

COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
REGULAR MEETING
August 11, 2015

The Henrico County Board of Supervisors convened a regular meeting on Tuesday, August 11, 2015, at 7:00 p.m. in the Board Room, Administration Building, Henrico County Government Center, Parham and Hungary Spring Roads, Henrico County, Virginia.

Members of the Board Present:

Frank J. Thornton, Chairman, Fairfield District
Tyrone E. Nelson, Vice Chairman, Varina District
Richard W. Glover, Brookland District
David A. Kaechele, Three Chopt District
Patricia S. O'Bannon, Tuckahoe District

Other Officials Present:

John A. Vithoukas, County Manager
Joseph P. Rapisarda, Jr., County Attorney
David K. Kinkel, Captain, Court Security, Sheriff's Office
Barry R. Lawrence, CMC, Assistant to the County Manager/Clerk to the Board
Joseph P. Casey, Ph.D., Deputy County Manager for Administration
Jane D. Crawley, Deputy County Manager for Community Services
Timothy A. Foster, P.E., Deputy County Manager for Community Operations
Randall R. Silber, Deputy County Manager for Community Development

Mr. Thornton called the meeting to order at 7:00 p.m.

Mr. Thornton led the recitation of the Pledge of Allegiance.

The Reverend Janet James, Pastor of Gayton Kirk Presbyterian Church, delivered the invocation.

On motion of Mrs. O'Bannon, seconded by Mr. Nelson, the Board approved the minutes of the July 28, 2015, Regular and Special Meetings.

The vote of the Board was as follows:

Yes: Thornton, Nelson, Glover, Kaechele, O'Bannon

No: None

MANAGER'S COMMENTS

There were no comments from the Manager.

BOARD OF SUPERVISORS' COMMENTS

Mr. Nelson acknowledged the notable public service and lasting contributions of James W. Nunnally, who completed 40 years of service as a member of the Board of Zoning Appeals (BZA) on July 31. Mr. Nunnally was appointed by the Circuit Court to eight consecutive terms as the BZA's Varina District representative and served as the BZA's chairman from 1995 to 1997 and 2005 to 2007. Mr. Nunnally advised the County in May he would be unavailable for reappointment when his current term expired. He is a longtime resident of Highland Springs and owned an insurance business on Nine Mile Road for many years.

Mr. Thornton asked Mr. Vithoukas to share information about the Division of Fire's participation in a new blood plasma program. Mr. Vithoukas noted Henrico has been selected to use plasma in the field within its ambulance services to treat critically ill patients. This life-saving blood element has previously been available only in hospitals. Kenny Dunn, Assistant Fire Chief of Community Risk Reduction, informed the Board that the program is being funded through a grant from the U.S. Department of Defense and data generated by the program will be used for warfighters in the field. Mr. Thornton pointed out Henrico is one of only a few localities in the country that is husbanding this seminal program. Mr. Kaechele announced that the current edition of the quarterly newspaper published by the Board, *Henrico Today*, contains an article on this subject.

RECOGNITION OF NEWS MEDIA

Mr. Thornton recognized Ted Strong from the *Richmond Times-Dispatch*.

BOARD OF SUPERVISORS' COMMENTS (continued)

Mr. Thornton recognized Jake Smith and Justin Trickett from Boy Scout Troop 737, sponsored by St. Mary's Catholic Church, who were observing the meeting to fulfill a requirement for the Citizenship in the Community merit badge.

PUBLIC HEARINGS - REZONING CASES AND PROVISIONAL USE PERMIT

181-15 REZ2015- 00017 Three Chopt	Graham Meadows, LLC: Request to conditionally rezone from A-1 Agricultural District to O-2C Office District (Conditional) Parcels 732-763-5470 and 732-763-8362 containing 2.712 acres located on the south line of Graham Meadows Drive approximately 385' west of its intersection with N. Gayton Road.
--	---

Joe Emerson, Director of Planning, responded to questions from Mr. Kaechele.

No one from the public spoke in opposition to this item.

On motion of Mr. Kaechele, seconded by Mr. Glover, and by unanimous vote, the Board followed the recommendation of the Planning Commission and approved this item with the following proffered conditions:

1. **Conceptual Master Plan.** Development of the Property shall be in general conformance with the Conceptual Plan attached hereto entitled "Nuckols Medical Office", prepared by Willmark Engineering, dated June 8, 2015 (the "Conceptual Plan"), (see case file) which Conceptual Plan is conceptual in nature and may vary in detail, unless otherwise requested and specifically approved at the time of Plan of Development.
2. **Elevations.** Any buildings constructed on the Property shall be in general conformance with the architectural appearance shown on the elevations dated May 19, 2015, entitled "Virginia Women's Center - Short Pump", prepared by Ratio Studio attached hereto and the elevation dated June 1, 2015, entitled "Building Elevation - Graham Meadows - Virginia Women's Center - Short Pump", (see case file) prepared by citedesign, unless otherwise requested and specifically approved at the time of Plan of Development. Any building shall have exposed exterior walls (above finished grade and exclusive of trim) of brick, glass, E.I.F.S., stone, stone veneer, split face block, cementitious, composite-type siding, architectural-grade metal panels or a combination of the foregoing, unless different architectural treatment and/or materials are specifically approved with respect to the exposed portion of any such wall, at the time of Plan of Development. No building shall be covered with or have exposed to view any painted or unfinished concrete block, or industrial-grade metal, unless otherwise specifically approved at the time of Plan of Development. Any sloped roofs shall be constructed of slate, simulated slate, standing seam metal or textured fiberglass shingles or cedar shakes, concrete, architectural asphalt shingles or composition shingles.
3. **Use Restrictions.** The following uses shall be prohibited on the Property:
 - a. banks, savings and loan, or small loan establishments, drive-in or otherwise;
 - b. funeral home or undertaking establishments;
 - c. artist studio; and
 - d. employment/service agency.

4. **Underground Utilities.** All utility lines on the Property shall be underground, except for junction boxes, meters, existing and/or relocated existing overhead utility lines and lines in wetland areas. Electrical junction boxes and meters shall be screened from public view at ground level at the perimeter of the tract with use of a wall, fencing, landscaping, or such other method as may be approved at the time of Plan of Development.
5. **Hours of Construction.** The hours of exterior construction, including operation of bulldozers and other earthmoving equipment, shall only be between 7:00 a.m. and 7:00 p.m., Monday through Friday, between 8:00 a.m. and 5:00 p.m. on Saturday, and between 10:00 a.m. and 4:00 p.m. on Sunday, except in emergencies or where unusual circumstances require extending the specific hours in order to complete work such as concrete pours or utility connections that cannot be interrupted. Signs, in both English and Spanish, stating the above-referenced provisions shall be posted and maintained at all entrances to the Property prior to any land disturbance activities thereon.
6. **Detached Signage.** Any detached signs shall be ground-mounted, monolithic-type signs, externally lit, and shall not exceed eight (8) feet in height, the base of which shall be landscaped.
7. **Trash Removal; Parking Lot Cleaning/Leaf Blowing.** Trash pickup from the Property shall be limited to the hours between 7:00 a.m. and 8:00 p.m. Monday through Friday and between 9:00 a.m. and 8:00 p.m. on Saturday. There shall be no trash pickup on Sundays. Parking lot cleaning and leaf blowing on the Property shall be limited to the hours between 7:00 a.m. and 8:00 p.m., exclusive of snow removal.
8. **Best Management Practice.** Best Management Practice structures shall be located outside of any landscaped buffer within the Property, except as a landscaping amenity or water related feature and if requested and specifically permitted by the Director of Planning or the Planning Commission at the time of Plan of Development review. Any above-ground wet Best Management Practice structure shall include an aeration feature to move water within such structure.
9. **Parking Lot Lighting.** Parking lot lighting fixtures shall not exceed twenty (20) feet in height as measured from the grade at the base of the lighting standard, unless otherwise requested, described and specifically approved, or if required, at the time of Plan of Development. Lighting shall be directed to minimize glare on public roads and adjacent properties. Direct embedded light poles and

standards shall be prohibited. Parking lot lighting shall be reduced or turned off after business hours with the exception of minimum lighting requirements for security purposes.

10. **Refuse Containers/Trash Receptacles/Recycling Activities.** Dumpsters, trash receptacles, not including convenience cans, and recycling receptacles shall be screened from public view with masonry enclosures compatible with the architectural design of the building at ground level at the Property lines as approved at the time of Plan of Development. The gates and doors on the masonry refuse screens shall be of a substantial and durable material as determined at the time of Plan of Development. Support posts, gate frames, hinges and latches shall be of a sufficient size and strength to allow the gates to function without sagging or becoming a visual eyesore as determined at the time of Plan of Development. The number of refuse containers shall be adequate for the development as determined at the time of Plan of Development. Convenience cans shall be within or part of a decorative container.
11. **Mechanical Equipment.** Mechanical equipment shall be screened from public view at ground level at the Property lines as approved at the time of Plan of Development.
12. **Landscaped Area Adjacent to Graham Meadows Drive.** An average of four (4) street trees for each one hundred (100) feet of road frontage, with a minimum two and one-half inch (2.5") caliper at time of planting, shall be provided in the required fifteen (15) foot setback adjacent to Graham Meadows Drive (the "Setback"), and shall be evenly spaced, except to the extent necessary or allowed for utility easements (including drainage), site distance easements, berms, BMPs, fencing, grading, signage, turn lanes and access driveways and other purposes requested and specifically permitted, or if required, at the time of Plan of Development or Landscape Plan approval. New utility lines within the Setback shall be generally perpendicular to the Setback to the extent practical and permitted by the respective providers of such utilities. In addition, a continuous line of evergreen shrubbery a minimum of two (2) feet in height at time of planting, shall be planted along the entire length of the Setback, and shall not be more than ten (10) feet behind the trees provided above, except to the extent necessary or allowed for utility easements (including drainage), site distance easements, berms, BMPs, fencing, grading, signage, turn lanes and access driveways and other purposes requested and specifically permitted, or if required, at the time of Plan of Development or Landscape Plan approval. This additional landscaping shall be planted in general conformance with the landscape elevation view and plan view dated

June 1, 2015, entitled "Landscape Elevation View and Plan View - Graham Meadows, Virginia Women's Center - Short Pump" prepared by citedesign attached hereto (see case file), (only for the purpose of illustrating this additional landscaping), unless otherwise requested and specifically permitted at the time of Landscape Plan.

13. **Severance.** The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.
14. **Retention of Trees in Required Buffers.** Healthy, mature trees of a minimum of six inch (6") caliper shall, to the extent reasonably practical, be retained within required rear and side buffer areas.

