

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, MARCH 22, 2012 AT 9:00 A.M., NOTICE**  
5 **HAVING BEEN PUBLISHED IN THE RICHMOND TIMES-DISPATCH MARCH**  
6 **5, 2012 AND MARCH 12, 2012.**  
7

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

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

8  
9 Ms. Harris -                       Good morning. Welcome to the March 22, 2012  
10 meeting of the Henrico County Board of Zoning Appeals. Please stand and recite  
11 the **Pledge of Allegiance**.  
12

13 Ms. Harris -                       Good morning, Mr. Blankinship. Please read the rules  
14 that govern this meeting, and also let us know if there are any deferrals.  
15

16 Mr. Blankinship -               Good morning, Madam Chairman, members of the  
17 Board. Ladies and gentlemen, the rules for this meeting are as follows. Acting as  
18 secretary I will call each case, and as I'm speaking the applicant is welcome to  
19 come down to the podium. We will then ask everyone who intends to speak to  
20 that case to stand and be sworn in. Then the applicant will give their testimony.  
21 Then anyone else who wishes to speak will be given the opportunity. And after  
22 everyone has had a chance to speak, the applicant and only the applicant will  
23 have an opportunity for rebuttal. After the Board has heard all the evidence they  
24 will take the matter under advisement and go on to the next public hearing case.  
25 They will render all of their decisions at the end of the meeting. So if you wish to  
26 know their decision on a specific case, you can either stay until the end of the  
27 meeting, or you can check the Planning Department website—we update it about  
28 a half an hour after the meeting ends—or you can call the Planning Department  
29 this afternoon.  
30

31 This meeting is being recorded so we'll ask everyone who speaks to speak  
32 directly into the microphone on the podium. State your name and spell your last  
33 name for us so that we get it correctly in the record.  
34

35 And finally, out in the foyer there is a binder containing the staff report for each  
36 case, including the conditions that have been recommended by the staff.  
37 Particularly for applicants on use permit cases, it's very important that you be  
38 familiar with those conditions.

39  
40 Madam Chairman, I was told just now that we have a request for deferral and it's  
41 on the first case. So we might as well just go ahead and call the case, if that's all  
42 right.

43  
44 **CUP2012-00005 WESTHAMPTON MEMORIAL PARK** requests a  
45 conditional use permit pursuant to Section 24-52(h) of the County Code to  
46 expand an existing cemetery at 10000 Patterson Avenue (Parcel 744-742-5871)  
47 zoned R-1, One-Family Residence District and A-1, Agricultural District  
48 (Tuckahoe).

49  
50 Ms. Harris - If you'd like to speak to this case, please raise your  
51 right hand to be sworn in.

52  
53 Mr. Wilson - Madam Chairman, my name is Jack Wilson and I'm  
54 actually here on behalf of the applicant to request a deferral of the case for  
55 ninety days so we can work with the neighbors and see if we can reach some  
56 understanding with the neighbors.

57  
58 Mr. Blankinship - As the Board is aware from the report, several of  
59 these homes have been occupied in the last month or two months, so I think this  
60 is an excellent idea. I appreciate the applicant coming forward and doing that. I  
61 think it gives that community an opportunity to get on their feet and decide who  
62 they are, and then meet with the applicant to work things out.

63  
64 Mr. Baka - Do we need a motion on that deferral?

65  
66 Mr. Blankinship - Yes, please.

67  
68 Mr. Baka - I'd like to make a motion that this case be deferred for  
69 ninety days at the request of the applicant.

70  
71 Ms. Harris - Is there a second to this motion?

72  
73 Mr. Wright - Second.

74  
75 Ms. Harris - Motion by Mr. Baka, seconded by Mr. Wright that we  
76 defer this case until next month.

77  
78 Mr. Blankinship - Until June 28<sup>th</sup>.

79  
80 Ms. Harris - June 28<sup>th</sup>.

81  
82 Mr. Wilson - Yes ma'am.  
83  
84 Ms. Harris - Okay. Are there any questions on this motion? All in  
85 favor say aye. All opposed say no. The ayes have it; the motion passes.  
86  
87 After an advertised public hearing and on a motion by Mr. Baka, seconded by  
88 Mr. Wright, **CUP2012-00005, WESTHAMPTON MEMORIAL PARK**, has been  
89 deferred until June 28, 2012.  
90  
91  
92 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5  
93 Negative: 0  
94 Absent: 0  
95  
96  
97 **CUP2012-00009 A&F I, LLC** requests a conditional use permit  
98 pursuant to Sections 24-52(d) and 24-103 of the County Code to extract  
99 materials from the earth at 3740 Charles City Road (Parcels 827-702-8810 and  
100 828-701-0583) zoned A-1, Agricultural District (Varina).  
101  
102 Ms. Harris - All persons who wish to speak to this case please  
103 stand to be sworn in.  
104  
105 Mr. Blankinship - Raise your right hand, please. Do you swear the  
106 testimony you're about to give is the truth and nothing but the truth so help you  
107 God?  
108  
109 Mr. Theobald - I do.  
110  
111 Ms. Harris - Please proceed and state your case.  
112  
113 Mr. Theobald - Good morning, Madam Chair, ladies and gentlemen,  
114 my name is Jim Theobald, and I'm here this morning on behalf of A&F I, LLC,  
115 which owns the site at the northwest corner of Beulah Road and Charles City  
116 Road in the Varina District.  
117  
118 At the end of the day this is really a request to extend the usefulness of this  
119 permit for an additional eighteen months from its current expiration date. This  
120 matter has been before at least three of you on three prior occasions and has  
121 been approved each time. This request initially is to extract materials from this  
122 location to be used at a borrow pit. Over time there are thirty-some conditions  
123 that have been negotiated, massaged, amended, and agreed upon. They've  
124 been well vetted. I would like to incorporate those prior minutes and your findings  
125 into this case for the record.  
126

127 Extraction has not begun on this site. No work has been done. They have begun  
128 to put in a berm in anticipation. The reason has really been the economy. The  
129 jobs that they had lined up that would merit extracting earth and using the soil,  
130 sand, and gravel from this site are only now getting underway, and that being  
131 specifically the airport expansion project where they're reworking concourse A to  
132 expand that concourse, the ramps, and the taxiways. So we do believe that we  
133 will need to use the materials in this very shortly. But it currently expires in  
134 October, so rather than get started and come back to you in September, we  
135 thought we would go ahead and ask if, in essence, you would consider extending  
136 it on out to the dates referenced in your conditions.

137  
138 Those conditions, if you read through all thirty-four of them, they deal with  
139 everything from bonding, to hours of operation, to compaction to allow the  
140 realignment of Beulah Road in the future—which would be a County road—as  
141 well reclamation and all the other standard conditions that generally come with  
142 this type of use. They assure that all the jurisdictional requirements have been  
143 met and that this request—the extension of the permit—will not negatively impact  
144 health, safety, and welfare of the community around this area.

145  
146 So I'm happy to go into more detail. We are in agreement with all of the  
147 conditions. We don't need to massage those anymore. I would merely ask that  
148 you approve this case. I appreciate it very much and am happy to answer any  
149 questions.

150  
151 Mr. Nunnally - Are you ready to start on it now?

152  
153 Mr. Theobald - They are. They're building up the berm. They've got  
154 their other permits in place.

155  
156 Mr. Nunnally - It's going to be used mostly to haul the soil and all to  
157 the airport?

158  
159 Mr. Theobald - Sand and gravel for the airport expansion project.  
160 They have a contract to participate in that work.

161  
162 Mr. Nunnally - And when you come out of there on Beulah Road—  
163 are the trucks going to the Beulah Road exit to the airport or are they going up  
164 Charles City Road?

165  
166 Mr. Theobald - That's a good question because the only entrance is  
167 on Beulah Road. So presumably it would go back to Charles City, I would think.  
168 But I'm really not sure what direction the trucks would take. You might know  
169 better than I. Do you know?

