to acquire and it was the County's staff's belief that this
1530 area should become a transition of uses from the existing Twin Hickory towards the quadrant,
1531 ending in an office-type use, an Innsbrook Corporate Campus type environment, and the O-3
1532 parcels that you see there have been conditioned accordingly. There has been some discussion
1533 in the past about whether or not this should or shouldn't be part of Twin Hickory. It is certainly
1534 a sensitive issue with many. Originally we had thought that some of this land would not be
1535 annexed into Twin Hickory. On reflection, and as we increase the square footage and the
1536 quality designs of this, it sort of became obvious to us that we had created a superior brand
1537 and living environment for Twin Hickory, and we had spent hundreds of thousands of dollars
1538 creating that image and promoting it, and why we would abandon that as we move into this
1539 potential additional section, we started to question. We have had meetings with many
1540 neighbors about the sufficiency of the recreational amenities and what I am here to tell you this
1541 evening is a process has begun. I know there is a meeting on September 5. I am sure others
1542 will likely address this, this evening, where members of the HOA and certain interested people
1543 will be meeting to discuss the adequacy of the recreational facilities. Hunt has agreed to pay
1544 for a master plan by a landscape architect to be prepared. We believe this additional area will
1545 both expand the parking and the pool facilities, but it needs to be studied, as to if and when
1546 that is appropriate. It is likely to be appropriate with the addition of new folks, but not
1547 tomorrow, and so there needs to be additional study as to how and when that would occur. I
1548 have also been authorized to tell you, and I have communicated with some of the residents
1549 today that Hunt will participate financially and contribute a portion of the funds necessary to
1550 expand those facilities as and when they are deemed to be necessary, so they have, in essence,
1551 made a commitment to look at this, participate in it, and to ultimately help to do something
1552 about it when that issue is studied further. This request is consistent with your small area plan
1553 study. The proffers are equal to or greater, if you will, than those rendered with the original
1554 Wyndham rezoning, and with the Twin Hickory project. I believe it is a community that you will
1555 continue to take pride in and makes a lot of sense from a transitional standpoint, and with that,
1556 I think I will pause and see if you have any questions about this request.

1557
1558 Mr. Taylor - Thank you, Mr. Theobald. Are there any questions for Mr.
1559 Theobald on behalf of the Commission? No questions apparently, so we will go on, and you will
1560 reserve...how many minutes did he reserve?

1561
1562 Mr. Silber - He has 2-1/2 minutes.

1563
1564 Mr. Taylor - Two and a half minutes and we will pass to the opposition. Do we
1565 have some designated speakers for the opposition? All right. Come on down, please, and
1566 identify yourself for the record. We will be happy to hear your comments.

1567
1568 Mr. Rick Dodge - Good evening. My name is Rick Dodge. I live at 5108 Park
1569 Meadows Court. That, of course, is in Twin Hickory. I have been appointed to a committee in

1570 the HOA and I am also the voting rep for my subdivision, but I am not speaking to you tonight
1571 from either one of those official positions, because I haven't been authorized to do so. I am
1572 just speaking to you as a concerned resident in the neighborhood, and my comments really are
1573 first to thank the applicant, and I guess through Mr. Theobald, for reducing the number of town
1574 homes and increasing the number of single-family homes. It is my opinion that that will result
1575 in fewer transient neighbors and neighbors that we will potentially develop long-term
1576 friendships and our lives, of course, will grow together, through our children, as a result of the
1577 changes that they proposed. There are a couple of residents that have expressed to me their
1578 concerns still about the density that this proposal recommends. I personally don't have those
1579 concerns, because I know where we started with this proposal, and the density was much
1580 higher than what we are seeing tonight. I also want to thank Mr. Bittner. I have never publicly
1581 thanked him for all of his hard work on Twin Hickory and several residents have worked with
1582 him very closely and Mr. Silber, we thank very highly of your staff. The pool issue is the main
1583 issue that I would like to address, and Mr. Theobald just alluded to the fact that Hunt has
1584 agreed to financially contribute to that, and really my only comment is I hope that that is a
1585 significant contribution, because I believe that the rest of the financial requirement will come
1586 from the HOA, and, of course, our hope is that we will need see a substantial increase in our
1587 annual dues or potentially a outright contribution that would bring about our second pool. So, I
1588 hope that the intent, even though we haven't heard any solid numbers yet, it is a little
1589 premature to hear exactly how much the applicant will be fronting for additional facilities, I
1590 hope that it is a significant and serious contribution. I will be happy to answer any of your
1591 questions. And it is good to see all of you again, by the way.

1592
1593 Mr. Taylor - Are there any other questions or are there any questions of Mr.
1594 Dodge from the Commission?

1595
1596 Mr. Jernigan - Rick, I don't want to put you on the spot.

1597
1598 Mr. Dodge - I am ready.

1599
1600 Mr. Jernigan - But we have seen you up here a few times before, and the way
1601 you are sounding now is you are in support of this project.

1602
1603 Mr. Dodge - Yes, sir. It is my opinion that Hunt had made concessions. They
1604 have responded appropriately to the resident input that I have heard other than the few
1605 individuals that are still concerned about the density. So, yes, I would publicly praise Hunt for
1606 the changes that they have made. I am not terribly excited about the amount of buffers, but
1607 you know, in my opinion, you can never have too many trees. They help us breathe. But, yes,
1608 in general, Mr. Jernigan, you are right. I would have to say that I support this proposal.

1609
1610 Mr. Jernigan - That is good. Thank you, sir.

1611
1612 Mr. Vanarsdall - It has been a long road, hasn't it?

1613
1614 Mr. Dodge - We have come a long way, yes, sir, and a lot of folks have put in
1615 a lot of time, some on the County side and some on the developer's side, some on the
1616 resident's side. A lot of meetings and Mr. Taylor has been very gracious with his time to come
1617 out to Twin Hickory, and we appreciate that, Mr. Taylor.

1618
1619 Mr. Jernigan - I think that is the reason you got the laugh on the way up here,
1620 because you have made this walk quite a few times. We're not on a first-name basis, now.
1621
1622 Mr. Dodge - Unfortunately, sir, you probably have not seen the last of me. I
1623 will always try and keep my comments brief. I can promise you that. Thank you very much.
1624
1625 Mr. Taylor - Is there anybody else who would like to speak? Ma'am, if you
1626 would come down and identify yourself, we'd be happy to hear your comments. Thank you, Mr.
1627 Dodge.
1628
1629 Ms. Stephanie Hunt - Good evening, my name is Stephanie Hunt. I live in Scot's Glen in
1630 Twin Hickory and as well as Rick, I am also a neighborhood voting rep. I am president of the
1631 Twin Hickory Swim Team and I am also on the pool committee. I am not speaking tonight in
1632 any of those arenas. I am here as a concerned resident of my neighborhood, Scot's Glen. I
1633 love my neighborhood, Twin Hickory. I want to make sure it is the best community that it
1634 possibly can be, and my main concerns with this parcel is the over-saturation at Twin Hickory
1635 Elementary School. I received a figure from the Principal that the school is going to be at
1636 capacity this year, and what is troubling to me is that there is a rumor going around that can be
1637 neither confirmed nor denied that my neighborhood, Scot's Glen, and Avery Green are going to
1638 be redistricted to the new elementary school going in by Wyndham Forest. And my main
1639 concern here is that if we are adding all of these new homes in, where is the logical districting
1640 line for these new elementary schools? And I bought my house in Scot's Glen because there
1641 was a brand new elementary school being built down the street, and if I did get redistricted,
1642 that is going to be the third elementary school that we've been redistricted to, and I have been
1643 in my house for not even three years. So, that is my concern, and I don't know if the applicant
1644 has any control over that, but I think certainly some County officials do have that, and I think
1645 we need to do what is in the best interest of the Henrico County tax-paying citizen, as opposed
1646 to trying to increase our tax base. Thank you.
1647
1648 Mr. Archer - Ms. Hunt, excuse me. Have you talked to anyone on the School
1649 Board about this?
1650
1651 Ms. Hunt - Penny Blumenthal, she couldn't confirm or deny redistricting and
1652 several of my neighbors are concerned about this, and we are trying to set up a meeting with
1653 School Board officials in October.
1654
1655 Mr. Taylor - Ms. Hunt, I don't believe there is any representative from the
1656 School Board here tonight as we look around. This is new information to us on the panel, so it
1657 is something we will have to check out.
1658
1659 Mr. Silber - It is also, I think, worth noting that the Planning Commission
1660 doesn't establish those lines. The Board of Supervisors doesn't establish those lines. Those are
1661 established by the School Board.
1662
1663 Ms. Hunt - Right. I understand that, but with adding this development, the
1664 applicant can sell Twin Hickory Elementary as an amenity, and basically kick myself out,
1665 because of the way boundaries are drawn up.

1666
1667 Mr. Silber - It is hard to say whether this would have a bearing on that or not,
1668 but the school that your children would go to at this time has capacity for additional enrollment,
1669 and with the new school coming on, there would be some lines drawn and where those lines
1670 would be drawn we don't know. And we don't know whether this development would even
1671 impact that or not.
1672
1673 Ms. Hunt - Right. It is just something to think about. That is my concern.
1674 Thank you.
1675
1676 Mr. Vanarsdall - It wouldn't be anything wrong with you calling Andy, your school
1677 board representative.
1678
1679 Ms. Hunt - We tried to contact him and set up a meeting.
1680
1681 Mr. Vanarsdall - Has he called you back?
1682
1683 Ms. Hunt - Not that I am aware of. No. Thank you.
1684
1685 Mr. Taylor - OK. Thank you, Ms. Hunt.
1686
1687 Mr. Dodge - Can I just mention that there is a meeting planned with Penny
1688 Blumenthal. A couple of the residents do have something planned later in the month to get
1689 some more information from her.
1690
1691 Mr. Taylor - Thank you, Rick. This is the first time that we have heard that, so
1692 we will have to check up on it. Are there any other speakers from the neighborhood of Twin
1693 Hickory? Yes, sir. If you would, please come down and identify yourself, and we'd like to hear
1694 your comments.
1695
1696 Mr. Derrick Anderson - My name is Derrick Anderson and I live at 4821 Saddleridge
1697 Court. I am the voting rep for Saddleridge, but again just speaking as a concerned citizen.
1698 Very briefly, I want to echo Mr. Dodge's thanks to the applicant for much progress in the last
1699 few months, and just one quick comment on existing natural buffers to be left specifically in the
1700 parcel to the roughly 80 new houses that have been proposed. I met with Mr. Moore of Hunt
1701 and appreciate his direction and explanation of the trees that are going to be left because of
1702 the environmental protection area, but my only request and encouragement is to see more
1703 trees left and possibly proffers and for wooded lots in some of those 80 houses that back up to
1704 Saddleridge residents or the lake or onto Parcel 3. My only request is that we investigate and
1705 possibly have proffers for some additional trees left standing. Any questions for me?
1706
1707 Mr. Taylor - Thank you, Mr. Anderson. I am not sure if Mr. Bittner wants to
1708 take that one on. We have talked about trees and buffers all along here, and it is an individual
1709 parcel effort in terms of what landscaping is going to go in there, but generally speaking, I think
1710 you have to acknowledge that HHHunt has done really, I think, a commendable job in trying to
1711 save the trees and abide by the buffers, and do what we need to do. As we go forward, I think
1712 it is good to keep an eye out for what is happening to make sure that that quality is maintained.
1713 But I am reasonably sure that HHHunt will continue and respond to the neighborhood

1714 comments, and I know now there are several neighborhood councils that are working with
1715 HHHunt. They continue to have dialogue, and I think we will just have to see as we go along. I
1716 think we learned our lesson the last time in letting the developers get a little bit advanced in
1717 terms of what their planning was, without controls, and I think we have corrected that now. So,
1718 I think we will hope that the landscaping in the buffer is materially improved from what we had
1719 a year ago in terms of control. Thank you. Are there any other comments? Any comments on
1720 behalf of the Commission? Well, I am delighted to hear these comments and particularly the
1721 comments that HHHunt is continuing to be responsive to the community, and I am delighted to
1722 see the progress that we have made, the efforts that HHHunt has made, the efforts the
1723 community has made to keep abreast of what is happening. I think a lot of credit evolves
1724 through the people who live there in terms of statements of quality, both with regard to the
1725 pools and the many meetings, and the meeting that we had at the school I think attests to the
1726 neighborhood interests and also the County interests, and also the developer interests, as we
1727 work ahead with this plan. Mr. Bittner, in working on this plan, has spent several months in
1728 coming up with this concept, and he has been working with the developer, working with the
1729 staff, and I am delighted to see the current progress of Twin Hickory, but I really think the best
1730 is yet to come, as we begin to build these last ones, because we have learned a lot in terms of
1731 working together, working with the community, working with the developer, recognizing
1732 problems early, resolving them quickly and reasonably definitively with a good natured spirit or
1733 good spirit, and a lot of cooperation, and I would hope that that continues and it grows and it
1734 improves as we go along. And with that, I will recommend approval of Case C-13C-02, and
1735 move it for approval.

1736
1737 Mr. Jernigan - I want to second this one.

1738
1739 Mr. Taylor - Motion made by Mr. Taylor and seconded by Mr. Jernigan. All in
1740 favor say aye. All opposed say no. The motion passes.

1741
1742 **REASON:** Acting on a motion by Mr. Taylor, seconded by Mr. Jernigan, the Planning
1743 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the
1744 request because the proposed zoning is compatible with adjacent land uses and proffered
1745 conditions will assure a level of development otherwise not possible.