The vote of the Board was as follows:

Yes: Thornton, Nelson, Glover, Kaechele, O'Bannon

No: None

182-15
REZ2015-
00016
Varina

Michael and Angela Kelly: Request to conditionally rezone from A-1 Agricultural District to R-2AC One-Family Residence District (Conditional) Parcel 823-696-3910 containing 3.955 acres located on the northwest line of Henry Ward Boulevard approximately 490' north of Darbytown Road.

No one from the public spoke in opposition to this item.

On motion of Mr. Nelson, seconded by Mrs. O'Bannon, and by unanimous vote, the Board followed the recommendation of the Planning Commission and approved this item with the following proffered conditions:

1. **Foundations.** All new houses shall be constructed on a crawl space foundation, except for garages and basements. The exterior portion of all the dwelling foundations below the first floor level which are visible above grade, shall be brick or stone. Any dwellings with a fireplace other than direct vent gas fireplaces or appliances shall have masonry chimneys faced with brick or stone, similar to the foundation.
2. **Exterior Building Materials.** All building materials used on the exterior of all new dwellings shall be either brick, stone or cement board (Hardi Plank) or vinyl. All vinyl siding shall have a minimum thickness of .044. All new dwellings shall have a minimum of 30 year dimensional shingles for roof covering. All porch railings and or columns shall be made of vinyl or powder coated aluminum.

Minimum porch columns shall be 6"x6" in size.

3. **Architecture.** No two homes side by side shall be the same floor plan or have the same exterior color scheme.
4. **Garages.** A minimum of 5 of the dwellings shall have garages and 60% of all garages shall either be side or rear load.
5. **Steps and Stoops.** Steps to the main entrance of homes shall be made of brick, stone or a composite type of decking. Risers shall be PVC if using the composite method. Dwellings with country front porches shall have piers made from brick or stone. The space beneath the porch and between the piers shall be enclosed with vinyl or PVC lattice. No salt treated material shall be visible from the front façade of any dwelling. Any salt treated country front porch floors shall be painted or stained. Salt treated decks will be permitted. All decks must be located behind the dwelling and must not be visible from the street. A minimum post size of 6"x6" shall be used for foundations and rail post on decks.
6. **Cantilevers.** There shall be no cantilevers on any portion of the first floor.
7. **Sidewalks.** All dwellings shall have a sidewalk from the front steps to the driveway. The sidewalk shall be constructed of concrete, stone in concrete or pavers. No "stepping stones" will be allowed.
8. **Minimum House Size.** The minimum finished and heated square footage of all dwellings shall be as follows; (A) One Story = 1,700 S.F.; (B) Two Story = 2,200 S.F.; (C) Cape = 2,200 S.F.
9. **Construction Hours.** Construction Hours shall be between 6:30 a.m. to 6:30 p.m. Monday through Fridays and 9:00 a.m. to 6:00 p.m. on Saturday, except in cases of emergencies.
10. **Clearing Limitations.** The clearing of trees shall be limited to that necessary for dwellings, driveways and customary accessory structures.
11. **Fences.** Chain Link, barbed wire, fences with metal posts and wire fences are prohibited.
12. **Driveways.** All driveways and parking areas shall be constructed of asphalt or concrete. The asphalt or concrete shall be applied within 180 days of issuance of a Certificate of Occupancy.

13. **House Style.** A minimum of 4 of the houses constructed on the lots will be two story or Cape style homes.
14. **Utilities.** All proposed utilities shall be placed underground with the exception of meters, transformers, pedestals and existing overhead lines.
15. **Exterior.** At least 3 of the homes constructed shall have a minimum of 33% brick or stone or a combination thereof, for covering on the front façade.
16. **Severance.** The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.
17. Homes shall be of a Colonial, Transitional, Craftsman, or similar style, and be generally consistent with the elevations illustrated in Exhibit A (see case file).
18. The maximum density will be 7 lots.

The vote of the Board was as follows:

Yes: Thornton, Nelson, Glover, Kaechele, O'Bannon

No: None

183-15
REZ2015-
00019
Varina

Ryan Converse, CWC Food Properties, LLC: Request to conditionally rezone from O-2 Office District to B-2C Business District (Conditional) Parcel 815-715-7156 containing .95 acres located on the west line of S. Laburnum Avenue at its intersection with Finlay Street.

Mr. Emerson responded to a question from Mr. Nelson.

No one from the public spoke in opposition to this item.

On motion of Mr. Nelson, seconded by Mrs. O'Bannon, and by unanimous vote, the Board followed the recommendation of the Planning Commission and approved this item with the following proffered conditions:

1. **Conceptual Master Plan.** The development of the property for a Zaxby's Restaurant shall be in general conformance with the concept plans titled "Zaxby's Laburnum Avenue Concept Plan, Option #1" and "Zaxby's Laburnum Avenue Concept Plan, Option #2", prepared by Timmons Group, dated June 15, 2015 and attached

hereto as Exhibit A (the "Conceptual Master Plan") (see case file), subject to changes required for final engineering design and in compliance with government regulations.

2. **Architectural Design.** The building design for a Zaxby's Restaurant shall be in general conformance with the architectural design shown on the elevations entitled "Zaxby's 50 Model Prototype", Sheets A105 and A106, prepared by MRP Design Group, dated June 17, 2015 and attached hereto as Exhibit B (see case file), unless otherwise requested and specifically approved at the time of Plan of Development.
3. **Building Materials.** The exposed portion of each exterior wall surface (front, rear, and sides) of any building(s) to be constructed on the property (excluding rooftop screening materials and mechanical equipment) shall be similar to the exposed portions of other exterior wall surfaces of such building in architectural treatment and materials (primarily brick, masonry, or stone). Other architectural materials may be used on any exterior wall for trim, architectural decorations or design elements.
4. **Parking Lot Lighting.** Parking lot lighting standards shall not exceed twenty-five (25) feet in height above grade level. Parking lot lighting shall be produced from concealed sources of light, be positioned in such a manner as to minimize the impact of such lighting on adjacent residential property and be reduced to a security level following the close of business conducted on the property.
5. **Building Height.** No new building shall exceed 35 feet in height.
6. **Rooftop Equipment.** Rooftop heating and air conditioning equipment shall be screened from public view at ground level at the property lines by means of parapets or other architectural features.
7. **Central Trash Receptacles.** Central trash receptacles, not including convenience cans, shall be screened from public view at ground level, unless otherwise approved at the time of POD review.
8. **Underground Utility Lines.** All utility lines on the Property shall be underground, except for existing utilities, junction boxes, meters, utility lines in wetland areas and utility lines required to be above ground by the utility company.

9. **Uses.** The Property shall not be used for any of the following:
- a) adult business as defined by section 24-3 of the Henrico County Code including adult video stores;
 - b) automotive filling or service stations including towing service;
 - c) flea markets;
 - d) gun shop sales or repair;
 - e) hotels, motels, motor lodges, or tourist homes;
 - f) theaters;
 - g) bowling alleys;
 - h) skating rinks (ice-skating and roller skating);
 - i) swimming pools;
 - j) tennis courts;
 - k) off track betting;
 - l) electronic video game rooms;
 - m) bingo halls;
 - n) archery ranges;
 - o) self-service storage facilities;
 - p) car wash (automatic or otherwise);
 - q) billiard hall;
 - r) model racing tracks;
 - s) funeral home mortuary and/or undertaking establishments;
 - t) grocery store in excess of 30,000 square feet;
 - u) a recycling collection facility;
 - v) accessory dwellings;
 - w) on-site dry cleaning;
 - x) establishments whose primary business is check cashing and/or the making of payday loans as defined and regulated by Section 6.2 - 2100 et seq. and 6.1 - 1800 et seq. of the Code of Virginia in effect as of the date of the approval of these proffers (the foregoing shall not preclude banks, savings and loans or similar financial institutions that are not regulated by the foregoing Virginia Code Sections); and
 - y) establishments whose primary business is the making of motor vehicle title loans as defined and regulated by Section 6.2 - 2200 et seq. of the Code of Virginia (the foregoing shall not preclude banks, savings and loans or similar financial institutions that are not regulated by the foregoing Virginia Code sections).
10. **Freestanding Signage.** Any freestanding signs shall be ground-mounted, monolithic-type signs, shall not exceed ten (10) feet in height as measured from the grade of the base of the sign and shall be externally lit employing ground-mounted floodlight or spotlight-type fixtures directed toward such signs and away from public rights-of-way.

11. **Sidewalks.** Subject to obtaining all required governmental approvals and permits, a sidewalk shall be provided along S. Laburnum Avenue and Finlay Street, and shall be constructed to current County road standards and specifications for sidewalks.

12. **Buffers and Landscaping.**
 - a. Buffer (Finlay Street). Enhanced landscaping along Finlay Street shall be installed to provide the following streetscape: four (4) trees per 100' of road frontage within ten (10) feet of property line. Four (4) evergreen shrubs shall be planted in close proximity to the base of each tree, except adjacent to any parking spaces, where a continuous planting of shrubs shall be installed. These shrubs shall be regularly trimmed for appearance and height not to exceed three and one-half (3.5) feet.

 - b. Buffer (S. Laburnum Avenue). Enhanced landscaping along S. Laburnum Avenue shall be installed to provide the following streetscape: four (4) trees per 100' of road frontage within five (5) feet of the proposed sidewalk. Four (4) evergreen shrubs shall be planted in close proximity to the base of each tree, except adjacent to any parking spaces, where a continuous planting of shrubs shall be installed between the trees. These shrubs shall be regularly trimmed for appearance and height not to exceed three and one-half (3.5) feet.

13. **Severance.** The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers of the unaffected part of such proffer.

The vote of the Board was as follows:

Yes: Thornton, Nelson, Glover, Kaechele, O'Bannon

No: None

184-15
 REZ2015-
 00018
 Brookland

Gumenick Properties: Request to amend proffered conditions accepted with Rezoning Case C-5C-07 on Parcels 771-740-9118, 772-740-0431, -1137, -1743, -2229, -2836, -4023, 773-739-6286, -8155, 773-740-5043, -8899, -9498, 773-741-2637, -3132, -3726, -4222, -5414, -6011, -6808, -7505, -8102, 774-739-4371, -5043, -5750, 774-740-0096, -0894, -1592, -2190, -2403, -2888, -3584, -4182, -4708 located on the east line of Libbie Avenue approximately 310' north of W. Broad Street (U.S. Route 250) to its intersection with N. Crestwood Avenue, then along the east line of Spencer

Road to the south line of Bethlehem Road and the west line of Staples Mill Road (U.S. Route 33).

Mr. Viithoukas noted this item and Agenda Item No. 185 (REZ2015-0018) were companion cases but would be covered individually by Jean Moore, Assistant Director of Planning.

Ms. Moore responded to a question from Mr. Kaechele.

No one from the public spoke in opposition to this item.

