

1 **MINUTES OF THE REGULAR MEETING OF THE BOARD OF ZONING**
2 **APPEALS OF HENRICO COUNTY, HELD IN THE COUNTY ADMINISTRATION**
3 **BUILDING IN THE GOVERNMENT CENTER AT PARHAM AND HUNGARY**
4 **SPRING ROADS, ON THURSDAY, DECEMBER 15, 2011 AT 9:00 A.M.,**
5 **NOTICE HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH**
6 **NOVEMBER 28, 2011 AND DECEMBER 5, 2011.**
7

Members Present: Helen E. Harris, Chairman
Robert Witte, Vice Chairman
Greg Baka
James W. Nunnally
R. A. Wright

Also Present: David D. O'Kelly Jr., Assistant Director of Planning
Benjamin Blankinship, Secretary
Paul Gidley, County Planner
R. Miguel Madrigal, County Planner

8
9 Ms. Harris - Welcome to the December 15, 2011 meeting of the
10 Board of Zoning Appeals for Henrico County. Please stand and recite the
11 **Pledge of Allegiance.**
12

13 Good morning, Mr. Blankinship. Would you please give us the rules that govern
14 this meeting?
15

16 Mr. Blankinship - We appear to have one applicant and no opposition.
17 So why don't you come on up now? I'll just ask you to speak directly into the
18 microphone on the podium, state your name, and spell your last name for us so
19 we get it correctly in the record. And I hope you are familiar with the conditions
20 that have been recommended by staff for your case.
21

22 **CUP2011-00025 SHOPS AT WILLOW LAWN** requests a temporary
23 conditional use permit pursuant to Section 24-116(c)(1) of the County Code to
24 allow a tent for temporary events at 1601 Willow Lawn Drive (North Willow Lawn)
25 (Parcels 773-736-2198 and 6272), zoned B-2, Business District (Brookland)
26

27 Mr. Blankinship - Please raise your right hand. Do you swear the
28 testimony you're about to give is the truth and nothing but the truth so help you
29 God?
30

31 Ms. Preusser - Yes.
32

33 Ms. Harris - Please state your case.
34

35 Ms. Preusser - My name is Julia Preusser. It's P-r-e-u-s-s-e-r. I'm the
36 assistant marketing manager for Federal Realty Investment Trust and the Shops
37 at Willow Lawn.

38

39 We have an annual event, the Fourth Annual Imagination Richmond, which is set
40 for May 19th of 2012. This is the fourth year that we'll be doing this event. With
41 the new renovations that we are doing at Willow Lawn, this past year we used a
42 couple of 30' by 90' tents to hold our events under. When people come, if it
43 sprinkles they can actually get under the tents. And if it's sunny, they can be
44 under the tents for shade. We've had great success with those events and so
45 we'd like to do it again next year. Obviously, we have no indoor space to hold our
46 events, so I have two options.

47

48 The first option, which is the primary option, is in the middle of the car parking
49 area in our newly renovated space. If we can't use that space due to leasing
50 restrictions—I'll have no idea about that until the time comes—then we'd like to
51 do option two, which has no leasing restrictions. That would be the current
52 location between Five Guys and Ross Dress for Less.

53

54 Mr. Blankinship - You said current location. The location you used
55 several times this past summer.

56

57 Ms. Preusser - That's correct.

58

59 Mr. Wright - Why would you not use Option 1, which is more
60 shielded from everything?

61

62 Ms. Preusser - That is an excellent question. The reason would be if
63 we have tenants that move into those new spaces that are being developed right
64 now. A lot of times tenants, especially larger tenants, will have parking
65 restrictions in their lease, which prevents us from blocking any parking for them
66 specifically. So, for instance, Ross Dress for Less has in their lease that they
67 require X-amount of parking spaces.

68

69 Mr. Wright - I still don't understand. What are you asking us for,
70 Option 1 or Option 2?

71

72 Ms. Preusser - Both, because I won't know which one will be used.
73 We don't have those spaces leased at this time.

74

75 Mr. Wright - You want Option 1, and then if you can't use Option
76 1, you want to use Option 2.

77

78 Ms. Preusser - That's correct, yes.

79

80 Mr. Wright - Okay, I see where you're coming from. You prefer
81 Option 1, but legally you may not be able to use Option 1. Is that the idea?
82

83 Ms. Preusser - That's correct, yes. Leasing, as you know, happens
84 any time. If we do have tenants in those newly formed spaces that won't allow us
85 to use those parking spaces, then we won't be able to have it in that location. We
86 do intend on using the sidewalk space. And we have a new public area that will
87 be near Option 1, but we're not going to put a tent on that area because it's not
88 big enough.
89

90 Ms. Harris - I noticed on your application that you had, "Holiday
91 Festival, Saturday, December the 3rd, 2011."
92

93 Mr. Blankinship - How did that go?
94

95 Ms. Preusser - It went very well. It was actually a nice festival. It was
96 pretty much identical to our Imagination Richmond event in May, with a holiday
97 theme.
98