170  
171 Mr. Burcham - [Speaking off microphone.] Beulah Road.  
172

173 Mr. Theobald - Beulah?  
 174  
 175 Mr. Nunnally - That would be closer going Beulah Road, right?  
 176  
 177 Mr. Burcham - [Speaking off microphone.] Actually, where they are  
 178 now—  
 179  
 180 Mr. Blankinship - If you're going to speak you need to be at the podium  
 181 and you need to identify yourself, please.  
 182  
 183 Mr. Burcham - I'm Stuart Burcham. I'm one of the neighbors. They  
 184 actually haul off of Beulah Road. They've been hauling in; they're not hauling  
 185 anything out. I don't know whether they're going to eventually run it to Charles  
 186 City or stay on Beulah. The only complaint I have if—  
 187  
 188 Ms. Harris - Excuse me. Before you state your complaint, could  
 189 you spell your last name?  
 190  
 191 Mr. Burcham - It's B-u-r-c-h-a-m.  
 192  
 193 Ms. Harris - C-h?  
 194  
 195 Mr. Burcham - A-m.  
 196  
 197 Ms. Harris - A-m. And if you're going to speak in opposition to this  
 198 case, we need you to hold those comments until the applicant completes his  
 199 presentation.  
 200  
 201 Mr. Burcham - Okay. I was just wondering basically—  
 202  
 203 Ms. Harris - Before you can get into the opposition or your  
 204 questions, we need to let Mr. Theobald finish presenting his case. We have  
 205 some conditions that have been modified. Mr. Theobald, before you continue, we  
 206 need to know the conditions that have been modified. Mr. Blankinship.  
 207  
 208 Mr. Blankinship - I believe there is only one change in the conditions. In  
 209 the evaluation there were several statements about things that have not been  
 210 done that were supposed to be done. The most significant was paving the road.  
 211 That was a misunderstanding on our part. They paved the road and then they  
 212 went over the paving with some crushed concrete and asphalt in order to protect  
 213 the surface of the road. So it is paved, but when you go out there and look it  
 214 looks like it's unpaved. So we did correct that in the report.  
 215  
 216 Also, this is not a mine under the State Department of Mines, Minerals, and  
 217 Energy regulations, so they have no mining license. We had previously removed  
 218 the condition requiring them to obtain a mining license, but on the condition that

219 requires them to put a sign at the entrance—it's number ten—we had forgotten  
220 to take the standard language out of there that the sign doesn't have the mine  
221 license number on it. If they don't have a mine license they can't put the number  
222 on the sign. I think that was the only change in the condition.

223

224 Mr. Theobald - The only other change from the last time it was  
225 approved by the BZA was there were some time limits within which to submit  
226 various sureties, etcetera, and those have been done. So we took out those  
227 requirements that they be done because they have already satisfied those. But  
228 there are no other changes.

229

230 Mr. Nunnally - What are you talking about on number ten with the  
231 mine license number? Do you say that is no longer required?

232

233 Mr. Blankinship - Right. They are not required to obtain a mining  
234 license, so they have no mining license.

235

236 Mr. Nunnally - Can we strike that?

237

238 Mr. Blankinship - We did. That's in the revised report; you're looking at  
239 the original. In the revised report that language has been struck.

240

241 Mr. Nunnally - Okay.

242

243 Ms. Harris - What, condition four?

244

245 Mr. Blankinship - We have not recommended changing condition four.  
246 They did put up poles delineating the area. In fact they put them every twenty-  
247 five feet where in a lot of mines they're only at the corners of the extraction area.  
248 The marking they used is not the standard marking that everyone else uses.

249

250 Mr. Theobald - They were painted but with the weather they need to  
251 be spruced up. They are there.

252

253 Ms. Harris - Condition four of the old report says before beginning  
254 any work there is—

255

256 Mr. Blankinship - Right. Well since they've begun work, we just struck  
257 those four words.

258

259 Mr. Baka - Two questions for the applicant, Madam Chairman?

260

261 Ms. Harris - Yes, please.

262

263 Mr. Baka - Number six, hours of operation. Are those hours  
264 consistent with what you've already been doing to date?

265  
266 Mr. Theobald - Well we haven't taken any materials out. We've only  
267 been bringing in a little material to build the required berm.  
268  
269 Mr. Baka - Okay, I understand. And then number twenty-six dealt  
270 with an end date. Is that a sufficient amount of time?  
271  
272 Mr. Theobald - According to my client it is.  
273  
274 Mr. Blankinship - Mr. Baka, we typically do these for a two-year period.  
275  
276 Mr. Wright - How long do you think or propose that this will take to  
277 remove all of the materials out of this? Do you have any idea?  
278  
279 Mr. Theobald - Honestly I don't, because what happens is when they  
280 get onto the airport site and start taking the materials out that they need to get rid  
281 of, some of those might be reusable. That's the unknown part of the equation.  
282 Depending upon how good the soils are where they're working at the airport will  
283 dictate how many and for how long this site is worked.  
284  
285 Mr. Nunnally - So right now we really don't know how many trucks  
286 will be going up and down the road there.  
287  
288 Mr. Theobald - No sir, but we've regulated the hours. We have  
289 everything from having to use flagmen to control traffic that the police require, to  
290 requirements to keep us from getting mud and debris out onto the road. I think  
291 these issues were very thoughtfully dealt with in the prior three occasions that  
292 the case has been before you.  
293  
294 Ms. Harris - Are there any other questions? Thank you, Mr.  
295 Theobald. Is there anyone else who wishes to speak in favor of this request? Mr.  
296 Burcham.  
297  
298 Mr. Burcham - Yes ma'am. I was just wondering, you know. They  
299 said they were taking topsoil off this land, but I haven't seen any taken off in the  
300 last year and a half they've been working on it. Basically they've been just  
301 bringing stuff in, junk, and dumping on it—concrete and blacktop soil. I thought  
302 the last time I was here that they were just taking topsoil off the land. I live across  
303 the street. On Saturdays there are just dump trucks after dump trucks coming  
304 down Beulah Road. Actually, I thought maybe they were going to run it off  
305 Charles City Road down Beulah, which is a dangerous road, with no signs or  
306 anything out there. They've already had one in the ditch with topsoil. I was just  
307 wondering if they're going to have signs out there or something. People come  
308 around at forty-five miles an hour and they're pulling out with dump trucks.  
309

310 Ms. Harris - Have you noticed on Saturdays if those trucks are  
311 there between 10:00 a.m. and 4:00 p.m.? That's what the conditions say.  
312  
313 Mr. Burcham - Yes ma'am. More on Saturdays than it is in the  
314 middle of the week.  
315  
316 Ms. Harris - Do you have any idea how many trucks?  
317  
318 Mr. Burcham - One after another.  
319  
320 Ms. Harris - From ten until four, one after another? Okay.  
321  
322 Mr. Bell - Have you seen any highway signs out there?  
323  
324 Mr. Burcham - I know the loggers do it, they have signs, but they  
325 don't have anything out there. Anytime there's going to be an accident. One  
326 truck has already run into the ditch.  
327  
328 Ms. Harris - Mr. Burcham, are you opposed to this or are you in  
329 favor of this along with the guidelines?  
330  
331 Mr. Burcham - I'd just like to say I thought it was just topsoil; I didn't  
332 know they were bringing in concrete and blacktop and dumping it over there. I  
333 don't know exactly what they're doing, to be honest with you, other than they're  
334 supposed to take topsoil off the land to take to the airport. I don't know.  
335  
336 Ms. Harris - We'll let your concern be addressed by Mr. Theobald.  
337  
338 Mr. Burcham - Okay.  
339  
340 Ms. Harris - Anything else?  
341  
342 Mr. Burcham - No, that's it.  
343  
344 Ms. Harris - Thank you.  
345  
346 Mr. Burcham - Thank you.  
347  
348 Ms. Harris - Mr. Theobald. Before you speak, let's make sure  
349 there isn't anyone else. Is there anyone else who wishes to address this issue?  
350 Okay, we're ready for the rebuttal.  
351  
352 Mr. Theobald - Yes ma'am, thank you. Of course we're not yet taking  
353 materials out so the borrow pit operation hasn't started. We are required to build  
354 this berm on the site in order to screen properties to the west. And so the  
355 materials that are being brought on site now are being used to build up the berm.



356 Typically in these operations what happens is you strip the topsoil and you keep  
357 it on site to use for reclamation. What you're really digging is sand and gravel for  
358 the airport project. You're not really taking topsoil per se to the airport. The  
359 structural part of the site is the sand and the gravel. So what Mr. Burcham is  
360 seeing now is the first part of the permitted process that requires us to bring  
361 materials in to build that berm. I was out there myself and we have not taken a  
362 shovelful, really, off the site yet because we're just starting.

363  
364 Mr. Wright - He said on Saturday there are a lot of trucks, one  
365 after the other coming in there. Why would that be necessary?

366  
367 Mr. Theobald - I'm not sure why they're doing it on a Saturday as  
368 opposed to other days, I honestly don't know. But they're bringing in materials to  
369 build the berm.

370  
371 Mr. Wright - Is the berm completed?

372  
373 Mr. Theobald - I think it is nearly completed. I'm not sure if it's quite  
374 at its peak. It looked like it was about the height it needed to be and it sort of  
375 rolled a little bit.

376  
377 Mr. Wright - How long have they been working on the berm?

378  
379 Mr. Theobald - I think they've worked on the berm a little bit off and  
380 on probably for the last year as they get materials from other sites.

381  
382 Mr. Wright - When the berm is completed no more materials will  
383 be brought on site?

384  
385 Mr. Theobald - Not until they begin to reclaim. And then they are  
386 allowed, of course, to bring certain types of materials on site in order to fill the  
387 hole back up, cover it up. And of course it's all state regs.