On motion of Mr. Glover, seconded by Mr. Kaechele, and by unanimous vote, the Board followed the recommendation of the Planning Commission and approved this item with the following proffered conditions:

APPLICABLE TO ALL

1. **Pattern Book.** The Property shall be developed in general conformance with the illustrations and information set forth in the "Libbie Mill Midtown Pattern Book" (the "Pattern Book") filed herewith (see case file), unless otherwise requested and specifically approved by the Planning Commission at the time of Plan of Development, which illustrations and information are conceptual in nature and may vary in detail.
2. **Storm Water Management Facilities.** Any above-ground wet stormwater management facilities located on the Property shall be designed and utilized as a water feature amenity and/or designed and landscaped to make it an integral part of the development and shall be aerated.
3. **Overall Density.** There shall be no more than 2,090 residential units developed on the Property, of which no more than 1,096 may be rental units. In order to meet changing market demands, but subject to the foregoing limits, the Owner reserves the right to adjust upward (other than the number of rental units) and/or downward, the number of each type of unit. The Owner shall maintain a cumulative record of the number and types of units being developed and provide such record to the County with each Plan of Development for residential units.
4. **Road Certification.** Prior to the issuance of the first permanent certificate of occupancy in a given phase of development, the Owner shall provide the Planning Department with certification from a licensed engineering firm that the roadways within that phase of development were constructed according to the approved Plan of

Development and in compliance with Henrico County road design standards and specifications, to include proper compaction of the sub-base soils, utility trenches, base stone and asphalt surface, but excluding road widths and turning radii.

5. **Pedestrian Access.** A pedestrian access system shall be provided connecting the major project areas of the development.
6. **Restrictive Covenants/Homeowners' Association.** A document shall be recorded in the Clerk's Office of the Circuit Court of Henrico County, Virginia setting forth controls on the development and maintenance of such portions of the Property. In addition, there shall be an Owners' Association(s) that shall be responsible for the enforcement of the restrictive covenants, including, but not limited to, maintenance of the common areas and limitations on the parking and storage of boats, RVs, campers and trailers.
7. **Road Improvements.** The improvements outlined in the letter of Monte Lewis, P.E. to Tim Foster, Henrico County Public Works, dated January 3, 2007, shall be made by the developer of the Property as may be required by the Director of Public Works.
8. **Curb and Gutter.** Curb and gutter shall be used on all streets and shall be designed to meet the current County standard for either "roll top" curb and gutter which shall measure not less than three (3) feet from edge of pavement to back of curb, or six (6) inch standard curb and gutter.
9. **Burning on Site.** There shall be no burning of construction debris, materials or vegetation on the Property, except to provide warmth to workmen using drums not exceeding fifty-five (55) gallons.
10. **Satellite Dishes.** Satellite dishes larger than that permitted by Federal law without restriction shall be prohibited on the Property.
11. **All Retail Uses.** All retail uses (excluding health clubs) shall be open to the public only between the hours of 5:00 a.m. and 12:00 midnight Sunday through Wednesday and 5:00 a.m. and 1:00 a.m. Thursday, Friday, and Saturday.
12. **Severance.** The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.

13. **Parking Garages.** No parking garages (other than individual garages serving individual units) shall be adjacent to Bethlehem Road and Spencer Road within the residential neighborhoods areas as shown on the Conceptual Master Plan (see case file).
14. **Building Height.** The height of buildings within the "residential and/or commercial" area at the corner of Libbie Avenue and North Crestwood Avenue shall be limited to a maximum of sixty (60) feet. The height of structures within the "residential and/or commercial" area north of Libbie Lake North Street and east of Libbie Lake East Street shall be limited to a maximum of fifty (50) feet.

**APPLICABLE TO APARTMENT (RENTAL) DEVELOPMENT
AND MULTIFAMILY (FOR SALE) CONDOMINIUMS**

15. **Square Footage.** Studio units shall be a minimum of four hundred fifty (450) square feet of finished floor area in size, one bedroom units shall be a minimum of five hundred (500) square feet of finished floor area in size, two bedroom units shall be a minimum of eight hundred (800) square feet of finished floor area in size, and three bedroom units shall be a minimum of one thousand one hundred (1,100) square feet of finished floor area in size. The number of studio units shall be limited to no more than twenty percent (20%) of all units.
16. **Architecture.** Buildings shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.
17. **Exterior Materials.** Buildings shall have exposed exterior front, rear and side walls (above finished grade) primarily of brick, glass, split face block, architectural precast concrete, cementitious or composite-type siding, stone, marble or granite, or a combination of the foregoing or other material(s) of similar quality. No building shall be covered with or have exposed to view any unadorned or unfinished concrete block. Soffit and exterior ceiling materials shall be constructed using non-combustible material.
18. **Sound Suppression.** Interior dwelling unit separation walls between units, floor/ceiling assemblies between units, and/or floor/ceiling assemblies between office/commercial and residential units in buildings shall be designed to have a minimum sound transmission coefficient rating of 54 as evidenced by a cross-sectional detail, reviewed and approved by a certified architect or engineer as to the

approved assembly accomplishing the sound coefficient rating, which shall be included in the building permit application.

APPLICABLE TO ALL TOWNHOMES (FOR SALE) AND
APPLICABLE TO ALL STACKED TOWNHOME-STYLE (FOR
SALE) CONDOMINIUMS ("TOWNHOMES")

19. **Exterior Materials.** Townhomes shall have exposed exterior front, rear and side walls (above finished grade) primarily of brick, glass, split face block, architectural precast concrete, cementitious or composite-type siding, stone, or a combination of the foregoing or other material(s) of similar quality. No building shall be covered with or have exposed to view any unadorned or unfinished concrete block. Soffit and exterior ceiling materials shall be constructed using non-combustible material.
20. **Building Height.** Townhomes shall not exceed fifty (50) feet in height as measured consistent with the definition of "building height" as set forth in the Henrico County Zoning Ordinance.
21. **Sound Suppression.** Interior dwelling unit separation walls between units in Townhomes shall be designed to have a minimum sound transmission coefficient rating of 54 as evidenced by a cross-sectional detail, reviewed and approved by a certified architect or engineer as to the approved assembly accomplishing the sound coefficient rating, which shall be included in the building permit application.
22. **Fences.** Any fences greater than forty-two (42) inches in height shall be constructed of vinyl, finished masonry or constructed with a combination of masonry piers and aluminum, metal or cast iron pickets. No wooden stockade-type fences or chain link fences shall be permitted.
23. **Limitation on Development.** Areas labeled "residential neighborhoods" as shown on the Conceptual Master Plan (see case file) shall only be developed for Townhomes.

APPLICABLE TO TOWNHOMES (FOR SALE)

24. **Townhome Type A.**
 - a. **Square Footage.** Units shall be a minimum of one thousand two hundred (1,200) square feet of finished floor area in size.

- b. Architecture. Townhome A shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

25. Townhome Type B.

- Square Footage. Units shall be a minimum of one thousand five hundred (1,500) square feet of finished floor area in size.
- Architecture. Townhome B shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

26. Townhome Type C.

- Square Footage. Units shall be a minimum of one thousand eight hundred (1,800) square feet of finished floor area in size.
- Architecture. Townhome C shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

27. Townhome Type D.

- Square Footage. Units shall be a minimum of two thousand (2,000) square feet of finished floor area in size.
- Architecture. Townhome D shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

APPLICABLE TO STACKED TOWNHOME-STYLE (FOR SALE) CONDOMINIUMS (TYPE E)

28. Square Footage. Units shall be a minimum of one thousand two hundred (1,200) square feet of finished floor area in size.

29. Architecture. Type E units shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.

APPLICABLE TO COMMUNITY BUILDING

30. **Amenities.** Prior to the issuance of three hundred (300) certificates of occupancy for owner-occupied residences, a Community Building for use by homeowners shall be provided and include, at a minimum, a business center, meeting space and a swimming pool.
31. **Square Footage.** The Community Building shall have a minimum of five thousand (5,000) square feet of finished floor area.
32. **Architecture.** The Community Building shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.
33. **Exterior Materials.** The Community Building shall have exposed exterior front, rear and side walls (above finished grade) primarily of brick, glass, architectural precast concrete, cementitious or composite-type siding, stone, or a combination of the foregoing or other material(s) of similar quality. No building shall be covered with or have exposed to view any unadorned or unfinished concrete block. Soffit and exterior ceiling materials shall be constructed using non-combustible material.

APPLICABLE TO COMMERCIAL/OFFICE DEVELOPMENT

34. **Prohibited Uses.** The following uses shall be prohibited on the Property:
 - a. automotive filling and service stations including towing service;
 - b. billiard, bagatelle, video game or a bingo parlor, unless accessory to a permitted use;
 - c. flea markets or antique auctions;
 - d. billboards;
 - e. recycling facilities;
 - f. funeral homes, mortuaries, crematories and/or undertaking establishments;
 - g. dance halls;
 - h. truck stops;
 - i. gun shop, sales and repair;
 - j. sign painting shops;
 - k. theaters;
 - l. communication towers;

- m. general hospitals, sanitoriums and charitable institutions for human care;
 - n. adult businesses as defined by Section 24-3 of the Henrico County Code;
 - o. establishments whose primary business is check cashing and/or the making of payday loans as defined and regulated by Sections 6.1-432 et seq. and 6.1-444 et seq. of the Code of Virginia (the foregoing shall not preclude banks, savings and loans or similar financial institutions that are not regulated by the foregoing Virginia Code sections);
 - p. restaurants with drive-thru windows, not to exclude, however, restaurants with dedicated parking spaces for the pick-up of carry-out food nor restaurants whose primary business is the sale of specialty coffees or other non-alcoholic beverages or pastry;
 - q. car title loan operations;
 - r. fuel pumps associated with permitted uses; and
 - s. motels or motor lodges.
35. **Architecture.** The buildings shall be in general conformance with the architectural themes displayed in the Pattern Book (see case file), which illustrations and information are conceptual in nature and may vary in detail.
36. **Exterior Materials.** The buildings shall have exposed exterior front, rear and side walls (above finished grade) primarily of brick, glass, split face block, architectural precast concrete, cementitious or composite-type siding, stone, marble or granite, or a combination of the foregoing or other material(s) of similar quality. No building shall be covered with or have exposed to view any unadorned or unfinished concrete block. Soffit and exterior ceiling materials shall be constructed using non-combustible material.
37. **Outdoor Music.** Outdoor music shall not be permitted on the Property after 11:00 p.m.
38. **Restaurant Ventilation.** The developer shall install an adequate restaurant ventilating and exhaust system to minimize smoke, odors, and grease vapors. The plans and specifications shall be included with the building permit application for review and approval. If, in the opinion of the County, the type system provided is not effective, the Planning Commission retains the rights to review and direct the type of system to be used.

