~~September 16, 2003 CPC~~
October 22, 2003 BS

STAFF'S
REQUEST ANALYSIS
AND
RECOMMENDATION

03SN0245

William P. Sowers Construction Co.

Midlothian Magisterial District
East line of Wal-Mart Way

REQUEST: Rezoning from Corporate Office (O-2) to Community Business (C-3).

PROPOSED LAND USE:

Community Commercial (C-3) uses are proposed, except as limited by proffered conditions.

PLANNING COMMISSION RECOMMENDATION

RECOMMEND APPROVAL AND ACCEPTANCE OF THE PROFFERED CONDITIONS ON PAGES 2 THROUGH 4.

AYES: MESSRS. GECKER, LITTON, CUNNINGHAM AND STACK.
NAY: MR. GULLEY.

STAFF RECOMMENDATION

Recommend denial for the following reason:

The proposed zoning and land use do not conform with the Midlothian Area Community Plan and the Northern Area Plan which suggest that the eastern edge of the property is appropriate for medium density residential of 1.51 to 4.0 units per acre, while the northern portion of the property is appropriate for medium/high density residential development of 4.01 to 7.0 dwelling units per acre.

(NOTE: THE ONLY CONDITION THAT MAY BE IMPOSED IS A BUFFER CONDITION. THE PROPERTY OWNER(S) MAY PROFFER OTHER CONDITIONS. THE CONDITIONS NOTED WITH "STAFF/CPC" WERE AGREED UPON BY BOTH STAFF AND THE COMMISSION. CONDITIONS WITH ONLY A "STAFF" ARE RECOMMENDED SOLELY BY STAFF. CONDITIONS WITH ONLY A "CPC" ARE ADDITIONAL CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION.)

PROFFERED CONDITIONS

The Owners and the Developer, pursuant to Section 15.2-2298 of the Code of Virginia (1950 as amended) and the Zoning Ordinance of Chesterfield County, for themselves and their successors or assigns, proffer that the development of the property designated as Chesterfield County Tax IDs 735-709-8503 and 735-709-5944 (part) containing a total of 5.2 acres as shown on the drawing prepared by Koontz-Bryant, P.C., dated August 25, 2003, entitled "Zoning Exhibit A" ("Zoning Exhibit A") (the "Property") under consideration will be developed according to the following proffered conditions if, and only if, the request for rezoning of the Property to C-3 for development of retail uses is granted. In the event the request is denied or approved with conditions not agreed to by the Developer, the proffered conditions shall be immediately be null and void and of no further force or effect. If the zoning is granted, these proffered conditions will supersede all proffers and conditions now applicable to the Property.

(CPC) 1. Uses. No portion of the Property shall be used for any of the following:

(a) Cocktail lounges and nightclubs
(b) Hospitals
(c) Hotels
(d) Flea markets
(e) Free-standing fast food restaurants.
(f) Any use with drive-in or drive-through facilities.
(g) Servicing of motor vehicles (including tires and lubrication); provided, however, this proffer shall not prohibit a gasoline fueling and car wash facility on the Sam's Club Property.
(h) Coin operated dry cleaning, laundry and Laundromats.
(i) Park and ride lots.
(j) Secondhand and consignment stores.
(k) Commercial kennels.
(l) Residential multifamily and townhouses.
(m) Outside storage of construction equipment/materials.
(n) Outside runs for veterinary hospitals.
(o) Massage clinics except when located within a health club, tanning salon or similar facility.

(p) Cigarette outlet store which shall mean a store where the primary product offered for sale is cigarettes in bulk on a discounted basis. (P)

(CPC) 2. Building Heights. Buildings on the Property shall have a maximum of one (1) story and shall not exceed twenty five (25) feet in height. (P)

(CPC) 3. Cleaning of Parking Lots. Routine parking lot cleaning activities shall be limited to the hours between 6:00 a.m. and 8:00 p.m., Monday through Saturday. (P)

(CPC) 4. Water and Wastewater. Public water and wastewater systems shall be used. (U)

(CPC) 5. Timbering. Except for timbering approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)

(CPC) 6. Transportation

(a) Access Road to Wal-Mart Way.

(i) Prior to any final site plan approval for any development on the Property, a fifty (50) foot wide right of way for a special access street pursuant to Section 19-505(b) of the Zoning Ordinance extending from WalMart Way at the location shown as "Point D" on Zoning Exhibit A ("Point D") to the common boundary line between the parcel identified as Tax ID 736-709-1439 and the parcel identified as Tax ID 736-709-3667, including rights of way across the parcels identified as Tax ID's 736-708-1856, 736-709-4223 and 736-709-1439 shown as "Point F" on Zoning Exhibit A ("Point F"), all as shown conceptually on Zoning Exhibit A (the "Special Access Street") shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. The exact location of the Special Access Street shall be approved by the Transportation Department.