99 Ms. Harris - Did you have the two tents there also?
100

101 Ms. Preusser - We did.
102

103 Ms. Harris - And which option?
104

105 Ms. Preusser - We had it over in the Five Guys space because—
106 that's Option 2. Option 1 is still currently a construction site.
107

108 Ms. Harris - Were you required to get a use permit for that?
109

110 Ms. Preusser - I did submit the application, although it wasn't in time
111 for a meeting. But we did get a permit.
112

113 Ms. Harris - You did get a use permit for that?
114

115 Ms. Preusser - Yes.
116

117 Mr. Blankinship - She applied for a use permit after the application
118 deadline, so we weren't able to hear it.
119

120 Ms. Harris - What's involved in the process of converting the
121 indoor portion of the center into the outdoor? What's involved in that process?
122 What do you have to do?
123

124 Ms. Preusser - I'm not sure I follow.
125

126 Ms. Harris - You have an indoor proposal and an outdoor
 127 proposal?
 128
 129 Ms. Preusser - No, everything is outside. We have no indoor portion
 130 of the mall at all anymore; it's all outdoors. That used to be the indoor portion of
 131 the mall. If you were looking through a wall into the mall, that would have been
 132 the food court area.
 133
 134 Mr. Witte - On the suggested conditions, number one and
 135 number seven indicate there will only be one tent. Is that correct, or is there
 136 going to be more than one?
 137
 138 Ms. Preusser - There are two tents. Each tent is 30' by 90', as noted
 139 on here. There are two tents that are placed together.
 140
 141 Mr. Witte - So that should be plural.
 142
 143 Mr. Blankinship - Yes sir. Tents.
 144
 145 Mr. Baka - Question on condition four. It limits the hours from
 146 10:00 a.m. to 2:00 p.m. Do you need any greater flexibility than that?
 147
 148 Ms. Preusser - The tents are being used by the public from 10:00
 149 a.m. to 2:00 p.m. They will be set up prior to the event and then the tents will be
 150 taken down generally the same day after the event at two o'clock.
 151
 152 Mr. Baka - Okay. Thanks.
 153
 154 Ms. Harris - I noticed that Kroger has some construction going on.
 155 Is that still going on?
 156
 157 Ms. Preusser - It is.
 158
 159 Ms. Harris - Is there any more construction in the mall going on at
 160 this time?
 161
 162 Ms. Preusser - Not that I'm aware of. Our company is doing the main
 163 construction piece and then Kroger is doing their piece separately with approval
 164 from our company.
 165
 166 Ms. Harris - Are there any more questions from Board members?
 167
 168 Mr. Wright - Yes. Do I understand that the applicant is requesting
 169 us to approve both options?
 170

171 Mr. Baka - One or the other. You're not going to have tents in
 172 both locations.
 173
 174 Ms. Preusser - I picked two options because at this point we don't
 175 know.
 176
 177 Mr. Wright - I understand your dilemma, but we're being asked to
 178 approve one or the other. They have the option of selecting.
 179
 180 Mr. Baka - Yes.
 181
 182 Ms. Preusser - At this time we've only rented two tents.
 183
 184 Ms. Harris - Should that be a condition or do you think we can just
 185 state that in the motion?
 186
 187 Mr. Baka - Two tents at one location. One location, one option.
 188
 189 Ms. Preusser - Ideally we will be 100% leased in May, but I don't
 190 think that will happen. Ideally we'll have all those spaces leased and then we
 191 would have to use Option 2.
 192
 193 Mr. Wright - Don't you think we should have a condition
 194 addressing that?
 195
 196 Ms. Harris - That's my question. Do we want to put that as a
 197 condition or just state it in the motion?
 198
 199 Mr. Wright - I think it should be a condition.
 200
 201 Ms. Harris - Okay, let's look at the condition that we would need
 202 so that Ms. Preusser can hear it.
 203
 204 Mr. Wright - They can only use one of these locations.
 205
 206 Mr. Blankinship - Do you want to add that to Condition #1, maybe after
 207 the first sentence.
 208
 209 Mr. Wright - And you're going make that read "tents," aren't you?
 210
 211 Mr. Blankinship - Yes.
 212
 213 Ms. Harris - Or do you want to make a Condition 8, saying they
 214 have the option to use either Option 1 or Option 2?
 215

Mr. Wright - Just say that the applicant has the option to use either Option 1 or Option 2, but not both. How about that?

Mr. Blankinship - All right, we'll add that.

Ms. Harris - Are there any more questions from Board members? If not, I believe that concludes this case. Thank you.

Ms. Preusser - Thank you.

Ms. Harris - Is there anyone who is opposed to this application? If not, we're ready for the motion. With the additional condition.

DECISION

Mr. Witte - I make a motion that we approve this with the correction and addition to the suggested conditions.

Mr. Wright - Second.

Mr. Witte - I don't see where it affects the health, safety, or welfare, or is going to hinder any type of safety issues.

Ms. Harris - Moved by Mr. Witte, seconded by Mr. Wright that we approve this conditional use permit. We've had discussion on this motion. We know that the applicant has the option to use either Option 1 or Option 2, but not both, so we're adding that. Is that correct, Mr. Secretary?