1746
1747 Mr. Taylor - I want to thank all of the participants from Twin Hickory for their
1748 attendance tonight, their continuing efforts on behalf of the community, and hope that we can
1749 progress with the same degree of zeal and success in the future. It is a very successful
1750 community and I think you all recognize that with the amenities that we have now, and the
1751 amenities that we hope to have in the future. So, I wish you all a happy future. Thanks for the
1752 support. And with that, Mr. Silber, I believe we have the next case.

1753
1754 ***Deferred from July 11, 2002 Meeting:***
1755 **C-30C-02 James W. Theobald for HHHunt of North Carolina:** Request
1756 to conditionally rezone from B-1C Business District (Conditional) to R-6C General Residence
1757 District (Conditional), Parcel 745-751-3992 (67-A-14B), containing 5.48 acres, located at the
1758 southeast intersection of Ridgefield Parkway and Flintwood Drive. An 80 unit age-restricted
1759 assisted living facility is proposed. The R-6 District allows a maximum density of 19.8 units per
1760 acre. The use will be controlled by proffered conditions and zoning ordinance regulations. The
1761 Land Use Plan recommends Commercial Concentration.

1762
1763 Mr. Taylor - Is there anyone in the audience opposed to Case C-30C-02? Are
1764 there some people who would not be characterized by the opposition, but who would like to
1765 speak? Yes, sir. Just one person who would like to speak. OK.
1766
1767 Mr. Jernigan - This lady raised her hand, too.
1768
1769 Ms. Russell - He is in opposition to it. I want to speak for it.
1770
1771 Mr. Silber - So we have some who may want to speak in opposition or make
1772 some comments, and we have some in favor of it.
1773
1774 Mr. Vanarsdall - You want to speak in favor of that, Ms. Russell?
1775
1776 Ms. Russell - Yes.
1777
1778 Mr. Vanarsdall - I am glad to know you.
1779
1780 Mr. Taylor - Go ahead, Joe.
1781
1782 Mr. Emerson - Yes, sir, Mr. Chairman. We also have some proffers that have
1783 been submitted, so there will be a requirement of waiving the time limits in regard to those. As
1784 stated, this request would rezone 5.48 acres from B-1 Business District Conditional to R-6C
1785 General Residence District Conditional. The permitted use would be Age Restricted Assisted
1786 Living Facility. The property is located at the southeast intersection of Ridgefield Parkway and
1787 Flintwood Drive.
1788
1789 R-6 zoning allows a density of 19.8 units per acre. The applicant has proffered to limit the
1790 development to 80 units, a density of 14.6 units pre acre.
1791
1792 The property was originally zoned B-2 with no conditions in the overall action approving 585
1793 acres of the Raintree development in 1971. In 1978 the Irving Company approached the county
1794 with case C-78C-78, requesting adjustments to the 1971 rezoning to accommodate the final
1795 location of Ridgefield Parkway. The subject property was included in that action and the
1796 request was a down zone to B-1C. In March of 1979 the Board of Supervisors approved the
1797 request. The conditions placed on the case did not address buffering from the adjacent
1798 residential uses.
1799
1800 The Land Use Plan recommends commercial concentration for this property, and the land use
1801 guide recommends Existing Area. This request deviates from the Land Use Plan
1802 recommendation.
1803
1804 The applicant has submitted proffers addressing architectural treatment, conceptual plans,
1805 building height, density, uses (restricting the use to age assisted living), lighting, exterior
1806 materials, screening of the trash receptacles and so forth.
1807
1808 You do have a proffer that was handed to me just a few minutes ago regarding the buffer on
1809 the eastern property line, which has been one of the points of contention and much discussion.

1810 This proffer has been agreed upon between the residents and the developer. It is in keeping
1811 with staff's wishes as well. Therefore, in my opinion, it is acceptable. The other proffers that
1812 were outstanding that have been worked out through this process that were noted in my report
1813 dealt with the BMPs, which are now underground, with above-ground bio-retention facilities. At
1814 this point, this case is in order. Staff recommends approval. If you have any questions I will be
1815 happy to try to answer them.

1816
1817 Mr. Taylor - Thank you, Mr. Emerson. Are there any questions on behalf of
1818 the Board (sic) for Mr. Emerson?

1819
1820 Mr. Archer - Mr. Emerson, does this new 18 require a waiver?

1821
1822 Mr. Emerson - Yes, sir. It does.

1823
1824 Mr. Taylor - Thank you, Joe. Mr. Theobald.

1825
1826 Mr. Theobald - Thank you, sir. Mr. Chairman, ladies and gentlemen, my name is
1827 Jim Theobald and I am here on behalf of HHHunt of North Carolina, and I want to make a few
1828 comments, because so many people work so very hard for quite some time in shaping the case
1829 to what you see before you this evening, not the least of whom is Ms. Ware and Mr. Emerson.
1830 This is a great opportunity. This site was zoned B-1, as you heard, originally zoned B-2 long
1831 ago as part of the mixed-use community of Raintree. It has been zoned for retail since 1971,
1832 and sooner or later somebody was bound to build a shopping center on it. It is owned by
1833 Crown Petroleum. I bet I have had six different users come to me over the years with ideas for
1834 developing the property, most of which were very bad ideas and never saw the light of day, but
1835 this was one that I think we all recognized that if we did it right was really, it could be win-win,
1836 and that has really been the attitude of, I think not only of HHHunt, but the adjacent property
1837 owners and the residents of Raintree in trying to shape this case. There are a number of
1838 proffered conditions Mr. Emerson has summarized them for you briefly. I would say to you this
1839 is a true assisted living facility. The average age of the resident in this facility is some 82 years
1840 of age. Hunt had 17 of these facilities. We are not guessing as to what goes on here and what
1841 some of the statistics are. They own and operate all of those. They have never sold any. We
1842 could expect possibly three or four of these residents to drive, so it is a very, very low intensity
1843 use. It is a one-story building, three meals a day, private pay, recreational activities, etc. They
1844 do a great job and a number of the residents checked it out all through the Carolinas and
1845 reported to us at the library meeting that they passed with flying colors. We have spent a lot of
1846 time on the buffer. I appreciate the concerns of the adjacent property owners. We have tried
1847 to forge a consensus and believe that we have with the language that you see. And on 18, I
1848 would just say to those folks, that the approval of the zoning, which I hope will be
1849 recommended by the Commission, and approved ultimately by the Board, is not the end of this
1850 process but really the beginning of working with neighbors, and once we now have a property,
1851 it will be graded and the landscaping required and there will be many additional opportunities
1852 for input on this. So, I didn't want you to think by agreeing to this proffer that we were
1853 finished, because in fact we are not. And, perhaps, with that, I will pause. The Raintree Board
1854 has considered this on two occasions without opposition albeit with sensitivity to the adjacent
1855 property owners. The Stony Run community, the town home community across the way, has
1856 also considered it, and we have some representatives here tonight who would be happy to get
1857 up and support if deemed necessary, and perhaps, would like to say something anyhow. But, I

1858 think with that I will pause and see if you all have any questions of me with regard to this case.
1859 I do appreciate everybody's work that has gone into this.
1860
1861 Mr. Taylor - Thank you, Mr. Theobald. Ms. Ware, do you have any questions
1862 for Mr. Theobald?
1863
1864 Ms. Ware - Not at this time. I will in a little bit after we hear from...
1865
1866 Mr. Theobald - Perhaps let the ladies who have come to speak in support might
1867 just say a word or two, and then I know that some of the other folks have some comments to
1868 make as well.
1869
1870 Mr. Silber - Mr. Theobald, I have a question. Unless I am looking at the
1871 wrong exhibits, it looks like the proffers for, under Proffer 1 and 2, say the date for Exhibit A
1872 and B. The staff report exhibits have a different date or am I looking at the wrong exhibits?
1873
1874 Mr. Theobald - Those exhibits have not changed.
1875
1876 Mr. Silber - So the proffers say, one says, "The architectural treatment says
1877 dated April 30" and it looks like the exhibit and staff report is June 20. The conceptual plan
1878 says May 21.
1879
1880 Mr. Theobald - At one point somebody did a revision of one of those with that, or
1881 actually just changed the date. I think that is something maybe we will look at, Randy, and
1882 make sure we are looking at the same, but this is the conceptual plan that has been proffered.
1883
1884 Mr. Silber - Down at the bottom it says 6/20 and the proffers have a different
1885 date. We can fix that.
1886
1887 Mr. Theobald - Thank you.
1888
1889 Mr. Taylor - Thank you, Mr. Theobald. If you would, ma'am, please state your
1890 name for the record.
1891
1892 Ms. Russell - I am Virginia Russell and I have lived in Stony Run Townhouses
1893 for 20 years and I live at 2212 Rocky Point Parkway. I have suffered for 20 years worrying
1894 about what is going to go across the street from us, and when they proposed this and I went to
1895 two presentations, I was very pleased. I talked to my neighbors and the other people on the
1896 Stony Run Board with me, and we are very happy to have the assisted living facility as our
1897 neighbors and we look forward to seeing the facilities built.
1898
1899 Mr. Vanarsdall - Virginia, do you remember why, a good while ago that was zoned.
1900 The POD was approved on that. Do you remember what happened to it; just financially they
1901 didn't develop the shopping center?
1902
1903 Ms. Russell - I think the neighborhood objected to everything that has been
1904 proposed. It was a service station, strip mall, and I can't remember the others, but everything
1905 was undesirable.

1906
1907 Mr. Vanarsdall - Thank you.
1908
1909 Mr. Taylor - But you are happy with the present concept?
1910
1911 Ms. Russell - Yes, I have been to two presentations. We think it is attractive
1912 and we will see more of it than anyone else because our neighborhood is up high across the
1913 street and we overlook this facility.
1914
1915 Mr. Vanarsdall - Well, I knew if you got involved it was going to be a success.
1916
1917 Mr. Taylor - Ma'am, if you would, please take the microphone there and give
1918 us your name and address.
1919
1920 Ms. Debra Cohen- My name is Debra Cohen and I live in Stony Run right across the
1921 street. Let's see. My backyard is right here where the cursor is (referring to rendering), and I
1922 have owned my home for six years and I plan to stay for quite a while, if not the rest of my life,
1923 and I am in support of this, thinking about the other things that could be developed there. I
1924 think that this will help my property values, or at least not diminish my property values when I
1925 think about the fact that a strip mall could go there, or a filling station. I just don't want the
1926 noise and don't want my property to be devalued. So, I am in favor of this.
1927
1928 Mr. Taylor - Thank you, Ms. Cohen, I appreciate that.
1929
1930 Ms. Cohen - Thank you.
1931
1932 Mr. Taylor - Are there any other people in the audience who would like to
1933 speak? Sir, if you would come down and provide your name for the record, we'd enjoy your
1934 comments.
1935
1936 Mr. Joshua Lief - Thank you, Mr. Chairman. My name is Joshua Lief. I am an
1937 attorney and I represent several of the adjacent property owners. I'd like to ask them to just
1938 stand up briefly, so you can see who. These are several of the adjacent property owners. I
1939 would start off by saying that we appreciate the hard work of the Planning Commissioner for
1940 the Tuckahoe District, Ms. Ware. I have talked to her several times over the last couple of
1941 days. The County staff, Joe Emerson, I really appreciate his work on this project. He has been
1942 helpful and provided many opportunities for input. I think the developer has been working with
1943 the residents to try to talk to them and work through the issues. We are not opposed to the
1944 County rezoning, based upon the proffers offered by the developer, as well as other
1945 representations made to my clients by the County, we are not opposing it. Among other items
1946 that we have relied upon in discussing our support, or non-opposition I should say of this
1947 application, are assurances from the County that first when the site clearing begins, they are
1948 going to work with the adjacent home owners to make sure when the trees are cleared that
1949 they work to mark a line to work with them to be sure that there is a common area that adjoins
1950 the property that is going to be developed, and we find the lines are there when they cut the
1951 trees down. We want to mark the line and make sure that when trees are moved we don't
1952 have any accidental removals and that the line is well defined. Second, we wanted to make
1953 sure, you know this is going to be a lot of construction, we want to keep the dust down. It is

1954 very dry out there, as you know. We appreciate the offer to wet down the property during
1955 appropriate times during the construction. Finally and most importantly, we believe the
1956 proposed plan, it is an intensive use. You can look at the site, look at the map, and it is
1957 intensive use of this five-acres that is putting a pretty big development. We certainly agree that
1958 it is better than other uses that have been talked about, and that is why we are not opposing it.
1959 But the proffer talks about 80 residential units on the property, and that is made a part of the
1960 proffers, and we talked with the County about the representations about 80 units, and as it
1961 works with the plan of development stage, we just want to make sure it doesn't go with two
1962 beds in each unit, where you'd have 160 people staying in there, because the parking, it is a
1963 very tight sight, as you can see, and the parking is kind of close in terms of the number of
1964 parking spaces per unit. So I look forward to working with the County and the developer as we
1965 go through the plan of development stage. Thank you very much.

1966
1967 Mr. Taylor - Sir, have you asked Mr. Theobald about the 80-unit issue?

1968
1969 Mr. Lief - Yes, I have.

1970
1971 Mr. Taylor - To your satisfaction?

1972
1973 Mr. Lief - With the proffers at this stage, we are satisfied. Yes, sir.

1974
1975 Mr. Taylor - Thank you. Any other questions for Mr. Lief? Ms. Ware?

1976
1977 Ms. Ware - I am fine.

1978
1979 Mr. Taylor - You are fine.