(ii) Prior to issuance of an occupancy permit for any development on the Property, the Special Access Street shall be constructed as a two (2) lane road and approved for State acceptance, as determined by the Transportation Department. The developer shall dedicate any additional right of way (or easements) required for this improvement (e.g. slope easements or temporary cul-de-sac), free and unrestricted, to and for the benefit of Chesterfield County.

(iii) In the event the developer is unable to acquire the right of way across the parcels identified as Tax ID's 736-709-4223 and 736-709-1439 necessary for the Special Access Street as identified in Proffered Condition 6(a)(i) and (ii), the developer may request, in writing, the County to acquire such right of way as a public road improvement. All costs associated with the acquisition of the right of way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right of way, the developer shall be relieved of the obligation to acquire the "off-site" right of way and construction of the Special Access Street across the parcels identified as Tax ID's 736-709-4223 and 736-709-1439.

(b) Maximum Density. Development on the Property shall not exceed 40,000 gross square feet of shopping center uses or equivalent traffic density as determined by the Transportation Department consistent with the May, 2003 Revised Traffic Impact Analysis Report for the Wal-Mart Retail Center Expansion prepared by Ramey Kemp & Associates of Richmond, Inc. (T)

GENERAL INFORMATION

Location:

East line of Wal-Mart Way, north of Midlothian Turnpike. Tax IDs 735-709-8503 and Part of 5944 (Sheet 6).

Existing Zoning:

O-2

Size:

5.2 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North - O-2 with Conditional Use; Public/semi-public (electric substation or communications tower)
South - O-2; Vacant
East - A; Vacant
West - C-3; Commercial

UTILITIES

Public Water System:

There is an existing twelve (12) inch water line extending along Wal-Mart Way, adjacent to the western boundary of the request site. Use of the public water system is intended. (Proffered Condition 4)

Public Wastewater System:

There is an existing twenty-seven (27) inch wastewater trunk line extending along Falling Creek, approximately 800 feet west of the request site. In addition, an eight (8) inch wastewater collector line serves the existing Wal-Mart, approximately 350 feet south of this site. Use of the public wastewater system is intended. (Proffered Condition 4)

ENVIRONMENTAL

Drainage and Erosion:

The property drains to Wal-Mart Way and then via storm-sewer system to Falling Creek. There are currently no on- or off-site drainage or erosion problems with none anticipated after development. The property is wooded and should not be timbered without first obtaining a land disturbance permit. This will ensure that proper erosion control measures are in place prior to any timbering. (Proffered Condition 5)

PUBLIC FACILITIES

Fire Service:

The Midlothian Fire Station, Company Number 5, and Forest View Volunteer Rescue Squad currently provide fire protection and emergency medical service. This request will have minimal impact on fire and emergency medical services.

Transportation:

The property, consisting of approximately five (5) acres, is currently zoned Corporate Office (O-2). The applicant is requesting rezoning to Community Business (C-3).

The applicant has submitted a map ("Zoning Exhibit A") that identifies the property, and depicts a conceptual loop road (the "Special Access Street") extending from Wal-Mart Way through the property and through several adjacent parcels. The purpose of the Special Access Street is to provide access to all the area properties generally bounded by Midlothian Turnpike (Route 60) to the south, Falling Creek to the west, Old Buckingham Road to the north, and Olde Coach Village Subdivision to the east ("the Area").

In accordance with the Development Standards Manual in the Zoning Ordinance, a traffic analysis is necessary to assist in evaluating the impact of this development. The applicant submitted a traffic study, which satisfies the Transportation Department requirements for an analysis of the Area's traffic at anticipated build-out. The applicant has proffered a maximum density on the property, consistent with the density analyzed in the traffic study (Proffered Condition 6. b.). The applicant proposes developing 40,000 square feet of retail or other equivalent traffic generators.

The major development within the Area consists of a 117,258 square foot Wal-Mart store and a 134,020 square foot Sam's Club store. In conjunction with these developments, an additional lane of pavement along Route 60 for their property frontage and intersection improvements at Wal-Mart Way/Route 60 was provided. It is anticipated that this development and the other new development in the Area could generate approximately 8,365 average daily trips. These vehicles will be distributed along Route 60, which had a 2001 traffic count of 42,085 vehicles per day. Traffic volumes along sections of Route 60 exceed its capacity, and drivers experience congestion especially during peak periods. Route 60 from Courthouse Road to Old Buckingham Road should be widened to six (6) lanes, and is identified as a priority on the Board of Supervisors' list of highway needs. No funds are included in the Virginia Department of Transportation Six-Year Improvement Program for this improvement.