The vote of the Board was as follows:

Yes: Thornton, Nelson, Glover, Kaechele, O'Bannon

No: None

185-15
PUP2015-
00006
Brookland

Gumenick Properties: Request for a Provisional Use Permit under Sections 24-32.1(aa), 24-34(p), and 24-122.1 of Chapter 24 of the County Code to amend conditions of PUP2014-00014 for the mixed-use development on Parcels 771-740-9118, 772-740-0431, -1137, -1743, -2229, -2836, -4023, 773-739-6286, -8155, 773-740-5043, -8899, -9498, 773-741-2637, -3132, -3726, -4222, -5414, -6011, -6808, -7505, -8102, 774-739-4371, -5043, -5750, 774-740-0096, -0894, -1592, -2190, -2403, -2888, -3584, -4182, -4708 located on the east line of Libbie Avenue approximately 310' north of W. Broad Street (U.S. Route 250) to its intersection with N. Crestwood Avenue, then along the east line of Spencer Road to the south line of Bethlehem Road and the west line of Staples Mill Road (U.S. Route 33).

No one from the public spoke in opposition to this item.

Mr. Glover commented on the quality way in which this site is developing and noted it will include the future Libbie Mill public library as well as the existing Southern Seasons grocery store.

On motion of Mr. Glover, seconded by Mr. Kaechele, and by unanimous vote, the Board followed the recommendation of the Planning Commission and approved this item subject to the following conditions:

1. **Height Limitations.** Height limitations shall be as follows, unless otherwise permitted during the Plan of Development for such building:
 - One building may be up to a maximum of 250 feet in height;
 - Two buildings may be up to a maximum of 175 feet in height; and
 - The remainder of all buildings, other than townhouses or two-over-two stacked condominiums, may be up to a maximum of 100 feet in height unless further restricted by proffered condition.

2. **Floor Area Limitations.** The maximum square footage of any use other than an office building, parking garage, hotel or multi-unit residential use shall not exceed 25,000 square feet in floor area, except that:

- A fitness center/health club may be permitted up to 60,000 square feet of floor area;
 - A grocery store and/or gourmet food store shall each be permitted up to 65,000 square feet of floor area; and
 - A public library may be permitted up to 65,000 square feet of floor area.
3. **Vendor Areas.** Areas of the Property may be designated on the Master Plan, as may be revised from time to time, or a Plan of Development, for the preparation of food or beverages or the sale or display of merchandise conducted in an open area or structure by one or more individual vendors operating from stalls, stands, carts, vehicles or other spaces which are rented or otherwise made available to such vendors. Such activities may include a market, sale of merchandise as part of a permitted festival or other similar special event, or the outdoor display or sale by a single food or beverage vendor, operated as an incidental part of retail activity regularly conducted from within a permanent building on the premises. Clearance areas next to outdoor vending areas shall not be reduced to less than four (4) feet, except to accommodate a permitted festival or other similar special event. Convenience trash receptacles shall be provided for each block that contains an outdoor vending area.
4. **Drive-Through Service.** Drive-through service windows for specialty coffee, specialty beverage or pastry, banks, drug stores, and dry cleaner uses shall be the only drive through services permitted on-site.
5. **Outdoor Dining.** Outdoor dining areas shall be designated on an approved Plan of Development and shall not reduce the adjacent sidewalk width to less than five (5) feet, unless otherwise approved by the Director of Planning.
6. **Emergency Communication Systems.** This condition shall apply to every new building and any subterranean parking or storage area except the following:
- Above grade single-story buildings of less than 20,000 square feet;
 - Elevators; and
 - Stairwells.

All new buildings shall have approved radio coverage for emergency responders within the building based upon the County's existing public safety communication systems coverage levels at the exterior

of the building. This shall not require improvement of the existing public safety communication systems.

Buildings and structures that cannot be constructed to provide the minimum coverage specifications shall be equipped with an amplification system or an active device that complies with the following criteria or any other system approved in writing by the Henrico County Communications Systems Manager.

The owner of any building or structure to which this condition applies shall be responsible for all costs including design, purchase, installation, periodic testing and maintenance associated with the in-building solution.

Buildings and structures which cannot support the required level of radio coverage shall be equipped with a radiating cable system, a distributed antenna system with Federal Communications Commission (FCC)-certified signal boosters, or other system approved by the County of Henrico Communications Systems Manager, in order to achieve the required adequate radio coverage.

Amplification systems capable of operating on frequencies licensed to any public safety agency by the FCC shall not be installed without prior coordination and approval of the Henrico County Communications Systems Manager. The in-building solution shall be capable of modification or expansion in the event frequency changes are required by the FCC or additional frequencies are made available by the FCC.

The emergency responder radio coverage system installation and components shall also comply with all applicable federal regulations including, but not limited to, FCC 47 CFR Part 90.219. All new in-building solutions installed must be registered with the FCC per the public notice DA 14-15 January 7, 2014.

7. **Fire Protection-Structured Parking.** A 3" standpipe for fire protection shall be provided within all structured parking at approximately 200' intervals. The exact location of these improvements will be determined by the Division of Fire during Plan of Development review.
8. **Fire Protection.** All structures, including parking structures, other than open, standalone parking garages, shall be fully sprinkled for fire protection.

9. **Crime Prevention.** Prior to occupancy of any structure containing commercial or office uses, the applicant and the Crime Prevention Unit of the Division of Police shall conduct a security survey of the property. The applicant shall implement mutually agreed upon security recommendations.
10. **Proffered Conditions.** All proffered conditions accepted with case REZ2015-00018 shall be made a part of this Provisional Use Permit.
11. **Separation Between Townhouse Buildings.** Any two rows of townhouse buildings shall be separated by a distance of not less than five (5) feet.
12. **Parking Plan.** The applicant shall provide a minimum of 3,958 parking spaces on the property in a manner consistent with that described in the Libbie Mill Shared Parking Study dated August 11, 2014 (see case file), prepared by Walter P. Moore to the extent that the densities reflected therein are reached. Shared parking information, including updates to the parking study demonstrating the parking rates are meeting the needs of approved development on the property, shall be provided with each Plan of Development and Subdivision or as requested by the Director of Planning. Each Plan of Development and Subdivision submitted for the property shall also include a tabulation of all parking required per the parking study. Each Plan of Development and Subdivision submitted shall identify the location and means of creating additional parking that could accommodate the difference between the reduced parking standard approved by this permit and the standards contained in Section 24-34(m) of the Henrico County Code.
13. **Signage Plan.** Signage provided throughout the development shall be consistent with the Libbie Mill Signage Guidelines dated June 2014 (see case file), unless otherwise approved by the Director of Planning.
14. **Parking Garages.** Parking garages shall be allowed with no associated ground floor retail uses/useable floor space for residential or nonresidential uses along any façade facing a street. Such parking garages shall be predominately finished with masonry material similar to other buildings within the development, unless otherwise approved by the Planning Commission through the Plan of Development process.
15. **Commercial/Office Square Footage.** Commercial and office square footage shall be allowed to be less than 25 percent of the total

building square footage of the UMU district, but in no case less than 10 percent.

16. **Multifamily Residential Percentage.** The number of for-lease multifamily dwelling units shall be allowed to exceed 30 percent of the total dwelling units of the UMU district, but in no case shall exceed 1,096 units.

The vote of the Board was as follows:

Yes: Thornton, Nelson, Glover, Kaechele, O'Bannon

No: None

PUBLIC HEARINGS – OTHER ITEMS

- 186-15 Ordinance – To Amend and Reordain Section 24-3 Titled “Enumerated,” Section 24-113 Titled “Composition,” Section 24-114 Titled “Organization,” Section 24-115 Titled “Procedure of board,” Section 24-116 Titled “Powers,” and Section 24-117 Titled “Procedure on applications and appeals,” of the Code of the County of Henrico, All to Revise the Member Terms and Powers of the Board of Zoning Appeals.

Tom Tokarz, Deputy County Attorney, reviewed a slide listing the proposed ordinance amendments.

No one from the public spoke in opposition to this item.

On motion of Mrs. O'Bannon, seconded by Mr. Nelson, and by unanimous vote, the Board approved this item – see attached ordinance.

- 187-15 Ordinance - Vacation of Unimproved Right-of-Way - Brickhaven Road - Parham Hills Subdivision - Three Chopt District.

Mr. Vithoukas advised he had for the Board's consideration a substitute ordinance that differed from the original paper in only one way: it corrected a clerical error in the paper by changing the name of the road from “Brickhaven” to “Brinkhaven.”

Steve Price, Assistant Director of Real Property, responded to a question from Mr. Kaechele.

No one from the public spoke in opposition to this item.

On motion of Mr. Kaechele, seconded by Mrs. O'Bannon, and by unanimous vote, the Board approved the substitution of ordinance 187A-15 for 187-15.

On motion of Mr. Kaechele, seconded by Mrs. O'Bannon, and by unanimous vote, the Board approved Agenda Item 187A-15 – see attached substitute ordinance.

PUBLIC COMMENTS

Lyman M. Flinn, a resident of the Tuckahoe District, presented the Board with a petition to amend the County's noise ordinance. He asked that the ordinance be changed to prohibit plainly audible noise from sound-producing and sound-reproducing devices for any sustained length of time, day or night, within hearing range of any other private residence and dwelling.

Jonathan S. Trainum, founder of Napoleon Taxicab Service and a taxicab industry representative on the Capital Region Taxicab Advisory Board (CRTAB), expressed concerns regarding the operation of transportation network companies (TNCs) within Virginia, their effect on regional taxicab companies, and local taxicab regulations to which TNCs are not subject. He presented a timeline of events that have occurred within the past 16 months pertaining to TNCs and the CRTAB and also presented proposed amendments to local taxicab ordinances. Mr. Glover suggested Mr. Trainum give his request to the County Manager so Mr. Vithoulkas can have staff research it and bring forward a recommendation to the Board. Mr. Vithoulkas clarified that the County Attorney's Office has already been reviewing this proposal. He noted Mr. Trainum was catching the Board cold on this issue and by doing so was putting himself at a disadvantage. There was further discussion between Mr. Trainum and Mr. Glover. Mr. Trainum thanked Mr. Thornton for taking the time recently to meet with him briefly and assure him the County wants fair treatment for its residents and businesses. He acknowledged Mr. Vithoulkas previously agreed to meet with him and Police Chief Doug Middleton on August 20.

Bercher W. Barrett III, President of Veterans Cab Association and a taxicab industry representative on the CRTAB, concurred with Mr. Trainum's comments. He stated the other localities in the region are looking to Henrico County to take the lead in enacting ordinance changes that have been proposed by the taxicab industry to help the industry become more competitive. In response to a question from Mr. Nelson, Mr. Barrett advised that Richmond City Councilmember Reva Trammell personally told him Council is awaiting action by the County before considering this matter.

GENERAL AGENDA

188-15 Resolution - Signatory Authority - Agreement - Henricus Historical Park.

On motion of Mrs. O'Bannon, seconded by Mr. Glover, and by unanimous vote, the Board approved this item – see attached resolution.