1980
1981 Mr. Silber - I have a quick question. I know there has been some discussion
1982 about this 20-foot buffer and the proffer that has now been submitted looks like it is offering a
1983 six-foot fence within that buffer. It says "It shall be provided on the eastern property line."
1984 Has there been any discussion as to whether that would be on the property line or where within
1985 that 20-feet?

1986
1987 Ms. Ware - I thought that was going to be decided at time of plan of
1988 development.

1989
1990 Mr. Silber - OK. Well, it says, "provided on the eastern property line" and I
1991 wasn't sure.

1992
1993 Mr. Lief - It is on the line.

1994
1995 Mr. Silber - On the line? So, if you are concerned about, I guess my point is if
1996 you are concerned about preserving the trees or whatever, that fence would be on that eastern
1997 property line, so there may have to be.

1998
1999 Mr. Lief - There is a common area of 20 feet on the eastern boundary, on
2000 the developer's property would be the fence, and the additional planting on the other side of
2001 the fence going up to the building.

2002
2003 Mr. Silber - So the fence would be on the eastern property line adjacent to
2004 the commons? As long as everybody understands that.
2005
2006 Mr. Taylor - Thank you, Mr. Lief. I don't believe there are any other questions.
2007 Ms. Ware.
2008
2009 Ms. Ware - I guess, Mr. Theobald, I just wanted to, I guess reiterate for the
2010 record and get this on the record that, I know we talked about this before, when limits of
2011 clearing are set that it is requested that a member of the Raintree Association be present along
2012 with the County and the Hunt representatives, as far as checking trees and taking care of that,
2013 and also, it is requested that the site be watered down during clearing and construction to
2014 reduce the dirt and dust.
2015
2016 Mr. Theobald - We discussed, I think Mr. Lief correctly stated that, obviously
2017 there is some dust associated with construction and when it is appropriate or when there is an
2018 unusual amount of dust or it is deemed necessary – Mr. Cook made a very public representation
2019 at a meeting that he would be willing to water the site.
2020
2021 Ms. Ware - OK. Thank you.
2022
2023 Mr. Taylor - Any other questions from the Commissioners? All right, then I
2024 believe a motion might be appropriate.
2025
2026 Ms. Ware - All right. This piece of property does have a history and the
2027 current application to down zone it from B-1C to R-6C, I think, is certainly a positive one.
2028 Under the current zoning, a plan of development could be submitted for a variety of business
2029 uses, including restaurants, shopping centers and convenience stores, with a building height of
2030 up to 35 feet and hours of operation from 6 in the morning until 12 midnight. The impact on
2031 the residents can include traffic, late hours of activity, and restaurant exhaust during all hours
2032 of operation. With this application, and the proposed residential zoning, the impact of the
2033 surrounding residents would be much less. The residential zoning will, of course, prohibit any
2034 business uses and apartments have been restricted as well. The building height would not
2035 exceed one story. Traffic will be at a minimum due to the limited number of residents that can
2036 drive, and an average of 13 employees during the day and four overnight. Deliveries are also
2037 limited to regular business hours by the proffers, and the delivery area has been removed from
2038 the immediate adjacent property owners. The building will be of quality construction and have
2039 a residential feel and because the BMPs are underground, it will increase the greenspace and
2040 provide for walking trails on the property. The citizen input concerning this case as well as the
2041 applicant's consideration has been considerable, and I thank everyone. The major issues have
2042 been worked through and I look forward to working with everyone again during the plan of
2043 development phase. So, with that, I move that the time limits on the proffers be waived.
2044
2045 Mr. Taylor - Second. Motion made by Ms. Ware and seconded by Mr. Taylor
2046 to waive the time limits. All in favor say aye. All opposed say no. The motion passes. The time
2047 limits are waived.
2048

2049 Ms. Ware - And I move that C-30C-02 be approved to the Board of
2050 Supervisors.

2051
2052 Mr. Vanarsdall - Second.

2053
2054 Mr. Taylor - Motion by Ms. Ware and seconded by Mr. Vanarsdall to
2055 recommend approval to the Board of Supervisors. All in favor say aye. All opposed say no.
2056 The motion passes.

2057
2058 **REASON:** Acting on a motion by Ms. Ware, seconded by Mr. Vanarsdall, the Planning
2059 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the
2060 request because it will not adversely affect the adjoining area, the proffered conditions provide
2061 for a high quality of development and it is an appropriate residential zoning at this location.

2062
2063 **Deferred from the July 11, 2002 Meeting:**

2064 **C-28C-02 Laraine Isaac for William D. Godsey:** Request to conditionally
2065 rezone from M-1 Light Industrial District to M-2C General Industrial District (Conditional) and C-
2066 1 Conservation District, part of Parcel 817-721-5981 (154-A-30C), containing 60.696 acres,
2067 located on the north line of Oakley's Lane approximately 94 feet east of Oakley's Place and 217
2068 feet west of S. Holly Avenue. The use will be controlled by proffered conditions and zoning
2069 ordinance regulations. An industrial park including a contractor's equipment storage yard is
2070 proposed. The Land Use Plan recommends Planned Industry and Environmental Protection
2071 Area. The site is also in the Airport Safety Overlay District.

2072
2073 Mr. Taylor - Is there anyone in the audience opposed to C-28C-02? So we will
2074 have two speakers. So we will have 10 minutes divided five minutes each? Oh, OK. You don't
2075 care to speak? Just one speaker? OK. Go ahead, Mr. Coleman.

2076
2077 Mr. Coleman - Thank you. Amended proffers have been distributed to you that will
2078 require waiving the time limit.

2079
2080 This application was presented to the Commission in May, so I will briefly recap the request and
2081 focus my presentation on the most important unresolved issues.

2082
2083 The applicant proposes to rezone 60.696 acres from M-1 to M-2C and C-1. Approximately 32.5
2084 acres are requested for M-2C and 28.0 acres for C-1. A contractor's storage yard and other
2085 selected M-2 uses are proposed. The Land Use Plan recommends Planned Industry and
2086 Environmental Protection Area.

2087
2088 The property was mined extensively through the 1960's and the old borrow pits and mining scars
2089 remain. The property also contains significant wetland and floodplain areas and steep slopes.

2090
2091 There are tracts of industrially zoned property nearby, however the subject property serves as a
2092 buffer between the adjacent residential areas to the north and industrial uses to the south. In
2093 the vicinity of the subject property, there is no industrial development north of Oakley's Lane.
2094 And any development activity on the subject property could impact the adjacent, historic Manakin
2095 Mansion property.

2096

2097 Lack of appropriate improvements to Oakley's Lane are a longstanding issue. Oakley's Lane is a
2098 narrow two-lane road with no shoulders and an average overall pavement width of 18 feet. It is
2099 not conducive to transporting construction equipment or introducing any additional traffic in a
2100 safe manner. And Oakley's Lane also runs dangerously close to the Manakin Mansion property.

2101
2102 Planning staff recommends that approval of this application be contingent upon the completion of
2103 improvements to Oakley's Lane. To this end, the applicant has met with County staff, including
2104 public works and planning staff, on a design to realign Oakley's Lane. Substantial progress has
2105 been made and discussions are ongoing; however, important issues remain unresolved, including:

2106
2107 The applicant has not committed to construct the improvements to Oakley's Lane.
2108 It has not been determined who will construct the right-of-way improvements; and
2109 There is no guarantee the project can get Army Corps approval.

2110
2111 This application is not consistent with the County's Land Use Plan and could introduce negative
2112 impacts on nearby residential and historic properties. Only in consideration for the expected
2113 public benefits related to the improvements to Oakley's lane can Planning staff consider
2114 approval of this application. It is the applicant's responsibility to commit to those
2115 improvements.

2116
2117 Additionally, it is not appropriate to introduce a series of M-2 uses into this area. Planning staff
2118 also recommends restricting permitted uses to a contractors' equipment storage yard plus uses
2119 permitted in the M-1 district. Additional M-2 uses must be carefully considered on a case-by-case
2120 basis.

2121
2122 Staff cannot recommend approval at this time and recommends that the applicant defer this
2123 application until the County and the applicant reach agreement on the construction of Oakley's
2124 Lane and the necessary approvals for the construction, including Army Corps approvals, are in
2125 place.

2126
2127 I would be happy to answer any questions.

2128
2129 Mr. Vanarsdall - Mr. Coleman, on Page 2, at the bottom, third paragraph up, you
2130 recommend that it be deferred until the County can reach an agreement. Who in the County
2131 would reach that agreement?

2132
2133 Mr. Coleman - In the discussions concerning Oakley's Lane, there have been
2134 discussions about the County and the applicant participating in the construction. To my
2135 knowledge, the County has not agreed to participate.

2136
2137 Mr. Vanarsdall - Who is they?

2138
2139 Mr. Coleman - The applicant.

2140
2141 Mr. Vanarsdall - Who in the County? Somebody in Public Works?

2142
2143 Mr. Silber - Mr. Vanarsdall, I think that decision would be made by the County
2144 Manager and the Board representative from that district.

2145
2146 Mr. Vanarsdall - County Manager?
2147
2148 Mr. Silber - Yes. And really the Board as a whole, so that is a decision that is
2149 not going to come from the Planning Office. That is a decision that has to be made.
2150
2151 Mr. Vanarsdall - I knew it wasn't. I just wanted to know who was holding it up, if
2152 we deferred it, how long will you have to defer it? Six months? Six years, or when will they get
2153 together on it.
2154
2155 Mr. Silber - I think the issue is not so much that the County hasn't decided to
2156 what extent to participate or to even participate, I think the issue is until the road has been
2157 approved by the Corps of Engineers we can't have that dialogue. But once there is approval by
2158 the Corps of Engineers, we are assured that this road can go through and this alignment, then
2159 there will be discussions with the applicant as to who.
2160
2161 Mr. Vanarsdall - It is more detailed than it looks then.
2162
2163 Mr. Jernigan - Nobody is really holding it up. Because after our meeting the
2164 other day, that Mr. Donati and I had with Ms. Isaacs and EDA, that Mr. Donati had not had time
2165 to talk to Mr. Hazelett before this meeting.
2166
2167 Mr. Vanarsdall - Oh, OK. The other question was, why wasn't there more uses
2168 proffered out? Why weren't more M-2 uses proffered?
2169
2170 Mr. Coleman - Staff has been consistent that limiting uses is an important
2171 consideration in evaluating a case.
2172
2173 Mr. Vanarsdall - Why didn't the applicant want to do that?
2174
2175 Mr. Coleman - I think we'd have to defer that question to the applicant.
2176
2177 Mr. Vanarsdall - OK. That is all the questions I have, Mr. Chairman.
2178
2179 Mr. Silber - I would like to elaborate on one point. The existing Oakley's Lane
2180 is the dividing line between Varina and the Fairfield District, so actually I think it would involve
2181 more than just one Board member's decision in participation of this road, but certainly it is a
2182 decision that is made by the Board as a whole.
2183
2184 Mr. Vanarsdall - Thank you, Mr. Silber.
2185
2186 Mr. Archer - I had a question, Mr. Coleman, but Mr. Vanarsdall already asked
2187 it.
2188
2189 Ms. Isaac - Lorraine Isaac, Engineering Design Associates. We have had
2190 meetings on this project. We have had meetings with everybody from the Board of Supervisors
2191 practically to the janitor. We have had combinations of people. We have discussed this with
2192 everyone. Mr. Godsey is committed to this road. He has prepared an expense of how much

2193 this road was going to cost, three quarters of a million dollars. This was presented to Jim
2194 Donati, who was going to take it to Virgil Hazelett. I do not know if that has happened, but we
2195 have gotten an estimate into the County, and hopefully we will soon get a commitment. This
2196 road will not get built without County commitment, and what Mr. Godsey would like from the
2197 County is less than the money they originally had that they put toward the relocation of
2198 Oakley's Lane that was going to go to this job, and then the road was going to be too
2199 expensive, so that money went other places. So, it is kind of like we'd like that money to come
2200 back to this project, so this road can be relocated.

2201
2202 Concerning the uses on the property, this morning I did submit a revised proffer that eliminated
2203 that the "Portland cement would not be allowed on this property." I also talked with Mr.
2204 Godsey this morning about restricting the M-2 uses, and he told me at this time he would not
2205 do it. I understand the staff's concern and I understand the Commission's concern, but tonight
2206 my hands are tied. I cannot restrict that because I have been directed not to. I realize that
2207 you can make a recommendation to the Board with additional requirements for proffer changes.
2208 I think that his alignment of the road is going to be, it is going to be the road the County
2209 promised Rhonda Allen ten years ago, but never got built. I think it protects her. I think it
2210 moves the industrial property far enough away that it should have minimal impact on the
2211 Mansion. We also have the POD process and the subdivision process to go through with the
2212 development of this site, so I think there are further checks and balances that will we will be
2213 going through in the process. If additional landscaping is needed, we can address it on a site-
2214 by-site use by use basis. I think that by Mr. Godsey being able to develop this property is the
2215 only way that this road is going to be built, and I think that if it is not rezoned the property will
2216 be developed under its current M-1 unproffered zoning and that no improvements to Oakley's
2217 Lane will be made. I'll be happy to answer any questions.

2218
2219 Mr. Archer - Ms. Isaac, the .75 million, is that the total cost to construct the
2220 road, or would that be the portion that Mr. Godsey would provide?

2221
2222 Ms. Isaac - That was his estimate for the total cost, including his engineering
2223 fees, his permitting, and Mr. Silber stated that the permit should be gotten before the County
2224 commits to the road, and because that is a very expensive process unless the County is going
2225 to participate, participation has got to come first before the permitting process.

2226
2227 Mr. Archer - Well, as a part of the engineering fee and the design fee, has
2228 anybody approached the powers that be that would permit the road, the Corps of Engineers, or
2229 whoever, to find out if is a likelihood that they would approve it?