388  
389 Ms. Harris - Have you been out there on a Saturday?

390  
391 Mr. Theobald - I have not. I've been out there I think on a Tuesday or  
392 Wednesday afternoon.

393  
394 Ms. Harris - And the truck traffic?

395  
396 Mr. Theobald - There was nothing. I mean there was literally nothing  
397 going on out there. I think there are great expansions of time where nothing  
398 happens, and then they have a job where they can take some fill material to  
399 build the berm, and they go get it, and they bring it back all at once. It's kind of  
400 the way the process works. And in between those times I think there are quite a  
401 few days with nothing happening.

402  
403 Ms. Harris - Do you know how many trucks daily would be a good  
404 average to say?  
405

406 Mr. Theobald - Ma'am, I just do not. It just depends on the needs of a  
407 particular day with what they're working on. In the past three occasions this had  
408 been before you we, I think, worked very hard to get all these conditions straight,  
409 the hours of operation. They've been highly negotiated in the conditions in order  
410 to make sure this can be done safely. It's a very necessary process, as you  
411 know, for the construction industry. That's why there are so many conditions.  
412

413 Ms. Harris - We have other sites that are doing something similar,  
414 but my concern is that in some of those they give us a maximum number of  
415 trucks that will enter during the course of a day; I notice that you have not done  
416 that. I thought the project was so very new, but you don't think it's realistic to give  
417 us thirty trucks, twenty-five trucks a day? You don't know.  
418

419 Mr. Theobald - I really don't. We're not allowed to have more than  
420 three there at a time based on the condition. But I'm not aware that this was of  
421 particular concern when these permits were issued the prior times.  
422

423 Ms. Harris - Thank you. Any other questions?  
424

425 Mr. Bell - Have there been any other complaints that you know  
426 about that have not been satisfied?  
427

428 Mr. Theobald - We just need to close those—there was a  
429 construction entrance on Beulah Road down a little closer to Charles City. It has  
430 a culvert there that people were driving over; we need to close that and re-  
431 vegetate it. There's a condition to do that. I don't think we're in violation of any  
432 condition because we haven't started the work. There are a few things we need  
433 to clean up and make sure that our—there are "no trespassing" signs out there. I  
434 couldn't swear to you that they are exactly 250 feet apart. Again, those are  
435 conditions that we want to make sure that before we can dig any material at all  
436 that the letter and the spirit of all those conditions have been met.  
437

438 Mr. Blankinship - And we just heard that there are no "Truck Entering  
439 Highway" signs, so we need to get those. I don't know why we hadn't picked up  
440 on that before.  
441

442 Mr. Theobald - Okay. An inspector was just out there yesterday.  
443

444 Ms. Harris - Are there other questions?  
445

446 Mr. Theobald - Thank you. I appreciate your time and attention.  
447

448 **[After the conclusion of the public hearings, the Board discussed the case**  
449 **and made its decision. This portion of the transcript is included here for**  
450 **convenience of reference.]**

451  
452 Ms. Harris - What is the pleasure of the Board?

453  
454 Mr. Nunnally - I make a motion we approve it.

455  
456 Ms. Harris - Is there a second to this motion?

457  
458 Mr. Wright - Second.

459  
460 Ms. Harris - It's been moved by Mr. Nunnally, seconded by Mr.  
461 Wright that this case be approved. Are there any questions on this?

462  
463 Mr. Baka - Mr. Blankinship mentioned that there were no "Truck  
464 Entering Highway" signs?

465  
466 Mr. Blankinship - It's in the conditions, I was just not aware that  
467 condition had not been complied with yet. So we've done everything we need to  
468 do.

469  
470 Mr. Wright - And they have to do that.

471  
472 Mr. Blankinship - Yes.

473  
474 Mr. Baka - Fair enough.

475  
476 Ms. Harris - Okay.

477  
478 Mr. Baka - Thank you.

479  
480 Ms. Harris - Okay, I think we're prepared to vote.

481  
482 Mr. Nunnally - Excuse me, Ms. Harris. We haven't had any  
483 complaints or anything.

484  
485 Mr. Blankinship - Nothing serious. You have a lot of phone calls with  
486 questions any time you have a new operation like this.

487  
488 Mr. Nunnally - I went out there last Friday and looked at it. It's not  
489 seen from Charles City Road. It's nice and clean, I thought. It's not junky. I don't  
490 think it would be detrimental to the neighborhood, so I move we approve it.

491  
492 Ms. Harris - Okay, we're ready to vote now. All in favor say aye.  
493 All opposed say no. The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Mr. Nunnally, seconded by Mr. Wright, the Board **approved** application **CUP2012-00009, A&F I, LLC's** request for a conditional use permit pursuant to Sections 24-52(d) and 24-103 of the County Code to extract materials from the earth at 3740 Charles City Road (Parcels 827-702-8810 and 828-701-0583) zoned A-1, Agricultural District (Varina). The Board approved the conditional use permit subject to the following conditions:

1. This use permit is subject to all requirements of Section 24-103 of Chapter 24 of the County Code. The operation shall be conducted in accordance with the plans submitted with this application.

2. The applicant shall maintain the existing financial guaranty in the amount of \$3,000 per acre for each acre of land to be disturbed, for a total of \$49,500, guaranteeing that the land will be restored to a reasonably level and drainable condition, consistent with the elevation before the beginning of excavation. Termination of such financial guaranty shall not relieve the applicant from its obligation to indemnify the County of Henrico for any breach of the conditions of this use permit.

3. The applicant shall comply with all erosion and sedimentation control requirements from the Department of Public Works (DPW). The erosion control bond necessary for approval of the plan shall remain active throughout the life of the project until release by DPW. Throughout the life of the operation, the applicant shall continuously satisfy DPW that erosion and sedimentation control is performed and maintained in accordance with the approved plan. The applicant shall provide certification from a licensed professional engineer that dams, embankments and sediment control structures meet the approved design criteria as set forth by the State.

4. The areas approved for mining under this permit shall be delineated on the ground by five-foot-high metal posts at least five inches in diameter and painted in alternate one foot stripes of red and white.

5. The applicant shall comply with the Chesapeake Bay Preservation Act and all state and local regulations administered under such act applicable to the property, and shall furnish to the Planning Department copies of all reports required by such act or regulations.

6. Hours of operation shall be limited to Monday through Friday, 6:00 a.m. to 6:00 p.m. when Daylight Savings Time is in effect, and from 7:00 a.m. to 5:00 p.m. when Standard Time is in effect, and Saturday, 10:00 a.m. to 4:00 p.m.

7. No operations of any kind are to be conducted at the site on Sundays or national holidays.

8. All means of access to the property shall be from the entrance onto Beulah Road as shown on the plans submitted with this application.

9. The applicant shall maintain the gate at the entrance to the property. This gate shall be locked at all times, except when authorized representatives of the applicant are on the property.

10. The applicant shall post and maintain a sign at the entrance to the mining site stating the name of the operator, the use permit number, and the telephone number of the operator. The sign shall be 12 square feet in area and the letters shall be three inches high.

11. The applicant shall post and maintain "No Trespassing" signs every 250 feet along the perimeter of the property. The letters shall be three inches high. The applicant shall furnish the Chief of Police a letter authorizing the Division of Police to enforce the "No Trespassing" regulations, and agreeing to send a representative to testify in court as required or requested by the Division of Police.

12. Standard "Truck Entering Highway" signs shall be erected on Beulah Road on each side of the entrances to the property. These signs will be placed by the County, at the applicant's expense.

13. The applicant shall maintain a standard stop sign at the entrance to Beulah Road.

14. The applicant shall provide a flagman to control traffic from the site onto the public road, with the flagman yielding the right of way to the public road traffic at all times. This flagman will be required whenever the Division of Police deems necessary.

15. The entrance road shall be paved from its intersection with Beulah Road for its entire length, at a width of 24 feet. All roads used in connection with this use permit shall be effectively treated with calcium chloride or other wetting agents to eliminate any dust nuisance.

16. The operation shall be so scheduled that trucks will travel at regular intervals and not in groups of three or more.

17. Trucks shall be loaded in a way to prevent overloading or spilling of materials of any kind on any public road.

18. The applicant shall maintain the property, fences, and roads in a safe and secure condition indefinitely, or convert the property to some other safe use.

19. If, in the course of its preliminary investigation or operations, the applicant discovers evidence of cultural or historical resources, or an endangered species, or a significant habitat, it shall notify appropriate authorities and provide them with an opportunity to investigate the site. The applicant shall report the results of any such investigation to the Planning Department.

20. If water wells located on surrounding properties are adversely affected, and the extraction operations on this site are suspected as the cause, the effected property owners may present to the Board evidence that the extraction operation is a contributing factor. After a hearing by the Board, this use permit may be revoked or suspended, and the operator may be required to correct the problem.