Development must adhere to the Development Standards Manual in the Zoning Ordinance relative to access and internal circulation (Division 5). As previously stated, Zoning Exhibit A shows the proposed Special Access Street from Wal-Mart Way looping through the property and through several adjacent parcels. The applicant has proffered to dedicate a fifty (50) foot wide right of way and build only a section of the Special Access Street (Proffered Condition 6. a.). The specific section of the Special Access Street that will be constructed is identified on the Zoning Exhibit A and referenced by Points D and F. In conjunction with the development of the property, the Special Access Street will be dedicated and constructed from Point D to Point F. However, as proffered, it will be necessary for the developer to acquire right of way from three (3) adjacent parcels to construct this section of the Special Access Street. According to Proffered Condition 6.a., if the developer is unable to acquire the right of way for any of this improvement, the developer may request the County to acquire the right of way as a public road improvement. All costs associated with the acquisition will be borne by the developer. If the County chooses not to assist with the right of way acquisition for two (2) of the three (3) parcels, the developer will not be obligated to acquire the "off-site" right of way across those two (2) parcels, and will only be obligated to construct the road within available right of way. This would result in the Special Access Street being constructed from Point D to the northern boundary of the subject property.

Transit service along Route 60 could be in demand in the future. Staff recommends that in the event public transportation is ever provided in the area, a parking area be provided for the pickup and discharge of passengers. The applicant's representative has indicated that due to development constraints they are unwilling to commit a parking area for this use.

At the time of site plan review, specific recommendations will be made regarding access and internal circulation.

LAND USE

Comprehensive Plan:

Lies within the boundaries of the Midlothian Area Community Plan and the Northern Area Plan which suggest western portion of the property adjacent to Wal-Mart Way is appropriate for retail and office/service uses (Suburban Commercial District); the eastern portion of the property is appropriate for medium density residential development of 1.51 to 4.0 units per acre; and the northern portion of the property is appropriate for medium/high density residential uses of 4.01 to 7.0 dwelling units per acre. (Reference attached "Compiled Land Use Plan")

One of the goals of both the Northern Area Plan and the Midlothian Area Community Plan is to address land use transitions to ensure protection of the surrounding residential developments. This transition would promote decreasing land use intensities in and around the Suburban Commercial District, thereby minimizing traffic and other impacts upon surrounding neighborhoods and encouraging compatibility in scale and quality of design.

Area Development Trends:

Properties to the west of the request site are zoned agriculturally and are vacant. Properties to the to the north and south are zoned Corporate Office (O-2) and are occupied by public/semi-public uses or are vacant. Property to the west is zoned Community Commercial (C-3) as has been develop for commercial use (Wal-Mart) or is vacant. It is anticipated that development adjacent to the existing commercial uses (Wal-Mart and Sam's Club) would provide appropriate land use transitions to the existing residential developments to the north, east and west (Old Buckingham Forest, Olde Coach Village and Millstone Creek) as suggested by the Plan.

Zoning History:

On November 12, 1986, the Board of Supervisors, upon a favorable recommendation by the Planning Commission, approved a rezoning of a fifteen acre (15) acre tract from Agricultural (A) to Community Business (B-2) with Conditional Use Planned Development (Case 86S114)) (Reference "Zoning History Map"). Two (2) automobile dealerships were planned. A portion of the property is incorporated into the current request. It should be noted that staff recommended the inclusion of additional surrounding property as a part of this application to assure proper land use transition and an internal access system on property bounded by Millstone Creek and Olde Coach Village Subdivisions, Midlothian Turnpike and Old Buckingham Road.

On April 22, 1987, the Board of Supervisors, upon a favorable recommendation by the Planning Commission, approved a rezoning of a forty (40) acre tract from Agricultural (A) to Community Business (B-2) and Office Business (O) with Conditional Use Planned Development (Case 87S010). An office/commercial complex was planned. A portion of this property is incorporated into the current request. Condition 23 of this case limited development within the B-2 portion, if located adjacent to the north and northwestern portions of the proposed loop road and beyond a depth of 350 feet from Midlothian Turnpike, to Office/Business (O) uses, unless modified at the time of schematic plan review provided such uses could be adequately screened from Millstone Creek Subdivision.

On November 23, 1988, the Board of Supervisors, upon a favorable recommendation from the Planning Commission except for sign exceptions,

approved a rezoning from Agricultural (A) to Office Business (O) and Community Business (B-2) with Conditional Use Planned Development on these tracts and an adjacent Community Business (B-2) tract; from Community Business (B-2) to Office Business (O) with an amendment to Cases 86S114 and 87S010 on this tract and an existing Community Business (B-2) tract; and from Agricultural (A) to Residential (R-15), for a total of 23.6 acres (Case 87S160). Three (3) automobile dealerships were planned. A portion of this property is incorporated into the current request.

Site Design:

The request property lies within an Emerging Growth Area. Development of the site must conform to the requirements of the Zoning Ordinance which address access, parking, landscaping, architectural treatment, setbacks, signs, buffers, utilities and screening of dumpsters and loading areas.

Uses:

The applicant has identified several uses that could be potentially objectionable to area property owners and has proffered to eliminate these uses from the Sowers Property. (Proffered Condition 1)

Architectural Treatment:

Architectural treatment of buildings, including materials, color and style, must be compatible with buildings located within the same project. Compatibility may be achieved through the use of similar building massing, materials, scale, colors and other architectural features.