2230
2231 Ms. Isaac - No, sir. We are starting with trying to get a commitment from the
2232 County before we start that process.

2233
2234 Mr. Silber - That is news to me. That wasn't my understanding. My
2235 understanding was that there has already been application to the Corps of Engineers.

2236
2237 Ms. Isaac - Not to my knowledge.

2238
2239 Mr. Jernigan - The Corps of Engineers has the drawings and at this point, they
2240 have said that they are happy with the alignment.

2241
2242 Ms. Isaac - I didn't know that.
2243
2244 Mr. Jernigan - Yes. I checked with Bob Thompson yesterday. I mean, the
2245 concept there, we may have to tweak it a little bit.
2246
2247 Ms. Isaac - Then that was made through the County to them?
2248
2249 Mr. Jernigan - This has been a difficult process because...
2250
2251 Ms. Isaac - We have had one too many meetings, Mr. Jernigan.
2252
2253 Mr. Jernigan - Mr. Godsey can't commit to the road because the commitment of
2254 what his cost or how much he is going to do as to what the County is going to do has not been
2255 settled yet. That is where Mr. Donati and Mr. Hazelett get into the picture. As we know, he
2256 has committed that he will do all the clearing and bringing to finish grade on the dirt, and that
2257 the County would put down the gravel base and asphalt, and that is the way it stands right
2258 now, and we have to get a commitment from the County before it is going to be finalized as to
2259 whether it will be proffered.
2260
2261 Ms. Isaac - Right. OK.
2262
2263 Mr. Silber - I think that is true, Mr. Jernigan. I think everything you said is
2264 true. I guess from the staff's perspective we question if the Corps of Engineers refuses to
2265 approve this alignment, and the road cannot be realigned, then is it appropriate to send
2266 forward to the Board of Supervisors a request for M-2 zoning when the fate of this road is
2267 undetermined. I think it makes sense to have that determination made that the road can work
2268 at this location and at the same time be working out the arrangement as to who is going to pay
2269 for what, and then send it to the Board of Supervisors with a recommendation for some form of
2270 action.
2271
2272 Mr. Jernigan - Mr. Donati and I have already discussed that this property will not
2273 be rezoned until it is worked out that we have permission from the Corps of Engineers and that
2274 it's defined who is going to pay for what on the construction. I mean he is not going to pass
2275 the property. I discussed this with him and told him if it moved ahead. I feel at this point the
2276 Commission has done as much as it can. I mean, we've got the road on the map, which, first
2277 of all, I want to commend the Department of Public Works, which Lee Priestas sat in on that
2278 meeting, and Tom Coleman, with the staff people he worked with, and your people, really, in
2279 less than 90 days brought a road through a mine field and that is basically what this is, because
2280 it is water every where. It is floating mines. They had a road before that was conceptually I
2281 couldn't even see it. It was bridges and everything coming through, but everybody has put up
2282 a lot of effort, and I mean in less than 90 days we have a road that I think will work and that I
2283 think the Corps of Engineers thinks will work. So, my hat's off to everybody that has been in on
2284 that project.
2285
2286 Mr. Vanarsdall - I kind of agree with you, Mr. Jernigan. It seems we have done all
2287 we can do at this level.
2288

2289 Mr. Jernigan - And that is the reason I discussed long-term with Mr. Donati
2290 about this case, but anyway, Ms. Isaac, do you have anything else?
2291
2292 Mr. Vanarsdall - I wanted to ask about the uses. I think I did once before. I don't
2293 know if you answered it or not.
2294
2295 Ms. Isaac - I thought I did.
2296
2297 Mr. Vanarsdall - It says, "Portland Cement Concrete Mixer". Portland Cement is a
2298 kind of cement, isn't it?
2299
2300 Mr. Jernigan - Well, they are referring to a concrete plant.
2301
2302 Ms. Isaac - That is the language of the Ordinance. I pulled that language
2303 directly out of the Ordinance.
2304
2305 Mr. Taylor - But Portland Cement I think is used as a generic...
2306
2307 Mr. Vanarsdall - I thought there was something about that. What I was saying,
2308 you wouldn't, unless it was in the Ordinance like that, you wouldn't specify Portland. If it was
2309 somebody else, you'd come in there and say, but I don't use Portland.
2310
2311 Ms. Isaac - Right. So I could say, but that means Tarmac can go there. Like I
2312 said, I did pull that out of the Ordinance because that is not the language I would have used.
2313
2314 Mr. Vanarsdall - You ought to work on him for some other uses.
2315
2316 Ms. Isaac - Well, like you said, I just got back this morning and I just, I've got
2317 my marching orders tonight. You don't. I do.
2318
2319 Mr. Jernigan - Mr. Vanarsdall, what would you feel was proper on the uses?
2320
2321 Mr. Vanarsdall - I don't know what uses. It came up and staff said other M-2 uses
2322 should be proffered out.
2323
2324 Ms. Isaac - My understanding was that a contractor's storage yard would be
2325 the only M-2 use allowed because that is what is needed for Mr. Godsey's business.
2326
2327 Mr. Vanarsdall - M-2 is a heavy zoning.
2328
2329 Mr. Archer - Ms. Isaac, I kind of had the same question and I am concerned,
2330 because you know, this property borders right on Fairfield and most of it is residential
2331 component around, isn't it?
2332
2333 Ms. Isaac - Right.
2334
2335 Mr. Archer - And if that contractor's yard is going to be the only use, then why
2336 the hesitation to proffer out the additional uses?

2337
2338 Ms. Isaac - I can't answer that question because I don't know the answer. I
2339 just know what I've been told. I can't, but I think there is another thing, too, the residential,
2340 the way we have wrapped the C-1 District around it, nothing on that site can be built any closer
2341 than 300 feet to the adjacent property.
2342
2343 Mr. Vanarsdall - That isn't far. Don't fool yourself. That isn't far at all.
2344
2345 Ms. Isaac - Sounds awfully far to me.
2346
2347 Mr. Thornton - Well, that is not funny, Ms. Isaac. These people are living out
2348 there and that is always my concern. When you come up to say "That is not far," and we are
2349 talking about impact on residential area, there is, you know, I think we might have to show
2350 some sensitivity. Right?
2351
2352 Ms. Isaac - I understand your concern. Like I said, my hands are tied tonight
2353 and I understand what you want and I understand what the staff wants, I am just not in a
2354 position to do anything about it tonight.
2355
2356 Mr. Vanarsdall - It says in here it shouldn't be M-2 zoning considered for that. That
2357 is the whole problem right there.
2358
2359 Mr. Jernigan - Staff is OK with the contractor's storage yard, because that would
2360 be Mr. Godsey's business, and possibly another one could come in there, too. The staff is not
2361 in favor of anything other than this contractor's storage yard.
2362
2363 Mr. Vanarsdall - I don't want to keep on dwelling on it, but when you, if you're
2364 going to put a heavy zoning in there, for whatever reason and don't proffer out what is bad,
2365 then it doesn't make any sense to me. That is all I've got to say about it.
2366
2367 Mr. Jernigan - That is all I have. We have some people who would like to speak.
2368
2369 Ms. Isaac - Yes. An adjacent property owner.
2370
2371 Mr. Taylor - This is people in support of the project?
2372
2373 Mr. Jernigan - Well they are not, they want to speak about the project.
2374
2375 Mr. Taylor - They want to speak, OK? If you would, please come forward and
2376 identify yourself for the record. And we have 10 minutes.
2377
2378 Ms. Rhonda Allen - I am going to be very brief. We've had lots of discussions and I
2379 don't have a lot to say that hasn't already been addressed.
2380
2381 Mr. Taylor - Fine. Thank you.
2382
2383 Ms. Allen - My name is Rhonda Allen. I am the owner of the Nationally
2384 Registered Historic Manakin Mansion and we've had quite a few discussions with Mr. Jernigan,

2385 Tom Coleman, and I'd like to thank everyone for their hard work, and listening to all my
2386 questions on the phone, and coming on over and taking a tour and really looking at the
2387 situation. My issues have been addressed already by Mr. Vanarsdall and Mr. Jernigan and Mr.
2388 Archer. The primary issues that I still have are how and when will the road be built and is that
2389 going to be prior to the M-2 zoning. I would request that it was, and the other issues that I
2390 have would be that the permitted uses be limited to Mr. Godsey's business, which is the storage
2391 yard. I think those are all the same concerns that everyone else has here, and if those are
2392 addressed, then I would not have any opposition to the situation any further. That is really all
2393 that I have to say.

2394
2395 Mr. Jernigan - Thank you, Ms. Allen.

2396
2397 Mr. Taylor - Is there anyone else who'd like to speak for or in opposition to
2398 this project? No volunteers for or opposed. Mr. Jernigan.

2399
2400 Mr. Jernigan - Well, as I said before, this has been a tough case, because we
2401 have a road alignment, we have the relocation of a road tied in with the zoning of a property.
2402 As I said before, I believe the Commission has moved as far as we can on this, and I don't see
2403 any sense in holding it down here. The main objection that I think we have, Ms. Allen seems to
2404 be supportive of everything other than the conditions of the M-2 conditions other than Mr.
2405 Godsey's contractor's yard. And also, Mr. Vanarsdall and Mr. Archer have expressed their
2406 concerns about it. What I think I am going to do, I want to explain to the Commission first and
2407 then I will make a motion, I feel that the same way that everybody does, that the zoning of the
2408 property, the proffering of the road completion and proffering of the conditions of the property
2409 have to go through all together, and as I told you before, I have discussed this with Mr. Donati,
2410 and being that this is the difficult case that it is, he understands that too, and has verbally told
2411 me that is what would happen. My first condition on, the first condition on my approval would
2412 be that dedication of the road, construction, would be worked out and completed and proffered
2413 before it would be passed by the Board of Supervisors. The second condition is that the Army
2414 Corps of Engineers would give in writing that they feel the placement of the road is proper, and
2415 that permits would be issued at time of construction. The third condition...

2416
2417 Mr. Taylor - May I say something here. Just for a second, because one thing
2418 that would concern me with the Corps of Engineers is the Corps of Engineers has categorical
2419 exclusion with regard to wetlands, and if this is a wetland, there first concern is its wetland
2420 status and interference with the wetland status. I don't know that they would be really
2421 interested in the design of the road, except to the degree that they understand what would
2422 happen to the wetland.

2423
2424 Mr. Jernigan - Well, they understand that it is coming through the wetlands.
2425 Right now, as I spoke to Bob Thompson, who is head of the Department of Public Works, they
2426 have seen the layout and tentatively they say it looks pretty good, not that they may not tweak
2427 it a little bit, but this is under the condition, also, that we would have written approval from the
2428 Corps of Engineers before the property would be zoned.

2429
2430 Mr. Taylor - So the first condition is really the condition from the Corp and the
2431 next one would be the design condition.

2432

2433 Mr. Jernigan - The first condition, as I said, would be the County and Mr. Godsey
2434 would tweak or decide on how they are going to pay for it, and it would be proffered by Mr.
2435 Godsey that he would build the road. The second thing would be that we have approval from
2436 the Corps of Engineers and that permits would be issued to build the road.
2437
2438 Ms. Ware - I have a question.
2439
2440 Mr. Taylor - We will not interfere with the wetlands.
2441
2442 Mr. Jernigan - Well, if the Corps gives, when the Corp of Engineers gives their
2443 satisfaction and a permit, they have taken into, they have studied it and they know that it is
2444 going through a wetland. I mean that is the drawings that they have right now. Yes, ma'am.
2445
2446 Ms. Ware - Could this not, perhaps, be deferred for a longer period of time
2447 because I have concerns about sending it to the Board of Supervisors with so many variables
2448 involved.
2449
2450 Mr. Jernigan - Well, the problem is it is going to have to go that way anyway. I
2451 mean, that is the reason I discussed it with Mr. Donati prior to this meeting, and he knew what
2452 I was going to do, but, like I said, it is not going to be passed until everything comes together.
2453
2454 Mr. Silber - Mr. Jernigan, I guess, I think you know what the staff's position is
2455 and staff's concern, and let me say it one more time, and then I have a suggestion for you
2456 perhaps. Staff's concern is that, you know, I have discussed this at length with Mr. Thompson
2457 also, and he has not given me the assurance that he has apparently given you on this road.
2458
2459 Mr. Jernigan - Assurances, yes. He just said that the Corp of Engineers has
2460 reviewed it and right now, they haven't given the OK on it, but they are saying it doesn't look
2461 bad.
2462
2463 Mr. Silber - But if the road cannot be approved by the Corps of Engineers,
2464 then the County would be faced with the decision of either approving M-2 zoning without a road
2465 alignment. In other words, we would be sticking more or less with the current alignment of
2466 Oakley's Lane. The County would then have to determine whether they want to zone it or not.
2467 And I hear you saying that you are comfortable with M-2 zoning if the road is realigned in the
2468 general configuration that is shown here, and that there is some form of consideration given
2469 here to who might construct this road. I think you are not recommending categorically that M-
2470 2 zoning is OK, but you think it is OK if the road is constructed.
2471
2472 Mr. Jernigan - Well, I hadn't finished yet.
2473
2474 Mr. Silber - Maybe I should not have interrupted.
2475
2476 Mr. Jernigan - No, that is all right. I mean, because I had three conditions on
2477 here. The third condition was that I would approve the M-2 zoning with M-1 restrictions with
2478 the exception of the contractor's storage yard, and that other conditions in M-2 with 300-foot
2479 restrictions would be brought back before the Planning Commission for approval, anything other
2480 than the contractor's storage yard.