21. Open and vertical excavations having a depth of 10 feet or more, for a period of more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the public safety.

22. Topsoil shall not be removed from any part of the property outside of the area in which mining is authorized. Sufficient topsoil shall be stockpiled on the property for respreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled within the authorized mining area and provided with adequate erosion control protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought to the site to provide the required five-inch layer of cover. All topsoil shall be treated with a mixture of seed, fertilizer, and lime as recommended by the County after soil tests have been provided to the County.

23. No offsite-generated materials shall be deposited on the mining site without prior written approval of the Director of Planning. To obtain such approval, the operator shall submit a request stating the origin, nature and quantity of material to be deposited, and certifying that no hazardous material will be included. The material to be deposited on the site shall be limited to imperishable materials such as stone, bricks, tile, sand, gravel, soil, asphalt, concrete and like materials, and shall not include any hazardous materials as defined by the Virginia Hazardous Waste Management Regulations.

24. A superintendent, who shall be personally familiar with all the terms and conditions of Section 24-103 of Chapter 24 of the County Code, as well as the terms and conditions of this use permit, shall be present at the beginning and conclusion of operations each work day to see that all the conditions of the Code and this use permit are observed.

25. A progress report shall be submitted to the Board on April 1, 2013. This progress report must contain information concerning how much property has been mined to date of the report, the amount of land left to be mined, how much rehabilitation has been performed, when and how the remaining amount of land will be rehabilitated, and any other pertinent information about the operation that would be helpful to the Board.

632  
633 26. Excavation shall be discontinued by April 1, 2014, and restoration  
634 accomplished by not later than April 1, 2015, unless a new permit is granted by  
635 the Board of Zoning Appeals.

636  
637 27. The rehabilitation of the property shall take place simultaneously with the  
638 mining process. Rehabilitation shall not be considered completed until the  
639 mined area is covered completely with permanent vegetation.

640  
641 28. All drainage and erosion and sediment control measures shall conform to  
642 the standards and specifications of the Mineral Mining Manual Drainage  
643 Handbook.

644  
645 29. The applicant shall provide clarification in regards to the expected timeline  
646 for the extraction of the materials from the earth and the restoration of the site.

647  
648 30. The backfill shall be compacted to 95% density in lifts of 6 inches with  
649 suitable material. The compaction of the backfill shall be verified through a  
650 geotechnical service and the report provided to the Planning and Public Works  
651 Departments.

652  
653 31. Adequate sight distance and 50-foot turning radius shall be provided for the  
654 proposed construction entrance onto existing Beulah Road, as required by  
655 Department of Public Works standards.

656  
657 32. The applicant shall preserve the existing dwelling on the property as shown  
658 on the plans approved in February 2010. In addition, the applicant shall allow  
659 the Department of Recreation and Parks to erect and maintain a standard  
660 historical marker on the property acknowledging the area's history.

661  
662 33. The applicant shall close the unapproved entrance at the southeastern  
663 corner of the site off Beulah Road and replant the site with native vegetation.

664  
665 34. Failure to comply with any of the foregoing conditions shall automatically  
666 void this permit.

667  
668  
669 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5  
670 Negative: 0  
671 Absent: 0

672  
673  
674 **[At this point, the transcript continues with the public hearing on the next**  
675 **case.]**  
676

677 **CUP2012-00010** **ST. GERTRUDE HIGH SCHOOL** requests a  
678 conditional use permit pursuant to Sections 24-52(a) and 24-12(b) of the County  
679 Code to allow a noncommercial recreation facility at 490 Scott Road (Parcel 788-  
680 761-9774) zoned A-1, Agricultural District (Fairfield).

681  
682 Ms. Harris - All persons who wish to speak to this case please  
683 stand to be sworn in.

684  
685 Mr. Blankinship - Again, let me point out we distributed a revised staff  
686 report. Raise your right hands, please. Do you swear the testimony you're about  
687 to give is the truth and nothing but the truth so help you God?

688  
689 Ms. Harris - Okay, please state your case.

690  
691 Mr. Theobald - Yes. Good morning once again, Madam Chair, ladies  
692 and gentlemen. My name is Jim Theobald and I'm here this morning on behalf of  
693 St. Gertrude High School. This is in the nature of an amendment, if you will, to  
694 an existing permit, although technically you have to start the process over.

695  
696 On February 25, 2010, the Board of Zoning Appeals approved a permit to allow  
697 satellite athletic fields for St. Gertrude High School, which is an independent, all  
698 girls, Catholic school. At that point the property was under contract. We closed  
699 on the property and have been finalizing our plans for the athletic fields.  
700 Condition number one of the prior use permit required that only the  
701 improvements shown on the approved concept plan could be constructed. That's  
702 really why we're here today.

703  
704 The original proposal that was filed had limited use and left three of their six  
705 athletic teams still renting facilities elsewhere. This revised plan has all outdoor  
706 sports—with the exception of track and field, which was previously there—able to  
707 now utilize these facilities. The track-and-field program will continue to use the  
708 Benedictine College Prep track as they do share a track-and-field coach.

709  
710 This concept plan now includes tennis courts, a softball field, and a walking trail  
711 on two multipurpose fields that can be used for soccer, field hockey, and  
712 lacrosse. The real difference is that in the springtime we now have softball, but  
713 we no longer have track and field. In the fall, in addition to field hockey we have  
714 a couple of tennis courts. The whole plan is redrawn, if you will, in order to  
715 accommodate the use.

716  
717 Staff has found this request to be consistent with the 2026 Comprehensive Land  
718 Use Plan. We believe that the proposed athletic fields will not adversely affect  
719 the health, safety, and welfare of the community. It's adjacent to large A-1  
720 residential tracts to the east and west. The adjacent parcel to the east is  
721 approximately seventy acres and is primarily wooded. To the north is Interstate  
722 295. The property directly across from the subject property to the south of Scott



723 Road is primarily vacant and wooded. As you may know, Henrico County  
724 recently purchased the old Best Products headquarters site, so they will be our  
725 neighbor out there.

726  
727 We believe that because this proposed use does not involve construction of any  
728 major structures it will have no—little negative impact on supply of light or air to  
729 adjacent properties, or the value of buildings in the surrounding areas.

730  
731 We expect the effect of the proposed use on traffic congestion to be minimal.  
732 With the prior use permit, your Department of Public Works indicated to the  
733 Director of Planning that the impact on existing roads would not be a concern.  
734 The majority of traffic is comprised of buses that take these students from school  
735 and then back again to use the practice fields, and it is likely to be one bus  
736 unless there is a competition going on. These fields are not lighted. Those buses  
737 do not make any stops along the way to load or unload, just only on the site.

738  
739 One condition I'd like to bring to your attention that I would ask you to help  
740 clarify. If you look on the screen you'll note sort of a walking path loop around the  
741 edge. That is designed to be a walkway as opposed to a track. I'm just a little  
742 concerned with condition number two, the second sentence where it says this  
743 approval does not authorize construction of permanent grandstands, field  
744 lighting, or athletic facilities in the setback areas. This is a setback area. It's not a  
745 buffer; it's a forty-foot setback as required by the County. But you are allowed to  
746 walk in setbacks and you are allowed to put mulch in setbacks. So hopefully  
747 you'll allow the girls to walk on the mulch within the setback area. I don't want the  
748 girls or the school to find themselves adverse to the County, so what I would ask  
749 you to consider is after the words "athletic facilities," the second sentence of  
750 number two, put in a parenthetical that says, parenthesis, "other than an  
751 unpaved walkway path." That way when they're cooling down from other athletic  
752 activities or even traversing among some of the various uses they'll be able to  
753 use this walking path. Again, it's just mulch, not paved. For your consideration I'd  
754 like to just clarify that so we don't get anybody into future hot water. And I'm sure  
755 Mr. Blankinship would appreciate maybe you all providing some insight as to  
756 having to interpret that in the future.

757  
758 I believe we've met all the jurisdictional requirements with regard to this request.  
759 It really is all about substituting this master plan. And because we really do try to  
760 tell you exactly what's going on here, that's how the walking path has shown up  
761 on the plan. So I respectfully ask for your approval of this revised plan. I'm happy  
762 to answer any questions.