Within Emerging Growth Areas, no building exterior which would be visible to any A, R or O District or any public right of way may consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same building. There is, however, nothing to preclude the use of different materials on different building exteriors, but rather, the use of inferior materials on sides which face adjoining property. No portion of a building constructed of unadorned concrete block or corrugated and/or sheet metal may be visible from any adjoining A, R or O District or any public right of way. No building exterior may be constructed of unpainted concrete block or corrugated and/or sheet metal. All junction and accessory boxes must be minimized from view of adjacent property and public rights of way by landscaping or architectural treatment integrated with the building served. Mechanical equipment, whether ground-level or rooftop, must be screened from view of adjacent property and public rights of way and designed to be perceived as an integral part of the building.

Within the Community Business (C-3) District, the Ordinance limits the height of buildings to two (2) stories or thirty (30) feet, whichever is less, if located beyond 100 feet of any agricultural district designated for residential use by the Plan. Beyond this distance, building heights may be increased to three (3) stories or forty-five (45) feet, whichever is less. In consideration of the existing residential developments to the north and west, proffered conditions limit building heights within the Sowers Property to one (1) story and twenty-five (25) feet. (Proffered Condition 2)

Buffers and Screening:

The Zoning Ordinance requires that solid waste storage areas (i.e., dumpsters, garbage cans, trash compactors, etc.) on property which is adjacent to an A or R District be screened from view of such district by a masonry or concrete wall which is constructed of comparable materials to and designed to be compatible with the principal building that such area serves and that such area within 1,000 feet of any A or R Districts not be serviced between the hours of 9:00 p.m. and 6:00 a.m. In addition, sites must be designed and buildings oriented so that loading areas are screened from any property where loading areas are prohibited and from public rights of way.

With the approval of this request, outside storage would be permitted as a restricted use. Outside storage areas must be screened from view of adjacent properties which have no such areas and public rights of way. In addition, no more than ten (10) percent of the gross floor area of the principal use may be used for outside storage.

Adjacent properties to the east are zoned Agricultural (A) and are currently vacant. The Plan suggests that these properties are appropriate for residential development. As a result, the Ordinance requires a minimum seventy-five (75) foot buffer along the eastern property boundary of the request property. At the time of site plan review, the Planning Commission may modify these buffers under certain circumstances. In addition, at such time that adjacent residential or agricultural property is zoned or utilized for a non-residential use, the buffer can be further reduced or eliminated.

It should be noted that conditions of Case 87S010, as amended by Case 89SN0259, require the provision of a seventy-five (75) foot buffer around the perimeter of the adjacent Dominion Power property (Tax ID 735-709-5944) if developed for uses other than an electric substation. A portion of the proposed loop road encroaches into this potential buffer area necessitating Planning Commission approval through the site plan review process for any future O-2 or office/warehouse development on this site.

Parking Lot Cleaning:

Proffered Condition 3 limits the hours of parking lot cleaning activities. This proffer is difficult, if not impossible for staff to enforce. Therefore, it is recommended that this proffer not be accepted.

CONCLUSIONS

The proposed zoning and land uses do not conform with the Midlothian Area Community Plan and the Northern Area Plan which suggest that the eastern edge of the property is appropriate for medium density residential of 1.51 to 4.0 units per acre, while the northern portion of the property is appropriate for medium/high density residential development of 4.01 to 7.0 dwelling units per acre.

Given this consideration, denial of this request is recommended.

It should, however, be noted that this case, coupled with the pending cases for Wal-Mart (03SN0246) and Poseidon (03SN0284), could accomplish appropriate land use and transition while zoning and planning for the development of most of the remaining vacant property between Route 60 and Old Buckingham Road between Olde Coach Village and Millstone Creek.

CASE HISTORY

Applicant (9/15/03):

Proffered Condition 1 was amended to further restrict the uses permitted.

Planning Commission Meeting (9/16/03):

The applicant did not accept staff's recommendation, but did accept the Planning Commission's recommendation.