2481
2482 Mr. Silber - OK. Are you finished?
2483
2484 Mr. Jernigan - Yes.
2485
2486 Ms. Isaac - I have a question. I hope I didn't hear this, or I hope I heard it
2487 wrong. I heard you say that the road would have to be dedicated and completely constructed
2488 prior to rezoning?
2489
2490 Mr. Jernigan - No.
2491
2492 Ms. Isaac - Thank goodness.
2493
2494 Mr. Jernigan - If I said that, I want it proffered that once Mr. Donati works out
2495 with Mr. Hazelett, as you know, the way we have it right now that he does the two grades and
2496 to check with the County on that. That is the loose end that we have there. But the proffering,
2497 first of all, he has to dedicate the property, because it is on his property.
2498
2499 Ms. Isaac - Oh, he is going to have to dedicate by subdivision. Right.
2500
2501 Mr. Jernigan - So, he is going to dedicate the property for the road. He is going
2502 to build his portion of the road as the deal works with the County. Now, once they work that
2503 out, when they have the definite dollars down as to who is going to pay what, Mr. Godsey
2504 would proffer that this road would be built as said for the M-2 zoning.
2505
2506 Ms. Isaac - OK.
2507
2508 Mr. Jernigan - I am not saying that it has to be built. He has to proffer that he is
2509 going to do his part as agreed to by the County.
2510
2511 Ms. Isaac - And I don't see any problem with that, because at that point we
2512 have answers.
2513
2514 Mr. Jernigan - OK, like I said, that is No.1. No.2 is that the Army Corps of
2515 Engineers at the same time has to give their approval.
2516
2517 Ms. Isaac - And you are not looking for permits? You are looking more for a
2518 green light?
2519
2520 Mr. Jernigan - I am not that familiar with the Corps.
2521
2522 Ms. Isaac - The permitting process takes quite a long time, and because we
2523 still have to go through tentative subdivision, we could begin that process while we are trying to
2524 get the permits. But if we are just looking for kind of a green light, saying it looks OK. So we
2525 are trying to get the permits. We are just kind of looking for a green light to say it looks OK.
2526

2527 Mr. Jernigan - I believe that the Courts can issue, I mean, they can give you the
2528 green light because the permits aren't.... I'm not sure who is going to have to file for the
2529 permit, whether it would be the County or....
2530
2531 Ms. Isaac - We will.
2532
2533 Mr. Jernigan - OK.
2534
2535 Ms. Isaac - It will be filed through our office.
2536
2537 Mr. Taylor - What it is, it is a Corps of Engineers permit because of wetlands
2538 that's affected, so one way or another you will have to get a Corps of Engineers permit to affect
2539 a wetland.
2540
2541 Ms. Isaac - Right. And in this estimate....
2542
2543 Mr. Taylor - According to the National Environmental Policy Act.
2544
2545 Ms. Isaac - The estimate for the road construction has a line item for the
2546 wetlands work. We know we have to get a permit.
2547
2548 Mr. Taylor - What I want to say, all three conditions have to be satisfied. The
2549 bottom line is all three conditions have to be satisfied for the zoning to be approved. No.1, the
2550 County. No. 2, Corps of Engineers and No. 3 that it's zoned M-2, but M-1 conditions with the
2551 exception of the contractor's storage yard, additional M-2 zoning or additional M-2 pieces in
2552 there would have to come back before the Planning Commission other than the contractor's
2553 storage yard.
2554
2555 Mr. Silber - Mr. Jernigan, I think the last one is not legal. You can't have a
2556 proffer that would say you would do M-1 uses but these uses are okay if the Planning
2557 Commission approves them. That wouldn't be legal through the State Law.
2558
2559 Mr. Jernigan - She's not proffering it, I'm putting it as a condition.
2560
2561 Mr. Silber - Is this a recommendation that you are making to the Board of
2562 Supervisors if they consider this?
2563
2564 Mr. Jernigan - Yes, because ours is a recommendation. That's what I am
2565 recommending. That it be allowed, M-1 uses, all of M-1 uses and M-2 use of contractor storage
2566 yards.
2567
2568 Mr. Taylor - I believe Mr. Thornton has something to add. Mr. Thornton.
2569
2570 Mr. Thornton - Yes. Mr. Chairman, I hear what my good colleague is saying. I'm
2571 just wondering about process. I don't recall ever having received a case like this, presented in
2572 this manner before, and I want to opt for the best way to handle it through process. I just
2573 don't know. It seems to be a little confusing, and we want to make sure that it is done in such
2574 a way that has the specificity that it needs to have and also in a way that we normally do it

2575 procedurally. I just have some problems about how that can be schematically put for
2576 acceptance by the Board. It seems like to me it's a little confusing.

2577
2578 Mr. Jernigan - Well, Mr. Thornton, I'm looking for any ideas you can give me
2579 because I've been confused on this for a long time. I mean, the thing of it is, we want the road
2580 location, but we don't want the property zoned unless the road is built. The thing of it is Mr.
2581 Godsey does have a letter from Lee Priestas from DPW that says that he is under no contract or
2582 obligation to build the road. But, he is offering to do it to get this zoning going. So, we can't
2583 zone the property without having verification that the road is going to be built.

2584
2585 Mr. Thornton - I guess my question then is there a time restraint by the
2586 applicant? If there is not a time restraint, if that time restraint is not deleterious or injurious in
2587 anyway, it seems like to me this challenge that we have has to be worked out, and it look like
2588 time would do that.

2589
2590 Mr. Jernigan - Let me ask you this. Do you think we should approach the
2591 County's legal staff before this goes any farther?

2592
2593 Mr. Thornton - As I look at it procedurally I just think that some decisions have to
2594 be made. Those decisions have not been made yet. It seems to me, as you have been
2595 informed, and other have been informed. We are close to that. I just don't see a problem; we
2596 just need a little more time.

2597
2598 Ms. Isaac - Can I say something?

2599
2600 Mr. Jernigan - Sure.

2601
2602 Ms. Isaac - Your concerns have been of the road, which I don't have any
2603 problems with because I think what it is going to do, if we can send this to the Board, it's going
2604 to create a situation where the County has to decide if they are going to participate or not. I
2605 think it's going to keep the process moving forward.

2606
2607 Ms. Ware - I would question sending it to the Board when we still have the
2608 issue of uses.

2609
2610 Mr. Archer - What concerns me most about this, and I understand what Mr.
2611 Jernigan is trying to do and I don't envy him for having to put forth the effort. But, you know,
2612 giving the voluntary nature of proffers I don't know how, without having received these
2613 conditions that you are talking about, which ultimately will be proffers from the applicant, we
2614 could vote on it. I don't know exactly what it is we are voting on. I understand what you are
2615 trying to do, but like Mr. Thornton said, I don't know if the process that we would have to do
2616 tonight would be to consider an up vote. It seems like, based on the way that the case is
2617 presented tonight, if we vote on it we would have to vote for denial, the way it is presented
2618 tonight. Now, those conditions that you talked about can be added to this case prior to the
2619 time it goes to the Board in the form of proffers. Proffers are conditions and I understand, but
2620 they are voluntary.

2621
2622 Mr. Jernigan - Right. It was suggested they do that.

2623
2624 Mr. Archer - Ms. Isaac has to actually do it. They have to be drawn up and the
2625 language probably would have to be approved. And, again, somebody made the suggestion
2626 maybe legal ought to look at it before we move on it. We could kill the procedure by doing
2627 something absolutely wrong.
2628
2629 Mr. Jernigan - Ms. Isaac, this case has been so difficult and confusing already, I
2630 don't think another 30 days is going to hurt us, and I know Mr. Godsey wants to work through
2631 this, but I think what we need to do is consult the legal staff. And I need to consult with Mr.
2632 Donati again, but I do believe we may need to consult with the legal staff to get this straight.
2633
2634 Mr. Vanarsdall - Let me go back to what Mr. Silber said. And we might get caught
2635 in a bind on over that M-2. Is that what you said?
2636
2637 Mr. Silber - Yes, sir.
2638
2639 Mr. Vanarsdall - The interpretation that I got from Ray was that if we could get it
2640 on to the Board and then maybe it would move faster. But, if we are going to get caught in a
2641 "Catch 22" on something, and I know what Lisa is saying that we usually try to work everything
2642 out for the Board and there are so many lose ends.
2643
2644 Mr. Taylor - Perhaps that is what Mr. Thornton is thinking. The thing that I
2645 am concerned about is somewhere in there if this is a wetland.... Wetland jurisdiction is the
2646 Corps of Engineers and I'm not sure whether or not the Corps of Engineers have really been
2647 contacted as to what the impact on the wetlands would be and what action we make take to
2648 bring that road across there.
2649
2650 Mr. Jernigan - Ms. Isaac, I think at this point the best thing we can do, even
2651 though we did want to try and work this out, and I do feel the Commission has probably done
2652 as much as we can do on this case, and that's the reason I was going to move it on upstairs,
2653 but I think, under the confusion that we have right now, especially, the legal term of bringing
2654 all of this together at one time, I think we need to consult the legal staff. So, what I would like
2655 for you to do is defer this for 30 days any maybe we can get something straight by then.
2656
2657 Ms. Isaac - Well, I don't have any options.
2658
2659 Mr. Jernigan - You're right, you don't or I can defer it.
2660
2661 Mr. Vanarsdall - Well, that's what staff suggested to begin with.
2662
2663 Mr. Jernigan - Well, I mean I can defer it if you don't want to. I don't think I've
2664 used my deferral on this.
2665
2666 Mr. Taylor - No, you haven't, so we can go on and defer this.
2667
2668 Mr. Coleman - The Planning Commission deferred it at the May meeting.
2669
2670 Mr. Jernigan - Oh, we have deferred it one time?

2671
2672 Mr. Archer - Ours is gone.
2673
2674 Mr. Jernigan - Then you may defer it.
2675
2676 Ms. Isaac - Well, I have to defer it and I would also like to request that you
2677 and I meet with Mr. Godsey sometime soon.
2678
2679 Mr. Jernigan - Yes, anytime, just let me know. So, with that, Mr. Chairman, I'll
2680 make a motion that we defer zoning case C-28C-02 to the September 12, 2002, meeting, by
2681 request of the applicant.
2682
2683 Mr. Vanarsdall - Second.
2684
2685 Mr. Taylor - The motion was made to defer case C-28C-02 to September 12, at
2686 the request of the applicant. All in favor say aye...all opposed say no. The motion passes.
2687
2688 At the applicant's request, the Planning Commission deferred C-28C-02; Laraine Isaac for
2689 William D. Godsey, to its meeting on September 12, 2002. Mr. Thornton abstained.
2690
2691 **C-50C-02 Laraine Isaac for David L. Campbell:** Request to conditionally
2692 rezone from B-3 Business District to M-1C Light Industrial District (Conditional), part of Parcel
2693 823-716-7341 (163-A-23), containing 4.5 acres, located on the south line of Audubon Drive and
2694 on the north line of Williamsburg Road (U.S. Route 60) approximately 264 feet west of
2695 Trampton Road (500 W. Williamsburg Road). Office and self-storage units are proposed. The
2696 use will be controlled by proffered conditions and zoning ordinance regulations. The Land Use
2697 Plan recommends Commercial Concentration. The site is also in the Airport Safety Overlay
2698 District.
2699
2700 Mr. Taylor - Is there anybody in the audience opposed to case C-50C-02? No
2701 opposition. Mr. Secretary.
2702
2703 Mr. Silber - Mr. Gidley, are you ready to present this case?
2704
2705 Mr. Gidley - Yes, sir.
2706
2707 Mr. Jernigan - Mr. Gidley, Mr. Silber and I had a discussion at the beginning of
2708 this meeting and I think at this point, we are looking at a deferral on this.
2709
2710 Mr. Gidley - That's probably the ideal.
2711
2712 Mr. Jernigan - Things changed this afternoon that we haven't had time to sort
2713 out and Ms. Isaac, I know I haven't given you a chance to get up yet, but I beat you up so bad
2714 the last time I just figure I'd give you a chance to defer this without even having to come up
2715 here. So, I'll make a motion that we defer zoning case C-50C-02 to the September 12, meeting
2716 by request of the applicant.
2717
2718 Mr. Vanarsdall - Second.