763  
764 Ms. Harris - Yes. Could you locate the baseball field on this plan,  
765 and also—

766  
767 Mr. Theobald - Yes ma'am. It's right here.  
768

769 Ms. Harris - Okay. That's a great distance away from 295, right?  
770  
771 Mr. Theobald - Yes ma'am. Interstate 295 is way up here.  
772  
773 Ms. Harris - Okay.  
774  
775 Mr. Theobald - And 95, of course, is over here.  
776  
777 Ms. Harris - Okay. Where is the pre-designated overflow parking  
778 area?  
779  
780 Mr. Theobald - The overflow parking area—do you have the other  
781 plan, Ben? The overflow parking area is drawn in on that plan; it's in this area  
782 here, below the baseball field coming off the existing—there you go. This is our  
783 plan. It's oriented a little differently. Interstate 295 is back this way and 95 down  
784 this way. Here is the overflow parking that's been drawn in.  
785  
786 Ms. Harris - Okay. I noticed that the designation for this acreage is  
787 Urban Mixed-Use.  
788  
789 Mr. Theobald - Yes ma'am.  
790  
791 Ms. Harris - Okay. Do you have any other plans for the area that  
792 would conform with that designation?  
793  
794 Mr. Theobald - No we do not. When we first asked for a use permit  
795 there we met with the Director of Planning, Mr. Emerson, and discussed the  
796 Land Use Plan concepts at that point in the making for an Urban Mixed-Use  
797 designation. He thought that this was not inconsistent with that and that, in  
798 essence, we're not building a lot of tall buildings. The site could be reused very  
799 easily in the event it would be worked into other uses. I think his notion at the  
800 time was depending upon how the area grew up with other potential industrial or  
801 office uses that there could be some sharing, possibly, of the facilities in the  
802 future if that were to be permitted.  
803  
804 As you may know, this site long, long, long ago was considered for Capital One's  
805 campus headquarters. At another time it was considered for the NASCAR  
806 museum. And I think at another time it was considered for a Carrabba's. So  
807 there have been lots of people over the years that have taken a peek at it and  
808 unfortunately passed. And now the County will be our new neighbors here to the  
809 east.  
810  
811 So anyhow, Ms. Harris, that notion was examined by staff and you'll note that  
812 there is some discussion of that in their recommendation.  
813

814 Ms. Harris - The fact that you're not going to have field lighting,  
815 you don't think that when you allow other schools to use the facilities they're  
816 going to need that field lighting?

817

818 Mr. Theobald - We're just not allowed to do that. We just said we  
819 wouldn't be there at night. I don't think we want anybody to be there at night  
820 including St. Gertrude. We will likely have to have some security lighting on the  
821 two other buildings after conferring with Henrico Police. But no, lighted fields was  
822 just not part of the request initially or now.

823

824 Ms. Harris - Are there questions by Board members?

825

826 Mr. Wright - One question. It was indicated in the staff report that  
827 you might intend to lease this facility. Could you talk about that?

828

829 Mr. Theobald - Yes. There is a condition in here that basically gives  
830 the Director the Planning—we're allowed to basically allow competition among  
831 schools. We're allowed to let other sister middle schools, Catholic schools, use  
832 the property. But in terms of just renting it out to the Strikers, etcetera, the  
833 concern was that we might do that. With that there would be a daily impact and  
834 perhaps a more intense impact, so the condition that was negotiated with the  
835 original was—

836

837 Mr. Blankinship - It's number one.

838

839 Mr. Theobald - Number one? Okay, yes. Non-commercial  
840 recreational facility. Not to be rented or leased to outside entities unless  
841 previously approved in writing by the Director of Planning. The reason for that  
842 was we wanted to accommodate the out-of-town weekend tournament traffic.  
843 Like you read about here very recently, it has an enormous economic impact to  
844 the region if people come. That happens but a few times a year. So the idea was  
845 allow that for the benefit of the County, but not turn it into a permanent deal  
846 where you have the Kickers or Strikers use it.

847

848 Mr. Wright - One of your problems is your parking is limited. I was  
849 concerned if you lease it out you're going to have all these automobiles coming  
850 in to observe what's going on and you might create some traffic problems there.

851

852 Mr. Theobald - Yes. For competitions we'll get a little more, although  
853 all those competitions are during the week after school. We do get some  
854 parents, thankfully, to come witness the events. And there are, I think, some on  
855 weekends. I think it was the issue that you've raised, Mr. Wright, that caused  
856 staff in this request—unlike the first request—to contemplate the notion of gosh,  
857 you might need some more parking; please show us how you would do that,  
858 what you'd gravel if you needed to. Just show us that you could accommodate  
859 that. To the extent that it gets to be an issue we will be required to provide it.

860  
 861 Mr. Blankinship - The problem is that you can't park on Scott Road.  
 862  
 863 Mr. Theobald - No, no.  
 864  
 865 Mr. Blankinship - It's about a thousand feet to the office park, so that  
 866 would be the next place that somebody could park and walk.  
 867  
 868 Mr. Baka - I have one question. It's not about the conditions; I  
 869 think the conditions are well stated. Just a brief question about the design. As  
 870 you look at the unpaved walking path along the perimeter, in the top it says  
 871 "maintenance, concessions, and restroom building." I wonder if there was any  
 872 consideration given to extending that walking path for parents or relatives or  
 873 participants, or even students who are warming up or cooling down from games?  
 874 You could extend it about another 250 feet through that buffer heading east and  
 875 then to the front of the parking lot. You're going to have cars coming through  
 876 here; you're going to have buses unloading students in the parking area. Why  
 877 end that mulch path so that walkers have to literally walk through the parking lot  
 878 and then cross over with vehicle traffic against these arrows, and then pick up  
 879 the walking path again in order to complete a full loop? Why not just continue it  
 880 another 250 feet parallel to that northern property line, and then cut back across  
 881 the front?  
 882  
 883 Mr. Theobald - We certainly could. That area is not a buffer; it really  
 884 is a setback. We're going to be grading in that area and can easily—  
 885  
 886 Mr. Baka - Just for your consideration.  
 887  
 888 Mr. Theobald - Yes, it's a good idea. This looks like a road but it's  
 889 really, I guess, only to get a car or truck there for maintenance purposes. This is  
 890 really the walking path, and so this does connect that to the parking lot. But  
 891 extending that is certainly something we could take a look at. Again, this is not a  
 892 permanent type of surface or anything; it's really just some—we'll probably level  
 893 it and put some mulch down.  
 894  
 895 Ms. Harris - Condition number four about preserving the existing  
 896 trees was stricken from the record. Why?  
 897  
 898 Mr. Blankinship - Yes ma'am. That was the big difference between the  
 899 prior staff report and the one that was distributed this morning. Mr. Theobald  
 900 brought that to our attention. I think what we did was we copied the conditions  
 901 from the draft staff report a year ago rather than the approved conditions  
 902 because last time you approved this, during the meeting that question was raised  
 903 and the Board removed the buffer condition. So I think we just brought forward  
 904 the old conditions rather than the approved conditions, and I apologize for that.  
 905

906 Ms. Harris - I think we talked about this the last time. I don't know  
907 how wide Scott Road is, but if we have buses passing each other we're going to  
908 have a slight problem. But I did see in the 2026 Comprehensive Plan that they  
909 do plan to widen that road.

910  
911 Mr. Blankinship - And realign.

912  
913 Mr. Theobald - And we've provided the dedication on our property to  
914 help accomplish that. That's also in a condition.

915  
916 Ms. Harris - Are there any other questions by Board members?  
917 We thank you, Mr. Theobald.

918  
919 Mr. Theobald - Thank you so much.

920  
921 Ms. Harris - Is there anyone else who wishes to speak to this  
922 case? Is there anyone who is opposed to this application? That concludes the  
923 case.

924  
925 **[After the conclusion of the public hearings, the Board discussed the case**  
926 **and made its decision. This portion of the transcript is included here for**  
927 **convenience of reference.]**

928  
929 Ms. Harris - Is there a motion on this case?

930  
931 Mr. Wright - I move we approve it on the grounds it will not  
932 adversely affect the health, safety, and welfare of the persons on the premises or  
933 otherwise. It will not unreasonably impair the adequate supply of light, nor  
934 increase congestion in the streets. It will not increase public danger from fire. It  
935 would be substantially in accordance with the general purposes and objectives of  
936 the Code. One change in condition two. You've noted that concerning the path.

937  
938 Mr. Blankinship - Yes sir.

939  
940 Ms. Harris - You want to state that?

941  
942 Mr. Blankinship - He wanted to insert a parenthesis, "other than an  
943 unpaved walking path," after the words "athletic facility" in condition two.

944  
945 Ms. Harris - Okay. Is there a second to this motion?

946  
947 Mr. Baka - Second.

948  
949 Ms. Harris - Moved by Mr. Wright, seconded by Mr. Baka that this  
950 case be approved. Any questions on this motion? All in favor say aye. All  
951 opposed say no. The ayes have it; the motion passes.

After an advertised public hearing and on a motion by Mr. Wright, seconded by Mr. Baka, the Board **approved** application **CUP2012-00010, ST. GERTRUDE HIGH SCHOOL's** request for a conditional use permit pursuant to Sections 24-52(a) and 24-12(b) of the County Code to a noncommercial recreation facility at 490 Scott Road (Parcel 788-761-9774) zoned A-1, Agricultural District (Fairfield). The Board approved the conditional use permit subject to the following conditions:

1. The noncommercial recreational facility shall be for the exclusive use of Saint Gertrude High School, not to exclude competition against other schools, or use by affiliated Catholic middle schools. The facilities shall not be rented or leased to outside entities unless previously approved in writing by the Director of Planning. All athletic activities are to be conducted during daylight hours, and not prior to noon on Sundays.

2. Only the improvements shown on the Concept Plan (dated February 2, 2012), as amended by this permit, may be constructed pursuant to this approval. This approval does not authorize construction of permanent grandstands, field lighting, or athletic facilities (other than an unpaved walking path) in the setback areas. Any substantial changes or additions may require a new conditional use permit.

3. The applicant shall submit construction plans, to include landscape and security lighting, for administrative review and approval to the Planning Department.

4. Prior to any land disturbing activity, the applicant shall obtain an approved Erosion and Sedimentation Control Plan in accordance with Henrico County Code, Chapter 10, Environment. The applicant shall also submit an Erosion Control Bond, which must remain active until released in writing. Throughout all land disturbing phases necessary for construction of the proposed improvements, the applicant must satisfy the Department of Public Works Environmental Section that erosion and sediment control is inspected and maintained in accordance with the approved plan and Environmental Section policy.

5. Approval of this request does not imply that a building permit will be issued. Building permit approval is contingent on Health Department requirements, including, but not limited to, soil evaluation for a septic drain field and reserve area, and approval of a well location.

6. The permanently designated on-site parking area and appurtenant drives and roads shall comply with Sec. 24-98, Parking Lot Regulations, of the Henrico County Code.

998 7. The applicant shall designate an on-site overflow parking area capable of  
999 parking 46 vehicles. At the request of the director of planning, this area shall be  
1000 minimally improved with gravel drives, parking over grass and wheel stops to  
1001 designate stall spacing.

1002  
1003 8. A stop sign meeting County standards shall be maintained at the entrance  
1004 onto Scott Road.

1005  
1006 9. The site shall be maintained litter free at all times. The applicant shall provide  
1007 an adequate number of trash receptacles adjacent to the parking lot, athletic  
1008 fields, concessions building, and pavilion. The applicant shall also install an  
1009 enclosed and screened trash receptacle (dumpster) for collection of refuse  
1010 generated at the site. The dumpster shall only be serviced between the hours of  
1011 6:00 a.m. and 10:00 pm.

1012  
1013 10. The facility shall be secured by a 6-foot-tall chain link fence and gate. The  
1014 gate shall be locked between dusk and 7:00 am.

1015  
1016 11. "No trespassing" and "no loitering" signs shall be posted at the site entrance  
1017 and coordinated with the Division of Police.

1018  
1019 12. On-site security lighting shall be coordinated with the Division of Police.

1020  
1021 13. The on-site consumption of alcoholic beverages shall be prohibited.

1022  
1023 14. Permanent food concession facilities shall be reviewed and approved by the  
1024 Health Department.

1025  
1026 15. Public address and sound amplification equipment shall not exceed 65 dB at  
1027 the limits of the property.

1028  
1029  
1030 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5  
1031 Negative: 0  
1032 Absent: 0

1033  
1034  
1035 **[At this point, the transcript continues with the public hearing on the next**  
1036 **case.]**

1037  
1038 **CUP2012-00011 RESOURCE DEVELOPMENT ASSOCIATES**  
1039 requests a conditional use permit pursuant to Sections 24-52(d) and 24-103 of  
1040 the County Code to extract materials from the earth at 1801 Kingsland Road  
1041 (Parcel 818-676-5915) zoned A-1, Agricultural District (Varina).

1043 Ms. Harris - Please raise your right hand so you may be sworn in.  
1044 Is there anyone else who wishes to speak to this case? If you think you might  
1045 speak to this case you need to stand to be sworn in. Thank you.  
1046  
1047 Mr. Blankinship - Do you swear the testimony you're about to give is  
1048 the truth and nothing but the truth so help you God?  
1049  
1050 Mr. Hooker - Yes.  
1051  
1052 Ms. Harris - Please state your name.  
1053  
1054 Mr. Hooker - My name is Randy Hooker with Engineering Design  
1055 Associates. Good morning Madam Chair, Board Members. I'm here again today  
1056 to request this use permit. This site has been in existence for quite some time.  
1057 Activity has picked up on this site since the last time I was here. The activity that  
1058 has been taking place is reclamation of the rear portion of the site. There's really  
1059 no activity taking place in the front portion.  
1060  
1061 This site is divided by a transmission line. So when I refer to the back and the  
1062 front, that's the reason why. We are trying to minimize any disturbance within the  
1063 right-of-way for the transmission line. Other than that I can field any questions  
1064 you have.  
1065  
1066 Ms. Harris - I have one quick question. Is there a fence around  
1067 this site?  
1068  
1069 Mr. Hooker - It's not really a fence. I believe there are marking  
1070 posts around the perimeter, as required in the use permit. I don't believe there is  
1071 actually a fence. I mean there is a portion of a fence because it does abut 295,  
1072 so you have a limited access right-of-way fence along 295. But the entire  
1073 perimeter I do not believe is fenced.  
1074  
1075 Mr. Wright - Could they point the area that's already been mined  
1076 and reclaimed.  
1077  
1078 Mr. Hooker - It hasn't been totally reclaimed, but this is the area  
1079 back in here where the reclamation process has started.  
1080  
1081 Mr. Wright - I thought our report said that it had been reclaimed.  
1082 Isn't that right?  
1083  
1084 Mr. Blankinship - It is being reclaimed.  
1085  
1086 Mr. Hooker - I think it stated that about 33 percent has been  
1087 reclaimed.  
1088



1089 Mr. Wright - It says the southern portion of the site is mined and  
 1090 reclaimed. Is that not the case?  
 1091  
 1092 Mr. Blankinship - Oh, as the southern portion of the site—  
 1093  
 1094 Mr. Wright - Is mined and—oh, as it.  
 1095  
 1096 Mr. Blankinship - As that goes on the operation will move to the north.  
 1097  
 1098 Mr. Wright - Okay.  
 1099  
 1100 Ms. Harris - Is this the way it appears today?  
 1101  
 1102 Mr. Hooker - I haven't been to the site in probably two months or  
 1103 so.  
 1104  
 1105 Mr. Blankinship - That would be three weeks ago or two weeks ago.  
 1106  
 1107 Ms. Harris - Okay. And this is partially-reclaimed area?  
 1108  
 1109 Mr. Hooker - Yes ma'am. The one reason, too, is that they are  
 1110 going to be restricted on how much they can reclaim on that site because there's  
 1111 a sediment basin at the bottom of this property. They're not going to be able to  
 1112 totally reclaim the back portion of the property until the front portion is completed.  
 1113 And then they can go in and address removal of their erosion and sedimentation  
 1114 control measures.  
 1115  
 1116 Ms. Harris - I'm concerned, Mr. Hooker. You have a church on  
 1117 one side of that site, right? And you have no fence between the church and this  
 1118 site? Am I hearing you correctly?  
 1119  
 1120 Mr. Hooker - I could defer to Mr. Merrill Baker and he can let you  
 1121 know.  
 1122  
 1123 Mr. Baker - Good morning. Merrill Baker with S. B. Cox. There is  
 1124 a large wooded area between the actual area that we're removing material from,  
 1125 on that edge. And there's just a small minor fence along that edge just  
 1126 separating the wooded area from that church area. But there's a big wooded  
 1127 area between the borrowed area and the church.  
 1128  
 1129 Mr. Wright - Where is the church on this plan? Is that it right  
 1130 there?  
 1131  
 1132 Mr. Blankinship - The northeast corner of the site.  
 1133  
 1134 Ms. Harris - How tall is that fence?

1135  
 1136 Mr. Hooker - Not very tall.  
 1137  
 1138 Mr. Wright - That's been there since what, 1990?  
 1139  
 1140 Ms. Harris - Yes, because I know it was an inactive site for a  
 1141 number of years.  
 1142  
 1143 Mr. Wright - Have you had any problems?  
 1144  
 1145 Ms. Harris - Never. We don't want to wait until someone falls in  
 1146 and say we have a problem.  
 1147  
 1148 Mr. Blankinship - As they've been working on the southern end of the  
 1149 site, it's been a thousand feet or so through the woods, so I guess it hasn't been  
 1150 an issue. But now as you're moving north, maybe that is something we should  
 1151 think about, putting up a fence along that. It looks like your common property line  
 1152 with the church is a little over 400 feet long, so I don't know what it would cost to  
 1153 fence that.  
 1154  
 1155 Ms. Harris - On one of these maps, Kingsland Road borrow pit,  
 1156 drawing number two of five, it will show you the church, First Bethel Baptist  
 1157 Church. You can see that expanse of land there. Is there a residence behind that  
 1158 church?  
 1159  
 1160 Mr. Blankinship - I don't believe so. I think it's just woods.  
 1161  
 1162 Ms. Harris - Would it be too difficult to have a fence that will  
 1163 separate those two areas?  
 1164  
 1165 Mr. Hooker - We'd have to just go and look at the area and take a  
 1166 look at it.  
 1167  
 1168 Mr. Wright - Ms. Harris, what you're offering is that we have  
 1169 another condition to require a fence along that line?  
 1170  
 1171 Ms. Harris - That will separate the church from the borrow pit. Mr.  
 1172 Hooker, is that too costly for you to consider?  
 1173  
 1174 Mr. Hooker - It depends on what type of fence we're referring to. Is  
 1175 this a chain link fence, or what type of fence are you looking for?  
 1176  
 1177 Mr. Blankinship - It's in the middle of the woods; I think chain link would  
 1178 be fine. It's just a security fence.  
 1179  
 1180 Mr. Hooker - And then also the height.