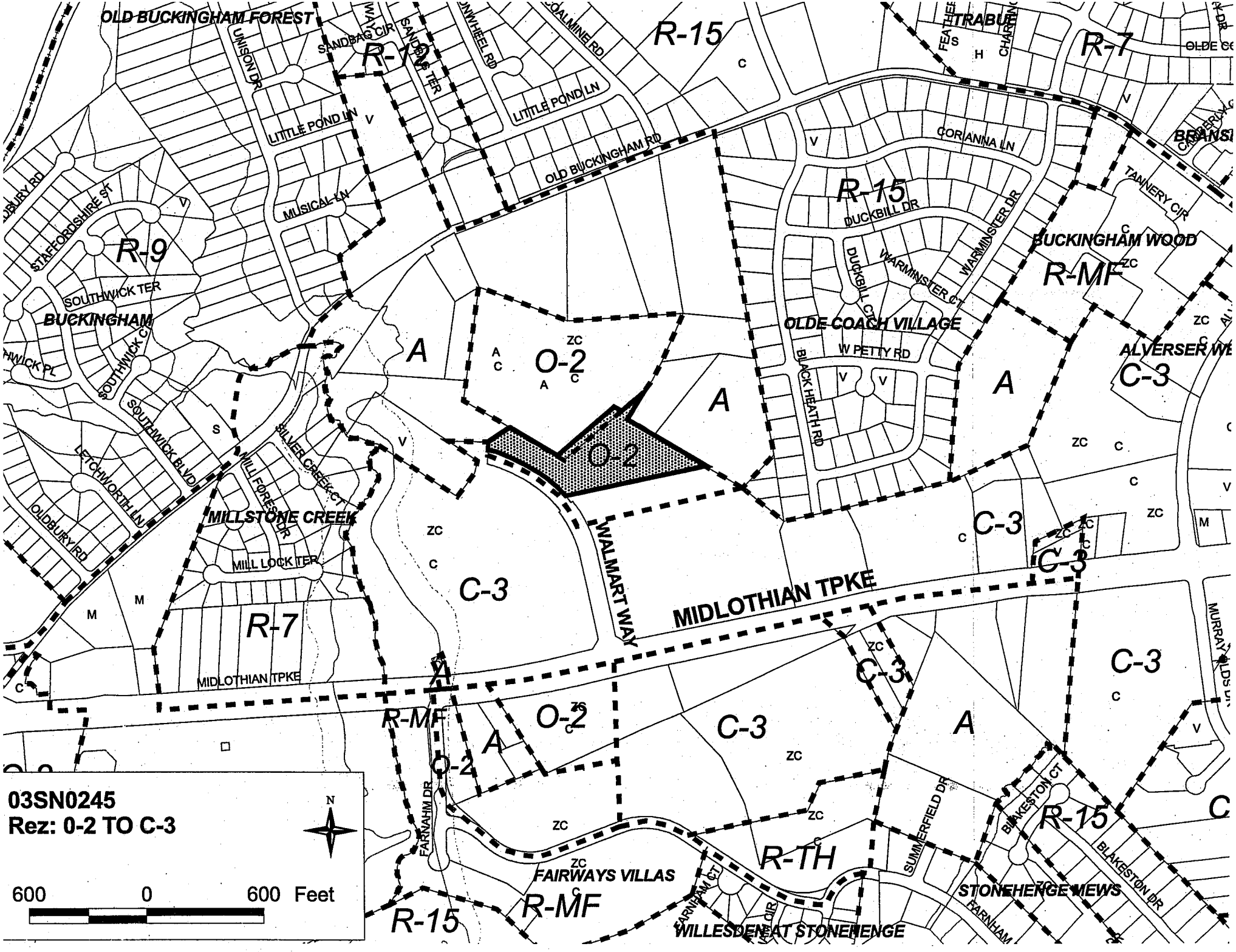
Opposition expressed concerns that the proposal would create additional traffic and result in the intrusion of lights upon residents on Old Buckingham Road.

Mr. Litton indicated that this proposal represents part of a package to zone and plan the remaining vacant land in the area resulting in less traffic impact on the area and good land use transition.