2719
2720 Mr. Taylor - Is that a request by the applicant or the Commission?
2721
2722 Mr. Jernigan - That's a request by the applicant. Right, Ms. Isaac?
2723
2724 Ms. Isaac - Yes. I formally request a deferral and I also request to be put
2725 first on the next agenda.
2726
2727 Mr. Jernigan - That's not going to happen, you are going to be mid-way. We did
2728 pretty good tonight, it was better than I thought it was going to be.
2729
2730 Ms. Isaac - Well, I'll shoot for expedited next month.
2731
2732 Mr. Jernigan - Well, I'll tell you what, we may do that. If we can get together
2733 and work out these details we may be able to blow it on through here.
2734
2735 Ms. Isaac - We'll try. Thank you.
2736
2737 Mr. Vanarsdall - You just have to drive from the east end to drive, we have a lady,
2738 the lady behind you, have to go to Charlottesville.
2739
2740 Ms. Isaac - I live down by St. Mary's and can practically walk home.
2741
2742 Mr. Taylor - The motion was made by Mr. Jernigan to defer case C-50C-02 to
2743 the zoning meeting on September 12, at the request of the applicant and seconded by Mr.
2744 Vanarsdall. All in favor say aye. All opposed say no. The motion passes.
2745
2746 At the applicant's request, the Planning Commission deferred C-50C-02, Laraine Isaac for David
2747 L. Campbell, to its meeting on September 12, 2002. Mr. Thornton abstained.
2748
2749 Mr. Taylor - And that, I believe, will bring us to our last case.
2750
2751 Mr. Silber - Yes, sir.
2752
2753 **C-40C-02 Robert B. Smith, III for Asbury Automotive North Carolina**
2754 **Real Estate Holdings L. L. C.:** Request to conditionally rezone from A-1 Agricultural District
2755 to O-2C Office District (Conditional), part of Parcel 760-756-7631 (59-A-16), containing
2756 approximately 3.16 acres, located on the west side of Darnell Road at the western terminus of
2757 Lynn Avenue (2510 Darnell Road). An employee parking lot and adaptive reuse of existing
2758 building for storage of office equipment, files and supplies for the adjoining automobile
2759 dealership is proposed. The use will be controlled by proffered conditions and zoning ordinance
2760 regulations. The Land Use Plan recommends Semi-Public.
2761
2762
2763 Mr. Taylor - Is there anyone in the audience in opposition to case C-40C-02?
2764 We have opposition. Mr. Emerson.
2765

2766 Mr. Emerson - Yes, sir, Mr. Chairman. This request would rezone 3.16 acres of a
2767 4-acre parcel from A-1, Agricultural District to O-2C, Office District (Conditional) leaving the
2768 residual property A-1. The current use of the property is the Parham Hill's Christian Church.
2769 The applicant is the contract purchaser and the permitted use would be employee parking and
2770 reuse of the existing building for storage of office related files and equipment. The applicant
2771 would construct a new parking area along the eastern border of the property to provide 52
2772 additional parking spaces increasing the number of spaces on the site to 106. The subject
2773 property is currently governed by Provisional Use Permit, P-11-95, which allows for the use of
2774 47 parking spaces by the adjacent automobile dealership Monday through Friday, 7:00 a.m. to
2775 7:00 p.m. The property is located on the west side of Darnell Road at the western terminus of
2776 Lynn Avenue to the rear of Crown BMW, which fronts on Broad Street. The Land Use Plan
2777 recommends Semi-Public uses for this property and the Land Use Guide recommends existing
2778 area.

2779
2780 This request deviates from the Land Use Plan recommendation. The proffers contained in the
2781 staff report have been revised and you just received that revision. It adds one new proffer No.
2782 6. Proffered items include in Nos. 1 and 3, covering uses, "Employees of the adjacent
2783 automobile dealership shall only use property for parking. The building on the property may be
2784 used for storage of office equipment, supplies and files."

2785
2786 Proffers Nos. 2 and 5 covers access. "Vehicular access to the property shall only be from the
2787 adjacent automobile dealership. A plan shall be provided for the elimination of the access to
2788 Darnell Road, Lynn Avenue, to the Planning Office for approval. The plan shall provide for
2789 emergency access of approximately 12 feet in width, it will be secured in a manner to limit the
2790 use to emergency access only. The existing vehicle entrance shall be modified so as to remove
2791 the appearance as a vehicular driveway."

2792
2793 Proffer 4 provides for transitional buffers. "A 50-foot transitional buffer shall be provided along
2794 the eastern border of the property. A 25-foot transitional buffer shall be provided along the
2795 northern and western borders. No parking or any other activity or storage will occur in the
2796 buffer areas. The landscaping plan for the purpose of screening the use from the adjacent
2797 properties shall be submitted to and approved by the Planning Office prior to occupancy."

2798
2799 Proffer 6 covers the lighting issues. Restricting light standards to 12 feet in height and inquiring
2800 use for concealed sources directing light away from the residential areas. Staff believes that a
2801 50-foot and a 25-foot landscape buffer will insure quality transitional area between the subject
2802 property and the adjacent residential and semi-public uses.

2803
2804 In addition, community concern regarding higher traffic volume on the adjacent streets would
2805 be addressed by preventing vehicular access to the parking area on Darnell Road and Lynn
2806 Avenue. This will also require a plan of development, so the Commission will see this again to
2807 insure that these proffers are met.

2808
2809 The Land Use Plan recommends semi-public uses for this property and again the Land Use
2810 Guide recommends existing area. This request does deviate from the Land Use Plan
2811 recommendation. However, the proposed parking and office storage areas will be an equal or
2812 less intensive use than the previous church and would be compatible with the existing
2813 development area. With the addition of Proffer 6 addressing the lighting concerns, staff is

2814 recommending approval of this proposal. The attorney for the applicant is present and may
2815 wish to address the Commission and I'll be happy to attempt to address any questions you may
2816 have as well.

2817

2818 Mr. Taylor - Thank you, Mr. Emerson.

2819

2820 Mr. Vanarsdall - I notice one of the concerns was the lighting and that's in Proffer
2821 6.

2822

2823 Mr. Emerson - Yes, sir. That was covered with the additional proffer.

2824

2825 Mr. Silber - Mr. Emerson, in the staff report there is a site layout, it's not
2826 proffered is it?

2827

2828 Mr. Emerson - That is correct. It is not proffered.

2829

2830 Mr. Vanarsdall - What isn't?

2831

2832 Mr. Emerson - The site layout is not proffered. It will come through POD review.
2833 It's a generalized plan to provide the concept of what will occur there, but it is not proffered.

2834

2835 Mr. Taylor - The church existing there now, will that remain?

2836

2837 Mr. Emerson - The building will remain and will be reused as a storage for files
2838 and office related equipment. The property line that you see on the site plan will have to be
2839 moved and that will be taken care of at the plan of development stage in order to create the
2840 use on one property.

2841

2842 Mr. Taylor - Is that the proposed zoning line to the north?

2843

2844 Mr. Emerson - Yes, sir.

2845

2846 Mr. Taylor - The area north of that is just going to remain as agricultural?

2847

2848 Mr. Emerson - Yes, sir, that's correct.

2849

2850 Mr. Taylor - Mr. Vanarsdall, would you like to hear from the applicant?

2851

2852 Mr. Silber - I think he needs to because we have opposition.

2853

2854 Mr. Vanarsdall - Yes, because we have opposition.

2855

2856 Mr. Taylor - Okay. Thank you, Mr. Emerson. Would the applicant please
2857 address the podium and state your name, sir, and we will enjoy hearing your comments.

2858

2859 Mr. Smith - They will be very brief. My name is Robert Smith, Mr. Chairman,
2860 lady and gentlemen. I represent in essence Crown. Asbury Automotive is a national company,
2861 which owns Crown and other automobile dealers. We've been here a little over 17 years, out

2862 on W. Broad Street, it's been some time less than that since we bought the property. We have
2863 now achieved probably close to our maximum growth, and what brings this about is the fact
2864 that we have over 110 employees who have no place to park at the present time. Some years
2865 ago we entered into an agreement with the church, and while they were still viable, we used
2866 part of their parking lot. When the church decided to sell their property because it is adjacent
2867 and contiguous and because at the time Mr. Glover, when we got the permission from the
2868 church, required us to move our cars from our property onto the church's property and to close
2869 off Darnell Road. The church put up a fence. The church still owns the property. And I think
2870 you will hear from the opposition that their concern is that the fence, the public be closed
2871 permanently. Let me assure you that we have no opposition to that. We have 100 employees'
2872 cars back there and we do not want people coming through Darnell Road or Lynn Lane over
2873 onto the property while these cars are parked. This is a fair distance away from the actual
2874 offices of Crown and we do need the property simply for our employees to park. Right now
2875 they are parking all up and down Broad Street and having to walk across Broad Street and it's
2876 very difficult.

2877
2878 Mr. Emerson went through the proffers with you. It's our intent and our promise to you that
2879 these proffers, the 50-foot border, as well as the 25-foot border, will insulate the parking lot
2880 from the neighbors. We've attempted to do that with the lighting as well, the lighting not
2881 exceeding 12 feet. Do you have any questions?

2882
2883 Mr. Taylor - Mr. Vanarsdall.

2884
2885 Mr. Vanarsdall - I don't have any questions.

2886
2887 Mr. Silber - Mr. Smith, I have a question, if I may, Mr. Chairman.

2888
2889 Mr. Taylor - Yes, please do, Randy.

2890
2891 Mr. Silber - I've been doing some quick math over here then I realized my
2892 math does jive somewhat with the staff's report. There would be 106 parking spaces on site for
2893 employees?

2894
2895 Mr. Smith - Mr. Silber, I looked at this today and I hope that's correct. We
2896 are going to lose two parking places because we are going to have to put this buffer in next to
2897 the Boy's Home, but I believe that's correct.

2898
2899 Mr. Silber - I guess the nature of my question is, it seems like there are a lot
2900 of parking spaces for employees. Now the staff report indicates that you have 114 employees.
2901 Are all of the employees at the dealership or the site at one time that they would need to have
2902 106 parking spaces?

2903
2904 Ms. Gianakos - Most of the (unintelligible).

2905
2906 Mr. Vanarsdall - Come on down so that we can get you on tape.

2907
2908 Mr. Smith - This is Theo Gianakos. She's the general manager of Crown
2909 Acura.

2910
2911 Mr. Taylor - Ma'am, would you spell your name please so that we can get it on
2912 the record.
2913
2914 Ms. Gianakos - Sure. G I A N A K O S.
2915
2916 Mr. Archer - That's the way I would spell it.
2917
2918 Mr. Taylor - Now, you may answer the question.
2919
2920 Ms. Gianakos - I would say 80% of the employees.
2921
2922 Mr. Vanarsdall - Of course, your sales people will be coming and going.
2923
2924 Ms. Gianakos - That's correct.
2925
2926 Mr. Taylor - And will they go through the gated.... You said they would not be
2927 exiting or entering the site through the gated or now gated entrance that's at Darnell and Lynn.
2928
2929 Mr. Smith - That's absolutely correct.
2930
2931 Mr. Taylor - They will be coming from the front of the site. There will be no
2932 traffic on the back. And then I presume that the buffer, the 50-foot-wide buffer that's between
2933 you and the others, will that be planted?
2934
2935 Mr. Smith - Yes, sir. There's a requirement, Mr. Chairman, for that.
2936
2937 Mr. Silber - What I was just trying to achieve is some assurance that this
2938 would be just for employee parking. When I saw that number of parking spaces I didn't want
2939 this to become an overflow situation where new cars or used cars would be parked in this
2940 location. This would become an enforcement problem for us if we have to go back there and
2941 try to determine whether this is simply being used by employees.
2942
2943 Ms. Gianakos - You have my commitment that that will not be the case.
2944
2945 Mr. Silber - So, we can go back at any point in time and determine that those
2946 are employees parking and not stickers on the cars?
2947
2948 Ms. Gianakos - That's correct.
2949
2950 Mr. Silber - Okay. Thank you.
2951
2952 Mr. Smith - Mr. Silber, and further answer to your question, because of the
2953 growth that does not necessarily mean that they have quit growing as far as their sales force.
2954 In fact, that's a concern, that's why we are doing this. We want to make sure that the
2955 neighbors are affectively blocked. One of them said he didn't want to be like the little road that
2956 runs down by Haynes Jeep. We don't want that. We also want to make sure that the road
2957 coming in is effectively blocked. Our major concern is the fire to the church, and the only

2958 public access is through Darnell and Lynn. And for that reason, there is the 12-foot area. The
2959 pavement would be torn up, it would be grassed in and there would be a fence put up and
2960 permanently locked. But, I've been told by your staff that the Fire Department have bolt
2961 cutters and if there is a fire they can slip on through.

2962
2963 Mr. Taylor - Thank you, Mr. Smith. Thank you, Ms. Gianakos. Are there any
2964 other comments on this case? We have opposition. We have two in opposition. If you would,
2965 in some order of your choosing, figure out who would like to come first. Would you share 10
2966 minutes and if you would come to the podium and identify yourself however you two want to
2967 separate the 10 minutes or you can see how long the first one takes and see what happens
2968 with the second one.

2969
2970 Mr. Woodard - I'm Jerry Woodard and I live at Darnell Road. I have no
2971 objection, actually, to the rezoning of the property in question but I do have a few concerns
2972 regarding the proffers, mainly No. 2 and No. 5. I as well as many residents in our
2973 neighborhood of Mount Vernon Heights would prefer to see the existing access to what is now
2974 Parham Hill Christian Church to be permanently closed and have no access to or from Lynn
2975 Avenue at the intersection of Darnell Road. I understand the car dealership on Broad Street,
2976 the Crown Acura BMW, is considering using this entrance for emergency entrance. I believe
2977 any other possibility such as to the west of their existing property would be more suitable and
2978 probably better used in an emergency. If allowed to use Lynn Avenue as an access this would
2979 create a danger to our children and family in our neighborhood. Prior to 1995, this entrance
2980 from Lynn Avenue, which goes into the church now, use to be used for parking for the
2981 employees. This created a very hazardous situation for our families, for our whole
2982 neighborhood. Fortunately, this problem was corrected when they put up a locked gate.
2983 Another thing which would help maintain the value of our neighborhood would be not only to
2984 create a minimum 50-foot buffer between the property of Darnell Road and Lynn Avenue, but
2985 also if they had some type of fencing there along with plantings, several evergreen trees or
2986 shrubs in order to block the neighborhood's view of the dealership altogether, this being the
2987 cars as well as the building. So, when you enter or exit the neighborhood you won't be able to
2988 see any of that, the cars, the building or any activity going on over there. I would also like to
2989 say, whatever type of buffer or barrier and landscaping, which is proposed, should not only be
2990 approved by Henrico County Planning Office but also by any concerned residents of Mount
2991 Vernon Heights. If a 12-foot-wide emergency access is approved it should be done in a manner
2992 and design so as to hide as much as possible the cars and building from Lynn Avenue and
2993 Darnell Road. Mainly, I am opposed to any access through our neighborhood. And, finally, I
2994 would like to say that any lighting on the property be kept to a minimum and some type of low-
2995 level lighting. That's it. Thank you.