189-15 Resolution - Signatory Authority - Henrico Juvenile Detention Home Medical Services Contract.

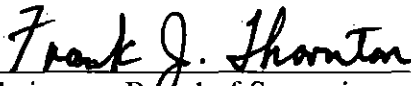
Ed Martin, Assistant Superintendent of the Henrico Juvenile Detention Facility, responded to a question from Mr. Thornton.

On motion of Mr. Kaechele, seconded by Mr. Glover, and by unanimous vote, the Board approved this item - see attached resolution.

190-15 Resolution - To Apply for a U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant to Purchase Ballistic Shields for the Police Division.

On motion of Mr. Glover, seconded by Mr. Nelson, and by unanimous vote, the Board approved this item - see attached resolution.

There being no further business, the meeting was adjourned at 8:08 p.m.



Chairman, Board of Supervisors
Henrico County, Virginia

ORDINANCE – To Amend and Reordain Section 24-3 Titled “Enumerated,” Section 24-113 Titled “Composition,” Section 24-114 Titled “Organization,” Section 24-115 Titled “Procedure of board,” Section 24-116 Titled “Powers,” and Section 24-117 Titled “Procedure on applications and appeals” of the Code of the County of Henrico, All to Revise the Member Terms and Powers of the Board of Zoning Appeals

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF HENRICO COUNTY, VIRGINIA:

1. That Section 24-3 of the Code of the County of Henrico be amended and reordained as follows:

Sec. 24-3. Enumerated.

For the purpose of interpreting and construing this chapter, certain words and terms used herein shall have the following meanings, unless the context requires otherwise.

-
-
-

Variance. A reasonable deviation from the provisions of this chapter regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of this chapter would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of this chapter. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

-
-
-

2. That Section 24-113 of the Code of the County of Henrico be amended and reordained as follows:

Sec. 24-113. Composition.

There shall be a board of zoning appeals (hereinafter called the board) which shall consist of five members, each to be appointed by the ~~judge of the~~ circuit court of the county for terms of ~~three~~**five** years. Vacancies shall be filled by the ~~judge of such~~ **circuit** court for the unexpired portion of the term. ~~A member may be removed by the judge of the said court for cause, upon written charges and after a public hearing.~~ Each member shall receive such compensation as the board of supervisors may authorize ~~for attendance at each regular or called meeting of the board.~~

3. That Section 24-114 of the Code of the County of Henrico be amended and reordained as follows:

Sec. 24-114. Organization.

The board shall elect one of its members as chairperson and one as vice chair. The chairperson, or in the chair's absence the vice chair, shall preside at all meetings of the board ~~and in his absence a member designated by the board shall act as chairperson and shall preside~~. The board shall appoint a secretary whose duty it shall be to keep the minutes and other records of the actions and deliberations of the board and perform such other ministerial duties as the board shall direct. The secretary shall be a salaried county employee and shall perform the duties of secretary of the board in addition to his other regular duties.

4. That Section 24-115 of the Code of the County of Henrico be amended and reordained as follows:

Sec. 24-115. Procedure of board.

The board ~~shall~~ may make, adopt, alter and rescind such rules and forms for its procedures as it may deem necessary in order to carry into effect the provisions of this chapter consistent with this chapter and the general laws of the Commonwealth. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. ~~Such~~ The chairperson, or in his the chair's absence the acting vice chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public unless a closed meeting is authorized by the Virginia Freedom of Information Act. The board shall keep minutes of its proceedings, and other official actions showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, all of which shall be ~~immediately~~ filed in the office of the board and shall be a public records.

5. That Section 24-116 of the Code of the County of Henrico be amended and reordained as follows:

Sec. 24-116. Powers.

The board shall have the following powers and duties:

(a) Appeal from determination of administrative officer. To hear and decide appeals from any order, requirements, decision, or determination made by an administrative officer in the administration ~~and~~ enforcement of the provisions of this chapter. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider ~~the purpose and intent of any~~ applicable ordinances, laws, and regulations in making its decision.

(b) Appeal from decision of director of planning. To hear and decide appeals from a decision of the director of planning.

(bc) Variance. To authorize grant upon appeal or original application in specific cases such a variance, from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this chapter shall be observed and substantial justice done, as follows: provided that the burden of proof shall be on the applicant to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in section 24-3 and the criteria set forth in this section.

A variance shall be granted if the evidence shows that (1) the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or (2) the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and (3) all of the following criteria are met:

- (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
- (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
- (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
- (v) the relief or remedy sought by the variance application is not available through a conditional use permit at the time of the filing of the variance application.

~~(1) When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the use of the property or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.~~

~~(2) No such variance shall be authorized by the board unless it finds:~~

- ~~a. That the strict application of the ordinance would produce undue hardship relating to the property;~~
- ~~b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and~~

~~e. That the authorizing of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.~~

~~(3) No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.~~

~~(4) In authorizing granting a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest, and it may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.~~

~~(5) No variance shall be authorized except after notice and hearing as required by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.~~

~~(ed) Conditional use permit. To hear and decide applications for conditional use permits special exceptions authorized by this chapter, including the specific exceptions those uses listed below. The board may impose such conditions relating to the use for which a conditional use permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and it may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.~~

~~No special exception may be granted except after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.~~

~~In considering an application for a special exception, the board shall give due regard to the nature and condition of all adjacent uses and structures and the probable effect upon them of the proposed use. It shall also take into account the special characteristics, design, location, construction, method of operation, effect of traffic conditions or any other aspects of the particular use or structure that may be proposed by the applicant. If it should find, after the hearing, that the proposed establishment or use will not adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, nor unreasonably impair an adequate supply of light and air to adjacent property, nor increase congestion in the~~

~~streets, nor increase public danger from fire or otherwise unreasonably affect public safety, nor impair the character of the district or adjacent districts, nor be incompatible with the general plans and objectives of the official land use plan of the county, nor be likely to reduce or impair the value of buildings or property in surrounding areas, but that such establishment or use will be in substantial accordance with the general purpose and objectives of this chapter, the board shall grant the exception and authorize the issuance, by the secretary of the board, of a special use permit. In those instances where the board finds that the proposed use may be likely to have an adverse effect as above, the board shall determine whether such effect can be avoided by the imposition of any special requirements or conditions with respect to location, design, construction, equipment, maintenance or operation in addition to those expressly stipulated in this chapter for the particular class of use. If such determination be in the affirmative, the board shall impose such requirements or conditions, and if these are accepted by the applicant, the board shall authorize the issuance of the special use permit; otherwise the permit shall be denied. The board may require satisfactory evidence and guarantee or bond that the conditions stipulated will be and will continue to be complied with. Any special use conditional use permit may be authorized and issued for either a limited or an indefinite period of time. Construction or operation shall be commenced within ~~one year~~ two years of the date of issuance of a special conditional use permit or it shall become void. In addition to permitting the special exceptions conditional uses authorized elsewhere in this chapter, the board shall have the power to permit the following:~~

~~(1) Temporary uses and structures, in any district, for a purpose that does not conform to the regulations prescribed by this chapter for not otherwise permitted in the district in which located; provided, that such uses and structures be of a temporary nature and do not involve the erection of substantial buildings. Such use or structure shall be authorized by the issuance of a temporary and revocable permit for not more than a The permit shall be limited to one 24-month period, and it shall not be extended or renewed, subject to such conditions as will safeguard the public health, safety and welfare.~~

~~(2) Public bBuildings and uses owned or operated by anya public agency, and public service buildings and uses owned and operated by anyor public utility company (except communication towers as regulated by section 24-95(a)(3) and any facilities for construction or repair, or for the service or storage of utility materials or equipment) in any district where reasonably necessary in the public interest, provided the construction or use shall be such as to adequately safeguard the health, safety and welfare of the occupants of adjacent property, shall not unreasonably impair an adequate supply of light and air to adjacent property, shall not increase congestion in the streets and shall not increase public danger from fire or otherwise affect public safety.~~

~~(3) Sanitary landfills, refuse disposal areas, and sewage treatment plants.~~

~~(d) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such a way as to carry out the intent and purpose of this chapter for the particular section or district in question. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.~~

~~When giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.~~

~~(e) To hear and decide appeals from the decision of the director of planning after notice and hearing as provided in Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.~~

~~(fe) Revocation of conditional use permit. To revoke a special exception conditional use permit previously granted by the board if the board determines that there has not been compliance with the terms and conditions of the permit. No special exception may be revoked except after notice and hearing as provided in Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.~~

~~(f) Interpretation of district map. To hear and decide applications for interpretation of the district map to carry out the intent and purpose of this chapter where there is any uncertainty as to the location of a district boundary. The board shall not have the power to substantially change the location of district boundaries established by ordinance.~~

6. That Section 24-117 of the Code of the County of Henrico be amended and reordained as follows:

Sec. 24-117. Procedure on applications and appeals.

(a) Applications. Any application to the board for a variance or special conditional use permit or other action in which the board has original jurisdiction under this chapter may be made by any property owner, tenant, government official, department, board or bureau. Such application shall be made to the director of planning ~~secretary of the board on forms which shall be provided for the purpose,~~ in accordance with rules which shall be adopted by the board. All information, including maps and plans required by such forms, or otherwise required by the board in order that it might be fully informed, shall be furnished by the applicant. The director of planning shall transmit the application to the secretary of the board who shall place the matter on the board's agenda. Every application or appeal shall automatically be advertised for a public hearing, such notice to appear in a newspaper of general circulation in the county at least five days before the hearing. The secretary of the board shall also transmit a copy of the application to the planning commission, so that the latter, if it finds that the application is related in any way to any provision or general policy or objective of the master plan or any of its components, or of the official land use plan, may send a recommendation to the board based upon such relationship. which may send a recommendation to the board or appear as a party at the hearing. The board shall not consider substantially the same application within one year.

(b) **Appeals.** An appeal to the board may be taken by any person aggrieved or by any county officer, department, board or bureau ~~of the county~~ affected by any decision of the director of planning **or from any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of this chapter.** Such appeal shall be taken within 30 days after the entry of the decision appealed from by filing with the director of planning, and with the board, a notice of appeal specifying the grounds thereof. The director of planning shall forthwith transmit to the secretary of the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in the furtherance of the action appealed from, unless the director of planning certifies to the board ~~after the notice of appeal shall have been filed with him~~ that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. ~~In such case~~ **If there is such a certification,** proceedings shall not be stayed otherwise than **except** by a restraining order, which may be granted by the board or by a court of record on application and on notice to the director of planning and ~~on due~~ **for good** cause shown.