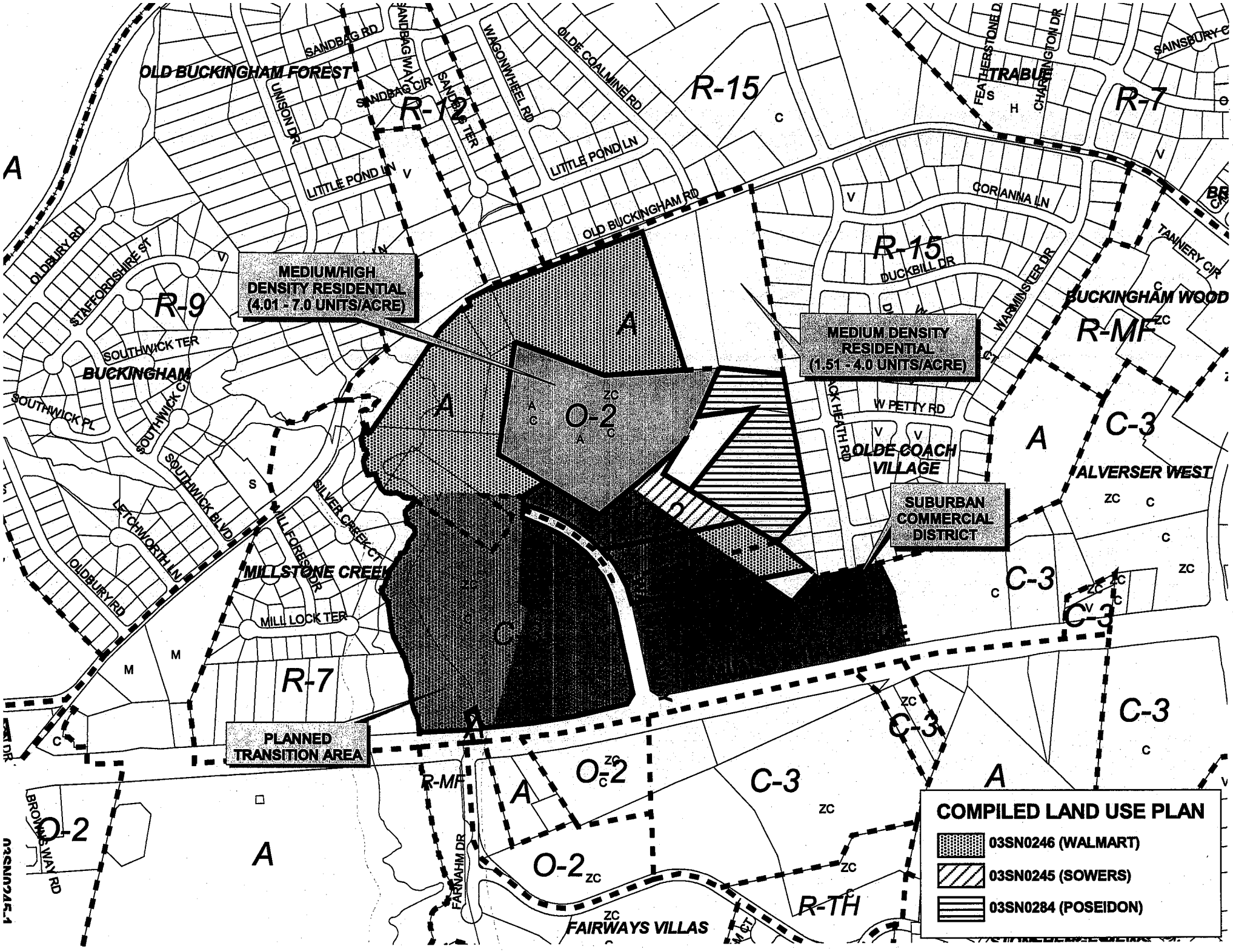
On motion of Mr. Litton, seconded by Mr. Stack, the Commission recommended approval of this request and acceptance of the proffered conditions on pages 2 through 4.

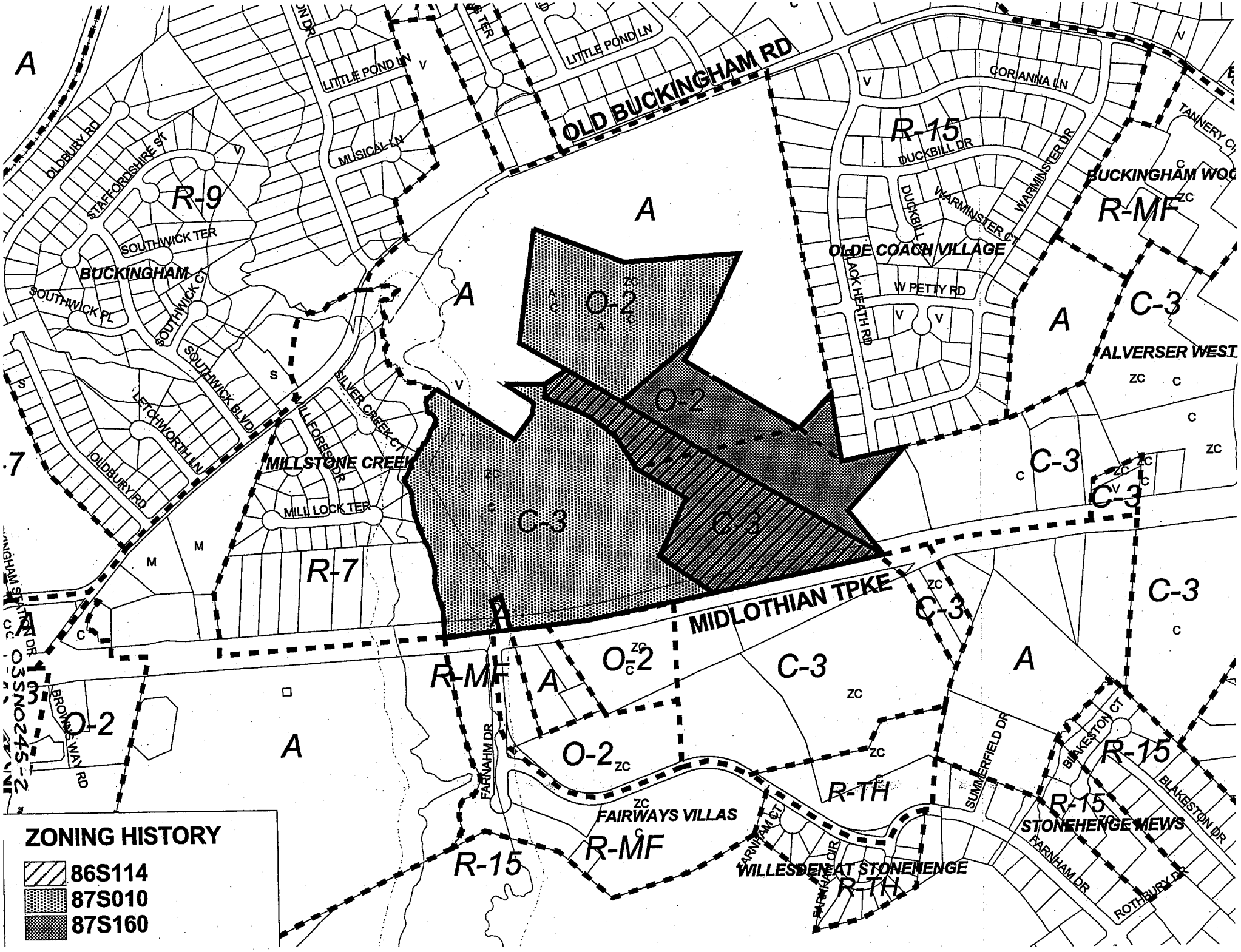
AYES: Messrs. Gecker, Litton, Cunningham and Stack.
NAY: Mr. Gulley.