2996
2997 Mr. Taylor - Thank you, Mr. Woodard. Are there any questions from the
2998 Commission for Mr. Woodard? All right. Our next speaker, please. Sir, if you would do likewise
2999 in identifying yourself, we would enjoy hearing your comments.

3000
3001 Mr. Kaufelt - I'm Roy Kaufelt and I live on Darnell Road.

3002
3003 Mr. Taylor - Would you spell that, sir, for us please.

3004
3005 Mr. Kaufelt - Sure, K A U F E L T.

3006
3007 Mr. Taylor - Thank you, sir.
3008
3009 Mr. Kaufelt - You're welcome, I'm very accustomed to that. Basically, like Mr.
3010 Woodard, I'm not opposed to the rezoning. I mean, it's a nice piece of property and it's got to
3011 be used for something and the car dealership apparently needs the space. However, I am
3012 opposed to having any entrance at Darnell and Lynn. We've experienced that in the past. It
3013 gets quite dangerous there. Now, there's mention of closing it off and doing away with the
3014 asphalt and landscaping it and making it 12-foot wide so a fire truck could get through there,
3015 but I would like to see it at least, preferably I'd like to see the fence put back so that there is no
3016 access. But, as a secondary measure, if that's necessary to have an emergency entrance, other
3017 than the one off of Broad Street, that it be gated, and it be gated in a like manner as the fence
3018 that currently surrounds that property, which I think is about five or six feet high with barbwire
3019 across the top, if my memory serves me correctly. They talk about landscaping. Well I get a
3020 little wheezy when somebody says that because to some people landscaping is we irrigate the
3021 yard and we throw some grass on it. Well, I'm like Jerry back here, I'd like to see the place
3022 screened off. I'd like to see it screened off with trees, shrubs, whatever so that when I come
3023 down Lynn Avenue toward Darnell Road, I'm not looking at a car lot, if you will, whether it be
3024 employee cars or repaired cars, loaner cars or whatever the case may be. I would like to see it
3025 screen by vegetation of some sort. Other than that, do with the property as they will. Those
3026 are my comments.
3027
3028 Mr. Taylor - Thank you, Mr. Kaufelt. Are there any questions of Mr. Kaufelt?
3029
3030 Mr. Vanarsdall - Mr. Smith, do you want to shade some light on that for us?
3031
3032 Mr. Smith - Yes, sir, very briefly. The comment was made that you would like
3033 to cut off the access so that it would come through the west. The western part is the Boys
3034 Home and there is no public access, that's private property. In deed, if there was a fire you
3035 would have to go through the Boys Home, hang a left, go over across their fields and Lord only
3036 knows what is going to be there in the future and then go down a hill through a 25-foot buffer
3037 zone to whatever the problem is. The current road we want... as much as the neighbors want
3038 limited access, we want limited access. We do not want people coming off Darnell or Lynn
3039 coming onto the property when there are a number of cars parked back there. For that reason,
3040 we are certainly agreeable to a gate, five or six feet, the chain-link type, as the man suggested.
3041 And if he wants to put barbwire on top, fine. As far as the screening, I talked with one of those
3042 gentlemen earlier tonight, red tips or whatever. Whatever it takes to screen off the property so
3043 that they don't see the cars. That is equally as fine with us. I hope when you drive by Crown
3044 and you see the amount of money that they have put into that place, it is an entity, they don't
3045 do things half way. We heard about Twin Hickory tonight, but I assure you with respect to how
3046 they take care of their property that they do it in a first-class manner and we will do this
3047 parking lot the same. I think that addresses all of the comments that were made by the two
3048 gentlemen.
3049
3050 Mr. Vanarsdall - The lighting has been taken care of?
3051
3052 Mr. Smith - Yes, sir, it has been. It's indirect lighting and it's low.
3053

3054 Mr. Vanarsdall - You are using shoebox lighting and it won't overflow into the
3055 neighborhood.
3056
3057 Mr. Smith - Right.
3058
3059 Mr. Vanarsdall - We never have allowed anything through the neighborhood there.
3060 That's one thing we have never done. We don't want anybody through that neighborhood.
3061 And that hasn't changed now, has it? You have a proffer here, and I'm confused.... The proffer
3062 is that it will only be from the automobile dealership.
3063
3064 Mr. Smith - That's correct.
3065
3066 Mr. Vanarsdall - Roy, are you talking about a gate? Where are you talking about
3067 putting a gate?
3068
3069 Mr. Kaufelt - Where Darnell Road and Lynn comes together, right here
3070 (referring to rendering on the screen). If you look at your drawing on the screen you will see a
3071 road leaving Darnell and looking into....
3072
3073 Mr. Smith - Right there (referring to screen).
3074
3075 Mr. Kaufelt - Yes, right there.
3076
3077 Mr. Smith - There's a gate there now.
3078
3079 Mr. Vanarsdall - I thought there has always been a gate there.
3080
3081 Mr. Kaufelt - There was a gate there. It was put up in 1995 and we had this
3082 problem that we are talking about. It is a very tiny gate. A very lightweight gate, I will say.
3083 Also, by the way, that gate was open tonight before we came here.
3084
3085 Mr. Vanarsdall - Well, that concerns me. We don't want anybody through the
3086 neighborhood, not a soul.
3087
3088 Mr. Smith - That is exactly right. We don't want anybody coming through the
3089 parking lot. And the major reason we believe we need emergency access is the church.
3090
3091 Mr. Vanarsdall - Well, I don't think he has a problem with the emergency access as
3092 long as the chain is lock.
3093
3094 Mr. Smith - We have agreed to that.
3095
3096 Mr. Vanarsdall - Because emergency vehicles can get anywhere.
3097
3098 Mr. Kaufelt - My concern is the type of gate that will be there.
3099
3100 Mr. Smith - We are agreeable to whatever type of gate the neighbors want to
3101 put up.

3102
3103 Mr. Jernigan - Is there a five-foot gate there now?
3104
3105 Mr. Smith - No, it's a pipe gate, it's a kind of a farm gate.
3106
3107 Mr. Vanarsdall - Where he's coming from is that when this all began, in 1995 I
3108 think it was, this was all going to be really lovely, just like tonight, and all of a sudden people
3109 started going through the neighborhood. The same thing they did at Haynes Jeep that
3110 somebody mentioned.
3111
3112 Mr. Smith - Well, I was around in 1995, Mr. Vanarsdall, and it was closed off
3113 in 1995 and we came through and only the employees that came through there to the church
3114 came through Crown's parking lot.
3115
3116 Mr. Vanarsdall - Now, tonight how can I get in writing or proffer or how can we
3117 get the gate there?
3118
3119 Mr. Jernigan - So, in other words, would you be willing to put up, let's say a...
3120 The rest of the gating is five feet.
3121
3122 Mr. Smith - Yes.
3123
3124 Mr. Jernigan - Would you be willing to put up a five-foot gate rather than the
3125 pipe gate there and keep it locked?
3126
3127 Mr. Smith - The money is approaching the microphone.
3128
3129 Ms. Gianakos - Believe me, it's not mine.
3130
3131 Mr. Jernigan - I think Mr. Vanarsdall is looking for a little bit of assurance here.
3132
3133 Ms. Gianakos - We have had discussions and we are committing to doing exactly
3134 what they want us to do. We will not allow employees to come through the Darnell Road.
3135
3136 Mr. Vanarsdall - We already have that, No. 2 is the concern.
3137
3138 Ms. Gianakos - The problem is the gate that he was talking about.
3139
3140 Mr. Vanarsdall - Well, how about making proffer No. 7 about the gate, however
3141 you want to word it.
3142
3143 Mr. Taylor - Mr. Vanarsdall, rather than add it we may want to add something
3144 to Item 4 because that comes up with the landscaping plan and a possibility of a fence and I
3145 think if we put the landscaping plan and the kind of trees that you are going to plant and the
3146 gate.....
3147
3148 Mr. Smith - Actually, the gate is under No. 5 where you talk about the 12-foot
3149 entrance. If we could describe the gate at the end of that....

3150
3151 Mr. Taylor - That describes the width but it doesn't describe whether it's going
3152 to be a chain-link or whatever. So, I think what you can do is just come up with a plan that
3153 implies this as a landscaping plan as a part.
3154
3155 Mr. Silber - I think Mr. Vanarsdall is asking for it now.
3156
3157 Mr. Archer - Just proffer it now and we will be done with it.
3158
3159 Mr. Taylor - Just proffer it now and submit it when you can.
3160
3161 Mr. Vanarsdall - Just proffer it now and be done with it.
3162
3163 Mr. Taylor - And we will get a time limit on the proffers.
3164
3165 Mr. Vanarsdall - Yes.
3166
3167 Ms. Gianakos - Whatever you want us to do with it.
3168
3169 Mr. Smith - (Unintelligible)
3170
3171 Mr. Vanarsdall - What are you talking about, No. 4?
3172
3173 Mr. Jernigan - He's talking about the gate. He's proffering that they will put up a
3174 gate that will be five-foot....
3175
3176 Mr. Vanarsdall - Well, where did he write it?
3177
3178 Mr. Jernigan - He just verbally proffered it.
3179
3180 Mr. Smith - They just told me I could verbally proffer it.
3181
3182 Mr. Vanarsdall - All right, good. Is that all right, Randy?
3183
3184 Mrs. Ware - I have a question for Mr. Emerson before we finish.
3185
3186 Mr. Jernigan - I don't think we have to waive the time limit on a verbal proffer.
3187
3188 Mr. Taylor - I believe Mr. Smith still has the floor, frankly.
3189
3190 Mr. Smith - I'm done. I was answering question.
3191
3192 Mr. Taylor - OK. What we need to do is get an idea of how we are going to do
3193 the proffer.
3194
3195 Mr. Silber - Mr. Smith, let me ask a question or two. If you are going to
3196 provide us with an additional proffer tonight, that's fine. They will have to waive the time limit
3197 to accept that, and you will need to write it formerly on your proffer form and sign it tonight, if

3198 that is what the Commission wants. But, let me point out an item or two. First of all, in the
3199 observation that I've made is that I think one of the concerns is there is already a 50-foot
3200 buffer that you are proffering along this edge.

3201
3202 Mr. Smith - Correct.

3203
3204 Mr. Silber - It seems as though there is a screening issue that the neighbors
3205 would prefer not to see the parking of the cars by the employees in this location, so it may be
3206 appropriate to have some fence that runs along there and the gate would be of similar material
3207 as the fence and would just be a swing gate that would be locked off so that if the Fire
3208 Department need to get in they would just cut it. But, some type of a screening fence in this
3209 50-foot buffer to me seems like it would make sense. Now, if you like, you can work up some
3210 language and write it up now or you can commit that you will do that between now and the
3211 Board meeting. It is really up to Mr. Vanarsdall how he would like to handle that.

3212
3213 Mr. Vanarsdall - Let's see what he wants first, Roy.

3214
3215 Mr. Kaufelt - You use the term screening fence. That disturbs me. There is
3216 already a fence all the way around that property, if my memory serves me correctly, except at
3217 this entrance. If they can put a gate comparable to the fence that currently exist, it's a chink-
3218 link fence, they could put a chink-link gate there that they could lock permanently except when
3219 used by emergency vehicles and then the landscaping give the screening like hedges and trees
3220 or whatever. I think that would make the neighborhood happy.

3221
3222 Mr. Silber - That's fine. That will work fine. I'm just saying a chain-link fence
3223 you can see right through. So, the actual screening would be taken place by the landscaping.
3224 To block your view of the cars there will be landscaping. I was suggesting you may put some
3225 type of fence that would block your view in addition to that. But, if you just think the chain-link
3226 fence would do it, that's fine.

3227
3228 Mr. Kaufelt - There's a maintenance problem with that because the slats break
3229 and then you have a trashy looking area in five to ten years, where if the vegetation is there it's
3230 just going to get denser and improve the screening, in my opinion.

3231
3232 Mr. Taylor - We've got to get this on the record, so I would like to have Mr.
3233 Woodard, if you would, if you have something to say, please go to the microphone and identify
3234 yourself so that we can put it on the record.

3235
3236 Mr. Woodard - Yes, this is Jerry Woodard speaking again. Mr. Smith and I talked
3237 about this earlier. This here is the entrance where the church is now (referring to screen). As
3238 you come up Darnell or come from Lynn, you can look straight into this property. The road
3239 right now is enough for two cars to go by, to go in and out of the church. So, it is wide enough
3240 for that, whatever that width is, it's probably about....

3241
3242 Mr. Vanarsdall - Sir, may I interrupt you for a minute?

3243
3244 Mr. Woodard - Yes.