(c) **Procedure.** ~~The board shall not exercise any of its powers enumerated in section 24-116 except after notice and hearing as required by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents, or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.~~ The board shall fix a reasonable time for the hearing of the application or appeal, ~~give public notice thereof, as well as due notice to the parties in interest, and decide the same~~ **make a decision** within 90 days **of the filing of the application or appeal.** ~~Upon~~At the hearing, any party may appear in person or by agent or by attorney. In exercising its powers, the board may, ~~in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.~~ The concurring vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of the ~~an~~ administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the **this** chapter, or to effect any variance from the chapter.

(d) ~~In any case where the director of planning has certified conformity with the provisions of this chapter and a building permit has been issued and construction of the building for which such permit was issued is subsequently sought to be prevented, restrained, corrected or abated as a violation of the zoning chapter, suit may be filed within 30 days after the start of construction by a person who has no actual notice of the issuance of such permit. The court may hear and determine issues raised in the litigation even though no appeal was taken from the decision of the director of planning to the board of zoning appeals.~~

7. That this ordinance shall be in full force and effect upon passage as provided by law.



**COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
MINUTE**

Agenda Item No. **187A-15**

Page No. **1 of 2**

**Agenda Title: ORDINANCE — Vacation of Unimproved Right-of-Way — Brinkhaven Road —
Parham Hills Subdivision — Three Chopt District**

For Clerk's Use Only: Date: <u>8/11/2015</u> <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Amended <input type="checkbox"/> Deferred to:	<p>1) motion to substitute 187A-15 for 187-15 BOARD OF SUPERVISORS ACTION 2) motion to approve 187A-15</p> <p>Moved by (1) <u>Kaechele</u> Seconded by (1) <u>O'Bannon</u> (2) <u>Kaechele</u> (2) <u>O'Bannon</u></p> <p>REMARKS: APPROVED</p>	<table border="0"> <tr> <td></td> <td>YES</td> <td>NO</td> <td>OTHER</td> </tr> <tr> <td></td> <td align="center">122)</td> <td></td> <td></td> </tr> <tr> <td>Glover, R.</td> <td align="center">✓</td> <td></td> <td></td> </tr> <tr> <td>Kaechele, D.</td> <td align="center">✓</td> <td></td> <td></td> </tr> <tr> <td>Nelson, T.</td> <td align="center">✓</td> <td></td> <td></td> </tr> <tr> <td>O'Bannon, P.</td> <td align="center">✓</td> <td></td> <td></td> </tr> <tr> <td>Thornton, F.</td> <td align="center">✓</td> <td></td> <td></td> </tr> </table>		YES	NO	OTHER		122)			Glover, R.	✓			Kaechele, D.	✓			Nelson, T.	✓			O'Bannon, P.	✓			Thornton, F.	✓		
	YES	NO	OTHER																											
	122)																													
Glover, R.	✓																													
Kaechele, D.	✓																													
Nelson, T.	✓																													
O'Bannon, P.	✓																													
Thornton, F.	✓																													

WHEREAS, the County owns unimproved right-of-way for Brinkhaven Road in the Parham Hills subdivision that is surplus to its needs because it dead-ends into an improved residential lot; and,


WHEREAS, the owners of the adjacent lots have requested vacation of the unimproved right-of-way which was dedicated on the plat of the Parham Hills subdivision recorded in the Clerk's Office of the Circuit Court of Henrico County in Plat Book 23, page 69; and,

WHEREAS, this ordinance was advertised pursuant to Va. Code § 15.2-2204, and the Board held a public hearing on August 11, 2015; and,

WHEREAS, it appears that no owner of any lot shown on the plat will be irreparably damaged by this vacation.

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors that:

- (1) the unimproved right-of-way for Brinkhaven Road shown shaded on the attached Exhibit A is vacated in accordance with Va. Code § 15.2-2272(2);
- (2) this ordinance shall become effective 30 days after its passage as provided by law;
- (3) the Clerk of the Circuit Court of the County of Henrico, Virginia (the "Clerk") is authorized, upon receipt of payment therefor, to record a certified copy of this Ordinance in the Clerk's Office after the expiration of 30 days from its passage, provided no appeal has been taken to the Circuit Court;

By Agency Head 

By County Manager 

Routing:
 Yellow to: Real Property
 Copy to: _____

Certified:
 A Copy Teste: _____
 Clerk, Board of Supervisors
 Date: _____

COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
MINUTE

Agenda Item No. 187A-15
Page No. 2 of 2

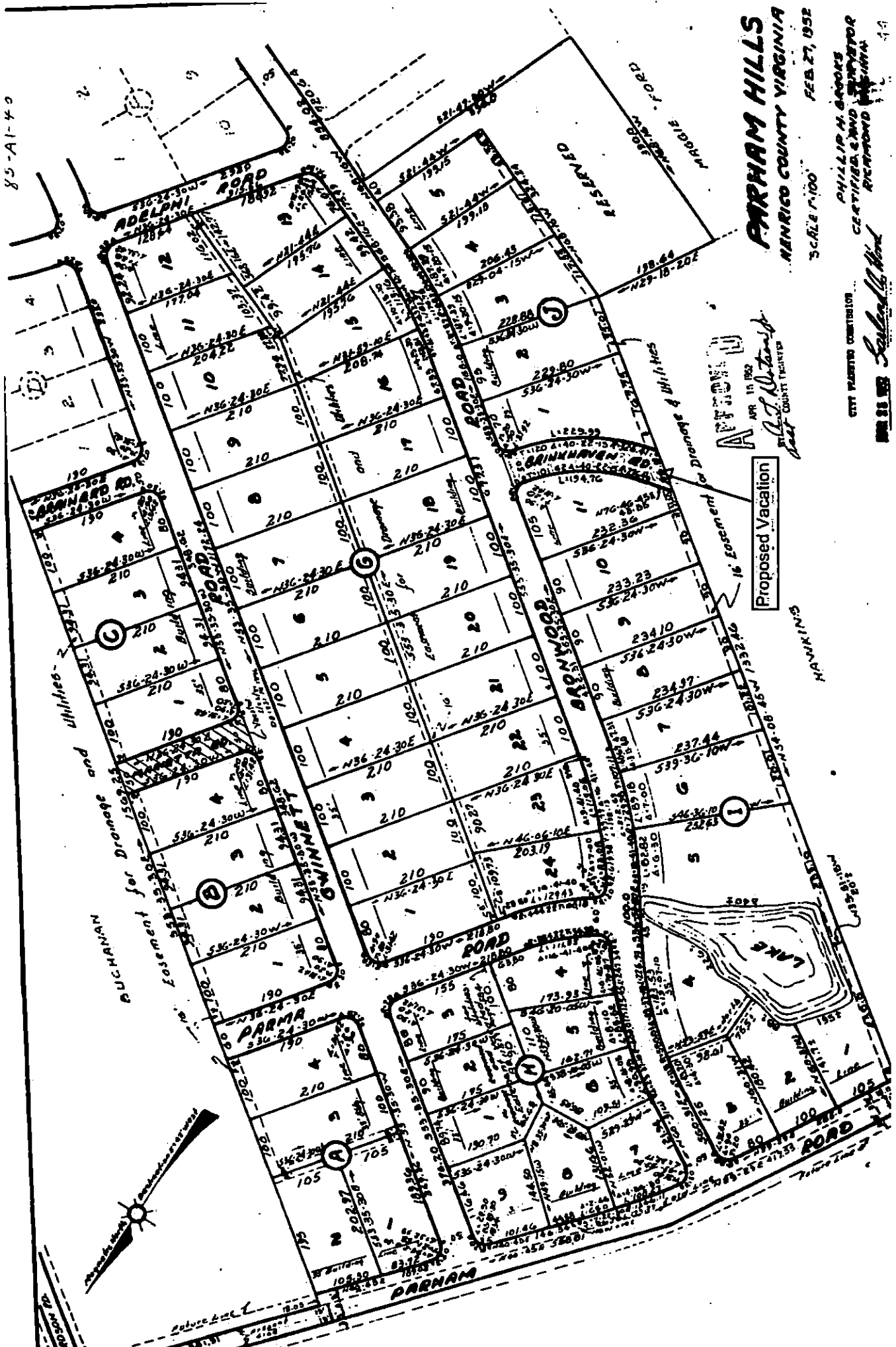
Agenda Title: **ORDINANCE — Vacation of Unimproved Right-of-Way — Brinkhaven Road — Parham Hills Subdivision — Three Chopt District**

(4) the Clerk is further authorized to index the Ordinance on the grantor and grantee sides of the general index to deeds in the names of WILLIAM F. BURCH, III, and ANNE H. BURCH, as TRUSTEES of the WILLIAM F. BURCH, III TRUST DATED JULY 15, 1995, and ANNE H. BURCH and WILLIAM F. BURCH, III, as TRUSTEES of the ANNE H. BURCH TRUST DATED JULY 15, 1995, and JOSEPH J. HAYES, JR., and MOLLIE I. HAYES, or their successors or assigns; and,

(5) the Clerk shall note this vacation as provided in Va. Code § 15.2-2276.

Comments: The Real Property Department has processed this requested vacation through the Departments of Planning, Public Works, and Public Utilities without objection; the County Manager concurs.

85-A1-40



PARHAM HILLS
 HENRICO COUNTY VIRGINIA

SCALE 1"=100' FEB. 27, 1952

PHILLIP H. BROOKS
 CERTIFIED SURVEYOR
 RICHMOND VIRGINIA

APR 17 1952
 PHILLIP H. BROOKS
 SURVEYOR
 HENRICO COUNTY VIRGINIA

Proposed Vacation

HAWKINS

Exhibit A

**OPERATING AGREEMENT CONCERNING
HENRICUS HISTORICAL PARK**

THIS OPERATING AGREEMENT concerning HENRICUS HISTORICAL PARK (the "Agreement") is made and entered into this 1st day of September, 2015, by and between the COUNTY OF CHESTERFIELD, VIRGINIA ("Chesterfield") and the COUNTY OF HENRICO, VIRGINIA ("Henrico") (collectively "the Counties"), and HENRICUS FOUNDATION (the "Foundation"). In consideration of the mutual promises and undertakings herein contained, Chesterfield, Henrico and the Foundation agree as follows:

I. Overall Agreement

The Foundation shall, for and on behalf of the Counties, manage, maintain, operate, and improve Henricus Historical Park ("Henricus") for the use and pleasure of the citizens of the Counties and all other interested persons upon the following terms and conditions.

The principal purposes of Henricus, as referenced in the Articles of Incorporation, are to generate public interest in and to preserve, restore, reconstruct, or otherwise maintain historical structures, objects, works of art, and locations and to promote, encourage and carry on any historical, interpretive, research, or educational activities related to the site of the City of Henricus.