Mr. Blankinship - Yes.

Ms. Harris - Okay. Any discussion on this motion. All in favor say aye. All opposed say no. The ayes have it; the motion passes. This conditional use permit has been approved.

After an advertised public hearing and on a motion by Mr. Witte, seconded by Mr. Wright, the Board **approved** application **CUP2011-00025**, the **Shops at Willow Lawn's** request for a temporary conditional use permit pursuant to Section 24-116(c)(1) of the County Code to allow a tent for temporary events at 1601 Willow Lawn Drive (North Willow Lawn) (Parcels 773-736-2198 and 6272), zoned B-2, Business District. The Board approved the application subject to the following conditions:

1. Only the tents and accessory uses shown on the plot plan and filed with the application are authorized by this approval. The applicant may choose either option 1 or option 2, but not both. Any additional improvements shall comply with the applicable regulations of the County Code. Any substantial changes or

additions to the design or location of the improvements will require a new use permit.

2. The applicant shall obtain necessary building and sub-trade permits and comply with all required inspections.

3. The assembly area and pedestrian access shall be separated from automobile access by means approved at the time of building permit review. The parking lot, driveways, and loading areas shall be subject to the requirements of Section 24-98 of Chapter 24 of the County Code.

4. Hours of operation shall be limited to 10:00 am to 2:00 pm on May 19, 2012.

5. The applicant shall maintain the property so that noise and debris are controlled. The site shall be kept clean and adequate trash receptacles shall be provided during the event.

6. All fire lanes shall be clearly marked and maintained in accordance with the Fire Prevention Code in effect.

7. The tents and accessory uses shall be removed from the property on or before May 26, 2012, at which time this permit shall expire.

Affirmative:	Baka, Harris, Nunnally, Witte, Wright	5
Negative:		0
Absent:		0

Ms. Harris - Let's look at the minutes, please, from the last meeting. Are there any corrections?

Mr. Wright - I have one on page sixteen, and I don't know what the answer is. Page sixteen, line 681. At the top it says, "Well, that's north of property, my bad." I don't—

Ms. Harris - I don't think that's your lingo.

Mr. Baka - "My bad," is what I say, Mr. Wright. I say things like that all the time. My bad.

Ms. Harris - Did you say this, Mr. Baka?

Mr. Wright - I said it, but I don't know what that means.

Ms. Harris - We'll talk about it after the meeting.

308
309 Mr. Baka - I think he said that comment, and maybe just strike
310 the last two words.
311
312 Mr. Gidley - [Off microphone.] Mr. Lipscomb said that, I
313 remember.
314
315 Mr. Wright - I'm just curious; I don't think it makes any difference.
316
317 Ms. Harris - So we'll delete the words, "my bad."
318
319 Mr. Blankinship - We have Mr. Lipscomb saying almost the same thing.
320
321 Mr. Gidley - [Off microphone.] That's what happened.
322
323 Mr. Wright - I tried to think of what else I would have said.
324
325 Mr. Baka - You can just scratch the last two words.
326
327 Ms. Harris - We'll just scratch the last two words on line 681.
328
329 Mr. Wright - That's some crazy stuff.
330
331 Ms. Harris - Are there anymore corrections to the minutes or
332 additions?
333
334 Mr. Wright - I move we approve them as corrected.
335
336 Mr. Baka - Second.
337
338 Ms. Harris - Moved by Mr. Wright, seconded by Mr. Baka that we
339 approve the minutes as corrected. Is there any discussion? No further
340 discussion. All in favor say aye. All opposed say no. The ayes have it; the motion
341 passes. The minutes have been approved as corrected.
342
343 On a motion by Mr. Wright, second by Mr. Baka, the Board **approved as**
344 **corrected** the **Minutes of the November 17, 2011** Henrico County Board of
345 Zoning Appeals meeting.
346
347 Affirmative: Baka, Harris, Nunnally, Witte, Wright 5
348 Negative: 0
349 Absent: 0
350
351 Ms. Harris - Is there any more business before this body today?
352

353 Mr. Nunnally - I would like to apologize for being late, Madam
354 Chairman, but I got tied up in traffic.

355
356 Ms. Harris - We heard about it, Mr. Nunnally; thank you for calling.
357 We did receive the message. A motion is in order for the meeting to be
358 adjourned.

359
360 Mr. Baka - I move we adjourn.

361
362 Mr. Witte - I'll second it.

363
364 Ms. Harris - Moved by Mr. Baka, seconded by Mr. Witte that the
365 meeting be adjourned. No discussion. All in favor say aye. All opposed say no.
366 The ayes have it; the motion passes.

367
368 Affirmative: Baka, Harris, Nunnally, Witte, Wright 5
369 Negative: 0
370 Absent: 0
371

372
373
374 Ms. Harris - Merry Christmas. Happy holidays to all. The meeting
375 is adjourned.

376
377
378 

379
380 Helen E. Harris
381 Chairman

382
383
384 
385 Benjamin Blankinship, AICP
386 Secretary
387
388
389