3245

3246 Mr. Vanarsdall - He's not listening.
3247
3248 Mr. Woodard - He and I have already talked about this, so he knows. So,
3249 everything is fine, we are in agreement. So, just do as I say. We talked about the way as you
3250 come in here how you can see into this property and we talked about rerouting it kind of to
3251 where it swings southward and then kind of curve that road now. Now, it's not going to be a
3252 road because it is going to be eliminated, but the little grassy area whatever they need for
3253 access for the Fire Department instead of just coming straight down like it is now, to try to
3254 reroute it so it helps to block the view. Now, I don't know if that needs to be proffered or
3255 written in the landscaping plans or something like that, but I just wanted to make sure that that
3256 was clear, not only the fencing but the shape of the access area, if it needs to be there at all.
3257
3258 Mr. Taylor - Thank you, Mr. Woodard.
3259
3260 Mr. Jernigan - What you are saying you physically want to change the entrance
3261 road coming into it?
3262
3263 Mr. Woodard - Well, instead of just straight in because it's wide enough for two
3264 cars now. They are talking about a 12-foot area of clear land. If you have shrubs and trees
3265 outside of this 12-foot area, if it is wide enough now for two cars you could, as I said, instead
3266 of coming straight in just kind of curve it around a little bit, as much as possible, to create so
3267 that when you are coming from either direction, Lynn Avenue or Darnell Road, you are not
3268 actually looking straight in through any access you are looking, actually around a corner to see
3269 into the lot.
3270
3271 Mr. Silber - Mr. Woodard, the proffer says the landscape plan would have to
3272 be submitted. When the landscape plan is submitted I think the details of that would be
3273 worked out. You have a very good point. I think we can work on those details when the plan
3274 is submitted.
3275
3276 Mr. Vanarsdall - We will get that at POD time.
3277
3278 Mr. Woodard - POD, tell me what that is, payable on debt?
3279
3280 Mr. Vanarsdall - That's a Plan of Development.
3281
3282 Mr. Taylor - That's a plan of development that goes with the site. Mr. Smith
3283 can prepare, as a part of the landscaping plan, working with Mr. Emerson and the staff, we can
3284 come up with a plan that is submitted to the County. And as a part of the landscaping plan, we
3285 can have the fence, the adjacent roadway and whatever landscaping you all depend on.
3286
3287 Mr. Woodard - That's fine.
3288
3289 Mr. Taylor - But, I think what we should do, Mr. Vanarsdall, is just approve
3290 this predicated on the fact that we will get our updated landscaping plan that coordinated with
3291 the neighbors.
3292
3293 Mr. Vanarsdall - All right. Is everything fine?

3294
3295 Mrs. Ware - I have one question for Mr. Emerson. It will be real quick. I just
3296 want to clarify proffers Nos. 4 and 5. It says that they will be submitted to the Planning Office
3297 for approval, but this will come back through the full POD process, right?
3298
3299 Mr. Emerson - Yes, it will. The reason that's that way, let me explain it to you
3300 real quick. When we originally started with this we didn't know that the parking lot was going
3301 to become quite as intense as it has, and these proffers were worked out prior to the submittal
3302 of the expanded plan. As we discussed this, and the applicant became more knowledgeable of
3303 the uses that they were restricting themselves to, that's when the use of the building became
3304 clearer and the expansion of the parking lot. The expansion of the parking lot, the BMP
3305 required, automatically kicks it into your plan of development review. So, that's the reason that
3306 verbiage was in there because at one time it was nothing more than the existing space as the
3307 original discussion. So, that's why it was that way.
3308
3309 Mrs. Ware - Thank you.
3310
3311 Mr. Taylor - Thank you, Mr. Emerson. I guess, Mr. Vanarsdall, a motion is in
3312 order.
3313
3314 Mr. Emerson - I do have some suggested language that I worked out real quick
3315 with Mr. Smith. I don't know if this is what you are talking about regarding the gate but real
3316 quickly this came out. "The gate provided to prohibit access to Lynn Avenue and Darnell Road
3317 shall be of the same kind and similar material as the existing perimeter fence."
3318
3319 Mr. Vanarsdall - Would that be proffer No. 7?
3320
3321 Mr. Emerson - That would be proffer No. 7, if Mr. Smith agrees to it.
3322
3323 Mr. Smith - I agree to it.
3324
3325 Mr. Emerson - Now, the existing fence is chain-link, as the residents know, and
3326 that locks you into the chain-link.
3327
3328 Mr. Vanarsdall - And y'all remember you get another shot at it when it comes up
3329 for the plan of development and landscape.
3330
3331 Mr. Kaufelt - Do we have a date for that yet?
3332
3333 Mr. Vanarsdall - No. They have to file it. It could be by Christmas, it could be by
3334 next Easter.
3335
3336 Mr. Taylor - Mr. Vanarsdall, a motion please.
3337
3338 Mr. Archer - We've got to waive the time limit first.
3339
3340 Mr. Vanarsdall - All right. I move that C-40C-02 be recommended to the Board of
3341 Supervisors for approval and we have proffers 1 through 7.

3342
3343 Mr. Silber - We have to waive the time limit.
3344
3345 Mr. Vanarsdall - Oh. I have to waive the time limit on the proffer. I make a
3346 motion to waive the time limit on the proffers.
3347
3348 Mr. Archer - Second, Mr. Chairman.
3349
3350 Mr. Taylor - The motion was made by Mr. Vanarsdall and seconded by Mr.
3351 Archer to waive the time limit on the proffers. All in favor say aye...all opposed say nay. There
3352 being no opposition, the time limit on the proffers is approved. The vote is 5-0 (Mr. Thornton
3353 abstained). Now to the case.
3354
3355 The Planning Commission approved to waive the time limit for the proffers for C-40C-02.
3356
3357 Mr. Vanarsdall - I move that we recommend to the Board to approve the case for
3358 C-40C-02.
3359
3360 Mr. Archer - Second.
3361
3362 Mr. Taylor - The motion was made by Mr. Vanarsdall and seconded by Mr.
3363 Archer to approve case C-40C-02. All in favor say aye. All opposed say no. The motion passes.
3364
3365 **REASON:** Acting on a motion by Mr. Vanarsdall, seconded by Mr. Archer, the Planning
3366 Commission voted 5-0 (one abstention) to recommend the Board of Supervisors **grant** the
3367 request because, with the proffered conditions, it would not be expected to adversely affect the
3368 pattern of zoning and land use in the area.
3369
3370 **APPROVAL OF MINUTES: Planning Commission July 11, 2002**
3371
3372 Mr. Taylor - Do we have a motion with regard to the minutes? These are the
3373 minutes of the meeting held on July 11, 2002.
3374
3375 Mr. Jernigan - Mr. Chairman, I make a motion that we approve the minutes.
3376
3377 Mr. Vanarsdall - Second.
3378
3379 Mr. Taylor - The motion was made by Mr. Jernigan and seconded by Mr.
3380 Vanarsdall to approve the minutes of July 11, 2002. All in favor say aye...all opposed say nay.
3381 Being no opposition, the minutes of the July 11, 2002, meeting is approved. Now do I have a
3382 motion to adjourn?
3383
3384 Mr. Silber - Al, can I have another minute or two of your time?
3385
3386 Mr. Taylor - Yes.
3387
3388 Mr. Silber - This past Tuesday the Board of Supervisors approved three board
3389 papers. One was the ordinance on the Urban Mixed Use District, Zoning Ordinance. If you will

3390 recall, you had that the month before. In addition to that, they approved the Guidelines and
3391 Classification, as a part of the Land Use Plan, the Comprehensive Plan for UMU (Urban Mixed
3392 Use District) and thirdly, they passed a resolution requesting that the Planning Commission
3393 study an amendment of the Land Use Plan to incorporate an Urban Mixed Use Area, a Land Use
3394 Plan designation at the request that was made by Rocketts Landing. So, the Planning
3395 Commission needs to set a public hearing to consider the study of the area in the vicinity of
3396 Rocketts Landing for Urban Mixed Use Area. We were hoping to have this hearing on
3397 September 10. We still hope to do that. The difficulty is that we have made a request of the
3398 applicant's of Rocketts Landing to provide us with the necessary information so that we can
3399 perform this study so that we can bring it to the Planning Commission. But, at this point in
3400 time, we do not have that information from the applicant. We hope that we will have this by
3401 tomorrow but we don't have it at this point. We don't have another opportunity to set a public
3402 hearing because there is no other Planning Commission meeting between now and September
3403 10. So, we would perhaps request of the Planning Commission to set a public hearing.... Oh,
3404 the date is wrong (speaking to Mr. Emerson) Oh, September 12, 2002. Thank you very much.
3405 Staff has corrected me. It is September 12 and we would need the Planning Commission to set
3406 the public hearing for September 12 with the understanding that if we do not get the
3407 information that we need, in a timely fashion, like by tomorrow or Monday at the latest, that we
3408 would have the right to pull back and set another public hearing date.

3409
3410 Mr. Taylor - We would do that as a part of our zoning meeting?

3411
3412 Mr. Silber - Yes, it would be a part of the zoning meeting and we would
3413 probably prefer that this be first on the agenda. So, we could set a UMU public hearing for
3414 7:00 p.m. and then do zoning at 7:30 p.m. Or, if you feel hungry we could serve dinner to the
3415 Planning Commission and then go into the public hearing, like at 6:30 p.m.

3416
3417 Mr. Archer - I'm hungry now.

3418
3419 Mr. Taylor - We will do this the reasonable way. We will do dinner in the
3420 conference room, work session there and then we'll have the regular meeting. That sounds
3421 reasonable?

3422
3423 Mr. Silber - I'm not sure we have a work session scheduled.

3424
3425 Mr. Emerson - We have some things, that's what we were just talking about, if
3426 you want to add a work session, we would like to go over the Sandston Area Study.

3427
3428 Mr. Silber - The Sandston Area Study?

3429
3430 Mr. Emerson - The guidelines and special strategies.

3431
3432 Mr. Silber - Lee, can you be ready by the 12th?

3433
3434 Mr. Taylor - Do we need a motion for that or can we adopt that as a scheduled
3435 activity?

3436
3437 Mr. Silber - I think we need a motion for the public hearing.

3438
3439 Mr. Taylor - All right. Then I will move that we schedule a public meeting at
3440 6:00 p.m. or 6:30 p.m.?
3441
3442 Mr. Jernigan - Well, we are going to eat, but what time will the public hearing
3443 start, 6:30 p.m.?
3444
3445 Mr. Silber - I think if we are going to have a work session before the Planning
3446 Commission hearing, I think we should start the Planning Commission hearing around the
3447 normal time so we can have our work session on Sandston, provide you dinner, and then still
3448 have time to get here around 7 o'clock. So, I'm fine with starting the public hearing at 7:00
3449 p.m. for UMU District and then have our zoning cases start at 7:30 p.m. Have a work session,
3450 maybe have dinner like 5:45 p.m., and then the work session around 6:15 p.m. Something
3451 along those lines.
3452
3453 Mr. Archer - It works for me.
3454
3455 Mr. Taylor - That works for us.
3456
3457 Mr. Silber - So you are setting a public hearing on designating the area
3458 around Rocketts Landing for public hearing at 7:00 p.m. on the 12th of September.
3459
3460 Mr. Vanarsdall - And the work session at what time?
3461
3462 Mr. Silber - The work session at 6:15 p.m.
3463
3464 Mrs. Ware - So, we will eat before, which is the key information.
3465
3466 Mr. Taylor - Then I will move that on September 12, 2002, we schedule a
3467 working meeting to begin at 6:15 p.m. on Thursday and follow that by our normal zoning
3468 meeting.
3469
3470 Mr. Jernigan - Second.
3471
3472 Mr. Taylor - The motion was made by Mr. Taylor and seconded by Mr.
3473 Jernigan. All in favor say aye...all opposed say nay. The ayes have it. The motion is carried.
3474
3475 Mr. Vanarsdall - The Mixed Use will be about 30 minutes?
3476
3477 Mr. Silber - I think that we should go ahead and schedule the zoning cases at
3478 7:30 p.m. in case we finish by that time, but if we go over, we go over.
3479
3480 Mr. Taylor - We have the opportunity to schedule that without a motion, right?
3481 I mean we can just make it right? Within the motion I just made, we can schedule that.
3482
3483 Mr. Silber - Yes.
3484

3485 Mr. Vanarsdall - Are you going to send out any kind of flyer to us on this, any kind
3486 of memo?
3487
3488 Mr. Taylor - I think it would be wise if the staff captured all this on a note and
3489 sent all of us a letter so that we are all dancing from the same song sheet.
3490
3491 Mr. Silber - OK.
3492
3493 Mr. Vanarsdall - Thank you, Mr. Silber.
3494
3495 Mr. Silber - Yes, sir. I think Mr. Taylor wanted to also share some information
3496 with you on his Denver trip.
3497
3498 Mr. Taylor - Oh, yes. I'll share some information on the Denver trip. I went to
3499 Denver on a different kind of a trip. This was my wife's doll convention in which I did not
3500 participate, however, I was able to bring back a number of different pamphlets of facilities,
3501 capabilities and attractions in Denver that is on file in the Planning Office. I have entrusted it to
3502 Mr. Marlles and Mr. Silber, but it has information on Denver, different facilities, different
3503 capabilities there and I have several copies of the magazine for the Planning Commissioners.
3504 So, I would recommend the staff, as well as the Planning Commissioners, take a look at what I
3505 brought back. There are a lot of different features there and it will be at the Adams Mark Hotel
3506 where I was able to stay and I think that will have a lot of good features there. Now if we can
3507 have a motion to adjourn.
3508
3509 Mr. Archer - So moved, Mr. Chairman.
3510
3511 Mr. Vanarsdall - Second.
3512
3513 Mr. Taylor - The motion was made by Mr. Archer to adjourn and seconded by
3514 Mr. Vanarsdall. All in favor say aye...all opposed say nay. The ayes have it. The meeting is
3515 adjourned at 11:17 p.m.
3516
3517 On a motion by Mr. Archer and seconded by Mr. Vanarsdall, the Planning Commission
3518 adjourned its meeting at 11:15 p.m.
3519
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3523

Allen Taylor, P.E., C.P.C., Chairman
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3526
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3528

John R. Marlles, AICP, Secretary