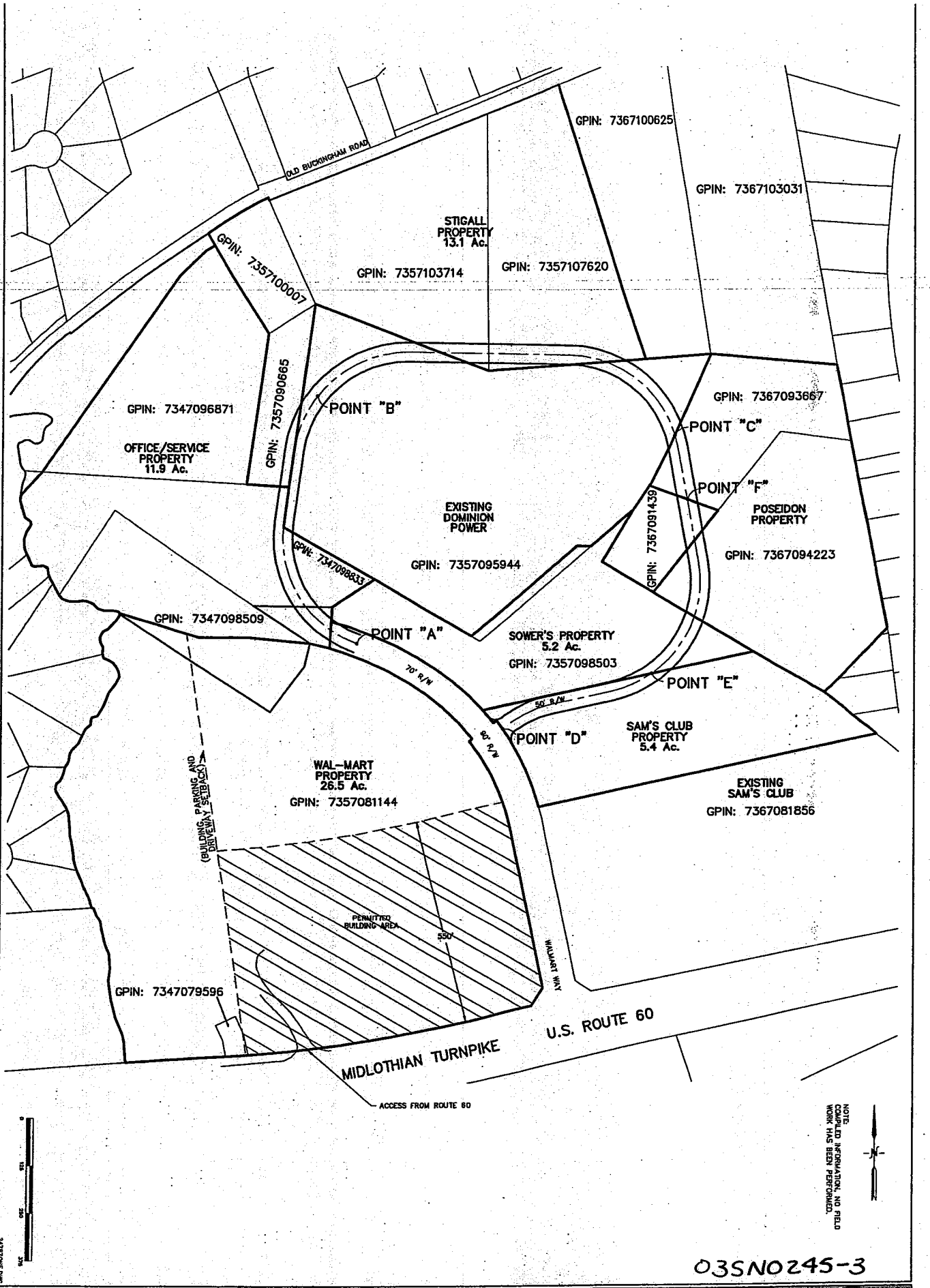
The Board of Supervisors, on Wednesday, October 22, 2003, beginning at 7:00 p.m., will take under consideration this request.