II. Duties and Responsibilities of the Foundation

The Foundation shall:

- A. Be responsible for the annual operation, maintenance, and improvement of Henricus, including its furnishings and grounds, as a quality historical park.
- B. Report annually to the Counties on the operation of Henricus, including the annual financial statements audited by the Foundation's independent certified public accountants, on all expenditures for improvement, operation, and maintenance of Henricus, and shall account fully for all funds advanced to the Foundation by the Counties, either for capital projects or operating funds.
- C. Keep its books and financial records open to inspection and audit by the Counties, including its duly authorized designees, at reasonable times and at reasonable places upon written request by either County.
- D. Maintain and follow the October 2013 Master Plan (Exhibit A) with periodic and timely revisions as appropriate.

- E. Be responsible for the selection of all new equipment, furnishings, and fixtures required for each building and structure in Henricus, subject to prior concurrence by Chesterfield.
- F. Establish a Special Committee of the Executive Committee of the Foundation that includes one representative from each County. The Special Committee shall provide Chesterfield input relevant to the performance evaluation and compensation level of the Executive Director. The chairman of the Henricus Foundation will preside over the Special Committee meetings. The Special Committee may establish for the Executive Director annual metrics of performance, including, but not limited to, attendance, attendance revenues, fundraising, facility maintenance, and staffing.
- G. Agree to recognize and acknowledge the Counties in all public relations efforts.
- H. Establish partnership agreements with other entities that can provide capital, operating, or in-kind assistance.
- I. Recruit and deploy volunteers in conjunction with Chesterfield County's volunteer program requirements.

III. Executive Director

- A. The Executive Director shall be an employee of Chesterfield whose job duties include assisting the Henricus Foundation achieve its mission.
- B. The Executive Director shall work under the general direction of the Chesterfield County Parks and Recreation Director and shall be subject to all Chesterfield County personnel policies and procedures.
- C. The Executive Director shall work with the Foundation Board to develop and promote the overall strategic plan and direction for Henricus.
- D. At the direction of the Foundation, the Executive Director shall be responsible for the overall promotion of Henricus, including a plan that promotes educational programs, tourism, and fundraising opportunities.
- E. The Executive Director shall be responsible for execution of the approved Master Plan for Henricus in accordance with the timing and amount of appropriations provided by the Counties and other designated funders.
- F. The Executive Director shall assist the Foundation in development of historical research and preparation of interpretive programs and presentations.
- G. The Executive Director shall provide quarterly financial reports to the Foundation and Counties and perform other activities and duties as required by the Foundation.

- H. The Executive Director will prepare grant requests and otherwise assist the Foundation in fundraising and promotion under Foundation direction.
- I. The Executive Director shall be responsible for the daily supervision of all personnel assigned to Henricus by Chesterfield's Parks and Recreation Director.
- J. The Executive Director shall be responsible for the fiscal planning, oversight and management of both the operating funds provided to Henricus as well as the capital funds provided for construction and execution of the approved Master Plan.

IV. Powers of the Foundation

- A. The Foundation may contract with third parties on its own behalf and not as an agent of the Counties for expenditure of Foundation Funds for goods and services in connection with the discharge of its duties under this Agreement. The Counties shall not thereby become the principal under any such contract but shall only be third party beneficiaries thereunder. All such contracts shall contain insurance and/or bonding requirements as required by Chesterfield's Risk Manager. The Foundation agrees to follow public procurement guidelines when contracting for expenditures over \$10,000.
- B. All contracts for expenditure of capital funds of over \$100,000 shall be obligated and administered by Chesterfield County in cooperation with Executive Committee of the Foundation.
- C. Subject to the concurrence of Chesterfield's Parks and Recreation Director, the Foundation shall have the power to impose such reasonable restrictions as it may deem necessary or desirable to protect the general rights of the public to access at reasonable times and for reasonable purposes, including the power to establish the opening and closing hours for Henricus and its exhibits and buildings, exclusive of facilities needed for operations of Dutch Gap Conservation Area.
- D. The Foundation, in its discretion, may collect reasonable fees for admission to Henricus and its programs, concessions, events, and exhibits, as well as reasonable rental fees for use of the facilities, and it may establish policies and procedures for the implementation and collection of those fees. Rentals or other events allowing consumption of alcohol shall be in compliance with applicable state ABC regulations and Chesterfield policy.
- E. The Foundation is hereby authorized to solicit private and public funds and to apply for federal and state funds for the improvement, operation, or programs of Henricus. Such solicitations shall be subject to approval by both Counties where County matching funds are required. All proceeds received by the Foundation shall be used solely for the improvement, operation, and programs of Henricus.

F. The Foundation shall provide and pay for insurance coverage in the amounts determined by Chesterfield's Risk Manager and which shall include at least minimum coverages as outlined below:

1. Commercial General liability including products and completed operations, bodily injury, property damage, and contractual liability to insure the operations of the Foundation and the premises in a limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Policy shall add Chesterfield County as an additional insured;
2. Property insurance to insure any and all personal property of the Foundation, including Crime/Employee Dishonesty in a limit of not less than 3 months' worth of Foundation's funding;
3. Automobile coverage which may be hired and non-owned;
4. Umbrella liability in a limit of not less than \$3,000,000 per occurrence and in the aggregate;
5. Directors and Officers liability with a limit of not less than \$1,000,000 per occurrence.

V. Duties of the Counties

- A. Chesterfield shall provide lead operations oversight and management assistance as it deems appropriate.
- B. The chief executive of each County will propose the necessary funds in their respective budgets for the annual operations, maintenance, and capital improvements of Henricus. The amount of the Counties' funding will be determined by, and subject to, annual appropriation by the Board of Supervisors of each County. The completion of the October 2013 Master Plan, and any future amendments as approved by the Foundation, will be subject to budget considerations. The Henricus Foundation will commit to its best efforts to raise supplementary funds for these purposes.
- C. The Counties may each appoint a representative to the Foundation's Board of Directors and such representative, if appointed by each County, shall also serve on the Executive Committee of the Foundation.
- D. The Counties shall provide the Foundation appropriate licenses or leases granting the Foundation the right to occupy and use the land at Henricus.

VI. Term of Agreement

- A. This Agreement shall be effective from September 1, 2015, until September 1, 2018, and shall automatically renew itself for two additional terms of three years each, unless or until terminated.

- B. This Agreement may be amended by written agreement signed by all parties.
- C. This Agreement may be terminated with or without cause by six months written notice by any party unless otherwise agreed in writing. In the event of termination, all funds advanced to the Foundation by the Counties for capital improvement, operation, programs, or maintenance of Henricus and not obligated by the Foundation for such purposes by the date of termination shall be returned to the Counties within 60 days of the date of termination.
- D. If the Agreement is terminated by the Foundation pursuant to VI.C. above, or if the Foundation ceases to operate or exist, the property operated as Henricus Historical Park shall be jointly operated as a public park by the two Counties. The fixed assets of Henricus shall transfer with the land to the Counties. The Counties may mutually agree to other use of the properties after expiration of this Agreement. If the Counties cease to operate Henricus Historical Park, all historic assets (including but not limited to antiques, artifacts, letters, books and other historic documents, and historic reproductions) previously transferred to the Counties shall, to the extent legally permissible, be donated or sold to historic, charitable or eleemosynary entities who have a legitimate interest in such historic assets and will appropriately preserve, restore, study and exhibit such assets.

VII. General Provisions

- A. This Agreement is not assignable by the Foundation without the prior written consent of the Counties.
- B. The provisions of this Agreement are severable; the invalidity of any provision hereof shall not affect the validity of any other provision contained in this Agreement.
- C. This Agreement between the Counties and the Foundation is not intended as a waiver of sovereign immunity or any other defense that the Counties or the Foundation may assert against a third party. Notwithstanding anything to the contrary, nothing in this Agreement is intended or shall be construed to require either party to indemnify or hold harmless the other party.
- D. This Agreement may be simultaneously executed in two or more counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- E. All notices and reports shall be given as follows:

- 1. If to Chesterfield County: James J. L. Stegmaier
County Administrator
9901 Lori Road, Room 500

Chesterfield, Virginia 23832

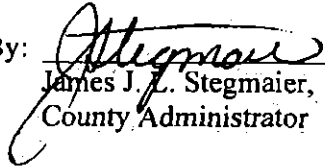
2. If to Henrico County: John A. Vithoukas
County Manager
3rd Floor, Administration Building
4301 East Parham Road
Henrico, Virginia 23228
(by mail)
P. O. Box 90775
Henrico, Virginia 23273-0775
3. If to the Foundation: Craig D. Bell
The Henricus Foundation
251 Henricus Park Road
Chesterfield, Virginia 23832

[Signatures appear on the following page]

Witness the following signatures:

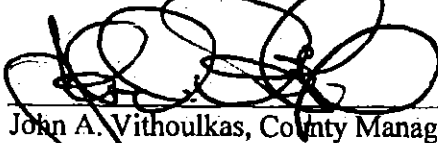
DATE: 8-27-15

CHESTERFIELD COUNTY, VIRGINIA

By: 
James J. L. Stegmaier,
County Administrator

DATE: 8/12/15

HENRICO COUNTY, VIRGINIA


By: 
John A. Vithoulkas, County Manager

DATE: 8/20/15

The HENRICUS FOUNDATION

By: 
Craig B. Bell, Chairman

Approved as to form:


Senior Assistant County Attorney
Chesterfield County, Virginia

Approved as to form:

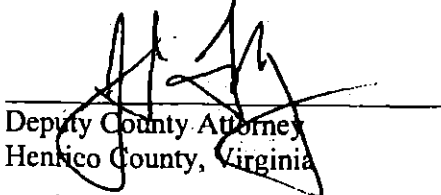

Deputy County Attorney
Henrico County, Virginia

EXHIBIT A – October 2013 Master Plan



COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
MINUTE

Agenda Item No. 189-15
Page No. 1 of 1

Agenda Title: RESOLUTION — Signatory Authority — Henrico Juvenile Detention Home Medical Services Contract

For Clerk's Use Only Date: 8/11/2015 <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Amended <input type="checkbox"/> Deferred to:	BOARD OF SUPERVISORS ACTION Moved by (1) <u>Kaechele</u> Seconded by (1) <u>Clover</u> (2) _____ (2) _____ REMARKS: APPROVED	<table border="0"> <tr> <td></td> <td style="text-align: center;">YES</td> <td style="text-align: center;">NO</td> <td style="text-align: center;">OTHER</td> </tr> <tr> <td>Glover, R.</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Kaechele, D.</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Nelson, T.</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>O'Bannon, P.</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Thornton, F.</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>		YES	NO	OTHER	Glover, R.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Kaechele, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Nelson, T.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	O'Bannon, P.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Thornton, F.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		YES	NO	OTHER																						
Glover, R.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																							
Kaechele, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																							
Nelson, T.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																							
O'Bannon, P.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																							
Thornton, F.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																							

WHEREAS, the Henrico Juvenile Detention Home, in order to comply with state standards and to provide proper medical care for detainees, must provide medical services through a licensed physician; and,

WHEREAS, the physician will visit the Detention Home to review the nurse's screening and evaluation of each ward, examine detainees deemed necessary by the nurse, and be on call for consultation on a twenty-four hour per day, seven-day per week basis; and,

WHEREAS, the Department of Pediatrics, Virginia Commonwealth University Health System Authority has agreed to provide these services as well as coordination of hospital and medical services at the VCU Health System; and,

WHEREAS, the Detention Home has negotiated a contract for these services in the amount of \$14,940 plus \$100 per hour for unscheduled visits to the Detention Home.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Henrico County authorizes the County Manager to execute a contract with the Department of Pediatrics, Virginia Commonwealth University Health System Authority to provide a licensed physician to be responsible for the medical services at the Juvenile Detention Home beginning July 1, 2015, and terminating June 30, 2016.

COMMENTS: The Juvenile Detention Home Superintendent recommends approval, and the County Manager concurs. Funds are available in 2015-16 budget.

By Agency Head Edmund M. [Signature] By County Manager [Signature]

Routing:
Yellow to: _____
Copy to: _____

Certified:
A Copy Teste: _____
Clerk, Board of Supervisors

Date: _____

AGREEMENT

BETWEEN THE COUNTY OF HENRICO ON BEHALF OF THE JUVENILE DETENTION HOME AND THE DEPARTMENT OF PEDIATRICS - VIRGINIA COMMONWEALTH UNIVERSITY HEALTH SYSTEM AUTHORITY

Section I. Parties

The parties to this agreement are the County of Henrico on behalf of the Henrico Juvenile Detention home, hereinafter referred to as the "Detention Home," and the Department of Pediatrics, Virginia Commonwealth University Health System Authority, hereinafter referred to as "Department," which will provide the physician/medical consultant, hereinafter referred to as the "physician."

Section II. Purpose

The purpose of this agreement is to set out the responsibilities of each party and, thereby, enable coordination and cooperation in the provision of medical services to mutual clients. This agreement will assure that appropriate medical services are available to Detention Home residents and that consultation services are available to the nurse and administration of the Detention Home.

Section III. Responsibilities

- A. The Department agrees to provide a licensed physician who will:

1. Visit the Detention Home once each week, at a time mutually agreeable to the parties, to review the nurse's screening and evaluation of each youth and to examine those youths deemed necessary by the nurse, as the Detention Home assumes full responsibility for this referral.
2. Help develop and approve all written medical policies within the Detention Home and assist in maintaining compliance with State Medical and Pharmaceutical Board Standards as well as Core, Secure Detention, and Post Disposition Standards.
3. Be on call for consultation and instructions on a twenty-four hour per day, seven days per week basis to the nurse and/or Detention Home Administration concerning any medical problem of a detainee.
4. Be available to visit and shall visit the Detention Home at other than the scheduled time if called by the Superintendent or an Assistant Superintendent when an acute medical condition occurs. Compensation for such visits shall be at the rate set out in Section III, C, 10.
5. Coordinate and facilitate medical care at VCU Health System when needed, including in the Child and Adolescent Emergency Unit, Adolescent Health Service or VCU Hospital Unit.

6. Aid the nurse and administration of the Detention Home in determining which cases can wait for medical evaluation at the appropriate medical facility and which cases constitute a more serious emergency situation needing urgent care at Henrico Doctors' Hospital Parham Campus which has agreed to accept extreme emergency cases (extreme meaning life or death cases or those situations that cannot wait).
7. Provide recommendations to the appropriate Court or other appropriate authorities, through the nurse or Detention Home Administrator, that a youth be transferred to a mental health agency or a medical clinic or hospital, if after consultation, the physician determines that a youth requires specialized care that is not available at the Detention Home.
8. Provide special direction for the nurse and child care staff at the Detention Home for a youth requiring close medical supervision.
9. Coordinate the exchange of medical information between the Detention facility and private physicians or other regular sources of health care.

B. Miscellaneous

1. The Department agrees to provide physicians who shall abide by all present or future State laws

and regulations relative to the practice of medical services within the Commonwealth of Virginia.

2. Each physician shall assume responsibility for providing his/her own malpractice insurance, payment of taxes, and any other license fee or expenses incurred not otherwise provided for in this agreement.
 3. It is the responsibility of the Department to see that all provisions of this contract pertaining to the Department and Department physicians are met and complied with.
 4. The Services covered by this agreement shall not be subcontracted or assigned without the prior written consent of the parties.
- C. The Detention Home agrees, within the limitations of available funding (where applicable), to:
1. Not restrict any Department physician in the practice of medicine when performed in accordance with the laws of the State of Virginia.
 2. Provide the services of a nurse on a 40 hour a week basis, 8:00 a.m. to 4:30 p.m., Monday through Friday.
 3. Provide a private place with modern equipment suitable for medical staff to examine youth in the Detention Home at no cost to the Department or the

physician.

4. Provide medical supplies as deemed necessary by the physician at no cost to the physician or the Department.
5. Arrange appropriate transportation through the Henrico County Sheriff's Office, Division of Police, or volunteer rescue squad ambulance, if needed, to transfer clients to VCU Health System or other medical facility for treatment.
6. Administer medication and treatments prescribed or approved by the physician and follow his orders concerning medical care to youths in the Detention Home.
7. Arrange for the payment for all medical care rendered at VCU Health System on a fee-for-service basis for youths confined at the Detention Home.
8. Arrange for the obtaining of parental or guardian consent when necessary for medical care.
9. Designate staff who are authorized to request services from the Department.
10. Compensate the Department at the rate of \$100.00 per hour for unscheduled visits to the Detention Home additional to that specified in Section III, A, 1, above.

Section IV. Purchase of Services

1. The Detention Home agrees to pay the Department \$14,940 per year in twelve equal installments of \$1,245 payable the first week of each month for the month preceding without monthly notice from the Department.
2. Additional fees, if any, as may be incurred pursuant to Section III, C, 10 shall be rendered the first week of the month following the month during which the additional fees were incurred.

Section V. Availability of Services

1. All parties to this agreement will provide services to all eligible clients without regard to race, color, sex, religion, national origin or handicap.
2. It is understood and agreed that there shall be no medical or pharmaceutical testing for experimental or research purposes.

Section VI. Terms of Agreement

1. The agreement shall become effective July 1, 2015 and shall remain in effect for one full year. At least 90 days prior to the expiration of the agreement, a joint evaluation of the terms of the

agreement shall be conducted by both parties to consider its renewal.

2. In the event that either party desires to amend or terminate this agreement prior to its expiration, 30 days written notice to this effect must be made.

3. This agreement shall automatically terminate should the Detention Home's funding of the agreement be terminated in any manner beyond the control of the Home.

WHEREFORE, the parties hereby execute this Agreement as evidenced by the signatures on the following page.

Agreement approved for:
DEPARTMENT OF PEDIATRICS
VIRGINIA COMMONWEALTH UNIVERSITY HEALTH SYSTEM AUTHORITY

By: Richard R. Brookman MD Date: 7/8/15
Richard R. Brookman, M.D.
Chairman, Division of Adolescent Medicine
Virginia Commonwealth University

By: Bruce K. Rubin Date: 7.10.15
Bruce K. Rubin, M.D.
Chairman, Department of Pediatrics
Virginia Commonwealth University

By: John Duval Date: 7/10/15
John Duval, CEO MCV Hospitals
On Behalf of Virginia Commonwealth University Health
Systems Authority

COUNTY OF HENRICO

John A. Vithoukas Date: 8/12/15
John A. Vithoukas County Manager

Execution authorized
by Board minute
<u>189-15</u>
Date <u>8/11/15</u>
Initials <u>SAV</u>
APPROVED
Substance: <u>com</u>
Form: <u>OM</u>



**COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
MINUTE**

Agenda Item No. 190-15
Page No. 1 of 1

Agenda Title: RESOLUTION - To Apply for a U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant to Purchase Ballistic Shields for the Police Division

For Clerk's Use Only: Date: <u>8/11/2015</u> <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Amended <input type="checkbox"/> Deferred to:	BOARD OF SUPERVISORS ACTION Moved by (1) <u>Celma</u> Seconded by (1) <u>Nelson</u> (2) _____ (2) _____ REMARKS: <div align="center" style="font-size: 2em; font-weight: bold;">APPROVED</div>	<table border="0"> <tr> <td></td> <td>YES</td> <td>NO</td> <td>OTHER</td> </tr> <tr> <td>Glover, R.</td> <td align="center"><input checked="" type="checkbox"/></td> <td align="center"><input type="checkbox"/></td> <td align="center"><input type="checkbox"/></td> </tr> <tr> <td>Kaechele, D.</td> <td align="center"><input checked="" type="checkbox"/></td> <td align="center"><input type="checkbox"/></td> <td align="center"><input type="checkbox"/></td> </tr> <tr> <td>Nelson, T.</td> <td align="center"><input checked="" type="checkbox"/></td> <td align="center"><input type="checkbox"/></td> <td align="center"><input type="checkbox"/></td> </tr> <tr> <td>Bannon, P.</td> <td align="center"><input checked="" type="checkbox"/></td> <td align="center"><input type="checkbox"/></td> <td align="center"><input type="checkbox"/></td> </tr> <tr> <td>Thornton, F.</td> <td align="center"><input checked="" type="checkbox"/></td> <td align="center"><input type="checkbox"/></td> <td align="center"><input type="checkbox"/></td> </tr> </table>		YES	NO	OTHER	Glover, R.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Kaechele, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Nelson, T.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Bannon, P.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Thornton, F.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		YES	NO	OTHER																						
Glover, R.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																							
Kaechele, D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																							
Nelson, T.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																							
Bannon, P.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																							
Thornton, F.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>																							

WHEREAS, the U.S. Department of Justice Edward Byrne Memorial Justice Assistance Grant (JAG) Program has allocated the Police Division \$66,366 in JAG funds for Henrico County Fiscal Year 2016; and

WHEREAS, the Division will apply to use these funds, which require no local match, to purchase 34 ballistic shields for officer safety and tactical purposes; and

WHEREAS, 25 of these shields are to replace existing ones facing their five-year warranty expirations and nine are new to expand officer safety during civil disturbance incidents; and

WHEREAS, Presidential Executive Order 13688 ("Federal Support for Local Law Enforcement Equipment Acquisition") requires a variance for a JAG purchase request of Controlled Expenditures (which include ballistic shields); and

WHEREAS, the Police Division needs to equip its officers for their safety under all circumstances and sees these ballistic shields as an overt officer safety necessity.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors approves the Police Division applying under the JAG program for 34 ballistic shields.

COMMENTS: The Chief of Police recommends approval of this Board paper, and the County Manager concurs.

By Agency Head [Signature] By County Manager [Signature]

Routing:
 Yellow to: _____ Certified: _____
 Copy to: _____ A Copy Teste: _____ Clerk, Board of Supervisors
 Date: _____