1181  
1182 Ms. Harris - Seven feet. I think that is being used by some areas  
1183 like this. So would you be amenable to that or would you want to go check it out  
1184 and get back with us?  
1185  
1186 Mr. Hooker - Well, we're referring to this portion here, too, correct?  
1187 We're not referring to putting a fence along the back portion.  
1188  
1189 Mr. Blankinship - I don't think you'd even need to do all your property  
1190 line there. It looks like there's about 400 feet of common property line. Paul,  
1191 could you go back to the aerial photo? Your line continues straight but the church  
1192 line ends about 400 feet. The back of that is just woods. The back of the church  
1193 property is just woods. I don't know if Ms. Harris would want that whole 400 feet  
1194 or maybe just from the front edge of the church building back to, say, 50 feet  
1195 beyond the parking area. I'm just looking at GIS on my computer. That looks like  
1196 about 280 feet, maybe 300 feet of fence.  
1197  
1198 Ms. Harris - And you say the entire line is 400 feet?  
1199  
1200 Mr. Blankinship - That's 414.  
1201  
1202 Ms. Harris - Would it be very exhausting to make it 400 feet?  
1203  
1204 Mr. Hooker - I would think so.  
1205  
1206 Ms. Harris - So you think 200 would be better?  
1207  
1208 Mr. Hooker - Yes. And then also, too, I'm not sure how dense the  
1209 woods are within this area. That's something that really needs to be considered. I  
1210 don't know if it would be more beneficial to have the fence within the church  
1211 property to benefit them versus putting it on the property line itself to get it out of  
1212 the woods. Like I say, there are probably a couple of things that should be  
1213 considered.  
1214  
1215 Mr. Blankinship - Yes.  
1216  
1217 Ms. Harris - I was thinking about your fencing because we've had  
1218 cases what it's being done.  
1219  
1220 Mr. Hooker - I understand what you're saying. I'm just saying it may  
1221 be more beneficial to try not to put the fence within the woods, maybe along the  
1222 line.  
1223  
1224 Ms. Harris - Along the perimeter of the area.  
1225  
1226 Mr. Hooker - Yes.

1227  
1228 Ms. Harris - And you'll agree to that, along the perimeter of the  
1229 area?  
1230  
1231 Mr. Hooker - Perimeter.  
1232  
1233 Ms. Harris - On the outside.  
1234  
1235 Mr. Hooker - The perimeter is going from Kingsland Road to the  
1236 back corner of the property and such, if we're saying perimeter.  
1237  
1238 Ms. Harris - We're saying 200 feet.  
1239  
1240 Mr. Wright - That would be from Kingsland Road 200 feet back.  
1241  
1242 Ms. Harris - From Kingsland Road 200 feet back.  
1243  
1244 Mr. Hooker - From Kingsland Road 200 feet back? If that's what  
1245 the Board wishes to have to have more comfort then yes, my client said they'll  
1246 provide 200 feet of fence.  
1247  
1248 Mr. Wright - If it's necessary we should have it.  
1249  
1250 Ms. Harris - I think an ounce of prevention in this case—  
1251  
1252 Mr. Wright - You wonder sometimes how children get where they  
1253 get but—  
1254  
1255 Ms. Harris - I know. That's my frame of reference, where children  
1256 play. Are there other questions from Board members?  
1257  
1258 Mr. Bell - Have there been any complaints that have not been  
1259 satisfied that you're aware of?  
1260  
1261 Mr. Hooker - We're unaware of any complaints. Even to follow up,  
1262 too, Public Works has made their inspections and such. He had one inspector  
1263 come out that wasn't that familiar with the site and had some concerns, but all  
1264 that has been addressed, so everybody's been satisfied within the County, as far  
1265 as we know, and the surrounding area.  
1266  
1267 Mr. Bell - Thank you.  
1268  
1269 Ms. Harris - And it's been inactive for a long period of time.  
1270  
1271 Mr. Blankinship - Well not inactive, but a very light level of activity.  
1272

1273 Ms. Harris - Very light. But before that wasn't it inactive?  
 1274  
 1275 Mr. Hooker - It may have been technically inactive for maybe a  
 1276 year or so. There has been some activity, but it just has not been heavy at all.  
 1277 Like I said, it has picked up. They're receiving materials that are coming into the  
 1278 site to begin the reclamation process to the rear. They have not received any  
 1279 demand for any fill materials to require or start excavation towards the front of  
 1280 the property; hopefully that will change.  
 1281  
 1282 Ms. Harris - I think I went down there maybe about six or seven  
 1283 years ago and it seems as though there was no activity going on at all. That's  
 1284 why I was concerned.  
 1285  
 1286 Mr. Hooker - I've been to the site a few times and it's sporadic. I've  
 1287 been there for an hour or so, and three or four trucks may come in and out of  
 1288 there. And I've been there for an hour or so another day and haven't seen any  
 1289 trucks coming in and out of there. It's as-demand, I guess.  
 1290  
 1291 Ms. Harris - I know some neighbors down there. You had a fence  
 1292 there, like it was closed, you know, completely closed.  
 1293  
 1294 Mr. Hooker - There is a gate.  
 1295  
 1296 Ms. Harris - Yes, a gate was closed. Okay. Are there any other  
 1297 questions? If not, we thank you both for the presentation.  
 1298  
 1299 Mr. Hooker - Thank you.  
 1300  
 1301 Ms. Harris - Is there anyone who wishes to speak against this  
 1302 application? If not, that closes the case.  
 1303  
 1304 **[After the conclusion of the public hearings, the Board discussed the case**  
 1305 **and made its decision. This portion of the transcript is included here for**  
 1306 **convenience of reference.]**  
 1307  
 1308 Mr. Wright - I move we approve this case on the grounds that it  
 1309 will not adversely affect the health, safety, and welfare of persons on the  
 1310 premises or in the neighborhood. It will not unreasonably impair an adequate  
 1311 supply of light, nor increase congestion in the streets. Basically it will be  
 1312 substantially in accordance with the general purposes and objectives of the  
 1313 Code.  
 1314  
 1315 Mr. Nunnally - Second.  
 1316  
 1317 Mr. Wright - And the one condition that there will be a fence  
 1318 along—what line is that, the north line?

1319  
1320 Mr. Blankinship - It's the—well this is the common property line with the  
1321 church.

1322  
1323 Mr. Wright - Between the church there from Kingsland Road back  
1324 200 feet. The fence will be seven feet high and will be a chain link fence.

1325  
1326 Mr. Blankinship - If we wanted to get all the way to the back of their  
1327 parking lot starting from the right-of-way it would be 300.

1328  
1329 Mr. Wright - Three hundred feet.

1330  
1331 Ms. Harris - Is there a second with this motion with this change?

1332  
1333 Mr. Nunnally - I second.

1334  
1335 Ms. Harris - Motion by Mr. Wright, seconded by Mr. Nunnally that  
1336 this case will be approved with the change. The fence will be 300 feet from  
1337 Kingsland Road, dividing the church property and this property. All in favor say  
1338 aye. All opposed say no. The ayes have it; the motion passes.

1339  
1340 After an advertised public hearing and on a motion by Mr. Wright, seconded by  
1341 Mr. Nunnally, the Board **approved** application **CUP2012-00011, RESOURCE**  
1342 **DEVELOPMENT ASSOCIATES'** request for a conditional use permit pursuant to  
1343 Sections 24-52(d) and 24-103 of the County Code to extract materials from the  
1344 earth at 1801 Kingsland Road (Parcel 818-676-5915) zoned A-1, Agricultural  
1345 District (Varina). The Board approved the conditional use permit subject to the  
1346 following conditions:

1347  
1348 1. This use permit is subject to all requirements of Section 24-103 of Chapter 24  
1349 of the County Code.

1350  
1351 2. Throughout the life of this permit, the applicant shall maintain letter of credit  
1352 LC874- 095978 in an amount of \$47,400.00, guaranteeing that the land will be  
1353 restored to a reasonably level and drainable condition, consistent with the  
1354 elevation of the land prior to the beginning of excavation. In the event of  
1355 termination of that letter of credit, this permit shall be void, and excavation shall  
1356 cease. Within the next 90 days of termination, the applicant shall restore the land  
1357 as provided for under the conditions of this use permit. Termination of such  
1358 financial guaranty shall not relieve the applicant from its obligation to indemnify  
1359 the County of Henrico for any breach of the conditions of this use permit.

1360  
1361 3. Throughout the life of this permit, the applicant shall continuously satisfy the  
1362 Department of Public Works (DPW) that erosion control procedures are properly  
1363 maintained, and shall furnish plans and bonds that DPW deems necessary.  
1364

1365 4. Throughout the life of this permit, the applicant shall maintain a mine license  
1366 from the Virginia Department of Mines, Minerals and Energy.

1367  
1368 5. Throughout the life of this permit, the areas approved for mining under this  
1369 permit shall be delineated on the ground by five-foot-high metal posts at least  
1370 five inches in diameter and painted in alternate one foot stripes of red and white.  
1371 These posts shall be so located as to clearly define the area in which the mining  
1372 is permitted.

1373  
1374 6. Throughout the life of this permit, the applicant shall comply with the  
1375 Chesapeake Bay Preservation Act and all state and local regulations  
1376 administered under such act applicable to the property, and shall furnish to the  
1377 Planning Department copies of all reports required by such act or regulations.

1378  
1379 7. Hours of operation shall be from 6:00 a.m. to 6:00 p.m. when Daylight Saving  
1380 Time is in effect, and from 7:00 a.m. to 5:00 p.m. at all other times.

1381  
1382 8. No operations of any kind are to be conducted at the site on Saturdays,  
1383 Sundays, or national holidays.

1384  
1385 9. All access to the property shall be from the established entrance onto  
1386 Kingsland Road.

1387  
1388 10. The applicant shall maintain gates at the entrance to the property. These  
1389 gates shall be locked at all times, except when authorized representatives of the  
1390 applicant are on the property.

1391  
1392 11. The applicant shall maintain the sign at the entrance to the mining site  
1393 stating the name of the operator, the use permit number, the mine license  
1394 number, and the telephone number of the operator. The sign shall be 12 square  
1395 feet in area and the letters shall be three inches high.

1396  
1397 12. The applicant shall maintain "No Trespassing" signs every 250 feet along the  
1398 perimeter of the property. The letters shall be three inches high. The applicant  
1399 shall furnish the Chief of Police a letter authorizing the Division of Police to  
1400 enforce the "No Trespassing" regulations, and agreeing to send a representative  
1401 to testify in court as required or requested by the Division of Police.

1402  
1403 13. Standard "Truck Entering Highway" signs on Kingsland Road on each side of  
1404 the entrance to the property shall be maintained at the applicant's expense.

1405  
1406 14. The applicant shall maintain a standard stop sign at the entrance to  
1407 Kingsland Road.

1408  
1409 15. The applicant shall provide a flagman to control traffic from the site onto the  
1410 public road, with the flagman yielding the right of way to the public road traffic at

all times. This flagman will be required whenever the Division of Police deems necessary.

16. All roads used in connection with this use permit shall be effectively treated with calcium chloride or other wetting agents to eliminate any dust nuisance.

17. The operation shall be so scheduled that trucks will travel at regular intervals and not in groups of three or more.

18. Trucks shall be loaded in a way to prevent overloading or spilling of materials of any kind on any public road.

19. The applicant shall maintain the property, fences, and roads in a safe and secure condition indefinitely, or convert the property to some other safe use.

20. If, in the course of its operations, the applicant discovers evidence of cultural or historical resources, or an endangered species, or a significant habitat, it shall notify appropriate authorities and provide them with an opportunity to investigate the site. The applicant shall report the results of any such investigation to the Planning Department.

21. If water wells located on surrounding properties are adversely affected, and the extraction operations on this site are suspected as the cause, the effected property owners may present to the Board evidence that the extraction operation is a contributing factor. After a hearing by the Board, this use permit may be revoked or suspended, and the operator may be required to correct the problem.

22. Open and vertical excavations having a depth of 10 feet or more, for a period of more than 30 days, shall be effectively sloped to a 2:1 slope or flatter to protect the public safety.

23. Topsoil shall not be removed from any part of the property outside of the area in which mining is authorized. Sufficient topsoil shall be stockpiled on the property for resspreading in a layer with five inches of minimum depth. All topsoil shall be stockpiled within the authorized mining area and provided with adequate erosion control protection. If the site does not yield sufficient topsoil, additional topsoil shall be brought to the site to provide the required five-inch layer of cover. All topsoil shall be treated with a mixture of seed, fertilizer, and lime as recommended by the County after soil tests have been provided to the County.

24. The operator shall submit a quarterly report stating the origin, nature and quantity of any off-site generated material deposited on the site, certifying that no hazardous material was included. The material to be deposited on the site shall be limited to imperishable materials such as stone, bricks, tile, sand, gravel, soil, asphalt, concrete, and like materials, and shall not include any hazardous materials as defined by the Virginia Hazardous Waste Management Regulations.



1457  
1458 25. A superintendent, who shall be personally familiar with all the terms and  
1459 conditions of Section 24-103 of Chapter 24 of the County Code, as well as the  
1460 terms and conditions of this use permit, shall be present at the beginning and  
1461 conclusion of operations each work day to see that all the conditions of the Code  
1462 and this use permit are observed.

1463  
1464 26. A progress report shall be submitted to the Board on June 1, 2013. This  
1465 progress report shall contain information concerning how much property has  
1466 been mined to date of the report, the amount of land left to be mined, how much  
1467 reclamation has been performed, when and how the remaining amount of land  
1468 will be reclaimed, and any other pertinent information about the operation that  
1469 would be helpful to the Board.

1470  
1471 27. Excavation shall be discontinued by June 1, 2014 and restoration  
1472 accomplished by not later than June 1, 2015, unless a new permit is granted by  
1473 the Board of Zoning Appeals.

1474  
1475 28. The reclamation of the property shall take place simultaneously with the  
1476 mining process. The final grading of the site shall be consistent with the elevation  
1477 of the land prior to the beginning of excavation as shown on the approved  
1478 reclamation plan. Reclamation shall not be considered completed until the mined  
1479 area is covered completely with permanent vegetation.

1480  
1481 29. All drainage and erosion and sediment control measures shall conform to the  
1482 standards and specifications of the Mineral Mining Manual Drainage Handbook.

1483  
1484 30. All excavation shall take place above the water table.

1485  
1486 31. The operator shall install a fence seven feet tall and approximately 300 feet  
1487 long separating the mining site from the First Bethel Baptist Church building and  
1488 parking lot.

1489  
1490 32. Failure to comply with any of the foregoing conditions shall automatically void  
1491 this permit.

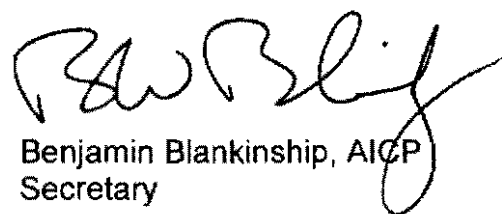
1492  
1493  
1494 Affirmative: Baka, Bell, Harris, Nunnally, Wright 5  
1495 Negative: 0  
1496 Absent: 0

1497  
1498  
1499 Ms. Harris - Okay, gentlemen, let's look at the minutes for the  
1500 meeting that I did not attend. What is your pleasure on approval of these  
1501 minutes? Did you find any corrections?  
1502

1503 Mr. Nunnally - I move we approve them.  
1504  
1505 Ms. Harris - Is there a second?  
1506  
1507 Mr. Baka - Second.  
1508  
1509 Ms. Harris - Moved by Mr. Nunnally, seconded by Mr. Baka that  
1510 we approve the minutes from the last meeting. Any discussion on the motion? All  
1511 in favor say aye. All opposed say no. The ayes have it; the motion passes. And I  
1512 have abstained.  
1513  
1514 On a motion by Mr. Nunnally, seconded by Mr. Baka, the Board **approved as**  
1515 **submitted** the **Minutes of the February 23, 2012**, Henrico County Board of  
1516 Zoning Appeals meeting.  
1517  
1518  
1519 Affirmative: Baka, Bell, Nunnally, Wright 4  
1520 Negative: 0  
1521 Absent: 0  
1522 Abstain: Harris 1  
1523  
1524  
1525 Ms. Harris - That concludes the proceedings for this meeting.  
1526 Anything else before the Board?  
1527  
1528 The meeting is adjourned.  
1529  
1530  
1531  
1532  
1533  
1534  
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1547



Helen E. Harris  
Chairman

  
Benjamin Blankinship, AICP  
Secretary