03SN0245
Rez: 0-2 TO C-3
600 0 600 Feet
N
OLD BUCKINGHAM FOREST
R-15
R-7
R-9
R-MF
R-TH
O-2
A
C-3
MIDLOTHIAN TPKE
WALMART WAY
MILLSTONE CREEK
BUCKINGHAM
BUCKINGHAM WOOD
OLDE COACH VILLAGE
FAIRWAYS VILLAS
WILLESDEN AT STONEHENGE
STONEHENGE MEWS
LITTLE POND LN
OLD BUCKINGHAM RD
MUSICAL LN
SOUTHWICK TER
SOUTHWICK BLVD
MILL LOCK TER
MILL FOREST DR
SILVER CREEK CT
LETCHWORTH LN
OLDBURY RD
STAFFORDSHIRE ST
UNISON DR
SANDBAG CIR
SANDBAG TER
COALMINE RD
CORIANNA LN
DUCKBILL DR
DUCKBILL CT
WARMINSTER DR
WARMINSTER CT
W PETTY RD
BLACK HEATH RD
TANNERY CIR
FARNAHM DR
FARNHAM CT
SUMMERFIELD DR
BLAKESTON CT
BLAKESTON DR
MURRAY OLDS DR


MEDIUM/HIGH DENSITY RESIDENTIAL (4.01 - 7.0 UNITS/ACRE)
MEDIUM DENSITY RESIDENTIAL (1.51 - 4.0 UNITS/ACRE)
SUBURBAN COMMERCIAL DISTRICT
PLANNED TRANSITION AREA
OLD BUCKINGHAM FOREST
BUCKINGHAM
MILLSTONE CREEK
OLDE COACH VILLAGE
ALVERSER WEST
BUCKINGHAM WOOD
FAIRWAYS VILLAS
TRABUE
R-15
R-12
R-9
R-7
R-MF
R-TH
C-3
O-2
A
OLD BUCKINGHAM RD
SANDBAG RD
SANDBAG WAY
SANDBAG CIR
SANDBAG TER
WAGONWHEEL RD
OLDE COALMINE RD
LITTLE POND LN
UNISON DR
CORANNA LN
DUCKBILL DR
WARMINSTER DR
W PETTY RD
BLACK HEATH RD
TANNERY CIR
FEATHERSTONE DR
CHARRINGTON DR
SAINSBURY CT
OLDBURY RD
STAFFORDSHIRE ST
SOUTHWICK TER
SOUTHWICK CT
SOUTHWICK PL
SOUTHWICK BLVD
LETCHWORTH LN
MILL FORGE DR
SILVER CREEK CT
MILL LOCK TER
BROWNE WAY RD
FARNAHM DR
COMPILED LAND USE PLAN
03SN0246 (WALMART)
03SN0245 (SOWERS)
03SN0284 (POSEIDON)


ZONING HISTORY
86S114
87S010
87S160
OLD BUCKINGHAM RD
MIDLOTHIAN TPKE
BUCKINGHAM
OLDE COACH VILLAGE
MILLSTONE CREEK
FAIRWAYS VILLAS
WILLESDEN AT STONEHENGE
STONEHENGE MEWS
ALVERSER WEST
BUCKINGHAM WOO
R-9
R-7
R-15
R-MF
R-TH
C-3
O-2
A
LITTLE POND LN
MUSICAL LN
CORIANNA LN
DUCKBILL DR
WARMINSTER DR
WARMINSTER CT
W PETTY RD
BLACK HEATH RD
STAFFORDSHIRE ST
OLDBURY RD
SOUTHWICK TER
SOUTHWICK CT
SOUTHWICK PL
SOUTHWICK BLVD
LETCHWORTH LN
MILLFORD DR
SILVER CREEK CT
MILL LOCK TER
BROWNS WAY RD
FARNAHM DR
FARNAHM CT
FARNAHM CIR
SUMMERFIELD DR
BLAKESTON CT
BLAKESTON DR
ROTHBURY DR
TANNERY CT
03SN0245-2



03SN0245-3

ZN1	JN: 2478	SCALE: 1"=125'	DATE: AUG. 28, 2003	WAL-MART EXPANSION #1969-02 MIDLOTHIAN DISTRICT — CHESTERFIELD COUNTY, VIRGINIA ZONING EXHIBIT A	KOONTZ-BRYANT, P.C. A Full Service Civil Consulting Firm 1703 NORTH PARHAM ROAD, SUITE 202 RICHMOND, VIRGINIA 23229 (804) 740-9202 FAX (804) 740-7338 kbpc@koontzbryant.com	DESIGNED: KAB DRAWN: DFP CHECKED: PFH	REVISIONS: